

Proposition _: Parole Eligibility for Crimes of Violence

Placed on the ballot by citizen initiative • Passes with a majority vote

1 **Proposition _ proposes amending the Colorado statutes to:**

- 2 • increase the amount of prison time a person convicted of certain crimes of
3 violence must serve before becoming eligible for discretionary parole or earned
4 time reductions; and
- 5 • make a person convicted of a third crime of violence ineligible for discretionary
6 parole or earned time reductions.

7 **What Your Vote Means**

8 **YES**

9 A “yes” vote on Proposition _ would
10 require a person convicted of certain
11 crimes of violence to serve at least
12 85 percent of their sentence in prison
13 before being eligible for discretionary
14 parole or earned time reductions, and
15 make a person convicted of a third or
16 subsequent crime of violence ineligible for
17 earned time or discretionary parole.

18 **NO**

19 A “no” vote on Proposition _ keeps the
20 current requirement that a person
21 convicted of certain crimes of violence
22 serve 75 percent of their sentence in
23 prison before being eligible for
24 discretionary parole, minus earned time
25 for progressing in personal, professional,
26 or educational programs.

27 **Summary and Analysis of Proposition _**

28 **What is parole and how does discretionary parole differ from mandatory parole?**

29 Parole is a system to supervise convicted persons after they are released from prison. Every
30 person sentenced to prison in Colorado is released through either discretionary or
31 mandatory parole, unless they are sentenced to life without parole. Discretionary parole
32 occurs when a person reaches a prescribed eligibility date, which is the minimum amount of
33 time a person must stay in prison before parole can be considered. Thereafter, the person
34 may apply to appear before the State Board of Parole to determine if the remaining
35 sentence may be completed under community supervision. Mandatory parole occurs when a
36 person reaches their mandatory release date, which is the maximum amount of time a
37 person must stay in prison before they are automatically released on parole. In both cases,
38 the State Board of Parole sets the conditions of community supervision, such as requiring
39 employment, housing, or substance abuse treatment.

1 **How does parole for crimes of violence work under current law?**

2 Under current law, a person convicted for certain crimes of violence must serve 75 percent of
3 their sentence in prison before being eligible for discretionary parole, minus earned time.
4 Earned time reduces a person’s time in prison as an incentive for progressing towards
5 certain personal, professional, or educational goals by up to 10 or 12 days a month,
6 depending on the crime for which the person was convicted. When a person becomes
7 eligible for discretionary parole, they appear before the State Board of Parole which
8 determines whether they will be released from prison ahead of their mandatory release date
9 and placed on supervised parole.

10 **What does Proposition _ do?**

11 Proposition _ requires a person convicted of certain crimes of violence committed on or after
12 January 1, 2025, to serve at least 85 percent of their sentence in prison before they can
13 become eligible for discretionary parole or reduce their sentence by receiving earned time.
14 Crimes of violence covered by the measure are murder (second degree), sexual assault (first
15 or second degree), aggravated robbery, and the most serious cases of assault (first degree),
16 kidnapping (class 2 felony), arson (first degree), and burglary (first degree). A person who is
17 convicted of a third or subsequent crime of violence is ineligible for earned time or
18 discretionary parole, meaning their entire sentence must be served in prison before the
19 person is released on mandatory parole.

20 An estimated 220 individuals per year are sentenced to prison for crimes of violence and
21 currently serve an average of about 23 years in prison, which will increase under the
22 measure. The measure does not impact the parole eligibility of a person who is incarcerated
23 for crimes committed before January 1, 2025.

24 **How does Proposition _ change parole eligibility?**

25 Table 1 below shows an example comparing a 20-year court-ordered prison sentence for a
26 first or second conviction of a crime of violence under current law to the same sentence
27 under the measure. The measure’s change to the requirement to serve 75 percent of the
28 sentence to 85 percent in this example results in an additional two years served in prison.
29 Additionally, under current law, a person can reduce their discretionary parole eligibility date
30 with earned time; under the measure, 85 percent of the sentence must be served in prison
31 before a person can be eligible for earned time reductions. This results in one additional year
32 served in prison under the measure in this example. It should be noted that discretionary
33 parole eligibility does not guarantee a person will be released from prison as the State Board
34 of Parole has final decision-making authority over this matter, and that mandatory parole
35 eligibility remains the same under current law and Proposition _.

Table 1

Crimes of Violence Sentencing Under Current Law Compared to Proposition _

This example assumes a 20-year court-ordered sentence and 1-year of earned time

| 20-year Court-Ordered Sentence | Years Served Before Discretionary Parole Eligible | 1-Year Earned Time | Parole Timeframe with Earned Time |
|---------------------------------------|--|--|--|
| Current Law | 75% or 15 years | <u>Can</u> reduce discretionary parole eligibility date | 14 years to 19 years |
| Proposition _ | 85% or 17 years | <u>Cannot</u> reduce discretionary parole eligibility date | 17 years to 19 years |

For information on those issue committees that support or oppose the measures on the ballot at the November 5, 2024, election, go to the Colorado Secretary of State’s elections center web site hyperlink for ballot and initiative information:

<https://coloradosos.gov/pubs/elections/Initiatives/InitiativesHome.html>

Argument For Proposition _

1) Proposition _ keeps people convicted of crimes of violence in prison for a longer period of time in an effort to increase public safety and ensure that justice is served. People who commit these dangerous crimes should be kept away from their victims and the community without opportunities for discretionary parole or earned time. Victims and their family members deserve the sense of security that prolonged periods of incarceration will provide.

Argument Against Proposition _

1) Proposition _ removes the opportunity for convicted people to achieve earned time, giving them less incentive to comply with prison rules or take advantage of rehabilitation opportunities offered in prison. The prison population will grow, which will increase costs and require additional staff when many prisons are already short-staffed and have difficulty recruiting and retaining employees. Finally, there is no evidence that the measure will reduce crime rates.

Fiscal Impact of Proposition _

State spending. The measure increases state spending in two ways. In the short-term, the measure requires one-time computer system updates to the Department of Corrections’ case management system, estimated at \$12,000. Beginning in approximately 20 years, state spending will increase by between \$12 million and \$28 million per year due to the measure’s increase in the percentage of prison sentences that must be served. This estimate is based

Legislative Council Draft

- 1 on current costs and average lengths of stay for persons in state prison, and assumes that
- 2 the number and types of convictions and total sentence lengths remain constant. Actual
- 3 costs will likely increase with inflation and depend on offender behavior and decisions by the
- 4 State Board of Parole.

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Argument Against Proposition _

- 1) Proposition _ removes the opportunity for convicted people to achieve earned time, giving them less incentive to comply with prison rules or take advantage of rehabilitation opportunities offered in prison. The prison population will grow, which will increase costs and require additional staff when many prisons are already short-staffed and have difficulty recruiting and retaining employees. Finally, there is no evidence that the measure will reduce crime rates.

Fiscal Impact of Proposition _

State spending. The measure increases state spending in two ways. In the short-term, the measure requires one-time computer system updates to the Department of Corrections' case management system, estimated at \$12,000. Beginning in approximately 20 years, state spending will increase by between \$12 million and \$28 million per year due to the measure's increase in the percentage of prison sentences that must be served. This estimate is based

- 1 on current costs and average lengths of stay for persons in state prison, and assumes that
- 2 the number and types of convictions and total sentence lengths remain constant. Actual
- 3 costs will likely increase with inflation and depend on offender behavior and decisions by the
- 4 State Board of Parole.

Last Draft Comments from Interested Parties

Initiative 112 Parole Eligibility for Crimes of Violence

Catherine Ordoñez, representing American Civil Liberties Union of Colorado:

To whom it may concern:

The ACLU of Colorado appreciates the role your office plays in voter education and ensuring fair elections in Colorado. Thank you for your ongoing work in preparing the 2024 voter information booklet and for your solicitation of feedback on the third draft of ballot analysis for Initiative 112 - Concerning Eligibility for Parole. Below you will find the ACLU of Colorado's comments and proposed changes to the draft.

The third draft of the ballot analysis improved upon the second draft but persists in creating confusion about precisely which crimes would be covered by the measure. We recommend that Legislative Council address the following outstanding concerns:

- (1) specifying the list of actual crimes considered crimes of violence for purposes of the initiative so that there is no misunderstanding that a certain crime may or may not be subject to the potential change. The phrase "the most serious cases," appearing on page 2 line 14, is a subjective term that may lead individuals to erroneously believe that a crime perpetrated against them would have had a different outcome under this measure;
- (2) correct a typo on page 2, line 16 by adding "is" – "A person who [IS] convicted for a third or subsequent crime of violence is ineligible..."; and
- (3) reiterate at relevant times that mandatory parole would not be impacted by this measure. To that end, we recommend the following changes to the ballot analysis:

10 What does Proposition _ do?

* * *

Crimes of violence included in the measure are **second degree** murder, **first or second degree** sexual assault, aggravated robbery, ~~and the most serious cases of first degree~~ assault, **first degree** kidnapping, **first degree** arson, and **first degree** burglary. A person who **is** convicted for a third or subsequent crime of violence is ineligible

Last Draft Comments from Interested Parties

Catherine Ordoñez, representing American Civil Liberties Union of Colorado (cont.):

How does Proposition _ change parole eligibility?

* * *

served in prison under the measure. It should be noted that discretionary parole eligibility does not guarantee a person will be released from prison as the Parole Board has final decision-making authority over this matter. **It should also be noted that mandatory parole eligibility remains the same under current law and Proposition _.**

Argument Against Proposition _

1) Proposition _ removes the opportunity for convicted people to achieve earned time, giving them less incentive to comply with prison rules or take advantage of rehabilitation opportunities offered in prison. **The removal of this incentive could significantly increase safety risks for corrections officers and the risk of recidivism for incarcerated individuals.** The prison population will grow, which will increase costs and require additional staff when many prisons are already short-staffed and have difficulty recruiting and retaining employees. **Proposition _ will cost taxpayers significantly more in prison staffing and lawsuits concerning the violation of Constitutional rights because of staffing shortfalls.** Finally, there is no evidence that the measure will reduce crime rates, **and no data to support that similar policy policies in other places have reduced crime rates.**

Thank you for your consideration of our feedback. We look forward to engaging with you further in this process.

Sincerely,

Catherine Ordoñez
Policy Counsel
Attorney Reg. No. 52811
ACLU of Colorado

Initiative 112
Parole Eligibility for Crimes of Violence
Contact List

| Interested Party | Organization Name | Email Address |
|------------------------------|--|------------------------------------|
| Amadia Al-Amin | House Majority | amadia.alamin.house@gmail.com |
| COLE ANDERSON | Common Sense Institute | cole@csinstitute.org |
| Joshua Barnett | | eoval75@gmail.com |
| Kristina Baum | American Veterinary Medical Association | kbaum@avma.org |
| Michael Beasley | 5280 Strategies | mike@5280strategies.com |
| Rachel Bender | Colorado Municipal League | rbender@cml.org |
| Angie Binder | | angiebinder@msn.com |
| Chris Brown | Common Sense Institute | chris@csinstitute.org |
| Gary and Annette Budd | | annettelbudd@gmail.com |
| Bronwen Cartwright | | bronwen.cartwright.house@gmail.com |
| NATALIE CASTLE | | natalie.castle@coleg.gov |
| Megan Davisson | Cornerstone Government Affairs | mdavisson@cgagroup.com |
| Soledad Diaz | Violence Free Colorado | sdiaz@violencefreeco.org |
| Mallory Feeney | House Dems | mallory.feeney.house@gmail.com |
| Michael Fields | Advance Colorado | mikefields22@yahoo.com |
| David Frost | Colorado Victims for Justice | yesmaam8822@gmail.com |
| Logan Fry | Brownstein Hyatt Farber Schreck | lfry@bhfs.com |
| Maggie G ³ mez | | maggie@stateinnovation.org |
| Cory Gaines | CTG | corytgaines@gmail.com |
| Erik Gamm | Common Sense Institute | erik@csinstitute.org |
| Hazel Gibson | ProgressNow Colorado | hazel@progressnowcolorado.org |
| Deborah Grigsby Smith | The Denver Gazette | deborah.smith@denvergazette.com |
| Mark Grueskin | Recht Kornfeld | mark@rklawpc.com |
| Dusti Gurule | | dusti@colorlatina.org |
| Kathryn Hallahan | | kthhllhn@gmail.com |
| kimberly hanson | | kimberlyjane1603@gmail.com |
| Kiera Hatton | Cobalt | kiera@cobaltadvocates.org |
| Joseph Herrera | COWINS 1876 | jherrera@cowins.org |
| E J Kelly Hunter | | kellygrn@comcast.net |
| BallotAccount Initiative 112 | | paroleeligibility2024@coleg.gov |
| Alex Jordan | Larimer County Government | jordanac@co.larimer.co.us |
| James Karbach | Office of the Colorado State Public Defender | james.karbach@coloradodefenders.us |
| Suzanne Keim | | suzanne.keim@coleg.gov |
| Cathy Kipp | Colorado House of Representatives | cathykipp52@gmail.com |
| Rebecca Kisner | House Majority | rebecca.kisner.house@gmail.com |
| Katie Kolupke | LCS | katie.kolupke@coleg.gov |

Initiative 112
Parole Eligibility for Crimes of Violence
Contact List (Cont.)

| Interested Party | Organization Name | Email Address |
|--------------------------------|--|--|
| Annie Kurtz | ACLU of Colorado | akurtz@aclu-co.org |
| Andrea Kuwik | | kuwik@bellpolicy.org |
| Deborah Lively | LeadingAge Colorado | deborah@leadingagecolorado.org |
| Elizabeth Lo | Husch Blackwell Strategies | elizabethl@hbstrategies.us |
| Rich Mauro | Denver Regional Council of Governments | rmpeoplespalate@gmail.com |
| Sophia Mayott-Guerrero | ACLU-CO | smayott-guerrero@aclu-co.org |
| Jean McAllister | JGM Consulting, LLC | jeangmcallister@aol.com |
| N Menten | self on some issues (also a board director for the Taxpayer's Bill of Rights Foundation) | coloradoengaged@gmail.com |
| Erin Meschke | none | mrs_meschke@hotmail.com |
| Daniel Meyer | Spero Justice Center | dan.meyer@sperojjustice.org |
| Kurt Morrison | Office of the Attorney General | kurtis.morrison@coag.gov |
| Kiyana Newell | New Era Colorado | Kiyana@neweracolorado.org |
| Elizabeth Newman | | elizabeth@ccasa.org |
| Catherine Ordonez chae park | ACLU of Colorado | cordonez@aclu-co.org chae@slpublicaffairs.com |
| Catherine Perrone | League of Women Voters | lwvcovote411@gmail.com |
| Simone Price | CEO | sprice@ceoworks.org |
| Frances Rinard | Splash 2.0/Na/wab3 blackchane Facebook mata | rinardfrances@yahoo.com |
| Chaer Robert | Colorado Center on Law and Policy | crobert@copolicy.org |
| Anaya Robinson | ACLU of CO | arobinson@aclu-co.org |
| Alec Romero | | alec@capitolsuccess.com |
| Sonia Russo | None | soniarusso09@gmail.com |
| Bennett Rutledge | Colorado by Consent of the Governed | rutledges@peoplepc.com |
| Stacy Sager | Temu | stacysager80@gmail.com |
| Adrienne Sanchez | Colorado Department of Corrections | adrienne.sanchez@state.co.us |
| Feliz Sanchez Garcia | CO House Dems | feliz.sanchezgarcia.house@gmail.com |
| Paula Sarlls | Paula Sarlls | paulasarlls@comcast.net |
| Julia Scanlan | Counties & Commissioners Acting Together (CCAT) | julia.scanlan@coloradoccat.org |
| David Schultheis | Self | dave@schultheisforcolorado.com |
| Kayla Shock | OEDIT | kayla.shock@state.co.us |
| Cat Simons | | csimons1995@gmail.com |
| Brett Stewart | City of Loveland | brett.stewart@cityofloveland.org |
| David Stiver | Team Strategy Inc. | team@teamstrategy.org |

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Contact List (Cont.)

| Interested Party | Organization Name | Email Address |
|-------------------------|---------------------------------------|--|
| Colleen Supan | Alternate Defense Counsel | colleensupan@gmail.com |
| Courtney Sutton | COVA | courtney@coloradocrimevictims.org |
| Janet Tanner | | tannerjj@gmail.com |
| Erica Tinsley | ACLU of Colorado | etinsley@aclu-co.org |
| Mark Turner | Colorado Department of Human Services | mark.turner@state.co.us |
| Mayra Valdez | Siegel Long Public Affairs | mayra@slpublicaffairs.com |
| Rosemary Van Gorder | | rosevango50@gmail.com |
| Brittany Vessely | Colorado Catholic Conference | bvessely@cocatholic.org |
| Anne Wallace | | anne.wallace@denvergov.org |
| Carol Ward | Self | cjward_11@comcast.net |
| Brandon Wark | | brandon.wark@gmail.com |
| Geoff Withers | League of Women Voters Colorado | geoff@gwithers.com keyonnavolunteerautism@yahoo.com dmvannewsletter@gmail.com jsamano@aclu-co.org |

**Initiative 112
Concerning Eligibility for Parole**

Ballot Title:

Shall there be a change to the Colorado Revised Statutes concerning parole eligibility for an offender convicted of certain crimes, and, in connection therewith, requiring an offender who is convicted of second degree murder; first degree assault; class 2 felony kidnapping; sexual assault; first degree arson; first degree burglary; or aggravated robbery committed on or after January 1, 2025, to serve 85 percent of the sentence imposed before being eligible for parole, and requiring an offender convicted of any such crime committed on or after January 1, 2025, who was previously convicted of any two crimes of violence, not just those crimes enumerated in this measure, to serve the full sentence imposed before beginning to serve parole?

Text of Measure:

Be it Enacted by the People of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 17-22.5-303.3, **repeal and reenact, with amendments**, (1) and (2); and **add** (1.5) and (2.5) as follows:

17-22.5-303.3. Violent offenders – parole. (1) ANY PERSON SENTENCED FOR SECOND DEGREE MURDER, FIRST DEGREE ASSAULT, FIRST DEGREE KIDNAPPING, UNLESS THE FIRST DEGREE KIDNAPPING IS A CLASS 1 FELONY, FIRST OR SECOND DEGREE SEXUAL ASSAULT, FIRST DEGREE ARSON, FIRST DEGREE BURGLARY, OR AGGRAVATED ROBBERY, COMMITTED ON OR AFTER JULY 1, 1987, BUT BEFORE JANUARY 1, 2025, WHO HAS PREVIOUSLY BEEN CONVICTED OF A CRIME OF VIOLENCE, SHALL BE ELIGIBLE FOR PAROLE AFTER HE HAS SERVED SEVENTY-FIVE PERCENT OF THE SENTENCE IMPOSED LESS ANY TIME AUTHORIZED FOR EARNED TIME PURSUANT TO SECTION 17-22.5-302. THEREAFTER, THE PROVISIONS OF SECTION 17-22.5-303 (6) AND (7) APPLY.

(1.5) ANY PERSON CONVICTED FOR SECOND DEGREE MURDER; FIRST DEGREE ASSAULT; CLASS 2 FELONY KIDNAPPING; SEXUAL ASSAULT UNDER PART 4, ARTICLE 3 OF TITLE 18; FIRST DEGREE ARSON; FIRST DEGREE BURGLARY; OR AGGRAVATED ROBBERY, COMMITTED ON OR AFTER JANUARY 1, 2025, SHALL BE ELIGIBLE FOR PAROLE AFTER SUCH PERSON HAS SERVED EIGHTY-FIVE PERCENT OF THE SENTENCE IMPOSED UPON SUCH PERSON. THEREAFTER, THE PROVISIONS OF SECTION 17-22.5-303 (6) AND (7) APPLY.

(2) ANY PERSON CONVICTED FOR A CRIME COMMITTED BEFORE JANUARY 1, 2025, FOR ANY CRIME ENUMERATED IN SUBSECTION (1) OF THIS SECTION, WHO HAS TWICE PREVIOUSLY BEEN CONVICTED FOR A CRIME OF VIOLENCE, SHALL BE ELIGIBLE FOR PAROLE AFTER HE HAS SERVED THE SENTENCE IMPOSED LESS ANY TIME AUTHORIZED FOR EARNED TIME PURSUANT TO SECTION 17-22.5-302. THEREAFTER, THE PROVISIONS OF SECTION 17-22.5-303 (6) AND (7) APPLY.

(2.5) ANY PERSON CONVICTED AND SENTENCED FOR A CRIME COMMITTED ON OR AFTER JANUARY 1, 2025, FOR ANY CRIME ENUMERATED IN SUBSECTION (1.5) OF THIS SECTION, WHO HAS TWICE PREVIOUSLY BEEN CONVICTED FOR A CRIME OF VIOLENCE, SHALL BEGIN PAROLE AFTER HE HAS SERVED THE FULL SENTENCE IMPOSED. THEREAFTER, THE PROVISIONS OF SECTION 17-22.5-303 (6) AND (7) APPLY.

SECTION 2. In Colorado Revised Statutes, 17-22.5-403, **amend** (2.5)(a) as follows:

17-22.5-403. Parole eligibility. (2.5)(a) Notwithstanding subsection (1) of this section, any person convicted and sentenced for second degree murder, first degree assault, first degree kidnapping unless the first degree kidnapping is a class 1 felony, first degree arson, first degree burglary, or aggravated robbery, committed on or after July 1, 2004, BUT BEFORE JANUARY 1, 2025, shall be eligible for parole after such person has served seventy-five percent of the sentence imposed upon such person, less any time authorized for earned time granted pursuant to section 17-22.5-405.

SECTION 3. Effective Date.

39 This act takes effect on the date of the proclamation of the Governor announcing the approval, by the registered
40 electors of the state, of the proposed initiative.