

CHAPTER 289

CORRECTIONS

SENATE BILL 11-176

BY SENATOR(S) Carroll, Aguilar, Boyd, Foster, Giron, Guzman, Heath, Hudak, Jahn, King S., Newell, Nicholson, Steadman, Tochtrop, Williams S.;
also REPRESENTATIVE(S) Levy, Court, Fischer, Gardner B., Gerou, Labuda, Lee, Looper, Nikkel, Pace, Ryden, Schafer S., Todd, Tyler, Vigil, Waller, Wilson.

AN ACT

**CONCERNING APPROPRIATE USE OF RESTRICTIVE CONFINEMENT, AND MAKING AN APPROPRIATION
IN CONNECTION THEREWITH.**

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:

17-1-113.9. Use of administrative segregation for state inmates - reporting.

(1) ON OR BEFORE JANUARY 1, 2012, AND EACH JANUARY 1 THEREAFTER, THE EXECUTIVE DIRECTOR SHALL PROVIDE A WRITTEN REPORT TO THE JUDICIARY COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, CONCERNING THE STATUS OF ADMINISTRATIVE SEGREGATION; RECLASSIFICATION EFFORTS FOR OFFENDERS WITH MENTAL ILLNESSES OR DEVELOPMENTAL DISABILITIES, INCLUDING DURATION OF STAY, REASON FOR PLACEMENT, AND NUMBER AND PERCENTAGE DISCHARGED; AND ANY INTERNAL REFORM EFFORTS SINCE JULY 1, 2011.

(2) ANY COST SAVINGS ACHIEVED AS A RESULT OF THE IMPLEMENTATION OF SECTIONS 17-22.5-302 (1.3) AND 17-22.5-405 (8) SHALL BE APPROPRIATED AND REDIRECTED TO THE DEPARTMENT TO SUPPORT BEHAVIOR-MODIFICATION PROGRAMS, INCENTIVE PROGRAMS, MENTAL HEALTH SERVICES OR PROGRAMS, OR SIMILAR EFFORTS DESIGNED AS VIABLE ALTERNATIVES TO ADMINISTRATIVE SEGREGATION.

SECTION 2. 17-1-109 (2), Colorado Revised Statutes, is amended to read:

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

17-1-109. Duties and functions of the warden. (2) (a) The warden of each correctional facility should, wherever possible, take such measures as are reasonably necessary to restrict the confinement of any person ~~with known past or current affiliations or associations with any security threat group~~ WHO ACTIVELY PARTICIPATES IN DISRUPTIVE SECURITY-THREAT GROUP BEHAVIOR, as defined in paragraph (b) of this subsection (2), so as to prevent contact with other inmates at such facility. The warden should, wherever possible, also take such measures as are reasonably necessary to prevent recruitment of new security-threat group members from among the general inmate population. ASSOCIATION WITH AN INMATE GANG OR SECURITY-THREAT GROUP ALONE SHALL NOT BE SUFFICIENT TO MEET THE REQUIREMENTS OF THIS PARAGRAPH (a).

(b) For the purposes of this subsection (2), unless the context otherwise requires, "security-threat group" means a group of three or more individuals ~~with a common interest, bond, or activity characterized by criminal or delinquent conduct engaged in either collectively or individually~~ ACTING IN CONCERT OR INDIVIDUALLY IN AN ACTIVITY THAT IS CHARACTERIZED BY CRIMINAL CONDUCT OR CONDUCT THAT VIOLATES THE DEPARTMENT'S CODE OF PENAL DISCIPLINE FOR THE PURPOSE OF DISRUPTING PRISON OPERATIONS, RECRUITING NEW MEMBERS, DAMAGING PROPERTY, OR INFLECTING OR THREATENING TO INFLECT HARM TO EMPLOYEES, CONTRACT WORKERS, VOLUNTEERS, OR OTHER STATE INMATES.

SECTION 3. 17-22.5-302, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

17-22.5-302. Earned time. (1.3) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION TO THE CONTRARY, AFTER HIS OR HER FIRST NINETY DAYS IN ADMINISTRATIVE SEGREGATION, A STATE INMATE IN ADMINISTRATIVE SEGREGATION SHALL BE ELIGIBLE TO RECEIVE EARNED TIME IF HE OR SHE MEETS THE CRITERIA REQUIRED BY THIS SECTION OR ANY MODIFIED CRITERIA DEVELOPED BY THE DEPARTMENT TO ALLOW A STATE INMATE TO RECEIVE THE MAXIMUM AMOUNT OF EARNED TIME ALLOWABLE FOR GOOD BEHAVIOR AND PARTICIPATION IN ANY PROGRAMS AVAILABLE TO THE STATE INMATE IN ADMINISTRATIVE SEGREGATION.

SECTION 4. 17-22.5-405, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

17-22.5-405. Earned time - earned release time. (8) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, AFTER HIS OR HER FIRST NINETY DAYS IN ADMINISTRATIVE SEGREGATION, A STATE INMATE IN ADMINISTRATIVE SEGREGATION SHALL BE ELIGIBLE TO RECEIVE EARNED TIME IF HE OR SHE MEETS THE CRITERIA REQUIRED BY THIS SECTION OR ANY MODIFIED CRITERIA DEVELOPED BY THE DEPARTMENT TO ALLOW A STATE INMATE TO RECEIVE THE MAXIMUM AMOUNT OF EARNED TIME ALLOWABLE FOR GOOD BEHAVIOR AND PARTICIPATION IN ANY PROGRAMS AVAILABLE TO THE STATE INMATE IN ADMINISTRATIVE SEGREGATION.

SECTION 5. Appropriation. (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 allocation to the management, executive director's office subprogram, planning and analysis contracts, for contract services related to the completion of an annual report concerning the status of

administrative segregation, for the fiscal year beginning July 1, 2011, the sum of twenty-six thousand two hundred fifty dollars (\$26,250), or so much thereof as may be necessary, for the implementation of this act.

(2) 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 allocation to the institutions, mental health subprogram, mental health services, for behavior-modification programs, incentive programs, mental health services or programs, or similar efforts designed as viable alternatives to administrative segregation, for the fiscal year beginning July 1, 2011, the sum of forty-nine thousand nine hundred thirty-three dollars (\$49,933), or so much thereof as may be necessary, for the implementation of this act.

(3) 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 allocation to the support services, information systems subprogram, purchase of services from computer center, for computer system programming modifications and ongoing maintenance related to changes to earned time accrual eligibility for inmates in administrative segregation, for the fiscal year beginning July 1, 2011, the sum of one hundred twenty-two thousand six hundred thirteen dollars (\$122,613), or so much thereof as may be necessary, for the implementation of this act.

(4) In addition to any other appropriation, there is hereby appropriated to the governor - lieutenant governor - state planning and budgeting, for allocation to the office of information technology, for the fiscal year beginning July 1, 2011, the sum of one hundred twenty-two thousand six hundred thirteen dollars (\$122,613) and 2.0 FTE, or so much thereof as may be necessary, for the provision of programming services to the department of corrections related to the implementation of this act. Said sum shall be from reappropriated funds received from the department of corrections out of the appropriation made in subsection (3) of this section.

SECTION 6. Appropriation - adjustments in 2011 long bill. For the implementation of this act, the general fund appropriation made in the annual general appropriation act for the fiscal year beginning July 1, 2011, to the department of corrections, management, external capacity subprogram, for payments to house state prisoners, is decreased by one hundred ninety-eight thousand seven hundred ninety-six dollars (\$198,796).

SECTION 7. Effective date - applicability. This act shall take effect July 1, 2011, and shall apply to an offender placed in administrative segregation on or after July 1, 2011, or an offender who is housed in administrative segregation at the time this act takes effect.

SECTION 8. 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 3, 2011