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Bill 195

**An Act to enact the Ministry of Community Safety and
Correctional Services Act, 2018 and the Correctional Services and
Reintegration Act, 2018, to make related amendments to other Acts,
to repeal an Act and to revoke a regulation**

The Hon. M.-F. Lalonde

Minister of Community Safety and Correctional Services

Government Bill

1st Reading February 20, 2018

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The Bill enacts or amends various Acts, repeals an Act and revokes a regulation. The major elements of the Bill are described below.

SCHEDULE 1

MINISTRY OF COMMUNITY SAFETY AND CORRECTIONAL SERVICES ACT, 2018

The Schedule enacts the *Ministry of Community Safety and Correctional Services Act, 2018*.

The Schedule continues the Ministry of Community Safety and Correctional Services in a new Act. The duties and powers of the Minister are set out. The Schedule provides for the appointment of employees and delegations to them.

SCHEDULE 2

CORRECTIONAL SERVICES AND REINTEGRATION ACT, 2018

The Schedule enacts the *Correctional Services and Reintegration Act, 2018*.

Part I (Purpose and Interpretation)

Part I sets out the purpose of the Ontario correctional system and the definitions used in the Act.

Part II (Administration)

Part II sets out the Minister's functions under the Act. It also includes the Minister's powers to delegate and to enter into contracts or agreements.

The rules respecting the collection, use and disclosure of personal information for the purpose of discharging the Minister's functions, and for research purposes, are set out.

Persons providing volunteer services to the Ministry are required to serve under the direction of an employee in the Ministry, a contractor or an employee of a contractor.

Rules respecting confidentiality, the disclosure of personal information and the publication of policies, procedures and data are set out. The Minister is required to conduct a review of the Act every five years.

The Part also provides for the designation of correctional institutions. The units within a correctional institution shall be assigned a security classification. The Lieutenant Governor in Council appoints an Independent Regional Chair and members of the review roster who serve as Disciplinary Hearings Officers or as members of an Independent Review Panel. The Minister establishes community advisory boards.

The Minister designates one or more superintendents to be responsible for the administration of each correctional institution. Their powers and duties are set out.

Correctional institutions may be designated in writing for use by a police services board as a lock-up.

The Minister may also designate facilities as community resource centres for the rehabilitation and supervision of individuals under community supervision or inmates in a community setting.

The Part establishes a code of conduct for correctional services employees and sets out training, standards and performance expectations. Rules respecting conflicts of interest are also set out.

The Lieutenant Governor in Council is required to establish a First Nations, Inuit and Métis Advisory Committee to provide advice. The Minister and any person employed in the administration of the Act are required to consider systemic and individual circumstances for First Nations, Inuit or Métis individuals under community supervision and inmates and to consider their unique needs and circumstances when making a decision to limit their liberty. Superintendents are required to make the services of a First Nations, Inuit or Métis Elder or Spiritual Advisor available.

The Minister has the power to designate peace officers and appoint provincial bailiffs. Liability protection for the Deputy Minister and other employees in the Ministry is set out, but this does not relieve the Crown of any liability.

Part III (Admission of Inmates)

Part III sets out the procedure for admitting inmates to a correctional institution. Certain information must be provided to inmates on admission. Inmates shall be assigned a security classification on admission and placed in a correctional institution based on their classification and other criteria.

The superintendent is required to conduct an initial assessment on newly admitted inmates, along with a further assessment for certain inmates. These assessments are used to develop a case management plan for the inmate. Provisions for providing assistance upon the release of an inmate are also set out.

Part IV (Inmate Living Conditions and Standards)

Part IV sets out the living conditions and standards that the superintendent is required to provide. Cruel or inhumane treatment or punishment is prohibited. Standards are established for peaceful assembly and association, religious and spiritual programs, accommodation, food, clothing, hygiene, health care and other matters.

Part V (Segregation and Restrictive Confinement)

Part V sets out requirements with respect to segregation and restrictive confinement.

Inmates held in conditions that constitute segregation or restrictive confinement retain all rights and privileges of inmates in general population housing except those that can only be enjoyed in association with other inmates.

Certain inmates cannot be held in conditions that constitute segregation, including inmates who are pregnant, chronically self-harming or suicidal or who have significant mental illnesses or developmental disabilities. Inmates shall not be held in conditions that constitute segregation for more than 15 consecutive days or for more than 60 aggregate days in a 365-day period. The aggregate day maximum can be exceeded if authorized by a decision of the Independent Review Panel. These limits do not apply in prescribed correctional institutions.

Superintendents may hold inmates in non-disciplinary segregation in certain exceptional cases if all other options to manage the inmate have been exhausted. The superintendent shall maintain a record of the options that were exhausted before the inmate was held in those conditions. The superintendent shall also conduct a preliminary review of the case within 24 hours after they are placed in those conditions. Inmates being held in conditions that constitute segregation for non-disciplinary reasons must be offered the opportunity at regular intervals to associate with others.

Provisions for regular visits by health care professionals to inmates held in conditions that constitute segregation are provided. In particular, a member of the mental health care service team must review the inmate's mental health at least once every five days.

A referral must be made to the Independent Regional Chair to have a hearing before an Independent Review Panel when an inmate has been held in conditions that constitute segregation for non-disciplinary reasons for either five or 10 consecutive days. A referral must also be made for any inmate held in conditions that constitute segregation when they reach 30 and 55 aggregate days of being held in those conditions.

Upon receiving a referral, the Chair shall convene an Independent Review Panel to review the inmate's case and determine whether it is reasonable to continue holding the inmate in conditions that constitute segregation. The Panel can also authorize a superintendent to continue to hold an inmate past the limit of 60 aggregate days in a 365-day period.

Part VI (Discipline)

Part VI sets out requirements with respect to discipline. Restrictions on discipline are set out, including the use of an instrument of restraint as punishment, restrictions on food or water and the imposition of conditions that constitute segregation if not in accordance with the Act.

Actions that constitute inmate misconduct are set out. Correctional services employees are to refer alleged misconduct to the superintendent. If the superintendent determines that it is not serious misconduct, the superintendent conducts an interview with the inmate and may impose certain disciplinary sanctions. The superintendent's decisions may be appealed to the Minister.

An allegation of serious misconduct shall be referred to a Disciplinary Hearings Officer. The Officer conducts a hearing and may impose more significant disciplinary measures if he or she determines that the inmate has committed serious misconduct, including imposing conditions that constitute segregation for no more than 15 consecutive days. The inmate may seek to have a decision of the Officer reviewed by another Disciplinary Hearings Officer.

Part VII (Operation of Correctional Institutions)

Part VII provides for the operation of correctional institutions.

The Minister is required to establish general programs, rehabilitation and work programs. The superintendent may provide inmates an opportunity to participate in programs, activities or work outside the correctional institution.

Superintendents are required to establish and maintain a library. They are also required to hold money for inmates to allow them to purchase items.

Provisions respecting visitors are set out. The superintendent may impose conditions or limitations on visitors.

Limits on the use of force and of instruments of restraint are set out. Force used shall be reasonable and not excessive, having regard to the nature of the threat posed and all other circumstances of the case. Restraints may only be used in accordance with the Act and the regulations. Limitations on the use of restraints during and after labour and childbirth are set out.

The Minister may make regulations establishing a complaints process for inmates and for individuals under community supervision.

Provisions for the authorization of temporary absences, remission and lockdowns are provided. Provisions for notice in the case of serious illness, injury or death are also set out.

Part VIII (Searches)

Part VIII sets out requirements with respect to searches.

Correctional services employees are required to conduct routine non-intrusive searches when inmates are admitted to or otherwise enter the institution. Other non-intrusive searches may be conducted at different times.

Strip searches may be authorized by the superintendent to be carried out at certain times, such as when the inmate enters or leaves the institution. Strip searches without authorization may be conducted if the delay required to obtain the authorization would result in danger to the security of the institution or the safety of persons or in the loss or destruction of contraband or evidence. Records of searches must be created and retained.

Authorized persons may demand that inmates submit to substance testing.

Letters and parcels may be opened and inspected for contraband and may be read in certain cases. The superintendent may also refuse to forward letters or parcels in certain situations. The superintendent may authorize listening to telephone conversations between inmates and other persons in accordance with the regulations.

Other provisions are provided for searches of correctional services employees, visitors or the entire correctional institution. Visitors may choose to leave the premises instead of consenting to a search.

Part IX (Inspections, Investigations and Inquiries)

Part IX sets out requirements with respect to inspections, investigations and inquiries.

The Minister appoints a Chief of Investigations to conduct inspections or investigations in connection with code of conduct compliance, employee, contractor or volunteer conduct and other matters. The Chief may appoint inspectors or investigators to conduct these on his or her behalf.

The Minister may also appoint a person to make an inquiry into any matter to which the Act applies.

The Lieutenant Governor in Council appoints an Inspector General of Correctional Services. The Inspector General's duties include a duty to monitor and conduct inspections related to the Ministry's compliance with the Act, the regulations and Ministry correctional policies and procedures.

The Inspector General is entitled to receive prescribed information in accordance with the regulations from every person employed in the administration of the Act and to receive certain information on request. The rules respecting the collection, use and disclosure of personal information for the purpose of discharging the Inspector General's duties are set out.

The Inspector General may appoint inspectors and cause inspections to be conducted. Inspectors have a wide variety of inspection powers, including the power to require responses to their inquiries.

Inspectors report their findings to the Inspector General. If the Inspector General believes that the report discloses evidence of non-compliance with the Act, the regulations or a Ministry correctional policy or procedure, he or she shall issue directions to the Minister to remedy the non-compliance.

The Part provides offences relating to obstruction of inspectors or investigators, failure to provide information and the provision of false or misleading information.

Part X (Ontario Parole Board)

Part X continues the Ontario Parole Board and governs the granting of parole. It sets out procedures for applying for parole, revocation of parole before release and remission. Parole may be suspended after release in certain circumstances.

Part XI (Probation Officers)

Part XI provides for the appointment of probation officers and their duties.

Part XII (General Provisions)

Part XII sets out general provisions that apply.

The *Statutory Powers Procedure Act* does not apply to decisions made or proceedings conducted before the Act, except proceedings before the Ontario Parole Board. Some provisions in the *Statutory Powers Procedure Act* do not apply to the Ontario Parole Board proceedings.

The Lieutenant Governor in Council's regulation-making powers are set out.

Part XIII (Transition)

Part XIII provides for transitional matters.

Part XIV (Self-Amendments)

Part XIV sets out amendments to the Act. Certain amendments are made to update the language in the Act to reflect Bill 175 (the *Safer Ontario Act, 2017*) if that Bill receives Royal Assent and comes into force. Another amendment is made to update a reference if the *Child, Youth and Family Services Act, 2017* comes into force.

Various sections in Part V (Segregation and Restrictive Confinement) provide exceptions for prescribed correctional institutions. Part XIV repeals those exceptions. It also repeals the ability of Disciplinary Hearings Officers to impose conditions that constitute segregation as a disciplinary measure and replaces it with an ability to impose conditions that constitute restrictive confinement. These amendments all come into force 10 years after Royal Assent or on such earlier date as the Lieutenant Governor may proclaim.

SCHEDULE 3**REPEAL, RELATED AMENDMENTS AND REVOCATION**

The Schedule repeals the *Ministry of Correctional Services Act* and the regulation under that Act. It also amends various Acts to make consequential and related amendments relating to the repeal of that Act and to the content of the *Ministry of Community Safety and Correctional Services Act, 2018* and the *Correctional Services and Reintegration Act, 2018*.

**An Act to enact the Ministry of Community Safety and Correctional Services Act, 2018 and the
Correctional Services and Reintegration Act, 2018, to make related amendments to other Acts,
to repeal an Act and to revoke a regulation**

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Schedule 3	Repeal, Related Amendments and Revocation

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Contents of this Act

1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.

Commencement

2 (1) Subject to subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.

(2) The Schedules to this Act come into force as provided in each Schedule.

(3) If a Schedule to this Act provides that any provisions are to come into force on a day to be named by proclamation of the Lieutenant Governor, a proclamation may apply to one or more of those provisions, and proclamations may be issued at different times with respect to any of those provisions.

Short title

3 The short title of this Act is the *Correctional Services Transformation Act, 2018*.

SCHEDULE 1
MINISTRY OF COMMUNITY SAFETY AND CORRECTIONAL SERVICES ACT, 2018

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Definitions

1 In this Act,

“Minister” means the Minister of Community Safety and Correctional Services or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; (“ministre”)

“Ministry” means the Ministry of the Minister. (“ministère”)

Ministry continued

2 The Ministry of the public service known in English as the Ministry of Community Safety and Correctional Services and in French as ministère de la Sécurité communautaire et des Services correctionnels is continued.

Minister to have charge

3 The Minister shall preside over and have charge of the Ministry.

Duties of Minister

4 The Minister is responsible for the administration of this Act and any Acts that are assigned to the Minister by the Legislature or by the Lieutenant Governor in Council.

Deputy Minister

5 The Lieutenant Governor in Council may appoint one or more Deputy Ministers of the Ministry.

Employees

6 Such employees as are required from time to time for the proper conduct of the business of the Ministry may be appointed under Part III of the *Public Service of Ontario Act, 2006*.

Delegation

7 (1) The Minister may delegate in writing any power or duty granted to or vested in the Minister by this or any other Act to a Deputy Minister or to any employee in the Ministry.

Limitations

(2) A delegation may provide that it is subject to limitations, restrictions, conditions or requirements.

Deeds and contracts executed by delegate

(3) Section 6 of the *Executive Council Act* does not apply to a deed or contract that is executed under a delegation made under subsection (1).

No personal liability

8 (1) No action or other proceeding may be instituted against a Deputy Minister or any other employee in the Ministry, or anyone acting under a Deputy Minister’s authority, for any act done in good faith in the execution or intended execution of the person’s duty or for any alleged neglect or default in the execution in good faith of the person’s duty.

Crown liability

(2) Despite subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of any liability to which it would otherwise be subject.

Commencement

9 The Act set out in this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

10 The short title of the Act set out in this Schedule is the *Ministry of Community Safety and Correctional Services Act, 2018*.

SCHEDULE 2
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Preamble

The people of Ontario and their Government,

- (a) believe in the furtherance of a just, peaceful and safe society through maximizing individual opportunities for rehabilitation and reintegration both within correctional institutions and in the community;
- (b) believe in the critical importance of public safety;
- (c) respect the presumption of innocence and recognize the particular circumstances of individuals who are incarcerated without criminal conviction;
- (d) affirm our commitment to respect the human dignity of individuals who are incarcerated or under community supervision, including by respecting the rights and freedoms guaranteed by the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*;
- (e) believe that our correctional system must respect diversity and be responsive to the unique needs of all individuals, particularly those identifying under protected grounds in the *Human Rights Code* and groups that are disproportionately disadvantaged by or over-represented in our correctional system;
- (f) believe that the policies, programs, practices and decisions of our correctional system must be responsive to the needs of First Nations, Inuit and Métis people;
- (g) affirm our obligation to provide safe and humane custody and care, including through the provision of adequate conditions of confinement and appropriate, patient-centred, equitable health care services that respect clinical independence and provide continuity of care with services provided in the community;
- (h) affirm that individuals who are incarcerated or under community supervision retain the rights of all members of society except those that are necessarily removed or restricted as a consequence of confinement or sentence;
- (i) affirm that only the least restrictive measures consistent with the protection of society and individual safety are used in relation to the administration of this Act;
- (j) recognize the need for evidence-based programs and services to support rehabilitation and reintegration;
- (k) recognize the value of recreational and cultural activities for inmates;
- (l) recognize the necessity of family and community connections and supports for inmates;
- (m) recognize the importance of professional support, training and a safe working environment for correctional staff;
- (n) firmly believe transparency, openness, oversight and public accountability are critical to ensure that the correctional system is governed and operated in a way that is subject to the rule of law, respects individual rights and freedoms and reflects the interest of the public; and
- (o) recognize the importance of ensuring that, upon release from custody, individuals have access to essential personal property and medication, and that continuity of care is facilitated through connections with community-based service organizations.

PART I PURPOSE AND INTERPRETATION

Purpose of correctional system

1 The purpose of the Ontario correctional system is to contribute to public safety and the maintenance of a just, peaceful and safe society by,

- (a) providing necessary, proportionate and humane measures of security and control to allow for appropriate supervision of individuals under community supervision and inmates;
- (b) promoting reintegration and rehabilitation through programs and services that address the needs and circumstances of individuals under community supervision and inmates; and
- (c) providing the services and facilities necessary for the safe and humane custody and care of inmates.

Definitions

2 In this Act,

“alternative housing” means housing for inmates who require accommodation or services that cannot be provided for within the general inmate population, and includes prescribed types of housing; (“logement parallèle”)

“band” has the same meaning as in the *Indian Act* (Canada); (“bande”)

“Board” means the Ontario Parole Board continued by section 128; (“Commission”)

“community resource centre” means a residential or non-residential facility designated under section 19 that provides services to individuals under community supervision and inmates in a setting away from a correctional institution, regardless of whether it is operated or maintained by the Minister or by a contractor; (“centre de ressources communautaires”)

“conditional sentence” means a sentence served by an individual pursuant to a conditional sentence order imposed under section 742.1 of the *Criminal Code* (Canada); (“peine avec sursis”)

“contraband” means,

- (a) anything that an inmate is not authorized to have,
- (b) anything that an inmate is authorized to have but in a place where he or she is not authorized to have it,
- (c) anything that an inmate is authorized to have but in a quantity that he or she is not authorized to have, and
- (d) anything that an inmate is authorized to have but which is being used for a purpose for which he or she is not authorized to use it; (“objet interdit”)

“contractor” means an individual, corporation, partnership or unincorporated association that enters into a contract or agreement under subsection 4 (2) to provide services to the Ministry in respect of correctional services, and includes any person engaged by the contractor to provide any of the services; (“entrepreneur”)

“correctional institution” means a correctional institution established or continued under section 12, but does not include a place of open custody, a place of secure custody or a detention facility established under section 16.1 of the *Police Services Act*; (“établissement correctionnel”)

“correctional service” means a service provided for the purpose of carrying out the functions of the Minister under this Act, including,

- (a) the operation and maintenance of correctional institutions, and
- (b) the supervision of individuals under community supervision; (“service correctionnel”)

“correctional services employee” means a person employed in the Ministry who provides, facilitates or supports the provision of correctional services; (“employé des services correctionnels”)

“de-identify”, in relation to the personal information of an individual, means to remove any information that identifies the individual or for which it is reasonably foreseeable in the circumstances that it could be utilized, either alone or with other information, to identify the individual; (“anonymiser”)

“Deputy Minister” means the Deputy Minister of Correctional Services; (“sous-ministre”)

“general population housing” means housing for inmates within a correctional institution, other than alternative housing; (“logement destiné à la population carcérale générale”)

“health care service team” means a team of health professionals established under subsection 49 (3) who provide health care to inmates; (“équipe de services de soins de santé”)

“Independent Regional Chair”, in respect of a correctional institution, means the Independent Regional Chair appointed under section 14 for the region in which the correctional institution is located; (“président régional indépendant”)

- “individual under community supervision” means a probationer, parolee, individual subject to a conditional sentence or other prescribed person; (“particulier faisant l’objet d’une surveillance dans la collectivité”)
- “inmate” means a person confined in a correctional institution or otherwise detained in lawful custody under a court order, including inmates on a temporary absence, but does not include a young person within the meaning of the *Youth Criminal Justice Act* (Canada) unless he or she receives an adult sentence within the meaning of that Act; (“détenu”)
- “Inspector General” means the Inspector General of Correctional Services appointed under subsection 112 (1); (“inspecteur général”)
- “lockdown” means a state imposed by the superintendent under section 94; (“confinement cellulaire”)
- “mental health care service team” means a team of health professionals established under subsection 49 (3) with knowledge and skill in mental health care who provide mental health care to inmates; (“équipe de services de soins de santé mentale”)
- “Minister” means the Minister of Community Safety and Correctional Services or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; (“ministre”)
- “Ministry” means the Ministry of the Minister; (“ministère”)
- “parole” means parole under the *Corrections and Conditional Release Act* (Canada) or this Act, and “parolee” means a person who is released on parole; (“libération conditionnelle”, “liberté conditionnelle”, “personne en liberté conditionnelle”)
- “personal information” has the same meaning as in the *Freedom of Information and Protection of Privacy Act*; (“renseignements personnels”)
- “prescribed” means prescribed by the regulations; (“prescrit”)
- “probation” means the disposition of a court authorizing a person to be at large subject to the conditions of a probation order or community service order, and “probationer” means a person who is subject to a probation order or community service order; (“probation”, “probationnaire”)
- “psychiatrist” has the same meaning as in the *Mental Health Act*; (“psychiatre”)
- “regulations” means the regulations made under this Act; (“règlements”)
- “remission” means the remission of an inmate’s sentence that he or she may earn in accordance with the *Prisons and Reformatories Act* (Canada) or this Act; (“réduction de peine”)
- “research” means a systematic investigation designed to develop or establish principles, facts or generalizable knowledge, or any combination of them, and includes the development, testing and evaluation of research; (“recherche”)
- “research ethics board” means a board of persons that is established for the purpose of approving research plans under section 6 and that meets the prescribed requirements; (“commission d’éthique de la recherche”)
- “restrictive confinement” means, subject to the regulations, any type of custody where an inmate is highly restricted in movement and association with others for a period of time or in a manner that is more restrictive than the standard in general population housing in the correctional institution, but that is not sufficient to meet the definition of segregation; (“détention restrictive”)
- “segregation” means any type of custody where an inmate is highly restricted in movement and association with others for 22 hours or more a day; (“isolement”)
- “serious misconduct” means prescribed types of misconduct. (“faute grave”)

PART II ADMINISTRATION

MINISTER

Minister’s functions

3 The Minister’s functions under this Act include, but are not limited to,

- (a) enhancing public safety by providing facilities, programs and services designed to reduce recidivism and assist in the rehabilitation and reintegration of individuals under community supervision and inmates;
- (b) establishing, maintaining and operating correctional institutions;
- (c) providing services to ensure the safe and humane custody and care of inmates;
- (d) providing support for inmates to access conditional release and parole, where appropriate, to assist in their rehabilitation and reintegration;
- (e) providing appropriate supervision for individuals under community supervision;

- (f) providing investigation, oversight and accountability measures in relation to the Minister's compliance with this Act and the regulations;
- (g) establishing policies and procedures to ensure that no person administers, instigates, consents to or acquiesces in any cruel, inhumane or degrading treatment or punishment;
- (h) facilitating and conducting policy and program development, system planning and the monitoring and evaluation of programs and services to review effectiveness;
- (i) assisting in the co-ordination of correctional services with others in the justice sector;
- (j) providing information to the public respecting the operation of individual correctional institutions and the correctional system as a whole;
- (k) developing and maintaining professional standards, including training, for correctional services employees; and
- (l) facilitating and conducting research activities relating to the Minister's functions under this Act and the purposes of this Act.

Agreements and delegations

4 (1) The Minister, with the approval of the Lieutenant Governor in Council, may, on behalf of the Crown in right of Ontario, make agreements with the Crown in right of Canada or of any other province of Canada, with a municipality, police services board, band or First Nations, Inuit or Métis community respecting,

- (a) the exchange of services provided by the Ministry;
- (b) the transfer of inmates serving custodial sentences; or
- (c) any matter relating to the supervision and rehabilitation of an inmate, parolee or probationer.

Contracts and agreements

(2) The Minister may, on behalf of the Crown in right of Ontario, enter into any contract or agreement that he or she considers advisable for the purpose of carrying out the responsibilities of the Ministry or otherwise carrying out the provisions of this Act.

Exception

(3) Despite subsections (1) and (2), the Minister and employees of the Ministry shall not enter into a contract or agreement to have a correctional institution operated by a private, for-profit entity.

No delegation

(4) Despite section 7 of the *Ministry of Community Safety and Correctional Services Act, 2018*, the Minister shall not delegate the power under section 111 to appoint a person to make an inquiry and the duty to receive the results of that inquiry.

Limited delegation to Deputy Minister

(5) Despite section 7 of the *Ministry of Community Safety and Correctional Services Act, 2018*, the Minister may delegate the following duties and powers under this Act to the Deputy Minister:

- 1. The duty to receive decisions of an Independent Review Panel made under subsection 67 (15) and the power to refer those decisions to an Independent Regional Chair under subsection 67 (16), but only on the condition that the Deputy Minister provide summaries of the Panel's decisions to the Minister.
- 2. The power under subsection 110 (1) to appoint a Chief of Investigations.
- 3. The power under section 117 to request that the Inspector General cause an inspection to be conducted.

Personal information

5 (1) The Minister may use personal information that is in the custody or control of the Ministry for the purpose of discharging a duty set out in clause 3 (h), (i), (j) or (l) in accordance with this section.

Other information serves purpose

(2) The Minister shall not use personal information under subsection (1) if other information will serve the purpose of the use.

Personal information limited to what is reasonably necessary

(3) The Minister shall not use more personal information under subsection (1) than is reasonably necessary to meet the purpose of the use.

Accuracy

(4) Before using personal information under subsection (1), the Minister shall take reasonable steps to ensure that the information is as accurate as is necessary for the purpose of the use.

De-identification

(5) Before personal information is used under subsection (1), a prescribed unit of the Ministry shall,

- (a) create a record containing the minimal amount of personal information necessary for the purpose of de-identifying the information and linking it to other information in the custody or control of the Minister; and
- (b) de-identify the personal information.

Link

(6) The prescribed unit of the Ministry may link the personal information that has been de-identified under subsection (5) to other de-identified personal information under the custody or control of the Minister.

Security

(7) The Minister shall take reasonable measures to secure the personal information provided to the prescribed unit under subsection (5).

Rights of access and correction

(8) Nothing in this section limits the right of an individual under any Act to access and correct personal information about the individual.

Disclosure for research purpose

6 (1) This section applies with respect to the disclosure for a research purpose of personal information that was provided by the Minister to the prescribed unit under subsection 5 (5).

Circumstances for disclosing personal information

(2) The Minister may disclose collected personal information to a researcher for a research purpose if the researcher,

- (a) submits to the Minister,
 - (i) an application in writing,
 - (ii) a research plan that meets the requirements of subsection (3), and
 - (iii) a copy of the decision of a research ethics board that approves the research plan; and
- (b) enters into an agreement with the Minister that complies with the prescribed requirements.

Research plan

(3) A research plan must be in writing and must set out,

- (a) the affiliation of each person involved in the research;
- (b) the nature and objectives of the research and the public or scientific benefit of the research that the researcher anticipates; and
- (c) any other prescribed matters related to the research.

Consideration by board

(4) When deciding whether to approve a research plan that a researcher submits to it, a research ethics board shall consider the matters that it considers relevant, including,

- (a) whether the objectives of the research can reasonably be accomplished without using the personal information that is to be disclosed;
- (b) whether, at the time the research is conducted, adequate safeguards will be in place to protect the privacy of the individuals whose personal information is being disclosed and to preserve the confidentiality of the information;
- (c) the public interest in conducting the research and the public interest in protecting the privacy of the individuals whose personal information is being disclosed; and
- (d) whether obtaining the consent of the individuals whose personal information is being disclosed would be impractical.

Decision of board

(5) After reviewing a research plan that a researcher has submitted to it, the research ethics board shall provide to the researcher a decision in writing, with reasons, setting out whether the board approves the plan, and whether the approval is subject to any conditions, which must be specified in the decision.

Requirements on researcher

- (6) A researcher who receives personal information about an individual under this section shall,
- (a) comply with the conditions, if any, specified by the research ethics board under subsection (5);
 - (b) use the information only for the purposes set out in the research plan as approved by the research ethics board;
 - (c) not publish the information in a form that could reasonably enable a person to ascertain the identity of the individual;
 - (d) not disclose the information except as required by law and subject to the exceptions and additional requirements, if any, that are prescribed;
 - (e) not make contact or attempt to make contact with the individual, directly or indirectly, unless the Minister first obtains the individual's consent to being contacted;
 - (f) notify the Minister immediately in writing if the researcher becomes aware of any breach of this subsection or the agreement described in clause (2) (b);
 - (g) comply with the agreement described in clause (2) (b); and
 - (h) comply with the prescribed requirements.

Volunteers

7 Every person providing volunteer services to the Ministry shall serve under the direction of an employee in the Ministry, a contractor or an employee of a contractor.

Confidentiality

8 (1) Every person employed in the administration of this Act, including any person making an inspection, investigation or inquiry under this Act, shall preserve confidentiality in respect of all matters that come to his or her knowledge in the course of his or her duties, employment, inspection, investigation or inquiry and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act, the *Corrections and Conditional Release Act* (Canada), the *Prisons and Reformatories Act* (Canada), the *Youth Criminal Justice Act* (Canada), the *Provincial Offences Act* or the *Criminal Code* (Canada) or the regulations thereunder;
- (b) to the Inspector General, the Ombudsman of Ontario, the Correctional Investigator of Canada or such other person as may be prescribed;
- (c) in a de-identified form; or
- (d) with the approval of the Minister.

Exception

(2) Despite subsection (1) and any other Act, a correctional services employee who is designated by the Deputy Minister or by a delegate of the Deputy Minister who is at least at the level of an assistant deputy minister may disclose personal information about an individual in accordance with the regulations.

Purpose of disclosure

(3) Any disclosure made under subsection (2) shall be for one or more of the following purposes:

- 1. Protection of the public.
- 2. Protection of victims of crime.
- 3. Keeping victims of crime informed of the law enforcement, judicial or correctional processes relevant to the crime that affected them.
- 4. Law enforcement.
- 5. Correctional purposes.
- 6. Administration of justice, including the conduct of civil proceedings.
- 7. Enforcement of and compliance with any federal or provincial Act, regulation or government program.
- 8. Keeping the public informed of the law enforcement, judicial or correctional processes respecting any individual.

Personal information

(4) Any disclosure made under subsection (2) shall be deemed to be in compliance with clause 42 (1) (e) of the *Freedom of Information and Protection of Privacy Act*.

Same

(5) If personal information is disclosed under subsection (2) to a ministry, agency or institution, the ministry, agency or institution shall collect such information and subsections 39 (2) of the *Freedom of Information and Protection of Privacy Act* and 29 (2) of the *Municipal Freedom of Information and Protection of Privacy Act* do not apply to that collection of personal information.

Policies and procedures available to the public

9 (1) The Minister shall make Ministry policies and procedures respecting correctional services available to the public on a website of the Government of Ontario.

Redaction

(2) The Minister may redact the policies in the interests of security of the correctional institution or the safety of persons.

Annual publication of data

10 The Minister shall, at least once per calendar year, publish data or other information on a website of the Government of Ontario that includes,

- (a) statistics regarding,
 - (i) the operation of correctional institutions and the supervision of individuals under community supervision in the previous calendar year,
 - (ii) the use of segregation and restrictive confinement in the previous calendar year, and
 - (iii) any other prescribed topics;
- (b) demographic information about individuals under community supervision and inmates in the previous calendar year; and
- (c) any other prescribed information.

Review of Act

11 (1) The Minister shall conduct a comprehensive review of this Act on or before every fifth anniversary of the day this section comes into force.

Public consultation, etc.

(2) In conducting the review, the Minister shall consult with the public and report the results of the review to the public in accordance with the regulations.

CORRECTIONAL INSTITUTIONS**Correctional institutions**

12 (1) The correctional institutions existing immediately before the coming into force of this subsection continue to exist as correctional institutions.

Same

(2) The Lieutenant Governor in Council may, by order, establish or discontinue a correctional institution.

Designated correctional institutions

(3) The Lieutenant Governor in Council may, by order, designate any place as a correctional institution for the temporary custody of inmates for such period as is stated in the order and may, by order, exempt the place so designated from the application of this Act or any part of it.

Withdrawal

(4) The Lieutenant Governor in Council may, by order, withdraw a designation made under subsection (3).

Security classification

13 (1) The Minister shall assign a security classification of minimum, medium or maximum security to each unit within every correctional institution.

Change of classification

(2) The Minister may assign a new security classification to a unit within a correctional institution by providing notice of the change to the superintendent.

Compliance

(3) The superintendent shall ensure that each unit within his or her correctional institution complies with the requirements set out in the regulations for its security classification.

Independent Regional Chair

14 (1) The Lieutenant Governor in Council shall appoint one or more Independent Regional Chairs to be responsible for all of the correctional institutions in an assigned region of Ontario and to perform the prescribed duties.

Review roster

(2) For each region established under subsection (1), the Lieutenant Governor in Council shall appoint persons to be on the review roster to serve, as directed by the Independent Regional Chair of the region, as Disciplinary Hearings Officers or as members of an Independent Review Panel.

Qualifications

(3) A person is not eligible to be appointed as an Independent Regional Chair or as a member of a review roster unless he or she meets such qualifications as may be prescribed.

Training

- (4) The Minister shall ensure that every Independent Regional Chair and the members of the review roster have received,
- (a) training promoting recognition of and respect for the diverse, multi-racial and multicultural character of Ontario society and the rights and cultures of First Nations, Inuit and Métis communities;
 - (b) training respecting administrative law, including training respecting procedural fairness; and
 - (c) any other prescribed training.

Community advisory boards

15 (1) The Minister shall establish a community advisory board for every correctional institution.

Appointments

(2) The Minister shall appoint the members of the community advisory board and shall take reasonable steps to promote the availability of the appointment to members of demographic groups that represent the diversity of inmates in the board's correctional institution, including racialized groups and First Nations, Inuit and Métis communities.

Term

(3) An appointment to a community advisory board expires in accordance with the regulations.

Training

(4) The Minister shall provide every member of a community advisory board with training to promote recognition of and respect for the diverse, multi-racial and multicultural character of Ontario society and the rights and cultures of First Nations, Inuit and Métis communities.

Powers and functions

(5) Community advisory boards have the powers and functions set out in the regulations.

SUPERINTENDENT

Superintendent of correctional institution

16 (1) The Minister shall designate one or more superintendents for each correctional institution.

Responsibility for administration

(2) The superintendent shall be responsible for the administration of the correctional institution.

Duties

(3) The superintendent shall receive into the institution every person delivered under lawful authority for detention in the institution and is responsible for the custody and supervision of such person until his or her term of imprisonment is completed or until the person is transferred or otherwise discharged in due course of law.

Same

(4) The superintendent shall ensure that each inmate in the correctional institution is treated in accordance with this Act and the regulations.

Deputy superintendent

(5) The Minister may designate in writing one or more deputy superintendents of a correctional institution to act in the place of the superintendent if he or she is absent or unable to act and, when so acting, may exercise all the powers and perform all the duties and functions of the superintendent.

Limitations

(6) A designation under subsection (1) or (5) may be subject to such limitations, restrictions, conditions and requirements as the Minister may set out in the designation.

Delegation by superintendent

17 (1) Any power, duty or function conferred or imposed upon or exercised by a superintendent under this Act or the regulations may, subject to the regulations, be delegated by the superintendent to any correctional services employee employed in the superintendent's correctional institution.

Limitations, etc.

(2) A delegation under subsection (1) shall be subject to such limitations, restrictions, conditions and requirements as the superintendent may impose.

Use of lock-up

18 (1) The Minister may designate in writing a correctional institution for use by a police services board as a lock-up and, where the Minister makes such a designation, the Minister shall fix a rate per day for persons in custody in the lock-up.

Payment by municipality

(2) The municipality that maintains the police services board shall pay to the Minister of Finance annually the rate per day that is fixed under subsection (1) for persons in custody in the lock-up during the year.

Designation of lock-up

(3) The Minister may designate a correctional institution in writing for use as a lock-up by,

- (a) the Ontario Provincial Police; or
- (b) an entity that employs First Nations Constables who provide a policing service under an agreement between the Minister and a First Nation.

Withdrawal

(4) The Minister may withdraw a designation made under this section at any time.

COMMUNITY RESOURCE CENTRES**Community resource centre**

19 (1) The Minister may designate any facility in writing as a community resource centre for the rehabilitation and supervision of individuals under community supervision or inmates in a community setting away from a correctional institution.

Withdrawal

(2) The Minister may withdraw a designation made under this section at any time.

CORRECTIONAL SERVICES STAFF**Code of conduct**

20 (1) Every correctional services employee shall comply with the prescribed code of conduct.

Failure to comply

(2) The Minister shall consider any failures to comply with the prescribed code of conduct when considering whether to take employment disciplinary action against a correctional services employee.

Training, standards and performance expectations**Correctional services employees**

21 (1) The Minister may make regulations prescribing the training, standards and performance expectations that correctional services employees must comply with.

Employees in correctional institutions

(2) The superintendent of a correctional institution shall ensure that the correctional services employees employed in the institution comply with the standards referred to in subsection (1).

Other employees

(3) The manager of any correctional services employee who does not work in a correctional institution shall ensure that the employee complies with the training, standards and performance expectations referred to in subsection (1).

Contracts, conflicts of interest, etc.

Employees not to be interested in contracts

22 (1) No correctional services employee, contractor or employee of a contractor shall, without the approval of the Minister, either in the person's own name or in the name of or in connection with or as the agent of any other person, provide, furnish or supply any materials, goods or provisions for the use of a correctional institution or community resource centre, or have an interest, directly or indirectly, in furnishing, supplying or transporting the same or in any contract relating thereto.

Buying or selling, fees or gratuities, etc.

(2) No correctional services employee, contractor or employee of a contractor shall, without the approval of the Minister, buy from or sell to any inmate, or individual under community supervision, anything whatsoever or take or receive to the person's own use or for the use of any other person, any fee or gratuity from any inmate in a correctional institution or from any visitor thereto or any individual under community supervision or from any other person in respect of individual under community supervision or an inmate.

Offence

(3) Every person who contravenes subsection (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

FIRST NATIONS, INUIT AND MÉTIS PERSONS

First Nations, Inuit and Métis Advisory Committee

23 (1) The Lieutenant Governor in Council shall establish a First Nations, Inuit and Métis Advisory Committee.

Members

(2) The Lieutenant Governor in Council shall appoint the members of the Committee, who must be First Nations, Inuit or Métis persons with knowledge of or experience with the justice system.

Function

(3) The Committee shall provide advice to,

- (a) the Minister, regarding the provision of correctional services to First Nations, Inuit or Métis individuals under community supervision and inmates; and
- (b) the prescribed person, regarding other matters affecting First Nations, Inuit or Métis persons in the justice system.

Meetings

(4) The Committee shall meet at the prescribed frequency.

Engagement

(5) The Committee shall engage regularly with First Nations, Inuit and Métis communities and other appropriate persons or organizations with knowledge of First Nations, Inuit and Métis matters.

Systemic and individual circumstances

24 The Minister and any person employed in the administration of this Act shall,

- (a) consider systemic and individual circumstances for First Nations, Inuit or Métis individuals under community supervision and inmates; and
- (b) when making a decision to limit the liberties of a First Nations, Inuit or Métis individual under community supervision or inmate, consider the person's unique needs and circumstances, including the impacts of individual, systemic, cultural and historical factors, and take into account culturally appropriate sanctions and options.

Elders and Spiritual Advisors

25 (1) Every superintendent shall make the services of an appropriate First Nations, Inuit or Métis Elder or Spiritual Advisor available to First Nations, Inuit or Métis inmates.

Not available

(2) If an inmate requests the services of a First Nations, Inuit or Métis Elder or Spiritual Advisor who is not available, the superintendent shall take reasonable steps to find such an Elder or Spiritual Advisor and to facilitate the inmate's communication with him or her.

Same status

(3) For greater certainty, First Nations, Inuit and Métis spirituality, Elders and Spiritual Advisors have the same status as other faiths and other religious or spiritual care providers.

PEACE OFFICERS AND BAILIFFS

Designation of peace officers

26 (1) The Minister may designate in writing,

- (a) a person who is an employee in the Ministry to be a peace officer while performing the person's duties and functions;
or
- (b) a class or classes of persons from among the persons described in clause (a) to be peace officers while performing their duties and functions.

Limitations

(2) A designation may provide that it is subject to limitations, restrictions, conditions or requirements.

Provincial bailiffs

27 (1) The Minister may appoint provincial bailiffs who may convey an inmate in custody at a correctional institution to another correctional institution or penitentiary in which the inmate is lawfully directed to be confined.

Powers

(2) A provincial bailiff has the powers of a constable when conveying an inmate under this section.

MISCELLANEOUS

No personal liability

28 (1) No action or other proceeding may be instituted against the Deputy Minister or any other employee in the Ministry, or anyone acting under the Deputy Minister's authority, for any act of an inmate, or individual under community supervision, while under the person's custody or supervision.

Crown liability

(2) Despite subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of any liability to which it would otherwise be subject.

PART III ADMISSION OF INMATES

Admission into custody

29 (1) A superintendent of a correctional institution shall not admit any person into custody at an institution except under the authority of a warrant of committal, an order for remand or other judicial document constituting authority for detention of the person therein.

Exception

(2) Despite subsection (1), a superintendent shall admit a person into custody at a correctional institution without a warrant of committal, an order for remand or other judicial document if,

- (a) the person is delivered to the institution by a provincial bailiff for temporary detention in the institution;
- (b) the person is delivered to the institution after being apprehended under section 138;
- (c) the person is delivered to the institution after being apprehended for an alleged breach of a temporary absence permit;
or
- (d) the institution is designated as a lock-up.

If immediate medical attention needed

(3) Despite clause (2) (d), the superintendent of a correctional institution that is designated as a lock-up shall not admit into custody at the institution any person who is in need of immediate medical attention.

Effect of admission

(4) A person who is admitted into custody at a correctional institution becomes an inmate of the institution.

Custody before sentencing

30 A person who is lawfully detained in a correctional institution but not sentenced to imprisonment may be detained in any correctional institution, as directed by the Minister, or in the custody of a provincial bailiff or other correctional services employee.

Sentence to correctional institution

31 (1) The court before which a person is convicted under an Act of the Legislature of an offence punishable by imprisonment may sentence the person to imprisonment in a correctional institution.

Same

(2) A person who has been sentenced to imprisonment in a correctional institution may be detained in any correctional institution, as directed by the Minister, or in the custody of a provincial bailiff or other correctional services employee.

Warrant ineffective to specify correctional institution

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

Information to be provided

33 (1) Upon admission, the superintendent shall provide every inmate with written information, in English and French, about,

- (a) inmates' rights and entitlements under this Act, the *Human Rights Code* and the *Canadian Charter of Rights and Freedoms*;
- (b) the correctional institution's rules, behavioural expectations and disciplinary measures for misconduct;
- (c) available methods for accessing legal services;
- (d) procedures for making requests and complaints;
- (e) the functions of, and contact information for, the Minister, the Inspector General, the Ontario Ombudsman, the Ontario Human Rights Commission, the Human Rights Tribunal of Ontario, the Human Rights Legal Support Centre, the Information and Privacy Commissioner and any other prescribed officer of the Legislature;
- (f) how the superintendent will exercise care and control of the inmate's surrendered property;
- (g) a list of any property that the inmate may retain or acquire while in custody and a description of how it may be acquired or retained;
- (h) the availability of, and the process for accessing, programs, services, temporary absence permits and parole; and
- (i) any other matters reasonably necessary to enable the inmate to adapt to the operation of the correctional institution.

Accessibility of information

(2) If the inmate is illiterate or has a disability, the information referred to in subsection (1) must be provided in an accessible format that takes their illiteracy or disability into account in accordance with the *Accessibility for Ontarians with Disabilities Act, 2005* and the regulations made under that Act.

Translations

(3) If the inmate does not understand English or French, the superintendent shall take reasonable steps to provide the inmate with a translation of the information referred to in subsection (1) in a language the inmate understands.

Continuous display and availability

(4) The information referred to in subsection (1) shall be continuously displayed in the common areas and in the units of the correctional institution and shall be made available in the institution's library.

Individual classification

34 (1) Upon admission to a correctional institution, the superintendent shall, in accordance with the regulations,

- (a) assess the inmate using an evidence-based security classification tool; and
- (b) assign a security classification of minimum, medium or maximum security to the inmate.

Human Rights Code

(2) For greater certainty, the superintendent shall not discriminate against any inmate because of any ground of discrimination prohibited by the *Human Rights Code* when assigning a security classification to the inmate.

Reclassification

(3) The superintendent shall, in accordance with the regulations, reassess the security classification of every inmate using an evidence-based security classification tool and may assign them to different security classification in the circumstances set out in the regulations.

Written reasons

(4) The superintendent shall provide the inmate with written reasons for their security classification or reclassification and, at the inmate's request, shall provide the inmate with a reasonable number of copies of the reasons.

Temporary housing

(5) An inmate may be temporarily housed in a correctional institution or unit of a correctional institution at a different security level than that assigned to the inmate if the superintendent of the institution approves the placement and no other suitable housing is reasonably available.

Same

(6) An inmate shall not be temporarily housed at a different security level than that assigned to the inmate for more than five days, except in exigent circumstances.

Same

(7) The superintendent of a correctional institution in which an inmate has been temporarily housed at a different security level than that assigned to the inmate shall review the matter in accordance with the regulations.

Transition

(8) The superintendent may, at any time,

- (a) assess an inmate who did not have a security classification on or before the day this subsection came into force using an evidence-based security classification tool and assign a security classification to the inmate; or
- (b) change the security classification of any inmate after assessing them with an evidence-based security classification tool if their current security classification was assigned to them before the day this subsection came into force.

Same, notice

(9) The superintendent shall provide written notice to the inmate of any change in security classification made under subsection (8).

Criteria for selection of institution

35 In determining which correctional institution an inmate shall be detained in, the Minister shall take all reasonable steps to ensure that the institution is one which provides the least restrictive environment for that person, taking into account,

- (a) the inmate's security classification,
- (b) the degree and kind of control and supervision necessary for,
 - (i) the safety of the public,
 - (ii) the safety of the inmate and of other persons in the institution, and
 - (iii) the security of the correctional institution; and
- (c) accessibility to,
 - (i) the inmate's home community and family,
 - (ii) a compatible cultural and linguistic environment, and
 - (iii) services and supports to assist the inmate with his or her needs.

Inmate property

36 (1) An inmate who is admitted into the custody of a correctional institution shall surrender to the superintendent all property, including any money or personal belongings, in the inmate's physical possession at the time of admission.

Care and control

(2) The superintendent shall have care and control of the surrendered property and shall exercise that care and control in accordance with the regulations.

Housing of inmates

37 The superintendent shall approve the housing of an inmate in either general population housing or, as specified in the regulations, in alternative housing.

Initial assessment

38 (1) The superintendent shall ensure that an initial assessment is conducted on every newly admitted inmate within a prescribed period of time in order to identify,

- (a) the inmate's needs while in the correctional institution, including health care needs and any accommodation required in accordance with the *Human Rights Code*; and
- (b) the inmate's immediate or urgent needs upon release, including, but not limited to, needs for the items set out in section 39.

Further assessment

(2) The superintendent shall ensure that a further assessment is conducted within a prescribed time period for prescribed inmates to identify,

- (a) appropriate programs for the inmate, including appropriate rehabilitation programs; and
- (b) appropriate supports for the inmate's reintegration into the community upon release.

Case management plan

(3) The superintendent shall ensure that a case management plan is prepared for every inmate within a prescribed period of time, which shall,

- (a) identify and address the needs referred to in subsection (1); and
- (b) if a further assessment has been completed under subsection (2),
 - (i) establish a plan for appropriate programming and supports for the inmate,
 - (ii) assess the inmate's eligibility for parole or temporary absence permits,
 - (iii) identify measures to assist with continuity of health care provision upon release, and
 - (iv) identify any relevant community-based supports and services.

Modified as necessary

(4) The superintendent shall modify an inmate's case management plan as necessary.

Assistance upon release

39 (1) The Minister shall provide each inmate with the following items when the inmate is released from the correctional institution, if the inmate has need of them:

- 1. Clothing suitable to the season and to the requirements of the inmate's case management plan.
- 2. Reasonable travelling expenses to a destination in Ontario as specified in the inmate's case management plan.
- 3. Appropriate medication prescribed by a health professional.
- 4. Other prescribed items.

Discretionary gratuity

(2) The Minister may give a further gratuity or such other assistance to an inmate upon his or her release from an institution as the Minister considers will aid the reintegration of the inmate.

Considerations

- (3) If an inmate would be released from custody on a weekend or holiday, the superintendent shall consider,
- (a) whether to grant a temporary absence to the inmate under section 89 prior to the weekend or holiday for a rehabilitation or reintegration, medical or humanitarian reason; and
 - (b) whether to facilitate transportation, lodging or any other service necessary for the inmate's adjustment to community life outside the correctional institution to benefit the inmate's reintegration.

PART IV INMATE LIVING CONDITIONS AND STANDARDS

Superintendent's duty

40 (1) Subject to subsections (2) and (3), the superintendent shall ensure that inmates are provided with the minimum living conditions and standards set out in this Part and with any other prescribed living conditions.

Exception, lockdown

(2) The superintendent is not required to provide the minimum living conditions and standards set out in sections 53, 54, 55 and 56 if a lockdown has been imposed on the correctional institution or on the part of the correctional institution in which the inmate is situated.

Written reasons

(3) If the superintendent decides to limit the provision of a living condition or standard that may be subjected to such limits as are reasonable and necessary for protecting the security of the correctional institution or the safety of persons, the superintendent shall,

- (a) prepare written reasons for the decision; and

- (b) give the inmate a written copy of those reasons as soon as reasonably possible and, at the inmate's request, provide the inmate with a reasonable number of copies.

Privileges

- (4) The superintendent may provide privileges to inmates at the superintendent's discretion.

Cruel or inhumane treatment or punishment prohibited

41 No person shall administer, instigate, consent to or acquiesce in any cruel, inhumane or degrading treatment or punishment of an inmate.

Peaceful assembly and association

42 Every inmate has a right to assemble peacefully and associate with others within the correctional institution, subject to such limits as are reasonable and necessary for protecting the security of the correctional institution or the safety of persons.

Religious and spiritual programs

43 (1) Every inmate has a right to freely and openly participate in religious and spiritual programs and expressions, subject to such limits as are reasonable and necessary for protecting the security of the correctional institution or the safety of persons.

Not available

- (2) If an inmate requests the services of a religious, faith or spiritual provider who is not available, the superintendent shall take reasonable steps to find such a provider and to facilitate the inmate's communication with him or her.

Contribution to decisions

44 Every inmate shall be provided with reasonable opportunities to contribute to decisions of their correctional institution affecting the inmate population as a whole, or affecting a group within the population, subject to such limits as are reasonable and necessary for protecting the security of the correctional institution or the safety of persons.

Accommodation standards

45 Every inmate shall be housed in a space within the correctional institution that,

- (a) provides the inmate with reasonable access to natural light and fresh air;
- (b) has adequate bedding, subject to any limits as are necessary for protecting the security of the correctional institution or the safety of persons;
- (c) is kept in a state of cleanliness and good repair; and
- (d) complies with the prescribed requirements.

Food

46 (1) Every inmate shall be provided with food and water on a daily basis that,

- (a) complies with and respect the inmate's spiritual, religious and dietary needs; and
- (b) meets the nutritional and other requirements set out in the regulations.

Not purchases from canteen

- (2) Subsection (1) shall not be satisfied by requiring an inmate to purchase items from the institutional canteen.

Clothing

47 Every inmate shall be provided with clothing suitable to the conditions of the correctional institution and, where necessary, the outdoor climate, subject to any limits as are reasonable and necessary for protecting the security of the correctional institution or the safety of persons.

Hygiene

48 (1) Every inmate shall be provided with access to a toilet and reasonable and necessary toiletries.

Feminine hygiene products

- (2) For greater certainty, subsection (1) includes an entitlement to access any reasonable and necessary feminine hygiene products.

Same

- (3) Every inmate shall be provided at least once every second day with,

- (a) access to a shower; or
- (b) water and equipment sufficient for bathing.

Health care

49 (1) Every inmate shall be provided with access to health care that responds to their health needs and promotes their well-being, including,

- (a) the treatment of disease or injury;
- (b) health promotion;
- (c) disease prevention;
- (d) dental care;
- (e) vision care;
- (f) hearing care;
- (g) mental health and addictions care;
- (h) medication prescribed by a health professional; and
- (i) traditional Indigenous healing and medicines.

Hospital or other health facility

(2) The superintendent shall arrange for an inmate to be conveyed to a hospital or other health facility if the inmate requires medical treatment that cannot be provided at the correctional institution.

Health care service teams

(3) The superintendent shall establish the following health care service teams for the correctional institution:

- 1. A health care service team consisting of at least a physician, a nurse and any other prescribed members.
- 2. A mental health care service team consisting of at least a psychiatrist, a nurse and any other prescribed members.

Psychiatric treatment

(4) The superintendent shall arrange for an inmate to be conveyed to a psychiatric facility, as defined in the *Mental Health Act*, if the inmate requires hospitalization in such a facility.

Mental examination

(5) The superintendent may request that an examination be made of an inmate by the mental health care service team for the purpose of assessing the emotional or mental condition of the inmate.

Prenatal and postnatal care

50 (1) Every inmate shall be provided with all necessary prenatal and postnatal care and treatment.

Labour

(2) Every pregnant inmate shall be provided the opportunity to give birth in a medical or birthing facility outside of the correctional institution.

Letters

51 (1) Subject to section 104, every inmate shall be offered the opportunity to send one letter upon admission to the institution and at least two letters each week thereafter.

Stationery and postage

(2) The superintendent shall provide the inmate with sufficient stationery and postage to send the letters.

Alternative communication

(3) The superintendent may provide an alternative method of sending letters, such as electronic mail, to the inmates of the institution. If the superintendent does so, subsection (2) does not apply so long as the superintendent provides inmates with the equipment necessary to send the letters.

Borrowing of books

52 Every inmate has the right to borrow books in accordance with the regulations.

Recreation

53 (1) Every inmate shall be offered the opportunity to participate in a minimum of one hour of recreation time each day.

Indoors or outdoors

(2) The inmate shall be allowed to choose whether to spend the recreation time indoors or outdoors.

Exception

(3) Subsections (1) and (2) apply only to inmates in prescribed correctional institutions.

Work

54 Every inmate may perform work in the correctional institution, subject to such limits as are reasonable and necessary for protecting the security of the correctional institution or safety of persons.

Visits

55 (1) Every inmate has the right to receive at least two in-person visits each week that last for at least the prescribed minimum length of time, subject to any restrictions on particular visitors imposed under section 82.

Physical contact

(2) In prescribed correctional institutions, the in-person visits described in subsection (1) shall allow for physical contact between the inmate and visitor, subject to such limits as are reasonable and necessary for protecting the security of the correctional institution or the safety of persons.

Use of technology

(3) For greater certainty, the Minister may provide technology in correctional institutions that can be used by inmates to communicate with other people, but such communications do not constitute an in-person visit for the purposes of subsection (1).

Certain visitors

(4) In addition to the visits under subsection (1), every inmate shall be provided the opportunity to receive an unlimited number of visits during reasonable hours from a probation officer, a parole officer, a volunteer providing programs or services, a diplomatic or consular official, a lawyer, a recognized religious or spiritual leader, including a First Nations, Inuit or Métis Elder or Spiritual Advisor, or another prescribed person.

Telephone system

56 (1) Every correctional institution shall have a telephone system that is accessible to inmates.

Entitlement

(2) Every inmate shall have reasonable access to the telephone system unless restricted by a disciplinary measure imposed under this Act.

Notice of potential listening or recording

(3) The telephone system shall provide notice to the inmate and the other party or parties to the conversation, by way of a voice-over message or other means, that the conversation may be listened to or recorded in accordance with the regulations.

PART V SEGREGATION AND RESTRICTIVE CONFINEMENT

CONDITIONS

Conditions of segregation and restrictive confinement

57 (1) Inmates held in conditions that constitute segregation or restrictive confinement retain all rights and privileges of inmates in general population housing except those that can only be enjoyed in association with other inmates and those that cannot be enjoyed due to security requirements or the imposition of disciplinary measures under this Act.

Programs and services

(2) Inmates held in conditions that constitute segregation or restrictive confinement shall be given access to all programs and services individually or as a group, adapted to the circumstances to the least restrictive extent reasonable and necessary for the security of the correctional institution and the safety of persons.

Segregation prohibitions

(3) An inmate shall not be held in conditions that constitute segregation if the inmate,

- (a) is pregnant or has recently given birth;
- (b) is chronically self-harming or suicidal;
- (c) has a significant mental illness or significant developmental disability, as those terms are defined in the regulations;
- (d) needs medical observation; or
- (e) has a significant mobility impairment, as that term is defined in the regulations.

Exception

(4) The regulations may provide that subsection (3) or any clause in that subsection does not apply in prescribed correctional institutions.

15-day consecutive maximum

58 (1) Inmates shall not be held in conditions that constitute segregation for more than 15 consecutive days.

Superintendent's duty

(2) If an inmate of a correctional institution has been held in conditions that constitute segregation for 15 consecutive days, the superintendent shall alter the inmate's conditions of confinement so that they no longer constitute segregation.

Five-day interval

(3) If an inmate who is no longer being held in conditions that constitute segregation was recently held in those conditions for 15 consecutive days, the superintendent shall not hold the inmate in those conditions again unless at least five days separate the end of the previous period of segregation from the beginning of the new one.

Transfers do not constitute break in segregation

(4) For the purposes of this section, a transfer of an inmate who was held in conditions that constitute segregation in one correctional institution to a different correctional institution does not constitute a break in his or her consecutive days of being held in conditions that constitute segregation.

No application in prescribed correctional institutions

(5) Subsections (1) to (4) do not apply in prescribed correctional institutions.

60-day aggregate maximum

59 (1) The superintendent shall ensure that no inmate is held in conditions that constitute segregation for more than 60 aggregate days in the most recent 365-day period, subject to subsection (2).

Exception

- (2) An inmate may be held in conditions that constitute segregation for more than 60 aggregate days in a 365-day period if,
- (a) the superintendent has determined that no other less restrictive housing or disciplinary measures are appropriate for the inmate; and
 - (b) an Independent Review Panel has authorized the superintendent to exceed that 60-day limit under section 67.

Transfers do not constitute break in segregation

(3) For the purposes of this section, a transfer of an inmate who was held in conditions that constitute segregation in one correctional institution to a different correctional institution does not affect the calculation of the aggregate number of days he or she has been held in conditions that constitute segregation.

No application in prescribed correctional institutions

(4) Subsections (1) to (3) do not apply in prescribed correctional institutions.

NON-DISCIPLINARY SEGREGATION**Non-disciplinary segregation**

60 (1) Subject to sections 57, 58 and 59, the superintendent may hold an inmate in conditions that constitute segregation for non-disciplinary reasons if the superintendent believes on reasonable grounds that,

- (a) the inmate has committed, attempted to commit or plans to commit acts representing a serious and immediate threat to the physical security of the correctional institution or the personal safety of any person in the institution;
- (b) association of the inmate with other persons in the institution would substantially interfere with the disciplinary process for serious misconduct or a criminal investigation; or
- (c) association of the inmate with other persons in the institution would jeopardize the inmate's own safety.

Limits on non-disciplinary segregation

(2) A superintendent may hold an inmate in conditions that constitute segregation for non-disciplinary reasons only in exceptional cases and as a last resort if all other options to manage the inmate without segregation have been exhausted, and the inmate shall be held in those conditions for as short a time as possible.

Same

(3) The superintendent shall maintain a record of the options that were exhausted before the decision was made to hold an inmate in conditions that constitute segregation for non-disciplinary reasons.

Notice

(4) Within 24 hours after deciding to hold an inmate in conditions that constitute segregation for non-disciplinary reasons, the superintendent shall,

- (a) prepare written reasons for holding the inmate in those conditions; and
- (b) give the inmate a written copy of those reasons as soon as reasonably possible and, at the inmate's request, provide the inmate with a reasonable number of copies.

Record

(5) If an inmate requests that he or she be held in conditions that constitute segregation for non-disciplinary reasons, the superintendent shall maintain a record of the request.

Review

61 (1) The superintendent shall conduct a preliminary review of an inmate's case within 24 hours after the inmate has been held in conditions that constitute segregation for non-disciplinary reasons.

Review determines segregation not warranted

(2) If the superintendent determines that continuing to hold the inmate in conditions that constitute segregation is not warranted, the superintendent shall alter the inmate's conditions of confinement so that they do not constitute segregation.

Visit required

(3) In conducting the preliminary review, the superintendent shall visit the inmate and speak with him or her.

Communication through a meal hatch insufficient

(4) Communication through a meal hatch does not constitute a visit for the purposes of subsection (3), unless there is a safety or security concern that cannot be addressed in any other manner.

Record if not face to face

(5) If a safety or security concern prevents the superintendent from having a face to face visit under subsection (3), the superintendent shall maintain a written record of the reason why the visit could not be conducted face to face.

Written report

(6) The superintendent shall prepare a written report summarizing the results of the preliminary review and provide a written copy of it to the inmate and, at the inmate's request, shall provide the inmate with a reasonable number of copies.

Long segregation

(7) Where the superintendent has conducted a preliminary review and is of the opinion that it is reasonable and necessary to hold an inmate in conditions that constitute segregation for non-disciplinary reasons for over 72 consecutive hours, he or she shall immediately notify the Independent Regional Chair in accordance with the regulations.

Opportunities for movement or association with others

62 The superintendent shall, at regular intervals, offer opportunities for movement and association with others to an inmate who is being held in conditions that constitute segregation for non-disciplinary reasons and shall maintain records of the offers and the inmate's response to them.

HEALTH CARE AND REVIEW OF CONDITIONS

Health care in segregation

63 (1) The superintendent and a member of the health care service team shall visit an inmate who is being held in conditions that constitute segregation on a daily basis.

Mental health care service team

(2) If a member of the health care service team determines that a referral to the mental health care service team is appropriate,

- (a) the member shall refer the inmate to the mental health care service team; and
- (b) the superintendent shall ensure that members of the mental health care service team have access to the inmate as required.

Minimum visits

(3) Even if a referral has not been made under subsection (2), the superintendent shall ensure that any inmate held in conditions that constitute segregation is seen by a member of the mental health care service team to review the inmate's mental health at least once every five days.

Communication through a meal hatch insufficient

(4) Communication through a meal hatch does not constitute a visit for the purposes of this section, unless there is a safety or security concern that cannot be addressed in any other manner.

Record if not face to face

(5) If a safety or security concern prevents the member of the mental health care service team from having a face to face visit under this section, the team member shall maintain a written record of the reason why the visit could not be conducted face to face.

Health care to be provided

(6) A member of the health care service team or of the mental health care service team who visits an inmate held in conditions that constitute segregation,

- (a) shall be enabled to provide any medically necessary treatment the inmate requires;
- (b) shall report to the superintendent without delay if, in their opinion, there is evidence of a heightened risk of adverse effects on the inmate's mental or physical health as a result of the continuance of conditions that constitute segregation; and
- (c) may recommend to the superintendent that the conditions of confinement be altered in order to minimize any adverse effects on the inmate's physical or mental health.

Recommendation not followed

(7) A superintendent who does not follow a recommendation made under subsection (6) shall explain his or her reasons in writing to the person who made the recommendation and to the inmate.

Informed that inmate subject to exceptions

(8) If the superintendent is informed that an inmate who is held in conditions that constitute segregation is subject to one of the exceptions set out in subsection 57 (3), the superintendent shall alter the inmate's conditions of confinement so that they do not constitute segregation.

No application in prescribed correctional institutions

(9) Subsection (8) does not apply in prescribed correctional institutions.

Multi-disciplinary review committee

64 The Minister shall, in accordance with the regulations, establish a multi-disciplinary review committee in each correctional institution to,

- (a) review, in accordance with regulations,
 - (i) the cases of inmates held in conditions of confinement that constitute segregation, and
 - (ii) the cases of inmates held in conditions that constitute restrictive confinement and who meet the prescribed conditions; and
- (b) make recommendations concerning those inmates to the superintendent, including recommendations in relation to an inmate's conditions of confinement.

INDEPENDENT REVIEW PANEL

Non-disciplinary segregation reports and referral

65 (1) The superintendent shall create a report stating the reasons for holding the inmate in conditions that constitute segregation for non-disciplinary reasons at each of the following times:

1. When the inmate has been held in those conditions for 72 consecutive hours.
2. When the inmate has been held in those conditions for five consecutive days.
3. When the inmate has been held in those conditions for 10 consecutive days.

Written report

(2) The superintendent shall provide a written copy of every report made under subsection (1) to the inmate and, at the inmate's request, shall provide the inmate with a reasonable number of copies.

Referral at five days

(3) If the inmate is held in conditions of confinement that constitute segregation for non-disciplinary reasons for five consecutive days or if the superintendent plans to hold the inmate in those conditions for five or more consecutive days, the superintendent shall immediately refer the matter to the Independent Regional Chair to have a review hearing before an Independent Review Panel.

Referral at 10 days

(4) If the inmate is held in conditions of confinement that constitute segregation for non-disciplinary reasons for 10 consecutive days, the superintendent shall immediately refer the matter to the Independent Regional Chair to have a review hearing before an Independent Review Panel.

Reports required

- (5) Any referral made under subsection (3) or (4) must include,
- (a) a copy of the report prepared under subsection 61 (6),
 - (b) a copy of the notification prepared under subsection 61 (7), and
 - (c) a copy of all of the reports prepared under subsection (1).

Referral at 30 and 55 aggregate days

66 (1) The superintendent shall refer the case of an inmate to the Independent Regional Chair to have a review hearing before an Independent Review Panel as soon as the inmate has been held in conditions of confinement that constitute segregation for,

- (a) 30 aggregate days in the most recent 365-day period; and
- (b) 55 aggregate days in the most recent 365-day period.

Notice to Minister

- (2) The superintendent shall notify the Minister as soon as a referral is made under clause (1) (b).

Review hearings

67 (1) If a case is referred to an Independent Regional Chair under section 65 or 66, the Chair shall, in accordance with the regulations, convene an Independent Review Panel composed of members listed on the review roster to hold a review hearing of the matter as soon as possible.

Matter to be reviewed

- (2) The Panel shall determine whether it is reasonable to continue holding the inmate in conditions that constitute segregation.

No concurrent review hearings

- (3) If the Independent Review Panel is already in the process of conducting a review hearing respecting an inmate's segregation at the time it receives another referral to hold a review hearing for the inmate, it shall combine the hearings into a single hearing.

Parties

- (4) The parties to the review hearing are the superintendent and the inmate.

Notification of review hearing

- (5) The Panel shall notify the inmate who is the subject of the review hearing, in writing, of,
- (a) the date, time and location of the review hearing;
 - (b) the inmate's right to appear at the review hearing with or without a lawyer or other person to provide assistance;
 - (c) the inmate's right to testify, present relevant documents, call witnesses and cross-examine witnesses; and
 - (d) any other prescribed information.

Rules

- (6) The Panel may make rules governing the practice and procedure before it at the review hearing.

Submissions

- (7) In making submissions to the Panel, the superintendent and the inmate, or their representative, may testify, present relevant documents, call witnesses and cross-examine witnesses.

Superintendent's representative

- (8) The superintendent may present his or her case at the review hearing or may appoint a representative to present his or her case.

Superintendent's submissions

- (9) The superintendent, or his or her representative, must,

- (a) advise the Panel of the steps the superintendent has taken, tried to take, or will take to improve the inmate's conditions of confinement so that it is no longer necessary to hold the inmate in conditions that constitute segregation; and
- (b) provide the Panel with evidence from members of the health care service team or mental health care service team who have recently assessed or treated the inmate, where available, including any reports or recommendations made by them.

Decision timing

(10) The Panel shall provide notice of its decision to the inmate and to the superintendent within 24 hours after conducting the review hearing and may order, subject to such conditions and limitations as the Panel may determine,

- (a) that the inmate's conditions of confinement be altered so as not to constitute segregation;
- (b) that the inmate continue to be held in conditions of confinement constituting segregation but that some of those conditions be altered; or
- (c) that the inmate's conditions of confinement constituting segregation be maintained.

Written reasons

(11) The Panel shall,

- (a) provide the inmate with written reasons for the decision and, at the inmate's request, shall provide the inmate with a reasonable number of copies; and
- (b) send a written copy of the decision to a third party at the inmate's request.

Decision to continue segregation

(12) If the Panel orders that an inmate shall continue to be held in conditions that constitute segregation, the Panel shall, in its decision,

- (a) include details regarding other options for the inmate that were considered and rejected and provide written reasons as to why segregation is the only reasonable and necessary option; and
- (b) document all evidence relied upon and any conflicting evidence or opinions that were brought forward during the review hearing.

May authorize extended segregation

(13) In the case of a referral under section 66, the Panel may also authorize the superintendent to hold the inmate in conditions that constitute segregation for more than 60 aggregate days in a 365-day period.

If authorization given

(14) If authorization is given under subsection (13), the Panel shall require the superintendent to bring the matter back to the Panel for another review hearing to confirm or withdraw the authorization at a time specified by the Panel.

Copy to Minister

(15) A Panel that authorizes the superintendent to hold an inmate in conditions that constitute segregation for more than 60 aggregate days in a 365-day period, or that confirms such an authorization, shall provide a copy of its decision to the Minister.

Minister's referral

(16) The Minister may refer a decision made under subsection (13) to a different Independent Regional Chair to approve the decision or to substitute the Chair's own decision for that of the Panel's.

Superintendent's compliance

(17) The superintendent shall comply with a decision made under this section as soon as possible after receiving notice of it, but is not required to comply with any portion of a decision if,

- (a) the superintendent would be required to use force on an inmate who does not intend to comply; or
- (b) it would require the superintendent to contravene section 57, 58 or 59.

Does not prevent application for *habeas corpus*

(18) For greater certainty, a proceeding under this section does not prevent an inmate from making an application to the courts for relief in the nature of *habeas corpus*.

PART VI DISCIPLINE

RESTRICTIONS

Discipline in accordance with Act

68 No inmate shall be subjected to discipline or punishment except in accordance with this Act or the regulations.

Restrictions on discipline

69 (1) The superintendent shall ensure that the following restrictions with respect to discipline are complied with in the correctional institution:

1. No person shall apply an instrument of restraint to an inmate as punishment.
2. For greater certainty, no person shall impose restrictions on food or water provided to an inmate in accordance with subsection 46 (1) as punishment.
3. No person shall impose conditions that constitute segregation on an inmate except in accordance with this Act.

Informal resolution preferred

(2) Correctional services employees shall take reasonable steps, to the extent possible, to informally address inmate misconduct before imposing discipline in accordance with this Part.

MISCONDUCT

Misconduct

70 (1) An inmate commits misconduct if the inmate, without lawful excuse,

- (a) wilfully disobeys a lawful order of a correctional services employee;
- (b) commits or threatens to commit an assault upon another person;
- (c) makes a gross insult or threat, by gesture, use of abusive language, or other act, directed at any person;
- (d) takes or converts to the inmate's own use or to the use of another person any property without the consent of the rightful owner of the property;
- (e) damages any property that is not owned by the inmate;
- (f) has contraband in his or her possession or attempts to or participates in an attempt to bring contraband in or take contraband out of the correctional institution;
- (g) creates or incites a disturbance likely to endanger the security of the correctional institution;
- (h) escapes, attempts to escape or is unlawfully at large from the correctional institution;
- (i) leaves a place within the correctional institution without proper authority;
- (j) gives or offers a bribe or reward to a correctional services employee;
- (k) counsels, aids or abets another inmate to do an act in contravention of this Act or the regulations;
- (l) obstructs an investigation or inspection authorized under this Act;
- (m) wilfully breaches or attempts to breach any other regulation or a written rule, of which the inmate has received notice, governing the conduct of inmates; or
- (n) wilfully breaches or attempts to breach any term or condition of a temporary absence.

Deemed notice of rules

(2) An inmate shall be deemed to have received notice of a regulation or rule governing the conduct of inmates when the regulation or rule is provided to the inmate in writing and posted in a conspicuous place in the correctional institution.

Referral of misconduct

71 (1) Correctional services employees shall refer any alleged act of inmate misconduct to the superintendent unless the employee has addressed the misconduct informally.

Review

(2) The superintendent shall review the alleged misconduct and,

- (a) if the superintendent determines that the alleged misconduct does not appear to be serious misconduct, deal with the matter in accordance with section 72; or

- (b) if the superintendent determines that the alleged misconduct appears to be serious misconduct, refer the matter to the Independent Regional Chair to have a hearing before a Disciplinary Hearings Officer.

Action gives rise to single discipline charge

(3) The superintendent shall not allege that more than one type of misconduct has been committed in respect of a single action, a simultaneous set of actions or a chain of uninterrupted actions committed by the inmate unless the types of misconduct are substantially different.

Notice

(4) After making a referral under subsection (2), the superintendent shall provide the inmate with notice of it.

Superintendent review of misconduct

72 (1) The superintendent shall review any acts of alleged misconduct referred to in clause 71 (2) (a) as soon as possible and determine whether or not the inmate committed the misconduct.

Interview request

(2) Before making a decision under subsection (1), the superintendent shall ensure that the inmate is notified of the allegation and is given an opportunity to request an interview, within one day after the inmate receives notice of the allegation, to discuss the matter with the superintendent.

No interview

(3) If the inmate does not notify the superintendent within one day of receiving notification of the allegation under subsection (2) that the inmate wishes an interview with the superintendent, the superintendent may decide the matter and shall inform the inmate of the decision, the reasons for the decision and the disciplinary measure imposed, if any.

Inmate absent

(4) If the inmate who is alleged to have committed misconduct is absent from the correctional institution, a reasonable attempt to notify the inmate shall constitute sufficient notice for the purpose of this section.

Time of interview

(5) If an interview is requested under subsection (2), it shall be held not later than 10 days after the day on which the alleged misconduct became known to the superintendent.

Same

(6) At the interview with the superintendent, the inmate is entitled to present arguments and explanations to dispute the allegation and to question the person or persons making the allegation as well as any other witnesses to the incident.

Assistance

(7) The superintendent may permit any person, including an interpreter, to attend the interview and assist in any manner that the superintendent considers appropriate.

Determination of serious misconduct

(8) If, during the interview, the superintendent determines that the alleged misconduct is serious misconduct and that a disciplinary measure set out in subsection 74 (2) is warranted, the superintendent shall cancel the interview and refer the matter to the Independent Regional Chair to have a hearing before a Disciplinary Hearings Officer.

Postponement

(9) The superintendent may postpone the interview for a single period of no more than three consecutive days without the inmate's consent, and may postpone it multiple times or for a longer period with the inmate's consent.

Illness or disability

(10) Before imposing any disciplinary sanction, the superintendent shall consider whether and how an inmate's mental illness or developmental disability may have contributed to his or her conduct, and shall not sanction any conduct of an inmate that is considered to solely be the direct result of his or her mental illness or developmental disability.

Decision

(11) The superintendent shall inform the inmate within two days after the day of the interview concerning the superintendent's decision, the reasons for the decision and the disciplinary measure imposed, if any.

Disciplinary measures

(12) If the superintendent determines that the inmate has committed misconduct, the superintendent may impose one or more of the following disciplinary measures:

1. Loss of prescribed canteen privileges for a period not greater than 60 days.

2. Reduced access to the telephone system, other than for calls to or from a person listed in subsection 104 (6), to a minimum of four calls per week.
3. Loss of access to the correctional institution's library and to the materials in the library, other than access to legal reading materials, religious and spiritual reading materials and human rights reading materials.
4. A change of program or work activity.
5. A reprimand.
6. Revocation of a temporary absence permit other than a permit for medical reasons.
7. Any other prescribed disciplinary measure.

Record of case

(13) The superintendent shall make a written record of the case noting the nature of the allegation, the arguments and explanations presented by the inmate, if any, and the decision, reasons and disciplinary measure imposed by the superintendent in the case and shall, at the inmate's request, provide the inmate with a reasonable number of copies of the record.

Appeal of decision

(14) An inmate may appeal the superintendent's decision to impose a disciplinary measure to the Minister in accordance with the regulations.

Serious misconduct

73 (1) An Independent Regional Chair who receives an allegation of serious misconduct under clause 71 (2) (b) or subsection 72 (8) shall direct a member of the review roster to serve as a Disciplinary Hearings Officer and hear the case as soon as possible.

Allegation of misconduct

(2) The Disciplinary Hearings Officer shall provide written notice of the allegation to the inmate who is alleged to have committed the serious misconduct and to the superintendent containing the date, time and location of the hearing.

Inmate absent

(3) If the inmate who is alleged to have committed misconduct is absent from the correctional institution, the written notice required by subsection (2) is deemed to have been provided if the Disciplinary Hearings Officer has made a reasonable attempt to provide the notice to the inmate.

Action gives rise to single discipline charge

(4) The superintendent shall not allege that more than one type of misconduct has been committed in respect of a single action, a simultaneous set of actions or a chain of uninterrupted actions committed by the inmate unless the types of misconduct are substantially different.

Entitlements

(5) In the hearing, the superintendent and the inmate have a right to be assisted by a lawyer or other person, to present arguments and explanations, to present or dispute the allegation and to question the person or persons making the allegation as well as any other witnesses to the incident.

Assistance

(6) The Disciplinary Hearings Officer may permit any person, including an interpreter, to attend the hearing and assist in any manner that the Officer considers appropriate.

Adjournment

(7) The Disciplinary Hearings Officer may adjourn the hearing for a single period of no more than three consecutive days without the inmate's consent, and may adjourn it multiple times or for a longer period with the inmate's consent.

Illness or disability

(8) Before imposing any disciplinary sanction, the Disciplinary Hearings Officer shall consider whether and how an inmate's mental illness or developmental disability may have contributed to his or her conduct, and shall not sanction any conduct of an inmate that is considered to solely be the direct result of his or her mental illness or developmental disability.

Decision

(9) Within two days after the day the hearing is completed, the Disciplinary Hearings Officer shall inform the inmate and the superintendent of the Hearings Officer's decision, the reasons for the decision and the disciplinary measure imposed, if any.

Written reasons to follow

(10) The Disciplinary Hearings Officer shall prepare written reasons for the decision and provide them to the inmate as soon as possible and, at the inmate's request, shall provide the inmate with a reasonable number of copies.

Written reasons

(11) The Disciplinary Hearings Officer shall provide the inmate with written reasons noting the nature of the allegation, the arguments and explanations presented by the inmate, if any, and the decision, reasons and any disciplinary measure imposed and shall, at the inmate's request, provide the inmate with a reasonable number of copies.

Disciplinary measures

74 (1) If a Disciplinary Hearings Officer determines that an inmate has committed misconduct, whether it is serious misconduct or non-serious misconduct, the Hearings Officer may impose one or more of the disciplinary measures set out in subsection 72 (12).

Serious misconduct

(2) If the Disciplinary Hearings Officer determines that an inmate has committed serious misconduct, the Disciplinary Hearings Officer may impose, in addition to any of the disciplinary measures referred to in subsection (1), one of the following disciplinary measures:

1. Subject to the regulations and to sections 57, 58 and 59, holding an inmate in conditions that constitute segregation for a period of not more than 15 consecutive days.
2. Forfeiture of a portion or all of the remission that stands to the inmate's credit.
3. Any other prescribed disciplinary measure.

Same

(3) If the inmate was recently held in conditions that constitute segregation for 15 consecutive days, the Disciplinary Hearings Officer shall not order that the inmate be held in conditions that constitute segregation again unless at least five days separate the end of the previous period of segregation from the beginning of the new one.

Superintendent may reduce

(4) The superintendent shall comply with the Disciplinary Hearings Officer's decision but may choose to reduce the time or severity of the disciplinary measure imposed.

Review

75 (1) An inmate or superintendent may seek to have a decision of the Disciplinary Hearings Officer reviewed by another Disciplinary Hearings Officer if,

- (a) the inmate or superintendent alleges that the decision does not comply with the requirements of this Act or the regulations or is not reasonable; or
- (b) the inmate has been disciplined by having a portion or the whole of his or her remission forfeited or by receiving a suspension from eligibility to earn remission.

Completion of review

(2) Upon completion of the review, the Disciplinary Hearings Officer may confirm or vary the decision, or vacate it and direct another Disciplinary Hearings Officer to reconsider the case.

Notification

(3) The Disciplinary Hearings Officer shall immediately notify the inmate and the superintendent of the decision and the reasons for it.

Alleged offence does not prevent discipline

76 The fact that an inmate is alleged to have committed an act or omission that is an offence under an Act of Canada or Ontario does not prevent a disciplinary measure from being imposed on him or her in respect of the act or omission in accordance with this Act or the regulations.

PART VII

OPERATION OF CORRECTIONAL INSTITUTIONS

PROGRAMS AND SERVICES

Definitions

77 In this Part,

“general program” means any program, including educational, learning and recreational programs, other than rehabilitation and work programs; (“programme général”)

“rehabilitation program” means an evidence-based program designed to address underlying criminogenic factors; (“programme de réadaptation”)

“work program” means a program that addresses employment-related skills or transferable life skills. (“programme de travail”)

Programs to be established

78 (1) The Minister shall establish general programs, rehabilitation programs and work programs and provide inmates with the opportunity to participate in them.

Diversity and needs

(2) The Minister shall take into account the diversity and needs of the inmate population, with particular attention to the needs of over-represented groups in correctional institutions, when establishing the programs.

Participation in rehabilitation programs

(3) If an inmate’s case management plan recommends participation in a rehabilitation program, the superintendent shall ensure that the inmate is provided an opportunity to participate in such a program.

Programs, activities or work outside the institution

79 (1) The superintendent of a correctional institution may provide inmates in the institution with opportunities to participate in programs, activities or work outside the institution.

Temporary absence permit

(2) The superintendent may issue a temporary absence permit in accordance with section 89 to permit the inmate to participate in programs or work outside the correctional institution.

Library

80 (1) The superintendent of a correctional institution shall establish and maintain a library or equivalent system, which may include an electronic library or database, that is accessible to all inmates.

Contents

(2) The library shall contain,

- (a) legal reading materials;
- (b) religious and spiritual reading materials;
- (c) human rights reading materials; and
- (d) a reasonable selection of other reading materials that are commonly available to the public.

Access

(3) The superintendent shall ensure that every inmate is provided access to the materials described in subsection (2), subject to any disciplinary measures imposed under this Act.

Purchase of items

81 (1) Subject to subsection (2), an inmate may purchase items from the institutional canteen using money held for him or her by the superintendent.

Limit

(2) No inmate shall purchase more than the prescribed amount worth of items from the institutional canteen in one week without the superintendent’s permission.

VISITORS

Access to correctional institutions

82 (1) No person, including a visitor, shall be present on the premises of an institution without the approval of the superintendent.

Visitation by children

(2) No child under the age of 16 years shall be permitted access to a correctional institution for the purposes of a visit unless,

- (a) the child is accompanied by an adult; or
- (b) permission is granted by the superintendent for the child to access the correctional institution unaccompanied.

Conditions and limitations

(3) A superintendent may impose such conditions and limitations on a person while they are present on the premises of the institution as the superintendent considers reasonable and necessary to ensure the security of the correctional institution and the safety of persons.

Notice for non-permitted item

(4) The superintendent shall post a notice in a conspicuous place at every visitor control point in the correctional institution listing the items that a visitor shall not have in their possession.

Termination or restriction of visit

(5) Where a visitor contravenes subsection (3) or has in their possession, beyond the visitor control point, an item listed on the notice mentioned in subsection (4) without having previously obtained the permission of a correctional services employee, the employee may terminate or restrict the visit.

Family support and contact programs

83 The Minister may establish programs to enhance family support for inmates and contact with family for inmates.

Member of Legislative Assembly, etc.

84 Notwithstanding any other part of this Act, every member of the Legislative Assembly of Ontario and every judge of a court in Ontario is entitled at any time to enter and visit any correctional institution or community resource centre or any part thereof for any purpose related to the person's professional duties and responsibilities, and to speak with any inmate with their consent, unless the Minister determines that the correctional institution or community resource centre is at that time insecure or that an emergency condition, including a lockdown, exists in it.

RESTRICTIONS ON THE USE OF FORCE AND RESTRAINTS

Use of force

85 (1) No person shall use force against an inmate unless no other alternative is reasonably available in order to,

- (a) avoid an immediate threat to discipline and order within the institution;
- (b) defend a person from immediate assault;
- (c) control a rebellious or disturbed inmate; or
- (d) conduct a search.

Amount of force

(2) A correctional services employee who uses force against an inmate shall use an amount of force that is reasonable and not excessive having regard to the nature of the threat posed and all other circumstances of the case.

Report

(3) If a correctional services employee uses force against an inmate in the prescribed circumstances, the employee shall,

- (a) immediately file a written report with the superintendent that,
 - (i) indicates the nature of the threat posed by the inmate,
 - (ii) provides relevant details, and
 - (iii) includes any other prescribed information; and
- (b) comply with such other requirements as may be prescribed.

Report

(4) If a superintendent uses force against an inmate in the circumstances prescribed under subsection (3), the superintendent shall instead file the written report required by clause (3) (a) with the superintendent's regional director.

Use of instruments of restraint

86 (1) No instruments of restraint shall be used on an inmate except in accordance with this Act and the regulations.

Labour, childbirth, etc.

(2) No instruments of restraint shall be used on an inmate,

- (a) during labour if, in the opinion of a physician, the use of instruments of restraint during that period would compromise the health of the inmate or the inmate's baby;
- (b) during childbirth; and

- (c) within 48 hours after giving birth or such longer period after giving birth as a physician may recommend if, in the opinion of a physician, the use of instruments of restraint during that period would compromise the health of the inmate or the inmate's baby.

Exception

- (3) Subsection (2) does not apply if there is an imminent risk of harm or serious injury to any person.

COMPLAINTS

Inmate complaint process

87 (1) The Minister may make regulations establishing a process for inmates to complain about the operation of correctional institutions or the provision of correctional services in correctional institutions.

Requirements

- (2) A regulation made under subsection (1) must include,
 - (a) a timeline for responding to complaints;
 - (b) procedures for addressing complaints; and
 - (c) a reporting process for complaints.

Informal resolution preferred

(3) Correctional services employees shall take reasonable steps to informally resolve complaints they receive, other than complaints of a serious nature, as that term is defined in the regulations, before submitting them to the complaints process established under subsection (1).

Complaints of serious nature

(4) A correctional services employee who receives a complaint of a serious nature shall refer it to the superintendent.

No reprisals

(5) No correctional services employee shall intimidate, take a disciplinary measure or otherwise penalize an inmate or threaten to do so because the inmate has filed a complaint pursuant to the complaints process established under subsection (1), and any employee who does so shall be deemed to have contravened their prescribed code of conduct.

Access to complaints process

(6) The superintendent shall ensure that every inmate has timely access to the complaints process established under subsection (1).

Frivolous complaints

(7) Despite subsection (6), if the Minister is satisfied that an inmate has frequently submitted complaints that are frivolous, vexatious or not made in good faith in relation to the same issue, the Minister may, in accordance with the prescribed procedures, no longer respond to further complaints respecting the same issue by the inmate.

Same

(8) If the Minister decides to no longer respond to an inmate's complaints under subsection (7), the Minister shall inform the inmate of that decision and the reasons for it.

Same

(9) For greater certainty, a decision under subsection (7) shall not be based solely on the volume of complaints that an inmate has made.

Minister's review

(10) The Minister shall, in every month, review any decisions made to not respond to inmate complaints made under subsection (7) and give the inmate written reasons for the decision to maintain or lift the prohibition and, at the inmate's request, shall provide the inmate with a reasonable number of copies of those reasons.

Community supervision complaint process

88 The Minister may make regulations establishing a process for individuals under community supervision to complain about their supervision.

TEMPORARY ABSENCES

Temporary absence request

89 (1) If, in the superintendent's opinion, it is necessary or desirable that an inmate be temporarily absent from a correctional institution for medical or humanitarian reasons, to assist the inmate in their rehabilitation, to assist in their reintegration into

society or to participate in programs or work outside the institution, the superintendent may authorize the temporary absence by issuing a temporary absence permit to the inmate on such terms and conditions as the superintendent may specify.

Same

(2) Every inmate temporarily absent under subsection (1) shall comply with the terms and conditions specified by the superintendent under that subsection.

Same

(3) Every inmate temporarily absent under subsection (1) shall return to the correctional institution at the expiration of the period for which the inmate is authorized to be at large.

Appeal

(4) An inmate may, in accordance with the regulations,

- (a) appeal a decision to not authorize a temporary absence under subsection (1); or
- (b) appeal the terms or conditions applied to a temporary absence permit issued under subsection (1).

Cancellation or revocation of temporary absence

90 (1) A superintendent who has authorized a temporary absence under subsection 89 (1) may suspend, cancel or revoke the temporary absence permit if the prescribed circumstances have been met.

Warrant

(2) After suspending, cancelling or revoking the temporary absence permit, the superintendent may have a warrant or notice of suspension, cancellation or revocation issued for the apprehension and recommitment of the inmate.

Execution of warrant or notice

(3) A peace officer who is given a warrant or notice issued under this section, or an electronically transmitted copy of such a warrant or notice, must execute it in any place in Canada as though the warrant or notice had been originally issued or subsequently endorsed by a justice or other lawful authority having jurisdiction in that place.

Arrest without warrant or notice

(4) A peace officer may arrest a person without a warrant or notice and remand the person into custody if the peace officer believes on reasonable grounds that a warrant or notice has been issued in respect of that person under this section and is still in force.

Where arrest made

(5) Where a person has been arrested pursuant to subsection (4), the warrant or notice, or an electronically transmitted copy of the warrant or notice, must be executed within 48 hours after the arrest is made, failing which the person must be released.

Custody

91 An inmate in the custody or care of a correctional officer is deemed to be in the custody of a correctional institution for the purposes of this Act even if he or she is not on the premises of the correctional institution.

REMISSION

Remission

92 (1) Every inmate who is serving a sentence may be credited with remission of his or her sentence and is subject to the forfeitures of such remission equivalent to that provided for in the *Prisons and Reformatories Act* (Canada).

Restoration of forfeiture remission

(2) Where an inmate has forfeited the whole or any part of his or her remission, the Minister may remit the whole or any part of such forfeiture if the Minister is satisfied that it is in the interest of the inmate's rehabilitation.

Surrender of remission

(3) Where an inmate offers to surrender the whole or any part of his or her remission and where, in the opinion of the superintendent, it is necessary or desirable that the inmate remain confined in the correctional institution for medical or humanitarian reasons or to assist the inmate in his or her rehabilitation for a period of time after the day on which the inmate is eligible to be released by reason of remission, the superintendent may authorize the surrender of remission by the inmate.

Supervision, privileges continued

(4) Where an inmate surrenders remission under subsection (3), the inmate shall remain confined in the correctional institution for such further period that corresponds to the amount of remission surrendered, under the same control and supervision and with the same privileges as if the inmate were not eligible to be released at that time.

Withdrawal

(5) Despite subsection (3), a superintendent may withdraw an authorization and an inmate may withdraw a surrender of remission at any time after the day on which the inmate was eligible for release from the correctional institution and, where such withdrawal is made in writing, the inmate shall be released from the institution forthwith.

Determinations of remission

93 A determination of whether an inmate has earned remission under the *Prisons and Reformatories Act* (Canada) or section 92 of this Act shall comply with the requirement under subsection 6 (1) of the *Prisons and Reformatories Act* that inmates earn remission by obeying prison rules and conditions governing temporary absence and by actively participating in programs, other than full parole, designed to promote inmates' rehabilitation and reintegration.

LOCKDOWNS

Lockdowns

94 (1) Subject to subsection (2), the superintendent of a correctional institution may impose a lockdown on all or part of the correctional institution in response to an imminent and serious security or safety concern or to impose a medical quarantine.

Exception in prescribed circumstances

(2) A superintendent shall not impose a lockdown in such circumstances as may be prescribed.

Limitations during lockdown

(3) During a lockdown, the superintendent may limit the movement of inmates, correctional services employees and other persons in the institution and may,

- (a) disrupt or cancel inmate programs or services;
- (b) cancel visits to inmates;
- (c) suspend access to visitors;
- (d) refuse the admission of new inmates;
- (e) suspend transfers of inmates to or from the correctional institution; or
- (f) impose any other limitations necessary to address the concern that led to the imposition of the lockdown.

Limitation

(4) A lockdown shall not impose more restrictions than are necessary to address the concern that led to the imposition of the lockdown.

Notification

(5) A superintendent who declares a lockdown shall notify the Minister of the fact as soon as possible.

Immediate end

(6) The superintendent shall end the lockdown immediately if the concern that led to the imposition of the lockdown no longer applies.

Result of review

- (7) If the lockdown lasts for five consecutive days or such shorter period as may be prescribed, the superintendent shall,
- (a) immediately prepare a written report containing the prescribed information and send it to the Deputy Minister and the Inspector General; and
 - (b) prepare a new written report containing the prescribed information and send it to the Deputy Minister and the Inspector General during every subsequent day of lockdown.

Non-application of Part V

(8) Part V (Segregation and Restrictive Confinement) does not apply with respect to an inmate who has been held in conditions that constitute segregation as a result of a lockdown.

ILLNESS, INJURY OR DEATH

Notification of serious illness or injury

95 (1) If the Minister becomes aware that an inmate, including an inmate on a temporary absence, or an individual under community supervision has become seriously ill or injured, the Minister shall immediately notify the next of kin, or other persons specified by the inmate or individual to be notified in the case of a serious illness or injury, and any additional persons that the inmate or individual requests to be notified.

Exception

(2) Subsection (1) does not apply if the Minister has information that the next of kin or other person to be notified has already been notified of, or has knowledge of, the illness or injury.

Notification of death

96 (1) If the Minister becomes aware that an inmate, including an inmate on a temporary absence, or an individual under community supervision has died, the Minister shall notify the next of kin, or other persons specified by the inmate or individual to be notified in the case of death, and provide them with such information as may be prescribed.

Exception

(2) Subsection (1) does not apply if the Minister has information that the next of kin or other person to be notified has already been notified of, or has knowledge of, the death.

Superintendent's report to Minister

(3) If an inmate dies while in the custody of a correctional institution or as a result of an illness or injury that was contracted, sustained or treated while in custody or while on a temporary absence, the superintendent shall, as soon as practicable, prepare and send a written report concerning the death to the Minister and the Inspector General, which must include,

- (a) the name of the inmate;
- (b) the names of the next of kin or other persons to be notified in the case of death;
- (c) a description of the circumstances surrounding the death;
- (d) confirmation of whether or not the local police force or other police force as prescribed, a coroner and the next of kin or other persons to be notified in the case of death have been notified of, or have knowledge of, the death; and
- (e) any prescribed information.

Unaware of fact of death

(4) Subsection (3) does not apply if the superintendent is unaware of the fact of the death.

Information and support for disposition of remains

(5) If the inmate dies while in the custody of a correctional institution or as a result of an illness or injury contracted, sustained or treated while in custody, the Minister shall provide reasonable information and support to the inmate's next of kin or other persons to be notified in the case of death to assist in the culturally-appropriate disposition of the remains.

Records

(6) The Minister shall maintain records and statistics regarding the deaths of individuals under community supervision and inmates in accordance with the regulations.

Compassionate allowance

97 The Minister may, in accordance with the regulations, pay a compassionate allowance,

- (a) as compensation to an inmate for permanent disability arising from an injury sustained while engaged in an authorized activity at a correctional institution;
- (b) to any other person for injury or damage inflicted upon that person by an inmate while under the custody and supervision of the Minister; or
- (c) to assist the estate of an inmate referred to in subsection 96 (5) with the disposition of the inmate's remains.

PART VIII SEARCHES

DEFINITIONS

Definitions

98 In this Part,

“non-intrusive search” means,

- (a) a search of the clothed body in accordance with the regulations, including a manual search or a search by technical means, and
- (b) a search, in accordance with the regulations, if any, of personal possessions, including clothing the person may be carrying or that the person has been requested to remove; (“fouille discrète”)

“strip search” means,

- (a) a visual inspection, in accordance with the regulations, of the naked body, other than a search conducted as part of a medical examination or treatment, and
- (b) a search, in accordance with the regulations, if any, of all clothing and other personal possessions that the person may be carrying, other than a search conducted as part of a medical examination or treatment. (“fouille à nu”)

INMATE SEARCHES

Non-intrusive searches

Routine search on admission or entry

99 (1) A correctional services employee employed in a correctional institution shall conduct a routine non-intrusive search of every inmate when they are admitted to or otherwise enter the institution.

Routine search for security purposes

(2) The superintendent of a correctional institution may authorize a routine non-intrusive search of an inmate to be carried out to ensure the security of the correctional institution or the safety of persons.

Non-routine search

(3) If a correctional services employee employed in a correctional institution believes on reasonable grounds that an inmate is carrying contraband or evidence related to an act of misconduct or a criminal offence, the employee may conduct a non-routine, non-intrusive search of the inmate.

Report

(4) A correctional services employee who conducts a search under subsection (3) shall report the search to the superintendent as soon as practicable.

Trans inmates

(5) Non-intrusive searches of trans inmates shall be conducted in the prescribed manner.

Strip searches

Routine search in certain circumstances

100 (1) The superintendent of a correctional institution may authorize a routine strip search of an inmate to be carried out to ensure the security of the correctional institution or the safety of persons,

- (a) when the inmate enters or leaves the institution, other than when the inmate is being released from custody;
- (b) when the inmate leaves an area, in prescribed circumstances, where there was a likelihood of access to contraband that is capable of being hidden on or in the body; or
- (c) in other prescribed circumstances.

Non-routine

(2) A correctional services employee employed in a correctional institution may conduct a non-routine strip search of an inmate in circumstances other than the ones set out in subsection (1) if the employee,

- (a) believes on reasonable grounds that,
 - (i) a person’s health or safety is at immediate risk, as determined in accordance with the regulations, or
 - (ii) the inmate is carrying contraband or evidence relating to an act of misconduct or a criminal offence and that a strip search is necessary to find the contraband or evidence; and
- (b) obtains written authorization for the search from the superintendent.

Search without authorization

(3) A correctional services employee employed in a correctional institution may conduct a non-routine strip search under subsection (2) without obtaining the authorization required by clause (2) (b) if the employee believes on reasonable grounds that the time required to obtain the authorization would result in danger to the security of the correctional institution or the safety of persons or in the loss or destruction of contraband or evidence.

Same

(4) A correctional services employee employed in a correctional institution who conducts a non-routine strip search without authorization shall provide a written report to the superintendent of the institution outlining the reasons for conducting the search and for not seeking authorization.

Requirements for authorization

(5) A superintendent shall not authorize a non-routine strip search under clause (2) (b) unless he or she is satisfied that a strip search is necessary in the circumstances.

Searching in a respectful place and manner

(6) Every strip search must be conducted in a place and manner that respect the human dignity of the inmate and does not subject him or her to embarrassment or humiliation.

Search by employee of same sex

(7) A strip search of an inmate shall be conducted by a correctional services employee of the same sex.

Exception

(8) Subsection (7) does not apply if the employee conducting the search has reasonable grounds to believe that an immediate search is necessary because,

- (a) the inmate may be hiding contraband or evidence that is dangerous or harmful; and
- (b) the delay necessary to find an employee of the same sex to conduct the search could endanger the security of the correctional institution or the safety of persons or could result in the loss or destruction of contraband or evidence.

Trans inmates

(9) Strip searches of trans inmates shall be conducted in the prescribed manner.

Refusal or resistance to search

101 An inmate who refuses to be searched or resists a search may be separated from other inmates until the inmate submits to the search or until there is no longer a need to search the inmate.

Search records

102 (1) The superintendent of a correctional institution shall ensure that a written record is made of every inmate search.

Contents of record

- (2) The search record shall include,
 - (a) the name of the inmate searched;
 - (b) the name and position of the person who conducted the search;
 - (c) the reason for the search;
 - (d) a description of any property seized or damaged in the search; and
 - (e) the type of search conducted.

Inmate to be informed

(3) The superintendent shall inform an inmate of any seizure or damage to property belonging to the inmate arising from a search.

Substance testing

103 (1) A person authorized by the Minister for the purpose may demand that an inmate in a correctional institution submit to a prescribed test to determine the presence of alcohol or other prescribed substances in his or her body, if,

- (a) the demand is authorized by the superintendent of the correctional institution and the person authorized by the Minister has reasonable grounds to suspect that,
 - (i) the inmate has consumed or used alcohol or another prescribed substance, and
 - (ii) a test is necessary to confirm the consumption or use;
- (b) the demand is part of a prescribed random selection substance testing program, conducted without individualized grounds on a periodic basis and in accordance with the regulations; or
- (c) a substance test is prescribed as a requirement for participation in,
 - (i) a prescribed program or activity involving contact with the community, or
 - (ii) a prescribed substance abuse program.

Same

(2) A person authorized by the Minister for the purpose may demand that an inmate who is released from custody on a temporary absence or a parolee submit to a prescribed test to determine the presence of alcohol or other prescribed substances in his or her body,

- (a) at once, if the person authorized by the Minister has reasonable grounds to suspect that the inmate or parolee has breached any condition of his or her temporary absence or parole that requires abstention from alcohol or other prescribed substances, in order to monitor the inmate's or parolee's compliance with that condition; or
- (b) at regular intervals, in order to monitor the inmate's or parolee's compliance with any condition of his or her temporary absence or parole that requires abstention from alcohol or other prescribed substances.

Application of subs. (2)

(3) Subsection (2) only applies if it is a condition of the inmate's temporary absence or of the parole that the inmate or parolee,

- (a) abstain from the consumption or use of alcohol or other prescribed substances; and
- (b) submit to testing to determine the presence of alcohol or other prescribed substances in his or her body.

Communication searches**Inspection of letters and parcels**

104 (1) The superintendent may open and inspect any letter or parcel sent to or from an inmate at the correctional institution to determine whether it contains contraband.

Reading only in certain cases

(2) A letter or parcel opened and inspected in accordance with subsection (1) may be read only in accordance with the regulations.

Forwarding copy of letter

(3) The superintendent may forward a copy of a letter, instead of the original letter, to the inmate, unless the letter is sent to or from the inmate's lawyer.

Refusal to forward

(4) The superintendent may refuse to forward the parcel, the letter or a copy of the letter to the inmate or intended recipient if,

- (a) a court order restricts or prohibits communication or contact between the inmate and the person who is being sent or who has sent the letter or parcel;
- (b) the letter or parcel directs someone to commit a criminal offence or otherwise involves illegal activities;
- (c) the letter or parcel is harassing or threatening;
- (d) the intended recipient has requested that the letter or parcel not be forwarded to them; or
- (e) there are reasonable and probable grounds to believe that forwarding the letter or parcel would jeopardize the security of the correctional institution or the safety of persons.

Notification

(5) If the superintendent withholds a letter or parcel, he or she shall inform the inmate in writing of that decision and the reasons for it.

Exceptions

(6) Subsections (1) and (4) do not apply to a letter or parcel sent by or on behalf of or sent to,

- (a) the inmate's lawyer;
- (b) a member of the Legislative Assembly of Ontario;
- (c) a member of the Parliament of Canada;
- (d) the Deputy Minister of Correctional Services;
- (e) the Ombudsman of Ontario;
- (f) the Inspector General;
- (g) the Ontario Human Rights Commission;
- (h) the Information and Privacy Commissioner;

- (i) the Human Rights Tribunal of Ontario;
- (j) the Human Rights Legal Support Centre;
- (k) the Correctional Investigator of Canada; or
- (l) a prescribed person.

Letters or parcels to or from lawyers

(7) A letter or parcel referred to in clause (6) (a) may be opened by the superintendent and inspected for contraband if the inmate and a correctional services employee witness are present.

Other letters or parcels — inspection for contraband

(8) The superintendent may open a letter or parcel referred to in clause (6) (b), (c) or (d) and inspect it for contraband.

Electronic mail

(9) The superintendent may inspect and read electronic mail sent to or from an inmate in accordance with the regulations.

Telephone listening or recording

(10) The superintendent may authorize that telephone conversations between an inmate and other persons be listened to or otherwise recorded in accordance with the regulations.

Prevention of communication

(11) The superintendent may prevent an inmate from communicating, whether by mail, electronic mail, telephone or otherwise, with another person, other than a person listed in subsection (6), in accordance with the regulations.

Seizure

105 Any contraband found during a search or inspection of letters or parcels under this Part may be seized and disposed of in the prescribed manner.

OTHER SEARCHES

Correctional services employee searches

106 The superintendent of a correctional institution may authorize a non-intrusive search to be carried out on a correctional services employee by a different correctional services employee if the superintendent believes on reasonable grounds that the employee to be searched is bringing or attempting to bring contraband into or out of the institution.

Visitor searches

107 (1) For security purposes, the superintendent of a correctional institution may authorize a non-intrusive search to be carried out on a visitor on the premises of the correctional institution by a correctional services employee.

Right to leave

(2) Before searching a visitor, a correctional services employee shall notify the visitor of their right to leave the premises if they do not consent to the search and allow them to leave the premises if they so choose.

Use of technology

(3) Any technology used to conduct a search of a visitor shall be used in accordance with the regulations.

Institution search

108 (1) The superintendent of a correctional institution may authorize a search of the correctional institution or any part of the correctional institution.

Search to be conducted in accordance with regulations

(2) A search authorized under subsection (1) shall be conducted in accordance with the regulations.

PART IX INSPECTIONS, INVESTIGATIONS AND INQUIRIES

MINISTER'S INSPECTIONS, INVESTIGATIONS AND INQUIRIES

Definitions

109 In this Part,

“inspector” means an inspector appointed under section 110 or 116; (“inspecteur”)

“Ministry correctional policy” means a Ministry policy respecting correctional services; (“politique correctionnelle du ministère”)

“Ministry correctional procedure” means a Ministry procedure respecting correctional services. (“procédure correctionnelle du ministère”)

Chief of Investigations

110 (1) The Minister shall appoint a Chief of Investigations to conduct such inspection or investigation as the Minister may require in connection with,

- (a) the compliance of any correctional services employee with their prescribed code of conduct;
- (b) the conduct of any person employed in the administration of this Act, contractor or volunteer;
- (c) a review or policy compliance assessment arising out of risks identified as a result of an investigation of a person under clause (a) or (b);
- (d) the internal security and integrity of correctional services; or
- (e) any other prescribed matter.

Appointment of inspectors or investigators

(2) The Chief of Investigations may appoint any person, in writing, to conduct inspections or investigations under subsection (1) on his or her behalf.

Results of inspection or investigation

(3) The Chief of Investigations shall report the results of any inspection or investigation conducted under subsection (1) to the Minister.

Ministerial inquiry

111 (1) The Minister may, by order, appoint a person to make an inquiry into any matter to which this Act applies as may be specified in the Minister’s order and the person so appointed shall report the result of the inquiry to the Minister.

Application of *Public Inquiries Act, 2009*

(2) Section 33 of the *Public Inquiries Act, 2009* applies to the inquiry.

INSPECTOR GENERAL

Inspector General of Correctional Services

112 (1) The Lieutenant Governor in Council shall appoint an Inspector General of Correctional Services and may appoint one or more deputy Inspectors General.

Inspector General’s duties

(2) The Inspector General shall,

- (a) monitor, inspect, investigate and audit the Ministry to ensure that correctional services employees comply with this Act, the regulations and the Ministry correctional policies and procedures;
- (b) issue directions to the Minister or correctional services employees if they are not in compliance with this Act, the regulations or a Ministry correctional policy or procedure;
- (c) report in writing to the Minister any non-compliance with directions made under (b);
- (d) report on the treatment of inmates and on conditions in correctional institutions;
- (e) review and report on the use of segregation and restrictive confinement in correctional institutions;
- (f) develop, maintain and manage records and conduct analyses regarding correctional services employees’ compliance with this Act, the regulations or a Ministry correctional policy or procedure;
- (g) make recommendations about Ministry correctional policies and procedures;
- (h) inform the public about the Inspector General’s duties and activities and the Ministry’s compliance with this Act, the regulations and the Ministry correctional policies and procedures; and
- (i) submit an annual report to the Minister.

Role respecting employees

(3) The Inspector General shall not conduct inspections of correctional services employees for the purpose of determining whether they have engaged in conduct that contravenes their prescribed code of conduct.

Delegation

(4) The Inspector General may delegate any of his or her powers and duties under this Act or the regulations to another person in writing, subject to any limitations, conditions or requirements set out in the delegation.

Deputy Inspector General

(5) A deputy Inspector General shall act in the place of the Inspector General if he or she is absent or unable to act and, when so acting, may exercise all the powers and perform all the duties of the Inspector General.

Minister's directions

(6) The Minister shall not direct the Inspector General or any inspector appointed by the Inspector General with respect to the performance of their functions under this Act.

Training

(7) The Minister shall provide the Inspector General and any deputy Inspectors General with training to promote recognition of and respect for the diverse, multi-racial and multicultural character of Ontario society and the rights and cultures of First Nations, Inuit and Métis communities.

Public statements

(8) For greater certainty, nothing in this Act prevents the Inspector General from making public statements with respect to the correctional system.

Annual report

113 (1) On or before the prescribed day in each year, the Inspector General shall file an annual report with the Minister that addresses at least the following matters:

1. The activities of the Inspector General, including,
 - i. inspections, investigations and audits conducted,
 - ii. any referrals made under section 121, and
 - iii. any directions issued for non-compliance under section 125.
2. The compliance of correctional services employees with this Act, the regulations and the Ministry correctional policies and procedures.
3. Any other prescribed matters.

Publication and tabling

(2) The Minister shall publish the annual report in accordance with the regulations and table it in the Legislative Assembly as soon as possible after it is published.

Other reports

(3) For greater certainty, the Inspector General may publish reports other than the annual report and make them available to the public.

Information to Inspector General in accordance with regulations

114 (1) Every person employed in the administration of this Act shall, if required to do so by the regulations, provide the Inspector General with prescribed information related to the discharge of the Inspector General's duties under subsection 112 (2) at the frequency and in the manner set out in the regulations.

Information to Inspector General on request

(2) Every person employed in the administration of this Act shall provide the Inspector General with such information as he or she may request from time to time.

Time to comply

(3) The information requested under subsection (2) shall be provided in the form and manner and within the time specified in the Inspector General's request.

Personal information

115 (1) The Inspector General shall not use personal information if other information will serve the purpose of the use.

Personal information limited to what is reasonably necessary

(2) The Inspector General shall not use more personal information than is reasonably necessary for the purpose of discharging his or her duties under subsection 112 (2).

Accuracy

(3) Before using personal information, the Inspector General shall take reasonable steps to ensure that the information is as accurate as is necessary for the purpose of the use.

Rights of access and correction

(4) Nothing in this section limits the right of an individual under any Act to access and correct personal information about the individual.

Inspector General inspectors

116 (1) The Inspector General may appoint such inspectors as are necessary to conduct the inspections referred to in subsection (2).

Power to inspect

(2) The Inspector General may cause an inspection to be conducted by an inspector for the purpose of ensuring that correctional services employees are complying with this Act, the regulations and the Ministry correctional policies and procedures.

Same

(3) The inspectors shall not conduct inspections for the purpose of determining whether a correctional services employee has engaged in conduct that contravenes their prescribed code of conduct.

Inspector General and deputies are inspectors

(4) The Inspector General and any deputy Inspectors General are, by virtue of their office, inspectors.

Certificate of appointment

(5) The Inspector General shall issue to every inspector a certificate of appointment.

Limitation on authority

(6) The Inspector General may, in the inspector's certificate of appointment, limit the inspector's authority in such manner as the Inspector General considers necessary or advisable.

Request for inspection by Minister

117 (1) The Minister may request that the Inspector General cause an inspection to be conducted under subsection 116 (2).

Decline inspection

(2) If the Minister makes a request under subsection (1), the Inspector General may decline to cause the inspection to be conducted and shall provide the Minister with written reasons for that decision.

INSPECTIONS AND INVESTIGATIONS

Inspection or investigation without order

118 An inspector or investigator may, at any reasonable time, enter a place, including a receptacle or vehicle, owned or occupied for a correctional services purpose by the Ministry for the purpose of an inspection or investigation under this Part if the inspector or investigator reasonably believes that,

- (a) the place contains a thing, document or data relevant to the inspection or investigation; or
- (b) an activity relating to the purpose of the inspection or investigation is occurring or has occurred at the place.

Inspection or investigation powers

119 (1) An inspector or investigator may do one or more of the following in the course of entering a place and conducting an inspection or investigation under this Part:

1. Examine anything that relates to the inspection or investigation.
2. Examine, record or copy any thing, data or information, in any form, by any method.
3. Require the production of any document or data, in any form, required to be kept under this Act or the regulations and of any other document or data, in any form, related to the purpose of the inspection or investigation.
4. Remove from the place, for the purpose of making copies, documents or data produced under paragraph 3.
5. Make reasonable inquiries of any person, orally or in writing.
6. Take samples for analysis.
7. Conduct tests or make measurements.
8. Take photos or videos.

Limitation

(2) A record or copy made under paragraph 2 of subsection (1) must be made in a manner that does not intercept any private communication and that accords with reasonable expectations of privacy.

Document or data in electronic form

(3) If a document or data is retained in electronic form, an inspector or investigator may require that a copy of it be provided to him or her on paper or electronically, or both.

Obligation to produce and assist

(4) If the inspector or investigator requires that a person produce or provide access to a thing, document or data, the person shall do so in the manner and within the period specified by the inspector or investigator and shall, if requested to do so, provide any assistance that is reasonably necessary to permit the inspector or investigator to understand the thing, document or data.

Privilege or otherwise prohibited by law

(5) An inspector or investigator shall not require a person to produce or provide access to a thing, document or data that would be inadmissible in a court by reason of any privilege under the law of evidence or as otherwise prohibited by law.

Limitation re removal

(6) An inspector or investigator shall not remove things, documents or data under paragraph 4 of subsection (1) without giving a receipt for them and shall promptly return them to the person who produced them.

Power to exclude persons

(7) An inspector or investigator who exercises the power set out in paragraph 5 of subsection (1) may exclude any person from the questioning, except counsel for the individual being questioned.

Power to require response to inquiries

120 (1) An inspector or investigator may, at any reasonable time, require a correctional services employee, a contractor, an employee of a contractor or a volunteer to respond to reasonable inquiries related to the purpose of the inspection or investigation.

Same

(2) For the purposes of subsection (1), an inspector or investigator may make inquiries by any means of communication.

Orally or in writing

(3) The inspector or investigator may require the person to respond orally or in writing, as the inspector or investigator may determine.

Production

(4) In requiring a person to respond to an inquiry under subsection (1), an inspector or investigator may require the production of any thing, document or data related to the inquiry.

Document or data in electronic form

(5) If a document or data is retained in electronic form, an inspector or investigator may require that a copy of it be provided to him or her on paper or electronically, or both.

Privilege or otherwise prohibited by law

(6) An inspector or investigator shall not require a response or the production of a thing, document or data that would be inadmissible in a court by reason of any privilege under the law of evidence or as otherwise prohibited by law.

Referrals

Criminal offences

121 (1) If, in the course of an inspection or investigation under this Part, an inspector or investigator reasonably suspects that a correctional services employee, contractor, or volunteer may have committed a criminal offence, the inspector or investigator shall notify the Inspector General or the Chief of Investigations in accordance with the regulations.

Same

(2) If the Inspector General or the Chief of Investigations is notified of a possible criminal offence under subsection (1), the Inspector General or Chief shall refer the matter to a prescribed police force, who shall investigate the matter.

Code of conduct

(3) If, in the course of an inspection under this Part, an inspector appointed by the Inspector General reasonably suspects that a correctional services employee may have contravened their prescribed code of conduct, the inspector shall notify the Inspector General, who shall notify the Chief of Investigations.

Identification

122 On request, an inspector or investigator who exercises a power under this Part shall identify himself or herself as an inspector or investigator by producing a copy of the certificate of appointment, and shall explain the purpose of the exercise of the power.

Detention of things, documents or data

123 An inspector or investigator may detain any thing, document or data obtained under section 119 for any period and for any purpose relating to the inspection or investigation.

RESULTS OF INSPECTOR GENERAL INSPECTION

Results of inspection

124 (1) An inspector appointed by the Inspector General who completes an inspection under this Part shall report his or her findings to the Inspector General.

Inspector General's notification

(2) Unless the regulations provide otherwise, the Inspector General shall notify the subject of the inspection of the findings in the report.

Publication

(3) The Inspector General shall publish the report made under subsection (1) in accordance with the regulations.

Evidence of non-compliance

125 (1) If, in the opinion of the Inspector General, the report made under subsection 124 (1) discloses evidence of non-compliance with a requirement of this Act, the regulations or a Ministry correctional policy or procedure, or evidence that an act or omission will likely result in such non-compliance, the Inspector General may issue directions to the Minister to remedy or prevent the non-compliance.

Consideration

(2) Without restricting the matters the Inspector General shall consider when deciding whether to issue a direction under subsection (1), the Inspector General shall consider whether the non-compliance or likelihood of non-compliance is the result of exceptional circumstances beyond the control of the Minister.

No individual directions for code of conduct contraventions

(3) Subsection (1) does not permit the Inspector General to issue directions respecting individual employees who have contravened their prescribed code of conduct, but directions may be issued to remedy systemic issues that have given rise to that contravention.

Direction

(4) The direction shall,

- (a) be in writing;
- (b) specify the provision of this Act, the regulations or a Ministry correctional policy or procedure that the Inspector General believes has not been complied with or is likely to not be complied with; and
- (c) briefly describe the nature of the non-compliance or likely non-compliance.

Reconsideration

(5) The Inspector General may vary or revoke a direction issued under this section.

Time to comply

(6) The subject of the direction shall comply with it within the time period specified in the direction.

Copy to Minister

(7) The Inspector General shall provide a copy of every direction issued under this section to the Minister and publish it in accordance with the regulations.

Failure to comply with Inspector General's direction

126 (1) If the subject of a direction issued under section 125 fails to comply with it, the Inspector General shall report the non-compliance to the Minister, in writing.

Publication

(2) The Inspector General shall publish the report referred to in subsection (1) in accordance with the regulations.

OFFENCES

Obstruction

Application

127 (1) No correctional services employee shall intentionally hinder or obstruct or attempt to hinder or obstruct an inspector or investigator in the performance of his or her duties under this Part or furnish him or her with false or misleading information.

Failure to provide information

(2) No correctional services employee shall refuse to provide information to the Inspector General or the Chief of Investigations or one of their inspectors or investigators if required to do so under this Act or the regulations.

False or misleading information

(3) No correctional services employee shall intentionally submit false or misleading information to the Inspector General, the Chief of Investigations or one of their inspectors or investigators.

Penalty

(4) A correctional services employee who contravenes subsection (1), (2) or (3) is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than one year, or to both.

PART X ONTARIO PAROLE BOARD

Ontario Parole Board

128 (1) The Ontario Parole Board is continued.

Composition

(2) The Board shall be composed of such full-time and part-time members appointed by the Lieutenant Governor in Council as the Lieutenant Governor in Council may consider necessary.

Provincial parole board

(3) For the purposes of any Act of the Parliament of Canada, the Board is the provincial parole board for Ontario.

Board chair and quorum

129 (1) The Lieutenant Governor in Council may designate one of the members of the Board to be the chair thereof.

Same

(2) One member of the Board constitutes a quorum and is sufficient for the exercise of all of the jurisdictions and powers of the Board.

Exclusive jurisdiction of Board

130 The Board has exclusive jurisdiction to examine, hear and determine all matters and questions relating to the release of inmates on parole and any matter or thing in respect of which any power, authority or discretion is conferred upon the Board by or under this Act or which is conferred upon a provincial parole board by the *Corrections and Conditional Release Act* (Canada).

Granting of parole

131 (1) Subject to subsection (2) and the regulations, the Board may order the release from custody on parole of any inmate convicted of an offence under any Act of the Legislature, any Act of the Parliament of Canada or against a municipal by-law upon such conditions as the Board may determine.

Criteria for granting parole

(2) The Board may grant parole to an inmate if, in its opinion,

- (a) the inmate will not, by reoffending, present an undue risk to society before the expiration according to law of the sentence the inmate is serving; and
- (b) the release of the inmate will contribute to the protection of society by facilitating the reintegration of the inmate into society as a law-abiding citizen.

Purpose of parole

(3) The purpose of parole is to contribute to the maintenance of a just, peaceful and safe society by means of decisions on the timing and conditions of release that will best facilitate the rehabilitation of inmates and their reintegration into the community as law-abiding citizens.

Application for parole

132 (1) If an inmate applies for parole, the Board may grant parole in accordance with section 131 or deny it.

Notification

(2) The Minister shall notify every inmate sentenced to imprisonment in a correctional institution in writing of the inmate's parole eligibility date no later than 30 days after the date on which the inmate was sentenced.

Application to Board

Term of imprisonment less than six months

133 (1) Where an inmate is serving a term of imprisonment of less than six months, the inmate may apply to the Board for parole at any time.

No hearing

(2) An inmate referred to in subsection (1) is not entitled to a hearing before the Board.

Term of imprisonment six months or more

(3) Where an inmate is serving a term of imprisonment of six months or more, the Board shall consider the inmate for parole before the parole eligibility date, whether or not the inmate has applied for parole.

Entitlement to hearing

(4) An inmate referred to in subsection (3) is entitled to a hearing before the Board unless the inmate in writing waives the right to the hearing, but if the inmate withdraws the waiver before the Board makes a decision regarding the parole, the Board shall proceed to conduct a hearing of the matter.

Revocation of parole before release

134 (1) Where parole has been granted but the inmate has not yet been released from custody on parole, the Board may revoke its grant of parole if,

- (a) it obtains new information that is relevant to its decision to grant parole; or
- (b) the inmate requests that the grant be revoked.

New hearing

(2) Where the Board has revoked a grant of parole under clause (1) (a), the Board shall hold a new hearing to determine whether to grant parole or not in accordance with section 131, unless the inmate waives his or her right to the hearing.

Victims

135 Victims within the meaning of the *Victims' Bill of Rights, 1995* and other victims of offences may participate in proceedings of the Board in accordance with the regulations.

Remission

136 Where parole is granted by the Board, the term of parole shall include any portion of remission standing to the credit of the parolee when he or she is released and shall end upon the expiration of his or her sentence as set out in his or her warrant of committal.

Duty to submit information to Board

137 When required by the Board, it is the duty of every person having information relevant to the suitability of an inmate to be paroled to submit such information to the Board.

Suspension of parole after release

138 (1) A member of the Board or a person designated for the purpose by the chair of the Board may, by warrant, in circumstances described in subsection (2),

- (a) suspend a parolee's parole;
- (b) authorize the apprehension of the parolee; and
- (c) authorize the recommittal of the parolee to custody until the suspension is cancelled, the parole is revoked or the sentence expires according to law.

Circumstances

(2) Subsection (1) applies if,

- (a) the parolee breaches a condition of his or her parole; or
- (b) the member of the Board or designated person referred to in subsection (1) is satisfied that it is necessary and reasonable to suspend the parole in order to,

- (i) prevent a breach of a condition of parole, or
- (ii) protect any person from danger or any property from damage.

Review hearing

(3) The Board shall hold a hearing to review the granting and suspension of the inmate's parole as soon as possible after a parolee has been recommitted to custody under subsection (1).

Revocation or reinstatement of parole

(4) The Board shall consider the reasons for suspending the parole and the submissions, if any, of the inmate and shall, after a hearing under subsection (3),

- (a) lift the suspension of the parole and allow the inmate to be released and continue his or her parole upon the conditions that it considers appropriate; or
- (b) revoke the parole.

Calculation of term if parole revoked

(5) Where parole is revoked by the Board after a hearing under subsection (3), the parolee shall serve the remaining portion of his or her term of imprisonment, including any remission that was to his or her credit at the time parole was granted, less,

- (a) the period of time spent on parole;
- (b) the period of time during which parole was suspended and the parolee was in custody; and
- (c) any remission credited to the parolee applicable to the period during which the parolee is in custody after his or her parole was suspended.

Same

(6) Despite subsection (5), the Board may recredit an inmate whose parole is revoked through no fault of the inmate with all or part of the remission which the inmate would have been eligible to earn, if parole had not been granted, up to the time the parole was suspended and the parolee was in custody.

Act not to affect executive power to reprieve, pardon, etc.

139 Nothing in this Act shall be construed as affecting or impairing or as intending or purporting to affect or impair the powers of the Governor General of Canada or the Lieutenant Governor of Ontario to grant a reprieve, pardon or commutation of sentence in any case.

PART XI PROBATION OFFICERS

Meaning of "court", Part XI

140 In this Part,

"court" means a court of criminal jurisdiction.

Appointment of probation officers

141 (1) Such probation officers as are considered necessary for the purposes of this Act shall be appointed under Part III of the *Public Service of Ontario Act, 2006*.

Jurisdiction

(2) Every probation officer appointed in accordance with subsection (1) is a probation officer in and for the Province of Ontario and shall perform his or her duties in such part of Ontario as is assigned from time to time by the Minister.

Same

(3) Every probation officer appointed in accordance with subsection (1) is a probation officer for the purposes of,

- (a) this Act, the *Provincial Offences Act*, the *Child and Family Services Act* and any other Act of the Legislature; and
- (b) the *Criminal Code* (Canada) and the *Youth Criminal Justice Act* (Canada).

Duties of probation officer

142 (1) It is the duty of a probation officer,

- (a) to procure and report to a court such information pertaining to a person found to have committed an offence as the court may require for the purpose of making a disposition of the case;
- (b) to make recommendations in the report referred to in clause (a) as to the disposition of the case upon being requested by the court;

(c) to comply with any direction made to the probation officer by a court in a probation order.

Variation of direction

(2) Where a probation officer is of the opinion that compliance with a direction issued by a court is inconvenient or impossible, the probation officer may apply to the court for a variation of its direction, and the court, upon consideration of the reasons for the application, may vary its direction to the probation officer as it considers appropriate in the circumstances.

Duties assigned by Minister

(3) In addition to the duties of a probation officer referred to in subsection (1), a probation officer shall perform such other duties as are assigned by the Minister.

PART XII GENERAL PROVISIONS

Application of *Statutory Powers Procedure Act*

143 (1) The *Statutory Powers Procedure Act* does not apply to any decisions made or proceedings conducted under this Act, other than proceedings before the Board.

Application to proceedings before the Board

(2) The following provisions of the *Statutory Powers Procedure Act* do not apply to proceedings before the Board:

1. Subsection 4 (1) (Waiver of procedural requirement).
2. Section 4.5 (Decision not to process commencement of proceeding).
3. Section 4.6 (Dismissal of proceeding without hearing).
4. Section 9.1 (Proceedings involving similar questions).
5. Section 10 (Right to representation).
6. Section 10.1 (Examination of witnesses).
7. Section 17.1 (Costs).

Same

(3) Despite section 32 of the *Statutory Powers Procedure Act*, the provisions of this Act and the regulations respecting proceedings before the Board prevail over the provisions of that Act with which they conflict.

Regulations

144 (1) The Lieutenant Governor in Council may make regulations,

1. respecting the operation, management and inspection of correctional institutions or community resource centres;
2. clarifying the definition of restrictive confinement for the purposes of this Act;
3. prescribing types of misconduct that constitute serious misconduct for the purposes of this Act;
4. defining any word or expression used in this Act that is not already expressly defined in this Act;
5. governing public consultations and reports to the public by the Minister;
6. prescribing the nature of personal information about individuals that may be disclosed under this Act, to whom it may be disclosed and the circumstances in which it may be disclosed;
7. establishing requirements that apply to units in correctional institutions designated as minimum, medium or maximum security, including required staffing levels and required security measures;
8. prescribing and governing the training that must be provided to Independent Regional Chairs or to members of a review roster;
9. governing the delegation of a superintendent's powers, duties or functions under section 17;
10. governing community advisory boards, including,
 - i. governing the composition, powers, functions, responsibilities and duties of the boards,
 - ii. establishing requirements that a person must meet to be eligible to be appointed to the board, and
 - iii. requiring superintendents of correctional institutions to give the members of the community advisory board access in accordance with the regulations to the premises of the correctional institution, its records, its employees and its inmates;

11. governing the First Nations, Inuit and Métis Advisory Committee, including governing the composition, responsibilities, powers, duties and quorum of the Committee;
12. establishing requirements respecting the consideration of the unique needs and circumstances of First Nations, Inuit or Métis individuals under community supervision and inmates;
13. governing the superintendent's assessment of the security classification of inmates and the superintendent's reassessment of their security classification under section 34, including,
 - i. prescribing criteria for assignment to the different security classifications,
 - ii. prescribing the manner in which inmates shall be assessed or reassessed,
 - iii. prescribing the circumstances in which a new security classification may be assigned to an inmate,
 - iv. establishing a process for the review of an inmate's security classification,
 - v. establishing factors that must be considered in determining whether to reassess an inmate's security classification,
 - vi. prescribing the frequency of reassessments, and
 - vii. prescribing the timeline for reassessments;
14. establishing and governing the process for superintendents to review inmates who have been temporarily housed at a different security level than that assigned to them under subsection 34 (7);
15. governing alternative housing for inmates, including,
 - i. prescribing different types of alternative housing,
 - ii. establishing and governing requirements with respect to the conditions of confinement in alternative housing,
 - iii. requiring the superintendent to provide specified programs, services or supports to inmates housed in alternative housing or in a type of alternative housing, and
 - iv. prescribing the conditions or process for determining when an inmate must be housed in alternative housing or in a type of alternative housing;
16. governing the exercise of care and control over the surrendered property of inmates by a superintendent;
17. prescribing and governing additional requirements with respect to the living conditions of inmates that must be met by the superintendent;
18. establishing and governing a process to allow inmates to contribute to decisions of their correctional institution;
19. establishing nutritional and other requirements that apply to food and water served to inmates;
20. governing the borrowing of books by inmates;
21. defining significant mental illness, significant developmental disability or significant mobility impairment for the purposes of subsection 57 (3);
22. providing that subsection 57 (3) or any clause within that subsection does not apply in a prescribed correctional institution;
23. governing the calculation of the number of days an inmate has been held in conditions that constitute segregation for the purposes of this Act;
24. governing the preliminary review and written report required by section 61, including prescribing the timeline for the review, the process for conducting the review and the timing and required contents of the written report;
25. governing the notification that must be provided under subsection 61 (7), including prescribing the timeline for providing notice and the required contents of the notice;
26. governing the establishment, composition and review process of multi-disciplinary review committees referred to in section 64;
27. establishing and governing the process for making a referral to an Independent Regional Chair under section 65 or 66;
28. governing the quorum and composition of Independent Review Panels;
29. governing the procedure for review hearings before an Independent Review Panel;
30. governing the provision of notice by an Independent Review Panel under section 67, including prescribing any additional information that must be included in the notice;

31. establishing and governing a process to review the cases of inmates held in conditions that constitute restrictive confinement, including,
 - i. prescribing who shall conduct the review,
 - ii. establishing and governing the conduct of the review, and
 - iii. authorizing the reviewing person or body to require the superintendent to release the inmate from those conditions;
32. governing appeals to the Minister under section 72, including prescribing the Minister's powers on appeal;
33. governing the procedure for hearings before a Disciplinary Hearings Officer;
34. prescribing and governing the conditions in which an inmate may be held as a disciplinary measure under paragraph 1 of subsection 74 (2);
35. establishing and governing the process for the review of a Disciplinary Hearings Officer's decision by another Disciplinary Hearings Officer under section 75;
36. governing the holding of inmates in conditions that constitute restrictive confinement, including,
 - i. prescribing the situations in which an inmate may be held in conditions that constitute restrictive confinement,
 - ii. providing a process to appeal or to review a decision to hold an inmate in conditions that constitute restrictive confinement, which may include providing a process to allow an Independent Review Panel to hear an appeal of or review the decision, and
 - iii. prescribing the powers of a body that hears appeals or reviews decisions under subparagraph ii;
37. establishing and governing a process to collect information respecting the use of general programs, rehabilitation programs and work programs by inmates;
38. establishing and governing programs to enhance family support and inmate contact with their family;
39. governing the use of force on inmates;
40. governing the use of instruments of restraint on inmates;
41. defining complaints of a serious nature for the purposes of section 87;
42. governing the authorization of temporary absences under section 89;
43. governing appeals under subsection 89 (4), including,
 - i. prescribing the person to whom the appeal shall be made,
 - ii. prescribing the person's powers on appeal, and
 - iii. establishing and governing the procedure for the appeal;
44. governing the records and statistics regarding the deaths of individuals under community supervision and inmates that the Minister is required to maintain;
45. governing the manner in which non-intrusive searches and strip searches shall be carried out under this Act;
46. specifying situations in which a person's health or safety is at immediate risk for the purposes of clause 100 (2) (a);
47. prescribing substances and tests for the purpose of section 103;
48. establishing and governing random selection substance testing programs;
49. prescribing programs or activities involving contact with the community for which a substance test is a requirement for participation;
50. prescribing substance abuse programs for which a substance test is a requirement for participation;
51. governing the opening, inspection and reading of letters, parcels or electronic mail sent to or from inmates, including,
 - i. prescribing the circumstances in which electronic mail may be opened and inspected,
 - ii. governing the circumstances in which letters, parcels or electronic mail may be read, and
 - iii. prescribing the circumstances in which the superintendent may forward or refuse to forward a copy of an electronic mail message to an inmate;
52. governing listening to or recording telephone conversations between inmates and other persons, including,
 - i. prescribing the circumstances in which the conversations may be listened to or recorded, and

- ii. governing the notice that must be provided to inmates and other parties to the conversation;
- 53. governing the superintendent's power to prevent inmates from communicating with other persons by mail, electronic mail, telephone or otherwise;
- 54. governing the use of technology to conduct searches of visitors;
- 55. governing searches of correctional institutions conducted under section 108, including prescribing the powers of correctional services employees conducting such a search;
- 56. prescribing procedures for the disposition of contraband found during a search;
- 57. governing inspections and investigations conducted by inspectors or investigators appointed by the Chief of Investigations under section 110, including, establishing timelines that must be met in inspections or investigations conducted by those inspectors or investigators;
- 58. governing the publication of the annual reports of the Inspector General and prescribing matters that must be included in the report;
- 59. governing the provision of information under subsection 114 (1), including prescribing,
 - i. the persons employed in the administration of this Act who are required to provide the information,
 - ii. the information that must be provided,
 - iii. the manner in which the information must be provided, which may include requiring information to be automatically provided electronically to the Inspector General, and
 - iv. the frequency with which the information must be provided;
- 60. establishing and governing a process for inspectors and investigators to notify the Inspector General or Chief of Investigations under section 121;
- 61. governing notice and reports under section 124 and reports under section 126, including,
 - i. prescribing circumstances in which the Inspector General shall not provide or publish a report,
 - ii. prescribing information that shall not be included in the report, and
 - iii. governing the publication of the report;
- 62. governing the publication of directions issued under section 125, including,
 - i. prescribing the period within which the Inspector General must publish the direction,
 - ii. prescribing circumstances in which the Inspector General shall not publish a direction,
 - iii. prescribing information that shall not be included in the published direction, and
 - iv. governing the manner of publication of the direction;
- 63. governing the granting of compassionate allowances;
- 64. providing for and establishing criteria for the granting of temporary absences or parole in respect of inmates;
- 65. governing the practices and procedures of the Board;
- 66. for the purpose of section 135, authorizing and governing the participation of victims within the meaning of the *Victims' Bill of Rights, 1995* and other victims of offences in proceedings of the Board;
- 67. respecting the duties and powers of directors, superintendents, probation officers, parole officers, correctional officers, other persons employed in the administration of this Act and volunteers;
- 68. requiring the maintenance of records and providing for their destruction;
- 69. prescribing any matter that this Act requires to be prescribed or refers to as being prescribed;
- 70. governing transitional matters that may arise due to the enactment of the *Correctional Services Transformation Act, 2018*.

Forms

- (2) The Minister may require that forms approved by the Minister be used for any purpose of this Act.

Rolling incorporation by reference

- (3) A regulation made under paragraph 19 of subsection (1) that incorporates another document by reference may provide that the reference to the document includes amendments made to the document from time to time after the regulation is made.

PART XIII TRANSITION

Calculation of days of segregation

145 In calculating the number of days that an inmate has been held in conditions that constitute segregation or restrictive confinement for the purposes of a provision of this Act, no days that were spent in those conditions before the coming into force of the provision shall be counted.

PART XIV SELF-AMENDMENTS

Self-amendments

146 (1) Subsections (2), (3), (4) and (5) only apply if Bill 175 (*Safer Ontario Act, 2017*), introduced on November 2, 2017, receives Royal Assent.

(2) This Act is amended by striking out “police force” wherever it appears in the following provisions and substituting in each case “police service”:

1. Clause 96 (3) (d).
2. Subsection 121 (2).

(3) The definition of “correctional institution” in section 2 of this Act is amended by striking out “a place of open custody, a place of secure custody or a detention facility established under section 16.1 of the *Police Services Act*” at the end and substituting “a place of open custody or a place of secure custody”.

(4) Subsection 4 (1) of this Act is amended by striking out “police services board” in the portion before clause (a) and substituting “police service board”.

(5) Section 18 of this Act is repealed and the following substituted:

Use of lock-up

18 (1) The Minister may designate in writing a correctional institution for use by a police service board as a lock-up and, where the Minister makes such a designation, the Minister shall fix a rate per day for persons in custody in the lock-up.

Payment by municipality

(2) The municipality that maintains the police service board shall pay to the Minister of Finance annually the rate per day that is fixed under subsection (1) for persons in custody in the lock-up during the year.

Designation of lock-up

(3) The Minister may designate a correctional institution in writing for use as a lock-up by,

- (a) the Ontario Provincial Police; or
- (b) an entity that employs First Nation Officers who provide a policing function under an agreement between the Minister and a First Nation.

(6) Subsection 57 (4) of this Act is repealed.

(7) Subsection 58 (5) of this Act is repealed.

(8) Subsection 59 (4) of this Act is repealed.

(9) Subsection 63 (9) of this Act is repealed.

(10) Paragraph 1 of subsection 74 (2) of this Act is repealed and the following substituted:

1. Subject to the regulations, holding an inmate in conditions that constitute restrictive confinement for a period of not more than 15 consecutive days.

(11) Clause 141 (3) (a) of this Act is amended by striking out “*Child and Family Services Act*” and substituting “*Child, Youth and Family Services Act, 2017*”.

PART XV COMMENCEMENT AND SHORT TITLE

Commencement

147 (1) Subject to subsection (2), the Act set out in this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

(2) Subsections 146 (6), (7), (8), (9) and (10) come into force on the earlier of 10 years after the day the *Correctional Services Transformation Act, 2018* receives Royal Assent and a day to be named by proclamation of the Lieutenant Governor.

Short title

148 The short title of the Act set out in this Schedule is the *Correctional Services and Reintegration Act, 2018*.

SCHEDULE 3
REPEAL, RELATED AMENDMENTS AND REVOCATION
MINISTRY OF CORRECTIONAL SERVICES ACT AND REGULATION

1 (1) The *Ministry of Correctional Services Act* is repealed.

(2) Regulation 778 of the Revised Regulations of Ontario, 1990 (General), made under the Act, is revoked.

ANTI-RACISM ACT, 2017

2 Clause (k) of the definition of “public sector organization” in subsection 1 (1) of the *Anti-Racism Act, 2017* is amended by striking out “*Ministry of Correctional Services Act*” and substituting “*Correctional Services and Reintegration Act, 2018*”.

CHILD AND FAMILY SERVICES ACT

3 If, on the day this section comes into force, clause 94 (2) (c) of the *Child and Family Services Act* is in force, clause 94 (2) (c) of the *Child and Family Services Act* is repealed and the following substituted:

- (c) sections 92 (remission) and 93 (determinations of remission) and Part X (Ontario Parole Board) of the *Correctional Services and Reintegration Act, 2018* apply with necessary modifications.

CHILD, YOUTH AND FAMILY SERVICES ACT, 2017

4 Clause 149 (2) (c) of the *Child, Youth and Family Services Act, 2017* is repealed and the following substituted:

- (c) sections 92 (remission) and 93 (determinations of remission) and Part X (Ontario Parole Board) of the *Correctional Services and Reintegration Act, 2018* apply with necessary modifications.

CHRISTOPHER’S LAW (SEX OFFENDER REGISTRY), 2000

5 (1) The definition of “correctional institution” and “inmate” in subsection 4.1 (5) of *Christopher’s Law (Sex Offender Registry), 2000* is repealed.

(2) Subsection 4.1 (5) of the Act is amended by adding the following definitions:

“correctional institution” has the same meaning as in the *Correctional Services and Reintegration Act, 2018*; (“établissement correctionnel”)

“inmate” has the same meaning as in the *Correctional Services and Reintegration Act, 2018*; (“détenu”)

CORONERS ACT

6 (1) Subsection 10 (4.3) of the *Coroners Act* is repealed and the following substituted:

Death relating to correctional institution

(4.3) Where a person dies while,

- (a) committed to and on the premises of a correctional institution;
- (b) committed to a correctional institution and off the premises of the institution but in the actual custody of a person employed at the institution; or
- (c) at a hospital after having been transferred to the hospital by the correctional institution,

the officer in charge of the correctional institution, or, in the case of clause (c), the person in charge of the hospital, shall immediately give notice of the death to a coroner and the coroner shall investigate the circumstances of the death and shall,

- (d) hold an inquest upon the body if as a result of the investigation the coroner is of the opinion that the person may not have died of natural causes; or
- (e) review the death in accordance with any process that is set out in a written direction from the Chief Coroner if as a result of the investigation the coroner is of the opinion that the person died of natural causes.

(2) Subsection 10 (4.5) of the Act is repealed.

(3) If, on the day this subsection comes into force, Bill 175 (*Safer Ontario Act, 2017*), introduced on November 2, 2017, has not received Royal Assent, or subsection 4 (3) of Schedule 6 to that Bill has not come into force, subsection 10 (4.6) of the Act is amended by striking out “subsections (4), (4.1), (4.2), (4.3) and (4.5)” and substituting “subsections (4), (4.1), (4.2) and (4.3)”.

(4) If Bill 175 receives Royal Assent, on the later of the day subsection 4 (3) of Schedule 6 to Bill 175 comes into force and the day this subsection comes into force, clause 10 (4.6) (b) of the Act, as enacted by subsection 4 (3) of Schedule 6

to Bill 175, is amended by striking out “subsections (4), (4.1), (4.2), (4.3) and (4.5)” at the beginning and substituting “subsections (4), (4.1), (4.2) and (4.3)”.

(5) If Bill 175 receives Royal Assent, on the later of the day subsection 4 (4) of Schedule 6 to Bill 175 comes into force and the day this subsection comes into force, clause 10 (4.6.1) (b) of the Act, as enacted by subsection 4 (4) of Schedule 6 to Bill 175, is amended by striking out “subsections (4), (4.1), (4.2), (4.3) and (4.5)” at the beginning and substituting “subsections (4), (4.1), (4.2) and (4.3)”.

(6) References in this section to provisions of Bill 175 are references to those provisions as they were numbered in the first reading version of Bill 175.

CROWN EMPLOYEES COLLECTIVE BARGAINING ACT, 1993

7 (1) The definition of “client” in subsection 7 (5) of the *Crown Employees Collective Bargaining Act, 1993* is amended by striking out “section 15 of the *Ministry of Correctional Services Act*” at the end and substituting “section 19 of the *Correctional Services and Reintegration Act, 2018*”.

(2) Clause (e) of the definition of “facility” in subsection 7 (5) of the Act is amended by striking out “*Ministry of Correctional Services Act*” at the end and substituting “*Correctional Services and Reintegration Act, 2018*”.

EMPLOYMENT STANDARDS ACT, 2000

8 Paragraph 4 of subsection 3 (5) of the *Employment Standards Act, 2000* is amended by striking out “*Ministry of Correctional Services Act*” and substituting “*Correctional Services and Reintegration Act, 2018*”.

FAMILY RESPONSIBILITY AND SUPPORT ARREARS ENFORCEMENT ACT, 1996

9 Subsection 41 (18) of the *Family Responsibility and Support Arrears Enforcement Act, 1996* is amended by striking out “Section 28 of the *Ministry of Correctional Services Act*” at the beginning and substituting “For greater certainty, section 92 of the *Correctional Services and Reintegration Act, 2018*”.

HEALTH PROTECTION AND PROMOTION ACT

10 (1) Clause (k) of the definition of “institution” in subsection 21 (1) of the *Health Protection and Promotion Act* is amended by striking out “*Ministry of Correctional Services Act*” at the end and substituting “*Correctional Services and Reintegration Act, 2018*”.

(2) The definition of “correctional institution” in subsection 37 (3) of the Act is amended by striking out “*Ministry of Correctional Services Act*” at the end and substituting “*Correctional Services and Reintegration Act, 2018*”.

PERSONAL HEALTH INFORMATION PROTECTION ACT, 2004

11 Clause 40 (3) (b) of the *Personal Health Information Protection Act, 2004* is amended by striking out “the *Mental Health Act*, the *Ministry of Correctional Services Act*” and substituting “the *Correctional Services and Reintegration Act, 2018*, the *Mental Health Act*”.

RESIDENTIAL TENANCIES ACT, 2006

12 Clause 5 (e) of the *Residential Tenancies Act, 2006* is amended by striking out “*Ministry of Correctional Services Act*” and substituting “*Correctional Services and Reintegration Act, 2018*”.

SAFER ONTARIO ACT, 2017

13 (1) This section only applies if Bill 175 (*Safer Ontario Act, 2017*), introduced on November 2, 2017, receives Royal Assent.

(2) The reference in subsection (3) to section 34 of Schedule 5 to Bill 175 is a reference to that provision as it was numbered in the first reading version of the Bill.

(3) If, on the day subsection 1 (1) of this Schedule comes into force, section 34 of Schedule 5 to Bill 175 has not come into force, section 34 of Schedule 5 to Bill 175 is repealed.

SUBSTITUTE DECISIONS ACT, 1992

14 The Schedule to the *Substitute Decisions Act, 1992* is amended by adding “*Correctional Services and Reintegration Act, 2018*” and by striking out “*Ministry of Correctional Services Act*”.

SUPPORTING CHILDREN, YOUTH AND FAMILIES ACT, 2017

15 If, on the day this section comes into force, section 22 of Schedule 4 to the *Supporting Children, Youth and Families Act, 2017*, which amends the *Ministry of Correctional Services Act*, has not come into force, section 22 of Schedule 4 to the *Supporting Children, Youth and Families Act, 2017* is repealed.

WORKPLACE SAFETY AND INSURANCE ACT, 1997

16 The definition of “correctional institution” in subsection 14 (1) of the *Workplace Safety and Insurance Act, 1997* is amended by striking out “section 1 of the *Ministry of Correctional Services Act*” and substituting “section 2 of the *Correctional Services and Reintegration Act, 2018*”.

COMMENCEMENT

17 This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.