

**First Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

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

LLS NO. 11-0893.01 Michael Dohr

**SENATE BILL 11-241**

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**SENATE SPONSORSHIP**

**King S. and Carroll,**

**HOUSE SPONSORSHIP**

**Gardner B. and Kagan,**

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**Senate Committees**

Judiciary  
Appropriations

**House Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING CHANGES RELATED TO THE OPERATION OF THE PAROLE**  
102     **BOARD.**

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**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>.)*

The state board of parole (board) is composed of 7 members. The bill requires that 2 members have law enforcement experience and one member have offender supervision experience. The other 4 members must have experience in behavioral health, psychology, offender assessment, offender reentry, victim advocacy, criminal justice policy, or

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.*

research. Each member shall have, at a minimum, a bachelor's degree and 5 years experience in his or her field. The board member must complete at least 20 hours of continuing education each year. The chair of the board must develop a manual for the board members, release hearing officers, and administrative hearing officers. The board is permitted to hold parole release reviews without the presence of the inmate at a hearing if the inmate meets certain criteria.

The parole board contracts with administrative hearing officers and release hearing officers to assist with the work of the board. An administrative hearing officer must be an attorney with 5 years of relevant experience. An administrative hearing officer must complete yearly continuing education requirements and comply with all data and information collection requirements of the board. A release hearing officer must have a bachelor's degree and at least 3 years of relevant experience. A hearing release officer must complete yearly continuing education requirements and comply with all data and information collection requirements of the board.

Under current law, inmates who have significant medical needs are eligible for special needs parole. The bill expands the eligibility of inmates who are eligible for special needs parole and requires the department to identify who is eligible for such parole. The department shall make a recommendation as to whether to release the inmate and must develop special needs parole plan for the inmate.

The bill creates presumptions in favor of parole for nonviolent offenders with immigration detainers.

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

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

4 **17-1-102. Definitions.** As used in this title, unless the context  
5 otherwise requires:

6 (7.5) (a) "Special needs offender" means a person in the custody  
7 of the department:

8 (I) Who is ~~physically handicapped, is developmentally disabled,~~  
9 ~~or has a mental illness~~ SIXTY YEARS OF AGE OR OLDER AND HAS BEEN  
10 DIAGNOSED BY A LICENSED HEALTH CARE PROVIDER WHO IS EMPLOYED BY  
11 OR UNDER CONTRACT WITH THE DEPARTMENT AS SUFFERING FROM A

1 CHRONIC INFIRMITY, ILLNESS, CONDITION, DISEASE, OR MENTAL ILLNESS  
2 AND THE DEPARTMENT OR THE STATE BOARD OF PAROLE DETERMINES  
3 THAT THE PERSON IS INCAPACITATED TO THE EXTENT THAT HE OR SHE IS  
4 NOT LIKELY TO POSE A RISK TO PUBLIC SAFETY; or

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

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

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

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

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

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

1 CORRECTIONS FACILITY FOR THE OFFENSE.

2 (III) ~~Is or has ever been a sex offender as defined in section~~  
3 ~~18-1.3-1003 (4), C.R.S.~~

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

7 **17-2-201. State board of parole.** (1) (a) (I) There is hereby  
8 created a state board of parole, referred to in this part 2 as the "board",  
9 which shall consist of seven members. The members of the board shall  
10 be appointed by the governor and confirmed by the senate, and they shall  
11 devote their full time to their duties as members of ~~such~~ THE board. The  
12 members shall be appointed for three-year terms and may serve  
13 consecutive terms. The governor may remove a board member for  
14 incompetency, neglect of duty, malfeasance in office, continued failure  
15 to use the risk assessment guidelines as required by section 17-22.5-404,  
16 or failure to regularly attend meetings as determined by the governor.  
17 Final conviction of a felony during the term of office of a board member  
18 shall automatically result in the disqualification of the member from  
19 further service on the board. The board shall be composed of ~~two~~  
20 ~~representatives from law enforcement, one former parole or probation~~  
21 ~~officer, and four citizen representatives~~ MULTIDISCIPLINARY AREAS OF  
22 EXPERTISE. TWO MEMBERS SHALL HAVE EXPERIENCE IN LAW  
23 ENFORCEMENT AND ONE MEMBER SHALL HAVE EXPERIENCE IN OFFENDER  
24 SUPERVISION, INCLUDING PAROLE, PROBATION, OR COMMUNITY  
25 CORRECTIONS. FOUR MEMBERS SHALL HAVE EXPERIENCE IN OTHER FIELDS  
26 INCLUDING BUT NOT LIMITED TO BEHAVIORAL HEALTH OR PSYCHOLOGY,  
27 VICTIM ADVOCACY, OFFENDER ASSESSMENT, OFFENDER REENTRY,

1 CRIMINAL JUSTICE POLICY, OR RESEARCH. ~~The members~~ EACH MEMBER  
2 of the board shall have A MINIMUM OF A BACHELOR'S DEGREE FROM AN  
3 ACCREDITED INSTITUTION, FIVE YEARS OF EXPERIENCE IN A RELEVANT  
4 FIELD, AND knowledge of parole LAWS AND GUIDELINES, rehabilitation,  
5 correctional administration, the functioning of the criminal justice system,  
6 ~~and the~~ issues associated with victims of crime, THE DUTIES OF PAROLE  
7 BOARD MEMBERS, AND ACTUARIAL RISK ASSESSMENT INSTRUMENTS AND  
8 OTHER OFFENDER ASSESSMENT INSTRUMENTS USED BY THE BOARD AND  
9 THE DEPARTMENT OF CORRECTIONS. ~~The three designated members of the~~  
10 ~~board shall each have at least five years' education or experience, or a~~  
11 ~~combination thereof, in their respective fields. No~~ A person who has  
12 been convicted of a felony or of a misdemeanor involving moral turpitude  
13 or who has any financial interests which conflict with the duties of a  
14 member of the parole board shall NOT be eligible for appointment.

15 (II) EACH MEMBER OF THE PAROLE BOARD WHO IS A MEMBER OF  
16 THE BOARD ON THE EFFECTIVE DATE OF THIS SUBPARAGRAPH (II) MAY  
17 REAPPLY FOR APPOINTMENT TO THE BOARD AT THE END OF HIS OR HER  
18 TERM AND THE GOVERNOR MAY REAPPOINT THE MEMBER REGARDLESS OF  
19 WHETHER THE MEMBER MEETS THE QUALIFICATIONS OF THIS PARAGRAPH  
20 (a).

21 (e) EACH BOARD MEMBER SHALL COMPLETE A MINIMUM OF  
22 TWENTY HOURS OF CONTINUING EDUCATION OR TRAINING EVERY YEAR IN  
23 ORDER TO MAINTAIN PROFICIENCY AND TO REMAIN CURRENT ON CHANGES  
24 IN PAROLE LAWS AND DEVELOPMENTS IN THE FIELD. EACH PAROLE BOARD  
25 MEMBER SHALL SUBMIT TO THE CHAIRPERSON PROOF OF ATTENDANCE AND  
26 DETAILS REGARDING ANY CONTINUING EDUCATION OR TRAINING  
27 ATTENDED INCLUDING THE DATE, PLACE, TOPIC, THE LENGTH OF THE

1 TRAINING, THE TRAINER'S NAME, AND ANY AGENCY OR ORGANIZATIONAL  
2 AFFILIATION. MEMBERS MAY ATTEND TRAININGS INDIVIDUALLY OR AS  
3 PART OF A SPECIFIC TRAINING OFFERED TO THE PAROLE BOARD AS A  
4 WHOLE. THE SOLE REMEDY FOR FAILURE TO COMPLY WITH EDUCATION,  
5 TRAINING, AND DATA COLLECTION REQUIREMENTS SHALL BE REMOVAL OF  
6 THE BOARD MEMBER BY THE GOVERNOR, AND THE FAILURE TO COMPLY  
7 WITH EDUCATION, TRAINING, AND DATA COLLECTION REQUIREMENTS  
8 SHALL NOT CREATE ANY RIGHT FOR ANY OFFENDER.

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

13 **17-2-201. State board of parole.** (3) The chairperson, in  
14 addition to other provisions of law, has the following powers and duties:

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

18 ~~(H) To appoint an administrative law judge pursuant to the~~  
19 ~~provisions of section 24-30-1003, C.R.S., to conduct parole revocation~~  
20 ~~hearings pursuant to the rules and regulations promulgated pursuant to~~  
21 ~~this subsection (3). Any references to the board regarding parole~~  
22 ~~revocation hearings or revocation of parole shall include an~~  
23 ~~administrative law judge appointed pursuant to this paragraph (c). To~~

24 DEVELOP AND UPDATE A WRITTEN OPERATIONAL MANUAL FOR PAROLE  
25 BOARD MEMBERS, RELEASE HEARING OFFICERS, AND ADMINISTRATIVE  
26 HEARING OFFICERS UNDER CONTRACT WITH THE BOARD BY DECEMBER 31,  
27 2012. THE OPERATIONAL MANUAL SHALL INCLUDE, BUT NEED NOT BE

1 LIMITED TO, BOARD POLICIES AND RULES, A SUMMARY OF STATE LAWS  
2 GOVERNING THE BOARD, AND ALL ADMINISTRATIVE RELEASE AND  
3 REVOCATION GUIDELINES THAT THE PAROLE BOARD IS REQUIRED TO USE.  
4 THE CHAIRPERSON WILL ENSURE THAT ALL NEW PAROLE BOARD MEMBERS  
5 RECEIVE TRAINING AND ORIENTATION ON THE OPERATIONAL MANUAL.

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

8 ~~(I) To conduct parole application hearings for inmates convicted~~  
9 ~~of nonviolent felonies that are class 4 felonies, class 5 felonies, or class~~  
10 ~~6 felonies, pursuant to rules adopted by the parole board; and~~

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

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

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

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

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

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

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

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

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

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

26 **17-2-201. State board of parole.** (4) The board has the  
27 following powers and duties:



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

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

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

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

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

20 **17-2-202.5. Administrative hearing officers and release**  
21 **hearing officers - qualifications - duties.** (1) (a) TO BE ELIGIBLE TO  
22 SERVE AS AN ADMINISTRATIVE HEARING OFFICER OR ADMINISTRATIVE LAW  
23 JUDGE UNDER CONTRACT WITH THE BOARD, AN ATTORNEY SHALL HAVE  
24 FIVE YEARS EXPERIENCE IN THE PRACTICE OF LAW AND BE  
25 KNOWLEDGEABLE OF PAROLE LAWS AND GUIDELINES, OFFENDER  
26 REHABILITATION, CORRECTIONAL ADMINISTRATION, THE FUNCTIONING OF  
27 THE CRIMINAL JUSTICE SYSTEM, ISSUES ASSOCIATED WITH VICTIMS OF

1 CRIME, THE DUTIES OF PAROLE BOARD MEMBERS, AND ACTUARIAL RISK  
2 ASSESSMENT INSTRUMENTS AND OTHER OFFENDER ASSESSMENT  
3 INSTRUMENTS USED BY THE BOARD AND THE DEPARTMENT OF  
4 CORRECTIONS.

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

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

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

19 (2) (a) A RELEASE HEARING OFFICER MUST HAVE A BACHELOR'S  
20 DEGREE AND THREE YEARS OF RELEVANT EXPERIENCE AND BE  
21 KNOWLEDGEABLE OF PAROLE LAWS AND GUIDELINES, OFFENDER  
22 REHABILITATION, CORRECTIONAL ADMINISTRATION, THE FUNCTIONING OF  
23 THE CRIMINAL JUSTICE SYSTEM, THE ISSUES ASSOCIATED WITH VICTIMS OF  
24 CRIME, THE DUTIES OF PAROLE BOARD MEMBERS, AND ACTUARIAL RISK  
25 ASSESSMENT INSTRUMENTS AND OTHER OFFENDER ASSESSMENT  
26 INSTRUMENTS USED BY THE BOARD AND THE DEPARTMENT OF  
27 CORRECTIONS.

1 (b) A RELEASE HEARING OFFICER UNDER CONTRACT WITH THE  
2 BOARD IS REQUIRED TO COMPLETE TWELVE HOURS ANNUALLY OF  
3 CONTINUING EDUCATION OR TRAINING CONSISTENT WITH SECTION  
4 17-2-201 (1) (e).

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

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

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

16 **17-22.5-403.5. Special needs parole.** (1) Notwithstanding any  
17 provision of law to the contrary, a special needs offender, as ~~determined~~  
18 ~~pursuant to rules adopted by the state board of parole~~ DEFINED IN SECTION  
19 17-2-102 (7.5) (a), may be eligible for parole prior to OR AFTER the  
20 offender's parole eligibility date pursuant to this section if:

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

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

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

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

9 (b) THE REFERRAL SHALL INCLUDE:

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

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

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

1 ~~parole eligibility date~~ pursuant to the provisions of this section; AND

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

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

10 (II) AT THE SAME TIME THAT THE DEPARTMENT COMPLETES THE  
11 NOTIFICATION REQUIRED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH (c),  
12 THE DEPARTMENT SHALL NOTIFY THE DISTRICT ATTORNEY THAT  
13 PROSECUTED THE OFFENDER IF THE OFFENDER IS SERVING A SENTENCE FOR  
14 A CONVICTION OF A CRIME OF VIOLENCE AS DESCRIBED IN SECTION  
15 18-1.3-406, C.R.S., OR A SEX OFFENSE AS LISTED IN SECTION 18-1.3-1004  
16 (4), C.R.S. A DISTRICT ATTORNEY SHALL HAVE THIRTY DAYS AFTER  
17 RECEIVING NOTIFICATION TO SUBMIT A RESPONSE TO THE DEPARTMENT.  
18 THE DEPARTMENT SHALL INCLUDE ANY DISTRICT ATTORNEY RESPONSE IN  
19 THE REFERRAL TO THE STATE BOARD OF PAROLE.

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

22 (b) THE STATE BOARD OF PAROLE SHALL MAKE A DETERMINATION  
23 OF THE RISK OF REOFFENSE THAT THE INMATE POSES AFTER CONSIDERING  
24 SUCH FACTORS AS THE INMATE'S MEDICAL OR PHYSICAL CONDITION, THE  
25 SEVERITY OF ANY DISABILITY OR INCAPACITATION, THE INMATE'S RISK  
26 ASSESSMENT SCORES, THE NATURE AND SEVERITY OF THE OFFENSE FOR  
27 WHICH THE INMATE IS CURRENTLY INCARCERATED, THE INMATE'S

1 CRIMINAL HISTORY, THE INMATE'S INSTITUTIONAL CONDUCT, AND OTHER  
2 RELEVANT FACTORS.

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

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

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

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

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

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

27 **17-22.5-404. Parole guidelines.** (6) (e) (I) On or before

1 November 1, ~~2009~~ 2011, AND ON OR BEFORE NOVEMBER 1 EACH YEAR  
2 THEREAFTER, the state board of parole and the division of criminal justice  
3 in the department of public safety shall issue a report to the general  
4 assembly regarding ~~the progress in implementing this subsection (6), and~~  
5 ~~November 1 each year thereafter, the state board of parole and the~~  
6 ~~division of criminal justice in the department of public safety shall update~~  
7 ~~the report~~ OUTCOMES OF DECISIONS BY THE STATE BOARD OF PAROLE. The  
8 data shall be reported to the general assembly only in the aggregate.

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

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

12 **17-22.5-404.5. Presumption of parole - nonviolent offenders**  
13 **with ICE detainees.** (1) THERE SHALL BE A PRESUMPTION, SUBJECT TO  
14 THE FINAL DISCRETION OF THE PAROLE BOARD, IN FAVOR OF GRANTING  
15 PAROLE TO AN INMATE WHO HAS REACHED HIS OR HER PAROLE ELIGIBILITY  
16 DATE AND WHO:

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

20 (b) IS NOT SERVING A SENTENCE FOR A FELONY CRIME DESCRIBED  
21 IN SECTION 18-3-303, 18-3-306, OR 18-6-701, C.R.S.; SECTIONS 18-7-402  
22 TO 18-7-407, C.R.S.; OR SECTION 18-12-102 OR 18-12-109, C.R.S.;

23 SECTION 18-17-104, C.R.S., OR SECTION 18-18-407, C.R.S.; OR A FELONY  
24 CRIME LISTED IN SECTION 24-4.1-302 (1), C.R.S.; AND

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

27 (2) IN DETERMINING WHETHER TO GRANT PAROLE PURSUANT TO

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

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

11 (b) IF THE UNITED STATES IMMIGRATION AND CUSTOMS  
12 ENFORCEMENT AGENCY WITHDRAWS THE DETAINEE OR DECLINES TO TAKE  
13 THE INMATE INTO CUSTODY, THE STATE BOARD OF PAROLE SHALL HOLD A  
14 REVISION HEARING TO RECONSIDER THE GRANTING OF PAROLE TO THE  
15 INMATE.

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

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

23 (4) THE BOARD MAY CONSIDER THE APPLICATION FOR PAROLE  
24 PURSUANT TO THE PROCEEDINGS SET FORTH IN SECTION 17-2-201 (4) (f) OR  
25 17-2-201 (9) (a). ==

26 (5) FOR INMATES WHO WERE PAROLE ELIGIBLE BEFORE THE  
27 EFFECTIVE DATE OF THIS SECTION, THE DEPARTMENT SHALL NOTIFY THE



1 STATE BOARD OF PAROLE OF ANY OF THOSE INMATES WHO MEET THE  
2 CRITERIA LISTED IN SUBSECTION (1) OF THIS SECTION AND THE BOARD  
3 SHALL EITHER SET A RELEASE HEARING OR CONDUCT A RELEASE REVIEW  
4 WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.

5 **SECTION 9. Safety clause.** The general assembly hereby finds,  
6 determines, and declares that this act is necessary for the immediate  
7 preservation of the public peace, health, and safety.