

1 HOUSE BILL NO. 119

2 INTRODUCED BY S. VICK, D. HAINES, J. TESTER, L. NELSON, M. TAYLOR

3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE AUTHORITY OF THE BOARD OF PARDONS
6 AND PAROLE TO HAVE INITIAL APPEARANCES AND HEARINGS BEFORE THE BOARD'S DESIGNEE;
7 AMENDING ~~SECTION~~ SECTIONS 46-23-104 AND 46-23-202, MCA; AND PROVIDING AN IMMEDIATE
8 EFFECTIVE DATE."

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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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12 **SECTION 1.** SECTION 46-23-104, MCA, IS AMENDED TO READ:

13 **"46-23-104. Board of pardons and parole.** (1) The board of pardons and parole is responsible for
14 executive clemency and parole as provided in this chapter.

15 (2) The board shall meet monthly, and at other times that the board considers necessary, at the
16 state prison.

17 (3) The principal office of the board is in Deer Lodge.

18 (4) The board may designate one of its members, one of its staff members, or any other adult
19 correctional releasing authority to conduct interviews relative to:

20 (a) parole eligibility;

21 (b) plans for release on parole; or

22 (c) revocation hearings.

23 (5) If the offense was committed prior to March 20, 1989, the board may not designate ~~one of~~
24 ~~its members,~~ one of its staff members, or any other adult correctional releasing authority to preside over
25 an initial appearance or hearing under 46-23-202, and the initial appearance and hearing must be before
26 a majority AT LEAST ONE MEMBER of the board."

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28 **Section 2.** Section 46-23-202, MCA, is amended to read:

29 **"46-23-202. Investigation of prisoner by board or board's designee.** (1) Within the 2 months prior
30 to a prisoner's official parole eligibility date or as soon ~~thereafter~~ after that date as possible, the prisoner

1 shall make an initial appearance before the board or the board's designee as provided for in 46-23-104(4),
 2 EXCEPT THAT IF THE OFFENSE WAS COMMITTED PRIOR TO MARCH 20, 1989, THE INITIAL APPEARANCE MUST BE BEFORE
 3 A MAJORITY OF THE BOARD'S MEMBERS AT LEAST ONE MEMBER OF THE BOARD. The board shall consider all pertinent
 4 information regarding the prisoner, including:

- 5 (a) the circumstances of the offense;
- 6 (b) the prisoner's previous social history and criminal record;
- 7 (c) the prisoner's conduct, employment, and attitude in prison; and
- 8 (d) the reports of any physical and mental examinations that have been made.

9 (2) Before ~~ordering the parole of a prisoner~~ may be paroled, the board or its designee shall:

10 (a) conduct a hearing and interview the prisoner, EXCEPT THAT IF THE OFFENSE WAS COMMITTED PRIOR
 11 TO MARCH 20, 1989, THE HEARING MUST BE BEFORE A MAJORITY OF THE BOARD'S MEMBERS AT LEAST ONE MEMBER
 12 OF THE BOARD. At the time of the hearing, the board or its designee must receive relevant statements from
 13 interested persons and any person may be represented by counsel, ~~provided that the~~ The board has the
 14 power to regulate procedures at all hearings.

15 (b) permit a victim to present a statement concerning the effects of the crime on the victim, the
 16 circumstances surrounding the crime, the manner in which the crime was perpetrated, and the victim's
 17 opinion regarding whether the prisoner should be paroled. In the board's discretion, the victim's statement
 18 may be kept confidential. The board shall consider the victim's statement, along with the information
 19 provided under subsection (1), in determining whether to grant parole."

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21 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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