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EXECUTIVE ORDER

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.* (Act), I, Jared Polis, Governor of the State of Colorado, hereby issue this Executive Order temporarily suspending 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 community spread throughout the State. I verbally declared a disaster emergency on March 10, 2020, and issued the corresponding Executive Order D 2020 003 on March 11, 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 facilities and prisons poses a significant threat to prisoners and staff who work in facilities and prisons, as well as the communities to which incarcerated persons will return.

By this Executive Order I temporarily suspend certain regulatory statutes concerning criminal justice due to the presence of COVID-19 in Colorado.

II. Directives

A. In compliance with Centers for Disease Control and Prevention's (CDC) Interim Guidance on Management of Correctional and Detention Facilities, I temporarily suspend the Colorado Department of Corrections' (DOC) duty to receive and take custody of prisoners pursuant to C.R.S. § 16-11-301 and -308. I direct DOC to identify the criteria that would justify the acceptance of such prisoners. Offenders shall remain in any pre-transfer facility until otherwise directed by the DOC.

B. I temporarily suspend the caps and criteria on awards of earned time credits set forth in C.R.S. § 17-22.5-405. During this time, DOC shall have the discretion to make awards of earned time credits as it deems necessary and appropriate to safely facilitate the reduction of the population of incarcerated persons and parolees to prevent an outbreak in prisons.

C. I temporarily suspend the criteria for release to Special Needs Parole set forth in C.R.S. § 17-22.5-403.5 and C.R.S. § 17-1-102 (7.5)(a). During this time, the Colorado Department of Corrections shall have the discretion to identify interim criteria for Special Needs Parole and refer persons who meet those criteria to the Parole Board.

D. I temporarily suspend the portion of C.R.S. § 17-27.5-101(1)(a) that requires a prisoner to successfully complete a regimented inmate discipline program before DOC has the authority to establish and directly operate an intensive supervision program.

E. I temporarily suspend the provisions of C.R.S. 17-1-104.3 (1)(b.5), addressing the custody level of offenders and duration of time for which the DOC may incarcerate persons at the Centennial Correctional Facility- South, operated by the DOC and located at the East Cañon Complex in Cañon City, Fremont County, so as to make the 650 beds at that facility available to the DOC to house persons of mixed classification for operational needs related to the COVID-19 outbreak.

F. I temporarily suspend the requirements of C.R.S § 17-27-108(5) allowing for a transfer limit of up to ten percent of annual appropriations among or between line items for community corrections program services for the remainder of Fiscal Year 2019-20. The suspension will allow the Department of Public Safety (DPS) the ability to exceed ten percent of annual appropriations to provide financial assistance that promotes the economic stability of community corrections clients and the system, as well as the State.

G. I direct DPS to identify funding allocated in the Fiscal Year 2019-2020 to be utilized for the purposes of suspending the $17.00 a day subsistence payments required from community corrections clients, the purchase of client hygiene, food, and other necessities, rental assistance, staff retention, and program financial stability.

H. Nothing in this Executive Order supersedes the rights provided to victims through C.R.S § 24-4.1-302.5, the Colorado Victim Rights Act.

III. Duration

This Executive Order shall expire thirty (30) days from March 25, 2020, unless extended further by Executive Order.

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

Jared Polis
Governor