

## CHAPTER 394

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**CORRECTIONS**

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**HOUSE BILL 19-1297**

BY REPRESENTATIVE(S) Weissman and McKean, Bird, Buckner, Buentello, Coleman, Cutter, Duran, Esgar, Exum, Galindo, Gonzales-Gutierrez, Gray, Herod, Hooton, Jackson, Kennedy, Kipp, Lontine, Melton, Michaelson Jenet, Sandridge, Singer, Sirota, Tipper, Valdez A., Becker;  
also SENATOR(S) Lee, Moreno.

**AN ACT**

**CONCERNING DATA COLLECTION FROM JAIL FACILITIES OPERATED BY POLITICAL SUBDIVISIONS OF THE STATE, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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

**SECTION 1.** In Colorado Revised Statutes, **repeal and reenact, with amendments**, 17-26-118 as follows:

**17-26-118. Criminal justice data collection - definitions - repeal.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "AVERAGE DAILY POPULATION" MEANS THE NUMBER OF CONFINED INMATES EACH DAY FOR A YEAR, DIVIDED BY THE NUMBER OF DAYS IN THE YEAR.

(b) "CASE DISPOSITION" MEANS THE FINAL JUDGMENT, ADJUDICATION, ADJUDICATION WITHHELD, DISMISSAL, OR NOLLE PROSEQUI OF A CASE.

(c) "CONFINED INMATE" MEANS AN INMATE UNDER THE SUPERVISION OF A JAIL FACILITY, INCLUDING AN INMATE WHO IS IN TRANSIT TO OR FROM A FACILITY, APPEARING IN OR IN TRANSIT TO OR FROM COURT, HELD FOR OTHER JURISDICTIONS, IN A HOSPITAL OR OTHER MEDICAL INSTITUTION FOR TREATMENT BUT WOULD OTHERWISE BE HOUSED IN THE JAIL FACILITY, IN A WORK RELEASE PROGRAM BUT RETURNS TO JAIL AT NIGHT, OR IN A COMMUNITY-BASED PROGRAM BUT RETURNS TO JAIL AT NIGHT. "CONFINED INMATE" DOES NOT INCLUDE A PERSON WHO IS ABSENT WITHOUT LEAVE, HAS ESCAPED, IS ON LONG-TERM TRANSFER TO OTHER JURISDICTIONS, OR IS IN A COMMUNITY-BASED PROGRAM BUT DOES NOT RETURN TO JAIL AT NIGHT.

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

(d) "HOLD" MEANS A MECHANISM PREVENTING A CONFINED INMATE'S RELEASE FROM CUSTODY ON BAIL, INCLUDING A HOLD ON BEHALF OF ANOTHER CRIMINAL JUSTICE AGENCY, A PAROLE HOLD, AND A PROBATION HOLD.

(e) "HOMELESS" MEANS AN INDIVIDUAL WHO LACKS A FIXED, REGULAR, AND ADEQUATE NIGHTTIME RESIDENCE. AN INDIVIDUAL IS CONSIDERED HOMELESS IF THE INDIVIDUAL'S PRIMARY ADDRESS IS RECORDED AS:

(I) TRANSIENT;

(II) A SUPERVISED PUBLICLY OR PRIVATELY OPERATED SHELTER DESIGNED TO PROVIDE TEMPORARY LIVING ACCOMMODATIONS, INCLUDING WELFARE HOTELS, CONGREGATE SHELTERS, AND TRANSITIONAL HOUSING FOR PERSONS WITH BEHAVIORAL OR MENTAL HEALTH DISORDERS; OR

(III) A PUBLIC OR PRIVATE PLACE NOT DESIGNED FOR, NOR ORDINARILY USED AS, A REGULAR SLEEPING ACCOMMODATION FOR HUMAN BEINGS, INCLUDING BUT NOT LIMITED TO AN AUTOMOBILE, A PARK, AN ABANDONED BUILDING, A BUS OR TRAIN STATION, OR A SIMILAR SETTING.

(f) "JAIL FACILITY" MEANS ANY BUILDING, STRUCTURE, ENCLOSURE, INSTITUTION, OR PLACE, WHETHER PERMANENT OR TEMPORARY, FIXED OR MOBILE, WHERE PERSONS ARE OR MAY BE LAWFULLY HELD IN CUSTODY OR CONFINED, THAT IS OPERATED BY A COUNTY OR CITY AND COUNTY.

(g) "JAIL MANAGEMENT SYSTEM" MEANS A SOFTWARE PROGRAM UTILIZED BY A JAIL FACILITY TO STORE JAIL DATA AND TO TRACK INMATE INFORMATION AND STATUS BEGINNING AT BOOKING AND UNTIL RELEASE.

(h) "LENGTH OF STAY" MEANS THE NUMBER OF CONSECUTIVE DAYS THAT A CONFINED INMATE SPENDS IN JAIL, FROM THE DATE OF BOOKING TO THE DATE OF RELEASE, COUNTING ANY PART OF ONE CALENDAR DAY, INCLUDING DAYS DURING WHICH THE INMATE SPENDS PART OF THE DAY OUTSIDE OF THE JAIL, AS ONE DAY.

(i) "MUNICIPAL OFFENSE" MEANS A VIOLATION OF, OR CONDUCT DEFINED AS UNLAWFUL BY, ANY MUNICIPAL CODE OR ORDINANCE.

(j) "OPERATIONAL CAPACITY" MEANS THE NUMBER OF INMATES WHO CAN BE ACCOMMODATED IN A JAIL FACILITY BASED ON THE NUMBER OF PERMANENT BEDS THAT THE FACILITY IS DESIGNED TO HOLD AND THE FACILITY'S STAFF, EXISTING PROGRAMS, AND SERVICES.

(k) "SENTENCED INMATE" MEANS AN INMATE WHO IS CONFINED AND ACTIVELY SERVING A SENTENCE REQUIRING A TERM OF IMPRISONMENT. AN INMATE IS CONSIDERED SENTENCED EVEN IF THE INMATE IS UNSENTENCED IN A SEPARATE CASE, AND EVEN IF THE INMATE HAS A HOLD.

(l) "SNAPSHOT" MEANS A DATA SET FROM A JAIL FACILITY THAT REPRESENTS THE REQUIRED DATA POINTS AS OF THE REPORTING DATE.

(m) "UNSENTENCED INMATE" MEANS AN INMATE WHO IS CONFINED AND AWAITING CASE DISPOSITION. AN INMATE IS NOT CONSIDERED UNSENTENCED IF THE INMATE IS ACTIVELY SERVING A SENTENCE REQUIRING A TERM OF IMPRISONMENT IN A SEPARATE CASE.

(2) THE KEEPER OF EACH JAIL FACILITY SHALL KEEP AND MAINTAIN A DAILY RECORD OF ALL DATA SPECIFIED IN SUBSECTION (3) THIS SECTION. THE INFORMATION CONTAINED IN THE RECORD MUST BE AVAILABLE TO THE PUBLIC AT ALL REASONABLE HOURS.

(3) THE KEEPER OF EACH JAIL FACILITY SHALL KEEP AND MAINTAIN A DAILY RECORD OF THE FOLLOWING DATA:

(a) FOR EACH CONFINED INMATE, THE DATE OF ENTRANCE; NAME; DATE OF BIRTH; RACE; ETHNICITY; GENDER; ANY CRIMINAL CHARGES AGAINST THE INMATE, ORGANIZED BY CODE SECTION, AND THE JURISDICTION CHARGING EACH OFFENSE; TERM OF SENTENCE, IF SENTENCED; BOND AMOUNT, IF BOND HAS BEEN SET; AND RELEASE DATE;

(b) THE OPERATIONAL CAPACITY OF THE JAIL FACILITY;

(c) THE NAME OF THE JAIL MANAGEMENT SYSTEM USED BY THE FACILITY;

(d) THE NUMBER OF CONFINED INMATES IN THE JAIL FACILITY;

(e) COUNTING EACH CONFINED INMATE ONLY ONCE, THE FOLLOWING INFORMATION CONCERNING CONFINED INMATES:

(I) THE NUMBER OF SENTENCED INMATES;

(II) THE NUMBER OF UNSENTENCED INMATES WITH A HOLD; AND

(III) THE NUMBER OF UNSENTENCED INMATES WITHOUT A HOLD;

(f) COUNTING EACH UNSENTENCED INMATE WITHOUT A HOLD ONLY ONCE, THE FOLLOWING INFORMATION CONCERNING UNSENTENCED INMATES:

(I) THE NUMBER WHOSE MOST SERIOUS CHARGED OFFENSE IS A FELONY; AND

(II) THE NUMBER WHOSE MOST SERIOUS CHARGED OFFENSE IS A MISDEMEANOR;

(g) THE NUMBER OF CONFINED INMATES HELD SOLELY FOR A MUNICIPAL OFFENSE;

(h) THE NUMBER OF CONFINED INMATES HELD IN ADMINISTRATIVE SEGREGATION OR OTHER CUSTODY LEVEL IN WHICH THE INMATE IS ALLOWED OUTSIDE OF HIS OR HER CELL FOR TWO OR FEWER HOURS PER DAY;

(i) THE NUMBER OF CONFINED INMATES AWAITING A COMPETENCY EVALUATION, AS DEFINED IN SECTION 16-8.5-101 (1); A COMPETENCY HEARING, AS DEFINED IN SECTION 16-8.5-101 (3); OR A RESTORATION HEARING, AS DEFINED IN SECTION 16-8.5-101 (13);

(j) THE AVERAGE DAILY POPULATION OF THE JAIL FACILITY;

(k) THE AVERAGE LENGTH OF STAY FOR EACH OF THE FOLLOWING:

(I) CONFINED INMATES WHO WERE RELEASED WITHIN THE PRIOR TWELVE MONTHS WHOSE MOST SERIOUS OFFENSE IS A FELONY; AND

(II) CONFINED INMATES WHO WERE RELEASED WITHIN THE PRIOR TWELVE MONTHS WHOSE MOST SERIOUS OFFENSE IS A MISDEMEANOR;

(l) THE NUMBER OF CONFINED INMATES IDENTIFIED AS HOMELESS;

(m) THE NUMBER OF DEATHS OF CONFINED INMATES; AND

(n) THE NUMBER OF BOOKINGS INTO THE JAIL FACILITY.

(4) (a) ON OR BEFORE JANUARY 17, 2020, AND ON OR BEFORE THE THIRD FRIDAY OF EACH JANUARY, APRIL, JULY, AND OCTOBER THEREAFTER, EACH JAIL FACILITY SHALL SUBMIT A QUARTERLY REPORT OF THE DATA COLLECTED PURSUANT TO SUBSECTION (3) OF THIS SECTION AS OF THE FIRST DAY OF THE MONTH IN WHICH THE REPORT IS SUBMITTED TO THE DIVISION OF CRIMINAL JUSTICE WITHIN THE DEPARTMENT OF PUBLIC SAFETY VIA AN ELECTRONIC SURVEY DESIGNED BY THE DIVISION FOR THAT PURPOSE. EACH QUARTERLY REPORT MUST INCLUDE:

(I) A SNAPSHOT OF THE DATA REQUIRED BY SUBSECTIONS (3)(b) AND (3)(c) OF THIS SECTION;

(II) A SNAPSHOT OF THE DATA REQUIRED BY SUBSECTIONS (3)(d) TO (3)(l) OF THIS SECTION ORGANIZED BY RACE, ETHNICITY, AND GENDER;

(III) DATA CONCERNING THE NUMBER OF DEATHS OF CONFINED INMATES, COLLECTED PURSUANT TO SUBSECTION (3)(m) OF THIS SECTION, AS THE TOTAL OF ALL DEATHS OF CONFINED INMATES THAT OCCURRED SINCE THE PREVIOUS REPORTING DATE; AND

(IV) DATA CONCERNING THE NUMBER OF BOOKINGS INTO THE JAIL FACILITY, COLLECTED PURSUANT TO SUBSECTION (3)(n) OF THIS SECTION, AS THE TOTAL OF ALL BOOKINGS INTO THE JAIL FACILITY THAT OCCURRED SINCE THE PREVIOUS REPORTING DATE.

(b) IF A JAIL FACILITY IS UNABLE TO PROVIDE ANY OF THE DATA THAT IT IS REQUIRED TO REPORT PURSUANT TO THIS SUBSECTION (4), THE JAIL FACILITY SHALL INCLUDE IN ITS REPORT AN EXPLANATION OF ALL GOOD FAITH EFFORTS TO COLLECT AND SUBMIT THE DATA NOT INCLUDED IN THE REPORT.

(c) IF A JAIL FACILITY FAILS TO SUBMIT A QUARTERLY REPORT PURSUANT TO THIS SUBSECTION (4) WITHIN THIRTY DAYS AFTER A REPORTING DATE, THE JAIL FACILITY IS CONSIDERED NONCOMPLIANT FOR THE QUARTERLY REPORTING PERIOD. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY SHALL SEND NOTICE OF THE FAILURE TO THE NONCOMPLIANT JAIL FACILITY.

(d) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JANUARY 31, 2023.

**SECTION 2.** In Colorado Revised Statutes, 24-33.5-518, **amend** (5); and **add** (4.5) as follows:

**24-33.5-518. Criminal justice data collection - repeal.** (4.5) (a) BEGINNING JANUARY 1, 2020, EACH JAIL FACILITY SHALL REPORT DATA REQUIRED TO BE COLLECTED PURSUANT TO SECTION 17-26-118 TO THE DIVISION IN ACCORDANCE WITH THE SCHEDULE DESCRIBED IN SECTION 17-26-118 (4). WITHIN ONE MONTH AFTER EACH REPORTING DEADLINE, THE DIVISION SHALL COLLECT, COMPILE, AND PUBLISH ALL DATA RECEIVED PURSUANT TO THIS SUBSECTION (4.5) IN A SEARCHABLE AND SORTABLE FORMAT CONTAINING BOTH STATEWIDE DATA AND DATA FOR EACH INDIVIDUAL JAIL FACILITY. IF POSSIBLE, THE DIVISION SHALL MAKE THE DATA AVAILABLE ONLINE IN AN INTERACTIVE FORMAT.

(b) THIS SUBSECTION (4.5) IS REPEALED, EFFECTIVE MARCH 31, 2023.

(5) The division shall compile and report the data received in ~~subsections (2) to (4)~~ SUBSECTIONS (2) TO (4.5) of this section by September 30 of each year. The report shall be provided to the judiciary committees of the house of representatives and senate, or any successor committees, and the Colorado commission on criminal and juvenile justice created in section 16-11.3-102. ~~C.R.S.~~

**SECTION 3. Appropriation.** For the 2019-20 state fiscal year, \$26,107 is appropriated to the department of public safety for use by the division of criminal justice. This appropriation is from the general fund and is based on an assumption that the division will require an additional 0.3 FTE. To implement this act, the division may use this appropriation for DCJ administrative services.

**SECTION 4. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 31, 2019