

**INFORMATION REGARDING
THE
LAWS & POLICIES
RELATING TO
ADULT SEX OFFENDERS
IN THE
STATE OF COLORADO**

FINAL DRAFT October 2009
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For Presentation to the Full Board

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INFORMATION REGARDING THE LAWS & POLICIES RELATING TO ADULT SEX OFFENDERS IN THE STATE OF COLORADO

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This document is designed to give persons who are charged or sentenced as an adult sex offender and those people who are interested in sex offender sentencing more complete information regarding the system and programs affecting sex offender sentencing in the state of Colorado. It is not designed to replace the advice of legal counsel and all persons who are charged as a sex offender should consult with experienced and competent legal counsel, as necessary.

1. What is the Colorado policy regarding sex offenders? Colorado law declared in 1992 that comprehensive evaluation, identification, treatment, and monitoring of sex offenders is necessary in order to work towards elimination of recidivism. Therefore, Colorado created a program which standardizes the evaluation, identification, treatment, and monitoring of sex offenders at each phase of the criminal justice system in an attempt to curtail recidivistic behaviors and enhance the protection of victims and potential victims.

Colorado's statutes declare that the majority of persons who commit sex offenses, if incarcerated or supervised without treatment, will continue to present a danger to the public when released from incarceration and supervision. But, Colorado also has decided that keeping all sex offenders in lifetime incarceration imposes an "unacceptably high cost in both state dollars and the loss of human potential and that some sex offenders respond well to treatment and can function as safe, responsible, and contributing members of society, so long as they receive treatment and supervision."¹ Therefore, Colorado declared that a program under which sex offenders may receive treatment and supervision for the rest of their lives, if necessary, is "necessary for the safety, health and welfare of the state."²

2. Who is a sex offender in Colorado? A sex offender in Colorado, for purposes of mandated sex offender treatment, as recommended by an evaluation, means any of the following:

- a) A person convicted in Colorado on or after January 1994 of any sex offense, felony or misdemeanor. This also includes a deferred judgment or deferred sentence for any sex offense, felony or misdemeanor. The following are sex offenses that fall under mandatory standardized treatment:
 - i. All forms of sex assault, unlawful sexual contact, sexual assault on a child, sexual assault on a child by one in a position of trust, sexual assault on a child by a psychotherapist, enticement of a child, incest, aggravated incest, trafficking in children, sexual exploitation of children, procurement of a child for sexual

¹ COLO. REV. STAT. § 18-1.3-1001

²*Id.*

exploitation, indecent exposure, soliciting for child prostitution, pandering of a child, procurement of a child, keeping a place of child prostitution, pimping of a child, inducement of child prostitution, patronizing a prostituted child, felony internet luring of a child, internet sexual exploitation of a child, or any attempt, conspiracy or solicitation to commit any of the offenses listed above.

- b) A person convicted in Colorado on or after January 1994 of any criminal offense if the person:
 - i. has been previously convicted of a sex offense in Colorado or any other jurisdiction,
 - ii. or if such person has a “history of any sex offenses” as defined in the listed offenses.
- c) A person convicted in Colorado after July 2000 of any criminal offense where there is an underlying factual basis which involves a sex offense.

3. Can a person be categorized as a sex offender in Colorado without having been convicted of a sex crime? *Under Colorado law, a person can be a sex offender for purposes of mandatory sex offender treatment even if the person does not have a conviction of a sex offense. One way this happens is by a determination that there is an underlying factual basis for a sex offense as established by the court at the time of the plea even though the guilty plea was to another offense and the sex offense was not charged or dismissed. A deferred judgment or a deferred sentence for any offense with an underlying factual basis of which involves a sex offense will also result in the person being categorized as a sex offender.*

Further, there is a provision under Colorado law that if a person has a “history of sex offenses,” they can be categorized as a sex offender for purposes of evaluation and treatment. Colorado’s Probation Department considers only prior juvenile adjudications and convictions for purposes of this categorization. But, it is important to know that the Colorado Department of Corrections will consider allegations that have never been prosecuted in Court, charges that were dismissed, allegations that have since been denied by the alleged victim, and charges for which a person has been acquitted for purposes of classification of an inmate as a “sex offender.” (*See Question # 24*)

4. What happens to a person who meets the definition of a sex offender? Each sex offender, upon entering a plea or upon a conviction, is required to submit to a **sex offense specific evaluation** which includes an evaluation for treatment, an evaluation for risk, and procedures required for monitoring of behavior to protect victims and potential victims. The offender will be required to pay the cost of the evaluation and testing, unless the Court or probation determines the offender does not have the ability to pay for the evaluation. This determination is separate from a Court’s determination that an offender is indigent for purposes of court-appointed counsel. Department of Corrections and adult parole may require the offender to pay for the cost of the evaluation. This requirement of payment is determined on a case by case basis.

5. What is a sex offense specific evaluation? Under Colorado law, every sex offender must participate in the sex offender evaluation. The purpose of this evaluation is to identify

levels of risk and specific risk factors that require attention in treatment and supervision. The evaluation will be used by probation to make recommendations to the Court regarding the supervision, treatment, behavioral monitoring, and sentencing of offenders. The evaluation shall consider the following required areas:

- a) Cognitive Functioning,
- b) Mental Health,
- c) Medical/Psychiatric Health,
- d) Drug/Alcohol Use,
- e) Stability of Functioning,
- f) Developmental History,
- g) Sexual Evaluation,
- h) Risk,
- i) Motivation and Amenability to Treatment,
- j) Impact on the Victim.

The evaluator **must** be approved by the Sex Offender Management Board (SOMB). Various tests and instruments are mandated by the SOMB. Testing instruments designed to assess an offender's sexual interests or arousals are used. This may, but not always, include penile plethysmograph testing (physical testing involving the male genital area). The offender may also be required to undergo polygraph testing. In drawing conclusions, the evaluator is expected to prioritize community and victim safety.

6. Who decides what sex offender treatment will include for someone who is required to participate? The Sex Offender Management Board (SOMB) was created by statute to develop and prescribe standards for the evaluation and identification of sex offenders. The SOMB is also required to recommend behavior management monitoring and treatment based upon the knowledge that "sex offenders are extremely habituated and that there is no known cure for the propensity to commit sex abuse." (Insert FN) Statute dictates that the SOMB develop and implement measures of success based upon a no-cure policy for intervention. The standards and guidelines developed by the SOMB are designed for the treatment of sex offenders regardless of whether the offender is on probation, incarcerated, or on parole. These standards and guidelines are available to the public at www.dcj.state.co.us/odvsom.

7. What does a "no-cure" policy mean? It is the current policy of the state of Colorado that all adult sexual offending is a behavioral disorder which can not be "cured." Sexual offenses are defined by law and may or may not be associated with or accompanied by the characteristics of sexual deviance which are described as paraphilias. Some sex offenders also have co-existing conditions such as mental disorders, organic disorders, personality disorders, or substance abuse.

While many offenders can learn through treatment to manage their sexual offending behaviors and decrease their risk of re-offense, the policy remains that behavioral management should not, however, be considered a "cure." Our legislature has indicated that successful treatment cannot permanently eliminate the risk that any offender, no matter what the original

offense, may commit another sex offense. Some sex offenders cannot or will not respond to treatment; therefore, not all sex offenders will be successful in treatment.

8. What kind of authority does the SOMB have over the treatment providers, evaluators, and polygraph examiners? The SOMB approves service providers based on certain criteria including the amount of direct clinical contact and the level of supervision. Any person who wishes to be placed on the SOMB Approved Provider List must submit an application to the SOMB. Approved SOMB providers are required to re-submit an application for continued placement on the Approved Provider List every three years.

The Department of Corrections, the Judicial Department, the Division of Criminal Justice of the Department of Public Safety, and the Department of Human Services are required to utilize only treatment providers, evaluators, or polygraphers that have been approved by the SOMB.

SOMB does not currently evaluate, monitor, or audit SOMB treatment providers or programs. However, SOMB does review any complaints filed with the Board against approved treatment providers.

9. What does SOMB approved sex offender treatment include? Regardless of whether the offender is sentenced to probation, parole, community corrections, jail, or Department of Corrections, the offender will be required to sign a contract with a SOMB treatment provider which describes the offender's treatment conditions. The supervising officer will convene and lead a community supervision team ("CST") that includes the supervising officer, a provider of sex offense specific treatment, and a polygraph examiner. The offender will be required to participate in group treatment. Sex offender treatment requires the offender to submit to periodic polygraph testing. The offender may also be required to submit to periodic assessments of sexual arousal and/or sexual interests

Refusal to cooperate with a polygraph will be considered a violation of probation, parole, or community corrections. Pre and post polygraph test statements may be used as evidence in a revocation hearing. Offenders progress through phases of treatment intensity concluding with a decreased intensity maintenance phase. Offenders who have progressed to the maintenance phase are still required to submit to periodic polygraph testing.

Even after the offender has completed court-ordered treatment, the offender may be subject to an after-care plan and the offender's behavior will continue to be monitored to the end of their sentence. If, after completion of treatment, the treatment team determines that the offender has relapsed and needs more treatment, treatment may be reinstated. The offender should expect to bear the entire expense of all treatment and therapy, including polygraph and all other testing and/or monitoring.

An annual report regarding sentencing of sex offenders tracks the costs of sex offender treatment on a county by county basis and is available at www.dcj.state.co.us/odvsom.

10. What is the goal of treatment? Treatment attempts to identify and treat an offender's thoughts, emotions, and behaviors that lead to the offender's risk to reoffend. Offenders are encouraged to comply with treatment as success is more likely with offenders who engage and are honest in treatment. Offenders who are successful in treatment should learn how to avoid re-offending through self-management methods.

11. How is sex offender treatment different from other therapy or treatment interventions? Sex offender treatment is different than other forms of traditional therapy. Treatment goals are set by the treatment provider in consultation with the CST and may include input from the offender or victim. Sex offender treatment is done primarily through group therapy because it is believed that individual therapy is too easy for an offender to manipulate and therefore group members must be available to confront and support a new group member. Accountability through confrontation is considered an essential component of sex offender treatment. A requirement of sex offender treatment is that each client waives his or her right to confidentiality.

12. What is the waiver of confidentiality? The offender is required to sign waivers and releases of confidentiality as a condition of probation, parole or community corrections. Through such waivers and releases, the offender agrees that the supervising officer can share information that the offender communicates to any treatment team member with any other person on the team.

The waiver also extends to any other individuals and agencies responsible for the offenders supervision such as community corrections case managers, social service workers, or other mental health workers. Under certain mandatory reporting laws, this information could result in disclosure of information to law enforcement agencies. In certain circumstances, the waiver also extends to victims, the victim's therapist and/or victim's representative. The waiver does not extend to the attorney-client relationship.

13. What is the role of the probation officer? The probation officer is a representative of the court in making sure that any sentence to community supervision is performed in compliance with court orders. Generally, if probation is granted by the court, the offender will be subject to special conditions of community supervision. There are certain terms and conditions that are standard for sex offender probation, however, the court has the authority to add additional conditions or take away conditions. **It is important for everyone involved in this process to understand that probation must follow the court's order so if there are problems with certain terms and conditions of probation, they should be addressed to the court at the time of sentencing, if at all possible.**

Common terms and conditions of sex offender probation include prohibition from the following:

- contact with the victim(s) in any way, including third-party communications;
- entering onto premises, traveling past, or loitering near the victim's residence, place of work, or other places frequented by the victim;

- dating, befriending or marrying anyone who has children under the age of 18;
- accessing or loitering near school yards, parks, arcades, playgrounds, amusement parks, or other places primarily frequented by children;
- participating in any volunteer activity that involves contact with children;
- possessing any pornographic, sexually oriented or sexually stimulating materials, including visual, auditory, telephonic, electronic and computer media;
- drinking or possessing alcohol;
- changing treatment programs without the approval of the supervising officer; and
- living anywhere not approved in advance by the supervising officer.

Generally, probation requires the offender to follow a detailed regimen. The offender's living arrangement must be approved by the supervising officer. In some cases, the offender is required to live in a shared living arrangement (SLA) with other offenders. In addition, some offenders may be subjected to GPS monitoring. There are very rigid rules regarding contact with children and the offender will initially be prevented from having any contact with the probationer's own children, even in cases where the offense did not include a child victim. The offender may be required to submit to an HIV test at some stage of the proceeding as well as to DNA testing upon conviction.

14. Explain what it means when the standards refer to victims or potential victims? SOMB guidelines refer "victims" or "potential victims" frequently. Victims are those persons who are directly involved in the crime of the offender. Potential victims are those persons who the team identifies as "at risk" based on the nature of the offense and the risk factors identified in assessing the offender. SOMB recognizes that it is not possible to limit an offender's contact with all individuals who might be considered "potential victims." However, the supervision team will identify what is considered to be the offender's risk and limit access to persons or places where an offender might present a risk such as bars, singles clubs, senior centers, schools, etc.

15. What are the rules as they relate to contact with children? SOMB standards prohibit an offender's contact with children, including the offender's own children, unless certain conditions are met. This is true even if the victim of the offense was not one of the offender's children or even any child at all. SOMB has established a process under which an offender can try to obtain contact with his or her own children known as Parental Risk Assessment (PRA). A PRA is designed to assess certain factors that relate to risk by allowing the offender contact with his or her own children. Practices generally do not allow the offender to live with or have contact with his or her own children unless there is a low-risk PRA or the offender has met certain treatment criteria. If contact with one's own children is permitted, contact with other children may still be prohibited. For example, the parent/offender may not be allowed to have contact with any friends of his or her children, attend school functions, allowed to participate in the child's birthday party, permitted to go to public parks, if other children will be present. Additionally, restrictions such as requiring the offender to grocery shop at hours when children will not be at stores are common. Some offenders may not be allowed to attend certain church services where there might be children present.

Community access is restricted and approved safety plans will be required before an offender may attend places where children or potential victims may be. Therefore, an offender may be required to have a safety plan approved before an offender is allowed participate in any activity including a meeting or a family gathering.

Reading materials which have pictures of children in them may be limited or prohibited. There will be other rules regarding children that will be imposed by the probation officer. Noncompliance with these rules can result in revocation by the supervising officer. The offender may be required to submit to polygraph testing with regard to contact with his or her children or other children as part of an investigation process. During the pre and post polygraph interview, the offender may be questioned about any thoughts or fantasies related to children.

Contact with children will include correspondence, written or verbal, telephone contact, texting, emailing, gift giving, or any communication through another person. Any attempt to communicate with any child, including the offender's own children, without prior approval will be a violation.

16. What is the polygraph testing process? Under SOMB standards, a polygraph examiner is a member of the community supervision team for every offender. Polygraphs are considered an important assessment and treatment tool used to hold the offender accountable. Ideally the polygraph will be used to provide honesty about subjects that are difficult to discuss.

SOMB standards state that although deceptive findings on a polygraph are not in and of themselves a violation of probation or parole, they can be considered in determining the level and conditions of supervision. Information disclosed during the pre-and post-test process or during a polygraph examination will be used in the decision making process to revoke a person's probation or parole or to require more intensive supervision.

There are various kinds of polygraphs: initial/instant offense polygraphs, sexual history polygraphs, maintenance/monitoring polygraphs, and event-specific polygraphs, which are considered to be a central part of sex offender evaluation and treatment.

Even though courts do not recognize the reliability of polygraph testing under the rules of evidence, the polygraph continues to be relied on heavily in sex offender treatment. SOMB standards and guidelines specifically outline what kinds of polygraphs should be given and the procedures that should be followed. It is important for all offenders to be aware of what is required in an approved polygraph.

17. Does the system differentiate between child molesters and persons convicted of indecent exposure? Not really. SOMB standards assume that any offender is capable of re-offending by committing any other type of sex crime. This is known as "cross-over." "Cross-over research" refers to a body of research that is relied upon by the SOMB detailing that a statistically significant percentage of certain sex offenders report a history of "cross-over" from one type of sex crime to another. This is why the 19 year old who has sex with a 14 year old

girlfriend may have the same terms and conditions and treatment as a 70 year old man who had sex with a 5 year old child.

18. What does it mean to be “in denial”? SOMB standards talk about offenders who are in denial. These are offenders who do not accept responsibility for the crime for which they have been convicted and offenders who do not accept responsibility for past crimes and past behavior based on police reports. It can also include offenders who accept responsibility for part of the behavior and crime charged but do not accept responsibility for everything in the police reports.

An offender who is in denial will not progress in treatment. An offender who is in denial will be eventually be terminated from treatment. In the department of corrections, an offender who is in denial will suffer other consequences, such as loss of earned time credits. Currently, an offender will be allowed to be in denial for a period of three months before treatment can be terminated and supervision revoked.

19. How do the standards address my right to be silent under the rights of the United States Constitution? Currently, the SOMB standards do not address the constitutional right of an offender to remain silent. This creates many problems for treatment because an offender who refuses to make statements about the offense or other offenses can be labeled a denier and thus terminated from treatment. Additionally, an offender does not have immunity in treatment for other crimes an offender might have committed. This causes a concern that there might be retaliation or new charges for candor in treatment. Offenders need to consult with their attorney regarding these issues and any issues regarding their 5th amendment right during an appeal, prior to entering into treatment. The attorney can try to address these problems with the probation officer and treatment provider.

20. What crimes fall under the Lifetime Supervision Act? The Sex Offender Lifetime Supervision Act of 1998 with its amendments requires a lifetime supervision sentence for almost all class 2, 3 and 4 felony sex offenses. Many so-called “economic” sex crimes such as trafficking children and sexual exploitation (including felony crimes related to child pornography) fall under the provisions of the Lifetime Supervision Act but it is not automatic. Before the lifetime supervision sentence can be applied to these types of “economic”sex crimes, the court must find that the offender is likely to commit sexual assault, unlawful sexual contact, sexual assault on a child or sexual assault on a child by one in a position of trust. The court must also find that the victim was a stranger to the offender or a person with whom the offender established or promoted a relationship with primarily for the purpose of sexual victimization.

21. If a person falls under the Lifetime Supervision Act, what happens at sentencing? If the offender is eligible for and sentenced to probation, probation is for a minimum of 10 years to a maximum of life for a class 4 felony, and a minimum of 20 years and a maximum of life for a class 2 or 3 felony. Intensive supervision probation is required for all lifetime probationers until further order of the court.

If a person is sentenced to the Department of Corrections for a lifetime offense, the court is required to sentence the offender to at least the minimum of the presumptive range of

sentencing to a maximum of life. **Currently, at the Department of Corrections, the minimum sentence does not mean anything in terms of release. It sets the earliest date at which a person may apply for parole.** *A person sentenced under the lifetime act can assume it is possible that they will serve a life sentence for the offense.*

22. Can a sex offender get early termination from probation? Legally there are ways persons can be terminated from probation early. However, in reality this happens very infrequently and the offender should not assume that it will happen.

23. What happens when a convicted sex offender is sentenced to prison under the Lifetime Supervision Act? Unlike all other felons, an offender sentenced to prison under the act must serve their minimum sentence less any earned-time deductions before the parole board may give initial consideration to releasing the offender. However, it is not likely that the offender will be paroled without participating and progressing in treatment. Few offenders are paroled at their first hearing. Waiting lists and procedures within the department of corrections, coupled with lack of resources, make it extremely difficult for a person to be released at the minimum sentence.

The department of corrections provides a comprehensive Sex Offender Treatment and Management Program (SOTMP) for prison inmates. Offenders are placed in Phase I therapy group which lasts approximately six months. After successful completion of Phase I, an offender moves to a second phase of treatment which has no defined time frame. There are long waiting lists for Phase I as well as Phase II treatment. There are approximately 1,000 offenders currently on the waiting list for Phase I and Phase II treatment. This is due to the limited treatment resources and spaces. Phase I can accommodate approximately 200 offenders. The capacity of Phase II is even less.

An offender's position on the waitlist depends on several factors. Before being eligible for the waitlist, an offender must be within eight (8) years of his or her first parole eligibility hearing. Hence, offenders who receive long minimum sentences will not even be able to commence treatment until well into their sentence. Furthermore, an offender must admit to committing a sex offense and recognize it as a problem before being eligible for treatment. Offenders are then prioritized on the waitlist according to their parole eligibility date. Currently, offenders sentenced under the Lifetime Supervision Act are given priority over offenders serving determinative sentences. Offenders that drop out, fail to comply, or are terminated from treatment can be placed back on the waitlist but will have low priority.

It's common to feel discouraged in treatment; however, the offender should be aware that serious consequences result in dropping out. It could take years for the offender to get back in treatment. Offenders who are not successfully progressing in treatment will not receive a recommendation for parole. Unfortunately, failure in Phase I is common; failure in Phase II is also common. Over the last decade, very few lifetime sex offenders have been paroled.

The department of corrections sex offender treatment also requires offenders to follow SOMB guidelines regarding contact with children, victims, or potential victims. Depending on

the facility and where in treatment an offender is, he or she may or may not be allowed to see children. An offender could be permitted contact with his or her children by receiving a low-risk score on the parental risk assessment (PRA). However, the parental risk assessment is very expensive and DOC will not pay any portion of it. Also, victims or potential victims will not be allowed to visit. This can be true if the victim or potential victim is now an adult choosing to visit or contact a family member. Reading materials may be substantially limited. Reading restrictions are supposed to be specific to the offender and are based on rehabilitative need. Pictures of children may be prohibited as well.

24. What happens to an offender sentenced to prison who has not been convicted of a sex offense, but who has been classified as a sex offender? The classification system in the department of corrections spans from S1 to S5, with S5 representing convicted sex offenders and S4 representing persons who are not convicted but for whom sex offender treatment is still recommended. A person sentenced to the department of corrections for a non-sexual crime may be classified a S4 if there is an underlying factual basis of a sex offense in the crime or if the person has a history of sex offenses or sexually offending behavior which has not resulted in a conviction.

It is important to understand that if a person is sent to prison for a non-sexual crime but has a prior sexual conviction, including misdemeanors and juvenile offenses, s/he will likely be classified a sex offender and recommended to participate in sex offender treatment, even if s/he has previously successfully completed a sex offender treatment program. The recommendation for treatment is based on what is determined to be continuing risks associated with criminal behavior. Any unadjudicated sex offender sentenced to the department of corrections after July 1st, 2009, is entitled to a hearing before a hearing officer with certain due process rights before s/he can be classified as a S4 sex offender. These unadjudicated sex offenders have the right to appeal this classification to the court if they comply with the necessary timeline. **Any person with allegations of sex offending behavior who is not convicted of a sex offense should consult with their attorney if their sentence is to the department of corrections.**

A person classified as a S4 is treated identical to a person classified as a S5 for purposes of treatment. Since sex offender treatment emphasizes accountability, only persons that acknowledge committing a sex offense and are willing to work on this problem in treatment are granted participation in treatment. Persons recommended for sex offender treatment, including both S4's and S5's, who do not admit to having committed a sexual offense, are labeled deniers. A person can be labeled a denier if s/he denies an offense even when s/he was acquitted or when no charges were filed. Persons labeled a denier and persons who refuse to participate in the recommended treatment are ineligible to receive earned time. A person classified as a S4 that complies with the department of corrections recommendation to participate in sex offender treatment will be required to follow the same SOMB guidelines including no contact with children, victims, or potential victims. Consequently, a person classified as a S4 will be prohibited from seeing and communicating with his or her children. As previously discussed, contact with children may be approved if the offender personally pays for a parental risk assessment and receives a low-risk score.

A person classified as a S4 who refuses to participate in treatment and serves his/her maximum sentence, may be required to participate in sex offender treatment as a condition of parole. Sex offender treatment in the community follows the same SOMB guidelines including no contact with children, victims, or potential victims. Failure to successfully complete sex offender treatment when required as a condition of parole may result in a parole revocation.

25. What is an SVP? A SVP is a sexually violent predator. There are certain statutory criteria for the label of sexually violent predator which includes an assessment of risk. The process for determining whether an offender meets the definition of a SVP is done through an assessment completed by probation and the treatment provider and is determined by the court. A crime without physical force may qualify a person for a SVP designation. This designation is significant because it triggers special registration requirements and community notification meetings every time the person changes residences.

26. What is sex offender registration and how will the offender know if he or she has to register? Sex offenders are advised by the court at sentencing if they are required to register. If required to register, sex offenders must register with the law enforcement agency in the jurisdiction in which they live. This could be either the local police department or the sheriff's department depending on the offender's address. Sex offenders may be required to register in additional jurisdictions if, for example, they are college students. Registration dates, times, and fees vary among the registering agencies, therefore, the offender should contact the law enforcement agency where s/he will be registering to find out the specifics of that agency's registration process. The registering agency will provide the offender with specific registration requirements such as whether the offender is required to register annually or quarterly.

The laws concerning registration are very complex and any errors in compliance will lead to the filing of new misdemeanor or felony charges. When in doubt, it is better to register too often than not enough because of the severe penalties for failure to register. Also, if a person moves away from one jurisdiction, they are required by law to both de-register from their old address and to register at their new address. Even temporary moves require new prompt registration. Failure to de-register could also lead to the filing of new misdemeanor or felony charges. There are expensive registration fees in some jurisdictions and some communities prohibit sex offenders altogether. Sex offenders should investigate their registration consequences before making any final plans to move whenever possible.

Sex offender registration never ends automatically. A person who has ever been ordered to register must continue to register unless s/he successfully petitions a Judge who enters an order saying that the registration may terminate. Because of the serious consequences and complexity of the registration laws, sex offenders may wish to consult an attorney as well as all local law enforcement offices, and, if under supervision, their probation, community corrections, or parole officers.

27. What can a sex offender do if he or she thinks the sex offender treatment is not in accordance with SOMB guidelines or if he or she feels that he or she is being treated unfairly in treatment? If an offender has a complaint regarding a treatment provider, he or

she may file a complaint with the Sex Offender Management Board. The complaint will be reviewed by the Application Review Committee, a subcommittee of the Sex Offender Management Board. The board only addresses standards violations; therefore, the complaint must indicate which standard the treatment provider violated. Forms for complaints can be found at www.dcj.state.co.us/odvsom. Non-compliance with the standards of practice can result in denial of placement on the approved provider list.

If an offender sentenced to DOC has a complaint regarding the program and not with a specific treatment provider, he or she may file a grievance with the Department of Corrections.

28. What should a sex offender do when he or she does not agree with conditions of probation or with how conditions are being enforced? An offender should address concerns regarding conditions of probation with their supervising officer. If concerns remain, an offender may then choose to speak with the chief probation officer. If after speaking with an offender's probation officer and with the chief probation officer, an offender's concerns are not resolved, an offender may return to court to seek modification of the conditions. **The Court maintains the ultimate authority over the offender's probation.**

An offender can consult with his or her attorney at any time and is encouraged to do so. Confidential consultation with counsel is NOT a violation of treatment confidentiality.

29. What should a sex offender do when he or she fears revocation of probation for being unable to pay for treatment or other costs associated with treatment? If an offender's financial constraints prevent him or her from complying with the requirement of treatment, the offender should communicate such financial constraints to his or her probation officer. In some cases, probation has limited resources to help with the cost of treatment. Regardless, an offender should continue attending treatment even if the offender is unable to pay. An offender who stops attending treatment may potentially be revoked for not complying with treatment. An offender who becomes unable to pay for treatment should discuss such circumstances with his or her treatment provider. Some treatment providers may provide temporary alternatives to treatment that do not cost.

It is important for the offender to keep accurate records regarding his or her ability to pay.

30. What should a sex offender in the Department of Corrections do if he or she has not been able to get into sex offender treatment? There are long waiting lists for both Phase I and Phase II treatment. The department of corrections prioritizes sex offenders on the waitlist by several factors including the offender's parole eligibility date. An offender must be within eight years of his or her parole eligibility date to be eligible for treatment. Currently, sex offenders with indeterminate sentences are given priority to sex offenders with determinate sentences. An offender who meets the requirements for treatment, but has not been admitted into treatment may contact the program (SOMTP) to verify the offender's wait list status.

31. What should a sex offender in the Department of Corrections do if he or she is notified after the screening process that he or she is ineligible for treatment based on the information provided on the form or based on being labeled a denier? A sex offender who submits the screening form and is denied treatment should be contacted by a mental health professional. If an offender is not contacted by a mental health professional, the offender may request contact with the mental health professional and ask to be rescreened. If after request an offender is not contacted, the offender may send a letter directly to the program (SOTMP) and ask to supplement or redo the screening form. An offender should allow at least thirty (30) days for the program to respond to his or her request.

32. What remedies are available to a sex offender who feels that he or she has been improperly classified in the Department of Corrections? An unadjudicated sex offender must be given a hearing before he or she can be classified as a sex offender for purposes of recommended sex offender treatment in the Department of Corrections. The sex offender may present witnesses at the hearing to testify on his or her behalf. If additional information is obtained after the hearing or if circumstances have significantly changed, an offender may write a letter to the program identifying the changes and/or attaching any additional information.

33. What can a sex offender do to avoid termination if he or she is struggling with treatment in the Department of Corrections? If an offender is struggling with treatment, he or she should speak to one of the two therapists about his or her concerns. If the concern is not adequately addressed, he or she may then request to speak to his or her coordinator. If the offender still has concerns after speaking with his or her coordinator, the offender may request to speak to Peggy Heil, the director of the SOTMP in the Department of Corrections.

If a sex offender in treatment violates a provision of the treatment contract, he or she may be placed on probation. The offender is given written notice of his or her probationary status as well as what he or she must do in order to become compliant with treatment. An offender is typically placed on probation for thirty days. If the offender has not met the necessary conditions after thirty days, the offender may be terminated from treatment. However, if the treatment violation relates to a safety or security issue, the offender may be automatically terminated from treatment without first being placed on probationary status.

34. What should a sex offender do if he or she is unable to meet the conditions of parole or feels like the conditions of parole are unfair? The offender should first speak to their parole officer regarding his or her concerns with the conditions of parole. If the parole officer is unable to address the offender's concerns, he or she may request to speak to the parole officer's supervisor. The offender may also request his or her parole officer to request a modification of the offender's conditions from the parole board.

35. What should a sex offender do when he or she fears revocation of parole for being unable to pay for treatment or other costs associated with treatment? If an offender's financial constraints prevent him or her from complying with the requirement of treatment, the offender should communicate such financial constraints to his or her parole officer. In some

cases, parole has limited resources to help with the cost of treatment. Regardless, an offender should continue attending treatment even if the offender is unable to pay. An offender who stops attending treatment may potentially be revoked for not complying with treatment. An offender who becomes unable to pay for treatment should discuss such circumstances with his or her treatment provider. Some treatment providers may provide temporary alternatives to treatment that do not cost.

It remains important for the offender to keep accurate records regarding his or her ability to pay.

This document has been prepared by a group of professionals working with sex offenders and is intended to aid in a more complete understanding of the sex offender laws and procedures in the State of Colorado.

NOTE: THIS DOCUMENT ADDRESSES THE STANDARDS AND GUIDELINES FOR THE ASSESSMENT, EVALUATION, TREATMENT AND BEHAVIORAL MONITORING OF ADULT SEX OFFENDERS. SEPARATE STANDARDS ADDRESS JUVENILE SEX OFFENDERS AND SEX OFFENDERS WITH DEVELOPMENTAL DISABILITIES.