

*Be it Enacted by the People of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, **repeal and reenact, with amendments**, section 17-22.5-303.3 as follows:

**17-22.5-303.3. Violent offenders – parole.**

(1) ANY PERSON SENTENCED FOR SECOND DEGREE MURDER, FIRST DEGREE ASSAULT, FIRST DEGREE KIDNAPPING, UNLESS THE FIRST DEGREE KIDNAPPING IS A CLASS 1 FELONY, FIRST OR SECOND DEGREE SEXUAL ASSAULT, FIRST DEGREE ARSON, FIRST DEGREE BURGLARY, OR AGGRAVATED ROBBERY, COMMITTED ON OR AFTER JULY 1, 1987, BUT BEFORE JANUARY 1, 2025, WHO HAS PREVIOUSLY BEEN CONVICTED OF A CRIME OF VIOLENCE, SHALL BE ELIGIBLE FOR PAROLE AFTER HE HAS SERVED SEVENTY-FIVE PERCENT OF THE SENTENCE IMPOSED LESS ANY TIME AUTHORIZED FOR EARNED TIME PURSUANT TO SECTION 17-22.5-302. THEREAFTER, THE PROVISIONS OF SECTION 17-22.5-303 (6) AND (7) ~~shall~~ APPLY.

(2) ANY PERSON CONVICTED AND SENTENCED FOR SECOND DEGREE MURDER; FIRST DEGREE ASSAULT; CLASS 2 FELONY KIDNAPPING; SEXUAL ASSAULT UNDER PART 4, ARTICLE 3 OF TITLE 18; FIRST DEGREE ARSON; FIRST DEGREE BURGLARY; OR AGGRAVATED ROBBERY, COMMITTED ON OR AFTER JANUARY 1, 2025, SHALL BE ELIGIBLE FOR PAROLE AFTER SUCH PERSON HAS SERVED EIGHTY-FIVE PERCENT OF THE SENTENCE IMPOSED UPON SUCH PERSON. THEREAFTER, THE PROVISIONS OF SECTION 17-22.5-303 (6) AND (7) APPLY.

(3) ANY PERSON CONVICTED AND SENTENCED FOR A CRIME COMMITTED BEFORE JANUARY 1, 2025, FOR ANY CRIME ENUMERATED IN SUBSECTION (1) OF THIS SECTION, WHO HAS TWICE PREVIOUSLY BEEN CONVICTED FOR A CRIME OF VIOLENCE, SHALL BE ELIGIBLE FOR PAROLE AFTER HE HAS SERVED THE SENTENCE IMPOSED LESS ANY TIME AUTHORIZED FOR EARNED TIME PURSUANT TO SECTION 17-22.5-302. THEREAFTER, THE PROVISIONS OF SECTION 17-22.5-303 (6) AND (7) ~~shall~~ APPLY.

~~(3)-(4) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS TITLE 17, ANY PERSON CONVICTED AND SENTENCED FOR A CRIME COMMITTED ON OR AFTER JANUARY 1, 2025, FOR ANY CRIME ENUMERATED IN SUBSECTION (2) OF THIS SECTION, WHO HAS TWICE PREVIOUSLY BEEN CONVICTED FOR A CRIME OF VIOLENCE, SHALL BEGIN PAROLE AFTER HE HAS SERVED THE FULL SENTENCE IMPOSED. THEREAFTER, THE PROVISIONS OF SECTION 17-22.5-303 (6) AND (7) APPLY.~~

(5) THE GOVERNOR MAY GRANT PAROLE TO AN OFFENDER TO WHOM THIS SECTION APPLIES BEFORE SUCH OFFENDER'S PAROLE ELIGIBILITY DATE IF, IN THE GOVERNOR'S OPINION, EXTRAORDINARY MITIGATING CIRCUMSTANCES EXIST AND SUCH OFFENDER'S RELEASE FROM INSTITUTIONAL CUSTODY IS COMPATIBLE WITH THE SAFETY AND WELFARE OF SOCIETY.

**SECTION 2.** In Colorado Revised Statutes, 17-22.5-403, **repeal and reenact, with amendments**, (2.5)(a) as follows:

**17-22.5-403. Parole Eligibility.**

(2.5)(a) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, ANY PERSON CONVICTED AND

SENTENCED FOR SECOND DEGREE MURDER, FIRST DEGREE ASSAULT, FIRST DEGREE KIDNAPPING UNLESS THE FIRST DEGREE KIDNAPPING IS A CLASS 1 FELONY, FIRST DEGREE ARSON, FIRST DEGREE BURGLARY, OR AGGRAVATED ROBBERY, COMMITTED ON OR AFTER JULY 1, 2004, BUT BEFORE JANUARY 1, 2025, SHALL BE ELIGIBLE FOR PAROLE AFTER SUCH PERSON HAS SERVED SEVENTY-FIVE PERCENT OF THE SENTENCE IMPOSED UPON SUCH PERSON, LESS ANY TIME AUTHORIZED FOR EARNED TIME GRANTED PURSUANT TO SECTION 17-22.5-405.

**SECTION 3. Effective Date.**

This act takes effect on the date of the proclamation of the Governor announcing the approval, by the registered electors of the state, of the proposed initiative.

## C.R.S. 17-22.5-303.3

Statutes current through Chapter 65 from the 2023 Regular Session and effective as of April 11, 2023. The text of this section is not final. It will not be final until compared to, and updated from, the text provided by the Colorado Office of Legislative Legal Services later this year.

*Colorado Revised Statutes Annotated* > *Title 17. Corrections (§§ 17-1-101 — 17-42-104)* > *Correctional Facilities and Programs (§§ 17-18-101 — 17-34-102)* > *Facilities (Arts. 18 — 26.5)* > *Article 22.5. Inmate and Parole Time Computation (Pts. 1 — 4)* > *Part 3. Offenders Sentenced for Crimes Committed on or After July 1, 1979 (§§ 17-22.5-301 — 17-22.5-307)*

### 17-22.5-303.3. Violent offenders - parole.

(1) Any person sentenced for second degree murder, first degree assault, first degree kidnapping, unless the first degree kidnapping is a class 1 felony, first or second degree sexual assault, first degree arson, first degree burglary, or aggravated robbery, committed on or after July 1, 1987, who has previously been convicted of a crime of violence, shall be eligible for parole after he has served seventy-five percent of the sentence imposed less any time authorized for earned time pursuant to section 17-22.5-302. Thereafter, the provisions of section 17-22.5-303 (6) and (7) shall apply.

(2) Any person sentenced for any crime enumerated in subsection (1) of this section, who has twice previously been convicted for a crime of violence, shall be eligible for parole after he has served the sentence imposed less any time authorized for earned time pursuant to section 17-22.5-302. Thereafter, the provisions of section 17-22.5-303 (6) and (7) shall apply.

(3) The governor may grant parole to an offender to whom this section applies before such offender's parole eligibility date if, in the governor's opinion, extraordinary mitigating circumstances exist and such offender's release from institutional custody is compatible with the safety and welfare of society.

### History

**Source:** L. 87:Entire section added, p. 655, § 12, effective July 1. L. 88:(1) amended, p. 1435, § 28, effective June 11.

Annotations

### Research References & Practice Aids

Hierarchy Notes:

C.R.S. Title 17

C.R.S. Title 17, Art. 22.5

## State Notes

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## ANNOTATION

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### Definition of “crime of violence”

in § 16-11-309 applies in determining when a convicted person is eligible for parole under § 17-22.5-303.3 (1). *Busch v. Gunter*, 870 P.2d 586 (Colo. App. 1993).

### **A convicted person is eligible for parole after serving seventy-five percent of the person’s sentence**

if previously convicted of a crime in which a deadly weapon was used, possessed, or threatened to be used. *Busch v. Gunter*, 870 P.2d 586 (Colo. App. 1993).

Colorado Revised Statutes Annotated  
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## **C.R.S. 17-22.5-403**

Statutes current through Chapter 65 from the 2023 Regular Session and effective as of April 11, 2023. The text of this section is not final. It will not be final until compared to, and updated from, the text provided by the Colorado Office of Legislative Legal Services later this year.

*Colorado Revised Statutes Annotated > Title 17. Corrections (§§ 17-1-101 — 17-42-104) > Correctional Facilities and Programs (§§ 17-18-101 — 17-34-102) > Facilities (Arts. 18 — 26.5) > Article 22.5. Inmate and Parole Time Computation (Pts. 1 — 4) > Part 4. Parole Eligibility and Discharge from Custody (§§ 17-22.5-401 — 17-22.5-407)*

### **17-22.5-403. Parole eligibility.**

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**(1)** Any person sentenced for a class 2, class 3, class 4, class 5, or class 6 felony, or a level 1, level 2, level 3, or level 4 drug felony, or any unclassified felony shall be eligible for parole after such person has served fifty percent of the sentence imposed upon such person, less any time authorized for earned time granted pursuant to section 17-22.5-405. However, the date established by this subsection (1) upon which any person shall be eligible for parole may be extended by the executive director for misconduct during incarceration. The executive director shall promulgate rules and regulations concerning when and under what conditions any inmate's parole eligibility date may be extended. Such rules and regulations shall be promulgated in such a manner as to promote fairness and consistency in the treatment of all inmates.

**(2)**

**(a)** Notwithstanding subsection (1) of this section, any person convicted and sentenced for second degree murder, first degree assault, first degree kidnapping unless the first degree kidnapping is a class 1 felony, first or second degree sexual assault, first degree arson, first degree burglary, or aggravated robbery, committed on or after June 7, 1990, and before July 1, 2004, which person has previously been convicted of a crime which would have been a crime of violence as defined in section 18-1.3-406, C.R.S., shall be eligible for parole after such person has served seventy-five percent of the sentence imposed upon such person, less any time authorized for earned time granted pursuant to section 17-22.5-405.

**(b)** The provisions of paragraph (a) of this subsection (2) shall not apply to persons sentenced pursuant to part 10 of article 1.3 of title 18, C.R.S.

**(c)**

**(i)** A person who is convicted as an adult of a class 1 felony following a direct filing of an information or indictment in the district court pursuant to section 19-2.5-801, or transfer of proceedings to the district court pursuant to section 19-2.5-802, or pursuant to either of these sections as they existed prior to their repeal and

reenactment, with amendments, by House Bill 96-1005, which felony was committed on or after July 1, 1990, and before July 1, 2006, and who is resentenced pursuant to section 18-1.3-401 (4)(c), is not entitled to receive any reduction of the person's sentence pursuant to this section.

(II) Repealed.

**(2.5)**

(a) Notwithstanding subsection (1) of this section, any person convicted and sentenced for second degree murder, first degree assault, first degree kidnapping unless the first degree kidnapping is a class 1 felony, first degree arson, first degree burglary, or aggravated robbery, committed on or after July 1, 2004, shall be eligible for parole after such person has served seventy-five percent of the sentence imposed upon such person, less any time authorized for earned time granted pursuant to section 17-22.5-405.

(b) The provisions of paragraph (a) of this subsection (2.5) shall only apply to:

(I) A person convicted and sentenced for a crime listed in paragraph (a) of this subsection (2.5) that is a class 2 or class 3 felony offense; or

(II) A person convicted and sentenced for a crime listed in paragraph (a) of this subsection (2.5) that is a class 4 or class 5 felony offense, which person has previously been convicted of a crime of violence as defined in section 18-1.3-406, C.R.S.

(3) Notwithstanding subsection (1) or (2) of this section, any person convicted and sentenced for any crime enumerated in subsection (2) of this section, committed on or after June 7, 1990, and before July 1, 2004, who has twice previously been convicted for a crime which would have been a crime of violence as defined in section 18-1.3-406, C.R.S., shall be eligible for parole after such person has served seventy-five percent of the sentence served upon such person, at which time such person shall be referred by the department to the state board of parole which may place such person on parole for a period of time which does not exceed the time remaining on such person's original sentence. For offenses committed on or after July 1, 1993, such person shall be placed on parole for the period of time specified in section 18-1.3-401 (1)(a)(V), C.R.S. Section 17-22.5-402 (2) shall not apply to any such offender.

**(3.5)**

(a) Notwithstanding subsection (1) or (2.5) of this section, any person convicted and sentenced for any crime enumerated in subsection (2.5) of this section, committed on or after July 1, 2004, who has previously been convicted for a crime which would have been a crime of violence as defined in section 18-1.3-406, C.R.S., shall be eligible for parole after such person has served seventy-five percent of the sentence served upon such person, at which time such person shall be referred by the department to the state board of parole which may place the person on parole for the period of time specified in section 18-1.3-401 (1)(a)(V), C.R.S. Section 17-22.5-402 (2) shall not apply to any such offender.

(b) The provisions of paragraph (a) of this subsection (3.5) shall only apply to:

(I) A person convicted and sentenced for a crime listed in paragraph (a) of subsection (2.5) of this section that is a class 2 or class 3 felony offense; or

(II) A person convicted and sentenced for a crime listed in paragraph (a) of subsection (2.5) of this section that is a class 4 or class 5 felony offense, which person has twice previously been convicted of a crime of violence as defined in section 18-1.3-406, C.R.S.

(4) The governor may grant parole to an inmate to whom subsection (2) or (3) of this section applies prior to such inmate's parole eligibility date or discharge date if, in the governor's opinion, extraordinary mitigating circumstances exist and such inmate's release from institutional custody is compatible with the safety and welfare of society.

**(4.5)**

(a) After considering any relevant evidence presented by any person or agency and considering the presumptions set forth in section 17-34-102 (8), the governor may grant early parole to an offender to whom subsection (1) or (2.5) of this section applies when the offender successfully completes the specialized program described in section 17-34-102 if, in the governor's opinion, extraordinary mitigating circumstances exist and the offender's release from institutional custody is compatible with the safety and welfare of society.

(b) When an offender applies for early parole pursuant to paragraph (a) of this subsection (4.5) after having successfully completed the specialized program described in section 17-34-102, the offender shall make his or her application to the governor's office with notice and a copy of the application sent to the state board of parole created in section 17-2-201. The state board of parole shall review the offender's application and all supporting documents and schedule a hearing if the board considers making a recommendation for early parole, at which hearing any victim must have the opportunity to be heard, pursuant to section 24-4.1-302.5 (1)(j), C.R.S. Not later than ninety days after receipt of a copy of an offender's application for early parole, the state board of parole, after considering the presumptions set forth in section 17-34-102 (8), shall make a recommendation to the governor concerning whether early parole should be granted to the offender.

(c) The department, in consultation with the state board of parole, shall develop any necessary policies and procedures to implement this subsection (4.5), including procedures for providing notice to any victim, as required by sections 24-4.1-302.5 (1)(j) and 24-4.1-303 (14), C.R.S., and to the district attorney's office that prosecuted the crime for which the offender was sentenced.

(5) For any offender who is incarcerated for an offense committed prior to July 1, 1993, upon application for parole, the state board of parole, working in conjunction with the department and using the guidelines established pursuant to section 17-22.5-404, shall determine whether or not to grant parole and, if granted, the length of the period of parole. Prior to the parole release hearing, the division of adult parole shall conduct a parole plan investigation and inform the state board of parole of the results of the investigation. If the state board of parole finds an inmate's parole plan inadequate, it shall table the parole release decision and inform the director of the division of adult parole that

the parole plan is inadequate. The director of the division of adult parole shall ensure that a revised parole plan that addresses the deficiencies in the original parole plan is submitted to the parole board within thirty days after the notification. The parole board is responsible for monitoring the department's compliance with this provision and shall notify the director of the division of adult parole if a revised parole plan is not submitted to the parole board within thirty days. The state board of parole may set the length of the period of parole for any time period up to the date of final discharge as determined in accordance with section 17-22.5-402. If an application for parole is refused by the state board of parole, the state board of parole shall reconsider within one year thereafter whether such inmate should be granted parole. The state board of parole shall continue such reconsideration each year thereafter until such inmate is granted parole or until such inmate is discharged pursuant to law; except that:

**(a)** If the inmate applying for parole was convicted of any class 3 sexual offense described in part 4 of article 3 of title 18, C.R.S., a habitual criminal offense as defined in section 18-1.3-801 (2.5), C.R.S., or of any offense subject to the requirements of section 18-1.3-904, C.R.S., the board need only reconsider granting parole to such inmate once every three years, until the board grants such inmate parole or until such inmate is discharged pursuant to law; or

**(b)** If the inmate was convicted of a class 1 or class 2 felony that constitutes a crime of violence, as defined in section 18-1.3-406, C.R.S., the board need only reconsider granting parole to such inmate once every five years, until the board grants such inmate parole or until such inmate is discharged pursuant to law.

**(6)** For persons who are granted parole pursuant to subsection (5) of this section, the division of adult parole shall provide parole supervision and assistance in securing employment, housing, and such other services as may effect the successful reintegration of such offender into the community while recognizing the need for public safety. The conditions for parole for any such offender under this subsection (6) shall be established pursuant to section 17-22.5-404 by the state board of parole prior to such offender's release from incarceration. Upon a determination in a parole revocation proceeding that the conditions of parole have been violated, the state board of parole shall continue the parole in effect, modify the conditions of parole if circumstances then shown to exist require such modifications, which circumstances shall be set forth in writing, or revoke the parole and order the return of the offender to a place of confinement designated by the executive director for any period of time up to the period remaining on such person's sentence, including the remainder of the offender's natural life if applicable, until the discharge date as determined by section 17-22.5-402 or one year, whichever is longer. In computing the period of reincarceration for an offender other than an offender sentenced for a nonviolent felony offense, as defined in section 17-22.5-405 (5), the time between the offender's release on parole and return to custody in Colorado for revocation of such parole shall not be considered to be part of the term of the sentence. The state board of parole may discharge an offender granted parole under this section at any time during the term of parole upon a determination that the offender has been sufficiently rehabilitated and reintegrated into society and can no longer benefit from parole supervision.

**(7)**



**(a)** For any offender who is incarcerated for an offense committed on or after July 1, 1993, upon application for parole, the state board of parole, working in conjunction with the department and using the guidelines established pursuant to section 17-22.5-404, shall determine whether or not to grant parole. The state board of parole, if it determines that placing an offender on parole is appropriate, shall set the length of the period of parole at the mandatory period of parole established in section 18-1.3-401 (1)(a)(V) or 18-1.3-401.5 (2)(a), C.R.S., except as otherwise provided for specified offenses in section 17-2-201 (5)(a), (5)(a.5), and (5)(a.7).

**(b)** Notwithstanding the provisions of paragraph (a) of this subsection (7), for any sex offender, as defined in section 18-1.3-1003 (4), C.R.S., who is sentenced pursuant to the provisions of part 10 of article 1.3 of title 18, C.R.S., for commission of a sex offense committed on or after November 1, 1998, the state board of parole shall determine whether or not to grant parole as provided in section 18-1.3-1006, C.R.S. If the state board of parole determines that placing a sex offender on parole is appropriate, it shall set an indeterminate period of parole as provided in section 18-1.3-1006, C.R.S.

**(c)** If the state board of parole does not grant parole pursuant to subsection (7)(a) or (7)(b) of this section because it finds an inmate's parole plan inadequate, it shall table the parole release decision and inform the director of the division of adult parole that the parole plan is inadequate. The director of the division of adult parole shall ensure that a revised parole plan that addresses the deficiencies in the original parole plan is submitted to the parole board within thirty days after the notification. The parole board is responsible for monitoring the department's compliance with this provision and shall notify the director of the division of adult parole if a revised parole plan is not submitted to the parole board within thirty days.

**(8)**

**(a)** For persons who are granted parole pursuant to paragraph (a) of subsection (7) of this section, the division of adult parole shall provide parole supervision and assistance in securing employment, housing, and such other services as may affect the successful reintegration of such offender into the community while recognizing the need for public safety. The conditions for parole for any such offender under this paragraph (a) shall be established pursuant to section 17-22.5-404 by the state board of parole prior to such offender's release from incarceration. Upon a determination that the conditions of parole have been violated in a parole revocation proceeding, the state board of parole shall continue the parole in effect, modify the conditions of parole if circumstances then shown to exist require such modifications, which circumstances shall be set forth in writing, or revoke the parole and order the return of the offender to a place of confinement designated by the executive director for any period of time up to the period remaining on such person's mandatory period of parole established in section 18-1.3-401 (1)(a)(V) or 18-1.3-401.5 (2)(a), C.R.S. Any offender who has been reincarcerated due to a parole revocation pursuant to this paragraph (a) shall be eligible for parole at any time during such reincarceration. The state board of parole may discharge an offender granted parole under this section at any time during the term of parole upon a determination that the offender has been sufficiently

rehabilitated and reintegrated into society and can no longer benefit from parole supervision. In making any such determination, the state board of parole shall make written findings as to why such offender is no longer in need of parole supervision.

**(b)** For sex offenders, as defined in section 18-1.3-1003 (4), C.R.S., who are convicted of an offense committed on or after November 1, 1998, and who are granted parole pursuant to paragraph (b) of subsection (7) of this section, the division of adult parole shall provide parole supervision and assistance in securing employment, housing, and such other services as may affect the successful reintegration of the sex offender into the community while recognizing the need for public safety. The conditions for parole for any sex offender shall be established pursuant to section 18-1.3-1006, C.R.S., and section 17-22.5-404 by the state board of parole prior to the sex offender's release from incarceration. Upon a determination in a parole revocation proceeding that the sex offender has violated the conditions of parole, the state board of parole shall continue the parole in effect, modify the conditions of parole if circumstances then shown to exist require such modifications, which circumstances shall be set forth in writing, or revoke the parole and order the return of the sex offender to a place of confinement designated by the executive director for any period of time up to the remainder of the sex offender's natural life. The revocation hearing shall be held and the state board of parole shall make its determination as provided in section 18-1.3-1010, C.R.S. The state board of parole may discharge a sex offender from parole as provided in section 18-1.3-1006 (3), C.R.S.

**(9)** The state board of parole shall consider the parole of a person whose parole is revoked either for a technical violation or based on a self-revocation at least once within one hundred eighty days after the revocation if the person's release date is more than nine months from the date of the person's revocation; except that a person whose parole is revoked based on a technical violation that involved the use of a weapon shall not be considered for parole for one year.

## History

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**Source:** **L. 90:**Entire part added, p. 947, § 19, effective June 7. **L. 93:**(1) amended, p. 1730, § 11, effective July 1; entire section amended, p. 1978, § 4, effective July 1. **L. 94:**(5) and (7) amended, p. 2597, § 7, effective June 3. **L. 95:**(6) amended, p. 878, § 13, effective May 24. **L. 98:**(9) added, p. 1445, § 37, effective July 1; (7) and (8) amended, p. 1291, § 12, effective November 1. **L. 2000:**(6), (8), and (9)(c) amended, p. 854, § 63, effective May 24. **L. 2002:**(7)(a) amended, p. 125, § 3, effective March 26; (2), (3), (5), (7)(a), (7)(b), (8)(a), (8)(b), and (9)(a) amended, p. 1504, § 164, effective October 1. **L. 2003:**(2) amended, p. 975, § 10, effective April 17; (7)(a) amended, p. 813, § 2, effective July 1; (9) amended, p. 2677, § 4, effective July 1. **L. 2004:**(2) and (3) amended and (2.5) and (3.5) added, p. 1739, § 1, effective June 4. **L. 2008:**(6) amended, p. 1756, § 5, effective July 1. **L. 2013:**(1), (7)(a), and (8)(a) amended,(SB 13-250), ch. 333, p.1932, § 49, effective October 1. **L. 2015:**(5), (6), (7), and (8)(b) amended,(HB 15-1122), ch. 37, p. 89, § 5, effective March 20. **L. 2016:**(2)(c) added,(SB 16-181), ch. 353, p. 1449, § 3, effective June 10; (4.5) added,(SB 16-180), ch. 352, p. 1443, § 3,

effective August 10. **L. 2017:IP(5)** amended,(HB 17-1326), ch. 394, p. 2030, § 5, effective August 9. **L. 2019:IP(5)** amended and (7)(c) added,(SB 19-143), ch. 286, p. 2660, § 6, effective May 28. **L. 2021:(2)(c)(I)** amended,(SB 21-059), ch. 136, p. 716, § 34, effective October 1.

Annotations

## **Research References & Practice Aids**

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### **Hierarchy Notes:**

C.R.S. Title 17

C.R.S. Title 17, Art. 22.5

C.R.S. Title 17, Art. 22.5, Pt. 4

## **State Notes**

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## **Notes**

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### **Editor's note:**

(1) Amendments to this section by House Bill 93-1302 and House Bill 93-1088 were harmonized. Amendments to subsection (7)(a) by House Bill 02-1223 and House Bill 02-1046 were harmonized, effective October 1, 2002.

(2) Subsection (2)(c)(II)(B) provided for the repeal of subsection (2)(c)(II), effective one year after June 10, 2016. (See L. 2016, p. 1449.)

## **ANNOTATION**

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### **Application of the triennial review authorized in subsection (5) does not violate the ex post facto clauses**

in the federal or state constitution. *Martinez v. Colo. State Bd. of Parole*, 989 P.2d 256 (Colo. App. 1999).

### **Retrospective application of the 1993 mandatory parole provisions of this section, in conjunction with § 18-1-105 (1)(a)(V), not violative of ex post facto clause**

where defendant had pleaded guilty to underlying offense with stipulation that the offense occurred within a time frame that happened to include time periods both prior and subsequent to the date such provisions were enacted. *People v. Flagg*, 18 P.3d 792 (Colo. App. 2000).

**Retroactive application of the policy of the parole board to no longer reconsider a parole application**

two months early does not extend a prisoner's actual period of confinement and is appropriate. *Mulberry v. Neal*, 96 F. Supp. 2d 1149 (D. Colo. 2000).

**The crime of violence qualifier in subsection (2.5)(b) only applies to subsection (2.5)(b)(II), not all of subsection (2.5)(b).**

*Owens v. Williams*, 2020 COA 177, 490 P.3d 1050.

**In enacting statutory section, general assembly did not intend 75% provision**

to apply only to persons whose prior violent crime resulted in a separate charge and separate conviction. Instead, general assembly's general goal was to make parole eligibility more difficult for all persons who have previously committed a violent crime. *Outler v. Norton*, 934 P.2d 922 (Colo. App. 1997).

**Subsection (1) applies only to an offender sentenced for a crime committed on or after July 1, 1979.**

*Vashone-Caruso v. Suthers*, 29 P.3d 339 (Colo. App. 2001).

**Notwithstanding subsection (1) of this section, in computing an inmate's parole eligibility date, § 17-22.5-101 requires the department of corrections to construe all sentences as one continuous sentence**

when the inmate has been committed under several convictions with separate sentences, even when doing so results in the inmate becoming parole eligible before serving at least 50 percent of the second sentence. *Nowak v. Suthers*, 2014 CO 14, 320 P.3d 340.

**Subsection (1) of this section is not irreconcilable with § 17-22.5-101.**

The two statutes can be harmonized by construing the "sentence imposed upon such person", as used in subsection (1), as the one continuous sentence mandated by § 17-22.5-101. *Nowak v. Suthers*, 2014 CO 14, 320 P.3d 340.

**Plain and ordinary meaning of the words "would have been a crime of violence" as used in the section**

includes the situation in which a criminal defendant has been previously convicted of a crime which satisfies definition of crime of violence contained in § 16-11-309 (2). *Outler v. Norton*, 934 P.2d 922 (Colo. App. 1997).

**The language of subsection (3) is unambiguous**

and contains no qualification that the crimes arise out of separate criminal transactions and have been separately tried and convicted. *Koucherik v. Zavaras*, 940 P.2d 1063 (Colo. App. 1996).

**Defendant's assertion that the application of subsection (3) to his circumstances denied him equal protection of the law**

was not supported by any evidence and defendant therefore failed to meet his burden to show that he was being treated differently from other persons who were similarly situated. *Koucherik v. Zavaras*, 940 P.2d 1063 (Colo. App. 1996).

**Extension of inmate's parole eligibility date under subsection (2)(a) or (3) does not alter or increase inmate's sentence.**

*Jenner v. Ortiz*, 155 P.3d 563 (Colo. App. 2006).

**Defendant's post-conviction challenge to imposition of mandatory parole period**

as an unconstitutional violation of the double jeopardy clause based on the assertion that only the parole board has the authority to impose parole was denied, since the parole board only administers parole and the court imposes it; hence there is no separate penalty imposed in a separate proceeding. *People v. Xiong*, 10 P.3d 719 (Colo. App. 2000).

**With a mandatory parole period, an offender does not begin serving the period of parole until his or her prison sentence has been fully served or the parole board determines that he or she is ready for parole.**

*People v. Hall*, 87 P.3d 210 (Colo. App. 2003).

**While an offender subject to discretionary parole will never be confined for a period greater than the original sentence imposed, an offender subject to mandatory parole faces a sentence**

to prison, a period of parole, and possibly another period of confinement not necessarily limited to the original term of incarceration imposed. *People v. Hall*, 87 P.3d 210 (Colo. App. 2003).

**Only the parole board, not a parole officer, has the authority to direct that an offender attend a community corrections program as a condition of parole.**

*People v. Lanzieri*, 996 P.2d 156 (Colo. App. 1999), rev'd on other grounds, 25 P.3d 1170 (Colo. 2001).

**Subsection (9) does not violate separation of powers or double jeopardy.**

The constitution does not provide that sentencing is within the sole province of the judiciary. The general assembly has the power to prescribe punishment and limit the court's sentencing authority. In this case, the general assembly, by enacting subsection (9), simply extended Colorado's parole supervision scheme to provide additional means for successfully reintegrating

offenders into the community consistent with public safety. *People v. Jackson*, 109 P.3d 1017 (Colo. App. 2004).

Defendant was on notice that, under certain circumstances, he or she could be subject to post-release supervision and reincarceration following mandatory parole. Thus, he or she could not have had a legitimate expectation of finality in the sentence announced by the court at sentencing. Therefore, the defendant's double jeopardy rights were not violated when, because of intervening circumstances, the defendant was subject to the additional period of statutorily required supervision. *People v. Jackson*, 109 P.3d 1017 (Colo. App. 2004).

**Department of corrections acted properly**

when it combined all of defendant's sentences, treating them as a continuous sentence, before the applicable parole date was determined. *People v. Gallegos*, 975 P.2d 1135 (Colo. App. 1998).

**When the department of corrections calculates an inmates parole eligibility date based on multiple convictions**

and one conviction would be subject to subsection (1) and the others would be subject to subsection (2.5), the department may apply subsection (2.5) to the one continuous sentence. When sentences are for a mix of offenses that implicate different parole eligibility date calculations, the department may, using its discretion and expertise, apply a governing sentencing theory in administering the one continuous sentence. *Owens v. Williams*, 2020 COA 177, 490 P.3d 1050.

**When a defendant is paroled under this section or under § 17-22.5-303, he must be reincarcerated for a parole violation under the same statute.**

*People v. Gallegos*, 975 P.2d 1135 (Colo. App. 1998).

**A period of confinement attributable to a parole revocation was not a "period of mandatory parole".**

When a person is reincarcerated on a parole revocation, he is no longer serving his original sentence. Therefore, when a person is sentenced for the crime of escape during a period of mandatory parole for another offense, ordering such a sentence to run consecutive with the period of incarceration for the parole revocation did not violate § 18-1.3-401 (1)(a)(V)(E). *People v. Luther*, 58 P.3d 1013 (Colo. 2002).

**Subsection (5) applied to defendant convicted of first degree murder, even though defendant was not convicted of a separate count of crime of violence.**

This subsection does not require proof of conviction of a crime of violence count, instead it applies to any defendant convicted of any crime described as a crime of violence in § 16-11-309. *Martinez v. Colo. State Bd. of Parole*, 989 P.2d 256 (Colo. App. 1999).

**Defendant's argument that he did not enter into a voluntary plea because he was not advised that a violation of mandatory parole could lead to reincarceration was without merit.**

Pursuant to subsection (7), a term of mandatory parole is imposed in addition to, and not in lieu of, a term of incarceration. If parole is granted, it must be for the mandatory period established by statute and it is implied that an advisement on mandatory parole includes notice that violation of such parole may result in imprisonment. *People v. Jones*, 957 P.2d 1046 (Colo. App. 1997).

**The provisions of § 17-2-201 (5)(a) and subsection (7) of this section are in conflict.**

Section 17-2-201 (5)(a) is a specific provision related to the parole of sex offenders while subsection (7) of this section is the mandatory parole statute for all felonies. As such, applying the statutory construction rule that the specific provision prevails over the general provision, § 17-2-201 (5)(a) is an exception to subsection (7) of this section by creating a specialized schedule for sex offenders who committed crimes prior to July 1, 1996. *Martin v. People*, 27 P.3d 846 (Colo. 2001).

Section 17-2-201 (5)(a.5) is a specific provision related to the parole of sex offenders while subsection (7) of this section is the mandatory parole statute for all felonies. As such, applying the statutory construction rule that the specific provision prevails over the general provision, § 17-2-201 (5)(a.5) is an exception to subsection (7) of this section, which creates a specialized schedule for sex offenders who committed crimes between July 1, 1996, and July 1, 1998. *People v. Cooper*, 27 P.3d 348 (Colo. 2001).

**Subsection (8)(b) and § 17-2-103 (11)(b) conflict when a parole revocation is for a sex offender subject to lifetime supervision.**

Since this section is the more specific provision, it applies to the revocation of a lifetime supervision sex offender's parole. *People v. Back*, 2013 COA 114, 412 P.3d 565.

**Habitual offenders are subject to a period of discretionary parole rather than a period of statutory mandatory parole.**

The provisions of § 17-2-201 (5)(a) and § 17-2-213 irreconcilably conflict with the provisions of subsection (7) of this section and § 18-1-105 (1)(a)(V). Thus, the specific provision of § 17-2-201 (5)(a) and § 17-2-213 prevail over the general provisions of subsection (7) of this section and § 18-1-105 (1)(a)(V). *People v. Falls*, 58 P.3d 1140 (Colo. App. 2002).

**Petition to review mandatory parole is ripe**

for judicial review even though the defendant has not completed period of incarceration. *People v. Wirsching*, 30 P.3d 227 (Colo. App. 2000).

**An advisement that a defendant is subject to mandatory parole without disclosing the period of parole**

is not sufficient to meet the requirements of this section and may allow the defendant to withdraw his or her plea agreement. *People v. Wirsching*, 30 P.3d 227 (Colo. App. 2000).

**The parole board has the discretion to revoke a sex offender's parole for the rest of his or her indeterminate sentence.**

People v. Back, 2013 COA 114, 412 P.3d 565.

## **Research References & Practice Aids**

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### **Cross references:**

For the legislative declaration contained in the 2002 act amending subsections (2), (3), (5), (7)(a), (7)(b), (8)(a), (8)(b), and (9)(a), see section 1 of chapter 318, Session Laws of Colorado 2002. For the legislative declaration in HB 15-1122, see section 1 of chapter 37, Session Laws of Colorado 2015. For the legislative declaration in SB 16-180, see section 1 of chapter 352, Session Laws of Colorado 2016. For the legislative declaration in HB 17-1326, see section 1 of chapter 394, Session Laws of Colorado 2017.

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