

1976 Bill 53

Second Session, 18th Legislature, 25 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 53

THE CORRECTIONS ACT, 1976

MR. GOGO

First Reading

Second Reading

Third Reading

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THE CORRECTIONS ACT, 1976

(Assented to , 1976)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1. In this Act

(a) "Chief Executive Officer" means the Chief Executive Officer of the Alberta Correctional Services;

(b) "correctional institution" means

(i) any holding or lock-up facility operated by the police on a per diem or fee for service basis for the purpose of confining persons being held in custody prior to court appearances, on remand or undergoing a sentence or sentences of imprisonment either

(A) imposed by a court in Alberta, or

(B) imposed elsewhere than in Alberta when those persons are transferred to Alberta pursuant to an Act of the Parliament of Canada or an Act of the legislature of another province,

or

(ii) any detention or remand facility operated by or for the Government of Alberta to detain arrested, charged or convicted persons pursuant to any law in force in Alberta, or

(iii) any forestry or similar facility operated by the Government of Alberta, or

Explanatory Notes

1. Definitions.

- (iv) any jail or institution referred to in section 6, subsection (1), or
- (v) any other facility designated as a correctional institution by the Minister;
- (c) "Department" means the Department of the Solicitor General;
- (d) "Deputy Minister" means the Deputy Solicitor General;
- (e) "director" means, with reference to a correctional institution, the executive head of that correctional institution;
- (f) "inmate" means any person lawfully detained or confined in a correctional institution or otherwise held in lawful custody;
- (g) "Minister" means the Solicitor General of Alberta;
- (h) "probation officer" means any person employed or engaged under this Act either on a full-time or part-time basis in the performance of duties related to probation or matters of a like nature.

2. The Minister is responsible for correctional services under the jurisdiction of the Government of Alberta and in particular for

- (a) the provision to the courts, upon request, of background information on convicted persons prior to sentencing,
- (b) the provision of probation and parole supervision and counselling services to offenders against the law,
- (c) the safe custody and detention of inmates,
- (d) the supervision, treatment and training of inmates with a view to their ultimate rehabilitation in society,
- (e) the promotion and assistance of programs designed to prevent and reduce crime within the community, and
- (f) the provision of a broad range of options and alternatives to the court at the time of sentencing, such as work in lieu of a fine, performance of community service, restitution to a victim or similar alternatives.

2. Responsibility of the Minister. This is the same as section 3 with clause (f) added.

3. (1) In accordance with *The Public Service Act* there may be appointed a Chief Executive Officer of the Alberta Correctional Services and all other employees necessary for the administration of this Act.

(2) The Minister may delegate any of the powers relating to the operation of the Alberta Correctional Services conferred upon him by or under this or any other Act to the Chief Executive Officer or to any other person.

3. Personnel. This replaces section 4.

PART 1

PROBATION AND COMMUNITY CORRECTIONS

4. A probation officer
- (a) is a probation officer for the Province of Alberta;
 - (b) is an officer of every court in Alberta insofar as that designation is consistent with the provisions of the *Criminal Code* and this Act respecting probation or matters of a like nature;
 - (c) shall prepare, upon the request of any court, factual and objective pre-sentence or post-sentence reports;
 - (d) is ex officio a peace officer when appointed a parole supervisor under the provisions of the *Parole Act* (Canada);
 - (e) shall supervise those persons on probation placed under his supervision by a court;
 - (f) shall supervise parolees paroled under this Act and placed under his supervision;
 - (g) shall comply with the instructions of the director of a correctional institution whenever that probation officer is attached to the correctional institution for the purpose of parole or probation investigations or for pre-release or community release or other program purposes which require the presence of a probation officer in the correctional institution;
 - (h) is ex officio a peace officer while carrying out his duties under this Act.
5. A probation officer charged with the supervision of a person on whom the passing of sentence is suspended or who is subject to the conditions of a probation order, shall maintain a record of
- (a) any failure to carry out the terms on which the passing of sentence is suspended, or
 - (b) any breach of conditions of the probation order,
- and shall report the failure or breach in accordance with the regulations.

4. Probation officers. Section 5 of the present Act revised.

5. Reports. Similar to present section 6 but the duty to report is made mandatory.

PART 2

INSTITUTIONAL SERVICES

6. (1) The institutions heretofore certified or designated as jails or correctional institutions by the Lieutenant Governor in Council continue as correctional institutions.

(2) The Minister may by order designate any facility that he considers appropriate as a correctional institution.

(3) The Minister may by order change the name of any correctional institution.

7. (1) There may be appointed a director for each correctional institution.

(2) The director of a correctional institution shall, subject to the direction of the Chief Executive Officer,

(a) direct and co-ordinate the programs of the correctional institution in accordance with the regulations, and

(b) direct the operation, management and administration of the correctional institution including matters of security, inmate control, staff discipline and the care, custody, treatment and training of inmates.

8. The Chief Executive Officer is responsible for authorizing the transfer of inmates from one correctional institution to another.

9. Every employee of a correctional institution is hereby constituted a peace officer for the purpose of assisting in the enforcement of law and order while in the performance of his duties.

10. (1) The director of each correctional institution shall establish a classification and selection committee which shall assess inmates admitted to the institution and assign inmates to the appropriate training or treatment programs within the institution taking into account the needs of the inmate, the

6. Correctional institutions. Subsection (1) is section 8(2) of the present Act. Subsection (3) is new.

7. Function of directors. Section 9 of the present Act amplified.

8. Transfer of inmates.

9. Ex officio peace officers. New.

10. Classification and selection committees. This replaces section 10 of the present Act.

good order, internal management and security of the institution and the safety of the community.

(2) The classification and selection committee shall be composed of at least three persons in accordance with the regulations.

(3) Subject to the regulations, if any, the classification and selection committee shall

(a) obtain, compile and consider information on every inmate sentenced to a term of 30 days or more in such a manner that the inmate's present state and program needs can be adequately identified and assessed prior to assigning the inmate to a treatment or training program,

(b) recommend to the director

(i) the mode of treatment, or

(ii) the treatment, or

(iii) the assignment,

in the institution of each inmate in respect of whom an assessment has been made in accordance with clause (a),

(c) recommend to the director appropriate work and accommodation assignments and security classifications for all inmates committed to the correctional institution, and

(d) review all requests for transfers of inmates to other provincial or federal institutions and recommend to the director the most appropriate course of action after taking into account the needs of the inmate, the good order, internal management and security of the institution and the safety of the community.

11. (1) Subject to *The Ombudsman Act*, the director of a correctional institution or person authorized by him may

(a) open or examine any letter, parcel or other matter received at the correctional institution through the mail or otherwise, addressed to or intended for an inmate and withhold from an inmate, or otherwise

11. Powers of a director. Same as present section 11.

deal with, any objectionable contents of the letter, parcel or matter, and

- (b) open or examine any letter, parcel or other matter an inmate desires to have sent out by mail or otherwise and detain or otherwise deal with any objectionable contents of the letter, parcel or matter.

(2) Where the director withholds, detains or otherwise deals with the contents of any letter, parcel or other matter under subsection (1), he shall so advise the inmate concerned.

12. The Minister may enter into an agreement or agreements with the Government of Canada or the government of any province respecting the rental, purchase or other use of services and facilities of the Government of Canada or the government of that other province required for the purposes of this Act.

13. Any person who, without the prior consent of the director,

- (a) gives or in any way conveys to an inmate an article or thing prohibited by the rules of the correctional institution, or
- (b) leaves any article anywhere with intent that an inmate will get it, or
- (c) does any other act with intent that an inmate will receive the article, or
- (d) takes or receives from or carries out for, an inmate, for any purpose, an article prohibited by the rules of the correctional institution to be taken, received or carried out, or
- (e) buys any thing from or sells any thing to or for any inmate, or
- (f) takes or receives for his own use or for that of any other person a reward from an inmate, or
- (g) employs an inmate, or
- (h) endeavours to do or knowingly allows to be done any of the acts mentioned in this section,

12. Agreements.

13. Prohibitions. Same as present section 13.

is guilty of an offence.

14. A director of a correctional institution shall appoint a panel of three members of the staff of the correctional institution to conduct disciplinary hearings in accordance with the regulations for the purpose of

- (a) reviewing breaches by inmates of the regulations or of the rules of the correctional institution, and
- (b) determining appropriate punishment for contraventions of the regulations or of the rules of the correctional institution.

15. The Minister by order may exempt any correctional institution from the application of all or any of the provisions of sections 10, 11 and 14.

16. Each director of a correctional institution shall cause every sentenced inmate in that correctional institution to be engaged or employed in an employment program to the extent that the institution can accommodate the program, if the inmate is medically fit to engage in the program.

17. (1) Where an employment program is established inside a correctional institution, an inmate who wishes to enter a program may do so if the director of the correctional institution approves the participation of that person in the program.

(2) The products of the employment program inside the correctional institution are the property of the Government of Alberta and

- (a) may be used for the purposes and benefit of the correctional institution where the product was produced or manufactured, or
- (b) may, with the prior consent of the Chief Executive Officer, be used to benefit any other department or agency of the Government of Alberta, or
- (c) may be sold in any manner that the Minister may specify.

(3) Where services are provided under an employment program inside a correctional institution

14. Disciplinary hearings. New.

15. Limited application. New.

16. Employment requirements. New.

17. Employment programs inside correctional institutions. Similar to the present section 15.

- (a) the services are available only to those persons or organizations approved in writing by the Chief Executive Officer, and
- (b) the cost of the services to be provided under this program must be approved by the Chief Executive Officer.

(4) Where a sentenced inmate is engaged in an employment program within a correctional institution he may be paid an incentive allowance in accordance with the regulations.

(5) Handiwork manufactured by an inmate from materials purchased by him or on his behalf may be sold on behalf of the inmate in such manner as the Chief Executive Officer may determine.

18. Where an employment program is established outside a correctional institution,

- (a) every sentenced inmate of the correctional institution is eligible to apply to the director for permission to enter any employment program outside the correctional institution, and
- (b) a sentenced inmate who enters an employment or training program outside the correctional institution is subject to the rules and regulations of the correctional institution to the extent that they can be applied, unless the rule or regulation is altered or waived by the Chief Executive Officer for the purpose of the employment program.

19. The earnings of a sentenced inmate engaged in an employment or training program shall be paid, less deductions required by law or by the regulations, to the director of the correctional institution to which the inmate is sentenced, who shall

- (a) deposit the earnings in trust on behalf of the inmate, in
 - (i) a chartered bank, or
 - (ii) a treasury branch, or
 - (iii) a trust company registered under *The Trust Companies Act*, or

18. Employment programs outside correctional institutions. This is based on section 16 of the present Act.

19. Earnings of inmates. This is based on section 16 of the present Act.

(iv) a corporation designated as an approved corporation under *The Trustee Act* if it is empowered to accept money for deposit,

(b) inform the inmate as to

(i) any money received on behalf of the inmate, or

(ii) any money paid out on behalf of the inmate,

and

(c) pay any balance of money remaining to the inmate on his release from the correctional institution.

(2) The interest earned from the trust accounts shall be paid by the directors into an Institutional Benefit Fund and may be expended by the Chief Executive Officer for the benefit of all inmates of correctional institutions in Alberta.

(3) The earnings of an inmate are owned by him but the director may disburse on the inmate's behalf and without his consent any earnings of the inmate in accordance with the regulations.

20. A person employing an inmate under an employment program pursuant to this Part is responsible for the safe custody of the inmate.

21. Every street, highway or public thoroughfare of any kind along which or across which inmates who are not on parole pass in going to or returning from their work and every place, including a place under an employment program, where they are engaged in work is, for the purpose of this Act, a part of the correctional institution to which they are confined.

20. Responsibility of employer. This is similar to section 17 of the present Act.

21. Certain places deemed part of correctional institutions. This is an amplification of section 26 of the present Act.

PART 3

PAROLE

22. The National Parole Board is hereby authorized to exercise in Alberta the jurisdiction described in section 7 of the *Parole Act* (Canada).

23. The Lieutenant Governor in Council may appoint a Provincial Parole Board of not less than three nor more than nine members.

24. (1) The director of a correctional institution may recommend to the Provincial Parole Board inmates in the correctional institution who in his opinion will benefit from parole.

(2) Upon receiving a recommendation from a director, the Provincial Parole Board shall examine the circumstances of the person recommended with a view to determining whether he should be released on parole.

(3) Notwithstanding anything contained in this section, the Provincial Parole Board may review the case of any person sentenced to a correctional institution and may place on parole any person who appears to the Provincial Parole Board to be suitable for parole.

25. (1) The Provincial Parole Board may, subject to the provisions of any Act of the Parliament of Canada and of this Act, direct the release on parole of a person sentenced to a correctional institution and the director of that correctional institution shall upon receipt of the direction release the person on parole.

(2) The Provincial Parole Board shall prescribe the terms and conditions of parole to be observed and carried out by a person released under subsection (1).

26. The sentence of a person on parole continues in force until the expiration thereof according to law.

22. Jurisdiction of the National Parole Board. Same as section 28 of the present Act.

23. Provincial Parole Board. Same as section 19 of the present Act.

24. Recommendation for parole. Same as section 20 of the present Act.

25. Release on parole. Same as section 21 of the present Act.

26. Continuity of sentence. Same as section 22 of the present Act.

27. (1) The chairman of the Provincial Parole Board or any person designated by the Parole Board may, by a warrant in writing signed by him, suspend any parole and authorize the arrest of a paroled person whenever he is satisfied that the person has committed a breach of any term or condition of the parole.

(2) A warrant issued under subsection (1) constitutes the authority and direction to any and every peace officer in Alberta to forthwith arrest the paroled person named in the warrant and return him to a correctional institution.

(3) The Provincial Parole Board shall forthwith after the paroled person's return to a correctional institution review the case and shall either cancel the suspension or revoke the parole.

28. The Provincial Parole Board may in its discretion change or vary the terms and conditions attached to a parole.

27. Suspension of parole. Same as section 23 of the present Act.

28. Variation of parole. Same as section 24 of the present Act.

PART 4

GENERAL

29. Any person who contravenes any provision of this Act or the regulations is guilty of an offence punishable on summary conviction and liable to

- (a) a fine of not more than \$500 and in default of payment to imprisonment for a term not exceeding three months, or
- (b) imprisonment for a term not exceeding three months, or
- (c) both fine and imprisonment.

30. The Lieutenant Governor in Council may make regulations

- 1. respecting the qualifications, duties and powers of probation officers;
- 2. governing reports by probation officers;
- 3. for the good order and internal management, including the direction and co-ordination of programs, of correctional institutions;
- 4. concerning the security of correctional institutions and the discipline of inmates;
- 5. regarding the searching of visitors and other persons entering a correctional institution;
- 6. prescribing and governing the duties and conduct of persons employed in correctional institutions;
- 7. establishing standards for the maintenance and operation of correctional institutions and the inspection thereof;
- 8. prescribing the privileges which may be earned, suspended or forfeited by inmates in correctional institutions;
- 9. prescribing penalties for inmates who fail to comply with the regulations or the rules of the correctional institution;

29. General offence. This is a variation of section 29 of the present Act providing for stiffer punishment.

30. Regulations.

10. governing the procedure and conduct of disciplinary hearings under section 14;
11. requiring an inmate upon entry to and during his imprisonment in a correctional institution to submit
 - (i) to searches, and
 - (ii) to medical, dental and mental examinations;
12. for the transfer of inmates from one correctional institution to another;
13. for the provision to an inmate upon his release of clothing, transport and money;
14. governing the operation, management and selection of classification and selection committees including provision for any matter mentioned in section 10;
15. specifying the matters regarding which a director may make rules for a correctional institution;
16. governing the establishment of employment programs and the organization, operation, management and administration thereof;
17. governing the manner in which an inmate may apply for entry to an employment program and the conditions and restrictions attached to entry to the program;
18. establishing the criteria upon which the director of a correctional institution shall judge the advisability or otherwise of permitting an inmate to enter an employment program;
19. respecting the security of inmates and the duties and responsibilities upon an employer of inmates;
20. prescribing a schedule of incentive allowances to be paid to inmates engaged in an employment or training program;
21. respecting the terms and conditions attached to employment or training programs;
22. governing the manner in which an employer pays the earnings of an inmate to the director of a correctional institution;
23. concerning the disbursement by the director of a correctional institution of any earnings of the inmate;

24. respecting the establishment and operation of canteens in correctional institutions and the distribution of profits therefrom;
 25. authorizing and governing the establishment of committees to inquire into any matter relating to the operation of a correctional institution;
 26. establishing types of parole and the particular terms and conditions attached to each type;
 27. concerning the persons or classes of persons eligible to apply for parole and the portions, if any, of the terms of imprisonment that inmates must serve before parole may be granted;
 28. respecting the terms and conditions attached to parole.
31. *The Workers' Compensation Act is amended as to section 48, subsection (1), clause (b) by adding after the words "The Corrections Act" the figures " , 1976".*
32. *The Corrections Act is hereby repealed.*
33. This Act comes into force on a date to be fixed by Proclamation.

31. Consequential amendment.

32. Repeals chapter 70 of the Revised Statutes of Alberta 1970.