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An Act

SENATE BILL 26-159

BY SENATOR(S) Weissman and Gonzales J., Benavidez, Exum, Jodeh, Kipp, Marchman, Sullivan, Wallace, Coleman;
also REPRESENTATIVE(S) Mabrey and Martinez, Boesenecker, English, Jackson, Lindsay, Ricks, Rydin, Sirota, Smith, Zokaie.

CONCERNING MEASURES FOR MANAGING THE CAPACITY OF THE
DEPARTMENT OF CORRECTIONS.

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

SECTION 1. In Colorado Revised Statutes, 17-22.5-405, **amend** (1.5)(a), (1.5)(b), and (9)(a); and **add** (1.5)(a.5), (9)(a.7) and (10) as follows:

17-22.5-405. Earned time - earned release time - achievement earned time - working group - definition - repeal.

(1.5) (a) EXCEPT AS PROVIDED IN SUBSECTION (1.5)(a.5) OF THIS SECTION, earned time, not to exceed ~~twelve~~ FOURTEEN days for each month of incarceration or parole, may be deducted from an inmate's sentence if the inmate:

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.

(I) Is serving a sentence for a class 4, class 5, or class 6 felony or level 3 or level 4 drug felony;

(II) Has not incurred a class I code of penal discipline violation within the twenty-four months immediately preceding the time of crediting or during ~~his or her~~ THE INMATE'S entire term of incarceration if the term is less than twenty-four months or a class II code of penal discipline violation within the twelve months immediately preceding the time of crediting or during ~~his or her~~ THE INMATE'S entire term of incarceration if the term is less than twelve months; AND

(III) Is program-compliant. ~~and~~

(IV) ~~Was not convicted of, and has not previously been convicted of, a felony crime described in section 18-3-303, 18-3-305, 18-3-306, or 18-6-701, sections 18-7-402 to 18-7-407, or section 18-12-102 or 18-12-109, C.R.S., or a felony crime listed in section 24-4.1-302 (1), C.R.S.~~

(a.5) NOTWITHSTANDING THE FOURTEEN-DAY LIMITATION IN SUBSECTION (1.5)(a) OF THIS SECTION, AN INMATE CONVICTED OF, OR AN INMATE WHO HAS PREVIOUSLY BEEN CONVICTED OF, A FELONY CRIME DESCRIBED IN SECTION 18-3-303, 18-3-305, 18-3-306, OR 18-6-701; SECTIONS 18-7-402 TO 18-7-407; SECTION 18-12-102 OR 18-12-109; A FELONY MOTOR VEHICLE THEFT; OR A FELONY CRIME LISTED IN SECTION 24-4.1-302 (1), IS LIMITED TO TWELVE DAYS OF EARNED TIME PER MONTH.

(b) The earned time specified in ~~subsection (1.5)(a)~~ THIS SUBSECTION (1.5) ~~of this section~~ may be deducted based upon a demonstration to the department by the inmate, which is certified by the inmate's case manager or community parole officer, that ~~he or she~~ THE INMATE has made positive progress in accordance with performance standards established by the department.

(9) (a) (I) Notwithstanding any provision of this section to the contrary, in addition to the earned time authorized in this section, an offender who successfully completes a milestone or phase of an educational, vocational, therapeutic, or reentry program ~~or who demonstrates exceptional conduct that promotes the safety of correctional staff, volunteers, contractors, or other persons under the supervision of the department of corrections,~~ may be awarded as many as sixty days of

achievement earned time per program milestone or phase, ~~or per instance of exceptional conduct~~, at the discretion of the executive director; except that an offender shall not be awarded more than one hundred twenty days of achievement earned time pursuant to this subsection (9).

(II) THE DEPARTMENT OF CORRECTIONS SHALL MAKE POLICY CHANGES TO MAXIMIZE THE INCENTIVES TO PARTICIPATE IN ACTIVITIES THAT AWARD ACHIEVEMENT EARNED TIME FOR OFFENDERS WHO COMMIT TO AND PARTICIPATE IN SELF-IMPROVEMENT ACTIVITIES, INCLUDING THERAPEUTIC AND EDUCATIONAL PROGRAMMING. APPLICABLE POLICY CHANGES MAY INCLUDE, BUT ARE NOT LIMITED TO:

(A) ENSURING THAT PROGRAMS OF SIMILAR INTENSITY AND DURATION ARE AWARDED A SIMILAR NUMBER OF CREDITS;

(B) INCREASING CREDIT AWARDS FOR SUSTAINED, HIGH ENGAGEMENT IN WORK ASSIGNMENTS; AND

(C) INCREASING CREDIT AWARDS FOR THE COMPLETION OF A PROGRAM.

(III) FOR OFFENDERS WHO SUCCESSFULLY COMPLETE A MILESTONE OR PHASE OF A BEHAVIORAL HEALTH PROGRAM IN AN AREA RELATED TO RECOVERY FROM A CONDITION THAT CONTRIBUTED TO THE OFFENDER'S UNDERLYING OFFENSE, INCLUDING SUBSTANCE USE TREATMENT, ANGER MANAGEMENT, OR OTHER BEHAVIORAL HEALTH NEEDS, AS RECOMMENDED BASED ON NEEDS IDENTIFIED ON THE INTAKE ASSESSMENT, THE TOTAL ACHIEVEMENT EARNED TIME THAT CAN BE AWARDED PURSUANT TO THIS SUBSECTION (9)(a) IS ONE HUNDRED FIFTY DAYS.

(a.7) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, IN ADDITION TO THE EARNED TIME AUTHORIZED IN THIS SECTION, AN OFFENDER WHO DEMONSTRATES EXCEPTIONAL CONDUCT THAT PROMOTES THE SAFETY OF CORRECTIONAL STAFF, VOLUNTEERS, CONTRACTORS, OR OTHER PERSONS UNDER THE SUPERVISION OF THE DEPARTMENT OF CORRECTIONS MAY BE AWARDED AS MANY AS SIXTY DAYS OF ACHIEVEMENT EARNED TIME PER INSTANCE OF EXCEPTIONAL CONDUCT, AT THE DISCRETION OF THE EXECUTIVE DIRECTOR; EXCEPT THAT AN OFFENDER SHALL NOT BE AWARDED MORE THAN ONE HUNDRED TWENTY DAYS OF ACHIEVEMENT EARNED TIME PURSUANT TO THIS SUBSECTION

(9)(a.7).

(10) (a) THERE IS CREATED THE DEPARTMENT OF CORRECTIONS COMPREHENSIVE PLANNING WORKING GROUP, REFERRED TO IN THIS SECTION AS THE "WORKING GROUP". THE EXECUTIVE DIRECTOR OF THE DEPARTMENT, OR THEIR DESIGNEE, SHALL SERVE AS CHAIR OF THE WORKING GROUP. THE WORKING GROUP SHALL DEVELOP RECOMMENDATIONS FOR A CAPACITY MANAGEMENT PLAN FOR THE DEPARTMENT THAT IS DATA-DRIVEN, ALIGNS WITH BEST PRACTICES, AND IS INFORMED BY THE INPUT OF DEPARTMENT STAFF, INCARCERATED PEOPLE, VICTIMS, AND OTHER CRIMINAL JUSTICE STAKEHOLDERS AND SUBJECT MATTER EXPERTS REGARDING STRATEGIES TO:

(I) ASSESS EFFICACY, AVAILABILITY, AND GAPS REGARDING PRISON PROGRAMMING AND CLINICAL CARE TO MAXIMIZE INMATE REHABILITATION AND PREPARATION FOR RELEASE;

(II) IDENTIFY BOTTLENECKS AND INEFFICIENCIES REGARDING INMATE RELEASE PROCESSES, CROSS-AGENCY COORDINATION, VICTIM NOTIFICATION AND ENGAGEMENT, AND INMATE RELEASE DECISION-MAKING;

(III) ENSURE THAT APPROPRIATE SUPERVISION, PLACEMENT OPTIONS, AND SERVICES ARE AVAILABLE TO IMPROVE SUCCESSFUL OUTCOMES FOR PERSONS RELEASED FROM PRISON;

(IV) MANAGE GROWTH IN PRISON POPULATION TO AVOID OVERCROWDING; AND

(V) IDENTIFY CHANGES NEEDED TO CURRENT PRISON OPERATIONAL CAPACITY, INMATE CLASSIFICATION, OR FACILITY SECURITY CLASSIFICATION LEVEL TO MOST COST-EFFECTIVELY ADDRESS CURRENT PRISON BED UTILIZATION AND ANY PROJECTED FUTURE PRISON BED NEEDS TO ENSURE ALIGNMENT BETWEEN THE CLASSIFICATION LEVEL OF THE INMATE POPULATION AND THE SECURITY LEVEL OF PRISON BEDS AVAILABLE OR NEEDED.

(b) THE WORKING GROUP CONSISTS OF:

(I) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT, OR THEIR DESIGNEE, WHO IS THE CHAIR OF THE WORKING GROUP;

(II) THE EXECUTIVE DIRECTOR OF THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY, OR THEIR DESIGNEE;

(III) ONE DISTRICT ATTORNEY, OR THEIR DESIGNEE, APPOINTED BY THE EXECUTIVE DIRECTOR OF THE COLORADO DISTRICT ATTORNEYS' COUNCIL;

(IV) ONE PUBLIC DEFENDER, OR THEIR DESIGNEE, APPOINTED BY THE STATE PUBLIC DEFENDER;

(V) ONE SHERIFF, OR THEIR DESIGNEE, APPOINTED BY THE PRESIDENT OF THE COUNTY SHERIFFS OF COLORADO BOARD OF DIRECTORS;

(VI) ONE BEHAVIORAL HEALTH EXPERT OR PROFESSIONAL, APPOINTED BY THE PRESIDENT OF THE SENATE;

(VII) ONE MEDICAL PROFESSIONAL WITH EXPERIENCE IN PRISON-BASED HEALTH SERVICES, APPOINTED BY THE PRESIDENT OF THE SENATE;

(VIII) ONE CRIME VICTIM OR SURVIVOR, OR A REPRESENTATIVE OF A GROUP THAT ADVOCATES FOR CRIME VICTIMS OR SURVIVORS, APPOINTED BY THE HOUSE MINORITY LEADER;

(IX) ONE FORMERLY INCARCERATED PERSON, OR A REPRESENTATIVE OF A GROUP THAT ADVOCATES FOR INCARCERATED OR FORMERLY INCARCERATED PERSONS, APPOINTED BY THE SPEAKER OF THE HOUSE;

(X) ONE REPRESENTATIVE OF AN ORGANIZATION WITH EXPERIENCE IN COMMUNITY-BASED RE-ENTRY SERVICES, APPOINTED BY THE SPEAKER OF THE HOUSE;

(XI) ONE CURRENT OR FORMER STATE BOARD OF PAROLE MEMBER, APPOINTED BY THE CHAIR OF THE STATE BOARD OF PAROLE;

(XII) ONE CURRENT COMMUNITY CORRECTIONS REPRESENTATIVE, APPOINTED BY THE SENATE MINORITY LEADER; AND

(XIII) ONE CURRENT EMPLOYEE OF THE DEPARTMENT, APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT.

(c) MEMBERS OF THE HOUSE OF REPRESENTATIVES JUDICIARY COMMITTEE AND THE SENATE JUDICIARY COMMITTEE, OR THEIR SUCCESSOR COMMITTEES, AND THE JOINT BUDGET COMMITTEE, MAY SUBMIT IN WRITING TO THE CHAIR OF THE WORKING GROUP A REQUEST TO PRIORITIZE SPECIFIC ISSUES OR PROVIDE OTHER RELEVANT INFORMATION.

(d) THE WORKING GROUP MAY REQUEST INFORMATION FROM THE DEPARTMENT OF CORRECTIONS AND THE CERTIFIED EMPLOYEE ORGANIZATION DEFINED IN SECTION 24-50-1102 FOR PURPOSES OF ASSESSING UNDERLYING CONDITIONS AND THE OPERATIONAL FEASIBILITY OF RECOMMENDATIONS.

(e) (I) THE WORKING GROUP SHALL SOLICIT INPUT FROM DEPARTMENT STAFF, THE DEPARTMENT OF PERSONNEL AND ADMINISTRATION AND THE CERTIFIED EMPLOYEE ORGANIZATION DEFINED IN SECTION 24-50-1102, INMATES, INMATE FAMILIES, CRIME VICTIMS OR SURVIVORS, CRIMINAL JUSTICE STAKEHOLDERS, ELECTED OFFICIALS AT THE STATE AND LOCAL LEVEL, THE LEGISLATIVE COUNCIL, JOINT BUDGET COMMITTEE STAFF, STATE AGENCIES, AND OTHER PERSONS WITH SUBJECT MATTER EXPERTISE.

(II) THE WORKING GROUP SHALL NOT BARGAIN, NEGOTIATE, OR OTHERWISE MAKE RECOMMENDATIONS RELATED TO ANY MATTERS THAT ARE SUBJECT TO THE EXCLUSIVE PARTNERSHIP PROCESS BETWEEN THE STATE AND THE CERTIFIED EMPLOYEE ORGANIZATIONS PURSUANT TO SECTION 24-50-1112 (2).

(f) THE CHAIR OF THE WORKING GROUP MAY SOLICIT AND ACCEPT GIFTS, GRANTS, AND DONATIONS TO SUPPORT THE WORKING GROUP, INCLUDING FOR FACILITATION, RESEARCH, STRATEGIC PLANNING, REPORT WRITING, AND SURVEYS OR OTHER METHODS TO PURSUE THE GOALS LISTED IN SUBSECTION (10)(a) OF THIS SECTION, IN ACCORDANCE WITH APPLICABLE STATE LAWS.

(g) THE WORKING GROUP SHALL SUBMIT AN INTERIM REPORT TO THE GENERAL ASSEMBLY, THE DEPARTMENT'S CERTIFIED EMPLOYEE ORGANIZATION, AND THE GOVERNOR'S OFFICE IN DECEMBER 2026 AND A FINAL REPORT ON JUNE 30, 2028.

(h) THIS SUBSECTION (10) IS REPEALED, EFFECTIVE JANUARY 15, 2029.

SECTION 2. Applicability. This act applies to an inmate accruing earned time on or after the effective date of this act.

SECTION 3. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO