

CHAPTER 272

CORRECTIONS

HOUSE BILL 18-1251

BY REPRESENTATIVE(S) Lee and Wist, Melton, Weissman, Young, Buckner, Coleman, Esgar, Exum, Gray, Hamner, Hansen, Herod, Hooton, Jackson, Kennedy, Lontine, McLachlan, Michaelson Jenet, Pettersen, Roberts, Rosenthal, Singer, Valdez, Winter, Duran;
also SENATOR(S) Kagan and Gardner, Aguilar, Court, Guzman, Hill, Jahn, Kerr, Lambert, Lundberg, Martinez Humenik, Merrifield, Moreno, Tate, Todd.

AN ACT**CONCERNING MEASURES TO IMPROVE THE EFFICIENCY OF THE COMMUNITY CORRECTIONS
TRANSITION PLACEMENTS, 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, 17-2-201, **add** (16) and (17) as follows:

17-2-201. State board of parole - duties - definitions. (16) THE BOARD SHALL SUBMIT TO THE DEPARTMENT OF CORRECTIONS STAFF INVOLVED WITH MAKING COMMUNITY CORRECTIONS TRANSITION PLACEMENT REFERRALS THE NAME AND REGISTER NUMBER OF EACH INMATE THE BOARD IS RECOMMENDING FOR COMMUNITY CORRECTIONS TRANSITION PLACEMENT. THE DEPARTMENT OF CORRECTIONS STAFF INVOLVED WITH MAKING COMMUNITY CORRECTIONS TRANSITION PLACEMENT REFERRALS SHALL INFORM THE BOARD WHEN THE REFERRAL HAS BEEN MADE OR THE REASON WHY IT WAS NOT SUBMITTED.

(17) IF AN OFFENDER COMPLETES A COMMUNITY CORRECTIONS PROGRAM, THE BOARD SHALL SCHEDULE A PAROLE RELEASE HEARING WITHIN SIXTY DAYS AFTER THE OFFENDER'S COMPLETION OF THE PROGRAM. IF THE DECISION IS TO DENY PAROLE, A MAJORITY OF THE FULL BOARD IS REQUIRED TO DENY PAROLE PURSUANT TO THIS SUBSECTION (17).

SECTION 2. In Colorado Revised Statutes, 17-27-103, **amend** (5) as follows:

17-27-103. Community corrections boards - establishment - duties. (5) (a) A

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

community corrections board has the authority to accept or reject any offender referred for placement in a community corrections program under the jurisdiction of such board. The community corrections board shall provide, in writing, acceptance criteria and screening procedures to each referring agency.

(b) TO DETERMINE WHETHER TO ACCEPT OR REJECT ANY OFFENDER, A COMMUNITY CORRECTIONS BOARD SHALL DEVELOP AND USE A STRUCTURED, RESEARCH-BASED DECISION-MAKING PROCESS THAT COMBINES PROFESSIONAL JUDGMENT AND ACTUARIAL RISK AND NEEDS ASSESSMENT TOOLS.

(c) IF A COMMUNITY CORRECTIONS BOARD OR PROGRAM DENIES AN OFFENDER A COMMUNITY CORRECTIONS TRANSITION PLACEMENT, THE BOARD OR PROGRAM SHALL SUBMIT ELECTRONICALLY TO THE DEPARTMENT OF CORRECTIONS THE REASON FOR THE DENIAL AND A SUGGESTED TIMELINE FOR A SUBSEQUENT REFERRAL WITHIN THE PERIOD SPECIFIED IN SECTION 18-1.3-301 (2)(e)(II). THE DEPARTMENT OF CORRECTIONS SHALL DEVELOP THE METHOD BY WHICH COMMUNITY CORRECTIONS BOARDS AND PROGRAMS CAN SUBMIT THIS INFORMATION ELECTRONICALLY AND SHALL ALSO PROVIDE THIS INFORMATION TO THE INMATE.

SECTION 3. In Colorado Revised Statutes, 18-1.3-301, **amend** (2) as follows:

18-1.3-301. Authority to place offenders in community corrections programs. (2) (a) (I) **Initial referral.** The executive director of the department of corrections may transfer any offender who is eligible pursuant to this subsection (2) to a community corrections program if such offender is accepted for placement by a community corrections board pursuant to section 17-27-103 ~~C.R.S.~~, and a community corrections program pursuant to section 17-27-104. ~~C.R.S.~~

(II) WHEN THE EXECUTIVE DIRECTOR MAKES A REFERRAL OR SUBSEQUENT REFERRAL REQUEST, THE REFERRAL PACKET MUST INCLUDE THE FOLLOWING RELATED TO THE OFFENDER:

(A) A CURRENT RISK AND NEEDS ASSESSMENT THAT WAS ADMINISTERED IN THE LAST TWELVE MONTHS;

(B) PROJECTED RELEASE DATES;

(C) PRIOR SUPERVISION OUTCOMES;

(D) INSTITUTIONAL PROGRAMMING RECOMMENDATIONS INCLUDING PARTICIPATION AND COMPLETION INFORMATION;

(E) A VERIFIED PAROLE PLAN OR COMMUNITY PLAN;

(F) A VICTIM STATEMENT, IF APPLICABLE;

(G) AN OFFENDER STATEMENT, IF SUBMITTED;

(H) THE PAROLE BOARD ACTION SHEET, IF APPLICABLE;

(I) A RECOMMENDATION OR THE REASON WHY PLACEMENT IS OR IS NOT

RECOMMENDED FROM THE CASE MANAGER FOR THE COMMUNITY PLACEMENT BASED ON AN INDIVIDUALIZED REVIEW THAT CONSIDERS RISK, INSTITUTIONAL CONDUCT, AND RESPONSIVITY FACTORS;

- (J) THE NUMBER OF PRIOR REFERRALS;
- (K) A MENTAL HEALTH ASSESSMENT, IF AVAILABLE;
- (L) A SUBSTANCE USE DISORDER ASSESSMENT, IF AVAILABLE;
- (M) A SEX OFFENDER ASSESSMENT, IF APPLICABLE; AND
- (N) THE SPECIFIC REFERRAL BEING REQUESTED.

(b) Unless the offender has an active felony warrant or detainer or has refused community placement, the executive director of the department of corrections shall refer an offender who has displayed acceptable institutional behavior for placement in a community corrections program according to the following timeline:

(I) ~~No more than twenty-eight months prior to the offender's parole eligibility date for any offender who successfully completes a regimented inmate discipline program pursuant to article 27.7 of title 17, C.R.S.;~~

(II) No more than sixteen months prior to the offender's parole eligibility date for any offender who is not serving a sentence for an offense referred to in section 18-1.3-406; and

(III) ~~No more than one hundred eighty days prior to the parole eligibility date for any other offender not described in subparagraph (I) or (II) of this paragraph (b)~~ SUBSECTION (2)(b)(II) OF THIS SECTION.

(c) Prior to placement of an offender in any community corrections program, the executive director of the department of corrections shall give the first right to refuse placement of such offender to the community corrections board and community corrections programs in the community where the offender intends to reside after release from custody of the department of corrections or parole by the state board of parole; EXCEPT THAT THE FIRST RIGHT TO REFUSE DOES NOT APPLY IF THE EXECUTIVE DIRECTOR SEEKS TO PLACE THE OFFENDER IN A SPECIALIZED COMMUNITY CORRECTIONS PROGRAM OR THE OFFENDER REQUESTS A SPECIFIC COMMUNITY CORRECTIONS PROGRAM PLACEMENT, SUBJECT TO ACCEPTANCE BY THE COMMUNITY CORRECTIONS BOARD PURSUANT TO SECTION 17-27-103 AND THE COMMUNITY CORRECTIONS PROGRAM PURSUANT TO SECTION 17-27-104.

(d) As to any offender held in a county jail pursuant to section 17-27-104 (6), ~~C.R.S.~~, the executive director of the department of corrections shall order transfer of such offender to a facility of the department of corrections as soon as possible.

(e) **Subsequent referrals.** (I) For an offender who is serving a sentence for a class 1 or 2 felony that constitutes a crime of violence under section 18-1.3-406, excluding escape, and whose parole hearing has been deferred for at least thirty-six months, the executive director of the department of corrections shall not refer the

offender for placement in community corrections earlier than six months prior to the date of the offender's second or any subsequent parole hearing.

(II) (A) WHEN AN OFFENDER IS DENIED PLACEMENT IN A COMMUNITY CORRECTIONS PROGRAM, THE EXECUTIVE DIRECTOR SHALL MAKE A SUBSEQUENT REFERRAL FOR THAT OFFENDER WHO IS ELIGIBLE PURSUANT TO SUBSECTION (2)(e)(II)(B) OF THIS SECTION NO SOONER THAN SIX MONTHS AFTER THE DENIAL AND NO LATER THAN TWELVE MONTHS AFTER THE DENIAL UNLESS THE OFFENDER IS SUBJECT TO SECTION 17-2-201 (4)(a).

(B) AN OFFENDER IS ELIGIBLE FOR A SUBSEQUENT REFERRAL IF HE OR SHE HAS HAD NO CLASS I CODE OF PENAL DISCIPLINE VIOLATIONS IN THE LAST TWELVE MONTHS, THE OFFENDER DOES NOT HAVE A CONSECUTIVE MISDEMEANOR SENTENCE TO SERVE, THE OFFENDER DOES NOT HAVE AN IMMIGRATION AND CUSTOMS ENFORCEMENT DETAINTER, THE OFFENDER DOES NOT HAVE PENDING FELONY CHARGES, OR THE OFFENDER DOES NOT HAVE AN EXTRADITABLE WARRANT.

(III) WHEN AN OFFENDER REFUSES PLACEMENT IN A COMMUNITY CORRECTIONS PROGRAM, THE EXECUTIVE DIRECTOR MAY MAKE A SUBSEQUENT REFERRAL FOR THE OFFENDER, IF ELIGIBLE PURSUANT TO SUBSECTION (2)(e)(II)(B) OF THIS SECTION, AFTER THE OFFENDER INFORMS THE EXECUTIVE DIRECTOR THAT THE CIRCUMSTANCE THAT FORMED THE BASIS FOR THE REFUSAL HAS CHANGED OR RESOLVED.

SECTION 4. In Colorado Revised Statutes, **add 24-33.5-521** as follows:

24-33.5-521. Community corrections - training - annual report. (1) (a) THE DIVISION SHALL PROVIDE ANNUAL TRAINING TO DEPARTMENT OF CORRECTIONS STAFF INVOLVED IN MAKING COMMUNITY CORRECTIONS TRANSITION PLACEMENT REFERRALS.

(b) THE DIVISION SHALL PROVIDE ONGOING ANNUAL TRAINING TO COMMUNITY CORRECTIONS BOARDS ON STRUCTURED DECISION-MAKING AND OTHER RELEVANT ISSUES.

(2) THE DIVISION SHALL CREATE AND PUBLISH AN ANNUAL REPORT BY FEBRUARY 1 OF EACH YEAR DESCRIBING KEY DATA TRENDS FOR COMMUNITY CORRECTIONS PROVIDERS AND BOARDS INCLUDING PROCESS MEASURES, OUTCOME MEASURES, REFERRAL TRENDS, ACCEPTANCE DATA, AND THE STATUS OF STRUCTURED DECISION-MAKING IMPLEMENTATION.

SECTION 5. Appropriation. For the 2018-19 state fiscal year, \$264,070 is appropriated to the department of public safety for use by the division of criminal justice. This appropriation is from the general fund and is based on an assumption that the division will require an additional 0.8 FTE. To implement this act, the division may use this appropriation for DCJ administrative services.

SECTION 6. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of

this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 29, 2018