

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 15-0052.01 Richard Sweetman x4333

HOUSE BILL 15-1122

HOUSE SPONSORSHIP

Fields,

SENATE SPONSORSHIP

(None),

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.

- 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;

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

9 (III) Waste the valuable time of the hearing officers and
10 institutional personnel who conduct the hearings.

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

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

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

18 (3.7) (a) NOTWITHSTANDING ANY OTHER PROVISION IN THIS SECTION, AN
19 INMATE IS NOT ELIGIBLE FOR PAROLE IF THE INMATE:

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

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

27 (III) HAS A STATUTORY DISCHARGE DATE OR MANDATORY

1 RELEASE DATE WITHIN SIX MONTHS AFTER HIS OR HER NEXT ORDINARILY
2 SCHEDULED PAROLE HEARING.

3 (b) AN INMATE WHO IS DESCRIBED BY SUBPARAGRAPH (I) OR (II)
4 OF PARAGRAPH (a) OF THIS SUBSECTION (3.7) MAY BE ELIGIBLE FOR
5 PAROLE WHEN THE APPLICABLE CONDITION HAS NOT BEEN IN EFFECT FOR
6 THE PRECEDING TWELVE MONTHS.

7 (c) IF TWO SCHEDULES WITH DIFFERENT PAROLE APPLICATION
8 HEARING DATES APPLY TO THE SAME INMATE, THE BOARD SHALL GIVE
9 EFFECT TO THE SCHEDULE THAT INCLUDES THE LATER PAROLE
10 APPLICATION HEARING DATE.

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

16 (e) AS USED IN THIS SUBSECTION (3.7), "ELIGIBLE FOR PAROLE"
17 MEANS AN INMATE IS ELIGIBLE TO MAKE APPLICATION TO THE BOARD FOR
18 PAROLE AND INCLUDES AN INMATE'S INITIAL APPLICATION AS WELL AS ANY
19 SUBSEQUENT APPLICATION FOR PAROLE REVIEW OR RECONSIDERATION.

20 (9) (a) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (I)
21 OF PARAGRAPH (f) OF SUBSECTION (4) OF THIS SECTION, whenever an
22 inmate initially applies for parole, the board shall conduct an interview
23 with the inmate. At such interview at least one member of the board shall
24 be present. Any final action on an application shall not be required to be
25 made in the presence of the inmate or parolee, and any such action shall
26 require the concurrence of at least two members of the board. When the
27 two members do not concur, a third member shall review the record and,

1 if deemed necessary, interview the applicant and cast the deciding vote.
2 Any subsequent application for parole shall be considered by the board
3 in accordance with the provisions of paragraph (a) of subsection (4) of
4 this section.

5 **SECTION 3.** In Colorado Revised Statutes, 17-2-103, **amend**
6 (13) (c) as follows:

7 **17-2-103. Arrest of parolee - revocation proceedings.**
8 (13) (c) If the board revokes the parole upon the request of the parolee,
9 the board ~~shall proceed pursuant to paragraph (b) of subsection (11) of~~
10 ~~this section~~ MAY REVOKE SUCH PAROLE FOR A PERIOD OF TIME UP TO, AND
11 INCLUDING, THE REMAINDER OF THE PAROLEE'S SENTENCE.

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

14 **17-2-103.5. Revocation proceedings - parolee arrested for**
15 **certain offenses.** (1) (c) A hearing relating to such revocation shall be
16 held, unless a board member is advised that a criminal charge is still
17 pending ~~and no technical violations are alleged~~, or where the parolee does
18 not request revocation, in which case the hearing shall be delayed until a
19 disposition concerning the criminal charge is reached.

20 **SECTION 5.** In Colorado Revised Statutes, 17-22.5-403, **amend**
21 (5), (6), (7), and (8) (b) as follows:

22 **17-22.5-403. Parole eligibility.** (5) For any offender who is
23 incarcerated for an offense committed prior to July 1, 1993, upon
24 application for parole, the state board of parole, working in conjunction
25 with the department and using the guidelines established pursuant to
26 section 17-22.5-404, shall determine whether or not to grant parole and,
27 if granted, the length of the period of parole. The state board of parole

1 may set the length of the period of parole for any time period up to the
2 date of final discharge as determined in accordance with section
3 17-22.5-402. If an application for parole is refused by the state board of
4 parole, the state board of parole shall reconsider within one year
5 thereafter whether such inmate should be granted parole. The state board
6 of parole shall continue such reconsideration each year thereafter until
7 such inmate is granted parole or until such inmate is discharged pursuant
8 to law; except that:

9 (a) If the inmate applying for parole was convicted of ~~a class 1 or~~
10 ~~class 2 crime of violence, as defined in section 18-1.3-406, C.R.S.,~~ any
11 class 3 sexual offense described in part 4 of article 3 of title 18, C.R.S.,
12 a habitual criminal offense as defined in section 18-1.3-801 (2.5), C.R.S.,
13 or of any offense subject to the requirements of section 18-1.3-904,
14 C.R.S., the board need only reconsider granting parole to such inmate
15 once every three years, until the board grants such inmate parole or until
16 such inmate is discharged pursuant to law; OR

17 (b) IF THE INMATE WAS CONVICTED OF A CLASS 1 OR CLASS 2
18 FELONY THAT CONSTITUTES A CRIME OF VIOLENCE, AS DEFINED IN SECTION
19 18-1.3-406, C.R.S., THE BOARD NEED ONLY RECONSIDER GRANTING
20 PAROLE TO SUCH INMATE ONCE EVERY FIVE YEARS, UNTIL THE BOARD
21 GRANTS SUCH INMATE PAROLE OR UNTIL SUCH INMATE IS DISCHARGED
22 PURSUANT TO LAW.

23 (6) For persons who are granted parole pursuant to subsection (5)
24 of this section, the division of adult parole shall provide parole
25 supervision and assistance in securing employment, housing, and such
26 other services as may effect the successful reintegration of such offender
27 into the community while recognizing the need for public safety. The

1 conditions for parole for any such offender under this subsection (6) shall
2 be established pursuant to section 17-22.5-404 by the state board of
3 parole prior to such offender's release from incarceration. Upon a
4 determination IN A PAROLE REVOCATION PROCEEDING that the conditions
5 of parole have been violated, ~~in a parole revocation proceeding~~ the state
6 board of parole shall continue the parole in effect, modify the conditions
7 of parole if circumstances then shown to exist require such modifications,
8 which circumstances shall be set forth in writing, or revoke the parole and
9 order the return of the offender to a place of confinement designated by
10 the executive director for any period of time up to the period remaining
11 on such person's sentence, INCLUDING THE REMAINDER OF THE
12 OFFENDER'S NATURAL LIFE IF APPLICABLE, until the discharge date as
13 determined by section 17-22.5-402 or one year, whichever is longer. In
14 computing the period of reincarceration for an offender other than an
15 offender sentenced for a nonviolent felony offense, as defined in section
16 17-22.5-405 (5), the time between the offender's release on parole and
17 return to custody in Colorado for revocation of such parole shall not be
18 considered to be part of the term of the sentence. The state board of
19 parole may discharge an offender granted parole under this section at any
20 time during the term of parole upon a determination that the offender has
21 been sufficiently rehabilitated and reintegrated into society and can no
22 longer benefit from parole supervision.

23 (7) (a) For any offender who is incarcerated for an offense
24 committed on or after July 1, 1993, upon application for parole, the state
25 board of parole, working in conjunction with the department and using
26 the guidelines established pursuant to section 17-22.5-404, shall
27 determine whether or not to grant parole. The state board of parole, if it

1 determines that placing an offender on parole is appropriate, shall set the
2 length of the period of parole at the mandatory period of parole
3 established in section 18-1.3-401 (1) (a) (V) or 18-1.3-401.5 (2) (a),
4 C.R.S., except as otherwise provided for specified offenses in section
5 17-2-201 (5) (a), (5) (a.5), and (5) (a.7). ~~If an application for parole is
6 refused by the state board of parole, the state board of parole shall
7 reconsider within one year thereafter whether such inmate should be
8 granted parole. The state board of parole shall continue such
9 reconsideration each year thereafter until such inmate is granted parole or
10 until such inmate is discharged pursuant to law; except that, if the inmate
11 applying for parole was convicted of any sex offense, as defined in
12 section 18-1.3-1003 (5), C.R.S., a habitual criminal offense as defined in
13 section 18-1.3-801 (2.5), C.R.S., or of any offense subject to the
14 requirements of section 18-1.3-904, C.R.S., the board need only
15 reconsider granting parole to such inmate once every three years, until the
16 board grants such inmate parole or until such inmate is discharged
17 pursuant to law, or if the person applying for parole was convicted of a
18 class 2 felony that constitutes a crime of violence, as defined in section
19 18-1.3-406, C.R.S., the board need only reconsider granting parole to
20 such person once every five years, until the board grants such person
21 parole or until such person is discharged pursuant to law.~~

22 (b) Notwithstanding the provisions of paragraph (a) of this
23 subsection (7), for any sex offender, as defined in section 18-1.3-1003
24 (4), C.R.S., who is sentenced pursuant to the provisions of part 10 of
25 article 1.3 of title 18, C.R.S., for commission of a sex offense committed
26 on or after November 1, 1998, the state board of parole shall determine
27 whether or not to grant parole as provided in section 18-1.3-1006, C.R.S.

1 If the state board of parole determines that placing a sex offender on
2 parole is appropriate, it shall set an indeterminate period of parole as
3 provided in section 18-1.3-1006, C.R.S. ~~If the state board of parole does~~
4 ~~not release a sex offender on parole, it shall reconsider release on parole~~
5 ~~at least once every three years until the state board of parole determines~~
6 ~~the sex offender meets the criteria for parole specified in section~~
7 ~~18-1.3-1006 (1), C.R.S.~~

8 (8) (b) For sex offenders, as defined in section 18-1.3-1003 (4),
9 C.R.S., who are convicted of an offense committed on or after November
10 1, 1998, and who are granted parole pursuant to paragraph (b) of
11 subsection (7) of this section, the division of adult parole shall provide
12 parole supervision and assistance in securing employment, housing, and
13 such other services as may affect the successful reintegration of the sex
14 offender into the community while recognizing the need for public safety.
15 The conditions for parole for any sex offender shall be established
16 pursuant to section 18-1.3-1006, C.R.S., and section 17-22.5-404 by the
17 state board of parole prior to the sex offender's release from incarceration.
18 Upon a determination in a parole revocation proceeding that the sex
19 offender has violated the conditions of parole, the state board of parole
20 shall continue the parole in effect, modify the conditions of parole if
21 circumstances then shown to exist require such modifications, which
22 circumstances shall be set forth in writing, or revoke the parole and order
23 the return of the sex offender to a place of confinement designated by the
24 executive director for any period of time up to the remainder of the sex
25 offender's natural life. The revocation hearing shall be held and the state
26 board of parole shall make its determination as provided in section
27 18-1.3-1010, C.R.S. ~~Following reincarceration, the sex offender's~~

1 ~~eligibility for parole shall be determined pursuant to section 18-1.3-1006,~~
2 ~~C.R.S.~~ The state board of parole may discharge a sex offender from
3 parole as provided in section 18-1.3-1006 (3), C.R.S.

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

6 **18-1.3-1006. Release from incarceration - parole - conditions.**

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

16 **SECTION 7.** In Colorado Revised Statutes, 18-1.3-401, **amend**
17 (1) (a) (V) (B) as follows:

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

19 (1) (a) (V) (B) Any person who is paroled pursuant to section
20 17-22.5-403, C.R.S., or any person who is not paroled and is discharged
21 pursuant to law, shall be subject to the mandatory period of parole
22 established pursuant to sub-subparagraph (A) of this subparagraph (V).
23 Such mandatory period of parole may not be waived by the offender or
24 waived or suspended by the court and shall be subject to the provisions
25 of ~~section 17-22.5-403 (8)~~ SECTION 17-22.5-403 (6), C.R.S., which
26 permits the state board of parole to discharge the offender at any time
27 during the term of parole upon a determination that the offender has been

1 sufficiently rehabilitated and reintegrated into society and can no longer
2 benefit from parole supervision.

3 **SECTION 8.** In Colorado Revised Statutes, 18-1.3-401.5, **amend**
4 (3) as follows:

5 **18-1.3-401.5. Drug felonies classified - presumptive and**
6 **aggravated penalties.** (3) A person who is paroled pursuant to section
7 17-22.5-403, C.R.S., or any person who is not paroled and is discharged
8 pursuant to law, shall be subject to the mandatory period of parole
9 established pursuant to paragraph (a) of subsection (2) of this section. The
10 mandatory period of parole may not be waived by the offender or waived
11 or suspended by the court and is subject to the provisions of ~~section~~
12 ~~17-22.5-403 (8)~~ SECTION 17-22.5-403 (6), C.R.S., which permits the state
13 board of parole to discharge the offender at any time during the term of
14 parole upon a determination that the offender has been sufficiently
15 rehabilitated and reintegrated into society and can no longer benefit from
16 parole supervision.

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.