

## CHAPTER 234

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**CRIMINAL LAW AND PROCEDURE**

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**HOUSE BILL 11-1064**

BY REPRESENTATIVE(S) Waller, Barker, Conti, Duran, Ferrandino, Fields, Fischer, Gardner B., Hullinghorst, Kagan, Kerr J., Labuda, Levy, Miklosi, Pace, Ryden, Schafer S., Solano, Summers, Todd, Williams A., Wilson;  
also SENATOR(S) Steadman, Aguilar, Boyd, Carroll, Guzman, Heath, Hudak, Jahn, Morse, Schwartz.

**AN ACT**

**CONCERNING A PAROLE PRESUMPTION PILOT PROGRAM FOR CERTAIN DRUG OFFENDERS, AND  
MAKING AN APPROPRIATION IN CONNECTION THEREWITH.**

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

**SECTION 1.** Part 4 of article 22.5 of title 17, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**17-22.5-404.5. Presumption of parole - drug offenders - repeal.** (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) IS SERVING A SENTENCE FOR WHICH THE CONTROLLING TERM OF INCARCERATION IS BASED ON A FELONY POSSESSION OR USE OFFENSE DESCRIBED IN SECTION 18-18-404, OR SECTION 18-18-405, C.R.S., AS IT EXISTED PRIOR TO AUGUST 11, 2010;

(b) HAS NOT INCURRED A CLASS I CODE OF PENAL DISCIPLINE VIOLATION WITHIN THE LAST TWELVE MONTHS OR A CLASS II CODE OF PENAL DISCIPLINE VIOLATION WITHIN THE LAST THREE MONTHS;

(c) IS PROGRAM-COMPLIANT;

(d) WAS NOT CONVICTED OF, AND HAS NOT PREVIOUSLY BEEN CONVICTED OF, A FELONY CRIME DESCRIBED IN SECTION 18-3-303, 18-3-305, 18-3-306, OR 18-6-701; SECTIONS 18-7-402 TO 18-7-407; OR SECTION 18-12-102 OR 18-12-109, C.R.S.; OR A FELONY CRIME LISTED IN SECTION 24-4.1-302 (1), C.R.S.; AND

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

(e) DOES NOT HAVE AN ACTIVE FELONY OR IMMIGRATION DETAINER.

(2) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, AN INMATE WHO IS ELIGIBLE FOR THE PRESUMPTION IN SUBSECTION (1) OF THIS SECTION SHALL HAVE A PAROLE RELEASE HEARING WITHIN NINETY DAYS AFTER BECOMING ELIGIBLE FOR THE PRESUMPTION IN SUBSECTION (1) OF THIS SECTION.

(3) IF THE PAROLE BOARD GRANTS PAROLE TO AN INMATE PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE PAROLE BOARD SHALL REQUIRE AS A CONDITION OF PAROLE THAT THE PAROLEE PARTICIPATE IN SUBSTANCE ABUSE TREATMENT CONSISTENT WITH THE ASSESSED TREATMENT NEED OF THE PAROLEE.

(4) (a) THE CHAIRPERSON OF THE PAROLE BOARD SHALL PROVIDE A REPORT TO THE JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, BY JANUARY 30, 2012, AND BY EACH JANUARY 30 THEREAFTER REGARDING THE IMPACT OF THIS SECTION ON THE DEPARTMENT OF CORRECTIONS' POPULATION AND PUBLIC SAFETY.

(b) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE FEBRUARY 1, 2016.

(5) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE DISCRETION OF THE PAROLE BOARD IN CONSIDERING THE STATUTORY RELEASE GUIDELINES IN SECTION 17-22.5-404 OR THE ADMINISTRATIVE RELEASE GUIDELINES DEVELOPED PURSUANT TO SECTION 17-22.5-107 (1) IN MAKING A DECISION REGARDING AN INMATE'S APPLICATION FOR RELEASE TO PAROLE.

**SECTION 2.** 17-2-201 (3.5), Colorado Revised Statutes, is amended to read:

**17-2-201. State board of parole.** (3.5) The chairperson shall annually make a presentation to the judiciary committees of the house of representatives and the senate, or any successor committees, regarding the operations of the board AND THE INFORMATION REQUIRED BY SECTION 17-22.5-404.5 (4).

**SECTION 3. Appropriation - adjustments to the 2011 long bill.** For the implementation of this act, the general fund appropriation made in the annual general appropriation act for the fiscal year beginning July 1, 2011, to the department of corrections, management, external capacity subprogram, for payments to house state prisoners, is decreased by forty-five thousand two hundred forty-three dollars (\$45,243).

**SECTION 4. 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 27, 2011