

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0362.01 Michael Dohr x4347

HOUSE BILL 20-1019

HOUSE SPONSORSHIP

Herod,

SENATE SPONSORSHIP

Gonzales,

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 CONCERNING MEASURES TO MANAGE THE STATE PRISON POPULATION.

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/>.)

Prison Population Management Interim Study Committee. Under current law, the Centennial south campus of the Centennial correctional facility is only able to house inmates under limited circumstances. The bill would open the facility for close custody inmates and require that for each inmate who is housed at the facility, an inmate must be removed from a private prison until the facility is full.

The bill directs the department of corrections (department) to study how to end the practice of using private prisons by 2025 in a responsible

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.

way. The study must include:

- ! Evidence-based strategies to stop using private prisons and move individuals into alternative facilities or programs;
- ! An analysis of the economic impacts on affected communities, including the loss of local tax revenue;
- ! An analysis of the impact that reducing private prison beds would have on local governments and community-based providers;
- ! A utilization analysis of all state-operated facilities and all other facilities that can be used for housing inmates;
- ! An analysis of the effect of releasing sex offenders who are assessed as low risk;
- ! An analysis of what state-operated facilities and programs may be utilized to keep pace with demand;
- ! An analysis of the best practices and programs that are necessary for successful reintegration of offenders;
- ! An analysis of the feasibility of the department to obtain private prison facilities in Colorado; and
- ! An analysis of the resources necessary to accomplish the strategies required to transition the state away from private prisons.

The bill adds to the list of achievements that allow an inmate to receive earned time showing exemplary leadership through mentoring, community service, and distinguished actions benefiting the health, safety, environment, and culture for staff and other inmates.

Under current law, an offender is not entitled to an evidentiary hearing for resentencing when the offender is rejected for placement in a community corrections program. The bill requires the sentencing court to provide the offender with an evidentiary hearing, or in the alternative a new sentencing hearing, for any termination from a community corrections program.

The bill amends the escape statutes to exclude direct sentences, transitioning from the department to a community corrections program, or placement in an intensive supervision parole program from the concepts of custody or confinement for purposes of escape. The bill lowers the penalties for escape and attempted escape crimes. The bill creates a new crime of absconding if the location of a person on intensive supervision parole or a person in a community corrections program is unknown to the authorized agency responsible for the person's supervision.

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

2 **SECTION 1.** In Colorado Revised Statutes, 17-1-104.3, **amend**

1 (1)(b.5); and **repeal** (1)(b.7) as follows:

2 **17-1-104.3. Correctional facilities - locations - security level.**

3 (1) (b.5) ~~Notwithstanding the provisions of paragraph (b) of this~~
4 ~~subsection (1), beginning February 1, 2013, The Centennial south campus~~
5 ~~of the Centennial correctional facility shall not~~ MAY be operated by the
6 department for the purpose of housing inmates ~~in the housing units but,~~
7 ~~if necessary, may be maintained to provide support and other services to~~
8 ~~the Centennial correctional facility. The department shall actively pursue~~
9 ~~options to sell or lease the Centennial south campus of the Centennial~~
10 ~~correctional facility, which is also known as Colorado state penitentiary~~
11 ~~H or CSP H. Any proceeds received as a result of a sale or lease of~~
12 ~~Centennial south campus of the Centennial correctional facility shall be~~
13 ~~first applied to the payment of the certificates of participation WHO ARE~~
14 ~~CLOSE CUSTODY INMATES. FOR EACH PRISONER WHO IS HOUSED AT THE~~
15 ~~CENTENNIAL SOUTH CAMPUS OF THE CENTENNIAL CORRECTIONAL~~
16 ~~FACILITY, THE DEPARTMENT SHALL REMOVE ONE PRISONER FROM A~~
17 ~~PRIVATE PRISON FACILITY UNTIL THE CENTENNIAL SOUTH CAMPUS OF THE~~
18 ~~CENTENNIAL CORRECTIONAL FACILITY IS AT FULL PRISONER CAPACITY.~~

19 (b.7) ~~(f) Notwithstanding subsection (1)(b.5) of this section, the~~
20 ~~Centennial south campus of the Centennial correctional facility may be~~
21 ~~used to house inmates on a limited basis when the state male prison~~
22 ~~vacant bed rate, excluding RTP treatment beds, remains below one~~
23 ~~percent vacancy for two consecutive months and the department has~~
24 ~~exhausted all options pursuant to section 17-1-119.7. The department~~
25 ~~shall not house more than one hundred twenty-six inmates at one time in~~
26 ~~the Centennial south campus. Once the state male prison vacant bed rate~~
27 ~~surpasses one percent vacancy, including calculating the inmates housed~~

1 in the Centennial south campus, the department shall transfer inmates
2 housed in the Centennial south campus to an appropriate facility under the
3 department's control within thirty calendar days.

4 (II) The department shall report the use of the Centennial south
5 campus of the Centennial correctional facility to the joint budget
6 committee and the judiciary committees of the senate and the house of
7 representatives, or any successor committees, within five calendar days
8 after the use of the Centennial south campus. For each month that the
9 Centennial south campus of the Centennial correctional facility is used,
10 the department shall report on the first day of every month the continued
11 nature of the use of the Centennial south campus at the Centennial
12 correctional facility, the steps taken by the department to address the
13 vacancy issue, and the expected time frame for the vacancy issue to end.

14 (III) The department shall consider input from any legislative
15 interim committee that meets during the 2019 interim regarding prison
16 population management, specifically including:

17 (A) Strategies to safely reduce the prison population and reduce
18 recidivism; and

19 (B) Prison use analysis including the Centennial south campus at
20 the Centennial correctional facility, private prisons, and alternative bed
21 programs.

22 (IV) This subsection (1)(b.7) is repealed, effective September 1,
23 2020.

24 **SECTION 2.** In Colorado Revised Statutes, 17-1-119.7, **amend**
25 (2)(a)(II) and (2)(a)(IV)(A) as follows:

26 **17-1-119.7. Prison population management measures.**

27 (2) (a) If the vacancy rate in correctional facilities and state-funded

1 private contract prison beds falls below three percent for thirty
2 consecutive days, the department shall:

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

7 (IV) (A) Submit to the parole board a list of eligible inmates ~~with~~
8 ~~a favorable parole plan~~ who have been assessed to be medium or lower
9 risk on the validated risk assessment scale developed pursuant to section
10 17-22.5-404 (2). Except as provided in subsection (2)(a)(IV)(B) of this
11 section, the parole board shall conduct a file review of each inmate on the
12 list and set conditions of release for the inmate within thirty days after
13 receipt of the list and set a day of release no later than thirty days after
14 conducting the file review.

15 **SECTION 3.** In Colorado Revised Statutes, 17-1-201, **add** (3) as
16 follows:

17 **17-1-201. Duties of department - report - rules.** (3) (a) THE
18 DEPARTMENT SHALL STUDY HOW TO END THE USE OF PRIVATE PRISONS TO
19 INCARCERATE INDIVIDUALS IN COLORADO BY 2025 IN A RESPONSIBLE
20 WAY.

21 (b) THE STUDY MUST INCLUDE:

22 (I) EVIDENCE-BASED STRATEGIES TO STOP USING PRIVATE PRISONS
23 AND MOVE INDIVIDUALS INTO ALTERNATIVE FACILITIES OR PROGRAMS;

24 (II) AN ANALYSIS OF THE ECONOMIC IMPACTS ON AFFECTED
25 COMMUNITIES, INCLUDING THE LOSS OF LOCAL TAX REVENUE;

26 (III) AN ANALYSIS OF THE IMPACT THAT REDUCING PRIVATE
27 PRISON BEDS WOULD HAVE ON LOCAL GOVERNMENTS AND

- 1 COMMUNITY-BASED PROVIDERS;
- 2 (IV) A UTILIZATION ANALYSIS OF ALL STATE-OPERATED FACILITIES
- 3 AND ALL OTHER FACILITIES THAT CAN BE USED FOR HOUSING INMATES;
- 4 (V) AN ANALYSIS OF THE EFFECT OF RELEASING SEX OFFENDERS
- 5 WHO ARE ASSESSED AS LOW RISK;
- 6 (VI) AN ANALYSIS OF WHAT STATE-OPERATED FACILITIES AND
- 7 PROGRAMS MAY BE UTILIZED TO KEEP PACE WITH DEMAND;
- 8 (VII) AN ANALYSIS OF THE BEST PRACTICES AND PROGRAMS THAT
- 9 ARE NECESSARY FOR SUCCESSFUL REINTEGRATION OF OFFENDERS;
- 10 (VIII) AN ANALYSIS OF THE FEASIBILITY OF THE DEPARTMENT TO
- 11 OBTAIN PRIVATE PRISON FACILITIES IN COLORADO; AND
- 12 (IX) AN ANALYSIS OF THE RESOURCES NECESSARY TO ACCOMPLISH
- 13 THE STRATEGIES REQUIRED TO TRANSITION THE STATE AWAY FROM
- 14 PRIVATE PRISONS.

15 (c) THE DEPARTMENT SHALL PROVIDE THE STUDY TO THE JOINT

16 BUDGET COMMITTEE WHEN PRESENTING ITS BUDGET RECOMMENDATIONS

17 FOR FISCAL YEAR 2021-22 AND SHALL PROVIDE COPIES OF THE STUDY TO

18 THE MEMBERS OF THE JUDICIARY COMMITTEES OF THE HOUSE OF

19 REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES.

20 **SECTION 4.** In Colorado Revised Statutes, 17-2-103, **amend**

21 (11)(c) introductory portion as follows:

22 **17-2-103. Arrest of parolee - revocation proceedings.**

23 (11) (c) If the board determines that the parolee is in need of treatment,

24 ~~and is amenable to treatment~~, the board shall consider placing the parolee

25 in one of the following treatment options and, if appropriate, may modify

26 the conditions of parole to include:

27 **SECTION 5.** In Colorado Revised Statutes, 17-22.5-405, **amend**

1 (1) introductory portion and (1.5)(b); and **add** (1)(h) as follows:

2 **17-22.5-405. Earned time - earned release time - achievement**
3 **earned time - definition.** (1) Earned time, not to exceed ten days for
4 each month of incarceration or parole, may be deducted from the inmate's
5 sentence upon a demonstration to the department by the inmate, which is
6 certified by the inmate's case manager or community parole officer, that
7 ~~he or she~~ THE INMATE has made consistent progress in the following
8 categories as required by the department of corrections:

9 (h) THE INMATE HAS SHOWN EXEMPLARY LEADERSHIP THROUGH
10 MENTORING, COMMUNITY SERVICE, AND DISTINGUISHED ACTIONS
11 BENEFITING THE HEALTH, SAFETY, ENVIRONMENT, AND CULTURE FOR
12 STAFF AND OTHER INMATES.

13 (1.5) (b) The earned time specified in ~~paragraph (a) of this~~
14 ~~subsection (1.5)~~ SUBSECTION (1.5)(a) OF THIS SECTION may be deducted
15 based upon a demonstration to the department by the inmate, which is
16 certified by the inmate's case manager or community parole officer, that
17 he or she has made ~~consistent progress in the categories described in~~
18 ~~subsection (1) of this section~~ POSITIVE PROGRESS IN ACCORDANCE WITH
19 PERFORMANCE STANDARDS ESTABLISHED BY THE DEPARTMENT.

20 **SECTION 6.** In Colorado Revised Statutes, 18-1.3-301, **amend**
21 (1)(g) as follows:

22 **18-1.3-301. Authority to place offenders in community**
23 **corrections programs.** (1) (g) The sentencing court may make
24 appropriate orders for the detention, transfer, or resentencing of any
25 offender whose placement in a community corrections program is
26 terminated pursuant to section 17-27-103 (7) ~~C.R.S.~~, or section 17-27-104
27 (5). ~~C.R.S.~~ As to any offender held pursuant to section 17-27-104 (6)

1 ~~C.R.S.~~, in a jail operated by a unit of local government in a county other
2 than where the offender's original conviction occurred, the sentencing
3 court shall order the transfer of the offender to the jail of the county
4 where the original conviction occurred as soon as possible. ~~The~~
5 ~~sentencing court is not required to provide the offender with an~~
6 ~~evidentiary hearing pertaining to the rejection of placement in a~~
7 ~~community corrections program prior to resentencing.~~ THE SENTENCING
8 COURT SHALL PROVIDE THE OFFENDER WITH AN EVIDENTIARY HEARING, OR
9 IN THE ALTERNATIVE A NEW SENTENCING HEARING, FOR ANY TERMINATION
10 FROM A COMMUNITY CORRECTIONS PROGRAM, INCLUDING A VIOLATION OF
11 SECTION 18-8-208.2. AT ANY NEW SENTENCING HEARING, THE COURT MAY
12 CONSIDER ANY SENTENCING ALTERNATIVE ORIGINALLY AVAILABLE TO THE
13 COURT WHEN ORDERING THE APPROPRIATE SENTENCE.

14 **SECTION 7.** In Colorado Revised Statutes, 18-8-208, **amend** (1),
15 (2), and (11) as follows:

16 **18-8-208. Escapes.** (1) A person commits a class ~~2~~ **4** felony if,
17 while being in custody or confinement following conviction of a class 1
18 or class 2 felony, ~~he~~ THE PERSON knowingly escapes from said custody or
19 confinement.

20 (2) A person commits a class ~~3~~ **4** felony if, while being in custody
21 or confinement following conviction of a felony other than a class 1 or
22 class 2 felony, ~~he~~ THE PERSON knowingly escapes from said custody or
23 confinement.

24 (11) If a person ~~who~~ is SERVING A DIRECT SENTENCE TO A
25 COMMUNITY CORRECTIONS PROGRAM PURSUANT TO SECTION 18-1.3-301,
26 OR IS TRANSITIONING FROM THE DEPARTMENT OF CORRECTIONS TO A
27 COMMUNITY CORRECTIONS PROGRAM, OR IS PLACED IN AN INTENSIVE

1 SUPERVISION PAROLE PROGRAM PURSUANT TO SECTION 17-27.5-101, OR
2 IS placed in a community corrections program for purposes of obtaining
3 residential treatment as a condition of probation pursuant to section
4 18-1.3-204 (2.2) or 18-1.3-301 (4)(b), THEN THE PERSON is not in custody
5 or confinement for purposes of this section.

6 **SECTION 8.** In Colorado Revised Statutes, 18-8-208.1, **amend**
7 (1), (1.5), and (2) as follows:

8 **18-8-208.1. Attempt to escape.** (1) Except as otherwise provided
9 in subsection (1.5) of this section, if a person, while in custody or
10 confinement following conviction of a felony, knowingly attempts to
11 escape from said custody or confinement, ~~he or she~~ THE PERSON commits
12 a class ~~4~~ 5 felony. The sentence imposed pursuant to this subsection (1)
13 shall run consecutively with any sentences being served by the offender.

14 ~~(1.5) If a person, while in custody or confinement following~~
15 ~~conviction of a felony and either serving a direct sentence to a community~~
16 ~~corrections program pursuant to section 18-1.3-301, or having been~~
17 ~~placed in an intensive supervision parole program pursuant to section~~
18 ~~17-27.5-101, C.R.S., knowingly attempts to escape from his or her~~
19 ~~custody or confinement, he or she commits a class 5 felony. The sentence~~
20 ~~imposed pursuant to this subsection (1.5) may run concurrently or~~
21 ~~consecutively with any sentence being served by the offender~~ IF A PERSON
22 IS SERVING A DIRECT SENTENCE TO A COMMUNITY CORRECTIONS PROGRAM
23 PURSUANT TO SECTION 18-1.3-301, OR IS TRANSITIONING FROM THE
24 DEPARTMENT OF CORRECTIONS TO A COMMUNITY CORRECTIONS PROGRAM,
25 OR IS PLACED IN AN INTENSIVE SUPERVISION PAROLE PROGRAM PURSUANT
26 TO SECTION 17-27.5-101, OR IS PLACED IN A COMMUNITY CORRECTIONS
27 PROGRAM FOR PURPOSES OF OBTAINING RESIDENTIAL TREATMENT AS A

1 CONDITION OF PROBATION PURSUANT TO SECTION 18-1.3-204 (2.2) OR
2 18-1.3-301 (4)(b), THEN THE PERSON IS NOT IN CUSTODY OR CONFINEMENT
3 FOR PURPOSES OF THIS SECTION.

4 (2) If a person, while in custody or confinement and held for or
5 charged with but not convicted of a felony, knowingly attempts to escape
6 from said custody or confinement, ~~he~~ THE PERSON commits a class ~~5~~ **6**
7 felony. If the person is convicted of the felony or other crime for which
8 ~~he~~ THE PERSON was originally in custody or confinement, the sentence
9 imposed pursuant to this subsection (2) shall run consecutively with any
10 sentences being served by the offender.

11 **SECTION 9.** In Colorado Revised Statutes, **add** 18-8-208.2 as
12 follows:

13 **18-8-208.2. Absconding.** (1) A PERSON ON INTENSIVE
14 SUPERVISION PAROLE OR A PERSON IN A COMMUNITY CORRECTIONS
15 PROGRAM COMMITS THE OFFENSE OF ABSCONDING IF THE LOCATION OF
16 THE PERSON IS UNKNOWN TO THE AUTHORIZED AGENCY RESPONSIBLE FOR
17 THE PERSON'S SUPERVISION.

18 (2) (a) IF A PERSON COMMITS ABSCONDING WHILE ON INTENSIVE
19 SUPERVISION PAROLE OR IN A COMMUNITY CORRECTIONS PROGRAM FOR A
20 CRIME LISTED IN SECTION 24-4.1-302 (1) OR A CRIME OF VIOLENCE AS
21 DESCRIBED IN SECTION 18-1.3-406, ABSCONDING IS A CLASS 6 FELONY AND
22 AN ATTEMPT THEREOF IS A CLASS 1 MISDEMEANOR.

23 (b) IF A PERSON COMMITS ABSCONDING WHILE ON INTENSIVE
24 SUPERVISION PAROLE OR IN A COMMUNITY CORRECTIONS PROGRAM FOR A
25 CRIME OTHER THAN THE CRIMES LISTED IN SECTION 24-4.1-302 (1) AND
26 THE CRIME IS NOT A CRIME OF VIOLENCE AS DESCRIBED IN SECTION
27 18-1.3-406, ABSCONDING IS A CLASS 3 MISDEMEANOR AND AN ATTEMPT

1 THEREOF IS A CLASS 3 MISDEMEANOR.

2 **SECTION 10.** In Colorado Revised Statutes, 18-1.3-801, **amend**
3 (5) as follows:

4 **18-1.3-801. Punishment for habitual criminals.** (5) A current
5 or prior conviction for escape, as described in section 18-8-208 (1), (2),
6 or (3), or attempt to escape, as described in section 18-8-208.1 (1) ~~(1.5)~~,
7 or (2), may not be used for the purpose of adjudicating a person an
8 habitual criminal as described in subsection (1.5) or subsection (2) of this
9 section unless the conviction is based on the offender's escape or attempt
10 to escape from a correctional facility, as defined in section 17-1-102, or
11 from physical custody within a county jail; except that, for the purposes
12 of this section, "correctional facility" does not include a community
13 corrections facility, as defined in section 17-27-102 (2.5), or a halfway
14 house, as defined in section 19-1-103 (62).

15 **SECTION 11. Safety clause.** The general assembly hereby finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, or safety.