

CHAPTER 290

CORRECTIONS

HOUSE BILL 99-1353

BY REPRESENTATIVES Gotlieb, Mitchell, George, Mace, Allen, Bacon, Chavez, Clarke, Coleman, Dean, Fairbank, Gagliardi, Gordon, Grossman, Hagedorn, Kaufman, Keller, Larson, Lee, Leyba, Miller, Morrison, Plant, Ragsdale, Saliman, Spence, Stengel, Tapia, Tate, Tochtrop, Tupa, Veiga, S. Williams, Windels, Witwer, and Zimmerman;
also SENATORS Wham, Hernandez, Blickensderfer, Lamborn, Nichol, Pascoe, Perlmutter, Powers, Tebedo, and Weddig.

AN ACT

CONCERNING PROGRAMS FOR PERSONS CONVICTED OF A CRIME IN ANOTHER STATE, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. 17-27.1-101, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

17-27.1-101. Nongovernmental facilities for offenders - registration - notifications - penalties - repeal. (1) (a) THE GENERAL ASSEMBLY FINDS THAT THE TRANSFER INTO COLORADO OF PERSONS THAT HAVE BEEN CONVICTED OF OR HAVE AGREED TO A DEFERRED JUDGMENT, DEFERRED SENTENCE, OR DEFERRED PROSECUTION FOR A CRIME IN ANOTHER STATE WHO ARE REQUIRED TO PARTICIPATE IN PRIVATE TREATMENT PROGRAMS IN THIS STATE IS A MATTER OF STATEWIDE AND LOCAL CONCERN.

(b) THE GENERAL ASSEMBLY FURTHER FINDS THAT ALTHOUGH COLORADO IS A SIGNATORY TO THE INTERSTATE COMPACT FOR PAROLEE SUPERVISION, MORE INFORMATION CONCERNING OUT-OF-STATE OFFENDERS IS NECESSARY FOR THE PROTECTION OF THE CITIZENS OF COLORADO, AND IT MAY BE NECESSARY TO FURTHER REGULATE PROGRAMS THAT PROVIDE TREATMENT AND SERVICES TO SUCH PERSONS.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ADMINISTRATOR OF THE INTERSTATE COMPACT" MEANS THE PERSON DESIGNATED BY THE GOVERNOR PURSUANT TO SECTION 24-60-303 (5), C.R.S., WHO MANAGES THE INTERSTATE COMPACT PROCESS.

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

(b) "CHIEF LAW ENFORCEMENT OFFICIAL" MEANS:

(I) IF A FACILITY OF A PRIVATE TREATMENT PROGRAM IS LOCATED WITHIN A MUNICIPALITY, THE CHIEF OF POLICE OF SUCH MUNICIPALITY;

(II) IF A FACILITY OF A PRIVATE TREATMENT PROGRAM IS LOCATED WITHIN A CITY AND COUNTY, THE MANAGER OF SAFETY OF SUCH CITY AND COUNTY OR OTHER PERSON WITH SUCH DUTIES; AND

(III) IF A FACILITY OF A PRIVATE TREATMENT PROGRAM IS NOT LOCATED WITHIN A MUNICIPALITY OR CITY AND COUNTY, THE COUNTY SHERIFF OF THE COUNTY WHERE THE FACILITY IS LOCATED.

(c) "INTERSTATE COMPACT" MEANS THE "UNIFORM ACT FOR OUT-OF-STATE PAROLEE SUPERVISION", PART 3 OF ARTICLE 60 OF TITLE 24, C.R.S.

(d) "PRIVATE TREATMENT PROGRAM" MEANS ANY RESIDENTIAL PROGRAM THAT PROVIDES SERVICES, TREATMENT, REHABILITATION, OR CRIMINAL HISTORY-RELATED TREATMENT FOR SUPERVISED PERSONS BUT DOES NOT INCLUDE A PRIVATE CONTRACT PRISON FACILITY, A PRISON FACILITY OPERATED BY A POLITICAL SUBDIVISION OF THE STATE, A FACILITY PROVIDING TREATMENT FOR THE MENTALLY ILL OR DEVELOPMENTALLY DISABLED, OR A COMMUNITY CORRECTIONS PROGRAM ESTABLISHED PURSUANT TO ARTICLE 27 OF THIS TITLE.

(e) "SENDING STATE" SHALL HAVE THE SAME MEANING AS IN THE INTERSTATE COMPACT.

(f) "SUPERVISED PERSON" MEANS A PERSON EIGHTEEN YEARS OF AGE OR OLDER WHO IS ADJUDICATED OR CONVICTED OF OR HAS AGREED TO A DEFERRED JUDGMENT, DEFERRED SENTENCE, OR DEFERRED PROSECUTION FOR A CRIME IN ANOTHER STATE BUT IS UNDER THE SUPERVISION OF A PROBATION OFFICER OR PAROLE OFFICER IN COLORADO PURSUANT TO THE INTERSTATE COMPACT.

(g) "SUPERVISING PERSON" MEANS A PERSON CHARGED WITH ON-SITE SUPERVISION OF PERSONS AT A PRIVATE TREATMENT PROGRAM.

(h) "UNSUPERVISED PERSON" MEANS A PERSON EIGHTEEN YEARS OF AGE OR OLDER WHO, ALTHOUGH NOT UNDER THE JURISDICTION OF A PROBATION OFFICER OR PAROLE OFFICER IN COLORADO, IS ADJUDICATED OR CONVICTED OF OR HAS AGREED TO A DEFERRED JUDGMENT, DEFERRED SENTENCE, OR DEFERRED PROSECUTION FOR A CRIME OUTSIDE OF THE STATE OF COLORADO AND IS DIRECTED TO ATTEND A PRIVATE TREATMENT PROGRAM IN COLORADO BY ANY COURT, DEPARTMENT OF CORRECTIONS, STATE BOARD OF PAROLE, PROBATION DEPARTMENT, PAROLE DIVISION, ADULT DIVERSION PROGRAM, OR ANY OTHER SIMILAR ENTITY OR PROGRAM IN A STATE OTHER THAN COLORADO.

(3) (a) IN ORDER TO ENSURE UNIFORMITY AND CONSISTENCY, THE SENDING STATE SHALL BE IN COMPLIANCE WITH 24-60-303 (1), C.R.S., OR THE COMMISSIONER SHALL REJECT THE PLACEMENT OF THE SUPERVISED PERSON PURSUANT TO SUBSECTION (6) OF THIS SECTION.

(b) A SENDING STATE SHALL NOT PERMIT OR ENCOURAGE TRAVEL OF A SUPERVISED PERSON TO THE STATE OF COLORADO WITHOUT WRITTEN NOTIFICATION FROM THE COMMISSIONER OF ACCEPTANCE OF THE SUPERVISED PERSON INTO A PRIVATE TREATMENT PROGRAM.

(c) ANY REQUEST FOR PLACEMENT IN A PRIVATE TREATMENT PROGRAM FROM A SENDING STATE SHALL CONTAIN WRITTEN JUSTIFICATION AS TO WHY TREATMENT IN THE STATE OF COLORADO IS PREFERABLE OR MORE BENEFICIAL THAN TREATMENT IN THE SENDING STATE.

(4) NO PRIVATE TREATMENT PROGRAM IN COLORADO SHALL ADMIT OR ACCEPT A SUPERVISED OR UNSUPERVISED PERSON INTO THE PROGRAM UNLESS THE SUPERVISED OR UNSUPERVISED PERSON HAS SIGNED A WAIVER THAT AUTHORIZES THE RELEASE OF CONFIDENTIAL INFORMATION.

(5) NO PRIVATE TREATMENT PROGRAM IN COLORADO SHALL ADMIT OR ACCEPT A SUPERVISED OR UNSUPERVISED PERSON INTO THE PROGRAM UNLESS THAT PROGRAM:

(a) IS REGISTERED WITH THE ADMINISTRATOR OF THE INTERSTATE COMPACT;

(b) IF THE PERSON IS UNSUPERVISED, HAS NOTIFIED THE ADMINISTRATOR OF THE INTERSTATE COMPACT OF THE FOLLOWING INFORMATION FOR EACH SUCH UNSUPERVISED PERSON:

(I) NAME, DATE AND PLACE OF BIRTH, AND SOCIAL SECURITY NUMBER;

(II) COMPLETE CRIMINAL HISTORY OF THE PERSON AS SHOWN BY A NATIONAL CRIMINAL INFORMATION CHECK;

(III) NAME AND ADDRESS OF ANY COURT, DEPARTMENT, BOARD OF PAROLE, PROBATION DEPARTMENT, PAROLE DIVISION, ADULT DIVERSION PROGRAM, OR OTHER SIMILAR ENTITY OR PROGRAM HAVING JURISDICTION OVER THE PERSON; AND

(IV) TERMS AND CONDITIONS UNDER WHICH THE PERSON IS REQUIRED OR DIRECTED TO ATTEND THE PROGRAM; AND

(c) IF THE PERSON IS SUPERVISED, HAS CONFIRMED THAT THE SENDING STATE HAS PROVIDED ALL INFORMATION CONCERNING THE SUPERVISED PERSON REQUIRED BY THE INTERSTATE COMPACT TO THE ADMINISTRATOR OF THE INTERSTATE COMPACT.

(6) (a) PURSUANT TO CRITERIA ESTABLISHED BY THE INTERSTATE COMPACT, THE ADMINISTRATOR OF THE INTERSTATE COMPACT SHALL EITHER ACCEPT OR REJECT THE PLACEMENT OF THE SUPERVISED PERSON IN THE PRIVATE TREATMENT PROGRAM.

(b) FOR ALL UNSUPERVISED PERSONS AND FOR SUPERVISED PERSONS THAT THE ADMINISTRATOR OF THE INTERSTATE COMPACT ACCEPTS FOR PLACEMENT IN A PRIVATE TREATMENT PROGRAM, THE ADMINISTRATOR SHALL IMMEDIATELY NOTIFY THE APPROPRIATE CHIEF LAW ENFORCEMENT OFFICIAL AND THE DIRECTOR OF THE COLORADO BUREAU OF INVESTIGATION.

(c) NOT MORE THAN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION,

AS AMENDED, THE COMMISSIONER SHALL NOTIFY ALL OTHER PARTIES TO THE INTERSTATE COMPACT OF THE REQUIREMENTS OF THIS SECTION RELATING TO SUPERVISED PERSONS.

(7) BY WRITTEN POLICY, A LOCAL LAW ENFORCEMENT AGENCY SHALL REQUIRE A SUPERVISED OR UNSUPERVISED PERSON TO PHYSICALLY APPEAR AT THE LOCAL LAW ENFORCEMENT AGENCY FOR FINGERPRINTING AND PHOTOGRAPHING.

(8) (a) THE PRIVATE TREATMENT PROGRAM SHALL IMMEDIATELY NOTIFY THE CHIEF LAW ENFORCEMENT OFFICIAL WHERE THE PROGRAM IS LOCATED AND, IF SUPERVISED, THE PERSON'S PROBATION OR PAROLE OFFICER WHENEVER ANY PERSON DIRECTED TO APPEAR IN A FACILITY OPERATED BY THE PROGRAM FAILS TO APPEAR OR IS ABSENT WITHOUT AUTHORITY.

(b) THE PRIVATE TREATMENT PROGRAM SHALL NOTIFY THE CHIEF LAW ENFORCEMENT OFFICIAL WHERE THE PROGRAM IS LOCATED AND, IF SUPERVISED, THE PERSON'S PROBATION OR PAROLE OFFICER AT LEAST SEVEN DAYS PRIOR TO THE RELEASE OF ANY PERSON PLACED IN SUCH PROGRAM.

(9) (a) ANY PRIVATE TREATMENT PROGRAM OR SUPERVISING PERSON THAT VIOLATES THIS SECTION COMMITS A MISDEMEANOR. UPON A FIRST CONVICTION, THE PRIVATE TREATMENT PROGRAM OR SUPERVISING PERSON SHALL BE PUNISHED BY A FINE OF FIVE HUNDRED DOLLARS. UPON A SECOND CONVICTION, A PRIVATE TREATMENT PROGRAM OR SUPERVISING PERSON SHALL BE PUNISHED BY A FINE OF ONE THOUSAND DOLLARS. UPON A THIRD OR SUBSEQUENT CONVICTION, A PRIVATE TREATMENT PROGRAM OR SUPERVISING PERSON SHALL BE PUNISHED BY A FINE OF FIVE THOUSAND DOLLARS.

(b) EACH FAILURE TO COMPLY WITH A PROVISION OF THIS SECTION BY A PRIVATE TREATMENT PROGRAM OR SUPERVISING PERSON RELATING TO A DIFFERENT PERSON CONSTITUTES A SEPARATE VIOLATION.

(10) (a) IN ADDITION TO ANY OTHER DUTIES, THE ADMINISTRATOR OF THE INTERSTATE COMPACT MAY PROMULGATE RULES GOVERNING UNSUPERVISED PERSONS INCLUDING BUT NOT LIMITED TO THEIR IDENTIFICATION.

(b) IN ADDITION TO ANY OTHER DUTIES, THE DEPARTMENTS REFERENCED IN SECTION 16-11.5-102 (1), C.R.S., SHALL DEVELOP PROPOSED LEGISLATION GOVERNING THE REGULATION OF PRIVATE TREATMENT FACILITIES.

(11) NOTHING IN THIS SECTION SHALL BE DEEMED TO PROHIBIT ANY UNIT OF LOCAL GOVERNMENT, AS DEFINED IN SECTION 17-27-102 (8), FROM ENACTING ORDINANCES AND REGULATIONS CONCERNING THE LICENSING OF PRIVATE TREATMENT PROGRAMS LOCATED WITHIN THEIR JURISDICTION AND PROVIDING FOR THE PUNISHMENT FOR THE OPERATION OF UNLICENSED PRIVATE TREATMENT PROGRAMS.

(12) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2001.

SECTION 2. Appropriation - adjustment in 1999 long bill. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of corrections, for the

fiscal year beginning July 1, 1999, the sum of twenty-eight thousand five hundred thirty dollars (\$28,530) and 1.0 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) For the implementation of this act, appropriations made in the annual general appropriations act for the fiscal year beginning July 1, 1999, shall be adjusted as follows:

(a) The general fund appropriation to the capital construction fund outlined in section 3 (1) (f) is reduced by twenty-eight thousand five hundred thirty dollars (\$28,530).

(b) The capital construction fund exempt appropriation to the department of transportation, construction projects, is reduced by twenty-eight thousand five hundred thirty dollars (\$28,530).

SECTION 3. Effective date - applicability. This act shall take effect upon passage and shall apply to any persons convicted or accused of a crime in another state and transferred into the state to participate in a private treatment program 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: June 2, 1999