

CHAPTER 286

CORRECTIONS

SENATE BILL 19-143

BY SENATOR(S) Gonzales and Lee, Court, Fenberg, Foote, Moreno, Tate, Todd, Winter;
also REPRESENTATIVE(S) Herod, Arndt, Benavidez, Bird, Cutter, Duran, Exum, Galindo, Gonzales-Gutierrez, Gray, Hooton,
Kipp, Kraft-Tharp, Michaelson Jenet, Sandridge, Snyder, Sullivan, Titone, Valdez A., Weissman.

AN ACT

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

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

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

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

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

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

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

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

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

(B) IF VICTIM NOTIFICATION IS REQUIRED AND A VICTIM WISHES TO PROVIDE INPUT, THE PAROLE BOARD SHALL SCHEDULE A HEARING IN LIEU OF A FILE REVIEW AND SET CONDITIONS OF RELEASE FOR THE INMATE AND A DATE OF RELEASE NO LATER THAN THIRTY DAYS AFTER CONDUCTING THE HEARING.

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

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

(E) AN INMATE IS ELIGIBLE FOR RELEASE PURSUANT TO THIS SUBSECTION (2)(a)(IV) IF THE INMATE IS AT OR PAST HIS OR HER PAROLE ELIGIBILITY DATE AND IS ONLY SERVING A SENTENCE FOR A CONVICTION OF A LEVEL 3 OR LEVEL 4 DRUG FELONY OR A CLASS 3, CLASS 4, CLASS 5, OR CLASS 6 NONVIOLENT FELONY OFFENSE.

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

17-2-103. Arrest of parolee - revocation proceedings. (1.5) (d) If a parolee has a technical violation, the parolee's community parole officer, with the approval of the director of the division of adult parole or the director's designee, may impose a

brief term of confinement in the county jail, not to exceed ~~five~~ FOURTEEN consecutive days, as an intermediate sanction.

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

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

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

(II) If the board determines that the parolee has violated any condition of parole that does not involve the commission of a FELONY OR MISDEMEANOR crime ~~and the provisions of subsection (11)(b)(III) or (11)(b)(III.5) of this section are not applicable~~, THAT INVOLVES POSSESSION OF A DEADLY WEAPON AS DEFINED IN 18-1-901, REFUSING OR FAILING TO COMPLY WITH REQUIREMENTS OF SEX OFFENDER TREATMENT, ABSCONDING, WILLFUL FAILURE TO APPEAR FOR A SUMMONS, UNLAWFUL CONTACT WITH A VICTIM, OR THE WILLFUL TAMPERING OR REMOVAL OF AN ELECTRONIC MONITORING DEVICE THAT THE PAROLEE IS REQUIRED TO WEAR AS A CONDITION OF HIS OR HER PAROLE, the board may revoke parole and request the sheriff of the county in which the hearing is held to transport the parolee to a place of confinement for up to the remainder of the parole period and order the parolee confined at a facility designated by the executive director.

(III) If the board determines that the parolee has violated any condition of parole that does not involve the commission of a FELONY OR MISDEMEANOR crime, the parolee has no active felony warrant, felony detainer, or pending felony criminal charge, and the parolee was on parole for an offense that was a level 3 or level 4 drug felony or CLASS 3, class 4, class 5, or class 6 nonviolent felony OFFENSE as defined in section 17-22.5-405 (5)(b), except for menacing as defined in section 18-3-206; STALKING AS DESCRIBED IN SECTION 18-9-111 (4), AS IT EXISTED PRIOR TO AUGUST 11, 2010, OR SECTION 18-3-602; or any unlawful sexual behavior contained in section 16-22-102 (9); OR ANY OTHER OFFENSE, THE UNDERLYING FACTUAL BASIS OF WHICH INVOLVES UNLAWFUL SEXUAL BEHAVIOR; or unless the parolee was subject to article 6.5 of title 18, or section 18-6-801, the board may ~~revoke parole and request the sheriff of the county in which the hearing is held to transport the parolee to a place of confinement for a period not to exceed thirty days and order the parolee confined at a facility designated by the executive director~~ ORDER, AS A CONDITION OF PAROLE, PARTICIPATION IN TREATMENT, IF APPROPRIATE, AS DESCRIBED IN SECTION 17-2-103 (11)(c).

~~(III.5) If the board determines that the parolee has violated any condition of parole that does not involve the commission of a crime, the parolee has no active felony warrant, felony detainer, or pending felony criminal charge, and the parolee~~

~~was on parole for an offense that was a level 2 drug felony or a class 3 nonviolent felony as defined in section 17-22.5-405 (5)(b), except for stalking as described in section 18-9-111 (4), as it existed prior to August 11, 2010, or section 18-3-602, or any unlawful sexual behavior described in section 16-22-102 (9), or unless the parolee was subject to article 6.5 of title 18, or section 18-6-801, the board may revoke parole and request the sheriff of the county in which the hearing is held to transport the parolee to a place of confinement for up to ninety days and order the parolee confined at a facility designated by the executive director.~~

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

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

(C) PLACEMENT IN A PAROLEE INTENSIVE TREATMENT PROGRAM OPERATED BY THE DEPARTMENT IN A LEVEL I SECURITY FACILITY FOR MEN OR AN EQUIVALENT SECURITY LEVEL UNIT IN A WOMEN'S FACILITY OPERATED BY THE DEPARTMENT. THE DEPARTMENT SHALL PROVIDE OR CONTRACT FOR MEDICAL SERVICES NEEDED BY PAROLEES IN THE INTENSIVE TREATMENT PROGRAM AND MAY USE FUNDING APPROPRIATED FOR CLINICAL SERVICES FOR THOSE MEDICAL SERVICES.

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

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

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

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

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

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

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

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

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

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

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

(b) AN INMATE IS NOT ELIGIBLE FOR RELEASE PURSUANT TO SUBSECTION (19)(a) OF THIS SECTION IF HE OR SHE HAS HAD A CLASS I CODE OF PENAL DISCIPLINE VIOLATION WITHIN THE PREVIOUS TWELVE MONTHS FROM THE DATE OF CONSIDERATION BY THE PAROLE BOARD OR SINCE INCARCERATION, WHICHEVER IS SHORTER; HAS BEEN TERMINATED FOR LACK OF PROGRESS OR HAS DECLINED IN WRITING TO PARTICIPATE IN PROGRAMS THAT HAVE BEEN RECOMMENDED AND MADE AVAILABLE TO THE INMATE WITHIN THE PREVIOUS TWELVE MONTHS OR SINCE INCARCERATION, WHICHEVER IS SHORTER; HAS BEEN REGRESSED FROM COMMUNITY CORRECTIONS OR REVOKED FROM PAROLE WITHIN THE PREVIOUS ONE HUNDRED EIGHTY DAYS; IS REQUIRED TO BE CONSIDERED BY THE FULL BOARD FOR RELEASE; OR HAS A PENDING FELONY CHARGE, DETAINER, OR AN EXTRADITABLE WARRANT.

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

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

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

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

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

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

17-22.5-403. Parole eligibility. (5) For any offender who is incarcerated for an offense committed prior to July 1, 1993, upon application for parole, the state board of parole, working in conjunction with the department and using the guidelines established pursuant to section 17-22.5-404, shall determine whether or not to grant parole and, if granted, the length of the period of parole. Prior to the parole release hearing, the division of adult parole shall conduct a parole plan investigation and inform the state board of parole of the results of the investigation. If the state board of parole finds an inmate's parole plan inadequate, it ~~may~~ SHALL table the parole release decision and ~~require the department to submit a revised parole plan developed in conjunction with the inmate within thirty days after the parole board's request~~ INFORM THE DIRECTOR OF THE DIVISION OF ADULT PAROLE THAT THE PAROLE PLAN IS INADEQUATE. THE DIRECTOR OF THE DIVISION OF ADULT PAROLE SHALL ENSURE THAT A REVISED PAROLE PLAN THAT ADDRESSES THE DEFICIENCIES IN THE ORIGINAL PAROLE PLAN IS SUBMITTED TO THE PAROLE BOARD WITHIN THIRTY DAYS AFTER THE NOTIFICATION. THE PAROLE BOARD IS RESPONSIBLE FOR MONITORING THE DEPARTMENT'S COMPLIANCE WITH THIS PROVISION AND SHALL NOTIFY THE DIRECTOR OF THE DIVISION OF ADULT PAROLE IF A REVISED PAROLE PLAN IS NOT SUBMITTED TO THE PAROLE BOARD WITHIN THIRTY DAYS. The state board of parole may set the length of the period of parole for any time period up to the date of final discharge as determined in accordance with section 17-22.5-402. If an application for parole is refused by the state board of parole, the state board of parole shall reconsider within one year thereafter whether such inmate should be granted parole. The state board of parole shall continue such reconsideration each year thereafter until such inmate is granted parole or until such inmate is discharged pursuant to law; except that:

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

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

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

SECTION 8. Appropriation. (1) For the 2019-20 state fiscal year, \$25,200 is

appropriated to the department of corrections. This appropriation is from the general fund. To implement this act, the department may use this appropriation for the purchase of information technology services.

(2) For the 2019-20 state fiscal year, \$25,200 is appropriated to the office of the governor for use by the office of information technology. This appropriation is from reappropriated funds received from the department of corrections under subsection (1) of this section. To implement this act, the office may use this appropriation to provide information technology services for the department of corrections.

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

Approved: May 28, 2019