

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 23-0318.01 Jane Ritter x4342

SENATE BILL 23-164

SENATE SPONSORSHIP

Gonzales and Gardner,

HOUSE SPONSORSHIP

Bacon and Weissman,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING THE CONTINUATION OF THE SEX OFFENDER
102 MANAGEMENT BOARD, AND, IN CONNECTION THEREWITH,
103 IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE
104 2022 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY
105 AGENCIES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Sunset Process - Senate Judiciary Committee. The bill implements the recommendations of the department of regulatory

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

agencies' sunset review and report on the sex offender management board (board) by:

- Continuing the board for 7 years;
- Clarifying that supervising officers are required to follow guidelines and standards and directing agencies that employ supervising officers to collaborate with the board to hold accountable those who fail to do so;
- Repealing the limitation on the number of treatment providers given to offenders when choosing a provider;
- Requiring standards compliance reviews on at least 10% of providers every 2 years;
- Updating language concerning fingerprints to reflect current practice; and
- Relieving the department of regulatory agencies of its responsibility to publish a list, together with the board, of approved treatment providers.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 16-11.7-103, **amend**
3 (6); and **add** (4)(h.5) as follows:

4 **16-11.7-103. Sex offender management board - creation -**
5 **duties - repeal.** (4) **Duties of the board.** The board shall carry out the
6 following duties:

7 (h.5) **Compliance reviews of treatment providers.** BEGINNING
8 SEPTEMBER 1, 2024, AND EVERY TWO YEARS THEREAFTER, THE BOARD
9 SHALL PERFORM A COMPLIANCE REVIEW OF AT LEAST TEN PERCENT OF
10 TREATMENT PROVIDERS.

11 (6) **Repeal.** This section is repealed, effective ~~September 1, 2023~~
12 SEPTEMBER 1, 2030. Before the repeal, this section is scheduled for
13 review in accordance with section 24-34-104.

14 **SECTION 2.** In Colorado Revised Statutes, 16-11.7-105, **amend**
15 (2) as follows:

16 **16-11.7-105. Sentencing of sex offenders - treatment based**

1 **upon evaluation and identification required.** (2) For offenders who
2 begin community supervision on or after August 10, 2016, the
3 supervising agency of each adult sex offender and juvenile who has
4 committed a sexual offense shall provide the offender with ~~a choice of~~
5 ~~two appropriate~~ THE COMPLETE LIST OF treatment provider agencies
6 staffed by approved providers. ~~unless the supervising agency documents~~
7 ~~in the file that, based upon the nature of the program offered, the needs~~
8 ~~of the offender, or the proximity of the appropriate treatment provider~~
9 ~~agency, fewer than two such agencies can meet the specific needs of the~~
10 ~~offender, ensure the safety of the public, and provide the supervising~~
11 ~~agency with reasonable access to the treatment provider agency and the~~
12 ~~offender during the course of treatment.~~ Once selected, the treatment
13 provider agency may not be changed by the offender without the approval
14 of the community supervision team, the multidisciplinary team, or the
15 court.

16 **SECTION 3.** In Colorado Revised Statutes, 16-11.7-106, **amend**
17 (2)(a) introductory portion, (2)(a)(I), and (2)(b); and **add** (8) as follows:

18 **16-11.7-106. Sex offender evaluation, treatment, and**
19 **polygraph services - contracts with providers - placement on**
20 **provider list - grievances - fund created.** (2) (a) The board shall
21 develop an application and review process for treatment providers,
22 evaluators, and polygraph examiners who provide services pursuant to
23 this ~~article~~ ARTICLE 11.7 to adult sex offenders and to juveniles who have
24 committed sexual offenses. The application and review process ~~shall~~
25 **MUST** allow providers to demonstrate that they are in compliance with the
26 standards adopted pursuant to this ~~article~~ ARTICLE 11.7. The application
27 and review process ~~shall consist~~ **CONSISTS** of the following three parts:

1 (I) The board shall develop separate application and review
2 processes for standards that apply to the criminal justice component, such
3 as criminal history record checks, for evaluators, individual treatment
4 providers, and polygraph examiners. Applications for the criminal justice
5 components, ~~including~~ EXCLUDING fingerprints, shall MUST be submitted
6 to the board. The ~~board shall~~ DIVISION OF CRIMINAL JUSTICE IN THE
7 DEPARTMENT OF PUBLIC SAFETY SHALL WORK WITH A THIRD-PARTY
8 VENDOR TO TAKE AND forward ~~the~~ fingerprints to the Colorado bureau of
9 investigation for use in conducting a state criminal history record check
10 and for transmittal to the federal bureau of investigation for a national
11 criminal history record check. The board may use information obtained
12 from the state and national criminal history record checks to determine an
13 applicant's eligibility for placement on the approved provider list. The
14 board ~~shall be~~ IS responsible for the implementation of ~~the provisions of~~
15 ~~this subparagraph (I)~~ THIS SUBSECTION (2)(a)(I).

16 (b) After the process developed pursuant to ~~paragraph (a) of this~~
17 ~~subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION is established and
18 providers have met all the criteria of the application and review process,
19 the board may approve the provider. The board ~~and the department of~~
20 ~~regulatory agencies~~ shall jointly publish, at least annually, a list of
21 approved providers. The board shall forward the list to the office of the
22 state court administrator, the department of public safety, the department
23 of human services, and the department of corrections. The board shall
24 update and forward the list of approved providers as necessary.

25 (8) SUPERVISING OFFICERS SHALL FOLLOW THE GUIDELINES AND
26 STANDARDS DEVELOPED PURSUANT TO THIS SECTION WHEN WORKING
27 WITH SEX OFFENDERS. AGENCIES EMPLOYING SUPERVISING OFFICERS

1 SHALL COLLABORATE WITH THE BOARD TO DEVELOP PROCEDURES TO HOLD
2 ACCOUNTABLE A SUPERVISING OFFICER WHO FAILS TO FOLLOW THE
3 GUIDELINES AND STANDARDS.

4 **SECTION 4.** In Colorado Revised Statutes, 24-34-104, **repeal**
5 (24)(a)(XIII); and **add** (31)(a)(VIII) as follows:

6 **24-34-104. General assembly review of regulatory agencies**
7 **and functions for repeal, continuation, or reestablishment - legislative**
8 **declaration - repeal.** (24) (a) The following agencies, functions, or both,
9 are scheduled for repeal on September 1, 2023:

10 (XIII) ~~The sex offender management board created in section~~
11 ~~16-11.7-103.~~

12 (31) (a) The following agencies, functions, or both, are scheduled
13 for repeal on September 1, 2030:

14 (VIII) THE SEX OFFENDER MANAGEMENT BOARD CREATED IN
15 SECTION 16-11.7-103.

16 **SECTION 5. Act subject to petition - effective date.** This act
17 takes effect at 12:01 a.m. on the day following the expiration of the
18 ninety-day period after final adjournment of the general assembly; except
19 that, if a referendum petition is filed pursuant to section 1 (3) of article V
20 of the state constitution against this act or an item, section, or part of this
21 act within such period, then the act, item, section, or part will not take
22 effect unless approved by the people at the general election to be held in
23 November 2024 and, in such case, will take effect on the date of the
24 official declaration of the vote thereon by the governor.