

# 128

# Parole Eligibility for Crimes of Violence

Placed on the ballot by citizen initiative • Passes with a majority vote

## Proposition 128 proposes amending the Colorado statutes to:

- increase the amount of prison time a person convicted of certain crimes of violence must serve before becoming eligible for discretionary parole or earned time reductions; and
- make a person convicted of a third crime of violence ineligible for discretionary parole or earned time reductions.

## What Your Vote Means

**YES** A “yes” vote on Proposition 128 would require a person convicted of certain crimes of violence to serve at least 85 percent of their sentence in prison before being eligible for discretionary parole or earned time reductions, and make a person convicted of a third or subsequent crime of violence ineligible for earned time or discretionary parole.

**NO** A “no” vote on Proposition 128 keeps the current requirement that a person convicted of certain crimes of violence serve 75 percent of their sentence in prison before being eligible for discretionary parole, minus earned time for progressing in personal, professional, or educational programs.

## Summary and Analysis of Proposition 128

### What is parole and how does discretionary parole differ from mandatory parole?

Parole is a system to supervise convicted persons after they are released from prison. Every person sentenced to prison in Colorado is released through either discretionary or mandatory parole, unless they are sentenced to life without parole. Discretionary parole occurs when a person reaches a prescribed eligibility date, which is the minimum amount of time a person must stay in prison before parole can be considered. Thereafter, the person may apply to appear before the State Board of Parole to determine if the remaining sentence may be completed under community supervision. Mandatory parole occurs when a person reaches their mandatory release date, which is the maximum amount of time a person must stay in prison before they are automatically released on parole. In both cases, the State Board of Parole sets the conditions of community supervision, such as requiring employment, housing, or substance abuse treatment.

### How does parole for crimes of violence work under current law?

Under current law, a person convicted for certain crimes of violence must serve 75 percent of their sentence in prison before being eligible for discretionary parole, minus earned time. Earned time reduces a person's time in prison as an incentive for progressing towards certain personal, professional, or educational goals by up to 10 or 12 days a month, depending on the crime for which the person was convicted. When a person becomes eligible for discretionary parole, they appear before the State Board of Parole which determines whether they will be released from prison ahead of their mandatory release date and placed on supervised parole.

### What does Proposition 128 do?

Proposition 128 requires a person convicted of certain crimes of violence committed on or after January 1, 2025, to serve at least 85 percent of their sentence in prison before they can become eligible for discretionary parole or reduce their sentence by receiving earned time. Crimes of violence covered by the measure are murder (second degree), sexual assault (first or second degree), aggravated robbery, and the most serious cases of assault (first degree), kidnapping (class 2 felony), arson (first degree), and burglary (first degree). A person who is convicted of a third or subsequent crime of violence is ineligible for earned time or discretionary parole, meaning their entire sentence must be served in prison before the person is released on mandatory parole.

An estimated 220 individuals per year are sentenced to prison for crimes of violence and currently serve an average of about 23 years in prison, which will increase under the measure. The measure does not impact the parole eligibility of a person who is incarcerated for crimes committed before January 1, 2025.

### How does Proposition 128 change parole eligibility?

Table 1 below shows an example comparing a 20-year court-ordered prison sentence for a first or second conviction of a crime of violence under current law to the same sentence under the measure. The measure's change to the requirement to serve 75 percent of the sentence to 85 percent in this example results in an additional two years served in prison. Additionally, under current law, a person can reduce their discretionary parole eligibility date with earned time; under the measure, 85 percent of the sentence must be served in prison before a person can be eligible for earned time reductions. This results in one additional year served in prison under the measure in this example. It should be noted that discretionary parole eligibility does not guarantee a person will be released from prison as the State Board of Parole has final decision-making authority over this matter, and that mandatory parole eligibility remains the same under current law and Proposition 128.

**Table 1**  
**Crimes of Violence Sentencing Under Current Law Compared to Proposition 128**

This example assumes a 20-year court-ordered sentence and 1-year of earned time

20-year Court-Ordered Sentence	Years Served Before Discretionary Parole Eligible	1-Year Earned Time	Parole Timeframe with Earned Time
<b>Current Law</b>	75% or 15 years	<u>Can</u> reduce discretionary parole eligibility date	14 years to 19 years
<b>Proposition 128</b>	85% or 17 years	<u>Cannot</u> reduce discretionary parole eligibility date	17 years to 19 years

For information on those issue committees that support or oppose the measures on the ballot at the November 5, 2024, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:

<https://coloradosos.gov/pubs/elections/Initiatives/InitiativesHome.html>

## Argument For Proposition 128

- 1) Proposition 128 keeps people convicted of crimes of violence in prison for a longer period of time in an effort to increase public safety and ensure that justice is served. People who commit these dangerous crimes should be kept away from their victims and the community without opportunities for discretionary parole or earned time. Victims and their family members deserve the sense of security that prolonged periods of incarceration will provide.

## Argument Against Proposition 128

- 1) Proposition 128 removes the opportunity for convicted people to achieve earned time, giving them less incentive to comply with prison rules or take advantage of rehabilitation opportunities offered in prison. The prison population will grow, which will increase costs and require additional staff when many prisons are already short-staffed and have difficulty recruiting and retaining employees. Finally, there is no evidence that the measure will reduce crime rates.

## Fiscal Impact of Proposition 128

**State spending.** The measure increases state spending in two ways. In the short term, the measure requires one-time computer system updates to the Department of Corrections' case management system, estimated at \$12,000. Beginning in approximately 20 years, state spending will increase by between \$12 million and \$28 million per year due to the measure's increase in the percentage of prison sentences that must be served. This estimate is based on current costs and average lengths of stay for persons in state prison, and assumes that the number and types of convictions and total sentence lengths remain constant. Actual costs will likely increase with inflation and depend on offender behavior and decisions by the State Board of Parole.