



**Colorado
Legislative
Council
Staff**

Bill 6

FISCAL NOTE

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 18-0302
Prime Sponsor(s):

Date: October 31, 2017
Bill Status: Sentencing in the Criminal Justice System Interim Study Committee Bill Request

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BILL TOPIC: DISCRETIONARY PAROLE FOR SPECIAL NEEDS OFFENDERS

Fiscal Impact Summary	FY 2017-2018 <i>(current year)</i>	FY 2018-2019	FY 2019-2020
State Revenue			
State Expenditures General Fund	Workload increase and expenditure decrease.		
Appropriation Required: None.			
Future Year Impacts: Ongoing workload increase and expenditure decrease.			

Summary of Legislation

Requested by the Sentencing in the Criminal Justice System Interim Study Committee, this bill modifies special needs offender and special needs parole requirements as described below.

Special needs offenders. The bill lowers the age requirement for one of the existing special needs offender categories to include offenders aged 55 years and older, rather than 60 years and older. It adds a third category of special needs offenders to include those determined by a licensed health care provider who is employed or under contract with the Department of Corrections (DOC) to be incompetent to proceed and not likely to pose a risk to public safety.

Special needs parole. Under the bill, the Parole Board may not set special needs parole for greater than 36 months or for a term that exceeds the original sentence, whichever is less. Under current law, the Parole Board may deny an application for special needs parole by a majority vote. Bill 6 requires that an application for special needs parole be approved unless a supermajority of at least 75 percent of the Parole Board finds that granting parole would present a risk to public safety.

Competency. The bill creates a process for the Parole Board to refer a case to the sentencing trial court for a finding of competency if it denies a special needs parole application but has reason to believe that the applicant is incompetent. In such cases, indigent offenders are required to be represented by the Office of the State Public Defender or Office of Alternate Defense Counsel.

Background

The special needs parole program is set in statute and exists to identify and refer eligible offenders for consideration of special needs parole. Currently, a special needs offender is an offender who is in the custody of the DOC and:

- is age 60 or older and has been diagnosed by a licensed health care provider who is employed by or under contract with the DOC as suffering from a chronic infirmity, illness, condition, disease, or behavioral or mental health disorder, and the DOC or the Parole Board determines that the person is incapacitated to the extent that he or she is not likely to pose a risk to public safety; or
- who, as determined by a licensed health care provider who is employed by or under contract with the DOC, suffers from chronic, permanent, terminal, or irreversible physical illness, condition, disease, or a behavioral or mental health disorder that requires costly care or treatment, and who is determined by the DOC or Parole Board to be incapacitated to the extent that he or she is not likely to pose a risk to public safety.

Current law excludes offenders convicted of certain class 1 and class 2 felonies. After a review by its special needs parole committee, the DOC must notify the victim and relevant district attorney's office prior to referring applications to the Parole Board. In making a referral to the Parole Board, the DOC is required to include:

- information about the offender's medical or physical condition and the risk that he or she will reoffend if released;
- details of a special needs parole plan recommended by the DOC;
- a recommendation concerning the release of the offender; and
- a victim impact statement or response from the district attorney that prosecuted the offender.

Upon receiving a referral, the Parole Board is required to make a determination concerning the risk that the offender poses if released, and must issue its decision within 30 days unless it requests that the DOC modify the proposed special needs parole plan. The Parole Board may deny a special needs parole application with a majority vote; it retains its discretion to make parole decisions based on other criteria. As of this writing, the DOC has referred nine special needs offender applications to the Parole Board in 2017. All of these applications were denied/deferred by the Parole Board.

State Expenditures

The bill increases workload and costs for the Department of Corrections, Parole Board, and Judicial Department, and may result in reduced prison costs, as discussed below.

DOC. The bill increases workload for the DOC to process additional applications for offenders who are newly eligible to apply for special needs parole under Bill 6. As of this writing, the expected number of new applications was not available.

To the extent that the changes in Bill 6 cause additional offenders to be released from prison, prison costs will be reduced and parole costs will increase. For informational purposes, it costs the DOC about \$22,000 per year to house an offender in a private prison and \$38,000 per year in a state-operated prison. Parole costs about \$4,800 per year, per offender. The fiscal note assumes on net, expenditures will be reduced for any released offenders and that any required reductions in appropriations will be addressed through the annual budget process.

Parole Board. This bill is anticipated to result in additional applications for special needs parole, which will increase workload for the Parole Board. As of this writing, the expected number of new applications was not available. The fiscal note assumes that if additional appropriations are required to process these applications, the Parole Board will request them through the annual budget process.

Judicial Department. To the extent that cases are referred to the courts for a competency evaluation, workload and costs will increase for the trial courts and agencies that represent indigent offenders. No change in appropriations for any agency within the Judicial Department is expected.

Local Government Impact

By creating a third category of special needs offenders and lowering the age for one category of existing offenders, the bill is expected to result in additional applications for special needs parole. To the extent that this occurs, workload is minimally increased for prosecuting district attorneys to review and respond to the applications.

Technical Note

The bill creates a process for the court to make a determination on whether an individual applying for special needs parole is competent after his or her application is denied or deferred by the Parole Board. However, the bill does not grant authority for the court to take any action concerning the case; it is assumed that the authority to grant parole for these cases is retained by the Parole Board.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature, and applies to special needs parole applications received by the Parole Board on or after this date.

State and Local Government Contacts

Judicial	District Attorneys
Corrections	Information Technology

