LLS NO. 20-0419.01 Michael Dohr x4347

SENATE BILL 20-076

SENATE SPONSORSHIP
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Senate Committees
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Appropriations

House Committees

A BILL FOR AN ACT

CONCERNING PAROLE ELIGIBILITY FOR AN OFFENDER WHO
COMMITTED AN OFFENSE BETWEEN EIGHTEEN AND
TWENTY-FIVE YEARS OF AGE.

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 makes an offender serving a sentence in the department of corrections for a felony offense that was committed while the offender was 18 to 24 years of age eligible for parole after the offender serves 50% of the sentence and after the offender has served at least 15 calendar years in prison. There is a presumption, subject to the parole board's discretion,
that the offender will be released on parole if the offender has not had any
code of penal discipline violations in the last 5 years and no class I code
of penal discipline violations in the last 10 years.

The department of corrections operates a specialized program for
offenders who are serving a prison sentence for a felony offense
committed while the offender was a juvenile as a result of criminal
charges filed by direct file or transfer proceedings. The bill would expand
program eligibility to adults serving a sentence for a felony that was
committed when the person was 18 to 24 years of age.

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

SECTION 1. In Colorado Revised Statutes, 17-22.5-403, add

(10) as follows:

17-22.5-403. Parole eligibility. (10) (a) NOTWITHSTANDING ANY
OTHER PROVISION TO THE CONTRARY, AN OFFENDER SERVING A SENTENCE
IN THE DEPARTMENT FOR A FELONY OFFENSE THAT WAS COMMITTED WHILE
THE OFFENDER WAS EIGHTEEN TO TWENTY-FOUR YEARS OF AGE IS
ELIGIBLE FOR PAROLE AFTER SERVING FIFTY PERCENT OF THE SENTENCE
AND AFTER THE OFFENDER HAS SERVED AT LEAST FIFTEEN CALENDAR
YEARS OF A SENTENCE IN THE CUSTODY OF THE DEPARTMENT.

(b) THERE SHALL BE A PRESUMPTION, SUBJECT TO THE FINAL
DISCRETION OF THE PAROLE BOARD, IN FAVOR OF GRANTING PAROLE TO AN
OFFENDER WHO IS ELIGIBLE FOR PAROLE PURSUANT TO SUBSECTION (10)(a)
of this section who has not had any code of penal discipline
violations in the previous five years and no class I code of penal
discipline violations in the previous ten years and who has
completed any program required as a part of the offender's
sentence to incarceration.

(c) IN DETERMINING WHETHER TO GRANT PAROLE TO AN OFFENDER
ELIGIBLE PURSUANT TO SUBSECTION (10)(a) OF THIS SECTION, THE PAROLE
BOARD SHALL CONSIDER, AT A MINIMUM, WHETHER THE PURPOSE OF
SENTENCING WOULD BE BETTER SERVED BY GRANTING PAROLE TO THE
OFFENDER RATHER THAN CONTINUING INCARCERATION.

(d) THE PROVISIONS OF THIS SUBSECTION (10) APPLY TO ANY
INCARCERATED OFFENDER REGARDLESS OF THE OFFENDER'S DATE OF
CONVICTION.

(e) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO AN
INCARCERATED OFFENDER SERVING A LIFE SENTENCE WITHOUT THE
POSSIBILITY OF PAROLE PURSUANT TO SECTION 18-1.3-401 (4)(a).

SECTION 2. In Session Laws of Colorado 2016, amend section
1 of chapter 352 as follows:

Section 1. Legislative declaration. (1) The general assembly
finds and declares that:

(a) The United States supreme court has held in several recent
decisions regarding the criminal sentencing of juveniles that children are
constitutionally different than adults for purposes of sentencing and
should be given a meaningful opportunity for release based on
demonstrated maturity and rehabilitation;

(a.5) More recent research about brain development
demonstrates that the brain functioning that guides and aids
rational decision-making does not fully develop until a person
is in his or her mid- to late twenties, which indicates that a
young adult does not often possess the developmental maturity
and decision-making skills of a mature adult;

(b) Colorado recognizes that children persons have not yet
reached developmental maturity before the age of eighteen twenty-five
years and therefore have a heightened capacity to change behavior and a
greater potential for rehabilitation;

(c) Colorado has many offenders currently serving sentences in the department of corrections who committed crimes when they were less than eighteen TWENTY-FIVE years old and who no longer present a threat to public safety; and

(d) Colorado is committed to research-based best practices in the development and implementation of correctional policies and practices. BEST PRACTICES SUPPORT THE RELEASE OF OFFENDERS WHO NO LONGER PRESENT A THREAT TO THE SAFETY OF OTHER PERSONS OR THE COMMUNITY AND WHO HAVE DEMONSTRATED THAT THROUGH OBSERVABLE AND VERIFIED POSITIVE BEHAVIOR. RECONSIDERING OFFENDERS AFTER LENGTHY INCARCERATION CREATES HOPE FOR AND HELPS DEVELOP MATURITY AND RESPONSIBILITY IN OFFENDERS WHO WERE JUVENILES OR YOUNG ADULTS WHEN THEIR CRIMES WERE COMMITTED.

(2) Now, therefore, Colorado desires to implement a system that allows any offender who committed a serious crime as a juvenile treated as an adult by the criminal justice system and has served more than twenty or twenty-five calendar years of a sentence to the department of corrections, during which he or she has exhibited growth and rehabilitation, OR WHO AS A YOUNG ADULT LESS THAN TWENTY-FIVE YEARS OF AGE WHO COMMITTED A SERIOUS CRIME AND WHILE SERVING THE SENTENCE TO THE DEPARTMENT OF CORRECTIONS HAS EXHIBITED GROWTH AND REHABILITATION, the opportunity to further demonstrate rehabilitation and earn early release in a specialized program in a less secure setting without compromising public safety.

SECTION 3. In Colorado Revised Statutes, 17-34-101, amend (1)(a) introductory portion, (1)(a)(I)(B), and (1)(a)(I)(C) as follows:

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17-34-101. Juveniles and young adults who are convicted as adults in district court and young adults less than twenty-five years of age - eligibility for specialized program placement - petitions.

(1) (a) Notwithstanding any other provision of law, an offender serving a sentence in the department for a felony offense as a result of the filing of criminal charges by an information or indictment pursuant to section 19-2-517, or the transfer of proceedings to the district court pursuant to section 19-2-518, or pursuant to either of these sections as they existed prior to their repeal and reenactment, with amendments, by House Bill 96-1005, OR A YOUNG ADULT OFFENDER SERVING A SENTENCE IN THE DEPARTMENT FOR A FELONY OFFENSE THAT WAS COMMITTED WHILE THE OFFENDER WAS EIGHTEEN TO TWENTY-FOUR YEARS OF AGE, and who THE OFFENDER IN ANY OF THESE CASES remains in the custody of the department for that felony offense, may petition for placement in the specialized program described in section 17-34-102, referred to within this section as the "specialized program", as follows:

(I) If the felony of which the person was convicted was not murder in the first degree, as described in section 18-3-102, then the offender may petition for placement in the specialized program after serving twenty years of his or her sentence if he or she:

(B) Has not been convicted of AN OFFENSE OF unlawful sexual behavior, as defined in section 16-22-102 (9) C.R.S. OR AN OFFENSE THAT THE UNDERLYING FACTUAL BASIS IS UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION 16-22-102 (9);

(C) Is not OR HAS NOT BEEN PREVIOUSLY PLACED in a treatment program within the department for a serious behavioral or mental health disorder;
SECTION 4. In Colorado Revised Statutes, 17-34-102, amend (1), (4), (8)(a) introductory portion, and (8)(b) as follows:

17-34-102. Specialized program for juveniles and young adults convicted as adults and young adults less than twenty-five years of age - report. (1) The department shall develop and implement a specialized program for offenders who have been sentenced to an adult prison for a felony offense committed while the offender was less than eighteen years of age as a result of the filing of criminal charges by an information or indictment pursuant to section 19-2-517, C.R.S., or the transfer of proceedings to the district court pursuant to section 19-2-518, C.R.S.; or pursuant to either of these sections as they existed prior to their repeal and reenactment, with amendments, by House Bill 96-1005, or OFFENDERS SERVING A SENTENCE IN THE DEPARTMENT FOR A FELONY OFFENSE THAT WAS COMMITTED WHILE THE OFFENDER WAS EIGHTEEN TO TWENTY-FOUR YEARS OF AGE, and who THE OFFENDERS IN ANY OF THESE CASES are determined to be appropriate for placement in the specialized program. The department shall implement the specialized program within or in conjunction with a facility operated by, or under contract with, the department.

(4) The department may SHALL make restorative justice practices, as defined in section 18-1-901 (3)(o.5), C.R.S., available to any victim of any offender who petitions for placement in the specialized program, as may be appropriate, but only if requested by the victim and the victim has registered with the department of corrections requesting notice of victims' rights pursuant to the provisions of part 3 of article 4.1 of title 24. C.R.S.

(8) (a) Except as described in paragraph (b) of this subsection (8) SUBSECTION (8)(b) OF THIS SECTION, if an offender has served at least
twenty-five TWENTY-THREE calendar years of his or her sentence and successfully completed the specialized program, unless rebutted by relevant evidence, it is presumed that:

(b) If an offender who committed murder in the first degree, as described in section 18-3-102 (1)(a), (1)(c), (1)(e), or (1)(f), C.R.S., has served twenty-eight years of his or her sentence and successfully completed the program, unless rebutted by relevant evidence, the presumptions described in subparagraphs (I) and (II) of paragraph (a) of this subsection (8) apply.

SECTION 5. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.