A BILL FOR AN ACT

CONCERNING MEASURES TO MANAGE THE STATE PRISON POPULATION.

Bill Summary

(Not: 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/)

Prison Population Management Interim Study Committee.

Under current law, the Centennial south campus of the Centennial correctional facility is only able to house inmates under limited circumstances. The bill would open the facility for close custody inmates and require that for each inmate who is housed at the facility, an inmate must be removed from a private prison until the facility is full.

The bill directs the department of corrections (department) to study how to end the practice of using private prisons by 2025 in a responsible
way. The study must include:

- Evidence-based strategies to stop using private prisons and move individuals into alternative facilities or programs;
- An analysis of the economic impacts on affected communities, including the loss of local tax revenue;
- An analysis of the impact that reducing private prison beds would have on local governments and community-based providers;
- A utilization analysis of all state-operated facilities and all other facilities that can be used for housing inmates;
- An analysis of the effect of releasing sex offenders who are assessed as low risk;
- An analysis of what state-operated facilities and programs may be utilized to keep pace with demand;
- An analysis of the best practices and programs that are necessary for successful reintegration of offenders;
- An analysis of the feasibility of the department to obtain private prison facilities in Colorado; and
- An analysis of the resources necessary to accomplish the strategies required to transition the state away from private prisons.

The bill adds to the list of achievements that allow an inmate to receive earned time showing exemplary leadership through mentoring, community service, and distinguished actions benefiting the health, safety, environment, and culture for staff and other inmates.

Under current law, an offender is not entitled to an evidentiary hearing for resentencing when the offender is rejected for placement in a community corrections program. The bill requires the sentencing court to provide the offender with an evidentiary hearing, or in the alternative a new sentencing hearing, for any termination from a community corrections program.

The bill amends the escape statutes to exclude direct sentences, transitioning from the department to a community corrections program, or placement in an intensive supervision parole program from the concepts of custody or confinement for purposes of escape. The bill lowers the penalties for escape and attempted escape crimes. The bill creates a new crime of absconding if the location of a person on intensive supervision parole or a person in a community corrections program is unknown to the authorized agency responsible for the person's supervision.

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

SECTION 1. In Colorado Revised Statutes, 17-1-104.3, amend
(1)(b.5); and repeal (1)(b.7) as follows:

17-1-104.3. Correctional facilities - locations - security level.

(1) (b.5) Notwithstanding the provisions of paragraph (b) of this subsection (1), beginning February 1, 2013; The Centennial south campus of the Centennial correctional facility shall not MAY be operated by the department for the purpose of housing inmates in the housing units but, if necessary, may be maintained to provide support and other services to the Centennial correctional facility. The department shall actively pursue options to sell or lease the Centennial south campus of the Centennial correctional facility, which is also known as Colorado state penitentiary H or CSP-H. Any proceeds received as a result of a sale or lease of Centennial south campus of the Centennial correctional facility shall be first applied to the payment of the certificates of participation WHO ARE CLOSE CUSTODY INMATES. FOR EACH PRISONER WHO IS HOUSED AT THE CENTENNIAL SOUTH CAMPUS OF THE CENTENNIAL CORRECTIONAL FACILITY, THE DEPARTMENT SHALL REMOVE ONE PRISONER FROM A PRIVATE PRISON FACILITY UNTIL THE CENTENNIAL SOUTH CAMPUS OF THE CENTENNIAL CORRECTIONAL FACILITY IS AT FULL PRISONER CAPACITY.

(b.7) (I) Notwithstanding subsection (1)(b.5) of this section, the Centennial south campus of the Centennial correctional facility may be used to house inmates on a limited basis when the state male prison vacant bed rate, excluding RTP treatment beds, remains below one percent vacancy for two consecutive months and the department has exhausted all options pursuant to section 17-1-119.7. The department shall not house more than one hundred twenty-six inmates at one time in the Centennial south campus. Once the state male prison vacant bed rate surpasses one percent vacancy, including calculating the inmates housed
in the Centennial south campus, the department shall transfer inmates housed in the Centennial south campus to an appropriate facility under the department's control within thirty calendar days:

(II) The department shall report the use of the Centennial south campus of the Centennial correctional facility to the joint budget committee and the judiciary committees of the senate and the house of representatives, or any successor committees, within five calendar days after the use of the Centennial south campus. For each month that the Centennial south campus of the Centennial correctional facility is used, the department shall report on the first day of every month the continued nature of the use of the Centennial south campus at the Centennial correctional facility, the steps taken by the department to address the vacancy issue, and the expected time frame for the vacancy issue to end:

(III) The department shall consider input from any legislative interim committee that meets during the 2019 interim regarding prison population management, specifically including:

(A) Strategies to safely reduce the prison population and reduce recidivism; and

(B) Prison use analysis including the Centennial south campus at the Centennial correctional facility, private prisons, and alternative bed programs:

(IV) This subsection (1)(b.7) is repealed, effective September 1, 2020.

SECTION 2. In Colorado Revised Statutes, 17-1-119.7, amend (2)(a)(II) and (2)(a)(IV)(A) as follows:

17-1-119.7. Prison population management measures.

(2) (a) If the vacancy rate in correctional facilities and state-funded
private contract prison beds falls below three percent for thirty consecutive days, the department shall:

(II) Request that the parole board review a list of inmates who are within ninety days of their mandatory release date have an approved parole plan; and do not require full board review or victim notification pursuant to section 24-4.1-302.5 (1)(j);

(IV) (A) Submit to the parole board a list of eligible inmates with a favorable parole plan who have been assessed to be medium or lower risk on the validated risk assessment scale developed pursuant to section 17-22.5-404 (2). Except as provided in subsection (2)(a)(IV)(B) of this section, the parole board shall conduct a file review of each inmate on the list and set conditions of release for the inmate within thirty days after receipt of the list and set a day of release no later than thirty days after conducting the file review.

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

17-1-201. Duties of department - report - rules. (3) (a) The department shall study how to end the use of private prisons to incarcerate individuals in Colorado by 2025 in a responsible way.

(b) The study must include:

(I) Evidence-based strategies to stop using private prisons and move individuals into alternative facilities or programs;

(II) An analysis of the economic impacts on affected communities, including the loss of local tax revenue;

(III) An analysis of the impact that reducing private prison beds would have on local governments and
COMMUNITY-BASED PROVIDERS;

(IV) A UTILIZATION ANALYSIS OF ALL STATE-OPERATED FACILITIES AND ALL OTHER FACILITIES THAT CAN BE USED FOR HOUSING INMATES;

(V) AN ANALYSIS OF THE EFFECT OF RELEASING SEX OFFENDERS WHO ARE ASSESSED AS LOW RISK;

(VI) AN ANALYSIS OF WHAT STATE-OPERATED FACILITIES AND PROGRAMS MAY BE UTILIZED TO KEEP PACE WITH DEMAND;

(VII) AN ANALYSIS OF THE BEST PRACTICES AND PROGRAMS THAT ARE NECESSARY FOR SUCCESSFUL REINTEGRATION OF OFFENDERS;

(VIII) AN ANALYSIS OF THE FEASIBILITY OF THE DEPARTMENT TO OBTAIN PRIVATE PRISON FACILITIES IN COLORADO; AND

(IX) AN ANALYSIS OF THE RESOURCES NECESSARY TO ACCOMPLISH THE STRATEGIES REQUIRED TO TRANSITION THE STATE AWAY FROM PRIVATE PRISONS.

(c) THE DEPARTMENT SHALL PROVIDE THE STUDY TO THE JOINT BUDGET COMMITTEE WHEN PRESENTING ITS BUDGET RECOMMENDATIONS FOR FISCAL YEAR 2021-22 AND SHALL PROVIDE COPIES OF THE STUDY TO THE MEMBERS OF THE JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES.

SECTION 4. In Colorado Revised Statutes, 17-2-103, amend (11)(c) introductory portion as follows:


(11) (c) If the board determines that the parolee is in need of treatment, and is amenable to treatment, the board shall consider placing the parolee in one of the following treatment options and, if appropriate, may modify the conditions of parole to include:

SECTION 5. In Colorado Revised Statutes, 17-22.5-405, amend
(1) introductory portion and (1.5)(b); and add (1)(h) as follows:

17-22.5-405. Earned time - earned release time - achievement
earned time - definition. (1) Earned time, not to exceed ten days for
each month of incarceration or parole, may be deducted from the inmate's
sentence upon a demonstration to the department by the inmate, which is
certified by the inmate's case manager or community parole officer, that
he or she THE INMATE has made consistent progress in the following
categories as required by the department of corrections:

(h) THE INMATE HAS SHOWN EXEMPLARY LEADERSHIP THROUGH
MENTORING, COMMUNITY SERVICE, AND DISTINGUISHED ACTIONS
BENEFITING THE HEALTH, SAFETY, ENVIRONMENT, AND CULTURE FOR
STAFF AND OTHER INMATES.

(1.5) (b) The earned time specified in paragraph (a) of this
subsection (1.5) SUBSECTION (1.5)(a) OF THIS SECTION may be deducted
based upon a demonstration to the department by the inmate, which is
certified by the inmate's case manager or community parole officer, that
he or she has made consistent progress in the categories described in
subsection (1) of this section POSITIVE PROGRESS IN ACCORDANCE WITH
PERFORMANCE STANDARDS ESTABLISHED BY THE DEPARTMENT.

SECTION 6. In Colorado Revised Statutes, 18-1.3-301, amend
(1)(g) as follows:

18-1.3-301. Authority to place offenders in community
corrections programs. (1) (g) The sentencing court may make
appropriate orders for the detention, transfer, or resentencing of any
offender whose placement in a community corrections program is
terminated pursuant to section 17-27-103 (7) C.R.S., or section 17-27-104
(5). C.R.S. As to any offender held pursuant to section 17-27-104 (6)
in a jail operated by a unit of local government in a county other
than where the offender's original conviction occurred, the sentencing
court shall order the transfer of the offender to the jail of the county
where the original conviction occurred as soon as possible. The
sentencing court is not required to provide the offender with an
evidentiary hearing pertaining to the rejection of placement in a
community corrections program prior to resentencing. The sentencing
court shall provide the offender with an evidentiary hearing, or
in the alternative a new resentencing hearing, for any termination
from a community corrections program, including a violation of
section 18-8-208.2. At any new resentencing hearing, the court may
consider any sentencing alternative originally available to the
court when ordering the appropriate sentence.

SECTION 7. In Colorado Revised Statutes, 18-8-208, amend (1),
(2), and (11) as follows:

18-8-208. Escapes. (1) A person commits a class 2 felony if,
while being in custody or confinement following conviction of a class 1
or class 2 felony, he knowingly escapes from said custody or
confinement.

(2) A person commits a class 3 felony if, while being in custody
or confinement following conviction of a felony other than a class 1 or
class 2 felony, he knowingly escapes from said custody or
confinement.

(11) If a person who is serving a direct sentence to a
community corrections program pursuant to section 18-1.3-301,
or is transitioning from the Department of Corrections to a
community corrections program, or is placed in an intensive
SUPERVISION PAROLE PROGRAM PURSUANT TO SECTION 17-27.5-101, OR
IS placed in a community corrections program for purposes of obtaining
residential treatment as a condition of probation pursuant to section
18-1.3-204 (2.2) or 18-1.3-301 (4)(b), THEN THE PERSON is not in custody
or confinement for purposes of this section.

SECTION 8. In Colorado Revised Statutes, 18-8-208.1, amend
(1), (1.5), and (2) as follows:

18-8-208.1. Attempt to escape. (1) Except as otherwise provided
in subsection (1.5) of this section, if a person, while in custody or
confinement following conviction of a felony, knowingly attempts to
escape from said custody or confinement, the PERSON commits
a class 4 felony. The sentence imposed pursuant to this subsection (1)
shall run consecutively with any sentences being served by the offender.

(1.5) If a person, while in custody or confinement following
conviction of a felony and either serving a direct sentence to a community
corrections program pursuant to section 18-1.3-301, or having been
placed in an intensive supervision parole program pursuant to section
17-27.5-101, C.R.S., knowingly attempts to escape from his or her
custody or confinement, the PERSON commits a class 5 felony. The sentence
imposed pursuant to this subsection (1.5) may run concurrently or
consecutively with any sentence being served by the offender.

IF A PERSON IS SERVING A DIRECT SENTENCE TO A COMMUNITY CORRECTIONS PROGRAM
PURSUANT TO SECTION 18-1.3-301, OR IS TRANSITIONING FROM THE
DEPARTMENT OF CORRECTIONS TO A COMMUNITY CORRECTIONS PROGRAM,
OR IS PLACED IN AN INTENSIVE SUPERVISION PAROLE PROGRAM PURSUANT
TO SECTION 17-27.5-101, OR IS PLACED IN A COMMUNITY CORRECTIONS
PROGRAM FOR PURPOSES OF OBTAINING RESIDENTIAL TREATMENT AS A
CONDITION OF PROBATION PURSUANT TO SECTION 18-1.3-204 (2.2) OR
18-1.3-301 (4)(b), THEN THE PERSON IS NOT IN CUSTODY OR CONFINEMENT
FOR PURPOSES OF THIS SECTION.

(2) If a person, while in custody or confinement and held for or
charged with but not convicted of a felony, knowingly attempts to escape
from said custody or confinement, he/she the person commits a class 6
felony. If the person is convicted of the felony or other crime for which
he/she the person was originally in custody or confinement, the sentence
imposed pursuant to this subsection (2) shall run consecutively with any
sentences being served by the offender.

SECTION 9. In Colorado Revised Statutes, add 18-8-208.2 as
follows:

18-8-208.2. Absconding. (1) A person on intensive
supervision parole or a person in a community corrections
program commits the offense of absconding if the location of
the person is unknown to the authorized agency responsible for
the person's supervision.

(2) (a) If a person commits absconding while on intensive
supervision parole or in a community corrections program for a
crime listed in section 24-4.1-302 (1) or a crime of violence as
described in section 18-1.3-406, absconding is a class 6 felony and
an attempt thereof is a class 1 misdemeanor.

(b) If a person commits absconding while on intensive
supervision parole or in a community corrections program for a
crime other than the crimes listed in section 24-4.1-302 (1) and
the crime is not a crime of violence as described in section
18-1.3-406, absconding is a class 3 misdemeanor and an attempt
THEREOF IS A CLASS 3 MISDEMEANOR.

SECTION 10. In Colorado Revised Statutes, 18-1.3-801, amend (5) as follows:

18-1.3-801. Punishment for habitual criminals. (5) A current or prior conviction for escape, as described in section 18-8-208 (1), (2), or (3), or attempt to escape, as described in section 18-8-208.1 (1) (1.5), or (2), may not be used for the purpose of adjudicating a person an habitual criminal as described in subsection (1.5) or subsection (2) of this section unless the conviction is based on the offender's escape or attempt to escape from a correctional facility, as defined in section 17-1-102, or from physical custody within a county jail; except that, for the purposes of this section, "correctional facility" does not include a community corrections facility, as defined in section 17-27-102 (2.5), or a halfway house, as defined in section 19-1-103 (62).

SECTION 11. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.