



**FY2014 RECOMMENDATION/FY14-CS02 Retroactively provide earned time credit to certain individuals sentenced under the habitual criminal statute**

**Status:** Implementation Complete

**Actions/Updates**

**2015 ACTION TO DATE**

Action on this recommendation was completed with the passage of House Bill 15-1203.

**2014 ACTION TO DATE**

This recommendation requires statutory change to be implemented.

**Description**

Retroactively expand the availability of earned time credit to individuals sentenced under the “big” provision of the habitual criminal statute for crimes occurring between July 1, 1985, and June 30, 1993. Therefore, amend section 17-22.5-104.

**Agencies Responsible**

**Discussion**

The goals of this recommendation are basic fairness, providing behavioral incentives to inmates, and cost savings. The Department of Corrections currently houses a small group of individuals convicted under the “big” provision of the habitual criminal statute who are ineligible for parole until they have served forty calendar years. Individuals convicted under that provision today, in contrast, are eligible to receive earned time toward parole eligibility if their crime was committed after July 1, 1993.

The recommendation’s June 30, 1993, date is the product of changes in the habitual criminal statute, section 18-1.3-801. A prior version of that statute’s “big” provision required persons convicted of a felony, after three prior felony convictions, to receive a sentence to “his or her natural life.” The statute was amended effective July 1, 1993, to require a sentence of four times the maximum of the presumptive range for the felony of conviction. Ch. 322, sec. 1, § 16-13-101, 1993 Colo. Sess. Laws 1975-76. People who commit a felony after July 1, 1993, and are sentenced under “big” provision, are eligible for parole in accordance with parole eligibility statute. *See* §§ 17-22.5-104(2)(d)(II); 17-22.5-403; 18-1.3-801(2), C.R.S. 2012.

The recommendation’s July 1, 1985, date is a product of changes in the parole regulations statute, section 17-22.5-104. When that statute was repealed and reenacted in 1984, it provided that “[n]o inmate imprisoned under a life sentence for a crime committed on or after July 1, 1977, shall be paroled until he has served at least twenty calendar years ....” Ch. 126, sec. 1, § 17-22.5-104, 1984 Colo. Sess. Laws 518. The parole eligibility cutoff was then extended to forty

years for crimes committed after July 1, 1985. Ch. 145, sec. 3, § 17-22.5-104, 1985 Colo. Sess. Laws 648. In 1991, the forty year cutoff was limited to people convicted under the “big” provision of the habitual criminal statute and class 1 felonies. Ch. 73, sec. 4, § 17-22.5-104, 1991 Colo. Sess. Laws 404. The cutoff for the “big” provision was removed altogether for crimes committed after July 1, 1993. Ch. 322, sec. 3, § 17-22.5-104, 1993 Colo. Sess. Laws 1978. For present-day offenses, a forty year to parole eligibility limitation exists only as to convictions under section 18-1.3-801(2.5) (conviction of crime of violence following prior habitual criminal sentencing), section 18-1.3-801(1) (three times convicted of a class 1 or 2 felony, or a class 3 felony crime of violence), and juveniles convicted of class 1 felonies after direct filing. *See* § 17-22.5-104(2)(d), C.R.S. 2012.