

CHAPTER 229

CORRECTIONS

HOUSE BILL 96-1128

BY REPRESENTATIVES Kaufman, Mace, Schwarz, and Swenson;
also SENATOR Johnson.

AN ACT

CONCERNING THE OPERATIONS OF THE DEPARTMENT OF CORRECTIONS.

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

SECTION 1. 16-11-311 (2) (a) (I), (3.3) (c), and (3.4) (b), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

16-11-311. Sentences - youthful offenders - legislative declaration - powers and duties of district court - authorization for youthful offender system - powers and duties of department of corrections - repeal. (2) (a) (I) A juvenile may be sentenced to the youthful offender system created pursuant to this section under the circumstances set forth in section 19-2-805 (2) (b) (I), C.R.S. In order to sentence a ~~person~~ JUVENILE to the youthful offender system, the court shall first impose upon such person a sentence to the department of corrections in accordance with section 18-1-105, C.R.S. The court shall thereafter suspend such sentence conditioned on completion of a sentence to the youthful offender system, including a period of community supervision. The court shall impose any such sentence to the youthful offender system for a determinate period of not less than two years nor more than six years, with authority granted to the department of corrections to place a youthful offender under a period of community supervision for a period of no less than six months and up to twelve months any time after the date on which the youthful offender has twelve months remaining to complete the determinate sentence. THE COURT MAY AWARD A JUVENILE SENTENCED TO THE YOUTHFUL OFFENDER SYSTEM CREDIT FOR PRESENTENCE CONFINEMENT; EXCEPT THAT SUCH CREDIT SHALL NOT REDUCE THE JUVENILE'S ACTUAL TIME SERVED IN THE YOUTHFUL OFFENDER SYSTEM TO LESS THAN TWO YEARS. The court is encouraged to have a presentence investigation conducted before sentencing a juvenile pursuant to this section.

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

(3.3) The youthful offender system consists of the following components, and the department of corrections has the authority described in paragraphs (a) to (d) of this subsection (3.3) in connection with the administration of the components:

(c) (I) Phase II, which may be administered during the ~~first~~ LAST three months of the period of ~~community supervision~~ INSTITUTIONAL CONFINEMENT and during which time the department of corrections is authorized to transfer a youthful offender to a ~~prerelease halfway facility in preparation for supervised release~~ TWENTY-FOUR-HOUR CUSTODY RESIDENTIAL PROGRAM THAT SERVES YOUTH.

(II) In connection with the component described in subparagraph (I) of this paragraph (c), the department of corrections is authorized to operate or to contract with a ~~prerelease halfway house~~ YOUTH RESIDENTIAL PROGRAM for THOSE SENTENCED AS youthful offenders. The department of corrections or the contract provider shall ~~administer the prerelease program under the department of corrections with minimum restricted security and shall provide for twenty-four-hour custody of youthful offenders IN PHASE II. In addition, to the extent possible, any youthful offender transferred to a prerelease halfway facility shall be segregated from any area in such facility that houses adult offenders.~~

(3.4) In addition to the powers granted to the department of corrections in subsection (3.3) of this section, the department of corrections may:

(b) Operate an emancipation ~~house~~ PROGRAM AND PROVIDE OTHER SUPPORT OR MONITORING SERVICES AND RESIDENTIAL PLACEMENT for youthful offenders participating in phases II and III under the youthful offender system for whom family reintegration poses difficulties. The department of corrections shall provide reintegration support services to a youthful offender placed in an emancipation house.

SECTION 2. 16-16-103 (2) (a), Colorado Revised Statutes, 1986 Repl. Vol., is repealed as follows:

16-16-103. Place of confinement - extension of limits. (2) The superintendents, in the exercise of their discretion and with the assistance of the director of the division of adult services, may extend the limits of confinement of any inmate in the following instances:

(a) ~~To travel to and from and visit at a specified place or places for a period of not to exceed thirty days for the following purposes:~~

(I) ~~To visit a person of the inmate's immediate family who is in danger of death, at the superintendent's discretion only;~~

(II) ~~To attend the funeral services or other last rites of a person of the inmate's immediate family, at the superintendent's discretion only;~~

(III) ~~To obtain health services otherwise not available to the inmate at an institution operated by the state of Colorado, at the superintendent's discretion only;~~

(IV) ~~To interview prospective employers under the supervision of the director of the division of adult services;~~

~~(V) Any other purpose consistent with the public interest.~~

SECTION 3. 17-1-104.5, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

17-1-104.5. Incarceration of inmates from other states - private contract prison facilities. THE GENERAL ASSEMBLY FINDS AND DECLARES THAT THE IMPORTATION OF PRISONERS FROM OTHER STATES INTO CORRECTIONAL FACILITIES NOT OPERATED BY THE DEPARTMENT OF CORRECTIONS IS A MATTER OF STATEWIDE CONCERN. No inmate from a state other than Colorado may be received into the state of Colorado and be housed in a private contract prison facility OR A PRISON FACILITY OPERATED BY A POLITICAL SUBDIVISION OF THE STATE without the express approval of the executive director, WHICH APPROVAL SHALL NOT BE UNREASONABLY WITHHELD.

SECTION 4. Part 1 of title 17, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

17-1-104.6. Planning and review requirements - legislative intent. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT THE CONSTRUCTION, EXPANSION, RENOVATION, OR IMPROVEMENT OF STATE-BUILT AND OPERATED DEPARTMENT OF CORRECTIONS FACILITIES IS A MATTER OF STATEWIDE AND NOT LOCAL CONCERN. THEREFORE, THE DEPARTMENT, IN AUTHORIZING AND FINANCING THE CONSTRUCTION, EXPANSION, RENOVATION, OR IMPROVEMENT OF ITS FACILITIES, IS EXEMPT FROM REGIONAL, COUNTY, AND LOCAL PLANNING REQUIREMENTS, INCLUDING THOSE SPECIFIED IN SECTION 30-28-110, C.R.S., AND THOSE AUTHORIZED BY SECTION 29-20-104, C.R.S.

(2) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, WHENEVER THE DEPARTMENT PLANS TO LOCATE A NEW CORRECTIONS FACILITY OR EXPAND AN EXISTING CORRECTIONS FACILITY, THE DEPARTMENT SHALL SUBMIT FACILITY PROGRAM PLANS TO THE GOVERNING BODY OF THE COUNTY OR MUNICIPALITY IN WHICH THE FACILITY IS PROPOSED TO BE LOCATED OR EXPANDED AND AFFORD THE GOVERNING BODY AN OPPORTUNITY FOR ADVISORY REVIEW OF SUCH PLANS.

(3) THE INTENT OF THE GENERAL ASSEMBLY IN ENACTING THIS SECTION IS TO CLARIFY THE MEANING OF CURRENT LAW CONCERNING REGIONAL, COUNTY, AND LOCAL PLANNING REQUIREMENTS AND TO CLARIFY THAT THE GENERAL ASSEMBLY NEVER INTENDED TO REQUIRE THE DEPARTMENT TO SUBMIT PLANS TO AUTHORIZE OR CONSTRUCT ITS FACILITIES FOR APPROVAL BY LOCAL, COUNTY, OR REGIONAL PLANNING AUTHORITIES. ACCORDINGLY, THIS SECTION IS INTENDED TO APPLY TO CAUSES OF ACTION PENDING ON OR FILED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION.

SECTION 5. 17-1-104.8, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

17-1-104.8. Legislative review of facilities program plans for correctional facilities. (1) ~~When moneys are appropriated by the general assembly for the construction of a new correctional facility or for the construction of an addition to an~~

existing correctional facility, the department may not begin the actual construction of any facility until the facilities program plans have been reviewed by the capital development committee and the joint budget committee of the general assembly, acting as a joint committee. The general assembly may contract with a consultant to provide assistance to the joint committee in the review of facilities program plans submitted by the department. The joint committee's review of facilities program plans for a new correctional facility shall include, but not be limited to, whether the facilities program plans allow for a subsequent addition to the facility and whether the plans meet the security level designation. Within thirty days after the date of receipt of the facilities program plans from the department, the joint committee shall provide the department with comments and suggestions concerning the plans. If the joint committee does not provide the department with comments and suggestions within such thirty-day period, the department may proceed with the actual construction of the correctional facility. The department shall submit monthly reports concerning each construction project until the project is completed. The information to be included in the report shall be determined by the department and the joint committee. PRIOR TO ANY APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE CONSTRUCTION OF A NEW, EXPANDED, RENOVATED, OR IMPROVED CORRECTIONAL FACILITY, AND NO LATER THAN NOVEMBER 1 PRIOR TO THE BEGINNING OF THE BUDGET YEAR FOR WHICH THE APPROPRIATION IS MADE, THE DEPARTMENT SHALL SUBMIT A PROPOSED FACILITY PROGRAM PLAN FOR EACH PROPOSED NEW, EXPANDED, RENOVATED, OR IMPROVED CORRECTIONAL FACILITY TO THE CAPITAL DEVELOPMENT COMMITTEE. THE CAPITAL DEVELOPMENT COMMITTEE SHALL MAKE A RECOMMENDATION REGARDING THE FACILITY PROGRAM PLAN TO THE JOINT BUDGET COMMITTEE. THE GENERAL ASSEMBLY MAY CONTRACT WITH A CONSULTANT TO PROVIDE ASSISTANCE TO THE CAPITAL DEVELOPMENT COMMITTEE AND THE JOINT BUDGET COMMITTEE IN THE REVIEW OF FACILITIES PROGRAM PLANS SUBMITTED BY THE DEPARTMENT.

(2) ~~At the department's request and with the concurrence of the joint budget committee, the capital development committee may, as to a specified portion of a construction project, waive the requirement that the department not begin construction of any facility until the facilities program plans for the facility have been reviewed by the joint committee. Such waiver shall not constitute a waiver of the joint committee's right to provide comments and suggestions concerning the specified portion of the project, either at the time of the waiver pursuant to this subsection (2) or at the time of the review of the entire project pursuant to subsection (1) of this section.~~ FOR THE PURPOSES OF THIS SECTION, "FACILITY PROGRAM PLAN" MEANS A PRE-ARCHITECTURAL DESIGN PROGRAM, AS THAT TERM IS UNDERSTOOD IN THE ARCHITECTURAL PROFESSION. A FACILITY PROGRAM PLAN SHALL INCLUDE BUT NEED NOT BE LIMITED TO THE NUMBER OF BEDS PROPOSED TO BE INCLUDED IN THE NEW CORRECTIONAL FACILITY OR THE ADDITION TO AN EXISTING CORRECTIONAL FACILITY, THE PRIMARY SECURITY LEVEL OF THE PROPOSED FACILITY OR ADDITION, THE STAFFING PLAN OF THE PROPOSED FACILITY OR ADDITION, AND A DESCRIPTION OF ANY EDUCATIONAL OR ANCILLARY SUPPORT FACILITIES REQUIRED FOR THE PROPOSED FACILITY OR ADDITION.

SECTION 6. 17-1-105 (1) (f), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

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

and exercise:

(f) The authority to enter into contracts and agreements with other jurisdictions, including other states, ~~and~~ the federal government, AND POLITICAL SUBDIVISIONS OF THIS STATE, for the confinement and maintenance of offenders sentenced to imprisonment by the courts of this state, and the authority to reimburse such jurisdictions ~~in an amount not to exceed forty dollars per day~~ for the expenses incurred by such jurisdictions in the confinement and maintenance of said offenders.

SECTION 7. Part 1 of article 1 of title 17, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

17-1-105.5. Contract rates. CONTRACTS FOR THE CONFINEMENT AND MAINTENANCE OF STATE INMATES IN PRIVATE CONTRACT FACILITIES OR FACILITIES OPERATED BY A POLITICAL SUBDIVISION OF THE STATE ENTERED INTO PURSUANT TO THIS ARTICLE SHALL BE AT RATES AS PROVIDED IN THE ANNUAL GENERAL APPROPRIATIONS BILL.

SECTION 8. 17-24-114 (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

17-24-114. Provisions for offenders. (3) The division of adult services is empowered to grant earned time allowances consistent with part 4 of article 22.5 of this title ~~and furloughs~~ in relation to an offender's work performance and evaluation, as recommended by the director.

SECTION 9. 17-24-119 (2), Colorado Revised Statutes, 1986 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

17-24-119. Training and employment by organizations - account for proceeds and wages. (2) Proceeds and wages due an offender from the sale of products produced by the offender under a program authorized by subsection (1) of this section shall be held in an account maintained by the division and distributed periodically for:

(d) VOLUNTARY PAYMENT OF SUCH AMOUNTS TO THE VICTIMS ASSISTANCE AND LAW ENFORCEMENT FUND ESTABLISHED IN SECTION 24-33.5-506, C.R.S., AS IS DEEMED APPROPRIATE BY THE DIVISION AFTER CONSULTATION WITH THE RESPECTIVE SUPERINTENDENTS OF THE CORRECTIONAL FACILITIES AND WITH THE DIRECTOR OF THE DIVISION OF ADULT SERVICES.

SECTION 10. 17-24-121 (5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

17-24-121. Venture agreements. (5) The wages of an inmate working under an agreement entered into pursuant to this section with a private person shall be distributed under guidelines established by the executive director in order to offset the cost of imprisonment and incidental expenses, pay court-ordered restitution, MAKE VOLUNTARY PAYMENTS TO THE VICTIMS ASSISTANCE AND LAW ENFORCEMENT FUND ESTABLISHED IN SECTION 24-33.5-506, C.R.S., pay the pro rata share of child support cost as established by the department of human services, and establish a savings account to assist the inmate upon release and to offset state costs at the time of

release.

SECTION 11. 17-24-122 (5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

17-24-122. Agreements for the employment of inmates by private entities.

(5) Out of the wages held in trust for an inmate pursuant to subsection (3) of this section, and subsequent to the deduction made pursuant to subsection (4) of this section, the department of corrections shall deduct periodically for the following purposes and in the following order of priority:

(a.5) VOLUNTARY PAYMENT OF SUCH AMOUNTS TO THE VICTIMS ASSISTANCE AND LAW ENFORCEMENT FUND ESTABLISHED IN SECTION 24-33.5-506, C.R.S., AS IS DEEMED APPROPRIATE BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS;

SECTION 12. The introductory portion to 24-33.5-506 (1), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-33.5-506. Victims assistance and law enforcement fund - creation.

(1) There is hereby created in the state treasury a fund to be known as the victims assistance and law enforcement fund, referred to in sections 24-33.5-506 to 24-33.5-508 as the "fund". The state treasurer shall credit to this fund all moneys deposited with the state treasurer pursuant to section 24-4.2-105 (1) AND VOLUNTARY VICTIM ASSISTANCE PAYMENTS FROM INMATES PURSUANT TO ARTICLE 24 OF TITLE 17, C.R.S. The general assembly shall make annual appropriations of the moneys in such fund to the division:

SECTION 13. 17-25-102, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

17-25-102. Minimum security facility - limitations. (1) Except for correctional facilities located in Fremont county and Delta county, a permanent minimum security facility existing on July 14, 1989, including the Rifle correctional center, ~~and the Colorado correctional center,~~ shall not exceed a capacity of one hundred ninety-two inmates.

(2) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, THE COLORADO CORRECTIONAL CENTER SHALL NOT EXCEED A CAPACITY OF ONE HUNDRED FIFTY INMATES.

SECTION 14. 17-1-104.4 (2) (a) (I), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

17-1-104.4. Future correctional facility needs. (2) To meet the projected correctional facility needs for the next five years:

(a) Subject to the provisions of section 17-1-104.8, the department is directed to commence planning for the construction of the following new correctional facilities or additions to existing correctional facilities:

(I) Two hundred ~~five~~ FIFTY-TWO close security beds as an addition to the Colorado state penitentiary at Canon City;

SECTION 15. Section 14 (2) (b) of chapter 191, Session Laws of Colorado 1994, is amended to read:

SECTION 14. Appropriation for the 1993-94 fiscal year. (2) In addition to any other appropriation made for the current fiscal year, there is hereby appropriated, out of any moneys in the capital construction fund created in section 24-75-302, Colorado Revised Statutes, not otherwise appropriated, to the department of corrections, the following amounts:

(b) Nineteen million five hundred forty-six thousand two hundred fifty dollars (\$19,546,250), or so much thereof as may be necessary, for two hundred ~~five~~ FIFTY-TWO close security beds as authorized by section 7-1-104.4 (2) (a) (I), Colorado Revised Statutes.

SECTION 16. The introductory portion to section 21 (3) and section 21 (3) (b) of chapter 243, Session Laws of Colorado 1995, are amended to read:

SECTION 21. Appropriation for the 1994-95 fiscal year. (3) In addition to any other appropriation made for the current fiscal year, there is hereby appropriated, out of any moneys in the capital construction fund created in section 24-75-302, Colorado Revised Statutes, not otherwise appropriated, to the department of corrections, the sum of ~~—dollars (\$—)~~ THREE MILLION TWO HUNDRED THREE THOUSAND TWO HUNDRED SEVENTY-SIX DOLLARS (\$3,203,276), or so much thereof as may be necessary, to pay the costs which are in excess of the appropriation from the capital construction fund made in section 15 (1) (b) of chapter 191, Session Laws of Colorado 1994, Second Regular Session, for:

(b) Twenty-eight minimum security beds at the Pueblo minimum center as authorized by section 17-1-104.4 (4) (a), Colorado Revised Statutes, of which six hundred forty-one thousand eighty-eight dollars (\$641,088) shall be for ~~new bed construction~~ ADDITIONAL PROGRAM SPACE;

SECTION 17. 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 1, 1996