

[As approved]

RE-ENTRY TASK FORCE
FINAL RECOMMENDATION PRESENTED TO THE
COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE
June 10, 2016

FY16-RE #01. Update the Statutory Conditions of Parole to Reflect Contemporary and Evidence Based Common Practices

Recommendation FY16-RE #01

Update the statute governing parole conditions, C.R.S. 17-2-201, to give the parole board and community parole officers discretion to select individualized conditions of parole.

Discussion

In November 2015, the Colorado Commission on Criminal and Juvenile Justice adopted FY16-MP #01 (*Update and Rewrite the Statutory Purposes of Parole to Reflect Contemporary and Common Evidence-Based Practices*) to amend the statute governing the purposes of parole in Colorado (see C.R.S., §17-22.5-102.5). With the signing of House Bill 2016-1215, the purposes of parole include “reducing the incidence of technical violations[,]” setting “individualized conditions of parole[,]” and addressing parolees’ “identified risks and needs[.]” This recommendation will build upon, and give substance to, FY16-MP #01.

Colorado’s current parole board statute mandates a list of eleven conditions, many of which have multiple sub-conditions that must be imposed on every Colorado parolee. Those conditions include a mandate that every parolee be tested for drugs and alcohol at specified intervals, not associate with other people who have a criminal record, and remain within a narrowly defined geographic area.

The Re-entry Task Force, the Department of Corrections, and the Parole Board all believe that many of the statutorily mandated conditions of parole are not evidence based when applied to all parolees. Conditions such as a substance testing regimen, association restrictions, and strict geographic boundaries, may be appropriate for some or most parolees. They are not, however, appropriate for all parolees. Imposing unnecessary conditions of parole is a burden on the State’s resources, presents enforcement difficulties,¹ and can be detrimental to the recidivism prospects of individual parolees.²

This recommendation will not prohibit the Parole Board or community parole officers from placing any condition on any parolee; it will simply eliminate the requirement that some parole conditions must apply to all parolees. It will thus give the Parole Board and parole officers discretion to determine which conditions are appropriate for which parolees, in order to better leverage limited resources and address individual offenders’ criminogenic needs.

¹ It is wholly impractical, for instance, to expect that parolees in community corrections placements will not associate with other people who have criminal records.

² RKC Group & Roger Przybylski. (Feb. 2008). *What Works: Effective Recidivism Reduction and Risk-Focused Prevention Programs*, pages 30 & 37. (Report prepared for the Colorado Division of Criminal Justice).

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Proposed Statutory Language

*(Deletions are indicated by ~~strikethroughs~~ and additions are indicated in **bold**.)*

§17-2-201. State board of parole--definitions

17-2-201(5)(c)(I). As a condition of ~~every~~ parole, the board shall order that the offender make restitution to the victim or victims of his or her conduct ~~if .~~ ~~The amount of such restitution shall be determined by the court pursuant to article 18.5 of title 16, C.R.S. The board shall fix the manner and time of payment of restitution as a condition of parole.~~ Such order shall require the offender to make restitution within the period of time that the offender is on parole as specified by the board. In the event that the defendant does not make full restitution by the date specified by the board, the restitution may be collected as provided for in article 18.5 of title 16, C.R.S.

17-2-201(5)(f)(I)(B). That the parolee shall establish a residence of record and shall not change it without **prior notification** ~~the knowledge and consent~~ of his or her community parole officer and that the parolee shall not leave ~~the area of~~ the state without the permission of his or her community parole officer;

17-2-201(5)(f)(I)(D). That the parolee shall make reports as directed by his or her community parole officer, permit residential visits by the community parole officer, ~~submit to urinalysis or other drug tests,~~ and allow the community parole officer to make searches of his or her person, residence, or vehicle;

17-2-201(5)(f)(I)(F) ~~That the parolee shall not associate with any other person on parole, on probation, or with a criminal record or with any inmate of a correctional facility without the permission of his or her community parole officer;~~

[Re-alphabetize 17-2-201(5)(f)(I)(G) through (J) to 17-2-201(5)(f)(I) (F) through (I)]

17-2-201(5.5)(a). As a condition of parole, the board **may** ~~shall~~ require every parolee at the parolee's own expense to submit to random chemical testing of a biological substance sample from the parolee to determine the presence of drugs or alcohol. ~~Such testing shall take place as follows:~~

- ~~(I) Immediately upon the parolee's release from incarceration in order to establish a baseline sample;~~
- ~~(II) Within the first thirty days from the date of parole;~~
- ~~(III) On or after sixty one days but not later than six months from the date of parole; and~~
- ~~(IV) Annually on or after one year from the date of parole for the duration of parole.~~

17-2-201(5.5)(c)(I). **If chemical testing is required as a condition of parole, the** ~~The~~ community parole officer shall be responsible for acquiring at random, ~~but within the time requirements of paragraph (a) of this subsection (5.5),~~ a biological substance sample from a parolee.

17-2-201(5.5)(e) ~~For the purposes of section 17-2-103, a parolee who refuses to submit to chemical testing of a sample of his or her biological substance pursuant to the requirements of this subsection (5.5) is deemed to have tested positive for the presence of drugs.~~

[Re-alphabetize 17-2-201(5.5)(f) and (g) to 17-2-201(5.5)(e) and (f)]