

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

January 28, 2020

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB20-1019 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, page 3, line 4, strike "The" and substitute "NOT MORE
- 2 THAN SIX HUNDRED AND FIFTY BEDS AT the".

- 3 Page 3, line 14, after the period insert "AT THE DISCRETION OF THE
- 4 EXECUTIVE DIRECTOR, THE DEPARTMENT MAY HOUSE INMATES OF A
- 5 LOWER THAN CLOSE CUSTODY LEVEL FOR NO LONGER THAN THREE
- 6 MONTHS FROM THE EFFECTIVE DATE OF THIS SECTION IN ORDER TO
- 7 FACILITATE THE MOVEMENT OF INMATES DISPLACED AS A RESULT OF
- 8 PRISON CLOSURE OR IF THE LOWER THAN CLOSE CUSTODY INMATE IS
- 9 VOLUNTARILY SERVING AS A MENTOR PEER-SUPPORT, OR IN ANOTHER
- 10 OTHER LEADERSHIP ROLE AS PART OF DEPARTMENTAL PROGRAMMING
- 11 WITH THE PURPOSE OF PROGRESSING CLOSE CUSTODY INMATES TO LOWER
- 12 SECURITY LEVELS."

- 13 Page 3, line 14, strike "FOR EACH PRISONER WHO IS HOUSED AT THE".

- 14 Page 3, strike lines 15 through 18.

- 15 Page 4, after line 23 insert:

- 16 "SECTION 2. In Colorado Revised Statutes, 17-1-104.5, **amend**
- 17 (2)(b); and **repeal** (2)(a) as follows:
- 18 **17-1-104.5. Incarceration of inmates from other states -**
- 19 **private contract prison facilities.** (2) No inmate from a state other than

1 Colorado may be received into the state of Colorado and be housed in a
2 private contract prison facility or a prison facility operated by a political
3 subdivision of the state:

4 (a) ~~Without the express approval of the executive director, which~~
5 ~~approval shall not be unreasonably withheld; and~~

6 (b) ~~Unless the private contract prison facility or a prison facility~~
7 ~~operated by a political subdivision is designed to meet or exceed the~~
8 ~~appropriate security level for the inmate~~ EXECUTIVE DIRECTOR, IN
9 CONSULTATION, WITH THE GOVERNOR DETERMINES THAT EXIGENT
10 CIRCUMSTANCES REQUIRE THAT INMATES BE HOUSED IN A PRIVATE
11 CONTRACT PRISON FACILITY IN ORDER TO PROTECT PUBLIC HEALTH OR
12 SAFETY."

13 Renumber succeeding sections accordingly.

14 Page 5, line 19, strike "BY 2025".

15 Page 5, line 20, after the period, insert "WHILE CONDUCTING THE STUDY,
16 THE DEPARTMENT SHALL SOLICIT INPUT FROM LOCAL COMMUNITIES AND
17 OTHER INTERESTED PARTIES OR ISSUE EXPERTS, INCLUDING BUT NOT
18 LIMITED TO PUBLIC SAFETY, VICTIM'S ADVOCATES, PROSECUTORS, DEFENSE
19 ATTORNEYS, AND COMMUNITY REENTRY PROVIDERS."

20 Page 6, strike lines 4 and 5.

21 Renumber succeeding subparagraphs accordingly.

22 Page 6, line 9, strike "OFFENDERS;" and substitute "OFFENDERS,
23 ALTERNATIVES TO INCARCERATION, AND RECIDIVISM REDUCTION
24 STRATEGIES CONSISTENT WITH PUBLIC SAFETY;"

25 Page 8, lines 8 and 9, strike "AN EVIDENTIARY HEARING, OR IN THE
26 ALTERNATIVE A NEW SENTENCING HEARING," and substitute "A NEW
27 SENTENCING HEARING".

28 Page 8, line 14, strike "(1),".

29 Page 8, line 15, strike "(2), and".

30 Page 8, strike lines 16 through 24 and substitute:

31 **"18-8-208. Escapes.** (11) IF a person ~~who~~ is SERVING A DIRECT

1 SENTENCE TO A".

2 Page 9, line 1, strike "PAROLE".

3 Page 9, line 2, after "IS" insert "PARTICIPATING IN A WORK RELEASE OR
4 HOME DETENTION PROGRAM PURSUANT TO SECTION 18-1.3-106 (1.1),
5 INTENSIVE SUPERVISION PROGRAM OR ANY OTHER SIMILAR AUTHORIZED
6 SUPERVISED OR UNSUPERVISED ABSENCE FROM A DETENTION FACILITY AS
7 DEFINED IN SECTION 18-8-203 (3), IS HOUSED IN A STAFF SECURE FACILITY
8 AS DEFINED IN SECTION 19-1-103 (101.5), OR IS".

9 Page 9, strike line 7 and substitute "(1.5); and **repeal** (6) as follows:".

10 Page 9, strike lines 8 through 14 and substitute:

11 "18-8-208.1. **Attempt to escape.** (1.5) ~~If a person, while in~~
12 ~~custody or confinement following~~".

13 Page 9, line 25, strike "PAROLE".

14 Page 9, line 26, after "IS" insert "PARTICIPATING IN A WORK RELEASE OR
15 HOME DETENTION PROGRAM PURSUANT TO SECTION 18-1.3-106 (1.1),
16 INTENSIVE SUPERVISION PROGRAM OR ANY OTHER SIMILAR AUTHORIZED
17 SUPERVISED OR UNSUPERVISED ABSENCE FROM A DETENTION FACILITY AS
18 DEFINED IN SECTION 18-8-203 (3), IS HOUSED IN A STAFF SECURE FACILITY
19 AS DEFINED IN SECTION 19-1-103 (101.5), OR IS".

20 Page 10, strike lines 4 through 10 and substitute:

21 "~~(6) A person who participates in a work release program, a home~~
22 ~~detention program, as defined in section 18-1.3-106 (1.1), a furlough, an~~
23 ~~intensive supervision program, or any other similar authorized supervised~~
24 ~~or unsupervised absence from a detention facility, as defined in section~~
25 ~~18-8-203 (3), and who is required to report back to the detention facility~~
26 ~~at a specified time shall be deemed to be in custody.~~".

27 Page 10, strike lines 13 through 27 and substitute:

28 "18-8-208.2. **Unauthorized absence.** (1) A PERSON WHO IS
29 SERVING A DIRECT SENTENCE TO A COMMUNITY CORRECTIONS PROGRAM
30 PURSUANT TO SECTION 18-1.3-301; TRANSITIONING FROM THE
31 DEPARTMENT OF CORRECTIONS TO A COMMUNITY CORRECTIONS PROGRAM
32 OR PLACED IN AN INTENSIVE SUPERVISION PROGRAM PURSUANT TO
33 SECTION 17-27.5-101; PARTICIPATING IN A WORK RELEASE OR HOME

1 DETENTION PROGRAM PURSUANT TO 18-1.3-106 (1.1), INTENSIVE
2 SUPERVISION PROGRAM, OR ANY OTHER SIMILAR AUTHORIZED SUPERVISED
3 OR UNSUPERVISED ABSENCE FROM A DETENTION FACILITY AS DEFINED IN
4 SECTION 18-8-203 (3); OR IS HOUSED IN A STAFF SECURE FACILITY AS
5 DEFINED IN SECTION 19-1-103 (101.5) COMMITS THE CRIME OF
6 UNAUTHORIZED ABSENCE IF THE PERSON KNOWINGLY:

7 (a) LEAVES OR FAILS TO RETURN TO HIS OR HER RESIDENTIAL OR
8 FACILITY LOCATION WITHOUT PERMISSION OF THE SUPERVISING AGENCY
9 AND IN VIOLATION OF THE TERMS AND CONDITIONS OF SUPERVISION; OR

10 (b) REMOVES OR TAMPERS WITH AN ELECTRONIC MONITORING
11 DEVICE REQUIRED BY THE SUPERVISING AGENCY TO BE WORN BY THE
12 PERSON IN ORDER TO MONITOR HIS OR HER LOCATION, WITHOUT
13 PERMISSION AND WITH THE INTENT TO AVOID ARREST, PROSECUTION,
14 MONITORING OR OTHER LEGAL PROCESS.

15 (2) (a) IF A PERSON COMMITS UNAUTHORIZED ABSENCE FOR A
16 CRIME LISTED IN SECTION 24-4.1-302 (1) OR A CRIME OF VIOLENCE AS
17 DESCRIBED IN SECTION 18-1.3-406, UNAUTHORIZED ABSENCE IS A CLASS
18 6 FELONY AND AN ATTEMPT THEREOF IS A CLASS 6 FELONY.

19 (b) IF A PERSON COMMITS UNAUTHORIZED ABSENCE FOR A CRIME
20 OTHER THAN THE CRIMES LISTED IN SECTION 24-4.1-302 (1) AND THE
21 CRIME IS NOT A CRIME OF VIOLENCE AS DESCRIBED IN SECTION 18-1.3-406,
22 UNAUTHORIZED ABSENCE IS A CLASS 3 MISDEMEANOR AND AN ATTEMPT
23 THEREOF IS A CLASS 3 MISDEMEANOR.

24 (c) A PERSON WHO KNOWINGLY VIOLATES A PERMANENT OR
25 TEMPORARY PROTECTION ORDER ISSUED PURSUANT TO SECTION
26 18-1-1001(1), 13-14-103, 13-14-104.5, OR 13-14-106 DURING THE
27 COMMISSION OF UNAUTHORIZED ABSENCE COMMITS A CLASS 3 FELONY.

28 (3) IF A PAROLEE PLACED IN A COMMUNITY CORRECTIONS OR IN AN
29 INTENSIVE SUPERVISION PROGRAM PURSUANT TO SECTION 17-27.5-101
30 HAS AN UNAUTHORIZED ABSENCE, THE DEPARTMENT OF CORRECTIONS
31 SHALL NOTIFY THE APPROPRIATE COMMUNITY REENTRY PROGRAM
32 DESCRIBED IN SECTION 17-33-101 (7)(a), AND PROVIDE CONTACT
33 INFORMATION FOR THE PURPOSES OF ASSISTING THE PERSON TO REENGAGE
34 WITH SUPERVISION."

35 Page 11, strike line 1.

36 Page 11, after line 14 insert:

37 "SECTION 12. In Colorado Revised Statutes, 24-4.1-302.5,
38 amend (1)(c)(I) (B) as follows:

39 24-4.1-302.5. Rights afforded to victims - definitions. (1) In

1 order to preserve and protect a victim's rights to justice and due process,
2 each victim of a crime has the following rights:

3 (c) (I) Except as otherwise provided in subsection (1)(c)(II) of this
4 section:

5 (B) The right to be informed when a person who is accused or
6 convicted of a crime against the victim is released or discharged from
7 custody other than county jail, is paroled, escapes from a secure or
8 nonsecure correctional facility or program, ~~or~~ absconds from probation
9 or parole, OR COMMITS AN UNAUTHORIZED ABSENCE AS DESCRIBED IN
10 SECTION 18-8-208.2 (1).

11 **SECTION 13.** In Colorado Revised Statutes, 24-4.1-303, **amend**
12 (14)(e) and (14.2)(e) as follows:

13 **24-4.1-303. Procedures for ensuring rights of victims of**
14 **crimes.** (14) Upon receipt of a written victim impact statement as
15 provided in section 24-4.1-302.5 (1)(j.5), the department of corrections
16 shall include the statement with any referral made by the department of
17 corrections or a district court to place an offender in a public or private
18 community corrections facility or program. The department of corrections
19 or the public or private local corrections authorities shall notify the victim
20 of the following information regarding any person who was charged with
21 or convicted of a crime against the victim:

22 (e) Any escape OR UNAUTHORIZED ABSENCE AS DESCRIBED IN
23 SECTION 18-8-208.2 (1) by such person, or transfer or release from any
24 state hospital, a detention facility, a correctional facility, a community
25 correctional facility, or other program, and any subsequent recapture of
26 such person;

27 (14.2) Upon receipt of a written statement as provided in section
28 24-4.1-302.5 (1)(j.5), the department of human services, division of youth
29 services, shall include the statement with any referral made by the
30 department of human services or a district court to place an offender in
31 a public or private community corrections facility or program. The
32 department of human services and any state hospital shall notify the
33 victim of the following information regarding any person who was
34 charged with or adjudicated of a crime against the victim:

35 (e) Any escape OR UNAUTHORIZED ABSENCE AS DESCRIBED IN
36 SECTION 18-8-208.2 (1) by the person, or transfer or release from any state
37 hospital, a detention facility, a correctional facility, a community
38 correctional facility, parole supervision, or other program, and any
39 subsequent recapture of the person;" .

40 Renumber succeeding section accordingly.

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