

CHAPTER 244

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 04-1077

BY REPRESENTATIVE(S) Jahn, Boyd, Carroll, Hefley, McFadyen, McGihon, Miller, Romanoff, Stafford, Stengel, and Vigil;
also SENATOR(S) Anderson.

AN ACT

CONCERNING THE REQUIREMENT THAT A CURRENT BACKGROUND INVESTIGATION BE CONDUCTED ON PERSONS WHO APPLY FOR PLACEMENT ON CERTAIN TREATMENT SERVICES PROVIDER LISTS, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 16-11.7-106 (2), Colorado Revised Statutes, is amended to read:

16-11.7-106. Sex offender treatment - contracts with providers - fund created. (2) (a) The board shall require any person who applies for placement on the list of persons who may provide sex offender treatment services pursuant to this article to submit a complete set of his or her fingerprints. The board shall forward any such fingerprints received pursuant to this subsection (2) to the Colorado bureau of investigation for use in conducting a state criminal history record check and for transmittal to the federal bureau of investigation for a national criminal history record check.

(b) THE BOARD SHALL REQUIRE ANY PERSON WHO APPLIES FOR PLACEMENT, INCLUDING ANY PERSON WHO APPLIES FOR CONTINUED PLACEMENT, ON THE LIST OF PERSONS WHO MAY PROVIDE SEX OFFENDER TREATMENT AND SEX OFFENDER SERVICES PURSUANT TO THIS ARTICLE TO SUBMIT TO A CURRENT BACKGROUND INVESTIGATION THAT GOES BEYOND THE SCOPE OF THE CRIMINAL HISTORY RECORD CHECK DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (2). IN CONDUCTING THE CURRENT BACKGROUND INVESTIGATION REQUIRED BY THIS PARAGRAPH (b), THE BOARD SHALL OBTAIN REFERENCE AND CRIMINAL HISTORY INFORMATION AND RECOMMENDATIONS THAT MAY BE RELEVANT TO THE APPLICANT'S FITNESS TO PROVIDE SEX OFFENDER TREATMENT AND SEX OFFENDER SERVICES PURSUANT TO THIS ARTICLE.

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

(c) THE BOARD MAY ASSESS A FEE TO THE APPLICANT NOT TO EXCEED ONE HUNDRED TWENTY-FIVE DOLLARS PER APPLICATION TO COVER THE COSTS OF CONDUCTING A CURRENT BACKGROUND INVESTIGATION REQUIRED BY THIS SUBSECTION (2). ALL MONEYS COLLECTED PURSUANT TO THIS PARAGRAPH (c) SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE SEX OFFENDER TREATMENT PROVIDER FUND, WHICH FUND IS HEREBY CREATED AND REFERRED TO IN THIS PARAGRAPH (c) AS THE "FUND". THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE CURRENT BACKGROUND INVESTIGATION REQUIRED BY THIS SUBSECTION (2). ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF THIS SUBSECTION (2) MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

(d) The board shall use the information obtained from the state and national criminal history record check AND THE CURRENT BACKGROUND INVESTIGATION in determining whether to place OR CONTINUE THE PLACEMENT OF the person on the approved provider list.

SECTION 2. 16-11.8-104, Colorado Revised Statutes, is amended to read:

16-11.8-104. Domestic violence offender treatment - contracts with providers - fund created. (1) On and after January 1, 2001, the department of corrections, the judicial department, the division of criminal justice within the department of public safety, or the department of human services shall not employ or contract with and shall not allow a domestic violence offender to employ or contract with any individual or entity to provide domestic violence offender treatment evaluation or treatment services pursuant to this article unless the individual or entity appears on the approved list developed pursuant to section 16-11.8-103 (4).

(2) (a) THE BOARD SHALL REQUIRE ANY PERSON WHO APPLIES FOR PLACEMENT, INCLUDING ANY PERSON WHO APPLIES FOR CONTINUED PLACEMENT ON THE APPROVED LIST DEVELOPED PURSUANT TO SECTION 16-11.8-103 (4) TO SUBMIT TO A CURRENT BACKGROUND INVESTIGATION THAT GOES BEYOND THE SCOPE OF THE CRIMINAL HISTORY RECORD CHECK DESCRIBED IN SECTION 16-11.8-103 (4) (b) (III) (A). IN CONDUCTING THE CURRENT BACKGROUND INVESTIGATION, THE BOARD SHALL OBTAIN REFERENCE AND CRIMINAL HISTORY INFORMATION AND RECOMMENDATIONS THAT MAY BE RELEVANT TO THE APPLICANT'S FITNESS TO PROVIDE DOMESTIC VIOLENCE OFFENDER TREATMENT EVALUATION OR TREATMENT SERVICES PURSUANT TO THIS ARTICLE.

(b) THE BOARD MAY ASSESS A FEE TO THE APPLICANT NOT TO EXCEED ONE HUNDRED TWENTY-FIVE DOLLARS PER APPLICATION TO COVER THE COSTS OF CONDUCTING THE CURRENT BACKGROUND INVESTIGATION REQUIRED BY THIS SUBSECTION (2). ALL MONEYS COLLECTED PURSUANT TO THIS PARAGRAPH (b) SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE DOMESTIC VIOLENCE OFFENDER TREATMENT PROVIDER FUND, WHICH FUND IS HEREBY CREATED AND REFERRED TO IN THIS PARAGRAPH (b) AS THE "FUND". THE MONEYS IN

THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE CURRENT BACKGROUND INVESTIGATION REQUIRED BY THIS SUBSECTION (2). ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF THIS SUBSECTION (2) MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

SECTION 3. 16-11.8-103 (4) (b) (III) (A), Colorado Revised Statutes, is amended to read:

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

(b) Prior to January 1, 2002, the board shall:

(III) Develop an application and review process for treatment providers and evaluators who provide services to domestic violence offenders pursuant to subparagraphs (I) or (II) of this paragraph (b). Such standards shall allow providers and evaluators to demonstrate that they are in compliance with the standards adopted pursuant to subparagraphs (I) and (II) of this paragraph (b). The application and review process shall consist of the following three parts:

(A) The board shall develop separate application and review processes for standards that apply to the criminal justice component, such as criminal ~~background~~ HISTORY RECORD checks, for individual treatment providers and treatment programs. Applications for the criminal justice components shall be submitted to the board. THE BOARD SHALL FORWARD ANY FINGERPRINTS RECEIVED PURSUANT TO SECTION 16-11.8-104 (2) TO THE COLORADO BUREAU OF INVESTIGATION FOR USE IN CONDUCTING A STATE CRIMINAL HISTORY RECORD CHECK AND FOR TRANSMITTAL TO THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORD CHECK. The information obtained from the state and national criminal history RECORD check may be used by the board to determine an applicant's eligibility for placement on the approved provider list. The board shall be responsible for the implementation of this sub-subparagraph (A) of the application and review process.

SECTION 4. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of cash funds to the department of public safety, for allocation to the criminal justice division, for the fiscal year beginning July 1, 2004, the sum of twenty-three thousand five hundred dollars (\$23,500), or so much thereof as may be necessary, for the implementation of this act. Of said sum, twelve thousand five hundred dollars (\$12,500) shall be from cash funds in the domestic violence offender treatment provider fund created in Section 16-11.8-104 (2) (b), Colorado Revised Statutes, and eleven thousand dollars (\$11,000) shall be from cash funds in the sex offender treatment provider fund created in Section 16-11.7-106 (2) (c), Colorado Revised Statutes.

SECTION 5. Effective date - applicability. This act shall take effect July 1, 2004, and shall apply to applications for placement submitted on or after said date.

SECTION 6. 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: May 21, 2004