



Colorado

Overall Grade for Colorado

Total Grade

100
/100

Letter Grade

A+

Program Grades

Special Needs Parole

Total Grade

100/100

Letter Grade

A+

Special Needs Parole

Total Grade

100 /100

Letter Grade

A+

Eligibility Criteria

21/30

8/10 Clearly set out with understandable and measurable standards.

8/10 Generous or not unduly restrictive.

5/10 No categorical exclusions/everyone is eligible for consideration.

× **Extra credit:** Terminal illness time-left-to-live provisions are reasonable and sufficiently long to permit the completion of the review and decision-making processes. **0**

Procedures

6/10

5/5 Documentation and assessment are straightforward, lacking multiple or redundant reviews and authorizations.

1/5 Time frames for completing review and/or decision-making exist and are designed to keep the process moving along.

× **Extra credit:** Expedited time frames exist for terminal cases. **0**

Engaging the Process

15/15

5/5 Clinical and other staff can identify potentially eligible individuals and initiate the process.

5/5 Incarcerated people, their loved ones, and advocates can initiate the process.

5/5 Corrections staff have an affirmative duty to identify incarcerated people eligible for compassionate release and take the steps necessary to begin the process.

Release Planning Support

15/10 +

5/5 Agencies provide comprehensive release planning.

+ **Extra credit:** Release planning includes helping the incarcerated person apply for benefits prior to release, including housing, Medicaid, Medicare, and/or veterans benefits. **+5**

5/5 Release planning begins early in the process.

Agency Policy Design

13/15

3/5 Agency rules exist for all stages of identification, initiation, assessment, and decision-making.

5/5 Agency rules are consistent with and/or complement the statute, are up to date, and internally consistent.

5/5 Rules provide clear guidance to reviewers and decision-makers about steps to take and standards to apply.

Data Collection and Public Reporting

5/10

5/5 Agencies are obliged to gather, compile, and report release data to legislature.

0/5 Reporting is made available to the public via annual reports or other means.

Right to Counsel and Appeals

15/10

5/5 Program allows counsel to represent people before decision-maker (i.e., parole board, commissioner, or court).

✘ **Extra credit:** Denials are appealable. 0

5/5 Individuals have the right to reapply should conditions change.

+ **Extra credit:** Revocations are not used to return people to prison because their condition improves or goes into remission or because the individual outlives the prognosis. +5



Overall Extra Credit

+5 The Office of the State Public Defender must provide liaisons to help incarcerated people or their family members complete Special Needs Parole applications. The Public Defender may also represent the individual in Parole Board proceedings.

+5 Colorado's Special Needs Parole supplements its top-of-the-line release planning by paying up to six months of insurance premiums for individuals age 65 and older released under the program, whom it must enroll in the "most appropriate" medical insurance benefit plan prior to or upon release. The state is otherwise not responsible for medical care of people released on Special Needs Parole.

The Numbers

Colorado did not respond to FAMM's request for information about how many people were released to Special Needs Parole in 2019 and 2020, and that information is not publicly available on the state website.

High and Low Marks

HIGH MARKS

- **Overall**, Colorado's Special Needs Parole is a standout program. FAMM gave it top grades in nearly every grading category, and the program earned additional extra credit for several innovative features we hope other states will include in their compassionate release programs.
- The program received top marks for **engaging the process**. It permits incarcerated individuals and their "liaisons," including family and legal counsel, to begin the process of seeking Special Needs Parole. And it obliges the Department of Corrections to identify and refer individuals who meet the program's criteria.
- The program received lower, though adequate, grades for **policy design**. Those reflect the fact that while the Department is obliged to identify and refer individuals it believes meet Special Needs Parole criteria, it provides no rules or guidance on who does that and how the process works. That curiously contrasts with the detailed steps defining how the Department is to handle incarcerated individuals and their liaisons' requests for referrals. That guidance is straightforward and thorough.
- The program provides commendable **release planning support**. For example, as soon as it is clear that an individual meets statutory and medical criteria, the Department – through a Parole Benefit Acquisition Team – works to identify and secure insurance.
- The program provides a **right to counsel** and received **extra credit** for authorizing the state Public Defender to assist people seeking Special Needs Parole early in the process.

LOW MARK

- Colorado's Special Needs Parole, otherwise a standout program with numerous important features, did not pass in the **eligibility criteria** category for a couple of reasons. The program commendably provides eligibility to people who are incompetent to proceed, such as people with dementia, and those who are 55 and older suffering from a medical, behavioral, or mental health disorder (for which it provides examples). The program also makes eligible people who are incapacitated and

suffering from a condition that requires costly care or treatment. But it does not explain what constitutes incapacitation or provide guidance about how to measure the cost of treatment or determine when it is "costly." Moreover, the program entirely excludes numerous categories of people due to the nature of their conviction or the time left to serve. The program does make an exception to those categorical bars for individuals with a life expectancy of 12 months or less.