

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 19, 2016
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB16-1345 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, page 2, strike line 3, and substitute "(4) (a), (4) (b),
2 (4) (h), (4) (i), (4) (j), and (6) (a) as follows:".

3 Page 2, after line 6 insert:

4 "(a) **Standards for identification and evaluation of adult sex**
5 **offenders.** (I) The board shall develop, prescribe, and revise, as
6 appropriate, a standard procedure to evaluate and identify adult sex
7 offenders, including adult sex offenders with developmental disabilities.
8 The procedures shall provide for an evaluation and identification of the
9 adult sex offender and recommend management, monitoring, and
10 treatment based upon existing research ~~demonstrating that sexually~~
11 ~~offending behavior is often repetitive and that~~ AND SHALL INCORPORATE
12 THE CONCEPTS OF THE RISK-NEED-RESPONSIVITY OR ANOTHER
13 EVIDENCE-BASED CORRECTIONAL MODEL. There is currently no way to
14 ensure that adult sex offenders with the propensity to commit sexual
15 offenses will not reoffend. Because there are adult sex offenders who can
16 learn to manage unhealthy patterns and learn behaviors that can lessen
17 their risk to society in the course of ongoing treatment, management, and
18 monitoring, the board shall develop a procedure for evaluating and
19 identifying, on a case-by-case basis, reliably lower-risk sex offenders
20 WHOSE RISK TO SEXUALLY REOFFEND MAY NOT BE FURTHER REDUCED BY
21 PARTICIPATION IN TREATMENT AS DESCRIBED IN PARAGRAPH (b) OF THIS

1 SUBSECTION (4). The board shall develop and implement methods of
2 intervention for adult sex offenders, which methods have as a priority the
3 physical and psychological safety of victims and potential victims and
4 which are appropriate to the assessed needs of the particular offender, so
5 long as there is no reduction in the safety of victims and potential victims.

6 (II) (A) ONCE THE BOARD HAS APPROVED REVISED PORTIONS OF
7 THE STANDARDS, THE BOARD SHALL MAKE EVERY EFFORT TO PUBLISH THE
8 APPROVED PORTIONS. THE BOARD SHALL COMPLETE A REVISION OF THE
9 STANDARDS TO IDENTIFY AND EVALUATE ADULT SEX OFFENDERS BY JULY
10 1, 2017. IF THE BOARD DETERMINES THAT IT WILL BE UNABLE TO
11 COMPLETE THE REVISION OF THE STANDARDS BY JULY 1, 2017, THE BOARD
12 SHALL REPORT TO THE JUDICIARY COMMITTEES OF THE GENERAL
13 ASSEMBLY, OR ANY SUCCESSOR COMMITTEES, A PROJECTED COMPLETION
14 DATE AS PART OF ITS ANNUAL REPORT PRESENTED PURSUANT TO SECTION
15 16-11.7-109 (2) IN JANUARY 2017. THE REVISED STANDARDS MUST BE
16 CONSISTENT WITH THE RECOMMENDATIONS PROVIDED TO THE BOARD IN
17 THE 2014 INDEPENDENT EVALUATION OF THE BOARD'S STANDARDS AND
18 GUIDELINES FUNDED BY THE GENERAL ASSEMBLY IN 2013; EXCEPT THAT,
19 IF THE STANDARDS ARE NOT CONSISTENT WITH THE 2014 INDEPENDENT
20 EVALUATION, IN ITS ANNUAL REPORT TO THE JUDICIARY COMMITTEES OF
21 THE GENERAL ASSEMBLY, OR ANY SUCCESSOR COMMITTEES, PURSUANT TO
22 SECTION 16-11.7-109 (2), THE BOARD SHALL DESCRIBE ANY
23 INCONSISTENCIES AND EXPLAIN THE EVIDENCE-BASED REASONS FOR THE
24 INCONSISTENCIES.

25 (B) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1,
26 2018.

27 (b) **Guidelines and standards for treatment of adult offenders.**

28 (I) The board shall develop, implement, and revise, as appropriate,
29 guidelines and standards to treat adult sex offenders, including adult sex
30 offenders with developmental disabilities, INCORPORATING IN THE
31 GUIDELINES AND STANDARDS THE CONCEPTS OF THE
32 RISK-NEED-RESPONSIVITY OR ANOTHER EVIDENCE-BASED CORRECTIONAL
33 MODEL, which guidelines and standards can be used in the treatment of
34 offenders who are placed on probation, incarcerated with the department
35 of corrections, placed on parole, or placed in community corrections.
36 Programs implemented pursuant to the guidelines and standards
37 developed pursuant to this paragraph (b) shall be as flexible as possible
38 so that the programs may be accessed by each adult sex offender to
39 prevent the offender from harming victims and potential victims.
40 Programs shall include a continuing monitoring process and a continuum

1 of treatment options available to an adult sex offender as he or she
2 proceeds through the criminal justice system. Treatment options shall be
3 determined by a current risk assessment and evaluation and may include,
4 but need not be limited to, group counseling, individual counseling,
5 family counseling, outpatient treatment, inpatient treatment, shared living
6 arrangements, or treatment in a therapeutic community. Programs
7 implemented pursuant to the guidelines and standards developed pursuant
8 to this paragraph (b) shall, to the extent possible, be accessible to all adult
9 sex offenders in the criminal justice system, including those offenders
10 with mental illness and co-occurring disorders. The procedures for
11 evaluation, identification, treatment, and monitoring developed pursuant
12 to this subsection (4) shall be implemented only to the extent that moneys
13 are available in the sex offender surcharge fund created in section
14 18-21-103 (3), C.R.S.

15 (II) (A) ONCE THE BOARD HAS APPROVED REVISED PORTIONS OF
16 THE STANDARDS, THE BOARD SHALL MAKE EVERY EFFORT TO PUBLISH THE
17 APPROVED PORTIONS. THE BOARD SHALL COMPLETE A REVISION OF THE
18 GUIDELINES AND STANDARDS TO TREAT ADULT SEX OFFENDERS BY JULY
19 1, 2017. IF THE BOARD DETERMINES THAT IT WILL BE UNABLE TO
20 COMPLETE THE REVISION OF THE STANDARDS BY JULY 1, 2017, THE BOARD
21 SHALL REPORT TO THE JUDICIARY COMMITTEES OF THE GENERAL
22 ASSEMBLY, OR ANY SUCCESSOR COMMITTEES, A PROJECTED COMPLETION
23 DATE AS PART OF ITS ANNUAL REPORT PRESENTED PURSUANT TO SECTION
24 16-11.7-109 (2) IN JANUARY 2017. THE REVISED GUIDELINES AND
25 STANDARDS MUST BE CONSISTENT WITH THE RECOMMENDATIONS
26 PROVIDED TO THE BOARD IN THE 2014 INDEPENDENT EVALUATION OF THE
27 BOARD'S STANDARDS AND GUIDELINES FUNDED BY THE GENERAL
28 ASSEMBLY IN 2013; EXCEPT THAT, IF THE STANDARDS ARE NOT
29 CONSISTENT WITH THE 2014 INDEPENDENT EVALUATION, IN ITS ANNUAL
30 REPORT TO THE GENERAL ASSEMBLY PURSUANT TO SECTION 16-11.7-109
31 (2), THE BOARD SHALL DESCRIBE ANY INCONSISTENCIES AND EXPLAIN THE
32 EVIDENCE-BASED REASONS FOR THE INCONSISTENCIES.

33 (B) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1,
34 2018."

35 Page 2, strike lines 7 through 19 and substitute:

36 "(h) **Data collection from treatment providers.** (I) If the
37 department of public safety acquires sufficient funding, the board may
38 request that individuals or entities providing sex-offender-specific

1 evaluation, treatment, or polygraph services that conform with standards
2 developed by the board pursuant to paragraph (b) of this subsection (4)
3 submit to the board data and information as determined by the board at
4 the time that funding becomes available. This data and information may
5 be used by the board to evaluate the effectiveness of the guidelines and
6 standards developed pursuant to this article; to evaluate the effectiveness
7 of individuals or entities providing sex-offender-specific evaluation,
8 treatment, or polygraph services; or for any other purposes consistent with
9 the provisions of this article.

10 (II) THE BOARD SHALL DEVELOP A DATA COLLECTION PLAN,
11 INCLUDING ASSOCIATED COSTS, IN CONSULTATION WITH THE RESEARCH
12 AND EVALUATION PROFESSIONALS ON THE BOARD AND WITHIN THE
13 DEPARTMENT OF PUBLIC SAFETY. THE BOARD SHALL REPORT ON THE DATA
14 COLLECTION PLAN TO THE JUDICIARY COMMITTEES OF THE GENERAL
15 ASSEMBLY, OR ANY SUCCESSOR COMMITTEES, AS PART OF ITS ANNUAL
16 REPORT PRESENTED PURSUANT TO SECTION 16-11.7-109 (2) IN JANUARY
17 2017. BY JULY 1, 2017, THE BOARD SHALL REVISE THE GUIDELINES AND
18 STANDARDS FOR APPROVED PROVIDERS DEVELOPED PURSUANT TO
19 PARAGRAPHS (b) AND (j) OF THIS SUBSECTION (4) TO REQUIRE
20 EVALUATORS, TREATMENT PROVIDERS, AND POLYGRAPH EXAMINERS TO
21 COLLECT DATA PURSUANT TO THE DATA COLLECTION PLAN. IF THE BOARD
22 DETERMINES THAT IT WILL BE UNABLE TO COMPLETE THE REVISION OF THE
23 GUIDELINES AND STANDARDS BY JULY 1, 2017, THE BOARD SHALL REPORT
24 TO THE JUDICIARY COMMITTEES OF THE GENERAL ASSEMBLY, OR ANY
25 SUCCESSOR COMMITTEES, A PROJECTED COMPLETION DATE AS PART OF ITS
26 ANNUAL REPORT PRESENTED PURSUANT TO SECTION 16-11.7-109 (2) IN
27 JANUARY 2017.

28 (i) **Standards for identification and evaluation of juvenile**
29 **offenders.** The board shall develop, prescribe, and revise, as appropriate,
30 a standard procedure to evaluate and identify juveniles who have
31 committed sexual offenses, including juveniles with developmental
32 disabilities. The procedure shall provide for an evaluation and
33 identification of the juvenile offender and recommend behavior
34 management, monitoring, treatment, and compliance AND SHALL
35 INCORPORATE THE CONCEPTS OF THE RISK-NEED-RESPONSIVITY OR
36 ANOTHER EVIDENCE-BASED CORRECTIONAL MODEL based upon the
37 knowledge that all unlawful sexual behavior poses a risk to the
38 community and that certain juveniles may have the capacity to change
39 their behavior with appropriate intervention and treatment. The board
40 shall develop and implement methods of intervention for juveniles who

1 have committed sexual offenses, which methods have as a priority the
2 physical and psychological safety of victims and potential victims and
3 that are appropriate to the needs of the particular juvenile offender, so
4 long as there is no reduction in the safety of victims and potential victims.
5 (j) **Guidelines and standards for treatment of juvenile**
6 **offenders.** The board shall develop, implement, and revise, as
7 appropriate, guidelines and standards to treat juveniles who have
8 committed sexual offenses, including juveniles with developmental
9 disabilities, INCORPORATING IN THE GUIDELINES AND STANDARDS THE
10 CONCEPTS OF THE RISK-NEED-RESPONSIVITY OR ANOTHER
11 EVIDENCE-BASED CORRECTIONAL MODEL, which guidelines and standards
12 may be used for juvenile offenders who are placed on probation,
13 committed to the department of human services, placed on parole, or
14 placed in out-of-home placement. Programs implemented pursuant to the
15 guidelines and standards developed pursuant to this paragraph (j) shall be
16 as flexible as possible so that the programs may be accessed by each
17 juvenile offender to prevent him or her from harming victims and
18 potential victims. Programs shall provide a continuing monitoring process
19 and a continuum of treatment options available to a juvenile offender as
20 he or she proceeds through the juvenile justice system. Treatment options
21 may include, but need not be limited to, group counseling, individual
22 counseling, family counseling, outpatient treatment, inpatient treatment,
23 shared living arrangements, and treatment in a therapeutic community.
24 Programs implemented pursuant to the guidelines and standards
25 developed pursuant to this paragraph (j) shall be, to the extent possible,
26 accessible to all juveniles who have committed sexual offenses and who
27 are in the juvenile justice system, including juveniles with mental illness
28 or co-occurring disorders."

29 Page 3, line 2, strike "2021." and substitute "2019."

30 Page 3, after line 2 insert:

31 "SECTION 2. In Colorado Revised Statutes, **amend** 16-11.7-105
32 as follows:

33 **16-11.7-105. Sentencing of sex offenders - treatment based**
34 **upon evaluation and identification required.** (1) Each adult sex
35 offender and juvenile who has committed a sexual offense sentenced by
36 the court for an offense committed on or after January 1, 1994, shall be
37 required, as a part of any sentence to probation, commitment to the

1 department of human services, sentence to community corrections,
2 incarceration with the department of corrections, placement on parole, or
3 out-of-home placement to undergo treatment to the extent appropriate to
4 such offender based upon the recommendations of the evaluation and
5 identification made pursuant to section 16-11.7-104 or based upon any
6 subsequent recommendations by the department of corrections, the
7 judicial department, the department of human services, or the division of
8 criminal justice in the department of public safety, whichever is
9 appropriate. The treatment and monitoring shall be provided by an
10 approved provider pursuant to section 16-11.7-106, and the offender shall
11 pay for the treatment to the extent the offender is financially able to do so.

12 (2) THE SUPERVISING AGENCY OF EACH ADULT SEX OFFENDER AND
13 JUVENILE WHO HAS COMMITTED A SEXUAL OFFENSE SHALL GIVE AN
14 OFFENDER A CHOICE OF AT LEAST TWO APPROPRIATE AGENCIES STAFFED
15 BY APPROVED PROVIDERS, UNLESS THE SUPERVISING AGENCY DOCUMENTS
16 IN THE FILE THAT, BASED UPON THE NATURE OF THE PROGRAM OFFERED
17 AND THE NEEDS OF THE OFFENDER, FEWER THAN TWO AGENCIES CAN MEET
18 THE SPECIFIC NEEDS OF THE OFFENDER AND ENSURE THE SAFETY OF THE
19 PUBLIC. ONCE SELECTED, NEITHER THE TREATMENT AGENCY NOR THE
20 POLYGRAPH EXAMINER MAY BE CHANGED BY THE OFFENDER WITHOUT THE
21 APPROVAL OF THE COMMUNITY SUPERVISION TEAM, THE
22 MULTIDISCIPLINARY TEAM, OR THE COURT."

23 Renumber succeeding sections accordingly.

24 Page 4, line 18, strike "(52.5) (f)" and substitute "(50.5) (o)".

25 Page 4, line 25, strike "(52.5)" and substitute "(50.5)".

26 Page 4, line 26, strike "2021:" and substitute "2019:"

27 Page 4, line 27, strike "(f)" and substitute "(o)".

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