

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0893.01 Michael Dohr

SENATE BILL 11-241

SENATE SPONSORSHIP

King S. and Carroll,

HOUSE SPONSORSHIP

Gardner B. and Kagan,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING CHANGES RELATED TO THE OPERATION OF THE PAROLE
102 BOARD.

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://www.leg.state.co.us/billsummaries.>)

The state board of parole (board) is composed of 7 members. The bill requires that 2 members have law enforcement experience and one member have offender supervision experience. The other 4 members must have experience in behavioral health, psychology, offender assessment, offender reentry, victim advocacy, criminal justice policy, or

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

research. Each member shall have, at a minimum, a bachelor's degree and 5 years experience in his or her field. The board member must complete at least 20 hours of continuing education each year. The chair of the board must develop a manual for the board members, release hearing officers, and administrative hearing officers. The board is permitted to hold parole release reviews without the presence of the inmate at a hearing if the inmate meets certain criteria.

The parole board contracts with administrative hearing officers and release hearing officers to assist with the work of the board. An administrative hearing officer must be an attorney with 5 years of relevant experience. An administrative hearing officer must complete yearly continuing education requirements and comply with all data and information collection requirements of the board. A release hearing officer must have a bachelor's degree and at least 3 years of relevant experience. A hearing release officer must complete yearly continuing education requirements and comply with all data and information collection requirements of the board.

Under current law, inmates who have significant medical needs are eligible for special needs parole. The bill expands the eligibility of inmates who are eligible for special needs parole and requires the department to identify who is eligible for such parole. The department shall make a recommendation as to whether to release the inmate and must develop special needs parole plan for the inmate.

The bill creates presumptions in favor of parole for nonviolent offenders with immigration detainees.

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

2 **SECTION 1.** 17-1-102 (7.5), Colorado Revised Statutes, is
3 amended to read:

4 **17-1-102. Definitions.** As used in this title, unless the context
5 otherwise requires:

6 (7.5) (a) "Special needs offender" means a person in the custody
7 of the department:

8 (I) Who is ~~physically handicapped, is developmentally disabled,~~
9 ~~or has a mental illness~~ SIXTY YEARS OF AGE OR OLDER AND HAS BEEN
10 DIAGNOSED BY A LICENSED HEALTH CARE PROVIDER AS SUFFERING FROM
11 A CHRONIC INFIRMITY, ILLNESS, CONDITION, DISEASE, OR MENTAL ILLNESS

1 AND THE DEPARTMENT OR THE STATE BOARD OF PAROLE DETERMINES
2 THAT THE PERSON IS INCAPACITATED TO THE EXTENT THAT HE OR SHE IS
3 NOT LIKELY TO POSE A RISK TO PUBLIC SAFETY; or

4 (II) ~~Who is sixty-five years of age or older and incapable of taking~~
5 ~~care of himself or herself; or~~ WHO, AS DETERMINED BY A LICENSED
6 HEALTH CARE PROVIDER, SUFFERS FROM A CHRONIC, PERMANENT,
7 TERMINAL, OR IRREVERSIBLE PHYSICAL OR MENTAL ILLNESS, CONDITION,
8 DISEASE, OR MENTAL ILLNESS THAT REQUIRES COSTLY CARE OR
9 TREATMENT AND WHO IS DETERMINED BY THE DEPARTMENT OR THE STATE
10 BOARD OF PAROLE TO BE INCAPACITATED TO THE EXTENT THAT HE OR SHE
11 IS NOT LIKELY TO POSE A RISK TO PUBLIC SAFETY.

12 (III) (A) ~~Who has a medical condition, other than a mental illness,~~
13 ~~that is serious enough to require costly care or treatment; and~~

14 (B) ~~Who is physically incapacitated due to age or the medical~~
15 ~~condition.~~

16 (b) Notwithstanding the provisions of paragraph (a) of this
17 subsection (7.5), "special needs offender" does not include a person who:

18 (I) ~~Has been~~ WAS convicted of a class 1 felony, ~~or~~ UNLESS THE
19 OFFENSE WAS COMMITTED BEFORE JULY 1, 1990, AND THE OFFENDER HAS
20 SERVED AT LEAST TWENTY YEARS IN PRISON.

21 (II) ~~Has ever been convicted of a crime of violence as defined in~~
22 ~~section 18-1.3-406, C.R.S.; or~~

23 (III) ~~Is or has ever been a sex offender as defined in section~~
24 ~~18-1.3-1003 (4), C.R.S.~~

25 **SECTION 2.** 17-2-201 (1) (a), Colorado Revised Statutes, is
26 amended, and the said 17-2-201 (1) is further amended BY THE
27 ADDITION OF A NEW PARAGRAPH, to read:

1 **17-2-201. State board of parole.** (1) (a) There is hereby created
2 a state board of parole, referred to in this part 2 as the "board", which
3 shall consist of seven members. The members of the board shall be
4 appointed by the governor and confirmed by the senate, and they shall
5 devote their full time to their duties as members of ~~such~~ THE board. The
6 members shall be appointed for three-year terms and may serve
7 consecutive terms. The governor may remove a board member for
8 incompetency, neglect of duty, malfeasance in office, continued failure
9 to use the risk assessment guidelines as required by section 17-22.5-404,
10 or failure to regularly attend meetings as determined by the governor.
11 Final conviction of a felony during the term of office of a board member
12 shall automatically result in the disqualification of the member from
13 further service on the board. The board shall be composed of ~~two~~
14 ~~representatives from law enforcement, one former parole or probation~~
15 ~~officer, and four citizen representatives~~ MULTIDISCIPLINARY AREAS OF
16 EXPERTISE. TWO MEMBERS SHALL HAVE EXPERIENCE IN LAW
17 ENFORCEMENT AND ONE MEMBER SHALL HAVE EXPERIENCE IN OFFENDER
18 SUPERVISION, INCLUDING PAROLE, PROBATION, OR COMMUNITY
19 CORRECTIONS. FOUR MEMBERS SHALL HAVE EXPERIENCE IN OTHER FIELDS
20 INCLUDING BUT NOT LIMITED TO BEHAVIORAL HEALTH OR PSYCHOLOGY,
21 VICTIM ADVOCACY, OFFENDER ASSESSMENT, OFFENDER REENTRY,
22 CRIMINAL JUSTICE POLICY, OR RESEARCH. ~~The members~~ EACH MEMBER
23 of the board shall have A MINIMUM OF A BACHELOR'S DEGREE FROM AN
24 ACCREDITED INSTITUTION, FIVE YEARS OF EXPERIENCE IN A RELEVANT
25 FIELD, AND knowledge of parole LAWS AND GUIDELINES, rehabilitation,
26 correctional administration, the functioning of the criminal justice system,
27 ~~and the~~ issues associated with victims of crime, THE DUTIES OF PAROLE

1 BOARD MEMBERS, AND ACTUARIAL RISK ASSESSMENT INSTRUMENTS AND
2 OTHER OFFENDER ASSESSMENT INSTRUMENTS USED BY THE BOARD AND
3 THE DEPARTMENT OF CORRECTIONS. ~~The three designated members of the~~
4 ~~board shall each have at least five years' education or experience, or a~~
5 ~~combination thereof, in their respective fields.~~ No A person who has
6 been convicted of a felony or of a misdemeanor involving moral turpitude
7 or who has any financial interests which conflict with the duties of a
8 member of the parole board shall NOT be eligible for appointment.

9 (e) EACH BOARD MEMBER SHALL COMPLETE A MINIMUM OF
10 TWENTY HOURS OF CONTINUING EDUCATION OR TRAINING EVERY YEAR IN
11 ORDER TO MAINTAIN PROFICIENCY AND TO REMAIN CURRENT ON CHANGES
12 IN PAROLE LAWS AND DEVELOPMENTS IN THE FIELD. EACH PAROLE BOARD
13 MEMBER SHALL SUBMIT TO THE CHAIRPERSON PROOF OF ATTENDANCE AND
14 DETAILS REGARDING ANY CONTINUING EDUCATION OR TRAINING
15 ATTENDED INCLUDING THE DATE, PLACE, TOPIC, THE LENGTH OF THE
16 TRAINING, THE TRAINER'S NAME, AND ANY AGENCY OR ORGANIZATIONAL
17 AFFILIATION. MEMBERS MAY ATTEND TRAININGS INDIVIDUALLY OR AS
18 PART OF A SPECIFIC TRAINING OFFERED TO THE PAROLE BOARD AS A
19 WHOLE.

20 **SECTION 3.** 17-2-201 (3) (c) and (3) (c.5), Colorado Revised
21 Statutes, are amended, and the said 17-2-201 (3) is further amended BY
22 THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to
23 read:

24 **17-2-201. State board of parole.** (3) The chairperson, in
25 addition to other provisions of law, has the following powers and duties:

26 (c) ~~(f) To contract with licensed attorneys to serve as~~
27 ~~administrative hearing officers to conduct parole revocation hearings~~

1 pursuant to rules adopted by the parole board; or

2 ~~(H) To appoint an administrative law judge pursuant to the~~
3 ~~provisions of section 24-30-1003, C.R.S., to conduct parole revocation~~
4 ~~hearings pursuant to the rules and regulations promulgated pursuant to~~
5 ~~this subsection (3). Any references to the board regarding parole~~
6 ~~revocation hearings or revocation of parole shall include an~~
7 ~~administrative law judge appointed pursuant to this paragraph (c). To~~
8 DEVELOP AND UPDATE A WRITTEN OPERATIONAL MANUAL FOR PAROLE
9 BOARD MEMBERS, RELEASE HEARING OFFICERS, AND ADMINISTRATIVE
10 HEARING OFFICERS UNDER CONTRACT WITH THE BOARD. THE
11 OPERATIONAL MANUAL SHALL INCLUDE, BUT NEED NOT BE LIMITED TO,
12 BOARD POLICIES AND RULES, A SUMMARY OF STATE LAWS GOVERNING THE
13 BOARD, AND ALL ADMINISTRATIVE RELEASE AND REVOCATION GUIDELINES
14 THAT THE PAROLE BOARD IS REQUIRED TO USE. THE CHAIRPERSON WILL
15 ENSURE THAT ALL NEW PAROLE BOARD MEMBERS RECEIVE TRAINING AND
16 ORIENTATION ON THE OPERATIONAL MANUAL.

17 ~~(c.5) To contract with qualified individuals to serve as release~~
18 ~~hearing officers:~~

19 ~~(I) To conduct parole application hearings for inmates convicted~~
20 ~~of nonviolent felonies that are class 4 felonies, class 5 felonies, or class~~
21 ~~6 felonies, pursuant to rules adopted by the parole board; and~~

22 ~~(H) To set parole conditions for inmates eligible for release to~~
23 ~~mandatory parole:~~

24 (e) TO ENSURE THAT PAROLE BOARD MEMBERS, RELEASE HEARING
25 OFFICERS, AND ADMINISTRATIVE HEARING OFFICERS UNDER CONTRACT
26 WITH THE BOARD FULFILL THE ANNUAL TRAINING REQUIREMENTS
27 DESCRIBED IN PARAGRAPH (e) OF SUBSECTION (1) OF THIS SECTION AND IN

1 SECTION 17-2-202.5. THE CHAIRPERSON SHALL NOTIFY THE GOVERNOR IF
2 ANY BOARD MEMBER, RELEASE HEARING OFFICER, OR ADMINISTRATIVE
3 HEARING OFFICER FAILS TO COMPLY WITH THE TRAINING REQUIREMENTS.

4 (f) TO ENSURE THAT PAROLE BOARD MEMBERS, RELEASE HEARING
5 OFFICERS, AND ADMINISTRATIVE HEARING OFFICERS UNDER CONTRACT
6 WITH THE BOARD ARE ACCURATELY COLLECTING DATA AND INFORMATION
7 ON HIS OR HER DECISION-MAKING AS REQUIRED BY SECTION 17-22.5-404
8 (6). THE CHAIRPERSON SHALL NOTIFY THE GOVERNOR IMMEDIATELY IF
9 ANY BOARD MEMBER, RELEASE HEARING OFFICER, OR ADMINISTRATIVE
10 HEARING OFFICER FAILS TO COMPLY WITH DATA COLLECTION
11 REQUIREMENT.

12 (g) TO CONDUCT AN ANNUAL COMPREHENSIVE REVIEW OF BOARD
13 FUNCTIONS TO IDENTIFY WORKLOAD INEFFICIENCIES AND TO DEVELOP
14 STRATEGIES OR RECOMMENDATIONS TO ADDRESS ANY WORKLOAD
15 INEFFICIENCIES.

16 (h) (I) TO CONTRACT WITH LICENSED ATTORNEYS TO SERVE AS
17 ADMINISTRATIVE HEARING OFFICERS TO CONDUCT PAROLE REVOCATION
18 HEARINGS PURSUANT TO RULES ADOPTED BY THE PAROLE BOARD; OR

19 (II) TO APPOINT AN ADMINISTRATIVE LAW JUDGE PURSUANT TO
20 THE PROVISIONS OF SECTION 24-30-1003, C.R.S., TO CONDUCT PAROLE
21 REVOCATION HEARINGS PURSUANT TO THE RULES AND REGULATIONS
22 PROMULGATED PURSUANT TO THIS SUBSECTION (3). ANY REFERENCES TO
23 THE BOARD REGARDING PAROLE REVOCATION HEARINGS OR REVOCATION
24 OF PAROLE SHALL INCLUDE AN ADMINISTRATIVE LAW JUDGE APPOINTED
25 PURSUANT TO THIS PARAGRAPH (h).

26 (h.1) TO CONTRACT WITH QUALIFIED INDIVIDUALS TO SERVE AS
27 RELEASE HEARING OFFICERS:

1 (I) TO CONDUCT PAROLE APPLICATION HEARINGS FOR INMATES
2 CONVICTED OF NONVIOLENT FELONIES WHO HAVE BEEN ASSESSED TO BE
3 LOW OR VERY LOW RISK BY THE COLORADO RISK ASSESSMENT SCALE
4 DEVELOPED PURSUANT TO SECTION 17-22.5-404 (2) (a), C.R.S., PURSUANT
5 TO RULES ADOPTED BY THE PAROLE BOARD; AND

6 (II) TO SET PAROLE CONDITIONS FOR INMATES ELIGIBLE FOR
7 RELEASE TO MANDATORY PAROLE.

8 **SECTION 4.** 17-2-201 (4), Colorado Revised Statutes, is
9 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

10 **17-2-201. State board of parole.** (4) The board has the
11 following powers and duties:

12 (f) (I) TO CONDUCT A PAROLE RELEASE REVIEW IN LIEU OF A
13 HEARING, WITHOUT THE PRESENCE OF THE INMATE, IF:

14 (A) THE APPLICATION FOR RELEASE IS FOR SPECIAL NEEDS PAROLE
15 PURSUANT TO SECTION 17-22.5-403.5, AND VICTIM NOTIFICATION IS NOT
16 REQUIRED PURSUANT TO SECTION 24-4.1-302.5, C.R.S.; OR

17 (B) A DETAINER FROM THE UNITED STATES IMMIGRATION AND
18 CUSTOMS ENFORCEMENT AGENCY HAS BEEN FILED WITH THE DEPARTMENT,
19 THE INMATE MEETS THE CRITERIA FOR THE PRESUMPTION OF PAROLE IN
20 SECTION 17-22-404.8, AND VICTIM NOTIFICATION IS NOT REQUIRED
21 PURSUANT TO SECTION 24-4.1-302.5, C.R.S.

22 (II) THE BOARD SHALL NOTIFY THE INMATE'S CASE MANAGER IF
23 THE BOARD DECIDES TO CONDUCT A PAROLE RELEASE REVIEW WITHOUT
24 THE PRESENCE OF THE INMATE, AND THE CASE MANAGER SHALL NOTIFY
25 THE INMATE OF THE BOARD'S DECISION. THE CASE MANAGER MAY
26 REQUEST THAT THE BOARD RECONSIDER AND CONDUCT A HEARING WITH
27 THE INMATE PRESENT.

1 **SECTION 5.** Part 2 of article 2 of title 17, Colorado Revised
2 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
3 read:

4 **17-2-202.5. Administrative hearing officers and release**
5 **hearing officers - qualifications - duties.** (1) (a) TO BE ELIGIBLE TO
6 SERVE AS AN ADMINISTRATIVE HEARING OFFICER OR ADMINISTRATIVE LAW
7 JUDGE UNDER CONTRACT WITH THE BOARD, AN ATTORNEY SHALL HAVE
8 FIVE YEARS EXPERIENCE IN THE PRACTICE OF LAW AND BE
9 KNOWLEDGEABLE OF PAROLE LAWS AND GUIDELINES, OFFENDER
10 REHABILITATION, CORRECTIONAL ADMINISTRATION, THE FUNCTIONING OF
11 THE CRIMINAL JUSTICE SYSTEM, ISSUES ASSOCIATED WITH VICTIMS OF
12 CRIME, THE DUTIES OF PAROLE BOARD MEMBERS, AND ACTUARIAL RISK
13 ASSESSMENT INSTRUMENTS AND OTHER OFFENDER ASSESSMENT
14 INSTRUMENTS USED BY THE BOARD AND THE DEPARTMENT OF
15 CORRECTIONS.

16 (b) AN ADMINISTRATIVE HEARING OFFICER OR ADMINISTRATIVE
17 LAW JUDGE UNDER CONTRACT WITH THE BOARD IS REQUIRED TO
18 COMPLETE TWELVE HOURS ANNUALLY OF CONTINUING EDUCATION OR
19 TRAINING CONSISTENT WITH SECTION 17-2-201 (1) (e).

20 (c) AN ADMINISTRATIVE HEARING OFFICER OR ADMINISTRATIVE
21 LAW JUDGE UNDER CONTRACT WITH THE BOARD SHALL COMPLY WITH THE
22 DATA AND INFORMATION COLLECTION ON DECISION-MAKING AS REQUIRED
23 BY SECTION 17-22.5-404 (6) AND SHALL TRANSMIT THIS INFORMATION AS
24 DIRECTED BY THE CHAIRPERSON OR BOARD POLICY.

25 (2) (a) A RELEASE HEARING OFFICER MUST HAVE A BACHELOR'S
26 DEGREE AND THREE YEARS OF RELEVANT EXPERIENCE AND BE
27 KNOWLEDGEABLE OF PAROLE LAWS AND GUIDELINES, OFFENDER

1 REHABILITATION, CORRECTIONAL ADMINISTRATION, THE FUNCTIONING OF
2 THE CRIMINAL JUSTICE SYSTEM, THE ISSUES ASSOCIATED WITH VICTIMS OF
3 CRIME, THE DUTIES OF PAROLE BOARD MEMBERS, AND ACTUARIAL RISK
4 ASSESSMENT INSTRUMENTS AND OTHER OFFENDER ASSESSMENT
5 INSTRUMENTS USED BY THE BOARD AND THE DEPARTMENT OF
6 CORRECTIONS.

7 (b) A RELEASE HEARING OFFICER UNDER CONTRACT WITH THE
8 BOARD IS REQUIRED TO COMPLETE TWELVE HOURS ANNUALLY OF
9 CONTINUING EDUCATION OR TRAINING CONSISTENT WITH SECTION
10 17-2-201 (1) (e).

11 (c) A RELEASE HEARING OFFICER SHALL COMPLY WITH THE DATA
12 AND INFORMATION COLLECTION ON DECISION-MAKING REQUIRED BY
13 SECTION 17-22.5-404 (6) AND SHALL TRANSMIT THIS INFORMATION AS
14 DIRECTED BY THE CHAIRPERSON OR BOARD POLICY.

15 **SECTION 6.** 17-22.5-403.5, Colorado Revised Statutes, is
16 amended to read:

17 **17-22.5-403.5. Special needs parole.** (1) Notwithstanding any
18 provision of law to the contrary, a special needs offender, as ~~determined~~
19 ~~pursuant to rules adopted by the state board of parole~~ DEFINED IN SECTION
20 17-2-102 (7.5) (a), may be eligible for parole prior to OR AFTER the
21 offender's parole eligibility date pursuant to this section if:

22 (a) The state board of parole determines, based on the special
23 needs offender's condition and a medical evaluation, that he or she does
24 not constitute a threat to public safety and is not likely to commit an
25 offense; and

26 (b) The STATE board ~~prepares~~ OF PAROLE APPROVES a special
27 needs parole plan that ensures appropriate supervision ~~and placement~~ of

1 AND CONTINUITY OF MEDICAL CARE FOR the special needs offender.

2 (2) This section shall apply to any inmate applying for parole on
3 or after July 1, 2001, regardless of when the inmate was sentenced. The
4 provisions of this section shall not affect the length of the parole period
5 to which a special needs offender would otherwise be subject.

6 (3) (a) THE DEPARTMENT IS RESPONSIBLE FOR IDENTIFYING
7 INMATES WHO MEET THE ELIGIBILITY CRITERIA FOR SPECIAL NEEDS PAROLE
8 AND SHALL SUBMIT A REFERRAL TO THE STATE BOARD OF PAROLE FOR ALL
9 ELIGIBLE INMATES.

10 (b) THE REFERRAL SHALL INCLUDE:

11 (I) A SUMMARY OF THE INMATE'S MEDICAL OR PHYSICAL
12 CONDITION AND THE RISK OF REOFFENSE THAT THE INMATE POSES TO
13 SOCIETY. IN RENDERING AN OPINION REGARDING THE INMATE'S LEVEL OF
14 RISK OF REOFFENSE, THE DEPARTMENT MAY CONSIDER SUCH FACTORS AS
15 THE INMATE'S MEDICAL OR PHYSICAL CONDITION, THE SEVERITY OF ANY
16 DISABILITY OR INCAPACITATION, RISK ASSESSMENT SCORES, THE NATURE
17 AND SEVERITY OF THE OFFENSE FOR WHICH THE INMATE IS CURRENTLY
18 INCARCERATED, THE INMATE'S CRIMINAL HISTORY, INSTITUTIONAL
19 CONDUCT, AND OTHER RELEVANT FACTORS.

20 (II) THE DETAILS OF A SPECIAL NEEDS PAROLE PLAN
21 RECOMMENDED BY THE DEPARTMENT;

22 (III) ~~(3) The department may recommend~~ A RECOMMENDATION to
23 the parole board that an offender be ~~considered for parole prior to the~~
24 ~~offender's parole eligibility date~~ RELEASED OR NOT BE RELEASED as a
25 special needs offender pursuant to the provisions of subsection (1) of this
26 section. Prior to making any recommendation pursuant to this ~~subsection~~
27 ~~(3)~~ SUBPARAGRAPH (III), the department shall establish objective criteria

1 on which to base a recommendation for parole ~~prior to the offender's~~
2 ~~parole eligibility date~~ pursuant to the provisions of this section; AND

3 (IV) A VICTIM IMPACT STATEMENT, IF RECEIVED PURSUANT TO
4 PARAGRAPH (c) OF THIS SUBSECTION (3).

5 (c) The department shall provide notification to any victim, as
6 required under section 24-4.1-302.5, C.R.S. A victim shall have thirty
7 days after receiving notification to submit a victim impact statement to
8 the department. The department shall include any victim impact
9 statement in the referral to the state board of parole.

10 (4) (a) THE STATE BOARD OF PAROLE SHALL CONSIDER AN INMATE
11 FOR SPECIAL NEEDS PAROLE UPON REFERRAL BY THE DEPARTMENT.

12 (b) THE STATE BOARD OF PAROLE SHALL MAKE A DETERMINATION
13 OF THE RISK OF REOFFENSE THAT THE INMATE POSES AFTER CONSIDERING
14 SUCH FACTORS AS THE INMATE'S MEDICAL OR PHYSICAL CONDITION, THE
15 SEVERITY OF ANY DISABILITY OR INCAPACITATION, THE INMATE'S RISK
16 ASSESSMENT SCORES, THE NATURE AND SEVERITY OF THE OFFENSE FOR
17 WHICH THE INMATE IS CURRENTLY INCARCERATED, THE INMATE'S
18 CRIMINAL HISTORY, THE INMATE'S INSTITUTIONAL CONDUCT, AND OTHER
19 RELEVANT FACTORS.

20 (c) THE STATE BOARD OF PAROLE MAY SCHEDULE A HEARING ON
21 THE APPLICATION FOR SPECIAL NEEDS PAROLE WITH THE INMATE PRESENT
22 OR THE BOARD MAY REVIEW THE APPLICATION AND ISSUE A DECISION
23 WITHOUT A HEARING, PURSUANT TO SECTION 17-2-201 (4) (f).

24 (d) THE STATE BOARD OF PAROLE SHALL MAKE A DETERMINATION
25 OF WHETHER TO GRANT SPECIAL NEEDS PAROLE WITHIN THIRTY DAYS
26 AFTER RECEIVING THE REFERRAL FROM THE DEPARTMENT. THE BOARD
27 MAY DELAY THE DECISION IN ORDER TO REQUEST THAT THE DEPARTMENT

1 MODIFY THE SPECIAL NEEDS PAROLE PLAN.

2 (e) A DENIAL OF SPECIAL NEEDS PAROLE BY THE STATE BOARD OF
3 PAROLE SHALL NOT AFFECT AN INMATE'S ELIGIBILITY FOR ANY OTHER
4 FORM OF PAROLE OR RELEASE UNDER APPLICABLE LAW.

5 (5) THE BOARD MAY CONSIDER THE APPLICATION FOR SPECIAL
6 NEEDS PAROLE PURSUANT TO THE PROCEEDINGS SET FORTH IN SECTION
7 17-2-201 (4) (f) OR 17-2-201 (9) (a). IF THE DEPARTMENT RECOMMENDS
8 TO THE STATE BOARD OF PAROLE THAT AN OFFENDER BE RELEASED TO
9 PAROLE AS A SPECIAL NEEDS OFFENDER PURSUANT TO THE PROVISIONS OF
10 SUBSECTION (1) OF THIS SECTION, THE BOARD MAY DENY PAROLE ONLY BY
11 A MAJORITY VOTE OF THE BOARD.

12 (6) IF SPECIAL NEEDS PAROLE IS GRANTED TO AN INMATE, THE
13 DEPARTMENT SHALL NOT HAVE ANY RESPONSIBILITY FOR THE PAYMENT OF
14 MEDICAL CARE FOR THE INMATE UPON HIS OR HER RELEASE.

15 **SECTION 7.** 17-22.5-404 (6) (e), Colorado Revised Statutes, is
16 amended to read:

17 **17-22.5-404. Parole guidelines.** (6) (e) (I) On or before
18 November 1, 2009 2011, AND ON OR BEFORE NOVEMBER 1 EACH YEAR
19 THEREAFTER, the state board of parole and the division of criminal justice
20 in the department of public safety shall issue a report to the general
21 assembly regarding the progress in implementing this subsection (6), and
22 ~~November 1 each year thereafter, the state board of parole and the~~
23 ~~division of criminal justice in the department of public safety shall update~~
24 ~~the report~~ OUTCOMES OF DECISIONS BY THE STATE BOARD OF PAROLE. The
25 data shall be reported to the general assembly only in the aggregate.

26 (II) ~~This paragraph (e) is repealed, effective July 1, 2012.~~

27 **SECTION 8.** Article 22.5 of title 17, Colorado Revised Statutes,

1 is amended BY THE ADDITION OF A NEW SECTION to read:

2 **17-22.5-404.5. Presumption of parole - nonviolent offenders**
3 **with ICE detainers.** (1) THERE SHALL BE A PRESUMPTION IN FAVOR OF
4 GRANTING PAROLE TO AN INMATE WHO HAS REACHED HIS OR HER PAROLE
5 ELIGIBILITY DATE AND WHO:

6 (a) HAS BEEN ASSESSED BY THE COLORADO RISK ASSESSMENT
7 SCALE DEVELOPED PURSUANT TO SECTION 17-22.5-404 (2) (a), TO BE
8 MEDIUM RISK OR BELOW OF REOFFENSE;

9 (b) IS NOT SERVING A SENTENCE FOR A FELONY CRIME DESCRIBED
10 IN SECTION 18-3-303, 18-3-306, OR 18-6-701, C.R.S.; SECTIONS 18-7-402
11 TO 18-7-407, C.R.S.; OR SECTION 18-12-102 OR 18-12-109, C.R.S.; OR A
12 FELONY CRIME LISTED IN SECTION 24-4.1-302 (1), C.R.S.; AND

13 (c) HAS AN ACTIVE DETAINER LODGED BY THE UNITED STATES
14 IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY.

15 (2) (a) THE STATE BOARD OF PAROLE MAY RELEASE AN ELIGIBLE
16 INMATE, PURSUANT TO SUBSECTION (1) OF THIS SECTION, ONLY TO THE
17 CUSTODY OF THE UNITED STATES IMMIGRATION AND CUSTOMS
18 ENFORCEMENT AGENCY OR OTHER LAW ENFORCEMENT AGENCY WITH
19 AUTHORITY TO EXECUTE THE DETAINER ON BEHALF OF THE UNITED
20 STATES IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY.

21 (b) IF THE UNITED STATES IMMIGRATION AND CUSTOMS
22 ENFORCEMENT AGENCY WITHDRAWS THE DETAINER OR DECLINES TO TAKE
23 THE INMATE INTO CUSTODY, THE STATE BOARD OF PAROLE SHALL HOLD A
24 RECISSION HEARING TO RECONSIDER THE GRANTING OF PAROLE TO THE
25 INMATE.

26 (c) IF THE UNITED STATES IMMIGRATION AND CUSTOMS
27 ENFORCEMENT AGENCY ISSUES AN ORDER OF DEPORTATION FOR THE

1 INMATE, THE DEPARTMENT OF CORRECTIONS SHALL SUBMIT A REQUEST TO
2 THE STATE BOARD OF PAROLE TO DISCHARGE PAROLE.

3 (d) A DENIAL OF PAROLE BY THE STATE BOARD OF PAROLE
4 PURSUANT TO THIS SECTION SHALL NOT AFFECT AN INMATE'S ELIGIBILITY
5 FOR ANOTHER FORM OF PAROLE OR RELEASE APPLICABLE UNDER LAW.

6 (3) THE BOARD MAY CONSIDER THE APPLICATION FOR PAROLE
7 PURSUANT TO THE PROCEEDINGS SET FORTH IN SECTION 17-2-201 (4) (f) OR
8 17-2-201 (9) (a). FOR AN INMATE WHO MEETS THE CRITERIA LISTED IN
9 SUBSECTION (1) OF THIS SECTION, PAROLE MAY BE DENIED ONLY BY A
10 MAJORITY VOTE OF THE STATE BOARD OF PAROLE.

11 (4) FOR INMATES WHO WERE PAROLE ELIGIBLE BEFORE THE
12 EFFECTIVE DATE OF THIS SECTION, THE DEPARTMENT SHALL NOTIFY THE
13 STATE BOARD OF PAROLE OF ANY OF THOSE INMATES WHO MEET THE
14 CRITERIA LISTED IN SUBSECTION (1) OF THIS SECTION AND THE BOARD
15 SHALL EITHER SET A RELEASE HEARING OR CONDUCT A RELEASE REVIEW
16 WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.

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