

## CHAPTER 232

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**CORRECTIONS**

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**HOUSE BILL 93-1108**

BY REPRESENTATIVES Rupert, Armstrong, Benavidez, Blue, Chlouber, DeGette, Gordon, Keller, Kerns, Knox, Lawrence, Lyle, Morrison, Owen, Pierson, Reeser, Snyder, Sullivan, Tanner, Tucker, Williams, and Wright;  
also SENATOR Wham.

**AN ACT****CONCERNING THE PARTICIPATION OF NONVIOLENT OFFENDERS IN SPECIALIZED RESTITUTION AND COMMUNITY SERVICE PROGRAMS.**

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

**SECTION 1.** 17-27.9-101, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**17-27.9-101. Legislative declaration.** (1) The general assembly hereby finds that the TAXPAYER costs to ~~taxpayers in sentencing persons convicted of~~ INCARCERATE nonviolent OFFENDERS, MOST OF WHOM HAVE COMMITTED property-related offenses, ~~to a term of imprisonment~~ usually outbalances the need to ~~confine~~ INCARCERATE such persons to protect the public's safety and that imprisonment generally renders offenders less able to compensate their victims. Therefore, ~~it is in the best interests of the people of the state of Colorado to provide a mechanism whereby persons convicted of nonviolent property-related offenses may be sentenced to specialized restitution and community service programs rather than imprisonment, which mechanism is hereby set forth in this article~~ THE GENERAL ASSEMBLY DECLARES THAT THE PURPOSE FOR ENACTING THIS ARTICLE REGARDING SPECIALIZED RESTITUTION AND COMMUNITY SERVICE PROGRAMS IS TO INCREASE THE COST-EFFICIENCY AND THE EFFECTIVENESS OF COLORADO CORRECTIONS. THIS ARTICLE AUTHORIZES THE ESTABLISHMENT OF AN INTERMEDIATE SANCTION WHEREBY NONVIOLENT OFFENDERS, AT LEAST TAXPAYER COST THAN IMPRISONMENT, WOULD BE REQUIRED TO WORK UNDER STRICT SUPERVISION IN A HIGHLY STRUCTURED PROGRAM IN ORDER TO COMPENSATE THEIR VICTIMS AND SOCIETY FOR THE DAMAGE THEY HAVE CAUSED.

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

(2) THE GENERAL ASSEMBLY HEREBY DECLARES THAT USING INCARCERATION AS A ROUTINE PUNISHMENT FOR NONVIOLENT OFFENDERS, EITHER UPON SENTENCING OR UPON THE REVOCATION OF PAROLE OR PROBATION, PUNISHES COLORADO'S TAXPAYERS. THE GENERAL ASSEMBLY FINDS THAT LIMITING THE POOL OF OFFENDERS ELIGIBLE FOR THE SPECIALIZED RESTITUTION AND COMMUNITY SERVICE PROGRAM TO FIRST-TIME OFFENDERS UNREASONABLY RESTRICTS ENTRANCE INTO THE PROGRAM AND THAT THE LEVEL OF SUPERVISION MANDATED FOR REPEAT OFFENDERS BY THIS ARTICLE IS ADEQUATE TO ENSURE PUBLIC SAFETY FROM SUCH OFFENDERS. THE GENERAL ASSEMBLY FURTHER FINDS THAT THE VAST MAJORITY OF REPEAT OFFENDERS DO NOT POSSESS THE REQUISITE SKILLS TO OBTAIN LEGITIMATE EMPLOYMENT AND THAT THE SPECIALIZED RESTITUTION AND COMMUNITY SERVICE PROGRAM WILL TRAIN SUCH REPEAT OFFENDERS FOR LEGITIMATE EMPLOYMENT. THEREFORE, IT IS IN THE BEST INTERESTS OF THE PEOPLE OF THE STATE OF COLORADO TO ALLOW NONVIOLENT REPEAT OFFENDERS AND OFFENDERS WITH TECHNICAL VIOLATIONS OF PAROLE OR PROBATION INTO SUCH PROGRAM.

**SECTION 2.** 17-27.9-103 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended, and the said 17-27.9-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**17-27.9-103. Offenders who may be sentenced to the specialized restitution and community service program.** (1) Any offender ~~who meets the following criteria~~ shall be eligible to be placed ~~by the court~~ in a specialized restitution and community service program IF:

(a) ~~A determination is made by the court that the offender would be sentenced to imprisonment pursuant to section 16-11-101 (1) (b), C.R.S., if such offender is not placed in the specialized restitution and community service program;~~ THE OFFENDER HAS BEEN CONVICTED OF AN OFFENSE OTHER THAN A CRIME OF VIOLENCE, AS DESCRIBED IN SECTION 16-11-309 (2) (a), C.R.S., OR ANY FELONY OFFENSE COMMITTED AGAINST A CHILD SET FORTH IN ARTICLES 3, 6, AND 7 OF TITLE 18, C.R.S.; AND

(b) ~~The offender has been convicted of an offense other than a crime of violence, as described in section 16-11-309, (2) (a), C.R.S., or any felony offense committed against a child set forth in articles 3, 6, and 7 of title 18, C.R.S.;~~ (I) A DETERMINATION IS MADE BY THE COURT THAT THE OFFENDER WOULD BE INCARCERATED, EITHER PURSUANT TO SECTION 16-11-101 (1) (b), C.R.S., OR PURSUANT TO A PROBATION REVOCATION, IF SUCH OFFENDER IS NOT PLACED IN THE SPECIALIZED RESTITUTION AND COMMUNITY SERVICE PROGRAM; OR

(II) A DETERMINATION IS MADE BY THE PAROLE BOARD THAT THE OFFENDER WOULD BE INCARCERATED PURSUANT TO A PAROLE VIOLATION.

(c) ~~The conviction is the person's first felony conviction.~~

(4) THE PAROLE BOARD MAY PLACE PAROLE VIOLATORS WHO MEET THE ELIGIBILITY CRITERIA OF SUBSECTION (1) OF THIS SECTION AND WHO HAVE BEEN ACCEPTED PURSUANT TO PARAGRAPHS (a) AND (b) OF SUBSECTION (2) OF THIS SECTION IN SPECIALIZED RESTITUTION AND COMMUNITY SERVICE PROGRAMS. SUCH PAROLE VIOLATORS SHALL BE SUPERVISED IN ACCORDANCE WITH AND SUBJECT TO THE

PROVISIONS OF ARTICLE 27 OF THIS TITLE.

**SECTION 3.** 17-27.9-104 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended, and the said 17-27.9-104 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**17-27.9-104. Contracts with providers - amounts - loans.** (1) Any provider who contracts with the EXECUTIVE director of the ~~division of criminal justice~~ DEPARTMENT OF PUBLIC SAFETY to provide specialized restitution and community service programs pursuant to section 17-27.9-102 shall be reimbursed on a per diem rate for residential supervision and a monthly rate for nonresidential supervision which rate shall be the final rate proposed by the provider during the competitive bidding process.

(3) ANY PROVIDER WHO CONTRACTS WITH THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY TO PROVIDE SPECIALIZED RESTITUTION AND COMMUNITY SERVICE PROGRAMS PURSUANT TO SECTION 17-27.9-102 MAY USE THE PAYMENTS WHICH SUCH PROVIDER RECEIVES PURSUANT TO THIS SECTION TO MATCH FEDERAL OR PRIVATE GRANTS IN ORDER TO FUND THE PROVISION OF ADDITIONAL SPECIALIZED RESTITUTION AND COMMUNITY SERVICE PROGRAMS, SO LONG AS MATCHING SUCH GRANTS DOES NOT CAUSE A REDUCTION IN THE AVAILABLE BED SPACE AND SO LONG AS MATCHING SUCH GRANTS DOES NOT BIND THE GENERAL ASSEMBLY TO FUND SUCH PROGRAMS IN FUTURE YEARS.

**SECTION 4. No appropriation.** The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

**SECTION 5. Effective date.** This act shall take effect July 1, 1993.

**SECTION 6. 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: June 3, 1993