

# CORRECTIONS

<b>Correctional Facilities</b>		
<b>SB 11-214</b> (Enacted) <i>Decommission Fort Lyon Prison</i>	<b>SB 11-217</b> (Enacted) <i>Reduction Juvenile Detention Bed Cap</i>	
<b>Corrections Administrations and Procedures</b>		
<b>SB 11-049</b> (Postponed Indefinitely) <i>Ban On Use of Prone Restraints</i>	<b>SB 11-104</b> (Enacted) <i>Sunset Community Accountability Program Advisory Board</i>	<b>SB 11-176</b> (Enacted) <i>Solitary Confinement Specific Population</i>
<b>HB 11-1009</b> (Enacted) <i>Interstate Compact Parolee Residency</i>	<b>HB 11-1085</b> (Enacted) <i>Community Corrections Referral by DOC</i>	<b>HB 11-1287</b> (Postponed Indefinitely) <i>Colorado Juveniles Equal Protection Act</i>
<b>Parole</b>		
<b>SB 11-241</b> (Enacted) <i>Parole Board Changes</i>	<b>SB 11-257</b> (Postponed Indefinitely) <i>Effective Parole Supervision</i>	<b>HB 11-1064</b> (Enacted) <i>Parole Presumption Certain Drug Offender</i>

The General Assembly considered a variety of legislation related to corrections during the 2011 session. Major topics addressed included correctional facilities, corrections administration and procedures, and parole.

## Correctional Facilities

In 2011, the General Assembly enacted two bills concerning correctional facilities. Both bills are related to cost savings in the prison system. **Senate Bill 11-214** modifies various statutory provisions to implement the decommissioning of the Fort Lyon Correctional Facility. The bill repeals statutes by which the state accepted the conveyance of the Fort Lyon Correctional Facility property from the federal government, returning the property to federal title and control. The Long Appropriations Bill from FY 2011-12 ceases operations at the Fort Lyon Correctional Facility on March 1, 2012, resulting in a savings of \$379,378 General Fund and cash funds in FY 2011-12 and \$6,310,714 General Fund and cash funds in FY 2012-13. **Senate Bill 11-217** reduces the juvenile detention bed cap for the Division of Youth Corrections in the Department of Human Services from 479 beds to 422 beds beginning in FY 2011-12. A cap on juvenile detention beds was first imposed in FY 2003-04. In the last several years, due to declines in the number of youth arrested and due to increases in the use of community-based alternatives, the use of secure detention beds has significantly declined.

## Corrections Administration and Procedures

**Administrative matters.** The legislature enacted two bills concerning administrative matters related to corrections during the 2011 legislative session. **Senate Bill 11-104** repeals the Community Accountability Program Advisory Board. The board was created to advise the Community

Accountability Program in the Division of Youth Corrections in the Department of Human Services on a range of issues, such as selection criteria for juveniles sentenced to the program, use of the program as a sentencing option, policy issues, and support services. The advisory board has not received funding since FY 2002-03. **House Bill 11-1009** changes the crime of unauthorized residency by a parolee or probationer from another state to the crime of unauthorized residency by an adult offender from another state in order to reflect the provisions of the Interstate Compact for Adult Offender Supervision, to which Colorado is a signatory. The bill also repeals the Uniform Act for Out-of-state Parolee Supervision.

**Community placement.** The General Assembly considered two bills related to community placement. **House Bill 11-1085** clarifies that the executive director of the Department of Corrections may refer for placement in community corrections programs offenders who have displayed acceptable institutional behavior, do not have an active felony warrant or detainer, and have not refused community placement according to the following timeline:

- an offender who successfully completes a regimented inmate discipline program may be referred no more than 28 months prior to his or her parole eligibility date;
- an offender who is not serving a sentence for a crime of violence may be referred no more than 16 months prior to his or her parole eligibility date; and
- all other offenders may be referred no more than 180 days prior to their parole eligibility date.

An offender who is serving a sentence for a class 1 or class 2 felony that is a crime of violence (excluding escape), and who has been denied parole at least once, and whose most recent parole hearing has been deferred for at least 36 months, may not be referred for placement in community corrections earlier than six months prior to his or her second or subsequent parole hearing date. Current law is silent on the subject of referrals to community corrections for individuals who have been denied parole one or more times.

**House Bill 11-1287**, which was postponed indefinitely, would have required the DOC to consider for community placement any individual who:

- was charged as an adult, but who was a juvenile at the time the offense was committed (a process known as direct filing);
- was currently serving a sentence in the DOC;
- was convicted of a felony offense; and
- remained in the custody of the DOC on the felony conviction for at least 20 years.

Current law requires that all offenders who were charged by direct file and who were sentenced to a term of imprisonment greater than 40 years are eligible for parole after 40 years (unless otherwise eligible prior to that time). This provision currently applies to offenses committed on or after July 1, 2006. House Bill 11-1287 would have extended this eligibility to all covered offenders, regardless of when the offense was committed.

**Procedures concerning certain inmates.** The legislature considered two bills addressing corrections procedures for certain inmates. **Senate Bill 11-176** permits the accrual of earned time for inmates who have been housed in administrative segregation (AS) for at least 90 days. According to current DOC regulations, offenders who are classified as ineligible for earned time;

such offenders must remain below AS classification for one full month before becoming eligible. Senate Bill 11-176 allows the DOC to develop a modified criteria for the accrual of earned time by AS inmates. The warden of each facility is given the authority to take measures to restrict the confinement of any inmate who actively participates in security threat group behavior, which is defined by the bill. Finally, the bill specifies information to be included in a written report to the House and Senate Judiciary committees concerning the status of AS, reclassification efforts for offenders with mental illnesses or developmental disabilities, and any internal reform efforts.

**Senate Bill 11-049**, which was postponed indefinitely, would have prohibited the use of prone restraints by the Department of Human Services, a county Department of Human Services, and by the staff of such entities. The bill defined "prone restraint" and would have prohibited the use of a prone restraint on a person with a developmental disability. In an earlier draft, the bill also would have prohibited the DOC from using a prone restraint to restrain a person; this provision was deleted by the Senate.

## **Parole**

The General Assembly considered three bills related to parole and the State Board of Parole during the 2011 legislative session; two bills were enacted, while a third bill was postponed indefinitely. Two bills recommended changes to specific types of parole, special needs parole and statutory mandatory parole, while a third bill addressed eligibility for parole for certain drug offenders.

Under current law, some inmates with serious and debilitating medical conditions may be classified as "special needs offenders" for the purposes of special needs parole consideration. **Senate Bill 11-241** expands the definition of a special needs offender and specifies new procedures concerning the operation of and referral to special needs parole. The bill also creates a presumption in favor of granting parole for an inmate with a detainer on file from the United States Immigration and Customs Enforcement Agency, provided that the inmate meets certain requirements. Finally, the bill specifies minimum professional qualifications and training requirements for the members of the State Board of Parole, administrative hearing officers, and release hearing officers. **Senate Bill 11-257**, which was postponed indefinitely, would have eliminated the statutory mandatory parole period for offenses committed on or after July 1, 2011. Under current law, individuals sentenced to the DOC may be granted parole prior to their mandatory release date at the discretion of the State Board of Parole. Additionally, when a sentence is discharged, either through discretionary parole or through the completion of a prison term, offenders are required to serve a mandatory period of parole ranging from one to five years, depending on the level of the offense.

A third bill, **House Bill 11-1064**, creates a presumption, subject to the discretion of the State Board of Parole, in favor of granting parole to an inmate who has reached his or her parole eligibility date and who is serving a sentence for certain drug-related crimes, provided that the offender meets other requirements specified in the bill. If the inmate is granted parole, the parole board is required to order the parolee to participate in substance abuse treatment consistent with his or her needs.