

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 19-0674.01 Michael Dohr x4347

SENATE BILL 19-143

SENATE SPONSORSHIP

Gonzales and Lee, Court, Fenberg, Foote, Moreno, Tate, Todd, Winter

HOUSE SPONSORSHIP

Herod,

Senate Committees

Judiciary
Appropriations

House Committees

Judiciary
Appropriations

A BILL FOR AN ACT

101 **CONCERNING CHANGES RELATED TO PAROLE RELEASE TO ALLEVIATE**
102 **PRISON POPULATION ISSUES.**

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 creates a new correctional facility level designation for transition centers that are used to enhance successful reintegration into the community.

Under current law, there are prison population measures that can be used when the vacancy rate drops below 2 percent. The bill changes the rate to 3 percent and adds a new measure. The new measure allows

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

SENATE
3rd Reading Unamended
April 15, 2019

SENATE
Amended 2nd Reading
April 12, 2019

the department to submit a list of inmates who meet a specified eligibility criteria, have an approved parole plan, and have been assessed to be less than high risk to the parole board for a file review.

For technical parole violations related to possession of a deadly weapon, refusing or failing to comply with the requirements of sex offender treatment, absconding or willful failure to appear, unlawful contact with a victim, or willful tampering or removal of an electronic monitoring device, the bill allows the parole board to revoke parole and place the inmate back in prison for up to the remainder of the inmate's parole. For technical violations that do not involve the above conduct, the bill does not allow the parole board to revoke the inmate back to prison but can require programming at a transition center.

If an inmate meets criteria and has an approved parole plan, has been assessed low or very low risk, and parole guidelines recommend release, the parole board may deny parole only by a majority vote of the full board.

The bill provides an inmate released from prison without supervision the right to access reentry services for up to one year from the date of discharge.

The bill requires the parole board to table a parole release decision if it finds the inmate's parole plan is inadequate and to require a new parole plan within 30 days.

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

2 — ——— —

3 **SECTION 1.** In Colorado Revised Statutes, 17-1-119.7, **amend**
4 (1), (2)(a) introductory portion, (2)(a)(II), and (2)(a)(III); and **add**
5 (2)(a)(IV) as follows:

6 **17-1-119.7. Prison population management measures.** (1) The
7 department shall track the prison bed vacancy rate in both correctional
8 facilities and state-funded private contract prison beds on a monthly basis.
9 If the vacancy rate falls below ~~two~~ THREE percent for thirty consecutive
10 days, the department shall notify the governor, the joint budget
11 committee, the parole board, each elected district attorney, the chief judge
12 of each judicial district, the state public defender, and the office of
13 community corrections in the department of public safety. The department

1 shall notify the governor, the joint budget committee, the parole board,
2 each elected district attorney, the chief judge of each judicial district, the
3 state public defender, and the office of community corrections once the
4 vacancy rate exceeds ~~three~~ FOUR percent for thirty consecutive days.

5 (2) (a) If the vacancy rate in correctional facilities and
6 state-funded private contract prison beds falls below ~~two~~ THREE percent
7 for thirty consecutive days, the department may SHALL:

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

12 (III) Coordinate with the parole board to review the list of inmates
13 who have satisfied conditions for conditional release verified by the
14 department of corrections, do not require full board review or victim
15 notification pursuant to section 24-4.1-302.5 (1)(j), and have satisfied the
16 condition or conditions required for an order to parole; AND

17 (IV) (A) SUBMIT TO THE PAROLE BOARD A LIST OF ELIGIBLE
18 INMATES WITH A FAVORABLE PAROLE PLAN WHO HAVE BEEN ASSESSED TO
19 BE MEDIUM OR LOWER RISK ON THE VALIDATED RISK ASSESSMENT SCALE
20 DEVELOPED PURSUANT TO SECTION 17-22.5-404 (2). EXCEPT AS PROVIDED
21 IN SUBSECTION (2)(a)(IV)(B) OF THIS SECTION, THE PAROLE BOARD SHALL
22 CONDUCT A FILE REVIEW OF EACH INMATE ON THE LIST AND SET
23 CONDITIONS OF RELEASE FOR THE INMATE WITHIN THIRTY DAYS AFTER
24 RECEIPT OF THE LIST AND SET A DAY OF RELEASE NO LATER THAN THIRTY
25 DAYS AFTER CONDUCTING THE FILE REVIEW.

26 (B) IF VICTIM NOTIFICATION IS REQUIRED AND A VICTIM WISHES TO
27 PROVIDE INPUT, THE PAROLE BOARD SHALL SCHEDULE A HEARING IN LIEU

1 OF A FILE REVIEW AND SET CONDITIONS OF RELEASE FOR THE INMATE AND
2 A DATE OF RELEASE _____ NO LATER THAN THIRTY DAYS AFTER
3 CONDUCTING THE HEARING.

4 (C) IF ADDITIONAL INFORMATION IS NEEDED, THE PAROLE BOARD
5 MAY TABLE A DECISION AFTER THE FILE REVIEW OR HEARING AND
6 REQUEST ADDITIONAL INFORMATION FROM THE DEPARTMENT. THE PAROLE
7 BOARD MAY GRANT OR DENY PAROLE TO AN APPLICANT, AND, IF THE
8 DECISION IS TO DENY PAROLE, IT MUST BE BASED ON A MAJORITY VOTE OF
9 THE FULL BOARD.

10 (D) AN INMATE IS NOT ELIGIBLE FOR RELEASE PURSUANT TO THIS
11 SECTION IF HE OR SHE IS SERVING A SENTENCE FOR AN OFFENSE
12 ENUMERATED IN SECTION 24-4.1-302 OR SECTION 16-22-102 (9) OR HAS
13 HAD A CLASS I CODE OF PENAL DISCIPLINE VIOLATION WITHIN THE
14 PREVIOUS TWELVE MONTHS FROM THE DATE OF THE LIST OR SINCE
15 INCARCERATION, WHICHEVER IS SHORTER; HAS BEEN TERMINATED FOR
16 LACK OF PROGRESS OR DECLINED IN WRITING TO PARTICIPATE IN
17 PROGRAMS THAT HAVE BEEN RECOMMENDED AND MADE AVAILABLE TO
18 THE INMATE WITHIN THE PREVIOUS TWELVE MONTHS OR SINCE
19 INCARCERATION, WHICHEVER IS SHORTER; HAS BEEN REGRESSED FROM
20 COMMUNITY CORRECTIONS OR REVOKED FROM PAROLE WITHIN THE
21 PREVIOUS ONE HUNDRED EIGHTY DAYS; OR HAS A PENDING FELONY
22 CHARGE, DETAINER, OR AN EXTRADITABLE WARRANT.

23 (E) AN INMATE IS ELIGIBLE FOR RELEASE PURSUANT TO THIS
24 SUBSECTION (2)(a)(IV) IF THE INMATE IS AT OR PAST HIS OR HER PAROLE
25 ELIGIBILITY DATE AND IS ONLY SERVING A SENTENCE FOR A CONVICTION
26 OF A LEVEL 3 OR LEVEL 4 DRUG FELONY OR A CLASS 3, CLASS 4, CLASS 5,
27 OR CLASS 6 NONVIOLENT FELONY OFFENSE. _____

1 **SECTION 2.** In Colorado Revised Statutes, 17-2-103, **amend**
2 (1.5)(d), (1.5)(g)(I), (11)(b)(I), (11)(b)(II), (11)(b)(III), and (11)(c)(II)(B);
3 **repeal** (11)(b)(III.5); and **add** (11)(c)(II)(C) as follows:

4 **17-2-103. Arrest of parolee - revocation proceedings.**
5 (1.5) (d) If a parolee has a technical violation, the parolee's community
6 parole officer, with the approval of the director of the division of adult
7 parole or the director's designee, may impose a brief term of confinement
8 in the county jail, not to exceed five FOURTEEN consecutive days, as an
9 intermediate sanction.

10 (g) Notwithstanding any other provision of this section, a
11 community parole officer may bypass the use of intermediate sanctions
12 or any additional intermediate sanctions in response to a technical
13 violation of parole and file a complaint seeking revocation of parole if:

14 (I) The parolee has received up to four intermediate sanctions
15 committing the parolee to a brief term of incarceration in jail, EXCEPT FOR
16 A PAROLEE FOR WHOM SUBSECTION (11)(b)(III) OF THIS SECTION APPLIES;
17 or

18 (11) (b) (I) If the board determines that the parolee has violated
19 parole through commission of a FELONY OR MISDEMEANOR crime, the
20 board may revoke parole and request the sheriff of the county in which
21 the hearing is held to transport the parolee to a place of confinement
22 designated by the executive director for up to the remainder of the parole
23 period.

24 (II) If the board determines that the parolee has violated any
25 condition of parole that does not involve the commission of a FELONY OR
26 MISDEMEANOR crime ~~and the provisions of subsection (11)(b)(III) or~~
27 ~~(11)(b)(III.5) of this section are not applicable;~~ THAT INVOLVES

1 POSSESSION OF A DEADLY WEAPON AS DEFINED IN 18-1-901, REFUSING OR
2 FAILING TO COMPLY WITH REQUIREMENTS OF SEX OFFENDER TREATMENT,
3 ABSCONDING, WILLFUL FAILURE TO APPEAR FOR A SUMMONS, UNLAWFUL
4 CONTACT WITH A VICTIM, OR THE WILLFUL TAMPERING OR REMOVAL OF AN
5 ELECTRONIC MONITORING DEVICE THAT THE PAROLEE IS REQUIRED TO
6 WEAR AS A CONDITION OF HIS OR HER PAROLE, the board may revoke
7 parole and request the sheriff of the county in which the hearing is held
8 to transport the parolee to a place of confinement for up to the remainder
9 of the parole period and order the parolee confined at a facility designated
10 by the executive director.

11 (III) If the board determines that the parolee has violated any
12 condition of parole that does not involve the commission of a FELONY OR
13 MISDEMEANOR crime, the parolee has no active felony warrant, felony
14 detainer, or pending felony criminal charge, and the parolee was on parole
15 for an offense that was a level 3 or level 4 drug felony or CLASS 3, class
16 4, class 5, or class 6 nonviolent felony OFFENSE as defined in section
17 17-22.5-405 (5)(b), except for menacing as defined in section 18-3-206;
18 STALKING AS DESCRIBED IN SECTION 18-9-111 (4), AS IT EXISTED PRIOR TO
19 AUGUST 11, 2010, OR SECTION 18-3-602; or any unlawful sexual behavior
20 contained in section 16-22-102 (9); OR ANY OTHER OFFENSE, THE
21 UNDERLYING FACTUAL BASIS OF WHICH INVOLVES UNLAWFUL SEXUAL
22 BEHAVIOR; or unless the parolee was subject to article 6.5 of title 18, or
23 section 18-6-801, the board may revoke parole and request the sheriff of
24 the county in which the hearing is held to transport the parolee to a place
25 of confinement for a period not to exceed thirty days and order the
26 parolee confined at a facility designated by the executive director ORDER,
27 AS A CONDITION OF PAROLE, PARTICIPATION IN TREATMENT, IF

1 APPROPRIATE, AS DESCRIBED IN SECTION 17-2-103 (11)(c).

2 (III.5) If the board determines that the parolee has violated any
3 condition of parole that does not involve the commission of a crime, the
4 parolee has no active felony warrant, felony detainer, or pending felony
5 criminal charge, and the parolee was on parole for an offense that was a
6 level 2 drug felony or a class 3 nonviolent felony as defined in section
7 17-22.5-405 (5)(b), except for stalking as described in section 18-9-111
8 (4), as it existed prior to August 11, 2010, or section 18-3-602, or any
9 unlawful sexual behavior described in section 16-22-102 (9), or unless the
10 parolee was subject to article 6.5 of title 18, or section 18-6-801, the
11 board may revoke parole and request the sheriff of the county in which
12 the hearing is held to transport the parolee to a place of confinement for
13 up to ninety days and order the parolee confined at a facility designated
14 by the executive director.

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

19 (II) (B) A parolee may be placed in a residential treatment
20 program UNDER CONTRACT WITH THE DEPARTMENT OF PUBLIC SAFETY
21 only upon acceptance by the residential treatment program and any
22 community corrections board with jurisdiction over the residential
23 treatment program. Residential treatment programs and community
24 corrections boards are encouraged to develop an expedited review process
25 to facilitate decision-making and placement of the parolee, if accepted.

26 (C) PLACEMENT IN A PAROLEE INTENSIVE TREATMENT PROGRAM
27 OPERATED BY THE DEPARTMENT IN A LEVEL I SECURITY FACILITY FOR MEN

1 OR AN EQUIVALENT SECURITY LEVEL UNIT IN A WOMEN'S FACILITY
2 OPERATED BY THE DEPARTMENT. THE DEPARTMENT SHALL PROVIDE OR
3 CONTRACT FOR MEDICAL SERVICES NEEDED BY PAROLEES IN THE
4 INTENSIVE TREATMENT PROGRAM AND MAY USE FUNDING APPROPRIATED
5 FOR CLINICAL SERVICES FOR THOSE MEDICAL SERVICES.

6 **SECTION 3.** In Colorado Revised Statutes, 17-2-201, amend
7 (3)(h.1)(I), (4)(f)(I)(C), (4)(f)(I)(D), and (5)(c)(II) introductory portion;
8 and add (4)(f)(I)(E) and (19) as follows:

9 **17-2-201. State board of parole - duties - definitions.** (3) The
10 chairperson, in addition to other provisions of law, has the following
11 powers and duties:

12 (h.1) To contract with qualified individuals to serve as release
13 hearing officers:

14 (I) To conduct parole application hearings for inmates convicted
15 of class 4, class 5, or class 6 felonies or level 3 or level 4 drug felonies
16 who have been assessed to be less than high risk by the Colorado risk
17 assessment scale developed pursuant to section 17-22.5-404 (2)(a), OR
18 HEARINGS PURSUANT TO SUBSECTION (19) OF THIS SECTION pursuant to
19 rules adopted by the parole board; and

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

21 (f) (I) To conduct an initial or subsequent parole release review
22 in lieu of a hearing, without the presence of the inmate, if:

23 (C) The inmate has a statutory discharge date or mandatory
24 release date within six months after his or her next ordinarily scheduled
25 parole hearing and victim notification is not required pursuant to section
26 24-4.1-302.5; or

27 (D) The inmate is assessed to be a "low" or "very low" risk on the

1 validated risk assessment instrument developed pursuant to section
2 17-22.5-404 (2), the inmate meets readiness criteria established by the
3 board, and victim notification is not required pursuant to section
4 24-4.1-302.5; OR

5 (E) THE INMATE IS SUBJECT TO SUBSECTION (19) OF THIS SECTION.

6 (5) (c) (II) EXCEPT IF THE OFFENDER IS SUBJECT TO SUBSECTION
7 (19) OF THIS SECTION, if the offender fails to pay the restitution, he or she
8 may be returned to the board and, upon proof of failure to pay, the board
9 shall:

10 (19) (a) EXCEPT AS PROVIDED IN SUBSECTION (19)(b) OF THIS
11 SECTION, IF A PERSON HAS AN APPROVED PAROLE PLAN, HAS BEEN
12 ASSESSED TO BE LOW OR VERY LOW RISK ON THE VALIDATED RISK
13 ASSESSMENT SCALE DEVELOPED PURSUANT TO SECTION 17-22.5-404 (2),
14 AND THE PAROLE RELEASE GUIDELINES RECOMMEND RELEASE, THE
15 PAROLE BOARD MAY DENY PAROLE ONLY BY A MAJORITY VOTE OF THE
16 FULL PAROLE BOARD.

17 (b) AN INMATE IS NOT ELIGIBLE FOR RELEASE PURSUANT TO
18 SUBSECTION (19)(a) OF THIS SECTION IF HE OR SHE HAS HAD A CLASS I
19 CODE OF PENAL DISCIPLINE VIOLATION WITHIN THE PREVIOUS TWELVE
20 MONTHS FROM THE DATE OF CONSIDERATION BY THE PAROLE BOARD OR
21 SINCE INCARCERATION, WHICHEVER IS SHORTER; HAS BEEN TERMINATED
22 FOR LACK OF PROGRESS OR HAS DECLINED IN WRITING TO PARTICIPATE IN
23 PROGRAMS THAT HAVE BEEN RECOMMENDED AND MADE AVAILABLE TO
24 THE INMATE WITHIN THE PREVIOUS TWELVE MONTHS OR SINCE
25 INCARCERATION, WHICHEVER IS SHORTER; HAS BEEN REGRESSED FROM
26 COMMUNITY CORRECTIONS OR REVOKED FROM PAROLE WITHIN THE
27 PREVIOUS ONE HUNDRED EIGHTY DAYS; IS REQUIRED TO BE CONSIDERED

1 BY THE FULL BOARD FOR RELEASE; OR HAS A PENDING FELONY CHARGE,
2 DETAINER, OR AN EXTRADITABLE WARRANT.

3 (c) IF THE PAROLE BOARD DENIES PAROLE TO AN INMATE
4 PURSUANT TO SUBSECTION (19)(a) OF THIS SECTION, THE BOARD SHALL
5 SUBMIT TO THE DEPARTMENT THE BASIS FOR THE DENIAL IN WRITING.

6 **SECTION 4.** In Colorado Revised Statutes, 17-22.5-202, **add** (5)
7 as follows:

8 **17-22.5-202. Ticket to leave - discharge - clothes, money,**
9 **transportation - reentry services.** (5) A PERSON DISCHARGED FROM A
10 CORRECTIONAL FACILITY WITHOUT SUPERVISION IS ELIGIBLE TO RECEIVE
11 REENTRY SUPPORT SERVICES FROM THE DEPARTMENT OR
12 COMMUNITY-BASED ORGANIZATIONS THAT RECEIVE FUNDING FROM THE
13 DEPARTMENT TO PROVIDE REENTRY SERVICES FOR UP TO ONE YEAR AFTER
14 THE PERSON'S DATE OF DISCHARGE.

15 **SECTION 5.** In Colorado Revised Statutes, 17-22.5-402, **add** (4)
16 as follows:

17 **17-22.5-402. Discharge from custody.** (4) A PERSON
18 DISCHARGED FROM A CORRECTIONAL FACILITY WITHOUT SUPERVISION IS
19 ELIGIBLE TO RECEIVE REENTRY SUPPORT SERVICES FROM THE DEPARTMENT
20 OR COMMUNITY-BASED ORGANIZATIONS THAT RECEIVE FUNDING FROM
21 THE DEPARTMENT TO PROVIDE REENTRY SERVICES FOR UP TO ONE YEAR
22 AFTER THE PERSON'S DATE OF DISCHARGE.

23 **SECTION 6.** In Colorado Revised Statutes, 17-22.5-403, **amend**
24 (5) introductory portion; and **add** (7)(c) as follows:

25 **17-22.5-403. Parole eligibility.** (5) For any offender who is
26 incarcerated for an offense committed prior to July 1, 1993, upon
27 application for parole, the state board of parole, working in conjunction

1 with the department and using the guidelines established pursuant to
2 section 17-22.5-404, shall determine whether or not to grant parole and,
3 if granted, the length of the period of parole. Prior to the parole release
4 hearing, the division of adult parole shall conduct a parole plan
5 investigation and inform the state board of parole of the results of the
6 investigation. If the state board of parole finds an inmate's parole plan
7 inadequate, it ~~may~~ SHALL table the parole release decision and ~~require the~~
8 ~~department to submit a revised parole plan developed in conjunction with~~
9 ~~the inmate within thirty days after the parole board's request~~ INFORM THE
10 DIRECTOR OF THE DIVISION OF ADULT PAROLE THAT THE PAROLE PLAN IS
11 INADEQUATE. THE DIRECTOR OF THE DIVISION OF ADULT PAROLE SHALL
12 ENSURE THAT A REVISED PAROLE PLAN THAT ADDRESSES THE
13 DEFICIENCIES IN THE ORIGINAL PAROLE PLAN IS SUBMITTED TO THE PAROLE
14 BOARD WITHIN THIRTY DAYS AFTER THE NOTIFICATION. THE PAROLE
15 BOARD IS RESPONSIBLE FOR MONITORING THE DEPARTMENT'S COMPLIANCE
16 WITH THIS PROVISION AND SHALL NOTIFY THE DIRECTOR OF THE DIVISION
17 OF ADULT PAROLE IF A REVISED PAROLE PLAN IS NOT SUBMITTED TO THE
18 PAROLE BOARD WITHIN THIRTY DAYS. The state board of parole may set
19 the length of the period of parole for any time period up to the date of
20 final discharge as determined in accordance with section 17-22.5-402. If
21 an application for parole is refused by the state board of parole, the state
22 board of parole shall reconsider within one year thereafter whether such
23 inmate should be granted parole. The state board of parole shall continue
24 such reconsideration each year thereafter until such inmate is granted
25 parole or until such inmate is discharged pursuant to law; except that:

26 (7) (c) IF THE STATE BOARD OF PAROLE DOES NOT GRANT PAROLE
27 PURSUANT TO SUBSECTION (7)(a) OR (7)(b) OF THIS SECTION BECAUSE IT

1 FINDS AN INMATE'S PAROLE PLAN INADEQUATE, IT SHALL TABLE THE
2 PAROLE RELEASE DECISION AND INFORM THE DIRECTOR OF THE DIVISION
3 OF ADULT PAROLE THAT THE PAROLE PLAN IS INADEQUATE. THE DIRECTOR
4 OF THE DIVISION OF ADULT PAROLE SHALL ENSURE THAT A REVISED
5 PAROLE PLAN THAT ADDRESSES THE DEFICIENCIES IN THE ORIGINAL
6 PAROLE PLAN IS SUBMITTED TO THE PAROLE BOARD WITHIN THIRTY DAYS
7 AFTER THE NOTIFICATION. THE PAROLE BOARD IS RESPONSIBLE FOR
8 MONITORING THE DEPARTMENT'S COMPLIANCE WITH THIS PROVISION AND
9 SHALL NOTIFY THE DIRECTOR OF THE DIVISION OF ADULT PAROLE IF A
10 REVISED PAROLE PLAN IS NOT SUBMITTED TO THE PAROLE BOARD WITHIN
11 THIRTY DAYS.

12 **SECTION 7.** In Colorado Revised Statutes, 17-1-206.5, **amend**
13 (1) as follows:

14 **17-1-206.5. Preparole release and revocation facility -**
15 **community return-to-custody facility.** (1) On or before December 1,
16 2001, the department shall issue a request for proposal for the
17 construction and operation of a private contract prison to serve as a
18 parole and revocation center, that shall be a level III facility, as
19 described in ~~section 17-1-104.3 (1)(a)(III)~~ SECTION 17-1-104.3
20 (1)(a)(I)(D).

21 **SECTION 8. Appropriation.** (1) For the 2019-20 state fiscal
22 year, \$25,200 is appropriated to the department of corrections. This
23 appropriation is from the general fund. To implement this act, the
24 department may use this appropriation for the purchase of information
25 technology services.

26 (2) For the 2019-20 state fiscal year, \$25,200 is appropriated to
27 the office of the governor for use by the office of information technology.

1 This appropriation is from reappropriated funds received from the
2 department of corrections under subsection (1) of this section. To
3 implement this act, the office may use this appropriation to provide
4 information technology services for the department of corrections.

5

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