

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

SB24-118 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, 16-11.7-105, **amend**
4 (1) and (1.5) as follows:

5 **16-11.7-105. Sentencing of sex offenders - treatment based**
6 **upon evaluation and identification required.** (1) Each adult sex
7 offender and juvenile who has committed a sexual offense sentenced by
8 the court for an offense committed on or after January 1, 1994, ~~shall be~~
9 IS required, as a part of any sentence to probation, commitment to the
10 department of human services, sentence to community corrections,
11 incarceration with the department of corrections, placement on parole, or
12 out-of-home placement, to undergo treatment to the extent appropriate to
13 ~~such~~ THE SEX offender, based upon the recommendations of the
14 evaluation and identification made pursuant to section 16-11.7-104 or
15 based upon any subsequent recommendations by the department of
16 corrections, the judicial department, the department of human services,
17 or the division of criminal justice in the department of public safety,
18 whichever is ~~appropriate~~ the SUPERVISING AGENCY. AN APPROVED
19 PROVIDER SHALL PROVIDE THE treatment and monitoring ~~shall be provided~~
20 ~~by an approved provider~~ pursuant to section 16-11.7-106, and the SEX
21 offender shall pay for the treatment to the extent the SEX offender is
22 financially able to do so.

23 (1.5) (a) ~~The department of corrections shall identify all inmates~~
24 ~~who are classified to undergo treatment, are eligible to receive treatment~~
25 ~~pursuant to the department of corrections' policy, and have not been~~
26 ~~provided with the opportunity to undergo treatment while incarcerated.~~
27 ~~For each inmate, the department of corrections shall provide the~~
28 ~~following data to the board on or before July 31, 2023:~~

29 (I) ~~The inmate's department of corrections identification number;~~

30 (II) ~~The date of the inmate's sentence, the crime of conviction, and~~
31 ~~length of the sentence, including length of parole;~~

32 (III) ~~Whether the sentence to the department of corrections was~~
33 ~~a result of a parole revocation;~~

34 (IV) ~~The date the inmate was placed on the global referral list as~~
35 ~~established by the department of corrections;~~

36 (V) ~~The actual or projected parole eligibility date and mandatory~~
37 ~~release date, as of July 31, 2023, as well as, if applicable, whether the~~
38 ~~inmate is enrolled in or has participated in track I or track II treatment, or~~
39 ~~whether the inmate has been placed in the maintenance phase; and~~

40 (VI) ~~The department of corrections S5 qualifier code for the~~
41 ~~inmate, if any.~~ WHEN AN ADULT SEX OFFENDER IS SENTENCED TO

1 INCARCERATION IN THE DEPARTMENT OF CORRECTIONS, THE DEPARTMENT
2 SHALL ENSURE THAT THE NATURE AND DURATION OF TREATMENT
3 PROVIDED TO THE SEX OFFENDER IS CONSISTENT WITH THE RISK OF THE
4 SEX OFFENDER BASED UPON THE RECOMMENDATIONS OF THE EVALUATION
5 AND IDENTIFICATION MADE PURSUANT TO SECTION 16-11.7-104 OR BASED
6 UPON ANY SUBSEQUENT RECOMMENDATIONS BY THE DEPARTMENT OF
7 CORRECTIONS.

8 (b) ~~The department of corrections shall further identify, in writing:~~

9 (I) ~~In the aggregate, validated static risk assessment scores of the~~
10 ~~inmates described in this section, if available, separately identifying those~~
11 ~~serving indeterminate and determinate sentences;~~

12 (II) ~~The total treatment capacity in the department of corrections~~
13 ~~and, for each facility providing sex offender treatment and monitoring~~
14 ~~program treatment services, the treatment program capacity and the~~
15 ~~phases or tracks of treatment offered;~~

16 (III) ~~The names of all board-approved providers employed by or~~
17 ~~contracting with the department of corrections, the amount of time each~~
18 ~~provider or contractor has been working with the department of~~
19 ~~corrections, and at which location each provider or contractor is providing~~
20 ~~services each month;~~

21 (IV) ~~The frequency of sex offender treatment and monitoring~~
22 ~~program treatment groups and the frequency of cancellation of such~~
23 ~~groups in all facilities;~~

24 (V) ~~The number of open positions for any sex offender treatment~~
25 ~~and monitoring program providers, including group therapy positions,~~
26 ~~polygraph providers, or any other positions necessary to operate the~~
27 ~~program; and~~

28 (VI) ~~Any and all efforts made by the department of corrections in~~
29 ~~the past five years to increase the capacity of the sex offender treatment~~
30 ~~and monitoring program, fill and maintain the allocated full-time or~~
31 ~~contract positions, and any data available to address any hiring challenges~~
32 ~~identified by the department. SEX OFFENDER TREATMENT IN THE~~
33 ~~DEPARTMENT OF CORRECTIONS MUST BE DESIGNED AND IMPLEMENTED AS~~
34 ~~A PORTION OF THE TOTAL TREATMENT PROVIDED THE SEX OFFENDER,~~
35 ~~RECOGNIZING THAT THE SEX OFFENDER, WHEN RELEASED, WILL BE~~
36 ~~REQUIRED TO ENGAGE IN INTENSIVE SUPERVISION, MONITORING, AND~~
37 ~~COMMUNITY-BASED TREATMENT DESIGNED TO IDENTIFY RISK TO THE~~
38 ~~COMMUNITY, VICTIMS, OR POTENTIAL VICTIMS BASED ON THE SEX~~
39 ~~OFFENDER'S ASSESSMENT AND BEHAVIOR IN THE COMMUNITY.~~

40 (c) ~~The department of corrections shall provide this data to the~~
41 ~~board prior to July 31, 2023. The board shall form a subcommittee with~~
42 ~~representatives from the board, community sex offender treatment~~
43 ~~providers, the department of corrections, the division of adult parole in~~

1 the department of corrections, and the state parole board created pursuant
2 to section 17-2-201. The purpose of the subcommittee is to develop
3 solutions to address treatment resources for sex offenders who are
4 incarcerated or in the custody of the department of corrections, including
5 a legal and evidence-based analysis of inmates who are required to
6 progress in treatment in the department of corrections prior to any release
7 pursuant to section 18-1.3-1006 and those who are classified by the
8 department of corrections as an inmate who is required to participate in
9 treatment. The subcommittee shall:

10 (I) Analyze the data provided by the department of corrections and
11 prepare a comprehensive report on the current prison population to
12 identify inmates who are eligible to receive treatment, with special
13 priority toward inmates who are past parole eligibility date, have not been
14 provided a treatment opportunity, and require treatment to meet
15 community corrections or parole eligibility requirements pursuant to
16 section 18-1.3-301 (1)(f), 18-1.3-1006, and 17-22.5-404 (4)(c)(H);

17 (H) Identify all barriers the department of corrections faces in
18 providing timely access to treatment to inmates who require treatment to
19 meet parole eligibility requirements pursuant to sections 18-1.3-1006 and
20 17-22.5-404 (4)(c)(H) and make recommendations for workable solutions
21 to increase treatment access in the department of corrections, including
22 evidence-based, validated projections developed in conjunction with the
23 division of criminal justice experts in prison population projections, for
24 the decrease in backlog that would occur with the implementation of any
25 solutions;

26 (HH) Determine which, if any, standards are barriers to providing
27 timely access to treatment and make recommendations concerning
28 changes or exceptions to the standards for sex offenders incarcerated in
29 the department of corrections;

30 (IV) Review and consider revisions to the department of
31 corrections policies and administrative regulations to prevent unnecessary
32 backlog in making treatment accessible to inmates who require treatment
33 to meet parole eligibility requirements;

34 (V) Review the criteria established pursuant to section
35 18-1.3-1009 and make revisions to policies of the department of
36 corrections and administrative regulations to prevent unnecessary backlog
37 in making treatment accessible to inmates who require treatment to meet
38 parole eligibility requirements pursuant to section 18-1.3-1006;

39 (VI) Review parole guidelines for those inmates classified as sex
40 offenders with determinate sentences established pursuant to section
41 17-22.5-404 and make revisions as necessary to prevent unnecessary
42 backlog in making treatment accessible to inmates who require treatment
43 to meet parole eligibility requirements;

1 ~~(VII) Determine whether additional treatment providers will~~
2 ~~contract with the department of corrections to provide evaluation or~~
3 ~~treatment services to incarcerated individuals and make workable~~
4 ~~recommendations concerning how to immediately increase inmate access~~
5 ~~to those approved providers;~~

6 ~~(VIII) Determine whether increased funding or any other~~
7 ~~resources could make access to telehealth treatment viable for inmates~~
8 ~~and the amount of increased funding or resources necessary to accomplish~~
9 ~~this goal; and~~

10 ~~(IX) In consideration of any existing treatment backlog and of~~
11 ~~finite treatment resources, make recommendations for procuring or~~
12 ~~making available sufficient treatment resources without negatively~~
13 ~~impacting public safety and protection of victims. STARTING JULY 1,~~
14 ~~2024, THE DEPARTMENT OF CORRECTIONS SHALL REVIEW AND CONSIDER,~~
15 ~~AT REGULAR INTERVALS, THE NATIONAL AND INTERNATIONAL RESEARCH~~
16 ~~AND BEST PRACTICE STANDARDS REGARDING THE TREATMENT TO BE~~
17 ~~PROVIDED TO SEX OFFENDERS WHILE INCARCERATED AND IMPLEMENT~~
18 ~~CHANGES SUPPORTED BY THAT REVIEW. THE DEPARTMENT OF~~
19 ~~CORRECTIONS SHALL SPECIFICALLY REVIEW AND CONSIDER RESEARCH AND~~
20 ~~PRACTICES REGARDING DURATION OF TREATMENT WHILE INCARCERATED~~
21 ~~FOR SEX OFFENDERS BASED ON ASSESSED RISK. THE DEPARTMENT OF~~
22 ~~CORRECTIONS SHALL ENSURE THAT THE LIMITED RESOURCES OF THE~~
23 ~~DEPARTMENT ARE USED IN A COST-EFFECTIVE, RESEARCH-BASED MANNER,~~
24 ~~MAXIMIZING THE USE OF LIMITED TREATMENT BEDS SPECIFICALLY BY~~
25 ~~EXAMINING THE DURATION OF INCARCERATION TREATMENT.~~

26 ~~(d) The subcommittee created in subsection (1.5)(c) of this section~~
27 ~~shall present its written findings in a report and proposal to the judiciary~~
28 ~~committees of the house of representatives and the senate, or any~~
29 ~~successor committees, on or before February 1, 2024. The department of~~
30 ~~corrections and the parole board shall comment on the report's findings~~
31 ~~and recommendations on or before March 1, 2024. STARTING JULY 1,~~
32 ~~2024, A SEX OFFENDER WHO IS SENTENCED TO INCARCERATION IN THE~~
33 ~~DEPARTMENT OF CORRECTIONS MAY BEGIN THE RECOMMENDED SEX~~
34 ~~OFFENDER TREATMENT IN THE COMMUNITY PLACEMENT OR SUPERVISION~~
35 ~~PHASE OF THE SEX OFFENDER'S SENTENCE WHEN APPROVED BY THE LOCAL~~
36 ~~COMMUNITY CORRECTIONS BOARD OR THE STATE PAROLE BOARD IF THE~~
37 ~~OFFENDER:~~

38 ~~(I) IS NOT ASSESSED AS HIGH RISK FOR SEXUAL RECIDIVISM~~
39 ~~PURSUANT TO THE EVALUATION AND IDENTIFICATION PROCESS AS~~
40 ~~DESCRIBED IN SECTION 16-11.7-104 OR ANY OTHER EVIDENCE-BASED AND~~
41 ~~VALIDATED ASSESSMENT CONDUCTED BY THE DEPARTMENT OF~~
42 ~~CORRECTIONS;~~

43 ~~(II) HAS BEEN ACCEPTED FOR SEX OFFENDER TREATMENT IN THE~~

1 DEPARTMENT OF CORRECTIONS BUT HAS NOT BEEN PROVIDED THE
2 TREATMENT DUE TO THE LIMITED CAPACITY FOR SEX OFFENDER
3 TREATMENT WITHIN THE PROGRAM;

4 (III) HAS PARTICIPATED IN AND SUCCESSFULLY ENGAGED IN ALL
5 OTHER PROGRAMMING MADE AVAILABLE TO THE SEX OFFENDER BY THE
6 DEPARTMENT OF CORRECTIONS DURING INCARCERATION; AND

7 (IV) HAS COMPLETED THE MINIMUM PERIOD OF INCARCERATION
8 SPECIFIED IN THE SEX OFFENDER'S SENTENCE AND IS ELIGIBLE FOR PAROLE
9 RELEASE OR IS ELIGIBLE FOR COMMUNITY CORRECTIONS PLACEMENT
10 PURSUANT TO THE CRITERIA ESTABLISHED BY THE DEPARTMENT OF
11 CORRECTIONS FOR TRANSITION TO A COMMUNITY CORRECTIONS PROGRAM.

12 (e) IF A SEX OFFENDER HAS A MEDICAL OR MENTAL HEALTH
13 CONDITION, INCLUDING DEMENTIA OR ANOTHER COGNITIVE DISABILITY
14 THAT, PURSUANT TO THE REGULATIONS ESTABLISHED BY THE
15 DEPARTMENT OF CORRECTIONS, PREVENTS THE SEX OFFENDER FROM
16 PARTICIPATING AND ENGAGING IN THE SEX OFFENDER TREATMENT
17 PROGRAM PROVIDED BY THE DEPARTMENT OF CORRECTIONS, THE SEX
18 OFFENDER MUST NOT BE DENIED COMMUNITY PLACEMENT OR PAROLE FOR
19 FAILURE TO PROGRESS IN TREATMENT. THE SEX OFFENDER SHALL BEGIN
20 AND COMPLETE, TO THE EXTENT POSSIBLE, ANY RECOMMENDED
21 TREATMENT IN THE COMMUNITY PLACEMENT OR COMMUNITY SUPERVISION
22 PHASE OF THE SEX OFFENDER'S SENTENCE, WHICH MAY INCLUDE A
23 COMMUNITY CORRECTIONS PLACEMENT, INTENSIVE SUPERVISION PAROLE,
24 INMATE STATUS PAROLE, OR OTHER SIMILAR COMMUNITY-BASED PHASE OF
25 A SENTENCE TO INCARCERATION.

26 (f) FOR AN ADULT SEX OFFENDER WHO IS SENTENCED TO
27 INCARCERATION IN THE DEPARTMENT OF CORRECTIONS AND WHO IS
28 CLASSIFIED BY THE DEPARTMENT OF CORRECTIONS AS A PERSON WHO
29 DENIES THE SEXUAL OFFENSE, THE DEPARTMENT OF CORRECTIONS SHALL
30 PROVIDE THE SEX OFFENDER PRE-TREATMENT INTERVENTION SERVICES
31 CONSISTENT WITH THE STANDARDS AND GUIDELINES ESTABLISHED BY THE
32 SEX OFFENDER MANAGEMENT BOARD AS PROVIDED IN SECTION
33 16-11.7-103 (4)(b) TO FACILITATE POTENTIAL ENTRY INTO THE
34 RECOMMENDED TREATMENT.

35 (g) IF A SEX OFFENDER IS WILLING TO PARTICIPATE IN TREATMENT
36 BUT HAS ELECTED TO EXERCISE THE SEX OFFENDER'S CONSTITUTIONAL
37 RIGHT TO REMAIN SILENT BASED SOLELY UPON THE FACT THE SEX
38 OFFENDER IS SEEKING JUDICIAL REVIEW ON APPEAL, THE DEPARTMENT OF
39 CORRECTIONS SHALL ALLOW PARTICIPATION IN TREATMENT UNLESS THE
40 EXERCISE OF THIS RIGHT WOULD SUBSTANTIALLY ELIMINATE ENGAGEMENT
41 IN EFFECTIVE TREATMENT.

42 **SECTION 2.** In Colorado Revised Statutes, 18-1.3-1003, **add** (6)
43 as follows:

1 **18-1.3-1003. Definitions.** As used in this part 10, unless the
2 context otherwise requires:

3 (6) "SUCCESSFULLY PROGRESSED IN TREATMENT" MEANS THE SEX
4 OFFENDER, WHILE INCARCERATED, HAS ATTENDED THE INCARCERATION
5 PORTION OF SEX OFFENDER TREATMENT AND SUCCESSFULLY COMPLETED
6 ASSIGNMENTS RELATED TO THE IDENTIFIED TREATMENT GOALS TO
7 ADDRESS THE SEX OFFENDER'S RISK OF SEXUALLY REOFFENDING, AND IS
8 READY TO ENTER COMMUNITY-BASED TREATMENT CONSISTENT WITH THE
9 SEX OFFENDER'S RELEASE PLAN. FOR A SEX OFFENDER WHO HAS BEEN
10 CLASSIFIED TO START TREATMENT IN THE COMMUNITY PURSUANT TO
11 SECTION 16-11.7-105 (1.5)(d), "SUCCESSFULLY PROGRESSED IN
12 TREATMENT" MEANS THAT THE SEX OFFENDER HAS PARTICIPATED IN AND
13 ENGAGED SUCCESSFULLY IN ALL TREATMENT PROGRAMS MADE AVAILABLE
14 TO THE SEX OFFENDER BY THE DEPARTMENT AND THE SEX OFFENDER IS
15 NOT REQUIRED TO HAVE PROGRESSED IN SEX OFFENDER TREATMENT DUE
16 TO THE INABILITY OF THE DEPARTMENT TO PROVIDE SEX OFFENDER
17 TREATMENT.

18 **SECTION 3.** In Colorado Revised Statutes, 18-1.3-1006, **amend**
19 (1)(a)(I) as follows:

20 **18-1.3-1006. Release from incarceration - parole - conditions.**

21 (1) (a) (I) On completion of the minimum period of incarceration
22 specified in a sex offender's indeterminate sentence PURSUANT TO
23 SECTION 18-1.3-1004 (1)(e), less any earned time credited to the sex
24 offender pursuant to section 17-22.5-405, ~~C.R.S.~~, the parole board shall
25 schedule a hearing to determine whether the sex offender may be released
26 on parole. In determining whether to release the sex offender on parole,
27 the parole board shall determine whether the sex offender has
28 successfully progressed in treatment and would not pose an undue threat
29 to the community if released under appropriate treatment and monitoring
30 requirements and whether there is a strong and reasonable probability that
31 the ~~person~~ SEX OFFENDER will not thereafter violate the law. The
32 department shall make recommendations to the parole board concerning
33 whether the sex offender should be released on parole and the level of
34 treatment and monitoring that should be imposed as a condition of parole.
35 The recommendation ~~shall~~ MUST be based on the criteria established by
36 the management board pursuant to section 18-1.3-1009.

37 **SECTION 4.** In Colorado Revised Statutes, 18-1.3-1010, **amend**
38 (1)(a) as follows:

39 **18-1.3-1010. Arrest of parolee or probationer - revocation.**

40 (1) (a) A sex offender paroled pursuant to section 18-1.3-1006 is subject
41 to arrest and revocation of parole as provided in sections 17-2-103 and
42 17-2-103.5. ~~C.R.S.~~ At any revocation proceeding, the sex offender's
43 community parole officer and the treatment provider shall submit written

1 recommendations concerning the level of treatment and monitoring that
2 should be imposed as a condition of parole if parole is not revoked or
3 whether the sex offender poses a sufficient threat to the community that
4 parole should be revoked. The recommendations ~~shall~~ MUST be based on
5 the criteria established by the management board pursuant to section
6 18-1.3-1009. If the parole board revokes the sex offender's parole, the sex
7 offender ~~shall continue~~ CONTINUES to be subject to the provisions of this
8 part 10. IF THE COMMUNITY PAROLE OFFICER RECOMMENDS THAT PAROLE
9 BE REVOKED, THE COMMUNITY PAROLE OFFICER SHALL ALSO MAKE A
10 RECOMMENDATION AS TO WHETHER FURTHER TREATMENT IN CUSTODY IS
11 NECESSARY BASED ON INFORMATION RECEIVED FROM THE COMMUNITY
12 TREATMENT PROVIDER OR IF ADDITIONAL COMMUNITY TREATMENT IS
13 RECOMMENDED, WHEN THE SEX OFFENDER IS RE-RELEASED ON PAROLE.

14 **SECTION 5.** In Colorado Revised Statutes, 17-22.5-404, **amend**
15 (4)(a)(IV) and (4)(c)(II) as follows:

16 **17-22.5-404. Parole guidelines - definition.** (4) (a) In
17 considering offenders for parole, the state board of parole shall consider
18 the totality of the circumstances, which include, but ~~need not be~~ ARE NOT
19 limited to, the following factors:

20 (IV) The offender's program or treatment participation and
21 progress, SUBJECT TO SUBSECTION (4)(c)(II) OF THIS SECTION;

22 (c) (II) The administrative release guideline instrument ~~shall~~ MUST
23 not be used in considering ~~those~~ inmates classified as sex offenders with
24 indeterminate sentences for whom the sex offender management board
25 pursuant to section 18-1.3-1009 ~~C.R.S.~~, has established separate and
26 distinct release guidelines. ON OR BEFORE DECEMBER 31, 2024, the sex
27 offender management board, in collaboration with the department of
28 corrections, ~~the judicial department~~ APPROVED PROVIDERS, the division
29 of criminal justice in the department of public safety, RESEARCH
30 PROFESSIONALS, and the state board of parole, shall develop a ~~specific~~
31 RESEARCH-BASED sex offender release guideline instrument for use by the
32 state board of parole for those inmates classified as sex offenders with
33 determinate sentences. THE RELEASE GUIDELINE INSTRUMENT FOR
34 DETERMINATE SEX OFFENDERS MUST BE EVIDENCE-BASED AND MUST NOT
35 PROHIBIT THE RELEASE OF A SEX OFFENDER UPON COMPLETION OF THE
36 MINIMUM PERIOD OF INCARCERATION FOR FAILURE TO COMPLETE SEX
37 OFFENDER TREATMENT WHILE INCARCERATED WHEN THE SEX OFFENDER
38 HAS QUALIFIED FOR TREATMENT AND THE FAILURE TO ENGAGE IN OR
39 COMPLETE TREATMENT IS DUE TO THE UNAVAILABILITY OF TREATMENT IN
40 THE DEPARTMENT OF CORRECTIONS.

41 **SECTION 6. Effective date - applicability.** This act takes effect
42 July 1, 2024, and applies to offenses committed on or after said date.

43 **SECTION 7. Safety clause.** The general assembly finds,

1 determines, and declares that this act is necessary for the immediate
2 preservation of the public peace, health, or safety or for appropriations for
3 the support and maintenance of the departments of the state and state
4 institutions."

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