PROJECT ADVOCACY / RESEARCH BRIEF

Colorado Lifetime Supervision

The reform case, the legal terrain, and a disciplined path to risk-based legislation.

A concise synthesis of a 50-lane statutory, constitutional, case-law, empirical, comparative, and campaign review of C.R.S. §§ 18-1.3-1001–1012.

September 24, 2026

Research synthesis / Draft

The reform case is strongest when it stays narrow, measurable, and honest.

The current regime combines a natural-life ceiling with treatment-gated release, broad executive discretion, and little merits review. That design can preserve intensive control for genuinely high-risk people. It is much harder to defend when it offers no reliable way to recognize reduced risk, completed treatment, or years of compliance.

1 The exit is exceptional

By FY2025, 153 of 2,066 lifetime parolees had received early discharge: 7.4% cumulatively. The statute contains an exit, but its use remains rare.

2 The standards are thin

Release and discharge turn on undefined judgments such as “undue threat” and “successfully progressed in treatment,” while the board retains broad discretion.

3 The back end is severe

Technical violations were the largest FY2025 probation-revocation category: 19 of 29 revocations. A technical parole violation can expose a person to the remainder of a natural-life sentence.

4 The law does not track risk decay

The Act is offense-triggered. It has no explicit mechanism that recalibrates supervision intensity to sustained compliance or updated actuarial risk.

5 The oversight tools already exist

Rulemaking, a performance audit, transparent decision criteria, and an earned-discharge standard can repair machinery without abolishing the regime.

RECOMMENDED POSTURE

Risk-based reform, not abolition

Keep intensive, potentially lifetime supervision for demonstrably high-risk cases. Require the system to identify who belongs there, deliver treatment, and explain continued restraint.

Guardrail. This report provides general legal and policy information. It is not legal advice, attorney work product, or filing-ready material. All outreach remains draft only; no person or office has been contacted.

The sentence is imposed in court, but its practical duration is set downstream.

The Act's formal structure is simple. Its lived structure is a chain of dependent gates. Treatment access, provider judgments, and parole-board discretion determine whether an indeterminate sentence ever ends.

1. Conviction
Listed offense activates the Act.

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2. Sentence
Minimum term with a natural-life ceiling.

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3. Treatment
Progress becomes a release prerequisite.

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4. Board review
Release depends on predictive findings.

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5. Supervision
Conditions can continue for life.

The statutory promise

C.R.S. § 18-1.3-1001 describes lifetime incarceration and supervision “if necessary,” with treatment and release built into the framework.

The operating reality

No statutory necessity test distinguishes who requires lifetime control. The parole board decides release, supervision reduction, re-escalation, and discharge within broadly framed standards.

The review gap

Courts can compel the board to perform a statutory duty, but ordinarily cannot direct how it exercises parole discretion. That makes precise statutory standards especially important.

CORE ACCOUNTABILITY QUESTION

Who must prove that lifetime restraint remains necessary - and by what evidence?

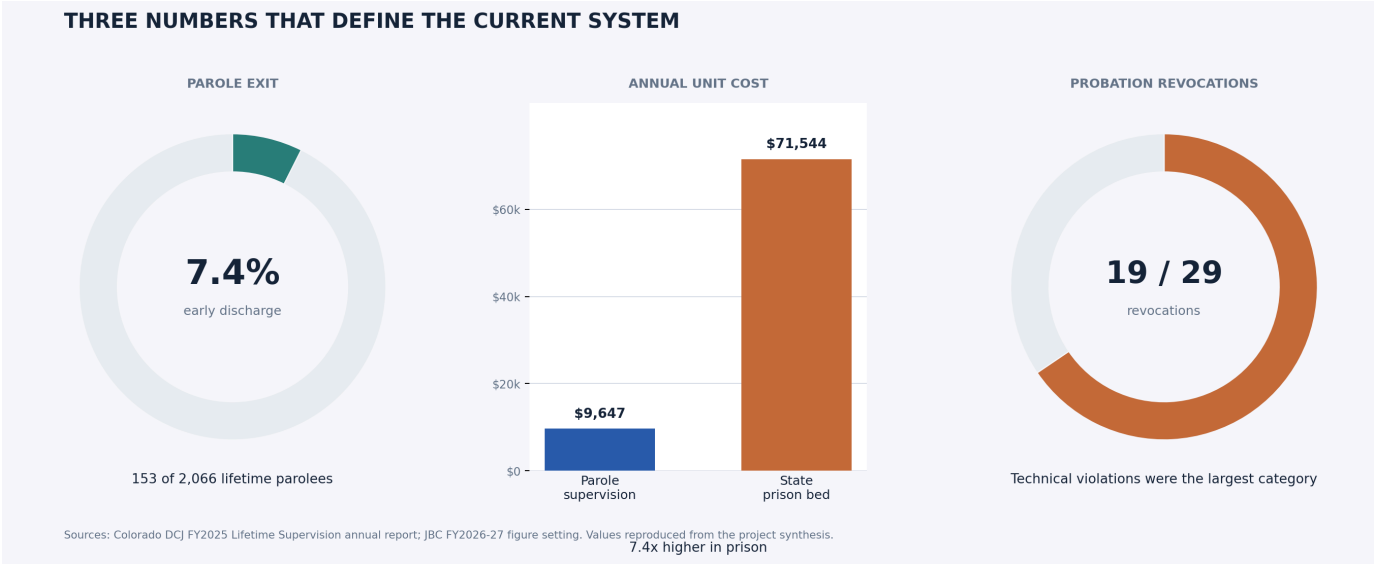
The statute does not state a burden of proof for discharge, define “undue threat,” or specify how treatment progress should be weighed against present risk.

> A system can be lawful at the front end and still need repair at the back end.

Authorities: C.R.S. §§ 18-1.3-1001, -1004, -1006, -1008, -1009; *Vensor v. People*, 151 P.3d 1274 (Colo. 2007); *Godinez v. Williams*, 2024 CO 14; *In re Question Concerning State Judicial Review of Parole Denial*, 610 P.2d 1340 (Colo. 1980).

Release is rare; revocation is consequential; incarceration is expensive.

The strongest advocacy facts are simple enough to survive a skeptical read. They use the latest reconciled discharge count, separate parole from probation, and label costs by source and vintage.



EXIT
153 of 2,066
cumulative early parole discharges through FY2025.

COST
$196.01/day
for a state prison bed versus $26.43/day for parole supervision.

REVOCATION
19 of 29
FY2025 lifetime-probation revocations were technical.

> **Read the metrics carefully.** The 153 figure is cumulative parole early discharge, not probation termination. The cost figures are FY2026-27 unit rates, not a promised savings estimate. Technical violations are a probation-track figure.

Primary source for the discharge and FY2025 revocation figures: Colorado Division of Criminal Justice, *Lifetime Supervision of Sex Offenders Annual Report, FY2025*. Unit costs are reproduced from the project synthesis of Joint Budget Committee FY2026-27 figure setting.

Four defects can be repaired without relitigating the Act's moral premise.

ISSUE	WHY IT MATTERS	CAMPAIGN	LITIGATION
Unguided board discretion §§ 1006, 1009	Release, supervision level, and discharge turn on undefined predictive terms while merits review is sharply constrained.	Strong	Weak
Class-5 discharge gap §§ 1004, 1006	Incest is a listed class-5 sex offense, but the discharge triggers specify only class 2, 3, and 4 felonies. The text appears to omit an entire class.	Strong	Open
No stated burden of proof §§ 1007, 1008	The statute supplies no evidentiary standard for discharge and does not resolve how protected silence interacts with treatment-based exit criteria.	Strong	Moderate
Technical violation exposure § 1010; Title 17	A technical violation can return a lifetime parolee to prison under a natural-life ceiling. Technical violations led the FY2025 probation-revocation categories.	Strong	Hard

The cleanest textual fix

Add a class-5 review trigger and make discharge intervals, burdens, and review rights explicit.

The cleanest systems fix

Require published release criteria, written reasons, and a rebuttable presumption after defined treatment and risk benchmarks are met.

Additional repair targets. Clarify the revocation-review path, require a hearing before re-escalation to intensive supervision, and update the 1998 legislative declaration with current evidence and an operational necessity test.

Authorities: C.R.S. §§ 18-1.3-1004, -1006 to -1010; *People v. Back*, 2013 COA 114; *People v. Dinkel*, 2013 COA 19; *People v. Roberson*, 2016 CO 36.

The live constitutional questions are as-applied, not facial.

Existing precedent gives the State formidable defenses. The credible pressure points arise when a concrete condition, denial, or revocation burdens a protected right without individualized justification.

1. Compelled admissions

Roberson and *Von Behren* protect against revocation pressure tied to specific incriminating answers. The unresolved question is whether protected silence can still block treatment progress, release, or discharge.

Moderate litigation

2. Vague conditions

Open-ended officer-created restrictions and undefined terms such as “sexually stimulating” or “high risk situations” present the best notice and arbitrary-enforcement facts.

Moderate litigation

3. Fundamental rights

Blanket conditions affecting contact with one's children, internet access, or protected speech become harder to justify after years of compliance without individualized findings.

As-applied only

4. Procedure at the back end

Undisclosed provider reports, unilateral re-escalation, and short-term confinement without a hearing can create narrow procedural claims, despite weak release-related liberty interests.

Fact dependent

Claims that should not lead

- **Adult proportionality:** the gross-disproportionality threshold is exceptionally high.
- **Facial equal protection:** Colorado cases have repeatedly applied deferential rational-basis review.
- **Registration-as-punishment:** *Smith*, *Shaw*, and *Millard* are major walls in the Tenth Circuit.
- **Facial separation of powers:** Colorado Court of Appeals precedent rejects the basic theory.

> **Posture rule.** Build the record around one person, one condition, one denial, and one preserved objection. Convert any as-applied defect into precise bill language.

The useful cases define where to press - and where not to waste capital.

THEORY	THE WALL	THE OPENING	BEST NEXT QUESTION
Parole discretion	*In re Judicial Review*: courts do not substitute judgment for the board.	*Godinez*: rehabilitation is a mandatory consideration.	What proves the board actually considered it?
Self-incrimination	*Ruch*: blanket advance refusal loses.	*Roberson*; *Von Behren*: specific, credible jeopardy is protected.	Can protected silence function as a permanent release veto?
Speech / internet	*Landis*: active probation changes the analysis.	*Packingham*; *Blair*; *Koch*: blanket restraints require tailoring.	What findings justify the condition after long compliance?
Revocation	*Johnson*: revocation generally belongs to the original sentence.	*Haymond*: some mandatory revocation penalties look like new punishment.	When does lifetime reimprisonment require more process?
Exit / discharge	*Dinkel*; *Anderson*: no early termination before statutory minimums.	The discharge machinery exists, but its appellate merits standard remains largely untested.	What objective showing creates a presumption of discharge?
State retrospectivity	No live claim without retroactive application.	Colorado Art. II, § 11 separately bars laws retrospective in operation.	Could a future expansion reach pre-amendment conduct?

STRATEGIC RULE

Do not ask a court to invalidate the entire architecture when the record supports a narrower remedy: define the condition, require written findings, protect a specific right, or compel performance of a statutory duty.

Selected authorities: *In re Question Concerning State Judicial Review of Parole Denial*, 610 P.2d 1340 (Colo. 1980); *Godinez*, 2024 CO 14; *People v. Ruch*, 2016 CO 35; *People v. Roberson*, 2016 CO 36; *United States v. Von Behren*, 822 F.3d 1139 (10th Cir. 2016); *Packingham v. North Carolina*, 582 U.S. 98 (2017); *United States v. Haymond*, 139 S. Ct. 2369 (2019).

Three underused angles can move the system from the side.

01 / GOOD GOVERNMENT

Separate the standard-setters from the bill-collectors.

Colorado law requires the committee revising adult treatment standards to be at least 80% approved treatment providers. A 2020 State Auditor review reported undisclosed actual or apparent conflicts and weak qualification checks. The reform ask is structural, not accusatory: recusal, disclosure, independent rate review, and functional separation.

02 / ADMINISTRATIVE LAW

Make the parole board publish the rules that decide liberty.

8 CCR 1511-1 § 16.00 largely repeats the statute's release terms, while § 6.02(C) excludes indeterminate sex-offender cases from the board's general actuarial guideline. A rulemaking petition or transparency bill can demand operational criteria, weighting, and reasoned departures.

03 / FEDERALISM AND MOBILITY

Measure the “life sentence to geography.”

Under the Interstate Compact, Colorado controls duration while the receiving state controls supervision. The FY2025 “other locations” bucket held three people total, so the project cautiously reports no more than three of roughly 2,800 lifetime-supervision cases out of state. Exact transfer counts and denial reasons still require records.

Why these angles travel

They can attract fiscal conservatives, civil-liberties advocates, treatment-quality experts, and institutional reformers without requiring agreement on sentencing philosophy.

What must be verified first

Current SOMB affiliations and post-audit fixes; rulemaking history of operative criteria; actual interstate requests, approvals, denials, fees, and placements.

Sources: Colorado Office of the State Auditor, SOMB performance-audit highlights (2020); 8 CCR 1511-1; Colorado DCJ FY2025 annual report.

Preserve the high-risk tool; replace categorical lifetime control with accountable decisions.

A Risk-calibrated placement

Require a validated risk assessment at sentencing, release review, supervision changes, and discharge. Publish the instrument, its limits, and any reasons for departure.

B Treatment-access guarantee

The state should not delay liberty because it failed to deliver the treatment it made a prerequisite. Add timelines, queue reporting, and a remedy for state-caused delay.

C Earned discharge

After defined treatment and offense-free milestones, create a presumption of discharge. The state may rebut it with current, individualized evidence.

D Revocation proportionality

Distinguish technical noncompliance from new criminal conduct. Require least-restrictive findings before prison and preserve graduated responses.

E Written reasons and review

Define the evidentiary burden, require written findings, disclose relied-on materials, and authorize meaningful review for legal error and unsupported departures.

F Independent oversight

Commission a performance audit measuring cost per outcome, treatment access, release consistency, revocations, and discharge by risk level.

THE GOVERNING SENTENCE

Supervise by current risk, not permanent category; fund the treatment the law requires; discharge people who satisfy transparent standards.

What the package does not do

No automatic release.
The state retains a rebuttal path based on current evidence.

No minimization.
High-risk cases remain subject to intensive control.

No fiscal promise.
An audit establishes savings rather than assuming them.

The viable route is legislative, incremental, and sequenced.

Evidence spine
Close the five verification gaps.

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Analyst briefings
Start with committee and fiscal staff.

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Quiet coalition
Cost, competence, liberty, survivor voices.

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Sponsor pair
Bipartisan and bicameral before filing.

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Public launch
Treatment access + risk-based safety.

LOW-FRICTION OPENING ASK

Put the program on the SMART Act oversight agenda.

A hearing on outcomes, treatment access, discharge, and revocation commits no member to repeal or reform. It creates the public record needed for a responsible bill.

FISCAL OPENING ASK

Request a State Auditor special audit.

Measure cost per outcome and risk targeting. Do not lead with the project's approximate $128 million annual estimate until the state verifies the underlying cohort costs.

Message discipline

LEAD WITH	AVOID
Risk-based public safety	“Most offenders never reoffend” as a slogan
Treatment access and measurable exits	Sympathy framing or automatic-release language
Verified unit costs and audit asks	Promised savings from an unverified estimate
As-applied defects and statutory repairs	Claims that the entire Act is unconstitutional
Victim-centered prevention	Speaking for all survivors

Timing. All 75th General Assembly rosters must be re-verified after the November 3, 2026 election. No outreach should use current target lists as if they were durable.

The case is strong enough to be precise about what is not yet proved.

OPEN ITEM	WHY IT MATTERS	REQUIRED NEXT SOURCE
SOMB costs and market size	Monthly treatment, evaluation, and polygraph figures are partly secondary and should not anchor public claims yet.	Official fee data, provider schedules, or Legislative Council records.
Current SOMB affiliations	The 2020 audit is verified; current governance and implementation of corrective actions are not.	Current roster, minutes, and audit follow-up.
Interstate pipeline	The “three or fewer” snapshot does not reveal applications, denials, reasons, or fees.	CDOC / State Council records, 2015-2025.
Operative rulemaking history	The administrative-law theory depends on whether practical release criteria function as binding norms without rulemaking.	Secretary of State docket; SOMB and DOC rulemaking files.
Colorado registry accuracy	Out-of-state audits do not prove a Colorado error rate.	CBI quality-control records or State Auditor review.
***Ruch* citation**	Project files conflict between 2016 CO 35 and 2016 CO 85 / 379 P.3d 315.	Official Colorado reporter and docket.
§ 1006(5) carve-out	Its current enactment status is unresolved in the source set.	Current official statutory text and session law.

Safe to use now

FY2025 discharge ratio; FY2025 technical-revocation count; JBC unit-cost pair; statutory text issues; holdings from verified cases; 2020 audit findings.

Use only with labels

The $128 million aggregate annual cost is a project estimate. “Three or fewer” interstate cases is an upper bound derived from a mixed “other locations” category.

Quality rule. A caveat is not a weakness when it prevents an avoidable credibility loss. Public materials should be shorter than this report and source every number at first use.

A compact source spine for the next round of work.

Statutes, rules, and state reporting

1. C.R.S. §§ 18-1.3-1001 to -1012, Sex Offender Lifetime Supervision Act.
2. Colorado Division of Criminal Justice, *Lifetime Supervision of Sex Offenders Annual Report, FY2025*.
3. Colorado State Board of Parole, 8 CCR 1511-1, including §§ 6.02(C) and 16.00.
4. Colorado Sex Offender Management Board, *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders* (rev. Jan. 2025).
5. Colorado Office of the State Auditor, *Sex Offender Management Board Performance Audit Highlights* (June 2020).
6. Colorado Legislative Council Staff, *Polygraphs and Sex Offenders* (2018).

Colorado cases

1. *Vensor v. People*, 151 P.3d 1274 (Colo. 2007).
2. *People v. Roberson*, 2016 CO 36.
3. *Godinez v. Williams*, 2024 CO 14, 544 P.3d 1233.
4. *People in Interest of T.B.*, 2021 CO 59, 489 P.3d 752.
5. *People v. Dinkel*, 2013 COA 19; *People v. Back*, 2013 COA 114.

Federal and comparative cases

1. *United States v. Von Behren*, 822 F.3d 1139 (10th Cir. 2016).
2. *Packingham v. North Carolina*, 582 U.S. 98 (2017).
3. *United States v. Haymond*, 139 S. Ct. 2369 (2019).
4. *Smith v. Doe*, 538 U.S. 84 (2003).
5. *Does #1-5 v. Snyder*, 834 F.3d 696 (6th Cir. 2016).
6. *Kansas v. Hendricks*, 521 U.S. 346 (1997); *Kansas v. Crane*, 534 U.S. 407 (2002).

BOTTOM LINE

Colorado does not need to choose between permanent categorical control and no control. It can reserve the strongest measures for current, demonstrated risk - and require the system to prove why continued restraint remains necessary.

Status. Draft research report. General legal and policy information only. Not legal advice, not filing-ready, and not approved for external distribution. No outreach has been sent.