

# **Information Collection and Analysis of Parole Board Decisions: Progress Report**

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

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## **Colorado State Board of Parole**

### **BOARD MEMBERS**

**Becky R. Lucero, Chair (2013)**

**Michael E. Anderson, Vice-Chair (2013)**

**Deborah C. Allen (2011)**

**Celeste (CdeBaca) Quiñones (2011)**

**Mickey M. Heckenbach (2011)**

**Rebecca L. Oakes (2013)**

**John M. O'Dell (2013)**

### **RELEASE HEARING OFFICERS**

**William Simmons**

**Donald Van Pelt**

### *FORMER BOARD MEMBERS*

David L. Michaud

Leslee Waggener

### *FORMER RELEASE HEARING OFFICERS*

Benny Johnson

Chuck Pullin

This list includes names of those conducting parole hearings summarized in this report. The year indicates when the member's term expires.

## I. Introduction

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

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

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

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

shall provide its analysis to the board. The board and the division of criminal justice shall use the data and analysis to identify specific factors that are important in the decision-making process.

- (d) The division of criminal justice of the department of public safety shall provide the state board of parole with training regarding how to use the data obtained and analyzed pursuant to paragraph (c) of this subsection (6) to facilitate the board's future decision-making.
- (e) (I) On or before November 1, 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.**

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

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

## II. A Process to Collect Data

Prior to 2008, the Board did not have a system in place to reliably collect and report parole hearing data. The following section describes ongoing efforts by the Board in consultation with the DCJ and the DOC to collect parole hearing data. The current data entry process is described followed by a description of the following projects designed to comply with SB 09-135 and HB 10-1374: the decision factors project, the Parole Board Application Hearing Automation project, the parole release guideline project, the parole revocation guideline project, and the master program scheduling project.

**Parole Board Hearing Data.** Historically, the Board documented the number and general outcome of hearings in a database to track hearing workload. The reliability of the data entry system was not sufficient to allow the parole board an accurate accounting of its hearings. In 2008, the

Board, with the assistance from retired staff of the Department of Corrections, created a Microsoft Access database with several data tables providing for the entry of limited information regarding parole hearings. Staff of the Board enters the information manually from the paper Notice of Colorado Parole Board Action form that Board members use to record basic hearing outcomes. There are tables to record limited information regarding release hearings, parole modification hearings, and parole rescission hearings (see Table 1). There is no current protocol to enter even this basic level of data for parole revocation hearings.

**Table 1. Parole hearing data.**

<b>RELEASE HEARING TABLE</b>	
<b>Data Category</b>	<b>Data entered</b>
Inmate:	DOC inmate number
	Date of hearing
	Inmate name
Parole Decision: Release	Date of granted release (if applicable)
	Date of release at parole eligibility date (if applicable)
	Date of release at mandatory release date (if applicable)
	Release destination
Parole Decision: Defer	If, deferred, the date of the next hearing is entered
Parole Decision: Waived	Yes or no
Parole Decision: Full Board	Yes or no
Parole Decision: Tabled	Marginal Note (May provide a brief text note regarding marginal table condition. May mention a date or program requirement or release requirement)
Board Member	Initials
Tape	Number of hearing tape
<b>MODIFICATIONS TABLE</b> (also includes Inmate name, DOC #, date of hearing, Board member name)	
Type of Modification	Addition or deletion
Request Note	Brief note describing modification request
Modification Intent	Progressive or regressive
Parole Officer	Last name
Region	Supervision region
Modification Outcome	Approved or denied
<b>RESCISSION HEARING TABLE</b> (also includes Inmate name, DOC #)	
Suspension	Date of parole suspension
Scheduled hearing date	Date of parole hearing following suspension and location note
Decision	Brief note describing the outcome of the rescission hearing

Following a prolonged period of testing, the basic data from this manual entry method has been determined to be reliable enough to report. Information from this data collection effort is provided below in Section II, Parole Board Data.

**Parole Board Hearing Automation Project.** Prior to the passage of SB09-135, the Department of Corrections worked with the Governor's Office of Information Technology (OIT) to provide resources that would assist in the automation of the Board's hearing process. To this end, the Department of Corrections' Office of Business Technologies (OBT) acquired and installed the necessary computer technology and developed a web-based data entry and reporting system to automate the previous paper-based process.

The primary goals of the Parole Board Application Hearing automation project are to:

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

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

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

- Profile: Offender biographical and incarceration information
- Parole Plan: Hearing, probation, community placement and parole histories. Offense and criminal behavior summaries. Institutional adjustment information. Program participation and evaluation summaries as well as current assessed program needs and participation levels. Release destination details.
- Mittimus: Crime and sentence information as received from the courts.
- Admission Data Summary: Historical and personal information when offender admitted into the DOC
- CARAS: Colorado Actuarial Risk Assessment Scale
- CARAS Supplemental: Time served, institutional behavior, DOC program participation and anticipated needs on parole.
- COPDs: Institutional violations
- Detainers: Listing of detainers to other law enforcement agencies.

- Escapes: Listing of previous escapes
- Movements: Physical location and movements within the DOC
- Previous Crimes: Previous crimes that were not sentenced to the DOC.
- Referrals: Community referrals
- Restitution: Restitution ordered

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

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

The Parole Board Action Notice (previously a paper form) is the subsystem in which the Board member enters his/her decision to release, to defer or send to the full Board for review. If the decision is to release or defer, the electronic workflow queues that Action Notice for a secondary review and signature by a different Board member. Upon completion of the second-signature process, the Action Notice is then queued for processing by the Time & Release Operations department. If the decision is that full Board review is required, that Action Notice is queued for that full Board review. During the review, all Board members can view the Offender information. Upon completion of the full Board review, each member is expected to electronically "vote" and, upon completion of voting, the Board chairperson records a final decision which is entered into the system. This full Board outcome is then queued for processing by Time & Release Operations.

A period of system testing and training from mid-2009 through mid-2010 was undertaken to ensure web connectivity at hearing locations and to elicit feedback from Board members on the use of the Portal system. The Portal functionality described above is currently available in the DOC's production ("live web") environment. Feedback has been positive and reported bugs continue to be resolved. The Board members continue to receive the paper packets and the intent of doing so was to have the Board member verify that the electronic system exactly matched the data in the paper documents. Based on feedback from the Parole Board and the OBT professional assigned to work with Board members on this project, OBT is confident that the paper-based Parole Board packet (except the Parole Board Action Form) can be eliminated.

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

It is the information contained within the Action Notice that identifies when an offender should be released. As such, it is critical that the information contained within be completely accurate. As a result, OBT has asked the Board to continue to use the paper-based Action Notice process in parallel with the electronic Action Notice process. Time & Release Operations will validate that the decision information contained within the electronic system always matches the paper Action Form. At such time that Time and Release Operations is confident that the electronic version is always 100 percent accurate, OBT will suggest to the Board that the paper Action Notices be eliminated.

Representing an advance in data collection capabilities, this new automated hearing Portal and data collection system was in development prior to the amendments of the statute by the FY 2009 General Assembly. Upon completion of the Parole Action validation process, the Portal will be expanded to include the additional data elements and processes necessary to comply with the legislation. Some of these data may be available for integration from other database tables within existing database systems (for example, recidivism history and programming received by offenders) whereas other data are not yet being collected (for example, decision-making rationale for granting, revoking, or denying parole). In fact, as can be seen in the description of the Decision Factors Project and the Parole Release Guideline Project, the work on these expanded elements has already begun.

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

The scientific study of decision theory over the last 60-70 years in such varied fields as economics, mathematics, psychology, statistics, and neuroscience would suggest that the approach suggested by the original statutory mandate will not be fruitful. The complexity of the decision conditions defined by those found during a parole board hearing are unlikely to be accurately captured by a simple request to mark which of 71 factors prevail as the basis for a parole decision. The specific area within decision theory applicable to the parole decision situation is called multi-criteria decision analysis. This subfield has identified at least 2 dozen decision methods to describe, explain and structure how individuals make decisions.<sup>2</sup> The parole decision situation requires that a member, after having made a decision, indicate which criteria were predominate in forming that decision. Daniel Kahneman and Amos Tversky<sup>3</sup> identified errors of judgment and decision-making due to cognitive heuristics and biases that would strongly suggest that this after-the-fact or retrospective approach to study parole decisions should be avoided.

However, the modifications found in HB 10-1374 provide an opportunity for an alternate approach to study and document parole decisions through the introduction of release (17-22.5-107 (1) (a-b)

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

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



C.R.S.) and revocation guidelines (17-22.5-107 (2) (a-b) C.R.S.). The use of guidelines provides a structured decision process that creates a more predictable decision circumstance that can be more effectively tracked and documented. Efforts on the Decision Factor Project are considered concluded and have been shifted to the Parole Release Guideline Project.

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

As framed by the legislative declarations in the parole guidelines statute (17-22.5-404 (1), “(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[.]”

In preparation for the conclusion of the Parole Action validation process mentioned above, representatives from the DCJ, the DOC’s Office of Planning and Analysis and OBT met on September 28, 2010 to begin the process of translating the draft administrative release guideline to implementation. It is expected that the release guideline will be integrated into the hearing Portal for use by Board members. Once in place, Board members will receive a computer-generated advisory decision recommendation based on evidence-based factors of risk and re-entry readiness and, in compliance with the statute, may choose to conform with or depart from the decision recommendation. If the Board member departs from the decision recommendation, the statute requires the Board member to provide a reason for the guideline departure. The decision structure provided by the release guideline will narrow the complexity encountered in the earlier attempt to identify parole decision factors and a method to record the reasons for particular Board decisions.

**Parole Revocation Guideline Project.** On November 1, 2010, the Division of Adult Parole and Community Corrections, in collaboration with the State Board of Parole, will begin a pilot test of the Colorado Violation Decision Making Process (CVDMP). Development of the CVDMP began in February 2010 as a way to improve consistency among parole officers in responding to violations and as method of supporting an officer’s ability to use intermediate sanctions in lieu of seeking regression or revocation, when appropriate. The CVDMP document provides officers a list of appropriate responses to violations based on the severity of the violation and an assessment of the offender’s risk level using the Level of Service Inventory–Revised (LSI-R). Although the CVDMP is based on similar efforts used in other states, creating a process for Colorado required collaboration with the State Board of Parole. Members of the Board have been involved since

February in both scaling violation severity and determining the appropriate responses for such violations.

In addition to such practices being supported by current best practice research, the creation of a revocation guideline for use by the Parole Board is required by HB 10-1374 (See 17-22.5-107 (2) and 17.22.5-404 (5) ). The development of the CVDMP will provide the data collection structure within which the number and reasons for parole revocation decisions will be recorded.

**Master Program Scheduling Project.** Another element of data required by the parole guidelines statute is to "...collect data related to...the type of reentry program given to the offender as a part of the offender's parole plan..." (17.22.5-404 (6) (a) C.R.S.). The Department of Corrections Information System (DCIS) currently includes a program titled, Master Program Scheduling (MPS). Originally developed to track inmates' work assignments, MPS was later adopted to track program participation. However, there were certain computer program limitations that prohibited its use as a complete solution to track drug and alcohol, sex offender, and mental health treatment participation. Three offices at the DOC, the Office of Planning and Analysis, the OBT and the Office of Clinical Services, collaborated in FY 2010 to make a number of improvements to the MPS system. These changes include:

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

Once the MPS upgrades are finalized for behavioral health programs, a project will be initiated to explore the expansion of the system to track progress in vocational and educational programs.

### III. Parole Board Data

As is apparent by the many projects described above, there were and are extensive needs regarding the implementation of a data infrastructure to record and document parole hearing data. The data currently collected by the Board described in the subsection above, "Parole Board Hearing Data," are severely limited. The data do not lend themselves to extensive analyses and thus are presented below as counts and percentages.

**Data.** As can be seen in Table 1 and Table 2, the Parole Board conducted approximately 17,000 release hearings during FY 2009 and during FY 2010. Information regarding revocation hearings is not consistently documented and, therefore, is not available for this report. A release hearing is conducted by a single Board member with a subsequent review and approval of the decision by a second Board member. Offenders with a determinate life sentence are subject to a release hearing conducted by two Board members. Following an initial release hearing, members must request a full board review of cases where the conviction was for a Felony I or II crime or where the conviction crime involved violence. Additionally, Board members are granted the discretion to request a full board review for any inmate, but especially for offenders with a history of violence or an apparent propensity for violence.

**Hearings/Reviews.** Parole hearings and reviews may be set for a variety of statutory or procedural reasons, including:

- By statutory requirement (17-22.5-403 C.R.S.)  
Hearings/reviews occur upon reaching the parole eligibility date, and, if deferred and depending on the conviction, once every one, three or five years (or less at the discretion of the Board member) until the mandatory release date is reached.
- On a specified date set by the Board member following a deferral or tabled (release) request  
A parole release decision may be "tabled" to require the submission of an updated parole plan or to require an inmate to complete a specific requirement (for example, completion of a GED).
- At mandatory release  
This hearing establishes the set of conditions to which the parolee must be compliant while on parole.
- Upon request by a Board member for a full board review
- While on parole: Revocation request for a technical violation  
If revoked, the offender returns to a specified hearing cycle, unless the hearing officer sets a shorter review period or the offender qualifies for a 90- or 180-day re-parole.
- Following a parole revocation, under certain conditions, a parole release application hearing can occur between 90 days to 1 year later.

- **While on parole: Request for a change of supervision conditions**  
This type of review may result in a change that may be progressive, meaning a reduction or elimination of conditions. The change may be regressive, meaning the addition or augmentation of conditions.
- **While on parole: Request for termination**  
An early discharge from the parole period may be granted, if appropriate, based on a review of an offender's performance while on parole.
- **While on parole: Self revocation**  
An offender may submit a request for revocation for a return to incarceration.
- **Rescission hearing**  
A hearing to rescind informs an offender that a previously scheduled parole release has been withdrawn and re-scheduled. For example, this may occur as a result of an institutional violation prior to the release date or due to the re-calculation of the parole eligibility and/or mandatory release dates due to a new conviction.

**Outcomes.** A parole release hearing/review may have one of several outcomes:

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

On July 1, 1990, the Board was expanded from five to seven members. The Parole Board is also allowed to hire two individuals to conduct release hearings, but these Release Hearing Officers may only conduct hearings for offenders with Felony 4, 5, or 6 convictions. Up to three individuals, who must be attorneys, may be hired to serve as Administrative Hearing Officers to conduct parole revocation hearings. At the time of the Board member expansion in 1990, the combined average daily population of inmates and parolees of the DOC was 9,453. By 2000, the combined inmate/parolee total was 20,686 and by 2009 this total was 34,760. The "per capita" number of inmates and parolees (per the 12 total hearing professionals) has grown nearly 268 percent from 1990 with 788 per Parole professional to nearly 2,897 in 2009. Not all of these offenders qualify for or are subject to a parole hearing in any given year; however, this number simply provides a picture of the increasing demand on Parole Board resources and labor.

**Table 1. Count and Percentage\* of Parole Board Hearings by Member (FY 2009)**

<b>Parole Board Members or Hearing Officers</b>	<b>Release at Parole Eligibility Date (PED) Granted</b>	<b>Release Granted between PED &amp; MRD</b>	<b>Release at Mandatory Release Date (MRD) Granted</b>	<b>Defer: Release Not Granted</b>	<b>Board Member Total</b>	<b>Inmate Waived Hearing</b>	<b>F1, F2, and/or Violence: Referrals to Full Board</b>
<b>Current Board Members</b>							
Deborah C. Allen	52 (2%)	323 (13%)	596 (25%)	1437 (60%)	2408 (100%)	123	94
Michael E. Anderson	0 (0%)	20 (9%)	51 (23%)	153 (68%)	224 (100%)	4	12
Celeste (CdeBaca) Quiñones	24 (1%)	168 (8%)	606 (29%)	1322 (62%)	2120 (100%)	82	120
Mickey Heckenbach	11 (1%)	151 (8%)	489 (25%)	1271 (66%)	1922 (100%)	92	88
Becky R. Lucero	48 (2%)	326 (15%)	541 (24%)	1306 (59%)	2221 (100%)	211	173
Rebecca L. Oakes	25 (1%)	363 (19%)	430 (22%)	1096 (57%)	1914 (100%)	96	177
John M. O'Dell (Appointed 5/7/2010)	0	0	0	0	0	0	0
<b>Current Release Hearing Officers:</b>							
William Simmons	4 (1%)	31 (12%)	106 (40%)	124 (47%)	265 (100%)	6	0
Donald Van Pelt	2 (>1%)	147 (14%)	349 (34%)	532 (52%)	1030 (100%)	5	9
<b>Former Board Members:</b>							
David L. Michaud	30 (1%)	396 (17%)	415 (18%)	1487 (64%)	2328 (100%)	169	200
Leslee Waggener	13 (1%)	169 (10%)	462 (28%)	1002 (61%)	1646 (100%)	66	57
<b>Former Release Hearing Officers:</b>							
Benny Johnson	6 (1%)	133 (18%)	264 (35%)	355 (47%)	758 (100%)	12	23
Chuck Pullin	21 (4%)	71 (14%)	190 (36%)	241 (46%)	523 (100%)	11	2
<b>Total</b>	<b>236 (1%)</b>	<b>2298 (13%)</b>	<b>4499 (26%)</b>	<b>10326 (59%)</b>	<b>17359 (100%)</b>	<b>877</b>	<b>955</b>

\* The percentage in parenthesis displays the percentage of each decision type as a function of the Board member's hearing total. Percentages may not total 100% due to rounding.

**Table 2. Count and Percentage\* of Parole Board Hearings by Member (FY 2010)**

<b>Parole Board Members or Hearing Officers</b>	<b>Release at Parole Eligibility Date (PED) Granted</b>	<b>Release Granted between PED &amp; MRD</b>	<b>Release at Mandatory Release Date (MRD) Granted</b>	<b>Defer: Release Not Granted</b>	<b>Board Member Total</b>	<b>Inmate Waived Hearing</b>	<b>F1, F2, and/or Violence: Referrals to Full Board</b>
<b>Current Board Members</b>							
Deborah C. Allen	57 (2%)	342 (15%)	562 (24%)	1374 (59%)	2335 (100%)	87	128
Michael E. Anderson	29 (1%)	260 (12%)	514 (24%)	1313 (62%)	2116 (100%)	56	172
Celeste (CdeBaca) Quiñones	25 (1%)	233 (11%)	524 (25%)	1275 (62%)	2057 (100%)	87	118
Mickey Heckenbach	11 (1%)	196 (9%)	490 (22%)	1495 (68%)	2192 (100%)	58	110
Becky R. Lucero	61 (3%)	347(15%)	506 (21%)	1455 (61%)	2369 (100%)	271	198
Rebecca Oakes	40 (2%)	412 (19%)	443 (20%)	1318 (60%)	2213 (100%)	86	233
John M. O'Dell (Appointed 5/7/2010)	1 (>1%)	9 (3%)	81 (26%)	216 (70%)	307 (100%)	18	14
<b>Current Release Hearing Officers:</b>							
William Simmons	14 (2%)	141 (16%)	279 (32%)	437 (50%)	871 (100%)	16	17
Donald Van Pelt	3 (>1%)	170 (23%)	202 (28%)	358 (49%)	733 (100%)	5	9
<b>Former Board Member:</b>							
David L. Michaud	39 (2%)	357 (20%)	301 (17%)	1076 (61%)	1773 (100%)	92	250
Total	280 (2%)	2467 (15%)	3902 (23%)	10317 (61%)	16966 (100%)	776	1249

\* The percentage in parenthesis displays the percentage of each decision type as a function of the Board member's hearing total.

Percentages may not total 100% due to rounding.

Compliance with the parole guidelines statute (17-22.5-404 C.R.S.) requires that the DCJ regularly obtain data from the Parole Board to meet the HB09-1374 requirements as well as the related training requirements included in the statute (see 17-22.5-404 (2)(c), (6)(c) and (6)(d) ). The Parole Board must document each parole release and revocation decision and the reason for that decision, by decision maker, and provide this information to the DCJ. Additionally, the DCJ must obtain the reasons for any departure from the administrative release and from the revocation guidelines established in statute (17-22.5-107 C.R.S.) Because the DCJ must analyze and provide training on release and revocation decision-making, the data requirements must include an analysis of any data the member utilizes in their decision: this includes the factors included in the release and revocation guidelines and, upon any departure from the guidelines, the data mentioned or implied in the departure justification. Therefore, the data requirements go beyond the data specifically mentioned in the statute and must include the data *implied* by the requirements of the statute.

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

Much of the data is not under the control or ability of the Board to provide and, instead, is provided by staff at the DOC. With the implementation of the projects described above, the Board, the DCJ, and the DOC will continue to build the data infrastructure to collect and analyze this breadth of information.

## IV. Summary

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

**APPENDIX A**

**Senate Bill 09-135**



**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.**

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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.

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

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

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

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

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

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

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

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

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

ANALYZED TO FACILITATE THE BOARD'S DECISION-MAKING.

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

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

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

\_\_\_\_\_  
Brandon C. Shaffer  
PRESIDENT OF  
THE SENATE

\_\_\_\_\_  
Terrance D. Carroll  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

\_\_\_\_\_  
Karen Goldman  
SECRETARY OF  
THE SENATE

\_\_\_\_\_  
Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED \_\_\_\_\_

\_\_\_\_\_  
Bill Ritter, Jr.  
GOVERNOR OF THE STATE OF COLORADO

**APPENDIX B**

**House Bill 10-1374**



HOUSE BILL 10-1374

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

CONCERNING PAROLE, AND MAKING AN APPROPRIATION IN CONNECTION  
THEREWITH.

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

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

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

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

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

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

- **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.

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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