



Colorado Legislative Council Staff

Room 029 State Capitol, Denver, CO 80203-1784
(303) 866-3521 • FAX: 866-3855 • TDD: 866-3472
www.colorado.gov/lcs
E-mail: lcs.ga@state.co.us

MEMORANDUM

September 25, 2013

TO: Representative Daniel Kagan
FROM: Hillary Smith, Senior Research Analyst, 303-866-3277
SUBJECT: Overview of Process for Referrals to Community Corrections

Summary

This memorandum summarizes the process and time frames for the referral of offenders to community corrections. The memorandum is intended to provide additional background to the information distributed to the Joint Judiciary Committee at its hearings on September 26, 2013, and September 27, 2013.

Referral to Community Corrections

Colorado's community corrections system consists of specific halfway house facilities that provide residential and nonresidential services to convicted offenders.¹ Examples of such services include monitoring, oversight of community service, programs and services to aid offenders in obtaining employment, vocational training programs, and treatment programs. The facilities receive state funds but are based and operated in local communities and are overseen by a local community corrections board (CCB). A CCB has the authority to accept or reject any offender referred for placement in a community corrections program under its jurisdiction. The Colorado Department of Corrections (DOC) gives the first right to refuse placement of an offender to the CCB and community corrections programs in the community where the offender intends to reside after release.

Types of offenders considered for community corrections placement. Four different types of offenders are eligible for consideration for community corrections placement: diversion offenders, probationers, transition offenders, and parolees. Table 1 provides a definition of each type of offender and explains how often each type of offender is eligible for consideration for community corrections placement.

¹Section 17-27-101, *et seq.*, C.R.S.

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Table 1
Eligibility for Consideration for Community Corrections Placement
by Type of Offender

| Type of Offender | Definition | Eligibility for Consideration for Community Corrections Placement |
|----------------------------|--|---|
| Diversion offender | Diversion offenders are not in prison. Rather, they are at the sentencing phase of a felony case, and seek to be directly sentenced by a district judge to community corrections instead of being sentenced to the Department of Corrections. If accepted to a community corrections program, diversion offenders are under the jurisdiction of the Probation Division of the Colorado Judicial Branch. | Diversion offenders are typically considered for community corrections placement only once. If the offender is not accepted, it is likely that he or she will be sentenced to the Department of Corrections. After that point, a diversion offender may become a transition offender. |
| Probationer | Probationers who are at risk of revocation are eligible to be placed in community corrections for stabilization and more intensive supervision. Probationers are under the jurisdiction of the Probation Division of the Colorado Judicial Branch. | If a probationer is rejected by a community corrections board, he or she will be resentenced. |
| Transition offender | Transition offenders are in prison. A transition offender is considered for community corrections placement on a time line based on statutory and regulatory guidelines. Transition offenders are not yet on parole, nor are they generally considered for parole until after they have completed a successful transition through community corrections. Transition offenders are under the jurisdiction of the DOC. | Transition offenders are usually referred to be considered for community corrections placement no more often than once every six months. In order to be referred for consideration, an offender must meet certain requirements. |
| Parolee | The Parole Board has the authority to refer parolees to community corrections as a condition of release to parole or as a modification of the conditions of parole after release. This option is often used to stabilize parolees who are exhibiting unstable behavior. Parolees are under the jurisdiction of the DOC. | Referral to community corrections occurs prior to parole, so parolees are on the same referral time line as transition offenders. |

Source: Colorado Department of Public Safety

Eligibility and time frames for consideration for community corrections placement.

Under state law, an offender who does not have an active felony warrant or detainer, has not refused community corrections placement, and displays acceptable institutional behavior is eligible for consideration for community corrections placement within 180 days of his or her parole eligibility date (PED). For initial referrals to community corrections, offenders who meet certain other requirements may be referred for placement in a community corrections program no more than 16 months prior to the offender's PED, provided that the offender is not serving a sentence for a crime of violence.²

State law and DOC administrative regulations (ARs) provide additional guidelines depending on an offender's crime and behavior. Prior to consideration by a CCB, DOC case managers are responsible for reviewing an offender's eligibility for placement in community corrections and for referring an offender to the Division of Adult Parole. The case manager is responsible for completing an analysis of the offender based on case material and his or her knowledge of the offender. The case manager must review at least the following information:

²Section 18-1.3-301 (2) (b), C.R.S.

- the diagnostic summary;
- the admission data summary
- the pre-sentence investigation report (if available);
- performance assessment summaries (if available);
- state and federal criminal history reports;
- a mental health transition report; and
- the mittimi (court orders concerning an offender's commitment to prison).

The time frame for an offender's referral to the division is earlier than the time frame for an offender's eligibility for placement to allow the CCB time to review the offender and make a decision regarding his or her placement. DOC AR 250-03 and state law specify the following time frames for a case manager to refer an offender to the division:

- an offender who has been convicted of a violent offense and who has demonstrated acceptable institutional behavior must be referred to the division nine months prior to his or her PED. Placement at a community corrections center may occur at six months prior to the PED;
- an offender who has not been convicted of a violent offense and who has demonstrated acceptable institutional behavior must be referred to the division 19 months prior to his or her PED. Placement at a community corrections center may occur at 16 months prior to the PED;
- an offender who is serving a sentence for a class 1 or class 2 felony that constitutes a crime of violence, excluding escape, whose parole hearing has been deferred for at least 36 months, and who demonstrates acceptable institutional behavior may be referred to the division no earlier than nine months prior to his or her next parole hearing, and may be placed no earlier than six months prior to his or her next parole hearing;
- an offender who is eligible for a first referral to community corrections and who has served less than six months in the DOC must be referred to the division. An offender considered for re-referral must have at least 120 days to his or her mandatory release date;
- a revoked parolee is not eligible for referral to the division until he or she has completed six months in a DOC facility and maintains eligibility;
- an offender who has regressed from community corrections (meaning that the offender has been found guilty of a violation and has been brought back to prison) is not eligible for referral to the division until he or she has completed three months in a DOC facility and maintains eligibility; and
- an offender who has regressed from community corrections due to a serious code of penal discipline conviction must complete one year in a DOC facility and demonstrate significant change prior to being eligible for referral to the division.

At the discretion of an offender's case manager, an offender may be re-referred for community corrections placement at least once every six months if the following conditions are met:

- six months have passed since the offender's last referral denial date;
- the offender continues to display acceptable institutional behavior; and
- the offender has demonstrated significant changes such as participation in or completion of DOC-recommended programs, as documented by a case manager.

At the discretion of a case manager, an offender may also be re-referred to community corrections if the offender continues to display acceptable institutional behavior and it is 14 months prior to his or her estimated mandatory release date.

Placement considerations. Before any offender can be placed in a community corrections program, he or she must be approved by the CCB for that program. The following factors also are considered when placing an offender in community corrections:

- a primary referral must be submitted to the CCB located in, or at the nearest county of, the offender's intended parole destination;
- whether the offender is determined to be an appropriate candidate for specialized programs; and
- an alternate referral may be made depending on: the county of conviction; case manager requests; and available bed space.

Community corrections board hearings. Offenders who are eligible for consideration for community corrections placement generally have their applications reviewed at a CCB hearing. According to the Department of Public Safety, full CCB hearings typically occur once a month, unless the board has no business before it. Offenders who are not considered to be high risk may be eligible for processing that occurs more frequently, as explained below.

Low-risk applicants. Many CCBs have basic criteria that allow for automatic acceptance of low-risk diversion or transition applicants. An example of such a person is a diversion client with two felony theft convictions and no history of violence who has been referred to community corrections because he or she has failed probation. Such offenders are generally processed without a board meeting.

Applicants who are neither low- nor high-risk. Most CCBs have screening subcommittees that review applicants who may exceed basic acceptance criteria, but are still appropriate for community corrections screening. Depending on the judicial district and its volume, such subcommittees may meet once or twice a month.

High-risk applicants. Diversion or transition offenders who are deemed to be high-risk require screening by the full CCB. Full board meetings to consider such referrals typically take place monthly.

Upon acceptance, an offender is placed on a wait list. When bed space becomes available, the next available offender from the wait list will be placed in the program, pending review by his or her case manager.

Assessment upon intake to a community corrections program. When an offender is placed in a community corrections program, his or her community parole officer (CPO) is responsible for determining the level of risk the offender poses and for developing strategies to minimize that risk. The CPO may consider the following factors:

- the offender's level of risk and need, as measured by the Level of Supervision Inventory-Revised (LSI-R) instrument;
- admission data summary;
- the offender's initial needs assessment or progress assessment summary;
- any diagnoses related to psychological, sexual violence, substance abuse, work/education, or medical needs;
- the pre-sentence investigation report;
- the mittimus;
- DOC violations;
- criminal history; and
- mental health.³

Following this assessment, the CPO will work with community corrections staff to develop an appropriate supervision and treatment plan for the offender. While the offender is in the community corrections program, the CPO is required to meet monthly with community corrections staff concerning the offender's progress.

³DOC AR 250-15