

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

PREAMENDED

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

LLS NO. 20-0419.01 Michael Dohr x4347

SENATE BILL 20-076

SENATE SPONSORSHIP

Lee,

HOUSE SPONSORSHIP

Gonzales-Gutierrez,

Senate Committees

Judiciary
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING PAROLE ELIGIBILITY FOR AN OFFENDER WHO**
102 **COMMITTED AN OFFENSE BETWEEN EIGHTEEN AND**
103 **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,

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.

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.

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

2 **SECTION 1.** In Colorado Revised Statutes, 17-22.5-403, **add**
3 (10) as follows:

4 **17-22.5-403. Parole eligibility.** (10) (a) NOTWITHSTANDING ANY
5 OTHER PROVISION TO THE CONTRARY, AN OFFENDER SERVING A SENTENCE
6 IN THE DEPARTMENT FOR A FELONY OFFENSE THAT WAS COMMITTED WHILE
7 THE OFFENDER WAS EIGHTEEN TO TWENTY-FOUR YEARS OF AGE IS
8 ELIGIBLE FOR PAROLE AFTER SERVING FIFTY PERCENT OF THE SENTENCE
9 AND AFTER THE OFFENDER HAS SERVED AT LEAST FIFTEEN CALENDAR
10 YEARS OF A SENTENCE IN THE CUSTODY OF THE DEPARTMENT.

11 (b) THERE SHALL BE A PRESUMPTION, SUBJECT TO THE FINAL
12 DISCRETION OF THE PAROLE BOARD, IN FAVOR OF GRANTING PAROLE TO AN
13 OFFENDER WHO IS ELIGIBLE FOR PAROLE PURSUANT TO SUBSECTION (10)(a)
14 OF THIS SECTION WHO HAS NOT HAD ANY CODE OF PENAL DISCIPLINE
15 VIOLATIONS IN THE PREVIOUS FIVE YEARS AND NO CLASS I CODE OF PENAL
16 DISCIPLINE VIOLATIONS IN THE PREVIOUS TEN YEARS AND WHO HAS
17 COMPLETED ANY PROGRAM REQUIRED AS A PART OF THE OFFENDER'S
18 SENTENCE TO INCARCERATION.

19 (c) IN DETERMINING WHETHER TO GRANT PAROLE TO AN OFFENDER
20 ELIGIBLE PURSUANT TO SUBSECTION (10)(a) OF THIS SECTION, THE PAROLE

1 BOARD SHALL CONSIDER, AT A MINIMUM, WHETHER THE PURPOSE OF
2 SENTENCING WOULD BE BETTER SERVED BY GRANTING PAROLE TO THE
3 OFFENDER RATHER THAN CONTINUING INCARCERATION.

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

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

10 **SECTION 2.** In Session Laws of Colorado 2016, **amend** section
11 1 of chapter 352 as follows:

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

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

19 (a.5) MORE RECENT RESEARCH ABOUT BRAIN DEVELOPMENT
20 DEMONSTRATES THAT THE BRAIN FUNCTIONING THAT GUIDES AND AIDS
21 RATIONAL DECISION-MAKING DOES NOT FULLY DEVELOP UNTIL A PERSON
22 IS IN HIS OR HER MID- TO LATE TWENTIES, WHICH INDICATES THAT A
23 YOUNG ADULT DOES NOT OFTEN POSSESS THE DEVELOPMENTAL MATURITY
24 AND DECISION-MAKING SKILLS OF A MATURE ADULT;

25 (b) Colorado recognizes that ~~children~~ PERSONS have not yet
26 reached developmental maturity before the age of ~~eighteen~~ TWENTY-FIVE
27 years and therefore have a heightened capacity to change behavior and a

1 greater potential for rehabilitation;

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

6 (d) Colorado is committed to research-based best practices in the
7 development and implementation of correctional policies and practices.

8 BEST PRACTICES SUPPORT THE RELEASE OF OFFENDERS WHO NO LONGER
9 PRESENT A THREAT TO THE SAFETY OF OTHER PERSONS OR THE
10 COMMUNITY AND WHO HAVE DEMONSTRATED THAT THROUGH
11 OBSERVABLE AND VERIFIED POSITIVE BEHAVIOR. RECONSIDERING
12 OFFENDERS AFTER LENGTHY INCARCERATION CREATES HOPE FOR AND
13 HELPS DEVELOP MATURITY AND RESPONSIBILITY IN OFFENDERS WHO WERE
14 JUVENILES OR YOUNG ADULTS WHEN THEIR CRIMES WERE COMMITTED.

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

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

1 **17-34-101. Juveniles and young adults who are convicted as**
2 **adults in district court and young adults less than twenty-five years**
3 **of age - eligibility for specialized program placement - petitions.**

4 (1) (a) Notwithstanding any other provision of law, an offender serving
5 a sentence in the department for a felony offense as a result of the filing
6 of criminal charges by an information or indictment pursuant to section
7 19-2-517, or the transfer of proceedings to the district court pursuant to
8 section 19-2-518, or pursuant to either of these sections as they existed
9 prior to their repeal and reenactment, with amendments, by House Bill
10 96-1005, OR A YOUNG ADULT OFFENDER SERVING A SENTENCE IN THE
11 DEPARTMENT FOR A FELONY OFFENSE THAT WAS COMMITTED WHILE THE
12 OFFENDER WAS EIGHTEEN TO TWENTY-FOUR YEARS OF AGE, and ~~who~~ THE
13 OFFENDER IN ANY OF THESE CASES remains in the custody of the
14 department for that felony offense, may petition for placement in the
15 specialized program described in section 17-34-102, referred to within
16 this section as the "specialized program", as follows:

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

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

25 (C) Is not OR HAS NOT BEEN PREVIOUSLY PLACED in a treatment
26 program within the department for a serious behavioral or mental health
27 disorder;

1 **SECTION 4.** In Colorado Revised Statutes, 17-34-102, **amend**
2 (1), (4), (8)(a) introductory portion, and (8)(b) as follows:

3 **17-34-102. Specialized program for juveniles and young adults**
4 **convicted as adults and young adults less than twenty-five years of**
5 **age - report.** (1) The department shall develop and implement a
6 specialized program for offenders who have been sentenced to an adult
7 prison for a felony offense committed while the offender was less than
8 eighteen years of age as a result of the filing of criminal charges by an
9 information or indictment pursuant to section 19-2-517, ~~C.R.S.~~, or the
10 transfer of proceedings to the district court pursuant to section 19-2-518,
11 ~~C.R.S.~~, or pursuant to either of these sections as they existed prior to their
12 repeal and reenactment, with amendments, by House Bill 96-1005, OR
13 OFFENDERS SERVING A SENTENCE IN THE DEPARTMENT FOR A FELONY
14 OFFENSE THAT WAS COMMITTED WHILE THE OFFENDER WAS EIGHTEEN TO
15 TWENTY-FOUR YEARS OF AGE, and ~~who~~ THE OFFENDERS IN ANY OF THESE
16 CASES are determined to be appropriate for placement in the specialized
17 program. The department shall implement the specialized program within
18 or in conjunction with a facility operated by, or under contract with, the
19 department.

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

26 (8) (a) Except as described in ~~paragraph (b) of this subsection~~ (8)
27 SUBSECTION (8)(b) OF THIS SECTION, if an offender has served at least

1 ~~twenty-five~~ TWENTY-THREE calendar years of his or her sentence and
2 successfully completed the specialized program, unless rebutted by
3 relevant evidence, it is presumed that:

4 (b) If an offender who committed murder in the first degree, as
5 described in section 18-3-102 (1)(a), (1)(c), (1)(e), or (1)(f), ~~C.R.S.~~, has
6 served ~~thirty~~ TWENTY-EIGHT years of his or her sentence and successfully
7 completed the program, unless rebutted by relevant evidence, the
8 presumptions described in ~~subparagraphs (I) and (II) of paragraph (a) of~~
9 ~~this subsection (8)~~ SUBSECTIONS (8)(a)(I) AND (8)(a)(II) OF THIS SECTION
10 apply.

11 **SECTION 5. Act subject to petition - effective date.** This act
12 takes effect at 12:01 a.m. on the day following the expiration of the
13 ninety-day period after final adjournment of the general assembly (August
14 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
15 referendum petition is filed pursuant to section 1 (3) of article V of the
16 state constitution against this act or an item, section, or part of this act
17 within such period, then the act, item, section, or part will not take effect
18 unless approved by the people at the general election to be held in
19 November 2020 and, in such case, will take effect on the date of the
20 official declaration of the vote thereon by the governor.