An Act

BY REPRESENTATIVE(S) Herod, Arndt, Benavidez, Buentello, Caraveo, Coleman, Cutter, Exum, Galindo, Garnett, Gonzales-Gutierrez, Gray, Hooton, Jaquez Lewis, Kennedy, Kipp, Lontine, Melton, Michaelson Jenet, Mullica, Singer, Sirota, Snyder, Soper, Sullivan, Tipper, Valdez A., Weissman, Becker;
also SENATOR(S) Fenberg, Court, Fields, Gonzales, Lee, Moreno, Pettersen, Rodriguez, Williams A., Garcia.

CONCERNING THE VOTING RIGHTS OF PERSONS SERVING A SENTENCE OF PAROLE, AND IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that:

(a) Section 10 of article VII of the state constitution states, among other things, that "every such person who was a qualified elector prior to such imprisonment, and who is released therefrom by virtue of a pardon, or by virtue of having served out his full term of imprisonment, shall without further action, be invested with all the rights of citizenship, except as

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otherwise provided in this constitution."

(b) Although this constitutional language has long been used to justify the deprivation of voting rights to individuals serving a sentence of parole, the constitutional provision was part of the original constitution of the state adopted in August 1876, and the state did not adopt parole sentencing until 1899.

(c) The power under the constitution to criminalize conduct and set the punishment for a crime rests with the legislative branch. The power to define the nature and purposes of imprisonment and the nature and purposes of parole also rests with the general assembly. The general assembly has determined that the purposes of parole are best served by restoring voting rights to persons sentenced to parole. Restoring voting rights to parolees is consistent with the purpose of parole as stated in section 17-22.5-102.5, Colorado Revised Statutes, and will help to develop and foster in these individuals the values of citizenship that will result in significant dividends to them and society as they resume their places in their communities.

(d) In the case of *Danielson v. Dennis*, 139 P.3d 688 (Colo. 2006), the Colorado supreme court held that the general assembly has the authority to include parole as part of the "full term of imprisonment" within the meaning of the constitutional provision, which necessarily means that the general assembly is also empowered, if it so chooses, to define the nature of imprisonment for crime and the nature of parole so that, for purposes of implementing the right to vote, the "full term of imprisonment" ends when an individual convicted of a felony is sentenced to or granted parole and, therefore, leaves his or her incarcerated status. It follows that if an individual's term of imprisonment is at an end upon being sentenced to parole, he or she should also be entitled to the full restoration of his or her voting rights at that time.

(2) By enacting House Bill 19-1266, enacted in 2019, the general assembly intends that individuals sentenced to parole on account of a felony conviction be entitled to the full restoration of their voting rights and further intends that House Bill 19-1266 be liberally construed to effectuate these purposes.

SECTION 2. In Colorado Revised Statutes, 1-1-104, **add** (49.3) as follows:

1-1-104. Definitions. As used in this code, unless the context otherwise requires:

(49.3) (a) "TERM OF IMPRISONMENT" OR "FULL TERM OF IMPRISONMENT" MEANS THE PERIOD DURING WHICH AN INDIVIDUAL IS SERVING A SENTENCE OF DETENTION OR CONFINEMENT IN ANY CORRECTIONAL FACILITY, JAIL, OR OTHER LOCATION FOR A FELONY CONVICTION.

(b) THIS SUBSECTION (49.3) APPLIES TO THIS CODE FOR THE PURPOSE OF APPLYING SECTION 10 OF ARTICLE VII OF THE STATE CONSTITUTION.

(c) "TERM OF IMPRISONMENT" OR "FULL TERM OF IMPRISONMENT" DOES NOT INCLUDE THE PERIOD DURING WHICH AN INDIVIDUAL IS ON PAROLE.

SECTION 3. In Colorado Revised Statutes, 1-2-103, **amend** (4) as follows:

1-2-103. Military service - students - inmates - persons with behavioral or mental health disorders - confinement. (4) No person while serving a sentence of detention or confinement in a correctional facility, jail, or other location for a felony conviction ~~or while serving a sentence of parole~~ is eligible to register to vote or to vote in any election. ~~except that~~ A confined prisoner who is awaiting trial but has not been tried or who is not serving a sentence for a felony conviction shall be certified by the institutional administrator, ~~shall be permitted to~~ MAY register to vote pursuant to this article 2, and may list his or her confinement location as his or her ballot address in accordance with section 1-2-204 (2)(f.3). AN INDIVIDUAL SERVING A SENTENCE OF PAROLE IS ELIGIBLE TO REGISTER TO VOTE AND TO VOTE IN ANY ELECTION.

SECTION 4. In Colorado Revised Statutes, 17-2-102, **repeal and reenact, with amendments,** (14) as follows:

17-2-102. Division of adult parole - general powers, duties, and functions - definition - repeal. (14) (a) IN ADDITION TO ANY OTHER DUTY SPECIFIED IN THIS SECTION, THE DIVISION OF ADULT PAROLE SHALL PROVIDE AT THE INITIAL MEETING WITH AN INDIVIDUAL SENTENCED TO PAROLE INFORMATION REGARDING:

(I) THE INDIVIDUAL'S VOTING RIGHTS;

(II) HOW THE INDIVIDUAL MAY REGISTER TO VOTE OR UPDATE OR CONFIRM HIS OR HER VOTER REGISTRATION RECORD;

(III) HOW TO OBTAIN AND CAST A BALLOT; AND

(IV) HOW TO OBTAIN VOTER INFORMATION MATERIALS.

(b) AS USED IN THIS SUBSECTION (14), "VOTER INFORMATION MATERIALS" MEANS THE FOLLOWING DOCUMENTS AS APPLICABLE TO THE ELECTION FOR WHICH THE INDIVIDUAL SEEKS TO REGISTER AND CAST A BALLOT:

(I) ANY FORMS USED TO REGISTER AN ELECTOR UNDER PART 2 OF ARTICLE 2 OF TITLE 1;

(II) AN APPLICATION FOR A MAIL BALLOT PURSUANT TO SECTION 1-13.5-1002;

(III) A COPY OF THE BALLOT INFORMATION BOOKLET DESCRIBED IN SECTION 1-40-124.5; AND

(IV) ANY MAILINGS TO ELECTORS THAT ARE DESCRIBED IN SECTION 1-40-125.

SECTION 5. In Colorado Revised Statutes, 1-2-101, **repeal as it will become effective July 1, 2019,** (3) as follows:

1-2-101. Qualifications for registration - preregistration. (3) (a) Notwithstanding section 1-2-103 (4), a person who is otherwise qualified to register and is on parole may preregister and update his or her preregistered information in the manner prescribed by the secretary of state.

(b) When the secretary of state receives notification under section 17-2-102 (14)(d) that an individual who is preregistered under subsection (3)(a) of this section has been released from parole, the individual shall be automatically registered to vote.

(c) The registration requirements of section 1-2-201 apply to a

~~person preregistering to vote under this subsection (3).~~

SECTION 6. Appropriation. For the 2019-20 state fiscal year, $16,960 is appropriated to the department of state for use by the information technology division. This appropriation is from the department of state cash fund created in section 24-21-104 (3)(b), C.R.S. To implement this act, the division may use this appropriation for personal services.
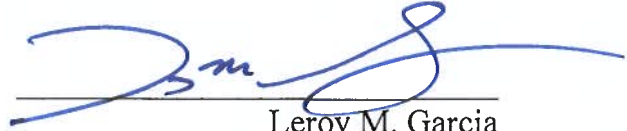
SECTION 7. Effective date - applicability. This act takes effect July 1, 2019, and applies to any individual seeking to register to vote or to vote on or after said date.

SECTION 8. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.
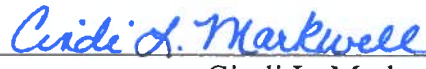

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KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES
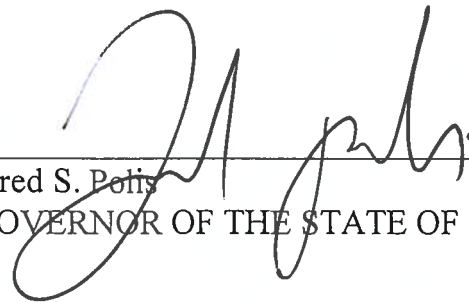
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Leroy M. Garcia
PRESIDENT OF
THE SENATE

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Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

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Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED ___May 28, 2019 at 10:24 A.M.___
(Date and Time)

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Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO