

CORRECTIONS

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Correctional Facilities and Staff

HB 15-1269 (Enacted)
Transfer Persons To and From Correctional Facility

Youth Offenders

SB 15-182 (Enacted)
DOC Transfer Offenders to Youthful Offender System

Parole

SB 15-124 (Enacted)
Reduce Parole Revocations for Technical Violations

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Legislative Council Staff

Research Note

Bill Number: HB15-1269

Short Title: *Transfer Persons To And From Correctional Facility*

Prime Sponsors: Representative McCann and Representative Ginal
Senator Grantham

Research Analyst: Amanda King (x4332)

Current Status

This research note reflects the final version of this bill, which was signed by the Governor and became effective April 24, 2015.

Summary

The bill repeals the Department of Human Services's ability to transfer patients who are so dangerous that they cannot be safely confined in the Colorado Mental Health Institute at Pueblo or Fort Logan to a correctional facility. The Executive Director of the Department of Human Services can only transfer a person who is receiving care at the Colorado Mental Health Institute at Pueblo or Fort Logan to a correctional facility if that person is serving a criminal sentence. The Department of Corrections may only transfer an inmate who has a mental illness or developmental disability to an appropriate facility operated by the Department of Human Services for observation and stabilization if the Department of Corrections follows an established policy that provides for due process guarantees.

Background

Under Colorado law, a person alleged to be so dangerous that he or she could not be safely confined in the Colorado Mental Health Institute at Pueblo or Fort Logan could be transferred to a correctional facility with psychiatric care and treatment substantially equivalent to that provided to patients confined at the Colorado Mental Health Institute at Pueblo or Fort Logan. The Executive Director of the Department of Corrections, in coordination with the Executive Director of the Department of Human Services, can transfer an inmate who has a mental illness or developmental disability and cannot be safely confined in a correctional facility to an appropriate facility operated by the Department of Human Services for observation and stabilization. The costs associated with

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care provided in the facility operated by the Department of Human Services are charged to the Department of Human Services.

House Action

House Health, Insurance, and Environment Committee (March 26, 2015). At the hearing, representatives of the Department of Corrections and the Department of Human Services testified in support of the bill. No one testified against the bill.

The committee adopted amendment L.001 and referred the bill to the House Committee of the Whole.

Amendment L.001, removes the requirement that a person be sentenced concurrently to the Department of Human Services and the Department of Corrections to be transferred from a mental health facility to a correction facility. Such a person may be transferred if the person has been sentenced to the Department of Corrections.

House second reading (March 30, 2015). The House adopted the House Health, Insurance, and Environment Committee report and passed the bill, as amended, on second reading.

House third reading (March 31, 2015). The House passed the bill, unamended, on third reading.

Senate Action

Senate Health and Human Services Committee (April 9, 2015). At the hearing, representatives of the Department of Corrections and the Department of Human Services testified in support of the bill. No one testified against the bill. The committee referred the bill, unamended, to the Senate Committee of Whole, and recommended its placement on the consent calender.

Senate second reading (April 13, 2015). The Senate passed the bill, unamended, on second reading.

Senate third reading (April 14, 2015). The Senate passed the bill, unamended, on third reading.

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Legislative Council Staff

Research Note

Bill Number: SB15-182

Short Title: *DOC Transfer Offenders To Youthful Offender System*

Prime Sponsors: Senator Garcia
Representative Navarro

Research Analyst: Conrad Imel (x2756)

Current Status

This research note reflects the final version of the bill, which became effective on August 5, 2015.

Summary

Senate Bill 15-182 permits the executive director of the Department of Corrections (DOC) to transfer offenders sentenced to the DOC who are 24 years old or younger into and out of the youthful offender system (YOS), at the executive director's discretion.

The bill requires the DOC to develop policies and procedures for transferring offenders into the YOS and include information regarding those policies and procedures in its annual report to the Joint Judiciary Committee and any other annual YOS report. The bill prohibits the transfer of inmates into the YOS until the DOC has developed such policies and procedures.

Background

The YOS program, part of DOC, was established in 2009 for juvenile offenders convicted of adult felonies. Juveniles can be charged as an adult and sentenced to the DOC in a process known as direct-file. Because the offenders are young, YOS is better able to offer services needed by juveniles than regular DOC facilities. The mission of the program is to provide an environment that promotes self-dignity through the value of work, self-discipline, and education for the betterment of the offender upon release.

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Senate Action

Senate Judiciary Committee (March 2, 2015). The committee heard testimony in support of the bill from a representative of the DOC. A representative of the Colorado Juvenile Defender Center and the Colorado Criminal Defense Bar testified in opposition to the bill. The committee referred the bill to the Committee of the Whole with a recommendation that it be placed on the consent calendar.

Senate second reading (March 5, 2015). The Senate Committee of the Whole passed the bill on second reading.

Senate third reading (March 6, 2015). The Senate passed the bill on third reading.

Senate consideration of House Amendments (March 31, 2015). The Senate concurred with the House amendments and repassed the bill.

House Action

House Judiciary Committee (March 24, 2015). The committee heard testimony in support of the bill from a representative of the DOC; a representative of the Colorado Juvenile Defender Center testified in opposition to the bill as introduced; and a representative of the Colorado Criminal Defense Bar testified in support of the bill as amended by amendment L.002.

The committee adopted amendment L.002, which requires the DOC to develop policies and procedures for transferring offenders into the YOS and include information regarding those policies and procedures in its annual report to the Joint Judiciary Committee and any other annual YOS report. The amendment prohibits the transfer of inmates into the YOS until the DOC has developed such policies and procedures. The committee referred the bill to the Committee of the Whole.

House second reading (March 27, 2015). The House Committee of the Whole adopted the Judiciary committee report and passed the bill on second reading.

House third reading (March 30, 2015). The House passed the bill on third reading.

Relevant Research

Colorado Juvenile Justice Systems (Issue Brief): <http://tinyurl.com/prfqjkq>



Legislative Council Staff

Research Note

Bill Number: SB15-124

Short Title: *Reduce Parole Revocations For Technical Violations*

Prime Sponsors: Senator Merrifield
Representative Lee

Research Analyst: Conrad Imel (x2756)

Current Status

This research note reflects the final version of the bill, which was signed by the Governor and became effective on May 29, 2015.

Summary

Under prior law, the director of the Division of Adult Parole (division) or a community parole officer (parole officer) could arrest a parolee if he or she had probable cause to believe the parolee violated a condition of parole or that the parolee would fail or refuse to appear before the Colorado State Board of Parole (parole board) to answer to charges of violating the conditions of parole. Under Senate Bill 15-124, the division or parole officer is permitted to arrest a parolee if he or she has probable cause to believe both that the parolee violated a condition of parole and that the parolee will fail or refuse to appear. The bill also permits arrest if the division or parole officer has probable cause to believe the parolee committed a technical violation of parole, if all intermediate sanctions, treatment, and support services have been exhausted.

The bill requires parole officers to:

- consider all appropriate or available intermediate sanctions before filing a complaint for revocation of parole;
- use intermediate sanctions to address a parolee's noncompliance or seek modification of parole conditions, or both, in a manner consistent with the severity of the noncompliance and the risk level of the parolee; and
- make referrals to any needed treatment or other support services that may help a parolee comply with conditions of parole and succeed in reintegrating into society.

The bill permits parole officers, with the division's approval, to incarcerate a parolee in a county jail for up to five days as an intermediate sanction for a technical parole violation. The

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division is responsible for reimbursing county jails for beds used as an intermediate sanction. County sheriffs have the authority and discretion to determine the number of beds that are available for the Department of Corrections (DOC) to impose intermediate sanctions. If there are no beds available at a local facility, the division is authorized to use beds available in other counties if transportation is provided to the parolee. The bill permits parole officers to bypass intermediate sanctions for technical parole violations and seek parole revocation if a parolee has had up to four intermediate sanctions committing the parolee to incarceration or jail, and when the nature of the technical violation combined with the parolee's risk assessment indicates a heightened safety risk, as defined by the division's policies.

The bill requires the division to present to the House and Senate Judiciary Committees an annual status report on the effect of the bill on parole outcomes and money spent. The bill also states that for the purpose of drug testing as a condition of parole, a parolee who refuses to submit to chemical testing is deemed to have tested positive for the presence of drugs.

Background

Parole is a condition of release from prison. The division supervises persons who are approved by the parole board to be paroled from Colorado correctional facilities, and includes regular adult parole, intensive supervision program parole (high-risk population), and interstate compact parole (parolees from other states). Conditions of release from prison are made by the parole board, an independent, seven-member board appointed by the Governor and confirmed by the Colorado Senate. In the event of an alleged violation of parole conditions, the parole officer is empowered to arrest or summons the offender, which requires the offender to appear at an evidentiary hearing before the parole board.

Senate Action

Senate Judiciary Committee (February 11, 2015). The committee heard testimony in support of the bill from representatives of the County Sheriffs of Colorado, the DOC, the Latino Coalition for Community Leadership, the Second Chance Center, and the Colorado Criminal Justice Reform Coalition. There was no testimony in opposition to the bill.

The committee adopted amendments L.002 and L.003, which amended the bill to:

- remove certain language regarding compliance with division policies;
- clarify that parole officers must utilize intermediate sanctions to address parolees' noncompliance;
- permit up to five days of confinement for a technical violation of parole;
- authorize the sheriff of each county to determine the number of jail beds available to the DOC for the purpose of imposing an intermediate sanction; and
- make technical corrections to the bill.

The committee referred the bill, as amended, to the Senate Appropriations Committee.

Senate Appropriations Committee (April 17, 2015). The Appropriations Committee adopted amendment J.004, which amended the bill to make appropriations to DOC and DPS. The committee referred the bill to the Senate Committee of the Whole.

Senate second reading (April 22, 2015). The Senate Committee of the Whole adopted the Judiciary Committee report and amendment L.006, which amended the Appropriations Committee report to reduce the appropriation. The committee also adopted amendment L.005, a technical amendment to the bill. The committee passed the bill, as amended, on second reading.

Senate third reading (April 23, 2015). The Senate adopted amendment L.007, which increased the appropriation and passed the bill, as amended, on third reading.

Senate consideration of House amendments (May 6, 2015). The Senate concurred with the House amendments and repassed the bill.

House Action

House Judiciary Committee (April 30, 2015). The committee heard testimony in support of the bill from representatives of the DOC, the County Sheriffs of Colorado, the Latino Coalition for Community, the Second Chance Center, the Colorado Criminal Justice Reform Coalition, and a private citizen. There was no testimony in opposition to the bill.

The committee adopted amendments L.008 and J.008, which amended the bill to:

- require a parole officer to consider all appropriate or available intermediate sanctions before filing a complaint for parole revocation for a non-criminal, technical violation of a parole condition;
- change the circumstances in which a parole officer may bypass the use of intermediate sanctions and file a complaint for parole revocation to include when a parolee has had up to four intermediate sanctions committing the parolee to incarceration or jail, and when the nature of the technical violation combined with the parolee's risk assessment indicates a heightened safety risk;
- reduce the appropriation; and
- include a safety clause.

The committee referred the bill, as amended, to the Appropriations Committee.

House Appropriations Committee (May 4, 2015). The committee referred the bill to the House Committee of the Whole.

House second reading (May 4, 2015). The House Committee of the Whole adopted the House Judiciary Committee report and passed the bill, as amended, on second reading.

House third reading (May 5, 2015). The House passed the bill on third reading.

Relevant Research

Legislative Council Staff, Corrections (webpage): <http://tinyurl.com/p7vt5tx>.

Background and Purpose of the Intensive Supervision Parole Program (memorandum): <http://tinyurl.com/ndbdzhv>.