

§ 102. Commissioner of Corrections; appointment; powers; responsibilities

(a) The Department is under the direction of the Commissioner, who shall be appointed by the Secretary of Human Services with the approval of the Governor and shall serve at the pleasure of the Secretary. The Commissioner's salary shall be fixed by the Governor within the appropriation therefor. [*Added in 1972*]

(b) The Commissioner is charged with the following powers:

- (1) To supervise the administration of the Department. [*Added in 1972*]
- (2) To exercise supervisory power over and to establish and administer programs and policies for the operation of the correctional facilities of the Department, and for the correctional treatment of persons committed to the custody of the Commissioner. [*Added in 1972*]
- (3) To appoint and remove a Deputy Commissioner as provided in 3 V.S.A. § 3053 and delegate appropriate powers and duties to the Deputy. [*Added in 1972*]
- (4) To appoint and remove subordinate officers of the Department in accordance with law, and, notwithstanding the provisions of any other statute or law, to delegate any authority conferred on him or her by statute to any designee named by him or her in writing. [*Added in 1972*]
- (5) To order the assignment and transfer of persons committed to the custody of the Commissioner to correctional facilities, including out-of-state facilities. [*Added in 1972; amended in 2008 to add "including out-of-state facilities"*]
- (6) To establish, consolidate, or abolish divisions within the Department, and to establish, consolidate or abolish bureaus, special units, and other subdivisions in any division. [*Added in 1972*]
- (7) To accept and receive, on behalf of the Department or any facility thereof, any bequest or gift of personal or real property made to the Department or any facility thereof, and to hold and use the property for the purposes specified in such bequest, devise, or gift. [*Added in 1972*]
- (8) To cooperate with and accept funds from the federal government or any agency thereof for the purpose of exercising the powers and responsibilities stated in this section. [*Added in 1972*]
- (9) To conduct any necessary inquiry or investigation into matters related to correctional programs and responsibilities of the Department. [*Added in 1972*]
- (10) To utilize the resources of the Department to apprehend any person escaping from a correctional facility. In performing such function, the Commissioner and any authorized employee of the Department shall have all the power and authority of a law enforcement officer. [*Added in 1972; amended in 1973 to add "and any authorized employee of the Department"*]

(11) To contract for services or purchase, lease, or rent personal property to carry out the functions of the Department, and to lease or rent month to month residential housing for community-based probation and parole programs. All other real property required by corrections programs shall be purchased, leased, or rented by the Commissioner of Buildings and General Services. [*Added in 1972; amended generally in 1996*]

(12) To enter into contracts with private collection agencies for the collection of supervisory fees imposed by this title and fines, penalties, and restitution imposed under Title 13. The Commissioner may agree to pay collection agencies a fixed rate for services rendered or a percentage of the amount collected which shall be added to any amounts and may be recovered as an administrative cost of collection. Any such fixed rate or percentage may be deducted directly by the collection agency on a pro rata basis from any portion of the money so collected. [*Added in 1998*]

(13) To establish community reparative boards pursuant to chapter 12 of this title. [*Added in 2000*]

(14) To delegate to locally established boards or justice centers, the authority to assist, through use of community resources, in developing and implementing restorative justice programs for offenders, victims of crime and members of the community. [*Added in 2000*]

(15) To rely upon the expertise of Department employees to provide core and substantive supervision of offenders and risk assessment determinations for the delivery of correctional services in both residential and nonresidential settings. [*Added in 2000*]

(16) With the approval of the Secretary of Human Services, to accept federal grants made available through federal crime bill legislation, provided that the Commissioner shall report the receipt of a grant under this subdivision to the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions. [*Added 2009; amended in 2012 to change the committees to which report is due*]

(c) The Commissioner is charged with the following responsibilities:

(1) To make rules and regulations for the governing and treatment of persons committed to the custody of the Commissioner, the administration of correctional facilities and the regulation of employees under the jurisdiction of the Commissioner. [*Added in 1972*]

(2) To establish and operate correctional diagnostic centers. [*Added in 1972*]

(3) To establish and maintain at each correctional facility a program of treatment designed as far as practicable to prepare and assist each inmate to assume his or her responsibilities and to participate as a citizen of the State and community. [*Added in 1972*]

(4) To establish facilities and develop programs to provide inmates at correctional facilities with such educational and vocational training deemed to be appropriate to the treatment of the inmates. [*Added in 1972*]

(5) To prescribe rules and regulations for the maintenance of discipline and control at each correctional facility. [***Added in 1972***]

(6) To maintain security, safety, and order at the correctional facilities and act to subdue any disorder, riot, or insurrection which may occur at any facility. The Commissioner, for such purpose, may enlist the assistance of any citizen of the State, and shall have the obligation to render reasonable compensation to any person providing such assistance. [***Added in 1972***]

(7) To establish, maintain, and administer such regional or other community correctional facilities as are necessary for the confinement and treatment of inmates either before or after the conviction of any offense, and to use the jails and lockups as provided in this title. Such facilities shall be used for the confinement of persons awaiting court disposition and the confinement of inmates serving short terms and such other inmates as may be assigned to such facilities for furloughs, work release, and other prerelease treatment. [***Added in 1972; amended in 1982 to add “and to use the jails and lockups as provided in this title”***]

(8) To establish in any appropriate correctional facility a system of classification of inmates, to establish a program for each inmate upon his or her commitment to the facility and to review the program of each inmate at regular intervals and to effect necessary and desirable changes in the inmate's program of treatment. [***Added in 1972***]

(9) To develop and maintain research programs and collect statistical information concerning persons committed to the custody of the Commissioner, sentencing practices, and correctional treatment. [***Added in 1972***]

(10) To inspect at regular intervals all correctional facilities. [***Added in 1972***]

(11) To close any correctional facility which he or she deems inadequate. [***Added in 1972***]

(12) To establish training programs for new employees, and to establish such in-service training programs as he or she deems advisable. [***Added in 1972***]

(13) [Repealed.] [***Repealed in 2009***]¹

(14) To collect a fee up to the amount of \$30.00 per month as a supervisory fee from each person under the supervision of the Department who is on probation, furlough, pre-approved furlough, supervised community sentence or parole. Supervisory fees collected by the Department shall be credited to a special supervision and victim restitution fund, established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5, for this purpose. The Commissioner shall adopt rules governing the collection of supervisory fees, including the maximum period of time offenders are subject to supervision fees and the offender's ability to pay such fees. [***original provision added in 1972 and repealed in 1978; new provision added in 1996; substituted “adopt rules” for “make rules and regulations” and made other changes in 1998; amended generally in 2002***]

¹ When added in 1972, the text of (c)(13) read, “To report biennially to the general assembly, submitting a summary of the operations of the department during the preceding two years.”

(15) To lease farms or lands, with the approval of the Department of Buildings and General Services in accordance with 29 V.S.A. § 160, and to administer and manage such farms. **[Added in 1972; technical amendment in 1984]**

(16) To exercise all powers and perform all duties established in the Office of Commissioner by the Agency of Human Services and stated in 3 V.S.A. §§ 3052 and 3053. **[Added in 1972]**

(17) To exercise all powers and perform all duties necessary and proper in carrying out his or her responsibilities and in fulfilling the purposes and objectives of this title. **[Added in 1972]**

(18) To establish within the Department programs for inmates to participate in work, industry, community service, public works activities, and employment at correctional facilities. **[Added in 1993]**

(19) If a treaty in effect between the United States and a foreign country provides for the transfer or exchange of a convicted and sentenced offender to the country of which the offender is a citizen or national, the Commissioner may, with the written consent of such offender obtained only after the opportunity to consult with counsel, and in accordance with the terms of the treaty, consent to the transfer or exchange of any such offender and take any other action necessary to initiate the participation of the State in the treaty. **[Added in 1996; substituted "a foreign country" for "Canada" in 2006]**

(20) To utilize the Department of Buildings and General Services' competitive bidding practices in order to determine the most effective and cost-effective alternatives for housing inmates in any out-of-state correctional facility. **[Added in 2002]**

(21) The Commissioner is authorized to contract for payment processing services for receiving deposits to inmate financial accounts. The Department, directly or through a processing agent, may assess a fee for deposits to each account so long as the fee does not exceed the costs incurred. **[Added in 2007]**

(22) To notify local and State law enforcement officers of the following information regarding a person released from incarceration on probation, parole, or furlough and residing in the community: name; address; conditions imposed by the court, parole board, or Commissioner; and the reason for placing the person in that community. **[Added in 2010]**

(Added 1971, No. 199 (Adj. Sess.), § 20; amended 1973, No. 48, § 1; 1977, No. 233 (Adj. Sess.), § 5a, eff. April 17, 1978; 1981, No. 185 (Adj. Sess.), § 2, eff. April 22, 1982; 1983, No. 147 (Adj. Sess.), § 4(a), eff. April 11, 1984; 1993, No. 54, § 1; 1995, No. 178 (Adj. Sess.), § 116; 1995, No. 185 (Adj. Sess.), § 47, eff. May 22, 1996; 1995, No. 186 (Adj. Sess.), § 34; 1997, No. 155 (Adj. Sess.), §§ 15, 16; 1999, No. 148 (Adj. Sess.), § 65, eff. May 24, 2000; 2001, No. 65, § 10, eff. June 16, 2001; 2001, No. 142 (Adj. Sess.), § 170; 2001, No. 149 (Adj. Sess.), § 43, eff. June 27, 2002; 2005, No. 177 (Adj. Sess.), § 3; 2007, No. 76, § 33d; 2007, No. 179 (Adj. Sess.), § 2; 2009, No. 33, § 48; 2009, No. 43, § 34; 2009, No. 157 (Adj. Sess.), § 17a; 2011, No. 139 (Adj. Sess.), § 21, eff. May 14, 2012.)