

CHAPTER 303

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 98-1156

BY REPRESENTATIVES Anderson, C. Berry, Owen, Agler, Allen, Clarke, Dean, Dyer, Epps, Gottlieb, Grossman, Hagedorn, Hefley, Kreutz, Lawrence, Leyba, Mace, McElhany, Musgrave, Nichol, Reeser, Snyder, Sullivant, Swenson, Tool, Tucker, Tupa, Udall, Veiga, S. Williams, Young, and Zimmerman;
also SENATORS Wells, Hopper, Hernandez, and J. Johnson.

AN ACT

CONCERNING SUPERVISION OF SEX OFFENDERS, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. Article 13 of title 16, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

**PART 8
LIFETIME SUPERVISION OF SEX OFFENDERS**

16-13-801. Legislative declaration. THE GENERAL ASSEMBLY HEREBY FINDS THAT THE MAJORITY OF PERSONS WHO COMMIT SEX OFFENSES, IF INCARCERATED OR SUPERVISED WITHOUT TREATMENT, WILL CONTINUE TO PRESENT A DANGER TO THE PUBLIC WHEN RELEASED FROM INCARCERATION AND SUPERVISION. THE GENERAL ASSEMBLY ALSO FINDS THAT KEEPING ALL SEX OFFENDERS IN LIFETIME INCARCERATION IMPOSES AN UNACCEPTABLY HIGH COST IN BOTH STATE DOLLARS AND LOSS OF HUMAN POTENTIAL. THE GENERAL ASSEMBLY FURTHER FINDS THAT SOME SEX OFFENDERS RESPOND WELL TO TREATMENT AND CAN FUNCTION AS SAFE, RESPONSIBLE, AND CONTRIBUTING MEMBERS OF SOCIETY, SO LONG AS THEY RECEIVE TREATMENT AND SUPERVISION. THE GENERAL ASSEMBLY THEREFORE DECLARES THAT A PROGRAM UNDER WHICH SEX OFFENDERS MAY RECEIVE TREATMENT AND SUPERVISION FOR THE REST OF THEIR LIVES, IF NECESSARY, IS NECESSARY FOR THE SAFETY, HEALTH, AND WELFARE OF THE STATE.

16-13-802. Short title. THIS PART 8 SHALL BE KNOWN AND MAY BE CITED AS THE

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

"COLORADO SEX OFFENDER LIFETIME SUPERVISION ACT OF 1998".

16-13-803. Definitions. AS USED IN THIS PART 8, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "DEPARTMENT" MEANS THE DEPARTMENT OF CORRECTIONS.

(2) "MANAGEMENT BOARD" MEANS THE SEX OFFENDER MANAGEMENT BOARD CREATED IN SECTION 16-11.7- 103.

(3) "PAROLE BOARD" MEANS THE STATE BOARD OF PAROLE CREATED IN SECTION 17-2-201, C.R.S.

(4) "SEX OFFENDER" MEANS A PERSON WHO IS CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE TO A SEX OFFENSE. "SEX OFFENDER" ALSO MEANS ANY PERSON SENTENCED AS A SEX OFFENDER PURSUANT TO SECTION 16-13-804 (4).

(5) (a) "SEX OFFENSE" MEANS ANY OF THE FOLLOWING OFFENSES:

(I) SEXUAL ASSAULT IN THE FIRST DEGREE, AS DESCRIBED IN SECTION 18-3-402, C.R.S.;

(II) SEXUAL ASSAULT IN THE SECOND DEGREE, AS DESCRIBED IN SECTION 18-3-403, C.R.S.;

(III) FELONY SEXUAL ASSAULT IN THE THIRD DEGREE, AS DESCRIBED IN SECTION 18-3-404 (2), C.R.S.;

(IV) SEXUAL ASSAULT ON A CHILD, AS DESCRIBED IN SECTION 18-3-405, C.R.S.;

(V) SEXUAL ASSAULT ON A CHILD BY ONE IN A POSITION OF TRUST, AS DESCRIBED IN SECTION 18-3-405.3, C.R.S.;

(VI) AGGRAVATED SEXUAL ASSAULT ON A CLIENT BY A PSYCHOTHERAPIST, AS DESCRIBED IN SECTION 18-3-405.5 (1), C.R.S.;

(VII) ENTICEMENT OF A CHILD, AS DESCRIBED IN SECTION 18-3-305, C.R.S.;

(VIII) INCEST, AS DESCRIBED IN SECTION 18-6-301, C.R.S.;

(IX) AGGRAVATED INCEST, AS DESCRIBED IN SECTION 18-6-302, C.R.S.;

(X) PATRONIZING A PROSTITUTED CHILD, AS DESCRIBED IN SECTION 18-7-406, C.R.S.

(b) "SEX OFFENSE" ALSO INCLUDES CRIMINAL ATTEMPT, CONSPIRACY, OR SOLICITATION TO COMMIT ANY OF THE OFFENSES SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (4) IF SUCH CRIMINAL ATTEMPT, CONSPIRACY, OR SOLICITATION WOULD CONSTITUTE A CLASS 2, 3, OR 4 FELONY.

16-13-804. Indeterminate sentence. (1) (a) EXCEPT AS OTHERWISE PROVIDED

IN THIS SUBSECTION (1) AND IN SUBSECTION (2) OF THIS SECTION, THE DISTRICT COURT HAVING JURISDICTION SHALL SENTENCE A SEX OFFENDER TO THE CUSTODY OF THE DEPARTMENT FOR AN INDETERMINATE TERM OF AT LEAST THE MINIMUM OF THE PRESUMPTIVE RANGE SPECIFIED IN SECTION 18-1-105, C.R.S., FOR THE LEVEL OF OFFENSE COMMITTED AND A MAXIMUM OF THE SEX OFFENDER'S NATURAL LIFE.

(b) IF THE SEX OFFENDER COMMITTED A SEX OFFENSE THAT CONSTITUTES A CRIME OF VIOLENCE, AS DEFINED IN SECTION 16-11-309, THE DISTRICT COURT SHALL SENTENCE THE SEX OFFENDER TO THE CUSTODY OF THE DEPARTMENT FOR AN INDETERMINATE TERM OF AT LEAST THE MIDPOINT IN THE PRESUMPTIVE RANGE FOR THE LEVEL OF OFFENSE COMMITTED AND A MAXIMUM OF THE SEX OFFENDER'S NATURAL LIFE.

(c) IF THE SEX OFFENDER COMMITTED A SEX OFFENSE THAT MAKES HIM OR HER ELIGIBLE FOR SENTENCING AS A HABITUAL SEX OFFENDER AGAINST CHILDREN PURSUANT TO SECTION 18-3-412, C.R.S., THE DISTRICT COURT SHALL SENTENCE THE SEX OFFENDER TO THE CUSTODY OF THE DEPARTMENT FOR AN INDETERMINATE TERM OF AT LEAST THE UPPER LIMIT OF THE PRESUMPTIVE RANGE FOR THE LEVEL OF OFFENSE COMMITTED AND A MAXIMUM OF THE SEX OFFENDER'S NATURAL LIFE.

(2) THE DISTRICT COURT HAVING JURISDICTION, BASED ON CONSIDERATION OF THE EVALUATION CONDUCTED PURSUANT TO SECTION 16-11.7-104 AND THE FACTORS SPECIFIED IN SECTION 16-11-203, MAY SENTENCE A SEX OFFENDER TO PROBATION FOR AN INDETERMINATE PERIOD OF AT LEAST TEN YEARS FOR A CLASS 4 FELONY OR TWENTY YEARS FOR A CLASS 2 OR 3 FELONY AND A MAXIMUM OF THE SEX OFFENDER'S NATURAL LIFE; EXCEPT THAT, IF THE SEX OFFENDER COMMITTED A SEX OFFENSE THAT CONSTITUTES A CRIME OF VIOLENCE AS DEFINED IN SECTION 16-11-309, OR COMMITTED A SEX OFFENSE THAT MAKES HIM OR HER ELIGIBLE FOR SENTENCING AS A HABITUAL SEX OFFENDER AGAINST CHILDREN PURSUANT TO SECTION 18-3-412, C.R.S., THE COURT SHALL SENTENCE THE SEX OFFENDER TO THE DEPARTMENT OF CORRECTIONS AS PROVIDED IN SUBSECTION (1) OF THIS SECTION. FOR ANY SEX OFFENDER SENTENCED TO PROBATION PURSUANT TO THIS SUBSECTION (2), THE COURT SHALL ORDER THAT THE SEX OFFENDER, AS A CONDITION OF PROBATION, PARTICIPATE IN AN INTENSIVE SUPERVISION PROBATION PROGRAM ESTABLISHED PURSUANT TO SECTION 16-13-807, UNTIL FURTHER ORDER OF THE COURT.

(3) EACH SEX OFFENDER SENTENCED PURSUANT TO THIS SECTION SHALL BE REQUIRED AS A PART OF THE SENTENCE TO UNDERGO TREATMENT TO THE EXTENT APPROPRIATE PURSUANT TO SECTION 16-11.7-105.

(4) (a) THE COURT MAY SENTENCE ANY PERSON PURSUANT TO THE PROVISIONS OF THIS SECTION IF:

(I) THE PERSON IS CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE TO A CRIME SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (4); AND

(II) AN ASSESSMENT OF THE PERSON PURSUANT TO SECTION 16-11.7-104 DETERMINES THAT THE PERSON IS LIKELY TO COMMIT ONE OR MORE OF THE OFFENSES SPECIFIED IN SECTION 18-3-414.5 (1) (a), C.R.S., UNDER THE CIRCUMSTANCES DESCRIBED IN SECTION 18-3-414.5 (1) (b), C.R.S.

(b) THE PROVISIONS OF THIS SUBSECTION (4) SHALL APPLY TO ANY PERSON WHO IS CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE TO ANY OF THE FOLLOWING OFFENSES OR CRIMINAL ATTEMPT, CONSPIRACY, OR SOLICITATION TO COMMIT ANY OF THE FOLLOWING OFFENSES:

(I) TRAFFICKING IN CHILDREN, AS DESCRIBED IN SECTION 18-6-402, C.R.S.;

(II) FELONY SEXUAL EXPLOITATION OF CHILDREN, AS DESCRIBED IN SECTION 18-6-403, C.R.S.;

(III) PROCUREMENT OF A CHILD FOR SEXUAL EXPLOITATION, AS DESCRIBED IN SECTION 18-6-404, C.R.S.;

(IV) SOLICITING FOR CHILD PROSTITUTION, AS DESCRIBED IN SECTION 18-7-402, C.R.S.;

(V) PANDERING OF A CHILD, AS DESCRIBED IN SECTION 18-7-403, C.R.S.;

(VI) PROCUREMENT OF A CHILD, AS DESCRIBED IN SECTION 18-7-403.5, C.R.S.;

(VII) KEEPING A PLACE OF CHILD PROSTITUTION, AS DESCRIBED IN SECTION 18-7-404, C.R.S.;

(VIII) PIMPING OF A CHILD, AS DESCRIBED IN SECTION 18-7-405, C.R.S.;

(IX) INDUCEMENT OF CHILD PROSTITUTION, AS DESCRIBED IN SECTION 18-7-405.5, C.R.S.

(c) ANY PERSON SENTENCED AS A SEX OFFENDER PURSUANT TO THIS SUBSECTION (4) SHALL BE SUBJECT TO THE PROVISIONS OF THIS PART 8.

(5) (a) ANY SEX OFFENDER SENTENCED PURSUANT TO SUBSECTION (1) OR (4) OF THIS SECTION AND CONVICTED OF ONE OR MORE ADDITIONAL CRIMES ARISING OUT OF THE SAME INCIDENT AS THE SEX OFFENSE SHALL BE SENTENCED FOR THE SEX OFFENSE AND SUCH OTHER CRIMES SO THAT THE SENTENCES ARE SERVED CONSECUTIVELY RATHER THAN CONCURRENTLY.

(b) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b), IF A SEX OFFENDER SENTENCED PURSUANT TO THIS PART 8 IS CONVICTED OF A SUBSEQUENT CRIME PRIOR TO BEING DISCHARGED FROM PAROLE PURSUANT TO SECTION 16-13-806 OR DISCHARGED FROM PROBATION PURSUANT TO SECTION 16-13-808, ANY SENTENCE IMPOSED FOR THE SECOND CRIME SHALL NOT SUPERSEDE THE SEX OFFENDER'S SENTENCE PURSUANT TO THE PROVISIONS OF THIS PART 8. IF THE SEX OFFENDER COMMITS THE SUBSEQUENT CRIME WHILE HE OR SHE IS ON PAROLE OR PROBATION AND THE SEX OFFENDER RECEIVES A SENTENCE TO THE DEPARTMENT OF CORRECTIONS FOR THE SUBSEQUENT CRIME, THE SEX OFFENDER'S PAROLE OR PROBATION SHALL BE DEEMED REVOKED PURSUANT TO SECTION 16-13-810, AND THE SEX OFFENDER SHALL CONTINUE TO BE SUBJECT TO THE PROVISIONS OF THIS PART 8.

(II) THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) SHALL NOT

APPLY IF THE SEX OFFENDER COMMITS A SUBSEQUENT CRIME THAT IS A CLASS 1 FELONY.

16-13-805. Parole - intensive supervision program. (1) THE DEPARTMENT SHALL ESTABLISH AN INTENSIVE SUPERVISION PAROLE PROGRAM FOR SEX OFFENDERS SENTENCED TO INCARCERATION AND SUBSEQUENTLY RELEASED ON PAROLE PURSUANT TO THIS PART 8. IN ADDITION, THE PAROLE BOARD MAY REQUIRE A PERSON, AS A CONDITION OF PAROLE, TO PARTICIPATE IN THE INTENSIVE SUPERVISION PAROLE PROGRAM ESTABLISHED PURSUANT TO THIS SECTION IF THE PERSON IS CONVICTED OF:

(a) INDECENT EXPOSURE, AS DESCRIBED IN SECTION 18-7-302, C.R.S.;

(b) CRIMINAL ATTEMPT, CONSPIRACY, OR SOLICITATION TO COMMIT ANY OF THE OFFENSES SPECIFIED IN SECTION 16-13-803 (5) (a), WHICH ATTEMPT, CONSPIRACY, OR SOLICITATION WOULD CONSTITUTE A CLASS 5 FELONY; OR

(c) ANY OF THE OFFENSES SPECIFIED IN SECTION 16-13-804 (4) (b).

(2) THE DEPARTMENT SHALL REQUIRE THAT SEX OFFENDERS AND ANY OTHER PERSONS IN THE INTENSIVE SUPERVISION PAROLE PROGRAM ESTABLISHED PURSUANT TO THIS SECTION RECEIVE THE HIGHEST LEVEL OF SUPERVISION THAT IS PROVIDED TO PAROLEES. THE INTENSIVE SUPERVISION PAROLE PROGRAM MAY INCLUDE, BUT IS NOT LIMITED TO, SEVERELY RESTRICTED ACTIVITIES, DAILY CONTACT BETWEEN THE SEX OFFENDER OR OTHER PERSON AND THE PAROLE OFFICER, MONITORED CURFEW, HOME VISITATION, EMPLOYMENT VISITATION AND MONITORING, DRUG AND ALCOHOL SCREENING, TREATMENT REFERRALS AND MONITORING, INCLUDING PHYSIOLOGICAL MONITORING, AND PAYMENT OF RESTITUTION. IN ADDITION, THE INTENSIVE SUPERVISION PAROLE PROGRAM SHALL BE DESIGNED TO MINIMIZE THE RISK TO THE PUBLIC TO THE GREATEST EXTENT POSSIBLE.

(3) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT SHALL ESTABLISH AND ENFORCE STANDARDS AND CRITERIA FOR ADMINISTRATION OF THE INTENSIVE SUPERVISION PAROLE PROGRAM CREATED PURSUANT TO THIS SECTION.

16-13-806. Release from incarceration - parole - conditions. (1) (a) ON COMPLETION OF THE MINIMUM PERIOD OF INCARCERATION SPECIFIED IN A SEX OFFENDER'S INDETERMINATE SENTENCE, LESS ANY EARNED TIME CREDITED TO THE SEX OFFENDER PURSUANT TO SECTION 17-22.5-403 OR 17-22.5-405, C.R.S., THE PAROLE BOARD SHALL SCHEDULE A HEARING TO DETERMINE WHETHER THE SEX OFFENDER MAY BE RELEASED ON PAROLE. IN DETERMINING WHETHER TO RELEASE THE SEX OFFENDER ON PAROLE, THE PAROLE BOARD SHALL DETERMINE WHETHER THE SEX OFFENDER HAS SUCCESSFULLY PROGRESSED IN TREATMENT AND WOULD NOT POSE AN UNDUE THREAT TO THE COMMUNITY IF RELEASED UNDER APPROPRIATE TREATMENT AND MONITORING REQUIREMENTS AND WHETHER THERE IS A STRONG AND REASONABLE PROBABILITY THAT THE PERSON WILL NOT THEREAFTER VIOLATE THE LAW. THE DEPARTMENT SHALL MAKE RECOMMENDATIONS TO THE PAROLE BOARD CONCERNING WHETHER THE SEX OFFENDER SHOULD BE RELEASED ON PAROLE AND THE LEVEL OF TREATMENT AND MONITORING THAT SHOULD BE IMPOSED AS A CONDITION OF PAROLE. THE RECOMMENDATION SHALL BE BASED ON THE CRITERIA ESTABLISHED BY THE MANAGEMENT BOARD PURSUANT TO SECTION 16-13-809.

(b) IF A SEX OFFENDER IS RELEASED ON PAROLE PURSUANT TO THIS SECTION, THE SEX OFFENDER'S SENTENCE TO INCARCERATION SHALL CONTINUE AND SHALL NOT BE DEEMED DISCHARGED UNTIL SUCH TIME AS THE PAROLE BOARD MAY DISCHARGE THE SEX OFFENDER FROM PAROLE PURSUANT TO SUBSECTION (3) OF THIS SECTION. THE PERIOD OF PAROLE FOR ANY SEX OFFENDER CONVICTED OF A CLASS 4 FELONY SHALL BE AN INDETERMINATE TERM OF AT LEAST TEN YEARS AND A MAXIMUM OF THE REMAINDER OF THE SEX OFFENDER'S NATURAL LIFE. THE PERIOD OF PAROLE FOR ANY SEX OFFENDER CONVICTED OF A CLASS 2 OR 3 FELONY SHALL BE AN INDETERMINATE TERM OF AT LEAST TWENTY YEARS AND A MAXIMUM OF THE REMAINDER OF THE SEX OFFENDER'S NATURAL LIFE.

(c) IF THE PAROLE BOARD DOES NOT RELEASE THE SEX OFFENDER ON PAROLE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1), THE PAROLE BOARD SHALL REVIEW SUCH DENIAL AT LEAST ONCE EVERY THREE YEARS UNTIL IT DETERMINES THAT THE SEX OFFENDER MEETS THE CRITERIA FOR RELEASE ON PAROLE SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (1). AT EACH REVIEW, THE DEPARTMENT SHALL MAKE RECOMMENDATIONS, BASED ON THE CRITERIA ESTABLISHED BY THE MANAGEMENT BOARD PURSUANT TO SECTION 16-13-809, CONCERNING WHETHER THE SEX OFFENDER SHOULD BE RELEASED ON PAROLE.

(2) (a) AS A CONDITION OF RELEASE ON PAROLE PURSUANT TO THIS SECTION, A SEX OFFENDER SHALL PARTICIPATE IN THE INTENSIVE SUPERVISION PAROLE PROGRAM CREATED BY THE DEPARTMENT PURSUANT TO SECTION 16-13-805. PARTICIPATION IN THE INTENSIVE SUPERVISION PAROLE PROGRAM SHALL CONTINUE UNTIL THE SEX OFFENDER CAN DEMONSTRATE THAT HE OR SHE HAS SUCCESSFULLY PROGRESSED IN TREATMENT AND WOULD NOT POSE AN UNDUE THREAT TO THE COMMUNITY IF PAROLED TO A LOWER LEVEL OF SUPERVISION, AT WHICH TIME THE SEX OFFENDER'S PAROLE OFFICER MAY PETITION THE PAROLE BOARD FOR A REDUCTION IN THE SEX OFFENDER'S LEVEL OF SUPERVISION. THE SEX OFFENDER'S PAROLE OFFICER AND TREATMENT PROVIDER SHALL MAKE RECOMMENDATIONS TO THE PAROLE BOARD CONCERNING WHETHER THE SEX OFFENDER HAS MET THE REQUIREMENTS SPECIFIED IN THIS SUBSECTION (2) SUCH THAT THE LEVEL OF PAROLE SUPERVISION SHOULD BE REDUCED. THE RECOMMENDATIONS SHALL BE BASED ON THE CRITERIA ESTABLISHED BY THE MANAGEMENT BOARD PURSUANT TO SECTION 16-13-809.

(b) FOLLOWING REDUCTION IN A SEX OFFENDER'S LEVEL OF PAROLE SUPERVISION PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2), THE SEX OFFENDER'S PAROLE OFFICER MAY RETURN THE SEX OFFENDER TO THE INTENSIVE SUPERVISION PAROLE PROGRAM IF THE PAROLE OFFICER DETERMINES THAT AN INCREASED LEVEL OF SUPERVISION IS NECESSARY TO PROTECT THE PUBLIC SAFETY. THE PAROLE OFFICER SHALL NOTIFY THE PAROLE BOARD AS SOON AS POSSIBLE AFTER RETURNING THE SEX OFFENDER TO THE INTENSIVE SUPERVISION PAROLE PROGRAM. TO SUBSEQUENTLY REDUCE THE SEX OFFENDER'S LEVEL OF SUPERVISION, THE PAROLE OFFICER MAY PETITION THE PAROLE BOARD AS PROVIDED IN PARAGRAPH (a) OF THIS SUBSECTION (2).

(3) (a) ON COMPLETION OF TWENTY YEARS ON PAROLE FOR ANY SEX OFFENDER CONVICTED OF A CLASS 2 OR 3 FELONY OR ON COMPLETION OF TEN YEARS OF PAROLE FOR ANY SEX OFFENDER CONVICTED OF A CLASS 4 FELONY, THE PAROLE BOARD SHALL SCHEDULE A HEARING TO DETERMINE WHETHER THE SEX OFFENDER MAY BE DISCHARGED FROM PAROLE. IN DETERMINING WHETHER TO DISCHARGE THE SEX

OFFENDER FROM PAROLE, THE PAROLE BOARD SHALL DETERMINE WHETHER THE SEX OFFENDER HAS SUCCESSFULLY PROGRESSED IN TREATMENT AND WOULD NOT POSE AN UNDUE THREAT TO THE COMMUNITY IF ALLOWED TO LIVE IN THE COMMUNITY WITHOUT TREATMENT OR SUPERVISION. THE SEX OFFENDER'S PAROLE OFFICER AND TREATMENT PROVIDER SHALL MAKE RECOMMENDATIONS TO THE PAROLE BOARD CONCERNING WHETHER THE SEX OFFENDER HAS MET THE REQUIREMENTS SPECIFIED IN THIS SUBSECTION (3) SUCH THAT THE SEX OFFENDER SHOULD BE DISCHARGED FROM PAROLE. THE RECOMMENDATIONS SHALL BE BASED ON THE CRITERIA ESTABLISHED BY THE MANAGEMENT BOARD PURSUANT TO SECTION 16-13-809.

(b) IF THE PAROLE BOARD DOES NOT DISCHARGE THE SEX OFFENDER FROM PAROLE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3), THE PAROLE BOARD SHALL REVIEW SUCH DENIAL AT LEAST ONCE EVERY THREE YEARS UNTIL IT DETERMINES THAT THE SEX OFFENDER MEETS THE CRITERIA FOR DISCHARGE SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (3). AT EACH REVIEW, THE SEX OFFENDER'S PAROLE OFFICER AND TREATMENT PROVIDER SHALL MAKE RECOMMENDATIONS, BASED ON THE CRITERIA ESTABLISHED BY THE MANAGEMENT BOARD PURSUANT TO SECTION 16-13-809, CONCERNING WHETHER THE SEX OFFENDER SHOULD BE DISCHARGED.

(4) IN DETERMINING WHETHER TO RELEASE A SEX OFFENDER ON PAROLE, REDUCE THE LEVEL OF SUPERVISION, OR DISCHARGE A SEX OFFENDER FROM PAROLE PURSUANT TO THIS SECTION, THE PAROLE BOARD SHALL CONSIDER THE RECOMMENDATIONS OF THE DEPARTMENT AND THE SEX OFFENDER'S PAROLE OFFICER AND TREATMENT PROVIDER. IF THE PAROLE BOARD CHOOSES NOT TO FOLLOW THE RECOMMENDATIONS MADE, IT SHALL MAKE FINDINGS ON THE RECORD IN SUPPORT OF ITS DECISION.

16-13-807. Probation - intensive supervision program. (1) (a) THE JUDICIAL DEPARTMENT SHALL ESTABLISH AN INTENSIVE SUPERVISION PROBATION PROGRAM FOR SEX OFFENDERS SENTENCED TO PROBATION PURSUANT TO THIS PART 8. IN ADDITION, THE COURT MAY REQUIRE A PERSON, AS A CONDITION OF PROBATION, TO PARTICIPATE IN THE INTENSIVE SUPERVISION PROBATION PROGRAM ESTABLISHED PURSUANT TO THIS SECTION IF THE PERSON IS CONVICTED OF:

(I) INDECENT EXPOSURE, AS DESCRIBED IN SECTION 18-7-302, C.R.S.;

(II) CRIMINAL ATTEMPT, CONSPIRACY, OR SOLICITATION TO COMMIT ANY OF THE OFFENSES SPECIFIED IN SECTION 16-13-803 (5) (a), WHICH ATTEMPT, CONSPIRACY, OR SOLICITATION WOULD CONSTITUTE A CLASS 5 FELONY; OR

(III) ANY OF THE OFFENSES SPECIFIED IN SECTION 16-13-804 (4) (b).

(b) THE JUDICIAL DEPARTMENT MAY ESTABLISH THE INTENSIVE SUPERVISION PROBATION PROGRAM IN ANY JUDICIAL DISTRICT OR COMBINATION OF JUDICIAL DISTRICTS.

(2) THE JUDICIAL DEPARTMENT SHALL REQUIRE THAT SEX OFFENDERS AND ANY OTHER PERSONS PARTICIPATING IN THE INTENSIVE SUPERVISION PROBATION PROGRAM CREATED PURSUANT TO THIS SECTION RECEIVE THE HIGHEST LEVEL OF SUPERVISION THAT IS PROVIDED TO PROBATIONERS. THE INTENSIVE SUPERVISION PROBATION PROGRAM MAY INCLUDE BUT NOT BE LIMITED TO SEVERELY RESTRICTED ACTIVITIES,

DAILY CONTACT BETWEEN THE SEX OFFENDER OR OTHER PERSON AND THE PROBATION OFFICER, MONITORED CURFEW, HOME VISITATION, EMPLOYMENT VISITATION AND MONITORING, DRUG AND ALCOHOL SCREENING, TREATMENT REFERRALS AND MONITORING, INCLUDING PHYSIOLOGICAL MONITORING, AND PAYMENT OF RESTITUTION. IN ADDITION, THE INTENSIVE SUPERVISION PROBATION PROGRAM SHALL BE DESIGNED TO MINIMIZE THE RISK TO THE PUBLIC TO THE GREATEST EXTENT POSSIBLE.

(3) THE JUDICIAL DEPARTMENT SHALL ESTABLISH AND ENFORCE STANDARDS AND CRITERIA FOR ADMINISTRATION OF THE INTENSIVE SUPERVISION PROBATION PROGRAM CREATED PURSUANT TO THIS SECTION.

16-13-808. Probation - conditions - release. (1) IF THE COURT SENTENCES A SEX OFFENDER TO PROBATION, IN ADDITION TO ANY CONDITIONS IMPOSED PURSUANT TO SECTION 16-11-204, THE COURT SHALL REQUIRE AS A CONDITION OF PROBATION THAT THE SEX OFFENDER PARTICIPATE UNTIL FURTHER ORDER OF THE COURT IN THE INTENSIVE SUPERVISION PROBATION PROGRAM CREATED PURSUANT TO SECTION 16-13-807.

(2) ON COMPLETION OF TWENTY YEARS OF PROBATION FOR ANY SEX OFFENDER CONVICTED OF A CLASS 2 OR 3 FELONY OR ON COMPLETION OF TEN YEARS OF PROBATION FOR ANY SEX OFFENDER CONVICTED OF A CLASS 4 FELONY, THE COURT SHALL SCHEDULE A REVIEW HEARING TO DETERMINE WHETHER THE SEX OFFENDER SHOULD BE DISCHARGED FROM PROBATION. IN MAKING ITS DETERMINATION, THE COURT SHALL DETERMINE WHETHER THE SEX OFFENDER HAS SUCCESSFULLY PROGRESSED IN TREATMENT AND WOULD NOT POSE AN UNDUE THREAT TO THE COMMUNITY IF ALLOWED TO LIVE IN THE COMMUNITY WITHOUT TREATMENT OR SUPERVISION. THE SEX OFFENDER'S PROBATION OFFICER AND TREATMENT PROVIDER SHALL MAKE RECOMMENDATIONS TO THE COURT CONCERNING WHETHER THE SEX OFFENDER HAS MET THE REQUIREMENTS OF THIS SECTION SUCH THAT HE OR SHE SHOULD BE DISCHARGED FROM PROBATION.

(3) (a) IN DETERMINING WHETHER TO DISCHARGE A SEX OFFENDER FROM PROBATION PURSUANT TO THIS SECTION, THE COURT SHALL CONSIDER THE RECOMMENDATIONS OF THE SEX OFFENDER'S PROBATION OFFICER AND TREATMENT PROVIDER. THE RECOMMENDATIONS OF THE PROBATION OFFICER AND THE TREATMENT PROVIDER SHALL BE BASED ON THE CRITERIA ESTABLISHED BY THE MANAGEMENT BOARD PURSUANT TO SECTION 16-13-809. IF THE COURT CHOOSES NOT TO FOLLOW THE RECOMMENDATIONS MADE, THE COURT SHALL MAKE FINDINGS ON THE RECORD IN SUPPORT OF ITS DECISION.

(b) IF THE COURT DOES NOT DISCHARGE THE SEX OFFENDER FROM PROBATION PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3), THE COURT SHALL REVIEW SUCH DENIAL AT LEAST ONCE EVERY THREE YEARS UNTIL IT DETERMINES THAT THE SEX OFFENDER MEETS THE CRITERIA FOR DISCHARGE AS SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (3). AT EACH REVIEW, THE SEX OFFENDER'S PROBATION OFFICER AND TREATMENT PROVIDER SHALL MAKE RECOMMENDATIONS, BASED ON THE CRITERIA ESTABLISHED BY THE MANAGEMENT BOARD PURSUANT TO SECTION 16-13-809, CONCERNING WHETHER THE SEX OFFENDER SHOULD BE DISCHARGED.

16-13-809. Criteria for release from incarceration, reduction in supervision,

and discharge. (1) ON OR BEFORE JULY 1, 1999, THE MANAGEMENT BOARD, IN COLLABORATION WITH THE DEPARTMENT OF CORRECTIONS, THE JUDICIAL DEPARTMENT, AND THE PAROLE BOARD, SHALL ESTABLISH:

(a) THE CRITERIA BY AND THE MANNER IN WHICH A SEX OFFENDER MAY DEMONSTRATE THAT HE OR SHE WOULD NOT POSE AN UNDUE THREAT TO THE COMMUNITY IF RELEASED ON PAROLE OR TO A LOWER LEVEL OF SUPERVISION WHILE ON PAROLE OR PROBATION OR IF DISCHARGED FROM PAROLE OR PROBATION. THE COURT AND THE PAROLE BOARD MAY USE THE CRITERIA TO ASSIST IN MAKING DECISIONS CONCERNING RELEASE OF A SEX OFFENDER, REDUCTION OF THE LEVEL OF SUPERVISION FOR A SEX OFFENDER, AND DISCHARGE OF A SEX OFFENDER.

(b) THE METHODS OF DETERMINING WHETHER A SEX OFFENDER HAS SUCCESSFULLY PROGRESSED IN TREATMENT; AND

(c) STANDARDS FOR COMMUNITY ENTITIES THAT PROVIDE SUPERVISION AND TREATMENT SPECIFICALLY DESIGNED FOR SEX OFFENDERS WHO HAVE DEVELOPMENTAL DISABILITIES. AT A MINIMUM, THE STANDARDS SHALL DETERMINE WHETHER AN ENTITY WOULD PROVIDE ADEQUATE SUPPORT AND SUPERVISION TO MINIMIZE ANY THREAT THAT THE SEX OFFENDER MAY POSE TO THE COMMUNITY.

16-13-810. Arrest of parolee or probationer - revocation. (1) (a) A SEX OFFENDER PAROLED PURSUANT TO SECTION 16-13-806 IS SUBJECT TO ARREST AND REVOCATION OF PAROLE AS PROVIDED IN SECTIONS 17-2-103 AND 17-2-103.5, C.R.S. AT ANY REVOCATION PROCEEDING, THE SEX OFFENDER'S PAROLE OFFICER AND THE TREATMENT PROVIDER SHALL SUBMIT WRITTEN RECOMMENDATIONS CONCERNING THE LEVEL OF TREATMENT AND MONITORING THAT SHOULD BE IMPOSED AS A CONDITION OF PAROLE IF PAROLE IS NOT REVOKED OR WHETHER THE SEX OFFENDER POSES A SUFFICIENT THREAT TO THE COMMUNITY THAT PAROLE SHOULD BE REVOKED. THE RECOMMENDATIONS SHALL BE BASED ON THE CRITERIA ESTABLISHED BY THE MANAGEMENT BOARD PURSUANT TO SECTION 16-13-809. IF THE PAROLE BOARD REVOKES THE SEX OFFENDER'S PAROLE, THE SEX OFFENDER SHALL CONTINUE TO BE SUBJECT TO THE PROVISIONS OF THIS PART 8.

(b) AT A REVOCATION HEARING HELD PURSUANT TO THIS SUBSECTION (1), THE PAROLE BOARD SHALL CONSIDER THE RECOMMENDATIONS OF THE PAROLE OFFICER AND THE TREATMENT PROVIDER, IN ADDITION TO EVIDENCE CONCERNING ANY OF THE GROUNDS FOR REVOCATION OF PAROLE SPECIFIED IN SECTIONS 17-2-103 AND 17-2-103.5, C.R.S. IF THE PAROLE BOARD CHOOSES NOT TO FOLLOW THE RECOMMENDATIONS MADE, IT SHALL MAKE FINDINGS ON THE RECORD IN SUPPORT OF ITS DECISION.

(2) (a) A SEX OFFENDER SENTENCED TO PROBATION PURSUANT TO SECTION 16-13-804 (2) IS SUBJECT TO ARREST AND REVOCATION OF PROBATION AS PROVIDED IN SECTIONS 16-11-205 AND 16-11-206. AT ANY REVOCATION PROCEEDING, THE SEX OFFENDER'S PROBATION OFFICER AND THE SEX OFFENDER'S TREATMENT PROVIDER SHALL SUBMIT RECOMMENDATIONS CONCERNING THE LEVEL OF TREATMENT AND MONITORING THAT SHOULD BE IMPOSED AS A CONDITION OF PROBATION IF PROBATION IS NOT REVOKED OR WHETHER THE SEX OFFENDER POSES A SUFFICIENT THREAT TO THE COMMUNITY THAT PROBATION SHOULD BE REVOKED. THE RECOMMENDATIONS SHALL BE BASED ON THE CRITERIA ESTABLISHED BY THE MANAGEMENT BOARD PURSUANT TO

SECTION 16-13-809. IF THE COURT REVOKES THE SEX OFFENDER'S PROBATION, THE COURT SHALL SENTENCE THE SEX OFFENDER AS PROVIDED IN SECTION 16-13-804, AND THE SEX OFFENDER SHALL BE SUBJECT TO THE PROVISIONS OF THIS PART 8.

(b) AT A REVOCATION HEARING HELD PURSUANT TO THIS SUBSECTION (2), THE COURT SHALL CONSIDER THE RECOMMENDATIONS OF THE PROBATION OFFICER AND THE TREATMENT PROVIDER, IN ADDITION TO EVIDENCE CONCERNING ANY OF THE GROUNDS FOR REVOCATION OF PROBATION SPECIFIED IN SECTIONS 16-11-205 AND 16-11-206. IF THE COURT CHOOSES NOT TO FOLLOW THE RECOMMENDATIONS MADE, IT SHALL MAKE FINDINGS ON THE RECORD IN SUPPORT OF ITS DECISION.

16-13-811. Annual report. (1) ON OR BEFORE NOVEMBER 1, 2000, AND ON OR BEFORE EACH NOVEMBER 1 THEREAFTER, THE DEPARTMENT OF CORRECTIONS, THE DEPARTMENT OF PUBLIC SAFETY, AND THE JUDICIAL DEPARTMENT SHALL SUBMIT A REPORT TO THE JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE AND TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY SPECIFYING, AT A MINIMUM:

(a) THE IMPACT ON THE PRISON POPULATION, THE PAROLE POPULATION, AND THE PROBATION POPULATION IN THE STATE DUE TO THE EXTENDED LENGTH OF INCARCERATION AND SUPERVISION PROVIDED FOR IN SECTIONS 16-13-804, 16-13-806, AND 16-13-808;

(b) THE NUMBER OF OFFENDERS PLACED IN THE INTENSIVE SUPERVISION PAROLE PROGRAM AND THE INTENSIVE SUPERVISION PROBATION PROGRAM AND THE LENGTH OF SUPERVISION OF OFFENDERS IN SAID PROGRAMS;

(c) THE NUMBER OF SEX OFFENDERS SENTENCED PURSUANT TO THIS PART 8 WHO RECEIVED PAROLE RELEASE HEARINGS AND THE NUMBER RELEASED ON PAROLE DURING THE PRECEDING TWELVE MONTHS, IF ANY;

(d) THE NUMBER OF SEX OFFENDERS SENTENCED PURSUANT TO THIS PART 8 WHO RECEIVED PAROLE OR PROBATION DISCHARGE HEARINGS AND THE NUMBER DISCHARGED FROM PAROLE OR PROBATION DURING THE PRECEDING TWELVE MONTHS, IF ANY;

(e) THE NUMBER OF SEX OFFENDERS SENTENCED PURSUANT TO THIS PART 8 WHO RECEIVED PAROLE OR PROBATION REVOCATION HEARINGS AND THE NUMBER WHOSE PAROLE OR PROBATION WAS REVOKED DURING THE PRECEDING TWELVE MONTHS, IF ANY;

(f) A SUMMARY OF THE EVALUATION INSTRUMENTS DEVELOPED BY THE MANAGEMENT BOARD AND USE OF THE EVALUATION INSTRUMENTS IN EVALUATING SEX OFFENDERS PURSUANT TO THIS PART 8; AND

(g) THE AVAILABILITY OF SEX OFFENDER TREATMENT PROVIDERS THROUGHOUT THE STATE, INCLUDING LOCATION OF THE TREATMENT PROVIDERS, THE SERVICES PROVIDED, AND THE AMOUNT PAID BY OFFENDERS AND BY THE STATE FOR THE SERVICES PROVIDED, AND THE MANNER OF REGULATION AND REVIEW OF THE SERVICES PROVIDED BY SEX OFFENDER TREATMENT PROVIDERS.

16-13-812. Applicability of part. THE PROVISIONS OF THIS PART 8 SHALL APPLY TO ANY PERSON WHO COMMITS A SEX OFFENSE ON OR AFTER NOVEMBER 1, 1998.

SECTION 2. Part 2 of article 13 of title 16, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

16-13-201.5. Applicability of part. THE PROVISIONS OF THIS PART 2 SHALL APPLY TO PERSONS SENTENCED FOR OFFENSES COMMITTED PRIOR TO NOVEMBER 1, 1998.

SECTION 3. 16-11.7-103 (4), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

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

(e) PURSUANT TO SECTION 16-13-809, ON OR BEFORE JULY 1, 1999, THE BOARD, IN COLLABORATION WITH THE DEPARTMENT OF CORRECTIONS, THE JUDICIAL DEPARTMENT, AND THE STATE BOARD OF PAROLE SHALL DEVELOP CRITERIA FOR MEASURING A SEX OFFENDER'S PROGRESS IN TREATMENT. SUCH CRITERIA SHALL ASSIST THE COURT AND THE STATE BOARD OF PAROLE IN DETERMINING WHETHER A SEX OFFENDER MAY APPROPRIATELY BE RELEASED FROM INCARCERATION PURSUANT TO SECTION 16-13-806 (1), OR WHETHER THE SEX OFFENDER'S LEVEL OF SUPERVISION MAY BE REDUCED PURSUANT TO SECTION 16-13-806 (2) (a) OR 16-13-808, OR WHETHER THE SEX OFFENDER MAY APPROPRIATELY BE DISCHARGED FROM PROBATION OR PAROLE PURSUANT TO SECTION 16-13-806 OR 16-13-808. AT A MINIMUM, THE CRITERIA SHALL BE DESIGNED TO ASSIST THE COURT AND THE STATE BOARD OF PAROLE IN DETERMINING WHETHER THE SEX OFFENDER WOULD POSE AN UNDUE THREAT TO THE COMMUNITY IF HE OR SHE WERE RELEASED FROM INCARCERATION, RELEASED TO A REDUCED LEVEL OF SUPERVISION, OR DISCHARGED FROM PROBATION OR PAROLE. THE CRITERIA SHALL NOT LIMIT THE DECISION-MAKING AUTHORITY OF THE COURT OR THE STATE BOARD OF PAROLE.

SECTION 4. 18-1-105 (1) (a) (V) (C) and (1) (a) (V) (D), Colorado Revised Statutes, are amended, and the said 18-1-105 (1) (a) (V) is further amended BY THE ADDITION OF THE FOLLOWING NEW SUB-SUBPARAGRAPHS, to read:

18-1-105. Felonies classified - presumptive penalties.
(1) (a) (V) (C) Notwithstanding sub-subparagraph (A) of this subparagraph (V), the mandatory period of parole for a person convicted of a felony offense COMMITTED PRIOR TO JULY 1, 1996, pursuant to part 4 of article 3 of this title, or part 3 of article 6 of this title, shall be five years.

(C.3) NOTWITHSTANDING THE PROVISIONS OF SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (V), THE PERIOD OF PAROLE FOR A PERSON CONVICTED OF A FELONY OFFENSE COMMITTED ON OR AFTER JULY 1, 1996, BUT PRIOR TO NOVEMBER 1, 1998, PURSUANT TO PART 4 OF ARTICLE 3 OF THIS TITLE OR PART 3 OF ARTICLE 6 OF THIS TITLE, SHALL BE SET BY THE STATE BOARD OF PAROLE PURSUANT TO SECTION 17-2-201 (5) (a.5), C.R.S.

(C.5) NOTWITHSTANDING THE PROVISIONS OF SUB-SUBPARAGRAPH (A) OF THIS

SUBPARAGRAPH (V), ANY PERSON SENTENCED FOR A SEX OFFENSE, AS DEFINED IN SECTION 16-13-803 (5), C.R.S., COMMITTED ON OR AFTER NOVEMBER 1, 1998, SHALL BE SENTENCED PURSUANT TO THE PROVISIONS OF PART 8 OF ARTICLE 13 OF TITLE 16, C.R.S.

(D) The mandatory period of parole imposed pursuant to sub-subparagraph (A) of this subparagraph (V) shall commence immediately upon the discharge of an offender from imprisonment in the custody of the department of corrections. If the offender has been granted release to parole supervision by the state board of parole, the offender shall be deemed to have discharged the offender's sentence to imprisonment provided for in sub-subparagraph (A) of this subparagraph (V) in the same manner as if such sentence were discharged pursuant to law; EXCEPT THAT THE SENTENCE TO IMPRISONMENT FOR ANY PERSON SENTENCED AS A SEX OFFENDER PURSUANT TO PART 8 OF ARTICLE 13 OF TITLE 16, C.R.S., SHALL NOT BE DEEMED DISCHARGED ON RELEASE OF SAID PERSON ON PAROLE. When an offender is released by the state board of parole or released because the offender's sentence was discharged pursuant to law, the mandatory period of parole shall be served by such offender. An offender sentenced for nonviolent felony offenses, as defined in section 17-22.5-405 (5), C.R.S., may receive earned time pursuant to section 17-22.5-405, C.R.S., while serving a mandatory parole period in accordance with this section but not while such offender is reincarcerated after a revocation of the mandatory period of parole.

SECTION 5. 18-1-105 (1) (b), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

18-1-105. Felonies classified - presumptive penalties.

(1) (b) (II.5) NOTWITHSTANDING ANYTHING IN THIS SECTION TO THE CONTRARY, ANY PERSON SENTENCED FOR A SEX OFFENSE, AS DEFINED IN SECTION 16-13-803 (5), C.R.S., COMMITTED ON OR AFTER NOVEMBER 1, 1998, MAY BE SENTENCED TO PAY A FINE IN ADDITION TO, BUT NOT INSTEAD OF, A SENTENCE FOR IMPRISONMENT OR PROBATION PURSUANT TO SECTION 16-13-804, C.R.S.

SECTION 6. 18-1-105 (1) (c) and (9) (e) (I), Colorado Revised Statutes, are amended, and the said 18-1-105 (9) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

18-1-105. Felonies classified - presumptive penalties. (1) (c) Except as otherwise provided by statute, felonies are punishable by imprisonment in any correctional facility under the supervision of the executive director of the department of corrections. Nothing in this section shall limit the authority granted in part 1 of article 13 of title 16, C.R.S., to increase sentences for habitual criminals. Nothing in this section shall limit the authority granted in ~~part 2~~ PARTS 2 AND 8 of article 13 of title 16, C.R.S., to ~~commit~~ SENTENCE sex offenders to the department of corrections OR TO SENTENCE SEX OFFENDERS TO PROBATION for an indeterminate term. Nothing in this section shall limit the authority granted in section 18-4-202.1 for increased sentences for habitual burglary offenders.

(9) (e) (I) If the defendant is convicted of the class 2 felony of sexual assault in the first degree under section 18-3-402 (3), COMMISSION OF WHICH OFFENSE OCCURS PRIOR TO NOVEMBER 1, 1998, the court shall be required to sentence the defendant to a term of at least the midpoint in the presumptive range but not more than twice the

maximum term authorized in the presumptive range for the punishment of that class of felony.

(e.5) IF THE DEFENDANT IS CONVICTED OF THE CLASS 2 FELONY OF SEXUAL ASSAULT IN THE FIRST DEGREE UNDER SECTION 18-3-402 (3), COMMISSION OF WHICH OFFENSE OCCURS ON OR AFTER NOVEMBER 1, 1998, THE COURT SHALL BE REQUIRED TO SENTENCE THE DEFENDANT TO AN INDETERMINATE SENTENCE OF AT LEAST THE MIDPOINT IN THE PRESUMPTIVE RANGE FOR THE PUNISHMENT OF THAT CLASS OF FELONY UP TO THE DEFENDANT'S NATURAL LIFE.

SECTION 7. 18-1-105 (9.7), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

18-1-105. Felonies classified - presumptive penalties. (9.7) (c) WITH RESPECT TO THE OFFENSES SPECIFIED IN SUBPARAGRAPHS (I) TO (VIII) OF PARAGRAPH (b) OF THIS SUBSECTION (9.7) AND SEXUAL OFFENSES THAT CONSTITUTE CRIMES OF VIOLENCE, THE PROVISIONS OF THIS SUBSECTION (9.7) APPLY ONLY TO OFFENSES COMMITTED PRIOR TO NOVEMBER 1, 1998.

SECTION 8. 16-11-101 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

16-11-101. Alternatives in sentencing - repeal. (1) Within the limitations of the penalties provided by the classification of the offense of which a person is found guilty, and subject to the provisions of this title, the trial court has the following alternatives in entering judgment imposing a sentence:

(j) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (1) TO THE CONTRARY, THE COURT SHALL SENTENCE ANY PERSON CONVICTED OF A SEX OFFENSE, AS DEFINED IN SECTION 16-13-803 (5), COMMITTED ON OR AFTER NOVEMBER 1, 1998, PURSUANT TO THE PROVISIONS OF PART 8 OF ARTICLE 13 OF THIS TITLE.

SECTION 9. 16-11-309 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

16-11-309. Mandatory sentences for violent crimes. (1) (c) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (1), ANY PERSON CONVICTED OF A SEX OFFENSE, AS DEFINED IN SECTION 16-13-803 (5), COMMITTED ON OR AFTER NOVEMBER 1, 1998, THAT CONSTITUTES A CRIME OF VIOLENCE SHALL BE SENTENCED TO AN INDETERMINATE TERM OF INCARCERATION OF AT LEAST THE MIDPOINT IN THE PRESUMPTIVE RANGE UP TO A MAXIMUM OF THE PERSON'S NATURAL LIFE, AS PROVIDED IN SECTION 16-13-804 (1).

SECTION 10. 17-2-201 (5) (e), Colorado Revised Statutes, is amended, and the said 17-2-201 (5) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

17-2-201. State board of parole. (5) (a.7) AS TO ANY PERSON SENTENCED FOR CONVICTION OF A SEX OFFENSE PURSUANT TO THE PROVISIONS OF PART 8 OF ARTICLE 13 OF TITLE 16, C.R.S., COMMITTED ON OR AFTER NOVEMBER 1, 1998, THE BOARD SHALL GRANT PAROLE OR REFUSE TO GRANT PAROLE, FIX THE CONDITIONS THEREOF,

AND SET THE DURATION OF THE TERM OF PAROLE GRANTED PURSUANT TO THE PROVISIONS OF PART 8 OF ARTICLE 13 OF TITLE 16, C.R.S.

(e) As a condition of parole of every person convicted of the class 2 felony of sexual assault in the first degree under section 18-3-402 (3), C.R.S., FOR AN OFFENSE COMMITTED PRIOR TO NOVEMBER 1, 1998, the board shall require that the parolee participate in a program of mental health counseling or receive appropriate treatment to the extent that the board deems appropriate to effectuate the successful reintegration of the parolee into the community.

SECTION 11. 17-2-201 (6), Colorado Revised Statutes, is amended to read:

17-2-201. State board of parole. (6) The board has the authority at any time after the period of any parole is fixed to shorten the period thereof or to lengthen said period within the limits specified in subsection (5) of this section; EXCEPT THAT THE PROVISIONS OF THIS SUBSECTION (6) SHALL NOT APPLY TO ANY PERSON SENTENCED AS A SEX OFFENDER PURSUANT TO PART 8 OF ARTICLE 13 OF TITLE 16, C.R.S.

SECTION 12. 17-22.5-403 (7) and (8), Colorado Revised Statutes, are amended to read:

17-22.5-403. Parole eligibility. (7) (a) For any offender who is incarcerated for an offense committed on or after July 1, 1993, upon application for parole, the state board of parole, working in conjunction with the department and using the guidelines established pursuant to section 17-22.5-404, shall determine whether or not to grant parole. The state board of parole, if it determines that placing an offender on parole is appropriate, shall set the length of the period of parole at the mandatory period of parole established in section 18-1-105 (1) (a) (V), C.R.S. If an application for parole is refused by the state board of parole, the state board of parole shall reconsider within one year thereafter whether such inmate should be granted parole. The state board of parole shall continue such reconsideration each year thereafter until such inmate is granted parole or until such inmate is discharged pursuant to law; except that, if the inmate applying for parole was convicted of a class 1 or class 2 crime of violence, as defined in section 16-11-309, C.R.S., ~~any class 3 sexual offense described in part 4 of article 3 of title 18, C.R.S.~~ SEX OFFENSE, AS DEFINED IN SECTION 16-13-803 (5), C.R.S., a habitual criminal offense as defined in section 16-13-101 (2.5), C.R.S., or of any offense subject to the requirements of section 16-13-203, C.R.S., the board need only reconsider granting parole to such inmate once every three years, until the board grants such inmate parole or until such inmate is discharged pursuant to law.

(b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (7), FOR ANY SEX OFFENDER, AS DEFINED IN SECTION 16-13-803 (4), C.R.S., WHO IS SENTENCED PURSUANT TO THE PROVISIONS OF PART 8 OF ARTICLE 13 OF TITLE 16, C.R.S., FOR COMMISSION OF A SEX OFFENSE COMMITTED ON OR AFTER NOVEMBER 1, 1998, THE STATE BOARD OF PAROLE SHALL DETERMINE WHETHER OR NOT TO GRANT PAROLE AS PROVIDED IN SECTION 16-13-806, C.R.S. IF THE STATE BOARD OF PAROLE DETERMINES THAT PLACING A SEX OFFENDER ON PAROLE IS APPROPRIATE, IT SHALL SET AN INDETERMINATE PERIOD OF PAROLE AS PROVIDED IN SECTION 16-13-806, C.R.S. IF THE STATE BOARD OF PAROLE DOES NOT RELEASE A SEX OFFENDER ON PAROLE, IT SHALL RECONSIDER RELEASE ON PAROLE AT LEAST ONCE EVERY THREE

YEARS UNTIL THE STATE BOARD OF PAROLE DETERMINES THE SEX OFFENDER MEETS THE CRITERIA FOR PAROLE SPECIFIED IN SECTION 16-13-806 (1), C.R.S.

(8) (a) For persons who are granted parole pursuant to PARAGRAPH (a) OF subsection (7) of this section, the division of adult services shall provide parole supervision and assistance in securing employment, housing, and such other services as may affect the successful reintegration of such offender into the community while recognizing the need for public safety. The conditions for parole for any such offender under this ~~subsection (8)~~ PARAGRAPH (a) shall be established pursuant to section 17-22.5-404 by the state board of parole prior to such offender's release from incarceration. Upon a determination that the conditions of parole have been violated in a parole revocation proceeding, the state board of parole shall continue the parole in effect, modify the conditions of parole if circumstances then shown to exist require such modifications, which circumstances shall be set forth in writing, or revoke the parole and order the return of the offender to a place of confinement designated by the executive director for any period of time up to the period remaining on such person's mandatory period of parole established in section 18-1-105 (1) (a) (V), C.R.S. Any offender who has been reincarcerated due to a parole revocation pursuant to this ~~subsection (8)~~ PARAGRAPH (a) shall be eligible for parole at any time during such reincarceration. The state board of parole may discharge an offender granted parole under this section at any time during the term of parole upon a determination that the offender has been sufficiently rehabilitated and reintegrated into society and can no longer benefit from parole supervision. In making any such determination, the state board of parole shall make written findings as to why such offender is no longer in need of parole supervision.

(b) FOR SEX OFFENDERS, AS DEFINED IN SECTION 16-13-803 (4), C.R.S., WHO ARE CONVICTED OF AN OFFENSE COMMITTED ON OR AFTER NOVEMBER 1, 1998, AND WHO ARE GRANTED PAROLE PURSUANT TO PARAGRAPH (b) OF SUBSECTION (7) OF THIS SECTION, THE DIVISION OF ADULT SERVICES SHALL PROVIDE PAROLE SUPERVISION AND ASSISTANCE IN SECURING EMPLOYMENT, HOUSING, AND SUCH OTHER SERVICES AS MAY AFFECT THE SUCCESSFUL REINTEGRATION OF THE SEX OFFENDER INTO THE COMMUNITY WHILE RECOGNIZING THE NEED FOR PUBLIC SAFETY. THE CONDITIONS FOR PAROLE FOR ANY SEX OFFENDER SHALL BE ESTABLISHED PURSUANT TO SECTION 16-13-806, C.R.S., AND SECTION 17-22.5-404 BY THE STATE BOARD OF PAROLE PRIOR TO THE SEX OFFENDER'S RELEASE FROM INCARCERATION. UPON A DETERMINATION IN A PAROLE REVOCATION PROCEEDING THAT THE SEX OFFENDER HAS VIOLATED THE CONDITIONS OF PAROLE, THE STATE BOARD OF PAROLE SHALL CONTINUE THE PAROLE IN EFFECT, MODIFY THE CONDITIONS OF PAROLE IF CIRCUMSTANCES THEN SHOWN TO EXIST REQUIRE SUCH MODIFICATIONS, WHICH CIRCUMSTANCES SHALL BE SET FORTH IN WRITING, OR REVOKE THE PAROLE AND ORDER THE RETURN OF THE SEX OFFENDER TO A PLACE OF CONFINEMENT DESIGNATED BY THE EXECUTIVE DIRECTOR FOR ANY PERIOD OF TIME UP TO THE REMAINDER OF THE SEX OFFENDER'S NATURAL LIFE. THE REVOCATION HEARING SHALL BE HELD AND THE STATE BOARD OF PAROLE SHALL MAKE ITS DETERMINATION AS PROVIDED IN SECTION 16-13-810, C.R.S. FOLLOWING REINCARCERATION, THE SEX OFFENDER'S ELIGIBILITY FOR PAROLE SHALL BE DETERMINED PURSUANT TO SECTION 16-13-806, C.R.S. THE STATE BOARD OF PAROLE MAY DISCHARGE A SEX OFFENDER FROM PAROLE AS PROVIDED IN SECTION 16-13-806 (3), C.R.S.

SECTION 13. 18-3-402 (4), Colorado Revised Statutes, is amended to read:

18-3-402. Sexual assault in the first degree. (4) (a) (I) If a defendant is convicted of sexual assault in the first degree pursuant to subsection (3) of this section, the court shall sentence the defendant in accordance with section 18-1-105 (9) (e). A person convicted of sexual assault in the first degree pursuant to subsection (3) of this section shall not be sentenced under the crime of violence provisions of section 16-11-309 (2), C.R.S. Any sentence for a conviction under subsection (3) of this section shall be consecutive to any sentence for a conviction for a crime of violence under section 16-11-309, C.R.S.

(II) THE PROVISIONS OF THIS PARAGRAPH (a) SHALL APPLY TO OFFENSES COMMITTED PRIOR TO NOVEMBER 1, 1998.

(b) ANY PERSON CONVICTED OF SEXUAL ASSAULT IN THE FIRST DEGREE COMMITTED ON OR AFTER NOVEMBER 1, 1998, UNDER ANY OF THE CIRCUMSTANCES DESCRIBED IN THIS SECTION SHALL BE SENTENCED IN ACCORDANCE WITH THE PROVISIONS OF PART 8 OF ARTICLE 13 OF TITLE 16, C.R.S.

SECTION 14. 18-6-303, Colorado Revised Statutes, is amended to read:

18-6-303. Sentencing. (1) The court may suspend a portion of the sentence of any person who is convicted of a violation COMMITTED PRIOR TO NOVEMBER 1, 1998, of any offense listed in this part 3 who is not a habitual sex offender against children, as described in section 18-3-412, if the offender receives a presentence evaluation ~~which~~ THAT recommends a treatment program and the offender satisfactorily completes the recommended treatment program.

(2) In addition to any other penalty provided by law, the court may sentence a defendant who is convicted of a first offense pursuant to this part 3, COMMITTED PRIOR TO NOVEMBER 1, 1998, to a period of probation for purposes of treatment ~~which~~ THAT, when added to any time served, does not exceed the maximum sentence imposable for the offense.

(3) THE COURT SHALL SENTENCE A DEFENDANT WHO IS CONVICTED OF ANY OFFENSE SPECIFIED IN THIS PART 3 COMMITTED ON OR AFTER NOVEMBER 1, 1998, PURSUANT TO THE PROVISIONS OF PART 8 OF ARTICLE 13 OF TITLE 16, C.R.S.

SECTION 15. The introductory portion to 24-75-302 (2), Colorado Revised Statutes, is amended, and the said 24-75-302 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

24-75-302. Capital construction fund - capital assessment fees - calculation. (2) As of July 1, 1988, and July 1 of each year thereafter through July 1, ~~2001~~ 2002, a sum as specified in this subsection (2) shall accrue to the capital construction fund. The state treasurer and the controller shall transfer such sum out of the general fund and into the capital construction fund as moneys become available in the general fund during the fiscal year beginning on said July 1. Transfers between funds pursuant to this subsection (2) shall not be deemed to be appropriations subject to the limitations of section 24-75-201.1. The amount which shall accrue pursuant to this subsection (2) shall be as follows:

(o) ON JULY 1, 2002, EIGHT MILLION THREE HUNDRED SEVEN THOUSAND FIVE

HUNDRED NINE DOLLARS PURSUANT TO HB98-1156, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FIRST GENERAL ASSEMBLY.

SECTION 16. Part 1 of article 1 of title 17, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

17-1-124. Appropriations to comply with section 2-2-703 - HB 98-1156.

(1) PURSUANT TO SECTION 2-2-703, C.R.S., THE FOLLOWING STATUTORY APPROPRIATIONS, OR SO MUCH THEREOF AS MAY BE NECESSARY, ARE MADE IN ORDER TO IMPLEMENT HB98-1156, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FIRST GENERAL ASSEMBLY:

(a) FOR THE FISCAL YEAR BEGINNING JULY 1, 1998, THE GENERAL ASSEMBLY HAS DETERMINED THAT HB98-1156 CAN BE IMPLEMENTED WITHIN EXISTING APPROPRIATIONS, AND THEREFORE NO SEPARATE APPROPRIATION OF STATE MONEYS IS NECESSARY TO CARRY OUT THE PURPOSES OF HB98-1156.

(b) FOR THE FISCAL YEAR BEGINNING JULY 1, 1999, THE GENERAL ASSEMBLY HAS DETERMINED THAT HB98-1156 CAN BE IMPLEMENTED WITHIN EXISTING APPROPRIATIONS, AND THEREFORE NO SEPARATE APPROPRIATION OF STATE MONEYS IS NECESSARY TO CARRY OUT THE PURPOSES OF HB98-1156.

(c) FOR THE FISCAL YEAR BEGINNING JULY 1, 2000, THE GENERAL ASSEMBLY HAS DETERMINED THAT HB98-1156 CAN BE IMPLEMENTED WITHIN EXISTING APPROPRIATIONS, AND THEREFORE NO SEPARATE APPROPRIATION OF STATE MONEYS IS NECESSARY TO CARRY OUT THE PURPOSES OF HB98-1156.

(d) FOR THE FISCAL YEAR BEGINNING JULY 1, 2001, THE GENERAL ASSEMBLY HAS DETERMINED THAT HB98-1156 CAN BE IMPLEMENTED WITHIN EXISTING APPROPRIATIONS, AND THEREFORE NO SEPARATE APPROPRIATION OF STATE MONEYS IS NECESSARY TO CARRY OUT THE PURPOSES OF HB98-1156.

(e) FOR THE FISCAL YEAR BEGINNING JULY 1, 2002, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED FROM THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION 17-1-116, THE SUM OF EIGHT MILLION THREE HUNDRED SEVEN THOUSAND FIVE HUNDRED NINE DOLLARS (\$8,307,509).

SECTION 17. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of public safety , for the fiscal year beginning July 1, 1998, the sum of eighty-one thousand one hundred nineteen dollars (\$81,119) and 1.0 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the judicial department, for the fiscal year beginning July 1, 1998, the sum of nine hundred forty-seven thousand eight hundred ninety dollars (\$947,890) and 15.9 FTE, or so much thereof as may be necessary, for the implementation of this act. Of said sum, eight thousand nine hundred forty-three dollars (\$8,943) and 0.2 FTE, or so much thereof as may be necessary, is for allocation to the district court; and nine hundred thirty-eight

thousand nine hundred forty-seven dollars (\$938,947) and 15.7 FTE, or so much thereof as may be necessary, is for allocation to the office of probation services.

(3) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of corrections, for the fiscal year beginning July 1, 1998, the sum of one hundred three thousand seven hundred ninety-six dollars (\$103,796) and 2.2 FTE, or so much thereof as may be necessary, for the implementation of this act. Of said sum, sixty-three thousand five hundred thirty-one dollars (\$63,531) and 1.5 FTE, or so much thereof as may be necessary, is for allocation to the sex offender treatment program; thirty-eight thousand five hundred ninety dollars (\$38,590) and 0.7 FTE, or so much thereof as may be necessary, is for allocation to the sex offender intensive parole program; and one thousand six hundred seventy-five dollars (\$1,675), or so much thereof as may be necessary, is for allocation to the division of community corrections.

SECTION 18. Appropriation - adjustments in 1998 long bill. (1) For the implementation of this act, appropriations made in the annual general appropriation act to the department of corrections for the fiscal year beginning July 1, 1998, shall be adjusted as follows:

(a) The general fund appropriation for Medical Services Subprogram, Operating Expenses, is decreased by two hundred fifty thousand dollars (\$250,000);

(b) The general fund appropriation for Community Services, Post-parole Transitional Release Facility, is decreased by two hundred ten thousand dollars (\$210,000).

SECTION 19. Appropriation - legislative intent. It is the intent of the general assembly that seven hundred twenty-one thousand seven hundred ninety-one dollars (\$721,791) of the total general fund appropriation for the implementation of this act shall be derived from savings generated from implementation of the provisions of HB98-1242, as enacted during the second regular session of the sixty-first general assembly.

SECTION 20. Effective date - applicability. This act shall take effect November 1, 1998, and shall apply to offenses committed on or after said date; except that this act shall not take effect if HB98-1242 is not enacted during the second regular session of the sixty-first general assembly.

SECTION 21. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 1, 1998

Editor's Note: HB98-1242 was signed by the Governor on May 18, 1998, and is effective July 1, 1998.