

CHAPTER 318

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 22-1210

BY REPRESENTATIVE(S) Benavidez and Duran, Bacon, Bernett, Boesenecker, Cutter, Esgar, Exum, Froelich, Gray, Herod, Jodeh, Kennedy, Kipp, Lindsay, Lontine, McCluskie, Michaelson Jenet, Mullica, Ricks, Roberts, Sullivan, Titone, Valdez A., Weissman, Young;
 also SENATOR(S) Winter, Buckner, Donovan, Fields, Ginal, Gonzales, Hansen, Jaquez Lewis, Kolker, Lee, Moreno, Pettersen, Rodriguez, Story, Zenzinger.

AN ACT

CONCERNING THE CONTINUATION OF THE DOMESTIC VIOLENCE OFFENDER MANAGEMENT BOARD, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2021 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES AND MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 16-11.8-103, **amend** (4)(a) introductory portion, (4)(a)(III) introductory portion, (4)(a)(III)(A), (4)(a)(III)(D), (4)(a)(IV), and (7)(a); and **add** (4)(a)(III.3) and (5.5) as follows:

16-11.8-103. Domestic violence offender management board - creation - duties - repeal. (4) (a) The board ~~shall carry out~~ HAS the following duties:

(III) Develop an application and review process for treatment providers who provide services to domestic violence offenders pursuant to subsection (4)(a)(I) or (4)(a)(II) of this section. The standards must allow providers to demonstrate that they are in compliance with the standards adopted pursuant to subsections (4)(a)(I) and (4)(a)(II) of this section. The application and review process ~~must consist~~ CONSISTS of the following ~~three~~ parts:

(A) The board shall develop separate application and review processes for standards that apply to the criminal justice component, such as criminal history record checks, for individual treatment providers and treatment programs. ~~Applications for the criminal justice components, including fingerprints, must be submitted to the board. The board shall forward the fingerprints to the Colorado~~

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

~~bureau of investigation for use in conducting a state criminal history record check and for transmittal to the federal bureau of investigation for a national criminal history record check. The information obtained from the state and national criminal history record check may be used by the board to determine an applicant's eligibility for placement on the approved provider list. The board is responsible for the implementation of this subsection (4)(a)(III)(A) of the application and review process.~~ A LOCAL LAW ENFORCEMENT AGENCY OR A THIRD PARTY APPROVED BY THE COLORADO BUREAU OF INVESTIGATION, FOR THE PURPOSE OF OBTAINING A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK, SHALL TAKE THE FINGERPRINTS OF EACH APPLICANT. IF AN APPROVED THIRD PARTY TAKES THE APPLICANT'S FINGERPRINTS, THE FINGERPRINTS MAY BE ELECTRONICALLY CAPTURED USING COLORADO BUREAU OF INVESTIGATION-APPROVED LIVESCAN EQUIPMENT. THE APPLICANT SHALL SUBMIT PAYMENT FOR THE FINGERPRINTS AND FOR THE ACTUAL COSTS OF THE RECORD CHECK AT THE TIME THE FINGERPRINTS ARE SUBMITTED TO THE COLORADO BUREAU OF INVESTIGATION. UPON RECEIPT OF FINGERPRINTS AND PAYMENT FOR COSTS, THE COLORADO BUREAU OF INVESTIGATION SHALL CONDUCT A STATE AND NATIONAL FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK UTILIZING RECORDS OF THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION AND SHALL FORWARD THE RESULTS OF THE CRIMINAL HISTORY RECORD CHECK TO THE BOARD.

(D) ~~Notwithstanding any action taken by the department of regulatory agencies against a treatment provider, the board may take action against a treatment provider including, but not limited to, removing a treatment provider from the approved provider list. The board may determine the requirements for a treatment provider's name to be placed on the list after his or her name has been removed from the list pursuant to this subsection (4)(a)(III).~~ THE BOARD SHALL PERFORM COMPLIANCE REVIEWS ON AT LEAST TEN PERCENT OF THE TREATMENT PROVIDERS EVERY TWO YEARS BEGINNING NO LATER THAN JULY 1, 2023.

(III.3) NOTWITHSTANDING ANY ACTION TAKEN BY THE DEPARTMENT OF REGULATORY AGENCIES AGAINST A TREATMENT PROVIDER, THE BOARD MAY TAKE INDEPENDENT ACTION AGAINST A TREATMENT PROVIDER INCLUDING, BUT NOT LIMITED TO, REMOVING A TREATMENT PROVIDER FROM THE APPROVED PROVIDER LIST. THE BOARD MAY DETERMINE THE REQUIREMENTS FOR A TREATMENT PROVIDER'S NAME TO BE PLACED ON THE LIST AFTER THE NAME HAS BEEN REMOVED FROM THE LIST PURSUANT TO THIS SUBSECTION (4)(a)(III.3).

(IV) Research and analyze the effectiveness of the treatment evaluation and treatment procedures and programs developed pursuant to this ~~article~~ ARTICLE 11.8. THE BOARD SHALL DEVELOP A DATA COLLECTION PLAN AND REQUIRE APPROVED PROVIDERS TO BEGIN DATA COLLECTION PURSUANT TO THE PLAN ADOPTED BY THE BOARD NO LATER THAN JANUARY 1, 2023. The board shall also develop and prescribe a system for implementation of the guidelines and standards developed pursuant to ~~subparagraphs (I) and (II) of this paragraph (a)~~ SUBSECTIONS (4)(a)(I) AND (4)(a)(II) OF THIS SECTION and for tracking offenders who have been evaluated and treated pursuant to this ~~article~~ ARTICLE 11.8. In addition, the board shall develop a system for monitoring offender behaviors and offender adherence to prescribed behavioral changes. The results of such tracking and behavioral monitoring shall be a part of any analysis made pursuant to this ~~subparagraph (IV)~~ SUBSECTION (4)(a)(IV).

(5.5) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), ON OR BEFORE JANUARY 31, 2023, AND ON OR BEFORE EACH JANUARY 31 THEREAFTER, THE BOARD SHALL PREPARE AND PRESENT A WRITTEN REPORT TO THE HOUSE OF REPRESENTATIVES JUDICIARY COMMITTEE AND THE SENATE JUDICIARY COMMITTEE, OR THEIR SUCCESSOR COMMITTEES. THE REPORT MUST INCLUDE:

(a) THE NUMBER OF PEOPLE WHO RECEIVED DOMESTIC VIOLENCE OFFENDER TREATMENT IN THE PRECEDING YEAR, THE NUMBER OF THOSE WHO SUCCESSFULLY COMPLETED THE TREATMENT, THE NUMBER OF THOSE WHO DID NOT COMPLETE THE TREATMENT, AND THE NUMBER OF THOSE WHO REOFFENDED AND WERE REMOVED FROM TREATMENT;

(b) THE NUMBER OF TREATMENT PROVIDERS WHO PROVIDED DOMESTIC VIOLENCE OFFENDER TREATMENT IN THE PRECEDING YEAR;

(c) THE NUMBER OF TREATMENT PROVIDERS WHO APPLIED TO BE PLACED ON THE LIST OF APPROVED TREATMENT PROVIDERS PURSUANT TO SUBSECTION (4)(a)(III)(C) OF THIS SECTION AND THE NUMBER OF TREATMENT PROVIDERS PLACED ON THE LIST;

(d) THE BEST PRACTICES FOR THE TREATMENT AND MANAGEMENT OF DOMESTIC VIOLENCE; AND

(e) ANY OTHER RELEVANT INFORMATION, INCLUDING ANY BOARD RECOMMENDATIONS FOR LEGISLATION TO CARRY OUT THE PURPOSE AND DUTIES OF THE BOARD TO PROTECT THE COMMUNITY.

(7) (a) This section is repealed, effective ~~September 1, 2022~~ SEPTEMBER 1, 2027.

SECTION 2. In Colorado Revised Statutes, 24-34-104, **repeal** (23)(a)(IX); and **add** (28)(a)(VIII) as follows:

24-34-104. General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment - legislative declaration - repeal. (23) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2022:

(IX) ~~The domestic violence offender management board created in section 16-11.8-103;~~

(28) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2027:

(VIII) THE DOMESTIC VIOLENCE OFFENDER MANAGEMENT BOARD CREATED IN SECTION 16-11.8-103.

SECTION 3. Appropriation. For the 2022-23 state fiscal year, \$70,232 is appropriated to the department of public safety for use by the division of criminal justice. This appropriation is from the general fund and is based on an assumption that the division will require an additional 1.0 FTE. To implement this act, the division may use this appropriation for DCJ administrative services.

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 2, 2022