

TITLE 1: GOVERNMENT
DIVISION 2: EXECUTIVE BRANCH

§ 2851. Department of Corrections.

There is established a Department of Corrections within the Executive Branch of the Commonwealth Government to be headed by the Commissioner of Corrections.

As used in this Chapter, the term “department” shall mean the “Department of Corrections” unless the context in which the term is used provides otherwise; the term “Commissioner” shall mean the Commissioner of Corrections, unless the context provides otherwise.

Source: PL 14-25, § 4 (2801); amended by PL 15-51, § 2.

Commission Comment: Section 4 of PL 14-25 designated a chapter and sections that were already assigned, thus pursuant to 1 CMC § 3806(a), it was necessary for the Commission to renumber the chapter and sections listed therein. PL 14-25 was enacted on August 20, 2004, and contained findings, purpose, transition, severability, and savings clause provisions. Correction and detention functions were transferred from the Department of Public Safety, codified in 1 CMC § 2501 et seq., to the Department of Corrections, a newly created Executive Branch department, codified in 1 CMC § 2851 et seq. The findings, purpose, and transition provisions of PL 14-25 stated:

Section 1. Findings. The Legislature finds that a new law creating a Department of Corrections is necessary to promote a more efficient administration within the Commonwealth prison and detention system for adults. The necessity for such legislation arises out of the Consent Decree affecting the Commonwealth prison facilities issued by the United States District Court for the Northern Mariana Islands on February 25, 1999. The Consent Decree required, among other matters, that were practicable, a plan be developed to address operating the detention and prison facilities as a system, to correct deficiencies, and to address future population growth. Subsequently, a two-part plan was developed by the Commissioner of the Department of Public Safety, the Secretary of the Department of Labor and Immigration, and the Secretary of the Department of Community and Cultural Affairs providing for a short-term and a long-term plan for operating the Commonwealth Prison complex, the Saipan Detention Facility, the Kagman Youth Facility, the Tinian Detention Facility and the Rota Detention Facility. One part of the interdepartmental plan recommends that the administration of the detention and prison facilities for adults, presently administered by various departments, be transferred to a new Department of Corrections.

Section 2. Purpose. The purpose of this Act is [to] allocate and transfer the responsibility for correctional and detention functions from the Department of Public Safety and the Office of the Attorney General’s Division Immigration, to the Department of Corrections, a new Executive department. This Act also provides for funding and the orderly transfer of records, personnel, and property used in the administration of the correctional and detention facilities to the new department.

. . .

Section 5. Transition.

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(a) *Definitions.* The following definitions shall apply as used in this section:

(1) “agency” for purposes of this section, shall mean any office, program, or division of the Executive Branch whose duties and functions are transferred to another entity with the Executive Branch under this Act.

(2) “gaining agency” for purposes of this section shall mean any office, program, division, department or other entity of the Executive Branch to which an agency or any of its functions are transferred under this Act.

(b) *Transfer of Records, Property and Personnel.* All records and property, including office equipment and supplies in an agency as defined in subsection (a), all records and property used primarily in the administration of any function transferred under this Act, and all the personnel used in the administration of such agencies and functions are hereby transferred to the gaining agency for use in the administration of the agencies and functions transferred by this Act.

(c) *Transfer of funds.* As determined by the Special Assistant for Management and Budget and the Secretary of Finance with the approval of the Governor, so much of the unexpended balances of the appropriated funds for the agency, allocations, allotments, or other funds available for the use of the agency in the exercise of any function transferred by this Act, or for the use of the head of any department or other agency in the exercise of any function so transferred shall be transferred to the gaining agency for use in connection with the exercise of the function so transferred. In the transfer of such funds, an amount may be included for the liquidation of obligations incurred prior to the transfer. The Governor may reprogram any portion of such balance not so transferred.

PL 15-51 took effect on March 21, 2007 and contained the following findings and purpose in addition to severability and savings provisions:

Section 1. Findings and Purpose. The legislature finds that Public Law 14-25 establishes the Department of Corrections, with the Secretary of Corrections at its head. It is the sense of the legislature that the proper title of the head of the Department of Corrections should be commissioner rather than secretary to be consistent with such references contained in Public Law 12-82.