

## CHAPTER 74

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**CORRECTIONS**

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**HOUSE BILL 00-1254**

BY REPRESENTATIVES Gotlieb, Gordon, Mace, and Scott;  
also SENATORS Wham, Epps, Lamborn, Powers, and Tebedo.

**AN ACT**

CONCERNING TREATMENT OF OFFENDERS.

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

**SECTION 1.** 17-27.1-101 (2) (d), (2) (f), (2) (g), (2) (h), (3), (5) (a), (5) (c), (6) (c), (10) (b), and (12), Colorado Revised Statutes, are amended to read:

**17-27.1-101. Nongovernmental facilities for offenders - registration - notifications - penalties - repeal.** (2) As used in this section, unless the context otherwise requires:

(d) "Private treatment program" means any residential OR NONRESIDENTIAL program that provides services, treatment, rehabilitation, EDUCATION, or criminal history-related treatment for supervised OR UNSUPERVISED persons but does not include a private contract prison facility, a prison facility operated by a political subdivision of the state, a facility providing treatment for the mentally ill or developmentally disabled, or a community corrections program established pursuant to article 27 of this title.

(f) "Supervised person" means a person eighteen years of age or older who is adjudicated FOR or convicted of or has agreed to a deferred judgment, deferred sentence, or deferred prosecution for a crime in another state but is OR WILL BE under the supervision of a probation officer or parole officer in Colorado pursuant to the interstate compact.

(g) "Supervising person" means ~~a~~ THE person ~~charged with on-site supervision of persons at a~~ IN THIS STATE WHO IS IN CHARGE OF THE OVERALL ADMINISTRATION OF A private treatment program.

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

(h) "Unsupervised person" means a person eighteen years of age or older who, although not REQUIRED TO BE under the jurisdiction of a probation officer or parole officer in Colorado, is adjudicated FOR or convicted of or has agreed to a deferred judgment, deferred sentence, or deferred prosecution for a crime outside of the state of Colorado and is directed to attend a private treatment program in Colorado by any court, department of corrections, state board of parole, probation department, parole division, adult diversion program, or any other similar entity or program in a state other than Colorado.

(3) (a) In order to ensure uniformity and consistency, the sending state shall be in compliance with 24-60-303 (1), C.R.S., or the ~~commissioner~~ ADMINISTRATOR OF THE INTERSTATE COMPACT shall reject the placement of the supervised person pursuant to subsection (6) of this section.

(b) A sending state shall not permit or ~~encourage~~ travel of a supervised person WHO IS A NONRESIDENT OF THIS STATE to the state of Colorado without written notification from the ~~commissioner~~ ADMINISTRATOR OF THE INTERSTATE COMPACT of acceptance of the supervised person into a private treatment program.

(c) Any request for placement OF A NONRESIDENT OF THIS STATE in a private treatment program from a sending state shall contain written justification as to why treatment in the state of Colorado is preferable or more beneficial than treatment in the sending state.

(5) No private treatment program in Colorado shall admit or accept a supervised or unsupervised person into the program unless that program:

(a) Is registered with the administrator of the interstate compact, AND, IF THE PERSON IS A SUPERVISED PERSON, THE PRIVATE TREATMENT PROGRAM IS:

(I) APPROVED BY THE DIVISION OF ALCOHOL AND DRUG ABUSE ESTABLISHED IN PART 2 OF ARTICLE 2 OF TITLE 25, C.R.S., IF THE PROGRAM PROVIDES ALCOHOL OR DRUG ABUSE TREATMENT;

(II) CERTIFIED OR APPROVED BY THE SEX OFFENDER MANAGEMENT BOARD, ESTABLISHED IN SECTION 16-11.7-103, C.R.S., IF THE PROGRAM PROVIDES SEX OFFENDER TREATMENT;

(III) CERTIFIED OR APPROVED BY A DOMESTIC VIOLENCE TREATMENT BOARD, ESTABLISHED PURSUANT TO PART 8 OF ARTICLE 6 OF TITLE 18, C.R.S., IF THE PROGRAM PROVIDES TREATMENT FOR PERSONS WHO WERE CONVICTED OF AN ACT OF DOMESTIC VIOLENCE AS DEFINED IN SECTION 18-6-800.3, C.R.S., OR OF AN ACT FOR WHICH THE UNDERLYING FACTUAL BASIS INCLUDED AN ACT OF DOMESTIC VIOLENCE; OR

(IV) LICENSED OR CERTIFIED BY THE DIVISION OF ADULT SERVICES IN THE DEPARTMENT OF CORRECTIONS, THE DEPARTMENT OF REGULATORY AGENCIES, THE DIVISION OF MENTAL HEALTH IN THE DEPARTMENT OF HUMAN SERVICES, THE STATE BOARD OF NURSING, OR THE STATE BOARD OF MEDICAL EXAMINERS IF THE PROGRAM PROVIDES TREATMENT THAT REQUIRES SUCH CERTIFICATION OR LICENSURE;

(c) (I) If the person is supervised AND IS A RESIDENT OF THE STATE OF COLORADO, has confirmed that the sending state has provided all information concerning the supervised person required by the interstate compact to the administrator of the interstate compact; AND

(II) IF THE PERSON IS SUPERVISED AND IS A NONRESIDENT OF THE STATE OF COLORADO, HAS CONFIRMED THAT THE ADMINISTRATOR OF THE INTERSTATE COMPACT HAS ACCEPTED THE PERSON FOR PLACEMENT IN THE PRIVATE TREATMENT PROGRAM.

~~(6) (c) Not more than thirty days after the effective date of this section, as amended, the commissioner shall notify all other parties to the interstate compact of the requirements of this section relating to supervised persons.~~

~~(10) (b) In addition to any other duties, the departments referenced in section 16-11.5-102 (1), C.R.S., shall develop proposed legislation governing the regulation of private treatment facilities.~~

~~(12) This section is repealed, effective July 1, 2001.~~

**SECTION 2.** Part 2 of article 8 of title 18, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**18-8-213. Unauthorized residency by parolee or probationer from another state.** (1) A PERSON COMMITS THE CRIME OF UNAUTHORIZED RESIDENCY BY A PAROLEE OR PROBATIONER IF THE PERSON, IN ORDER TO STAY IN THE STATE, IS REQUIRED TO HAVE THE PERMISSION OF THE ADMINISTRATOR OF THE INTERSTATE COMPACT FOR PAROLEE SUPERVISION PURSUANT TO PART 3 OF ARTICLE 60 OF TITLE 24, C.R.S., AND THE PERSON:

(a) IS NOT A RESIDENT OF THIS STATE AS DEFINED IN SECTION 24-60-302 (1) (b), C.R.S., HAS NOT RECEIVED APPROVAL FROM THE COMPACT ADMINISTRATOR OF THE INTERSTATE COMPACT FOR PAROLEE SUPERVISION ESTABLISHED PURSUANT TO PART 3 OF ARTICLE 60 OF TITLE 24, C.R.S., AND IS FOUND RESIDING IN THIS STATE; OR

(b) IS A RESIDENT OF THIS STATE AS DEFINED IN SECTION 24-60-302 (1) (b), C.R.S., HAS NOT RECEIVED APPROVAL FROM THE COMPACT ADMINISTRATOR OF THE INTERSTATE COMPACT FOR PAROLEE SUPERVISION ESTABLISHED PURSUANT TO PART 3 OF ARTICLE 60 OF TITLE 24, C.R.S., AND IS FOUND RESIDING IN THIS STATE MORE THAN NINETY DAYS AFTER HIS OR HER TRANSFER FROM THE RECEIVING STATE, AS DEFINED IN SECTION 24-60-302 (1), C.R.S.

(2) UNAUTHORIZED RESIDENCY BY A PAROLEE OR PROBATIONER IS A CLASS 5 FELONY.

**SECTION 3.** 16-11-204 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**16-11-204. Conditions of probation.** (2) (c) IF THE COURT ORDERS COUNSELING OR TREATMENT AS A CONDITION OF PROBATION, UNLESS THE COURT MAKES A SPECIFIC FINDING THAT TREATMENT IN ANOTHER FACILITY OR WITH ANOTHER PERSON IS

WARRANTED, THE COURT SHALL ORDER THAT SUCH TREATMENT OR COUNSELING BE AT A FACILITY OR WITH A PERSON:

(I) APPROVED BY THE DIVISION OF ALCOHOL AND DRUG ABUSE ESTABLISHED IN PART 2 OF ARTICLE 2 OF TITLE 25, C.R.S., IF THE TREATMENT IS FOR ALCOHOL OR DRUG ABUSE;

(II) CERTIFIED OR APPROVED BY THE SEX OFFENDER MANAGEMENT BOARD, ESTABLISHED IN SECTION 16-11.7-103, IF THE OFFENDER IS A SEX OFFENDER;

(III) CERTIFIED OR APPROVED BY A DOMESTIC VIOLENCE TREATMENT BOARD, ESTABLISHED PURSUANT TO PART 8 OF ARTICLE 6 OF TITLE 18, C.R.S., IF THE OFFENDER WAS CONVICTED OF OR THE UNDERLYING FACTUAL BASIS OF THE OFFENSE INCLUDED AN ACT OF DOMESTIC VIOLENCE AS DEFINED IN SECTION 18-6-800.3, C.R.S.; OR

(IV) LICENSED OR CERTIFIED BY THE DIVISION OF ADULT SERVICES IN THE DEPARTMENT OF CORRECTIONS, THE DEPARTMENT OF REGULATORY AGENCIES, THE DIVISION OF MENTAL HEALTH IN THE DEPARTMENT OF HUMAN SERVICES, THE STATE BOARD OF NURSING, OR THE STATE BOARD OF MEDICAL EXAMINERS, WHICHEVER IS APPROPRIATE FOR THE REQUIRED TREATMENT OR COUNSELING.

**SECTION 4.** 16-7-402 (2), Colorado Revised Statutes, is amended to read:

**16-7-402. Counseling or treatment for alcohol or drug abuse.** (2) In any case in which treatment or counseling for alcohol or drug abuse is authorized in connection with a deferred prosecution or probation, the court may require the defendant to obtain counseling or treatment for such condition. IF THE COURT ORDERS SUCH COUNSELING OR TREATMENT, THE COURT SHALL ORDER THAT THE COUNSELING OR TREATMENT BE OBTAINED FROM ~~any~~ A treatment facility OR PERSON approved by the division of alcohol and drug abuse, ESTABLISHED IN PART 2 OF ARTICLE 2 OF TITLE 25, C.R.S., UNLESS THE COURT MAKES A FINDING THAT COUNSELING OR TREATMENT IN ANOTHER FACILITY OR WITH ANOTHER PERSON IS WARRANTED. If the defendant voluntarily submits himself OR HERSELF for such treatment or counseling, the district attorney and the court may consider his OR HER willingness to correct his OR HER condition as a basis for granting deferred prosecution.

**SECTION 5.** 16-11.5-104, Colorado Revised Statutes, is amended to read:

**16-11.5-104. Sentencing of felons - parole of felons - treatment and testing based upon assessment required.** (1) Each person sentenced by the court for a felony committed on or after July 1, 1992, shall be required, as a part of any sentence to probation, community corrections, or incarceration with the department of corrections, to undergo periodic testing and treatment for substance abuse which is appropriate to such ~~person~~ FELON based upon the recommendations of the assessment made pursuant to section 16-11.5-103, or based upon any subsequent recommendations by the department of corrections, the judicial department, or the division of criminal justice of the department of public safety, whichever is appropriate. Any such testing or treatment shall be AT A FACILITY OR WITH A PERSON APPROVED BY THE DIVISION OF ALCOHOL AND DRUG ABUSE, ESTABLISHED IN PART 2 OF ARTICLE 2 OF TITLE 25, C.R.S., AND at such ~~person's~~ FELON'S own expense, unless

such ~~person~~ FELON is indigent.

(2) Each person placed on parole by the state board of parole on or after July 1, 1992, shall be required, as a condition of such parole, to undergo periodic testing and treatment for substance abuse which is appropriate to such ~~person~~ PAROLEE based upon the recommendations of the assessment made pursuant to section 16-11.5-103 or any assessment or subsequent reassessment made regarding such ~~person~~ PAROLEE during his OR HER incarceration or any period of parole. Any such testing or treatment shall be AT A FACILITY OR WITH A PERSON APPROVED BY THE DIVISION OF ALCOHOL AND DRUG ABUSE, ESTABLISHED IN PART 2 OF ARTICLE 2 OF TITLE 25, C.R.S., AND at such ~~person's~~ PAROLEE'S own expense, unless such ~~person~~ PAROLEE is indigent.

**SECTION 6.** 16-11.7-105 (1) and (2), Colorado Revised Statutes, are amended to read:

**16-11.7-105. Sentencing of sex offenders - treatment based upon evaluation and identification required.** (1) Each sex offender sentenced by the court for an offense committed on or after January 1, 1994, shall be required, as a part of any sentence to probation, community corrections, or incarceration with the department of corrections, to undergo treatment to the extent appropriate to such offender based upon the recommendations of the evaluation and identification made pursuant to section 16-11.7-104, or based upon any subsequent recommendations by the department of corrections, the judicial department, the department of human services, or the division of criminal justice of the department of public safety, whichever is appropriate. Any such treatment and monitoring shall be AT A FACILITY OR WITH A PERSON CERTIFIED OR APPROVED BY THE BOARD AND at such ~~person's~~ OFFENDER'S own expense, based upon such ~~person's~~ OFFENDER'S ability to pay for such treatment.

(2) Each sex offender placed on parole by the state board of parole on or after January 1, 1994, shall be required, as a condition of such parole, to undergo treatment to the extent appropriate to such offender based upon the recommendations of the evaluation and identification pursuant to section 16-11.7-104 or any evaluation or subsequent reevaluation regarding such ~~person~~ OFFENDER during the ~~person's~~ OFFENDER'S incarceration or any period of parole. Any such treatment shall be AT A FACILITY OR WITH A PERSON CERTIFIED OR APPROVED BY THE BOARD AND at such ~~person's~~ OFFENDER'S expense, based upon such ~~person's~~ OFFENDER'S ability to pay for such treatment.

**SECTION 7.** 17-2-201, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**17-2-201. State board of parole.** (5.7) IF, AS A CONDITION OF PAROLE, AN OFFENDER IS REQUIRED TO UNDERGO COUNSELING OR TREATMENT, UNLESS THE PAROLE BOARD DETERMINES THAT TREATMENT AT ANOTHER FACILITY OR WITH ANOTHER PERSON IS WARRANTED, SUCH TREATMENT OR COUNSELING SHALL BE AT A FACILITY OR WITH A PERSON:

(I) APPROVED BY THE DIVISION OF ALCOHOL AND DRUG ABUSE ESTABLISHED IN PART 2 OF ARTICLE 2 OF TITLE 25, C.R.S., IF THE TREATMENT IS FOR ALCOHOL OR DRUG ABUSE;

(II) CERTIFIED OR APPROVED BY THE SEX OFFENDER MANAGEMENT BOARD, ESTABLISHED IN SECTION 16-11.7-103, C.R.S., IF THE OFFENDER IS A SEX OFFENDER;

(III) CERTIFIED OR APPROVED BY A DOMESTIC VIOLENCE TREATMENT BOARD, ESTABLISHED PURSUANT TO PART 8 OF ARTICLE 6 OF TITLE 18, C.R.S., IF THE OFFENDER WAS CONVICTED OF OR THE UNDERLYING FACTUAL BASIS OF THE OFFENSE INCLUDED AN ACT OF DOMESTIC VIOLENCE AS DEFINED IN SECTION 18-6-800.3, C.R.S.; OR

(IV) LICENSED OR CERTIFIED BY THE DIVISION OF ADULT SERVICES IN THE DEPARTMENT OF CORRECTIONS, THE DEPARTMENT OF REGULATORY AGENCIES, THE DIVISION OF MENTAL HEALTH IN THE DEPARTMENT OF HUMAN SERVICES, THE STATE BOARD OF NURSING, OR THE STATE BOARD OF MEDICAL EXAMINERS, WHICHEVER IS APPROPRIATE FOR THE REQUIRED TREATMENT OR COUNSELING.

**SECTION 8. Effective date - applicability.** This act shall take effect July 1, 2000, and section 2 of this act shall apply to offenses committed on or after said date.

**SECTION 9. 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: March 29, 2000