

**First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 25-0831.01 Michael Dohr x4347

SENATE BILL 25-190

SENATE SPONSORSHIP

Ball,

HOUSE SPONSORSHIP

Bacon and Soper,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING PROCESSES FOR OFFENDER RELEASE FROM CUSTODY.**

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>.)

Under current law, a sheriff may allow an individual to choose to stay in jail overnight after release when extenuating circumstances exist. The bill states it is an extenuating circumstance to facilitate a connection to a service provider. If a defendant remains in jail overnight, the defendant must be released by 10 a.m. the next morning.

Under current law, there is a distinction for those who are 55 years of age or older, and for those under that age with certain medical conditions, for special needs parole. The bill changes that distinction. The

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

bill makes an inmate eligible for special needs parole if the inmate is 55 years of age or older and suffers from a diagnosed severe cognitive impairment or serious impairment that limits the person's ability to function. The bill makes an inmate eligible for special needs parole if the inmate is under 55 years of age and suffers from a diagnosed severe cognitive impairment or serious impairment that limits the person's ability to function; has served at least 25% of the inmate's sentence, or 10 years imprisonment, whichever is shorter; and has not incurred a class I code of penal discipline violation within the 12 months before the date of the application for special needs parole. The bill makes a person eligible for special needs parole if the person has a condition such as advanced or metastatic cancer; end-stage renal disease; end-stage chronic obstructive pulmonary disorder; end-stage heart disease; end-stage liver disease; progressive neurodegenerative disease such as Huntington's disease, Parkinson's disease, and amyotrophic lateral sclerosis; intractable seizure disorder; severe dementia; or Alzheimer's disease. The bill provides that when a health-care provider who is providing care to the person makes a determination that the person's medical condition meets the standard for special needs parole, then a referral must be made to the parole board.

The department of corrections is required to include in each contract with a licensed health-care provider involved in providing patient care to an inmate a requirement that the provider screen each patient for eligibility for special needs parole.

The bill requires legislative council staff to conduct a study of options for releasing aging and seriously ill offenders from secure custody to appropriate care or placing offenders in alternative programs that can better provide the offender's needed medical care.

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

SECTION 1. In Colorado Revised Statutes, 16-4-102, **amend** (2)(b)(I) as follows:

16-4-102. Right to bail - before conviction. (2) (b) (I) A judge, judicial officer, or bond hearing officer shall not require a monetary bond to be paid in the defendant's name. Bond may be paid, at a minimum, by cash, money order, or cashier's check. If bond is paid by money order or cashier's check, the money order or cashier's check may be payable to the holding county. Before bond is posted, the sheriff shall provide the defendant and surety, if any, a copy of the notice described in subsection

1 (2)(h)(I) of this section. When the bond is posted, the sheriff shall provide
2 the defendant and surety, if any, a copy of the bond paperwork and
3 information regarding the defendant's next court date. The individual
4 processing the bond shall certify, in writing, that the ~~payor~~ PAYER
5 received a copy of the bond paperwork, the notice described in subsection
6 (2)(h)(I) of this section, and information regarding the defendant's next
7 court date and shall place a copy of the certification in the defendant's
8 file. Notwithstanding the provisions of this section, a sheriff may allow
9 an individual to choose to stay in jail overnight after release when
10 extenuating circumstances exist, including inclement weather, lack of
11 transportation, ~~or~~ lack of shelter, OR TO FACILITATE A CONNECTION TO A
12 SERVICE PROVIDER. IF A DEFENDANT REMAINS IN JAIL OVERNIGHT, THE
13 DEFENDANT MUST BE RELEASED BY 10 A.M. THE NEXT MORNING.

14 **SECTION 2.** In Colorado Revised Statutes, 17-1-102, **amend**
15 (6.7), (7.4), and (7.5); and **add** (1.1), (6.8), and (7.6) as follows:

16 **17-1-102. Definitions.** As used in this title 17, unless the context
17 otherwise requires:

18 (1.1) "ACTIVITIES OF DAILY LIVING" MEANS BASIC SELF-CARE
19 ACTIVITIES, INCLUDING, BUT NOT LIMITED TO, EATING, BATHING,
20 DRESSING, GROOMING, TRANSFERRING FROM BED TO CHAIR, TOILETING,
21 TAKING MEDICATIONS, CLEANING, USING PRISON COMMUNICATIONS
22 SYSTEMS, AND INDEPENDENT AMBULATION.

23 (6.7) "Inmate liaison" means an inmate's family member or
24 attorney; a government agency; A PUBLIC DEFENDER LIAISON, DESCRIBED
25 IN SECTION 21-1-104, TO THE DEPARTMENT OF CORRECTIONS AND THE
26 STATE BOARD OF PAROLE; or a representative from an organization with
27 experience in helping inmates apply for special needs parole, high-needs

1 prerelease planning, or reentry. The organization must be in good
2 standing with the Colorado secretary of state for the past twelve
3 consecutive months, and the organization's involvement must be at the
4 request of the inmate, or an inmate's family member or attorney should
5 the inmate be unable to make the request.

6 (6.8) "LICENSED HEALTH-CARE PROVIDER" MEANS A MEDICAL OR
7 BEHAVIORAL HEALTH-CARE PROVIDER LICENSED IN THIS STATE WHO IS
8 EMPLOYED BY OR UNDER CONTRACT WITH THE DEPARTMENT OR A PRIVATE
9 LICENSED HEALTH-CARE PROVIDER WHO IS PROVIDING OR RECENTLY HAS
10 PROVIDED PATIENT CARE TO THE INMATE.

11 (7.4) "Serious impairment that limits a person's ability to function"
12 means ~~a medically diagnosed physical or mental condition that is chronic~~
13 ~~and long term in nature and severely limits a person's ability to~~
14 ~~independently perform essential day-to-day activities without daily~~
15 ~~intervention, attention, or support from an inmate aide or professional~~
16 ~~caregiver~~ A MEDICALLY DIAGNOSED PHYSICAL _____ CONDITION THAT IS
17 CHRONIC, SEVERE, AND LONG TERM IN NATURE AND THAT CAUSES THE
18 INMATE TO REQUIRE ASSISTANCE WITH TWO OR MORE ACTIVITIES OF DAILY
19 LIVING ON A DAILY AND SUSTAINED BASIS. SUCH CONDITIONS INCLUDE,
20 BUT ARE NOT LIMITED TO, ADVANCED OR METASTATIC CANCER;
21 END-STAGE RENAL DISEASE; END-STAGE CHRONIC OBSTRUCTIVE
22 PULMONARY DISORDER; END-STAGE HEART DISEASE; END-STAGE LIVER
23 DISEASE; PROGRESSIVE NEURODEGENERATIVE DISEASE SUCH AS
24 HUNTINGTON'S DISEASE, PARKINSON'S DISEASE, AND AMYOTROPHIC
25 LATERAL SCLEROSIS; AND INTRACTABLE SEIZURE DISORDER.

26 (7.5) (a) ~~"Special needs offender" means a person in the custody~~
27 ~~of the department:~~

1 ~~(I) Who is fifty-five years of age or older and has been diagnosed~~
2 ~~by a licensed health-care provider who is employed by or under contract~~
3 ~~with the department or by a private licensed health-care provider involved~~
4 ~~in providing patient care to the inmate as suffering from a chronic~~
5 ~~infirmity, illness, condition, disease, or behavioral or mental health~~
6 ~~disorder that causes serious impairment that limits the person's ability to~~
7 ~~function;~~

8 ~~(II) Who, as determined by a licensed health-care provider who~~
9 ~~is employed by or under contract with the department or by a private~~
10 ~~licensed health-care provider involved in providing patient care to the~~
11 ~~inmate, suffers from a chronic, permanent, terminal, or irreversible~~
12 ~~physical illness, condition, disease, or a behavioral or mental health~~
13 ~~disorder that requires costly care or treatment and who is incapacitated;~~

14 ~~(III) Who is sixty-four years of age or older and has served at least~~
15 ~~twenty years of the person's sentence and was not convicted of a class 1~~
16 ~~or class 2 felony for a crime as defined in section 24-4.1-302 (1);~~
17 ~~unlawful sexual behavior as defined in section 16-22-102 (9), a crime that~~
18 ~~includes domestic violence as defined in section 18-6-800.3 (1), or~~
19 ~~stalking as described in section 18-3-602; or~~

20 ~~(IV) Who, as determined by a licensed health-care provider who~~
21 ~~is employed by or under contract with the department or a competency~~
22 ~~evaluator as defined in section 16-8.5-101 (3) and approved by the~~
23 ~~department of human services, on the basis of available evidence, not~~
24 ~~including evidence resulting from a refusal of the person to accept~~
25 ~~treatment, is incompetent to proceed and does not have a substantial~~
26 ~~probability of being restored to competency for the completion of any~~
27 ~~sentence including a person who has been diagnosed with dementia that~~

1 renders the person incompetent to proceed. As used in this subsection
2 (7.5)(a)(IV), "competency" has the same meaning as "competent to
3 proceed", as defined in section 16-8.5-101 (5), and "incompetent to
4 proceed" has the same meaning as defined in section 16-8.5-101 (12).

5 (b)(I) Notwithstanding subsection (7.5)(a) of this section, "special
6 needs offender" does not include a person who:

7 (A) Was convicted of a class 1 felony and sentenced to life with
8 the possibility of parole and the offender has served fewer than twenty
9 calendar years in a department of corrections facility for the offense;

10 (B) Was convicted of a class 1 felony and sentenced to life
11 without parole; or

12 (C) Was convicted of a class 2 felony crime of violence as
13 described in section 18-1.3-406 and the offender has served fewer than
14 ten calendar years in a department of corrections facility for the offense.

15 (H) This subsection (7.5)(b) does not apply to an inmate who has
16 been diagnosed as having a terminal illness with an anticipated life
17 expectancy of twelve months or less by a licensed health-care provider
18 who is employed by or under contract with the department or by a private
19 licensed health-care provider involved in providing patient care to the
20 inmate. "SEVERE COGNITIVE IMPAIRMENT" MEANS A SUBSTANTIAL
21 DISORDER OF COGNITIVE ABILITY OR MENTAL ILLNESS THAT IS CHRONIC,
22 SEVERE, AND LONG TERM IN NATURE THAT RESULTS IN MARKED
23 FUNCTIONAL DISABILITY, SIGNIFICANTLY INTERFERING WITH ADAPTIVE
24 BEHAVIOR AND CAUSING AN INMATE TO REQUIRE ASSISTANCE WITH TWO
25 OR MORE ACTIVITIES OF DAILY LIVING ON A DAILY AND SUSTAINED BASIS.
26 SUCH CONDITIONS INCLUDE, BUT ARE NOT LIMITED TO, DEMENTIA
27 DISEASES AND RELATED DISABILITIES, AS DEFINED IN SECTION 25-1-502.

1 AND ALZHEIMER'S DISEASE.

2 (7.6) (a) "SPECIAL NEEDS OFFENDER" MEANS AN INMATE IN THE
3 CUSTODY OF THE DEPARTMENT:

4 (I) WHO HAS BEEN DIAGNOSED BY A LICENSED HEALTH-CARE
5 PROVIDER ____ AS SUFFERING SERIOUS IMPAIRMENT THAT LIMITS THE
6 PERSON'S ABILITY TO FUNCTION AND:

7 (A) IS FIFTY-FIVE YEARS OF AGE OR OLDER; OR

8 ____ (B) IS UNDER FIFTY-FIVE YEARS OF AGE; HAS NOT INCURRED A
9 CLASS I CODE OF PENAL DISCIPLINE VIOLATION WITHIN TWELVE MONTHS
10 BEFORE THE DATE OF THE APPLICATION FOR SPECIAL NEEDS PAROLE; AND
11 HAS SERVED AT LEAST TWENTY-FIVE PERCENT OF THE IMPOSED SENTENCE,
12 INCLUDING ANY EARNED TIME AWARDED, IF THE INMATE IS ELIGIBLE FOR
13 PAROLE AFTER SERVING FIFTY PERCENT OF THE IMPOSED SENTENCE
14 PURSUANT TO SECTION 17-22.5-403 (1); HAS SERVED AT LEAST
15 THIRTY-FIVE PERCENT OF THE IMPOSED SENTENCE, INCLUDING ANY
16 EARNED TIME AWARDED, IF THE INMATE IS ELIGIBLE FOR PAROLE AFTER
17 SERVING SEVENTY-FIVE PERCENT OF THE IMPOSED SENTENCE PURSUANT
18 TO SECTION 17-22.5-403 (2) AND (2.5); HAS SERVED AT LEAST FORTY
19 PERCENT OF THE IMPOSED SENTENCE IF THE INMATE IS ELIGIBLE FOR
20 PAROLE AFTER SERVING SEVENTY-FIVE PERCENT OF THE IMPOSED
21 SENTENCE PURSUANT TO SECTION 17-22.5-403 (3) AND (3.5); OR HAS BEEN
22 DIAGNOSED BY A LICENSED HEALTH-CARE PROVIDER AS HAVING A
23 TERMINAL ILLNESS THAT IS IRREVERSIBLE, UNLIKELY TO BE CURED, AND
24 LIKELY TO CAUSE DEATH.

25 (II) WHO HAS BEEN DETERMINED BY A LICENSED HEALTH-CARE
26 PROVIDER ____ AS SUFFERING FROM SEVERE COGNITIVE IMPAIRMENT AND:

27 (A) IS FIFTY-FIVE YEARS OF AGE OR OLDER; OR

1 (B) IS UNDER FIFTY-FIVE YEARS OF AGE; HAS NOT INCURRED A
2 CLASS I CODE OF PENAL DISCIPLINE VIOLATION WITHIN TWELVE MONTHS
3 BEFORE THE DATE OF THE APPLICATION FOR SPECIAL NEEDS PAROLE; AND
4 HAS SERVED AT LEAST TWENTY-FIVE PERCENT OF THE IMPOSED SENTENCE,
5 INCLUDING ANY EARNED TIME AWARDED, IF THE INMATE IS ELIGIBLE FOR
6 PAROLE AFTER SERVING FIFTY PERCENT OF THE IMPOSED SENTENCE
7 PURSUANT TO SECTION 17-22.5-403 (1); HAS SERVED AT LEAST
8 THIRTY-FIVE PERCENT OF THE IMPOSED SENTENCE, INCLUDING ANY
9 EARNED TIME AWARDED, IF THE INMATE IS ELIGIBLE FOR PAROLE AFTER
10 SERVING SEVENTY-FIVE PERCENT OF THE IMPOSED SENTENCE PURSUANT
11 TO SECTION 17-22.5-403 (2) AND (2.5); HAS SERVED AT LEAST FORTY
12 PERCENT OF THE IMPOSED SENTENCE IF THE INMATE IS ELIGIBLE FOR
13 PAROLE AFTER SERVING SEVENTY-FIVE PERCENT OF THE IMPOSED
14 SENTENCE PURSUANT TO SECTION 17-22.5-403 (3) AND (3.5); OR HAS BEEN
15 DIAGNOSED BY A LICENSED HEALTH-CARE PROVIDER AS HAVING A
16 TERMINAL ILLNESS THAT IS IRREVERSIBLE, UNLIKELY TO BE CURED, AND
17 LIKELY TO CAUSE DEATH.

18 (III) WHO IS SIXTY-FOUR YEARS OF AGE OR OLDER AND HAS
19 SERVED AT LEAST TWENTY YEARS OF THE PERSON'S SENTENCE AND WAS
20 NOT CONVICTED OF A CLASS 1 OR CLASS 2 FELONY FOR A CRIME AS
21 DEFINED IN SECTION 24-4.1-302 (1); UNLAWFUL SEXUAL BEHAVIOR, AS
22 DEFINED IN SECTION 16-22-102 (9); A CRIME THAT INCLUDES DOMESTIC
23 VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1); OR STALKING AS
24 DESCRIBED IN SECTION 18-3-602.

25 (b) (I) NOTWITHSTANDING SUBSECTION (7.6)(a) OF THIS SECTION,
26 "SPECIAL NEEDS OFFENDER" DOES NOT INCLUDE AN INMATE WHO:

27 (A) WAS CONVICTED OF A CLASS 1 FELONY AND SENTENCED TO

1 LIFE IMPRISONMENT WITH THE POSSIBILITY OF PAROLE AND THE INMATE
2 HAS SERVED FEWER THAN TWENTY CALENDAR YEARS IN A DEPARTMENT
3 OF CORRECTIONS FACILITY FOR THE OFFENSE;

4 (B) WAS CONVICTED OF A CLASS 1 FELONY AND SENTENCED TO
5 LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE; OR

6 (C) WAS CONVICTED OF A CLASS 2 FELONY CRIME OF VIOLENCE AS
7 DESCRIBED IN SECTION 18-1.3-406 AND THE INMATE HAS SERVED FEWER
8 THAN TEN CALENDAR YEARS IN A DEPARTMENT OF CORRECTIONS FACILITY
9 FOR THE OFFENSE.

10 (II) THIS SUBSECTION (7.6)(b) DOES NOT APPLY TO AN INMATE
11 WHO HAS BEEN DIAGNOSED AS HAVING A TERMINAL ILLNESS THAT IS
12 IRREVERSIBLE, UNLIKELY TO BE CURED, AND LIKELY TO CAUSE DEATH BY
13 A LICENSED HEALTH-CARE PROVIDER.

14 **SECTION 3.** In Colorado Revised Statutes, 17-22.5-403.5,
15 **amend** (1) introductory portion, (3)(a) introductory portion, (3)(b)
16 introductory portion, (3)(b.5), (4)(a), (4)(b), and (4)(f); **repeal** (2); and
17 **add** (3)(a)(III.5), (3)(b)(V), (9), and (10) as follows:

18 **17-22.5-403.5. Special needs parole.** (1) Notwithstanding any
19 provision of law to the contrary, a special needs offender, as defined in
20 ~~section 17-1-102 (7.5)(a)~~ SECTION 17-1-102 (7.6), may be eligible for
21 parole prior to or after the offender's parole eligibility date pursuant to
22 this section if:

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

27 (3) (a) The department is responsible for identifying inmates who

1 are special needs offenders. ~~and~~ ONCE A LICENSED HEALTH-CARE
2 PROVIDER DETERMINES, AND DOCUMENTS IN THE PATIENT'S MEDICAL
3 RECORD, THAT THE INMATE SUFFERS FROM A SERIOUS IMPAIRMENT THAT
4 LIMITS THE INMATE'S ABILITY TO FUNCTION, OR A SEVERE COGNITIVE
5 IMPAIRMENT, THE DEPARTMENT shall submit a referral to the state board
6 of parole for ~~all special needs offenders~~ THE INMATE. A LICENSED
7 HEALTH-CARE PROVIDER IS NOT LIABLE TO ANY PERSON REGARDING A
8 DETERMINATION WHETHER AN INMATE HAS A SERIOUS IMPAIRMENT THAT
9 LIMITS A PERSON'S ABILITY TO FUNCTION OR SEVERE COGNITIVE
10 IMPAIRMENT. IF THE INMATE HAS BEEN DIAGNOSED BY A LICENSED
11 HEALTH-CARE PROVIDER AS SUFFERING FROM A SERIOUS IMPAIRMENT
12 THAT LIMITS THE INMATE'S ABILITY TO FUNCTION, OR A SEVERE COGNITIVE
13 IMPAIRMENT, THE DEPARTMENT SHALL NOT SET ASIDE OR DISREGARD
14 THAT DETERMINATION ON THE BASIS THAT AN EMPLOYEE OF THE
15 DEPARTMENT DOES NOT CONCUR IN THAT ASSESSMENT. THE DEPARTMENT
16 SHALL NOT DETERMINE THAT AN INMATE DOES NOT HAVE A SERIOUS
17 IMPAIRMENT THAT LIMITS AN INMATE'S ABILITY TO FUNCTION BASED ON
18 THE DEPARTMENT'S ABILITY TO ACCOMMODATE THE INMATE'S PHYSICAL
19 OR MENTAL IMPAIRMENT. THE DEPARTMENT SHALL SUBMIT A REFERRAL
20 TO THE STATE BOARD OF PAROLE FOR ALL OTHER SPECIAL NEEDS
21 OFFENDERS IDENTIFIED BY THE DEPARTMENT. If notification to the district
22 attorney is required pursuant to subsection (3)(c)(II) of this section, the
23 inmate shall authorize the department to release the information described
24 in subsections (3)(b)(I) and (3)(b)(I.5) of this section to the district
25 attorney. An inmate or inmate liaison, if the inmate is unable to, may also
26 request that the department make a determination of whether an inmate
27 is eligible for special needs parole and the department shall make a

1 determination within thirty days after receiving the request. ~~unless a~~
2 ~~competency evaluation has been requested.~~ The department, in
3 consultation with the state board of parole, shall develop any necessary
4 policies and procedures regarding special needs parole to ensure that:

5 (III.5) THE DEPARTMENT SHARES RELEVANT AND NECESSARY
6 DATA AND INFORMATION WITH THE PUBLIC DEFENDER LIAISONS AS
7 DESCRIBED IN SECTION 21-1-104 IN ORDER TO ALLOW THE LIAISONS TO
8 EFFECTIVELY ASSIST SPECIAL NEEDS PAROLE APPLICANTS.

9 (b) If an inmate meets the eligibility requirements pursuant to
10 section 17-1-102, the department shall submit a referral to the board that,
11 in addition to the requirements of section 17-22.5-404 (4)(a), ~~shall include~~
12 INCLUDES:

13 (V) ANY INFORMATION, STATEMENTS, LETTERS, AND DOCUMENTS
14 PROVIDED BY THE INMATE LIAISON OR BY THE PUBLIC DEFENDER LIAISON
15 AS DESCRIBED IN SECTION 21-1-104, IF THE PUBLIC DEFENDER LIAISON
16 PROGRAM IS ASSISTING THE INMATE. THE PAROLE BOARD SHALL REVIEW
17 AND CONSIDER THE SUBMISSION BY THE PUBLIC DEFENDER LIAISON.

18 (b.5) The department shall provide a copy of the referral packet
19 submitted to the parole board to the inmate or inmate liaison AND TO THE
20 PUBLIC DEFENDER LIAISON AS DESCRIBED IN SECTION 21-1-104, == except
21 for the victim impact statement and response from the district attorney.
22 The inmate, ~~or~~ inmate liaison, OR THE PUBLIC DEFENDER LIAISON AS
23 DESCRIBED IN SECTION 21-1-104, has thirty calendar days to submit
24 additional health records or other relevant information not included in the
25 referral packet to the department for submission to the parole board prior
26 to the parole board's decision.

27 (4) (a) The state board of parole shall consider an inmate for

1 special needs parole upon referral by the department and SHALL CONSIDER
2 ALL OF THE INFORMATION PROVIDED TO THE BOARD PURSUANT TO
3 SUBSECTION (3) OF THIS SECTION AND ANY VICTIM IMPACT STATEMENT.

4 (b) The state board of parole shall make a determination of the
5 risk of reoffense that the inmate poses after considering ~~the factors in~~
6 ~~section 17-22.5-404 (4)(a), as well as~~ the nature and severity of the
7 inmate's medical or physical condition, the age of the inmate, ~~the ability~~
8 ~~of the department to adequately provide necessary medical or behavioral~~
9 ~~health treatment~~, the inmate's CURRENT AND UP-TO-DATE risk and needs
10 assessment scores, the nature and severity of the offense for which the
11 inmate is currently incarcerated, the inmate's criminal history, the inmate's
12 institutional conduct, program and treatment participation, and other
13 relevant risk and risk-reduction factors.

14 (f) If, prior to or during any parole REVOCATION hearing,
15 INCLUDING HEARINGS FOR OFFENDERS GRANTED PAROLE PURSUANT TO
16 SUBSECTION (5) OF THIS SECTION, the department or ~~any~~ A member of the
17 parole board has a substantial and good-faith reason to believe that the
18 offender is incompetent to proceed, as defined in section 16-8.5-101 (12),
19 the parole board shall suspend all proceedings and notify the public
20 defender liaison described in section 21-1-104 (6). The office of state
21 public defender shall be appointed by the court to represent the inmate
22 and shall file a written motion with the trial court that imposed the
23 sentence to determine competency. The motion must contain a certificate
24 of counsel stating that the motion is based on a good-faith belief that the
25 inmate is incompetent to proceed. The motion must set forth the specific
26 facts that have formed the basis for the motion. The court shall seal the
27 motion. The court shall follow all the relevant procedures in article 8.5 of

1 title 16 regarding the determination of competency. The presence of the
2 inmate is not required unless there is good cause shown.

3 (9) THE DEPARTMENT SHALL INCLUDE IN EACH CONTRACT WITH A
4 LICENSED HEALTH-CARE PROVIDER INVOLVED IN PROVIDING PATIENT CARE
5 TO AN INMATE A REQUIREMENT THAT THE PROVIDER SCREEN EACH
6 PATIENT FOR ELIGIBILITY FOR SPECIAL NEEDS PAROLE.

7 (10) THIS SECTION DOES NOT REQUIRE AN INMATE TO SEEK AN
8 OUTSIDE MEDICAL OPINION OF IMPAIRMENT OR SECOND OPINION OF ANY
9 KIND.

10 SECTION 4. In Colorado Revised Statutes, add 2-3-313 as
11 follows:

12 **2-3-313. Legislative council staff - study correctional release**
13 **options for aging and seriously ill offenders.** (1) LEGISLATIVE COUNCIL
14 STAFF SHALL CONDUCT A STUDY OF OPTIONS FOR RELEASING AGING AND
15 SERIOUSLY ILL OFFENDERS FROM SECURE CUSTODY TO APPROPRIATE CARE
16 OR PLACING OFFENDERS IN ALTERNATIVE PROGRAMS THAT CAN BETTER
17 PROVIDE THE OFFENDER'S NEEDED MEDICAL CARE.

18 (2) THE STUDY MUST INCLUDE, BUT IS NOT LIMITED TO:

19 (a) A REVIEW OF THE COMPASSIONATE RELEASE OR SPECIAL NEEDS
20 PAROLE LAWS OF OTHER STATES, INCLUDING A REVIEW OF THE FEDERAL
21 COMPASSIONATE RELEASE LAWS;

22 (b) A DESCRIPTION OF PLACEMENT PROGRAMS IN USE IN OTHER
23 STATES THAT HAVE BEEN SHOWN TO BE EFFECTIVE IN ADDRESSING THE
24 TRANSITION AND PLACEMENT OF THE AGING AND SERIOUSLY ILL OFFENDER
25 POPULATION, INCLUDING A DESCRIPTION OF THE FUNDING SOURCES USED
26 TO SUPPORT THE PROGRAMS, WHICH MUST INCLUDE MEDICAID, MEDICARE,
27 SOCIAL SECURITY, AND ANY OTHER GOVERNMENTAL RESOURCES;

1 (c) IDENTIFYING ALTERNATIVE FACILITIES THAT ARE AVAILABLE
2 IN COLORADO TO RECEIVE AGING AND SERIOUSLY ILL OFFENDERS,
3 INCLUDING NURSING HOMES AND OTHER COMMUNITY-BASED RESIDENTIAL
4 OR NON-RESIDENTIAL PROGRAMS;

5 (d) A DESCRIPTION OF THE ABILITY OF CURRENT OR FUTURE
6 COMMUNITY CORRECTIONS PROVIDERS TO DEVELOP PLACEMENTS AND
7 PROGRAMS TO SERVE THE AGING AND SERIOUSLY ILL OFFENDER
8 POPULATION, INCLUDING WHETHER THE EXISTING COMMUNITY
9 CORRECTIONS PROGRAMS HAVE THE ABILITY TO SERVE PERSONS WITH
10 DISABILITIES AS DEFINED IN THE FEDERAL "AMERICANS WITH DISABILITIES
11 ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ. IN RESIDENTIAL OR
12 NONRESIDENTIAL PROGRAMS;

13 (e) A DESCRIPTION OF THE ABILITY OF THE DEPARTMENT TO
14 ACCESS MEDICAID OR OTHER HEALTH-CARE FUNDS FOR PLACEMENTS
15 OUTSIDE OF THE DEPARTMENT, THE EXTENT OF THE FUNDING, AND HOW
16 THE FUNDING COULD BE INCREASED BY THE PLACEMENT OF AGING AND
17 SERIOUSLY ILL OFFENDERS IN THE COMMUNITY; ==

18 (f) IDENTIFYING ANY STATUTORY OR OTHER LEGAL REGULATIONS
19 THAT CREATE BARRIERS TO THE IMPLEMENTATION OF COMMUNITY-BASED
20 PROGRAMS FOR THE PLACEMENT AND TRANSITION OF AGING AND SPECIAL
21 NEEDS OFFENDERS; AND

22 (g) EVALUATE THE FEASIBILITY OF OPENING OR RETROFITTING ONE
23 OR MORE LOCATIONS TO BE OPERATED BY THE DEPARTMENT OF
24 CORRECTIONS AS AN ELDER-CARE FACILITY FOR AGING AND ILL INMATES.

25 (3) LEGISLATIVE COUNCIL STAFF SHALL PREPARE A REPORT
26 SUMMARIZING THE RESULTS OF THE STUDY REQUIRED BY THIS SECTION
27 BEFORE DECEMBER 15, 2025, AND SHALL SUBMIT THE REPORT TO THE

1 DEPARTMENT, THE JOINT BUDGET COMMITTEE, THE LEGISLATIVE AUDIT
2 COMMITTEE, AND THE HOUSE OF REPRESENTATIVES JUDICIARY COMMITTEE
3 AND THE SENATE JUDICIARY COMMITTEE, OR THEIR SUCCESSOR
4 COMMITTEES.

5 **SECTION 5. Act subject to petition - effective date.** This act
6 takes effect at 12:01 a.m. on the day following the expiration of the
7 ninety-day period after final adjournment of the general assembly; except
8 that, if a referendum petition is filed pursuant to section 1 (3) of article V
9 of the state constitution against this act or an item, section, or part of this
10 act within such period, then the act, item, section, or part will not take
11 effect unless approved by the people at the general election to be held in
12 November 2026 and, in such case, will take effect on the date of the
13 official declaration of the vote thereon by the governor.