

## CHAPTER 99

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**CORRECTIONS**

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**SENATE BILL 95-100**

BY SENATORS Bishop, R. Powers, Alexander, Blickensderfer, Coffman, Dennis, Meiklejohn, Norton, and Schroeder;  
also REPRESENTATIVES Tucker, Acquafresca, Allen, Armstrong, Berry, Chlouber, Dean, Entz, Epps, Friednash, Lamborn, Lamm,  
Martin, Moellenberg, Musgrave, Paschall, Piffner, Prinster, Snyder, Sullivan, Swenson, and Taylor.

**AN ACT****CONCERNING DENIAL OF PRIVILEGES FOR PRISONERS WHO FILE LAWSUITS WITHOUT JUSTIFICATION.**

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

**SECTION 1.** 17-20-114.5, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**17-20-114.5. Restriction of privileges in correctional facilities - restriction of privileges because of lawsuit filed without justification.** (1) Any person convicted of a crime and confined in any state correctional facility listed in section 17-1-104.3 is not entitled to any privileges that may be made available by the department of corrections. If any such person is required by the department to perform any available labor, participate in any available educational program or work program, undergo any available counseling, or any one or a combination of the foregoing and such person does not perform the labor, participate in the program, undergo the counseling, or do any one or a combination of the foregoing as required by the department, the department shall deny specified privileges to such person. The privileges that the department shall deny to such person include, but are not limited to, television, radios, entertainment systems, cigarettes, and access to snacks. If the department denies television privileges, it may allow a person to watch television for educational purposes, including public television broadcasts transmitted to or available to the facility. A person who is physically unable to perform labor, participate in an educational program or work program, or undergo counseling may be allowed the privileges specified in this ~~section~~ SUBSECTION (1). Nothing in this ~~section~~ SUBSECTION (1) shall be construed to grant as a right any such labor, program, or counseling or any privileges listed in this ~~section~~ SUBSECTION (1).

(2) (a) IF ANY PERSON IS CONVICTED OF A CRIME AND CONFINED IN ANY STATE

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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.*

CORRECTIONAL FACILITY LISTED IN SECTION 17-1-104.3 OR IN ANY FACILITY THAT HOUSES ADULT OFFENDERS AND SUCH PERSON FILES A LAWSUIT AGAINST THE STATE OF COLORADO OR AGAINST ANY STATE GOVERNMENT OFFICIAL, OFFICER, EMPLOYEE, OR AGENT, THE DEPARTMENT OR ITS AGENT HAVING CUSTODY OF THE PERSON SHALL DENY SPECIFIED PRIVILEGES TO SUCH PERSON IF, UPON THE MOTION OF ANY PARTY OR THE COURT ITSELF, A STATE OR FEDERAL COURT FINDS THAT THE ACTION, OR ANY PART THEREOF, LACKED SUBSTANTIAL JUSTIFICATION, WAS BASELESS, OR WAS MALICIOUS OR THAT THE ACTION, OR ANY PART THEREOF, WAS INTERPOSED FOR HARASSMENT. AS USED IN THIS SUBSECTION (2), "LACKED SUBSTANTIAL JUSTIFICATION" HAS THE SAME MEANING AS THAT PROVIDED FOR SUCH TERM IN SECTION 13-17-102 (4), C.R.S.

(b) THE PRIVILEGES DENIED TO A PERSON PURSUANT TO THE PROVISIONS OF THIS SUBSECTION (2) INCLUDE, BUT ARE NOT LIMITED TO, THE PRIVILEGES DESCRIBED IN SUBSECTION (1) OF THIS SECTION. THE DEPARTMENT OR ITS AGENT HAVING CUSTODY OF THE PERSON SHALL DENY THE PRIVILEGES TO THE PERSON FOR A PERIOD NOT TO EXCEED ONE HUNDRED TWENTY DAYS FOR ANY SUCH LAWSUIT.

(c) THE DEPARTMENT OR ITS AGENT HAVING CUSTODY OF THE PERSON MAY NOT DENY PRIVILEGES TO A PERSON PURSUANT TO THE PROVISIONS OF THIS SUBSECTION (2) IF THE COURT DETERMINES THE LAWSUIT WAS ASSERTED BY THE PERSON IN A GOOD FAITH ATTEMPT TO ESTABLISH A NEW THEORY OF LAW IN COLORADO.

(d) THE DEPARTMENT OR ITS AGENT HAVING CUSTODY OF THE PERSON MAY DETERMINE NOT TO DENY PRIVILEGES TO A PERSON PURSUANT TO THE PROVISIONS OF THIS SUBSECTION (2) IF, AFTER FILING THE LAWSUIT, A VOLUNTARY DISMISSAL OF THE ACTION IS FILED WITHIN A REASONABLE TIME AFTER THE PERSON FILING THE DISMISSAL KNEW, OR REASONABLY SHOULD HAVE KNOWN, THAT HE OR SHE WOULD NOT PREVAIL IN THE ACTION.

**SECTION 2.** Part 1 of article 26 of title 17, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

**17-26-110.5. Restriction of privileges because of lawsuit filed without justification.** (1) IF ANY PERSON IS CONVICTED OF A CRIME AND CONFINED IN ANY COUNTY JAIL AND SUCH PERSON FILES A LAWSUIT AGAINST THE COUNTY OR AGAINST ANY COUNTY GOVERNMENT OFFICIAL, OFFICER, EMPLOYEE, OR AGENT, THE COUNTY MAY DENY ANY OF THE PRIVILEGES ALLOWED TO SUCH PERSON IF, UPON THE MOTION OF ANY PARTY OR THE COURT ITSELF, A STATE OR FEDERAL COURT FINDS THAT THE ACTION, OR ANY PART THEREOF, LACKED SUBSTANTIAL JUSTIFICATION, WAS BASELESS, OR WAS MALICIOUS OR THAT THE ACTION, OR ANY PART THEREOF, WAS INTERPOSED FOR HARASSMENT. AS USED IN THIS SECTION, "LACKED SUBSTANTIAL JUSTIFICATION" HAS THE SAME MEANING AS THAT PROVIDED FOR SUCH TERM IN SECTION 13-17-102 (4), C.R.S.

(2) THE COUNTY MAY DENY PRIVILEGES TO A PERSON PURSUANT TO SUBSECTION (1) OF THIS SECTION FOR A PERIOD NOT TO EXCEED ONE HUNDRED TWENTY DAYS FOR ANY SUCH LAWSUIT.

(3) THE COUNTY MAY NOT DENY PRIVILEGES TO A PERSON PURSUANT TO THE

PROVISIONS OF THIS SECTION IF THE COURT DETERMINES THE LAWSUIT WAS ASSERTED BY THE PERSON IN A GOOD FAITH ATTEMPT TO ESTABLISH A NEW THEORY OF LAW IN COLORADO.

(4) THE COUNTY MAY DETERMINE NOT TO DENY PRIVILEGES TO A PERSON PURSUANT TO THE PROVISIONS OF THIS SECTION IF, AFTER FILING THE LAWSUIT, A VOLUNTARY DISMISSAL OF THE ACTION IS FILED WITHIN A REASONABLE TIME AFTER THE PERSON FILING THE DISMISSAL KNEW, OR REASONABLY SHOULD HAVE KNOWN, THAT HE OR SHE WOULD NOT PREVAIL IN THE ACTION.

**SECTION 3. Effective date - applicability.** This act shall take effect July 1, 1995, and shall apply to any lawsuit filed on or after said date.

**SECTION 4. 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: April 21, 1995