

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

**INTRODUCED**

LLS NO. 21-0533.01 Michael Dohr x4347

**HOUSE BILL 21-1209**

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**HOUSE SPONSORSHIP**

**Gonzales-Gutierrez and Daugherty,**

**SENATE SPONSORSHIP**

**Lee,**

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**House Committees**  
Judiciary

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING OFFENDERS WHO COMMITTED AN OFFENSE WHEN UNDER**  
102 **TWENTY-FIVE YEARS OF AGE .**

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**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 makes an offender serving a sentence in the department of corrections for a felony offense that was committed while the offender was 18 to 24 years of age eligible for parole after the offender serves 50% of the sentence and after the offender has served at least 15 calendar years in prison. There is a presumption, subject to the parole board's discretion, that the offender will be released on parole if the offender has not had any

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.

code of penal discipline violations in the last 5 years and no class I code of penal discipline violations in the last 10 years.

The department of corrections operates a specialized program for offenders who are serving a prison sentence for a felony offense committed while the offender was a juvenile as a result of criminal charges filed by direct file or transfer proceedings. The bill would expand program eligibility to adults serving a sentence for a felony that was committed when the person was under 21 years of age. The bill changes some of the eligibility criteria for the specialized program for an offender who was a juvenile as a result of criminal charges filed by direct file or transfer proceedings.

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

2           **SECTION 1.** In Colorado Revised Statutes, 17-22.5-403, **add**  
3 (10) as follows:

4           **17-22.5-403. Parole eligibility.** (10) (a) NOTWITHSTANDING ANY  
5 OTHER PROVISION TO THE CONTRARY, AN OFFENDER SERVING A SENTENCE  
6 IN THE DEPARTMENT FOR A FELONY OFFENSE THAT WAS COMMITTED WHILE  
7 THE OFFENDER WAS EIGHTEEN TO TWENTY-FOUR YEARS OF AGE IS  
8 ELIGIBLE FOR PAROLE AFTER SERVING FIFTY PERCENT OF THE SENTENCE  
9 AND AFTER THE OFFENDER HAS SERVED AT LEAST FIFTEEN CALENDAR  
10 YEARS OF A SENTENCE IN THE CUSTODY OF THE DEPARTMENT.

11           (b) THERE SHALL BE A PRESUMPTION, SUBJECT TO THE FINAL  
12 DISCRETION OF THE PAROLE BOARD, IN FAVOR OF GRANTING PAROLE TO AN  
13 OFFENDER WHO IS ELIGIBLE FOR PAROLE PURSUANT TO SUBSECTION (10)(a)  
14 OF THIS SECTION WHO HAS NOT HAD ANY CODE OF PENAL DISCIPLINE  
15 VIOLATIONS IN THE PREVIOUS FIVE YEARS AND NO CLASS I CODE OF PENAL  
16 DISCIPLINE VIOLATIONS IN THE PREVIOUS TEN YEARS AND WHO HAS  
17 COMPLETED ANY PROGRAM REQUIRED AS A PART OF THE OFFENDER'S  
18 SENTENCE TO INCARCERATION.

19           (c) IN DETERMINING WHETHER TO GRANT PAROLE TO AN OFFENDER

1 ELIGIBLE PURSUANT TO SUBSECTION (10)(a) OF THIS SECTION, THE PAROLE  
2 BOARD SHALL CONSIDER, AT A MINIMUM, WHETHER THE PURPOSE OF  
3 SENTENCING WOULD BE BETTER SERVED BY GRANTING PAROLE TO THE  
4 OFFENDER RATHER THAN CONTINUING INCARCERATION.

5 (d) THE PROVISIONS OF THIS SUBSECTION (10) APPLY TO ANY  
6 INCARCERATED OFFENDER, REGARDLESS OF THE OFFENDER'S DATE OF  
7 CONVICTION.

8 (e) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO AN  
9 INCARCERATED OFFENDER SERVING A LIFE SENTENCE WITHOUT THE  
10 POSSIBILITY OF PAROLE PURSUANT TO SECTION 18-1.3-401 (4)(a).

11 **SECTION 2.** In Session Laws of Colorado 2016, **amend** section  
12 1 of chapter 352 as follows:

13 Section 1. **Legislative declaration.** (1) The general assembly  
14 finds and declares that:

15 (a) The United States supreme court has held in several recent  
16 decisions regarding the criminal sentencing of juveniles that children are  
17 constitutionally different than adults for purposes of sentencing and  
18 should be given a meaningful opportunity for release based on  
19 demonstrated maturity and rehabilitation;

20 (a.5) MORE RECENT RESEARCH ABOUT BRAIN DEVELOPMENT  
21 DEMONSTRATES THAT THE BRAIN FUNCTIONING THAT GUIDES AND AIDS  
22 RATIONAL DECISION-MAKING DOES NOT FULLY DEVELOP UNTIL A PERSON  
23 IS IN HIS OR HER MID- TO LATE TWENTIES, WHICH INDICATES THAT A  
24 YOUNG ADULT DOES NOT OFTEN POSSESS THE DEVELOPMENTAL MATURITY  
25 AND DECISION-MAKING SKILLS OF A MATURE ADULT;

26 (b) Colorado recognizes that ~~children~~ PERSONS have not yet  
27 reached developmental maturity before the age of ~~eighteen~~ TWENTY-ONE

1 years and therefore have a heightened capacity to change behavior and a  
2 greater potential for rehabilitation;

3 (c) Colorado has many offenders currently serving sentences in  
4 the department of corrections who committed crimes when they were less  
5 than ~~eighteen~~ TWENTY-ONE years old and who no longer present a threat  
6 to public safety; and

7 (d) Colorado is committed to research-based best practices in the  
8 development and implementation of correctional policies and practices.  
9 BEST PRACTICES SUPPORT THE RELEASE OF OFFENDERS WHO NO LONGER  
10 PRESENT A THREAT TO THE SAFETY OF OTHER PERSONS OR THE  
11 COMMUNITY AND WHO HAVE DEMONSTRATED THAT THROUGH  
12 OBSERVABLE AND VERIFIED POSITIVE BEHAVIOR. RECONSIDERING  
13 OFFENDERS' SENTENCES AFTER LENGTHY INCARCERATION CREATES HOPE  
14 FOR AND HELPS DEVELOP MATURITY AND RESPONSIBILITY IN OFFENDERS  
15 WHO WERE JUVENILES OR YOUNG ADULTS WHEN THEIR CRIMES WERE  
16 COMMITTED.

17 (2) Now, therefore, ~~Colorado~~ THE GENERAL ASSEMBLY desires to  
18 implement a system that allows any offender who committed a serious  
19 crime as a juvenile, was treated as an adult by the criminal justice system,  
20 and has served more than twenty or twenty-five calendar years of a  
21 sentence to the department of corrections, during which he or she has  
22 exhibited growth and rehabilitation, OR WHO AS A YOUNG ADULT UNDER  
23 TWENTY-ONE YEARS OF AGE WHO COMMITTED A SERIOUS CRIME AND  
24 WHILE SERVING THE SENTENCE TO THE DEPARTMENT OF CORRECTIONS HAS  
25 EXHIBITED GROWTH AND REHABILITATION, the opportunity to further  
26 demonstrate rehabilitation and earn early release in a specialized program  
27 in a less secure setting without compromising public safety.

1           **SECTION 3.** In Colorado Revised Statutes, 17-34-101, **amend**  
2 (1)(a) introductory portion, (1)(a)(I)(B), (1)(a)(I)(C), and (4)(a) as  
3 follows:

4           **17-34-101. Juveniles and young adults who are convicted as**  
5 **adults in district court and young adults convicted under twenty-one**  
6 **years of age - eligibility for specialized program placement - petitions.**

7 (1) (a) Notwithstanding any other provision of law, an offender serving  
8 a sentence in the department for a felony offense as a result of the filing  
9 of criminal charges by an information or indictment pursuant to section  
10 19-2-517, or the transfer of proceedings to the district court pursuant to  
11 section 19-2-518, or pursuant to either of these sections as they existed  
12 prior to their repeal and reenactment, with amendments, by House Bill  
13 96-1005, OR A YOUNG ADULT OFFENDER SERVING A SENTENCE IN THE  
14 DEPARTMENT FOR A FELONY OFFENSE THAT WAS COMMITTED WHEN THE  
15 OFFENDER WAS UNDER TWENTY-ONE YEARS OF AGE, and ~~who~~ THE  
16 OFFENDER IN ANY OF THESE CASES remains in the custody of the  
17 department for that felony offense, may petition for placement in the  
18 specialized program described in section 17-34-102, referred to within  
19 this section as the "specialized program", as follows:

20           (I) If the felony of which the person was convicted was not  
21 murder in the first degree, as described in section 18-3-102, then the  
22 offender may petition for placement in the specialized program after  
23 serving twenty years of his or her sentence if he or she:

24           (B) Has not been convicted of AN OFFENSE OF unlawful sexual  
25 behavior, as defined in section 16-22-102 (9) ~~C.R.S.~~ OR AN OFFENSE THAT  
26 THE UNDERLYING FACTUAL BASIS IS UNLAWFUL SEXUAL BEHAVIOR, AS  
27 DEFINED IN SECTION 16-22-102 (9);

1 (C) Is not OR HAS NOT BEEN PREVIOUSLY PLACED in a treatment  
2 program within the department for a serious behavioral or mental health  
3 disorder;

4 (4) (a) (I) If after review of an offender's petition the executive  
5 director or his or her designee determines that the offender is an  
6 appropriate candidate for placement in the specialized program, the  
7 department shall place the offender in the specialized program as soon as  
8 practicable.

9 (II) IF THE OFFENDER APPLYING IS SERVING A SENTENCE IN THE  
10 DEPARTMENT FOR A FELONY OFFENSE THAT WAS COMMITTED WHILE THE  
11 OFFENDER WAS EIGHTEEN TO TWENTY YEARS OF AGE, THE DEPARTMENT  
12 MAY ONLY PLACE THE OFFENDER IN THE SPECIALIZED PROGRAM IF THERE  
13 IS SPACE AVAILABLE IN THE PROGRAM AND PLACEMENT IN THE PROGRAM  
14 DOES NOT PREVENT AN OFFENDER WHO IS SERVING A SENTENCE IN THE  
15 DEPARTMENT AS A RESULT OF THE FILING OF CRIMINAL CHARGES BY AN  
16 INFORMATION OR INDICTMENT PURSUANT TO SECTION 19-2-517, OR THE  
17 TRANSFER OF PROCEEDINGS TO THE DISTRICT COURT PURSUANT TO  
18 SECTION 19-2-518, OR PURSUANT TO EITHER OF THESE SECTIONS AS THEY  
19 EXISTED PRIOR TO THEIR REPEAL AND REENACTMENT, WITH AMENDMENTS,  
20 BY HOUSE BILL 96-1005, FROM BEING PLACED IN THE PROGRAM.

21 **SECTION 4.** In Colorado Revised Statutes, 17-34-102, **amend**  
22 (1), (4), (8)(a) introductory portion, and (8)(b) as follows:

23 **17-34-102. Specialized program for juveniles and young adults**  
24 **convicted as adults and young adults convicted under twenty-one**  
25 **years of age - report.** (1) The department shall develop and implement  
26 a specialized program for offenders who have been sentenced to an adult  
27 prison for a felony offense committed while the offender was ~~less than~~

1 UNDER eighteen years of age as a result of the filing of criminal charges  
2 by an information or indictment pursuant to section 19-2-517, ~~C.R.S.~~, or  
3 the transfer of proceedings to the district court pursuant to section  
4 19-2-518, ~~C.R.S.~~, or pursuant to either of these sections as they existed  
5 prior to their repeal and reenactment, with amendments, by House Bill  
6 96-1005, OR OFFENDERS SERVING A SENTENCE IN THE DEPARTMENT FOR  
7 A FELONY OFFENSE THAT WAS COMMITTED WHEN THE OFFENDER WAS  
8 UNDER TWENTY-ONE YEARS OF AGE, and ~~who~~ THE OFFENDERS IN ANY OF  
9 THESE CASES are determined to be appropriate for placement in the  
10 specialized program. The department shall implement the specialized  
11 program within or in conjunction with a facility operated by, or under  
12 contract with, the department.

13 (4) The department ~~may~~ SHALL make restorative justice practices,  
14 as defined in section 18-1-901 (3)(o.5), ~~C.R.S.~~, available to any victim of  
15 any offender who petitions for placement in the specialized program, as  
16 may be appropriate, but only if requested by the victim and the victim has  
17 registered with the department of corrections requesting notice of victims'  
18 rights pursuant to the provisions of part 3 of article 4.1 of title 24. ~~C.R.S.~~

19 (8) (a) Except as described in ~~paragraph (b) of this subsection (8)~~  
20 SUBSECTION (8)(b) OF THIS SECTION, if an offender has served at least  
21 ~~twenty-five~~ TWENTY-THREE calendar years of his or her sentence and  
22 successfully completed the specialized program, unless rebutted by  
23 relevant evidence, it is presumed that:

24 (b) If an offender who committed murder in the first degree, as  
25 described in section 18-3-102 (1)(a), (1)(c), (1)(e), or (1)(f), ~~C.R.S.~~, has  
26 served ~~thirty~~ TWENTY-EIGHT years of his or her sentence and successfully  
27 completed the program, unless rebutted by relevant evidence, the

1 presumptions described in subparagraphs (I) and (II) of paragraph (a) of  
2 ~~this subsection (8)~~ SUBSECTIONS (8)(a)(I) AND (8)(a)(II) OF THIS SECTION  
3 apply.

4           **SECTION 5. Act subject to petition - effective date.** This act  
5 takes effect at 12:01 a.m. on the day following the expiration of the  
6 ninety-day period after final adjournment of the general assembly; except  
7 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
8 of the state constitution against this act or an item, section, or part of this  
9 act within such period, then the act, item, section, or part will not take  
10 effect unless approved by the people at the general election to be held in  
11 November 2022 and, in such case, will take effect on the date of the  
12 official declaration of the vote thereon by the governor.