

CHAPTER 13

CORRECTIONS

HOUSE BILL 97-1046

BY REPRESENTATIVES Anderson, Kaufman, Mace, Owen, Reeser, Schwarz, and Snyder;
also SENATOR J. Johnson.

AN ACT

CONCERNING THE OPERATIONS OF THE DEPARTMENT OF CORRECTIONS.

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

SECTION 1. 17-22.5-202 (1), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

17-22.5-202. Ticket to leave - discharge - clothes, money, transportation.

(1) Ten days prior to the date on which any inmate confined in a correctional facility is entitled to be discharged or to be paroled from said correctional facility, the executive director or ~~his~~ THE EXECUTIVE DIRECTOR'S designee shall give such inmate a ticket of leave therefrom, which shall entitle ~~him~~ THE INMATE to depart from said correctional facility. The executive director or ~~his~~ THE EXECUTIVE DIRECTOR'S designee shall at the same time furnish such inmate with suitable clothing and may furnish transportation, at the expense of the state, from the place at which said correctional facility is located to the place of ~~his~~ THE INMATE'S residence in Colorado, OR ANY OTHER PLACE IN COLORADO. ~~or any other state.~~ The executive director or ~~his~~ THE EXECUTIVE DIRECTOR'S designee shall also furnish to any inmate being discharged, other than a parolee, one hundred dollars. The executive director or ~~his~~ THE EXECUTIVE DIRECTOR'S designee may furnish any inmate being released on parole a reasonable sum of money not to exceed one hundred dollars; except that, if ~~he~~ THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE furnishes less than one hundred dollars, the difference between one hundred dollars and the amount furnished shall be credited to an account for such parolee. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION (1), IF THE INMATE HAS PREVIOUSLY BEEN RETURNED TO CUSTODY IN A CORRECTIONAL FACILITY AFTER BEING PAROLED AND BEFORE THE COMPLETION OF HIS OR HER PERIOD OF PAROLE AND PREVIOUSLY

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

RECEIVED SUCH SUM OF MONEY, THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL NOT FURNISH A SUM OF MONEY TO THE INMATE. The executive director or his THE EXECUTIVE DIRECTOR'S designee shall certify any amount so credited to the division of adult services, and any such amount shall be distributed to an inmate in accordance with rules promulgated by the department.

SECTION 2. 17-1-105 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

17-1-105. Powers of executive director. (1) The executive director shall have and exercise:

(g) THE AUTHORITY TO ISSUE ADMINISTRATIVE WARRANTS, SOLELY FOR THE PURPOSE OF RETURNING TO A CORRECTIONAL FACILITY, JAIL, OR COMMUNITY CORRECTIONS CENTER, OFFENDERS WHO HAVE ESCAPED FROM THE CUSTODY AND CARE OF THE DEPARTMENT, COMMUNITY CORRECTIONS, THE PAROLE BOARD, OR THE DIVISION OF ADULT SUPERVISION, CONTAINING NOTICE TO APPROPRIATE LAW ENFORCEMENT AGENCIES THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT AN OFFENDER HAS ESCAPED FROM CUSTODY;

(h) THE AUTHORITY TO ENTER INTO WRITTEN AGREEMENTS WITH ANY LOCAL, STATE, REGIONAL, OR FEDERAL LAW ENFORCEMENT AGENCY OPERATING WITHIN THE STATE TO ALLOW SUCH AGENCIES AND THE DEPARTMENT TO PROVIDE PERSONNEL OR OPERATIONAL SUPPORT TO ONE ANOTHER, IF DEEMED AVAILABLE BY THE EXECUTIVE DIRECTOR, IN SUPPORT OF EMERGENCY LAW ENFORCEMENT OPERATIONS IN COLORADO;

(i) THE AUTHORITY TO ENTER INTO WRITTEN AGREEMENTS WITH ANY LOCAL, STATE, REGIONAL, OR FEDERAL LAW ENFORCEMENT AGENCY OPERATING WITHIN THE STATE TO PERMIT DEPARTMENT PERSONNEL TO ASSIST IN APPREHENDING OFFENDERS WHO HAVE ESCAPED FROM THE CUSTODY OF THE DEPARTMENT.

SECTION 3. 16-11-308 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

16-11-308. Custody of department of corrections - procedure. (2) Any person sentenced pursuant to subsection (1) of this section shall initially be confined in the diagnostic center, as defined in section 17-40-101 (1.5), C.R.S., UNLESS OTHERWISE AUTHORIZED BY THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE, to undergo evaluation and diagnosis to determine whether such person should be confined in a correctional facility or any other state institution, or whether such person should participate in a rehabilitation program as provided by law; except that no person subject to the provisions of section 16-11-301 (2) shall serve such person's sentence in any state correctional facility.

SECTION 4. The introductory portion to 17-40-103 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, 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 ASSESSMENT 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 superintendent to the executive director, who, within fifteen days, shall cause the offender to be:

SECTION 5. 17-29-101, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

17-29-101. Legislative declaration. The general assembly hereby finds and declares that the people of this state would benefit from a program to reclaim AND MAINTAIN the land and resources of PUBLIC ENTITIES WITHIN this state; that the executive director of the department of corrections has in his custody OVER inmates, BOTH MALE AND FEMALE, who could be utilized as a labor force in such a program; that such a program would help REINFORCE THE REHABILITATION OF SUCH INMATES, PROVIDE WORK SKILLS, AND instill a work ethic in the inmates, thereby facilitating their readjustment to society; and that work assignments involving physical labor will assist the executive director and the superintendents in the management of correctional facilities under their supervision. To these ends, it is the purpose of this article to create within the department a reclamation program PHYSICAL LABOR WORK PROGRAMS, INCLUDING AN INTENSIVE LABOR WORK PROGRAM FOR ALL INMATES SENTENCED TO THE DEPARTMENT, INCLUDING REPEAT OFFENDERS AND PAROLE VIOLATORS AS WELL AS THOSE INMATES WHO DEMONSTRATE BEHAVIOR INCONSISTENT WITH THE RULES OF THE DEPARTMENT OR ANY OF ITS FACILITIES, which utilizes UTILIZE the physical labor of inmates. THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE MAY APPOINT FACILITY SUPERINTENDENTS, RESPONSIBLE FOR THE ADMINISTRATION OF CORRECTIONAL FACILITIES, TO PERFORM THE DUTIES AND FUNCTIONS SET FORTH IN THIS ARTICLE.

SECTION 6. 17-29-103, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

17-29-103. Executive director to establish work program. (1) The executive director shall MAY establish a AN INTENSIVE LABOR work program AT ALL FACILITIES, which utilizes UTILIZING the physical labor of able-bodied offenders, which will be directed toward the reclamation AND MAINTENANCE of the land and resources, of this state, including but not limited to the resources of the department, THOSE OF ANY FEDERAL, STATE, OR LOCAL GOVERNMENTAL AGENCY OR NONPROFIT AGENCY WITHIN THIS STATE, and which will be administered by the various superintendents RESPONSIBLE FOR THE ADMINISTRATION of the ANY correctional facilities FACILITY. Such INTENSIVE LABOR work program shall be operated on an incentive basis so that an offender assigned to the INTENSIVE LABOR work program is able to demonstrate WHO DEMONSTRATES that he OR SHE is willing to modify his OR HER behavioral patterns, to cooperate in his OR HER rehabilitation, and to learn BOTH A WORK ETHIC AND a job skill BECOMES ELIGIBLE FOR REASSIGNMENT FROM THE INTENSIVE LABOR WORK PROGRAM.

(2) Immediately after the evaluation and diagnosis required by section 16-11-308

(2), C.R.S., AND INITIAL PLACEMENT AT A CORRECTIONAL FACILITY, ~~each~~ EVERY able-bodied offender ~~shall—wherever practicable;~~ MAY, BY DEPARTMENTAL CLASSIFICATION ACTION, be assigned to and shall participate in ~~a~~ THE INTENSIVE LABOR work program FOR A PERIOD OF NOT LESS THAN THIRTY DAYS; EXCEPT THAT THE EXECUTIVE DIRECTOR OR THE SUPERINTENDENTS RESPONSIBLE FOR THE ADMINISTRATION OF CORRECTIONAL FACILITIES MAY WAIVE OR DELAY AN OFFENDER'S INITIAL ASSIGNMENT TO THE INTENSIVE LABOR WORK PROGRAM FOR THE GOOD OF THE DEPARTMENT. OFFENDERS ASSIGNED TO THE INTENSIVE LABOR WORK PROGRAM WILL BE COMPENSATED AT A RATE SET IN ACCORDANCE WITH THE REGULATIONS OF THE DEPARTMENT CONCERNING OFFENDER PAY, INCLUDING BUT NOT LIMITED TO PROVISIONS CONCERNING DEDUCTIONS AND REIMBURSEMENT FOR CARE CLAIMS. ~~If the executive director, in his discretion and upon the advice of the superintendent, determines that the offender is eligible to leave the work program, he shall assign the offender to the division of correctional industries, the director of which shall make subsequent assignments to such educational or vocational programs as are consistent with the diagnosis and evaluation conducted pursuant to article 40 of this title.~~

(3) The executive director is specifically authorized to assign such other able-bodied offenders whose behavior is inconsistent with the rules established by the executive director OR THE EXECUTIVE DIRECTOR'S DESIGNEE to the INTENSIVE LABOR work program for such periods of time as may best serve the offenders and assist the executive director in the management of correctional facilities under ~~his~~ THE supervision OF THE EXECUTIVE DIRECTOR. ELIGIBILITY FOR REASSIGNMENT FROM THE INTENSIVE LABOR WORK PROGRAM TO SUCH EDUCATIONAL OR VOCATIONAL WORK PROGRAMS AS ARE CONSISTENT WITH THE DIAGNOSIS AND EVALUATION CONDUCTED PURSUANT TO ARTICLE 40 OF THIS TITLE WILL BE DETERMINED BY DEPARTMENTAL CLASSIFICATION ACTION AFTER REVIEWING THE OFFENDER'S WILLINGNESS TO MODIFY BEHAVIORAL PATTERNS, TO COMMIT TO COOPERATING IN REHABILITATION, AND TO LEARN BOTH A WORK ETHIC AND A JOB SKILL. OFFENDERS ASSIGNED TO THE INTENSIVE LABOR WORK PROGRAM PURSUANT TO THIS SECTION WILL ALSO BE COMPENSATED AT A RATE SET IN ACCORDANCE WITH THE REGULATIONS CONCERNING OFFENDER PAY PROMULGATED BY THE DEPARTMENT.

(4) The executive director shall establish rules to implement this article.

SECTION 7. 17-1-109 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

17-1-109. Duties and functions of the superintendent. (2) (a) The superintendent of each correctional facility should, wherever possible, take such measures as are reasonably necessary to restrict the confinement of any person with known past or current affiliations or associations with any ~~gang~~, SECURITY THREAT GROUP, as defined in paragraph (b) of this subsection (2), so as to prevent contact with other inmates at such facility. The superintendent should, wherever possible, also take such measures as are reasonably necessary to prevent recruitment of new ~~gang~~ SECURITY THREAT GROUP members from among the general inmate population.

(b) For the purposes of this subsection (2), unless the context otherwise requires, ~~“gang”~~ “SECURITY THREAT GROUP” means a group of three or more individuals with a common interest, bond, or activity characterized by criminal or delinquent conduct engaged in either collectively or individually.

SECTION 8. 17-27-105 (2) (b), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

17-27-105. Authority to place offenders in community corrections programs.

(2) (b) The executive director of the department of corrections shall refer for placement in a community corrections program any offender who is not serving a sentence imposed pursuant to FOR AN OFFENSE REFERRED TO IN section 16-11-309, C.R.S., and who has displayed acceptable institutional behavior, sixteen months prior to such offender's parole eligibility date, unless such offender has an active felony warrant or detainer or has refused community placement. The executive director shall refer any other offender who has displayed acceptable institutional behavior to a community corrections program one hundred eighty days prior to such offender's parole eligibility date, unless such offender has an active felony warrant or detainer or has refused community placement.

SECTION 9. Part 2 of article 2 of title 17, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

17-2-201.5. Study of parole system. (1) THE LEGISLATIVE COUNCIL SHALL CONDUCT A STUDY OF THE PAROLE SYSTEM OF THE STATE OF COLORADO. SAID STUDY SHALL:

(a) EXAMINE THE STRUCTURE AND COMPOSITION OF THE BOARD, AND THE PROJECTED INCREASE IN THE WORKLOAD AND THE SIZE OF THE BOARD;

(b) EVALUATE THE ROLE AND THE IMPACT OF PAROLE SUPERVISION ON THE PROJECTED INCREASED WORKLOAD OF THE BOARD; AND

(c) EXAMINE THE OPERATIONS OF THE BOARD AND EXPLORE ALTERNATIVE MODES OF OPERATION.

(2) BASED UPON THE FINDINGS OF THE PORTION OF THE STUDY PERFORMED PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE LEGISLATIVE COUNCIL STAFF SHALL INCLUDE IN THE STUDY:

(a) RECOMMENDATIONS CONCERNING HOW THE PROJECTED GROWTH OF THE BOARD CAN BE LIMITED;

(b) RECOMMENDATIONS REGARDING THE FUTURE OF MANDATORY PAROLE, AND WHETHER AND HOW THE CURRENT SYSTEM CAN BE IMPROVED TO INCREASE PUBLIC SAFETY AND LOWER COSTS; AND

(c) RECOMMENDATIONS CONCERNING ALTERNATIVE METHODS OF CONDUCTING PAROLE HEARINGS AND PAROLE REVIEWS TO SAVE FUTURE MANPOWER AND OPERATING EXPENSES.

(3) THE LEGISLATIVE COUNCIL SHALL CONDUCT THE STUDY WITHIN EXISTING APPROPRIATIONS. A FINAL REPORT OF THE FINDINGS AND RESULTS OF THE STUDY SHALL BE PRESENTED TO THE LEGISLATIVE COUNCIL, AND TO ANY OTHER COMMITTEE DESIGNATED BY THE COUNCIL, NO LATER THAN AUGUST 1, 1998.

SECTION 10. Repeal. Part 4 of article 2 of title 17, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is repealed.

SECTION 11. 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: March 20, 1997