

CHAPTER 22

CORRECTIONS

HOUSE BILL 93-1190

BY REPRESENTATIVES Blue, R. Hernandez, and Williams;
also SENATORS Ruddick, Gallagher, and Mendez.

AN ACT

CONCERNING AMENDMENTS TO CLARIFY STATUTES RELATED TO THE ADMINISTRATION OF CORRECTIONAL FACILITIES.

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

SECTION 1. 17-20-101, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

17-20-101. State institutions. ~~The penitentiary now located at Canon City shall be known as the~~ ALL correctional facilities at ~~Canon City and~~ UNDER THE SUPERVISION OF THE EXECUTIVE DIRECTOR, WHEREVER LOCATED, shall be maintained as a state ~~institution~~ INSTITUTIONS.

SECTION 2. 17-20-102, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

17-20-102. Administration of correctional facilities - wardens - reports.
(1) The organization AND ADMINISTRATION of ~~the~~ ALL correctional facilities at ~~Canon City~~ UNDER THE SUPERVISION OF THE EXECUTIVE DIRECTOR shall ~~consist of~~ superintendents, such guards, turnkeys, overseers, and clerks as may, in the opinion of the department, be necessary, a parole officer, a physician and surgeon, and a ~~chaplain~~ BE THE RESPONSIBILITY OF SUCH EXECUTIVE DIRECTOR.

(2) ~~The superintendents, officers, and other employees shall be appointed by the director of the division of adult services, pursuant to section 13 of article XII of the state constitution. The superintendents shall qualify by taking the usual oath of office and by giving bond to be approved by the state treasurer in the sum of ten thousand dollars, which said oath of office and bond shall be filed in the office of the secretary of state.~~

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

(3) ~~The superintendents~~ WARDENS OF CORRECTIONAL FACILITIES shall report to ~~the director of the division of adult services~~ SUCH PERSONS AS THE EXECUTIVE DIRECTOR DESIGNATES at such times and on such matters as ~~said~~ THE EXECUTIVE director may require. Publications of ~~the~~ ALL correctional facilities ~~at Canon City~~ 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 3. 17-20-103, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

17-20-103. Wardens and others - conservators of peace. ~~The superintendents~~ WARDENS of ~~the~~ ALL correctional facilities ~~at Canon City~~ UNDER THE SUPERVISION OF THE EXECUTIVE DIRECTOR and ~~their assistants, the guards and keepers~~ 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 ~~the~~ SUCH correctional facilities, ~~at Canon City~~; 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 4. 17-20-113, Colorado Revised Statutes, 1986 Repl. Vol., is repealed as follows:

17-20-113. Behavior certificate - citizenship. ~~If a convict passes the entire period of his sentence without any violation of the rules and regulations, he is entitled to a certificate thereof from the superintendents, endorsed by the department, and on presenting it to the governor he shall be restored to citizenship.~~

SECTION 5. 17-20-114, Colorado Revised Statutes, 1986 Repl. Vol., is repealed as follows:

17-20-114. Federal prisoners - others. ~~Convicts sentenced to hard labor in the correctional facilities at Canon City for life or any term of time by any court of the United States held within this state shall be received into the prison by the superintendents thereof, when delivered by the authority of the United States, and there kept in pursuance of their sentences. All persons convicted of any crime punishable by death who are pardoned on condition of being imprisoned either for life or for a term of years shall be imprisoned in the correctional facilities at Canon City. All persons imprisoned or confined in the correctional facilities at Canon City shall be subject to the rules and regulations thereof.~~

SECTION 6. 17-20-115, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

17-20-115. Persons to perform labor. All persons convicted of ANY crime and confined in ~~the~~ ANY STATE correctional facilities ~~at Canon City~~ under the laws of this state, except such as are precluded by the terms of the judgment of conviction, shall perform labor under such rules and regulations as may be prescribed by the department.

SECTION 7. 17-20-116, Colorado Revised Statutes, 1986 Repl. Vol., 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 ~~superintendents~~ WARDENS of the ANY STATE correctional facilities at ~~Canon City~~ FACILITY shall detail such ~~convicts~~ 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 ~~convicts~~ 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 ~~convicts~~ INMATES while performing said work and shall furnish all necessary material used in said work.

SECTION 8. 17-20-117, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

17-20-117. Labor of inmates - earnings. Every able-bodied ~~offender~~ INMATE shall be put to and kept at the work most suitable to ~~his~~ SUCH INMATE'S capacity and most advantageous to the people of this state. The earnings of such ~~offender~~ INMATE, after deducting a sufficient amount thereof to pay and satisfy the cost of maintenance and retention, shall be given to the family of such ~~offender~~ INMATE or ~~his~~ THE INMATE'S dependents, if any, but, if there are none, the same shall be accumulated and paid to such ~~offender~~ INMATE upon discharge from the STATE correctional facilities. ~~at Canon City~~. Inmates who work in the department of corrections shall not be entitled to any right, benefit, or privilege applicable to employees of the state of Colorado.

SECTION 9. 17-20-122, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

17-20-122. Justification of officer. If a ~~convict~~ AN INMATE sentenced to the ANY STATE correctional facilities at ~~Canon City~~ FACILITY resists the authority of any officer or refuses to obey ~~his~~ ANY OFFICER'S lawful commands, it is the duty of such officer immediately to enforce obedience by the use of such weapons or other aid as may be effectual. If in so doing any ~~convict~~ INMATE thus resisting is wounded or killed by such officer or ~~his~~ SUCH OFFICER'S assistants, ~~they are~~ SUCH USE OF FORCE IS justified and ANY OFFICER USING SUCH FORCE shall be held guiltless; but such officer shall not be excused for using greater force than the emergency of the case demands.

SECTION 10. 17-20-123, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

17-20-123. Insurrection - duty of citizens. It is the duty of all the officers and other citizens of the state, by every means in their power, to suppress any insurrection among the ~~convicts~~ INMATES sentenced to the ANY correctional facilities at ~~Canon~~

~~City~~ UNDER THE SUPERVISION OF THE EXECUTIVE DIRECTOR and to prevent the escape or rescue of any such ~~convict~~ INMATE therefrom, or from any other legal confinement, or from any person in whose legal custody ~~they~~ SUCH INMATE may be. If, in so doing or in arresting any ~~convict~~ INMATE who may have escaped, such officer or other person wounds or kills such ~~convict~~ INMATE or other person aiding or assisting such ~~convict~~ INMATE, ~~he~~ SUCH OFFICER OR OTHER PERSON shall be justified and held guiltless; but such officer or ~~citizen~~ OTHER PERSON shall not be excused for using greater force than the emergency of the case demands.

SECTION 11. 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 ~~the~~ ANY correctional facilities ~~at Canon City~~ UNDER THE SUPERVISION OF THE EXECUTIVE DIRECTOR at pleasure: The governor; AND the judges of the supreme court, court of appeals, and district courts. ~~and all regular officiating ministers of the gospel.~~ No other persons shall be permitted to go within ~~the walls of the prison~~ A CORRECTIONAL FACILITY where ~~convicts~~ INMATES are confined, except by special permission of the ~~superintendents~~ WARDEN.

SECTION 12. 17-20-125, Colorado Revised Statutes, 1986 Repl. Vol., is repealed as follows:

17-20-125. Revolving fund. ~~There is hereby created, out of the convict's earning fund of the correctional facilities at Canon City a revolving fund of twenty-five thousand dollars, which said revolving fund shall be available for the use of the correctional facilities at Canon City.~~

SECTION 13. Article 20 of title 17, Colorado Revised Statutes, 1986 Repl. Vol., is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

17-20-126. Correctional facilities for women. ALL FEMALES SENTENCED TO THE CUSTODY OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS SHALL SERVE THE SENTENCES IMPOSED UPON SUCH PERSONS IN THE CORRECTIONAL FACILITIES APPROPRIATE FOR THE CONFINEMENT OF FEMALE INMATES AS DIRECTED BY THE EXECUTIVE DIRECTOR.

17-20-127. Canteen and library fund created - receipts - disbursements.
(1) THERE IS HEREBY CREATED IN THE STATE TREASURY A FUND TO BE KNOWN AS THE CANTEEN AND LIBRARY FUND, WHICH FUND SHALL BE USED TO ESTABLISH A CANTEEN FOR THE USE AND BENEFIT OF THE INMATES OF COLORADO STATE CORRECTIONAL FACILITIES. THE REVENUES DERIVED FROM SUCH CANTEEN ARE APPROPRIATED FOR THE PURPOSES SET FORTH IN SUBSECTION (2) OF THIS SECTION. SAID CANTEEN SHALL BE MANAGED UNDER RULES AND REGULATIONS PRESCRIBED BY THE EXECUTIVE DIRECTOR, PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT, AND IT SHALL NOT BE OPERATED IN ANY MANNER FOR THE PERSONAL PROFIT OF ANY EMPLOYEES OF THE DEPARTMENT OF CORRECTIONS OR ANY INMATES OF COLORADO STATE CORRECTIONAL FACILITIES.

(2) ITEMS IN THE CANTEEN MAY BE SOLD TO THE INMATES AT A REASONABLE

PROFIT. SUCH PROFIT SHALL BE SUFFICIENT TO FUND ALL EXPENSES OF THE CANTEEN INCLUDING THE COST OF SERVICES OF EMPLOYEES ACTUALLY EMPLOYED IN THE CANTEEN. ANY PROFITS ARISING FROM THE OPERATION OF THE CANTEEN SHALL BE DEPOSITED IN THE CANTEEN AND LIBRARY FUND AND SHALL BE USED TO PURCHASE EDUCATIONAL AND RECREATIONAL SUPPLIES AND EQUIPMENT AND TO SUPPLEMENT DIRECT INMATE NEEDS.

SECTION 14. 16-11-301 (2), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

16-11-301. Sentences - commitments - correctional facilities - county jail - age limit. (2) Unless otherwise provided in the "Colorado Children's Code", title 19, C.R.S., a defendant convicted of a crime which may be punished by imprisonment in a county jail may be sentenced to a correctional facility other than ~~the~~ STATE correctional facilities, ~~at Canon City~~, if at the time of sentencing ~~he~~ THE DEFENDANT is sixteen years of age or older but under the age of twenty-one years, and if, in the opinion of the court, rehabilitation of the person convicted can best be obtained by such a sentence, and if it also appears to the court that the best interests of the person and of the public and the ends of justice would thereby be served.

SECTION 15. 16-11-308 (2), Colorado Revised Statutes, 1986 Repl. Vol., 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., to undergo evaluation and diagnosis to determine whether ~~he~~ SUCH PERSON should be confined in a correctional facility or any other state institution, or whether ~~he~~ 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 ~~his~~ SUCH PERSON'S sentence in ~~the~~ ANY STATE correctional facility ~~at Canon City~~ FACILITY.

SECTION 16. 17-1-105 (1) (c), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

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

(c) The authority to enter into contracts and agreements with other jurisdictions, including other states, the federal government, and political subdivisions of this state, for the confinement and maintenance ~~at the women's correctional institution in Canon City~~ IN STATE CORRECTIONAL FACILITIES of female ~~offenders~~ INMATES sentenced to imprisonment by the courts of such other jurisdictions. The executive director shall notify the appropriate authorities of other jurisdictions, as ~~he~~ THE EXECUTIVE DIRECTOR deems appropriate, of the availability of space ~~at the women's~~ IN STATE correctional ~~institution~~ FACILITIES for the confinement and maintenance of female ~~offenders~~ INMATES from other jurisdictions.

SECTION 17. 17-25-101 (2), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

17-25-101. Definitions. As used in this article, unless the context otherwise requires:

(2) "Minimum security facility" means a facility which ~~has at least one physical barrier between offenders and freedom and~~ is designed and operated to protect the public from least security risk offenders INMATES and is operated by the department for adult felony offenders INMATES committed to the custody of the executive director of the department and includes but is not limited to ~~Camp George West~~ THE COLORADO CORRECTIONAL CENTER at Golden, the Rifle ~~conservation camp~~ CORRECTIONAL CENTER at Rifle, AND the ~~Roubideau conservation camp~~ DELTA CORRECTIONAL CENTER at Delta, but does not include any community correctional facility as defined in section 17-27-102 (1). ~~Such facility shall have a less restrictive setting than the correctional facilities at Canon City and the correctional facilities at Buena Vista and a more restrictive setting than a community correctional facility as defined in section 17-27-102 (1).~~

SECTION 18. 17-27-106 (1), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

17-27-106. Authority of the department to operate community correctional facilities and programs or to contract for such services. (1) The executive director may establish programs and facilities as an alternative or as a supplement to ~~the~~ STATE correctional facilities at Canon City and at Buena Vista for the custody, control, care, and treatment of offenders. For those state facilities designed for community correctional programs, the department shall obtain approval of the appropriate unit of local government, which shall hold a public hearing thereon prior to any such grant of approval.

SECTION 19. 18-1-105 (1) (c), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

18-1-105. Felonies classified - presumptive penalties. (1) (c) Except as otherwise provided by statute, felonies are punishable by imprisonment in ~~the~~ ANY correctional facilities at Canon City FACILITY UNDER THE SUPERVISION OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS. Nothing in this section shall limit the authority granted in part 1 of article 13 of title 16, C.R.S., to increase sentences for habitual criminals. Nothing in this section shall limit the authority granted in part 2 of article 13 of title 16, C.R.S., to commit sex offenders to the department of corrections for an indeterminate term. Nothing in this section shall limit the authority granted in section 18-4-202.1 for increased sentences for habitual burglary offenders.

SECTION 20. 18-1-106 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

18-1-106. Misdemeanors classified - penalties. (1) Misdemeanors are divided into three classes which are distinguished from one another by the following penalties which are authorized upon conviction except as provided in subsection (1.5) of this section:

Class	Minimum Sentence	Maximum Sentence
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1	Six months imprisonment, or five hundred dollars fine, or both	Twenty-four months imprisonment, or five thousand dollars fine, or both
2	Three months imprisonment, or two hundred fifty dollars fine, or both	Twelve months imprisonment, or one thousand dollars fine, or both
3	Fifty dollars fine	Six months imprisonment, or seven hundred fifty dollars fine, or both

No term of imprisonment for conviction of a misdemeanor shall be served in ~~the~~ ANY STATE correctional facilities ~~at Canon City~~ unless served concurrently with a term for conviction of a felony.

SECTION 21. 18-1-107, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

18-1-107. Petty offenses classified - penalties. A violation of a statute of this state is a "petty offense" if specifically classified as a class 1 or class 2 petty offense. The penalty for commission of a class 1 petty offense, upon conviction, is a fine of not more than five hundred dollars, or imprisonment for not more than six months other than in ~~the~~ STATE correctional facilities, ~~at Canon City~~, or both. The penalty for commission of a class 2 petty offense is a fine specified in the section defining the offense. The penalty assessment procedure of section 16-2-201, C.R.S., is available for the payment of fines in class 2 petty offense cases.

SECTION 22. Repeal. Articles 21 and 22 of title 17, Colorado Revised Statutes, 1986 Repl. Vol., are repealed.

SECTION 23. Effective date. This act shall take effect July 1, 1993.

SECTION 24. 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 22, 1993