

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0615.01 Shelby Ross x4510

SENATE BILL 26-036

SENATE SPONSORSHIP

Gonzales J. and Weissman,

HOUSE SPONSORSHIP

Bacon and Zokaie,

Senate Committees

Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING INCREASING OPERATIONAL EFFICIENCY OF EXISTING**
102 **PRISON POPULATION MANAGEMENT MEASURES.**

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 executive director of the department of corrections (department) to report, no later than the fifth day of each month, the department's previous month's compliance with the prison population management mandates, including, if certain measures must be in effect, actions taken by the department and the documented impact of implementing the required measures.

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

When the prison bed vacancy rate in correctional facilities and state-funded private contract prisons falls below 3% for 30 consecutive days, current law requires the department to notify certain individuals and entities (notification) and implement prison population management measures. The bill includes additional individuals and entities that are required to receive the notification and requires the notification to occur within 48 hours of the vacancy rate falling below 3% for 30 consecutive days. The bill requires the individuals and entities that receive the notification to acknowledge receipt of the notification and confirm compliance with the prison population management measures.

The bill includes additional prison population management measures, including measures to:

- Transition certain inmates from a community corrections program to nonresidential status, require the division of adult parole to notify community parole officers of the prison bed shortage and consider alternate sanctions for technical violations, and identify potential alternative placements for transition inmates at risk of being regressed back to prison from a community corrections program;
- Grant certain inmates who are within 120 days of their mandatory release date or statutory discharge date with an additional 60 days of earned time;
- Finalize an inmate's release within 7 days of the department finding the inmate was granted conditional release by the parole board and satisfied the specific conditions prior to the release; and
- Identify eligible inmates who are past their parole eligibility date and review each application for parole on an expedited basis.

If the prison population management measures are in effect, the bill encourages certain individuals and entities that received the notification to consider an alternative to a prison sentence, if lawfully available, for cases pending sentencing or resentencing.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds that:

4 (a) States across the country have enacted prison population
5 management measures that recognize that overcrowded prison facilities
6 are a threat to the health and safety of staff and inmates;

4 (c) In 2018, the Colorado general assembly unanimously adopted
5 prison population management measures that trigger specific actions
6 when the department of corrections' prison bed vacancy rate falls below
7 a specified level for 30 consecutive days;

11 (e) The implementation of current prison population management
12 measures has not made an impact on prison overcrowding in Colorado.
13 There is limited data available to assess the reasons for this lack of impact
14 since there is no data reporting required by state law on the
15 implementation of the mandated prison population management
16 measures. However, there is clearly the potential for impact because
17 reliable data indicates that a significant number of inmates are eligible for
18 placement in the community through community corrections boards, and
19 roughly 4,600 inmates are past their parole eligibility date.

26 **SECTION 2.** In Colorado Revised Statutes, 17-1-103, **add**
27 (1)(m.5) as follows:

1 **17-1-103. Duties of the executive director.**

2 (1) The duties of the executive director are:

3 (m.5) TO ENSURE THAT THE DEPARTMENT COMPLIES WITH ALL
4 PRISON POPULATION MANAGEMENT MANDATES REQUIRED BY LAW,
5 INCLUDING IMPLEMENTING, WHEN NECESSARY, THE PRISON POPULATION
6 MANAGEMENT MEASURES SET FORTH IN SECTION 17-1-119.7;

7 **SECTION 3.** In Colorado Revised Statutes, 17-1-103.3, **amend**

8 (1)(a)(I); and **add** (1)(a)(III) as follows:

9 **17-1-103.3. Reports for budgeting - definition.**

10 (1) (a) No later than the fifth day of each month, the executive
11 director shall report the department's previous month's:

12 (I) Bed capacity and average daily inmate population by prison
13 facility, security level, and custody classification; **and**

14 (III) COMPLIANCE WITH THE PRISON POPULATION MANAGEMENT
15 MEASURES DESCRIBED IN SECTION 17-1-119.7 IF THE MEASURES ARE IN
16 EFFECT DURING THE PREVIOUS MONTH, INCLUDING EACH NOTICE SENT BY
17 THE DEPARTMENT AND ACKNOWLEDGMENT OF RECEIPT OF THE NOTICE BY
18 INDIVIDUALS AND ENTITIES LISTED IN SECTION 17-1-119.7 (1), ACTIONS
19 TAKEN BY THE DEPARTMENT TO COMPLY WITH THE REQUIRED MEASURES,
20 AND THE DOCUMENTED IMPACT OF IMPLEMENTING THE REQUIRED
21 MEASURES.

22 **SECTION 4.** In Colorado Revised Statutes, **amend** 17-1-119.7

23 as follows:

24 **17-1-119.7. Prison population management measures -**
25 **definitions.**

26 (1) (a) The department shall track the prison bed vacancy rate in

27 both correctional facilities and state-funded private contract prison beds

1 on a monthly basis. If the PRISON BED vacancy rate falls below three
2 percent for thirty consecutive days, the department shall, WITHIN
3 FORTY-EIGHT HOURS, notify THE FOLLOWING:

4 (I) The governor;

5 (II) The joint budget committee;

6 (III) THE HOUSE OF REPRESENTATIVES JUDICIARY COMMITTEE AND
7 THE SENATE JUDICIARY COMMITTEE, OR THEIR SUCCESSOR COMMITTEES;

8 (IV) The parole board AND EACH RELEASE HEARING OFFICER AND
9 ADMINISTRATIVE HEARING OFFICER UNDER CONTRACT WITH THE PAROLE
10 BOARD;

11 (V) THE DIVISION OF ADULT PAROLE DESCRIBED IN SECTION
12 17-2-102;

13 (VI) THE OFFICE OF COMMUNITY CORRECTIONS IN THE
14 DEPARTMENT OF PUBLIC SAFETY;

15 (VII) EACH COMMUNITY CORRECTIONS BOARD AND COMMUNITY
16 CORRECTIONS PROGRAM, AS THOSE TERMS ARE DEFINED IN SECTION
17 17-27-102;

18 (VIII) Each elected district attorney;

19 (IX) THE OFFICE OF STATE PUBLIC DEFENDER CREATED IN SECTION
20 21-1-101;

21 (X) THE OFFICE OF ALTERNATE DEFENSE COUNSEL
22 CREATED IN SECTION 21-2-101;

23 (XI) The chief judge of each judicial district; ~~the state public~~
24 ~~defender, and the office of community corrections in the department of~~
25 ~~public safety. The department shall notify the governor, the joint budget~~
26 ~~committee, the parole board, each elected district attorney, the chief judge~~
27 ~~of each judicial district, the state public defender, and the office of~~

1 ~~community corrections once the vacancy rate exceeds four percent for~~
2 ~~thirty consecutive days.~~

3 (XII) THE CHIEF PROBATION OFFICER IN EACH JUDICIAL DISTRICT;

4 (XIII) THE OFFICE OF THE STATE COURT ADMINISTRATOR; AND

5 (XIV) EACH COUNTY SHERIFF OF COLORADO.

6 (b) IF THE PRISON BED VACANCY RATE EXCEEDS THREE PERCENT
7 FOR THIRTY CONSECUTIVE DAYS, THE DEPARTMENT SHALL NOTIFY EACH
8 PERSON AND ENTITY LISTED IN SUBSECTION (1)(a) OF THIS SECTION THAT
9 THE MANDATES REQUIRED PURSUANT TO THIS SECTION ARE NO LONGER IN
10 EFFECT.

11 (c) EACH INDIVIDUAL AND ENTITY THAT RECEIVES NOTIFICATION
12 PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION SHALL ACKNOWLEDGE
13 RECEIPT, IN WRITING, OF THE NOTIFICATION AND CONFIRM COMPLIANCE
14 WITH THE NOTIFICATION REQUIREMENTS DESCRIBED IN SUBSECTION (2)(c)
15 OF THIS SECTION.

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

19 (I) (A) Request, ~~the office of community corrections to~~ IN
20 WRITING, THAT EACH PROVIDER WHO OPERATES A COMMUNITY
21 CORRECTIONS PROGRAM provide the department with information
22 regarding the location and nature of any ~~unutilized~~ FUNDED AND
23 AVAILABLE community corrections beds, ~~The office of~~ AND ANY FUNDED
24 BEDS THAT MAY BECOME AVAILABLE IN THE NEXT THIRTY DAYS. EACH
25 community corrections PROVIDER shall provide the information TO THE
26 DEPARTMENT within seventy-two hours of the request and on a weekly
27 basis until ~~the office of~~ community corrections PROVIDER receives

1 notification FROM THE DEPARTMENT that the ~~vacancy rate exceeds three~~
2 ~~percent~~ MANDATES REQUIRED BY THIS SECTION ARE NO LONGER IN EFFECT.

3 (B) REQUEST, IN WRITING, THAT EACH COMMUNITY CORRECTIONS
4 PROVIDER REVIEW EACH TRANSITION INMATE WHO HAS RESIDED IN THE
5 COMMUNITY CORRECTIONS PROGRAM OPERATED BY THE PROVIDER FOR
6 MORE THAN ONE HUNDRED EIGHTY DAYS AND PROVIDE THE DEPARTMENT
7 WITH A LIST OF TRANSITION INMATES WHO MEET THE STATUTORY CRITERIA
8 TO PROGRESS TO NONRESIDENTIAL STATUS. WITHIN FOURTEEN CALENDAR
9 DAYS AFTER RECEIVING THE LIST OF TRANSITION INMATES, THE
10 DEPARTMENT SHALL INVESTIGATE AND APPROVE A RESIDENCE PLAN FOR
11 EACH TRANSITION INMATE ON THE LIST AND SUBMIT THE APPROVED
12 RESIDENCE PLAN TO THE RELEVANT COMMUNITY CORRECTIONS BOARD.
13 WITHIN FOURTEEN CALENDAR DAYS AFTER RECEIVING A TRANSITION PLAN
14 FROM THE DEPARTMENT, THE COMMUNITY CORRECTIONS BOARD SHALL
15 APPROVE OR DENY THE INMATE'S PLACEMENT TO NONRESIDENTIAL STATUS
16 AND SHALL NOTIFY THE DEPARTMENT OF ITS DETERMINATION.

17 (C) REQUEST, IN WRITING, THAT EACH COMMUNITY CORRECTIONS
18 BOARD REVIEW ALL PENDING INMATE TRANSITION PLACEMENT
19 APPLICATIONS ON AN EXPEDITED BASIS, BUT NO LATER THAN FOURTEEN
20 DAYS AFTER THE REQUEST FOR TRANSITION IS RECEIVED BY THE BOARD;

21 (D) REQUEST, IN WRITING, THAT THE OFFICE OF COMMUNITY
22 CORRECTIONS INVESTIGATE EXPANDING THE CAPACITY FOR INMATE
23 TRANSITION BEDS IN COMMUNITY CORRECTIONS THAT COULD BE PROVIDED
24 ON A TEMPORARY OR LONGER-TERM BASIS, INCLUDING THE NUMBER OF
25 BEDS;

26 (E) REQUIRE THAT DEPARTMENT CASE MANAGERS REVIEW EACH
27 INMATE TO DETERMINE IF THE INMATE IS ELIGIBLE FOR COMMUNITY

1 CORRECTIONS PLACEMENT AND INITIATE A REFERRAL TO THE RELEVANT
2 COMMUNITY CORRECTIONS BOARD WITHIN SEVEN DAYS AFTER THE
3 ELIGIBILITY DETERMINATION;

4 (F) REQUIRE THAT THE DIVISION OF ADULT PAROLE NOTIFY EACH
5 COMMUNITY PAROLE OFFICER, IN WRITING, OF THE PRISON BED SHORTAGE
6 AND REQUEST THAT PAROLE OFFICERS CONSIDER ALTERNATIVE SANCTIONS
7 FOR TECHNICAL VIOLATIONS, IF LAWFULLY AVAILABLE AND CONSISTENT
8 WITH PUBLIC SAFETY; AND

9 (G) REQUIRE THAT THE DIVISION OF ADULT PAROLE IDENTIFY, IN
10 WRITING, POTENTIAL ALTERNATIVE PLACEMENTS, INCLUDING, BUT NOT
11 LIMITED TO, REFERRAL TO ANOTHER COMMUNITY CORRECTIONS PROGRAM;
12 A RESIDENTIAL TREATMENT PROGRAM; A CERTIFIED RECOVERY
13 RESIDENCE, AS DEFINED IN SECTION 27-80-129; OR A COMMUNITY-BASED
14 REENTRY PROGRAM, FOR ANY TRANSITION INMATE AT RISK OF BEING
15 REGRESSED BACK TO PRISON FROM A COMMUNITY CORRECTIONS
16 PROGRAM, UNLESS THE BASIS FOR REGRESSION IS FOR A CONVICTION FOR
17 A NEW FELONY OFFENSE WHILE THE INMATE WAS IN THE COMMUNITY
18 CORRECTIONS PROGRAM;

19 (II) ~~Request that the parole board review a list of~~ WITHIN FIVE
20 DAYS AFTER THE PRISON BED VACANCY RATE FALLS BELOW THREE
21 PERCENT FOR THIRTY CONSECUTIVE DAYS, AND EVERY THIRTY DAYS
22 THEREAFTER, IDENTIFY inmates who are within ~~ninety~~ ONE HUNDRED
23 TWENTY days of their mandatory release date ~~have an approved parole~~
24 ~~plan, and do not require full board review or victim notification pursuant~~
25 ~~to section 24-4.1-302.5 (1)(j); OR STATUTORY DISCHARGE DATE AND~~
26 FORTHWITH GRANT EACH INMATE AN ADDITIONAL SIXTY DAYS OF EARNED
27 TIME THROUGH THE TIME COMPUTATION UNIT OF THE DEPARTMENT,

1 UNLESS THE INMATE HAS BEEN FOUND GUILTY OF A CLASS I CODE OF
2 PENAL DISCIPLINE VIOLATION WITHIN THE PREVIOUS TWELVE MONTHS
3 FROM THE DATE OF IDENTIFICATION PURSUANT TO THIS SUBSECTION
4 (2)(a)(II) OR SINCE INCARCERATION, WHICHEVER IS SHORTER. EARNED
5 TIME GRANTED PURSUANT TO THIS SUBSECTION (2)(a)(II) IS IN ADDITION
6 TO EARNED TIME AWARDED PURSUANT TO, AND IS NOT SUBJECT TO ANY
7 LIMITATION ON EARNED TIME DESCRIBED IN, SECTION 17-22.5-405. THE
8 DEPARTMENT SHALL SUBMIT THE LIST OF THE IDENTIFIED INMATES TO THE
9 PAROLE BOARD TO ENSURE THE CONDITIONS OF PAROLE HAVE BEEN, OR
10 WILL BE, ORDERED PRIOR TO THE INMATE'S RELEASE.

11 (III) WITHIN FIVE DAYS AFTER THE PRISON BED VACANCY RATE
12 FALLS BELOW THREE PERCENT FOR THIRTY CONSECUTIVE DAYS, coordinate
13 with the parole board to ~~review the~~ CREATE A list of inmates who ~~have~~
14 ~~satisfied conditions for conditional release verified by the department of~~
15 ~~corrections, do not require full board review or victim notification~~
16 ~~pursuant to section 24-4.1-302.5 (1)(j), and have satisfied the condition~~
17 ~~or conditions required for an order to parole; and~~ WERE GRANTED
18 CONDITIONAL RELEASE BY THE PAROLE BOARD SUBJECT TO THE
19 SATISFACTION OF SPECIFIC CONDITIONS PRIOR TO RELEASE ON PAROLE. NO
20 LATER THAN SEVEN DAYS AFTER CREATING THE LIST, THE DEPARTMENT
21 SHALL INFORM THE PAROLE BOARD IF A LISTED INMATE HAS SATISFIED THE
22 SPECIFIC CONDITIONS REQUIRED FOR RELEASE. IF THE INMATE HAS
23 SATISFIED THE CONDITIONS, THE PAROLE BOARD SHALL FINALIZE THE
24 INMATE'S RELEASE WITHIN SEVEN DAYS OF THE DEPARTMENT'S FINDING.
25 IF A SPECIFIC CONDITION RELATES TO COMPLETING A PROGRAM AND THE
26 CONDITION HAS NOT BEEN SATISFIED, THE PAROLE BOARD SHALL
27 DETERMINE WHETHER THE CONDITION CAN BE SATISFIED AFTER RELEASE

1 AND MANDATED AS A CONDITION OF PAROLE. IF A SPECIFIC CONDITION
2 RELATES TO THE FAILURE OF THE DIVISION OF ADULT PAROLE TO PROVIDE
3 A PAROLE PLAN IN A TIMELY FASHION PURSUANT TO SECTION 17-22.5-403
4 (5), THE PAROLE BOARD SHALL NOTIFY THE EXECUTIVE DIRECTOR AND THE
5 EXECUTIVE DIRECTOR SHALL REQUIRE A CASE MANAGER SUPERVISOR TO
6 SUBMIT AN APPROVED PAROLE PLAN TO THE PAROLE BOARD WITHIN
7 FOURTEEN DAYS AFTER RECEIVING NOTICE FROM THE EXECUTIVE
8 DIRECTOR.

9 (IV) (A) WITHIN FOURTEEN DAYS AFTER THE PRISON BED
10 VACANCY RATE FALLS BELOW THREE PERCENT FOR THIRTY CONSECUTIVE
11 DAYS, submit to the parole board a list of eligible inmates ~~with a~~
12 ~~favorable parole plan who have been assessed to be medium or lower risk~~
13 ~~on the validated risk assessment scale developed pursuant to section~~
14 ~~17-22.5-404 (2)~~ WHO ARE INCARCERATED IN A LEVEL I OR LEVEL II
15 FACILITY, AS THOSE TERMS ARE DEFINED IN SECTION 17-1-104.3, WHO ARE
16 PAST THEIR PAROLE ELIGIBILITY DATE. THE PAROLE BOARD SHALL
17 CONSIDER THE LIST AS AN INDIVIDUAL APPLICATION FOR PAROLE FOR EACH
18 INMATE ON THE LIST AND REVIEW, ON AN EXPEDITED BASIS, EACH
19 APPLICATION CONSISTENT WITH SECTION 17-2-201. Except as provided in
20 subsection (2)(a)(IV)(B) of this section, the parole board shall conduct a
21 file review of each inmate on the list and set conditions of release for the
22 inmate within thirty days after receipt of the list and set a day of release
23 no later than thirty days after conducting the file review.

24 (B) If victim notification is required and a victim wishes to
25 provide input, the parole board shall schedule a hearing in lieu of a file
26 review and set conditions of release for the inmate and a date of release
27 no later than thirty days after conducting the hearing.

6 (D) An inmate is not eligible for release pursuant to this section
7 if ~~he or she is~~ THE INMATE IS serving a sentence for an offense
8 enumerated in section 24-4.1-302 or section 16-22-102 (9) or has had a
9 class I code of penal discipline violation within the previous twelve
10 months from the date of the list or since incarceration, whichever is
11 shorter; has been terminated for lack of progress or declined in writing to
12 participate in programs that have been recommended and made available
13 to the inmate within the previous twelve months or since incarceration,
14 whichever is shorter; HAS WAIVED CONSIDERATION FOR PAROLE
15 PURSUANT TO SECTION 17-2-204 (2); OR has been regressed from
16 community-corrections or revoked from parole within the previous one
17 hundred eighty days. ~~or has a pending felony charge, detainer, or an~~
18 ~~extraditable warrant.~~

24 (F) IF AN INMATE HAS A PENDING FELONY CHARGE, DETAINER, OR
25 EXTRADITABLE WARRANT, AND IS OTHERWISE ELIGIBLE FOR RELEASE TO
26 PAROLE, THE DEPARTMENT SHALL NOTIFY THE DEPARTMENT LIAISON FOR
27 THE OFFICE OF STATE PUBLIC DEFENDER, AS DESCRIBED IN SECTION

1 21-1-104 (6), TO DETERMINE WHETHER THE LEGAL MATTER CAN BE
2 RESOLVED ON A FORTHWITH BASIS.

3 (b) The department may utilize any, all, or a combination of the
4 measures described in subsection (2)(a) of this section when the PRISON
5 BED vacancy rate falls below ~~two~~ THREE percent for thirty consecutive
6 days and until the vacancy rate is above three percent for thirty
7 consecutive days.

8 (c) IF THE PRISON BED VACANCY RATE FALLS BELOW THREE
9 PERCENT FOR THIRTY CONSECUTIVE DAYS AND A NOTIFICATION IS MADE
10 PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION AND RECEIVED BY:

11 (I) AN ELECTED DISTRICT ATTORNEY, THE ELECTED DISTRICT
12 ATTORNEY SHALL NOTIFY EACH DEPUTY DISTRICT ATTORNEY ASSIGNED TO
13 FELONY CASES AND EACH DEPUTY DISTRICT ATTORNEY SERVING ON THE
14 LOCAL COMMUNITY CORRECTIONS BOARD OF THE PRISON BED SHORTAGE
15 AND THAT PRISON POPULATION MANAGEMENT MEASURES ARE IN EFFECT,
16 AND THAT THE DEPUTY DISTRICT ATTORNEYS ARE ENCOURAGED TO
17 CONSIDER AN ALTERNATIVE TO A PRISON SENTENCE, IF LAWFULLY
18 AVAILABLE, FOR CASES PENDING SENTENCING OR RESENTENCING, WHEN
19 THE ALTERNATIVE SENTENCE IS CONSISTENT WITH THE PURPOSES OF
20 SENTENCING DESCRIBED IN SECTION 18-1-102.5 AND PUBLIC SAFETY;

21 (II) THE OFFICE OF STATE PUBLIC DEFENDER, THE OFFICE SHALL
22 NOTIFY EACH ATTORNEY ASSIGNED TO REPRESENT INDIVIDUALS CHARGED
23 WITH A FELONY OFFENSE AND EACH ATTORNEY SERVING ON THE LOCAL
24 COMMUNITY CORRECTIONS BOARD OF THE PRISON BED SHORTAGE AND
25 THAT PRISON POPULATION MANAGEMENT MEASURES ARE IN EFFECT, AND
26 REQUEST THAT EACH ATTORNEY UTILIZE AVAILABLE RESOURCES TO
27 INVESTIGATE AND ADVOCATE FOR AN ALTERNATIVE TO A PRISON

1 SENTENCE, IF LAWFULLY AVAILABLE, FOR CASES PENDING SENTENCING OR
2 RESENTENCING;

3 (III) THE OFFICE OF ALTERNATE DEFENSE COUNSEL, THE OFFICE
4 SHALL NOTIFY EACH ATTORNEY ASSIGNED TO REPRESENT INDIVIDUALS
5 CHARGED WITH A FELONY OFFENSE OF THE CURRENT PRISON BED
6 SHORTAGE AND THAT PRISON POPULATION MANAGEMENT MEASURES ARE
7 IN EFFECT, AND REQUEST THAT EACH ATTORNEY UTILIZE AVAILABLE
8 RESOURCES TO INVESTIGATE AND ADVOCATE FOR AN ALTERNATIVE TO A
9 PRISON SENTENCE, IF LAWFULLY AVAILABLE, FOR CASES PENDING
10 SENTENCING OR RESENTENCING;

11 (IV) A CHIEF JUDGE OF A JUDICIAL DISTRICT, THE CHIEF JUDGE
12 SHALL NOTIFY EACH DISTRICT COURT JUDGE IN THE JUDICIAL DISTRICT
13 ASSIGNED TO FELONY CASES OF THE CURRENT PRISON BED SHORTAGE AND
14 THAT PRISON POPULATION MANAGEMENT MEASURES ARE IN EFFECT, AND
15 THAT JUDGES ARE ENCOURAGED TO CONSIDER ALTERNATIVE TO PRISON
16 SENTENCES, WHEN LAWFULLY AVAILABLE, IF AN ALTERNATIVE SENTENCE
17 IS CONSISTENT WITH THE PURPOSES OF SENTENCING AS PROVIDED IN
18 SECTION 18-1-102.5; OR

19 (V) A CHIEF PROBATION OFFICER FOR A JUDICIAL DISTRICT, THE
20 CHIEF PROBATION OFFICER SHALL NOTIFY EACH PROBATION OFFICER WHO
21 SUPERVISES INDIVIDUALS ON FELONY PROBATION OF THE CURRENT PRISON
22 BED SHORTAGE AND THAT PRISON POPULATION MANAGEMENT MEASURES
23 ARE IN EFFECT, AND THAT THE PROBATION OFFICERS ARE ENCOURAGED TO
24 FULLY UTILIZE AVAILABLE AND APPROPRIATE INTERMEDIATE SANCTIONS
25 FOR TECHNICAL VIOLATIONS OF PROBATION IN LIEU OF REVOCATION, IF
26 LAWFULLY AVAILABLE AND CONSISTENT WITH PUBLIC SAFETY.

27 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE

1 REQUIRES:

2 (a) "LOCAL JAIL BACKLOG" MEANS THE INMATES UNDER THE
3 JURISDICTION OF THE DEPARTMENT OF CORRECTIONS WHO ARE BEING
4 HOUSED IN A LOCAL JAIL ON BEHALF OF THE DEPARTMENT.

5 (b) "LOCAL JAIL CONTRACT" MEANS A CONTRACT BETWEEN THE
6 DEPARTMENT AND A LOCAL JAIL WHEREBY THE LOCAL JAIL HOUSES
7 INMATES UNDER THE JURISDICTION OF THE DEPARTMENT.

8 (c) "OPERATIONAL CAPACITY" MEANS THE TOTAL NUMBER OF
9 STATE AND PRIVATE PRISON BEDS FUNDED IN THE CURRENT FISCAL YEAR,
10 MINUS ANY BEDS THAT ARE CURRENTLY OFFLINE FOR MAINTENANCE; USED
11 ONLY FOR TEMPORARY PLACEMENT, INCLUDING INFIRMARY, RESTRICTIVE
12 HOUSING, AND TRANSPORT BEDS; AND THE NUMBER OF BEDS NEEDED TO
13 MAINTAIN A TWO AND ONE-HALF PERCENT VACANCY RATE.

14 (d) "PRISON BED VACANCY RATE" MEANS THE PERCENTAGE OF
15 OPERATIONAL CAPACITY FOR PRISON BEDS THAT ARE CURRENTLY UNUSED.
16 FOR THE PURPOSES OF CALCULATING THE PRISON BED VACANCY RATE, THE
17 DEPARTMENT SHALL INCLUDE INMATES UNDER THE JURISDICTION OF THE
18 DEPARTMENT WHO ARE HOUSED IN A LOCAL JAIL PURSUANT TO A LOCAL
19 JAIL CONTRACT AND THOSE DESIGNATED AS LOCAL JAIL BACKLOG.

20 **SECTION 5. Safety clause.** The general assembly finds,
21 determines, and declares that this act is necessary for the immediate
22 preservation of the public peace, health, or safety or for appropriations for
23 the support and maintenance of the departments of the state and state
24 institutions.