

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REVISED

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

LLS NO. 18-0817.01 Michael Dohr x4347

HOUSE BILL 18-1251

HOUSE SPONSORSHIP

Lee and Wist, Melton, Weissman, Young

SENATE SPONSORSHIP

Kagan and Gardner,

House Committees

Judiciary
Appropriations

Senate Committees

State, Veterans, & Military Affairs
Appropriations

A BILL FOR AN ACT

101 CONCERNING MEASURES TO IMPROVE THE EFFICIENCY OF THE
102 COMMUNITY CORRECTIONS TRANSITION PLACEMENTS, AND, IN
103 CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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://leg.colorado.gov>.)

The bill requires the state board of parole to submit a list of offenders for community corrections transition placement referrals to the department of corrections staff. The staff shall inform the board when the referral is made or the reason for not making the referral. If an offender completes a community corrections program, the board shall schedule a

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
2nd Reading Unamended
May 3, 2018

HOUSE
3rd Reading Unamended
April 20, 2018

HOUSE
Amended 2nd Reading
April 19, 2018

parole release hearing and, if the decision is to deny parole, the majority of the full board is required to deny parole at that hearing.

The bill requires community corrections boards to develop and use a structured, research-based decision-making process that combines professional judgment and actuarial risk and needs assessment tools. If a community corrections board denies a transition offender a community corrections transition placement, the board shall electronically inform the department of corrections regarding the basis for the denial, suggestions for program completion, and a suggested subsequent referral timeline.

The bill specifies the information that must be included in a community corrections transition placement referral or subsequent referral packet. Current law gives the jurisdiction where a community corrections transition placement intends to parole first right of refusal. The bill eliminates the first right of refusal if attempting to place the transition offender into a specialized community corrections program or if the offender requests a placement in a different jurisdiction. The bill requires the subsequent referral of an offender for community corrections transition placement within 6 to 12 months of the offender's denial if the offender has not had a class I code of penal discipline violation in the previous year; the offender does not have consecutive misdemeanor sentences to serve; and the offender does not have a pending immigration detainer, pending felony charges, or an extraditable warrant.

The division of criminal justice is required to provide community corrections training to department of corrections staff and community corrections boards. The division shall produce a report describing key community corrections data trends.

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

2 **SECTION 1.** In Colorado Revised Statutes, 17-2-201, **add** (16)
3 and (17) as follows:

4 **17-2-201. State board of parole - duties - definitions.** (16) THE
5 BOARD SHALL SUBMIT TO THE DEPARTMENT OF CORRECTIONS STAFF
6 INVOLVED WITH MAKING COMMUNITY CORRECTIONS TRANSITION
7 PLACEMENT REFERRALS THE NAME AND REGISTER NUMBER OF EACH
8 INMATE THE BOARD IS RECOMMENDING FOR COMMUNITY CORRECTIONS
9 TRANSITION PLACEMENT. THE DEPARTMENT OF CORRECTIONS STAFF
10 INVOLVED WITH MAKING COMMUNITY CORRECTIONS TRANSITION

1 PLACEMENT REFERRALS SHALL INFORM THE BOARD WHEN THE REFERRAL
2 HAS BEEN MADE OR THE REASON WHY IT WAS NOT SUBMITTED.

3 (17) IF AN OFFENDER COMPLETES A COMMUNITY CORRECTIONS
4 PROGRAM, THE BOARD SHALL SCHEDULE A PAROLE RELEASE HEARING
5 WITHIN SIXTY DAYS AFTER THE OFFENDER'S COMPLETION OF THE
6 PROGRAM. IF THE DECISION IS TO DENY PAROLE, A MAJORITY OF THE FULL
7 BOARD IS REQUIRED TO DENY PAROLE PURSUANT TO THIS SUBSECTION
8 (17).

9 SECTION 2. In Colorado Revised Statutes, 17-27-103, amend
10 (5) as follows:

11 17-27-103. Community corrections boards - establishment -
12 duties. (5) (a) A community corrections board has the authority to accept
13 or reject any offender referred for placement in a community corrections
14 program under the jurisdiction of such board. The community corrections
15 board shall provide, in writing, acceptance criteria and screening
16 procedures to each referring agency.

17 (b) TO DETERMINE WHETHER TO ACCEPT OR REJECT ANY
18 OFFENDER, A COMMUNITY CORRECTIONS BOARD SHALL DEVELOP AND USE
19 A STRUCTURED, RESEARCH-BASED DECISION-MAKING PROCESS THAT
20 COMBINES PROFESSIONAL JUDGMENT AND ACTUARIAL RISK AND NEEDS
21 ASSESSMENT TOOLS.

22 (c) IF A COMMUNITY CORRECTIONS BOARD OR PROGRAM DENIES AN
23 OFFENDER A COMMUNITY CORRECTIONS TRANSITION PLACEMENT, THE
24 BOARD OR PROGRAM SHALL SUBMIT ELECTRONICALLY TO THE
25 DEPARTMENT OF CORRECTIONS THE REASON FOR THE DENIAL AND A
26 SUGGESTED TIMELINE FOR A SUBSEQUENT REFERRAL WITHIN THE PERIOD
27 SPECIFIED IN SECTION 18-1.3-301 (2)(e)(II). THE DEPARTMENT OF

1 CORRECTIONS SHALL DEVELOP THE METHOD BY WHICH COMMUNITY
2 CORRECTIONS BOARDS AND PROGRAMS CAN SUBMIT THIS INFORMATION
3 ELECTRONICALLY AND SHALL ALSO PROVIDE THIS INFORMATION TO THE
4 INMATE.

5 **SECTION 3.** In Colorado Revised Statutes, 18-1.3-301, **amend**
6 (2) as follows:

7 **18-1.3-301. Authority to place offenders in community**
8 **corrections programs.** (2) (a) (I) **Initial referral.** The executive director
9 of the department of corrections may transfer any offender who is eligible
10 pursuant to this subsection (2) to a community corrections program if
11 such offender is accepted for placement by a community corrections
12 board pursuant to section 17-27-103 ~~C.R.S.~~, and a community corrections
13 program pursuant to section 17-27-104. ~~C.R.S.~~

14 (II) WHEN THE EXECUTIVE DIRECTOR MAKES A REFERRAL OR
15 SUBSEQUENT REFERRAL REQUEST, THE REFERRAL PACKET MUST INCLUDE
16 THE FOLLOWING RELATED TO THE OFFENDER:

17 (A) A CURRENT RISK AND NEEDS ASSESSMENT THAT WAS
18 ADMINISTERED IN THE LAST TWELVE MONTHS;

19 (B) PROJECTED RELEASE DATES;

20 (C) PRIOR SUPERVISION OUTCOMES;

21 (D) INSTITUTIONAL PROGRAMMING RECOMMENDATIONS
22 INCLUDING PARTICIPATION AND COMPLETION INFORMATION;

23 (E) A VERIFIED PAROLE PLAN OR COMMUNITY PLAN;

24 (F) A VICTIM STATEMENT, IF APPLICABLE;

25 (G) AN OFFENDER STATEMENT, IF SUBMITTED;

26 (H) THE PAROLE BOARD ACTION SHEET, IF APPLICABLE;

27 (I) A RECOMMENDATION OR THE REASON WHY PLACEMENT IS OR

1 IS NOT RECOMMENDED FROM THE CASE MANAGER FOR THE COMMUNITY
2 PLACEMENT BASED ON AN INDIVIDUALIZED REVIEW THAT CONSIDERS RISK,
3 INSTITUTIONAL CONDUCT, AND RESPONSIVITY FACTORS;

4 (J) THE NUMBER OF PRIOR REFERRALS;

5 (K) A MENTAL HEALTH ASSESSMENT, IF AVAILABLE;

6 (L) A SUBSTANCE USE DISORDER ASSESSMENT, IF AVAILABLE;

7 (M) A SEX OFFENDER ASSESSMENT, IF APPLICABLE; AND

8 (N) THE SPECIFIC REFERRAL BEING REQUESTED.

9 (b) Unless the offender has an active felony warrant or detainer or
10 has refused community placement, the executive director of the
11 department of corrections shall refer an offender who has displayed
12 acceptable institutional behavior for placement in a community
13 corrections program according to the following timeline:

14 ~~(I) No more than twenty-eight months prior to the offender's~~
15 ~~parole eligibility date for any offender who successfully completes a~~
16 ~~regimented inmate discipline program pursuant to article 27.7 of title 17;~~
17 ~~C.R.S.;~~

18 (II) No more than sixteen months prior to the offender's parole
19 eligibility date for any offender who is not serving a sentence for an
20 offense referred to in section 18-1.3-406; and

21 (III) No more than one hundred eighty days prior to the parole
22 eligibility date for any other offender not described in ~~subparagraph (I) or~~
23 ~~(II) of this paragraph (b)~~ SUBSECTION (2)(b)(II) OF THIS SECTION.

24 (c) Prior to placement of an offender in any community
25 corrections program, the executive director of the department of
26 corrections shall give the first right to refuse placement of such offender
27 to the community corrections board and community corrections programs

1 in the community where the offender intends to reside after release from
2 custody of the department of corrections or parole by the state board of
3 parole; EXCEPT THAT THE FIRST RIGHT TO REFUSE DOES NOT APPLY IF THE
4 EXECUTIVE DIRECTOR SEEKS TO PLACE THE OFFENDER IN A SPECIALIZED
5 COMMUNITY CORRECTIONS PROGRAM OR THE OFFENDER REQUESTS A
6 SPECIFIC COMMUNITY CORRECTIONS PROGRAM PLACEMENT, SUBJECT TO
7 ACCEPTANCE BY THE COMMUNITY CORRECTIONS BOARD PURSUANT TO
8 SECTION 17-27-103 AND THE COMMUNITY CORRECTIONS PROGRAM
9 PURSUANT TO SECTION 17-27-104.

10 (d) As to any offender held in a county jail pursuant to section
11 17-27-104 (6), ~~C.R.S.~~, the executive director of the department of
12 corrections shall order transfer of such offender to a facility of the
13 department of corrections as soon as possible.

14 (e) **Subsequent referrals.** (I) For an offender who is serving a
15 sentence for a class 1 or 2 felony that constitutes a crime of violence
16 under section 18-1.3-406, excluding escape, and whose parole hearing has
17 been deferred for at least thirty-six months, the executive director of the
18 department of corrections shall not refer the offender for placement in
19 community corrections earlier than six months prior to the date of the
20 offender's second or any subsequent parole hearing.

21 (II) (A) WHEN AN OFFENDER IS DENIED PLACEMENT IN A
22 COMMUNITY CORRECTIONS PROGRAM, THE EXECUTIVE DIRECTOR SHALL
23 MAKE A SUBSEQUENT REFERRAL FOR THAT OFFENDER WHO IS ELIGIBLE
24 PURSUANT TO SUBSECTION (2)(e)(II)(B) OF THIS SECTION NO SOONER
25 THAN SIX MONTHS AFTER THE DENIAL AND NO LATER THAN TWELVE
26 MONTHS AFTER THE DENIAL UNLESS THE OFFENDER IS SUBJECT TO SECTION
27 17-2-201 (4)(a).

1 (B) AN OFFENDER IS ELIGIBLE FOR A SUBSEQUENT REFERRAL IF HE
2 OR SHE HAS HAD NO CLASS I CODE OF PENAL DISCIPLINE VIOLATIONS IN
3 THE LAST TWELVE MONTHS, THE OFFENDER DOES NOT HAVE A
4 CONSECUTIVE MISDEMEANOR SENTENCE TO SERVE, THE OFFENDER DOES
5 NOT HAVE AN IMMIGRATION AND CUSTOMS ENFORCEMENT DETAINER, THE
6 OFFENDER DOES NOT HAVE PENDING FELONY CHARGES, OR THE OFFENDER
7 DOES NOT HAVE AN EXTRADITABLE WARRANT.

8 (III) WHEN AN OFFENDER REFUSES PLACEMENT IN A COMMUNITY
9 CORRECTIONS PROGRAM, THE EXECUTIVE DIRECTOR MAY MAKE A
10 SUBSEQUENT REFERRAL FOR THE OFFENDER, IF ELIGIBLE PURSUANT TO
11 SUBSECTION (2)(e)(II)(B) OF THIS SECTION, AFTER THE OFFENDER INFORMS
12 THE EXECUTIVE DIRECTOR THAT THE CIRCUMSTANCE THAT FORMED THE
13 BASIS FOR THE REFUSAL HAS CHANGED OR RESOLVED.

14 **SECTION 4.** In Colorado Revised Statutes, **add 24-33.5-521** as
15 follows:

16 **24-33.5-521. Community corrections - training - annual**
17 **report.** (1) (a) THE DIVISION SHALL PROVIDE ANNUAL TRAINING TO
18 DEPARTMENT OF CORRECTIONS STAFF INVOLVED IN MAKING COMMUNITY
19 CORRECTIONS TRANSITION PLACEMENT REFERRALS.

20 (b) THE DIVISION SHALL PROVIDE ONGOING ANNUAL TRAINING TO
21 COMMUNITY CORRECTIONS BOARDS ON STRUCTURED DECISION-MAKING
22 AND OTHER RELEVANT ISSUES.

23 (2) THE DIVISION SHALL CREATE AND PUBLISH AN ANNUAL REPORT
24 BY FEBRUARY 1 OF EACH YEAR DESCRIBING KEY DATA TRENDS FOR
25 COMMUNITY CORRECTIONS PROVIDERS AND BOARDS INCLUDING PROCESS
26 MEASURES, OUTCOME MEASURES, REFERRAL TRENDS, ACCEPTANCE DATA,
27 AND THE STATUS OF STRUCTURED DECISION-MAKING IMPLEMENTATION.

1 **SECTION 5. Appropriation.** For the 2018-19 state fiscal year,
2 \$264,070 is appropriated to the department of public safety for use by the
3 division of criminal justice. This appropriation is from the general fund
4 and is based on an assumption that the division will require an additional
5 0.8 FTE. To implement this act, the division may use this appropriation
6 for DCJ administrative services.

7 **SECTION 6. Act subject to petition - effective date.** This act
8 takes effect at 12:01 a.m. on the day following the expiration of the
9 ninety-day period after final adjournment of the general assembly (August
10 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
11 referendum petition is filed pursuant to section 1 (3) of article V of the
12 state constitution against this act or an item, section, or part of this act
13 within such period, then the act, item, section, or part will not take effect
14 unless approved by the people at the general election to be held in
15 November 2018 and, in such case, will take effect on the date of the
16 official declaration of the vote thereon by the governor.