TITLE 17

CORRECTIONS

Editor's note: This title was numbered as articles 17 and 18 of chapter 39, C.R.S. 1963. The substantive provisions of this title were repealed and reenacted in 1977, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this title prior to 1977, consult Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

DEPARTMENT OF CORRECTIONS

Organization

Art. 1. Department of Corrections, 17-1-101 to 17-1-207.

Parole and Probation

Art. 2. Correctional Services, 17-2-100.2 to 17-2-304.

Care and Custody - Reimbursement

Art. 10. Cost of Care Reimbursement, 17-10-101 to 17-10-106.

CORRECTIONAL FACILITIES AND PROGRAMS

Facilities

Art. 18. Correctional Facilities - Statutory Appropriations (Repealed).

Art. 19. Correctional Facilities - Visitors and Employees, 17-19-101 to 17-19-102.

Art. 20. Correctional Facilities, 17-20-101 to 17-20-130.

Art. 21. Women's Correctional Institution (Repealed).

Art. 22. Reformatory (Repealed).

Art. 22.5. Inmate and Parole Time Computation, 17-22.5-101 to 17-22.5-406.

Art. 23. Inmates with a Behavioral or Mental Health Disorder or an Intellectual and Developmental Disability - Transfer, 17-23-101 to 17-23-102.

Art. 24. Correctional Industries, 17-24-101 to 17-24-126.

Art. 25. Minimum Security Facilities, 17-25-101 to 17-25-103.

Art. 26. Jails, 17-26-101 to 17-26-304.

Art. 26.5. Multijurisdictional Jails, 17-26.5-101 to 17-26.5-102.

Programs

Art. 27. Community Corrections Programs, 17-27-101 to 17-27-108.

Art. 27.1. Nongovernmental Facilities - Notice Requirements, 17-27.1-101.

Art. 27.5. Intensive Supervision Programs, 17-27.5-101 to 17-27.5-106.

Art. 27.7. Regimented Inmate Discipline and Treatment Program, 17-27.7-101 to 17-27.7-104.

Art. 27.8. Home Detention Programs, 17-27.8-101 to 17-27.8-106.

Art. 27.9. Specialized Restitution and Community Service Programs, 17-27.9-102 to 17-27.9-106.

Art. 28. Restitution to Victims of Crime, 17-28-101 to 17-28-103.

Art. 29. Physical Labor by Inmates, 17-29-101 to 17-29-105.

Art. 30. Interdepartmental Cooperation Concerning Offenders (Repealed).

Art. 30.5. Interdepartmental Agreements to Consolidate Parole and Probation Offices (Repealed).

Art. 31. Volunteerism in the Juvenile and Adult Criminal Justice System, 17-31-101 to 17-31-104.

Art. 32. Correctional Education Program, 17-32-101 to 17-32-108.

Art. 33. Reentry Program, 17-33-101 to 17-33-104.

Art. 34. Specialized Program for Juveniles Convicted as Adults, 17-34-101 to 17-34-102.

DIAGNOSTIC PROGRAMS

Art. 40. Colorado Diagnostic Program, 17-40-101 to 17-40-107.

Art. 41. Colorado Prerelease Program (Repealed).

MISCELLANEOUS PROVISIONS

Art. 42. Miscellaneous Provisions, 17-42-101 to 17-42-105.

DEPARTMENT OF CORRECTIONS

Organization

ARTICLE 1

Department of Corrections

PART 1
CORRECTIONS ADMINISTRATION

17-1-101. Executive director - creation - division heads - medical personnel.

17-1-102. Definitions.

17-1-103. Duties of the executive director.

17-1-103.3. Reports for budgeting - definition.

17-1-103.5. Literacy corrections program - legislative declaration - repeal. (Repealed)

17-1-103.7. Duties of executive director - emergency response time - legislative declaration. (Repealed)

17-1-103.8. Executive director - inspector general - investigators - duties.

17-1-104. Facilities managed, supervised, and controlled. (Repealed)

17-1-104.3. Correctional facilities - locations - security level - report - repeal.

17-1-104.4. Future correctional facility needs. (Repealed)

17-1-104.5. Incarceration of inmates from other states - private contract prison facilities.

17-1-104.6. Planning and review requirements - legislative intent.

17-1-104.7. Management plan for housing of juveniles - report. (Repealed)

17-1-104.8. Legislative review of facilities program plans for correctional facilities. (Repealed)

17-1-104.9. Custody levels for state inmates at private prisons - correctional emergency - definition.

17-1-105. Powers of executive director.

17-1-105.1. Accreditation of private contract prisons.

17-1-105.5. Contract rates.

17-1-106. Transfer of functions. (Repealed)

17-1-107. Department may accept gifts, donations, and grants.

17-1-107.5. State criminal alien assistance program cash fund - creation.

17-1-108. Transfer of inmates.

17-1-109. Duties and functions of the warden.

17-1-109.5. Correctional facility employees - rules.

17-1-110. Joint review committee on corrections. (Repealed)

17-1-111. Certain provisions of the administrative procedure act not to apply.

17-1-112. Expenses - reimbursement by department - report.

17-1-112.5. Annual audit by state auditor. (Repealed)

17-1-113. Medical visits - charge to inmates - legislative declaration.

17-1-113.1. Administration or monitoring of medications to persons in correctional facilities.

17-1-113.2. Continuity of care for persons released from correctional facility.

17-1-113.3. Telemedicine - study - report - repeal. (Repealed)

17-1-113.4. Opioid treatment for a person in custody - definitions.

17-1-113.5. Inmates held in correctional facilities - medical benefits application assistance - county of residence - rules.

17-1-113.6. Menstrual hygiene products for a person in custody - definition.

17-1-113.7. Prohibition against the use of restraints on pregnant inmates in the custody of correctional facilities and private contract prisons - report.

17-1-113.8. Persons with serious behavioral or mental health disorders - long-term isolated confinement - work group - medication-assisted treatment - appropriation.

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

17-1-114. Pool of funds - continuance of community supervision.

17-1-114.5. Incarceration of a person in custody with the capacity for pregnancy - report.

17-1-115. Investigators employed by the department - notification to local law enforcement agencies. (Repealed)

17-1-115.2. Correctional law enforcement agencies to provide identification cards to retired peace officers upon request - definitions.

17-1-115.5. Prison sexual assault prevention program.

17-1-115.7. Prevention of sexual assaults on youthful inmates - compliance with federal law - report - definition.

17-1-115.8. Corrections officer staffing - report - double shift criteria - definition.

17-1-115.9. Incentives for mental health professionals - report - legislative declaration.

17-1-116. Corrections expansion reserve fund.

17-1-117. Appropriation to comply with section 2-2-703 - HB 94-1052. (Repealed)

17-1-118. Appropriation to comply with section 2-2-703 - HB 96-1361. (Repealed)

17-1-119. Lethal perimeter security systems for correctional facilities - governmental immunity - limitations.

17-1-119.5. Compilation of data related to inmates with children attending school.

17-1-119.7. Prison population management measures - definitions.

17-1-120. Appropriation to comply with section 2-2-703 - HB 97-1077 and HB 97-1060. (Repealed)

17-1-121. Appropriation to comply with section 2-2-703 - HB 97-1186. (Repealed)

17-1-122. Appropriation to comply with section 2-2-703 - HB 98-1160. (Repealed)

17-1-123. Appropriation to comply with section 2-2-703 - HB 98-1156. (Repealed)

17-1-124. Appropriation to comply with section 2-2-703 - SB 98-021. (Repealed)

17-1-125. Appropriation to comply with section 2-2-703 - HB 99-1068. (Repealed)

17-1-126. Appropriation to comply with section 2-2-703 - HB 00-1247. (Repealed)

17-1-127. Appropriation to comply with section 2-2-703 - HB 00-1158. (Repealed)

17-1-128. Appropriation to comply with section 2-2-703 - HB 00-1111. (Repealed)

17-1-129. Appropriation to comply with section 2-2-703 - HB 00-1214. (Repealed)

17-1-130. Appropriation to comply with section 2-2-703 - HB 00-1201. (Repealed)

17-1-131. Appropriation to comply with section 2-2-703 - HB 00-1317. (Repealed)

17-1-132. Appropriation to comply with section 2-2-703 - HB 00-1107. (Repealed)

17-1-133. Appropriation to comply with section 2-2-703 - HB 01-1205. (Repealed)

17-1-134. Appropriation to comply with section 2-2-703 - SB 01-046. (Repealed)

17-1-135. Appropriation to comply with section 2-2-703 - HB 01-1204. (Repealed)

17-1-136. Appropriation to comply with section 2-2-703 - SB 01-210. (Repealed)

17-1-137. Appropriation to comply with section 2-2-703 - HB 01-1242. (Repealed)

17-1-138. Appropriation to comply with section 2-2-703 - HB 01-1344. (Repealed)

17-1-139. Appropriation to comply with section 2-2-703 - HB 02-1301. (Repealed)

17-1-140. Appropriation to comply with section 2-2-703 - HB 02-1283. (Repealed)

17-1-141. Appropriation to comply with section 2-2-703 - HB 02-1396. (Repealed)

17-1-142. Appropriation to comply with section 2-2-703 - SB 02-050. (Repealed)

17-1-143. Appropriation to comply with section 2-2-703 - HB 02-1038. (Repealed)

17-1-144. Appropriation to comply with section 2-2-703 - HB 02S-1006. (Repealed)

17-1-145. Appropriation to comply with section 2-2-703 - HB 02S-1006. (Repealed)

17-1-146. Appropriation to comply with section 2-2-703 - HB 03-1004 - repeal. (Repealed)

17-1-147. Appropriation to comply with section 2-2-703 - HB 03-1138 - repeal. (Repealed)

17-1-148. Appropriation to comply with section 2-2-703 - HB 03-1213 - repeal. (Repealed)

17-1-149. Appropriation to comply with section 2-2-703 - HB 03-1317 - repeal. (Repealed)

17-1-150. Appropriation to comply with section 2-2-703 - HB 04-1016 - repeal. (Repealed)

17-1-151. Appropriation to comply with section 2-2-703 - HB 04-1003 - repeal. (Repealed)

17-1-152. Appropriation to comply with section 2-2-703 - HB 04-1021 - repeal. (Repealed)

17-1-153. Appropriation to comply with section 2-2-703 - SB 06-207 - repeal. (Repealed)

17-1-154. Appropriation to comply with section 2-2-703 - HB 06-1151 - repeal. (Repealed)

17-1-155. Appropriation to comply with section 2-2-703 - HB 06-1011 - repeal. (Repealed)

17-1-156. Appropriation to comply with section 2-2-703 - HB 06-1145 - repeal. (Repealed)

17-1-157. Appropriation to comply with section 2-2-703 - HB 06-1326 - repeal. (Repealed)

17-1-158. Appropriation to comply with section 2-2-703 - SB 06-206 - repeal. (Repealed)

17-1-159. Appropriation to comply with section 2-2-703 - HB 06-1092 - repeal. (Repealed)

17-1-160. Appropriation to comply with section 2-2-703 - SB 06S-004 - repeal. (Repealed)

17-1-161. Appropriation to comply with section 2-2-703 - SB 06S-005 - repeal. (Repealed)

17-1-162. Appropriation to comply with section 2-2-703 - SB 06S-007 - repeal. (Repealed)

17-1-163. Appropriation to comply with section 2-2-703 - HB 07-1040 - repeal. (Repealed)

17-1-164. Appropriation to comply with section 2-2-703 - SB 07-096 - repeal. (Repealed)

17-1-165. Appropriation to comply with section 2-2-703 - HB 07-1326 - repeal. (Repealed)

17-1-166. Department duties - parole plan - report.

17-1-167. Use of restraints for state inmates - criteria - documentation - intake assessment - report - rules - definitions.

17-1-168. Broadband infrastructure cash fund - created - repeal.

17-1-169. Review of risk assessments - legislative declaration - definition.

PART 2
CORRECTIONS PRIVATIZATION - REQUESTS FOR PROPOSALS PROCESS

17-1-201. Duties of department.

17-1-202. Requests for competitive proposals and contract requirements.

17-1-202.5. Private prison planning process.

17-1-203. Powers and duties not delegable to contractor.

17-1-204. Background checks.

17-1-205. Contract termination - control of a correctional facility by the department.

17-1-206. Inmates in custody of the department.

17-1-206.5. Preparole release and revocation facility - community return-to-custody facility.

17-1-207. Applicability of part.

PART 1

CORRECTIONS ADMINISTRATION

17-1-101. Executive director - creation - division heads - medical personnel.

(1) The governor, with the consent of the senate, shall appoint an executive director of the department of corrections, who shall serve at the pleasure of the governor. The reappointment of an executive director after initial election of a governor shall be subject to the provisions of section 24-20-109, C.R.S.

(2) There is hereby created, within the department of corrections, the division of correctional industries, the division of adult parole, and such other divisions and programs as are deemed necessary by the executive director for the safe and efficient operation of the department. The executive director shall organize such divisions and programs in an appropriate manner. Subject to the provisions of section 13 of article XII of the state constitution, the executive director shall appoint the heads of such divisions, and the heads of such divisions shall appoint such personnel as are necessary to carry out the functions of the divisions.

(3) (a) Medical personnel employed at any of the institutions subject to the control of the executive director, the medical director of which is licensed to practice medicine in this state, shall be exempt from the provisions of the "Colorado Medical Practice Act", article 240 of title 12, with respect to service rendered to bona fide patients or inmates at said institutions, if such personnel are licensed to practice medicine in any other state of the United States or any province of Canada, have satisfactorily completed an internship of not less than one year in the United States, Canada, or Puerto Rico in a hospital approved for that purpose by the American Medical Association, have satisfactorily completed three years of postgraduate residency training, or its equivalent, in their particular specialty in a hospital approved for that purpose by the American Medical Association, and can read, write, speak, and understand the English language. Proof of said requirements shall be submitted to and approved or disapproved by the executive director.

(b) All such personnel as cannot satisfy all of the requirements set forth in subsection (3)(a) of this section shall be exempt from the "Colorado Medical Practice Act", article 240 of title 12, with respect to services rendered to bona fide patients or inmates at said institutions, if such personnel are of good moral character, are graduates of an approved medical college as defined in section 12-240-104 (3), have completed an approved internship of at least one year as defined

in section 12-240-104 (2), and, within nine months after first being employed, pass the examinations approved by the Colorado medical board under the provisions of the "Colorado Medical Practice Act" and the National Board of Medical Examiners, the National Board of Examiners for Osteopathic Physicians and Surgeons, or the Federation of State Medical Boards, or their successor organizations, on subjects relating to the basic sciences, are able to read, write, speak, and understand the English language, and, in the case of personnel who are not citizens of the United States, become citizens within the minimum period of time within which the particular individual can become a citizen according to the laws of the United States and the regulations of the immigration and naturalization service of the United States, or any successor agency, or within such additional time as may be granted by said boards.

(c) Medical personnel granted exemption under paragraphs (a) and (b) of this subsection (3) may not practice medicine except as described in this subsection (3) without first complying with all of the provisions of said "Colorado Medical Practice Act".

Source: L. 77: Entire title R&RE, p. 903, § 10, effective August 1. **L. 78:** (3) added, p. 354, § 1, effective April 27. **L. 79:** (3) amended, p. 522, § 26, effective July 1. **L. 86:** (1) amended, p. 884, § 2, effective May 23. **L. 2000:** (2) amended, p. 829, § 1, effective May 24. **L. 2010:** (3)(b) amended, (HB 10-1260), ch. 403, p. 1986, § 73, effective July 1. **L. 2011:** (3)(b) amended, (HB 11-1303), ch. 264, p. 1155, § 27, effective August 10. **L. 2019:** (3)(a) and (3)(b) amended, (HB 19-1172), ch. 136, p.1673, § 88, effective October 1.

17-1-102. Definitions.

As used in this title 17, unless the context otherwise requires:

(1) (Deleted by amendment, L. 93, p. 404, § 1, effective April 19, 1993.)

(1.1) "Activities of daily living" means basic self-care activities, including, but not limited to, eating, bathing, dressing, grooming, transferring from bed to chair, toileting, taking medications, cleaning, using prison communications systems, and independent ambulation.

(1.3) (Deleted by amendment, L. 93, p. 404, § 1, effective April 19, 1993.)

(1.7) "Correctional facility" means any facility under the supervision of the department in which persons are or may be lawfully held in custody as a result of conviction of a crime.

(2) "Department" means the department of corrections.

(3) (Deleted by amendment, L. 94, p. 602, § 2, effective July 1, 1994.)

(4) "Executive director" means the executive director of the department of corrections.

(5) and (6) (Deleted by amendment, L. 2000, p. 829, § 2, effective May 24, 2000.)

(6.5) "Inmate" means any person who is sentenced to a term of imprisonment for a violation of the laws of this state, any other state, or the United States.

(6.7) "Inmate liaison" means an inmate's family member or attorney; a government agency; a public defender liaison, described in section 21-1-104, to the department of corrections and the state board of parole; or a representative from an organization with experience in helping inmates apply for special needs parole, high-needs prerelease planning, or reentry. The organization must be in good standing with the Colorado secretary of state for the past twelve consecutive months, and the organization's involvement must be at the request of the inmate, or an inmate's family member or attorney should the inmate be unable to make the request.

(6.8) "Licensed health-care provider" means a medical or behavioral health-care provider licensed in this state who is employed by or under contract with the department or a private licensed health-care provider who is providing or recently has provided patient care to the inmate.

(7) "Local jail" means a jail or an adult detention center of a county or city and county.

(7.3) "Private contract prison" means any private prison facility in this state operated by a political subdivision of this state or an incorporated or unincorporated business entity; except that "private contract prison" does not include any local jail, multijurisdictional jail, or community corrections center.

(7.4) "Serious impairment that limits a person's ability to function" means a medically diagnosed physical condition that is chronic, severe, and long term in nature and that causes the inmate to require assistance with two or more activities of daily living on a daily and sustained basis. Such conditions include, but are not limited to, advanced or metastatic cancer; end-stage renal disease; end-stage chronic obstructive pulmonary disorder; end-stage heart disease; end-stage liver disease; progressive neurodegenerative disease such as Huntington's disease, Parkinson's disease, and amyotrophic lateral sclerosis; and intractable seizure disorder.

(7.5) "Severe cognitive impairment" means a substantial disorder of cognitive ability or mental illness that is chronic, severe, and long term in nature that results in marked functional disability, significantly interfering with adaptive behavior and causing an inmate to require assistance with two or more activities of daily living on a daily and sustained basis. Such conditions include, but are not limited to, dementia diseases and related disabilities, as defined in section 25-1-502, and Alzheimer's disease.

(7.6) (a) "Special needs offender" means an inmate in the custody of the department:

(I) Who has been diagnosed by a licensed health-care provider as suffering serious impairment that limits the person's ability to function and:

(A) Is fifty-five years of age or older; or

(B) Is under fifty-five years of age; has not incurred a class I code of penal discipline violation within twelve months before the date of the application for special needs parole; and has served at least twenty-five percent of the imposed sentence, including any earned time awarded, if the inmate is eligible for parole after serving fifty percent of the imposed sentence pursuant to section 17-22.5-403 (1); has served at least thirty-five percent of the imposed sentence, including any earned time awarded, if the inmate is eligible for parole after serving seventy-five percent of the imposed sentence pursuant to section 17-22.5-403 (2) and (2.5); has served at least forty percent of the imposed sentence if the inmate is eligible for parole after serving seventy-five percent of the imposed sentence pursuant to section 17-22.5-403 (3) and (3.5); or has been diagnosed by a licensed health-care provider as having a terminal illness that is irreversible, unlikely to be cured, and likely to cause death.

(II) Who has been determined by a licensed health-care provider as suffering from severe cognitive impairment and:

(A) Is fifty-five years of age or older; or

(B) Is under fifty-five years of age; has not incurred a class I code of penal discipline violation within twelve months before the date of the application for special needs parole; and has served at least twenty-five percent of the imposed sentence, including any earned time awarded, if the inmate is eligible for parole after serving fifty percent of the imposed sentence pursuant to section 17-22.5-403 (1); has served at least thirty-five percent of the imposed sentence, including any earned time awarded, if the inmate is eligible for parole after serving seventy-five percent of the imposed sentence pursuant to section 17-22.5-403 (2) and (2.5); has served at least forty percent of the imposed sentence if the inmate is eligible for parole after serving seventy-five percent of the imposed sentence pursuant to section 17-22.5-403 (3) and (3.5); or has been diagnosed by a licensed health-care provider as having a terminal illness that is irreversible, unlikely to be cured, and likely to cause death.

(III) Who is sixty-four years of age or older and has served at least twenty years of the person's sentence and was not convicted of a class 1 or class 2 felony for a crime as defined in section 24-4.1-302 (1); unlawful sexual behavior, as defined in section 16-22-102 (9); a crime that includes domestic violence, as defined in section 18-6-800.3 (1); or stalking, as described in section 18-3-602.

(b) (I) Notwithstanding subsection (7.6)(a) of this section, "special needs offender" does not include an inmate who:

(A) Was convicted of a class 1 felony and sentenced to life imprisonment with the possibility of parole and the inmate has served fewer than twenty calendar years in a department of corrections facility for the offense;

(B) Was convicted of a class 1 felony and sentenced to life imprisonment without the possibility of parole; or

(C) Was convicted of a class 2 felony crime of violence as described in section 18-1.3-406 and the inmate has served fewer than ten calendar years in a department of corrections facility for the offense.

(II) This subsection (7.6)(b) does not apply to an inmate who has been diagnosed by a licensed health-care provider as having a terminal illness that is irreversible, unlikely to be cured, and likely to cause death.

(8) "State inmate" means any person who is sentenced by the state to a term of imprisonment in a correctional facility or who is sentenced to a term of imprisonment pursuant to section 16-11-308.5, C.R.S.

(8.5) "Tampering" means intentionally attempting to disable, damage, or destroy an electronic monitoring device so as to render the device nonfunctional in order to avoid supervision.

(9) "Warden" means the administrative head of a correctional facility.

Source: L. 77: Entire title R&RE, p. 904, § 10, effective August 1. **L. 79:** Entire section R&RE, p. 685, § 21, effective July 1. **L. 91:** (1) amended and (1.3), (1.7), and (5) to (8) added, p. 336, § 1, effective May 24. **L. 93:** (1), (1.3), and (7) amended, p. 404, § 1, effective April 19. **L. 94:** (3) amended and (9) added, p. 602, § 2, effective July 1. **L. 2000:** (5), (6), (8), and (9) amended and (6.5) and (7.3) added, p. 829, § 2, effective May 24; (7.5) added, p. 1495, § 1, effective July 1, 2001. **L. 2002:** (7.5)(b)(II) and (7.5)(b)(III) amended, p. 1499, § 156, effective October 1. **L. 2003:** (7.5)(a) amended, p. 1910, § 1, effective August 6. **L. 2006:** (7.5)(a)(I) amended, p. 1398, § 44, effective August 7. **L. 2011:** (7.5) amended, (SB 11-241), ch. 200, p. 831, § 1, effective May 23. **L. 2014:** (8.5) added, (HB 14-1044), ch. 199, p. 727, § 1, effective May 15. **L. 2017:** IP, (7.5)(a)(I), and (7.5)(a)(II) amended, (SB 17-242), ch. 263, p. 1301, § 128, effective May 25. **L. 2018:** (7.5)(a)(I) and (7.5)(a)(II) amended and (7.5)(a)(IV) added, (HB 18-1109), ch. 139, p. 912, § 1, effective April 23. **L. 2019:** (7.5)(a)(IV) amended, (SB 19-223), ch. 227, p. 2292, § 18, effective July 1. **L. 2020:** (7.3) amended, (HB 20-1019), ch. 9, p. 23, § 1, effective March 6. **L. 2021:** (6.7) and (7.4) added and (7.5) amended, (SB 21-146), ch. 459, p. 3076, § 1, effective July 6. **L. 2025:** (1.1), (6.8), and (7.6) added and (6.7), (7.4), and (7.5) amended, (SB 25-190), ch. 286, p. 1473, § 2, effective August 6. **L. 2026:** (7.6)(b)(II) amended, (SB 26-169), ch. 311, p. 1800, § 13, effective August 12.

Cross references: For the legislative declaration contained in the 2002 act amending subsections (7.5)(b)(II) and (7.5)(b)(III), see section 1 of chapter 318, Session Laws of Colorado

2002. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

17-1-103. Duties of the executive director.

(1) The duties of the executive director are:

(a) To manage, supervise, and control the correctional institutions operated and supported by the state; to monitor and supervise the activities of private contract prisons; to manage and supervise the divisions, agencies, boards, and commissions that are or may be transferred to or established within the department by law or by the executive director pursuant to section 17-1-101 (2); to provide work and self-improvement opportunities; and to establish an environment that promotes habilitation for successful reentry into society;

(a.5) To develop policies and procedures governing the operation of the department;

(b) To supervise the business, fiscal, budget, personnel, and financial operations of the department and the institutions and activities under his or her control;

(c) In consultation with the division directors and the wardens, to develop a systematic building program providing for the projected, long-range needs of the institutions under his or her control;

(d) To efficiently manage the lands associated with or owned by the department;

(e) To the extent practical, to utilize the staff and services of other state agencies and departments, within their respective statutory functions, to carry out the purposes of this title;

(f) To develop within the correctional institutions, rehabilitation and work programs that develop work skills for inmates and supply necessary products for state institutions and other public purposes as specified by law;

(g) Repealed.

(h) (Deleted by amendment, L. 2000, p. 830, § 3, effective May 24, 2000.)

(i) Repealed.

(j) (Deleted by amendment, L. 2000, p. 830, § 3, effective May 24, 2000.)

(k) To carry out the duties prescribed in article 11.5 of title 16, C.R.S.;

(l) To carry out the duties prescribed in article 11.7 of title 16, C.R.S.;

(m) To provide information to the director of research of the legislative council concerning population projections, research data, and the projected long-range needs of the institutions under the control of the executive director and any other related data requested by the director;

(n) To contract with the department of human services to house in a facility operated by the department of human services any juvenile under the age of fourteen years who is sentenced as an adult to the department of corrections and to provide services for the juvenile pursuant to section 19-2.5-802 (1)(e);

(o) To appoint an inspector general and investigators as provided in section 17-1-103.8;

(p) Notwithstanding the provisions of the "Colorado Open Records Act", part 2 of article 72 of title 24, C.R.S., and part 3 of said article 72, to adopt such policies and guidelines as may be necessary concerning the release of records to inmates;

(q) To collaborate with the department of personnel and the office of information technology on their existing efforts to modernize the state's personnel timekeeping systems in order to produce a system that is transparent, accountable, and easily employed by department personnel;

(r) In consultation with the behavioral health administration and the office of economic security in the department of human services, the department of health care policy and financing, the department of local affairs, and local service providers, to develop resources for inmates post-release that provide information to help prepare inmates for release and successful reintegration into their communities. The resources must reflect the needs of diverse and underserved populations and communities.

(s) To develop a comprehensive and ongoing prison population management plan to ensure the safety of staff and inmates and to ensure that the department complies with all prison population management mandates required by law, including implementing the prison population management measures set forth in section 17-1-119.7, when necessary.

(2) The executive director shall have such other duties and functions as are prescribed for heads of principal departments in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

(3) (a) (I) The executive director shall, upon the recommendation of the department's chief medical officer, appoint a panel of medical consultants.

(II) The executive director shall, upon the recommendation of the department's chief medical officer, determine the membership of the panel based on the medical and surgical needs of the department.

(III) The executive director shall determine the qualifications for appointment to the panel of medical consultants; except that all members of the panel shall be licensed by the Colorado medical board pursuant to article 240 of title 12 or the Colorado dental board pursuant to article 220 of title 12.

(b) Members of the panel of medical consultants shall be compensated at a rate which shall be approved by the executive director. Compensation shall be paid from available funds of the department.

(c) The panel members shall act as medical consultants to the department with respect to persons receiving services from any correctional facility as defined in section 17-1-102 (1.7).

(d) A member of the panel of medical consultants, for all activities performed within the course and scope of said member's responsibilities to the department, shall be entitled to all of the protections of the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S., as if the panel member were a "public employee" as defined in section 24-10-103 (4), C.R.S. This provision shall not be construed to afford independent contractors hired as panel members any of the protections of the state personnel system, article 50 of title 24, C.R.S.

(e) For purposes of this subsection (3), "panel of medical consultants" means a panel of medical physicians, dentists, or oral surgeons whose duty is to deliver medical services or services related to oral surgery.

(4) For an inmate who was convicted as an adult of a class 1 felony following direct filing of an information or indictment in the district court pursuant to section 19-2.5-801 or transfer of proceedings to the district court pursuant to section 19-2.5-802, the executive director shall ensure that the inmate has the opportunity to participate in treatment, programs, and services that is equal to the opportunities granted to other inmates who will be eligible for parole or discharge.

Source: L. 77: Entire title R&RE, p. 904, § 10, effective August 1. **L. 83:** (1)(g) and (1)(h) amended, p. 832, § 30, effective July 1. **L. 88:** (1)(a) amended, p. 696, § 1, effective July 1. **L. 89, 1st Ex. Sess.:** (1)(i) added, p. 77, § 3, effective July 1. **L. 90:** (1)(j) added, p. 941, § 5, effective June 7; (1)(a) amended, p. 976, § 2, effective July 1. **L. 91:** (1)(k) added, p. 441, § 4, effective May 29. **L. 92:** (1)(l) added, p. 461, § 4, effective June 2. **L. 94:** (2) added, p. 563, § 3, effective April 6; (3) added, p. 772, § 1, effective April 20; (1)(m) added, p. 1097, § 8, effective May 9; (1)(i) repealed, p. 1362, § 5, effective July 1. **L. 95:** (3)(a) and (3)(e) amended, p. 879, § 16, effective May 24. **L. 96:** (1)(n) added, p. 1683, § 10, effective January 1, 1997. **L. 98:** (1)(g) amended, p. 726, § 7, effective May 18. **L. 99:** (1)(o) added, p. 424, § 2, effective April 30. **L. 2000:** (1)(a) to (1)(d), (1)(f), (1)(g), (1)(h), (1)(j), and (3)(e) amended and (1)(a.5) and (1)(p) added, p. 830, § 3, effective May 24. **L. 2001:** (1)(g) repealed, p. 1176, § 3, effective August 8. **L. 2006:** (4) added, p. 1055, § 8, effective May 25. **L. 2009:** (1)(p) amended, (SB 09-292), ch. 369, p. 1948, § 31, effective August 5. **L. 2010:** (3)(a)(III) amended, (HB 10-1260), ch. 403, p. 1986, § 74, effective July 1. **L. 2013:** (1)(q) added, (SB 13-210), ch. 261, p. 1378, § 2, effective August 7. **L. 2014:** (3)(a)(III) amended, (HB 14-1227), ch. 363, p. 1737, § 43, effective July 1. **L. 2019:** (3)(a)(III) amended, (HB 19-1172), ch. 136, p. 1674, § 89, effective October 1. **L. 2020:** IP(1) amended and (1)(r) added, (HB 20-1017), ch. 288, p. 1425, § 8, effective September

14. **L. 2021:** (1)(n) and (4) amended, (SB 21-059), ch. 136, p. 716, § 32, effective October 1. **L. 2022:** (1)(f) amended, (SB 22-050), ch. 51, p. 240, § 1, effective March 30; (1)(r) amended, (HB 22-1278), ch. 222, p. 1495, § 20, effective July 1. **L. 2026:** (1)(s) added, (SB 26-036), ch. 261, p. 1448, § 3, effective June 1.

Cross references: For the legislative declaration contained in the 2006 act enacting subsection (4), see section 1 of chapter 228, Session Laws of Colorado 2006. For the legislative declaration in SB 26-036, see section 1 of chapter 261, Session Laws of Colorado 2026.

ANNOTATION

The department of corrections has the discretion to use a code of penal discipline conviction of a sexual nature to reclassify an inmate on the sexual violence scale. Reeves v. Colo. Dept. of Corr., 155 P.3d 648 (Colo. App. 2007).

17-1-103.3. Reports for budgeting - definition.

(1) (a) No later than the fifth day of each month, the executive director shall report the department's previous month's:

(I) Bed capacity and average daily inmate population by prison facility, security level, and custody classification;

(II) Vacancy rate for each security level on a facility-by-facility basis and on a department-wide basis. The report must show the calculations used to produce the vacancy rate. Any changes in the methodology used to calculate the vacancy rate must be accompanied by an explanation for the change and how it materially changed the vacancy rate.

(III) Current population in the local jail backlog, as defined in section 17-1-119.7 (3), by county; and

(IV) Compliance with the prison population management measures described in section 17-1-119.7 if the measures are in effect during the previous month, including each notice sent by the department, actions taken by the department to comply with the required measures, and the documented impact of implementing the required measures.

(b) Whenever a facility's population increases or decreases by more than ten percent in less than two months, the executive director shall include in the next monthly report required by subsection (1)(a) of this section an explanation for the increase or decrease.

(2) (a) Except for changes that were developed through the budget process or by changes to statute, whenever the department opens or closes living units or facilities, the executive director shall report the change and the explanation for the change to the joint budget committee and the office of state planning and budgeting within ten days after the opening or closing.

(b) Whenever the department relocates more than twenty inmates from one facility to another facility or facilities as a part of a coordinated move to relocate inmates for operational reasons, including changes in capacity at one or more facilities, the executive director shall report the change and explain any reason for the change to the joint budget committee and the office of state planning and budgeting within ten days after the relocation. This subsection (2)(b) does not apply to regular daily movement of inmates between facilities.

(3) (a) On August 1, 2025, and on each August 1 thereafter, the executive director shall submit a report to the joint budget committee and the office of state planning and budgeting that includes the following for the current fiscal year:

(I) FTE allocations by facility, location, and subprogram, including the number of FTEs in each job classification and the actual salaries associated with each FTE, subprogram, and facility; and

(II) Estimated operating expense allocations by facility, location, and subprogram.

(b) After April 25, 2025, all budget requests must include worksheets showing the underlying calculations for all FTEs and operating expenses that are relevant to the request.

(c) As used in this subsection (3), unless the context otherwise requires, "FTE" has the same meaning as defined in section 24-75-112.

(4) Beginning in 2025 and each year thereafter, the department shall submit a report describing supplemental budget requests and budget amendments submitted pursuant to section 2-3-208 (3), including details about requested changes to prison capacity and caseload, to the joint judiciary committee of the general assembly as part of its "SMART Act" presentation required by part 2 of article 7 of title 2.

(5) If the executive director fails to meet the requirements of this section, the joint budget committee may reduce the department's budget by an amount not to exceed three hundred thousand dollars, based on an assumption that the department will reduce salaries for unclassified department employees.

Source: L. 2025: Entire section added, (SB 25-211), ch. 113, p. 470, § 1, effective April 25. **L. 2026:** (1)(a)(I) amended and (1)(a)(III) and (1)(a)(IV) added, (SB 26-036), ch. 261, p. 1448, § 4, effective June 1.

Cross references: For the legislative declaration in SB 26-036, see section 1 of chapter 261, Session Laws of Colorado 2026.

17-1-103.5. Literacy corrections program - legislative declaration - repeal. (Repealed)

Source: L. 88: Entire section added, p. 696, § 2, effective July 1.

Editor's note: Subsection (5) provided for the repeal of this section, effective July 1, 1991. (See L. 88, p. 696.)

Cross references: For current provisions concerning the correctional education program, see article 32 of this title 17.

17-1-103.7. Duties of executive director - emergency response time - legislative declaration. (Repealed)

Source: L. 89: Entire section added, p. 870, § 1, effective June 10. **L. 94:** Entire section amended, p. 602, § 3, effective July 1. **L. 2000:** Entire section repealed, p. 831, § 4, effective May 24.

17-1-103.8. 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, as described in sections 16-2.5-101 and 16-2.5-134, C.R.S.

(1.5) 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, as described in sections 16-2.5-101 and 16-2.5-134, C.R.S.

(2) The inspector general and the investigators under the inspector general's direction have the following duties:

(a) To investigate, detect, and prevent any crimes, criminal enterprises, or conspiracies originating within the department and any crimes, criminal enterprises, or conspiracies originating outside correctional facilities if the crimes, criminal enterprises, or conspiracies are related to the safety and security of correctional facilities, public or private. Evidence obtained by the inspector general or an investigator 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 jurisdiction over the issue; or

(III) In the case of a city and county, reported immediately to the local law enforcement agency, and the agency may complete the investigation and report the findings to the district attorney having jurisdiction over the city and county.

(b) To investigate, detect, and prevent 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) and (d) (Deleted by amendment, L. 2008, p. 464, § 1, effective April 14, 2008.)

(e) To conduct preemployment investigations and integrity interviews of all persons who apply for employment with the department, including employment as contractors and subcontractors. The preemployment investigations and integrity interviews shall ensure that department employees meet the minimum standards set forth by state personnel rules, executive orders, and department policies.

(f) Upon request of a division of the department or a law enforcement agency, to seek out and arrest any fugitive from a correctional facility and to assist a law enforcement agency in the apprehension of fugitives from justice throughout the state.

(2.5) On or before March 1, 2024, and on or before March 1 of each year thereafter, the department shall report to the house of representatives judiciary committee and the senate judiciary committee, or their successor committees, regarding the utilization of the services described in subsection (2)(f) of this section during the prior year. The report must include, at a minimum, data on the number of times the inspector general or the investigators under the inspector general's direction were used pursuant to subsection (2)(f) of this section, including the number of investigators required, the time committed to the effort, and the cost.

(3) (Deleted by amendment, L. 2008, p. 464, § 1, effective April 14, 2008.)

(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) (Deleted by amendment, L. 2008, p. 464, § 1, effective April 14, 2008.)

Source: L. 99: Entire section added, p. 422, § 1, effective April 30. **L. 2003:** (1) and (5)(a) amended, p. 1625, § 49, effective August 6. **L. 2008:** Entire section amended, p. 464, § 1, effective April 14. **L. 2023:** IP(2) amended and (2)(f) and (2.5) added, (SB 23-203), ch. 355, p. 2132, § 1, effective August 7.

17-1-104. Facilities managed, supervised, and controlled. (Repealed)

Source: L. 77: Entire title R&RE, p. 905, § 10, effective August 1. **L. 79:** Entire section R&RE, p. 685, § 22, effective July 1. **L. 2000:** Entire section repealed, p. 831, § 5, effective May 24.

17-1-104.3. Correctional facilities - locations - security level - report - repeal.

(1) (a) Each facility operated by or under contract with the department shall have a designated security level. Designation of security levels shall be as follows:

(I) Level I facilities shall have designated boundaries, but need not have perimeter fencing. Inmates classified as minimum may be incarcerated in level I facilities, but generally inmates of higher classifications shall not be incarcerated in level I facilities.

(II) Level II facilities shall have designated boundaries with a single or double perimeter fencing. The perimeter of level II facilities shall be patrolled periodically. Inmates classified as minimum restrictive and minimum may be incarcerated in level II facilities, but generally inmates of higher classifications shall not be incarcerated in level II facilities.

(III) Level III facilities generally shall have towers, a wall or double perimeter fencing with razor wire, and detection devices. The perimeter of level III facilities shall be continuously patrolled. Appropriately designated close classified inmates, medium classified inmates, and inmates of lower classification levels may be incarcerated in level III facilities, but generally inmates of higher classifications shall not be incarcerated in level III facilities.

(IV) Level IV facilities shall generally have towers, a wall or double perimeter fencing with razor wire, and detection devices. The perimeter of level IV facilities shall be continuously

patrolled. Close classified inmates and inmates of lower classification levels may be incarcerated in level IV facilities, but generally inmates of higher classifications shall not be incarcerated in level IV facilities on a long-term basis.

(V) Level V facilities comprise the highest security level and are capable of incarcerating all classification levels. The facilities shall have double perimeter fencing with razor wire and detection devices or equivalent security architecture. These facilities generally shall use towers or stun-lethal fencing as well as controlled sally ports. The perimeter of level V facilities shall be continuously patrolled.

(b) The correctional facilities operated by the department, the location of such facilities, and the designated security level of such facilities shall be as follows:

Correctional facility	**Location**	**Security level**
Colorado state penitentiary	Fremont county	Level V
Centennial correctional facility	Fremont county	Level V
Limon correctional facility	Lincoln county	Level IV
Arkansas Valley correctional facility	Crowley county	Level III
Buena Vista correctional complex	Chaffee county	Level III
Colorado Territorial correctional facility	Fremont county	Level III
Fremont correctional facility	Fremont county	Level III
Arrowhead correctional center	Fremont county	Level II
Four Mile correctional center	Fremont county	Level II
Skyline correctional center	Fremont county	Level I
Colorado correctional center	Jefferson county	Level I
Delta correctional center	Delta county	Level I
Rifle correctional center	Garfield county	Level I
Colorado correctional	Chaffee county	Level I

alternative program		
Denver reception and diagnostic center	City and county of Denver	Level V
La Vista correctional facility	Pueblo county	Level III
San Carlos correctional facility	Pueblo county	Level V
Sterling correctional facility	Logan county	Level V
Trinidad correctional	Las Animas county	Level II
Denver women's correctional facility	City and county of Denver	Level V
Youthful offender system	Pueblo county	Level III

(b.5) Not more than six hundred and fifty beds at the Centennial south campus of the Centennial correctional facility may be operated by the department for the purpose of housing inmates who are close custody inmates. At the discretion of the executive director, the department may house inmates of a lower than close custody level in order to facilitate the movement of inmates displaced as a result of prison closure, during a declared disaster emergency by the governor, or if the lower than close custody inmate is voluntarily assigned to work at the facility, or voluntarily serving as a mentor peer-support, or in another other leadership role as part of departmental programming with the purpose of progressing close custody inmates to lower security levels. The underlying declared disaster emergency must impact state prison operations.

(b.6) (I) Notwithstanding any other provision of law to the contrary, the Centennial correctional facility-south c-tower may be used to temporarily house protective-, close-, and medium-custody inmates for the Sterling correctional facility access controls project, for the duration of that project, and for the time required to temporarily relocate the inmates and then return them to the Sterling correctional facility. To the extent feasible, the department shall house an inmate from the Sterling correctional facility in the Centennial correctional facility-south c-tower only after determining that there are no suitable beds available that would not require additional appropriations to house that inmate in another facility operated by the department of corrections.

(II) The department shall, at least thirty days prior to relocating any inmates pursuant to subsection (1)(b.6)(I) of this section, provide a structured relocation plan to the joint budget committee and the house of representatives judiciary committee and the senate judiciary committee, or their successor committees, and shall update those committees during the project. The plan must include, but is not limited to:

(A) What specific educational, rehabilitative, and vocational programs or classes will be available to the inmates, including the type of programs, the number of inmates that can be enrolled in each program, the length of each program, and the location where each program will be delivered;

(B) What behavioral health and medical care will be available;

(C) What employment opportunities will be available and the rate of pay for each employment opportunity;

(D) What recreational opportunities will be available, including the location and length of time that an inmate will be able to access the recreational opportunities;

(E) What visitation opportunities will be available, how often they will be available, the location for visitation, and whether that visitation is contact or non-contact;

(F) How many hours a day an inmate will be allowed out of their cell based on their medium- or close-custody level or protective-custody status;

(G) Whether, prior to transfer, the department plans to conduct a reclassification or other custody review on any medium security inmate to determine whether the inmate is appropriate to progress or have an override to minimum-restrictive custody; and

(H) An estimate of how long inmates will be temporarily held at Centennial correctional facility-south c-tower and if the relocations will be based on the duration of the access controls project at the Sterling correctional facility.

(III) The department shall provide updates on the status of the access controls project at its "SMART Act" hearing required by section 2-7-203.

(IV) This subsection (1)(b.6) is repealed, effective June 30, 2027.

(b.7) Repealed.

(c) For the purposes of retrofitting the Pueblo minimum center from a level II facility to a level III facility, the department shall expend moneys received from the federal "Jobs and Growth Tax Relief Reconciliation Act of 2003", as amended, Pub.L. 108-27, and shall not request additional capital construction dollars for this purpose.

(2) Subsection (1) of this section shall be construed to set forth the features and general operation status of the facilities described in that subsection. Nothing in subsection (1) of this

section shall be construed to define or restrict the custody level of inmates placed in the facilities described in that subsection.

(3) (Deleted by amendment, L. 2000, p. 831, § 6, effective May 24, 2000.)

(4) Repealed.

(5) Notwithstanding section 24-1-136 (11)(a)(I), monthly the department shall submit a project status report on construction and a monthly population and capacity report to the office of state planning and budgeting, the joint budget committee, the capital development committee, and the legislative council. The monthly population and capacity report must include information on state and private contract facilities, including operational capacity for the previous month, the month just ending and capacity changes, on grounds population, and operational capacity for this period in the previous year. The department shall include total beds occupied in each facility, state or private contract, by custody level and by gender. The report shall itemize operational capacities for jail backlog, community corrections, parole, youthful offenders, escapees, and revocations.

Source: L. 93: Entire section added, p. 1976, § 2, effective July 1. **L. 95:** Entire section amended, p. 873, § 7, effective May 24; (3)(a) amended, p. 1273, § 6, effective June 5. **L. 97:** (1) amended, p. 1586, § 2, effective June 4. **L. 98:** (4) amended, p. 727, § 8, effective May 18. **L. 2000:** (1), (3), and (4) amended and (5) added, p. 831, § 6, effective May 24. **L. 2001:** IP(1)(b) amended, p. 1271, § 21, effective June 5; (4) repealed, p. 1176, § 4, effective August 8. **L. 2004:** (1)(b) amended, p. 244, § 5, effective April 5; (1)(b) amended, p. 192, § 5, effective August 4. **L. 2005:** (1)(b) amended and (1)(c) added, p. 229, § 1, effective August 8. **L. 2009:** (1)(b) amended, (SB 09-034), ch. 55, p. 195, § 1, effective August 5. **L. 2011:** (1)(b) amended, (SB 11-214), ch. 147, p. 511, § 2, effective March 1, 2012. **L. 2012:** (1)(b.5) added, (HB 12-1337), ch. 144, p. 522, § 1, effective August 8. **L. 2017:** (5) amended, (SB 17-031), ch. 92, p. 280, § 1, effective August 9. **L. 2018:** (1)(b) amended, (HB 18-1375), ch. 274, p. 1699, § 17, effective May 29. **L. 2019:** (1)(b.7) added, (SB 19-259), ch. 289, p. 2670, § 1, effective August 2. **L. 2020:** (1)(b.5) amended and (1)(b.7) repealed, (HB 20-1019), ch. 9, p. 23, § 2, effective March 6. **L. 2021:** (1)(b.5) amended, (SB 21-146), ch. 459, p. 3088, § 13, effective July 6. **L. 2025:** (1)(b.6) added, (SB 25-212), ch. 327, p. 1705, § 2, effective May 31.

Editor's note: Amendments to subsection (1)(b) by Senate Bill 04-123 and Senate Bill 04-067 were harmonized.

Cross references: For the legislative declaration in SB 25-212, see section 1 of chapter 327, Session Laws of Colorado 2025.

17-1-104.4. Future correctional facility needs. (Repealed)

Source: L. 94: Entire section added, p. 1091, § 1, effective May 9; (3)(b) amended, p. 2615, § 24, effective July 1. **L. 95:** (2)(b) and (3) amended and (4), (5), (6), and (7) added, pp. 1277, 1274, §§ 15, 8, effective June 5; (3)(b) amended, p. 638, § 25, effective July 1. **L. 96:** (2)(a)(I) amended, p. 1150, § 14, effective July 1. **L. 97:** (3)(b) amended and (8) to (10) added, p. 1584, § 1, effective June 4. **L. 2000:** Entire section repealed, p. 834, § 7, effective May 24.

17-1-104.5. Incarceration of inmates from other states - private contract prison facilities.

(1) The general assembly finds and declares that the importation of prisoners from other states into correctional facilities not operated by the department of corrections is a matter of statewide concern.

(2) No inmate from a state other than Colorado may be received into the state of Colorado and be housed in a private contract prison facility or a prison facility operated by a political subdivision of the state:

(a) Without the express approval of the executive director, which approval shall not be unreasonably withheld; and

(b) Unless the private contract prison facility or a prison facility operated by a political subdivision is designed to meet or exceed the appropriate security level for the inmate.

(3) The department shall develop and rely upon criteria for the protection of the health, safety, and financial interests of the state of Colorado as developed by the executive director.

(4) Upon violation of this section, the executive director may rescind his or her approval pursuant to subsection (2) of this section and must provide at least sixty days notice to the contracting parties of the recision.

Source: L. 88: Entire section added, p. 711, § 13, effective July 1. **L. 96:** Entire section amended, p. 1147, § 3, effective July 1. **L. 98:** Entire section amended, p. 1237, § 2, effective August 5. **L. 2020:** (3) and (4) added, (HB 20-1019), ch. 9, p. 24, § 3, effective March 6.

ANNOTATION

This section applies to transfers of out-of-state prisoners to a private prison facility in Colorado and habeas corpus petition by inmate is subject to this section. The Interstate Corrections Compact, §§ 24-60-1601 to 24-60-1603 and the Western Interstate Corrections Compact, §§ 24-60-801 to 24-60-805, do not apply to transfers to private correctional facilities in this state. Slater v. McKinna, 997 P.2d 1196 (Colo. 2000).

Insofar as the provisions of the Interstate Corrections Compact, §§ 24-60-1601 to 24-60-1603, and the Western Interstate Corrections Compact, §§ 24-60-801 to 24-60-805, are inconsistent with this section, this section prevails since it is the more specific. Slater v. McKinna, 997 P.2d 1196 (Colo. 2000).

Agreement authorizing transfer of out-of-state inmate to private prison in Colorado complies with this section and inmate is not entitled to habeas corpus relief. Slater v. McKinna, 997 P.2d 1196 (Colo. 2000).

17-1-104.6. Planning and review requirements - legislative intent.

(1) The general assembly hereby finds and declares that the construction, expansion, renovation, or improvement of state-built and operated department of corrections facilities is a matter of statewide and not local concern. Therefore, the department, in authorizing and financing the construction, expansion, renovation, or improvement of its facilities, is exempt from regional, county, and local planning requirements, including those specified in section 30-28-110, C.R.S., and those authorized by section 29-20-104, C.R.S.

(2) Notwithstanding the provisions of subsection (1) of this section, whenever the department plans to locate a new corrections facility or expand an existing corrections facility, the department shall submit facility program plans to the governing body of the county or municipality in which the facility is proposed to be located or expanded and afford the governing body an opportunity for advisory review of such plans.

(3) The intent of the general assembly in enacting this section is to clarify the meaning of current law concerning regional, county, and local planning requirements and to clarify that the general assembly never intended to require the department to submit plans to authorize or construct its facilities for approval by local, county, or regional planning authorities. Accordingly, this section is intended to apply to causes of action pending on or filed on or after July 1, 1996.

Source: L. 96: Entire section added, p. 1147, § 4, effective July 1.

17-1-104.7. Management plan for housing of juveniles - report. (Repealed)

Source: L. 96: Entire section added, p. 1681, § 5, effective January 1, 1997. **L. 2000:** Entire section repealed, p. 834, § 7, effective May 24.

17-1-104.8. Legislative review of facilities program plans for correctional facilities. (Repealed)

Source: L. 94: Entire section added, p. 1091, § 1, effective May 9. **L. 95:** Entire section amended, p. 1273, § 7, effective June 5. **L. 96:** Entire section amended, p. 1147, § 5, effective July 1. **L. 2015:** Entire section repealed, (SB 15-270), ch. 296, p. 1215, § 12, effective June 5.

17-1-104.9. Custody levels for state inmates at private prisons - correctional emergency - definition.

(1) Based upon available appropriations and based upon an annual review by the general assembly, the department is authorized to permanently place state inmates classified as medium custody and below in private contract prisons. Except as otherwise provided in subsection (2) of this section, the department may not place state inmates classified higher than medium custody in private contract prisons or in private prison facilities located outside the state of Colorado. This section does not prevent a private contract prison from incarcerating an inmate who has been reclassified to a higher custody designation as a result of an offense committed within the private contract prison. However, it is the intent of the general assembly that the department move any inmate of a higher custody designation out of the private contract prison as soon as space is available at a state-operated correctional facility.

(2) (a) At the request of the executive director, the governor may, in his or her discretion, declare a correctional emergency and by proclamation authorize the department to place state inmates classified higher than medium custody in private contract prisons or in private prison facilities located outside the state of Colorado. A proclamation issued under this subsection (2) shall remain in effect for thirty days.

(b) At the request of the executive director, the governor may, in his or her discretion, renew a declaration of correctional emergency and reissue a proclamation in accordance with paragraph (a) of this subsection (2) for one or more additional thirty-day periods as the governor deems appropriate.

(c) For purposes of this section, "correctional emergency" means a riot, a disturbance, a homicide, or inmate violence occurring in a correctional facility or in transit to or from a correctional facility, or a situation involving inmates that presents a clear and immediate danger to the safety, security, and control of the department. "Correctional emergency" does not include inmate overcrowding.

Source: L. 2000: Entire section added, p. 834, § 8, effective May 24. **L. 2006:** Entire section amended, p. 658, § 1, effective August 7.

17-1-105. Powers of executive director.

(1) The executive director shall have and exercise:

(a) All the right and power to transfer an inmate between correctional facilities.

(b) Repealed.

(c) The authority to enter into contracts and agreements with other jurisdictions, including other states, the federal government, and political subdivisions of this state, for the confinement and maintenance in state correctional facilities of inmates sentenced to imprisonment by the courts of such other jurisdictions. The executive director shall notify the appropriate authorities of other jurisdictions, as the executive director deems appropriate, of the availability of space in state correctional facilities for the confinement and maintenance of inmates from other jurisdictions.

(d) The authority to lease real property and personal property of the department and any interest therein pursuant to law;

(e) The authority to enter into contracts with any county for the placement of inmates pursuant to section 16-11-308.5, C.R.S.;

(f) The authority to enter into contracts and agreements with other jurisdictions, including other states, the federal government, and political subdivisions of this state, for the confinement and maintenance of offenders sentenced to imprisonment by the courts of this state and the authority to reimburse such jurisdictions for the expenses incurred by such jurisdictions in the confinement and maintenance of said offenders;

(g) The authority to issue administrative warrants, solely for the purpose of returning to a correctional facility, jail, or community corrections center, offenders who have escaped from the custody and care of the department, community corrections, the parole board, or the division of adult parole, containing notice to appropriate law enforcement agencies that there is probable cause to believe that an offender has escaped from custody;

(h) The authority to enter into written agreements with any local, state, regional, or federal law enforcement agency operating within the state to allow such agencies and the department to provide personnel or operational support to one another, if deemed available by the executive director, in support of emergency law enforcement operations in Colorado;

(i) The authority to enter into written agreements with any local, state, regional, or federal law enforcement agency operating within the state to permit department personnel to assist in apprehending offenders who have escaped from the custody of the department.

(1.5) The executive director shall have such other powers and functions as are prescribed for heads of principal departments in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

(2) (a) The executive director shall, subject to approval by the capital development committee and subject to annual appropriation, be authorized to enter into agreements under which the state may acquire title to correctional facilities developed and constructed with private funds upon payment of the stipulated aggregate annual payments within a period of time not to exceed thirty years. The executive director shall also consider all costs associated with the agreement, including indirect costs for administration and monitoring of the agreement and total costs of the agreement including principal and interest.

(b) The executive director shall establish design standards and specifications which shall be met by any facility which is to be occupied pursuant to this subsection (2).

(c) Any proposal which meets such design standards and specifications and which has been approved by the capital development committee shall be specifically authorized, prior to its execution, by a separate bill enacted by the general assembly. Subsequent to such authorization by the general assembly in such manner, payments by the state may be made from moneys appropriated by the general assembly without the necessity of a separate bill.

(d) Payments under such agreements shall be included in the capital construction fund, subject to annual appropriation by the general assembly, and shall be certified, audited, and paid in the same manner as all other accounts and expenditures are paid out of such funds appropriated to the capital construction fund. Such obligations shall not create an indebtedness of the state within the meaning of any provisions of the state constitution or laws of the state concerning or limiting the creation of indebtedness of the state.

(e) Each agreement entered into pursuant to this subsection (2) may contain such terms, provisions, and conditions as the executive director deems appropriate, including provisions by which the state may receive fee title to the real and personal property which is the subject of each agreement on or prior to the expiration of the terms thereof, including all optional terms.

(f) Property acquired or occupied pursuant to this subsection (2) shall be exempt from taxation so long as it is used for a public purpose connected with any authorized work or programs of the department.

(g) Subject to annual appropriations by the general assembly, agreements entered into pursuant to this subsection (2) shall be enforceable in any court of competent jurisdiction in the state.

(3) The entity with which the department enters into an agreement pursuant to subsection (2) of this section shall submit a detailed plan for the department of corrections to assume responsibility for a correctional facility when the contract between the state and the entity terminates. The state, through the executive director of the department of corrections, may terminate the agreement for cause after written notice of material deficiencies and after sixty workdays have been provided to the entity to correct the material deficiencies. If any event occurs involving the noncompliance with or violation of contract terms and presents a serious threat to the safety, health, or security of the inmates, employees, or the public, the department of corrections may temporarily assume responsibility for the correctional facility. In addition, the entity shall submit a plan for the temporary assumption of operations of a correctional facility by the department of corrections in the event of bankruptcy or the financial insolvency of the entity. The entity shall provide an emergency plan to address inmate disturbances, employee work stoppages, strikes, or other serious events. The plan shall comply with applicable national correctional standards. The state may assume responsibility for the operation of a facility upon approval by the general assembly through the enactment of legislation.

Source: L. 77: Entire title R&RE, p. 905, § 10, effective August 1. **L. 79:** (1)(a) and (1)(c) amended and (1)(b) repealed, pp. 685, 705, §§ 23, 88, effective July 1. **L. 85:** (1)(c) amended, p. 1360, § 12, effective June 28. **L. 86:** (1)(d) added, p. 751, § 1, effective April 24. **L. 88:** (2) added, p. 699, § 1, effective May 17; (1)(e) added, p. 677, § 2, effective July 1; (1)(e) and (1)(f) added, p. 710, § 8, effective July 1. **L. 93:** (1)(c) amended, p. 53, § 16, effective July 1. **L. 94:** (1.5) added, p. 563, § 4, effective April 6. **L. 95:** (3) added, p. 1271, § 3, effective June 5. **L. 96:** (1)(f) amended, p. 1149, § 6, effective July 1. **L. 97:** (1)(g) to (1)(i) added, p. 27, § 2, effective March 20. **L. 2000:** (1)(a), (1)(c), and (1)(g) amended, p. 834, § 9, effective May 24.

Editor's note: This section is similar to former § 27-1-105 as it existed prior to 1977.

ANNOTATION

This section allowing for contracts to confine inmates in out-of-state facilities

does not violate compact clause nor commerce clause. People v. Wood, 999 P.2d 227 (Colo. App. 2000).

"Other jurisdictions" as defined in this section includes political subdivisions of other states and thus the executive director has authority to enter into contracts with counties of other states. Arnold v. Colo. Dept. of Corr., 978 P.2d 149 (Colo. App. 1999).

Applied in People v. West, 42 Colo. App. 217, 603 P.2d 967 (1979).

17-1-105.1. Accreditation of private contract prisons.

(1) Repealed.

(2) Prior to submitting building plans to any county, municipality, city and county, or other local governmental agency, any company proposing to construct a private prison within the state shall conduct at least one hearing in the county where the facility is proposed to be constructed for public input following at least twenty days' notice published in a newspaper of general circulation in the county in which the private prison is to be located.

(3) (a) A private prison shall not contract to house any inmate, except on a temporary basis, unless within two years of the date that it accepts its first inmate it holds a current accreditation by the American correctional association.

(b) The executive director may extend the time period for a private prison to obtain the accreditation required by paragraph (a) of this subsection (3) upon a showing of good cause.

Source: L. 98: Entire section added, p. 1236, § 1, effective August 5. **L. 2000:** (1) repealed, p. 835, § 10, effective May 24.

17-1-105.5. Contract rates.

(1) Contracts for the confinement and maintenance of state inmates in private contract facilities or facilities operated by a political subdivision of the state entered into pursuant to this article shall be at rates that are negotiated by the department; except that the rate shall not exceed the maximum rate that is provided in the annual general appropriation bill.

(2) Repealed.

Source: L. 96: Entire section added, p. 1149, § 7, effective July 1. **L. 2008:** Entire section amended, p. 375, § 1, effective April 10.

Editor's note: Subsection (2)(d) provided for the repeal of subsection (2), effective June 30, 2009. (See L. 2008, p. 375.)

17-1-106. Transfer of functions. (Repealed)

Source: L. 77: Entire title R&RE, p. 905, § 10, effective August 1. **L. 2000:** Entire section repealed, p. 835, § 11, effective May 24.

17-1-107. Department may accept gifts, donations, and grants.

The department may accept, or refuse to accept, on behalf of and in the name of the state, gifts, donations, and grants, including grants of federal funds, for any purpose connected with the work or programs of the department. The executive director, with the approval of the governor, shall have the power to direct the disposition of any such gift, donation, or grant so accepted for any purpose consistent with the terms and conditions under which given.

Source: L. 77: Entire title R&RE, p. 906, § 10, effective August 1.

17-1-107.5. State criminal alien assistance program cash fund - creation.

(1) There is hereby created in the state treasury the state criminal alien assistance program cash fund. The fund shall consist of moneys received by the state under the federal state criminal alien assistance program of the federal "Immigration and Nationality Act", 8 U.S.C. sec. 1231 (i). All such moneys shall be transmitted to the state treasurer, who shall credit the same to the fund. The moneys in the fund shall be subject to appropriation by the general assembly to the department of corrections for the 2004-05 state fiscal year and each fiscal year thereafter for the purposes of defraying the costs of incarcerating undocumented criminal aliens sentenced to a term of imprisonment with the department. All investment earnings derived from the deposit and investment of moneys in the fund shall remain in the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of the fiscal year shall remain in the fund and shall not be transferred or credited to the general fund or another fund.

(2) For the purpose of maximizing revenues in the state criminal alien assistance program cash fund, the governor shall, in connection with an annual request for compensation to the state for incarcerating undocumented criminal aliens pursuant to the federal "Immigration and

Nationality Act", 8 U.S.C. sec. 1231 (i), submit to the United States attorney general the average per-inmate cost and the total cost of incarcerating such undocumented criminal aliens for the state fiscal year for which the request is made.

Source: L. 2005: Entire section added, p. 726, § 1, effective June 1.

17-1-108. Transfer of inmates.

(1) A person committed to the care and custody of the department as an inmate who is transferred to another institution, agency, or person for care and keeping, or who is transferred from a jail to the department, shall be transferred with medical records and any other record necessary and relevant to the nature and length of the transfer. Such records shall be provided to the person or agency who will receive the inmate, and the receiving person or agency shall acknowledge receipt of the records and approve of the transfer.

(2) (Deleted by amendment, L. 94, p. 603, § 4, effective July 1, 1994.)

Source: L. 77: Entire title R&RE, p. 906, § 10, effective August 1. **L. 79:** (1) amended, p. 686, § 24, effective July 1. **L. 89:** (2) amended, p. 828, § 38, effective July 1. **L. 94:** Entire section amended, p. 603, § 4, effective July 1; (1) amended, p. 1650, § 94, effective May 31.

Cross references: For transfer of inmates with behavioral or mental health disorders or intellectual and developmental disabilities, see article 23 of this title 17.

17-1-109. Duties and functions of the warden.

(1) The warden of each correctional facility shall exercise the powers and perform the duties and functions assigned to the warden by this article under the supervision and control of the executive director or the executive director's designee.

(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 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 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 inflicting or threatening to inflict harm to employees, contract workers, volunteers, or other state inmates.

Source: L. 77: Entire title R&RE, p. 906, § 10, effective August 1. **L. 79:** Entire section amended, p. 686, § 25, effective July 1. **L. 89:** Entire section amended, p. 872, § 1, effective June 5. **L. 97:** (2) amended, p. 29, § 7, effective March 20. **L. 2000:** (1) and (2)(a) amended, p. 835, § 12, effective May 24. **L. 2011:** (2) amended, (SB 11-176), ch. 289, p. 1342, § 2, effective July 1.

17-1-109.5. Correctional facility employees - rules.

(1) On and after April 1, 2004, 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 April 1, 2004, 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 April 1, 2004.

(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 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.

Source: L. 2004: Entire section added, p. 230, § 1, effective April 1.

17-1-110. Joint review committee on corrections. (Repealed)

Source: L. 78: Entire section added, p. 124, § 2, effective April 18.

Editor's note: When this section was enacted in 1978, the general assembly provided for the repeal of this section upon occupancy of the maximum security facility. Because the facility has been occupied since December 24, 1980, the repeal date for this section is also December 24, 1980.

17-1-111. Certain provisions of the administrative procedure act not to apply.

The provisions of this title relating to the placement, assignment, management, discipline, and classification of inmates shall not be subject to section 24-4-103, 24-4-105, or 24-4-106, C.R.S.

Source: L. 83: Entire section added, p. 687, § 1, effective May 20. **L. 90:** Entire section amended, p. 954, § 22, effective June 7. **L. 2000:** Entire section amended, p. 836, § 13, effective May 24. **L. 2004:** Entire section amended, p. 1197, § 49, effective August 4.

ANNOTATION

Any right that may have existed to obtain review of a prison disciplinary action under the State Administrative Procedure Act (APA) was eliminated by the enactment of this section. Crawford v. State Dept. of Corr., 895 P.2d 1156 (Colo. App. 1995).

This section precludes review of prison disciplinary actions under § 24-4-106 of the APA. Crawford v. State Dept. of Corr., 895 P.2d 1156 (Colo. App. 1995).

The term "management" encompasses the approved treatment provider review board's actions in approving or disapproving treatment providers. Therefore, the board's denial of a treatment provider is exempt from review under the APA. Wisdom Works Counseling v. Dept. of Corr., 2015 COA 118, 360 P.3d 262.

This section applies to regulations concerning the implementation of the death penalty. Even though the statute directing the executive director to provide for the implementation of a death sentence is contained in title 18, it is part of his or her duties as described in § 17-1-103, and therefore this section applies. The regulations concerning the implementation of a death sentence are not subject to the provisions of § 24-4-103 of the APA.

Dunlap v. Dept. of Corr., 2013 COA 63, 303 P.3d 572.

17-1-112. Expenses - reimbursement by department - report.

(1) Subject to available appropriations, the department shall reimburse any county or city and county for a portion of the expenses and costs incurred by that county or city and county in the confinement and maintenance in a local jail of any person who is sentenced to a term of imprisonment in a correctional facility. The general assembly shall annually establish the amount of reimbursement in the general appropriations bill, taking into consideration the information reported pursuant to subsection (4) of this section. Such reimbursement is for each day following seventy-two hours after such sentence is imposed but prior to the transmittal of the sentenced inmate to a department facility. Subject to available appropriations, the department may contract with any county or city and county for the expenses incurred by that county or city and county in the confinement and maintenance of any person who is sentenced to a term of imprisonment pursuant to section 16-11-308.5.

(1.5) In no event shall any agreement to reimburse any city and county or county affect or reduce any city and county's or county's duty to exercise reasonable care and use its best efforts to supervise and use reasonable precautions to assure the adequate care of any state inmate.

(1.7) On or after April 19, 1993, each city and county or county shall send an invoice to the executive director within three months after the expenses and costs for the confinement and maintenance of inmates in local jails are incurred; however, each city and county or county is encouraged to send such invoice on a monthly basis, when possible. Failure by a city and county or county to send an invoice to the executive director within three months after such expenses and costs are incurred shall result in a forfeiture of any reimbursement by the state for such expenses and costs.

(2) Any moneys to which a county or city and county may be entitled pursuant to the provisions of this section shall be paid to the treasurer of the county or the manager of revenue of the city and county, who shall credit the same to the general fund of the county or city and county or such other fund as the board of county commissioners of the county or the city council of the city and county may direct and who shall account for such moneys as provided by law.

(3) (Deleted by amendment, L. 88, p. 710, § 9, effective July 1, 1988.)

(4) To assist the general assembly in determining the amount of reimbursement described in subsection (1) of this section, on or before January 1, 2019, and on or before January 1 each year thereafter, each county and each city and county shall report to the joint budget committee the average cost of confining and maintaining persons in a local jail for more than seventy-two hours after each such person has been sentenced to the custody of the department. On or before September 1, 2018, the joint budget committee shall establish guidelines to ensure that each

county and each city and county reports costs pursuant to this subsection (4) in a uniform manner. At a minimum, the guidelines must allow each county and each city and county to report costs in the following categories:

(a) Food;

(b) Clothing and laundry;

(c) Medical and behavioral health-care costs;

(d) Personnel costs, including salaries and benefits;

(e) Inmate transportation costs;

(f) Vocational training and educational costs; and

(g) Menstrual hygiene products, as defined by section 17-1-113.6 (2).

Source: L. 85: Entire section added, p. 1339, § 1, effective July 1. **L. 88:** Entire section amended, p. 710, § 9, effective July 1. **L. 89:** (1.5) added, p. 879, § 1, effective June 5. **L. 89, 1st Ex. Sess.:** (1) amended, p. 20, § 4, effective July 1. **L. 91:** (1) and (1.5) amended, p. 337, § 2, effective July 1, 1992. **L. 93:** (1) and (1.5) amended and (1.7) added, p. 405, § 2, effective April 19. **L. 95:** (2) amended, p. 880, § 17, effective May 24. **L. 2000:** (1), (1.5), and (1.7) amended, p. 836, § 14, effective May 24. **L. 2018:** (1) amended and (4) added, (HB 18-1132), ch. 163, p. 1129, § 1, effective April 25. **L. 2019:** (4) amended, (HB 19-1224), ch. 131, p. 588, § 2, effective April 25.

Cross references: For the legislative declaration in HB 19-1224, see section 1 of chapter 131, Session Laws of Colorado 2019.

ANNOTATION

"Subject to appropriation", as seen in subsection (1), limits a remedy and not a legal right. Local municipalities have the right to receive reimbursement from the department of corrections for incurred expenses, but the implementation of that right is subject to available appropriations. It expresses the intent of the legislature that the satisfaction of state obligations to local governments for housing state prisoners shall be dependent on future appropriations. State for Use of Dept. of Corr. v. Pena, 855 P.2d 805 (Colo. 1993) (decided under law in effect prior to 1988 amendment).

To the extent appropriations are insufficient to cover expenses incurred by the department of corrections, that department cannot order and implement full

relief. The department does have the obligation to bring to the legislature's attention the inadequacy of funding. State for Use of Dept. of Corr. v. Pena, 855 P.2d 805 (Colo. 1993) (decided under law in effect prior to 1988 amendment).

The department of correction's liability pursuant to this section is not dependent upon the availability of funds. Therefore, the city and county of Denver's entitlement to judgment is not affected by lack of sufficient appropriations. State for Use of Dept. of Corr. v. Pena, 837 P.2d 210 (Colo. App. 1992), aff'd 855 P.2d 805 (Colo. 1993) (decided under law in effect prior to the 1988 amendment).

17-1-112.5. Annual audit by state auditor. (Repealed)

Source: L. 91: Entire section added, p. 338, § 3, effective May 24. **L. 93:** Entire section repealed, p. 406, § 3, effective April 19.

17-1-113. Medical visits - charge to inmates - legislative declaration.

(1) (a) The general assembly hereby finds that the procedures for charging inmates a copayment for medical services are confusing to department personnel and, as a result, are inconsistently applied.

(b) The general assembly therefore finds and determines that the department should establish clear and consistent written procedures concerning copayments for medical, dental, mental health, and optometric services rendered to or on behalf of inmates and should require the facilities rendering the services to comply with the procedures, including the maintenance of detailed records regarding the assessment of copayments.

(2) The department shall assess a copayment, in an amount established by written procedures of the executive director pursuant to subsection (4) of this section, not to exceed five dollars per visit, against an inmate's account for every inmate-initiated request for medical or mental health services provided to the inmate by a physician, physician assistant, nurse practitioner, registered nurse, or licensed practical nurse. The department shall assess a copayment, in an amount established by written procedures of the executive director pursuant to subsection (4) of this section, against an inmate's account for every inmate-initiated visit by the inmate to a dentist or optometrist. The amount of the copayment for the dental or optometric services need not be the same as the copayment for medical or mental health services.

(3) The department shall communicate the copayment procedures to every correctional facility that provides medical, dental, mental health, and optometric services to or on behalf of

inmates to ensure that all department personnel consistently and regularly assess the required copayment.

(4) The executive director shall establish written procedures relating to medical, dental, mental health, and optometric service copayments, which procedures shall address, but need not be limited to, the following:

(a) The amount of the copayment to be assessed against an inmate's account for inmate-initiated medical services, including but not limited to mental health services, which copayment shall not exceed the direct and indirect costs associated with any type of medical or mental health service that may be rendered;

(b) The amount of the copayment to be assessed against an inmate's account for inmate-initiated dental and optometric services, which copayment shall not exceed the direct and indirect costs associated with any dental or optometric service that may be rendered;

(c) The detailed procedures that department personnel are to follow in assessing the copayments;

(d) The specific services for which a copayment will be assessed, waived, or reduced, as well as the specific and exclusive bases upon which a copayment may be waived by department personnel, including but not limited to the inmate's inability to pay the copayment, the health needs of the inmate, and the public health and safety needs of the institution;

(e) The information to be obtained by department personnel at the time of the inmate's medical, dental, mental health, or optometric visit on a standardized department form, including the inmate's name, the inmate's identification number, the amount of the copayment assessed, if any, the reason for the visit, the type of service rendered, and the basis for any waiver of the copayment; and

(f) The appropriate action that will be taken, consistent with state personnel rules, against department personnel who fail to comply with the copayment procedures.

(5) The department shall monitor the information collected pursuant to paragraph (e) of subsection (4) of this section to ensure that the copayment procedures are being applied consistently to all inmates.

(6) Repealed.

Source: L. 87: Entire section added, p. 649, § 1, effective July 1. **L. 89:** Entire section amended, p. 880, § 1, effective July 1. **L. 98:** Entire section amended, p. 202, § 1, effective April 10. **L. 2000:** (6) repealed, p. 836, § 15, effective May 24; (6) repealed, p. 1545, § 2, effective August 2. **L. 2008:** Entire section amended, p. 294, § 1, effective August 5. **L. 2016:** (2) amended, (SB 16-158), ch. 204, p. 727, § 15, effective August 10.

Cross references: For the legislative declaration in SB 16-158, see section 1 of chapter 204, Session Laws of Colorado 2016.

ANNOTATION

A state may establish reasonable inmate copayments for the provision of medical care as long as the state meets an inmate's serious medical needs and may determine whether a governmental entity or the inmate must pay the cost of any medical services provided. Negron v. Gillespie, 111 P.3d 556 (Colo. App. 2005).

17-1-113.1. Administration or monitoring of medications to persons in correctional facilities.

(1) The executive director has the power to direct the administration or monitoring of medications to persons in correctional facilities, as described in section 25-1.5-301 (2)(a), C.R.S., under the executive director's control, in a manner consistent with part 3 of article 1.5 of title 25, C.R.S.

(2) The executive director may authorize the transfer, delivery, or distribution to a corporation, individual, or other entity, other than a consumer, entitled to possess prescription drugs in an amount that is less than, equal to, or in excess of five percent of the total number of dosage units or drugs dispensed and distributed on an annual basis.

Source: L. 92: Entire section added, p. 1149, § 4, effective July 1. **L. 2000:** Entire section amended, p. 837, § 16, effective May 24. **L. 2003:** Entire section amended, p. 704, § 24, effective July 1; entire section amended, p. 957, § 17, effective July 1.

Editor's note: Amendments to this section by Senate Bill 03-002 and Senate Bill 03-119 were harmonized.

17-1-113.2. Continuity of care for persons released from correctional facility.

Before a person is released from the custody of a correctional facility, the correctional facility shall comply with the provisions of section 17-26-140 concerning continuity of care for persons with a substance use disorder.

Source: L. 2020: Entire section added, (HB 20-1017), ch. 288, p. 1425, § 7, effective September 14.

17-1-113.3. Telemedicine - study - report - repeal. (Repealed)

Source: L. 2006: Entire section added, p. 1553, § 1, effective August 7.

Editor's note: Subsection (3) provided for the repeal of this section, effective July 1, 2007. (See L. 2006, p. 1553.)

17-1-113.4. Opioid treatment for a person in custody - definitions.

(1) A correctional facility or private contract prison may make available opioid agonists and opioid antagonists to a person in custody with an opioid use disorder. The correctional facility or private contract prison is strongly encouraged to maintain the treatment of the person throughout the duration of the person's incarceration, as medically necessary.

(2) (a) Qualified medication administration personnel may, in accordance with a written physician's order, administer opioid agonists and opioid antagonists for the treatment of an opioid use disorder pursuant to subsection (1) of this section.

(b) As funding and supplies allow, if a person in custody is treated for an opioid use disorder pursuant to this section, the correctional facility or private contract prison shall offer the person, upon release from the facility, at least two doses of an opioid reversal medication, in a form approved by the federal drug administration, and provide education to the person about the appropriate use of the medication.

(3) A correctional facility or private contract prison may contract with community-based health providers for the implementation of this section.

(3.5) Nothing in this section imposes civil or criminal liability on a state law enforcement agency or law enforcement officer when ordinary care is used in the administration or provision of an opioid reversal medication in cases when an individual appears to be experiencing an opioid overdose.

(4) As used in this section, unless the context otherwise requires:

(a) "Opioid agonist" means a full or partial agonist that is approved by the federal food and drug administration for the treatment of an opioid use disorder.

(b) "Opioid antagonist" means naltrexone, an opioid reversal medication, or any similarly acting drug used for the treatment of an opioid use disorder that is not a controlled substance and that is approved by the federal food and drug administration for the treatment of an opioid use disorder.

Source: L. 2020: Entire section added, (HB 20-1017), ch. 288, p. 1422, § 1, effective September 14. **L. 2021:** (2) and (4)(b) amended and (3.5) added, (SB 21-137), ch. 362, p. 2382, § 28, effective June 28.

Cross references: For the short title ("Behavioral Health Recovery Act of 2021") and the legislative declaration in SB 21-137, see sections 1 and 2 of chapter 362, Session Laws of Colorado 2021.

17-1-113.5. Inmates held in correctional facilities - medical benefits application assistance - county of residence - rules.

(1) (a) Except as otherwise provided in paragraph (b) of this subsection (1), on and after January 1, 2003, any person who is sentenced to a term of imprisonment in a correctional facility who was receiving medical assistance pursuant to section 25.5-5-101 (1)(f) or 25.5-5-201 (1)(j), C.R.S., immediately prior to entering the correctional facility, or who is reasonably expected to meet eligibility criteria pursuant to section 25.5-5-101 (1)(f) or 25.5-5-201 (1)(j), C.R.S., upon release, shall receive assistance from correctional facility personnel in applying for such medical assistance at least ninety days prior to release.

(b) On and after January 1, 2003, any person who is sentenced to a term of imprisonment in a correctional facility who was eligible for supplemental security income benefits under Title II of the federal "Social Security Act" immediately prior to entering the correctional facility, or who is reasonably expected to meet eligibility criteria for supplemental security income benefits upon release, shall receive assistance from the correctional facility personnel in applying for such supplemental security income benefits at least ninety days prior to release or sooner, if possible.

(c) The department shall ensure that any inmate who is sixty-five years of age or older and is being released from prison is enrolled in the most appropriate medical insurance benefit plan including medicare, medicare savings plan, veteran's benefit, or other safety-net health insurance, or an individual health benefit plan prior to release or upon release, whichever will offer the more immediate health-care coverage. If an inmate who is sixty-five years of age or older is not

enrolled in a medical insurance benefit plan prior to release and would be unable to pay for costs associated with enrollment in health insurance or would not otherwise be covered under a spouse's individual or employer offered insurance plan, the department shall pay any insurance premiums, penalties, or other costs related to enrollment in health insurance for up to six months from the start of coverage. The department may provide financial assistance for longer than six months if the person is still under the jurisdiction of the department and who would otherwise be uninsured or underinsured without that financial assistance.

(d) The department shall ensure that an inmate who is eligible for premium-free medicare coverage is enrolled during the inmate's initial open enrollment period or during regular open enrollment.

(2) The department of health care policy and financing shall provide information and training on medical assistance eligibility requirements and assistance to each correctional facility to assist in and expedite the application process for medical assistance for any inmate held in custody who meets the requirements of paragraph (a) of subsection (1) of this section.

(3) The department of human services shall provide information and education regarding the supplemental security income systems and processes to each correctional facility.

(4) (a) For purposes of determining eligibility pursuant to section 25.5-4-205, C.R.S., the county of residence of the inmate held in custody shall be the county specified by the inmate as his or her county of residence upon release.

(b) The department of health care policy and financing shall promulgate rules to simplify the processing of applications for medical assistance pursuant to subsection (1)(a) of this section and to allow inmates determined to be eligible for such medical assistance to access the medical assistance upon release and thereafter. If a county department of human or social services determines that an inmate is eligible for medical assistance, the county shall enroll the inmate in medicaid effective upon release of the inmate. At the time of the inmate's release, the correctional facility shall give the inmate information and paperwork necessary for the inmate to access medical assistance. The applicable county department of human or social services shall provide such information.

(c) The department of corrections shall attempt to enter into prerelease agreements with local social security administration offices, and, if appropriate, the county departments of human or social services, the state department of human services, or the department of health care policy and financing to simplify the processing of applications for medicaid or for supplemental security income to enroll inmates who are eligible for medical assistance pursuant to section 25.5-5-101 (1)(f) or 25.5-5-201 (1)(j), effective upon release and to provide such inmates with the information and paperwork necessary to access medical assistance immediately upon release.

(5) (Deleted by amendment, L. 2007, p. 1991, § 1, effective June 1, 2007.)

(6) If an inmate is released from confinement but still under criminal justice supervision and is eligible for medical benefits pursuant to the "Colorado Medical Assistance Act", articles 4 to 6 of title 25.5, the supervising criminal justice agency shall not place any restriction or make additional requirements a precondition that in any way inhibits the inmate from being able to choose a provider or receive medical care, behavioral health treatment, or any other assistance authorized under the medical benefits.

Source: L. 2002: Entire section added, p. 805, § 1, effective July 1. **L. 2003:** (1)(a) and (4)(c) amended, p. 415, § 4, effective March 5. **L. 2005:** (1)(a) and (4)(c) amended, p. 4, § 7, effective January 1; (5) amended, p. 250, § 3, effective July 1. **L. 2006:** (1)(a), (4)(a), and (4)(c) amended, p. 2004, § 57, effective July 1. **L. 2007:** (2), (3), (4)(b), (4)(c), and (5) amended, p. 1991, § 1, effective June 1. **L. 2018:** (4)(b) and (4)(c) amended, (SB 18-092), ch. 38, p. 404, § 22, effective August 8. **L. 2021:** (1)(c), (1)(d), and (6) added, (SB 21-146), ch. 459, p. 3084, § 7 , effective July 6.

Cross references: For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of Colorado 2018.

17-1-113.6. Menstrual hygiene products for a person in custody - definition.

(1) A correctional facility or private contract prison shall provide whichever menstrual hygiene products are requested by a person in custody to the person in custody at no expense to the person in custody. A correctional facility or private contract prison shall not impose any condition or restriction on a person in custody's access to menstrual hygiene products.

(2) As used in this section, unless the context otherwise requires, "menstrual hygiene products" means tampons, menstrual pads, sanitary napkins, and pantiliners.

Source: L. 2019: Entire section added, (HB 19-1224), ch. 131, p. 588, § 3, effective April 25.

Cross references: For the legislative declaration in HB 19-1224, see section 1 of chapter 131, Session Laws of Colorado 2019.

17-1-113.7. Prohibition against the use of restraints on pregnant inmates in the custody of correctional facilities and private contract prisons - report.

(1) The staff of a correctional facility or private contract prison, when restraining a female inmate, shall use the least restrictive restraints necessary to ensure safety if the staff of the correctional facility or private contract prison have a reasonable belief that the inmate is pregnant. For the use of restraints during labor, delivery, and postpartum recovery, the staff shall comply with the "Protection of Individuals from Restraint and Seclusion Act", article 20 of title 26.

(2) (a) Repealed.

(b) The correctional facility, private contract prison, or medical facility staff authorizing the use of restraints on a pregnant inmate during labor or delivery of the child shall make a written record of the use of the restraints, which record shall include, at a minimum, the type of restraint used, the circumstances that necessitated the use of the restraint, and the length of time the restraint was used. The staff of the correctional facility or private contract prison shall retain the record for a minimum of five years and shall make the record available for public inspection with individually identifying information redacted from the record unless the inmate who is the subject of the record gives prior written consent for the public release of the record. The written record of the use of restraint shall not constitute a medical record under state or federal law. Notwithstanding section 24-1-136 (11)(a)(I), no later than February 15, 2022, and each February 15 thereafter, the warden of the private contract prison and the executive director or the executive director's designee shall submit the records created pursuant to this subsection (2)(b) in the prior calendar year to the judiciary committees of the senate and house of representatives, or their successor committees.

(3) Upon return to a correctional facility or private contract prison after childbirth, the inmate shall be entitled to have a member of the correctional facility's or private contract prison's medical staff present during any strip search.

(4) When an inmate's pregnancy is determined, the staff of a correctional facility or private contract prison shall inform a pregnant inmate in writing in a language and in a manner understandable to the inmate of the provisions of this section concerning the use of restraints and the presence of medical staff during a strip search.

(5) The executive director of the department of corrections shall ensure that the staff of the department of corrections and of private contract prisons receive adequate training concerning the provisions of this section.

Source: L. 2010: Entire section added, (SB 10-193), ch. 312, p. 1463, § 1, effective January 1, 2011. **L. 2021:** (2)(b) amended, (SB 21-193), ch. 433, p. 2859, § 3, effective September 7. **L. 2024:** (1) amended and (2)(a) repealed, (HB 24-1459), ch. 426, p. 2914, § 1, effective June 5.

17-1-113.8. Persons with serious behavioral or mental health disorders - long-term isolated confinement - work group - medication-assisted treatment - appropriation.

(1) The department shall not place a person with a behavioral or serious mental health disorder in long-term isolated confinement except when exigent circumstances are present.

(2) (a) There is hereby established within the department a serious mental illness in long-term isolated confinement work group, referred to in this section as the "work group". The work group consists of:

(I) The deputy executive director of the department, or his or her designee, who shall convene and serve as the chair of the work group;

(II) The director of clinical and correctional services, within the department, or his or her designee;

(III) The director of prisons, within the department, or his or her designee;

(IV) The chief of psychiatry, within the department, or his or her designee;

(V) The director of behavioral health, within the department, or his or her designee;

(VI) Two representatives from a nonprofit prisoners' rights advocacy group, one who is appointed by the speaker of the house of representatives and one who is appointed by the president of the senate; and

(VII) Two mental health professionals independent from the department with particular knowledge of prisons and conditions of confinement, one who is appointed by the speaker of the house of representatives and one who is appointed by the president of the senate.

(b) (I) The work group shall advise the department on policies and procedures related to the proper treatment and care of offenders with serious behavioral or mental health disorders in long-term isolated confinement, with a focus on persons with serious behavioral or mental health disorders in long-term isolated confinement.

(II) The work group has the power to request, on a periodic basis, information and data from the department on the status of the department's work on the subject matter of the work group.

(c) The chair of the work group shall convene the work group's first meeting no later than July 1, 2014, and the work group must meet at least semi-annually thereafter. The chair shall schedule and convene the work group's meetings.

(d) The chair shall provide the work group with quarterly updates on the department's policies related to the work group's subject area.

(3) (a) The department shall allow medication-assisted treatment, as it is defined in section 23-21-803, to be provided to individuals who are placed in the custody of the department who were receiving such treatment in a local jail prior to being placed in the custody of the department.

(b) The department may enter into agreements with community agencies, behavioral health organizations, and substance use disorder treatment organizations to assist in the development and administration of medication-assisted treatment pursuant to this section.

(4) Repealed.

Source: L. 2014: Entire section added, (SB 14-064), ch. 349, p. 1567, § 1, effective June 6. **L. 2017:** (1) and (2)(b)(I) amended, (SB 17-242), ch. 263, p. 1302, § 129, effective May 25. **L. 2019:** (3) added, (SB 19-008), ch. 275, p. 2594, § 2, effective August 2. **L. 2022:** (4) added, (SB 22-196), ch. 193, p. 1290, § 3, effective May 19.

Editor's note: Subsection (4)(c) provided for the repeal of subsection (4), effective June 30, 2024. (See L. 2022, p. 1290.)

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017. For the legislative declaration in SB 22-196, see section 1 of chapter 193, Session Laws of Colorado 2022.

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

(1) Notwithstanding section 24-1-136 (11)(a)(I), 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 individuals diagnosed with behavioral health disorders or intellectual and developmental disabilities, including duration of stay, reason for placement, and number and percentage discharged; and any internal reform efforts since July 1, 2011. The report must include data concerning the placement of individuals in all settings with heightened restrictions, including the total number of placements in each setting, the total number of placements in each setting involving an individual diagnosed with a behavioral health disorder or intellectual or developmental disability, the average duration of stay

of an individual in each setting, the reasons for placement in each setting, and the total number of individuals discharged from each setting.

(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.

Source: L. 2011: Entire section added, (SB 11-176), ch. 289, p. 1342, § 1, effective July 1. **L. 2017:** (1) amended, (SB 17-031), ch. 92, p. 280, § 2, effective August 9. **L. 2018:** (1) amended, (SB 18-091), ch. 35, p. 385, § 15, effective August 8. **L. 2023:** (1) amended, (HB 23-1013), ch. 364, p. 2193, § 2, effective June 5.

Cross references: For the legislative declaration in SB 18-091, see section 1 of chapter 35, Session Laws of Colorado 2018.

17-1-114. Pool of funds - continuance of community supervision.

There is hereby created in the state treasury a fund to be known as the community supervision supplemental fund, which shall consist of moneys appropriated by the general assembly. All moneys in the fund shall be subject to withdrawal by the department of corrections, the judicial department, or the department of public safety for the purpose of continuing community supervision, such as parole supervision, probation supervision, community corrections programs, or home electronic monitoring over offenders who would otherwise be removed to secure custody due to lack of resources. Such moneys may be withdrawn upon a request by the department of corrections, the judicial department, or the department of public safety which is made to the director of the office of state planning and budgeting. The director of the office of state planning and budgeting, in consultation with the joint budget committee, shall approve or disapprove the request made by each department and budget the amount of such request. Any withdrawal approved by the director of the office of state planning and budgeting shall be dispersed to the department making the request.

Source: L. 90: Entire section added, p. 944, § 13, effective June 7.

17-1-114.5. Incarceration of a person in custody with the capacity for pregnancy - report.

(1) A correctional facility or private contract prison incarcerating a person who is capable of pregnancy shall:

(a) Train the facility's staff to ensure that a pregnant person receives safe and respectful treatment;

(b) Develop administrative policies to ensure a trauma-informed standard of care is integrated with current practices to promote the health and safety of a pregnant person;

(c) Provide each pregnant person, during the person's pregnancy and through the person's postpartum period, with access to:

(I) Perinatal health-care providers with perinatal experience; and

(II) Healthy foods and information on nutrition, recommended activity levels, safety measures, and supplies, including menstrual products as required in section 17-1-113.6, and breast pumps approved by the executive director or the executive director's designee;

(d) Provide counseling and treatment for pregnant people who have suffered from:

(I) A diagnosed behavioral, mental health, or substance use disorder;

(II) Trauma or violence, including domestic violence;

(III) Human immunodeficiency virus;

(IV) Sexual abuse;

(V) Pregnancy loss or infant loss; or

(VI) Chronic conditions;

(e) Provide evidence-based pregnancy and childbirth education, parenting support, and other relevant forms of health literacy;

(f) Develop administrative policies to identify and offer opportunities for postpartum persons to maintain contact with the person's newborn child to promote bonding, including enhanced visitation policies, access to prison nursery programs, and breastfeeding support, when appropriate;

(f.5) Develop administrative policies, including a system for human milk storage, to ensure a newborn can receive the human milk that the newborn's postpartum parent has pumped for the newborn's nourishment;

(g) In accordance with the requirements of the federal "Health Insurance Portability and Accountability Act of 1996", as amended, Pub.L. 104-191, transfer health records to community

providers if a pregnant person exits the criminal justice system during the person's pregnancy or during the person's postpartum period;

(h) Connect a person exiting the criminal justice system during the person's pregnancy or postpartum period to community-based resources, such as referrals to health-care providers, substance use disorder treatment, and social services that address social determinants of maternal health;

(i) Establish partnerships with local public entities, private community entities, community-based organizations, Indian tribes and tribal organizations as defined in the federal "Indian Self-Determination and Education Assistance Act", 25 U.S.C. sec. 5304, as amended, or urban Indian organizations as defined in the federal "Indian Health Care Improvement Act", 25 U.S.C. sec. 1603, as amended;

(j) Notwithstanding section 24-1-136 (11)(a)(I), by February 15, 2022, and by February 15 each year thereafter, report to the judiciary committees of the senate and house of representatives, or their successor committees, on the number of births by pregnant people who are in the custody of the facility, including the location of the births, that occurred in the prior calendar year;

(k) Regardless of the person's ability to pay, ensure access to an abortion, as defined in section 25-6-402, by providing a pregnant person with information about abortion providers, referrals to community-based providers of abortions, referrals to community-based organizations that help people pay for abortions, and transportation to access an abortion; and

(l) Ensure access to miscarriage management, including medication.

Source: L. 2021: Entire section added, (SB 21-193), ch. 433, p. 2860, § 4, effective September 7. **L. 2023:** (1)(i) amended, and (1)(k) and (1)(l) added, (SB 23-188), ch. 68, p. 247, § 14, effective April 14. **L. 2024:** (1)(f.5) added, (HB 24-1459), ch. 426, p. 2915, § 3, effective June 5.

Cross references: For the legislative declaration in SB 23-188, see section 1 of chapter 68, Session Laws of Colorado 2023.

17-1-115. Investigators employed by the department - notification to local law enforcement agencies. (Repealed)

Source: L. 92: Entire section added, p. 432, § 2, effective April 23. **L. 99:** Entire section repealed, p. 424, § 3, effective April 30.

17-1-115.2. Correctional law enforcement agencies to provide identification cards to retired peace officers upon request - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Law enforcement agency of the department" means the department and any agency within the department that employs at least one peace officer.

(b) "Peace officer" means a certified peace officer described in section 16-2.5-102, C.R.S.

(c) "Photographic identification" means a photographic identification that satisfies the description at 18 U.S.C. sec. 926C (d).

(2) Except as described in subsection (3) of this section, on and after August 7, 2013, if a law enforcement agency of the department has a policy, on August 7, 2013, of issuing photographic identification to peace officers who have retired from the agency, and the agency discontinues said policy after August 7, 2013, the agency shall continue to provide such photographic identification to peace officers who have retired from the agency if:

(a) The peace officer requests the identification;

(b) The peace officer retired from the law enforcement agency before the date upon which the agency discontinued the policy; and

(c) The peace officer is a qualified retired law enforcement officer, as defined in 18 U.S.C. sec. 926C (c).

(3) Before issuing or renewing a photographic identification to a retired law enforcement officer pursuant to this section, a law enforcement agency of the state shall complete a criminal background check of the officer through a search of the national instant criminal background check system created by the federal "Brady Handgun Violence Prevention Act" (Pub.L. 103-159), the relevant portion of which is codified at 18 U.S.C. sec. 922 (t), and a search of the state integrated criminal justice information system. If the background check indicates that the officer is prohibited from possessing a firearm by state or federal law, the law enforcement agency shall not issue the photographic identification.

(4) A law enforcement agency of the department may charge a fee for issuing a photographic identification to a retired peace officer pursuant to subsection (2) of this section, which fee shall not exceed the direct and indirect costs assumed by the agency in issuing the photographic identification.

(5) Notwithstanding any provision of this section to the contrary, a law enforcement agency of the department shall not be required to issue a photographic identification to a particular peace officer if the chief administrative officer of the agency elects not to do so.

(6) If a law enforcement agency of the department denies a photographic identification to a retired peace officer who requests a photographic identification pursuant to this section, the law enforcement agency shall provide the retired peace officer a written statement setting forth the reason for the denial.

Source: L. 2013: Entire section added, (HB 13-1118), ch. 81, p. 262, § 6, effective August 7.

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 or the department of corrections investigator, whichever is appropriate, 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 treatment of injuries, HIV prophylaxis measures, and testing for sexually transmitted infections;

(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 statistics 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.

Source: L. 2007: Entire section added, p. 1545, § 1, effective May 31. **L. 2008:** (1)(b) amended, p. 466, § 2, effective April 14; (3) amended, p. 1885, § 26, effective August 5. **L. 2016:** (1)(f) amended, (SB 16-146), ch. 230, p. 915, § 7, effective July 1.

17-1-115.7. Prevention of sexual assaults on youthful inmates - compliance with federal law - report - definition.

(1) On or before August 20, 2013, the department shall implement policies pursuant to the federal "Prison Rape Elimination Act of 2003", 42 U.S.C. sec. 15601 et seq., to ensure compliance with the provisions thereof relating to youthful inmates, as codified at 28 CFR 115.14.

(2) Notwithstanding section 24-1-136 (11)(a)(I), on or before October 1, 2013, and on or before each October 1 thereafter, the department shall report to the judiciary committees of the house of representatives and senate, or any successor committees, concerning the implementation of the policies described in subsection (1) of this section within the youth offender system described in section 18-1.3-407.5.

(3) As used in this section, "youthful inmate" means any person less than eighteen years of age who is under adult court supervision and incarcerated or detained in a correctional facility.

Source: L. 2013: Entire section added, (SB 13-216), ch. 171, p. 618, § 2, effective May 10. **L. 2017:** (2) amended, (SB 17-031), ch. 92, p. 281, § 3, effective August 9.

17-1-115.8. Corrections officer staffing - report - double shift criteria - definition.

(1) Notwithstanding section 24-1-136 (11)(a)(I), the department shall prepare a report for the members of the general assembly by January 15, 2014, and by January 15 each year thereafter, regarding corrections officer staffing levels. The report must include:

(a) Staffing levels for corrections officers at each correctional facility and private contract prison in Colorado;

(b) Staffing levels for corrections officers for each correctional facility security level; and

(c) A comparison of staffing levels at Colorado correctional facilities and the national standards adopted by the national institute of corrections and the American correctional association.

(2) The department shall develop criteria for when a corrections officer may work two consecutive shifts, and the criteria must apply to a seven-day period and must account for different security-level facilities.

(3) The department, through discussions with individual corrections officers, shall establish work period and compensation practices that comply with the following standards that:

(a) A work period for correctional officers may be from seven consecutive days to fourteen consecutive days in length. Overtime pay for correctional officers must be required when the number of hours worked exceeds the number of hours that bears the same relationship to eighty-five hours in a fourteen-day period.

(b) A corrections officer who works twelve or more hours in a single twenty-four-hour period must be paid the amount of one and one-half times the corrections officer's regular rate of pay for the time the corrections officer worked that exceeded eight and one-half hours, unless the additional time is part of the corrections officer's normal shift that is longer than eight and one-half hours and is part of a compressed, flexible, or alternative scheduling system;

(c) All department employees receive with their pay check a pay stub that clearly and accurately reflects all hours worked, standard rate of pay, rate of overtime pay, accrual of any paid leave and compensatory time, remaining paid leave, and compensatory time balances;

(d) The department shall establish administrative regulation practices that create greater flexibility in the staffing of facilities, including but not limited to employee shift substitution, voluntary overtime lists, roving, and pool staff coverage; and

(e) All practices must be compliant with federal wage and hour law.

(4) For purposes of this section, "corrections officer" means an employee of the department of corrections who is subject to the exemption in 29 U.S.C. sec. 207 (k); except that it does not include a parole officer.

Source: L. 2013: Entire section added (SB 13-210), ch. 261, p. 1377, § 1, effective August 7. **L. 2017:** IP(1) amended, (SB 17-031), ch. 92, p. 281, § 4, effective August 9. **L. 2024:** IP(3) and (3)(b) amended, (HB 24-1228), ch. 265, p. 1743, § 1, effective May 28.

17-1-115.9. Incentives for mental health professionals - report - legislative declaration.

(1) The general assembly finds that:

(a) The failure to provide timely needed sex offender treatment or services creates a risk when an inmate is released into the community and increases expenses when an inmate remains in prison due to his or her failure to receive treatment or services; and

(b) In order to provide the necessary sex offender treatment and services in difficult-to-serve areas in a timely manner, the department must have the flexibility to offer incentives to contracted mental health professionals to provide such treatment and services in such areas.

(2) The department shall monitor the number of inmates who have a specified sex offender treatment or service identified in the inmate's recommended rehabilitation report and who are not receiving the treatment or service due to a lack of treatment or service providers. The department shall develop and may implement an incentive plan for each sex offender treatment or service and each geographic area in which there is a need for additional contracted mental health professionals to provide the identified sex offender treatment or service. The incentive plan must include specific incentives to contract with the necessary mental health professionals and may include increases in fees and travel reimbursements paid, bonuses, and other financial incentives.

(3) Notwithstanding the provisions of section 24-1-136 (11), on or before December 1, 2018, and each December 1 thereafter, the department shall submit a report to the joint budget committee that must include:

(a) The statewide number of inmates requiring each sex offender treatment or service provided by a mental health professional and the number of inmates unable to receive such treatment or service; and

(b) For each incentive plan developed pursuant to this section, the number of inmates requiring the treatment or service, the number of inmates still unable to receive the treatment or service, a description of the incentive plan developed, and a report on the effectiveness of any incentive offered by the department under the plan.

Source: L. 2018: Entire section added, (HB 18-1040), ch. 199, p. 1295, § 1, effective August 8.

17-1-116. Corrections expansion reserve fund.

There is hereby created in the state treasury the corrections expansion reserve fund. Moneys in the fund shall be subject to annual appropriation by the general assembly for the purpose of complying with the provisions of section 2-2-703, C.R.S., which requires that any bill which results in a net increase in periods of imprisonment in state correctional facilities provide for the funding of any increased capital construction costs or increased operating costs associated therewith. Any unexpended or unencumbered moneys remaining in the fund at the end of any fiscal year shall remain in the fund and shall not revert to or be transferred to the general fund or any other fund of the state.

Source: L. 93, 1st Ex. Sess.: Entire section added, p. 8, § 10, effective September 13.

17-1-117. Appropriation to comply with section 2-2-703 - HB 94-1052. (Repealed)

Source: L. 94: Entire section added, p. 1345, § 2, effective July 1. **L. 2000:** Entire section repealed, p. 837, § 17, effective May 24.

17-1-118. Appropriation to comply with section 2-2-703 - HB 96-1361. (Repealed)

Source: L. 96: Entire section added, p. 1335, § 2, effective July 1. **L. 2008:** Entire section repealed, p. 1885, § 27, effective August 5.

17-1-119. Lethal perimeter security systems for correctional facilities - governmental immunity - limitations.

(1) The general assembly hereby finds and declares that the installation and operation of electrified, lethal perimeter security systems at certain state correctional facilities will enhance the safety of the citizens of this state and will result in reduced costs for operating such correctional facilities.

(2) The department is authorized, through its agents and contractors, to design and construct electrified, lethal perimeter security systems at correctional facilities to be managed, operated,

supervised, and controlled by the department if the department determines the use of such security systems to be necessary and appropriate.

(3) The department, any agent of the department, or contractor hired by the department for the design and construction of an electrified, lethal perimeter security system at a state correctional facility shall be provided all protections of governmental immunity provided to public employees by article 10 of title 24, C.R.S., including but not limited to the payment of judgments and settlements, the provision of legal defense, and the payment of costs incurred in court actions in regard to any and all claims arising from the design and construction, consistent with the design approved by the department, of the lethal aspect of such security system.

(4) The provisions of subsection (3) of this section shall be construed as a specific exception for independent contractors hired to design and construct electrified, lethal perimeter security systems at state correctional facilities from the general exclusion of independent contractors from the protections of governmental immunity provided in article 10 of title 24, C.R.S.

Source: L. 97: Entire section added, p. 1587, § 3, effective June 4.

17-1-119.5. Compilation of data related to inmates with children attending school.

(1) The department of corrections shall obtain information from each inmate concerning whether the inmate is the parent of a child who is under the age of eighteen in the state of Colorado and, if so, whether the child is enrolled in a school in the state and the school district or state charter school in which the child is enrolled. In the process of obtaining the information from the inmate, the department shall not provide the inmate with information that would pose a safety threat to the child or child's family.

(2) The department shall collect and compile information related to programs that assist students whose parents are incarcerated.

Source: L. 2005: Entire section added, p. 951, § 1, effective June 2.

17-1-119.7. Prison population management measures - definitions.

(1) (a) The department shall track the prison bed vacancy rate in both correctional facilities and state-funded private contract prison beds on a monthly basis. If the prison bed vacancy rate falls below four percent for thirty consecutive days, the department shall, within forty-eight hours, notify the following:

(I) The governor;

(II) The joint budget committee;

(III) The house of representatives judiciary committee and the senate judiciary committee, or their successor committees;

(IV) The parole board and each release hearing officer and administrative hearing officer under contract with the parole board;

(V) The office of community corrections in the department of public safety;

(VI) Each community corrections board and community corrections program, as those terms are defined in section 17-27-102;

(VII) Each elected district attorney;

(VIII) The office of state public defender created in section 21-1-101;

(IX) The office of alternate defense counsel created in section 21-2-101;

(X) The chief judge of each judicial district;

(XI) The chief probation officer in each judicial district;

(XII) The office of the state court administrator; and

(XIII) Each county sheriff of Colorado.

(b) If the mandates required pursuant to this section are in effect and the prison bed vacancy rate is four percent or higher for thirty consecutive days, the department shall notify each person and entity listed in subsection (1)(a) of this section that the mandates required pursuant to this section are no longer in effect.

(c) Each individual and entity that receives notification pursuant to subsection (1)(a) of this section shall acknowledge receipt of the notification, in writing, and confirm compliance with the notification requirements described in subsection (2)(e) of this section.

(d) The notification to the governor and the parole board must be updated every thirty days while the mandates required pursuant to this section are in effect and include an estimate of the reduction in the inmate population needed to achieve a prison bed vacancy rate of four percent or higher.

(2) (a) If the prison bed vacancy rate in correctional facilities and state-funded private contract prison beds falls below four percent for thirty consecutive days, the department shall:

(I) (A) Request the office of community corrections provide the department with information regarding the location and nature of any community corrections beds. The office of community corrections shall provide the information to the department within seventy-two hours after the

request and on a weekly basis until the office of community corrections receives notification from the department that the mandates required by this section are no longer in effect.

(B) Request, in writing, that each community corrections provider review the statutory criteria for each transition inmate who has resided in the community corrections program operated by the provider for more than one hundred eighty days and who meets the program objectives for an intensive supervision program pursuant to section 17-27.5-101, and provide the department with a list of intensive supervision program-eligible transition inmates with employment and housing options. After receiving the list of transition inmates, the department shall investigate and approve a residence plan for each transition inmate on the list and submit the approved residence plan to the relevant community corrections board.

(C) Request, in writing, that the office of community corrections investigate expanding the capacity for inmate transition beds in community corrections programs that could be provided on a temporary or longer-term basis, including the potential number of beds. The office of community corrections shall provide the results of the investigation to the department and the joint budget committee.

(D) Require that department case managers review the eligibility of each inmate for community corrections program placement and initiate a referral of an inmate who is eligible to the relevant community corrections board within seven days after the eligibility determination; and

(E) Require that the division of adult parole notify each community parole officer, in writing, of the prison bed shortage and request that parole officers consider alternative sanctions for technical violations of parole by a transition inmate, if lawfully available and consistent with public safety.

(II) Request that the parole board review a list of inmates who are within ninety days of their mandatory release date and do not require full board review or victim notification pursuant to section 24-4.1-302.5 (1)(j).

(III) Within fourteen days after providing the notification pursuant to subsection (1)(a) of this section, create a list of inmates who have satisfied conditions for conditional release, do not require full board review or victim notification pursuant to section 24-4.1-302.5 (1)(j), and have satisfied the condition or conditions required for an order to parole. The department shall inform the parole board if a listed inmate has satisfied the conditions required for release. If a specific condition relates to completing a program and the condition has not been satisfied, the parole board shall determine whether the condition can be satisfied after release and mandated as a condition of parole.

(IV) (A) Within fourteen days after providing the notification pursuant to subsection (1)(a) of this section, submit to the parole board a list of eligible inmates who have been assessed to be medium or lower risk on the validated risk assessment scale developed pursuant to section 17-

22.5-404 (2), or who have been classified as minimum or minimum restrictive custody, and who are past their parole eligibility date. The parole board shall consider the list as an individual application for parole for each inmate on the list and review each application consistent with section 17-2-201. Except as provided in subsection (2)(a)(IV)(B) of this section, the parole board shall conduct a file review of each inmate on the list and set conditions of release for the inmate within thirty days after receipt of the list and set a day of release no later than thirty days after conducting the file review.

(B) If victim notification is required and a victim wishes to provide input, the parole board shall schedule a hearing in lieu of a file review and set conditions of release for the inmate and a date of release no later than thirty days after conducting the hearing.

(C) If additional information is needed, the parole board may table a decision after the file review or hearing and request additional information from the department.

(D) If an inmate has a pending felony charge, detainer, or extraditable warrant, and is otherwise eligible for release to parole, the department shall notify the liaison for the office of state public defender, as described in section 21-1-104 (6), to determine whether the legal matter can be resolved on a forthwith basis.

(V) (A) Within fourteen days after an offender is admitted to the custody of the department as a new court commitment, if the offender is determined by the department during admission to be past or within ninety days of the offender's parole eligibility date and the offender is not serving a sentence for a level 1 drug felony or for an offense enumerated in section 24-4.1-302 (1) or 16-22-102 (9), notify the sentencing court and provide the court with information on the offender's parole eligibility date, mandatory release date, and the results of any intake assessments.

(B) If a sentencing court receives notice from the department pursuant to subsection (2)(a)(V)(A) of this section, the court shall notify counsel for the defendant and the prosecution and request that the defendant file a motion for reconsideration, if the defendant chooses to do so, unless the prison sentence is the result of a stipulated plea agreement for an exact number of years in prison. If the court receives a motion for reconsideration, the court may grant the motion with or without scheduling a hearing and may impose an alternative sentence except a sentence to jail. The court shall decide the matter within thirty-five days after the filing of the motion.

(b) (I) While the measures described in subsection (2)(a) of this section are in effect, the parole board may grant or deny parole to an applicant who is eligible for parole pursuant to this section, and, if the decision is to deny parole, the decision must be based on a majority vote of the full parole board.

(II) A parole application hearing or reconsideration of sentencing hearing held pursuant to this section must comply with the applicable provisions set forth in sections 24-4.1-302.5 and 24-4.1-303.

(III) An inmate is not eligible for consideration of release pursuant to this section if the inmate is serving a sentence for a level 1 drug felony or for an offense enumerated in section 24-4.1-302 (1) or 16-22-102 (9) or has been found guilty of a class I code of penal discipline violation within the previous twelve months or since incarceration, whichever is shorter.

(IV) Actions taken regarding placement, transfer, or other movement of an inmate pursuant to this section must comply with the applicable provisions set forth in sections 24-4.1-302.5 and 24-4.1-303.

(V) The department may refer an inmate released pursuant to this section who may benefit from community-based support services to a community-based reentry program that receives funding from the reentry services grant program described in section 17-33-101 (7) or other community-based programs that the department contracts with for reentry services to promote the inmate's successful reintegration.

(c) The department may utilize any, all, or a combination of the measures described in subsection (2)(a) of this section when the prison bed vacancy rate falls below four percent for thirty consecutive days and until the vacancy rate is above four percent for thirty consecutive days.

(d) (I) If the measures described in subsection (2)(a) of this section do not result in achieving a prison bed vacancy rate above four percent within one hundred twenty days after the notifications provided pursuant to subsection (1)(a) of this section, the department shall, within thirty days after the determination that the measures do not result in achieving the specific rates, submit to the parole board and the governor a list of inmates who are serving a sentence in the department and who are eligible for parole, notwithstanding any other provision of law; recommends for transfer to community corrections for residential or nonresidential placement; or recommends for any other form of release, including, but not limited to, commutation of the inmate's sentence by the governor.

(II) Notwithstanding any other provision of law, upon receipt of the list provided by the department pursuant to subsection (2)(d)(I) of this section:

(A) The parole board may release an inmate who is not serving a sentence for a level 1 drug felony or for an offense enumerated in section 24-4.1-302 (1) or 16-22-102 (9) ninety days in advance of the inmate's current parole eligibility date;

(B) The department may refer the inmate for placement in a community corrections program; and

(C) The governor may consider and grant commutation of the inmate's sentence.

(e) If the prison bed vacancy rate falls below four percent for thirty consecutive days and a notification is made pursuant to subsection (1)(a) of this section and received by:

(I) An elected district attorney, the elected district attorney shall notify each deputy district attorney assigned to felony cases and each deputy district attorney serving on the local community corrections board of the prison bed shortage and that prison population management measures are in effect;

(II) The office of state public defender, the office shall notify each attorney assigned to represent an individual charged with a felony offense and each attorney serving on the local community corrections board of the current prison bed shortage and that prison population management measures are in effect, and request that each attorney utilize available resources to investigate and advocate for an alternative to a prison sentence, if lawfully available, for cases pending sentencing or resentencing;

(III) The office of alternate defense counsel, the office shall notify each attorney assigned to represent an individual charged with a felony offense of the current prison bed shortage and that prison population management measures are in effect, and request that each attorney utilize available resources to investigate and advocate for an alternative to a prison sentence, if lawfully available, for cases pending sentencing or resentencing;

(IV) A chief judge of a judicial district, the chief judge shall notify each district court judge in the judicial district who is assigned to felony cases of the current prison bed shortage and that prison population management measures are in effect; or

(V) A chief probation officer for a judicial district, the chief probation officer shall notify each probation officer who supervises individuals on felony probation of the current prison bed shortage and that prison population management measures are in effect.

(3) As used in this section, unless the context otherwise requires:

(a) "Local jail backlog" means the inmates under the jurisdiction of the department who are being housed in a local jail on behalf of the department.

(b) "Operational capacity" means the number of permanent beds at a prison, excluding noncapacity beds such as infirmary beds and restrictive housing and transport beds, unless otherwise specified due to emergency needs.

(c) (I) "Prison bed vacancy rate" means the percentage of operational capacity for prison beds that is currently unused. For the purposes of calculating the prison bed vacancy rate, the department shall include inmates under the jurisdiction of the department who are housed in a local jail and those designated as local jail backlog.

(II) Notwithstanding subsection (3)(c)(I) of this section, the first four hundred inmates under the jurisdiction of the department who are housed in a local jail pursuant to a local jail contract must not be included in the prison bed vacancy rate calculation.

Source: L. 2018: Entire section added, (HB 18-1410), ch. 394, p. 2352, § 1, effective June 6. **L. 2019:** (1), IP(2)(a), (2)(a)(II), and (2)(a)(III) amended and (2)(a)(IV) added, (SB 19-143), ch. 286, p. 2655, § 1, effective May 28. **L. 2026:** Entire section amended, (SB 26-036), ch. 261, p. 1442, § 2, effective June 1.

Cross references: For the legislative declaration in SB 26-036, see section 1 of chapter 261, Session Laws of Colorado 2026.

17-1-120. Appropriation to comply with section 2-2-703 - HB 97-1077 and HB 97-1060. (Repealed)

Source: L. 97: Entire section added, p. 1549, § 26, effective July 1; entire section added, p. 992, § 5, effective July 1. **L. 2008:** Entire section repealed, p. 1885, § 27, effective August 5.

17-1-121. Appropriation to comply with section 2-2-703 - HB 97-1186. (Repealed)

Source: L. 97: Entire section added, p. 1592, § 2, effective July 1. **L. 2008:** Entire section repealed, p. 1885, § 27, effective August 5.

17-1-122. Appropriation to comply with section 2-2-703 - HB 98-1160. (Repealed)

Source: L. 98: Entire section added, p. 1448, § 42, effective July 1. **L. 2002:** (1)(c)(I) repealed, p. 675, § 2, effective May 28. **L. 2008:** Entire section repealed, p. 1885, § 27, effective August 5.

17-1-123. Appropriation to comply with section 2-2-703 - HB 98-1156. (Repealed)

Source: L. 98: Entire section added, p. 1294, § 16, effective November 1. **L. 2002:** (1)(e) repealed, p. 675, § 3, effective May 28. **L. 2008:** Entire section repealed, p. 1885, § 27, effective August 5.

17-1-124. Appropriation to comply with section 2-2-703 - SB 98-021. (Repealed)

Source: L. 98: Entire section added, p. 1265, § 3, effective July 1. **L. 2002:** (1)(d)(I) repealed, p. 675, § 4, effective May 28. **L. 2008:** Entire section repealed, p. 1885, § 27, effective August 5.

17-1-125. Appropriation to comply with section 2-2-703 - HB 99-1068. (Repealed)

Source: L. 99: Entire section added, p. 661, § 3, effective July 1. **L. 2008:** Entire section repealed, p. 1885, § 27, effective August 5.

17-1-126. Appropriation to comply with section 2-2-703 - HB 00-1247. (Repealed)

Source: L. 2000: Entire section added, p. 643, § 2, effective July 1. **L. 2002:** (1)(c)(I) repealed, p. 676, § 5, effective May 28. **L. 2008:** Entire section repealed, p. 1885, § 27, effective August 5.

17-1-127. Appropriation to comply with section 2-2-703 - HB 00-1158. (Repealed)

Source: L. 2000: Entire section added, p. 1014, § 8, effective July 1. **L. 2008:** Entire section repealed, p. 1885, § 27, effective August 5.

17-1-128. Appropriation to comply with section 2-2-703 - HB 00-1111. (Repealed)

Source: L. 2000: Entire section added, p. 648, § 6, effective July 1. **L. 2008:** Entire section repealed, p. 1885, § 27, effective August 5.

17-1-129. Appropriation to comply with section 2-2-703 - HB 00-1214. (Repealed)

Source: L. 2000: Entire section added, p. 638, § 2, effective July 1. **L. 2002:** (1)(c)(I) repealed, p. 676, § 6, effective May 28. **L. 2008:** Entire section repealed, p. 1885, § 27, effective August 5.

17-1-130. Appropriation to comply with section 2-2-703 - HB 00-1201. (Repealed)

Source: L. 2000: Entire section added, p. 635, § 7, effective July 1. **L. 2002:** (1)(c)(I) repealed, p. 676, § 7, effective May 28. **L. 2004:** (1)(e)(I) repealed, p. 686, § 2, effective July 1. **L. 2008:** Entire section repealed, p. 1885, § 27, effective August 5.

17-1-131. Appropriation to comply with section 2-2-703 - HB 00-1317. (Repealed)

Source: L. 2000: Entire section added, p. 928, § 23, effective July 1. **L. 2008:** Entire section repealed, p. 1885, § 27, effective August 5.

17-1-132. Appropriation to comply with section 2-2-703 - HB 00-1107. (Repealed)

Source: L. 2000: Entire section added, p. 712, § 50, effective July 1. **L. 2002:** (1)(c)(I) repealed, p. 677, § 8, effective May 28. **L. 2008:** Entire section repealed, p. 1885, § 27, effective August 5.

17-1-133. Appropriation to comply with section 2-2-703 - HB 01-1205. (Repealed)

Source: L. 2001: Entire section added, p. 527, § 3, effective May 22. **L. 2002:** (1)(a) repealed, p. 677, § 9, effective May 28. **L. 2008:** Entire section repealed, p. 1885, § 27, effective August 5.

17-1-134. Appropriation to comply with section 2-2-703 - SB 01-046. (Repealed)

Source: L. 2001: Entire section added, p. 606, § 5, effective July 1. **L. 2008:** Entire section repealed, p. 1885, § 27, effective August 5.

17-1-135. Appropriation to comply with section 2-2-703 - HB 01-1204. (Repealed)

Source: L. 2001: Entire section added, p. 1010, § 3, effective July 1. **L. 2003:** (1)(a) repealed, p. 1470, § 3, effective May 1. **L. 2008:** Entire section repealed, p. 1885, § 27, effective August 5.

17-1-136. Appropriation to comply with section 2-2-703 - SB 01-210. (Repealed)

Source: L. 2001: Entire section added, p. 568, § 6, effective May 29. **L. 2008:** Entire section repealed, p. 1885, § 27, effective August 5.

17-1-137. Appropriation to comply with section 2-2-703 - HB 01-1242. (Repealed)

Source: L. 2001: Entire section added, p. 860, § 10, effective July 1. **L. 2002:** (1)(b)(I) repealed, p. 677, § 10, effective May 28. **L. 2003:** (1)(c)(I) repealed, p. 1470, § 4, effective May 1. **L. 2004:** (1)(d)(I) repealed, p. 686, § 3, effective July 1. **L. 2008:** Entire section repealed, p. 1885, § 27, effective August 5.

17-1-138. Appropriation to comply with section 2-2-703 - HB 01-1344. (Repealed)

Source: L. 2001: Entire section added, p. 1058, § 2, effective July 1. **L. 2008:** Entire section repealed, p. 1885, § 27, effective August 5.

17-1-139. Appropriation to comply with section 2-2-703 - HB 02-1301. (Repealed)

Source: L. 2002: Entire section added, p. 811, § 3, effective July 1. **L. 2008:** Entire section repealed, p. 1885, § 27, effective August 5.

17-1-140. Appropriation to comply with section 2-2-703 - HB 02-1283. (Repealed)

Source: L. 2002: Entire section added, p. 1196, § 3, effective June 3. **L. 2003:** (1)(a) repealed, p. 327, § 3, effective March 5. **L. 2008:** Entire section repealed, p. 1885, § 27, effective August 5.

17-1-141. Appropriation to comply with section 2-2-703 - HB 02-1396. (Repealed)

Source: L. 2002: Entire section added, p. 1128, § 3, effective June 3. **L. 2003:** (1)(a) repealed, p. 327, § 4, effective March 5. **L. 2008:** Entire section repealed, p. 1885, § 27, effective August 5.

17-1-142. Appropriation to comply with section 2-2-703 - SB 02-050. (Repealed)

Source: L. 2002: Entire section added, p. 1265, § 2, effective August 7. **L. 2003:** (1)(a) repealed, p. 328, § 5, effective March 5; (1)(b)(I) repealed, p. 1470, § 5, effective May 1. **L. 2004:** (1)(c)(I) and (1)(d)(I) repealed, p. 686, § 4, effective July 1. **L. 2008:** Entire section repealed, p. 1885, § 27, effective August 5.

17-1-143. Appropriation to comply with section 2-2-703 - HB 02-1038. (Repealed)

Source: L. 2002: Entire section added, p. 1270, § 2, effective July 1. **L. 2003:** (1)(a) repealed, p. 328, § 6, effective March 5; (1)(b)(I) repealed, p. 1471, § 6, effective May 1. **L. 2004:** (1)(c)(I) repealed, p. 687, § 5, effective July 1. **L. 2008:** Entire section repealed, p. 1885, § 27, effective August 5.

17-1-144. Appropriation to comply with section 2-2-703 - HB 02S-1006. (Repealed)

Source: L. 2002, 3rd Ex. Sess.: Entire section added, p. 40, § 9, effective July 17. **L. 2003:** (1)(a) repealed, p. 328, § 7, effective March 5. **L. 2008:** Entire section repealed, p. 1885, § 27, effective August 5.

17-1-145. Appropriation to comply with section 2-2-703 - HB 02S-1006. (Repealed)

Source: L. 2002, 3rd Ex. Sess.: Entire section added, p. 41, § 11, effective July 17. **L. 2004:** (1)(a) repealed, p. 687, § 6, effective July 1. **L. 2008:** Entire section repealed, p. 1885, § 27, effective August 5.

17-1-146. Appropriation to comply with section 2-2-703 - HB 03-1004 - repeal. (Repealed)

Source: L. 2003: Entire section added, p. 2383, § 3, effective July 1. **L. 2008:** (2) added, p. 1885, § 28, effective August 5.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2008. (See L. 2008, p. 1885.)

17-1-147. Appropriation to comply with section 2-2-703 - HB 03-1138 - repeal. (Repealed)

Source: L. 2003: Entire section added, p. 2164, § 6, effective July 1. **L. 2004:** (1)(a) repealed, p. 687, § 7, effective July 1. **L. 2008:** (2) added, p. 1885, § 29, effective August 5.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2008. (See L. 2008, p. 1885.)

17-1-148. Appropriation to comply with section 2-2-703 - HB 03-1213 - repeal. (Repealed)

Source: L. 2003: Entire section added, p. 1883, § 2, effective July 1. **L. 2008:** (2) added, p. 1885, § 30, effective August 5.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2008. (See L. 2008, p. 1885.)

17-1-149. Appropriation to comply with section 2-2-703 - HB 03-1317 - repeal. (Repealed)

Source: L. 2003: Entire section added, p. 2388, § 5, effective July 1, 2004. **L. 2004:** (1)(a) and (1)(b)(I) repealed, p. 688, § 8, effective July 1. **L. 2008:** (2) added, p. 1885, § 31, effective August 5.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2008. (See L. 2008, p. 1885.)

17-1-150. Appropriation to comply with section 2-2-703 - HB 04-1016 - repeal. (Repealed)

Source: L. 2004: Entire section added, p. 800, § 2, effective May 21. **L. 2008:** (2) added, p. 1886, § 32, effective August 5.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2009. (See L. 2008, p. 1886.)

17-1-151. Appropriation to comply with section 2-2-703 - HB 04-1003 - repeal. (Repealed)

Source: L. 2004: Entire section added, p. 1082, § 6, effective July 1. **L. 2008:** (2) added, p. 1886, § 33, effective August 5.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2009. (See L. 2008, p. 1886.)

17-1-152. Appropriation to comply with section 2-2-703 - HB 04-1021 - repeal. (Repealed)

Source: L. 2004: Entire section added, p. 789, § 14, effective July 1. **L. 2008:** (2) added, p. 1886, § 34, effective August 5.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2009. (See L. 2008, p. 1886.)

17-1-153. Appropriation to comply with section 2-2-703 - SB 06-207 - repeal. (Repealed)

Source: L. 2006: Entire section added, p. 1308, § 3, effective May 30. **L. 2008:** (2) added, p. 1886, § 35, effective August 5. **L. 2010:** (1)(d)(I) repealed, (HB 10-1389), ch. 206, p. 895, § 2, effective May 5.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2011. (See L. 2008, p. 1886.)

17-1-154. Appropriation to comply with section 2-2-703 - HB 06-1151 - repeal. (Repealed)

Source: L. 2006: Entire section added, p. 2048, § 2, effective July 1. **L. 2008:** (2) added, p. 1886, § 36, effective August 5.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2011. (See L. 2008, p. 1886.)

17-1-155. Appropriation to comply with section 2-2-703 - HB 06-1011 - repeal. (Repealed)

Source: L. 2006: Entire section added, p. 2059, § 10, effective July 1. **L. 2008:** (2) added, p. 1886, § 37, effective August 5. **L. 2010:** (1)(d)(I) repealed, (HB 10-1389), ch. 206, p. 895, § 3, effective May 5.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2011. (See L. 2008, p. 1886.)

17-1-156. Appropriation to comply with section 2-2-703 - HB 06-1145 - repeal. (Repealed)

Source: L. 2006: Entire section added, p. 1706, § 5, effective July 1. **L. 2008:** (2) added, p. 1886, § 38, effective August 5.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2011. (See L. 2008, p. 1886.)

17-1-157. Appropriation to comply with section 2-2-703 - HB 06-1326 - repeal. (Repealed)

Source: L. 2006: Entire section added, p. 1324, § 11, effective July 1. **L. 2008:** (2) added, p. 1886, § 39, effective August 5.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2011. (See L. 2008, p. 1886.)

17-1-158. Appropriation to comply with section 2-2-703 - SB 06-206 - repeal. (Repealed)

Source: L. 2006: Entire section added, p. 1302, § 2, effective May 30. **L. 2008:** (2) added, p. 1887, § 40, effective August 5. **L. 2010:** (1)(d)(I) repealed, (HB 10-1389), ch. 206, p. 896, § 4, effective May 5.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2011. (See L. 2008, p. 1887.)

17-1-159. Appropriation to comply with section 2-2-703 - HB 06-1092 - repeal. (Repealed)

Source: L. 2006: Entire section added, p. 2044, § 6, effective July 1. **L. 2008:** (2) added, p. 1887, § 41, effective August 5.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2011. (See L. 2008, p. 1887.)

17-1-160. Appropriation to comply with section 2-2-703 - SB 06S-004 - repeal. (Repealed)

Source: L. 2006, 1st Ex. Sess.: Entire section added, p. 11, § 2, effective July 31. **L. 2008:** (2) added, p. 1887, § 42, effective August 5.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2011. (See L. 2008, p. 1887.)

17-1-161. Appropriation to comply with section 2-2-703 - SB 06S-005 - repeal. (Repealed)

Source: L. 2006, 1st Ex. Sess.: Entire section added, p. 15, § 2, effective July 31. **L. 2008:** (2) added, p. 1887, § 43, effective August 5.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2011. (See L. 2008, p. 1887.)

17-1-162. Appropriation to comply with section 2-2-703 - SB 06S-007 - repeal. (Repealed)

Source: L. 2006, 1st Ex. Sess.: Entire section added, p. 19, § 2, effective July 31. **L. 2008:** (2) added, p. 1887, § 44, effective August 5.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2011. (See L. 2008, p. 1887.)

17-1-163. Appropriation to comply with section 2-2-703 - HB 07-1040 - repeal. (Repealed)

Source: L. 2007: Entire section added, p. 1773, § 3, effective June 1. **L. 2008:** (2) added, p. 1887, § 45, effective August 5.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2012. (See L. 2008, p. 1887.)

17-1-164. Appropriation to comply with section 2-2-703 - SB 07-096 - repeal. (Repealed)

Source: L. 2007: Entire section added, p. 2006, § 3, effective July 1. **L. 2008:** (2) added, p. 1887, § 46, effective August 5. **L. 2010:** (1)(c)(I) repealed, (HB 10-1389), ch. 206, p. 896, § 5, effective May 5.

Editor's note: Subsection (2) provided for the repeal this section, effective July 1, 2012. (See L. 2008, p. 1887.)

17-1-165. Appropriation to comply with section 2-2-703 - HB 07-1326 - repeal. (Repealed)

Source: L. 2007: Entire section added, p. 1682, § 5, effective July 1. **L. 2008:** (2) added, p. 1887, § 47, effective August 5. **L. 2010:** (1)(c)(I) repealed, (HB 10-1389), ch. 206, p. 896, § 6, effective May 5.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2012. (See L. 2008, p. 1887.)

17-1-166. Department duties - parole plan - report.

(1) The department shall develop a recommended parole plan for every inmate prior to a parole application hearing or release from prison that includes, at a minimum, an approved sponsor or other housing option and a continuity of care plan if the inmate has higher needs for medical or behavioral health care. The department shall comply with this subsection (1) regardless of whether the inmate can provide the department with the name of a potential parole sponsor. If the department is unable to develop a recommended parole plan, the department shall inform the parole board in writing and include a list of options that have been explored but have been rejected by the department.

(2) The department, in consultation with the state board of parole, shall develop necessary policies and procedures regarding prerelease planning to ensure that:

(a) Roles and responsibilities of employees and any contractors involved in pre-release planning are clearly defined, employees and any contractors are adequately trained, and performance measures are developed;

(b) Adequate tracking and quality assurance processes are in place so that a recommended parole plan, whether an in-state or out-of-state plan, is completed and submitted to the parole board prior to the initial and any subsequent parole application hearing;

(c) Expedited protocols are in place so that an inmate's application for parole is submitted to the parole board at the earliest possible opportunity if the inmate is a new arrival at Denver reception and diagnostic center or the central transport unit and is past or within ninety days of the inmate's parole eligibility date;

(d) Formal mechanisms are in place to facilitate effective communication between the department and the parole board, including timely responses from the department to parole board requests for additional information or for a revised parole plan prior to the parole board's decision; and

(e) Data collection and data sharing between the department and the parole board are adequate to actively monitor the status of parole applications when the parole board has delayed its decision.

(3) The department shall provide a monthly report, by facility, the number of parole applications when the parole board has delayed a decision, the average length of time the parole application has been pending, and the general reason for delaying the decision if that information is known to the department. The information must be provided both for the reporting month and year to date.

Source: L. 2021: Entire section added, (SB 21-146), ch. 459, p. 3082, § 3, effective July 6.

17-1-167. Use of restraints for state inmates - criteria - documentation - intake assessment - report - rules - definitions.

(1) By July 1, 2027, the department shall implement policies and practices that conform to the minimum standards prescribed by the most updated restraint and seclusion standards of the national commission on correctional health care. The department shall continuously amend its practices and policies to comply, at a minimum, with those minimum standards.

(2) (a) A facility or qualified facility shall ensure that the use of restraint is documented and maintained in the electronic health record of the individual who was restrained. At a minimum, the facility or qualified facility shall document:

(I) The order for clinical restraint, the date and time of the order, and the signature of the licensed or license-eligible mental health provider who issued the clinical restraint order. If the order is authorized by telephone, the order must be transcribed and signed at the time of issuance

by a person with authority to accept orders. The ordering licensed or license-eligible mental health provider shall sign the order as soon as practicable.

(II) A clear explanation of the clinical basis for use of the clinical restraint, including the less intrusive interventions that were employed and failed, and evidence of the immediate circumstances justifying the belief that the use of restraint was to prevent the individual from committing imminent and serious harm to the individual's self or another person;

(III) The specific behavioral criteria the individual must exhibit for the clinical restraint episode to be terminated;

(IV) Any modifications to the order, and the time and date, and the signature of the licensed or license-eligible mental health provider, or mental health clinician as defined by department rule or designated by the department, who modifies the order;

(V) The date and time of an order modification, the date and time of the modification, and the signature of the licensed or license-eligible mental health provider, or mental health clinician as defined by department rule or designated by the department, who issued the clinical restraint order. If the order is modified by telephone, the modification must be transcribed and signed at the time of issuance by a person with authority to accept the modification. The ordering licensed or license-eligible mental health provider, or mental health clinician as defined by department rule or designated by the department, shall sign the order as soon as practicable; and

(VI) The date and time of the termination of the order, the signature of the person who terminated the order, the observations, and evidence that the individual exhibited behavior justifying the termination of the order.

(b) The facility or qualified facility shall ensure the documentation and retention required pursuant to this section are conducted pursuant to all applicable state and federal laws regarding the confidentiality of the individual's information and shall ensure an individual may access the information or demand release of the information to a third party.

(3) A qualified facility shall perform an evaluation upon every individual's intake to the respective facility for the purpose of assessing the individual's risk of self-harm behaviors and whether the individual has been previously subjected to clinical four-point restraints. A licensed or license-eligible mental health provider, mental health clinician as defined by department rule or designated by the department, qualified health-care provider, or mental health administrator shall initiate appropriate safety planning to address concerns and attempt to avoid the use of clinical restraints, if possible.

(4) (a) Subject to the provisions of this section, a qualified facility shall not use an involuntary medication on an individual unless:

(I) The individual is determined to be dangerous to the individual's self or another person, and the treatment is in the individual's medical interest;

(II) The qualified facility has exhausted all less restrictive alternative interventions;

(III) The involuntary medication is administered after exhaustion of procedural requirements established pursuant to this section; and

(IV) The majority of the involuntary medication committee described in subsection (4)(b) of this section approves of the involuntary medication.

(b) The qualified facility shall convene an involuntary medication committee, comprised of a licensed psychiatrist, a licensed psychologist, a licensed or license-eligible mental health provider, and the superintendent of the qualified facility or the superintendent's designee.

(c) An order for an involuntary medication must not:

(I) Exceed one hundred eighty days from the date of the order; and

(II) Permit the use of more than ten different psychotropic medications during the one-hundred-eighty-day period. This does not limit the amount of doses of the medications to be administered, as medically appropriate.

(d) A qualified facility shall ensure that the use of involuntary medication is documented and maintained in the individual's electronic health record. At a minimum, the qualified facility shall document:

(I) The order for involuntary medication;

(II) The date and time of the order; and

(III) A clear explanation of the clinical basis for use of the involuntary medication, including the less intrusive interventions that were employed and failed and evidence of the immediate circumstances justifying the determination that the individual is dangerous to the individual's self or another person and that the treatment is in the individual's medical interest.

(e) The facility or qualified facility shall ensure the documentation and maintenance required pursuant to this section are conducted pursuant to all applicable state and federal laws regarding the confidentiality of the information.

(f) This subsection (4) does not apply to emergency medicine administered pursuant to department policy.

(5) (a) On or before January 1, 2024, and on or before January 1 each year thereafter, the executive director of the department shall submit a report to the judiciary committees of the senate and house of representatives, or any successor committees, concerning the use of clinical restraints and involuntary medication in the preceding calendar year. At a minimum, the report must include:

(I) The total number of clinical ambulatory restraint episodes and clinical four-point restraint episodes;

(II) The total number of involuntary medication orders issued;

(III) The average amount of time of a clinical ambulatory restraint episode and clinical four-point restraint episode;

(IV) The average duration of involuntary medication orders issued;

(V) The longest clinical ambulatory restraint episode and the longest clinical four-point restraint episode;

(VI) The percentage of total clinical ambulatory restraint episodes that exceeded two hours, and the percentage of total clinical four-point restraint episodes that exceeded two hours;

(VII) The percentage of total clinical ambulatory restraint episodes that involved an individual diagnosed with a behavioral health disorder or intellectual or developmental disability, and the percentage of total clinical four-point restraint episodes that involved an individual diagnosed with a behavioral health disorder or intellectual or developmental disability;

(VIII) The percentage of total involuntary medication orders that involved an individual diagnosed with a behavioral health disorder or intellectual or developmental disability, and the percentage of total clinical four-point restraint episodes that involved an individual diagnosed with a behavioral health disorder or intellectual or developmental disability;

(IX) The percentage of total clinical ambulatory restraint episodes that involved an individual who was subjected to the restraint for a second or subsequent episode within the year, and the percentage of total clinical four-point restraint episodes that involved an individual who was subjected to the restraint for a second or subsequent episode within the year;

(X) The percentage of total involuntary medication orders that involved an individual who was subjected to a second or subsequent order within the year;

(XI) The total number of involuntary medication orders that exceeded one hundred eighty days; and

(XII) An implementation plan to conform with the requirements pursuant to subsection (1) of this section, including timelines, a summary of progress, and a compliance report.

(b) Beginning in 2024 and each year thereafter, the department shall present findings from the report described by this section to the house of representatives and senate judiciary committees, or any successor committees, during the hearings held pursuant to the "SMART Act", part 2 of article 7 of title 2.

(c) Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the report required in this subsection (5) continues indefinitely.

(d) The department shall ensure the report required in this subsection (5) does not disclose any information in violation of applicable state and federal laws regarding the confidentiality of individuals' information.

(6) As used in this section, unless the context otherwise requires:

(a) "Clinical ambulatory restraint" means a device used to involuntarily limit an individual's freedom of movement, but still permits the ability of the individual to walk and move while subjected to the device.

(b) "Clinical four-point restraint" means a device used to involuntarily limit an individual's freedom of movement by securing the individual's arms and legs.

(c) "Clinical restraint" means a device used to involuntarily limit an individual's freedom of movement. "Clinical restraint" includes clinical ambulatory restraints and clinical four-point restraints.

(d) "Correctional facility" has the same meaning as set forth in section 17-1-102 (1.7).

(e) "Department" means the department of corrections, created and existing pursuant to section 24-1-128.5.

(f) "Facility" means a correctional facility or a private contract prison.

(g) "Involuntary medication" means giving an individual medication involuntarily; except that "involuntary medication" does not include the involuntary administration of medication or administration of medication for voluntary life-saving medical procedures.

(h) "Licensed or license-eligible mental health provider" has the same meaning as defined in section 27-60-108 (2)(a), or means a person who has completed the education requirements to be a licensed mental health provider as defined in section 27-60-108 (2)(a), but is in the process of completing the experience and examination requirements to becoming licensed.

(i) "Private contract prison" has the same meaning as set forth in section 17-1-102 (7.3).

(j) "Qualified facility" means:

(I) A correctional facility infirmary;

(II) The San Carlos correctional facility; and

(III) The Denver women's correctional facility.

(k) "Qualified health-care provider" means a licensed physician, a licensed advanced practice registered nurse, or a licensed registered nurse.

Source: L. 2023: Entire section added, (HB 23-1013), ch. 364, p. 2188, § 1, effective June 5.

17-1-168. Broadband infrastructure cash fund - created - repeal.

(1) (a) The broadband infrastructure cash fund, referred to in this section as the "fund", is created in the state treasury. The fund consists of money transferred to the fund pursuant to subsection (1)(b) of this section and any other money that the general assembly may appropriate, transfer, or require by law to be credited to the fund.

(b) On July 1, 2024, the state treasurer shall transfer four million five hundred seventy thousand seven hundred forty-one dollars from the general fund to the fund.

(c) On July 1, 2025, the state treasurer shall transfer eight hundred forty-two thousand three hundred forty-six dollars from the general fund to the fund.

(2) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(3) Subject to annual appropriation by the general assembly, the department may expend money from the fund to install broadband infrastructure at the following correctional facilities:

(a) Denver reception and diagnostic center;

(b) Fremont correctional facility;

(c) Denver women's correctional facility;

(d) Buena Vista correctional complex;

(e) San Carlos correctional facility;

(f) Colorado territorial correctional facility;

(g) Trinidad correctional facility;

(h) Arkansas Valley correctional facility; and

(i) Arrowhead correctional facility.

(4) The state treasurer shall transfer all unexpended and unencumbered money in the fund on July 1, 2027, to the general fund.

(5) This section is repealed, effective July 1, 2028.

Source: L. 2024: Entire section added, (HB 24-1386), ch. 91, p. 295, § 1, effective April 18. **L. 2025:** (1)(c) and (3)(f) added and (3)(d) and (3)(e) amended, (SB 25-213), ch. 114, p. 472, § 1, effective April 25. **L. 2026:** (3)(e) and (5) amended and (3)(g), (3)(h), and (3)(i) added, (HB 26-1348), ch. 190, p. 1108, § 1, effective May 28.

17-1-169. Review of risk assessments - legislative declaration - definition.

(1) The general assembly finds and declares that:

(a) In 2025, a Colorado news outlet reported on high-profile crimes and raised questions regarding the accuracy and consistency of certain parole risk assessments, including whether certain parolees may have received risk assessment classifications that did not fully align with their documented criminal history or risk factors;

(b) Reporters and legislators used part 3 of article 72 of title 24, commonly referred to as the Colorado criminal justice records act, to obtain records related to the correctional parole supervision tool, which is an actuarial risk assessment tool used by the division of adult parole to inform supervision planning and resource allocation;

(c) Evidence-based risk assessment tools are designed to support consistent and objective parole supervision decisions by applying structured criteria to assess risk and identify criminogenic needs consistent with nationally recognized practices;

(d) It is essential to ensure accurate and consistent information in risk assessments to inform parole supervision planning, identify and apply appropriate parole supervision strategies and resources, promote public safety, and support successful reentry outcomes;

(e) The department of corrections confirmed to the joint budget committee and the joint judiciary committee that a random sample audit revealed high error rates for community supervision tool risk assessments, up to ninety-eight percent in some cases. In 2026, the department of corrections reported that they are reexamining over one thousand seven hundred community supervision tool risk assessments and implementing mandatory supervisory review for all community supervision tool reassessments.

(f) Establishing a system and cadence of quality controls and quality assurance practices, paired with ongoing training, review, and support, is necessary to ensure accurate and consistent application of risk assessment tools across the division of adult parole;

(g) In January of 2026, the department of corrections stated that it will no longer supply requested risk assessments or risk assessment scores, citing an inability to disclose these records due to contract language. However, throughout 2025, the department of corrections supplied risk assessments and risk assessment scores to journalists and legislators in response to open records requests, and it was through these open records requests that the pattern of inaccuracies and inconsistencies were discovered. It is the general assembly's intent to keep these records open to the public to hold governmental actors accountable.

(h) For the purposes of transparency and accountability, it is necessary for the general assembly to create reporting expectations to ensure that reviews of the community supervision tool or similar successor risk assessment tools are established and ongoing.

(2) As used in this section, unless the context otherwise requires, "risk assessment" means a validated instrument that assesses a parolee's criminogenic needs and risk of recidivism, and is used to guide parole supervision planning, identify appropriate interventions, and establish parole supervision levels or categories.

(3) (a) The department shall establish a risk assessment quality review team to develop policies and implement practices that determine whether risk assessments are completed accurately and consistently, and to ensure a sustained process of review and training.

(b) (I) On or before August 31, 2026, the risk assessment quality review team shall implement policies and practices for a cadenced system of review that ensures, at a minimum, the following:

(A) Systematic reviews of completed community supervision tools or any similar successor assessments, including reviews for completed risk assessments at each risk assessment level or category;

(B) Defined, periodic fidelity reviews of an assessor's work; and

(C) Appropriate training for sustained and accurate completion of risk assessments.

(II) On or before August 31, 2026, the risk assessment quality review policies and practices established pursuant to subsection (3)(b)(I) of this section must be implemented.

(4) (a) In January of 2027, and in each January thereafter, the department shall include, as part of its presentation during its "SMART Act" hearing required pursuant to section 2-7-203, information concerning:

(I) The total number of community supervision tools or any similar successor assessments reviewed pursuant to subsection (3) of this section;

(II) Of the total number of community supervision tools or any similar successor assessments reviewed pursuant to subsection (3) of this section, the total number of risk assessments that contained inaccurate or inconsistent information that resulted in an inaccurate supervision level; and

(III) A comprehensive description of the findings of the reviews and any measures implemented to ensure process improvement to mitigate the findings of the 2025 randomized survey audit that found a ninety-eight percent error rate in risk assessments.

(b) Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the report required in this subsection (4) continues indefinitely.

Source: L. 2026: Entire section added, (HB 26-1315), ch. 272, p. 1535, § 1, effective August 12.

PART 2

CORRECTIONS PRIVATIZATION - REQUESTS FOR PROPOSALS PROCESS

17-1-201. Duties of department.

(1) The department shall adopt rules and implement a process to issue requests for competitive proposals for the use and development of private contract prisons.

(2) Notwithstanding section 24-1-136 (11)(a)(I), no later than December 1 of each fiscal year, beginning with the 1996-97 fiscal year, the executive director shall submit a report to the speaker of the house of representatives and the president of the senate concerning the status of contracts in effect, and, with respect to completed prisons, the effectiveness of each private contract prison governed by a contract with the department.

Source: L. 95: Entire part added, p. 1267, § 1, effective June 5. **L. 2000:** Entire section amended, p. 837, § 18, effective May 24. **L. 2004:** (1) amended, p. 127, § 1, effective August 4. **L. 2017:** (2) amended, (SB 17-031), ch. 92, p. 281, § 5, effective August 9.

17-1-202. Requests for competitive 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 competitive proposals. Prior to issuing a request for competitive proposals requiring new construction under this section, the department shall notify the capital development committee, established pursuant to section 2-3-1302, C.R.S. 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 which, in the determination of the department, is found to be the most qualified and the most competitive under the circumstances; 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.

(II) The ability to expedite the location, design, and construction of a private correctional facility; and

(III) The ability to comply with applicable laws, court orders, and national correctional standards.

(b) A contractor shall agree to indemnify the state and the department of corrections, including their officials and agents, against any and all liability including but not limited to any civil rights claims. The department of corrections shall require proof of satisfactory insurance, the amount to be determined by the department of corrections following consultation with the division of insurance in the department of regulatory agencies.

(c) The contractor shall seek, obtain, and maintain accreditation by the association responsible for adopting national correctional standards. In addition, the contractor shall comply with the association's amendments to the accreditation standards upon approval of the amendments by the department of corrections.

(d) The proposed private contract prisons and the management plans for inmates shall meet applicable national correctional standards and the requirements of applicable court orders and state law.

(e) The contractor shall agree to abide by operations standards for correctional facilities adopted by the executive director of the department of corrections.

(f) The contractor shall be responsible for a range of dental, medical, and psychological services and diet, education, and work programs at least equal to those services and programs provided by the department of corrections at comparable state correctional facilities. The work and education programs shall be designed to reduce recidivism.

(g) The executive director shall monitor all private contract prisons. Each contractor shall bear the costs of monitoring associated with out-of-state inmates and shall reimburse the department on a per-inmate basis for out-of-state inmates, but shall not bear the costs of monitoring associated with Colorado inmates.

(1.5) For the purposes of a contract in existence as of April 1, 2004, 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 April 1, 2004. Failure to comply with the provisions of this subsection (1.5) shall constitute a breach and grounds for termination of the contract.

(2) A contract entered into under this part 2 does not accord third-party beneficiary status to any inmate or to any member of the general public.

(3) Each contract shall include any other requirements the department considers necessary and appropriate for carrying out the purposes of this part 2.

Source: L. 95: Entire part added, p. 1268, § 1, effective June 5. **L. 2000:** IP(1), (1)(d), and (1)(g) amended, p. 837, § 19, effective May 24. **L. 2004:** (1)(a)(I) amended and (1.5) added, p. 231, § 2, effective April 1; (1)(g) amended, p. 753, § 1, effective May 12; IP(1) and IP(1)(a) amended, p. 127, § 2, effective August 4. **L. 2006:** IP(1) amended, p. 1059, § 1, effective May 25.

17-1-202.5. Private prison planning process.

(1) In any fiscal year, if the general assembly determines that the amount of moneys credited to the capital construction fund, created in section 24-75-302, C.R.S., is not sufficient to pay for the design and construction of a correctional facility for adult offenders that is deemed necessary to satisfy future prison bed projections and needs, the department may request competitive proposals from private prison providers three years before desired occupancy of the correctional facility. Prior to issuing a request for competitive proposals requiring new construction under this section, the department shall notify the capital development committee, established pursuant to section 2-3-1302, C.R.S.

(2) (a) The department, during the request for competitive proposals process described in subsection (1) of this section, shall determine the level of security, the desired location, and the number of beds necessary for the facility, as well as other criteria applicable to the appropriate conditions of confinement to be maintained at the facility. The department shall be under no obligation or duty to place offenders in a facility covered by this section.

(b) The department in all instances shall ensure that requests for competitive proposals adequately inform prospective contractors that the department will give priority to proposals that satisfy the requirements of section 17-1-202 and that are competitive to the extent they contain terms that are most favorable to the department. The department shall, to the extent possible, also take steps to provide a competitive market environment for prospective contractors and to avoid decreased competition and the creation of a monopoly in the market.

(3) Nothing in this section shall be construed to require or permit the department to lend or pledge the credit or faith of the department or of the state in any manner that would violate section 1 of article XI of the Colorado constitution.

Source: L. 2004: Entire section added, p. 127, § 3, effective August 4. **L. 2006:** (1) amended, p. 1059, § 2, effective May 25.

17-1-203. Powers and duties not delegable to contractor.

(1) A contract executed pursuant to this part 2 shall not be construed as authorizing, allowing, or delegating authority to the contractor to:

(a) Choose the correctional facility to which an inmate is initially assigned or subsequently transferred. The contractor may request, in writing, that an inmate be transferred to a facility operated by the department. The executive director and the contractor shall develop and implement a cooperative agreement for transferring inmates between a correctional facility operated by the department and a private contract prison. The department and the contractor must comply with the cooperative agreement.

(b) Develop or adopt disciplinary rules or penalties that differ from the disciplinary rules and penalties that apply to inmates housed in correctional facilities operated by the department of corrections;

(c) Make a final determination on a disciplinary action that affects the liberty of an inmate. The contractor may remove an inmate from the general prison population during an emergency, before final resolution of a disciplinary hearing, or in response to an inmate's request for assigned housing in protective custody.

(d) Make a decision that affects the sentence imposed upon or the time served by an inmate, including a decision to award, deny, or forfeit earned time;

(e) Make recommendations to the state board of parole with respect to the denial or granting of parole or release; however, the contractor may submit written reports to the state board of parole and shall respond to any written request by the state board of parole for information;

(f) Develop and implement requirements that inmates engage in any type of work, except to the extent that those requirements are accepted by the department;

(g) Determine inmate eligibility for any form of release from a correctional facility.

Source: L. 95: Entire part added, p. 1269, § 1, effective June 5. **L. 2000:** (1)(a) amended, p. 838, § 20, effective May 24.

ANNOTATION

Subsection (1)(c) sets forth three separate circumstances in which a contractor may remove a prison inmate from the general prison population. The clause "before final resolution of a disciplinary hearing" is a separate category and does not modify the phrase "during an emergency". Gatrell v. Kurtz, 207 P.3d 916 (Colo. App. 2009).

Because private prison lacks authority to make a final determination on a disciplinary action that affects the liberty of an inmate, timely filing of an appeal is measured from the date of the private prison's monitoring unit's decision and not the date of the warden's decision. Geerdes v. Colo. Dept. of Corr., 226 P.3d 1261 (Colo. App. 2010).

17-1-204. Background checks.

(1) The Colorado bureau of investigation may accept fingerprints of individuals who apply for employment at a private correctional facility and who shall be subject to background checks in accordance with section 17-1-202 (1)(a)(I).

(2) For the purpose of conducting background checks, to the extent provided for by federal law, the Colorado bureau of investigation may exchange with the department state, multistate, and federal criminal history records of individuals who apply for employment at a private correctional facility.

Source: L. 95: Entire part added, p. 1270, § 1, effective June 5.

17-1-205. Contract termination - control of a correctional facility by the department.

A contractor shall submit a detailed plan for the department to assume temporary responsibility for a private contract prison when the contract between the state and the contractor terminates. The state, through the executive director, may terminate the contract for cause, including but not limited to failure to obtain or maintain facility accreditation, after written notice of material deficiencies and after sixty workdays have been provided to the contractor to correct the material deficiencies. If any event occurs involving the noncompliance with or violation of contract terms and presents a serious threat to the safety, health, or security of the inmates, employees, or the public, the department may temporarily assume responsibility for the private contract prison. In

addition, a contractor shall submit a plan for the temporary assumption of operations and purchase of a private contract prison by the department in the event of bankruptcy or the financial insolvency of the contractor. The contractor shall provide an emergency plan to address inmate disturbances, employee work stoppages, strikes, or other serious events. The plan shall comply with applicable national correctional standards. Nothing in this section shall be construed to require the state to assume the responsibility for the operation of private contract prisons and costs associated with contractual termination described in this section. If the state chooses, it may assume responsibility upon approval by the general assembly through the enactment of legislation.

Source: L. 95: Entire part added, p. 1270, § 1, effective June 5. **L. 2000:** Entire section amended, p. 838, § 21, effective May 24.

17-1-206. Inmates in custody of the department.

The provisions of section 16-11-308, C.R.S., shall apply to inmates placed in a private contract prison pursuant to this part 2.

Source: L. 95: Entire part added, p. 1271, § 1, effective June 5. **L. 2000:** Entire section amended, p. 838, § 22, effective May 24.

17-1-206.5. Preparole release and revocation facility - community return-to-custody facility.

(1) On or before December 1, 2001, the department shall issue a request for proposal for the construction and operation of a private contract prison to serve as a preparole and revocation center, that shall be a level III facility, as described in section 17-1-104.3 (1)(a)(III).

(2) The prison described in subsection (1) of this section shall contain at least three hundred beds and incarcerate any of the following:

(a) Inmates who have not been convicted of a crime of violence as defined in section 18-1.3-406, C.R.S., and who have no more than nineteen months remaining until such inmate's parole eligibility date;

(b) Inmates who have been convicted of a crime of violence as defined in section 18-1.3-406, C.R.S., and who have no more than nine months remaining until such inmate's parole eligibility date; or

(c) Offenders whose parole has been revoked; except that such incarceration shall be for no more than ninety days.

(3) Repealed.

Source: L. 2001: Entire section added, p. 501, § 1, effective May 16. **L. 2002:** (2)(a) and (2)(b) amended, p. 1499, § 157, effective October 1. **L. 2003:** (3) added, p. 2679, § 6, effective July 1. **L. 2017:** (2)(c) amended and (3) repealed, (HB 17-1326), ch. 394, p. 2029, § 3, effective August 9. **L. 2019:** (1) amended, (SB 19-143), ch. 286, p. 2660, § 7, effective May 28.

Editor's note: The provisions of this section as enacted by House Bill 01-1370 were renumbered on revision to conform to statutory format.

Cross references: For the legislative declaration contained in the 2002 act amending subsections (2)(a) and (2)(b), see section 1 of chapter 318, Session Laws of Colorado 2002. For the legislative declaration in HB 17-1326, see section 1 of chapter 394, Session Laws of Colorado 2017.

17-1-207. Applicability of part.

This part 2 shall not apply to the contracts between counties and the department of corrections under which the county agrees to house the backlog of inmates as provided by section 16-11-308.5, C.R.S., which contracts shall be governed by said section. In addition, this part 2 shall not apply to any contract entered into by the department under circumstances where the contract has been reviewed in accordance with section 17-1-105 (2).

Source: L. 95: Entire part added, p. 1271, § 1, effective June 5.

Parole and Probation

ARTICLE 2

Correctional Services

PART 1
DIVISION OF ADULT PAROLE

17-2-100.2. Legislative intent regarding parole.

17-2-100.3. Definitions.

17-2-101. Division of adult parole.

17-2-102. Division of adult parole - general powers, duties, and functions - definitions.

17-2-103. Arrest of parolee - revocation proceedings.

17-2-103.5. Revocation proceedings - parolee arrested for certain offenses.

17-2-104. Records - reports - publications.

17-2-105. Appropriation. (Repealed)

17-2-106. Branch parole offices - acquisition - duty to inform public.

PART 2
STATE BOARD OF PAROLE

17-2-200.3. Definitions.

17-2-201. State board of parole - duties - definitions.

17-2-201.5. Study of parole system. (Repealed)

17-2-202. Request for transfer - penitentiary to reformatory. (Repealed)

17-2-202.5. Administrative hearing officers and release hearing officers - qualifications - duties.

17-2-203. Request for transfer - reformatory to penitentiary. (Repealed)

17-2-204. Parole may issue - when.

17-2-205. Time of parole not considered when convict is reincarcerated. (Repealed)

17-2-206. Parole not to be construed as discharge. (Repealed)

17-2-207. Parole - regulations.

17-2-208. Effective date and application. (Repealed)

17-2-209. Civil proceedings - inmate subject to parole.

17-2-210. Duties of board.

17-2-211. Jurisdiction of courts.

17-2-212. Duty of warden.

17-2-213. Application of part.

17-2-214. Right to attend parole hearings.

17-2-215. Notification of parole proceeding.

17-2-215.5. Notification requirements.

17-2-216. Application of sections 17-2-214 and 17-2-215.

17-2-217. Release hearing officers - pilot program.

17-2-218. Suspend early parole supervision discharge for

victim notification - exception.

PART 3
COOPERATIVE RETURN OF PAROLE AND PROBATION VIOLATORS

17-2-301. Short title.

17-2-302. Director - powers.

17-2-303. Deputization.

17-2-304. Interstate agreements.

PART 4
PREPAROLE FACILITIES AND PROGRAMS

17-2-401 to 17-2-405. (Repealed)

PART 1

DIVISION OF ADULT PAROLE

Cross references: For home detention programs for parolees, see § 17-27.8-105.

17-2-100.2. Legislative intent regarding parole.

The general assembly hereby finds and declares that the primary consideration for any decision to grant parole shall be the public safety. The general assembly further finds and declares that, since parole is a privilege granted by the general assembly and not a right guaranteed under the state or federal constitutions, if the parolee violates the conditions of his parole, that privilege may be revoked.

Source: L. 87: Entire section added, p. 650, § 1, effective July 1.

17-2-100.3. Definitions.

As used in this part 1, unless the context otherwise requires:

(1) "Board" means the state board of parole created in section 17-2-201 (1)(a).

Source: L. 2025: Entire section added, (SB 25-275), ch. 377, p. 2044, § 70, effective August 6.

17-2-101. Division of adult parole.

In order to promote the maximum efficiency, economy, and continuity of services in carrying out the purposes of this part 1, the division of administration created by the "State Parole Reorganization Act of 1951", formerly transferred to the department of institutions and identified as the division of parole, and the director thereof are hereby transferred by a **type 3** transfer to the department of corrections as the division of adult parole and the director thereof, and the division of parole is abolished. The division shall be organized as directed by the executive director.

Source: L. 77: Entire title R&RE, p. 906, § 10, effective August 1. **L. 2000:** Entire section amended, p. 839, § 23, effective May 24.

Editor's note: (1) This section is similar to former § 17-1-101 as it existed prior to 1977.

(2) The "State Parole Reorganization Act of 1951" was originally entitled the "State Department of Parole, Reorganization Act of 1951" (see L. 51, p. 333, § 1 and § 17-1-101, C.R.S. 1973, as that section existed prior to August 1, 1977).

Cross references: For **type 3** transfers, see § 24-1-105 (3).

17-2-102. Division of adult parole - general powers, duties, and functions - definitions.

(1) The division of adult parole in the department shall administer the adult parole program. The division of adult parole is a **type 2** entity, as defined in section 24-1-105. The division shall keep a complete record in respect to all domestic as well as interstate parolees. The director of the division of adult parole exercises the power of suspension of paroles in the interim of the meetings of the board, and, in connection therewith, the director may arrest a suspended parolee without warrant and return a suspended parolee to an appropriately secure facility to await the further action of the board. In case of a suspension of parole, the director shall send to the board, at its first session thereafter, a transcript of all proceedings taken in connection with the suspension and the reasons for the director's action.

(2) (Deleted by amendment, L. 2000, p. 839, § 24, effective May 24, 2000.)

(3) The director of the division of adult parole, pursuant to the provisions of section 13 of article XII of the state constitution, shall appoint such other officers and employees as may be necessary to properly supervise all adult parolees released from any state correctional institution

or private contract prison together with such other persons as are accepted for supervision under the interstate compact.

(4) and (5) (Deleted by amendment, L. 2000, p. 839, § 24, effective May 24, 2000.)

(6) Repealed.

(7) (Deleted by amendment, L. 2000, p. 839, § 24, effective May 24, 2000.)

(8) The division of adult parole shall establish and administer appropriate programs of education and treatment and other productive activities, which programs and activities are designed to assist in the rehabilitation of an offender.

(8.5) (a) Any parolee, on parole as a result of a conviction of any felony, who is under the supervision of the division of adult parole pursuant to this part 1 and who is initially tested for the illegal or unauthorized use of a controlled substance and the result of such test is positive shall be subject to any or all of the following actions:

(I) An immediate warrantless arrest;

(II) An immediate increase in the level of supervision, including but not limited to intensive supervision;

(III) Random screenings for the detection of the illegal or unauthorized use of a controlled substance, which use may serve as the basis for any other community placement;

(IV) Referral to a substance use disorder treatment program.

(b) If any parolee described in subsection (8.5)(a) of this section is subjected to a second or subsequent test for the illegal or unauthorized use of a controlled substance and the result of the test is positive, the community parole officer shall take one or more of the following actions:

(I) Make an immediate warrantless arrest;

(II) Seek a parole revocation in accordance with section 17-2-103;

(III) Immediately increase the level of supervision, including but not limited to intensive supervision;

(IV) Increase the number of drug screenings for the illegal or unauthorized use of controlled substances;

(V) Refer the parolee to a substance use disorder treatment program.

(c) This subsection (8.5) shall not apply to any parolee to whom article 11.5 of title 16, C.R.S., applies.

(d) This subsection (8.5) does not apply to a parolee who possesses or uses natural medicine or natural medicine product as authorized pursuant to section 18-18-434, article 170 of title 12, or article 50 of title 44.

(9) (Deleted by amendment, L. 2000, p. 839, § 24, effective May 24, 2000.)

(10) (a) The division of adult parole shall, in accordance with section 17-2-106:

(I) Notify a municipality of any site within such municipality that the division has selected to become a branch parole office; or

(II) Notify a county of any site within such county that the division has selected to become a branch parole office if the site is not within a municipality located in the county.

(b) For purposes of this subsection (10), "branch parole office" has the same meaning as provided in section 17-2-106.

(11) The division of adult parole shall provide to the judiciary committees of the senate and the house of representatives, or any successor committees, a status report on the effect on parole outcomes and use of any moneys allocated pursuant to House Bill 10-1360, enacted in 2010.

(12) (a) Prior to an offender being released from parole, the community parole officer releasing the individual shall provide the notice described in paragraph (b) of this subsection (12) at the last meeting the officer has with the person.

(b) The notice shall contain the following information:

(I) That a person convicted of certain crimes has the right to seek to have his or her criminal record sealed;

(II) That there are collateral consequences associated with a criminal conviction that a sealing order can alleviate;

(III) The list of crimes that are eligible for sealing and the associated time period that a person must wait prior to seeking sealing;

(IV) That the state public defender has compiled a list of laws that impose collateral consequences related to a criminal conviction and that the list is available on the state public defender's website; and

(V) That the person should seek legal counsel if he or she has any questions regarding record sealing.

(13) Repealed.

(14) (a) In addition to any other duty specified in this section, the division of adult parole shall provide at the initial meeting with an individual sentenced to parole information regarding:

(I) The individual's voting rights;

(II) How the individual may register to vote or update or confirm his or her voter registration record;

(III) How to obtain and cast a ballot; and

(IV) How to obtain voter information materials.

(b) As used in this subsection (14), "voter information materials" means the following documents as applicable to the election for which the individual seeks to register and cast a ballot:

(I) Any forms used to register an elector under part 2 of article 2 of title 1;

(II) An application for a mail ballot pursuant to section 1-13.5-1002;

(III) A copy of the ballot information booklet described in section 1-40-124.5; and

(IV) Any mailings to electors that are described in section 1-40-125.

Source: L. 77: Entire title R&RE, p. 907, § 10, effective August 1. **L. 79:** (6) repealed, p. 705, § 88, effective July 1. **L. 80:** (7) and (8) added, p. 525, § 1, effective March 25. **L. 82:** (2) amended, p. 352, § 7, effective April 30. **L. 87:** (9) added, p. 650, § 2, effective July 1. **L. 89:** (8.5) added, p. 877, § 13, effective June 5. **L. 91:** (8.5)(c) added, p. 442, § 5, effective May 29. **L. 2000:** (1) to (5), (7), (8), IP(8.5)(a), and (9) amended, p. 839, § 24, effective May 24. **L. 2001:** (10) added, p. 662, § 1, effective August 8. **L. 2008:** IP(8.5)(b) amended, p. 655, § 3, effective April 25. **L. 2010:** (11) added, (HB 10-1360), ch. 263, p. 1196, § 7, effective May 25. **L. 2013:** (12) added, (SB 13-123), ch. 289, p. 1540, § 2, effective May 24. **L. 2015:** (13) added, (SB 15-124), ch. 251, p. 917, § 3, effective May 29. **L. 2017:** (8.5)(a)(IV), IP(8.5)(b), and (8.5)(b)(V) amended, (SB 17-242), ch. 263, p. 1302, § 130, effective May 25; (13) amended, (SB 17-031), ch. 92, p. 281, § 6, effective August 9. **L. 2018:** (10)(b) amended, (HB 18-1375), ch. 274, p. 1700, § 18, effective May 29; (14) added, (SB 18-150), ch. 261, p. 1601, § 3, effective August 8. **L. 2019:** (14) R&RE, (HB 19-1266), ch. 283, p. 2643, § 4, effective July 1. **L. 2022:** (1) amended, (SB 22-162), ch. 469, p. 3422, § 202, effective August 10. **L. 2023:** (8.5)(d) added, (SB 23-290), ch. 249, p. 1419, § 33, effective July 1. **L. 2025:** (1) amended, (SB 25-275), ch. 377, p. 2044, § 71, effective August 6.

Editor's note: (1) This section is similar to former § 17-1-102 as it existed prior to 1977.

(2) Subsection (13)(b) provided for the repeal of subsection (13), effective January 2, 2019. (See L. 2017, p. 281.)

(3) Subsection (8.5)(d) is similar to former § 12-170-109 (4) as it existed prior to 2023.

Cross references: (1) For the legislative declaration in SB 15-124, see section 1 of chapter 251, Session Laws of Colorado 2015. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017. For the legislative declaration in HB 19-1266, see section 1 of chapter 283, Session Laws of Colorado 2019.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of Colorado 2022.

ANNOTATION

The plain language of subsection (8.5)(c) of this section and § 17-2-201 (5.5)(g) prohibits the application of either subsection (8.5) of this section or § 17-2-201 (5.5) to any parolee to whom the Substance Abuse Act, article 11.5 of title 16, applies. Whidden v. People, 78 P.3d 1092 (Colo. 2003).

Subsection (8.5), when read together with § 17-2-201 (5.5)(d), prohibits parole revocation upon initial drug or alcohol testing even if the result is positive, but does allow revocation upon any subsequent positive test even if the initial test was not positive. People v. Whidden, 56 P.3d 1201 (Colo. App. 2002), aff'd on other grounds, 78 P.3d 1092 (Colo. 2003).

Court rejected the contention that subsection (8.5) restricts the parole board's authority to revoke defendant's parole for a single violation based on a positive test for use of illegal drugs. People v. Whidden, 56 P.3d 1201 (Colo. App. 2002), aff'd on other grounds, 78 P.3d 1092 (Colo. 2003).

17-2-103. Arrest of parolee - revocation proceedings.

(1) The director of the division of adult parole or any community parole officer may arrest any parolee when:

(a) He or she has a warrant commanding that such parolee be arrested; or

(b) He or she has probable cause to believe that a warrant for the parolee's arrest has been issued in this state or another state for any criminal offense or for violation of a condition of parole; or

(c) Any offense under the laws of this state has been or is being committed by the parolee in the community parole officer's presence; or

(d) He or she has probable cause to believe that a crime has been committed and that the parolee has committed such crime; or

(e) He or she has probable cause to believe that the parolee is leaving or about to leave the state; or

(f) He or she has probable cause to believe that the parolee has violated one or more conditions of parole and that the parolee will fail or refuse to appear before the board to answer charges of violations of one or more conditions of parole; or

(g) He or she has a reasonable belief that the arrest is necessary to prevent serious bodily injury to the parolee or any other person or to prevent the commission of a crime; or

(h) He or she has probable cause to believe that the parolee has committed a technical violation of parole for which the underlying behavior is not a criminal offense and the community parole officer has exhausted all appropriate or available intermediate sanctions, treatment, and support services.

(1.5) (a) Except where arrest or revocation is mandatory pursuant to this section or section 17-2-103.5, and except as provided in paragraph (g) of this subsection (1.5), a community parole officer must consider all appropriate or available intermediate sanctions, as determined by the policies of the division of adult parole, before he or she files a complaint for revocation of a parolee for a technical violation of a condition of parole for which the underlying behavior is not a criminal offense.

(b) A community parole officer shall utilize intermediate sanctions to address a parolee's noncompliance or seek modification of parole conditions, or do both, as deemed appropriate by the community parole officer, in a manner that is consistent with the severity of the noncompliance and the risk level of the parolee.

(c) A community parole officer shall also make referrals to any needed treatment or other support services that may help a parolee become compliant with the conditions of parole and succeed in reintegrating into society. For the purposes of this section, testing positive for the use of illegal drugs is considered a technical violation of parole.

(d) If a parolee has a technical violation, the parolee's community parole officer, with the approval of the director of the division of adult parole or the director's designee, may impose a brief term of confinement, not to exceed fourteen consecutive days, as an intermediate sanction.

(e) A parolee's community parole officer must notify the parolee when a brief term of confinement may be imposed as an intermediate sanction against the parolee.

(f) Confinement as an intermediate sanction may be provided in any facility operated or approved by the department of corrections or in a county jail. The division of adult parole is responsible for reimbursing county jails for beds used as an intermediate sanction. The sheriff of

each county has the authority and discretion to determine the number of jail beds, if any, that are available to the department of corrections in their respective facilities for the purpose of imposing an intermediate sanction. If jail beds are unavailable in the local community of the facility in which the parolee is being supervised, the division of adult parole is authorized to utilize any facility operated or approved by the department of corrections or other available county jail beds if transportation to and from the jail is provided to the parolee.

(g) Notwithstanding any other provision of this section, a community parole officer may bypass the use of intermediate sanctions or any additional intermediate sanctions in response to a technical violation of parole and file a complaint seeking revocation of parole if:

(I) The parolee has received up to four intermediate sanctions committing the parolee to a brief term of incarceration in jail, except for a parolee for whom subsection (11)(b)(III) of this section applies; or

(II) The nature of the technical violation, in combination with the parolee's risk assessment, indicates a heightened risk to public safety, as defined by policy of the division of adult parole.

(2) (a) A board hearing relating to the revocation of parole shall be held, at the discretion of the board, in the courthouse or other facility that is acceptable to the board in the county in which the alleged violation occurred, the county of the parolee's confinement, or the county of the parolee's residence if not confined.

(b) In all hearings relating to revocation of parole, one member of the board shall hear the case to a conclusion, unless the chairperson of the board assigns another board member due to the illness or unavailability of the first board member. The parolee may appeal to two members of the board. Such appeal shall be on the record.

(c) At evidentiary hearings concerning revocation of parole, the district attorney of the county in which the hearing is held may be in attendance to present the case.

(d) At all hearings before the board which are held outside of the institution to which the parolee is sentenced, it is the duty of the county sheriff to provide for the safety of all persons present. All counties shall make sufficient room available to conduct parole revocation proceedings in their respective courthouses or other facilities that are acceptable to the board.

(e) All votes of the board at any hearing or appeal held pursuant to this section shall be recorded by member and shall be a public record open to inspection and shall be subject to the provisions of part 3 of article 72 of title 24, C.R.S.

(3) (a) Whenever a community parole officer has reasonable grounds to believe that a condition of parole has been violated by any parolee, he or she may issue a summons requiring the parolee to appear before the board at a specified time and place to answer charges of violation of one or more conditions of parole. The summons shall be accompanied by a copy of

the complaint filed before the board seeking revocation of parole. Willful failure of the parolee to appear before the board as required by the summons is a violation of a condition of parole.

(b) A community parole officer may request that the board issue a warrant for the arrest of a parolee for violation of the conditions of his or her parole by filing a complaint with the board showing probable cause to believe that the parolee has violated a condition of his or her parole. The warrant may be executed by a peace officer, as described in section 16-2.5-101, C.R.S.

(4) (a) If, rather than issuing a summons, a community parole officer makes an arrest of a parolee, with or without a warrant, or the parolee is otherwise arrested, the parolee shall be held in a county jail or a preparole facility or program pending action by the community parole officer pursuant to subsection (5) of this section.

(b) Repealed.

(5) Not later than ten working days after the arrest of any parolee, as provided in subsection (4) of this section, the community parole officer shall complete his or her investigation and either:

(a) File a complaint before the board in which the facts are alleged upon which a revocation of parole is sought; or

(b) Order the release of the parolee and request that any warrant be quashed and that any complaint be dismissed, and parole shall be restored; or

(c) Order the release of the parolee and issue a summons requiring the parolee to appear before the board at a specified time and place to answer charges of violation of one or more conditions of parole.

(6) (a) Any complaint filed by the community parole officer in which revocation of parole is sought shall contain the name of the parolee and his or her department of corrections number, identify the nature of the charges that are alleged to justify revocation of his or her parole, the substance of the evidence sustaining the charges, and the condition of parole alleged to have been violated, including the date and approximate location thereof, together with the signature of the community parole officer. A copy thereof shall be given to the parolee a reasonable length of time before any parole board hearing.

(b) At any time after the filing of a complaint, the director of the division of adult parole may cause the revocation proceedings to be dismissed by giving written notification of the decision for the dismissal to the board, the community parole officer, and the parolee. Upon receipt of the notification by the director, the community parole officer shall order the release of the parolee pursuant to subsection (5) of this section, and parole shall be restored.

(c) The filing of a complaint by the community parole officer tolls the expiration of the parolee's parole.

(7) If the parolee is in custody pursuant to subsection (4) of this section, or the parolee was arrested and then released pursuant to paragraph (c) of subsection (5) of this section, the hearing on revocation shall be held within a reasonable time, not to exceed thirty days after the parolee was arrested; except that the board may grant a delay when it finds good cause to exist therefor. If the parolee was issued a summons, the final hearing shall be held within thirty working days from the date the summons was issued; except that the board may grant a delay when it finds good cause to exist therefor. The board shall notify the sheriff, the community parole officer, and the parolee of the date, time, and place of the hearing. It shall be the responsibility of the sheriff to assure the presence of the parolee being held in custody at the time and place of the hearing and to provide for the safety of all present.

(8) Prior to appearance before the board, a parolee shall be advised in writing by the director of the division of adult parole concerning the nature of the charges that are alleged to justify revocation of parole and the substance of the evidence sustaining the charges; the parolee shall be given a copy of the complaint unless he or she has already received one; the parolee shall be informed of the consequences which may follow in the event parole is revoked; the parolee shall then be advised that a full and final hearing will be held before the board at which hearing the parolee will be required to plead guilty or not guilty to the charges contained in the complaint; and the parolee shall be further advised that at the hearing before the board he or she may be represented by an attorney and that he or she may testify and present witnesses and documentary evidence in defense of the charges or in mitigation or explanation thereof. The hearing may be continued by the board upon a showing of good cause.

(9) (a) In the event of a plea of not guilty, the division of adult parole, at the final hearing before the board, shall have the burden of establishing by a preponderance of the evidence the violation of a condition of parole; except that the commission of a criminal offense must be established beyond a reasonable doubt, unless the parolee has been convicted thereof in a criminal proceeding. When it appears that the alleged violation of a condition or conditions of parole consists of an offense with which the parolee is charged in a criminal case then pending, testimony given before the board in a parole revocation proceeding shall not be admissible in such criminal proceeding before a court. When, in a parole revocation hearing, the alleged violation of a condition of parole is the parolee's failure to pay court-ordered compensation to appointed counsel, probation fees, court costs, restitution, or reparations, evidence of the failure to pay shall constitute prima facie evidence of a violation. The board may revoke the parole if requested to do so by the parolee. Any evidence having probative value shall be admissible in all proceedings related to a parole violation complaint, regardless of its admissibility under the exclusionary rules of evidence, if the parolee is accorded a fair opportunity to rebut hearsay evidence. The parolee shall have the right to confront and to cross-examine adverse witnesses unless the board specifically finds good cause for not allowing confrontation of an informer.

(b) If the parolee has been convicted of a criminal offense while on parole, the board shall accept said conviction as conclusive proof of a violation and shall conduct a hearing as to the disposition of the parole only.

(10) Repealed.

(11) (a) If the board determines that a violation of a condition or conditions of parole has been committed, the board shall, within five working days after the completion of the final hearing, either revoke the parole, as provided in paragraph (b) of this subsection (11), or continue it in effect, or modify the conditions of parole if circumstances then shown to exist require such modifications. If parole is revoked, the board shall serve upon the parolee a written statement as to the evidence relied on and the reasons for revoking parole.

(b) (I) If the board determines that the parolee has violated parole through commission of a felony or misdemeanor crime, the board may revoke parole and request the sheriff of the county in which the hearing is held to transport the parolee to a place of confinement designated by the executive director for up to the remainder of the parole period.

(II) If the board determines that the parolee has violated any condition of parole that does not involve the commission of a felony or misdemeanor crime that involves possession of a deadly weapon as defined in section 18-1-901, refusing or failing to comply with requirements of sex offender treatment, absconding, willful failure to appear for a summons, unlawful contact with a victim, or the willful tampering or removal of an electronic monitoring device that the parolee is required to wear as a condition of his or her parole, the board may revoke parole and request the sheriff of the county in which the hearing is held to transport the parolee to a place of confinement for up to the remainder of the parole period and order the parolee confined at a facility designated by the executive director.

(II.5) (Deleted by amendment, L. 2017.)

(III) If the board determines that the parolee has violated any condition of parole that does not involve the commission of a felony or misdemeanor crime, the parolee has no active felony warrant, felony detainer, or pending felony criminal charge, and the parolee was on parole for an offense that was a level 3 or level 4 drug felony or class 3, class 4, class 5, or class 6 nonviolent felony offense as defined in section 17-22.5-405 (5)(b), except for menacing as defined in section 18-3-206; stalking as described in section 18-9-111 (4), as it existed prior to August 11, 2010, or section 18-3-602; or any unlawful sexual behavior contained in section 16-22-102 (9); or any other offense, the underlying factual basis of which involves unlawful sexual behavior; or unless the parolee was subject to article 6.5 of title 18, or section 18-6-801, the board may order, as a condition of parole, participation in treatment, if appropriate, as described in section 17-2-103 (11)(c).

(III.5) Repealed.

(IV) and (V) (Deleted by amendment, L. 2017.)

(VI) If the board determines that a parolee who has been designated as a sexually violent predator pursuant to section 18-3-414.5 or found to be a sexually violent predator or its equivalent in any other state or jurisdiction, including but not limited to a military or federal jurisdiction, has violated any condition of parole, the board may revoke parole and request the sheriff of the county in which the hearing is held to transport the parolee for up to the remainder of the parole period and order the parolee confined at a place of confinement designated by the executive director.

(c) If the board determines that the parolee is in need of treatment, the board shall consider placing the parolee in one of the following treatment options and, if appropriate, may modify the conditions of parole to include:

(I) Participation in an outpatient program for the treatment of substance abuse or substance use disorders, mental health disorders, or other co-occurring or behavioral health disorders; or

(II) (A) Placement in a residential treatment program for the treatment of substance abuse, substance use disorders, mental health disorders, or other co-occurring or behavioral health disorders, which program is under contract with the department of public safety and may include, but need not be limited to, intensive residential treatment, therapeutic community, and mental health programs.

(B) A parolee may be placed in a residential treatment program under contract with the department of public safety only upon acceptance by the residential treatment program and any community corrections board with jurisdiction over the residential treatment program. Residential treatment programs and community corrections boards are encouraged to develop an expedited review process to facilitate decision-making and placement of the parolee, if accepted.

(C) Placement in a parolee intensive treatment program operated by the department in a level I security facility for men or an equivalent security level unit in a women's facility operated by the department. The department shall provide or contract for medical services needed by parolees in the intensive treatment program and may use funding appropriated for clinical services for those medical services.

(d) If the parole board orders the parolee to participate in a treatment program as a condition of parole pursuant to paragraph (c) of this subsection (11), the level of treatment ordered shall be consistent with the treatment level need of the parolee based upon an assessment instrument approved for use by the unit within the department of human services that administers behavioral health programs and services, including those related to mental health and substance abuse.

(e) If the parolee is unsuccessful in participating in a treatment program ordered pursuant to paragraph (c) of this subsection (11) and his or her participation is terminated, the board may

consider placement of the parolee in additional treatment, as appropriate, including a higher level of treatment.

(f) (I) A parolee who violates the conditions of his or her parole by removing or tampering with an electronic monitoring device that the parolee is required to wear as a condition of his or her parole is subject to an immediate warrantless arrest.

(II) Notwithstanding any other provision of this section, if the board determines that a parolee has violated the conditions of his or her parole by removing or tampering with an electronic monitoring device that the parolee is required to wear as a condition of his or her parole, the board may revoke the parolee's parole pursuant to paragraph (b) of this subsection (11).

(11.5) Each fiscal year, the general assembly shall appropriate a portion of the savings generated by House Bill 10-1360, enacted in 2010. This appropriation shall be used only for re-entry support services for parolees related to obtaining employment, housing, transportation, substance abuse treatment, mental health treatment, mental health medication, or offender-specific services. The appropriation shall be made after consideration of the division of adult parole's status report required pursuant to section 17-2-102 (11).

(12) If the community parole officer is informed by any law enforcement agency that a parolee has been arrested for a criminal offense and is being detained in the county jail, the community parole officer shall file a complaint alleging the criminal offense as a violation of parole. The community parole officer shall advise the board of any pending criminal proceeding and shall request that a parole revocation proceeding be deferred pending a disposition of the criminal charge.

(13) (a) The board may revoke the parole if requested to do so by the parolee. If a parolee requests to have his or her parole revoked, the parolee shall provide the board a justifiable reason for requesting revocation of parole.

(b) Prior to revoking parole upon the request of a parolee, the board may recommend or implement appropriate interventions in order to assist in the parolee with reintegration and prevent a return to incarceration.

(c) If the board revokes the parole upon the request of the parolee, the board shall proceed pursuant to paragraph (b) of subsection (11) of this section.

(14) If the board revokes parole and places the parolee in custody, completion of the term of custody shall not constitute discharge of the parolee's remaining period of parole unless the term of custody is equal to the parolee's remaining period of parole.

Source: L. 77: Entire title R&RE, p. 908, § 10, effective August 1. **L. 78:** (11) amended, p. 356, § 2, effective April 27. **L. 79:** (2)(a), (2)(d), (4), (5)(a), (6)(b), and (9)(a) amended, p. 686, § 26, effective July 1. **L. 83:** (9)(a) amended, p. 665, § 6, effective July 1. **L. 85:** (1)(e), (2)(a), (2)(b), (2)(d), (3), (4)(a), (5), (6), (7), (8), (9), and (11) amended and (2)(c), (4)(b), and (10) repealed, pp. 633, 641, §§ 1, 11, effective July 1; (2)(e) added, p. 643, § 1, effective July 1. **L. 87:** (2)(a), (2)(b), (2)(d), (6)(b), (7) to (9), and (11) amended, p. 952, § 55, effective March 13; (2)(b) amended, (2)(c) RC&RE, and (6)(c) added, p. 651, §§ 3, 4, 5, effective July 1. **L. 89:** (12) added, p. 863, § 5, effective April 12; (1)(f) added, p. 877, § 14, effective June 5. **L. 90:** (4)(a) amended, p. 944, § 15, effective June 7. **L. 94:** (2)(a), (2)(b), (2)(d), (6)(b), (7), (8), (9), and (11) amended, pp. 2600, 2594, §§ 13, 1, effective June 3. **L. 95:** (11)(b)(II)(B) amended, p. 1097, § 16, effective May 31. **L. 2000:** IP(1), (6)(b), (8), and (9)(a) amended, p. 840, § 25, effective May 24. **L. 2001:** (11)(b)(II)(C) amended and (11)(b)(II)(D) added, p. 502, § 2, effective May 16. **L. 2002:** (11)(b)(II)(B) amended, p. 1499, § 158, effective October 1. **L. 2003:** (9)(a) and (11)(b) amended and (13) and (14) added, p. 2674, § 1, effective July 1; (3)(b) amended, p. 1614, § 9, effective August 6. **L. 2008:** IP(1), (3), (4)(a), IP(5), (6), (7), and (12) amended, p. 655, § 4, effective April 25; (11)(b)(III) amended, p. 1035, § 1, effective August 5. **L. 2010:** IP(11)(b)(II) amended and (11)(b)(VI) added, (HB 10-1089), ch. 56, p. 204, § 1, effective March 31; IP(11)(b)(II), (11)(b)(IV), and (11)(b)(V) amended and (11)(b)(III.5), (11)(c), (11)(d), (11)(e), and (11.5) added, (HB 10-1360), ch. 263, pp. 1193, 1194, 1196, §§ 2, 4, 5, effective May 25; IP(11)(b)(II) amended and (11)(b)(III.5) added, (HB 10-1360), ch. 263, p. 1194, § 3, effective August 11. **L. 2011:** (11)(d) amended, (HB 11-1303), ch. 264, p. 1156, § 28, effective August 10. **L. 2013:** (11)(b)(III) and (11)(b)(III.5) amended, (SB 13-250), ch. 333, p. 1931, § 46, effective October 1. **L. 2014:** (11)(f) added, (HB 14-1044), ch. 199, p. 727, § 2, effective April 15. **L. 2015:** IP(11)(b)(II) amended, (HB 15-1122), ch. 37, p. 89, § 3, effective March 20; (1) amended and (1.5) added, (SB 15-124), ch. 251, p. 915, § 2, effective May 29. **L. 2017:** (11)(b) amended, (HB 17-1326), ch. 394, p. 2027, § 2, effective August 9. **L. 2018:** (11)(c)(I) and (11)(c)(II)(A) amended, (SB 18-091), ch. 35, p. 385, § 16, effective August 8. **L. 2019:** (1.5)(d), (1.5)(g)(I), (11)(b)(I), (11)(b)(II), (11)(b)(III), and (11)(c)(II)(B) amended, (11)(b)(III.5) repealed, and (11)(c)(II)(C) added, (SB 19-143), ch. 286, p. 2656, § 2, effective May 28. **L. 2020:** IP(11)(c) amended, (HB 20-1019), ch. 9, p. 25, § 5, effective March 6. **L. 2022:** (1.5)(d), (1.5)(e), and (1.5)(f) amended, (HB 22-1257), ch. 69, p. 356, § 8, effective April 7.

Editor's note: (1) This section is similar to former § 17-1-103 as it existed prior to 1977.

(2) Amendments to subsection (11) in sections 1 and 13 of Senate Bill 94-172 were harmonized.

(3) Amendments to IP(11)(b)(II) by House Bill 10-1089 and House Bill 10-1360 were harmonized.

Cross references: (1) For other provisions concerning parole revocation proceedings, see § 17-2-201.

(2) For the legislative declaration contained in the 2002 act amending subsection (11)(b)(II)(B), see section 1 of chapter 318, Session Laws of Colorado 2002. For the legislative declaration in HB 15-1122, see section 1 of chapter 37, Session Laws of Colorado 2015. For the legislative declaration in SB 15-124, see section 1 of chapter 251, Session Laws of Colorado 2015. For the legislative declaration in HB 17-1326, see section 1 of chapter 394, Session Laws of Colorado 2017. For the legislative declaration in SB 18-091, see section 1 of chapter 35, Session Laws of Colorado 2018.

ANNOTATION

I. General Consideration.

II. Arrest and Investigation of Parolee.

III. Revocation Proceedings.

I. GENERAL CONSIDERATION.

Law reviews. For article, "Criminal Procedure in Colorado — A Summary and Recommendations for Improvement", see 22 Rocky Mt. L. Rev. 221 (1950). For article, "One Year Review of Criminal Law and Procedure", see 39 Dicta 81 (1962). For note, "The Evolution of the Police Officer's Right to Arrest Without a Warrant in Colorado", see 43 Den. L.J. 366 (1966). For comment on Williams v. Patterson (389 F.2d 374 (10th Cir. 1968)), see 40 U. Colo. L. Rev. 617 (1968). For article, "Due Process, Equal Protection and State Parole Revocation Proceedings", see 42 U. Colo. L. Rev. 197 (1970).

Annotator's note. Since § 17-2-103 is similar to § 17-1-103 as it existed prior to the 1977 repeal and reenactment of this title, relevant cases construing that provision have been included in the annotations to this section.

No violation of ex post facto clause of federal constitution when provisions which were in existence when a prisoner is sentenced are deleted prior to prisoner's arrest for violation of parole. Turman v. Romer, 729 F. Supp. 1276 (D. Colo. 1990).

For purposes of determining when the thirty-day time limitation for a parole revocation hearing begins to run, the parolee is not considered "arrested" until he is delivered into the custody of Colorado authorities. Turman v. Buckallew, 784 P.2d 774 (Colo. 1989).

Parole officer's decision to hold the plaintiff pending a parole revocation hearing is protected by qualified immunity, not absolute immunity, by virtue of the distance of the decision from the judicial process. Mee v. Ortega, 967 F.2d 423 (10th Cir. 1992).

Whereas, damage resulting from parole officer's testimony at state habeas proceeding was protected by absolute immunity, because as a witness, the parole officer directly serves the court. Mee v. Ortega, 967 F.2d 423 (10th Cir. 1992).

Subsection (6)(c) of this section does not negate or change the general rule for applying presentence confinement credit set forth in § 18-1.3-405, which provides that a defendant receive presentence confinement credit on his or her original sentence and not on the new sentence. Rather, the filing of a parole revocation complaint merely provides jurisdiction to the parole board, but once the parole board makes its decision, the time starts running again from the date of the complaint whether the complaint is dismissed or parole is revoked. People v. Wallin, 167 P.3d 183 (Colo. App. 2007).

II. ARREST AND INVESTIGATION OF PAROLEE.

Parolees, as a class, pose a greater threat of criminal activity to law enforcement authorities than ordinary citizens. People v. Anderson, 189 Colo. 34, 536 P.2d 302 (1975).

The parole authority must be vested with the power to investigate a parolee to ascertain whether a parole violation has occurred if it is to fulfill its statutory function. People v. Anderson, 189 Colo. 34, 536 P.2d 302 (1975).

The police officer does not have the broad power to supervise parolees that is granted to parole officers. People v. Anderson, 189 Colo. 34, 536 P.2d 302 (1975).

A parole officer may cause a police officer to accompany him when a search is being made. People v. Anderson, 189 Colo. 34, 536 P.2d 302 (1975).

The fact that a person is on parole does not justify a search without a warrant by any law enforcement officer, other than a parole officer. People v. Anderson, 189 Colo. 34, 536 P.2d 302 (1975).

Presence of reasonable cause eliminates need for warrant. A parole officer who is investigating a parole violation is required to have reasonable grounds to believe that a parole violation has occurred. Under these circumstances, when he conducts his search in connection with that investigation, the need for a search warrant is eliminated. People v. Anderson, 189 Colo. 34, 536 P.2d 302 (1975) (decided prior to the enactment of § 17-2-201 (5)(f)(I)(D)).

Unrelated evidence admissible in prosecution of another crime. Evidence seized within the scope of a reasonable search by a parole officer, even though unrelated to the parole violation, is admissible in the prosecution of another crime. People v. Anderson, 189 Colo. 34, 536 P.2d 302 (1975).

Arrest ends constructive custody. The arrest of a parolee for an alleged violation of the conditions of his parole results in a transposition from constructive to physical custody of such parolee. Schooley v. Wilson, 150 Colo. 483, 374 P.2d 353 (1962).

Section limits period of imprisonment, not authority of board to act. The time limitations contained in this section do not limit or prescribe the time within which the parole board must act in order to properly suspend or revoke one's parole. Such time limitations only fix the maximum period of time a suspected parole violator may be held

in jail by the parole authorities while they investigate his activities and determine what action should be taken. Folks v. Patterson, 159 Colo. 403, 412 P.2d 214 (1966); Mora v. Patterson, 370 F.2d 923 (10th Cir. 1967); Goetz v. Gunter, 830 P.2d 1154 (Colo. App. 1992).

Thus, board may revoke parole after 15 [now 30] days. The contention that the parole board was deprived of any power to revoke parole once the 15-day [now 30-day] period had passed has been decided adversely, and the supreme court adheres to this ruling. Williams v. Patterson, 161 Colo. 259, 421 P.2d 474 (1966).

Actions prior to revocation are moot. Once the parole board has revoked one's parole, the fact that such person prior to such revocation may have been held for more than the period permitted by this section is of no moment. Folks v. Patterson, 159 Colo. 403, 412 P.2d 214 (1966).

Questions with respect to matters transpiring prior to the time a parolee is transferred to the state penitentiary are not justiciable after the transfer. Mora v. Patterson, 370 F.2d 923 (10th Cir. 1967).

Habeas corpus is the remedy for an unlawful restraint of one's liberty under this section as well as for an unlawful imprisonment, and a person on parole can resort to the remedy of habeas corpus where parole officers are not following the mandate of this section in regard to revocatory proceedings. Schooley v. Wilson, 150 Colo. 483, 374 P.2d 353 (1962).

Where a parolee was arrested and held in actual custody more than 15 [now 30] days without release or revocation of his parole in violation of this section, habeas corpus was the proper remedy. Schooley v. Wilson, 150 Colo. 483, 374 P.2d 353 (1962).

Habeas corpus will lie where a parolee was being detained by the authorities for a time longer than that permitted by this section prior to the parole board's alternative action of either releasing him or revoking his parole. Johnson v. Tinsley, 157 Colo. 539, 404 P.2d 159 (1965).

Relief is discharge only prior to revocation. The proviso now appearing in this section that no parolee shall be kept in jail by the division of parole for a period of more than 15 [now 30] days means that a suspected parole violator who is held in jail for more than 15 [now 30] days while his activities are being investigated is entitled to relief by way of habeas corpus, the relief being discharge-not from the penitentiary or institution following revocation-but from the institution to which confined prior to revocation. People ex rel. Patterson v. District Court, 159 Colo. 142, 410 P.2d 630 (1966).

Since subsection (4)(a) does not expressly require the county to accept "technical" parole violators and evidence existed to show the county jail was overcrowded, the county had no obligation to accept such parole violators. State for Use of Dept. of Corr. v. Pena, 837 P.2d 210 (Colo. App. 1992).

Subsection (1)(e) does not define a city or county's obligation to accept technical parole violators. The State of Colorado, for

the Use of the Dept. of Corr. v. Pena, 855 P.2d 805 (Colo. 1993).

Subsection (4)(a) does not mandate that a county or city accept all alleged parole violators who are arrested. The right to arrest and take a parolee to jail for detention does not entail a duty on the part of jails to accept, without discretion, such parolees. The State of Colorado, for the Use of the Dept. of Corr. v. Pena, 855 P.2d 805 (Colo. 1993) (decided under law in effect prior to 1990 amendment).

Subsection (11), read in conjunction with §§ 17-2-201 (5.5)(d) and 17-2-102 (8.5), does not require revocation of parole upon an initial positive drug or alcohol testing. But parole board had authority to revoke defendant's parole based on a single drug or alcohol violation when it occurred in a subsequent test. People v. Whidden, 56 P.3d 1201 (Colo. App. 2002), aff'd on other grounds, 78 P.3d 1092 (Colo. 2003).

The substance abuse in the criminal justice system statutes, article 11.5 of title 16, and this section authorize, but do not require, the board to revoke parole and return a parolee to the department of corrections based upon a single positive drug test that occurs after the baseline test. People v. Whidden, 78 P.3d 1092 (Colo. 2003).

III. REVOCATION PROCEEDINGS.

Probable cause hearing required as promptly as convenient. Although this section is silent regarding a time limitation within which the probable cause hearing required by subsection (4) must be held, due process requires only that a hearing be conducted as "promptly as convenient". Mijares v. Shipley, 197 Colo. 282, 592 P.2d 414 (1979).

Due process requires fairness in revocation hearings. Parolees in parole revocation hearings are not entitled to the specifics of due process available to an accused in the first instance, but this in no way negates their right to enjoy due process as that mandate reflects the right of all persons to inherent fairness in all compulsive processes. Martinez v. Patterson, 429 F.2d 844 (10th Cir. 1970).

While the parolee's liberty cannot be terminated without reason, it does not follow that he is entitled to all of the federal constitutional procedures and safeguards guaranteed by the due process clause of the fourteenth amendment. Thus, he is not entitled to a speedy public trial pursuant to the sixth amendment, but is entitled to a fair hearing for the purpose of ascertaining whether or not he has violated his parole. Hutchison v. Patterson, 267 F. Supp. 433 (D. Colo. 1967).

The due process clause of the fourteenth amendment of the federal constitution does not generate rights to confrontation, to cross-examination, or to compulsory process at parole revocation hearings. Due process does not comprehend the dual rights to witnesses under oath and evidence in conditional release hearings. Firkins v. Colo., 434 F.2d 1232 (10th Cir. 1970).

This includes right to know charges and hearing free of caprice. The right of a prisoner to be heard at a revocation hearing

is inviolative; so, too, is the right to know and be specifically informed of the charges and the nature of the evidence against him; and, finally, the right to be free from pure caprice on the part of the discretionary authority before whom the proceedings occur. The right to gather and file written statements before the board is an empty right unless parole violators are given notice of the charges prior to their hearing before the parole board. Martinez v. Patterson, 429 F.2d 844 (10th Cir. 1970).

There is no federal constitutional right to counsel at a parole revocation proceeding. Wilkerson v. Patterson, 303 F. Supp. 665 (D. Colo. 1969).

There is no constitutional right to counsel at parole revocation hearings. Firkins v. Colo., 434 F.2d 1232 (10th Cir. 1970).

The denial of the assistance of counsel at a parole revocation hearing was no ground for federal habeas corpus relief. Williams v. Patterson, 389 F.2d 374 (10th Cir. 1968); Martinez v. Patterson, 429 F.2d 844 (10th Cir. 1970).

Failure to appoint counsel under former section did not deny equal protection. The argument for a federal constitutional right to appointed counsel under the equal protection clause does not apply where the services rendered by a retained counsel are slight and not dependent on unique capabilities with which the attorney is endowed by virtue of his legal training. An indigent defendant suffers no substantial disadvantage because an attorney is not made available to him to write letters to the state parole board. No invidious discrimination is present and no violation of the equal protection clause has occurred. Wilkerson v. Patterson, 303 F. Supp. 665 (D. Colo. 1969); Martinez v. Patterson, 429 F.2d 844 (10th Cir. 1970).

Parole revocation reincarceration is not a new sentence. Since the sentencing power of the judiciary is not implicated, there is no separation of powers or due process violation. People v. Barber, 74 P.3d 444 (Colo. App. 2003).

No statutory duty to preserve testimony in parole revocation hearing. Neither the state parole board nor an administrative law judge conducting a parole revocation hearing has a statutory duty to preserve the testimony at a parole revocation hearing. In fact, such testimony is inadmissible in a criminal proceeding against the parolee based on the offense giving rise to the parole violation. People v. Schrecongost, 796 P.2d 45 (Colo. App. 1990), aff'd, 810 P.2d 1068 (Colo. 1991).

If a parolee pleads not guilty to a parole violation complaint alleging the commission of a crime for which he has not been convicted, the authority seeking parole revocation has the burden of establishing beyond a reasonable doubt that the parolee committed the alleged offense. People v. White, 804 P.2d 247 (Colo. App. 1990).

Retroactive application of subsection (12) denied under Crim. P. 35(c)(1) because Crim. P. 35(c)(1) provides a remedy to an offender whose conviction or sentence is affected by a change in the law during the pendency of a direct appeal of such

conviction or sentence, but not to an offender claiming the benefit of changes in the law that occur during the pendency of other postconviction proceedings. People v. White, 804 P.2d 247 (Colo. App. 1990).

An administrative appeal of a parole revocation decision to the state board of parole is not a prerequisite to judicial review of the lawfulness of the decision. People v. Abdul-Rahman, 2024 COA 118, 563 P.3d 682.

The legislature's use of the term "may" in subsection (2)(b) when defining the parole statutes' administrative review process does not mandate an appeal to two members of the parole board because in § 17-2-201 (4)(b) the legislature explicitly exempted parole revocation hearings from the requirements of § 24-4-105. People v. Abdul-Rahman, 2024 COA 118, 563 P.3d 682.

This section does not limit the amount of time within which the parole board must act on the issue of revocation of parole. Goetz v. Gunter, 830 P.2d 1154 (Colo. App. 1992).

The tolling provisions in subsection (6) do not impose additional punishment on the parolee. If the board determines there was no parole violation, the parolee's status should be reinstated as if no complaint had been filed. Goetz v. Gunter, 830 P.2d 1154 (Colo. App. 1992).

Where a complaint was filed against the parolee near the end of the parole term and the board dismissed the first complaint and brought a second complaint after the parolee's term had expired, the board was without jurisdiction to revoke the parolee's parole based on the second complaint. Goetz v. Gunter, 830 P.2d 1154 (Colo. App. 1992).

Tolling of expiration of parole upon the filing of a parole violation complaint does not impose additional punishment and does not violate the prohibition against ex post facto laws. Goetz v. Gunter, 830 P.2d 1154 (Colo. App. 1992).

Rather, it allows the parole board to maintain its jurisdiction over parolee while authorities investigate the alleged parole violations and to hold a revocation hearing. Goetz v. Gunter, 830 P.2d 1154 (Colo. App. 1992).

Tolling of expiration of parole upon filing of a parole violation complaint by parole officer applies to all offenders, including those who committed crimes before the statute was enacted. Duran v. Price, 868 P.2d 375 (Colo. 1994).

The plain meaning of subsection (7) provides that, upon finding good cause by the parole board, a parole revocation hearing can be delayed beyond 30 days after the parolee's arrest and a parolee can be held in custody for a reasonable time pending a revocation hearing. The section does not convey automatic good cause to delay a parole hearing for pending resolution of an underlying criminal case, nor does the statute require a parolee to be released from custody after 30 days. Colo. Dept. of Corr. v. Madison, 85 P.3d 542 (Colo. 2004).

Subsection (11)(b) and § 17-22.5-403 (8)(b) conflict when a parole revocation is for a sex offender subject to lifetime supervision. Since § 17-22.5-403 (8)(b) is

the more specific provision, it applies to the revocation of a lifetime supervision sex offender's parole. People v. Back, 2013 COA 114, 412 P.3d 565.

17-2-103.5. Revocation proceedings - parolee arrested for certain offenses.

(1) (a) Notwithstanding any provision of section 17-2-103, a community parole officer shall file a complaint seeking revocation of the parole of any parolee who:

(I) Is found in possession of a deadly weapon as defined in section 18-1-901, C.R.S.;

(II) Is arrested and charged with:

(A) A felony;

(B) A crime of violence as defined in section 16-1-104 (8.5), C.R.S.;

(C) A misdemeanor assault involving a deadly weapon or resulting in bodily injury to the victim;

(D) Sexual assault in the third degree as defined in section 18-3-404 (2), C.R.S., as it existed prior to July 1, 2000; or

(E) Unlawful sexual contact as defined in section 18-3-404 (2), C.R.S.; or

(III) Has removed or tampered with an electronic monitoring device that the parolee is required to wear as a condition of his or her parole; except that, before making such an arrest, the community parole officer shall first determine that the notification of removal or tampering was not merely the result of an equipment malfunction.

(b) A community parole officer shall present to the district attorney of the proper judicial district for the purpose of prosecution all the facts ascertained by the community parole officer and all other papers, documents, or evidence pertaining thereto that the community parole officer has in his or her possession for any parolee found in possession of a weapon pursuant to section 18-12-108, C.R.S.

(c) A hearing relating to such revocation shall be held, unless a board member is advised that a criminal charge is still pending or where the parolee does not request revocation, in which case the hearing shall be delayed until a disposition concerning the criminal charge is reached.

(2) If the hearing officer or board member conducting the hearing pursuant to subsection (1) of this section finds the parolee guilty of the conduct charged but decides against revoking the parole of the parolee, the record of such hearing shall be reviewed within fifteen days of the decision by two members of the board, exclusive of the board member who conducted the hearing, who may overturn the decision and order the parole to be revoked.

Source: L. 87: Entire section added, p. 651, § 6, effective July 1. **L. 89:** (1) amended, p. 863, § 6, effective April 12. **L. 94:** (1) amended, p. 2602, § 14, effective June 3. **L. 2000:** (1) amended, p. 633, § 4, effective July 1. **L. 2008:** IP(1)(a) and (1)(b) amended, p. 656, § 5, effective April 25; (1)(a)(II)(C) and (1)(a)(II)(D) amended and (1)(a)(II)(E) added, p. 1887, § 48, effective August 5. **L. 2014:** (1)(a)(II)(E) amended and (1)(a)(III) added, (HB 14-1044), ch. 199, p. 728, § 3, effective May 15. **L. 2015:** (1)(c) amended, (HB 15-1122), ch. 37, p. 89, § 4, effective March 20.

Cross references: For the legislative declaration in HB 15-1122, see section 1 of chapter 37, Session Laws of Colorado 2015.

17-2-104. Records - reports - publications.

(1) The office of director of the division of adult parole shall be maintained as a clearing house for all information on domestic as well as interstate parolees, and the director shall prescribe, prepare, and furnish such forms, records, and reports as the executive director may require from time to time. Such data and information so compiled shall not be considered to be public records but shall be held to be confidential in character.

(2) The director shall report to the executive director at such times and on such matters as the executive director may require; except that confidential information shall not be made public. Publications of the director circulated in quantity outside the division shall be subject to the approval and control of the executive director.

Source: L. 77: Entire title R&RE, p. 911, § 10, effective August 1. **L. 2000:** (1) amended, p. 841, § 26, effective May 24.

Editor's note: This section is similar to former § 17-1-104 as it existed prior to 1977.

ANNOTATION

Confidential records subject to subpoena and court inspection. Although the parole board's records may be considered to be confidential and not accessible to the public, this should not insulate the records from subpoena and inspection by the court when a prisoner makes out a prima facie case of abuse of discretion or caprice on the part of the board in parole revocation proceedings. Martinez v. Patterson, 429 F.2d 844 (10th Cir. 1970) (decided under former § 17-1-104 as it

existed prior to the 1977 repeal and reenactment of this title).

17-2-105. Appropriation. (Repealed)

Source: L. 77: Entire title R&RE, p. 911, § 10, effective August 1. **L. 2000:** Entire section repealed, p. 841, § 27, effective May 24.

Editor's note: This section was similar to former § 17-1-105 as it existed prior to 1977.

17-2-106. Branch parole offices - acquisition - duty to inform public.

(1) (a) The director of the division of adult parole shall contemporaneously send written notice to the chief executive officer of the municipality and the city council or board of trustees of the municipality in which the division intends to operate the branch parole office.

(b) If the site of the branch parole office that the division intends to operate is not located within a municipality, the director of the division shall send written notice to the board of county commissioners of the county in which the division intends to operate the branch parole office.

(c) For purposes of this section:

(I) "Actual acquisition" means the legal process necessary to vest the department of corrections with fee title or a new leasehold interest in real estate that the division of adult parole intends to operate as a branch parole office in a new location.

(II) "Branch parole office" means any real estate in this state that the division of adult parole, on behalf of the department of corrections, may acquire by purchase, leasehold, or other method for the purpose of operating an office to perform any function required or permitted by this title concerning parolee interview, reporting, testing, screening, and supervision.

(2) A municipality or county notified pursuant to subsection (1) of this section may notify its residents and invite public review and comment on the division's selection of the branch parole office site through public meeting, public hearing, or any other public forum deemed appropriate by the municipality or county.

(3) Nothing in this section shall be construed to hinder or prohibit the department of corrections, division of adult parole, from engaging in the selection or the actual acquisition of any site to operate as a branch parole office that the department or division determines will best enable the division to perform and exercise its duties and powers under this title.

Source: L. 2001: Entire section added, p. 662, § 2, effective August 8. **L. 2002:** (3) amended, p. 1016, § 21, effective June 1.

Cross references: For the definition of "branch parole office" as it applies to this section, see also § 17-2-102 (10)(b).

PART 2

STATE BOARD OF PAROLE

17-2-200.3. Definitions.

As used in this part 2, unless the context otherwise requires:

(1) "Board" means the state board of parole created in section 17-2-201 (1)(a).

Source: L. 2025: Entire section added, (SB 25-275), ch. 377, p. 2045, § 72, effective August 6.

17-2-201. State board of parole - duties - definitions.

(1) (a) There is created the state board of parole, which consists of nine members. The board is a **type 1** entity, as defined in section 24-1-105. The members of the board are appointed by the governor and confirmed by the senate, and they shall devote their full time to their duties as members of the board. The members are appointed for three-year terms; except that the terms shall be staggered so that no more than three members' terms expire in the same year. A member may serve consecutive terms. The governor may remove a board member for incompetency, neglect of duty, malfeasance in office, continued failure to use the risk assessment guidelines as required by section 17-22.5-404, or failure to regularly attend meetings as determined by the governor. Final conviction of a felony during the term of office of a board member automatically disqualifies the member from further service on the board. The board is composed of representatives from multidisciplinary areas of expertise. Two members must have experience in law enforcement, and one member must have experience in offender supervision, including parole, probation, or community corrections. Six members must have experience in other relevant fields. Each member of the board must have a minimum of five years of experience in a relevant field and knowledge of parole laws and guidelines, rehabilitation, correctional administration, the functioning of the criminal justice system, issues associated with victims of

crime, the duties of board members, and actuarial risk assessment instruments and other offender assessment instruments used by the board and the department of corrections. A person who has been convicted of a felony or of a misdemeanor involving moral turpitude or who has any financial interests that conflict with the duties of a member of the board is ineligible for appointment.

(b) to (c.2) Repealed.

(d) The governor may appoint a temporary member to replace any member of the board who becomes temporarily incapacitated. Such temporary member shall not require senate confirmation unless he serves for a period longer than ninety days and shall serve at the pleasure of the governor or until the incapacitated member of the parole board is able to resume his duties. Any temporary member shall assume all the powers and duties of the incapacitated member. Any such temporary member shall have the same qualifications as a permanent member as defined in paragraph (a) of this subsection (1). The board may not have more than two temporary members at any time.

(e) Each board member shall complete a minimum of twenty hours of continuing education or training every year in order to maintain proficiency and to remain current on changes in parole laws and developments in the field. Each parole board member shall submit to the chairperson proof of attendance and details regarding any continuing education or training attended including the date, place, topic, the length of the training, the trainer's name, and any agency or organizational affiliation. Members may attend trainings individually or as part of a specific training offered to the parole board as a whole. The sole remedy for failure to comply with training and data collection requirements shall be removal of the board member by the governor, and the failure to comply with training and data collection requirements shall not create any right for any offender.

(2) The governor shall appoint one of the members of the board as the chairperson of the board and shall also appoint one of the members as the vice-chairperson. Such appointments are subject to change by the governor. The chairperson shall be the administrative head of the board. The chairperson shall assure that board policy and rules and regulations are enforced. The chairperson shall also assure that proper calendars for hearings are compiled and that members are assigned to conduct such hearings. The vice-chairperson shall act in the absence of the chairperson and may fulfill such administrative duties as are delegated by the chairperson.

(3) The chairperson, in addition to other provisions of law, has the following powers and duties:

(a) To promulgate rules governing the granting and revocation of parole, including special needs parole pursuant to section 17-22.5-403.5, from correctional facilities where adult offenders are confined and the fixing of terms of parole and release dates. All rules governing the granting and revocation of parole promulgated by the chairperson shall be subject to the approval of a

majority of the board and shall be promulgated pursuant to the provisions of section 24-4-103, C.R.S.

(b) To promulgate rules for the conduct of board members, the procedures for board hearings, and procedures for the board to comply with state fiscal and procurement regulations. All administrative rules and regulations promulgated by the chairperson shall be promulgated pursuant to the provisions of section 24-4-103, C.R.S.

(c) To develop and update a written operational manual for parole board members, release hearing officers, and administrative hearing officers under contract with the board by December 31, 2012. The operational manual shall include, but need not be limited to, board policies and rules, a summary of state laws governing the board, and all administrative release and revocation guidelines that the parole board is required to use. The chairperson will ensure that all new parole board members receive training and orientation on the operational manual.

(c.5) (Deleted by amendment, L. 2011, (SB 11-241), ch. 200, p. 833, § 3, effective May 23, 2011.)

(d) To adopt a policy pursuant to which the board may conduct parole hearings, parole revocation hearings, and board meetings using video teleconferencing technology. At a minimum, the policy shall identify:

(I) The agenda items, if any, that the board may not consider during video teleconferences of hearings or meetings;

(II) The correctional facilities that the chairperson determines will be accessible via video teleconferencing for purposes of conducting hearings or meetings. In identifying such correctional facilities, the chairperson may include the Colorado mental health institute at Pueblo for purposes of hearings held at the institute pursuant to subsection (10) of this section.

(e) To ensure that parole board members, release hearing officers, and administrative hearing officers under contract with the board fulfill the annual training requirements described in paragraph (e) of subsection (1) of this section and in section 17-2-202.5. The chairperson shall notify the governor if any board member, release hearing officer, or administrative hearing officer fails to comply with the training requirements.

(f) To ensure that parole board members, release hearing officers, and administrative hearing officers under contract with the board are accurately collecting data and information on his or her decision-making as required by section 17-22.5-404 (6). The chairperson shall notify the governor immediately if any board member, release hearing officer, or administrative hearing officer fails to comply with data collection requirements.

(g) To conduct an annual comprehensive review of board functions to identify workload inefficiencies and to develop strategies or recommendations to address any workload inefficiencies;

(h) (I) To contract with licensed attorneys to serve as administrative hearing officers to conduct parole revocation hearings pursuant to rules adopted by the parole board; or

(II) To appoint an administrative law judge pursuant to the provisions of section 24-30-1003, C.R.S., to conduct parole revocation hearings pursuant to the rules and regulations promulgated pursuant to this subsection (3). Any references to the board regarding parole revocation hearings or revocation of parole shall include an administrative law judge appointed pursuant to this paragraph (h).

(h.1) To contract with qualified individuals to serve as release hearing officers:

(I) To conduct parole application hearings for inmates convicted of class 4, class 5, or class 6 felonies or level 3 or level 4 drug felonies who have been assessed to be less than high risk by the Colorado risk assessment scale developed pursuant to section 17-22.5-404 (2)(a), or hearings pursuant to subsection (19) of this section pursuant to rules adopted by the parole board; and

(II) To set parole conditions for inmates eligible for release to mandatory parole.

(i) To ensure that the parole board complies with all prison population management mandates required by law, including implementing, when necessary, the prison population management measures set forth in section 17-1-119.7.

(3.5) Notwithstanding section 24-1-136 (11)(a)(I), the chairperson shall annually make a presentation to the judiciary committees of the house of representatives and the senate, or any successor committees, regarding the operations of the board.

(3.7) (a) Notwithstanding any other provision in this section, an inmate is not eligible for parole if the inmate:

(I) Has been convicted of a class 1 code of penal discipline violation within the twelve months preceding his or her next ordinarily scheduled parole hearing; or

(II) Has, within the twelve months preceding his or her next ordinarily scheduled parole hearing, declined in writing to participate in programs that have been recommended and made available to the inmate.

(b) An inmate who is described by subparagraph (I) or (II) of paragraph (a) of this subsection (3.7) may be eligible for parole when the applicable condition has not been in effect for the preceding twelve months.

(c) If two schedules with different parole application hearing dates apply to the same inmate, the board shall give effect to the schedule that includes the later parole application hearing date.

(d) The board shall provide victim notification in accordance with section 24-4.1-302.5, C.R.S., for all parole application hearings for which the inmate is eligible for parole, as such eligibility is determined pursuant to the provisions of this section.

(e) As used in this subsection (3.7), "eligible for parole" means an inmate is eligible to make application to the board for parole and includes an inmate's initial application as well as any subsequent application for parole review or reconsideration.

(4) The board has the following powers and duties:

(a) To meet as often as necessary every month to consider all applications for parole. The board may parole any person who is sentenced or committed to a correctional facility when such person has served his or her minimum sentence, less time allowed for good behavior, and there is a strong and reasonable probability that the person will not thereafter violate the law and that release of such person from institutional custody is compatible with the welfare of society. If the board refuses an application for parole, the board shall reconsider the granting of parole to such person within one year thereafter, or earlier if the board so chooses, and shall continue to reconsider the granting of parole each year thereafter until such person is granted parole or until such person is discharged pursuant to law; except that, if the person applying for parole was convicted of any class 3 sexual offense described in part 4 of article 3 of title 18, C.R.S., a habitual criminal offense as defined in section 18-1.3-801 (2.5), C.R.S., or of any offense subject to the requirements of section 18-1.3-904, C.R.S., the board need only reconsider granting parole to such person once every three years, until the board grants such person parole or until such person is discharged pursuant to law, or if the person applying for parole was convicted of a class 1 or class 2 felony that constitutes a crime of violence, as defined in section 18-1.3-406, C.R.S., the board need only reconsider granting parole to such person once every five years, until the board grants such person parole or until such person is discharged pursuant to law.

(b) To conduct hearings on parole revocations as required by section 17-2-103. Such hearings shall be exempt from the requirements set forth in section 24-4-105, C.R.S. Judicial review of any revocation of parole shall be held pursuant to section 18-1-410 (1)(h), C.R.S.

(c) To issue, pursuant to rules and regulations, an order of exigent circumstances to place an offender under parole supervision immediately upon release from a correctional facility when the board is prevented from complying with publication and interview requirements due to the application of time served prior to confinement in a correctional facility and the operation of good time credits;

(d) To carry out the duties prescribed in article 11.5 of title 16, C.R.S.;

(e) To carry out the duties prescribed in article 11.7 of title 16, C.R.S.;

(f) (I) To conduct an initial or subsequent parole release review in lieu of a hearing, without the presence of the inmate, if:

(A) The application for release is for special needs parole pursuant to section 17-22.5-403.5, and victim notification is not required pursuant to section 24-4.1-302.5;

(B) A detainer from the United States immigration and customs enforcement agency has been filed with the department, the inmate meets the criteria for the presumption of parole in section 17-22.5-404.7, and victim notification is not required pursuant to section 24-4.1-302.5;

(C) The inmate has a statutory discharge date or mandatory release date within six months after his or her next ordinarily scheduled parole hearing and victim notification is not required pursuant to section 24-4.1-302.5;

(D) The inmate is assessed to be a low or very low risk on the validated risk assessment instrument developed pursuant to section 17-22.5-404 (2), the inmate meets readiness criteria established by the board, and victim notification is not required pursuant to section 24-4.1-302.5; or

(E) The inmate is subject to subsection (19) of this section.

(II) The board shall notify the inmate's case manager if the board decides to conduct a parole release review without the presence of the inmate, and the case manager shall notify the inmate of the board's decision. The case manager may request that the board reconsider and conduct a hearing with the inmate present.

(4.5) The board may grant, deny, defer, suspend, revoke, or specify or modify the conditions of any parole for any defendant committed to the department of corrections in a manner that is in the best interests of the defendant and the public.

(5) (a) As to any person sentenced for conviction of a felony committed prior to July 1, 1979, or of a misdemeanor and as to any person sentenced for conviction of an offense involving unlawful sexual behavior or for which the factual basis involved an offense involving unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S., committed prior to July 1, 1996, or a class 1 felony and as to any person sentenced as a habitual criminal pursuant to section 18-1.3-801, C.R.S., for an offense committed prior to July 1, 2003, the board has the sole power to grant or refuse to grant parole and to fix the condition thereof and has full discretion to set the duration of the term of parole granted, but in no event shall the term of parole exceed the maximum sentence imposed upon the inmate by the court or five years, whichever is less; except that the five-year limitation shall not apply to parole granted pursuant to section 17-22.5-403.7 for a class 1 felony.

(a.3) (I) Any person sentenced as a habitual criminal pursuant to section 18-1.3-801 (1.5) or (2) for an offense committed on or after July 1, 2003, shall be subject to the mandatory parole set forth in section 18-1.3-401 (1)(a)(V)(A), 18-1.3-401 (1)(a)(V)(A.1), or 18-1.3-401.5 for the class or level of felony of which the person is convicted.

(II) As to any person sentenced as a habitual criminal pursuant to section 18-1.3-801 (1) or (2.5), C.R.S., for an offense committed on or after July 1, 2003, upon completion of forty calendar years of incarceration in the department of corrections, the parole board may schedule a

hearing to determine whether the inmate may be released on parole. If the inmate is released on parole, the life sentence shall continue and shall not be deemed to be discharged until such time as the parole board may discharge the offender. The offender shall serve at least five years on parole prior to discharge. If the parole board revokes the parole, the offender shall be returned to the department of corrections to serve the remainder of the life sentence. The parole board need only reconsider granting parole to such inmate once every three years.

(a.5) Except as otherwise provided in paragraph (a.7) of this subsection (5), as to any person sentenced for conviction of an offense involving unlawful sexual behavior or for which the factual basis involved an offense involving unlawful sexual behavior as defined in section 16-22-102 (9), C.R.S., committed on or after July 1, 1996, but prior to July 1, 2002, the board has the sole power to grant or refuse to grant parole and to fix the condition thereof and has full discretion to set the duration of the term of parole granted, but in no event shall the term of parole exceed the maximum sentence imposed upon the inmate by the court.

(a.6) As to any person who is sentenced for conviction of an offense committed on or after July 1, 2002, involving unlawful sexual behavior, as defined in section 16-22-102 (9), or for conviction of an offense committed on or after July 1, 2002, the underlying factual basis of which involved unlawful sexual behavior, and who is not subject to the provisions of part 10 of article 1.3 of title 18, such person shall be subject to the mandatory period of parole set forth in section 18-1.3-401 (1)(a)(V)(A) or 18-1.3-401 (1)(a)(V)(A.1).

(a.7) As to any person sentenced for conviction of a sex offense pursuant to the provisions of part 10 of article 1.3 of title 18, C.R.S., committed on or after November 1, 1998, the board shall grant parole or refuse to grant parole, fix the conditions thereof, and set the duration of the term of parole granted pursuant to the provisions of part 10 of article 1.3 of title 18, C.R.S.

(b) (I) Conditions imposed for parole may include, but are not limited to, placing the offender on home detention as defined in section 18-1.3-106 (1.1).

(II) The board shall not revoke parole for lack of payment of parole supervision fees.

(c) (I) As a condition of parole, the board shall order that the offender make restitution to the victim or victims of his or her conduct if such restitution has been ordered by the court pursuant to article 18.5 of title 16. The order must require the offender to make restitution within the period of time that the offender is on parole as specified by the board. In the event that the defendant does not make full restitution by the date specified by the board, the restitution may be collected as provided for in article 18.5 of title 16.

(II) Except if the offender is subject to subsection (19) of this section, if the offender fails to pay the restitution, he or she may be returned to the board and, upon proof of failure to pay, the board shall:

(A) (Deleted by amendment, L. 96, p. 1779, § 5, effective June 3, 1996.)

(B) Order that the offender continue on parole or extend the period of parole, either subject to the same condition or modified conditions of parole; or

(C) Revoke the parole and request the sheriff of the county in which the hearing is held to transport the parolee to a place of confinement designated by the executive director; or

(D) Revoke parole for a period not to exceed one hundred eighty days and request the sheriff of the county in which the hearing is held to transport the parolee to a community corrections program pursuant to section 18-1.3-301 (3), C.R.S., a place of confinement within the department of corrections, or any private facility that is under contract with the department of corrections; or

(E) Revoke parole for a period not to exceed ninety days and request the sheriff of the county in which the hearing is held to transport the parolee to the county jail of such county or to any private facility that is under contract with the department of corrections.

(III) (Deleted by amendment, L. 2000, p. 1043, § 4, effective September 1, 2000.)

(d) If, as a condition of parole pursuant to paragraph (b) of this subsection (5), a parolee will be required to attend a postsecondary educational institution as a part of his parole plan, the board, before granting parole, shall first notify the postsecondary educational institution and the prosecuting attorney of the parolee's plan and request their comments thereon. The notice shall include all relevant information pertaining to the person and the crime for which he was convicted. The postsecondary educational institution and the prosecuting attorney shall reply to the board in writing within ten days of receipt of the notification or within such other reasonable time in excess of ten days as specified by the board. The postsecondary educational institution's reply shall include a statement of whether or not it will accept the parolee as a student. Acceptance by a state postsecondary educational institution shall be pursuant to section 23-5-106, C.R.S.

(e) As a condition of parole of every person convicted of the class 2 felony of sexual assault in the first degree under section 18-3-402 (3), C.R.S., for an offense committed prior to November 1, 1998, the board shall require that the parolee participate in a program of mental health counseling or receive appropriate treatment to the extent that the board deems appropriate to effectuate the successful reintegration of the parolee into the community.

(f) (I) As a condition of every parole, the parolee shall sign a written agreement that contains the parole conditions deemed appropriate by the board. The conditions must include, but are not limited to, the following:

(A) That the parolee shall go directly to a place designated by the board upon his release from the institution to which he has been confined;

(B) That the parolee shall establish a residence of record and shall not change it without giving prior notification to his or her community parole officer and that the parolee shall not leave the state without the permission of his or her community parole officer;

(C) That the parolee shall obey all state and federal laws and municipal ordinances, conduct himself or herself as a law-abiding citizen, and obey and cooperate with his or her community parole officer;

(D) That the parolee shall permit residential visits by the community parole officer and allow the community parole officer to make searches of the parolee's person, residence, or vehicle;

(D.5) That the parolee shall report as directed by the community parole officer. Unless inconsistent with other conditions imposed by the division of adult parole in the department of corrections, the division of adult parole shall allow a parolee to meet with the community parole officer through a telephone call or audio-visual communication technology. Unless inconsistent with other conditions imposed by the division of adult parole, in directing the parolee to report to the community parole officer, the community parole officer shall schedule, in good faith, the meeting at mutually agreeable times with the parolee that do not conflict with the parolee's essential obligations, including work, education, job training, dependent care, medical appointments, and other parole requirements.

(E) That the parolee shall not own, possess, or have under his control or in his custody any firearm or other deadly weapon;

(F) Repealed.

(G) That the parolee shall seek and obtain employment or shall participate in a full-time educational or vocational program while on parole, unless such requirement is waived by his or her community parole officer;

(H) That the parolee shall not abuse alcoholic beverages or use illegal drugs while on parole;

(I) That the parolee shall abide by any other condition the board may determine to be necessary;

(J) That the parolee shall contact any delegate child support enforcement unit with whom the parolee may have a child support case to arrange and fulfill a payment plan to pay current child support, child support arrearages, or child support debt due under a court or administrative order.

(II) The parole agreement shall also contain a notification to the parolee that, should he violate any of the said conditions or should his behavior while on parole indicate the potentiality for criminality or violence, his parole may be subject to revocation.

(III) The provisions of this paragraph (f) shall apply to any person paroled on or after July 1, 1987, and to any person whose parole conditions are modified by the board on or after said date.

(g) (I) As a condition of parole, the board shall require any offender convicted of or who pled guilty or nolo contendere to an offense for which the factual basis involved a sexual offense as described in part 4 of article 3 of title 18, C.R.S., to submit to chemical testing of a biological substance sample from the offender to determine the genetic markers thereof and to chemical testing of his or her saliva to determine the secretor status thereof. Such testing shall occur prior to the offender's release from incarceration, and the results thereof shall be filed with and maintained by the Colorado bureau of investigation. The results of such tests shall be furnished to any law enforcement agency upon request.

(II) The provisions of this paragraph (g) shall apply to any person who is paroled on or after May 29, 1988, and to any person whose parole conditions are modified by the board on or after said date.

(III) Any costs of implementing this paragraph (g) shall be derived solely from appropriations made from moneys in the victims assistance and law enforcement fund created pursuant to section 24-33.5-506, C.R.S.

(h) Repealed.

(i) (Deleted by amendment, L. 2001, p. 955, § 3, effective July 1, 2001.)

(j) As a condition of parole, the board may order any person who is not otherwise subject to the provisions of article 22 of title 16, C.R.S., and is convicted of an offense, the underlying factual basis of which is determined by the department of corrections to involve unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S., to register as a sex offender for the period of the person's parole. Such registration shall be completed as provided in article 22 of title 16, C.R.S. Within five business days after completion of the period of parole and final discharge from the legal custody of the department of corrections, the department of corrections shall notify the Colorado bureau of investigation to remove the person's name from the Colorado sex offender registry.

(k) As a condition of every grant of parole, the board shall require the offender to execute a written prior waiver of extradition stating that the offender consents to extradition to this state and waives all formal procedures incidental to extradition proceedings in the event that the offender is arrested in another state upon an allegation that the defendant has violated the terms of his or her parole, and acknowledging that the offender shall not be admitted to bail in any other state pending extradition to this state.

(5.3) Notwithstanding any law to the contrary, the possession or use of natural medicine or natural medicine product, as authorized pursuant to section 18-18-434, article 170 of title 12, or article 50 of title 44, must not be considered an offense such that its possession or use constitutes a violation of conditions of parole.

(5.5) (a) As a condition of parole, the board may require every parolee at the parolee's own expense to submit to random chemical testing of a biological substance sample from the parolee to determine the presence of drugs or alcohol.

(b) For purposes of this subsection (5.5), "drug" means:

(I) Any "controlled substance" as defined in section 18-18-102 (5), C.R.S.; and

(II) Any "drug" as defined in section 27-80-203 (13), C.R.S., if chemical testing conducted pursuant to paragraph (a) of this subsection (5.5) reveals such drug is present at such a level as to be considered abusive pursuant to regulations established by the board in consultation with the department of human services.

(c) (I) If chemical testing is required as a condition of parole, the community parole officer is responsible for acquiring at random a biological substance sample from a parolee.

(II) At the time the community parole officer acquires a biological substance sample pursuant to subparagraph (I) of this paragraph (c), the community parole officer shall direct the parolee to pay the necessary fee for the testing of his or her biological substance sample directly to the private laboratory under contract with the department, the department of public safety, or a local governmental agency pursuant to subparagraph (IV) of this paragraph (c).

(III) The community parole officer shall submit the biological substance sample to a private laboratory under contract with the department, the department of public safety, or a local governmental agency pursuant to subparagraph (IV) of this paragraph (c) for testing. The contracting laboratory shall return the results of the tests to the community parole officer within five working days after receipt of the sample. The results of the test shall be made available by the community parole officer to the parolee or the parolee's attorney on request.

(IV) The department and the department of public safety and local governmental agencies for inmates paroled to community corrections facilities shall enter into one or more contracts with private laboratories for chemical testing under this subsection (5.5). Any private laboratory that contracts with the department, the department of public safety, or a local governmental agency shall use appropriate methods to ensure compliance with evidentiary rules and requirements. Any contract entered into pursuant to this subparagraph (IV) shall specify the fee to be charged the parolee for chemical biological substance sample testing.

(d) (I) If a chemical test administered pursuant to the requirements of this subsection (5.5) reflects the presence of drugs or alcohol, the parolee may be required to participate at his own expense in an appropriate drug or alcohol program, community correctional nonresidential program, mental health program, or other fee-based or non-fee-based treatment program approved by the parole board.

(II) (A) Any subsequent chemical testing reflecting the presence of alcohol may be grounds for arrest of the parolee and the initiation of revocation proceedings at the discretion of the community parole officer pursuant to section 17-2-103.

(B) A parolee may be arrested and a proceeding for revocation may be initiated pursuant to the provisions of section 17-2-103 if any subsequent chemical test reflects the presence of drugs pursuant to subparagraph (I) of paragraph (b) of this subsection (5.5).

(C) A parolee may be arrested and proceedings for revocation may be initiated pursuant to section 17-2-103 if any subsequent chemical test reveals the presence of drugs as defined in subparagraph (II) of paragraph (b) of this subsection (5.5) at a level considered to be abusive as established by the board pursuant to said section.

(e) Repealed.

(f) Section 16-3-309, C.R.S., pertaining to the admissibility of laboratory tests shall apply to the admissibility of chemical tests required by this subsection (5.5) in parole revocation hearings conducted pursuant to section 17-2-103.

(g) This subsection (5.5) shall not apply to any parolee to whom article 11.5 of title 16, C.R.S., applies.

(5.7) If, as a condition of parole, an offender is required to undergo counseling or treatment, unless the parole board determines that treatment at another facility or with another person is warranted, the treatment or counseling must be at a facility or with a person:

(a) Approved by the behavioral health administration in the department of human services if the treatment is for alcohol or drug abuse;

(b) Certified or approved by the sex offender management board, established in section 16-11.7-103, C.R.S., if the offender is a sex offender;

(c) Certified or approved by a domestic violence treatment board, established pursuant to part 8 of article 6 of title 18, C.R.S., if the offender was convicted of or the underlying factual basis of the offense included an act of domestic violence as defined in section 18-6-800.3, C.R.S.; or

(d) Licensed or certified by the division of adult parole in the department of corrections, the department of regulatory agencies, the behavioral health administration in the department of human services, the state board of nursing, or the Colorado medical board, whichever is appropriate for the required treatment or counseling.

(5.8) Notwithstanding the provisions of subsection (5.7) of this section, if, as a condition of parole, an offender who was convicted of or pled guilty to an offense involving unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S., is required to undergo counseling or treatment, such treatment or counseling shall be at a facility or with a person listed in subsection

(5.7) of this section and the parole board may not determine treatment at another facility or with another person is warranted.

(5.9) As a condition of parole of each person convicted of a felony DUI offense described in section 42-4-1301 (1)(a), (1)(b), or (2)(a), C.R.S., the board shall require the parolee to use an approved ignition interlock device for the entire period of the person's parole.

(6) The board has the authority at any time after the period of any parole is fixed to shorten the period thereof or to lengthen said period within the limits specified in subsection (5) of this section; except that the provisions of this subsection (6) shall not apply to any person sentenced as a sex offender pursuant to part 10 of article 1.3 of title 18, C.R.S.

(7) The board has exclusive power to conduct all proceedings involving an application for revocation of parole.

(8) The board has the power, in the performance of official duties, to issue warrants and subpoenas, to compel the attendance of witnesses and the production of books, papers, and other documents pertinent to the subject of its inquiry, and to administer oaths and take the testimony of persons under oath. The issuance of a warrant tolls the expiration of a parolee's parole.

(9) (a) (I) Except as otherwise provided in subparagraph (I) of paragraph (f) of subsection (4) of this section, whenever an inmate initially applies for parole, the board shall conduct an interview with the inmate. At such interview at least one member of the board shall be present. Any final action on an application shall not be required to be made in the presence of the inmate or parolee, and any such action shall require the concurrence of at least two members of the board. When the two members do not concur, a third member shall review the record and, if deemed necessary, interview the applicant and cast the deciding vote. Any subsequent application for parole shall be considered by the board in accordance with the provisions of paragraph (a) of subsection (4) of this section.

(II) The provisions of subparagraph (I) of this paragraph (a) shall also apply to all interviews of inmates who apply for parole pursuant to section 17-22.5-303, who were sentenced for an offense committed on or after July 1, 1979.

(b) When a recommendation has been made before the board for revocation or modification of a parole, the final disposition of such application shall be reduced to writing. The parolee shall be advised by the board of the final decision at the conclusion of the hearing or within a period not to exceed five working days following said hearing; however, a parolee may waive the five-day notice requirement. A copy of the final order of the board shall be delivered to the parolee within ten working days after the completion of the hearing.

(c) If the parolee decides to appeal the decision to revoke his parole, such appeal shall be filed within thirty days of such decision. The parolee shall remain in custody pending the appeal. Two members of the board, excluding the one who conducted the revocation proceeding, shall

review the record within fifteen working days after the filing of the appeal. They shall notify the parolee of their decision in writing within ten working days after such decision has been made.

(d) The district attorney or the attorney general may appeal the decision of a member of the board to two members of the board, excluding the member who conducted the parole revocation proceeding.

(10) The board shall interview all parole applicants at the institution or in the community in which the inmate is physically held or through teleconferencing as provided in subsection (3)(d)(II) of this section. The site location of an interview must not be changed within the thirty days preceding the interview date without the approval of the board. Any inmate of an adult correctional institution who has been transferred by executive order or by civil certification or ordered by a court of law to the Colorado mental health institute at Pueblo may be heard at the Colorado mental health institute at Pueblo upon an application for parole.

(11) Repealed.

(12) All votes of the board at any hearing or appeal held pursuant to this section shall be recorded by member and shall be a public record open to inspection and shall be subject to the provisions of part 3 of article 72 of title 24, C.R.S.

(13) (a) The board may appoint or contract with an attorney to represent a parolee at a parole revocation hearing only if:

(I) The parolee denies that he violated the condition or conditions of his parole, as set forth in the complaint;

(II) The parolee is incapable of speaking effectively for himself;

(III) The parolee establishes to the satisfaction of the board that he is indigent; and

(IV) The board, after reviewing the complaint, makes specific findings in writing that the issues to be resolved are complex and that the parolee requires the assistance of counsel.

(b) Repealed.

(14) The board shall consider the parole of a person whose parole is revoked either for a technical violation or based on a self-revocation at least once within one hundred eighty days after the revocation if the person's release date is more than nine months from the date of the person's revocation; except that a person whose parole is revoked based on a technical violation that involved the use of a weapon shall not be considered for parole for one year.

(15) Each correctional facility and private contract prison shall make available to the board hearing room space and video teleconferencing technology that are acceptable to the board for the purpose of conducting parole hearings within the administrative area of or another location within the facility acceptable to the board.

(16) The board shall submit to the department of corrections staff involved with making community corrections transition placement referrals the name and register number of each inmate the board is recommending for community corrections transition placement. The department of corrections staff involved with making community corrections transition placement referrals shall inform the board when the referral has been made or the reason why it was not submitted.

(17) If an offender completes a community corrections program, the board shall schedule a parole release hearing within sixty days after the offender's completion of the program. If the decision is to deny parole, a majority of the full board is required to deny parole pursuant to this subsection (17).

(18) (a) The parole board shall conduct a file review for each inmate who is listed on the notifications provided to the board pursuant to section 17-1-119.7 (2)(a)(II) or (2)(a)(III) within ten days after receiving the notification. The parole board must evaluate the inmate's institutional behavior, program progress, and appropriateness for release.

(b) If the parole board grants parole to an inmate on the notification list pursuant to section 17-1-119.7 (2)(a)(II), it may set the release date up to thirty days prior to the inmate's mandatory release date but not sooner than fifteen days after the file review. The department shall notify the inmate's parole sponsor to verify his or her willingness and ability to sponsor the inmate on the amended release date.

(c) If the parole board grants parole to an inmate on the notification list pursuant to section 17-1-119.7 (2)(a)(III), it may set the release date no sooner than fifteen days after the file review. The department shall notify the inmate's parole sponsor to verify his or her willingness and ability to sponsor the inmate on the amended release date.

(19) (a) Except as provided in subsection (19)(b) of this section, if a person has an approved parole plan, has been assessed to be low or very low risk on the validated risk assessment scale developed pursuant to section 17-22.5-404 (2), and the parole release guidelines recommend release, the parole board may deny parole only by a majority vote of the full parole board.

(b) An inmate is not eligible for release pursuant to subsection (19)(a) of this section if he or she has had a class I code of penal discipline violation within the previous twelve months from the date of consideration by the parole board or since incarceration, whichever is shorter; has been terminated for lack of progress or has declined in writing to participate in programs that have been recommended and made available to the inmate within the previous twelve months or since incarceration, whichever is shorter; has been regressed from community corrections or revoked from parole within the previous one hundred eighty days; is required to be considered by the full board for release; or has a pending felony charge, detainer, or an extraditable warrant.

(c) If the parole board denies parole to an inmate pursuant to subsection (19)(a) of this section, the board shall submit to the department the basis for the denial in writing.

(20) The parole board or an individual member of the parole board shall not deny parole solely because the inmate does not have a recommended parole plan. If the parole board considers an inmate appropriate for release except for the lack of a recommended parole plan, the parole board shall delay the release hearing decision or render a conditional release decision and request that the department submit a recommended parole plan or any other information requested by the parole board within thirty calendar days.

(21) (a) Notwithstanding any other provision of law to the contrary, the parole board shall conduct a parole hearing or the board may review the application and issue a decision without a hearing, pursuant to section 17-2-201 (4)(f), within ninety days after July 6, 2021, if a person currently incarcerated has a controlling sentence for a crime enumerated in subsection (21)(b) of this section.

(b) Eligible offenses are escape, as described in section 18-8-208, or attempt to escape, as described in section 18-8-208.1, in effect prior to March 6, 2020, if the underlying factual basis satisfies the elements of the crime of unauthorized absence or attempted unauthorized absence, as described in section 18-8-208.2 (2)(a) or (2)(b).

(c) An inmate is not eligible for expedited parole consideration under this subsection (21) if:

(I) The inmate is not currently at or past his or her parole eligibility date; or

(II) The inmate is ineligible for release to parole pursuant to subsection (3.7)(a) of this section.

(d) The department shall provide victim notification as required by section 24-4.1-303 (14)(d).

Source: L. 77: Entire title R&RE, p. 911, § 10, effective August 1. **L. 79:** (3)(a), (3)(b), (6), and (7) amended, (3)(c) repealed, pp. 688, 705, §§ 27, 88, effective July 1; (3)(f) added and (5)(a) amended, p. 666, §§ 11, 12, effective July 1. **L. 81:** (5)(b) amended and (5)(c) added, p. 942, § 2, effective July 1. **L. 84:** (5)(d) added, p. 497, § 2, effective April 5; (3)(g) added and (5)(c)(II)(B) amended, p. 511, §§ 2, 1, effective April 13; (5)(c)(II)(B) amended, p. 524, § 4, effective July 1. **L. 85:** (3) and (4) R&RE, p. 639, § 4, effective June 6; (1), (2), (7), (8), (9), and (11) amended, pp. 637, 638, §§ 2, 3, effective July 1; (5)(c)(I) and (5)(c)(III) amended, p. 628, § 2, effective July 1; (5)(e) added, p. 667, § 4, effective July 1; (12) added, p. 643, § 2, effective July 1. **L. 87:** (3)(c), (7), (8), and (9)(b) amended, p. 954, § 56, effective March 13; (1)(b) amended, p. 906, § 11, effective June 15; (1) and (9)(c) amended and (5)(f) and (13) added, pp. 651, 653, §§ 7, 8, effective July 1; (5.5) added, p. 660, § 1, effective July 1. **L. 88:** (5)(g) added, p. 701, § 1, effective May 29; (5)(b) amended, p. 709, § 5, effective July 1. **L. 90:** (1)(a) and (1)(b) amended and (1)(c) and (1)(d) added, p. 959, § 1, effective June 7. **L. 91:** (10) amended, p. 1142, § 5, effective May 18; (4)(d) and (5.5)(g) added, p. 442, §§ 6, 7, effective May 29. **L. 92:**

(1)(a) amended, p. 2172, § 22, effective June 2; (4)(e) added, p. 461, § 5, effective June 2; (5)(f)(I)(H) and (5)(f)(I)(I) amended and (5)(f)(I)(J) added, p. 211, § 14, effective August 1. **L. 94:** (1)(b), (3)(c), (4)(a), (7), (8), (9)(a)(I), and (9)(b) amended, pp. 2595, 2596, 2598, §§ 3, 4, 5, 8, effective June 3; (5.5)(b)(II) and (5.5)(c) amended, p. 2732, § 355, effective July 1. **L. 95:** (3)(c) and (9)(b) amended, p. 1272, § 5, effective June 5; (5.5)(c) amended, p. 465, § 9, effective July 1. **L. 96:** (5)(c) amended, p. 1779, § 5, effective June 3; (5)(a) amended and (5)(a.5) added, p. 1584, § 6, effective July 1. **L. 97:** (5)(c)(I) amended, p. 1566, § 14, effective July 1. **L. 98:** (13)(b) repealed, p. 727, § 9, effective May 18; (5)(a.7) added and (5)(e) and (6) amended, p. 1291, §§ 10, 11, effective November 1. **L. 99:** (5)(h) and (5)(i) added, p. 1168, § 2, effective July 1. **L. 2000:** (11) repealed, p. 842, § 28, effective May 24; (3)(d) added, p. 1056, § 1, effective May 26; (5.7) added, p. 236, § 7, effective July 1; (5)(c) amended, p. 1043, § 4, effective September 1; (3)(a) amended, p. 1496, § 3, effective July 1, 2001. **L. 2001:** (3)(c.5) added, p. 502, § 3, effective May 16; (5.8) added, p. 658, § 7, effective May 30; (5)(g), (5)(h), and (5)(i) amended, p. 955, § 3, effective July 1. **L. 2002:** (5)(a.5) amended and (5)(a.6) added, p. 125, § 2, effective March 26; (5.7)(a) amended, p. 666, § 11, effective May 28; (5)(g)(I) and (5.8) amended, p. 1017, § 22, effective June 1; (5)(a), (5)(a.5), (5)(a.6), and (5.8) amended and (5)(j) added, pp. 1185, 1192, 1181, §§ 19, 40, 5, effective July 1; (5)(g)(I) and (5)(h)(I) amended, p. 1152, § 8, effective July 1; (4)(a), (5)(a), (5)(a.6), (5)(a.7), (5)(b), (5)(c)(II)(D), and (6) amended, pp. 1500, 1566, §§ 159, 388, effective October 1. **L. 2003:** (5)(g)(I) amended, p. 1433, § 25, effective April 29 and (5)(a) amended and (5)(a.3) added, p. 1436, § 33, effective July 1; (4)(a) amended, p. 813, § 3, effective July 1; (14) added, p. 2676, § 3, effective July 1. **L. 2004:** (1)(a), (1)(b), and (1)(c) amended, p. 437, § 1, effective April 13; (10) amended and (15) added, p. 587, § 1, effective April 21. **L. 2006:** (5)(a) amended, p. 1054, § 7, effective May 25; (5)(k) added, p. 342, § 5, effective July 1; (5)(h)(IV) added by revision, pp. 1689, 1693, §§ 6, 17. **L. 2008:** IP(5.5)(a), (5.5)(c), and (5.5)(e) amended, p. 461, § 1, effective April 14; (5)(f)(I)(B), (5)(f)(I)(C), (5)(f)(I)(D), (5)(f)(I)(F), (5)(f)(I)(G), (5.5)(c)(I), (5.5)(c)(II), (5.5)(c)(III), and (5.5)(d)(II)(A) amended, p. 657, § 6, effective April 25; (5.5)(c)(II) amended, p. 1888, § 49, effective August 5. **L. 2010:** (5.7)(a) amended, (SB 10-175), ch. 188, p. 784, § 24, effective April 29; (3.5) added, (HB 10-1374), ch. 261, p. 1187, § 9, effective May 25; (5.7)(d) amended, (HB 10-1260), ch. 403, p. 1986, § 75, effective July 1; (9)(a)(I) amended, (HB 10-1422), ch. 419, p. 2073, § 30, effective August 11. **L. 2011:** (1)(a), (3)(c), and (3)(c.5) amended and (1)(e), (3)(e), (3)(f), (3)(g), (3)(h), (3)(h.1), and (4)(f) added, (SB 11-241), ch. 200, pp. 832, 833, 834, §§ 2, 3, 4, effective May 23; (3.5) amended, (HB 11-1064), ch. 234, p. 1010, § 2, effective May 27; (5.7)(d) amended, (HB 11-1303), ch. 264, p. 1156, § 29, effective August 10. **L. 2012:** (3)(h.1)(I) amended, (HB 12-1310), ch. 268, p. 1403, § 27, effective June 7; (5.5)(b) amended, (HB 12-1311), ch. 281, p. 1617, § 36, effective July 1. **L. 2013:** (3)(h.1)(I) amended, (SB 13-250), ch. 333, p. 1932, § 47, effective October 1. **L. 2014:** (5)(a.3)(I) amended, (SB 14-163), ch. 391, p. 1969, § 4, effective June 6. **L. 2015:** (4)(f)(I) and (9)(a)(I) amended and (3.7) added, (HB 15-1122), ch. 37, p. 88, § 2, effective March 20;(5.5)(e) amended, (SB 15-124), ch. 251, p. 918, § 4, effective May 29; (5.9) added, (HB 15-1043), ch. 262, p. 998, § 10, effective August 5. **L. 2016:**

(4)(f)(I)(B) amended, (SB 16-189), ch. 210, p. 759, § 27, effective June 6. **L. 2017:** IP(5.7), (5.7)(a), and (5.7)(d) amended, (SB 17-242), ch. 263, p. 1253, § 11, effective May 25; (3.5) amended, (SB 17-031), ch. 92, p. 281, § 7, effective August 9; (4)(f)(I) amended, (HB 17-1326), ch. 394, p. 2030, § 4, effective August 9; (5)(c)(I), (5)(f)(I)(B), (5)(f)(I)(D), (5.5)(a), and (5.5)(c)(I) amended and (5)(f)(I)(F) and (5.5)(e) repealed, (HB 17-1308), ch. 371, p. 1928, § 2, effective August 9. **L. 2018:** (5)(a.3)(I) and (5)(a.6) amended, (HB 18-1029), ch. 153, p. 1087, § 2, effective April 23; (4)(f)(I)(D) amended, (HB 18-1375), ch. 274, p. 1700, § 19, effective May 29; (18) added, (HB 18-1410), ch. 394, p. 2353, § 2, effective June 6; (16) and (17) added, (HB 18-1251), ch. 272, p. 1669, § 1, effective August 8. **L. 2019:** (1)(a) amended and (1)(c.2) added, (SB 19-165), ch. 242, p. 2373, § 1, effective May 20; (3)(h.1)(I), (4)(f)(I)(C), (4)(f)(I)(D), and IP(5)(c)(II) amended and (4)(f)(I)(E) and (19) added, (SB 19-143), ch. 286, p. 2658, § 3, effective May 28. **L. 2020:** (10) amended, (SB 20-136), ch. 70, p. 284, § 9, effective September 14. **L. 2021:** (20) and (21) added, (SB 21-146), ch. 459, pp. 3083, 3086, §§ 4, 11, effective July 6. **L. 2022:** (1)(a) and (1)(c.2) amended and (1)(b) and (1)(c) repealed, (SB 22-013), ch. 2, p. 23, § 27, effective February 25; (5.7)(a) and (5.7)(d) amended, (HB 22-1278), ch. 222, p. 1495, § 21, effective July 1; (1)(a) amended, (SB 22-162), ch. 469, p. 3422, § 203, effective August 10. **L. 2023:** (5.3) added, (SB 23-290), ch. 249, p. 1419, § 34, effective July 1. **L. 2024:** (5)(b), IP(5)(f)(I), and (5)(f)(I)(D) amended and (4.5) and (5)(f)(I)(D.5) added, (HB 24-1445), ch. 353, p. 2406, § 3, effective September 1. **L. 2025:** (1)(a) amended, (SB 25-275), ch. 377, p. 2045, § 73, effective August 6. **L. 2026:** (3)(i) added, (SB 26-036), ch. 261, p. 1448, § 5, effective June 1.

Editor's note: (1) This section is similar to former § 17-1-201 as it existed prior to 1977.

(2) Amendments to subsections (5)(a) and (5)(a.6) by House Bill 02-1046 and Senate Bill 02-010 were harmonized, effective October 1, 2002. Amendments to subsection (5)(a.5) by House Bill 02-1223 and Senate Bill 02-010 were harmonized. Amendments to subsection (5)(g)(I) by Senate Bill 02-159 and Senate Bill 02-019 were harmonized. Amendments to subsection (5.8) by Senate Bill 02-159 and Senate Bill 02-010 were harmonized.

(3) Subsection (5)(h)(IV) provided for the repeal of subsection (5)(h), effective July 1, 2007. (See L. 2006, pp. 1689, 1693.)

(4) Amendments to subsection (5.5)(c) by Senate Bill 08-171 and Senate Bill 08-172 were harmonized.

(5) Amendments to subsection (1)(a) by SB 22-013 and SB 22-162 were harmonized.

(6) Subsection (1)(c.2)(II) provided for the repeal of subsection (1)(c.2), effective December 31, 2022. (See L. 2022, p. 23.)

(7) Subsection (5.3) is similar to former § 12-170-109 (4) as it existed prior to 2023.

Cross references: (1) For the legislative declaration contained in the 1994 act amending subsections (5.5)(b)(II) and (5.5)(c), see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration contained in the 2002 act amending subsections (4)(a), (5)(a), (5)(a.6), (5)(a.7), (5)(b), (5)(c)(II)(D), and (6), see section 1 of chapter 318, Session Laws of Colorado 2002. For the legislative declaration contained in the 2006 act amending subsection (5)(a), see section 1 of chapter 228, Session Laws of Colorado 2006. For the legislative declaration in HB 15-1122, see section 1 of chapter 37, Session Laws of Colorado 2015. For the legislative declaration in SB 15-124, see section 1 of chapter 251, Session Laws of Colorado 2015. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017. For the legislative declaration in HB 17-1326, see section 1 of chapter 394, Session Laws of Colorado 2017. For the legislative declaration in HB 17-1308, see section 1 of chapter 371, Session Laws of Colorado 2017. For the legislative declaration in SB 20-136, see section 1 of chapter 70, Session Laws of Colorado 2020. For the legislative declaration in SB 26-036, see section 1 of chapter 261, Session Laws of Colorado 2026.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of Colorado 2022.

ANNOTATION

I. General Consideration.

II. Power to Grant Parole.

III. Power to Revoke Parole.

I. GENERAL CONSIDERATION.

Law reviews. For article, "One Year Review of Criminal Law and Procedure", see 39 Dicta 81 (1962). For article, "Adult Parole in Colorado: An Overview", see 44 Colo. Law. 37 (May 2015).

Annotator's note. Since § 17-2-201 is similar to § 17-1-201 as it existed prior to the 1977 repeal and reenactment of this title, relevant cases construing that provision have been included in the annotations to this section.

Section 16-13-101 does not violate the constitution. Even though a person sentenced to life imprisonment may be eligible for parole before a person sentenced for a term of not less than 25 years and not more than 50 years under § 16-13-101, it does not violate the equal protection clause because the statutory scheme gives the parole board discretionary power to grant parole on the basis of factors other than the length of a prisoner's sentence and this is reasonably related to a legitimate government interest. People v. Alexander, 797 P.2d 1250 (Colo. 1990).

While obtaining and analyzing the DNA or saliva of an inmate convicted of a sex offense is a search and seizure

implicating fourth amendment concerns, it is a reasonable search and seizure in light of an inmate's diminished privacy rights; the minimal intrusion of saliva and blood tests; and the legitimate government interest in the investigation and prosecution of unsolved and future criminal acts by the use of DNA in a manner not significantly different from the use of fingerprints. Boling v. Romer, 101 F.3d 1336 (10th Cir. 1996).

Since DNA samples are not testimonial in nature, requiring such samples from inmates does not amount to compulsory self-incrimination under the fifth amendment. Boling v. Romer, 101 F.3d 1336 (10th Cir. 1996).

Taking DNA samples only from inmates convicted of sex offenses does not deprive those inmates of the equal protection of the laws since a rational relationship exists between the government's decision to classify inmates as convicted sex offenders and the government's stated objective to investigate and prosecute unsolved and future sex crimes. Boling v. Romer, 101 F.3d 1336 (10th Cir. 1996).

The Colorado Sex Offender Registration Act registration requirements are valid conditions of parole under subsection (5)(j). The registration requirements are a reasonable step to deter criminal conduct by the offender and protect the public. There is a legitimate state interest of monitoring the reintroduction into society of sex offenders for purposes of public safety. Melnick v. Camper, 487 F. Supp. 3d 1039 (D. Colo. 2020).

Subsection (5)(g), by its plain language, applies only to those offenders who are convicted of a sexual offense after the date the statute took effect (May 29, 1988) and who subsequently are eligible for parole. Thus the statute was not retrospectively applied to defendant who was convicted July 28, 1988, as a sex offender. Jamison v. People, 988 P.2d 177 (Colo. App. 1999).

As applied to the defendant, the 1994 amendment to subsection (4)(a) that decreased the frequency of parole suitability hearings for certain classes of prisoners did not violate the ex post facto clause of the United States Constitution. Raymer v. Enright, 113 F.3d 172 (10th Cir. 1997).

The parole board, as a Colorado state agency, benefits from the immunity conferred by the eleventh amendment to the federal constitution. Hughes v. Colo. Dept. of Corr., 594 F. Supp. 2d 1226 (D. Colo. 2009).

The trial court correctly determined that the board of parole is exempt from the requirements of the APA. This section governs the responsibilities, authority, and discretion of the board. McCallum v. Colo. State Bd. of Parole, 23 P.3d 1226 (Colo. App. 2000).

Review of acts of parole board. Acts of the parole board being definitely of grace are not such a function as is reviewable by the courts by certiorari, habeas corpus or mandamus. Berry v. State Bd. of Parole, 148 Colo. 547, 367 P.2d 338 (1961).

A person denied parole can seek judicial review only as provided by C.R.C.P.

106(a)(2). In re Question Concerning State Judicial Review, 199 Colo. 463, 610 P.2d 1340 (1980).

It is only when the Colorado state board of parole has failed to exercise its statutory duties that the courts of Colorado have the power to review the board's actions. In re Question Concerning State Judicial Review, 199 Colo. 463, 610 P.2d 1340 (1980).

Absent specific criteria which mandate release. The Colorado statutory scheme does not create a constitutionally protected entitlement to parole. Thompson v. Riveland, 714 P.2d 1338 (Colo. App. 1986); Andretti v. Johnson, 779 P.2d 382 (Colo. 1989).

Persons sentenced as habitual criminals are subject to the discretionary parole period established in subsection (5)(a). People v. Denton, 91 P.3d 388 (Colo. App. 2003).

Subsection (5)(a) mandates that parole is discretionary for sexual offenders. Grenemyer v. Gunter, 770 F. Supp. 1432 (D. Colo. 1991).

There is no mandatory parole for persons convicted of an offense involving unlawful sexual behavior committed on or after July 1, 1996, but prior to November 1, 1998. Pursuant to subsection (5)(a.5), the parole board sets the length of parole that cannot exceed the sentence imposed. People v. Cooper, 8 P.3d 554 (Colo. App. 1999), aff'd, 27 P.3d 348 (Colo. 2001).

Rather, subsection (5)(a.5) requires discretionary parole for an offense involving unlawful sexual behavior, as defined in § 18-3-412.5 (1), and for an offense for which the factual basis involved an offense involving unlawful sexual behavior. Thus, an offense that is not an unlawful sexual behavior offense will still trigger the discretionary parole requirement as long as there is a factual basis that involves an offense involving unlawful sexual behavior. People v. Pahlavan, 83 P.3d 1138 (Colo. App. 2003).

The phrase "in no event shall the term of parole exceed the maximum sentence imposed upon the inmate by the court" means the period of parole granted by the board cannot be longer than the unserved portion of the sentence of incarceration. Martin v. People, 27 P.3d 846 (Colo. 2001).

The phrase "maximum sentence" refers only to the sentence of incarceration. Martin v. People, 27 P.3d 846 (Colo. 2001).

The provisions of subsection (5)(a) of this section and § 18-1-105 (1)(a)(V)(C) are in conflict. Subsection (5)(a) is a specific provision related to the parole of sex offenders while § 18-1-105 (1)(a)(V)(C) is the general sentencing statute for all felonies. As such, applying the statutory construction rule that the specific provision prevails over the general provision, subsection (5)(a) of this section shall be given effect for all sex offender parole for crimes committed before July 1, 1996. Martin v. People, 27 P.3d 846 (Colo. 2001); People v. Pauley, 42 P.3d 57 (Colo. App. 2001).

Subsection (5)(a.5) of this section is a specific provision related to the parole of

sex offenders while § 18-1-105 (1)(a)(V) is the general sentencing statute for all felonies. As such, applying the statutory construction rule that the specific provision prevails over the general provision, subsection (5)(a.5) of this section shall be given effect for all sex offender parole for crimes committed between July 1, 1996, and July 1, 1998. People v. Cooper, 27 P.3d 348 (Colo. 2001).

Sex offenders convicted of offenses occurring between July 1, 1993, and July 1, 1998, are subject to discretionary parole pursuant to subsection (5)(a), and not mandatory parole pursuant to § 18-1-105 (1)(a)(V)(C). People v. Koehler, 30 P.3d 694 (Colo. App. 2000).

Under subsections (5)(a) and (5)(a.5), a factual basis for unlawful sexual behavior must be established by statements made by the defendant, facts or fact-finding stipulated to by the defendant, or facts found by a jury. People v. Rockwell, 125 P.3d 410 (Colo. 2005).

Habitual offenders are subject to a period of discretionary parole rather than a period of statutory mandatory parole. The provisions of subsection (5)(a) of this section and § 17-2-213 irreconcilably conflict with the provisions of § 17-22.5-403 (7) and § 18-1-105 (1)(a)(V). Thus, the specific provision of subsection (5)(a) of this section and § 17-2-213 prevail over the general provisions of § 17-22.5-403 (7) and § 18-1-105 (1)(a)(V). People v. Falls, 58 P.3d 1140 (Colo. App. 2002).

The provisions of subsection (5)(a) of this section and § 17-22.5-403 (7) are in conflict. Subsection (5)(a) of this section is a specific provision related to the parole of sex offenders while § 17-22.5-403 (7) is the mandatory parole statute for all felonies. As such, applying the statutory construction rule that the specific provision prevails over the general provision, subsection (5)(a) of this section is an exception to § 17-22.5-403 (7), which creates a specialized schedule for sex offenders who committed crimes prior to July 1, 1996. Martin v. People, 27 P.3d 846 (Colo. 2001).

Subsection (5)(a.5) of this section is a specific provision related to the parole of sex offenders while § 17-22.5-403 (7) is the mandatory parole statute for all felonies. As such, applying the statutory construction rule that the specific provision prevails over the general provision, subsection (5)(a.5) of this section is an exception to § 17-22.5-403 (7), which creates a specialized schedule for sex offenders who committed crimes between July 1, 1996, and July 1, 1998. People v. Cooper, 27 P.3d 348 (Colo. 2001).

Where plaintiff does not dispute that parole in Colorado is discretionary, subsection (5)(g) does not implicate any liberty interest protected by due process by conditioning parole on an inmate's submission of DNA samples. Boling v. Romer, 101 F.3d 1336 (10th Cir. 1996).

Immunity of state officials from civil liability. Federal officials are immune from any form of civil liability arising out of the authorized performance of official judgment or discretionary functions. Allegations of malice, while sufficient to raise a cause of action in those few jurisdictions recognizing only a qualified privilege, do not defeat the

absolute liability recognized by the great weight of federal decisions. Advancing the effective administration of state government is a no less important policy goal than securing fearless federal decision-making. Belveal v. Bray, 253 F. Supp. 606 (D. Colo. 1966).

Subsection (5)(f)(I)(D) authorizes a warrantless search if it is conducted in furtherance of the purposes of parole, i.e., related to the rehabilitation and supervision of the parolee; and it is not arbitrary, capricious, or harassing. People v. McCullough, 6 P.3d 774 (Colo. 2000).

Although it becomes the duty of the parole board to provide, as a condition of parole, that offender make restitution to the victim or victim's immediate family, it is error for court to require that defendant pay restitution to the police of cost of extradition. The proper way to effectuate this result is for court to enter judgment in favor of state of Colorado for amount of costs of prosecution under § 16-1-501. People v. Lemons, 824 P.2d 56 (Colo. App. 1991).

Position as officer of state parole board not fundamental right. An officer of the state parole board has no property or vested interest in the public office and procedural protections of due process do not apply. Wilkerson v. State of Colo., 830 P.2d 1121 (Colo. App. 1992).

While the trial court is authorized to fix the amount of restitution owing by the defendant, the manner and time of payment of restitution is exclusively within the jurisdiction of the parole board. People v. Strock, 931 P.2d 538 (Colo. App. 1996).

Under subsection (5)(c)(I) the term "victim" includes insurers and other parties who have suffered a loss because of a contractual relationship with the immediate victim. People v. Rivera, 968 P.2d 1061 (Colo. App. 1997).

Searches by parole officers of a parolee's residence pursuant to the statutory waiver (subsection (5)(f)(I)(D)) require no more than reasonable suspicion, supported by specific and articulable facts that the parolee has committed a parole violation or crime. People v. Tafoya, 985 P.2d 26 (Colo. App. 1999).

Search of parolee's residence was a special-needs parole search because participating police officer acted under the direction of a parole officer. Special-needs exception to the warrant and probable-cause requirements applies when special needs, beyond the normal need for law enforcement, make the warrant and probable-cause requirement impracticable. A parole officer must authorize the search and would normally be present during the search, and the search must be related to the rehabilitation and supervision of the parolee. United States v. Warren, 566 F.3d 1211 (10th Cir. 2009).

Warrantless historical search of GPS data gathered from community inmate's ankle monitor by parole officer other than inmate's parole officer lawfully accessed and shared with federal task force. United

States v. Mathews, 250 F. Supp. 3d 806 (D. Colo. 2017).

Inmate's limited expectation of privacy under subsection (5)(f)(I)(D) that only his parole officer could access the data was outweighed by the state's strong interest in monitoring his behavior and preventing his recidivism. United States v. Mathews, 250 F. Supp. 3d 806 (D. Colo. 2017).

Although the department of corrections did not have the statutory authority to draw defendant's blood for a DNA test, suppression of the DNA evidence is not warranted. In contrast to a constitutional violation, a statutory violation does not ordinarily require suppression of relevant evidence. Generally, only willful and recurrent statutory violations require exclusion of evidence. In this case there was no evidence of willfulness or recurrence, so suppression is not required. People v. Shreck, 107 P.3d 1048 (Colo. App. 2004).

The plain language of subsection (5.5)(g) of this section and § 17-2-102 (8.5)(c) prohibits the application of either subsection (5.5) of this section or § 17-2-102 (8.5) to any parolee to whom the Substance Abuse Act, article 11.5 of title 16, applies. Whidden v. People, 78 P.3d 1092 (Colo. 2003).

Applied in Sorenson v. Zapien, 455 F. Supp. 1207 (D. Colo. 1978); Turman v. Buckallew, 784 P.2d 774 (Colo. 1989); People v. Apodaca, 998 P.2d 25 (Colo. App. 1999).

II. POWER TO GRANT PAROLE.

Parole is a mere matter of grace, favor, or privilege and is not a matter of right. Berry v. State Bd. of Parole, 148 Colo. 547, 367 P.2d 338 (1961); Ferchaw v. Tinsley, 234 F. Supp. 922 (D. Colo. 1964); Folks v. Patterson, 159 Colo. 403, 412 P.2d 214 (1966).

Parole is a privilege, and no prisoner is entitled to it as a matter of right. Silva v. People, 158 Colo. 326, 407 P.2d 38 (1965).

Parole is a privilege under Colorado law. Belveal v. Bray, 253 F. Supp. 606 (D. Colo. 1966).

It is exercise of discipline by state. Acts authorizing the parole of convicts are an exercise of the power of discipline possessed by the state, implemented through the general assembly. Silva v. People, 158 Colo. 326, 407 P.2d 38 (1965).

Imposition of mandatory term of parole not within court's jurisdiction, but is within the exclusive province of the parole board. People v. Howard, 886 P.2d 296 (Colo. App. 1994).

The parole board has absolute discretion in the granting or denial of parole. The determinations involved in granting parole depend exclusively on the judgment and discretion of the board. Wilkerson v. Patterson, 174 Colo. 264, 483 P.2d 365 (1971).

The ultimate decision as to the granting or denial of parole is entrusted to the state parole board. Ferchaw v. Tinsley, 234 F. Supp. 922 (D. Colo. 1964).

The decision of the Colorado state board of parole to grant or deny parole is clearly discretionary since parole is a privilege, and no prisoner is entitled to it as a matter of right. In re Question Concerning State Judicial Review, 199 Colo. 463, 610 P.2d 1340 (1980).

The decision to grant parole or absolute release to an inmate incarcerated for an indeterminate sentence under the Colorado Sex Offender Lifetime Supervision Act is vested within the sound discretion of the state parole board. The parole board's discretion is plenary and is not subject to judicial review. People v. Oglethorpe, 87 P.3d 129 (Colo. App. 2003).

The parole board must act within scope of delegated authority. The parole board is authorized to act only in specified ways. Absolute quasi-judicial immunity to acts not permitted by law does not serve the purpose of more efficient government. Officials who act without the scope of their delegated authority must, at the least, proceed at their own risk. Belveal v. Bray, 253 F. Supp. 606 (D. Colo. 1966).

Decision of the board to deny parole is not an abuse of discretion as long as there is sufficient evidence before the board to support its decision. Mulberry v. Neal, 96 F. Supp. 2d 1149 (D. Colo. 2000).

An inmate has a substantial interest in knowing the reason or reasons from the board for denial of parole. Johnson v. Heggie, 362 F. Supp. 851 (D. Colo. 1973).

And board must give written reasons. Notwithstanding any other policy to the contrary, the board must, by the very terms and conditions of its own rules and regulations, give written reasons for denial or deferral of parole to the inmate concerned. Johnson v. Heggie, 362 F. Supp. 851 (D. Colo. 1973).

The general assembly did not intend to provide a mandatory period of parole. Wilkerson v. Patterson, 174 Colo. 264, 483 P.2d 365 (1971).

Board must reconsider application yearly after denial. The parole board is explicitly not required to grant an application, but when it does not grant a parole, it must reconsider the application each succeeding year until the prisoner is discharged pursuant to law, that is, until he has fully served the maximum term of his sentence less time allowed for good behavior, if any. Wilkerson v. Patterson, 174 Colo. 264, 483 P.2d 365 (1971).

Habeas corpus in the federal district court is not available to secure relief from the decisions of the parole board as to the grant or denial of parole. Ferchaw v. Tinsley, 234 F. Supp. 922 (D. Colo. 1964).

Denial of parole raises no federal question of due process. The action of the parole board denying petitioner parole and requiring him to serve the maximum sentence originally imposed by the sentencing court raises no federal question of violation of due process or equal protection. Ferchaw v. Tinsley, 234 F. Supp. 922 (D. Colo. 1964).

Restitution as a condition of parole. Sentence which ordered defendant to pay restitution as a condition of parole after serving time in prison is consistent with the

applicable statutory scheme governing parole and restitution. People v. Martinez, 734 P.2d 650 (Colo. App. 1987).

The court's duty to fix the amount of restitution is not confined to sentences to probation but applies equally to sentences to imprisonment. People v. Johnson, 780 P.2d 504 (Colo. 1989).

A codefendant is jointly responsible for restitution when he is also a complicitor in the crime. People v. Fichtner, 869 P.2d 539 (Colo. 1994).

Codefendants were participants and complicitors in the same criminal acts, therefore, each is responsible for the damage he caused and also for the damage caused by the other. People v. Fichtner, 869 P.2d 539 (Colo. 1994).

Where the parole board fails to issue a warrant for the arrest of a parolee, and the period of parole expires, law enforcement agencies have no authority to arrest the parolee, and the good faith exception and the fellow officer rule do not apply. People v. Fields, 785 P.2d 611 (Colo. 1990).

Subsection (5)(a) plainly and unambiguously provides that all habitual criminals sentenced pursuant to § 16-13-101 are subject to discretionary parole, regardless of when their current offenses were committed. People v. Marquez, 983 P.2d 159 (Colo. App. 1999).

Under subsection (5)(a), parole for inmates convicted of sexual offenses under § 16-13-202 (5) was discretionary, not mandatory. Lustgarden v. Kautzky, 811 P.2d 1098 (Colo. 1991); Lustgarden v. Gunter, 779 F. Supp. 500 (D. Colo. 1991); Lustgarden v. Gunter, 966 F.2d 552 (10th Cir. 1992); Jackson v. Zavaras, 963 P.2d 1118 (Colo. App. 1998).

The provisions of § 16-13-216 (1) granting yearly parole consideration for persons sentenced to an indeterminate term pursuant to § 16-13-203 conflict with the provisions of subsection (4)(a) of this section, which allow the parole board to consider parole for sex offenders every three years. Since subsection (4)(a) is the later enacted statute, the provisions of subsection (4) prevail. A person sentenced to an indeterminate sentence pursuant to § 16-13-203 is entitled to parole consideration only every three years. White v. Van Pelt, 55 P.3d 823 (Colo. App. 2002).

Where defendant was convicted of both a sexual offense and attempted murder, and received equal and concurrent sentences for each crime, parole was discretionary pursuant to subsection (5)(a). Mahn v. Gunter, 978 F.2d 599 (10th Cir. 1992).

No equal protection violation where offender convicted of a nonsexual offense would receive mandatory parole, but an offender convicted of a comparable nonsexual offense in which there is an underlying factual basis of unlawful sexual behavior would receive discretionary parole under subsection (5)(a). Offenders are not similarly situated because different behavior triggers the different parole requirements. People v. Fritschler, 87 P.3d 186 (Colo. App. 2003).

Retroactive application of the parole board's reinterpretation of subsection (5)(a), where the reinterpretation of the ambiguous statutory language was foreseeable, did not result in a violation of the ex post facto clause or the due process requirements. Lustgarden v. Gunter, 779 F. Supp. 500 (D. Colo. 1991); Lustgarden v. Gunter, 966 F.2d 552 (10th Cir. 1992).

Because subsection (5)(a) leaves it to the parole board's discretion whether to grant parole before a sex offender completes his sentence, petitioner's unilateral belief that good-time credits would result in his early release did not give rise to a constitutionally protected interest. Lustgarden v. Gunter, 779 F. Supp. 500 (D. Colo. 1991); Lustgarden v. Gunter, 966 F.2d 552 (10th Cir. 1992).

Where defendant was convicted of sexually assaulting the victim over a period of four years that ended July 6, 1998, the elements of the crime were not complete, and the crime was not committed, until that date. Therefore, the provisions of subsection (5)(a.5) apply and, if the parole board releases the defendant to a period of discretionary parole when he has more than five years of his prison sentence remaining, the length of the parole period may be up to the full amount of the unserved portion of his sentence and shall not be subject to the five-year cap. People v. Myers, 45 P.3d 756 (Colo. App. 2001).

Consideration of application for parole is matter entrusted solely to the discretion of the parole board for parolee convicted of sexual offenses. White v. People, 866 P.2d 1371 (Colo. 1994).

Court may correct erroneous sentence of person convicted of unlawful sexual offense from one-year probation to the period set forth in subsection (5)(a). People v. Reynolds, 907 P.2d 670 (Colo. App. 1995).

Court may correct the mittimus where the trial court neglected to specify that its sentence included a mandatory period of parole. People v. Mayes, 981 P.2d 1106 (Colo. App. 1999).

Parole decision is subtle and dependent on an amalgam of elements some of which are factual and many of which are purely subjective appraisals by the parole board members based upon their experience. White v. People, 866 P.2d 1371 (Colo. 1994).

Although parole agreement is anticipated, it is not a condition to grant of parole but a condition to release on parole. Regulations do not suggest that grant of parole not effective until prisoner actually released from custody. Prisoner granted parole to a county detainer and serving consecutive sentence on another conviction made prima facie case for writ of habeas corpus relief when he alleged that parole had not been suspended or rescinded. Cardiel v. Brittian, 833 P.2d 748 (Colo. 1992) (decided prior to enactment of § 17-2-201 (5)(f)(I)).

III. POWER TO REVOKE PAROLE.

Law reviews. For article, "Due Process, Equal Protection and State Parole Revocation Proceedings", see 42 U. Colo. L. Rev. 197 (1970).

The decision to revoke is discretionary, and the degree to which personal factors dictate a positive disposition is not susceptible to legal analysis. Martinez v. Patterson, 429 F.2d 844 (10th Cir. 1970).

Rules of board provide adequate opportunity to be heard. The rules and regulations of the state board of parole providing that where the parolee has been returned to custody he shall be brought before the board for interview, that he shall be informed of the reason for the suspension and of grounds asserted for revocation, and shall be given an opportunity to be heard in regard thereto, satisfy the requirements of law in that they adequately provide for an inquiry by the board together with an opportunity for the parolee to be heard with respect to the alleged violations. Hutchison v. Patterson, 267 F. Supp. 433 (D. Colo. 1967).

Probation and parole revocation distinguished. Probation revocation proceedings involving deferred sentencing are quite distinct from parole revocation proceedings. The Colorado provisions on probation, § 16-11-201 et seq., do not provide probationers more in substance than what is accorded parolees. Martinez v. Patterson, 429 F.2d 844 (10th Cir. 1970).

Acts of parole board in revoking parole were not subject to review by the judiciary, be it through the medium of certiorari, habeas corpus, or mandamus. Folks v. Patterson, 159 Colo. 403, 412 P.2d 214 (1966).

Colorado affords no judicial review of the acts of the state board of parole in conducting revocation proceedings and therefore no state remedy is available to petitioner upon his claim that his present confinement is unlawfully premised on a parole revocation hearing at which he was denied due process. Green v. Patterson, 370 F.2d 560 (10th Cir. 1966).

Subsection (4)(b) explicitly provides for judicial review of parole revocation procedures. Crim. P. 35(c) does not bar as successive judicial review of parole revocation following appeal to the parole board. People v. Melnick, 2019 COA 28, 440 P.3d 1228.

An administrative appeal of a parole revocation decision to the state board of parole is not a prerequisite to judicial review of the lawfulness of the decision. People v. Abdul-Rahman, 2024 COA 118, 563 P.3d 682.

The legislature's use of the term "may" in § 17-2-103 (2)(b) when defining the parole statutes' administrative review process does not mandate an appeal to two members of the parole board because in subsection (4)(b) of this section the legislature explicitly exempted parole revocation hearings from the requirements of § 24-4-105. People v. Abdul-Rahman, 2024 COA 118, 563 P.3d 682.

Federal court found no prejudice where parolees did not deny violations. Appellants' allegations do not at any place deny that they violated the conditions of their respective paroles. Appellants easily could have made a record in this regard and in the absence of that the court cannot conclude that any appellant was prejudiced

in the proceedings before the parole board. In view of the nature of the decision to be made in parole revocation proceedings, the presumption of correctness accorded to the proceedings of parole boards, and limited review of such decisions for abuse of discretion, the court cannot conclude that the parole revocation proceedings accorded each appellant lacked inherent fairness. Martinez v. Patterson, 429 F.2d 844 (10th Cir. 1970).

Subsection (5.5)(d), when read together with § 17-2-102, prohibits parole revocation upon initial drug or alcohol testing even if the result is positive, but does allow revocation upon any subsequent positive test if the initial test was not positive. People v. Whidden, 56 P.3d 1201 (Colo. App. 2002), aff'd on other grounds, 78 P.3d 1092 (Colo. 2003).

17-2-201.5. Study of parole system. (Repealed)

Source: L. 97: Entire section added, p. 30, § 9, effective March 20. **L. 2000:** Entire section repealed, p. 842, § 29, effective May 24.

17-2-202. Request for transfer - penitentiary to reformatory. (Repealed)

Source: L. 77: Entire title R&RE, p. 914, § 10, effective August 1. **L. 85:** Entire section repealed, p. 641, § 11, effective July 1.

Editor's note: This section was similar to former § 17-1-202 as it existed prior to 1977.

17-2-202.5. Administrative hearing officers and release hearing officers - qualifications - duties.

(1) (a) To be eligible to serve as an administrative hearing officer or administrative law judge under contract with the board, an attorney shall have five years' experience in the practice of law and be knowledgeable of parole laws and guidelines, offender rehabilitation, correctional administration, the functioning of the criminal justice system, issues associated with victims of crime, the duties of parole board members, and actuarial risk assessment instruments and other offender assessment instruments used by the board and the department of corrections.

(b) An administrative hearing officer or administrative law judge under contract with the board is required to complete twelve hours annually of continuing education or training consistent with section 17-2-201 (1)(e).

(c) An administrative hearing officer or administrative law judge under contract with the board shall comply with the data and information collection on decision-making as required by section 17-22.5-404 (6) and shall transmit this information as directed by the chairperson or board policy.

(d) The sole remedy for failure to comply with training and data collection requirements shall be termination of the employee, and the failure to comply with training and data collection requirements shall not create any right for any offender.

(2) (a) A release hearing officer shall have three years of relevant experience and be knowledgeable of parole laws and guidelines, offender rehabilitation, correctional administration, the functioning of the criminal justice system, the issues associated with victims of crime, the duties of parole board members, and actuarial risk assessment instruments and other offender assessment instruments used by the board and the department of corrections.

(b) A release hearing officer under contract with the board is required to complete twelve hours annually of continuing education or training consistent with section 17-2-201 (1)(e).

(c) A release hearing officer shall comply with the data and information collection on decision-making required by section 17-22.5-404 (6) and shall transmit this information as directed by the chairperson or board policy.

(d) The sole remedy for failure to comply with training and data collection requirements shall be termination of the employee, and the failure to comply with training and data collection requirements shall not create any right for any offender.

Source: L. 2011: Entire section added, (SB 11-241), ch. 200, p. 835, § 5, effective May 23.

17-2-203. Request for transfer - reformatory to penitentiary. (Repealed)

Source: L. 77: Entire title R&RE, p. 914, § 10, effective August 1. **L. 79:** Entire section repealed, p. 705, § 88, effective July 1.

Editor's note: This section was similar to former § 17-1-203 as it existed prior to 1977.

17-2-204. Parole may issue - when.

(1) The board, pursuant to rules and regulations, may issue a parole or permit to go at large to any inmate who now is imprisoned in a correctional facility and who may have served the minimum term pronounced by the court or, in the absence of such minimum term pronounced by the court, the minimum term provided by law for the crime for which he was convicted.

(2) (a) Any inmate who does not wish to be considered for parole shall sign a waiver witnessed by an institutional supervisory employee no later than thirty days prior to the date of the scheduled parole hearing. Except as otherwise provided in this subsection (2), any waiver signed by an inmate in accordance with this subsection (2) shall become effective on the date of signing and shall remain in effect for six months after the date of the scheduled parole hearing. The inmate may not withdraw such waiver or submit an application for parole at any time during the six-month period.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (2), an inmate who waives parole consideration may, no later than thirty days prior to the date of the scheduled parole hearing, make a written request that the six-month waiver period be shortened to a lesser period of time. Such request shall specifically state grounds constituting sufficient and reasonable cause as to why the six-month waiver period should be shortened. Such request shall also specifically state the lesser period of time being requested by the inmate. The chairperson of the board, vice-chairperson of the board, or the designee of either, in his or her discretion, shall grant or deny the inmate's request for the shortened waiver period made under this paragraph (b).

(c) If the inmate's request for the shortened waiver period is made and granted in accordance with paragraph (b) of this subsection (2), the inmate may not, at any time prior to the date of the rescheduled parole hearing, make another such request. In the event such inmate is not prepared for or otherwise not ready to proceed at the rescheduled parole hearing, the inmate shall be deemed to have waived parole consideration for a period of six months following the date of such hearing.

Source: L. 77: Entire title R&RE, p. 914, § 10, effective August 1. **L. 79:** (1) amended, p. 688, § 28, effective July 1. **L. 85:** Entire section amended, p. 640, § 5, effective July 1. **L. 2002:** (2) amended, p. 38, § 1, effective March 21.

Editor's note: This section is similar to former § 17-1-204 as it existed prior to 1977.

ANNOTATION

Annotator's note. Since § 17-2-204 is similar to former § 17-1-204 as it existed prior to the 1977 repeal and reenactment of this title, relevant cases construing that provision have been included in the annotations to this section.

Parole is a matter of grace, favor, or privilege and a prisoner is not entitled thereto as a matter of right. Berry v. State Bd. of Parole, 148 Colo. 547, 367 P.2d 338 (1961).

Under parole procedures an indeterminate sentence usually results in an earlier release, and it cannot be said to be harsh or excessive so as to require the scrutiny of an appellate court. Nugent v. District Court, 184 Colo. 353, 520 P.2d 592 (1974).

17-2-205. Time of parole not considered when convict is reincarcerated. (Repealed)

Source: L. 77: Entire title R&RE, p. 915, § 10, effective August 1. **L. 79:** Entire section amended, p. 689, § 29, effective July 1. **L. 84:** Entire section repealed, p. 524, § 2, effective July 1.

Editor's note: This section was similar to former § 17-1-205 as it existed prior to 1977.

17-2-206. Parole not to be construed as discharge. (Repealed)

Source: L. 77: Entire title R&RE, p. 915, § 10, effective August 1. **L. 79:** Entire section amended, p. 689, § 30, effective July 1. **L. 81:** Entire section amended, p. 959, § 1, effective July 1. **L. 84:** Entire section repealed, p. 524, § 2, effective July 1.

Editor's note: This section was similar to former § 17-1-206 as it existed prior to 1977.

17-2-207. Parole - regulations.

(1) and (2) Repealed.

(3) Offenders on parole shall remain under legal custody and shall be subject at any time to be returned to a correctional facility.

(4) From and after the suspension, cancellation, or revocation of the parole of any prisoner and until his return to custody, he shall be deemed a parole violator and fugitive from justice, and no part of the time during which he was on parole shall be deemed a part of his term.

Source: L. 77: Entire title R&RE, p. 915, § 10, effective August 1. **L. 79:** (1) and (3) amended, p. 689, § 31, effective July 1; (2) amended, p. 1635, § 26, effective July 1. **L. 84:** (1) and (2) repealed, p. 524, § 2, effective July 1. **L. 85:** (3) amended, p. 640, § 6, effective July 1. **L. 2010:** (3) amended, (HB 10-1374), ch. 261, p. 1181, § 4, effective May 25.

Editor's note: This section is similar to former § 17-1-207 as it existed prior to 1977.

Cross references: For other provisions concerning parole regulations, see § 17-22.5-104.

ANNOTATION

Law reviews. For article, "Criminal Procedure in Colorado — A Summary and Recommendations for Improvement", see 22 Rocky Mt. L. Rev. 221 (1950).

Annotator's note. Since § 17-2-207 is similar to § 17-1-207 as it existed prior to the 1977 repeal and reenactment of this title, relevant cases construing that provision have been included in the annotations to this section.

A parolee is subject to restrictions which are not applicable to other citizens. People v. Salvador, 189 Colo. 181, 539 P.2d 1273 (1975).

And he is not free from legal restraint by the penal authorities, but is constructively a prisoner of the state in the legal custody and under the control of the state department of institutions. Schooley v. Wilson, 150 Colo. 483, 374 P.2d 353 (1962); People v. Lucero, 772 P.2d 58 (Colo. 1989).

One who is on parole is granted a special privilege to be outside the walls of the institution while serving his sentence as a matter of legislative grace. At the same time the parolee remains in constructive custody and is subject to be returned to the enclosure at any time. Hutchison v. Patterson, 267 F. Supp. 433 (D. Colo. 1967).

Release on parole in no way alters the fact that appellant is still under sentence; that he is in technical custody; and that he is under supervision. People v. Salvador, 189 Colo. 181, 539 P.2d 1273 (1975); People v. Hunter, 738 P.2d 20 (Colo. App. 1986), aff'd, 757 P.2d 631 (Colo. 1988).

Probable cause and duty to arrest. Where parole agent was aware of appellant's status as a parole violator and as a fugitive,

this knowledge constituted probable cause for appellant's arrest, which the parole officer had a duty to effect, with or without a warrant. People v. Bergstrom, 190 Colo. 105, 544 P.2d 396 (1975).

17-2-208. Effective date and application. (Repealed)

Source: L. 77: Entire title R&RE, p. 915, § 10, effective August 1. **L. 79:** Entire section amended, p. 689, § 32, effective July 1; entire section amended, p. 1635, § 27, effective July 19. **L. 84:** Entire section repealed, p. 524, § 2, effective July 1.

Editor's note: This section was similar to former § 17-1-208 as it existed prior to 1977.

17-2-209. Civil proceedings - inmate subject to parole.

When an inmate has met all of the requirements to be eligible for parole, but the board has reason to believe that the inmate may have a mental health disorder as defined in section 27-65-102, the board shall initiate civil proceedings pursuant to article 23 of this title 17 and articles 10.5, 65, 67, 92, 93, and 94 of title 27.

Source: L. 77: Entire title R&RE, p. 916, § 10, effective August 1. **L. 85:** Entire section amended, p. 641, § 7, effective July 1. **L. 2006:** Entire section amended, p. 1398, § 45, effective August 7. **L. 2010:** Entire section amended, (SB 10-175), ch. 188, page 784, § 25, effective April 29. **L. 2017:** Entire section amended, (SB 17-242), ch. 263, p. 1303, § 131, effective May 25.

Editor's note: This section is similar to former § 17-1-209 as it existed prior to 1977.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

17-2-210. Duties of board.

The board, acting through its chairperson or an assistant or a community parole officer, shall promptly commence civil proceedings pursuant to section 17-2-209 and shall notify the office of the attorney general, who shall then represent the board in the hearings.

Source: L. 77: Entire title R&RE, p. 916, § 10, effective August 1. **L. 85:** Entire section amended, p. 641, § 8, effective July 1. **L. 2008:** Entire section amended, p. 658, § 7, effective April 25.

Editor's note: This section is similar to former § 17-1-210 as it existed prior to 1977.

17-2-211. Jurisdiction of courts.

All civil actions under sections 17-2-209 to 17-2-212 shall be brought in the court of proper jurisdiction in the county of Pueblo, state of Colorado. Wherever and whenever possible, qualified witnesses in the field of mental health shall be obtained from the Colorado mental health institute at Pueblo.

Source: L. 77: Entire title R&RE, p. 916, § 10, effective August 1. **L. 91:** Entire section amended, p. 1143, § 6, effective May 18.

Editor's note: This section is similar to former § 17-1-211 as it existed prior to 1977.

17-2-212. Duty of warden.

If the board has previously considered an inmate for release and the inmate is still imprisoned and if the inmate's mental condition is questioned by a warden of a correctional facility, it is the duty of said warden to notify the chairperson of the board at least forty days prior to the discharge of the inmate, and the chairperson then shall proceed in the same manner outlined in sections 17-2-210 and 17-2-211.

Source: L. 77: Entire title R&RE, p. 916, § 10, effective August 1. **L. 79:** Entire section amended, p. 690, § 33, effective July 1. **L. 85:** Entire section amended, p. 641, § 9, effective July 1. **L. 2000:** Entire section amended, p. 842, § 30, effective May 24.

Editor's note: This section is similar to former § 17-1-212 as it existed prior to 1977.

17-2-213. Application of part.

Effective July 1, 1979, the provisions of this part 2 relating to the power of the state board of parole to grant parole and to establish the duration of the term of parole shall apply only to persons sentenced for conviction of a felony committed prior to July 1, 1979, persons sentenced for conviction of a misdemeanor, persons sentenced for conviction of a sex offense, as defined in section 18-1.3-903 (5), C.R.S., or a class 1 felony, and persons sentenced as habitual criminals pursuant to section 18-1.3-801, C.R.S. Parole for persons sentenced for conviction of a class 2, class 3, class 4, or class 5 felony committed on or after July 1, 1979, or a level 1, level 2, level 3, or level 4 drug felony committed on or after October 1, 2013, shall be as provided in sections 18-1.3-401 and 18-1.3-401.5, C.R.S., and article 22.5 of this title.

Source: L. 79: Entire section added, p. 667, § 13, effective July 1. **L. 2002:** Entire section amended, p. 1501, § 160, effective October 1. **L. 2013:** Entire section amended, (SB 13-250), ch. 333, p. 1932, § 48, effective October 1.

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of Colorado 2002.

ANNOTATION

Habitual offenders are subject to a period of discretionary parole rather than a period of statutory mandatory parole. The provisions of § 17-2-201 (5)(a) and this section irreconcilably conflict with the provisions of § 17-22.5-403 (7) and § 18-1-105 (1)(a)(V). Thus, the specific provision of § 17-2-201 (5)(a) and this section prevail over the general provisions of § 17-22.5-403 (7) and § 18-1-105 (1)(a)(V). People v. Falls, 58 P.3d 1140 (Colo. App. 2002).

17-2-214. Right to attend parole hearings.

(1) The victim of any crime or any person requested by the victim to appear on behalf of such victim or a relative of the victim, if the victim has died or is a minor or is incapacitated and unable to appear, has the right to attend any parole proceeding under this title relative to said crime and has the right to appear, personally or with counsel, at the proceeding and to reasonably

express his or her views concerning the crime, the offender, and whether or not the offender should be released on parole, and if so released under what conditions. The board, in deciding whether to release the offender on parole, and if so under what conditions, shall consider the testimony of such person.

(2) (a) In the case of any offenses described in section 24-4.1-302 (1) or section 16-22-102 (9), notice of any parole proceeding must be sent by the department of corrections, working in cooperation with the board, to any victim of the crime or relative of the victim, if the victim has died, at least sixty days before the hearing. Such notice must be sent to the last address in the possession of the department of corrections or the board, and the victim of the crime or relative of the victim, if the victim has died, has the duty to keep the department of corrections or the board informed of his or her most current address.

(b) In the case of any offenses other than offenses described in subsection (2)(a) of this section, notice of any parole proceeding must be sent by the department of corrections, working in cooperation with the board, upon request of the victim to the department of corrections or the board, to any victim of the crime or relative of a victim, if the victim has died, who makes such a request at least sixty days before the hearing. Such notice shall be sent to the last address in the possession of the department of corrections or the board, and the victim of the crime or relative of the victim, if the victim has died, has the duty to keep the department of corrections or the board informed of his or her most current address.

Source: L. 84: Entire section added, p. 499, § 2, effective July 1. **L. 85:** (1) amended, p. 643, § 3, effective July 1. **L. 94:** (2) amended, p. 2599, § 11, effective June 3. **L. 2019:** (2) amended, (HB 19-1064), ch. 296, p. 2750, § 3, effective May 28.

Cross references: For the right to attend sentencing proceedings, see § 16-11-601; for the right to attend dispositional, review, and restitution proceedings under the "Colorado Children's Code", see § 19-2-112.

17-2-215. Notification of parole proceeding.

In addition to the notice required by section 17-2-214 (2), the department of corrections shall establish a system of notification under which any person may make a written request to the department of corrections or the board for the notification of any parole proceeding concerning an offender, which notice shall be given by the department of corrections, working in cooperation with the board, at least thirty days before the hearing. Such notice shall be sent to the last-known address of the person making a written request for notification in the possession of the department of corrections or the board, and the person making such written request for

notification has the duty to keep the department of corrections or the board informed of his or her current address.

Source: L. 85: Entire section added, p. 644, § 4. **L. 94:** Entire section amended, p. 2599, § 12, effective June 3.

17-2-215.5. Notification requirements.

Using recommendations from victim advocates, the department shall ensure the information required by sections 17-2-214 and 17-2-215 is in plain and easy-to-understand language. To the extent practicable, any written or electronic notice must ensure that information about a parole proceeding, subsequent parole proceeding, or full board review is presented prominently and in a manner intended to increase the likelihood of the victim's attention to the notice.

Source: L. 2023: Entire section added, (SB 23-193), ch. 307, p. 1877, § 1, effective August 7.

17-2-216. Application of sections 17-2-214 and 17-2-215.

The provisions of sections 17-2-214 and 17-2-215 shall apply to any parole proceeding held on or after July 1, 1985, irrespective of when the offender was sentenced or incarcerated.

Source: L. 85: Entire section added, p. 644, § 4, effective July 1.

17-2-217. Release hearing officers - pilot program.

(1) The department and the board are hereby authorized to conduct a release hearing officers pilot program that utilizes the officers described in section 17-2-201 (3)(h.1).

(2) Repealed.

Source: L. 2001: Entire section added, p. 502, § 4, effective May 16. **L. 2008:** (2) repealed, p. 1888, § 50, effective August 5. **L. 2018:** (1) amended, (HB 18-1375), ch. 274, p. 1701, § 20, effective May 29.

17-2-218. Suspend early parole supervision discharge for victim notification - exception.

(1) If the board of parole decides to discharge parole supervision for a person who was convicted of any offenses described in section 16-22-102 (9) or 24-4.1-302 (1) prior to the person's mandatory parole supervision discharge date, the board shall set the person's date of parole supervision discharge at least fifteen days after notice is provided to the victim of the discharge. If the victim elected not to receive notifications otherwise required by law, the board shall set the date of discharge at least fifteen days after the decision to grant early discharge of parole supervision.

(2) Notwithstanding subsection (1) of this section, the board shall not set a person's discharge of parole supervision date later than the person's mandatory parole supervision discharge date.

Source: L. 2023: Entire section added, (SB 23-193), ch. 307, p. 1877, § 2, effective August 7.

PART 3

COOPERATIVE RETURN OF PAROLE AND PROBATION VIOLATORS

17-2-301. Short title.

This part 3 shall be known and may be cited as the "Cooperative Return of Parole and Probation Violators Act of 1957".

Source: L. 77: Entire title R&RE, p. 916, § 10, effective August 1.

17-2-302. Director - powers.

The executive director is authorized to deputize any person regularly employed by the state of Colorado, or any person regularly employed by another state, to act as an officer and agent of this state in effecting the return of any person who has violated the terms and conditions of parole or probation as granted by this state. In any matter relating to the return of such a person, any agent so deputized shall have all the powers of a police official of this state.

Source: L. 77: Entire title R&RE, p. 916, § 10, effective August 1. **L. 2000:** Entire section amended, p. 843, § 31, effective May 24.

17-2-303. Deputization.

Any deputization pursuant to section 17-2-302 shall be in writing, and any person authorized to act as an agent of this state pursuant to this part 3 shall carry formal evidence of his deputization and shall produce the same upon demand.

Source: L. 77: Entire title R&RE, p. 916, § 10, effective August 1.

17-2-304. Interstate agreements.

The executive director is authorized to enter into contracts with similar officials of any other state, subject to approval of the governor, for the purpose of sharing an equitable portion of the cost of effecting the return of any person who has violated the terms and conditions of parole or probation as granted by this state.

Source: L. 77: Entire title R&RE, p. 916, § 10, effective August 1. **L. 2000:** Entire section amended, p. 843, § 32, effective May 24.

PART 4

PREPAROLE FACILITIES AND PROGRAMS

17-2-401 to 17-2-405. (Repealed)

Source: L. 97: Entire part repealed, p. 31, § 10, effective March 20.

Editor's note: This part 4 was added in 1990. For amendments to this part 4 prior to its repeal in 1997, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

Care and Custody - Reimbursement

ARTICLE 10

Cost of Care Reimbursement

17-10-101. Legislative declaration.
17-10-102. Definitions.
17-10-103. Action for reimbursement of cost of care.
17-10-104. Action for reimbursement of cost of care - when commenced.
17-10-105. Jurisdiction - process.
17-10-106. Costs of the action - payment by offender.

17-10-101. Legislative declaration.

The general assembly hereby finds that persons who are convicted of offenses in the state which result in such persons being confined to a local jail or a correctional facility, being sentenced to home detention, being placed on probation by the sentencing court, or being placed on parole by the state board of parole should be required, where appropriate, to reimburse the state or a county or a city and county for the cost of care incurred as a result of such sentence. The general assembly further finds that a convicted person's financial circumstances may be fraudulently misrepresented to the sentencing court or that such circumstances may change after sentencing so that a person who is unable to pay the cost of care at sentencing may be or become able to contribute to the cost of care at a later date.

Source: L. 94: Entire article R&RE, p. 1359, § 4, effective July 1. **L. 95:** Entire section amended, p. 10, § 1, effective July 1.

17-10-102. Definitions.

As used in this article, unless the context otherwise requires:

(1) "Cost of care" means the cost to the department or a county or a city and county charged with the custody of an offender for providing room, board, clothing, medical care, and other normal living expenses for an offender confined to a local jail or a correctional facility, or any costs associated with maintaining an offender in a home detention program contracted for by the department of public safety, as determined by the executive director of the department of corrections or the executive director of the department of public safety, whichever is appropriate, or the cost of supervision of probation when the offender is granted probation, or the cost of

supervision of parole when the offender is placed on parole by the state board of parole, as determined by the court.

(2) "Estate" means any tangible or intangible properties, real or personal, belonging to or due to an offender, including income or payments to such person received or earned prior to or during incarceration from salary or wages, bonuses, annuities, pensions, or retirement benefits, or any source whatsoever except federal benefits of any kind. Real property that is held in joint ownership or ownership in common with an offender's spouse, while being used and occupied by the spouse as a place of residence, shall not be considered a part of the estate of the offender for the purposes of this article.

(3) "Offender" means a person confined to a correctional facility or a local jail as the result of a conviction of a crime or to home detention, a person placed on probation by the sentencing court, or a person placed on parole by the state board of parole.

Source: L. 94: Entire article R&RE, p. 1360, § 4, effective July 1. **L. 96:** (2) amended, p. 1844, § 16, effective July 1.

Editor's note: This section is similar to former § 17-10-102 as it existed prior to 1994.

17-10-103. Action for reimbursement of cost of care.

(1) When any person has been sentenced to confinement in a local jail or a correctional facility or to home detention or has been granted probation or has been placed on parole by the state board of parole and the sentencing court has not entered an order pursuant to section 18-1.3-701, C.R.S., requiring such person to pay the full cost of care incurred during such person's sentence, the state, the appropriate prosecuting attorney, the department of corrections, the judicial department, or any government agency which has incurred cost of care of such person may file an action for reimbursement for cost of care.

(2) In an action filed pursuant to this article, the plaintiff seeking reimbursement for cost of care shall demonstrate that the offender substantially misrepresented such offender's financial status to the sentencing court or that such offender's financial circumstances have changed substantially after sentencing.

(3) If, after a hearing, the court determines that the offender has sufficient assets to pay all or part of the cost of care, the court shall order the offender to make such payments toward the cost of care as are appropriate under the circumstances. In setting the amount of such payments, the court shall take into consideration and make allowances for any restitution ordered to the victim or victims of a crime, which shall take priority over any payments ordered pursuant to this

article, and for the maintenance and support of the offender's spouse, dependent children, or any other persons having a legal right to support and maintenance out of the offender's estate. If the offender is confined to a local jail or a correctional facility or is under home detention, the court shall also consider the financial needs of the offender for the six-month period immediately following the offender's release, for the purpose of allowing the offender to seek employment. The court shall determine the amount which shall be paid by the offender for cost of care, which amount shall in no event be in excess of the per capita cost of maintaining prisoners in the local jail or a correctional facility, the per capita cost of maintaining an offender under home detention, the per capita cost of supervising an offender on probation, or the per capita cost of supervising an offender placed on parole, as the case may be.

(4) After the set-offs for restitution and for maintenance and support as provided in subsection (3) of this section, any amounts recovered pursuant to this section that are available to reimburse the costs of providing medical care shall be used to reimburse the state for the state's financial participation for medical assistance if medical care is provided for the inmate or an infant of a female inmate under the "Colorado Medical Assistance Act", articles 4, 5, and 6 of title 25.5, C.R.S.

Source: L. 94: Entire article R&RE, p. 1360, § 4, effective July 1. **L. 95:** (4) added, p. 336, § 4, effective April 27; (2) amended, p. 10, § 2, effective July 1. **L. 2002:** (1) amended, p. 1501, § 161, effective October 1. **L. 2006:** (4) amended, p. 2004, § 58, effective July 1.

Editor's note: This section is similar to former § 17-10-104 as it existed prior to 1994.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (1), see section 1 of chapter 318, Session Laws of Colorado 2002.

17-10-104. Action for reimbursement of cost of care - when commenced.

(1) An action may be commenced pursuant to section 17-10-103 against any offender:

(a) At any time during the imprisonment of such offender;

(b) During the period of probation supervision of such offender; or

(c) Within two years after the offender's release from imprisonment or release from probation supervision.

(2) A plaintiff may recover the expenses incurred on behalf of an offender during the entire period the offender has been confined in a correctional facility or a local jail, under home detention, under probation supervision, or placed on parole.

Source: L. 94: Entire article R&RE, p. 1361, § 4, effective July 1.

Editor's note: (1) This section is similar to former § 17-10-105 as it existed prior to 1994.

(2) The provisions of this section were renumbered to conform to C.R.S. standard numbering format.

17-10-105. Jurisdiction - process.

(1) An action to recover cost of care brought pursuant to this article shall be brought in the district court of any county in which the offender has been confined, supervised on probation, or placed on parole.

(2) The practice and procedure in an action to recover cost of care shall be governed by the Colorado rules of civil procedure.

Source: L. 94: Entire article R&RE, p. 1361, § 4, effective July 1.

17-10-106. Costs of the action - payment by offender.

If the court determines that the offender has a sufficient estate to pay the cost of care, the court may also order that such offender pay the costs of any action filed pursuant to this article.

Source: L. 94: Entire article R&RE, p. 1361, § 4, effective July 1.

Editor's note: This section is similar to former § 17-10-106 as it existed prior to 1994.

CORRECTIONAL FACILITIES AND PROGRAMS

Facilities

ARTICLE 18

Correctional Facilities - Statutory Appropriations

17-18-101. Appropriation to comply with section 2-2-703 - HB 08-1115 - repeal. (Repealed)

Source: L. 2008: Entire article added, p. 1029, § 2, effective July 1.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2013. (See L. 2008, p. 1029.)

17-18-102. Appropriation to comply with section 2-2-703 - HB 08-1352 - repeal. (Repealed)

Source: L. 2008: Entire article added, p. 1035, § 2, effective August 5.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2013. (See L. 2008, p. 1035.)

17-18-103. Appropriation to comply with section 2-2-703 - SB 08-239 - repeal. (Repealed)

Source: L. 2008: Entire article added, p. 850, § 2, effective July 1.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2013. (See L. 2008, p. 850.)

17-18-104. Appropriation to comply with section 2-2-703 - HB 08-1194 - repeal. (Repealed)

Source: L. 2008: Entire article added, p. 838, § 9, effective September 1. **L. 2010:** (1)(b)(I) repealed, (HB 10-1389), ch. 206, p. 897, § 7, effective May 5.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2013. (See L. 2008, p. 838.)

17-18-105. Appropriation to comply with section 2-2-703 - HB 10-1081 - repeal. (Repealed)

Source: L. 2010: Entire section added, (HB 10-1081), ch. 256, p. 1141, § 7, effective August 11.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2015. (See L. 2010, p. 1141.)

17-18-106. Appropriation to comply with section 2-2-703 - HB 10-1277 - repeal. (Repealed)

Source: L. 2010: Entire section added, (HB 10-1277), ch. 262, p. 1191, § 4, effective July 1.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2013. (See L. 2010, p. 1191.)

17-18-107. Appropriation to comply with section 2-2-703 - SB 10-128 - repeal. (Repealed)

Source: L. 2010: Entire section added, (SB 10-128), ch. 415, p. 2048, § 10, effective July 1.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2015. (See L. 2010, p. 2048.)

17-18-108. Appropriation to comply with section 2-2-703 - HB 13-1154 - repeal. (Repealed)

Source: L. 2013: Entire section added, (HB 13-1154), ch. 372, p. 2193, § 8, effective July 1.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2018. (See L. 2013, p. 2193.)

17-18-109. Appropriation to comply with section 2-2-703 - HB 13-1318 - repeal. (Repealed)

Source: L. 2013: Entire section added, (HB 13-1318), ch. 330, p. 1875, § 3, effective December 10.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2016. (See L. 2013, p. 1875.)

17-18-110. Appropriation to comply with section 2-2-703 - HB 13-1325 - repeal. (Repealed)

Source: L. 2013: Entire section added, (HB 13-1325), ch. 331, p. 1888, § 21, effective May 28.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2016. (See L. 2013, p. 1888.)

17-18-111. Appropriation to comply with section 2-2-703 - SB 14-049 - repeal. (Repealed)

Source: L. 2014: Entire section added, (SB 14-049), ch. 271, p. 1090, § 2, effective July 1.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2019. (See L. 2014, p. 1090.)

17-18-112. Appropriation to comply with section 2-2-703 - SB 14-161 - repeal. (Repealed)

Source: L. 2014: Entire section added, (SB 14-161), ch. 160, p. 567, § 30, effective May 9.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2017. (See L. 2014, p. 567.)

17-18-113. Appropriation to comply with section 2-2-703 - SB 14-092 - repeal. (Repealed)

Source: L. 2014: Entire section added, (SB 14-092), ch. 190, p. 710, § 4, effective July 1.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2017. (See L. 2014, p. 710.)

17-18-114. Appropriation to comply with section 2-2-703 - HB 14-1037 - repeal. (Repealed)

Source: L. 2014: Entire section added, (HB 14-1037), ch. 358, p. 1683, § 6, effective August 6.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2019. (See L. 2014, p. 1683.)

17-18-115. Appropriation to comply with section 2-2-703 - HB 14-1214 - repeal. (Repealed)

Source: L. 2014: Entire section added, (HB 14-1214), ch. 336, p. 1500, § 14, effective August 6.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2019. (See L. 2014, p. 1500.)

17-18-116. Appropriation to comply with section 2-2-703 - SB 14-176 - repeal. (Repealed)

Source: L. 2014: Entire section added, (SB 14-176), ch. 392, p. 1983, § 3, effective August 6.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2019. (See L. 2014, p. 1983.)

17-18-117. Appropriation to comply with section 2-2-703 - HB 15-1229 - repeal. (Repealed)

Source: L. 2015: Entire section added, (HB 15-1229), ch. 239, p. 885, § 4, effective May 29.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2020. (See L. 2015, p. 885.)

17-18-118. Appropriation to comply with section 2-2-703 - HB 15-1305 - repeal. (Repealed)

Source: L. 2015: Entire section added, (HB 15-1305), ch. 242, p. 896, § 3, effective July 1.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2020. (See L. 2015, p. 896.)

17-18-119. Appropriation to comply with section 2-2-703 - HB 15-1341 - repeal. (Repealed)

Source: L. 2015: Entire section added, (HB 15-1341), ch. 274, p. 1116, § 2, effective August 5.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2020. (See L. 2015, p. 1116.)

17-18-120. Appropriation to comply with section 2-2-703 - HB 15-1043 - repeal. (Repealed)

Source: L. 2015: Entire section added, (HB 15-1043), ch. 262, p. 998, § 11, effective August 5.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2020. (See L. 2015, p. 998.)

17-18-121. Appropriation to comply with section 2-2-703 - SB 15-067 - repeal. (Repealed)

Source: L. 2015: Entire section added, (SB 15-067), ch. 337, p. 1368, § 5, effective September 1.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2020. (See L. 2015, p. 1368.)

17-18-122. Appropriation to comply with section 2-2-703 - SB 16-142 - repeal. (Repealed)

Source: L. 2016: Entire section added, (SB 16-142), ch. 173, p. 593, § 83, effective May 18.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2019. (See L. 2016, p. 593.)

17-18-123. Appropriation to comply with section 2-2-703 - HB 16-1080 - repeal. (Repealed)

Source: L. 2016: Entire section added, (HB 16-1080), ch. 327, p. 1328, § 4, effective July 1.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2021. (See L. 2016, p. 1328.)

17-18-124. Appropriation to comply with section 2-2-703 - HB 18-1200 - repeal. (Repealed)

Source: L. 2018: Entire section added, (HB 18-1200), ch. 379, p. 2294, § 8, effective August 8. **L. 2022:** (1)(d) repealed, (HB 22-1330), ch. 104, p. 485, § 2, effective April 15.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2023. (See L. 2018, p. 2294.)

17-18-125. Appropriation to comply with section 2-2-703 - SB 18-119 - repeal. (Repealed)

Source: L. 2018: Entire section added, (SB 18-119), ch. 299, p. 1822, § 2, effective August 8. **L. 2022:** (1)(e) repealed, (HB 22-1330), ch. 104, p. 485, § 2, effective April 15.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2023. (See L. 2018, p. 1822.)

17-18-126. Appropriation to comply with section 2-2-703 - HB 18-1077 - repeal. (Repealed)

Source: L. 2018: Entire section added, (HB 18-1077), ch. 376, p. 2281, § 3, effective June 6. **L. 2022:** (1)(c) repealed, (HB 22-1330), ch. 104, p. 485, § 2, effective April 15.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2023. (See L. 2018, p. 2281.)

17-18-127. Appropriation to comply with section 2-2-703 - SB 19-172 - repeal. (Repealed)

Source: L. 2019: Entire section added, (SB 19-172), ch. 365, p. 3360, § 4, effective July 1. **L. 2020:** (2) added, (HB 20-1402), ch. 216, p. 1047, § 28, effective June 30.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2022. (See L. 2020, p. 1047.)

17-18-128. Appropriation to comply with section 2-2-703 - HB 19-1250 - repeal. (Repealed)

Source: L. 2019: Entire section added, (HB 19-1250), ch. 287, p. 2664, § 6, effective July 1. **L. 2022:** (1)(d) and (1)(e) repealed, (HB 22-1330), ch. 104, p. 485, § 2, effective April 15.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2024. (See L. 2019, p. 2664.)

17-18-129. Appropriation to comply with section 2-2-703 - SB 21-064 - repeal. (Repealed)

Source: L. 2021: Entire section added, (SB 21-064), ch. 190, p. 1008, § 3, effective July 1. **L. 2022:** Entire section repealed, (HB 22-1330), ch. 104, p. 485, § 2, effective April 15.

17-18-130. Appropriation to comply with section 2-2-703 - SB 21-064 - repeal. (Repealed)

Source: L. 2021: Entire section added, (SB 21-064), ch. 190, p. 1008, § 4, effective July 1.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2026 (See L. 2021, p. 1008.)

ARTICLE 19

Correctional Facilities - Visitors and Employees

17-19-101. Visitors at correctional facilities.

17-19-102. Employees of correctional facilities.

17-19-101. Visitors at correctional facilities.

(1) Any person who wishes to enter a correctional facility shall be asked, prior to entering the facility, to sign a consent form in which the visitor shall give his consent to be stopped and searched by a person of the same sex and to have his vehicle, if any, searched without probable cause while in the correctional facility. Said form shall be as promulgated by the executive director with the advice of the attorney general. A person who refuses to sign said form shall not be admitted to a correctional facility.

(2) At each entrance to a correctional facility, the executive director shall cause to be displayed at all times in a prominent place a sign in English and in Spanish with a minimum height of two feet and a minimum width of three feet and with each letter to be a minimum of two inches in height, which shall read as follows:

NOTICE

ANY PERSON WHO WISHES TO ENTER THIS CORRECTIONAL FACILITY SHALL BE ASKED, PRIOR TO ENTERING THE FACILITY, TO SIGN A CONSENT FORM IN WHICH SAID PERSON SHALL GIVE HIS CONSENT TO BE STOPPED AND SEARCHED BY A PERSON OF THE SAME SEX AND TO HAVE HIS VEHICLE, IF ANY, SEARCHED WITHOUT PROBABLE CAUSE WHILE IN THE CORRECTIONAL FACILITY. ANY PERSON WHO REFUSES TO SIGN SAID FORM SHALL NOT BE ADMITTED TO THIS CORRECTIONAL FACILITY.

(3) "Correctional facility", as used in this section, means any facility under the supervision of the department in which persons are or may be lawfully held in custody as a result of conviction of a crime.

Source: L. 77: Entire title R&RE, p. 917, § 10, effective August 1.

Editor's note: This section is similar to former § 27-2-109 as it existed prior to 1977.

Cross references: For visitors at correctional facilities, see § 17-20-124.

ANNOTATION

Searches of prison visitors outside of the correctional facility on less than probable cause are unlawful. The clear language of this section, confining searches of prison visitors to the correctional facility, acknowledges the justification for allowing such searches on less than probable cause, which is the need to prevent the introduction of contraband and weapons into the prison rather than to detect evidence of a crime. People v. Lingo, 806 P.2d 949 (Colo. 1991).

Strip search exceeded the scope of the defendant's consent under this section where the defendant was arrested at the correctional facility, then removed from the facility to the sheriff's office where the strip search was conducted. People v. Lingo, 806 P.2d 949 (Colo. 1991).

As to searches of visitors as condition of entering penitentiary, see People v. Thompson, 185 Colo. 208, 523 P.2d 128 (1974) (decided under repealed § 27-20-124).

17-19-102. Employees of correctional facilities.

Any person who wishes to become or to continue as an employee, including but not limited to contract employees and volunteers, of a correctional facility, as defined in section 17-19-101 (3), shall sign, as a condition of his or her employment or of volunteering, a consent form in which the employee or volunteer shall give his or her consent to be stopped and searched without probable cause by a person of the same sex while engaged in the performance of his or her duties within or around the correctional facility. Said form shall be as promulgated by the executive director with the advice of the attorney general.

Source: L. 77: Entire title R&RE, p. 917, § 10, effective August 1. **L. 2000:** Entire section amended, p. 843, § 33, effective May 24.

Editor's note: This section is similar to former § 27-2-110 as it existed prior to 1977.

ARTICLE 20

Correctional Facilities

17-20-101. State institutions.

17-20-102. Administration of correctional facilities - wardens - reports.

17-20-103. Wardens and others - conservators of peace.

17-20-104. Reduced time for good conduct. (Repealed)

17-20-105. Trusty prisoners - allowance. (Repealed)

17-20-106. Forfeiture of good time. (Repealed)

17-20-107. Good time credit allowable. (Repealed)

17-20-108. Credits forfeited upon misbehavior. (Repealed)

17-20-109. Sections affect only certain prisoners. (Repealed)

17-20-110. Forfeiture for violation of rules. (Repealed)

17-20-111. One continuous sentence. (Repealed)

17-20-112. Wardens shall record infractions.

17-20-113. Behavior certificate - citizenship. (Repealed)

17-20-114. Federal prisoners - others. (Repealed)

17-20-114.5. Restriction of privileges in correctional facilities - restriction of privileges because of lawsuit filed without justification.

17-20-115. Rehabilitation and work programs for rehabilitation, reentry, and reintegration.

17-20-116. County or municipal roadwork. (Repealed)

17-20-117. Inmate rehabilitation and work.

17-20-118. Computation of time. (Repealed)

17-20-119. Discharge - clothes, money, transportation. (Repealed)

17-20-120. Convict to leave county. (Repealed)

17-20-121. Failure to observe conditions - penalty. (Repealed)

17-20-122. Justification of officer.

17-20-123. Insurrection - duty of citizens.

17-20-124. Visitors at correctional facilities.

17-20-125. Revolving fund. (Repealed)

17-20-126. Correctional facilities for women. (Repealed)

17-20-127. Canteen, vending machine, and library fund created - receipts - disbursements. (Repealed)

17-20-128. State authorized to receive Fort Lyon property - repeal. (Repealed)

17-20-129. Food donations to nonprofit organizations encouraged.

17-20-130. Visitation in correctional facilities - department policies - reporting -

legislative declaration - definitions.

17-20-101. State institutions.

All correctional facilities under the supervision of the executive director, wherever located, shall be maintained as state institutions.

Source: L. 77: Entire title R&RE, p. 917, § 10, effective August 1. **L. 79:** Entire section amended, p. 690, § 34, effective July 1. **L. 93:** Entire section amended, p. 49, § 1, effective July 1.

Editor's note: This section is similar to former § 27-20-101 as it existed prior to 1977.

ANNOTATION

The reformatory and penitentiary are creatures of the constitution, not of the general assembly, and legislative acts concerning them must be construed accordingly. Hessick v. Moynihan, 83 Colo. 43, 262 P. 907 (1927) (decided under repealed § 27-20-101).

17-20-102. Administration of correctional facilities - wardens - reports.

(1) The organization and administration of all correctional facilities under the supervision of the executive director shall be the responsibility of such executive director.

(2) (Deleted by amendment, L. 93, p. 49, § 2, effective July 1, 1993.)

(3) The wardens of correctional facilities shall report to such persons as the executive director designates at such times and on such matters as the executive director may require. Publications of all correctional facilities under the supervision of the executive director that are intended to be circulated in quantity outside such facilities are subject to the approval and control of the executive director or the executive director's designee.

Source: L. 77: Entire title R&RE, p. 917, § 10, effective August 1. **L. 79:** Entire section amended, p. 690, § 35, effective July 1. **L. 93:** Entire section amended, p. 49, § 2, effective July 1. **L. 94:** (3) amended, p. 603, § 5, effective July 1. **L. 2000:** (3) amended, p. 843, § 34, effective May 24.

Editor's note: This section is similar to former § 27-20-102 as it existed prior to 1977.

17-20-103. Wardens and others - conservators of peace.

The wardens of all correctional facilities under the supervision of the executive director and the staff of such correctional facilities shall be conservators of the peace. As such they shall have the power to arrest or cause to be arrested, with or without process, upon any grounds owned or leased by this state and used by such correctional facilities, any person who breaks the peace, has an outstanding arrest warrant, or is found upon said grounds violating any criminal law of this state and to turn such person over to local law enforcement for detainment and disposition. Local law enforcement authorities are obligated to respond at the facilities' request to carry out the provisions of this section.

Source: L. 77: Entire title R&RE, p. 918, § 10, effective August 1. **L. 79:** Entire section amended, p. 690, § 36, effective July 1. **L. 93:** Entire section amended, p. 50, § 3, effective July 1. **L. 94:** Entire section amended, p. 603, § 6, effective July 1. **L. 2000:** Entire section amended, p. 843, § 35, effective May 24.

Editor's note: This section is similar to former § 27-20-103 as it existed prior to 1977.

Cross references: For authority of a peace officer to make an arrest, see part 1 of article 3 of title 16; for use of physical force by an authorized official of a jail, prison, or correctional institution, see § 18-1-703 (1)(b).

ANNOTATION

Guard's authority does not include engaging in undercover activities. A penitentiary guard, accused of aiding an escape, whose theory of the case is that he was attempting to apprehend an escaped criminal by using undercover techniques, is not entitled to a jury instruction on the affirmative defense of execution of public duty when his authority to make an arrest is limited to penitentiary grounds and there is no evidence he had any authorization to engage in undercover activities. People v. Roberts, 43 Colo. App. 100, 601 P.2d 654 (1979).

Applied in People v. Scott, 41 Colo. App. 66, 583 P.2d 939 (1978).

17-20-104. Reduced time for good conduct. (Repealed)

Source: L. 77: Entire title R&RE, p. 918, § 10, effective August 1. **L. 79:** Entire section amended, p. 691, § 37, effective July 1. **L. 84:** Entire section repealed, p. 515, § 1, effective March 16; entire section repealed, p. 524, § 2, effective July 1.

Editor's note: This section was similar to former § 27-20-104 as it existed prior to 1977.

17-20-105. Trusty prisoners - allowance. (Repealed)

Source: L. 77: Entire title R&RE, p. 918, § 10, effective August 1. **L. 79:** Entire section amended, p. 691, § 38, effective July 1. **L. 84:** Entire section repealed, p. 515, § 1, effective March 16; entire section repealed, p. 524, § 2, effective July 1.

Editor's note: This section was similar to former § 27-20-105 as it existed prior to 1977.

17-20-106. Forfeiture of good time. (Repealed)

Source: L. 77: Entire title R&RE, p. 918, § 10, effective August 1. **L. 79:** Entire section amended, p. 691, § 39, effective July 1. **L. 84:** Entire section repealed, p. 515, § 1, effective March 16; entire section repealed, p. 524, § 2, effective July 1.

Editor's note: This section was similar to former § 27-20-106 as it existed prior to 1977.

17-20-107. Good time credit allowable. (Repealed)

Source: L. 77: Entire title R&RE, p. 919, § 10, effective August 1. **L. 79:** (1), (2), IP (3), and (4) amended, p. 692, § 40, effective July 1. **L. 84:** Entire section repealed, p. 524, § 2, effective July 1.

Editor's note: This section was similar to former § 27-20-107 as it existed prior to 1977.

17-20-108. Credits forfeited upon misbehavior. (Repealed)

Source: L. 77: Entire title R&RE, p. 920, § 10, effective August 1. **L. 84:** Entire section repealed, p. 524, § 2, effective July 1.

Editor's note: This section was similar to former § 27-20-108 as it existed prior to 1977.

17-20-109. Sections affect only certain prisoners. (Repealed)

Source: L. 77: Entire title R&RE, p. 920, § 10, effective August 1. **L. 79:** Entire section amended, p. 693, § 41, effective July 1. **L. 84:** Entire section repealed, p. 515, § 1, effective March 16; entire section repealed, p. 524, § 2, effective July 1.

Editor's note: This section was similar to former § 27-20-109 as it existed prior to 1977.

17-20-110. Forfeiture for violation of rules. (Repealed)

Source: L. 77: Entire title R&RE, p. 920, § 10, effective August 1. **L. 79:** Entire section amended, p. 693, § 42, effective July 1. **L. 84:** Entire section repealed, p. 515, § 1, effective March 16; entire section repealed, p. 524, § 2, effective July 1.

Editor's note: This section was similar to former § 27-20-110 as it existed prior to 1977.

17-20-111. One continuous sentence. (Repealed)

Source: L. 77: Entire title R&RE, p. 920, § 10, effective August 1. **L. 84:** Entire section repealed, p. 524, § 2, effective July 1.

Editor's note: This section was similar to former § 27-20-111 as it existed prior to 1977.

17-20-112. Wardens shall record infractions.

It is the duty of the wardens to keep a record of all infractions of the prison rules and regulations, as prescribed by the department.

Source: L. 77: Entire title R&RE, p. 920, § 10, effective August 1. **L. 79:** Entire section amended, p. 693, § 43, effective July 1. **L. 2000:** Entire section amended, p. 844, § 36, effective May 24.

Editor's note: This section is similar to former § 27-20-112 as it existed prior to 1977.

17-20-113. Behavior certificate - citizenship. (Repealed)

Source: L. 77: Entire title R&RE, p. 920, § 10, effective August 1. **L. 79:** Entire section amended, p. 693, § 44, effective July 1. **L. 93:** Entire section repealed, p. 50, § 4, effective July 1.

Editor's note: This section was similar to former § 27-20-113 as it existed prior to 1977.

17-20-114. Federal prisoners - others. (Repealed)

Source: L. 77: Entire title R&RE, p. 920, § 10, effective August 1. **L. 79:** Entire section amended, p. 693, § 45, effective July 1. **L. 93:** Entire section repealed, p. 50, § 5, effective July 1.

Editor's note: This section was similar to former § 27-20-114 as it existed prior to 1977.

17-20-114.5. Restriction of privileges in correctional facilities - restriction of privileges because of lawsuit filed without justification.

(1) Any person convicted of a crime and confined in any state correctional facility listed in section 17-1-104.3 is not entitled to any privileges that may be made available by the department. If any such person is required by the department to perform any available labor, participate in any available educational program or work program, undergo any available counseling, or any one or a combination of the foregoing and such person does not perform the labor, participate in the program, undergo the counseling, or do any one or a combination of the foregoing as required by the department, the department shall deny specified privileges to such person. The privileges that the department shall deny to such person include, but are not limited to, television, radios, entertainment systems, and access to snacks. If the department denies television privileges, it may allow a person to watch television for educational purposes, including public television broadcasts transmitted to or available to the facility. A person who is physically unable to perform labor, participate in an educational program or work program, or undergo counseling may be allowed the privileges specified in this subsection (1). Nothing in this subsection (1) shall be construed to grant as a right any such labor, program, or counseling or any privileges listed in this subsection (1).

(2) (a) If any person is convicted of a crime and confined in any state correctional facility listed in section 17-1-104.3 or in any facility that houses adult offenders and such person files a lawsuit against the state of Colorado or against any state government official, officer, employee, or agent, the department or its agent having custody of the person shall deny specified privileges to such person if, upon the motion of any party or the court itself, a state or federal court finds that the action, or any part thereof, lacked substantial justification, was baseless, or was malicious or that the action, or any part thereof, was interposed for harassment. As used in this subsection (2), "lacked substantial justification" has the same meaning as that provided for such term in section 13-17-102 (4), C.R.S.

(b) The privileges denied to a person pursuant to the provisions of this subsection (2) include, but are not limited to, the privileges described in subsection (1) of this section. The department or its agent having custody of the person shall deny the privileges to the person for a period not to exceed one hundred twenty days for any such lawsuit.

(c) The department or its agent having custody of the person may not deny privileges to a person pursuant to the provisions of this subsection (2) if the court determines the lawsuit was asserted by the person in a good faith attempt to establish a new theory of law in Colorado.

(d) The department or its agent having custody of the person may determine not to deny privileges to a person pursuant to the provisions of this subsection (2) if, after filing the lawsuit, a voluntary dismissal of the action is filed within a reasonable time after the person filing the dismissal knew, or reasonably should have known, that he or she would not prevail in the action.

Source: L. 94: Entire section added, p. 1407, § 1, effective July 1. **L. 95:** Entire section amended, p. 300, § 1, effective July 1. **L. 2000:** (1) amended, p. 844, § 37, effective May 24.

17-20-115. Rehabilitation and work programs for rehabilitation, reentry, and reintegration.

All persons convicted of any crime and confined in any state correctional facilities under the laws of this state, except such as are precluded by the terms of the judgment of conviction, shall participate in a rehabilitation and work program that promotes the person's successful rehabilitation, reentry, and reintegration into the community, under such rules and regulations as may be prescribed by the department.

Source: L. 77: Entire title R&RE, p. 921, § 10, effective August 1. **L. 79:** Entire section amended, p. 694, § 46, effective July 1. **L. 93:** Entire section amended, p. 50, § 6, effective July 1. **L. 2022:** Entire section amended, (SB 22-050), ch. 51, p. 240, § 2, effective March 30.

Editor's note: This section is similar to former § 27-20-115 as it existed prior to 1977.

ANNOTATION

Applied in Ramos v. Lamm, 485 F. Supp. 122 (D. Colo. 1979).

17-20-116. County or municipal roadwork. (Repealed)

Source: L. 77: Entire title R&RE, p. 921, § 10, effective August 1. **L. 79:** Entire section amended, p. 694, § 47, effective July 1. **L. 93:** Entire section amended, p. 51, § 7, effective July 1. **L. 94:** Entire section amended, p. 603, § 7, effective July 1. **L. 95:** Entire section repealed, p. 875, § 8, effective May 24.

Editor's note: This section was similar to former § 27-20-116 as it existed prior to 1977.

17-20-117. Inmate rehabilitation and work.

Every inmate shall participate in the work most suitable to the inmate's capacity and that promotes the inmate's successful rehabilitation, reentry, and reintegration into the community. Inmates who work in the department are not entitled to any right, benefit, or privilege applicable to employees of the state of Colorado.

Source: L. 77: Entire title R&RE, p. 921, § 10, effective August 1. **L. 79:** Entire section amended, p. 694, § 48, effective July 1. **L. 93:** Entire section amended, p. 51, § 8, effective July 1. **L. 2000:** Entire section amended, p. 844, § 38, effective May 24. **L. 2022:** Entire section amended, (SB 22-050), ch. 51, p. 240, § 3, effective March 30.

Editor's note: This section is similar to former § 27-20-117 as it existed prior to 1977.

Cross references: For correctional industries, see article 24 of this title 17.

ANNOTATION

Law reviews. For comment on State v. Estate of Burnell, 165 Colo. 205, 439 P.2d 38 (1969), see 45 Den. L. J. 788 (1968).

Annotator's note. Since § 17-20-117 is similar to repealed § 27-20-117, relevant cases construing that provision have been included in the annotations to this section.

The costs of maintaining and caring for those in the various institutions of the state, be they penal or medical, are recoverable. Only the manner of recovering the costs differ; able-bodied convicts are put to work, and the estates of the mentally deficient or criminally insane in public institutions are charged with costs of care. State v. Estate of Burnell, 165 Colo. 205, 439 P.2d 38 (1968).

This legislative classification is reasonable. In making the distinction

between the method of recovering the costs of confining and maintaining convicted criminals and of caring for and treating the criminally insane, the legislative difference in class is not unreasonable. The general assembly has given recognition to the fact that the criminally insane persons are ill and that many usually cannot be put to profitable work. State v. Estate of Burnell, 165 Colo. 205, 439 P.2d 38 (1968).

Thus, prisoners are required to perform labor and services for which they are paid after deducting an amount sufficient to pay the cost of maintenance of the convicts. In re Estate of Buzzelle v. Colo. State Hosp., 176 Colo. 554, 491 P.2d 1369 (1971).

Statute excludes inmates from workmen's compensation coverage. Orr v. Indus. Comm'n, 691 P.2d 1145 (Colo. App. 1984) (decided prior to enactment of § 8-52-104.5), aff'd on other grounds, 716 P.2d 1106 (Colo. 1986).

Applied in Ramos v. Lamm, 485 F. Supp. 122 (D. Colo. 1979).

17-20-118. Computation of time. (Repealed)

Source: L. 77: Entire title R&RE, p. 921, § 10, effective August 1. **L. 79:** Entire section amended, p. 694, § 49, effective July 1. **L. 84:** Entire section repealed, p. 524, § 2, effective July 1.

Editor's note: This section was similar to former § 27-20-118 as it existed prior to 1977.

17-20-119. Discharge - clothes, money, transportation. (Repealed)

Source: L. 77: Entire title R&RE, p. 921, § 10, effective August 1. **L. 79:** Entire section amended, p. 695, § 50, effective July 1. **L. 84:** Entire section repealed, p. 524, § 2, effective July 1.

Editor's note: This section was similar to former § 27-20-119 as it existed prior to 1977.

17-20-120. Convict to leave county. (Repealed)

Source: L. 77: Entire title R&RE, p. 922, § 10, effective August 1. **L. 79:** Entire section amended, p. 695, § 51, effective July 1. **L. 84:** Entire section repealed, p. 524, § 2, effective July 1.

Editor's note: This section was similar to former § 27-20-120 as it existed prior to 1977.

17-20-121. Failure to observe conditions - penalty. (Repealed)

Source: L. 77: Entire title R&RE, p. 922, § 10, effective August 1. **L. 79:** Entire section amended, p. 696, § 52, effective July 1. **L. 84:** Entire section repealed, p. 524, § 2, effective July 1.

Editor's note: This section was similar to former § 27-20-121 as it existed prior to 1977.

17-20-122. Justification of officer.

If an inmate sentenced to any state correctional facility resists the authority of any officer or refuses to obey any officer's lawful commands, it is the duty of such officer immediately to enforce obedience by the use of such weapons or other aid as may be effectual. If in so doing any inmate thus resisting is wounded or killed by such officer or such officer's assistants, such use of force is justified and any officer using such force shall be held guiltless; but such officer shall not be excused for using greater force than the emergency of the case demands.

Source: L. 77: Entire title R&RE, p. 922, § 10, effective August 1. **L. 79:** Entire section amended, p. 696, § 53, effective July 1. **L. 93:** Entire section amended, p. 51, § 9, effective July 1.

Editor's note: This section is similar to former § 27-20-122 as it existed prior to 1977.

Cross references: For the use of physical force by an authorized official of a jail, prison, or correctional institution, see § 18-1-703 (1)(b); for use of force in preventing escape from a detention facility, see § 18-1-707 (8).

17-20-123. Insurrection - duty of citizens.

It is the duty of all the officers and other citizens of the state, by every means in their power, to suppress any insurrection among the inmates sentenced to any correctional facilities under the supervision of the executive director and to prevent the escape or rescue of any such inmate therefrom, or from any other legal confinement, or from any person in whose legal custody such inmate may be. If, in so doing or in arresting any inmate who may have escaped, such officer or other person wounds or kills such inmate or other person aiding or assisting such inmate, such officer or other person shall be justified and held guiltless; but such officer or other person shall not be excused for using greater force than the emergency of the case demands.

Source: L. 77: Entire title R&RE, p. 922, § 10, effective August 1. **L. 79:** Entire section amended, p. 696, § 54, effective July 1. **L. 93:** Entire section amended, p. 51, § 10, effective July 1.

Editor's note: This section is similar to former § 27-20-123 as it existed prior to 1977.

Cross references: For authority of a peace officer to enlist the services of a private citizen and the liability of said person in performing such service, see § 16-3-202; for authority of sheriffs to command aid, see § 30-10-516.

17-20-124. Visitors at correctional facilities.

The following persons are authorized to visit any correctional facilities under the supervision of the executive director at pleasure: The governor and the judges of the supreme court, court of appeals, and district courts. No other persons shall be permitted to go within a correctional facility where inmates are confined, except as otherwise provided under prison rules or by special permission of the warden.

Source: L. 77: Entire title R&RE, p. 922, § 10, effective August 1. **L. 79:** Entire section amended, p. 696, § 55, effective July 1. **L. 93:** Entire section amended, p. 52, § 11, effective July 1. **L. 94:** Entire section amended, p. 604, § 8, effective July 1. **L. 2000:** Entire section amended, p. 844, § 39, effective May 24.

Editor's note: This section is similar to former § 27-20-124 as it existed prior to 1977.

Cross references: For visitors at correctional facilities, see § 17-19-101.

ANNOTATION

For searches of visitors as condition for entering penitentiary, see People v. Thompson, 185 Colo. 208, 523 P.2d 128 (1974) (decided under repealed § 27-20-124).

17-20-125. Revolving fund. (Repealed)

Source: L. 77: Entire title R&RE, p. 923, § 10, effective August 1. **L. 79:** Entire section amended, p. 696, § 56, effective July 1. **L. 93:** Entire section repealed, p. 52, § 12, effective July 1.

Editor's note: This section was similar to former § 27-20-125 as it existed prior to 1977.

17-20-126. Correctional facilities for women. (Repealed)

Source: L. 93: Entire section added, p. 52, § 13, effective July 1. **L. 2000:** Entire section repealed, p. 845, § 40, effective May 24.

17-20-127. Canteen, vending machine, and library fund created - receipts - disbursements. (Repealed)

Source: L. 93: Entire section added, p. 52, § 13, effective July 1. **L. 2000:** Entire section amended, p. 845, § 41, effective May 24. **L. 2002:** Entire section repealed, p. 57, § 4, effective July 1.

Cross references: For current provisions concerning the canteen, vending machine, and library account, see § 17-24-126.

17-20-128. State authorized to receive Fort Lyon property - repeal. (Repealed)

Source: L. 2001: Entire section added, p. 497, § 2, effective May 3. **L. 2011:** (3) added by revision, (SB 11-214), ch. 147, pp. 512, 513, §§ 3, 4.

Editor's note: Subsection (3) provided for the repeal of this section, effective March 1, 2012. (See L. 2011, pp. 512, 513.)

17-20-129. Food donations to nonprofit organizations encouraged.

Each correctional facility is encouraged to donate apparently wholesome food to one or more local nonprofit organizations for distribution to needy or poor individuals.

Source: L. 2020: Entire section added, (SB 20-090), ch. 127, p. 549, § 2, effective September 14.

17-20-130. Visitation in correctional facilities - department policies - reporting - legislative declaration - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Class 1 code of penal discipline violation" means a violation of an offense described as a class 1 offense in the code of penal discipline adopted by the department.

(b) "Deprive" means to deny access to any form of visitation.

(c) "Visitation" means all types of social visits with a person confined in a correctional facility, including contact visits, non-contact visits, family time visits, telephone calls, and video visitation. "Visitation" does not include visits that are not social visits, such as visits from a qualified health-care professional or from a person's attorney.

(2) A person confined in a correctional facility has visitation rights.

(3) (a) Except as expressly permitted in this section, the department shall not:

(I) Deprive a person of visitation rights while the person is in restrictive housing or is subject to restricted privileges; or

(II) Deprive a visitor of the ability to visit a person confined in a correctional facility so long as the confined person agrees to the visit and the visitor and the confined person comply with all of the department's policies.

(4) (a) The following limitations are expressly permitted and are not considered a deprivation of visitation:

(I) The department may limit visitation for a confined person who is in restrictive housing; except that the department shall not limit the person's contact visits for more than thirty consecutive calendar days and shall not limit the person's telephone calls to fewer than one telephone call every five calendar days; and

(II) The department may limit a confined person's visitation as a sanction if the person has been convicted of a class 1 code of penal discipline violation; except that the department shall not limit the person's contact visits for more than thirty consecutive calendar days.

(b) (I) The department may reduce, but not eliminate, the number of visits available per week to a confined person as a result of an increase in the person's custody classification level consistent with the department's visitation and telephone policies. The reduction described in this subsection (4)(b)(I) is expressly permitted and is not considered a deprivation of visitation.

(II) Video visits are considered non-contact visits and may supplement, but must not take the place of, in-person visits when in-person visits are permitted.

(c) The department may temporarily deprive visitation as necessary for facility operations or for the safety of the facility, persons in the facility, and the general public, including, but not limited to, facility disruptions, disasters, and unplanned life safety events or altercations. The department may temporarily deprive visitation pursuant to this subsection (4)(c) only for the duration necessary for facility operations or safety.

(5) Notwithstanding any provision of this section to the contrary, the department may deny or cancel visitation for a confined person with another person at any time as necessary to comply with requirements imposed by a court order, for victim safety, to prevent communication with a co-defendant, to preserve the integrity of a criminal investigation, to comply with treatment protocols, or for any other reason required by law. The department shall document the denial or cancellation of visitation made pursuant to this subsection (5).

(6) If a person confined in a correctional facility provides the department with reasonable notice that a requested visitation is for virtual attendance at a funeral or virtual attendance during or immediately following the birth of a child in the person's family, the department shall make all reasonable efforts consistent with the safety of the facility and general public, and with the technology available at the correctional facility and the event, to allow the person to participate

in the visitation. If the technology to facilitate virtual attendance at the event is not available, the department may comply with this subsection (6) by allowing the person a telephone call as an alternative to virtual attendance.

(7) The department may adopt policies to govern the administration of visitation, including policies necessary to allow for visitation as part of routine facility operations. If the department adopts policies, the policies must include criteria detailing, with the greatest specificity feasible, when the department may cancel visits or deny access to a visitor. If the department adopts policies, the policies must also include a process for the department to notify visitors and confined persons when the department denies or cancels a visit with the most possible notice and with specificity for the reason for denying or cancelling the visit.

(8) This section does not:

(a) Alter the requirements for visitors in section 17-19-101 related to visitor searches;

(b) Alter the requirements related to voice penal communications services described in section 17-42-103; or

(c) Affect family time policies adopted pursuant to section 17-42-105 (6)(a) that do not conflict with this section.

(9) (a) Nothing in this section creates a private right of action.

(b) The department shall permit a person confined in a correctional facility who alleges deprivation of visitation to file a grievance in accordance with department policies. The department shall not deny a person the ability to file a grievance because the person is in restrictive housing or is subject to restricted privileges.

(10) Beginning in January 2026, and in January every year thereafter, the department shall include, as part of its presentation during its "SMART Act" hearing required by section 2-7-203, information concerning:

(a) The total number of grievances filed during the prior year related to visitation; and

(b) Any changes to the department's visitation program made in accordance with the commitment described in subsection (11) of this section.

(11) The general assembly finds and declares that:

(a) It recognizes the department's understanding and support of the importance of a person maintaining family connections while incarcerated; and

(b) The department commits to:

(I) Taking reasonable measures to increase visitation hours in correctional facilities when possible;

(II) Taking reasonable measures to increase telephone calls and non-contact visits, including video calls, including for persons who are in restrictive housing and after code of penal discipline violations;

(III) Taking reasonable measures to improve the department's ability to track visitation restrictions and make data related to visitation available;

(IV) Taking reasonable measures to increase available visitation technology in correctional facilities when possible, including increasing the availability of broadband internet in restrictive housing cells;

(V) Allocating reasonable time during regularly scheduled public citizen advocacy meetings to discuss desired improvements to the visitation program and taking reasonable measures to implement suggestions from citizens and advocates when possible; and

(VI) Reviewing the department's visitation policies, including dress code; making reasonable efforts to update policies to support the most visitation and family connection possible; and aligning implementation of the department's visitation and related policies across correctional facilities.

Source: L. 2025: Entire section added, (HB 25-1013), ch. 448, p. 2570, § 1, effective June 4.

ARTICLE 21

Women's Correctional Institution

17-21-101 and 17-21-102. (Repealed)

Source: L. 93: Entire article repealed, p. 55, § 22, effective July 1.

Editor's note: (1) The provisions of this article were similar to article 21 of title 27 as it existed prior to 1977.

(2) This title was repealed and reenacted in 1977, and this article was subsequently repealed in 1993. For amendments to this article prior to its repeal in 1993, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume and the editor's note following the title heading.

ARTICLE 22

Reformatory

17-22-101 to 17-22-110. (Repealed)

Source: L. 93: Entire article repealed, p. 55, § 22, effective July 1.

Editor's note: (1) The provisions of this article were similar to article 22 of title 27 as it existed prior to 1977.

(2) This title was repealed and reenacted in 1977, and this article was subsequently repealed in 1993. For amendments to this article prior to its repeal in 1993, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume and the editor's note following the title heading.

ARTICLE 22.5

Inmate and Parole Time Computation

PART 1
APPLICABILITY

17-22.5-101. One continuous sentence.

17-22.5-102. Custody of department.

17-22.5-102.5. Purpose of parole.

17-22.5-103. Computation of time.

17-22.5-104. Parole - regulations.

17-22.5-105. Applicability of part.

17-22.5-106. Right to attend parole hearings - right to notification of parole hearings. (Repealed)

17-22.5-107. Administrative release and revocation guidelines - creation.

17-22.5-108. Appropriation of savings from earned time awarded for completing an accredited higher education program - budget request requirement.

PART 2
RELEASE PROCEDURES

17-22.5-201. Good time credit allowable.

17-22.5-202. Release - clothes, money, transportation - reentry services - reports.

17-22.5-203. Time of parole not considered when inmate is reincarcerated.

PART 3
OFFENDERS SENTENCED FOR CRIMES COMMITTED ON OR AFTER JULY 1, 1979

17-22.5-301. Good time.

17-22.5-302. Earned time.

17-22.5-303. Parole.

17-22.5-303.3. Violent offenders - parole.

17-22.5-303.5. Parole guidelines. (Repealed)

17-22.5-304. Part affects only certain inmates.

17-22.5-305. Eligibility for other statutory provisions.

17-22.5-306. Transfer of functions.

17-22.5-307. Consecutive or concurrent sentences - clarification of mittimus.

PART 4
PAROLE ELIGIBILITY AND DISCHARGE FROM CUSTODY

17-22.5-401. Legislative declaration.

17-22.5-402. Discharge from custody.

17-22.5-403. Parole eligibility.

17-22.5-403.5. Special needs parole.

17-22.5-403.7. Parole eligibility - youthful offender - juvenile offender convicted as adult - definition.

17-22.5-404. Parole guidelines - definition.

17-22.5-404.5. Presumption of parole - drug offenders.

17-22.5-404.7. Presumption of parole - nonviolent offenders with ICE detainers.

17-22.5-405. Earned time - earned release time - achievement earned time - working group - definition - repeal.

17-22.5-406. Applicability of part.

17-22.5-407. Genetic testing as condition of parole - repeal. (Repealed)

PART 1

APPLICABILITY

17-22.5-101. One continuous sentence.

For the purposes of this article, when any inmate has been committed under several convictions with separate sentences, the department shall construe all sentences as one continuous sentence.

Source: L. 84: Entire article R&RE, p. 517, § 1, effective July 1.

ANNOTATION

Cumulative sentence valid. A cumulative sentence of imprisonment for a period not exceeding in the aggregate the maximum term fixed for a single offense, imposed by a judgment rendered on a number of indictments for felony which have been consolidated for trial only, is valid. Parker v. People, 13 Colo. 155, 21 P. 1120 (1889) (decided under repealed § 27-20-111).

Under application of this section, consecutive sentences would be considered one sentence, and thus, a defendant would not be eligible for release on parole until completion of all incarceration. People v. Baker, 703 P.2d 631 (Colo. App. 1985) (decided under former § 17-20-111).

Multiple sentences may be imposed to run as one continuous sentence with a single period of mandatory parole where defendant is sentenced under § 18-1.3-401 (1)(a)(V)(E). People v. Starcher, 107 P.3d 1127 (Colo. App. 2004).

Department of corrections (department) correctly construed separate consecutive sentences as one continuous sentence for purposes of determining parole eligibility. McKnight v. Riveland, 728 P.2d 1297 (Colo. App. 1986).

In establishing a parole eligibility date, when an inmate has been convicted of several offenses with separate sentences, the department "shall construe all sentences as one continuous sentence." People v. Santisteven, 868 P.2d 415 (Colo. App. 1993).

In computing an inmate's parole eligibility date, this section requires the department to construe all sentences as one continuous sentence when the inmate has been committed under several convictions with separate sentences, even when doing so results in the inmate becoming parole eligible before serving at least 50 percent of the second sentence. Nowak v. Suthers, 2014 CO 14, 320 P.3d 340.

In calculating a parole eligibility date for a defendant with consecutive and concurrent sentences when the concurrent sentences have different effective dates, the department must construe all of the sentences as one continuous sentence. The department erred in applying the governing sentence approach. It is not a method for calculating sentence length. Fetzer v. Exec. Dir., 2016 COA 7M, 399 P.3d 742, aff'd, 2017 CO 77, 396 P.3d 1108.

When the department calculates an inmate's parole eligibility date based on multiple convictions and one conviction would be subject to § 17-22.5-403 (1) and the others would be subject to § 17-22.5-403

(2.5), the department must employ a hybrid method of calculation to give effect to each applicable parole eligibility date calculation for purposes of the inmate's one continuous sentence. Owens v. Williams, 2022 CO 33, 511 P.3d 637.

The new parole eligibility date for an inmate who was reincarcerated for a parole violation and is sentenced for additional offenses committed while on parole should be calculated using the beginning of the period of mandatory parole as the start of the inmate's one continuous sentence. Diehl v. Weiser, 2019 CO 70, 444 P.3d 313.

Department erred in substituting defendant's longest sentence for the required continuous sentence. Governing sentence theories serve to determine the statutory parole and discharge provisions applicable to a single continuous sentence rather than as an alternative to the statutory continuous sentence requirement itself. Exec. Dir. v. Fetzer, 2017 CO 77, 396 P.3d 1108; Owens v. Williams, 2022 CO 33, 511 P.3d 637.

Department's policy of applying a single system of credits to a composite "governing sentence" created for each inmate by considering all of the inmate's sentences together to arrive at a minimum governing sentence and a maximum governing sentence is reasonable and contravenes no legislative or constitutional rights or policies. Price v. Mills, 728 P.2d 715 (Colo. 1986); Owens v. Williams, 2022 CO 33, 511 P.3d 637.

The courts have no jurisdiction to fix parole eligibility, which is the responsibility of the department, and any attempt to do so is an illegal attempt to circumvent legislative dictates. People v. Anaya, 894 P.2d 28 (Colo. App. 1994).

The continuous sentence rule does not apply to prior sentences that were discharged before defendant was later sentenced in a different matter case nunc pro tunc to a date when the prior sentences were in effect. As a matter of law, when the defendant was discharged from the prior sentences, the prior sentences were no longer operable in any sense and the nunc pro tunc order could not revive them. Lewis v. Stancil, 2026 COA 8, __ P.3d __.

Applied in People v. Broga, 750 P.2d 59 (Colo. 1988).

17-22.5-102. Custody of department.

When any person is sentenced to any correctional facility, that person shall be deemed to be in the custody of the executive director or his designee and shall begin serving his sentence on the date of sentencing.

Source: L. 84: Entire article R&RE, p. 517, § 1, effective July 1.

ANNOTATION

This section does not require a Colorado sentence that is imposed to run consecutively to an out-of-state sentence to begin to run on the date the Colorado sentence is imposed. It simply clarifies a defendant's custodial status after sentencing when the defendant remains in the county jail awaiting transfer to a correctional facility. People v. Mackey, 101 P.3d 1143 (Colo. App. 2004).

17-22.5-102.5. Purpose of parole.

(1) The purposes of this article with respect to parole are:

(a) To further all purposes of sentencing and improve public safety by reducing the incidence of crime and technical parole violations committed by people on parole;

(b) To prepare, select, and assist people who, after serving a statutorily defined period of incarceration, will be transitioned and returned to the community;

(c) To set individualized conditions of parole and to provide supervision services and support to assist people on parole in addressing identified risks and needs; and

(d) To achieve a successful discharge from parole supervision for people on parole through compliance with the terms and conditions of release that address their risks and needs.

Source: L. 85: Entire section added, p. 648, § 2, effective July 1. **L. 2016:** (1) amended, (HB 16-1215), ch.120, p. 341, § 1, effective August 10.

ANNOTATION

Sex offenders and nonsexual offenders are not similarly situated for purposes of equal protection analysis because they are subject to different parole laws. People v. Walker, 75 P.3d 722 (Colo. App. 2002); People v. Fritschler, 87 P.3d 186 (Colo. App. 2003).

17-22.5-103. Computation of time.

No inmate shall be discharged from the department until he has remained the full term for which he was sentenced, to be computed on and after the day on which he was received into the same and excluding any time the inmate may have been at large by reason of escape therefrom, unless he is pardoned or otherwise released by legal authority.

Source: L. 84: Entire article R&RE, p. 517, § 1, effective July 1.

ANNOTATION

Annotator's note. Since § 17-22.5-103 is similar to repealed §§ 17-20-118 and 27-20-118, relevant cases construing those provisions have been included with the annotations to this section.

A prisoner must serve his sentence in the penitentiary or in such other penal institution to which he may be legally transferred or ordered confined. Lange v. Schauer, 184 Colo. 373, 520 P.2d 753 (1974).

When defendant was confined in the state hospital as a result of a totally unrelated transaction which occurred during a period of escape, he was not serving his sentence and was not entitled to credit for the time of such confinement. Lange v. Schauer, 184 Colo. 373, 520 P.2d 753 (1974).

Pretrial confinement time subtracted prior to computing credits. Pretrial confinement time should be subtracted from the sentence prior to computing good time and similar credits. Menchetti v. Wilson, 43 Colo. App. 19, 597 P.2d 1054 (1979); Vashone-Caruso v. Suthers, 29 P.3d 339 (Colo. App. 2001).

There was no statutory requirement that the good time and other credits of former §§ 17-20-104, 17-20-105, and 17-20-107, be credited against presentence confinement. Menchetti v. Wilson, 43 Colo. App. 19, 597 P.2d 1054 (1979).

Under former § 17-20-118 and § 16-11-308, a defendant is entitled to credit against a sentence for time spent in the county jail after sentencing. People v. Mack, 681 P.2d 949 (Colo. 1984).

17-22.5-104. Parole - regulations.

(1) Any inmate in the custody of the department may be allowed to go on parole in accordance with section 17-22.5-403, subject to the provisions and conditions contained in this article and article 2 of this title.

(2) (a) No inmate imprisoned under a life sentence for a crime committed before July 1, 1977, shall be paroled until such inmate has served at least ten calendar years, and no application for parole shall be made or considered during such period of ten years.

(b) No inmate imprisoned under a life sentence for a crime committed on or after July 1, 1977, but before July 1, 1985, shall be paroled until such inmate has served at least twenty calendar years, and no application for parole shall be made or considered during such period of twenty years.

(c) (I) Except as described in section 18-1.3-401 (4)(c), C.R.S., and in subparagraphs (IV) and (V) of paragraph (d) of this subsection (2), no inmate imprisoned under a life sentence for a crime committed on or after July 1, 1985, shall be paroled until such inmate has served at least forty calendar years, and no application for parole shall be made or considered during such period of forty years.

(II) Subparagraph (I) of this paragraph (c) does not apply to an inmate sentenced pursuant to section 16-13-101 (2), C.R.S., as it existed prior to July 1, 1993, for any crime committed on or after July 1, 1985, and the inmate shall be eligible for parole after the inmate has served forty calendar years less any time authorized pursuant to section 17-22.5-405.

(d) (I) No inmate imprisoned under a life sentence for a class 1 felony committed on or after July 1, 1990, shall be eligible for parole.

(II) This paragraph (d) shall not apply to any inmate sentenced pursuant to section 18-1.3-801 (2), C.R.S., for any crime committed on or after July 1, 1993, and any such inmate shall be eligible for parole in accordance with section 17-22.5-403.

(III) No inmate imprisoned under a life sentence pursuant to section 18-1.3-801 (2.5), C.R.S., and no inmate imprisoned under a life sentence pursuant to section 18-1.3-801 (1), C.R.S., on and after July 1, 1994, for a crime committed on and after that date, shall be paroled until such inmate has served at least forty calendar years, and no application for parole shall be made or considered during such period of forty years.

(IV) Notwithstanding subsection (2)(d)(I) of this section, an inmate imprisoned to a life sentence for a class 1 felony committed before July 1, 1990, or on or after July 1, 2006, who was convicted as an adult following direct filing of an information or indictment in the district court pursuant to section 19-2.5-801 or transfer of proceedings to the district court pursuant to section 19-2.5-802, may be eligible for parole after the inmate has served at least forty years, less any earned time granted pursuant to section 17-22.5-405. An application for parole may not be made or considered during this period.

(V) Notwithstanding subsection (2)(d)(I) of this section, an inmate sentenced to life imprisonment for a class 1 felony committed on or after July 1, 1990, and before July 1, 2006, who was convicted as an adult following direct filing of an information or indictment in the district court pursuant to section 19-2.5-801, or transfer of proceedings to the district court pursuant to section 19-2.5-802, or pursuant to either of these sections as they existed prior to their repeal and reenactment, with amendments, by House Bill 96-1005, may be eligible for parole after serving forty years, less any earned time granted pursuant to section 17-22.5-405.

(3) Repealed.

Source: L. 84: Entire article R&RE, p. 518, § 1, effective July 1. **L. 85:** (2)(b) amended and (2)(c) added, p. 648, § 3, effective July 1; (2)(b) amended and (2)(c) added, p. 657, § 5, effective July 1. **L. 87:** (3) added, p. 654, § 9, effective July 1. **L. 90:** (1) amended, p. 954, § 24, effective July 1; (2)(d) added, p. 928, § 3, effective July 1. **L. 91:** (2)(d) amended, p. 404, § 4, effective June 6. **L. 93:** (1) and (2) amended, p. 1977, § 3, effective July 1. **L. 94:** (2)(d)(III) amended, p. 1472, § 2, effective May 31. **L. 2002:** (2)(d)(II) and (2)(d)(III) amended, p. 1501, § 162, effective October 1. **L. 2006:** (2)(d)(IV) added, p. 1052, § 3, effective May 25. **L. 2015:** (2)(c) and (2)(d)(I) amended, (HB 15-1203), ch. 154, p. 461, § 1, effective August 5. **L. 2016:** (2)(c)(I) and (2)(d)(IV) amended and (2)(d)(V) added, (SB 16-181), ch. 353, p. 1449, § 2, effective June 10. **L. 2021:** (2)(d)(IV) and (2)(d)(V) amended, (SB 21-059), ch. 136, p. 716, § 33, effective October 1.

Editor's note: (1) Subsection (3)(b) provided for the repeal of subsection (3), effective July 1, 1990. (See L. 87, p. 654.)

(2) Section 2 of chapter 154 (HB 15-1203), Session Laws of Colorado 2015, provides that the act amending subsections (2)(c) and (2)(d)(I) applies to an inmate sentenced pursuant to section 16-13-101 (2), Colorado Revised Statutes, as it existed prior to July 1, 1993, for any crime committed on or after July 1, 1985.

Cross references: (1) For other provisions concerning parole regulations, see § 17-2-207.

(2) For the legislative declaration contained in the 2002 act amending subsections (2)(d)(II) and (2)(d)(III), see section 1 of chapter 318, Session Laws of Colorado 2002. For the legislative declaration contained in the 2006 act enacting subsection (2)(d)(IV), see section 1 of chapter 228, Session Laws of Colorado 2006.

ANNOTATION

Law reviews. For article, "Life after Miller and Montgomery: Colorado's (Revised) Solution for Unconstitutional Juvenile Sentences", see 45 Colo. Law. 31 (Mar. 2016).

The U.S. supreme court concluded in Miller v. Alabama, 567 U.S. 46 (2012), that the eighth amendment prohibits a mandatory life sentence without the possibility of parole for juvenile offenders. People v. Banks, 2012 COA 157, 412 P.3d 417, aff'd in part, rev'd in part on other grounds sub nom. People v. Tate, 2015 CO 42, 352 P.3d 959.

Because defendant was a minor when the trial court mandatorily sentenced him to life imprisonment without the possibility of parole, and because defendant's case was

still pending on direct review when the U.S. supreme court decided Miller, the no-parole provisions contained in subsection (2)(d)(I) of this section and § 18-1.3-401 (4)(a) are unconstitutional as applied to defendant in that they deny defendant the opportunity of parole. People v. Banks, 2012 COA 157, 412 P.3d 417, aff'd in part, rev'd in part on other grounds sub nom. People v. Tate, 2015 CO 42, 352 P.3d 959.

The U.S. supreme court's decision in Miller v. Alabama renders a mandatory life without the possibility of parole sentence for juveniles convicted between 1990 and 2006 unconstitutional. For cases on direct appeal, the remedy for those sentenced to mandatory life without parole is a remand to determine through an individual consideration of the defendant's youth and attendant circumstances whether a sentence of life without parole is appropriate. If the sentencing court on remand determines that life without parole is not warranted, then the appropriate sentence, absent legislative action, is life in prison with the possibility of parole after forty years. People v. Tate, 2015 CO 42, 352 P.3d 959; People v. Ellis, 2015 COA 108, 425 P.3d 1140.

The new rule announced in Miller is procedural rather than substantive in nature; therefore it does not apply retroactively to cases on collateral review of final judgments. People v. Tate, 2015 CO 42, 352 P.3d 959; People v. Vigil, 2015 CO 43, 372 P.3d 1045.

Prisoners who received life sentences for crimes committed before July 1, 1977, are not entitled to parole consideration until ten calendar years have passed from the date the sentence was imposed. Derrick v. Colo. Bd. of Parole, 747 P.2d 696 (Colo. App. 1987).

Prisoners who received life sentences for crimes committed on or after July 1, 1977, but before July 1, 1985, are not entitled to parole consideration until 20 calendar years have passed from the date the sentence was imposed. People v. Payseno, 954 P.2d 631 (Colo. App. 1997).

Since § 16-11-802 (1)(b) (now § 18-1.3-1302 (1)(b)) has a later effective date, was later enacted, and operates in an ameliorative manner for criminal defendants, it controls, and that portion of § 18-1-105 (4) (now § 18-1.3-401 (4)) which provides for no possibility of parole for persons sentenced to life imprisonment following conviction for class 1 felony offenses occurring during the period from July 1, 1990, until September 19, 1991, is abrogated by this later enactment. Thus, § 16-11-103 (1)(b) (now § 18-1.3-1201 (1)(b)), as amended by House Bill 91S-1001, controls parole eligibility for convictions and sentences to life imprisonment based on class 1 felony offenses occurring on or after September 20, 1991, and § 16-11-802 (1)(b) (now § 18-1.3-1302 (1)(b)) controls parole eligibility for class 1 felony offenses occurring during the period from July 1, 1990 until September 19, 1991. People v. District Court, 834 P.2d 236 (Colo. 1992).

Prisoner's parole eligibility date is determined by the date on which the prisoner's felony was committed rather than the date of adjudication as an habitual

offender. Collins v. Gunter, 834 P.2d 1283 (Colo. 1992).

This section does not mandate that a prisoner be deemed to have been paroled ten years after the date of sentencing for a crime committed prior to July 1, 1979, if a parole hearing is not held on that date. For crimes committed prior to July 1, 1979, parole of prisoners from correctional institutions is a matter within the sole discretion of the parole board. Martinez v. Furlong, 893 P.2d 130 (Colo. 1995).

Under the plain meaning of this section and § 16-11-306, prisoners are entitled to credit against their life sentences for time spent in presentence confinement. Inmate, therefore, was entitled to a parole eligibility date that was calculated to include 329 days of presentence confinement credit. Fields v. Suthers, 984 P.2d 1167 (Colo. 1999).

17-22.5-105. Applicability of part.

The provisions of this part 1 shall apply to all offenders sentenced to the department.

Source: L. 84: Entire article R&RE, p. 518, § 1, effective July 1.

17-22.5-106. Right to attend parole hearings - right to notification of parole hearings. (Repealed)

Source: L. 84: Entire section added, p. 503, § 5, effective July 1. **L. 85:** Entire section amended, p. 644, § 5, effective July 1. **L. 94:** Entire section repealed, p. 2598, § 10, effective June 3.

17-22.5-107. Administrative release and revocation guidelines - creation.

(1) (a) The division of criminal justice in the department of public safety, in consultation with the state board of parole, shall develop an administrative release guideline instrument for use by the board in evaluating applications for parole.

(b) The administrative release guideline instrument shall be used to provide the state board of parole with consistent and comprehensive information relevant to the factors listed in section 17-22.5-404 (4)(a). The instrument shall include a matrix of advisory-release-decision recommendations for the different risk levels.

(2) (a) The department of corrections, in consultation with the state board of parole, shall develop administrative revocation guidelines for use by the board in evaluating complaints filed for parole revocation.

(b) The administrative revocation guidelines shall be used to provide the state board of parole with consistent and comprehensive information based on the factors identified in section 17-22.5-404 (5)(a). The guidelines shall include a matrix of advisory-decision recommendations for the different risk levels.

Source: L. 2010: Entire section added, (HB 10-1374), ch. 261, p. 1180, § 3, effective May 25.

ANNOTATION

Law reviews. For article, "Adult Parole in Colorado: An Overview", see 44 Colo. Law. 37 (May 2015).

17-22.5-108. Appropriation of savings from earned time awarded for completing an accredited higher education program - budget request requirement.

(1) For state fiscal year 2024-25, and for each state fiscal year thereafter, the general assembly shall annually appropriate the savings incurred during the prior state fiscal year resulting from the deduction of earned time pursuant to section 17-22.5-405 (3.7) for completion of an accredited degree, certificate, or other credential program to the department of higher education created pursuant to section 24-1-114 for allocation to institutions of higher education that offer accredited degree, certificate, or other credential programs in a correctional facility.

(2) Beginning with its annual budget request to the joint budget committee for state fiscal year 2024-25, and for each state fiscal year thereafter, the department shall include in its budget request an estimate of the savings accrued during the prior state fiscal year resulting from the deduction of earned time pursuant to section 17-22.5-405 (3.7) for completion of an accredited degree, certificate, or other credential program.

Source: L. 2023: Entire section added, (HB 23-1037), ch. 66, p. 235, § 2, effective August 7.

PART 2

RELEASE PROCEDURES

17-22.5-201. Good time credit allowable.

(1) Unless otherwise provided by law, every inmate confined in a correctional facility of the department who has committed no infraction of the rules or regulations of the department or the laws of the state and who performs in a faithful, diligent, industrious, orderly, and peaceable manner the work, duties, and tasks assigned to him to the satisfaction of the executive director or any of his designees may be allowed time credit reductions as follows: A deduction of two months in each of the first two years, four months in each of the next two years, and five months in each of the remaining years of his term of confinement, and correspondingly for any part of the year if such term of confinement is for less than a year. The mode of computing credits shall be as follows:

Number of yrs. of sentence	**Good time that may be earned**	**Total good time that may be earned**	**Time to be served if full credits are earned and allowed**
1st year	2 months	2 months	10 months
2nd year	2 months	4 months	1 year 8 months
3rd year	4 months	8 months	2 years 4 months
4th year	4 months	1 year	3 years
5th year	5 months	1 year 5 months	3 years 7 months
6th year	5 months	1 year 10 months	4 years 2 months
7th year	5 months	2 years 3 months	4 years 9 months
8th year	5 months	2 years 8 months	5 years 4 months

9th year	5 months	3 years 1 month	5 years 11 months
10th year	5 months	3 years 6 months	6 years 6 months

and so continuing through as many years as may be the time of confinement.

(2) To those inmates whom the executive director or any of his designees may designate as trusties and who conduct themselves in accordance with departmental rules and perform their work in a creditable manner, upon approval of the executive director or any of his designees, additional good time to that allowed in the table set forth in subsection (1) of this section, not to exceed ten days in any one calendar month, shall be credited upon the time remaining to be served, such credit to be allowed only upon the actual number of months served in each year in a correctional facility of the department.

(3) The executive director or any of his designees may grant to any inmate confined in a correctional facility additional good time credit to that allowed under subsections (1) and (2) of this section, not to exceed five days per month for each calendar year remaining to be served, for the following reasons:

(a) Meritorious service by an inmate; or

(b) Outstanding performance of assigned tasks in correctional industries.

(4) The executive director or any of his designees may restore to the credit of any inmate confined in a correctional facility all or any portion of good time credits which have been forfeited by the inmate as a result of any disciplinary action or provision of law.

(5) (a) The provisions of this section shall apply to a defendant whose sentence was stayed pending appeal prior to July 1, 1972, but who was confined pending disposition of the appeal. Such credit shall be against the maximum and minimum terms of his sentence for the entire period of confinement served while the stay of execution was in effect.

(b) A defendant whose sentence is stayed pending appeal after July 1, 1972, but who is confined pending disposition of the appeal is entitled to the credit provided by this section against the maximum and minimum terms of his sentence for the entire period of confinement served while the stay of execution was in effect.

(6) If any inmate assaults any keeper, guard, foreman, officer, inmate, or other person, or threatens or endangers the person or life of anyone, or violates or disregards any departmental rule or regulation, or neglects or refuses to do the work to which he is assigned, or is guilty of any misconduct, or violates any of the rules or regulations governing parole, the department may order the forfeiture of all time credits theretofore earned by or allowed to him before the commission of such offense under this section.

Source: L. 84: Entire article R&RE, p. 518, § 1, effective July 1.

Editor's note: This section is similar to former § 17-20-107 as it existed prior to 1984.

ANNOTATION

Law reviews. For article, "Criminal Procedure in Colorado — A Summary and Recommendations for Improvement", see 22 Rocky Mt. L. Rev. 221 (1950).

Annotator's note. Since § 17-22.5-201 is similar to repealed §§ 17-20-107 and 27-20-107, relevant cases construing those provisions have been included in the annotations to this section.

Constitutionality. Former § 17-20-107 did not deny equal protection of the laws even though it distinguished between those persons who remain in jail before conviction and those who make bail. People v. Turman, 659 P.2d 1368 (Colo. 1983).

Provisions of this section are limited by § 17-22.5-104 (2)(a), which provides that an inmate imprisoned under a life sentence committed before July 1, 1977, shall not be paroled until he has served at least ten calendar years, such period to commence on the day of sentencing, with no reduction for meritorious good time credits. People v. Goodwin, 768 P.2d 715 (Colo. App. 1988).

Good conduct credits are in the nature of a reward which are granted to the convict for his commendable behavior and are designed to induce similar conduct during the remainder of the convict's imprisonment. Alexander v. Wilson, 189 Colo. 321, 540 P.2d 331 (1975); Hall v. Zavaras, 916 P.2d 634 (Colo. App. 1996).

There is nothing in subsection (1) to indicate that good time is to be given only after each year is served. Rather, credits are to be projected for portions of each year of an inmate's sentence. Vashone-Caruso v. Suthers, 29 P.3d 339 (Colo. App. 2001).

But the plain language of subsection (2) governing trusty time, unlike the language of subsection (1), requires that trusty time be credited against actual time to be served. Vashone-Caruso v. Suthers, 29 P.3d 339 (Colo. App. 2001).

Term, "may," as used in subsection (3), grants discretion to the department of corrections in the grant or denial of good time credit. Thus, an inmate has no legitimate claim of entitlement to the award of meritorious good time credits. Hall v. Zavaras, 916 P.2d 634 (Colo. App. 1996).

The decision to withhold or condition good time credits does not constitute the imposition of additional punishment. Hall v. Zavaras, 916 P.2d 634 (Colo. App. 1996).

The allowance of credit for good conduct is not a right but rather a benefit conferred by the state, and for that reason, the conditions under which a sentence will be shortened are controlled entirely by statute. Alexander v. Wilson, 189 Colo. 321, 540 P.2d 331 (1975).

By its express terms, this statute is limited in application to state convicts incarcerated in the penitentiary of this state as the general assembly has not seen fit to extend the privilege of good conduct credit to prisoners for time spent in confinement outside of this state immediately prior to imprisonment in this state. Alexander v. Wilson, 189 Colo. 321, 540 P.2d 331 (1975).

It is the convict's behavior in the penitentiary of this state, not that of some other jurisdiction, which is being rewarded by this section. Alexander v. Wilson, 189 Colo. 321, 540 P.2d 331 (1975).

This statute plainly requires that an inmate serve a given month in confinement before trusty time credit for such month may be deducted from the remainder of the inmate's sentence. People v. Bastardo, 725 P.2d 88 (Colo. App. 1986); McLeod v. Brittain, 728 P.2d 1296 (Colo. 1986).

Good time credits not credited against presentence confinement. Pretrial confinement time should be subtracted from the sentence prior to computing good time and similar credits. Menchetti v. Wilson, 43 Colo. App. 19, 597 P.2d 1054 (1979).

There is no statutory requirement that the good time and other credits of §§ 17-20-104, 17-20-105, and 17-20-107, be credited against presentence confinement. Menchetti v. Wilson, 43 Colo. App. 19, 597 P.2d 1054 (1979).

Aggregation of consecutive sentences is proper when calculating good time credit. People v. Broga, 750 P.2d 59 (Colo. 1988); Vashone-Caruso v. Suthers, 29 P.3d 339 (Colo. App. 2001).

17-22.5-202. Release - clothes, money, transportation - reentry services - reports.

(1) **[*Editor's note: This version of subsection (1) is effective until January 1, 2027.*]** Ten days prior to the date on which any inmate confined in a correctional facility is entitled to be discharged or to be paroled from said correctional facility, the executive director or the executive director's designee shall give such inmate a ticket of leave therefrom, which shall entitle the inmate to depart from said correctional facility. The executive director or the executive director's

designee shall at the same time furnish such inmate with suitable clothing and may furnish transportation, at the expense of the state, from the place at which said correctional facility is located to the place of the inmate's residence in Colorado, or any other place in Colorado. The executive director or the executive director's designee shall also furnish to any inmate being discharged, other than a parolee, one hundred dollars. The executive director or the executive director's designee may furnish any inmate being released on parole a reasonable sum of money not to exceed one hundred dollars; except that, if the executive director or the executive director's designee furnishes less than one hundred dollars, the difference between one hundred dollars and the amount furnished shall be credited to an account for such parolee. Notwithstanding any other provision of this subsection (1), if the inmate has previously been returned to custody in a correctional facility after being paroled and before the completion of his or her period of parole and previously received such sum of money, the executive director or the executive director's designee shall not furnish a sum of money to the inmate. The executive director or the executive director's designee shall certify any amount so credited to the division of adult parole, and any such amount shall be distributed to an inmate in accordance with rules promulgated by the department.

(1) **[*Editor's note: This version of subsection (1) is effective January 1, 2027.*]**

(a) (Deleted by amendment, L. 2026.)

(b) The executive director or the executive director's designee shall furnish the individual released from a correctional facility with suitable clothing and shall furnish transportation, at the expense of the state, from the place the correctional facility is located to the individual's residence in Colorado, or any other place in Colorado.

(c) (I) The executive director or the executive director's designee shall furnish to an individual being released from the correctional facility a release allowance of one hundred dollars.

(II) The release allowance furnished to the individual being released from the correctional facility must not be subject to deductions for restitution, fees, transportation, clothing, or any other expense incurred during the individual's incarceration or release from the correctional facility.

(d) (Deleted by amendment, L. 2026.)

(2) **[*Editor's note: This version of subsection (2) is effective until January 1, 2027.*]** An inmate furnished with a ticket of leave for discharge shall be deemed to be fully discharged from the sentence upon which he was confined at the end of said ten-day period.

(2) **[*Editor's note: This version of subsection (2) is effective January 1, 2027.*]** Repealed.

(3) Prior to the release from a correctional facility by discharge or parole of any person imprisoned for the commission of a child abuse offense which occurred within the state of Colorado, the executive director shall:

(a) Notify the Colorado bureau of investigation of:

(I) The identity of the offender; and

(II) The anticipated release date of the offender; and

(III) The last-known home address of the offender; and

(IV) The parole address of the offender; and

(V) The results of a chemical test of a sex offender's biological substance sample in accordance with paragraph (b.5) of this subsection (3);

(b) Notify the local law enforcement agency having jurisdiction over the last-known home address of the offender of:

(I) The identity of the offender; and

(II) The last-known home address of the offender; and

(III) The anticipated release date of the offender; and

(IV) The parole address of the offender;

(b.5) (I) On and after July 1, 1994, direct appropriate personnel with the department of corrections to require any offender who is released from the custody of the department of corrections having completed serving a sentence for an offense involving unlawful sexual behavior or for which the factual basis involved unlawful sexual behavior as defined in section 16-22-102 (9), C.R.S., who is under their jurisdiction to sign a notice that informs the offender of the duty to register with local law enforcement agencies in accordance with the provisions of article 22 of title 16, C.R.S. The same persons, after obtaining a signed notice from an offender, shall notify local law enforcement agencies where the offender plans to reside of the offender's address within forty-eight hours after an offender has been placed on parole or probation when such an address is provided in the signed notice. Department of corrections personnel shall provide such notice no later than two days before the offender is to be released from the department of corrections.

(II) Repealed.

(III) The department may use reasonable force to obtain a biological substance sample in accordance with section 16-11-102.4, C.R.S. In addition, any person who refuses to comply with section 16-11-102.4, C.R.S., may be denied parole, or, if such person has been granted parole, such parole may be revoked.

(c) Notify the local law enforcement agency having jurisdiction over the parole address of the offender if the parole address is not the same as the last-known home address of the offender of:

(I) The identity of the offender; and

(II) The anticipated release date of the offender; and

(III) The last-known home address of the offender; and

(IV) The parole address of the offender;

(d) Notify the victim or victims individually or through those persons with whom they reside of:

(I) The identity of the offender; and

(II) The anticipated release date of the offender; and

(III) The last-known home address of the offender; and

(IV) The parole address of the offender;

(e) Check with the Colorado bureau of investigation to determine whether there are any outstanding warrants for the arrest of any person confined for the commission of a Colorado child abuse offense and about to be released from a correctional facility, and, if so, said release shall be into the custody of the law enforcement agency issuing the warrant.

(3.5) Repealed.

(4) (a) If the victim of a child abuse crime under section 18-6-401, C.R.S., or a relative of the victim, if the victim has died or is a minor or is incapacitated, or any person requested by the victim to receive notice has requested notice from the parole board of any parole proceedings pursuant to section 17-2-214, relative to the person convicted of said crime, the executive director shall not be required to provide duplicate notice under paragraph (d) of subsection (3) of this section.

(b) The notice to the victim pursuant to paragraph (d) of subsection (3) of this section shall be sent by the department to the last-known address in the possession of the department, and the victim of the crime or a relative of the victim, if the victim has died or is a minor or is incapacitated, or any person requested by the victim to receive notice has the duty to keep the department informed of his or her most current address.

(5) A person discharged from a correctional facility without supervision is eligible to receive reentry support services from the department or community-based organizations that receive funding from the department to provide reentry services for up to one year after the person's date of discharge.

(6) **[*Editor's note: Subsection (6) is effective January 1, 2027.*]** By September 15, 2027, and by each September 15 thereafter, the department shall publish on its website and provide to the house of representatives judiciary committee and the senate judiciary committee, or their successor committees, a report that includes the following:

(a) The number of individuals released from department correctional facilities in the preceding fiscal year;

(b) The number and percentage of individuals who received the release allowance pursuant to subsection (1) of this section in the preceding fiscal year;

(c) The total dollar amount of release allowances disbursed in the preceding fiscal year; and

(d) Any administrative or policy limitations on release allowance eligibility or disbursement in the preceding fiscal year.

Source: L. 84: Entire article R&RE, p. 519, § 1, effective July 1. **L. 87:** (3) and (4) added, p. 688, § 1, effective July 1. **L. 94:** (3)(b.5) added, p. 1739, § 2, effective July 1. **L. 95:** (3)(a) and (3)(b.5) amended, p. 880, § 18, effective May 24. **L. 96:** (3)(b.5)(I) and (3)(b.5)(II) amended, p. 1585, § 7, effective July 1. **L. 97:** (1) amended, p. 26, § 1, effective March 20. **L. 2000:** (1) amended, p. 852, § 61, effective May 24; (3.5) added, p. 1027, § 6, effective July 1. **L. 2001:** (3)(b.5)(II) amended, p. 957, § 4, effective July 1. **L. 2002:** (3)(a), (3)(b.5), and (3.5) amended, p.1152, § 9, effective July 1; (3)(b.5)(I) and (3)(b.5)(II) amended, p.1185, § 20, effective July 1. **L. 2003:** (3.5) amended, p. 1990, § 31, effective May 22. **L. 2006:** (3)(b.5)(II)(B) and (3.5)(b) added by revision, pp. 1689, 1693, §§ 7, 17. **L. 2007:** (3)(b.5)(III) amended, p. 2028, § 34, effective June 1. **L. 2019:** (5) added, (SB 19-143), ch. 286, p. 2659, § 4, effective May 28. **L. 2026:** (1) amended, (2) repealed, and (6) added, (HB 26-1256), ch. 338, p. 2054, § 2, effective January 1, 2027.

Editor's note: (1) Amendments to subsection (3)(b.5) by Senate Bill 02-010 and Senate Bill 02-019 were harmonized.

(2) Subsection (3)(b.5)(II)(B) provided for the repeal of subsection (3)(b.5)(II), effective July 1, 2007. (See L. 2006, pp. 1689, 1693.)

(3) Subsection (3.5)(b) provided for the repeal of subsection (3.5), effective July 1, 2007. (See L. 2006, pp. 1689, 1693.)

(4) Section 5(2) of chapter 338 (HB 26-1256), Session Laws of Colorado 2026, provides that the act changing this section applies to all individuals released from custody on or after January 1, 2027.

Cross references: For the legislative declaration in HB 26-1256, see section 1 of chapter 338, Session Laws of Colorado 2026.

ANNOTATION

Subsection (1) is not intended to create individual liability on the part of the executive director or the director's designee if an inmate being released on parole is not furnished money upon the inmate's release from prison. Edmond v. Clements, 896 F. Supp. 2d 960 (D. Colo. 2012).

17-22.5-203. Time of parole not considered when inmate is reincarcerated.

(1) The paroled inmate, upon an order of the state board of parole, may be returned to the custody of the department according to the terms of his original sentence, and, in computing the period of his confinement, the time between his release and his return to said custody shall not be considered any part of the term of his sentence.

(2) Parole shall not be construed in any sense to operate as a discharge of any inmate paroled under the provisions of law but simply a permit to any such inmate to go outside a correctional facility; and, if, while so at large, he behaves and conducts himself as not to incur his reincarceration, he shall be deemed to be still serving out the sentence imposed upon him by the court and shall be entitled to good time the same as if he had not been paroled, except as provided in subsection (3) of this section. If the said paroled inmate is returned to the department, he shall serve out his original sentence, as provided for in this part 2.

(3) No inmate released on parole on or after July 1, 1981, shall be entitled to a good time deduction from his sentence while on parole. In the event that his parole is revoked, he shall become eligible for any good time deductions authorized pursuant to this article on the date he is returned to the custody of the department.

Source: L. 84: Entire article R&RE, p. 520, § 1, effective July 1.

ANNOTATION

Annotator's note. Since § 17-22.5-203 is similar to repealed §§ 17-2-205 and 17-2-206, relevant cases construing those provisions have been included in the annotations to this section.

Time on parole is not considered to be time which applies against the sentence when the parolee is reincarcerated. Ferchaw v. Tinsley, 234 F. Supp. 922 (D. Colo. 1964).

Under this section where a paroled convict returns to prison for violation of his parole, the time between his release on parole and his return to prison shall not be taken to be any part of the time served in computing the period to be served under original sentence. Furlow v. Tinsley, 151 Colo. 280, 377 P.2d 132 (1962).

This statutory refusal to count time spent on parole when sentence is resumed does not violate federal due process. Firkins v. Colo., 434 F.2d 1232 (10th Cir. 1970).

And is not ground for release on habeas corpus. Where petition for habeas corpus contained allegations that petitioner should have been given credit for time served while on parole, his ground for release was improper as a matter of law. Minor v. Tinsley, 154 Colo. 249, 389 P.2d 850 (1964).

Statute prohibits awarding credits to parolee against his original sentences for time he was later incarcerated awaiting trial on subsequent criminal charges. Santisteven v. Johnson, 751 P.2d 621 (Colo. 1988).

Statute prohibits giving parolee credit for time served prior to his parole revocation, while being held on an unrelated charge. Wiedemer v. People, 784 P.2d 739 (Colo. 1989).

A parolee is subject to restrictions which are not applicable to other citizens. People v. Salvador, 189 Colo. 181, 539 P.2d 1273 (1975).

And he is not free from legal restraint by the penal authorities, but is constructively a prisoner of the state in the legal custody and under the control of the department of institutions. Schooley v. Wilson, 150 Colo. 483, 374 P.2d 353 (1962).

Release on parole in no way alters the fact that appellant is still under sentence; that he is in technical custody; and that he is under supervision. People v. Salvador, 189 Colo. 181, 539 P.2d 1273 (1975).

Parolee is not in custody of department, for purposes of this section, from time parole detainer is lodged against him, where parolee had been arrested and confined for acts of forgery and remained in physical custody of Denver authorities until his parole was revoked. Santisteven v. Johnson, 751 P.2d 621 (Colo. 1988).

Tolling of expiration of parole upon the filing of a violation complaint does not impose additional punishment on parole violator. Goetz v. Gunter, 830 P.2d 1154 (Colo. App. 1992).

The phrase "return to said custody" refers to the time of parole revocation. Wiedemer v. People, 784 P.2d 739 (Colo. 1989).

When a parolee is returned to custody, the time between his or her release and return to custody is not considered part of the term of the sentence. "Return to custody" means the time at which parole is revoked, not the time at which the defendant is reincarcerated. People v. Norton, 49 P.3d 344 (Colo. App.

2001), rev'd on other grounds, 63 P.3d 339 (Colo. 2003).

The probationer has a substantially different status from that of the parolee. The imposition of sentence in his case has been suspended and thus unlike the parolee he is not serving a sentence while on probation. Hutchison v. Patterson, 267 F. Supp. 433 (D. Colo. 1967).

Parole does not operate as a discharge. A paroled prisoner who receives a ticket and leaves the prison as provided by this section is not discharged and can later be restrained as a parole violator. Johnson v. Tinsley, 157 Colo. 539, 404 P.2d 159 (1965) (decided under repealed § 27-20-120).

PART 3

OFFENDERS SENTENCED FOR CRIMES COMMITTED ON OR AFTER JULY 1, 1979

17-22.5-301. Good time.

(1) Each person sentenced for a crime committed on or after July 1, 1979, but before July 1, 1981, whose conduct indicates that he has substantially observed all of the rules and regulations of the institution or facility in which he has been confined and has faithfully performed the duties assigned to him shall be entitled to a good time deduction of fifteen days a month from his sentence. The good time authorized by this section shall vest quarterly and may not be withdrawn once it has vested. No more than forty-five days of good time may be withheld by the department in any three-month period of sentence.

(2) Each person sentenced for a crime committed on or after July 1, 1981, but before July 1, 1985, shall be subject to all the provisions of this part 3; except that the good time authorized by this section shall vest semiannually and no more than ninety days of good time may be withheld by the department in any six-month period of sentence.

(3) Each person sentenced for a crime committed on or after July 1, 1985, shall be subject to all the provisions of this part 3; except that the good time authorized by this section shall not vest and may be withheld or deducted by the department.

(4) Nothing in this section shall be so construed as to prevent the department from withholding good time earnable in subsequent periods of sentence, but not yet earned, for conduct occurring in a given period of sentence.

Source: L. 84: Entire article R&RE, p. 520, § 1, effective July 1. **L. 85:** (3) amended, p. 646, § 1, effective June 6. **L. 98:** (3) amended, p. 727, § 10, effective May 18.

Editor's note: This section is similar to former § 17-22.5-101 as it existed prior to 1984.

ANNOTATION

Law reviews. For article, "Adult Parole in Colorado: An Overview", see 44 Colo. Law. 37 (May 2015).

Annotator's note. Since § 17-22.5-301 is similar to former § 17-22.5-101, relevant cases construing that provision have been included with the annotations to this section. For other cases construing good time provisions, see the annotations under § 17-22.5-201.

There is no constitutional right to good-time credits for presentence confinement. People v. Cooper, 662 P.2d 478 (Colo. 1983); People v. Turman, 659 P.2d 1368 (Colo. 1983).

But former § 17-22.5-101 mandated good-time credit for presentence confinement. People v. Chavez, 659 P.2d 1381 (Colo. 1983).

The creation and distribution of good time credits is a matter committed to the authority of the legislature. A trial court order stipulating that credit be given an inmate for good time, presentence confinement, and time served in a community corrections program does not override the discretionary authority granted the department of corrections by the general assembly to withhold or withdraw such credits. Renneke v. Kautzky, 782 P.2d 343 (Colo. 1989).

For crimes committed on or after July 1, 1985, credit for good time is within discretionary authority of the department of corrections. Since the department of corrections may withhold or deduct good time credits, an inmate's maximum control date, as initially calculated by the department of corrections, is not necessarily the date upon which he is entitled to unconditional release. Renneke v. Kautzky, 782 P.2d 343 (Colo. 1989).

Presentence confinement. There is no statutory requirement that a sentencing court include in the mittimus information concerning a defendant's eligibility for good time credit for time spent in presentence confinement. Although such information is often included in the mittimus, it is the department of corrections alone which ultimately determines whether a defendant receives and maintains good time credit. People v. White, 981 P.2d 624 (Colo. App. 1998).

Confinement in county jail. To the extent that a defendant's sentence is served by confinement in county jail, the good-time credit provisions of former § 17-22.5-101 applied. People v. Chavez, 659 P.2d 1381 (Colo. 1983); People v. Roedel, 701 P.2d 891 (Colo. App. 1985).

By statute, good time credit for presentence confinement exists only in the case of crimes committed on or after July 1,

1979. People v. Emig, 676 P.2d 1156 (Colo. 1984).

When defendant entitled to credits. Where the trial court accepts a stipulation stating that the defendant substantially observed all of the rules and regulations of the county jail and faithfully performed the duties assigned to him, he is entitled to good-time credits for his presentence confinement. People v. Hamilton, 662 P.2d 177 (Colo. 1983); People v. Roedel, 701 P.2d 891 (Colo. App. 1985).

Where presentence report reflects that defendant had met the other requirements for a "good time" credit for the period of his presentence confinement, this section requires that the department of corrections recognize such credit. People v. Chavez, 659 P.2d 1381 (Colo. 1983); People v. Johnson, 776 P.2d 1141 (Colo. App. 1989), rev'd on other grounds, 797 P.2d 1296 (Colo. 1990).

Use of word "shall" mandates good time deduction to each person whose conduct indicates that he or she has observed the rules and regulations of the facility in which such person is confined. People v. Galvin, 835 P.2d 603 (Colo. App. 1992).

Because equal protection and due process claims were not clearly established rights at the time presentence good time credits of inmate were improperly withheld, individual defendants are qualifiedly immune from suit for compensatory damages. Griess v. State of Colo., 841 F.2d 1042 (10th Cir. 1988) (decided under former § 17-20-107).

An inmate who is incarcerated in the state prison system is eligible for two types of time deduction from his sentence. The first is "good time", under this section, which rewards the inmate who substantially observes the rules and regulations of the facility in which he is confined and who faithfully performs his assigned duties. The second is "earned time" pursuant to § 17-22.5-302 (1) which is provided if the inmate makes substantial progress in matters such as work and training. Bynum v. Kautzky, 784 P.2d 735 (Colo. 1989).

Aggregation of consecutive sentences is proper when calculating good time credit. People v. Broga, 750 P.2d 59 (Colo. 1988).

Good time and earned time credits do not constitute service of sentence and are only used to determine inmate's parole eligibility date. Thorson v. Dept. of Corr., 801 P.2d 540 (Colo. 1990); Myers v. Price, 842 P.2d 229 (Colo. 1992).

For inmates convicted of crimes committed after July 1, 1993, good time credits awarded by this section are only applied to calculate parole eligibility and not applied toward an inmate's mandatory release date. Ankeney v. Raemisch, 2015 CO 14, 344 P.3d 847.

Although the legislature revised and relocated the good time, earned time, and parole provisions originally included in § 16-11-310, eventually moving them to their present location in the statutes in this section and §§ 17-22.5-302 and 17-22.5-303, there is nothing in those revisions which would indicate that § 16-11-310 was meant to render inoperative the provision in § 17-

22.5-303 allowing reincarceration for a parole violation. Such an interpretation is unjustified since it would severely undermine the ability of the parole system to effect the successful reintegration of former inmates into the community while recognizing the need for public safety. Bynum v. Kautzky, 784 P.2d 735 (Colo. 1989).

The earned time and good time provisions of this section and § 17-22.5-302 do not preclude the reincarceration of an inmate for violation of his parole. These sections, together with § 16-11-310 (now repealed), were only intended to establish the mandatory date of release on parole. Thus, with respect to parole, the good time and earned time credits "vest" only for the purpose of determining parole eligibility, not for purposes of determining whether reincarceration is possible once a former inmate has violated his parole. Bynum v. Kautzky, 784 P.2d 735 (Colo. 1989); Williamson v. Jordan, 797 P.2d 744 (Colo. 1990); Jones v. Martinez, 799 P.2d 385 (Colo. 1990).

Section does not limit the place of confinement where good-time credit can be earned to only those facilities under the supervision of the department of corrections. Community corrections board also has the discretion to withhold or deduct against good-time credits. People v. Galvin, 835 P.2d 603 (Colo. App. 1992).

Good time and earned time credits are not to be credited towards service of sentence but only toward eligibility for parole. Rather v. Suthers, 973 P.2d 1264 (Colo. 1999).

Person convicted of a sex offense is not entitled to mandatory parole; therefore, the accumulation of good time and earned time credits do not make person eligible for immediate release. Rather v. Suthers, 973 P.2d 1264 (Colo. 1999).

17-22.5-302. Earned time.

(1) In addition to the good time authorized in section 17-22.5-301, earned time, not to exceed thirty days for every six months of incarceration, may be deducted from the inmate's sentence upon a demonstration to the department by the inmate that he has made substantial and consistent progress in each of the following categories:

(a) Work and training, including attendance, promptness, performance, cooperation, care of materials, and safety;

(b) Group living, including housekeeping, personal hygiene, cooperation, social adjustment, and double bunking;

(c) Participation in counseling sessions and involvement in self-help groups;

(d) Progress toward the goals and programs established by the Colorado diagnostic program.

(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.

(1.5) (a) In addition to the thirty days of earned time authorized in subsection (1) of this section, an inmate who makes positive progress, in accordance with performance standards, goals, and objectives established by the department, in the correctional education program established pursuant to section 17-32-105, shall receive earned time pursuant to section 17-22.5-405; except that, if, upon review of the inmate's performance record, the inmate has failed to satisfactorily perform in the correctional education program, any earned time received pursuant to this paragraph (a) may be withdrawn as provided in subsection (4) of this section. For purposes of this paragraph (a), "positive progress", at a minimum, means that the person is attentive, responsive, and cooperative during the course of instruction and satisfactorily completes required work assignments equivalent to the courses and hours necessary for advancement at a rate of one grade level per calendar year in the school district where such inmate was last enrolled.

(b) Repealed.

(2) The department shall develop objective standards for measuring substantial and consistent progress in the categories listed in subsection (1) of this section. Such standards shall be applied in all evaluations of inmates for the earned time authorized in this section.

(3) For each inmate sentenced for a crime committed on or after July 1, 1979, but before July 1, 1985, the department shall review the performance record of the inmate and shall grant, consistent with the provisions of this section, an earned time deduction from the sentence imposed. Such review shall be conducted at least annually; except that, in the case of an inmate who has one year or less of his sentence remaining to be served, the review shall be conducted at least semiannually. The earned time deduction authorized by this section shall vest upon being granted and may not be withdrawn once it is granted.

(4) For each inmate sentenced for a crime committed on or after July 1, 1985, the department shall review the performance record of the inmate and may grant, withhold, withdraw, or restore, consistent with the provisions of this section, an earned time deduction from the sentence imposed. Such review shall be conducted as specified in subsection (3) of this section; except that the earned time deduction authorized by this subsection (4) shall not vest upon being granted and may be withdrawn once it is granted.

(5) For each inmate sentenced for a crime committed on or after July 1, 1987, the department shall not credit such inmate with more than one-half of his allowable earned time for any six-

month period or portion thereof unless such inmate was employed or was participating in institutional training or treatment programs provided by the department or was participating in some combination of such employment, training, or treatment programs. This subsection (5) shall not apply to those inmates excused from such employment or programs for medical reasons.

Source: L. 84: Entire article R&RE, p. 521, § 1, effective July 1. **L. 87:** (5) added, p. 654, § 10, effective March 27. **L. 88:** (1.5) added, p. 697, § 3, effective July 1. **L. 90:** (1.5)(a) amended and (1.5)(b) repealed, pp. 976, 977, §§ 3, 7, effective July 1. **L. 91:** (1.5)(a) amended, p. 431, § 9, effective May 24. **L. 92:** (1.5)(a) amended, p. 2173, § 23, effective June 2. **L. 2011:** (1.3) added, (SB 11-176), ch. 289, p. 1343, § 3, effective July 1. **L. 2020:** (1.5)(a) amended, (HB 20-1402), ch. 216, p. 1047, § 29, effective June 30.

Editor's note: This section is similar to former § 17-22.5-102 as it existed prior to 1984.

Cross references: For the Colorado diagnostic program, see article 40 of this title 17.

ANNOTATION

An inmate does not have a vested right in earned time, so the inmate's punishment is not increased by withholding earned time from the inmate for not participating in sex offender treatment. Reeves v. Colo. Dept. of Corr., 155 P.3d 648 (Colo. App. 2007).

The creation and distribution of credits to be applied against an inmate's sentence are matters committed to the authority of the legislature; trial court orders do not prevail over the letter and intent of statutory provisions adopted by the general assembly. Renneke v. Kautzky, 782 P.2d 343 (Colo. 1989).

For crimes committed on or after July 1, 1985, deductions for earned time are within discretionary authority of the department of corrections. Since the department of corrections may withhold, withdraw, or restore earned time deductions, an inmate's maximum control date, as initially calculated by the department of corrections, is not necessarily the date upon which he is entitled to unconditional release. Renneke v. Kautzky, 782 P.2d 343 (Colo. 1989).

Granting of earned time credit for educational programs under subsection (1.5) lies with the discretion of the department. To read "shall" in subsection (1.5) in a mandatory sense would create an absurd result. An inmate has no clear right to receive and department has no clear duty to

grant earned time credit. Verrier v. Dept. of Corr., 77 P.3d 875 (Colo. App. 2003).

An inmate who is incarcerated in the state prison system is eligible for two types of time deduction from his sentence. The first is "good time" pursuant to § 17-22.5-301, which rewards the inmate who substantially observes the rules and regulations of the facility in which he is confined and who faithfully performs his assigned duties. The second is "earned time" under this section which is provided if the inmate makes substantial progress in matters such as work and training. Bynum v. Kautzky, 784 P.2d 735 (Colo. 1989).

Inmate not entitled to earned time for time spent in county jail because statutory requirements of this section were not met. People v. Alderman, 720 P.2d 1000 (Colo. App. 1986).

Good time and earned time credits do not constitute service of sentence and are only used to determine inmate's parole eligibility date. Thorson v. Dept. of Corr., 801 P.2d 540 (Colo. 1990); Myers v. Price, 842 P.2d 229 (Colo. 1992).

Subsection (3) of this section and §§ 16-11-310 (now repealed), 17-22.5-301 (2), and 17-22.5-303 (2) do not preclude the reincarceration of a person for violating his parole even though his time served, together with his good time and earned time credits accrued, equal or exceed the length of the sentence originally imposed. Bynum v. Kautzky, 784 P.2d 735 (Colo. 1989); Williamson v. Jordan, 797 P.2d 744 (Colo. 1990); Jones v. Martinez, 799 P.2d 385 (Colo. 1990).

The earned time and good time provisions of this section and § 17-22.5-301 do not preclude the reincarceration of an inmate for violation of his parole. These sections, together with § 16-11-310 (now repealed), were only intended to establish the mandatory date of release on parole. Thus, with respect to parole, the good time and earned time credits "vest" only for the purpose of determining parole eligibility, not for purposes of determining whether reincarceration is possible once a former inmate has violated his parole. Bynum v. Kautzky, 784 P.2d 735 (Colo. 1989); Williamson v. Jordan, 797 P.2d 744 (Colo. 1990); Jones v. Martinez, 799 P.2d 385 (Colo. 1990).

Inmates in administrative segregation do not meet certain criteria required for an award of earned time credits, even under the apparently mandatory subsection. Tempelman v. Gunter, 16 F.3d 367 (10th Cir. 1994).

17-22.5-303. Parole.

(1) As to any person sentenced for a class 2, class 3, class 4, or class 5 felony committed on or after July 1, 1979, but before July 1, 1981, the division of adult parole shall provide a one-year period of parole supervision and assistance in securing employment, housing, and such other services as may effect the successful reintegration of such offender into the community while recognizing the need for public safety; except that the state board of parole may discharge an

offender at any time during the year upon a determination that the offender has been sufficiently rehabilitated and reintegrated into society and can no longer benefit from parole supervision. The conditions of parole for any such person shall be established by the state board of parole prior to his release from incarceration. Upon a determination that the conditions of parole have been violated in any parole revocation proceeding, the state board of parole shall continue the parole in effect, modify the conditions of parole if circumstances then shown to exist require such modifications, or revoke the parole and order the return of the offender to the institution in which he was originally received for a period of not more than six months. For second and subsequent revocations of parole, the offender shall be reincarcerated; but in no event shall any such person spend more than one year under parole supervision and reincarceration as provided in this section. The good time deduction authorized by section 17-22.5-301 shall apply to periods of reincarceration provided for in this section.

(2) As to any person sentenced for a class 2, class 3, class 4, or class 5 felony committed on or after July 1, 1981, and before July 1, 1984, the division of adult parole shall provide a one-year period of parole supervision and assistance in securing employment, housing, and such other services as may effect the successful reintegration of such offender into the community while recognizing the need for public safety; except that the state board of parole may discharge an offender at any time during the year upon a determination that the offender has been sufficiently rehabilitated and reintegrated into society and can no longer benefit from parole supervision. The conditions of parole for any such person shall be subject to section 17-2-201 (5)(b) and (5)(c) prior to his or her release from incarceration; but in no event shall any such person whose initial parole has not been revoked spend more than one year under parole supervision, as provided in this section. Upon a determination that the conditions of parole have been violated in any such parole revocation proceeding, the state board of parole shall continue the parole in effect, modify the conditions of parole if circumstances then shown to exist require such modifications, or revoke the parole and order the return of the offender to the institution in which he or she was originally received for a period of not more than two years; but in no event shall any period of reincarceration, subsequent term of parole, and sentence actually served exceed the sentence imposed pursuant to section 18-1.3-401, C.R.S. The good time deduction authorized by section 17-22.5-301 shall apply to periods of reincarceration provided for in this section.

(3) The state board of parole, working in conjunction with the department, shall adopt risk assessment guidelines, based upon risk of violence to the general population, to be utilized for determining whether any person sentenced pursuant to the provisions of section 18-1.3-401, C.R.S., for committing a class 2, class 3, class 4, or class 5 felony committed on or after July 1, 1984, but before July 1, 1985, may be suitable for release on his or her parole eligibility date or shall be subject to extended parole of up to three years. Such guidelines shall include provisions which take into consideration the progress toward rehabilitation made by the individual as well as the necessity of guarding the welfare of the community.

(4) As to any person sentenced for a class 2, class 3, class 4, or class 5 felony committed on or after July 1, 1984, but before July 1, 1985, the division of adult parole shall either release an offender on his or her parole eligibility date, pursuant to the determination made by the state board of parole, or shall provide up to three years of parole for any offender who is determined by the state board of parole to present a high risk to the general population upon release from incarceration. For persons who are provided parole, the division of adult parole shall provide a period of up to three years of parole supervision and assistance in securing employment, housing, and such other services as may effect the successful reintegration of such offender into the community while recognizing the need for public safety. The conditions for parole for any such offender under this subsection (4) shall be established pursuant to section 17-2-201 (5)(b) and (5)(c) by the state board of parole prior to his or her release from incarceration. Upon a determination that the conditions of parole have been violated in a parole revocation proceeding, the state board of parole shall continue the parole in effect, modify the conditions of parole if circumstances then shown to exist require such modifications, or revoke the parole and order the return of the offender to the institution in which he or she was originally received for a period of not more than five years. In no event shall any period of reincarceration, subsequent term of parole, and sentence actually served exceed the sentence imposed pursuant to section 18-1.3-401, C.R.S. The state board of parole may discharge an offender granted parole under this section at any time during the term of parole upon a determination that the offender has been sufficiently rehabilitated and reintegrated into society and can no longer benefit from parole supervision. The good time deduction authorized by section 17-22.5-301 shall apply to periods of reincarceration provided for in this section.

(5) Pursuant to section 17-2-201 (9)(a), an interview of an inmate who applies for parole, who was sentenced for an offense committed on or after July 1, 1979, may be conducted by one member of the parole board.

(6) Any person sentenced for a class 2, class 3, class 4, class 5, or class 6 felony committed on or after July 1, 1985, shall be eligible for parole after such person has served the sentence imposed less any time authorized for good time earned pursuant to section 17-22.5-301 and for earned time pursuant to section 17-22.5-302. Upon an application for parole, the state board of parole, working in conjunction with the department and using the guidelines established pursuant to section 17-22.5-404, shall determine whether or not to grant parole and, if granted, the length of the period of parole, which may be for a period of up to five years. If an application for parole is refused by the state board of parole, the state board shall reconsider within one year thereafter the granting of parole to such person and shall continue the reconsideration each year thereafter until such person is granted parole or until such person is discharged pursuant to law; except that, if the person applying for parole was convicted of any class 3 sexual offense described in part 4 of article 3 of title 18, C.R.S., a habitual criminal offense as defined in section 18-1.3-801 (2.5), C.R.S., or of any offense subject to the requirements of section 18-1.3-904, C.R.S., the board need only reconsider granting parole to such person once every three years, until the board grants

such person parole or until such person is discharged pursuant to law, or if the person applying for parole was convicted of a class 1 or class 2 felony that constitutes a crime of violence, as defined in section 18-1.3-406, C.R.S., the board need only reconsider granting parole to such person once every five years, until the board grants such person parole or until such person is discharged pursuant to law.

(7) For persons who are granted parole pursuant to subsection (6) of this section, the division of adult parole shall provide a period of up to five years of parole supervision and assistance in securing employment, housing, and such other services as may effect the successful reintegration of such offender into the community while recognizing the need for public safety. The conditions for parole for any such offender under this subsection (7) shall be established pursuant to section 17-22.5-404 by the state board of parole prior to such offender's release from incarceration. Upon a determination that the conditions of parole have been violated in a parole revocation proceeding, the state board of parole shall continue the parole in effect, modify the conditions of parole if circumstances then shown to exist require such modifications, which circumstances shall be set forth in writing, or revoke the parole and order the return of the offender to a place of confinement designated by the executive director for a period of not more than five years. In computing the period of reincarceration for an offender other than an offender sentenced for a nonviolent felony offense, as defined in section 17-22.5-405 (5), the time between the offender's release on parole and return to custody in Colorado for revocation of such parole shall not be considered to be any part of the term of the sentence. In no event shall any period of reincarceration and sentence actually served exceed the sentence imposed pursuant to section 18-1.3-401, C.R.S. The state board of parole may discharge an offender granted parole under this section at any time during the term of parole upon a determination that the offender has been sufficiently rehabilitated and reintegrated into society and can no longer benefit from parole supervision.

(8) The state board of parole shall consider the parole of a person whose parole is revoked either for a technical violation or based on a self-revocation at least once within one hundred eighty days after the revocation if the person's release date is more than nine months from the date of the person's revocation; except that a person whose parole is revoked based on a technical violation that involved the use of a weapon shall not be considered for parole for one year.

Source: L. 84: Entire article R&RE, p. 521, § 1, effective July 1. **L. 85:** (3) and (4) amended and (6) and (7) added, p. 648, § 4, effective July 1; (5) added, p. 641, § 10, effective July 1. **L. 87:** (7) amended, p. 654, § 11, effective July 1. **L. 90:** (6) amended, p. 924, § 6, effective March 27. **L. 92:** (6) and (7) amended, p. 2173, § 24, effective June 2. **L. 94:** (6) amended, p. 2597, § 6, effective June 3. **L. 95:** (7) amended, p. 877, § 12, effective May 24. **L. 2000:** (1), (2), (4), and (7) amended, p. 853, § 62, effective May 24. **L. 2002:** (2), (3), (4), (6), and (7) amended, p. 1502,

§ 163, effective October 1. **L. 2003:** (6) amended, p. 812, § 1, effective July 1; (8) added, p. 2676, § 2, effective July 1. **L. 2008:** (7) amended, p. 1756, § 4, effective July 1.

Editor's note: This section is similar to former § 17-22.5-103 as it existed prior to 1984.

Cross references: (1) For parole revocation proceedings, see §§ 17-2-103 and 17-2-201; for the right to attend parole hearings, see § 17-2-214.

(2) For the legislative declaration contained in the 2002 act amending subsections (2), (3), (4), (6), and (7), see section 1 of chapter 318, Session Laws of Colorado 2002.

ANNOTATION

It is not a violation of the ex post facto clause found in article II section 11 of the Colorado Constitution to apply the amendment of this section which requires that parole time not be credited upon a second parole violation to a defendant who violates parole after the effective date of the amendment. Gasper v. Gunter, 851 P.2d 912 (Colo. 1993); People v. Gallegos, 975 P.2d 1135 (Colo. App. 1998).

1994 amendments to subsection (6) create only a speculative and attenuated risk of producing the prohibited effect of increasing the actual punishment for the covered crimes. These speculative effects are insufficient to establish a violation of the ex post facto prohibition. Funari v. Zavaras, 914 P.2d 508 (Colo. App. 1996).

Trial courts do not have the authority to impose a period of parole as part of a sentence. Only the parole board has the authority to determine whether and for what period parole is appropriate. People v. Mendez, 897 P.2d 868 (Colo. App. 1995).

A defendant is not legally entitled to good time credit, even though he or she may become eligible for such credit. People v. McCreadie, 938 P.2d 528 (Colo. 1997).

For felonies committed on or after July 1, 1985, good time and earned time credits are within discretionary authority of the department of corrections. Since the department of corrections may withdraw good time and earned time credits, an inmate's maximum control date, as initially calculated by the department of corrections, is not necessarily the date upon which he is entitled to unconditional release. Renneke v. Kautzky, 782 P.2d 343 (Colo. 1989).

Only purpose of accumulation of good time credits is for determining parole eligibility date of inmates and such credits do not constitute service of sentence. People v. Swepston, 822 P.2d 510 (Colo. App. 1991); Myers v. Price, 842 P.2d 229 (Colo. 1992).

Parole violator reincarcerated for the lesser of two years or the remainder of

sentence originally imposed. Subsection (2) provides that a parole violator may be returned to the institution in which he was originally received for a period of not more than two years, but in no event may the reincarceration and the subsequent term of parole and the sentence actually served exceed the sentence originally imposed. Thus, the parole board's imposition of a two-year term of reincarceration was improper. People v. Leedom, 781 P.2d 173 (Colo. App. 1989).

For purposes of a parole revocation, the term "sentence already served" in subsection (2) includes all previous periods of incarceration plus all previous periods of release on parole. People v. Browning, 809 P.2d 1086 (Colo. App. 1990).

Effect of parole violation on discretion to impose sentence to be served concurrently or consecutively. Even though a parolee could be reincarcerated after parole revocation for a maximum period of only six months, for the purposes of sentencing for a subsequent offense committed while on parole, the parolee was reincarcerated for the original offense. Therefore, the court sentencing for the subsequent offense had the discretion to impose the sentence to run consecutively to the period of reincarceration. People v. Lucero, 772 P.2d 58 (Colo. 1989).

Subsection (2) of this section and §§ 16-11-310 (now repealed), 17-22.5-301 (2), and 17-22.5-302 (3) do not preclude the reincarceration of a person for violating his parole even though his time served, together with his good time and earned time credits accrued, equal or exceed the length of the sentence originally imposed. Bynum v. Kautzky, 784 P.2d 735 (Colo. 1989); Williamson v. Jordan, 797 P.2d 744 (Colo. 1990); Jones v. Martinez, 799 P.2d 385 (Colo. 1990).

Although the legislature revised and relocated the good time, earned time, and parole provisions originally included § 16-11-310 (now repealed), eventually moving them to their present location in the statutes at §§ 17-22.5-301 to 17-22.5-303, there is nothing in those revisions which would indicate that § 16-11-310 was meant to render inoperative the provision in this section allowing reincarceration for a parole violation. Such an interpretation is unjustified since it would severely undermine the ability of the parole system to effect the successful reintegration of former inmates into the community while recognizing the need for public safety. Bynum v. Kautzky, 784 P.2d 735 (Colo. 1989).

Plain and clear language of this section requires that a parole violator not be reincarcerated for a period in excess of the balance of time to be served on such person's original sentence and that good time credits acquired during reincarceration be applied in a manner that will not so extend the balance of such person's original sentence. Anderson v. Kautzky, 786 P.2d 1082 (Colo. 1989).

Credits may not be carried forward. Good time and earned time credits received during original period of incarceration do not apply to period of reincarceration. Williamson v. Jordan, 797 P.2d 744 (Colo.

1990); Jones v. Martinez, 799 P.2d 385 (Colo. 1990).

Good time and earned time credits cannot be used to diminish defendant's sentence and accelerate release date. People v. Grenemyer, 827 P.2d 603 (Colo. App. 1992) (decided under section as it existed prior to its repeal in 1988).

It was foreseeable that § 16-11-310 would not be construed in such manner as to defeat the purpose or eliminate the requirement of parole. The possibility of reincarceration for violating conditions of parole necessarily rejects the concept of an incarcerated person meriting diminution of sentence by credits for good behavior prior to being released on a conditional basis. People v. Grenemyer, 827 P.2d 603 (Colo. App. 1992) (decided under section as it existed prior to its repeal in 1988); Fultz v. Embry, 158 F.3d 1101 (10th Cir. 1998).

Inmate who was eligible for mandatory parole under the longest of three concurrent sentences imposed upon him was entitled to be released on parole. Vaughn v. Gunter, 820 P.2d 659 (Colo. 1991).

Parole board has authority to impose parole on inmates who committed offenses between July 1, 1984, and July 1, 1985, pursuant to subsection (4) regardless of whether sentencing court imposed illegal sentence by imposing period of parole. People v. Swepston, 822 P.2d 510 (Colo. App. 1991).

In determining a defendant's parole date where consecutive sentences have been imposed and both the mandatory and discretionary parole statutes apply, the court should construe the consecutive sentences as one continuous sentence. The defendant's right to mandatory parole under the first conviction is nullified by his two subsequent discretionary parole convictions. Spoto v. Colo. State Dept. of Corr., 883 P.2d 11 (Colo. 1994); People v. Gallegos, 975 P.2d 1135 (Colo. App. 1998); Badger v. Suthers, 985 P.2d 1042 (Colo. 1999).

Department of corrections acted properly when it combined all of defendant's sentences, treating them as a continuous sentence, before the applicable parole date was determined. People v. Gallegos, 975 P.2d 1135 (Colo. App. 1998).

When a defendant is paroled under this section or under § 17-22.5-403, he must be reincarcerated for a parole violation under the same statute. People v. Gallegos, 975 P.2d 1135 (Colo. App. 1998).

17-22.5-303.3. Violent offenders - parole.

(1) Any person sentenced for second degree murder, first degree assault, first degree kidnapping, unless the first degree kidnapping is a class 1 felony, first or second degree sexual assault, first degree arson, first degree burglary, or aggravated robbery, committed on or after July 1, 1987, but before January 1, 2025, who has previously been convicted of a crime of violence, shall be eligible for parole after he has served seventy-five percent of the sentence

imposed less any time authorized for earned time pursuant to section 17-22.5-302. Thereafter, the provisions of section 17-22.5-303 (6) and (7) apply.

(1.5) Any person convicted for second degree murder; first degree assault; class 2 felony kidnapping; sexual assault under part 4 of article 3 of title 18; first degree arson; first degree burglary; or aggravated robbery, committed on or after January 1, 2025, shall be eligible for parole after such person has served eighty-five percent of the sentence imposed upon such person. Thereafter, the provisions of section 17-22.5-303 (6) and (7) apply.

(2) Any person convicted for a crime committed before January 1, 2025, for any crime enumerated in subsection (1) of this section, who has twice previously been convicted for a crime of violence, shall be eligible for parole after he has served the sentence imposed less any time authorized for earned time pursuant to section 17-22.5-302. Thereafter, the provisions of section 17-22.5-303 (6) and (7) apply.

(2.5) Any person convicted and sentenced for a crime committed on or after January 1, 2025, for any crime enumerated in subsection (1.5) of this section, who has twice previously been convicted for a crime of violence, shall begin parole after he has served the full sentence imposed. Thereafter, the provisions of section 17-22.5-303 (6) and (7) apply.

(3) The governor may grant parole to an offender to whom this section applies before such offender's parole eligibility date if, in the governor's opinion, extraordinary mitigating circumstances exist and such offender's release from institutional custody is compatible with the safety and welfare of society.

Source: L. 87: Entire section added, p. 655, § 12, effective July 1. **L. 88:** (1) amended, p. 1435, § 28, effective June 11. **Initiated 2024:** (1) and (2) R&RE and (1.5) and (2.5) added, Proposition 128, effective upon proclamation of the Governor, December 17, see L. 2025, p. 3617.

Editor's note: Provisions in this section were changed by Proposition 128, effective upon proclamation of the governor, December 17, 2024, see L. 2025, p. 3617. The vote count for the measure at the general election held November 5, 2024, was as follows:

FOR: 1,869,231

AGAINST: 1,140,284

ANNOTATION

Definition of "crime of violence" in § 16-11-309 applies in determining when a convicted person is eligible for parole under § 17-22.5-303.3 (1). Busch v. Gunter, 870 P.2d 586 (Colo. App. 1993).

A convicted person is eligible for parole after serving seventy-five percent of the person's sentence if previously convicted of a crime in which a deadly weapon was used, possessed, or threatened to be used. Busch v. Gunter, 870 P.2d 586 (Colo. App. 1993).

17-22.5-303.5. Parole guidelines. (Repealed)

Source: L. 85: Entire section added, p. 650, § 5, effective July 1. **L. 87:** (1) amended and (5) to (7) added, p. 655, § 13, effective July 1. **L. 88:** (2)(a)(IX) amended and (2)(a)(XI) added, p. 697, § 4, effective July 1. **L. 90:** (1) amended, p. 925, § 7, effective March 27; (2)(a)(XII) added, p. 977, § 4, effective July 1. **L. 91:** Entire section repealed, p. 335, § 2, effective May 18.

17-22.5-304. Part affects only certain inmates.

The good time provisions of this part 3 are effective July 1, 1979, and shall apply only to those persons convicted of crimes committed on or after said date. No person subject to the good time provisions of part 2 of this article shall be eligible for any of the provisions authorized by this part 3.

Source: L. 84: Entire article R&RE, p. 523, § 1, effective July 1. **L. 85:** Entire section amended, p. 652, § 6, effective July 1; Entire section amended, p. 1372, § 51, effective July 1.

ANNOTATION

This part 3 applies only to those persons convicted of crimes committed on or after July 1, 1979, which reflects a legislative decision that persons convicted of more than one offense may not receive double credits while serving sentences resulting from the circumstance that the offenses were committed both before and on or after July 1, 1979. Price v. Mills, 728 P.2d 715 (Colo. 1986).

17-22.5-305. Eligibility for other statutory provisions.

(1) No person subject to the provisions of section 17-22.5-301 (1) shall be eligible for any of the time limit and vesting provisions of section 17-22.5-301 (2) or (3) or 17-22.5-302 (4).

(2) No person subject to the provisions of section 17-22.5-301 (2) shall be eligible for any of the time limit and vesting provisions of section 17-22.5-301 (1) or (3) or 17-22.5-302 (4).

(3) No person subject to the provisions of section 17-22.5-301 (3) shall be eligible for any of the time limit and vesting provisions of section 17-22.5-301 (1) or (2) or 17-22.5-302 (3).

Source: L. 84: Entire article R&RE, p. 523, § 1, effective July 1.

17-22.5-306. Transfer of functions.

The executive director shall, on and after July 1, 1984, execute, administer, perform, and enforce the rights, powers, duties, functions, and obligations formerly vested in the state board of parole with respect to the earned time provisions of section 17-22.5-302. Notwithstanding any other provision of law to the contrary, the state board of parole shall carry out all of its other functions as if this section had not been enacted.

Source: L. 84: Entire article R&RE, p. 523, § 1, effective July 1.

17-22.5-307. Consecutive or concurrent sentences - clarification of mittimus.

(1) If the department receives custody of a defendant who is sentenced to serve two or more terms of incarceration in the custody of the department, and any mittimus concerning the defendant's sentence or sentences does not clearly indicate whether the defendant's sentences are to be served consecutively or concurrently, then the department shall seek clarification in writing from the court regarding the defendant's sentence or sentences. The department shall seek such clarification not more than two business days after the department's receipt of the mittimus.

(2) A court that receives a written request from the department pursuant to subsection (1) of this section shall respond to the department and clarify the mittimus in question in order to accurately reflect the sentence previously entered in open court. The court shall provide such clarification in writing not more than two business days after receiving the request. The court shall provide a copy of the court's response to the counsel of record for the prosecution and the defense.

(3) Until the department obtains clarification of the mittimus from the court, the department shall not make any determination of the defendant's parole eligibility date or mandatory release date.

Source: L. 2013: Entire section added, (HB 13-1323), ch. 325, p. 1816, § 1, effective May 28.

PART 4

PAROLE ELIGIBILITY AND DISCHARGE FROM CUSTODY

Law reviews: For article, "1990 Criminal Law Legislative Update", see 19 Colo. Law. 2049 (1990).

17-22.5-401. Legislative declaration.

The general assembly hereby declares that if any inmate does not demonstrate positive behavior during incarceration, such inmate should be required to serve out the full sentence imposed upon such inmate. If any inmate does demonstrate positive behavior during incarceration, such inmate should be considered for release from incarceration prior to the end of the full sentence imposed upon him. Therefore, the general assembly, in enacting this part 4, intends to provide standards whereby any inmate can earn a reduction of incarceration time and to provide incentives for inmates to demonstrate positive behavior during incarceration.

Source: L. 90: Entire part added, p. 946, § 19, effective June 7.

17-22.5-402. Discharge from custody.

(1) No inmate shall be discharged from the department until he has remained the full term for which he was sentenced, to be computed on and after the date upon which the sentence becomes effective and excluding any time the inmate may have been at large by reason of escape therefrom, unless he is pardoned or otherwise released by legal authority.

(2) Notwithstanding subsection (1) of this section, the full term for which an inmate is sentenced shall be reduced by any earned release time and earned time granted pursuant to section 17-22.5-405, except as provided in section 17-22.5-403 (3) and (3.5).

(3) This part 4 shall not apply to any offender to whom section 17-22.5-104 (2)(a), (2)(b), (2)(c), (2)(d)(I), (2)(d)(II), or (2)(d)(III) applies.

(4) A person discharged from a correctional facility without supervision is eligible to receive reentry support services from the department or community-based organizations that receive funding from the department to provide reentry services for up to one year after the person's date of discharge.

Source: L. 90: Entire part added, p. 947, § 19, effective June 7. **L. 2004:** (2) amended, p. 1741, § 2, effective June 4. **L. 2006:** (3) amended, p. 1053, § 4, effective May 25. **L. 2009:** (2) amended, (HB 09-1351), ch. 359, p. 1867, § 2, effective June 1. **L. 2019:** (4) added, (SB 19-143), ch. 286, p. 2659, § 5, effective May 28.

Cross references: For the legislative declaration contained in the 2006 act amending subsection (3), see section 1 of chapter 228, Session Laws of Colorado 2006.

ANNOTATION

An inmate is not entitled to unconditional release under this section when the inmate has a sufficient amount of good time and earned time credits, when combined with time served, to satisfy the inmate's sentence. The statutory scheme regarding eligibility for parole and discharge reflect the general assembly's intent that good time and earned time credits apply for the purpose of determining an inmate's eligibility for parole. Meyers v. Price, 842 P.2d 229 (Colo. 1992).

To the extent that subsection (1) of this section conflicts with § 18-1.3-501 (1)(c), the latter provision controls because it is the more specific and more recently enacted statute. People v. Valadez, 2016 COA 62, 374 P.3d 529.

17-22.5-403. Parole eligibility.

(1) Any person sentenced for a class 2, class 3, class 4, class 5, or class 6 felony, or a level 1, level 2, level 3, or level 4 drug felony, or any unclassified felony shall be eligible for parole after such person has served fifty percent of the sentence imposed upon such person, less any time authorized for earned time granted pursuant to section 17-22.5-405. However, the date established by this subsection (1) upon which any person shall be eligible for parole may be extended by the executive director for misconduct during incarceration. The executive director shall promulgate rules and regulations concerning when and under what conditions any inmate's parole eligibility date may be extended. Such rules and regulations shall be promulgated in such a manner as to promote fairness and consistency in the treatment of all inmates.

(2) (a) Notwithstanding subsection (1) of this section, any person convicted and sentenced for second degree murder, first degree assault, first degree kidnapping unless the first degree kidnapping is a class 1 felony, first or second degree sexual assault, first degree arson, first degree burglary, or aggravated robbery, committed on or after June 7, 1990, and before July 1, 2004, which person has previously been convicted of a crime which would have been a crime of

violence as defined in section 18-1.3-406, C.R.S., shall be eligible for parole after such person has served seventy-five percent of the sentence imposed upon such person, less any time authorized for earned time granted pursuant to section 17-22.5-405.

(b) The provisions of paragraph (a) of this subsection (2) shall not apply to persons sentenced pursuant to part 10 of article 1.3 of title 18, C.R.S.

(c) (I) A person who is convicted as an adult of a class 1 felony following a direct filing of an information or indictment in the district court pursuant to section 19-2.5-801, or transfer of proceedings to the district court pursuant to section 19-2.5-802, or pursuant to either of these sections as they existed prior to their repeal and reenactment, with amendments, by House Bill 96-1005, which felony was committed on or after July 1, 1990, and before July 1, 2006, and who is resentenced pursuant to section 18-1.3-401 (4)(c), is not entitled to receive any reduction of the person's sentence pursuant to this section.

(II) Repealed.

(2.5) (a) Notwithstanding subsection (1) of this section, any person convicted and sentenced for second degree murder, first degree assault, first degree kidnapping unless the first degree kidnapping is a class 1 felony, first degree arson, first degree burglary, or aggravated robbery, committed on or after July 1, 2004, but before January 1, 2025, shall be eligible for parole after such person has served seventy-five percent of the sentence imposed upon such person, less any time authorized for earned time granted pursuant to section 17-22.5-405.

(b) The provisions of paragraph (a) of this subsection (2.5) shall only apply to:

(I) A person convicted and sentenced for a crime listed in paragraph (a) of this subsection (2.5) that is a class 2 or class 3 felony offense; or

(II) A person convicted and sentenced for a crime listed in paragraph (a) of this subsection (2.5) that is a class 4 or class 5 felony offense, which person has previously been convicted of a crime of violence as defined in section 18-1.3-406, C.R.S.

(3) Notwithstanding subsection (1) or (2) of this section, any person convicted and sentenced for any crime enumerated in subsection (2) of this section, committed on or after June 7, 1990, and before July 1, 2004, who has twice previously been convicted for a crime which would have been a crime of violence as defined in section 18-1.3-406, C.R.S., shall be eligible for parole after such person has served seventy-five percent of the sentence served upon such person, at which time such person shall be referred by the department to the state board of parole which may place such person on parole for a period of time which does not exceed the time remaining on such person's original sentence. For offenses committed on or after July 1, 1993, such person shall be placed on parole for the period of time specified in section 18-1.3-401 (1)(a)(V), C.R.S. Section 17-22.5-402 (2) shall not apply to any such offender.

(3.5) (a) Notwithstanding subsection (1) or (2.5) of this section, any person convicted and sentenced for any crime enumerated in subsection (2.5) of this section, committed on or after July 1, 2004, who has previously been convicted for a crime which would have been a crime of violence as defined in section 18-1.3-406, C.R.S., shall be eligible for parole after such person has served seventy-five percent of the sentence served upon such person, at which time such person shall be referred by the department to the state board of parole which may place the person on parole for the period of time specified in section 18-1.3-401 (1)(a)(V), C.R.S. Section 17-22.5-402 (2) shall not apply to any such offender.

(b) The provisions of paragraph (a) of this subsection (3.5) shall only apply to:

(I) A person convicted and sentenced for a crime listed in paragraph (a) of subsection (2.5) of this section that is a class 2 or class 3 felony offense; or

(II) A person convicted and sentenced for a crime listed in paragraph (a) of subsection (2.5) of this section that is a class 4 or class 5 felony offense, which person has twice previously been convicted of a crime of violence as defined in section 18-1.3-406, C.R.S.

(4) The governor may grant parole to an inmate to whom subsection (2) or (3) of this section applies prior to such inmate's parole eligibility date or discharge date if, in the governor's opinion, extraordinary mitigating circumstances exist and such inmate's release from institutional custody is compatible with the safety and welfare of society.

(4.5) (a) After considering any relevant evidence presented by a person or agency and considering the presumptions described in section 17-34-102 (8), the governor or the state board of parole, pursuant to section 17-22.5-403.7 (6), may grant early parole to an offender to whom subsection (1) or (2.5) of this section applies when the offender successfully completes the specialized program described in section 17-34-102 if, in the governor's or the state board of parole's opinion, extraordinary mitigating circumstances exist and the offender's release from institutional custody is compatible with the safety and welfare of society.

(b) When an offender applies for early parole pursuant to subsection (4.5)(a) of this section after having successfully completed the specialized program described in section 17-34-102, the offender must submit their application to the governor's office with notice and a copy of the application sent to the state board of parole created in section 17-2-201. The state board of parole shall review the offender's application and all supporting documents and schedule a hearing if the board considers making a recommendation for early parole, at which hearing any victim must have the opportunity to be heard, pursuant to section 24-4.1-302.5 (1)(j). Not later than ninety days after receipt of a copy of an offender's application for early parole, the state board of parole, after considering the presumptions set forth in section 17-34-102 (8) and any relevant information presented by a person or agency, shall make a recommendation to the governor concerning whether early parole should be granted to the offender.

(c) The department, in consultation with the state board of parole, shall develop any necessary policies and procedures to implement this subsection (4.5), including procedures for providing notice to any victim, as required by sections 24-4.1-302.5 (1)(j) and 24-4.1-303 (14), C.R.S., and to the district attorney's office that prosecuted the crime for which the offender was sentenced.

(5) For any offender who is incarcerated for an offense committed prior to July 1, 1993, upon application for parole, the state board of parole, working in conjunction with the department and using the guidelines established pursuant to section 17-22.5-404, shall determine whether or not to grant parole and, if granted, the length of the period of parole. Prior to the parole release hearing, the division of adult parole shall conduct a parole plan investigation and inform the state board of parole of the results of the investigation. If the state board of parole finds an inmate's parole plan inadequate, it shall table the parole release decision and inform the director of the division of adult parole that the parole plan is inadequate. The director of the division of adult parole shall ensure that a revised parole plan that addresses the deficiencies in the original parole plan is submitted to the parole board within thirty days after the notification. The parole board is responsible for monitoring the department's compliance with this provision and shall notify the director of the division of adult parole if a revised parole plan is not submitted to the parole board within thirty days. The state board of parole may set the length of the period of parole for any time period up to the date of final discharge as determined in accordance with section 17-22.5-402. If an application for parole is refused by the state board of parole, the state board of parole shall reconsider within one year thereafter whether such inmate should be granted parole. The state board of parole shall continue such reconsideration each year thereafter until such inmate is granted parole or until such inmate is discharged pursuant to law; except that:

(a) If the inmate applying for parole was convicted of any class 3 sexual offense described in part 4 of article 3 of title 18, C.R.S., a habitual criminal offense as defined in section 18-1.3-801 (2.5), C.R.S., or of any offense subject to the requirements of section 18-1.3-904, C.R.S., the board need only reconsider granting parole to such inmate once every three years, until the board grants such inmate parole or until such inmate is discharged pursuant to law; or

(b) If the inmate was convicted of a class 1 or class 2 felony that constitutes a crime of violence, as defined in section 18-1.3-406, C.R.S., the board need only reconsider granting parole to such inmate once every five years, until the board grants such inmate parole or until such inmate is discharged pursuant to law.

(6) For persons who are granted parole pursuant to subsection (5) of this section, the division of adult parole shall provide parole supervision and assistance in securing employment, housing, and such other services as may effect the successful reintegration of such offender into the community while recognizing the need for public safety. The conditions for parole for any such offender under this subsection (6) shall be established pursuant to section 17-22.5-404 by the state board of parole prior to such offender's release from incarceration. Upon a determination in

a parole revocation proceeding that the conditions of parole have been violated, the state board of parole shall continue the parole in effect, modify the conditions of parole if circumstances then shown to exist require such modifications, which circumstances shall be set forth in writing, or revoke the parole and order the return of the offender to a place of confinement designated by the executive director for any period of time up to the period remaining on such person's sentence, including the remainder of the offender's natural life if applicable, until the discharge date as determined by section 17-22.5-402 or one year, whichever is longer. In computing the period of reincarceration for an offender other than an offender sentenced for a nonviolent felony offense, as defined in section 17-22.5-405 (5), the time between the offender's release on parole and return to custody in Colorado for revocation of such parole shall not be considered to be part of the term of the sentence. The state board of parole may discharge an offender granted parole under this section at any time during the term of parole upon a determination that the offender has been sufficiently rehabilitated and reintegrated into society and can no longer benefit from parole supervision.

(7) (a) For any offender who is incarcerated for an offense committed on or after July 1, 1993, upon application for parole, the state board of parole, working in conjunction with the department and using the guidelines established pursuant to section 17-22.5-404, shall determine whether or not to grant parole. The state board of parole, if it determines that placing an offender on parole is appropriate, shall set the length of the period of parole at the mandatory period of parole established in section 18-1.3-401 (1)(a)(V) or 18-1.3-401.5 (2)(a), C.R.S., except as otherwise provided for specified offenses in section 17-2-201 (5)(a), (5)(a.5), and (5)(a.7).

(b) Notwithstanding the provisions of paragraph (a) of this subsection (7), for any sex offender, as defined in section 18-1.3-1003 (4), C.R.S., who is sentenced pursuant to the provisions of part 10 of article 1.3 of title 18, C.R.S., for commission of a sex offense committed on or after November 1, 1998, the state board of parole shall determine whether or not to grant parole as provided in section 18-1.3-1006, C.R.S. If the state board of parole determines that placing a sex offender on parole is appropriate, it shall set an indeterminate period of parole as provided in section 18-1.3-1006, C.R.S.

(c) If the state board of parole does not grant parole pursuant to subsection (7)(a) or (7)(b) of this section because it finds an inmate's parole plan inadequate, it shall table the parole release decision and inform the director of the division of adult parole that the parole plan is inadequate. The director of the division of adult parole shall ensure that a revised parole plan that addresses the deficiencies in the original parole plan is submitted to the parole board within thirty days after the notification. The parole board is responsible for monitoring the department's compliance with this provision and shall notify the director of the division of adult parole if a revised parole plan is not submitted to the parole board within thirty days.

(8) (a) For persons who are granted parole pursuant to paragraph (a) of subsection (7) of this section, the division of adult parole shall provide parole supervision and assistance in securing

employment, housing, and such other services as may affect the successful reintegration of such offender into the community while recognizing the need for public safety. The conditions for parole for any such offender under this paragraph (a) shall be established pursuant to section 17-22.5-404 by the state board of parole prior to such offender's release from incarceration. Upon a determination that the conditions of parole have been violated in a parole revocation proceeding, the state board of parole shall continue the parole in effect, modify the conditions of parole if circumstances then shown to exist require such modifications, which circumstances shall be set forth in writing, or revoke the parole and order the return of the offender to a place of confinement designated by the executive director for any period of time up to the period remaining on such person's mandatory period of parole established in section 18-1.3-401 (1)(a)(V) or 18-1.3-401.5 (2)(a), C.R.S. Any offender who has been reincarcerated due to a parole revocation pursuant to this paragraph (a) shall be eligible for parole at any time during such reincarceration. The state board of parole may discharge an offender granted parole under this section at any time during the term of parole upon a determination that the offender has been sufficiently rehabilitated and reintegrated into society and can no longer benefit from parole supervision. In making any such determination, the state board of parole shall make written findings as to why such offender is no longer in need of parole supervision.

(b) For sex offenders, as defined in section 18-1.3-1003 (4), C.R.S., who are convicted of an offense committed on or after November 1, 1998, and who are granted parole pursuant to paragraph (b) of subsection (7) of this section, the division of adult parole shall provide parole supervision and assistance in securing employment, housing, and such other services as may affect the successful reintegration of the sex offender into the community while recognizing the need for public safety. The conditions for parole for any sex offender shall be established pursuant to section 18-1.3-1006, C.R.S., and section 17-22.5-404 by the state board of parole prior to the sex offender's release from incarceration. Upon a determination in a parole revocation proceeding that the sex offender has violated the conditions of parole, the state board of parole shall continue the parole in effect, modify the conditions of parole if circumstances then shown to exist require such modifications, which circumstances shall be set forth in writing, or revoke the parole and order the return of the sex offender to a place of confinement designated by the executive director for any period of time up to the remainder of the sex offender's natural life. The revocation hearing shall be held and the state board of parole shall make its determination as provided in section 18-1.3-1010, C.R.S. The state board of parole may discharge a sex offender from parole as provided in section 18-1.3-1006 (3), C.R.S.

(9) The state board of parole shall consider the parole of a person whose parole is revoked either for a technical violation or based on a self-revocation at least once within one hundred eighty days after the revocation if the person's release date is more than nine months from the date of the person's revocation; except that a person whose parole is revoked based on a technical violation that involved the use of a weapon shall not be considered for parole for one year.

Source: L. 90: Entire part added, p. 947, § 19, effective June 7. **L. 93:** (1) amended, p. 1730, § 11, effective July 1; entire section amended, p. 1978, § 4, effective July 1. **L. 94:** (5) and (7) amended, p. 2597, § 7, effective June 3. **L. 95:** (6) amended, p. 878, § 13, effective May 24. **L. 98:** (9) added, p. 1445, § 37, effective July 1; (7) and (8) amended, p. 1291, § 12, effective November 1. **L. 2000:** (6), (8), and (9)(c) amended, p. 854, § 63, effective May 24. **L. 2002:** (7)(a) amended, p. 125, § 3, effective March 26; (2), (3), (5), (7)(a), (7)(b), (8)(a), (8)(b), and (9)(a) amended, p. 1504, § 164, effective October 1. **L. 2003:** (2) amended, p. 975, § 10, effective April 17; (7)(a) amended, p. 813, § 2, effective July 1; (9) amended, p. 2677, § 4, effective July 1. **L. 2004:** (2) and (3) amended and (2.5) and (3.5) added, p. 1739, § 1, effective June 4. **L. 2008:** (6) amended, p. 1756, § 5, effective July 1. **L. 2013:** (1), (7)(a), and (8)(a) amended, (SB 13-250), ch. 333, p.1932, § 49, effective October 1. **L. 2015:** (5), (6), (7), and (8)(b) amended, (HB 15-1122), ch. 37, p. 89, § 5, effective March 20. **L. 2016:** (2)(c) added, (SB 16-181), ch. 353, p. 1449, § 3, effective June 10; (4.5) added, (SB 16-180), ch. 352, p. 1443, § 3, effective August 10. **L. 2017:** IP(5) amended, (HB 17-1326), ch. 394, p. 2030, § 5, effective August 9. **L. 2019:** IP(5) amended and (7)(c) added, (SB 19-143), ch. 286, p. 2660, § 6, effective May 28. **L. 2021:** (2)(c)(I) amended, (SB 21-059), ch. 136, p. 716, § 34, effective October 1. **Initiated 2024:** (2.5)(a) amended, Proposition 128, effective upon proclamation of the Governor, December 17, see L. 2025, p. 3617. **L. 2026:** (4.5)(a) and (4.5)(b) amended, (SB 26-158), ch. 136, p. 659, § 1, effective May 19.

Editor's note: (1) Amendments to this section by House Bill 93-1302 and House Bill 93-1088 were harmonized. Amendments to subsection (7)(a) by House Bill 02-1223 and House Bill 02-1046 were harmonized, effective October 1, 2002.

(2) Subsection (2)(c)(II)(B) provided for the repeal of subsection (2)(c)(II), effective one year after June 10, 2016. (See L. 2016, p. 1449.)

(3) Subsection (2.5)(a) was changed by Proposition 128, effective upon proclamation of the governor, December 17, 2024, see L. 2025, p. 3617. The vote count for the measure at the general election held November 5, 2024, was as follows:

FOR: 1,869,231

AGAINST: 1,140,284

Cross references: For the legislative declaration contained in the 2002 act amending subsections (2), (3), (5), (7)(a), (7)(b), (8)(a), (8)(b), and (9)(a), see section 1 of chapter 318, Session Laws of Colorado 2002. For the legislative declaration in HB 15-1122, see section 1 of chapter 37, Session Laws of Colorado 2015. For the legislative declaration in SB 16-180, see

section 1 of chapter 352, Session Laws of Colorado 2016. For the legislative declaration in HB 17-1326, see section 1 of chapter 394, Session Laws of Colorado 2017.

ANNOTATION

Application of the triennial review authorized in subsection (5) does not violate the ex post facto clauses in the federal or state constitution. Martinez v. Colo. State Bd. of Parole, 989 P.2d 256 (Colo. App. 1999).

Retrospective application of the 1993 mandatory parole provisions of this section, in conjunction with § 18-1-105 (1)(a)(V), not violative of ex post facto clause where defendant had pleaded guilty to underlying offense with stipulation that the offense occurred within a time frame that happened to include time periods both prior and subsequent to the date such provisions were enacted. People v. Flagg, 18 P.3d 792 (Colo. App. 2000).

Retroactive application of the policy of the parole board to no longer reconsider a parole application two months early does not extend a prisoner's actual period of confinement and is appropriate. Mulberry v. Neal, 96 F. Supp. 2d 1149 (D. Colo. 2000).

The crime of violence qualifier in subsection (2.5)(b) only applies to subsection (2.5)(b)(II), not all of subsection (2.5)(b). Owens v. Williams, 2020 COA 177, 490 P.3d 1050, rev'd on other grounds, 2022 CO 33, 511 P.3d 637.

In enacting statutory section, general assembly did not intend 75% provision to apply only to persons whose prior violent crime resulted in a separate charge and separate conviction. Instead, general assembly's general goal was to make parole eligibility more difficult for all persons who have previously committed a violent crime. Outler v. Norton, 934 P.2d 922 (Colo. App. 1997).

Subsection (1) applies only to an offender sentenced for a crime committed on or after July 1, 1979. Vashone-Caruso v. Suthers, 29 P.3d 339 (Colo. App. 2001).

Notwithstanding subsection (1) of this section, in computing an inmate's parole eligibility date, § 17-22.5-101 requires the department of corrections to construe all sentences as one continuous sentence when the inmate has been committed under several convictions with separate sentences, even when doing so results in the inmate becoming parole eligible before serving at least 50 percent of the second sentence. Nowak v. Suthers, 2014 CO 14, 320 P.3d 340.

Subsection (1) of this section is not irreconcilable with § 17-22.5-101. The two statutes can be harmonized by construing the "sentence imposed upon such person", as used in subsection (1), as the one continuous sentence mandated by § 17-22.5-101. Nowak v. Suthers, 2014 CO 14, 320 P.3d 340.

Plain and ordinary meaning of the words "would have been a crime of violence" as used in the section includes

the situation in which a criminal defendant has been previously convicted of a crime which satisfies definition of crime of violence contained in § 16-11-309 (2). Outler v. Norton, 934 P.2d 922 (Colo. App. 1997).

The language of subsection (3) is unambiguous and contains no qualification that the crimes arise out of separate criminal transactions and have been separately tried and convicted. Koucherik v. Zavaras, 940 P.2d 1063 (Colo. App. 1996).

Defendant's assertion that the application of subsection (3) to his circumstances denied him equal protection of the law was not supported by any evidence and defendant therefore failed to meet his burden to show that he was being treated differently from other persons who were similarly situated. Koucherik v. Zavaras, 940 P.2d 1063 (Colo. App. 1996).

Extension of inmate's parole eligibility date under subsection (2)(a) or (3) does not alter or increase inmate's sentence. Jenner v. Ortiz, 155 P.3d 563 (Colo. App. 2006).

Defendant's post-conviction challenge to imposition of mandatory parole period as an unconstitutional violation of the double jeopardy clause based on the assertion that only the parole board has the authority to impose parole was denied, since the parole board only administers parole and the court imposes it; hence there is no separate penalty imposed in a separate proceeding. People v. Xiong, 10 P.3d 719 (Colo. App. 2000).

With a mandatory parole period, an offender does not begin serving the period of parole until his or her prison sentence has been fully served or the parole board determines that he or she is ready for parole. People v. Hall, 87 P.3d 210 (Colo. App. 2003).

While an offender subject to discretionary parole will never be confined for a period greater than the original sentence imposed, an offender subject to mandatory parole faces a sentence to prison, a period of parole, and possibly another period of confinement not necessarily limited to the original term of incarceration imposed. People v. Hall, 87 P.3d 210 (Colo. App. 2003).

Only the parole board, not a parole officer, has the authority to direct that an offender attend a community corrections program as a condition of parole. People v. Lanzieri, 996 P.2d 156 (Colo. App. 1999), rev'd on other grounds, 25 P.3d 1170 (Colo. 2001).

Subsection (9) does not violate separation of powers or double jeopardy. The constitution does not provide that sentencing is within the sole province of the judiciary. The general assembly has the power to prescribe punishment and limit the court's sentencing authority. In this case, the general assembly, by enacting subsection (9), simply extended Colorado's parole supervision scheme to provide additional means for successfully reintegrating offenders into the community consistent with public safety. People v. Jackson, 109 P.3d 1017 (Colo. App. 2004).

Defendant was on notice that, under certain circumstances, he or she could be subject to post-release supervision and reincarceration following mandatory parole. Thus, he or she could not have had a legitimate expectation of finality in the sentence announced by the court at sentencing. Therefore, the defendant's double jeopardy rights were not violated when, because of intervening circumstances, the defendant was subject to the additional period of statutorily required supervision. People v. Jackson, 109 P.3d 1017 (Colo. App. 2004).

Department of corrections acted properly when it combined all of defendant's sentences, treating them as a continuous sentence, before the applicable parole date was determined. People v. Gallegos, 975 P.2d 1135 (Colo. App. 1998).

When the department calculates an inmate's parole eligibility date based on multiple convictions and one conviction would be subject to subsection (1) and the others would be subject to subsection (2.5), the department must employ a hybrid method of calculation to give effect to each applicable parole eligibility date calculation for purposes of the inmate's one continuous sentence. Owens v. Williams, 2022 CO 33, 511 P.3d 637.

When a defendant is paroled under this section or under § 17-22.5-303, he must be reincarcerated for a parole violation under the same statute. People v. Gallegos, 975 P.2d 1135 (Colo. App. 1998).

A period of confinement attributable to a parole revocation was not a "period of mandatory parole". When a person is reincarcerated on a parole revocation, he is no longer serving his original sentence. Therefore, when a person is sentenced for the crime of escape during a period of mandatory parole for another offense, ordering such a sentence to run consecutive with the period of incarceration for the parole revocation did not violate § 18-1.3-401 (1)(a)(V)(E). People v. Luther, 58 P.3d 1013 (Colo. 2002).

Subsection (5) applied to defendant convicted of first degree murder, even though defendant was not convicted of a separate count of crime of violence. This subsection does not require proof of conviction of a crime of violence count, instead it applies to any defendant convicted of any crime described as a crime of violence in § 16-11-309. Martinez v. Colo. State Bd. of Parole, 989 P.2d 256 (Colo. App. 1999).

Defendant's argument that he did not enter into a voluntary plea because he was not advised that a violation of mandatory parole could lead to reincarceration was without merit. Pursuant to subsection (7), a term of mandatory parole is imposed in addition to, and not in lieu of, a term of incarceration. If parole is granted, it must be for the mandatory period established by statute and it is implied that an advisement on mandatory parole includes notice that violation of such parole may result in imprisonment. People v. Jones, 957 P.2d 1046 (Colo. App. 1997).

The provisions of § 17-2-201 (5)(a) and subsection (7) of this section are in

conflict. Section 17-2-201 (5)(a) is a specific provision related to the parole of sex offenders while subsection (7) of this section is the mandatory parole statute for all felonies. As such, applying the statutory construction rule that the specific provision prevails over the general provision, § 17-2-201 (5)(a) is an exception to subsection (7) of this section by creating a specialized schedule for sex offenders who committed crimes prior to July 1, 1996. Martin v. People, 27 P.3d 846 (Colo. 2001).

Section 17-2-201 (5)(a.5) is a specific provision related to the parole of sex offenders while subsection (7) of this section is the mandatory parole statute for all felonies. As such, applying the statutory construction rule that the specific provision prevails over the general provision, § 17-2-201 (5)(a.5) is an exception to subsection (7) of this section, which creates a specialized schedule for sex offenders who committed crimes between July 1, 1996, and July 1, 1998. People v. Cooper, 27 P.3d 348 (Colo. 2001).

Subsection (8)(b) and § 17-2-103 (11)(b) conflict when a parole revocation is for a sex offender subject to lifetime supervision. Since this section is the more specific provision, it applies to the revocation of a lifetime supervision sex offender's parole. People v. Back, 2013 COA 114, 412 P.3d 565.

Habitual offenders are subject to a period of discretionary parole rather than a period of statutory mandatory parole. The provisions of § 17-2-201 (5)(a) and § 17-2-213 irreconcilably conflict with the provisions of subsection (7) of this section and § 18-1-105 (1)(a)(V). Thus, the specific provision of § 17-2-201 (5)(a) and § 17-2-213 prevail over the general provisions of subsection (7) of this section and § 18-1-105 (1)(a)(V). People v. Falls, 58 P.3d 1140 (Colo. App. 2002).

Petition to review mandatory parole is ripe for judicial review even though the defendant has not completed period of incarceration. People v. Wirsching, 30 P.3d 227 (Colo. App. 2000).

An advisement that a defendant is subject to mandatory parole without disclosing the period of parole is not sufficient to meet the requirements of this section and may allow the defendant to withdraw his or her plea agreement. People v. Wirsching, 30 P.3d 227 (Colo. App. 2000).

The parole board has the discretion to revoke a sex offender's parole for the rest of his or her indeterminate sentence. People v. Back, 2013 COA 114, 412 P.3d 565.

17-22.5-403.5. Special needs parole.

(1) Notwithstanding any provision of law to the contrary, a special needs offender, as defined in section 17-1-102 (7.6), may be eligible for parole prior to or after the offender's parole eligibility date pursuant to this section if:

(a) The department determines that the inmate is a special needs offender; and

(b) The state board of parole determines that the special needs offender is not likely to pose a risk to public safety and approves a special needs parole plan that ensures appropriate supervision of and continuity of medical care for the special needs offender.

(2) Repealed.

(3) (a) The department is responsible for identifying inmates who are special needs offenders. Once a licensed health-care provider determines, and documents in the patient's medical record, that the inmate suffers from a serious impairment that limits the inmate's ability to function, or a severe cognitive impairment, the department shall submit a referral to the state board of parole for the inmate. A licensed health-care provider is not liable to any person regarding a determination whether an inmate has a serious impairment that limits a person's ability to function or severe cognitive impairment. If the inmate has been diagnosed by a licensed health-care provider as suffering from a serious impairment that limits the inmate's ability to function, or a severe cognitive impairment, the department shall not set aside or disregard that determination on the basis that an employee of the department does not concur in that assessment. The department shall not determine that an inmate does not have a serious impairment that limits an inmate's ability to function based on the department's ability to accommodate the inmate's physical or mental impairment. The department shall submit a referral to the state board of parole for all other special needs offenders identified by the department. If notification to the district attorney is required pursuant to subsection (3)(c)(II) of this section, the inmate shall authorize the department to release the information described in subsections (3)(b)(I) and (3)(b)(I.5) of this section to the district attorney. An inmate or inmate liaison, if the inmate is unable to, may also request that the department make a determination of whether an inmate is eligible for special needs parole and the department shall make a determination within thirty days after receiving the request. The department, in consultation with the state board of parole, shall develop any necessary policies and procedures regarding special needs parole to ensure that:

(I) Roles and responsibilities of employees and any contractors involved in special needs parole are clearly defined, employees and any contractors are adequately trained, and performance measures are developed;

(II) Any inmate who is a special needs offender is identified in a timely manner at any point in the inmate's term of incarceration;

(III) Adequate tracking and quality assurance processes are in place so that referrals and any re-referrals, if applicable, are complete and submitted to the parole board in a timely manner;

(III.5) The department shares relevant and necessary data and information with the public defender liaisons as described in section 21-1-104 in order to allow the liaisons to effectively assist special needs parole applicants;

(IV) Formal mechanisms are in place to facilitate effective communication between the department and the parole board, including but not limited to timely responses from the department to requests from the parole board for additional information or for a revised parole plan prior to the parole board's decision or the conditions under which the parole board would consider a second or subsequent referral for special needs parole, if applicable; and

(V) Data collection and data sharing between the department and the parole board are adequate to actively monitor the status of referrals and parole board decisions on a regular basis.

(b) If an inmate meets the eligibility requirements pursuant to section 17-1-102, the department shall submit a referral to the board that, in addition to the requirements of section 17-22.5-404 (4)(a), includes:

(I) A summary of the inmate's medical, physical, or mental condition, including any diagnosis;

(I.5) Criminal history; risk and needs assessment scores; institutional disciplinary history; work history; an inmate's participation in any programs, treatment, vocational training, or education; and other relevant information regarding risk and risk-reduction factors and any additional relevant information that is requested by the parole board that is in the possession of the department;

(II) The details of a special needs parole plan recommended by the department;

(III) A statement by the inmate or inmate liaison if the inmate is unable to submit a statement;

(IV) A victim impact statement and response from the district attorney that prosecuted the offender, if received pursuant to subsection (3)(c) of this section; and

(V) Any information, statements, letters, and documents provided by the inmate liaison or by the public defender liaison as described in section 21-1-104, if the public defender liaison program is assisting the inmate. The parole board shall review and consider the submission by the public defender liaison.

(b.5) The department shall provide a copy of the referral packet submitted to the parole board to the inmate or inmate liaison and to the public defender liaison as described in section 21-1-104, except for the victim impact statement and response from the district attorney. The inmate, inmate liaison, or the public defender liaison as described in section 21-1-104, has thirty calendar days to submit additional health records or other relevant information not included in the referral packet to the department for submission to the parole board prior to the parole board's decision.

(c) (I) If the department determines the inmate is a special needs offender, the department shall provide notification to any victim, as required pursuant to section 24-4.1-302.5. A victim

shall have thirty days after receiving notification to submit a victim impact statement to the department. The department shall include any victim impact statement in the referral to the state board of parole.

(II) At the same time that the department completes the notification required by subsection (3)(c)(I) of this section, the department shall notify and provide information required by subsections (3)(b)(I) and (3)(b)(I.5) of this section to the district attorney that prosecuted the offender if the offender is serving a sentence for a conviction of a crime of violence as described in section 18-1.3-406, or a sex offense as listed in section 16-22-102 (9)(j), (9)(k), (9)(l), (9)(n), (9)(o), (9)(p), (9)(q), (9)(r), or (9)(s). A district attorney shall have thirty days after receiving notification to submit a response to the department. The department shall include any district attorney response in the referral to the state board of parole.

(4) (a) The state board of parole shall consider an inmate for special needs parole upon referral by the department and shall consider all of the information provided to the board pursuant to subsection (3) of this section and any victim impact statement.

(b) The state board of parole shall make a determination of the risk of reoffense that the inmate poses after considering the nature and severity of the inmate's medical or physical condition, the age of the inmate, the inmate's current and up-to-date risk and needs assessment scores, the nature and severity of the offense for which the inmate is currently incarcerated, the inmate's criminal history, the inmate's institutional conduct, program and treatment participation, and other relevant risk and risk-reduction factors.

(c) The state board of parole may schedule a hearing on the application for special needs parole with the inmate present, or the board may review the application and issue a decision without a hearing, pursuant to section 17-2-201 (4)(f).

(d) The state board of parole shall make a determination of whether to grant special needs parole within thirty calendar days after receiving the referral from the department. The parole board may delay the decision in order to request that the department modify the special needs parole plan. The parole board shall not deny parole based solely on the lack of a recommended parole plan. If the parole board considers an inmate to be an appropriate candidate for release except for the lack of a recommended parole plan, the parole board shall delay the release hearing decision or render a conditional release decision and request that the department submit a revised parole plan within thirty calendar days. If the parole board denies parole, it may inform the department that the inmate should not be referred for a second or subsequent application for special needs parole unless the inmate's medical or mental health status further deteriorates.

(e) The department shall provide a monthly report, by facility, the number of special needs parole applications submitted to the parole board, the decision by the parole board, how many applications are pending, the average length of time the decision has been pending, and the

general reason for delaying the decision if that is known to the department. The information must be provided both for the reporting month and year to date.

(f) If, prior to or during any parole revocation hearing, including hearings for offenders granted parole pursuant to subsection (5) of this section, the department or a member of the parole board has a substantial and good faith reason to believe that the offender is incompetent to proceed, as defined in section 16-8.5-101, the parole board shall suspend all proceedings and notify the public defender liaison described in section 21-1-104 (6). The court shall appoint the office of state public defender to represent the inmate, and the office of state public defender shall file a written motion with the trial court that imposed the sentence to determine competency. The motion must contain a certificate of counsel stating that the motion is based on a good faith belief that the inmate is incompetent to proceed. The motion must set forth the specific facts that have formed the basis for the motion. The court shall seal the motion. The court shall follow all the relevant procedures in article 8.5 of title 16 regarding the determination of competency. The presence of the inmate is not required unless there is good cause shown.

(g) A denial of special needs parole by the state board of parole does not affect an inmate's eligibility for any other form of parole or release under applicable law.

(4.5) If an offender is determined to be incompetent to proceed pursuant to subsection (4) of this section, the court may order the department to provide or arrange for the delivery of appropriate restoration services in any setting authorized by law, by an order of the court, or by any other action as provided by law, including civil commitment. Nothing in this section requires the department of human services to take physical custody of an offender for restoration services. The department of human services is not responsible for conducting the competency evaluation. If the court determines that there is not a substantial probability of the offender being restored to competency, the department may refer the inmate for special needs parole with a special needs parole plan pursuant to this section and notify the public defender liaison described in section 21-1-104 (6).

(5) The parole board may consider the application for special needs parole pursuant to the proceedings set forth in section 17-2-201 (4)(f) or 17-2-201 (9)(a). The board may deny parole only by a majority vote if the board finds that granting parole would create a threat to public safety and that the offender is likely to commit an offense.

(6) The department shall not have any responsibility for the payment of medical care for any offender upon the offender's release; except that, prior to or upon release, any inmate who is sixty-five years of age or older and has been approved for special needs parole must be enrolled in the most appropriate medical insurance benefit plan including medicare, medicare savings plan, veteran's benefit, or other safety-net health insurance, or an individual health benefit plan prior to or upon release, whichever will offer the more immediate health-care coverage. The department shall pay any insurance premiums and penalties for up to six months from the start of coverage. The department may provide financial assistance for longer than six months if the

person is still under the jurisdiction of the department and would otherwise be uninsured or underinsured without that financial assistance.

(7) For any offender who is granted special needs parole pursuant to this section, the state board of parole shall set the length of the parole for an appropriate time period of at least six months but not exceeding thirty-six months. At any time during the offender's parole, the state board of parole may revise the duration of the parole. However, in no case may such an offender be required to serve a period of parole in excess of the period of parole to which he or she would otherwise be sentenced pursuant to section 18-1.3-401 (1)(a)(V)(A), or thirty-six months, whichever is less.

(8) Repealed.

(9) The department shall include in each contract with a licensed health-care provider involved in providing patient care to an inmate a requirement that the provider screen each patient for eligibility for special needs parole.

(10) This section does not require an inmate to seek an outside medical opinion of impairment or second opinion of any kind.

Source: L. 2000: Entire section added, p. 1495, § 2, effective July 1, 2001. **L. 2003:** IP(1) amended and (3) added, p. 1910, § 2, effective August 6. **L. 2011:** Entire section amended, (SB 11-241), ch. 200, p. 836, § 6, effective May 23. **L. 2012:** (3)(c)(II) amended, (HB 12-1310), ch. 268, p. 1401, § 22, effective June 7. **L. 2013:** IP(1) amended, (SB 13-229), ch. 272, p. 1429, § 6, effective July 1; IP(1) amended, (HB 13-1300), ch. 316, p. 1715, § 153, effective August 7. **L. 2018:** (4)(d) and (5) amended and (4.5) and (7) added, (HB 18-1109), ch. 139, p. 913, § 2, effective April 23. **L. 2019:** (4)(d) amended, (SB 19-223), ch. 227, p. 2292, § 19, effective July 1. **L. 2021:** (1), (3), (4)(b), (4)(d), (4)(e), (4.5), (5), and (6) amended and (4)(f), (4)(g), and (8) added, (SB 21-146), ch. 459, p. 3078, § 2, effective July 6. **L. 2025:** IP(1), IP(3)(a), IP(3)(b), (3)(b.5), (4)(a), (4)(b), and (4)(f) amended, (2) repealed, and (3)(a)(III.5), (3)(b)(V), (9), and (10) added, (SB 25-190), ch. 286, p. 1477, § 3, effective August 6. **L. 2026:** (4)(f) amended, (SB 26-149), ch. 142, p. 794, § 43, effective May 21.

Editor's note: Subsection (8)(b) provided for the repeal of subsection (8), effective July 1, 2022. (See L. 2021, p. 3078.)

17-22.5-403.7. Parole eligibility - youthful offender - juvenile offender convicted as adult - definition.

(1) As used in this section, "inmate" means a person:

(a) (I) Who is convicted as an adult of a felony following direct filing of an information or indictment in the district court pursuant to section 19-2.5-801;

(II) Who is convicted as an adult of a felony following transfer of proceedings to the district court pursuant to section 19-2.5-802; or

(III) Who is convicted as an adult of a felony offense and sentenced to the department when the offense for which the person convicted was committed when the person was eighteen years of age or older but less than twenty-one years of age; and

(b) Who is sentenced to life imprisonment with the possibility of parole after serving a period of forty calendar years as provided in section 18-1.3-401 (4)(b), C.R.S.

(2) After considering any relevant evidence presented by a person or agency and considering the presumptions described in section 17-34-102 (8), an inmate who has successfully completed the specialized program described in section 17-34-102 may be granted early parole pursuant to subsection (6) of this section if, in the governor's or the state board of parole's opinion, extraordinary mitigating circumstances exist and the inmate's release from institutional custody is compatible with the safety and welfare of society. However, nothing in this section grants the governor or the state board of parole the authority to grant early parole pursuant to the provisions of this section to an inmate serving a sentence of life without the possibility of parole.

(3) Upon application for parole by an inmate, the state board of parole, working in conjunction with the department and using the guidelines established pursuant to section 17-22.5-404, shall determine whether to grant parole. If the state board of parole determines that placing the inmate on parole is appropriate, the inmate shall remain in the legal custody of the department of corrections for the remainder of his or her life. If an application for parole is refused by the state board of parole, the state board of parole shall reconsider within five years thereafter whether the inmate should be granted parole. The state board of parole shall continue such reconsideration at least once every five years thereafter until the inmate is granted parole.

(4) (a) If the state board of parole grants parole pursuant to subsection (3) of this section, the division of adult parole shall provide parole supervision and assistance in securing employment, housing, and such other services as may affect the successful reintegration of the inmate into the community while recognizing the need for public safety.

(b) The conditions for parole for the inmate under this subsection (4) shall be established pursuant to section 17-22.5-404 by the state board of parole prior to the inmate's release from incarceration. Upon a determination that the conditions of parole have been violated in a parole revocation proceeding, the state board of parole shall:

(I) Continue the parole in effect;

(II) Modify the conditions of parole if circumstances then shown to exist require such modifications and set forth those circumstances in writing; or

(III) Revoke the parole and order the return of the inmate to a place of confinement designated by the executive director for any period of time remaining on the inmate's sentence to incarceration.

(c) An inmate who has been reincarcerated due to a parole revocation pursuant to this subsection (4) shall be eligible for parole at any time during the reincarceration.

(5) (a) If an inmate is subsequently reincarcerated pursuant to paragraph (b) of subsection (4) of this section, following reincarceration, the inmate may apply for parole and the state board of parole, working in conjunction with the department and using the guidelines established pursuant to section 17-22.5-404, shall determine whether to grant parole. If the state board of parole refuses the application for parole, the state board of parole shall reconsider within one year thereafter whether the inmate should be granted parole. The state board of parole shall continue such reconsideration each year thereafter, until the board grants the inmate parole.

(b) If the state board of parole grants parole to an inmate pursuant to paragraph (a) of this subsection (5), the provisions of subsection (4) of this section shall apply while the inmate is serving the remainder of the period of parole.

(6) (a) (I) When an inmate applies for early parole pursuant to this section after having successfully completed the specialized program described in section 17-34-102, the inmate must submit their application to the governor's office with notice and a copy of the application sent to the state board of parole created in section 17-2-201. The state board of parole shall review the inmate's application and all supporting documents and schedule a hearing if the board considers making a recommendation for early parole, at which hearing any victim must have the opportunity to be heard, pursuant to section 24-4.1-302.5 (1)(j). Not later than ninety days after receipt of a copy of an inmate's application for early parole, the state board of parole, after considering the presumptions set forth in section 17-34-102 (8), shall make a recommendation to the governor concerning whether early parole should be granted to the inmate.

(II) No later than sixty days after receipt of the state board of parole's recommendation concerning an inmate's application for early parole, or sixty days after the effective date of this subsection (6)(a)(II) for any recommendations of the state board of parole received by the governor prior to the effective date of this subsection (6)(a)(II), the governor may, after considering the presumptions described in section 17-34-102 (8), grant or deny early parole to the inmate. If the governor grants or denies early parole to the inmate, the governor shall advise the state board of parole of the governor's decision. The governor's decision regarding the inmate's application is final, and the inmate's request for early parole shall be granted or denied consistent with the governor's decision.

(III) If the governor does not advise the state board of parole of the governor's decision regarding an inmate's application for early parole within sixty days after receipt of the state board of parole's recommendation, or sixty days after the effective date of subsection (6)(a)(II) of this

section for any recommendation of the state board of parole received by the governor prior to the effective date of subsection (6)(a)(II) of this section, the state board of parole's recommendation on the inmate's application is the final decision regarding the inmate's application for early parole, and the inmate's request for early parole shall be granted or denied consistent with the state board of parole's recommendation.

(b) The department, in consultation with the state board of parole, shall develop any necessary policies and procedures to implement this subsection (6), including procedures for providing notice to any victim, as required by sections 24-4.1-302.5 (1)(j) and 24-4.1-303 (14), C.R.S., and to the district attorney's office that prosecuted the crime for which the offender was sentenced.

Source: L. 2006: Entire section added, p. 1053, § 5, effective May 25. **L. 2016:** (2) amended and (6) added, (SB 16-180), ch. 352, p. 1444, § 4, effective August 10. **L. 2021:** (1)(a) and (2) amended, (HB 21-1209), ch. 448, p. 2951, § 4, effective September 7; (1)(a) amended, (SB 21-059), ch. 136, p. 717, § 35, effective October 1. **L. 2026:** (2) and (6)(a) amended, (SB 26-158), ch. 136, p. 660, § 2, effective May 19.

Editor's note: Amendments to subsection (1)(a) by HB 21-1209 and SB 21-059 were harmonized.

Cross references: For the legislative declaration contained in the 2006 act enacting this section, see section 1 of chapter 228, Session Laws of Colorado 2006. For the legislative declaration in SB 16-180, see section 1 of chapter 352, Session Laws of Colorado 2016.

17-22.5-404. Parole guidelines - definition.

(1) The general assembly hereby finds that:

(a) The risk of reoffense shall be the central consideration by the state board of parole in making decisions related to the timing and conditions of release on parole or revocation of parole;

(b) Research demonstrates that actuarial risk assessment tools can predict the likelihood or risk of reoffense with significantly greater accuracy than professional judgment alone. Evidence-based correctional practices prioritize the use of actuarial risk assessment tools to promote public safety. The best outcomes are derived from a combination of empirically based actuarial tools and clinical judgment.

(c) Although the state board of parole is made up of individuals, using structured decision-making unites the parole board members with a common philosophy and set of goals and purposes while retaining the authority of individual parole board members to make decisions that are appropriate for particular situations. Evidence-based correctional practices support the use of structured decision-making.

(d) Structured decision-making by the state board of parole provides for greater accountability, standards for evaluating outcomes, and transparency of decision-making that can be better communicated to victims, offenders, other criminal justice professionals, and the community; and

(e) An offender's likelihood of success may be increased by aligning the intensity and type of parole supervision, conditions of release, and services with assessed risk and need level.

(2) (a) The division of criminal justice in the department of public safety shall develop the Colorado risk assessment scale to be used by the state board of parole in considering inmates for release on parole. The risk assessment scale shall include criteria that statistically have been shown to be good predictors of the risk of reoffense. The division of criminal justice shall validate the Colorado risk assessment scale at least every five years or more often if the predictive accuracy, as determined by data collection and analysis, falls below an acceptable level of predictive accuracy as determined by the division of criminal justice, the state board of parole, and the division of adult parole in the department of corrections.

(b) The division of criminal justice, the department of corrections, and the state board of parole shall cooperate to develop parole board action forms consistent with this section that capture the rationale for decision-making that shall be published as official forms of the department of corrections. Victim identity and input shall be protected from display on the parole board action form or any parole hearing report that may become a part of an inmate record.

(c) The division of criminal justice, in cooperation with the department of corrections and the state board of parole, shall provide training on the use of the administrative release guideline instrument developed pursuant to section 17-22.5-107 (1) and the Colorado risk assessment scale to personnel of the department of corrections, the state board of parole, administrative hearing officers, and release hearing officers. The division shall conduct the training on a semiannual basis.

(d) The department of corrections, in cooperation with the state board of parole, shall provide training on the use of the administrative revocation guidelines developed pursuant to section 17-22.5-107 (2) to personnel of the department of corrections, the state board of parole, and administrative hearing officers. The department shall conduct the training semiannually.

(3) For a person sentenced for a class 2, class 3, class 4, class 5, or class 6 felony or level 1, level 2, level 3, or level 4 drug felony who is eligible for parole pursuant to section 17-22.5-403, or a person who is eligible for parole pursuant to section 17-22.5-403.7, the state board of parole

may consider all applications for parole, as well as all persons to be supervised under any interstate compact. The state board of parole may parole any person who is sentenced or committed to a correctional facility when the board determines, by using, where available, evidence-based practices and the guidelines established by this section, that there is a reasonable probability that the person will not violate the law while on parole and that the person's release from institutional custody is compatible with public safety and the welfare of society. The state board of parole shall first consider the risk of reoffense in every release decision it makes.

(4) (a) In considering offenders for parole, the state board of parole shall consider the totality of the circumstances, which include, but need not be limited to, the following factors:

(I) The testimony or written statement from the victim of the crime, or a relative of the victim, or a designee, pursuant to section 17-2-214;

(II) The actuarial risk of reoffense;

(III) The offender's assessed criminogenic need level;

(IV) The offender's program or treatment participation and progress;

(V) The offender's institutional conduct;

(VI) The adequacy of the offender's parole plan;

(VII) Whether the offender while under sentence has threatened or harassed the victim or the victim's family or has caused the victim or the victim's family to be threatened or harassed, either verbally or in writing;

(VIII) Aggravating or mitigating factors from the criminal case;

(IX) The testimony or written statement from a prospective parole sponsor, employer, or other person who would be available to assist the offender if released on parole;

(X) Whether the offender had previously absconded or escaped or attempted to abscond or escape while on community supervision; and

(XI) Whether the offender successfully completed or worked toward completing a high school diploma, a high school equivalency examination, as defined in section 22-33-102 (8.5), C.R.S., or a college degree during his or her period of incarceration.

(b) The state board of parole shall use the Colorado risk assessment scale that is developed by the division of criminal justice in the department of public safety pursuant to paragraph (a) of subsection (2) of this section in considering inmates for release on parole.

(c) (I) Except as provided in subparagraph (II) of this paragraph (c), the state board of parole shall also use the administrative release guideline instrument developed pursuant to section 17-22.5-107 (1) in evaluating an application for parole.

(II) The administrative release guideline instrument shall not be used in considering those inmates classified as sex offenders with indeterminate sentences for whom the sex offender management board pursuant to section 18-1.3-1009, C.R.S., has established separate and distinct release guidelines. The sex offender management board in collaboration with the department of corrections, the judicial department, the division of criminal justice in the department of public safety, and the state board of parole shall develop a specific sex offender release guideline instrument for use by the state board of parole for those inmates classified as sex offenders with determinate sentences.

(5) (a) In conducting a parole revocation hearing, the state board of parole and the administrative hearing officer shall consider, where available, evidence-based practices and shall consider, but need not be limited to, the following factors:

(I) A determination by the state board of parole that a parolee committed a new crime while on parole, if applicable;

(II) The parolee's actuarial risk of reoffense;

(III) The seriousness of the technical violation, if applicable;

(IV) The parolee's frequency of technical violations, if applicable;

(V) The parolee's efforts to comply with a previous corrective action plan or other remediation plan required by the state board of parole or parole officer;

(VI) The imposition of intermediate sanctions by the parole officer in response to the technical violations that may form the basis of the complaint for revocation; and

(VII) Whether modification of parole conditions is appropriate and consistent with public safety in lieu of revocation.

(b) The state board of parole shall use the administrative revocation guidelines developed pursuant to section 17-22.5-107 (2), in evaluating complaints filed for parole revocation.

(c) The state board of parole or the administrative hearing officer shall not revoke parole for a technical violation unless the board or administrative hearing officer determines on the record that appropriate intermediate sanctions have been utilized and have been ineffective or that the modification of conditions of parole or the imposition of intermediate sanctions is not appropriate or consistent with public safety and the welfare of society.

(6) (a) The state board of parole shall work in consultation with the division of criminal justice in the department of public safety and the department of corrections to develop and implement a process to collect and analyze data related to the basis for and the outcomes of the board's parole decisions. The process shall collect data related to the board's rationale for granting, revoking, or denying parole. Any information relating to victim identification or victim input that is identifiable to an individual defendant or case shall be maintained, but kept

confidential and released only to other government agencies, pursuant to a nondisclosure agreement, for the purpose of analysis and reporting, pursuant to paragraph (c) of this subsection (6). When the board grants parole, the process shall also collect data related to whether the offender has previously recidivated, the type of reentry program given to the offender as a part of the offender's parole plan, and whether the offender recidivates while on parole.

(b) The state board of parole shall also determine whether a decision granting, revoking, or denying parole conformed with or departed from the administrative guidelines created pursuant to sections 17-22.5-107 and 16-11.7-103 (4)(m) and, if the decision was a departure from the guidelines, the reason for the departure. The data collected pursuant to this subsection (6) are subject to the same victim protections described in subsection (4)(a) of this section.

(c) The state board of parole shall provide the data collected pursuant to this subsection (6) to the division of criminal justice in the department of public safety for analysis. The division of criminal justice shall analyze the data received pursuant to this paragraph (c) and shall provide its analysis to the board. The board and the division of criminal justice shall use the data and analysis to identify specific factors that are important in the decision-making process.

(d) The division of criminal justice in the department of public safety shall provide the state board of parole with training regarding how to use the data obtained and analyzed pursuant to paragraph (c) of this subsection (6) to facilitate the board's future decision-making.

(e) (I) Notwithstanding section 24-1-136 (11)(a), C.R.S., on or before March 31, 2017, and on or before March 31 each year thereafter, the state board of parole and the division of criminal justice in the department of public safety shall issue a report to the general assembly regarding outcomes of decisions by the state board of parole. The data must be reported to the general assembly only in the aggregate.

(II) (Deleted by amendment, L. 2011, (SB 11-241), ch. 200, p. 838, § 7, effective May 23, 2011.)

(7) The department of corrections, the state board of parole, the division of adult parole, and the division of criminal justice in the department of public safety shall cooperate in implementing all aspects of this section.

(8) This section shall apply to any person to whom section 17-22.5-303.5, as it existed prior to May 18, 1991, would apply pursuant to the operation of section 17-22.5-406, because the provisions of such sections are substantially similar.

(9) For purposes of this section, "technical violation" means a violation of a condition of parole that is not a conviction for a new criminal offense or not determined by the state board of parole to be a commission of a new criminal offense.

Source: L. 90: Entire part added, p. 948, § 19, effective June 7. **L. 91:** (6) amended and (8) added, p. 334, § 1, effective May 18. **L. 93:** (2)(a)(VII) amended, p. 1634, § 16, effective July 1. **L. 97:** (2)(a)(I) and (3)(a)(V) amended, p. 1008, § 9, effective August 6. **L. 98:** (2)(a)(I) amended, p. 820, § 18, effective August 5. **L. 99:** (4.5) added, p. 61, § 5, effective July 1. **L. 2000:** (5), (6)(b), (6)(c), (6)(d), (6)(e), and (7) amended, p. 845, § 42, effective May 24. **L. 2006:** (1) amended, p. 1054, § 6, effective May 25. **L. 2008:** (2)(a)(VIII) and (2)(a)(IX) amended, p. 658, § 8, effective April 25. **L. 2009:** (6)(d) amended, (SB 09-135), ch. 329, p. 1754, § 1, effective August 5. **L. 2010:** Entire section R&RE, (HB 10-1374), ch. 261, p. 1182, § 6, effective May 25. **L. 2011:** (6)(e) amended, (SB 11-241), ch. 200, p. 838, § 7, effective May 23. **L. 2013:** (3) amended, (SB 13-250), ch. 333, p.1934, § 50, effective October 1. **L. 2014:** (4)(a)(XI) amended, (SB 14-058), ch. 102, p. 378, § 3, effective April 7. **L. 2016:** (6)(e)(I) amended, (HB 16-1153), ch. 112, p. 317, § 1, effective August 10. **L. 2023:** (6)(b) amended, (SB 23-164), ch. 349, p. 2095, § 8, effective June 5.

Cross references: For the legislative declaration contained in the 2006 act amending subsection (1), see section 1 of chapter 228, Session Laws of Colorado 2006.

ANNOTATION

Mandamus relief under C.R.C.P. 106 is available to challenge the parole board's actions if it has failed to exercise its statutory duties. Although plaintiff did not expressly seek mandamus relief pursuant to C.R.C.P. 106, the gravamen of his complaint was that the parole board's failure to consider any events or circumstances prior to plaintiff's incarceration was in direct violation of statutory guidelines for parole. Under these circumstances, the trial court had jurisdiction to address the merits of the complaint. Fraser v. Colo. Bd. of Parole, 931 P.2d 560 (Colo. App. 1996).

17-22.5-404.5. Presumption of parole - drug offenders.

(1) There shall be a presumption, subject to the final discretion of the parole board, in favor of granting parole to an inmate who has reached his or her parole eligibility date and who:

(a) Is serving a sentence for which the controlling term of incarceration is based on a felony possession or use offense described in section 18-18-404, or section 18-18-405, C.R.S., as it existed prior to August 11, 2010;

(b) Has not incurred a class I code of penal discipline violation within the last twelve months or a class II code of penal discipline violation within the last three months;

(c) Is program-compliant;

(d) Was not convicted of, and has not previously been convicted of, a felony crime described in section 18-3-303, 18-3-305, 18-3-306, or 18-6-701; sections 18-7-402 to 18-7-407; or section 18-12-102 or 18-12-109, C.R.S.; or a felony crime listed in section 24-4.1-302 (1), C.R.S.; and

(e) Does not have an active felony or immigration detainer.

(2) Notwithstanding any provision of law to the contrary, an inmate who is eligible for the presumption in subsection (1) of this section shall have a parole release hearing within ninety days after becoming eligible for the presumption in subsection (1) of this section.

(3) If the parole board grants parole to an inmate pursuant to subsection (1) of this section, the parole board shall require as a condition of parole that the parolee participate in substance abuse treatment consistent with the assessed treatment need of the parolee.

(4) Repealed.

(5) Nothing in this section shall be construed to limit the discretion of the parole board in considering the statutory release guidelines in section 17-22.5-404 or the administrative release guidelines developed pursuant to section 17-22.5-107 (1) in making a decision regarding an inmate's application for release to parole.

Source: L. 2011: Entire section added, (HB 11-1064), ch. 234, p. 1009, § 1, effective May 27.

Editor's note: Subsection (4)(b) provided for the repeal of subsection (4), effective February 1, 2016. (See L. 2011, p. 1009.)

17-22.5-404.7. Presumption of parole - nonviolent offenders with ICE detainers.

(1) There shall be a presumption, subject to the final discretion of the parole board, in favor of granting parole to an inmate who has reached his or her parole eligibility date and who:

(a) Has been assessed by the Colorado risk assessment scale developed pursuant to section 17-22.5-404 (2)(a), to be medium risk or below of reoffense;

(b) Is not serving a sentence for a felony crime described in section 18-3-303, 18-3-306, or 18-6-701, C.R.S.; sections 18-7-402 to 18-7-407, C.R.S.; or section 18-12-102 or 18-12-109, C.R.S.; section 18-17-104, C.R.S., or section 18-18-407, C.R.S.; or a felony crime listed in section 24-4.1-302 (1), C.R.S.; and

(c) Has an active detainer lodged by the United States immigration and customs enforcement agency.

(2) In determining whether to grant parole pursuant to provisions of subsection (1) of this section, the board shall consider the cost of incarceration to the state of Colorado in relation to the needs of further confinement of the inmate to achieve the purpose of the inmate's sentence.

(3) (a) The state board of parole may release an eligible inmate, pursuant to subsection (1) of this section, only to the custody of the United States immigration and customs enforcement agency or other law enforcement agency with authority to execute the detainer on behalf of the United States immigration and customs enforcement agency.

(b) If the United States immigration and customs enforcement agency withdraws the detainer or declines to take the inmate into custody, the state board of parole shall hold a recission hearing to reconsider the granting of parole to the inmate.

(c) If the United States immigration and customs enforcement agency issues an order of deportation for the inmate, the department of corrections shall submit a request to the state board of parole to discharge parole.

(d) A denial of parole by the state board of parole pursuant to this section shall not affect an inmate's eligibility for another form of parole or release applicable under law.

(4) The board may consider the application for parole pursuant to the proceedings set forth in section 17-2-201 (4)(f) or 17-2-201 (9)(a).

(5) For inmates who were parole eligible before May 23, 2011, the department shall notify the state board of parole of any of those inmates who meet the criteria listed in subsection (1) of this section, and the board shall either set a release hearing or conduct a release review within ninety days after May 23, 2011.

Source: L. 2011: Entire section added, (SB 11-241), ch. 200, p. 838, § 8, effective May 23.

17-22.5-405. Earned time - earned release time - achievement earned time - working group - definition - repeal.

(1) Earned time, not to exceed ten days for each month of incarceration or parole, may be deducted from the inmate's sentence upon a demonstration to the department by the inmate, which is certified by the inmate's case manager or community parole officer, that the inmate has made consistent progress in the following categories as required by the department of corrections:

(a) Work and training, including attendance, promptness, performance, cooperation, care of materials, and safety;

(b) Group living, including housekeeping, personal hygiene, cooperation, social adjustment, and double bunking;

(c) Participation in counseling sessions and involvement in self-help groups;

(d) Progress toward the goals and programs established by the Colorado diagnostic program;

(e) For any inmates who have been paroled, compliance with the conditions of parole release;

(f) The offender has not harassed the victim either verbally or in writing;

(g) The inmate has made positive progress, in accordance with performance standards established by the department, in the correctional education program established pursuant to article 32 of this title;

(h) The inmate has shown exemplary leadership through mentoring, community service, and distinguished actions benefiting the health, safety, environment, and culture for staff and other inmates.

(1.2) Subsection (1) of this section applies to a person who was convicted as an adult for a class 1 felony committed while the person was a juvenile and who was sentenced pursuant to section 18-1.3-401 (4)(b) or (4)(c), C.R.S. As to a person who was convicted as an adult for a class 1 felony committed while the person was a juvenile and who was sentenced pursuant to section 18-1.3-401 (4)(c), C.R.S., it is the intent of the general assembly that the department award earned time to such a person both prospectively and retroactively from June 10, 2016, as if the person had been eligible to be awarded earned time from the beginning of his or her incarceration pursuant to the sentence that he or she originally received for such felony.

(1.5) (a) Except as provided in subsection (1.5)(a.5) of this section, earned time, not to exceed fourteen days for each month of incarceration or parole, may be deducted from an inmate's sentence if the inmate:

(I) Is serving a sentence for a class 4, class 5, or class 6 felony or level 3 or level 4 drug felony;

(II) Has not incurred a class I code of penal discipline violation within the twenty-four months immediately preceding the time of crediting or during the inmate's entire term of incarceration if the term is less than twenty-four months or a class II code of penal discipline violation within the twelve months immediately preceding the time of crediting or during the inmate's entire term of incarceration if the term is less than twelve months; and

(III) Is program-compliant.

(IV) (Deleted by amendment, L. 2026.)

(a.5) Notwithstanding the fourteen-day limitation in subsection (1.5)(a) of this section, an inmate convicted of, or an inmate who has previously been convicted of, a felony crime described in section 18-3-303, 18-3-305, 18-3-306, or 18-6-701; sections 18-7-402 to 18-7-407; section 18-12-102 or 18-12-109; a felony motor vehicle theft; or a felony crime listed in section 24-4.1-302 (1), is limited to twelve days of earned time per month.

(b) The earned time specified in this subsection (1.5) may be deducted based upon a demonstration to the department by the inmate, which is certified by the inmate's case manager or community parole officer, that the inmate has made positive progress in accordance with performance standards established by the department.

(c) Nothing in this subsection (1.5) shall preclude an inmate from receiving earned time pursuant to subsection (1) of this section if the inmate does not qualify for earned time pursuant to this subsection (1.5).

(2) The department shall develop objective standards for measuring consistent progress in the categories listed in subsection (1) of this section. Such standards shall be applied in all evaluations of inmates for the earned time authorized in this section.

(3) For each inmate sentenced to the custody of the department, or for each parolee, the department shall review the performance record of the inmate or parolee and may grant, withhold, withdraw, or restore, consistent with the provisions of this section, an earned time deduction from the sentence imposed. Such review shall be conducted annually while such person is incarcerated and semiannually while such person is on parole and shall vest upon being granted. However, any earned time granted to a parolee shall vest upon completion of any semiannual review unless an administrative hearing within the department determines that such parolee engaged in criminal activity during the time period for which such earned time was granted, in which case the earned time granted during such period may be withdrawn. In addition to any other sanctions, the executive director may refer to the district attorney all cases where the offender tests positive for the presence of drugs.

(3.5) In addition to the earned time deducted pursuant to subsection (1) of this section, an inmate working at a disaster site pursuant to section 17-24-124 shall be entitled to additional earned time in the amount of one day of earned time for every day spent at a disaster site.

(3.7) (a) For an inmate sentenced for a nonviolent felony offense as described in subsection (5) of this section, in addition to the earned time deducted pursuant to subsection (1) or (1.5) of this section, earned time shall be deducted from the inmate's sentence for each accredited degree or other credential awarded by a regionally accredited institution of higher education designated by the department pursuant to subsection (3.7)(b) of this section to the inmate while the inmate is incarcerated or on parole as follows:

(I) Eighteen months of earned time for a master's degree and two years of earned time for a doctoral degree;

(II) One year of earned time for an associate degree or a baccalaureate degree; and

(III) Six months of earned time for a certificate or other credential that requires completion of at least thirty credit hours for award of the certificate or credential.

(b) (I) No later than September 30, 2023, the department shall designate up to six regionally accredited institutions of higher education that may award a degree or credential to an inmate for which earned time may be deducted pursuant to this subsection (3.7). The department shall make the list of designated institutions publicly available and available to inmates incarcerated or on parole.

(II) In its presentation to the committees of reference pursuant to section 2-7-203 made during the 2028 legislative session, the department may recommend a change in the number of institutions it may designate pursuant to this subsection (3.7)(b).

(c) The limitation described in subsection (4)(a) of this section does not apply to earned time awarded pursuant to this subsection (3.7).

(4) (a) Except as described in subsection (3.7), (4)(b), (6), or (9) of this section, and notwithstanding any other provision of this section, earned time may not reduce the sentence of an inmate as defined in section 17-22.5-402 (1) by a period of time that is more than thirty percent of the sentence.

(b) Earned time may not reduce the sentence of an inmate described in subsection (1.2) of this section by a period of time that is more than twenty-five percent of the sentence.

(5) (a) Notwithstanding subsections (1), (2), and (3) of this section, an offender who is sentenced and paroled for a felony offense other than a nonviolent felony committed on or after July 1, 1993, shall not be eligible to receive any earned time while the offender is on parole. An offender who is sentenced and paroled for a nonviolent felony offense committed on or after July 1, 1993, shall be eligible to receive any earned time while the offender is on parole.

(a.5) Notwithstanding the provisions of paragraph (a) of this subsection (5), an offender who is sentenced for a felony committed on or after July 1, 1993, and paroled on or after January 1, 2009, shall be eligible to receive any earned time while on parole or after reparole following a parole revocation.

(b) As used in this subsection (5), unless the context otherwise requires, a "nonviolent felony offense" means a felony offense other than a crime of violence as defined in section 18-1.3-406 (2), C.R.S., any of the felony offenses set forth in section 18-3-104, 18-4-203, or 18-4-301, C.R.S., or any felony offense committed against a child as set forth in articles 3, 6, and 7 of title 18, C.R.S.

(6) Earned release time shall be scheduled by the state board of parole and the time computation unit in the department of corrections for inmates convicted of class 4 and class 5

felonies or level 3 drug felonies up to sixty days prior to the mandatory release date and for inmates convicted of class 6 felonies or level 4 drug felonies up to thirty days prior to the mandatory release date for inmates who meet the following criteria:

(a) The inmate has not incurred a class I code of penal discipline violation within the twenty-four months immediately preceding the time of crediting or during his or her entire term of incarceration if the term is less than twenty-four months or a class II code of penal discipline violation within the twelve months immediately preceding the time of crediting or during his or her entire term of incarceration if the term is less than twelve months;

(b) The inmate is program-compliant; and

(c) The inmate was not convicted of, and has not previously been convicted of, a felony crime described in section 18-3-303, 18-3-305, 18-3-306, or 18-6-701, sections 18-7-402 to 18-7-407, or section 18-12-102 or 18-12-109, C.R.S., or a felony crime listed in section 24-4.1-302 (1), C.R.S.

(7) Beginning in the fiscal year 2012-13, the general assembly may appropriate the savings generated by subsections (1.5) and (6) of this section to recidivism-reduction programs.

(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.

(9) (a) (I) Notwithstanding any provision of this section to the contrary, in addition to the earned time authorized in this section, an offender who successfully completes a milestone or phase of an educational, vocational, therapeutic, or reentry program may be awarded as many as sixty days of achievement earned time per program milestone or phase, at the discretion of the executive director; except that an offender shall not be awarded more than one hundred twenty days of achievement earned time pursuant to this subsection (9).

(II) The department of corrections shall make policy changes to maximize the incentives to participate in activities that award achievement earned time for offenders who commit to and participate in self-improvement activities, including therapeutic and educational programming. Applicable policy changes may include, but are not limited to:

(A) Ensuring that programs of similar intensity and duration are awarded a similar number of credits;

(B) Increasing credit awards for sustained, high engagement in work assignments; and

(C) Increasing credit awards for the completion of a program.

(III) For offenders who successfully complete a milestone or phase of a behavioral health program in an area related to recovery from a condition that contributed to the offender's underlying offense, including substance use treatment, anger management, or other behavioral health needs, as recommended based on needs identified on the intake assessment, the total achievement earned time that can be awarded pursuant to this subsection (9)(a) is one hundred fifty days.

(a.3) The department shall not award earned time to an offender pursuant to this subsection (9) for completion of an associate, baccalaureate, or graduate degree or a certificate or other credential for which earned time is deducted pursuant to subsection (3.7) of this section.

(a.5) (I) Pursuant to the intent of the general assembly in enacting House Bill 12-1223 during the 2012 regular session, the general assembly shall appropriate savings generated from the enactment of this subsection (9) to:

(A) The education subprogram, for academic and vocational programs to offenders; and

(B) The parole subprogram, for parole wraparound services.

(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (a.5), the appropriation described in said subparagraph (I) must not exceed six million five hundred thousand dollars in any fiscal year.

(III) In allocating the moneys appropriated pursuant to sub-subparagraph (B) of subparagraph (I) of this paragraph (a.5), the department shall give priority to parole wraparound services that are administered based on evidence-based practices.

(a.7) Notwithstanding any provision of this section to the contrary, in addition to the earned time authorized in this section, an offender who demonstrates exceptional conduct that promotes the safety of correctional staff, volunteers, contractors, or other persons under the supervision of the department of corrections may be awarded as many as sixty days of achievement earned time per instance of exceptional conduct, at the discretion of the executive director; except that an offender shall not be awarded more than one hundred twenty days of achievement earned time pursuant to this subsection (9)(a.7).

(b) As used in this section, unless the context otherwise requires, "exceptional conduct" includes, but is not limited to:

(I) Saving or attempting to save the life of another person;

(II) Aiding in the prevention of serious bodily injury or loss of life;

(III) Providing significant assistance in the prevention of a major facility disruption;

(IV) Providing significant assistance in the solving of a cold case, as defined in section 24-4.1-302 (1.2), C.R.S.;

(V) Acting to prevent an escape; or

(VI) Providing direct assistance in a documented facility or community emergency.

(10) (a) There is created the department of corrections comprehensive planning working group, referred to in this section as the "working group". The executive director of the department, or their designee, shall serve as chair of the working group. The working group shall develop recommendations for a capacity management plan for the department that is data-driven, aligns with best practices, and is informed by the input of department staff, incarcerated people, victims, and other criminal justice stakeholders and subject matter experts regarding strategies to:

(I) Assess efficacy, availability, and gaps regarding prison programming and clinical care to maximize inmate rehabilitation and preparation for release;

(II) Identify bottlenecks and inefficiencies regarding inmate release processes, cross-agency coordination, victim notification and engagement, and inmate release decision-making;

(III) Ensure that appropriate supervision, placement options, and services are available to improve successful outcomes for persons released from prison;

(IV) Manage growth in prison population to avoid overcrowding; and

(V) Identify changes needed to current prison operational capacity, inmate classification, or facility security classification level to most cost-effectively address current prison bed utilization and any projected future prison bed needs to ensure alignment between the classification level of the inmate population and the security level of prison beds available or needed.

(b) The working group consists of:

(I) The executive director of the department, or their designee, who is the chair of the working group;

(II) The executive director of the division of criminal justice in the department of public safety, or their designee;

(III) One district attorney, or their designee, appointed by the executive director of the Colorado district attorneys' council;

(IV) One public defender, or their designee, appointed by the state public defender;

(V) One sheriff, or their designee, appointed by the president of the county sheriffs of Colorado board of directors;

(VI) One behavioral health expert or professional, appointed by the president of the senate;

(VII) One medical professional with experience in prison-based health services, appointed by the president of the senate;

(VIII) One crime victim or survivor, or a representative of a group that advocates for crime victims or survivors, appointed by the house minority leader;

(IX) One formerly incarcerated person, or a representative of a group that advocates for incarcerated or formerly incarcerated persons, appointed by the speaker of the house;

(X) One representative of an organization with experience in community-based re-entry services, appointed by the speaker of the house;

(XI) One current or former state board of parole member, appointed by the chair of the state board of parole;

(XII) One current community corrections representative, appointed by the senate minority leader; and

(XIII) One current employee of the department, appointed by the executive director of the department.

(c) Members of the house of representatives judiciary committee and the senate judiciary committee, or their successor committees, and the joint budget committee, may submit in writing to the chair of the working group a request to prioritize specific issues or provide other relevant information.

(d) The working group may request information from the department of corrections and the certified employee organization defined in section 24-50-1102 for purposes of assessing underlying conditions and the operational feasibility of recommendations.

(e) (I) The working group shall solicit input from department staff, the department of personnel and administration and the certified employee organization defined in section 24-50-1102, inmates, inmate families, crime victims or survivors, criminal justice stakeholders, elected officials at the state and local level, the legislative council, joint budget committee staff, state agencies, and other persons with subject matter expertise.

(II) The working group shall not bargain, negotiate, or otherwise make recommendations related to any matters that are subject to the exclusive partnership process between the state and the certified employee organizations pursuant to section 24-50-1112 (2).

(f) The chair of the working group may solicit and accept gifts, grants, and donations to support the working group, including for facilitation, research, strategic planning, report writing, and surveys or other methods to pursue the goals listed in subsection (10)(a) of this section, in accordance with applicable state laws.

(g) The working group shall submit an interim report to the general assembly, the department's certified employee organization, and the governor's office in December 2026 and a final report on June 30, 2028.

(h) This subsection (10) is repealed, effective January 15, 2029.

Source: L. 90: Entire part added, p. 952, § 19, effective June 7. **L. 91:** (1)(g) amended, p. 1912, § 20, effective June 1. **L. 93:** (5) added, p. 1980, § 5, effective July 1. **L. 95:** (5) amended, p. 879, § 14, effective May 24. **L. 97:** (5)(b) amended, p. 1548, § 24, effective July 1. **L. 2001:** (3.5) added, p. 1452, § 2, effective June 5. **L. 2002:** (5)(a) and (5)(b) amended, p. 1507, § 165, effective October 1. **L. 2008:** IP(1) amended, p. 658, § 9, effective April 25; (5)(a.5) added, p. 1756, § 3, effective July 1. **L. 2009:** (1.5), (6), and (7) added and (4) amended, (HB 09-1351), ch. 359, p. 1866, § 1, effective June 1. **L. 2010:** (1.5)(a) and (6) amended, (HB 10-1374), ch. 261, p. 1181, § 5, effective May 25. **L. 2011:** (8) added, (SB 11-176), ch. 289, p. 1343, § 4, effective July 1. **L. 2012:** (4), (5)(a), and (5)(a.5) amended and (9) added, (HB 12-1223), ch. 213, p. 916, § 2, effective May 24. **L. 2013:** (1.5)(a)(I) and IP(6) amended, (SB 13-250), ch. 333, p. 1934, § 51, effective October 1. **L. 2015:** (9)(a.5) added, (SB 15-195), ch. 279, p. 1144, § 1, effective August 5. **L. 2016:** (1.2) added and (4) amended, (SB 16-181), ch. 353, p. 1450, § 4, effective June 10. **L. 2020:** IP(1) and (1.5)(b) amended and (1)(h) added, (HB 20-1019), ch. 9, p. 26, § 6, effective March 6; (1)(g) amended, (HB 20-1402), ch. 216, p. 1047, § 30, effective June 30. **L. 2023:** (3.7) and (9)(a.3) added, (HB 23-1037), ch. 66, p. 234, § 1, effective August 7. **L. 2024:** (3.7)(c) added and (4)(a) amended, (HB 24-1461), ch. 427, p. 2918, § 1, effective August 7. **L. 2026:** (1.5)(a), (1.5)(b), and (9)(a) amended and (1.5)(a.5), (9)(a.7), and (10) added, (SB 26-159), ch. 137, p. 663, § 1, effective May 19.

Editor's note: Section 2 of chapter 137 (SB 26-159), Session Laws of Colorado 2026, provides that the act changing this section applies to an inmate accruing earned time on or after May 19, 2026.

Cross references: For the legislative declaration contained in the 2002 act amending subsections (5)(a) and (5)(b), see section 1 of chapter 318, Session Laws of Colorado 2002. For the legislative declaration in the 2012 act amending subsections (4), (5)(a), and (5)(a.5) and adding subsection (9), see section 1 of chapter 213, Session Laws of Colorado 2012.

ANNOTATION

Exclusion of felony theft from definition of "nonviolent felony offenses" in this section did not operate to deny defendant equal protection of the law. People v. Gonzales, 973 P.2d 732 (Colo. App. 1999).

An inmate does not have a vested right in earned time, so the inmate's punishment

is not increased by withholding earned time from the inmate for not participating in sex offender treatment. Reeves v. Colo. Dept. of Corr., 155 P.3d 648 (Colo. App. 2007).

Earned time credit not available for presentence confinement. People v. Maestas, 920 P.2d 875 (Colo. App. 1996).

Where prisoner was not in the custody of the department of corrections, but was instead held in a county jail awaiting sentencing, credit was not available under this section. People v. Maestas, 920 P.2d 875 (Colo. App. 1996).

Earned time credits are not required to be given when serving a concurrent sentence in a federal prison, but department was required to conduct a hearing pursuant to subsection (3). When state and federal sentences are running concurrently, even when defendant was in federal prison, defendant was in the custody of the department. People v. Frank, 30 P.3d 664 (Colo. App. 2000).

17-22.5-406. Applicability of part.

(1) (a) This part 4 applies to all offenders sentenced for crimes committed on or after July 1, 1979.

(b) Notwithstanding paragraph (a) of this subsection (1), the amount of earned time which may be credited pursuant to this part 4 to any inmate incarcerated on or before July 1, 1990, shall not exceed the amount of earned time actually earned by such inmate pursuant to earned time provisions in effect prior to July 1, 1990.

(c) If the application of the provisions of this subsection (1) would result in the early discharge of any offender, the department shall refer such offender to the state board of parole which may, in its discretion, grant or deny parole using the guidelines established pursuant to section 17-22.5-404, discharge the offender or place such offender under conditional parole supervision. If the offender is placed on parole pursuant to this paragraph (c), the state board of parole may revoke the parole granted to such inmate for a period not to exceed the amount of earned time granted to the offender pursuant to this part 4.

(d) Nothing in this subsection (1) shall be construed as a mandate to the state board of parole to release any inmate.

(e) If any inmate incarcerated prior to June 7, 1990, has not accrued any earned time prior to such date, the provisions of law in effect at the time of such inmate's sentencing shall apply to such inmate in determining such inmate's discharge date.

(2) Notwithstanding subsection (1) of this section, no offender incarcerated on June 7, 1990, shall be released pursuant to the provisions of subsection (1) of this section unless the department of corrections makes a written certification that the offender has met the conditions of paragraph (a) of this subsection (2) and at least two additional of the following criteria:

(a) The offender has not used controlled substances, except pursuant to the prescription of a physician, for at least one year prior to such certification.

(b) The offender has engaged in a satisfactory participation in available educational programs during his incarceration.

(c) The offender has engaged in a satisfactory participation in any treatment programs indicated in his diagnostic evaluation.

(d) The offender has had no serious infractions of the penal code of discipline for at least two years.

(e) The offender has had an exemplary work record while being incarcerated under the custody of the department of corrections.

(3) This part 4 shall not apply to any offender who is presently incarcerated who does not meet the appropriate criteria stated in subsection (2) of this section. Any such offender's sentence shall be governed by provisions in existence prior to June 7, 1990.

(4) Repealed.

Source: L. 90: Entire part added, p. 953, § 19, effective June 7. **L. 98:** (4) repealed, p. 727, § 11, effective May 18.

17-22.5-407. Genetic testing as condition of parole - repeal. (Repealed)

Source: L. 2001: Entire section added, p. 957, § 6, effective July 1. **L. 2002:** Entire section amended, p. 1153, § 10, effective July 1. **L. 2006:** (2) added by revision, pp. 1690, 1693, §§ 8, 17.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2007. (See L. 2006, pp. 1690, 1693.)

ARTICLE 23

Inmates with a Behavioral or Mental Health Disorder or an Intellectual and Developmental Disability - Transfer

17-23-101. Transfer of an inmate who has a behavioral or mental health disorder or an intellectual and developmental disability.

17-23-102. Transfer of recovered inmate.

17-23-103. Transfer to department. (Repealed)

17-23-101. Transfer of an inmate who has a behavioral or mental health disorder or an intellectual and developmental disability.

(1) (a) The executive director, in coordination with the executive director of the department of human services, may only transfer an inmate who has a behavioral or mental health disorder or an intellectual and developmental disability and who cannot be safely confined in a correctional facility to an appropriate facility operated by the department of human services for observation and stabilization if the department of corrections follows the policy established pursuant to subsection (1)(b) of this section. The costs associated with care provided in the facility operated by the department of human services are charged to the department of human services.

(b) On or before August 1, 2015, the department of corrections shall develop and maintain a policy that provides for due process guarantees prior to the transfer of an inmate who cannot be safely confined in a correctional facility to a facility operated by the department of human services for observation and stabilization.

(2) (Deleted by amendment, L. 2000, p. 846, § 43, effective May 24, 2000.)

(3) The executive director of the department of human services may transfer to a correctional facility a person who is receiving care at the Colorado mental health institute at Pueblo or Fort Logan only if the person is serving a sentence to the department.

(4) (Deleted by amendment, L. 2000, p. 846, § 43, effective May 24, 2000.)

Source: L. 77: Entire title R&RE, p. 926, § 10, effective August 1. **L. 79:** (1), (2), and (4) amended, p. 697, § 59, effective July 1. **L. 91:** (1), (3), and (4) amended, p. 1143, § 7, effective May 18. **L. 94:** (1) amended, p. 604, § 9, effective July 1; (3) amended, p. 2652, § 129, effective July 1. **L. 2000:** Entire section amended, p. 846, § 43, effective May 24. **L. 2006:** (1) and (3) amended, p. 1398, § 46, effective August 7. **L. 2015:** (1) and (3) amended, (HB 15-1269), ch. 117, p. 354, § 1, effective April 24. **L. 2017:** (1)(a) amended, (SB 17-242), ch. 263, p. 1303, § 132, effective May 25.

Editor's note: This section is similar to former § 27-23-101 as it existed prior to 1977.

Cross references: (1) For records required upon transfer, see § 17-1-108.

(2) For the legislative declaration contained in the 1994 act amending subsection (3), see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

ANNOTATION

Annotator's note. Since § 17-23-101 is similar to repealed § 27-23-101, and repealed CSA, C. 105, § 27(2), relevant cases construing those provisions have been included in the annotations to this section.

For exclusiveness of procedure outlined by this section, see Parker v. People, 108 Colo. 362, 117 P.2d 316 (1941).

Confinement of insane persons is constitutional. The state as parens patriae has general power and is under the general duty of caring for insane persons. The prerogative is a segment of police power. In the exercise of such power, insane persons may be restrained and confined both for the welfare of themselves and for the protection of the public, and if the exactions of due process are met, such restraint and confinement do not violate any constitutional right of the individual. Pigg v. Patterson, 370 F.2d 101 (10th Cir. 1966).

Whether in a federal or state penal system, the disposition of those adjudicated criminally irresponsible is a matter of administrative determination which the federal courts should not undertake to supervise. Sound and practical reasons readily occur in support of the state's designation of the penitentiary as the appropriate place of confinement for those criminally insane who demonstrate dangerous or violent tendencies. One who has been adjudicated in a court of law to be criminally irresponsible, and duly committed thereupon, has no vested right to any particular place of institutionalization. Pigg v. Patterson, 370 F.2d 101 (10th Cir. 1966).

The procedures for transfer among the Colorado correctional institutions are valid, are discretionary with the officials concerned, and give rise to no duty the breach of which is cognizable in a § 1983 action for a violation of the federal Civil Rights Act. Coppinger v. Townsend, 398 F.2d 392 (10th Cir. 1968).

Therefore, state district court judge, superintendent of state hospital, and staff psychiatrist held protected by governmental immunity, in § 1983 action involving revocation of probation and transfer to state penitentiary, those acts being discretionary. Franklin v. Meredith, 386 F.2d 958 (10th Cir. 1967).

No patient may be involuntarily transferred to the penitentiary except upon a finding that he is so dangerous that he cannot be safely confined in the state

hospital. Romero v. Schauer, 386 F. Supp. 851 (D. Colo. 1974).

Subsection (3) authorizes involuntary transfer of the "dangerous", not the nondangerous, high escape risk or the patient allegedly in danger from others. Romero v. Schauer, 386 F. Supp. 851 (D. Colo. 1974).

Subsection (3) draws a perfect classification, and it has not been contended that in practice it is drawn less perfectly. Romero v. Schauer, 386 F. Supp. 851 (D. Colo. 1974).

Therefore transfer and confinement in the penitentiary, in and of themselves, work no denial of equal protection even when subjected to strict scrutiny. Romero v. Schauer, 386 F. Supp. 851 (D. Colo. 1974).

The accusation that a patient is dangerous is not a criminal charge. Romero v. Schauer, 386 F. Supp. 851 (D. Colo. 1974).

Therefore a proceeding at which the dangerousness issue is determined is not a criminal proceeding. Romero v. Schauer, 386 F. Supp. 851 (D. Colo. 1974).

Patients at state hospital do not forfeit all constitutional rights. Just as the inmates of a prison do not forfeit all constitutional rights upon commitment, neither do the patients at the Colorado state hospital, although those rights retained may be somewhat restricted by the nature of the institutional environment. Romero v. Schauer, 386 F. Supp. 851 (D. Colo. 1974).

Psychiatric care provided in penitentiary must be equivalent to that provided at state hospital. The state must provide patients transferred to the state penitentiary with psychiatric care and treatment substantially equivalent to that provided patients confined at the state hospital. Romero v. Schauer, 386 F. Supp. 851 (D. Colo. 1974).

Or patients in penitentiary denied equal protection. Confinement of mental patients in the state penitentiary without psychiatric treatment substantially equivalent to that provided patients at the Colorado state hospital denies them equal protection of the laws. Romero v. Schauer, 386 F. Supp. 851 (D. Colo. 1974).

Dangerousness of patient does not provide rational basis for inferior treatment. Although the dangerousness of the patient may justify his transfer to, and incarceration in, the penitentiary, even when subjected to strict scrutiny, the classification does not provide a rational basis for inferior psychiatric treatment provided dangerous patients who are confined in the penitentiary. Romero v. Schauer, 386 F. Supp. 851 (D. Colo. 1974).

An adjudication that an insane person has been restored to reason cannot be had in "habeas corpus" proceedings. Pigg v. Tinsley, 158 Colo. 160, 405 P.2d 687 (1965).

Applied in Ramos v. Lamm, 485 F. Supp. 122 (D. Colo. 1979); People v. White, 656 P.2d 690 (Colo. 1983).

17-23-102. Transfer of recovered inmate.

When the superintendent of an institution or facility in which a person has been placed by transfer from a correctional facility, as provided in section 17-23-101, is of the opinion that the person is stabilized or cannot be safely confined in the institution or facility, it is the duty of the superintendent to give written notice of such recovery or safety concerns to the executive director who shall transfer the person to the place of former commitment for the purpose of serving out his or her sentence, if the same has not expired.

Source: L. 77: Entire title R&RE, p. 926, § 10, effective August 1. **L. 79:** Entire section amended, p. 698, § 60, effective July 1. **L. 94:** Entire section amended, p. 604, § 10, effective July 1. **L. 2000:** Entire section amended, p. 847, § 44, effective May 24. **L. 2015:** Entire section amended, (HB 15-1269), ch. 117, p. 355, § 2, effective April 24.

Editor's note: This section is similar to former § 27-23-102 as it existed prior to 1977.

17-23-103. Transfer to department. (Repealed)

Source: L. 77: Entire title R&RE, p. 927, § 10, effective August 1. **L. 79:** (1)(d) and (2) amended, p. 698, § 61, effective July 1. **L. 91:** IP(1), (1)(d), and (2) amended, p. 1144, § 8, effective May 18. **L. 2015:** Entire section repealed, (HB 15-1269), ch. 117, p. 355, § 3, effective April 24.

Editor's note: This section was similar to former § 27-23-103 as it existed prior to 1977.

ARTICLE 24

Correctional Industries

17-24-101. Short title.
17-24-102. Legislative declaration.
17-24-103. Definitions.
17-24-104. Creation of division of correctional industries and advisory committee - enterprise status of division - duties of committee - sunset review of committee - rules.

17-24-105. Personnel.
17-24-106. General powers of the division.
17-24-106.3. Revenue bonds - authority - issuance - requirements - covenants.
17-24-106.5. Interstate sales authorized. (Repealed)
17-24-106.6. Surplus state property - definitions.
17-24-107. Records.
17-24-108. Disclosure of interests.
17-24-109. Required programs.
17-24-109.5. License plates - highway signs.
17-24-109.8. Pilot program - refuse derived fuel. (Repealed)
17-24-110. Financial payment incentives.
17-24-111. Purchasing requirement.
17-24-112. Pricing.
17-24-113. Business operations and budget.
17-24-114. Provisions for inmates - rules.
17-24-115. Rules and regulations.
17-24-116. Sole authority.
17-24-117. Penalty. (Repealed)
17-24-118. Treasurer and controller to write off debt. (Repealed)
17-24-119. Training and employment by organizations - account for proceeds and wages.
17-24-120. Treasurer and controller to write off amount owed state. (Repealed)
17-24-121. Venture agreements.
17-24-122. Agreements for the employment of inmates by private entities.
17-24-123. Clean-up of illegally disposed and abandoned waste tires - services to counties.
17-24-124. Inmate disaster relief program - legislative declaration.
17-24-125. Correctional industries at non-state-owned facilities - definitions.
17-24-126. Canteen, vending machine, and library account created - receipts - disbursements.

17-24-101. Short title.

This article shall be known and may be cited as the "Correctional Industries Act".

Source: L. 77: Entire title R&RE, p. 927, § 10, effective August 1.

Editor's note: This section is similar to former § 27-25-101 as it existed prior to 1977.

17-24-102. Legislative declaration.

(1) The general assembly finds and declares that, to the extent possible, all inmates should participate in programs that promote successful rehabilitation, reentry, and reintegration into the community. Therefore, it is the general assembly's intent to create a division of correctional industries to develop rehabilitation and work programs inside and outside of the department's facilities to promote inmates' successful rehabilitation, reentry, and reintegration into the community.

(2) It is the general assembly's intent that the division of correctional industries collaborate with the department to perform all duties and functions for correctional industries.

Source: L. 77: Entire title R&RE, p. 927, § 10, effective August 1. **L. 79:** (2) amended, p. 698, § 62, effective July 1. **L. 80:** IP(1), (1)(a), and (1)(b) amended, p. 525, § 2, effective March 25. **L. 2022:** Entire section amended, (SB 22-050), ch. 51, p. 241, § 4, effective March 30.

Editor's note: This section is similar to former § 27-25-102 as it existed prior to 1977.

ANNOTATION

Applied in Ramos v. Lamm, 485 F. Supp. 122 (D. Colo. 1979).

17-24-103. Definitions.

As used in this article 24, unless the context otherwise requires:

(1) "Able-bodied offender" means an offender in the custody of the department who is to participate in a work program or other productive activity authorized by this article and who is physically able to do so. The term does not include an offender who is participating in a community corrections program, who is a part of the "blind count", or who is ill or unable to participate in a work program or other productive activity.

(2) "Director" means the director of the division of correctional industries.

(3) "Division" means the division of correctional industries created in section 17-24-104.

(4) "External program" means a rehabilitation and work program administered by the division in partnership with employers outside of department facilities. "External program" does not include educational services or other productive activities administered by the division of adult parole.

(5) "Internal program" means a rehabilitation and work program that is provided inside a department facility, is administered by the division, and may be in partnership with employers outside of department facilities. "Internal program" does not include educational services or other productive activities administered by the division of adult parole.

(6) "Programs" means external programs and internal programs.

Source: L. 77: Entire title R&RE, p. 928, § 10, effective August 1. **L. 80:** Entire section R&RE, p. 526, § 3, effective March 25. **L. 2000:** (4) amended, p. 864, § 64, effective May 24. **L. 2022:** IP and (4) amended and (5) and (6) added, (SB 22-050), ch. 51, p. 241, § 5, effective March 30.

17-24-104. Creation of division of correctional industries and advisory committee - enterprise status of division - duties of committee - sunset review of committee - rules.

(1) There is created in the department of corrections the division of correctional industries, which is under the direction of the director of correctional industries, who is appointed by the executive director of the department of corrections pursuant to section 13 of article XII of the state constitution. The division constitutes an enterprise for the purposes of section 20 of article X of the state constitution so long as it retains the authority to issue revenue bonds and receives less than ten percent of its total annual revenues in grants, as defined in section 24-77-102 (7), from all Colorado state and local governments combined. So long as it constitutes an enterprise pursuant to the provisions of this section, the division of correctional industries is not a district for purposes of section 20 of article X of the state constitution. The division of correctional industries is a **type 2** entity, as defined in section 24-1-105.

(2) (a) There is created the correctional industries advisory committee, which consists of:

(I) The state treasurer for the duration of his term of office;

(II) Four members of the general assembly, two of whom shall be appointed by the speaker of the house of representatives and two of whom shall be appointed by the president of the senate. Of the legislative members appointed, one shall be a member of the minority party of the house of representatives and one shall be a member of the minority party of the senate. The legislative members shall be appointed in January at the beginning of the regular session held in odd-numbered years and shall serve through the legislative biennium.

(III) The director of the office of state planning and budgeting;

(IV) The executive director of the department of personnel;

(V) Two members from affected industries in the business community, who shall be appointed by the governor for terms of three years each;

(VI) Two members from organized labor, who shall be appointed by the governor for terms of three years each;

(VII) The executive director of the department of corrections; and

(VIII) A county sheriff, who shall be appointed by the governor for a term of three years.

(b) Each member holds office until the member's term expires and until a successor is appointed. Any member is eligible for reappointment, but shall not serve more than two consecutive full terms. Except as otherwise provided in section 2-2-326, members of the advisory committee serve without compensation for such services but may be reimbursed for their necessary expenses while serving as members of the board. Any vacancy shall be filled in the same manner as for an original appointment and shall be for the unexpired term. The chair shall be elected by the voting members of the advisory committee from among the appointed members of the general assembly.

(c) Any member appointed by the governor may be removed by the governor and any member appointed by the speaker of the house of representatives or the president of the senate may be removed by the appropriate appointing officer for malfeasance in office, for failure to regularly attend meetings, or for any cause which renders said member incapable of or unable to discharge the duties of his office.

(d) Repealed.

(3) (a) Before any industry is established to utilize the services of prisoners as provided by this article, including but not limited to any industry in a non-state-owned facility pursuant to section 17-24-125, the advisory committee shall consider the feasibility of establishing such industry and the effect of such establishment on similar industries already established in the state and shall make its recommendations thereon to the director. A majority of the members of the advisory committee at any meeting duly called by the chairman has full power to act upon and resolve any matter or question referred to it by the director.

(b) Repealed.

(4) Repealed.

(5) (a) The advisory committee shall consider the advisability of issuing any revenue bonds and make recommendations in the form of a resolution to the director. A majority of the members of the advisory committee at any meeting duly called by the chairman has full power to act upon

and make such recommendations. Any resolution authorizing the issuance of bonds under the terms of this section shall include:

(I) The date of issuance of the bonds;

(II) The maturity date or dates during a period not to exceed thirty years from the date of issuance of the bonds;

(III) The interest rate or rates on, and the denomination or denominations of, the bonds;

(IV) The form of the bond, whether bearer or registered; and

(V) The medium of payment of the bonds and the place where the bonds will be paid.

(b) Any resolution authorizing the issuance of bonds under the terms of this section may:

(I) State that the bonds are to be issued in one or more series;

(II) State a rank or priority of the bonds; and

(III) Provide for redemption of the bonds prior to maturity, with or without premium.

(c) A resolution pertaining to issuance of bonds under this section may contain covenants as to:

(I) The purpose to which the proceeds of sale of the bonds may be applied and to the use and disposition thereof;

(II) Such matters as are customary in the issuance of revenue bonds including, without limitation, the issuance and lien position of other or additional bonds; and

(III) Books of account and the inspection and audit thereof.

(d) The committee may provide for preferential security for any bonds, both principal and interest, to be issued under this section to the extent deemed feasible and desirable by such committee over any bonds that may be issued thereafter.

(e) Upon issuance of a bond by the division pursuant to the provisions of section 17-24-106.3, any resolution made pursuant to the terms of this section shall be deemed a contract with the holders of the bonds, and the duties of the committee under such resolution shall be enforceable by any appropriate action in a court of competent jurisdiction.

(6) Repealed.

Source: L. 77: Entire title R&RE, p. 928, § 10, effective August 1. **L. 83:** (2)(a)(II) and (2)(b) amended and (2)(a)(VII) added, p. 688, § 1, effective May 25; (2)(a)(III) amended, p. 970, § 22, effective July 1, 1984. **L. 86:** (2)(d) and (4) added and (3) amended, p. 410, §§ 11, 12, effective

March 26. **L. 88:** (3)(b) amended, p. 316, § 8, effective April 14; (2)(a)(V) R&RE, p. 703, § 1, effective July 1. **L. 89:** (2) and (4) RC&RE, p. 881, § 1, effective April 8. **L. 90:** (2)(d), (3)(b), and (4) repealed, p. 334, § 24, effective April 3. **L. 94:** (1) amended and (5) added, p. 313, § 1, effective March 22. **L. 95:** (2)(a)(IV) amended, p. 639, § 26, effective July 1. **L. 98:** (2)(a)(VII) and (3)(a) amended and (2)(a)(VIII) added, p. 426, § 2, effective April 21. **L. 2006:** (6) added, p. 826, § 1, effective May 4. **L. 2011:** (6) repealed, (HB 11-1301), ch. 297, p. 1424, § 17, effective August 10. **L. 2014:** (2)(b) amended, (SB 14-153), ch. 390, p. 1962, § 9, effective June 6. **L. 2022:** IP(2)(a), (2)(a)(VIII), and (2)(b) amended, (SB 22-013), ch. 2, p. 24, § 28, effective February 25; (1) amended, (SB 22-162), ch. 469, p. 3423, § 204, effective August 10.

Editor's note: (1) This section is similar to former § 27-25-104 as it existed prior to 1977.

(2) (a) Subsection (2)(d) provided for the repeal of subsection (2), effective July 1, 1988. (See L. 86, p. 410.) However, subsection (2) was recreated and reenacted in 1989.

(b) Subsection (4)(b) provided for the repeal of subsection (4), effective July 1, 1988. (See L. 86, p. 410.) Subsection (4) was then recreated and reenacted in 1989 and was subsequently repealed again in 1990.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of Colorado 2022.

17-24-105. Personnel.

(1) The director shall have considerable business operations experience, including the supervision and management of production operations.

(2) The director shall have the authority to determine the personnel needs and requirements of the programs and shall have the authority to hire all subordinate personnel pursuant to section 13 of article XII of the state constitution.

Source: L. 77: Entire title R&RE, p. 929, § 10, effective August 1.

17-24-106. General powers of the division.

(1) In addition to any other powers granted to the division by this article 24, the division has the following powers:

(a) Repealed.

(b) To develop programs that promote successful rehabilitation, reentry, and reintegration into the community;

(c) Repealed.

(d) To acquire or purchase equipment, raw materials, supplies, office space, insurance, and services and to engage the supervisory personnel necessary to establish and maintain the external programs and internal programs at the state's correctional institutions pursuant to law;

(e) To produce goods and services that are needed for the construction, operation, or maintenance of any office, department, institution, or agency supported in whole or in part by the state, any political subdivision of the state, or the federal government;

(f) (I) To sell goods and services, including capital construction items, produced by the internal programs to agencies supported in whole or in part by the state, any political subdivision of the state, other states or their political subdivisions, or the federal government; and

(II) To sell such goods to entities who have entered into financed purchase of an asset or certificate of participation agreements with any public entity enumerated in subsection (1)(f)(I) of this section pursuant to which such goods are used by such public entity;

(g) To adopt, have, and use a seal and to alter the same at its pleasure;

(h) To sue and be sued;

(i) To enter into any contract or agreement not inconsistent with this article or the laws of this state;

(j) To borrow money from the state treasury in an amount not to exceed three million dollars pursuant to section 24-75-203, C.R.S., for a period of time not to exceed ten years. All moneys borrowed, including principal and interest shall be repaid in nine equal annual installments, commencing after the first year. The three-million-dollar limit shall include any amounts loaned to correctional industries in supplemental appropriation bills passed prior to May 22, 1979.

(k) (I) To purchase, lease, trade, exchange, or otherwise acquire, maintain, and dispose of real property and personal property and any interest therein pursuant to law.

(II) to (IV) Repealed.

(V) As used in this paragraph (k), "real property" means land, including land under water, buildings, structures, fixtures, and improvements on land, any property appurtenant to or used in connection with land, and every estate, interest, privilege, easement, right-of-way, and other right in land, legal or equitable, including, without limiting the generality of the foregoing, rights-of-way, terms for years, and liens, charges, or encumbrances by way of judgment, mortgage, or

otherwise, and the indebtedness secured by such liens. However, the term "real property" does not include leasehold interests.

(l) To accept grants or loans from the federal, the state, or any local government and to do all things necessary, not inconsistent with this article or any other laws of this state, in order to avail itself of such aid, assistance, and cooperation under any federal legislation;

(m) To enter into contracts, execute all instruments, and do all things necessary or convenient in the exercise of the powers granted in this article pursuant to law;

(n) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this article, which powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this article;

(o) To adopt rules and regulations pursuant to article 4 of title 24, C.R.S., consistent with the provisions of this article;

(p) To sell Colorado state flags produced by an internal program to retailers in this state at a price as near to the prevailing wholesale market price and quality as is practical and to individuals at retail price; however, the division must supply the requirements of state agencies and political subdivisions of the state before selling such flags as provided in this subsection (1)(p). The price of flags to state agencies and political subdivisions of this state must be determined pursuant to section 17-24-112.

(q) Repealed.

(r) To receive, repair, and distribute surplus property pursuant to the powers and duties provided in part 4 of article 82 of title 24, and to receive, repair, sell, or otherwise dispose of surplus state property as provided in section 17-24-106.6;

(s) To authorize and issue revenue bonds pursuant to the provisions of section 17-24-106.3;

(t) To establish and operate a canteen for the use and benefit of the inmates of state correctional facilities and to operate vending machines for the use of visitors to such facilities.

(2) Repealed.

Source: L. 77: Entire title R&RE, p. 929, § 10, effective August 1. **L. 79:** (1)(j) amended, p. 707, § 1, effective May 22. **L. 80:** (1)(f) amended, p. 528, § 1, effective February 29; (1)(a) and (1)(b) amended, p. 526, § 4, effective March 25. **L. 81:** (1)(p) and (1)(q) added, p. 962, § 1, effective May 18. **L. 82:** (1)(j) amended, p. 623, § 16, effective April 2. **L. 83:** (1)(p) amended and (1)(q) repealed, p. 692, §§ 1, 2, effective March 3; (1)(f) amended, p. 690, § 1, effective April 29. **L. 86:** (2) added, p. 757, § 12, effective July 1; (1)(r) added, p. 753, § 1, effective July 1, 1987. **L. 92:** (1)(k) amended, p. 1062, § 1, effective June 1. **L. 94:** (1)(s) added, p. 315, § 2,

effective March 22. **L. 96:** (1)(k)(III) amended, p. 1266, § 182, effective August 7. **L. 97:** (1)(j) amended, p. 78, § 1, effective March 24. **L. 98:** (1)(k)(II) to (1)(k)(IV) repealed, p. 728, § 12, effective May 18. **L. 2002:** (1)(r) amended, p. 220, § 2, effective April 3; (1)(t) added, p. 56, § 1, effective July 1. **L. 2021:** IP(1) and (1)(f)(II) amended, (HB 21-1316), ch. 325, p. 2000, § 10, effective July 1. **L. 2022:** IP(1), (1)(b), (1)(d), (1)(e), (1)(f)(I), (1)(p), and (1)(r) amended and (1)(a) and (1)(c) repealed, (SB 22-050), ch. 51, p. 242, § 6, effective March 30.

Editor's note: (1) This section is similar to former § 27-25-103 as it existed prior to 1977.

(2) Subsection (2)(b) provided for the repeal of subsection (2), effective July 1, 1988. (See L. 86, p. 757.)

Cross references: For the legislative declaration contained in the 1996 act amending this section, see section 1 of chapter 237, Session Laws of Colorado 1996.

17-24-106.3. Revenue bonds - authority - issuance - requirements - covenants.

(1) (a) Subject to the prior approval of the correctional industries advisory committee acting by resolution in accordance with the provisions of section 17-24-104 (5) and from both houses of the general assembly acting either by bill or joint resolution, the division may, in accordance with the requirements of subsection (2) of this section, authorize and issue revenue bonds in an amount not to exceed one million dollars in the aggregate for expenses of the division.

(b) All bonds issued by the division shall provide that:

(I) No holder of any such bond may compel the state or any subdivision thereof to exercise its appropriation or taxing power; and

(II) The bond does not constitute a debt of the state and is payable only from the net revenues allocated to the division for expenses as designated in such bond.

(2) Any bonds issued pursuant to the terms of this section may be sold at public or private sale. If bonds are to be sold at a public sale, the division shall advertise the sale in such manner as the general assembly authorizes by bill or joint resolution. All bonds issued pursuant to the terms of this section shall be sold at a price not less than the par value thereof, together with all accrued interest to the date of delivery.

(3) Notwithstanding any provisions of the law to the contrary, all bonds issued pursuant to this section are negotiable.

(4) Bonds issued under this section shall be valid and binding obligations, regardless of whether, prior to the delivery thereof and payment therefor, any or all of the persons whose signatures appear thereon have ceased to serve in their official capacities.

(5) (a) Except as otherwise provided in a resolution authorizing bonds pursuant to the provisions of section 17-24-104 (5), all bonds of the same issue under this section shall have a prior and paramount lien on the net revenues pledged therefor.

(b) Bonds of the same issue or series issued under this section shall be equally and ratably secured, without priority by reason of number, date, sale, execution, or delivery, by a lien on the net revenue pledged in accordance with the terms of the resolution authorizing the bonds.

Source: L. 94: Entire section added, p. 315, § 3, effective March 22.

17-24-106.5. Interstate sales authorized. (Repealed)

Source: L. 79: Entire section added, p. 709, § 1, effective May 22. **L. 80:** Entire section repealed, p. 528, § 2, effective February 29.

17-24-106.6. Surplus state property - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) (Deleted by amendment, L. 2002, p. 218, § 1, effective April 3, 2002.)

(b) "State agency" means this state or any department or other agency of the state, but not including the department of transportation or the Auraria higher education center established in article 70 of title 23, C.R.S.

(c) "Surplus state property" means any equipment and supplies no longer having any use to the state or any state agency.

(2) The director shall promulgate rules to be utilized by the division in governing:

(a) The sale or disposal of surplus state property by public auction, invitation for bids, or daily warehouse sales; and

(b) (Deleted by amendment, L. 2002, p. 218, § 1, effective April 3, 2002.)

(c) The circumstances under which a public employee may purchase surplus state property.

(d) (Deleted by amendment, L. 2011, (HB 11-1301), ch. 297, p. 1424, § 16, effective August 10, 2011.)

(2.1) (a) (Deleted by amendment, L. 2002, p. 218, § 1, effective April 3, 2002.)

(b) Repealed.

(c) (Deleted by amendment, L. 2002, p. 218, § 1, effective April 3, 2002.)

(3) Such rules shall include, but shall not be limited to:

(a) The preparation of a perpetual inventory of surplus state property collected by the division;

(a.5) A procedure to inform all state agencies of the availability of such surplus state property;

(b) (Deleted by amendment, L. 2002, p. 218, § 1, effective April 3, 2002.)

(c) Procedures coordinating, to the extent possible, the programs administered by the division under section 17-24-106 with the division's responsibility with respect to surplus state property;

(d) A procedure whereby surplus state property which is not sold or otherwise disposed of within six months after being received by the division shall be disposed of as soon as possible thereafter.

(4) Any moneys used to cover the administrative costs of the transfer of responsibilities with respect to surplus state property from the department of personnel to the department of corrections shall be transmitted to the state treasurer, who shall credit the same to the surplus property fund, which fund is hereby created, and such fund shall be subject to appropriation by the general assembly for the purposes of this section.

(5) Any moneys in any accounts or funds administered by the department of personnel that are derived from the administration of part 4 of article 82 of title 24 shall be transferred to the surplus property fund.

(6) The division may assess fees from the disposer or recipient of any surplus state property, which fees shall be limited to reasonable administrative costs of the division incurred in effecting the collection of surplus state property. All such fees shall be credited to the surplus property fund.

Source: L. 86: Entire section added, p. 753, § 2, effective July 1, 1987. **L. 90:** (2)(a) amended and (2.1) added, p. 961, § 1, effective June 9. **L. 91:** (1)(b) amended, p. 1058, § 13, effective July 1. **L. 97:** (2.1)(c) amended, p. 1009, § 10, effective August 6. **L. 98:** (5) amended, p. 820, § 19,

effective August 5. **L. 2002:** Entire section amended, p. 218, § 1, effective April 3. **L. 2005:** (2)(a) and (6) amended and (2)(c) added, p. 33, § 1, effective August 8. **L. 2006:** (2)(c) amended and (2)(d) added, p. 826, § 2, effective May 4. **L. 2011:** (1)(b) and (2) amended, (HB 11-1301), ch. 297, p. 1424, § 16, effective August 10. **L. 2012:** (1)(b) amended, (HB 12-1081), ch. 210, p. 902, § 1, effective August 8. **L. 2017:** (4) and (5) amended, (SB 17-294), ch. 264, p. 1393, § 36, effective May 25; (2)(a) amended, (HB 17-1051), ch. 99, p. 349, § 61, effective August 9.

Editor's note: Subsection (2.1)(b) provided for the repeal of subsection (2.1)(b), effective September 1, 1990. (See L. 90, p. 961.)

17-24-107. Records.

The account of all moneys received by and disbursed on behalf of the division shall also be a public record. Any public record of the division shall be open for inspection by any citizen.

Source: L. 77: Entire title R&RE, p. 930, § 10, effective August 1.

17-24-108. Disclosure of interests.

Any employee or any other agent or adviser of the division who has a direct or indirect interest in any contract or transaction with the division shall disclose this interest to the division. No such employee or other agent or adviser having such an interest shall participate on behalf of the division in the authorization of any such contract or transaction.

Source: L. 77: Entire title R&RE, p. 930, § 10, effective August 1.

17-24-109. Required programs.

(1) The division shall establish programs that provide license plates and highway signs for the state.

(2) Repealed.

(3) All vocational training programs, personnel, inventories, and equipment shall be resources dedicated to the establishment of the correctional industries program.

(4) The executive director shall designate a portion of the real property at each correctional institution as an industry area, and all facilities and buildings within this area are assigned to the division in cooperation with the division of adult parole. The responsibility for the upkeep of these facilities, buildings, and grounds is vested in the division.

Source: L. 77: Entire title R&RE, p. 930, § 10, effective August 1. **L. 79:** (1) amended, p. 698, § 63, effective July 1. **L. 80:** (4) amended, p. 526, § 5, effective March 25. **L. 2000:** (4) amended, p. 864, § 65, effective May 24. **L. 2017:** (1) and (4) amended and (2) repealed, (HB 17-1125), ch. 125, p. 431, § 1, effective August 9.

17-24-109.5. License plates - highway signs.

(1) The division may purchase such equipment, machinery, and other materials as may be necessary to manufacture and deliver motor vehicle license plates, temporary registration plates and certificates, validating tabs or decals, road signs, markers, and metal badges used by any department and manufactured under the authority of this article. Each year the executive director of the department of revenue shall estimate the number of license plates, temporary registration plates and certificates, and validating tabs or decals that will be required and the cost of manufacturing thereof for the year such estimate is made and shall certify such estimates to the joint budget committee of the general assembly.

(2) During the year the estimate required by subsection (1) of this section is made and certified by the executive director of the department of revenue from the sale of motor vehicle license plates, temporary registration plates and certificates, and validating tabs or decals, the joint budget committee shall consider the estimate in making its budget recommendation for the division of correctional industries to the general assembly. Any amounts appropriated by the general assembly for the purposes of this section shall be used and expended by the division of correctional industries to purchase such equipment and machinery, including repairs thereof, sheet steel or aluminum, paints, enamels, and other materials and support services as may be necessary to manufacture and deliver as a finished product motor vehicle license plates required by the executive director of the department of revenue to be furnished under the motor vehicle laws of this state.

Source: L. 78: Entire section added, p. 359, § 1, effective May 2. **L. 87:** (2) amended, p. 663, § 2, effective July 1. **L. 88:** Entire section amended, p. 705, § 1, effective July 1, 1989. **L. 99:** (2) amended, p. 550, § 1, effective May 7. **L. 2015:** Entire section amended, (SB 15-090), ch. 334, p. 1360, § 4, effective (see editor's note).

Editor's note: Section 6(1)(b) and 6(2) of chapter 334 (SB 15-090), Session Laws of Colorado 2015, provides that changes to this section take effect only if the department of revenue receives enough gifts, grants, and donations for materials, start-up costs, and computer programming necessary to implement this act, and take effect January 1, 2016, only if the revisor of statutes receives written notice that such funds were received. The revisor of statutes received the required notice, dated February 12, 2016.

17-24-109.8. Pilot program - refuse derived fuel. (Repealed)

Source: L. 80: Entire section added, p. 529, § 1, effective May 1.

Editor's note: Subsection (6) provided for the repeal of this section, effective December 31, 1980. (See L. 80, p. 529.)

17-24-110. Financial payment incentives.

(1) The division shall establish a system of financial payments for inmates who participate in internal programs.

(2) The diagnostic services unit of the division of adult parole shall provide to the division personnel testing services that perform a vocational assessment of work experience and training needs; and from the superintendent of each such institution, security services at the work site, in addition to perimeter and scheduled security, when the division and the superintendent determine such additional services are reasonably necessary to ensure the safety of the public, the staff, and the inmates.

(3) Repealed.

(4) The director and the director of the division of adult parole are authorized to negotiate resource allocations for the exchange of services set forth in this section, subject to the annual review by the joint budget committee and the governor and appropriation by the general assembly. Payment rates shall be negotiated and set before the exchange of any of the services.

Source: L. 77: Entire title R&RE, p. 930, § 10, effective August 1. **L. 2000:** (2) and (4) amended, p. 857, § 66, effective May 24. **L. 2017:** (3) repealed, (HB 17-1125), ch. 125, p. 431, § 2, effective August 9. **L. 2022:** (1) and (2) amended, (SB 22-050), ch. 51, p. 243, § 7, effective March 30.

17-24-111. Purchasing requirement.

(1) (a) The director is hereby authorized to develop programs that produce goods and services, including capital construction items, which are used by agencies financed in whole or in part by the state, any political subdivision thereof, or the federal government and to develop programs that produce goods, including capital construction items, which are used by public entities involved in financed purchase of an asset or certificate of participation agreements as provided in section 17-24-106 (1)(f)(II). The director shall also develop programs to market goods and services to distributor networks, nonprofit organizations, private sector retailers, and the general public. The state and its institutions, agencies, and departments may purchase through the department of personnel or purchasing agency authorized by section 24-102-302 (2) such goods and services as are produced by the division, unless similar goods and services can be obtained at or below the amount established for small purchases which are exempt from the invitation-for-bids requirements of the "Procurement Code" contained in part 2 of article 103 of title 24. Goods and services produced by the division shall be provided at a price comparable to the current market price for similar goods and services. State agencies may purchase goods and services from sources other than the division; except that office furniture and office systems shall be purchased from the division. Printing services shall be purchased from the division unless a state agency operates its own printing operation. If the division is not able to provide its goods or services at a price or level of quality which is comparable to that provided by the private sector or provide them in a timely manner, which price, level of quality, or timeliness is determined by the department of personnel, the department of personnel shall make a certification to that effect, and the state agency purchasing such goods or services shall not be required to purchase them from the division.

(b) Repealed.

(c) The financial and staff resources dedicated to said purchasing function in the affected agency shall be under the authority of the department of personnel during the period of suspension, and purchases made for the affected agency shall be in accordance with the requirements of this subsection (1).

(d) When a state agency issues an invitation for bids pursuant to section 24-103-202, C.R.S., for goods or services which are available from the division of correctional industries, as shown on the list provided by the division pursuant to paragraph (a) of subsection (2) of this section, the division of correctional industries shall be included on its list of prospective bidders.

(e) Repealed.

(f) The division of correctional industries shall have access to the purchasing records of the department of personnel and the records of purchasing agents of state agencies established pursuant to section 24-102-302, C.R.S.

(2) (a) Repealed.

(b) State agencies which have purchased goods and services available from the division of correctional industries, as shown on the list provided by the division pursuant to paragraph (a) of this subsection (2), shall, as a part of their annual budget requests to the joint budget committee of the general assembly, report on all such purchases and of the value of the goods and services actually purchased from the division of correctional industries, and the division of correctional industries shall, as a part of its annual budget request to the joint budget committee, report on the value of all goods and services sold to each state agency.

(c) and (d) Repealed.

(3) Repealed.

(4) To the extent the articles and products which are produced or manufactured by the division are not purchased pursuant to the provisions of subsection (1) of this section, said articles or products may be purchased from the division on the open market by any person at the then current prevailing market prices.

(5) Articles and products manufactured or produced by the division shall first be used in supplying the requirements of state agencies and secondly in supplying the political subdivisions of the state which purchase the same. Only the surplus of such articles and products left after meeting the requirements of state agencies and their political subdivisions shall be made available for purchase by the general public.

(6) (a) Notwithstanding any provision of this section to the contrary, on and after July 1, 2012, a state institution of higher education or the Auraria higher education center created in article 70 of title 23 may, but is not required to, purchase goods and services from the division pursuant to this section. In purchasing furniture and office systems that exceed the amount established for small purchases that are exempt from the invitation-for-bids requirements of the "Procurement Code" contained in part 2 of article 103 of title 24, a state institution of higher education or the Auraria higher education center shall request a bid from the division for the purchase, and the institution or the center shall consider the bid on a competitive basis.

(b) Nothing in paragraph (a) of this subsection (6) shall require a state institution of higher education or the Auraria higher education center to engage in competitive bidding for an item or items if the institution or the center chooses to use the division as the sole source supplier for the item or items.

Source: L. 77: Entire title R&RE, p. 931, § 10, effective August 1. **L. 81:** (1), (2), and (3) amended, p. 1285, § 2, effective January 1, 1982. **L. 83:** (1) amended, p. 690, § 2, effective April 29. **L. 84:** (1), (2), and (3) amended, p. 525, § 1, effective May 2. **L. 87:** (1)(e) repealed, p. 349, § 4, effective July 1; (2)(c) and (2)(d) added, p. 664, § 3, effective July 1. **L. 88:** (1)(a) and (2)(a)

amended and (1)(b) and (3) repealed, pp. 703, 704, §§ 2, 3, effective July 1. **L. 95:** (1)(c) amended, p. 639, § 27, effective July 1. **L. 96:** (1)(a), (1)(c), (1)(f), and (2)(a) amended, p. 1514, § 44, effective June 1. **L. 98:** (2)(a) repealed, p. 728, § 13, effective May 18. **L. 2011:** (6) added, (HB 11-1301), ch. 297, p. 1424, § 18, effective August 10. **L. 2017:** (1)(a) and (6)(a) amended, (HB 17-1051), ch. 99, p. 349, § 62, effective August 9. **L. 2021:** (1)(a) amended, (HB 21-1316), ch. 325, p. 2000, § 11, effective July 1.

Editor's note: (1) This section is similar to former § 27-25-106 as it existed prior to 1977.

(2) Subsections (2)(c) and (2)(d) provided for the repeal of subsections (2)(c) and (2)(d), respectively, effective June 30, 1994. (See L. 87, p. 664.)

Cross references: For the authority of state agencies to contract with private enterprise for goods or services, see § 6-2-115.5.

17-24-112. Pricing.

(1) The division shall fix and determine the prices for internal program labor, goods, and services. The prices for industry products must be as near the prevailing market prices for similar quality goods and services as is practical. The prices, other than prices for agricultural products, must not exceed the wholesale market prices for like articles and products in the case of sales to the state or its political subdivisions, or the prevailing retail market prices for like articles and products in the case of sales to the general public.

(2) The division shall prepare catalogs containing the description of all goods and services produced, with the price of each item. Copies of such catalogs shall be sent by the division to all state agencies and shall be available for political subdivisions of the state and the federal government.

(3) The director shall ensure that the level of quality for goods and services produced is comparable to similar goods and services available from the private sector. The director shall determine if the quality of goods and services produced is approximately the same as the quality requested by the purchasing agencies and departments. The sale of such goods or services shall not give rise to any warranties, but, in the case of a sale to a state agency or political subdivision, if the quality of the goods or services is not approximately the same as that requested, the director shall refund the purchase price or replace the goods or services. In the case of a sale of surplus goods or services, no refund or replacement shall be made after ninety days from the date of the sale.

Source: L. 77: Entire title R&RE, p. 932, § 10, effective August 1. **L. 2022:** (1) amended, (SB 22-050), ch. 51, p. 243, § 8, effective March 30.

Editor's note: This section is similar to former § 27-25-108 as it existed prior to 1977.

17-24-113. Business operations and budget.

(1) The division is hereby authorized, within appropriations which may be at its disposal, to procure or cause to be procured and maintained all necessary materials, supplies, space, services, and equipment required for the proper operation of the division.

(2) The division shall require that the operation of industries be conducted on a thorough-going business basis, and the value of the labor and the amount of money received shall be accurately recorded, together with the number of work hours used in the production of correctional industries goods and services.

(3) Except as provided in section 17-24-126, all revenues collected by the division from the sale of industry goods and services and from the sale or disposal of surplus state property shall be transmitted to the state treasurer, who shall credit the same to a special revolving enterprise account designated as the correctional industries account. All interest derived from the deposit and investment of moneys in the correctional industries account shall be credited to said account. All moneys in said account shall be used for the purchase of requirements necessary for the production of industry goods and services, for the responsibilities set forth in section 17-24-106.6, and for all necessary personnel, in accordance with the annual appropriation by the general assembly; but such account shall not exceed the requirements of activities authorized by this article, as determined necessary by the director, and any excess, upon order of the director, shall be transferred to the general fund by the state treasurer.

(4) Except as provided in section 17-24-126, all acquisitions, purchases, and loan repayments of the division shall be payable out of the revenues derived from the sale of correctional industry goods and services authorized in this article and from the sale or disposal of surplus state property under section 17-24-106.6.

(5) The division is authorized to enter into a borrowing arrangement with the state treasurer or other organizations when initial money is needed for a new or expanded program, if the advisory committee has approved such an arrangement and such an arrangement is within the authorized appropriation for the division.

(6) The director shall make regular reports, including monthly operating statements and annual financial reports, to the governor, the joint budget committee, and the office of state planning and budgeting regarding the financial operation of the division.

(7) On January 1 of each year, the division shall submit a proposed annual budget as a part of the total budget of the department of corrections for the following fiscal year beginning July 1. The budget of the division shall be reviewed by the advisory committee. This proposed budget shall contain at least the following:

(a) Repealed.

(b) A statement of proposed industry products and services to be produced by the division during said fiscal year and their prices;

(c) A statement of the past, current, and expected number of offenders employed in each program and at each institution;

(d) A financial statement of past, current, and expected production levels, sales revenues, operating expenses, profits, and reversions to the general fund of the division;

(e) A statement of the payment rates specified in section 17-24-110;

(f) A statement of past, current, and expected staff personnel;

(g) Capital requirements for equipment and facilities;

(h) All budgetary schedules, forms, and other information required by the joint budget committee.

(8) The general assembly, upon recommendation of the joint budget committee, shall make appropriations based on the evaluation of the budget request that determines the production level and financial operation of the division.

Source: L. 77: Entire title R&RE, p. 932, § 10, effective August 1. **L. 86:** (3) and (4) amended, p. 754, § 3, effective July 1, 1987. **L. 93:** (7)(a) repealed, p. 29, § 1, effective March 18. **L. 97:** (3) amended, p. 78, § 2, effective March 24. **L. 98:** (3) amended, p. 368, § 2, effective September 1. **L. 2002:** (3) and (4) amended, p. 220, § 3, effective April 3; (3) and (4) amended, p. 56, § 2, effective July 1.

Editor's note: (1) This section is similar to former § 27-25-111 as it existed prior to 1977.

(2) Amendments to subsections (3) and (4) by House Bill 02-1171 and House Bill 02-1286 were harmonized.

17-24-114. Provisions for inmates - rules.

(1) The director, in collaboration with the department, shall determine inmate work assignments within the division. Each inmate work assignment must take into account the diagnostic services unit recommendation of employment training needs of the inmate, the security classification of the inmate as determined by the superintendent of each correctional institution, and the rehabilitation, reentry, and reintegration needs of the inmate.

(2) The director shall establish the compensation rate for the inmates working in internal programs. Payment rates must be established on an annual basis after review by the joint budget committee and by appropriation of the general assembly. The director shall not compensate an inmate if the inmate refuses to participate in an available rehabilitation and work program.

(3) (Deleted by amendment, L. 2022.)

(4) The division has the power to establish rules governing the employment, conduct, and management of inmates while assigned to internal programs. All such rules pertaining to the payment, employment, conduct, and management of inmates must be published and posted for inmates.

Source: L. 77: Entire title R&RE, p. 934, § 10, effective August 1. **L. 78:** (2) amended, p. 360, § 2, effective May 2. **L. 80:** (2) amended, p. 526, § 6, effective March 25. **L. 90:** (3) amended, p. 954, § 23, effective May 25. **L. 96:** (3) amended, p. 1149, § 8, effective June 1. **L. 2000:** (2) and (3) amended, p. 857, § 67, effective May 24. **L. 2022:** Entire section amended, (SB 22-050), ch. 51, p. 243, § 9, effective March 30.

17-24-115. Rules and regulations.

Pursuant to article 4 of title 24, C.R.S., the director has the power to promulgate the rules and regulations which are deemed necessary for the implementation of this article.

Source: L. 77: Entire title R&RE, p. 934, § 10, effective August 1.

Editor's note: This section is similar to former § 27-25-110 as it existed prior to 1977.

ANNOTATION

In light of the rules concerning prison employment promulgated pursuant to this section, prisoners can claim no legitimate expectation of continued employment in their prison work assignments. Rather v. Conte, 849 P.2d 884 (Colo. App. 1992).

17-24-116. Sole authority.

The division shall have sole authority for operating any programs within the adult correctional institutions of this state.

Source: L. 77: Entire title R&RE, p. 934, § 10, effective August 1.

17-24-117. Penalty. (Repealed)

Source: L. 77: Entire title R&RE, p. 934, § 10, effective August 1. **L. 93:** Entire section repealed, p. 2129, § 2, effective September 1.

Editor's note: This section was similar to former § 27-25-112 as it existed prior to 1977.

17-24-118. Treasurer and controller to write off debt. (Repealed)

Source: L. 79: Entire section added, p. 711, § 1, effective June 7.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 1980. (See L. 79, p. 711.)

17-24-119. Training and employment by organizations - account for proceeds and wages.

(1) The division, after consultation with the respective superintendents of the correctional facilities and with the director of the division of adult parole, is authorized to contract with any corporation, association, labor organization, or private nonprofit organization or with any federal

or state agency for the purpose of training or employing offenders who have been committed to the department of corrections or who have been assigned to a community correctional program.

(2) Proceeds and wages due an offender from the sale of products produced by the offender under a program authorized by subsection (1) of this section shall be held in an account maintained by the division and distributed periodically for:

(a) Compensation of the victim of the crime committed by the offender in an amount not to exceed forty percent of the offender's wages for expenses actually and reasonably incurred as a result of the injury to the person or property of the victim, including medical expenses, loss of earning power, and any other pecuniary loss directly resulting from the injury to the person or property or the death of the victim, which a court of competent jurisdiction determines to be reasonable and proper;

(b) Payment of such amounts for the support of the offender's dependents as is deemed appropriate by the division after consultation with the respective superintendents of the correctional facilities and with the director of the division of adult parole;

(c) Establishment of funds in trust for the offender upon his release; except that an amount consistent with the payment plan for existing correctional industries programs shall be allocated by the division to the offender for personal expenses while serving his sentence;

(d) Voluntary payment of such amounts to the victims assistance and law enforcement fund established in section 24-33.5-506, C.R.S., as is deemed appropriate by the division after consultation with the respective superintendents of the correctional facilities and with the director of the division of adult parole.

(3) A portion of said wages and proceeds in an amount determined by the division, but not to exceed twenty percent, may be used to defray the costs incident to the offender's confinement.

(4) The provisions of this section shall apply only to a program established pursuant to this section and not to other programs established pursuant to this article.

Source: L. 81: Entire section added, p. 963, § 1, effective May 27. **L. 88:** (1) amended, p. 1430, § 8, effective June 11. **L. 96:** (2)(d) added, p. 1149, § 9, effective June 1. **L. 2000:** (1), (2)(b), and (2)(d) amended, p. 857, § 68, effective May 24.

17-24-120. Treasurer and controller to write off amount owed state. (Repealed)

Source: L. 82: Entire section added, p. 310, § 1, effective March 25.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 1983. (See L. 82, p. 310.)

17-24-121. Venture agreements.

(1) The department of corrections, working through the division, is authorized to enter into agreements with private persons for the utilization of inmate labor in the manufacture, processing, or assembly of components, finished goods, services, or product lines within facilities owned or leased by the department. Such agreements shall be subject to the prior review of the attorney general and the correctional industries advisory committee.

(2) The department is authorized to enter into agreements subject to state fiscal rules and the prior review of the attorney general which allow for shared financing by the division and the private contractor for the facility, equipment, raw materials, and operation of industries developed pursuant to the provisions of this section.

(3) Inmates producing goods and services under the terms of an agreement authorized by this section shall be paid on a scale to be determined by the executive director of the department in the best interests of the division.

(4) The division is authorized to market goods and services produced under a venture agreement to any office, department, institution, or agency supported in whole or in part by the state or any political subdivision thereof or to any other state, the federal government, any nonprofit organization, any private sector retailer, or the general public.

(5) The wages of an inmate working under an agreement entered into pursuant to this section with a private person shall be distributed under guidelines established by the executive director in order to offset the cost of imprisonment and incidental expenses, pay court-ordered restitution, make voluntary payments to the victims assistance and law enforcement fund established in section 24-33.5-506, C.R.S., pay the pro rata share of child support cost as established by the department of human services, and establish a savings account to assist the inmate upon release and to offset state costs at the time of release.

Source: L. 87: Entire section added, p. 664, § 4, effective July 1. **L. 94:** (5) amended, p. 1813, § 6, effective June 1. **L. 95:** Entire section RC&RE, p. 875, § 9, effective May 24. **L. 96:** (5) amended, p. 1149, § 10, effective June 1.

Editor's note: Prior to this section being recreated and reenacted in 1995, former subsection (6) provided for the repeal of this section, effective June 30, 1994. (See L. 87, p. 664.)

17-24-122. Agreements for the employment of inmates by private entities.

(1) The division, in collaboration with the department, is authorized to enter into agreements with private persons or entities to provide employment opportunities for inmates through external programs. Such agreements are subject to the prior review of the attorney general and the correctional industries advisory committee.

(2) The division, in collaboration with the department, is authorized to enter into agreements subject to state fiscal rules and the prior review of the attorney general that allow for private party financing for equipment, raw materials, training of workers, and operation of industries developed pursuant to the provisions of this section. In any such agreement, the department may provide for the recovery of the costs of providing facilities for the private contractor by requiring the payment of rent for such facilities.

(3) Agreements entered into pursuant to this section must provide that any inmate assigned pursuant to section 17-24-114 (1) to an external program for a private person or entity that made such agreement pursuant to subsection (1) of this section is an employee of the private person or entity and, notwithstanding section 17-24-114 (2), the private person or entity shall pay at least the state minimum wage for the labor performed. Such wages must be paid to the department and shall be held in an account for the inmate. Section 8-40-301 (3) applies to any inmate employed by a private person or entity pursuant to this section.

(4) Repealed.

(5) Out of the inmate's wages, the department shall deduct periodically for the following purposes and in the following order of priority:

(a) Restitution for the victim of the crime committed by the inmate for expenses actually and reasonably incurred as a result of the injury to the person or property of the victim, including medical expenses, loss of earning power, and any other pecuniary loss directly resulting from the injury to the person or property or the death of the victim, which a court of competent jurisdiction determines or has determined to be reasonable and proper;

(a.5) Voluntary payment of such amounts to the victims assistance and law enforcement fund established in section 24-33.5-506, as is deemed appropriate by the executive director of the department;

(b) Payment of such amounts for the support of the inmate's dependents as is deemed appropriate by the executive director of the department, taking into account any court orders for such support; and

(c) Payment of personal expenses of the inmate as deemed appropriate by the executive director.

(6) Any amounts of money that remain in the inmate's account after the deductions made pursuant to this section must be paid to the inmate upon parole or discharge from custody. If an inmate dies prior to discharge from custody and the body goes unclaimed for more than five days, the amount remaining in the inmate's account may be used to defray any costs incurred by the state of Colorado in connection with the burial of the inmate, and any amount remaining after burial costs have been paid or the body has been claimed must be paid to the inmate's estate.

(7) Any agreement entered into pursuant to this section shall provide that appropriate security measures for a state correctional facility shall not be jeopardized due to any operations which result from such agreement.

(8) Repealed.

Source: L. 93: Entire section added, p. 2127, § 1, effective September 1. **L. 95:** (1) amended, p. 1097, § 17, effective May 31. **L. 96:** (5)(a.5) added, p. 1150, § 11, effective June 1. **L. 2022:** (1), (2), (3), (5), and (6) amended and (4) and (8) repealed, (SB 22-050), ch. 51, p. 244, § 10, effective March 30.

17-24-123. Clean-up of illegally disposed and abandoned waste tires - services to counties.

(1) The general assembly finds that the clean-up, removal, and transportation of illegally dumped, stored, or abandoned waste tires is necessary and that inmate labor is one source of labor that should be used to correct these problems.

(2) The division is authorized to:

(a) Provide labor using supervised inmate crews to counties or private entities for the clean-up, loading, and any on-site processing of illegally dumped, stored, or abandoned waste tires prior to transporting such waste tires to a county- or state-approved recycling or disposal facility and to pay the personnel and operating costs necessary to do so;

(b) Contract with county and city and county sheriffs for the provision of supervised inmate crews to clean up illegally dumped, stored, or abandoned waste tires;

(c) Contract with private haulers for the moving of illegally dumped, stored, or abandoned waste tires to a county- or state-approved recycling or disposal facility and shall do so whenever feasible and cost-effective; and

(d) Pay any fees necessary for a county- or state-approved recycling or disposal facility to accept illegally dumped, stored, or abandoned waste tires.

(3) Any moneys received from contracts entered into pursuant to this section shall be credited to the correctional industries account described in section 17-24-113 (3).

Source: L. 96: Entire section added, p. 813, § 1, effective May 23.

17-24-124. Inmate disaster relief program - legislative declaration.

(1) The general assembly finds that inmates housed in certain prison facilities throughout the state form a labor pool that could be safely utilized to fight forest fires, help with flood relief, and assist in the prevention of or clean up after other natural or man-made disasters.

(2) As used in this section, unless the context otherwise requires, "disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural cause or cause of human origin, but "disaster" does not include any hazardous substance incident, oil spill or other contamination, epidemic, air pollution, blight, drought, infestation, explosion, civil disturbance, or hostile military or paramilitary action.

(3) There is hereby established in the division the inmate disaster relief program, referred to in this section as the "program". The purpose of the program shall be to establish one or more inmate disaster relief crews composed of inmates from minimum restrictive, or minimum security facilities. An inmate shall receive an additional amount of earned time pursuant to section 17-22.5-405 in the amount of one day of earned time for every day spent at the site of a disaster. An inmate disaster relief crew may be utilized by the state or by local or federal governmental agencies that apply to the division for assistance.

(4) The executive director shall promulgate rules governing the program including but not limited to:

(a) The inmates who are eligible to participate in the program;

(b) Types of disasters to which an inmate disaster relief crew may be sent;

(c) The security measures that are required to prevent escapes and protect the public;

(d) The procedures that must be followed before an inmate disaster relief crew may be utilized;

(e) The fees that may be charged by the division for the provision of services by an inmate disaster relief crew; and

(f) The compensation that may be paid to inmates participating in the program.

(5) The division is authorized to purchase equipment and obtain necessary training for any inmate disaster relief crews.

(6) The department is authorized to solicit, accept, and expend grants, donations, gifts, and other moneys to defer the costs of equipping and training one or more inmate disaster relief crews. The program shall not be implemented or made available to other agencies until sufficient moneys are available from appropriations, grants, donations, gifts, and other moneys to cover the costs of equipping and training at least one inmate disaster relief crew.

(7) The department shall distribute the informational materials described in section 24-33.5-1226.5 to persons who have experience in wildland fire services pursuant to the program.

Source: L. 98: Entire section added, p. 17, § 1, effective August 5. **L. 2001:** (3) and (6) amended, p. 1452, § 1, effective June 5. **L. 2021:** (7) added, (HB 21-012), ch. 29, p. 123, § 4, effective April 15.

17-24-125. Correctional industries at non-state-owned facilities - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Inmate labor program" means a program operated at a non-state-owned prison facility as a business or for profit utilizing in whole or in part labor of inmates; except that "inmate labor program" does not include a program that is operated by a local government or combination of local governments of this state as a nonprofit business within the jurisdiction boundaries of the local government or governments and whose operation has been reviewed and approved by the local government or local governments.

(b) "Non-state-owned prison facility" means any private correctional facility or any jail or other detention facility operated by a political subdivision of the state that houses state prisoners or that houses inmates from another state whose incarceration in this state is approved pursuant to section 17-1-104.5; except that "non-state-owned prison facility" shall not include a jail or other detention facility operated by a political subdivision of the state that only houses state prisoners pursuant to a contract under section 16-11-308.5 (2), C.R.S., or a facility in which a community corrections program is operated pursuant to article 27 of this title.

(2) (a) On and after March 1, 1999, all inmate labor programs operated at a non-state-owned prison facility shall be approved by the division prior to commencing operations.

(b) Repealed.

(3) (a) On or before February 1, 1999, the division shall promulgate rules governing the approval required by subsection (2) of this section including but not limited to:

(I) Establishing a procedure for approving inmate labor programs that shall include review by the correctional industries advisory committee of a business plan for each inmate labor program;

(II) Establishing the duration of any approval and procedures for reapproval and revocation of any approval;

(III) Requiring all inmate labor programs to comply with all federal laws and regulations relating to the use of inmate labor;

(IV) Requiring that all goods or services be priced at prevailing market rates; except that goods or services sold to governmental or nonprofit entities may be priced at wholesale cost;

(V) Requiring that persons employed by a non-state-owned prison facility shall not be involved in decisions involving the inmate labor program relating to persons or entities with whom the person has a conflict or potential conflict of interest;

(VI) Requiring that inmates be compensated as determined by rule promulgated by the department;

(VII) Requiring that all records pertaining to inmate labor programs shall be available for inspection and copying by representatives of the division to ensure compliance with this section and any rules promulgated thereunder; and

(VIII) Requiring non-state-owned prison facilities to reimburse the division for any expenses incurred in certifying and monitoring the inmate labor programs.

(b) The rules promulgated pursuant to this subsection (3) shall be substantially similar to the rules governing programs at facilities operated by the department.

(4) (a) Each non-state-owned prison facility operating an inmate labor program shall hold wages earned by an inmate in a revenue-producing account for the inmate until the inmate is paroled or discharged from custody. Out of the wages held for an inmate pursuant to the provisions of this subsection (4)(a), the non-state-owned prison facility shall make disbursements pursuant to the provisions of section 17-24-122 (5) and (6).

(b) Each non-state-owned prison facility operating an inmate labor program shall hold and distribute wages earned by an inmate from a state other than Colorado pursuant to the statutes and rules of that state or the contract between that state and the prison facility.

Source: L. 98: Entire section added, p. 424, § 1, effective April 21. **L. 2022:** (4)(a) amended, (SB 22-050), ch. 51, p. 246, § 11, effective March 30.

Editor's note: Subsection (2)(b)(II) provided for the repeal of subsection (2)(b), effective January 1, 2000. (See L. 98, p. 424.)

17-24-126. Canteen, vending machine, and library account created - receipts - disbursements.

(1) There is hereby created in the state treasury a special revolving enterprise account to be known as the canteen, vending machine, and library account. The account shall be used by the division to establish and operate a canteen for the use and benefit of the inmates of state correctional facilities and to operate vending machines for the use of visitors to state correctional facilities. The moneys in the account shall be continuously available to the division and are appropriated for the purposes set forth in subsection (3) of this section.

(2) The canteen and vending machines shall be managed by the division, and they shall not be operated in any manner for the personal profit of any employees of the division or any inmates of state correctional facilities.

(3) Items in the canteen shall be sold to inmates, and items in vending machines shall be sold to visitors, at prices set so that revenues from the sale are sufficient to fund all expenses of the canteen and vending machines, including the cost of services of employees of the canteen and the cost of servicing the vending machines, and to produce a reasonable profit. All revenues derived from the canteen and vending machines and interest derived from the deposit and investment of moneys in the canteen, vending machine, and library account shall be credited to such account. Any profits arising from the operation of the canteen and vending machines shall be expended for the educational, recreational, and social benefit of the inmates and to supplement direct inmate needs.

(4) Part 2 of article 84 of title 8, C.R.S., regarding vending facilities in state buildings, does not apply to vending machines operated in visiting areas of any department facility.

(5) Repealed.

Source: L. 2002: Entire section added, p. 57, § 3, effective July 1. **L. 2015:** (5) repealed, (SB 15-264), ch. 259, p. 951, § 39, effective August 5; (4) amended, (SB 15-239), ch. 160, p. 488, § 9, effective July 1, 2016.

ARTICLE 25

Minimum Security Facilities

17-25-101. Definitions.

17-25-102. Minimum security facility - limitations.

17-25-103. Placement limitations.

17-25-101. Definitions.

As used in this article, unless the context otherwise requires:

(1) "Department" means the department of corrections.

(2) "Minimum security facility" means a facility which is designed and operated to protect the public from least security risk inmates and is operated by the department for adult felony inmates committed to the custody of the executive director of the department and includes but is not limited to the Colorado correctional center at Golden, the Rifle correctional center at Rifle, and the Delta correctional center at Delta, but does not include any community corrections program as defined in section 17-27-102 (3).

Source: L. 77: Entire title R&RE, p. 934, § 10, effective August 1. **L. 79:** (2) amended, p. 699, § 64, effective July 1. **L. 93:** (2) amended, p. 54, § 17, effective July 1; (2) amended, p. 718, § 3, effective July 1.

Editor's note: Amendments to subsection (2) in House Bill 93-1190 and House Bill 93-1233 were harmonized.

17-25-102. Minimum security facility - limitations.

(1) Except for correctional facilities located in Fremont county and Delta county, a permanent minimum security facility existing on July 14, 1989, including the Rifle correctional center, shall not exceed a capacity of one hundred ninety-two inmates.

(2) Notwithstanding the provisions of subsection (1) of this section, the Colorado correctional center shall not exceed a capacity of one hundred fifty inmates.

Source: L. 77: Entire title R&RE, p. 935, § 10, effective August 1. **L. 89, 1st Ex. Sess.:** Entire section R&RE, p. 20, § 6, effective July 1. **L. 95:** Entire section amended, p. 1282, § 20, effective June 5. **L. 96:** Entire section amended, p. 1150, § 13, effective June 1.

17-25-103. Placement limitations.

No adult felony violent or sex offender shall be placed by the department in a minimum security facility located in any county without first having been placed in at least one more restrictive setting for not less than six months. Said six-month time period shall include any time spent by the inmate in any diagnostic unit operated by the department. The six-month requirement may be waived only with the approval of the executive director.

Source: L. 77: Entire title R&RE, p. 935, § 10, effective August 1. **L. 2000:** Entire section amended, p. 848, § 45, effective May 24.

ARTICLE 26

Jails

PART 1
GENERAL PROVISIONS

17-26-101. Jail in each county.

17-26-101.5. Jail operated by city.

17-26-102. Keeper of jail - expenses.

17-26-103. Duties of keeper.

17-26-103.5. Strip searches in jails - definitions - repeal.

17-26-104. Feeding prisoners.

17-26-104.3. Menstrual hygiene products for a person in custody - definitions.

17-26-104.4. Incarceration of a person with the capacity for pregnancy - report - definition.

17-26-104.5. Medical visits - charge to persons in custody - provider charges - state hospital in Pueblo.

17-26-104.7. Prohibition against the use of restraints on pregnant persons in custody.

17-26-104.9. Opioid treatment for a person in custody - definitions.

17-26-105. Separation of prisoners.

17-26-106. Male and female prisoners.

17-26-107. Prisoners to work - work outside of jail - expenses.

17-26-108. County to support spouse - when.

17-26-109. Deductions of time - record keeping - forfeitures - definition.

17-26-110. Forfeiture of good time. (Repealed)

17-26-110.5. Restriction of privileges because of lawsuit filed without justification. (Repealed)

17-26-111. Separate sentences continuous.

17-26-112. Sheriff to keep record. (Repealed)

17-26-113. Prisoners to work. (Repealed)

17-26-114. Work on highways - expenses. (Repealed)

17-26-115. Trusty prisoners - good time. (Repealed)

17-26-116. Commitment - copy to sheriff - return endorsed.

17-26-117. Commitment box - successor.

17-26-118. Criminal justice data collection - definitions.

17-26-118.5. Prevention of erroneous payments to prisoners - identifying information reporting system.

17-26-119. Jail in another county - costs.

17-26-120. Keeping of fugitives - charges.

17-26-121. Juveniles - confinement - when.

17-26-122. Guards - compensation.

17-26-123. Federal prisoners - expense.

17-26-124. Charges for foreign prisoners.

17-26-125. Account of moneys - report.

17-26-126. Commissioners to examine jail.

17-26-126.5. Council members to examine city jail.

17-26-127. Escape - duty of sheriff - expenses.

17-26-128. Employment of county prisoners. (Repealed)

17-26-129. Applicability of provisions.

17-26-130. Jail - pilot project authorized. (Repealed)

17-26-131. Joint jail commission authorized. (Repealed)

17-26-132. Joint jail commission - powers and duties. (Repealed)

17-26-133. Contract provisions - approval by the division of criminal justice. (Repealed)

17-26-134. Jail inspection. (Repealed)

17-26-135. Project shall comply with provisions pertaining to intergovernmental relationships. (Repealed)

17-26-136. Termination of pilot project. (Repealed)

17-26-137. County jail assistance fund - repeal. (Repealed)

17-26-138. Benefits assistance - legislative declaration - demonstration grant program - repeal. (Repealed)

17-26-139. County jail identification processing unit - personnel authority - repeal. (Repealed)

17-26-140. Continuity of care for persons released from jail - definition.

17-26-141. Access to jail video recordings showing prisoner nudity - when authorized - definitions.

17-26-142. Sexual assault prevention program - required policies and procedures - audit required - definitions.

17-26-143. Retaliation against whistleblower jail staff prohibited - private right of action - exemptions - procedures - definitions.

PART 2
REIMBURSEMENT OF COST OF CARE BY INMATES TO COUNTIES

17-26-201 to 17-26-208. (Repealed)

PART 3
RESTRICTIVE HOUSING IN JAILS

17-26-301. Legislative declaration.

17-26-302. Definitions.

17-26-303. Placement in restrictive housing in a local jail.

17-26-304. Screening in jails.

PART 1

GENERAL PROVISIONS

17-26-101. Jail in each county.

(1) Except as provided in subsection (2) of this section, there is maintained in each county in this state, at the expense of the county, a county jail for the detention, safekeeping, and confinement of persons and prisoners lawfully committed. Nothing in this article 26 compels the erection of jails in counties having a population of less than two thousand or when the county owns a jail erected in any other place in the county.

(2) A county that maintains an intergovernmental agreement or any other contract with at least one other county for the safekeeping or confinement of persons or prisoners lawfully committed is not required to maintain a county jail within the jurisdictional physical boundaries of such county.

Source: L. 77: Entire title R&RE, p. 935, § 10, effective August 1. **L. 2025:** Entire section amended, (HB 25-1050), ch. 14, p. 36, § 2, effective March 14.

Editor's note: This section is similar to former § 27-26-101 as it existed prior to 1977.

Cross references: For the legislative declaration in HB 25-1050, see section 1 of chapter 14, Session Laws of Colorado 2025.

17-26-101.5. Jail operated by city.

A municipal jail, as described in section 31-15-401, operated by a city government must comply with all provisions in this article 26 and must be maintained at the expense of the city. A city may accept and expend funds to maintain a municipal jail. Nothing in this article 26 compels the erection of a jail in a city.

Source: L. 2026: Entire section added, (HB 26-1039), ch. 75, p. 294, § 2, effective August 12.

17-26-102. Keeper of jail - expenses.

The sheriff of the county, in person or by deputy appointed for that purpose, shall be the keeper of the county jail. He shall be responsible for the manner in which the same is kept. He shall see that the same is kept clean, safe, and wholesome. The expenses of keeping the jail in good order and repair and of lighting and warming that part thereof wherein prisoners are confined and the office in the jail shall be paid by the county wherein the jail is situated. Nothing in this section shall authorize the lighting or warming of that part of the jail occupied by the keeper thereof as his dwelling house.

Source: L. 77: Entire title R&RE, p. 935, § 10, effective August 1.

Editor's note: This section is similar to former § 27-26-102 as it existed prior to 1977.

Cross references: For the sheriff as custodian of the jail, see also § 30-10-511.

ANNOTATION

Annotator's note. Since § 17-26-102 is identical to repealed § 27-26-102, relevant cases construing that provision have been included in the annotations to this section.

General powers of county commissioners yield to special powers of sheriff in reference to jails. General powers conferred upon the board of county commissioners with respect to county property, when in conflict with the special, particular powers conferred upon the sheriff with reference to jails, must yield to the latter. Richart v. Bd. of County Comm'rs, 95 Colo. 153, 33 P.2d 971 (1934).

Hence, sheriff may determine use of particular rooms. It is for the sheriff to determine whether or not a particular room or some other place in the jail should be used for cleaning and conference purposes. The county commissioners have no authority to forbid the sheriff to occupy a vacant room as a living room. Richart v. Bd. of County Comm'rs, 95 Colo. 153, 33 P.2d 971 (1934).

For various powers and duties of sheriff as jailer, see Richart v. Bd. of County Comm'rs, 95 Colo. 153, 33 P.2d 971 (1934).

A jailer cannot perform satisfactorily the duties imposed upon him by law without living in the jail. To accomplish the best results, he should be present night and day to control and guard the prisoners, repel attacks, prevent escapes and forcible jail deliveries, feed the prisoners, and minister to those that are sick and might need constant attention. Richart v. Bd. of County Comm'rs, 95 Colo. 153, 33 P.2d 971 (1934).

Therefore it is customary and proper for the jailer to live in the jail, and this custom is recognized by Colorado statutes. Richart v. Bd. of County Comm'rs, 95 Colo. 153, 33 P.2d 971 (1934).

However, there is no statute specifically requiring the jailer to live in the jail; but the instant section recognizes the existence and propriety of the custom. Richart v. Bd. of County Comm'rs, 95 Colo. 153, 33 P.2d 971 (1934).

This section does not authorize living quarters in the jail or a housing allowance in lieu thereof, either as partial compensation or salary for a sheriff jailer. Van Cleave v. Bd. of County Comm'rs, 33 Colo. App. 227, 518 P.2d 1371 (1973).

County may provide living quarters under certain circumstances. County is not prohibited from providing living quarters to a jailer where public purposes can be achieved thereby. Van Cleave v. Bd. of County Comm'rs, 33 Colo. App. 227, 518 P.2d 1371 (1973).

Elimination of housing allowance was constitutional. Because housing allowance paid to sheriff jailer was unauthorized and illegal, its elimination did not violate constitutional prohibitions against salary or compensation reduction during the term of office of a public official. But the decision holding such payments illegal and unauthorized would not be applied retroactively, and, therefore, a county could not recover for sums already paid to sheriff for such allowance. Van Cleave v. Bd. of

County Comm'rs, 33 Colo. App. 227, 518 P.2d 1371 (1973).

The sheriff may perform the duties of keeper personally or by deputy. But there is no law which entitles him to special or extra compensation for such services. Bd. of County Comm'rs v. Bransom, 4 Colo. App. 274, 35 P. 750 (1894).

Keeping jail in good order and repair is county expense. The expense of keeping the jail in good order and repair, and of lighting and warming the part where the prisoners are confined, must be paid by the county; but the liability of the county is on account of expense, and not of service. Bd. of County Comm'rs v. Bransom, 4 Colo. App. 274, 35 P. 750 (1894).

For action for damages for death of person confined in jail, see People ex rel. Coover v. Guthner, 105 Colo. 37, 94 P.2d 699 (1939).

Applied in Tihonovich v. Williams, 196 Colo. 144, 582 P.2d 1051 (1978).

17-26-103. Duties of keeper.

The keepers of the several county jails and adult detention centers in this state shall receive and safely keep every person duly committed or placed pursuant to section 16-11-308.5, C.R.S., to such jail or adult detention center for safekeeping, examination, or trial or duly sentenced to imprisonment in such jail or adult detention center upon conviction for any contempt or misconduct or for any criminal offense, and they shall not without lawful authority let out of such jail, on bail or otherwise, any such person.

Source: L. 77: Entire title R&RE, p. 935, § 10, effective August 1. **L. 88:** Entire section amended, p. 677, § 3, effective July 1; entire section amended, p. 710, § 10, effective July 1. **L. 93:** Entire section amended, p. 407, § 5, effective April 19.

Editor's note: This section is similar to former § 27-26-103 as it existed prior to 1977.

Cross references: For use of physical force to maintain order and discipline, see § 18-1-703 (1)(b).

17-26-103.5. Strip searches in jails - definitions - repeal.

(1) As used in this section, unless the context otherwise requires:

(a) "Local detention facility" means a county jail as described in section 17-26-101 or municipal jail as described in section 31-15-401 (1)(j).

(b) "Personnel" means a peace officer, noncertified deputy sheriff, or employee or contractor of a local detention facility or municipal agency who is authorized by facility or agency policy to perform a strip search.

(c) "Strip search" means having a person remove or arrange some or all of their clothing so as to permit a visual inspection of the genitals, buttocks, anus, or female breasts of the person.

(2) Personnel shall only conduct a strip search on a person who is detained in a local detention facility if:

(a) The local detention facility is conducting an intake of a person detained in a local detention facility from outside the facility and conducting strip searches upon intake from outside the facility is the local detention facility's policy;

(b) Two personnel have determined and reasonably believe an inmate is concealing on the inmate's person a controlled substance, as defined in section 18-18-102 (5); a dangerous instrument, as defined in section 18-8-203 (4); or contraband, as defined in section 18-8-204 (2); or

(c) The strip search occurs under a circumstance or set of conditions in which there has been a documented prior incident of possession of a controlled substance, as defined in section 18-18-102 (5); a dangerous instrument, as defined in section 18-8-203 (4); or contraband, as defined in section 18-8-204 (2); or any other item that creates grave danger of damage to property or injury to persons and substantially obstructs the performance of institutional functions of the local detention facility, and the circumstance or set of conditions give rise to a substantial likelihood that a similar incident may occur again, and the local detention facility has a written policy authorizing a strip search under the circumstance or set of conditions.

(3) (a) Personnel conducting a strip search pursuant to subsection (2)(b) or (2)(c) of this section shall document in a report the reason for the strip search and the results of the strip search.

(b) This subsection (3) is repealed, effective January 1, 2031.

(4) (a) Personnel conducting a strip search shall record the strip search via body-worn camera. Personnel conducting a strip search shall notify the person that they are strip searching prior to beginning a strip search that the strip search is being video recorded.

(b) Personnel shall use the body-worn camera's tagging function to tag all strip search footage as a strip search.

(5) On or before January 31 of each year, each local detention facility shall submit a report to the jail standards advisory committee created in section 30-10-530 and the Colorado attorney

general stating the number of strip searches that occurred pursuant to subsection (2)(b) or (2)(c) of this section in the facility in the last calendar year and the reason for and the result of each strip search.

(6) Section 16-3-405 does not apply to strip searches conducted pursuant to this section.

(7) A strip search must not be conducted for purposes of retaliation.

Source: L. 2026: Entire section added, (HB 26-1123), ch. 159, p. 944, § 1, effective May 27.

17-26-104. Feeding prisoners.

The sheriff of each county shall feed all the prisoners kept in confinement by him with good and sufficient food. The board of county commissioners of such county, at the expense of the county, shall furnish to such sheriff all the groceries, supplies, utensils, equipment, and assistants he requires to perform his duty of properly feeding such prisoners and shall also pay all the costs and expenses incurred therein.

Source: L. 77: Entire title R&RE, p. 936, § 10, effective August 1.

Editor's note: This section is similar to former § 27-26-104 as it existed prior to 1977.

ANNOTATION

Annotator's note. Since § 17-26-104 is identical to repealed § 27-26-104, a relevant case construing that provision has been included in the annotations to this section.

Violation of this section by failing to provide prisoners in isolation with food, while at the same time complying with this section by feeding other prisoners, is not a denial of equal protection of the law. Denial of equal protection of the laws involves more than discrimination or unequal treatment. Ruark v. Schooley, 211 F. Supp. 921 (D. Colo. 1962).

The fact that officials, while acting under color of state law, may violate this section, is not a basis for an action under federal civil rights act, unless the violations result in a deprivation of some right which the plaintiffs have under the federal constitution and laws. Ruark v. Schooley, 211 F. Supp. 921 (D. Colo. 1962).

Applied in Tihonovich v. Williams, 196 Colo. 144, 582 P.2d 1051 (1978).

17-26-104.3. Menstrual hygiene products for a person in custody - definitions.

(1) A facility, as defined in subsection (2) of this section, whether operated by a governmental entity or a private contractor, shall provide whichever menstrual hygiene products are requested by a person in custody to the person in custody at no expense to the person in custody. The facility shall not impose any condition or restriction on a person in custody's access to menstrual hygiene products.

(2) As used in this section, unless the context otherwise requires:

(a) "Facility" means:

(I) A local jail, as defined in section 17-1-102 (7);

(II) A multijurisdictional jail, as described in section 17-26.5-101; and

(III) A municipal jail, as authorized in section 31-15-401 (1)(j).

(b) "Menstrual hygiene products" means tampons, menstrual pads, sanitary napkins, and pantiliners.

Source: L. 2019: Entire section added, (HB 19-1224), ch. 131, p. 589, § 4, effective April 25.

Cross references: For the legislative declaration in HB 19-1224, see section 1 of chapter 131, Session Laws of Colorado 2019.

17-26-104.4. Incarceration of a person with the capacity for pregnancy - report - definition.

(1) A facility incarcerating a person who is capable of pregnancy, whether operated by a governmental entity or a private contractor, shall:

(a) Train the facility's staff to ensure that a pregnant person receives safe and respectful treatment;

(b) Develop administrative policies to ensure a trauma-informed standard of care is integrated with current practices to promote the health and safety of a pregnant person;

(c) Provide each pregnant person, during the person's pregnancy and through the person's postpartum period, with access to:

(I) Perinatal health-care providers with perinatal experience; and

(II) Healthy foods and information on nutrition, recommended activity levels, safety measures, and supplies, including menstrual products as required in section 17-26-104.3, and breast pumps approved by the sheriff or the sheriff's designee;

(d) Provide treatment for pregnant people who have suffered from:

(I) A diagnosed behavioral, mental health, or substance use disorder;

(II) Human immunodeficiency virus; or

(III) Chronic conditions;

(e) Provide educational information materials for pregnant people who have suffered from:

(I) Trauma or violence, including domestic violence;

(II) Sexual abuse; or

(III) Pregnancy loss or infant loss;

(f) Provide evidence-based pregnancy and childbirth education, parenting support, and other relevant forms of health literacy;

(g) Develop administrative policies to identify and offer opportunities for postpartum persons to maintain contact with the person's newborn child to promote bonding, including enhanced visitation policies, access to prison nursery programs, and breastfeeding support, when appropriate;

(g.5) Develop administrative policies, including a system for human milk storage, to ensure a newborn can receive the human milk that the newborn's postpartum parent has pumped for the newborn's nourishment;

(h) In accordance with the requirements of the federal "Health Insurance Portability and Accountability Act of 1996", as amended, Pub.L. 104-191, transfer health records to community providers if a pregnant person exits the criminal justice system during the person's pregnancy or during the person's postpartum period;

(i) Connect a person exiting the criminal justice system during the person's pregnancy or postpartum period to community-based resources, such as referrals to health-care providers, substance use disorder treatment, and social services that address social determinants of maternal health;

(j) Establish partnerships with local public entities, private community entities, community-based organizations, Indian tribes and tribal organizations as defined in the federal "Indian Self-Determination and Education Assistance Act", 25 U.S.C. sec. 5304, as amended, or urban Indian organizations as defined in the federal "Indian Health Care Improvement Act", 25 U.S.C. sec. 1603, as amended; and

(k) By February 15, 2022, and by February 15 each year thereafter, report to the judiciary committees of the senate and house of representatives, or their successor committees, on the number of births by pregnant people who are in the custody of the facility, including the location of the births, that occurred in the prior calendar year.

(2) As used in this section, unless the context otherwise requires, "facility" means:

(a) A local jail, as defined in section 17-1-102 (7);

(b) A multijurisdictional jail, as described in section 17-26.5-101; or

(c) A municipal jail, as authorized in section 31-15-401 (1)(j).

Source: L. 2021: Entire section added, (SB 21-193), ch. 433, p. 2861, § 5, effective September 7. **L. 2024:** (1)(g.5) added, (HB 24-1459), ch. 426, p. 2916, § 4, effective June 5.

17-26-104.5. Medical visits - charge to persons in custody - provider charges - state hospital in Pueblo.

(1) A county jail may assess a medical treatment charge against any person who receives while being held in custody medical treatment performed by a physician, dentist, nurse, or licensed hospital or as a result of a sick call or for whom a prescription is filled. The county jail may assess any such medical treatment charge against the person's jail account. In addition, the county jail may assess a reasonable medical treatment charge for each visit by a person in custody to an institutional or noninstitutional physician, dentist, or optometrist; except that a medical treatment charge shall not be assessed for any visit required by the county jail during the intake process or an annual physical examination required by the county jail. In no case shall a person's inability to pay be the basis for not providing medical treatment equivalent to the community standard of care. Any medical treatment charge that remains unpaid shall constitute a cost of care that the person shall be ordered to pay pursuant to section 18-1.3-701, C.R.S., and that may be collected by the county pursuant to the provisions of section 16-11-101.6, C.R.S.

(1.3) A provider of medical care that receives any state money, including but not limited to providers that receive money from the medical assistance program established in articles 4, 5, and 6 of title 25.5, shall charge a county for medical care provided to a person in custody in a county jail:

(a) At the same rate that the provider is reimbursed for such services by the medical assistance program; or

(b) If the provider is not reimbursed by the medical assistance program, at the highest rate that the provider is reimbursed in whole or in part with state moneys in any other program.

(1.5) (a) If economical, a county sheriff may transport a person held in custody in a county jail to the Colorado mental health institute at Pueblo for medical treatment. Within the bed and medical capacity of the facility, the Colorado mental health institute at Pueblo shall provide medical care to a person held in custody in a county jail. The county in which the person was held shall be responsible for the payment to the hospital for medical costs incurred by a person in custody, but, if such costs are not repaid to the county by the person in custody, such costs constitute a medical treatment charge that may be collected as provided for in subsection (1) of this section.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1.5), the mental health institute at Pueblo shall charge a county the actual costs of the medical care provided to a person held in custody. The charges shall cover the full direct and indirect costs of the care provided as determined by generally accepted accounting principles. The general assembly shall include within the appropriation for the general medical division of the institute an amount equal to the estimated reimbursements to be received from counties pursuant to this paragraph (b).

(2) The provisions of this section shall apply to any person held in custody in a county jail regardless of whether the person is a juvenile, is being held prior to trial, or is in custody for conviction under a state statute or a county or municipal ordinance.

(3) When a person is held in custody in a county jail, the person shall be primarily responsible for the payment of the cost of medical care provided to the person for a self-inflicted injury or a condition that was preexisting prior to the person's arrest and shall be charged for the medical care by the provider of care. For purposes of this section, "preexisting condition" means an illness beginning or an injury sustained before a person is in the peaceable custody of the county's officers. This subsection (3) shall not apply to care required by the county jail pursuant to subsection (1) of this section, care paid for by other entities pursuant to section 17-26-120 or 17-26-124, care paid for by any other entity, or medical care provided by the Colorado mental health institute at Pueblo.

(4) A county may seek payment or reimbursement for any medical treatment costs from a person being held in custody and receiving such services, except as otherwise provided in subsection (1) of this section.

Source: L. 97: Entire section added, p. 191, § 1, effective April 1. **L. 2002:** (1) amended, p. 1507, § 166, effective October 1. **L. 2003:** Entire section amended, p. 1890, § 1, effective August 6; (1.3) and (1.5) added, p. 1694, § 3, effective August 6. **L. 2006:** IP(1.3) amended, p. 2005, § 59, effective July 1. **L. 2024:** IP(1.3) amended, (HB 24-1399), ch. 76, p. 254, § 11, effective July 1, 2025.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (1), see section 1 of chapter 318, Session Laws of Colorado 2002.

17-26-104.7. Prohibition against the use of restraints on pregnant persons in custody.

(1) (a) The staff of a county or municipal jail, in restraining a person who is committed, detained, or confined to a county or municipal jail, shall use the least restrictive restraints necessary to ensure safety if the staff of the county or municipal jail have a reasonable belief that the person is pregnant. For the use of restraints during labor, delivery, and postpartum recovery in a county jail, the staff shall comply with the "Protection of Individuals from Restraint and Seclusion Act", article 20 of title 26. Despite the release requirement in subsection (1)(b) of this section, if labor, delivery, or postpartum recovery occurs at a municipal jail for a pregnant person charged with a violation of a municipal ordinance, use of restraints is prohibited during the labor, delivery, and postpartum recovery.

(b) The keeper of the municipal jail shall release a pregnant person charged with a violation of a municipal ordinance from custody if the staff of the municipal jail have a reasonable belief the person is in labor, unless remaining in custody is necessary for the health or welfare of the pregnant person. The keeper of the jail shall offer the person transportation to the hospital and release the person on an unsecured personal recognizance bond with no other conditions returnable to the municipal court.

(2) (a) Repealed.

(b) The county or municipal jail or medical facility staff authorizing the use of restraints on a pregnant person during labor or delivery of the child shall make a written record of the use of the restraints, which record must include, at a minimum, the type of restraint used, the circumstances that necessitated the use of the restraint, and the length of time the restraint was used. Notwithstanding the release requirement described in subsection (1)(b) of this section, if labor, delivery, or postpartum recovery occurs at a municipal jail for the health or welfare of the pregnant person, the municipal jail staff shall make a written record, which must include, at a minimum, whether labor, delivery, or postpartum recovery occurred at the municipal jail, the reason the pregnant person was not released from custody during labor, and the date and time labor occurred. The sheriff or, for a municipal jail, the keeper of the municipal jail shall retain the record for a minimum of five years and shall make the record available for public inspection with individually identifying information redacted from the record unless the person who is the subject of the record gives prior written consent for the public release of the record. The written record of the use of restraint does not constitute a medical record under state or federal law. No later than February 15, 2027, and each February 15 thereafter, the sheriff or keeper of the municipal jail shall submit the records created pursuant to this subsection (2)(b) in the prior

calendar year to the judiciary committees of the senate and house of representatives, or their successor committees.

(3) Upon return to a county jail after childbirth, the person who gave birth is entitled to have a member of the county jail's or county's medical staff present during any strip search.

(4) When a person's pregnancy is determined, the staff of a county or municipal jail shall inform the pregnant person committed, detained, or confined in a county or municipal jail in writing in a language and in a manner understandable to the pregnant person of the provisions of this section concerning the use of restraints, the presence of medical staff during a strip search, and, for people in labor and in custody of the municipal jail, the right to be released.

(5) Each sheriff shall ensure that staff of the county jail receive adequate training concerning the provisions of this section. Each keeper of a municipal jail from a city with a municipal jail shall ensure that staff of the municipal jail receive adequate training concerning the provisions of this section.

Source: L. 2010: Entire section added, (SB 10-193), ch. 312, p. 1464, § 2, effective January 1, 2011. **L. 2021:** (2)(b) amended, (SB 21-193), ch. 433, p. 2863, § 6, effective September 7. **L. 2024:** (1) amended and (2)(a) repealed, (HB 24-1459), ch. 426, p. 2915, § 2, effective June 5. **L. 2026:** Entire section amended, (HB 26-1039), ch. 75, p. 295, § 3, effective August 12.

17-26-104.9. Opioid treatment for a person in custody - definitions.

(1) Repealed.

(1.5) By July 1, 2023, a facility, whether operated by a governmental entity or private contractor, shall provide medication-assisted treatment, and other appropriate withdrawal management care to a person with a substance use disorder through the duration of the person's incarceration, as medically necessary. At a minimum:

(a) The facility shall perform a nonmedical evaluation, consistent with guidelines developed by the behavioral health administration, of the person upon entry into custody at the facility for recent substance use.

(b) The facility shall offer medication approved by the federal food and drug administration that is approved to treat opiate use disorder, which must include agonists, partial agonists, and antagonists, to a person in custody with an opiate use disorder. The person, in collaboration with the treating provider, must be given a choice concerning what medication is prescribed, and the facility must provide the medication requested. A person may request to change their medication at any time while in custody.

(c) If the person indicates that the person has a substance use disorder, or the nonmedical evaluation performed pursuant to subsection (1.5)(a) indicates that the person may have recently used a substance, the facility shall refer the person to the facility's medical provider for an evaluation and subsequent diagnosis, prescription, or induction of medication-assisted treatment.

(d) If the person indicates that the person was taking medication that is approved by the federal food and drug administration prior to entry into custody at the facility to treat a substance use disorder, the facility shall provide the same medication to the person while the person is in custody.

(2) Qualified medication administration personnel may, in accordance with a written physician's order, administer opioid agonists and opioid antagonists pursuant to subsection (1) and (1.5) of this section.

(3) A facility may contract with community-based health providers, local providers, or state mobile medication-assisted treatment unit providers for the implementation of this section.

(4) As used in this section, unless the context otherwise requires:

(a) "Facility" means:

(I) A local jail, as defined in section 17-1-102 (7);

(II) A multijurisdictional jail, as described in section 17-26.5-101; and

(III) A municipal jail, as authorized in section 31-15-401 (1)(j).

(b) "Opioid agonist" means a full or partial agonist that is approved by the federal food and drug administration for the treatment of an opioid use disorder.

(c) "Opioid antagonist" means naltrexone or any similarly acting drug that is not a controlled substance and that is approved by the federal food and drug administration for the treatment of an opioid use disorder.

(5) Counties are encouraged to use county funding available from a settlement or damage award from opiate-related litigation to support jails in complying with the requirements of this section.

Source: L. 2020: Entire section added, (HB 20-1017), ch. 288, p. 1423, § 2, effective September 14. **L. 2022:** (1), (2), and (3) amended and (1.5) and (5) added, (HB 22-1326), ch. 225, p. 1667, § 45, effective July 1.

Editor's note: (1) Subsection (5) was numbered as (4) in HB 22-1326 but was renumbered on revision for ease of location.

(2) Subsection (1)(b) provided for the repeal of subsection (1), effective July 1, 2023. (See L. 2022, p. 1667.)

Cross references: For the legislative declaration in HB 22-1326 stating the purpose of, and the provision directing legislative staff agencies to conduct, a post-enactment review pursuant to § 2-2-1201 scheduled in 2025, see sections 1 and 55 of chapter 225, Session Laws of Colorado 2022. To obtain a copy of the review, once completed, go to "Legislative Resources and Requirements" on the Colorado General Assembly's website.

17-26-105. Separation of prisoners.

Persons committed on criminal process and detained for trial and persons committed for contempt or upon civil process shall be kept in rooms separate and distinct from those in which prisoners convicted and under sentence are confined. This section shall not apply to any county whose jail does not have sufficient room for such separate confinement.

Source: L. 77: Entire title R&RE, p. 936, § 10, effective August 1.

Editor's note: This section is similar to former § 27-26-105 as it existed prior to 1977.

ANNOTATION

For the distinction between "committed" and "convicted", see Hershey v. People, 91 Colo. 113, 12 P.2d 345 (1932) (decided under repealed § 27-26-105).

17-26-106. Male and female prisoners.

Male and female prisoners, except husband and wife, shall not be put or kept in the same room.

Source: L. 77: Entire title R&RE, p. 936, § 10, effective August 1.

Editor's note: This section is similar to former § 27-26-106 as it existed prior to 1977.

17-26-107. Prisoners to work - work outside of jail - expenses.

(1) When any able-bodied prisoner is confined in the county jail of any county or city and county, having been convicted of a misdemeanor or of the violation of a municipal ordinance and being confined in punishment therefor, the sheriff of such county or the person having the duties of a sheriff of such city and county shall compel such prisoner to work eight hours of every working day. The provisions of this section shall not apply to any case where there are fewer than three prisoners so confined in said jail at any one time or to any prisoner physically unable to work. In counties and city and counties, it shall be discretionary with the sheriff or person having the duties of a sheriff to employ prisoners on the road serving sentences of sixty or fewer days. It is the duty of the sheriff of such county or the sheriff or person having the duties of a sheriff of such city and county, when no other work is available, to compel the prisoners to work upon the public roads, highways, or streets of such county or city and county. Employment as a jail trusty shall be sufficient to meet the requirements of this section.

(2) The county commissioners of the county or the governing body of the city and county, when informed by the sheriff or person having the duties of a sheriff that there are prisoners confined in the jail who may be put to work upon the roads, highways, or streets, if there is such work upon the roads, highways, or streets, shall provide for the payment of additional expenses of guarding such prisoners while performing such work. Such prisoners shall not be used for the purpose of building any bridge or structure of like character that requires the employment of skilled labor.

(3) (Deleted by amendment, L. 2000, p. 1120, § 1, effective August 2, 2000.)

(4) Except as described by the terms of a judgment, any person sentenced to and confined in the county jail shall perform labors under such rules and regulations as may be prescribed by the county commissioners or sheriff of the county in which the jail is situated.

(5) Upon the written request of a majority of the board of county commissioners of any county, the sheriff shall detail such inmates in the county jail as in his or her judgment seems proper, not exceeding the number specified in the written request, to work upon such public roads and highways of the county or streets and alleys of any municipality within the county as are designated in the written request of the county commissioners. The county shall furnish all tools and materials necessary in the performance of the work. No such work shall be done within the limits of a municipality without the consent of the proper authorities thereof, but when such work is done within the limits of a municipality within such county, the municipality where the work is done shall pay all additional expenses of guarding the inmates while they perform the work and shall furnish all tools and necessary materials used in the work.

Source: L. 77: Entire title R&RE, p. 936, § 10, effective August 1. **L. 2000:** Entire section amended, p. 1120, § 1, effective August 2. **L. 2017:** (4) and (5) added, (HB 17-1015), ch. 71, p. 223, § 2, effective August 9.

Editor's note: This section is similar to former § 27-26-107 as it existed prior to 1977.

ANNOTATION

The costs of maintaining and caring for those in the various institutions of the state, be they penal or medical, are recoverable. Only the manner of recovering the costs differ; able-bodied convicts are put to work, and the estates of the mentally deficient or criminally insane in public institutions are charged with costs of care. State v. Estate of Burnell, 165 Colo. 205, 439 P.2d 38 (1968) (decided under repealed § 27-26-107).

17-26-108. County to support spouse - when.

When any able-bodied person is confined in the county jail, having been convicted of the nonsupport of his or her spouse or minor children, the county shall pay toward the support of such spouse or minor children not less than fifty cents nor more than one dollar per day for each day such person so works if such spouse or minor children would otherwise be a public charge.

Source: L. 77: Entire title R&RE, p. 937, § 10, effective August 1. **L. 79:** Entire section amended, p. 1636, § 29, effective July 19.

Editor's note: This section is similar to former § 27-26-108 as it existed prior to 1977.

Cross references: For commitment of person for nonsupport, see § 14-6-101.

17-26-109. Deductions of time - record keeping - forfeitures - definition.

(1) Every person who is sentenced to and imprisoned in any county jail of this state who performs faithfully the duties assigned to him or her and conducts himself or herself in accordance with the rules of the jail earns deductions from the time of his or her sentence as follows:

(a) An inmate receives a seven-day deduction for each thirty days on his or her sentence which shall be calculated on a pro-rated basis from the commencement of the sentence, all or part of which is subject to forfeiture if the inmate is found to have violated any of the rules and regulations of the jail or has not faithfully accepted or completed the duties assigned to him or her;

(b) In addition to the deduction described in subsection (1)(a) of this section, an inmate may receive a three-day deduction for each thirty days on his or her sentence if he or she:

(I) Successfully completes a designated program or educational activity within the jail or is designated by the county sheriff as a trusty prisoner;

(II) Is engaged in work within or outside the walls of the jail;

(III) Performs his or her work in a credible manner;

(IV) Conducts himself or herself in accordance with the rules of the jail; and

(V) Is approved by the sheriff to receive a deduction pursuant to this subsection (1)(b);

(c) (I) In addition to the deductions described in subsection (1)(a) of this section, an inmate may receive a three-day maximum deduction when the inmate takes an unusual or extraordinary action, as determined by the county sheriff. This deduction may be granted on an incident-by-incident basis and is not subject to the deduction cap described in subsection (1)(a) of this section.

(II) If a county sheriff awards a deduction pursuant to this subsection (1)(c), the county sheriff shall notify the chief judge of the judicial district where the defendant was convicted of the award not later than three business days after the deduction is awarded. When providing the notice, the sheriff shall indicate how many days were deducted and the nature of the unusual or extraordinary action taken by the inmate.

(d) and (e) Repealed.

(f) (I) In addition to the deductions described in subsections (1)(a), (1)(b), and (1)(c) of this section, an inmate may receive a three-day maximum deduction when the inmate takes an unusual or extraordinary action, as determined by the county sheriff. This deduction may be granted on an incident-by-incident basis.

(II) If a county sheriff awards a deduction pursuant to this subsection (1)(f), he or she shall notify the chief judge of the judicial district of such fact not later than three business days after the deduction is awarded. In providing such notice, the sheriff shall indicate how many days were deducted and the nature of the unusual or extraordinary action taken by the inmate.

(2) Each county jail shall keep a record of each inmate's deductions of time and changes in deductions of time as a result of policy violations by the inmate.

(3) (a) If an inmate is found to have committed a willful violation of any of the rules or regulations of the jail, the sheriff of the county in which the jail is situated shall determine whether the inmate shall forfeit some or all of the deductions from the inmate's sentence through implementation of a process as outlined in a policy provided to all inmates, which is applied consistently and complies with the best practices for correctional settings.

(b) If an inmate escapes or attempts to escape from a jail or an alternative sentence program, he or she forfeits all deductions from his or her sentence that he or she received up to the time of the escape or attempted escape.

(4) An inmate who is sentenced to any alternative sentence pursuant to section 18-1.3-106 arising out of a sentence pursuant to section 42-4-1307 (5)(a)(I), (5)(b), or (6)(a)(I) may receive a sentence deduction pursuant to this section only after serving any mandatory period of time pursuant to those sections.

(5) As used in this section, "day" means a twenty-four-hour calendar day.

Source: L. 77: Entire title R&RE, p. 937, § 10, effective August 1. **L. 2009:** Entire section amended, (HB 09-1263), ch. 105, p. 382, § 1, effective August 5. **L. 2017:** Entire section amended, (HB 17-1015), ch. 71, p. 221, § 1, effective August 9. **L. 2021:** IP(1), (1)(a), (1)(b), (1)(c), (2), and (3)(a) amended, (SB 21-271), ch. 462, p. 3164, § 176, effective March 1, 2022; (1)(e)(II) added by revision, (SB 21-271), ch. 462, pp. 3164, 3331, §§ 176, 803. **L. 2022:** (1)(b)(I) amended, (HB 22-1229), ch. 68, p. 343, § 15, effective March 1. **L. 2023:** (1)(f)(I) amended, (HB 23-1301), ch. 303, p. 1820, § 20, effective August 7.

Editor's note: (1) This section is similar to former § 27-26-109 as it existed prior to 1977.

(2) Subsection (1)(e)(II) provided for the repeal of subsections (1)(d) and (1)(e), effective March 1, 2022. (See L. 2021, pp. 3164, 3331.)

(3) Section 47 of chapter 68 (HB 22-1229), Session Laws of Colorado 2022, provides that the act changing this section applies to offenses committed on or after March 1, 2022.

(4) Section 47 of chapter 68 (HB 22-1229), Session Laws of Colorado 2022, provides that the act changing this section is effective March 1, 2022, but the governor did not approve the act until April 7, 2022.

Cross references: For credit for presentence confinement, see § 18-1.3-405.

ANNOTATION

Annotator's note. Since § 17-26-109 is identical to repealed § 27-26-109, a relevant case construing that provision has been included in the annotations to this section.

Only payment of the judgment entitles a person, sentenced to jail under a body execution, to a release before expiration of the time of confinement fixed by the court. Hershey v. People ex rel. Johnson, 91 Colo. 113, 12 P.2d 345 (1932).

Therefore, the provisions of this section are not applicable to one confined under a body execution. Hershey v. People ex rel. Johnson, 91 Colo. 113, 12 P.2d 345 (1932).

No credit for presentence confinement. There is nothing in this article mandating the deduction of the period of presentence confinement from a sentence to a county jail. Castro v. Dist. Court, 656 P.2d 1283 (Colo. 1982).

Persons serving jail time as a condition of probation are eligible for good time credit under the provisions of this section and § 17-26-115. One who is imprisoned in the county jail, whether as a result of a sentence to imprisonment or a sentence to probation with a condition of imprisonment, cannot be denied the benefits of the good time statutes. Faulkner v. Dist. Court, 826 P.2d 1277 (Colo. 1992) (decided prior to 2017 repeal of § 17-26-115).

Court cannot deny benefits of this section. It is not within the power of the sentencing court to impose a sentence which denies to one imprisoned in the county jail the benefits of this section: the effect of this section is to proscribe the imposition of a "flat" time sentence which denies a defendant his statutory right to a reduction from the time of his sentence for good behavior. Hemphill v. Dist. Court, 197 Colo. 431, 593 P.2d 972 (1979).

17-26-110. Forfeiture of good time. (Repealed)

Source: L. 77: Entire title R&RE, p. 937, § 10, effective August 1. **L. 2017:** Entire section repealed, (HB 17-1015), ch. 71, p. 224, § 3, effective August 9.

Editor's note: This section was similar to former § 27-26-110 as it existed prior to 1977.

17-26-110.5. Restriction of privileges because of lawsuit filed without justification. (Repealed)

Source: L. 95: Entire section added, p. 301, § 2, effective July 1. **L. 2017:** Entire section repealed, (HB 17-1015), ch. 71, p. 224, § 4, effective August 9.

17-26-111. Separate sentences continuous.

For the purpose of section 17-26-109, when any such persons confined in the county jail are sentenced under several convictions, with separate sentences, they shall be construed as one continuous sentence.

Source: L. 77: Entire title R&RE, p. 937, § 10, effective August 1. **L. 2017:** Entire section amended, (HB 17-1015), ch. 71, p. 224, § 5, effective August 9.

Editor's note: This section is similar to former § 27-26-111 as it existed prior to 1977.

ANNOTATION

Those persons who come within the provisions of the law are those only who have been sentenced in criminal cases. Hershey v. People ex rel. Johnson, 91 Colo. 113, 12 P.2d 345 (1932) (decided under repealed § 27-26-111).

17-26-112. Sheriff to keep record. (Repealed)

Source: L. 77: Entire title R&RE, p. 937, § 10, effective August 1. **L. 2017:** Entire section repealed, (HB 17-1015), ch. 71, p. 224, § 6, effective August 9.

Editor's note: This section was similar to former § 27-26-112 as it existed prior to 1977.

17-26-113. Prisoners to work. (Repealed)

Source: L. 77: Entire title R&RE, p. 937, § 10, effective August 1. **L. 2017:** Entire section repealed, (HB 17-1015), ch. 71, p. 225, § 7, effective August 9.

Editor's note: This section was similar to former § 27-26-113 as it existed prior to 1977.

17-26-114. Work on highways - expenses. (Repealed)

Source: L. 77: Entire title R&RE, p. 937, § 10, effective August 1. **L. 2017:** Entire section repealed, (HB 17-1015), ch. 71, p. 225, § 8, effective August 9.

Editor's note: This section was similar to former § 27-26-114 as it existed prior to 1977.

17-26-115. Trusty prisoners - good time. (Repealed)

Source: L. 77: Entire title R&RE, p. 937, § 10, effective August 1. **L. 2009:** Entire section amended, (HB 09-1263), ch. 105, p. 383, § 2, effective August 5. **L. 2017:** Entire section repealed, (HB 17-1015), ch. 71, p. 225, § 9, effective August 9.

Editor's note: This section was similar to former § 27-26-115 as it existed prior to 1977.

17-26-116. Commitment - copy to sheriff - return endorsed.

When a prisoner is committed to any jail by virtue of any process which the sheriff is required to return to the court from which it issued, it is the duty of the court, clerk, or officer issuing such process to issue the same in duplicate, and the sheriff shall keep one copy of the same, together with a copy of his return thereto, endorsed thereon, which duplicate copy of such process retained by the sheriff shall be sufficient prima facie authority to retain such prisoner in custody.

Source: L. 77: Entire title R&RE, p. 938, § 10, effective August 1.

Editor's note: This section is similar to former § 27-26-116 as it existed prior to 1977.

17-26-117. Commitment box - successor.

All instruments of every kind, or attested copies thereof duly certified, by which any person is committed to or liberated from the county jail shall be regularly endorsed and filed and kept in a suitable box in the jail by the sheriff, or by his deputy acting as jailer, and such box, together with its contents, shall be delivered to his successor in office.

Source: L. 77: Entire title R&RE, p. 938, § 10, effective August 1.

Editor's note: This section is similar to former § 27-26-117 as it existed prior to 1977.

17-26-118. Criminal justice data collection - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Average daily population" means the number of confined inmates each day for a year, divided by the number of days in the year.

(b) "Case disposition" means the final judgment, adjudication, adjudication withheld, dismissal, or nolle prosequi of a case.

(c) "Confined inmate" means an inmate under the supervision of a jail facility, including an inmate who is in transit to or from a facility, appearing in or in transit to or from court, held for other jurisdictions, in a hospital or other medical institution for treatment but would otherwise be housed in the jail facility, in a work release program but returns to jail at night, or in a community-based program but returns to jail at night. "Confined inmate" does not include a person who is absent without leave, has escaped, is on long-term transfer to other jurisdictions, or is in a community-based program but does not return to jail at night.

(d) "Hold" means a mechanism preventing a confined inmate's release from custody on bail, including a hold on behalf of another criminal justice agency, a parole hold, and a probation hold.

(e) "Homeless" means an individual who lacks a fixed, regular, and adequate nighttime residence. An individual is considered homeless if the individual's primary address is recorded as:

(I) Transient;

(II) A supervised publicly or privately operated shelter designed to provide temporary living accommodations, including welfare hotels, congregate shelters, and transitional housing for persons with behavioral or mental health disorders; or

(III) A public or private place not designed for, nor ordinarily used as, a regular sleeping accommodation for human beings, including but not limited to an automobile, a park, an abandoned building, a bus or train station, or a similar setting.

(f) (I) "Jail facility" means any building, structure, enclosure, institution, or place, whether permanent or temporary, fixed or mobile, where persons are or may be lawfully held in custody or confined, that is operated by a county, city, or city and county.

(II) "Jail facility" does not mean a holding cell at a court facility, police station, or reform school operated by a municipality.

(g) "Jail management system" means a software program utilized by a jail facility to store jail data and to track inmate information and status beginning at booking and until release.

(h) "Length of stay" means the number of consecutive days that a confined inmate spends in jail, from the date of booking to the date of release, counting any part of one calendar day, including days during which the inmate spends part of the day outside of the jail, as one day.

(i) "Municipal offense" means a violation of, or conduct defined as unlawful by, any municipal code or ordinance.

(j) "Operational capacity" means the number of inmates who can be accommodated in a jail facility based on the number of permanent beds that the facility is designed to hold and the facility's staff, existing programs, and services.

(k) "Sentenced inmate" means an inmate who is confined and actively serving a sentence requiring a term of imprisonment. An inmate is considered sentenced even if the inmate is unsentenced in a separate case, and even if the inmate has a hold.

(l) "Snapshot" means a data set from a jail facility that represents the required data points as of the reporting date.

(m) "Unsentenced inmate" means an inmate who is confined and awaiting case disposition. An inmate is not considered unsentenced if the inmate is actively serving a sentence requiring a term of imprisonment in a separate case.

(2) The keeper of each jail facility shall keep and maintain a daily record of all data specified in subsection (3) of this section. The information contained in the record must be available to the public at all reasonable hours.

(3) The keeper of each jail facility shall keep and maintain a daily record of the following data:

(a) For each confined inmate, the date of entrance; name; date of birth; age; race; ethnicity; gender; any criminal charges against the inmate, organized by code section, and the jurisdiction

charging each offense; term of sentence, if sentenced; bond amount, if bond has been set; and release date;

(b) The operational capacity of the jail facility;

(c) The name of the jail management system used by the facility;

(d) The number of confined inmates in the jail facility;

(e) Counting each confined inmate only once, the following information concerning confined inmates:

(I) The number of sentenced inmates;

(II) The number of unsentenced inmates with a hold; and

(III) The number of unsentenced inmates without a hold;

(f) Counting each unsentenced inmate without a hold only once, the following information concerning unsentenced inmates:

(I) The number whose most serious charged offense is a felony; and

(II) The number whose most serious charged offense is a misdemeanor;

(g) The number of confined inmates held solely for a municipal offense;

(h) The number of confined inmates held in administrative segregation or other custody level in which the inmate is allowed outside of his or her cell for two or fewer hours per day;

(i) The number of confined inmates awaiting a competency evaluation, a competency hearing, or a restoration hearing, as those terms are defined in section 16-8.5-101;

(j) The average daily population of the jail facility;

(k) The average length of stay for each of the following:

(I) Confined inmates who were released within the prior twelve months whose most serious offense is a felony; and

(II) Confined inmates who were released within the prior twelve months whose most serious offense is a misdemeanor;

(l) The number of confined inmates identified as homeless;

(m) The number of deaths of confined inmates; and

(n) The number of bookings into the jail facility.

(4) (a) On or before the third Friday of each January, April, July, and October, each jail facility shall submit a quarterly report of the data collected pursuant to subsection (3) of this

section as of the first day of the month in which the report is submitted to the division of criminal justice within the department of public safety via an electronic survey designed by the division for that purpose. Each quarterly report must include:

(I) A snapshot of the data required by subsections (3)(b) and (3)(c) of this section;

(II) A snapshot of the data required by subsections (3)(d) to (3)(l) of this section organized by race, ethnicity, and gender;

(III) Data concerning the number of deaths of confined inmates, collected pursuant to subsection (3)(m) of this section, as the total of all deaths of confined inmates that occurred since the previous reporting date; and

(IV) Data concerning the number of bookings into the jail facility, collected pursuant to subsection (3)(n) of this section, as the total of all bookings into the jail facility that occurred since the previous reporting date.

(b) If a jail facility is unable to provide any of the data that it is required to report pursuant to this subsection (4), the jail facility shall include in its report an explanation of all good faith efforts to collect and submit the data not included in the report.

(c) If a jail facility fails to submit a quarterly report pursuant to this subsection (4) within thirty days after a reporting date, the jail facility is considered noncompliant for the quarterly reporting period. The executive director of the department of public safety shall send notice of the failure to the noncompliant jail facility.

(d) Repealed.

(e) In addition to the information described in subsection (4)(a) of this section, the report must include information from the prior quarter regarding the number of inmates in the jail whose medicaid was suspended while incarcerated and the number of inmates who were enrolled, or whose medicaid was reinstated, prior to release.

(5) On or before January 1, 2022, and on or before the third Friday of each January, April, July, and October thereafter, the keeper of each local jail shall submit a quarterly report of the data specified in this subsection (5) to the division of criminal justice in the department of public safety through an electronic form designed by the division. Each quarterly report must include:

(a) For each individual placed in restrictive housing as defined in section 17-26-302 (4), anonymized data by month that includes:

(I) The individual's self-identified race or ethnicity, gender, and age;

(II) Whether the individual has one of the conditions identified in section 17-26-303 (1) and the specific condition;

(III) The placement classification of the individual before being placed in restrictive housing;

(IV) The length of time the individual was in restrictive housing;

(V) If the individual was placed in restrictive housing for a disciplinary reason;

(VI) Whether the individual suffered injury or death while placed in restrictive housing and the manner and cause of the injury or death;

(VII) Whether the individual was charged with a new criminal offense while in restrictive housing and, if so, the offense; and

(VIII) How many times the local jail sought a written order to hold someone beyond fifteen days in restrictive housing and the outcome;

(b) How many individuals in the local jail population have:

(I) An identified mental illness;

(II) An identified substance use disorder;

(III) Both an identified mental illness and substance use disorder;

(IV) Identified neurocognitive issues such as dementia or traumatic brain injury; and

(V) Engaged in self-harming behavior while in the local jail.

Source: L. 77: Entire title R&RE, p. 938, § 10, effective August 1. **L. 2019:** Entire section R&RE, (HB 19-1297), ch. 394, p. 3505, § 1, effective August 2. **L. 2020:** (3)(i) amended, (HB 20-1402), ch. 216, p. 1047, § 31, effective June 30. **L. 2021:** (5) added, (HB 21-1211), ch. 322, p. 1981, § 2, effective January 1, 2022. **L. 2022:** (4)(e) added, (SB 22-196), ch. 193, p. 1293, § 9, effective May 19; (3)(a) and IP(4)(a) amended and (4)(d) repealed, (HB 22-1208), ch. 125, p. 885, § 1, effective August 10. **L. 2026:** (3)(i) amended, (SB 26-149), ch. 142, p. 795, § 44, effective May 21; (1)(f) amended, (HB 26-1039), ch. 75, p. 296, § 4, effective August 12.

Editor's note: This section is similar to former § 27-26-118 as it existed prior to 1977.

Cross references: For the legislative declaration in SB 22-196, see section 1 of chapter 193, Session Laws of Colorado 2022.

17-26-118.5. Prevention of erroneous payments to prisoners - identifying information reporting system.

(1) In order to eliminate erroneous payments of benefits to persons confined in local jails in the state, county sheriffs, the state department of human services, county departments of human or social services, and the department of labor and employment shall cooperatively develop a system for reporting identifying information about persons confined in local jails for a period exceeding thirty days to state and county agencies responsible for the administration of workers' compensation and public assistance benefits. Such a system must be implemented on or before July 1, 2000, within existing appropriations.

(2) On and after the implementation date of the information reporting system developed pursuant to subsection (1) of this section, but in any event no later than July 1, 2000, each sheriff in the state shall periodically transmit identifying information about each person confined for a period exceeding thirty days in any local jail within the sheriff's jurisdiction to the state department of human services, county departments of human or social services, and the department of labor and employment.

Source: L. 99: Entire section added, p. 552, § 1, effective August 4. **L. 2018:** Entire section amended, (SB 18-092), ch. 38, p. 405, § 23, effective August 8.

Cross references: For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of Colorado 2018.

17-26-119. Jail in another county - costs.

When there is no sufficient jail in any county wherein any criminal offense has been committed, any county or district judge, upon application of the sheriff, may order any person charged with any criminal offense and ordered to be committed to jail to be sent to the jail of the county nearest having a sufficient jail. The sheriff of such nearest county, on exhibit of the order of such judge, shall receive and keep in safe custody in the jail of his county the person ordered to be so committed. Such sheriff, upon the order of the district court thereof, shall redeliver such person when demanded, and all the expenses of keeping such person shall be paid by the county from which such person was sent. The board of county commissioners of the county from which any prisoner is sent, at the next regular meeting after receiving the bill for the expenses of such maintenance, safekeeping, and custody, shall audit and allow the claim and pay the same to the treasurer of the county in which such jail is situated for the use of such county.

Source: L. 77: Entire title R&RE, p. 938, § 10, effective August 1.

Editor's note: This section is similar to former § 27-26-119 as it existed prior to 1977.

17-26-120. Keeping of fugitives - charges.

Any county jail may be used for the detention and safekeeping of any fugitive from justice from another state or territory, and in this case the county shall be entitled to compensation at the rate prescribed by the board of county commissioners. The rate so charged for the maintenance and safekeeping of such fugitive in custody shall be subject to the approval of the district judge, to be paid by the officer demanding the custody of such fugitive to the sheriff of the county and by him paid over to the treasurer of the county for the use of the county.

Source: L. 77: Entire title R&RE, p. 938, § 10, effective August 1.

Editor's note: This section is similar to former § 27-26-120 as it existed prior to 1977.

Cross references: For the authority of a person executing a governor's warrant to confine a prisoner in a county jail, see § 16-19-113.

17-26-121. Juveniles - confinement - when.

A jail shall not receive a juvenile for confinement unless the juvenile has been charged by the direct filing of an information in the district court or by indictment pursuant to section 19-2.5-801 or the juvenile has been ordered by the court to be held for criminal proceedings pursuant to section 19-2.5-802.

Source: L. 77: Entire title R&RE, p. 939, § 10, effective August 1. **L. 81:** Entire section amended, p. 1042, § 3, effective July 1. **L. 87:** Entire section amended, p. 816, § 19, effective October 1. **L. 90:** Entire section amended, p. 1017, § 2, effective April 20. **L. 96:** Entire section amended, p. 1690, § 21, effective January 1, 1997. **L. 2021:** Entire section amended, (SB 21-059), ch. 136, p. 717, § 36, effective October 1.

Editor's note: This section is similar to former § 27-26-121 as it existed prior to 1977.

17-26-122. Guards - compensation.

When the safekeeping and detention of persons lawfully committed to any jail in this state, in the opinion of the board of county commissioners, requires the employment of one or more guards, the board of county commissioners of the county where such jail is situated shall authorize the sheriff of such county to employ such guards at the expense of the county, at such reasonable compensation as the board shall allow, which guards shall be under the command of the keeper of the jail. Such guards shall be discharged from service when in the judgment of the board of county commissioners their services are not required.

Source: L. 77: Entire title R&RE, p. 939, § 10, effective August 1.

Editor's note: This section is similar to former § 27-26-122 as it existed prior to 1977.

ANNOTATION

Whenever in the opinion of the board of county commissioners the safekeeping of prisoners committed to jail requires guards, the board is empowered to authorize the sheriff to employ them at the expense of the county, at such reasonable compensation as the board shall allow. Bd. of County Comm'rs v. Bransom, 4 Colo. App. 274, 35 P. 750 (1894) (decided under repealed § 27-26-122).

17-26-123. Federal prisoners - expense.

It is the duty of the keeper of each county jail to receive into the jail every person duly committed thereto for any offense against the United States, by any court or officer of the United States, and to confine every such person in the jail until he is duly discharged, the United States paying all the expenses of the confinement, safekeeping, and custody of such person, including the keeper's fees, at the rate established by the board of county commissioners of the county where such jail is situated.

Source: L. 77: Entire title R&RE, p. 939, § 10, effective August 1.

Editor's note: This section is similar to former § 27-26-123 as it existed prior to 1977.

17-26-124. Charges for foreign prisoners.

It is the duty of the board of county commissioners of each county having a jail in this state to establish a rate of charges to be paid for the confinement, safekeeping, and maintenance of prisoners sent from other counties in this state, fugitives from justice, and persons committed by authority of the United States, which rate of charges may be altered, changed, or modified by the board of county commissioners of such county when in their judgment it seems best to do so. The rate so charged shall be subject to the approval of the district court of such county.

Source: L. 77: Entire title R&RE, p. 939, § 10, effective August 1.

Editor's note: This section is similar to former § 27-26-124 as it existed prior to 1977.

17-26-125. Account of moneys - report.

It is the duty of the keeper of every jail within this state to keep an accurate account of all moneys received by him on account of the confinement, safekeeping, and maintenance of persons committed from other counties, fugitives from justice, and prisoners committed to the jail by authority of the United States, to report the same monthly to the board of county commissioners of the county wherein such jail is situated, and to pay over to the treasurer of such county monthly all such moneys for the use of such county.

Source: L. 77: Entire title R&RE, p. 939, § 10, effective August 1.

Editor's note: This section is similar to former § 27-26-125 as it existed prior to 1977.

17-26-126. Commissioners to examine jail.

It is the duty of the board of county commissioners, as often as they deem necessary, but at least once annually, to make personal examination of the jail of its county, its sufficiency, and the management thereof and to correct all irregularities and improprieties therein found.

Source: L. 77: Entire title R&RE, p. 939, § 10, effective August 1. **L. 2008:** Entire section amended, p. 926, § 1, effective August 5.

Editor's note: This section is similar to former § 27-26-126 as it existed prior to 1977.

Cross references: For governmental immunity provisions relating to jails and the conditions thereof, see § 24-10-106 (1)(b).

ANNOTATION

Annotator's note. Since § 17-26-126 is identical to repealed § 27-26-126, a relevant case construing that provision has been included in the annotations to this section.

This section imposes a public official duty. It would seem clear that the county commissioners as to the performance of the duty imposed upon them by this section come within the class of public officers who are recognized by the authorities as subordinate governmental officers and administrative agents whose duty is owing primarily to the public collectively — to the body politic and not to any particular individual — who act for the public at large. Miller v. Ouray Elec. Light & Power Co., 18 Colo. App. 131, 70 P. 447 (1902).

The commissioners are not individually liable thereunder to an action for damages for the death of a prisoner caused by the burning of the county jail, alleged to have been caused by their negligent failure to make such examination. Miller v. Ouray Elec. Light & Power Co., 18 Colo. App. 131, 70 P. 447 (1902).

Complaint must allege knowledge of dangerous conditions existing. In an action against the individual commissioners of a county for the wrongful death of a prisoner in a county jail caused by the burning of the jail, based on the failure of said commissioners to personally examine said jail, a complaint which fails to allege that said commissioners had knowledge or could by proper examination have had knowledge of the dangerous condition which caused the fire, and fails to allege in what respect the failure to make the examination contributed to cause the fire, is defective. Miller v. Ouray Elec. Light & Power Co., 18 Colo. App. 131, 70 P. 447 (1902).

The words "and to correct all irregularities and improprieties therein found" impose no new obligation upon the county commissioners. Miller v. Ouray Elec. Light & Power Co., 18 Colo. App. 131, 70 P. 447 (1902).

Commissioners and the sheriff are separately elected officials, and the board does not exercise managerial control over either the sheriff or the detention center and its staff. Moreover, this section does not

impose a legal duty on the board to ensure an inmate's safety against assaults from other inmates, nor does it prescribe a civil remedy. Terry v. Sullivan, 58 P.3d 1098 (Colo. App. 2002).

17-26-126.5. Council members to examine city jail.

If a city has a municipal jail that is maintained and operated by the city government, the governing body members shall, as often as they deem necessary but at least once a year, personally examine the municipal jail. The governing body members shall examine the jail's management and sufficiency and correct all irregularities and improprieties found during their examination.

Source: L. 2026: Entire section added, (HB 26-1039), ch. 75, p. 296, § 5, effective August 12.

17-26-127. Escape - duty of sheriff - expenses.

In case of escape of any person lawfully committed to any jail of any county in this state, it is the duty of the sheriff of the county where such jail is situated to pursue and recapture such escaped person at the expense of the office of such sheriff. In case of any escape without any fault or negligence on the part of the keeper of the jail or the guards under such keeper's command, the board of county commissioners of the county where such jail is situated may audit and allow to the office of the sheriff the necessary expenses incurred in such recapture.

Source: L. 77: Entire title R&RE, p. 939, § 10, effective August 1. **L. 92:** Entire section amended, p. 401, § 10, effective June 3.

Editor's note: This section is similar to former § 27-26-127 as it existed prior to 1977.

ANNOTATION

For various powers and duties of sheriff as jailer, see Richart v. Bd. of County Comm'rs, 95 Colo. 153, 33 P.2d 971 (1934) (decided under repealed § 27-26-127).

17-26-128. Employment of county prisoners. (Repealed)

Source: L. 77: Entire title R&RE, p. 940, § 10, effective August 1. **L. 84:** (1.3) added, p. 498, § 3, effective April 5. **L. 87:** (1)(d), (1)(e), (4), and (6) amended and (1)(f), (1.1), (5)(b.3), and (11) added, pp. 666, 667, §§ 1-3, effective May 16. **L. 88:** (1.1) R&RE, p. 709, § 6, effective July 1. **L. 93:** (1)(e), (1)(f), and (1.1) amended and (1)(g) and (12) added, pp. 69, 70, §§ 1, 2, effective July 1. **L. 94:** (11) amended, p. 2041, § 22, effective July 1; (12) amended, p. 1050, § 6, effective July 1. **L. 96:** (1) and (2) amended, p. 121, § 1, effective July 1. **L. 2000:** (5) amended, p. 1048, § 11, effective September 1. **L. 2002:** Entire section repealed, p. 1463, § 3, effective October 1.

Editor's note: (1) This section was similar to former § 27-26-128 as it existed prior to 1977.

(2) This section was relocated to § 18-1.3-106 in 2002.

Cross references: For the legislative declaration contained in the act repealing this section, see section 1 of chapter 318, Session Laws of Colorado 2002.

17-26-129. Applicability of provisions.

The provisions of sections 17-26-107 and 17-26-108 shall not be applicable to any prisoner who is employed or detained outside of the jail under the provisions of section 18-1.3-106, C.R.S.

Source: L. 77: Entire title R&RE, p. 941, § 10, effective August 1. **L. 87:** Entire section amended, p. 667, § 4, effective May 16. **L. 2002:** Entire section amended, p. 1507, § 167, effective October 1.

Editor's note: This section is similar to former § 27-26-129 as it existed prior to 1977.

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of Colorado 2002.

17-26-130. Jail - pilot project authorized. (Repealed)

Source: L. 86: Entire section added, p. 759, § 1, effective April 24. **L. 96:** Entire section repealed, p. 556, § 6, effective April 24.

17-26-131. Joint jail commission authorized. (Repealed)

Source: L. 86: Entire section added, p. 759, § 1, effective April 24. **L. 96:** Entire section repealed, p. 557, § 7, effective April 24.

17-26-132. Joint jail commission - powers and duties. (Repealed)

Source: L. 86: Entire section added, p. 759, § 1, effective April 24. **L. 96:** Entire section repealed, p. 557, § 8, effective April 24.

17-26-133. Contract provisions - approval by the division of criminal justice. (Repealed)

Source: L. 86: Entire section added, p. 760, § 1, effective April 24. **L. 96:** Entire section repealed, p. 557, § 9, effective April 24.

17-26-134. Jail inspection. (Repealed)

Source: L. 86: Entire section added, p. 761, § 1, effective April 24. **L. 96:** Entire section repealed, p. 559, § 10, effective April 24.

17-26-135. Project shall comply with provisions pertaining to intergovernmental relationships. (Repealed)

Source: L. 86: Entire section added, p. 761, § 1, effective April 24. **L. 96:** Entire section repealed, p. 559, § 11, effective April 24.

17-26-136. Termination of pilot project. (Repealed)

Source: L. 86: Entire section added, p. 761, § 1, effective April 24. **L. 96:** Entire section repealed, p. 559, § 12, effective April 24.

17-26-137. County jail assistance fund - repeal. (Repealed)

Source: L. 2008: Entire section added, p. 924, § 3, effective July 1. **L. 2017:** Entire section amended, (HB 17-1369), ch. 379, p. 1951, § 5, effective June 6.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2017. (See L. 2017, p. 1951.)

17-26-138. Benefits assistance - legislative declaration - demonstration grant program - repeal. (Repealed)

Source: L. 2008: Entire section added, p. 906, § 1, effective May 20. **L. 2009:** Entire section repealed, (SB 09-209), ch. 23, p. 109, § 1, effective March 18.

17-26-139. County jail identification processing unit - personnel authority - repeal. (Repealed)

Source: L. 2009: Entire section added, (SB 09-006), ch. 403, p. 2219, § 3, effective (see editor's note).

Editor's note: The revisor of statutes did not receive the notice specified in § 42-2-311 by June 30, 2012; therefore, this section is repealed as provided in subsection (2) of this section, effective July 1, 2012. (See L. 2009, p. 2219.)

17-26-140. Continuity of care for persons released from jail - definition.

(1) If a person is treated for a substance use disorder at any time during the person's incarceration, the county jail shall, at a minimum, conduct the following before releasing the person from the county jail's custody:

(a) Provide post-release resources developed pursuant to section 17-1-103 (1)(r) to the person;

(b) Provide a list of available substance use providers, to the extent the behavioral health administration in the department of human services has such a list available;

(c) If the person received or has been assessed to receive medication-assisted treatment while in jail, has a history of substance use in the community or while in jail, or requests opioid antagonists upon release, provide the person, upon release from the jail, at least eight milligrams of an opioid antagonist via inhalation or its equivalent and provide education to the person about the appropriate use of the medication;

(d) If the person received medication-assisted treatment while in jail, has a history of substance use, or requests opiate use-disorder medication, prescribe to the person, upon release from the jail, medication for an opiate use disorder and provide education to the person about the appropriate use of the medication; and

(e) Coordinate continued care for the person, including scheduling an appointment for the person with a substance use provider with the ability to continue the person's treatment, provide the person with detailed information about the scheduled appointment, provide the person with a prescription for the medication that the person was taking while in custody at the facility in an amount that is at least sufficient to sustain the person until the scheduled appointment, and provide the person with a referral to the care coordination infrastructure described in section 27-60-204.

(2) A county jail shall provide medicaid enrollment or reenrollment paperwork to a person who is incarcerated in the jail and is eligible for medicaid benefits when the person enters the county jail. The county jail must file the medicaid paperwork with the county department of human or social services upon releasing the person from the county jail's custody.

(3) As used in this section, "opioid antagonist" means naloxone hydrochloride or any similarly acting drug that is not a controlled substance and that is approved by the federal food and drug administration for the treatment of a drug overdose.

(4) Notwithstanding any requirement of this section, a county jail shall not delay a person's release from the county jail because the jail cannot timely comply with a requirement of this section.

Source: L. 2020: Entire section added, (HB 20-1017), ch. 288, p. 1425, § 6, effective September 14. **L. 2022:** (2) amended, (SB 22-196), ch. 193, p. 1293, § 10, effective May 19; (1)(b) amended, (HB 22-1278), ch. 222, p. 1495, § 22, effective July 1; (1) amended and (3) and (4) added, (HB 22-1326), ch. 225, p. 1642, § 16, effective January 1, 2023. **L. 2023:** (1)(b) amended, (HB 23-1301), ch. 303, p. 1821, § 21, effective August 7. **L. 2024:** (1)(c) and (3) amended, (HB 24-1037), ch. 458, p. 3169, § 15, effective June 6; (2) amended, (HB 24-1222), ch. 155, p. 686, § 2, effective August 7.

Editor's note: (1) Section 57(1)(e) of chapter 225 (HB 22-1326), Session Laws of Colorado 2022, provides that the act changing this section takes effect only if HB 22-1278 (chapter 222) becomes law and takes effect January 1, 2023, or on the effective date of HB 22-1278, whichever is later. HB 22-1278 became law and took effect July 1, 2022.

(2) Amendments to subsection (1)(b) by HB 22-1278 and HB 22-1326 were harmonized, effective January 1, 2023.

Cross references: (1) For the legislative declaration in SB 22-196, see section 1 of chapter 193, Session Laws of Colorado 2022.

(2) For the legislative declaration in HB 22-1326 stating the purpose of, and the provision directing legislative staff agencies to conduct, a post-enactment review pursuant to § 2-2-1201 scheduled in 2025, see sections 1 and 55 of chapter 225, Session Laws of Colorado 2022. To obtain a copy of the review, once completed, go to "Legislative Resources and Requirements" on the Colorado General Assembly's website.

17-26-141. Access to jail video recordings showing prisoner nudity - when authorized - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Local detention facility" means a county jail as described in section 17-26-101 or municipal jail as described in section 31-15-401 (1)(j).

(b) "Strip search" means having a person remove or arrange some or all of their clothing so as to permit a visual inspection of the genitals, buttocks, anus, or female breasts of the person.

(2) Personnel of a local detention facility who conduct strip searches shall tag body-worn camera footage of strip searches with a strip search tag using the body-worn camera's tagging feature.

(3) Personnel of a local detention facility shall not record a strip search using an overhead camera or recording device other than a body-worn camera.

(4) While not on the premise of a local detention facility, personnel of a local detention facility shall not access video footage of strip searches captured by a local detention facility.

(5) Personnel of a local detention facility must obtain written approval from the sheriff or equivalent head of a municipal jail, or the sheriff's or equivalent head of a municipal jail's designee, and document what video footage they are accessing and the reason they are accessing it before accessing any footage of strip searches captured in a local detention facility. When a sheriff or equivalent head of a municipal jail is accessing strip search footage captured in a local detention facility, they must document what footage they are accessing and the reason they are accessing it.

(6) This section is not applicable to discovery of video recordings or the use of video recordings by parties in a civil, criminal, or administrative court case, or an internal investigation or in response to requests made pursuant to section 24-72-303.

(7) Each local detention facility shall have written policies regarding:

(a) The circumstances or set of conditions when personnel of the local detention facility are authorized to conduct strip searches of persons in the custody of the local detention facility;

(b) The restriction of access to body-worn camera footage tagged as strip search video pursuant to subsection (2) of this section; and

(c) The retention of body-worn camera footage tagged as strip search video.

(8) On or before August 1, 2026, each sheriff shall implement the written policies described in subsection (7) of this section.

Source: L. 2026: Entire section added, (HB 26-1123), ch. 159, p. 945, § 2, effective May 27.

17-26-142. Sexual assault prevention program - required policies and procedures - audit required - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Local detention facility" means a county jail as described in section 17-26-101 or municipal jail as described in section 31-15-401 (1)(j).

(b) "Prison Rape Elimination Act" or "PREA" means the federal "Prison Rape Elimination Act of 2003", 34 U.S.C. sec. 30301 et seq.

(c) "Sexual abuse" has the same meaning as "sexual violence" as defined in section 13-14-101.

(2) Each local detention facility shall develop policies and procedures to:

(a) Require staff members to report suspected, alleged, or witnessed sexual abuse;

(b) Establish protocols for staff members to respond to suspected, alleged, or witnessed sexual abuse, which protocols must include protecting the victim from immediate harm; connecting the victim with medical care; preserving evidence of the suspected, alleged, or witnessed offense; and reporting the alleged sexual abuse;

(c) Inform prisoners of their rights established pursuant to the federal "Prison Rape Elimination Act";

(d) Inform prisoners upon booking, in writing and in an accessible language, of resources for victims of sexual abuse, including the telephone number for a sexual assault crisis line and the mailing address of the nearest or other reasonably accessible confidential sexual assault advocacy program; and

(e) Allow confidential sexual assault advocates timely access to prisoners who have reached out to a confidential sexual assault advocacy program for advocacy services.

(3) (a) Each local detention facility shall designate a staff member as the jail's PREA coordinator. The PREA coordinator shall, pursuant to section 2-3-1901.5, implement federal PREA standards as required by the legislative oversight committee for Colorado jail standards and shall facilitate access to confidential sexual assault advocacy services for inmates seeking confidential sexual assault advocacy services.

(b) The jail shall inform staff members and prisoners of the name and contact information for the PREA coordinator and make the name and contact information of the PREA coordinator available to the public.

Source: L. 2026: Entire section added, (HB 26-1123), ch. 159, p. 947, § 3, effective May 27.

17-26-143. Retaliation against whistleblower jail staff prohibited - private right of action - exemptions - procedures - definitions.

(1) (a) A local detention facility shall not discharge, discipline, demote, deny a promotion to, transfer or reassign, discriminate against, harass, suspend, create a hostile work environment for,

subject to corrective action or reprimand, issue an employment rating that results in the loss of pay or adversely affects eligibility for promotion or for an assignment for, lay off, reduce work hours for, knowingly provide false information for the purpose of negatively affecting future employment opportunities for, or threaten any actions against or otherwise discriminate against a staff member in terms, conditions, or privileges of employment because the staff member discloses information in good faith to the proper supervising authority that the staff member reasonably believes shows suspected, alleged, or witnessed sexual abuse or sex-based harassment in the local detention facility.

(b) Administrative procedures, including suspension during an investigation or departmental procedures used to distribute assignments or duties or meet the operational needs of the local detention facility, do not violate subsection (1)(a) of this section.

(c) A staff member who in good faith discloses information that the staff member reasonably believes shows suspected, alleged, or witnessed sexual abuse or sex-based harassment in the local detention facility is engaging in a protected activity.

(d) This subsection (1) does not prevent a local detention facility from complying with any disclosure requirements required by law or by court rule or procedure.

(2) A staff member aggrieved by a violation of subsection (1) of this section has a private right of action against the local detention facility that violated subsection (1) of this section after the staff member exhausts the internal administrative procedures pursuant to subsection (10) of this section.

(3) A staff member whose protected activity described pursuant to subsection (1) of this section was a contributing factor in the local detention facility's action described in subsection (1) of this section may be awarded all relief necessary to make the staff member whole, including, but not limited to:

(a) (I) Reinstatement, with the same seniority status that the staff member would have had but for the violation of subsection (1) of this section; and

(II) The amount of back pay with interest at an interest rate set by the secretary of state pursuant to section 13-21-101 (3) for the years back pay is awarded;

(b) Any other equitable relief the court deems appropriate;

(c) Compensatory damages for other pecuniary losses, emotional pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses; and

(d) Reasonable attorney fees and costs.

(4) Any request for reinstatement or for an award of reasonable attorney fees must be made to the court after a judgment is entered in favor of the staff member. The parties are entitled to a hearing on the request prior to the court's determination.

(5) It is an affirmative defense to an action brought pursuant to this section if the local detention facility shows by a preponderance of the evidence that the local detention facility would have taken the action that forms the basis of the suit against the staff member based on a legitimate nonretaliatory basis.

(6) An action brought pursuant to this section is not subject to the "Colorado Governmental Immunity Act", article 10 of title 24.

(7) If a local detention facility asserts the affirmative defense created in subsection (5) of this section, the staff member must have the opportunity to establish in response, by a preponderance of the evidence, that the legitimate nonretaliatory basis was pretextual.

(8) An action brought pursuant to this section must be brought within two years after the date of the most recent adverse employment action described in subsection (1) of this section.

(9) (a) This section does not apply to a staff member who discloses information that the staff member knows to be false, who discloses information with disregard for the truth, or who discloses information without fully complying with subsection (10) of this section.

(b) A staff member's disclosure of the staff member's own act of negligence, unprofessional conduct, or violation of any local, state, or federal law is not an activity protected pursuant to this section and does not provide the staff member with immunity related to the activity subject to the disclosure.

(c) This section does not prevent a local detention facility from taking disciplinary action against a staff member for reasons other than those specified in subsection (1) of this section.

(10) (a) When making a good faith report or disclosure protected by this section, a staff member shall follow the internal reporting and internal administrative procedures of the local detention facility, to the extent the procedures exist and are provided to the employee in writing, and shall exhaust the procedures prior to initiating a private right of action pursuant to subsection (2) of this section. If the internal reporting procedure requires a staff member to report to the individual who allegedly committed the act described in subsection (1)(a) of this section, the procedure must provide an alternative reporting procedure. The limitations period described in subsection (8) of this section is tolled until the internal administrative process is complete.

(b) (I) A local detention facility shall complete the internal administrative procedure within one hundred eighty days after a report or disclosure.

(II) If a local detention facility does not adopt an internal administrative procedure or does not complete the internal administrative procedure within one hundred eighty days after a report or disclosure, this subsection (10) is deemed complied with and the staff member may file a private right of action in a court of competent jurisdiction pursuant to subsection (2) of this section. If the local detention facility's internal administrative procedure has not been completed when the staff member initiates a private right of action pursuant to subsection (2) of this section

for reasons beyond the control of the local detention facility, including, but not limited to, the existence of an open criminal proceeding or an open critical incident response team investigation, the local detention facility may seek a stay of the private right of action pending resolution of the source of the delay.

(11) As used in this section, unless the context otherwise requires:

(a) "Local detention facility" means a county jail as described in section 17-26-101 or municipal jail as described in section 31-15-401 (1)(j).

(b) "Proper supervising authority" means the person or department designated in the local detention facility to investigate allegations of internal misconduct. If the local detention facility does not have a policy designating a person or department to investigate allegations of misconduct, the proper supervising authority is the highest-ranking staff member in the local detention facility.

(c) "Staff member" means a person assigned to or employed at a local detention facility.

Source: L. 2026: Entire section added, (HB 26-1123), ch. 159, p. 948, § 4, effective May 27.

PART 2

REIMBURSEMENT OF COST OF CARE BY INMATES TO COUNTIES

17-26-201 to 17-26-208. (Repealed)

Source: L. 94: Entire part repealed, p. 1362, § 6, effective July 1.

Editor's note: This part 2 was added in 1989. For amendments to this part 2 prior to its repeal in 1994, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

PART 3

RESTRICTIVE HOUSING IN JAILS

17-26-301. Legislative declaration.

(1) The general assembly finds that:

(a) Placing individuals with serious mental illness in restrictive housing, also known as solitary confinement, within a local jail is inappropriate and causes further harm to the individual;

(b) According to the National Commission on Correctional Health Care, prolonged solitary confinement is cruel, inhumane, and degrading treatment and harmful to an individual's health, and juveniles, individuals with serious mental illness, and pregnant women should be excluded from solitary confinement of any duration;

(c) The World Health Organization, United Nations, and other international bodies have recognized that solitary confinement is harmful to health;

(d) Psychological effects caused by placement in isolation can include self-harm, suicide, paranoia, psychosis, cognitive disturbances, perceptual distortions, obsessive thoughts, anxiety, and depression;

(e) Studies have shown that the psychological stress created from solitary confinement compares to the distress of physical torture. According to United States District Judge Thelton Henderson, putting an individual with a serious mental illness in solitary confinement is the equivalent of putting a person with asthma in a place with little air.

(f) In 2012, a task force appointed by the United States attorney general concluded that nowhere is the damaging impact of incarceration on vulnerable children more obvious than when it involves solitary confinement. Juveniles experience symptoms of paranoia, anxiety, and depression even after very short periods of isolation.

(g) The United Nations Standard Minimum Rules for the Treatment of Prisoners state that solitary confinement should be prohibited in cases involving children and in the case of adults with mental or physical disabilities when their conditions would be exacerbated by such measures; and

(h) International standards established by the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders state that pregnant women should never be placed in solitary confinement as they are especially susceptible to its harmful psychological effects.

(2) Therefore, the general assembly declares that due to the substantial negative impacts of placing juveniles and adults with specific health conditions in restrictive housing, the state must

take immediate steps to end and prohibit the use of restrictive housing of juveniles and adults with specific health conditions in Colorado jails.

Source: L. 2021: Entire part added, (HB 21-1211), ch. 322, p. 1974, § 1, effective July 1, 2023.

Editor's note: The effective date of this part 3 as added by HB 21-1211 was changed from July 1, 2022, to July 1, 2023, by HB 22-1063. (See L. 2022, ch. 395, p. 2813.)

17-26-302. Definitions.

As used in this part 3, unless the context otherwise requires:

(1) "Intellectual or developmental disability" means a disability attributable to an intellectual or developmental condition, as defined in the latest edition of the diagnostic and statistical manual of the American psychiatric association, or related conditions constituting a severe or profound disability.

(2) "Local jail" means a jail or an adult detention center of a county or city and county with a capacity of more than four hundred beds.

(3) "Medical professional" means a registered nurse registered pursuant to section 12-255-111, a physician assistant licensed pursuant to section 12-240-113, or a medical doctor or doctor of osteopathy licensed pursuant to article 240 of title 12.

(4) "Mental health professional" means a mental health professional licensed or certified pursuant to article 245 of title 12, except it does not include unlicensed psychotherapists pursuant to article 245 of title 12; an advanced practice registered nurse registered pursuant to section 12-255-111 with training in substance use disorders or mental health; or a physician assistant licensed pursuant to section 12-240-113 with specific training in substance use disorders or mental health.

(5) "Postpartum period" means one year after a pregnancy has ended.

(6) "Restrictive housing" means the state of being involuntarily confined in one's cell for approximately twenty-two hours per day or more with very limited out-of-cell time, movement, or meaningful human interaction whether pursuant to disciplinary, administrative, or classification action.

(7) "Serious mental illness" means one or more substantial disorders of the cognitive, volitional, or emotional processes that grossly impair judgment or capacity to recognize reality or

to control behavior and that substantially interfere with the person's ability to meet the ordinary demands of living. These can include, but are not limited to, a psychotic disorder, bipolar disorder, or major depressive disorder or any diagnosed mental disorder, except for substance use disorders, currently associated with serious impairment of psychological, cognitive, or behavioral functioning.

Source: L. 2021: Entire part added, (HB 21-1211), ch. 322, p. 1975, § 1, effective July 1, 2023.

Editor's note: The effective date of this part 3 as added by HB 21-1211 was changed from July 1, 2022, to July 1, 2023, by HB 22-1063. (See L. 2022, ch. 395, p. 2813.)

17-26-303. Placement in restrictive housing in a local jail.

(1) A local jail shall not involuntarily place an individual in restrictive housing, including for disciplinary reasons, if the individual meets any one of the following conditions:

(a) The individual is diagnosed with a serious mental illness or is exhibiting grossly abnormal or irrational behaviors or breaks with reality or perceptions of reality indicating the presence of a serious mental illness;

(b) The individual has self-reported a serious mental illness, suicidality, or is exhibiting self-harm, unless a licensed mental health professional or psychiatrist evaluates the individual and finds serious mental illness is not present;

(c) The individual has a significant auditory or visual impairment that cannot otherwise be accommodated;

(d) The individual is pregnant or in the postpartum period;

(e) The individual is significantly neurocognitively impaired by a condition such as dementia or a traumatic brain injury;

(f) The individual is under eighteen years of age; or

(g) The individual has an intellectual or developmental disability.

(2) (a) Notwithstanding the provisions of subsection (1) of this section, an individual who meets one of the conditions described in subsection (1) of this section may be placed in restrictive housing only if:

(I) Any indication of psychological distress is present and:

(A) The local jail offered to transfer the individual to a local health-care facility for treatment, the individual agreed to the transfer, the local jail transferred the individual to the health-care facility, and the health-care facility subsequently discharged the individual;

(B) The local jail offered to transfer the individual to a local health-care facility for treatment, the individual refused, and the jail communicated with a local hospital or other twenty-four-hour mental health crisis facility to determine if the facility would accept the individual for evaluation and mental health treatment, the health-care facility or mental health crisis facility indicated it would accept the individual for mental health evaluation and treatment, the jail transported the individual to the facility, and the facility subsequently discharged the individual; or

(C) The local jail offered to transfer the individual to a local health-care facility for treatment, the individual refused, and the jail communicated with a local hospital or other twenty-four-hour mental health crisis facility to determine if the facility would accept the individual for evaluation and mental health treatment, and the health-care facility or mental health crisis facility refused to accept the individual for mental health evaluation and treatment; and

(II) The individual poses an imminent danger to themselves or others or remains an imminent danger to themselves or others after being discharged from a health-care facility, local hospital, or other twenty-four-hour mental health crisis facility and returns to the local jail; and

(III) No other less restrictive option is available and the individual is not responding to ongoing de-escalation techniques.

(b) When an individual is placed in restrictive housing pursuant to subsection (2)(a) of this section, the local jail shall document the facts and circumstances, including observations and findings of all medical and mental health professionals and local jail staff that lead to placing the individual into restrictive housing, when the local jail staff's observations occurred, any efforts to avoid placement of the individual into restrictive housing, and a description of all alternatives and interventions that were attempted to avoid restrictive housing. The local jail shall also include in the documentation any injuries experienced by the individual and the local jail staff or other medical issues exhibited by the individual in the process of placing the individual in restrictive housing. In circumstances in which the local jail was unable to employ less restrictive alternatives, the local jail shall describe the dangerous, emergent behavior that precluded use of less restrictive alternatives.

(c) The local jail shall notify its medical or mental health professionals in writing when an individual is involuntarily placed in restrictive housing within twelve hours of the placement.

(d) The local jail shall notify the individual's appointed or retained legal representative, designated emergency contact, or legal guardian within twelve hours of the individual's involuntary placement and removal in restrictive housing.

(e) At least twice per hour, a medical or mental health professional or local jail staff shall check, face-to-face or through a window, on an individual involuntarily placed in restrictive housing pursuant to subsection (2)(b) of this section. If the individual is violent, demonstrating unusual or bizarre behavior, or has indicated suicidality or self-harm, the local jail staff shall monitor the individual every fifteen minutes or more frequently, unless a medical or mental health professional recommends more frequent or less frequent checks. At each check for these individuals, the medical or mental health professional or local jail staff shall document a general description of the behaviors observed.

(f) Every twenty-four hours, a medical or mental health professional shall assess, face-to-face, the individual placed in restrictive housing for any psychiatric or medical contraindications to the placement. If the medical or mental health professional observes any contraindications, the professional shall either refer the individual immediately to a mental health professional or refer the individual for emergency medical care. The medical or mental health professional shall document each assessment, including the individual's health status and behavior.

(g) At least every forty-eight hours and more frequently, if possible, a mental health professional shall assess the individual face-to-face for the need for ongoing placement in restrictive housing and document the need for ongoing placement or shall document an opinion that restrictive housing is no longer required.

(h) For any individual who meets one of the conditions described in subsection (1) of this section who is placed in restrictive housing, immediately after placement and throughout the individual's stay in restrictive housing, the local jail shall provide the individual a clear explanation of the reason the individual has been placed in restrictive housing, the monitoring procedures that the local jail will employ to check the individual, the date and the time, when the individual's next court date is, and the behavioral criteria the individual must demonstrate to be released from restrictive housing. The local jail must provide this information to the individual's legal representation and, if the individual gives permission, to a family member or other designated person.

(i) (I) When an individual is placed in restrictive housing pursuant to subsection (2)(a) of this section, the local jail shall not hold the individual in restrictive housing for more than fifteen days in a thirty-day time period without a written court order.

(II) If a local jail wants to hold an individual placed in restrictive housing pursuant to subsection (2)(a) of this section for more than fifteen days in a thirty-day period, the local jail must obtain a written court order. A court shall grant the court order if the court finds by clear and convincing evidence that:

(A) The individual poses an imminent danger to himself or herself or others;

(B) No alternative less-restrictive placement is available;

(C) The jail has exhausted all other placement alternatives; and

(D) No other options exist, including release from custody.

(III) A jail may hold an inmate in restrictive housing that meets the criteria outlined in this subsection (2) for an additional seven days if the local jail files a motion for court order in a timely manner prior to the expiration of the fifteen-day restrictive housing placement and the court's decision is still pending.

(j) The local jail shall supply the individual with basic hygiene necessities, including shaving and showering at least three times per week; exchanges of clothing, bedding, and linen on the same basis as other individuals in the general jail population; access to writing letters or receiving letters; opportunities for visitation; access to legal materials; access to reading materials; a minimum of one hour of exercise five days a week outside of the cell; access to outdoor exercise at least one hour per week, weather permitting; telephone privileges to access the judicial process and to be informed of family emergencies as determined by the local jail; and access to programs and services that include, but are not limited to, educational, religious, and recreational programs and medical, dental, and behavioral health services and medications, unless providing the item, program, or service would endanger the safety of the individual, other inmates or staff, or the security of the local jail. If the local jail does not make any of these allowances, the local jail shall daily document the denial of each item, program, or service with a reason for the denial.

(3) Notwithstanding any other provision of this section, a local jail may place an individual alone in a room or area from which egress is prevented if the confinement is part of a routine practice that is applicable to substantial portions of the jail population. The confinement must be imposed only for the completion of administrative or security tasks and should last no longer than necessary to achieve the task safely and effectively. The local jail shall document when the situation occurs and for how long.

(4) A medical or mental health professional shall assess any individual placed in restrictive housing within twenty-four hours of placement. The professional shall assess for any psychiatric or medical contraindications to the placement. The local jail shall document findings and observed behaviors of the individual.

(5) The local jail shall document the time spent out of cell on a daily basis. The documentation must include all meaningful human contact the individual received while out of cell and any mental or medical services received.

(6) If an individual willingly and voluntarily does not wish to leave his or her cell, the jail is not required to forcefully remove an individual from his or her cell in order to comply with this section. Jail staff shall make a reasonable attempt to persuade and allow the individual to leave his or her cell voluntarily and shall document these attempts when the individual refuses to leave his or her cell.

(7) Each local jail shall produce written policies and procedures in accordance with this part 3 and part 1 of this article 26 and shall post the policies and procedures on the local jail's website.

Source: L. 2021: Entire part added, (HB 21-1211), ch. 322, p. 1976, § 1, effective July 1, 2023.

Editor's note: The effective date of this part 3 as added by HB 21-1211 was changed from July 1, 2022, to July 1, 2023, by HB 22-1063. (See L. 2022, ch. 395, p. 2813.)

17-26-304. Screening in jails.

(1) A local jail shall use an adequate screening tool to complete a health screening of each individual upon arrival at the facility by health-trained or qualified health-care personnel as part of the admission procedures. If a local jail is unable to perform a health screening on an individual due to intoxication or another reason that makes the person temporarily incapacitated, the jail shall document the reason for the delay in the health screening and shall complete the health screening no later than twenty-four hours after an individual's arrival at the facility. A local jail is not required to complete a health screening if prohibited by a court order. The screening includes at least the following:

(a) Inquiry into:

(I) Current and past illnesses, health conditions, or special health requirements;

(II) History of suicidal ideation or self-injurious behavior attempts; past or current serious mental illness, including hospitalizations; and history of special education;

(III) All legal and illegal drug use, including any current withdrawal symptoms;

(IV) Current or recent pregnancy;

(V) Serious neurocognitive issues such as past traumatic brain injuries or dementia; and

(VI) Present or past prescribed medications; and

(b) Observation of:

(I) General appearance and behavior, including state of consciousness, mental status, appearance, and conduct;

(II) Physical condition, including ease of movement;

(III) Evidence of abuse or trauma and the condition of the individual's skin, including bruises and lesions; and

(IV) Behavior, tremors, and sweating.

(2) An individual must not be placed in restrictive housing until the health screening required by subsection (1) of this section is complete and has been documented.

(3) If local jail personnel who are health-trained perform the screening, the personnel shall call a medical or mental health professional if indications of a positive screen are identified during the screening.

Source: L. 2021: Entire part added, (HB 21-1211), ch. 322, p. 1980, § 1, effective July 1, 2023.

Editor's note: The effective date of this part 3 as added by HB 21-1211 was changed from July 1, 2022, to July 1, 2023, by HB 22-1063. (See L. 2022, ch. 395, p. 2813.)

ARTICLE 26.5

Multijurisdictional Jails

17-26.5-101. Multijurisdictional jails - authorized.

17-26.5-102. Contracts for multijurisdictional jails - requirements.

17-26.5-101. Multijurisdictional jails - authorized.

The general assembly hereby authorizes any county, city and county, city, or the department of corrections of the state of Colorado to enter into a contract or contracts with each other in accordance with part 2 of article 1 of title 29, C.R.S., to design, locate, construct, and operate a multijurisdictional jail for the incarceration of county, city and county, city, or state prisoners. In the alternative, the described governmental entities may enter into the necessary contracts with a private contractor for the provision and operation of such jail.

Source: L. 90: Entire article added, p. 940, § 4, effective July 1.

17-26.5-102. Contracts for multijurisdictional jails - requirements.

(1) Any contract or contracts for the creation of a multijurisdictional jail as described in section 17-26.5-101 shall contain the following requirements:

(a) An agreement regarding involvement by each of the governmental entities in the predesign planning, design, location, and construction of such a jail facility or involvement in any agreement to obtain a private contractor to provide a jail facility and the operation thereof;

(b) An agreement regarding involvement by each of the governmental entities in construction management and oversight for such a jail facility;

(c) An agreement regarding involvement by each of the governmental entities in financing the construction of such a jail facility;

(d) An agreement regarding involvement by each of the governmental entities in financing and providing for staffing and operation of such jail facility, which may provide for staffing and operation solely by any county, city and county, or city with financial assistance from the state department of corrections or any other governmental entity involved, or staffing and operation through a joint staffing and operation agreement between any county, city and county, or city and the state department of corrections, if the department is involved in the multijurisdictional jail facility;

(e) An agreement regarding involvement by each of the governmental entities in financing and providing for programs for such jail facility;

(f) An agreement regarding utilization of such jail facility by each of the governmental entities involved in the multijurisdictional jail facility. However, if the state department of corrections is involved in the facility, such agreement shall provide that a proportionate number of beds in the facility, equal to the proportionate percentage of the financing of the construction and operation of the facility which was provided by the state department of corrections bears to the entire cost of the construction and operation of the facility, shall be reserved for utilization by the state department of corrections if such beds are needed by the department. Any such beds so reserved shall be counted by the department as available beds when determining the number of beds available in the state correctional system.

Source: L. 90: Entire article added, p. 941, § 4, effective July 1.

Programs

ARTICLE 27

Community Corrections Programs

17-27-101. Legislative declaration.

17-27-101.5. Purposes of community corrections.

17-27-102. Definitions.

17-27-103. Community corrections boards - establishment - duties.

17-27-103.5. Statements relating to a transitional referral to community corrections.

17-27-104. Community corrections programs operated by units of local government, state agencies, or nongovernmental agencies.

17-27-105. Authority to place offenders in community corrections programs. (Repealed)

17-27-105.5. Community parole officers - duties - arrest powers - definitions.

17-27-105.7. Offenders held in community corrections programs - medical benefits application assistance - county of residence - repeal. (Repealed)

17-27-106. Escape from custody from a community corrections program.

17-27-107. Administrative procedure act not to apply.

17-27-108. Division of criminal justice in the department of public safety - duties - community corrections contracts - audit - report.

17-27-101. Legislative declaration.

The general assembly hereby declares that it is the purpose of this article to establish and maintain community corrections programs which provide the courts, the department of corrections, and the state board of parole with more flexibility and a broader range of correctional options for offenders under the jurisdiction of such entities. It is the further purpose of this article to increase public safety and promote community-based correctional programming through collaboration between the state of Colorado and local units of government. It is also the purpose of this article to give local units of government the authority to designate the programs, boards, and networks established under this article to address local criminal justice needs with resources other than those appropriated pursuant to this article.

Source: L. 93: Entire article R&RE, p. 708, § 1, effective July 1.

Editor's note: This section is similar to former § 17-27-101 as it existed prior to 1993.

ANNOTATION

Broader range of alternatives provided. By enacting the community corrections statute, the general assembly provided the sentencing judge with a broader range of alternatives and with a sentencing medium that is more severe than probation, but not as harsh as incarceration. People ex rel. VanMeveren v. District Court, 195 Colo. 34, 575 P.2d 4 (1978) (decided under repealed § 27-27-101).

No private tort remedy available. Although this article imposes duties on administrators of community corrections facilities, those duties are owed directly to the relevant judicial or executive authorities. Members of the general public are incidental beneficiaries of the statute, but are owed no actionable duty by its specific terms. Davenport v. Cmty. Corr. of the Pikes Peak Region, Inc., 942 P.2d 1301 (Colo. App. 1997), aff'd, 962 P.2d 963 (Colo. 1998).

17-27-101.5. Purposes of community corrections.

(1) The purpose of this article 27, with respect to community corrections, is to:

(a) Further all purposes of sentencing and improve public safety by reducing the incidence of future crime through design and implementation of research-based policies, practices, programs, and standards;

(b) Prepare, select, and assist people who, after serving a statutorily defined period of incarceration, will be transitioned and returned to the community through supported partnerships with local community corrections boards;

(c) Set individualized conditions of community corrections supervision and provide services and support to assist people in community corrections in addressing identified risks and needs; and

(d) Achieve a successful discharge from community corrections supervision through reduction of risks and needs and satisfactory compliance with conditions of placement.

Source: L. 2017: Entire section added, (HB 17-1147), ch. 82, p. 255, § 1, effective August 9.

17-27-102. Definitions.

As used in this article 27, unless the context otherwise requires:

(1) "Administrative review process" means a sequence of actions that includes written notification to an offender of the decision to reject and terminate program placement, a brief explanation of the reason for the termination, instructions for the offender to request review of the action of the community corrections board or community corrections program, and a method for the community corrections board or community corrections program to informally review the rejection and termination.

(2) "Community corrections board" means the governing body of any unit of local government, any combinations of such governing bodies for the purpose of this article, or any separate board created by any governing body or bodies pursuant to this article.

(2.5) "Community corrections facility" means a facility used by a community corrections program.

(3) "Community corrections program" means a community-based or community-oriented program that provides supervision of offenders pursuant to this article. Such program shall be operated by a unit of local government, the department, or any private individual, partnership, corporation, or association. Such program may provide residential or nonresidential services for offenders, monitoring of the activities of offenders, oversight of victim restitution and community service by offenders, programs and services to aid offenders in obtaining and holding regular employment, programs and services to aid offenders in enrolling in and maintaining academic courses, programs and services to aid offenders in participating in vocational training programs, programs and services to aid offenders in utilizing the resources of the community, meeting the personal and family needs of such offenders, programs and services to aid offenders in obtaining appropriate treatment for such offenders, programs and services to aid offenders in participating in whatever specialized programs exist within the community, day reporting programs, and such other services and programs as may be appropriate to aid in offender rehabilitation and public safety.

(3.5) "Community parole officer" means an officer who is an employee of the department and is a peace officer, as described in sections 16-2.5-101 and 16-2.5-136, C.R.S., with the powers and duties described in section 17-27-105.5.

(3.7) "Distribution of offender populations" means the total number of offenders in, and the total number of offenders approved for placement in, a community corrections program, by judicial district.

(4) "Governing body" means the board or council of elected or appointed officials which is responsible for governing any unit of local government, such as a city council or a board of county commissioners.

(5) "Nongovernmental agency" means any private individual, partnership, corporation, or association.

(6) "Offender" means any person accused of or convicted of a felony or misdemeanor as defined by the laws of the state of Colorado.

(6.3) "Program availability" means the number of available community corrections beds and a community corrections program's financial viability when considering the state's reimbursement rate and other state and nonstate sources of revenue.

(6.7) "Projected need" means the division of criminal justice in the department of public safety's best estimate of the future distribution of offender populations in community corrections, by judicial district and placement type, based on:

(a) Correctional population projections provided pursuant to section 24-33.5-503 (1)(m);

(b) The number of inmates expected to be eligible for a referral to community corrections under existing law;

(c) The number of offenders under the department of corrections' supervision and the number of offenders referred from the courts who are expected to be accepted into community corrections programs; and

(d) The division of criminal justice's knowledge of expected changes in program capacity and availability.

(7) "Referring agency" means the agency which maintains legal jurisdiction over any offender referred to or placed in a community corrections program such as the sentencing court, the department of corrections, or the state board of parole.

(8) "Unit of local government" means any county, city and county, city, town, or service authority which may be established pursuant to section 17 of article XIV of the state constitution.

Source: L. 93: Entire article R&RE, p. 708, § 1, effective July 1. **L. 96:** (3) amended, p. 122, § 2, effective July 1. **L. 2000:** (3.5) added, p. 228, § 1, effective March 29. **L. 2003:** (3.5) amended, p. 1625, § 50, effective August 6. **L. 2008:** (3.5) amended, p. 658, § 10, effective April 25. **L. 2013:** (3.5) amended, (HB 13-1300), ch. 316, p. 1676, § 38, effective August 7. **L. 2017:** IP amended and (2.5) added, (HB 17-1330), ch. 374, p. 1937, § 2, effective August 9. **L. 2026:** IP amended and (3.7), (6.3), and (6.7) added, (HB 26-1423), ch. 332, p. 1963, § 1, effective June 2.

Editor's note: This section is similar to former § 17-27-102 as it existed prior to 1993.

ANNOTATION

This section does not exclude persons who have been convicted of two prior felonies from community correctional programs. People ex rel. VanMeveren v. District Court, 195 Colo. 34, 575 P.2d 4 (1978) (decided under repealed § 27-27-102).

Person convicted of felony menacing was a "nonviolent" offender since felony menacing is not a crime of violence as defined in § 16-11-309. People v. Patrick, 683 P.2d 801 (Colo. App. 1983).

This section and § 17-27-103 entitle any person who is rejected after acceptance in a community corrections program to request an administrative hearing. However, the eight-year prison sentence imposed on a defendant without a previous administrative hearing would not be overturned where he failed to raise the issue before the trial court and records in evidence showed sufficient grounds for defendant's termination from community corrections. People v. Pauley, 42 P.3d 57 (Colo. App. 2001).

Applied in People v. Nix, 45 Colo. App. 195, 610 P.2d 1088 (1980).

17-27-103. Community corrections boards - establishment - duties.

(1) A community corrections board may be established by resolution or ordinance of a governing body, or a combination of governing bodies. Any community corrections board which is established may be advisory to the governing body or bodies which created such board or it may be functionally independent from the governing body or bodies. Pursuant to subsection (8) of this section, the governing body or bodies may delegate to the community corrections board the authority which such governing body or bodies have to approve or disapprove the establishment and operation of community corrections programs within the jurisdiction of such governing body or bodies. In addition, the governing body or bodies may delegate such other powers which the governing body or bodies possess to the community corrections board to accomplish the purposes of this article.

(2) A community corrections board shall have the authority to enter into contracts with the state of Colorado, receive grants from governmental and private sources, and receive court-authorized expense reimbursement related to community corrections programs. A community corrections board may designate a community corrections program or programs within the jurisdiction of such board to contract with the state of Colorado to provide services and supervision for offenders.

(3) A community corrections board may establish programs to be operated by a unit or units of local government, or an agency of state government, to accomplish the purposes of this article, or such board may contract with other units of local government, other community corrections boards, any agency of state government, or any community corrections program to provide supervision of and services for offenders.

(4) A community corrections board may establish and enforce standards for the operation of any community corrections program located within the physical boundaries of the jurisdiction of the governing body or bodies which created such board. The standards established by a community corrections board may exceed, but shall not conflict with, standards established for community corrections programs by the division of criminal justice of the department of public safety pursuant to section 17-27-108. The community corrections board shall, in coordination with state and local agencies, monitor community corrections programs within the jurisdiction of such board and oversee compliance with state and local standards. The community corrections board's oversight of the community corrections programs within the board's jurisdiction shall include the following:

(a) Making an assessment of the number of offenders who have escaped from custody as such term is described in section 17-27-106, which assessment shall be based on the reports prepared by the administrators of community corrections programs in accordance with section 17-27-104 (11);

(b) Determining compliance by community corrections programs with the recommendations made in audit reports prepared by the division of criminal justice in accordance with section 17-27-108.

(5) (a) A community corrections board has the authority to accept or reject any offender referred for placement in a community corrections program under the jurisdiction of such board. The community corrections board shall provide, in writing, acceptance criteria and screening procedures to each referring agency.

(b) To determine whether to accept or reject any offender, a community corrections board shall develop and use a structured, research-based decision-making process that combines professional judgment and actuarial risk and needs assessment tools.

(c) If a community corrections board or program denies an offender a community corrections transition placement, the board or program shall submit electronically to the department of corrections the reason for the denial and a suggested timeline for a subsequent referral within the period specified in section 18-1.3-301 (2)(e)(II). The department of corrections shall develop the method by which community corrections boards and programs can submit this information electronically and shall also provide this information to the inmate.

(d) A community corrections board shall expedite a decision to accept an offender who is a pregnant or postpartum defendant, as defined in section 18-1.3-103.7, if the pregnant or

postpartum defendant did not raise the issue of the pregnancy or postpartum period prior to a request for community corrections placement.

(6) A community corrections board may establish conditions or guidelines for the conduct of offenders placed in any community corrections program operated within the physical boundaries of the jurisdiction of the governing body or bodies which created such board. Written copies of such conditions or guidelines shall be made available to offenders placed in community corrections programs under the jurisdiction of the community corrections board.

(7) A community corrections board has the authority to reject after acceptance the placement of any offender in a community corrections program within the jurisdiction of such board. If the referring agency does not provide an administrative review process relating to such rejection after acceptance, the community corrections board shall provide an administrative review process for any offender who is rejected after acceptance by such board. The community corrections board shall provide written notification of the rejection after acceptance of any offender to the referring agency and the administrator of the community corrections program in which the offender is placed.

(8) A governing body shall approve or disapprove the establishment and operation of all community corrections programs within the jurisdiction of such governing body, but such authority may be delegated to the community corrections board created by such governing body.

(9) A community corrections board may serve in a planning and coordinating capacity by advising the governing body which created such board and consulting with officials of state criminal justice agencies to improve local community corrections services.

(10) A community corrections board, and each individual member of such board, shall be immune from any civil liability for the performance of the duties of such board or such individual member as specified in this article, if such person was acting in good faith within the scope of such person's respective capacity, makes a reasonable effort to obtain the facts of the matter as to which action was taken, and acts in the reasonable belief that the action taken by such person was warranted by the facts.

Source: L. 93: Entire article R&RE, p. 710, § 1, effective July 1. **L. 95:** (4) amended, p. 80, § 1, effective March 23. **L. 2018:** (5) amended, (HB 18-1251), ch. 272, p. 1669, § 2, effective August 8. **L. 2023:** (5)(d) added, (HB 23-1187), ch. 246, p. 1341, § 4, effective August 7.

ANNOTATION

Annotator's note. Since § 17-27-103 is similar to § 17-27-104 (3) as it existed prior to the 1993 repeal and reenactment of this article, relevant cases construing that

provision have been included in the annotations to this section.

Corrections board has power to reject an offender initially accepted into one of its programs or facilities. A trial court is powerless to dismiss for lack of evidence the termination of an offender from a community corrections facility and to return the offender to such facility; the court's only option is to resentence the offender by adopting an alternative sentence. People v. Akin, 783 P.2d 267 (Colo. 1989).

A person's sentence to community corrections may be revoked before or after acceptance to a program for any reason or for no reason at all. People v. Holt, 874 P.2d 410 (Colo. App. 1994).

Under subsection (5), a community corrections sentence can be revoked for any reason or for no reason at all. People v. Rodriguez, 55 P.3d 173 (Colo. App. 2002).

The sentencing court, as the referring agency, may conduct the administrative review process if the community corrections board or program has not done so. Benz v. People, 5 P.3d 311 (Colo. 2000).

This section and § 17-27-102 entitle any person who is rejected after acceptance in a community corrections program to an administrative hearing. However, the eight-year prison sentence imposed on a defendant without a previous administrative hearing would not be overturned where he failed to raise the issue before the trial court and records in evidence showed sufficient grounds for defendant's termination from community corrections. People v. Pauley, 42 P.3d 57 (Colo. App. 2001).

Upon termination from community corrections, an offender must be provided with: (1) Written or actual notice of rejection from community corrections and the reasons for rejection, and (2) an informal review of the facts underlying the rejection. People v. Kitsmiller, 74 P.3d 376 (Colo. App. 2002).

Informal review requires the trial court to either: (1) Review on the record the facts underlying the rejection, or (2) demonstrate a familiarity with those facts through documentation in the record regarding the rejection. People v. Kitsmiller, 74 P.3d 376 (Colo. App. 2002).

17-27-103.5. Statements relating to a transitional referral to community corrections.

(1) Pursuant to the provisions of section 24-4.1-302.5 (1)(j.5), C.R.S., a victim shall have the right to provide a written victim impact statement and a separate oral statement to a community corrections board considering an offender's transitional referral to community corrections.

(2) (a) (I) A community corrections board shall allow, within the parameters set by the board, an offender who is under consideration for transitional placement in a community corrections program under the board's jurisdiction to provide a written statement to the community corrections board concerning the offender's transition plan and community support and the appropriateness of placing the offender in a community corrections program.

(II) If an offender elects to submit a written statement to a community corrections board pursuant to subparagraph (I) of this paragraph (a), and the offender provides a written statement to the department pursuant to the procedures and time frame established by the department, the department shall include the statement with any referral to a community corrections board considering the offender's transitional referral to a community corrections program.

(b) A community corrections board may allow, within the parameters set by the board, an offender to designate a person other than the offender to submit a written statement or give an oral statement on the offender's behalf to a community corrections board considering the offender's transitional referral to a community corrections program.

(3) A community corrections board shall develop written policies and procedures consistent with the provisions of this section and section 24-4.1-302.5 (1)(j.5), C.R.S., that are available to the public concerning the parameters for written and oral statements by victims and the permissibility of and the parameters for a written or oral statement by a person designated by an offender.

(4) Nothing in this section shall be construed to require the department or a community corrections board to provide transportation or make arrangements for the appearance at a community corrections hearing of an offender or, if permitted by a community corrections board, the person designated by the offender pursuant to paragraph (b) of subsection (2) of this section to give an oral statement or to submit a written statement on the offender's behalf.

(5) The department shall not be required to provide notice to any person, other than a registered victim, of a community corrections board hearing relating to the offender.

Source: L. 2010: Entire section added, (SB 10-159), ch. 306, p. 1443, § 1, effective August 11.

17-27-104. Community corrections programs operated by units of local government, state agencies, or nongovernmental agencies.

(1) Any unit of local government, or any state agency authorized by this article, may establish, maintain, and operate such community corrections programs as such unit or agency deems necessary to serve the needs of such unit of local government or state agency and offenders who are assigned to such programs by the department of corrections, placed in such programs by the state board of parole, or sentenced to such programs by the court.

(2) Pursuant to provisions of section 17-27-103, any nongovernmental agency may establish, maintain, and operate a community corrections program under a contract with the state of Colorado, a contract with a unit or units of local government, or a contract with other

nongovernmental agencies for the purpose of providing services to offenders who are assigned to such programs by the department of corrections, placed in such programs by the state board of parole, or sentenced to such programs by the court.

(3) The administrators of any community corrections program established pursuant to this section shall have the authority to accept or reject any offender referred for placement in such program. Screening procedures shall be developed in cooperation with the community corrections board of the jurisdiction in which such community corrections program is located. Acceptance criteria and screening procedures shall be provided in writing by each community corrections program to each referring agency.

(4) (a) The administrators of each community corrections program established pursuant to this section shall establish conditions or guidelines for the conduct of offenders accepted and placed in such program. Such conditions or guidelines shall not conflict with any conditions or guidelines established pursuant to section 17-27-103 (6) by the community corrections board of the jurisdiction in which such community corrections program is located. Offenders accepted and placed in any community corrections program shall have access to written copies of such conditions or guidelines for the conduct of offenders upon placement in such program.

(b) One such condition shall be that an offender, upon being placed in a community corrections program, shall execute a limited power of attorney to the director, or the director's designee, of the community corrections program with which the offender is being placed. The limited power of attorney shall grant to the director or the director's designee the authority to dispose of moneys the offender has earned since being placed in the program and that have been left in accounts or on deposit with the community corrections program in the event that, after the offender is accepted by the community corrections program, the offender is rejected from such program due to escape. The moneys shall be disposed of for the following purposes and in the following order of priority:

(I) Payment of court-ordered restitution to the victim of the crime committed by the offender;

(II) Payment for the court-ordered support of the offender's dependents;

(III) Payment of fines, offender fees and surcharges, and other court-ordered financial obligations imposed as part of the offender's sentence; and

(IV) Any remaining funds shall be paid into the victims and witnesses assistance and law enforcement fund, established pursuant to section 24-4.2-103, C.R.S., in the judicial district in which the community corrections program is located.

(c) The director of the community corrections program, or the director's designee, shall maintain records of any disbursements of offenders' funds pursuant to this subsection (4).

(d) The limited power of attorney shall be valid until the offender's sentence to community corrections is discharged from community placement by the court.

(5) The administrators of each community corrections program established pursuant to this section shall have the authority to reject after acceptance and terminate the placement of any offender who violates conditions or guidelines established pursuant to subsection (4) of this section, or if any conditions of such offender's placement in the program are not satisfied. If the referring agency does not provide an administrative review process, the community corrections program shall provide an administrative review process for any offender who is rejected after acceptance. If the termination of placement of an offender is initiated by the community corrections program, the referring agency shall be notified immediately to arrange a transfer of custody for such offender. The community corrections program may be required by the referring agency to maintain temporary custody of the offender whose placement is being terminated for a reasonable period of time pending receipt of appropriate transfer orders from the referring agency unless the provisions of subsection (6) of this section apply.

(6) When the administrator of a community corrections program established pursuant to this section, or any other appropriate referring agency, has cause to believe that an offender placed in a community corrections program has violated any rule or condition of such offender's placement in such program, or cannot be safely housed in such program, the administrator or other appropriate authority shall notify the appropriate judicial or executive authority of the facts which are the basis of such administrator's belief. Such administrator may then execute a transfer order to any sheriff, undersheriff, deputy sheriff, police officer, or state patrol officer which authorizes such peace officer to transport the offender to the county jail in the county in which the community corrections program is located and the offender shall be confined in such jail pending a determination by the appropriate judicial or executive authority as to whether the offender should remain in community corrections or be removed therefrom. Such offender shall be confined without bond.

(7) The administrator of any community corrections program established pursuant to this section shall notify a referring agency immediately that an offender has been transferred to a county jail pursuant to subsection (6) of this section. Such notification shall contain the name of the offender and identify the rule or condition of placement violated, and describe such violation, or state the reason the offender cannot be safely housed in the community corrections program.

(8) Upon placement of an offender in a community corrections program, the administrator of the program shall notify local law enforcement agencies of the identity of each such offender.

(9) The administrator of any community corrections program shall document the number of days of residential and nonresidential time completed by each offender sentenced directly to the community corrections program by the court and the time credits granted to such offender pursuant to section 18-1.3-301 (1)(i), C.R.S. If any such offender is rejected after acceptance by the community corrections board or the community corrections program, the program

administrator shall provide a written summary of the residential days completed by such offender to the referring agency. If the offender is thereafter committed to the department of corrections, such summary shall be reported to the department of corrections to facilitate the calculation of any time credits pursuant to part 3 or part 4 of article 22.5 of this title.

(10) The administrator of any community corrections program shall enforce any order relating to the payment of restitution, court costs, fees, or community service which is ordered by the sentencing court. Such administrator shall establish a payment contract and schedule for each offender placed in the community corrections program.

(11) The administrator of each community corrections program shall report to the division of criminal justice and the community corrections board of the jurisdiction in which such program is located on the offenders who have escaped from custody as such term is described in section 17-27-106 (1). The division of criminal justice is authorized to prepare forms for these reports.

(12) (a) The administrators of a community corrections program established pursuant to this section may implement a behavioral or mental health disorder screening program to screen the persons accepted and placed in the community corrections program. If the administrators choose to implement a behavioral or mental health disorder screening program, the administrators shall use the standardized screening instrument developed pursuant to section 16-11.9-102 and conduct the screening in accordance with procedures established pursuant to said section.

(b) (I) Starting on or before July 1, 2023, a community corrections program established pursuant to this section shall develop protocols to identify withdrawal symptoms, determine whether a medical referral is needed, and ensure individuals have access to appropriate medical professionals as necessary. In instances when a medically supervised detoxification appears necessary, community corrections program staff shall assist the individual with accessing a local emergency provider or managed service organization for necessary treatment.

(II) Starting on or before July 1, 2023, a community corrections program established pursuant to this section shall provide medication-assisted treatment. If a community corrections program does not provide medication-assisted treatment, community corrections program staff shall assist the individual with accessing a community-based medication-assisted treatment provider. A community corrections program that does not provide a medication-assisted treatment pursuant to this subsection (12) shall submit a report by July 1, 2023, to the division of criminal justice in the department of public safety describing the barriers to offering the services and what resources are necessary to provide medication-assisted treatment.

(13) The administrator of any community corrections program established pursuant to this section shall not reject any offender referred for placement based on the offender's participation in medication-assisted treatment, as defined in section 23-21-803, or establish any rule or condition or guideline for the conduct of an offender that prohibits or significantly impairs an offender's ability to participate in prescribed medication-assisted treatment.

(14) The administrator of a community corrections program established pursuant to this section shall partner with a county department of human or social services to facilitate enrolling offenders in the program into medicaid, which must include determining whether each offender is enrolled in medicaid upon entry into the community corrections program and, if an offender is not enrolled, determining whether the offender is eligible for medical assistance under medicaid and enrolling each eligible offender in medicaid.

Source: L. 93: Entire article R&RE, p. 711, § 1, effective July 1. **L. 94:** (9) amended, p. 929, § 2, effective April 28. **L. 95:** (11) added, p. 81, § 2, effective March 23. **L. 96:** (4) amended, p. 132, § 1, effective July 1. **L. 2002:** (12) added, p. 574, § 2, effective May 24; (9) amended, p. 1508, § 168, effective October 1. **L. 2011:** (9) amended, (SB 11-254), ch. 274, p. 1237, § 2, effective June 2. **L. 2017:** (12) amended, (SB 17-242), ch. 263, p. 1303, § 133, effective May 25. **L. 2020:** (13) added, (SB 20-007), ch. 286, p. 1391, § 6, effective July 13. **L. 2022:** (14) added, (SB 22-196), ch. 193, p. 1294, § 11, effective May 19; (12) amended, (HB 22-1326), ch. 225, p. 1643, § 17, effective January 1, 2023.

Editor's note: This section is similar to former §§ 17-27-103 and 17-27-104 as they existed prior to 1993.

Cross references: (1) For the legislative declaration contained in the 2002 act amending subsection (9), see section 1 of chapter 318, Session Laws of Colorado 2002. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017. For the legislative declaration in SB 22-196, see section 1 of chapter 193, Session Laws of Colorado 2022.

(2) For the legislative declaration in HB 22-1326 stating the purpose of, and the provision directing legislative staff agencies to conduct, a post-enactment review pursuant to § 2-2-1201 scheduled in 2025, see sections 1 and 55 of chapter 225, Session Laws of Colorado 2022. To obtain a copy of the review, once completed, go to "Legislative Resources and Requirements" on the Colorado General Assembly's website.

ANNOTATION

Annotator's note. Since § 17-27-104 is similar to §§ 17-27-104, 17-27-106, 17-27-107, and 17-27-114 as they existed prior to the 1993 repeal and reenactment of this article, relevant cases construing those provisions have been included in the annotations to this section.

Section provides a statutory right to an "administrative review process" when an offender placed in a community corrections program is rejected after acceptance. People v. Rogers, 983 P.2d 121 (Colo. App. 1999), rev'd on other grounds, 9 P.3d 371 (Colo. 2000).

Section 17-27-103 authorizes the sentencing court, as the referring agency, to conduct the administrative review process if the community corrections board or program has not done so. Benz v. People, 5 P.3d 311 (Colo. 2000); People v. Rogers, 9 P.3d 371 (Colo. 2000).

Defendant's rights to due process were not violated where the administrative review requirements were satisfied. The defendant was notified of the grounds for termination from the community corrections program and the trial court reviewed the information from the program. People v. Benz, 983 P.2d 117 (Colo. App. 1999), aff'd, 5 P.3d 311 (Colo. 2000).

Determination of whether offender shall remain in community corrections is a two-step process. First, the sentencing court determines whether a violation of a placement condition has occurred, and second, if the violation has occurred, whether the offender should remain in community corrections. Wilson v. People, 747 P.2d 638 (Colo. 1987).

While it is a better practice to continue the revocation hearing until after the trial on the new charge, there is no abuse of discretion by proceeding with the hearing before disposition of the criminal charge. People v. Harrison, 771 P.2d 23 (Colo. App. 1989).

Trial court is without jurisdiction to order a defendant to make monthly restitution payments. Former § 17-27-107 (1), which relate to the requirements set forth in subsection (10) of this section, required that a defendant sentenced to the community corrections agree to the terms and conditions under a contract with the agency, and required that the contract conform with specified statutes concerning the establishment of and the manner and time of payment of restitution. The plain language of the former section required that the court establish the amount of restitution and, if a defendant is directly sentenced to community corrections, that community correction establish the terms and conditions of payment of restitution. People v. Randolph, 852 P.2d 1282 (Colo. App. 1992).

Under subsection (3), a community corrections sentence can be revoked for any reason or for no reason at all. People v. Rodriguez, 55 P.3d 173 (Colo. App. 2002).

Subsection (6) does not give rise to a private tort remedy. Although this article imposes duties on administrators of community corrections facilities, those duties are owed directly to the relevant judicial or executive authorities. Members of the general public are incidental beneficiaries of the statute, but are owed no actionable duty by its specific terms. Davenport v. Cmty. Corr. of the Pikes Peak Region, Inc., 942 P.2d 1301 (Colo. App. 1997), aff'd, 962 P.2d 963 (Colo. 1998).

Under subsection (9), at the time an offender is resentenced, the administrator of the community corrections program must provide to the sentencing court a written summary of the number of days the offender was a resident in that program. People v. Lopez, 961 P.2d 602 (Colo. App. 1998).

If an offender violates a rule or condition of community correctional placement while on nonresidential status, the offender is not entitled upon resentencing to credit for time served while on nonresidential status. People v. Hoecher, 822 P.2d 8 (Colo. 1991) (overruling People v. Herrera, 734 P.2d 136 (Colo. App. 1986)); People v. Pimble, 2015 COA 112, 369 P.3d 729.

The addition of the word "nonresidential" by the legislature to subsection (9) was to ensure that offenders receive earned time and good time credits based on time spent in both residential and nonresidential programs. It was not an attempt by the legislature to mandate that nonresidential time be counted as presentence confinement credit. People v. Pimble, 2015 COA 112, 369 P.3d 729.

Applied in People v. Nix, 45 Colo. App. 195, 610 P.2d 1088 (1980).

17-27-105. Authority to place offenders in community corrections programs. (Repealed)

Source: L. 93: Entire article R&RE, p. 713, § 1, effective July 1. **L. 94:** (1)(i) amended, p. 927, § 1, effective April 28; (3)(a) amended, p. 2595, § 2, effective June 3. **L. 95:** (2)(b) amended, p. 1276, § 13, effective June 5. **L. 96:** (1)(a) amended, p. 1690, § 22, effective January 1, 1997. **L. 97:** (2)(b) amended, p. 30, § 8, effective March 20. **L. 98:** (2)(b) amended, p. 318, § 2, effective July 1. **L. 99:** (1)(j) amended and (1)(k) added, p. 660, § 1, effective July 1. **L. 2000:** (3)(b) repealed, p. 230, § 3, effective March 29. **L. 2001:** (1)(k)(II) repealed, p. 527, § 1, effective May 22. **L. 2002:** Entire section repealed, p. 1463, § 3, effective October 1.

Editor's note: This section was relocated to § 18-1.3-301 in 2002.

Cross references: For the legislative declaration contained in the act repealing this section, see section 1 of chapter 318, Session Laws of Colorado 2002.

17-27-105.5. Community parole officers - duties - arrest powers - definitions.

(1) For purposes of this section:

(a) "Director" means the director of the department's community corrections program whose powers and duties include those of a community parole officer.

(b) "Offender" means an inmate assigned to residential and nonresidential community corrections programs as those programs are set forth in this article 27 and articles 27.5 and 27.7 of this title 17 and a youthful offender system participant who is in phase III of the youthful offender system as set forth in section 18-1.3-407.

(2) The executive director of the department of corrections shall designate staff of the department to maintain jurisdiction over all offenders placed in any community corrections program by order of the executive director or as a condition of parole. Such staff may include community parole officers and the director.

(3) Community parole officers are authorized to:

(a) Supervise and habilitate offenders;

(b) Investigate, detect, and prevent crime involving offenders;

(c) Issue warrants for the arrest of offenders;

(d) Arrest offenders;

(e) Process reports or other official documents regarding offenders;

(f) Coordinate with community corrections boards and community corrections programs;

(g) Review offender supervision and treatment;

(h) Authorize offender transfers between residential and nonresidential phases of placement; and

(i) Carry out such other duties as the executive director directs.

(4) The director of community corrections or any community parole officer may arrest any offender when any offense under the laws of this state has been or is being committed by the offender in the presence of the director or the community parole officer, the director or the community parole officer has a warrant commanding that such offender be arrested, or the director or the community parole officer has probable cause to believe:

(a) That a warrant for the offender's arrest has been issued in this state or another state for any criminal offense or for a violation of the department's administrative code of penal discipline, a supervision order, or other administrative order;

(b) That a crime has been committed and that the offender has committed such crime;

(c) That the offender has violated a condition of the administrative code of penal discipline;

(d) That the offender is leaving or is about to leave the state;

(e) That the offender will fail or refuse to appear at a hearing to answer charges for a violation of the department's code of penal discipline; or

(f) That the arrest of the offender is necessary to prevent physical harm to the offender or another person or to prevent the commission of a crime.

(5) If a community parole officer makes an arrest of an offender with or without a warrant, or the offender is otherwise arrested, the offender shall be held in a county jail or program pending action by the community parole officer or the director of the community corrections program.

(6) A community parole officer shall seek out and arrest any fugitive from a correctional facility when called upon and assist other agencies in the apprehension of fugitives from jurisdictions throughout the state.

(7) Notwithstanding any other provision of this section, each community parole officer, or the director acting as a community parole officer, shall notify the local law enforcement agency when the community parole officer 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.

(8) Notwithstanding any other provision of this title, if a community parole officer has probable cause to believe that a parolee who is under the supervision of the community parole officer has removed or tampered with an electronic monitoring device that the parolee is required to wear as a condition of his or her parole, the parole officer shall either:

(a) Immediately make a warrantless arrest of the parolee; except that, before making such an arrest, the community parole officer shall first determine that the notification of removal or tampering was not merely the result of an equipment malfunction.

(b) Not later than twelve hours after acquiring such probable cause, notify a law enforcement agency with jurisdiction over the parolee's last-known address that the parolee is subject to an immediate warrantless arrest.

Source: L. 2000: Entire section added, p. 228, § 2, effective March 29. **L. 2002:** (1)(a) amended, p. 1508, § 169, effective October 1. **L. 2013:** (1)(a), (2), IP(3), IP(4), (5), (6), and (7) amended, (HB 13-1300), ch. 316, p. 1676, § 39, effective August 7. **L. 2014:** (8) added, (HB 14-1044), ch. 199, p. 728, § 4, effective May 15. **L. 2026:** (1)(b) amended, (HB 26-1064), ch. 15, p. 62, § 3, effective August 12.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (1)(a), see section 1 of chapter 318, Session Laws of Colorado 2002.

17-27-105.7. Offenders held in community corrections programs - medical benefits application assistance - county of residence - repeal. (Repealed)

Source: L. 2002: Entire section added, p. 807, § 2, effective July 1. **L. 2003:** (1)(a) and (4)(c) amended, p. 416, § 5, effective March 5. **L. 2005:** (1)(a) and (4)(c) amended, p. 4, § 8, effective January 1.

Editor's note: Subsection (5) provided for the repeal of this section, effective July 1, 2005. (See L. 2002, p. 807.)

17-27-106. Escape from custody from a community corrections program.

(1) (a) If an offender fails to remain within the extended limits of such offender's confinement or placement or fails to return within the time prescribed to any community corrections program to which such offender was assigned or transferred or if any offender who participates in a program established under the provisions of this article leaves such offender's place of employment or, having been ordered by the executive director of the department of corrections or the chief probation officer of the judicial district to return to the community corrections program, neglects or fails to do so, such offender shall be deemed to have escaped from custody and shall, upon conviction thereof, be punished as provided in section 18-8-208, C.R.S., and all reductions in sentence authorized by part 2 of article 22.5 of this title shall be forfeited.

(b) (I) In addition to the forfeiture of all reductions in sentence authorized by part 2 of article 22.5 of this title, any person convicted of escape from custody from a community correction program in violation of paragraph (a) of this subsection (1) shall also forfeit all reductions in sentence authorized by section 18-1.3-301 (1)(i), C.R.S.

(II) Repealed.

(2) The division of criminal justice is hereby authorized to provide notice to appropriate law enforcement agencies and the sentencing court, if applicable, that there is probable cause to believe that an offender has escaped from custody.

Source: L. 93: Entire article R&RE, p. 716, § 1, effective July 1. **L. 95:** Entire section amended, p. 81, § 3, effective March 23. **L. 99:** (1) amended, p. 661, § 2, effective July 1. **L.**

2001: (1)(b)(II) repealed, p. 527, § 2, effective May 22. **L. 2002:** (1)(b)(I) amended, p. 1508, § 170, effective October 1.

Editor's note: This section is similar to former § 17-27-108 as it existed prior to 1993.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (1)(b)(I), see section 1 of chapter 318, Session Laws of Colorado 2002.

ANNOTATION

Annotator's note. Since § 17-27-106 is similar to § 17-27-108 as it existed prior to the 1993 repeal and reenactment of this article, relevant cases construing those provisions have been included in the annotations to this section.

Section applies to work release facilities. This section covers both traditional penitentiary type institutions operated by the state department of corrections and less traditional correctional facilities such as work release facilities. People v. Lucero, 654 P.2d 835 (Colo. 1982).

The failure to return to a work release facility upon the expiration of a 10-hour pass is punishable as escape under § 18-8-208. People v. Lucero, 654 P.2d 835 (Colo. 1982).

Leaving a community corrections facility without authorization constitutes escape under § 18-8-208 because offender is still in custody and subject to the authority of the court. People v. Brown, 695 P.2d 776 (Colo. App. 1984).

Person who absconds from a non-residential community corrections placement commits the crime of escape in violation of this section and § 18-8-208. By its plain language, the section applies to all types of community corrections placements, including non-residential community corrections programs. People v. Forester, 1 P.3d 758 (Colo. App. 2000).

A parolee may be convicted of escape even if there is a legal defect in the process of confinement. Such defects are to be challenged through appropriate legal means rather than through unauthorized departure from a custodial facility. People v. Lanzieri, 25 P.3d 1170 (Colo. 2001).

Delegating supervisory power to probation department and community corrections facility is not an unlawful delegation of the court's sentencing authority as the offender is still in custody and subject to authority of the court. People v. Brown, 695 P.2d 776 (Colo. App. 1984).

17-27-107. Administrative procedure act not to apply.

The provisions of this article shall not be subject to the "State Administrative Procedure Act", article 4 of title 24, C.R.S.

Source: L. 93: Entire article R&RE, p. 717, § 1, effective July 1.

Editor's note: This section is similar to former § 17-27-112 as it existed prior to 1993.

17-27-108. Division of criminal justice in the department of public safety - duties - community corrections contracts - audit - report.

(1) The division of criminal justice of the department of public safety is authorized to administer and execute all contracts with units of local government, community corrections boards, or nongovernmental agencies for the provision of community corrections programs and services.

(2) (a) The division of criminal justice is authorized to establish standards for community corrections programs operated by units of local government or nongovernmental agencies. Such standards shall prescribe minimum levels of offender supervision and services, health and safety conditions of facilities, and other measures to ensure quality services. The standards shall be promulgated or revised after consultation with representatives of referring agencies, community corrections boards, and administrators of community corrections programs.

(b) (I) The division of criminal justice shall audit community corrections programs to determine levels of compliance with standards promulgated pursuant to paragraph (a) of this subsection (2). Such audits shall include an evaluation of compliance with the reporting requirements pursuant to section 17-27-104 (11).

(II) (A) Before July 1, 2003, such audits shall occur at least once in each three-year period, unless waived by the executive director of the department of public safety.

(B) On and after July 1, 2003, the division of criminal justice shall implement a schedule for auditing community corrections programs that is based on risk factors such that community corrections programs with low risk factors shall be audited less frequently than community corrections programs with higher risk factors. In no event shall such audits occur less frequently than at least once in each five-year period. Prior to July 1, 2003, the division of criminal justice shall create classifications of community corrections programs that are based on risk factors as those factors are established by standards of the division of criminal justice.

(III) Written reports of such audits shall be provided to the administrator of the program which is audited, the local community corrections board, and referring agencies. Such written reports shall include findings of noncompliance with contractual obligations, including the standards promulgated pursuant to paragraph (a) of this subsection (2), and shall identify those material findings that, if not corrected within a reasonable time, will result in a recommendation to terminate the contract to operate the program. As used in this subparagraph (III), "material findings" includes those findings related to:

(A) Public safety, including but not limited to offender monitoring and rehabilitation;

(B) Health and life safety pertaining to but not limited to staff and offenders;

(C) Efficiency and effectiveness of programs' internal control systems;

(D) Statutory compliance; and

(E) Fiduciary duties and responsibilities.

(c) (I) No later than January 1, 2024, and every five years thereafter, the division of criminal justice shall, subject to available appropriations, contract with an independent third-party contractor to analyze all financial records of each community corrections program. The community corrections programs shall comply with all requests associated with this audit and share financial records with the contractor. The independent third-party contractor shall work directly with each community corrections program to gather financial information. The audit must analyze, but is not limited to, the following:

(A) Total revenue;

(B) All sources of revenue, including, but not limited to, general fund dollars, state or federal grant funds, medicaid reimbursements, local government funds, and private and public loans;

(C) Total expenditures;

(D) Amount of expenditures by expenditure type, including, but not limited to, wages and salaries, benefits, operating expenses, and capital improvements; and

(E) Cost per day per community corrections offender for services that qualify for reimbursement from appropriations from the general fund to the division of criminal justice.

(II) The independent third-party contractor completing the audit shall report its findings to the joint budget committee of the house of representatives and senate and the division of criminal justice, no later than July 1, 2025, and no later than July 1 every five years thereafter. Notwithstanding section 24-1-136 (11)(a)(I), the report required by this subsection (2)(c)(II) continues indefinitely.

(3) The division of criminal justice shall allocate appropriations for community corrections to local community corrections boards and community corrections programs in a manner which

considers the distribution of offender populations and supports program availability proportionate to such distribution and projected need.

(4) Prior to April 1, 2003, and on and after July 1, 2006, the division of criminal justice may authorize up to five percent of community corrections appropriations to be spent by units of local government and community corrections boards in support of administrative costs incurred pursuant to this article. On and after April 1, 2003, through June 30, 2006, the division of criminal justice may authorize up to four percent of community corrections appropriations to be spent by units of local government and community corrections boards in support of administrative costs incurred pursuant to this article. Such moneys for administrative costs may be applied to support functions authorized in section 17-27-103, to supplement administrative expenses of community corrections programs which have contracted with or are under the jurisdiction of a unit of local government, or to support other direct or indirect costs of involvement in community corrections.

(5) Repealed.

(6) The division of criminal justice shall provide technical assistance to community corrections boards, community corrections programs, and referring agencies.

(7) Repealed.

(8) (a) The department of public safety shall include a budget request for community corrections programs and services in its budget request submitted pursuant to section 2-3-208 to the joint budget committee. The department shall include the following information in its budget request:

(I) The projected need in the next fiscal year, including any changes from current levels of need, for all placement types;

(II) A summary of the factors driving the projected need;

(III) An explanation of how the requested appropriation in the budget request and the projected allocation relate to the projected need. The explanation must include any identified differences between the distribution of offender populations, program availability, and projected need among judicial districts.

(IV) An explanation of planned or requested changes in per diem reimbursement rates relative to the current fiscal year; and

(V) The projected allocation of the requested appropriation for community corrections placements, by judicial district. The projected allocation must include:

(A) The expected number of standard residential beds and the expected per diem reimbursement rate for those beds, by community corrections program, paid out of the general fund;

(B) The expected number of nonresidential slots and the expected per diem reimbursement rate for those slots, by community corrections program, paid out of the general fund;

(C) If applicable, fixed payments for programs that are independent of the number of offenders in a community corrections program, paid out of the general fund;

(D) The expected number of specialized beds, by type, and the expected per diem rate for those beds, by community corrections program, paid out of the general fund;

(E) The expected number of specialized beds, by type, and the expected per diem rate for those beds, by community corrections program, paid out of non-general fund sources, including the correctional treatment cash fund created in section 18-19-103;

(F) The projected allocation of funds for community corrections boards;

(G) Any other projected allocation of appropriations not related to subsections (8)(a)(V)(A) to (8)(a)(V)(F) of this section.

(b) Beginning in January 2027, and in January every year thereafter, the department of public safety shall include, as part of its presentation during its "SMART Act" hearing required by section 2-7-203, information regarding any identified differences between the current distribution of offender populations, program availability, and projected need.

Source: L. 93: Entire article R&RE, p. 717, § 1, effective July 1. **L. 95:** (2) amended, p. 81, § 4, effective March 23. **L. 2002:** (2)(b)(II) amended, p. 103, § 1, effective March 26. **L. 2003:** (4) amended, p. 429, § 1, effective April 1. **L. 2017:** (7) added, (SB 17-021), ch. 305, p. 1660, § 3, effective June 2. **L. 2018:** (7) amended, (SB 18-016), ch. 334, p. 2008, § 1, effective May 30. **L. 2020:** (7)(a) repealed, (HB 20-1262), ch. 60, p. 202, § 1, effective March 20. **L. 2023:** (2)(c) added, (SB 23-242), ch. 83, p. 292, § 1, effective August 7. **L. 2025:** (5) repealed, (SB 25-291), ch. 379, p. 2112, § 1, effective July 1. **L. 2026:** (8) added, (HB 26-1423), ch. 332, p. 1964, § 2, effective June 2.

Editor's note: This section is similar to former §§ 17-27-106 and 17-27-115 as they existed prior to 1993.

Cross references: For the legislative declaration in SB 17-021, see section 1 of chapter 305, Session Laws of Colorado 2017.

ARTICLE 27.1

Nongovernmental Facilities - Notice Requirements

17-27.1-101. Nongovernmental facilities for offenders - registration - notifications - penalties - definitions.

17-27.1-101. Nongovernmental facilities for offenders - registration - notifications - penalties - definitions.

(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 Adult Offender Supervision" established pursuant to part 28 of article 60 of title 24, C.R.S., 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) (Deleted by amendment, L. 2011, (HB 11-1009), ch. 5, p. 9, § 1, effective March 1, 2011.)

(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.

(b.5) "Compact administrator" means the person appointed pursuant to the provisions of part 28 of article 60 of title 24, C.R.S., to be responsible for the administration of the interstate compact.

(c) "Interstate compact" means the "Interstate Compact for Adult Offender Supervision", part 28 of article 60 of title 24, C.R.S.

(d) "Private treatment program" means any residential or nonresidential program that provides services, treatment, rehabilitation, education, or criminal-history-related treatment for

supervised or unsupervised persons in need of substance use treatment, sex offender management services, or domestic violence services required as part of the sending state's sentence. "Private treatment program" does not include a licensed behavioral health entity endorsed to provide crisis care or withdrawal management, a private contract prison facility, a prison facility operated by a political subdivision of the state, a facility providing treatment for persons with mental health disorders or intellectual and developmental disabilities, or a community corrections program established pursuant to article 27 of this title 17.

(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 for or convicted of or has agreed to a deferred judgment, deferred sentence, or deferred prosecution for a crime in another state but is or will be under the supervision of a probation officer or community parole officer in Colorado pursuant to the interstate compact. "Supervised individual" does not include an individual charged with a crime, but not convicted and sentenced, in a sending state.

(g) "Supervising person" means the person in this state who is in charge of the overall administration of a private treatment program.

(h) "Unsupervised person" means a person eighteen years of age or older who, although not required to be under the jurisdiction of a probation officer or community parole officer in Colorado, is adjudicated for 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. "Unsupervised individual" does not include an individual charged with a crime, but not convicted and sentenced, in a sending state.

(3) (a) In order to ensure uniformity and consistency, the sending state shall be in compliance with the provisions of the interstate compact, or the compact administrator shall reject the placement of the supervised person pursuant to subsection (6) of this section.

(b) A sending state shall not permit travel of a supervised person who is a nonresident of this state to the state of Colorado without written notification from the compact administrator of acceptance of the supervised person into a private treatment program when treatment is required by law or as part of the sending state's sentence.

(c) Any request for placement of a nonresident of this state 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) Repealed.

(5) A private treatment program in Colorado that admits or accepts a supervised or unsupervised person into the program shall, immediately following intake to the program, notify the supervised or unsupervised person of the person's need to register with the compact administrator and shall assist the supervised or unsupervised person in providing the person's name, date of birth, proof of identification, and any necessary release of information to the compact administrator immediately so the department may complete a complete criminal history records check of the person as shown by a national criminal information check.

(6) (a) The department shall, within forty-eight hours, run a complete criminal history records check on the individual and verify the person is a supervised or an unsupervised person. If the person is determined to be a supervised or an unsupervised person, the department shall immediately notify the private treatment program and the chief law enforcement official where the private treatment program is located and, if supervised, the person's probation or community parole officer, of the person's status.

(b) Pursuant to criteria established by the interstate compact, the compact administrator shall either accept or reject the placement of the supervised person in the private treatment program.

(c) (Deleted by amendment, L. 2000, p. 232, § 1, effective July 1, 2000.)

(d) For all unsupervised persons and for supervised persons that the compact administrator accepts for placement in a private treatment program, the compact administrator shall immediately notify the director of the Colorado bureau of investigation.

(7) The department shall notify the private treatment program and chief law enforcement official where the private treatment program is located if the person is determined to be a supervised or an unsupervised person.

(7.5) (a) A supervised or an unsupervised person may be required to appear at a law enforcement agency for fingerprinting and photographing. A probation department, the division of parole, or other agency responsible for supervising a supervised person is responsible for notifying the person of the fingerprinting and photographing requirement. The compact administrator shall arrange for notification to an unsupervised person of the fingerprinting and photographing requirement and may require authorities in the sending state to assist with notification. A law enforcement agency shall take photographs and fingerprints of a supervised or unsupervised person as required but may set reasonable limitations on the hours and location.

(b) For a supervised person, the private treatment program must be:

(I) Approved by the behavioral health administration in the department of human services if the program provides alcohol or substance use treatment to a supervised person if the treatment would be required if the offense had been committed in Colorado;

(II) Certified or approved by the sex offender management board, established in section 16-11.7-103, if the program provides sex offender treatment to a supervised person if the treatment would be required if the offense had been committed in Colorado;

(III) Certified or approved by the domestic violence offender management board, established in section 16-11.8-103, if the program provides treatment to a supervised person if the treatment for an offense if committed in Colorado would have been an act of domestic violence as defined in section 18-6-800.3, or of an act for which the underlying factual basis included an act of domestic violence; or

(IV) Licensed or certified by the division of adult parole in the department of corrections, the department of regulatory agencies, the behavioral health administration in the department of human services, the state board of nursing, or the Colorado medical board, if the program provides treatment that requires certification or licensure.

(c) (I) If the supervised person is a resident of the state of Colorado, the supervised person shall confirm that the sending state has provided all information concerning the supervised person required by the interstate compact to the compact administrator.

(II) If the supervised person is a nonresident of the state of Colorado, the supervised person shall confirm that the compact administrator has accepted the person for placement in the private treatment program.

(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 community 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 community 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 may be reported to the appropriate licensing, certifying, or approving agency responsible for oversight of the private treatment program for potential corrective action.

(b) (Deleted by amendment, L. 2023.)

(10) (a) In addition to any other duties, the compact administrator may promulgate rules governing unsupervised persons including but not limited to their identification.

(b) (Deleted by amendment, L. 2000, p. 232, § 1, effective July 1, 2000.)

(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) (Deleted by amendment, L. 2000, p. 232, § 1, effective July 1, 2000.)

(13) The department shall periodically update the out-of-state offender questionnaire used by private treatment providers. In updating the questionnaire, the department shall engage stakeholders, including, but not limited to, the behavioral health administration in the department of human services, substance use treatment providers, law enforcement, the office of the state public defender, and other concerned stakeholders.

Source: L. 86: Entire article added, p. 765, § 1, effective July 1; entire section amended, p. 763, § 5, effective July 1. **L. 93:** (1) amended, p. 718, § 4, effective July 1. **L. 95:** (1) amended, p. 1098, § 18, effective May 31. **L. 98:** (2) amended, p. 820, § 20, effective August 5. **L. 99:** Entire section R&RE, p. 1172, § 1, effective June 2. **L. 2000:** (2)(d), (2)(f), (2)(g), (2)(h), (3), (5)(a), (5)(c), (6)(c), (10)(b), and (12) amended, p. 232, § 1, effective July 1. **L. 2002:** (5)(a)(I) amended, p. 666, § 12, effective May 28. **L. 2006:** (2)(d) amended, p. 1398, § 47, effective August 7. **L. 2008:** (2)(f), (2)(h), and (8) amended, p. 658, § 11, effective April 25. **L. 2010:** (5)(a)(I) amended, (SB 10-175), ch. 188, p. 784, § 26, effective April 29; (5)(a)(IV) amended, (HB 10-1260), ch. 403, p. 1987, § 76, effective July 1. **L. 2011:** (1)(b), (2)(a), (2)(c), (3)(a), (3)(b), IP(5)(a), IP(5)(b), (5)(c), (6)(a), (6)(b), and (10)(a) amended and (2)(b.5) added, (HB 11-1009), ch. 5, p. 9, § 1, effective March 1; (5)(a)(IV) amended, (HB 11-1303), ch. 264, p. 1156, § 30, effective August 10. **L. 2017:** IP(5), (5)(a)(I), and (5)(a)(IV) amended, (SB 17-242), ch. 263, p. 1254, § 12, effective May 25. **L. 2018:** (2)(d) amended, (SB 18-091), ch. 35, p. 385, § 17, effective August 8. **L. 2022:** (5)(a)(I) and (5)(a)(IV) amended, (HB 22-1278), ch. 222, p. 1495, § 23, effective July 1. **L. 2023:** (2)(d), (2)(f), (2)(h), (3)(b), (5), (6), (7), and (9) amended, (4) repealed, and (7.5) and (13) added, (HB 23-1268), ch. 233, p. 1221, § 1, effective August 7.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017. For the legislative declaration in SB 18-091, see section 1 of chapter 35, Session Laws of Colorado 2018.

ARTICLE 27.5

Intensive Supervision Programs

17-27.5-101. Authority to establish intensive supervision programs for parolees and community corrections offenders.

17-27.5-102. Minimum standards and criteria for the operation of intensive supervision programs.

17-27.5-103. Confinement in county jail.

17-27.5-104. Escape from custody - duties of peace officer or community parole officer - definitions.

17-27.5-105. Duty to report. (Repealed)

17-27.5-106. Authority of state board of parole to utilize intensive supervision programs.

17-27.5-101. Authority to establish intensive supervision programs for parolees and community corrections offenders.

(1) (a) The department shall have the authority to establish and directly operate an intensive supervision program for any offender not having more than one hundred eighty days remaining until such offender's parole eligibility date and for any offender who successfully completes a regimented inmate discipline program pursuant to article 27.7 of this title.

(b) The department is authorized to refer for placement to an intensive supervision program operated under the jurisdiction of units of local government under contract with and approved by the department:

(I) Any offender not having more than one hundred eighty days remaining until such offender's parole eligibility date and any offender who successfully completes a regimented inmate discipline program pursuant to article 27.7 of this title;

(II) Any offender who has met program objectives of a residential community corrections program.

(c) The department shall have the authority to contract with community corrections programs and other providers for intensive supervision services subject to the approval of the affected unit of local government. In contracting for such programs, the department shall obtain the advice and consent of affected units of local government and shall consider the needs of the communities and offenders for successful reintegration into communities and the appropriate allocation of resources for effective correction of offenders.

(2) The department may place in an intensive supervision program authorized pursuant to subsection (1) of this section any offender who has been referred to a community corrections program pursuant to section 18-1.3-301 (2)(b), C.R.S., and approved for placement in the program pursuant to section 17-27-103 (5) or section 17-27-104 (3) if the placement will not increase the overall vacancy rate as of June 30, 1995, for the community corrections program.

Source: L. 86: Entire article RC&RE, p. 764, § 6, effective May 28. **L. 89:** Entire section R&RE, p. 883, § 1, effective July 1. **L. 91:** Entire section amended, p. 342, § 2, effective June 1. **L. 93:** Entire section amended, p. 44, § 1, effective July 1. **L. 95:** Entire section amended, p. 1276, § 14, effective June 5. **L. 96:** (1) amended, p. 842, § 1, effective May 23. **L. 98:** (1)(a) and (1)(b)(I) amended, p. 319, § 3, effective July 1. **L. 2002:** (2) amended, p. 1508, § 171, effective October 1. **L. 2026:** IP(1)(b) and (1)(b)(II) amended, (SB 26-036), ch. 261, p. 1449, § 6, effective June 1.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (2), see section 1 of chapter 318, Session Laws of Colorado 2002. For the legislative declaration in SB 26-036, see section 1 of chapter 261, Session Laws of Colorado 2026.

17-27.5-102. Minimum standards and criteria for the operation of intensive supervision programs.

(1) The department shall have the power to establish and enforce standards and criteria for administration of intensive supervision programs.

(2) The standards and criteria shall require that offenders in the program receive at least the minimum services consistent with public safety, including highly restricted activities, weekly face-to-face contact between the offender and the program staff, daily telephone contact between the offender and the program staff, a monitored curfew at the offender's place of residence at least once a month, employment visitation and monitoring at least twice each month, home visitation, drug and alcohol screening, treatment referrals and monitoring, assuring the payment of restitution, and community service in a manner that shall minimize any risk to the public.

(3) An offender as defined in section 17-27-102 (6) is eligible for an intensive supervision program only upon the recommendation of the department if such offender has not more than one hundred eighty days remaining until such offender's parole eligibility date or upon a transfer from a community corrections residential program under article 27 of this title if such offender has not more than one hundred eighty days remaining until such offender's parole eligibility date and if the local community corrections board finds that the correctional needs of such offender will be better served by such supervision. The local community corrections board has the authority to accept, reject, or reject after acceptance the participation of any offender in each and every intensive supervision program under this article. In selecting offenders for transfer to an intensive supervision program, the department and the local community corrections board shall consider, but shall not be limited to, the following factors:

(a) The frequency, severity, and recency of disciplinary actions against the offender;

(b) The offender's escape history, if any;

(c) Whether the offender has functioned at a high level of responsibility in a community corrections program, if applicable;

(d) Whether the offender will have adequate means of support and suitable housing in the community; and

(e) The nature of the offense for which the offender has been incarcerated.

(4) At least two weeks prior to placement of a nonparoled offender in an intensive supervision program, the executive director shall notify or cause to be notified the respective prosecuting attorney and the law enforcement agency of the affected unit of local government; and he shall have previously notified the affected corrections board.

Source: L. 89: Entire section added, p. 884, § 2, effective July 1. **L. 91:** IP(3) amended, p. 342, § 3, effective June 1. **L. 93:** IP(3) amended, p. 44, § 2, effective July 1; (3) amended, p. 719, § 5, effective July 1. **L. 96:** (1) amended, p. 843, § 2, effective May 23.

Editor's note: Amendments to subsection (3) in House Bill 93-1073 and House Bill 93-1233 were harmonized.

ANNOTATION

The department of corrections has the power to establish and enforce standards and criteria for intensive supervision programs that include alcohol and drug screening. People v. Whidden, 56 P.3d 1201 (Colo. App. 2002), aff'd on other grounds, 78 P.3d 1092 (Colo. 2003).

17-27.5-103. Confinement in county jail.

Where the community corrections administrator of an intensive supervision program has cause to believe that an offender placed in the program has violated any rule or condition of his or her placement or cannot be safely supervised in that program, the administrator shall certify to the supervising community parole officer the facts that are the basis for his or her belief and execute a transfer order to the sheriff of the county in which the program is being operated, who shall confine the offender in the county jail pending a determination by the supervising community parole officer as to whether or not the offender shall remain in the program.

Source: L. 89: Entire section added, p. 884, § 2, effective July 1. **L. 2008:** Entire section amended, p. 659, § 12, effective April 25.

17-27.5-104. Escape from custody - duties of peace officer or community parole officer - definitions.

(1) If an offender fails to remain within the extended limits on the offender's confinement as established under the intensive supervision program; or, having been ordered by the parole board, the executive director, or the administrator of the program to return to the correctional institution, neglects or fails to do so; or knowingly removes or tampers with an electronic monitoring device that the offender is required to wear as a condition of parole, the offender is deemed to have committed the offense of unauthorized absence and shall, upon conviction thereof, be punished as provided in section 18-8-208.2.

(2) When a peace officer or community parole officer has probable cause to believe that an offender has committed unauthorized absence, as described in subsection (1) of this section and section 18-8-208.2, by knowingly removing or tampering with an electronic monitoring device that he or she is required to wear as a condition of parole, the officer shall immediately seek a warrant for the offender's arrest or effectuate an immediate arrest if the offender is in the presence of the officer; except that, before an officer arrests an offender pursuant to this subsection (2), the officer, if practicable, shall determine that the notification of removal or tampering was not merely the result of an equipment malfunction.

(3) Subsequent to any arrest pursuant to subsection (2) of this section, if a peace officer or community parole officer has probable cause to believe that a person has committed the offense of unauthorized absence pursuant to this section, the peace officer or community parole officer shall submit charges to the office of the district attorney for consideration of filing pursuant to section 16-5-205.

(4) As used in this section, unless the context otherwise requires:

(a) "Peace officer" means a certified peace officer described in section 16-2.5-102.

(b) "Tampering" has the same meaning as set forth in section 17-1-102 (8.5).

Source: L. 89: Entire section added, p. 885, § 2, effective July 1. **L. 2017:** Entire section amended, (SB 17-048), ch. 94, p. 286, § 1, effective August 9. **L. 2021:** (1), (2), and (3) amended, (SB 21-146), ch. 459, p. 3085, § 9, effective July 6.

ANNOTATION

This section does not violate the separation of powers and nondelegation doctrines. The statute provides sufficient statutory standards and safeguards. People v. Sa'ra, 117 P.3d 51 (Colo. App. 2004).

This section does not violate the clear expression requirement. The subject of this section is clearly expressed in the title and failure to remain within the extended limits of confinement is essential to the accomplishment of the title. People v. Sa'ra, 117 P.3d 51 (Colo. App. 2004).

The phrase "extended limits on his confinement" is not unconstitutionally vague. People v. Perea, 74 P.3d 326 (Colo. App. 2002).

The phrase "extended limits on his confinement" refers to geographic and time limits placed on the offender beyond those placed by incarceration in a correctional facility. People v. Perea, 74 P.3d 326 (Colo. App. 2002).

Because defendant was specifically advised of his residential curfew and he acknowledged advisement of the contents of this residential curfew directive in writing, the directive constituted an extended limitation of defendant's confinement. People v. Williams, 33 P.3d 1187 (Colo. App. 2001); People v. Perea, 74 P.3d 326 (Colo. App. 2002).

For purposes of escape, there is no conflict between the home detention statute and the intensive supervision program (ISP) statute. In an escape case, the court must make a factual determination whether a defendant was placed in home detention or ISP based on the different elements of home detention and ISP. Home detention and ISP are mutually exclusive, therefore once the court determines whether the defendant was in home detention or on ISP there is no conflict. People v. Smith, 77 P.3d 751 (Colo. App. 2003); People v. Sa'ra, 117 P.3d 51 (Colo. App. 2004).

The court did not err in instructing the jury under this section concerning custody or confinement where, taken together, the jury instructions, the information, and the parole mittimus signed by defendant indicate that he had sufficient notice that he could be liable for escape from custody. People v. Taylor, 74 P.3d 396 (Colo. App. 2002).

The court did not err when it instructed the jury on ISP escape without including the "extended limits" language of this section. People v. Sa'ra, 117 P.3d 51 (Colo. App. 2004).

This section applies to all parolees and not just those on discretionary parole. Colorado cases do not distinguish between mandatory and discretionary parolees. People v. Taylor, 74 P.3d 396 (Colo. App. 2002).

Assignment of defendant to a therapeutic community providing drug and alcohol treatment, as a place of residence during intensive supervision parole, constitutes confinement. People v. Taylor, 74 P.3d 396 (Colo. App. 2002).

17-27.5-105. Duty to report. (Repealed)

Source: L. 89: Entire section added, p. 885, § 2, effective July 1. **L. 96:** Entire section amended, p. 843, § 3, effective May 23. **L. 98:** Entire section repealed, p. 729, § 14, effective May 18.

17-27.5-106. Authority of state board of parole to utilize intensive supervision programs.

An offender who is granted parole or whose parole is modified may be required by the state board of parole, as a condition of such parole, to participate in an intensive supervision program as defined by this article; except that the offender shall not be subject to the authority of the local community corrections board under section 17-27.5-102 (3).

Source: L. 89: Entire section added, p. 885, § 2, effective July 1.

ANNOTATION

Section does not violate equal protection since statutory scheme is reasonably related to the legitimate governmental interest of supervising at-risk mandatory parolees. Parole board is given discretionary power, based on an analysis of factors in § 17-27.5-102 (3), to determine who among the mandatory parolees shall participate in an intensive supervision program; factors provide guidance to parole board and statutory scheme recognizes that not all mandatory parolees should be placed in an intensive supervision program. People v. Williams, 33 P.3d 1187 (Colo. App. 2001).

The term "granted parole" includes both mandatory and discretionary parole. People v. Garcia, 64 P.3d 857 (Colo. App. 2002); People v. Perea, 74 P.3d 326 (Colo. App. 2002).

ARTICLE 27.7

Regimented Inmate Discipline and Treatment Program

17-27.7-101. Legislative declaration.

17-27.7-102. Regimented inmate training programs - authorization - standards for operation.

17-27.7-103. Regimented inmate training program - eligibility of offenders.

17-27.7-104. Acceptance and completion of the program by an offender - reconsideration of sentence.

17-27.7-105. Evaluation of regimented inmate training program. (Repealed)

17-27.7-101. Legislative declaration.

It is the intent of the general assembly that the program established pursuant to this article shall benefit the state by reducing prison overcrowding and shall benefit persons who have been convicted of offenses and placed in the custody of the department by promoting such person's personal development and self-discipline.

Source: L. 90: Entire article added, p. 963, § 1, effective June 7.

17-27.7-102. Regimented inmate training programs - authorization - standards for operation.

(1) The department may develop and implement a regimented inmate training program. Any regimented inmate training program shall include, but shall not be limited to, the following aspects:

(a) A military-styled intensive physical training and discipline program;

(b) An educational and vocational assessment and training program emphasizing job seeking skills;

(c) A health education program; and

(d) A drug and alcohol education and treatment program which shall be structured as an integral part of the entire regimented inmate training program.

(2) The department may establish and enforce standards for the regimented inmate training program and each of the aspects thereof described in subsection (1) of this section.

(3) The regimented inmate training program shall be structured in such a manner that any offender who is assigned to the program by the executive director shall remain in the program for a period of ninety days, unless removed from the program and reassigned by the executive director for unsatisfactory performance. The executive director may authorize an extension of the program for any offender not to exceed thirty days when such extension will allow the offender to be considered for probation under rule 35b of the Colorado rules of criminal procedure.

Source: L. 90: Entire article added, p. 963, § 1, effective June 7.

17-27.7-103. Regimented inmate training program - eligibility of offenders.

(1) The executive director may assign an inmate to a regimented inmate training program pursuant to section 17-40-102 (2). The executive director shall assign to a regimented inmate training program only those inmates who are nonviolent offenders thirty years of age or younger who are not serving a sentence and have not served a previous sentence in a correctional facility for an unlawful sexual behavior offense described in section 16-22-102 (9), a crime of violence described in section 18-1.3-406, an assault offense described in part 2 of article 3 of title 18, or a child abuse offense described in part 4 of article 6 of title 18; or who are not presently serving a sentence for a nonviolent offense that was reduced from an unlawful sexual behavior offense described in section 16-22-102 (9), a crime of violence described in section 18-1.3-406, an assault offense described in part 2 of article 3 of title 18, or a child abuse offense described in part 4 of article 6 of title 18, as a result of a plea agreement; or who are not aliens subject to a removal order. Any offender assigned to the program must be free of any physical or mental disability that could jeopardize his or her ability to complete the program. The department may eliminate any offender from the program upon a determination by the department that a physical disability or a mental health disorder will prevent full participation in the program by the offender. The department is absolved of liability for participation in the program.

(2) The executive director shall assign no more than one hundred offenders to the regimented inmate training program at any one time. No more than a maximum of four hundred offenders shall be assigned to the program in any one year. However, the executive director may assign offenders to the program to replace those offenders who fail to complete the program.

Source: L. 90: Entire article added, p. 964, § 1, effective June 7. **L. 92:** (1) amended, p. 254, § 1, effective March 16. **L. 2002:** (1) amended, p. 1508, § 172, effective October 1. **L. 2004:** (1) amended, p. 187, § 1, effective April 1. **L. 2017:** (1) amended, (HB 17-1046), ch. 50, p. 158, § 9, effective March 16. **L. 2018:** (1) amended, (SB 18-091), ch. 35, p. 386, § 18, effective August 8.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (1), see section 1 of chapter 318, Session Laws of Colorado 2002. For the legislative declaration in SB 18-091, see section 1 of chapter 35, Session Laws of Colorado 2018.

ANNOTATION

Immunity provision is constitutional. Norsby v. Jensen, 916 P.2d 555 (Colo. App. 1995).

Specific immunity provision in subsection (1) of this section prevails over general waiver of immunity in § 24-10-106 (1)(b), which is both earlier and less specific. Norsby v. Jensen, 916 P.2d 555 (Colo. App. 1995).

Immunity also extends to the state and to employees of the department, since the legislative rationale for immunizing the department also supports an interpretation that would also encompass these parties. Norsby v. Jensen, 916 P.2d 555 (Colo. App. 1995).

Although the executive director and not the sentencing court has the authority to assign a defendant to the regimented inmate training program (RITP), a trial court does not exceed its authority by making a recommendation to the department or simply by including on the mittimus a finding as to the defendant's eligibility for RITP. People v. Young, 894 P.2d 19 (Colo. App. 1994).

17-27.7-104. Acceptance and completion of the program by an offender - reconsideration of sentence.

(1) The department, upon acceptance of an offender into the program, shall immediately notify the court of such acceptance.

(2) (a) If an offender successfully completes a regimented inmate training program, such offender, within sixty days of termination or completion of the program, shall automatically be referred to the sentencing court so that the offender may make a motion for reduction of sentence pursuant to rule 35 (b) of the Colorado rules of criminal procedure.

(b) The department shall submit a report to the court concerning such offender's performance in the program. Such report may recommend that the offender be placed in a specialized probation or community corrections program. The court may not summarily deny the offender's motion without a complete consideration of all pertinent information provided by the offender, the offender's attorney, and the district attorney. The court may issue an order modifying the offender's sentence and placing the offender on probation or in a community corrections program.

(b.5) Notwithstanding the fact that the offender's case is on appeal, the sentencing court shall retain jurisdiction to consider and rule on motions for reconsideration filed pursuant to this subsection (2).

(c) (I) Any motion filed pursuant to paragraph (a) of this subsection (2) shall be given priority for consideration by the sentencing court. An offender who successfully completes the regimented inmate training program within twenty-eight months prior to such offender's parole

eligibility date shall be eligible for placement in a community corrections program operated pursuant to article 27 of this title.

(II) An offender placed in a community corrections program pursuant to subparagraph (I) of this paragraph (c) may be required to participate in a structured, transitional discipline program in such community corrections program for six months or until completion of the offender's sentence, whichever occurs first.

(III) Upon satisfactory completion of the community corrections program, an offender whose sentence has not been completely served may be required to participate in the intensive supervision program pursuant to section 17-27.5-102.

Source: L. 90: Entire article added, p. 964, § 1, effective June 7. **L. 95:** Entire section amended, p. 184, § 1, effective April 7. **L. 98:** (2)(c)(I) amended, p. 318, § 1, effective July 1. **L. 2007:** (2)(b.5) added, p. 557, § 3, effective April 16.

ANNOTATION

Defendant is required to file motion for reduction of sentence within 120 days after the date of successful completion of regimented inmate training program. This is because Crim. P. 35(b) provides a 120-day time limitation for the filing of a motion for reduction of sentence, and this section requires that a motion to reduce sentence must be brought pursuant to Crim. P. 35(b). People v. Campbell, 75 P.3d 1151 (Colo. App. 2003).

This section expressly incorporates the provisions of Crim. P. 35(b) as the framework for considering sentence reduction for any participant in the regimented inmate training program. Crim. P. 35(b) provides that the trial court "may, after considering the motion and supporting documents, if any, deny the motion without a hearing." Therefore, the plain language of the rule belies the claim that a hearing is required on a Crim. P. 35(b) motion. People v. Morales-Uresti, 934 P.2d 856 (Colo. App. 1996) (decided under law in effect prior to 1995 amendment).

Trial court gave complete consideration to defendant's Crim. P. 35(b) motion even though the record did not contain any information provided by defendant, his attorney, or the district attorney after defendant's acceptance into the regimented inmate training program. The court should not be precluded from ruling on defendant's motion simply because none of those entitled to provide additional information to the court chose to do so. People v. Morales-Uresti, 934 P.2d 856 (Colo. App. 1996) (decided under law in effect prior to 1995 amendment).

Resentencing of a successful regimented inmate training program participant is governed by the same

statutory limits applicable to Crim. P. 35(b) resentencing. A Crim. P. 35(b) motion, and therefore a motion for reduction of sentence under this section, gives the court discretion to resentence the defendant to a lesser term within the statutory limits, but not to lower a mandatory minimum sentence imposed by law for a specific crime. People v. Smith, 971 P.2d 1056 (Colo. 1999).

Persons convicted of child abuse resulting in death are eligible for sentence modification upon successful completion of the regimented inmate training program, but the sentencing court's discretion is limited by the relevant mandatory sentencing limits. People v. Smith, 971 P.2d 1056 (Colo. 1999).

An offender who completes the boot camp program must be referred to the sentencing court after completing the program to reconsider sentencing, however, that does not mean the judge who imposed the sentence must consider the request to reduce the defendant's sentence. The request must merely be considered by a district court judge with the power to rule on such a motion. People v. Banuelos-Landa, 109 P.3d 1039 (Colo. App. 2004).

This section does not allow a court to reduce a sentence to less than the statutory minimum sentence for the crime committed. Thus the sentence of a person serving a mandatory minimum sentence for child abuse resulting in death could not be reduced pursuant to this section. People v. Smith, 971 P.2d 1056 (Colo. 1999).

District attorney not permitted to withdraw from plea agreement when sentence reduced pursuant to this section. Because the plea agreement did not foreclose the future possibility of a reduction in sentence, the court-ordered sentence reduction could not amount to a substantial and material breach of the agreement between the parties. Keller v. People, 29 P.3d 290 (Colo. 2000).

17-27.7-105. Evaluation of regimented inmate training program. (Repealed)

Source: L. 90: Entire article added, p. 964, § 1, effective June 7. **L. 96:** Entire section repealed, p. 1267, § 186, effective August 7.

Cross references: For the legislative declaration contained in the 1996 act repealing this section, see section 1 of chapter 237, Session Laws of Colorado 1996.

ARTICLE 27.8

Home Detention Programs

17-27.8-101. Definitions.

17-27.8-102. Authority of sentencing courts to utilize home detention programs. (Repealed)

17-27.8-103. Home detention program - contracted by department of public safety.

17-27.8-104. Home detention program - operated by the judicial department.

17-27.8-105. Home detention program - operated by the department of corrections for offenders who are paroled.

17-27.8-106. Escape from custody.

17-27.8-101. Definitions.

As used in this article, unless the context otherwise requires:

(1) "Home detention" means an alternative correctional sentence or term of probation supervision wherein a defendant convicted of any felony, other than a class 1 or violent felony, is allowed to serve his sentence or term of probation, or a portion thereof, within his home or other approved residence. Such sentence or term of probation shall require the offender to remain within his approved residence at all times except for approved employment, court-ordered activities, and medical needs.

(2) "Offender" means any person who has been convicted of or who has received a deferred sentence for a felony, other than a class 1 or violent felony.

Source: L. 90: Entire article added, p. 967, § 1, effective July 1.

17-27.8-102. Authority of sentencing courts to utilize home detention programs. (Repealed)

Source: L. 90: Entire article added, p. 967, § 1, effective July 1. **L. 94:** (1)(d) added, p. 2041, § 23, effective July 1. **L. 95:** (1)(d) amended, p. 569, § 8, effective July 1. **L. 2002:** Entire section repealed, p. 1463, § 3, effective October 1.

Editor's note: In 2002, this section was relocated to § 18-1.3-105.

Cross references: For the legislative declaration contained in the act repealing this section, see section 1 of chapter 318, Session Laws of Colorado 2002.

17-27.8-103. Home detention program - contracted by department of public safety.

(1) The division of criminal justice of the department of public safety is hereby authorized to contract with private entities to develop, administer, and operate home detention programs which may be utilized by any sentencing judge pursuant to section 18-1.3-105 (1), C.R.S.

(2) Any home detention program developed pursuant to subsection (1) of this section shall include each of the following components:

(a) Supervision of the offender by personal monitoring by a home detention officer employed by the entity operating the home detention program;

(b) Supervision of the offender through monitoring by electronic devices which are capable of detecting and reporting the offender's presence or absence at such offender's approved residence, place of employment, or other court-approved activity; and

(c) Access for the offender to attend any court-ordered counseling, substance abuse treatment, vocational rehabilitation or training, or education.

Source: L. 90: Entire article added, p. 968, § 1, effective July 1. **L. 2002:** (1) amended, p. 1509, § 173, effective October 1.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (1), see section 1 of chapter 318, Session Laws of Colorado 2002.

17-27.8-104. Home detention program - operated by the judicial department.

(1) The judicial department is hereby authorized to develop, administer, and operate a home detention program which may be utilized by any sentencing judge pursuant to section 18-1.3-105 (1), C.R.S., or to contract with the division of criminal justice of the department of public safety for the utilization of home detention programs contracted for by that division.

(2) Any home detention program developed pursuant to subsection (1) of this section shall include each of the following components:

(a) Supervision of the offender by personal monitoring by a probation officer employed by the judicial department, or a home detention officer employed by a private entity operating a home detention program;

(b) Supervision of the offender through monitoring by electronic devices which are capable of detecting and reporting the offender's presence or absence at such offender's approved residence, place of employment, or other court-approved activity; and

(c) Access for the offender to attend any court-ordered counseling, substance abuse treatment, vocational rehabilitation or training, or education.

Source: L. 90: Entire article added, p. 969, § 1, effective July 1. **L. 93:** (1) amended, p. 1776, § 37, effective June 6. **L. 2002:** (1) amended, p. 1509, § 174, effective October 1.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (1), see section 1 of chapter 318, Session Laws of Colorado 2002.

17-27.8-105. Home detention program - operated by the department of corrections for offenders who are paroled.

The department of corrections is hereby authorized to develop, administer, and operate a home detention program or to contract with the division of criminal justice of the department of public safety pursuant to section 17-27.8-103 for a home detention program which may be utilized by the state board of parole for an offender as a condition of parole or modified parole.

Source: L. 90: Entire article added, p. 969, § 1, effective July 1.

17-27.8-106. Escape from custody.

If an offender fails to remain within the extended limits of a home detention program as ordered by a sentencing judge, he shall be deemed to have escaped from custody and shall, upon conviction thereof, be punished as provided in section 18-8-208, C.R.S. An offender on parole who fails to remain within the limits of a home detention program shall be deemed to be in violation of parole pursuant to section 17-2-103 (1)(e).

Source: L. 90: Entire article added, p. 969, § 1, effective July 1.

ANNOTATION

For purposes of escape, there is no conflict between the home detention statute and the intensive supervision program (ISP) statute. In an escape case, the court must make a factual determination whether a defendant was placed in home detention or ISP based on the different elements of home detention and ISP. Home detention and ISP are mutually exclusive, therefore once the court determines whether the defendant was in home detention or on ISP there is no conflict. People v. Smith, 77 P.3d 751 (Colo. App. 2003); People v. Sa'ra, 117 P.3d 51 (Colo. App. 2004).

ARTICLE 27.9

Specialized Restitution and Community Service Programs

17-27.9-101. Legislative declaration. (Repealed)

17-27.9-102. Specialized restitution and community service programs - contract with treatment providers - division of criminal justice.

17-27.9-103. Offenders who may be sentenced to the specialized restitution and community service program. (Repealed)

17-27.9-104. Contracts with providers - amounts - loans.

17-27.9-105. Evaluation of specialized restitution and community service programs.

17-27.9-106. Executive director of department - authority to accept funds - cash fund created.

17-27.9-101. Legislative declaration. (Repealed)

Source: L. 92: Entire article added, p. 262, § 2, effective July 1. **L. 93:** Entire section amended, p. 1172, § 1, effective July 1. **L. 2002:** Entire section repealed, p. 1463, § 3, effective October 1.

Editor's note: In 2002, this section was relocated to § 18-1.3-302.

Cross references: For the legislative declaration contained in the act repealing this section, see section 1 of chapter 318, Session Laws of Colorado 2002.

17-27.9-102. Specialized restitution and community service programs - contract with treatment providers - division of criminal justice.

(1) The director of the division of criminal justice in the department of public safety may, pursuant to section 17-27-108, contract with one or more public or private providers or community corrections boards, as defined in section 17-27-102 (2), who operate restitution and community service facilities, to provide specialized restitution and community service programs that meet the requirements of this section. As used in this article 27.9, such providers are referred to as "providers". The behavioral health administration in the department of human services shall approve any entity that provides treatment for substance use disorders pursuant to article 80 of title 27.

(2) Any contract entered into for a specialized restitution and community service program pursuant to this section shall meet the following criteria:

(a) The goals of the program shall include, but shall not be limited to:

(I) A level of supervision for each offender appropriate to ensure public safety;

(II) The reimbursement to the victim and to society for the damage caused by the offender's crime through restitution and community service performed by the offender;

(III) The reduction of any substance abuse by any offender placed in the program, with the ultimate goal of abstinence from the use of drugs or alcohol by each such offender;

(IV) The reduction of recidivism by offenders who have completed the program;

(V) The development of employment skills and the attainment of meaningful employment by any offender placed in the program;

(VI) The use of peer support and accountability for any offender placed in the program, and the continuation of services and ongoing participation in the program to maintain the offender's progress;

(VII) The enhancement of the educational skills of any offender placed in the program, including the enhancement of self-care and self-sufficiency capabilities.

(b) (I) The program shall consist of three phases as follows:

(A) The first phase shall be intensive residential treatment;

(B) The second phase shall consist of residential treatment in conjunction with gradual reentry into the community;

(C) The third phase shall consist of nonresidential treatment.

(II) The first and second phases may continue for up to nine months, and the third phase may continue for up to twelve months or longer if restitution and community service have not been completed. The degree of supervision during the third phase shall be designed to decrease in intensity as the offender responds to the program and becomes substantially reestablished in the community.

(III) Victim restitution and community service shall be a primary emphasis in the second and third phases.

Source: L. 92: Entire article added, p. 263, § 2, effective July 1. **L. 93:** (1) amended, p. 720, § 6, effective July 1. **L. 94:** (1) amended, p. 2653, § 131, effective July 1. **L. 2010:** (1) amended, (SB 10-175), ch. 188, p. 784, § 27, effective April 29. **L. 2017:** (1) amended, (SB 17-242), ch. 263, p. 1303, § 134, effective May 25. **L. 2022:** (1) amended, (HB 22-1278), ch. 222, p. 1496, § 24, effective July 1.

Cross references: For the legislative declaration contained in the 1994 act amending subsection (1), see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

17-27.9-103. Offenders who may be sentenced to the specialized restitution and community service program. (Repealed)

Source: L. 92: Entire article added, p. 264, § 2, effective July 1. **L. 93:** (1) amended and (4) added, p. 1173, § 2, effective July 1; (2)(b) amended, p. 720, § 7, effective July 1. **L. 2002:** Entire section repealed, p. 1463, § 3, effective October 1.

Editor's note: In 2002, this section was relocated to § 18-1.3-302.

Cross references: For the legislative declaration contained in the act repealing this section, see section 1 of chapter 318, Session Laws of Colorado 2002.

17-27.9-104. Contracts with providers - amounts - loans.

(1) Any provider who contracts with the executive director of the department of public safety to provide specialized restitution and community service programs pursuant to section 17-27.9-102 shall be reimbursed on a per diem rate for residential supervision and a monthly rate for nonresidential supervision which rate shall be the final rate proposed by the provider during the competitive bidding process.

(2) Any offender who has the ability to pay all or any part of the cost of the offender's treatment and room and board pursuant to this article through assets or through any employment during the second or third phase of the program shall be ordered to make such payments to the provider. Any moneys collected by the provider pursuant to this subsection (2) shall be used to offset payments made to the provider pursuant to subsection (1) of this section. The amount of any such payments shall be set by the probation department after considering the offender's expenses for family support, victim restitution, and other living expenses.

(3) Any provider who contracts with the executive director of the department of public safety to provide specialized restitution and community service programs pursuant to section 17-27.9-102 may use the payments which such provider receives pursuant to this section to match federal or private grants in order to fund the provision of additional specialized restitution and community service programs, so long as matching such grants does not cause a reduction in the available bed space and so long as matching such grants does not bind the general assembly to fund such programs in future years.

Source: L. 92: Entire article added, p. 265, § 2, effective July 1. **L. 93:** (1) amended and (3) added, p. 1174, § 3, effective July 1.

17-27.9-105. Evaluation of specialized restitution and community service programs.

(1) The director of the division of criminal justice shall conduct annual evaluations of each specialized restitution and community service program under which services are provided pursuant to this article. Evaluations shall include the consideration of the physical facility for each program, the financial operation of each program, and the effectiveness of each program in meeting the goals and requirements set forth in this article. The division of criminal justice shall develop specific evaluation criteria for each specialized restitution and community service program throughout the state after consultation with the local corrections board in the community where such program is located. Any provider that fails to meet the evaluation criteria within a reasonable time shall be subject to the termination of any contract entered into with such provider pursuant to this article.

(2) Repealed.

Source: L. 92: Entire article added, p. 265, § 2, effective July 1. **L. 96:** (2) repealed, p. 1267, § 185, effective August 7.

Cross references: For the legislative declaration contained in the 1996 act repealing subsection (2), see section 1 of chapter 237, Session Laws of Colorado 1996.

17-27.9-106. Executive director of department - authority to accept funds - cash fund created.

The executive director of the department of public safety is hereby authorized to accept any grants or donations from any private or public source for the purpose of administering specialized restitution and community service programs pursuant to this article. Any such grants or donations shall be transmitted to the state treasurer, who shall credit the same to the specialized restitution and community service cash fund, which fund is hereby created. The moneys in the fund shall be subject to annual appropriation by the general assembly and, in accordance with section 24-36-114, C.R.S., all interest derived from the deposit and investment of this fund shall be credited to the general fund.

Source: L. 92: Entire article added, p. 266, § 2, effective July 1.

ARTICLE 28

Restitution to Victims of Crime

17-28-101. Legislative declaration.
17-28-102. Establishment of restitution programs.
17-28-103. Victim-offender conferences - pilot program.

17-28-101. Legislative declaration.

(1) The general assembly finds and declares that:

(a) The number of victims of crime increases daily;

(b) These victims suffer undue hardship by virtue of physical, mental, and emotional injury or loss of property;

(c) Persons found guilty of causing such suffering are under a moral and legal obligation to make adequate restitution and restoration to those injured by their conduct;

(d) Restitution and restoration provided by criminal offenders to their victims may be instruments of rehabilitation for offenders and may contribute to the healing and improved emotional well-being of their victims.

(2) The purpose of this article is to encourage the establishment of programs to provide for restitution to and restoration of victims of crime by offenders who are sentenced, or who have been released on parole, or who are being held in local correctional and detention facilities. It is the intent of the general assembly that restitution be utilized wherever feasible to restore losses to the victims of crime and to aid the offender in reintegration as a productive member of society. It is also the purpose of this article to promote establishment of victim-offender conferences in the institutions under the control of the department of corrections, using restorative justice practices as defined in section 18-1-901 (3)(o.5), C.R.S.

Source: L. 77: Entire title R&RE, p. 947, § 10, effective August 1. **L. 2011:** Entire section amended, (HB 11-1032), ch. 296, p. 1400, § 2, effective August 10.

Editor's note: This section is similar to former § 27-28-101 as it existed prior to 1977.

17-28-102. Establishment of restitution programs.

The department shall, as a means of assisting in the rehabilitation of persons committed to its care, including persons placed in community correctional facilities or programs, establish programs and procedures whereby such persons may contribute toward restitution of those persons injured as a consequence of their criminal acts.

Source: L. 77: Entire title R&RE, p. 947, § 10, effective August 1. **L. 87:** Entire section amended, p. 1826, § 6, effective August 27. **L. 96:** Entire section amended, p. 1266, § 184, effective August 7.

Editor's note: This section is similar to former § 27-28-102 as it existed prior to 1977.

Cross references: For the legislative declaration contained in the 1996 act amending this section, see section 1 of chapter 237, Session Laws of Colorado 1996.

17-28-103. Victim-offender conferences - pilot program.

The department is authorized to establish a pilot program, when funds become available, in its correctional facilities to facilitate victim-initiated victim-offender conferences whereby a victim of a crime may request a facilitated conference with the offender who committed the crime, if the offender is in the custody of the department. After such a pilot program is established, the department may establish policies and procedures for the victim-offender conferences using volunteers to facilitate the conferences. The volunteers shall complete the department's volunteer and facility-specific training programs and complete high-risk victim-offender training and victim advocacy training. The department shall not compensate or reimburse a volunteer or victim for any expenses nor otherwise incur any additional expenses to establish or operate the victim-offender conferences pilot program. If a pilot program is available, and subsequent to the victim's or the victim representative's request, the department shall arrange such a conference only after determining that the conference would be safe and only if the offender agrees to participate. The purposes of the conference shall be to enable the victim to meet the offender, to obtain answers to questions only the offender can answer, to assist the victim in healing from the impact of the crime, and to promote a sense of remorse and acceptance of responsibility by the offender that may contribute to his or her rehabilitation.

Source: L. 2011: Entire section added, (HB 11-1032), ch. 296, p. 1401, § 3, effective August 10.

ARTICLE 29

Physical Labor by Inmates

17-29-101. Legislative declaration.
17-29-102. Definitions.
17-29-103. Executive director to establish work program.
17-29-104. Offenders in work program. (Repealed)
17-29-105. Minimum security off-grounds work programs - authorized.

17-29-101. Legislative declaration.

The general assembly finds and declares that the people of this state benefit from an inmate rehabilitation and work program that promotes that person's successful rehabilitation, reentry, and reintegration into the community; that the executive director has custody over inmates who could benefit from such a program; that such a program provides work skills and instills a work ethic in inmates, thereby facilitating their readjustment to society. To these ends, it is the purpose of this article 29 to create within the department internal and external rehabilitation and work programs for inmates sentenced to the department. The executive director or the executive director's designee may appoint facility wardens, responsible for the administration of correctional facilities, to perform the duties and functions set forth in this article 29.

Source: L. 81: Entire article added, p. 965, § 1, effective June 10. **L. 97:** Entire section amended, p. 28, § 5, effective March 20. **L. 2000:** Entire section amended, p. 848, § 46, effective May 24. **L. 2022:** Entire section amended, (SB 22-050), ch. 51, p. 246, § 12, effective March 30.

17-29-102. Definitions.

As used in this article, unless the context otherwise requires:

(1) "Able-bodied offender" has the same meaning as set forth in section 17-24-103 (1).

(2) "Work program" means a work program established pursuant to the provisions of this article.

Source: L. 81: Entire article added, p. 965, § 1, effective June 10.

17-29-103. Executive director to establish work program.

(1) The executive director may establish an intensive labor work program at all facilities, utilizing the physical labor of able-bodied offenders, which will be directed toward the reclamation and maintenance of land and resources, including but not limited to those of any federal, state, or local governmental agency or nonprofit agency within this state, and which will be administered by the various wardens responsible for the administration of any correctional facility. Such intensive labor work program shall be operated on an incentive basis so that an offender assigned to the intensive labor work program who demonstrates that he or she is willing to modify his or her behavioral patterns, to cooperate in his or her rehabilitation, and to learn both a work ethic and a job skill becomes eligible for reassignment from the intensive labor work program.

(2) Immediately after the evaluation and diagnosis required by section 16-11-308 (2), C.R.S., and initial placement at a correctional facility, every able-bodied offender may, by departmental classification action, be assigned to and shall participate in the intensive labor work program for a period of not less than thirty days; except that the executive director or the wardens responsible for the administration of correctional facilities may waive or delay an offender's initial assignment to the intensive labor work program for the good of the department. Offenders assigned to the intensive labor work program will be compensated at a rate set in accordance with the regulations of the department concerning offender pay, including but not limited to provisions concerning deductions and reimbursement for care claims.

(3) The executive director is specifically authorized to assign such other able-bodied offenders whose behavior is inconsistent with the rules established by the executive director or the executive director's designee to the intensive labor work program for such periods of time as may best serve the offenders and assist the executive director in the management of correctional facilities under the supervision of the executive director. Eligibility for reassignment from the intensive labor work program to such educational or vocational work programs as are consistent with the diagnosis and evaluation conducted pursuant to article 40 of this title will be determined by departmental classification action after reviewing the offender's willingness to modify behavioral patterns, to commit to cooperating in rehabilitation, and to learn both a work ethic and a job skill. Offenders assigned to the intensive labor work program pursuant to this section will also be compensated at a rate set in accordance with the regulations concerning offender pay promulgated by the department.

(4) The executive director shall establish rules to implement this article.

Source: L. 81: Entire article added, p. 966, § 1, effective June 10. **L. 97:** Entire section amended, p. 28, § 6, effective March 20. **L. 2000:** (1) and (2) amended, p. 848, § 47, effective May 24.

17-29-104. Offenders in work program. (Repealed)

Source: L. 81: Entire article added, p. 966, § 1, effective June 10. **L. 95:** Entire section repealed, p. 876, § 10, effective July 1.

17-29-105. Minimum security off-grounds work programs - authorized.

(1) The executive director, in collaboration with the division of correctional industries, may establish an external work program for any appropriate medium, minimum, and minimum-

restrictive inmates. The purpose of the program is to provide employment opportunities for such inmates, to reinforce the rehabilitation of such inmates, and to provide inmates with the necessary skills and appropriate work ethics in reentering the work force and their communities. Under the program, inmates may be assigned to appropriate work assignments through employment agreements with any federal, state, or local governmental agency; nonprofit agency; or private person or entity. The executive director shall determine appropriate work assignments. Employment agreements must comply with criteria established by the executive director pursuant to section 17-20-115; except that such criteria may include but is not limited to the following requirements:

(a) That a requesting agency outline in detail any work to be performed by inmates, the period of time for completing the project, and the respective responsibilities of the requesting agency and the department of corrections in connection with the project agreement;

(b) That a requesting agency provide any necessary materials, equipment, and transportation or defray operational costs of state vehicles;

(c) That appropriate security be provided at all times. In connection with this requirement, agencies may contract with the department of corrections for the department to provide such security.

(d) That a requesting agency ensure that any person who supervises an inmate in connection with a work project be trained by department of corrections personnel to supervise correctional inmates. Such training may be provided by department of corrections personnel.

(e) That the number of inmates supervised by one person not exceed ten;

(f) That a requesting agency comply with any reporting requirements established by the executive director in connection with an off-grounds work project and the inmates participating in such project;

(g) That an inmate receive security clearance to leave a correctional facility by the classification officer or committee and receive approval from the executive director;

(h) That inmates are compensated at the state minimum wage, in accordance with the provisions of this title 17, and with the department inmate pay regulation provisions with respect to deductions.

(2) Repealed.

(3) The executive director may appoint one or more designees to perform the duties and functions set forth in this section.

Source: L. 95: Entire section added, p. 876, § 11, effective July 1. **L. 2000:** IP(1) amended, p. 849, § 48, effective May 24. **L. 2022:** IP(1) and (1)(h) amended and (2) repealed, (SB 22-050), ch. 51, p. 246, § 13, effective March 30.

ARTICLE 30

Interdepartmental Cooperation Concerning Offenders

17-30-101. Interdepartmental cooperation concerning offenders. (Repealed)

Source: L. 90: Entire article added, p. 978, § 1, effective May 8. **L. 95:** (1) repealed, p. 1098, § 19, effective May 31. **L. 99:** (2) repealed, p. 623, § 19, effective August 4.

ARTICLE 30.5

Interdepartmental Agreements to Consolidate Parole and Probation Offices

17-30.5-101. (Repealed)

Source: L. 2000: Entire article repealed, p. 849, § 49, effective May 24.

Editor's note: This article was added in 1991. For amendments to this article prior to its repeal in 2000, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 31

Volunteerism in the Juvenile and Adult Criminal Justice System

17-31-101. Legislative declaration.
17-31-102. Definitions.
17-31-103. Volunteers - rehabilitation and transition - programs.
17-31-104. Right to visit offenders.

17-31-101. Legislative declaration.

The general assembly hereby finds it necessary to provide for and encourage the implementation of programs within the state's correctional facilities, the probation division of the judicial department, the parole division within the department of corrections, the division of youth services within the department of human services, and the department of public safety that enable volunteers to effectively assist with the rehabilitation and transition of adult and juvenile offenders. The general assembly encourages the maximum use of volunteers to complement the regular staffs of such adult corrections, parole, probation, and juvenile services divisions and encourages volunteers to participate in existing programs for adult and juvenile offenders in those divisions. The general assembly finds that such volunteers should be allowed, where practical and within the safety and security requirements of the applicable institution or program, to meet with and freely communicate with offenders to assist with the rehabilitation and transition of such offenders, in order to establish support groups and systems outside of the correctional facility.

Source: L. 90: Entire article added, p. 980, § 1, effective May 14. **L. 94:** Entire section amended, p. 2653, § 132, effective July 1. **L. 2008:** Entire section amended, p. 1104, § 6, effective July 1. **L. 2017:** Entire section amended, (HB 17-1329), ch. 381, p. 1970, § 18, effective June 6.

Cross references: For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of Colorado 1994.

17-31-102. Definitions.

As used in this article 31, unless the context otherwise requires:

(1) "Approved volunteer organization" means an organization which has screened and trained volunteers for working with adult and juvenile offenders in correctional facilities and in parole and probation programs of the judicial department, the department of corrections, the department of human services, and the department of public safety prior to January 1, 1990, or pursuant to guidelines for training volunteers established by either the executive director of the department of corrections, the executive director of the department of human services, the executive director of the department of public safety, or the chief justice of the supreme court. Such guidelines shall address the issues of liability, supervision, support, and training of volunteers.

(2) "Division" means the division or department directing or administering any public or private correctional institution or detention facility in which offenders are housed or treated, any probation program within each judicial district, or any juvenile or adult parole program, including but not limited to, the judicial department, the department of public safety and the division of criminal justice therein, the department of corrections and the division of adult parole therein, and the department of human services and the division of youth services therein.

(3) "Institution" means any of the following:

(a) A correctional facility, as that term is defined in section 17-1-102 (1.7);

(b) A community corrections program, as that term is defined in section 17-27-102 (3);

(c) A halfway house, as that term is defined in section 19-2.5-102;

(d) A diagnostic and evaluation center, as that term is defined in section 19-2.5-102;

(e) A receiving center, as that term is defined in section 19-2.5-102;

(f) A diagnostic center, as that term is defined in section 17-40-101 (1.5);

(g) Any jail operated by a county or a city and county;

(h) A minimum security facility, as that term is defined in section 17-25-101 (2).

(4) "Offender" means any person who has been convicted of or who has received a deferred sentence for a felony or misdemeanor who is under the authority of an agency.

(5) "Volunteer" means any person who has completed the training from an approved volunteer organization and gives his services without any express or implied promise of remuneration.

Source: L. 90: Entire article added, p. 980, § 1, effective May 14. **L. 93:** (3)(b) amended, p. 720, § 8, effective July 1. **L. 94:** (1) and (2) amended, p. 2653, § 133, effective July 1. **L. 96:** (3)(c) to (3)(e) amended, p. 1691, § 23, effective January 1, 1997. **L. 2000:** (2) amended, p. 858, § 69, effective May 24. **L. 2008:** (2) amended, p. 1104, § 7, effective July 1. **L. 2017:** IP and (2) amended, (HB 17-1329), ch. 381, p. 1970, § 19, effective June 6. **L. 2021:** (3)(c), (3)(d), and (3)(e) amended, (HB 21-059), ch. 136, p. 717, § 37, effective October 1.

Cross references: For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of Colorado 1994.

17-31-103. Volunteers - rehabilitation and transition - programs.

(1) Each division shall facilitate, where practicable, the use of volunteers to assist and participate in the development and implementation of programs for the rehabilitation and transition of and growth of support groups and systems for adult and juvenile offenders in the following institutions and programs:

(a) Any correctional facility or county or city and county jail;

(b) Any community correctional facility or program operated pursuant to article 27 of this title;

(c) The adult parole program of the division of adult parole within the department;

(d) The juvenile parole program of the division of youth services within the department of human services;

(e) Any intensive supervision program operated by the department or operated by a local government under contract with the department pursuant to section 17-27.5-101;

(f) Any work release or education release program pursuant to section 18-1.3-207, C.R.S.;

(g) Any intensive supervision probation program, established by the judicial department pursuant to section 18-1.3-208, C.R.S.;

(h) Any adjunct probation services program pursuant to section 16-11-214, C.R.S.;

(i) The juvenile diversion program established and administered by the division of criminal justice of the department of public safety.

(j) (Deleted by amendment, L. 92, p. 2174, § 25, effective June 2, 1992.)

(2) Each division may implement programs in addition to those set forth in subsection (1) of this section which utilize volunteers to assist in such division with such division's parole, probation, or other offender rehabilitation functions.

Source: L. 90: Entire article added, p. 981, § 1, effective May 14. **L. 92:** (1)(j) amended, p. 2174, § 25, effective June 2. **L. 94:** (1)(d) amended, p. 2654, § 134, effective July 1. **L. 96:** (1)(e) amended, p. 843, § 4, effective May 23. **L. 2000:** (1)(c) amended, pp. 849, 858, §§ 50, 70, effective May 24. **L. 2002:** (1)(f) and (1)(g) amended, p. 1509, § 175, effective October 1. **L. 2008:** (1)(d) amended, p. 1104, § 8, effective July 1. **L. 2017:** (1)(d) amended, (HB 17-1329), ch. 381, p. 1970, § 20, effective June 6.

Editor's note: Amendments to subsection (1)(c) by sections 50 and 70 of House Bill 00-1133 were harmonized.

Cross references: For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration contained in the 2002 act amending subsections (1)(f) and (1)(g), see section 1 of chapter 318, Session Laws of Colorado 2002.

17-31-104. Right to visit offenders.

(1) A volunteer who has completed minimum training from an approved volunteer organization may visit any offender or offenders to whom such volunteer has been assigned at any institution and in any program utilizing volunteers as set forth in section 17-31-103, subject to reasonable times and for purposes within such guidelines as may be prescribed by the division of adult parole within the department, if such volunteer presents no security risk to such institution or program and has received basic training in volunteer services. Nothing in this section shall restrict the right of a warden of any facility or program from denying access to a facility or program to a volunteer seeking to visit any offender or offenders.

(2) The rights set forth and recognized under subsection (1) of this section are subject to the right of any offender to refuse such visitation.

Source: L. 90: Entire article added, p. 981, § 1, effective May 14. **L. 94:** (1) amended, p. 604, § 11, effective July 1. **L. 2000:** (1) amended, pp. 849, 858, §§ 51, 71, effective May 24.

Editor's note: Amendments to subsection (1) by sections 51 and 71 of House Bill 00-1133 were harmonized.

ARTICLE 32

Correctional Education Program

17-32-101. Short title.
17-32-102. Legislative declaration.
17-32-103. Definitions.
17-32-104. Division of correctional education - advisory board to the division. (Repealed)

17-32-105. Development of correctional education program - goals and objectives - performance objectives - evaluation - transfers of custody - reports.

17-32-106. Powers and duties of the program.

17-32-107. Correctional education program fund.

17-32-108. Sale of goods and services.

17-32-101. Short title.

This article shall be known and may be cited as the "Correctional Education Program Act of 1990".

Source: L. 90: Entire article added, p. 971, § 1, effective July 1.

17-32-102. Legislative declaration.

(1) The general assembly hereby finds and declares that illiteracy is a problem in today's society and a particular problem among persons in correctional facilities.

(2) The general assembly further finds and declares that:

(a) Illiteracy and cognitive and vocational deficiencies among persons in the custody of the department contribute to their inability to successfully reintegrate into society upon their release from custody and the likelihood of their return to criminal activity; and

(b) Research demonstrates a clear relationship between employment of such persons and a reduction in their recidivism.

(3) It is therefore the intent of the general assembly in enacting this article to:

(a) Develop and implement a comprehensive competency-based educational and vocational program to combat illiteracy and develop marketable employment skills among persons in correctional facilities so they can become productive members of society when they are reintegrated into society; and

(b) Ensure that state funding is provided to educational and vocational programs that meet performance objectives, provide market-relevant training, and are proven to increase the likelihood that persons who are released from a correctional facility will successfully reintegrate into society.

Source: L. 90: Entire article added, p. 971, § 1, effective July 1. **L. 2000:** Entire section amended, p. 850, § 52, effective May 24. **L. 2010:** Entire section amended, (HB 10-1112), ch. 57, p. 205, § 1, effective August 11.

17-32-103. Definitions.

As used in this article, unless the context otherwise requires:

(1) "Correctional education program" means the comprehensive competency-based educational and vocational program for persons in the custody of the department developed and implemented pursuant to the provisions of this article in order to ensure that each such person reaches maximum proficiency and readiness for reintegration into society.

(2) and (3) Repealed.

Source: L. 90: Entire article added, p. 971, § 1, effective July 1. **L. 2000:** (2) and (3) repealed, p. 850, § 53, effective May 24. **L. 2010:** (1) amended, (HB 10-1112), ch. 57, p. 206, § 2, effective August 11.

17-32-104. Division of correctional education - advisory board to the division. (Repealed)

Source: L. 90: Entire article added, p. 972, § 1, effective July 1. **L. 94:** (2)(e) repealed, p. 630, § 3, effective April 14. **L. 2000:** Entire section repealed, p. 850, § 54, effective May 24.

17-32-105. Development of correctional education program - goals and objectives - performance objectives - evaluation - transfers of custody - reports.

(1) On and after July 1, 1990, the correctional education program is responsible for providing educational services to persons in correctional facilities under the control of the department and for developing and implementing a comprehensive competency-based educational and vocational program, which must conform to the goals and objectives outlined in this subsection (1). The correctional education program may be implemented in phases with the goals and objectives implemented in all facilities in the order specified in this subsection (1); except that the goal and objective stated in subsection (1)(a) of this section must be implemented in all correctional facilities no later than July 1, 1991, and the entire program must be completely implemented in all correctional facilities no later than July 1, 1992. The program shall continue

to operate instructional services currently offered in correctional facilities until such services are incorporated in or replaced by instructional services offered under the correctional education program. The correctional education program must encompass the following goals and objectives:

(a) First, to ensure that every inmate in a correctional facility shall receive appropriate academic services mandated by federal or state statutes, regulations, or orders;

(b) Second, to ensure that every person in a correctional facility who has an expectation of release from custody within five years and lacks basic and functional literacy skills receive adult basic education instruction in accordance with the provisions of subsection (3) of this section;

(c) Third, to provide every person in a correctional facility who has an expectation of release from custody within five years with the opportunity to achieve functional literacy, specifically the ability to read and write the English language and the ability to perform routine mathematical functions prior to his or her release;

(d) Fourth, to provide every person in a correctional facility who has an expectation of release from custody within five years and who has demonstrated the intellectual capacity with the opportunity to successfully complete a high school equivalency examination, as defined in section 22-33-102 (8.5), C.R.S. A person who wishes to receive a standard high school diploma must meet the graduation requirements established by the school district where he or she was last enrolled or pass the high school equivalency examination. To be eligible to receive credit for completion of a course required for the receipt of a high school diploma, a person must satisfy the requirements for the course as established by the school district where he or she was last enrolled.

(e) Fifth, to ensure that every person in a correctional facility who has an expectation of release from custody within five years has an opportunity to acquire at least entry-level marketable vocational skills in one or more occupational fields for which there is a demonstrable demand in the economy of this state;

(f) Sixth, to ensure that every person in a correctional facility be released possessing life management skills which will allow him to function successfully in a free society;

(g) Seventh, to provide every person in a correctional facility who demonstrates college-level aptitudes with the opportunity to participate in college-level academic programs that may be offered within the correctional facility. Costs for such programs may be borne through private, local, or federally funded gifts, grants, donations, or scholarships; or by such persons themselves; or through any combination of such funding.

(2) The correctional education program developed pursuant to subsection (1) of this section shall provide that training in the fundamentals of personal health be an integral part of all instructional services offered in such program. Such training shall include instruction in personal

hygiene, general health, and substance abuse education. The program shall also provide courses of instruction in the evening in order to accommodate those persons in work programs.

(3) (a) Except as otherwise provided in paragraph (b) of this subsection (3), any person in a correctional facility who lacks basic and functional literacy skills, as determined through the use of a literacy test approved by the state board of education, shall be required to complete sequential course work sufficient to allow the inmate to pass a competency test or the test of general education development or both. If a composite test score of functional literacy is not attained, the program may require the inmate to continue to receive adult basic education instruction.

(b) A person in a correctional facility who lacks basic and functional literacy skills shall be required to attend adult basic education instruction unless such person:

(I) Is serving a life sentence or is under sentence of death;

(II) Is specifically exempted by the program from participation for security or health reasons;

(III) Is housed at a community correctional facility;

(IV) Is determined, through testing, to have attained a functional literacy level;

(V) Is, because of a disability, at a maximum level of proficiency;

(VI) Refuses, in writing, to participate in adult basic education instruction; or

(VII) Fails to make "positive progress" after a minimum of twenty hours.

(4) This section shall not affect the eligibility of any person for educational training programs, vocational programs, or other programs expressly created under federal or state statutes, regulations, or orders.

(5) On or before December 31, 2010, the department shall develop a plan for each educational or vocational program offered pursuant to this article to meet the following performance objectives:

(a) The department is encouraged to use a vocational skills assessment to determine the vocational needs of each offender who is eligible to participate in a vocational program. To the extent practicable, the department shall assign each such offender to a vocational program based on this assessment.

(b) The program shall use a curriculum or a set of training practices that is:

(I) Approved by the department of education created in section 24-1-115, C.R.S., or the state board for community colleges and occupational education created in section 23-60-104, C.R.S.; or

(II) Described as part of an agreement or contract entered into pursuant to section 17-32-106 (1)(b).

(c) The program shall provide offenders training and competency in marketable skills that are relevant and likely to be in demand in the workplace as determined by data provided to the department by the department of labor and employment pursuant to subsection (6) of this section.

(6) On or before October 1, 2010, and on or before October 1 of each year thereafter, the department of labor and employment created in section 24-1-121, C.R.S., shall provide the department with data on current market trends and labor needs in Colorado to assist the department in providing educational and vocational programs that satisfy the performance objective described in paragraph (c) of subsection (5) of this section.

(7) When considering an offender for transfer, the department shall take the offender's enrollment in an educational or vocational program into consideration unless the offender is granted parole or is placed into a community corrections program pursuant to article 27 of this title. If the department transfers an offender enrolled in an educational or vocational program to another facility, the department is encouraged to give the offender priority for placement in a comparable educational or vocational program if such a program exists at the facility.

(8) The department shall annually report the following information concerning educational and vocational programs offered pursuant to this article:

(a) A list of the specific programs offered at each state-operated facility and private prison that houses offenders on behalf of the department;

(b) The number of instructors and the number of instructor vacancies, by program and facility;

(c) The annual capacity of each program;

(d) The annual enrollment of each program, including the number of offenders who were placed on a waiting list for the program and the average length of time spent on the waiting list by each such offender;

(e) The number of offenders who successfully completed each program in the previous fiscal year;

(f) The number of offenders who enrolled in each program but failed to successfully complete the program in the previous fiscal year, including for each such offender the reason for the offender's noncompletion;

(g) The percentage of parolees who are employed full-time, employed part-time, or unemployed at the end of the previous fiscal year;

(h) A summary of the results of any program evaluations or cost-benefit analyses performed by the department; and

(i) The total amount of state and federal funding allocated by the department during the most recently completed fiscal year for vocational and educational programs, including information concerning the allocation of each source of funding and the amount of funding received by each program.

Source: L. 90: Entire article added, p. 973, § 1, effective July 1. **L. 93:** (3)(b)(V) amended, p. 1634, § 17, effective July 1. **L. 2000:** IP(1), (1)(a), (3)(a), and (3)(b)(II) amended, pp. 850, 859, §§ 55, 72, effective May 24. **L. 2009:** (1)(g) amended, (HB 09-1264), ch. 117, p. 494, § 1, effective August 5. **L. 2010:** IP(1), (1)(b), (1)(c), (1)(d), (1)(e), and (4) amended and (5), (6), (7), and (8) added, (HB 10-1112), ch. 57, p. 206, § 3, effective August 11. **L. 2011:** (5)(c) amended, (HB 11-1303), ch. 264, p. 1157, § 31, effective August 10. **L. 2014:** IP(1) and (1)(d) amended, (SB 14-058), ch. 102, p. 378, § 4, effective April 7. **L. 2018:** IP(1) and (1)(g) amended, (HB 18-1437), ch. 399, p. 2363, § 1, effective August 8.

17-32-106. Powers and duties of the program.

(1) In connection with the development and implementation of the correctional education program, the program shall have the following powers and duties:

(a) To promulgate rules and regulations necessary to implement the correctional education program;

(b) To enter into agreements and contracts with school districts, charter schools, nonpublic schools, community colleges, local district colleges, state colleges and universities, trade unions, private occupational schools, private businesses, the department of labor and employment created in section 24-1-121, C.R.S., state and local government agencies, and private agencies as may be deemed appropriate for the purpose of providing instructional services necessary to implement the correctional education program. Agreements and contracts for the provision of instructional services shall expressly state the educational goals and objectives of the program and the specific requirements for instructional services.

(b.5) To sell goods and services pursuant to the provisions of section 17-32-108;

(c) To submit a budget request for the correctional education program for inclusion in the budget request for the department as a separate line item. Such line item shall be the department's total budget request for correctional education funding from the general fund and shall replace or include any such previous request for instructional or educational funding. Such budget request shall itemize the amount of the budget to be funded from the general fund of the state and the

amount to be funded from moneys in the correctional education program fund created in section 17-32-107. No other funds from the general assembly shall be allocated to the department for any education program.

(d) To accept moneys from the federal government as well as contributions, grants, gifts, bequests, and donations from individuals, private organizations, and foundations and do all things necessary, not inconsistent with this article or any other laws of this state, in order to avail itself of such federal moneys under any federal legislation. All moneys accepted by the program shall be transmitted to the state treasurer for credit to the correctional education program fund.

(e) To enter into agreements with state agencies, as appropriate, in order to receive any funding or moneys available for correctional education;

(f) To expend moneys appropriated to the program by the general assembly, including moneys in the correctional education program fund, for the purpose of implementing the correctional education program;

(g) Repealed.

(h) To enter into negotiations with the department of human services for the purpose of coordinating and offering education services to juveniles in the custody of that department. The executive directors of the departments of corrections and human services shall each submit a proposed plan to the governor and general assembly, no later than January 1, 1992, for integrating such juveniles into the correctional education program.

(i) To exercise any other powers or perform any other duties that are consistent with the purposes for which the program was created and that are reasonably necessary for the fulfillment of the program's responsibilities under this article.

Source: L. 90: Entire article added, p. 975, § 1, effective July 1. **L. 94:** (1)(h) amended, p. 2654, § 135, effective July 1. **L. 96:** (1)(g) repealed, p. 1266, § 183, effective August 7. **L. 2000:** IP(1), (1)(d), (1)(f), and (1)(i) amended, p. 851, § 56, effective May 24. **L. 2010:** (1)(b) amended, (HB 10-1112), ch. 57, p. 208, § 4, effective August 11. **L. 2016:** (1)(b.5) added, (SB 16-099), ch. 89, p. 249, § 2, effective April 14.

Cross references: For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration contained in the 1996 act amending this section, see section 1 of chapter 237, Session Laws of Colorado 1996. For the legislative declaration in SB 16-099, see section 1 of chapter 89, Session Laws of Colorado 2016.

17-32-107. Correctional education program fund.

There is created in the state treasury the correctional education program fund, which shall be administered by the program, and that consists of all moneys received by the program from the federal government, from the sale of goods or services by the program, and from contributions, grants, gifts, bequests, and donations from individuals, private organizations, and foundations. The moneys in the fund are subject to annual appropriation by the general assembly to the program for the purpose of developing and implementing a correctional education program. Any moneys not appropriated or not expended at the end of the fiscal year remain in the fund and shall not be transferred to or revert to the general fund of the state. Any interest earned on the investment or deposit of moneys in the fund remains in the fund and shall not be credited to the general fund of the state.

Source: L. 90: Entire article added, p. 976, § 1, effective July 1. **L. 2000:** Entire section amended, p. 851, § 57, effective May 24. **L. 2016:** Entire section amended, (SB 16-099), ch. 89, p. 250, § 4, effective April 14.

Cross references: For the legislative declaration in SB 16-099, see section 1 of chapter 89, Session Laws of Colorado 2016.

17-32-108. Sale of goods and services.

(1) (a) The correctional education program is authorized to sell goods and services to inmates, invited guests, employees of the department, governmental agencies, or nonprofit organizations only if the provision of the goods or services offers a valuable educational experience for inmates and fulfills the goals and objectives of the program.

(b) The department shall adopt procedures for hearing complaints of unfair competition by privately owned businesses. If a privately owned business makes a complaint of unfair competition in relation to the activities of the correctional education program, the department shall hold a hearing on the complaint. The executive director or his or her designee shall hear the complaint, and the decision of the director or designee is final. As part of the report required by section 17-32-105 (8), the department shall report the number of complaints filed pursuant to this paragraph (b) and the outcome of the complaints.

(2) (a) The program shall fix and determine the prices at which all labor is performed and at which all goods and services produced are sold. Such prices must be as near to the prevailing market prices for goods and services of similar quality as is practical or goods and services sold through the Colorado community college system pursuant to section 24-113-104, C.R.S.

(b) The program shall ensure that the level of quality of goods and services produced is comparable to similar goods and services available from the private sector or the Colorado community college system. The sale of such goods or services shall not give rise to any warranties. No refund or replacement shall be made after ninety days from the date of the sale.

(c) The correctional education program shall transmit all revenues collected by the program from the sale of goods or services to the state treasurer for deposit in the correctional education program fund, created pursuant to section 17-32-107.

Source: L. 2016: Entire section added, (SB 16-099), ch. 89, p. 250, § 3, effective April 14.

Cross references: For the legislative declaration in SB 16-099, see section 1 of chapter 89, Session Laws of Colorado 2016.

ARTICLE 33

Reentry Program

17-33-101. Reentry planning and programs for adult parole - grant program - rules - reports - definitions - repeal.

17-33-102. Colorado offender identification program - rules - report - fee waiver - definitions.

17-33-103. Pre-release and reentry program development - operation - report - definitions - repeal.

17-33-104. Warrant search prior to offender's release - notification to offender, public defender, and court - legislative intent - definitions.

17-33-101. Reentry planning and programs for adult parole - grant program - rules - reports - definitions - repeal.

(1) The department shall administer appropriate programs for offenders prior to and after release to assist offenders with reentry into society based upon the assessed need as determined by the executive director and suitability of individual offenders for such services. The department shall administer the reentry programs in collaboration with the division of adult parole in the department and the youthful offender system in the department.

(2) The department shall design the reentry program to reduce the possibility of each offender returning to prison, to assist each offender in rehabilitation, and to provide each offender with life management skills that allow him or her to function successfully in society.

(3) On and after July 1, 2014:

(a) The department shall develop and implement initiatives within the department specifically designed to decrease recidivism, enhance public safety, and increase each incarcerated person's chances of achieving success upon the incarcerated person's release into the community.

(b) The department shall track the long-term recidivism rates of persons who were formerly incarcerated who participated in reentry services and programs. The department shall provide data on all individuals who participate in reentry services and programs regarding:

(I) The type and level of offense of the controlling sentence;

(II) Length of the controlling sentence;

(III) Risk of reoffense based on a risk assessment instrument validated for individuals on parole;

(IV) Number of individuals in prison past the individual's parole eligibility date;

(V) Number of individuals granted discretionary parole at the individual's first parole application hearing;

(VI) Number of individuals granted discretionary parole at any subsequent parole application hearing;

(VII) Number of individuals released at mandatory release date;

(VIII) Recidivism at six months, one year, two years, and three years following release, disaggregated by whether the return to prison was the result of a new conviction, including the type and level of offense, or only for a violation of a condition of release; and

(IX) For sections (I) through (X), the data must be disaggregated by race and gender.

(c) Beginning in January 2024, and every year thereafter, the department shall provide to the judiciary committees of the senate and the house of representatives, or any successor committees, a report with the information in subsection (3)(b) of this section, during the department's presentation at hearings held pursuant to the "SMART Act".

(4) Subject to appropriations, on and after July 1, 2014, the department shall develop and implement initiatives specifically designed to assist offenders in a correctional facility to prepare for release to the community. An initiative developed and implemented pursuant to this subsection (4) may include, but need not be limited to, the following components:

(a) Enhanced case management capabilities to allow case managers the ability to create individualized institutional case plans that help address the offender's assessed risks and needs;

(b) Pre-release specialists to develop pre-release plans and programs for offenders;

(c) The assignment of community parole officers to facilities so that each offender has an understanding of the expectations of community supervision, available services, and parole; and

(d) Transportation for high-risk and high-needs offenders, as defined by the department, who are being released from a correctional facility to a community parole office, to help provide effective supervision, enhance public safety, and expedite critical services.

(5) Subject to appropriations, the department shall develop and implement initiatives specifically designed to assist each offender's transition from a correctional facility into the community. An initiative developed and implemented pursuant to this subsection (5) may include, but need not be limited to, the following components:

(a) An evidence-based cognitive behavioral program for offenders;

(b) Community-based mental health consultants to provide assistance with case planning and to consult with and train community parole officers concerning how to secure appropriate and available mental health services for parolees in the community;

(c) In collaboration with the state department of labor and employment created in section 24-1-121, C.R.S., or any other employment or job training program within the community, initiatives to help offenders in the community obtain employment, job placement, or training;

(d) Reentry specialists to help offenders successfully reenter the community;

(e) Consolidation and expansion of emergency assistance contract funding to effectively provide assistance to parolees in the community;

(f) A program to provide medication-assisted therapies to eligible offenders; and

(g) Peer support professional behavioral health services provided by credentialed peer support professionals or other research-based programs.

(6) Subject to appropriations, on and after July 1, 2014, the department shall make necessary operational enhancements and develop and implement initiatives specifically designed to ensure that the department has the proper equipment, training, and programs to properly supervise offenders in the community to enhance public safety. An initiative developed and implemented pursuant to this subsection (6) may include, but need not be limited to, the following components:

(a) A comprehensive staff training program that:

(I) Is consistent with research and evidence-based practices;

(II) Enhances basic training and provides annual in-service training for community parole officers and staff; and

(III) Creates staff development within the division of adult parole so that the division will effectively supervise offenders through successful reintegration;

(b) Acquisition of equipment and resources that will effectively monitor and respond to tampering and other alerts released by electronic monitoring units;

(c) Establishment of an equipment replacement plan for enhanced community parole officer safety; and

(d) Enhancements to parole information technology and parolee tracking systems.

(7) (a) Subject to appropriations, on and after January 1, 2015, the department shall develop and implement a grant program to provide funding to eligible community-based organizations that provide prerelease and parole planning services to people in prison and reentry services to people on parole or inmates transitioning through community corrections. The department shall administer the grant program in accordance with policies developed by the executive director pursuant to subsection (7)(b) of this section.

(b) On or before January 1, 2015, the executive director shall develop policies for the administration of the grant program, including but not limited to the following:

(I) A process for determining eligibility criteria for a community-based organization, including but not limited to a community-based organization that serves as an intermediary on behalf of a collaboration of eligible community-based organizations, to receive a grant from the grant program;

(II) A process and timeline whereby a community-based organization may apply for a grant from the grant program;

(III) A process for determining the amount of each grant that is awarded to an eligible community-based organization;

(IV) A process for establishing data-reporting requirements for each eligible community-based organization that receives a grant from the grant program; and

(V) A process for determining the maximum amount of moneys that an eligible community-based organization may receive from the grant program in a single fiscal year.

(c) In developing policies for the administration of the grant program pursuant to paragraph (b) of this subsection (7), the executive director may require that staff members of an eligible community-based organization seeking funding from the grant program must submit to a criminal background check before an award decision is made. However, the executive director may not exclude a community-based organization from receiving grant moneys solely because

one or more staff members of the community-based organization has a criminal record. If the executive director determines that one or more staff members of an applicant eligible community-based organization has a criminal record, he or she shall consider the factors described in section 24-5-101 (4), C.R.S., before deciding whether to award grant moneys to the community-based organization.

(d) The executive director, or his or her designee, shall make the final decision whether to award or deny a grant from the grant program.

(e) In awarding grants from the grant program each fiscal year, the department:

(I) Shall release as much as one quarter of the amount annually appropriated to the grant program to the intermediary described in subsection (7)(b)(I) of this section at the beginning of each fiscal year. The intermediary shall determine how much of this amount is awarded to each community partner as an advance portion of grant money to be awarded to the community partner.

(II) Shall not award any grant money in excess of the amount in the fund.

(f) The department shall expand the grant program in the 2018-19 fiscal year to maximize the total number of grantees; add grantees in underserved communities, especially in rural areas; and add one or more grantees that specialize in serving the reentry needs of women offenders.

(f.5) (I) The community-based reentry services cash fund, referred to in this subsection (7) as the "fund", is hereby created in the state treasury. The fund consists of money that the general assembly may appropriate or transfer to the fund.

(II) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(III) Money in the fund is continuously appropriated to the department for the grant program developed pursuant to this subsection (7).

(IV) Repealed.

(IV.5) (A) The general assembly shall appropriate $1,167,297 to the fund for fiscal year 2021-2022 from the savings from enactment of Senate Bill 21-146. Any money remaining in the fund after July 1, 2022, remains in the fund and may be spent by the department in fiscal year 2022-2023.

(B) The general assembly shall appropriate $1,481,662 to the fund for fiscal year 2022-2023 from the savings from enactment of Senate Bill 21-146.

(V) The state treasurer shall transfer all unexpended and unencumbered money in the fund on September 1, 2023, to the general fund.

(g) This subsection (7) is repealed, effective September 1, 2028. Before its repeal, the department of regulatory agencies shall review the grant program in accordance with section 24-34-104.

(8) Repealed.

(9) As used in this section, unless the context otherwise requires:

(a) "Peer support professional behavioral health services" means services that facilitate activities and interactions between people who share similar experiences of being diagnosed with behavioral health conditions, including substance use disorders.

(b) "Recidivism" means a return to prison in Colorado for either new criminal activity or a technical violation of parole, probation, or non-departmental community placement within three years after release.

Source: L. 2004: Entire article added, p. 448, § 1, effective April 13. **L. 2014:** Entire section amended, (HB 14-1355), ch. 350, p. 1570, § 1, effective June 6. **L. 2016:** (7)(f) amended, (HB 16-1192), ch. 83, p. 234, § 15, effective April 14. **L. 2017:** (8) amended, (SB 17-031), ch. 92, p. 282, § 8, effective August 9. **L. 2018:** (7)(a), (7)(e), and (7)(f) amended and (7)(g) added, (HB 18-1176), ch. 321, p. 1926, § 2, effective May 30. **L. 2019:** (7)(e)(II) amended and (7)(f.5) added, (SB 19-064), ch. 179, p. 2036, § 1, effective May 14. **L. 2021:** (7)(a) amended and (7)(f.5)(IV.5) added, (SB 21-146), ch. 459, pp. 3083, 3089, §§ 5, 14, effective July 6. **L. 2023:** (3) and (7)(g) amended and (9) added, (SB 23-157), ch. 213, p. 1102, § 1, effective August 7. **L. 2025:** IP(5), (5)(e), (5)(f), and (9) amended and (5)(g) added, (HB 25-1129), ch. 22, p. 84, § 1, effective August 6.

Editor's note: (1) Subsection (8)(b) provided for the repeal of subsection (8), effective January 2, 2019. (See L. 2017, p. 282.)

(2) Subsection (7)(f.5)(IV)(B) provided for the repeal of subsection (7)(f.5)(IV), effective July 1, 2021. (See L. 2019, p. 2036.)

Cross references: For the legislative declaration in HB 18-1176, see section 1 of chapter 321, Session Laws of Colorado 2018.

17-33-102. Colorado offender identification program - rules - report - fee waiver - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Offender ID bank" means the facility in the department where the department securely stores offender identification documents it has acquired.

(b) "Program" means the program established in this section to procure state-issued identification cards for offenders.

(c) "State-issued identification card" means a driver's license or other identification card issued by the department of revenue pursuant to article 2 of title 42 that complies with the federal "Real ID Act of 2005", 49 U.S.C. sec. 30301 note.

(2) (a) The department shall establish and operate a program to procure state-issued identification cards for offenders.

(b) **[*Editor's note: This version of subsection (2)(b) is effective until January 1, 2027.*]** An offender may participate in the program if the offender is eligible for, but does not have, a valid state-issued identification card. An offender may elect not to participate in the program, but the department shall not deny an eligible offender the opportunity to participate in the program.

(b) **[*Editor's note: This version of subsection (2)(b) is effective January 1, 2027.*]**

(I) An offender shall participate in the program if the offender is eligible for, but does not have, a valid state-issued identification card; except that an offender may affirmatively elect not to participate in the program.

(II) In order to opt out of participating in the program, an offender must affirmatively notify the department that they elect to not participate in the program. The department shall ask the offender one hundred and eighty days before the offender's release to confirm the offender does not want to participate in the program. If the offender affirmatively opts back into the program, the department shall begin the process to obtain identification documents to prepare for release.

(c) **[*Editor's note: This version of subsection (2)(c) is effective until January 1, 2027.*]** The department shall ensure that each offender released from a correctional facility on and after January 1, 2022, who is eligible for a state-issued identification card and who participates in the program, has a state-issued identification card upon release.

(c) **[*Editor's note: This version of subsection (2)(c) is effective January 1, 2027.*]** The department shall ensure that each offender released from a correctional facility who is eligible for a state-issued identification card and who participates in the program has a state-issued identification card upon release.

(d) **[*Editor's note: This version of subsection (2)(d) is effective until January 1, 2027.*]** The department shall collaborate with the department of revenue to operate the program.

(d) **[*Editor's note: This version of subsection (2)(d) is effective January 1, 2027.*]** The department shall collaborate with the department of revenue and the department of public health and environment to operate the program.

(e) The executive director shall enter into agreements with the department of revenue or the federal social security administration as necessary for the administration of this section.

(3) The program must:

(a) Review each offender upon intake at the Denver reception and diagnostic center to determine each offender's eligibility for a state-issued identification card and the identification options available to the offender;

(b) **[*Editor's note: This version of subsection (3)(b) is effective until January 1, 2027.*]** At least once each year, review department records to determine whether each offender scheduled for release within the next five years has a valid, unexpired state-issued identification card, including at the offender ID bank; and

(b) **[*Editor's note: This version of subsection (3)(b) is effective January 1, 2027.*]** At least once each year, review department records to determine whether each offender scheduled for release within the next five years has a valid, unexpired state-issued identification card, including at the offender ID bank;

(c) **[*Editor's note: This version of the introductory portion to subsection (3)(c) is effective until January 1, 2027.*]** Assist an offender who elects to participate in the program with obtaining a state-issued identification card. The assistance may include, but is not limited to:

(c) **[*Editor's note: This version of the introductory portion to subsection (3)(c) is effective January 1, 2027.*]** Assist an offender who participates in the program with obtaining a state-issued identification card. The assistance may include, but is not limited to:

(I) Providing transportation to an office that issues identification cards, its location selected by the department;

(II) Requesting necessary identification documents on the offender's behalf from the offender ID bank;

(III) If the offender is eligible, assisting the offender with ordering a state-issued identification card online; and

(IV) Assisting an offender with obtaining any identification documents necessary to obtain a state-issued identification card, including a replacement social security card or birth certificate.

(4) The department shall deliver to each offender, upon release from a correctional facility, the offender's identification documents, including a state-issued identification card, obtained by the department pursuant to this section.

(5) The department shall promulgate rules or policies necessary for the administration of the program.

(6) On or before July 31, 2022, and on or before July 31 of each year thereafter, the department shall post on a publicly available page of its website the following information about the program:

(a) The number of offenders released from a correctional facility in the preceding calendar year who were identified by the program as not having a state-issued identification card and were eligible to participate in the program; and

(b) The number of offenders who elected to participate in the program and were released with state-issued identification cards obtained with the assistance of the program.

(7) **[*Editor's note: Subsection (7) is effective January 1, 2027.*]** By September 15, 2027, and by each September 15 thereafter, the department shall provide to the house of representatives judiciary committee and the senate judiciary committee, or their successor committees, a report that includes the following:

(a) The number and percentage of offenders released with a valid state-issued identification card, birth certificate, and social security card in the preceding fiscal year;

(b) The number and percentage of offenders who participated in the program and are deemed ineligible for a state-issued identification card, birth certificate, and social security card in the preceding fiscal year and the reason for ineligibility; and

(c) An explanation of barriers and challenges to obtaining identification documents for offenders in the preceding fiscal year.

(8) **[*Editor's note: Subsection (8) is effective January 1, 2027.*]** The department shall not charge a fee to an offender during the process of securing an offender's identification documents. Any fee incurred by the department paid in advance to the department of revenue or the department of public health and environment during the process of securing an offender's identification document may only be charged to the offender after the offender has been released from custody and may be consolidated with any existing restitution, fees, or other legal financial obligations owed by the offender. This includes any fee paid by the department to the department of revenue or the department of public health and environment to the federal social security administration.

Source: L. 2021: Entire section added, (SB 21-153), ch. 101, p. 404, § 1, effective September 7. **L. 2026:** (2)(b), (2)(c), (2)(d), (3)(b), and IP(3)(c) amended and (7) and (8) added, (HB 26-1256), ch. 338, p. 2055, § 3, effective January 1, 2027.

Editor's note: Section 5(2) of chapter 338 (HB 26-1256), Session Laws of Colorado 2026, provides that the act changing this section applies to all individuals released from custody on or after January 1, 2027.

Cross references: For the legislative declaration in HB 26-1256, see section 1 of chapter 338, Session Laws of Colorado 2026.

17-33-103. Pre-release and reentry program development - operation - report - definitions - repeal.

(1) As used in this section, unless the context otherwise requires:

(a) "Facility" means the Sterling correctional facility.

(b) "Program" means a pre-release and reentry program developed in consultation with residents pursuant to this section.

(c) "Program developer" means the person described in subsection (2)(b) of this section assigned to develop and study strategies to implement the program.

(d) "Program report" means the report issued by the department pursuant to subsection (4) of this section.

(e) "Resident" means a person serving a term of imprisonment at the facility.

(f) "Third-party organization" means an organization that satisfies the qualifications described in subsection (2)(d) of this section that the department contracts with pursuant to subsection (2) of this section.

(2) (a) The department shall contract with a third-party organization to develop and study strategies for implementing a pre-release and reentry program that is designed in consultation with residents. The goal of the program is to benefit program participants, the facility, and the department by providing program participants with resources to support their rehabilitation and to reduce recidivism upon their release from the facility.

(b) (I) On or before August 1, 2023, the department shall enter into an agreement with the third-party organization to assign an individual employed by the third-party organization to serve as the program developer and carry out the duties described in this section. The program

developer must have experience in mental and behavioral health, cultural competency, and the rehabilitation and recidivism of justice-involved individuals. The contract must require the program developer to carry out the duties described in this section; except that the contract must permit the third-party organization to subcontract with other organizations that have expertise in subject areas, such as behavioral health and data collection and analysis, that are beneficial to the program developer in carrying out the developer's duties.

(II) The department shall allow the program developer to work in the facility with residents and may require the program developer to meet the same qualifications as a person who serves as a correctional officer at the facility. The department may provide and require the program developer to complete training necessary for the program developer to work in the facility with residents.

(III) The program developer's only duties are those described in this section related to developing the program, studying implementation strategies, and preparing the program report, including consulting with residents to design the program and conducting the research and analyzing data necessary to prepare the program report. The program developer shall spend the majority of the program developer's time consulting with residents to design and study implementation strategies for the program.

(IV) In order for the program developer to have sufficient time to develop the program, study implementation strategies, and prepare the program report, the program developer shall begin work no later than August 15, 2023.

(c) The program development and the implementation study must be conducted in compliance with all department and facility rules, and the department shall prioritize program development and the implementation study. The department shall provide assistance to the program developer, including ensuring access to as many residents as possible.

(d) A third-party organization that contracts with the department pursuant to this subsection (2) must have proven experience working with populations that are overrepresented in the department's resident population and must have not previously contracted with the department for any purpose.

(3) (a) The program developer shall consult with residents to design the program, including developing program curriculum and metrics to measure program success. The program developer shall also conduct any research necessary to complete the program report.

(b) The program must provide participants with training in skilled or professional trades and other employment-focused activities, education in skills beneficial to a participant following release from confinement, and mental and behavioral health counseling sessions. Additionally, the program must:

(I) Be designed in consultation with residents;

(II) Include a process for determining eligibility for residents to participate in the program;

(III) Include, at a minimum, sessions or instruction in the following areas: General postsecondary education, addiction recovery, victim awareness, time management, domestic violence prevention, personal finance, leadership, strategies for coping with difficult situations, family reunification upon release, forgiveness, and alternatives to violence. The program must have customized curriculum that emphasizes different areas of study for participants who are scheduled for release from the facility within one year and for participants who are scheduled for release from the facility in more than one year.

(IV) Work with professionals from outside of the facility, who may include college and university professors, mental and behavioral health professionals, substance use disorder professionals, and sociologists; and

(V) Permit professionals from outside the facility to visit and work with program participants in person at the facility.

(c) As part of the implementation study, the program developer shall evaluate the costs, challenges, and benefits of:

(I) Providing program participants with the technology and tools necessary to work remotely with professionals from outside the facility;

(II) Prioritizing operating the program and program activities while complying with department and facility rules;

(III) Providing financial assistance to program participants released from the facility; and

(IV) Incentivizing employers who employ program participants upon release from the facility.

(4) (a) On or before December 31, 2023, the program developer shall report to the house of representatives judiciary committee and the senate judiciary committee, or their successor committees, and the department, about the development of the program.

(b) The report must make recommendations for implementing and operating the program at the facility, including:

(I) Statutory changes necessary to operate the program;

(II) Strategies for hiring and retaining qualified program staff;

(III) Funding required for the program; and

(IV) Methods to evaluate the success of the program, including the types of quantitative and qualitative data that should be collected about the program and program participants, including capturing narrative experiences from participants about subjects that are supportive of

participants' social and emotional health, such as leadership skills, confidence, feeling of belonging, feeling of purpose, communication skills, and bettering interpersonal relationships. The report must include a recommendation for the length of a longitudinal study necessary to evaluate the benefits to program participants.

(c) The report must also include the following information:

(I) Disaggregated demographic information about the residents whom the program developer consulted with during development of the program and information about the residents' sentences to the department, including the offenses for which the residents were convicted, the length of sentence to incarceration, the time served, and the residents' custody level;

(II) The amount of time the program developer spent consulting with residents, organized by the demographic information of the residents with whom the program developer consulted;

(III) The percentage of residents expected to be eligible for participation in the program;

(IV) Detailed information about the anticipated program schedule, including the amount of time allotted each day for program activities and how often a participant must participate in program activities to achieve the intended benefits of the program;

(V) The anticipated benefits from the program for participants, including benefits to participants following release from the facility, participants nearing release from the facility, and participants who are serving as mentors in the program; and

(VI) Recommendations for any other policy changes based on information learned from developing the program and implementation study.

(d) The report may include recommendations for operating the program in other correctional facilities.

(4.5) In its annual report before the house and senate committees of reference pursuant to section 2-7-203 made during the 2024 legislative session, the department shall include information about the program development required in this section and how the department spent any money appropriated to the department for the program development. The department shall also make recommendations for statutory changes necessary to implement the program.

(5) (a) Beginning no later than September 1, 2024, and subject to available appropriations, the department shall operate the program developed pursuant to this section.

(b) (I) Beginning with its annual report before the house and senate committees of reference pursuant to section 2-7-203 made during the 2025 legislative session, and in its annual report pursuant to section 2-7-203 each year thereafter, the department shall include information about the operation and efficacy of the program.

(II) In its report to the committees of reference during the 2029 legislative session, the department shall make a recommendation concerning whether to continue the program.

(6) This section is repealed, effective September 1, 2029.

Source: L. 2023: Entire section added, (SB 23-067), ch. 324, p. 1949, § 1, effective June 2.

17-33-104. Warrant search prior to offender's release - notification to offender, public defender, and court - legislative intent - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Community corrections eligibility date" means the date an offender is eligible to be placed in a community corrections program pursuant to section 18-1.3-301 (2)(b), regardless of whether state law or an administrative regulation or policy adopted by the department precludes placement in a community corrections program.

(b) "Court" means a court in Colorado, including a municipal court.

(c) "Offender" means an offender held in custody at a correctional facility.

(d) "Public defender liaison to the department of corrections" means a public defender liaison to the department of corrections described in section 21-1-104 (6).

(2) (a) Except as provided in subsection (2)(b) of this section, the department shall search all information available to the department to determine whether an offender is subject to an outstanding in-state warrant issued by a court or a warrant issued by a court outside of Colorado, or if the offender has a pending case in a Colorado court:

(I) Upon the initial comprehensive evaluation of the offender's sentence by the department's time computation unit; and

(II) No earlier than eight months but no later than three months prior to the offender's statutory community corrections eligibility date, regardless of whether policies and regulations would allow for actual screening for referral to community corrections; except this search is not required if the offender is within four months of the offender's statutory community corrections date when the search pursuant to subsection (2)(a)(I) of this section was conducted.

(b) The department shall establish guidelines and policies to comply with this section and that must also address requests for additional searches as may be needed by the public defender liaison to the department of corrections.

(3) (a) If, following a search conducted pursuant to subsection (2) of this section, the department determines that an offender is subject to a warrant, the department shall notify:

(I) The offender that they are subject to a warrant and provide the offender with all information made available to the department about the warrant that the department may release in accordance with applicable law;

(II) The public defender liaison to the department of corrections, at an email address designated to receive the notification pursuant to section 21-1-104 (6)(b), that the offender is subject to the warrant and provide the public defender liaison to the department of corrections with all information that is made available to the department that the department may release in accordance with applicable law; and

(III) The court that issued the warrant that the offender is in the custody of the department and the correctional facility in which the offender is in custody.

(b) If, following a search conducted pursuant to subsection (2) of this section, the department determines that an offender has a pending case in a Colorado court, the department shall notify:

(I) The offender that they have a pending case in a Colorado court and provide the offender with information about the court case, including the name and location of the court in which the case is pending and the case number;

(II) The public defender liaison to the department of corrections, at an email address designated to receive the notification pursuant to section 21-1-104 (6)(b), about the pending case, including the offender's name and department of corrections number, the correctional facility where the offender is in custody, the offender's current community corrections eligibility date and parole eligibility date, the name and location of the court in which the case is pending, and the case number; and

(III) The court in which the case is pending that the offender is in the custody of the department and the correctional facility in which the offender is in custody.

(4) (a) The general assembly encourages a court that receives a notification about an offender's outstanding warrant or pending case pursuant to this section to ensure the offender appears before the court, is assigned counsel if the defendant is eligible for court-appointed counsel, and allows the offender to resolve the warrant in a timely manner that does not delay any departmental process that involves consideration of the offender's release to community corrections or parole.

(b) Subject to applicable court rules and available resources, and to effectively use resources and avoid unnecessary transport of the offender from a correctional facility to the court, the general assembly encourages a court to use virtual appearances for an appearance described in this subsection (4).

(c) Subject to available technological resources in the correctional facility in which the offender is in custody, the department shall facilitate an offender's virtual appearance at an appearance described in this subsection (4).

(5) This section does not prohibit the department from searching for an offender's outstanding warrants at any other time.

Source: L. 2025: Entire section added, (HB 25-1116), ch. 153, p. 618, § 1, effective August 6.

ARTICLE 34

Specialized Program for Juveniles Convicted as Adults

17-34-101. Juveniles and young adults who are convicted as adults in district court and young adults convicted under twenty-one years of age - eligibility for specialized program placement - petitions - definition.

17-34-102. Specialized program for juveniles and young adults convicted as adults and young adults convicted under twenty-one years of age - report - definition.

17-34-101. Juveniles and young adults who are convicted as adults in district court and young adults convicted under twenty-one years of age - eligibility for specialized program placement - petitions - definition.

(1) (a) Notwithstanding any other provision of law, an offender serving a sentence in the department for a felony offense as a result of the filing of criminal charges by an information or indictment pursuant to section 19-2.5-801, or the transfer of proceedings to the district court pursuant to section 19-2.5-802, or pursuant to either of these sections as they existed prior to their repeal and reenactment, with amendments, by House Bill 96-1005, or a young adult offender serving a sentence in the department for a felony offense that was committed when the offender was under twenty-one years of age and that sentence is not a sentence of life without the possibility of parole, and the offender in any of these cases remains in the custody of the department for that felony offense, may petition for placement in the specialized program described in section 17-34-102, referred to within this section as the "specialized program", as follows:

(I) Except as provided in subsection (1)(a)(IV) of this section, if the felony of which the person was convicted was not murder in the first degree, as described in section 18-3-102, then the offender may petition for placement in the specialized program after serving twenty years of his or her sentence if he or she:

(A) Has not been released on parole;

(B) Has not been convicted of an offense of unlawful sexual behavior, as defined in section 16-22-102 (9), or an offense that the underlying factual basis is unlawful sexual behavior, as defined in section 16-22-102 (9), or an offense in which the underlying facts support the fact that the offender committed, participated in, or aided or abetted in the commission of a sexual offense even if the offender was not convicted of a sexual offense;

(C) Is not or has not been previously placed in a treatment program within the department for a serious behavioral or mental health disorder;

(D) Has obtained, at a minimum, a high school diploma or has successfully passed a high school equivalency examination, as defined in section 22-33-102 (8.5), C.R.S.;

(E) Has participated in programs offered to him or her by the department and demonstrated responsibility and commitment in those programs;

(F) Has demonstrated positive growth and change through increasing developmental maturity and quantifiable good behavior during the course of his or her incarceration; and

(G) Has accepted responsibility for the criminal behavior underlying the offense for which he or she was convicted.

(II) If the felony of which the person was convicted was murder in the first degree, as described in section 18-3-102 (1)(b), as it existed prior to September 15, 2021, or (1)(d), or murder in the second degree, as described in section 18-3-103 (1)(b), then the offender may petition for placement in the specialized program after serving twenty years of his or her sentence if he or she satisfies the criteria described in subsections (1)(a)(I)(A) to (1)(a)(I)(G) of this section.

(III) If the felony of which the person was convicted was murder in the first degree, as described in section 18-3-102, but was not murder in the first degree, as described in section 18-3-102 (1)(b), as it existed prior to September 15, 2021, or (1)(d), or murder in the second degree, as described in section 18-3-103 (1)(b), then the offender may petition for placement in the specialized program after serving twenty-five years of his or her sentence if he or she satisfies the criteria described in subsections (1)(a)(I)(A) to (1)(a)(I)(G) of this section.

(IV) If the felony the person was charged with was murder in the first degree, as described in section 18-3-102, with the possible penalty of life without the possibility of parole, and the person was eighteen years of age or older but less than twenty-one years of age at the time of the commission of the offense, and the person entered a plea of guilty to a lesser felony offense and received a determinate sentence to the department with the possibility of parole, then the offender may only petition for placement in the specialized program after serving thirty calendar years of his or her sentence and the offender may only be released on early parole pursuant to the provisions of section 17-22.5.403.7 (2) after serving thirty-five calendar years. For purposes of

this subsection (1)(a)(IV), "calendar year" means twelve consecutive months without any time credit deductions.

(b) An offender who is described in paragraph (a) of this subsection (1) may apply for placement in the specialized program notwithstanding his or her sentence or parole eligibility date.

(2) Upon receiving a petition from an offender described in subsection (1) of this section, the executive director or the executive director's designee shall review the petition and determine whether to place the offender in the specialized program. The executive director or the executive director's designee shall not place an offender in the program if the department classified the offender as a sex offender pursuant to department administrative regulation. In making this determination, the executive director or the executive director's designee shall consider the following criteria:

(a) The nature of the offense and the circumstances surrounding the offense, including the extent of the offender's participation in the criminal conduct;

(b) The age and maturity of the offender at the time of the offense;

(c) The behavior of the offender in any institution for the duration of his or her sentence, including consideration of any violations of the inmate code of conduct and dates of the violations or, in the alternative, the lack of any such violations;

(d) The assessed risk and needs of the offender;

(e) The impact of the offense on any victim and any victim's immediate family member; and

(f) Any other factor determined to be relevant by the executive director or his or her designee in assessing and making a determination regarding the offender's demonstrated rehabilitation.

(3) The department may make restorative justice practices, as defined in section 18-1-901 (3)(o.5), C.R.S., available to any victim of any offender who petitions for placement in the specialized program, as may be appropriate, but only if requested by the victim and the victim has registered with the department of corrections requesting notice of victims' rights pursuant to the provisions of part 3 of article 4.1 of title 24, C.R.S.

(4) (a) If after review of an offender's petition, the executive director or his or her designee determines that the offender is an appropriate candidate for placement in the specialized program, the department shall place the offender in the specialized program as soon as practicable.

(b) Any victim or victim's immediate family member, as defined in section 24-4.1-302 (5) and (6), C.R.S., has the right to be informed of the placement of an offender pursuant to sections 24-4.1-302.5 (1)(q) and 24-4.1-303 (14), C.R.S.

(5) If the executive director or his or her designee denies an offender's petition for placement in the specialized program based on a determination that the offender is inappropriate for such placement after consideration of the criteria set forth in subsection (2) of this section, the offender may petition the executive director or his or her designee for placement in the specialized program not sooner than three years after the issuance of the denial.

(6) The department shall develop policies and procedures for the preparation, submission, and review of petitions for placement of offenders in the specialized program, as described in this section.

Source: L. 2016: Entire article added, (SB 16-180), ch. 352, p. 1439, § 2, effective August 10. **L. 2017:** IP(1)(a), IP(1)(a)(I), and (1)(a)(I)(C) amended, (SB 17-242), ch. 263, p. 1304, § 135, effective May 25. **L. 2021:** IP(1)(a), IP(1)(a)(I), (1)(a)(I)(B), (1)(a)(I)(C), and IP(2) amended and (1)(a)(IV) added, (HB 21-1209), ch. 448, p. 2949, § 2, effective September 7; (1)(a)(II) and (1)(a)(III) amended, (SB 21-124), ch. 58, p. 236, § 3, effective September 15; IP(1)(a) amended, (SB 21-059), ch. 136, p. 717, § 38, effective October 1.

Editor's note: Amendments to the introductory portion to subsection (1)(a) by HB 21-1209 and SB 21-059 were harmonized.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

17-34-102. Specialized program for juveniles and young adults convicted as adults and young adults convicted under twenty-one years of age - report - definition.

(1) The department shall develop and implement a specialized program for offenders who have been sentenced to an adult prison for a felony offense committed while the offender was under eighteen years of age as a result of the filing of criminal charges by an information or indictment pursuant to section 19-2.5-801, or the transfer of proceedings to the district court pursuant to section 19-2.5-802, or pursuant to either of these sections as they existed prior to their repeal and reenactment, with amendments, by House Bill 96-1005, or offenders serving a sentence in the department for a felony offense that was committed when the offender was under twenty-one years of age, and the offenders in any of these cases are determined to be appropriate for placement in the specialized program. The department shall implement the specialized program within or in conjunction with a facility operated by, or under contract with, the department.

(2) The specialized program must include:

(a) Components that allow an offender to experience placement with more independence in daily life, with additional work-related responsibilities and other program components that will assist and support the offender's successful reintegration into the community of offenders who have never lived independently or functioned in the community as an adult;

(b) Best and promising practices in independent living skills development, reentry services for long-term offenders, and intensive supervision and monitoring; and

(c) On or after January 1, 2027, programming that requires an offender to acknowledge the impact of crime on victims and the ongoing trauma that crime survivors experience, and, if applicable, the impact of the offender's own trauma on their criminal or other negative behavior, and identify interventions to prevent those experiences from impacting successful reintegration into the community.

(3) The department shall not allow any participating offender to complete the specialized program in less than three years.

(4) The department shall make restorative justice practices, as defined in section 18-1-901 (3)(o.5), available to any victim of any offender who petitions for placement in the specialized program, as may be appropriate, but only if requested by the victim and the victim has registered with the department of corrections requesting notice of victims' rights pursuant to the provisions of part 3 of article 4.1 of title 24.

(5) Repealed.

(6) (a) The department shall include in the specialized program rules of conduct for program participants and a policy whereby program participants who fail to comply with the rules of conduct are terminated from participation in the specialized program and returned to an appropriate prison placement.

(b) An offender who is terminated from the specialized program may not re-petition for placement in the specialized program sooner than three years from the date of such termination.

(7) Notwithstanding any provision of law, an offender who successfully completes the specialized program is eligible to apply for early parole pursuant to the provisions of section 17-22.5-403 (4.5) or 17-22.5-403.7.

(8) (a) Except as described in subsections (8)(b) and (8)(c) of this section, if an offender has served at least twenty-five calendar years of his or her sentence and successfully completed the specialized program, unless rebutted by relevant evidence, it is presumed that:

(I) The offender has met the factual burden of presenting extraordinary mitigating circumstances; and

(II) The offender's release to early parole is compatible with the safety and welfare of society.

(b) If an offender who committed murder in the first degree, as described in section 18-3-102 (1)(a), (1)(c), (1)(e), or (1)(f), has served thirty years of his or her sentence and successfully completed the program, unless rebutted by relevant evidence, the presumptions described in subsections (8)(a)(I) and (8)(a)(II) of this section apply.

(c) If the felony the person was charged with was murder in the first degree, as described in section 18-3-102, with the possible penalty of life without the possibility of parole, and the person was eighteen years of age or older but less than twenty-one years of age at the time of the commission of the offense, and the person entered a plea of guilty to a lesser felony offense and received a determinate sentence to the department with the possibility of parole, and the offender has served thirty-five calendar years of his or her sentence and successfully completed the program, unless rebutted by relevant evidence, the presumptions described in subsections (8)(a)(I) and (8)(a)(II) of this section apply.

(d) For purposes of this subsection (8), "calendar year" means twelve consecutive months without any time credit deductions.

(9) During its annual presentation before the joint judiciary committee of the general assembly, or any successor joint committee, pursuant to section 2-7-203, the department shall include a status report regarding the progress and outcomes of the specialized program developed and implemented by the department pursuant to this section during the preceding year. The report, at a minimum, must include:

(a) A description of the specialized program, including the evidence-based and promising practices that are included in the specialized program;

(b) The policies and procedures developed by the department to determine which eligible offenders may be placed in the specialized program;

(c) The policies and procedures developed by the department to address the conduct of participants in the specialized program;

(d) The location of the program and the number of beds available for specialized program participants;

(e) The number of offenders selected to participate in the specialized program; the number of offenders who were denied placement in the specialized program, including the reasons for such denials; and the number of offenders who were removed from the specialized program and the reasons for their removal;

(f) A summary concerning the staffing of the specialized program;

(g) Information concerning the behavior patterns of the offenders in the specialized program;

(h) The number of offenders who successfully completed the specialized program;

(i) The number of specialized program participants who have been referred to the parole board for early parole; and

(j) The number of specialized program participants who were granted early parole by the governor or state board of parole.

Source: L. 2016: Entire article added, (SB 16-180), ch. 352, p. 1441, § 2, effective August 10. **L. 2021:** (1), (4), IP(8)(a), and (8)(b) amended and (8)(c) and (8)(d) added, (HB 21-1209), ch. 448, p. 2950, § 3, effective September 7; (1) amended, (SB 21-059), ch. 136, p. 718, § 39, effective October 1. **L. 2026:** (2), IP(9), and (9)(j) amended, (SB 26-158), ch. 136, p. 661, § 3, effective May 19.

Editor's note: (1) Subsection (5)(b) provided for the repeal of subsection (5), effective December 1, 2017. (See L. 2016, p. 1441.)

(2) Amendments to subsection (1) by HB 21-1209 and SB 21-059 were harmonized.

DIAGNOSTIC PROGRAMS

ARTICLE 40

Colorado Diagnostic Program

17-40-101. Definitions.

17-40-102. Program established.

17-40-103. Examination of offenders - report.

17-40-104. Responsibility to the program of court imposing sentence.

17-40-105. Appointment of personnel to the program.

17-40-106. Responsibilities of the superintendent.

17-40-107. Transfer of prisoners for examination - assignment.

17-40-108. Brain injury pilot program - report - repeal. (Repealed)

17-40-101. Definitions.

As used in this article 40, unless the context otherwise requires:

(1) "Brain injury" has the same meaning as set forth in section 26-1-301 (1.5).

(1.3) "Correctional institution" means the correctional facilities at Cañon City, the correctional facilities at Buena Vista, or any other institution established for the rehabilitation of male or female offenders.

(1.5) "Diagnostic center" means the diagnostic center located within the city and county of Denver.

(2) "Diagnostic services" means diagnostic examination and evaluation programs, including medical and dental evaluations, psychological testing, and academic and vocational assessment. "Diagnostic services" also includes identification of special needs, such as protective custody, services for persons who have behavioral or mental health disorders or intellectual and developmental disabilities, and special arrangements for those deemed potentially disruptive to institutional safety and operation.

(3) (Deleted by amendment, L. 94, p. 605, § 12, effective July 1, 1994.)

(3.5) "Program" means the Colorado diagnostic program established pursuant to section 17-40-102.

(4) "Superintendent" means the administrative head of the diagnostic center.

Source: L. 77: Entire title R&RE, p. 947, § 10, effective August 1. **L. 78:** (1.5) added and (4) amended, p. 357, § 3, effective April 27. **L. 79:** (1), (1.5), and (4) amended, p. 699, § 67, effective July 1. **L. 86:** (1.5) and (2) amended, p. 767, § 1, effective May 8. **L. 94:** (1.5), (3), and (4) amended, p. 605, § 12, effective July 1. **L. 2006:** (2) amended, p. 1399, § 48, effective August 7. **L. 2017:** IP and (2) amended, (SB 17-242), ch. 263, p. 1304, § 136, effective May 25. **L. 2021:** (1) amended and (1.3) added, (SB 21-138), ch. 456, p. 3041, § 2, effective July 6. **L. 2025:** (3.5) added, (SB 25-275), ch. 377, p. 2045, § 74, effective August 6.

Editor's note: This section is similar to former § 27-40-101 as it existed prior to 1977.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017. For the legislative declaration in SB 21-138, see section 1 of chapter 456, Session Laws of Colorado 2021.

17-40-102. Program established.

(1) There is hereby established the Colorado diagnostic program.

(2) The primary function and purpose of the program shall be to provide a diagnostic examination and evaluation of all offenders sentenced by the courts of this state, so that each such offender may be assigned to a correctional institution or a program established pursuant to article 27.7 of this title which has the type of security and, to the extent possible, appropriate programs of education, employment, and treatment available, which are designed to accomplish maximum rehabilitation of such offender and to prepare an offender for placement into as productive an employment as possible following imprisonment.

Source: L. 77: Entire title R&RE, p. 948, § 10, effective August 1. **L. 78:** (2) amended, p. 357, § 4, effective April 27. **L. 90:** (2) amended, p. 965, § 2, effective June 7. **L. 2025:** (1) amended, (SB 25-275), ch. 377, p. 2045, § 75, effective August 6.

Editor's note: This section is similar to former § 27-40-102 as it existed prior to 1977.

ANNOTATION

Section does not mandate that a particular classification be given, and accordingly does not confer a liberty interest. Klein v. Pyle, 767 F. Supp. 215 (D. Colo. 1991).

Applied in Ramos v. Lamm, 485 F. Supp. 122 (D. Colo. 1979); People ex rel. Gallagher v. District Court, 632 P.2d 1009 (Colo. 1981).

17-40-103. Examination of offenders - report.

(1) As soon as possible after July 1, 1974, each offender entering the diagnostic center shall receive appropriate diagnostic services, and each offender's treatment and employment needs shall be identified. Information provided pursuant to section 17-40-104 shall be considered in structuring the rehabilitation program. An offender shall be assigned to the assessment program for a period not to exceed sixty days; except that an offender may be held for an additional thirty days upon approval of the executive director. Upon completion of the recommended rehabilitation report, it shall be transmitted by the superintendent to the executive director, who, within fifteen days, shall cause the offender to be:

(a) Assigned to a correctional institution or to a program established pursuant to article 27.7 of this title, unless otherwise prohibited by law, based upon the examination and study of the offender; or

(b) Upon order of the court, returned to the court for the purpose of granting probation or other modification of sentence.

(2) A copy of the recommended rehabilitation report shall be shown and explained to the offender upon request; except that the executive director may withhold any information he deems to be detrimental to the rehabilitation of the offender.

(3) Nothing in this section shall be construed to restrict or deny the power of the court to grant an application for postconviction review pursuant to section 18-1-410, C.R.S.

Source: L. 77: Entire title R&RE, p. 948, § 10, effective August 1. **L. 78:** IP(1) amended, p. 357, § 5, effective April 27. **L. 90:** (1)(a) amended, p. 965, § 3, effective June 7. **L. 94:** IP(1) amended, p. 605, § 13, effective July 1. **L. 97:** IP(1) amended, p. 27, § 4, effective March 20.

Editor's note: This section is similar to former § 27-40-103 as it existed prior to 1977.

Cross references: For the requirement that sentenced persons be confined in the diagnostic center, see § 16-11-308 (2).

ANNOTATION

The legislative intent of this section is to give the executive director of the department of corrections ultimate responsibility for placing of inmates in particular facilities. Thus, the court could recommend sentencing to an out-of-state facility, but it could not order such placement. People v. Brack, 821 P.2d 928 (Colo. App. 1991).

Diagnostic evaluation report may be used for possible reconsideration of sentence. People v. District Court, 636 P.2d 689 (Colo. 1981).

Applied in Ramos v. Lamm, 485 F. Supp. 122 (D. Colo. 1979).

17-40-104. Responsibility to the program of court imposing sentence.

Before or at the same time any offender is transported to the diagnostic center, the sentencing court shall transmit to the superintendent of the program any available presentence report, offense report, or diagnostic or clinical information and any recommendation the court may deem appropriate.

Source: L. 77: Entire title R&RE, p. 948, § 10, effective August 1. **L. 78:** Entire section amended, p. 357, § 6, effective April 27. **L. 79:** Entire section amended, p. 700, § 68, effective July 1. **L. 94:** Entire section amended, p. 605, § 14, effective July 1.

Editor's note: This section is similar to former § 27-40-104 as it existed prior to 1977.

ANNOTATION

By its plain terms, this section makes no reference to information that must be reflected on the mittimus. Thus, in sentencing an offender directly to the department of corrections, a court is not required to include information concerning good time credit on the mittimus. Therefore, the court's failure to do so, even when the defendant has waived the presentence report, is not error. People v. Fitzgerald, 973 P.2d 708 (Colo. App. 1998).

17-40-105. Appointment of personnel to the program.

Subject to the provisions of section 13 of article XII of the state constitution, the executive director shall appoint the superintendent. The superintendent shall appoint such supervisors, psychiatrists, psychologists, social workers, correctional specialists, and other officers and employees as are deemed necessary. No inmate of any correctional institution shall be appointed to any task directly involved with the diagnostic services provided by the program. This shall not prohibit tasks performed by inmates in custodial capacities and food service duties and similar tasks approved by the executive director.

Source: L. 77: Entire title R&RE, p. 948, § 10, effective August 1. **L. 78:** Entire section amended, p. 358, § 7, effective April 27. **L. 94:** Entire section amended, p. 606, § 15, effective July 1.

Editor's note: This section is similar to former § 27-40-105 as it existed prior to 1977.

17-40-106. Responsibilities of the superintendent.

(1) The superintendent shall be responsible for the administration of diagnostic services and the supervision of the employees of the program.

(2) The superintendent shall be responsible for the management, control, regulation, and operation of the physical facilities and for the reception, discipline, and confinement of all offenders.

(3) The superintendent or superintendent's designee shall separate all offenders in the diagnostic program from the offenders in the correctional institution.

(4) (a) The superintendent may implement a behavioral or mental health disorder screening program to screen offenders entering the diagnostic center. If the superintendent chooses to implement a behavioral or mental health disorder screening program, the superintendent shall use the standardized screening instrument developed pursuant to section 16-11.9-102 and conduct the screening in accordance with procedures established pursuant to said section.

(b) Prior to implementation of a behavioral or mental health disorder screening program pursuant to this subsection (4), if implementation of the program would require an increase in appropriations, the superintendent shall submit to the joint budget committee a request for funding in the amount necessary to implement the behavioral or mental health disorder screening program. If implementation of the behavioral or mental health disorder screening program would require an increase in appropriations, implementation of the program is conditional upon approval of the funding request.

Source: L. 77: Entire title R&RE, p. 949, § 10, effective August 1. **L. 78:** (2) and (3) amended, p. 358, § 8, effective April 27. **L. 94:** (1) and (3) amended, p. 606, § 16, effective July 1. **L. 2002:** (4) added, p. 574, § 3, effective May 24. **L. 2017:** (4) amended, (SB 17-242), ch. 263, p. 1304, § 137, effective May 25.

Editor's note: This section is similar to former § 27-40-106 as it existed prior to 1977.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

17-40-107. Transfer of prisoners for examination - assignment.

The executive director may transfer any offender to the program for study and examination and, upon completion thereof, shall cause the offender to be assigned pursuant to this article.

Source: L. 77: Entire title R&RE, p. 949, § 10, effective August 1.

Editor's note: This section is similar to former § 27-40-107 as it existed prior to 1977.

17-40-108. Brain injury pilot program - report - repeal. (Repealed)

Source: L. 2021: Entire section added, (SB 21-138), ch. 456, p. 3042, § 3, effective July 6.

Editor's note: Subsection (4) provided for the repeal of this section, effective June 30, 2026. (See L. 2021, p. 3042.)

ARTICLE 41

Colorado Prerelease Program

17-41-101 to 17-41-104. (Repealed)

Editor's note: (1) Section 17-41-104 provided for the repeal of this article, effective July 1, 1984. (See L. 81, p. 968.)

(2) This article was added in 1981. For amendments to this article prior to its repeal in 1984, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

MISCELLANEOUS PROVISIONS

ARTICLE 42

Miscellaneous Provisions

17-42-101. Freedom of worship.

17-42-102. American Indians - freedom of worship - definitions.

17-42-103. Policies concerning inmates' use of telephones - excessive rates prohibited - transparency of communications services in correctional facilities - report - definitions - rules.

17-42-104. Inmates incarcerated in other states - notifications to victims required - exceptions - definitions.

17-42-105. Incarcerated parents - notification to court - mittimus - family services coordinator - report - policies.

17-42-101. Freedom of worship.

(1) All persons who are confined to a correctional facility as defined in section 17-1-102 shall have the right to worship according to the dictates of their consciences, and such persons shall be afforded a reasonable opportunity to freely exercise their religious beliefs without fear of retaliation or discrimination for the free exercise thereof. The practice of religion by any particular sect may not be curtailed or prohibited unless such practices threaten the reasonable security interests of the correctional facility.

(2) Upon the request of any inmate, and to the extent practicable and consistent with reasonable security considerations, religious facilities shall be made available in a nondiscriminatory manner. Services shall be held and advice and ministration given within the buildings or grounds of the correctional facility where the inmate is confined. Attendance at any services so provided shall be voluntary.

(3) The department shall permit access to objects of a religious nature where possession of such objects would not unduly burden the reasonable security interests of the correctional facility. Prison officials shall accord appropriate respect for sacred objects. When the reasonable security interests of the correctional facility necessitate the inspection of any sacred object, such inspection shall be done visually.

(4) In order to provide for and attend to the spiritual needs of inmates, the department shall permit inmates to consult with and receive spiritual advice and ministration from a spiritual leader.

(5) This section shall not require the department of corrections to construct additional facilities, remodel or reconfigure existing structures, or hire additional employees to meet the directives of this section.

Source: L. 92: Entire article added, p. 250, § 1, effective May 26.

17-42-102. American Indians - freedom of worship - definitions.

(1) The general assembly hereby finds, determines, and declares that American Indian religions and religious beliefs predate the creation of the United States constitution; however, understanding of and respect for American Indian religious practices is not widespread among non-indigenous persons. The general assembly further finds that serious problems in the practice of religious freedom persist for the American Indian and particularly for American Indians who are incarcerated. Therefore, in order to protect this most basic freedom for American Indians who are incarcerated, traditional religious and ceremonial practices of American Indians should be permitted in correctional facilities to the extent that such practices do not impinge on the reasonable security interests of the correctional facilities to which such Indians are confined.

(2) American Indians who are confined to a correctional facility as defined in section 17-1-102 and who practice an American Indian religion as defined in subsection (5) of this section shall have access on a regular basis to the following:

(a) American Indian traditional spiritual leaders;

(b) Items and materials utilized in religious ceremonies; and

(c) American Indian religious facilities.

(3) Access of American Indians to spiritual leaders, religious items and materials, and religious facilities shall be comparable to access to clergy, religious items and materials, and religious facilities which is afforded to inmates who practice Judeo-Christian religions.

(4) The provisions of this section shall not be construed as requiring prison authorities to permit or prohibit access to peyote or American Indian religious sites.

(5) For purposes of this section:

(a) "American Indian" means an individual of aboriginal ancestry who is a member of an Indian tribe. "American Indian" includes any individual who is an Alaska native or any individual who is a native Hawaiian.

(b) "American Indian religion" means any religion which is practiced by American Indians and the origin and interpretation of which is from a traditional American Indian culture or community.

(c) "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska native village as defined in the "Alaska Native Claims Settlement Act", federal Public Law 92-203, as amended, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(d) "Native Hawaiian" means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the state of Hawaii.

Source: L. 92: Entire article added, p. 251, § 1, effective May 26.

Editor's note: Subsections (5)(b), (5)(c), and (5)(d), as enacted by Senate Bill 92-197, were relettered on revision in 2004 to conform with statutory alphabetization format.

17-42-103. Policies concerning inmates' use of telephones - excessive rates prohibited - transparency of communications services in correctional facilities - report - definitions - rules.

(1) The department shall provide voice penal communications services to persons in the department's custody and who are confined in a correctional facility or private contract prison under contract with the department. The department may supplement voice penal communications services with other penal communications services, including, but not limited to, video communication and electronic mail or messaging services. In administering the use of penal communications services, the department shall not receive any revenue, including commissions or fees.

(1.5) In administering the use of penal communications services pursuant to subsection (1) of this section, access to penal communications services must not be limited except as permitted in section 17-20-130. The department shall provide penal communications services, excluding video calls or electronic mail or messaging, to the person initiating and the person receiving the penal communications service, and implement the provision of penal communications services, excluding video calls or electronic mail or messaging, according to the following timeline:

(a) Beginning September 1, 2023, through June 30, 2024, the department shall cover twenty-five percent of the total penal communications costs;

(b) Beginning July 1, 2024, through June 30, 2025, the department shall cover thirty-five percent of the total penal communications costs;

(c) Beginning July 1, 2025, the department shall cover seventy-five percent of all penal communications costs; and

(d) Beginning July 1, 2026, and thereafter, the department shall cover one hundred percent of all penal communications costs.

(2) As used in this section, unless the context otherwise requires:

(a) "Commission" means any form of monetary payment, thing of value, in-kind payment, gift, exchange of services or goods, fee other than for direct cost recovery, or technology allowance paid to a correctional facility or other government entity by a penal communications service provider.

(b) "Correctional facility" means any building, structure, enclosure, institution, or place, whether permanent or temporary, fixed or mobile, where persons are or may be lawfully held in custody or confined and that is operated by a city, county, city and county, state government, or private entity, including but not limited to a jail or prison.

(c) "Fee" means any amount of money charged to a person for the use of penal communications services in addition to rates. A fee includes extra charges for initiating a call, opening an account, having an account, funding an account, inactivity, closing an account, getting a refund, or receiving a paper bill.

(d) "Penal communications service provider" means a person or company that provides penal communications services.

(e) "Penal communications services" means communications services, including but not limited to telephone, video, or electronic mail or messaging services provided to a correctional facility for use by end users.

(f) "Quarter" means the period of time between the reporting dates of January 1, April 1, July 1, and October 1 of each year.

(g) "Rate" means any predetermined per-minute cost set by the penal communications service provider for the use of penal communications services.

(h) "Revenue" means the money collected from users of communications services.

(i) "Underlying carrier" means a communications service provider that contracts with a penal communications service provider that has entered into a contract to provide communications services to a correctional facility.

(3) (a) Each penal communications service provider shall maintain the records and data specified in this subsection (3)(a) for each correctional facility to which it provides penal communications services. A communications service provider that serves as an underlying carrier is not required to maintain or produce the records and data specified in this subsection (3)(a). On or before January 1, 2022, each penal communications service provider shall submit such records and data in a report to the public utilities commission within fourteen days after the end of each quarter. Except as provided in subsection (3)(b) of this section, the quarterly reports submitted pursuant to this subsection (3)(a) must include:

(I) A copy of the existing contract between the penal communications service provider and the government entity to provide penal communications services to persons in custody in a correctional facility;

(II) The total number of calls made from the correctional facility using the service;

(III) The total minutes for calls made from the correctional facility using the service;

(IV) The revenue collected by the penal communications service provider for providing the services;

(V) A summary of all commissions paid to the correctional facility or any other government entity by the penal communications service provider;

(VI) A copy of the penal communications service provider's unclaimed funds policy;

(VII) The rates charged by the penal communications service provider to persons in custody making telephone calls to persons not in custody, including any rates charged for:

(A) The first minute of an in-state call;

(B) Minutes subsequent to the first minute of an in-state call;

(C) The first minute of an out-of-state call; and

(D) Minutes subsequent to the first minute of an out-of-state call;

(VIII) All fees charged to persons in custody making telephone calls to persons not in custody, including fees charged to:

(A) Initiate a call;

(B) Deposit money into the incarcerated person's account for communications services;

(C) Open, maintain, fund, or close an account with a penal communications service provider;

(D) Receive a refund from a penal communications service provider;

(E) Receive a paper bill from a penal communications service provider; and

(F) Make payments to the penal communications service provider through a third-party company; and

(IX) The total number of consumer complaints related to video quality.

(b) A penal communications service provider is not obligated to provide the public utilities commission with each specific record or data required by subsection (3)(a) of this section if the specific record or data has not changed since the report was submitted in the previous quarter.

(4) No later than thirty days after receipt of the information required by subsection (3) of this section, the public utilities commission shall publish such information on its website in a format that is accessible by the public.

(5) (a) The public utilities commission may establish, by rule, intrastate rate caps and caps on ancillary service charges established by the federal communications commission to apply to all in-state debit, prepaid, and collect calls to or from a correctional facility. The intrastate rate caps may take effect January 1, 2027. The public utilities commission may annually adjust the rate caps in an amount not to exceed any intrastate rate caps established by the federal communications commission. The public utilities commission may enforce the rate caps.

(b) To ensure accountability for potential predatory practices by penal communications service providers and to determine the quality of calls to and from correctional facilities, the public utilities commission shall conduct trial tests on a statistically valid sample of penal communications services, document the test results and any subsequent remedial actions taken by the public utilities commission or the penal communications service providers, and consolidate the information into an annual written report published on its website in a format that is accessible by the public.

(c) The public utilities commission shall comply with the following steps when conducting trial tests of penal communications services:

(I) Tests must include trial telephone calls to staff phone numbers not already in the provider's system;

(II) Tests must be conducted biannually to monitor the cost and quality of calls, including how the penal communications service provider is charging and addressing consumer complaints regarding poor quality calls, including dropped calls; and

(III) Tests may be conducted remotely. All correctional facilities and penal communications service providers shall cooperate with the public utilities commission in conducting tests of penal communications services.

(d) Penal communications service providers shall include the following language prominently on their website: "The public utilities commission (PUC) gives consumers the

opportunity to file informal complaints about problems with the communications services that the PUC regulates. Complaints can be filed through https://puc.colorado.gov".

(d.5) The public utilities commission shall develop flyers or other informational documents to inform members of the public of the methods by which they may submit an informal complaint to the public utilities commission regarding penal communications services. Beginning January 1, 2027, each correctional facility shall post the documents in a conspicuous location where the documents may be viewed by visitors to the correctional facility.

(e) Nothing in this subsection (5) limits or restricts the public utilities commission's authority to regulate rates and charges, correct abuses, or prevent unjust discrimination.

(6) The public utilities commission may adopt rules implementing this section, including rules:

(a) Requiring penal communications service providers to report outages of penal communications services to the public utilities commission; and

(b) Imposing penalties that comport with section 40-7-113.5 (1) for a penal communications service provider's failure to comply with the requirements of this section that apply to penal communications service providers.

(7) Nothing in this section is intended to establish public utilities commission authority over correctional facilities.

Source: L. 2015: Entire section added, (SB 15-195), ch. 279, p. 1145, § 2, effective August 5. **L. 2021:** Entire section amended, (HB 21-1201), ch. 389, p. 2595, § 1, effective June 30. **L. 2022:** (5)(d) amended, (SB 22-212), ch. 421, p. 2991, § 106, effective August 10. **L. 2023:** (1), (2)(e), and IP(3)(a) amended and (1.5) added, (HB 23-1133), ch. 421, p. 2476, § 1, effective August 7. **L. 2025:** IP(1.5), (1.5)(b), and (1.5)(c) amended and (1.5)(d) added, (SB 25-208), ch. 110, p. 464, § 1, effective April 25; IP(1.5) amended, (HB 25-1013), ch. 448, p. 2573, § 2, effective June 4. **L. 2026:** (5)(a) and (5)(c)(III) amended and (5)(d.5), (6), and (7) added, (HB 26-1326), ch. 210, p. 1240, § 44, effective August 12.

Editor's note: (1) Amendments to the introductory portion to subsection (1.5) by HB 25-1013 and SB 25-208 were harmonized.

(2) Section 50(2) of chapter 210 (HB 26-1326), Session Laws of Colorado 2026, provides that the act changing this section applies to conduct occurring on or after August 12, 2026.

17-42-104. Inmates incarcerated in other states - notifications to victims required - exceptions - definitions.

(1) If the department determines that an inmate is eligible for relocation to a penal institution in another state pursuant to the "Interstate Corrections Compact", part 16 of article 60 of title 24, then not later than twenty-four hours after such determination, the department shall notify the prosecuting attorney and any registered victim of one or more crimes for which the inmate is serving his or her sentence that:

(a) Such a determination has been made; and

(b) If the inmate is relocated, the department, pursuant to subsection (2) of this section, may be required to notify the prosecuting attorney and any registered victim of one or more crimes for which the inmate is serving his or her sentence of the name and location of the penal institution where the inmate is to be housed for any period of time.

(2) If the department relocates an inmate for incarceration or contracts with another state for the incarceration of an inmate in a penal institution in another state, then not later than forty-eight hours after such relocation, the department shall notify the prosecuting attorney and any registered victim of one or more crimes for which the inmate is serving his or her sentence of the name and location of the penal institution where the inmate is to be housed for any period of time.

(3) Subsection (2) of this section does not apply if any of the following factors apply and the prosecuting attorney confirms such fact in writing as described in subsection (4)(b) of this section:

(a) The inmate is a witness and the executive director determines that disclosing the location of the inmate would pose a risk to the personal safety of the inmate, corrections staff, other inmates, or facilities;

(b) The prosecuting attorney requests in writing that the department not disclose the location of the penal institution where the inmate is located;

(c) The registered victim is currently incarcerated; or

(d) The inmate has been employed by the department or as a law enforcement officer and the executive director determines that disclosing the location of the inmate poses a risk to the personal safety of the inmate, corrections staff, other inmates, or facilities.

(4) (a) If the department relocates an inmate and the executive director determines that any factor described in subsection (3) of this section applies, then not later than forty-eight hours after such relocation, the department shall notify the prosecuting attorney:

(I) That the inmate has been relocated; and

(II) Which of the factors described in subsection (3) of this section the executive director has determined applies.

(b) If the prosecuting attorney agrees with the executive director's determination that a factor described in subsection (3) of this section applies, then:

(I) The prosecuting attorney shall confirm the executive director's determination in writing;

(II) The department shall retain such written confirmation; and

(III) The department shall notify any registered victim of one or more crimes for which the inmate is serving his or her sentence that the inmate has been relocated and the department is unable to disclose the inmate's location because one of the factors described in subsection (3) of this section applies.

(c) (I) If the prosecuting attorney disagrees with the executive director's determination that a factor applies, then the executive director has thirty days to review the notice of disagreement. If, after such review, the executive director still determines that a factor applies and the inmate's location should not be disclosed, the department shall notify the prosecutor of such fact and notify any registered victims that the prosecutor disagrees with the executive director's determination.

(II) Either the prosecutor or any registered victim of the inmate may bring an action in the district court from which the inmate's sentence was issued for the court to determine whether a substantial basis existed and still exists to support the executive director's determination. If the district court finds that no substantial basis exists, the executive director shall disclose the inmate's location to any registered victims, as described in subsection (2) of this section. Any hearing conducted for the purpose of this subsection (4)(c)(II) must be held in camera.

(III) In an action brought pursuant to this subsection (4)(c), the parties are entitled to full discovery under the Colorado rules of civil procedure that are applicable to actions for declaratory judgment; except that the executive director is not required to disclose the location of the inmate pending the resolution of the civil action and any appeals. Any appeal of a judgment from an action brought under this subsection (4)(c) must be made pursuant to the rules of appellate procedure.

(5) As used in this section, unless the context otherwise requires:

(a) "Law enforcement officer" means a peace officer described in article 2.5 of title 16.

(b) "Prosecuting attorney" means the office of the district attorney or other prosecutor who prosecuted an offender who was subsequently convicted and incarcerated.

(c) "Registered victim" means a victim who has registered with the victims services unit within the department.

(d) "Victim" has the same meaning as set forth in section 24-4.1-302 (5).

(e) "Witness" has the same meaning as set forth in section 24-4.1-302 (7).

Source: L. 2018: Entire section added, (SB 18-014), ch. 151, p. 946, § 2, effective April 23.

Cross references: For the legislative declaration in SB 18-014, see section 1 of chapter 151, Session Laws of Colorado 2018.

17-42-105. Incarcerated parents - notification to court - mittimus - family services coordinator - report - policies.

(1) (a) Pursuant to section 19-3-502 (5.5)(c), a representative of the facility where the respondent is incarcerated shall, when possible, inform the court not less than seventy-two hours prior to a dependency and neglect proceeding if it cannot facilitate transportation of the respondent to a proceeding. A representative of the facility where the respondent is incarcerated shall inform the court if the respondent refuses transportation and the circumstances of the refusal as soon as practicable.

(b) If the facility where the respondent is incarcerated cannot facilitate transportation of the respondent to a hearing pursuant to section 19-3-502 (5.5), the facility shall make every reasonable effort to facilitate the respondent's participation at the hearing through audio-visual communication technology, so long as the requirements pursuant to section 19-3-502 (5.5)(b)(I) are satisfied.

(2) If a person's mittimus contains information indicating that the person is a parent to a child and is a party to an open dependency and neglect proceeding pursuant to article 3 of title 19, the department shall:

(a) Consider placing the person in a correctional facility that facilitates opportunities for family time at the facility between the child and parent, unless the court determines that family time does not serve the child's best interests, or a protection order prohibits contact between the child and the parent; and

(b) Notify the county department of human or social services where the dependency and neglect case is filed of the location of the parent's correctional facility and the contact information for the designated individual within the legal services unit not later than fourteen days after the parent's arrival at the facility.

(3) The department shall ensure children and parents have access to opportunities that facilitate continued relationships between children and their parents who are incarcerated,

regardless of whether they are a respondent in a dependency and neglect proceeding. The opportunities must include:

(a) Events at the facility that are child-focused and are publicized prior to the event;

(b) Facilitating access to treatment and services to complete any treatment plan for a parent who is a party to a pending dependency and neglect proceeding; and

(c) Facilitating opportunities for a parent to participate in the parent's child's life through audio-visual communication technology, including school conferences, medical consultations, and celebrations.

(4) The department shall designate at least one individual within the legal services unit to assist in family services coordination. The individual's duties include the coordination and supervision of the opportunities described in subsection (3) of this section and serving as a liaison between the department, sheriffs, department of human services, county department of human or social services, and agencies concerning matters related to children and their parents who are incarcerated.

(5) (a) On or before March 1, 2024, and on or before March 1 each year thereafter, the executive director of the department shall submit a report to the judiciary committees of the senate and house of representatives, or any successor committees, concerning parents who are incarcerated. The department shall cooperate with the state department of human services, county departments of human or social services, and sheriffs as necessary to identify the information required for the report. At a minimum, the report must specify persons incarcerated in department facilities, private correctional facilities under contract with the department, and jails, during the preceding calendar year who were a party to an open dependency and neglect proceeding, in total and disaggregated by race or ethnicity, sex, any known disability, and age.

(b) On or before March 1, 2024, and on or before March 1 each year thereafter, the department shall make the report publicly available on its website.

(c) The department shall ensure the report does not disclose any information in violation of applicable state and federal laws regarding the confidentiality of individuals' information.

(d) Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the report required in this subsection (5) continues indefinitely.

(6) The department shall ensure that departmental policies:

(a) Facilitate communication and family time between children and their parents who are incarcerated in a department facility or a private correctional facility under contract with the department, regardless of whether they are a respondent in a dependency and neglect proceeding. The policies must include the provision of access to a telephone and audio-visual communication technology and access to physical space and resources for in-person family time. The purpose of

the policies is to normalize, to the extent possible, the child and parent relationship, to aid and encourage healthy child development, and reduce recidivism and intergenerational incarceration. The policies must consider the benefits to the child through maintaining contact with the child's parent and the parent's willingness and desire to maintain a meaningful relationship with the child, and assist in the reunification of the child and parent, when appropriate. The policies must prioritize access to services provided by the department for parents with open dependency and neglect cases.

(b) Are necessary to comply with the requirements of this section.

Source: L. 2023: Entire section added, (SB 23-039), ch. 191, p. 959, § 10, effective January 1, 2024. **L. 2024:** (2)(b), (4), and (5)(a) amended, (HB 24-1222), ch. 155, p. 687, § 3, effective August 7.

Cross references: For the legislative declaration in SB 23-039, see section 1 of chapter 191, Session Laws of Colorado 2023.