

Sunset Public Hearing Questions for  
**Sex Offender Treatment Board**  
Created by Section 39-13-704, *Tennessee Code Annotated*  
(Sunset Termination Date June 2018)

1. Provide a brief introduction to the Sex Offender Treatment Board, including information about its purpose, statutory duties, and administrative attachment.

**The Sex Offender Treatment Board is comprised of thirteen members representing a cross-section of the entities (both public and private) with vested interests in the treatment and monitoring of adult sexual offenders. Generally, the Board's purpose is to establish a comprehensive statewide treatment and monitoring system for adult sexual offenders. The Board accomplishes its responsibilities by approving a statewide network of specialized treatment providers, which continues to be developed and refined from year to year. A directory of Approved Providers is located on the Board's website: <http://www.tn.gov/assets/entities/correction/attachments/ProviderDirectory.pdf>.**

**Broadly, the Board continues to focus its effort on providing highly specialized training and continuous consultative services that emphasizes a singular treatment philosophy, adherence to the containment model, and protection of victims. The Board has no administrative appropriation and is administratively housed within the Department of Correction (TDOC). TDOC staff who are responsible for Board operation are identified in the response to Number 19 below, together with a description of their several roles.**

2. Provide a list of current members of the board and describe how membership complies with Section 39-13-704, *Tennessee Code Annotated*. Who appoints members? Are there any vacancies on the board? If so, what steps have been taken to fill the vacancies?

**Board Members are appointed in accordance with the relevant provisions of Tenn. Code Ann. §39-13-704(a). Generally, the Chief Justice of the Supreme Court, the Commissioner of Correction, the Commissioner of the Department of Children Services, the TBI Director, and the Board's Presiding Officer have appointment authority by statute. There are no active Board vacancies. A table detailing the current board members is as follows:**

#	Member Name	Appointing Official	Representing
1	Hon. Monte Watkins	Chief Justice of the Supreme Court	Judicial Branch
2	Sherlean Lybolt	Commissioner of Correction	Correction
3	Susan Siedentop, LCSW	Commissioner of Correction	Correction
4	Joe Craig	TBI Director	TBI
5	Ciprian Boitor, Ph.D.	Commissioner of Children Services	Children Services
6	Michael Adler, Ph.D.	Commissioner of Correction	Community Providers
7	Hon. Kim Helper	Commissioner of Correction	District Attorney
8	J. Mike Engle, Esq.	Commissioner of Correction	Community Corrections Advisory Board
9	Hon. David Doyle	Commissioner of Correction	Public Defender
10	Capt. Jason Reinbold	Commissioner of Correction	Law Enforcement
11	Cathy Gurley	Commissioner of Correction	Victim Rights
12	Karen Joiner	Commissioner of Correction	Victim Rights
13	Rita Jorgenson	Presiding Officer	Board of Parole

3. How many times did the board meet in the last two years? How many members were present at each meeting?

**Absent a specific need, the Board generally meets quarterly and has adhered to this schedule for the last several years. The Board met 4 times in 2015, 4 times in 2016, and 4 times in 2017 to date. All meetings have had a quorum of members (at least 7 of the 13), although attendance varies among all members and according to their particular schedules. Specific attendance information is included in the table as follows:**

Meeting Date	Members Present
January 21, 2015	10 of 13
April 15, 2015	7 of 13
July 15, 2015	9 of 13
October 28, 2015	9 of 13
February 10, 2016	10 of 13
April 27, 2016	9 of 13
July 27, 2016	8 of 13
October 16, 2016	12 of 13
January 18, 2017	9 of 13
April 12, 2017	8 of 13
May 30, 2017	7 of 13
June 19, 2017 Emergency Phone Meeting	7 of 13

4. What were the board's revenues and expenditures for the last two fiscal years? Does the board carry a fund balance and, if so, what is the total of that fund balance? If expenditures exceeded revenues, and the board does not carry a fund balance, what was the source of the revenue for the excess expenditures?

**The revenues for the period ended June 30, 2016 were \$443,600.00 in state appropriations, \$19,594.00 in training conference fees and \$86,113.60 in Sex Offender Treatment Program fees (consisting of \$6,995.09 collected through the inmate trust fund and \$79,118.51 collected through tax apportionment through the Department of Revenue); for a total allocation of \$549,307.60. The total expenditures for FY16 were \$1,393,251.10. Because the expenditures exceeded revenues and because there was no beginning fund balance, \$930,057.10 in state appropriations were transferred from the TDOC Prisons Operating budget to pay for sex offender treatment services.**

**For FY17, the Governor requested and the Legislature approved a cost increase of \$1,250,000 in state appropriations to fund the program. The FY17 state appropriations were \$1,693,600.00 and through June 30, 2017, Sex Offender Treatment Program fees were \$81,669.26 (consisting of \$6,232.28 collected through the inmate trust fund and \$75,436.98 collected through tax apportionment through the Department of Revenue). Expenditures were \$1,046,228.61. Because the final accounting for FY17 will not be closed for several months yet, the surplus or deficit will not be known until later in this calendar year 2017.**

5. What per diem or travel reimbursements do members receive? How much was paid in the last two fiscal years?

**Tenn. Code Ann. §39-13-704(c)(2) provides that all board members who are not state employees "shall serve without compensation". Board members eligible for reimbursement are reimbursed for travel in accordance with the State of Tennessee Comprehensive Travel Regulations. Reimbursement for In-state Lodging/Allowances was \$2,305.00 for FY16 and \$903.00 for FY17 respectively.**

6. Is the board subject to Sunshine law requirements (Section 8-44-101, *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the council have for informing the public of meetings and making minutes available to the public?

**Yes, the Board is subject to Sunshine Law requirements. The responsible TDOC administrative staff generally post paper copies of meeting notices approximately thirty (30) days prior to the scheduled board meeting. The notice includes the day, time, and location of the meeting. This notice is posted in the Rachel Jackson State Office Building on its bulletin boards,**

which are available to all visitors of the building. The Board also posts the meeting notice in the Legislative Plaza. Meeting notices are also posted on the Board's website at:

<http://www.tn.gov/correction/article/tdoc-tsob-documents-resources>

<http://www.tn.gov/correction/article/tdoc-tsob-whats-new>

The Board makes an audio recording of the meeting and utilizes a TDOC administrative staff member to take thorough notes. Afterwards the notes are compiled into formal minutes with the assistance of the audio if necessary. While not maintained for instant public access, the minutes and the audio are available to the public upon request consistent with the Public Records Act (Tenn. Code Ann. Title 10, Chapter 7). The contact information for such an inquiry is posted on the website at:

<http://www.tn.gov/correction/article/tdoc-tsob-contact-board-member-information>

7. Does the board have any policies in place to address potential conflicts of interest by board members, board employees, or other state employees who work with the board in any capacity? If yes, please describe.

**The Board does not have a policy to address potential conflicts of interest by board members. Potential conflicts are considered when appointments are made in accordance with Tenn. Code Ann. §39-13-704(a)(2), (5) through (11). Further, there is little or no pecuniary, material, political, or social advantage to be realized from the primary business of the Board, which is the maintenance of standards for the treatment of sex offenders. The field of practice is not a lucrative one, and it does not appear realistic to expect that someone would attempt to purchase influence or have any expectation of gain by selling it, relative to the work of the Board.**

**In addition, the Board's administrative guidance and its policies set forth ethical standards for sexual offender treatment, which make it clear that all conduct in furtherance of sexual offender treatment is strictly for the benefit of the public and the protection of victims.**

8. What were the major accomplishments of the board in the last two fiscal years?

**The Board continues to offer its annual conference of training and development for current providers, and for new providers who are seeking Board approval. Its conference also provides the requisite ethics education hours. The Board's conference speakers bring expertise from around the nation, speaking directly to sex offender treatment concerns and interaction with supervising law enforcement agencies that supervise sex offender in the community.**

**The Board is also in the process of subdividing its approved provider list into an “approved treatment provider list” and an “approved risk assessment provider list”. The Board expects this transition to be complete and effective beginning January 1, 2018.**

9. Has the board developed the following as required by Section 39-13-704? If so, provide documentation for (or a description of) each item developed?

- A standardized procedure for the evaluation and identification of sex offenders?

**The Board has developed standardized procedures for the evaluation of sex offenders. The Board has accomplished this by adopting a formalized philosophy of treatment, best practice guidelines, and defined qualifications for a licensed individual to become a treatment provider.**

**Additionally, in lieu of replicating the tremendous effort being made by experts working under an identical charge, the Board elected to review existing, nationally recognized treatment and monitoring standards. The Board recognizes the Association for the Treatment of Sexual Abusers (ATSA). The Board endorses ATSA Practice Standards and Guidelines for the evaluation, treatment and management of adult male sexual abusers. The Board also endorses ATSA Professional Code of Ethics.**

**Specific information related to the Board’s promulgated policies and standards can be found on the Board’s website at: <http://www.tn.gov/correction/article/tdoc-tsofb-documents-resources>**

**The identification of sex offenders is accomplished by the Sex Offender Registry as defined in Tenn. Code Ann. §40-39-201 et seq.**

- Methods of intervention for sex offenders?

**See note above, regarding standards, guidelines, and best practices.**

- Measure of success?

**See note above, regarding standards, guidelines, and best practices. While this task has not been specifically funded based on appropriations, it is anticipated that with the passage of the Public Safety Act, the Department of Correction’s data and recidivism data collection will allow for a better mechanism to measure success of sex offenders that are in treatment.**

- Guidelines and standards for a system of programs for the treatment of sex offenders?

**See note above, regarding standards, guidelines, and best practices.**

- A plan for the allocation of sex offender treatment fund dollars among the judicial branch and the Departments of Correction and Children's Services?

**The Board has defined and promulgated a reimbursement plan for approved providers that provide services for indigent sex offenders. The balance of the fund substantially goes to reimbursement of treatment services for indigent offenders. A copy of the current reimbursement schedule is attached in Exhibit A. We do note that the reimbursement rates for risk assessments will be raised beginning January 1, 2018.**

**The Board cannot speak to the direct legislative appropriation of the treatment fund dollars to other entities; however, it is important to note the Board, DCS, and the Judicial Branch have oversight over different areas of sex offender evaluation and treatment. DCS has oversight in the area of juvenile sex offenders while the Judicial Branch (Administrative Office of the Courts, i.e. AOC) oversees pre-conviction indigent sex offender assessment when related to the defense of criminal defendant.**

**The Board's area of oversight is one of post-conviction (both pre and post sentencing). It should be noted that the AOC requires that an approved provider be utilized in order to approve payment.**

- A system for tracking offenders who have been subject to evaluation, identification and treatment?

**This task has never been funded by the Board. It appears that this portion of Board instruction has been made obsolete with the adoption of and subsequent refinements of the Sex Offender Registry as defined in Tenn. Code Ann. §40-39-201 et seq.**

- A system for monitoring offender behaviors and offender adherence to prescribed behavioral changes?

**This task has never been funded by the Board. However, as a practical matter, offenders who are receiving treatment during incarceration are closely monitored regarding progress in treatment by the TDOC. Offender attendance to and progress in treatment in the community is a core element of community supervision and is closely monitored by TDOC's Division of Community Supervision.**

10. Is each sex offender required to submit to an evaluation of risks, identification, amenability to treatment, and behavior management? How are such evaluations used?

**Yes. Tenn. Code Ann. §39-13-705(a) requires that, to be considered for probation or parole, a sex offender must submit to an evaluation for risk. Tenn. Code Ann. §39-13-705(b) further requires that in cases of a plea**

**agreement for a sex offense, an evaluation of risk shall be undertaken and included as part of the presentence report to be considered by the Court in determining sentence.**

**The evaluations are used to determine the level and frequency of treatment. When the risk evaluation is part of the presentence report, it is considered as a factor in sentencing decisions.**

11. Describe the number and type of sex offender treatment slots available. Are sufficient slots available? If not provide information on the number of persons on a waiting list and the approximate wait.

**The Board's statutory mission is one of setting a standard and approving clinical providers that meet that standard. It does not define or regulate "slots" or whether "slots" are available. The Board maintains an Approved Provider List located on its website:**

**<http://www.tn.gov/assets/entities/correction/attachments/ProviderDirectory.pdf>.**

**At present there are 91 approved providers providing sex offender treatment services statewide.**

**For maximum clinical benefit, the Board does limit the maximum number of offenders allowable in a group treatment session to twelve (12) offenders.**

**In addition, there is a backlog of sex offender risk assessments that need to be conducted state-wide. In general, the issue is two-fold. The first issue is the lack of providers with the clinical competency to conduct risk assessments in certain areas of the State. The second issue is that offenders who are bearing the cost of the risk evaluation themselves want to go with the cheapest provider available. Thus, while some offenders are in treatment, the risk evaluation that would dictate the method, means, and frequency of treatment has not been completed, due to the aforementioned issues. See our response to Number 8 above for the Board's plan to address these issues.**

12. To what extent have offenders paid the costs of evaluation, identification, and treatment? How is ability to pay determined?

**Tenn. Code Ann. §39-13-705(c), §39-13-706(a) and (b) provide that the risk evaluation and treatment required and/or necessary be at the expense of the offender based on the offender's ability to pay. As a matter of course, offenders are required to pay for all costs associated with treatment and evaluations unless they meet the indigency qualifications for an exemption under TDOC policy or, for purposes of a risk evaluation before**

**sentencing, have been deemed indigent by the Court. TDOC uses federal poverty guidelines for indigency qualification.**

13. What was the balance of the sex offender treatment fund as of June 30, 2016? To what extent was the money in this fund supplemented by state appropriations (or other revenues) during fiscal years 2016 and 2017?

**The balance of the sex offender treatment fund was \$0.00 at June 30, 2016. In fiscal year 2016, \$930,057.10 was transferred from the TDOC Prisons Operating budget to cover the deficit. Because the final accounting for FY17 will not be closed for several months yet, the surplus or deficit will not be known until later in this calendar year 2017.**

14. Is a system in place, as required by Section 39-13-709, *Tennessee Code Annotated*, to charge each person convicted of a sex offense a tax?

**Tenn. Code Ann. §39-13-709(b) provides that a person convicted of a sex offense pay the tax to "...the clerk of the court in which the conviction occurs, in an amount not to exceed three thousand dollars (\$3,000), as determined by the court for each conviction.." Tenn. Code Ann. §39-13-709(c) goes on to prescribe the allocation of the collected tax, and vests that responsibility in the clerk of court. In light of the statutory instruction, the matter appears outside of the Board's authority.**

What was the average amount charged to each sex offender during fiscal year 2017?

**The average amount charged to each sex offender in community supervision during FY2017 was \$504.32 (this includes all sex offenders with valid fees assessed in FY17).**

Does the department of Correction have a procedure to deduct unpaid balances for the offender's trust fund account?

**When a TDOC institution is notified of unpaid Sex Offender Tax amounts, the TDOC collects through the established State Recovery Fee Collection process. TDOC is billed by County Court Clerks for various court costs and other costs associated with felony cases, including Privilege and Litigation Taxes and Sex Offender Taxes. These cost bills are received in Department of Correction Central Office, are reviewed to assure that the offender is currently in custody in a State facility. The bills are then distributed to the institution where the inmate is housed to be set up in the TDOC fee system.**

**Fees set up in this way are collected via an automatic 50% deduction from all deposits received by the offender. The Sex Offender Tax amounts collected are applied to the Sex Offender Treatment Board Program cost**

center. FY 17, we collected \$6,232.28 for Sex Offender Tax from 25 different inmates. That averages to around \$249 per inmate.

**Any fees owed by an offender are maintained as part of the offender's supervision history and become an integral accountability factor in an offender's community supervision.**

15. What reports does the board prepare on its operations, activities, and accomplishments and who receives the reports?

**Beyond its report to the Legislature, the Board does not generally prepare reports or publish any information beyond notification to its Approved Providers on matters in furtherance of its statutory mission. On rare occasions, the Board has made referrals to the relevant health licensing boards on matters related to provider conduct.**

16. Has the board promulgated any rules and regulations? If yes, please cite the reference.

**The Board has not promulgated any formal rules or regulations. Generally, the Board's statutory oversight has been accomplished by its approved administrative guidance and its policies, all of which are published on its website at: <http://www.tn.gov/correction/article/tdoc-tsob-documents-resources>**

17. Describe any items related to the board that require legislative attention and your proposed legislative changes.

**At present, it does not appear there items requiring legislative attention or legislative changes.**

18. Should the board be continued? To what extent and in what ways would the absence of the board affect the public health, safety, or welfare of Tennessee citizens?

**Yes, the Board should be continued, or an alternative scheme that provides the applicable oversight in the specialized area of sex offender treatment should be established.**

19. Please provide a list of current board staff.

**Due to the lack of administrative budget, the Sex Offender Treatment Board does not have administrative staff. The TDOC has five (5) staff members that - in addition to other duties - are responsible for the administrative functions of the Board. There are four (4) employees from**

**the TDOC Division of Community Supervision that have defined Board responsibilities. Also, there is one (1) staff attorney responsible for providing legal advice to the Board at its meetings and to the TDOC staff undertaking Board functions. The specific TDOC staff members having Board administration responsibilities and their titles are as follows:**

- 1. Susan Siedentop, Correctional Administrator and Board Presiding Officer**
- 2. Rachel Riley-Coe, Administrative Operations Correctional Administrator**
- 3. Carissa Miniard, Probation Parole Program Director**
- 4. Ida Poynter, Probation Parole Program Specialist**
- 5. Torrey Grimes, Staff Attorney**

20. Please provide a list of all board contracts, detailing each contractor, the services provided, and the amount of the contract.

**The Board does not directly have any contracts. Board Approved Providers execute an Approved Provider Agreement. A blank copy of the Provider Agreement is attached hereto as Exhibit B.**

**For its annual conference, the agreements required (i.e. conference accommodations and speakers) are administratively procured by TDOC. However, the conferences have been self-sustaining and all costs are recovered from registration fee collections.**

## ***Reimbursement Management***

The Board is authorized to reimburse treatment professionals for services provided to sex offenders who are indigent. Indigence is documented according to valid court order stating the offender is indigent and the State is authorized to pay for services or a completed 'Assessment, Notice of Obligation or Exemption of Fees' waiver. Exemption of fees waivers are the responsibility of the probation or parole officer. Treatment professionals are responsible for obtaining proof of the offender's indigence. Reimbursement Rates are as follows:

### **A. Psychosexual Evaluation**

#### **1. Combination of Empirical Guided Assessment and Actuarial Risk Assessment – \$300.00**

This type of assessment is characterized by conducting review of records, and includes a face-to-face clinical interview as part of the assessment in which clinician identifies the presence of dynamic and static risk factors supported in literature to be associated with risk. In addition, the assessment should include an actuarial assessment tool (Static 99), if appropriate, to identify offender's current risk level. The assessment will include a written evaluation report which includes person's assessed risk level and recommendations, as well as any diagnosis, if appropriate.

#### **2. Enhanced Empirical Guided Assessment and Actuarial Risk Assessment – \$500.00**

This assessment is characterized by the clinician expanding the assessment described in No. 1. This may be through the inclusion of specialized testing, psychological testing, objective testing, multiple clinical contacts, i.e. additional clinical interviews, family interviews, or interviews with non-offending spouse. This would also include hardships such as the clinician doing the assessment described in No. 1 in a jail or correctional institution. The assessment speaks to risk, amenability to treatment, supervision issues.

This would also include evaluating co-morbid conditions as it relates to risk and or amenability to treatment.

### **B. Plethysmograph - \$100.00**

### **C. Group Therapy - \$30.00**

### **D. Mileage - Reimbursed on a per mile basis using the State's reimbursement rate when the provider performing the evaluation travels over 100 miles in one day from the provider's primary place of business and there is a valid Court Order requiring the evaluation. The mileage payment request must be invoiced as a separate line item indicating both starting point and destination and the number of miles being claimed.**

**\*As of August 1, 2011 the rate was \$0.47 per mile.**

## **Polygraph Examinations**

The Tennessee Sex Offender Treatment Board recognizes that polygraph services are an important adjunct to treatment services. Although the training, qualification, and approval of polygraph examiners is not within the scope of the Board's mission, TCA 39-13-704(d)(3) does provide that "the board shall coordinate the expenditure of funds from the sex offender treatment fund with any funds expended by any of the departments listed in this subdivision (d)(3) for the identification, evaluation, and treatment of sex offenders." Therefore, for polygraph services to be compensable from the sex offender treatment fund, the service must be identifiable to the current plan of treatment between a TSOTB approved treatment provider and an indigent offender.

## **Stipulations**

1. Treatment Providers must be approved by the Sex Offender Treatment Board and listed in the current Tennessee Sex Offender Treatment Provider Directory. Valid court orders will be honored even if the treatment provider selected by the court is not a Board approved provider.
2. Assessment, Notice of Obligation or Exemption of Fees must be attached to the invoice.
3. Assessment, Notice of Obligation or Exemption of Fees must be signed and dated.
4. It is not the responsibility of the Sex Offender Treatment Board or Tennessee Department of Correction to provide or obtain proof of exemption or indigence.
5. The reason for the exemption must be clearly identified or marked on the Assessment, Notice of Obligation or Exemption of Fees form.
6. Invoices must include the following information for payment to be processed:

## **Provider Information**

Full and legal name of service provider.

Licensure

Certification, if applicable

Complete mailing address for location where services are provided \* **home addresses are not acceptable**

Telephone number for location where services are provided

Date of Service

Service Type

## **Client Information**

Full and legal name of service recipient

Reimbursement claims for polygraph services must include the name of approved treatment provider or the Court Order pursuant to which the service has been provided.  
State issued offender ID number or Social Security Number

**Notice to Providers**

Effective December 1, 2004, providers may be required to furnish upon request a complete copy of the psychosexual evaluation for an offender and or treatment plan that indicates DSM diagnosis, treatment modality, expected frequency and duration of treatment. Reimbursement rates are subject to change without prior notice.

# **TENNESSEE SEX OFFENDER TREATMENT BOARD**

## **TREATMENT PROVIDER AGREEMENT**

This PROVIDER AGREEMENT represents the binding contractual terms between the State of Tennessee, Sex Offender Treatment Board, and the Approved Sex Offender Treatment Provider. This Agreement is entered into under the Sex Offender Treatment Board's legislatively enacted authority to develop sex offender treatment guidelines, standards, and the Board's custodianship of legislatively appropriated funds under Tenn. Code Ann. § 39-13-704.

As an Approved Sex Offender Treatment Provider, I acknowledge, understand, and agree to the following:

1. I will provide therapy to sex offenders in groups no larger than twelve (12) persons as primary modality.
2. I will utilize the cognitive-behavioral relapse prevention methods as instructed and authorized by the Board.
3. I will provide sexual arousal reconditioning including covert sensitization and satiation behavioral interventions within the first nine (9) to twelve (12) months of treatment.
4. I will follow the protocol provided by the Board in assessing reunification of offender and family.
5. I will assist in developing a personal relapse prevention plan in conjunction with the relapse prevention and victim empathy curriculum modules.
6. I understand that sex offender treatment includes therapy and supervision and I will proactively communicate, in a regular and timely fashion, and be available to discuss the offender's treatment with the Board and/or the offender's community supervisor as required.
7. When available, I will utilize polygraphs and/or physiological assessment to monitor deviant sexual arousal/interest when client's resources permit.
8. I understand that TCA 39-13-704 places financial responsibility on the offender as he is able to pay.
9. I understand that reimbursement rates from the Sex Offender Treatment Fund are established by the Board. I understand that I may not charge an indigent offender a co-pay above the rate established by the Board.
10. I will allow monitoring of my sex offender specific therapy efforts by the Board, including complaints and site visits.
11. I understand that records relating to treatment in which I have sought reimbursement from the sex offender treatment fund are subject to audit by the Department of Correction and/or the Comptroller of the Treasury.

