

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

SB23-164 be amended as follows:

1 Amend printed bill, page 2, after line 1 insert:

2 "SECTION 1. In Colorado Revised Statutes, 16-11.7-102, **amend**
3 (1), (1.5), and (2)(a) as follows:

4 **16-11.7-102. Definitions.** As used in this article 11.7, unless the
5 context otherwise requires:

6 (1) "Adult sex offender" means a person who has been convicted,
7 as described in ~~subparagraphs (I) to (II) of paragraph (a) of subsection~~
8 ~~(2)~~ SUBSECTIONS (2)(a)(I) TO (2)(a)(III) of this section, of a sex offense,
9 BUT DOES NOT INCLUDE A PERSON WHO MEETS THE DEFINITION OF A
10 "JUVENILE WHO HAS COMMITTED A SEXUAL OFFENSE", AS DEFINED IN
11 SUBSECTION (1.5) OF THIS SECTION, UNLESS THE PERSON HAS ALSO BEEN
12 CONVICTED OF A SEX OFFENSE COMMITTED ON OR AFTER THE DAY THE
13 PERSON ATTAINED EIGHTEEN YEARS OF AGE OR WHO IS SENTENCED FOR A
14 SEX OFFENSE ON OR AFTER THE PERSON ATTAINED TWENTY-ONE YEARS OF
15 AGE.

16 (1.5) "Juvenile who has committed a sexual offense" means a
17 juvenile who WAS LESS THAN EIGHTEEN YEARS OF AGE AT THE TIME OF
18 THE SEXUAL OFFENSE AND WHO has been adjudicated as a juvenile or who
19 receives a deferred adjudication OR WHO IS SENTENCED PRIOR TO
20 ATTAINING TWENTY-ONE YEARS OF AGE AFTER BEING CRIMINALLY
21 CONVICTED IN THE DISTRICT COURT PURSUANT TO SECTION 19-2-517 OR
22 19-2-518 on or after July 1, 2002, OR SECTION 19-2.5-801 OR 19-2.5-802,
23 ON OR AFTER OCTOBER 1, 2001, for an offense that would constitute a sex
24 offense, as defined in subsection (3) of this section, if committed as an
25 adult, or a juvenile who has committed any offense, the underlying factual
26 basis of which involves a sex offense.

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

28 (I) Convicted in the state of Colorado, on or after January 1, 1994,
29 of any sex offense as defined in subsection (3) of this section; or

30 ~~(II) Convicted in the state of Colorado on or after January 1, 1994,~~
31 ~~of any criminal offense, if such person has previously been convicted of~~
32 ~~a sex offense as described in subsection (3) of this section in the state of~~
33 ~~Colorado, or if such person has previously been convicted in any other~~
34 ~~jurisdiction of any offense that would constitute a sex offense as defined~~
35 ~~in subsection (3) of this section, or if such person has a history of any sex~~
36 ~~offenses as defined in subsection (3) of this section; or~~

37 ~~(HH) (II)~~ (II) Convicted in the state of Colorado on or after July 1,
38 2000, of any criminal offense, the underlying factual basis of which
39 involves a sex offense; ~~or~~

40 ~~(IV) (III)~~ (III) A juvenile who has committed a sexual offense; OR

1 (IV) A PERSON WHO:
2 (A) WAS EVALUATED BECAUSE OF A DISCRETIONARY REQUEST BY
3 A PROSECUTING ATTORNEY OR COURT PURSUANT TO SECTION 16-11-102;
4 AND
5 (B) A COURT DETERMINES SHOULD UNDERGO SEX OFFENDER
6 TREATMENT BASED UPON THE RECOMMENDATIONS OF THE EVALUATION
7 AND IDENTIFICATION PURSUANT TO SECTION 16-11.7-104; AND
8 (C) IS CONVICTED IN THE STATE OF COLORADO ON OR AFTER
9 JANUARY 1, 1994, OF ANY CRIMINAL OFFENSE, AND IF SUCH PERSON HAS
10 PREVIOUSLY BEEN CONVICTED OF A SEX OFFENSE IN COLORADO OR ANY
11 OTHER JURISDICTION OR HAS A HISTORY OF ANY SEX OFFENSES, AS SEX
12 OFFENSE IS DESCRIBED IN SUBSECTION (3) OF THIS SECTION AND, IF THE
13 PERSON HAS PREVIOUSLY BEEN CONVICTED OF A SEX OFFENSE AS DEFINED
14 IN SUBSECTION (3) OF THIS SECTION, IN THE STATE OF COLORADO; OR IF
15 THE PERSON HAS PREVIOUSLY BEEN CONVICTED IN ANY OTHER
16 JURISDICTION OF ANY OFFENSE THAT WOULD CONSTITUTE A SEX OFFENSE
17 AS DEFINED IN SUBSECTION (3) OF THIS SECTION; OR IF THE PERSON HAS A
18 HISTORY OF ANY SEX OFFENSES AS DEFINED IN SUBSECTION (3) OF THIS
19 SECTION."

20 Renumber succeeding sections accordingly.

21 Page 5, after line 3, insert:

22 "SECTION 5. In Colorado Revised Statutes, 18-1.3-101, **amend**
23 (6) as follows:

24 **18-1.3-101. Pretrial diversion - appropriation - repeal.**(6) In
25 a jurisdiction that receives state moneys for the creation or operation of
26 diversion programs pursuant to this section, an individual accused of a
27 sex offense as defined in section 18-1.3-1003 (5) is not eligible for
28 pretrial diversion unless charges have been filed and, after the individual
29 has had an opportunity to consult with counsel, the individual has
30 completed a sex-offense-specific evaluation, which includes the use of a
31 sex-offense-specific risk assessment instrument, conducted by an
32 evaluator approved by the sex offender management board as required by
33 section 16-11.7-103 (4). ~~C.R.S.~~ The district attorney may agree to place
34 the individual in the diversion program established by the district attorney
35 pursuant to this section if he or she finds that, based on the results of that
36 evaluation and the other factors in subsection (3) of this section, the
37 individual is appropriate for the program. Notwithstanding that a
38 successfully completed diversion agreement does not constitute a history
39 of sex offenses for purposes of ~~sections~~ SECTION ~~16-11.7-102 (2)(a)(H)~~
40 ~~and~~ 16-22-103 (2)(d), ~~C.R.S.~~, the information constituting the crimes

- 1 charged and facts alleged shall be available for use by a court, district
- 2 attorney, any law enforcement agency, or agency of the state judicial
- 3 department, if otherwise permitted by law, in any subsequent criminal
- 4 investigation, prosecution, risk or needs assessment evaluation,
- 5 sentencing hearing, or during a probation or parole supervision period."
- 6 Renumber succeeding section accordingly.

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