

## CHAPTER 370

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**CRIMINAL LAW AND PROCEDURE**

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**HOUSE BILL 08-1232**

BY REPRESENTATIVE(S) Stafford, Carroll T., Jahn, Kerr A., Marshall, Borodkin, Casso, Green, Labuda, Middleton, and Summers;  
also SENATOR(S) Bacon, Boyd, Gibbs, Groff, Morse, Shaffer, Williams, and Windels.

**AN ACT**

**CONCERNING THE DOMESTIC VIOLENCE OFFENDER MANAGEMENT BOARD, AND, IN CONNECTION THEREWITH, CONTINUING THE DOMESTIC VIOLENCE OFFENDER MANAGEMENT BOARD, AND MAKING AN APPROPRIATION.**

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

**SECTION 1.** 16-11.8-102 (2), Colorado Revised Statutes, is amended to read:

**16-11.8-102. Definitions.** As used in this article, unless the context otherwise requires:

(2) "Domestic violence offender" means any person who on or after January 1, 2001, has been convicted of, pled guilty to, or received a deferred judgment ~~or deferred prosecution~~ AND SENTENCE for any domestic violence offense as defined in subsection (3) of this section.

**SECTION 2.** 16-11.8-103 (4) (a), (4) (b), and (7), Colorado Revised Statutes, are amended to read:

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

(a) ~~Prior to January 1, 2001, the board shall:~~

~~(I) Adopt the standards drafted by the commission appointed pursuant to section 18-6-803, C.R.S., to be used as the standards for transitional purposes and review;~~

~~(II) Obtain from the local advisory boards established pursuant to section~~

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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.*

~~18-6-802, C.R.S., a list of the providers who were certified by the local board, and~~

~~(III) After the review of the manual adopted by the commission appointed pursuant to section 18-6-803, C.R.S., develop and publish an application and review process to demonstrate that the providers whose identities were received pursuant to subparagraph (II) of this paragraph (a) are in compliance with the standards adopted pursuant to subparagraph (I) of this paragraph (a);~~

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

(I) Adopt and implement a standardized procedure for the treatment evaluation of domestic violence offenders. Such procedure shall provide for the evaluation and recommend behavior management, monitoring, and treatment. The board shall develop and implement methods of intervention for domestic violence offenders that have as a priority the physical and psychological safety of victims and potential victims and that are appropriate to the needs of the particular offender, so long as there is no reduction in the level of safety of victims and potential victims.

(II) Adopt and implement guidelines and standards for a system of programs for the treatment of domestic violence offenders that shall be utilized by offenders who have committed a crime, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, and who are placed on probation, placed on parole, or placed in community corrections OR WHO RECEIVE A DEFERRED JUDGMENT AND SENTENCE. The programs developed pursuant to this subparagraph (II) shall be as flexible as possible so that ~~such~~ THE programs may be utilized by each offender to prevent the offender from harming victims and potential victims. The programs shall be structured in such a manner that they provide a continuing monitoring process as well as a continuum of treatment programs for each offender as that offender proceeds through the criminal justice system and may include, but shall not be limited to, group counseling, individual counseling, outpatient treatment, or treatment in a therapeutic community. Also, ~~such~~ THE programs shall be developed in such a manner that, to the extent possible, the programs may be accessed by all offenders in the criminal justice system.

(III) Develop an application and review process for treatment providers ~~and evaluators~~ who provide services to domestic violence offenders pursuant to subparagraph (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 history record checks, for individual treatment providers and treatment programs. Applications for the criminal justice components, INCLUDING FINGERPRINTS, shall be submitted to the board. The board shall forward ~~any~~ THE 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.

(B) The board shall develop an application and review process for the verification of the qualifications and credentials of the treatment providers. ~~Said~~ THE applications shall be submitted to the department of regulatory agencies, and forwarded to the appropriate board pursuant to part 2 of article 43 of title 12, C.R.S. The department of regulatory agencies shall be responsible for the implementation of this sub-subparagraph (B) of the application and review process. THE BOARD SHALL REQUIRE THAT TREATMENT PROVIDERS COMPLETE MANDATORY CONTINUING EDUCATION COURSES IN AREAS RELATED TO DOMESTIC VIOLENCE.

(C) After the process to be developed pursuant to sub-subparagraphs (A) and (B) of this subparagraph (III) is established and providers ~~and evaluators~~ have met the criteria of both parts of the application and review process, the department of regulatory agencies and the board shall jointly publish at least annually a list of approved providers. ~~Such~~ THE list shall be forwarded to the office of the state court administrator, the department of public safety, the department of human services, and the department of corrections. The list of approved providers shall be jointly updated and forwarded as changes are made.

(D) NOTWITHSTANDING ANY ACTION TAKEN BY THE DEPARTMENT OF REGULATORY AGENCIES AGAINST A TREATMENT PROVIDER, THE BOARD MAY TAKE ACTION AGAINST A TREATMENT PROVIDER INCLUDING, BUT NOT LIMITED TO, REMOVING A TREATMENT PROVIDER FROM THE APPROVED PROVIDER LIST. THE BOARD MAY DETERMINE THE REQUIREMENTS FOR A TREATMENT PROVIDER'S NAME TO BE PLACED ON THE LIST AFTER HIS OR HER NAME HAS BEEN REMOVED FROM THE LIST PURSUANT TO THIS SUBPARAGRAPH (III).

(III.5) THE BOARD SHALL DEVELOP A TREATMENT PROVIDER RENEWAL PROCESS FOR THE CONTINUED PLACEMENT OF A PERSON ON THE APPROVED PROVIDER LIST PUBLISHED PURSUANT TO SUB-SUBPARAGRAPH (C) OF SUBPARAGRAPH (III) OF THIS PARAGRAPH (b).

(IV) Research and analyze the effectiveness of the treatment evaluation and treatment procedures and programs developed pursuant to this article. The board shall also develop and prescribe a system for implementation of the guidelines and standards developed pursuant to subparagraphs (I) and (II) of this paragraph (b) and for tracking offenders who have been evaluated and treated pursuant to this article. In addition, the board shall develop a system for monitoring offender behaviors and offender adherence to prescribed behavioral changes. The results of such tracking and behavioral monitoring shall be a part of any analysis made pursuant to this subparagraph (IV).

(7) (a) This section is repealed, effective July 1, ~~2008~~ 2017.

(b) Prior to said repeal, the domestic violence offender management board appointed pursuant to this section shall be reviewed as provided ~~for~~ in section 24-34-104, C.R.S.

**SECTION 3.** 16-11.8-104 (2), Colorado Revised Statutes, is amended to read:

**16-11.8-104. Domestic violence offender treatment - contracts with providers - fund created.** (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~~ A PERSON WHO APPLIES FOR INITIAL PLACEMENT OR RENEWED PLACEMENT ON THE APPROVED PROVIDER LIST not to exceed ~~one hundred twenty-five~~ THREE HUNDRED dollars per application to cover the costs of conducting the current background investigation required by this subsection (2), AND THE COSTS ASSOCIATED WITH THE INITIAL APPLICATION REVIEW AND THE RENEWAL PROCESS PURSUANT TO SECTION 16-11.8-103 (4) (b) (III) AND OTHER COSTS ASSOCIATED WITH ADMINISTERING THE PROGRAM. 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) AND THE APPLICATION REVIEW AND RENEWAL PROCESS AND OTHER COSTS ASSOCIATED WITH ADMINISTERING THE PROGRAM. 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 4. Repeal.** 24-34-104 (39) (b) (XI), Colorado Revised Statutes, is repealed as follows:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (39) (b) The following agencies, functions, or both, shall terminate on July 1, 2008:

(XI) ~~The domestic violence offender management board created in section 16-11.8-103, C.R.S.;~~

**SECTION 5.** 24-34-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (48.5) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, SHALL TERMINATE ON SEPTEMBER 1, 2017: THE DOMESTIC VIOLENCE OFFENDER MANAGEMENT BOARD CREATED IN SECTION 16-11.8-103, C.R.S.

**SECTION 6. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the domestic violence offender treatment provider fund created in section 16-11.8-104 (2) (b), Colorado Revised Statutes, not otherwise appropriated, to the department of public safety, for allocation to the division of criminal justice, for the fiscal year beginning July 1, 2008, the sum of twenty-six thousand four hundred fifty dollars (\$26,450) cash funds and 0.6 FTE, or so much thereof as may be necessary, for the implementation of this act.

**SECTION 7. 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 2, 2008