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## Corrections

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During the 2018 legislative session, the General Assembly introduced numerous bills concerning the state's correctional system and associated issues. Following is a recap of the major legislation considered in this subject area.

### Correctional Facilities and Jails

Incarceration continued to be a topic of interest to the General Assembly in 2018. [House Bill 18-1040](#) requires the Department of Corrections (DOC) to monitor the number of inmates who are not receiving required sex offender treatment and develop incentive plans to attract additional mental health providers to geographic areas where inmates are not receiving treatment and services.

DOC reimburses a portion of expenses incurred by counties for housing DOC inmates in jails at a rate established annually by the General Assembly. To inform the annual rate-setting process, [House Bill 18-1132](#) requires counties to report annually to the Joint Budget Committee on the average cost to house DOC inmates, including costs for food, clothing, treatment, personnel, transportation, and education.

In order to transition offenders from prison to the community, the DOC refers eligible offenders to community corrections programs, where they are allowed restricted access to the community. Community corrections boards accept or reject the offenders based on their own criteria. [House Bill 18-1251](#) modifies the procedures for community corrections

transition placement referrals between the State Board of Parole, the DOC, and community corrections boards and programs.

Vacancy rates in Colorado's prisons were a topic of concern in 2018, based in part on projections that the state's prison population will outgrow capacity in FY 2018-19. In February 2018, the Governor convened a working group of executive branch stakeholders to study prison population projections and capacity needs. [House Bill 18-1410](#) requires the DOC to track the vacancy rate of prison beds in its facilities, along with private prisons under contract with the DOC, and notify various stakeholders when the vacancy rate falls below 2 percent or exceeds 3 percent for 30 consecutive days. HB 18-1410 also establishes a process by which an inmate's release date may be set up to 30 days prior to the inmate's mandatory release date.

[House Bill 18-1425](#), which was postponed indefinitely, would have created a ten-member legislative committee to meet during the 2018 legislative interim through June 30, 2020, to study state prison population issues, including population projections and forecasting models, long- and short-term capacity needs, and implementation of adjustments to utilization targets used by the DOC, the Parole Board, and community corrections boards. [Senate Bill 18-274](#), which was also postponed indefinitely, would have implemented recommendations from 2013 and 2016 prison utilization studies for the DOC, including the

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repurposing and reconfiguration of certain existing prison facilities.

*Senate Bill 18-014* requires the DOC to notify the prosecuting attorney and any registered victim within 48 hours of its decision to relocate an inmate to another state under the Interstate Corrections Compact. The disclosure must also include the location of the facility to which the inmate has been relocated, with certain exemptions. Where an exemption exists, the DOC discloses that the inmate has been moved, but not the new location.

### Juvenile Justice

The Division of Youth Services (DYS) within the Department of Human Services (DHS) is responsible for the care and supervision of youth either pre-adjudicated or committed for alleged criminal activity. The division serves a population aged 10 to 21 in ten secure facilities. The Youth Restraint and Seclusion Working Group advises DHS on policies, procedures, and best practices related to restraint and seclusion and alternatives to restraint and seclusion. *House Bill 18-1010* adds two members to the working group to represent the Child Protection Ombudsman and a parent of someone who was once committed to the DHS. The bill also requires DHS to calculate recidivism rates and educational outcomes to its custody and report the findings annually to the General Assembly.

Cities and counties may choose to form a juvenile services planning committee for their judicial district to develop a plan for allocating resources for juvenile services within the district. *Senate Bill 18-154* requires these planning committees to develop a plan for identifying youths in the juvenile justice system who also are or have been involved in the child welfare system.

### Parole and Post-incarceration

In 2018, the General Assembly continued its efforts to find ways to better transition offenders into the community and reduce costs. *House Bill 18-1029* reduces from five years to three years the mandatory parole periods for those released from prison who served time for class 3 felony crimes committed on and after July 1, 2018, and for class 2 felony crimes that are not crimes of violence.

Under the special needs parole program, certain eligible offenders are referred to the Parole Board for parole consideration. Such offenders suffer from a physical condition or behavioral or mental health disorder, often chronic or terminal in nature, and the DOC or Parole Board determines that the offender is incapacitated to the extent that he or she does not likely pose a risk to public safety. *House Bill 18-1109* lowers from 60 to 55 years of age the threshold for qualifying as a special needs offender under one category, and adds a third category of special needs offenders to include those determined to be incompetent to complete any sentence and not likely to pose a risk to public safety. HB 18-1109 requires the Parole Board to set a special needs parole period of between 6 and 36 months.

Under the “sunset review” process, the General Assembly sets in law specific dates that a particular government agency or function will terminate, thus requiring the passage of legislation to continue the agency or function. The Offender Reentry Grant Program was scheduled for termination on September 1, 2018, but the passage of *House Bill 18-1176* continued the program until September 1, 2023.

Gaining post-incarceration employment continues to be an issue for offenders. *House Bill 18-1418* makes a number of changes regarding the use of criminal history information in public employment and

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licensure-related credentialing decisions. The Department of Regulatory Agencies (DORA) oversees the issuance of a number of credentials, such as licenses and certificates. The bill states that criminal history information may be used to determine whether an applicant is qualified, rather than to assess moral character. DORA may issue a conditional credential to a person with a criminal history and must keep the conditional designation confidential if the applicant has no subsequent convictions after one year or when he or she renews the credential, unless DORA determines that the designation remains necessary.

Sex offender registration creates significant post-incarceration impediments for certain offenders in areas such as gaining employment and housing. Those convicted of certain sex-related offenses, whether in Colorado or another state, must register with local law enforcement where the offender resides, including when the offender moves to another state. Certain registrants may petition the court to discontinue registration. *Senate Bill 18-026* clarifies that the court is required to grant a petition if the registrant has successfully completed his or her sentence and has not been convicted of a subsequent sex offense, and the statutorily mandated waiting period has passed, unless the district attorney or victim objects and the district attorney provides evidence that the registrant is likely to commit another offense of unlawful sexual behavior. The bill also allows a registrant to petition to discontinue registration if he or she is incapacitated and unlikely to commit a subsequent sex offense, or when the duty to register originating in a different state or jurisdiction has been lawfully discontinued.