

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

ENGROSSED

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

LLS NO. 15-0052.01 Richard Sweetman x4333

HOUSE BILL 15-1122

HOUSE SPONSORSHIP

Fields,

SENATE SPONSORSHIP

Cooke,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING LIMITING ELIGIBILITY FOR PAROLE, AND, IN**
102 **CONNECTION THEREWITH, AMENDING CERTAIN PROVISIONS**
103 **CONCERNING THE REVOCATION OF PAROLE FOR CERTAIN**
104 **INMATES.**

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>.)

An inmate is ineligible for parole if the inmate:

! Has been convicted of a class 1 code of penal discipline violation within the 12 months preceding his or her next

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.

HOUSE
Amended 2nd Reading
February 19, 2015

- ordinarily scheduled parole hearing;
- ! Has, within the 12 months preceding his or her next ordinarily scheduled parole hearing, declined in writing to participate in programs that have been recommended and made available to him or her; or
- ! Has a statutory discharge date or mandatory release date within 6 months following his or her ordinarily scheduled parole hearing.

If 2 schedules with different parole application hearing dates apply to the same inmate, the state board of parole (board) shall give effect to the schedule that includes the later parole application hearing date.

If the board revokes a parolee's parole upon the request of the parolee, the board may revoke such parole for a period of time up to, and including, the remainder of the parolee's sentence.

Under current law, the board must hold parole revocation hearings for parolees who are arrested for certain serious offenses unless a board member is advised that a criminal charge is still pending and no technical violations are alleged. The bill eliminates this condition concerning the allegation of technical violations.

The bill clarifies that:

- ! If an inmate applying for parole was convicted of any class 3 sexual offense, a habitual criminal offense, or any offense requiring the inmate's designation as a sex offender, the board need only reconsider granting parole to such inmate once every 3 years; and
- ! If an inmate applying for parole was convicted of a class 1 or class 2 felony that constitutes a crime of violence, the board need only reconsider granting parole to such inmate once every 5 years.

The bill makes conforming amendments.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds that:

4 (a) The release of an inmate on parole at the discretion of the state
5 board of parole is not a right but a privilege;

6 (b) Current law requires the state board of parole to schedule and
7 conduct parole application hearings for inmates who have recently
8 received disciplinary actions due to poor institutional behavior and for

1 inmates who have refused treatment and programs that have been offered
2 to them;

3 (c) Because the awarding of parole to such inmates is extremely
4 unlikely, such parole application hearings frequently:

5 (I) Create undue stress and anxiety for the victims of the inmates'
6 crimes; and

7 (II) Create undue expectations and hope on the part of the inmates
8 and their families.

9 (2) Now, therefore, the general assembly declares that it is in the
10 best interest of the general public to devise a scheme by which an
11 inmate's parole eligibility, and victim notification related to such
12 eligibility, are tied to the inmate's acceptable institutional conduct.

13 **SECTION 2.** In Colorado Revised Statutes, 17-2-201, **amend** (4)
14 (f) (I) and (9) (a) (I); and **add** (3.7) as follows:

15 **17-2-201. State board of parole - definitions.**

16 (3.7) (a) NOTWITHSTANDING ANY OTHER PROVISION IN THIS SECTION, AN
17 INMATE IS NOT ELIGIBLE FOR PAROLE IF THE INMATE:

18 (I) HAS BEEN CONVICTED OF A CLASS 1 CODE OF PENAL DISCIPLINE
19 VIOLATION WITHIN THE TWELVE MONTHS PRECEDING HIS OR HER NEXT
20 ORDINARILY SCHEDULED PAROLE HEARING; OR

21 (II) HAS, WITHIN THE TWELVE MONTHS PRECEDING HIS OR HER
22 NEXT ORDINARILY SCHEDULED PAROLE HEARING, DECLINED IN WRITING
23 TO PARTICIPATE IN PROGRAMS THAT HAVE BEEN RECOMMENDED AND
24 MADE AVAILABLE TO THE INMATE.

25 (b) AN INMATE WHO IS DESCRIBED BY SUBPARAGRAPH (I) OR (II)
26 OF PARAGRAPH (a) OF THIS SUBSECTION (3.7) MAY BE ELIGIBLE FOR
27 PAROLE WHEN THE APPLICABLE CONDITION HAS NOT BEEN IN EFFECT FOR

1 THE PRECEDING TWELVE MONTHS.

2 (c) IF TWO SCHEDULES WITH DIFFERENT PAROLE APPLICATION
3 HEARING DATES APPLY TO THE SAME INMATE, THE BOARD SHALL GIVE
4 EFFECT TO THE SCHEDULE THAT INCLUDES THE LATER PAROLE
5 APPLICATION HEARING DATE.

6 (d) THE BOARD SHALL PROVIDE VICTIM NOTIFICATION IN
7 ACCORDANCE WITH SECTION 24-4.1-302.5, C.R.S., FOR ALL PAROLE
8 APPLICATION HEARINGS FOR WHICH THE INMATE IS ELIGIBLE FOR PAROLE,
9 AS SUCH ELIGIBILITY IS DETERMINED PURSUANT TO THE PROVISIONS OF
10 THIS SECTION.

11 (e) AS USED IN THIS SUBSECTION (3.7), "ELIGIBLE FOR PAROLE"
12 MEANS AN INMATE IS ELIGIBLE TO MAKE APPLICATION TO THE BOARD FOR
13 PAROLE AND INCLUDES AN INMATE'S INITIAL APPLICATION AS WELL AS
14 ANY SUBSEQUENT APPLICATION FOR PAROLE REVIEW OR
15 RECONSIDERATION.

16 (4) The board has the following powers and duties:

17 (f) (I) To conduct a parole release review in lieu of a hearing,
18 without the presence of the inmate, if:

19 (A) The application for release is for special needs parole pursuant
20 to section 17-22.5-403.5, and victim notification is not required pursuant
21 to section 24-4.1-302.5, C.R.S.; or

22 (B) A detainer from the United States immigration and customs
23 enforcement agency has been filed with the department, the inmate meets
24 the criteria for the presumption of parole in section 17-22-404.8, and
25 victim notification is not required pursuant to section 24-4.1-302.5,
26 C.R.S.; OR

27 (C) THE INMATE HAS A STATUTORY DISCHARGE DATE OR

1 MANDATORY RELEASE DATE WITHIN SIX MONTHS AFTER HIS OR HER NEXT
2 ORDINARILY SCHEDULED PAROLE HEARING AND VICTIM NOTIFICATION IS
3 NOT REQUIRED PURSUANT TO SECTION 24-4.1-302.5, C.R.S.

4 (9) (a) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (I)
5 OF PARAGRAPH (f) OF SUBSECTION (4) OF THIS SECTION, whenever an
6 inmate initially applies for parole, the board shall conduct an interview
7 with the inmate. At such interview at least one member of the board shall
8 be present. Any final action on an application shall not be required to be
9 made in the presence of the inmate or parolee, and any such action shall
10 require the concurrence of at least two members of the board. When the
11 two members do not concur, a third member shall review the record and,
12 if deemed necessary, interview the applicant and cast the deciding vote.
13 Any subsequent application for parole shall be considered by the board
14 in accordance with the provisions of paragraph (a) of subsection (4) of
15 this section.

16 **SECTION 3.** In Colorado Revised Statutes, 17-2-103, **amend**
17 (11) (b) (II) introductory portion as follows:

18 **17-2-103. Arrest of parolee - revocation proceedings.**
19 (11) (b) (II) If the board determines that the parolee has violated any
20 condition of parole other than commission of a crime OR THE BOARD
21 GRANTS THE PAROLEE'S REQUEST TO REVOKE HIS OR HER PAROLE, and THE
22 PAROLEE is not subject to the provisions of subparagraph (I), (III), (III.5),
23 (IV), or (VI) of this paragraph (b), the board may:

24 **SECTION 4.** In Colorado Revised Statutes, 17-2-103.5, **amend**
25 (1) (c) as follows:

26 **17-2-103.5. Revocation proceedings - parolee arrested for**
27 **certain offenses.** (1) (c) A hearing relating to such revocation shall be

1 held, unless a board member is advised that a criminal charge is still
2 pending ~~and no technical violations are alleged~~, or where the parolee does
3 not request revocation, in which case the hearing shall be delayed until a
4 disposition concerning the criminal charge is reached.

5 **SECTION 5.** In Colorado Revised Statutes, 17-22.5-403, **amend**
6 (5), (6), (7), and (8) (b) as follows:

7 **17-22.5-403. Parole eligibility.** (5) For any offender who is
8 incarcerated for an offense committed prior to July 1, 1993, upon
9 application for parole, the state board of parole, working in conjunction
10 with the department and using the guidelines established pursuant to
11 section 17-22.5-404, shall determine whether or not to grant parole and,
12 if granted, the length of the period of parole. The state board of parole
13 may set the length of the period of parole for any time period up to the
14 date of final discharge as determined in accordance with section
15 17-22.5-402. If an application for parole is refused by the state board of
16 parole, the state board of parole shall reconsider within one year
17 thereafter whether such inmate should be granted parole. The state board
18 of parole shall continue such reconsideration each year thereafter until
19 such inmate is granted parole or until such inmate is discharged pursuant
20 to law; except that:

21 (a) If the inmate applying for parole was convicted of ~~a class 1 or~~
22 ~~class 2 crime of violence, as defined in section 18-1.3-406, C.R.S.,~~ any
23 class 3 sexual offense described in part 4 of article 3 of title 18, C.R.S.,
24 a habitual criminal offense as defined in section 18-1.3-801 (2.5), C.R.S.,
25 or of any offense subject to the requirements of section 18-1.3-904,
26 C.R.S., the board need only reconsider granting parole to such inmate
27 once every three years, until the board grants such inmate parole or until

1 such inmate is discharged pursuant to law; OR

2 (b) IF THE INMATE WAS CONVICTED OF A CLASS 1 OR CLASS 2
3 FELONY THAT CONSTITUTES A CRIME OF VIOLENCE, AS DEFINED IN SECTION
4 18-1.3-406, C.R.S., THE BOARD NEED ONLY RECONSIDER GRANTING
5 PAROLE TO SUCH INMATE ONCE EVERY FIVE YEARS, UNTIL THE BOARD
6 GRANTS SUCH INMATE PAROLE OR UNTIL SUCH INMATE IS DISCHARGED
7 PURSUANT TO LAW.

8 (6) For persons who are granted parole pursuant to subsection (5)
9 of this section, the division of adult parole shall provide parole
10 supervision and assistance in securing employment, housing, and such
11 other services as may effect the successful reintegration of such offender
12 into the community while recognizing the need for public safety. The
13 conditions for parole for any such offender under this subsection (6) shall
14 be established pursuant to section 17-22.5-404 by the state board of
15 parole prior to such offender's release from incarceration. Upon a
16 determination IN A PAROLE REVOCATION PROCEEDING that the conditions
17 of parole have been violated, ~~in a parole revocation proceeding~~ the state
18 board of parole shall continue the parole in effect, modify the conditions
19 of parole if circumstances then shown to exist require such modifications,
20 which circumstances shall be set forth in writing, or revoke the parole and
21 order the return of the offender to a place of confinement designated by
22 the executive director for any period of time up to the period remaining
23 on such person's sentence, INCLUDING THE REMAINDER OF THE
24 OFFENDER'S NATURAL LIFE IF APPLICABLE, until the discharge date as
25 determined by section 17-22.5-402 or one year, whichever is longer. In
26 computing the period of reincarceration for an offender other than an
27 offender sentenced for a nonviolent felony offense, as defined in section

1 17-22.5-405 (5), the time between the offender's release on parole and
2 return to custody in Colorado for revocation of such parole shall not be
3 considered to be part of the term of the sentence. The state board of
4 parole may discharge an offender granted parole under this section at any
5 time during the term of parole upon a determination that the offender has
6 been sufficiently rehabilitated and reintegrated into society and can no
7 longer benefit from parole supervision.

8 (7) (a) For any offender who is incarcerated for an offense
9 committed on or after July 1, 1993, upon application for parole, the state
10 board of parole, working in conjunction with the department and using
11 the guidelines established pursuant to section 17-22.5-404, shall
12 determine whether or not to grant parole. The state board of parole, if it
13 determines that placing an offender on parole is appropriate, shall set the
14 length of the period of parole at the mandatory period of parole
15 established in section 18-1.3-401 (1) (a) (V) or 18-1.3-401.5 (2) (a),
16 C.R.S., except as otherwise provided for specified offenses in section
17 17-2-201 (5) (a), (5) (a.5), and (5) (a.7). ~~If an application for parole is
18 refused by the state board of parole, the state board of parole shall
19 reconsider within one year thereafter whether such inmate should be
20 granted parole. The state board of parole shall continue such
21 reconsideration each year thereafter until such inmate is granted parole or
22 until such inmate is discharged pursuant to law; except that, if the inmate
23 applying for parole was convicted of any sex offense, as defined in
24 section 18-1.3-1003 (5), C.R.S., a habitual criminal offense as defined in
25 section 18-1.3-801 (2.5), C.R.S., or of any offense subject to the
26 requirements of section 18-1.3-904, C.R.S., the board need only
27 reconsider granting parole to such inmate once every three years, until the~~

1 ~~board grants such inmate parole or until such inmate is discharged~~
2 ~~pursuant to law, or if the person applying for parole was convicted of a~~
3 ~~class 2 felony that constitutes a crime of violence, as defined in section~~
4 ~~18-1.3-406, C.R.S., the board need only reconsider granting parole to~~
5 ~~such person once every five years, until the board grants such person~~
6 ~~parole or until such person is discharged pursuant to law.~~

7 (b) Notwithstanding the provisions of paragraph (a) of this
8 subsection (7), for any sex offender, as defined in section 18-1.3-1003
9 (4), C.R.S., who is sentenced pursuant to the provisions of part 10 of
10 article 1.3 of title 18, C.R.S., for commission of a sex offense committed
11 on or after November 1, 1998, the state board of parole shall determine
12 whether or not to grant parole as provided in section 18-1.3-1006, C.R.S.
13 If the state board of parole determines that placing a sex offender on
14 parole is appropriate, it shall set an indeterminate period of parole as
15 provided in section 18-1.3-1006, C.R.S. ~~If the state board of parole does~~
16 ~~not release a sex offender on parole, it shall reconsider release on parole~~
17 ~~at least once every three years until the state board of parole determines~~
18 ~~the sex offender meets the criteria for parole specified in section~~
19 ~~18-1.3-1006 (1), C.R.S.~~

20 (8) (b) For sex offenders, as defined in section 18-1.3-1003 (4),
21 C.R.S., who are convicted of an offense committed on or after November
22 1, 1998, and who are granted parole pursuant to paragraph (b) of
23 subsection (7) of this section, the division of adult parole shall provide
24 parole supervision and assistance in securing employment, housing, and
25 such other services as may affect the successful reintegration of the sex
26 offender into the community while recognizing the need for public safety.
27 The conditions for parole for any sex offender shall be established

1 pursuant to section 18-1.3-1006, C.R.S., and section 17-22.5-404 by the
2 state board of parole prior to the sex offender's release from incarceration.
3 Upon a determination in a parole revocation proceeding that the sex
4 offender has violated the conditions of parole, the state board of parole
5 shall continue the parole in effect, modify the conditions of parole if
6 circumstances then shown to exist require such modifications, which
7 circumstances shall be set forth in writing, or revoke the parole and order
8 the return of the sex offender to a place of confinement designated by the
9 executive director for any period of time up to the remainder of the sex
10 offender's natural life. The revocation hearing shall be held and the state
11 board of parole shall make its determination as provided in section
12 18-1.3-1010, C.R.S. ~~Following reincarceration, the sex offender's~~
13 ~~eligibility for parole shall be determined pursuant to section 18-1.3-1006,~~
14 ~~C.R.S.~~ The state board of parole may discharge a sex offender from
15 parole as provided in section 18-1.3-1006 (3), C.R.S.

16 **SECTION 6.** In Colorado Revised Statutes, 18-1.3-1006, **amend**
17 (1) (c) as follows:

18 **18-1.3-1006. Release from incarceration - parole - conditions.**

19 (1) (c) If the parole board does not release the sex offender on parole
20 pursuant to paragraph (a) of this subsection (1), the parole board shall
21 review such denial ~~at least once every three years until it determines that~~
22 ~~the sex offender meets the criteria for release on parole specified in~~
23 ~~paragraph (a) of this subsection (1)~~ PURSUANT TO THE TIME PERIODS SET
24 FORTH IN SECTION 17-2-201 (4) (a), C.R.S. At each review, the
25 department shall make recommendations, based on the criteria established
26 by the management board pursuant to section 18-1.3-1009, concerning
27 whether the sex offender should be released on parole.

1 **SECTION 7.** In Colorado Revised Statutes, 18-1.3-401, **amend**

2 (1) (a) (V) (B) as follows:

3 **18-1.3-401. Felonies classified - presumptive penalties.**

4 (1) (a) (V) (B) Any person who is paroled pursuant to section
5 17-22.5-403, C.R.S., or any person who is not paroled and is discharged
6 pursuant to law, shall be subject to the mandatory period of parole
7 established pursuant to sub-subparagraph (A) of this subparagraph (V).
8 Such mandatory period of parole may not be waived by the offender or
9 waived or suspended by the court and shall be subject to the provisions
10 of ~~section 17-22.5-403 (8)~~ SECTION 17-22.5-403 (6), C.R.S., which
11 permits the state board of parole to discharge the offender at any time
12 during the term of parole upon a determination that the offender has been
13 sufficiently rehabilitated and reintegrated into society and can no longer
14 benefit from parole supervision.

15 **SECTION 8.** In Colorado Revised Statutes, 18-1.3-401.5, **amend**

16 (3) as follows:

17 **18-1.3-401.5. Drug felonies classified - presumptive and**
18 **aggravated penalties.** (3) A person who is paroled pursuant to section
19 17-22.5-403, C.R.S., or any person who is not paroled and is discharged
20 pursuant to law, shall be subject to the mandatory period of parole
21 established pursuant to paragraph (a) of subsection (2) of this section. The
22 mandatory period of parole may not be waived by the offender or waived
23 or suspended by the court and is subject to the provisions of ~~section~~
24 ~~17-22.5-403 (8)~~ SECTION 17-22.5-403 (6), C.R.S., which permits the state
25 board of parole to discharge the offender at any time during the term of
26 parole upon a determination that the offender has been sufficiently
27 rehabilitated and reintegrated into society and can no longer benefit from

1 parole supervision.

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