

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-0433.02 Jerry Barry x4341

HOUSE BILL 16-1345

HOUSE SPONSORSHIP

Kagan, Court

SENATE SPONSORSHIP

(None),

House Committees

Judiciary
Appropriations

Senate 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 OF THE 2015 SUNSET**
104 **REPORT ISSUED 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://www.leg.state.co.us/billsummaries>.)

Sunset Process - House Judiciary Committee. The bill extends the sex offender management board (board) from September 1, 2016, to

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

September 1, 2021. In addition, the bill:

- ! Requires the board to collect and use data to evaluate the effectiveness of its guidelines and standards;
- ! Requires the board to review and investigate complaints and grievances against authorized providers concerning its standards and to notify the department of regulatory agencies (DORA) of any complaints or grievances and the outcomes of any investigations; and
- ! Requires DORA to notify the board of any complaints or grievances received concerning authorized providers and the outcomes of any investigations.

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 (4) (a), (4) (b), (4) (h), (4) (i), (4) (j), and (6) (a) 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 (a) **Standards for identification and evaluation of adult sex**
8 **offenders. (I)** The board shall develop, prescribe, and revise, as
9 appropriate, a standard procedure to evaluate and identify adult sex
10 offenders, including adult sex offenders with developmental disabilities.
11 The procedures shall provide for an evaluation and identification of the
12 adult sex offender and recommend management, monitoring, and
13 treatment based upon existing research ~~demonstrating that sexually~~
14 ~~offending behavior is often repetitive and that~~ AND SHALL INCORPORATE
15 THE CONCEPTS OF THE RISK-NEED-RESPONSIVITY OR ANOTHER
16 EVIDENCE-BASED CORRECTIONAL MODEL. There is currently no way to
17 ensure that adult sex offenders with the propensity to commit sexual
18 offenses will not reoffend. Because there are adult sex offenders who can
19 learn to manage unhealthy patterns and learn behaviors that can lessen

1 their risk to society in the course of ongoing treatment, management, and
2 monitoring, the board shall develop a procedure for evaluating and
3 identifying, on a case-by-case basis, reliably lower-risk sex offenders
4 WHOSE RISK TO SEXUALLY REOFFEND MAY NOT BE FURTHER REDUCED BY
5 PARTICIPATION IN TREATMENT AS DESCRIBED IN PARAGRAPH (b) OF THIS
6 SUBSECTION (4). The board shall develop and implement methods of
7 intervention for adult sex offenders, which methods have as a priority the
8 physical and psychological safety of victims and potential victims and
9 which are appropriate to the assessed needs of the particular offender, so
10 long as there is no reduction in the safety of victims and potential victims.

11 (II) (A) ONCE THE BOARD HAS APPROVED REVISED PORTIONS OF
12 THE STANDARDS, THE BOARD SHALL MAKE EVERY EFFORT TO PUBLISH THE
13 APPROVED PORTIONS. THE BOARD SHALL COMPLETE A REVISION OF THE
14 STANDARDS TO IDENTIFY AND EVALUATE ADULT SEX OFFENDERS BY JULY
15 1, 2017. IF THE BOARD DETERMINES THAT IT WILL BE UNABLE TO
16 COMPLETE THE REVISION OF THE STANDARDS BY JULY 1, 2017, THE BOARD
17 SHALL REPORT TO THE JUDICIARY COMMITTEES OF THE GENERAL
18 ASSEMBLY, OR ANY SUCCESSOR COMMITTEES, A PROJECTED COMPLETION
19 DATE AS PART OF ITS ANNUAL REPORT PRESENTED PURSUANT TO SECTION
20 16-11.7-109 (2) IN JANUARY 2017. THE REVISED STANDARDS MUST BE
21 CONSISTENT WITH THE RECOMMENDATIONS PROVIDED TO THE BOARD IN
22 THE 2014 INDEPENDENT EVALUATION OF THE BOARD'S STANDARDS AND
23 GUIDELINES FUNDED BY THE GENERAL ASSEMBLY IN 2013; EXCEPT THAT,
24 IF THE STANDARDS ARE NOT CONSISTENT WITH THE 2014 INDEPENDENT
25 EVALUATION, IN ITS ANNUAL REPORT TO THE JUDICIARY COMMITTEES OF
26 THE GENERAL ASSEMBLY, OR ANY SUCCESSOR COMMITTEES, PURSUANT TO
27 SECTION 16-11.7-109 (2), THE BOARD SHALL DESCRIBE ANY

1 INCONSISTENCIES AND EXPLAIN THE EVIDENCE-BASED REASONS FOR THE
2 INCONSISTENCIES.

3 (B) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1,
4 2018.

5 (b) **Guidelines and standards for treatment of adult offenders.**

6 (I) The board shall develop, implement, and revise, as appropriate,
7 guidelines and standards to treat adult sex offenders, including adult sex
8 offenders with developmental disabilities, INCORPORATING IN THE
9 GUIDELINES AND STANDARDS THE CONCEPTS OF THE
10 RISK-NEED-RESPONSIVITY OR ANOTHER EVIDENCE-BASED CORRECTIONAL
11 MODEL, which guidelines and standards can be used in the treatment of
12 offenders who are placed on probation, incarcerated with the department
13 of corrections, placed on parole, or placed in community corrections.
14 Programs implemented pursuant to the guidelines and standards
15 developed pursuant to this paragraph (b) shall be as flexible as possible
16 so that the programs may be accessed by each adult sex offender to
17 prevent the offender from harming victims and potential victims.
18 Programs shall include a continuing monitoring process and a continuum
19 of treatment options available to an adult sex offender as he or she
20 proceeds through the criminal justice system. Treatment options shall be
21 determined by a current risk assessment and evaluation and may include,
22 but need not be limited to, group counseling, individual counseling,
23 family counseling, outpatient treatment, inpatient treatment, shared living
24 arrangements, or treatment in a therapeutic community. Programs
25 implemented pursuant to the guidelines and standards developed pursuant
26 to this paragraph (b) shall, to the extent possible, be accessible to all adult
27 sex offenders in the criminal justice system, including those offenders

1 with mental illness and co-occurring disorders. The procedures for
2 evaluation, identification, treatment, and monitoring developed pursuant
3 to this subsection (4) shall be implemented only to the extent that moneys
4 are available in the sex offender surcharge fund created in section
5 18-21-103 (3), C.R.S.

6 (II) (A) ONCE THE BOARD HAS APPROVED REVISED PORTIONS OF
7 THE STANDARDS, THE BOARD SHALL MAKE EVERY EFFORT TO PUBLISH THE
8 APPROVED PORTIONS. THE BOARD SHALL COMPLETE A REVISION OF THE
9 GUIDELINES AND STANDARDS TO TREAT ADULT SEX OFFENDERS BY JULY
10 1, 2017. IF THE BOARD DETERMINES THAT IT WILL BE UNABLE TO
11 COMPLETE THE REVISION OF THE STANDARDS BY JULY 1, 2017, THE BOARD
12 SHALL REPORT TO THE JUDICIARY COMMITTEES OF THE GENERAL
13 ASSEMBLY, OR ANY SUCCESSOR COMMITTEES, A PROJECTED COMPLETION
14 DATE AS PART OF ITS ANNUAL REPORT PRESENTED PURSUANT TO SECTION
15 16-11.7-109 (2) IN JANUARY 2017. THE REVISED GUIDELINES AND
16 STANDARDS MUST BE CONSISTENT WITH THE RECOMMENDATIONS
17 PROVIDED TO THE BOARD IN THE 2014 INDEPENDENT EVALUATION OF THE
18 BOARD'S STANDARDS AND GUIDELINES FUNDED BY THE GENERAL
19 ASSEMBLY IN 2013; EXCEPT THAT, IF THE STANDARDS ARE NOT
20 CONSISTENT WITH THE 2014 INDEPENDENT EVALUATION, IN ITS ANNUAL
21 REPORT TO THE GENERAL ASSEMBLY PURSUANT TO SECTION 16-11.7-109
22 (2), THE BOARD SHALL DESCRIBE ANY INCONSISTENCIES AND EXPLAIN THE
23 EVIDENCE-BASED REASONS FOR THE INCONSISTENCIES.

24 (B) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1,
25 2018.

26 (h) **Data collection from treatment providers.** (I) If the
27 department of public safety acquires sufficient funding, the board may

1 request that individuals or entities providing sex-offender-specific
2 evaluation, treatment, or polygraph services that conform with standards
3 developed by the board pursuant to paragraph (b) of this subsection (4)
4 submit to the board data and information as determined by the board at
5 the time that funding becomes available. This data and information may
6 be used by the board to evaluate the effectiveness of the guidelines and
7 standards developed pursuant to this article; to evaluate the effectiveness
8 of individuals or entities providing sex-offender-specific evaluation,
9 treatment, or polygraph services; or for any other purposes consistent with
10 the provisions of this article.

11 (II) THE BOARD SHALL DEVELOP A DATA COLLECTION PLAN,
12 INCLUDING ASSOCIATED COSTS, IN CONSULTATION WITH THE RESEARCH
13 AND EVALUATION PROFESSIONALS ON THE BOARD AND WITHIN THE
14 DEPARTMENT OF PUBLIC SAFETY. THE BOARD SHALL REPORT ON THE DATA
15 COLLECTION PLAN TO THE JUDICIARY COMMITTEES OF THE GENERAL
16 ASSEMBLY, OR ANY SUCCESSOR COMMITTEES, AS PART OF ITS ANNUAL
17 REPORT PRESENTED PURSUANT TO SECTION 16-11.7-109 (2) IN JANUARY
18 2017. BY JULY 1, 2017, THE BOARD SHALL REVISE THE GUIDELINES AND
19 STANDARDS FOR APPROVED PROVIDERS DEVELOPED PURSUANT TO
20 PARAGRAPHS (b) AND (j) OF THIS SUBSECTION (4) TO REQUIRE
21 EVALUATORS, TREATMENT PROVIDERS, AND POLYGRAPH EXAMINERS TO
22 COLLECT DATA PURSUANT TO THE DATA COLLECTION PLAN. IF THE BOARD
23 DETERMINES THAT IT WILL BE UNABLE TO COMPLETE THE REVISION OF THE
24 GUIDELINES AND STANDARDS BY JULY 1, 2017, THE BOARD SHALL REPORT
25 TO THE JUDICIARY COMMITTEES OF THE GENERAL ASSEMBLY, OR ANY
26 SUCCESSOR COMMITTEES, A PROJECTED COMPLETION DATE AS PART OF ITS
27 ANNUAL REPORT PRESENTED PURSUANT TO SECTION 16-11.7-109 (2) IN

1 JANUARY 2017.

2 (i) **Standards for identification and evaluation of juvenile**
3 **offenders.** The board shall develop, prescribe, and revise, as appropriate,
4 a standard procedure to evaluate and identify juveniles who have
5 committed sexual offenses, including juveniles with developmental
6 disabilities. The procedure shall provide for an evaluation and
7 identification of the juvenile offender and recommend behavior
8 management, monitoring, treatment, and compliance AND SHALL
9 INCORPORATE THE CONCEPTS OF THE RISK-NEED-RESPONSIVITY OR
10 ANOTHER EVIDENCE-BASED CORRECTIONAL MODEL based upon the
11 knowledge that all unlawful sexual behavior poses a risk to the
12 community and that certain juveniles may have the capacity to change
13 their behavior with appropriate intervention and treatment. The board
14 shall develop and implement methods of intervention for juveniles who
15 have committed sexual offenses, which methods have as a priority the
16 physical and psychological safety of victims and potential victims and
17 that are appropriate to the needs of the particular juvenile offender, so
18 long as there is no reduction in the safety of victims and potential victims.

19 (j) **Guidelines and standards for treatment of juvenile**
20 **offenders.** The board shall develop, implement, and revise, as
21 appropriate, guidelines and standards to treat juveniles who have
22 committed sexual offenses, including juveniles with developmental
23 disabilities, INCORPORATING IN THE GUIDELINES AND STANDARDS THE
24 CONCEPTS OF THE RISK-NEED-RESPONSIVITY OR ANOTHER
25 EVIDENCE-BASED CORRECTIONAL MODEL, which guidelines and standards
26 may be used for juvenile offenders who are placed on probation,
27 committed to the department of human services, placed on parole, or

1 placed in out-of-home placement. Programs implemented pursuant to the
2 guidelines and standards developed pursuant to this paragraph (j) shall be
3 as flexible as possible so that the programs may be accessed by each
4 juvenile offender to prevent him or her from harming victims and
5 potential victims. Programs shall provide a continuing monitoring process
6 and a continuum of treatment options available to a juvenile offender as
7 he or she proceeds through the juvenile justice system. Treatment options
8 may include, but need not be limited to, group counseling, individual
9 counseling, family counseling, outpatient treatment, inpatient treatment,
10 shared living arrangements, and treatment in a therapeutic community.
11 Programs implemented pursuant to the guidelines and standards
12 developed pursuant to this paragraph (j) shall be, to the extent possible,
13 accessible to all juveniles who have committed sexual offenses and who
14 are in the juvenile justice system, including juveniles with mental illness
15 or co-occurring disorders.

16 (6) **Repeal.** (a) This section is repealed, effective September 1,
17 ~~2016~~ 2019.

18 **SECTION 2.** In Colorado Revised Statutes, **amend** 16-11.7-105
19 as follows:

20 **16-11.7-105. Sentencing of sex offenders - treatment based**
21 **upon evaluation and identification required.** (1) Each adult sex
22 offender and juvenile who has committed a sexual offense sentenced by
23 the court for an offense committed on or after January 1, 1994, shall be
24 required, as a part of any sentence to probation, commitment to the
25 department of human services, sentence to community corrections,
26 incarceration with the department of corrections, placement on parole, or
27 out-of-home placement to undergo treatment to the extent appropriate to

1 such offender based upon the recommendations of the evaluation and
2 identification made pursuant to section 16-11.7-104 or based upon any
3 subsequent recommendations by the department of corrections, the
4 judicial department, the department of human services, or the division of
5 criminal justice in the department of public safety, whichever is
6 appropriate. The treatment and monitoring shall be provided by an
7 approved provider pursuant to section 16-11.7-106, and the offender shall
8 pay for the treatment to the extent the offender is financially able to do so.

9 (2) THE SUPERVISING AGENCY OF EACH ADULT SEX OFFENDER AND
10 JUVENILE WHO HAS COMMITTED A SEXUAL OFFENSE SHALL GIVE AN
11 OFFENDER A CHOICE OF AT LEAST TWO APPROPRIATE AGENCIES STAFFED
12 BY APPROVED PROVIDERS, UNLESS THE SUPERVISING AGENCY DOCUMENTS
13 IN THE FILE THAT, BASED UPON THE NATURE OF THE PROGRAM OFFERED
14 AND THE NEEDS OF THE OFFENDER, FEWER THAN TWO AGENCIES CAN MEET
15 THE SPECIFIC NEEDS OF THE OFFENDER AND ENSURE THE SAFETY OF THE
16 PUBLIC. ONCE SELECTED, NEITHER THE TREATMENT AGENCY NOR THE
17 POLYGRAPH EXAMINER MAY BE CHANGED BY THE OFFENDER WITHOUT THE
18 APPROVAL OF THE COMMUNITY SUPERVISION TEAM, THE
19 MULTIDISCIPLINARY TEAM, OR THE COURT.

20 **SECTION 3.** In Colorado Revised Statutes, 16-11.7-106, **repeal**
21 **and reenact, with amendments,** (7) as follows:

22 **16-11.7-106. Sex offender evaluation, treatment, and**
23 **polygraph services - contracts with providers - placement on**
24 **provider list - grievances - fund created.** (7) (a) THE BOARD SHALL
25 NOTIFY THE DEPARTMENT OF REGULATORY AGENCIES OF THE RECEIPT OF
26 ANY COMPLAINTS OR GRIEVANCES AGAINST AN INDIVIDUAL WHO PROVIDES
27 SEX-OFFENDER-SPECIFIC TREATMENT OR EVALUATION SERVICES

1 PURSUANT TO THIS ARTICLE AND ADVISE THE DEPARTMENT OF ANY
2 DISCIPLINARY ACTION TAKEN PURSUANT TO PARAGRAPH (b) OF THIS
3 SUBSECTION (7). THE DEPARTMENT OF REGULATORY AGENCIES OR THE
4 APPROPRIATE BOARD, PURSUANT TO ARTICLE 43 OF TITLE 12, C.R.S., AND
5 REFERRED TO IN THIS SUBSECTION (7) AS THE "DORA BOARD", SHALL
6 NOTIFY THE BOARD OF THE RECEIPT OF ANY COMPLAINT OR GRIEVANCE
7 AGAINST A PROVIDER WHO PROVIDES SEX-OFFENDER-SPECIFIC TREATMENT
8 OR EVALUATION SERVICES PURSUANT TO THIS ARTICLE, IF THE COMPLAINT
9 OR GRIEVANCE WAS NOT REFERRED BY THE BOARD, AND ADVISE THE
10 BOARD OF ANY DISCIPLINARY ACTION TAKEN AGAINST THE INDIVIDUAL
11 PURSUANT TO ANY PROFESSIONAL LICENSING ACT.

12 (b) THE BOARD SHALL REVIEW AND INVESTIGATE ALL COMPLAINTS
13 AND GRIEVANCES CONCERNING COMPLIANCE WITH ITS STANDARDS
14 AGAINST INDIVIDUALS WHO PROVIDE SEX-OFFENDER-SPECIFIC
15 TREATMENT, EVALUATION, OR POLYGRAPH SERVICES PURSUANT TO THIS
16 ARTICLE. NOTWITHSTANDING ANY ACTION TAKEN BY THE DEPARTMENT OF
17 REGULATORY AGENCIES OF THE DORA BOARD, THE BOARD MAY TAKE
18 APPROPRIATE DISCIPLINARY ACTION, AS PERMITTED BY LAW, AGAINST AN
19 INDIVIDUAL WHO PROVIDES SEX-OFFENDER-SPECIFIC TREATMENT,
20 EVALUATION, OR POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE. THE
21 DISCIPLINARY ACTION MAY INCLUDE, BUT NEED NOT BE LIMITED TO, THE
22 REMOVAL OF THE INDIVIDUAL'S NAME FROM THE LIST OF PERSONS WHO
23 MAY PROVIDE SEX OFFENDER EVALUATION, TREATMENT, OR POLYGRAPH
24 SERVICES PURSUANT TO THIS ARTICLE.

25 (c) (I) NOTHING IN THIS SUBSECTION (7) LIMITS THE RIGHTS OR
26 RESPONSIBILITIES OF THE DEPARTMENT OF REGULATORY AGENCIES OR THE
27 DORA BOARD WITH RESPECT TO THE INVESTIGATION AND RESOLUTION OF

1 COMPLAINTS PURSUANT TO ARTICLE 43 OF TITLE 12, C.R.S.

2 (II) NOTHING IN THIS SUBSECTION (7) LIMITS THE RIGHTS OR
3 RESPONSIBILITIES OF THE BOARD WITH RESPECT TO THE ADDITION OR
4 REMOVAL OF AN INDIVIDUAL'S NAME FROM THE LIST OF PERSONS WHO MAY
5 PROVIDE SEX OFFENDER EVALUATION, TREATMENT, OR POLYGRAPH
6 SERVICES PURSUANT TO THIS ARTICLE.

7 **SECTION 4.** In Colorado Revised Statutes, 24-34-104, **repeal**
8 (47.5) (f); and **add** (50.5) (o) as follows:

9 **24-34-104. General assembly review of regulatory agencies**
10 **and functions for termination, continuation, or reestablishment.**

11 (47.5) The following agencies, functions, or both, shall terminate on
12 September 1, 2016:

13 (f) ~~The sex offender management board created in section~~
14 ~~16-11.7-103, C.R.S.;~~

15 (50.5) The following agencies, functions, or both, terminate on
16 September 1, 2019:

17 (o) THE SEX OFFENDER MANAGEMENT BOARD CREATED IN SECTION
18 16-11.7-103, C.R.S.

19 **SECTION 5. Act subject to petition - effective date.** This act
20 takes effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly (August
22 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
23 referendum petition is filed pursuant to section 1 (3) of article V of the
24 state constitution against this act or an item, section, or part of this act
25 within such period, then the act, item, section, or part will not take effect
26 unless approved by the people at the general election to be held in

- 1 November 2016 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.