

CHAPTER 65

CORRECTIONS

SENATE BILL 04-156

BY SENATOR(S) Groff, Hanna, Tapia, Tupa, and Windels;
 also REPRESENTATIVE(S) Berry, Borodkin, Boyd, Carroll, Crane, Frangas, Hefley, Hoppe, Lee, McGihon, Merrifield,
 Romanoff, Rose, Schultheis, Stafford, and Williams S.

AN ACT

CONCERNING LIMITATIONS ON THE EMPLOYMENT OF SEX OFFENDERS IN FACILITIES FOR THE CONFINEMENT OF PERSONS.

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:

17-1-109.5. Correctional facility employees - rules. (1) ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, THE DEPARTMENT SHALL NOT HIRE A PERSON WHO IS REQUIRED TO REGISTER AS A SEX OFFENDER PURSUANT TO THE PROVISIONS OF THE "COLORADO SEX OFFENDER REGISTRATION ACT", ARTICLE 22 OF TITLE 16, C.R.S., TO WORK AT A CORRECTIONAL FACILITY.

(2) THE DEPARTMENT SHALL ENSURE THAT ANY PERSON WHO IS EMPLOYED TO WORK AT A CORRECTIONAL FACILITY AS OF THE EFFECTIVE DATE OF THIS SECTION AND WHO IS REQUIRED TO REGISTER AS A SEX OFFENDER PURSUANT TO THE PROVISIONS OF THE "COLORADO SEX OFFENDER REGISTRATION ACT", ARTICLE 22 OF TITLE 16, C.R.S., DOES NOT HAVE UNSUPERVISED CONTACT WITH AN INMATE ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION.

(3) IF A PERSON, WHILE EMPLOYED BY THE DEPARTMENT, IS CONVICTED OF AN OFFENSE THAT REQUIRES THE EMPLOYEE TO REGISTER AS A SEX OFFENDER PURSUANT TO THE PROVISIONS OF THE "COLORADO SEX OFFENDER REGISTRATION ACT", ARTICLE 22 OF TITLE 16, C.R.S., THE EMPLOYEE SHALL IMMEDIATELY NOTIFY THE DEPARTMENT OF THE CONVICTION AND THE REGISTRATION REQUIREMENT. THE DEPARTMENT SHALL ENSURE THAT THE EMPLOYEE DOES NOT HAVE UNSUPERVISED CONTACT WITH AN INMATE ON AND AFTER THE DATE IT RECEIVES NOTICE PURSUANT

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

TO THIS SUBSECTION (3).

(4) THE EXECUTIVE DIRECTOR SHALL ADOPT SUCH RULES AS MAY BE NECESSARY TO ENSURE COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION.

SECTION 2. 17-1-202 (1) (a) (I), Colorado Revised Statutes, is amended, and the said 17-1-202 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

17-1-202. Requests for proposals and contract requirements. (1) Before entering into any contract for designing, financing, acquiring, constructing, or operating a private contract prison or any contract for any combination of these functions, the department may issue a request for proposals. The department's rules, at a minimum, shall require that any contract proposed and awarded by the executive director pursuant to this part 2 shall be governed by the following principles:

(a) A contract shall be negotiated with the contractor found to be the most qualified; except that a contract for private correctional facilities shall not be executed unless the executive director of the department of corrections determines that the contractor has demonstrated compliance with the following standards:

(I) The qualifications, experience, and management personnel necessary to carry out the terms of the contract. AT A MINIMUM, THIS STANDARD SHALL PROHIBIT THE CONTRACTOR FROM EMPLOYING A PERSON WHO IS REQUIRED TO REGISTER PURSUANT TO THE PROVISIONS OF THE "COLORADO SEX OFFENDER REGISTRATION ACT", ARTICLE 22 OF TITLE 16, C.R.S., TO WORK IN THE PRIVATE CORRECTIONAL FACILITY. In connection with this standard, the contractor shall require applicants for employment to submit a set of fingerprints to the Colorado bureau of investigation for a criminal background check as provided in section 17-1-204.

(1.5) FOR THE PURPOSES OF A CONTRACT IN EXISTENCE AS OF THE EFFECTIVE DATE OF THIS SUBSECTION (1.5), IF A CONTRACTOR EMPLOYS A PERSON IN A PRIVATE CORRECTIONAL FACILITY WHO IS REQUIRED TO REGISTER AS A SEX OFFENDER PURSUANT TO THE PROVISIONS OF THE "COLORADO SEX OFFENDER REGISTRATION ACT", ARTICLE 22 OF TITLE 16, C.R.S., THE CONTRACTOR SHALL ENSURE THAT THE PERSON DOES NOT HAVE UNSUPERVISED CONTACT WITH AN INMATE ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (1.5). FAILURE TO COMPLY WITH THE PROVISIONS OF THIS SUBSECTION (1.5) SHALL CONSTITUTE A BREACH AND GROUNDS FOR TERMINATION OF THE CONTRACT.

SECTION 3. Part 4 of article 2 of title 19, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

19-2-403.3. Juvenile facility employees. (1) ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, THE DEPARTMENT OF HUMAN SERVICES SHALL NOT HIRE A PERSON WHO IS REQUIRED TO REGISTER AS A SEX OFFENDER PURSUANT TO THE PROVISIONS OF THE "COLORADO SEX OFFENDER REGISTRATION ACT", ARTICLE 22 OF TITLE 16, C.R.S., TO WORK AT A JUVENILE FACILITY.

(2) THE DEPARTMENT OF HUMAN SERVICES SHALL ENSURE THAT ANY PERSON WHO IS EMPLOYED TO WORK AT A JUVENILE FACILITY AS OF THE EFFECTIVE DATE OF THIS

SECTION AND WHO IS REQUIRED TO REGISTER AS A SEX OFFENDER PURSUANT TO THE PROVISIONS OF THE "COLORADO SEX OFFENDER REGISTRATION ACT", ARTICLE 22 OF TITLE 16, C.R.S., DOES NOT HAVE UNSUPERVISED CONTACT WITH A JUVENILE IN THE FACILITY ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION.

(3) IF A PERSON, WHILE EMPLOYED BY THE DEPARTMENT OF HUMAN SERVICES, IS CONVICTED OF AN OFFENSE THAT REQUIRES THE EMPLOYEE TO REGISTER AS A SEX OFFENDER PURSUANT TO THE PROVISIONS OF THE "COLORADO SEX OFFENDER REGISTRATION ACT", ARTICLE 22 OF TITLE 16, C.R.S., THE EMPLOYEE SHALL IMMEDIATELY NOTIFY THE DEPARTMENT OF HUMAN SERVICES OF THE CONVICTION AND THE REGISTRATION REQUIREMENT. THE DEPARTMENT OF HUMAN SERVICES SHALL ENSURE THAT THE EMPLOYEE DOES NOT HAVE UNSUPERVISED CONTACT WITH A JUVENILE IN THE FACILITY ON AND AFTER THE DATE IT RECEIVES NOTICE PURSUANT TO THIS SUBSECTION (3).

(4) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES SHALL ADOPT SUCH RULES AS MAY BE NECESSARY TO ENSURE COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION.

SECTION 4. 19-2-410, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

19-2-410. Contracts and agreements with public and private agencies.

(4) (a) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (4), AN ENTITY THAT CONTRACTS WITH THE DEPARTMENT OF HUMAN SERVICES FOR THE OPERATION OF A PRIVATE JUVENILE FACILITY SHALL NOT EMPLOY A PERSON WHO IS REQUIRED TO REGISTER PURSUANT TO THE PROVISIONS OF THE "COLORADO SEX OFFENDER REGISTRATION ACT", ARTICLE 22 OF TITLE 16, C.R.S., TO WORK IN THE PRIVATE JUVENILE FACILITY.

(b) FOR THE PURPOSES OF A CONTRACT IN EXISTENCE AS OF THE EFFECTIVE DATE OF THIS SUBSECTION (4), IF A CONTRACTOR EMPLOYS A PERSON IN A PRIVATE JUVENILE FACILITY WHO IS REQUIRED TO REGISTER AS A SEX OFFENDER PURSUANT TO THE PROVISIONS OF THE "COLORADO SEX OFFENDER REGISTRATION ACT", ARTICLE 22 OF TITLE 16, C.R.S., THE CONTRACTOR SHALL ENSURE THAT THE PERSON DOES NOT HAVE UNSUPERVISED CONTACT WITH A JUVENILE IN THE FACILITY ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (4). FAILURE TO COMPLY WITH THE PROVISIONS OF THIS SUBSECTION (4) SHALL CONSTITUTE A BREACH AND GROUNDS FOR TERMINATION OF THE CONTRACT.

SECTION 5. 24-5-101 (1) (b) (III) and (1) (b) (IV), Colorado Revised Statutes, are amended, and the said 24-5-101 (1) (b) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

24-5-101. Effect of criminal conviction on employment rights. (1) (b) This subsection (1) shall not apply to:

(III) The employment of personnel in positions involving direct contact with vulnerable persons as specified in section 27-1-110, C.R.S.; ~~and~~

(IV) The licensure or authorization of educators prohibited pursuant to section

22-60.5-107 (2) or (2.5), C.R.S.; AND

(V) THE EMPLOYMENT OF PERSONS IN PUBLIC OR PRIVATE CORRECTIONAL FACILITIES PURSUANT TO THE PROVISIONS OF SECTIONS 17-1-109.5 AND 17-1-202 (1) (a) (I) AND (1.5), C.R.S., AND THE EMPLOYMENT OF PERSONS IN PUBLIC OR PRIVATE JUVENILE FACILITIES PURSUANT TO THE PROVISIONS OF SECTIONS 19-2-403.3 AND 19-2-410 (4), C.R.S.

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: April 1, 2004