



**FY2010 RECOMMENDATION/FY10-PIS02 PAROLE AND PAROLE RELEASE
DECISION MAKING RECOMMENDATIONS**

Status: Implementation Complete

Actions/Updates

2012 ACTION/IMPLEMENTATION

This recommendation was implemented with the passage of House Bill 2010-1374.

Description

Modify C.R.S. 17-22.5-405 to clarify eligibility exclusions, program compliance, and criminal history disqualifications.

Current statute

CRS 17-22.5-405 (NOTE: Capital letters indicate suggested new material to be added to existing statutes; a strikethrough of words indicates suggested deletions from existing statute.)

(1.5) (a) Earned time, not to exceed twelve days for each month of incarceration or parole, may be deducted from an inmate's sentence if the inmate:

- i. Is serving a sentence for a class 4, class 5, or class 6 felony;
- ii. Has incurred no CLASS I code of penal discipline violations WITHIN THE PREVIOUS TWENTY-FOUR MONTHS AND NO CLASS II CODE OF PENAL DISCIPLINE VIOLATIONS WITHIN THE PREVIOUS TWELVE MONTHS OR SINCE BEING CURRENTLY INCARCERATED IF LENGTH OF INCARCERATION TIME ON CURRENT CONVICTON IS LESS THAN TWENTY-FOUR MONTHS. ~~while incarcerated~~
- iii. IS CURRENTLY ~~has been~~ program-compliant;
- iv. Was not convicted of, and has not previously been convicted of a felony crime in sections 18-7-402 to 18-7-407, C.R.S., section 18-12-102, C.R.S., or section 18-12-109, C.R.S., SECTION 18-6-701, SECTION 18-3-303, SECTION 18-3-305, SECTION 18-3-306, or ~~a crime listed in~~ section 24-4.1-302 (1), C.R.S.

(6) Earned release time shall be scheduled by the parole board and the time computation unit in the department of corrections for inmates convicted of class 4 and class 5 felonies up to sixty days prior to the mandatory release date and for inmates convicted of class 6 felonies up to thirty days prior to the mandatory release date for inmates who meet the following criteria:

(a) The inmate has INCURRED no CLASS I code of penal discipline violations WITHIN THE PREVIOUS TWENTY-FOUR MONTHS AND NO CLASS II CODE OF PENAL DISCIPLINE VIOLATIONS WITHIN THE PREVIOUS TWELVE MONTHS OR SINCE BEING CURRENTLY INCARCERATED IF LENGTH OF INCARCERATION TIME ON CURRENT CONVICTON IS LESS THAN TWENTY-FOUR MONTHS.

- (b) The inmate is CURRENTLY program-compliant; and
- (c) The inmate was not convicted of, and has not previously been convicted of a felony crime in sections 18-7-402 to 18-7-407, C.R.S., section 18-12-102, C.R.S., or section 18-12-109, C.R.S., SECTION 18-6-701, SECTION 18-3-303, SECTION 18-3-305, SECTION 18-3-306 or ~~a crime listed in~~ section 24-4.1-302 (1), C.R.S.

Agencies Responsible

Discussion

These changes limit the period for which a COPD violation would disallow earned time and earned release time as defined in HB 09-1351 rather than leaving this period undefined, potentially including old violations which no longer are characteristic of an offender's behavior.

First, the exclusion from eligibility for disciplinary convictions while incarcerated would be time bound. The current language makes inmates ineligible for earned time if they have any Class I or Class II COPD (Code of Penal Discipline) violation.

- *The new language includes the following time boundaries:*
 - *Earned time under this statute could not be received if an individual was incarcerated for more than 24 months and received*
 - *Any Class I COPD conviction during the previous 24 months or*
 - *Any Class II COPD conviction during the previous 12 months.*
 - *Earned time under this statute could not be received if an individual was incarcerated for less than 24 months and received*
 - *Any Class I COPD conviction during the course of the current incarceration, or*
 - *Any Class II COPD conviction during the past 12 months.*
 - *Earned time under this statute could not be received if an individual was incarcerated for less than 12 months and received*
 - *Any Class I or Class II COPD conviction during this period of incarceration.*

Second, this recommendation clarifies that an inmate must be currently program compliant to be eligible for earned time and earned release time as defined in this statute. Current language allows eligibility when an inmate was program compliant in the past, but who currently may not be compliant.

Third, ineligibility as currently defined by the enumerated statutes includes misdemeanor offenses offense (CRS 18-6-701). The modification recommended here updates "crime" with "felony crime." In addition, it adds "contributing to the delinquency of a minor" as a

disqualifying crime since this offense is typically the result of a plea negotiation from a more serious crime.