

CHAPTER 100

**CORRECTIONS**

HOUSE BILL 94-1288

BY REPRESENTATIVES Wright and Lyle;  
also SENATOR Bishop.

**AN ACT**

**CONCERNING THE CLARIFICATION OF STATUTES RELATED TO THE ADMINISTRATION OF  
CORRECTIONAL FACILITIES.**

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

**SECTION 1.** 16-11-403, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**16-11-403. Week of execution - warrant.** When a person is convicted of a class 1 felony, the punishment for which is death, and the convicted person is sentenced to suffer the penalty of death, the judge passing such sentence shall appoint and designate in the warrant of conviction a week of time within which the sentence must be executed; the end of such week so appointed shall be not less than ninety days nor more than one hundred twenty days from the day of passing the sentence. Said warrant shall be directed to the executive director of the department of corrections or ~~his~~ THE EXECUTIVE DIRECTOR'S designee commanding said executive director or ~~his~~ designee to execute the sentence imposed upon some day within the week of time designated in the warrant and shall be delivered to the sheriff of the county in which such conviction is had, who, within three days thereafter, shall proceed to the correctional facilities at Canon City and deliver the convicted person, together with the warrant, to said executive director or ~~his~~ designee, who shall keep the convict in confinement until infliction of the death penalty. ~~No person shall be allowed access to said convict, except his attendants, counsel, and physician, a spiritual adviser of his own selection, and members of his family, and then only in accordance with prison regulations.~~ PERSONS SHALL BE PERMITTED ACCESS TO THE INMATE PURSUANT TO PRISON RULES. SUCH RULES SHALL PROVIDE, AT A MINIMUM, FOR THE INMATE'S ATTENDANTS, COUNSEL, AND PHYSICIAN, A SPIRITUAL ADVISER SELECTED BY THE INMATE, AND MEMBERS OF THE INMATE'S FAMILY TO HAVE ACCESS TO THE INMATE.

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

**SECTION 2.** 17-1-102 (3), Colorado Revised Statutes, 1986 Repl. Vol., is amended, and the said 17-1-102 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**17-1-102. Definitions.** As used in this title, unless the context otherwise requires:

(3) "~~Director~~" means the administrative head of a correctional facility:

(9) "SUPERINTENDENT" MEANS THE ADMINISTRATIVE HEAD OF A CORRECTIONAL FACILITY.

**SECTION 3.** 17-1-103.7, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**17-1-103.7. Duties of executive director - emergency response time - legislative declaration.** (1) The general assembly hereby finds and declares that, in the interest of safety and peace of mind for all citizens, the safety of employees working in a correctional facility, as well as the safety of those prisoners not involved in a disturbance such as rioting or any other kind of insurrection at such correctional facility, it is necessary to implement a policy which assures that essential personnel of correctional facilities under the authority of the department of corrections are able to respond to an emergency call from the ~~director~~ SUPERINTENDENT of the correctional facility with a minimum amount of delay. The general assembly further finds and declares that, to that end, personnel who are deemed by the ~~director~~ SUPERINTENDENT of such facility to be essential personnel at such correctional facility shall be required to live at such a distance that the amount of delay in responding to an emergency call from the ~~director~~ SUPERINTENDENT of the correctional facility shall be limited to fifty-five minutes under normal traveling conditions.

(2) The executive director shall be required to determine which correctional facilities operated and supported by the state under ~~his~~ THE EXECUTIVE DIRECTOR'S control shall be required to impose rules for all essential personnel as defined in this article sufficient to maintain an emergency response capability. The EXECUTIVE director, in making such a determination, shall consider the size of the police force in the surrounding community which is available to respond to an emergency at the correctional facility. Such rules shall be applied only to those personnel who are essential to maintaining operational readiness at the correctional facility and who are needed to protect the safety of the community, the members of the inmate population who are not involved in the disturbance, the employees of the correctional facility, and property.

(3) For the purposes of this article, "essential personnel" includes guards, supervisors, doctors, and any other members of the staff of the correctional facility who are considered by the ~~director~~ SUPERINTENDENT of such correctional facility to be essential for the maintenance of order in the correctional facility. In no event shall it include cooks, clerical staff, building crew members, or other persons not directly involved as a matter of the ordinary course of their employment with safety and security.

**SECTION 4.** 17-1-108, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**17-1-108. Transfer of inmates.** (1) A person committed to the care and custody of the department as an inmate ~~shall not be~~ WHO IS transferred to another institution, agency, or person for care and keeping, ~~unless a complete set of records regarding the inmate to be transferred has been sent~~ OR WHO IS TRANSFERRED FROM A JAIL TO THE DEPARTMENT, SHALL BE TRANSFERRED WITH MEDICAL RECORDS AND ANY OTHER RECORD NECESSARY AND RELEVANT TO THE NATURE AND LENGTH OF THE TRANSFER. SUCH RECORDS SHALL BE PROVIDED to the person or agency who will receive the inmate and the receiving person or agency has acknowledged receipt of the records and approves of the transfer.

(2) ~~Any person who transfers an inmate in violation of subsection (1) of this section commits a class 6 felony and shall be punished as provided in section 18-1-105, C.R.S.~~

**SECTION 5.** 17-20-102 (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**17-20-102. Administration of correctional facilities - superintendents - reports.** (3) The ~~wardens~~ SUPERINTENDENTS of correctional facilities shall report to such persons as the executive director designates at such times and on such matters as the executive director may require. Publications of all correctional facilities under the supervision of the executive director which are intended to be circulated in quantity outside such facilities are subject to the approval and control of the executive director.

**SECTION 6.** 17-20-103, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**17-20-103. Superintendents and others - conservators of peace.** The ~~wardens~~ SUPERINTENDENTS of all correctional facilities under the supervision of the executive director and the staff of such correctional facilities shall be conservators of the peace and as such have the power to arrest or cause to be arrested, with or without process, upon any grounds owned or leased by this state and used by such correctional facilities, all persons who break the peace or are found upon said grounds violating any criminal law of this state and to take such persons before any court of competent jurisdiction for trial.

**SECTION 7.** 17-20-116, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**17-20-116. County or municipal roadwork.** Upon written request of a majority of the board of county commissioners of any county in this state and the order of the department, the ~~wardens~~ SUPERINTENDENT of any state correctional facility shall detail such inmates as are specified in such order, not exceeding the number specified in said written request, to work upon such public roads and highways of the state or of such county or upon such streets and alleys of any municipality within such county as are designated in the written request of said county commissioners. Such county shall pay all additional expenses of guarding said inmates while working upon said

public roads and highways within such county and shall furnish all tools and materials necessary in the performance of said work. When said work is done within the limits of any municipality within such county, the municipality where said work is done shall likewise pay all additional expenses of guarding such inmates while performing said work and shall furnish all necessary material used in said work.

**SECTION 8.** 17-20-124, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**17-20-124. Visitors at correctional facilities.** The following persons are authorized to visit any correctional facilities under the supervision of the executive director at pleasure: The governor and the judges of the supreme court, court of appeals, and district courts. No other persons shall be permitted to go within a correctional facility where inmates are confined, except AS OTHERWISE PROVIDED UNDER PRISON RULES OR by special permission of the ~~warden~~ SUPERINTENDENT.

**SECTION 9.** 17-23-101 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**17-23-101. Transfer of mentally ill or retarded persons and convicts.** (1) The executive director is empowered, when it is reported to ~~him~~ THE EXECUTIVE DIRECTOR by a superintendent ~~or director~~ and certified to by the prison physician that any person imprisoned in a correctional facility is mentally ill or retarded, to order said person transferred to the Colorado mental health institute at Pueblo, where said person shall remain for observation and examination for a period not to exceed thirty days, and it is the duty of the superintendent of said institute to make a written report to the executive director concerning the mental condition of said person immediately upon the expiration of the period of observation and examination.

**SECTION 10.** 17-23-102, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**17-23-102. Transfer of recovered convict.** When the superintendent of any institution or facility in which any person has been placed by transfer from a correctional facility, as provided in section 17-23-101, is of the opinion that said person is no longer mentally ill or retarded, it is the duty of said superintendent to give written notice of such recovery to the respective superintendent ~~or director~~ of said correctional facility, who shall transfer said person to the place of ~~his~~ former commitment for the purpose of serving out ~~his~~ SAID PERSON'S sentence, if the same has not expired.

**SECTION 11.** 17-31-104 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**17-31-104. Right to visit offenders.** (1) A volunteer who has completed minimum training from an approved volunteer organization may visit any offender or offenders to whom such volunteer has been assigned at any institution and in any program utilizing volunteers as set forth in section 17-31-103, subject to reasonable times and for purposes within such guidelines as may be prescribed by the division of adult services within the department of corrections, if such volunteer presents no security risk to such institution or program and has received basic training in

volunteer services. Nothing in this section shall restrict the right of a ~~warden or manager~~ SUPERINTENDENT of any facility or program from denying access to a facility or program to a volunteer seeking to visit any offender or offenders.

**SECTION 12.** 17-40-101 (1.5), (3), and (4), Colorado Revised Statutes, 1986 Repl. Vol., are amended to read:

**17-40-101. Definitions.** (1.5) "Diagnostic center" means ~~the intake unit at the correctional facilities at Canon City, but, on and after the date on which the executive director issues his order declaring that the diagnostic center in Denver is completed and able to provide diagnostic services, "diagnostic center" means the diagnostic center located in the city and county of Denver on sixty-seven and six-tenths acres, more or less, owned by the department of administration on the south side of Smith Road, immediately east and south of the city and county of Denver jail.~~ THE DIAGNOSTIC CENTER LOCATED WITHIN THE CITY AND COUNTY OF DENVER.

(3) ~~"Director" means the director of the Colorado diagnostic program.~~

(4) "Superintendent" means the administrative head of the ~~maximum security facility at the correctional facilities at Canon City~~ DIAGNOSTIC CENTER.

**SECTION 13.** The introductory portion to 17-40-103 (1), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**17-40-103. Examination of offenders - report.** (1) As soon as possible after July 1, 1974, each offender entering the diagnostic center shall receive appropriate diagnostic services, and each offender's treatment and employment needs shall be identified. Information provided pursuant to section 17-40-104 shall be considered in structuring the rehabilitation program. An offender shall be assigned to the program for a period not to exceed sixty days; except that an offender may be held for an additional thirty days upon approval of the executive director. Upon completion of the recommended rehabilitation report, it shall be transmitted by the ~~director~~ SUPERINTENDENT to the executive director, who, within fifteen days, shall cause the offender to be:

**SECTION 14.** 17-40-104, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**17-40-104. Responsibility to the program of court imposing sentence.** Before or at the same time any offender is transported to the diagnostic center, the sentencing court shall transmit to the ~~director~~ SUPERINTENDENT of the program any available presentence report, offense report, or diagnostic or clinical information and any recommendation the court may deem appropriate.

**SECTION 15.** 17-40-105, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**17-40-105. Appointment of personnel to the program.** Subject to the provisions of section 13 of article XII of the state constitution, the executive director shall appoint ~~a director of the program. The director~~ THE SUPERINTENDENT. THE SUPERINTENDENT shall appoint such supervisors, psychiatrists, psychologists, social

workers, correctional specialists, and other officers and employees as ~~he deems~~ ARE DEEMED necessary. No inmate of any correctional institution shall be appointed to any task directly involved with the diagnostic services provided by the program. This shall not prohibit tasks performed by inmates in custodial capacities and food service duties and similar tasks approved by the executive director.

**SECTION 16.** 17-40-106 (1) and (3), Colorado Revised Statutes, 1986 Repl. Vol., are amended to read:

**17-40-106. Responsibilities of superintendent.** (1) The ~~director~~ SUPERINTENDENT shall be responsible for the administration of diagnostic services and the supervision of the employees of the program.

(3) The superintendent OR SUPERINTENDENT'S DESIGNEE shall separate all offenders in the diagnostic program from the offenders in the correctional institution.

**SECTION 17. Effective date.** This act shall take effect July 1, 1994.

**SECTION 18. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 7, 1994