

2012

## CHAPTER C-39.2

An Act respecting Correctional Services and making  
consequential amendments to other Acts

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(Assented to May 16, 2012)

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

PART I  
**Preliminary Matters**

**Short title**

**1** This Act may be cited as *The Correctional Services Act, 2012*.

**Interpretation**

**2** In this Act:

- (a) **“business day”** means a day other than a Saturday, Sunday or holiday;
- (b) **“bylaw”** means a bylaw of:
  - (i) a municipality;
  - (ii) the Meewasin Valley Authority;
  - (iii) the Wakamow Valley Authority; or
  - (iv) the Wascana Centre Authority;
- (c) **“community correctional facility”** means a place designated as a community correctional facility by the minister pursuant to section 14;
- (d) **“community correctional services”** means correctional services that are located in a community and that are provided by or authorized by the minister;
- (e) **“contraband”** means any of the following:
  - (i) an intoxicant;
  - (ii) if possessed without prior authorization, a weapon, any component of a weapon or ammunition for a weapon, or anything that is designed to kill, injure or disable or is altered so as to be capable of killing, injuring or disabling;

- (iii) an explosive or bomb, or any component of an explosive or bomb;
  - (iv) if possessed without prior authorization, any currency;
  - (v) if possessed without prior authorization, tobacco leaves or any products produced from tobacco in any form or for any use;
  - (vi) if possessed without prior authorization, any other object or substance that may jeopardize the security of the correctional facility or the safety of inmates, staff members or the public;
  - (vii) any other object or substance in the possession of a person contrary to the rules or the regulations;
- (f) **“contractor”** means a person, agency, organization, association, enterprise, institution or body that enters into an agreement pursuant to section 5 to provide correctional services, and includes any person engaged by the contractor to provide any of the services;
- (g) **“correctional centre”** means a place designated as a correctional centre by the minister pursuant to section 14;
- (h) **“correctional facility”** means a correctional centre or a community correctional facility;
- (i) **“correctional service”** means any service that is provided pursuant to this Act, or under a program established pursuant to this Act, and that is related to the assessment, supervision, treatment, training, control, custody, rehabilitation or reintegration of offenders or the prevention or reduction of crime within the community;
- (j) **“court”** means:
- (i) the Provincial Court of Saskatchewan;
  - (ii) the Court of Queen’s Bench;
  - (iii) the Court of Appeal; or
  - (iv) a court constituted by an Act of the Parliament of Canada, having territorial jurisdiction in Saskatchewan;
- (k) **“Crown”** means the Crown in right of Saskatchewan;
- (l) **“custody”** means a correctional service authorized by a warrant of committal requiring confinement of a person who is charged with or convicted of an offence or who is otherwise lawfully detained;
- (m) **“designated staff member”** means a staff member or an individual who is a member of a class of staff members, designated in the regulations;
- (n) **“director”** means, with respect to a correctional facility, the director of that correctional facility;
- (o) **“head of corrections”** means the person appointed as head of corrections by the minister pursuant to section 8 and includes any person appointed as acting head of corrections pursuant to that section;

- (p) **“inmate”** means a person who:
  - (i) has been sentenced to a term of imprisonment and admitted to a correctional facility to serve the sentence and:
    - (A) is confined in the correctional facility;
    - (B) is on a temporary absence from the correctional facility; or
    - (C) is outside the correctional facility in the temporary custody of a peace officer on the condition that the person be returned to the correctional facility; or
  - (ii) is otherwise lawfully detained or confined in the correctional facility;
- (q) **“judge”** means a judge of a court or a justice of the peace who has the authority to commit a person to a correctional facility;
- (r) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (s) **“ministry”** means the ministry over which the minister presides;
- (t) **“municipality”** includes the City of Lloydminster;
- (u) **“offence”** means an offence against the *Criminal Code*, any other enactment of the Parliament of Canada, any enactment of the Government of Saskatchewan, any enactment of another province or territory of Canada or any regulation or bylaw made pursuant to any of those enactments;
- (v) **“offender”** means a person who:
  - (i) is an inmate;
  - (ii) has been convicted of an offence and who, under the terms of a court order issued as a consequence of the conviction, is under the supervision of a probation officer; or
  - (iii) has pleaded guilty or has been found guilty of an offence but has been discharged on conditions set out in a probation order that requires supervision by a probation officer;

and includes a person who has not been convicted of an offence but who is subject to the terms of a supervision order;
- (w) **“penitentiary”** means a penitentiary as defined in the *Corrections and Conditional Release Act*, (Canada);
- (x) **“police officer”** means:
  - (i) a member of a police service, as defined in *The Police Act, 1990*; or
  - (ii) a member of the Royal Canadian Mounted Police;
- (y) **“prescribed”** means prescribed in the regulations;
- (z) **“probation”** includes the disposition of a sentencing court requiring an offender to be subject to conditions set out in a probation order or supervision order;

- (aa) **“probation officer”** means, subject to section 82, a person whose duty includes supervision of an offender under a probation order or supervision order;
- (bb) **“prosecutor”** means:
- (i) with respect to an offence other than an offence against a bylaw, the Attorney General for Saskatchewan or the Attorney General of Canada, as the case may be, and includes a lawyer or agent acting on behalf of that Attorney General; and
  - (ii) with respect to an offence against a bylaw, any person authorized by a municipality or body corporate mentioned in subclauses (b)(ii) to (iv) to prosecute bylaws on its behalf;
- (cc) **“rules”** means rules made by a director of a correctional facility or the head of corrections pursuant to this Act or the regulations;
- (dd) **“segregation”** means the separation of an inmate from the general inmate population of the correctional facility in which the inmate is being confined or detained;
- (ee) **“staff member”** means an employee of the ministry who exercises powers or performs duties or functions related to the administration of this Act, but does not include a volunteer, a contractor or an employee of a contractor;
- (ff) **“temporary absence”** means a temporary absence from a correctional facility authorized pursuant to section 65;
- (gg) **“visitor”** means any person in a correctional facility other than:
- (i) an inmate of the correctional facility; or
  - (ii) a staff member whose duties and functions in the administration of this Act or in a program established pursuant to this Act require the staff member to be in the correctional facility;
- (hh) **“volunteer”** means an individual who has been appointed pursuant to section 10 as a volunteer.

#### Principles

**3** This Act and the regulations made pursuant to this Act must be interpreted and administered in accordance with the following guiding principles:

- (a) that the protection of the public be the paramount consideration in making decisions or taking any action pursuant to this Act;
- (b) that the safety of the public be enhanced by addressing the needs and circumstances of offenders through programs and services designed to promote the rehabilitation and reintegration of offenders into the community;
- (c) that offenders are required to actively participate, to the best of their ability, in programs designed to promote their rehabilitation and reintegration;
- (d) that offenders are required to comply with correctional facility rules and community supervision conditions and will be subject to the least restrictive measures consistent with the protection of the public, staff members and other offenders;

- (e) that offenders are entitled to fair treatment and to have access to a timely and efficient complaint procedure;
- (f) that correctional policies, practices, programs and services be respectful of gender, ethnic, cultural and linguistic differences and be responsive to the particular needs of women, as well as to the needs of other groups of offenders with special requirements;
- (g) that staff members conduct themselves according to any applicable code of professional conduct established pursuant to section 9;
- (h) that the ministry provide opportunities for the public, organizations and other governments to participate in the development and delivery of correctional services and programs.

## PART II

### Administration

#### Minister's responsibilities

- 4(1) The minister is responsible for all matters not by law assigned to any other minister, ministry or agency of the Government of Saskatchewan relating to correctional services.
- (2) Without limiting the generality of subsection (1), the minister is responsible for:
- (a) the establishment, administration, maintenance and operation of correctional facilities;
  - (b) the co-ordination, development, implementation and promotion of policies and programs with respect to correctional facilities and correctional services;
  - (c) the provision of assistance to the courts in their pre-trial or pre-sentence decision making;
  - (d) the provision of correctional services and programs, including the assessment, supervision, treatment, training, control, custody, rehabilitation or reintegration of offenders;
  - (e) the establishment of programs and strategies to prevent and reduce crime; and
  - (f) the establishment, implementation and promotion of programs for public education respecting the criminal justice system.

#### Agreements

- 5 Subject to *The Federal-Provincial Agreements Act* and sections 17 and 17.1 of *The Government Organization Act*, the minister may enter into agreements, on behalf of the Government of Saskatchewan for any purpose related to the exercise of any powers or the carrying out of any of the responsibilities assigned or transferred to the minister by or pursuant to this Act or any other Act or law, with:
- (a) the Government of Canada or the government of any other province or territory of Canada or a minister, agent or official of that government;

(b) the government of any other country or any jurisdiction within that country; or

(c) any person, agency, organization, association, enterprise, institution or body within or outside Saskatchewan.

**Acquisition, etc., of correctional facilities**

**6(1)** The minister may:

(a) plan, develop, furnish, equip, administer, manage, operate, maintain and repair any correctional facility and all lands, buildings and personal property used for correctional services; and

(b) purchase, lease or otherwise acquire any real property and sell, lease, sublease, exchange, assign, distribute or otherwise deal with real property acquired.

(2) Notwithstanding clause (1)(b), the minister shall obtain the approval of the Lieutenant Governor in Council:

(a) to purchase, lease or otherwise acquire any real property; or

(b) to sell, lease, sublease, exchange, assign, distribute or otherwise deal with real property acquired if the value of the property exceeds \$50,000 or, in the case of a lease or sublease of property, the term of the lease or sublease exceeds 10 years or the annual rent pursuant to the lease or sublease exceeds \$50,000.

**Grants**

**7(1)** The minister may:

(a) make grants, subject to any terms and conditions the minister considers appropriate, to any person, agency, organization, association, enterprise, institution or body within or outside Saskatchewan:

(i) for the benefit of offenders; or

(ii) to assist in the research, development, expansion or maintenance of correctional services; and

(b) subject to *The Purchasing Act, 2004*, authorize the purchase of goods and services required for the efficient administration of programs and facilities established by or pursuant to this Act.

(2) The minister shall obtain the approval of the Lieutenant Governor in Council before making any grant pursuant to clause (1)(a) that exceeds \$50,000 in any fiscal year.

**Head of corrections appointed**

**8(1)** The minister may appoint a person as head of corrections.

(2) The minister may appoint a person as acting head of corrections to act when the head of corrections, by reason of absence, illness or other cause, is unable to carry out his or her responsibilities.

(3) The head of corrections shall perform the responsibilities imposed on, and may exercise the powers given to, the head of corrections by this Act or the regulations.



(4) The head of corrections may delegate to any employee of the ministry the performance of any responsibility imposed on the head of corrections or the exercise of any power conferred on the head of corrections, other than the power of delegation pursuant to this section.

(5) The head of corrections may set any limit or condition on a delegation pursuant to subsection (4) that the head of corrections considers reasonable.

(6) The carrying out of any of the responsibilities of the head of corrections or the exercise of any of the powers of the head of corrections by the acting head of corrections or an employee of the ministry to whom the responsibility or power is delegated pursuant to subsection (4) is deemed to be a carrying out of the responsibility or an exercise of the power by the head of corrections.

**Code of professional conduct**

**9(1)** The head of corrections may establish:

- (a) a code of professional conduct for all staff members; or
- (b) one or more codes of professional conduct for different classes of staff members.

(2) Every staff member shall comply with the code of professional conduct that is applicable to that staff member.

**Volunteers**

**10(1)** The head of corrections may appoint any person, with that person's consent, as a volunteer to provide correctional services for offenders.

(2) The powers and duties of a volunteer are those specified by the terms of the volunteer's appointment.

(3) The head of corrections may determine the manner of screening, the qualifications and the training required of volunteers.

(4) Every volunteer who provides correctional services is subject to the direction of the head of corrections.

**Custodial or supervisory authority**

**11** Every person who has the power and responsibility to provide a correctional service has custodial or supervisory authority over any offender to whom that correctional service relates.

**Powers of persons who are peace officers**

**12(1)** The minister may appoint any staff member, either by name or class, as a peace officer, and a staff member so appointed has all of the powers, authority, responsibility, protection and privileges that a peace officer has by law while carrying out his or her duties pursuant to this Act or the regulations.

(2) Every peace officer, while acting in the performance of his or her duties for the purposes of this Act or the regulations, may arrest without warrant any person who has committed an offence in any correctional facility or who the peace officer believes, on reasonable grounds, has committed or is about to commit an offence in any correctional facility.

**Prohibitions on contracting with correctional facilities and offenders**

**13(1)** No person providing a correctional service within a correctional facility, including any employee of the ministry, volunteer, contractor or employee of a contractor, shall, on his or her own behalf or on behalf of any other person, without the approval of the head of corrections:

- (a) provide, furnish, supply or transport any materials, goods or provisions for the use of a correctional facility; or
- (b) have an interest, directly or indirectly, in providing, furnishing, supplying or transporting any materials, goods or provisions for the use of a correctional facility.

(2) No person providing a correctional service, including any employee of the ministry, volunteer, contractor or employee of a contractor, shall, without the approval of the head of corrections:

- (a) buy anything from or sell anything to an offender;
- (b) employ an offender to provide services for the personal gain of the person; or
- (c) take or receive for personal use or for the personal use of another person any fee or gratuity from an offender, a visitor to a correctional facility or any other person with respect to an offender.

PART III  
**Custody of Inmates**

DIVISION 1  
**Correctional Facilities**

**Designation of correctional facilities**

**14(1)** The minister may designate any place as a correctional centre or a community correctional facility.

(2) The minister may, by order, exempt any correctional facility from the application of any provision of this Act.

**Boundaries of correctional facility**

**15** If an inmate is participating in a correctional services program according to the terms and conditions of participation, the following are deemed, for the purposes of this Act, to be part of the correctional facility in which the inmate is admitted:

- (a) every street, highway or public thoroughfare that the inmate uses while participating in the correctional services program;
- (b) every place of employment, educational institution or public place of any kind that the inmate attends while participating in the correctional services program.

**Directors of correctional facilities**

- 16(1)** The head of corrections may appoint a director for each correctional facility.
- (2) Each director is responsible, under the supervision of the head of corrections and within the correctional facility for which he or she has been appointed, for:
- (a) the safe, secure and efficient operation of that correctional facility through the overall management and administration of the correctional facility;
  - (b) the provision of programs and services to assist in the rehabilitation and reintegration of offenders in that correctional facility; and
  - (c) the administration of this Act and the regulations within that correctional facility.
- (3) If there is no director for a correctional facility or if the director for that correctional facility is absent, the head of corrections may appoint a staff member as acting director to perform the duties and responsibilities of the director for that correctional facility.
- (4) A director of a correctional facility may delegate to any staff member the performance of any responsibility imposed on the director or the exercise of any power conferred on the director, other than the power of delegation pursuant to this section.
- (5) A director of a correctional facility may set any limit or condition on a delegation pursuant to subsection (4) that the director considers reasonable.
- (6) The carrying out of any of the responsibilities of a director of a correctional facility or the exercise of any of the powers of a director of a correctional facility by an acting director or by a staff member to whom the responsibility or power is delegated pursuant to subsection (4) is deemed to be a carrying out of the responsibility or an exercise of the power by that director.

**DIVISION 2****Admission and Transfer of Inmates****Designation of correctional facilities by minister**

- 17** The minister may designate the correctional facility to which an inmate or a category of inmates may be admitted.

**Warrant of committal ineffective to specify correctional facility**

- 18** A person who is sentenced, committed or transferred to a correctional facility may be received into any correctional facility, as directed by the minister, and any designation of a particular correctional facility in a warrant of committal is of no force or effect.

**Transfer of inmates**

- 19** Subject to section 20, the head of corrections may authorize the transfer of an inmate confined or detained in a correctional facility to:
- (a) another correctional facility;
  - (b) a penitentiary; or
  - (c) an institution for the custody of inmates in another province or territory of Canada.

**Transfer other than at the request of an inmate**

**20(1)** Before the transfer of an inmate pursuant to section 19, other than a transfer at the request of an inmate pursuant to section 21, the director of the correctional facility in which the inmate is being confined or detained must:

- (a) give the inmate written notice of the proposed transfer, including the reasons for the proposed transfer and notice of the proposed destination;
- (b) after giving the inmate at least two business days to prepare representations with respect to the proposed transfer, meet with the inmate to explain the reasons for the proposed transfer and give the inmate an opportunity to make representations with respect to the proposed transfer in person verbally or, if the inmate prefers, in writing; and
- (c) after considering the representations, give, in accordance with the regulations, the inmate written notice of the final decision with respect to the transfer, including the reasons for the decision.

(2) Subsection (1) does not apply if the director of the correctional facility in which the inmate is being confined or detained determines that it is necessary to transfer an inmate immediately for:

- (a) the security of that correctional facility;
- (b) the safety of the inmate or of any other person; or
- (c) any other prescribed reason.

(3) If the director of the correctional facility in which the inmate is being confined or detained determines that it is necessary to transfer an inmate immediately for any of the reasons mentioned in subsection (2), the director of the correctional facility to which the inmate is transferred must:

- (a) meet with the inmate not more than two business days after the transfer to explain the reasons for the transfer and give the inmate an opportunity to make representations with respect to the transfer in person verbally or, if the inmate prefers, in writing;
- (b) forward the inmate's representations to the director of the correctional facility from which the inmate was transferred; and
- (c) give, in accordance with the regulations, the inmate written notice of the final decision with respect to the transfer, including the reasons for the decision.

(4) An inmate may appeal any decision affecting the inmate that was made by a director pursuant to this section by providing the head of corrections with a notice of appeal in accordance with the regulations.

(5) The notice of appeal must set out:

- (a) the circumstances and any other relevant particulars of the matter being appealed; and
- (b) the reasons why the inmate believes the decision should be set aside or varied.

- (6) An appeal pursuant to this section must be dealt with and determined in accordance with the regulations.
- (7) The head of corrections may:
  - (a) confirm, revoke or vary the decision on appeal; or
  - (b) make any other decision that the head of corrections considers appropriate.
- (8) The decision of the head of corrections on appeal is final.

**Transfer at the request of an inmate**

- 21(1)** An inmate may make a request in writing to the director of the correctional facility in which the inmate is being confined or detained for a transfer to:
- (a) another correctional facility;
  - (b) a penitentiary; or
  - (c) an institution for the custody of inmates in another province or territory of Canada.
- (2) On receipt of a written request for a transfer pursuant to subsection (1), the director of the correctional facility must consider the request and give, in accordance with the regulations, written notice to the inmate of the director's decision with respect to the transfer.
- (3) An inmate may appeal any decision affecting the inmate that was made by the director of the correctional facility pursuant to this section by providing the head of corrections with a notice of appeal in accordance with the regulations.
- (4) Subsections 20(5) to (8) apply, with any necessary modification, to an appeal made pursuant to this section.

**Conveyance of inmate**

- 22(1)** The head of corrections may authorize any person to convey an inmate in custody at a correctional facility to:
- (a) another correctional facility;
  - (b) a penitentiary; or
  - (c) an institution for the custody of inmates in another province or territory of Canada.
- (2) Any inmate who is transferred pursuant to this Act is, during his or her conveyance, subject to the rules and the regulations applicable to the discipline of the correctional facility to which the inmate is being transferred.
- (3) A copy of an authorization made pursuant to section 19 is sufficient authority for a peace officer or any other person carrying out the intent of this Act to comply with the authorization and to deliver, convey or receive the inmate named in it.

### DIVISION 3

### Rules and Regulations for Correctional Facilities

**Directors to establish rules for correctional facilities**

- 23(1)** Subject to the approval of the head of corrections, the director of a correctional facility shall establish rules that are not inconsistent with this Act and the regulations with respect to matters mentioned in subsection 16(2).

(2) Without limiting the generality of subsection (1), the director of a correctional facility shall establish rules with respect to:

- (a) the conduct of inmates of the correctional facility;
- (b) the activities of inmates of the correctional facility; and
- (c) any other matters necessary or advisable for the security of the correctional facility and the safety of inmates, staff members and the public.

(3) The director of a correctional facility shall inform inmates of the correctional facility of the rules of the facility in the prescribed manner.

**Rules and regulations not to be contravened**

**24** No person shall contravene any rules established pursuant to section 23 or the regulations.

**Non-compliance with rules or regulations**

**25** If an inmate fails to comply with a rule established pursuant to section 23 or the regulations, the inmate is subject to discipline in accordance with Part VIII and the regulations.

**DIVISION 4**

**Security and Risk Assessment Programs**

**Security assessment program**

**26(1)** The head of corrections may establish a security assessment program for the purposes of determining the level of security required for an inmate.

(2) Subject to the regulations, the director of a correctional facility may conduct and administer security assessments of inmates for the purposes of the program mentioned in subsection (1).

(3) Without limiting the generality of subsection (2), the director of a correctional facility may require an inmate to participate in:

- (a) verbal and written security assessment procedures; and
- (b) verbal interviews.

(4) The director of a correctional facility may assign an inmate to a specific level of security based on the results of the security assessments mentioned in this section.

**Risk assessment program**

**27(1)** The head of corrections may establish a program for the purposes of assessing an inmate's risk to reoffend and providing appropriate services and programs to:

- (a) support inmates in developing accountability for their own actions and in being rehabilitated and reintegrated into the community; and
- (b) prevent and reduce offending behaviour.

(2) Subject to the regulations, the director of a correctional facility may conduct and administer assessments of inmates for the purposes of the program mentioned in subsection (1).

(3) Without limiting the generality of subsection (2), the director of a correctional facility may:

- (a) design an inmate's assessment to assess the inmate's risk to reoffend in the community;
- (b) use an inmate's assessment as a guide to determine appropriate inmate program assignments;
- (c) use an inmate's assessment to guide and develop the inmate's reintegration plan; and
- (d) use an inmate's assessment for any other purpose that the director of the correctional facility considers appropriate with respect to the supervision, treatment, training, control, custody, rehabilitation or reintegration of the inmate.

## DIVISION 5 Inmate Visits

### Inmate visits

**28(1)** Subject to the regulations and to subsections (2) and (3), the director of a correctional facility may permit visitors to enter or be within the correctional facility for the purposes of:

- (a) allowing the inmates of the correctional facility to maintain positive relationships with family, friends and the community;
- (b) allowing persons to provide necessary services to the correctional facility and inmates of the correctional facility; or
- (c) allowing the public to be aware of the conditions and programs carried on in the facility.

(2) Subject to subsection (3), no inmate at a correctional centre is permitted to have physical contact with a visitor at any time.

(3) In the prescribed circumstances, the director of a correctional facility may permit an inmate to have physical contact with a visitor.

(4) Subject to subsections (5) and (6) and subject to the approval of the head of corrections, the director of a correctional facility may establish rules to ensure, to the extent that is reasonably possible, that the presence of visitors does not:

- (a) endanger the safety or health of the visitors; or
- (b) adversely affect the security of the correctional facility or the safety of inmates, staff members or the public.

(5) Notwithstanding subsection (4) but subject to the regulations, the director of a correctional facility shall allow an inmate to have reasonable access to the inmate's lawyer and to any other prescribed person or member of a prescribed class of persons.

(6) Every visitor who is permitted pursuant to subsection (1) to be within the correctional facility shall comply with:

- (a) prescribed terms, conditions and restrictions;
- (b) terms and conditions imposed under the rules established pursuant to section 23 or the regulations or subsection (4) for the correctional facility that relate to visitors or visiting privileges; and
- (c) terms and conditions specified by the director of the correctional facility at the time the permission was granted.

(7) An inmate's visit may be supervised if the director of a correctional facility believes on reasonable grounds that the supervision is necessary or desirable:

- (a) for the purposes of rehabilitation of an inmate; or
- (b) to ensure the security of the correctional facility or the safety of inmates, staff members or the public.

(8) The director of a correctional facility may, for cause:

- (a) refuse to permit a visitor to enter, or require a visitor to leave, the correctional facility if the director of that correctional facility is of the opinion that it is in the public interest to do so; and
- (b) prohibit a visitor from entering the correctional facility at any time or for a period specified by the director of the correctional facility.

(9) Notwithstanding subsections (1) to (8), the head of corrections may suspend all visiting privileges if the head of corrections is of the opinion that it is necessary for the security of the correctional facility or the safety of inmates, staff members or the public.

## DIVISION 6

### Inmate Communication

#### **Inmate communication**

**29(1)** The head of corrections may establish communication systems for use in correctional facilities that provide inmates with means to communicate with other persons, including other inmates.

(2) Subject to subsection (3) and in accordance with the regulations, inmate communication:

- (a) may be recorded by electronic or other means;
- (b) may be intercepted, monitored, censored or restricted; and
- (c) may be prohibited or blocked.

(3) Nothing in subsection (2) applies to a privileged communication as defined in the regulations.



## DIVISION 7

### Inmate Health Examinations and Treatment

#### Interpretation of part

**30** In this Division and in Part XIV:

- (a) **“health care facility”** means a facility designated as a hospital or a health centre pursuant to *The Regional Health Services Act*;
- (b) **“health care professional”** means any of the following persons:
  - (i) a duly qualified medical practitioner;
  - (ii) a dentist who is entitled to practise dentistry pursuant to *The Dental Disciplines Act*;
  - (iii) a practising member as defined in *The Psychologists Act, 1997*;
  - (iv) a nurse practitioner who is entitled to practise in the nurse practitioner category pursuant to *The Registered Nurses Act, 1988*;
  - (v) a registered psychiatric nurse as defined in *The Registered Psychiatric Nurses Act*;
  - (vi) any other prescribed person or member of a prescribed class of persons.

#### Health examinations

**31** The director of a correctional facility may require an inmate of the facility to undergo an examination by a health care professional to determine whether the inmate is suffering from any condition with respect to the physical or mental health of the inmate that:

- (a) may require special treatment, care or medication; or
- (b) may endanger the health or safety of other inmates, staff members or the public.

#### Removal to other facilities

**32** The director of a correctional facility may cause an inmate of the facility to be transferred to a health care facility or other prescribed facility for the purposes of:

- (a) an examination required pursuant to section 31; or
- (b) the proper treatment, care or medication of the inmate with respect to any condition relating to the physical or mental health of the inmate.

## DIVISION 8

### Use of Force and Restraining Devices

#### Use of force and restraining devices

**33(1)** A staff member may use a reasonable degree and means of force for any of the following purposes:

- (a) to prevent injury or death to a person;
- (b) to prevent property damage;

- (c) to prevent an inmate from escaping;
  - (d) to maintain custody and control of an inmate.
- (2) A device used to physically restrain an inmate may only be used in prescribed circumstances and in accordance with prescribed procedures.

## PART IV Search and Seizure

### DIVISION 1 Interpretation of Part

#### Interpretation

**34** In this Part and in Part XIV:

- (a) **“bodily substance test”** means a prescribed procedure by which a person provides a bodily substance sample for analysis, and includes an oral bodily fluid test, a hair follicle test, a perspiration test, a breath test or any other prescribed test;
- (b) **“body cavity”** means the rectum or the vagina;
- (c) **“body cavity search”** means the physical probing of a body cavity in the prescribed manner;
- (d) **“frisk search”** means a search by hand in the prescribed manner;
- (e) **“non-intrusive search”** means a search by technical or other means in the prescribed manner and includes a canine search;
- (f) **“strip search”** means a visual search in the prescribed manner;
- (g) **“urinalysis”** means a prescribed procedure by which a person provides a urine sample, by the normal excretory process, for analysis.

### DIVISION 2 Searches of Inmates

#### Non-intrusive search or frisk search of inmate without individualized suspicion

**35** A designated staff member may conduct a non-intrusive search or a frisk search of an inmate, without individualized suspicion, in the prescribed circumstances.

#### Strip searches of inmates without individualized suspicion

**36** A designated staff member of the same sex as the inmate may conduct a strip search of an inmate, without individualized suspicion:

- (a) when the inmate enters or leaves a correctional facility;
- (b) when the inmate enters or leaves a segregation area; and
- (c) in any other prescribed circumstance.

**Non-intrusive search or frisk search of inmate on reasonable grounds**

**37** If a designated staff member suspects on reasonable grounds that an inmate is carrying contraband or carrying evidence with respect to an offence, the staff member may conduct a non-intrusive search or frisk search of the inmate.

**Strip search of inmate on reasonable grounds**

**38** A designated staff member of the same sex as the inmate may conduct a strip search of an inmate, if the staff member:

- (a) believes on reasonable grounds that:
  - (i) an inmate is carrying contraband or carrying evidence with respect to an offence; and
  - (ii) a strip search is necessary to find the contraband or evidence; and
- (b) satisfies the director of the correctional facility that there are reasonable grounds to believe that the circumstances mentioned in clause (a) exist.

**Emergency search of inmate**

**39(1)** A designated staff member may conduct a strip search of an inmate without complying with clause 38(b) or the gender requirement mentioned in section 38, if the staff member:

- (a) believes that the requirements of clause 38(a) are satisfied; and
  - (b) believes on reasonable grounds that the delay that would be necessary in order to comply with clause 38(b) or with the gender requirement mentioned in section 38 would result in danger to the safety of inmates, staff members or the public or the loss or destruction of the contraband or evidence.
- (2) If a designated staff member conducts a strip search in accordance with this section, the staff member shall immediately give the director of the correctional facility a written report setting out the circumstances of the search and the results of the search.

**Staff member to inform director of correctional facility**

**40** If a designated staff member believes on reasonable grounds that an inmate is carrying contraband in a body cavity, the staff member shall not seize or attempt to seize that contraband, but shall inform the director of the correctional facility.

**Use of medical imaging and detention of inmate in cell**

**41** If the director of a correctional facility is satisfied that there are reasonable grounds to believe that an inmate has ingested contraband or is carrying contraband in a body cavity, the director of the correctional facility may authorize any or all of the following:

- (a) the use of a medical imaging machine to find the contraband, if the consent of the inmate and of a duly qualified medical practitioner is obtained;
- (b) the detention of the inmate in a cell without operating plumbing fixtures, with notice to the correctional facility's medical staff, on the expectation that the contraband will be expelled.

**Body cavity search**

**42** If the director of a correctional facility is satisfied that there are reasonable grounds to believe that an inmate is carrying contraband in a body cavity and that a body cavity search is necessary in order to find or seize the contraband, the director may authorize a body cavity search to be conducted by a duly qualified medical practitioner, if the inmate's consent is obtained.

**Exceptional power of search**

**43(1)** Subject to subsection (2), the director of a correctional facility may authorize a non-intrusive search, frisk search or strip search of all of the inmates in the correctional facility or any part of the correctional facility, if the director of the correctional facility is satisfied that there are reasonable grounds to believe that:

- (a) there exists, because of contraband, a clear and substantial danger to the safety of inmates, staff members or the public or to the security of the correctional facility; and
- (b) a non-intrusive search, frisk search or strip search of all of the inmates in the correctional facility or any part of the correctional facility is necessary in order to seize the contraband and avert the danger.

(2) A strip search authorized pursuant to subsection (1) must be conducted in each case by a staff member of the same sex as the inmate.

**Urinalysis and other bodily substance testing methods for inmates**

**44(1)** The director of a correctional facility may demand that an inmate provide a sample for a urinalysis or a bodily substance test:

- (a) at any time, if the director of the correctional facility believes on reasonable grounds that the inmate has taken an intoxicant into the inmate's body; or
- (b) if abstention from an intoxicant is a condition of a temporary absence, work program, voluntary treatment program or conditional release, and urinalysis or bodily substance testing is required to monitor an inmate's compliance with the condition:
  - (i) at regular intervals; or
  - (ii) at any time, if the director of the correctional facility suspects on reasonable grounds that the inmate has breached the condition.

(2) If a demand is made pursuant to subsection (1), the director of a correctional facility must:

- (a) before carrying out the demand, inform the inmate of the basis of the demand and the consequences of failure to comply with the demand; and
- (b) carry out the demand and take the sample in accordance with the regulations.

(3) If an inmate fails to comply with a demand made pursuant to subsection (1), the director of the correctional facility may take one or more of the following actions:

- (a) issue a charge of a disciplinary offence pursuant to section 72;
- (b) request a temporary absence panel to suspend, cancel or revoke a temporary absence that has been granted to the inmate;
- (c) impose any other loss of privileges that the director considers appropriate.

### DIVISION 3 Searches of Cells

#### Search of cells on a periodic basis

**45(1)** In this section, a “**search plan**” means a plan for conducting a search of cells and the contents of cells in a correctional facility that:

- (a) sets out:
    - (i) when the searches are to take place;
    - (ii) the location of the searches; and
    - (iii) the means that may be used to conduct the searches; and
  - (b) is approved by the director of the correctional facility.
- (2) A designated staff member may, without individualized suspicion, conduct searches of cells and their contents on a periodic basis if the searches:
- (a) are designed to detect, through the systematic examination of areas of the correctional facility that are accessible to inmates, contraband or evidence with respect to offences; and
  - (b) are conducted in accordance with a search plan.

#### Search of cells on reasonable grounds

**46(1)** Subject to subsection (2), if a designated staff member believes on reasonable grounds that an inmate may be in possession of contraband or evidence with respect to an offence, the staff member may, with the prior authorization of the director of the correctional facility, conduct a search of the inmate’s cell and its contents.

(2) A designated staff member is not required to obtain an authorization in accordance with subsection (1), if the staff member believes on reasonable grounds that delaying a search in order to comply with that subsection would result in danger to the safety of inmates, staff members or the public or the loss or destruction of the contraband or evidence.

**DIVISION 4**  
**Searches of Visitors**

**Non-intrusive search or frisk search of visitor without individualized suspicion**

**47** A designated staff member may, after giving the visitor the option of voluntarily leaving the correctional facility immediately, conduct non-intrusive searches or frisk searches of visitors, without individualized suspicion, in the prescribed circumstances.

**Frisk search of visitors on reasonable grounds**

**48(1)** A designated staff member may, after giving the visitor the option of voluntarily leaving the correctional facility immediately, conduct a frisk search of a visitor if the staff member suspects on reasonable grounds that the visitor is carrying contraband or carrying other evidence with respect to an offence pursuant to subsection 56(1).

(2) If a designated staff member believes on reasonable grounds that a visitor is carrying contraband or carrying other evidence with respect to an offence pursuant to subsection 56(1) and that a frisk search is necessary to find the contraband or evidence, the staff member may detain the visitor in order to:

- (a) conduct a frisk search; or
  - (b) obtain the assistance of a police officer.
- (3) A visitor who is detained pursuant to subsection (2) must:
- (a) be informed promptly of the reasons for the detention; and
  - (b) before being searched, be given a reasonable opportunity to retain and instruct counsel without delay and be informed of that right.

**Strip search and detention of visitors**

**49(1)** A designated staff member of the same sex as the visitor may, after giving the visitor the option of voluntarily leaving the correctional facility immediately, conduct a strip search of the visitor, if the staff member:

- (a) suspects on reasonable grounds that a visitor is carrying contraband or carrying other evidence with respect to an offence pursuant to subsection 56(1) and believes that a strip search is necessary to find the contraband or evidence; and
- (b) satisfies the director of the correctional facility that there are reasonable grounds:
  - (i) to suspect that the visitor is carrying contraband or carrying other evidence with respect to an offence pursuant to subsection 56(1); and
  - (ii) to believe that a strip search is necessary to find the contraband or evidence.

(2) If a designated staff member believes on reasonable grounds that a visitor is carrying contraband or carrying other evidence with respect to an offence pursuant to subsection 56(1) and that a strip search is necessary to find the contraband or evidence:

- (a) the staff member may detain the visitor in order to:
    - (i) obtain the authorization of the director of the correctional facility to conduct a strip search; or
    - (ii) obtain the assistance of a police officer; and
  - (b) the director of the correctional facility may authorize a staff member of the same sex as the visitor to conduct a strip search of the visitor, if the staff member satisfies the director that there are reasonable grounds to believe that:
    - (i) the visitor is carrying contraband or carrying other evidence with respect to an offence pursuant to subsection 56(1); and
    - (ii) a strip search is necessary to find the contraband or evidence.
- (3) A visitor who is detained pursuant to subsection (2) must:
- (a) be informed promptly of the reasons for the detention; and
  - (b) before being searched, be given a reasonable opportunity to retain and instruct counsel without delay and be informed of that right.

## DIVISION 5

### Searches of Vehicles

#### Searches of vehicles

**50(1)** A designated staff member may, in the prescribed manner, conduct searches of vehicles at a correctional facility, without individualized suspicion, in the prescribed circumstances.

(2) Subject to subsection (3), a designated staff member who believes on reasonable grounds that contraband is located in a vehicle at a correctional facility in circumstances constituting an offence pursuant to subsection 56(1) may, with prior authorization from the director of the correctional facility, search the vehicle.

(3) If the designated staff member believes on reasonable grounds that the delay that would be necessary to obtain prior authorization in accordance with subsection (2) would result in danger to the safety of inmates, staff members or the public or the loss or destruction of the contraband, the staff member may search the vehicle without that prior authorization.

DIVISION 6  
**Warnings to be Posted**

**Warnings about searches**

**51** At each correctional facility a warning must be posted stating that all visitors and vehicles at the correctional facility are subject to be searched in accordance with this Act and the regulations.

DIVISION 7  
**Searches of Staff Members**

**Search of staff members without individualized suspicion**

**52** A designated staff member may conduct non-intrusive searches or frisk searches of other staff members, and of any personal possessions, including clothing, that staff members may be carrying or wearing, without individualized suspicion, in the prescribed circumstances.

**Search of staff lockers**

**53** With the prior authorization of the director of a correctional facility, a designated staff member may, without individualized suspicion, conduct a search of another staff member's locker for the purposes of ensuring the security of the correctional facility or the safety of inmates, staff members or the public.

**Frisk search or strip search of staff members**

**54(1)** If a designated staff member believes on reasonable grounds that another staff member is carrying contraband or carrying evidence with respect to an offence, and that a frisk search or strip search is necessary to find the contraband or evidence:

(a) the designated staff member may detain the other staff member in order to:

(i) obtain the authorization of the director of the correctional facility to conduct a frisk search or strip search; or

(ii) obtain the assistance of a police officer; and

(b) if the designated staff member satisfies the director of the correctional facility that there are reasonable grounds to believe that the other staff member is carrying contraband or carrying evidence with respect to an offence, and that a frisk search or strip search is necessary to find the contraband or evidence, the director of the correctional facility may:

(i) authorize the staff member to conduct a frisk search of the other staff member; or

(ii) authorize a staff member of the same sex as the other staff member to conduct a strip search of that other staff member.

(2) A staff member who is detained pursuant to subsection (1) must:

(a) be informed promptly of the reasons for the detention; and

(b) before being searched, be given a reasonable opportunity to retain and instruct counsel without delay and be informed of that right.



**Urinalysis and other bodily substance testing methods for staff members**

**55(1)** The director of a correctional facility may demand that a staff member, while acting in the performance of his or her duties within the correctional facility, provide a sample for a urinalysis or a bodily substance test, if the director of the correctional facility believes on reasonable grounds that the staff member has taken an intoxicant into the staff member's body.

(2) If a demand is made pursuant to this section, the director of the correctional facility must:

- (a) before carrying out the demand, inform the staff member of the basis of the demand and that the demand is made pursuant to statutory authority; and
- (b) carry out the demand and take the sample in accordance with the regulations.

**DIVISION 8****Contraband and Trespassing Offences****Contraband and trespassing offences**

**56(1)** No person shall deliver contraband to, send contraband to or receive contraband from an inmate.

(2) No person shall trespass on the grounds, buildings or other premises belonging or related to a correctional facility.

**DIVISION 9****Power to Seize****Power of seizure and disposition of things seized**

**57(1)** A designated staff member may seize an object or substance if the staff member believes on reasonable grounds that the object or substance is contraband or evidence with respect to an offence pursuant to subsection 56(1).

(2) As soon as is practicable after an object or a substance is seized pursuant to subsection (1), the designated staff member shall:

- (a) submit a report to the director of the correctional facility in the prescribed form and manner describing the object or substance and the circumstances in which it was seized; and
- (b) deposit the object or substance in a secure place at the correctional facility.

(3) The director of the correctional facility shall return an object or substance seized pursuant to subsection (1) to its owner if:

- (a) it is in the possession or control of the director of the correctional facility;
- (b) it is not contraband or evidence with respect to an offence pursuant to subsection 56(1); and
- (c) there is no dispute about who owns it.

(4) If an object or substance is seized from an inmate pursuant to subsection (1) and the object or substance is contraband but its possession outside the correctional facility would be lawful, the director of the correctional facility may direct that:

- (a) the object or substance be kept in a secure place at the correctional facility and returned to the inmate on his or her release from custody;
- (b) the inmate be given 20 business days to make arrangements for the disposal or safekeeping of the object or substance outside the correctional facility; or
- (c) the object or substance be disposed of if:
  - (i) it is of a perishable nature and subject to spoilage;
  - (ii) it will deteriorate in value if kept;
  - (iii) its possession involves unreasonable expense or inconvenience; or
  - (iv) keeping it is unsafe.

(5) An object or substance that is the subject of a direction pursuant to clause (4)(b) is forfeited to the Crown in accordance with the regulations if:

- (a) within 20 business days after being notified of its seizure, the owner does not request its return;
- (b) the owner cannot be located and three months have passed since the seizure;
- (c) the object or substance is determined to be contraband in a disciplinary proceeding mentioned in Part VIII and possession of it outside the correctional facility would be unlawful; or
- (d) in the case of an owner who is an inmate:
  - (i) possession of it by the inmate would constitute possession of contraband; and
  - (ii) the inmate has not arranged for the disposal or safekeeping of the object or substance outside the correctional facility within 20 business days after being given the opportunity to do so in accordance with clause (4)(b).

## PART V

### Administrative Segregation

#### Grounds for confining inmate in administrative segregation

**58** Subject to the regulations, a designated staff member may order that an inmate be confined or detained in administrative segregation if:

- (a) the staff member believes on reasonable grounds:
  - (i) that:
    - (A) the inmate has acted, has attempted to act or intends to act in a manner that jeopardizes the security of the correctional facility or the safety of inmates, staff members or the public; and

- (B) the continued presence of the inmate in the general inmate population would jeopardize the security of the correctional facility or the safety of inmates, staff members or the public;
- (ii) that the continued presence of the inmate in the general inmate population would interfere with an investigation that could lead to a criminal charge or a charge pursuant to section 72 of a major disciplinary offence; or
- (iii) that the continued presence of the inmate in the general inmate population would jeopardize the inmate's own safety; and
- (b) the staff member is satisfied that there is no reasonable alternative to segregation.

**Segregation panels**

**59** The director of a correctional facility shall establish, in accordance with the regulations, one or more segregation panels for the correctional facility to conduct reviews in cases in which an inmate has been involuntarily confined or detained in administrative segregation for the purpose of determining whether or not the inmate should continue to be confined or detained in administrative segregation.

**Review of segregation by segregation panel**

**60** If an inmate is involuntarily confined or detained in administrative segregation, a segregation panel shall:

- (a) conduct a review, at the prescribed time and in the prescribed manner, of the continued segregation of an inmate;
- (b) conduct further reviews, at the prescribed times and in the prescribed manner, of the inmate's case; and
- (c) after the review mentioned in clause (a) and after each further review mentioned in clause (b), make an order that:
  - (i) the inmate continue to be confined or detained in administrative segregation; or
  - (ii) the inmate be released from administrative segregation.

**Appeal re decision of segregation panel**

**61(1)** An inmate who is the subject of an order of a segregation panel may appeal the decision to the director of the correctional facility by providing the director of the correctional facility with a notice of appeal within five business days after the decision.

- (2) The notice of appeal must set out:
  - (a) the circumstances and any other relevant particulars of the matter being appealed;
  - (b) the reasons why the inmate believes the decision should be set aside or varied; and
  - (c) the relief being requested.
- (3) An appeal taken pursuant to this section shall be dealt with and determined in accordance with the regulations.

- (4) The director of the correctional facility may:
  - (a) confirm, revoke or vary the decision on appeal; or
  - (b) make any other decision that the director of the correctional facility considers appropriate.
- (5) The decision of the director of the correctional facility on appeal is final.

## PART VI

### Temporary Absences

#### Temporary absence panel

**62** The director of a correctional facility shall establish, in accordance with the regulations, one or more temporary absence panels for the correctional facility to consider requests by inmates for temporary absences.

#### Requests by inmate for a temporary absence

**63** An inmate may make a request in writing for a temporary absence to the director of the correctional facility in which the inmate is confined or detained, including the reasons for the request.

#### Referral of request to temporary absence panel

**64** The director of the correctional facility shall refer the request for a temporary absence to the temporary absence panel, and the temporary absence panel shall review the request in accordance with the regulations.

#### Authorization of temporary absence

**65(1)** If the temporary absence panel considers that it is desirable or necessary that an inmate be absent from a correctional facility for medical, humanitarian, rehabilitative, community service or employment reasons, the temporary absence panel may authorize the temporary absence of the inmate on any terms and conditions that the temporary absence panel may specify.

(2) No inmate who is granted an authorized temporary absence shall contravene any terms or conditions specified by the temporary absence panel.

(3) The temporary absence panel may suspend, cancel or revoke an authorized temporary absence in accordance with the regulations.

(4) The temporary absence panel shall give the inmate written reasons for authorizing, refusing, suspending, cancelling, or revoking an authorized temporary absence.

(5) During an inmate's authorized temporary absence, the inmate's sentence continues until its expiration according to law.

(6) The temporary absence panel shall:

- (a) consult with the victim of the offence for which an inmate is being confined if the inmate is being considered for an authorized temporary absence for humanitarian or rehabilitative reasons; and
- (b) if an authorized temporary absence mentioned in clause (a) is granted, advise the victim accordingly.

- (7) For the purposes of subsection (6), “**victim**” includes a person who:
  - (a) has filed with the court a statement pursuant to section 722 of the *Criminal Code*;
  - (b) has applied for compensation pursuant to *The Victims of Crime Act, 1995*; or
  - (c) has been identified to a person providing a correctional service as a victim by a police officer.
- (8) If an inmate who is granted an authorized temporary absence fails to return to the correctional facility when directed to do so, the inmate:
  - (a) is deemed to be at large without lawful excuse; and
  - (b) may be apprehended, with or without a warrant, by a police officer and returned to the correctional facility.

**Appeal re decision of temporary absence panel**

- 66**(1) An inmate whose request for a temporary absence is denied, or whose temporary absence has been suspended, cancelled or revoked pursuant to section 65 may appeal the denial, suspension, cancellation or revocation to the director of the correctional facility by providing the director of the correctional facility with a notice of appeal within five business days after the decision.
- (2) The notice of appeal must set out:
    - (a) the circumstances and any other relevant particulars of the matter being appealed;
    - (b) the reasons why the inmate believes the decision should be set aside or varied; and
    - (c) the relief being requested.
  - (3) An appeal taken pursuant to this section must be dealt with and determined in accordance with the regulations.
  - (4) The director of the correctional facility may:
    - (a) confirm, revoke or vary the decision on appeal; or
    - (b) make any other decision that the director of the correctional facility considers appropriate.
  - (5) The decision of the director of the correctional facility on appeal is final.

## PART VII

### Inmate Complaints

**Complaints by inmates**

- 67** An inmate of a correctional facility may complain in writing to the director of the correctional facility in which the inmate is confined or detained about the administration of the correctional facility, and the complaint must be dealt with in accordance with the regulations.

**Appeals by inmates**

**68(1)** An inmate who makes a complaint pursuant to section 67 may, in accordance with the regulations, appeal the decision with respect to the complaint to the head of corrections by providing the head of corrections with a notice of appeal within five business days after the decision.

(2) The notice of appeal must set out:

(a) the circumstances and any other relevant particulars of the matter being appealed; and

(b) the reasons why the inmate believes the decision should be set aside or varied.

(3) An appeal pursuant to this section must be dealt with and determined in accordance with the regulations.

(4) The head of corrections may:

(a) confirm, revoke or vary the decision on appeal; or

(b) make any other decision that the head of corrections considers appropriate.

(5) The decision of the head of corrections on appeal is final.

**PART VIII**  
**Inmate Discipline**

**Inmate discipline system**

**69(1)** In this Part and in Part XIV:

(a) **“disciplinary offence”** means an offence designated in the regulations as a disciplinary offence;

(b) **“discipline panel”** means a discipline panel established pursuant to section 70;

(c) **“inmate disciplinary system”** means the inmate disciplinary system established by this Part and the regulations.

(2) Inmates must not be disciplined otherwise than in accordance with this Part and the regulations.

(3) The fact that an inmate is alleged to have committed an act or omission that is an offence does not prevent disciplinary action from being taken against the inmate with respect to the same act or omission.

**Discipline panels**

**70** The director of a correctional facility shall establish, in accordance with the regulations, one or more discipline panels for the correctional facility for the purpose of conducting disciplinary proceedings and determining disciplinary charges against inmates.

**Informal resolution**

**71** If a designated staff member believes on reasonable grounds that an inmate has committed or is committing a disciplinary offence, the staff member may take steps to resolve the matter informally.

**Charge may be issued**

**72** If an informal resolution is not achieved, the designated staff member may issue a charge of a minor disciplinary offence or a major disciplinary offence.

**Notice of charge**

**73(1)** An inmate charged with a disciplinary offence must be given a written notice of the charge in accordance with the regulations.

(2) The notice of the charge must:

- (a) state whether the charge is a major disciplinary offence or a minor disciplinary offence; and
- (b) include the prescribed information.

**Disciplinary proceedings**

**74** A discipline panel authorized to conduct the disciplinary proceedings shall deal with the charge in accordance with the regulations.

**Decision**

**75** At the conclusion of the disciplinary proceedings, the discipline panel shall:

- (a) find that the inmate committed the disciplinary offence; or
- (b) dismiss the charge.

**Notice of decision**

**76** After making a decision with respect to the charge, the discipline panel shall give written notice to the inmate of:

- (a) the findings of the discipline panel;
- (b) any actions to be taken pursuant to section 77; and
- (c) the inmate's rights of appeal.

**Disciplinary sanctions**

**77(1)** If the discipline panel finds that the inmate has committed a major disciplinary offence, the discipline panel may, in accordance with the regulations, impose one or more of the following sanctions, subject to any terms and conditions that the discipline panel considers appropriate:

- (a) reprimand;
- (b) loss of privileges as specified in the decision for a period not exceeding 30 days;
- (c) confinement to a cell, room or unit during leisure time for a period not exceeding 10 days;
- (d) segregation to a cell, unit or security area for a period not exceeding 10 days;
- (e) restitution in an amount not exceeding \$400 with respect to property damage;
- (f) loss of pay earned pursuant to this Act, not exceeding \$25;
- (g) assignment of extra duties; and
- (h) forfeiture of a period, not exceeding 15 days, of remission earned.

(2) If the discipline panel finds that the inmate has committed a minor disciplinary offence, the discipline panel may, in accordance with the regulations, impose one or more of the following sanctions, subject to any terms and conditions that the discipline panel considers appropriate:

- (a) reprimand;
- (b) loss of privileges as specified in the decision for a period not exceeding seven days;
- (c) confinement to a cell, room or unit during leisure time for a period not exceeding three days;
- (d) restitution in an amount not exceeding \$50 with respect to property damage;
- (e) loss of pay earned pursuant to this Act, not exceeding \$10; and
- (f) assignment of extra duties.

(3) Any restitution imposed pursuant to subsection (1) or (2) may be collected in the prescribed manner.

**Appeal adjudicators**

**78(1)** The Lieutenant Governor in Council may appoint persons as appeal adjudicators to conduct appeals of decisions with respect to inmate disciplinary proceedings that impose a forfeiture of remission in accordance with clause 77(1)(h).

(2) Subject to subsection (3), a person appointed pursuant to subsection (1):

- (a) holds office at pleasure for a period not exceeding four years and notwithstanding the expiry of his or her term, continues to hold office until his or her successor is appointed; and
- (b) is eligible for reappointment.

(3) If a person appointed pursuant to subsection (1) dies or resigns, the person ceases to be appointed as an appeal adjudicator on the date of death or on the date on which the resignation is received by the minister, as the case may be.

(4) If the office of a person appointed pursuant to subsection (1) becomes vacant, the Lieutenant Governor in Council may:

- (a) appoint a person for the remainder of the term of the person who vacated the office; or
- (b) appoint a person for the term mentioned in subsection (2).

(5) Appeal adjudicators are entitled to:

- (a) remuneration for their services at the rates approved by the Lieutenant Governor in Council; and
- (b) reimbursement for their expenses incurred in the performance of their responsibilities at rates established for members of the public service.



**Appeal to appeal adjudicator**

**79(1)** An inmate who is the subject of a decision with respect to an inmate disciplinary proceeding that imposes a forfeiture of remission pursuant to clause 77(1)(h) may appeal the decision to an appeal adjudicator by providing the director of the correctional facility with a notice of appeal within five business days after the decision.

- (2) The notice of appeal must set out:
  - (a) the circumstances and any other relevant particulars of the matter being appealed;
  - (b) the reasons why the inmate believes the decision should be set aside or varied; and
  - (c) the relief being requested.
- (3) An appeal pursuant to this section must be dealt with and determined in accordance with the regulations.
- (4) On an appeal, the appeal adjudicator may:
  - (a) confirm, revoke or vary the decision of the discipline panel; or
  - (b) order that a new disciplinary proceeding be held.
- (5) The decision of the appeal adjudicator on appeal is final.

**Appeal to director of correctional facility**

**80(1)** An inmate who is the subject of a decision with respect to an inmate disciplinary proceeding that does not impose a forfeiture of remission pursuant to clause 77(1)(h) may appeal the decision to the director of the correctional facility by providing the director of the correctional facility with a notice of appeal within five business days after the decision.

- (2) The notice of appeal must set out:
  - (a) the circumstances and any other relevant particulars of the matter being appealed;
  - (b) the reasons why the inmate believes the decision should be set aside or varied; and
  - (c) the relief being requested.
- (3) An appeal pursuant to this section must be dealt with and determined in accordance with the regulations.
- (4) On an appeal, the director of the correctional facility may:
  - (a) confirm, revoke or vary the decision of the discipline panel; or
  - (b) order that a new disciplinary proceeding be held.
- (5) The decision of the director of the correctional facility on appeal is final.

PART IX  
**Remote Monitoring Systems**

**Use of remote monitoring systems**

81(1) In this section, **“remote monitoring system”** means a system of monitoring the location, movements, activities or communications of an offender by means other than direct observation or listening by an individual, whether that monitoring is achieved by cameras, projectors, electronic equipment, mechanical equipment or other means.

(2) In accordance with the regulations, the head of corrections may authorize the use of a remote monitoring system to monitor any of an offender’s location, movements, activities and communications.

PART X  
**Community Correctional Services**

**Definitions**

82 In this Part:

- (a) **“probation officer”** includes:
  - (i) probation officers appointed pursuant to section 83;
  - (ii) the provincial director with respect to young persons;
  - (iii) the head of corrections; and
  - (iv) the supervisor with respect to persons given a conditional sentence of imprisonment;
- (b) **“provincial director”** means the provincial director as defined in *The Youth Justice Administration Act*;
- (c) **“young person”**:
  - (i) means a person who is or, in the absence of evidence to the contrary, appears to be 12 years of age or older but less than 18 years of age; and
  - (ii) if the context requires it, includes a person who, while he or she was a young person, is charged with having committed an offence or is found guilty of an offence.

**Probation staff**

83 The head of corrections may appoint any person as a probation officer.

**Establishment of community correctional services**

84(1) The head of corrections may develop, provide and operate programs and services, including programs and services offered in the community that provide a court with options for the supervision of persons who are charged with or convicted of an offence.

(2) The services and programs provided pursuant to this Part may be provided by persons providing a community correctional service or by:

- (a) a contractor or employee of a contractor;
- (b) a volunteer; or
- (c) the Government of Canada, the government of any other province or territory of Canada or any municipality of Canada.

(3) The head of corrections may establish a program for the purposes of assessing the risk of an offender other than an inmate to reoffend and providing appropriate services and programs to:

- (a) support offenders in developing accountability for their own actions and in being rehabilitated and reintegrated into the community; and
- (b) prevent and reduce offending behaviour.

(4) For the purposes of the program mentioned in subsection (3):

- (a) subject to the regulations, the head of corrections may conduct and administer assessments of offenders other than inmates; and
- (b) subsection 27(3) applies, with any necessary modification, to the program.

**Probation officer**

**85(1)** Subject to subsection (2), a probation officer appointed pursuant to section 83 shall exercise supervision over and provide guidance and other help to a person, if:

- (a) a judge orders that person to be placed on probation or imposes a conditional sentence of imprisonment; and
- (b) one of the conditions of the court order specifically:
  - (i) requires that person to report to and be under the supervision of a probation officer; or
  - (ii) requires that person to participate, under the supervision of a probation officer, in a program or service established pursuant to subsection 84(1).

(2) Whenever requested by a judge to do so, a probation officer shall supervise, guide and counsel a person assigned to the probation officer and placed on probation, given a conditional sentence of imprisonment, or required to participate in a program or service established pursuant to subsection 84(1).

(3) If the person placed on probation pursuant to a court order is a young person, the provincial director shall act as the probation officer.

**Volunteer probation officer**

**86** The head of corrections may:

- (a) appoint a person with that person's consent to be the volunteer probation officer for a specified person on probation; and
- (b) in an appointment pursuant to clause (a), specify the powers that may be exercised and responsibilities that shall be fulfilled by the volunteer probation officer.

**Role of probation officer**

**87(1)** If a probation officer is required by a judge to conduct an investigation and file a judicial interim release report or a pre-sentence report with respect to a person, the probation officer shall procure:

- (a) the information required by section 721 of the *Criminal Code*;
- (b) any health information relevant to the preparation of the judicial interim release report or pre-sentence report; and
- (c) any other information with respect to the person that the head of corrections may specify.

(2) The probation officer shall use the information collected pursuant to subsection (1) to prepare a report in the manner directed by the head of corrections.

(3) If a judge orders probation or, in the case of judicial interim release, if a report has been prepared pursuant to subsection (2) and a judge orders judicial interim release, a probation officer shall:

- (a) when required by a judge, supervise the employment, conduct and general conditions under which a person may be placed during the period of probation or judicial interim release ordered by the judge;
- (b) report to a prosecutor if the person is not carrying out the conditions imposed by the judge; and
- (c) do all other things that the head of corrections may, from time to time, consider advisable to assist the judge.

(4) A probation officer shall not conduct or carry out an investigation pursuant to this section for the sole purpose of determining the guilt or innocence of any person.

**Judicial interim release and pre-sentence reports**

**88(1)** Before releasing a person on judicial interim release, the judge may request a probation officer to conduct an investigation with respect to the person and to file a judicial interim release report with the judge for the purpose of assisting the judge in determining whether to order a judicial interim release.

(2) Before passing sentence on a person who has been determined by a court to be guilty of an offence, the judge may request a probation officer to conduct an investigation with respect to the person and to file a pre-sentence report with the judge for the purpose of assisting the judge in imposing sentence.

(3) A judge shall enter as an exhibit a judicial interim release report or pre-sentence report prepared pursuant to this section by a probation officer.

**Remand on recognizance, etc.**

**89(1)** If a judge requests that a pre-sentence report be prepared pursuant to subsection 88(2), the judge may make any order provided for in Part XVI of the *Criminal Code* for the release of the person until the person is sentenced.

(2) Part XVI of the *Criminal Code* applies with the modifications that the circumstances require with respect to an order made pursuant to subsection (1).

**Order of probation in lieu of fine, etc.**

**90** Notwithstanding any provision of *The Alcohol and Gaming Regulation Act* or *The Traffic Safety Act* requiring the imposition of a minimum fine or a minimum period of imprisonment in default of payment of the fine, a judge may suspend the passing of sentence and make an order pursuant to section 91.

**Probation orders**

**91(1)** If, having regard to a person's age, character, history and rehabilitative prospects, a judge considers it appropriate to place the person on probation, the judge may do so and the person placed on probation is subject to:

- (a) the conditions the judge places in the probation order; and
- (b) the conditions set out in this section.

(2) Subject to subsection (3), sections 732.1 and 732.2 of the *Criminal Code* apply, with any necessary modification, to probation ordered pursuant to subsection (1).

(3) If a young person is placed on probation pursuant to subsection (1), sections 55 and 56 of the *Youth Criminal Justice Act* (Canada) apply, with any necessary modification.

**Offence for contravention of probation**

**92(1)** No person who is bound by a probation order shall wilfully fail or refuse to comply with the conditions of that order.

(2) Every person who fails or refuses to comply with subsection (1) is guilty of an offence and is liable on summary conviction to the penalty set out in subsection (3).

(3) If a judge is satisfied by evidence given under oath or affirmation that a person described in subsection (1) has wilfully failed or refused to comply with the conditions of that probation order, the judge may:

- (a) revoke the order and sentence the person for the offence of which he or she was convicted and the passing of sentence suspended; and
- (b) impose a fine of not more than \$2,500.

**Community correctional facilities**

**93(1)** In accordance with the regulations, the minister may establish community correctional facilities or classes of community correctional facilities to allow an inmate to participate in rehabilitative and reintegration opportunities and programs.

(2) The opportunities and programs mentioned in subsection (1) may include opportunities and programs related to the following:

- (a) the inmate's profession, business or vocation;
- (b) employment;
- (c) education or training;
- (d) specialized treatment;
- (e) living skills.

(3) The minister may establish programs that allow inmates to participate in rehabilitative opportunities and reintegration program activities, including community service work and the development of employment skill-building opportunities and reintegration activities.

**Participation in programs**

**94(1)** Unless otherwise provided in the regulations or the rules made pursuant to subsection (2), every inmate may participate in a program established pursuant to this Part.

(2) Subject to the regulations, the head of corrections shall establish rules for each program established pursuant to this Part, including rules respecting:

- (a) the manner in which and the conditions and criteria on which an inmate may be admitted to or be absent from a community correctional facility;
- (b) the manner in which control, discipline and supervision are to be exercised with respect to inmates;
- (c) the manner in which an inmate's participation in a program may be discontinued;
- (d) the management and disposition of personal property held or acquired by the inmate while in the program; and
- (e) any schedule of fees, board and room, retained earnings or other charges that an inmate in a program may be required to pay.

**Inmates in programs to abide by rules**

**95(1)** No inmate who participates in a program authorized pursuant to this Part shall contravene any regulations or rules of a correctional facility or of the program to which the inmate is admitted.

(2) If an inmate fails to return to the correctional facility mentioned in subsection (1) when directed to do so, the inmate:

- (a) is deemed to be at large without lawful excuse; and
- (b) may be apprehended, with or without a warrant, by a police officer and returned to a correctional facility.

**Earnings of inmates**

**96(1)** The head of corrections may direct the employer of an inmate who is participating in a program pursuant to this Part to forward the total earnings of the inmate, less any deductions required by law, to the correctional facility.

- (2) The correctional facility shall:
- (a) disburse the earnings in a manner and for purposes consistent with the rules established pursuant to section 94 and the regulations made pursuant to Part XIV; and
  - (b) keep proper records of receipts and disbursements and render an accounting to the inmate on request and on the discharge or transfer of the inmate from the correctional facility.

## PART XI

### Release Options

#### Jurisdiction of the Parole Board of Canada

**97** The Parole Board of Canada is authorized to exercise in Saskatchewan the jurisdiction described in section 108 of the *Corrections and Conditional Release Act* (Canada).

#### Electronic monitoring

**98(1)** The head of corrections may authorize the use of an electronic monitoring system as a condition of an offender's participation in any correctional services program.

(2) The head of corrections shall not authorize electronic monitoring as a term or condition of an authorized temporary absence of an offender unless:

- (a) the head of corrections considers more extensive control or confinement as unnecessary for the protection of the public;
- (b) the offender consents to the use of electronic monitoring as an alternative to other legal restrictions or conditions of sentence; and
- (c) the electronic monitoring is confined to restricting freedom of movement or to controlling behaviour that is directly linked to the offence for which the offender has been charged or convicted.

(3) The minister may provide financial or other assistance to any person to facilitate electronic monitoring of an offender.

#### Remission of sentence

**99(1)** An inmate may obtain remission of the inmate's sentence as provided in the *Prisons and Reformatories Act* (Canada):

- (a) by obeying the rules of the correctional facility and the terms and conditions governing any authorized temporary absence granted to the inmate; and
- (b) if the inmate has been admitted to any programs, other than full parole, that are designed to promote the rehabilitation and reintegration of inmates, by actively participating in those programs.

(2) Every inmate is subject to the forfeiture of all or any part of that inmate's remission, and all or any part of the forfeiture may be remitted according to prescribed terms and conditions.

**Release of an inmate**

**100(1)** In this section, “**holiday**” means a Sunday, New Year’s Day, Family Day, Good Friday, Victoria Day, Canada Day, Saskatchewan Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day, Boxing Day or any other day designated by the chairperson of the Public Service Commission as a holiday for employees in the public service.

(2) If the date of an inmate’s release from a correctional facility falls on a holiday, the head of corrections may authorize the release of the inmate on the day preceding the holiday.

**Assistance to inmates**

**101** The minister may provide an allowance, payment or wage to an inmate in a correctional facility and provide transportation for the inmate to the inmate’s home or to any other appropriate destination.

## PART XII

### Standards and Inspections

**System of standards**

**102** The minister may:

- (a) establish a system of standards and inspections for correctional facilities and correctional services in Saskatchewan; and
- (b) by order, designate those correctional facilities and correctional services that are subject to those standards, in whole or in part.

**Standards for facilities, etc.**

**103** The minister may:

- (a) develop and establish standards for the construction, leasing, maintenance, operation and remodelling of correctional facilities;
- (b) develop and establish standards for the custody and management of inmates and the management of correctional services.

**Inspections and investigations**

**104(1)** The minister may appoint any person to:

- (a) review, audit and make recommendations with respect to correctional services and correctional facilities to ensure compliance with any standards established pursuant to section 103 and to submit a written report of the review, audit and recommendations to the head of corrections;
- (b) make an inquiry into any matter to which this Act applies as may be specified by the minister.

(2) A person appointed by the minister has the powers of a commissioner pursuant to *The Public Inquiries Act* for the purpose of an inquiry pursuant to clause (1)(b).

(3) Following an inquiry, the person appointed pursuant to clause (1)(b) shall report the results of the inquiry to the minister.



**Power to inspect or investigate**

**105(1)** The head of corrections may:

- (a) enter and inspect or investigate any correctional facility;
- (b) inspect or investigate any correctional services program;
- (c) investigate any offender; and
- (d) investigate any incident or matter to which this Act applies.

(2) For the purposes of any inspection or investigation carried out pursuant to subsection (1), the head of corrections is entitled to have access to all records, documents and other file material under the possession and control of the facility, program or offender being investigated.

**PART XIII****General****Gifts and donations**

**106** A correctional facility may receive any gift, donation, grant, bequest or devise that is to be used for the benefit of inmates from a person, agency, organization, association, enterprise, institution or body within or outside Saskatchewan.

**Accounts**

**107(1)** Any moneys received from any source by the minister on behalf of, for the benefit of or in trust for an inmate in a correctional facility may be administered and invested by the minister for the general benefit of the inmate.

(2) Any moneys received from any source by the minister on behalf of or in trust for inmates generally or for the collective benefit of inmates may be administered and invested by the minister for the general benefit of inmates.

(3) Without limiting subsections (1) and (2), the minister may:

- (a) administer and invest moneys held at the time of an inmate's death until the moneys can be turned over to the person who is responsible for the deceased inmate's estate;
- (b) establish and administer trust accounts in accordance with the regulations.

(4) The minister shall invest moneys authorized to be invested pursuant to this section that are not immediately required for the use for which the moneys were received in any security or class of securities authorized for the investment of moneys in the general revenue fund pursuant to *The Financial Administration Act, 1993*.

(5) The minister may provide for the payment of interest on the accounts of individual inmates to be made to an account for the collective benefit of inmates.

**Revolving fund**

**108(1)** The revolving fund called the Correctional Facilities Industries Revolving Fund is continued.

- (2) The minister shall administer the revolving fund.
- (3) The minister may use the revolving fund:
  - (a) to operate work programs intended to reduce the costs of operating, maintaining and repairing correctional facilities; and
  - (b) to operate industries that are:
    - (i) wholly owned and operated by the Crown;
    - (ii) jointly owned and operated by the Crown and another person; or
    - (iii) owned and operated in whole or in part by a person other than the Crown.
- (4) Subject to subsection (11), the Minister of Finance shall pay out of the general revenue fund on behalf of the revolving fund any moneys the minister may require:
  - (a) to purchase, maintain, repair or trade any equipment or materials that the minister considers necessary for the operation of an industry in a correctional facility;
  - (b) to purchase or lease any equipment required for the production of goods or services through an industry in a correctional facility;
  - (c) to purchase any material or supplies necessary for the operation, maintenance or repair of the materials and equipment mentioned in clause (a) or (b);
  - (d) to fulfil any agreements the minister has made with respect to:
    - (i) consulting fees with respect to an industry in a correctional facility; or
    - (ii) freight, shipping and transportation costs with respect to an industry in a correctional facility;
  - (e) to purchase, rent or lease any motor vehicles that the minister considers necessary for an industry in a correctional facility and to pay for:
    - (i) any supplies that are necessary for the operation of those motor vehicles; and
    - (ii) the cost of necessary repairs to those motor vehicles;
  - (f) to pay for costs associated with:
    - (i) the provision of services by and the operation of an industry in a correctional facility;
    - (ii) work allowances, wages and benefits for inmates who are employed in an industry;

- (iii) the contributions to the correctional facility's inmate benefit accounts for the good of the inmates; and
    - (iv) income tax, unemployment insurance and other employee remittances;
  - (g) to pay for supervisory and administrative costs associated with:
    - (i) the production of goods and services through an industry in a correctional facility; and
    - (ii) the administration of the revolving fund;
  - (h) to pay for overhead costs of an industry in a correctional facility, including rent charges, utility costs, office supplies and equipment.
- (5) The minister shall pay to the general revenue fund all or any part of any surplus in the revolving fund that Treasury Board may direct.
- (6) If the minister provides goods or services through the revolving fund, the minister may charge a fee to recover amounts incurred by the revolving fund to provide those goods or services.
- (7) If the minister charges a fee pursuant to subsection (6), the minister shall include any additional amounts that Treasury Board may direct.
- (8) Subject to any terms and conditions that Treasury Board may impose, the minister may sell, rent, lease or otherwise dispose of property acquired by the minister through the revolving fund.
- (9) Subject to subsection (10), all amounts received pursuant to this section are to be paid to the Minister of Finance and credited to the revolving fund.
- (10) Any amounts received pursuant to subsection (7) are to be paid to the Minister of Finance and credited to the general revenue fund.
- (11) The sum of the following amounts less any amounts credited to the revolving fund is not to exceed an amount that may be set by order of the Lieutenant Governor in Council:
- (a) all liabilities due to the Minister of Finance from the revolving fund on the day on which this section comes into force; and
  - (b) any payments made by the Minister of Finance on behalf of the revolving fund.
- (12) Notwithstanding any other Act or law:
- (a) all moneys deposited in the general revenue fund to the credit of the revolving fund before the coming into force of this section are deemed to have been credited pursuant to the authority of this section;
  - (b) all moneys paid out of the general revenue fund for the purposes of the revolving fund or advanced from the general revenue fund to the revolving fund before the coming into force of this section are deemed to have been paid out or advanced pursuant to the authority of this section;
  - (c) all fees charged to provide goods and services through the revolving fund before the coming into force of this section are deemed to have been charged pursuant to the authority of this section.

(13) In each fiscal year, the ministry, in accordance with *The Tabling of Documents Act, 1991*, shall prepare and submit to the minister a financial statement showing the business of the revolving fund for the preceding fiscal year.

(14) The financial statement mentioned in subsection (13) is to be in the form required by Treasury Board.

(15) In accordance with *The Tabling of Documents Act, 1991*, the minister shall lay before the Assembly each financial statement received by the minister pursuant to subsection (13).

(16) The fiscal year of the revolving fund is the period commencing on April 1 in one year and ending on March 31 in the following year.

#### Management of information

**109(1)** In this section and in section 110, “**information**” means information of any kind and in any form, including personal information, personal health information, photographs and other identification materials.

(2) The head of corrections may collect information about or relating to offenders that is required:

- (a) for the administration of this Act or the regulations;
- (b) to comply with or carry out any orders of a court; or
- (c) to carry out programs established pursuant to this Act.

#### Confidentiality

**110(1)** Subject to subsection (2), no person shall disclose any information that comes to that person’s knowledge in the course of carrying out that person’s powers or duties pursuant to this Act, except in accordance with this Act and the regulations.

(2) Subsection (1) does not apply to a disclosure of information that:

- (a) is required for the administration of this Act or the regulations;
- (b) is required to carry out a duty imposed or to exercise a power conferred by this Act or the regulations;
- (c) is permitted or required by law, including by an Act or regulation, Act of the Parliament of Canada, any regulation made pursuant to those enactments, or any order or demand issued by a person with authority to compel production of information;
- (d) is determined by the head of corrections to be appropriate for the purposes of:
  - (i) protecting the security of the correctional facility or the safety of inmates, staff members or the public;
  - (ii) the investigation of or prevention of the commission of an offence;
  - (iii) any investigation being conducted pursuant to the Act; or
  - (iv) assisting with law enforcement; or
- (e) is made in prescribed circumstances.

**Immunity**

**111(1)** No action or proceeding lies or shall be commenced against the Crown, the minister, the ministry, the head of corrections, the director of a correctional facility, an officer, a staff member, employee or agent of the Crown, a peace officer, a probation officer, a contractor, an employee of a contractor, a volunteer, or a person making an inspection, investigation or inquiry pursuant to this Act or other person where that person is acting pursuant to the authority of this Act or the regulations, for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done by that person or by any of those persons pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any order or decision made pursuant to this Act or any duty imposed by this Act or the regulations.

(2) No action lies or shall be commenced against an employee of the ministry or a volunteer for an act of an offender while under that employee's or volunteer's custody or supervision.

(3) Subsection (1) does not, by reason of subsection 5(2) of *The Proceedings against the Crown Act*, relieve the Crown of liability with respect to a tort committed by an employee of the ministry to which it would otherwise be subject.

(4) No action lies or shall be commenced against the minister, the minister's delegate or a community justice committee for:

(a) an act done in the execution in good faith of the obligations or functions of the community justice committee in delivering or administering an alternative measures program;

(b) neglect or default in the execution in good faith of the obligations or functions of the community justice committee in delivering or administering an alternative measures program; or

(c) an act or default of a person who is alleged to have committed an offence or who is an offender if the act or default occurs while that person is being dealt with in an alternative measures program.

(5) In this subsection and in subsection (4):

(a) **“alternative measures program”** means a program of alternative measures authorized pursuant to subsection 717(1) of the *Criminal Code*;

(b) **“community justice committee”** means an individual, group of individuals, organization, corporation or any other entity with which the minister contracts for the delivery or administration of an alternative measures program, and includes the members of any of those groups, organizations, corporations or entities.

**Offences and penalties**

**112(1)** No person shall fail to comply with any provision of this Act or the regulations.

(2) A person who fails to comply with a provision of this Act, other than section 92, or the regulations is guilty of an offence and is liable on summary conviction to a fine of not more than \$10,000, to imprisonment for not more than six months or to both.

**Act governs in case of conflict**

**113** If a provision of any other Act is inconsistent with any provision of this Act, the provision of this Act prevails.

**Application of the *Criminal Code***

**114** The provisions of Part XXIII of the *Criminal Code* with respect to punishments, fines, imprisonment, probation and management of sentences apply, with any necessary modification, to this Act, but nothing in those provisions limits the ability pursuant to this Act to establish correctional services.

## PART XIV Regulations

**Regulations**

**115(1)** The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) respecting the operation, management, supervision, administration, security and inspection of correctional facilities;
- (c) respecting the development, establishment and delivery of correctional services and programs for offenders;
- (d) respecting the assessment, supervision, treatment, training, control, custody, rehabilitation or reintegration of offenders;
- (e) for the purposes of clause 2(m), designating staff members or classes of staff members;
- (f) respecting the transfer of an inmate, including:
  - (i) prescribing the time and manner in which a director of a correctional facility must give the inmate written notice of the decision with respect to a transfer;
  - (ii) prescribing reasons that a director of a correctional facility may determine that it is necessary to transfer an inmate immediately;
  - (iii) prescribing the practices and procedures governing an appeal to the head of corrections of a decision of a director of a correctional facility to transfer an inmate; and
  - (iv) prescribing the administrative requirements and procedures associated with a transfer from a correctional facility to another correctional facility, a penitentiary or an institution for the custody of offenders in another province or territory of Canada;
- (g) for the purposes of section 23, prescribing the manner in which a director of a correctional facility must inform inmates of the rules of the facility;
- (h) for the purposes of section 26, respecting the security assessment procedures used for the purposes of determining the level of security required for an inmate;

- (i) for the purposes of sections 27 and 84, respecting the assessment procedures used for the purposes of assessing an offender's risk to reoffend and providing appropriate services and programs to support offenders;
- (j) for the purposes of section 28, governing visits to inmates in correctional facilities and the conduct of visitors while in a correctional facility, including:
  - (i) prescribing the person or class of persons with whom an inmate in a correctional facility may visit;
  - (ii) prescribing circumstances in which an inmate may be allowed to have physical contact with a visitor;
  - (iii) prescribing circumstances in which the director of a correctional facility may prohibit an inmate from having physical contact with a visitor;
  - (iv) respecting an inmate's access to his or her lawyer or to a prescribed person or member of a prescribed class of persons; and
  - (v) prescribing terms, conditions and restrictions that a visitor must comply with;
- (k) for the purposes of section 29, respecting communication systems for use in correctional facilities that provide inmates with means to communicate with other persons, including the recording, intercepting, monitoring, censoring, restricting, prohibiting and blocking of inmate communication between an inmate in a correctional facility and other persons, including other inmates;
- (l) prescribing the procedures to be followed in recording, intercepting, monitoring, censoring, restricting, prohibiting or blocking inmate communication;
- (m) respecting the use, disclosure, handling, maintenance, retention and disposal of inmate communication that is recorded, intercepted, monitored, censored, restricted, prohibited or blocked;
- (n) prescribing inmate communication or classes of inmate communication as privileged communications for the purposes of subsection 29(3);
- (o) prescribing persons or classes of persons who are health care professionals for the purposes of subclause 30(b)(vi);
- (p) respecting the treatment, care and medication of inmates of correctional facilities with respect to their physical and mental health;
- (q) for the purposes of section 32, prescribing facilities or classes of facilities to which an inmate may be transferred for an examination by a health care professional or to receive treatment, care or medication;
- (r) for the purposes of section 33, respecting the use of force and physical restraint devices on inmates, including:
  - (i) prescribing the circumstances in which a device may be used to physically restrain an inmate; and
  - (ii) prescribing the procedures to be followed in using a device to physically restrain an inmate;



- (s) for the purposes of clause 34(a), prescribing the procedures to be followed in conducting a bodily substance test and prescribing tests;
- (t) for the purposes of clause 34(c), prescribing the manner in which body cavity searches may be conducted;
- (u) for the purposes of clause 34(d), prescribing the manner in which frisk searches may be conducted;
- (v) for the purposes of clause 34(e), prescribing the manner in which non-intrusive searches may be conducted;
- (w) for the purposes of clause 34(f), prescribing the manner in which strip searches may be conducted;
- (x) for the purposes of clause 34(g), prescribing the procedures to be followed in conducting a urinalysis;
- (y) for the purposes of section 35, respecting non-intrusive searches and frisk searches of inmates, including prescribing the circumstances in which a non-intrusive search and frisk search may be conducted;
- (z) for the purposes of section 36, respecting strip searches of inmates, including prescribing additional circumstances in which a strip search may be conducted;
- (aa) for the purposes of section 44, respecting urinalysis and bodily substance testing procedures for inmates, including:
  - (i) prescribing the manner in which a demand is made that an inmate provide a sample for a urinalysis or bodily substance test and the manner in which the urinalysis is done or the sample for the bodily substance test is taken; and
  - (ii) governing the use, handling, storage and disposal of samples and confidentiality requirements with respect to the results of tests of samples;
- (bb) for the purposes of section 47, respecting non-intrusive searches and frisk searches of visitors, including prescribing the circumstances in which a non-intrusive search and frisk search may be conducted;
- (cc) for the purposes of section 50, respecting searches of vehicles at a correctional facility, including prescribing the manner and the circumstances in which a search of a vehicle may be conducted;
- (dd) for the purposes of section 52, respecting non-intrusive searches and frisk searches of staff members, including prescribing the circumstances in which a non-intrusive search and frisk search may be conducted;
- (ee) for the purposes of section 55, respecting urinalysis and bodily substance testing procedures for staff members, including:
  - (i) prescribing the manner in which a demand is made that a staff member provide a sample for a urinalysis or bodily substance test and the manner in which the urinalysis is done or the sample for the bodily substance test is taken; and



- (ii) governing the use, handling, storage and disposal of samples and confidentiality requirements with respect to the results of tests of samples;
- (ff) for the purposes of section 57, respecting seizure of an object or substance at a correctional facility and the disposal of unclaimed property abandoned by an inmate at a correctional facility, including:
  - (i) prescribing the form and manner of a report to be prepared pursuant to clause 57(2)(a); and
  - (ii) providing for the forfeiture of the property to the Crown; and
  - (iii) providing for the disposal of property seized;
- (gg) respecting the administrative segregation of inmates, including:
  - (i) prescribing any notice requirements with respect to the administrative segregation of inmates;
  - (ii) governing the establishment of segregation panels;
  - (iii) prescribing the time and manner in which a segregation panel must conduct a review of the continued segregation of an inmate;
  - (iv) prescribing the time and manner in which a segregation panel must conduct further reviews of an inmate's case; and
  - (v) prescribing the procedures governing an appeal of a decision of a segregation panel to the director of the correctional facility;
- (hh) respecting requests by inmates for temporary absences, including:
  - (i) governing the establishment of temporary absence panels;
  - (ii) prescribing the time and manner in which a temporary absence panel must conduct a review of a request for a temporary absence;
  - (iii) prescribing the circumstances and the manner in which a temporary absence may be suspended, cancelled or revoked; and
  - (iv) prescribing the procedures governing an appeal of a denial, suspension, cancellation or revocation of a temporary absence to the director of a correctional facility;
- (ii) for the purposes of Part VII, establishing a process for receiving and responding to inmate complaints, including:
  - (i) prescribing the manner of, and the procedures to be followed in, dealing with inmate complaints; and
  - (ii) respecting the remedial actions that may be taken if the complaints are justified;
- (jj) for the purposes of section 68, respecting appeals with respect to inmate complaints, including:
  - (i) prescribing the procedures governing the appeals; and
  - (ii) the manner in which the appeals shall be dealt with and determined;

- (kk) for the purposes of section 69, respecting inmate discipline, including designating disciplinary offences;
- (ll) for the purposes of section 70, governing the establishment of discipline panels;
- (mm) for the purposes of section 73, respecting notices of disciplinary charges, including:
  - (i) prescribing the manner in which an inmate must be given notice of the charge; and
  - (ii) prescribing the information that must be included in the notice of the charge;
- (nn) for the purposes of section 74, prescribing the procedures to be followed in conducting disciplinary proceedings and for that purpose, prescribing different procedures for different categories of disciplinary proceedings;
- (oo) for the purposes of section 77, respecting the imposition of sanctions for disciplinary offences and the manner of collecting restitution from inmates;
- (pp) respecting appeals of decisions with respect to inmate disciplinary proceedings, including the procedures for the appeals;
- (qq) for the purposes of section 81, respecting remote monitoring systems, including prescribing the circumstances in which and the conditions subject to which the head of corrections may authorize the use of a remote monitoring system to monitor any of an offender's location, movements, activities and communications;
- (rr) for the purposes of section 93, respecting the establishment of community correctional facilities and classes of community correctional facilities;
- (ss) for the purposes of section 94, respecting inmate participation in programs and rules for programs;
- (tt) respecting an inmate's employment within or outside a correctional facility, including:
  - (i) determining the duration of the employment assignment;
  - (ii) determining the type of employment associated with the employment assignment;
  - (iii) determining all matters associated with pay procedures; and
  - (iv) determining the conditions of supervision requirements of the employment assignment;
- (uu) for the purposes of section 99, prescribing terms and conditions respecting the remittance of the forfeiture of all or any part of an inmate's remission;
- (vv) respecting the awarding or the withholding of any privilege in relation to inmates;

- (ww) respecting the maintenance of records and providing for their destruction;
  - (xx) respecting the establishment and administration of trust accounts for inmates;
  - (yy) prescribing fees and charges to recover costs incurred for the administration of this Act;
  - (zz) prescribing rates or respecting the setting of rates for the provision of food services at correctional facilities to staff members;
  - (aaa) governing reports prepared by a staff member for a court;
  - (bbb) respecting standards for the custody of offenders and management of sentences of offenders and for the administration and management of correctional services;
  - (ccc) respecting corrections industry programs;
  - (ddd) respecting the use and operation of the Correctional Facilities Industries Revolving Fund;
  - (eee) for the purposes of section 110, prescribing the circumstances in which a disclosure of information may be made;
  - (fff) prescribing offences to which Part X is not applicable;
  - (ggg) respecting the assessment of an inmate's conduct and behaviour, as well as assessing the manner in which an inmate actively participates in assigned programs, for the purpose of determining the award or withholding the award of earned remission;
  - (hhh) prescribing any other matter or thing that is required or authorized by this Act to be prescribed in the regulations;
  - (iii) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.
- (2) A regulation made pursuant to clause (1)(k), (l), (m) or (n) may be made retroactive to a date not earlier than June 15, 2011.

## PART XV

### Repeal, Transitional, Consequential and Coming into Force

#### S.S. 1993, c.C-39.1 repealed

**116** *The Correctional Services Act* is repealed.

#### Transitional – designation of building or premise as a correctional facility continues

**117(1)** In this section, “**former Act**” means *The Correctional Services Act* as it existed on the day before the coming into force of this section.

(2) A designation of a building or a premise as a correctional facility pursuant to the former Act continues in force pursuant to this Act until it is amended or revoked pursuant to this Act.

S.S. 1999, c.C-38.01, section 8 amended

**118 Subsection 8(1) of *The Coroners Act, 1999* is amended by striking out “*The Correctional Services Act*” and substituting “*The Correctional Services Act, 2012*”.**

S.S. 1996, c.E-6.01 amended

**119(1) *The Election Act, 1996* is amended in the manner set forth in this section.**

**(2) Clause 63(2)(a) is amended by striking out “executive director, as defined in *The Correctional Services Act*” and substituting “head of corrections, as defined in *The Correctional Services Act, 2012*”.**

**(3) Clause 111(1)(a) is amended by striking out “*The Correctional Services Act*” and substituting “*The Correctional Services Act, 2012*”.**

S.S. 1979, c.W-17.1, section 104 amended

**120 Clause 104(2)(a) of *The Workers’ Compensation Act, 1979* is amended by striking out “*The Correctional Services Act*” and substituting “*The Correctional Services Act, 2012*”.**

S.S. 2003, c.Y-2 amended

**121(1) *The Youth Justice Administration Act* is amended in the manner set forth in this section.**

**(2) Subclause 2(1)(m)(i) is amended by striking out “*The Correctional Services Act*” and substituting “*The Correctional Services Act, 2012*”.**

**(3) Section 3 is amended by striking out “*The Correctional Services Act*” and substituting “*The Correctional Services Act, 2012*”:**

**(a) in subsection (1); and**

**(b) in subsection (2).**

**(4) Subsection 7(1) is amended by striking out “*The Correctional Services Act*” and substituting “*The Correctional Services Act, 2012*”.**

**(5) Subsection 9(1) is amended by striking out “*The Correctional Services Act*” and substituting “*The Correctional Services Act, 2012*”.**

**(6) Section 10 is amended:**

**(a) in subsection (1) in the portion preceding clause (a) by striking out “*The Correctional Services Act*” and substituting “*The Correctional Services Act, 2012*”;**

**(b) by repealing subclause (1.2)(b)(ii) and substituting the following:**

**“(ii) a warrant of committal within the meaning of *The Correctional Services Act, 2012*”; and**

**(c) in subsection (2) by striking out “Section 30 of *The Correctional Services Act* applies” and substituting “Section 99 of *The Correctional Services Act, 2012* applies”.**

**Coming into force**

**122 This Act comes into force on proclamation.**