A BILL FOR AN ACT

CONCERNING A SPECIALIZED PROGRAM WITHIN THE DEPARTMENT OF CORRECTIONS FOR CERTAIN OFFENDERS WHO WERE CONVICTED AS ADULTS FOR OFFENSES THEY COMMITTED AS JUVENILES.

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 bill requires the department of corrections (department) to develop and implement a program for offenders who were sentenced to an adult prison for a felony offense committed while the offender was less than 18 years of age and who are determined to be appropriate for placement in the program. An offender serving a sentence for a felony...
committed while the offender was a juvenile may apply for placement in the program if he or she has served 20 calendar years of his or her sentence and has not been released on parole.

Upon receiving a petition from an eligible offender, the executive director of the department or his or her designee shall review the petition. In determining whether to place an offender in the program, the executive director or his or her designee shall consider certain criteria.

An offender who successfully completes the program may apply to the governor for early parole. The governor may grant early parole to such an offender if, in the governor's opinion, extraordinary mitigating circumstances exist and the offender's release from custody is compatible with the safety and welfare of society. The state board of parole shall make a recommendation to the governor concerning whether early parole should be granted to such an offender.

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

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) The United States supreme court has held in several recent decisions regarding the criminal sentencing of juveniles that children are constitutionally different than adults for purposes of sentencing and should be given a meaningful opportunity for release based on demonstrated maturity and rehabilitation;

(b) Colorado recognizes that children have not yet reached developmental maturity before the age of eighteen years and therefore have a heightened capacity to change behavior and a greater potential for rehabilitation;

(c) Colorado has many offenders currently serving sentences in the department of corrections who committed crimes when they were less than eighteen years old and who no longer present a threat to public safety; and

(d) Colorado is committed to research-based best practices in the
development and implementation of correctional policies and practices.

(2) Now, therefore, Colorado desires to implement a system that allows any offender who committed a serious crime as a juvenile, was treated as an adult by the criminal justice system, and has served more than twenty calendar years of a sentence to the department of corrections, during which he or she has exhibited growth and rehabilitation, the opportunity to further demonstrate rehabilitation and earn early release in a specialized program in a less secure setting without compromising public safety.

SECTION 2. In Colorado Revised Statutes, add article 34 to title 17 as follows:

ARTICLE 34

Specialized Program For Juveniles Convicted As Adults

17-34-101. Juveniles who are convicted as adults in district court - eligibility for specialized program placement - petitions.

(1) (a) Notwithstanding any other provision of law, an offender serving a sentence in the department for a felony offense as a result of the filing of criminal charges by an information or indictment pursuant to section 19-2-517, C.R.S., or the transfer of proceedings to the district court pursuant to section 19-2-518, C.R.S., and who remains in the custody of the department for that felony offense may petition for placement in the specialized program described in section 17-34-102, referred to within this section as the "specialized program", if he or she:

(I) Has served twenty calendar years of his or her
SEN TENCE; AND

(II) HAS NOT BEEN RELEASED ON PAROLE.

(b) AN OFFENDER WHO IS DESCRIBED IN PARAGRAPH (a) OF THIS
SUBSECTION (1) MAY APPLY FOR PLACEMENT IN THE SPECIALIZED
PROGRAM NOTWITHSTANDING HIS OR HER SENTENCE OR PAROLE
ELIGIBILITY DATE.

(2) UPON RECEIVING A PETITION FROM AN OFFENDER DESCRIBED
IN SUBSECTION (1) OF THIS SECTION, THE EXECUTIVE DIRECTOR OR HIS OR
HER DESIGNEE SHALL REVIEW THE PETITION AND DETERMINE WHETHER TO
PLACE THE OFFENDER IN THE SPECIALIZED PROGRAM. IN MAKING THIS
determination, the executive director or his or her designee
shall consider the following criteria:

(a) THE NATURE OF THE OFFENSE AND THE CIRCUMSTANCES
SURROUNDING THE OFFENSE, INCLUDING THE EXTENT OF THE OFFENDER'S
PARTICIPATION IN THE CRIMINAL CONDUCT;

(b) THE AGE AND MATURITY OF THE OFFENDER AT THE TIME OF THE
OFFENSE;

(c) THE BEHAVIOR OF THE OFFENDER IN ANY INSTITUTION FOR THE
DURATION OF HIS OR HER SENTENCE, INCLUDING CONSIDERATION OF ANY
VIOLATIONS OF THE INMATE CODE OF CONDUCT AND DATES OF THE
VIOLATIONS OR, IN THE ALTERNATIVE, THE LACK OF ANY SUCH
VIOLATIONS;

(d) THE ASSESSED RISK AND NEEDS OF THE OFFENDER;

(e) THE IMPACT OF THE OFFENSE ON ANY VICTIM AND ANY VICTIM'S
IMMEDIATE FAMILY MEMBER; AND

(f) ANY OTHER FACTOR DETERMINED TO BE RELEVANT BY THE
EXECUTIVE DIRECTOR OR HIS OR HER DESIGNEE IN ASSESSING AND MAKING

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A DETERMINATION REGARDING THE OFFENDER'S DEMONSTRATED
REHABILITATION.

(3) THE DEPARTMENT SHALL MAKE RESTORATIVE JUSTICE
PRACTICES, AS DEFINED IN SECTION 18-1-901 (3) (o.5), C.R.S., AVAILABLE
TO ANY VICTIM OF ANY OFFENDER WHO PETITIONS FOR PLACEMENT IN THE
SPECIALIZED PROGRAM. ACCORDINGLY, THE DEPARTMENT SHALL PROVIDE
NOTICE TO ANY VICTIM, AS PROVIDED IN SECTION 24-4.1-302.5 (1) (l.5),
C.R.S.

(4) (a) IF AFTER REVIEW OF AN OFFENDER'S PETITION, THE
EXECUTIVE DIRECTOR OR HIS OR HER DESIGNEE DETERMINES THAT THE
OFFENDER IS AN APPROPRIATE CANDIDATE FOR PLACEMENT IN THE
SPECIALIZED PROGRAM, THE DEPARTMENT SHALL PLACE THE OFFENDER IN
THE SPECIALIZED PROGRAM AS SOON AS PRACTICABLE.

(b) ANY VICTIM OR VICTIM'S IMMEDIATE FAMILY MEMBER, AS
DEFINED IN SECTION 24-4.1-302.5 (5) AND (6), C.R.S., HAS THE RIGHT TO BE
INFORMED OF THE PLACEMENT OF AN OFFENDER PURSUANT TO SECTION
24-4.1-302.5 (1) (q), C.R.S.

(5) IF THE EXECUTIVE DIRECTOR OR HIS OR HER DESIGNEE DENIES
AN OFFENDER'S PETITION FOR PLACEMENT IN THE SPECIALIZED PROGRAM
BASED ON A DETERMINATION THAT THE OFFENDER IS INAPPROPRIATE FOR
SUCH PLACEMENT AFTER CONSIDERATION OF THE CRITERIA SET FORTH IN
SUBSECTION (2) OF THIS SECTION, THE OFFENDER MAY PETITION THE
EXECUTIVE DIRECTOR OR HIS OR HER DESIGNEE FOR PLACEMENT IN THE
SPECIALIZED PROGRAM NOT SOONER THAN TWO YEARS AFTER THE
ISSUANCE OF THE DENIAL.

(6) THE DEPARTMENT SHALL DEVELOP POLICIES AND PROCEDURES
FOR THE PREPARATION, SUBMISSION, AND REVIEW OF PETITIONS FOR
PLACEMENT OF OFFENDERS IN THE SPECIALIZED PROGRAM, AS DESCRIBED
IN THIS SECTION.

17-34-102. Specialized program for juveniles convicted as
adults - report - repeal. (1) The department shall develop and
implement a specialized program for offenders who have been
sentenced to an adult prison for a felony offense committed
while the offender was less than eighteen years of age as a
result of the filing of criminal charges by an information or
indictment pursuant to section 19-2-517, C.R.S., or the transfer
of proceedings to the district court pursuant to section
19-2-518, C.R.S., and who are determined to be appropriate for
placement in the specialized program. The department shall
implement the specialized program in conjunction with a minimum
security facility operated by, or under contract with, the
department.

(2) The specialized program must include components that
allow an offender to experience a less secure placement with
more independence in daily life, with additional work-related
responsibilities and other program components that will assist
and support the offender's successful reintegration into the
community of teenage offenders who have never lived
independently or functioned in the community as an adult. The
specialized program must also include the best and most
promising practices in independent living skills development,
reentry services for long-term offenders, and intensive
supervision and monitoring.

(3) The department shall make restorative justice
PRACTICES, AS DEFINED IN SECTION 18-1-901 (3) (o.5), C.R.S., AVAILABLE TO ANY VICTIM OF ANY OFFENDER WHO IS PLACED IN THE SPECIALIZED PROGRAM. ACCORDINGLY, THE DEPARTMENT SHALL PROVIDE NOTICE TO ANY VICTIM, AS PROVIDED IN SECTION 24-4.1-302.5 (1) (l.5), C.R.S.


(b) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JUNE 30, 2017.

(5) THE DEPARTMENT SHALL INCLUDE IN THE SPECIALIZED PROGRAM RULES OF CONDUCT FOR PROGRAM PARTICIPANTS AND A POLICY WHEREBY PROGRAM PARTICIPANTS WHO FAIL TO COMPLY WITH THE RULES OF CONDUCT ARE TERMINATED FROM PARTICIPATION IN THE SPECIALIZED PROGRAM AND RETURNED TO AN APPROPRIATE PRISON PLACEMENT.

(6) NOTWITHSTANDING ANY PROVISION OF LAW, AN OFFENDER WHO SUCCESSFULLY COMPLETES THE SPECIALIZED PROGRAM IS ELIGIBLE TO APPLY FOR EARLY PAROLE PURSUANT TO THE PROVISIONS OF SECTION 17-22.5-403 (4.5) OR 17-22.5-403.7.

(7) IF AN OFFENDER HAS SERVED AT LEAST TWENTY-FIVE CALENDAR YEARS OF HIS OR HER SENTENCE AND SUCCESSFULLY COMPLETED THE SPECIALIZED PROGRAM, IT IS PRESUMED THAT:

(a) THE OFFENDER HAS MET THE FACTUAL BURDEN OF PRESENTING EXTRAORDINARY MITIGATING CIRCUMSTANCES; AND
(b) THE OFFENDER'S RELEASE TO EARLY PAROLE IS COMPATIBLE
WITH THE SAFETY AND WELFARE OF SOCIETY

(8) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, AN
OFFENDER WHO SUCCESSFULLY COMPLETES THE SPECIALIZED PROGRAM
REMAINS ELIGIBLE, LIKE ANY OTHER SENTENCED OFFENDER, TO APPLY FOR
Clemency by the Governor pursuant to Section 7 of Article IV of
the State Constitution.

(9) On and after January 1, 2018, during its annual
presentation before the Joint Judiciary Committee of the General
Assembly, or any successor Joint Committee, pursuant to Section
2-7-203, C.R.S., the Department shall include a status report
regarding the progress and outcomes of the Specialized Program
developed and implemented by the Department pursuant to this
section during the preceding year. The report, at a minimum,
shall include:

(a) A DESCRIPTION OF THE SPECIALIZED PROGRAM, INCLUDING THE
EVIDENCE-BASED AND PROMISING PRACTICES THAT ARE INCLUDED IN THE
SPECIALIZED PROGRAM;

(b) THE POLICIES AND PROCEDURES DEVELOPED BY THE
DEPARTMENT TO DETERMINE WHICH ELIGIBLE OFFENDERS MAY BE PLACED
IN THE SPECIALIZED PROGRAM;

(c) THE POLICIES AND PROCEDURES DEVELOPED BY THE
DEPARTMENT TO ADDRESS THE CONDUCT OF PARTICIPANTS IN THE
SPECIALIZED PROGRAM;

(d) THE LOCATION OF THE PROGRAM AND THE NUMBER OF BEDS
AVAILABLE FOR SPECIALIZED PROGRAM PARTICIPANTS;

(e) THE NUMBER OF OFFENDERS SELECTED TO PARTICIPATE IN THE
(f) A summary concerning the staffing of the specialized program;

(g) Information concerning the behavior patterns of the offenders in the specialized program;

(h) The number of offenders who successfully completed the specialized program;

(i) The number of specialized program participants who have been referred to the parole board for early parole; and

(j) The number of specialized program participants who were granted early parole by the governor.

SECTION 3. In Colorado Revised Statutes, 17-22.5-403, add (4.5) as follows:

17-22.5-403. Parole eligibility. (4.5) (a) After considering the presumptions set forth in section 17-34-102 (7), the governor may grant early parole to an offender to whom subsection (1) or (2.5) of this section applies when the offender successfully completes the specialized program described in section 17-34-102 after being sentenced to the department for a felony offense as a result of the filing of criminal charges by an information or indictment pursuant to section 19-2-517, C.R.S., or the transfer of proceedings to the district court pursuant to section 19-2-518, C.R.S., if, in the governor's opinion, extraordinary mitigating circumstances exist and the offender's release from
INSTITUTIONAL CUSTODY IS COMPATIBLE WITH THE SAFETY AND WELFARE
OF SOCIETY.

(b) WHEN AN OFFENDER APPLIES FOR EARLY PAROLE PURSUANT TO
PARAGRAPH (a) OF THIS SUBSECTION (4.5) AFTER HAVING SUCCESSFULLY
COMPLETED THE SPECIALIZED PROGRAM DESCRIBED IN SECTION 17-34-102,
THE OFFENDER SHALL MAKE HIS OR HER APPLICATION TO THE GOVERNOR'S
OFFICE WITH NOTICE AND A COPY OF THE APPLICATION SENT TO THE STATE
BOARD OF PAROLE CREATED IN SECTION 17-2-201. THE STATE BOARD OF
PAROLE SHALL REVIEW THE OFFENDER'S APPLICATION AND ALL
SUPPORTING DOCUMENTS AND SCHEDULE A HEARING IF APPROPRIATE. NOT
LATER THAN NINETY DAYS AFTER RECEIPT OF A COPY OF AN OFFENDER'S
APPLICATION FOR EARLY PAROLE, THE STATE BOARD OF PAROLE, AFTER
CONSIDERING THE PRESUMPTIONS SET FORTH IN SECTION 17-34-102 (7),
SHALL MAKE A RECOMMENDATION TO THE GOVERNOR CONCERNING
WHETHER EARLY PAROLE SHOULD BE GRANTED TO THE OFFENDER.

(c) THE DEPARTMENT, IN CONSULTATION WITH THE STATE BOARD
OF PAROLE, SHALL DEVELOP ANY NECESSARY POLICIES AND PROCEDURES
TO IMPLEMENT THIS SUBSECTION (4.5), INCLUDING PROCEDURES FOR
PROVIDING NOTICE TO ANY VICTIM, AS REQUIRED BY SECTION 24-4.1-302.5
(1) (1.5), C.R.S., AND TO THE DISTRICT ATTORNEY'S OFFICE THAT
PROSECUTED THE CRIME FOR WHICH THE OFFENDER WAS SENTENCED.

SECTION 4. In Colorado Revised Statutes, 17-22.5-403.7,
amend (2); and add (6) as follows:

17-22.5-403.7. Parole eligibility - class 1 felony - juvenile
offender convicted as adult. (2) After considering the
presumptions set forth in section 17-34-102 (7), the governor may
grant parole to an inmate prior to the inmate's parole eligibility date if, in
the governor's opinion, extraordinary mitigating circumstances exist and
the inmate's release from institutional custody is compatible with the
safety and welfare of society.

(6)(a) When an offender applies for early parole pursuant
to this section after having successfully completed the
specialized program described in section 17-34-102, the offender
shall make his or her application to the governor's office with
notice and a copy of the application sent to the state board of
parole created in section 17-2-201. The state board of parole
shall review the offender's application and all supporting
documents and schedule a hearing if appropriate. Not later than
ninety days after receipt of a copy of an offender's application
for early parole, the state board of parole, after considering
the presumptions set forth in section 17-34-102 (7), shall make a
recommendation to the governor concerning whether early
parole should be granted to the offender.

(b) The department, in consultation with the state board
of parole, shall develop any necessary policies and procedures
to implement this subsection (6), including procedures for
providing notice to any victim, as required by section 24-4.1-302.5
(1) (1.5), C.R.S., and to the district attorney's office that
prosecuted the crime for which the offender was sentenced.

SECTION 5. Act subject to petition - effective date. This act
takes effect at 12:01 a.m. on the day following the expiration of the
ninety-day period after final adjournment of the general assembly (August
10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
referendum petition is filed pursuant to section 1 (3) of article V of the
state constitution against this act or an item, section, or part of this act
within such period, then the act, item, section, or part will not take effect
unless approved by the people at the general election to be held in
November 2016 and, in such case, will take effect on the date of the
official declaration of the vote thereon by the governor.