

COLORADO DIVISION OF CRIMINAL JUSTICE IN COLLABORATION WITH
THE COLORADO STATE BOARD OF PAROLE

Information Collection and Analysis of Parole Board Decisions: Progress Report

Pursuant to C.R.S. 17-22.5-404 (6)

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The above list includes the names of current and former members and hearing officers.
The year in parentheses indicates when the current members' terms expire.

*Indicates a Parole Board member whose appointment was after FY2011 and, therefore,
who conducted no hearings during the period covered by this report.

I. Introduction

Pursuant to 17-22.5-404 (6) (e) (I) C.R.S. (Senate Bill 09-135; see Appendix A), this report provides the status of the implementation of a process to collect data related to the Colorado State Board of Parole's decisions regarding its rationale for granting, revoking, or denying parole.¹ The subsection was revised during the 2010 legislative session by House Bill 10-1374 (see Appendix B). The significant modifications are indicated in capitals below. The mandate now requires collaboration between the State Board of Parole ("the Board"), the Division of Criminal Justice (DCJ) and the Department of Corrections (DOC) to implement the data collection process and for the DCJ to develop a parole release guideline and for the DOC to develop a parole revocation guideline. The requirement to create release and revocation guidelines significantly alters the strategy by which compliance with S.B. 09-135 will be accomplished. This subsection was, again, modified during the 2011 legislative session by Senate Bill 11-241 (see Appendix C).

This report is organized to present the progress on the statutory mandates. Specifically, the FY 2009, FY2010, and FY 2011 sessions of the General Assembly that amended 17-22.5-404 C.R.S., to read as follows (FY 2010 Amendments in caps and FY2011 Amendments in caps/italics):

- (6) (a) The state board of parole shall work in consultation with the division of criminal justice in the department of public safety AND THE DEPARTMENT OF CORRECTIONS to develop and implement a process to collect and analyze data related to the basis for and the outcomes of the board's parole decisions. The process shall COLLECT ~~track~~ data related to the board's rationale for granting, revoking, or denying parole. ANY INFORMATION RELATING TO VICTIM IDENTIFICATION OR VICTIM INPUT THAT IS IDENTIFIABLE TO AN INDIVIDUAL DEFENDANT OR CASE SHALL BE MAINTAINED, BUT KEPT CONFIDENTIAL AND RELEASED ONLY TO OTHER GOVERNMENT AGENCIES, PURSUANT TO A NONDISCLOSURE AGREEMENT, FOR THE PURPOSE OF ANALYSIS AND REPORTING, PURSUANT TO PARAGRAPH (C) OF THIS SUBSECTION (6). When the board grants parole, the process shall also COLLECT ~~track~~ data related to whether the offender has previously recidivated, the type of re-entry program given to the offender as a part of the offender's parole plan, and whether the offender recidivates while on parole.
- (b) THE STATE BOARD OF PAROLE SHALL ALSO DETERMINE WHETHER A DECISION GRANTING, REVOKING, OR DENYING PAROLE CONFORMED WITH OR DEPARTED FROM THE ADMINISTRATIVE GUIDELINES CREATED PURSUANT TO SECTION 17-22.5-107 AND, IF THE DECISION WAS A DEPARTURE FROM THE GUIDELINES, THE REASON FOR THE DEPARTURE. THE DATA COLLECTED PURSUANT TO THIS PARAGRAPH (B) ARE SUBJECT TO THE SAME VICTIM PROTECTIONS DESCRIBED IN PARAGRAPH (A) OF THIS SUBSECTION (6).
- (c) The state board of parole shall provide the data COLLECTED PURSUANT TO THIS SUBSECTION (6) to the division of criminal justice in the department of public safety for analysis.

¹ In 2009, funding for this task was requested by the Division but was not allocated. Funding to the Division of Criminal Justice and the Department of Corrections was included upon the 2010 statute revision. Progress on the scope of the mandated tasks was hampered by this funding delay.

The division of criminal justice shall analyze the data received pursuant to this subparagraph (c) and shall provide its analysis to the board. The board and the division of criminal justice shall use the data and analysis to identify specific factors that are important in the decision-making process.

- (d) The division of criminal justice of the department of public safety shall provide the state board of parole with training regarding how to use the data obtained and analyzed pursuant to paragraph (c) of this subsection (6) to facilitate the board's future decision-making.
- (e) (I) On or before November 1, 2011, *AND ON OR BEFORE NOVEMBER 1 EACH YEAR THEREAFTER*, the state board of parole and the division of criminal justice in the department of public safety shall issue a report to the general assembly regarding *OUTCOMES OF DECISIONS BY THE STATE BOARD OF PAROLE. THE DATA SHALL BE REPORTED TO THE GENERAL ASSEMBLY ONLY IN THE AGGREGATE.*

The related statutory additions included in H.B. 10-1374 regarding the release and revocation guidelines are found as follows in 17-22.5-107, C.R.S.:

- (1) (a) The division of criminal justice in the department of public safety, in consultation with the state board of parole, shall develop an administrative release guideline instrument for use by the board in evaluating applications for parole.
 - (b) The administrative release guideline instrument shall be used to provide the state board of parole with consistent and comprehensive information relevant to the factors listed in section 17-22.5-404 (4) (a). The instrument shall include a matrix of advisory-release-decision recommendations for the different risk levels.
- (2) (a) The department of corrections, in consultation with the state board of parole, shall develop administrative revocation guidelines for use by the board in evaluating complaints filed for parole revocation.
 - (b) The administrative revocation guidelines shall be used to provide the state board of parole with consistent and comprehensive information based on the factors identified in section 17-22.5-404 (5) (a). The guidelines shall include a matrix of advisory-decision recommendations for the different risk levels.

II. A Process to Collect Data

Prior to 2008, the Board did not have a system in place to reliably collect and report parole hearing data. The following section describes ongoing efforts by the Board in consultation with the DCJ and the DOC to more efficiently collect parole hearing data. The current data entry process is described followed by a description of the following projects designed to comply with S.B. 09-135 and H.B. 10-1374: the Parole Board Application Hearing Automation Project, the Decision Factors Project, the Parole Board Action Notice Forms Project, the Parole Release Guideline Project, the Parole Revocation Guideline Project, and the Master Program Scheduling Project.

Parole Board Hearing Data. Historically, the Board documented the number and general outcome of hearings in a database to track hearing workload. The reliability of the data entry system was not sufficient to allow the parole board an accurate accounting of its hearings. In 2008, the Board, with the assistance of a retired staffperson of the Department of Corrections, created a Microsoft Access database with several data tables providing for the entry of limited information regarding parole hearings. Staff of the Parole Board enters the information manually from the paper Notice of Colorado Parole Board Action form that Board members use to record basic hearing outcomes. There are tables to record limited information regarding release application hearings, parole rescission hearings, and parole condition modifications. Basic hearing data are also entered for parole revocation hearings (see Appendix D).

Following a prolonged period of testing, the basic data from this manual entry method was determined to be reliable enough to report. Information from this data collection effort is provided below in Section II, Parole Board Data for FY 2011. Starting with the FY 2012 report, it is expected that the Parole Board hearing data will no longer require a manual data entry process by Parole Board staff. Parole Board data will be derived from databases storing information from the automated Parole Board Hearing Automation Project described in the next section. The automation of hearing information has implications for the existing processes and work flows involving the interaction of staff at the Parole Board offices with other offices at the Department of Corrections (for example, Time and Release Operations). In September 2011, these related processes had begun to be addressed. However, the roles of Parole Board staff and the existing processes and procedures intrinsic to the operation of the Parole Board office to coordinate release and revocation hearings and to communicate a variety of Parole Board decisions by Parole Board members have not yet been fully integrated with the efforts to automate parole board hearings.

Parole Board Hearing Automation Project. Prior to the passage of S.B.09-135, the Department of Corrections worked with the Governor's Office of Information Technology (OIT) to provide resources that would assist in the automation of the Board's hearing process. To this end, the Governor's Office of Information Technology: Agency Services supporting the Department of Corrections' acquired and installed the necessary computer technology and developed a web-based data entry and reporting system to automate the previous paper-based process.

The primary goals of the Parole Board Hearing Automation project were to:

- Eliminate the inefficient paper-based process and streamline it into an electronic system
- Install, configure and support wireless networking connectivity at all locations where Parole Board application hearings are held
- Reduce time spent by case managers preparing for Board hearings
- Reduce paper, printing and shipping costs
- Make it easier for Board members to prepare for hearings without the paper "packet"
- Speed the process from time of decision to second-signature and through to decision entry by Time & Release Operations (TRO)
- Provide electronic workflow so that Board decisions are immediately available to subsequent steps of the hearing workflow
- Support greater reporting capabilities regarding Board decisions

The previous process required a case manager to print approximately 16 pages of offender information that were generated from 13 different DOC applications. Collectively, those 16 pages of information as well as the Parole Board Action Notice were referred to as the “Parole Board packet.” Case managers typically spent about 30 minutes creating each packet for Board hearings. The new Parole Board Application Hearing Portal (“the Portal”) system completely eliminates the need to create Parole Board packets. The new Portal provides all of the information that had been found in the various packet documents in a web-based interface that includes one electronic tabbed page for each of those 13 documents. The Portal is divided into four sections: Hearing Preparation, Hearing Notes, Action Notice, and Full Board Recommendation.

Each of the 13 tabbed subsections in the “Hearing Preparation” section of the Portal required the complete recreation of an existing DOC computer program. The following is a summary of each of those tabs and the information contained within:

- Profile: Offender biographical and incarceration information
- Parole Plan: Hearing, probation, community placement and parole histories. Offense and criminal behavior summaries. Institutional adjustment information. Program participation and evaluation summaries as well as current assessed program needs and participation levels. Release destination details.
- Mittimus: Crime and sentence information as received from the courts.
- Admission Data Summary: Historical and personal information when offender admitted into the DOC
- CARAS: Colorado Actuarial Risk Assessment Scale
- CARAS Supplemental: Time served, institutional behavior, DOC program participation and anticipated needs on parole.
- COPDs: Institutional violations
- Detainers: Listing of detainers to other law enforcement agencies.
- Escapes: Listing of previous escapes
- Movements: Physical location and movements within the DOC
- Previous Crimes: Previous crimes that were not sentenced to the DOC.
- Referrals: Community referrals
- Restitution: Restitution ordered

The new system allows the user to quickly find an offender by DOC number, name, or by hearing date and location. The hearing date and location option allows Board members to prepare for a specific hearing before it occurs. As the Board members review the information provided in the 13 subsections, the page is enabled with a notes field where members can transcribe thoughts, questions or information relevant to the hearing and their deliberations. The notes from each of these 13 subsections are made available in another section of the program called “Hearing Notes.”

The “Hearing Notes” section displays summary information from the 13 “Hearing Preparation” tabs, the information entered by the member into any of the 13 notes fields, as well as additional note entry fields for use during the offender interview. All of this information is later used by the Board member to render his/her decision. Upon rendering a decision, the Board member then enters the electronic “Action Notice” section.

The Parole Board Action Notice (previously a paper form) is the subsystem in which the Board member enters his/her decision to release, to defer or send to the full Board for review. If the

decision is to release or defer, the electronic workflow queues that Action Notice for a secondary review and signature by a different Board member. Upon completion of the second-signature process, the Action Notice is then queued for processing by the Time & Release Operations department. If the decision is that full Board review is required, that Action Notice is queued for that full Board review. During the review, all Board members can view the Offender information. Upon completion of the full Board review, each member electronically enters their decision and the Board chairperson notes members' decision entries and records a final decision that is entered into the system. This full Board outcome is then queued for processing by Time & Release Operations.

A period of system testing and training from mid-2009 through September 1, 2011 was undertaken to ensure web connectivity at hearing locations, to elicit feedback from Board members on the use of the Portal system, to troubleshoot and improve the function of the system, and, finally, to ensure the reliability of information received by Time and Release Operations. The Portal functionality described above is currently available in the DOC's production ("live web") environment. Feedback was positive and reported bugs were addressed and continue to be resolved as issues arise. The Board members continued to receive the paper packets with the intent for Board member to verify that the electronic system exactly matched the data in the paper documents. Based on feedback during the period between July 1 and September 1, 2011 from representatives from the Parole Board, OIT staff, and DOC staff, including staff from Time and Release Operations, the decision was made to discontinue the paper-based Parole Board packet.

The final element of the Portal under review and testing was the Parole Board Action Notice. This form is the final and most important document that records the resulting decision of the Board. As mentioned above, after a decision is rendered, the Action Notice is routed to Time & Release Operations in Canon City. Time & Release Analysts verify the information within the Action Notice and create a parole hearing entry into the Department of Corrections Information System (DCIS). If the decision is to release, the analysts create a Parole Agreement that is sent to both the case manager as well as the receiving parole region.

It is the information contained within the Action Notice that identifies when an offender should be released. As such, it is critical that the information contained within be completely accurate. As a result, OIT: Agency Services for DOC asked the Board to continue to use the paper-based Action Notice in parallel with the electronic Action Notice process. Through October 3, 2011, Time & Release Operations validated that the decision information contained within the electronic system matched the paper Action Form. As of October 3rd, it was determined that Time and Release Operations was confident that the electronic version was accurate and, therefore, OIT: Agency Services for DOC and the Parole Board agreed that the paper Action Notice could be eliminated.

Representing an advance in data collection capabilities, this new automated hearing Portal and data collection system was in development prior to the amendments of the parole guidelines section by the FY 2009 General Assembly. With the completion of the Parole Action Notice validation process, the Portal will be expanded to include the additional data elements and processes necessary to comply with the legislation. Some of these data may be available for integration from other database tables within existing database systems (for example, recidivism history and programming received by offenders) whereas other data are still in development (for example, decision-making rationale for granting, revoking, or denying parole and parole release guideline instrument). As can be seen in the description of the Decision Factors Project, the Parole Board Action Notice Forms Project, the Parole Release Guideline Project the Master Program Scheduling Project, and the Sex

Offender Determinate Sentence Release Criteria Project, some of this work is completed and other work on these expanded elements continues.

Decision Factor Project. In three meetings with the Board and several conversations with individual members between December 2009 and August 2010, staff of the DCJ attempted, as per the legislative mandate, to explore and document the potential factors that form the basis for a parole decision to release or to defer an inmate. The goal of this endeavor was to devise a method by which Board members would record which factors formed the primary basis for their decision. This exploration yielded a potential list of 71 different factors that, individually or in combination, may play a role in any particular parole decision.

The scientific study of decision theory over the last 60-70 years in such varied fields as economics, mathematics, psychology, statistics, and neuroscience would suggest that the approach suggested by the original statutory mandate would not be fruitful. The complexity of the decision conditions defined by those found during a parole board hearing are unlikely to be accurately captured by a simple request to mark which of 71 factors prevail as the basis for a parole decision. The specific area within decision theory applicable to the parole decision situation is called multi-criteria decision analysis. This subfield has identified at least 2 dozen decision methods to describe, explain and structure how individuals make decisions.² The parole decision situation requires that a member, after having made a decision, indicate which criteria were predominate in forming that decision. Daniel Kahneman and Amos Tversky³ identified errors of judgment and decision-making due to cognitive heuristics and biases that would strongly suggest that this after-the-fact or retrospective approach to study parole decisions should be avoided.

However, the modifications found in H.B. 10-1374 provided an opportunity for an alternate approach to study and document parole decisions through the introduction of release (17-22.5-107 (1) (a-b), C.R.S.) and revocation guidelines (17-22.5-107 (2) (a-b), C.R.S.). The use of guidelines provides a structured decision process that creates a more predictable decision circumstance which can be more effectively tracked and documented. Efforts on the Decision Factor Project are considered concluded and have been shifted to the Parole Board Action Notice Forms Project and the Parole Release Guideline Project.

Parole Board Action Notice Forms Project. As the Parole Board Hearing Automation Project (described above) was approaching the conclusion of its quality assurance testing, DCJ staff, programming staff within the OIT: Agency Services supporting the DOC, and the State Board of Parole initiated work to update the Parole Board Action Notice (pursuant to 17-22.4-404 (2) (b), C.R.S.; H.B. 10-1374). The Parole Board Action Notice Forms were revised to capture hearing decision reasons and additional data regarding release application hearings and outcomes. Between July and September 2011, the Parole Board offered feedback on the re-design of the forms and DCJ and the DOC: OIT programming staff updated the appearance of the Action Notices on the Action Notice tab in the Parole Board Hearing Portal. Additionally, the paper version of the Parole Board Action Notice was updated to reflect these changes. Originally a single form, a new Action Notice form for Defer and a new form for Release were designed for distribution to case managers and to

² For information, see the *Journal of Multi-Criteria Decision Analysis* published by John Wiley & Sons, Inc. since 1992 or the International Society on Multiple Criteria Decision Making founded in 1979.

³ Kahneman, D., Slovic, P., & Tversky, A. (1982). *Judgment under uncertainty: Heuristics and biases*. New York: Cambridge University Press.

offenders. The primary revisions on all versions (electronic and paper) of the Action Notice were completed by September 30, 2011. Minor improvements and revisions to the forms are expected to continue through November 2011.

Parole Release Guideline Project. The Post Incarceration Supervision (PIS) Task Force of the Colorado Commission on Criminal and Juvenile Justice (CCJJ) developed a draft administrative release guideline instrument in conjunction with the recommendations that introduced new changes to the parole guidelines section (H.B. 10-1374; 17.22.5-404, C.R.S.). The goal of the release guideline is to provide a framework for the Board to evaluate and weigh the statutorily mandated factors, victim and community input, and evidence-based considerations in parole decision making and to offer advisory parole decision recommendations. This specific decision framework provides the opportunity to more effectively document parole decisions and avoid the pitfalls associated with the earlier decision factor approach.

As framed by the legislative declarations in the parole guidelines section (17-22.5-404 (1) (c), C.R.S.), “Although the state board of parole is made up of individuals, using structured decision-making unites the parole board members with a common philosophy and set of goals and purposes while retaining the authority of individual parole board members to make decisions that are appropriate for particular situations. Evidence-based correctional practices support the use of structured decision-making. (d) Structured decision-making by the state board of parole provides for greater accountability, standards for evaluating outcomes, and transparency of decision-making that can be better communicated to victims, offenders, other criminal justice professionals, and the community[.]”

In preparation for the conclusion of the Parole Action validation process mentioned above, representatives from the DCJ, the DOC’s Office of Planning and Analysis and the OIT: Agency Services for DOC first met on September 28, 2010 to begin the process of translating the draft administrative release guideline to implementation. The release guideline will be integrated into the hearing Portal for use by Board members. The automated decision algorithm will draw evidence-based factors from the Department of Corrections Information System (DCIS) and will receive immediate hearing data input from the Parole Board member conducting a hearing. The combined elements of the algorithm will identify a position in a risk and readiness matrix that provides an advisory release decision. This advisory decision will be displayed to the Board members who may choose to conform with or depart from the decision recommendation, pursuant to 17-22.5-404 (6) (b), C.R.S. If the Board member departs from the decision recommendation, the aforementioned statutory paragraph requires the Board member provide reasons for the guideline departure. A list of potential decision reasons has already been integrated into the revisions of the Parole Action Notice form (as described above). The decision structure provided by the release guideline will narrow the complexity encountered in the earlier attempt to identify parole decision factors and will provide the method to record the reasons for particular Board decisions.

Following the hiring and training of project-related staff at the DOC, a joint meeting of staff from the DCJ, the Office of Planning and Analysis (at DOC), and the Office of Information Technology: Agency Services (at DOC) was held on February 14, 2011. Assignments were delegated to staff members to initiate and undertake the project. Subsequently, the following aspects of the project have been accomplished: a programming plan was developed, potential data elements of the draft administrative release guidelines were identified in DCIS, and testing to select the appropriate inmate sample was accomplished (only non-sex offenders are subject to the guidelines instrument).

On July 29, 2011, DCJ staff and members of the Parole Board met to review and discuss the elements of the original draft release guideline created by the PIS Task Force of the CCJJ. DCJ staff and Parole Board members discussed an initial conception of how to translate the draft guidelines into an automated decision algorithm. Board members provided feedback and/or suggestions of the static and the dynamic elements for the decision algorithm.

As the work on the decision algorithm continued, a preliminary programming and design revision of the user interface of the Parole Board Application was undertaken in order to accommodate the release guideline instrument and advisory recommendation. As mentioned above, the design of the Parole Board Action Notice has already been updated to record departures from the release guidelines advisory decision and the reasons for a departure. DCJ staff and members of the Parole Board will continue to collaborate on the final selection and testing of reliable and valid elements for use in the guideline decision algorithm and decision matrix. DCJ staff will then continue working with the programming team at OIT: Agency Services supporting DOC to test the automated algorithm and interface display in the Parole Board Hearing Portal. The work on the decision algorithm is expected to continue through January 2012. Initial integration and testing of the decision algorithm in the Parole Board Application Hearing Portal is expected to begin by February 2012 with final implementation of the release guideline instrument expected by May 2012. It should be noted that the specific decision algorithm within the release guideline instrument is assumed to be a dynamic element that will be updated and modified as evidence from the field of criminal justice on parole decision making evolves and improves.

Parole Revocation Guideline Project. On November 1, 2010, the Division of Adult Parole and Community Corrections, in collaboration with the State Board of Parole, began a pilot test of the Colorado Violation Decision Making Process (CVDMP). Development of the CVDMP began in February 2010 as a way to improve consistency among parole officers in responding to violations of parole conditions and as a method of supporting an officer's ability to use intermediate sanctions in lieu of seeking revocation to DOC, when appropriate. The CVDMP instrument provides officers a list of appropriate responses to violations based on the severity of the violation and an assessment of the offender's risk level using the Level of Service Inventory-Revised (LSI-R) and the Static-99 (for adult male sex offenders). Although the CVDMP is based on similar efforts used in other states, creating a process for Colorado required collaboration between the Parole Division of the DOC and the State Board of Parole. Members of the Board were involved from the beginning of the project in both scaling violation severity and determining the appropriate responses for such violations. The pilot project was completed and a presentation of project findings occurred on May 20, 2011. The CVDMP is fully implemented and is in use by all parole officers within the Parole Division.

The practices embedded in the CVDMP are supported by current best practices research and provide a context for the implementation of the revocation guideline that is required by H.B. 10-1374 (See 17-22.5-107 (2) and 17.22.5-404 (5), C.R.S.). The revocation guideline will be integrated into the CVDMP system by providing a means for the display of an advisory revocation recommendation and the collection of the number, type, and reasons for revocation decision.

Master Program Scheduling Project. Another element of data required by the parole guidelines section is to "...collect data related to...the type of reentry program given to the offender as a part of the offender's parole plan..." (17.22.5-404 (6) (a), C.R.S.). The Department of Corrections Information System (DCIS) currently includes a program titled, Master Program Scheduling

(MPS). Originally developed to track inmates' work assignments, MPS was later adopted to track program participation. However, there were certain computer program limitations that prohibited its use as a complete solution to track drug and alcohol, sex offender, and mental health treatment participation. Three offices at the DOC, the Office of Planning and Analysis, the OIT: DOC Agency Services and the Office of Clinical Services collaborated in FY 2010 to make a number of improvements to the MPS system. These changes included:

- Department-wide referrals. Previously, offenders could only be referred to programs that were offered at their current facility. This presented a challenge for inmates needing programs such as the Sex Offender Treatment Monitoring Program (SOTMP) or Therapeutic Communities (TCs) that are offered only at certain facilities.
- Automation/prioritization of referrals. All of the criteria used to assess inmates' needs and place them in treatment are available in DCIS. The Drug and Alcohol and the SOTMP programs defined the specific criteria used to automate and prioritize offenders' placement on a referral list. Generally, these criteria included their needs levels, time to parole eligibility, and sentence type (for SOTMP only; for example, indeterminate vs. determinate sentence). Because many of the mental health services are individualized, Mental Health Services did not create an automated referral list.
- Historical Record. Previously, there was no historical record of offenders who were placed on the referral or waitlists. These programmatic changes will enable tracking of historical referral/waitlist records.
- Reports. A new report was built to identify offenders needing treatment based on their prioritization (rather than alphabetical order). This report also enables clinicians to screen the eligible list based on specific criteria and to search system-wide. Additional management reports were requested and have been completed that provide summary data about the number of waitlisted offenders for sex offender, substance abuse and mental health treatment programs.

The MPS upgrades are finalized for behavioral health programs and quality assurance work is underway. A project to expand the MPS system to track progress in vocational and educational programs is in the development phase. An update on these efforts may be found on page 26 of the report, *Overview of Educational and Vocational Programs: Fiscal Year 2010*, available from the DOC Office of Planning and Analysis website at this link on the website of the Colorado Department of Corrections,

http://www.doc.state.co.us/sites/default/files/opa/EducationReport_final_RE.pdf

III. Related Projects

Sex Offender Determinate Sentence Release Criteria Project. The administrative release guideline instrument is not to be used when considering the parole release application by offenders classified as sex offenders with an indeterminate sentence, pursuant to 17-22.5-404 (4) (c) (II), C.R.S. Release guidelines for these offenders, according to 18-1.3-1009, C.R.S., have already been established for this purpose. The administrative release guidelines are also not to be used when considering the parole release application by offenders classified as sex offenders with a determinate sentence. The paragraph requires that the Sex Offender Management Board (SOMB), in cooperation with Department of Corrections, the Judicial Department, the Division of Criminal Justice in the Department of Public Safety, and the State Board of Parole collaborate to develop a

release guideline instrument for use by the Parole Board when considering sex offenders with a determinate sentence. The SOMB membership already includes representatives from the statutorily-mandated participants, with the exception of the State Board of Parole.

Between July 5 and September 16, 2011, the SOMB created a set of draft criteria for consideration by the Parole Board when evaluating the release application of sex offenders with a determinate sentence. The SOMB voted on September 16 to accept these draft criteria and distributed these criteria to the Parole Board for feedback. On September 30, the Parole Board reviewed the criteria and voted to accept these criteria for their intended use in combination with the other factors for consideration of parole release pursuant to 17-22.5-404 (4) (a), C.R.S. The release guidelines criteria may be found in Appendix E.

With the creation of the guidelines for sex offenders with a determinate sentence, the parole Board member is responsible for the application of three different sets of release guidelines for three different subsets of offenders. As described above in the Parole Release Guidelines Project, the “general” release guidelines applicable to non-sex offenders will be integrated into the Parole Board Application Hearing Portal. The Parole Board has requested that the release guidelines for sex offenders with an indeterminate sentence and the guidelines for sex offenders with a determinate sentence also be included in the Automated Hearing Application. Integration of all three sets of guidelines will enhance their ease of use and increase the consistency in the application of these different sets of release criteria.

IV. Parole Board Data

Pursuant to 17-22.5-404 (6) (c), C.R.S., the State Board of Parole provides data to the DCJ for analysis. As is apparent by the many projects described above, there were and are extensive needs regarding the implementation of a data infrastructure to record and document parole hearing data. As of this date, the capability of the Parole Board to extract data from the new automated system is not currently in place. The data currently collected by the Board described in the subsection above, “Parole Board Hearing Data,” are limited. The data do not lend themselves to extensive analyses and thus are presented below as counts and percentages. The following summarizes the types of hearings conducted by the Parole Board and the typical processes by which the hearings are derived.

Hearings/Reviews: Release. A release application hearing is conducted by a single board member or release hearing officer with a subsequent review and approval of the decision by a second board member. Offenders with a determinate life sentence are subject to a release hearing conducted by two board members. Following an initial release application hearing, members must request a full board review of cases where the conviction was for a Felony I or II crime or where the conviction crime involved violence. Additionally, board members are granted the discretion to request a full board review for any inmate, but especially for offenders with a history of violence or an apparent propensity for violence. It is also the practice of the Board to conduct a full board review to consider the release of sex offenders with an indeterminate sentence who have meet all of the treatment criteria established by the SOMB. Parole release application hearings and reviews may be set for a variety of statutory or procedural reasons, including:

- By statutory requirement (17-22.5-403 C.R.S.)
Hearings/reviews occur upon reaching the parole eligibility date, and, if deferred and depending on the conviction, once every one, three or five years (or less at the discretion of the Board member) until the mandatory release date is reached.
- On a specified date set by the Board member following a deferral or tabled (release) request
A deferral period may be set for less than the minimum required, if the Board member feels a short deferral will allow the offender to meet a critical criterion for potential release (for example, acceptance into community corrections or completion of a treatment or training program). A parole release decision may be “tabled” to require the submission of an updated parole plan or to require an inmate to complete a specific requirement (for example, completion of a GED).
- At mandatory release
This hearing establishes the set of conditions to which the parolee must be compliant while on parole.
- Upon request by a Board member for a full board review
- While on parole: Revocation request for a technical violation
If revoked, the offender returns to a specified hearing cycle, unless the hearing officer sets a shorter review period or the offender qualifies for a 90- or 180-day re-parole.
- Following a parole revocation, under certain conditions, a parole release application hearing can occur between 90 days to 1 year later.
- While on parole: Request for a change of supervision conditions
This type of review may result in a change that may be progressive, meaning a reduction or elimination of conditions. The change may be regressive, meaning the addition or augmentation of conditions.
- While on parole: Request for termination
An early discharge from the parole period may be granted, based on a review of an offender’s performance while on parole.
- While on parole: Self revocation
An offender may submit a request for revocation for a return to incarceration.
- Rescission hearing
A hearing to rescind informs an offender that a previously scheduled parole release has been withdrawn and re-scheduled. For example, this may occur as a result of an institutional violation prior to the release date or due to the re-calculation of the parole eligibility and/or mandatory release dates due to a new conviction.

A parole release application hearing/review may have one of several outcomes:

- Release at an offender's parole eligibility date.
- Release at some point between the parole eligibility date and the mandatory release date.
- Release at the mandatory release date.
- Defer, meaning that the offender is not released, and, depending on the conviction, a new hearing is scheduled one, three or five years hence or less, at the discretion of a Board member.
- Waived, meaning that the offender has waived their right to a parole hearing.
- Tabled, meaning that a release is delayed until a particular condition or set of conditions is met (for example, completion of treatment, completion of educational or skills program or confirmation or modification of a parole plan).
- Non-appearance, meaning that the offender did not formally waive a hearing and did not appear for a hearing due to unavailability or refusal to appear.

Hearings: Revocation. Board members and administrative hearing officers conduct a revocation hearing following the filing of a revocation complaint by a parole officer. Parole revocation hearings may be set for a variety of statutory or procedural reasons, including:

- The offender is convicted of a new crime (may or may not include additional violations of the conditions of parole).
- The offender violates conditions of parole (i.e., a technical violation) and a revocation complaint is necessary to accomplish the response determined by the Colorado Violations Decision Making Process (CVDMP).

A parole revocation hearing may have several outcomes:

- The offender is found guilty of a violation and revoked to the Department of Corrections, a Community Return to Custody Facility, a jail, or a community corrections program.
- The offender is found guilty, but continues on parole with or without additional conditions.
- The offender is found not guilty and continues on parole.
- The charges in the revocation complaint are dismissed or withdrawn and the offender continues on parole.
- The offender does not or cannot appear and the hearing is re-scheduled to a later date (i.e., a continuance). Failure to appear may result in the issuance of an arrest warrant.

Hearing Data. On July 1, 1990, the Colorado State Board of Parole was expanded from five to seven members. The Parole Board is also allowed to hire two individuals to conduct release hearings, but these Release Hearing Officers may only conduct hearings under specific conditions. Prior to S.B.11-241, release hearing officers could only conduct hearings for non-violent offenders with Felony 4, 5, or 6 convictions. Subsequently, this condition was altered such that hearings can only be conducted for non-violent offenders who have been assessed at low or very low risk according to the Colorado Actuarial Risk Assessment Scale, 17-2-201 (3) (h.1) (I), C.R.S.. Up to three individuals, who must be attorneys, may be hired to serve as Administrative Hearing Officers to conduct parole revocation hearings. At the time of the Board member expansion in 1990, the combined average daily population of inmates and parolees of the DOC was 9,453. By 2000, the combined inmate/parolee total was 20,686 and by 2011 this total was 33,799. The “per capita” number of inmates and parolees (per the 12 total hearing professionals) has grown nearly 260 percent from 1990 with 788 per Parole professional to nearly 2,817 in 2009. Not all of these offenders qualify for or are subject to a hearing in any given year; however, this number simply provides a picture of the increasing demand on Parole Board resources and labor.

As can be seen in Table 1 and Table 2, the Parole Board conducted approximately 26,130 release application (15,856), revocation (10,007), and rescission (267) hearings during FY 2011. Table 3 and Table 4 display totals by member for the release application and revocation hearings, respectively. The total number of rescission hearings is reported in Table 2 below, but these hearings are not reported by member. For reference, the release application hearing data from the FY 2009 and FY 2010 reports are provided in Appendix F (Tables 5 and 6).

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Table 1. Total Release Application Hearings by the State Board of Parole (FY 2011)

Member Category (Those conducting hearings during FY2011)	Total (Release and Defer)	Release Granted			Defer: Release Not Granted	Inmate Waived Hearing	Referred to Full Board*
		Discretionary at Parole Eligibility Date (PED)	Discretionary between PED & MRD	Mandatory Release Date (MRD)			
Current							
Board Members	6,688	68	751	1,693	4,176	292	655
Release Hearing Officers	508	14	95	142	257	3	10
Former							
<i>Board Members</i>	8,480	103	799	2,103	5,475	530	487
<i>Release Hearing Officer</i>	180	4	28	47	101	1	3
Total	15,856	189	1,673	3,985	10,009	826	1,155

*All offenders with sentence on F1, F2 and/or violent crime reviewed by full Board. Included in release or defer totals.

Table 2. Total Revocation Hearings by the State Board of Parole (FY 2011)

Member Category (Those conducting hearings during FY2011)	Total	Revocation to...				Not Revoked		Hearing continuance	Hearing Data Incomplete
		DOC	Jail	Community corrections	CRCF	Continue on Parole	Complaint Dismissed		
Current									
Board Members	1,968	506	0	15	166	176	86	1,000	19
Administrative Hearing Officers	5,160	1,436	2	52	672	382	157	2,411	48
Former									
<i>Board Members</i>	2,879	872	5	7	272	179	106	1,403	35
Total	10,007	2,814	7	74	1,110	737	349	4,814	102
HEARING TOTALS	Grand Total	Release		Revocation		Rescission			
		26,130	15,856	10,007	267				

Table 3. Release Application Hearings by State Board of Parole Member (FY 2011)

(Numbers in parenthesis are the percentages of the member total within each row.**)

Board Members (Those conducting hearings during FY2011)	Total (Release and Defer)	Release Granted			Defer: Release Not Granted	Inmate Waived Hearing	Referred to Full Board*
		Discretionary at Parole Eligibility Date (PED)	Discretionary between PED & MRD	Mandatory Release Date (MRD)			
Current							
Michael Anderson	2,289 (14.4)	31 (1.4)	307 (13.4)	599 (26.2)	1,352 (59.1)	83	240
John O'Dell	2,149 (13.6)	18 (0.8)	116 (5.4)	582 (27.1)	1,433 (66.7)	71	142
Rebecca Oakes	2,250 (14.2)	19 (0.8)	328 (14.6)	512 (22.8)	1,391 (61.8)	138	273
Former							
Deborah Allen	2,492 (15.7)	44 (1.8)	277 (11.1)	663 (26.6)	1,508 (60.5)	111	98
Mickey Heckenbach	1,884 (11.9)	16 (0.8)	167 (8.9)	425 (22.6)	1,276 (67.7)	86	144
Becky Lucero	2,033 (12.8)	26 (1.3)	208 (10.2)	448 (22.0)	1,351 (66.5)	258	145
Celeste Quinones	2,071 (13.1)	17 (0.8)	147 (7.1)	567 (27.4)	1,340 (64.7)	75	100
Total	15,168 (95.7)	171 (90.5)	1,550 (92.6)	3,796 (95.3)	9,651 (96.4)	822	1,142
Release Hearing Officers							
Current							
Rod Cozzetto	437 (2.8)	13 (3.0)	87 (19.9)	109 (24.9)	228 (52.2)	1	7
Leslee Waggener	71 (0.4)	1 (1.4)	8 (11.3)	33 (46.5)	29 (40.8)	2	3
Former							
James Sewell	180 (1.1)	4 (2.2)	28 (15.6)	47 (26.1)	101 (56.1)	1	3
Total	688 (4.3)	18 (9.5)	123 (7.4)	189 (4.7)	358 (3.6)	4	13
Grand Total	15,856 (100)	189 (1.2)	1,673 (10.6)	3,985 (25.1)	10,009 (63.1)	826	1,155

** Percentage totals within rows not equal to 100% are due to rounding.

* All offenders with sentence on F1, F2 and/or violent crime reviewed by full Board. Included in release or defer totals.

Table 4. Revocation Hearings by State Board of Parole Member (FY 2011)

(Numbers in parenthesis are the percentages of the member total within each row.**)

Board Members (Those conducting hearings during FY2011)	Member Total	Revocation to...				Not Revoked		Hearing continuance	Hearing Data Incomplete
		DOC	Jail	Community corrections	CRCF*	Continue on Parole	Complaint Dismissed		
Current									
Michael Anderson	600 (100)	145 (24.2)	0 (0.0)	4 (0.7)	67 (11.2)	81 (13.5)	21 (3.5)	274 (45.7)	8 (1.3)
John O'Dell	573 (100)	139 (24.3)	0 (0.0)	7 (1.2)	27 (4.7)	47 (8.2)	28 (4.9)	322 (56.2)	3 (0.5)
Rebecca Oakes	795 (100)	222 (27.9)	0 (0.0)	4 (0.5)	72 (9.1)	48 (6.0)	37 (4.7)	404 (50.8)	8 (1.0)
Former									
Deborah Allen	899 (100)	295 (32.8)	0 (0.0)	5 (0.6)	95 (10.6)	43 (4.8)	29 (3.2)	418 (46.5)	14 (1.6)
Mickey Heckenbach	976 (100)	241 (24.7)	4 (0.4)	2 (0.2)	108 (11.1)	82 (8.4)	35 (3.6)	494 (50.6)	10 (1.0)
Becky Lucero+	50 (100)	44 (88.0)	0 (0.0)	0 (0.0)	0 (0.0)	0 (0.0)	0 (0.0)	6 (12.0)	0 (0.0)
Celeste Quinones	954 (100)	293 (30.7)	1 (0.1)	0 (0.0)	69 (7.2)	53 (5.6)	42 (4.4)	485 (50.8)	11 (1.2)
Total	4,847 (100)	1,378 (28.4)	5 (0.1)	22 (0.5)	438 (9.0)	355 (7.3)	192 (4.0)	2,403 (49.6)	54 (1.1)
Administrative Hearing Officers									
Dan Casias	646 (100)	248 (38.4)	0 (0.0)	32 (5.0)	237 (36.7)	14 (2.2)	1 (0.2)	113 (17.5)	1 (0.2)
Jim Peters	2,360 (100)	620 (26.3)	1 (0.04)	8 (0.3)	225 (9.5)	144 (6.1)	93 (3.9)	1,248 (52.9)	21 (0.9)
Tom Waters	2,154 (100)	568 (26.4)	1 (0.05)	12 (0.6)	210 (9.7)	224 (10.4)	63 (2.9)	1,050 (48.7)	26 (1.2)
Total	5,160 (100)	1,436 (27.8)	2 (0.04)	52 (1.0)	672 (13.0)	382 (7.4)	157 (3.0)	2,411 (46.7)	48 (0.9)
Grand Total	10,007 (100)	2,814 (28.1)	7 (0.1)	74 (0.7)	1,110 (11.1)	737 (7.4)	349 (3.5)	4,814 (48.1)	102 (1.0)

** Percentages totals within rows not equal to 100% are due to rounding.

* Community return to custody facility pursuant to S.B.02-252.

+ Assigned to specific revocation cases already convicted of a new crime and returned to DOC.

Mandate. Compliance with the parole guidelines section (17-22.5-404, C.R.S.) requires that the DCJ regularly obtain data from the Parole Board to meet the H.B.09-1374 requirements as well as the related training requirements included in the statute (see 17-22.5-404 (2)(c), (6)(c), and (6)(d), C.R.S.). The intent is that the Parole Board must document each parole release and revocation decision and the reason for that decision, by decision maker, and provide this information to the DCJ. Additionally, the DCJ must obtain the reasons for any departure from the administrative release and from the revocation guidelines as established in 17-22.5-107, C.R.S. Because the DCJ must analyze and provide training on release and revocation decision-making, the data requirements must include an analysis of any data the member utilizes in their decision: this includes the factors included in the release and revocation guidelines and, upon any departure from the guidelines, the data mentioned or implied in the departure justification. Therefore, the data requirements go beyond the data specifically mentioned in the parole guidelines section and must include the data *implied* by the requirements of the section.

For example, the information necessary to comply with the statute, includes (at a minimum) the CARAS score, past and current program participation, institutional behavior (type of infraction and date), demographic data (gender, age, ethnicity), prior parole actions and instructions to the inmate, LSI scores and other assessment information, parole plan characteristics, and time served. Other factors that are important to Board members, such as victim input, family (pro-social) support, and addiction problems are also important to collect and analyze. Information necessary to analyze the recidivism rate includes the inmate number, the state identification number, and date of birth. This information must be available for each and every offender scheduled for a parole hearing. As the analysis of Board decision-making proceeds, the list of data items included for analysis must evolve to correspond with the information reported by Board members and hearing officers as relevant to their decisions.

Much of the data derived from the new automated parole hearing application may not be available for extraction by staff of the Board and, instead, may be provided by staff at the DOC. With the implementation of the projects described above, the Board, the DCJ, and the DOC will continue to build the data infrastructure and the collaborative relationships necessary to collect, extract, and analyze the data required by the mandate.

V. Summary

The lack of initial resources allocated to the State Board of Parole and the Division of Criminal Justice to accomplish the requirements listed in 17-22.5-404 (6), C.R.S. (Senate Bill 09-135), combined with resource and data capacity limitations faced by the State Board of Parole, resulted in a significant lag in the initial ability to comply with the requirements of this annual report. The subsequent resources provided by the H.B. 10-1374 amendments to 17-22.5-404, C.R.S. have provided additional support to the ongoing compliance endeavors by the DCJ and the DOC. Each of the entities mentioned in 17-22.5-404, C.R.S. (the State Board of Parole, the Division of Criminal Justice, and the Department of Corrections) is committed to continue the efforts to comply with the mandates of S.B. 09-135, H.B. 10-1374, and S.B. 11-241 and will continue to devise and implement the technology and processes to reach the goals set by these legislative imperatives.

APPENDIX A

Senate Bill 09-135

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NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



SENATE BILL 09-135

BY SENATOR(S) Penry, Boyd, Newell, Tapia, Tochtrop;
also REPRESENTATIVE(S) Miklosi, Baumgardner, Frangas, Gerou,
Green, Merrifield, Nikkel, Stephens, Todd, Vigil, Waller, Weissmann,
Carroll T.

CONCERNING INFORMATION COLLECTION REGARDING PAROLE DECISIONS.

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

SECTION 1. 17-22.5-404 (6) (d), Colorado Revised Statutes, is amended to read:

17-22.5-404. Parole guidelines - repeal. (6) (d) (I) ~~The division of criminal justice shall collect data on parole decisions and report the results of such data collection quarterly to the state board of parole and the division of adult parole. The state board of parole shall provide copies of the parole guidelines forms and parole action forms to the division for such purpose.~~ THE STATE BOARD OF PAROLE SHALL WORK IN CONSULTATION WITH THE DIVISION OF CRIMINAL JUSTICE OF THE DEPARTMENT OF PUBLIC SAFETY TO DEVELOP AND IMPLEMENT A PROCESS TO CAPTURE AND ANALYZE DATA RELATED TO THE BASIS FOR AND THE OUTCOMES OF THE BOARD'S PAROLE DECISIONS. THE PROCESS SHALL TRACK DATA RELATED TO THE BOARD'S RATIONALE FOR GRANTING, REVOKING, OR DENYING PAROLE.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

WHEN THE BOARD GRANTS PAROLE, THE PROCESS SHALL ALSO TRACK DATA RELATED TO WHETHER THE OFFENDER HAS PREVIOUSLY RECIDIVATED, THE TYPE OF RE-ENTRY PROGRAM GIVEN TO THE OFFENDER AS A PART OF THE OFFENDER'S PAROLE PLAN, AND WHETHER THE OFFENDER RECIDIVATES WHILE ON PAROLE.

(II) THE STATE BOARD OF PAROLE SHALL PROVIDE THE DATA TO THE DIVISION OF CRIMINAL JUSTICE OF THE DEPARTMENT OF PUBLIC SAFETY FOR ANALYSIS. THE DIVISION OF CRIMINAL JUSTICE SHALL ANALYZE THE DATA RECEIVED PURSUANT TO THIS SUBPARAGRAPH (II) AND SHALL PROVIDE ITS ANALYSIS TO THE BOARD. THE BOARD AND THE DIVISION OF CRIMINAL JUSTICE SHALL USE THE DATA AND ANALYSIS TO IDENTIFY SPECIFIC FACTORS THAT ARE IMPORTANT IN THE DECISION-MAKING PROCESS.

(III) THE DIVISION OF CRIMINAL JUSTICE OF THE DEPARTMENT OF PUBLIC SAFETY SHALL PROVIDE THE STATE BOARD OF PAROLE WITH TRAINING REGARDING HOW TO USE THE DATA OBTAINED AND ANALYZED PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (d) TO FACILITATE THE BOARD'S FUTURE DECISION-MAKING.

(IV) (A) ON OR BEFORE NOVEMBER 1, 2009, THE STATE BOARD OF PAROLE AND THE DIVISION OF CRIMINAL JUSTICE OF THE DEPARTMENT OF PUBLIC SAFETY SHALL ISSUE A REPORT TO THE GENERAL ASSEMBLY REGARDING THE PROGRESS OF THE IMPLEMENTATION OF THIS PARAGRAPH (d) AND EACH NOVEMBER 1 THEREAFTER, THE STATE BOARD OF PAROLE AND THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY SHALL UPDATE THE REPORT.

(B) THIS SUBPARAGRAPH (IV) IS REPEALED, EFFECTIVE JULY 1, 2012.

SECTION 2. 24-33.5-503 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-33.5-503. Duties of division. (1) The division has the following duties:

(t) TO ANALYZE THE DATA FROM THE STATE BOARD OF PAROLE PROVIDED TO THE DIVISION PURSUANT TO SECTION 17-22.5-404 (6), C.R.S., AND TO PROVIDE TRAINING TO THE BOARD, PURSUANT TO SECTION 17-22.5-404 (6), C.R.S., REGARDING HOW TO USE THE DATA OBTAINED AND

ANALYZED TO FACILITATE THE BOARD'S DECISION-MAKING.

SECTION 3. No appropriation. The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

SECTION 4. Act subject to petition - effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 5, 2009, if adjournment sine die is on May 6, 2009); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item,

section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO

APPENDIX B

House Bill 10-1374

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NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 10-1374

BY REPRESENTATIVE(S) Ferrandino, Levy, Waller, Casso, Fischer, Frangas, Kagan, Labuda, May, McCann, Middleton, Pace, Pommer, Ryden, Schafer S., Solano, Todd, Vigil, Carroll T., Court, Massey;
also SENATOR(S) Penry, Morse, Steadman.

CONCERNING PAROLE, AND MAKING AN APPROPRIATION IN CONNECTION
THEREWITH.

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

SECTION 1. 16-11.7-103 (4), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

16-11.7-103. Sex offender management board - creation - duties - repeal. (4) The board shall carry out the following duties:

(I) DEVELOP THE SPECIFIC SEX OFFENDER RELEASE GUIDELINE INSTRUMENT AS DESCRIBED BY SECTION 17-22.5-404 (4) (c) (II), C.R.S.

SECTION 2. 16-11.7-103 (4), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

16-11.7-103. Sex offender management board - creation - duties

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

- **repeal.** (4) The board shall carry out the following duties:

(1) THE BOARD SHALL DEVELOP THE SPECIFIC SEX OFFENDER RELEASE GUIDELINE INSTRUMENT AS DESCRIBED BY SECTION 17-22.5-404 (4) (c) (II), C.R.S.

SECTION 3. Part 1 of article 22.5 of title 17, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

17-22.5-107. Administrative release and revocation guidelines

- **creation.** (1) (a) THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY, IN CONSULTATION WITH THE STATE BOARD OF PAROLE, SHALL DEVELOP AN ADMINISTRATIVE RELEASE GUIDELINE INSTRUMENT FOR USE BY THE BOARD IN EVALUATING APPLICATIONS FOR PAROLE.

(b) THE ADMINISTRATIVE RELEASE GUIDELINE INSTRUMENT SHALL BE USED TO PROVIDE THE STATE BOARD OF PAROLE WITH CONSISTENT AND COMPREHENSIVE INFORMATION RELEVANT TO THE FACTORS LISTED IN SECTION 17-22.5-404 (4) (a). THE INSTRUMENT SHALL INCLUDE A MATRIX OF ADVISORY-RELEASE-DECISION RECOMMENDATIONS FOR THE DIFFERENT RISK LEVELS.

(2) (a) THE DEPARTMENT OF CORRECTIONS, IN CONSULTATION WITH THE STATE BOARD OF PAROLE, SHALL DEVELOP ADMINISTRATIVE REVOCATION GUIDELINES FOR USE BY THE BOARD IN EVALUATING COMPLAINTS FILED FOR PAROLE REVOCATION.

(b) THE ADMINISTRATIVE REVOCATION GUIDELINES SHALL BE USED TO PROVIDE THE STATE BOARD OF PAROLE WITH CONSISTENT AND COMPREHENSIVE INFORMATION BASED ON THE FACTORS IDENTIFIED IN SECTION 17-22.5-404 (5) (a). THE GUIDELINES SHALL INCLUDE A MATRIX OF ADVISORY-DECISION RECOMMENDATIONS FOR THE DIFFERENT RISK LEVELS.

SECTION 4. 17-2-207 (3), Colorado Revised Statutes, is amended to read:

17-2-207. Parole - regulations. (3) Offenders on parole shall remain under legal custody and shall be subject at any time to be returned to a correctional facility. ~~If any paroled offender leaves the state without lawful permission, he shall be held as a parole violator and arrested as such.~~

~~If any parolee not paroled to reside in a county in which a correctional facility is located is found within the boundaries of such county without lawful permission, or if any parolee who is paroled to reside in such county or is in such county without lawful permission is found within the boundaries of state property without lawful permission, he shall be arrested as a parole violator.~~

SECTION 5. 17-22.5-405 (1.5) (a) and (6), Colorado Revised Statutes, are amended to read:

17-22.5-405. Earned time - earned release time. (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 NOT incurred no A CLASS I code of penal discipline violations while incarcerated~~ VIOLATION WITHIN THE TWENTY-FOUR MONTHS IMMEDIATELY PRECEDING THE TIME OF CREDITING OR DURING HIS OR HER ENTIRE TERM OF INCARCERATION IF THE TERM IS LESS THAN TWENTY-FOUR MONTHS OR A CLASS II CODE OF PENAL DISCIPLINE VIOLATION WITHIN THE TWELVE MONTHS IMMEDIATELY PRECEDING THE TIME OF CREDITING OR DURING HIS OR HER ENTIRE TERM OF INCARCERATION IF THE TERM IS LESS THAN TWELVE MONTHS;

(III) ~~Has been~~ IS program-compliant; and

(IV) Was not convicted of, and has not previously been convicted of, a FELONY crime DESCRIBED in SECTION 18-3-303, 18-3-305, 18-3-306, OR 18-6-701, sections 18-7-402 to 18-7-407, ~~C.R.S.~~; OR section 18-12-102 ~~C.R.S.~~; or section 18-12-109, C.R.S., or a FELONY crime listed in section 24-4.1-302 (1), C.R.S.

(6) Earned release time shall be scheduled by the ~~parole board~~ STATE BOARD OF PAROLE 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 ~~no~~ NOT INCURRED A CLASS I code of penal discipline ~~violations~~ VIOLATION WITHIN THE TWENTY-FOUR MONTHS IMMEDIATELY PRECEDING THE TIME OF CREDITING OR DURING HIS OR HER ENTIRE TERM OF INCARCERATION IF THE TERM IS LESS THAN TWENTY-FOUR MONTHS OR A CLASS II CODE OF PENAL DISCIPLINE VIOLATION WITHIN THE TWELVE MONTHS IMMEDIATELY PRECEDING THE TIME OF CREDITING OR DURING HIS OR HER ENTIRE TERM OF INCARCERATION IF THE TERM IS LESS THAN TWELVE MONTHS;

(b) The inmate is program-compliant; and

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

SECTION 6. 17-22.5-404, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

17-22.5-404. Parole guidelines - repeal. (1) THE GENERAL ASSEMBLY HEREBY FINDS THAT:

(a) THE RISK OF REOFFENSE SHALL BE THE CENTRAL CONSIDERATION BY THE STATE BOARD OF PAROLE IN MAKING DECISIONS RELATED TO THE TIMING AND CONDITIONS OF RELEASE ON PAROLE OR REVOCATION OF PAROLE;

(b) RESEARCH DEMONSTRATES THAT ACTUARIAL RISK ASSESSMENT TOOLS CAN PREDICT THE LIKELIHOOD OR RISK OF REOFFENSE WITH SIGNIFICANTLY GREATER ACCURACY THAN PROFESSIONAL JUDGMENT ALONE. EVIDENCE-BASED CORRECTIONAL PRACTICES PRIORITIZE THE USE OF ACTUARIAL RISK ASSESSMENT TOOLS TO PROMOTE PUBLIC SAFETY. THE BEST OUTCOMES ARE DERIVED FROM A COMBINATION OF EMPIRICALLY BASED ACTUARIAL TOOLS AND CLINICAL JUDGMENT.

(c) ALTHOUGH THE STATE BOARD OF PAROLE IS MADE UP OF INDIVIDUALS, USING STRUCTURED DECISION-MAKING UNITES THE PAROLE BOARD MEMBERS WITH A COMMON PHILOSOPHY AND SET OF GOALS AND PURPOSES WHILE RETAINING THE AUTHORITY OF INDIVIDUAL PAROLE BOARD

MEMBERS TO MAKE DECISIONS THAT ARE APPROPRIATE FOR PARTICULAR SITUATIONS. EVIDENCE-BASED CORRECTIONAL PRACTICES SUPPORT THE USE OF STRUCTURED DECISION-MAKING.

(d) STRUCTURED DECISION-MAKING BY THE STATE BOARD OF PAROLE PROVIDES FOR GREATER ACCOUNTABILITY, STANDARDS FOR EVALUATING OUTCOMES, AND TRANSPARENCY OF DECISION-MAKING THAT CAN BE BETTER COMMUNICATED TO VICTIMS, OFFENDERS, OTHER CRIMINAL JUSTICE PROFESSIONALS, AND THE COMMUNITY; AND

(e) AN OFFENDER'S LIKELIHOOD OF SUCCESS MAY BE INCREASED BY ALIGNING THE INTENSITY AND TYPE OF PAROLE SUPERVISION, CONDITIONS OF RELEASE, AND SERVICES WITH ASSESSED RISK AND NEED LEVEL.

(2) (a) THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY SHALL DEVELOP THE COLORADO RISK ASSESSMENT SCALE TO BE USED BY THE STATE BOARD OF PAROLE IN CONSIDERING INMATES FOR RELEASE ON PAROLE. THE RISK ASSESSMENT SCALE SHALL INCLUDE CRITERIA THAT STATISTICALLY HAVE BEEN SHOWN TO BE GOOD PREDICTORS OF THE RISK OF REOFFENSE. THE DIVISION OF CRIMINAL JUSTICE SHALL VALIDATE THE COLORADO RISK ASSESSMENT SCALE AT LEAST EVERY FIVE YEARS OR MORE OFTEN IF THE PREDICTIVE ACCURACY, AS DETERMINED BY DATA COLLECTION AND ANALYSIS, FALLS BELOW AN ACCEPTABLE LEVEL OF PREDICTIVE ACCURACY AS DETERMINED BY THE DIVISION OF CRIMINAL JUSTICE, THE STATE BOARD OF PAROLE, AND THE DIVISION OF ADULT PAROLE IN THE DEPARTMENT OF CORRECTIONS.

(b) THE DIVISION OF CRIMINAL JUSTICE, THE DEPARTMENT OF CORRECTIONS, AND THE STATE BOARD OF PAROLE SHALL COOPERATE TO DEVELOP PAROLE BOARD ACTION FORMS CONSISTENT WITH THIS SECTION THAT CAPTURE THE RATIONALE FOR DECISION-MAKING THAT SHALL BE PUBLISHED AS OFFICIAL FORMS OF THE DEPARTMENT OF CORRECTIONS. VICTIM IDENTITY AND INPUT SHALL BE PROTECTED FROM DISPLAY ON THE PAROLE BOARD ACTION FORM OR ANY PAROLE HEARING REPORT THAT MAY BECOME A PART OF AN INMATE RECORD.

(c) THE DIVISION OF CRIMINAL JUSTICE, IN COOPERATION WITH THE DEPARTMENT OF CORRECTIONS AND THE STATE BOARD OF PAROLE, SHALL PROVIDE TRAINING ON THE USE OF THE ADMINISTRATIVE RELEASE GUIDELINE INSTRUMENT DEVELOPED PURSUANT TO SECTION 17-22.5-107 (1) AND THE

COLORADO RISK ASSESSMENT SCALE TO PERSONNEL OF THE DEPARTMENT OF CORRECTIONS, THE STATE BOARD OF PAROLE, ADMINISTRATIVE HEARING OFFICERS, AND RELEASE HEARING OFFICERS. THE DIVISION SHALL CONDUCT THE TRAINING ON A SEMIANNUAL BASIS.

(d) THE DEPARTMENT OF CORRECTIONS, IN COOPERATION WITH THE STATE BOARD OF PAROLE, SHALL PROVIDE TRAINING ON THE USE OF THE ADMINISTRATIVE REVOCATION GUIDELINES DEVELOPED PURSUANT TO SECTION 17-22.5-107 (2) TO PERSONNEL OF THE DEPARTMENT OF CORRECTIONS, THE STATE BOARD OF PAROLE, AND ADMINISTRATIVE HEARING OFFICERS. THE DEPARTMENT SHALL CONDUCT THE TRAINING SEMIANNUALLY.

(3) FOR A PERSON SENTENCED FOR A CLASS 2, CLASS 3, CLASS 4, CLASS 5, OR CLASS 6 FELONY WHO IS ELIGIBLE FOR PAROLE PURSUANT TO SECTION 17-22.5-403, OR A PERSON WHO IS ELIGIBLE FOR PAROLE PURSUANT TO SECTION 17-22.5-403.7, THE STATE BOARD OF PAROLE MAY CONSIDER ALL APPLICATIONS FOR PAROLE, AS WELL AS ALL PERSONS TO BE SUPERVISED UNDER ANY INTERSTATE COMPACT. THE STATE BOARD OF PAROLE MAY PAROLE ANY PERSON WHO IS SENTENCED OR COMMITTED TO A CORRECTIONAL FACILITY WHEN THE BOARD DETERMINES, BY USING, WHERE AVAILABLE, EVIDENCE-BASED PRACTICES AND THE GUIDELINES ESTABLISHED BY THIS SECTION, THAT THERE IS A REASONABLE PROBABILITY THAT THE PERSON WILL NOT VIOLATE THE LAW WHILE ON PAROLE AND THAT THE PERSON'S RELEASE FROM INSTITUTIONAL CUSTODY IS COMPATIBLE WITH PUBLIC SAFETY AND THE WELFARE OF SOCIETY. THE STATE BOARD OF PAROLE SHALL FIRST CONSIDER THE RISK OF REOFFENSE IN EVERY RELEASE DECISION IT MAKES.

(4) (a) IN CONSIDERING OFFENDERS FOR PAROLE, THE STATE BOARD OF PAROLE SHALL CONSIDER THE TOTALITY OF THE CIRCUMSTANCES, WHICH INCLUDE, BUT NEED NOT BE LIMITED TO, THE FOLLOWING FACTORS:

(I) THE TESTIMONY OR WRITTEN STATEMENT FROM THE VICTIM OF THE CRIME, OR A RELATIVE OF THE VICTIM, OR A DESIGNEE, PURSUANT TO SECTION 17-2-214;

(II) THE ACTUARIAL RISK OF REOFFENSE;

(III) THE OFFENDER'S ASSESSED CRIMINOGENIC NEED LEVEL;

(IV) THE OFFENDER'S PROGRAM OR TREATMENT PARTICIPATION AND PROGRESS;

(V) THE OFFENDER'S INSTITUTIONAL CONDUCT;

(VI) THE ADEQUACY OF THE OFFENDER'S PAROLE PLAN;

(VII) WHETHER THE OFFENDER WHILE UNDER SENTENCE HAS THREATENED OR HARASSED THE VICTIM OR THE VICTIM'S FAMILY OR HAS CAUSED THE VICTIM OR THE VICTIM'S FAMILY TO BE THREATENED OR HARASSED, EITHER VERBALLY OR IN WRITING;

(VIII) AGGRAVATING OR MITIGATING FACTORS FROM THE CRIMINAL CASE;

(IX) THE TESTIMONY OR WRITTEN STATEMENT FROM A PROSPECTIVE PAROLE SPONSOR, EMPLOYER, OR OTHER PERSON WHO WOULD BE AVAILABLE TO ASSIST THE OFFENDER IF RELEASED ON PAROLE;

(X) WHETHER THE OFFENDER HAD PREVIOUSLY ABSCONDED OR ESCAPED OR ATTEMPTED TO ABSCOND OR ESCAPE WHILE ON COMMUNITY SUPERVISION; AND

(XI) WHETHER THE OFFENDER COMPLETED OR WORKED TOWARDS COMPLETING A HIGH SCHOOL DIPLOMA, A GENERAL EQUIVALENCY DEGREE, OR A COLLEGE DEGREE DURING HIS OR HER PERIOD OF INCARCERATION.

(b) THE STATE BOARD OF PAROLE SHALL USE THE COLORADO RISK ASSESSMENT SCALE THAT IS DEVELOPED BY THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY PURSUANT TO PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION IN CONSIDERING INMATES FOR RELEASE ON PAROLE.

(c) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (c), THE STATE BOARD OF PAROLE SHALL ALSO USE THE ADMINISTRATIVE RELEASE GUIDELINE INSTRUMENT DEVELOPED PURSUANT TO SECTION 17-22.5-107 (1) IN EVALUATING AN APPLICATION FOR PAROLE.

(II) THE ADMINISTRATIVE RELEASE GUIDELINE INSTRUMENT SHALL NOT BE USED IN CONSIDERING THOSE INMATES CLASSIFIED AS SEX

OFFENDERS WITH INDETERMINATE SENTENCES FOR WHOM THE SEX OFFENDER MANAGEMENT BOARD PURSUANT TO SECTION 18-1.3-1009, C.R.S., HAS ESTABLISHED SEPARATE AND DISTINCT RELEASE GUIDELINES. THE SEX OFFENDER MANAGEMENT BOARD IN COLLABORATION WITH THE DEPARTMENT OF CORRECTIONS, THE JUDICIAL DEPARTMENT, THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY, AND THE STATE BOARD OF PAROLE SHALL DEVELOP A SPECIFIC SEX OFFENDER RELEASE GUIDELINE INSTRUMENT FOR USE BY THE STATE BOARD OF PAROLE FOR THOSE INMATES CLASSIFIED AS SEX OFFENDERS WITH DETERMINATE SENTENCES.

(5)(a) IN CONDUCTING A PAROLE REVOCATION HEARING, THE STATE BOARD OF PAROLE AND THE ADMINISTRATIVE HEARING OFFICER SHALL CONSIDER, WHERE AVAILABLE, EVIDENCE-BASED PRACTICES AND SHALL CONSIDER, BUT NEED NOT BE LIMITED TO, THE FOLLOWING FACTORS:

(I) A DETERMINATION BY THE STATE BOARD OF PAROLE THAT A PAROLEE COMMITTED A NEW CRIME WHILE ON PAROLE, IF APPLICABLE;

(II) THE PAROLEE'S ACTUARIAL RISK OF REOFFENSE;

(III) THE SERIOUSNESS OF THE TECHNICAL VIOLATION, IF APPLICABLE;

(IV) THE PAROLEE'S FREQUENCY OF TECHNICAL VIOLATIONS, IF APPLICABLE;

(V) THE PAROLEE'S EFFORTS TO COMPLY WITH A PREVIOUS CORRECTIVE ACTION PLAN OR OTHER REMEDIATION PLAN REQUIRED BY THE STATE BOARD OF PAROLE OR PAROLE OFFICER;

(VI) THE IMPOSITION OF INTERMEDIATE SANCTIONS BY THE PAROLE OFFICER IN RESPONSE TO THE TECHNICAL VIOLATIONS THAT MAY FORM THE BASIS OF THE COMPLAINT FOR REVOCATION; AND

(VII) WHETHER MODIFICATION OF PAROLE CONDITIONS IS APPROPRIATE AND CONSISTENT WITH PUBLIC SAFETY IN LIEU OF REVOCATION.

(b) THE STATE BOARD OF PAROLE SHALL USE THE ADMINISTRATIVE REVOCATION GUIDELINES DEVELOPED PURSUANT TO SECTION 17-22.5-107

(2), IN EVALUATING COMPLAINTS FILED FOR PAROLE REVOCATION.

(c) THE STATE BOARD OF PAROLE OR THE ADMINISTRATIVE HEARING OFFICER SHALL NOT REVOKE PAROLE FOR A TECHNICAL VIOLATION UNLESS THE BOARD OR ADMINISTRATIVE HEARING OFFICER DETERMINES ON THE RECORD THAT APPROPRIATE INTERMEDIATE SANCTIONS HAVE BEEN UTILIZED AND HAVE BEEN INEFFECTIVE OR THAT THE MODIFICATION OF CONDITIONS OF PAROLE OR THE IMPOSITION OF INTERMEDIATE SANCTIONS IS NOT APPROPRIATE OR CONSISTENT WITH PUBLIC SAFETY AND THE WELFARE OF SOCIETY.

(6)(a) THE STATE BOARD OF PAROLE SHALL WORK IN CONSULTATION WITH THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY AND THE DEPARTMENT OF CORRECTIONS TO DEVELOP AND IMPLEMENT A PROCESS TO COLLECT AND ANALYZE DATA RELATED TO THE BASIS FOR AND THE OUTCOMES OF THE BOARD'S PAROLE DECISIONS. THE PROCESS SHALL COLLECT DATA RELATED TO THE BOARD'S RATIONALE FOR GRANTING, REVOKING, OR DENYING PAROLE. ANY INFORMATION RELATING TO VICTIM IDENTIFICATION OR VICTIM INPUT THAT IS IDENTIFIABLE TO AN INDIVIDUAL DEFENDANT OR CASE SHALL BE MAINTAINED, BUT KEPT CONFIDENTIAL AND RELEASED ONLY TO OTHER GOVERNMENT AGENCIES, PURSUANT TO A NONDISCLOSURE AGREEMENT, FOR THE PURPOSE OF ANALYSIS AND REPORTING, PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (6). WHEN THE BOARD GRANTS PAROLE, THE PROCESS SHALL ALSO COLLECT DATA RELATED TO WHETHER THE OFFENDER HAS PREVIOUSLY RECIDIVATED, THE TYPE OF REENTRY PROGRAM GIVEN TO THE OFFENDER AS A PART OF THE OFFENDER'S PAROLE PLAN, AND WHETHER THE OFFENDER RECIDIVATES WHILE ON PAROLE.

(b) THE STATE BOARD OF PAROLE SHALL ALSO DETERMINE WHETHER A DECISION GRANTING, REVOKING, OR DENYING PAROLE CONFORMED WITH OR DEPARTED FROM THE ADMINISTRATIVE GUIDELINES CREATED PURSUANT TO SECTION 17-22.5-107 AND, IF THE DECISION WAS A DEPARTURE FROM THE GUIDELINES, THE REASON FOR THE DEPARTURE. THE DATA COLLECTED PURSUANT TO THIS PARAGRAPH (b) ARE SUBJECT TO THE SAME VICTIM PROTECTIONS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (6).

(c) THE STATE BOARD OF PAROLE SHALL PROVIDE THE DATA COLLECTED PURSUANT TO THIS SUBSECTION (6) TO THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY FOR ANALYSIS.

THE DIVISION OF CRIMINAL JUSTICE SHALL ANALYZE THE DATA RECEIVED PURSUANT TO THIS PARAGRAPH (c) AND SHALL PROVIDE ITS ANALYSIS TO THE BOARD. THE BOARD AND THE DIVISION OF CRIMINAL JUSTICE SHALL USE THE DATA AND ANALYSIS TO IDENTIFY SPECIFIC FACTORS THAT ARE IMPORTANT IN THE DECISION-MAKING PROCESS.

(d) THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY SHALL PROVIDE THE STATE BOARD OF PAROLE WITH TRAINING REGARDING HOW TO USE THE DATA OBTAINED AND ANALYZED PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (6) TO FACILITATE THE BOARD'S FUTURE DECISION-MAKING.

(e) (I) ON OR BEFORE NOVEMBER 1, 2009, THE STATE BOARD OF PAROLE AND THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY SHALL ISSUE A REPORT TO THE GENERAL ASSEMBLY REGARDING THE PROGRESS IN IMPLEMENTING THIS SUBSECTION (6), AND NOVEMBER 1 EACH YEAR THEREAFTER, THE STATE BOARD OF PAROLE AND THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY SHALL UPDATE THE REPORT. THE DATA SHALL BE REPORTED TO THE GENERAL ASSEMBLY ONLY IN THE AGGREGATE.

(II) THIS PARAGRAPH (e) IS REPEALED, EFFECTIVE JULY 1, 2012.

(7) THE DEPARTMENT OF CORRECTIONS, THE STATE BOARD OF PAROLE, THE DIVISION OF ADULT PAROLE, AND THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY SHALL COOPERATE IN IMPLEMENTING ALL ASPECTS OF THIS SECTION.

(8) THIS SECTION SHALL APPLY TO ANY PERSON TO WHOM SECTION 17-22.5-303.5, AS IT EXISTED PRIOR TO MAY 18, 1991, WOULD APPLY PURSUANT TO THE OPERATION OF SECTION 17-22.5-406, BECAUSE THE PROVISIONS OF SUCH SECTIONS ARE SUBSTANTIALLY SIMILAR.

(9) FOR PURPOSES OF THIS SECTION, "TECHNICAL VIOLATION" MEANS A VIOLATION OF A CONDITION OF PAROLE THAT IS NOT A CONVICTION FOR A NEW CRIMINAL OFFENSE OR NOT DETERMINED BY THE STATE BOARD OF PAROLE TO BE A COMMISSION OF A NEW CRIMINAL OFFENSE.

SECTION 7. 24-33.5-503 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW

PARAGRAPHS to read:

24-33.5-503. Duties of division. (1) The division has the following duties:

(w) TO DEVELOP THE ADMINISTRATIVE RELEASE GUIDELINE INSTRUMENT FOR USE BY THE STATE BOARD OF PAROLE AS DESCRIBED IN SECTION 17-22.5-107 (1), C.R.S.;

(x) TO DEVELOP THE COLORADO RISK ASSESSMENT SCALE AS DESCRIBED IN SECTION 17-22.5-404 (2) (a), C.R.S.;

(y) TO DEVELOP, IN COOPERATION WITH THE DEPARTMENT OF CORRECTIONS AND THE STATE BOARD OF PAROLE, A PAROLE BOARD ACTION FORM; AND

(z) TO PROVIDE TRAINING ON THE COLORADO RISK ASSESSMENT SCALE AND THE ADMINISTRATIVE RELEASE GUIDELINE INSTRUMENT AS REQUIRED BY SECTION 17-22.5-404 (2) (c), C.R.S.

SECTION 8. 22-33-107.5 (1) (b), Colorado Revised Statutes, is amended to read:

22-33-107.5. Notice of failure to attend. (1) Except as otherwise provided in subsection (2) of this section, a school district shall notify the appropriate court or parole board if a student fails to attend all or any portion of a school day, where the school district has received notice from the court or parole board:

(b) Pursuant to section 17-22.5-404, ~~(4.5)~~, 18-1.3-204 (2.3), 19-2-907 (4), 19-2-925 (5), or 19-2-1002 (1) or (3), C.R.S., that the student is required to attend school as a condition of or in connection with any sentence imposed by the court, including a condition of probation or parole; or

SECTION 9. 17-2-201, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

17-2-201. State board of parole. (3.5) THE CHAIRPERSON SHALL ANNUALLY MAKE A PRESENTATION TO JUDICIARY COMMITTEES OF THE

HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, REGARDING THE OPERATIONS OF THE BOARD.

SECTION 10. Appropriation - adjustments to the 2010 long bill.

(1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of corrections, for allocation to the executive director's office and parole subprograms, for research and parole services, for the fiscal year beginning July 1, 2010, the sum of three hundred fifty-three thousand seven hundred eighty-six dollars (\$353,786) and 7.9 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of public safety, for allocation to the division of criminal justice, for parole guideline duties and actuarial consultation, for the fiscal year beginning July 1, 2010, the sum of eighty thousand one hundred fifty-four dollars (\$80,154) and 0.7 FTE, or so much thereof as may be necessary, for the implementation of this act.

(3) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of public safety, for allocation to the division of criminal justice, for costs associated with the Colorado criminal and juvenile justice commission, for the fiscal year beginning July 1, 2010, the sum of one hundred fourteen thousand one hundred twenty-seven dollars (\$114,127).

(4) For the implementation of this act, the general fund appropriation made in the annual general appropriation act for the fiscal year beginning July 1, 2010, to the department of corrections, management, external capacity subprogram, for payments to house state prisoners, is decreased by five hundred forty-eight thousand sixty-seven dollars (\$548,067).

SECTION 11. Specified effective date. (1) Sections 3 through 12 of this act shall take effect upon passage.

(2) Section 1 of this act shall take effect only if House Bill 10-1364 is not enacted and shall take effect upon passage of this act.

(3) Section 2 of this act shall take effect only if House 10-1364 is enacted and becomes law and shall have the same effective date as House Bill 10-1364.

SECTION 12. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO

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APPENDIX C

Senate Bill 11-241

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NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

SENATE BILL 11-241

BY SENATOR(S) King S. and Carroll, Aguilar, Boyd, Giron, Guzman, Heath, Jahn, Morse, Newell, Steadman, Tochtrop;
also REPRESENTATIVE(S) Gardner B. and Kagan, Duran, Hullinghorst, Labuda, Lee, Solano, Waller.

CONCERNING CHANGES RELATED TO THE OPERATION OF THE PAROLE BOARD,
AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. 17-1-102 (7.5), Colorado Revised Statutes, is amended to read:

17-1-102. Definitions. As used in this title, unless the context otherwise requires:

(7.5) (a) "Special needs offender" means a person in the custody of the department:

(I) Who is ~~physically handicapped, is developmentally disabled, or has a mental illness~~ SIXTY YEARS OF AGE OR OLDER AND HAS BEEN DIAGNOSED BY A LICENSED HEALTH CARE PROVIDER WHO IS EMPLOYED BY OR UNDER CONTRACT WITH THE DEPARTMENT AS SUFFERING FROM A

CHRONIC INFIRMITY, ILLNESS, CONDITION, DISEASE, OR MENTAL ILLNESS AND THE DEPARTMENT OR THE STATE BOARD OF PAROLE DETERMINES THAT THE PERSON IS INCAPACITATED TO THE EXTENT THAT HE OR SHE IS NOT LIKELY TO POSE A RISK TO PUBLIC SAFETY; or

~~(II) Who is sixty-five years of age or older and incapable of taking care of himself or herself; or~~ WHO, AS DETERMINED BY A LICENSED HEALTH CARE PROVIDER WHO IS EMPLOYED BY OR UNDER CONTRACT WITH THE DEPARTMENT, SUFFERS FROM A CHRONIC, PERMANENT, TERMINAL, OR IRREVERSIBLE PHYSICAL OR MENTAL ILLNESS, CONDITION, DISEASE, OR MENTAL ILLNESS THAT REQUIRES COSTLY CARE OR TREATMENT AND WHO IS DETERMINED BY THE DEPARTMENT OR THE STATE BOARD OF PAROLE TO BE INCAPACITATED TO THE EXTENT THAT HE OR SHE IS NOT LIKELY TO POSE A RISK TO PUBLIC SAFETY.

~~(III) (A) Who has a medical condition, other than a mental illness, that is serious enough to require costly care or treatment; and~~

~~(B) Who is physically incapacitated due to age or the medical condition.~~

(b) Notwithstanding the provisions of paragraph (a) of this subsection (7.5), "special needs offender" does not include a person who:

~~(I) Has been~~ WAS convicted of a class 1 felony, ~~or~~ UNLESS THE OFFENSE WAS COMMITTED BEFORE JULY 1, 1990, AND THE OFFENDER HAS SERVED AT LEAST TWENTY YEARS IN A DEPARTMENT OF CORRECTIONS FACILITY FOR THE OFFENSE; OR

~~(II) Has ever been convicted of a crime of violence as defined in section 18-1.3-406, C.R.S.; or~~ WAS CONVICTED OF A CLASS 2 FELONY CRIME OF VIOLENCE AS DESCRIBED IN SECTION 18-1.3-406, C.R.S., AND THE OFFENDER HAS SERVED FEWER THAN TEN YEARS IN A DEPARTMENT OF CORRECTIONS FACILITY FOR THE OFFENSE.

~~(III) Is or has ever been a sex offender as defined in section 18-1.3-1003(4), C.R.S.~~

SECTION 2. 17-2-201 (1) (a), Colorado Revised Statutes, is amended, and the said 17-2-201 (1) is further amended BY THE

ADDITION OF A NEW PARAGRAPH, to read:

17-2-201. State board of parole. (1) (a) There is hereby created a state board of parole, referred to in this part 2 as the "board", which shall consist of seven members. The members of the board shall be appointed by the governor and confirmed by the senate, and they shall devote their full time to their duties as members of ~~such~~ THE board. The members shall be appointed for three-year terms and may serve consecutive terms. The governor may remove a board member for incompetency, neglect of duty, malfeasance in office, continued failure to use the risk assessment guidelines as required by section 17-22.5-404, or failure to regularly attend meetings as determined by the governor. Final conviction of a felony during the term of office of a board member shall automatically result in the disqualification of the member from further service on the board. The board shall be composed of ~~two~~ representatives from ~~law enforcement, one former parole or probation officer, and four citizen representatives~~ MULTIDISCIPLINARY AREAS OF EXPERTISE. TWO MEMBERS SHALL HAVE EXPERIENCE IN LAW ENFORCEMENT AND ONE MEMBER SHALL HAVE EXPERIENCE IN OFFENDER SUPERVISION, INCLUDING PAROLE, PROBATION, OR COMMUNITY CORRECTIONS. FOUR MEMBERS SHALL HAVE EXPERIENCE IN OTHER RELEVANT FIELDS. ~~The members~~ EACH MEMBER of the board shall have A MINIMUM OF FIVE YEARS OF EXPERIENCE IN A RELEVANT FIELD, AND knowledge of parole LAWS AND GUIDELINES, rehabilitation, correctional administration, the functioning of the criminal justice system, ~~and the issues associated with victims of crime, THE DUTIES OF PAROLE BOARD MEMBERS, AND ACTUARIAL RISK ASSESSMENT INSTRUMENTS AND OTHER OFFENDER ASSESSMENT INSTRUMENTS USED BY THE BOARD AND THE DEPARTMENT OF CORRECTIONS.~~ ~~The three designated members of the board shall each have at least five years' education or experience, or a combination thereof, in their respective fields.~~ No A person who has been convicted of a felony or of a misdemeanor involving moral turpitude or who has any financial interests which conflict with the duties of a member of the parole board shall NOT be eligible for appointment.

(e) EACH BOARD MEMBER SHALL COMPLETE A MINIMUM OF TWENTY HOURS OF CONTINUING EDUCATION OR TRAINING EVERY YEAR IN ORDER TO MAINTAIN PROFICIENCY AND TO REMAIN CURRENT ON CHANGES IN PAROLE LAWS AND DEVELOPMENTS IN THE FIELD. EACH PAROLE BOARD MEMBER SHALL SUBMIT TO THE CHAIRPERSON PROOF OF ATTENDANCE AND DETAILS REGARDING ANY CONTINUING EDUCATION OR TRAINING ATTENDED

INCLUDING THE DATE, PLACE, TOPIC, THE LENGTH OF THE TRAINING, THE TRAINER'S NAME, AND ANY AGENCY OR ORGANIZATIONAL AFFILIATION. MEMBERS MAY ATTEND TRAININGS INDIVIDUALLY OR AS PART OF A SPECIFIC TRAINING OFFERED TO THE PAROLE BOARD AS A WHOLE. THE SOLE REMEDY FOR FAILURE TO COMPLY WITH TRAINING AND DATA COLLECTION REQUIREMENTS SHALL BE REMOVAL OF THE BOARD MEMBER BY THE GOVERNOR, AND THE FAILURE TO COMPLY WITH TRAINING AND DATA COLLECTION REQUIREMENTS SHALL NOT CREATE ANY RIGHT FOR ANY OFFENDER.

SECTION 3. 17-2-201 (3) (c) and (3) (c.5), Colorado Revised Statutes, are amended, and the said 17-2-201 (3) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

17-2-201. State board of parole. (3) The chairperson, in addition to other provisions of law, has the following powers and duties:

~~(c) (f) To contract with licensed attorneys to serve as administrative hearing officers to conduct parole revocation hearings pursuant to rules adopted by the parole board; or~~

~~(H) To appoint an administrative law judge pursuant to the provisions of section 24-30-1003, C.R.S., to conduct parole revocation hearings pursuant to the rules and regulations promulgated pursuant to this subsection (3). Any references to the board regarding parole revocation hearings or revocation of parole shall include an administrative law judge appointed pursuant to this paragraph (c). To DEVELOP AND UPDATE A WRITTEN OPERATIONAL MANUAL FOR PAROLE BOARD MEMBERS, RELEASE HEARING OFFICERS, AND ADMINISTRATIVE HEARING OFFICERS UNDER CONTRACT WITH THE BOARD BY DECEMBER 31, 2012. THE OPERATIONAL MANUAL SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, BOARD POLICIES AND RULES, A SUMMARY OF STATE LAWS GOVERNING THE BOARD, AND ALL ADMINISTRATIVE RELEASE AND REVOCATION GUIDELINES THAT THE PAROLE BOARD IS REQUIRED TO USE. THE CHAIRPERSON WILL ENSURE THAT ALL NEW PAROLE BOARD MEMBERS RECEIVE TRAINING AND ORIENTATION ON THE OPERATIONAL MANUAL.~~

~~(c.5) To contract with qualified individuals to serve as release hearing officers:~~

~~(f) To conduct parole application hearings for inmates convicted of nonviolent felonies that are class 4 felonies, class 5 felonies, or class 6 felonies, pursuant to rules adopted by the parole board; and~~

~~(H) To set parole conditions for inmates eligible for release to mandatory parole.~~

(e) TO ENSURE THAT PAROLE BOARD MEMBERS, RELEASE HEARING OFFICERS, AND ADMINISTRATIVE HEARING OFFICERS UNDER CONTRACT WITH THE BOARD FULFILL THE ANNUAL TRAINING REQUIREMENTS DESCRIBED IN PARAGRAPH (e) OF SUBSECTION (1) OF THIS SECTION AND IN SECTION 17-2-202.5. THE CHAIRPERSON SHALL NOTIFY THE GOVERNOR IF ANY BOARD MEMBER, RELEASE HEARING OFFICER, OR ADMINISTRATIVE HEARING OFFICER FAILS TO COMPLY WITH THE TRAINING REQUIREMENTS.

(f) TO ENSURE THAT PAROLE BOARD MEMBERS, RELEASE HEARING OFFICERS, AND ADMINISTRATIVE HEARING OFFICERS UNDER CONTRACT WITH THE BOARD ARE ACCURATELY COLLECTING DATA AND INFORMATION ON HIS OR HER DECISION-MAKING AS REQUIRED BY SECTION 17-22.5-404 (6). THE CHAIRPERSON SHALL NOTIFY THE GOVERNOR IMMEDIATELY IF ANY BOARD MEMBER, RELEASE HEARING OFFICER, OR ADMINISTRATIVE HEARING OFFICER FAILS TO COMPLY WITH DATA COLLECTION REQUIREMENT.

(g) TO CONDUCT AN ANNUAL COMPREHENSIVE REVIEW OF BOARD FUNCTIONS TO IDENTIFY WORKLOAD INEFFICIENCIES AND TO DEVELOP STRATEGIES OR RECOMMENDATIONS TO ADDRESS ANY WORKLOAD INEFFICIENCIES.

(h) (I) TO CONTRACT WITH LICENSED ATTORNEYS TO SERVE AS ADMINISTRATIVE HEARING OFFICERS TO CONDUCT PAROLE REVOCATION HEARINGS PURSUANT TO RULES ADOPTED BY THE PAROLE BOARD; OR

(II) TO APPOINT AN ADMINISTRATIVE LAW JUDGE PURSUANT TO THE PROVISIONS OF SECTION 24-30-1003, C.R.S., TO CONDUCT PAROLE REVOCATION HEARINGS PURSUANT TO THE RULES AND REGULATIONS PROMULGATED PURSUANT TO THIS SUBSECTION (3). ANY REFERENCES TO THE BOARD REGARDING PAROLE REVOCATION HEARINGS OR REVOCATION OF PAROLE SHALL INCLUDE AN ADMINISTRATIVE LAW JUDGE APPOINTED PURSUANT TO THIS PARAGRAPH (h).

(h.1) TO CONTRACT WITH QUALIFIED INDIVIDUALS TO SERVE AS RELEASE HEARING OFFICERS:

(I) TO CONDUCT PAROLE APPLICATION HEARINGS FOR INMATES CONVICTED OF NONVIOLENT FELONIES WHO HAVE BEEN ASSESSED TO BE LOW OR VERY LOW RISK BY THE COLORADO RISK ASSESSMENT SCALE DEVELOPED PURSUANT TO SECTION 17-22.5-404 (2) (a), C.R.S., PURSUANT TO RULES ADOPTED BY THE PAROLE BOARD; AND

(II) TO SET PAROLE CONDITIONS FOR INMATES ELIGIBLE FOR RELEASE TO MANDATORY PAROLE.

SECTION 4. 17-2-201 (4), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

17-2-201. State board of parole. (4) The board has the following powers and duties:

(f) (I) TO CONDUCT A PAROLE RELEASE REVIEW IN LIEU OF A HEARING, WITHOUT THE PRESENCE OF THE INMATE, IF:

(A) THE APPLICATION FOR RELEASE IS FOR SPECIAL NEEDS PAROLE PURSUANT TO SECTION 17-22.5-403.5, AND VICTIM NOTIFICATION IS NOT REQUIRED PURSUANT TO SECTION 24-4.1-302.5, C.R.S.; OR

(B) A DETAINER FROM THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY HAS BEEN FILED WITH THE DEPARTMENT, THE INMATE MEETS THE CRITERIA FOR THE PRESUMPTION OF PAROLE IN SECTION 17-22-404.8, AND VICTIM NOTIFICATION IS NOT REQUIRED PURSUANT TO SECTION 24-4.1-302.5, C.R.S.

(II) THE BOARD SHALL NOTIFY THE INMATE'S CASE MANAGER IF THE BOARD DECIDES TO CONDUCT A PAROLE RELEASE REVIEW WITHOUT THE PRESENCE OF THE INMATE, AND THE CASE MANAGER SHALL NOTIFY THE INMATE OF THE BOARD'S DECISION. THE CASE MANAGER MAY REQUEST THAT THE BOARD RECONSIDER AND CONDUCT A HEARING WITH THE INMATE PRESENT.

SECTION 5. Part 2 of article 2 of title 17, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

17-2-202.5. Administrative hearing officers and release hearing officers - qualifications - duties.

(1) (a) TO BE ELIGIBLE TO SERVE AS AN ADMINISTRATIVE HEARING OFFICER OR ADMINISTRATIVE LAW JUDGE UNDER CONTRACT WITH THE BOARD, AN ATTORNEY SHALL HAVE FIVE YEARS EXPERIENCE IN THE PRACTICE OF LAW AND BE KNOWLEDGEABLE OF PAROLE LAWS AND GUIDELINES, OFFENDER REHABILITATION, CORRECTIONAL ADMINISTRATION, THE FUNCTIONING OF THE CRIMINAL JUSTICE SYSTEM, ISSUES ASSOCIATED WITH VICTIMS OF CRIME, THE DUTIES OF PAROLE BOARD MEMBERS, AND ACTUARIAL RISK ASSESSMENT INSTRUMENTS AND OTHER OFFENDER ASSESSMENT INSTRUMENTS USED BY THE BOARD AND THE DEPARTMENT OF CORRECTIONS.

(b) AN ADMINISTRATIVE HEARING OFFICER OR ADMINISTRATIVE LAW JUDGE UNDER CONTRACT WITH THE BOARD IS REQUIRED TO COMPLETE TWELVE HOURS ANNUALLY OF CONTINUING EDUCATION OR TRAINING CONSISTENT WITH SECTION 17-2-201 (1) (e).

(c) AN ADMINISTRATIVE HEARING OFFICER OR ADMINISTRATIVE LAW JUDGE UNDER CONTRACT WITH THE BOARD SHALL COMPLY WITH THE DATA AND INFORMATION COLLECTION ON DECISION-MAKING AS REQUIRED BY SECTION 17-22.5-404 (6) AND SHALL TRANSMIT THIS INFORMATION AS DIRECTED BY THE CHAIRPERSON OR BOARD POLICY.

(d) THE SOLE REMEDY FOR FAILURE TO COMPLY WITH TRAINING AND DATA COLLECTION REQUIREMENTS SHALL BE TERMINATION OF THE EMPLOYEE, AND THE FAILURE TO COMPLY WITH TRAINING AND DATA COLLECTION REQUIREMENTS SHALL NOT CREATE ANY RIGHT FOR ANY OFFENDER.

(2) (a) A RELEASE HEARING OFFICER SHALL HAVE THREE YEARS OF RELEVANT EXPERIENCE AND BE KNOWLEDGEABLE OF PAROLE LAWS AND GUIDELINES, OFFENDER REHABILITATION, CORRECTIONAL ADMINISTRATION, THE FUNCTIONING OF THE CRIMINAL JUSTICE SYSTEM, THE ISSUES ASSOCIATED WITH VICTIMS OF CRIME, THE DUTIES OF PAROLE BOARD MEMBERS, AND ACTUARIAL RISK ASSESSMENT INSTRUMENTS AND OTHER OFFENDER ASSESSMENT INSTRUMENTS USED BY THE BOARD AND THE DEPARTMENT OF CORRECTIONS.

(b) A RELEASE HEARING OFFICER UNDER CONTRACT WITH THE BOARD IS REQUIRED TO COMPLETE TWELVE HOURS ANNUALLY OF CONTINUING

EDUCATION OR TRAINING CONSISTENT WITH SECTION 17-2-201 (1) (e).

(c) A RELEASE HEARING OFFICER SHALL COMPLY WITH THE DATA AND INFORMATION COLLECTION ON DECISION-MAKING REQUIRED BY SECTION 17-22.5-404 (6) AND SHALL TRANSMIT THIS INFORMATION AS DIRECTED BY THE CHAIRPERSON OR BOARD POLICY.

(d) THE SOLE REMEDY FOR FAILURE TO COMPLY WITH TRAINING AND DATA COLLECTION REQUIREMENTS SHALL BE TERMINATION OF THE EMPLOYEE, AND THE FAILURE TO COMPLY WITH TRAINING AND DATA COLLECTION REQUIREMENTS SHALL NOT CREATE ANY RIGHT FOR ANY OFFENDER.

SECTION 6. 17-22.5-403.5, Colorado Revised Statutes, is amended to read:

17-22.5-403.5. Special needs parole. (1) Notwithstanding any provision of law to the contrary, a special needs offender, as ~~determined pursuant to rules adopted by the state board of parole~~ DEFINED IN SECTION 17-2-102 (7.5) (a), may be eligible for parole prior to OR AFTER the offender's parole eligibility date pursuant to this section if:

(a) The state board of parole determines, based on the special needs offender's condition and a medical evaluation, that he or she does not constitute a threat to public safety and is not likely to commit an offense; and

(b) The STATE board ~~prepares~~ OF PAROLE APPROVES a special needs parole plan that ensures appropriate supervision ~~and placement~~ OF AND CONTINUITY OF MEDICAL CARE FOR the special needs offender.

(2) This section shall apply to any inmate applying for parole on or after July 1, 2001, regardless of when the inmate was sentenced. The provisions of this section shall not affect the length of the parole period to which a special needs offender would otherwise be subject.

(3) (a) THE DEPARTMENT IS RESPONSIBLE FOR IDENTIFYING INMATES WHO MEET THE ELIGIBILITY CRITERIA FOR SPECIAL NEEDS PAROLE AND SHALL SUBMIT A REFERRAL TO THE STATE BOARD OF PAROLE FOR ALL ELIGIBLE INMATES.

(b) THE REFERRAL SHALL INCLUDE:

(I) A SUMMARY OF THE INMATE'S MEDICAL OR PHYSICAL CONDITION AND THE RISK OF REOFFENSE THAT THE INMATE POSES TO SOCIETY. IN RENDERING AN OPINION REGARDING THE INMATE'S LEVEL OF RISK OF REOFFENSE, THE DEPARTMENT MAY CONSIDER SUCH FACTORS AS THE INMATE'S MEDICAL OR PHYSICAL CONDITION, THE SEVERITY OF ANY DISABILITY OR INCAPACITATION, RISK ASSESSMENT SCORES, THE NATURE AND SEVERITY OF THE OFFENSE FOR WHICH THE INMATE IS CURRENTLY INCARCERATED, THE INMATE'S CRIMINAL HISTORY, INSTITUTIONAL CONDUCT, AND OTHER RELEVANT FACTORS.

(II) THE DETAILS OF A SPECIAL NEEDS PAROLE PLAN RECOMMENDED BY THE DEPARTMENT;

(III) ~~(3) The department may recommend~~ A RECOMMENDATION to the parole board that an offender be ~~considered for parole prior to the offender's parole eligibility date~~ RELEASED OR NOT BE RELEASED as a special needs offender pursuant to the provisions of subsection (1) of this section. Prior to making any recommendation pursuant to this ~~subsection (3)~~ SUBPARAGRAPH (III), the department shall establish objective criteria on which to base a recommendation for parole ~~prior to the offender's parole eligibility date~~ pursuant to the provisions of this section; AND

(IV) A VICTIM IMPACT STATEMENT OR RESPONSE FROM THE DISTRICT ATTORNEY THAT PROSECUTED THE OFFENDER, IF RECEIVED PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (3).

(c) (I) The department shall provide notification to any victim, as required under section 24-4.1-302.5, C.R.S. A victim shall have thirty days after receiving notification to submit a victim impact statement to the department. The department shall include any victim impact statement in the referral to the state board of parole.

(II) AT THE SAME TIME THAT THE DEPARTMENT COMPLETES THE NOTIFICATION REQUIRED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH (c), THE DEPARTMENT SHALL NOTIFY THE DISTRICT ATTORNEY THAT PROSECUTED THE OFFENDER IF THE OFFENDER IS SERVING A SENTENCE FOR A CONVICTION OF A CRIME OF VIOLENCE AS DESCRIBED IN SECTION 18-1.3-406, C.R.S., OR A SEX OFFENSE AS LISTED IN SECTION 18-1.3-1004 (4), C.R.S. A DISTRICT

ATTORNEY SHALL HAVE THIRTY DAYS AFTER RECEIVING NOTIFICATION TO SUBMIT A RESPONSE TO THE DEPARTMENT. THE DEPARTMENT SHALL INCLUDE ANY DISTRICT ATTORNEY RESPONSE IN THE REFERRAL TO THE STATE BOARD OF PAROLE.

(4) (a) THE STATE BOARD OF PAROLE SHALL CONSIDER AN INMATE FOR SPECIAL NEEDS PAROLE UPON REFERRAL BY THE DEPARTMENT.

(b) THE STATE BOARD OF PAROLE SHALL MAKE A DETERMINATION OF THE RISK OF REOFFENSE THAT THE INMATE POSES AFTER CONSIDERING SUCH FACTORS AS THE INMATE'S MEDICAL OR PHYSICAL CONDITION, THE SEVERITY OF ANY DISABILITY OR INCAPACITATION, THE INMATE'S RISK ASSESSMENT SCORES, THE NATURE AND SEVERITY OF THE OFFENSE FOR WHICH THE INMATE IS CURRENTLY INCARCERATED, THE INMATE'S CRIMINAL HISTORY, THE INMATE'S INSTITUTIONAL CONDUCT, AND OTHER RELEVANT FACTORS.

(c) THE STATE BOARD OF PAROLE MAY SCHEDULE A HEARING ON THE APPLICATION FOR SPECIAL NEEDS PAROLE WITH THE INMATE PRESENT OR THE BOARD MAY REVIEW THE APPLICATION AND ISSUE A DECISION WITHOUT A HEARING, PURSUANT TO SECTION 17-2-201 (4) (f).

(d) THE STATE BOARD OF PAROLE SHALL MAKE A DETERMINATION OF WHETHER TO GRANT SPECIAL NEEDS PAROLE WITHIN THIRTY DAYS AFTER RECEIVING THE REFERRAL FROM THE DEPARTMENT. THE BOARD MAY DELAY THE DECISION IN ORDER TO REQUEST THAT THE DEPARTMENT MODIFY THE SPECIAL NEEDS PAROLE PLAN.

(e) A DENIAL OF SPECIAL NEEDS PAROLE BY THE STATE BOARD OF PAROLE SHALL NOT AFFECT AN INMATE'S ELIGIBILITY FOR ANY OTHER FORM OF PAROLE OR RELEASE UNDER APPLICABLE LAW.

(5) THE BOARD MAY CONSIDER THE APPLICATION FOR SPECIAL NEEDS PAROLE PURSUANT TO THE PROCEEDINGS SET FORTH IN SECTION 17-2-201 (4) (f) OR 17-2-201 (9) (a). IF THE DEPARTMENT RECOMMENDS TO THE STATE BOARD OF PAROLE THAT AN OFFENDER BE RELEASED TO PAROLE AS A SPECIAL NEEDS OFFENDER PURSUANT TO THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, THE BOARD MAY DENY PAROLE ONLY BY A MAJORITY VOTE OF THE BOARD.

(6) THE DEPARTMENT SHALL NOT HAVE ANY RESPONSIBILITY FOR

THE PAYMENT OF MEDICAL CARE FOR ANY OFFENDER UPON HIS OR HER RELEASE.

SECTION 7. 17-22.5-404 (6) (e), Colorado Revised Statutes, is amended to read:

17-22.5-404. Parole guidelines. (6) (e) (I) On or before November 1, ~~2009~~ 2011, AND ON OR BEFORE NOVEMBER 1 EACH YEAR THEREAFTER, the state board of parole and the division of criminal justice in the department of public safety shall issue a report to the general assembly regarding ~~the progress in implementing this subsection (6), and November 1 each year thereafter, the state board of parole and the division of criminal justice in the department of public safety shall update the report~~ OUTCOMES OF DECISIONS BY THE STATE BOARD OF PAROLE. The data shall be reported to the general assembly only in the aggregate.

(II) ~~This paragraph (e) is repealed, effective July 1, 2012.~~

SECTION 8. Article 22.5 of title 17, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

17-22.5-404.7. Presumption of parole - nonviolent offenders with ICE detainees. (1) THERE SHALL BE A PRESUMPTION, SUBJECT TO THE FINAL DISCRETION OF THE PAROLE BOARD, IN FAVOR OF GRANTING PAROLE TO AN INMATE WHO HAS REACHED HIS OR HER PAROLE ELIGIBILITY DATE AND WHO:

(a) HAS BEEN ASSESSED BY THE COLORADO RISK ASSESSMENT SCALE DEVELOPED PURSUANT TO SECTION 17-22.5-404 (2) (a), TO BE MEDIUM RISK OR BELOW OF REOFFENSE;

(b) IS NOT SERVING A SENTENCE FOR A FELONY CRIME DESCRIBED IN SECTION 18-3-303, 18-3-306, OR 18-6-701, C.R.S.; SECTIONS 18-7-402 TO 18-7-407, C.R.S.; OR SECTION 18-12-102 OR 18-12-109, C.R.S.; SECTION 18-17-104, C.R.S., OR SECTION 18-18-407, C.R.S.; OR A FELONY CRIME LISTED IN SECTION 24-4.1-302 (1), C.R.S.; AND

(c) HAS AN ACTIVE DETAINER LODGED BY THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY.

(2) IN DETERMINING WHETHER TO GRANT PAROLE PURSUANT TO PROVISIONS OF SUBSECTION (1) OF THIS SECTION, THE BOARD SHALL CONSIDER THE COST OF INCARCERATION TO THE STATE OF COLORADO IN RELATION TO THE NEEDS OF FURTHER CONFINEMENT OF THE INMATE TO ACHIEVE THE PURPOSE OF THE INMATE'S SENTENCE.

(3) (a) THE STATE BOARD OF PAROLE MAY RELEASE AN ELIGIBLE INMATE, PURSUANT TO SUBSECTION (1) OF THIS SECTION, ONLY TO THE CUSTODY OF THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY OR OTHER LAW ENFORCEMENT AGENCY WITH AUTHORITY TO EXECUTE THE DETAINEE ON BEHALF OF THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY.

(b) IF THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY WITHDRAWS THE DETAINEE OR DECLINES TO TAKE THE INMATE INTO CUSTODY, THE STATE BOARD OF PAROLE SHALL HOLD A RECISSION HEARING TO RECONSIDER THE GRANTING OF PAROLE TO THE INMATE.

(c) IF THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY ISSUES AN ORDER OF DEPORTATION FOR THE INMATE, THE DEPARTMENT OF CORRECTIONS SHALL SUBMIT A REQUEST TO THE STATE BOARD OF PAROLE TO DISCHARGE PAROLE.

(d) A DENIAL OF PAROLE BY THE STATE BOARD OF PAROLE PURSUANT TO THIS SECTION SHALL NOT AFFECT AN INMATE'S ELIGIBILITY FOR ANOTHER FORM OF PAROLE OR RELEASE APPLICABLE UNDER LAW.

(4) THE BOARD MAY CONSIDER THE APPLICATION FOR PAROLE PURSUANT TO THE PROCEEDINGS SET FORTH IN SECTION 17-2-201 (4) (f) OR 17-2-201 (9) (a).

(5) FOR INMATES WHO WERE PAROLE ELIGIBLE BEFORE THE EFFECTIVE DATE OF THIS SECTION, THE DEPARTMENT SHALL NOTIFY THE STATE BOARD OF PAROLE OF ANY OF THOSE INMATES WHO MEET THE CRITERIA LISTED IN SUBSECTION (1) OF THIS SECTION AND THE BOARD SHALL EITHER SET A RELEASE HEARING OR CONDUCT A RELEASE REVIEW WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.

SECTION 9. Appropriation. (1) In addition to any other

appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of corrections, for allocation to the parole board, contract services, for training and contract administrative and release hearing officers, for the fiscal year beginning July 1, 2011, the sum of forty-three thousand eight hundred dollars (\$43,800), or so much thereof as may be necessary, for the implementation of this act.

(2) It is the intent of the general assembly that the general fund appropriation in subsection (1) of this section shall be derived from savings generated from the implementation of the provisions of House Bill 11-1064, as enacted during the first regular session of the sixty-eighth general assembly.

SECTION 10. Effective date. (1) This act shall only take effect if:

(a) House Bill 11-1064 is enacted at the first regular session of the sixty-eighth general assembly and becomes law; and

(b) The final fiscal estimate for House Bill 11-1064, as determined from the appropriations enacted in said bill, shows a net reduction in the amount of general fund revenues appropriated for the state fiscal year 2011-12, that is equal to or greater than the amount of the general fund appropriation made for the implementation of this act for the state fiscal year 2011-12, as reflected in section 9 of this act; and

(c) The staff director of the joint budget committee files written notice with the revisor of statutes no later than July 15, 2011, that the requirement set forth in paragraph (b) of this subsection (1) has been met.

SECTION 11. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Frank McNulty
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

APPENDIX D

Parole Board Hearing: Variable Tables

RELEASE HEARING DATA TABLE	
Data Category	Data entered
Inmate:	DOC inmate number
	Date of hearing
	Inmate name
Parole Decision: Release	Date of granted release (if applicable)
	Date of release at parole eligibility date (if applicable)
	Date of release at mandatory release date (if applicable)
	Release destination
Parole Decision: Defer	If, deferred, the date of the next hearing is entered
Parole Decision: Waived	Yes or no
Parole Decision: Full Board	Yes or no
Parole Decision: Tabled	Marginal Note (May provide a brief text note regarding marginal table condition. May mention a date or program requirement or release requirement)
Board Member	Initials
Tape	Number of hearing tape
MODIFICATIONS TABLE (also includes Inmate name, DOC #, date of hearing, Board member name)	
Type of Modification	Addition or deletion
Request Note	Brief note describing modification request
Modification Intent	Progressive or regressive
Parole Officer	Last name
Region	Supervision region
Modification Outcome	Approved or denied
RESCISSION HEARING TABLE (also includes Inmate name, DOC #)	
Suspension	Date of parole suspension
Scheduled hearing date	Date of parole hearing following suspension and location note
Decision	Brief note describing the outcome of the rescission hearing
REVOCAION HEARING TABLE (also includes Inmate name, DOC and hearing number, date of hearing, Board member or Hearing Officer)	
County	County of hearing
Summons	Yes or no; whether a summons was issued
Warrant	Yes or no; whether a warrant was issued
New Crime	Yes or no; whether the offender committed a new crime
Hearing continued	Date of future revocation hearing when the offender's hearing was continued to a later date
Revocation	Yes or no; whether the offender was revoked to DOC, Jail, community corrections, or a community return to custody facility (CRCF)
Continued on parole	Yes or no; whether the offender was continued on parole
Dismissed	Yes or no; Whether the revocation charges were dismissed or withdrawn (typically meaning that the offender continues on parole)
"5-Day Rule"	5-day rule - a temporary hold to determine revocation placement 5-day rule waived - allows more than 5 days to determine revocation placement If possible and appropriate, the offender is placed in community. If community placement is not possible, the offender is typically revoked to DOC.

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APPENDIX E

**Parole Guidelines for Discretionary Release
of Determinate-Sentenced Sex Offenders
(and Decision Tree)**

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**Parole Guidelines for Discretionary Release
of Determinate-Sentenced Sex Offenders**

These guidelines are designed to inform the Parole Board of information regarding progress in treatment, or criteria information for those not currently in treatment, for determinate-sentenced sexual offenders. Those offenders who have demonstrated treatment progress or meet certain criteria may be better suited for consideration of discretionary parole. These guidelines may be considered as a component in the decision-making process of the Parole Board among other components considered (e.g. lack of mandatory parole, Code of Penal Discipline/institutional behavior, risk assessment, victim input, etc.).

- I. In treatment at the Department of Corrections
 - A. Use the same treatment criteria as the indeterminate sentence offenders based on the standard format
 - 1. *Meets the criteria for successful progress in treatment in prison, or*
 - 2. *Does not meet the criteria for successful progress in treatment in prison*

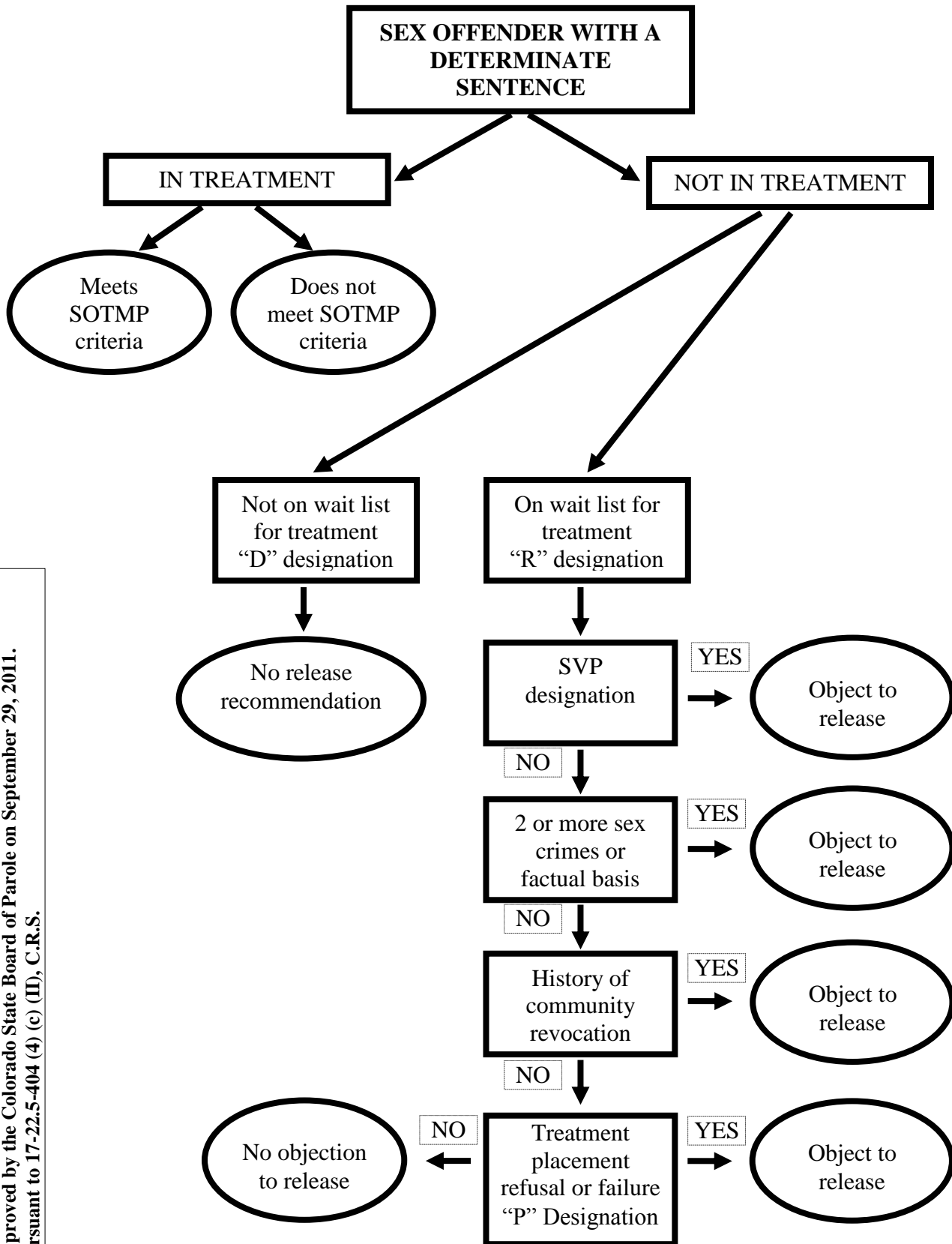
- II. Not in treatment at the Department of Corrections
 - A. Not on wait list for treatment (Signified by a “D” designation)
 - 1. *Lack of recommendation for discretionary parole*

 - B. On wait list for treatment (Signified by a “R” designation)
 - 1. Not designated Sexually Violent Predator (SVP), and
 - 2. No history of prior sex crime conviction or adjudication (1 sex crime conviction), and
 - 3. No history of parole or community corrections revocation during the current sentence to the Department of Corrections, and
 - 4. Does not have a “P” designation signifying a treatment placement refusal or failure.
 - 1. *No objection to recommendation for discretionary parole*

 - C. On wait list for treatment
 - 1. Designated a SVP, or
 - 2. Have 2 or more sex crime convictions or adjudications, including factual basis, or
 - 3. History of parole or community corrections revocation during the current sentence to the Department of Corrections, or
 - 4. On the waitlist with a “P” designation signifying a treatment placement refusal or failure
 - 1. *Objection to recommendation for discretionary parole*

**Approved by the Sex Offender Management Board on September 16, 2011.
Approved by the Colorado State Board of Parole on September 29, 2011.
Pursuant to 17-22.5-404 (4) (c) (II), C.R.S.**

Parole Guidelines:
Discretionary Release of Sex Offenders
with a Determinate Sentence



Approved by the Sex Offender Management Board on September 16, 2011.
 Approved by the Colorado State Board of Parole on September 29, 2011.
 Pursuant to 17-22.5-404 (4) (c) (II), C.R.S.

APPENDIX F

**State Board of Parole
Release Application Hearings
FY2009 and FY 2010**

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Table 5. Release Application Hearings by State Board of Parole Member (FY 2009)

(Numbers in parenthesis are the percentages of the member total within each row.**)

Parole Board Members or Hearing Officers	Release Granted at Parole Eligibility Date (PED)	Release Granted between PED & MRD	Release Granted at Mandatory Release Date (MRD)	Defer: Release Not Granted	Board Member Total	Inmate Waived Hearing	Referred to Full Board*
Current Board Members							
Deborah C. Allen	52 (2%)	323 (13%)	596 (25%)	1,437 (60%)	2,408 (100%)	123	94
Michael E. Anderson	0 (0%)	20 (9%)	51 (23%)	153 (68%)	224 (100%)	4	12
Celeste (CdeBaca) Quiñones	24 (1%)	168 (8%)	606 (29%)	1,322 (62%)	2,120 (100%)	82	120
Mickey Heckenbach	11 (1%)	151 (8%)	489 (25%)	1,271 (66%)	1,922 (100%)	92	88
Becky R. Lucero	48 (2%)	326 (15%)	541 (24%)	1,306 (59%)	2,221 (100%)	211	173
Rebecca L. Oakes	25 (1%)	363 (19%)	430 (22%)	1,096 (57%)	1,914 (100%)	96	177
John M. O'Dell (Appointed 5/7/2010)	0	0	0	0	0	0	0
Current Release Hearing Officers:							
William Simmons	4 (1%)	31 (12%)	106 (40%)	124 (47%)	265 (100%)	6	0
Donald Van Pelt	2 (>1%)	147 (14%)	349 (34%)	532 (52%)	1,030 (100%)	5	9
Former Board Members:							
David L. Michaud	30 (1%)	396 (17%)	415 (18%)	1,487 (64%)	2,328 (100%)	169	200
Leslee Waggener	13 (1%)	169 (10%)	462 (28%)	1,002 (61%)	1,646 (100%)	66	57
Former Release Hearing Officers:							
Benny Johnson	6 (1%)	133 (18%)	264 (35%)	355 (47%)	758 (100%)	12	23
Chuck Pullin	21 (4%)	71 (14%)	190 (36%)	241 (46%)	523 (100%)	11	2
Total	236 (1%)	2,298 (13%)	4,499 (26%)	10,326 (59%)	17,359 (100%)	877	955

** Percentage totals within rows not equal to 100% are due to rounding.

* All offenders with sentence on F1, F2 and/or violent crime reviewed by full Board. Included in release or defer totals.

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Table 6. Release Application Hearings by State Board of Parole Member (FY 2010)

(Numbers in parenthesis are the percentages of the member total within each row.**)

Parole Board Members or Hearing Officers	Release Granted at Parole Eligibility Date (PED)	Release Granted between PED & MRD	Release Granted at Mandatory Release Date MRD)	Defer: Release Not Granted	Board Member Total	Inmate Waived Hearing	Referred to Full Board*
Current Board Members							
Deborah C. Allen	57 (2%)	342 (15%)	562 (24%)	1,374 (59%)	2,335 (100%)	87	128
Michael E. Anderson	29 (1%)	260 (12%)	514 (24%)	1,313 (62%)	2,116 (100%)	56	172
Celeste (CdeBaca) Quiñones	25 (1%)	233 (11%)	524 (25%)	1,275 (62%)	2,057 (100%)	87	118
Mickey Heckenbach	11 (1%)	196 (9%)	490 (22%)	1,495 (68%)	2,192 (100%)	58	110
Becky R. Lucero	61 (3%)	347(15%)	506 (21%)	1,455 (61%)	2,369 (100%)	271	198
Rebecca Oakes	40 (2%)	412 (19%)	443 (20%)	1,318 (60%)	2,213 (100%)	86	233
John M. O'Dell (Appointed 5/7/2010)	1 (>1%)	9 (3%)	81 (26%)	216 (70%)	307 (100%)	18	14
Current Release Hearing Officers:							
William Simmons	14 (2%)	141 (16%)	279 (32%)	437 (50%)	871 (100%)	16	17
Donald Van Pelt	3 (>1%)	170 (23%)	202 (28%)	358 (49%)	733 (100%)	5	9
Former Board Member:							
David L. Michaud	39 (2%)	357 (20%)	301 (17%)	1,076 (61%)	1,773 (100%)	92	250
Total	280 (2%)	2,467 (15%)	3,902 (23%)	10,317 (61%)	16,966 (100%)	776	1,249

** Percentage totals within rows not equal to 100% are due to rounding.

* All offenders with sentence on F1, F2 and/or violent crime reviewed by full Board. Included in release or defer totals.