

## CHAPTER 358

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**CORRECTIONS**

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**HOUSE BILL 07-1093**

BY REPRESENTATIVE(S) Carroll T., Carroll M., Labuda, McFadyen, Stafford, and Todd;  
also SENATOR(S) Bacon, Boyd, Fitz-Gerald, Groff, Morse, Tapia, Veiga, and Williams.

**AN ACT**

**CONCERNING SEXUAL CONDUCT OCCURRING IN PENAL INSTITUTIONS, AND MAKING AN APPROPRIATION THEREFOR.**

*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:

**17-1-115.5. Prison sexual assault prevention program.** (1) THE DEPARTMENT SHALL DEVELOP, WITH RESPECT TO SEXUAL ASSAULTS THAT OCCUR IN CORRECTIONAL FACILITIES OPERATED BY OR PURSUANT TO A CONTRACT WITH THE DEPARTMENT, POLICIES AND PROCEDURES TO:

(a) REQUIRE DISCIPLINARY ACTION FOR EMPLOYEES WHO FAIL TO REPORT INCIDENCES OF SEXUAL ASSAULT TO THE INSPECTOR GENERAL APPOINTED PURSUANT TO SECTION 17-1-103.8;

(b) REQUIRE THE INSPECTOR GENERAL, AFTER COMPLETING AN INVESTIGATION FOR SEXUAL ASSAULT, TO SUBMIT THE FINDINGS TO THE DISTRICT ATTORNEY WITH JURISDICTION OVER THE FACILITY IN WHICH THE ALLEGED SEXUAL ASSAULT OCCURRED;

(c) PROHIBIT RETALIATION AND DISINCENTIVES FOR REPORTING SEXUAL ASSAULTS;

(d) PROVIDE, IN SITUATIONS IN WHICH THERE IS REASON TO BELIEVE THAT A SEXUAL ASSAULT HAS OCCURRED, REASONABLE AND APPROPRIATE MEASURES TO ENSURE VICTIM SAFETY BY SEPARATING THE VICTIM FROM THE ASSAILANT, IF KNOWN;

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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.*

(e) ENSURE THE CONFIDENTIALITY OF PRISON RAPE COMPLAINTS AND PROTECTION OF INMATES WHO MAKE COMPLAINTS OF PRISON RAPE;

(f) PROVIDE ACUTE TRAUMA CARE FOR SEXUAL ASSAULT VICTIMS, INCLUDING BUT NOT LIMITED TO TREATMENT OF INJURIES, HIV/AIDS PROPHYLACTIC MEASURES, AND TESTING FOR SEXUALLY TRANSMITTED DISEASES;

(g) PROVIDE, AT INTAKE AND PERIODICALLY THEREAFTER, DEPARTMENT-APPROVED, EASY-TO-UNDERSTAND INFORMATION DEVELOPED BY THE DEPARTMENT ON SEXUAL ASSAULT PREVENTION, TREATMENT, REPORTING, AND COUNSELING IN CONSULTATION WITH COMMUNITY GROUPS WITH EXPERTISE IN SEXUAL ASSAULT PREVENTION, TREATMENT, REPORTING, AND COUNSELING;

(h) PROVIDE SEXUAL-ASSAULT-SPECIFIC TRAINING TO DEPARTMENT MENTAL HEALTH PROFESSIONALS AND ALL EMPLOYEES WHO HAVE DIRECT CONTACT WITH INMATES REGARDING TREATMENT AND METHODS OF PREVENTION AND INVESTIGATION;

(i) PROVIDE CONFIDENTIAL MENTAL HEALTH COUNSELING FOR VICTIMS OF SEXUAL ASSAULT;

(j) MONITOR VICTIMS OF SEXUAL ASSAULT FOR SUICIDAL IMPULSES, POST-TRAUMATIC STRESS DISORDER, DEPRESSION, AND OTHER MENTAL HEALTH CONSEQUENCES RESULTING FROM THE SEXUAL ASSAULT; AND

(k) REQUIRE TERMINATION OF AN EMPLOYEE WHO ENGAGES IN A SEXUAL ASSAULT ON OR SEXUAL CONDUCT WITH AN INMATE CONSISTENT WITH CONSTITUTIONAL DUE PROCESS PROTECTIONS AND STATE PERSONNEL LAWS AND RULES.

(2) INVESTIGATION OF A SEXUAL ASSAULT SHALL BE CONDUCTED BY INVESTIGATORS TRAINED IN THE INVESTIGATION OF SEX CRIMES. THE INVESTIGATION SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, USE OF FORENSIC RAPE KITS, QUESTIONING OF SUSPECTS AND WITNESSES, AND GATHERING AND PRESERVING RELEVANT EVIDENCE.

(3) THE DEPARTMENT SHALL ANNUALLY REPORT THE DATA THAT IT IS REQUIRED TO COMPILE AND REPORT TO THE FEDERAL BUREAU OF JUSTICE AS REQUIRED BY THE FEDERAL "PRISON RAPE ELIMINATION ACT OF 2003", PUB. L. 108-79, AS AMENDED, TO THE JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES.

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

**19-2-214. Detention center sexual assault prevention program.** (1) THE DIVISION OF YOUTH CORRECTIONS CREATED IN SECTION 19-2-203 SHALL DEVELOP, WITH RESPECT TO SEXUAL ASSAULTS THAT OCCUR IN JUVENILE FACILITIES, POLICIES AND PROCEDURES TO:

(a) REQUIRE DISCIPLINARY ACTION FOR EMPLOYEES WHO FAIL TO REPORT INCIDENTS OF SEXUAL ASSAULT TO THE INSPECTOR GENERAL;

(b) REQUIRE THE INSPECTOR GENERAL, AFTER COMPLETING AN INVESTIGATION FOR SEXUAL ASSAULT, TO SUBMIT THE FINDINGS TO THE DISTRICT ATTORNEY WITH JURISDICTION OVER THE FACILITY IN WHICH THE ALLEGED SEXUAL ASSAULT OCCURRED;

(c) PROHIBIT RETALIATION AND DISINCENTIVES FOR REPORTING SEXUAL ASSAULTS;

(d) PROVIDE, IN SITUATIONS IN WHICH THERE IS REASON TO BELIEVE THAT A SEXUAL ASSAULT HAS OCCURRED, REASONABLE AND APPROPRIATE MEASURES TO ENSURE VICTIM SAFETY BY SEPARATING THE VICTIM FROM THE ASSAILANT, IF KNOWN;

(e) ENSURE THE CONFIDENTIALITY OF PRISON RAPE COMPLAINTS AND PROTECTION OF INMATES WHO MAKE COMPLAINTS OF PRISON RAPE;

(f) PROVIDE ACUTE TRAUMA CARE FOR SEXUAL ASSAULT VICTIMS, INCLUDING BUT NOT LIMITED TO TREATMENT OF INJURIES, HIV/AIDS PROPHYLACTIC MEASURES, AND TESTING FOR SEXUALLY TRANSMITTED DISEASES;

(g) PROVIDE, AT INTAKE AND PERIODICALLY THEREAFTER, DIVISION-APPROVED, EASY-TO-UNDERSTAND INFORMATION DEVELOPED BY THE DIVISION ON SEXUAL ASSAULT PREVENTION, TREATMENT, REPORTING, AND COUNSELING IN CONSULTATION WITH COMMUNITY GROUPS WITH EXPERTISE IN SEXUAL ASSAULT PREVENTION, TREATMENT, REPORTING, AND COUNSELING;

(h) PROVIDE SEXUAL-ASSAULT-SPECIFIC TRAINING TO DIVISION MENTAL HEALTH PROFESSIONALS AND ALL EMPLOYEES WHO HAVE DIRECT CONTACT WITH INMATES REGARDING TREATMENT AND METHODS OF PREVENTION AND INVESTIGATION;

(i) PROVIDE CONFIDENTIAL MENTAL HEALTH COUNSELING TO VICTIMS OF SEXUAL ASSAULT;

(j) MONITOR VICTIMS OF SEXUAL ASSAULT FOR SUICIDAL IMPULSES, POST-TRAUMATIC STRESS DISORDER, DEPRESSION, AND OTHER MENTAL HEALTH CONSEQUENCES RESULTING FROM THE SEXUAL ASSAULT; AND

(k) REQUIRE TERMINATION OF AN EMPLOYEE WHO ENGAGES IN A SEXUAL ASSAULT OR SEXUAL CONDUCT WITH A JUVENILE CONSISTENT WITH CONSTITUTIONAL DUE PROCESS PROTECTIONS AND STATE PERSONNEL SYSTEM LAWS AND RULES.

(2) INVESTIGATION OF A SEXUAL ASSAULT SHALL BE CONDUCTED BY INVESTIGATORS TRAINED IN THE INVESTIGATION OF SEX CRIMES. THE INVESTIGATION SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, USE OF FORENSIC RAPE KITS, QUESTIONING OF SUSPECTS AND WITNESSES, AND GATHERING AND PRESERVING RELEVANT EVIDENCE.

(3) THE DIVISION SHALL ANNUALLY REPORT THE DATA THAT IT IS REQUIRED TO COMPILE AND REPORT TO THE FEDERAL BUREAU OF JUSTICE AS REQUIRED BY THE FEDERAL "PRISON RAPE ELIMINATION ACT OF 2003", PUB.L. 108-79, AS AMENDED, TO THE JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES.

**SECTION 3. Appropriation - adjustments to the 2007 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 human services, for allocation to the division of youth corrections, for sexual assault prevention training, for the fiscal year beginning July 1, 2007, the sum of fifty-seven thousand three hundred ninety dollars (\$57,390), or so much thereof as may be necessary, for the implementation of this act.

(2) For the implementation of this act, the appropriation made in section 21 of the annual general appropriation act for the fiscal year beginning July 1, 2007, shall be adjusted as follows: The general fund appropriation to the controlled maintenance trust fund is decreased by fifty-seven thousand three hundred ninety dollars (\$57,390).

**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: May 31, 2007