

**First Regular Session  
Seventieth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

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

LLS NO. 15-0052.01 Richard Sweetman x4333

**HOUSE BILL 15-1122**

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**HOUSE SPONSORSHIP**

**Fields,**

**SENATE SPONSORSHIP**

**(None),**

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**House Committees**  
Judiciary

**Senate Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING LIMITING ELIGIBILITY FOR PAROLE, AND, IN**  
102              **CONNECTION THEREWITH, AMENDING CERTAIN PROVISIONS**  
103              **CONCERNING THE REVOCATION OF PAROLE FOR CERTAIN**  
104              **INMATES.**

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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>.)*

An inmate is ineligible for parole if the inmate:

!      Has been convicted of a class 1 code of penal discipline violation within the 12 months preceding his or her next

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.*

- ordinarily scheduled parole hearing;
- ! Has, within the 12 months preceding his or her next ordinarily scheduled parole hearing, declined in writing to participate in programs that have been recommended and made available to him or her; or
- ! Has a statutory discharge date or mandatory release date within 6 months following his or her ordinarily scheduled parole hearing.

If 2 schedules with different parole application hearing dates apply to the same inmate, the state board of parole (board) shall give effect to the schedule that includes the later parole application hearing date.

If the board revokes a parolee's parole upon the request of the parolee, the board may revoke such parole for a period of time up to, and including, the remainder of the parolee's sentence.

Under current law, the board must hold parole revocation hearings for parolees who are arrested for certain serious offenses unless a board member is advised that a criminal charge is still pending and no technical violations are alleged. The bill eliminates this condition concerning the allegation of technical violations.

The bill clarifies that:

- ! If an inmate applying for parole was convicted of any class 3 sexual offense, a habitual criminal offense, or any offense requiring the inmate's designation as a sex offender, the board need only reconsider granting parole to such inmate once every 3 years; and
- ! If an inmate applying for parole was convicted of a class 1 or class 2 felony that constitutes a crime of violence, the board need only reconsider granting parole to such inmate once every 5 years.

The bill makes conforming amendments.

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) The release of an inmate on parole at the discretion of the state  
5 board of parole is not a right but a privilege;

6 (b) Current law requires the state board of parole to schedule and  
7 conduct parole application hearings for inmates who have recently  
8 received disciplinary actions due to poor institutional behavior and for

1 inmates who have refused treatment and programs that have been offered  
2 to them;

3 (c) Because the awarding of parole to such inmates is extremely  
4 unlikely, such parole application hearings frequently:

5 (I) Create undue stress and anxiety for the victims of the inmates'  
6 crimes; and

7 (II) Create undue expectations and hope on the part of the inmates  
8 and their families.

9 (2) Now, therefore, the general assembly declares that it is in the  
10 best interest of the general public to devise a scheme by which an inmate's  
11 parole eligibility, and victim notification related to such eligibility, are  
12 tied to the inmate's acceptable institutional conduct.

13 **SECTION 2.** In Colorado Revised Statutes, 17-2-201, **amend** (4)  
14 (f) (I) and (9) (a) (I); and **add** (3.7) as follows:

15 **17-2-201. State board of parole - definitions.**

16 (3.7) (a) NOTWITHSTANDING ANY OTHER PROVISION IN THIS SECTION, AN  
17 INMATE IS NOT ELIGIBLE FOR PAROLE IF THE INMATE:

18 (I) HAS BEEN CONVICTED OF A CLASS 1 CODE OF PENAL DISCIPLINE  
19 VIOLATION WITHIN THE TWELVE MONTHS PRECEDING HIS OR HER NEXT  
20 ORDINARILY SCHEDULED PAROLE HEARING; OR

21 (II) HAS, WITHIN THE TWELVE MONTHS PRECEDING HIS OR HER  
22 NEXT ORDINARILY SCHEDULED PAROLE HEARING, DECLINED IN WRITING TO  
23 PARTICIPATE IN PROGRAMS THAT HAVE BEEN RECOMMENDED AND MADE  
24 AVAILABLE TO THE INMATE.

25 (b) AN INMATE WHO IS DESCRIBED BY SUBPARAGRAPH (I) OR (II)  
26 OF PARAGRAPH (a) OF THIS SUBSECTION (3.7) MAY BE ELIGIBLE FOR  
27 PAROLE WHEN THE APPLICABLE CONDITION HAS NOT BEEN IN EFFECT FOR

1 THE PRECEDING TWELVE MONTHS.

2 (c) IF TWO SCHEDULES WITH DIFFERENT PAROLE APPLICATION  
3 HEARING DATES APPLY TO THE SAME INMATE, THE BOARD SHALL GIVE  
4 EFFECT TO THE SCHEDULE THAT INCLUDES THE LATER PAROLE  
5 APPLICATION HEARING DATE.

6 (d) THE BOARD SHALL PROVIDE VICTIM NOTIFICATION IN  
7 ACCORDANCE WITH SECTION 24-4.1-302.5, C.R.S., FOR ALL PAROLE  
8 APPLICATION HEARINGS FOR WHICH THE INMATE IS ELIGIBLE FOR PAROLE,  
9 AS SUCH ELIGIBILITY IS DETERMINED PURSUANT TO THE PROVISIONS OF  
10 THIS SECTION.

11 (e) AS USED IN THIS SUBSECTION (3.7), "ELIGIBLE FOR PAROLE"  
12 MEANS AN INMATE IS ELIGIBLE TO MAKE APPLICATION TO THE BOARD FOR  
13 PAROLE AND INCLUDES AN INMATE'S INITIAL APPLICATION AS WELL AS ANY  
14 SUBSEQUENT APPLICATION FOR PAROLE REVIEW OR RECONSIDERATION.

15 (4) The board has the following powers and duties:

16 (f) (I) To conduct a parole release review in lieu of a hearing,  
17 without the presence of the inmate, if:

18 (A) The application for release is for special needs parole pursuant  
19 to section 17-22.5-403.5, and victim notification is not required pursuant  
20 to section 24-4.1-302.5, C.R.S.; or

21 (B) A detainer from the United States immigration and customs  
22 enforcement agency has been filed with the department, the inmate meets  
23 the criteria for the presumption of parole in section 17-22-404.8, and  
24 victim notification is not required pursuant to section 24-4.1-302.5,  
25 C.R.S.; OR

26 (C) THE INMATE HAS A STATUTORY DISCHARGE DATE OR  
27 MANDATORY RELEASE DATE WITHIN SIX MONTHS AFTER HIS OR HER NEXT

1 ORDINARILY SCHEDULED PAROLE HEARING AND VICTIM NOTIFICATION IS  
2 NOT REQUIRED PURSUANT TO SECTION 24-4.1-302.5, C.R.S.

3 (9) (a) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (I)  
4 OF PARAGRAPH (f) OF SUBSECTION (4) OF THIS SECTION, whenever an  
5 inmate initially applies for parole, the board shall conduct an interview  
6 with the inmate. At such interview at least one member of the board shall  
7 be present. Any final action on an application shall not be required to be  
8 made in the presence of the inmate or parolee, and any such action shall  
9 require the concurrence of at least two members of the board. When the  
10 two members do not concur, a third member shall review the record and,  
11 if deemed necessary, interview the applicant and cast the deciding vote.  
12 Any subsequent application for parole shall be considered by the board  
13 in accordance with the provisions of paragraph (a) of subsection (4) of  
14 this section.

15 **SECTION 3.** In Colorado Revised Statutes, 17-2-103, **amend**  
16 (11) (b) (II) introductory portion as follows:

17 **17-2-103. Arrest of parolee - revocation proceedings.**  
18 (11) (b) (II) If the board determines that the parolee has violated any  
19 condition of parole other than commission of a crime OR THE BOARD  
20 GRANTS THE PAROLEE'S REQUEST TO REVOKE HIS OR HER PAROLE, and THE  
21 PAROLEE is not subject to the provisions of subparagraph (I), (III), (III.5),  
22 (IV), or (VI) of this paragraph (b), the board may:

23 **SECTION 4.** In Colorado Revised Statutes, 17-2-103.5, **amend**  
24 (1) (c) as follows:

25 **17-2-103.5. Revocation proceedings - parolee arrested for**  
26 **certain offenses.** (1) (c) A hearing relating to such revocation shall be  
27 held, unless a board member is advised that a criminal charge is still

1 pending ~~and no technical violations are alleged~~, or where the parolee does  
2 not request revocation, in which case the hearing shall be delayed until a  
3 disposition concerning the criminal charge is reached.

4 **SECTION 5.** In Colorado Revised Statutes, 17-22.5-403, **amend**  
5 (5), (6), (7), and (8) (b) as follows:

6 **17-22.5-403. Parole eligibility.** (5) For any offender who is  
7 incarcerated for an offense committed prior to July 1, 1993, upon  
8 application for parole, the state board of parole, working in conjunction  
9 with the department and using the guidelines established pursuant to  
10 section 17-22.5-404, shall determine whether or not to grant parole and,  
11 if granted, the length of the period of parole. The state board of parole  
12 may set the length of the period of parole for any time period up to the  
13 date of final discharge as determined in accordance with section  
14 17-22.5-402. If an application for parole is refused by the state board of  
15 parole, the state board of parole shall reconsider within one year  
16 thereafter whether such inmate should be granted parole. The state board  
17 of parole shall continue such reconsideration each year thereafter until  
18 such inmate is granted parole or until such inmate is discharged pursuant  
19 to law; except that:

20 (a) If the inmate applying for parole was convicted of ~~a class 1 or~~  
21 ~~class 2 crime of violence, as defined in section 18-1.3-406, C.R.S.,~~ any  
22 class 3 sexual offense described in part 4 of article 3 of title 18, C.R.S.,  
23 a habitual criminal offense as defined in section 18-1.3-801 (2.5), C.R.S.,  
24 or of any offense subject to the requirements of section 18-1.3-904,  
25 C.R.S., the board need only reconsider granting parole to such inmate  
26 once every three years, until the board grants such inmate parole or until  
27 such inmate is discharged pursuant to law; OR

1 (b) IF THE INMATE WAS CONVICTED OF A CLASS 1 OR CLASS 2  
2 FELONY THAT CONSTITUTES A CRIME OF VIOLENCE, AS DEFINED IN SECTION  
3 18-1.3-406, C.R.S., THE BOARD NEED ONLY RECONSIDER GRANTING  
4 PAROLE TO SUCH INMATE ONCE EVERY FIVE YEARS, UNTIL THE BOARD  
5 GRANTS SUCH INMATE PAROLE OR UNTIL SUCH INMATE IS DISCHARGED  
6 PURSUANT TO LAW.

7 (6) For persons who are granted parole pursuant to subsection (5)  
8 of this section, the division of adult parole shall provide parole  
9 supervision and assistance in securing employment, housing, and such  
10 other services as may effect the successful reintegration of such offender  
11 into the community while recognizing the need for public safety. The  
12 conditions for parole for any such offender under this subsection (6) shall  
13 be established pursuant to section 17-22.5-404 by the state board of  
14 parole prior to such offender's release from incarceration. Upon a  
15 determination IN A PAROLE REVOCATION PROCEEDING that the conditions  
16 of parole have been violated, ~~in a parole revocation proceeding~~ the state  
17 board of parole shall continue the parole in effect, modify the conditions  
18 of parole if circumstances then shown to exist require such modifications,  
19 which circumstances shall be set forth in writing, or revoke the parole and  
20 order the return of the offender to a place of confinement designated by  
21 the executive director for any period of time up to the period remaining  
22 on such person's sentence, INCLUDING THE REMAINDER OF THE  
23 OFFENDER'S NATURAL LIFE IF APPLICABLE, until the discharge date as  
24 determined by section 17-22.5-402 or one year, whichever is longer. In  
25 computing the period of reincarceration for an offender other than an  
26 offender sentenced for a nonviolent felony offense, as defined in section  
27 17-22.5-405 (5), the time between the offender's release on parole and

1 return to custody in Colorado for revocation of such parole shall not be  
2 considered to be part of the term of the sentence. The state board of  
3 parole may discharge an offender granted parole under this section at any  
4 time during the term of parole upon a determination that the offender has  
5 been sufficiently rehabilitated and reintegrated into society and can no  
6 longer benefit from parole supervision.

7 (7) (a) For any offender who is incarcerated for an offense  
8 committed on or after July 1, 1993, upon application for parole, the state  
9 board of parole, working in conjunction with the department and using  
10 the guidelines established pursuant to section 17-22.5-404, shall  
11 determine whether or not to grant parole. The state board of parole, if it  
12 determines that placing an offender on parole is appropriate, shall set the  
13 length of the period of parole at the mandatory period of parole  
14 established in section 18-1.3-401 (1) (a) (V) or 18-1.3-401.5 (2) (a),  
15 C.R.S., except as otherwise provided for specified offenses in section  
16 17-2-201 (5) (a), (5) (a.5), and (5) (a.7). ~~If an application for parole is  
17 refused by the state board of parole, the state board of parole shall  
18 reconsider within one year thereafter whether such inmate should be  
19 granted parole. The state board of parole shall continue such  
20 reconsideration each year thereafter until such inmate is granted parole or  
21 until such inmate is discharged pursuant to law; except that, if the inmate  
22 applying for parole was convicted of any sex offense, as defined in  
23 section 18-1.3-1003 (5), C.R.S., a habitual criminal offense as defined in  
24 section 18-1.3-801 (2.5), C.R.S., or of any offense subject to the  
25 requirements of section 18-1.3-904, C.R.S., the board need only  
26 reconsider granting parole to such inmate once every three years, until the  
27 board grants such inmate parole or until such inmate is discharged~~

1 ~~pursuant to law, or if the person applying for parole was convicted of a~~  
2 ~~class 2 felony that constitutes a crime of violence, as defined in section~~  
3 ~~18-1.3-406, C.R.S., the board need only reconsider granting parole to~~  
4 ~~such person once every five years, until the board grants such person~~  
5 ~~parole or until such person is discharged pursuant to law.~~

6 (b) Notwithstanding the provisions of paragraph (a) of this  
7 subsection (7), for any sex offender, as defined in section 18-1.3-1003  
8 (4), C.R.S., who is sentenced pursuant to the provisions of part 10 of  
9 article 1.3 of title 18, C.R.S., for commission of a sex offense committed  
10 on or after November 1, 1998, the state board of parole shall determine  
11 whether or not to grant parole as provided in section 18-1.3-1006, C.R.S.  
12 If the state board of parole determines that placing a sex offender on  
13 parole is appropriate, it shall set an indeterminate period of parole as  
14 provided in section 18-1.3-1006, C.R.S. ~~If the state board of parole does~~  
15 ~~not release a sex offender on parole, it shall reconsider release on parole~~  
16 ~~at least once every three years until the state board of parole determines~~  
17 ~~the sex offender meets the criteria for parole specified in section~~  
18 ~~18-1.3-1006 (1), C.R.S.~~

19 (8) (b) For sex offenders, as defined in section 18-1.3-1003 (4),  
20 C.R.S., who are convicted of an offense committed on or after November  
21 1, 1998, and who are granted parole pursuant to paragraph (b) of  
22 subsection (7) of this section, the division of adult parole shall provide  
23 parole supervision and assistance in securing employment, housing, and  
24 such other services as may affect the successful reintegration of the sex  
25 offender into the community while recognizing the need for public safety.  
26 The conditions for parole for any sex offender shall be established  
27 pursuant to section 18-1.3-1006, C.R.S., and section 17-22.5-404 by the

1 state board of parole prior to the sex offender's release from incarceration.  
2 Upon a determination in a parole revocation proceeding that the sex  
3 offender has violated the conditions of parole, the state board of parole  
4 shall continue the parole in effect, modify the conditions of parole if  
5 circumstances then shown to exist require such modifications, which  
6 circumstances shall be set forth in writing, or revoke the parole and order  
7 the return of the sex offender to a place of confinement designated by the  
8 executive director for any period of time up to the remainder of the sex  
9 offender's natural life. The revocation hearing shall be held and the state  
10 board of parole shall make its determination as provided in section  
11 18-1.3-1010, C.R.S. ~~Following reincarceration, the sex offender's~~  
12 ~~eligibility for parole shall be determined pursuant to section 18-1.3-1006,~~  
13 ~~C.R.S.~~ The state board of parole may discharge a sex offender from  
14 parole as provided in section 18-1.3-1006 (3), C.R.S.

15 **SECTION 6.** In Colorado Revised Statutes, 18-1.3-1006, **amend**  
16 (1) (c) as follows:

17 **18-1.3-1006. Release from incarceration - parole - conditions.**

18 (1) (c) If the parole board does not release the sex offender on parole  
19 pursuant to paragraph (a) of this subsection (1), the parole board shall  
20 review such denial ~~at least once every three years until it determines that~~  
21 ~~the sex offender meets the criteria for release on parole specified in~~  
22 ~~paragraph (a) of this subsection (1)~~ PURSUANT TO THE TIME PERIODS SET  
23 FORTH IN SECTION 17-2-201 (4) (a), C.R.S. At each review, the department  
24 shall make recommendations, based on the criteria established by the  
25 management board pursuant to section 18-1.3-1009, concerning whether  
26 the sex offender should be released on parole.

27 **SECTION 7.** In Colorado Revised Statutes, 18-1.3-401, **amend**

1 (1) (a) (V) (B) as follows:

2 **18-1.3-401. Felonies classified - presumptive penalties.**

3 (1) (a) (V) (B) Any person who is paroled pursuant to section  
4 17-22.5-403, C.R.S., or any person who is not paroled and is discharged  
5 pursuant to law, shall be subject to the mandatory period of parole  
6 established pursuant to sub-subparagraph (A) of this subparagraph (V).  
7 Such mandatory period of parole may not be waived by the offender or  
8 waived or suspended by the court and shall be subject to the provisions  
9 of ~~section 17-22.5-403 (8)~~ SECTION 17-22.5-403 (6), C.R.S., which  
10 permits the state board of parole to discharge the offender at any time  
11 during the term of parole upon a determination that the offender has been  
12 sufficiently rehabilitated and reintegrated into society and can no longer  
13 benefit from parole supervision.

14 **SECTION 8.** In Colorado Revised Statutes, 18-1.3-401.5, **amend**  
15 (3) as follows:

16 **18-1.3-401.5. Drug felonies classified - presumptive and**  
17 **aggravated penalties.** (3) A person who is paroled pursuant to section  
18 17-22.5-403, C.R.S., or any person who is not paroled and is discharged  
19 pursuant to law, shall be subject to the mandatory period of parole  
20 established pursuant to paragraph (a) of subsection (2) of this section. The  
21 mandatory period of parole may not be waived by the offender or waived  
22 or suspended by the court and is subject to the provisions of ~~section~~  
23 ~~17-22.5-403 (8)~~ SECTION 17-22.5-403 (6), C.R.S., which permits the state  
24 board of parole to discharge the offender at any time during the term of  
25 parole upon a determination that the offender has been sufficiently  
26 rehabilitated and reintegrated into society and can no longer benefit from  
27 parole supervision.

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