

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 15-0602.01 Richard Sweetman x4333

SENATE BILL 15-124

SENATE SPONSORSHIP

Merrifield,

HOUSE SPONSORSHIP

Lee,

Senate Committees

Judiciary
Appropriations

House Committees

Judiciary
Appropriations

A BILL FOR AN ACT

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

With certain exceptions, a community parole officer (parole officer) must exhaust all appropriate and available intermediate sanctions before filing a complaint to revoke a parolee's parole for a technical violation of a condition of parole for which the underlying behavior is not a criminal offense. However, a parole officer may bypass the use of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 3rd Reading
April 23, 2015

SENATE
Amended 2nd Reading
April 22, 2015

intermediate sanctions if:

- ! The parolee has received 4 or more intermediate sanctions committing the parolee to a brief jail term; or
- ! The nature of the technical violation, in combination with the parolee's criminal history, indicates a heightened risk to public safety.

If a parolee has 2 or more technical violations in a 90-day period, the parolee's parole officer, with the approval of the director of the division of adult parole (division) or the director's designee, may impose a brief term of confinement in the county jail, not to exceed 5 consecutive days, as an intermediate sanction. The division shall reimburse county jails for the use of beds, and a county jail may negotiate with the department of corrections the number of beds that are used.

Under current law, a parolee who refuses to submit to chemical testing shall be arrested, and revocation proceedings shall be initiated against him or her. Under the bill, a parolee who refuses to submit to chemical testing is deemed to have tested positive for the presence of drugs.

Under current law, the director of the division or any parole officer may arrest a parolee under certain conditions, including when the parolee is on parole as a result of a felony conviction and has tested positive for the illegal or unauthorized use of a controlled substance.

The bill removes this condition and adds a new condition under which a parole officer may arrest a parolee. That is, if the parole officer 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 parole officer has exhausted all appropriate or available intermediate sanctions, treatment, and support services, then the parole officer can arrest the parolee. Testing positive for the use of illegal drugs is considered a technical violation of parole.

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

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

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

8 (b) Recent studies show that swift, certain, consistent, and

1 proportional sanctions, in combination with treatment-based interventions
2 that address drug and alcohol dependency and criminogenic behaviors,
3 can reduce noncompliance with supervision, enhance public safety, and
4 reduce state correctional expenditures; and

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

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

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

13 **17-2-103. Arrest of parolee - revocation proceedings.** (1) The
14 director of the division of adult parole or any community parole officer
15 may arrest any parolee when:

16 (a) He OR SHE has a warrant commanding that such parolee be
17 arrested; or

18 (b) He OR SHE has probable cause to believe that a warrant for the
19 parolee's arrest has been issued in this state or another state for any
20 criminal offense or for violation of a condition of parole; or

21 (c) Any offense under the laws of this state has been or is being
22 committed by the parolee in ~~his~~ THE COMMUNITY PAROLE OFFICER'S
23 presence; or

24 (d) He OR SHE has probable cause to believe that a crime has been
25 committed and that the parolee has committed such crime; or

26 (e) He OR SHE has probable cause to believe that the parolee ~~has~~
27 ~~violated a condition of his parole or probable cause to believe that the~~

1 ~~parolee is leaving or about to leave the state; or that the parolee will fail~~
2 ~~or refuse to appear before the board to answer charges of violations of~~
3 ~~one or more conditions of parole, or that the arrest of the parolee is~~
4 ~~necessary to prevent physical harm to the parolee or another person or to~~
5 ~~prevent the commission of a crime; or~~

6 (f) ~~The parolee, who is on parole as a result of a conviction of any~~
7 ~~felony, has been tested for the illegal or unauthorized use of a controlled~~
8 ~~substance and the result of such test is positive. HE OR SHE HAS PROBABLE~~
9 CAUSE TO BELIEVE THAT THE PAROLEE HAS VIOLATED ONE OR MORE
10 CONDITIONS OF PAROLE AND THAT THE PAROLEE WILL FAIL OR REFUSE TO
11 APPEAR BEFORE THE BOARD TO ANSWER CHARGES OF VIOLATIONS OF ONE
12 OR MORE CONDITIONS OF PAROLE; OR

13 (g) HE OR SHE HAS A REASONABLE BELIEF THAT THE ARREST IS
14 NECESSARY TO PREVENT SERIOUS BODILY INJURY TO THE PAROLEE OR ANY
15 OTHER PERSON OR TO PREVENT THE COMMISSION OF A CRIME; OR

16 (h) HE OR SHE HAS PROBABLE CAUSE TO BELIEVE THAT THE
17 PAROLEE HAS COMMITTED A TECHNICAL VIOLATION OF PAROLE FOR WHICH
18 THE UNDERLYING BEHAVIOR IS NOT A CRIMINAL OFFENSE AND THE
19 COMMUNITY PAROLE OFFICER HAS EXHAUSTED ALL APPROPRIATE OR
20 AVAILABLE INTERMEDIATE SANCTIONS, TREATMENT, AND SUPPORT
21 SERVICES.

22 (1.5) (a) EXCEPT WHERE ARREST OR REVOCATION IS MANDATORY
23 PURSUANT TO SECTIONS 17-2-103.5 OR 17-2-103, AND EXCEPT AS
24 PROVIDED IN PARAGRAPH (g) OF THIS SUBSECTION (1.5), A COMMUNITY
25 PAROLE OFFICER MUST CONSIDER ALL APPROPRIATE OR AVAILABLE
26 INTERMEDIATE SANCTIONS, AS DETERMINED BY THE POLICIES OF THE
27 DIVISION OF ADULT PAROLE, BEFORE HE OR SHE FILES A COMPLAINT FOR

1 REVOCATION OF A PAROLEE FOR A TECHNICAL VIOLATION OF A CONDITION
2 OF PAROLE FOR WHICH THE UNDERLYING BEHAVIOR IS NOT A CRIMINAL
3 OFFENSE.

4 (b) A COMMUNITY PAROLE OFFICER SHALL UTILIZE INTERMEDIATE
5 SANCTIONS TO ADDRESS A PAROLEE'S NONCOMPLIANCE OR SEEK
6 MODIFICATION OF PAROLE CONDITIONS, OR DO BOTH, AS DEEMED
7 APPROPRIATE BY THE COMMUNITY PAROLE OFFICER, IN A MANNER THAT
8 IS CONSISTENT WITH THE SEVERITY OF THE NONCOMPLIANCE AND THE RISK
9 LEVEL OF THE PAROLEE.

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

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

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

24 (f) THE DIVISION OF ADULT PAROLE IS RESPONSIBLE FOR
25 REIMBURSING COUNTY JAILS FOR BEDS USED AS AN INTERMEDIATE
26 SANCTION. THE SHERIFF OF EACH COUNTY HAS THE AUTHORITY AND
27 DISCRETION TO DETERMINE THE NUMBER OF JAIL BEDS, IF ANY, THAT ARE

1 AVAILABLE TO THE DEPARTMENT OF CORRECTIONS IN THEIR RESPECTIVE
2 FACILITIES FOR THE PURPOSE OF IMPOSING AN INTERMEDIATE SANCTION.
3 IF JAIL BEDS ARE UNAVAILABLE IN THE LOCAL COMMUNITY OF THE
4 FACILITY IN WHICH THE PAROLEE IS BEING SUPERVISED , THE DIVISION OF
5 ADULT PAROLE IS AUTHORIZED TO UTILIZE OTHER AVAILABLE COUNTY JAIL
6 BEDS IF TRANSPORTATION TO AND FROM THE JAIL IS PROVIDED TO THE
7 PAROLEE.

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

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

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

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

22 **17-2-102. Division of adult parole - general powers, duties, and**
23 **functions - definitions.** (13) ON OR BEFORE JANUARY 1, 2016, AND ON
24 OR BEFORE JANUARY 1 EACH YEAR THEREAFTER, THE DIVISION OF ADULT
25 PAROLE SHALL PROVIDE TO THE JUDICIARY COMMITTEES OF THE SENATE
26 AND THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES,
27 A STATUS REPORT ON THE EFFECT ON PAROLE OUTCOMES AND THE USE OF

1 ANY MONEYS ALLOCATED PURSUANT TO SENATE BILL 15-124, ENACTED
2 IN 2015.

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

5 **17-2-201. State board of parole.** (5.5) (e) FOR THE PURPOSES OF
6 SECTION 17-2-103, a parolee who refuses to submit to chemical testing of
7 a sample of his or her biological substance pursuant to the requirements
8 of this subsection (5.5) ~~shall be arrested, and revocation proceedings shall~~
9 ~~be initiated pursuant to section 17-2-103~~ IS DEEMED TO HAVE TESTED
10 POSITIVE FOR THE PRESENCE OF DRUGS.

11 **SECTION 5. Appropriation - adjustments to 2015 long bill.**

12 (1) To implement this act, appropriations made in the annual general
13 appropriation act for the 2015-16 state fiscal year to the department of
14 corrections are adjusted as follows:

15

16

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

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

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

25 (2) For the 2015-16 state fiscal year, \$780,019 is appropriated to
26 the department of public safety for use by the division of criminal justice.
27 This appropriation is from the general fund. To implement this act, the

1 division may use this appropriation to provide an additional 48 intensive
2 residential treatment beds for parolees for six months.

3 **SECTION 6. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety.