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D 2020 043

EXECUTIVE ORDER

Amending and Extending Executive Order D 2020 016 Temporarily Suspending Certain Regulatory Statutes Concerning Criminal Justice

Pursuant to the authority vested in the Governor of the State of Colorado and, in particular, pursuant to Article IV, Section 2 of the Colorado Constitution and the relevant portions of the Colorado Disaster Emergency Act, C.R.S. § 24-33.5-701 *et seq.*, I, Jared Polis, Governor of the State of Colorado, hereby issue this Executive Order amending and extending Executive Order D 2020 016 which temporarily suspends certain regulatory statutes concerning criminal justice due to the presence of coronavirus disease 2019 (COVID-19) in Colorado.

I. Background and Purpose

On March 5, 2020, the Colorado Department of Public Health and Environment's (CDPHE) public health laboratory confirmed the first presumptive positive COVID-19 test result in Colorado. Since then, the number of confirmed cases has continued to climb, and we have evidence of widespread community spread throughout the State. I verbally declared a disaster emergency on March 10, 2020, and on March 11, 2020, I issued the corresponding Executive Order D 2020 003, as amended by Executive Orders D 2020 018 and D 2020 032. On March 25, 2020, I requested that the President of the United States declare a Major Disaster for the State of Colorado, pursuant to the Stafford Act. The President approved that request on March 28, 2020.

My administration, along with other State, local, and federal authorities, has taken a wide array of actions to mitigate the effects of the pandemic, prevent further spread, and protect against overwhelming our health care resources.

We must take action to minimize the duration of this epidemic and of the disruption to our daily lives. The virus that causes COVID-19 is spread primarily by close contact between people and through respiratory droplets when an infected person coughs or sneezes. Public health experts recommend we practice "social distancing," or maintaining a physical distance of six (6) feet or more from other people, as a way to slow the spread of COVID-19.

The potential spread of COVID-19 in jails and prisons poses a significant threat to prisoners and staff who work in those facilities, as well as the communities to which they return.

On March 25, 2020, I issued Executive Order D 2020 016, temporarily suspending certain regulatory statutes concerning criminal justice to provide the Colorado Department of

Corrections (DOC) with the discretion necessary to combat the spread of COVID-19 in State prisons.

Pursuant to Executive Order D 2020 016, DOC has implemented various measures and operational changes aimed at preventing the spread of COVID-19. To date, the State and DOC have been able to prevent the mass spread of COVID-19 in DOC facilities. Despite the State's success so far in safeguarding our detained and incarcerated populations, COVID-19 remains a significant health threat to offenders and staff, and DOC must take additional measures to prevent its spread.

This Executive Order amends and extends Executive Order D 2020 016 for an additional thirty (30) days and temporarily suspends additional statutes so that DOC can take further action to prevent the spread of COVID-19 in Colorado prisons.

II. Amendments

Section II of Executive Order D 2020 016 is amended to include the following:

I. I temporarily suspend the provisions of C.R.S. §§ 17-27.5-102(2) and (4) regarding the standards and criteria for intensive supervision programs and the notice requirement for placement of a nonparoled offender in an intensive supervision program. I direct the Executive Director of DOC to develop alternative standards and criteria for intensive supervision programs with the goal of expediting release of offenders pursuant to Executive Order D 2020 016. DOC shall provide notice of placement of a nonparoled offender in an intensive supervision program as soon as practicable.

J. I temporarily suspend the provisions related to time credit deductions for offenders sentenced directly to a community corrections program in C.R.S. § 18-1.3-301(1)(i). The administrator of each community corrections program shall have discretion to make awards of time credit deductions to offenders as he or she deems necessary and appropriate to safely facilitate the reduction of the State's incarcerated population.

III. Duration

Executive Order D 2020 016, as amended and extended by this Executive Order, shall expire thirty (30) days from April 23, 2020, unless extended further by Executive Order. In all other respects, Executive Order D 2020 016 shall remain in full force and effect as originally promulgated.

GIVEN under my hand and the Executive Seal of the State of Colorado, this twenty-third day of April, 2020

Jared Polis
Governor