

CHAPTER 236

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 11-1138

BY REPRESENTATIVE(S) Gardner B., Barker, Casso, Waller, Fischer, Gerou, Hamner, Kefalas, Labuda, Massey, Miklosi, Nikkel, Pace, Priola, Ramirez, Scott, Fields, Vigil, Wilson;
also SENATOR(S) Morse, Bacon, Boyd, Jahn, King S., Foster, Giron, Guzman, Nicholson, Steadman, Tochtrop.

AN ACT

CONCERNING THE SEX OFFENDER MANAGEMENT BOARD, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 16-11.7-101, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

16-11.7-101. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS THAT TO PROTECT THE PUBLIC AND TO WORK TOWARD THE ELIMINATION OF SEXUAL OFFENSES, IT IS NECESSARY TO COMPREHENSIVELY EVALUATE, IDENTIFY, TREAT, MANAGE, AND MONITOR ADULT SEX OFFENDERS WHO ARE SUBJECT TO THE SUPERVISION OF THE CRIMINAL JUSTICE SYSTEM AND JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES WHO ARE SUBJECT TO THE SUPERVISION OF THE JUVENILE JUSTICE SYSTEM.

(2) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT IT IS NECESSARY TO CREATE A PROGRAM THAT ESTABLISHES EVIDENCE-BASED STANDARDS FOR THE EVALUATION, IDENTIFICATION, TREATMENT, MANAGEMENT, AND MONITORING OF ADULT SEX OFFENDERS AND JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES AT EACH STAGE OF THE CRIMINAL OR JUVENILE JUSTICE SYSTEM, TO PREVENT OFFENDERS FROM REOFFENDING AND ENHANCE THE PROTECTION OF VICTIMS AND POTENTIAL VICTIMS. THE GENERAL ASSEMBLY DOES NOT INTEND TO IMPLY THAT ALL OFFENDERS CAN OR WILL POSITIVELY RESPOND TO TREATMENT.

SECTION 2. 16-11.7-102 (1) and (2) (a) (IV), Colorado Revised Statutes, are amended, and the said 16-11.7-102 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

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

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

(1) ~~"Board" means the sex offender management board created in section 16-11.7-103.~~ "ADULT SEX OFFENDER" MEANS A PERSON WHO HAS BEEN CONVICTED, AS DESCRIBED IN SUBPARAGRAPHS (I) TO (III) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION, OF A SEX OFFENSE.

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

(1.5) "JUVENILE WHO HAS COMMITTED A SEXUAL OFFENSE" MEANS A JUVENILE WHO HAS BEEN ADJUDICATED AS A JUVENILE OR WHO RECEIVES A DEFERRED ADJUDICATION ON OR AFTER JULY 1, 2002, FOR AN OFFENSE THAT WOULD CONSTITUTE A SEX OFFENSE, AS DEFINED IN SUBSECTION (3) OF THIS SECTION, IF COMMITTED AS AN ADULT, OR A JUVENILE WHO HAS COMMITTED ANY OFFENSE, THE UNDERLYING FACTUAL BASIS OF WHICH INVOLVES A SEX OFFENSE.

(2) (a) "Sex offender" means any person who is:

(IV) ~~Adjudicated as a juvenile or who receives a deferred adjudication on or after July 1, 2002, for an offense that would constitute a sex offense if committed by an adult or for any offense, the underlying factual basis of which involves a sex offense~~
A JUVENILE WHO HAS COMMITTED A SEXUAL OFFENSE.

SECTION 3. 16-11.7-103, Colorado Revised Statutes, is RECREATED AND REENACTED, WITH AMENDMENTS, to read:

16-11.7-103. Sex offender management board - creation - duties - repeal.

(1) THERE IS HEREBY CREATED IN THE DEPARTMENT OF PUBLIC SAFETY A SEX OFFENDER MANAGEMENT BOARD THAT SHALL CONSIST OF TWENTY-FIVE MEMBERS. THE MEMBERSHIP OF THE BOARD SHALL REFLECT, TO THE EXTENT POSSIBLE, REPRESENTATION OF URBAN AND RURAL AREAS OF THE STATE AND A BALANCE OF EXPERTISE IN ADULT AND JUVENILE ISSUES RELATING TO PERSONS WHO COMMIT SEX OFFENSES. THE MEMBERSHIP OF THE BOARD SHALL CONSIST OF THE FOLLOWING PERSONS WHO SHALL BE APPOINTED AS FOLLOWS:

(a) THE CHIEF JUSTICE OF THE SUPREME COURT SHALL APPOINT THREE MEMBERS AS FOLLOWS:

(I) ONE MEMBER WHO REPRESENTS THE JUDICIAL DEPARTMENT;

(II) ONE MEMBER WHO IS A DISTRICT COURT JUDGE; AND

(III) ONE MEMBER WHO IS A JUVENILE COURT JUDGE OR JUVENILE COURT MAGISTRATE;

(b) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS SHALL APPOINT ONE MEMBER WHO REPRESENTS THE DEPARTMENT OF CORRECTIONS;

(c) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES SHALL APPOINT THREE MEMBERS AS FOLLOWS:

(I) ONE MEMBER WHO REPRESENTS THE DEPARTMENT OF HUMAN SERVICES AND WHO HAS RECOGNIZABLE EXPERTISE IN CHILD WELFARE AND CASE MANAGEMENT;

(II) ONE MEMBER WHO REPRESENTS THE DIVISION OF YOUTH CORRECTIONS IN THE DEPARTMENT OF HUMAN SERVICES; AND

(III) ONE MEMBER WHO IS A PROVIDER OF OUT-OF-HOME PLACEMENT SERVICES WITH RECOGNIZABLE EXPERTISE IN PROVIDING SERVICES TO JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES;

(d) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY SHALL APPOINT SIXTEEN MEMBERS AS FOLLOWS:

(I) ONE MEMBER WHO REPRESENTS THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY;

(II) TWO MEMBERS WHO ARE LICENSED MENTAL HEALTH PROFESSIONALS WITH RECOGNIZABLE EXPERTISE IN THE TREATMENT OF ADULT SEX OFFENDERS;

(III) TWO MEMBERS WHO ARE LICENSED MENTAL HEALTH PROFESSIONALS WITH RECOGNIZABLE EXPERTISE IN THE TREATMENT OF JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES;

(IV) ONE MEMBER WHO IS A MEMBER OF A COMMUNITY CORRECTIONS BOARD;

(V) ONE MEMBER WHO IS A PUBLIC DEFENDER WITH RECOGNIZABLE EXPERTISE RELATED TO SEXUAL OFFENSES;

(VI) ONE MEMBER WHO REPRESENTS LAW ENFORCEMENT WITH RECOGNIZABLE EXPERTISE IN ADDRESSING SEXUAL OFFENSES AND VICTIMIZATION;

(VII) THREE MEMBERS WHO ARE RECOGNIZED EXPERTS IN THE FIELD OF SEXUAL ABUSE AND WHO CAN REPRESENT SEXUAL ABUSE VICTIMS AND VICTIMS' RIGHTS ORGANIZATIONS;

(VIII) ONE MEMBER WHO IS A CLINICAL POLYGRAPH EXAMINER;

(IX) ONE MEMBER WHO IS A PRIVATE CRIMINAL DEFENSE ATTORNEY WITH RECOGNIZABLE EXPERTISE RELATED TO SEXUAL OFFENSES;

(X) ONE MEMBER WHO IS A COUNTY DIRECTOR OF SOCIAL SERVICES, APPOINTED AFTER CONSULTATION WITH A STATEWIDE GROUP REPRESENTING COUNTIES; AND

(XI) TWO MEMBERS WHO ARE COUNTY COMMISSIONERS OR MEMBERS OF THE GOVERNING COUNCIL FOR A JURISDICTION THAT IS A CONTIGUOUS CITY AND COUNTY, ONE OF WHOM SHALL REPRESENT AN URBAN OR SUBURBAN COUNTY AND ONE OF WHOM SHALL REPRESENT A RURAL COUNTY, APPOINTED AFTER CONSULTATION WITH A STATEWIDE GROUP REPRESENTING COUNTIES;

(e) THE EXECUTIVE DIRECTOR OF THE COLORADO DISTRICT ATTORNEYS' COUNCIL SHALL APPOINT ONE MEMBER WHO REPRESENTS THE INTERESTS OF PROSECUTING ATTORNEYS AND WHO HAS RECOGNIZABLE EXPERTISE IN PROSECUTING SEXUAL OFFENSES; AND

(f) THE COMMISSIONER OF EDUCATION SHALL APPOINT ONE MEMBER WHO HAS EXPERIENCE WITH JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES AND WHO ARE IN THE PUBLIC SCHOOL SYSTEM.

(2) THE MEMBERS OF THE BOARD SHALL ELECT PRESIDING OFFICERS FOR THE BOARD, INCLUDING A CHAIR AND VICE CHAIR, FROM AMONG THE BOARD MEMBERS APPOINTED PURSUANT TO SUBSECTION (1) OF THIS SECTION, WHICH PRESIDING OFFICERS SHALL SERVE TERMS OF TWO YEARS. BOARD MEMBERS MAY RE-ELECT A PRESIDING OFFICER.

(3) MEMBERS OF THE BOARD SHALL SERVE AT THE PLEASURE OF THE APPOINTING AUTHORITY FOR TERMS OF FOUR YEARS; EXCEPT THAT THE MEMBER APPOINTED PURSUANT TO SUBPARAGRAPH (IX) OF PARAGRAPH (d) OF SUBSECTION (1) OF THIS SECTION PRIOR TO JULY 1, 2011, SHALL SERVE THE TERM OF YEARS IN EFFECT AT THE TIME OF HIS OR HER APPOINTMENT. THE APPOINTING AUTHORITY MAY REAPPOINT A MEMBER FOR AN ADDITIONAL TERM OR TERMS. MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION.

(4) **Duties of the board.** THE BOARD SHALL CARRY OUT THE FOLLOWING DUTIES:

(a) **Standards for identification and evaluation of adult sex offenders.** THE BOARD SHALL DEVELOP, PRESCRIBE, AND REVISE AS APPROPRIATE, A STANDARD PROCEDURE TO EVALUATE AND IDENTIFY ADULT SEX OFFENDERS, INCLUDING ADULT SEX OFFENDERS WITH DEVELOPMENTAL DISABILITIES. THE PROCEDURES SHALL PROVIDE FOR AN EVALUATION AND IDENTIFICATION OF THE ADULT SEX OFFENDER AND RECOMMEND MANAGEMENT, MONITORING, AND TREATMENT BASED UPON EXISTING RESEARCH DEMONSTRATING THAT SEXUALLY OFFENDING BEHAVIOR IS OFTEN REPETITIVE, AND THAT THERE IS CURRENTLY NO WAY TO ENSURE THAT ADULT SEX OFFENDERS WITH THE PROPENSITY TO COMMIT SEXUAL OFFENSES WILL NOT REOFFEND. BECAUSE THERE ARE ADULT SEX OFFENDERS WHO CAN LEARN TO MANAGE UNHEALTHY PATTERNS AND LEARN BEHAVIORS THAT CAN LESSEN THEIR RISK TO SOCIETY IN THE COURSE OF ONGOING TREATMENT, MANAGEMENT, AND MONITORING, THE BOARD SHALL DEVELOP A PROCEDURE FOR EVALUATING AND IDENTIFYING, ON A CASE-BY-CASE BASIS, RELIABLY LOWER-RISK SEX OFFENDERS. THE BOARD SHALL DEVELOP AND IMPLEMENT METHODS OF INTERVENTION FOR ADULT SEX OFFENDERS, WHICH METHODS HAVE AS A PRIORITY THE PHYSICAL AND PSYCHOLOGICAL SAFETY OF VICTIMS AND POTENTIAL VICTIMS AND WHICH ARE APPROPRIATE TO THE ASSESSED NEEDS OF THE PARTICULAR OFFENDER, SO LONG AS THERE IS NO REDUCTION IN THE SAFETY OF VICTIMS AND POTENTIAL VICTIMS.

(b) **Guidelines and standards for treatment for adult offenders.** THE BOARD SHALL DEVELOP, IMPLEMENT, AND REVISE AS APPROPRIATE, GUIDELINES AND STANDARDS TO TREAT ADULT SEX OFFENDERS, INCLUDING ADULT SEX OFFENDERS WITH DEVELOPMENTAL DISABILITIES, WHICH GUIDELINES AND STANDARDS CAN BE USED IN THE TREATMENT OF OFFENDERS WHO ARE PLACED ON PROBATION, INCARCERATED WITH THE DEPARTMENT OF CORRECTIONS, PLACED ON PAROLE, OR

PLACED IN COMMUNITY CORRECTIONS. PROGRAMS IMPLEMENTED PURSUANT TO THE GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO THIS PARAGRAPH (b) SHALL BE AS FLEXIBLE AS POSSIBLE SO THAT THE PROGRAMS MAY BE ACCESSED BY EACH ADULT SEX OFFENDER TO PREVENT THE OFFENDER FROM HARMING VICTIMS AND POTENTIAL VICTIMS. PROGRAMS SHALL INCLUDE A CONTINUING MONITORING PROCESS AND A CONTINUUM OF TREATMENT OPTIONS AVAILABLE TO AN ADULT SEX OFFENDER AS HE OR SHE PROCEEDS THROUGH THE CRIMINAL JUSTICE SYSTEM. TREATMENT OPTIONS SHALL BE DETERMINED BY A CURRENT RISK ASSESSMENT AND EVALUATION AND MAY INCLUDE, BUT NEED NOT BE LIMITED TO, GROUP COUNSELING, INDIVIDUAL COUNSELING, FAMILY COUNSELING, OUTPATIENT TREATMENT, INPATIENT TREATMENT, SHARED LIVING ARRANGEMENTS, OR TREATMENT IN A THERAPEUTIC COMMUNITY. PROGRAMS IMPLEMENTED PURSUANT TO THE GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO THIS PARAGRAPH (b) SHALL, TO THE EXTENT POSSIBLE, BE ACCESSIBLE TO ALL ADULT SEX OFFENDERS IN THE CRIMINAL JUSTICE SYSTEM, INCLUDING THOSE OFFENDERS WITH MENTAL ILLNESS AND CO-OCCURRING DISORDERS. THE PROCEDURES FOR EVALUATION, IDENTIFICATION, TREATMENT, AND MONITORING DEVELOPED PURSUANT TO THIS SUBSECTION (4) SHALL BE IMPLEMENTED ONLY TO THE EXTENT THAT MONEYS ARE AVAILABLE IN THE SEX OFFENDER SURCHARGE FUND CREATED IN SECTION 18-21-103 (3), C.R.S.

(c) Allocation of moneys in sex offender surcharge fund. THE BOARD SHALL DEVELOP AN ANNUAL PLAN FOR THE ALLOCATION OF MONEYS DEPOSITED IN THE SEX OFFENDER SURCHARGE FUND CREATED PURSUANT TO SECTION 18-21-103 (3), C.R.S., AMONG THE JUDICIAL DEPARTMENT, THE DEPARTMENT OF CORRECTIONS, THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY, AND THE DEPARTMENT OF HUMAN SERVICES. IN ADDITION, THE BOARD SHALL COORDINATE THE EXPENDITURE OF MONEYS FROM THE SEX OFFENDER SURCHARGE FUND WITH ANY MONEYS EXPENDED BY ANY OF THE DEPARTMENTS DESCRIBED IN THIS PARAGRAPH (c) TO IDENTIFY, EVALUATE, AND TREAT ADULT SEX OFFENDERS AND JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES. THE GENERAL ASSEMBLY MAY APPROPRIATE MONEYS FROM THE SEX OFFENDER SURCHARGE FUND IN ACCORDANCE WITH THE PLAN.

(d) Risk assessment screening instrument. THE BOARD SHALL CONSULT ON, APPROVE, AND REVISE AS NECESSARY THE RISK ASSESSMENT SCREENING INSTRUMENT DEVELOPED BY THE DIVISION OF CRIMINAL JUSTICE TO ASSIST THE SENTENCING COURT IN DETERMINING THE LIKELIHOOD THAT AN ADULT SEX OFFENDER WILL COMMIT ONE OR MORE OF THE OFFENSES SPECIFIED IN SECTION 18-3-414.5 (1) (a) (II), C.R.S., UNDER THE CIRCUMSTANCES DESCRIBED IN SECTION 18-3-414.5 (1) (a) (III), C.R.S. IN CARRYING OUT THIS DUTY, THE BOARD SHALL CONSIDER RESEARCH ON ADULT SEX OFFENDER RISK ASSESSMENT AND SHALL CONSIDER AS ONE ELEMENT THE RISK POSED BY AN ADULT SEX OFFENDER WHO SUFFERS FROM PSYCHOPATHY OR A PERSONALITY DISORDER THAT MAKES THE PERSON MORE LIKELY TO ENGAGE IN SEXUALLY VIOLENT PREDATORY OFFENSES. IF A DEFENDANT IS FOUND TO BE A SEXUALLY VIOLENT PREDATOR, THE DEFENDANT SHALL BE REQUIRED TO REGISTER PURSUANT TO ARTICLE 22 OF THIS TITLE AND SHALL BE SUBJECT TO COMMUNITY NOTIFICATION PURSUANT TO PART 9 OF ARTICLE 13 OF THIS TITLE.

(e) Evaluation of policies and procedures - report. (I) THE BOARD SHALL RESEARCH, EITHER THROUGH DIRECT EVALUATION OR THROUGH A REVIEW OF

RELEVANT RESEARCH ARTICLES AND SEX OFFENDER TREATMENT EMPIRICAL DATA, AND ANALYZE, THROUGH A COMPREHENSIVE REVIEW OF EVIDENCE-BASED PRACTICES, THE EFFECTIVENESS OF THE EVALUATION, IDENTIFICATION, AND TREATMENT POLICIES AND PROCEDURES FOR ADULT SEX OFFENDERS DEVELOPED PURSUANT TO THIS ARTICLE. THIS RESEARCH SHALL SPECIFICALLY INCLUDE, BUT NEED NOT BE LIMITED TO, REVIEWING AND RESEARCHING REOFFENSE AND FACTORS THAT CONTRIBUTE TO REOFFENSE FOR SEX OFFENDERS AS DEFINED IN THIS ARTICLE, THE EFFECTIVE USE OF COGNITIVE BEHAVIORAL THERAPY TO PREVENT REOFFENSE, THE USE OF POLYGRAPHS IN TREATMENT, AND THE CONTAINMENT MODEL FOR ADULT SEX OFFENDER MANAGEMENT AND TREATMENT AND ITS EFFECTIVE APPLICATION. THE BOARD SHALL REVISE THE GUIDELINES AND STANDARDS FOR EVALUATION, IDENTIFICATION, AND TREATMENT, AS APPROPRIATE, BASED UPON THE RESULTS OF THE BOARD'S RESEARCH AND ANALYSIS. THE BOARD SHALL ALSO DEVELOP AND PRESCRIBE A SYSTEM TO IMPLEMENT THE GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (4).

(II) (A) ON OR BEFORE DECEMBER 1, 2011, THE BOARD SHALL SUBMIT AND PRESENT TO THE JUDICIARY COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, A WRITTEN REPORT OF THE BOARD'S FINDINGS BASED ON THE RESEARCH AND ANALYSIS, AS REQUIRED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (e), ON THE EFFECTIVENESS OF THE EVALUATION, IDENTIFICATION, AND TREATMENT PROCEDURES DEVELOPED PURSUANT TO THIS ARTICLE.

(B) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1, 2012.

(f) **Criteria for measuring progress in treatment.** (I) PURSUANT TO SECTION 18-1.3-1009, C.R.S., CONCERNING THE CRITERIA FOR RELEASE FROM INCARCERATION, REDUCTION IN SUPERVISION, AND DISCHARGE FOR CERTAIN ADULT SEX OFFENDERS, THE BOARD, IN COLLABORATION WITH THE DEPARTMENT OF CORRECTIONS, THE JUDICIAL DEPARTMENT, AND THE STATE BOARD OF PAROLE, SHALL DEVELOP AND REVISE, AS APPROPRIATE, CRITERIA FOR MEASURING AN ADULT SEX OFFENDER'S PROGRESS IN TREATMENT. THE CRITERIA SHALL ASSIST THE COURT AND THE STATE BOARD OF PAROLE IN DETERMINING WHETHER AN ADULT SEX OFFENDER MAY APPROPRIATELY BE RELEASED FROM INCARCERATION PURSUANT TO SECTION 18-1.3-1006 (1), C.R.S., OR WHETHER THE ADULT SEX OFFENDER'S LEVEL OF SUPERVISION MAY BE REDUCED PURSUANT TO SECTION 18-1.3-1006 (2) (a) OR 18-1.3-1008, C.R.S., OR WHETHER THE ADULT SEX OFFENDER MAY APPROPRIATELY BE DISCHARGED FROM PROBATION OR PAROLE PURSUANT TO SECTION 18-1.3-1006 OR 18-1.3-1008, C.R.S. AT A MINIMUM, THE CRITERIA SHALL BE DESIGNED TO ASSIST THE COURT AND THE STATE BOARD OF PAROLE IN DETERMINING WHETHER THE ADULT SEX OFFENDER COULD BE APPROPRIATELY SUPERVISED IN 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.

(II) THE BOARD, IN COLLABORATION WITH THE DEPARTMENT OF CORRECTIONS, THE JUDICIAL DEPARTMENT, AND THE STATE BOARD OF PAROLE, SHALL ESTABLISH STANDARDS FOR COMMUNITY ENTITIES THAT PROVIDE SUPERVISION AND TREATMENT SPECIFICALLY DESIGNED FOR ADULT 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 ADULT SEX OFFENDER MAY POSE TO THE COMMUNITY.

(g) Living arrangements for adult sex offenders - recommendations. THE BOARD SHALL RESEARCH, ANALYZE, AND MAKE RECOMMENDATIONS THAT REFLECT BEST PRACTICES FOR LIVING ARRANGEMENTS FOR AND THE LOCATION OF ADULT SEX OFFENDERS WITHIN THE COMMUNITY, INCLUDING BUT NOT LIMITED TO SHARED LIVING ARRANGEMENTS. AT A MINIMUM, THE BOARD SHALL CONSIDER THE SAFETY ISSUES RAISED BY THE LOCATION OF SEX OFFENDER RESIDENCES, ESPECIALLY IN PROXIMITY TO PUBLIC OR PRIVATE SCHOOLS AND CHILD CARE FACILITIES, AND PUBLIC NOTIFICATION OF THE LOCATION OF SEX OFFENDER RESIDENCES. THE BOARD SHALL ADOPT AND REVISE AS APPROPRIATE SUCH GUIDELINES AS IT MAY DEEM APPROPRIATE REGARDING THE LIVING ARRANGEMENTS AND LOCATION OF ADULT SEX OFFENDERS AND ADULT SEX OFFENDER HOUSING. THE BOARD SHALL ACCOMPLISH THE REQUIREMENTS SPECIFIED IN THIS PARAGRAPH (g) WITHIN EXISTING APPROPRIATIONS.

(h) Data collection from treatment providers. IF THE DEPARTMENT OF PUBLIC SAFETY ACQUIRES SUFFICIENT FUNDING, THE BOARD MAY REQUEST THAT INDIVIDUALS OR ENTITIES PROVIDING SEX-OFFENDER-SPECIFIC EVALUATION, TREATMENT, OR POLYGRAPH SERVICES THAT CONFORM WITH STANDARDS DEVELOPED BY THE BOARD PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (4) SUBMIT TO THE BOARD DATA AND INFORMATION AS DETERMINED BY THE BOARD AT THE TIME THAT FUNDING BECOMES AVAILABLE. THIS DATA AND INFORMATION MAY BE USED BY THE BOARD TO EVALUATE THE EFFECTIVENESS OF THE GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO THIS ARTICLE TO EVALUATE THE EFFECTIVENESS OF INDIVIDUALS OR ENTITIES PROVIDING SEX-OFFENDER-SPECIFIC EVALUATION, TREATMENT, OR POLYGRAPH SERVICES, OR FOR ANY OTHER PURPOSES CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE.

(i) Standards for identification and evaluation of juvenile offenders. THE BOARD SHALL DEVELOP, PRESCRIBE, AND REVISE AS APPROPRIATE, A STANDARD PROCEDURE TO EVALUATE AND IDENTIFY JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES, INCLUDING JUVENILES WITH DEVELOPMENTAL DISABILITIES. THE PROCEDURE SHALL PROVIDE FOR AN EVALUATION AND IDENTIFICATION OF THE JUVENILE OFFENDER AND RECOMMEND BEHAVIOR MANAGEMENT, MONITORING, TREATMENT, AND COMPLIANCE BASED UPON THE KNOWLEDGE THAT ALL UNLAWFUL SEXUAL BEHAVIOR POSES A RISK TO THE COMMUNITY AND THAT CERTAIN JUVENILES MAY HAVE THE CAPACITY TO CHANGE THEIR BEHAVIOR WITH APPROPRIATE INTERVENTION AND TREATMENT. THE BOARD SHALL DEVELOP AND IMPLEMENT METHODS OF INTERVENTION FOR JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES, WHICH METHODS HAVE AS A PRIORITY THE PHYSICAL AND PSYCHOLOGICAL SAFETY OF VICTIMS AND POTENTIAL VICTIMS AND THAT ARE APPROPRIATE TO THE NEEDS OF THE PARTICULAR JUVENILE OFFENDER, SO LONG AS THERE IS NO REDUCTION IN THE SAFETY OF VICTIMS AND POTENTIAL VICTIMS.

(j) Guidelines and standards for treatment for juvenile offenders. THE BOARD SHALL DEVELOP, IMPLEMENT, AND REVISE AS APPROPRIATE, GUIDELINES AND STANDARDS TO TREAT JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES, INCLUDING JUVENILES WITH DEVELOPMENTAL DISABILITIES, WHICH GUIDELINES AND

STANDARDS MAY BE USED FOR JUVENILE OFFENDERS WHO ARE PLACED ON PROBATION, COMMITTED TO THE DEPARTMENT OF HUMAN SERVICES, PLACED ON PAROLE, OR PLACED IN OUT-OF-HOME PLACEMENT. PROGRAMS IMPLEMENTED PURSUANT TO THE GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO THIS PARAGRAPH (j) SHALL BE AS FLEXIBLE AS POSSIBLE SO THAT THE PROGRAMS MAY BE ACCESSED BY EACH JUVENILE OFFENDER TO PREVENT HIM OR HER FROM HARMING VICTIMS AND POTENTIAL VICTIMS. PROGRAMS SHALL PROVIDE A CONTINUING MONITORING PROCESS AND A CONTINUUM OF TREATMENT OPTIONS AVAILABLE TO A JUVENILE OFFENDER AS HE OR SHE PROCEEDS THROUGH THE JUVENILE JUSTICE SYSTEM. TREATMENT OPTIONS MAY INCLUDE, BUT NEED NOT BE LIMITED TO, GROUP COUNSELING, INDIVIDUAL COUNSELING, FAMILY COUNSELING, OUTPATIENT TREATMENT, INPATIENT TREATMENT, SHARED LIVING ARRANGEMENTS, AND TREATMENT IN A THERAPEUTIC COMMUNITY. PROGRAMS IMPLEMENTED PURSUANT TO THE GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO THIS PARAGRAPH (j) SHALL BE, TO THE EXTENT POSSIBLE, ACCESSIBLE TO ALL JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES AND WHO ARE IN THE JUVENILE JUSTICE SYSTEM, INCLUDING JUVENILES WITH MENTAL ILLNESS OR CO-OCCURRING DISORDERS.

(k) **Evaluation of policies and procedures for juvenile offenders.** THE BOARD SHALL RESEARCH AND ANALYZE THE EFFECTIVENESS OF THE EVALUATION, IDENTIFICATION, AND TREATMENT PROCEDURES DEVELOPED PURSUANT TO THIS ARTICLE FOR JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES. THE BOARD SHALL REVISE THE GUIDELINES AND STANDARDS FOR EVALUATION, IDENTIFICATION, AND TREATMENT, AS APPROPRIATE, BASED UPON THE RESULTS OF THE BOARD'S RESEARCH AND ANALYSIS. THE BOARD SHALL ALSO DEVELOP AND PRESCRIBE A SYSTEM TO IMPLEMENT THE GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO PARAGRAPH (j) OF THIS SUBSECTION (4).

(l) **Educational materials.** THE BOARD, IN COLLABORATION WITH LAW ENFORCEMENT AGENCIES, VICTIM ADVOCACY ORGANIZATIONS, THE DEPARTMENT OF EDUCATION, AND THE DEPARTMENT OF PUBLIC SAFETY, SHALL DEVELOP AND REVISE, AS APPROPRIATE, FOR USE BY SCHOOLS, THE STATEMENT IDENTIFIED IN SECTION 22-1-124, C.R.S., AND EDUCATIONAL MATERIALS REGARDING GENERAL INFORMATION ABOUT ADULT SEX OFFENDERS AND JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES, SAFETY CONCERNS RELATED TO SUCH OFFENDERS, AND OTHER RELEVANT MATERIALS. THE BOARD SHALL PROVIDE THE STATEMENT AND MATERIALS TO THE DEPARTMENT OF EDUCATION, AND THE DEPARTMENT OF EDUCATION SHALL MAKE THE STATEMENT AND MATERIALS AVAILABLE TO SCHOOLS IN THE STATE.

(5) **Immunity.** THE BOARD AND THE INDIVIDUAL BOARD MEMBERS SHALL BE IMMUNE FROM ANY LIABILITY, WHETHER CIVIL OR CRIMINAL, FOR THE GOOD FAITH PERFORMANCE OF THE DUTIES OF THE BOARD.

(6) **Repeal.** (a) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2016.

(b) PRIOR TO SAID REPEAL, THE SEX OFFENDER MANAGEMENT BOARD APPOINTED PURSUANT TO THIS SECTION SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 24-34-104, C.R.S.

SECTION 4. 16-11.7-104 (1), Colorado Revised Statutes, is amended to read:

16-11.7-104. Sex offenders - evaluation and identification required. (1) On and after January 1, 1994, each CONVICTED ADULT sex offender AND JUVENILE WHO HAS COMMITTED A SEXUAL OFFENSE who is to be considered for probation shall be required, as a part of the presentence or probation investigation required pursuant to section 16-11-102, to submit to an evaluation for treatment, an evaluation for risk, procedures required for monitoring of behavior to protect victims and potential victims, and an identification developed pursuant to section 16-11.7-103 (4). ~~(a):~~

SECTION 5. 16-11.7-105, Colorado Revised Statutes, is amended to read:

16-11.7-105. Sentencing of sex offenders - treatment based upon evaluation and identification required. ~~(1)~~ Each ADULT sex offender AND JUVENILE WHO HAS COMMITTED A SEXUAL OFFENSE 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, COMMITMENT TO THE DEPARTMENT OF HUMAN SERVICES, SENTENCE TO community corrections, ~~or~~ incarceration with the department of corrections, PLACEMENT ON PAROLE, OR OUT-OF-HOME PLACEMENT 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~~ IN the department of public safety, whichever is appropriate. ~~Any such~~ THE treatment and monitoring shall be ~~at a facility or with a person certified or~~ PROVIDED BY AN approved ~~by the board~~ PROVIDER PURSUANT TO SECTION 16-11.7-106 and ~~at such offender's own expense, based upon such offender's ability to~~ THE OFFENDER SHALL pay for ~~such~~ THE treatment TO THE EXTENT THE OFFENDER IS FINANCIALLY ABLE TO DO SO.

~~(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 offender during the 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 offender's expense, based upon such offender's ability to pay for such treatment.~~

SECTION 6. 16-11.7-106, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

16-11.7-106. Sex offender evaluation, treatment, and polygraph services - contracts with providers - placement on provider list - grievances - fund created. (1) THE DEPARTMENT OF CORRECTIONS, THE JUDICIAL DEPARTMENT, THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY, OR THE DEPARTMENT OF HUMAN SERVICES SHALL NOT EMPLOY OR CONTRACT WITH, AND SHALL NOT ALLOW AN ADULT SEX OFFENDER OR A JUVENILE WHO HAS COMMITTED A SEXUAL OFFENSE TO EMPLOY OR CONTRACT WITH, AN INDIVIDUAL OR ENTITY TO PROVIDE SEX-OFFENDER-SPECIFIC EVALUATION, TREATMENT, OR POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE UNLESS THE SEX-OFFENDER-SPECIFIC EVALUATION, TREATMENT, OR POLYGRAPH SERVICES TO BE PROVIDED BY THE INDIVIDUAL OR ENTITY CONFORM WITH THE GUIDELINES AND STANDARDS

DEVELOPED PURSUANT TO SECTION 16-11.7-103, AND THE NAME OF THE INDIVIDUAL PROVIDING SERVICES IS ON THE LIST CREATED PURSUANT TO PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION OF PERSONS WHO MAY PROVIDE SEX-OFFENDER-SPECIFIC SERVICES.

(2) (a) THE BOARD SHALL DEVELOP AN APPLICATION AND REVIEW PROCESS FOR TREATMENT PROVIDERS, EVALUATORS, AND POLYGRAPH EXAMINERS WHO PROVIDE SERVICES PURSUANT TO THIS ARTICLE TO ADULT SEX OFFENDERS AND TO JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES. THE APPLICATION AND REVIEW PROCESS SHALL ALLOW PROVIDERS TO DEMONSTRATE THAT THEY ARE IN COMPLIANCE WITH THE STANDARDS ADOPTED PURSUANT TO THIS ARTICLE. THE APPLICATION AND REVIEW PROCESS SHALL CONSIST OF THE FOLLOWING THREE PARTS:

(I) 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 EVALUATORS, INDIVIDUAL TREATMENT PROVIDERS, AND POLYGRAPH EXAMINERS. APPLICATIONS FOR THE CRIMINAL JUSTICE COMPONENTS, INCLUDING FINGERPRINTS, SHALL BE SUBMITTED TO THE BOARD. THE BOARD SHALL FORWARD THE FINGERPRINTS 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 BOARD MAY USE INFORMATION OBTAINED FROM THE STATE AND NATIONAL CRIMINAL HISTORY RECORD CHECKS TO DETERMINE AN APPLICANT'S ELIGIBILITY FOR PLACEMENT ON THE APPROVED PROVIDER LIST. THE BOARD SHALL BE RESPONSIBLE FOR THE IMPLEMENTATION OF THE PROVISIONS OF THIS SUBPARAGRAPH (I).

(II) THE BOARD SHALL DEVELOP AN APPLICATION AND REVIEW PROCESS FOR THE VERIFICATION OF THE QUALIFICATIONS AND CREDENTIALS OF EVALUATORS, TREATMENT PROVIDERS, AND POLYGRAPH EXAMINERS.

(III) THE BOARD SHALL REQUIRE A PERSON WHO APPLIES FOR PLACEMENT, INCLUDING A PERSON WHO APPLIES FOR CONTINUED PLACEMENT, ON THE LIST OF PERSONS WHO MAY PROVIDE SEX-OFFENDER-SPECIFIC EVALUATION, TREATMENT, AND POLYGRAPH 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 SUBPARAGRAPH (I) OF THIS PARAGRAPH (a). IN CONDUCTING THE CURRENT BACKGROUND INVESTIGATION REQUIRED BY THIS SUBPARAGRAPH (III), THE BOARD SHALL OBTAIN REFERENCE AND CRIMINAL HISTORY INFORMATION AND RECOMMENDATIONS THAT MAY BE RELEVANT TO THE APPLICANT'S FITNESS TO PROVIDE SEX-OFFENDER-SPECIFIC EVALUATION, TREATMENT, AND POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE.

(b) AFTER THE PROCESS DEVELOPED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) IS ESTABLISHED AND PROVIDERS HAVE MET ALL THE CRITERIA OF THE APPLICATION AND REVIEW PROCESS, THE BOARD MAY APPROVE THE PROVIDER. THE BOARD AND THE DEPARTMENT OF REGULATORY AGENCIES SHALL JOINTLY PUBLISH AT LEAST ANNUALLY A LIST OF APPROVED PROVIDERS. THE BOARD SHALL FORWARD THE LIST TO THE OFFICE OF THE STATE COURT ADMINISTRATOR, THE DEPARTMENT OF PUBLIC SAFETY, THE DEPARTMENT OF HUMAN SERVICES, AND THE DEPARTMENT OF CORRECTIONS. THE BOARD SHALL UPDATE AND FORWARD THE LIST

OF APPROVED PROVIDERS AS NECESSARY.

(3) THE BOARD SHALL USE THE INFORMATION OBTAINED FROM THE STATE AND NATIONAL CRIMINAL HISTORY RECORD CHECKS AND THE CURRENT BACKGROUND INVESTIGATION IN DETERMINING WHETHER TO PLACE OR CONTINUE THE PLACEMENT OF A PERSON ON THE APPROVED PROVIDER LIST.

(4) THE BOARD MAY DETERMINE THE REQUIREMENTS FOR AN EVALUATOR'S, TREATMENT PROVIDER'S, OR POLYGRAPH EXAMINER'S NAME TO BE PLACED ON THE APPROVED PROVIDER LIST AFTER HIS OR HER NAME HAS BEEN REMOVED FROM THE LIST FOR ANY REASON.

(5) THE BOARD SHALL DEVELOP A RENEWAL PROCESS FOR THE CONTINUED PLACEMENT OF A PERSON ON THE APPROVED PROVIDER LIST PUBLISHED PURSUANT TO PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION.

(6) THE BOARD MAY ASSESS A FEE TO AN APPLICANT FOR PLACEMENT ON THE APPROVED PROVIDER LIST. THE FEE SHALL NOT EXCEED ONE HUNDRED TWENTY-FIVE DOLLARS PER APPLICATION TO COVER THE COSTS OF CONDUCTING A CURRENT BACKGROUND INVESTIGATION REQUIRED BY SUBSECTION (2) OF THIS SECTION. ALL MONEYS COLLECTED PURSUANT TO THIS SUBSECTION (6) 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 SUBSECTION (6) AS THE "FUND". THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE CURRENT BACKGROUND INVESTIGATION REQUIRED BY SUBSECTION (2) OF THIS SECTION. ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF SUBSECTION (2) OF THIS SECTION 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.

(7) (a) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (IV) OF THIS PARAGRAPH (a), THE BOARD SHALL REFER TO THE DEPARTMENT OF REGULATORY AGENCIES FOR INVESTIGATION ANY COMPLAINTS OR GRIEVANCES AGAINST INDIVIDUALS WHO PROVIDE SEX-OFFENDER-SPECIFIC TREATMENT OR EVALUATION SERVICES PURSUANT TO THIS ARTICLE. THE DEPARTMENT OF REGULATORY AGENCIES SHALL NOTIFY THE BOARD OF THE RECEIPT OF ANY COMPLAINT OR GRIEVANCE AGAINST A PROVIDER IF THE COMPLAINT OR GRIEVANCE WAS NOT REFERRED BY THE BOARD.

(II) THE APPROPRIATE BOARD, PURSUANT TO ARTICLE 43 OF TITLE 12, C.R.S., AND REFERRED TO IN THIS SUBSECTION (7) AS THE "DORA BOARD", SHALL REVIEW AND INVESTIGATE ALL COMPLAINTS AND GRIEVANCES RECEIVED BY THE DEPARTMENT OF REGULATORY AGENCIES OR REFERRED BY THE BOARD TO THE DEPARTMENT OF REGULATORY AGENCIES. THE DORA BOARD SHALL INVESTIGATE ANY ALLEGATIONS THAT MAY CONSTITUTE A VIOLATION OF THE PROFESSIONAL LICENSING ACT AND THE RELEVANT TREATMENT AND EVALUATION STANDARDS ADOPTED BY THE BOARD.

THE DORA BOARD SHALL PROVIDE THE BOARD WITH THE RESULTS OF THE INVESTIGATION AND ADVISE THE BOARD OF ANY DISCIPLINARY ACTION THE DORA BOARD TAKES AGAINST THE INDIVIDUAL PURSUANT TO ANY PROFESSIONAL LICENSING ACT.

(III) NOTHING IN THIS SUBSECTION (7) SHALL LIMIT THE RIGHTS OR RESPONSIBILITIES OF THE DEPARTMENT OF REGULATORY AGENCIES WITH RESPECT TO THE INVESTIGATION AND RESOLUTION OF COMPLAINTS PURSUANT TO ARTICLE 43 OF TITLE 12, C.R.S.

(IV) COMPLAINTS OR GRIEVANCES AGAINST INDIVIDUALS WHO PROVIDE POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE SHALL BE REVIEWED AND INVESTIGATED BY THE BOARD.

(b) (I) NOTWITHSTANDING ANY ACTION TAKEN BY THE DEPARTMENT OF REGULATORY AGENCIES OR THE DORA BOARD, THE BOARD MAY TAKE APPROPRIATE DISCIPLINARY ACTION, AS PERMITTED BY LAW, AGAINST AN INDIVIDUAL WHO PROVIDES SEX OFFENDER EVALUATION, TREATMENT, OR POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE, WHICH DISCIPLINARY ACTION MAY INCLUDE, BUT NEED NOT BE LIMITED TO, THE REMOVAL OF THE INDIVIDUAL'S NAME FROM THE LIST OF PERSONS WHO MAY PROVIDE SEX OFFENDER EVALUATION, TREATMENT, OR POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE.

(II) NOTHING IN THIS SUBSECTION (7) SHALL LIMIT THE RIGHTS OR RESPONSIBILITIES OF THE BOARD WITH RESPECT TO THE APPROVAL OR REMOVAL OF AN INDIVIDUAL'S NAME FROM THE LIST OF PERSONS WHO MAY PROVIDE SEX OFFENDER EVALUATION, TREATMENT, OR POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE.

SECTION 7. Article 11.7 of title 16, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

16-11.7-109. Reporting requirements - legislative declaration. (1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(I) AS A BODY, THE BOARD IS ONE OF COLORADO'S MOST IMPORTANT RESOURCES ON THE TREATMENT AND MANAGEMENT OF ADULT SEX OFFENDERS AND JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES;

(II) THE BOARD'S RESEARCH AND ANALYSIS OF TREATMENT STANDARDS AND PROGRAMS, AS WELL AS EMPIRICAL EVIDENCE COLLECTED AND COMPILED BY THE BOARD WITH RESPECT TO THE TREATMENT OUTCOMES OF ADULT SEX OFFENDERS AND JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES, IS VITAL TO INFORM THE DECISIONS OF POLICYMAKERS.

(b) THE GENERAL ASSEMBLY THEREFORE FINDS THAT IT IS APPROPRIATE FOR THE BOARD TO REPORT TO THE GENERAL ASSEMBLY ON AN ANNUAL BASIS CONCERNING THE STATUS OF THE TREATMENT AND MANAGEMENT OF ADULT SEX OFFENDERS AND JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES IN COLORADO.

(2) ON OR BEFORE JANUARY 31, 2012, AND ON OR BEFORE JANUARY 31 EACH

YEAR THEREAFTER, THE BOARD SHALL PREPARE AND PRESENT TO THE JUDICIARY COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, A WRITTEN REPORT CONCERNING BEST PRACTICES FOR THE TREATMENT AND MANAGEMENT OF ADULT SEX OFFENDERS AND JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES, INCLUDING ANY EVIDENCE-BASED ANALYSIS OF TREATMENT STANDARDS AND PROGRAMS AS WELL AS INFORMATION CONCERNING ANY NEW FEDERAL LEGISLATION RELATING TO THE TREATMENT AND MANAGEMENT OF ADULT SEX OFFENDERS AND JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES. THE REPORT MAY INCLUDE THE BOARD'S RECOMMENDATIONS FOR LEGISLATION TO CARRY OUT THE PURPOSE AND DUTIES OF THE BOARD TO PROTECT THE COMMUNITY.

SECTION 8. 16-11-102 (1) (b), Colorado Revised Statutes, is amended to read:

16-11-102. Presentence or probation investigation. (1) (b) Each presentence report prepared regarding a sex offender, as defined in section 16-11.7-102 (2), with respect to any offense committed on or after January 1, 1996, shall contain the results of an evaluation and identification conducted pursuant to article 11.7 of this title. In addition, the presentence report shall include, when appropriate as provided in section 18-3-414.5, C.R.S., the results of the risk assessment screening instrument developed pursuant to section 16-11.7-103 (4) ~~(c-5)~~ (d). Notwithstanding the provisions of subsection (4) of this section, a presentence report shall be prepared for each person convicted as a sex offender, and the court may not dispense with the presentence evaluation, risk assessment, and report unless such a report has been completed within the last six months and there has been no material change that would affect the report in the past six months.

SECTION 9. 16-22-103 (5) (a) (IV), Colorado Revised Statutes, is amended to read:

16-22-103. Sex offender registration - required - applicability - exception. (5) (a) Notwithstanding any provision of this article to the contrary, if, pursuant to a motion filed by a person described in this subsection (5) or on its own motion, a court determines that the registration requirement specified in this section would be unfairly punitive and that exempting the person from the registration requirement would not pose a significant risk to the community, the court, upon consideration of the totality of the circumstances, may exempt the person from the registration requirements imposed pursuant to this section if:

(IV) The person has received a sex offender evaluation that conforms with the standards developed pursuant to section 16-11.7-103 (4) ~~(f)~~ (i), from an evaluator who meets the standards established by the sex offender management board, and the evaluator recommends exempting the person from the registration requirements based upon the best interests of that person and the community; and

SECTION 10. Repeal. 24-34-104 (41) (l), Colorado Revised Statutes, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (41) The following agencies, functions, or both, shall terminate on July 1, 2010:

(l) ~~The sex offender management board, created by section 16-11.7-103, C.R.S.;~~

SECTION 11. 24-34-104 (47.5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (47.5) The following agencies, functions, or both, shall terminate on September 1, 2016:

(f) THE SEX OFFENDER MANAGEMENT BOARD CREATED IN SECTION 16-11.7-103, C.R.S.

SECTION 12. 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 allocation to the division of criminal justice, for sex offender supervision, for the fiscal year beginning July 1, 2011, the sum of three hundred eighteen thousand five hundred sixty-five dollars (\$318,565) and 3.2 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 sex offender surcharge fund created in section 18-21-103 (3), Colorado Revised Statutes, not otherwise appropriated, to the department of public safety, for allocation to the division of criminal justice, for the sex offender surcharge fund program, for the fiscal year beginning July 1, 2011, the sum of one hundred fifty-two thousand five hundred thirty-six dollars (\$152,536) cash funds and 1.5 FTE, or so much thereof as may be necessary, for the implementation of this act.

SECTION 13. 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 27, 2011