

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0724.01 Jacob Baus x2173

HOUSE BILL 20-1274

HOUSE SPONSORSHIP

Soper, Bockenfeld, Liston, Williams D.

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING MATTERS RELATED TO THE AMOUNT OF TIME OF A
102 FELONY SENTENCE A PERSON IS REQUIRED TO SERVE PRIOR TO
103 BEING ELIGIBLE FOR PAROLE.

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://leg.colorado.gov>.)

The bill increases the general standard for parole eligibility from 50% to 75% of the sentence served for a class 2, class 3, class 4, class 5, or class 6 felony, or a level 1, level 2, level 3, or level 4 drug felony, or any unclassified felony.

The bill increases the standard for parole eligibility from 75% to

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

80% of the sentence served for any person convicted and sentenced for specific convictions and sentences.

The bill increases the standard for parole eligibility from 75% to 85% of the sentence served for specific convictions and sentences.

The bill extends the right of a victim to be informed of the final disposition of a case to include information, if applicable, regarding the sentence imposed upon the person and information regarding whether the person may be eligible for parole prior to serving the full sentence.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 17-22.5-403, **amend**
3 (1), (2.5), (3.5), and (4.5); and **add** (1.5), (2.7), and (3.7) as follows:

4 **17-22.5-403. Parole eligibility.** (1) Any person sentenced for a
5 class 2, class 3, class 4, class 5, or class 6 felony, or a level 1, level 2,
6 level 3, or level 4 drug felony, or any unclassified felony, ~~shall be~~
7 COMMITTED BEFORE JULY 1, 2021, IS eligible for parole after such person
8 has served fifty percent of the sentence imposed upon such person, less
9 any time authorized for earned time granted pursuant to section
10 17-22.5-405. However, the date established by this subsection (1) upon
11 which any person ~~shall be~~ IS eligible for parole may be extended by the
12 executive director for misconduct during incarceration. The executive
13 director shall promulgate rules ~~and regulations~~ concerning when and
14 under what conditions any inmate's parole eligibility date may be
15 extended. Such rules ~~and regulations shall~~ MUST be promulgated in such
16 a manner as to promote fairness and consistency in the treatment of all
17 inmates.

18 (1.5) ANY PERSON CONVICTED AND SENTENCED FOR A CLASS 2,
19 CLASS 3, CLASS 4, CLASS 5, OR CLASS 6 FELONY, OR A LEVEL 1, LEVEL 2,
20 LEVEL 3, OR LEVEL 4 DRUG FELONY, OR ANY UNCLASSIFIED FELONY,
21 COMMITTED ON OR AFTER JULY 1, 2021, IS ELIGIBLE FOR PAROLE AFTER

1 SUCH PERSON HAS SERVED SEVENTY-FIVE PERCENT OF THE SENTENCE
2 IMPOSED UPON SUCH PERSON, LESS ANY TIME AUTHORIZED FOR EARNED
3 TIME GRANTED PURSUANT TO SECTION 17-22.5-405. HOWEVER, THE DATE
4 ESTABLISHED BY THIS SUBSECTION (1.5) MAY BE EXTENDED BY THE
5 EXECUTIVE DIRECTOR FOR MISCONDUCT DURING INCARCERATION. THE
6 EXECUTIVE DIRECTOR SHALL PROMULGATE RULES CONCERNING WHEN AND
7 UNDER WHAT CONDITIONS ANY INMATE'S PAROLE ELIGIBILITY DATE MAY
8 BE EXTENDED. SUCH RULES SHALL BE PROMULGATED IN SUCH A MANNER
9 AS TO PROMOTE FAIRNESS AND CONSISTENCY IN THE TREATMENT OF ALL
10 INMATES.

11 (2.5) (a) Notwithstanding subsection (1) of this section, any
12 person convicted and sentenced for second degree murder, first degree
13 assault, first degree kidnapping unless the first degree kidnapping is a
14 class 1 felony, first degree arson, first degree burglary, or aggravated
15 robbery, committed on or after July 1, 2004, ~~shall be~~ AND BEFORE JULY
16 1, 2021, IS eligible for parole after such person has served seventy-five
17 percent of the sentence imposed upon such person, less any time
18 authorized for earned time granted pursuant to section 17-22.5-405.

19 (b) The provisions of ~~paragraph (a) of this subsection (2.5) shall~~
20 SUBSECTION (2.5)(a) OF THIS SECTION only apply to:

21 (I) A person convicted and sentenced for a crime listed in
22 ~~paragraph (a) of this subsection (2.5)~~ SUBSECTION (2.5)(a) OF THIS
23 SECTION that is a class 2 or class 3 felony offense; or

24 (II) A person convicted and sentenced for a crime listed in
25 ~~paragraph (a) of this subsection (2.5)~~ SUBSECTION (2.5)(a) OF THIS
26 SECTION that is a class 4 or class 5 felony offense, which person has
27 previously been convicted of a crime of violence as defined in section

1 18-1.3-406. ~~C.R.S.~~

2 (2.7) (a) NOTWITHSTANDING SUBSECTION (1.5) OF THIS SECTION,
3 ANY PERSON CONVICTED AND SENTENCED FOR SECOND DEGREE MURDER,
4 FIRST DEGREE ASSAULT, FIRST DEGREE KIDNAPPING UNLESS THE FIRST
5 DEGREE KIDNAPPING IS A CLASS 1 FELONY, FIRST DEGREE ARSON, FIRST
6 DEGREE BURGLARY, OR AGGRAVATED ROBBERY, COMMITTED ON OR AFTER
7 JULY 1, 2021, IS ELIGIBLE FOR PAROLE AFTER SUCH PERSON HAS SERVED
8 EIGHTY PERCENT OF THE SENTENCE IMPOSED UPON SUCH PERSON, LESS
9 ANY TIME AUTHORIZED FOR EARNED TIME GRANTED PURSUANT TO
10 SECTION 17-22.5-405.

11 (b) THE PROVISIONS OF SUBSECTION (2.7)(a) OF THIS SECTION
12 ONLY APPLY TO:

13 (I) A PERSON CONVICTED AND SENTENCED FOR A CRIME LISTED IN
14 SUBSECTION (2.7)(a) OF THIS SECTION THAT IS A CLASS 2 OR CLASS 3
15 FELONY OFFENSE; OR

16 (II) A PERSON CONVICTED AND SENTENCED FOR A CRIME LISTED IN
17 SUBSECTION (2.7)(a) OF THIS SECTION THAT IS A CLASS 4 OR CLASS 5
18 FELONY OFFENSE, AND THE PERSON HAS PREVIOUSLY BEEN CONVICTED OF
19 A CRIME OF VIOLENCE AS DEFINED IN SECTION 18-1.3-406.

20 (3.5) (a) Notwithstanding subsection (1) or (2.5) of this section,
21 any person convicted and sentenced for any crime enumerated in
22 subsection (2.5) of this section, committed on or after July 1, 2004 AND
23 BEFORE JULY 1, 2021, who has previously been convicted for a crime
24 ~~which~~ THAT would have been a crime of violence as defined in section
25 18-1.3-406, ~~C.R.S.~~, ~~shall be~~ IS eligible for parole after such person has
26 served seventy-five percent of the sentence served upon such person, at
27 which time such person shall be referred by the department to the state

1 board of parole, which may place the person on parole for the period of
2 time specified in section 18-1.3-401 (1)(a)(V). ~~C.R.S.~~ Section
3 17-22.5-402 (2) ~~shall~~ DOES not apply to any such offender.

4 (b) The provisions of ~~paragraph (a) of this subsection (3.5)~~ shall
5 SUBSECTION (3.5)(a) OF THIS SECTION only apply to:

6 (I) A person convicted and sentenced for a crime listed in
7 ~~paragraph (a) of subsection (2.5) of this section~~ SUBSECTION (2.5)(a) OF
8 THIS SECTION that is a class 2 or class 3 felony offense; or

9 (II) A person convicted and sentenced for a crime listed in
10 ~~paragraph (a) of subsection (2.5) of this section~~ SUBSECTION (2.5)(a) OF
11 THIS SECTION that is a class 4 or class 5 felony offense, which person has
12 twice previously been convicted of a crime of violence as defined in
13 section 18-1.3-406. ~~C.R.S.~~

14 (3.7) (a) NOTWITHSTANDING SUBSECTION (1.5) OR (2.7) OF THIS
15 SECTION, ANY PERSON CONVICTED AND SENTENCED FOR ANY CRIME
16 ENUMERATED IN SUBSECTION (2.7) OF THIS SECTION, COMMITTED ON OR
17 AFTER JULY 1, 2021, WHO HAS PREVIOUSLY BEEN CONVICTED FOR A CRIME
18 THAT WOULD HAVE BEEN A CRIME OF VIOLENCE AS DEFINED IN SECTION
19 18-1.3-406, IS ELIGIBLE FOR PAROLE AFTER SUCH PERSON HAS SERVED
20 EIGHTY-FIVE PERCENT OF THE SENTENCE SERVED UPON SUCH PERSON, AT
21 WHICH TIME SUCH PERSON SHALL BE REFERRED BY THE DEPARTMENT TO
22 THE STATE BOARD OF PAROLE, WHICH MAY PLACE THE PERSON ON PAROLE
23 FOR THE PERIOD OF TIME SPECIFIED IN SECTION 18-1.3-401 (1)(a)(V).
24 SECTION 17-22.5-402 (2) DOES NOT APPLY TO ANY SUCH OFFENDER.

25 (b) THE PROVISIONS OF SUBSECTION (3.7)(a) OF THIS SECTION
26 SHALL ONLY APPLY TO:

27 (I) A PERSON CONVICTED AND SENTENCED FOR A CRIME LISTED IN

1 SUBSECTION (2.7)(a) OF THIS SECTION THAT IS A CLASS 2 OR CLASS 3
2 FELONY OFFENSE; OR

3 (II) A PERSON CONVICTED AND SENTENCED FOR A CRIME LISTED IN
4 SUBSECTION (2.7)(a) OF THIS SECTION THAT IS A CLASS 4 OR CLASS 5
5 FELONY OFFENSE, AND THE PERSON HAS TWICE PREVIOUSLY BEEN
6 CONVICTED OF A CRIME OF VIOLENCE AS DEFINED IN SECTION 18-1.3-406.

7 (4.5) (a) After considering any relevant evidence presented by any
8 person or agency and considering the presumptions set forth in section
9 17-34-102 (8), the governor may grant early parole to an offender to
10 whom ~~subsection (1) or (2.5)~~ SUBSECTION (1), (1.5), (2.5), OR (2.7) of this
11 section applies when the offender successfully completes the specialized
12 program described in section 17-34-102 if, in the governor's opinion,
13 extraordinary mitigating circumstances exist and the offender's release
14 from institutional custody is compatible with the safety and welfare of
15 society.

16 (b) When an offender applies for early parole pursuant to
17 ~~paragraph (a) of this subsection (4.5)~~ SUBSECTION (4.5)(a) OF THIS
18 SECTION after having successfully completed the specialized program
19 described in section 17-34-102, the offender shall make his or her
20 application to the governor's office with notice and a copy of the
21 application sent to the state board of parole created in section 17-2-201.
22 The state board of parole shall review the offender's application and all
23 supporting documents and schedule a hearing if the board considers
24 making a recommendation for early parole, at which hearing any victim
25 must have the opportunity to be heard, pursuant to section 24-4.1-302.5
26 (1)(j). ~~C.R.S.~~ Not later than ninety days after receipt of a copy of an
27 offender's application for early parole, the state board of parole, after

1 considering the presumptions set forth in section 17-34-102 (8), shall
2 make a recommendation to the governor concerning whether early parole
3 should be granted to the offender.

4 (c) The department, in consultation with the state board of parole,
5 shall develop any necessary policies and procedures to implement this
6 subsection (4.5), including procedures for providing notice to any victim,
7 as required by sections 24-4.1-302.5 (1)(j) and 24-4.1-303 (14), ~~C.R.S.~~,
8 and to the district attorney's office that prosecuted the crime for which the
9 offender was sentenced.

10 **SECTION 2.** In Colorado Revised Statutes, 16-11-102, **amend**
11 (1)(a)(II), (1)(a)(VI) introductory portion, and (1)(a)(VI)(B) as follows:

12 **16-11-102. Presentence or probation investigation.**

13 (1) (a) (II) Except as described in ~~subparagraph (VI) of this paragraph (a)~~
14 SUBSECTION (1)(a)(VI) OF THIS SECTION, if the defendant is convicted of
15 a felony that occurred after July 1, 2004, and he or she is eligible to
16 receive a sentence to the department of corrections, the report described
17 in ~~subparagraph (I) of this paragraph (a)~~ SUBSECTION (1)(a)(I) OF THIS
18 SECTION must include the following statement:

19 "If the defendant is sentenced to the Department of
20 Corrections, he or she may not serve his or her entire sentence in
21 prison but may be released to community corrections or parole.
22 The defendant's Parole Eligibility Date (PED) occurs after he or
23 she has served ~~fifty or seventy-five~~ **OR EIGHTY** percent of his or her
24 sentence, as provided in section 17-22.5-403, Colorado Revised
25 Statutes, less any authorized earned time.

26 If the defendant is sentenced to the Department of
27 Corrections, he or she may be eligible for a reduction in the length

1 of his or her sentence by earned time. Regular earned time is up to
2 ten or twelve days per month, not to exceed thirty percent of the
3 defendant's sentence; however, the defendant may be eligible for
4 further limited reductions through the application of various types
5 of earned time provided in statute and administered pursuant to the
6 policy of the Department of Corrections.

7 If the defendant is sentenced to the Department of
8 Corrections, he or she may be eligible for release, to await parole
9 in a community corrections facility, if such release is approved by
10 the local community corrections board. If the defendant was not
11 convicted of a crime of violence, as defined in section 18-1.3-406
12 (2), Colorado Revised Statutes, he or she may be moved to a
13 community corrections placement as early as sixteen months prior
14 to his or her PED. If the defendant was convicted of a crime of
15 violence, he or she cannot be moved to a community corrections
16 placement earlier than one hundred eighty days prior to his or her
17 PED.

18 A defendant's eligibility for community corrections or
19 parole does not necessarily mean that community corrections or
20 parole will be granted. The inmate locator on the internet website
21 of the Department of Corrections can provide additional
22 information regarding the sentence of an individual defendant.

23 The provisions of this statement do not apply to a defendant
24 who has been sentenced to the youthful offender system within the
25 Department of Corrections."

26 (VI) The report described in ~~subparagraph (f) of this paragraph (a)~~
27 ~~need not~~ SUBSECTION (1)(a)(I) DOES NOT NEED TO include the statement

1 described in subparagraph (H) of this paragraph (a) SUBSECTION (1)(a)(II)
2 if:

3 (B) The defendant has at least one previous conviction for a crime
4 of violence and must be referred by the department to the state board of
5 parole pursuant to section 17-22.5-403 (3.5) OR (3.7); ~~C.R.S.~~;

6 **SECTION 3.** In Colorado Revised Statutes, 17-22.5-402, **amend**
7 (2) as follows:

8 **17-22.5-402. Discharge from custody.** (2) Notwithstanding
9 subsection (1) of this section, the full term for which an inmate is
10 sentenced shall be reduced by any earned release time and earned time
11 granted pursuant to section 17-22.5-405, except as provided in section
12 17-22.5-403 ~~(3) and (3.5)~~ (3), (3.5), AND (3.7).

13 **SECTION 4.** In Colorado Revised Statutes, 24-4.1-302.5, **amend**
14 (1)(e) as follows:

15 **24-4.1-302.5. Rights afforded to victims - definitions.** (1) In
16 order to preserve and protect a victim's rights to justice and due process,
17 each victim of a crime has the following rights:

18 (e) The right to consult with the prosecution after any crime
19 against the victim has been charged, prior to any disposition of the case,
20 or prior to any trial of the case, and the right to be informed of the final
21 disposition of the case INCLUDING, IF APPLICABLE, THE SENTENCE IMPOSED
22 UPON THE PERSON AND INFORMATION REGARDING WHETHER THE PERSON
23 MAY BE ELIGIBLE FOR PAROLE PRIOR TO SERVING THE ADJUDICATED
24 SENTENCE;

25 **SECTION 5. Potential appropriation.** Pursuant to section
26 2-2-703, C.R.S., any bill that results in a net increase in periods of
27 imprisonment in state correctional facilities must include an appropriation

1 of money that is sufficient to cover any increased capital construction, any
2 operational costs, and increased parole costs that are the result of the bill
3 for the department of corrections in each of the first five years following
4 the effective date of the bill. Because this act may increase periods of
5 imprisonment, this act may require a five-year appropriation.

6 **SECTION 6. Act subject to petition - effective date.** Sections
7 1, 4, and 5 of this act takes effect at 12:01 a.m. on the day following the
8 expiration of the ninety-day period after final adjournment of the general
9 assembly (August 5, 2020, if adjournment sine die is on May 6, 2020) and
10 sections 2 and 3 take effect on July 1, 2021; except that, if a referendum
11 petition is filed pursuant to section 1 (3) of article V of the state
12 constitution against this act or an item, section, or part of this act within
13 such period, item, section, or part will not take effect unless approved by
14 the people at the general election to be held in November 2020 and, in
15 such case, sections 1, 4, and 5 of this act will take effect on the date of the
16 official declaration of the vote thereon by the governor and sections 2 and
17 3 of this act will take on July 1, 2021.