# CORRECTION ACT

## .

# **CHAPTER 74**

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. 1 Section 1

#### Definitions

**1** In this Act:

"branch" means the Corrections Branch of the Ministry of the Attorney General;

- "commissioner" means the Commissioner of Corrections, and includes a person designated in writing by the minister or the commissioner to act as commissioner during the commissioner's absence;
- "correctional centre" includes each lawful place of confinement in British Columbia, whether the place be a jail, prison, lockup, place of imprisonment, camp, correctional institution, or place for treatment of alcoholics, including all land connected with them, but does not include prisons or lockups operated by police forces, or penitentiaries under the control of Canada;
- "court" includes the Court of Appeal, Supreme Court, Provincial Court and a justice of the peace;
- "director" means the Director of the Investigation, Inspection and Standards Office;
- "inmate" means a person who is sentenced to imprisonment, or lawfully detained, or is being confined for treatment, at a correctional centre, and includes a prisoner or trainee;
- "minister" means the Attorney General, and includes any person designated in writing by the minister;
- "office" means the Investigation, Inspection and Standards Office;
- "work program" means a program designed to assist inmates or young persons in acquiring work skills and to encourage them to engage in work;
- "young person" means a young person as defined in the Young Offenders (British Columbia) Act or in the Young Offenders Act (Canada);
- "youth containment centre" means a youth containment centre designated under section 27 of this Act and includes
  - (a) a place of secure custody designated under the Young Offenders Act (Canada) by the Lieutenant Governor in Council, and
  - (b) a place of open custody or a place of temporary detention designated under the Young Offenders Act (Canada) by the Lieutenant Governor in Council or by a delegate of the Lieutenant Governor in Council.

#### **Corrections Branch**

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- (1) There is to be a branch of the Ministry of Attorney General, to be called the Corrections Branch, over which the minister must preside.
  - (2) Under the direction of the minister, the branch is charged with the administration of this Act and, for the purpose of protecting the community, all matters relating to correctional centres, youth containment centres and the correction and treatment of persons who offend the law.

#### Commissioner and staff

- (1) A Commissioner of Corrections, and other employees required to carry out the business of the branch, may be appointed under the *Public Service Act*.
  - (2) The commissioner has the status of a deputy minister and is the chief probation officer.
  - (3) While carrying out their duties under this Act or the regulations, the commissioner and each employee of the branch are peace officers and have the power and authority of peace officers.
  - (4) If an emergency exists, or could reasonably be expected to exist, the minister may, despite the *Public Service Act*, appoint employees the minister considers necessary to meet the emergency.

#### **Probation officers**

4 If requested by a court and approved by the minister, a person may exercise without remuneration the powers and duties of a probation officer for specified purposes or in a designated area.

#### **Probation officer's responsibilities**

- 5 (1) A person who is appointed a probation officer under this Act
  - (a) is a probation officer for all of British Columbia,
  - (b) is an officer of every court in British Columbia,
  - (c) must prepare for the court reports as may be ordered by the court,
  - (d) has power to procure and report information as the court may require respecting a person convicted by the courts,
  - (e) is, if appointed a parole supervisor under the *Corrections and Conditional Release Act* (Canada), a peace officer under the jurisdiction of the government,
  - (f) must supervise parolees paroled under the Parole Act, and
  - (g) is, if attached to the staff of a correctional centre, subject to the directions of the person in charge of the correctional centre, and must assist in casework services and post release planning for inmates.
  - (2) A probation officer is responsible for the supervision of a person placed on probation by any court.
  - (3) A probation officer is designated a youth worker for purposes of the Young Offenders Act (Canada).

#### Additional duties

6 (1) If

- (a) a young person is charged with or alleged to have committed an offence under a Provincial or federal enactment, and
- (b) a prosecutor requests a pretrial inquiry,

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- a probation officer must, before a trial commences, examine the facts and circumstances, including the family background, relating to the young person, and must submit a report to the prosecutor.
- (2) A probation officer who obtains information while acting in his or her capacity under subsection (1) is not a compellable witness for the purpose of disclosing the information in proceedings before a court.
- (3) If, after the examination, the probation officer is of the opinion that it is in the best interest of the young person and in the public interest that action, other than a prosecution of the young person, be taken, the probation officer must recommend it to the prosecutor.
- (4) If, on the recommendation of the probation officer, a young person is not prosecuted, the probation officer may, with the consent of the young person and the parents having custody of the young person, enter into an arrangement with the young person and the parents to assist the young person to resolve the young person's conflict with the law.

#### Reporting breach

- 7 A probation officer charged with the supervision of a person on whom the passing of sentence was suspended, or who is subject to a probation order, may report to the court or prosecutor if the person fails to carry out
  - (a) the terms on which the passing of sentence was suspended, or
  - (b) the terms of the probation order.

#### **Correctional centres**

8 The Lieutenant Governor in Council may establish or discontinue correctional centres as the Lieutenant Governor in Council considers necessary.

#### **Compulsory retirement**

**9** Despite the *Public Service Act* or any other Act, the Lieutenant Governor in Council may prescribe the compulsory retirement age for a person holding appointment under this Act and employed in a correctional centre or youth containment centre.

#### Inspection of correctional centres

- 10 (1) The minister may at any time enter a correctional centre for the purpose of inspection, and is entitled to access to every part of the centre.
  - (2) The minister may do one or more of the following:
    - (a) examine papers, documents, vouchers, records, books and other things in the correctional centre;
    - (b) investigate the conduct of any person employed in or about the correctional centre, or of any person found within its precincts;
    - (c) by order signed by the minister, summon a person before the minister;

- (d) examine that person under oath about any matter relating to any breach of the rules of the correctional centre, or any matter affecting its interests;
- (e) by order, compel the production of books, papers, writings or other things before the minister.
- (3) A person may be taken into custody under a warrant signed by the minister if the person, after being served with a copy of an order of the minister under subsection (2),
  - (a) neglects or refuses to appear at the time and place specified in the order, or
  - (b) refuses to give evidence or produce the books, papers, writings or other things demanded of the person in the order.
- (4) On the order of a judge of the Supreme Court summarily made, on complaint of the Attorney General, a person taken into custody under subsection (3) may be imprisoned as for contempt, for a period of not longer than 14 days.

## Moving inmates to and from correctional and regional correctional centres

- (1) Subject to subsection (2), each correctional centre may receive inmates from any part of British Columbia.
  - (2) The Lieutenant Governor in Council may, by order, designate a correctional centre as a regional correctional centre to receive inmates or classes of inmates from an area of British Columbia designated in the order.
  - (3) Despite any order made under this section, the minister may direct that prisoners confined in one correctional centre be removed to another correctional centre.

## Certificate of health on receipt at correctional centre

- 12 (1) The person in charge of a correctional centre is not required to accept a person into custody under a warrant of committal unless there is, for that person, a certificate of a medical practitioner certifying all of the following:
  - (a) the state of health of the person;
  - (b) that the person is fit for transfer;
  - (c) that the person is free from any infectious or contagious disease.
  - (2) A person sentenced to imprisonment in, or ordered by competent authority to be conveyed to, a correctional centre from any other jail, prison or lockup may remain and be kept in lawful custody in the jail, prison or lockup from which he or she was sentenced or ordered to be conveyed, until the certificate of health required by this section has been provided.

## Agreement to house prisoners

(1) On behalf of the government, the minister may enter into an agreement with a municipality for the detention in a correctional centre of persons whose detention is chargeable to the municipality on terms for reimbursement of expenses as may be mutually agreeable.

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- (2) Agreements similar to those authorized under subsection (1) may be made for reimbursing municipalities for the expenses of detention in a municipal lockup of persons from in or outside the municipality whose detention is chargeable to the government.
- (3) All persons lawfully acting under any agreement referred to in subsection (1) or(2) have full authority to detain persons and are empowered to do so.
- (4) Lockups and other institutions used for the purpose of agreements made under this section are places of detention for the purposes and localities specified in the agreement.

#### Attendance of inmate or young person outside jail

- (1) The minister may direct or authorize the employment or attendance of an inmate or young person for any specific work, duty or purpose beyond the limits of a correctional centre or youth containment centre.
  - (2) The degree of supervision of an inmate or young person to whom subsection (1) applies must be determined by the person in charge of the correctional centre or youth containment centre in consultation with the minister.
  - (3) During his or her employment or attendance under subsection (1), an inmate is subject to the rules, regulations and discipline of the correctional centres, so far as applicable, and must obey all instructions given to him or her by the person in charge of the correctional centre.
  - (4) During his or her employment or attendance under subsection (1), a young person is subject to the rules, regulations and discipline of the youth containment centre, so far as applicable, and must obey all instructions given to him or her by the person in charge of the youth containment centre.

#### Leave

- 15 (1) If, in the opinion of the minister, it is necessary or desirable that an inmate be absent from a correctional centre, with or without escort, for medical, educational or humanitarian reasons, or to assist in the rehabilitation of the inmate, the minister may, in writing, authorize the absence
  - (a) for an unlimited period for medical and educational reasons, or
  - (b) for a period of not longer than 15 days for humanitarian reasons or to assist in the rehabilitation of the prisoner.
  - (2) Section 20 applies to an inmate for whom an absence is authorized under subsection (1).

## Work programs

- 16 (1) The minister may establish and administer one or more work programs.
  - (2) The Labour Relations Code, the Public Service Labour Relations Act and the Employment Standards Act do not apply to inmates and young persons in respect of or due to their participation in a work program.

#### Corrections Work Program Account

- 17 (1) In this section, "account" means the Corrections Work Program Account continued under subsection (2).
  - (2) The Corrections Work Program Account is continued as a special account in the general fund of the consolidated revenue fund.
  - (3) Money in the account must be managed and accounted for in accordance with any directives that Treasury Board may issue from time to time and may, without an appropriation other than this section, be spent for work programs.
  - (4) There must be credited to the account
    - (a) money authorized by the Treasury Board for the purposes of the account, and
    - (b) subject to the directives of Treasury Board, all money received by the government from operation of the work programs or by way of return on money expended from the account.

#### Work release and work program

- **18** (1) If the minister authorizes
  - (a) an inmate's absence from a correctional centre, or
  - (b) a young person's absence from a youth containment centre

in order to be gainfully employed for wages, the minister may require that any wages earned by the inmate or young person from this employment be applied in the manner set out in subsections (4) and (5).

- (2) If an inmate or young person receives compensation as a result of his or her participation in a work program, the minister may require that the compensation received by the inmate or young person be applied in the manner set out in subsections (4) and (5).
- (3) If an inmate or young person is gainfully employed for wages outside of a correctional centre or youth containment centre or is participating in a work program inside or outside of a correctional centre or youth containment centre, the minister may require
  - (a) the employer of the inmate or the young person, or
  - (b) the person who is paying compensation to the inmate or young person participating in the work program, as the case may be,

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to forward the total amount owed to the inmate or young person, less deductions required by law, to the person in charge of the correctional centre or youth containment centre.

(4) A person in charge of the correctional centre or youth containment centre must, subject to the minister's approval, disburse the money received by the person in the following order of priority:

(a) the maintenance and support of the inmate's or young person's dependants in sums the minister may direct;

(b) the actual cost of travel expenses and meals for the inmate or the young person;

(c) the cost of his or her keep at the correctional centre or youth containment centre;

(d) any other expense that the minister considers is in the best interest of the inmate or the young person or the dependants of the inmate or the young person.

(5) The person in charge of the correctional centre or youth containment centre must credit any balance remaining to the account of the inmate or the young person to be paid to him or her on his or her discharge from the correctional centre or youth containment centre.

- (6) Despite subsections (4) and (5), the minister may waive or vary the manner of disbursing the earnings of the inmate or the young person received by the person in charge of the correctional centre or youth containment centre in any way that the person in charge in his or her discretion considers necessary for the benefit of the inmate or the young person or the dependants of the inmate or the young person.
- (7) A person in charge of the correctional centre or youth containment centre receiving money under this section must keep proper records of its receipt and disbursement and account to the inmate or the young person on his or her release.

### **Earned remission**

- 19 (1) An inmate in a correctional centre who is serving a sentence imposed for civil contempt or for an offence under an enactment may be credited with 15 days of earned remission of his or her sentence for each month, and with a number of days calculated on a proportionate basis for each incomplete month during which the inmate has applied himself or herself industriously, as determined under any regulation made by the Lieutenant Governor in Council, to the program of the place of confinement in which he or she is imprisoned.
  - (2) The first credit of earned remission must be made not later than the end of the month following the month the inmate is received into the correctional centre, and afterward credit must be made at intervals of not more than 3 months.

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(3) An inmate credited with earned remission who commits a breach of the regulations applicable to inmates of the correctional centre is, at the discretion of the person by whom the breach is determined to be committed, liable to forfeit all or part of the earned remission that stands to his or her credit.

#### Regulation outside correctional centre

- (1) A street, highway or place, public or private, along or across which an inmate or young person may pass in going to or returning from work, duty or other absence authorized under section 14, 15 or 30, and every place where an inmate or young person may be, under those sections, must
  - (a) while so used by an inmate, be considered a portion of a correctional centre for the purposes of this Act, and
  - (b) while so used by a young person, be considered a portion of a youth containment centre for the purposes of this Act.
  - (2) If
    - (a) an inmate, whose absence from a correctional centre is authorized under section 14 or 15, or
    - (b) a young person, whose absence from a youth containment centre is authorized under section 14 or 30,

fails to return to the correctional centre or the youth containment centre when instructed to do so, he or she is deemed to be at large without lawful excuse and may be apprehended with or without a warrant by a peace officer and returned to the correctional centre or the youth containment centre where he or she was confined.

### Contraband and trespassing

- (1) Except with the permission of the person in charge of the correctional centre, a person must not bring into a correctional centre for the use of any officer or person, whether confined in the correctional centre or not, food, liquor, drugs, clothing or any other article whatsoever.
  - (2) A person must not trespass on the grounds, buildings or other premises belonging or related to a correctional centre.

#### Monthly reports

- 22 (1) The commissioner must periodically examine or have examined the accounts of each correctional centre.
  - (2) A person in charge of a correctional centre must provide monthly to the commissioner a written statement of the expenditures of the correctional centre.

#### Annual report of commissioner

(1) On or before November 1 in each year, the commissioner must prepare and send to the minister an annual report to be laid before the Legislative Assembly.

- (2) The annual report must contain the following:
  - (a) a full and accurate statement of the condition and management of the correctional centres in British Columbia;
  - (b) a full and accurate statement of the provision made for the accommodation, treatment and training of inmates;
  - (c) suggestions for improvement as the commissioner may consider necessary;
  - (d) reports and statistical information as the minister may require.

## Protection of officials in duties

24 The provisions of the *Provincial Court Act* for the protection of judges in carrying out their duties under that Act apply to the commissioner and other employees of the ministry in carrying out their duties under this Act or a rule or regulation made under it.

#### Youth program provision

25 Sections 25 to 32 are intended for the protection and benefit of young persons and for the protection of the public, by assisting young persons to resolve their conflict with the law.

#### Youth program committee

- **26** (1) The Attorney General must
  - (a) establish a youth program committee composed of persons providing services for young persons who have committed or are likely to commit offences against a Provincial or federal enactment,
  - (b) appoint members of the committee, and
  - (c) prescribe the powers and duties of the committee.
  - (2) The purpose of the youth program committee is to advise the Attorney General on policy and administration under sections 25 to 32.
  - (3) A member of the committee must be reimbursed for reasonable travelling and out of pocket expenses necessarily incurred by the member in the discharge of duties, and, in addition, may be paid remuneration for his or her services as the Lieutenant Governor in Council, by order, may decide.

#### **Designation of youth containment centres**

27 The commissioner may designate facilities as youth containment centres.

#### Programs for young persons

- 28 The commissioner must establish programs for young persons and, without limiting that responsibility, the programs may include one or more of the following:
  - (a) a restitution or compensation program;
  - (b) a community service program;

- (c) an attendance program;
- (d) a probation supervision program;
- (e) a containment program.

#### Care of youth admitted to containment centre

- 29 (1) A youth who is admitted to a youth containment centre is subject to the care, control and custody of the government, and all rights and powers of care, control and custody of a parent or guardian over the youth cease until the youth is released
  - (a) on the completion of his or her term under the court order, or
  - (b) on the making of a conditional release order under sections 25 to 32.
  - (2) The Lieutenant Governor in Council may designate a person to act under subsection (1) as agent for the government.

## Transfers and outside programs

- 30 (1) In this section, "adult" means an adult as defined in the Young Offenders (British Columbia) Act or in the Young Offenders Act (Canada).
  - (2) A young person in custody must be detained in a youth containment centre that the commissioner specifies.
  - (3) The commissioner may, during the period of custody, transfer the young person from one centre to another.
  - (4) If a young person in custody becomes an adult, the commissioner may transfer the person to a correctional centre to serve his or her custody order or any balance of it.
  - (5) The commissioner may permit a young person in custody
    - (a) to be temporarily released from custody for medical, compassionate or humanitarian reasons, or
    - (b) to participate in an educational, treatment or counselling program inside or outside the youth containment centre.
  - (6) If a young person is absent from a youth containment centre as permitted under subsection (5), the young person is subject to
    - (a) the rules, regulations and discipline of the centre, and
    - (b) any terms for his or her supervision that a person in authority at the centre imposes on the young person for the period of the absence.

## Delegation by commissioner

31 (1) The commissioner may delegate in writing any of the commissioner's powers or duties under sections 25 to 32 or under the Young Offenders (British Columbia) Act to an employee in the branch.

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(2) A person to whom a power or duty has been delegated acts for the commissioner in the exercise of that power or duty and may not delegate that power or duty to another person.

## Inspection of centres

- (1) The director must inspect each youth containment centre or facility annually.
  - (2) Each year, the director must make a written report to the Attorney General recommending any changes that, in the opinion of the director, should be made in the containment program or in a centre or facility inspected.

## Investigation, Inspection and Standards Office

- 33 (1) The minister must maintain an office to be known as the Investigation, Inspection and Standards Office.
  - (2) The director and other employees in the office must be appointed under the *Public Service Act*.

#### Director

- 34 (1) The director,
  - (a) with the prior approval of the minister, may delegate in writing any of the director's powers and duties to an employee of the office,
  - (b) must maintain a program of periodic inspection by the office of all correctional centres established under sections 8 to 24, youth containment centres and other facilities established under this Act,
  - (c) must investigate any matter respecting the administration of this Act on the written request of the minister or commissioner or on the director's own motion,
  - (d) must investigate complaints about the administration of this Act as it affects the complainant, on receiving a written complaint from
    - (i) an inmate,
    - (ii) a young person who has been held in a youth containment centre,
    - (iii) a person on probation under this Act or on parole under the *Parole* Act, or
    - (iv) a parent or guardian of a youth described in subparagraph (ii) or (iii),
  - (e) must report his or her findings under paragraph (b), (c) or (d) in writing to the minister,
  - (f) has, for the purpose of paragraphs (b), (c) and (d), all the powers, privileges and protections of a commissioner under sections 12, 15 and 16 of the *Inquiry Act*, and
  - (g) is entitled to access at any time to
    - (i) a part of a centre or facility described in paragraph (b), and to a person held there,

- (ii) a person employed in the branch, and
- (iii) a file or document under the custody and control of the branch or of an employee in the branch.
- (2) An employee to whom a power or duty is delegated under subsection (1) (a) may not delegate that power or duty to another person.

#### Rules and regulations

- The Lieutenant Governor in Council may make regulations referred to in section 41 of the Interpretation Act.
  - (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:
    - (a) for the qualifications, duties and powers of probation officers;
    - (b) for the office and other accommodation and clerical and other assistance to be provided for a probation officer;
    - (c) for reports and returns by probation officers;
    - (d) for the management, operation, discipline and security of correctional centres and youth containment centres;
    - (e) prescribing the duties of any person employed in or about a correctional centre;
    - (f) for the diet, clothing, maintenance, employment, training and discipline of the inmates;
    - (g) governing inmates duly authorized to be absent from a correctional centre;
    - (h) establishing disciplinary panels;
    - (i) establishing a process by which decisions made or dispositions imposed by a disciplinary panel may be reviewed and establishing the practices and procedures to be used in that process;
    - (j) prescribing allowances for members of disciplinary panels who are not employees under the *Public Service Act*;
    - (k) for the disposal of unclaimed property abandoned by an inmate at a correctional centre or a young person at a youth containment centre;
    - for the seizure and disposal of drugs, weapons or any other object that may threaten the management, operation, discipline or security of a correctional centre or a youth containment centre;
    - (m) prescribing the health care, diet, clothing, accommodation, education, training, employment, custody and discipline standards applicable to a young person held in a youth containment centre.
  - (3) The minister must post in legible characters and in conspicuous parts of a correctional centre, so that every inmate may have notice, copies of those regulations made under subsection (2) (d) to (l) that relate to the treatment and conduct of the inmates.

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#### CORRECTION — HISTORICAL TABLE

## Legislative History CORRECTION ACT

RSBC 1996, chapter 74

Section	History
1	RS1979-70-1; 1984-30-26; 1987-43-9; 1989-40-44; 1989-76-17; 1994-49-1.
2	
3	RS1979-70-3; 1980-1-3; 1985-15-22.
4	RS1979-70-4.
5	RS1979-70-5; 1984-30-27; 1989-76-18.
6	RS1979-70-6; 1984-30-29,30.
7	RS1979-70-7.
8	RS1979-70-8.
	RS1979-70-9.
10	RS1979-70-10; 1989-40-45.
	RS1979-70-11.
	RS1979-70-13.
	RS1979-70-14.
	RS1979-70-15, 1987-43-11.
	RS1979-70-16.
	RS1979-70-16.1; 1987-43-12; 1992-82-165.
	RS1979-70-16.2; 1987-43-12; 1989-1-3.
	RS1979-70-17; 1987-43-13,14.
	RS1979-70-18; 1992-32-1.
	RS1979-70-19; 1987-43-15.
21	
22	
	RS1979-70-22.
	RS1979-70-23.
	RS1979-70-32; 1984-30-31.
	RS1979-70-33; 1984-30-32.
	RS1979-70-34; 1984-30-33.
	RS1979-70-35; 1984-30-34.
	RS1979-70-37; 1984-30-36.
30	RS1979-70-38; 1984-30-37.
	RS1979-70-42; 1984-30-39.
	RS1979-70-43; 1980-1-4; 1984-30-40.
	R\$1979-70-44; 1994-49-2.
	R\$1979-70-45; 1984-30-41; 1989-76-20; 1992-32-2; 1994-49-3.
35	RS1979-70-47; 1984-30-42; 1989-76-21; 1992-32-3.

## EXPLANATORY NOTE

Amendments Not in Force: If there are any legislative changes to the Act that are not in force as of December 31, 1996, these are identified in *italics* at the beginning of the historical table. The "Section" column identifies the affected provisions of the Act. The "Citation" column identifies the amending legislation by its citation in the 1996 Statute Revision Supplement.

**Legislative History:** The second part of the table provides a legislative history of each section of the Act between the 1979 Statute Revision and the 1996 Statute Revision. The "Section" column identifies all sections of the Act in force on December 31, 1996. The "History" column for each section begins with the citation of the section immediately before the 1996 Statute Revision. This is followed by a list of citations for the legislation that enacted or amended the section between the 1979 Statute Revision and the 1996 Statute Revision (if a section was repealed and replaced during that period, these last citations begin at the most recent replacement).

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Legislative citations have the format of "year-chapter-section".

See the Explanatory Note at the end of the Table for information on this Historical Table

# CORRECTION — HISTORICAL TABLE

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