

**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

SENATE SPONSORSHIP

King S. and Carroll,

HOUSE SPONSORSHIP

Gardner B. and Kagan,

Senate Committees

Judiciary
Appropriations

House Committees

A BILL FOR AN ACT

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

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

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.*

assessment, offender reentry, victim advocacy, criminal justice policy, or 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.

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

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

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

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

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

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

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

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

1 THE OFFENDER HAS SERVED FEWER THAN TEN YEARS IN A DEPARTMENT OF
2 CORRECTIONS FACILITY FOR THE OFFENSE.

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

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

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

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

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

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

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

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

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

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

19 ~~(H) To appoint an administrative law judge pursuant to the~~
20 ~~provisions of section 24-30-1003, C.R.S., to conduct parole revocation~~
21 ~~hearings pursuant to the rules and regulations promulgated pursuant to~~
22 ~~this subsection (3). Any references to the board regarding parole~~
23 ~~revocation hearings or revocation of parole shall include an~~
24 ~~administrative law judge appointed pursuant to this paragraph (c). To~~
25 DEVELOP AND UPDATE A WRITTEN OPERATIONAL MANUAL FOR PAROLE
26 BOARD MEMBERS, RELEASE HEARING OFFICERS, AND ADMINISTRATIVE
27 HEARING OFFICERS UNDER CONTRACT WITH THE BOARD BY DECEMBER 31,

1 2012. THE OPERATIONAL MANUAL SHALL INCLUDE, BUT NEED NOT BE
2 LIMITED TO, BOARD POLICIES AND RULES, A SUMMARY OF STATE LAWS
3 GOVERNING THE BOARD, AND ALL ADMINISTRATIVE RELEASE AND
4 REVOCATION GUIDELINES THAT THE PAROLE BOARD IS REQUIRED TO USE.
5 THE CHAIRPERSON WILL ENSURE THAT ALL NEW PAROLE BOARD MEMBERS
6 RECEIVE TRAINING AND ORIENTATION ON THE OPERATIONAL MANUAL.

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

9 ~~(I) To conduct parole application hearings for inmates convicted~~
10 ~~of nonviolent felonies that are class 4 felonies, class 5 felonies, or class~~
11 ~~6 felonies, pursuant to rules adopted by the parole board; and~~

12 ~~(II) To set parole conditions for inmates eligible for release to~~
13 ~~mandatory parole.~~

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

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

1 REQUIREMENT.

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

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

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

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

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

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

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

27 **17-2-201. State board of parole.** (4) The board has the

1 following powers and duties:

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

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

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

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

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

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

1 THE CRIMINAL JUSTICE SYSTEM, ISSUES ASSOCIATED WITH VICTIMS OF
2 CRIME, THE DUTIES OF PAROLE BOARD MEMBERS, AND ACTUARIAL RISK
3 ASSESSMENT INSTRUMENTS AND OTHER OFFENDER ASSESSMENT
4 INSTRUMENTS USED BY THE BOARD AND THE DEPARTMENT OF
5 CORRECTIONS.

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

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

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

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

1 CORRECTIONS.

2 (b) A RELEASE HEARING OFFICER UNDER CONTRACT WITH THE
3 BOARD IS REQUIRED TO COMPLETE TWELVE HOURS ANNUALLY OF
4 CONTINUING EDUCATION OR TRAINING CONSISTENT WITH SECTION
5 17-2-201 (1) (e).

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

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

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

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

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

26 (b) The STATE board ~~prepares~~ OF PAROLE APPROVES a special
27 needs parole plan that ensures appropriate supervision ~~and placement~~ of

1 AND CONTINUITY OF MEDICAL CARE FOR the special needs offender.

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

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

10 (b) THE REFERRAL SHALL INCLUDE:

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

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

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

1 on which to base a recommendation for parole ~~prior to the offender's~~
2 ~~parole eligibility date~~ pursuant to the provisions of this section; AND

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

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

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

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

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

1 WHICH THE INMATE IS CURRENTLY INCARCERATED, THE INMATE'S
2 CRIMINAL HISTORY, THE INMATE'S INSTITUTIONAL CONDUCT, AND OTHER
3 RELEVANT FACTORS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (4) THE BOARD MAY CONSIDER THE APPLICATION FOR PAROLE
25 PURSUANT TO THE PROCEEDINGS SET FORTH IN SECTION 17-2-201 (4) (f) OR
26 17-2-201 (9) (a). ==

27 (5) FOR INMATES WHO WERE PAROLE ELIGIBLE BEFORE THE

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

6 **SECTION 9. Appropriation.** (1) In addition to any other
7 appropriation, there is hereby appropriated, out of any moneys in the
8 general fund not otherwise appropriated, to the department of corrections,
9 for allocation to the parole board, contract services, for training and
10 contract administrative and release hearing officers, for the fiscal year
11 beginning July 1, 2011, the sum of forty-three thousand eight hundred
12 dollars (\$43,800), or so much thereof as may be necessary, for the
13 implementation of this act.

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

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

21 (a) House Bill 11-1064 is enacted at the first regular session of the
22 sixty-eighth general assembly and becomes law; and

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

1 state fiscal year 2011-12, as reflected in section 9 of this act; and

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

5 **SECTION 11. 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.