

CHAPTER 251

CORRECTIONS

SENATE BILL 15-124

BY SENATOR(S) Merrifield, Carroll, Grantham, Guzman, Heath, Hill, Jahn, Kefalas, Kerr, Lambert, Lundberg, Marble, Martinez Humenik, Neville T., Newell, Scheffel, Steadman, Todd, Ulibarri, Cadman;
also REPRESENTATIVE(S) Lee, Arndt, Conti, Fields, Foote, Kagan, McCann, Pettersen, Primavera, Rosenthal, Ryden, Singer, Windholz.

AN ACT

CONCERNING THE USE OF EVIDENCE-BASED PRACTICES IN RESPONSE TO TECHNICAL VIOLATIONS OF PAROLE, AND, IN CONNECTION THEREWITH, MAKING AND REDUCING APPROPRIATIONS.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds that:

(a) Research shows that using traditional mechanisms of surveillance-based supervision and reincarceration in prison as punishment for technical violations of parole are not the most effective approaches to reducing recidivism or improving public safety;

(b) Recent studies show that swift, certain, consistent, and proportional sanctions, in combination with treatment-based interventions that address drug and alcohol dependency and criminogenic behaviors, can reduce noncompliance with supervision, enhance public safety, and reduce state correctional expenditures; and

(c) The principles of effective supervision support clear rules, close monitoring, and a swift and proportional response to technical violations of supervision.

(2) Now, therefore, the general assembly declares that it intends this legislation to align parole supervision with evidence-based practices and promising practices in responding to technical violations.

SECTION 2. In Colorado Revised Statutes, 17-2-103, **amend** (1); and **add** (1.5) as follows:

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

17-2-103. Arrest of parolee - revocation proceedings. (1) The director of the division of adult parole or any community parole officer may arrest any parolee when:

- (a) He OR SHE has a warrant commanding that such parolee be arrested; or
- (b) He OR SHE has probable cause to believe that a warrant for the parolee's arrest has been issued in this state or another state for any criminal offense or for violation of a condition of parole; or
- (c) Any offense under the laws of this state has been or is being committed by the parolee in ~~his~~ THE COMMUNITY PAROLE OFFICER'S presence; or
- (d) He OR SHE has probable cause to believe that a crime has been committed and that the parolee has committed such crime; or
- (e) He OR SHE has probable cause to believe that the parolee ~~has violated a condition of his parole or probable cause to believe that the parolee is leaving or about to leave the state; or that the parolee will fail or refuse to appear before the board to answer charges of violations of one or more conditions of parole, or that the arrest of the parolee is necessary to prevent physical harm to the parolee or another person or to prevent the commission of a crime; or~~
- (f) ~~The parolee, who is on parole as a result of a conviction of any felony, has been tested for the illegal or unauthorized use of a controlled substance and the result of such test is positive.~~ HE OR SHE HAS PROBABLE CAUSE TO BELIEVE THAT THE PAROLEE HAS VIOLATED ONE OR MORE CONDITIONS OF PAROLE AND THAT THE PAROLEE WILL FAIL OR REFUSE TO APPEAR BEFORE THE BOARD TO ANSWER CHARGES OF VIOLATIONS OF ONE OR MORE CONDITIONS OF PAROLE; OR
- (g) HE OR SHE HAS A REASONABLE BELIEF THAT THE ARREST IS NECESSARY TO PREVENT SERIOUS BODILY INJURY TO THE PAROLEE OR ANY OTHER PERSON OR TO PREVENT THE COMMISSION OF A CRIME; OR
- (h) HE OR SHE HAS PROBABLE CAUSE TO BELIEVE THAT THE PAROLEE HAS COMMITTED A TECHNICAL VIOLATION OF PAROLE FOR WHICH THE UNDERLYING BEHAVIOR IS NOT A CRIMINAL OFFENSE AND THE COMMUNITY PAROLE OFFICER HAS EXHAUSTED ALL APPROPRIATE OR AVAILABLE INTERMEDIATE SANCTIONS, TREATMENT, AND SUPPORT SERVICES.

(1.5) (a) EXCEPT WHERE ARREST OR REVOCATION IS MANDATORY PURSUANT TO SECTIONS 17-2-103.5 OR 17-2-103, AND EXCEPT AS PROVIDED IN PARAGRAPH (g) OF THIS SUBSECTION (1.5), A COMMUNITY PAROLE OFFICER MUST CONSIDER ALL APPROPRIATE OR AVAILABLE INTERMEDIATE SANCTIONS, AS DETERMINED BY THE POLICIES OF THE DIVISION OF ADULT PAROLE, BEFORE HE OR SHE FILES A COMPLAINT FOR REVOCATION OF A PAROLEE FOR A TECHNICAL VIOLATION OF A CONDITION OF PAROLE FOR WHICH THE UNDERLYING BEHAVIOR IS NOT A CRIMINAL OFFENSE.

(b) A COMMUNITY PAROLE OFFICER SHALL UTILIZE INTERMEDIATE SANCTIONS TO ADDRESS A PAROLEE'S NONCOMPLIANCE OR SEEK MODIFICATION OF PAROLE

CONDITIONS, OR DO BOTH, AS DEEMED APPROPRIATE BY THE COMMUNITY PAROLE OFFICER, IN A MANNER THAT IS CONSISTENT WITH THE SEVERITY OF THE NONCOMPLIANCE AND THE RISK LEVEL OF THE PAROLEE.

(c) A COMMUNITY PAROLE OFFICER SHALL ALSO MAKE REFERRALS TO ANY NEEDED TREATMENT OR OTHER SUPPORT SERVICES THAT MAY HELP A PAROLEE BECOME COMPLIANT WITH THE CONDITIONS OF PAROLE AND SUCCEED IN REINTEGRATING INTO SOCIETY. FOR THE PURPOSES OF THIS SECTION, TESTING POSITIVE FOR THE USE OF ILLEGAL DRUGS IS CONSIDERED A TECHNICAL VIOLATION OF PAROLE.

(d) IF A PAROLEE HAS A TECHNICAL VIOLATION, THE PAROLEE'S COMMUNITY PAROLE OFFICER, WITH THE APPROVAL OF THE DIRECTOR OF THE DIVISION OF ADULT PAROLE OR THE DIRECTOR'S DESIGNEE, MAY IMPOSE A BRIEF TERM OF CONFINEMENT IN THE COUNTY JAIL, NOT TO EXCEED FIVE CONSECUTIVE DAYS, AS AN INTERMEDIATE SANCTION.

(e) A PAROLEE'S COMMUNITY PAROLE OFFICER MUST NOTIFY THE PAROLEE WHEN A BRIEF TERM OF INCARCERATION IN JAIL MAY BE IMPOSED AS AN INTERMEDIATE SANCTION AGAINST THE PAROLEE.

(f) THE DIVISION OF ADULT PAROLE IS RESPONSIBLE FOR REIMBURSING COUNTY JAILS FOR BEDS USED AS AN INTERMEDIATE SANCTION. THE SHERIFF OF EACH COUNTY HAS THE AUTHORITY AND DISCRETION TO DETERMINE THE NUMBER OF JAIL BEDS, IF ANY, THAT ARE AVAILABLE TO THE DEPARTMENT OF CORRECTIONS IN THEIR RESPECTIVE FACILITIES FOR THE PURPOSE OF IMPOSING AN INTERMEDIATE SANCTION. IF JAIL BEDS ARE UNAVAILABLE IN THE LOCAL COMMUNITY OF THE FACILITY IN WHICH THE PAROLEE IS BEING SUPERVISED, THE DIVISION OF ADULT PAROLE IS AUTHORIZED TO UTILIZE OTHER AVAILABLE COUNTY JAIL BEDS IF TRANSPORTATION TO AND FROM THE JAIL IS PROVIDED TO THE PAROLEE.

(g) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A COMMUNITY PAROLE OFFICER MAY BYPASS THE USE OF INTERMEDIATE SANCTIONS OR ANY ADDITIONAL INTERMEDIATE SANCTIONS IN RESPONSE TO A TECHNICAL VIOLATION OF PAROLE AND FILE A COMPLAINT SEEKING REVOCATION OF PAROLE IF:

(I) THE PAROLEE HAS RECEIVED UP TO FOUR INTERMEDIATE SANCTIONS COMMITTING THE PAROLEE TO A BRIEF TERM OF INCARCERATION IN JAIL; OR

(II) THE NATURE OF THE TECHNICAL VIOLATION, IN COMBINATION WITH THE PAROLEE'S RISK ASSESSMENT, INDICATES A HEIGHTENED RISK TO PUBLIC SAFETY, AS DEFINED BY POLICY OF THE DIVISION OF ADULT PAROLE.

SECTION 3. In Colorado Revised Statutes, 17-2-102, **add** (13) as follows:

17-2-102. Division of adult parole - general powers, duties, and functions - definitions. (13) ON OR BEFORE JANUARY 1, 2016, AND ON OR BEFORE JANUARY 1 EACH YEAR THEREAFTER, 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 THE USE OF ANY MONEYS ALLOCATED PURSUANT TO SENATE BILL

15-124, ENACTED IN 2015.

SECTION 4. In Colorado Revised Statutes, 17-2-201, **amend** (5.5) (e) as follows:

17-2-201. State board of parole. (5.5) (e) FOR THE PURPOSES OF SECTION 17-2-103, a parolee who refuses to submit to chemical testing of a sample of his or her biological substance pursuant to the requirements of this subsection (5.5) ~~shall be arrested, and revocation proceedings shall be initiated pursuant to section 17-2-103~~ IS DEEMED TO HAVE TESTED POSITIVE FOR THE PRESENCE OF DRUGS.

SECTION 5. Appropriation - adjustments to 2015 long bill. (1) To implement this act, appropriations made in the annual general appropriation act for the 2015-16 state fiscal year to the department of corrections are adjusted as follows:

(a) The general fund appropriation for payments to in-state private prisons at a rate of \$56.02 per inmate per day is decreased by \$1,195,117;

(b) The general fund appropriation for payments to pre-release parole revocation facilities at a rate of \$56.02 per inmate per day is decreased by \$368,359; and

(c) The general fund appropriation for grants to community-based organizations for parolee support described in section 17-33-101 (7), C.R.S., is increased by \$710,000.

(2) For the 2015-16 state fiscal year, \$780,019 is appropriated to the department of public safety for use by the division of criminal justice. This appropriation is from the general fund. To implement this act, the division may use this appropriation to provide an additional 48 intensive residential treatment beds for parolees for six months.

SECTION 6. 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 29, 2015