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BILL 2

LLS NO. 20-0362.01 Michael Dohr x4347

INTERIM COMMITTEE BILL

Prison Population Management Interim Study Committee

BILL TOPIC: "Prison Population Reduction And Management"

DEADLINES: File by: 10/9/2019

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

*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;
- An analysis of what state-operated facilities and programs may be utilized to keep pace with demand;
- 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 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 gives the department authority to determine the circumstances that warrant an award of earned time.

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

4 **17-1-104.3. Correctional facilities - locations - security level.**

5 (1) (b.5) ~~Notwithstanding the provisions of paragraph (b) of this~~
6 ~~subsection (1), beginning February 1, 2013, The Centennial south campus~~
7 ~~of the Centennial correctional facility shall not~~ MAY be operated by the
8 department for the purpose of housing inmates WHO ARE CLOSE CUSTODY
9 INMATES. ~~in the housing units but, if necessary, may be maintained to~~
10 ~~provide support and other services to the Centennial correctional facility.~~
11 ~~The department shall actively pursue options to sell or lease the~~
12 ~~Centennial south campus of the Centennial correctional facility, which is~~
13 ~~also known as Colorado state penitentiary II or CSP II. Any proceeds~~

1 received as a result of a sale or lease of Centennial south campus of the
2 Centennial correctional facility shall be first applied to the payment of the
3 certificates of participation. FOR EACH PRISONER WHO IS HOUSED AT THE
4 CENTENNIAL SOUTH CAMPUS OF THE CENTENNIAL CORRECTIONAL
5 FACILITY, THE DEPARTMENT SHALL REMOVE ONE PRISONER FROM A
6 PRIVATE PRISON FACILITY UNTIL THE CENTENNIAL SOUTH CAMPUS OF THE
7 CENTENNIAL CORRECTIONAL FACILITY IS AT FULL PRISONER CAPACITY.

8 (b.7) (F) ~~Notwithstanding subsection (1)(b.5) of this section, the~~
9 ~~Centennial south campus of the Centennial correctional facility may be~~
10 ~~used to house inmates on a limited basis when the state male prison~~
11 ~~vacant bed rate, excluding RTP treatment beds, remains below one~~
12 ~~percent vacancy for two consecutive months and the department has~~
13 ~~exhausted all options pursuant to section 17-1-119.7. The department~~
14 ~~shall not house more than one hundred twenty-six inmates at one time in~~
15 ~~the Centennial south campus. Once the state male prison vacant bed rate~~
16 ~~surpasses one percent vacancy, including calculating the inmates housed~~
17 ~~in the Centennial south campus, the department shall transfer inmates~~
18 ~~housed in the Centennial south campus to an appropriate facility under the~~
19 ~~department's control within thirty calendar days.~~

20 (H) ~~The department shall report the use of the Centennial south~~
21 ~~campus of the Centennial correctional facility to the joint budget~~
22 ~~committee and the judiciary committees of the senate and the house of~~
23 ~~representatives, or any successor committees, within five calendar days~~
24 ~~after the use of the Centennial south campus. For each month that the~~
25 ~~Centennial south campus of the Centennial correctional facility is used,~~
26 ~~the department shall report on the first day of every month the continued~~
27 ~~nature of the use of the Centennial south campus at the Centennial~~

1 ~~correctional facility, the steps taken by the department to address the~~
2 ~~vacancy issue, and the expected time frame for the vacancy issue to end.~~

3 ~~(III) The department shall consider input from any legislative~~
4 ~~interim committee that meets during the 2019 interim regarding prison~~
5 ~~population management, specifically including:~~

6 ~~(A) Strategies to safely reduce the prison population and reduce~~
7 ~~recidivism; and~~

8 ~~(B) Prison use analysis including the Centennial south campus at~~
9 ~~the Centennial correctional facility, private prisons, and alternative bed~~
10 ~~programs.~~

11 ~~(IV) This subsection (1)(b.7) is repealed, effective September 1,~~
12 ~~2020.~~

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

15 **17-1-119.7. Prison population management measures.**

16 (2) (a) If the vacancy rate in correctional facilities and state-funded
17 private contract prison beds falls below three percent for thirty
18 consecutive days, the department shall:

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

23 (IV) (A) Submit to the parole board a list of eligible inmates ~~with~~
24 ~~a favorable parole plan~~ who have been assessed to be medium or lower
25 risk on the validated risk assessment scale developed pursuant to section
26 17-22.5-404 (2). Except as provided in subsection (2)(a)(IV)(B) of this
27 section, the parole board shall conduct a file review of each inmate on the

1 list and set conditions of release for the inmate within thirty days after
2 receipt of the list and set a day of release no later than thirty days after
3 conducting the file review.

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

6 **17-1-201. Duties of department - report - rules.** (3) (a) THE
7 DEPARTMENT SHALL STUDY HOW TO END THE USE OF PRIVATE PRISONS TO
8 INCARCERATE INDIVIDUALS IN COLORADO BY 2025 IN A RESPONSIBLE
9 WAY.

10 (b) THE STUDY MUST INCLUDE:

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

13 (II) AN ANALYSIS OF THE ECONOMIC IMPACTS ON AFFECTED
14 COMMUNITIES INCLUDING THE LOSS OF LOCAL TAX REVENUE;

15 (III) AN ANALYSIS OF THE IMPACT THAT REDUCING PRIVATE
16 PRISON BEDS WOULD HAVE ON LOCAL GOVERNMENTS AND
17 COMMUNITY-BASED PROVIDERS;

18 (IV) AN ANALYSIS OF WHAT STATE-OPERATED FACILITIES AND
19 PROGRAMS MAY BE UTILIZED TO KEEP PACE WITH DEMAND;

20 (V) AN ANALYSIS OF THE BEST PRACTICES AND PROGRAMS THAT
21 ARE NECESSARY FOR SUCCESSFUL REINTEGRATION OF OFFENDERS;

22 (VI) AN ANALYSIS OF THE FEASIBILITY OF THE DEPARTMENT TO
23 OBTAIN PRIVATE PRISON FACILITIES IN COLORADO; AND

24 (VII) AN ANALYSIS OF THE RESOURCES NECESSARY TO
25 ACCOMPLISH THE STRATEGIES REQUIRED TO TRANSITION THE STATE AWAY
26 FROM PRIVATE PRISONS.

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

1 BUDGET COMMITTEE WHEN PRESENTING ITS BUDGET RECOMMENDATIONS.

2 **SECTION 4.** In Colorado Revised Statutes, 17-2-103, **amend**
3 (11)(c) introductory portion as follows:

4 **17-2-103. Arrest of parolee - revocation proceedings.**
5 (11) (c) If the board determines that the parolee is in need of treatment,
6 ~~and is amenable to treatment~~, the board shall consider placing the parolee
7 in one of the following treatment options and, if appropriate, may modify
8 the conditions of parole to include:

9 **SECTION 5.** In Colorado Revised Statutes, 17-22.5-405, **amend**
10 (1) and (1.5)(b) as follows:

11 **17-22.5-405. Earned time - earned release time - achievement**
12 **earned time - definition.** (1) Earned time, not to exceed ten days for
13 each month of incarceration or parole, may be deducted from the inmate's
14 sentence upon a demonstration to the department by the inmate, which is
15 certified by the inmate's case manager or community parole officer, that
16 he or she has made ~~consistent progress in the following categories as~~
17 ~~required by the department of corrections:~~ POSITIVE PROGRESS IN
18 ACCORDANCE WITH PERFORMANCE STANDARDS ESTABLISHED BY THE
19 DEPARTMENT.

20 ~~(a) Work and training, including attendance, promptness,~~
21 ~~performance, cooperation, care of materials, and safety;~~

22 ~~(b) Group living, including housekeeping, personal hygiene,~~
23 ~~cooperation, social adjustment, and double bunking;~~

24 ~~(c) Participation in counseling sessions and involvement in~~
25 ~~self-help groups;~~

26 ~~(d) Progress toward the goals and programs established by the~~
27 ~~Colorado diagnostic program;~~

1 ~~(e) For any inmates who have been paroled, compliance with the~~
2 ~~conditions of parole release;~~

3 ~~(f) The offender has not harassed the victim either verbally or in~~
4 ~~writing;~~

5 ~~(g) The inmate has made positive progress, in accordance with~~
6 ~~performance standards established by the department, in the literacy~~
7 ~~corrections program or the correctional education program established~~
8 ~~pursuant to article 32 of this title.~~

9 (1.5) (b) The earned time specified in ~~paragraph (a) of this~~
10 ~~subsection (1.5)~~ SUBSECTION (1.5)(a) OF THIS SECTION may be deducted
11 based upon a demonstration to the department by the inmate, which is
12 certified by the inmate's case manager or community parole officer, that
13 he or she has made ~~consistent progress in the categories described in~~
14 ~~subsection (1) of this section~~ POSITIVE PROGRESS IN ACCORDANCE WITH
15 PERFORMANCE STANDARDS ESTABLISHED BY THE DEPARTMENT.

16 **SECTION 6.** In Colorado Revised Statutes, 18-8-208, **amend**
17 (11) as follows:

18 **18-8-208. Escapes.** (11) If a person ~~who is~~ WAS NOT CONVICTED
19 FOR A CRIME DESCRIBED IN SECTION 24-4.1-302 OR 18-1.3-406 AND IS
20 SERVING A DIRECT SENTENCE TO A COMMUNITY CORRECTIONS PROGRAM
21 PURSUANT TO SECTION 18-1.3-301, OR IS TRANSITIONING FROM THE
22 DEPARTMENT OF CORRECTIONS TO A COMMUNITY CORRECTIONS PROGRAM,
23 OR IS PLACED IN AN INTENSIVE SUPERVISION PAROLE PROGRAM PURSUANT
24 TO SECTION 17-27.5-101, OR IS placed in a community corrections
25 program for purposes of obtaining residential treatment as a condition of
26 probation pursuant to section 18-1.3-204 (2.2) or 18-1.3-301 (4)(b), THEN
27 THE PERSON is not in custody or confinement for purposes of this section.

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

3 **18-8-208.1. Attempt to escape.** (1.5) ~~If a person, while in~~
4 ~~custody or confinement following conviction of a felony and either~~
5 ~~servng a direct sentence to a community corrections program pursuant to~~
6 ~~section 18-1.3-301, or having been placed in an intensive supervision~~
7 ~~parole program pursuant to section 17-27.5-101, C.R.S., knowingly~~
8 ~~attempts to escape from his or her custody or confinement, he or she~~
9 ~~commits a class 5 felony. The sentence imposed pursuant to this~~
10 ~~subsection (1.5) may run concurrently or consecutively with any sentence~~
11 ~~being served by the offender.~~ IF A PERSON WAS NOT CONVICTED FOR A
12 CRIME DESCRIBED IN SECTION 24-4.1-302 OR 18-1.3-406 AND IS SERVING
13 A DIRECT SENTENCE TO A COMMUNITY CORRECTIONS PROGRAM PURSUANT
14 TO SECTION 18-1.3-301, OR IS TRANSITIONING FROM THE DEPARTMENT OF
15 CORRECTIONS TO A COMMUNITY CORRECTIONS PROGRAM, OR IS PLACED IN
16 AN INTENSIVE SUPERVISION PAROLE PROGRAM PURSUANT TO SECTION
17 17-27.5-101, OR IS PLACED IN A COMMUNITY CORRECTIONS PROGRAM FOR
18 PURPOSES OF OBTAINING RESIDENTIAL TREATMENT AS A CONDITION OF
19 PROBATION PURSUANT TO SECTION 18-1.3-204 (2.2) OR 18-1.3-301 (4)(b),
20 THEN THE PERSON IS NOT IN CUSTODY OR CONFINEMENT FOR PURPOSES OF
21 THIS SECTION.

22 **SECTION 8.** In Colorado Revised Statutes, 18-1.3-801, **amend**
23 (5) as follows:

24 **18-1.3-801. Punishment for habitual criminals.** (5) A current
25 or prior conviction for escape, as described in section 18-8-208 (1), (2),
26 or (3), or attempt to escape, as described in section 18-8-208.1 (1) ~~(1.5)~~;
27 or (2), may not be used for the purpose of adjudicating a person an

1 habitual criminal as described in subsection (1.5) or subsection (2) of this
2 section unless the conviction is based on the offender's escape or attempt
3 to escape from a correctional facility, as defined in section 17-1-102, or
4 from physical custody within a county jail; except that, for the purposes
5 of this section, "correctional facility" does not include a community
6 corrections facility, as defined in section 17-27-102 (2.5), or a halfway
7 house, as defined in section 19-1-103 (62).