

CHAPTER 51

CORRECTIONS

SENATE BILL 22-050

BY SENATOR(S) Coleman and Hisey, Bridges, Buckner, Donovan, Fields, Gardner, Gonzales, Hansen, Jaquez Lewis, Kolker, Lee, Moreno, Pettersen, Priola, Simpson, Winter, Woodward, Fenberg;
 also REPRESENTATIVE(S) Soper and Exum, Bacon, Bernett, Bird, Boesenecker, Caraveo, Cutter, Duran, Esgar, Froelich, Gonzales-Gutierrez, Gray, Herod, Hooton, Kennedy, Kipp, Lindsay, Lontine, Lynch, McCluskie, Mullica, Sirota, Snyder, Titone, Valdez A., Weissman, Woodrow.

AN ACT

CONCERNING WORK OPPORTUNITIES FOR PERSONS IMPRISONED BY THE DEPARTMENT OF CORRECTIONS.

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

SECTION 1. In Colorado Revised Statutes, 17-1-103, **amend** (1)(f) as follows:

17-1-103. Duties of the executive director. (1) The duties of the executive director are:

(f) To ~~the extent practical, to~~ develop within the correctional institutions, ~~industries~~ REHABILITATION AND WORK PROGRAMS that develop work skills for inmates and ~~that also will serve the purpose of supplying~~ SUPPLY necessary products for state institutions and other public purposes as ~~provided~~ SPECIFIED by law;

SECTION 2. In Colorado Revised Statutes, **amend** 17-20-115 as follows:

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 ~~perform labor~~ 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.

SECTION 3. In Colorado Revised Statutes, **amend** 17-20-117 as follows:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

17-20-117. Inmate rehabilitation and work. Every ~~able-bodied~~ inmate shall ~~be put to and kept at~~ PARTICIPATE IN the work most suitable to ~~such~~ THE inmate's capacity and ~~most advantageous to the people of this state.~~ Inmates PROMOTES THE INMATE'S SUCCESSFUL REHABILITATION, REENTRY, AND REINTEGRATION INTO THE COMMUNITY. INMATES who work in the department ~~shall not be~~ ARE NOT entitled to any right, benefit, or privilege applicable to employees of the state of Colorado.

SECTION 4. In Colorado Revised Statutes, **amend** 17-24-102 as follows:

17-24-102. Legislative declaration. (1) The general assembly ~~hereby~~ finds and declares that, to the extent possible, all ~~able-bodied offenders~~ INMATES should be employed and that the means now provided for the employment of offenders are ~~inadequate to allow a forty-hour-week work assignment for all able-bodied offenders and for correctional industries programs to be operated on a financially profitable basis~~ PARTICIPATE IN PROGRAMS THAT PROMOTE SUCCESSFUL REHABILITATION, REENTRY, AND REINTEGRATION INTO THE COMMUNITY. Therefore, it is the ~~intent of the general assembly in this article to:~~ 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.

~~(a) Create a division of correctional industries which is profit-oriented, which generates revenue for its operations and capital investment, which partly reimburses the general fund for the expense of correctional services, and which assumes responsibility for training offenders in general work habits, work skills, and specific training skills that increase their employment prospects when released;~~

~~(b) Develop, to the extent possible, industries that provide forty hours of work activity each week for all able-bodied offenders;~~

~~(c) Provide an environment for the operation of correctional industries that closely resembles the environment for the business operations of a private corporate entity;~~

~~(d) Make the division of correctional industries responsible for and accountable to the general assembly and to the governor for correctional industries programs in this state.~~

(2) It is the GENERAL ASSEMBLY'S intent ~~of the general assembly~~ that the division of correctional industries ~~assume~~ COLLABORATE WITH THE DEPARTMENT TO PERFORM all duties and functions for correctional industries.

SECTION 5. In Colorado Revised Statutes, 17-24-103, **amend** the introductory portion and (4); and **add** (5) and (6) as follows:

17-24-103. Definitions. As used in this ~~article~~ ARTICLE 24, unless the context otherwise requires:

(4) **"Programs"** "EXTERNAL PROGRAM" means ~~the correctional industries~~

~~programs provided and~~ A REHABILITATION AND WORK PROGRAM administered by the division ~~but~~ 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.

SECTION 6. In Colorado Revised Statutes, 17-24-106, **amend** (1) introductory portion, (1)(b), (1)(d), (1)(e), (1)(f)(I), (1)(p), and (1)(r); and **repeal** (1)(a) and (1)(c) as follows:

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 ~~shall have~~ HAS the following powers:

(a) ~~To provide programs which are profit-oriented, which generate revenue for their operation and capital investment, and which partly reimburse the general fund for the use of inmate labor for the expense of adult correctional services;~~

(b) ~~To develop to the extent possible, programs that provide forty hours of work activity each week for all able-bodied offenders~~ PROMOTE SUCCESSFUL REHABILITATION, REENTRY, AND REINTEGRATION INTO THE COMMUNITY;

(c) ~~To develop programs that assume responsibility for training offenders in general work habits, general work skills, and specific training skills which increase the offenders' employment prospects when released;~~

(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 ~~for the state~~ EXTERNAL programs AND INTERNAL PROGRAMS at the state's correctional institutions pursuant to law;

(e) ~~To utilize the labor services of prisoners in the manufacture or production of~~ 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 ~~all~~ 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; ~~or~~ AND

(p) To sell Colorado state flags produced by ~~the programs~~ 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 ~~paragraph (p)~~ SUBSECTION (1)(p). The price of flags to state agencies and political subdivisions of this state ~~shall~~ MUST be determined pursuant to section 17-24-112.

(r) To ~~utilize the labor services of prisoners in order to~~ receive, repair, and distribute surplus property pursuant to the powers and duties provided in part 4 of article 82 of title 24, C.R.S., and to ~~use such labor services in order to~~ receive, repair, sell, or otherwise dispose of surplus state property as provided in section 17-24-106.6;

SECTION 7. In Colorado Revised Statutes, 17-24-110, **amend** (1) and (2) as follows:

17-24-110. Financial payment incentives. (1) The division shall establish a system of financial payments ~~to serve as an incentive for more effective and efficient performance of its programs~~ FOR INMATES WHO PARTICIPATE IN INTERNAL PROGRAMS.

(2) The ~~division shall be provided, from 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; ~~from the superintendent of each correctional institution, offender labor services; 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 offenders~~ INMATES.

SECTION 8. In Colorado Revised Statutes, 17-24-112, **amend** (1) as follows:

17-24-112. Pricing. (1) The division shall fix and determine the prices ~~at which all labor is performed and at which all goods and services produced are sold. Such~~ FOR INTERNAL PROGRAM LABOR, GOODS, AND SERVICES. THE prices for industry products ~~shall~~ MUST be as near the prevailing market prices for similar QUALITY goods and services, ~~and quality as is practical. Such~~ THE prices, other than prices for agricultural products, ~~shall~~ 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.

SECTION 9. In Colorado Revised Statutes, **amend** 17-24-114 as follows:

17-24-114. Provisions for inmates - rules. (1) The director, IN COLLABORATION WITH THE DEPARTMENT, shall ~~make all~~ DETERMINE ~~offender~~ INMATE work assignments within the division. Each ~~such offender~~ INMATE work assignment ~~shall~~ MUST take into account the diagnostic services unit recommendation of employment training needs of the ~~offender, and~~ INMATE, the security classification of the ~~offender~~ 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 ~~rate of compensation~~ RATE for the ~~offenders~~ INMATES working ~~The director and the director of the division of adult parole shall have the authority to make rules and regulations regarding the method and time of compensation payments. A portion of such compensation shall be paid to the division of adult parole to defray the cost of operations for adult parole, and a portion of such compensation shall be paid to each offender in relation to the number of hours worked, type of work assignment, and quality of work performed~~ IN INTERNAL PROGRAMS. Payment rates ~~shall~~ MUST be established on an annual basis after review by the joint budget committee and by appropriation of the general assembly. ~~No offender shall be compensated if he is placed in administrative or punitive segregation or if he is able-bodied but~~ THE DIRECTOR SHALL NOT COMPENSATE AN INMATE IF THE INMATE refuses to participate in an available ~~work~~ REHABILITATION AND WORK program. ~~or other productive activity. The department will provide hygienic items to all inmates in administrative or punitive segregation.~~

(3) ~~The division of adult parole is empowered to grant earned time allowances consistent with part 4 of article 22.5 of this title in relation to an offender's work performance and evaluation, as recommended by the director.~~

(4) The division has the power to establish rules ~~and regulations~~ governing the employment, conduct, and management of ~~offenders~~ INMATES while assigned to INTERNAL programs. All such rules ~~and regulations~~ pertaining to the payment, employment, conduct, and management of ~~offenders~~ ~~shall~~ INMATES MUST be published and posted for ~~offenders~~ INMATES.

SECTION 10. In Colorado Revised Statutes, 17-24-122, **amend** (1), (2), (3), (5), and (6); and **repeal** (4) and (8) as follows:

17-24-122. Agreements for the employment of inmates by private entities.

(1) ~~The DIVISION, IN COLLABORATION WITH THE department, of corrections, working through the division, is authorized to enter into agreements with private persons or entities for the utilization of inmate labor in the manufacturing, processing, or assembly of components, finished goods, services, or product lines within facilities owned or leased by the department~~ TO PROVIDE EMPLOYMENT OPPORTUNITIES FOR INMATES THROUGH EXTERNAL PROGRAMS. Such agreements ~~shall be~~ 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~~ ~~which~~ THAT allow for PRIVATE PARTY financing ~~by the private contractor~~ 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 ~~shall~~ MUST provide that any inmate assigned pursuant to section 17-24-114 (1) to ~~work as inmate labor~~ AN EXTERNAL PROGRAM for a private person or entity ~~which~~ THAT made such agreement pursuant to subsection (1) of this section ~~shall be~~ IS an employee of the private person or entity and, notwithstanding section 17-24-114 (2), ~~such inmate~~

~~shall be paid~~ THE PRIVATE PERSON OR ENTITY SHALL PAY at least the federal STATE minimum wage for the labor performed. Such wages ~~shall~~ MUST be paid to the department of corrections and shall be held in trust for the inmate in a revenue-producing account until the inmate is paroled or discharged from custody. ~~The provisions of AN ACCOUNT FOR THE INMATE. Section 8-40-301 (3), C.R.S., shall apply~~ APPLIES to any inmate employed by a private person or entity pursuant to this section.

(4) ~~Out of the wages held in trust for an inmate pursuant to subsection (3) of this section, the department of corrections shall deduct up to fifty percent of such wages to be used to defray the costs incident to the inmate's confinement.~~

(5) ~~Out of the INMATE'S wages, held in trust for an inmate pursuant to subsection (3) of this section, and subsequent to the deduction made pursuant to subsection (4) of this section, the department of corrections shall deduct periodically for the following purposes and in the following order of priority:~~

(a) ~~Compensation of~~ 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, C.R.S.; as is deemed appropriate by the executive director of the department; ~~of corrections;~~ AND

(b) Payment of such amounts for the support of the inmate's dependents as is deemed appropriate by the executive director of the department, ~~of corrections;~~ taking into account any court orders for such support. ~~and~~

(c) Payment of ~~incidental~~ PERSONAL expenses of the inmate ~~while the inmate is still in custody~~ AS DEEMED APPROPRIATE BY THE EXECUTIVE DIRECTOR.

(6) Any amounts of money ~~which~~ THAT remain in trust for the inmate INMATE'S ACCOUNT after the deductions made pursuant to this section ~~shall~~ MUST be paid to the inmate upon parole or discharge from custody. ~~The executive director of the department of corrections shall have the discretion to pay to the inmate any amounts of money which remain in trust for such inmate in installments over the period of one year from the date of parole or discharge.~~ If an inmate dies prior to discharge from custody and the body goes unclaimed for more than five days, the amount remaining in trust THE INMATE'S ACCOUNT may be used to defray any costs incurred by the state of Colorado in connection with the burial of ~~such~~ THE inmate, and any amount remaining after burial costs have been paid or the body has been claimed ~~shall~~ MUST be paid to the inmate's estate.

(8) ~~In making offender work assignments pursuant to section 17-24-114, there shall be a presumption that the most fit and able inmates shall be assigned by the director to a work assignment pursuant to this section.~~

SECTION 11. In Colorado Revised Statutes, 17-24-125, **amend** (4)(a) as follows:

17-24-125. Correctional industries at nonstate-owned facilities - definitions.

(4) (a) Each nonstate-owned prison facility operating an inmate labor program shall hold wages earned by a state prisoner in trust for the prisoner AN INMATE in a revenue-producing account FOR THE INMATE until the prisoner INMATE is paroled or discharged from custody. Out of the wages held in trust for a state prisoner AN INMATE pursuant to the provisions of this paragraph SUBSECTION (4)(a), the nonstate-owned prison facility shall make disbursements pursuant to the provisions of section 17-24-122 (4) and (5). Section 17-24-122 (6) shall also apply to any wages held in trust for a state prisoner pursuant to this paragraph (a) SECTION 17-24-122 (5) AND (6).

SECTION 12. In Colorado Revised Statutes, **amend** 17-29-101 as follows:

17-29-101. Legislative declaration. The general assembly hereby finds and declares that the people of this state would benefit from a program to reclaim and maintain the land and resources of public entities within this state 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 both male and female, who could be utilized as a labor force in BENEFIT FROM such a program; that such a program would reinforce the rehabilitation of such inmates, PROVIDES work skills and instill INSTILLS a work ethic in the inmates, thereby facilitating their readjustment to society. and that work assignments involving physical labor will assist the executive director and the wardens in the management of correctional facilities under their supervision. To these ends, it is the purpose of this article ARTICLE 29 to create within the department physical labor work programs, including an intensive labor work program for all inmates INTERNAL AND EXTERNAL REHABILITATION AND WORK PROGRAMS FOR INMATES sentenced to the department. including repeat offenders and parole violators as well as those inmates who demonstrate behavior inconsistent with the rules of the department or any of its facilities, which utilize the physical labor of inmates. 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 ARTICLE 29.

SECTION 13. In Colorado Revised Statutes, 17-29-105, **amend** (1) introductory portion and (1)(h); and **repeal** (2) as follows:

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 off-grounds 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 requested by THROUGH EMPLOYMENT AGREEMENTS WITH any federal, state, or local governmental agency; or nonprofit agency; Appropriate work assignments shall be determined by the executive director. Requests from agencies

~~and agency agreements with the department shall~~ 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:

(h) That inmates ~~be~~ ARE compensated AT THE STATE MINIMUM WAGE, in accordance with the provisions of this ~~title~~ TITLE 17, and with the ~~Colorado~~ department of ~~corrections~~ inmate pay regulation ~~including, but not limited to,~~ provisions with respect to deductions. ~~and reimbursement for care claims.~~

(2) ~~No project shall be undertaken or agreement made for any project that results in any personal benefit or profit for a private individual as opposed to the public.~~

SECTION 14. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: March 30, 2022