

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 23-0318.01 Jane Ritter x4342

SENATE BILL 23-164

SENATE SPONSORSHIP

Gonzales and Gardner, Buckner, Coleman, Exum, Fields, Hansen, Kolker, Lundeen, Pelton B., Priola, Rich, Smallwood

HOUSE SPONSORSHIP

Bacon and Weissman, Michaelson Jenet

Senate Committees

Judiciary
Appropriations

House Committees

Judiciary
Appropriations

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 AND MAKING AN APPROPRIATION.**

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.

HOUSE
3rd Reading Unamended
May 7, 2023

HOUSE
Amended 2nd Reading
May 6, 2023

SENATE
3rd Reading Unamended
April 25, 2023

SENATE
Amended 2nd Reading
April 24, 2023

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, 16-11-102, **amend**
3 **(1)(b)(I) introductory portion as follows:**

4 **16-11-102. Presentence or probation investigation. (1)**
5 **(b) (I) Each presentence report prepared regarding a sex offender, as**
6 **defined in section 16-11.7-102 (2) SECTION 16-11.7-102 (2)(a)(I) TO**
7 **(2)(a)(III), OR IF REQUESTED BY THE PROSECUTING ATTORNEY OR COURT**
8 **FOR A PERSON WHO MAY BE DETERMINED TO BE A SEX OFFENDER BASED**
9 **UPON A PRIOR OFFENSE PURSUANT TO SECTION 16-11.7-102 (2)(a)(IV),**
10 **with respect to any offense committed on or after January 1, 1996, shall**
11 **MUST contain the results of an evaluation and identification conducted**
12 **pursuant to article 11.7 of this title TITLE 16; except that:**

13 **SECTION 2.** In Colorado Revised Statutes, 16-11.7-102, **amend**
14 **(1), (1.5), and (2)(a) as follows:**

15 **16-11.7-102. Definitions.** As used in this article 11.7, unless the
16 **context otherwise requires:**

1 (1) "Adult sex offender" means a person who has been convicted,
2 as described in subparagraphs (I) to (III) of paragraph (a) of subsection
3 (2) SUBSECTION (2)(a)(I), (2)(a)(II), OR (2)(a)(IV) of this section, of a sex
4 offense, BUT DOES NOT INCLUDE A PERSON WHO MEETS THE DEFINITION OF
5 A "JUVENILE WHO HAS COMMITTED A SEXUAL OFFENSE", AS DEFINED IN
6 SUBSECTION (1.5) OF THIS SECTION, UNLESS THE PERSON HAS ALSO BEEN
7 CONVICTED OF A SEX OFFENSE COMMITTED ON OR AFTER THE DAY THE
8 PERSON ATTAINED EIGHTEEN YEARS OF AGE OR WHO IS SENTENCED FOR A
9 SEX OFFENSE ON OR AFTER THE PERSON ATTAINED TWENTY-ONE YEARS OF
10 AGE.

11 (1.5) "Juvenile who has committed a sexual offense" means a
12 juvenile who WAS LESS THAN EIGHTEEN YEARS OF AGE AT THE TIME OF
13 THE SEX OFFENSE AND WHO has been adjudicated as a juvenile or who
14 receives a deferred adjudication OR WHO IS SENTENCED PRIOR TO
15 ATTAINING TWENTY-ONE YEARS OF AGE AFTER BEING CRIMINALLY
16 CONVICTED IN THE DISTRICT COURT PURSUANT TO SECTION 19-2-517 OR
17 19-2-518 on or after July 1, 2002, OR SECTION 19-2.5-801 OR 19-2.5-802,
18 ON OR AFTER OCTOBER 1, 2021, for an offense that would constitute a sex
19 offense, as defined in subsection (3) of this section, if committed as an
20 adult, or a juvenile who has committed any offense, the underlying factual
21 basis of which involves a sex offense.

22 (2) (a) "Sex offender" means any person who is:
23 (I) Convicted in the state of Colorado, on or after January 1, 1994,
24 of any sex offense as defined in subsection (3) of this section; or
25 (II) Convicted in the state of Colorado on or after January 1, 1994,
26 of any criminal offense, if such person has previously been convicted of
27 a sex offense as described in subsection (3) of this section in the state of

1 Colorado, or if such person has previously been convicted in any other
2 jurisdiction of any offense that would constitute a sex offense as defined
3 in subsection (3) of this section, or if such person has a history of any sex
4 offenses as defined in subsection (3) of this section; or

5 (HH) (II) Convicted in the state of Colorado on or after July 1,
6 2000, of any criminal offense, the underlying factual basis of which
7 involves a sex offense; or

8 (IV) (III) A juvenile who has committed a sexual offense; OR

9 (IV) A PERSON WHO:

10 (A) WAS EVALUATED BECAUSE OF A DISCRETIONARY REQUEST BY
11 A PROSECUTING ATTORNEY OR COURT PURSUANT TO SECTION 16-11-102;

12 AND

13 (B) A COURT DETERMINES SHOULD UNDERGO SEX OFFENDER
14 TREATMENT BASED UPON THE RECOMMENDATIONS OF THE EVALUATION
15 AND IDENTIFICATION PURSUANT TO SECTION 16-11.7-104; AND

16 (C) IS CONVICTED IN THE STATE OF COLORADO ON OR AFTER
17 JANUARY 1, 1994, OF ANY CRIMINAL OFFENSE AND, IF THE PERSON HAS
18 PREVIOUSLY BEEN CONVICTED OF A SEX OFFENSE AS DEFINED IN
19 SUBSECTION (3) OF THIS SECTION, IN THE STATE OF COLORADO; OR IF THE
20 PERSON HAS PREVIOUSLY BEEN CONVICTED IN ANY OTHER JURISDICTION
21 OF ANY OFFENSE THAT WOULD CONSTITUTE A SEX OFFENSE AS DEFINED IN
22 SUBSECTION (3) OF THIS SECTION; OR IF THE PERSON HAS A HISTORY OF
23 ANY SEX OFFENSES AS DEFINED IN SUBSECTION (3) OF THIS SECTION.

24 **SECTION 3.** In Colorado Revised Statutes, 16-11.7-103, **amend**
25 (4)(b)(I), (4)(j)(I), (4)(m), and (6); and add (4)(h.5) as follows:

26 **16-11.7-103. Sex offender management board - creation -**
27 **duties - repeal. (4) Duties of the board.** The board shall carry out the

1 following duties:

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

3 (I) The board shall develop, implement, and revise, as appropriate,
4 guidelines and standards to treat adult sex offenders, including adult sex
5 offenders with intellectual and developmental disabilities, incorporating
6 in the guidelines and standards the concepts of the risk-need-responsivity
7 or another evidence-based correctional model, which guidelines and
8 standards can be used in the treatment of offenders who are placed on
9 probation, incarcerated with the department of corrections, placed on
10 parole, or placed in community corrections. Programs implemented
11 pursuant to the guidelines and standards developed pursuant to this
12 subsection (4)(b) must be as flexible as possible so that the programs may
13 be accessed by each adult sex offender to prevent the offender from
14 harming victims and potential victims. Programs must include a
15 continuing monitoring process and a continuum of treatment options
16 available to an adult sex offender as ~~he or she~~ THE OFFENDER proceeds
17 through the criminal justice system. Treatment options must be
18 determined by a current risk assessment and evaluation and may include,
19 but need not be limited to, group counseling, individual counseling,
20 family counseling, outpatient treatment, inpatient treatment, shared living
21 arrangements, or treatment in a therapeutic community. Programs
22 implemented pursuant to the guidelines and standards developed pursuant
23 to this subsection (4)(b) must, to the extent possible, be accessible to all
24 adult sex offenders in the criminal justice system, including those
25 offenders with behavioral, mental health, and co-occurring disorders AND
26 MUST ENSURE, TO THE EXTENT POSSIBLE, THAT TREATMENT IS RESPONSIVE
27 TO THE AGE AND DEVELOPMENTAL STATUS OF THE OFFENDER AT THE TIME

1 OF TREATMENT, AS WELL AS THE LINGUISTIC, CULTURAL, RELIGIOUS, AND
2 RACIAL CHARACTERISTICS; SEXUAL ORIENTATION, AS DEFINED IN SECTION
3 24-34-301; GENDER IDENTITY, AS DEFINED IN SECTION 24-34-301; AND
4 GENDER EXPRESSION, AS DEFINED IN SECTION 24-34-301, OF THE
5 OFFENDERS SERVED. The procedures for evaluation, identification,
6 treatment, and monitoring developed pursuant to this subsection (4) must
7 be implemented only to the extent that money is available in the sex
8 offender surcharge fund created in section 18-21-103 (3).

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

13 (j) (I) **Guidelines and standards for treatment of juveniles who**
14 **have committed a sexual offense.** The board shall develop, implement,
15 and revise, as appropriate, guidelines and standards to treat juveniles who
16 have committed A sexual offenses OFFENSE, including juveniles with
17 intellectual and developmental disabilities, incorporating in the guidelines
18 and standards the concepts of the risk-need-responsivity or another
19 evidence-based correctional model, which guidelines and standards may
20 be used for ~~juvenile offenders~~ JUVENILES who are placed on probation,
21 committed to the department of human services, SENTENCED TO
22 COMMUNITY CORRECTIONS, SENTENCED TO THE DEPARTMENT OF
23 CORRECTIONS, placed on parole, or placed in out-of-home placement.
24 Programs implemented pursuant to the guidelines and standards
25 developed pursuant to this subsection (4)(j) must be as flexible as
26 possible so that the programs may be accessed by each juvenile offender
27 to prevent him or her THE JUVENILE from harming victims and potential

1 victims. Programs must provide a continuing monitoring process and a
2 continuum of treatment options available to AS a juvenile offender as he
3 or she proceeds through the juvenile OR CRIMINAL justice system.
4 Treatment options may include, but need not be limited to, group
5 counseling, individual counseling, family counseling, outpatient
6 treatment, inpatient treatment, shared living arrangements, and treatment
7 in a therapeutic community. Programs implemented pursuant to the
8 guidelines and standards developed pursuant to this subsection (4)(j) must
9 be, to the extent possible, accessible to all juveniles who have committed
10 sexual offenses and who are in the juvenile OR CRIMINAL justice system,
11 including juveniles with behavioral, mental health, or co-occurring
12 disorders AND MUST ENSURE, TO THE EXTENT POSSIBLE, THAT TREATMENT
13 IS RESPONSIVE TO THE AGE AND DEVELOPMENTAL STATUS OF THE
14 JUVENILE AT THE TIME OF TREATMENT, AS WELL AS THE LINGUISTIC,
15 CULTURAL, RELIGIOUS, AND RACIAL CHARACTERISTICS; SEXUAL
16 ORIENTATION, AS DEFINED IN SECTION 24-34-301; GENDER IDENTITY, AS
17 DEFINED IN SECTION 24-34-301; AND GENDER EXPRESSION, AS DEFINED IN
18 SECTION 24-34-301, OF THE JUVENILES SERVED.

19 (m) Release guideline instrument for sex offenders with
20 determinate sentences. (I) ON OR BEFORE DECEMBER 1, 2023, AND AS
21 INDICATED THEREAFTER, THE BOARD, IN COLLABORATION WITH THE STATE
22 BOARD OF PAROLE, SHALL REVISE THE SPECIFIC SEX OFFENDER RELEASE
23 GUIDELINE INSTRUMENT, AS REQUIRED BY SECTION 17-22.5-404 (4)(c)(II),
24 FOR USE BY THE STATE BOARD OF PAROLE FOR THOSE INMATES CLASSIFIED
25 AS SEX OFFENDERS WITH DETERMINATE SENTENCES. THE REVISED
26 RELEASE GUIDELINE INSTRUMENT MUST INCORPORATE THE CONCEPTS OF
27 RISK-NEED-RESPONSIVITY OR ANOTHER EVIDENCE-BASED CORRECTIONAL

1 MODEL AND MUST BE AS FLEXIBLE AS POSSIBLE TO ENSURE THAT THE
2 PROGRAMS NECESSARY CAN BE TIMELY ACCESSED BY THE ADULT SEX
3 OFFENDER TO PREVENT THE OFFENDER FROM HARMING VICTIMS OR
4 POTENTIAL VICTIMS. THE REVISED RELEASE GUIDELINE INSTRUMENT MUST
5 CONSIDER THE INTERSECTION OF THE GUIDELINE INSTRUMENT WITH THE
6 FACTORS OUTLINED IN SECTION 17-22.5-404 (4)(a); HOWEVER, THE
7 RELEASE GUIDELINE INSTRUMENT MUST NOT INCLUDE THE OFFENDER'S
8 INABILITY TO ACCESS TREATMENT DURING INCARCERATION, WHEN
9 DETERMINED TO BE ELIGIBLE FOR TREATMENT WITHIN THE DEPARTMENT
10 OF CORRECTIONS, AS A BASIS FOR DENIAL OF PAROLE.

11 (II) IN DEVELOPING THE REVISED RELEASE GUIDELINE
12 INSTRUMENT, THE BOARDS SHALL CONSIDER CURRENT RESEARCH,
13 INFORMATION, AND DATA REGARDING:

14 (A) FACTORS CONSISTENT WITH THE OFFENDER'S INDIVIDUAL
15 STATIC AND DYNAMIC RISK AND WHETHER PARTICIPATION IN TREATMENT
16 WHILE INCARCERATED WILL SIGNIFICANTLY REDUCE THE RISK PRIOR TO
17 RELEASE;

18 (B) THE MOST EFFECTIVE USE OF LIMITED TREATMENT RESOURCES
19 WITHIN THE DEPARTMENT OF CORRECTIONS;

20 (C) THE AVAILABILITY OR LACK OF AVAILABILITY OF TREATMENT
21 DURING INCARCERATION FOR OFFENDERS WITH DETERMINATE SENTENCES
22 WHO MIGHT OTHERWISE BE ELIGIBLE FOR RELEASE PURSUANT TO SECTION
23 17-22.5-404 (4)(a); AND

24 (D) THE EFFICACY OF TREATMENT AS A CONDITION OF COMMUNITY
25 SUPERVISION ON PAROLE.

26 (6) **Repeal.** This section is repealed, effective September 1, 2023
27 SEPTEMBER 1, 2028. Before the repeal, this section is scheduled for

1 review in accordance with section 24-34-104.

2 **SECTION 4.** In Colorado Revised Statutes, 16-11.7-104, **amend**
3 **(1)** as follows:

4 **16-11.7-104. Sex offenders - evaluation and identification**
5 **required.** (1) WHEN REQUIRED AS PART OF THE PRESENTENCE OR
6 PROBATION INVESTIGATION PURSUANT TO SECTIONS 16-11-102 (1)(b)(I)
7 AND 16-11.7-102 (2)(a)(I) TO (2)(a)(IV), on and after January 1, 1994,
8 each convicted adult sex offender and juvenile who has committed a
9 sexual offense who is to be considered for probation shall be IS required
10 as a part of the presentence or probation investigation required pursuant
11 to section 16-11-102, to submit to an evaluation for treatment, an
12 evaluation for risk, procedures required for monitoring of behavior to
13 protect victims and potential victims, and an identification developed
14 pursuant to section 16-11.7-103 (4).

15 **SECTION 5.** In Colorado Revised Statutes, 16-11.7-105, **amend**
16 **(2); and add (1.5), (1.6), and (3)** as follows:

17 **16-11.7-105. Sentencing of sex offenders - treatment based**
18 **upon evaluation and identification required - subcommittee created.**
19 **(1.5) (a) THE DEPARTMENT OF CORRECTIONS SHALL IDENTIFY ALL**
20 **INMATES WHO ARE CLASSIFIED TO UNDERGO TREATMENT, ARE ELIGIBLE TO**
21 **RECEIVE TREATMENT PURSUANT TO THE DEPARTMENT OF CORRECTIONS'**
22 **POLICY, AND HAVE NOT BEEN PROVIDED WITH THE OPPORTUNITY TO**
23 **UNDERGO TREATMENT WHILE INCARCERATED. FOR EACH INMATE, THE**
24 **DEPARTMENT OF CORRECTIONS SHALL PROVIDE THE FOLLOWING DATA TO**
25 **THE BOARD ON OR BEFORE JULY 31, 2023:**

26 **(I) THE INMATE'S DEPARTMENT OF CORRECTIONS IDENTIFICATION**
27 **NUMBER;**

1 (II) THE DATE OF THE INMATE'S SENTENCE, THE CRIME OF
2 CONVICTION, AND LENGTH OF THE SENTENCE, INCLUDING LENGTH OF
3 PAROLE;

4 (III) WHETHER THE SENTENCE TO THE DEPARTMENT OF
5 CORRECTIONS WAS A RESULT OF A PAROLE REVOCATION;

6 (IV) THE DATE THE INMATE WAS PLACED ON THE GLOBAL
7 REFERRAL LIST AS ESTABLISHED BY THE DEPARTMENT OF CORRECTIONS;

8 (V) THE ACTUAL OR PROJECTED PAROLE ELIGIBILITY DATE AND
9 MANDATORY RELEASE DATE, AS OF JULY 31, 2023, AS WELL AS, IF
10 APPLICABLE, WHETHER THE INMATE IS ENROLLED IN OR HAS PARTICIPATED
11 IN TRACK I OR TRACK II TREATMENT, OR WHETHER THE INMATE HAS BEEN
12 PLACED IN THE MAINTENANCE PHASE; AND

13 (VI) THE DEPARTMENT OF CORRECTIONS S5 QUALIFIER CODE FOR
14 THE INMATE, IF ANY.

15 (b) THE DEPARTMENT OF CORRECTIONS SHALL FURTHER IDENTIFY,
16 IN WRITING:

17 (I) IN THE AGGREGATE, VALIDATED STATIC RISK ASSESSMENT
18 SCORES OF THE INMATES DESCRIBED IN THIS SECTION, IF AVAILABLE,
19 SEPARATELY IDENTIFYING THOSE SERVING INDETERMINATE AND
20 DETERMINATE SENTENCES;

21 (II) THE TOTAL TREATMENT CAPACITY IN THE DEPARTMENT OF
22 CORRECTIONS AND, FOR EACH FACILITY PROVIDING SEX OFFENDER
23 TREATMENT AND MONITORING PROGRAM TREATMENT SERVICES, THE
24 TREATMENT PROGRAM CAPACITY AND THE PHASES OR TRACKS OF
25 TREATMENT OFFERED;

26 (III) THE NAMES OF ALL BOARD-APPROVED PROVIDERS EMPLOYED
27 BY OR CONTRACTING WITH THE DEPARTMENT OF CORRECTIONS, THE

1 AMOUNT OF TIME EACH PROVIDER OR CONTRACTOR HAS BEEN WORKING
2 WITH THE DEPARTMENT OF CORRECTIONS, AND AT WHICH LOCATION EACH
3 PROVIDER OR CONTRACTOR IS PROVIDING SERVICES EACH MONTH;

4 (IV) THE FREQUENCY OF SEX OFFENDER TREATMENT AND
5 MONITORING PROGRAM TREATMENT GROUPS AND THE FREQUENCY OF
6 CANCELLATION OF SUCH GROUPS IN ALL FACILITIES;

7 (V) THE NUMBER OF OPEN POSITIONS FOR ANY SEX OFFENDER
8 TREATMENT AND MONITORING PROGRAM PROVIDERS, INCLUDING GROUP
9 THERAPY POSITIONS, POLYGRAPH PROVIDERS, OR ANY OTHER POSITIONS
10 NECESSARY TO OPERATE THE PROGRAM; AND

11 (VI) ANY AND ALL EFFORTS MADE BY THE DEPARTMENT OF
12 CORRECTIONS IN THE PAST FIVE YEARS TO INCREASE THE CAPACITY OF THE
13 SEX OFFENDER TREATMENT AND MONITORING PROGRAM, FILL AND
14 MAINTAIN THE ALLOCATED FULL-TIME OR CONTRACT POSITIONS, AND ANY
15 DATA AVAILABLE TO ADDRESS ANY HIRING CHALLENGES IDENTIFIED BY
16 THE DEPARTMENT.

17 (c) THE DEPARTMENT OF CORRECTIONS SHALL PROVIDE THIS DATA
18 TO THE BOARD PRIOR TO JULY 31, 2023. THE BOARD SHALL FORM A
19 SUBCOMMITTEE WITH REPRESENTATIVES FROM THE BOARD, COMMUNITY
20 SEX OFFENDER TREATMENT PROVIDERS, THE DEPARTMENT OF
21 CORRECTIONS, THE DIVISION OF ADULT PAROLE IN THE DEPARTMENT OF
22 CORRECTIONS, AND THE STATE PAROLE BOARD CREATED PURSUANT TO
23 SECTION 17-2-201. THE PURPOSE OF THE SUBCOMMITTEE IS TO DEVELOP
24 SOLUTIONS TO ADDRESS TREATMENT RESOURCES FOR SEX OFFENDERS WHO
25 ARE INCARCERATED OR IN THE CUSTODY OF THE DEPARTMENT OF
26 CORRECTIONS, INCLUDING A LEGAL AND EVIDENCE-BASED ANALYSIS OF
27 INMATES WHO ARE REQUIRED TO PROGRESS IN TREATMENT IN THE

1 DEPARTMENT OF CORRECTIONS PRIOR TO ANY RELEASE PURSUANT TO
2 SECTION 18-1.3-1006 AND THOSE WHO ARE CLASSIFIED BY THE
3 DEPARTMENT OF CORRECTIONS AS AN INMATE WHO IS REQUIRED TO
4 PARTICIPATE IN TREATMENT. THE SUBCOMMITTEE SHALL:

5 (I) ANALYZE THE DATA PROVIDED BY THE DEPARTMENT OF
6 CORRECTIONS AND PREPARE A COMPREHENSIVE REPORT ON THE CURRENT
7 PRISON POPULATION TO IDENTIFY INMATES WHO ARE ELIGIBLE TO RECEIVE
8 TREATMENT, WITH SPECIAL PRIORITY TOWARDS INMATES WHO ARE PAST
9 PAROLE ELIGIBILITY DATE, HAVE NOT BEEN PROVIDED A TREATMENT
10 OPPORTUNITY, AND REQUIRE TREATMENT TO MEET COMMUNITY
11 CORRECTIONS OR PAROLE ELIGIBILITY REQUIREMENTS PURSUANT TO
12 SECTION 18-1.3-301 (1)(f), 18-1.3-1006, AND 17-22.5-404 (4)(c)(II);

13 (II) IDENTIFY ALL BARRIERS THE DEPARTMENT OF CORRECTIONS
14 FACES IN PROVIDING TIMELY ACCESS TO TREATMENT TO INMATES WHO
15 REQUIRE TREATMENT TO MEET PAROLE ELIGIBILITY REQUIREMENTS
16 PURSUANT TO SECTIONS 18-1.3-1006 AND 17-22.5-404 (4)(c)(II) AND
17 MAKE RECOMMENDATIONS FOR WORKABLE SOLUTIONS TO INCREASE
18 TREATMENT ACCESS IN THE DEPARTMENT OF CORRECTIONS, INCLUDING
19 EVIDENCE-BASED, VALIDATED PROJECTIONS DEVELOPED IN CONJUNCTION
20 WITH THE DIVISION OF CRIMINAL JUSTICE EXPERTS IN PRISON POPULATION
21 PROJECTIONS, FOR THE DECREASE IN BACKLOG THAT WOULD OCCUR WITH
22 THE IMPLEMENTATION OF ANY SOLUTIONS;

23 (III) DETERMINE WHICH, IF ANY, STANDARDS ARE BARRIERS TO
24 PROVIDING TIMELY ACCESS TO TREATMENT AND MAKE
25 RECOMMENDATIONS CONCERNING CHANGES OR EXCEPTIONS TO THE
26 STANDARDS FOR SEX OFFENDERS INCARCERATED IN THE DEPARTMENT OF
27 CORRECTIONS;

1 (IV) REVIEW AND CONSIDER REVISIONS TO THE DEPARTMENT OF
2 CORRECTIONS POLICIES AND ADMINISTRATIVE REGULATIONS TO PREVENT
3 UNNECESSARY BACKLOG IN MAKING TREATMENT ACCESSIBLE TO INMATES
4 WHO REQUIRE TREATMENT TO MEET PAROLE ELIGIBILITY REQUIREMENTS;

5 (V) REVIEW THE CRITERIA ESTABLISHED PURSUANT TO SECTION
6 18-1.3-1009 AND MAKE REVISIONS TO POLICIES OF THE DEPARTMENT OF
7 CORRECTIONS AND ADMINISTRATIVE REGULATIONS TO PREVENT
8 UNNECESSARY BACKLOG IN MAKING TREATMENT ACCESSIBLE TO INMATES
9 WHO REQUIRE TREATMENT TO MEET PAROLE ELIGIBILITY REQUIREMENTS
10 PURSUANT TO SECTION 18-1.3-1006;

11 (VI) REVIEW PAROLE GUIDELINES FOR THOSE INMATES CLASSIFIED
12 AS SEX OFFENDERS WITH DETERMINATE SENTENCES ESTABLISHED
13 PURSUANT TO SECTION 17-22.5-404 AND MAKE REVISIONS AS NECESSARY
14 TO PREVENT UNNECESSARY BACKLOG IN MAKING TREATMENT ACCESSIBLE
15 TO INMATES WHO REQUIRE TREATMENT TO MEET PAROLE ELIGIBILITY
16 REQUIREMENTS;

17 (VII) DETERMINE WHETHER ADDITIONAL TREATMENT PROVIDERS
18 WILL CONTRACT WITH THE DEPARTMENT OF CORRECTIONS TO PROVIDE
19 EVALUATION OR TREATMENT SERVICES TO INCARCERATED INDIVIDUALS
20 AND MAKE WORKABLE RECOMMENDATIONS CONCERNING HOW TO
21 IMMEDIATELY INCREASE INMATE ACCESS TO THOSE APPROVED PROVIDERS;

22 (VIII) DETERMINE WHETHER INCREASED FUNDING OR ANY OTHER
23 RESOURCES COULD MAKE ACCESS TO TELEHEALTH TREATMENT VIABLE
24 FOR INMATES AND THE AMOUNT OF INCREASED FUNDING OR RESOURCES
25 NECESSARY TO ACCOMPLISH THIS GOAL; AND

26 (IX) IN CONSIDERATION OF ANY EXISTING TREATMENT BACKLOG
27 AND OF FINITE TREATMENT RESOURCES, MAKE RECOMMENDATIONS FOR

1 PROCURING OR MAKING AVAILABLE SUFFICIENT TREATMENT RESOURCES
2 WITHOUT NEGATIVELY IMPACTING PUBLIC SAFETY AND PROTECTION OF
3 VICTIMS.

4 (X) THE SUBCOMMITTEE CREATED IN SUBSECTION (1.5)(c) OF THIS
5 SECTION SHALL PRESENT ITS WRITTEN FINDINGS IN A REPORT AND
6 PROPOSAL TO THE JUDICIARY COMMITTEES OF THE HOUSE OF
7 REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, ON
8 OR BEFORE FEBRUARY 1, 2024. THE DEPARTMENT OF CORRECTIONS AND
9 THE PAROLE BOARD SHALL COMMENT ON THE REPORT'S FINDINGS AND
10 RECOMMENDATIONS ON OR BEFORE MARCH 1, 2024.

11 (2) For offenders who begin community supervision on or after
12 August 10, 2016 THE EFFECTIVE DATE OF THIS SUBSECTION (2), AS
13 AMENDED, the supervising agency of each adult sex offender and juvenile
14 who has committed a sexual offense shall provide the offender with a
15 choice of two appropriate treatment provider agencies staffed by
16 approved providers unless the supervising agency documents in the file
17 that, based upon the nature of the program offered, the needs of the
18 offender, or the proximity of the appropriate treatment provider agency,
19 fewer than two such agencies can meet the specific needs of the offender,
20 ensure the safety of the public, and provide the supervising agency with
21 reasonable access to the treatment provider agency and the offender
22 during the course of treatment. ACCESS TO A COMPLETE LIST OF
23 TREATMENT PROVIDERS WHO ARE APPROVED PURSUANT TO SECTION
24 16-11.7-106 AND WHO HAVE THE EXPERTISE TO WORK WITH THE SPECIFIC
25 RISKS AND NEEDS OF THAT PARTICULAR OFFENDER. THE SUPERVISING
26 AGENCY SHALL ALSO MAKE SPECIFIC RECOMMENDATIONS TO THE
27 OFFENDER. WHEN MAKING A LIST OF REFERRALS, THE SUPERVISING

1 AGENCY SHALL CONSIDER THE INDIVIDUAL RISKS AND TREATMENT NEEDS
2 OF THE PARTICULAR OFFENDER, ABILITY OF THE TREATMENT PROVIDER TO
3 ACCEPT NEW CLIENTS, GEOGRAPHIC PROXIMITY OF THE PROVIDER, AND
4 THE NATURE OF THE PROGRAMS, AND TAILOR REFERRALS TO THOSE
5 CONSIDERATIONS AND ANY OTHER FACTOR RELEVANT TO THE TREATMENT
6 NEEDS OF THE OFFENDER, CAPABILITY OF THE PROVIDER, AND SAFETY OF
7 THE COMMUNITY. FOR AN OFFENDER WHO IS A PERSON WITH AN
8 INTELLECTUAL AND DEVELOPMENTAL DISABILITY, AS DESCRIBED IN
9 SECTION 25.5-10-202, THE SUPERVISING AGENCY SHALL REFER THAT
10 OFFENDER TO A PROVIDER APPROVED BY THE SEX OFFENDER
11 MANAGEMENT BOARD TO WORK WITH THAT POPULATION. FOR OFFENDERS
12 WHO PREFER TO DO TREATMENT IN A LANGUAGE OTHER THAN ENGLISH,
13 REFERRALS MUST BE OFFERED, WHEN POSSIBLE, TO PROVIDERS WHO ARE
14 FLUENT IN THE TARGET LANGUAGE. Once selected, the treatment provider
15 OR agency may not be changed by the offender without the approval of
16 the community supervision team, the multidisciplinary team, or the court,
17 EXCEPT THE OFFENDER MAY CHANGE THE TREATMENT PROVIDER OR
18 AGENCY ONCE WITHIN NINETY DAYS OF THE COURT IMPOSING SENTENCE
19 OR THE OFFENDER'S RELEASE ON PAROLE.

20 (3) THE REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION DO
21 NOT APPLY TO THE DIVISION OF YOUTH SERVICES BASED ON THE NATURE
22 OF THE PROGRAM, THE COMPLEX NEEDS OF THE JUVENILES SERVED, AND
23 THE PLACEMENTS AND APPROVED TREATMENT PROVIDERS AVAILABLE TO
24 WORK WITH JUVENILES FROM THE DIVISION OF YOUTH SERVICES. THE
25 DIVISION OF YOUTH SERVICES SHALL ASSIGN JUVENILES WHO HAVE
26 COMMITTED A SEXUAL OFFENSE TO A TREATMENT PROVIDER BASED ON
27 THE INDIVIDUAL RISKS AND NEEDS OF THE JUVENILE AND HAVE

1 PROCEDURES IN PLACE TO ALLOW FOR A JUVENILE OR FAMILY TO REQUEST
2 A CHANGE IN TREATMENT PROVIDERS BASED ON RESPONSIVITY FACTORS.
3 THE MULTIDISCIPLINARY TEAM FOR THE JUVENILE SHALL REVIEW ALL
4 REQUESTS FOR CHANGES IN TREATMENT PROVIDERS AND APPROVE
5 REQUESTS IF THE MULTIDISCIPLINARY TEAM DETERMINES THE JUVENILE'S
6 RISKS, NEEDS, AND RESPONSIVITY FACTORS CAN BE BETTER SERVED BY AN
7 ALTERNATE TREATMENT PROVIDER.

8 **SECTION 6.** In Colorado Revised Statutes, 16-11.7-106, **amend**
9 (2)(a) introductory portion, (2)(a)(I), and (2)(b); and **add (1.5) and (8)** as
10 follows:

11 **16-11.7-106. Sex offender evaluation, treatment, and**
12 **polygraph services - contracts with providers - placement on**
13 **provider list - grievances - fund created - repeal.**
14 (1.5) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS
15 SECTION, THE DEPARTMENT OF CORRECTIONS MAY EMPLOY OR CONTRACT
16 WITH AN INDIVIDUAL OR ENTITY TO PROVIDE SEX-OFFENDER-SPECIFIC
17 EVALUATION, TREATMENT, OR POLYGRAPH SERVICES PURSUANT TO THIS
18 ARTICLE 11.7 IF THE DIRECTOR OF THE PROGRAM IS AN APPROVED
19 PROVIDER AND THE DEPARTMENT OPERATES A SEX OFFENDER TREATMENT
20 AND MONITORING PROGRAM THAT CONFORMS WITH THE GUIDELINES AND
21 STANDARDS DEVELOPED PURSUANT TO SECTION 16-11.7-103 AND THE
22 EMPLOYEES AND CONTRACTORS ARE TRAINED TO COMPLY WITH THE
23 STANDARDS OF THE CONFORMING PROGRAM.

24 (a) ANY INDIVIDUAL PROVIDING SEX-OFFENDER-SPECIFIC
25 EVALUATION OR TREATMENT MUST HAVE A BACCALAUREATE DEGREE OR
26 ABOVE IN A BEHAVIORAL SCIENCE WITH TRAINING OR PROFESSIONAL
27 EXPERIENCE IN COUNSELING OR THERAPY; MUST HOLD A PROFESSIONAL

1 MENTAL HEALTH LICENSE OR BE APPROVED BY THE DEPARTMENT OF
2 REGULATORY AGENCIES AS AN UNLICENSED PSYCHOTHERAPIST, CERTIFIED
3 ADDICTION COUNSELOR, LICENSED PROFESSIONAL COUNSELOR
4 CANDIDATE, LICENSED MARRIAGE AND FAMILY THERAPIST CANDIDATE, OR
5 PSYCHOLOGIST CANDIDATE; OR CLINICAL SOCIAL WORKER.

6 (b) ANY POLYGRAPH EXAMINER MUST HAVE GRADUATED FROM AN
7 ACCREDITED AMERICAN POLYGRAPH ASSOCIATION SCHOOL AND HAVE A
8 BACCALAUREATE DEGREE FROM A FOUR-YEAR INSTITUTION OF HIGHER
9 EDUCATION. THE DEPARTMENT OF CORRECTIONS SHALL COMPLETE
10 COMPLIANCE MONITORING OF CONTRACTED PROVIDERS AND POLYGRAPH
11 EXAMINERS WHO ARE NOT APPROVED BY THE BOARD PURSUANT TO
12 SUBSECTION (1) OF THIS SECTION ON AN ANNUAL BASIS.

13 (c) IN THE EVENT THAT A PROVIDER WHO CONTRACTED WITH THE
14 DEPARTMENT OF CORRECTIONS IS FOUND TO HAVE VIOLATED THE
15 GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO SECTION
16 16-11.7-103, THE DEPARTMENT OF CORRECTIONS SHALL TERMINATE THE
17 CONTRACT WITH THE PROVIDER.

18 (d) THIS SUBSECTION (1.5) IS REPEALED, EFFECTIVE SEPTEMBER 1,
19 2028. PRIOR TO REPEAL, THIS SUBSECTION (1.5) IS SCHEDULED FOR REVIEW
20 IN ACCORDANCE WITH SECTION 16-11.7-103 (6).

21 (2) (a) The board shall develop an application and review process
22 for treatment providers, evaluators, and polygraph examiners who provide
23 services pursuant to this ~~article~~ ARTICLE 11.7 to adult sex offenders and
24 to juveniles who have committed sexual offenses. The application and
25 review process ~~shall~~ MUST allow providers to demonstrate that they are
26 in compliance with the standards adopted pursuant to this ~~article~~ ARTICLE
27 11.7. The application and review process ~~shall consist~~ CONSISTS of the

1 following three parts:

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

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

26 (8) SUPERVISING OFFICERS SHALL FOLLOW THE GUIDELINES AND
27 STANDARDS DEVELOPED PURSUANT TO THIS SECTION WHEN WORKING

1 WITH SEX OFFENDERS. AGENCIES EMPLOYING SUPERVISING OFFICERS
2 SHALL COLLABORATE WITH THE BOARD TO DEVELOP PROCEDURES TO HOLD
3 ACCOUNTABLE A SUPERVISING OFFICER WHO FAILS TO FOLLOW THE
4 GUIDELINES AND STANDARDS.

5 **SECTION 7. In Colorado Revised Statutes, 18-1.3-101, amend**
6 **(6) as follows:**

7 **18-1.3-101. Pretrial diversion - appropriation - repeal.(6) In**
8 **a jurisdiction that receives state moneys for the creation or operation of**
9 **diversion programs pursuant to this section, an individual accused of a**
10 **sex offense as defined in section 18-1.3-1003 (5) is not eligible for**
11 **pretrial diversion unless charges have been filed and, after the individual**
12 **has had an opportunity to consult with counsel, the individual has**
13 **completed a sex-offense-specific evaluation, which includes the use of a**
14 **sex-offense-specific risk assessment instrument, conducted by an**
15 **evaluator approved by the sex offender management board as required by**
16 **section 16-11.7-103 (4). ~~C.R.S.~~ The district attorney may agree to place**
17 **the individual in the diversion program established by the district attorney**
18 **pursuant to this section if he or she finds that, based on the results of that**
19 **evaluation and the other factors in subsection (3) of this section, the**
20 **individual is appropriate for the program. Notwithstanding that a**
21 **successfully completed diversion agreement does not constitute a history**
22 **of sex offenses for purposes of sections 16-11.7-102 (2)(a)(II),**
23 **16-11.7-102 (2)(a)(IV)(C), and 16-22-103 (2)(d), ~~C.R.S.~~, the information**
24 **constituting the crimes charged and facts alleged shall be available for use**
25 **by a court, district attorney, any law enforcement agency, or agency of the**
26 **state judicial department, if otherwise permitted by law, in any subsequent**
27 **criminal investigation, prosecution, risk or needs assessment evaluation,**

1 sentencing hearing, or during a probation or parole supervision period.

2 **SECTION 8.** In Colorado Revised Statutes, 17-22.5-404, **amend**
3 **(6)(b)** as follows:

4 **17-22.5-404. Parole guidelines - definition.** (6) (b) The state
5 board of parole shall also determine whether a decision granting,
6 revoking, or denying parole conformed with or departed from the
7 administrative guidelines created pursuant to section 17-22.5-107
8 SECTIONS 17-22.5-107 AND 16-11.7-103 (4)(m) and, if the decision was
9 a departure from the guidelines, the reason for the departure. The data
10 collected pursuant to this paragraph (b) SUBSECTION (6) are subject to the
11 same victim protections described in paragraph (a) of this subsection (6)
12 SUBSECTION (4)(a) OF THIS SECTION.

13 **SECTION 9.** In Colorado Revised Statutes, 24-34-104, **repeal**
14 **(24)(a)(XIII); and add (29)(a)(XVII)** as follows:

15 **24-34-104. General assembly review of regulatory agencies**
16 **and functions for repeal, continuation, or reestablishment - legislative**
17 **declaration - repeal.** (24) (a) The following agencies, functions, or both,
18 are scheduled for repeal on September 1, 2023:

19 (XIII) ~~The sex offender management board created in section~~
20 ~~16-11.7-103.~~

21 (29) (a) The following agencies, functions, or both, are scheduled
22 for repeal on September 1, 2028:

23 (XVII) THE SEX OFFENDER MANAGEMENT BOARD CREATED IN
24 SECTION 16-11.7-103.

25 **SECTION 10. Appropriation.** (1) For the 2023-24 state fiscal
26 year, \$163,946 is appropriated to the department of public safety for use
27 by the division of criminal justice. This appropriation is from the general

1 fund and is based on an assumption that the division will require an
2 additional 1.8 FTE. To implement this act, the division may use this
3 appropriation for sex offender supervision.

4 (2) For the 2023-24 state fiscal year, \$43,122 is appropriated to
5 the judicial department for use by courts administration. This
6 appropriation is from the general fund and is based on an assumption that
7 the division will require an additional 0.5 FTE. To implement this act, the
8 division may use this appropriation for general courts administration.

9 **SECTION 11. Appropriation - adjustments to 2023 long bill.**
10 To implement this act, the general fund appropriation made in the annual
11 general appropriation act for the 2023-24 state fiscal year to the judicial
12 department for use by the probation and related services for probation
13 programs is decreased by \$136,680, and the related FTE is decreased by
14 1.9 FTE.

15 **SECTION 12. Safety clause.** The general assembly hereby finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, or safety.