

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

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
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING CHANGES RELATED TO THE OPERATION OF THE PAROLE**
102 **BOARD, AND MAKING AN APPROPRIATION IN CONNECTION**
103 **THEREWITH.**

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

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.*

SENATE
Amended 2nd Reading
April 29, 2011

assessment, offender reentry, victim advocacy, criminal justice policy, or 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 detainers.

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 WHO IS EMPLOYED BY

1 OR UNDER CONTRACT WITH THE DEPARTMENT AS SUFFERING FROM A
2 CHRONIC INFIRMITY, ILLNESS, CONDITION, DISEASE, OR MENTAL ILLNESS
3 AND THE DEPARTMENT OR THE STATE BOARD OF PAROLE DETERMINES
4 THAT THE PERSON IS INCAPACITATED TO THE EXTENT THAT HE OR SHE IS
5 NOT LIKELY TO POSE A RISK TO PUBLIC SAFETY; or

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

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

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

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

21 (I) ~~Has been~~ WAS convicted of a class 1 felony, ~~or~~ UNLESS THE
22 OFFENSE WAS COMMITTED BEFORE JULY 1, 1990, AND THE OFFENDER HAS
23 SERVED AT LEAST TWENTY YEARS IN A DEPARTMENT OF CORRECTIONS
24 FACILITY FOR THE OFFENSE; OR

25 (II) ~~Has ever been convicted of a crime of violence as defined in~~
26 ~~section 18-1.3-406, C.R.S.; or~~ WAS CONVICTED OF A CLASS 2 FELONY
27 CRIME OF VIOLENCE AS DESCRIBED IN SECTION 18-1.3-406, C.R.S., AND

1 THE OFFENDER HAS SERVED FEWER THAN TEN YEARS IN A DEPARTMENT OF
2 CORRECTIONS FACILITY FOR THE OFFENSE.

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

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

8 **17-2-201. State board of parole.** (1)(a) There is hereby created
9 a state board of parole, referred to in this part 2 as the "board", which
10 shall consist of seven members. The members of the board shall be
11 appointed by the governor and confirmed by the senate, and they shall
12 devote their full time to their duties as members of ~~such~~ THE board. The
13 members shall be appointed for three-year terms and may serve
14 consecutive terms. The governor may remove a board member for
15 incompetency, neglect of duty, malfeasance in office, continued failure
16 to use the risk assessment guidelines as required by section 17-22.5-404,
17 or failure to regularly attend meetings as determined by the governor.
18 Final conviction of a felony during the term of office of a board member
19 shall automatically result in the disqualification of the member from
20 further service on the board. The board shall be composed of ~~two~~
21 ~~representatives from law enforcement, one former parole or probation~~
22 ~~officer, and four citizen representatives~~ MULTIDISCIPLINARY AREAS OF
23 EXPERTISE. TWO MEMBERS SHALL HAVE EXPERIENCE IN LAW
24 ENFORCEMENT AND ONE MEMBER SHALL HAVE EXPERIENCE IN OFFENDER
25 SUPERVISION, INCLUDING PAROLE, PROBATION, OR COMMUNITY
26 CORRECTIONS. FOUR MEMBERS SHALL HAVE EXPERIENCE IN OTHER
27 RELEVANT FIELDS. ~~The members~~ EACH MEMBER of the board shall

1 have A MINIMUM OF FIVE YEARS OF EXPERIENCE IN A RELEVANT
2 FIELD, AND knowledge of parole LAWS AND GUIDELINES, rehabilitation,
3 correctional administration, the functioning of the criminal justice system,
4 ~~and the~~ issues associated with victims of crime, THE DUTIES OF PAROLE
5 BOARD MEMBERS, AND ACTUARIAL RISK ASSESSMENT INSTRUMENTS AND
6 OTHER OFFENDER ASSESSMENT INSTRUMENTS USED BY THE BOARD AND
7 THE DEPARTMENT OF CORRECTIONS. ~~The three designated members of the~~
8 ~~board shall each have at least five years' education or experience, or a~~
9 ~~combination thereof, in their respective fields. No~~ A person who has
10 been convicted of a felony or of a misdemeanor involving moral turpitude
11 or who has any financial interests which conflict with the duties of a
12 member of the parole board shall NOT be eligible for appointment.

13 (e) EACH BOARD MEMBER SHALL COMPLETE A MINIMUM OF
14 TWENTY HOURS OF CONTINUING EDUCATION OR TRAINING EVERY YEAR IN
15 ORDER TO MAINTAIN PROFICIENCY AND TO REMAIN CURRENT ON CHANGES
16 IN PAROLE LAWS AND DEVELOPMENTS IN THE FIELD. EACH PAROLE BOARD
17 MEMBER SHALL SUBMIT TO THE CHAIRPERSON PROOF OF ATTENDANCE AND
18 DETAILS REGARDING ANY CONTINUING EDUCATION OR TRAINING
19 ATTENDED INCLUDING THE DATE, PLACE, TOPIC, THE LENGTH OF THE
20 TRAINING, THE TRAINER'S NAME, AND ANY AGENCY OR ORGANIZATIONAL
21 AFFILIATION. MEMBERS MAY ATTEND TRAININGS INDIVIDUALLY OR AS
22 PART OF A SPECIFIC TRAINING OFFERED TO THE PAROLE BOARD AS A
23 WHOLE. THE SOLE REMEDY FOR FAILURE TO COMPLY WITH TRAINING AND
24 DATA COLLECTION REQUIREMENTS SHALL BE REMOVAL OF THE BOARD
25 MEMBER BY THE GOVERNOR, AND THE FAILURE TO COMPLY WITH TRAINING
26 AND DATA COLLECTION REQUIREMENTS SHALL NOT CREATE ANY RIGHT
27 FOR ANY OFFENDER.

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

5 **17-2-201. State board of parole.** (3) The chairperson, in
6 addition to other provisions of law, has the following powers and duties:

7 (c) ~~(F) To contract with licensed attorneys to serve as~~
8 ~~administrative hearing officers to conduct parole revocation hearings~~
9 ~~pursuant to rules adopted by the parole board; or~~

10 ~~(H) To appoint an administrative law judge pursuant to the~~
11 ~~provisions of section 24-30-1003, C.R.S., to conduct parole revocation~~
12 ~~hearings pursuant to the rules and regulations promulgated pursuant to~~
13 ~~this subsection (3). Any references to the board regarding parole~~
14 ~~revocation hearings or revocation of parole shall include an~~
15 ~~administrative law judge appointed pursuant to this paragraph (c). To~~
16 DEVELOP AND UPDATE A WRITTEN OPERATIONAL MANUAL FOR PAROLE
17 BOARD MEMBERS, RELEASE HEARING OFFICERS, AND ADMINISTRATIVE
18 HEARING OFFICERS UNDER CONTRACT WITH THE BOARD BY DECEMBER 31,
19 2012. THE OPERATIONAL MANUAL SHALL INCLUDE, BUT NEED NOT BE
20 LIMITED TO, BOARD POLICIES AND RULES, A SUMMARY OF STATE LAWS
21 GOVERNING THE BOARD, AND ALL ADMINISTRATIVE RELEASE AND
22 REVOCATION GUIDELINES THAT THE PAROLE BOARD IS REQUIRED TO USE.
23 THE CHAIRPERSON WILL ENSURE THAT ALL NEW PAROLE BOARD MEMBERS
24 RECEIVE TRAINING AND ORIENTATION ON THE OPERATIONAL MANUAL.

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

27 ~~(I) To conduct parole application hearings for inmates convicted~~

1 of nonviolent felonies that are class 4 felonies, class 5 felonies, or class
2 6 felonies, pursuant to rules adopted by the parole board; and

3 (H) To set parole conditions for inmates eligible for release to
4 mandatory parole.

5 (e) TO ENSURE THAT PAROLE BOARD MEMBERS, RELEASE HEARING
6 OFFICERS, AND ADMINISTRATIVE HEARING OFFICERS UNDER CONTRACT
7 WITH THE BOARD FULFILL THE ANNUAL TRAINING REQUIREMENTS
8 DESCRIBED IN PARAGRAPH (e) OF SUBSECTION (1) OF THIS SECTION AND IN
9 SECTION 17-2-202.5. THE CHAIRPERSON SHALL NOTIFY THE GOVERNOR IF
10 ANY BOARD MEMBER, RELEASE HEARING OFFICER, OR ADMINISTRATIVE
11 HEARING OFFICER FAILS TO COMPLY WITH THE TRAINING REQUIREMENTS.

12 (f) TO ENSURE THAT PAROLE BOARD MEMBERS, RELEASE HEARING
13 OFFICERS, AND ADMINISTRATIVE HEARING OFFICERS UNDER CONTRACT
14 WITH THE BOARD ARE ACCURATELY COLLECTING DATA AND INFORMATION
15 ON HIS OR HER DECISION-MAKING AS REQUIRED BY SECTION 17-22.5-404
16 (6). THE CHAIRPERSON SHALL NOTIFY THE GOVERNOR IMMEDIATELY IF
17 ANY BOARD MEMBER, RELEASE HEARING OFFICER, OR ADMINISTRATIVE
18 HEARING OFFICER FAILS TO COMPLY WITH DATA COLLECTION
19 REQUIREMENT.

20 (g) TO CONDUCT AN ANNUAL COMPREHENSIVE REVIEW OF BOARD
21 FUNCTIONS TO IDENTIFY WORKLOAD INEFFICIENCIES AND TO DEVELOP
22 STRATEGIES OR RECOMMENDATIONS TO ADDRESS ANY WORKLOAD
23 INEFFICIENCIES.

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

27 (II) TO APPOINT AN ADMINISTRATIVE LAW JUDGE PURSUANT TO

1 THE PROVISIONS OF SECTION 24-30-1003, C.R.S., TO CONDUCT PAROLE
2 REVOCATION HEARINGS PURSUANT TO THE RULES AND REGULATIONS
3 PROMULGATED PURSUANT TO THIS SUBSECTION (3). ANY REFERENCES TO
4 THE BOARD REGARDING PAROLE REVOCATION HEARINGS OR REVOCATION
5 OF PAROLE SHALL INCLUDE AN ADMINISTRATIVE LAW JUDGE APPOINTED
6 PURSUANT TO THIS PARAGRAPH (h).

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

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

14 (II) TO SET PAROLE CONDITIONS FOR INMATES ELIGIBLE FOR
15 RELEASE TO MANDATORY PAROLE.

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

18 **17-2-201. State board of parole.** (4) The board has the
19 following powers and duties:

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

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

25 (B) A DETAINER FROM THE UNITED STATES IMMIGRATION AND
26 CUSTOMS ENFORCEMENT AGENCY HAS BEEN FILED WITH THE DEPARTMENT,
27 THE INMATE MEETS THE CRITERIA FOR THE PRESUMPTION OF PAROLE IN

1 SECTION 17-22-404.8, AND VICTIM NOTIFICATION IS NOT REQUIRED
2 PURSUANT TO SECTION 24-4.1-302.5, C.R.S.

3 (II) THE BOARD SHALL NOTIFY THE INMATE'S CASE MANAGER IF
4 THE BOARD DECIDES TO CONDUCT A PAROLE RELEASE REVIEW WITHOUT
5 THE PRESENCE OF THE INMATE, AND THE CASE MANAGER SHALL NOTIFY
6 THE INMATE OF THE BOARD'S DECISION. THE CASE MANAGER MAY
7 REQUEST THAT THE BOARD RECONSIDER AND CONDUCT A HEARING WITH
8 THE INMATE PRESENT.

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

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

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

1 (c) AN ADMINISTRATIVE HEARING OFFICER OR ADMINISTRATIVE
2 LAW JUDGE UNDER CONTRACT WITH THE BOARD SHALL COMPLY WITH THE
3 DATA AND INFORMATION COLLECTION ON DECISION-MAKING AS REQUIRED
4 BY SECTION 17-22.5-404 (6) AND SHALL TRANSMIT THIS INFORMATION AS
5 DIRECTED BY THE CHAIRPERSON OR BOARD POLICY.

6 (d) THE SOLE REMEDY FOR FAILURE TO COMPLY WITH TRAINING
7 AND DATA COLLECTION REQUIREMENTS SHALL BE TERMINATION OF THE
8 EMPLOYEE, AND THE FAILURE TO COMPLY WITH TRAINING AND DATA
9 COLLECTION REQUIREMENTS SHALL NOT CREATE ANY RIGHT FOR ANY
10 OFFENDER.

11 (2) (a) A RELEASE HEARING OFFICER SHALL HAVE THREE YEARS
12 OF RELEVANT EXPERIENCE AND BE KNOWLEDGEABLE OF PAROLE LAWS
13 AND GUIDELINES, OFFENDER REHABILITATION, CORRECTIONAL
14 ADMINISTRATION, THE FUNCTIONING OF THE CRIMINAL JUSTICE SYSTEM,
15 THE ISSUES ASSOCIATED WITH VICTIMS OF CRIME, THE DUTIES OF PAROLE
16 BOARD MEMBERS, AND ACTUARIAL RISK ASSESSMENT INSTRUMENTS AND
17 OTHER OFFENDER ASSESSMENT INSTRUMENTS USED BY THE BOARD AND
18 THE DEPARTMENT OF CORRECTIONS.

19 (b) A RELEASE HEARING OFFICER UNDER CONTRACT WITH THE
20 BOARD IS REQUIRED TO COMPLETE TWELVE HOURS ANNUALLY OF
21 CONTINUING EDUCATION OR TRAINING CONSISTENT WITH SECTION
22 17-2-201 (1) (e).

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

27 (d) THE SOLE REMEDY FOR FAILURE TO COMPLY WITH TRAINING

1 AND DATA COLLECTION REQUIREMENTS SHALL BE TERMINATION OF THE
2 EMPLOYEE, AND THE FAILURE TO COMPLY WITH TRAINING AND DATA
3 COLLECTION REQUIREMENTS SHALL NOT CREATE ANY RIGHT FOR ANY
4 OFFENDER.

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

7 **17-22.5-403.5. Special needs parole.** (1) Notwithstanding any
8 provision of law to the contrary, a special needs offender, as ~~determined~~
9 ~~pursuant to rules adopted by the state board of parole~~ DEFINED IN SECTION
10 17-2-102 (7.5) (a), may be eligible for parole prior to OR AFTER the
11 offender's parole eligibility date pursuant to this section if:

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

16 (b) The STATE board ~~prepares~~ OF PAROLE APPROVES a special
17 needs parole plan that ensures appropriate supervision ~~and placement~~ of
18 AND CONTINUITY OF MEDICAL CARE FOR the special needs offender.

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

23 (3) (a) THE DEPARTMENT IS RESPONSIBLE FOR IDENTIFYING
24 INMATES WHO MEET THE ELIGIBILITY CRITERIA FOR SPECIAL NEEDS PAROLE
25 AND SHALL SUBMIT A REFERRAL TO THE STATE BOARD OF PAROLE FOR ALL
26 ELIGIBLE INMATES.

27 (b) THE REFERRAL SHALL INCLUDE:

1 (I) A SUMMARY OF THE INMATE'S MEDICAL OR PHYSICAL
2 CONDITION AND THE RISK OF REOFFENSE THAT THE INMATE POSES TO
3 SOCIETY. IN RENDERING AN OPINION REGARDING THE INMATE'S LEVEL OF
4 RISK OF REOFFENSE, THE DEPARTMENT MAY CONSIDER SUCH FACTORS AS
5 THE INMATE'S MEDICAL OR PHYSICAL CONDITION, THE SEVERITY OF ANY
6 DISABILITY OR INCAPACITATION, RISK ASSESSMENT SCORES, THE NATURE
7 AND SEVERITY OF THE OFFENSE FOR WHICH THE INMATE IS CURRENTLY
8 INCARCERATED, THE INMATE'S CRIMINAL HISTORY, INSTITUTIONAL
9 CONDUCT, AND OTHER RELEVANT FACTORS.

10 (II) THE DETAILS OF A SPECIAL NEEDS PAROLE PLAN
11 RECOMMENDED BY THE DEPARTMENT;

12 (III) ~~(3) The department may recommend~~ A RECOMMENDATION to
13 the parole board that an offender be ~~considered for parole prior to the~~
14 ~~offender's parole eligibility date~~ RELEASED OR NOT BE RELEASED as a
15 special needs offender pursuant to the provisions of subsection (1) of this
16 section. Prior to making any recommendation pursuant to this ~~subsection~~
17 ~~(3)~~ SUBPARAGRAPH (III), the department shall establish objective criteria
18 on which to base a recommendation for parole ~~prior to the offender's~~
19 ~~parole eligibility date~~ pursuant to the provisions of this section; AND

20 (IV) A VICTIM IMPACT STATEMENT OR RESPONSE FROM THE
21 DISTRICT ATTORNEY THAT PROSECUTED THE OFFENDER, IF RECEIVED
22 PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (3).

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

1 (II) AT THE SAME TIME THAT THE DEPARTMENT COMPLETES THE
2 NOTIFICATION REQUIRED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH (c),
3 THE DEPARTMENT SHALL NOTIFY THE DISTRICT ATTORNEY THAT
4 PROSECUTED THE OFFENDER IF THE OFFENDER IS SERVING A SENTENCE FOR
5 A CONVICTION OF A CRIME OF VIOLENCE AS DESCRIBED IN SECTION
6 18-1.3-406, C.R.S., OR A SEX OFFENSE AS LISTED IN SECTION 18-1.3-1004
7 (4), C.R.S. A DISTRICT ATTORNEY SHALL HAVE THIRTY DAYS AFTER
8 RECEIVING NOTIFICATION TO SUBMIT A RESPONSE TO THE DEPARTMENT.
9 THE DEPARTMENT SHALL INCLUDE ANY DISTRICT ATTORNEY RESPONSE IN
10 THE REFERRAL TO THE STATE BOARD OF PAROLE.

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

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

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

25 (d) THE STATE BOARD OF PAROLE SHALL MAKE A DETERMINATION
26 OF WHETHER TO GRANT SPECIAL NEEDS PAROLE WITHIN THIRTY DAYS
27 AFTER RECEIVING THE REFERRAL FROM THE DEPARTMENT. THE BOARD

1 MAY DELAY THE DECISION IN ORDER TO REQUEST THAT THE DEPARTMENT
2 MODIFY THE SPECIAL NEEDS PAROLE PLAN.

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

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

13 (6) THE DEPARTMENT SHALL NOT HAVE ANY RESPONSIBILITY FOR
14 THE PAYMENT OF MEDICAL CARE FOR ANY OFFENDER UPON HIS OR HER
15 RELEASE.

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

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

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

1 **SECTION 8.** Article 22.5 of title 17, Colorado Revised Statutes,
2 is amended BY THE ADDITION OF A NEW SECTION to read:

3 **17-22.5-404.5. Presumption of parole - nonviolent offenders**
4 **with ICE detainees.** (1) THERE SHALL BE A PRESUMPTION, SUBJECT TO
5 THE FINAL DISCRETION OF THE PAROLE BOARD, IN FAVOR OF GRANTING
6 PAROLE TO AN INMATE WHO HAS REACHED HIS OR HER PAROLE ELIGIBILITY
7 DATE AND WHO:

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

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

14 SECTION 18-17-104, C.R.S., OR SECTION 18-18-407, C.R.S.; OR A FELONY
15 CRIME LISTED IN SECTION 24-4.1-302 (1), C.R.S.; AND

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

18 (2) IN DETERMINING WHETHER TO GRANT PAROLE PURSUANT TO
19 PROVISIONS OF SUBSECTION (1) OF THIS SECTION, THE BOARD SHALL
20 CONSIDER THE COST OF INCARCERATION TO THE STATE OF COLORADO IN
21 RELATION TO THE NEEDS OF FURTHER CONFINEMENT OF THE INMATE TO
22 ACHIEVE THE PURPOSE OF THE INMATE'S SENTENCE.

23 (3) (a) THE STATE BOARD OF PAROLE MAY RELEASE AN ELIGIBLE
24 INMATE, PURSUANT TO SUBSECTION (1) OF THIS SECTION, ONLY TO THE
25 CUSTODY OF THE UNITED STATES IMMIGRATION AND CUSTOMS
26 ENFORCEMENT AGENCY OR OTHER LAW ENFORCEMENT AGENCY WITH
27 AUTHORITY TO EXECUTE THE DETAINER ON BEHALF OF THE UNITED

1 STATES IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY.

2 (b) IF THE UNITED STATES IMMIGRATION AND CUSTOMS
3 ENFORCEMENT AGENCY WITHDRAWS THE DETAINER OR DECLINES TO TAKE
4 THE INMATE INTO CUSTODY, THE STATE BOARD OF PAROLE SHALL HOLD A
5 RECISSION HEARING TO RECONSIDER THE GRANTING OF PAROLE TO THE
6 INMATE.

7 (c) IF THE UNITED STATES IMMIGRATION AND CUSTOMS
8 ENFORCEMENT AGENCY ISSUES AN ORDER OF DEPORTATION FOR THE
9 INMATE, THE DEPARTMENT OF CORRECTIONS SHALL SUBMIT A REQUEST TO
10 THE STATE BOARD OF PAROLE TO DISCHARGE PAROLE.

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

14 (4) THE BOARD MAY CONSIDER THE APPLICATION FOR PAROLE
15 PURSUANT TO THE PROCEEDINGS SET FORTH IN SECTION 17-2-201 (4) (f) OR
16 17-2-201 (9) (a). ==

17 (5) FOR INMATES WHO WERE PAROLE ELIGIBLE BEFORE THE
18 EFFECTIVE DATE OF THIS SECTION, THE DEPARTMENT SHALL NOTIFY THE
19 STATE BOARD OF PAROLE OF ANY OF THOSE INMATES WHO MEET THE
20 CRITERIA LISTED IN SUBSECTION (1) OF THIS SECTION AND THE BOARD
21 SHALL EITHER SET A RELEASE HEARING OR CONDUCT A RELEASE REVIEW
22 WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.

23 **SECTION 9. Appropriation.** (1) In addition to any other
24 appropriation, there is hereby appropriated, out of any moneys in the
25 general fund not otherwise appropriated, to the department of corrections,
26 for allocation to the parole board, contract services, for training and
27 contract administrative and release hearing officers, for the fiscal year

1 beginning July 1, 2011, the sum of forty-three thousand eight hundred
2 dollars (\$43,800), or so much thereof as may be necessary, for the
3 implementation of this act.

4 (2) It is the intent of the general assembly that the general fund
5 appropriation in subsection (1) of this section shall be derived from
6 savings generated from the implementation of the provisions of House
7 Bill 11-1064, as enacted during the first regular session of the sixty-eighth
8 general assembly.

9 **SECTION 10. Effective date.** (1) This act shall only take effect
10 if:

11 (a) House Bill 11-1064 is enacted at the first regular session of the
12 sixty-eighth general assembly and becomes law; and

13 (b) The final fiscal estimate for House Bill 11-1064, as
14 determined from the appropriations enacted in said bill, shows a net
15 reduction in the amount of general fund revenues appropriated for the
16 state fiscal year 2011-12, that is equal to or greater than the amount of the
17 general fund appropriation made for the implementation of this act for the
18 state fiscal year 2011-12, as reflected in section 9 of this act; and

19 (c) The staff director of the joint budget committee files written
20 notice with the revisor of statutes no later than July 15, 2011, that the
21 requirement set forth in paragraph (b) of this subsection (1) has been met.

22 **SECTION 11. Safety clause.** The general assembly hereby finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, and safety.