

CHAPTER 145

CORRECTIONS

HOUSE BILL 99-1317

BY REPRESENTATIVES Spradley, Kaufman, Coleman, Kester, and T. Williams;
also SENATOR Chlouber.

AN ACT

CONCERNING THE CLARIFICATION OF THE RESPONSIBILITIES OF INVESTIGATIVE POSITIONS WITHIN THE
DEPARTMENT OF CORRECTIONS.

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

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

**17-1-103.8. Duties of executive director - inspector general - investigators -
duties.** (1) THE EXECUTIVE DIRECTOR, PURSUANT TO SECTION 13 OF ARTICLE XII OF
THE STATE CONSTITUTION, SHALL APPOINT A PERSON TO THE POSITION OF INSPECTOR
GENERAL. THE PERSON APPOINTED TO THE POSITION SHALL REPORT TO THE
EXECUTIVE DIRECTOR AND SHALL HAVE THE POWERS OF A PEACE OFFICER, LEVEL Ia,
AS DEFINED IN SECTION 18-1-901 (3) (I) (II) (A), C.R.S.

(2) THE INSPECTOR GENERAL SHALL HAVE THE FOLLOWING DUTIES:

(a) TO INVESTIGATE ANY CRIMES, CRIMINAL ENTERPRISES, OR CONSPIRACIES
ORIGINATING WITHIN THE DEPARTMENT AND ANY CRIMES, CRIMINAL ENTERPRISES, OR
CONSPIRACIES ORIGINATING OUTSIDE CORRECTIONAL FACILITIES IF SUCH CRIMES,
CRIMINAL ENTERPRISES, OR CONSPIRACIES ARE RELATED TO THE SAFETY AND
SECURITY OF CORRECTIONAL FACILITIES, PUBLIC OR PRIVATE. EVIDENCE OBTAINED
BY THE INSPECTOR GENERAL OF ANY CRIMES SO INVESTIGATED SHALL BE:

(I) REPORTED TO THE APPLICABLE LOCAL LAW ENFORCEMENT AGENCY; OR

(II) WITH THE CONSENT OF THE DISTRICT ATTORNEY, REPORTED DIRECTLY TO THE
DISTRICT ATTORNEY, ATTORNEY GENERAL, OR UNITED STATES ATTORNEY HAVING

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

JURISDICTION OVER THE ISSUE; OR

(III) IN THE CASE OF A CITY AND COUNTY, REPORTED IMMEDIATELY TO THE LOCAL LAW ENFORCEMENT AGENCY AND SUCH AGENCY MAY COMPLETE THE INVESTIGATION AND REPORT THE FINDINGS TO THE DISTRICT ATTORNEY HAVING JURISDICTION OVER THE CITY AND COUNTY.

(b) TO INVESTIGATE ANY VIOLATIONS OF ADMINISTRATIVE REGULATIONS OR STATE POLICY AND PROCEDURE AND ANY WASTE OR MISMANAGEMENT OF DEPARTMENTAL RESOURCES AND CORRUPTION THAT MAY OCCUR WITHIN THE DEPARTMENT AND ANY OTHER VIOLATION THAT MAY BE COMMITTED BY DEPARTMENT STAFF WHERE THE VIOLATION COULD AFFECT THE PERFORMANCE OF STAFF DUTIES OR TEND TO ERODE PUBLIC CONFIDENCE IN THE PERFORMANCE OF THE DEPARTMENT;

(c) TO INVESTIGATE ANY CRIMINAL VIOLATION OR ACT COMMITTED WITHIN CORRECTIONAL FACILITIES THAT IS LINKED TO THE SECURITY AND THE SAFE OPERATIONS OF CORRECTIONAL FACILITIES;

(d) TO INVESTIGATE ANY ILLEGAL DRUG USE BY OFFENDERS IN CORRECTIONAL FACILITIES THROUGH MONITORING AND DRUG INTERDICTION EFFORTS.

(3) IN ADDITION TO THE DUTIES SET FORTH IN SUBSECTION (2) OF THIS SECTION, THE INSPECTOR GENERAL SHALL HAVE THE AUTHORITY TO PERFORM ANY FUNCTIONS OF INVESTIGATORS AS PERMITTED BY PARAGRAPH (c) OF SUBSECTION (5) OF THIS SECTION OR AS REQUIRED BY PARAGRAPH (d) OF SUBSECTION (5) OF THIS SECTION.

(4) FOR PURPOSES OF THIS SECTION, "CORRECTIONAL FACILITIES" INCLUDES BUT IS NOT LIMITED TO ANY FACILITY WITH WHICH THE DEPARTMENT HAS CONTRACTED TO HOUSE OFFENDERS WHO ARE IN THE LEGAL CUSTODY OF THE DEPARTMENT.

(5) (a) THE EXECUTIVE DIRECTOR, IN CONSULTATION WITH THE INSPECTOR GENERAL, SHALL APPOINT INVESTIGATORS WHO SHALL OPERATE UNDER THE INSPECTOR GENERAL'S DIRECT AUTHORITY. INVESTIGATORS APPOINTED PURSUANT TO THIS SECTION SHALL HAVE THE POWERS OF A PEACE OFFICER LEVEL Ia, AS DEFINED IN SECTION 18-1-901 (3) (I) (II) (A), C.R.S. INVESTIGATORS SHALL HAVE ONLY THOSE POWERS AND DUTIES SPECIFIED IN PARAGRAPHS (c) AND (d) OF THIS SUBSECTION (5).

(b) EACH INVESTIGATOR SHALL NOTIFY THE LOCAL LAW ENFORCEMENT AGENCY WHEN THE INVESTIGATOR IS OPERATING OR INTENDS TO OPERATE ANYWHERE WITHIN THE LOCAL LAW ENFORCEMENT AGENCY'S JURISDICTION AND SHALL COOPERATE WITH SUCH AGENCY DURING THE CONDUCT OF THE INVESTIGATION.

(c) INVESTIGATORS MAY:

(I) PERFORM DUTIES IN THE INVESTIGATION, DETECTION, AND PREVENTION OF CRIME AS THEY PERTAIN TO THE SECURITY AND SAFE OPERATIONS OF CORRECTIONAL FACILITIES;

(II) INVESTIGATE VIOLATIONS OF STATE, LOCAL, AND FEDERAL STATUTES AS THEY PERTAIN TO THE SECURITY AND SAFE OPERATIONS OF CORRECTIONAL FACILITIES;

(III) INVESTIGATE CRIMINAL ACTS COMMITTED BY ANY OFFENDER WHO IS IN THE LEGAL CUSTODY OF THE DEPARTMENT, ANY EMPLOYEE OF THE DEPARTMENT, ANY CONTRACTOR OR SUBCONTRACTOR WITH THE DEPARTMENT OR ANY EMPLOYEE THEREOF, ANY VOLUNTEER WITH THE DEPARTMENT, AND ANY VISITOR TO ANY CORRECTIONAL FACILITIES, AS SUCH CRIMINAL ACTS ARE DIRECTLY RELATED TO THE SECURITY AND SAFE OPERATION OF THE DEPARTMENT AND ITS CORRECTIONAL FACILITIES, INCLUDING BUT NOT LIMITED TO SUCH ACTS AS ASSISTED ESCAPES FROM CORRECTIONAL FACILITIES, INTRODUCTION OF CONTRABAND INTO CORRECTIONAL FACILITIES, AND THREATS TO THE SAFETY AND WELFARE OF OTHERS; AND

(IV) SEEK OUT AND ARREST ANY FUGITIVE FROM A CORRECTIONAL FACILITY AND, WHEN CALLED UPON, ASSIST OTHER AGENCIES IN THE APPREHENSION OF FUGITIVES FROM JURISDICTIONS THROUGHOUT THE STATE.

(d) INVESTIGATORS, UNDER THE DIRECTION OF THE INSPECTOR GENERAL, SHALL CONDUCT PREEMPLOYMENT INVESTIGATIONS AND INTEGRITY INTERVIEWS OF ALL PERSONS WHO APPLY FOR EMPLOYMENT WITH THE DEPARTMENT, INCLUDING EMPLOYMENT AS CONTRACTORS AND SUBCONTRACTORS. SUCH PREEMPLOYMENT INVESTIGATIONS SHALL ENSURE THAT DEPARTMENT EMPLOYEES MEET THE MINIMUM STANDARDS SET FORTH BY STATE PERSONNEL RULES, EXECUTIVE ORDERS, AND DEPARTMENT POLICIES.

SECTION 2. 17-1-103 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

17-1-103. Duties of the executive director. (1) The duties of the executive director shall be:

(o) TO APPOINT AN INSPECTOR GENERAL AND INVESTIGATORS AS PROVIDED IN SECTION 17-1-103.8.

SECTION 3. Repeal. 17-1-115, Colorado Revised Statutes, is repealed as follows:

17-1-115. Investigators employed by the department - notification to local law enforcement agencies. ~~Any investigator who is employed by the department and who is defined as a "peace officer, level Ia" pursuant to section 18-1-901 (3) (1) (H), C.R.S., shall, whenever practicable, notify any local law enforcement agency when such investigator is operating or intends to operate anywhere in the jurisdiction of such local law enforcement agency.~~

SECTION 4. 18-1-901 (3) (1) (II) (A) and (3) (1) (III), Colorado Revised Statutes, are amended to read:

18-1-901. Definitions. (3) (1) (II) (A) "Peace officer, level Ia," means any sheriff; district attorney; assistant district attorney; deputy district attorney; special deputy district attorney; the attorney general of the state, the deputy attorney general, and any deputy or assistant attorney general assigned to a criminal enforcement function in the office of the attorney general; authorized investigator of a county or district attorney, the attorney general, or the executive director of the department of public safety; agent of the Colorado bureau of investigation pursuant to section

24-33.5-409, C.R.S.; parole officers or community program agents pursuant to article 2 of title 17, C.R.S.; ~~any investigator~~ THE INSPECTOR GENERAL AND ANY INVESTIGATORS APPOINTED PURSUANT TO SECTION 17-1-103.8, C.R.S., employed by the department of corrections; or any officer of the Southern Ute Indian police force or Ute Mountain Ute Indian police force who is certified pursuant to part 3 of article 31 of title 24, C.R.S., or otherwise qualified under section 24-31-305 (2), C.R.S. "Peace officer, level Ia," has the authority to enforce all the laws of the state of Colorado while acting within the scope of the officer's authority and in the performance of the officer's duties.

(III) "Peace officer, level II," means an inspector of the state licensing authority under the "Colorado Beer Code" or the liquor enforcement division under section 12-47-904, C.R.S., or part 5 of article 35 of title 24, C.R.S.; an authorized investigator of the state lottery division pursuant to section 24-35-205 (3) or 24-35-206 (7), C.R.S.; any authorized investigator and the director of the division of gaming and the executive director of the department of revenue pursuant to section 12-47.1-204, C.R.S.; any fire arson investigator appointed by the chief of any fire department and approved by the sheriff or the chief of police of the jurisdiction in which such fire arson investigator performs duties; any officer, guard, or supervisory employee within the department of corrections, except THE INSPECTOR GENERAL AND ANY INVESTIGATORS APPOINTED PURSUANT TO SECTION 17-1-103.8, C.R.S., ~~any investigator~~ employed by the department of corrections; a security guard employed by the state of Colorado; a security officer as defined in section 24-7-101, C.R.S.; a district wildlife manager, special district wildlife manager, or parks and recreation officer defined as a peace officer pursuant to section 33-1-102, C.R.S., and acting under the authority of a peace officer pursuant to sections 33-6-101 and 33-15-101, C.R.S.; an investigator for the division of racing events and the investigator's supervisors, including the director of the division of racing events pursuant to section 12-60-203, C.R.S., or a railroad employee defined as a peace officer pursuant to section 40-32-104.5, C.R.S., who shall have access to Colorado bureau of investigation fugitive and stolen property records. "Peace officer, level II," has the authority to enforce all the laws of the state of Colorado while acting within the scope of his authority and in the performance of his duties, and section 18-1-106 (1.5) and section 18-3-107 shall apply to "peace officer, level II".

SECTION 5. 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 30, 1999