

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 19-0674.01 Michael Dohr x4347

SENATE BILL 19-143

SENATE SPONSORSHIP

Gonzales and Lee, Court, Fenberg, Foote, Moreno, Tate, Todd, Winter

HOUSE SPONSORSHIP

Herod,

Senate Committees

Judiciary
Appropriations

House Committees

Judiciary
Appropriations

A BILL FOR AN ACT

101 **CONCERNING CHANGES RELATED TO PAROLE RELEASE TO ALLEVIATE**
102 **PRISON POPULATION ISSUES, AND, IN CONNECTION THEREWITH,**
103 **MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill creates a new correctional facility level designation for transition centers that are used to enhance successful reintegration into the community.

Under current law, there are prison population measures that can be used when the vacancy rate drops below 2 percent. The bill changes

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
Amended 2nd Reading
April 27, 2019

SENATE
3rd Reading Unamended
April 15, 2019

SENATE
Amended 2nd Reading
April 12, 2019

the rate to 3 percent and adds a new measure. The new measure allows the department to submit a list of inmates who meet a specified eligibility criteria, have an approved parole plan, and have been assessed to be less than high risk to the parole board for a file review.

For technical parole violations related to possession of a deadly weapon, refusing or failing to comply with the requirements of sex offender treatment, absconding or willful failure to appear, unlawful contact with a victim, or willful tampering or removal of an electronic monitoring device, the bill allows the parole board to revoke parole and place the inmate back in prison for up to the remainder of the inmate's parole. For technical violations that do not involve the above conduct, the bill does not allow the parole board to revoke the inmate back to prison but can require programming at a transition center.

If an inmate meets criteria and has an approved parole plan, has been assessed low or very low risk, and parole guidelines recommend release, the parole board may deny parole only by a majority vote of the full board.

The bill provides an inmate released from prison without supervision the right to access reentry services for up to one year from the date of discharge.

The bill requires the parole board to table a parole release decision if it finds the inmate's parole plan is inadequate and to require a new parole plan within 30 days.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 == == ==

3 **SECTION 1.** In Colorado Revised Statutes, 17-1-119.7, **amend**
4 (1), (2)(a) introductory portion, (2)(a)(II), and (2)(a)(III); and **add**
5 (2)(a)(IV) as follows:

6 **17-1-119.7. Prison population management measures.** (1) The
7 department shall track the prison bed vacancy rate in both correctional
8 facilities and state-funded private contract prison beds on a monthly basis.
9 If the vacancy rate falls below ~~two~~ THREE percent for thirty consecutive
10 days, the department shall notify the governor, the joint budget
11 committee, the parole board, each elected district attorney, the chief judge
12 of each judicial district, the state public defender, and the office of

1 community corrections in the department of public safety. The department
2 shall notify the governor, the joint budget committee, the parole board,
3 each elected district attorney, the chief judge of each judicial district, the
4 state public defender, and the office of community corrections once the
5 vacancy rate exceeds ~~three~~ FOUR percent for thirty consecutive days.

6 (2) (a) If the vacancy rate in correctional facilities and
7 state-funded private contract prison beds falls below ~~two~~ THREE percent
8 for thirty consecutive days, the department may SHALL:

9 (II) Request that the parole board review a list of inmates who are
10 within ninety days of their mandatory release date, have an approved
11 parole plan, and do not require full board review or victim notification
12 pursuant to section 24-4.1-302.5 (1)(j); ~~and~~

13 (III) Coordinate with the parole board to review the list of inmates
14 who have satisfied conditions for conditional release verified by the
15 department of corrections, do not require full board review or victim
16 notification pursuant to section 24-4.1-302.5 (1)(j), and have satisfied the
17 condition or conditions required for an order to parole; AND

18 (IV) (A) SUBMIT TO THE PAROLE BOARD A LIST OF ELIGIBLE
19 INMATES WITH A FAVORABLE PAROLE PLAN WHO HAVE BEEN ASSESSED TO
20 BE MEDIUM OR LOWER RISK ON THE VALIDATED RISK ASSESSMENT SCALE
21 DEVELOPED PURSUANT TO SECTION 17-22.5-404 (2). EXCEPT AS PROVIDED
22 IN SUBSECTION (2)(a)(IV)(B) OF THIS SECTION, THE PAROLE BOARD SHALL
23 CONDUCT A FILE REVIEW OF EACH INMATE ON THE LIST AND SET
24 CONDITIONS OF RELEASE FOR THE INMATE WITHIN THIRTY DAYS AFTER
25 RECEIPT OF THE LIST AND SET A DAY OF RELEASE NO LATER THAN THIRTY
26 DAYS AFTER CONDUCTING THE FILE REVIEW.

27 (B) IF VICTIM NOTIFICATION IS REQUIRED AND A VICTIM WISHES TO

1 PROVIDE INPUT, THE PAROLE BOARD SHALL SCHEDULE A HEARING IN LIEU
2 OF A FILE REVIEW AND SET CONDITIONS OF RELEASE FOR THE INMATE AND
3 A DATE OF RELEASE _____ NO LATER THAN THIRTY DAYS AFTER
4 CONDUCTING THE HEARING.

5 (C) IF ADDITIONAL INFORMATION IS NEEDED, THE PAROLE BOARD
6 MAY TABLE A DECISION AFTER THE FILE REVIEW OR HEARING AND
7 REQUEST ADDITIONAL INFORMATION FROM THE DEPARTMENT. THE PAROLE
8 BOARD MAY GRANT OR DENY PAROLE TO AN APPLICANT, AND, IF THE
9 DECISION IS TO DENY PAROLE, IT MUST BE BASED ON A MAJORITY VOTE OF
10 THE FULL BOARD.

11 (D) AN INMATE IS NOT ELIGIBLE FOR RELEASE PURSUANT TO THIS
12 SECTION IF HE OR SHE IS SERVING A SENTENCE FOR AN OFFENSE
13 ENUMERATED IN SECTION 24-4.1-302 OR SECTION 16-22-102 (9) OR HAS
14 HAD A CLASS I CODE OF PENAL DISCIPLINE VIOLATION WITHIN THE
15 PREVIOUS TWELVE MONTHS FROM THE DATE OF THE LIST OR SINCE
16 INCARCERATION, WHICHEVER IS SHORTER; HAS BEEN TERMINATED FOR
17 LACK OF PROGRESS OR DECLINED IN WRITING TO PARTICIPATE IN
18 PROGRAMS THAT HAVE BEEN RECOMMENDED AND MADE AVAILABLE TO
19 THE INMATE WITHIN THE PREVIOUS TWELVE MONTHS OR SINCE
20 INCARCERATION, WHICHEVER IS SHORTER; HAS BEEN REGRESSED FROM
21 COMMUNITY CORRECTIONS OR REVOKED FROM PAROLE WITHIN THE
22 PREVIOUS ONE HUNDRED EIGHTY DAYS; OR HAS A PENDING FELONY
23 CHARGE, DETAINER, OR AN EXTRADITABLE WARRANT.

24 (E) AN INMATE IS ELIGIBLE FOR RELEASE PURSUANT TO THIS
25 SUBSECTION (2)(a)(IV) IF THE INMATE IS AT OR PAST HIS OR HER PAROLE
26 ELIGIBILITY DATE AND IS ONLY SERVING A SENTENCE FOR A CONVICTION
27 OF A LEVEL 3 OR LEVEL 4 DRUG FELONY OR A CLASS 3, CLASS 4, CLASS 5,

1 OR CLASS 6 NONVIOLENT FELONY OFFENSE.

2 **SECTION 2.** In Colorado Revised Statutes, 17-2-103, **amend**
3 (1.5)(d), (1.5)(g)(I), (11)(b)(I), (11)(b)(II), (11)(b)(III), and (11)(c)(II)(B);
4 **repeal** (11)(b)(III.5); and **add** (11)(c)(II)(C) as follows:

5 **17-2-103. Arrest of parolee - revocation proceedings.**
6 (1.5) (d) If a parolee has a technical violation, the parolee's community
7 parole officer, with the approval of the director of the division of adult
8 parole or the director's designee, may impose a brief term of confinement
9 in the county jail, not to exceed five FOURTEEN consecutive days, as an
10 intermediate sanction.

11 (g) Notwithstanding any other provision of this section, a
12 community parole officer may bypass the use of intermediate sanctions
13 or any additional intermediate sanctions in response to a technical
14 violation of parole and file a complaint seeking revocation of parole if:

15 (I) The parolee has received up to four intermediate sanctions
16 committing the parolee to a brief term of incarceration in jail, EXCEPT FOR
17 A PAROLEE FOR WHOM SUBSECTION (11)(b)(III) OF THIS SECTION APPLIES;
18 or

19 (11) (b) (I) If the board determines that the parolee has violated
20 parole through commission of a FELONY OR MISDEMEANOR crime, the
21 board may revoke parole and request the sheriff of the county in which
22 the hearing is held to transport the parolee to a place of confinement
23 designated by the executive director for up to the remainder of the parole
24 period.

25 (II) If the board determines that the parolee has violated any
26 condition of parole that does not involve the commission of a FELONY OR
27 MISDEMEANOR crime ~~and the provisions of subsection (11)(b)(III) or~~

1 ~~(11)(b)(III.5) of this section are not applicable,~~ THAT INVOLVES
2 POSSESSION OF A DEADLY WEAPON AS DEFINED IN 18-1-901, REFUSING OR
3 FAILING TO COMPLY WITH REQUIREMENTS OF SEX OFFENDER TREATMENT,
4 ABSCONDING, WILLFUL FAILURE TO APPEAR FOR A SUMMONS, UNLAWFUL
5 CONTACT WITH A VICTIM, OR THE WILLFUL TAMPERING OR REMOVAL OF AN
6 ELECTRONIC MONITORING DEVICE THAT THE PAROLEE IS REQUIRED TO
7 WEAR AS A CONDITION OF HIS OR HER PAROLE, the board may revoke
8 parole and request the sheriff of the county in which the hearing is held
9 to transport the parolee to a place of confinement for up to the remainder
10 of the parole period and order the parolee confined at a facility designated
11 by the executive director.

12 (III) If the board determines that the parolee has violated any
13 condition of parole that does not involve the commission of a FELONY OR
14 MISDEMEANOR crime, the parolee has no active felony warrant, felony
15 detainer, or pending felony criminal charge, and the parolee was on parole
16 for an offense that was a level 3 or level 4 drug felony or CLASS 3, class
17 4, class 5, or class 6 nonviolent felony OFFENSE as defined in section
18 17-22.5-405 (5)(b), except for menacing as defined in section 18-3-206;
19 STALKING AS DESCRIBED IN SECTION 18-9-111 (4), AS IT EXISTED PRIOR TO
20 AUGUST 11, 2010, OR SECTION 18-3-602; or any unlawful sexual behavior
21 contained in section 16-22-102 (9); OR ANY OTHER OFFENSE, THE
22 UNDERLYING FACTUAL BASIS OF WHICH INVOLVES UNLAWFUL SEXUAL
23 BEHAVIOR; or unless the parolee was subject to article 6.5 of title 18, or
24 section 18-6-801, the board may revoke parole and request the sheriff of
25 the county in which the hearing is held to transport the parolee to a place
26 of confinement for a period not to exceed thirty days and order the
27 parolee confined at a facility designated by the executive director ORDER,

1 AS A CONDITION OF PAROLE, PARTICIPATION IN TREATMENT, IF
2 APPROPRIATE, AS DESCRIBED IN SECTION 17-2-103 (11)(c).

3 (III.5) ~~If the board determines that the parolee has violated any~~
4 ~~condition of parole that does not involve the commission of a crime, the~~
5 ~~parolee has no active felony warrant, felony detainer, or pending felony~~
6 ~~criminal charge, and the parolee was on parole for an offense that was a~~
7 ~~level 2 drug felony or a class 3 nonviolent felony as defined in section~~
8 ~~17-22.5-405 (5)(b), except for stalking as described in section 18-9-111~~
9 ~~(4), as it existed prior to August 11, 2010, or section 18-3-602, or any~~
10 ~~unlawful sexual behavior described in section 16-22-102 (9), or unless the~~
11 ~~parolee was subject to article 6.5 of title 18, or section 18-6-801, the~~
12 ~~board may revoke parole and request the sheriff of the county in which~~
13 ~~the hearing is held to transport the parolee to a place of confinement for~~
14 ~~up to ninety days and order the parolee confined at a facility designated~~
15 ~~by the executive director.~~

16 (c) If the board determines that the parolee is in need of treatment
17 and is amenable to treatment, the board shall consider placing the parolee
18 in one of the following treatment options and, if appropriate, may modify
19 the conditions of parole to include:

20 (II) (B) A parolee may be placed in a residential treatment
21 program UNDER CONTRACT WITH THE DEPARTMENT OF PUBLIC SAFETY
22 only upon acceptance by the residential treatment program and any
23 community corrections board with jurisdiction over the residential
24 treatment program. Residential treatment programs and community
25 corrections boards are encouraged to develop an expedited review process
26 to facilitate decision-making and placement of the parolee, if accepted.

27 (C) PLACEMENT IN A PAROLEE INTENSIVE TREATMENT PROGRAM

1 OPERATED BY THE DEPARTMENT IN A LEVEL I SECURITY FACILITY FOR MEN
2 OR AN EQUIVALENT SECURITY LEVEL UNIT IN A WOMEN'S FACILITY
3 OPERATED BY THE DEPARTMENT. THE DEPARTMENT SHALL PROVIDE OR
4 CONTRACT FOR MEDICAL SERVICES NEEDED BY PAROLEES IN THE
5 INTENSIVE TREATMENT PROGRAM AND MAY USE FUNDING APPROPRIATED
6 FOR CLINICAL SERVICES FOR THOSE MEDICAL SERVICES.

7 **SECTION 3.** In Colorado Revised Statutes, 17-2-201, amend
8 (3)(h.1)(I), (4)(f)(I)(C), (4)(f)(I)(D), and (5)(c)(II) introductory portion;
9 and add (4)(f)(I)(E) and (19) as follows:

10 17-2-201. State board of parole - duties - definitions. (3) The
11 chairperson, in addition to other provisions of law, has the following
12 powers and duties:

13 (h.1) To contract with qualified individuals to serve as release
14 hearing officers:

15 (I) To conduct parole application hearings for inmates convicted
16 of class 4, class 5, or class 6 felonies or level 3 or level 4 drug felonies
17 who have been assessed to be less than high risk by the Colorado risk
18 assessment scale developed pursuant to section 17-22.5-404 (2)(a), OR
19 HEARINGS PURSUANT TO SUBSECTION (19) OF THIS SECTION pursuant to
20 rules adopted by the parole board; and

21 (4) The board has the following powers and duties:

22 (f) (I) To conduct an initial or subsequent parole release review
23 in lieu of a hearing, without the presence of the inmate, if:

24 (C) The inmate has a statutory discharge date or mandatory
25 release date within six months after his or her next ordinarily scheduled
26 parole hearing and victim notification is not required pursuant to section
27 24-4.1-302.5; or

1 (D) The inmate is assessed to be a "low" or "very low" risk on the
2 validated risk assessment instrument developed pursuant to section
3 17-22.5-404 (2), the inmate meets readiness criteria established by the
4 board, and victim notification is not required pursuant to section
5 24-4.1-302.5; OR

6 (E) THE INMATE IS SUBJECT TO SUBSECTION (19) OF THIS SECTION.

7 (5) (c) (II) EXCEPT IF THE OFFENDER IS SUBJECT TO SUBSECTION
8 (19) OF THIS SECTION, if the offender fails to pay the restitution, he or she
9 may be returned to the board and, upon proof of failure to pay, the board
10 shall:

11 (19) (a) EXCEPT AS PROVIDED IN SUBSECTION (19)(b) OF THIS
12 SECTION, IF A PERSON HAS AN APPROVED PAROLE PLAN, HAS BEEN
13 ASSESSED TO BE LOW OR VERY LOW RISK ON THE VALIDATED RISK
14 ASSESSMENT SCALE DEVELOPED PURSUANT TO SECTION 17-22.5-404 (2),
15 AND THE PAROLE RELEASE GUIDELINES RECOMMEND RELEASE, THE
16 PAROLE BOARD MAY DENY PAROLE ONLY BY A MAJORITY VOTE OF THE
17 FULL PAROLE BOARD.

18 (b) AN INMATE IS NOT ELIGIBLE FOR RELEASE PURSUANT TO
19 SUBSECTION (19)(a) OF THIS SECTION IF HE OR SHE HAS HAD A CLASS I
20 CODE OF PENAL DISCIPLINE VIOLATION WITHIN THE PREVIOUS TWELVE
21 MONTHS FROM THE DATE OF CONSIDERATION BY THE PAROLE BOARD OR
22 SINCE INCARCERATION, WHICHEVER IS SHORTER; HAS BEEN TERMINATED
23 FOR LACK OF PROGRESS OR HAS DECLINED IN WRITING TO PARTICIPATE IN
24 PROGRAMS THAT HAVE BEEN RECOMMENDED AND MADE AVAILABLE TO
25 THE INMATE WITHIN THE PREVIOUS TWELVE MONTHS OR SINCE
26 INCARCERATION, WHICHEVER IS SHORTER; HAS BEEN REGRESSED FROM
27 COMMUNITY CORRECTIONS OR REVOKED FROM PAROLE WITHIN THE

1 PREVIOUS ONE HUNDRED EIGHTY DAYS; IS REQUIRED TO BE CONSIDERED
2 BY THE FULL BOARD FOR RELEASE; OR HAS A PENDING FELONY CHARGE,
3 DETAINER, OR AN EXTRADITABLE WARRANT.

4 (c) IF THE PAROLE BOARD DENIES PAROLE TO AN INMATE
5 PURSUANT TO SUBSECTION (19)(a) OF THIS SECTION, THE BOARD SHALL
6 SUBMIT TO THE DEPARTMENT THE BASIS FOR THE DENIAL IN WRITING.

7 **SECTION 4.** In Colorado Revised Statutes, 17-22.5-202, **add** (5)
8 as follows:

9 **17-22.5-202. Ticket to leave - discharge - clothes, money,**
10 **transportation - reentry services.** (5) A PERSON DISCHARGED FROM A
11 CORRECTIONAL FACILITY WITHOUT SUPERVISION IS ELIGIBLE TO RECEIVE
12 REENTRY SUPPORT SERVICES FROM THE DEPARTMENT OR
13 COMMUNITY-BASED ORGANIZATIONS THAT RECEIVE FUNDING FROM THE
14 DEPARTMENT TO PROVIDE REENTRY SERVICES FOR UP TO ONE YEAR AFTER
15 THE PERSON'S DATE OF DISCHARGE.

16 **SECTION 5.** In Colorado Revised Statutes, 17-22.5-402, **add** (4)
17 as follows:

18 **17-22.5-402. Discharge from custody.** (4) A PERSON
19 DISCHARGED FROM A CORRECTIONAL FACILITY WITHOUT SUPERVISION IS
20 ELIGIBLE TO RECEIVE REENTRY SUPPORT SERVICES FROM THE DEPARTMENT
21 OR COMMUNITY-BASED ORGANIZATIONS THAT RECEIVE FUNDING FROM
22 THE DEPARTMENT TO PROVIDE REENTRY SERVICES FOR UP TO ONE YEAR
23 AFTER THE PERSON'S DATE OF DISCHARGE.

24 **SECTION 6.** In Colorado Revised Statutes, 17-22.5-403, **amend**
25 (5) introductory portion; and **add** (7)(c) as follows:

26 **17-22.5-403. Parole eligibility.** (5) For any offender who is
27 incarcerated for an offense committed prior to July 1, 1993, upon

1 application for parole, the state board of parole, working in conjunction
2 with the department and using the guidelines established pursuant to
3 section 17-22.5-404, shall determine whether or not to grant parole and,
4 if granted, the length of the period of parole. Prior to the parole release
5 hearing, the division of adult parole shall conduct a parole plan
6 investigation and inform the state board of parole of the results of the
7 investigation. If the state board of parole finds an inmate's parole plan
8 inadequate, it ~~may~~ SHALL table the parole release decision and ~~require the~~
9 ~~department to submit a revised parole plan developed in conjunction with~~
10 ~~the inmate within thirty days after the parole board's request~~ INFORM THE
11 DIRECTOR OF THE DIVISION OF ADULT PAROLE THAT THE PAROLE PLAN IS
12 INADEQUATE. THE DIRECTOR OF THE DIVISION OF ADULT PAROLE SHALL
13 ENSURE THAT A REVISED PAROLE PLAN THAT ADDRESSES THE
14 DEFICIENCIES IN THE ORIGINAL PAROLE PLAN IS SUBMITTED TO THE PAROLE
15 BOARD WITHIN THIRTY DAYS AFTER THE NOTIFICATION. THE PAROLE
16 BOARD IS RESPONSIBLE FOR MONITORING THE DEPARTMENT'S COMPLIANCE
17 WITH THIS PROVISION AND SHALL NOTIFY THE DIRECTOR OF THE DIVISION
18 OF ADULT PAROLE IF A REVISED PAROLE PLAN IS NOT SUBMITTED TO THE
19 PAROLE BOARD WITHIN THIRTY DAYS. The state board of parole may set
20 the length of the period of parole for any time period up to the date of
21 final discharge as determined in accordance with section 17-22.5-402. If
22 an application for parole is refused by the state board of parole, the state
23 board of parole shall reconsider within one year thereafter whether such
24 inmate should be granted parole. The state board of parole shall continue
25 such reconsideration each year thereafter until such inmate is granted
26 parole or until such inmate is discharged pursuant to law; except that:

27 (7) (c) IF THE STATE BOARD OF PAROLE DOES NOT GRANT PAROLE

1 PURSUANT TO SUBSECTION (7)(a) OR (7)(b) OF THIS SECTION BECAUSE IT
2 FINDS AN INMATE'S PAROLE PLAN INADEQUATE, IT SHALL TABLE THE
3 PAROLE RELEASE DECISION AND INFORM THE DIRECTOR OF THE DIVISION
4 OF ADULT PAROLE THAT THE PAROLE PLAN IS INADEQUATE. THE DIRECTOR
5 OF THE DIVISION OF ADULT PAROLE SHALL ENSURE THAT A REVISED
6 PAROLE PLAN THAT ADDRESSES THE DEFICIENCIES IN THE ORIGINAL
7 PAROLE PLAN IS SUBMITTED TO THE PAROLE BOARD WITHIN THIRTY DAYS
8 AFTER THE NOTIFICATION. THE PAROLE BOARD IS RESPONSIBLE FOR
9 MONITORING THE DEPARTMENT'S COMPLIANCE WITH THIS PROVISION AND
10 SHALL NOTIFY THE DIRECTOR OF THE DIVISION OF ADULT PAROLE IF A
11 REVISED PAROLE PLAN IS NOT SUBMITTED TO THE PAROLE BOARD WITHIN
12 THIRTY DAYS.

13 **SECTION 7.** In Colorado Revised Statutes, 17-1-206.5, **amend**
14 (1) as follows:

15 **17-1-206.5. Preparole release and revocation facility -**
16 **community return-to-custody facility.** (1) On or before December 1,
17 2001, the department shall issue a request for proposal for the
18 construction and operation of a private contract prison to serve as a
19 parole and revocation center, that shall be a level III facility, as
20 described in ~~section 17-1-104.3 (1)(a)(III)~~ SECTION 17-1-104.3
21 (1)(a)(I)(D).

22 **SECTION 8. Appropriation.** (1) For the 2019-20 state fiscal
23 year, \$25,200 is appropriated to the department of corrections. This
24 appropriation is from the general fund. To implement this act, the
25 department may use this appropriation for the purchase of information
26 technology services.

27 (2) For the 2019-20 state fiscal year, \$25,200 is appropriated to

1 the office of the governor for use by the office of information technology.
2 This appropriation is from reappropriated funds received from the
3 department of corrections under subsection (1) of this section. To
4 implement this act, the office may use this appropriation to provide
5 information technology services for the department of corrections.

6

7 **SECTION 9. Safety clause.** The general assembly hereby finds,
8 determines, and declares that this act is necessary for the immediate
9 preservation of the public peace, health, and safety.