

Analysis of Colorado State Board of Parole Decisions: FY 2012 Report

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

November 1, 2012

Prepared by
Kevin L. Ford, Ph.D.
Statistical Analyst, Office of Research and Statistics

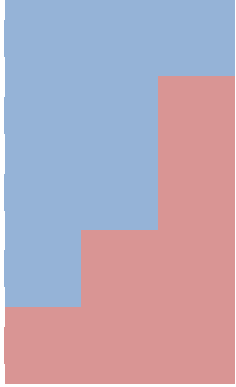
In collaboration with
Anthony P. Young, Psy.D., Chair
Patricia A. Waak, M.A., Vice-Chair
Colorado State Board of Parole

James Davis, Executive Director
Colorado Department of Public Safety

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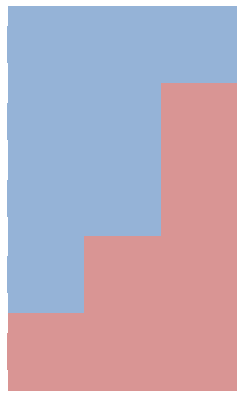
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Rick Vyncke (Chief Information Officer, Department of Corrections), and Office of Information Technology at DOC professionals Shannan Lahn (now with T. Rowe Price), Keith Glidden, Glenn Weeks, Jason Martin, and Ron Patterson undertook the difficult task to automate the complex parole hearing system described here.

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Finally, representing the concluded Post Incarceration Supervision Task Force of the ongoing Colorado Commission on Criminal and Juvenile Justice (www.coloradoccj.org/), Christie Donner (Executive Director, Colorado Criminal Justice Reform Coalition) and Paul Herman (CCJJ Consultant and the Center for Effective Public Policy) provided feedback on this effort to operationalize the original draft of the parole release guidelines.

The accomplishments described in this report would not have been possible without these individuals. We are grateful for the collaborative spirit that continues to surround this project. Despite this assistance, any errors and omissions are ours alone.

Kevin Ford
November 2012

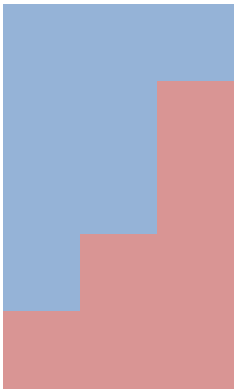


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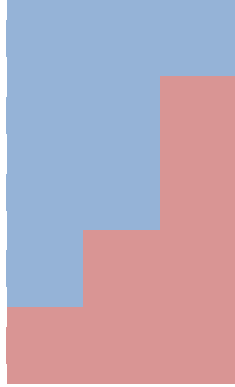
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Executive Summary

Background. Pursuant to 17-22.5-404(6)(a), C.R.S., the Colorado State Board of Parole (“the Board”) is mandated to work with the Division of Criminal Justice (DCJ) in the Colorado Department of Public Safety (CDPS) and the Colorado Department of Corrections (DOC) “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.” Additionally, pursuant to 17-22.5-107(1), C.R.S., in consultation with the Board, DCJ is mandated to develop an administrative release guideline instrument for use by the Board in evaluating applications for parole. Finally, pursuant to 17-22.5-404(6)(e)(I), C.R.S., the Board and DCJ are mandated to issue a report to the General Assembly by November 1 of each year regarding the outcomes of decisions by the Board. This report covers accomplishments related to these statutory mandates during the period of July 1, 2011 through June 30, 2011.

Parole Board Hearing Application Portal. Substantial progress has previously been made to develop a paperless hearing process and a mechanism for the Board to reliably collect parole hearing data. During FY 2012, DOC’s Office of Information Technology (OIT) in collaboration with the Board, various representatives of DOC including the Time and Release Operations Office, and DCJ made specific improvements to the function of the Parole Board Hearing Application Portal. (The portal is a user interface that gathers information from diverse DOC sources, displays it, and records Board member decisions.) This automation of parole hearings was a necessary first step to enable the tasks necessary to develop and integrate the Parole Board Release Guidelines Instrument (PBRGI).

Parole Release Guideline Project. The goal of the parole release guideline is to provide a consistent framework for the Board to evaluate and weigh specific release decision factors and, based on a structured decision matrix, to offer an advisory release decision recommendation for parole applicants. This project involved the translation of the draft administrative release guideline instrument into an automated Parole Board Release Guideline Instrument (PBRGI) for use within the Parole Board Application Hearing Portal by Board members when conducting parole release application hearings.

The PBRGI is a matrix with two dimensions (see Figure 2 in the body of the report). The first dimension is *risk* of recidivism and the second dimension is *readiness* for parole. The Colorado Actuarial Risk Assessment Scale (CARAS) and the Level of Supervision Inventory-Revised (LSI-R) are among the data elements that serve as the basis for the risk and readiness information used in the matrix. Drawing on the decision factors in the guidelines that correspond to the statutory parole considerations (17-22.5-404(4), C.R.S.), DCJ staff constructed algorithms that yield two scores, one for recidivism risk and one for parole readiness. The combination of these two scores places an offender in a five-level risk by three-level readiness matrix where each matrix position is associated with an advisory release or defer recommendation (17-22.5-

107(1)(b), C.R.S.) (Note that “defer” simply means the offender must continue to serve his or her sentence and the decision to parole is “deferred” to the next possible parole consideration date, as determined by statute.) This recommendation is displayed to Board members through the Parole Board Hearing Application Portal. Members may also view an offender’s specific placement in the decision matrix and the data used to derive the risk and readiness scores. After considering the advisory recommendation and any other information connected to the release application hearing, Board members may choose to concur with or depart from the recommendation. Pursuant to 17-22.5 404(6)(b), C.R.S., a decision that departs from the recommendation requires that the Board member provide the reason(s) for departure.

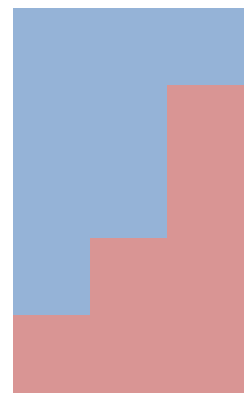
PBRGI Validation Study. Following the design of the PBRGI, a retrospective validity study was undertaken to explore the relationship between an offender’s position in the decision recommendation matrix and the offender’s recidivism outcome. This retrospective analysis was conducted on 25,585 offenders who were released from DOC between FY 2004 and FY 2007 and whose three-year recidivism rates had already been determined. It was necessary to calculate a risk and readiness score for each of the 25,585 offenders in the sample, based on the algorithm variables available at the time of each offender’s release. With the combination of previously existing and estimated variables, a risk and readiness score was calculated for each of the 25,585 offenders in the sample. The overall release and defer recommendation percentages in this conservatively-estimated decision matrix is 33.7% for release and 66.3% for defer. Appropriately, the pattern of increasing recidivism rates was consistent across all the readiness categories at each increasing level of risk. Therefore, the findings from this retrospective, exploratory analysis are supportive of the predictive validity of the PBRGI decision system.

Next steps and challenges. With the PBRGI programming functions confirmed, the next step in the testing of the PBRGI will be to conduct a “blind test” of the decision system with the members of the Parole Board (the recommended decision will be “blind” to the member). The primary purpose of the blind test is to provide an additional method to assess the validity of PBRGI recommendations. An analysis, especially of departures, may provide further indications of validity. The blind test method will address several unmet validity testing needs and will include offenders who are actual candidates for release to parole. Actual distributions of offender assignments to PBRGI levels of risk and levels of readiness will be examined and percentages of actual decisions by Board members and any departures from the PBRGI recommendations can be compared. The PBRGI decision system can be evaluated for any necessary modifications before its implementation.

It is expected that the PBRGI will be fully implemented following the “blind test.” Data from the first month of implementation will be analyzed for quality assurance purposes and compared to the blind test data. For the remainder of FY 2013, data on Board decisions, PBRGI recommendations and departure reasons will be gathered and analyzed. Conclusions drawn from these analyses will be used to make any necessary improvements to the system and to provide feedback to Board members on their parole release decisions, and will be documented in the next progress report.

Finally, compliance with the statutory parole guidelines section (17-22.5-404, C.R.S.) requires that 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.). As of this FY 2012 report, the Board does not have direct access to the data generated from the hearings they conduct and, thus, is unable to provide data to DCJ staff. DCJ is required to submit requests for data to DOC staff. Because 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 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 statute and must include the data *implied* by the requirements of the section. The flexible need for data requires additional methods and improvements in data sharing between the Board, DOC, and DCJ



Section One: Introduction and Background

Pursuant to 17-22.5-404(6)(a), C.R.S., the Colorado State Board of Parole (“the Board”) is mandated to work with the Division of Criminal Justice (DCJ) in the Colorado Department of Public Safety (CDPS) and the Colorado Department of Corrections (DOC) “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.”¹ Additionally, pursuant to 17-22.5-107(1), C.R.S., in consultation with the Board, DCJ is mandated to develop an administrative release guideline instrument for use by the Board in evaluating applications for parole.² Finally, pursuant to 17-22.5-404(6)(e)(I), C.R.S., the Board and DCJ are mandated to issue a report to the General Assembly by November 1 of each year regarding the outcomes of decisions by the Board.³ This report covers the period of July 1, 2011 through June 30, 2012, and provides updates on the following:

- the processes developed to collect Parole Board decision data,
- the development of the Parole Board Release Guidelines Instrument (PBRGI),
- findings from a validity study, and
- next steps and challenges.

The intent of the PBRGI is to provide guidance to the Board as it makes decisions about parole release. The instrument provides an advisory decision, and Board members must provide the reason if they depart from the advisory decision. The evidence-based guideline instrument offers the significant advantage of uniformity in the application of decision criteria, but the guideline cannot adapt to the unique and emergent characteristics of each offender’s parole application hearing. As provided in the legislative declaration of H.B. 10-1374, “...using structured decision-making unites the parole board members with a common philosophy and a set of goals and purposes while retaining the authority of individual parole board members to make decisions that are appropriate for particular situations.”

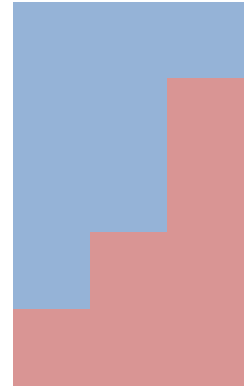
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This report is organized as follows: Section Two provides an update on the projects that enable the collection of parole board decision data, Section Three describes the development of the parole release guideline instrument, and Section Four identifies next steps and challenges for FY 2013.

¹ See Senate Bill 2009-135 in Appendix B.

² See House Bill 2010-1374 in Appendix C.

³ See Senate Bill 2011-241 in Appendix D.



Section Two: Processes to Collect Parole Board Decision Data

This section describes the project developments occurring since the FY 2011 report. Substantial progress has been made in the last year to develop a mechanism for the Board to reliably collect parole hearing data. Ongoing work is underway in (1) the Parole Board Application Hearing Automation Project, (2) the Parole Release Guideline Project, and (3) the Parole Revocation Guideline Project. Each is briefly described below.

Parole Board Hearing Automation Project. This project provided the computer platform within which the automated administrative parole release guidelines instrument could be implemented. The Governor's Office of Information Technology (OIT) at DOC undertook this effort with resources from DOC and in collaboration with the Board to create a paperless hearing process. The goal was to automate parole application hearings by creating the Parole Board Hearing Application Portal.⁴ As reported in FY 2011, OIT and the Board completed most of the hearings automation project by October 2011.⁵ During FY 2012, OIT in collaboration with the Board, various representatives of DOC including the Time and Release Operations Office, and DCJ, made specific improvements to the function of the Parole Board Hearing Application Portal.

This automation of parole hearings was a necessary first step to enable the tasks necessary to develop and integrate the Parole Board Release Guidelines Instrument (PBRGI). The implementation of the PBRGI is described below, labeled Parole Release Guideline Project. It is expected that the Hearing Portal will continue to be enhanced and improved with additional data elements and processes as needs are identified by the Board. For example, a project is underway to improve the efficiency in the scheduling of parole hearings.

Parole Release Guideline Project. The goal of the release guideline is to provide a consistent framework for the Board to evaluate and weigh release decision factors and, based on a structured decision matrix, to offer an advisory release decision recommendation for parole applicants who are not identified as sex offenders.⁶ This project involves the translation of the original draft administrative release guideline instrument⁷ into an automated Parole Board Release Guideline Instrument (PBRGI) for use within the

The goal of the release guideline is to provide a consistent framework for the Board to evaluate and weigh release decision factors...

⁴ The portal is a user interface that gathers offender information from diverse sources, displays it, and records Board member decisions.

⁵ See http://www.dcj.state.co.us/ors/pdf/docs/SB09-135/SB11-241_Report_11-01-11.pdf.

⁶ The exclusion of sex offenders is described below.

⁷ The Post Incarceration Supervision Task Force of the Colorado Commission on Criminal and Juvenile Justice (CCJJ) developed a draft administrative release guideline instrument as part of a recommendation that, via House Bill 2010-1374, introduced changes to the parole guidelines statute (17.22.5-404 and 17-22.5-107(1), C.R.S.).

Parole Board Application Hearing Portal by Board members when conducting parole release application hearings with non-sex offenders. For sex offenders, pursuant to 17-22.5-404 (4)(c)(II), C.R.S., parole release decisions are guided by criteria created by the Sex Offender Management Board (SOMB).⁸ Upon entry into DOC, each offender's history is reviewed for sexually abusive behavior, and offenders are assigned to one of five categories on Sexual Violence Needs with classification updates occurring as warranted. Offenders in the lower two classification levels (no sexual violence treatment needs or a due process hearing determination that there has been no sexually abusive behavior) are not subject to SOMB criteria and are assigned a PBRGI recommendation.

The PBRGI is a decision matrix with two dimensions: the first dimension is risk of recidivism and the second is readiness for parole.

The PBRGI is a decision matrix with two dimensions: the first dimension is *risk* of recidivism and the second is *readiness* for parole (Note that Section 3 of this report discusses the PBRGI in detail.) Drawing on the decision factors in the guidelines draft,⁹ which correspond to the statutory parole considerations (17-22.5-404(4), C.R.S.), DCJ staff constructed algorithms that yield two scores, one for risk and one for readiness. The combination of these two scores places an offender in a five-level risk by three-level readiness matrix where each matrix position is associated with an advisory release or defer recommendation (17-22.5-107(1)(b), C.R.S.).¹⁰ This

recommendation is displayed through the Parole Board Hearing Application Portal to Board members. Members may also view an offender's specific placement in the decision matrix and the data used to derive the risk and readiness scores. After considering the advisory recommendation and any other information connected to the release application hearing, Board members may choose to concur with or depart from the recommendation. Pursuant to 17-22.5-404(6)(b), C.R.S., a decision that departs from the recommendation requires that the Board member provide the reason(s) for departure.

Once development was underway, each element of the PBRGI system was the subject of extensive testing during FY 2012 from November 2011 through June 2012. The milestones and future plans for testing include the following:

- August 2011 to November 2011: a data sharing agreement was established and a data request to conduct preliminary testing of the PBRGI was negotiated with DOC.
- November 2011 to February 2012: DCJ staff conducted a preliminary recidivism validity study of the risk and readiness algorithms and the decision recommendation matrix.
- April 2012 through June 2012: staff of DOC's Office of Planning and Analysis and OIT at DOC conducted quality assurance testing of the PBRGI programming logic.

⁸ These criteria may be found at the SOMB website (http://dcj.state.co.us/odvsom/sex_offender/documents.html, in the document entitled *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders*, in Appendix J: Parole Guidelines for the Discretionary Release on Determinate-Sentenced Sex Offenders (determinate criteria) and in Lifetime Supervision Criteria: Section LS 4.200 - Criteria for Successful Progress in Treatment in Prison: Sex Offender Treatment and Management Program (indeterminate criteria).

⁹ See Footnote 7.

¹⁰ The decision to "defer" simply means the offender must continue to serve his or her sentence and the decision to parole is "deferred" to the next possible parole consideration date, as determined by statute.

- Subsequently: a “blind test” of the PBRGI system with the Board is planned with implementation to follow.

The risk and readiness algorithms and the decision matrix of the PBRGI system will continue to be monitored in the context of recidivism outcomes and the system will be updated as these data and evidence from the field of criminal justice on parole decision making warrants.¹¹

Parole Revocation Guideline Project. Pursuant to 17-22.5-404(6), C.R.S., DCJ is required to report Board decisions regarding parole revocation, the reasons for these decisions, and departures from the administrative revocation guidelines (17-22.5-107(2), C.R.S.). The administrative revocation guidelines are not yet in place and, therefore, a system to collect revocation decision data, the reasons for revocation decisions, and the reasons for departures from the revocation guidelines is not yet possible.

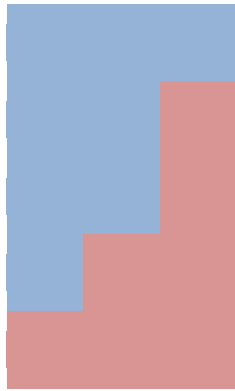
This project involves the development of an automated revocation hearing portal, similar to the one designed for parole application hearings discussed above, and the development of a parole revocation guideline for use by the Board. The development and use of an administrative revocation guideline is required of DOC in consultation with the Board by H.B. 2010-1374.

The broad context of revocation guidelines also includes the decision by community parole officers (CPO) to request that the Board consider an offender for parole revocation. The Colorado Violation Decision Making Process (CVDMP) is a decision support system for CPOs that was fully implemented in May 2011.¹² The CVDMP is designed to improve the consistency among CPOs in responding to violations of parole conditions and to support an officer’s ability to use intermediate sanctions in lieu of seeking revocation to DOC, when appropriate. The revocation guideline, expected to be a seamless extension of the CVDMP, will be a decision support system for the Board when determining whether or not to approve these requests for parole revocation.

Pursuant to 17-22.5-107(2), C.R.S, the revocation guideline will employ the statutory revocation factors (17-22.5-404.5(a), C.R.S.) and include a matrix of advisory decision recommendations for different offender risk levels. Additionally, the Board is required to provide decision reasons when the Board departs from advisory revocation recommendation (17-22.5-404(6)(b), C.R.S.). Upon the substantial completion of the automated parole application hearing portal and following the implementation of the PBRGI, personnel and resources will be focused on this project.

¹¹ Additional background information on this project may be found at dcj.state.co.us/ors/research_documents/.

¹² Additional background and history of this project may be found at http://www.dcj.state.co.us/ors/pdf/docs/SB09-135/SB11-241_Report_11-01-11.pdf.



Section Three: PBRGI Development

Pursuant to 17-22.5-404(6)(c), C.R.S., the State Board of Parole is to provide data to DCJ for analysis. However, the capability of the Parole Board to extract offender and parole hearing data is not currently in place. Instead, the data were provided by DOC's Office of Planning and Analysis for analysis by DCJ. Below are summaries of the following development tasks:

- The PBGRI risk and readiness algorithms,
- The decision recommendation matrix,
- The preliminary recidivism validity study of the PBGRI,
- The testing and confirmation of the PBRGI programming logic, and
- The plan for a "blind test" and the implementation of the PBRGI system.

PBRGI Risk and Readiness Algorithms and Decision Matrix

The original draft of the parole release guideline was developed by the Post Incarceration Supervision Task Force of the Colorado Commission on Criminal and Juvenile Justice. This document, approved by the full Commission, served as the foundation for the recidivism risk and parole readiness algorithms. DCJ staff, in consultation with DOC's OPA staff and Board members, selected reliable variables to represent each of the elements included in the draft administrative release guidelines. Eight variables comprise the risk algorithm and five variables comprise the readiness algorithm of the PBRGI (see Figure 1). Each algorithm assigns an offender to a baseline category and the remaining variables in the category determine whether the offender is shifted up or down the category levels.

The original draft of the parole release guideline was developed by the Post Incarceration Supervision Task Force of the Colorado Commission on Criminal and Juvenile Justice.

The risk algorithm is calculated by the simple addition of points received for each of the eight risk items and the total number of points is associated with a particular risk category. The readiness algorithm is based on the calculated average of the points received for each of the five readiness items and the average is associated with a particular readiness category. Each of the PBRGI items is described below along with the degree to which the category assignment is reduced or augmented by the item score.

Risk Algorithm

Item #1: The Colorado Actuarial Risk Assessment Scale. The CARAS (Version 5) is an actuarial risk assessment instrument which, pursuant to 17-22.5-404(2), C.R.S., is developed by DCJ for use by the Parole Board when making release decisions. The CARAS is a 9-item risk

scale that predicts three-year recidivism rates defined as re-arrest for any crime or new court filing.¹³ The CARAS score is based on static (unchangeable) offender risk factors, for example, current age, number of current conviction charges and number of previous incarcerations. Offenders fall into one of five risk categories that range from “very low” to “very high” risk. The assigned CARAS risk category serves as the baseline risk assignment in the risk algorithm.

Item #2: Code of Penal Discipline/ Victim Threat. Any offender with a conviction of a Class II: 25c offense, Harassment of Victim, is assigned to the highest level of risk.¹⁴ The baseline risk assignment is not altered for offenders without such a conviction.

Item #3: Code of Penal Discipline/ Class I Offense. Any offender with a conviction for a Class I offense during the previous 12 months is re-assigned to the highest level of risk. Offenders with no Class I offense in the last 12 months receive a fractional point reduction in risk (in other words, a partial category reduction).

Item #4: Code of Penal Discipline/ Class II Offense. Any offender with a conviction for a Class II offense, other than Harassment of Victim, during the previous three months is re-assigned two levels higher than the baseline category of risk. For example, an offender whose baseline risk assignment was “very low” would be shifted to “medium” risk. Offenders with no Class II offense in the last three months receive a fractional category reduction in risk.

Item #5: Escape/Abscond or Attempt. The existence of one or more escapes/absconds or attempts results in the offender being advanced two categories of risk. The baseline risk assignment is not altered for offenders with no escape/abscond or attempts.

Item #6: 60 Years of Age or Older (Risk moderator). The baseline risk assignment is reduced by two categories for offenders who are 60 years of age or older. The baseline risk assignment is not altered for offenders who have not reached the age of 60.

Item #7: Medical Condition Reduces Risk of Re-Offense (Risk moderator). The baseline risk assignment is reduced by two categories for offenders whose record indicates a debilitating medical condition that reduces the risk of re-offense. The baseline risk assignment is not altered for offenders who do not have such medical conditions.

Item #8: Manageable in the Community (Risk moderator). *This variable is derived from a rating by the Board member conducting the parole application hearing.* Based on the review of an offender’s record and information gathered during the interview conducted during parole application hearing, Board members rate whether or not they expect a greater likelihood of success for the offender if transitioned to the community. The baseline risk assignment is reduced by one category for offenders who are expected by the member to be successful if placed under community supervision. The baseline risk assignment is not altered for offenders who are not assessed by the member to be successful under community supervision.

¹³ For additional information on the CARAS see, http://dcj.state.co.us/ors/risk_assesment.htm.

¹⁴ See DOC Administrative Regulation 150-01, Class II: 25c at http://www.doc.state.co.us/sites/default/files/ar/0150_01_09012011.pdf

Readiness Algorithm

Item #9: Level of Service Inventory-Revised.¹⁵ The LSI-R total score serves as a modified baseline in the readiness algorithm. The 54-item LSI-R is a measure of offenders' criminogenic needs and, based on the total score, offenders are assigned to one of four actuarially-determined readiness categories. The LSI-R is a modified baseline because this item, together with the LSI Rater Box item,¹⁶ is weighed equally with the remaining items in the readiness algorithm.

Item #10: Level of Service Inventory-Rater Box Average. The average of the 13 Rater Box items on the LSI-R contributes points to the overall readiness total. The LSI-R Rater Box items score offenders on positive adjustment characteristics. The LSI Rater Box average, in combination with the LSI-R total score category, is weighed equally with the remaining items in the readiness algorithm.

Item #11: Program Participation / Progress. *This variable is derived from a rating by the Board member conducting the parole application hearing.* The Board member provides a rating of the offender's enrollment, participation, and progress in DOC programs. The assignment of points does not penalize offenders who are wait-listed for programs or, for whatever reason as determined by the Board member, offenders for whom current program participation is considered not applicable. Points assigned to the ratings are added to the overall readiness total.

Item #12: Treatment Participation / Progress. *This variable is derived from a rating by the Board member conducting the parole application hearing.* The Board member provides a rating of the offender's participation and progress in DOC treatment. The assignment of points does not penalize offenders who are wait-listed for treatment or, for whatever reason as determined by the Board member, offenders for whom current treatment is considered not applicable. Points assigned to the ratings are added to the overall readiness total.

Item #13: Parole Plan. *This variable is derived from a rating by the Board member conducting the parole application hearing.* The Board member provides a rating of the quality and thoroughness of the offender's parole plan. Considerations of the parole plan may include the provision for housing, parole location, work, education, treatment, parole sponsor, social support, vocational/leisure activities and other transition factors. Points assigned to the ratings are added to the overall readiness total.

¹⁵ The LSI is a programming assessment tool comprised of 54 items across ten different subcomponents: criminal history, education/employment, financial, marital/family, accommodations, leisure/recreation, companions, alcohol/drug problems, emotional/personal, and attitudes/orientation. Each item is scored either 0 or 1, where a point indicates that an item is true. After each item is scored, the points are totaled to obtain a composite risk score. Higher scores are indicative of greater service needs.

¹⁶ Thirteen of the 54 items are considered highly sensitive to change in offenders. These items are rated on a scale from 0 to 3 (in addition to the item score). The 13 ratings are then totaled to obtain a rater score. Higher scores are suggestive of more pro-social influences in an offender's life.

Figure 1. PBRGI risk and readiness variables and algorithm calculations and categories.

DECISION ALGORITHM VARIABLES	
RISK VARIABLES (- reduces, + augments, x no affect)	READINESS VARIABLES (- reduces, + augments)
<p>#1 Colorado Actuarial Risk Assessment Scale (Risk baseline) (1) Very Low (1 - 23) (2) Low (24 - 31) (3) Medium (32 - 36) (4) High (37 - 43) (5) Very High (44 - 79)</p> <p>#2 Code of Penal Discipline: Victim Threat (During period of incarceration) (x) None (+) Yes</p> <p>#3 Code of Penal Discipline: Class I Offense (-) None in past 12 months (+) At least 1 in past 12 months</p> <p>#4 Code of Penal Discipline: Class II Offense (Other than Victim Threat) (-) None in past 3 months (+) At least 1 in past 3 months</p> <p>#5 Escape/Abscond or Attempt (x) None (+) Yes, Escape/Abscond or Attempt</p> <p>Risk moderators #6 (-) Yes, 60 yrs. or older #7 (-) Yes, med. condition reduces reoffense risk #8 (-) Yes, manageable in community*</p>	<p>#9 Level of Service Inventory: Total Score (Readiness baseline) (0) Low (39 - 54) (1) Medium (30 - 38) (2) High (21 - 29) (3) Very High (0 - 20)</p> <p>#10 Level of Service Inventory: Rater Boxes (+) Yes (Avg. 2.50-3.00) (+) Yes (Avg. 2.00-2.49) (-) No (Avg. .50 - 1.99) (-) No (Avg. 0-.49)</p> <p>#11 Program Participation/Progress * (+) Good outcome/ intent -or- NA /Wait listed (+) Acceptable outcome/intent (-) Weak/unclear outcome/intent (-) Poor outcome/intent</p> <p>#12 Treatment Participation/Progress * (+) Good outcome/ intent -or- NA /Wait listed (+) Acceptable outcome/intent (-) Weak/unclear outcome/intent (-) Poor outcome/intent</p> <p>#13 Parole Plan * (+) Good (+) Acceptable (-) Weak (-) Poor</p> <p style="text-align: right;">(*PB Input)</p>
DECISION ALGORITHM COMPUTATIONS AND CATEGORIES	
<p>Risk Calculation: CARAS + COPD: Victim + COPD: Class I + COPD: Class II + Esc/Abs + Risk moderators = Risk Point Total</p> <p>Risk Categories: 1) Very Low = 1.99 or less risk points 4) High = 4.00 - 4.99 2) Low = 2.00 - 2.99 5) Very High = 5 or above 3) Medium = 3.00 - 3.99</p>	
<p>Readiness Calculation: (LSI: Total Score + LSI: RB + Program + Treatment + Plan) / 5 = Readiness Point Average</p> <p>Readiness Categories: 1) Low = 0-1.99 3) High = 3.00 or above 2) Medium = 2.00-2.99</p>	

Figure 2. Advisory release decision recommendation matrix with risk and readiness categories and associated recommendations.

ADVISORY RELEASE DECISION RECOMMENDATION MATRIX			
<u>RISK CATEGORY</u>	<u>READINESS CATEGORY</u>		
	3 High	2 Medium	1 Low
1 Very Low	RELEASE (Most appropriate for release)	RELEASE	RELEASE
2 Low	RELEASE	RELEASE	DEFER
3 Medium	RELEASE	RELEASE	DEFER
4 High	RELEASE	DEFER	DEFER
5 Very High	DEFER	DEFER	DEFER (Least appropriate for release)

Placement in the matrix. Computations of the risk algorithm *total score* and the readiness algorithm *average score* results in the assignment of each offender to a risk and a readiness category (see Figure 1). These scores combine to place an offender into one of the 15 categories in the PBRGI decision matrix. The risk by readiness decision matrix comprising the five risk and three readiness categories may be found in Figure 2. Each decision matrix category is associated with an advisory release decision recommendation.¹⁷ Note that all parole release candidates falling in the “very low risk” category are recommended for release whereas all those falling in the “very high risk” category are recommended for deferral.

Applicants for parole release falling in the lower risk/higher readiness combinations are considered the most appropriate candidates for release, and those who fall in the higher risk/lower readiness combinations are considered the least appropriate for release. Release decisions regarding applicants who fall in the “medium or on-the-boundaries region” of the

¹⁷ The release recommendation for each level of risk and readiness was assigned by the original draft administrative guidelines instrument.

decision matrix will likely require the greatest degree of Board member consideration and judgment. This region is represented by the middle diagonal of the matrix separating those recommended for release from those recommended for defer (specifically, the low/low risk/readiness combination, the medium/medium combination and the high/high combination). It is possible that the release decisions for offenders assigned to this area of the matrix may result in a higher proportion of departures by Board members from the PBRGI recommendation.

Preliminary PBRGI Recidivism Validity Study

Following the design of the PBRGI, a retrospective study was immediately undertaken to estimate its predictive validity. One approach to test the predictive validity of the PBRGI is to explore the relationship between an offender's position in the decision recommendation matrix and the offender's recidivism outcome. This retrospective analysis was conducted on 25,585 non-sex offenders¹⁸ who were released from DOC between FY 2004 and FY 2007 and whose three-year recidivism rates had already been determined. This retrospective method is necessarily speculative, but allows a tentative estimation of the validity of the decision matrix in predicting "future" recidivism.

Following the design of the PBRGI, a retrospective study was immediately undertaken to estimate its predictive validity.

It was necessary to calculate a risk and readiness score for each of the 25,585 offenders in the sample, based on the algorithm variables available at the time of each offender's release. As described above, four variables across the two algorithms require input by Board members at the time of the hearing and, obviously, these data are not available for calculations of risk and readiness in this sample. For these four variables, the "inputs" by Board members were estimated using proxy variables from the offender's institutional record. The conceptual overlap between these particular variables and concepts underlying items from the Level of Service Inventory-Revised (LSI-R) allowed for adequate estimations.

For example, PBRGI Item #8 in the risk calculation (Is the offender perceived as manageable in the community?) was estimated by using a combination of an offender's escape/abscond history and items from the Attitude/Orientation Subscale of the LSI-R. Similar estimations using LSI-R items and offender data were constructed for the three remaining "input" variables included in the readiness calculation. Distributions of scores on these estimated "input" variables revealed rather conservative scoring that was considered appropriate, given the exploratory nature of this initial validity analysis.¹⁹

With the combination of previously existing and estimated variables, a risk and readiness score was calculated for each of the 25,585 offenders in the sample. Table 1 below provides the percentage of offenders in the retrospective sample who would be assigned to each of the 15 risk/readiness positions in the decision matrix. As described above, the conservative placement

¹⁸ See Footnote 6.

¹⁹ The plan for a more comprehensive validity analysis is described below in Section Four under, "PBRGI 'Blind Test.' "

Table 1. Validity Study: Counts and percentages of offenders assigned to each PBRGI risk/readiness matrix combination (FY 2004-2007 release sample).

<u>RISK CATEGORY</u>		<u>READINESS CATEGORY</u>			Total
		3 High	2 Medium	1 Low	
1 Very Low	Count	676	2,235	1,015	3,926
	% within Very Low Risk	17.2%	56.9%	25.9%	100.00%
	% within Readiness Category	53.7%	18.7%	8.2%	15.3%
	% of Total	2.6%	8.7%	4.0%	15.3%
2 Low	Count	232	2,101	1,344	3,677
	% within Low Risk	6.3%	57.1%	36.6%	100.0%
	% within Readiness Category	18.4%	17.6%	10.9%	14.4%
	% of Total	0.9%	8.2%	5.3%	14.4%
3 Medium	Count	146	2,118	1,745	4,009
	% within Medium Risk	3.6%	52.8%	43.5%	100.0%
	% within Readiness Category	11.6%	17.7%	14.1%	15.7%
	% of Total	0.6%	8.3%	6.8%	15.7%
4 High	Count	101	2,076	2,576	4,753
	% within High Risk	2.1%	43.7%	54.2%	100.0%
	% within Readiness Category	8.0%	17.4%	20.8%	18.6%
	% of Total	0.4%	8.1%	10.1%	18.6%
5 Very High	Count	104	3,424	5,692	9,220
	% within Very High Risk	1.1%	37.1%	61.7%	100.0%
	% within Readiness Category	8.3%	28.6%	46.0%	36.0%
	% of Total	0.4%	13.4%	22.2%	36.0%
Total	Count	1,259	11,954	12,372	25,585
	% within Risk Category	4.9%	46.7%	48.4%	100.0%
	% within Readiness Category	100.0%	100.0%	100.0%	100.0%
	% of Total	4.9%	46.7%	48.4%	100.0%

Table 2. Validity Study: Counts and percentages of offenders who recidivated for any reason in each PBRGI risk/readiness matrix combination (FY2004-2007 release sample).

<u>RISK CATEGORY</u>		<u>READINESS CATEGORY</u>			Total in Risk Category
		3 High	2 Medium	1 Low	
1 Very Low	Count % with any recidivism	137/676 20.3%	712/2,235 31.9%	386/1,015 38.0%	1,235/3,926 31.5%
2 Low	Count % with any recidivism	89/232 38.4%	938/2,101 44.6%	682/1,344 50.7%	1,709/3,677 46.5%
3 Medium	Count % with any recidivism	57/146 39.0%	1,143/2,118 54.0%	1,026/1,745 58.8%	2,226/4,009 55.5%
4 High	Count % with any recidivism	53/101 52.5%	1,297/2,076 62.5%	1,690/2,576 65.6%	3,040/4,753 64.0%
5 Very High	Count % with any recidivism	77/104 74.0%	2,539/3,424 74.2%	4,135/5,692 72.6%	6,751/9,220 73.2%
Total in Readiness Category	Count % with any recidivism	413/1,259 32.8%	6,629/11,954 55.5%	7,919/12,372 64.0%	14,961/25,585 58.5%

of offenders in the readiness dimension is readily apparent. Only about 5% of offenders overall were placed in the highest level of readiness. Across the risk dimension, the percentage of offenders is somewhat evenly distributed in the four lower levels of risk (14% to 19%) with a larger percentage of offenders placed in the very high risk category (36%). The overall release and defer recommendation percentages in this conservatively-estimated decision matrix is 33.7% for release and 66.3% for defer.

The number of offenders who recidivated in each of the 15 risk/readiness matrix combinations was counted. Table 2 displays the percentage of offenders who recidivated for a technical violation or new crime in their assigned decision matrix position. With the exception of the “very high” risk category, the percentage of offenders in each risk category who recidivated

increases from the “high” to the “low” readiness category. For example, among those offenders categorized as “very low” risk, the percentage that recidivated increases from 20.3% to 38.0%. Although this pattern of increasing recidivism rates exists from the “very low” to the “high” risk category, the degree of readiness does not appear to differentiate the recidivism rates of those in the “very high” risk category. Appropriately, the pattern of increasing recidivism rates is consistent across all the readiness categories at each increasing level of risk. For example, among those categorized as “high” readiness, the percentage of offenders who recidivated increases from 20.3% in the “very low” risk to 74.0% in the “very high” risk categories. This pattern of increasing recidivism also holds for those assigned to the “medium” and “low” readiness categories.

As discussed earlier regarding the “medium or boundary region” of the matrix, the recidivism rates for these risk/readiness combinations (namely, high risk/readiness at 52.5%, medium risk/readiness at 54.0%, and low risk/readiness at 50.7%) confirms the challenge of release decisions for offenders so assigned.

Therefore, the findings from this retrospective, exploratory analysis are supportive of the predictive validity of the PBRGI decision system. The recidivism rates across the risk and the readiness categories demonstrated logical and robust recidivism patterns, although an inherent weakness exists in the study regarding the necessity to estimate the readiness algorithm variables. Additionally, the recidivism rates for offenders assigned in the decision matrix boundary between the release and defer recommendations reflect the actual decision dilemma faced by Board members weighing the release of offenders at the midpoints of risk and readiness. For these reasons, the exploratory validity study, though not definitive, was supportive of the continued development and implementation of the PBRGI. A planned blind test of the PBRGI will further assess PBRGI validity (described below).

Therefore, the findings from this retrospective, exploratory analysis are supportive of the predictive validity of the PBRGI decision system.

Testing of the PBRGI Programming Logic

Following the PBRGI exploratory validity study described above, staff of DCJ worked with staff of DOC’s OIT and the Office of Planning and Analysis (OPA) who performed quality assurance tests of the programming logic of the PBRGI decision system. The programming module, written by staff of OIT at DOC, is designed to accomplish the following:

- Identify the parole release applicants appropriate for the PBRGI recommendation (that is, non-sex offenders²⁰),
- Display the four “input questions” and store the ratings entered by Board members,
- Assign points to each applicant for each of the 13 PBRGI variables, including the “live” ratings by Board members,
- Calculate the risk and readiness scores,
- Assign the parole applicant to the appropriate risk and readiness categories,
- Assign the parole applicant to the correct position in the PBRGI decision matrix,

²⁰ See Footnote 6.

- Display the decision recommendation in the Parole Board Hearing Application Portal to Board members during release application hearings,
- Provide an option to display the matrix placement and derivation of risk and readiness scores for review by the Board member, and
- Require the input of reasons if the actual decision departs from the PBRGI recommendation.

All of the outputs from the programming elements were confirmed by staff who manually calculated the risk and readiness scores and verified the assignments to the decision matrix.

The quality assurance testing of the above programming elements by OPA and OIT staff occurred in two phases. In the initial phase, begun in April 2012, ten non-sex offenders were randomly chosen from those housed in DOC and the above programming functions were initiated by OIT and the results passed to OPA for verification. All of the outputs from the programming elements were confirmed by staff who manually calculated the risk and readiness scores and verified the assignments to the decision matrix. After discrepancies were resolved for these ten offenders, the second phase of testing repeated the manual comparison process with 100 randomly-chosen non-sex offenders. At the end of FY 2012, most calculation discrepancies had been resolved. It was expected that the analysis of the remaining inconsistencies in this second phase of logic testing would be completed and solutions identified by July 2012.²¹ Once complete, the next period of testing and implementation, described below in Next Steps, were to be undertaken.

²¹ The July 2012 completion date was, in fact, met and the programming functions were confirmed to be reliable.

Section Four: Next Steps and Challenges

PBRGI “Blind Test”

With the PBRGI programming functions confirmed, the next step in the testing of the PBRGI will be to conduct a month-long “blind test” of the decision system with the members of the Parole Board.²² The primary purpose of the blind test is to conduct another assessment of the validity of the PBRGI. Because it is impossible to know the ideal hearing decision or its outcomes, there is no objective standard by which the immediate accuracy of parole decisions or PBRGI recommendations may be measured. Therefore, evaluating the degree and pattern of concurrence between the actual Board decision and the PBRGI recommendation will provide another method of assessment. An analysis, especially of recommendation departures, may provide further indications of validity. This assessment strategy necessarily requires that Board members make decisions without knowing the PBRGI recommendation.

The primary purpose of the blind test is to conduct another assessment of the validity of the PBRGI.

This blind test approach will address several unmet testing needs in addition to the validity assessment of the PBRGI decision system. That is, the blind test will differ from the aforementioned retrospective validity study in the following ways:

- The offenders will be actual candidates for release to parole,
- Board members will provide actual responses to the four questions that collect ratings on the four “input” variables in the risk and readiness calculations,
- parole application hearing decisions will be actual “live” decisions by Board members,
- Board member decisions can be recorded with no influence from (or “blind to”) the PBRGI decision recommendation,
- actual distributions of offender assignments to PBRGI levels of risk and levels of readiness can be examined,
- percentages of actual release and defer decisions by Board members and from the PBRGI recommendations can be compared, and
- the PBRGI decision system can be evaluated for any necessary modifications before its implementation.

During the blind test, members will be required to provide responses to the four “input” variables noted in Figure 1. The advisory release decision recommendations will be generated in

²² The PBRGI blind test and the PBRGI implementation described below had occurred successfully during the preparation of this report. The analysis of data is still underway and updates on these developments will be included in the FY 2013 report.

the background, but not displayed to Board members (hence, a “blind” test). Members will make their hearing decisions and, as usual, complete the Notice of Colorado Parole Board Action Form for either Release or Defer in accordance with said decisions.

The data derived from the blind test will provide an additional evaluation of validity and allow a determination of the overall function of the decision system and whether modifications of the PBGRI algorithms are necessary. An analysis will be performed of the rate of release and defer decisions by the Board relative to the recommendations generated by the PBRGI. Additionally, the degree of concurrence between the Board decisions and the PBRGI recommendations will be analyzed overall and within the 15 decision matrix combinations. It is expected that an evaluation of the patterns of agreement and departure, along with a qualitative analysis of the departure reasons will further explicate the functioning of the PBRGI. Overall, this analysis will supplement the previous recidivism validity study with a more comprehensive picture of the validity of the PBRGI.

For the remainder of FY 2013, data on Board decisions, PBRGI recommendations, and departure reasons will be gathered and analyzed. Conclusions drawn from these analyses will be used to make any necessary improvements to the system and to provide feedback to Board members on their parole release decisions.

Implementation and Beyond

It is expected that the PBRGI will be fully implemented following the “blind test.”²³ Data from the first month of implementation will be analyzed for quality assurance purposes and subjected to similar analyses described above for the blind-test data. Findings from the blind test and the implementation data will be compared for similarities or differences in decision patterns by Board members. For the remainder of FY 2013, data on Board decisions, PBRGI recommendations and departure reasons will be gathered and analyzed. Conclusions drawn from these analyses will be used to make any necessary improvements to the system and to provide feedback to Board members on their parole release decisions. All these analyses and findings from FY 2013 will be documented in the next progress report.

Pending Mandates

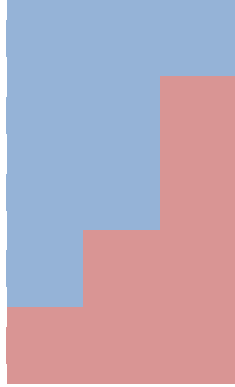
Compliance with the statutory parole guidelines section (17-22.5-404, C.R.S.) requires that DCJ regularly obtain data from the Parole Board to meet the H.B. 2009-1374 requirements as well as the related training requirements included in the statute (see 17-22.5-404 (2)(c), (6)(c), and (6)(d), C.R.S.). As of this FY 2012 report, the Board still does not have direct access to the data generated from the hearings they conduct and, thus, is unable to provide data to DCJ staff. DCJ is required to submit requests for data through DOC. Because 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 comprising 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

²³ See Footnote 20.

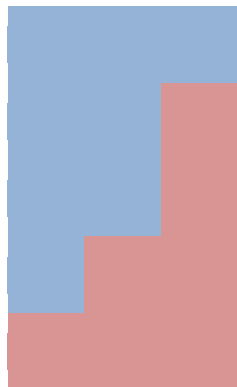
those specifically mentioned in the parole guidelines section and must include the data *implied* by the requirements of the section.

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. The flexible need for data requires additional method and improvements in data sharing between the Board, DOC, and DCJ. DCJ and DOC continue to collaborate on issues relating to data access and quality.



Appendices



APPENDIX A

**COLORADO STATE BOARD OF PAROLE
FY 2012**

BOARD MEMBERS*

Anthony P. Young, Psy.D., Chair (2014)

Patricia A. Waak, M. A., Vice-Chair (2013)

Michael E. Anderson (2013)

Denise K. Balazic (2014)

Rebecca L. Oakes (2013)

John M. O'Dell (2015)

Alfredo Pena (2014)

**RELEASE HEARING
OFFICERS**

Rod Cozzetto

Leslee Waggener

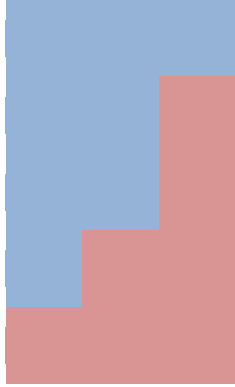
**ADMINISTRATIVE HEARING
OFFICERS**

Daniel Casias

Jim Peters

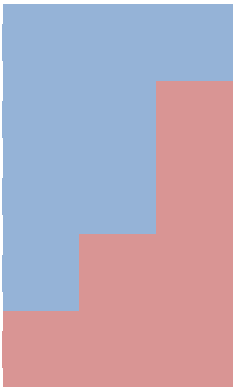
Tom Waters

*Members terms expire on July 1 of the year in parentheses.



APPENDIX B

Senate Bill 2009-135



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 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

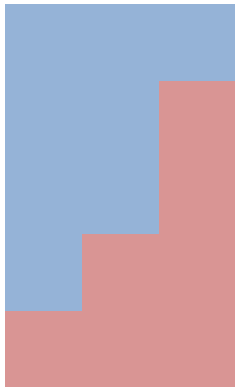
Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO

APPENDIX C

House Bill 2010-1374



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.



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:

(1) 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

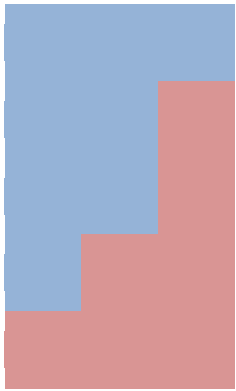
Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO

APPENDIX D

**Senate Bill 2011-241
Excerpt: Section 7**



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 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

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

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.

