

CHAPTER 37

CORRECTIONS

HOUSE BILL 15-1122

BY REPRESENTATIVE(S) Fields, Lee, Melton, Mitsch Bush, Tate, Van Winkle, Willett;
also SENATOR(S) Cooke, Roberts.

AN ACT

**CONCERNING LIMITING ELIGIBILITY FOR PAROLE, AND, IN CONNECTION THEREWITH, AMENDING
CERTAIN PROVISIONS CONCERNING THE REVOCATION OF PAROLE FOR CERTAIN INMATES.**

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

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

(a) The release of an inmate on parole at the discretion of the state board of parole is not a right but a privilege;

(b) Current law requires the state board of parole to schedule and conduct parole application hearings for inmates who have recently received disciplinary actions due to poor institutional behavior and for inmates who have refused treatment and programs that have been offered to them;

(c) Because the awarding of parole to such inmates is extremely unlikely, such parole application hearings frequently:

(I) Create undue stress and anxiety for the victims of the inmates' crimes; and

(II) Create undue expectations and hope on the part of the inmates and their families.

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

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SECTION 2. In Colorado Revised Statutes, 17-2-201, **amend** (4) (f) (I) and (9) (a) (I); and **add** (3.7) as follows:

17-2-201. State board of parole - definitions. (3.7) (a) NOTWITHSTANDING ANY OTHER PROVISION IN THIS SECTION, AN INMATE IS NOT ELIGIBLE FOR PAROLE IF THE INMATE:

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

(II) HAS, WITHIN THE TWELVE 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 THE INMATE.

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

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

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

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

(4) The board has the following powers and duties:

(f) (I) To conduct a parole release review in lieu of a hearing, without the presence of the inmate, if:

(A) The application for release is for special needs parole pursuant to section 17-22.5-403.5, and victim notification is not required pursuant to section 24-4.1-302.5, C.R.S.; ~~or~~

(B) A detainer from the United States immigration and customs enforcement agency has been filed with the department, the inmate meets the criteria for the presumption of parole in section 17-22-404.8, and victim notification is not required pursuant to section 24-4.1-302.5, C.R.S.; OR

(C) THE INMATE HAS A STATUTORY DISCHARGE DATE OR MANDATORY RELEASE DATE WITHIN SIX MONTHS AFTER HIS OR HER NEXT ORDINARILY SCHEDULED PAROLE HEARING AND VICTIM NOTIFICATION IS NOT REQUIRED PURSUANT TO SECTION 24-4.1-302.5, C.R.S.

(9)(a)(I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (I) OF PARAGRAPH (f) OF SUBSECTION (4) OF THIS SECTION, whenever an inmate initially applies for parole, the board shall conduct an interview with the inmate. At such interview at least one member of the board shall be present. Any final action on an application shall not be required to be made in the presence of the inmate or parolee, and any such action shall require the concurrence of at least two members of the board. When the two members do not concur, a third member shall review the record and, if deemed necessary, interview the applicant and cast the deciding vote. Any subsequent application for parole shall be considered by the board in accordance with the provisions of paragraph (a) of subsection (4) of this section.

SECTION 3. In Colorado Revised Statutes, 17-2-103, **amend** (11) (b) (II) introductory portion as follows:

17-2-103. Arrest of parolee - revocation proceedings. (11) (b) (II) If the board determines that the parolee has violated any condition of parole other than commission of a crime OR THE BOARD GRANTS THE PAROLEE'S REQUEST TO REVOKE HIS OR HER PAROLE, and THE PAROLEE is not subject to the provisions of subparagraph (I), (III), (III.5), (IV), or (VI) of this paragraph (b), the board may:

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

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

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

17-22.5-403. Parole eligibility. (5) For any offender who is incarcerated for an offense committed prior to July 1, 1993, upon application for parole, the state board of parole, working in conjunction with the department and using the guidelines established pursuant to section 17-22.5-404, shall determine whether or not to grant parole and, if granted, the length of the period of parole. The state board of parole may set the length of the period of parole for any time period up to the date of final discharge as determined in accordance with section 17-22.5-402. If an application for parole is refused by the state board of parole, the state board of parole shall reconsider within one year thereafter whether such inmate should be granted parole. The state board of parole shall continue such reconsideration each year thereafter until such inmate is granted parole or until such inmate is discharged pursuant to law; except that:

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

parole or until such inmate is discharged pursuant to law; OR

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

(6) For persons who are granted parole pursuant to subsection (5) of this section, the division of adult parole shall provide parole supervision and assistance in securing employment, housing, and such other services as may effect the successful reintegration of such offender into the community while recognizing the need for public safety. The conditions for parole for any such offender under this subsection (6) shall be established pursuant to section 17-22.5-404 by the state board of parole prior to such offender's release from incarceration. Upon a determination IN A PAROLE REVOCATION PROCEEDING that the conditions of parole have been violated, ~~in a parole revocation proceeding~~ the state board of parole shall continue the parole in effect, modify the conditions of parole if circumstances then shown to exist require such modifications, which circumstances shall be set forth in writing, or revoke the parole and order the return of the offender to a place of confinement designated by the executive director for any period of time up to the period remaining on such person's sentence, INCLUDING THE REMAINDER OF THE OFFENDER'S NATURAL LIFE IF APPLICABLE, until the discharge date as determined by section 17-22.5-402 or one year, whichever is longer. In computing the period of reincarceration for an offender other than an offender sentenced for a nonviolent felony offense, as defined in section 17-22.5-405 (5), the time between the offender's release on parole and return to custody in Colorado for revocation of such parole shall not be considered to be part of the term of the sentence. The state board of parole may discharge an offender granted parole under this section at any time during the term of parole upon a determination that the offender has been sufficiently rehabilitated and reintegrated into society and can no longer benefit from parole supervision.

(7) (a) For any offender who is incarcerated for an offense committed on or after July 1, 1993, upon application for parole, the state board of parole, working in conjunction with the department and using the guidelines established pursuant to section 17-22.5-404, shall determine whether or not to grant parole. The state board of parole, if it determines that placing an offender on parole is appropriate, shall set the length of the period of parole at the mandatory period of parole established in section 18-1.3-401 (1) (a) (V) or 18-1.3-401.5 (2) (a), C.R.S., except as otherwise provided for specified offenses in section 17-2-201 (5) (a), (5) (a.5), and (5) (a.7). ~~If an application for parole is refused by the state board of parole, the state board of parole shall reconsider within one year thereafter whether such inmate should be granted parole. The state board of parole shall continue such reconsideration each year thereafter until such inmate is granted parole or until such inmate is discharged pursuant to law; except that, if the inmate applying for parole was convicted of any sex offense, as defined in section 18-1.3-1003 (5), C.R.S., a habitual criminal offense as defined in section 18-1.3-801 (2.5), C.R.S., or of any offense subject to the requirements of section 18-1.3-904, C.R.S., the board need only reconsider granting parole to such inmate once every three years, until the board grants such inmate parole or until such inmate is discharged pursuant to law, or if the person~~

~~applying for parole was convicted of a class 2 felony that constitutes a crime of violence, as defined in section 18-1.3-406, C.R.S., the board need only reconsider granting parole to such person once every five years, until the board grants such person parole or until such person is discharged pursuant to law.~~

(b) Notwithstanding the provisions of paragraph (a) of this subsection (7), for any sex offender, as defined in section 18-1.3-1003 (4), C.R.S., who is sentenced pursuant to the provisions of part 10 of article 1.3 of title 18, C.R.S., for commission of a sex offense committed on or after November 1, 1998, the state board of parole shall determine whether or not to grant parole as provided in section 18-1.3-1006, C.R.S. If the state board of parole determines that placing a sex offender on parole is appropriate, it shall set an indeterminate period of parole as provided in section 18-1.3-1006, C.R.S. ~~If the state board of parole does not release a sex offender on parole, it shall reconsider release on parole at least once every three years until the state board of parole determines the sex offender meets the criteria for parole specified in section 18-1.3-1006 (1), C.R.S.~~

(8)(b) For sex offenders, as defined in section 18-1.3-1003 (4), C.R.S., who are convicted of an offense committed on or after November 1, 1998, and who are granted parole pursuant to paragraph (b) of subsection (7) of this section, the division of adult parole shall provide parole supervision and assistance in securing employment, housing, and such other services as may affect the successful reintegration of the sex offender into the community while recognizing the need for public safety. The conditions for parole for any sex offender shall be established pursuant to section 18-1.3-1006, C.R.S., and section 17-22.5-404 by the state board of parole prior to the sex offender's release from incarceration. Upon a determination in a parole revocation proceeding that the sex offender has violated the conditions of parole, the state board of parole shall continue the parole in effect, modify the conditions of parole if circumstances then shown to exist require such modifications, which circumstances shall be set forth in writing, or revoke the parole and order the return of the sex offender to a place of confinement designated by the executive director for any period of time up to the remainder of the sex offender's natural life. The revocation hearing shall be held and the state board of parole shall make its determination as provided in section 18-1.3-1010, C.R.S. ~~Following reincarceration, the sex offender's eligibility for parole shall be determined pursuant to section 18-1.3-1006, C.R.S.~~ The state board of parole may discharge a sex offender from parole as provided in section 18-1.3-1006 (3), C.R.S.

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

18-1.3-1006. Release from incarceration - parole - conditions. (1) (c) If the parole board does not release the sex offender on parole pursuant to paragraph (a) of this subsection (1), the parole board shall review such denial ~~at least once every three years until it determines that the sex offender meets the criteria for release on parole specified in paragraph (a) of this subsection (1)~~ PURSUANT TO THE TIME PERIODS SET FORTH IN SECTION 17-2-201 (4) (a), C.R.S. At each review, the department shall make recommendations, based on the criteria established by the management board pursuant to section 18-1.3-1009, concerning whether the sex offender should be released on parole.

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

18-1.3-401. Felonies classified - presumptive penalties. (1) (a) (V) (B) Any person who is paroled pursuant to section 17-22.5-403, C.R.S., or any person who is not paroled and is discharged pursuant to law, shall be subject to the mandatory period of parole established pursuant to sub-subparagraph (A) of this subparagraph (V). Such mandatory period of parole may not be waived by the offender or waived or suspended by the court and shall be subject to the provisions of ~~section 17-22.5-403 (8)~~ SECTION 17-22.5-403 (6), C.R.S., which permits the state board of parole to discharge the offender at any time during the term of parole upon a determination that the offender has been sufficiently rehabilitated and reintegrated into society and can no longer benefit from parole supervision.

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

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

SECTION 9. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 20, 2015