



# **BILL NO. 247**

*Government Bill*

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*1st Session, 59th General Assembly  
Nova Scotia  
54 Elizabeth II, 2005*

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## **An Act Respecting the Provision of Correctional Services**

CHAPTER 37  
ACTS OF 2005

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR  
DECEMBER 8, 2005**

The Honourable Michael G. Baker, Q.C.  
*Minister of Justice*

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*Halifax, Nova Scotia  
Printed by Authority of the Speaker of the House of Assembly*

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## **An Act Respecting the Provision of Correctional Services**

Be it enacted by the Governor and Assembly as follows:

**1** This Act may be cited as the *Correctional Services Act*.

**2** In this Act,

(a) “assistant probation officer” means an assistant probation officer appointed under this Act;

(b) “attendance centre” means a community-based facility for the delivery of correctional services;

(c) “committal order” means

(i) a court order, including an order of remand, or

(ii) an order issued by a Provincial Director under the *Youth Criminal Justice Act* (Canada),

for the committal of a person to a correctional facility or a penitentiary;

(d) “community corrections” means community-based correctional services that are provided by or authorized by the Correctional Services Division;

(e) “conditional release” means the temporary release, with conditions, from custody of an offender who is serving a sentence of imprisonment pursuant to an enactment;

(f) “contraband” means any unauthorized substance or property in or on the property of a correctional facility or on any person in a correctional facility;

(g) “correctional facility” means a place designated or established under this Act or the *Youth Criminal Justice Act* (Canada) for the custody of offenders and includes any land in connection with it, but does not include a lock-up facility or penitentiary;

(h) “correctional service” means a service or program provided by the Correctional Services Division for the assessment, supervision, custody, control, rehabilitation or reintegration of offenders;

(i) “Correctional Services Division” means the Correctional Services Division of the Department of Justice;

(j) “court order” means

(i) an order issued by a court for the custody or supervision of an offender by the Correctional Services Division, or

(ii) in the case of a committal order, an order for the committal of a person to a correctional facility or penitentiary;

(k) “custody” means the detention, care and control of an offender pursuant to a committal order

(i) in a correctional facility, or

(ii) where an offender is away from a correctional facility, in the continuous control of an employee;

(l) “electronic monitoring” means a device or system that monitors or records the location, activity or communications of an offender;

(m) “employee” means a person employed by the Correctional Services Division to perform correctional services, but does not include an assistant probation officer, a volunteer or a health-services professional;

(n) “Executive Director” means the Executive Director appointed under this Act;

(o) “health-services professional” means

(i) a medical practitioner,

(ii) a nurse,

(iii) a licensed practical nurse,

(iv) a paramedic,

(v) a social worker,

(vi) an occupational therapist,

(vii) a psychologist, or

(viii) other health-services professional designated by regulation,

who is licensed and registered to practise in the Province and is a staff member of a district health authority or the IWK Health Centre;

(p) “intoxicant” means a substance that, where taken into the body of a person, has the potential to impair or alter judgement, behaviour, the capacity to recognize reality or meet the demands of life, but does not include over-the-counter medication, caffeine, nicotine or any authorized medication used in accordance with instructions given by an employee or health-services professional;

(q) “inspector” means an inspector appointed under this Act;

(r) “Minister” means the Minister of Justice;

(s) “offence” includes the breach or contravention of any Act of the Parliament of Canada, of the Province or any other province of Canada or any municipal regulation or by-law, if the breach or contravention may result in prosecution;

(t) “offender” means a person who, pursuant to a court order, is in custody or under the supervision of the Correctional Services Division and includes young persons as defined by the *Youth Criminal Justice Act* (Canada);

(u) “open custody” means a place designated by the Minister pursuant to the *Youth Criminal Justice Act* (Canada) or subsection 24.1(1) of the *Young Offenders Act* (Canada) and operated by the Correctional Services Division;

(v) “policies and procedures” means policies and procedures established under Section 14 and the regulations;

(w) “post order” means written instructions setting out an employee’s responsibilities at a specific location;

- (x) “prescribed” means prescribed by regulation;
- (y) “probation officer” means a probation officer appointed under this Act;
- (z) “responsible official” means
  - (i) in the case of an adult offender, the responsible official of the district health authority in charge of health services for adult offenders in custody, and
  - (ii) in the case of a young person, the responsible official of the IWK Health Centre in charge of health services for young persons in custody;
- (aa) “rules” means rules made pursuant to this Act or the regulations;
- (ab) “secure custody” means a place designated by the Minister pursuant to the *Youth Criminal Justice Act* (Canada) or subsection 24.1(1) of the *Young Offenders Act* (Canada) and operated by the Correctional Services Division;
- (ac) “standard operating procedures” means written instructions of the superintendent issued under Section 39;
- (ad) “strip search” means the removal or rearrangement of a person’s clothing to permit visual inspection of the body but does not include a manual examination of the person’s body cavity;
- (ae) “superintendent” means the superintendent of a correctional facility appointed under this Act;
- (af) “supervision” means the monitoring or overseeing of an offender who
  - (i) is the subject of a court order that requires the offender to be under the supervision of or report to a probation officer, or
  - (ii) is on conditional release under the supervision of an employee;
- (ag) “volunteer” means a volunteer who is appointed under this Act and includes a student on a student placement.

## PART I

### ADMINISTRATION

#### MINISTER

- 3 (1)** The Minister may
- (a) establish correctional facilities;
  - (b) designate or remove the designation of any place as a correctional facility;
  - (c) enter into an agreement with a municipality respecting the conveyance or leasing of a correctional facility;
  - (d) designate a correctional facility as a correctional facility for
    - (i) housing a specific group or classification of offenders,
    - (ii) open custody, secure custody or temporary detention,

- (iii) the purpose of any provision of this Act or any enactment;
- (e) enter into an agreement with the Government of Canada, a province of Canada, a municipality, a person, a partnership or an unincorporated association respecting
  - (i) any matter necessary or advisable to carry out the purposes of this Act, or
  - (ii) the transfer of an offender between a correctional facility in the Province and a penitentiary or a correctional facility in another province of Canada;
- (f) authorize the use by a class of employees of any class of restricted or prohibited weapons;
- (g) establish correctional services to provide for
  - (i) the needs of offenders,
  - (ii) alternative measures,
  - (iii) alternative dispute resolution,
  - (iv) restorative justice,
  - (v) electronic monitoring,
  - (vi) house arrest and curfew monitoring,
  - (vii) public safety, or
  - (viii) such other programs as may be established by regulation;
- (h) establish attendance centres;
- (i) provide reports and other correctional services to assist the courts in the remanding and sentencing process; and
- (j) provide for the custody and supervision of offenders.

**(2)** Clause 3(1)(e) does not authorize the Minister to enter into an agreement with a person or entity other than the Government of Canada, a province of Canada or a municipality for the custody or control of offenders in a correctional facility.

**4** The Minister may establish such classes of persons as may be required for the administration of this Act or any other enactment relating to the provision of correctional services in the Province.

**5** The Minister may, in accordance with the regulations, establish conditions of employment for employees respecting

- (a) any criminal record of a prospective employee;
- (b) requirements for an employee to take an oath of office; and
- (c) such other conditions that are consistent with the provision of correctional services under this Act or the regulations.

**6** The Minister may, with the approval of the Governor in Council, establish a Code of Professional Conduct for employees, assistant probation officers and volunteers.

**7 (1)** In this Section, “emergency” means an actual or impending threat to

(a) the safe and secure operation of a correctional facility; or

(b) a correctional facility’s ability to provide for the necessities of life for offenders, including food, water or shelter.

**(2)** Where an emergency exists, the Minister may, notwithstanding any enactment, appoint the persons the Minister considers necessary to meet the requirements of the emergency.

**8 (1)** Subject to subsection (2), every person who carries a restricted or prohibited weapon into a correctional facility or a Correctional Services Division office is guilty of an offence.

**(2)** The Minister may, in accordance with the regulations, authorize peace officers who carry a prohibited or restricted weapon in the course of their regular duties to carry such a weapon into a correctional facility or a Correctional Services Division office.

**9** Except where, in the opinion of the Minister, a person referred to in clauses (a) to (c) has obtained an adequate remedy for injury or damage, the Minister may pay a compassionate allowance to

(a) an offender for permanent disability arising from an injury incurred in authorized work or participation in a program under this Act or the regulations;

(b) a person for serious injury or damage caused by an offender who is in custody or under the supervision of the Correctional Services Division; or

(c) an employee for serious injury or damage suffered as a consequence of the employee’s employment with the Correctional Services Division.

**10 (1)** The Minister may, on behalf of Her Majesty in right of the Province, accept gifts or endowments for the purpose of this Act.

**(2)** Any money received from any source by the Minister on behalf of or in trust for an offender, or for the general benefit of offenders, may be administered and invested by the Minister for an offender, or for the general benefit of offenders, as the case may be.

#### EXECUTIVE DIRECTOR

**11** The Minister may, in accordance with the *Civil Service Act*, appoint an Executive Director for the Correctional Services Division.

**12** The Executive Director

(a) shall provide, administer and develop correctional services for the Province; and

(b) is responsible for the operation of all correctional facilities and Correctional Services Division offices.

**13** The Executive Director may delegate the Executive Director's authority.

**14 (1)** The Executive Director may, in accordance with the regulations, establish such policies and procedures as the Executive Director determines are necessary respecting

- (a) the provision of correctional services;
- (b) the safe and secure operation, management and administration of community corrections;
- (c) the monitoring of conditions contained in a court order or conditional release;
- (d) the custody and control of an offender in a correctional facility;
- (e) the safe and secure operation, management and administration of a correctional facility;
- (f) the admission of an offender into custody;
- (g) the assessment, classification and discharge of an offender under supervision or in custody;
- (h) programs for an offender under supervision or in custody;
- (i) the duties, responsibilities, obligations and conduct of employees; and
- (j) any other matter in this Act or the regulations.

**(2)** The policies and procedures referred to in subsection (1) may apply generally or specifically to

- (a) community corrections;
- (b) a correctional facility;
- (c) a class of offenders; or
- (d) a class of persons.

**15** The Executive Director may establish standards of training for employees.

**16** Every employee shall maintain training at the standard established by the Executive Director or as may be prescribed by the regulations.

## VOLUNTEERS

**17** The Executive Director may appoint a person as a volunteer to provide correctional services for offenders in accordance with the regulations or the appointment.

**18** The Executive Director shall determine

- (a) the screening, qualifications and training of volunteers; and

(b) the duties and responsibilities of a volunteer with respect to the provision of correctional services.

**19** Volunteers shall serve without remuneration but may be reimbursed for authorized out of pocket expenses.

### INSPECTIONS, INVESTIGATIONS AND INQUIRIES

**20** The Minister may, in accordance with the regulations, designate a person or class of persons as an inspector.

**21 (1)** An inspector may conduct inspections, investigations and inquiries for the purpose of this Act.

**(2)** Inspections, investigations and inquiries referred to in subsection (1) include

(a) inspections of a correctional facility or Correctional Services Division office; and

(b) investigations of or inquiries into any matter respecting the delivery of correctional services under this Act or any other enactment relating to the provision of correctional services in the Province.

**22** The Minister may designate an inspector to carry out special or independent inspections, investigations and inquiries and may vest them with the powers, privileges and immunities of a commissioner appointed under the *Public Inquiries Act*.

**23** Any employee who

(a) obstructs an inspector who is carrying out an inspection, investigation or inquiry; or

(b) withholds, destroys, conceals or refuses to furnish any information or thing required by an inspector,

may be dismissed for cause.

### COMPLAINT PROCEDURE

**24 (1)** For the purpose of this Section, the Executive Director may designate an employee or class of employees to receive and respond to a complaint referred to under subsection (2).

**(2)** Any offender who believes that he or she is aggrieved for any reason may make a complaint, in writing, to an employee or class of employee.

**(3)** The employee or class of employee shall respond in writing to a complaint received under subsection (2).

(4) Where an offender is not satisfied with the response received under subsection (3), the offender may, in accordance with the regulations, make an appeal to the Executive Director or other employee designated by the Executive Director to hear the appeal.

(5) The Executive Director, or designated employee, may confirm, vary or set aside the decision on appeal and may make such other decision the Executive Director or other designated employee considers appropriate.

(6) The decision of the Executive Director or other designated employee on appeal is final.

## HEALTH SERVICES

25 The Minister of Health is responsible for the provision, administration and operation of health services for offenders in custody.

26 The Minister of Health may delegate the delivery of health services to

- (a) in the case of adult offenders in custody, a district health authority; or
- (b) in the case of young persons in custody, the IWK Health Centre.

27 Where an offender is injured while in custody, the responsible official shall provide the superintendent with a written report detailing the nature of the injury.

28 Where an offender in custody is unable to participate in programs or work or requires special accommodation due to illness, disability or injury, the responsible official shall inform the superintendent, in writing, and the superintendent shall make all reasonable efforts to accommodate the needs of the offender.

29 Where a health-services professional is employed in a correctional facility, the responsible official shall ensure that every offender in the facility who is in close confinement is, where a health-services professional is normally on duty, visited daily by the health-services professional.

30 Where an offender in custody becomes sick or injured and requires transfer to a community hospital or clinic, or requires a medical appointment at a location outside the correctional facility, the responsible official may request that the offender be released to or escorted by an employee to the hospital, clinic or medical appointment.

## PROHIBITIONS

31 Subject to the regulations, no person shall trespass on a correctional facility or a Correctional Services Division office.

32 No person shall possess an intoxicant in a correctional facility or a Correctional Services Division office.

**33** No person shall be under the influence of an intoxicant in a correctional facility or in a Correctional Services Division office.

## PART II

### CORRECTIONAL SERVICES

#### COMMUNITY CORRECTIONS

- 34** (1) The Executive Director may appoint
- (a) in accordance with the *Civil Service Act*, probation officers; and
  - (b) assistant probation officers,
- to provide community corrections.
- (2) A probation officer
- (a) is a probation officer for the Province; and
  - (b) shall provide correctional services in the part of the Province that is assigned to that officer.
- 35** Probation officers, or such other persons as may be designated by the Executive Director, shall exercise supervision over and provide guidance to offenders
- (a) where
    - (i) an offender's sentence includes a period of community supervision, or
    - (ii) a person is the subject of a court order made pursuant to an enactment that provides for supervision by the Correctional Services Division,
 and one of the conditions of the court order requires the offender to report to or be under the supervision of a probation officer;
  - (b) where an offender is on conditional release; or
  - (c) where an offender is in a diversion program, fine-option program or other community-based program established under this Act, the regulations or any other enactment.
- 36** (1) Where requested to do so by a court, a probation officer shall, with respect to a person convicted by a court, provide the court with reports to assist the court in sentencing and reviewing sentences being served by an offender.
- (2) Where required for the preparation of reports under subsection (1), a probation officer may request from a person any information that person may have in respect of a person who has been convicted by a court.
- (3) Every person from whom a request for information under subsection (2) is made shall provide the information requested to the probation officer.

## CORRECTIONAL FACILITIES

**37** The Executive Director shall, in accordance with the *Civil Service Act*, appoint a superintendent as the person in charge of a correctional facility.

**38 (1)** Subject to any conditions or restrictions set by the Minister or the Executive Director, a superintendent may delegate the superintendent's authority under this Act.

**(2)** In delegating a superintendent's authority under subsection (1), the superintendent may make the delegation subject to any conditions or restrictions set by the superintendent.

**39** A superintendent shall, in order to ensure the safe and secure operation, management and administration of a correctional facility,

- (a) implement policies and procedures;
- (b) authorize and issue standard operating procedures;
- (c) authorize and issue post orders;
- (d) ensure that offenders are informed of their rights, responsibilities and privileges while in custody;
- (e) establish rules governing the conduct and activity of offenders;
- (f) ensure that employees are informed of their duties, obligations and expectations of their conduct; and
- (g) provide such other correctional services as are required in accordance with this Act and the regulations.

**40** Where a superintendent receives an application by an offender for

- (a) an appeal under this Act;
- (b) an appeal to the court;
- (c) a writ of *habeas corpus*, an order in the nature of *mandamus* or an application for judicial review;
- (d) parole or conditional release;
- (e) bail review; or
- (f) a transfer under the *Transfer of Offenders Act (Canada)*,

the superintendent shall immediately forward the application to the proper authority.

**41 (1)** A superintendent shall ensure that every female offender in a correctional facility is housed in a separate living unit from male offenders.

**(2)** A superintendent shall ensure that every female offender in a hospital is provided with separate living accommodations from males, unless otherwise provided by the Executive Director.

**42** Subject to the regulations, a superintendent shall ensure that every female offender in a correctional facility is supervised by a female employee.

**43** An employee may use as much force as is reasonably necessary, including the use of restraints, other security equipment that may be prescribed by regulation and restricted and prohibited weapons authorized by the Minister under this Act, to

- (a) maintain custody and control of an offender in custody;
- (b) maintain order and control of a correctional facility;
- (c) prevent the self-destructive behaviour of an offender in custody;
- (d) ensure the safety of other offenders, employees or persons in a correctional facility;
- (e) prevent the destruction of property;
- (f) prevent the escape of an offender from custody; and
- (g) ensure that a lawful search and seizure of contraband is carried out.

**44 (1)** Upon consultation with the responsible official, the Executive Director may order that an offender in custody be moved to a hospital.

**(2)** Where an offender is moved to a hospital under subsection (1), the Executive Director may designate the hospital or a part of a hospital as a correctional facility for purposes of that offender.

**(3)** Notwithstanding the *Hospitals Act*, upon the advice of the responsible official of a hospital, the Executive Director may order an offender in a hospital to be returned to a correctional facility.

**45** Notwithstanding any correctional facility named in a committal order, the Executive Director may

- (a) direct that an offender be held in custody in a lock-up facility, pending admission to a correctional facility;
- (b) determine the correctional facility to which an offender is to be admitted;
- (c) determine the correctional facility to which an offender is to be admitted as a result of a transfer under an exchange of service agreement;
- (d) authorize the transfer of an offender from one correctional facility to another, if it is necessary or advisable for the purpose of providing appropriate security, safety or correctional services.

**46** No employee shall admit an offender into a correctional facility unless that offender is the subject of a committal order that states that the offender is to be admitted into a correctional facility.

**47** Where an offender is being admitted into a correctional facility and is in immediate need of medical attention, an employee shall ensure that the offender is medically examined by a health-services professional at the correctional facility or at a hospital.

**48** Where an offender is being transferred from a penitentiary or other correctional jurisdiction, a superintendent may refuse to admit the offender into custody unless a medical practitioner certifies

- (a) the state of health of the offender; and
- (b) that the offender is fit for transfer.

**49** Where an offender is admitted into a correctional facility, an employee who has authority to admit the offender shall, in accordance with the regulations,

- (a) search, bathe and clothe the offender; and
- (b) document the offender's personal effects and money and secure them in a safe place.

**50** Upon the death of an offender while in custody or during a conditional release, a superintendent shall immediately report the death to

- (a) the Executive Director; and
- (b) in accordance with the *Fatality Investigations Act*, the Chief Medical Examiner.

**51 (1)** Where an offender is entitled to be released from a correctional facility on a particular day because that offender's sentence has been served, the employee who has authority to release the offender shall release the offender during normal business hours unless the committal order or the regulations specify a different day or time for the release.

**(2)** Where an offender is entitled to be released from a correctional facility on a weekend or day on which public offices of the Province are closed, the employee who has authority to release the offender shall release the offender during normal business hours on the last working day before that weekend or day on which public offices of the Province are closed, unless the committal order or the regulations specify a different day or time for the release.

**(3)** Where an offender is entitled to be released from a correctional facility on a particular day because that offender's sentence has been served, the superintendent may, in accordance with the regulations and where the offender provides written consent, keep the offender in a correctional facility after the expiration of the sentence if

- (a) the weather conditions make travel by the offender impossible or unsafe;
- or
- (b) the offender is a young person and adequate accommodation is not available at the time of the scheduled release from custody.

**52** Subject to the regulations, or, unless permitted as part of an aboriginal spiritual service, no person shall possess or use tobacco products in or on a correctional facility.

**53 (1)** Every person who possesses contraband in a correctional facility is guilty of an offence.

**(2)** Subject to Sections 65 and 66, every person who delivers to or takes contraband from an offender or a correctional facility is guilty of an offence.

**54 (1)** Subject to the regulations, where, in the opinion of a superintendent, security, safety and operational requirements reasonably permit, the superintendent shall permit an offender in custody to have visitors.

**(2)** Notwithstanding subsection (1), subject to the regulations and such reasonable limits as are necessary for the security of the correctional facility, the safety of persons and operational requirements, the superintendent shall allow an offender in a correctional facility to have reasonable access to the offender's spiritual advisor and the offender's lawyer.

**55** Subject to the regulations and except for telephone communication between an offender and the offender's lawyer, a superintendent may restrict, intercept, monitor or record the telephone communications of an offender in a correctional facility.

**56** Subject to the regulations and except for privileged correspondence between an offender and the offender's lawyer, the superintendent may inspect all correspondence coming into or going out of a correctional facility, including parcels, written material and material stored by electronic or magnetic media.

**57 (1)** A superintendent shall ensure that every offender is allowed at least thirty minutes a day for outdoor exercise.

**(2)** Notwithstanding subsection (1), the superintendent may deny an offender access to outdoor exercise if

- (a) the weather conditions make it unsafe;
- (b) the offender is actively attempting to escape;
- (c) the offender poses an immediate threat to the security of the correctional facility; or
- (d) the offender poses an immediate physical threat to the safety of other offenders or employees.

**58 (1)** A superintendent shall ensure that every offender in a correctional facility is provided regular nutritious meals.

**(2)** Where, in the opinion of the superintendent it is reasonable to do so, the superintendent shall provide special diets to offenders for religious, cultural or health reasons.

**59** Except where exempted by a health-services professional, a superintendent shall ensure that every offender works or participates in programs at a correctional facility.

## SEARCH

**60** In Sections 61 and 62, “authorized employee” means a class of employee authorized by the superintendent.

**61 (1)** Subject to subsection (3), an authorized employee may, in accordance with subsection (2), without individualized suspicion, conduct routine searches in the prescribed circumstances, which circumstances must be limited to what is reasonably required for safety and security purposes.

**(2)** The searches may be of

(a) any person in or on a correctional facility or that person’s property;

(b) a correctional facility or any property of or on a correctional facility, including vehicles in or on a correctional facility.

**(3)** Where the search referred to in subsection (1) is a strip search, the circumstances referred to in subsection (1) must be limited to situations in which the person has been in a place where there was likelihood of access to contraband that is capable of being hidden on the body.

**62** Where an authorized employee suspects, on reasonable grounds, that a person or property referred to in subsection 61(2) is carrying or contains, as the case may be, contraband or evidence relating to the commission of an offence or the contravention of a rule, the authorized employee may conduct a search.

**63** Notwithstanding Sections 61 and 62,

(a) no male employee shall search a female person; and

(b) no female employee shall strip search a male person.

**64 (1)** No employee shall conduct a manual examination of a person’s body cavity.

**(2)** Where required pursuant to a court order, a health-services professional may perform a manual examination of a person’s body cavity.

## SEIZURE

**65** An authorized employee may, during a search, seize an object or substance if the employee believes, on reasonable grounds, that the object or substance is

(a) contraband; or

(b) evidence relating to

(i) the commission of an offence, or

(ii) the contravention of a rule.

**66** An employee shall dispose of contraband in accordance with the regulations.

## DETENTION

**67** Where contraband or evidence relating to the commission of an offence is found in a search under Sections 61 or 62, a superintendent may authorize the detention of the person in order to obtain the services of the police.

- 68** Persons detained under Section 67 have the right to be
- (a) informed promptly of
    - (i) the reasons for the detention, and
    - (ii) their right to retain and instruct counsel; and
  - (b) given a reasonable opportunity to retain and instruct counsel.

## HEARING

**69** Where an offender breaches or is alleged to have breached a rule, a superintendent may, in accordance with the regulations, hold a hearing.

**70 (1)** A superintendent may, in accordance with the regulations, impose a penalty on an offender for breach of a rule made pursuant to this Act or the regulations.

**(2)** The superintendent may suspend a penalty imposed under subsection (1).

**71** An offender may, in accordance with the regulations, appeal to the Executive Director, a decision made under Section 70.

**72** The Executive Director, may, in accordance with the regulations, confirm, vary or set aside the decision on appeal and may make such other decision the Executive Director considers appropriate.

**73** The decision of the Executive Director on appeal is final.

## CLOSE CONFINEMENT

**74** A superintendent may, in accordance with the regulations, place an offender in close confinement in a correctional facility, if

- (a) in the opinion of the superintendent, the offender is in need of protection;
- (b) in the opinion of the superintendent, the offender needs to be segregated to protect the security of the correctional facility or the safety of other offenders;
- (c) the offender is alleged to or has breached a rule of a serious nature; or
- (d) the offender requests.

**75** Where an offender has been placed in close confinement, the superintendent

- (a) may restrict an offender's privileges; and

(b) shall, in accordance with the regulations, conduct a review of the close confinement.

#### REMISSION

**76** Every offender who is serving a sentence for a provincial or municipal offence shall be credited with

(a) fifteen days remission of the sentence being served, for every month during which the offender is in custody; and

(b) a number of days, based on fifteen days remission of the sentence being served, for each month that the offender is in custody, calculated on a *pro rata* basis in respect of each incomplete month during which the offender is in custody.

#### CONDITIONAL RELEASE

**77** In Sections 79 and 80, “designated employee” means an employee designated under Section 78.

**78** The Minister may designate an employee to authorize conditional releases.

**79** Adult offenders serving sentences of less than two years and young persons serving custody sentences may, in accordance with the regulations, apply to a designated employee for a conditional release from custody for

(a) medical reasons;

(b) humanitarian reasons; or

(c) reintegration or rehabilitative reasons, including education and employment.

**80** A designated employee may, in accordance with the regulations,

(a) authorize conditional releases under such terms and conditions as the employee determines are appropriate for the type of offender and the nature of the conditional release;

(b) deny an application for a conditional release;

(c) review a suspension of a conditional release under Section 84 and reinstate it on the same or different conditions; or

(d) revoke a conditional release.

**81** Where an offender is not satisfied with a decision of a designated employee under Section 80, the offender may, in accordance with the regulations, appeal to the Executive Director, or other employee designated by the Executive Director to hear conditional release appeals.

**82** The Executive Director or designated employee may confirm, vary or set aside the decision on appeal and may make such other decision the Executive Director or designated employee considers appropriate.

**83** The decision of the Executive Director or designated employee is final.

**84** Where an offender fails to comply with the terms and conditions of a conditional release or where the circumstances pursuant to which the conditional release was granted change, an employee may suspend the conditional release and require the offender to return to a correctional facility and be dealt with in accordance with the regulations.

**85** Where an offender, whose absence from a correctional facility is authorized under Section 80, fails to return to the correctional facility in accordance with the conditions of the conditional release certificate, or where instructed by an employee to do so, a peace officer may, with or without warrant, apprehend the offender and return the offender to a correctional facility.

**86** The superintendent may, in accordance with the regulations, charge an offender who is released on a conditional release on a daily or periodic basis and who, by reason of employment, training or a rehabilitative program, is entitled to wages, an amount of money as a contribution toward the cost of custody.

## PAROLE

**87 (1)** The National Parole Board, as authorized under the *Corrections and Conditional Release Act* (Canada), is authorized to exercise in the Province, the jurisdiction of the Board under subsection 108(1) of that Act, with respect to any offender sentenced under a provincial enactment where the offender's sentence is to be served concurrently with or consecutively to a sentence imposed under an Act of the Parliament of Canada.

**(2)** Subsection (1) does not apply until a day fixed by order of the Governor in Council made after the coming into force of this Act authorizing the National Parole Board to exercise the jurisdiction in subsection (1).

## TRANSPORTATION OF OFFENDERS

**88 (1)** In this Section, "sheriff" includes a full-time, part-time or casual person employed as a sheriff by the Department of Justice.

**(2)** A sheriff, an employee or other class of person designated by the Minister, shall transport offenders

- (a) between correctional facilities; or
- (b) to or from a correctional facility and
  - (i) a lock-up,
  - (ii) court, or
  - (iii) a penitentiary.

**(3)** Every offender who is being transported

- (a) to or from a correctional facility and
  - (i) a lock-up,

- (ii) court, or
- (iii) a penitentiary; or
- (b) between correctional facilities,

is subject to the rules and regulations applicable to an offender in custody.

#### GENERAL

**89** Any employee or assistant probation officer may obtain and retain information on any offender in custody or under supervision as may be necessary for the purpose of

- (a) identifying an offender;
- (b) administering a sentence; or
- (c) administering this Act or any other enactment relating to the provision of correctional services.

**90** Where there are reasonable grounds for the Executive Director to believe that an offender, an employee, an assistant probation officer or a volunteer is

- (a) using intoxicants or is under the influence of intoxicants in a correctional facility or in a Correctional Services Division office; or
- (b) in the case of an offender that is the subject of a court order that requires the offender to abstain from the use of any or all intoxicants, using intoxicants,

the Executive Director may subject the offender, the employee, the assistant probation officer or the volunteer, as the case may be, to screening for intoxicants.

**91** Notwithstanding the *Freedom of Information and Protection of Privacy Act*, except where it would adversely impact upon the safety and security of the offender or a correctional facility, and upon receipt of a written request from a victim, a victim's parent, guardian, spouse, child or other person acting on behalf of the victim, the Executive Director shall provide a victim or a victim's parent, guardian, spouse, child or other person with information

- (a) respecting the correctional facility in which an offender is incarcerated;
- (b) respecting the transfer of an offender between correctional facilities or between a correctional facility and a penitentiary;
- (c) respecting the date and condition of any unescorted conditional release of the offender;
- (d) respecting an application for parole by an offender;
- (e) respecting the offender's earliest release date from custody and the conditions associated with supervision by the Correctional Services Division after the offender's release from custody;
- (f) respecting the offender's plans and intended destination upon release from custody; and
- (g) that may be prescribed by regulation.

**92** No action may be brought against the Minister, an employee, a probation officer or a volunteer for

- (a) any act done in good faith in the execution or intended execution of that person's duty;
- (b) any alleged neglect or default in the execution in good faith of that person's duty; or
- (c) any act of an offender while in that person's custody or under that person's supervision.

**93 (1)** Where there is a conflict between this Act or the regulations and Schedule A to the *Corrections Act*, Schedule A applies.

**(2)** Where there is a conflict between this Act or the regulations and the *Civil Service Collective Bargaining Act*, the *Civil Service Collective Bargaining Act* applies.

### PART III

#### GENERAL

**94 (1)** The Minister may, with the approval of the Governor in Council, make regulations

- (a) respecting conditions of employment;
- (b) prescribing standards for the training of employees;
- (c) prescribing an oath of office;
- (d) establishing a Code of Professional Conduct for employees, assistant probation officers and volunteers;
- (e) respecting the duties, assignments, privileges and benefits of employees not covered by a collective agreement;
- (f) respecting policies and procedures, standard operating procedures and post orders necessary for the operation of the Correctional Services Division;
- (g) respecting the use of force by employees, including the use of restraint and other security equipment;
- (h) respecting the use of restricted and prohibited weapons;
- (i) prescribing standards and criteria for obtaining and retaining fingerprints, photographs and other processes and measurements that are used to identify and maintain administrative records of offenders;
- (j) respecting inspections, investigations and inquiries;
- (k) prescribing the use of surveillance equipment;
- (l) prescribing forms;
- (m) respecting confidentiality and the disclosure of information;
- (n) respecting the maintenance and destruction of records;

- (o) providing for the establishment and administration of trusts or financial accounts for money held on behalf of offenders in general or specifically;
- (p) prescribing the manner of payment of a compassionate allowance;
- (q) prescribing the amount and manner of payments to be made to offenders;
- (r) prescribing the manner of payment of fines or restitution by offenders;
- (s) providing for the collection from an offender, or from the parent or guardian of an offender who is a young person, of the costs incurred by an offender for correctional services;
- (t) prescribing payments to be paid by offenders on conditional release;
- (u) providing for the establishment, operation and administration of correctional industries;
- (v) providing for the testing or screening of an offender, an employee, an assistant probation officer or a volunteer for the use of intoxicants;
- (w) respecting the custody and supervision of female offenders;
- (x) respecting the development, establishment and delivery of correctional programs for offenders;
- (y) providing for the assessment, classification and supervision of offenders;
- (z) respecting conditional release programs;
- (aa) respecting the process of an appeal of a decision on a conditional release;
- (ab) respecting a review or appeal process of a decision on a complaint;
- (ac) respecting the administration and operation of Correctional Services Division offices;
- (ad) prescribing the content, format and manner of submission of pre-sentence and investigative reports to court;
- (ae) respecting standards for the supervision of offenders by community corrections;
- (af) respecting the designation, establishment, classification, operation, management, supervision and administration of correctional facilities;
- (ag) prescribing the classification of offenders that a correctional facility may be used for;
- (ah) respecting access to a correctional facility;
- (ai) respecting the operation of vehicles on a correctional facility;
- (aj) respecting the transportation of an offender between correctional facilities or to or from a correctional facility and a lock-up, court or penitentiary;
- (ak) respecting the placement of offenders in or within a correctional facility;
- (al) respecting the admission, care, custody, control, employment, education, spiritual needs and privileges of an offender in a correctional facility;
- (am) respecting searches in a correctional facility;

- (an) respecting the release of an offender from a correctional facility upon expiration of an offender's sentence;
- (ao) respecting the seizure and destruction of contraband;
- (ap) prescribing the documentation of, retention of, distribution of and disposal of an offender's property while the offender is in a correctional facility;
- (aq) respecting the use of tobacco in a correctional facility;
- (ar) respecting the people with whom an offender in a correctional facility may visit;
- (as) authorizing the superintendent to impose terms and conditions on the visits an offender in a correctional facility may have with a visitor;
- (at) respecting the terms and conditions of a visit with an offender in a correctional facility;
- (au) respecting the superintendent's power to restrict, intercept, monitor and record the telephone communications of an offender in a correctional facility;
- (av) prescribing exceptions to the superintendent's power to restrict, intercept, monitor and record the telephone communications of an offender in a correctional facility;
- (aw) respecting the superintendent's power to inspect the correspondence of an offender in a correctional facility;
- (ax) prescribing exceptions to the superintendent's power to inspect the correspondence of an offender in a correctional facility;
- (ay) respecting rules for offenders in a correctional facility and penalties for breach of those rules;
- (az) prescribing the procedure for hearings and appeals of a breach of a rule by an offender;
- (ba) providing for allowances, necessities and the transportation of offenders upon admission to, release or discharge from a correctional facility;
- (bb) respecting the remission of custodial sentences served by offenders for provincial offences;
- (bc) respecting the custody, control, care and treatment of physically disabled offenders;
- (bd) respecting electronic monitoring;
- (be) respecting attendance centres;
- (bf) respecting house arrest and curfew monitoring;
- (bg) exempting a correctional facility or community corrections from any part of this Act or the regulations;
- (bh) designating a health-services professional for purpose of this Act;
- (bi) defining any word or expression used but not defined in this Act; and

(bj) respecting any matter the Minister determines necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) The regulations made under subsection (1) may apply generally or specifically to community corrections, a correctional facility, a class of offenders or a class of persons.

(3) The exercise by the Minister of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*.

**95 (1)** The Minister, together with the Minister of Health, may, with the approval of the Governor in Council, make regulations

(a) prescribing the duties and responsibilities of health-services professionals with respect to offenders;

(b) providing for the sharing of health information with respect to offenders;

(c) respecting health services provided to offenders;

(d) respecting the custody, control, care and treatment of mentally ill offenders.

(2) The exercise by the Minister of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*.

**96** Section 2, clauses 3(d), 12(1)(a), (b) and (d), Sections 13 to 19, subsections 21(1) and (2) and clauses 22(1)(a) to (c) and (e) to (z) of Chapter 103 of the Revised Statutes, 1989, the *Corrections Act*, are repealed.

**97** This Act comes into force on such day as the Governor in Council orders and declares by proclamation.

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