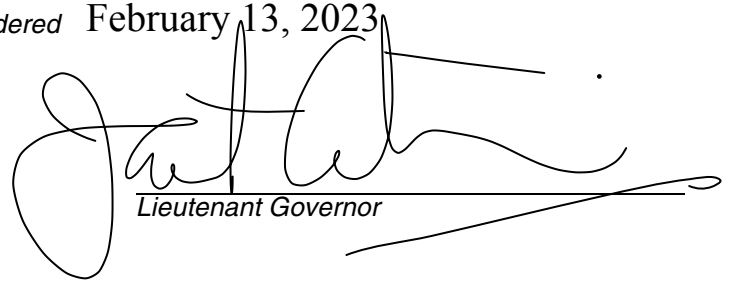


PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 79

, Approved and Ordered February 13, 2023



Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that the Correction Act Regulation, B.C. Reg. 58/2005, is amended as set out in the attached Schedule.



Minister of Public Safety and Solicitor General and
Deputy Premier



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Correction Act, S.B.C. 2004, c. 46, s. 33 (2)*

Other: *OIC 161/2005*

R10628511

SCHEDULE

1 *Section 1 of the Correction Act Regulation, B.C. Reg. 58/2005, is amended by repealing the definition of “person in charge” and substituting the following:*

“person in charge” means the person appointed as the warden of a correctional centre; .

2 *Sections 2 (2) (a), 8 (3), 11 (4), 17 (4), 20, 22 (3), 23, 24 (2), 30 (1), 33 (1), 38 (1) and (3) and 39 (1), (2) (a) and (3) are amended by adding “, or a staff member designated by the person in charge,” after “person in charge”.*

3 *Section 5 (1) is amended by striking out “must give an inmate” and substituting “must ensure that an inmate is given”.*

4 *Section 7 is amended*

(a) by striking out “the person in charge must provide” and substituting “the person in charge, or a staff member designated by the person in charge, must provide”, and

(b) by striking out “the person in charge considers” and substituting “the person in charge, or the staff member designated by the person in charge, considers”.

5 *The following section is added:*

Deputy warden

7.1 A person appointed as a deputy warden of a correctional centre may exercise the powers of the person in charge whether or not the person in charge is present at the correctional centre.

6 *Section 9 (5) is amended by striking out “A person in charge who authorizes the use of a physical restraint device under subsection (4)” and substituting “If the person in charge authorizes the use of a physical restraint device under subsection (4), the person in charge”.*

7 *Section 10 (1) is amended in the definition of “screening search” by adding “or a staff member designated by the person in charge” after “the person in charge”.*

8 *Section 12 is amended*

(a) in subsection (2) (c) by adding “or a deputy or assistant deputy of the person in charge” after “person in charge”, and

(b) in subsection (3) by striking out “person in charge” and substituting “person referred to in subsection (2) (c)” and by striking out “authorization referred to in subsection (2) (c)” and substituting “authorization referred to in that paragraph”.

9 *Section 17 is amended*

(a) in subsection (1) by adding “or a staff member designated by the person in charge” after “The person in charge”,

(b) in subsections (1) (a) and (c) by adding “or the staff member” after “the person in charge”, and

(c) by repealing subsection (2) and substituting the following:

(2) Subject to section 18 (1), an inmate who is confined separately under subsection (1) of this section must be released from separate confinement as follows:

(a) within 72 hours of the start of the confinement, if the confinement was ordered by the person in charge or by a deputy or assistant deputy of the person in charge;

(b) within 7 hours of the start of the confinement in any other case.

10 Section 18 is amended

(a) in subsection (1) by striking out “the person in charge may decide” and substituting “the person in charge, or a staff member designated by the person in charge, may decide” and by adding “or the staff member” after “provided that the person in charge”,

(b) in subsections (2) and (4) by adding “or the staff member” after “the person in charge”,

(c) in subsection (3) by adding “, or a staff member designated by the person in charge,” after “person in charge”,

(d) in subsection (4) by striking out “may” and substituting “must”, and

(e) by repealing subsection (5) and substituting the following:

(5) When the person in charge or the staff member confirms, varies or rescinds a decision under subsection (4), the inmate must be notified and must be given written reasons.

11 Section 19 is amended

(a) in subsection (1) by adding “, or a staff member designated by the person in charge,” after “If the person in charge”, and by adding “, or the staff member,” before “and the inmate may agree”,

(b) in subsection (2) by striking out “must confirm the agreement under subsection (1)” and substituting “or the staff member referred to in subsection (1) must confirm the agreement under that subsection”, and

(c) in subsection (3) by adding “, or the staff member referred to in subsection (1),” after “If the person in charge”, and by striking out “with subsection (1)” and substituting “with that subsection”.

12 Section 24 is amended

(a) in subsection (1) by striking out “The person in charge may order” and substituting “The person in charge, or a staff member designated by the person in charge, may

order”, *and by striking out* “if the person in charge” *and substituting* “if the person in charge or the staff member”, *and*

(b) *in subsection (3) by striking out* “the person in charge determines” *and substituting* “the person who carried out the review determines” *and by striking out* “the person in charge must release the inmate” *and substituting* “the inmate must be released”.

13 *Sections 26 (2) (c) and 30 (2) are amended by striking out* “in the opinion of the person in charge, acting reasonably” *and substituting* “in the reasonable opinion of the person in charge, or of a staff member designated by the person in charge”.

14 *Section 30 is amended*

(a) *in subsection (2) by striking out* “the person in charge may” *and substituting* “the person in charge or the staff member may”,

(b) *by repealing subsection (2) (a), and*

(c) *by adding the following subsection:*

(2.1) Any staff member may order the removal of a visitor from the correctional centre or from part of the correctional centre.

15 *Section 31 is amended*

(a) *in subsection (2) by striking out* “A person” *and substituting* “The person”, *and*

(b) *in subsection (4) by striking out* “The person in charge may authorize” *and substituting* “The person in charge, or a staff member designated by the person in charge, may authorize”, *and by striking out* “the person in charge believes” *and substituting* “the person in charge or the staff member believes”.

16 *Section 38 is amended in subsection (2) by striking out* “the person in charge” *and substituting* “a person who establishes programs under subsection (1)”.

17 *Section 39 is amended in subsections (2) (b) and (4) by adding* “or the staff member” *after* “the person in charge” *wherever it appears*.

18 *The following Part is added:*

PART 4 – POWERS AND DUTIES OF PROBATION OFFICERS

Probation officer powers and duties

40 (1) In this section, “**supervision condition**” means a condition that requires a person to report to or be supervised by a person who has the status of peace officer under any enactment.

(2) A probation officer is responsible for the supervision of the following persons:

(a) a person who is subject to a release order, as defined in section 2 of the *Criminal Code*, if the order contains a supervision condition;

- (b) a person who has given an undertaking, as defined in section 2 of the *Criminal Code*, to a peace officer, if the undertaking contains a supervision condition;
 - (c) a person who has entered into a recognizance, as defined in section 2 of the *Criminal Code*, if the recognizance contains a supervision condition;
 - (d) a person who is subject to a peace bond or similar order made by a court of criminal jurisdiction or a superior court of criminal jurisdiction, as those expressions are defined in section 2 of the *Criminal Code*, if the peace bond or order contains a supervision condition;
 - (e) a person who is subject to alternative measures, as defined in section 716 of the *Criminal Code*, if the alternative measures, as they relate to the person, require the involvement of a probation officer.
- (3) A probation officer may report to the court or to a prosecutor if a person who is subject to a supervision condition fails to comply with a term or condition to which the person is subject.
- (4) A probation officer may report to a prosecutor if a person who is subject to alternative measures fails to comply with one or more terms of the alternative measures.