

# 2019

Report to the Colorado General Assembly

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## Prison Population Management Interim Study Committee



Prepared by Legislative Council Staff  
Research Publication No. **750**  
December 2019

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## **Prison Population Management Interim Study Committee**

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*December 2019*

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December 2019

To Members of the Seventy-second General Assembly:

Submitted herewith is the final report of the Prison Population Management Interim Study Committee. This committee was authorized by Legislative Council to meet over the 2019 interim for the purposes of studying strategies to safely reduce the prison population and decrease recidivism, and prison population reform legislation passed by the General Assembly.

At its meeting on November 15, 2019, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 2020 session was approved.

Sincerely,

/s/ Senator Leroy Garcia  
Chair

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The text of each bill is included as Attachments A through C after the resource materials page(s).

*This report is also available online at:*

<https://leg.colorado.gov/committees/prison-population-management-interim-study-committee2019-regular-session>

# **Prison Population Management Interim Study Committee**

## **Committee Charge**

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Pursuant to Interim Committee Request Letter 2019-10, the Prison Population Management Interim Study Committee is charged with studying or monitoring:

- strategies to safely reduce the prison population and decrease recidivism; and
- prison population reform legislation passed by the General Assembly.

## **Committee Activities**

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During the 2019 interim, the Prison Population Management Interim Study Committee held five meetings at the State Capitol. The committee also toured several correctional facilities. Briefings and presentations were made by a variety of state and local entities, criminal justice-related organizations, district attorneys, public defenders, and other outside entities on a wide range of subjects, including:

- prison population management and forecasts;
- recidivism;
- mental health and addiction treatment;
- individuals involved in the criminal justice system, with an emphasis on women, juveniles, young adults, and those who have committed a sexual offense;
- rehabilitation, reentry, transition, and community corrections programming;
- inmate classification; and,
- the use of private companies to operate prisons and community corrections.

The following sections discuss the committee's activities during the 2019 interim.

## **Prison Population Management and Forecasts**

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The Division of Criminal Justice (DCJ) within the Department of Public Safety, and Legislative Council Staff are both charged with forecasting the state's prison population. These forecasts are designed to assist lawmakers in configuring prison bed space, capacity, and costs. The DCJ prepares two forecasts, one in the winter, and one in the summer that adjusts the previous winter forecast. Legislative Council Staff prepares a forecast each December and presents it to the General Assembly.

Representatives of both entities provided overviews of their respective forecasts and the methodology used. They also stated reasons for inaccurate projections, noting that the many agencies involved in the criminal justice system track and define measurements, such as revocations and recidivism, differently. Another issue raised was the lack of a common framework for communicating and sharing data between agencies.

The committee also reviewed factors that drive trends in the prison population, such as criminal filings, changes in law, parole and probation revocations, actions by the State Board of Parole, and programming for offenders. In turn, members expressed a desire to gather data to better understand how an individual flows through the criminal justice system, including the interplay and communication between the involved agencies and departments.

**Committee recommendation:** As a result of its prison population projection discussion, the committee recommended Bill C. Bill C requires the Department of Corrections (DOC) to conduct a study to examine how individuals proceed through the various stages of the criminal justice system.

## **Recidivism**

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The committee heard from a number of agency representatives on the issue of recidivism. Recidivism generally refers to a person's relapse into criminal behavior, often after the person receives sanctions or undergoes intervention for a previous crime. The committee learned that agencies and other community-based organizations measure recidivism differently and rely on somewhat varying definitions of re-involvement in the criminal justice system. Regardless, the committee recognized that Colorado's recidivism rate is higher in comparison to the nationwide average, and acknowledged recidivism's contribution to prison over-crowding.

The committee further explored the factors driving the recidivism rate in Colorado and the ways in which to better address and serve those most at risk of recidivating, with particular emphasis on reentry services, treatment, women, and other educational and rehabilitative programming, as discussed in more detail below.

**Reentry services.** The committee heard testimony about the pressing needs for housing, employment, education, health services, and other stabilization support services. The committee learned about reentry services, both before and following release from prison, from a variety of agencies and organizations across the state. The committee further examined ways to better connect state agencies with each other and to their counterparts in the community in an effort to more seamlessly transfer and share information about an offender's particular reentry needs.

**Treatment.** A reoccurring theme, visited during several of the meeting panels, was the impact of behavioral health and substance abuse issues on recidivism, and the need for programming to address these issues. The committee also heard from a panel about sex offender treatment, or the lack thereof, in prison, and how it impacts an individual's sentence and conditions of parole.

**Women.** The committee heard testimony from experts in the field about the differing needs of women in the criminal justice system, primarily because they are often the primary caregivers of their children and are disproportionately victimized by emotional, physical, and sexual abuse in their past. The committee further discussed particular risk factors contributing to women's criminal behavior: substance abuse, mental illness, and spousal abuse. After being released from prison, it was noted that many women face barriers to reentering society and providing for themselves and their children, putting them at a higher risk of recidivating.

**Programming.** The committee heard from state agencies, private prisons, and community providers about available educational and other rehabilitative programming. The panelists cited research suggesting that educational and life skills programs in and out of prison reduce recidivism. The committee members also raised questions about the differences in the rehabilitative opportunities offered between private and state-run prisons.

**Committee recommendation.** Based on the recidivism discussion and contributing factors, the committee recommends Bills B and C. Bill B addresses the potential phase-out of private prisons and incorporates some of the concerns raised about a lesser degree of programming and treatment in these facilities. The criminal justice flow study required in Bill C is intended to assist legislators in better understanding recidivism rates and the impacts of certain programs and services.

## **Denver Private Community Corrections Contract Nonrenewal**

In August of 2019, the Denver City Council voted to not renew contracts with private providers of community corrections services. This action placed into doubt the future of the offenders receiving these services. At two of the meetings, the committee heard from representatives of both state and Denver agencies on the issues associated with the city council vote. Discussions centered around options for placing the offenders served by the contract providers, and the ability of other agencies and community corrections providers to accommodate this population. The committee also discussed the decision's potential impact on state agencies such as the DOC, as well as noted trends in cutting ties with private prison facilities and other related services.

**Committee recommendation:** As a result of its discussion about private correctional providers and contracts in Denver, the committee recommends Bill B. Bill B directs a study of how to end the practice of using private prisons by 2025 in a responsible way.

## **Juvenile Justice**

Representatives of the American Civil Liberties Union and the First Judicial District presented on the use of direct file for juveniles. Direct file allows a prosecutor to file charges against a juvenile directly in adult criminal court. The representatives also underscored the young adult population, ages 18 to 24, who are reportedly disproportionately represented in the adult prison system. The committee heard testimony centering on the idea that, for some, cognitive abilities are not fully matured until years after reaching the age of majority. The committee also discussed missed opportunities for rehabilitation, education, and treatment with the juvenile and young adult population housed in adult facilities. Committee members further heard concerns that this age group is much more likely to suffer sexual abuse and violence when mixed with older inmates. For these and other reasons, the committee explored the possibility of serving the direct file and young adult population separately, or more age appropriately, in the criminal justice system.

**Committee recommendation.** The committee discussions about juvenile justice led to the drafting of Bill A, which allows a district court to consider transferring the case of a young adult between the ages of 18 and 25 who has been convicted of certain crimes to juvenile court. Bill A was subsequently withdrawn at the Legislative Council meeting on November 15, 2019.

## **Use of Private Prisons**

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Of the 25 prisons housing state-level offenders in Colorado, three are privately owned and managed. The differences between private and public prisons wove itself into numerous committee discussions, including costs, rehabilitation programming offered, the type and classification of inmates housed, recidivism rates, and the level of security.

The state has relied on private prisons to manage an overflow of inmates since the 1990s. In conjunction, the committee explored ways in which to better use the vacant Centennial South Campus of the Centennial Correctional Facility (also known as CSP II). Senate Bill 19-259 already allows for the use of this campus to house offenders should the male prison vacant bed rate dip below 1 percent for two consecutive months, and the committee explored ways to expand the use of this facility even further.

**Committee recommendation.** As a result of its discussions on the state's reliance on private prisons to alleviate over-crowding, the committee recommends Bill B, which requires DOC to study how to end the practice of using private prisons by 2025 in a responsible way. The bill further expands the use of CSP II for close-custody inmates regardless of the vacant bed rate, while requiring the removal of one offender from a private facility for each one housed at CSP II.

## **Facilities Tour**

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On September 30 and October 1, 2019, members of the Prison Population Management Interim Study Committee visited correctional facilities in the Canon City area, Buena Vista, Pueblo, and Olney Springs. The tour visited the following facilities: Buena Vista Correctional Complex, Fremont Correctional Facility, the Centennial Correctional Facility, La Vista Women's Correctional Facility, and Crowley County Correctional Facility. Committee members learned first-hand about the kinds of programs and services offered at each facility, and also had the opportunity to talk with offenders. At the Crowley County facility, a private facility, the tour was joined by commissioners from Bent and Crowley Counties. The commissioners discussed the impact of the prison on their communities in terms of jobs and the tax base.

## Summary of Recommendations

As a result of the committee's activities, discussion, and deliberation, the Prison Population Management Interim Study Committee recommended the following three bills for consideration in the 2020 legislative session. At its meeting on November 15, 2019, the Legislative Council approved two bills for introduction. Bill A was withdrawn at the Legislative Council meeting. The bills are described below.

The committee also approved sending one letter to the DOC, pursuant to Senate Bill 19-259, regarding managing the prison population.

### **Bill A - Young Adult Criminal Justice Reforms (Withdrawn)**

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The bill would have enacted measures to improve outcomes for adults between the ages of 18 and 25 in the criminal justice system, as outlined below.

**Transfers to juvenile court.** Bill A created a new court proceeding in which a district court may consider transferring the case of a young adult convicted of a class 3, 4, 5, or 6 felony to juvenile court if the court determines that the transfer is in the best interest of the public or the defendant.

**Juveniles convicted as adult program.** Under current law, the DOC operates a specialized program for inmates sentenced to an adult prison for an offense committed prior to the age of 18. This bill would have extended program eligibility to offenders convicted of an offense that occurred when they were young adults.

**Deferred judgment, convictions, and probation violations.** The bill would have allowed a young adult with a deferred judgment who violates the condition of it to continue such judgment if determined beneficial by the court. The bill also would have allowed a class 4, 5, or 6 nonviolent felony conviction for a young adult to be vacated and entered as a misdemeanor upon successful completion of a community-based sentence to probation or community corrections. Further, the bill would have prohibited a probation revocation hearing for technical probation violations committed by young adults.

**Young adult sentencing.** Bill A would have required that nonviolent young adult offenders with no prior convictions be sentenced to probation. Further, the bill specified that a court cannot sentence a young adult offender to more than 12 years for a single class 3, 4, 5, or 6 felony.

### **Bill B – Prison Population Reduction and Management**

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Bill B makes the following changes with regard to prison population management:

**CSP II.** Bill B allows DOC to use CSP II to house close-custody inmates. However, one inmate must be removed from a private prison for each state inmate housed at this facility. This one-for-one exchange must happen until CSP II reaches full capacity.

**Private prison use study.** The bill requires DOC to study how to end the use of private prisons in Colorado by 2025. The study must analyze:

- the use of alternative facilities and programs;
- local government, community-based provider, and economic impacts;
- state-operated facilities and programs and the feasibility of the state obtaining private prison facilities; and
- best practices and programs for the reintegration of offenders and the resources needed to transition away from private prisons.

**Earned time.** Bill B authorizes DOC to more broadly apply earned time credits and allows it for inmates who have shown exemplary leadership through mentoring, community service, and distinguished actions. Earned time is a credit against an inmate’s sentence for participation in or completion of programs or other productive activities.

**Escape and absconding.** Bill B eliminates new criminal charges for escape or attempted escape for offenders in community corrections or an intensive supervised parole program. The bill also creates a new absconding offense and differentiates it from escape.

## **Bill C – Criminal Justice System Operational Processes Study**

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Bill C requires the DOC to study how individuals proceed through the stages of the criminal justice system. The study must analyze the operational and technological systems and procedures used in criminal proceedings and correctional facilities; examine recommendations and best practices implemented in Colorado and other states to create more efficient operational and technological systems and procedures; review obstacles; and analyze the types of metrics and information collected and prepared by criminal justice agencies.

## **Committee Letter 1**

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The committee approved sending a letter to the DOC, pursuant to Senate Bill 19-259, which requires the DOC to consider input from the committee. The letter encourages DOC to pursue normalization efforts to reduce recidivism, address the needs of women, provide adequate mental health and substance abuse treatment, and allow for inmates to acquire monetary savings prior to release.

## Resource Materials

Meeting summaries are prepared for each meeting of the committee and contain all handouts provided to the committee. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver (303-866-2055). The listing below contains the dates of committee meetings and the topics discussed at those meetings. Meeting summaries are also available on our website at:

<https://leg.colorado.gov/content/committees>

### Meeting Date and Topics Discussed

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July 22, 2019

- ◆ Presentations on the prison population forecast by the Department of Public Safety and Legislative Council
- ◆ Update on the impact of recent criminal justice reform legislation concerning prison population management
- ◆ Panel discussion on the drivers of prison population and recidivism
- ◆ Presentation on the direction of the Department of Corrections
- ◆ Public testimony
- ◆ Interim bill draft request process and discussion

August 12, 2019

- ◆ Panel on the implications of Denver private community corrections contract non-renewal for prison population
- ◆ Panel on mental health and addiction treatment needs
- ◆ Panel on direct file and juvenile issues
- ◆ Panel on individuals who have committed a sexual offense and the prison system
- ◆ Panel on women population in the prison system
- ◆ Public testimony

August 26, 2019

- ◆ Update on Denver private community corrections contract non-renewal
- ◆ Panel on rehabilitation, reentry, transition, and community corrections programming
- ◆ Panel on inmate classification within prison facilities
- ◆ Panel on programming in the Department of Corrections and private prison facilities
- ◆ Public testimony

September 18, 2019

- ◆ Perspectives on community reentry
- ◆ Discussion regarding women and parole
- ◆ Discussion about sentencing and juveniles
- ◆ Update on Centennial Correctional Facility – South (Colorado State Penitentiary II)
- ◆ Revisiting the prison population forecast
- ◆ Update on committee working groups
- ◆ Requests for bill drafts

October 30, 2019

- ◆ Discussion of recommendations to the Department of Corrections pursuant to Senate Bill 19-259
- ◆ Public testimony on draft bills
- ◆ Consideration of and final action on draft committee legislation and associated amendments

Second Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO

Attachment A

**BILL A**

LLS NO. 20-0361.01 Michael Dohr x4347

**HOUSE BILL**

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**HOUSE SPONSORSHIP**

**Gonzales-Gutierrez,**

**SENATE SPONSORSHIP**

**Gonzales, Rodriguez**

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**House Committees**

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING MEASURES TO IMPROVE OUTCOMES FOR ADULTS**  
102 **BETWEEN THE AGES OF EIGHTEEN AND TWENTY-FIVE IN THE**  
103 **CRIMINAL JUSTICE SYSTEM.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)*

**Prison Population Management Interim Study Committee.** The bill creates a process for an adult who is between the ages of 18 and 25 to petition to have the adult's class 3, 4, 5, or 6 felony criminal case transferred to juvenile court. The district court shall hold a hearing to consider whether:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

- There is probable cause for the offense;
- The interests of the defendant or of the community would be better served by the district court's waiving its jurisdiction over the defendant and transferring jurisdiction over the defendant to the juvenile court; and
- There is clear and convincing evidence that the defendant is developmentally functioning at a level that is similar to a juvenile, and the ability of the juvenile to function as an adult and respond to the requirements inherent in the adult criminal justice system is substantially impaired by factors that are diagnosed and verifiable.

The bill creates a list of factors the court must consider when deciding whether to transfer jurisdiction over the case to the juvenile court.

The department of corrections operates a specialized program for offenders who are serving a prison sentence for a felony offense committed while the offender was a juvenile as a result of criminal charges filed by direct file or transfer proceedings. The bill would expand program eligibility to adults serving a sentence for a felony that was committed when the person was between the ages of 18 and 25.

The bill creates a sentencing grid that applies only to adults who commit a felony and are between the ages of 18 and 25 at the time of the commission of the offense. Under the new grid, any sentence for a class 3, 4, 5, or 6 felony cannot exceed 12 years, even if aggravating factors or sentence enhancements apply. The court must sentence a defendant who is between the ages of 18 and 25 to probation if the felony is the defendant's first conviction and the felony is not a crime of violence. The bill creates a sentencing option for offenders between the ages of 18 and 25 convicted of a nonviolent class 3, 4, 5, or 6 felony that allows the court to vacate the felony conviction and enter a misdemeanor conviction in its place if the offender successfully completes a community-based sentence. The bill prohibits probation revocation for defendants between the ages of 18 and 25 for technical probation violations and requires the court to continue such probation in specified circumstances. The bill allows a court to continue rather than revoke a deferred judgment and sentence over the objection of the district attorney for a defendant between the ages of 18 and 25.

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

2           **SECTION 1.** In Colorado Revised Statutes, **add** 16-5-101.5 as  
 3 follows:

4           **16-5-101.5. Transfers to juvenile court.** (1) (a) THE DISTRICT

1 COURT MAY ENTER AN ORDER TRANSFERRING A YOUNG ADULT TO BE HELD  
2 FOR CRIMINAL PROCEEDINGS IN THE JUVENILE COURT IF:

3 (I) A PETITION FILED ON BEHALF OF THE DEFENDANT IN DISTRICT  
4 COURT ALLEGES THE DEFENDANT WAS BETWEEN THE AGES OF EIGHTEEN  
5 AND TWENTY-FIVE AT THE TIME OF THE COMMISSION OF THE ALLEGED  
6 OFFENSE AND IS NOT CHARGED WITH A CLASS 1 OR CLASS 2 FELONY; AND

7 (II) AFTER INVESTIGATION AND A HEARING, THE DISTRICT COURT  
8 FINDS IT WOULD BE CONTRARY TO THE BEST INTERESTS OF THE  
9 DEFENDANT OR OF THE PUBLIC TO RETAIN JURISDICTION OVER THE  
10 DEFENDANT.

11 (b) A PETITION MAY BE TRANSFERRED FROM THE DISTRICT COURT  
12 TO THE JUVENILE COURT ONLY AFTER A HEARING.

13 (c) IN CASES IN WHICH CRIMINAL CHARGES ARE TRANSFERRED TO  
14 THE JUVENILE COURT PURSUANT TO THIS SECTION, THE JUDGE OF THE  
15 JUVENILE COURT SHALL HAS THE POWER TO MAKE ANY DISPOSITION OF  
16 THE CASE THAT THE JUVENILE COURT WOULD HAVE IF THE DEFENDANT  
17 WERE A JUVENILE.

18 (d) IF, FOLLOWING TRANSFER OF CRIMINAL CHARGES TO THE  
19 JUVENILE COURT PURSUANT TO THIS SECTION, A DEFENDANT IS CONVICTED  
20 OF A LESSER INCLUDED OFFENSE FOR WHICH CRIMINAL CHARGES COULD  
21 NOT ORIGINALLY HAVE BEEN TRANSFERRED TO THE JUVENILE COURT, THE  
22 COURT SHALL SENTENCE THE DEFENDANT PURSUANT TO TITLE 18.

23 (2) AT THE TRANSFER HEARING, THE DISTRICT COURT SHALL  
24 CONSIDER:

25 (a) WHETHER THERE IS PROBABLE CAUSE TO BELIEVE THAT THE  
26 DEFENDANT HAS COMMITTED AN ALLEGED OFFENSE FOR WHICH WAIVER  
27 OF DISTRICT COURT JURISDICTION OVER THE DEFENDANT AND TRANSFER

1 OVER THE JURISDICTION TO THE JUVENILE COURT MAY BE SOUGHT  
2 PURSUANT TO SUBSECTION (1) OF THIS SECTION;

3 (b) WHETHER THE INTERESTS OF THE DEFENDANT OR OF THE  
4 COMMUNITY WOULD BE BETTER SERVED BY THE DISTRICT COURT WAIVING  
5 ITS JURISDICTION OVER THE DEFENDANT AND TRANSFERRING JURISDICTION  
6 OVER THE DEFENDANT TO THE JUVENILE COURT; AND

7 (c) WHETHER THERE IS CLEAR AND CONVINCING EVIDENCE THAT  
8 THE DEFENDANT IS DEVELOPMENTALLY FUNCTIONING AT A LEVEL THAT IS  
9 SIMILAR TO A JUVENILE AND THE ABILITY OF THE JUVENILE TO FUNCTION  
10 AS AN ADULT AND RESPOND TO THE REQUIREMENTS INHERENT IN THE  
11 ADULT CRIMINAL JUSTICE SYSTEM IS SUBSTANTIALLY IMPAIRED BY  
12 FACTORS THAT ARE DIAGNOSED AND VERIFIABLE.

13 (3) (a) IN CONSIDERING WHETHER TO WAIVE DISTRICT COURT  
14 JURISDICTION OVER THE DEFENDANT, THE DISTRICT COURT SHALL  
15 CONSIDER THE FOLLOWING FACTORS:

16 (I) THE FUNCTIONING OF THE DEFENDANT AND THE IMPAIRMENT  
17 OF THE DEFENDANT AS ESTABLISHED BY DIAGNOSED FACTORS AND THE  
18 WEIGHT OF THE EVIDENCE;

19 (II) THE SERIOUSNESS OF THE OFFENSE AND WHETHER THE  
20 PROTECTION OF THE COMMUNITY REQUIRES ISOLATION OF THE DEFENDANT  
21 BEYOND THAT AFFORDED BY JUVENILE FACILITIES;

22 (III) WHETHER THE ALLEGED OFFENSE WAS COMMITTED IN AN  
23 AGGRESSIVE, VIOLENT, PREMEDITATED, OR WILLFUL MANNER;

24 (IV) WHETHER THE ALLEGED OFFENSE WAS AGAINST PERSONS OR  
25 PROPERTY;

26 (V) THE MATURITY OF THE DEFENDANT AS DETERMINED BY  
27 CONSIDERATIONS OF THE DEFENDANT'S HOME, ENVIRONMENT, EMOTIONAL

1 ATTITUDE, AND PATTERN OF LIVING;

2 (VI) ANY CRIMINAL RECORD OR PREVIOUS CRIMINAL HISTORY OF  
3 THE DEFENDANT;

4 (VII) THE LIKELIHOOD OF REHABILITATION OF THE DEFENDANT BY  
5 USE OF FACILITIES AVAILABLE TO THE JUVENILE COURT;

6 (VIII) THE INTEREST OF THE COMMUNITY IN THE IMPOSITION OF A  
7 SENTENCE, THE GOAL OF WHICH IS REHABILITATION AND REDUCTION OF  
8 RECIDIVISM;

9 (IX) LACK OF A NAMED VICTIM IN THE CASE, OR WHERE THERE IS  
10 A NAMED VICTIM, WHETHER THE VICTIM HAS REQUESTED THE DEFENDANT  
11 NOT BE PROSECUTED, BE GIVEN A LENIENT SENTENCE, AVOID A FELONY  
12 CONVICTION, OR BE PROSECUTED IN JUVENILE COURT; AND

13 (X) WHETHER THE DEFENDANT USED, OR POSSESSED AND  
14 THREATENED TO USE, A DEADLY WEAPON IN THE COMMISSION OF AN  
15 ALLEGED OFFENSE.

16 (b) THE INSUFFICIENCY OF EVIDENCE PERTAINING TO ANY ONE OR  
17 MORE OF THE FACTORS LISTED IN SUBSECTION (3)(a) OF THIS SECTION  
18 SHALL NOT BY ITSELF DETERMINE WHETHER DISTRICT COURT JURISDICTION  
19 IS WAIVED.

20 (4) THE DISTRICT COURT MAY CONSIDER WRITTEN REPORTS AND  
21 OTHER MATERIALS RELATING TO THE DEFENDANT'S MENTAL, PHYSICAL,  
22 EDUCATIONAL, AND SOCIAL HISTORY, BUT THE COURT, IF REQUESTED BY  
23 THE DEFENDANT OR PROSECUTION, SHALL REQUIRE THE PERSON OR  
24 AGENCY PREPARING THE REPORT AND OTHER MATERIAL TO APPEAR AND  
25 BE SUBJECT TO BOTH DIRECT AND CROSS EXAMINATION.

26 (5) (a) IF THE DISTRICT COURT FINDS THAT ITS JURISDICTION OVER  
27 A DEFENDANT SHOULD BE WAIVED, IT SHALL ENTER AN ORDER TO THAT

1 EFFECT.

2 (b) AS A CONDITION OF THE WAIVER OF JURISDICTION, THE  
3 DISTRICT COURT, IN ITS DISCRETION, MAY PROVIDE THAT A DEFENDANT  
4 CONTINUE TO BE HELD IN CUSTODY PENDING THE TRANSFER OF THE CASE  
5 TO THE JUVENILE COURT. BUT THE DEFENDANT SHALL NOT BE HELD IN  
6 CUSTODY FOR LONGER THAN THREE CALENDAR DAYS AFTER ENTRY OF THE  
7 ORDER WAIVING JURISDICTION BEFORE BEING BROUGHT BEFORE THE  
8 JUVENILE COURT FOR A BOND HEARING. WHEN THE DEFENDANT HAS MADE  
9 BOND IN PROCEEDINGS IN THE DISTRICT COURT, THE BOND MUST BE  
10 CONTINUED AND MADE RETURNABLE IN AND TRANSMITTED TO THE  
11 JUVENILE COURT, WHERE IT MUST CONTINUE IN FULL FORCE AND EFFECT  
12 UNLESS MODIFIED BY ORDER OF THE JUVENILE COURT.

13 (6) IF THE DISTRICT COURT FINDS THAT IT IS IN THE BEST INTERESTS  
14 OF THE DEFENDANT AND THE PUBLIC FOR THE DISTRICT COURT TO RETAIN  
15 JURISDICTION, IT SHALL PROCEED WITH ARRAIGNMENT AND TRIAL AS  
16 PROVIDED IN THIS TITLE 16.

17 **SECTION 2.** In Colorado Revised Statutes, 19-2-104, **amend** (1)  
18 introductory portion; and **add** (1)(c) as follows:

19 **19-2-104. Jurisdiction.** (1) Except as otherwise provided by law,  
20 the juvenile court ~~shall have~~ HAS exclusive original jurisdiction in  
21 proceedings:

22 (c) CONCERNING ANY ADULT WHOSE CASE IS TRANSFERRED TO THE  
23 JUVENILE COURT PURSUANT TO SECTION 16-5-101.5.

24 **SECTION 3.** In Session Laws of Colorado 2016, **amend** section  
25 1 of chapter 352 as follows:

26 Section 1. **Legislative declaration.** (1) The general assembly  
27 finds and declares that:

1 (a) The United States supreme court has held in several recent  
2 decisions regarding the criminal sentencing of juveniles that children are  
3 constitutionally different than adults for purposes of sentencing and  
4 should be given a meaningful opportunity for release based on  
5 demonstrated maturity and rehabilitation;

6 (a.5) MORE RECENT RESEARCH ABOUT BRAIN DEVELOPMENT  
7 DEMONSTRATES THAT THE BRAIN FUNCTIONING THAT GUIDES AND AIDS  
8 RATIONAL DECISION-MAKING DOES NOT FULLY DEVELOP UNTIL A PERSON  
9 IS IN THEIR MID-TO-LATE TWENTIES, WHICH INDICATES THAT A YOUNG  
10 ADULT DOES NOT OFTEN POSSESS THE DEVELOPMENTAL MATURITY AND  
11 DECISION-MAKING SKILLS OF A MATURE ADULT;

12 (b) Colorado recognizes that children have not yet reached  
13 developmental maturity before the age of ~~eighteen~~ TWENTY-FIVE years  
14 and therefore have a heightened capacity to change behavior and a greater  
15 potential for rehabilitation;

16 (c) Colorado has many offenders currently serving sentences in  
17 the department of corrections who committed crimes when they were less  
18 than ~~eighteen~~ TWENTY-FIVE years old and who no longer present a threat  
19 to public safety; and

20 (d) Colorado is committed to research-based best practices in the  
21 development and implementation of correctional policies and practices.  
22 BEST PRACTICES SUPPORT THE RELEASE OF PERSONS WHO NO LONGER  
23 PRESENT A THREAT TO OTHER PEOPLE OR THE COMMUNITY AND WHO HAVE  
24 DEMONSTRATED THAT THROUGH OBSERVABLE AND VERIFIED POSITIVE  
25 BEHAVIOR. RECONSIDERING PERSONS AFTER DECADES OF INCARCERATION  
26 CREATES HOPE FOR AND HELPS DEVELOP MATURITY AND RESPONSIBILITY  
27 IN PERSONS WHO WERE JUVENILES OR YOUNG ADULTS WHEN THEIR CRIMES

1 WERE COMMITTED.

2 (2) Now, therefore, Colorado desires to implement a system that  
3 allows any offender who committed a serious crime as a juvenile OR WHO  
4 was A YOUNG ADULT LESS THAN THE AGE OF TWENTY-FIVE treated as an  
5 adult by the criminal justice system and WHO has served more than twenty  
6 or twenty-five calendar years of a sentence to the department of  
7 corrections, during which he or she has exhibited growth and  
8 rehabilitation, the opportunity to further demonstrate rehabilitation and  
9 earn early release in a specialized program in a less secure setting without  
10 compromising public safety.

11 **SECTION 4.** In Colorado Revised Statutes, 17-34-101, **amend**  
12 (1)(a) introductory portion as follows:

13 **17-34-101. Juveniles and young adults who are convicted as**  
14 **adults in district court - eligibility for specialized program placement**  
15 **- petitions.** (1) (a) Notwithstanding any other provision of law, an  
16 offender serving a sentence in the department for a felony offense as a  
17 result of the filing of criminal charges by an information or indictment  
18 pursuant to section 19-2-517, or the transfer of proceedings to the district  
19 court pursuant to section 19-2-518, or pursuant to either of these sections  
20 as they existed prior to their repeal and reenactment, with amendments,  
21 by House Bill 96-1005, OR AN OFFENDER SERVING A SENTENCE IN THE  
22 DEPARTMENT FOR A FELONY OFFENSE THAT WAS COMMITTED WHILE THE  
23 OFFENDER WAS BETWEEN THE AGES OF EIGHTEEN AND TWENTY-FIVE and  
24 who remains in the custody of the department for that felony offense, may  
25 petition for placement in the specialized program described in section  
26 17-34-102, referred to within this section as the "specialized program",  
27 as follows:

1           **SECTION 5.** In Colorado Revised Statutes, 17-34-102, **amend**  
2 (1) as follows:

3           **17-34-102. Specialized program for juveniles and young adults**  
4 **convicted as adults - report.** (1) The department shall develop and  
5 implement a specialized program for offenders who have been sentenced  
6 to an adult prison for a felony offense committed while the offender was  
7 less than eighteen years of age as a result of the filing of criminal charges  
8 by an information or indictment pursuant to section 19-2-517, ~~C.R.S.~~, or  
9 the transfer of proceedings to the district court pursuant to section  
10 19-2-518, ~~C.R.S.~~, or pursuant to either of these sections as they existed  
11 prior to their repeal and reenactment, with amendments, by House Bill  
12 96-1005, OR OFFENDERS SERVING A SENTENCE IN THE DEPARTMENT FOR  
13 A FELONY OFFENSE THAT WAS COMMITTED WHILE THE OFFENDER WAS  
14 BETWEEN THE AGES OF EIGHTEEN AND TWENTY-FIVE, and who are  
15 determined to be appropriate for placement in the specialized program.  
16 The department shall implement the specialized program within or in  
17 conjunction with a facility operated by, or under contract with, the  
18 department.

19           **SECTION 6.** In Colorado Revised Statutes, 18-1.3-102, **amend**  
20 (2) as follows:

21           **18-1.3-102. Deferred sentencing of defendant.** (2) Prior to entry  
22 of a plea of guilty to be followed by deferred judgment and sentence, the  
23 district attorney, in the course of plea discussion as provided in sections  
24 16-7-301 and 16-7-302, ~~C.R.S.~~, is authorized to enter into a written  
25 stipulation, to be signed by the defendant, the defendant's attorney of  
26 record, and the district attorney, under which the defendant is obligated  
27 to adhere to such stipulation. The conditions imposed in the stipulation

1 ~~shall~~ MUST be similar in all respects to conditions permitted as part of  
2 probation. A person convicted of a crime, the underlying factual basis of  
3 which included an act of domestic violence, as defined in section  
4 18-6-800.3 (1), shall stipulate to the conditions specified in section  
5 18-1.3-204 (2)(b). In addition, the stipulation may require the defendant  
6 to perform community or charitable work service projects or make  
7 donations thereto. Upon full compliance with such conditions by the  
8 defendant, the plea of guilty previously entered ~~shall~~ MUST be withdrawn  
9 and the charge upon which the judgment and sentence of the court was  
10 deferred ~~shall~~ MUST be dismissed with prejudice. The stipulation ~~shall~~  
11 MUST specifically provide that, upon a breach by the defendant of any  
12 condition regulating the conduct of the defendant, the court shall enter  
13 judgment and impose sentence upon the guilty plea; except that, if the  
14 offense is a violation of article 18 of this ~~title~~ TITLE 18 OR IS A FELONY  
15 OFFENSE COMMITTED BY A DEFENDANT WHO WAS BETWEEN THE AGES OF  
16 EIGHTEEN AND TWENTY-FIVE AT THE TIME OF THE OFFENSE, the court may  
17 accept an admission or find a violation of the stipulation without entering  
18 judgment and imposing sentence if the court first makes findings of fact  
19 on the record stating the entry of judgment and sentencing would not be  
20 consistent with the purposes of sentencing, that the defendant would be  
21 better served by continuing the deferred judgment period, and that public  
22 safety would not be jeopardized by the continuation of the deferred  
23 judgment. If the court makes those findings and continues the deferred  
24 judgment over the objection of the prosecution, the court shall also  
25 impose additional and immediate sanctions upon the defendant to address  
26 the violation, to include, but not be limited to, the imposition of further  
27 terms and conditions that will enhance the likelihood of the defendant's

1 success, respond to the defendant's noncompliance, and promote further  
2 individual accountability, including extending the time period of the  
3 deferred judgment for up to two additional years or incarceration in the  
4 county jail for a period not to exceed ninety days consistent with the  
5 provisions of section 18-1.3-202 (1), or both. When, as a condition of the  
6 deferred sentence, the court orders the defendant to make restitution,  
7 evidence of failure to pay the restitution shall constitute prima facie  
8 evidence of a violation. Whether a breach of condition has occurred shall  
9 be determined by the court without a jury upon application of the district  
10 attorney or a probation officer and upon notice of hearing thereon of not  
11 less than seven days to the defendant or the defendant's attorney of  
12 record. Application for entry of judgment and imposition of sentence may  
13 be made by the district attorney or a probation officer at any time within  
14 the term of the deferred judgment or within thirty-five days thereafter.  
15 The burden of proof at the hearing ~~shall~~ MUST be by a preponderance of  
16 the evidence, and the procedural safeguards required in a revocation of  
17 probation hearing ~~shall~~ MUST apply.

18 **SECTION 7.** In Colorado Revised Statutes, 18-1.3-103.5, **amend**  
19 (3)(c) and (3)(d); and **add** (3)(e) as follows:

20 **18-1.3-103.5. Felony convictions - vacate and enter conviction**  
21 **on misdemeanor after successful completion.** (3) This section applies  
22 to convictions for the following offenses:

23 (c) Possession of more than twelve ounces of marijuana or more  
24 than three ounces of marijuana concentrate; ~~or~~

25 (d) A violation of section 18-18-415; OR

26 (e) A CONVICTION FOR A CLASS 4, CLASS 5, OR CLASS 6  
27 NONVIOLENT FELONY COMMITTED BY A DEFENDANT WHO IS BETWEEN THE

1 AGES OF EIGHTEEN AND TWENTY-FIVE.

2 **SECTION 8.** In Colorado Revised Statutes, 18-1.3-202, **add** (3)  
3 as follows:

4 **18-1.3-202. Probationary power of court.** (3) IF THE COURT  
5 DETERMINES THAT THE PROBATIONER HAS VIOLATED ANY CONDITION OF  
6 PROBATION THAT DOES NOT INVOLVE THE COMMISSION OF A FELONY OR  
7 MISDEMEANOR CRIME; THE PROBATIONER HAS NO ACTIVE FELONY  
8 WARRANT, FELONY DETAINER, OR PENDING FELONY CRIMINAL CHARGE;  
9 AND THE PROBATIONER WAS ON PROBATION FOR AN OFFENSE AND WAS  
10 SENTENCED PURSUANT TO SECTION 18-1.3-401.7 FOR THAT OFFENSE, THE  
11 COURT SHALL CONTINUE PROBATION AND ORDER ADDITIONAL CONDITIONS  
12 OF PROBATION.

13 **SECTION 9.** In Colorado Revised Statutes, **add** 18-1.3-401.7 as  
14 follows:

15 **18-1.3-401.7. Young adult felonies classified - presumptive**  
16 **penalties.** (1) THE PROVISIONS OF THIS SECTION ONLY APPLY TO A  
17 CONVICTION FOR A FELONY OFFENSE COMMITTED BY A PERSON WHO WAS  
18 BETWEEN THE AGES OF EIGHTEEN AND TWENTY-FIVE ON OR AFTER  
19 OCTOBER 1, 2020.

20 (2) (a) FOR OFFENSES COMMITTED ON OR AFTER OCTOBER 1, 2020,  
21 YOUNG ADULT FELONIES ARE DIVIDED INTO SIX CLASSES THAT ARE  
22 DISTINGUISHED FROM ONE ANOTHER BY THE RANGES OF PENALTIES, WHICH  
23 ARE AUTHORIZED UPON CONVICTION OF A FELONY:

24	CLASS	PRESUMPTIVE RANGE		PERIOD
25				OF PAROLE
26	YAF1	LIFE	DEATH	
27	YAF2	FOUR YEARS	TWELVE YEARS	FOUR YEARS

1	YAF3	TWO YEARS	SIX YEARS	THREE YEARS
2	YAF4	ONE YEAR	TWO YEARS	TWO YEARS
3	YAF5	SIX MONTHS	ONE YEAR	ONE YEAR
4	YAF6	SIX MONTHS	NINE MONTHS	ONE YEAR

5 (b) (I) AS TO ANY PERSON SENTENCED FOR A FELONY COMMITTED  
6 ON OR AFTER OCTOBER 1, 2020, AS OTHERWISE PROVIDED IN SECTION  
7 18-1.3-401 (1)(a)(III), IN ADDITION TO, OR IN LIEU OF, ANY SENTENCE TO  
8 IMPRISONMENT, PROBATION, COMMUNITY CORRECTIONS, OR WORK  
9 RELEASE, A FINE WITHIN THE FOLLOWING RANGES MAY BE IMPOSED FOR  
10 THE SPECIFIED CLASS OF YOUNG ADULT FELONIES:

11	CLASS	MINIMUM SENTENCE	MAXIMUM
12			SENTENCE
13	YAF1	NO FINE	NO FINE
14	YAF2	TWO THOUSAND FIVE HUNDRED	FIVE HUNDRED
15		DOLLARS	THOUSAND
16			DOLLARS
17	YAF3	ONE THOUSAND FIVE HUNDRED	THREE HUNDRED
18		DOLLARS	SEVENTY-FIVE
19			THOUSAND
20			DOLLARS
21	YAF4	ONE THOUSAND DOLLARS	TWO HUNDRED
22			FIFTY THOUSAND
23			DOLLARS
24	YAF5	FIVE HUNDRED DOLLARS	FIFTY THOUSAND
25			DOLLARS
26	YAF6	FIVE HUNDRED DOLLARS	FIFTY THOUSAND
27			DOLLARS

1           (II) FAILURE TO PAY A FINE IMPOSED PURSUANT TO THIS  
2 SUBSECTION (2)(b) IS GROUNDS FOR REVOCATION OF PROBATION,  
3 COMMUNITY CORRECTIONS, OR A SUSPENDED SENTENCE, IF THE  
4 DEFENDANT HAS THE ABILITY TO PAY THE FINE.

5           (III) IF A REVOCATION OCCURS PURSUANT TO SUBSECTION  
6 (2)(b)(II) OF THIS SECTION, THE COURT MAY IMPOSE ANY SENTENCE  
7 LEGALLY AVAILABLE.

8           (IV) ALL FINES COLLECTED PURSUANT TO THIS SUBSECTION (2)(b)  
9 MUST BE DEPOSITED IN THE FINES COLLECTION FUND CREATED IN SECTION  
10 18-1.3-401 (1)(a)(III)(D) AND ARE SUBJECT TO THE PROVISIONS OF THAT  
11 SECTION.

12           (3) AN OFFENDER WHO IS PAROLED PURSUANT TO SECTION  
13 17-22.5-403, OR ANY OFFENDER WHO IS NOT PAROLED AND IS DISCHARGED  
14 PURSUANT TO LAW, IS SUBJECT TO THE MANDATORY PERIOD OF PAROLE  
15 ESTABLISHED PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION. THE  
16 MANDATORY PERIOD OF PAROLE MAY NOT BE WAIVED BY THE OFFENDER  
17 OR WAIVED OR SUSPENDED BY THE COURT AND IS SUBJECT TO THE  
18 PROVISIONS OF SECTION 17-22.5-403 (8), WHICH PERMITS THE STATE  
19 BOARD OF PAROLE TO DISCHARGE THE OFFENDER AT ANY TIME DURING  
20 THE TERM OF PAROLE UPON A DETERMINATION THAT THE OFFENDER HAS  
21 BEEN SUFFICIENTLY REHABILITATED AND REINTEGRATED INTO SOCIETY  
22 AND CAN NO LONGER BENEFIT FROM PAROLE SUPERVISION.

23           (4) THE MANDATORY PERIOD OF PAROLE IMPOSED PURSUANT TO  
24 SUBSECTION (2)(a) OF THIS SECTION COMMENCES IMMEDIATELY UPON THE  
25 DISCHARGE OF AN OFFENDER FROM IMPRISONMENT IN THE CUSTODY OF  
26 THE DEPARTMENT OF CORRECTIONS. IF THE OFFENDER HAS BEEN GRANTED  
27 RELEASE TO PAROLE SUPERVISION BY THE STATE BOARD OF PAROLE, THE

1 OFFENDER IS DEEMED TO HAVE DISCHARGED THE OFFENDER'S SENTENCE  
2 TO IMPRISONMENT PROVIDED FOR IN SUBSECTION (2) OF THIS SECTION IN  
3 THE SAME MANNER AS IF SUCH SENTENCE WERE DISCHARGED PURSUANT  
4 TO LAW. WHEN AN OFFENDER IS RELEASED BY THE STATE BOARD OF  
5 PAROLE OR RELEASED BECAUSE THE OFFENDER'S SENTENCE WAS  
6 DISCHARGED PURSUANT TO LAW, THE MANDATORY PERIOD OF PAROLE  
7 MUST BE SERVED BY THE OFFENDER. AN OFFENDER SENTENCED FOR A  
8 YOUNG ADULT FELONY MAY RECEIVE EARNED TIME PURSUANT TO SECTION  
9 17-22.5-405 AND WHILE SERVING A MANDATORY PAROLE PERIOD IN  
10 ACCORDANCE WITH THIS SECTION.

11 (5) IF AN OFFENDER IS SENTENCED CONSECUTIVELY FOR THE  
12 COMMISSION OF TWO OR MORE FELONY OFFENSES PURSUANT TO  
13 SENTENCING PROVISIONS IN THIS SECTION OR SECTION 18-1.3-401, THE  
14 MANDATORY PERIOD OF PAROLE FOR THE OFFENDER MUST BE THE  
15 LONGEST MANDATORY PERIOD OF PAROLE ESTABLISHED FOR A FELONY FOR  
16 WHICH THE OFFENDER WAS CONVICTED.

17 (6) ANY OFFENDER SENTENCED FOR A YOUNG ADULT FELONY THAT  
18 IS THE OFFENDER'S SECOND OR SUBSEQUENT FELONY OR YOUNG ADULT  
19 FELONY OFFENSE, REGARDLESS OF THE LENGTH OF THE OFFENDER'S  
20 SENTENCE TO INCARCERATION AND THE MANDATORY PERIOD OF PAROLE,  
21 IS NOT DEEMED TO HAVE FULLY DISCHARGED HIS OR HER SENTENCE UNTIL  
22 THE OFFENDER EITHER COMPLETES, OR IS DISCHARGED BY THE STATE  
23 BOARD OF PAROLE FROM, THE MANDATORY PERIOD OF PAROLE IMPOSED  
24 PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION.

25 (7) IN IMPOSING A SENTENCE TO INCARCERATION, THE COURT  
26 SHALL IMPOSE A DEFINITE SENTENCE THAT IS WITHIN THE PRESUMPTIVE  
27 RANGES SET FORTH IN SUBSECTION (2) OF THIS SECTION.

1           (8) IN ALL CASES, EXCEPT AS PROVIDED IN SUBSECTION (9) OF THIS  
2 SECTION, IN WHICH A SENTENCE THAT IS NOT WITHIN THE PRESUMPTIVE  
3 RANGE IS IMPOSED, THE COURT SHALL MAKE SPECIFIC FINDINGS ON THE  
4 RECORD DETAILING THE AGGRAVATING CIRCUMSTANCES THAT  
5 CONSTITUTE THE REASONS FOR VARYING FROM THE PRESUMPTIVE  
6 SENTENCE.

7           (9) (a) EXCEPT FOR A CLASS 1 YOUNG ADULT FELONY, THE  
8 PRESENCE OF ONE OR MORE OF THE FOLLOWING AGGRAVATING  
9 CIRCUMSTANCES AT THE TIME OF THE COMMISSION OF THE OFFENSE  
10 REQUIRES THE COURT, IF IT SENTENCES THE DEFENDANT TO  
11 INCARCERATION, TO SENTENCE THE DEFENDANT TO A TERM OF AT LEAST  
12 THE MIDPOINT IN THE PRESUMPTIVE RANGE BUT NOT MORE THAN THE  
13 MAXIMUM TERM OF THE PRESUMPTIVE RANGE:

14           (I) THE DEFENDANT WAS ON PAROLE FOR ANOTHER FELONY;

15           (II) THE DEFENDANT WAS ON PROBATION OR WAS ON BOND WHILE  
16 AWAITING SENTENCING FOLLOWING REVOCATION OF PROBATION FOR  
17 ANOTHER FELONY;

18           (III) THE DEFENDANT WAS UNDER CONFINEMENT, IN PRISON, OR IN  
19 ANY CORRECTIONAL INSTITUTION AS A CONVICTED FELON; OR WAS AN  
20 ESCAPEE FROM ANY CORRECTIONAL INSTITUTION FOR ANOTHER FELONY;

21 OR

22           (IV) THE DEFENDANT WAS ON PROBATION FOR OR ON BOND WHILE  
23 AWAITING SENTENCING FOLLOWING REVOCATION OF PROBATION FOR A  
24 DELINQUENT ACT THAT WOULD HAVE CONSTITUTED A FELONY IF  
25 COMMITTED BY AN ADULT.

26           (b) IN ANY CASE IN WHICH ONE OR MORE OF THE AGGRAVATING  
27 CIRCUMSTANCES PROVIDED FOR IN SUBSECTION (9)(a) OF THIS SECTION

1       EXIST, THE PROVISIONS OF THIS SUBSECTION (9) DO NOT APPLY.

2               (c) NOTHING IN THIS SUBSECTION (9) PRECLUDES THE COURT FROM  
3       CONSIDERING AGGRAVATING CIRCUMSTANCES OTHER THAN THOSE STATED  
4       IN SUBSECTION (9)(a) OF THIS SECTION AS THE BASIS FOR SENTENCING THE  
5       DEFENDANT TO A TERM GREATER THAN THE PRESUMPTIVE RANGE FOR THE  
6       FELONY.

7               (10) EXCEPT FOR A CLASS 1 YOUNG ADULT FELONY, THE PRESENCE  
8       OF ANY ONE OR MORE OF THE FOLLOWING SENTENCE-ENHANCING  
9       CIRCUMSTANCES AT THE TIME OF THE COMMISSION OF THE FELONY  
10      ALLOWS THE COURT, IF IT SENTENCES THE DEFENDANT TO INCARCERATION,  
11      TO SENTENCE THE DEFENDANT TO A TERM IN THE PRESUMPTIVE RANGE:

12              (a) THE DEFENDANT WAS CHARGED WITH OR WAS ON BOND FOR A  
13      FELONY IN A PREVIOUS CASE AND THE DEFENDANT WAS CONVICTED OF  
14      ANY FELONY IN THE PREVIOUS CASE;

15              (b) THE DEFENDANT WAS CHARGED WITH OR WAS ON BOND FOR A  
16      DELINQUENT ACT THAT WOULD HAVE CONSTITUTED A FELONY IF  
17      COMMITTED BY AN ADULT;

18              (c) THE DEFENDANT WAS ON BOND FOR HAVING PLED GUILTY TO  
19      A LESSER OFFENSE WHEN THE ORIGINAL OFFENSE CHARGED WAS A FELONY;

20              (d) THE DEFENDANT WAS ON BOND IN A JUVENILE PROSECUTION  
21      PURSUANT TO TITLE 19 FOR HAVING PLED GUILTY TO A LESSER  
22      DELINQUENT ACT WHEN THE ORIGINAL DELINQUENT ACT CHARGED WOULD  
23      HAVE CONSTITUTED A FELONY IF COMMITTED BY AN ADULT;

24              (e) THE DEFENDANT WAS UNDER A DEFERRED JUDGMENT AND  
25      SENTENCE FOR A DELINQUENT ACT THAT WOULD HAVE CONSTITUTED A  
26      FELONY IF COMMITTED BY AN ADULT; OR

27              (f) THE DEFENDANT WAS ON PAROLE FOR HAVING BEEN

1 ADJUDICATED A DELINQUENT CHILD FOR AN OFFENSE THAT WOULD  
2 CONSTITUTE A FELONY IF COMMITTED BY AN ADULT.

3 (11) WHEN THE COURT IS SATISFIED THAT THE ENDS OF JUSTICE  
4 AND THE BEST INTEREST OF THE PUBLIC, AS WELL AS THE DEFENDANT,  
5 WILL BE BEST SERVED THEREBY, THE COURT HAS THE POWER TO SUSPEND  
6 THE IMPOSITION OR EXECUTION OF SENTENCE FOR A PERIOD AND UPON THE  
7 TERMS AND CONDITIONS AS IT MAY DEEM BEST; EXCEPT THAT THE COURT  
8 MAY NOT SUSPEND A SENTENCE TO THE MINIMUM TERM OF  
9 INCARCERATION WHEN THE DEFENDANT IS CONVICTED OF A CLASS 1  
10 YOUNG ADULT FELONY. IN NO INSTANCE MAY A SENTENCE BE SUSPENDED  
11 IF THE DEFENDANT IS INELIGIBLE FOR PROBATION PURSUANT TO SECTION  
12 18-1.3-201, EXCEPT WHEN AN EXPRESS WAIVER IS MADE BY THE  
13 SENTENCING COURT REGARDING A PARTICULAR DEFENDANT UPON  
14 RECOMMENDATION OF THE DISTRICT ATTORNEY AND APPROVAL OF SUCH  
15 RECOMMENDATION BY AN ORDER OF THE SENTENCING COURT PURSUANT  
16 TO SECTION 18-1.3-201 (4).

17 (12) EVERY SENTENCE ENTERED PURSUANT TO THIS SECTION MUST  
18 INCLUDE CONSIDERATION OF RESTITUTION AS REQUIRED BY PART 6 OF THIS  
19 ARTICLE 1.3 AND BY ARTICLE 18.5 OF TITLE 16.

20 (13) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO  
21 CONTRARY, A COURT SHALL NOT IMPOSE A SENTENCE THAT EXCEEDS  
22 TWELVE YEARS FOR ANY SINGLE CRIMINAL EPISODE WHEN THE CRIMES  
23 INCLUDED A CLASS 3, CLASS 4, CLASS 5, OR CLASS 6 YOUNG ADULT  
24 FELONY.

25 (14)(a) THE COURT SHALL SENTENCE A DEFENDANT BETWEEN THE  
26 AGES OF EIGHTEEN AND TWENTY-FIVE TO PROBATION IF THE DEFENDANT  
27 HAS NOT PREVIOUSLY BEEN CONVICTED OF A FELONY OFFENSE AND THE

1 CONVICTION IS NOT FOR A FELONY CRIME OF VIOLENCE PURSUANT TO  
2 SECTION 18-1.3-406.

3 (b) IF THE COURT DETERMINES THAT A PROBATIONER HAS  
4 VIOLATED ANY CONDITION OF PROBATION THAT DOES NOT INVOLVE THE  
5 COMMISSION OF A FELONY OR MISDEMEANOR CRIME; THE PROBATIONER  
6 HAS NO ACTIVE FELONY WARRANT, FELONY DETAINER, OR PENDING  
7 FELONY CRIMINAL CHARGE; AND THE PROBATIONER WAS ON PROBATION  
8 FOR AN OFFENSE AND WAS SENTENCED PURSUANT TO SECTION  
9 18-1.3-401.7 FOR THAT OFFENSE, THE COURT SHALL CONTINUE PROBATION  
10 AND ORDER ADDITIONAL CONDITIONS OF PROBATION.

11 **SECTION 10. Safety clause.** The general assembly hereby finds,  
12 determines, and declares that this act is necessary for the immediate  
13 preservation of the public peace, health, or safety.

Second Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO

Attachment B

**BILL B**

LLS NO. 20-0362.01 Michael Dohr x4347

**HOUSE BILL**

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**HOUSE SPONSORSHIP**

**Herod,**

**SENATE SPONSORSHIP**

**Gonzales,**

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**House Committees**

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING MEASURES TO MANAGE THE STATE PRISON POPULATION.**

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)*

**Prison Population Management Interim Study Committee.** Under current law, the Centennial south campus of the Centennial correctional facility is only able to house inmates under limited circumstances. The bill would open the facility for close custody inmates and require that for each inmate who is housed at the facility, an inmate must be removed from a private prison until the facility is full.

The bill directs the department of corrections (department) to study how to end the practice of using private prisons by 2025 in a responsible

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

way. The study must include:

- Evidence-based strategies to stop using private prisons and move individuals into alternative facilities or programs;
- An analysis of the economic impacts on affected communities, including the loss of local tax revenue;
- An analysis of the impact that reducing private prison beds would have on local governments and community-based providers;
- A utilization analysis of all state-operated facilities and all other facilities that can be used for housing inmates;
- An analysis of the effect of releasing sex offenders who are assessed as low risk;
- An analysis of what state-operated facilities and programs may be utilized to keep pace with demand;
- An analysis of the best practices and programs that are necessary for successful reintegration of offenders;
- An analysis of the feasibility of the department to obtain private prison facilities in Colorado; and
- An analysis of the resources necessary to accomplish the strategies required to transition the state away from private prisons.

The bill adds to the list of achievements that allow an inmate to receive earned time showing exemplary leadership through mentoring, community service, and distinguished actions benefiting the health, safety, environment, and culture for staff and other inmates.

Under current law, an offender is not entitled to an evidentiary hearing for resentencing when the offender is rejected for placement in a community corrections program. The bill requires the sentencing court to provide the offender with an evidentiary hearing, or in the alternative a new sentencing hearing, for any termination from a community corrections program.

The bill amends the escape statutes to exclude direct sentences, transitioning from the department to a community corrections program, or placement in an intensive supervision parole program from the concepts of custody or confinement for purposes of escape. The bill lowers the penalties for escape and attempted escape crimes. The bill creates a new crime of absconding if the location of a person on intensive supervision parole or a person in a community corrections program is unknown to the authorized agency responsible for the person's supervision.

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

2 **SECTION 1.** In Colorado Revised Statutes, 17-1-104.3, **amend**

1 (1)(b.5); and **repeal** (1)(b.7) as follows:

2 **17-1-104.3. Correctional facilities - locations - security level.**

3 (1) (b.5) ~~Notwithstanding the provisions of paragraph (b) of this~~  
4 ~~subsection (1), beginning February 1, 2013, The Centennial south campus~~  
5 ~~of the Centennial correctional facility shall not~~ MAY be operated by the  
6 department for the purpose of housing inmates ~~in the housing units but,~~  
7 ~~if necessary, may be maintained to provide support and other services to~~  
8 ~~the Centennial correctional facility. The department shall actively pursue~~  
9 ~~options to sell or lease the Centennial south campus of the Centennial~~  
10 ~~correctional facility, which is also known as Colorado state penitentiary~~  
11 ~~H or CSP H. Any proceeds received as a result of a sale or lease of~~  
12 ~~Centennial south campus of the Centennial correctional facility shall be~~  
13 ~~first applied to the payment of the certificates of participation WHO ARE~~  
14 ~~CLOSE CUSTODY INMATES. FOR EACH PRISONER WHO IS HOUSED AT THE~~  
15 ~~CENTENNIAL SOUTH CAMPUS OF THE CENTENNIAL CORRECTIONAL~~  
16 ~~FACILITY, THE DEPARTMENT SHALL REMOVE ONE PRISONER FROM A~~  
17 ~~PRIVATE PRISON FACILITY UNTIL THE CENTENNIAL SOUTH CAMPUS OF THE~~  
18 ~~CENTENNIAL CORRECTIONAL FACILITY IS AT FULL PRISONER CAPACITY.~~

19 (b.7) (f) ~~Notwithstanding subsection (1)(b.5) of this section, the~~  
20 ~~Centennial south campus of the Centennial correctional facility may be~~  
21 ~~used to house inmates on a limited basis when the state male prison~~  
22 ~~vacant bed rate, excluding RTP treatment beds, remains below one~~  
23 ~~percent vacancy for two consecutive months and the department has~~  
24 ~~exhausted all options pursuant to section 17-1-119.7. The department~~  
25 ~~shall not house more than one hundred twenty-six inmates at one time in~~  
26 ~~the Centennial south campus. Once the state male prison vacant bed rate~~  
27 ~~surpasses one percent vacancy, including calculating the inmates housed~~

1 in the Centennial south campus, the department shall transfer inmates  
2 housed in the Centennial south campus to an appropriate facility under the  
3 department's control within thirty calendar days.

4 (II) The department shall report the use of the Centennial south  
5 campus of the Centennial correctional facility to the joint budget  
6 committee and the judiciary committees of the senate and the house of  
7 representatives, or any successor committees, within five calendar days  
8 after the use of the Centennial south campus. For each month that the  
9 Centennial south campus of the Centennial correctional facility is used,  
10 the department shall report on the first day of every month the continued  
11 nature of the use of the Centennial south campus at the Centennial  
12 correctional facility, the steps taken by the department to address the  
13 vacancy issue, and the expected time frame for the vacancy issue to end.

14 (III) The department shall consider input from any legislative  
15 interim committee that meets during the 2019 interim regarding prison  
16 population management, specifically including:

17 (A) Strategies to safely reduce the prison population and reduce  
18 recidivism; and

19 (B) Prison use analysis including the Centennial south campus at  
20 the Centennial correctional facility, private prisons, and alternative bed  
21 programs.

22 (IV) This subsection (1)(b.7) is repealed, effective September 1,  
23 2020.

24 **SECTION 2.** In Colorado Revised Statutes, 17-1-119.7, **amend**  
25 (2)(a)(II) and (2)(a)(IV)(A) as follows:

26 **17-1-119.7. Prison population management measures.**

27 (2) (a) If the vacancy rate in correctional facilities and state-funded

1 private contract prison beds falls below three percent for thirty  
2 consecutive days, the department shall:

3 (II) Request that the parole board review a list of inmates who are  
4 within ninety days of their mandatory release date ~~have an approved~~  
5 ~~parole plan~~, and do not require full board review or victim notification  
6 pursuant to section 24-4.1-302.5 (1)(j);

7 (IV) (A) Submit to the parole board a list of eligible inmates ~~with~~  
8 ~~a favorable parole plan~~ who have been assessed to be medium or lower  
9 risk on the validated risk assessment scale developed pursuant to section  
10 17-22.5-404 (2). Except as provided in subsection (2)(a)(IV)(B) of this  
11 section, the parole board shall conduct a file review of each inmate on the  
12 list and set conditions of release for the inmate within thirty days after  
13 receipt of the list and set a day of release no later than thirty days after  
14 conducting the file review.

15 **SECTION 3.** In Colorado Revised Statutes, 17-1-201, **add** (3) as  
16 follows:

17 **17-1-201. Duties of department - report - rules.** (3) (a) THE  
18 DEPARTMENT SHALL STUDY HOW TO END THE USE OF PRIVATE PRISONS TO  
19 INCARCERATE INDIVIDUALS IN COLORADO BY 2025 IN A RESPONSIBLE  
20 WAY.

21 (b) THE STUDY MUST INCLUDE:

22 (I) EVIDENCE-BASED STRATEGIES TO STOP USING PRIVATE PRISONS  
23 AND MOVE INDIVIDUALS INTO ALTERNATIVE FACILITIES OR PROGRAMS;

24 (II) AN ANALYSIS OF THE ECONOMIC IMPACTS ON AFFECTED  
25 COMMUNITIES, INCLUDING THE LOSS OF LOCAL TAX REVENUE;

26 (III) AN ANALYSIS OF THE IMPACT THAT REDUCING PRIVATE  
27 PRISON BEDS WOULD HAVE ON LOCAL GOVERNMENTS AND

- 1 COMMUNITY-BASED PROVIDERS;
- 2 (IV) A UTILIZATION ANALYSIS OF ALL STATE-OPERATED FACILITIES
- 3 AND ALL OTHER FACILITIES THAT CAN BE USED FOR HOUSING INMATES;
- 4 (V) AN ANALYSIS OF THE EFFECT OF RELEASING SEX OFFENDERS
- 5 WHO ARE ASSESSED AS LOW RISK;
- 6 (VI) AN ANALYSIS OF WHAT STATE-OPERATED FACILITIES AND
- 7 PROGRAMS MAY BE UTILIZED TO KEEP PACE WITH DEMAND;
- 8 (VII) AN ANALYSIS OF THE BEST PRACTICES AND PROGRAMS THAT
- 9 ARE NECESSARY FOR SUCCESSFUL REINTEGRATION OF OFFENDERS;
- 10 (VIII) AN ANALYSIS OF THE FEASIBILITY OF THE DEPARTMENT TO
- 11 OBTAIN PRIVATE PRISON FACILITIES IN COLORADO; AND
- 12 (IX) AN ANALYSIS OF THE RESOURCES NECESSARY TO ACCOMPLISH
- 13 THE STRATEGIES REQUIRED TO TRANSITION THE STATE AWAY FROM
- 14 PRIVATE PRISONS.

15 (c) THE DEPARTMENT SHALL PROVIDE THE STUDY TO THE JOINT

16 BUDGET COMMITTEE WHEN PRESENTING ITS BUDGET RECOMMENDATIONS

17 FOR FISCAL YEAR 2021-22 AND SHALL PROVIDE COPIES OF THE STUDY TO

18 THE MEMBERS OF THE JUDICIARY COMMITTEES OF THE HOUSE OF

19 REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES.

20 **SECTION 4.** In Colorado Revised Statutes, 17-2-103, **amend**

21 (11)(c) introductory portion as follows:

22 **17-2-103. Arrest of parolee - revocation proceedings.**

23 (11) (c) If the board determines that the parolee is in need of treatment,

24 ~~and is amenable to treatment,~~ the board shall consider placing the parolee

25 in one of the following treatment options and, if appropriate, may modify

26 the conditions of parole to include:

27 **SECTION 5.** In Colorado Revised Statutes, 17-22.5-405, **amend**

1 (1) introductory portion and (1.5)(b); and **add** (1)(h) as follows:

2 **17-22.5-405. Earned time - earned release time - achievement**  
3 **earned time - definition.** (1) Earned time, not to exceed ten days for  
4 each month of incarceration or parole, may be deducted from the inmate's  
5 sentence upon a demonstration to the department by the inmate, which is  
6 certified by the inmate's case manager or community parole officer, that  
7 ~~he or she~~ THE INMATE has made consistent progress in the following  
8 categories as required by the department of corrections:

9 (h) THE INMATE HAS SHOWN EXEMPLARY LEADERSHIP THROUGH  
10 MENTORING, COMMUNITY SERVICE, AND DISTINGUISHED ACTIONS  
11 BENEFITING THE HEALTH, SAFETY, ENVIRONMENT, AND CULTURE FOR  
12 STAFF AND OTHER INMATES.

13 (1.5) (b) The earned time specified in ~~paragraph (a) of this~~  
14 ~~subsection (1.5)~~ SUBSECTION (1.5)(a) OF THIS SECTION may be deducted  
15 based upon a demonstration to the department by the inmate, which is  
16 certified by the inmate's case manager or community parole officer, that  
17 he or she has made ~~consistent progress in the categories described in~~  
18 ~~subsection (1) of this section~~ POSITIVE PROGRESS IN ACCORDANCE WITH  
19 PERFORMANCE STANDARDS ESTABLISHED BY THE DEPARTMENT.

20 **SECTION 6.** In Colorado Revised Statutes, 18-1.3-301, **amend**  
21 (1)(g) as follows:

22 **18-1.3-301. Authority to place offenders in community**  
23 **corrections programs.** (1) (g) The sentencing court may make  
24 appropriate orders for the detention, transfer, or resentencing of any  
25 offender whose placement in a community corrections program is  
26 terminated pursuant to section 17-27-103 (7) ~~C.R.S.~~; or section 17-27-104  
27 (5). ~~C.R.S.~~ As to any offender held pursuant to section 17-27-104 (6)

1 ~~C.R.S.~~, in a jail operated by a unit of local government in a county other  
2 than where the offender's original conviction occurred, the sentencing  
3 court shall order the transfer of the offender to the jail of the county  
4 where the original conviction occurred as soon as possible. ~~The~~  
5 ~~sentencing court is not required to provide the offender with an~~  
6 ~~evidentiary hearing pertaining to the rejection of placement in a~~  
7 ~~community corrections program prior to resentencing.~~ THE SENTENCING  
8 COURT SHALL PROVIDE THE OFFENDER WITH AN EVIDENTIARY HEARING, OR  
9 IN THE ALTERNATIVE A NEW SENTENCING HEARING, FOR ANY TERMINATION  
10 FROM A COMMUNITY CORRECTIONS PROGRAM, INCLUDING A VIOLATION OF  
11 SECTION 18-8-208.2. AT ANY NEW SENTENCING HEARING, THE COURT MAY  
12 CONSIDER ANY SENTENCING ALTERNATIVE ORIGINALLY AVAILABLE TO THE  
13 COURT WHEN ORDERING THE APPROPRIATE SENTENCE.

14 **SECTION 7.** In Colorado Revised Statutes, 18-8-208, **amend** (1),  
15 (2), and (11) as follows:

16 **18-8-208. Escapes.** (1) A person commits a class ~~2~~ **4** felony if,  
17 while being in custody or confinement following conviction of a class 1  
18 or class 2 felony, ~~he~~ THE PERSON knowingly escapes from said custody or  
19 confinement.

20 (2) A person commits a class ~~3~~ **4** felony if, while being in custody  
21 or confinement following conviction of a felony other than a class 1 or  
22 class 2 felony, ~~he~~ THE PERSON knowingly escapes from said custody or  
23 confinement.

24 (11) If a person ~~who~~ is SERVING A DIRECT SENTENCE TO A  
25 COMMUNITY CORRECTIONS PROGRAM PURSUANT TO SECTION 18-1.3-301,  
26 OR IS TRANSITIONING FROM THE DEPARTMENT OF CORRECTIONS TO A  
27 COMMUNITY CORRECTIONS PROGRAM, OR IS PLACED IN AN INTENSIVE

1 SUPERVISION PAROLE PROGRAM PURSUANT TO SECTION 17-27.5-101, OR  
2 IS placed in a community corrections program for purposes of obtaining  
3 residential treatment as a condition of probation pursuant to section  
4 18-1.3-204 (2.2) or 18-1.3-301 (4)(b), THEN THE PERSON is not in custody  
5 or confinement for purposes of this section.

6 **SECTION 8.** In Colorado Revised Statutes, 18-8-208.1, **amend**  
7 (1), (1.5), and (2) as follows:

8 **18-8-208.1. Attempt to escape.** (1) Except as otherwise provided  
9 in subsection (1.5) of this section, if a person, while in custody or  
10 confinement following conviction of a felony, knowingly attempts to  
11 escape from said custody or confinement, ~~he or she~~ THE PERSON commits  
12 a class ~~4~~ 5 felony. The sentence imposed pursuant to this subsection (1)  
13 shall run consecutively with any sentences being served by the offender.

14 ~~(1.5) If a person, while in custody or confinement following~~  
15 ~~conviction of a felony and either serving a direct sentence to a community~~  
16 ~~corrections program pursuant to section 18-1.3-301, or having been~~  
17 ~~placed in an intensive supervision parole program pursuant to section~~  
18 ~~17-27.5-101, C.R.S., knowingly attempts to escape from his or her~~  
19 ~~custody or confinement, he or she commits a class 5 felony. The sentence~~  
20 ~~imposed pursuant to this subsection (1.5) may run concurrently or~~  
21 ~~consecutively with any sentence being served by the offender~~ IF A PERSON  
22 IS SERVING A DIRECT SENTENCE TO A COMMUNITY CORRECTIONS PROGRAM  
23 PURSUANT TO SECTION 18-1.3-301, OR IS TRANSITIONING FROM THE  
24 DEPARTMENT OF CORRECTIONS TO A COMMUNITY CORRECTIONS PROGRAM,  
25 OR IS PLACED IN AN INTENSIVE SUPERVISION PAROLE PROGRAM PURSUANT  
26 TO SECTION 17-27.5-101, OR IS PLACED IN A COMMUNITY CORRECTIONS  
27 PROGRAM FOR PURPOSES OF OBTAINING RESIDENTIAL TREATMENT AS A

1     CONDITION OF PROBATION PURSUANT TO SECTION 18-1.3-204 (2.2) OR  
2     18-1.3-301 (4)(b), THEN THE PERSON IS NOT IN CUSTODY OR CONFINEMENT  
3     FOR PURPOSES OF THIS SECTION.

4             (2) If a person, while in custody or confinement and held for or  
5     charged with but not convicted of a felony, knowingly attempts to escape  
6     from said custody or confinement, ~~he~~ THE PERSON commits a class ~~5~~ **6**  
7     felony. If the person is convicted of the felony or other crime for which  
8     ~~he~~ THE PERSON was originally in custody or confinement, the sentence  
9     imposed pursuant to this subsection (2) shall run consecutively with any  
10    sentences being served by the offender.

11            **SECTION 9.** In Colorado Revised Statutes, **add** 18-8-208.2 as  
12    follows:

13            **18-8-208.2. Absconding.** (1) A PERSON ON INTENSIVE  
14    SUPERVISION PAROLE OR A PERSON IN A COMMUNITY CORRECTIONS  
15    PROGRAM COMMITS THE OFFENSE OF ABSCONDING IF THE LOCATION OF  
16    THE PERSON IS UNKNOWN TO THE AUTHORIZED AGENCY RESPONSIBLE FOR  
17    THE PERSON'S SUPERVISION.

18            (2) (a) IF A PERSON COMMITS ABSCONDING WHILE ON INTENSIVE  
19    SUPERVISION PAROLE OR IN A COMMUNITY CORRECTIONS PROGRAM FOR A  
20    CRIME LISTED IN SECTION 24-4.1-302 (1) OR A CRIME OF VIOLENCE AS  
21    DESCRIBED IN SECTION 18-1.3-406, ABSCONDING IS A CLASS 6 FELONY AND  
22    AN ATTEMPT THEREOF IS A CLASS 1 MISDEMEANOR.

23            (b) IF A PERSON COMMITS ABSCONDING WHILE ON INTENSIVE  
24    SUPERVISION PAROLE OR IN A COMMUNITY CORRECTIONS PROGRAM FOR A  
25    CRIME OTHER THAN THE CRIMES LISTED IN SECTION 24-4.1-302 (1) AND  
26    THE CRIME IS NOT A CRIME OF VIOLENCE AS DESCRIBED IN SECTION  
27    18-1.3-406, ABSCONDING IS A CLASS 3 MISDEMEANOR AND AN ATTEMPT

1       THEREOF IS A CLASS 3 MISDEMEANOR.

2               **SECTION 10.** In Colorado Revised Statutes, 18-1.3-801, **amend**  
3 (5) as follows:

4               **18-1.3-801. Punishment for habitual criminals.** (5) A current  
5 or prior conviction for escape, as described in section 18-8-208 (1), (2),  
6 or (3), or attempt to escape, as described in section 18-8-208.1 (1) ~~(1.5)~~,  
7 or (2), may not be used for the purpose of adjudicating a person an  
8 habitual criminal as described in subsection (1.5) or subsection (2) of this  
9 section unless the conviction is based on the offender's escape or attempt  
10 to escape from a correctional facility, as defined in section 17-1-102, or  
11 from physical custody within a county jail; except that, for the purposes  
12 of this section, "correctional facility" does not include a community  
13 corrections facility, as defined in section 17-27-102 (2.5), or a halfway  
14 house, as defined in section 19-1-103 (62).

15               **SECTION 11. Safety clause.** The general assembly hereby finds,  
16 determines, and declares that this act is necessary for the immediate  
17 preservation of the public peace, health, or safety.

Second Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO

Attachment C

BILL C

LLS NO. 20-0363.01 Jacob Baus x2173

SENATE BILL

---

SENATE SPONSORSHIP

Gonzales and Rodriguez,

HOUSE SPONSORSHIP

Gonzales-Gutierrez,

---

Senate Committees

House Committees

---

A BILL FOR AN ACT

101 CONCERNING A STUDY TO EXAMINE OPERATIONAL PROCESSES WITHIN  
102 THE CRIMINAL JUSTICE SYSTEM.

---

Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)*

**Prison Population Management Interim Study Committee.** The bill requires the department of corrections (department) to conduct a study to examine how individuals proceed through the various stages of criminal proceedings, including the various sentences and programs to which a person may be sentenced or placed.

Subject to available appropriations, the department shall issue a

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

request for proposals for an entity to assist with the study.

The department is required to produce a report of its findings to the joint budget committee of the general assembly and the judiciary committees of the house of representatives and the senate.

---

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 17-42-105 as  
3 follows:

4 **17-42-105. Criminal and correctional processes study - request**  
5 **for proposals - report - definition - repeal.** (1) (a) THE DEPARTMENT  
6 SHALL CONDUCT A STUDY TO EXAMINE HOW INDIVIDUALS PROCEED  
7 THROUGH THE VARIOUS STAGES OF CRIMINAL PROCEEDINGS, INCLUDING  
8 THE VARIOUS SENTENCES AND PROGRAMS TO WHICH A PERSON MAY BE  
9 SENTENCED OR PLACED. THE STUDY MUST INCLUDE, AT A MINIMUM:

10 (I) AN ANALYSIS OF THE MODERN INFORMATION SYSTEM  
11 TECHNOLOGIES AND DESIGN PRINCIPLES USED IN THE VARIOUS STAGES OF  
12 CRIMINAL PROCEEDINGS, INCLUDING VARIOUS CORRECTIONAL FACILITIES  
13 AND PROGRAMS, AND BY CRIMINAL JUSTICE AGENCIES, INCLUDING BUT  
14 NOT LIMITED TO:

15 (A) THE SERVICE-ORIENTED ARCHITECTURE USED IN INFORMATION  
16 EXCHANGES AND OPERATIONAL PROCESSES; AND

17 (B) THE INTEGRATED DATABASES AND DATA SERVICES USED TO  
18 STORE AND ACCESS RECORDS;

19 (II) AN ORGANIZATION MATRIX OF PROCESSES, PERSONNEL  
20 STRUCTURES, AND TECHNOLOGY STRUCTURES USED IN THE VARIOUS  
21 STAGES OF CRIMINAL PROCEEDINGS, INCLUDING VARIOUS CORRECTIONAL  
22 FACILITIES AND PROGRAMS, AND BY CRIMINAL JUSTICE AGENCIES;

23 (III) A DIAGRAM OF CRIMINAL PROCEEDINGS, INCLUDING DETAILS

1 CONCERNING THE OPTIONS AVAILABLE TO PERSONS AT THE VARIOUS  
2 STAGES OF CRIMINAL PROCEEDINGS, INCLUDING VARIOUS SENTENCES AND  
3 PROGRAMS, AND STATISTICS REGARDING THE FREQUENCY AT WHICH THE  
4 OPTIONS ARE CHOSEN;

5 (IV) AN ANALYSIS OF MODEL-BASED SYSTEMS ENGINEERING USED  
6 IN CRIMINAL PROCEEDINGS, INCLUDING VARIOUS CORRECTIONAL  
7 FACILITIES AND PROGRAMS, AND BY CRIMINAL JUSTICE AGENCIES TO:

8 (A) ILLUSTRATE EXISTING ORGANIZATIONAL RELATIONSHIPS,  
9 INFORMATION SYSTEMS, AND PROCESSES; AND

10 (B) ANALYZE EXISTING PROCESS INEFFICIENCIES AND  
11 OPPORTUNITIES FOR IMPROVING QUALITY AND EFFICIENCIES;

12 (V) RECOMMENDATIONS AND BEST PRACTICES IMPLEMENTED IN  
13 COLORADO OR OTHER STATES FOR CREATING MORE EFFICIENT  
14 OPERATIONAL AND TECHNOLOGICAL SYSTEMS AND PROCEDURES TO BE  
15 USED IN CRIMINAL PROCEEDINGS AND THE VARIOUS CORRECTIONAL  
16 FACILITIES AND PROGRAMS;

17 (VI) AN ANALYSIS OF INEFFICIENCIES WITHIN THE VARIOUS STAGES  
18 OF CRIMINAL PROCEEDINGS, INCLUDING VARIOUS CORRECTIONAL  
19 FACILITIES AND PROGRAMS; AND

20 (VII) AN ANALYSIS OF THE TYPES OF METRICS AND INFORMATION  
21 COLLECTED AND PREPARED BY CRIMINAL JUSTICE AGENCIES REGARDING  
22 INDIVIDUALS PROCEEDING THROUGH THE VARIOUS STAGES OF CRIMINAL  
23 PROCEEDINGS AND THE VARIOUS SENTENCES AND PROGRAMS. THIS  
24 ANALYSIS MUST EXAMINE THE PURPOSE OF COLLECTING AND PREPARING  
25 THE METRICS AND INFORMATION AND HOW IT IS USED.

26 (b) THE DEPARTMENT SHALL LIMIT THE STUDY TO THE MOST  
27 RECENT EIGHTEEN-MONTH PERIOD FOR WHICH DATA IS AVAILABLE AND

1 SUFFICIENT TO SATISFY THE OBJECTIVES IN SUBSECTION (1)(a) OF THIS  
2 SECTION.

3 (c) THE DEPARTMENT SHALL SOLICIT AND CONSIDER PUBLIC  
4 COMMENT REGARDING THE OBJECTIVES OF THE STUDY DESCRIBED IN  
5 SUBSECTION (1)(a) OF THIS SECTION. THE DEPARTMENT SHALL NOT  
6 PROHIBIT PUBLIC COMMENT FROM BEING SUBMITTED ANONYMOUSLY.

7 (2) THE DEPARTMENT SHALL COLLABORATE WITH THE OTHER  
8 CRIMINAL JUSTICE AGENCIES, THE DEPARTMENT OF LAW, AND THE  
9 DEPARTMENT OF PUBLIC SAFETY, AS NECESSARY, TO SATISFY THE  
10 OBJECTIVES OF THE STUDY DESCRIBED IN SUBSECTION (1)(a) OF THIS  
11 SECTION.

12 (3) SUBJECT TO AVAILABLE APPROPRIATIONS, THE DEPARTMENT  
13 SHALL ISSUE A REQUEST FOR PROPOSALS FOR AN ENTITY TO ASSIST THE  
14 DEPARTMENT IN CONDUCTING THE STUDY, GATHERING INFORMATION,  
15 ANALYZING THE ISSUES, AND PRODUCING A REPORT. THE DEPARTMENT  
16 SHALL ENTER INTO A CONTRACT WITH AN ENTITY ON OR BEFORE JUNE 30,  
17 2020.

18 (4) ON OR BEFORE JANUARY 1, 2021, THE DEPARTMENT SHALL  
19 SUBMIT A REPORT OF ITS FINDINGS TO THE JOINT BUDGET COMMITTEE OF  
20 THE GENERAL ASSEMBLY AND THE JUDICIARY COMMITTEES OF THE HOUSE  
21 OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES.

22 (5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
23 REQUIRES, "CRIMINAL JUSTICE AGENCY" MEANS A LAW ENFORCEMENT  
24 AGENCY, COURT, LOCAL JAIL, MUNICIPAL JAIL AUTHORIZED PURSUANT TO  
25 SECTION 31-15-401 (1)(j), MULTIJURISDICTIONAL JAIL AUTHORIZED  
26 PURSUANT TO SECTION 17-26.5-101, THE DEPARTMENT, AND PRIVATE  
27 CONTRACT PRISONS.

1           (6) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2021.

2           **SECTION 2. Safety clause.** The general assembly hereby finds,  
3 determines, and declares that this act is necessary for the immediate  
4 preservation of the public peace, health, or safety.

Rep. Leslie Herod, Chair  
Rep. Serena Gonzales-Gutierrez  
Sen. Robert Rodriguez

Sen. Julie Gonzales, Vice-Chair  
Rep. Rod Pelton  
Sen. Jerry Sonnenberg

## **Prison Population Management Interim Study Committee**

Christie Donner, Executive Director,  
Colorado Criminal Justice Reform  
Coalition  
Michael Dougherty, District Attorney,  
20<sup>th</sup> Judicial District  
Tristan Gorman, Colorado Criminal  
Defense Bar  
Kristen Hilkey, Chairperson, Colorado  
State Board of Parole

State Capitol Building, Room 029  
Denver, Colorado 80203-1784  
(303) 866-3521

Kazi Houston, Legal Director, Rocky  
Mountain Victim Law Center  
Jaqruti Shah, Director of Criminal Justice  
Services, Department of Human Services  
Glenn Tapia, Director of Probation  
Services, Colorado Judicial Branch  
Joe Thome, Director of Criminal Justice,  
Department of Public Safety  
Dean Williams, Executive Director,  
Department of Corrections



January 13, 2020

Dean Williams, Executive Director  
Colorado Department of Corrections  
1250 Academy Park Loop  
Colorado Springs, CO 80910

Dear Mr. Williams:

Senate Bill 19-259, concerning measures to address prison population management issues, reads, in part:

(III) The department [of corrections] shall consider input from any legislative interim committee that meets during the 2019 interim regarding prison population management, specifically including:

(A) Strategies to safely reduce the prison population and reduce recidivism; and

(B) Prison use analysis including the Centennial south campus at the Centennial correctional facility, private prisons, and alternative bed programs.

We, the members of the Prison Population Management Interim Study Committee, hereby recommend the following:

- We support the Colorado Department of Corrections' commitment to normalization and progression as critical factors to reducing recidivism and increasing safety both within and outside of prisons. These efforts focus on:

- engaging with the community to build prison environments that closely model normal life outside of correctional facilities;
  - eliminating institutionalization and prison culture and instilling and/or reinforcing the positive and pro-social skills of incarcerated people;
  - creating opportunities for progression through relevant educational and vocational training and culminating in external work opportunities that allow incarcerated people to more quickly reintegrate into free society through work experiences that provide social connections with citizen co-workers, opportunities to apply their skills and abilities and build confidence in their ability to succeed, and financial stability through prevailing wage jobs that foster a solid launch pad when reentering society after release. Host communities should be notified when such external work opportunities are made available in their communities, and victims should be made aware of the participation of offenders in these external work opportunities.
- In recent years, successful outcomes for women on probation and parole have declined. We recommend that both the Department of Corrections and the Judicial Department include in their upcoming SMART Government Act hearings before the Joint Judiciary Committee written details of a performance improvement plan specifically to increase success rates of women under supervision, including any strategies or services specifically appropriate to women of color.
- It is estimated that up to 40 percent of men and 80 percent of women display a need for some sort of mental health treatment while incarcerated. Substance abuse treatment is also a high need for the offender population. The men and women in need of these services are more likely to return to prison after their release, and to stay longer once in prison than their fellow prisoners. Greater attention to behavioral health and substance abuse treatment needs should exist throughout the criminal justice system. The committee recommends that the Department of Corrections continue to aggressively pursue adequate mental health and substance abuse treatment and prevention within its population.
- The high recidivism rates in the correctional/justice system are driven by a multitude of factors. Several of those factors include the lack of work, poor (or no) housing options, and a lack of connection to the community for returning citizens. The committee supports the department's efforts to give incarcerated individuals the opportunity to acquire some monetary savings prior to their release from the prison system, improve their job skills to make them more marketable and employable, and help re-establish a social network within the community.

We look forward to working with the Department of Corrections and various stakeholders in the advancement of these recommendations.

Sincerely,

Representative Leslie Herod, Chair, and members of the Prison  
Population Management Interim Study Committee

**cc:** Members of the Prison Population Interim Study Committee  
Terry Scanlon, Legislative Liaison, Judicial Department