

CHAPTER 263

CORRECTIONS

HOUSE BILL 10-1360

BY REPRESENTATIVE(S) Pace, Apuan, Casso, Court, Ferrandino, Fischer, Kagan, Kefalas, Levy, Looper, McCann, McFadyen, Merrifield, Miklosi, Ryden, Vigil, Weissmann, Frangas, Hullinghorst, Labuda, May, Pommer, Primavera, Schafer S., Solano, Summers, Todd, Carroll T.;
also SENATOR(S) Steadman, Carroll M., Foster, Hudak, Morse, Newell, Romer, Tapia, Bacon, Williams.

AN ACT

CONCERNING CHANGES TO CERTAIN PAROLE-RELATED STATUTES TO REDUCE THE NUMBER OF PAROLEES WHO RETURN TO THE DEPARTMENT OF CORRECTIONS, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. 16-2.5-136, Colorado Revised Statutes, is amended to read:

16-2.5-136. Community parole officer. A community parole officer employed by the department of corrections IS responsible for ~~the supervision of~~ SUPERVISING offenders in the community AND SUPPORTING THE DIVISION OF ADULT PAROLE IN PROVIDING ASSISTANCE TO PAROLEES TO SECURE EMPLOYMENT, HOUSING, AND OTHER SERVICES TO SUPPORT THEIR SUCCESSFUL REINTEGRATION INTO THE COMMUNITY WHILE RECOGNIZING THE NEED FOR PUBLIC SAFETY. A COMMUNITY PAROLE OFFICER is a peace officer whose authority shall be pursuant to section 17-27-105.5, C.R.S., and whose authority shall include the enforcement of all laws of the state of Colorado, and who shall be certified by the P.O.S.T. board.

SECTION 2. The introductory portion to 17-2-103 (11) (b) (II), Colorado Revised Statutes, is amended, and the said 17-2-103 (11) (b) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

17-2-103. Arrest of parolee - revocation proceedings. (11) (b) (II) If the board determines that the parolee has violated any condition of parole other than commission of a crime and is not subject to the provisions of subparagraph (III), (III.5), or ~~subparagraph~~ (IV) of this paragraph (b), the board may:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(III.5) IF THE BOARD DETERMINES THAT THE PAROLEE HAS VIOLATED ANY CONDITION OF PAROLE THAT DOES NOT INVOLVE THE COMMISSION OF A CRIME, THE PAROLEE HAS NO ACTIVE FELONY WARRANT, FELONY DETAINER, OR PENDING FELONY CRIMINAL CHARGE, AND THE PAROLEE WAS ON PAROLE FOR AN OFFENSE THAT WAS A CLASS 4 NONVIOLENT FELONY AS DEFINED IN SECTION 17-22.5-405 (5) (b), EXCEPT FOR STALKING AS DESCRIBED IN SECTION 18-9-111 (4), C.R.S., OR ANY UNLAWFUL SEXUAL BEHAVIOR DESCRIBED IN SECTION 16-22-102 (9), C.R.S., OR UNLESS THE PAROLEE WAS SUBJECT TO ARTICLE 6.5 OF TITLE 18, C.R.S., OR SECTION 18-6-801, C.R.S., AND THE BOARD REVOKES PAROLE, THE BOARD MAY REQUEST THE SHERIFF OF THE COUNTY IN WHICH THE HEARING IS HELD TO TRANSPORT THE PAROLEE TO THE FACILITY DESCRIBED IN SECTION 17-1-206.5 (3) FOR A PERIOD NOT TO EXCEED ONE HUNDRED EIGHTY DAYS.

SECTION 3. The introductory portion to 17-2-103 (11) (b) (II), Colorado Revised Statutes, is amended, and the said 17-2-103 (11) (b) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

17-2-103. Arrest of parolee - revocation proceedings. (11) (b) (II) If the board determines that the parolee has violated any condition of parole other than commission of a crime and is not subject to the provisions of subparagraph (III), (III.5), or ~~subparagraph~~ (IV) of this paragraph (b), the board may:

(III.5) IF THE BOARD DETERMINES THAT THE PAROLEE HAS VIOLATED ANY CONDITION OF PAROLE THAT DOES NOT INVOLVE THE COMMISSION OF A CRIME, THE PAROLEE HAS NO ACTIVE FELONY WARRANT, FELONY DETAINER, OR PENDING FELONY CRIMINAL CHARGE, AND THE PAROLEE WAS ON PAROLE FOR AN OFFENSE THAT WAS A CLASS 4 NONVIOLENT FELONY AS DEFINED IN SECTION 17-22.5-405 (5) (b), EXCEPT FOR STALKING AS DESCRIBED IN SECTION 18-9-111 (4), C.R.S., AS IT EXISTED PRIOR TO THE EFFECTIVE DATE OF HOUSE BILL 10-1233, ENACTED IN 2010, OR SECTION 18-3-602, C.R.S., OR ANY UNLAWFUL SEXUAL BEHAVIOR DESCRIBED IN SECTION 16-22-102 (9), C.R.S., OR UNLESS THE PAROLEE WAS SUBJECT TO ARTICLE 6.5 OF TITLE 18, C.R.S., OR SECTION 18-6-801, C.R.S., AND THE BOARD REVOKES PAROLE, THE BOARD MAY REQUEST THE SHERIFF OF THE COUNTY IN WHICH THE HEARING IS HELD TO TRANSPORT THE PAROLEE TO THE FACILITY DESCRIBED IN SECTION 17-1-206.5 (3) FOR A PERIOD NOT TO EXCEED ONE HUNDRED EIGHTY DAYS.

SECTION 4. 17-2-103 (11) (b) (IV) and (11) (b) (V), Colorado Revised Statutes, are amended, and the said 17-2-103 (11) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

17-2-103. Arrest of parolee - revocation proceedings. (11) (b) (IV) If the board determines that the parolee has violated any condition of parole other than commission of a new crime and the parolee was not on parole for a crime of violence as defined in section 18-1.3-406 (2), C.R.S., the board may:

(A) Revoke parole for a period not to exceed ~~one hundred eighty~~ NINETY days and request the sheriff of the county in which the hearing is held to transport the parolee to a place of confinement designated by the executive director IF, AT THE TIME OF THE REVOCATION HEARING, THE INMATE IS ASSESSED AS BELOW HIGH RISK BASED UPON A RESEARCH-BASED RISK ASSESSMENT INSTRUMENT APPROVED BY THE DEPARTMENT OF CORRECTIONS AND THE STATE BOARD OF PAROLE; or

(B) REVOKE PAROLE FOR A PERIOD NOT TO EXCEED ONE HUNDRED EIGHTY DAYS AND REQUEST THE SHERIFF OF THE COUNTY IN WHICH THE HEARING IS HELD TO TRANSPORT THE PAROLEE TO A PLACE OF CONFINEMENT DESIGNATED BY THE EXECUTIVE DIRECTOR IF, AT THE TIME OF THE REVOCATION HEARING, THE INMATE IS ASSESSED AS HIGH RISK OR GREATER BASED UPON A RESEARCH-BASED RISK ASSESSMENT INSTRUMENT APPROVED BY THE DEPARTMENT OF CORRECTIONS AND THE STATE BOARD OF PAROLE; OR

~~(B)~~ (C) Revoke parole for a period not to exceed one hundred eighty days and request the sheriff of the county in which the hearing is held to transport the parolee to a community corrections program; or

~~(C)~~ (D) Revoke parole for a period not to exceed one hundred eighty days and request the sheriff of the county in which the hearing is held to transport the parolee to the facility described in section 17-1-206.5.

(V) The board may extend a period of parole revocation imposed pursuant to sub-subparagraph (A), (B), ~~or~~ (C), OR (D) of subparagraph (IV) of this paragraph (b) beyond the specified maximum if the parolee violates a condition of the parolee's placement pursuant to the notice and hearing procedures in this section.

(c) IF THE BOARD DETERMINES THAT THE PAROLEE IS IN NEED OF TREATMENT AND IS AMENABLE TO TREATMENT, THE BOARD SHALL CONSIDER PLACING THE PAROLEE IN ONE OF THE FOLLOWING TREATMENT OPTIONS AND, IF APPROPRIATE, MAY MODIFY THE CONDITION OF PAROLE TO INCLUDE:

(I) PARTICIPATION IN AN OUTPATIENT PROGRAM FOR THE TREATMENT OF SUBSTANCE ABUSE, MENTAL ILLNESS, OR CO-OCCURRING DISORDERS; OR

(II) (A) PLACEMENT IN A RESIDENTIAL TREATMENT PROGRAM FOR THE TREATMENT OF SUBSTANCE ABUSE, MENTAL ILLNESS, OR CO-OCCURRING DISORDERS, WHICH PROGRAM IS UNDER CONTRACT WITH THE DEPARTMENT OF PUBLIC SAFETY AND MAY INCLUDE, BUT NEED NOT BE LIMITED TO, INTENSIVE RESIDENTIAL TREATMENT, THERAPEUTIC COMMUNITY, AND MENTAL HEALTH PROGRAMS.

(B) A PAROLEE MAY BE PLACED IN A RESIDENTIAL TREATMENT PROGRAM ONLY UPON ACCEPTANCE BY THE RESIDENTIAL TREATMENT PROGRAM AND ANY COMMUNITY CORRECTIONS BOARD WITH JURISDICTION OVER THE RESIDENTIAL TREATMENT PROGRAM. RESIDENTIAL TREATMENT PROGRAMS AND COMMUNITY CORRECTIONS BOARDS ARE ENCOURAGED TO DEVELOP AN EXPEDITED REVIEW PROCESS TO FACILITATE DECISION-MAKING AND PLACEMENT OF THE PAROLEE, IF ACCEPTED.

(d) IF THE PAROLE BOARD ORDERS THE PAROLEE TO PARTICIPATE IN A TREATMENT PROGRAM AS A CONDITION OF PAROLE PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (11), THE LEVEL OF TREATMENT ORDERED SHALL BE CONSISTENT WITH THE TREATMENT LEVEL NEED OF THE PAROLEE BASED UPON AN ASSESSMENT INSTRUMENT APPROVED FOR USE BY THE DIVISION OF BEHAVIORAL HEALTH WITHIN THE DEPARTMENT OF HUMAN SERVICES.

(e) IF THE PAROLEE IS UNSUCCESSFUL IN PARTICIPATING IN A TREATMENT

PROGRAM ORDERED PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (11) AND HIS OR HER PARTICIPATION IS TERMINATED, THE BOARD MAY CONSIDER PLACEMENT OF THE PAROLEE IN ADDITIONAL TREATMENT, AS APPROPRIATE, INCLUDING A HIGHER LEVEL OF TREATMENT.

SECTION 5. 17-2-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

17-2-103. Arrest of parolee - revocation proceedings. (11.5) EACH FISCAL YEAR, THE GENERAL ASSEMBLY SHALL APPROPRIATE A PORTION OF THE SAVINGS GENERATED BY HOUSE BILL 10-1360, ENACTED IN 2010. THIS APPROPRIATION SHALL BE USED ONLY FOR RE-ENTRY SUPPORT SERVICES FOR PAROLEES RELATED TO OBTAINING EMPLOYMENT, HOUSING, TRANSPORTATION, SUBSTANCE ABUSE TREATMENT, MENTAL HEALTH TREATMENT, MENTAL HEALTH MEDICATION, OR OFFENDER SPECIFIC SERVICES. THE APPROPRIATION SHALL BE MADE AFTER CONSIDERATION OF THE DIVISION OF ADULT PAROLE'S STATUS REPORT REQUIRED PURSUANT TO SECTION 17-2-102 (11).

SECTION 6. 24-33.5-503 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-33.5-503. Duties of division. (1) The division has the following duties:

(v) TO PROVIDE TO THE JUDICIARY COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, A STATUS REPORT ON THE EFFECT ON PAROLE OUTCOMES AND USE OF ANY MONEYS ALLOCATED PURSUANT TO HOUSE BILL 10-1360, ENACTED IN 2010.

SECTION 7. 17-2-102, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

17-2-102. Division of adult parole - general powers, duties, and functions - definitions. (11) THE DIVISION OF ADULT PAROLE SHALL PROVIDE TO THE JUDICIARY COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, A STATUS REPORT ON THE EFFECT ON PAROLE OUTCOMES AND USE OF ANY MONEYS ALLOCATED PURSUANT TO HOUSE BILL 10-1360, ENACTED IN 2010.

SECTION 8. Appropriation - adjustments to the 2010 long bill. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of public safety, for allocation to the division of criminal justice, for community corrections residential treatment beds, for the fiscal year beginning July 1, 2010, the sum of one million two hundred eighty-five thousand four hundred nine dollars (\$1,285,409) and 0.8 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of public safety, for allocation to the division of criminal justice, for ten transition community corrections beds specifically for sex offenders, which beds may not be transferred

for diversion, for the fiscal year beginning July 1, 2010, the sum of two hundred sixty thousand dollars (\$260,000).

(3) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of corrections, for allocation to the parole subprogram, for community parole officers, for the fiscal year beginning July 1, 2010, the sum of one hundred seventy-four thousand one hundred seven dollars (\$174,107) and 2.1 FTE, or so much thereof as may be necessary, for the implementation of this act.

(4) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of corrections, for allocation to the parole subprogram, for administrative support, for the fiscal year beginning July 1, 2010, the sum of eighty thousand seven hundred seventy-four dollars (\$80,774) and 2.0 FTE, or so much thereof as may be necessary, for the implementation of this act.

(5) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of corrections, for allocation to the business operations subprogram, for information technology support, for the fiscal year beginning July 1, 2010, the sum of sixty-five thousand five hundred fifty-three dollars (\$65,553) and 1.0 FTE, or so much thereof as may be necessary, for the implementation of this act.

(6) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of corrections, for allocation to the parole subprogram, for parole wrap-around services, for the fiscal year beginning July 1, 2010, the sum of one million eight hundred seven thousand two hundred twenty-five dollars (\$1,807,225).

(7) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of corrections, for allocation to the parole subprogram, for employment and job training services, for the fiscal year beginning July 1, 2010, the sum of five hundred thousand dollars (\$500,000).

(8) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of corrections, for allocation to the parole subprogram, for outpatient mental health treatment for transition parolees, for the fiscal year beginning July 1, 2010, the sum of two hundred fifty thousand dollars (\$250,000).

(9) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of corrections, for allocation to the parole board, for a parole revocation hearing officer, for the fiscal year beginning July 1, 2010, the sum of seventy-five thousand dollars (\$75,000) and 1.0 FTE.

(10) For the implementation of this act, the general fund appropriation made in the annual general appropriation act for the fiscal year beginning July 1, 2010, to the department of corrections, management, external capacity subprogram, for

payments to house state prisoners, is decreased by four million seven hundred thirty-eight thousand eight hundred twenty-three dollars (\$4,738,823).

SECTION 9. Specified effective date. (1) This section and sections 1, 4, 5, 7, 8, and 10 of this act shall take effect upon passage.

(2) Section 2 of this act shall take effect upon passage and:

(a) Shall remain in effect only if House Bill 10-1233 does not become law; or

(b) Shall remain in effect only until House Bill 10-1233 is enacted and becomes law.

(3) Section 3 of this act shall take effect only if House Bill 10-1233 is enacted and becomes law and shall have the same effective date as House Bill 10-1233.

SECTION 10. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 25, 2010