

Chapter 5

AN ACT TO AMEND THE CORRECTIONS ACT

(Assented to March 17, 2015)

The Commissioner of Nunavut, by and with the advice and consent of the Legislative Assembly, enacts as follows:

1. **The *Corrections Act* is amended by this Act.**
2. **Section 24 is repealed and the following substituted:**

Definitions

24. (1) In this section,

“authorized person” means an employee authorized in writing by the Director to use physical restraint devices; (*personne autorisée*)

“physical restraint device” means a physical device intended to temporarily restrict or limit free movement, reviewed and approved by the Director. (*dispositif de contention*)

Least restrictive measures

(2) Physical restraint devices shall be employed using the least restrictive measures required to preserve life and prevent serious bodily injury and their use must maintain the dignity, safety and security of the inmate.

Authorized uses of device

(3) An authorized person may use a physical restraint device if circumstances require the use of the device to

- (a) prevent injury or death to a person;
- (b) prevent property damage;
- (c) prevent an inmate from escaping; or
- (d) to maintain custody and control of an inmate.

Not used except when necessary

(4) Physical restraint devices shall not be used to ensure the safety of inmates who are self-injurious or suicidal except when necessary.

Authorization for use over four hours

(5) A physical restraint device shall not be used to restrain an inmate for more than four continuous hours unless

- (a) the use is authorized by the Warden; or
- (b) the inmate is on an escorted absence from the correctional centre.

Authorization for use up to 12 hours

(6) The Warden may authorize the use of a physical restraint device for up to 12 continuous hours where

- (a) the Warden believes on reasonable grounds that the use of the physical restraint device is necessary for the safety of the inmate or for the safety of another person; and
- (b) other means of control of the inmate have been exhausted or are not reasonable in the circumstances.

Authorization for use up to 16 hours

(7) The Warden may authorize the use of a physical restraint device for up to 16 continuous hours with approval of the Director where

- (a) the Warden and Director believe on reasonable grounds that the use of the physical restraint device is necessary for the safety of the inmate or for the safety of another person; and
- (b) other means of control of the inmate have been exhausted or are not reasonable in the circumstances.

Revocation of approval

(8) The Director may at any time revoke an approval given under subsection (7).

Periodic review

(9) A Warden who authorizes the use of a physical restraint device under subsections (6) or (7) shall review the condition of the inmate with the Director after eight hours while the physical restraint device is being used.

Maximum length of restraint

(10) No inmate shall be kept under physical restraint for longer than is necessary or for longer than 16 hours.

Medical examination where restraint longer than four hours

(11) Where an inmate has been kept under physical restraint for a period of four hours or longer, the Warden shall ensure that a medical examination of the inmate is conducted as soon as is possible in the circumstances.

3. Section 25 is repealed.

4. Subsection 26(4) is repealed and the following substituted:

Communication in segregated confinement

(4) An inmate in segregated confinement may send and receive communications and receive visitation except where

- (a) the Warden has reasonable grounds to believe that the inmate is
 - (i) involved in illegal activities;
 - (ii) harassing or causing harm to others; or

- (iii) participating in an activity that may jeopardize the safety, security, or operation of the correctional centre;
- (b) a court order restricts or prohibits communication or contact between the inmate and the other person; or
- (c) the other person has indicated to the Warden he or she does not wish to communicate with the inmate.

Inmate informed where communication restricted

(4.1) The Warden shall inform an inmate in writing as soon as practicable where the inmate's communication has been restricted and provide reasons for the restriction.

5. Section 27 is repealed and the following substituted:

Visits

27. (1) The following persons may visit an inmate for a private interview at any reasonable time:

- (a) a person arranging the payment of a fine for the inmate;
- (b) the lawyer of an inmate;
- (c) a member of the Legislative Assembly or the Parliament of Canada;
- (d) with the consent of the inmate,
 - (i) a peace officer, in the course of his or her duties;
 - (ii) a member of the clergy;
 - (iii) a recognized community Elder;
- (e) a representative from a non-governmental organization or a community agency as defined in the regulations.

Same rights and conditions of visitation

(2) An inmate in segregated confinement has the same rights and conditions of visitation as other inmates.

6. Section 53 is amended by adding the following after paragraph (b):

- (b.1) defining non-governmental organizations and community agencies referred to in paragraph 27(1)(e);