

CHAPTER 200

**CORRECTIONS**

SENATE BILL 11-241

BY SENATOR(S) King S. and Carroll, Aguilar, Boyd, Giron, Guzman, Heath, Jahn, Morse, Newell, Steadman, Tochtrop;  
also REPRESENTATIVE(S) Gardner B. and Kagan, Duran, Hullinghorst, Labuda, Lee, Solano, Waller.

**AN ACT**

**CONCERNING CHANGES RELATED TO THE OPERATION OF THE PAROLE BOARD, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.**

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

**SECTION 1.** 17-1-102 (7.5), Colorado Revised Statutes, is amended to read:

**17-1-102. Definitions.** As used in this title, unless the context otherwise requires:

(7.5) (a) "Special needs offender" means a person in the custody of the department:

(I) ~~Who is physically handicapped, is developmentally disabled, or has a mental illness~~ SIXTY YEARS OF AGE OR OLDER AND HAS BEEN DIAGNOSED BY A LICENSED HEALTH CARE PROVIDER WHO IS EMPLOYED BY OR UNDER CONTRACT WITH THE DEPARTMENT AS SUFFERING FROM A CHRONIC INFIRMITY, ILLNESS, CONDITION, DISEASE, OR MENTAL ILLNESS AND THE DEPARTMENT OR THE STATE BOARD OF PAROLE DETERMINES THAT THE PERSON IS INCAPACITATED TO THE EXTENT THAT HE OR SHE IS NOT LIKELY TO POSE A RISK TO PUBLIC SAFETY; or

(II) ~~Who is sixty-five years of age or older and incapable of taking care of himself or herself, or~~ WHO, AS DETERMINED BY A LICENSED HEALTH CARE PROVIDER WHO IS EMPLOYED BY OR UNDER CONTRACT WITH THE DEPARTMENT, SUFFERS FROM A CHRONIC, PERMANENT, TERMINAL, OR IRREVERSIBLE PHYSICAL OR MENTAL ILLNESS, CONDITION, DISEASE, OR MENTAL ILLNESS THAT REQUIRES COSTLY CARE OR TREATMENT AND WHO IS DETERMINED BY THE DEPARTMENT OR THE STATE BOARD OF PAROLE TO BE INCAPACITATED TO THE EXTENT THAT HE OR SHE IS NOT LIKELY TO POSE A RISK TO PUBLIC SAFETY.

*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) (A) ~~Who has a medical condition, other than a mental illness, that is serious enough to require costly care or treatment; and~~

~~(B) Who is physically incapacitated due to age or the medical condition.~~

(b) Notwithstanding the provisions of paragraph (a) of this subsection (7.5), "special needs offender" does not include a person who:

(I) ~~Has been~~ WAS convicted of a class 1 felony, ~~or~~ UNLESS THE OFFENSE WAS COMMITTED BEFORE JULY 1, 1990, AND THE OFFENDER HAS SERVED AT LEAST TWENTY YEARS IN A DEPARTMENT OF CORRECTIONS FACILITY FOR THE OFFENSE; OR

(II) ~~Has ever been convicted of a crime of violence as defined in section 18-1.3-406, C.R.S., or~~ WAS CONVICTED OF A CLASS 2 FELONY CRIME OF VIOLENCE AS DESCRIBED IN SECTION 18-1.3-406, C.R.S., AND THE OFFENDER HAS SERVED FEWER THAN TEN YEARS IN A DEPARTMENT OF CORRECTIONS FACILITY FOR THE OFFENSE.

(III) ~~Is or has ever been a sex offender as defined in section 18-1.3-1003 (4), C.R.S.~~

**SECTION 2.** 17-2-201 (1) (a), Colorado Revised Statutes, is amended, and the said 17-2-201 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**17-2-201. State board of parole.** (1) (a) There is hereby created a state board of parole, referred to in this part 2 as the "board", which shall consist of seven members. The members of the board shall be appointed by the governor and confirmed by the senate, and they shall devote their full time to their duties as members of ~~such~~ THE board. The members shall be appointed for three-year terms and may serve consecutive terms. The governor may remove a board member for incompetency, neglect of duty, malfeasance in office, continued failure to use the risk assessment guidelines as required by section 17-22.5-404, or failure to regularly attend meetings as determined by the governor. Final conviction of a felony during the term of office of a board member shall automatically result in the disqualification of the member from further service on the board. The board shall be composed of ~~two~~ representatives from ~~law enforcement, one former parole or probation officer, and four citizen representatives~~ MULTIDISCIPLINARY AREAS OF EXPERTISE. TWO MEMBERS SHALL HAVE EXPERIENCE IN LAW ENFORCEMENT AND ONE MEMBER SHALL HAVE EXPERIENCE IN OFFENDER SUPERVISION, INCLUDING PAROLE, PROBATION, OR COMMUNITY CORRECTIONS. FOUR MEMBERS SHALL HAVE EXPERIENCE IN OTHER RELEVANT FIELDS. ~~The members~~ EACH MEMBER of the board shall have A MINIMUM OF FIVE YEARS OF EXPERIENCE IN A RELEVANT FIELD, AND knowledge of parole LAWS AND GUIDELINES, rehabilitation, correctional administration, the functioning of the criminal justice system, ~~and the~~ issues associated with victims of crime, THE DUTIES OF PAROLE BOARD MEMBERS, AND ACTUARIAL RISK ASSESSMENT INSTRUMENTS AND OTHER OFFENDER ASSESSMENT INSTRUMENTS USED BY THE BOARD AND THE DEPARTMENT OF CORRECTIONS. ~~The three designated members of the board shall each have at least five years' education or experience, or a combination thereof, in their respective fields. No~~ A person who

has been convicted of a felony or of a misdemeanor involving moral turpitude or who has any financial interests which conflict with the duties of a member of the parole board shall NOT be eligible for appointment.

(e) EACH BOARD MEMBER SHALL COMPLETE A MINIMUM OF TWENTY HOURS OF CONTINUING EDUCATION OR TRAINING EVERY YEAR IN ORDER TO MAINTAIN PROFICIENCY AND TO REMAIN CURRENT ON CHANGES IN PAROLE LAWS AND DEVELOPMENTS IN THE FIELD. EACH PAROLE BOARD MEMBER SHALL SUBMIT TO THE CHAIRPERSON PROOF OF ATTENDANCE AND DETAILS REGARDING ANY CONTINUING EDUCATION OR TRAINING ATTENDED INCLUDING THE DATE, PLACE, TOPIC, THE LENGTH OF THE TRAINING, THE TRAINER'S NAME, AND ANY AGENCY OR ORGANIZATIONAL AFFILIATION. MEMBERS MAY ATTEND TRAININGS INDIVIDUALLY OR AS PART OF A SPECIFIC TRAINING OFFERED TO THE PAROLE BOARD AS A WHOLE. THE SOLE REMEDY FOR FAILURE TO COMPLY WITH TRAINING AND DATA COLLECTION REQUIREMENTS SHALL BE REMOVAL OF THE BOARD MEMBER BY THE GOVERNOR, AND THE FAILURE TO COMPLY WITH TRAINING AND DATA COLLECTION REQUIREMENTS SHALL NOT CREATE ANY RIGHT FOR ANY OFFENDER.

**SECTION 3.** 17-2-201 (3) (c) and (3) (c.5), Colorado Revised Statutes, are amended, and the said 17-2-201 (3) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

**17-2-201. State board of parole.** (3) The chairperson, in addition to other provisions of law, has the following powers and duties:

~~(c) (f) To contract with licensed attorneys to serve as administrative hearing officers to conduct parole revocation hearings pursuant to rules adopted by the parole board; or~~

~~(H) To appoint an administrative law judge pursuant to the provisions of section 24-30-1003, C.R.S., to conduct parole revocation hearings pursuant to the rules and regulations promulgated pursuant to this subsection (3). Any references to the board regarding parole revocation hearings or revocation of parole shall include an administrative law judge appointed pursuant to this paragraph (c).~~ TO DEVELOP AND UPDATE A WRITTEN OPERATIONAL MANUAL FOR PAROLE BOARD MEMBERS, RELEASE HEARING OFFICERS, AND ADMINISTRATIVE HEARING OFFICERS UNDER CONTRACT WITH THE BOARD BY DECEMBER 31, 2012. THE OPERATIONAL MANUAL SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, BOARD POLICIES AND RULES, A SUMMARY OF STATE LAWS GOVERNING THE BOARD, AND ALL ADMINISTRATIVE RELEASE AND REVOCATION GUIDELINES THAT THE PAROLE BOARD IS REQUIRED TO USE. THE CHAIRPERSON WILL ENSURE THAT ALL NEW PAROLE BOARD MEMBERS RECEIVE TRAINING AND ORIENTATION ON THE OPERATIONAL MANUAL.

~~(c.5) To contract with qualified individuals to serve as release hearing officers:~~

~~(f) To conduct parole application hearings for inmates convicted of nonviolent felonies that are class 4 felonies, class 5 felonies, or class 6 felonies, pursuant to rules adopted by the parole board; and~~

~~(H) To set parole conditions for inmates eligible for release to mandatory parole.~~

(e) TO ENSURE THAT PAROLE BOARD MEMBERS, RELEASE HEARING OFFICERS, AND ADMINISTRATIVE HEARING OFFICERS UNDER CONTRACT WITH THE BOARD FULFILL THE ANNUAL TRAINING REQUIREMENTS DESCRIBED IN PARAGRAPH (e) OF SUBSECTION (1) OF THIS SECTION AND IN SECTION 17-2-202.5. THE CHAIRPERSON SHALL NOTIFY THE GOVERNOR IF ANY BOARD MEMBER, RELEASE HEARING OFFICER, OR ADMINISTRATIVE HEARING OFFICER FAILS TO COMPLY WITH THE TRAINING REQUIREMENTS.

(f) TO ENSURE THAT PAROLE BOARD MEMBERS, RELEASE HEARING OFFICERS, AND ADMINISTRATIVE HEARING OFFICERS UNDER CONTRACT WITH THE BOARD ARE ACCURATELY COLLECTING DATA AND INFORMATION ON HIS OR HER DECISION-MAKING AS REQUIRED BY SECTION 17-22.5-404 (6). THE CHAIRPERSON SHALL NOTIFY THE GOVERNOR IMMEDIATELY IF ANY BOARD MEMBER, RELEASE HEARING OFFICER, OR ADMINISTRATIVE HEARING OFFICER FAILS TO COMPLY WITH DATA COLLECTION REQUIREMENT.

(g) TO CONDUCT AN ANNUAL COMPREHENSIVE REVIEW OF BOARD FUNCTIONS TO IDENTIFY WORKLOAD INEFFICIENCIES AND TO DEVELOP STRATEGIES OR RECOMMENDATIONS TO ADDRESS ANY WORKLOAD INEFFICIENCIES.

(h) (I) TO CONTRACT WITH LICENSED ATTORNEYS TO SERVE AS ADMINISTRATIVE HEARING OFFICERS TO CONDUCT PAROLE REVOCATION HEARINGS PURSUANT TO RULES ADOPTED BY THE PAROLE BOARD; OR

(II) TO APPOINT AN ADMINISTRATIVE LAW JUDGE PURSUANT TO THE PROVISIONS OF SECTION 24-30-1003, C.R.S., TO CONDUCT PAROLE REVOCATION HEARINGS PURSUANT TO THE RULES AND REGULATIONS PROMULGATED PURSUANT TO THIS SUBSECTION (3). ANY REFERENCES TO THE BOARD REGARDING PAROLE REVOCATION HEARINGS OR REVOCATION OF PAROLE SHALL INCLUDE AN ADMINISTRATIVE LAW JUDGE APPOINTED PURSUANT TO THIS PARAGRAPH (h).

(h.1) TO CONTRACT WITH QUALIFIED INDIVIDUALS TO SERVE AS RELEASE HEARING OFFICERS:

(I) TO CONDUCT PAROLE APPLICATION HEARINGS FOR INMATES CONVICTED OF NONVIOLENT FELONIES WHO HAVE BEEN ASSESSED TO BE LOW OR VERY LOW RISK BY THE COLORADO RISK ASSESSMENT SCALE DEVELOPED PURSUANT TO SECTION 17-22.5-404 (2) (a), C.R.S., PURSUANT TO RULES ADOPTED BY THE PAROLE BOARD; AND

(II) TO SET PAROLE CONDITIONS FOR INMATES ELIGIBLE FOR RELEASE TO MANDATORY PAROLE.

**SECTION 4.** 17-2-201 (4), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**17-2-201. State board of parole.** (4) The board has the following powers and duties:

(f) (I) TO CONDUCT A PAROLE RELEASE REVIEW IN LIEU OF A HEARING, WITHOUT THE PRESENCE OF THE INMATE, IF:

(A) THE APPLICATION FOR RELEASE IS FOR SPECIAL NEEDS PAROLE PURSUANT TO SECTION 17-22.5-403.5, AND VICTIM NOTIFICATION IS NOT REQUIRED PURSUANT TO SECTION 24-4.1-302.5, C.R.S.; OR

(B) A DETAINER FROM THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY HAS BEEN FILED WITH THE DEPARTMENT, THE INMATE MEETS THE CRITERIA FOR THE PRESUMPTION OF PAROLE IN SECTION 17-22-404.8, AND VICTIM NOTIFICATION IS NOT REQUIRED PURSUANT TO SECTION 24-4.1-302.5, C.R.S.

(II) THE BOARD SHALL NOTIFY THE INMATE'S CASE MANAGER IF THE BOARD DECIDES TO CONDUCT A PAROLE RELEASE REVIEW WITHOUT THE PRESENCE OF THE INMATE, AND THE CASE MANAGER SHALL NOTIFY THE INMATE OF THE BOARD'S DECISION. THE CASE MANAGER MAY REQUEST THAT THE BOARD RECONSIDER AND CONDUCT A HEARING WITH THE INMATE PRESENT.

**SECTION 5.** Part 2 of article 2 of title 17, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**17-2-202.5. Administrative hearing officers and release hearing officers - qualifications - duties.** (1) (a) TO BE ELIGIBLE TO SERVE AS AN ADMINISTRATIVE HEARING OFFICER OR ADMINISTRATIVE LAW JUDGE UNDER CONTRACT WITH THE BOARD, AN ATTORNEY SHALL HAVE FIVE YEARS EXPERIENCE IN THE PRACTICE OF LAW AND BE KNOWLEDGEABLE OF PAROLE LAWS AND GUIDELINES, OFFENDER REHABILITATION, CORRECTIONAL ADMINISTRATION, THE FUNCTIONING OF THE CRIMINAL JUSTICE SYSTEM, ISSUES ASSOCIATED WITH VICTIMS OF CRIME, THE DUTIES OF PAROLE BOARD MEMBERS, AND ACTUARIAL RISK ASSESSMENT INSTRUMENTS AND OTHER OFFENDER ASSESSMENT INSTRUMENTS USED BY THE BOARD AND THE DEPARTMENT OF CORRECTIONS.

(b) AN ADMINISTRATIVE HEARING OFFICER OR ADMINISTRATIVE LAW JUDGE UNDER CONTRACT WITH THE BOARD IS REQUIRED TO COMPLETE TWELVE HOURS ANNUALLY OF CONTINUING EDUCATION OR TRAINING CONSISTENT WITH SECTION 17-2-201 (1) (e).

(c) AN ADMINISTRATIVE HEARING OFFICER OR ADMINISTRATIVE LAW JUDGE UNDER CONTRACT WITH THE BOARD SHALL COMPLY WITH THE DATA AND INFORMATION COLLECTION ON DECISION-MAKING AS REQUIRED BY SECTION 17-22.5-404 (6) AND SHALL TRANSMIT THIS INFORMATION AS DIRECTED BY THE CHAIRPERSON OR BOARD POLICY.

(d) THE SOLE REMEDY FOR FAILURE TO COMPLY WITH TRAINING AND DATA COLLECTION REQUIREMENTS SHALL BE TERMINATION OF THE EMPLOYEE, AND THE FAILURE TO COMPLY WITH TRAINING AND DATA COLLECTION REQUIREMENTS SHALL NOT CREATE ANY RIGHT FOR ANY OFFENDER.

(2) (a) A RELEASE HEARING OFFICER SHALL HAVE THREE YEARS OF RELEVANT EXPERIENCE AND BE KNOWLEDGEABLE OF PAROLE LAWS AND GUIDELINES, OFFENDER REHABILITATION, CORRECTIONAL ADMINISTRATION, THE FUNCTIONING OF THE CRIMINAL JUSTICE SYSTEM, THE ISSUES ASSOCIATED WITH VICTIMS OF CRIME, THE DUTIES OF PAROLE BOARD MEMBERS, AND ACTUARIAL RISK ASSESSMENT INSTRUMENTS AND OTHER OFFENDER ASSESSMENT INSTRUMENTS USED BY THE

BOARD AND THE DEPARTMENT OF CORRECTIONS.

(b) A RELEASE HEARING OFFICER UNDER CONTRACT WITH THE BOARD IS REQUIRED TO COMPLETE TWELVE HOURS ANNUALLY OF CONTINUING EDUCATION OR TRAINING CONSISTENT WITH SECTION 17-2-201 (1) (e).

(c) A RELEASE HEARING OFFICER SHALL COMPLY WITH THE DATA AND INFORMATION COLLECTION ON DECISION-MAKING REQUIRED BY SECTION 17-22.5-404 (6) AND SHALL TRANSMIT THIS INFORMATION AS DIRECTED BY THE CHAIRPERSON OR BOARD POLICY.

(d) THE SOLE REMEDY FOR FAILURE TO COMPLY WITH TRAINING AND DATA COLLECTION REQUIREMENTS SHALL BE TERMINATION OF THE EMPLOYEE, AND THE FAILURE TO COMPLY WITH TRAINING AND DATA COLLECTION REQUIREMENTS SHALL NOT CREATE ANY RIGHT FOR ANY OFFENDER.

**SECTION 6.** 17-22.5-403.5, Colorado Revised Statutes, is amended to read:

**17-22.5-403.5. Special needs parole.** (1) Notwithstanding any provision of law to the contrary, a special needs offender, as ~~determined pursuant to rules adopted by the state board of parole~~ DEFINED IN SECTION 17-2-102 (7.5) (a), may be eligible for parole prior to OR AFTER the offender's parole eligibility date pursuant to this section if:

(a) The state board of parole determines, based on the special needs offender's condition and a medical evaluation, that he or she does not constitute a threat to public safety and is not likely to commit an offense; and

(b) The STATE board ~~prepares~~ OF PAROLE APPROVES a special needs parole plan that ensures appropriate supervision ~~and placement~~ of AND CONTINUITY OF MEDICAL CARE FOR the special needs offender.

(2) This section shall apply to any inmate applying for parole on or after July 1, 2001, regardless of when the inmate was sentenced. The provisions of this section shall not affect the length of the parole period to which a special needs offender would otherwise be subject.

(3) (a) THE DEPARTMENT IS RESPONSIBLE FOR IDENTIFYING INMATES WHO MEET THE ELIGIBILITY CRITERIA FOR SPECIAL NEEDS PAROLE AND SHALL SUBMIT A REFERRAL TO THE STATE BOARD OF PAROLE FOR ALL ELIGIBLE INMATES.

(b) THE REFERRAL SHALL INCLUDE:

(I) A SUMMARY OF THE INMATE'S MEDICAL OR PHYSICAL CONDITION AND THE RISK OF REOFFENSE THAT THE INMATE POSES TO SOCIETY. IN RENDERING AN OPINION REGARDING THE INMATE'S LEVEL OF RISK OF REOFFENSE, THE DEPARTMENT MAY CONSIDER SUCH FACTORS AS THE INMATE'S MEDICAL OR PHYSICAL CONDITION, THE SEVERITY OF ANY DISABILITY OR INCAPACITATION, RISK ASSESSMENT SCORES, THE NATURE AND SEVERITY OF THE OFFENSE FOR WHICH THE INMATE IS CURRENTLY INCARCERATED, THE INMATE'S CRIMINAL HISTORY, INSTITUTIONAL CONDUCT, AND OTHER RELEVANT FACTORS.

(II) THE DETAILS OF A SPECIAL NEEDS PAROLE PLAN RECOMMENDED BY THE DEPARTMENT;

(III) ~~(3) The department may recommend~~ A RECOMMENDATION to the parole board that an offender be considered for parole prior to the offender's parole eligibility date RELEASED OR NOT BE RELEASED as a special needs offender pursuant to the provisions of subsection (1) of this section. Prior to making any recommendation pursuant to this ~~subsection (3)~~ SUBPARAGRAPH (III), the department shall establish objective criteria on which to base a recommendation for parole prior to the offender's parole eligibility date pursuant to the provisions of this section; AND

(IV) A VICTIM IMPACT STATEMENT OR RESPONSE FROM THE DISTRICT ATTORNEY THAT PROSECUTED THE OFFENDER, IF RECEIVED PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (3).

(c) (I) The department shall provide notification to any victim, as required under section 24-4.1-302.5, C.R.S. A victim shall have thirty days after receiving notification to submit a victim impact statement to the department. The department shall include any victim impact statement in the referral to the state board of parole.

(II) AT THE SAME TIME THAT THE DEPARTMENT COMPLETES THE NOTIFICATION REQUIRED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH (c), THE DEPARTMENT SHALL NOTIFY THE DISTRICT ATTORNEY THAT PROSECUTED THE OFFENDER IF THE OFFENDER IS SERVING A SENTENCE FOR A CONVICTION OF A CRIME OF VIOLENCE AS DESCRIBED IN SECTION 18-1.3-406, C.R.S., OR A SEX OFFENSE AS LISTED IN SECTION 18-1.3-1004 (4), C.R.S. A DISTRICT ATTORNEY SHALL HAVE THIRTY DAYS AFTER RECEIVING NOTIFICATION TO SUBMIT A RESPONSE TO THE DEPARTMENT. THE DEPARTMENT SHALL INCLUDE ANY DISTRICT ATTORNEY RESPONSE IN THE REFERRAL TO THE STATE BOARD OF PAROLE.

(4) (a) THE STATE BOARD OF PAROLE SHALL CONSIDER AN INMATE FOR SPECIAL NEEDS PAROLE UPON REFERRAL BY THE DEPARTMENT.

(b) THE STATE BOARD OF PAROLE SHALL MAKE A DETERMINATION OF THE RISK OF REOFFENSE THAT THE INMATE POSES AFTER CONSIDERING SUCH FACTORS AS THE INMATE'S MEDICAL OR PHYSICAL CONDITION, THE SEVERITY OF ANY DISABILITY OR INCAPACITATION, THE INMATE'S RISK ASSESSMENT SCORES, THE NATURE AND SEVERITY OF THE OFFENSE FOR WHICH THE INMATE IS CURRENTLY INCARCERATED, THE INMATE'S CRIMINAL HISTORY, THE INMATE'S INSTITUTIONAL CONDUCT, AND OTHER RELEVANT FACTORS.

(c) THE STATE BOARD OF PAROLE MAY SCHEDULE A HEARING ON THE APPLICATION FOR SPECIAL NEEDS PAROLE WITH THE INMATE PRESENT OR THE BOARD MAY REVIEW THE APPLICATION AND ISSUE A DECISION WITHOUT A HEARING, PURSUANT TO SECTION 17-2-201 (4) (f).

(d) THE STATE BOARD OF PAROLE SHALL MAKE A DETERMINATION OF WHETHER TO GRANT SPECIAL NEEDS PAROLE WITHIN THIRTY DAYS AFTER RECEIVING THE REFERRAL FROM THE DEPARTMENT. THE BOARD MAY DELAY THE DECISION IN ORDER TO REQUEST THAT THE DEPARTMENT MODIFY THE SPECIAL NEEDS PAROLE

PLAN.

(e) A DENIAL OF SPECIAL NEEDS PAROLE BY THE STATE BOARD OF PAROLE SHALL NOT AFFECT AN INMATE'S ELIGIBILITY FOR ANY OTHER FORM OF PAROLE OR RELEASE UNDER APPLICABLE LAW.

(5) THE BOARD MAY CONSIDER THE APPLICATION FOR SPECIAL NEEDS PAROLE PURSUANT TO THE PROCEEDINGS SET FORTH IN SECTION 17-2-201 (4) (f) OR 17-2-201 (9) (a). IF THE DEPARTMENT RECOMMENDS TO THE STATE BOARD OF PAROLE THAT AN OFFENDER BE RELEASED TO PAROLE AS A SPECIAL NEEDS OFFENDER PURSUANT TO THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, THE BOARD MAY DENY PAROLE ONLY BY A MAJORITY VOTE OF THE BOARD.

(6) THE DEPARTMENT SHALL NOT HAVE ANY RESPONSIBILITY FOR THE PAYMENT OF MEDICAL CARE FOR ANY OFFENDER UPON HIS OR HER RELEASE.

**SECTION 7.** 17-22.5-404 (6) (e), Colorado Revised Statutes, is amended to read:

**17-22.5-404. Parole guidelines.** (6) (e) (I) On or before November 1, ~~2009~~ 2011, AND ON OR BEFORE NOVEMBER 1 EACH YEAR THEREAFTER, the state board of parole and the division of criminal justice in the department of public safety shall issue a report to the general assembly regarding ~~the progress in implementing this subsection (6), and November 1 each year thereafter, the state board of parole and the division of criminal justice in the department of public safety shall update the report~~ OUTCOMES OF DECISIONS BY THE STATE BOARD OF PAROLE. The data shall be reported to the general assembly only in the aggregate.

(II) ~~This paragraph (e) is repealed, effective July 1, 2012.~~

**SECTION 8.** Article 22.5 of title 17, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**17-22.5-404.7. Presumption of parole - nonviolent offenders with ICE detainees.** (1) THERE SHALL BE A PRESUMPTION, SUBJECT TO THE FINAL DISCRETION OF THE PAROLE BOARD, IN FAVOR OF GRANTING PAROLE TO AN INMATE WHO HAS REACHED HIS OR HER PAROLE ELIGIBILITY DATE AND WHO:

(a) HAS BEEN ASSESSED BY THE COLORADO RISK ASSESSMENT SCALE DEVELOPED PURSUANT TO SECTION 17-22.5-404 (2) (a), TO BE MEDIUM RISK OR BELOW OF REOFFENSE;

(b) IS NOT SERVING A SENTENCE FOR A FELONY CRIME DESCRIBED IN SECTION 18-3-303, 18-3-306, OR 18-6-701, C.R.S.; SECTIONS 18-7-402 TO 18-7-407, C.R.S.; OR SECTION 18-12-102 OR 18-12-109, C.R.S.; SECTION 18-17-104, C.R.S., OR SECTION 18-18-407, C.R.S.; OR A FELONY CRIME LISTED IN SECTION 24-4.1-302 (1), C.R.S.; AND

(c) HAS AN ACTIVE DETAINER LODGED BY THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY.

(2) IN DETERMINING WHETHER TO GRANT PAROLE PURSUANT TO PROVISIONS OF SUBSECTION (1) OF THIS SECTION, THE BOARD SHALL CONSIDER THE COST OF INCARCERATION TO THE STATE OF COLORADO IN RELATION TO THE NEEDS OF FURTHER CONFINEMENT OF THE INMATE TO ACHIEVE THE PURPOSE OF THE INMATE'S SENTENCE.

(3) (a) THE STATE BOARD OF PAROLE MAY RELEASE AN ELIGIBLE INMATE, PURSUANT TO SUBSECTION (1) OF THIS SECTION, ONLY TO THE CUSTODY OF THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY OR OTHER LAW ENFORCEMENT AGENCY WITH AUTHORITY TO EXECUTE THE DETAINER ON BEHALF OF THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY.

(b) IF THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY WITHDRAWS THE DETAINER OR DECLINES TO TAKE THE INMATE INTO CUSTODY, THE STATE BOARD OF PAROLE SHALL HOLD A RECISSION HEARING TO RECONSIDER THE GRANTING OF PAROLE TO THE INMATE.

(c) IF THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY ISSUES AN ORDER OF DEPORTATION FOR THE INMATE, THE DEPARTMENT OF CORRECTIONS SHALL SUBMIT A REQUEST TO THE STATE BOARD OF PAROLE TO DISCHARGE PAROLE.

(d) A DENIAL OF PAROLE BY THE STATE BOARD OF PAROLE PURSUANT TO THIS SECTION SHALL NOT AFFECT AN INMATE'S ELIGIBILITY FOR ANOTHER FORM OF PAROLE OR RELEASE APPLICABLE UNDER LAW.

(4) THE BOARD MAY CONSIDER THE APPLICATION FOR PAROLE PURSUANT TO THE PROCEEDINGS SET FORTH IN SECTION 17-2-201 (4) (f) OR 17-2-201 (9) (a).

(5) FOR INMATES WHO WERE PAROLE ELIGIBLE BEFORE THE EFFECTIVE DATE OF THIS SECTION, THE DEPARTMENT SHALL NOTIFY THE STATE BOARD OF PAROLE OF ANY OF THOSE INMATES WHO MEET THE CRITERIA LISTED IN SUBSECTION (1) OF THIS SECTION AND THE BOARD SHALL EITHER SET A RELEASE HEARING OR CONDUCT A RELEASE REVIEW WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.

**SECTION 9. Appropriation.** (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 corrections, for allocation to the parole board, contract services, for training and contract administrative and release hearing officers, for the fiscal year beginning July 1, 2011, the sum of forty-three thousand eight hundred dollars (\$43,800), or so much thereof as may be necessary, for the implementation of this act.

(2) It is the intent of the general assembly that the general fund appropriation in subsection (1) of this section shall be derived from savings generated from the implementation of the provisions of House Bill 11-1064, as enacted during the first regular session of the sixty-eighth general assembly.

**SECTION 10. Effective date.** (1) This act shall only take effect if:

(a) House Bill 11-1064 is enacted at the first regular session of the sixty-eighth

general assembly and becomes law; and

(b) The final fiscal estimate for House Bill 11-1064, as determined from the appropriations enacted in said bill, shows a net reduction in the amount of general fund revenues appropriated for the state fiscal year 2011-12, that is equal to or greater than the amount of the general fund appropriation made for the implementation of this act for the state fiscal year 2011-12, as reflected in section 9 of this act; and

(c) The staff director of the joint budget committee files written notice with the revisor of statutes no later than July 15, 2011, that the requirement set forth in paragraph (b) of this subsection (1) has been met.

**SECTION 11. 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 23, 2011