

SENATE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

May 6, 2021

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB21-146 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, page 3, strike lines 15 through 19 and substitute:

2 "(7.4) "SERIOUS IMPAIRMENT THAT LIMITS A PERSON'S ABILITY TO
3 FUNCTION" MEANS A MEDICALLY DIAGNOSED PHYSICAL OR MENTAL
4 CONDITION THAT IS CHRONIC AND LONG TERM IN NATURE AND SEVERELY
5 LIMITS A PERSON'S ABILITY TO INDEPENDENTLY PERFORM ESSENTIAL
6 DAY-TO-DAY ACTIVITIES WITHOUT DAILY INTERVENTION, ATTENTION, OR
7 SUPPORT FROM AN INMATE AIDE OR PROFESSIONAL CAREGIVER."

8 Page 4, line 2, strike "~~is fifty-five years of age or older and~~" and substitute
9 "is fifty-five years of age or older and".

10 Page 4, strike lines 11 to 17 and substitute:

11 "(II) Who, as determined by a licensed health-care provider who
12 is employed by or under contract with the department OR BY A PRIVATE
13 LICENSED HEALTH-CARE PROVIDER INVOLVED IN PROVIDING PATIENT CARE
14 TO THE INMATE, suffers from a chronic, permanent, terminal, or
15 irreversible physical illness, condition, disease, or a behavioral or mental
16 health disorder that requires costly care or treatment and who is
17 ~~determined by the department or the state board of parole to be~~
18 ~~incapacitated to the extent that he or she is not likely to pose a risk to~~
19 ~~public safety; or~~ INCAPACITATED;"

- 1 Page 4, lines 20 and 21, strike "TEN YEARS OR TWENTY-FIVE PERCENT OF
2 THE PERSON'S SENTENCE, WHICHEVER IS SHORTER;" and substitute
3 "TWENTY YEARS OF THE PERSON'S SENTENCE AND WAS NOT CONVICTED OF
4 A CLASS 1 OR CLASS 2 FELONY FOR A CRIME AS DEFINED IN SECTION
5 24-4.1-302 (1), UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION
6 16-22-102 (9), A CRIME THAT INCLUDES DOMESTIC VIOLENCE AS DEFINED
7 IN SECTION 18-6-800.3 (1), OR STALKING AS DESCRIBED IN SECTION
8 18-3-602;".
- 9 Page 4, line 22, strike "~~determined~~ DIAGNOSED" and substitute
10 "determined".
- 11 Page 4, line 24, after "EVALUATOR" insert "AS DEFINED IN SECTION
12 16-8.5-101 (3) AND".
- 13 Page 4, line 25, strike "SERVICES PURSUANT TO SECTION 16-8.5-112," and
14 substitute "SERVICES,".
- 15 Page 5, line 2, strike "OR WHO" and substitute "INCLUDING A PERSON
16 WHO".
- 17 Page 5, line 15, strike "offense;" and substitute "offense AND MEETS THE
18 CRITERIA IN SUBSECTION (7.5)(a)(I), (7.5)(a)(II), OR (7.5)(a)(IV) OF THIS
19 SECTION;".
- 20 Page 5, strike line 21 and substitute "offense AND MEETS THE CRITERIA IN
21 SUBSECTION (7.5)(a)(I), (7.5)(a)(II), OR (7.5)(a)(IV) OF THIS SECTION.".
- 22 Page 6, line 4, strike "(3)(a), (3)(b), (4)(b), (4)(c)," and substitute "(3),
23 (4)(b),".
- 24 Page 6, line 5, strike "and (4)(g)" and substitute "(4)(g), and (8)".
- 25 Page 6, line 6, strike "**parole.**" and substitute "**parole -repeal.**".
- 26 Page 6, lines 13 and 14, strike "SPECIAL NEEDS OFFENDER MEETS THE
27 CRITERIA FOR SPECIAL NEEDS PAROLE;" and substitute "INMATE IS A
28 SPECIAL NEEDS OFFENDER;".
- 29 Page 6, strike lines 19 to 27 and substitute:



1 "(3) (a) The department is responsible for identifying inmates who
2 ~~meet the eligibility criteria for special needs parole~~ ARE SPECIAL NEEDS
3 OFFENDERS and shall submit a referral to the state board of parole for all
4 ~~eligible inmates~~ SPECIAL NEEDS OFFENDERS. IF NOTIFICATION TO THE
5 DISTRICT ATTORNEY IS REQUIRED PURSUANT TO SUBSECTION (3)(c)(II) OF
6 THIS SECTION, THE INMATE SHALL AUTHORIZE THE DEPARTMENT TO
7 RELEASE THE INFORMATION DESCRIBED IN SUBSECTIONS (3)(b)(I) AND
8 (3)(b)(I.5) OF THIS SECTION TO THE DISTRICT ATTORNEY. AN INMATE OR
9 INMATE LIAISON, IF THE INMATE IS UNABLE TO, MAY ALSO REQUEST THAT
10 THE DEPARTMENT MAKE A DETERMINATION OF WHETHER AN INMATE IS
11 ELIGIBLE FOR SPECIAL NEEDS PAROLE AND THE DEPARTMENT SHALL MAKE
12 A DETERMINATION WITHIN THIRTY DAYS AFTER RECEIVING THE REQUEST,
13 UNLESS A COMPETENCY EVALUATION HAS BEEN REQUESTED. THE
14 DEPARTMENT, IN CONSULTATION WITH THE STATE BOARD OF PAROLE,
15 SHALL DEVELOP ANY NECESSARY POLICIES AND PROCEDURES REGARDING
16 SPECIAL NEEDS PAROLE TO ENSURE THAT:".

17 Page 7, strike line 1.

18 Page 7, lines 6 and 7, strike "MEETS THE ELIGIBILITY REQUIREMENTS
19 DEFINED IN SECTION 17-1-102 (7.5)" and substitute "IS A SPECIAL NEEDS
20 OFFENDER".

21 Page 7, line 18, strike "DECISION;" and substitute "DECISION OR THE
22 CONDITIONS UNDER WHICH THE PAROLE BOARD WOULD CONSIDER A
23 SECOND OR SUBSEQUENT REFERRAL FOR SPECIAL NEEDS PAROLE, IF
24 APPLICABLE; AND".

25 Page 7, line 22, strike "BASIS; AND" and substitute "BASIS".

26 Page 7, strike lines 23 through 25.

27 Page 8, line 11, strike "RISK" and substitute "CRIMINAL HISTORY; RISK".

28 Page 8, line 15, strike "FACTORS;" and substitute "FACTORS AND ANY
29 ADDITIONAL RELEVANT INFORMATION THAT IS REQUESTED BY THE PAROLE
30 BOARD THAT IS IN THE POSSESSION OF THE DEPARTMENT;".

31 Page 8, line 26, strike "or" and substitute "or AND".

32 Page 9, after line 9 insert:



1 "(c) (I) IF THE DEPARTMENT DETERMINES THE INMATE IS A SPECIAL
2 NEEDS OFFENDER, the department shall provide notification to any victim,
3 as required under PURUSANT TO section 24-4.1-302.5. ~~C.R.S.~~ A victim
4 shall have thirty days after receiving notification to submit a victim
5 impact statement to the department. The department shall include any
6 victim impact statement in the referral to the state board of parole.

7 (II) At the same time that the department completes the
8 notification required by ~~subparagraph (I) of this paragraph (c)~~
9 SUBSECTION (3)(c)(I) OF THIS SECTION, the department shall notify AND
10 PROVIDE INFORMATION REQUIRED BY SUBSECTIONS (3)(b)(I) AND
11 (3)(b)(I.5) OF THIS SECTION TO the district attorney that prosecuted the
12 offender if the offender is serving a sentence for a conviction of a crime
13 of violence as described in section 18-1.3-406, ~~C.R.S.~~, or a sex offense
14 as listed in section 16-22-102 (9)(j), (9)(k), (9)(l), (9)(n), (9)(o), (9)(p),
15 (9)(q), (9)(r), or (9)(s). ~~C.R.S.~~ A district attorney shall have thirty days
16 after receiving notification to submit a response to the department. The
17 department shall include any district attorney response in the referral to
18 the state board of parole."

19 Page 9, strike lines 21 through 26.

20 Page 10, line 17, after "DECISION" insert "OR RENDER A CONDITIONAL
21 RELEASE DECISION".

22 Page 10, line 19, after the period add "IF THE PAROLE BOARD DENIES
23 PAROLE, IT MAY INFORM THE DEPARTMENT THAT THE INMATE SHOULD NOT
24 BE REFERRED FOR A SECOND OR SUBSEQUENT APPLICATION FOR SPECIAL
25 NEEDS PAROLE UNLESS THE INMATE'S MEDICAL OR MENTAL HEALTH
26 STATUS FURTHER DETERIORATES."

27 Page 10, line 22, strike "INCLUDE IN ITS" and substitute "PROVIDE A".

28 Page 10, line 23, strike "POPULATION".

29 Page 11, line 9, after "DEFENDER" insert "SHALL BE APPOINTED BY THE
30 COURT TO REPRESENT THE INMATE AND".

31 Page 11, line 17, after the period add "THE PRESENCE OF THE INMATE IS
32 NOT REQUIRED UNLESS THERE IS GOOD CAUSE SHOWN."

33 Page 11, line 27, after "take" insert "PHYSICAL".



1 Page 12, line 5 of the bill, strike "section." and substitute "section AND
2 NOTIFY THE PUBLIC DEFENDER LIAISON DESCRIBED IN SECTION 21-1-104
3 (6).".

4 Page 12, lines 22 and 23, strike "AND COMPREHENSIVE".

5 Page 13, after line 2, insert:

6 "(8) (a) THE DEPARTMENT SHALL UPDATE THE HOUSE OF
7 REPRESENTATIVES JUDICIARY COMMITTEE AND THE SENATE JUDICIARY
8 COMMITTEE, OR THEIR SUCCESSOR COMMITTEES, AS A PART OF ITS
9 PRESENTATION AT A HEARING HELD PURSUANT TO SECTION 2-7-203 (2)(a)
10 OF THE "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND
11 TRANSPARENT (SMART) GOVERNMENT ACT" ON THE STATUS OF THE
12 IMPLEMENTATION OF THE CHANGES TO THIS SECTION AND THE RELATED
13 DEFINITIONS, SECTION 17-2-201 (20), AND SECTION 17-1-113.5 ADOPTED
14 BY SENATE BILL 21-146, AND ON ITS ANALYSIS OF THE NEED FOR AND
15 CURRENT AVAILABILITY OF SPECIALIZED CARE PLACEMENT, INCLUDING
16 BUT NOT LIMITED TO SKILLED NURSING, ASSISTED LIVING, OR OTHER
17 LONG-TERM CARE SERVICES FOR INDIVIDUALS RELEASED FROM PRISON
18 WITH HIGHER CARE NEEDS WHO ARE UNABLE TO MANAGE ACTIVITIES OF
19 DAILY LIVING WITHOUT ASSISTANCE.

20 (b) THIS SUBSECTION (8) IS REPEALED, EFFECTIVE JULY 1, 2022.".

21 Page 14, line 18, strike "INCLUDE IN ITS" and substitute "PROVIDE A".

22 Page 14, line 19, strike "POPULATION".

23 Page 14, lines 25 and 26, strike " (20), (21), and (22)" and substitute
24 "(20)".

25 Page 15, strike lines 10 through 27.

26 Page 16, strike lines 1 through 10.

27 Page 17, line 1, after "INMATES" insert "OR INMATE LIAISONS".

28 Page 17, line 2, after "HOLDS," insert "WARRANTS,".

29 Page 17, lines 3 through 5, strike "APPLICATIONS, COMMUTATION
30 APPLICATIONS, OR OTHER CRIMINAL-RELATED LEGAL MATTERS THAT
31 COULD IMPACT SUCCESSFUL REENTRY." and substitute "APPLICATIONS,



- 1 AND COMMUTATION APPLICATIONS."
- 2 Page 17, line 19, strike "AND COMPREHENSIVE".
- 3 Page 17, line 20, strike "THE" and substitute "IF AN INMATE WHO IS
4 SIXTY-FIVE YEARS OF AGE OR OLDER IS NOT ENROLLED IN A MEDICAL
5 INSURANCE BENEFIT PLAN PRIOR TO RELEASE AND WOULD BE UNABLE TO
6 PAY FOR COSTS ASSOCIATED WITH ENROLLMENT IN HEALTH INSURANCE OR
7 WOULD NOT OTHERWISE BE COVERED UNDER A SPOUSE'S INDIVIDUAL OR
8 EMPLOYER OFFERED INSURANCE PLAN, THE".
- 9 Page 17, line 22, strike "TWELVE" and substitute "SIX".
- 10 Page 17, line 24, strike "TWELVE" and substitute "SIX".
- 11 Page 19, strike lines 19 through 27.
- 12 Page 20, strike lines 1 and 2.
- 13 Renumber succeeding sections accordingly.
- 14 Page 21, line 27, strike "SCHEDULE" and substitute "CONDUCT".
- 15 Page 22, line 1, strike "WITHIN SIXTY" and substitute "OR THE BOARD MAY
16 REVIEW THE APPLICATION AND ISSUE A DECISION WITHOUT A HEARING,
17 PURSUANT TO SECTION 17-2-201 (4)(f), WITHIN NINETY" and strike "DAY"
18 and substitute "DATE".

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