

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

February 13, 2008
Date

Committee on Judiciary.

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

HB08-1156 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, page 4, strike lines 1 through 4 and substitute the
2 following:

3 "SECTION 3. 19-2-1002 (1) (b) and (2), the introductory portion
4 to 19-2-1002 (3) (a), and 19-2-1002 (3) (a) (IV), (3) (b) (II), (5), (7), and
5 (9), Colorado Revised Statutes, are amended, and the said 19-2-1002 (5)
6 is further amended BY THE ADDITION OF A NEW PARAGRAPH, to
7 read:

8 **19-2-1002. Juvenile parole. (1) Juvenile parole board -**
9 **hearing panels authority.** (b) ~~Following specification of the terms and~~
10 ~~conditions of parole, where the conditions of parole include the~~
11 ~~requirement that the juvenile attend school, the parole board shall notify~~
12 ~~the school district in which the juvenile will be enrolled of such~~
13 ~~requirement.~~

14 (2) (a) The board or a hearing panel";

15 before line 11, insert the following:

16 "(3) (a) Hearing panels consisting of two members of the board
17 shall interview and review the record of each juvenile who comes before
18 the board for the granting of parole. Whenever possible, one of the
19 hearing panel members shall be a representative of an executive

1 department, and the other shall be either a member from the public at
2 large. ~~or the member who is the local elected official.~~ A hearing panel
3 may grant, deny, defer, suspend, revoke, or specify or modify the
4 conditions of any parole of a juvenile that are in the best interests of the
5 juvenile and the public; except that:

6 (IV) ~~In any case where a juvenile has been or, upon expiration of~~
7 ~~the juvenile commitment, will be placed in a department of corrections~~
8 ~~facility, adult community corrections, or county jail pursuant to an adult~~
9 ~~sentence and the adult sentence is longer than the juvenile parole would~~
10 ~~be, neither the board nor a hearing panel of the board shall be required to~~
11 ~~consider paroling or revoking the parole of the juvenile. This~~
12 ~~subparagraph (IV) shall not apply to the parole of juveniles who have~~
13 ~~been sentenced to adult probation either concurrent with or consecutive~~
14 ~~to the juvenile commitment.~~

15 (b) (II) ~~Following specification of the terms and conditions of~~
16 ~~parole, where the conditions of parole include the requirement that the~~
17 ~~juvenile attend school, the parole board shall notify the school district in~~
18 ~~which the juvenile will be enrolled of such requirement.~~

19 (5) (a) If the hearing panel or the board determines that parole
20 should be granted, the hearing panel shall establish six months as the
21 length of the parole supervision. However, for a juvenile committed to
22 the department of human services due to an adjudication for an offense
23 specified in paragraph (b) of this subsection (5), the hearing panel may
24 extend the period of parole supervision up to an additional FIFTEEN
25 MONTHS IF THE HEARING PANEL MAKES FINDINGS OF SPECIAL
26 CIRCUMSTANCES THAT WARRANT AN EXTENDED PERIOD OF PAROLE
27 SERVICES FOR THE JUVENILE.

28 (I) ~~Ninety days if the hearing panel determines that it is in the best~~
29 ~~interests of the juvenile and the public to do so; or~~

30 (H) ~~Fifteen months if the hearing panel makes findings of special~~
31 ~~circumstances that warrant such an extended period of parole supervision~~
32 ~~for the juvenile.~~

33 (b) The provisions of paragraph (a) of this subsection (5) allowing
34 for extension of the period of parole shall apply to juveniles committed
35 to the department of human services due to an adjudication for one or

1 more of the following offenses:

2 (I) Any offense specified in article 3 of title 18 or in part 3 of
3 article 4 of title 18, C.R.S., that would constitute a felony if committed by
4 an adult;

5 (II) Incest, as described in section 18-6-301, C.R.S.;

6 (III) Aggravated incest, as described in section 18-6-302, C.R.S.;

7 (IV) Child abuse, as described in section 18-6-401, C.R.S., that
8 would constitute a felony if committed by an adult; or

9 (V) ~~Attempt, conspiracy, or solicitation to commit any of the~~
10 ~~offenses specified in this paragraph (b), which attempt, conspiracy, or~~
11 ~~solicitation would constitute a felony if committed by an adult.~~ FOURTH
12 DEGREE ARSON, AS DESCRIBED IN SECTION 18-4-105, C.R.S., THAT WOULD
13 CONSTITUTE A FELONY IF COMMITTED BY AN ADULT;

14 (VI) ASSAULT DURING ESCAPE, AS DESCRIBED IN SECTION
15 18-8-206, C.R.S., THAT WOULD CONSTITUTE A FELONY IF COMMITTED BY
16 AN ADULT;

17 (VII) ILLEGAL POSSESSION OF A HANDGUN BY A JUVENILE, AS
18 DESCRIBED IN SECTION 18-12-108.5, C.R.S., THAT WOULD CONSTITUTE A
19 FELONY IF COMMITTED BY AN ADULT;

20 (VIII) ILLEGAL POSSESSION OF A HANDGUN BY A JUVENILE, AS
21 DESCRIBED IN SECTION 18-12-108.5, C.R.S., THAT WOULD CONSTITUTE A
22 MISDEMEANOR IF COMMITTED BY AN ADULT, IF THE JUVENILE IS
23 CONTEMPORANEOUSLY COMMITTED TO THE DEPARTMENT OF HUMAN
24 SERVICES FOR AN OFFENSE THAT WOULD CONSTITUTE A FELONY IF
25 COMMITTED BY AN ADULT; OR

26 (IX) ATTEMPT, CONSPIRACY, OR SOLICITATION TO COMMIT ANY OF
27 THE OFFENSES SPECIFIED IN THIS PARAGRAPH (b), WHICH ATTEMPT,
28 CONSPIRACY, OR SOLICITATION WOULD CONSTITUTE A FELONY IF
29 COMMITTED BY AN ADULT.

30 (c) Upon completion of the period of parole supervision as
31 established by the board, the juvenile shall be deemed to have discharged

1 the juvenile's sentence to commitment in the same manner as if the
2 sentence were discharged pursuant to law.

3 (d) (I) If the juvenile court commits a juvenile to the department
4 of human services for CONCURRENT SENTENCES BASED ON THE
5 COMMISSION OF TWO OR MORE OFFENSES OR consecutive sentences based
6 on commission of two or more offenses, the juvenile shall be subject to
7 one six-month mandatory period of parole, unless the period OF PAROLE
8 is extended pursuant to paragraph (a) of this subsection (5).

9 (II) AS USED IN THIS PARAGRAPH (d), "CONCURRENT SENTENCE"
10 MEANS SENTENCES IDENTIFIED BY THE COURT AS CONCURRENT AND ANY
11 SENTENCES, OR PORTIONS THEREOF, THAT ARE SERVED SIMULTANEOUSLY
12 AND THAT ARE THE BASIS OF THE JUVENILE'S TREATMENT SERVICES
13 DURING THE JUVENILE'S COMMITMENT.

14 (e) (I) IF A JUVENILE'S PAROLE IS REVOKED PURSUANT TO SECTION
15 19-2-1004, THE JUVENILE SHALL SERVE ALL OR A PORTION OF THE
16 REMAINDER OF HIS OR HER SENTENCE TO COMMITMENT, AND THE PERIOD
17 OF REPAROLE OR EXTENDED PERIOD OF REPAROLE IMPOSED PURSUANT TO
18 PARAGRAPH (a) OF THIS SUBSECTION (5), SHALL BE REDUCED BY ANY TIME
19 SERVED ON PAROLE PRIOR TO THE REVOCATION. THE PROVISIONS OF THIS
20 PARAGRAPH (e) SHALL NOT LIMIT THE BOARD'S AUTHORITY TO GRANT,
21 DENY, DEFER, SUSPEND, REVOKE, OR MODIFY A JUVENILE'S PAROLE WITHIN
22 THE PERIOD OF PAROLE.

23 (II) IF A JUVENILE'S PAROLE IS REVOKED OR MODIFIED PURSUANT
24 TO SECTION 19-2-1004, AND THE JUVENILE HAS COMPLETED THE PERIOD
25 OF COMMITMENT IMPOSED BY THE COURT, THE PERIOD OF PAROLE, OR
26 EXTENDED PERIOD OF PAROLE IMPOSED PURSUANT TO PARAGRAPH (a) OF
27 THIS SUBSECTION (5), SHALL CONTINUE PURSUANT TO SECTION 19-2-909
28 (1) (c) (II). THE PERIOD OF PAROLE SHALL CONTINUE REGARDLESS OF
29 WHETHER THE REVOCATION OR MODIFICATION AUTHORIZES THE
30 DEPARTMENT OF HUMAN SERVICES TO PLACE THE JUVENILE IN A
31 RESIDENTIAL PLACEMENT WHILE ON PAROLE STATUS. THIS PROVISION
32 SHALL NOT LIMIT THE BOARD'S AUTHORITY TO GRANT, DENY, DEFER,
33 SUSPEND, REVOKE, OR MODIFY A JUVENILE'S PAROLE WITHIN THE PERIOD
34 OF PAROLE.

35 (7) **Notice.** (a) The board, prior to consideration of the case of
36 any A juvenile for parole, shall notify the committing court, any affected

1 juvenile community review board, the prosecuting attorney, and any
2 victims of the juvenile's actions whose names and addresses have been
3 provided by the district attorney of the time and place of the juvenile's
4 hearing before the board or a hearing panel of the board. ~~Such~~ THE notice
5 shall be given in order that the persons notified will have an opportunity
6 to present written testimony to the hearing panel or the board. The board,
7 in its sole discretion, may allow oral testimony at any hearing and has sole
8 discretion regarding who may attend a juvenile parole hearing.

9 (b) (I) (A) PRIOR TO CONSIDERATION OF THE CASE OF A JUVENILE
10 FOR PAROLE, THE BOARD SHALL PROVIDE NOTICE OF THE TIME AND PLACE
11 OF THE JUVENILE'S HEARING BEFORE THE BOARD OR A HEARING PANEL OF
12 THE BOARD TO A VICTIM WHO HAS PROVIDED TO THE DIVISION OF YOUTH
13 CORRECTIONS OR THE BOARD A WRITTEN STATEMENT PURSUANT TO
14 SECTIONS 24-4.1-302.5 AND 24-4.1-303, C.R.S. THE NOTICE AND
15 SUBSEQUENT INTERACTIONS WITH THE VICTIM SHALL BE CONSISTENT WITH
16 THE PROVISIONS OF ARTICLE 4.1 OF TITLE 24, C.R.S.

17 (B) THE BOARD SHALL NOTIFY THE VICTIM OF CHANGES IN THE
18 JUVENILE'S PAROLE PURSUANT TO SECTION 24-4.1-303 (14.3), C.R.S.

19 (II) FOR A YOUTH THAT IS CURRENTLY SERVING PAROLE THAT
20 IMPLICATES THE PROVISIONS OF ARTICLE 4.1 OF TITLE 24, C.R.S., THE
21 DIVISION OF YOUTH CORRECTIONS SHALL NOTIFY THE BOARD OF ANY
22 DISCHARGE AS A MATTER OF LAW AND ANY PLACEMENT CHANGE THAT
23 MAY IMPACT PUBLIC SAFETY OR VICTIM SAFETY AS DETERMINED BY THE
24 DIVISION OF YOUTH CORRECTIONS, INCLUDING ANY ESCAPE OR
25 RECAPTURE."

26 Page 10, after line 25, insert the following:

27 "SECTION 10. 19-2-206 (2) (d), (2) (e), (2) (f), (4), and (5),
28 Colorado Revised Statutes, are amended to read:

29 **19-2-206. Juvenile parole board - creation - membership.**
30 (2) All nine members shall be voting members, and, of the nine
31 members:

32 (d) One member shall be from the department of labor and
33 employment; AND

1 (e) ~~One member shall be a local elected official, and~~

2 (f) ~~Four~~ FIVE members shall be from the public at large and shall
3 not be employees of the state government. At least one of the members
4 from the public at large shall be a resident of the area west of the
5 continental divide.

6 (4) The full board shall meet not less than once a month, and the
7 presence of five members, at least two of whom are members described
8 in paragraph ~~(e)~~ or (f) of subsection (2) of this section, shall constitute a
9 quorum to transact official business of the full board.

10 (5) All members of the board shall be reimbursed for expenses
11 necessarily incurred in the performance of their duties. In addition to the
12 reimbursement of ~~said~~ expenses, the ~~four~~ FIVE citizen board members ~~and~~
13 ~~the local elected official member~~ shall receive a per diem of one hundred
14 fifty dollars per FULL day AND SEVENTY-FIVE DOLLARS PER HALF DAY
15 spent transacting official business of the board.

16 **SECTION 11.** 19-2-601 (6) (a), Colorado Revised Statutes, is
17 amended to read:

18 **19-2-601. Aggravated juvenile offender.** (6) (a) After a
19 juvenile who is sentenced pursuant to sub-subparagraph (B) or (C) of
20 subparagraph (I) of paragraph (a) of subsection (5) of this section has
21 been in the custody of the department of human services for three years
22 or more, the department may petition the court for an order authorizing
23 the DEPARTMENT TO PLACE THE JUVENILE ON JUVENILE PAROLE UPON
24 APPROVAL BY THE juvenile parole board ~~to release the juvenile subject to~~
25 ~~parole supervision as determined by the board at a parole hearing. The~~
26 ~~department may petition the court for an order authorizing the juvenile~~
27 ~~parole board to release a juvenile committed~~ PURSUANT TO SECTION
28 19-2-1002. AFTER A JUVENILE WHO IS SENTENCED pursuant to
29 sub-subparagraph (A) of subparagraph (I) of paragraph (a) of subsection
30 (5) of this section ~~at any time after the juvenile~~ has served the minimum
31 mandatory period of the commitment or three years, whichever is sooner,
32 ~~Said~~ THE DEPARTMENT OF HUMAN SERVICES MAY PETITION THE COURT
33 FOR AN ORDER AUTHORIZING THE DEPARTMENT TO PLACE THE JUVENILE
34 ON JUVENILE PAROLE UPON APPROVAL BY THE JUVENILE PAROLE BOARD
35 PURSUANT TO SECTION 19-2-1002. THE parole supervision shall be
36 conducted by the department of human services. Upon the filing of ~~such~~

1 THE petition, the court shall notify the interested parties and set the matter
2 for a hearing. The court shall authorize the DEPARTMENT OF HUMAN
3 SERVICES TO PLACE THE JUVENILE ON JUVENILE PAROLE UPON APPROVAL
4 OF THE juvenile parole board ~~to release the juvenile~~ PURSUANT TO
5 SECTION 19-2-1002, only upon finding by a preponderance of the
6 evidence that the safety of the community will not be jeopardized by such
7 release.

8 **SECTION 12.** 19-2-909 (1) (b), (1) (c), and (3), Colorado
9 Revised Statutes, are amended to read:

10 **19-2-909. Sentencing - commitment to the department of**
11 **human services.** (1) (b) Any commitment to the department of human
12 services pursuant to section 19-2-601 or paragraph (a) of this subsection
13 (1) shall include, in addition to the period of commitment, a mandatory
14 period of parole of six months, UNLESS THE PERIOD OF PAROLE IS
15 EXTENDED BY THE JUVENILE PAROLE BOARD PURSUANT TO SECTION
16 19-2-1002 (5). ~~except that, for any juvenile committed to the department~~
17 ~~of human services due to an adjudication for an offense specified in~~
18 ~~subsection (3) of this section, the juvenile parole hearing panel, pursuant~~
19 ~~to section 19-2-1002, may extend the period of parole supervision for an~~
20 ~~additional period of up to:~~

21 ~~(I) Ninety days if the juvenile parole hearing panel determines it~~
22 ~~is in the best interests of the juvenile and the public to do so; or~~

23 ~~(H) Fifteen months if the juvenile parole hearing panel makes~~
24 ~~findings of special circumstances that warrant such an extended period of~~
25 ~~parole supervision for the juvenile.~~

26 (c) For purposes of this section:

27 (I) "Determinate period" is defined in section 19-1-103 (40.5).

28 (II) "PERIOD OF PAROLE" MEANS THE PERIOD BETWEEN THE
29 PAROLE PERIOD START DATE AND THE PAROLE PERIOD END DATE AS
30 DETERMINED BY THE JUVENILE PAROLE BOARD. THE PERIOD OF PAROLE
31 APPLIES TO BOTH MANDATORY SIX-MONTH PAROLE AND EXTENDED
32 PAROLE PURSUANT TO SECTION 19-2-1002 (5). THE PERIOD OF PAROLE
33 CONTINUES UNLESS THE JUVENILE IS DEEMED TO BE ON ESCAPE STATUS,
34 PAROLE HAS BEEN SUSPENDED PURSUANT TO SECTION 19-2-1002, OR THE

1 JUVENILE RETURNS TO COMMITMENT STATUS PURSUANT TO SECTION
2 19-2-1004. IN SUCH CIRCUMSTANCES, THE PERIOD OF PAROLE STOPS UNTIL
3 THE JUVENILE HAS RETURNED TO PAROLE STATUS.

4 ~~(3) The provisions of paragraph (b) of subsection (1) of this~~
5 ~~section allowing for a permissible extension of the period of parole shall~~
6 ~~apply to juveniles committed to the department of human services due to~~
7 ~~an adjudication for one or more of the following offenses:~~

8 ~~(a) Any offense specified in article 3 of title 18 or in part 3 of~~
9 ~~article 4 of title 18, C.R.S., that would constitute a felony if committed by~~
10 ~~an adult;~~

11 ~~(b) Incest, as described in section 18-6-301, C.R.S.;~~

12 ~~(c) Aggravated incest, as described in section 18-6-302, C.R.S.;~~

13 ~~(d) Child abuse, as described in section 18-6-401, C.R.S., that~~
14 ~~would constitute a felony if committed by an adult; or~~

15 ~~(e) Attempt, conspiracy, or solicitation to commit any of the~~
16 ~~offenses specified in this subsection (3), which attempt, conspiracy, or~~
17 ~~solicitation would constitute a felony if committed by an adult.~~

18 **SECTION 13.** 19-2-921 (7), Colorado Revised Statutes, is
19 amended, and the said 19-2-921 is further amended BY THE ADDITION
20 OF A NEW SUBSECTION, to read:

21 **19-2-921. Commitment to department of human services.**
22 (7) When a juvenile is released or released to parole supervision by the
23 department of human services or escapes from said department, the
24 DEPARTMENT SHALL NOTIFY THE committing court, the district attorney,
25 the Colorado bureau of investigation, and the initiating law enforcement
26 agency. ~~shall be notified.~~ IF THE JUVENILE IS ON PAROLE STATUS, THE
27 DIVISION OF YOUTH CORRECTIONS SHALL NOTIFY THE JUVENILE PAROLE
28 BOARD, PURSUANT TO SECTION 19-2-1002 (7) (b) (II), OF ANY DISCHARGE
29 AS A MATTER OF LAW, ANY PLACEMENT CHANGE THAT MAY IMPACT
30 PUBLIC SAFETY OR VICTIM SAFETY AS DETERMINED BY THE DIVISION OF
31 YOUTH CORRECTIONS, AND ANY ESCAPE AND RECAPTURE THAT OCCURS
32 DURING THE PERIOD OF PAROLE.

1 (7.5) IF THE TERMS AND CONDITIONS OF A JUVENILE'S PAROLE
2 INCLUDE THE CONDITION THAT THE JUVENILE ATTEND SCHOOL, THE
3 DEPARTMENT OF HUMAN SERVICES SHALL NOTIFY THE SCHOOL DISTRICT
4 IN WHICH THE JUVENILE WILL BE ENROLLED OF THIS CONDITION.

5 **SECTION 14.** 24-4.1-303 (14.2) (g) and (14.2) (h), Colorado
6 Revised Statutes, are amended, and the said 24-4.1-303 (14.2) is further
7 amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

8 **24-4.1-303. Procedures for assuring rights of victims of crimes.**
9 (14.2) Upon receipt of a written statement as provided in section
10 24-4.1-302.5 (1) (j.5), the department of human services shall include the
11 statement with any referral made by the department of human services or
12 a district court to place an offender in a public or private community
13 corrections facility or program. Upon written request of the victim, the
14 department of human services and any state hospital shall notify the
15 victim of the following information regarding any person who was
16 charged with or convicted of a crime against the victim:

17 (g) The transfer to or placement in a nonsecured facility of a
18 person convicted of a crime, any release or discharge from confinement
19 of the person, and any conditions attached to the release; ~~and~~

20 (h) The death of such person while in custody or while under the
21 jurisdiction of the state of Colorado concerning the crime; AND

22 (i) ANY REQUEST BY THE DEPARTMENT OF HUMAN SERVICES TO
23 THE JUVENILE COURT TO MODIFY THE SENTENCE TO COMMITMENT AND
24 ANY DECISION BY THE JUVENILE COURT TO MODIFY THE SENTENCE TO
25 COMMITMENT.

26 **SECTION 15.** 24-4.1-303 (14.3), Colorado Revised Statutes, is
27 amended, and the said 24-4.1-303 is further amended BY THE
28 ADDITION OF A NEW SUBSECTION, to read:

29 **24-4.1-303. Procedures for ensuring rights of victims of**
30 **crimes.** (14.3) ~~The court or its designee, pursuant to section 18-3-415,~~
31 ~~C.R.S., shall disclose the results of any HIV testing that is ordered and~~
32 ~~performed pursuant to section 18-3-415, C.R.S., to any victim of a sexual~~
33 ~~offense in the case where such testing was ordered.~~ UPON RECEIPT OF A
34 WRITTEN STATEMENT FROM THE VICTIM, THE JUVENILE PAROLE BOARD

1 SHALL NOTIFY THE VICTIM OF THE FOLLOWING INFORMATION REGARDING
2 ANY PERSON WHO WAS CHARGED WITH OR CONVICTED OF AN OFFENSE
3 AGAINST THE VICTIM:

4 (a) ANY SCHEDULED JUVENILE PAROLE HEARINGS PURSUANT TO
5 SECTIONS 19-2-1002 AND 19-2-1004, C.R.S., REGARDING THE PERSON,
6 AND ANY CHANGES IN THE SCHEDULING OF THE HEARINGS IN ADVANCE OF
7 THE HEARING;

8 (b) ANY ESCAPE BY THE PERSON WHILE SERVING JUVENILE PAROLE
9 AND ANY SUBSEQUENT RECAPTURE OF THE PERSON;

10 (c) ANY PLACEMENT CHANGE THAT OCCURS DURING THE PERIOD
11 OF PAROLE THAT MAY IMPACT THE VICTIM'S SAFETY OR PUBLIC SAFETY AS
12 DETERMINED BY THE DIVISION OF YOUTH CORRECTIONS; AND

13 (d) ANY DISCHARGE FROM JUVENILE PAROLE.

14 (14.4) THE COURT OR ITS DESIGNEE, PURSUANT TO SECTION
15 18-3-415, C.R.S., SHALL DISCLOSE THE RESULTS OF ANY HIV TESTING
16 THAT IS ORDERED AND PERFORMED PURSUANT TO SECTION 18-3-415,
17 C.R.S., TO ANY VICTIM OF A SEXUAL OFFENSE IN THE CASE IN WHICH THE
18 TESTING WAS ORDERED."

19 Renumber succeeding sections accordingly.

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