

First Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0817.01 Michael Dohr

SENATE BILL 11-257

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SENATE SPONSORSHIP

Carroll and Jahn, Hodge, Steadman

HOUSE SPONSORSHIP

(None),

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Senate Committees  
Judiciary

House Committees

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A BILL FOR AN ACT

101 CONCERNING THE IMPOSITION OF EFFECTIVE PAROLE SUPERVISION.

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>.)*

Under current law, an offender who is sentenced to the department of corrections (department) is eligible for discretionary parole that would occur prior to the offender's mandatory discharge date from the department. In addition, the offender has a period of mandatory parole that is imposed by the court and is served after the completion of the sentence. The bill would eliminate the second parole period, the statutory mandatory parole sentence, for offenses committed on or after July 1,

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.*

2011, and leave the remaining discretionary parole period. As a result, the parole board (board) would impose any period of parole during the offender's sentence to the department. The offender would apply for parole, and the board would determine whether to grant parole under the existing statutory scheme; except that, if the offender's parole hearing is within 15 months of his or her mandatory release date, then a majority vote of the board would be required to deny parole. An offender could not waive a parole hearing except for good cause shown. If an offender refuses to attend a parole hearing without good cause, the offender would serve the court-imposed sentence plus a period of mandatory supervised release up to 24 months after the offender has been discharged.

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

2           **SECTION 1.** 17-2-201 (5) (a.3) (I) and (5) (a.6), Colorado  
3 Revised Statutes, are amended to read:

4           **17-2-201. State board of parole.** (5) (a.3) (I) Any person  
5 sentenced as a habitual criminal pursuant to section 18-1.3-801 (1.5) or  
6 (2), C.R.S., for an offense committed on or after July 1, 2003, AND  
7 BEFORE JULY 1, 2011, shall be subject to the mandatory parole set forth  
8 in section 18-1.3-401 (1) (a) (V) (A), C.R.S., for the class of felony of  
9 which the person is convicted.

10           (a.6) As to any person who is sentenced for conviction of an  
11 offense committed on or after July 1, 2002, AND BEFORE JULY 1, 2011,  
12 involving unlawful sexual behavior, as defined in section 16-22-102 (9),  
13 C.R.S., or for conviction of an offense committed on or after July 1, 2002,  
14 AND BEFORE JULY 1, 2011, the underlying factual basis of which involved  
15 unlawful sexual behavior, and who is not subject to the provisions of part  
16 10 of article 1.3 of title 18, C.R.S., such person shall be subject to the  
17 mandatory period of parole set forth in section 18-1.3-401 (1) (a) (V) (A),  
18 C.R.S.

19           **SECTION 2.** 17-2-204 (2), Colorado Revised Statutes, is

1 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

2 **17-2-204. Parole may issue - when.** (2) (d) THE PROVISIONS OF  
3 THIS SUBSECTION (2) SHALL APPLY TO PERSONS SENTENCED FOR  
4 CONVICTION OF AN OFFENSE COMMITTED BEFORE JULY 1, 2011.

5 **SECTION 3.** 17-22.5-403 (7) (a), Colorado Revised Statutes, is  
6 amended, and the said 17-22.5-403 is further amended BY THE  
7 ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

8 **17-22.5-403. Parole eligibility.** (7) (a) For any offender who is  
9 incarcerated for an offense committed on or after July 1, 1993, AND  
10 BEFORE JULY 1, 2011, upon application for parole, the state board of  
11 parole, working in conjunction with the department and using the  
12 guidelines established pursuant to section 17-22.5-404, shall determine  
13 whether or not to grant parole. The state board of parole, if it determines  
14 that placing an offender on parole is appropriate, shall set the length of  
15 the period of parole at the mandatory period of parole established in  
16 section 18-1.3-401 (1) (a) (V), C.R.S., except as otherwise provided for  
17 specified offenses in section 17-2-201 (5) (a), (5) (a.5), and (5) (a.7). If  
18 an application for parole is refused by the state board of parole, the state  
19 board of parole shall reconsider within one year thereafter whether such  
20 inmate should be granted parole. The state board of parole shall continue  
21 such reconsideration each year thereafter until such inmate is granted  
22 parole or until such inmate is discharged pursuant to law; except that, if  
23 the inmate applying for parole was convicted of any sex offense, as  
24 defined in section 18-1.3-1003 (5), C.R.S., a habitual criminal offense as  
25 defined in section 18-1.3-801 (2.5), C.R.S., or of any offense subject to  
26 the 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 (10) (a) FOR ANY OFFENDER WHO IS INCARCERATED FOR AN  
8 OFFENSE COMMITTED ON OR AFTER JULY 1, 2011, EXCEPT FOR THOSE  
9 INCARCERATED FOR A SEX OFFENSE PURSUANT TO THE PROVISIONS OF  
10 PART 10 OF ARTICLE 1.3 OF TITLE 18, C.R.S., UPON APPLICATION FOR  
11 PAROLE, THE STATE BOARD OF PAROLE, WORKING IN CONJUNCTION WITH  
12 THE DEPARTMENT AND USING THE GUIDELINES ESTABLISHED PURSUANT TO  
13 SECTION 17-22.5-404, SHALL DETERMINE WHETHER OR NOT TO GRANT  
14 PAROLE AND, IF GRANTED, THE LENGTH OF THE PERIOD OF PAROLE. THE  
15 STATE BOARD OF PAROLE MAY SET THE LENGTH OF THE PERIOD OF PAROLE  
16 FOR ANY TIME PERIOD UP TO THE DATE OF FINAL DISCHARGE AS  
17 DETERMINED BY SECTION 17-22.5-402.

18 (b) (I) AN INMATE MAY NOT WAIVE HIS OR HER PAROLE RELEASE  
19 HEARING UNLESS GOOD CAUSE IS SHOWN. FOR PURPOSES OF THIS  
20 PARAGRAPH (b), "GOOD CAUSE" INCLUDES, BUT NEED NOT BE LIMITED TO:

21 (A) THE INMATE NEEDS TO COMPLETE PRISON-BASED TREATMENT,  
22 EDUCATION, OR VOCATIONAL PROGRAMMING;

23 (B) THE INMATE NEEDS TO COMPLETE A RESIDENTIAL COMMUNITY  
24 CORRECTIONS PROGRAM OR A PERIOD OF INTENSIVE SUPERVISION; OR

25 (C) OTHER CIRCUMSTANCES IN WHICH THE INMATE AND HIS OR  
26 HER CASE MANAGER AGREE THAT THE INMATE'S APPLICATION FOR PAROLE  
27 SHOULD BE SCHEDULED FOR A LATER DATE.

1           (II) IF AN INMATE AND HIS OR HER CASE MANAGER AGREE THAT  
2 GOOD CAUSE EXISTS, THE CASE MANAGER SHALL NOTIFY THE STATE  
3 BOARD OF PAROLE AT LEAST THIRTY DAYS PRIOR TO THE HEARING DATE  
4 AND REQUEST A WAIVER OF THE SCHEDULED PAROLE RELEASE HEARING.  
5 IF PART 3 OF ARTICLE 4.1 OF TITLE 24, C.R.S., APPLIES AND THE STATE  
6 BOARD OF PAROLE APPROVES A REQUEST FOR A WAIVER, THE CASE  
7 MANAGER SHALL NOTIFY THE UNIT IN THE DEPARTMENT IN CHARGE OF  
8 VICTIM SERVICES AND PROVIDE NOTIFICATION OF THE NEW PAROLE  
9 APPLICATION HEARING DATE TO THE VICTIM.

10           (III) (A) AN OFFENDER MAY NOT WAIVE A PAROLE APPLICATION  
11 HEARING FOR THE PURPOSE OF DISCHARGING HIS OR HER DEPARTMENT OF  
12 CORRECTIONS SENTENCE TO AVOID SUPERVISION UPON RELEASE. IF AN  
13 OFFENDER REFUSES TO ATTEND OR OTHERWISE PARTICIPATE IN A PAROLE  
14 APPLICATION HEARING WITHOUT SHOWING GOOD CAUSE, THE STATE  
15 BOARD OF PAROLE SHALL NOT CONSIDER THE OFFENDER FOR PAROLE UNTIL  
16 HE OR SHE IS ELIGIBLE TO REAPPLY FOR PAROLE. IF AN OFFENDER  
17 DISCHARGES HIS OR HER DEPARTMENT OF CORRECTIONS SENTENCE AS A  
18 RESULT OF REFUSING TO ATTEND OR OTHERWISE PARTICIPATE IN A  
19 HEARING FOR PAROLE, THE STATE BOARD OF PAROLE SHALL IMPOSE ON  
20 THE OFFENDER A PERIOD OF SUPERVISED RELEASE OF UP TO TWENTY-FOUR  
21 MONTHS. THE PROVISIONS OF THIS SUBSECTION (10) SHALL APPLY TO ANY  
22 OFFENDER WHO IS CONVICTED OF A CLASS 2, 3, 4, 5, OR 6 FELONY OFFENSE  
23 COMMITTED ON OR AFTER JULY 1, 2011.

24           (B) AN OFFENDER WHO IS REQUIRED TO COMPLETE A PERIOD OF  
25 SUPERVISED RELEASE PURSUANT TO THIS SUBPARAGRAPH (III) SHALL BE  
26 SUPERVISED BY THE DIVISION OF ADULT PAROLE AND ALL STATUTORY  
27 AUTHORITIES AND DUTIES APPLY TO THE OFFENDER AS IF HE OR SHE WERE

1 ON PAROLE. PRIOR TO FULLY DISCHARGING HIS OR HER SENTENCE, UPON  
2 REVOCATION OF SUPERVISED RELEASE, THE OFFENDER MAY BE SUBJECT TO  
3 ANY SANCTION AVAILABLE PURSUANT TO SECTION 17-2-103. IF THE  
4 OFFENDER COMPLETES THE MANDATORY PERIOD OF SUPERVISED RELEASE  
5 IN PRISON, HE OR SHE SHALL BE DEEMED TO HAVE DISCHARGED THE  
6 SENTENCE AND SHALL BE RELEASED WITHOUT FURTHER SUPERVISION.

7 (c) (I) IF AN INMATE'S APPLICATION FOR PAROLE IS REFUSED BY  
8 THE STATE BOARD OF PAROLE, THE STATE BOARD OF PAROLE SHALL  
9 RECONSIDER WITHIN ONE YEAR THEREAFTER WHETHER THE INMATE MAY  
10 BE GRANTED PAROLE.

11 (II) THE STATE BOARD OF PAROLE SHALL CONTINUE SUCH  
12 RECONSIDERATION EACH YEAR THEREAFTER UNTIL THE INMATE IS  
13 GRANTED PAROLE OR UNTIL THE INMATE IS DISCHARGED PURSUANT TO  
14 LAW; EXCEPT THAT:

15 (A) IF THE INMATE APPLYING FOR PAROLE WAS CONVICTED OF ANY  
16 SEX OFFENSE DESCRIBED IN SECTION 18-1.3-1003 (5), C.R.S., A HABITUAL  
17 CRIMINAL OFFENSE AS DEFINED IN SECTION 18-1.3-801 (2.5), C.R.S., OR OF  
18 ANY OFFENSE SUBJECT TO THE REQUIREMENTS OF SECTION 18-1.3-904,  
19 C.R.S., THE STATE BOARD OF PAROLE NEED ONLY RECONSIDER GRANTING  
20 PAROLE TO THE INMATE ONCE EVERY THREE YEARS; OR

21 (B) IF THE INMATE APPLYING FOR PAROLE WAS CONVICTED OF A  
22 CLASS 2 FELONY CRIME OF VIOLENCE, AS DEFINED IN SECTION 18-1.3-406,  
23 C.R.S., THE STATE BOARD OF PAROLE NEED ONLY RECONSIDER GRANTING  
24 PAROLE TO THE INMATE ONCE EVERY FIVE YEARS, UNTIL THE BOARD  
25 GRANTS THE INMATE PAROLE OR UNTIL THE INMATE IS DISCHARGED  
26 PURSUANT TO LAW.

27 (III) NOTWITHSTANDING THE PROVISIONS OF THIS PARAGRAPH (c)

1 TO THE CONTRARY, IF THE INMATE'S PAROLE HEARING IS WITHIN FIFTEEN  
2 MONTHS OF THE INMATE'S DATE OF FINAL DISCHARGE AS DETERMINED BY  
3 SECTION 17-22.5-402, A MAJORITY VOTE OF THE STATE BOARD OF PAROLE  
4 IS NECESSARY TO DENY THE INMATE PAROLE.

5 (d) FOR AN OFFENDER WHO IS PLACED ON PAROLE OR SUPERVISED  
6 RELEASE PURSUANT TO THIS SUBSECTION (10) AND WHO IS ALLEGED TO  
7 HAVE VIOLATED A CONDITION OF PAROLE OR SUPERVISED RELEASE, THE  
8 PROVISIONS OF SECTIONS 17-2-103, 17-2-103.5, AND 17-2-201 SHALL  
9 APPLY.

10 (11) FOR AN OFFENDER WHO IS GRANTED PAROLE PURSUANT TO  
11 SUBSECTION (5) OF THIS SECTION, THE DIVISION OF ADULT PAROLE SHALL  
12 PROVIDE PAROLE SUPERVISION AND ASSISTANCE IN SECURING  
13 EMPLOYMENT, HOUSING, AND SUCH OTHER SERVICES AS MAY AFFECT THE  
14 SUCCESSFUL REINTEGRATION OF THE OFFENDER INTO THE COMMUNITY  
15 WHILE RECOGNIZING THE NEED FOR PUBLIC SAFETY. THE CONDITIONS FOR  
16 PAROLE FOR ANY SUCH OFFENDER UNDER THIS SUBSECTION (11) SHALL BE  
17 ESTABLISHED PURSUANT TO SECTION 17-22.5-404 BY THE STATE BOARD  
18 OF PAROLE PRIOR TO THE OFFENDER'S RELEASE FROM INCARCERATION.

19 **SECTION 4.** 18-1.3-401 (1) (a) (V) (A), (1) (a) (V) (C.7), and (1)  
20 (a) (VI), Colorado Revised Statutes, are amended, and the said 18-1.3-401  
21 (1) (a) is further amended BY THE ADDITION OF A NEW  
22 SUBPARAGRAPH, to read:

23 **18-1.3-401. Felonies classified - presumptive penalties.**  
24 (1) (a) (V) (A) As to any person sentenced for a felony committed on or  
25 after July 1, 1993, AND BEFORE JULY 1, 2011, felonies are divided into six  
26 classes which are distinguished from one another by the following  
27 presumptive ranges of penalties which are authorized upon conviction:

	<b>Class</b>	<b>Minimum Sentence</b>	<b>Maximum Sentence</b>	<b>Mandatory Period of Parole</b>
1	1	Life imprisonment	Death	None
2	2	Eight years imprisonment	Twenty-four years imprisonment	Five years
3	3	Four years imprisonment	Twelve years imprisonment	Five years
4	4	Two years imprisonment	Six years imprisonment	Three years
5	5	One year imprisonment	Three years imprisonment	Two years
6	6	One year imprisonment	Eighteen months imprisonment	One year

14 (C.7) Any person sentenced for a felony committed on or after  
15 July 1, 2002, AND BEFORE JULY 1, 2011, involving unlawful sexual  
16 behavior, as defined in section 16-22-102 (9), C.R.S., or for a felony,  
17 committed on or after July 1, 2002, AND BEFORE JULY 1, 2011, the  
18 underlying factual basis of which involved unlawful sexual behavior, and  
19 who is not subject to the provisions of part 10 of this article, shall be  
20 subject to the mandatory period of parole specified in sub-subparagraph  
21 (A) of this subparagraph (V).

22 (VI) Any person sentenced for a class 2, 3, 4, or 5 felony, or a  
23 class 6 felony that is the offender's second or subsequent felony offense,  
24 committed on or after July 1, 1998, AND BEFORE JULY 1, 2011, regardless  
25 of the length of the person's sentence to incarceration and the mandatory  
26 period of parole, shall not be deemed to have fully discharged his or her  
27 sentence until said person has either completed or been discharged by the

1 state board of parole from the mandatory period of parole imposed  
2 pursuant to subparagraph (V) of this paragraph (a).

3 (VII) AS TO ANY PERSON SENTENCED FOR A FELONY COMMITTED  
4 ON OR AFTER JULY 1, 2011, FELONIES ARE DIVIDED INTO SIX CLASSES  
5 WHICH ARE DISTINGUISHED FROM ONE ANOTHER BY THE FOLLOWING  
6 PRESUMPTIVE RANGES OF PENALTIES WHICH ARE AUTHORIZED UPON  
7 CONVICTION:

8	CLASS	MINIMUM SENTENCE	MAXIMUM SENTENCE
9	1	LIFE IMPRISONMENT	DEATH
10	2	EIGHT YEARS IMPRISONMENT	TWENTY-FOUR YEARS 11 IMPRISONMENT
12	3	FOUR YEARS IMPRISONMENT	SIXTEEN YEARS 13 IMPRISONMENT
14	4	TWO YEARS IMPRISONMENT	SIX YEARS 15 IMPRISONMENT
16	5	ONE YEAR IMPRISONMENT	THREE YEARS 17 IMPRISONMENT
18	6	ONE YEAR IMPRISONMENT	EIGHTEEN MONTHS 19 IMPRISONMENT

20 **SECTION 5.** 18-1.3-402 (1), Colorado Revised Statutes, is  
21 amended to read:

22 **18-1.3-402. Felony offenses not classified.** (1) Any felony  
23 defined by state statute without specification of its class shall be  
24 punishable as provided in the statute defining it. For felony offenses  
25 committed on or after July 1, 1993, AND BEFORE JULY 1, 2011, if the  
26 sentencing court sentences an offender to incarceration pursuant to the  
27 provisions of this section, the sentencing court shall also impose a

1 mandatory period of parole of two years.

2           **SECTION 6.** 18-1.3-403 (1), Colorado Revised Statutes, is  
3 amended to read:

4           **18-1.3-403. Penalty for felony not fixed by statute -**  
5 **punishment.** (1) In all cases where an offense is denominated by statute  
6 as being a felony and no penalty is fixed in the statute therefor, the  
7 punishment shall be imprisonment for not more than five years in a  
8 correctional facility, as defined in section 17-1-102, C.R.S., or a fine of  
9 not more than fifteen thousand dollars, or both such imprisonment and  
10 fine. For offenses committed on or after July 1, 1985, a fine of not more  
11 than one hundred thousand dollars may be levied. For offenses  
12 committed on or after July 1, 1993, AND BEFORE JULY 1, 2011, if the  
13 sentencing court sentences an offender to incarceration pursuant to the  
14 provisions of this section, the sentencing court shall also impose a  
15 mandatory period of parole of two years.

16           **SECTION 7. Effective date - applicability.** This act shall take  
17 effect July 1, 2011, and shall apply to those offenses committed on or  
18 after said date.

19           **SECTION 8. Safety clause.** The general assembly hereby finds,  
20 determines, and declares that this act is necessary for the immediate  
21 preservation of the public peace, health, and safety.