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Committee on
Criminal Justice

November 1989

**COLORADO LEGISLATIVE COUNCIL
RECOMMENDATIONS FOR 1990**

COMMITTEE ON CRIMINAL JUSTICE

**Legislative Council
Report to the
Colorado General Assembly**

**Research Publication No. 338
November, 1989**

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To Members of the Fifty-Seventh Colorado General Assembly:

Submitted herewith is the final report of the Committee on Criminal Justice. The committee was created pursuant to H.J.R. 1002, 1989 extraordinary session. The committee was charged with studying eight specific topics related to the adult criminal justice system and was asked to report its findings and recommendations to the Second Regular Session of the Fifty-seventh General Assembly.

At its meeting November 9, 1989, the Legislative Council approved four bills submitted by the committee. A motion to forward the bills, with favorable recommendation, to the Second Session of the Fifty-seventh General Assembly was also approved by the Legislative Council.

Respectfully submitted,

/s/ Representative Chris Paulson
Chairman
Colorado Legislative Council

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SUMMARY OF RECOMMENDATIONS

The interim Committee on Criminal Justice was charged with studying the following topics pursuant to H.J.R. 1002, 1989 Extraordinary Session:

- overcrowding and long-term prison construction;
- requests for additional facilities and beds in relationship to sentencing laws and inmate classification;
- privatization of prison services;
- sentencing alternatives such as intensive supervision probation and parole, home detention, community corrections, and regimented inmate discipline programs;
- the relationship between drug abuse and crime, including drug abuse in the prison system, drug dependent infants, and drug policies for probationers and parolees;
- preparole programs;
- responsibility counseling programs; and
- job training and literacy programs.

The committee recommends four bills for legislation in the following four areas, listed in order of priority:

- preparole facilities;
- reorganization of community-based programs;
- drug abuse in the criminal justice system; and
- regimented inmate discipline programs.

Concerning Authorization of the Department of Corrections to Contract for Preparole Programs and Facilities, and Making an Appropriation Therefor. The first bill allows the Executive Director of the Department of Corrections (DOC) to contract for preparole facilities to be located in the community. Inmates in the facilities will remain wards of the DOC and, therefore, will not be allowed movement in the community.

Preparole facilities will serve inmates who are within 90 days of parole and who have been rejected from or are ineligible for community corrections programs. The bill includes a provision for local community corrections boards to approve or disapprove the location of and clients referred to such a facility. The committee considered and rejected the same bill without this provision.

Concerning Community-Based Corrections. The second bill creates the Division of Community-Based Corrections in the Department of Public Safety (DPS). The division is responsible for all probation, parole, community corrections, and intensive supervision services for adults. The bill delineates the responsibilities of several agencies: the DOC regarding the operation of secure facilities; the Judicial Department regarding pre- and post-sentence services; and the DPS regarding probation, parole, intensive supervision, and community corrections services.

Concerning the Elimination of Substance Abuse in the Criminal Justice System, and Making an Appropriation in Connection Therewith. Bill three addresses the problem of substance abuse in the criminal justice system, specifically correctional facilities. The bill requires that presentence reports in any criminal case include the results of drug and alcohol screens. Inmates (under certain circumstances), parolees, probationers, and community corrections clients are all required to submit to weekly screens. Exceptions to the weekly tests and sanctions -- a combination of punishment and/or treatment -- for those testing positive are provided.

The bill also creates the Commission on the Elimination of Substance Abuse in the Criminal Justice System in the DPS. Consisting of 21 members, the commission is charged with studying a variety of topics related to substance abuse and crime and substance abuse treatment.

Concerning a Regimented Inmate Discipline and Treatment Program, and Making an Appropriation in Connection Therewith. Bill four authorizes regimented inmate discipline programs or "boot camps." The bill authorizes the DOC to develop and establish a boot camp program and to develop and establish standards and programs. Inmates are assigned by the Executive Director of the DOC to remain in the program for 90 days. Parameters and requirements for inmates to be assigned are outlined in the bill. No more than 100 inmates at a time may participate and no more than 400 inmates per year may be assigned. Inmates successfully completing the program will be eligible for reconsideration of sentence.

Other Proposals

The committee endorses three other bills, not considered interim committee bills, that will be introduced during the 1990 legislative session.

Concerning the Prevention of the Illegal Use of Drugs, Narcotics, and Other Controlled Substances. This bill amends the "Colorado Controlled Substances Act" to conform with the "Uniform Controlled Substances Act." It allows analog tables of controlled substances to be amended by rule and regulation rather than statutory enactment.

Concerning the Protection of Confidential Informants in Criminal Cases. This bill creates the crime of revealing the identity of a confidential informant, a class 2 petty offense. The publication or broadcast of the name of a confidential informant is prohibited.

Concerning Substance Abuse, and Making an Appropriation in Connection Therewith. This bill provides for comprehensive drug testing of employees by employers and requires certain professionals to submit to testing. It also creates new criminal offenses and requires drug tests for drivers license applicants and renewals.

Response to Requests of the Capital Development Committee

At the request of the Capital Development Committee, the interim committee submits its conclusions in three other areas.

- Sentencing. The committee recommends no changes in sentencing and suggests the Criminal Justice Commission make sentencing its sole concern.
- Classification. Upon recommendation from the DOC, the committee recommends no changes in the current classification instrument. The DOC plans to validate the current instrument which was implemented in May, 1989.
- Facilities. The committee recommends the expansion of the new Limon Correctional Facility; a new special needs facility at the Colorado State Hospital (CSH); and a new women's facility in Denver. The need for other facilities should be evaluated upon completion of these projects and in conjunction with changes in the sentencing laws.

BACKGROUND

Sentencing

In order to evaluate prison population in relationship to sentencing laws, it is important to understand the state's sentencing philosophy. Testimony from the Division of Criminal Justice (DCJ) indicated that Colorado's sentencing policies are not clearly articulated and bear little relationship to available resources. The result is one of the longest average length of stay figures in the nation (34 months compared with a national average of 25 months and estimated to increase to 53 months by 1995), overcrowded facilities, and a need for large numbers of additional beds in order to house the expanding population. Colorado sentencing policies incorporate several philosophies, including incapacitation, deterrence, rehabilitation, and punishment. If current sentencing policies are maintained, prison population projections indicate over 10,000 beds will be needed by 1995, a 45.2 percent increase over present bed capacity of 5,568. Projections made in November 1989 indicate that close to 11,500 beds will be needed by 1995, a 51.5 percent increase over present bed capacity (Appendix A).

PRISON POPULATION PROJECTION FOR 1995 (Simplified Formula)

ADMISSIONS multiplied by **AVERAGE LENGTH OF STAY** (in months) divided by **12 months** equals **PROJECTED POPULATION** [or $(2300 * 53) / 12 = 10,158$]

SENSITIVITY -- ± 5 PERCENT ADMISSIONS = 507 BEDS
-- ± 1 MONTH AVERAGE LENGTH OF STAY = 191 BEDS

Two basic sentencing policies are punishment and risk control. Punishment takes two forms: just deserts and general detention. Risk control takes two forms: incapacitation and rehabilitation.

Examples of policy options are:

just deserts -- eliminate parole;

general detention -- all felons receive minimum 5 year prison term;

incapacitation -- selective incapacitation, i.e., try to predict which offenders are more likely to recidivate. (Those less likely to recidivate serve shorter sentences while those more likely to recidivate serve longer sentences); and

rehabilitation -- inmate treatment programs.

California has a clearly stated sentencing policy of just deserts. The average length of stay for inmates in California is 19 months; offenders are guaranteed speedy sentencing and incarceration. Louisiana is an example of a state with incapacitation as its sentencing policy. Average length of stay in that state is 60 months.

Another sentencing option is structured sentencing. A scale similar to a sentencing grid is used in which offenses are ranked on one scale and then compared with another scale on which predictors of success and failure are ranked. Structured sentencing may encompass all four sentencing policies (incapacitation, rehabilitation, just deserts, and detention).

An effective sentencing policy should be clearly articulated, should be flexible enough to have integrated goals, should be conducive to coordination of policy with resources, and should be conducive to modification.

Testimony from the Colorado District Attorneys Council urged that the state's sentencing structure not be altered. Colorado is beginning to see the results of changes made to sentencing laws in 1985 in the form of longer periods of incarceration. To make changes to that policy would mean that stabilization of the prison population would take even longer. In addition, the results of longer periods of incarceration are fewer criminals on the streets committing fewer crimes and lower costs associated with crime.

Sentencing laws are not the only factor driving prison population. There are "pressure points" in the criminal justice system other than sentencing which should be considered, such as the following:

- **diversion** is not fully utilized because of funding problems. If there is a borderline case and the question is whether to file or not, the district attorney would utilize diversion;
- a judge's **discretion** in handing down a sentence is a hallmark and necessity of the system;
- **probation** has become routine and ineffective. Intensive supervision programs should be utilized;
- **victim's** issues, such as victim and witness protection and restitution should be addressed, especially where children and the elderly are concerned;
- **education** programs, especially drug education programs, should be available and effective;

- **drugs** -- drugs have a great impact on the commission of crimes, the judicial system, and the correctional system;
- **"cookie-bandit"** issue -- this is a falsehood. Prisons are not filled with people who are guilty of relatively minor crimes like shoplifting or writing bad checks. By the time a person gets to prison, he is most likely a veteran of the criminal justice system;
- **plea bargaining** -- Plea bargains are a necessary evil of the judicial process. Fund the system adequately (more prison space, more judges and courts), and plea bargains would not be necessary;
- **economic cost** -- compare the cost of not incarcerating, e.g., the costs related to the commission of crimes, to the cost of building prisons. (Many argue the cost of crime is more than the cost of incarceration); and
- **reclassification** of crimes and sentences -- there are case law and equal protection questions as well as public pressure issues related to the reclassification of crimes and sentences.

No specific proposals for altering the sentencing structure were presented. Some testimony advocated amending the habitual criminal statute (section 16-13-101, C.R.S.) to differentiate between violent and nonviolent offenses. Such an amendment would reduce the number of offenders being sentenced for 25 to 50 years for a third felony conviction or to life imprisonment for a fourth felony conviction, and would reduce the average length of stay. Testimony also advocated amending the same statute to reduce the length of time between offenses for which the statute applies, now ten years. In addition, the committee was told it should amend the mandatory 40-year-with-no-parole statute for class 1 felonies (section 18-1-105 (4), C.R.S.) as a method to control prison population.

The committee makes no recommendations regarding alternatives to the present sentencing structure.

Classification Instruments

In relation to the sentencing structure and inmate classification, the DOC explained that its objective-based classification process is used as a population management tool. Each inmate is classified using a weighted rating scale upon entering the DOC and is thereafter reclassified every six months. Overcrowding pressures dictate that inmates are sometimes reclassified more often than every six months. Inmates are sometimes incarcerated in maximum or close custody for longer periods of time than necessary before they are reclassified. In addition, overrides (inmates who are classified in a higher custody level than necessary) have been a problem with the

classification instrument. Regardless, the DOC discouraged changes to the classification instrument and reported it would soon validate the current classification instrument in order to verify its results.

While the committee did not discuss or receive testimony from parties advocating the position taken in a Rutgers study of the DOC's classification instrument, the Joint Budget Committee did receive testimony from the Rutgers researcher, and the Capital Development Committee also expressed interest in that study. Rutgers researchers found the following: the DOC's classification instrument reflects policy decisions rather than accurate classification of inmates; the classification instrument achieves an accurate distribution based on current population; the DOC's instrument classifies many inmates at a higher than necessary level because of the weight placed on minor infractions; and there is a large population of low-risk offenders in Colorado prisons.

The DOC explained that the classification instrument examined by Rutgers researchers is no longer in use. A new instrument was implemented by the DOC in May 1989. Under the prior instrument, overrides reached a rate of 35 percent in 1988 and nearly 50 percent by early 1989. Contributing factors to the high rate of overrides were: including the parole eligibility date in the sentence, which put too many unsuitable offenders at the low end of classification; an insufficient pool of inmates eligible for community-based programs (no longer a problem); violent offenders moved into lower levels of classification too quickly; and courts which did not score offenders accurately.

In order to correct some of these problems, the DOC made several changes: the weights for institutional violence were increased; the weights for multiple violent offenders and escapees were increased; variables were added to parole eligibility dates; greater weight was added to the offense multiplier; and additional negative points were added for good behavior. As a result, ideal custody level percentages are as follows: maximum -- 8.7 percent; close -- 8.3 percent; medium -- 44.1 percent; restricted minimum -- 14.6 percent; and minimum -- 24.3 percent.

After implementing the new instrument in May 1989, 29 percent of inmates in higher custody levels moved into lower levels, 17 percent moved into higher levels. As a result of the new instrument, institutional violence has become a more meaningful variable and there is an increase in the impact of the disciplinary variable. The committee agreed that altering the classification scale for the sole purpose of moving offenders into lower security levels or into the community was not advisable and does not recommend any changes in the current classification scale.

Privatization

Discussions on privatization focused on prison services such as food and medical services rather than the privatization of entire facilities. According to the DOC, bids have been requested for medical and food services. Because the DOC can provide such services at a lower cost than the private sector, bidders consider such contracts unprofitable and some bidders have requested a guaranteed profit be built into the contract.

Accordingly, the DOC is looking at alternatives in utilizing the private sector in areas such as food service. The DOC is studying a "quick chill" method of food preparation which will allow a private company to cook the food, "quick chill" the food, and send it to the correctional facilities where inmates would thaw the food and prepare the meal. This alternative would allow the DOC to contract for food service without losing much of its inmate labor work force.

The DOC has also explored the concept of using inmates for road construction and maintenance. This has met with opposition from the private sector which does not want to lose a portion of its contracts. In addition, organized labor resists the practice of paying inmates a lower wage for the same job performed by the private sector. The DOC considered asking for a ten percent portion of transportation contracts but has found it would not be cost effective to do so.

The committee was not charged with discussing privatization of facilities though the issue did arise at the joint meeting with the Capital Development Committee. One example the committee found interesting was a 500-bed minimum security facility in Texas which was built and funded by the state and then leased to a private company which operates the facility and provides services and programs.

Job Training and Literacy

The issues of job training and literacy programs in prison facilities were addressed during the committee's tour of correctional facilities in Canon City. The committee reviewed examples of job training programs at the Centennial (maximum security) facility. Centennial has a sewing shop in which inmate uniforms and U.S. and Colorado state flags are made. A print shop at Centennial produces all forms used by the DOC and most forms and booklets used by other state departments as well as license plate tags. Inmates do layouts for state publications, magazines, and newspapers in the facility's print shop.

The committee learned that because not enough jobs are available for all inmates, the unemployment rate at Centennial is 15 percent. Inmates coming into the system work on a "labor gang" which is a clean-up crew. Inmates, upon application, are progressively moved into other jobs. The labor gang is paid fifty cents per day. Inmates in jobs such as the print shop, who have good work and behavior records, make a maximum of \$2.00 per day. Inmates work eight-hour days, five days a week.

The education system in the DOC is an adult delivery system comparable to the community college system. The average age of inmates in education programs is 31; the average IQ is 90 to 100; the average grade level is eighth grade; and the average reading level is seventh grade. Many students have or have had alcohol or drug abuse problems and, therefore, are slow and remedial learners with short attention spans.

Of the inmates participating in education programs, 45 percent have high school, GED, or college backgrounds. Of that 45 percent, 15 percent have been in college and 30 percent have high school or GED backgrounds. The remaining 55 percent of inmates are functionally illiterate; i.e., they are illiterate or have a zero to eighth grade education level. Of that 55 percent, 15 percent have a zero to fourth grade education level, 25 percent have a fifth to eighth grade education level, and 15 percent are qualified to take the GED but have not done so.

The DOC has developed workplace literacy programs which concentrate on use of academic skills in the workplace. Instead of concentrating solely on academic skills or work training, the inmate is taught to make decisions based on academic training in the workplace and to use academic skills in solving problems in the workplace. The DOC is also pursuing Training Industries and Education (TIE) programs in which an inmate is trained in a certain skill so he can then be utilized in correctional industries programs. For instance, the Shadow Mountain Correctional Facility has a carpentry and woodworking program. Inmates are certified upon completion of the program and move into the Correctional Industries furniture workshop. A problem exists in that inmates with lengthy sentences often train and forget the skill before they are placed in a job.

Education programs are voluntary but incentives are provided to encourage participation. For example, inmates can earn good time for satisfactory participation in and completion of literacy corrections programs or some combination of employment, training, or treatment programs (section 17-22.5-302, C.R.S.). In some institutions, such as the Women's Correctional Facility, lack of funds has reduced the availability of education programs.

The DOC has established a consortium of agencies to provide programs and funding for programs. The U.S. Department of Labor and Employment, the Colorado Community College and Occupational Education System, and the Joint Training and Partnership Act (JTPA) program have all provided assistance in the way of funding or training in offender employment programs.

The Justice Assistance Program has awarded the DOC a grant for an offender employment coordinator. As a result, the DOC has been able to develop a dialogue with prospective employers so that an employer knows the education and training level of the prospective inmate employee before he is hired. Previously, an employer would hire an inmate without knowing his level of training and would sometimes be disappointed when the level did not meet expectations. The DOC has also received a \$120,000 supplemental grant for computer literacy programs.

The committee heard testimony about a pilot program at Buena Vista called "Prison Possibilities" in which inmates participate in a four-day, two-evening intensive counseling program. The inmate is subjected to rigorous inquiry forcing him to confront the root of problems in his life. The inmate is forced to accept responsibility for his actions and to reformulate his ideas and life goals. One-hundred twenty-two Colorado inmates have participated in a pilot project. Of 203 Michigan inmates completing the Prison Possibilities program, 128 have been released from prison. Of those, 75 have been out for between one and three years with a recidivism rate of 10.7 percent. A three year plan has been drafted for Colorado involving 500 inmates and 180 DOC staff.

The committee makes no recommendations regarding job training and literacy programs.

Overcrowding and Prison Construction

The committee reviewed the DOC's five-year bed implementation plan (TABLE I) which compares prison population with facilities the DOC proposes to bring on line and those the DOC proposes to discontinue through attrition. According to the plan, if the proposed facilities are funded and constructed and sentencing laws are not changed, the inmate population will match beds available by 1995.

Actual inmate population, as of June 1989, is 6,189. The capacity of correctional facilities is 5,568. The difference is a shortage of 621 beds. By June of 1990, new beds at Arrowhead and Delta, along with new community and honor camp beds, will come on line in order to meet the DCJ's population projection of 7,008 with a total of 7,035 beds.

By June 1991, 600 beds at the new Limon facility and 376 beds at the new Denver Regional Diagnostic Center will come on line providing a total capacity of 7,486 beds. However, through attrition of obsolete facilities and the return of out-of-state inmates, the projected population will be 7,537 resulting in a backlog of 51 beds.

TABLE I

**Summary Of Department Of Corrections'
Bed Implementation Plan (Males)
(Population vs. Capacity)**

FISCAL YEAR	POP PROJ	PERCENT CHANGE	MAX 8.7%	CLOSE 8.3%	MED 44.1%	R-MIN 14.6%	MIN 24.3%	RECP
6/89 POP	6,189		528	504	2,676	886	1,475	120
6/89 CAP	<u>5,568</u>		<u>336</u>	<u>384</u>	<u>2,863</u>	<u>926</u>	<u>939</u>	120
DIFFERENCE	-621		-192	-120	187	40	-336	0
6/90 POP	7,008	13.23%	599	572	3,038	1,006	1,674	120
6/90 CAP	<u>7,035</u>	23.70%	<u>350</u>	<u>413</u>	<u>3,237</u>	<u>1,319</u>	<u>1,596</u>	120
DIFFERENCE	27		-249	-139	199	313	-78	0
6/91 POP	7,537	7.35%	643	614	3,260	1,079	1,796	144
6/91 CAP	<u>7,486</u>	6.44%	<u>540</u>	<u>582</u>	<u>3,298</u>	<u>1,229</u>	<u>1,693</u>	144
DIFFERENCE	-51		-103	-32	38	150	-103	0
6/92 POP	7,805	3.56%	667	636	3,379	1,119	1,862	144
6/92 CAP	<u>7,591</u>	1.39%	<u>540</u>	<u>582</u>	<u>3,298</u>	<u>1,229</u>	<u>1,798</u>	144
DIFFERENCE	-214		-127	-54	-81	110	-64	0
6/93 POP	8,025	2.82%	686	654	3,476	1,151	1,915	144
6/93 CAP	<u>8,016</u>	5.45%	<u>623</u>	<u>706</u>	<u>3,501</u>	<u>1,174</u>	<u>1,868</u>	144
DIFFERENCE	-9		-63	52	25	23	-47	0
6/94 POP	8,273	3.09%	707	675	3,585	1,187	1,975	144
6/94 CAP	<u>8,519</u>	6.27%	<u>623</u>	<u>706</u>	<u>3,904</u>	<u>1,166</u>	<u>1,976</u>	144
DIFFERENCE	246		-84	31	319	-21	1	0
6/95 POP	8,403	1.57%	719	685	3,642	1,206	2,007	144
6/95 CAP	<u>8,532</u>	0.16%	<u>623</u>	<u>706</u>	<u>3,904</u>	<u>1,166</u>	<u>1,989</u>	144
DIFFERENCE	129		-96	21	262	-40	-18	0

New facilities proposed by the DOC are outlined below:

- Denver Regional Diagnostic Center (DRDC) to provide 376 new beds (including double-bunked beds) in FY 90-91;
- Limon Correctional Facility to provide 600 new beds (including double-bunked beds) in FY 90-91;
- 240 additional beds at the Limon Correctional Facility in FY 92-93;
- a new special needs facility at the Colorado State Hospital (CSH) with 250 beds in FY 92-93;
- a new women's facility (presumably in Denver) with 160 beds in FY 92-93; and
- new facilities authorized by S.B. 6 to provide 975 new medium and/or minimum security beds by FY 93-94.

With these proposals for increasing capacity, other beds gained and lost through implementing a 25 percent double-bunking policy, and the elimination of older facilities (e.g., modulars), the DOC expects to almost break even on prison population vs. prison capacity by 1995. DOC figures show a surplus of 129 beds at the end of FY 94.

The DOC anticipates funding for the above proposed facilities to come from the following sources:

- DRDC beds -- H.B. 1274 (lotto) -- already funded;
- new Limon Correctional Facility -- H.B. 1274 (lotto) -- already funded;
- Limon expansion -- H.B. 1274 possible funding from lotto;
- CSH beds -- H.B. 1274 possible funding from lotto;
- new women's facility -- funding not specified; and
- two new medium and/or minimum security facilities -- funding under S.B. 6 from excess general fund revenues.

In making recommendations to the CDC, the interim committee considered the following:

- the five-year bed implementation plan shows the greatest current capacity and capacity need at the medium security level.
- there is uncertainty about the availability of lotto proceeds to adequately fund all of the proposed projects;
- while the DOC assumes new funding must be found for a new women's facility, that facility could be one of the two facilities authorized by S.B. 6;
- while the DOC assumes lotto proceeds will fund a new CSH facility, that facility could also be one of the two facilities authorized by S.B. 6; and
- implementation of the five-year bed plan incorporating all DOC proposals will only keep prison population numbers even with prison capacity numbers.

In response to a request from the Capital Development Committee for its views on establishing priorities for new correctional facilities, the committee recommended funding for 240 expanded beds at Limon, a new 250 bed mental health needs facility at CSH, and 160 new women's beds in Denver.

Bills Recommended by the Committee

Preparole Programs

The need exists for facilities in which inmates can be housed prior to parole in order to prepare them for life in the community. Such facilities will be operated by the DOC and be categorized as correctional facilities rather than community-based facilities. Inmates in preparole facilities will remain in the custody of the DOC and not be allowed movement in the community though they will be placed, under security, in the community and have contact with the community.

Preparole programs will serve inmates who are within 90 days of parole and have been rejected from or are ineligible for a community corrections program. These inmates (sex offenders, assaultive offenders, and offenders requiring mental health treatment) sometimes present a risk to the public and would normally be released directly from prison with no preparation for reintegration into the community.

Preparole programs are more structured than community corrections, providing drug and alcohol treatment if necessary, training in life skills, counseling, and prerelease planning. The facilities will be operated by the DOC, and communities would submit applications for such facilities, as is the case with other correctional facilities.

The first priority for the committee is a bill allowing the DOC to contract for parole facilities incorporating the above features. A point of discussion for the committee was a method by which the community can know and express concern about what offenders are in the facility. The bill includes a provision directing the DOC to consult with the local community corrections board on the facility location, program design, and facility population. If the board disagrees with any point, it may submit a petition with 500 signatures for a public hearing so the governing body can approve or disapprove the location, design, or population of the parole program within its jurisdiction.

Alternatives to Sentencing

The status of several alternatives to incarceration such as intensive supervision probation, home detention, community corrections and regimented inmate discipline programs was reviewed. The committee's second and fourth priorities are community corrections revisions and regimented inmate discipline programs, respectively.

The current number of community beds is 580. The number of available beds is expected to increase each year by approximately ten percent. One problem is that the number of offenders eligible for community corrections placement may, and often does, exceed the number of available beds. Community boards have stringent standards for who they accept in programs and often reject offenders who are eligible for community placement. When available community beds are not filled to capacity, providers, who are paid on a per bed basis, lose money. As a result, programs such as vocational training or counseling are lacking.

Another problem which hinders the growth of community corrections programs is that the current reimbursement rate to providers is lower than it was in FY 1986-87, when it was \$27 per day per bed. The current rate is \$26 per day per bed and the Community Corrections Coalition, as well as the DCJ, who administers community corrections programs, advocates raising the rate to \$27 to \$30 per day per bed. The committee makes no recommendation regarding a higher rate but does recommend a bill which combines all community-based programs into one department.

The committee's second priority is a bill which creates a Division of Community-Based Corrections within the Department of Public Safety. The newly created division is responsible for all probation, parole, community corrections, and intensive supervision programs for adults. The bill clarifies that: a) the primary responsibility

of the DOC is the operation of secure facilities; b) that the primary responsibility of the Judicial Department is the provision of presentence services and the imposition of sentences; and c) that the primary responsibility of the DPS is for all offenders placed in community-based correctional programs, i.e., probation, parole, intensive supervision, and community corrections.

Anticipated results of the newly created division are increased efficiency of the administration of community-based correctional services, lower costs associated with the administration of those services, and giving communities providing community-based services greater control over the offenders placed in such programs as well as enhancing the safety of the community in which those offenders are placed.

Drugs and Crime

The committee was charged with studying the connection between drug use and crime, the prevalence of drugs in the correctional system, the use of illicit drugs by pregnant women, and the extent to which drug tests are utilized on probationers.

The committee received testimony from a variety of sources on the connection between drugs, drug use, and crime. The DOC reviewed its testing policies and treatment programs and advocated funding for more space in intensive treatment programs.

The Judicial Department reported that drug-related charges increased from 1,299 filings in 1984 to 3,956 filings in 1989. In response to this increase in drug-related cases, the Judicial Department will implement new case management plans.

Drug treatment programs are also a concern of the Judicial Department. Because of the increase in case filings related to drugs, there was a 21 percent increase in the probation population in 1988. As a result, 65 to 70 percent of probationers need some sort of drug treatment.

The Judicial Department reported it does not have adequate resources to test each probationer, though the courts have expanded testing and treatment. When probationers test positive for drugs or alcohol, the court has the option of sending them back to prison or to treatment. Again, there is a shortage of program beds and a need for additional intensive treatment program beds.

A doctor from Denver General Hospital and an associate professor in pediatrics at University Hospital testified regarding problems associated with infants born to drug-dependent mothers. National statistics indicate that 10-12 percent of all infants are born to mothers who are addicted to illegal drugs or alcohol. Denver reports seven to eight percent of all infants born in Denver are born to mothers who have abused

illegal drugs or alcohol. Legal aspects of sanctions against pregnant women who abuse drugs or alcohol involve many resources and disciplines and must be given careful thought.

The committee also discussed a bill from the 1989 legislative session, H.B. 1095, containing revisions to the Uniform Controlled Substances Act. The bill amends the analog schedules of drugs and gives the State Board of Pharmacy the authority to add substances to, delete substances from, and reschedule substances without going through the statutory revision procedure of the General Assembly. The authority is necessary in order to prosecute cases in which the compound of the illegal substance confiscated does not exactly match the compound listed in the schedules. The bill was not adopted during the 1989 legislative session but will be reintroduced in 1990 by a non-committee member with the committee's endorsement.

The committee considered four other bills regarding drugs:

- a comprehensive drug testing bill which would require health care professionals, professional athletes, school bus drivers, teachers, certain driver's license applicants, state employees and others to submit to drug tests. The bill also contains a provision extending child abuse sanctions against pregnant women abusing drugs or alcohol. In addition, the bill provides for enhanced penalties for use or distribution of drugs in or near schools;
- a bill which contains, as its sole provision, enhanced penalties for possession or distribution of drugs in or near schools; and
- a bill which would require that the DOC provide drug and alcohol treatment programs for inmates needing treatment as determined by the DOC's diagnostic center. Participation in such treatment programs would be a determining factor in receiving earned time deductions from a sentence.

The fourth drug bill is the third priority for the committee. The bill concerns substance abuse in the criminal justice system and requires weekly drug and alcohol screening tests for all probationers, parolees, inmates, and community corrections clients. Anyone testing positive is required to undergo treatment and, in some cases, could suffer some sort of sanction, such as loss of 15 days good time in the case of inmates and revocation of probation or parole for a third positive test. The cost of the test is to be borne by the offender, and provisions are made for exemptions from the tests when the supervising officer reports that the tests are not necessary for the offender.

The bill also creates, within the Division of Criminal Justice, the Commission on the Elimination of Substance Abuse in the Criminal Justice System, consisting of 21 members. The commission is responsible for studying and making recommendations regarding: programs and policies to better utilize resources to fight substance abuse

in the criminal justice system; sanctions and treatment for the use of drugs and alcohol by offenders in the criminal justice system; developing programs improving the cost benefits of treatment programs or sanctions; and the recidivism rate of offenders leaving the criminal justice system.

Boot Camp

The fourth priority for the committee is also an alternative to sentencing -- regimented inmate discipline or "boot camp" programs. The General Assembly has considered bills to establish boot camp programs in previous sessions but has not adopted any of the proposals. After hearing about the success of a program in Texas, the committee recommends a bill that allows the DOC to develop a boot camp program and set up standards for its operation. The intent of the program is to reduce prison overcrowding by diverting first-time, low-risk prison offenders to the program in which the offender will benefit from personal development and self-discipline.

The program lasts 90 days and will serve no more than 100 offenders at a time and no more than 400 per year. Eligible inmates must be between 18 and 25 years of age, must not have served a previous sentence, and must be a non-violent offender. Offenders are assigned to the program by the executive director of the DOC. The program focuses on physical training and discipline, educational, vocational, and job seeking skills, and drug and alcohol education and treatment.

Fiscal Impact of Proposed Legislation

The estimated fiscal impact of the proposed legislation is as follows:

Authorization of the Department of Corrections to Contract for Preparole Facilities and Programs. (Version B)

Fiscal Impact: Yes

This bill authorizes the DOC to contract for facilities and programs for up to 300 beds at up to \$44 per day per bed, and requires the department to establish standards and regulations for the same. (This version includes a provision that allows local jurisdictions to approve or disapprove the location of this type of facility in the jurisdiction. This provision is not expected to have a significant cost although there may be some hearing costs at the local level related to this provision.)

$$300 \text{ beds} \times \$44/\text{day} \times 365 \text{ days} = \$4,818,000$$

This represents an annual cost that will begin in FY 1991. The \$44 rate will be in statute and any adjustment will require legislative action.

Concerning Community-Based Corrections.

Fiscal Impact: Yes, with a net impact of zero dollars

Fiscal impact occurs for individual departments affected by the transfer of programs, either by decreasing appropriations to the Judicial Department and the Department of Corrections, or by increasing resources appropriated to the Department of Public Safety. The intent of this bill is assumably to combine the resources currently appropriated for parole, probation, community corrections, and intensive supervision into one program that will perform all of the duties of the various programs. With that assumption, the net fiscal impact to the state will be zero dollars. The fiscal note assumes that all of these current programs are adequately funded. This preliminary assessment does not include responses from all affected departments. Further, how the consolidation of programs will affect administrative costs, such as leased space, computer lines, telephone services, etc., is not known.

Concerning the Elimination of Substance Abuse in the Criminal Justice System.

Fiscal Impact: Yes

The bill has a significant fiscal impact because it requires increased testing (assumes \$2 per test) and additional treatment beds (340), prison beds (100), probation officers (102.5 FTE), and treatment staff (10 FTE). The operation of the new commission will incur some costs. The appropriation clauses show general fund appropriations totalling \$19.7 million. These preliminary estimates were prepared by the Division of Criminal Justice (DCJ) when the bill only referred to drug tests. DCJ indicates that the second year costs could be \$12.7 million. Because alcohol is added as a substance for which drug testing is performed, the estimated costs will probably increase. The assumed price per drug test will probably increase, as well as the number of treatment beds, prison beds, and probation officers. Further estimates have not been completed at this time.

Regimented Inmate Discipline and Treatment Program.

Fiscal Impact: Yes

The Department of Corrections determined that in FY 1989, 657 of inmates received would have met requirements for assignment to this type of program. Costs are shown for two options:

1) If the intent of the bill is construction of such a facility, the costs are:

Construction (100-beds)	\$ 5,391,800	
Annual operating costs	\$1,604,300	35.0 FTE

The following assumptions are applied: construction on DOC property in Canon City; food prep and storage off-site; no on-site laundry, mail room, segregation cells, or recreation; limited staff facilities; reduced clinical services area due to location; operating costs assume administration under an existing facility; staffing at modular formula of 17 staff per 50 inmates plus 1.0 FTE due to intensive nature of program; operating cost formula of \$2,473/inmate plus \$360 for clothing per turnover of inmates; and program services contracted at formula of \$2,210 per average daily attendance. Also, construction and operating costs would be higher at locations other than Canon City because of need for additional support space.

2) If the department were to use an existing facility such as Skyline or Four Mile, the number of inmates in the correctional system would not change. However, the change to the boot camp concept would require increased personnel and operating costs:

Personal Services (8.0 FTE)	\$240,000
Operating Expenses (additional clothing)	36,000
Contract Services (intensive D&A counseling)	<u>221,000</u>
	\$497,000

Other options, such as acquiring existing facilities, are not addressed here since it is not known what is available.

Other Topics Considered

The committee endorses three other bills to be introduced during the 1990 legislative session by non-committee members. The first bill (previously mentioned) concerns the prevention of the illegal use of controlled substances and amends the Colorado Controlled Substances Act.

The second bill concerns the protection of confidential informants. The bill creates the crime (a class 2 petty offense) of revealing the identity of a confidential informant. Under the bill, a person who is physically injured or sustains property damage because of his role as a confidential informant is allowed to collect damages via civil suit. In maintaining the protection of confidential informants, the publication or broadcast of names of confidential informants is prohibited without the informant's permission. The bill will be sponsored during the 1990 legislative session by Senator Sally Hopper.

The third bill creates the "Workplace Drug and Alcohol Testing Act," which permits employers to test employees for drugs and alcohol. The bill is a comprehensive substance abuse bill which would require health care professionals, professional athletes, school bus drivers, teachers, certain driver's license applicants, state employees and others to submit to drug tests. A provision is included extending child

abuse sanctions against pregnant women abusing drugs or alcohol. In addition, the bill provides for enhanced penalties for possession or distribution of drugs in or near schools. The bill, to be introduced during the 1990 legislative session by Representative Phil Pankey, also imposes a tax upon solid waste disposal with the proceeds to go to the Judicial Department to implement certain portions of the bill.

Recommendations to Capital Development Committee

The committee deliberated on the following additional matters at the request of the Capital Development Committee.

- **Sentencing.** The committee makes no recommendations regarding sentencing and suggests that a committee with the time and resources to undertake an in-depth study of sentencing, such as the Criminal Justice Commission, do so. It is anticipated that the commission will resolve itself into a sentencing commission with the sole purpose of recommending changes in sentencing.
- **Classification.** The committee recommends no changes in the current classification instrument. Despite studies which show the DOC's current classification instrument produces a high rate of overrides (those inmates who are classified in a higher security level than necessary), the committee heard that the DOC implemented a new instrument in May 1989 which has lessened that problem. Further, the committee does not believe it is appropriate to alter the classification instrument for the sole purpose of moving inmates into certain security levels in order to meet space availability.
- **Facilities.** The committee suggests the following priorities in determining which additional correctional facilities should be funded and constructed: 1) a 300-bed expansion of the new Limon facility; 2) a 250-bed special needs facility for inmates with mental health treatment needs at the Colorado State Hospital in Pueblo; and 3) a new 160-bed women's correctional facility in Denver. According to the DOC, if certain changes to the sentencing structure are made and the three priorities listed above are funded, there will be no need for additional minimum or medium security correctional facilities in the near future.

APPENDIX A

PRISON POPULATION PROJECTIONS/¹
November 1, 1989
Division of Criminal Justice Research Unit

<u>YEAR</u>	<u>QTR 1</u>	<u>QTR 2</u>	<u>QTR 3</u>	<u>QTR 4</u>
1990	7,409	7,632	7,789	7,976
1991	8,190	8,405	8,671	8,934
1992	9,218	9,560	9,823	9,970
1993	10,138	10,295	10,433	10,576
1994	10,717	10,852	11,004	11,105
1995	11,190	11,273	11,344	11,429

/1 These projections were released subsequent to the interim committee's last meeting. This information was not presented to the interim committee but is included in this report for comparison.

BY REPRESENTATIVES J. Trujillo, Fagan, Johnson, Pankey, Ruddick, and Anderson; also SENATORS L. Trujillo, Hopper, Wham, and Schaffer.

A BILL FOR AN ACT

1 CONCERNING AUTHORIZATION OF THE DEPARTMENT OF CORRECTIONS TO
2 CONTRACT FOR PREPAROLE PROGRAMS AND FACILITIES, AND
3 MAKING AN APPROPRIATION THEREFOR.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Authorizes the executive director of the department of corrections to contract for preparole facilities or programs. Requires the department to establish standards and regulations for such facilities and programs. Provides for a mechanism whereby citizens in local communities may petition against the location of such a facility in their community and require the local unit of government to approve or disapprove the location of such a facility within its jurisdiction. Authorizes the department of corrections to contract immediately after the effective date of this act for beds in such facilities and programs, and makes an appropriation therefor.

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

5 SECTION 1. Article 2 of title 17, Colorado Revised
6 Statutes, 1986 Repl. Vol., as amended, is amended BY THE
7 ADDITION OF A NEW PART to read:

8 PART 4

1 PREPAROLE FACILITIES AND PROGRAMS

2 17-2-401. Definitions. As used in this part 4, unless
3 the context otherwise requires:

4 (1) "Inmate", for the purposes of placing such inmate
5 within a preparole program, means a person sentenced to the
6 department of corrections and who, for the purpose of
7 determining such inmate's limitations of confinement, is
8 eligible for classification under community, minimum, or
9 medium security by the classification system officially
10 adopted by the department of corrections.

11 (2) "Preparole facility or program" means a secure
12 facility or program which:

13 (a) Is operated by a contractual agreement between the
14 department and a unit of local government, a private nonprofit
15 agency or organization, or any corporation, association, or
16 labor organization;

17 (b) Provides secure residential beds to any inmate who
18 is within ninety days of the date upon which it is anticipated
19 that he will be paroled and is rejected by a community
20 corrections board or program, regressed from a community
21 corrections program, or ineligible for a community corrections
22 program and who is under the care and custody of the
23 department; and

24 (c) Provides in-residence programs and services to
25 instruct such inmates in obtaining and holding regular
26 employment, in the process of enrolling in and maintaining
27 academic courses and vocational training programs, in

1 utilizing the resources of the community after release in
2 meeting their personal and family needs and responsibilities,
3 in providing appropriate in-residence treatment, and in
4 participating in whatever in-residence specialized programs
5 available within the community in which such facility or
6 program is located.

7 (3) "Secure residential beds" means beds in a facility
8 which has lockable doors and windows; and which has a method
9 to detect and respond to any unauthorized entrance or exit by
10 any inmate or other person; and which has twenty-four-hour
11 staffing sufficient to monitor inmates; and which has a secure
12 external perimeter.

13 17-2-402. Authority of the department to contract for
14 preparole facilities and programs. (1) The executive
15 director may contract for the provision of parole
16 facilities and programs with a unit of local government, a
17 private nonprofit agency or organization, or any corporation,
18 association, or labor organization. However, in no case shall
19 an inmate spend more than one hundred twenty days in such a
20 facility.

21 (2) The executive director shall have the power to
22 establish and enforce standards and regulations for all
23 parole facilities or programs operated by a unit of local
24 government or a nongovernmental agency with which the
25 department contracts for services.

26 17-2-403. Escape from custody. If an offender fails to
27 remain within the extended limits of his confinement, he shall

1 be deemed to have escaped from custody and shall, upon
2 conviction thereof, be punished as provided in section
3 18-8-208, C.R.S., and all reductions in sentence authorized by
4 part 2 of article 22.5 of this title shall be forfeited.

5 17-2-404. Repeal of part. This part 4 is repealed,
6 effective July 1, 1992.

7 SECTION 2. Authorization to contract for parole beds.

8 The executive director of the department of corrections is
9 hereby authorized to enter into a contract or contracts, after
10 an approved request for proposal process pursuant to section
11 17-2-402, Colorado Revised Statutes, for up to three hundred
12 beds in parole facilities or programs at not more than
13 forty-four dollars per day per bed. If a community
14 corrections board exists in the jurisdiction where a parole
15 program is established, the department shall consult with the
16 board on issues such as facility location, program design, and
17 offender populations to be served. If a petition containing
18 the signatures of five hundred registered electors opposing
19 the location of a parole program within the jurisdiction of
20 their local unit of government is presented to the governing
21 body of such local unit of government, such governing body
22 shall have the authority, after notice to the department of
23 corrections and a public hearing, to approve or disapprove of
24 the location of the parole program within its jurisdiction.
25 Such facilities and programs shall be contracted for and
26 utilized as soon as possible after the effective date of this
27 act.

1 SECTION 3. Appropriation. In addition to any other
2 appropriation, there is hereby appropriated, out of any moneys
3 in the general fund not otherwise appropriated, to the
4 department of corrections, for the fiscal year beginning July
5 1, 1990, the sum of _____ dollars (\$_____), or
6 so much thereof as may be necessary, for the implementation of
7 this act.

8 SECTION 4. Effective date. This act shall take effect
9 July 1, 1990.

10 SECTION 5. Safety clause. The general assembly hereby
11 finds, determines, and declares that this act is necessary
12 for the immediate preservation of the public peace, health,
13 and safety.

BY REPRESENTATIVES Fish, Johnson, Ruddick, and J. Trujillo;
also SENATORS Wham, Hopper, Schroeder, and Schaffer.

A BILL FOR AN ACT

1 CONCERNING COMMUNITY-BASED CORRECTIONS.

Bill Summary

(Note: This summary applies to this bill as introduced
and does not necessarily reflect any amendments which may be
subsequently adopted.)

Creates a division of community-based corrections in the
department of public safety, and makes such division
responsible for all probation, parole, community corrections,
and intensive supervision services for adults. Provides for a
phase-in period for the consolidation of the services in the
division of community-based corrections.

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

3 SECTION 1. Article 33.5 of title 24, Colorado Revised
4 Statutes, 1988 Repl. Vol., as amended, is amended BY THE
5 ADDITION OF THE FOLLOWING NEW PARTS to read:

6 PART 15

7 DIVISION OF COMMUNITY-BASED CORRECTIONS

8 24-33.5-1501. Legislative declaration. In enacting this
9 part 15, the general assembly hereby declares that its purpose
10 is to increase the efficiency of the state administration of
11 community-based correctional services, to lower the cost of

1 such administration by consolidating probation, parole,
2 residential and nonresidential community corrections, and
3 intensive supervision programs into one department, to insure
4 that each community providing community-based correctional
5 programs has control over the adult offenders placed in such
6 programs in lieu of being placed or retained in facilities
7 operated by the department of corrections, to enhance the
8 safety of the public by providing standardized levels of
9 supervision for offenders placed in community-based
10 correctional programs, to clarify that the primary
11 responsibility of the department of corrections is the
12 operation of secure correctional facilities, to clarify that
13 the primary responsibility of the judicial department is the
14 provision of presentence services and the imposition of
15 sentences, and to clarify that the department of public safety
16 has the primary responsibility for all offenders placed in
17 community-based correctional programs.

18 24-33.5-1502. Division of community-based corrections -
19 created. (1) There is hereby created as a division of the
20 department of public safety the division of community-based
21 corrections, referred to in this part 15 as the "division".
22 The executive director, subject to the provisions of section
23 13 of article XII of the state constitution, shall appoint the
24 director of the division, referred to in this part 15 as the
25 "director", which office is hereby created.

26 (2) The division of community-based corrections and the
27 office of the director shall exercise their powers and perform

1 their duties and functions under the department of public
2 safety and the executive director as if the same were
3 transferred to the department by a type 2 transfer, as such
4 transfer is defined in the "Administrative Organization Act of
5 1968", article 1 of this title.

6 24-33.5-1503. Duties of division. (1) The division has
7 the following duties:

8 (a) To carry out all the responsibilities for probation
9 supervision specified in part 16 of this article;

10 (b) To carry out all the responsibilities for parole
11 supervision specified in part 17 of this article;

12 (c) To carry out all the responsibilities regarding
13 community correctional facilities and programs specified in
14 part 18 of this article;

15 (d) To carry out all the responsibilities regarding
16 intensive supervision programs specified in part 19 of this
17 article;

18 (e) To make a written report to the general assembly on
19 or before January 1, 1991, and annually thereafter through
20 January 1, 1996, which reports shall include the following
21 information:

22 (I) An evaluation of the progress of the consolidation
23 process regarding community-based corrections and any problems
24 encountered therefrom;

25 (II) Estimates of the cost-effectiveness of
26 consolidation of the community-based correctional system in
27 those areas in which it has been completed.

1 24-33.5-1504. Criminal justice commission - act as
2 advisory board and provide legislative oversight. The
3 criminal justice commission created by article 1.5 of title
4 18, C.R.S., shall act as an advisory board and provide
5 legislative oversight for the division of community-based
6 corrections.

7 24-33.5-1505. Effective date of part 15 - phased in
8 effective date of parts 16 to 19. (1) This part 15 shall
9 take effect July 1, 1990.

10 (2) Parts 16, 17, 18, and 19 of this article shall take
11 effect in the places specified and on the dates specified as
12 follows:

13 (a) On July 1, 1990, in the sixth, seventh, eleventh,
14 twelfth, and twenty-second judicial districts as such judicial
15 districts, are defined in part 1 of article 5 of title 13,
16 C.R.S.;

17 (b) On July 1, 1991, in the fourth, fifth, eighth,
18 ninth, tenth, thirteenth, fourteenth, fifteenth, sixteenth,
19 nineteenth, and twenty-first judicial districts, as such
20 judicial districts are defined in part 1 of article 5 of title
21 13, C.R.S.;

22 (c) On July 1, 1992, in the first, seventeenth,
23 eighteenth, and twentieth judicial districts as such judicial
24 districts, are defined in part 1 of article 5 of title 13,
25 C.R.S.;

26 (d) On July 1, 1994, in the second judicial district, as
27 such judicial district is defined in part 1 of article 5 of

1 title 13, C.R.S.

2 PART 16

3 PROBATION SERVICES FOR ADULTS

4 24-33.5-1601. Transfer of functions relating to adult
5 probation to the department of public safety. (1) On and
6 after the effective date of this part 16 as specified in
7 section 24-33.5-1505 (2), the authority to execute,
8 administer, perform, and enforce the rights, powers, duties,
9 functions, and obligations vested in the judicial department
10 concerning probation supervision of adults pursuant to part 2
11 of article 11 of title 16, C.R.S., as it existed prior to said
12 date, shall be transferred to the department of public safety
13 to be administered by the division of community-based
14 corrections created in part 15 of this article. However, the
15 judicial department shall retain any powers, duties, functions
16 and obligations vested in such department relating to
17 presentence investigations and reports and all aspects of
18 juvenile probation. On and after the effective date of this
19 part 16 as specified in section 24-33.5-1505 (2), any officers
20 or employees of the judicial department whose primary duties
21 and functions within the judicial department concerned the
22 duties and functions transferred to the department of public
23 safety pursuant to this section and whose employment in the
24 department of public safety is deemed necessary by the
25 executive director of the department of public safety to carry
26 out the purposes of this part 16 shall be transferred to the
27 department of public safety and become employees thereof.

1 Such employees shall retain all rights to retirement benefits
2 pursuant to the laws of this state, and their services shall
3 be deemed to have been continuous.

4 (2) On and after the effective date of this part 16 as
5 specified in section 24-33.5-1505 (2), all items of property,
6 real and personal, including office furniture and fixtures,
7 books, documents, and records of the judicial department prior
8 to said date pertaining to the duties and functions
9 transferred to the department of public safety pursuant to
10 this section are transferred to the department of public
11 safety and become the property thereof.

12 (3) Whenever the judicial department is referred to or
13 designated by a contract or other document in connection with
14 the duties and functions transferred to the department of
15 public safety pursuant to this section, such reference or
16 designation shall be deemed to apply to the department of
17 public safety. All contracts entered into by the judicial
18 department prior to the effective date of this part 16 as
19 specified in section 24-33.5-1505 (2) in connection with the
20 duties and functions transferred to the department of public
21 safety pursuant to this section are hereby validated, with the
22 department of public safety succeeding to all the rights and
23 obligations of such contracts. Any appropriations of funds
24 from prior fiscal years open to satisfy obligations incurred
25 pursuant to such contracts are hereby transferred and
26 appropriated to the department of public safety for the
27 payment of such obligations.

1 24-33.5-1602. Officer's appointment - salary - oath.

2 (1) Probation officers shall be appointed by the director of
3 the division of community-based corrections and shall not be
4 removed except for cause.

5 (2) Before entering upon the duties of his office, each
6 probation officer shall take an oath of office as an officer
7 of the court, as prescribed by law, and shall have such duties
8 as prescribed by the laws of this state.

9 24-33.5-1603. Duties of probation officers. (1) The
10 probation officer shall furnish to each person released on
11 probation under his supervision a written statement of the
12 conditions of probation and shall instruct him regarding the
13 same. The officer shall keep informed concerning the conduct
14 and condition of each person on probation under his
15 supervision and shall report thereon to the court at such
16 times as it directs. Such officers shall use all suitable
17 methods, not inconsistent with the conditions imposed by the
18 court, to aid persons on probation and to bring about
19 improvement in their conduct and condition. Each officer
20 shall keep records of his work; shall keep accurate and
21 complete accounts of all moneys collected from persons under
22 his supervision; shall give receipts therefor and shall make
23 at least monthly returns thereof into the registry of the
24 court or as he may be ordered; shall make such reports to the
25 court as are required; and shall perform such other duties as
26 the court may direct.

27 (2) Any probationer, on probation as a result of a

1 conviction of any felony except a class 1 felony, who is under
2 the supervision of a probation officer pursuant to this part
3 16 and who is initially tested for the illegal or unauthorized
4 use of a controlled substance and the result of such test is
5 positive shall be subject to any or all of the following
6 actions:

7 (a) An immediate warrantless arrest;
8 (b) An immediate increase in the level of supervision,
9 including but not limited to intensive supervision;

10 (c) Random screenings for the detection of the illegal
11 or unauthorized use of a controlled substance, which use may
12 serve as the basis for additional punishment or any other
13 community placement;

14 (d) Referral to a substance abuse treatment program.

15 (3) If any probationer described in subsection (2) of
16 this section is subjected to a second or subsequent test for
17 the illegal or unauthorized use of a controlled substance and
18 the result of such test is positive, the probation officer
19 shall take one or more of the following actions:

20 (a) Make an immediate warrantless arrest;

21 (b) Seek a probation revocation in accordance with
22 sections 16-11-205 and 16-11-206;

23 (c) Immediately increase the level of supervision,
24 including but not limited to intensive supervision;

25 (d) Increase the number of drug screenings for the
26 illegal or unauthorized use of controlled substances;

27 (e) Refer the probationer to a substance abuse treatment

1 program.

2 PART 17

3 PAROLE OF ADULTS

4 24-33.5-1701. Transfer of functions relating to adult
5 parole to the department of public safety. (1) On and after
6 the effective date of this part 17 specified in section
7 24-33.5-1505 (2), the authority to execute, administer,
8 perform, and enforce the rights, powers, duties, functions,
9 and obligations vested in the division of adult services in
10 the department of corrections concerning parole supervision
11 pursuant to part 1 of article 2 of title 17, C.R.S., as it
12 existed prior to said date, shall be transferred to the
13 department of public safety to be administered by the division
14 of community-based corrections created by part 15 of this
15 article. On and after the effective date of this part 17
16 specified in section 24-33.5-1505 (2), the authority to
17 execute, administer, perform, and enforce the rights, powers,
18 duties, functions, and obligations vested in the department of
19 corrections concerning the administration of the interstate
20 compact for parolee supervision described in part 3 of article
21 60 of title 24, C.R.S., as it existed prior to said date,
22 shall be transferred to the judicial department. On and after
23 the effective date of this part 17 specified in section
24 24-33.5-1505 (2), any officers or employees of the department
25 of corrections whose primary duties and functions within the
26 department of corrections concerned the duties and functions
27 transferred to the department of public safety pursuant to

1 this section and whose employment in the department of public
2 safety is deemed necessary by the executive director of the
3 department of public safety to carry out the purposes of this
4 article shall be transferred to the department of public
5 safety and become employees thereof. Such employees shall
6 retain all rights to retirement benefits pursuant to the laws
7 of this state, and their services shall be deemed to have been
8 continuous.

9 (2) On the effective date of this part 17 specified in
10 section 24-33.5-1505 (2), all items of property, real and
11 personal, including office furniture and fixtures, books,
12 documents, and records of the department of corrections prior
13 to said date pertaining to the duties and functions
14 transferred to the department of public safety pursuant to
15 this section are transferred to the department of public
16 safety and become the property thereof.

17 (3) Whenever the department of corrections is referred
18 to or designated by a contract or other document in connection
19 with the duties and functions transferred to the department of
20 public safety pursuant to this section, such reference or
21 designation shall be deemed to apply to the department of
22 public safety. All contracts entered into by the department
23 of corrections prior to the effective date of this part 17
24 specified in section 24-33.5-1505 (2) in connection with the
25 duties and functions transferred to the department of public
26 safety pursuant to this section are hereby validated, with the
27 department of public safety succeeding to all the rights and

1 obligations of such contracts. Any appropriations of funds
2 from prior fiscal years open to satisfy obligations incurred
3 pursuant to such contracts are hereby transferred and
4 appropriated to the department of public safety for the
5 payment of such obligations.

6 24-33.5-1702. Community corrections services - contract
7 rights - transferred to the department of public safety. On
8 and after July 1, 1989, all contracts to provide community
9 corrections services not provided directly by the department
10 of corrections, and appropriations to carry out such
11 contracts, shall be transferred to the department of public
12 safety.

13 24-33.5-1703. Legislative intent regarding parole. The
14 general assembly hereby finds and declares that the primary
15 consideration for any decision to grant parole shall be the
16 public safety. The general assembly further finds and
17 declares that, since parole is a privilege granted by the
18 general assembly and not a right guaranteed under the state or
19 federal constitutions, if the parolee violates the conditions
20 of his parole, that privilege may be revoked.

21 24-33.5-1704. Adult parole - general powers, duties, and
22 functions of the division of community-based corrections of
23 the department of public safety. (1) The department of
24 public safety, division of community-based corrections, shall
25 administer the adult parole program. The executive director
26 of the department of public safety shall assign the duty of
27 supervising adults on parole to the division of

1 community-based corrections created pursuant to part 15 of
2 this article. The division of community-based corrections
3 shall keep a complete record with respect to all domestic as
4 well as interstate parolees. The director of the division of
5 community-based corrections or his designee shall exercise the
6 power of suspension of paroles in the interim of the meetings
7 of the state board of parole, and, in connection therewith, he
8 or his designee may arrest such suspended parolee without
9 warrant and return the parolee to the institution from whence
10 he was paroled, there to await the further action of the state
11 board of parole. In case of such suspension of parole, the
12 state court administrator or his designee shall send to the
13 state board of parole, at its first session thereafter, a
14 transcript of all proceedings taken in connection with such
15 suspension and the reasons for the suspension.

16 (2) The director of the division of community-based
17 corrections, pursuant to the provisions of section 13 of
18 article XII of the state constitution, shall appoint such
19 officers and employees as may be necessary to properly
20 supervise all adult parolees released from any state penal or
21 correctional institution together with such other persons as
22 are accepted for supervision under the interstate compact.

23 (3) All officers and employees of the division of
24 community-based corrections involved in supervising adult
25 parolees shall be reimbursed for all necessary expenses
26 incurred by them in the performance of their official duties
27 at such rates and in such amounts as shall be allowed state

1 employees under the rules and regulations promulgated by the
2 controller.

3 (4) A person is eligible for the position of parole
4 officer if he is at least twenty-one years of age. Such
5 person shall be selected because of definite qualifications as
6 to character, ability, experience, and training; he shall be
7 of known devotion to criminal rehabilitation; and he shall
8 have the capacity and ability for influencing adult human
9 behavior. He shall be a person likely to exercise a strong
10 and helpful influence upon persons placed under his
11 supervision. The enumeration of qualifications in this
12 subsection (4) is not exclusive, but the director of the
13 division of community-based corrections, by rule or
14 regulation, may add to such qualifications from time to time
15 as experience may justify.

16 (5) The director of the division of community-based
17 corrections or his designee is authorized to deputize any
18 person regularly employed by the state of Colorado, or any
19 person regularly employed by another state, to act as an
20 officer and agent of this state in effecting the return of any
21 person who has violated the terms and conditions of parole or
22 probation as granted by this state. In any matter relating to
23 the return of such a person, any agent so deputized shall have
24 all the powers of a police official of this state and shall
25 carry written evidence of his deputization and shall produce
26 the same upon demand. The director of the division of
27 community-based corrections or his designee is authorized to

1 enter into contracts with the appropriate officials of any
2 other state, subject to the approval of the governor and
3 controller, for the purpose of sharing an equitable portion of
4 the cost of effecting the return of any person who has
5 violated the terms and conditions of parole or probation as
6 granted by this state.

7 (6) (a) Any parolee, on parole as a result of a
8 conviction of any felony, who is under the supervision of the
9 division of community-based corrections pursuant to this part
10 17 and who is initially tested for the illegal or unauthorized
11 use of a controlled substance and the result of such test is
12 positive shall be subject to any or all of the following
13 actions:

- 14 (I) An immediate warrantless arrest;
- 15 (II) An immediate increase in the level of supervision,
16 including but not limited to intensive supervision;
- 17 (III) Random screenings for the detection of the illegal
18 or unauthorized use of a controlled substance, which use may
19 serve as the basis for any other community placement;
- 20 (IV) Referral to a substance abuse treatment program.

21 (b) If any parolee described in paragraph (a) of this
22 subsection (6) is subjected to a second or subsequent test for
23 the illegal or unauthorized use of a controlled substance and
24 the result of such test is positive, the parole officer shall
25 take one or more of the following actions:

- 26 (I) Make an immediate warrantless arrest;
- 27 (II) Seek a parole revocation in accordance with section

1 24-33.5-1705;

2 (III) Immediately increase the level of supervision,
3 including but not limited to intensive supervision;

4 (IV) Increase the number of drug screenings for the
5 illegal or unauthorized use of controlled substances;

6 (V) Refer the parolee to a substance abuse treatment
7 program.

8 (7) Subject to available appropriations, the director of
9 the division of community-based corrections or his designee is
10 authorized to establish and maintain an information unit which
11 includes an appropriate telecommunications system for the
12 purpose of providing to law enforcement agencies upon their
13 request accurate supervision information concerning any
14 parolee who is currently under the jurisdiction of the
15 division of community-based corrections. Such information
16 shall include the parolee's current status with the division
17 of community-based corrections and the name of the parolee's
18 parole officer.

19 24-33.5-1705. Arrest of parolee - revocation
20 proceedings. (1) The director of the division of
21 community-based corrections or his designee or any parole
22 officer may arrest any parolee when:

23 (a) He has a warrant commanding that such parolee be
24 arrested; or

25 (b) He has probable cause to believe that a warrant for
26 the parolee's arrest has been issued in this state or another
27 state for any criminal offense or for violation of a condition

1 of parole; or

2 (c) Any offense under the laws of this state has been or
3 is being committed by the parolee in his presence; or

4 (d) He has probable cause to believe that a crime has
5 been committed and that the parolee has committed such crime;
6 or

7 (e) He has probable cause to believe that the parolee
8 has violated a condition of his parole or probable cause to
9 believe that the parolee is leaving or about to leave the
10 state, or that the parolee will fail or refuse to appear
11 before the state board of parole to answer charges of
12 violations of one or more conditions of parole, or that the
13 arrest of the parolee is necessary to prevent physical harm to
14 the parolee or another person or to prevent the commission of
15 a crime.

16 (f) The parolee, who is on parole as a result of a
17 conviction of any felony, has been tested for the illegal or
18 unauthorized use of a controlled substance and the result of
19 such test is positive.

20 (2) (a) A state board of parole hearing relating to the
21 revocation of parole shall be held, at the discretion of the
22 administrative law judge or of the state board of parole, in
23 the courthouse of the county in which the alleged violation
24 occurred, in the county of the parolee's confinement, or in
25 the county of the parolee's residence if not confined.

26 (b) In all hearings relating to revocation of parole,
27 one member of the state board of parole or an administrative

1 law judge appointed by the chairperson of the state board of
2 parole shall hear the case to a conclusion, unless the
3 chairperson of the state board of parole assigns another state
4 board of parole member or administrative law judge due to the
5 illness or unavailability of the first state board of parole
6 member or administrative law judge. The parolee may appeal to
7 two members of the state board of parole. Such appeal shall
8 be on the record.

9 (c) At evidentiary hearings concerning revocation of
10 parole, the district attorney of the county in which the
11 hearing is held may be in attendance to present the case.

12 (d) At all hearings before the administrative law judge
13 or the state board of parole which are held outside of the
14 institution to which the parolee is sentenced, it is the duty
15 of the county sheriff to provide for the safety of all persons
16 present. All counties shall make available in their respective
17 courthouses sufficient room to conduct parole revocation
18 proceedings.

19 (e) All votes of the state board of parole at any
20 hearing or appeal held pursuant to this section shall be
21 recorded by member and shall be a public record open to
22 inspection and shall be subject to the provisions of part 3 of
23 article 72 of title 24, C.R.S.

24 (3) (a) Whenever a parole officer has reasonable grounds
25 to believe that a condition of parole has been violated by any
26 parolee, he may issue a summons requiring the parolee to
27 appear before the state board of parole at a specified time

1 and place to answer charges of violation of one or more
2 conditions of parole. Such summons shall be accompanied by a
3 copy of the complaint filed before the state board of parole
4 seeking revocation of parole. Willful failure of the parolee
5 to appear before the state board of parole as required by such
6 summons is a violation of a condition of parole.

7 (b) A parole officer may request that the state board of
8 parole issue a warrant for the arrest of a parolee for
9 violation of the conditions of his parole by filing a
10 complaint with the state board of parole showing probable
11 cause to believe that the parolee has violated a condition of
12 his parole. Such warrant may be executed by any peace
13 officer, as defined in section 18-1-901 (3) (1), C.R.S.

14 (4) If, rather than issuing a summons, a parole officer
15 makes an arrest of a parolee, with or without a warrant, or
16 the parolee is otherwise arrested, the parolee shall be held
17 in a county jail pending action by the parole officer pursuant
18 to subsection (5) of this section.

19 (5) Not later than ten working days after the arrest of
20 any parolee, as provided in subsection (4) of this section,
21 the parole officer shall complete his investigation and
22 either:

23 (a) File a complaint before the state board of parole in
24 which the facts are alleged upon which a revocation of parole
25 is sought; or

26 (b) Order the release of the parolee and request that
27 any warrant be quashed, that any complaint be dismissed, and

1 that the parole be restored; or

2 (c) Order the release of the parolee and issue a summons
3 requiring the parolee to appear before the state board of
4 parole at a specified time and place to answer charges of
5 violation of one or more conditions of parole; or

6 (d) File a violation report to the state board of parole
7 citing facts relating to alleged violations of the terms and
8 conditions of parole. The report may include a recommendation
9 to continue parole supervision and may recommend modifications
10 to parole terms and conditions. If such modifications are
11 recommended, a statement regarding objection or approval of
12 the modifications shall be signed by the parolee and included
13 in the report.

14 (6) (a) Any complaint filed by the parole officer in
15 which revocation of parole is sought shall contain the name of
16 the parolee and his department of corrections number, identify
17 the nature of the charges which are alleged to justify
18 revocation of his parole, the substance of the evidence
19 sustaining the charges, and the condition of parole alleged to
20 have been violated, including the date and approximate
21 location thereof, together with the signature of the parole
22 officer. A copy thereof shall be given to the parolee a
23 reasonable length of time before any parole board hearing.

24 (b) At any time after the filing of a complaint, the
25 state court administrator or his designee may cause the
26 revocation proceedings to be dismissed by giving written
27 notification of his decision for such dismissal to the

1 administrative law judge or the state board of parole, the
2 parole officer, and the parolee. Upon receipt of such
3 notification, the parole officer shall order the release of
4 the parolee pursuant to subsection (5) of this section, and
5 parole shall be restored.

6 (c) The filing of a complaint by the parole officer
7 tolls the expiration of the parolee's parole.

8 (7) If the parolee is in custody pursuant to subsection
9 (4) of this section, or the parolee was arrested and then
10 released pursuant to paragraph (c) of subsection (5) of this
11 section, the hearing on revocation shall be held within a
12 reasonable time, not to exceed thirty days after the parolee
13 was arrested; except that the state board of parole or the
14 administrative law judge may grant a delay when the state
15 board of parole or the administrative law judge finds good
16 cause to exist therefor. If the parolee was issued a summons,
17 the final hearing shall be held within thirty working days
18 from the date the summons was issued; except that the state
19 board of parole or the administrative law judge may grant a
20 delay when the state board of parole or the administrative law
21 judge finds good cause to exist therefor. The state board of
22 parole shall notify the sheriff, the parole officer, and the
23 parolee of the date, time, and place of such hearing. It
24 shall be the responsibility of the sheriff to assure the
25 presence of the parolee being held in custody at the time and
26 place of the hearing and to provide for the safety of all
27 present.

1 (8) Prior to the appearance of a parolee before the
 2 state board of parole or the administrative law judge, he
 3 shall be advised in writing by the state court administrator
 4 or his designee concerning the nature of the charges which are
 5 alleged to justify revocation of his parole and the substance
 6 of the evidence sustaining the charges; he shall be given a
 7 copy of the complaint unless he has already received one; he
 8 shall be informed of the consequences which may follow in the
 9 event that his parole is revoked; and he shall be advised
 10 that, if the charges are denied by him, a full and final
 11 hearing will be held before the state board of parole or an
 12 administrative law judge, that, at such hearing, he will be
 13 required to plead guilty or not guilty to the charges
 14 contained in the complaint, that he may be represented by an
 15 attorney, and that he may testify and present witnesses and
 16 documentary evidence in defense of the charges or in
 17 mitigation or explanation thereof. The hearing may be
 18 continued by the state board of parole or the administrative
 19 law judge upon a showing of good cause.

20 (9) (a) In the event of a plea of not guilty, the
 21 director of the division of community-based corrections or his
 22 designee, at the final hearing before the state board of
 23 parole or the administrative law judge, shall have the burden
 24 of establishing by a preponderance of the evidence the
 25 violation of a condition of parole; except that the commission
 26 of a criminal offense must be established beyond a reasonable
 27 doubt, unless the parolee has been convicted thereof in a

1 criminal proceeding. When it appears that the alleged
 2 violation of a condition or conditions of parole consists of
 3 an offense with which the parolee is charged in a criminal
 4 case then pending, testimony given before the state board of
 5 parole or the administrative law judge in a parole revocation
 6 proceeding shall not be admissible in such criminal proceeding
 7 before a court. When, in a parole revocation hearing, the
 8 alleged violation of a condition of parole is the parolee's
 9 failure to pay court-ordered compensation to appointed
 10 counsel, probation fees, court costs, restitution, or
 11 reparations, evidence of the failure to pay shall constitute
 12 prima facie evidence of a violation. The state board of
 13 parole or the administrative law judge shall revoke the parole
 14 if requested to do so by the parolee. Any evidence having
 15 probative value shall be admissible in all proceedings related
 16 to a parole violation complaint, regardless of its
 17 admissibility under the exclusionary rules of evidence, if the
 18 parolee is accorded a fair opportunity to rebut hearsay
 19 evidence. The parolee shall have the right to confront and to
 20 cross-examine adverse witnesses, unless the administrative law
 21 judge or the state board of parole specifically finds good
 22 cause for not allowing confrontation of an informer.

23 (b) If the parolee has been convicted of a criminal
 24 offense while on parole, the state board of parole or the
 25 administrative law judge shall accept said conviction as
 26 conclusive proof of a violation and shall conduct a hearing as
 27 to the disposition of the parole only.

1 (10) If the state board of parole or the administrative
 2 law judge determines that a violation of a condition or
 3 conditions of parole has been committed, the state board of
 4 parole or administrative law judge shall, within five working
 5 days after the completion of the final hearing, either revoke
 6 the parole or continue it in effect, or modify the conditions
 7 of parole if circumstances then shown to exist require such
 8 modifications. If parole is revoked, the state board of
 9 parole or the administrative law judge shall serve upon the
 10 parolee a written statement as to the evidence relied on and
 11 the reasons for revoking parole. In the event that parole is
 12 revoked, the state board of parole or the administrative law
 13 judge shall cause the parolee to be transported to a place of
 14 confinement designated by the executive director of the
 15 department of corrections. Said transportation shall be
 16 furnished by the sheriff of the county in which the hearing
 17 was held.

18 (11) The state board of parole, if it receives a
 19 violation report as described in paragraph (d) of subsection
 20 (5) of this section, shall respond within ten working days to
 21 the report by agreeing to the recommendation to continue
 22 parole with or without the modifications of the terms and
 23 conditions recommended. If the state board of parole rejects
 24 the recommendation to continue parole, it shall proceed with a
 25 revocation hearing within thirty working days after receipt of
 26 the report.

27 (12) Notwithstanding any provision of this section, a

1 parole officer shall file a complaint seeking revocation of
 2 the parole of any parolee who is found in possession of a
 3 deadly weapon as defined in section 18-1-901 (3) (e), C.R.S.,
 4 or of any parolee who is arrested and charged with a felony, a
 5 crime of violence as defined in section 16-1-104 (8.5),
 6 C.R.S., a misdemeanor assault involving a deadly weapon or
 7 resulting in bodily injury to the victim, or sexual assault in
 8 the third degree as defined in section 18-3-404, C.R.S. If
 9 the administrative law judge or the member of the state board
 10 of parole conducting the hearing pursuant to this subsection
 11 (12) finds the parolee guilty of the conduct charged but
 12 decides against revoking the parole of the parolee, the record
 13 of such hearing shall be reviewed within fifteen days after
 14 the decision by two members of the state board of parole,
 15 exclusive of the board member who conducted the hearing, who
 16 may overturn the decision and order the parole to be revoked.

17 (13) If the parole officer is informed by any law
 18 enforcement agency that a parolee has been arrested for a
 19 criminal offense and is being detained in the county jail, the
 20 parole officer shall file a complaint alleging the criminal
 21 offense as a violation of parole. The parole officer shall
 22 advise the board of any pending criminal proceeding and shall
 23 request that a parole revocation proceeding be deferred
 24 pending a disposition of the criminal charge.

25 24-33.5-1706. Revocation proceedings - parolee arrested
 26 for certain offenses. (1) Notwithstanding any provision of
 27 section 24-33.5-1705, a parole officer shall file a complaint

1 seeking revocation of the parole of any parolee who is found
 2 in possession of a deadly weapon as defined in section
 3 18-1-901 (3) (e), C.R.S., or any parolee arrested and charged
 4 with a felony, a crime of violence as defined in section
 5 16-1-104 (8.5), C.R.S., a misdemeanor assault involving a
 6 deadly weapon or resulting in bodily injury to the victim, or
 7 sexual assault in the third degree as defined in section
 8 18-3-404, C.R.S. A hearing relating to such revocation shall
 9 be held, unless the administrative law judge or board member
 10 is advised that a criminal charge is still pending and no
 11 technical violations are alleged, or where the parolee does
 12 not request revocation, in which case the hearing shall be
 13 delayed until a disposition concerning the criminal charge is
 14 reached.

15 (2) If the hearing officer or board member conducting
 16 the hearing pursuant to subsection (1) of this section finds
 17 the parolee guilty of the conduct charged but decides against
 18 revoking the parole of the parolee, the record of such hearing
 19 shall be reviewed within fifteen days of the decision by two
 20 members of the board, exclusive of the board member who
 21 conducted the hearing, who may overturn the decision and order
 22 the parole to be revoked.

23 24-33.5-1707. Records - reports - publications. The
 24 office of the director of the division of community-based
 25 corrections or his designee shall be maintained as a
 26 clearinghouse for all information on domestic as well as
 27 interstate parolees, and the director or his designee shall

1 prescribe, prepare, and furnish such forms, records, and
 2 reports as shall be necessary to carry out this function.
 3 Such data and information so compiled shall not be considered
 4 to be public records but shall be held to be confidential in
 5 character.

6 PART 18

7 COMMUNITY CORRECTIONAL FACILITIES AND PROGRAMS

8 24-33.5-1801. Legislative declaration. (1) It is the
 9 purpose of this part 18 to encourage flexibility in the
 10 development of community correctional facilities and programs
 11 by the division of community-based corrections, units of local
 12 government, and nongovernmental agencies and to encourage the
 13 use of such facilities and programs by sentencing courts. It
 14 is the further purpose of this article to provide a procedure
 15 through which units of local government and nongovernmental
 16 agencies may provide adult services to the division of
 17 community-based corrections and to sentencing courts.

18 (2) It is the intent of the general assembly that
 19 community correctional facilities and programs be used to
 20 protect the public safety by serving the following purposes:

21 (a) With respect to offenders sentenced to community
 22 corrections by the courts, to provide a sentencing option and
 23 to increase the potential for victim restitution and offender
 24 access to rehabilitation programs;

25 (b) With respect to offenders transferred to community
 26 corrections by the department of corrections for long-term
 27 placement, to provide the least restrictive and least

1 expensive custodial setting for such offenders;

2 (c) With respect to other offenders transferred to
3 community corrections by the department of corrections for
4 short-term, prerelease placement, to provide programs to
5 effectuate the reintegration of such offenders into the
6 community and to ensure that such offenders have the
7 opportunity for transitional community placement before their
8 release from custody.

9 24-33.5-1802. Definitions. As used in this part 18,
10 unless the context otherwise requires:

11 (1) "Community correctional facility or program" means a
12 community-based or community-oriented facility or program:
13 Which is operated either by a unit of local government, the
14 division of community-based corrections, a private nonprofit
15 agency or organization, or any corporation, association, or
16 labor organization; which may provide residential
17 accommodations for offenders; and which provides programs and
18 services to aid offenders in obtaining and holding regular
19 employment, in enrolling in and maintaining academic courses,
20 in participating in vocational training programs, in utilizing
21 the resources of the community in meeting their personal and
22 family needs and providing treatment, and in participating in
23 whatever specialized programs exist within the community.

24 (2) "Corrections board" means the governing body of any
25 unit of local government or a corrections board which may be
26 appointed by the governing body of any unit of local
27 government pursuant to this part 18.

1 (3) "Nongovernmental agency" means any person, any
2 private nonprofit agency, corporation, or association, any
3 labor organization, or any other nongovernmental agency.

4 (4) "Offender" means any person who has been convicted
5 of or who has received a deferred sentence for a felony or
6 misdemeanor, excluding any person who has received an enhanced
7 sentence for a conviction of a crime of violence pursuant to
8 section 16-11-309 (1) (a), C.R.S.

9 (5) "Unit of local government" means a county, city and
10 county, city, or town or a service authority which may be
11 established pursuant to section 17 of article XIV of the state
12 constitution.

13 24-33.5-1803. Community correctional facilities and
14 programs operated by units of local government. (1) Any unit
15 of local government may establish, maintain, and operate such
16 community correctional facilities and programs as it deems
17 necessary to serve the needs of the unit of local government
18 and offenders who are assigned by the department of
19 corrections to the facility or program pursuant to a contract
20 approved by the division of community-based corrections, or
21 offenders sentenced to the facility or program by a sentencing
22 court pursuant to a contract or agreement entered into between
23 the chief judge of the judicial district and the unit of local
24 government, and in accordance with section 24-33.5-1805. Any
25 unit of local government may contract for services with any
26 nongovernmental agency or another unit of local government for
27 the purpose of providing services to offenders.

1 (2) The governing board of any unit of local government
 2 may establish, by resolution or ordinance, a corrections
 3 board, which may be advisory or functional. If a corrections
 4 board is established by resolution or ordinance, the governing
 5 board may delegate to such corrections board any powers
 6 necessary to accomplish the purposes of this part 18.

7 (3) The corrections board may establish and enforce
 8 standards for the operation of any community correctional
 9 facilities and community correctional programs and for the
 10 conduct of offenders. The corrections board and the division
 11 of community-based corrections shall establish procedures for
 12 screening offenders who are to be placed in any community
 13 correctional facility or community correctional program. Such
 14 procedures may include the use of an objective risk assessment
 15 scale to classify offenders in terms of their risk to the
 16 public. The corrections board has the authority to accept,
 17 reject, or reject after acceptance the placement of any
 18 offender in its community correctional facility or program
 19 pursuant to any contract or agreement with the department of
 20 corrections approved by the division of community-based
 21 corrections or a contract or agreement with a judicial
 22 district. If an offender is rejected by the corrections board
 23 after initial acceptance, the offender shall remain in the
 24 facility or program for a reasonable period of time pending
 25 receipt of appropriate orders from the sentencing court or the
 26 department of corrections for the transfer of such offender.
 27 The sentencing court is authorized to make appropriate orders

1 for the transfer of such offender to the department of
 2 corrections and to resentence such offender and impose any
 3 sentence which might originally have been imposed without
 4 increasing the length of the original sentence. The
 5 sentencing court is not required to provide the offender with
 6 an evidentiary hearing prior to resentencing.

7 24-33.5-1804. Community correctional facilities and
 8 programs operated by nongovernmental agencies. (1) Any
 9 nongovernmental agency may establish, maintain, and operate a
 10 community correctional facility and program for the purpose of
 11 providing services to a unit of local government pursuant to
 12 section 24-33.5-1803, to a judicial district pursuant to
 13 section 24-33.5-1805, or to the department of corrections
 14 pursuant to section 24-33.5-1806. The establishment of any
 15 nongovernmental community correctional facility or program
 16 shall be subject to approval of the board of county
 17 commissioners of the county or the governing body of the city,
 18 town, or city and county in which the proposed facility or the
 19 situs of the program is to be located. Approval or denial of
 20 the establishment of such program shall be made only after
 21 consultation with the corrections board.

22 (2) Any nongovernmental agency may enter into contracts
 23 or agreements to provide services with units of local
 24 government, the department of corrections, or a judicial
 25 district. Said contracts or agreements shall be entered into
 26 pursuant to guidelines or standards adopted by the unit of
 27 local government, the division of community-based corrections,

1 or the judicial district. Such contracts or agreements shall
 2 provide for strict accountability procedures and practices for
 3 the conduct and supervision of offenders assigned,
 4 transferred, or sentenced to such nongovernmental agency. The
 5 contracts or agreements shall also provide that the
 6 nongovernmental agency is required to perform periodic and
 7 unscheduled chemical tests to determine the use of drugs by
 8 offenders in the agency's residential facility, if any such
 9 facilities are maintained.

10 (3) The nongovernmental community correctional facility
 11 or program has the authority to accept, reject, or reject
 12 after acceptance the placement of any offender in its facility
 13 or program pursuant to any contract or agreement with the
 14 department of corrections or a judicial district. If an
 15 offender is rejected by the nongovernmental agency after
 16 initial acceptance, the offender shall remain in the facility
 17 or program for a reasonable period of time pending receipt of
 18 appropriate orders from the judicial district or department of
 19 corrections for the transfer of such offender.

20 24-33.5-1805. Authority of sentencing courts to utilize
 21 existing correctional facilities or programs operated by units
 22 of local government or nongovernmental agencies. (1) (a) A
 23 sentencing judge is authorized to sentence a nonviolent
 24 misdemeanor offender to any nonresidential community
 25 correctional facility or program operated by a unit of local
 26 government or a nongovernmental agency. A sentencing judge is
 27 authorized to sentence a nonviolent felony offender to a

1 residential or nonresidential community correctional facility
 2 or program operated by a unit of local government or
 3 nongovernmental agency. Such facilities and programs may be
 4 utilized for such persons who are awaiting sentence, persons
 5 who have been sentenced, including sentences for probation,
 6 and nonviolent offenders whose parole has been revoked
 7 pursuant to section 24-33.5-1705.

8 (b) A person charged with a nonviolent misdemeanor
 9 offense and granted deferred prosecution or deferred
 10 sentencing may be required by the court, as a condition
 11 thereof, to participate in a nonresidential community
 12 correctional facility or program operated by a unit of local
 13 government or a nongovernmental agency.

14 (c) A person charged with a nonviolent felony offense
 15 and granted deferred prosecution or deferred sentencing may be
 16 required by the court, as a condition thereof, to participate
 17 in a residential or a nonresidential community correctional
 18 facility or program operated by a unit of local government or
 19 a nongovernmental agency.

20 (2) (a) The director of the division of community-based
 21 corrections and the unit of local government or
 22 nongovernmental agency shall recommend guidelines for the use
 23 of any facility or program. Such guidelines must be approved
 24 by the chief judge of the judicial district and the division
 25 of community-based corrections prior to the use of such
 26 facility or program by the sentencing judges. The chief judge
 27 of the judicial district shall submit any proposed guidelines

1 for the use of any nongovernmental agency to the governing
2 body of all units of local government in the judicial district
3 for their review and recommendations.

4 (b) Prior to entering into agreement or contract with
5 any nongovernmental community corrections agency, the chief
6 judge of the judicial district shall submit such agreement or
7 contract to the governing body of any affected unit of local
8 government for its review and recommendations.

9 (c) Prior to the placement of an offender in any
10 nongovernmental community correctional facility, the
11 sentencing judge shall notify or cause to be notified the law
12 enforcement agencies of affected units of local government
13 concerning the identity of the offender to be placed.

14 (3) The presentence investigation officers of a judicial
15 district shall be responsible for including in the presentence
16 report to the sentencing judge recommendations for the
17 utilization of any governmental or nongovernmental community
18 correctional facility or program which has been approved for
19 use by the chief judge of the judicial district and the
20 division of community-based corrections.

21 (4) A person sentenced directly to a residential
22 community correctional facility shall, if the sentencing judge
23 directs, be subject, after release from such facility, to up
24 to one year of supervision under the direction of the division
25 of community-based corrections. The probation officer shall
26 supervise all community corrections clients that are sentenced
27 to community corrections programs.

1 24-33.5-1806. Authority of the division of
2 community-based corrections to operate community correctional
3 facilities and programs or to contract for such services.

4 (1) The director of the division of community-based
5 corrections may establish programs and facilities as an
6 alternative or as a supplement to the correctional facilities
7 at Canon City and at Buena Vista for the custody, control,
8 care, and treatment of offenders which may be utilized by the
9 executive director of the department of corrections. For
10 those state facilities designed for community correctional
11 programs, the division of community-based corrections shall
12 obtain approval of the appropriate unit of local government,
13 which shall hold a public hearing thereon prior to any such
14 grant of approval.

15 (2) The director of the division of community-based
16 corrections shall have the power to establish and enforce
17 standards and regulations for all state-operated correctional
18 facilities and programs and shall require that each community
19 correctional facility or program operated by a unit of local
20 government or a nongovernmental agency with which the division
21 of community-based corrections contracts for services meets
22 approved minimum standards.

23 (3) (a) (I) Pursuant to a state contract with a unit of
24 local government or a nongovernmental agency operating a
25 community correctional facility or program, the director of
26 the division of community-based corrections may refer an
27 offender to such community correctional facility or program as

1 provided in subparagraph (II) of this paragraph (a) if the
2 unit of local government and the nongovernmental agency
3 consent.

4 (II) (A) An offender who has not been convicted of an
5 offense enumerated in section 16-11-309 (2), C.R.S., and who
6 has displayed acceptable institutional behavior shall be
7 referred to a community correctional facility or program for a
8 placement of up to sixteen months immediately prior to such
9 offender's parole eligibility date.

10 (B) Any other offender shall be referred to a community
11 correctional facility or program for a placement of up to one
12 hundred eighty days immediately prior to such offender's
13 parole eligibility date.

14 (b) Prior to entering into any agreement or contract
15 with any nongovernmental community corrections agency, the
16 director of the division of community-based corrections shall
17 submit such agreement or contract to the governing body of any
18 affected unit of local government for its review and
19 recommendations.

20 (c) Prior to the placement of an offender in any
21 nongovernmental community correctional facility, the director
22 of the division of community-based corrections shall notify or
23 cause to be notified the law enforcement agencies of affected
24 units of local government concerning the identity of the
25 offender to be placed.

26 (d) Prior to the placement of an offender in any
27 community correctional facility or program, the director of

1 the division of community-based corrections shall give the
2 first right to refuse the placement of such offender to the
3 corrections board in the community where the offender shall
4 reside after his release from custody pursuant to a release
5 plan approved by the department or the state board of parole.

6 24-33.5-1807. Authority of state board of parole to
7 utilize existing community correctional facilities or
8 programs. An offender who is granted parole or whose parole
9 is modified may be required by the state board of parole, as a
10 condition of such parole, to participate in a residential or
11 nonresidential community correctional facility or program
12 operated by a unit of local government or a nongovernmental
13 agency for a maximum of one hundred eighty days if the unit of
14 local government and the nongovernmental agency consent to
15 such participation.

16 24-33.5-1808. Restitution - contract provisions. (1) A
17 sentence, assignment, or transfer of an offender to a
18 community correctional facility or program, whether operated
19 by a governmental or nongovernmental agency, shall be
20 conditioned on the entrance of the program participant into a
21 contract or agreement with the agency in accordance with
22 applicable provisions of sections 17-2-201 and 17-26-128 and
23 article 28 of title 17, C.R.S. Such contracts or agreements
24 shall apply to, but are not limited to, offenders directly
25 sentenced to a community correctional facility or program and
26 to offenders transferred to such a facility or program from
27 the department of corrections. Such contracts or agreements

1 may further provide for a percentage or amount of money
2 received from employment of the offender to be set aside to
3 pay family support, if appropriate, to establish a savings
4 account or fund to be utilized by the program participant upon
5 release, and to be used for any other requirements which the
6 parties deem necessary, including reimbursement to the
7 appropriate governmental or nongovernmental agency to help
8 defray the cost of residential services.

9 (2) In a community correctional facility or program, the
10 primary obligation for obtaining employment shall be on the
11 program participant, but the division of employment and
12 training of the department of labor and employment shall
13 provide assistance in obtaining employment for program
14 participants.

15 24-33.5-1809. Escape from custody. If an offender fails
16 to remain within the extended limits of his confinement or to
17 return within the time prescribed to an institution to which
18 he was assigned or transferred or if any offender who
19 participates in a program established under the provisions of
20 this article leaves his place of employment, or, having been
21 ordered by the executive director of the department of
22 corrections or the director of the division of community-based
23 corrections to return to the correctional institution,
24 neglects or fails to do so, he shall be deemed to have escaped
25 from custody and shall, upon conviction thereof, be punished
26 as provided in section 18-8-208, C.R.S., and all reductions in
27 sentence authorized by part 3 of article 22.5 of title 17,

1 C.R.S., shall be forfeited.

2 24-33.5-1810. Assistance available to corrections
3 boards. Pursuant to the provisions of this part 18, the
4 division of community-based corrections shall provide advice
5 and technical assistance to corrections boards. Corrections
6 boards may also call upon the department of corrections for
7 advice and technical assistance.

8 24-33.5-1811. Use of jails. The use of jails by units
9 of local government for community correctional purposes is not
10 prohibited but is not encouraged.

11 24-33.5-1812. Administrative procedure act not to apply.
12 The provisions of this part 18 shall not be subject to the
13 "State Administrative Procedure Act", article 4 of title 24,
14 C.R.S.

15 24-33.5-1813. Confinement in county jail - resentencing.
16 (1) Where the administrator of a community correctional
17 facility or any other appropriate supervising authority has
18 cause to believe that an offender placed in a community
19 correctional facility has violated any rule or condition of
20 his placement in that facility or any term of his postrelease
21 supervision under section 24-33.5-1805 (1) (b) or cannot be
22 safely housed in that facility, the administrator or other
23 authority shall certify to the appropriate judicial or
24 executive authority the facts which are the basis for his
25 belief and execute a transfer order to any sheriff,
26 undersheriff, deputy sheriff, police officer, or state patrol
27 officer which authorizes said sheriff, undersheriff, deputy

1 sheriff, police officer, or state patrol officer to transport
2 the offender to the county jail in the county in which the
3 facility is located where he shall be confined pending a
4 determination by the appropriate court or executive
5 authorities as to whether or not the offender shall remain in
6 community corrections. Offenders so confined may apply for
7 bond only where they have been confined due to an alleged
8 violation of a condition of the postrelease supervision
9 contemplated by section 24-33.5-1805 (1) (b).

10 (2) If the sentencing court determines that the offender
11 shall not remain in community corrections, the court is
12 authorized to make appropriate orders for the transfer of such
13 offender from the county jail to a correctional facility and
14 to resentence such offender and impose any sentence which
15 might originally have been imposed without increasing the
16 length of the original sentence. The sentencing court is not
17 required to provide the offender with an evidentiary hearing
18 prior to resentencing.

19 24-33.5-1814. Community corrections contracts - division
20 of community-based corrections. Notwithstanding any provision
21 in this article to the contrary, the division of
22 community-based corrections in the department of public safety
23 is hereby authorized to administer and execute all contracts
24 with units of local government, corrections boards, or
25 nongovernmental agencies for the provision of community
26 correctional facilities and programs.

27 PART 19

1 INTENSIVE SUPERVISION PROGRAMS

2 24-33.5-1901. Authority to establish intensive
3 supervision programs for parolees and community corrections
4 offenders. The division of community based corrections shall
5 have the authority to establish and directly operate an
6 intensive supervision program for any offender not having more
7 than ninety days remaining until his established parole
8 release date. The department of corrections shall be
9 authorized to refer for placement any such offender to an
10 intensive supervision program operated under the jurisdiction
11 of the division of community-based corrections or units of
12 local government under contract with the division of
13 community-based corrections. Additionally, the department of
14 corrections may refer for placement in such an intensive
15 supervision program any offender who has met program
16 objectives of a residential community corrections program and
17 who has not more than one hundred twenty days remaining until
18 his parole release date. The division of community-based
19 corrections of the department of public safety shall have the
20 authority to contract with community corrections programs for
21 intensive supervision services subject to the approval of the
22 affected unit of local government. In contracting for such
23 programs, the division shall obtain the advice and consent of
24 affected units of local government and shall consider the
25 needs of the department of corrections, communities, and
26 offenders for successful reintegration into communities and
27 the appropriate allocation of resources for effective

1 correction of offenders.

2 24-33.5-1902. Minimum standards and criteria for the
3 operation of intensive supervision programs. (1) The
4 division of community-based corrections of the department of
5 public safety shall have the power to establish and enforce
6 standards and criteria for administration of intensive
7 supervision programs.

8 (2) The standards and criteria shall require that
9 offenders in the program receive at least the minimum services
10 consistent with public safety, including highly restricted
11 activities, weekly face-to-face contact between the offender
12 and the program staff, daily telephone contact between the
13 offender and the program staff, a monitored curfew at the
14 offender's place of residence at least once a month,
15 employment visitation and monitoring at least twice each
16 month, home visitation, drug and alcohol screening, treatment
17 referrals and monitoring, assuring the payment of restitution,
18 and community service in a manner that shall minimize any risk
19 to the public.

20 (3) An offender as defined in section 24-33.5-1802 (4)
21 is eligible for an intensive supervision program only upon the
22 recommendation of the department if such offender has not more
23 than ninety days remaining until his established parole
24 release date or upon a transfer from a community corrections
25 residential program under part 18 of this article if such
26 offender has not more than one hundred twenty days remaining
27 until his parole release date and if the local community

1 corrections board finds that the correctional needs of such
2 offender will be better served by such supervision. The local
3 community corrections board has the authority to accept,
4 reject, or reject after acceptance the participation of any
5 offender in each and every intensive supervision program under
6 this part 19. In selecting offenders for transfer to an
7 intensive supervision program, the department of corrections
8 and the local community corrections board shall consider, but
9 shall not be limited to, the following factors:

10 (a) The frequency, severity, and recency of disciplinary
11 actions against the offender;

12 (b) The offender's escape history, if any;

13 (c) Whether the offender has functioned at a high level
14 of responsibility in a community corrections program, if
15 applicable;

16 (d) Whether the offender will have adequate means of
17 support and suitable housing in the community; and

18 (e) The nature of the offense for which the offender has
19 been incarcerated.

20 (4) At least two weeks prior to placement of a
21 nonparoled offender in an intensive supervision program, the
22 director of the division of community-based corrections shall
23 notify or cause to be notified the respective prosecuting
24 attorney and the law enforcement agency of the affected unit
25 of local government; and he shall have previously notified the
26 affected corrections board.

27 24-33.5-1903. Confinement in county jail. Where the

1 community corrections administrator of an intensive
2 supervision program has cause to believe that an offender
3 placed in the program has violated any rule or condition of
4 his placement or cannot be safely supervised in that program,
5 the administrator shall certify to the supervising parole
6 officer the facts which are the basis for his belief and
7 execute a transfer order to the sheriff of the county in which
8 the program is being operated, who shall confine the offender
9 in the county jail pending a determination by the supervising
10 parole officer as to whether or not the offender shall remain
11 in the program.

12 24-33.5-1904. Escape from custody. If an offender fails
13 to remain within the extended limits on his confinement as
14 established under the intensive supervision program, or,
15 having been ordered by the parole board, the executive
16 director of the department of corrections, or the
17 administrator of the program to return to the correctional
18 institution, neglects or fails to do so, he shall be deemed to
19 have escaped from custody and shall, upon conviction thereof,
20 be punished as provided in section 18-8-208, C.R.S.

21 24-33.5-1905. Duty to report. No later than January 15,
22 1991, and each subsequent year thereafter, the executive
23 director of the department of public safety and the executive
24 director of the department of corrections shall each submit a
25 report to the governor and to the general assembly. The
26 report shall describe the type of intensive supervision
27 programs established, the number of offenders assigned to

1 those programs, progress and problems with operation of the
2 programs, and the recommendations of the executive director.
3 24-33.5-1906. Authority of state board of parole to
4 utilize intensive supervision programs. An offender who is
5 granted parole or whose parole is modified may be required by
6 the state board of parole, as a condition of such parole, to
7 participate in an intensive supervision program as defined by
8 this part 19; except that the offender shall not be subject to
9 the authority of the local community corrections board under
10 section 24-33.5-1902 (3).

11 SECTION 2. 16-11-208, Colorado Revised Statutes, 1986
12 Repl. Vol., is amended to read:

13 16-11-208. Officer's appointment - salary - oath.
14 (1) ~~Probation~~ PRESENTENCE INVESTIGATION officers shall be
15 appointed pursuant to the provisions of section 13-3-105,
16 C.R.S., and shall not be removed except for cause.

17 (2) Before entering upon the duties of his office, each
18 ~~probation~~ PRESENTENCE INVESTIGATION officer shall take an oath
19 of office as an officer of the court, as prescribed by law.

20 SECTION 3. 16-11-209, Colorado Revised Statutes, 1986
21 Repl. Vol., as amended, is REPEALED AND REENACTED, WITH
22 AMENDMENTS, to read:

23 16-11-209. Duties of presentence investigation officers.
24 It is the duty of a presentence investigation officer to
25 investigate and report upon any case referred to him by the
26 court for investigation and to perform such other duties as
27 the court may direct.

1 SECTION 4. 16-11-210, Colorado Revised Statutes, 1986
2 Repl. Vol., is amended to read:

3 16-11-210. County and juvenile courts. Any county court
4 or juvenile court in this state may exercise the powers
5 provided for and granted to district courts in this part 2.
6 ~~and the probation officers provided for in this part--2--shall~~
7 ~~also--serve--such--courts--in the same capacity as required by~~
8 ~~this part-2-for-district-courts.~~ ANY COUNTY COURT OR JUVENILE
9 COURT MAY UTILIZE THE PRESENTENCE INVESTIGATION OFFICERS
10 APPOINTED PURSUANT TO SECTION 16-11-208. THE COUNTY COURT MAY
11 UTILIZE PROBATION OFFICERS APPOINTED PURSUANT TO PART 16 OF
12 ARTICLE 33.5 OF TITLE 24, C.R.S. THE JUVENILE COURT SHALL
13 UTILIZE PROBATION OFFICERS APPOINTED PURSUANT TO PART 10 OF
14 ARTICLE 2 OF TITLE 19, C.R.S.

15 SECTION 5. Effective date. This act shall take effect
16 as provided in section 24-33.5-1505, Colorado Revised
17 Statutes.

18 SECTION 6. Repeal. Articles 27 and 27.5 of title 17,
19 Colorado Revised Statutes, 1986 Repl. Vol., as amended, and
20 part 1 of article 2 of title 19, Colorado Revised Statutes,
21 1986 Repl. Vol., as amended, are repealed.

22 SECTION 7. Safety clause. The general assembly hereby
23 finds, determines, and declares that this act is necessary
24 for the immediate preservation of the public peace, health,
25 and safety.

BY REPRESENTATIVES Epps, Ratterree, Anderson, Arveschoug, Berry, Fish, Johnson, Masson, and Philips; also SENATORS Norton, Hopper, L. Trujillo, Owens, and Schaffer.

A BILL FOR AN ACT

1 CONCERNING A REGIMENTED INMATE DISCIPLINE AND TREATMENT
2 PROGRAM, AND MAKING AN APPROPRIATION IN CONNECTION
3 THEREWITH.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Authorizes the department of corrections to develop a regimented inmate training program and to establish and enforce standards for its operation. Specifies eligibility requirements for an offender to participate in the program. Allows an offender who successfully completes the program to make a motion for reconsideration of his sentence. Specifies that the court may not deny the offender's motion without a hearing.

Makes an appropriation to the department of corrections for the implementation of the act.

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

5 SECTION 1. Title 17, Colorado Revised Statutes, 1986
6 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW
7 ARTICLE to read:

8 ARTICLE 27.7

1 Regimented Inmate Discipline and Treatment Program
2 17-27.7-101. Legislative declaration. It is the intent
3 of the general assembly that the program established pursuant
4 to this article shall benefit the state by reducing prison
5 overcrowding and shall benefit persons who have been convicted
6 of offenses and placed in the custody of the department by
7 promoting such person's personal development and
8 self-discipline.

9 17-27.7-102. Regimented inmate training programs -
10 authorization - standards for operation. (1) The department
11 may develop and implement a regimented inmate training
12 program. Any regimented inmate training program shall
13 include, but shall not be limited to, the following aspects:

14 (a) A military styled intensive physical training and
15 discipline program;

16 (b) An educational and vocational assessment and
17 training program emphasizing job seeking skills;

18 (c) A health education program; and

19 (d) A drug and alcohol education and treatment program
20 which shall be structured as an integral part of the entire
21 regimented inmate training program.

22 (2) The department may establish and enforce standards
23 for the regimented inmate training program and each of the
24 aspects thereof described in subsection (1) of this section.

25 (3) The regimented inmate training program shall be
26 structured in such a manner that any offender who is assigned
27 to the program by the executive director shall remain in the

1 program for a period of ninety days, unless removed from the
2 program and reassigned by the executive director for
3 unsatisfactory performance. The executive director may
4 authorize an extension of the program for any offender not to
5 exceed thirty days when such extension will allow the offender
6 to be considered for probation under rule 35b of the Colorado
7 rules of criminal procedure.

8 17-27.7-103. Regimented inmate training program -
9 eligibility of offenders. (1) The executive director may
10 assign an inmate to a regimented inmate training program
11 pursuant to section 17-40-102 (2), C.R.S. The executive
12 director shall assign to a regimented inmate training program
13 only those inmates who are nonviolent offenders between the
14 ages of eighteen and twenty-five years of age who are not
15 serving a sentence, and have not served a previous sentence,
16 in a correctional facility for a violent offense as described
17 in section 16-11-309, C.R.S. Any offender assigned to the
18 program shall be free of any physical or mental defect which
19 could jeopardize his ability to complete the program. The
20 department may eliminate any offender from the program upon a
21 determination by the department that a physical or mental
22 defect will prevent full participation in the program by such
23 offender.

24 (2) The executive director shall assign no more than one
25 hundred offenders to the regimented inmate training program at
26 any one time. No more than a maximum of four hundred
27 offenders shall be assigned to the program in any one year.

1 17-27.7-104. Completion of the program by an offender -
2 reconsideration of sentence. If an offender successfully
3 completes a regimented inmate training program, such offender
4 shall automatically be referred to the court which sentenced
5 such offender so that he may make a motion for reduction of
6 sentence pursuant to rule 35b of the Colorado rules of
7 criminal procedure. The department shall submit a report to
8 the court concerning such offender's performance in the
9 program and which may recommend that such offender be placed
10 in a specialized probation or community corrections program.
11 The court may not summarily deny the offender's motion without
12 a hearing. The court may issue an order modifying the
13 offender's sentence and placing the offender on probation or
14 in a community corrections program.

15 SECTION 2. 17-40-102 (2), Colorado Revised Statutes,
16 1986 Repl. Vol., is amended to read:

17 17-40-102. Program established. (2) The primary
18 function and purpose of the program shall be to provide a
19 diagnostic examination and evaluation of all offenders
20 sentenced by the courts of this state, so that each such
21 offender may be assigned to a correctional institution OR A
22 PROGRAM ESTABLISHED PURSUANT TO ARTICLE 27.7 OF THIS TITLE
23 which has the type of security and, to the extent possible,
24 appropriate programs of education, employment, and treatment
25 available, which are designed to accomplish maximum
26 rehabilitation of such offender and to prepare an offender for
27 placement into as productive an employment as possible

1 following imprisonment.

2 SECTION 3. 17-40-103 (1) (a), Colorado Revised Statutes,
3 1986 Repl. Vol., is amended to read:

4 17-40-103. Examination of offenders - report.

5 (1) (a) Assigned to a correctional institution OR TO A
6 PROGRAM ESTABLISHED PURSUANT TO ARTICLE 27.7 OF THIS TITLE,
7 unless otherwise prohibited by law, based upon the examination
8 and study of the offender; or

9 SECTION 4. Appropriation. In addition to any other
10 appropriation, there is hereby appropriated, out of any moneys
11 in the general fund not otherwise appropriated, to the
12 department of corrections, for the fiscal year beginning July
13 1, 1990, the sum of _____ dollars (\$ _____), or so
14 much thereof as may be necessary, for the implementation of
15 this act.

16 SECTION 5. Safety clause. The general assembly hereby
17 finds, determines, and declares that this act is necessary
18 for the immediate preservation of the public peace, health,
19 and safety.

BY SENATORS Hopper, Schroeder, Wham, Schaffer, L. Trujillo, and Owens; also REPRESENTATIVES Fish, Berry, Fagan, Johnson, Jones, and Fleming.

A BILL FOR AN ACT

1 CONCERNING THE ELIMINATION OF SUBSTANCE ABUSE IN THE CRIMINAL
2 JUSTICE SYSTEM, AND MAKING AN APPROPRIATION IN CONNECTION
3 THEREWITH.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Mandates that each presentence report in any criminal case include the results of a drug and alcohol screening test. Requires weekly drug and alcohol screening tests for all persons placed on probation, on parole, in the custody of the department of corrections, or in community corrections. Provides for exemptions from such weekly testing and also provides for sanctions and treatment for persons who test positive for the presence of controlled substances or alcohol. Creates a commission on the elimination of substance abuse in the criminal justice system and provides for the composition and duties of the commission.

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

5 SECTION 1. 16-11-102, Colorado Revised Statutes, 1986
6 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW
7 SUBSECTION to read:

1 16-11-102. Presentence or probation investigation.
2 (1.3) Each presentence or probation investigation report
3 shall include the results of a drug and alcohol screening test
4 for the presence of any of the controlled substances listed in
5 schedule I or II of part 3 of article 22 of title 12, C.R.S.,
6 or alcohol. Such drug and alcohol screening test shall be
7 carried out in accordance with procedures approved by the
8 division of alcohol and drug abuse of the department of
9 health.

10 SECTION 2. 16-11-204, Colorado Revised Statutes, 1986
11 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW
12 SUBSECTION to read:

13 16-11-204. Conditions of probation. (2.3) (a) If the
14 court determines that it is appropriate to grant probation to
15 any offender who has tested positive for the presence of any
16 controlled substance or alcohol in any test performed pursuant
17 to section 16-11-102 (1.3), the court shall, as a condition of
18 probation, require that such offender be placed in a
19 specialized probation program for drug abusers or alcohol
20 abusers which includes a drug treatment program or an alcohol
21 treatment program and which shall include a requirement that
22 the offender shall be subjected to random drug and alcohol
23 screening tests which shall be administered at least once a
24 week.

25 (b) Any offender placed on probation in accordance with
26 paragraph (a) of this subsection (2.3) who tests positive for
27 the presence of any controlled substance or alcohol the first

1 time subsequent to the initial test performed pursuant to
2 section 16-11-102 (1.3), shall be placed in a specialized
3 intensive supervision program for drug abusers or alcohol
4 abusers unless the offender's probation supervisor makes a
5 written finding that the offender's current level of
6 supervision is satisfactory. Any offender who is placed in a
7 specialized intensive supervision program for drug abusers or
8 alcohol abusers who tests positive for the presence of any
9 controlled substance or alcohol a second time after the
10 initial test shall be placed in a diversion community
11 intensive residential treatment (CIRT) community corrections
12 program unless the offender's probation supervisor makes a
13 written finding that the offender's current level of
14 supervision is satisfactory. Any offender who is placed in a
15 diversion community intensive residential treatment (CIRT)
16 program who tests positive for the presence of any controlled
17 substance or alcohol a third time after the initial test shall
18 be referred to the court for revocation of probation unless
19 the offender's probation supervisor makes a written finding
20 that the offender's current level of supervision is
21 satisfactory.

22 SECTION 3. 17-2-201 (5.5) (a), Colorado Revised
23 Statutes, 1986 Repl. Vol., as amended, is amended to read:

24 17-2-201. State board of parole. (5.5) (a) As a
25 condition of parole, the board shall require every parolee at
26 his own expense to submit to random chemical testing of his
27 urine to determine the presence of drugs or alcohol. Such

1 testing shall take place as follows:
2 ~~(I) Immediately upon the parolee's release from~~
3 ~~incarceration in order to establish a baseline sample;~~
4 ~~(II) Within the first thirty days from the date of~~
5 ~~parole;~~
6 ~~(III) On or after sixty-one days but not later than six~~
7 ~~months from the date of parole; and~~
8 ~~(IV) Annually on or after one year from the date of~~
9 ~~parole for the duration of parole.~~ WITHIN THIRTY DAYS PRIOR
10 TO SUCH PERSON BEING PLACED ON PAROLE OR IMMEDIATELY UPON SUCH
11 PERSON BEING PLACED ON PAROLE AND AT LEAST ONCE EACH WEEK
12 THEREAFTER FOR THE DURATION OF SUCH PERSON'S PAROLE UNLESS
13 SUCH PAROLEE'S PAROLE SUPERVISOR MAKES A WRITTEN FINDING THAT
14 SUCH WEEKLY TESTING IS NOT NECESSARY AND GRANTS THE PAROLEE AN
15 EXEMPTION FROM SUCH TESTING. NO SUCH EXEMPTION FROM TESTING
16 MAY BE GRANTED IF THE PAROLEE HAS TESTED POSITIVE FOR THE
17 PRESENCE OF CONTROLLED SUBSTANCES OR ALCOHOL THREE OR MORE
18 TIMES.

19 SECTION 4. 17-2-201 (5.5) (d), Colorado Revised
20 Statutes, 1986 Repl. Vol., as amended, is REPEALED AND
21 REENACTED, WITH AMENDMENTS, to read:

22 17-2-201. State board of parole.
23 (5.5) (d) (I) Subsequent to the initial test required by
24 paragraph (a) of this subsection (5.5), the first time that a
25 parolee tests positive for the presence of controlled
26 substances or alcohol he shall be placed in a treatment
27 alternative to street crime (TASC) program or an intensive

1 supervision parole program unless the parolee's parole
2 supervisor makes a written finding that the parolee's current
3 level of supervision is satisfactory or that the parolee
4 should be referred to the court for revocation of parole.

5 (II) Subsequent to the initial test required by
6 paragraph (a) of this subsection (5.5), the second time that a
7 parolee tests positive for the presence of controlled
8 substances or alcohol he shall be placed in an intensive
9 supervision parole program or a community intensive
10 residential treatment (CIRT) community corrections program
11 unless the parolee's parole supervisor makes a written finding
12 that the parolee's current level of supervision is
13 satisfactory or that the parolee should be referred to the
14 court for revocation of parole.

15 (III) Subsequent to the initial test required by
16 paragraph (a) of this subsection (5.5), the third time that a
17 parolee tests positive for the presence of controlled
18 substances or alcohol he shall be placed in a community
19 intensive residential treatment (CIRT) community corrections
20 program or the parolee shall be referred to the court for
21 revocation of probation.

22 (IV) Subsequent to the initial test required by
23 paragraph (a) of this subsection (5.5), the fourth time that a
24 parolee tests positive for the presence of controlled
25 substances or alcohol he shall be referred to the court for
26 revocation of parole.

27 SECTION 5. Part 1 of article 22.5 of title 17, Colorado

1 Revised Statutes, 1986 Repl. Vol., as amended, is amended BY
2 THE ADDITION OF A NEW SECTION to read:

3 17-22.5-102.3. Drug and alcohol testing of inmates.

4 (1) Each person sentenced to the custody of the executive
5 director or his designee pursuant to section 17-22.5-102 shall
6 immediately be subjected to a drug and alcohol screening test
7 for the presence of any of the controlled substances listed in
8 schedule I or II of part 3 of article 22 of title 12, C.R.S.,
9 or alcohol. Such drug and alcohol screening test shall be
10 carried out in accordance with procedures approved by the
11 division of alcohol and drug abuse of the department of
12 health.

13 (2) Any inmate who, during the diagnostic process which
14 includes the drug and alcohol screening test required by
15 subsection (1) of this section, is shown to be an extensive
16 abuser of controlled substances or alcohol shall be placed in
17 a confrontational drug treatment or alcohol program.

18 (3) All inmates in the custody of the department,
19 subsequent to the initial drug and alcohol screening test
20 required by subsection (1) of this section, shall be subjected
21 to a similar drug and alcohol screening test on a random basis
22 at least once per week unless an inmate's case manager makes a
23 written finding that such testing is not necessary and grants
24 such inmate an exemption from weekly testing. Any inmate who
25 has tested positive to a drug and alcohol screening test more
26 than two times may not be granted an exemption from weekly
27 testing by his case manager. Nothing in this subsection (3)

1 shall prevent the department from requiring any inmate to
2 submit to a random drug and alcohol screening test at any
3 time.

4 (4) (a) Subsequent to the initial drug and alcohol
5 screening test required pursuant to subsection (1) of this
6 section, the first time that an inmate tests positive for the
7 presence of controlled substances or alcohol, the department
8 shall deduct or withhold fifteen days of good time granted or
9 to be granted to the inmate pursuant to section 17-22.5-301,
10 and such inmate shall be referred to the appropriate drug or
11 alcohol treatment program operated by the department.

12 (b) Subsequent to the initial drug and alcohol screening
13 test required pursuant to subsection (1) of this section, the
14 second time that an inmate tests positive for the presence of
15 controlled substances or alcohol, the department shall deduct
16 or withhold thirty days of good time granted or to be granted
17 to the inmate pursuant to section 17-22.5-301, and such inmate
18 shall be referred to the appropriate drug or alcohol treatment
19 program operated by the department.

20 (c) Subsequent to the initial drug and alcohol screening
21 test required pursuant to subsection (1) of this section, the
22 third time or any subsequent time that an inmate tests
23 positive for the presence of controlled substances or alcohol,
24 the department shall deduct or withhold sixty days of good
25 time granted or to be granted to the inmate pursuant to
26 section 17-22.5-301, and such inmate shall be referred to the
27 appropriate drug or alcohol treatment program operated by the

1 department.

2 SECTION 6. 17-22.5-301, Colorado Revised Statutes, 1986
3 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to
4 read:

5 17-22.5-301. Good time. (5) The department shall
6 deduct or withhold good time pursuant to section 17-22.5-102.3
7 (4).

8 SECTION 7. Article 27 of title 17, Colorado Revised
9 Statutes, 1986 Repl. Vol., as amended, is amended BY THE
10 ADDITION OF A NEW SECTION to read:

11 17-27-106.7. Drug and alcohol testing of offenders.

12 (1) Each offender placed in any community correctional
13 facility or program shall at his own expense be subjected to
14 drug and alcohol screening tests for the presence of any of
15 the controlled substances listed in schedule I or II of part 3
16 of article 22 of title 12, C.R.S., or alcohol. Such drug and
17 alcohol screening tests shall be carried out in accordance
18 with procedures approved by the division of alcohol and drug
19 abuse of the department of health. Each offender shall be
20 subjected to a drug and alcohol screening test immediately
21 upon being placed in any community correctional facility or
22 program and shall be subjected to random drug and alcohol
23 screening tests at least once each week thereafter unless his
24 probation or parole supervisor makes a written finding that
25 such weekly testing is not necessary and grants the offender
26 an exemption from such testing. No such exemption from
27 testing may be granted if the offender has tested positive for

1 the presence of controlled substances or alcohol three or more
2 times.

3 (2) (a) Subsequent to the initial test required by
4 subsection (1) of this section, the first time that an
5 offender tests positive for the presence of controlled
6 substances or alcohol he shall be placed in a specialized drug
7 or alcohol treatment program within the community correctional
8 facility or program.

9 (b) Subsequent to the initial test required by
10 subsection (1) of this section, the second time that an
11 offender tests positive for the presence of controlled
12 substances or alcohol he shall be placed in a community
13 intensive residential treatment (CIRT) community corrections
14 program unless his probation or parole supervisor makes a
15 written finding that the current level of supervision is
16 satisfactory.

17 (c) Subsequent to the initial test required by
18 subsection (1) of this section, the third time or any
19 subsequent time that an offender tests positive for the
20 presence of controlled substances or alcohol he shall be
21 referred to the court for revocation of probation or parole,
22 whichever is appropriate, unless his probation or parole
23 supervisor makes a written finding that the current level of
24 supervision is satisfactory.

25 SECTION 8. Title 18, Colorado Revised Statutes, 1986
26 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW
27 ARTICLE to read:

1 ARTICLE 1.7

2 Commission on the Elimination of Substance

3 Abuse in the Criminal Justice System

4 18-1.7-101. Commission on the elimination of substance
5 abuse in the criminal justice system - creation. (1) In

6 order to unify the criminal justice system in this state to
7 resist and attempt to reduce or eliminate drug abuse and
8 alcohol abuse in the criminal justice system, there is hereby
9 created in the department of public safety the commission on
10 the elimination of substance abuse in the criminal justice
11 system, referred to in this article as the "commission". The
12 commission shall consist of the following twenty-one members:
13 The executive director of the department of public safety; the
14 executive director of the department of corrections; the
15 executive director of the department of health; the executive
16 director of the department of institutions; the chairman of
17 the state board of parole; one member appointed by the
18 attorney general; two members appointed by the chief justice
19 of the supreme court; one member appointed by the state court
20 administrator to represent probation officers; two members of
21 the house of representatives to be appointed by the speaker of
22 the house of representatives; two members of the senate to be
23 appointed by the president of the senate; and eight members
24 appointed by the governor. Of the eight members appointed by
25 the governor, one member shall be appointed from each of the
26 following groups: District attorneys, chiefs of police, the
27 county sheriffs, community corrections, juvenile community

1 corrections, public defenders, a victims' rights organization,
2 and a citizens' correctional reform group. The chairman and
3 the vice-chairman of the commission shall be elected by the
4 members of the commission from among the commission members
5 who are members of the general assembly. Appointed members of
6 the commission shall serve two-year terms. The other members
7 shall serve for the terms for which they hold their respective
8 offices.

9 (2) Members of the commission shall be entitled to
10 reimbursement for reasonable expenses incurred in connection
11 with the performance of their official duties on the
12 commission.

13 18-1.7-102. Commission on the elimination of substance
14 abuse in the criminal justice system - duties. (1) The
15 commission shall carry out the following duties:

16 (a) Study and make recommendations concerning the
17 development of cooperative programs or policies with the aim
18 of better utilizing scarce resources to fight substance abuse
19 in the criminal justice system;

20 (b) Study and make recommendations concerning the
21 reduction of drug and alcohol use by offenders at all levels
22 of the criminal justice system;

23 (c) Study and make recommendations concerning sanctions
24 and treatment for the use of drugs and alcohol by an offender
25 while such offender is under the supervision of the criminal
26 justice system;

27 (d) Study and make recommendations concerning the

1 development of programs which improve the cost benefit ratio
2 of offender sanctions or treatment programs, and the
3 recommendation of the elimination of programs which are not
4 successful or are duplicative of other programs within the
5 criminal justice system;

6 (e) Study and make recommendations concerning the
7 reduction of recidivism among offenders leaving the
8 supervision of the criminal justice system.

9 18-1.7-103. Commission on the elimination of substance
10 abuse in the criminal justice system - reports to the governor
11 and general assembly. Commencing January 1, 1991, and every
12 two years thereafter, the commission shall make its
13 recommendations as specified in this article in a written
14 report to the governor and the general assembly.

15 18-1.7-104. Funding of the commission - governmental and
16 private sources permitted. The commission is authorized to
17 apply for and receive funding from governmental sources and is
18 authorized to apply for and receive contributions, grants,
19 services, and in-kind donations from private sources and may
20 expend such moneys, from wherever derived, to carry out the
21 duties of the commission pursuant to this article.

22 18-1.7-105. Repeal of article. This article is
23 repealed, effective March 15, 1995.

24 SECTION 9. Appropriation. (1) In addition to any other
25 appropriation, there is hereby appropriated, out of any moneys
26 in the general fund not otherwise appropriated, to the
27 judicial department, for the fiscal year beginning July 1,

1 1990, the sum of two million nine hundred eighty-three
2 thousand nine hundred fifteen dollars (\$2,983,915), or so much
3 thereof as may be necessary, for the implementation of this
4 act.

5 (2) In addition to any other appropriation, there is
6 hereby appropriated, out of any moneys in the general fund not
7 otherwise appropriated, to the department of corrections, for
8 the fiscal year beginning July 1, 1990, the sum of twelve
9 million five hundred seven thousand dollars (\$12,507,000), or
10 so much thereof as may be necessary, for the implementation of
11 this act.

12 (3) In addition to any other appropriation, there is
13 hereby appropriated, out of any moneys in the general fund not
14 otherwise appropriated, to the department of public safety for
15 allocation to the division of criminal justice, for the fiscal
16 year beginning July 1, 1990, the sum of two million eight
17 hundred thousand six hundred dollars (\$2,800,600), or so much
18 thereof as may be necessary, for the implementation of this
19 act.

20 (4) In addition to any other appropriation, there is
21 hereby appropriated, out of any moneys in the general fund not
22 otherwise appropriated, to the department of health for
23 allocation to the division of alcohol and drug abuse, for the
24 fiscal year beginning July 1, 1990, the sum of one million
25 four hundred forty-five thousand four hundred dollars
26 (\$1,445,400), or so much thereof as may be necessary, for the
27 implementation of this act.

1 SECTION 10. Effective date. This act shall take effect
2 July 1, 1990.

3 SECTION 11. Safety clause. The general assembly hereby
4 finds, determines, and declares that this act is necessary
5 for the immediate preservation of the public peace, health,
6 and safety.