

HOUSE BILL NO. 128

INTRODUCED BY J. SHOCKLEY

BY REQUEST OF THE LAW, JUSTICE, AND INDIAN AFFAIRS INTERIM COMMITTEE

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A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A COMMISSION ON CRIMINAL STATUTES REVISION; PROVIDING FOR APPOINTMENTS AND TERMS; PROVIDING COMMISSION DUTIES; DIRECTING THE COMMISSION TO MAKE REGULAR REPORTS AND RECOMMENDATIONS TO AN INTERIM COMMITTEE OF THE LEGISLATURE; PROVIDING AN APPROPRIATION; AND PROVIDING EFFECTIVE DATES."

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

NEW SECTION. **Section 1. Commission on criminal statutes revision.** (1) There is a commission on criminal statutes revision. The commission is allocated to the department of justice for administrative purposes only as provided in 2-15-121.

- (2) The commission consists of:
 - (a) two members of the house of representatives, selected by the speaker of the house of representatives, no more than one of whom may be from the same political party;
 - (b) two members of the senate, selected by the president of the senate, no more than one of whom may be from the same political party;
 - (c) two district court judges selected by the chief justice of the Montana supreme court;
 - (d) the director of the department of corrections or the director's designee;
 - (e) an employee of the department of justice appointed by the attorney general; and
 - (f) the following persons appointed by the governor:
 - (i) a county attorney;
 - (ii) a criminal defense attorney;
 - (iii) a probation and parole officer;
 - (iv) a chief of police or county sheriff or representative;
 - (v) a member of the board of pardons and parole;
 - (vi) a representative from the university of Montana law school; and

1 (vii) two members of the public, one of whom must be a victim of a crime for which a sentence
2 of imprisonment for more than 1 year or for which a sentence of death was imposed.

3 (3) (a) Initial appointments must be made by July 1, 2001.

4 (b) The director of the department of corrections or the director's designee shall serve a term
5 concurrent with the gubernatorial term and until a successor is appointed.

6 (c) Appointed members shall serve 2-year staggered terms until their successors are appointed,
7 except that the initial appointments must be made as follows:

8 (i) one senate member to a term that expires December 31, 2003, and one senate member to a
9 term that expires December 31, 2004; and

10 (ii) one district court judge to a term that expires December 31, 2003, and one district court judge
11 to a term that expires December 31, 2004.

12 (d) The terms of commission members run with the position, and if a vacancy occurs, the
13 appointing authority shall appoint a person to fill the unexpired portion of the term. Members may be
14 reappointed.

15 (4) The commission shall elect a presiding officer from its members and shall meet at least
16 quarterly.

17 (5) The commission is authorized to hire its own staff.

18 (6) For the purposes of [sections 1 and 2], the term "commission" means the commission on
19 criminal statutes revision.

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21 NEW SECTION. **Section 2. Commission duties.** The commission shall:

22 (1) review current criminal sentencing and criminal procedure statutes in Titles 45 and 46 and
23 statutes in other titles of the Montana Code Annotated that contain criminal sentences and determine the
24 extent to which the sentence ranges and penalties conform to Article II, section 28, of the Montana
25 constitution, the correctional and sentencing policy in 46-18-101, and the crime seriousness ranking;

26 (2) review and update the sentencing tools and the crime seriousness ranking adopted by the law,
27 justice, and Indian affairs interim committee;

28 (3) compare the criminal statutes with the crime seriousness ranking adopted by the commission
29 to determine how closely the statutes reflect the ranking and recommend changes as necessary;

30 (4) build on the progress accomplished by the correctional standards and oversight committee

1 during the 1997-98 interim, which culminated in revisions to Title 46, chapter 18, in Chapter 52, Laws
2 of 1999, based on an analysis that sought to streamline the criminal procedure statutes and to eliminate
3 redundancies and conflicts;

4 (5) analyze the different types of sentences in statute and the legislative action on those statutes
5 over the past 10 years. Statutory issues that must be included are mandatory minimum sentences, truth
6 in sentencing, two and three strikes, the effects of the elimination of good time credits on inmate
7 population, the use and effect of deferred sentences, the use and effect of sentences for offenses that
8 must be committed multiple times to reach felony status, sentencing enhancements for use of certain
9 weapons or ammunition or for persistent felony offenders, intermediate and alternative sanctions, and the
10 effect on the correctional system of the commitment of certain offenders to the department of corrections.
11 An analysis of sentence types may consider information on research in regard to the effects of different
12 types of sentences on criminal justice and correctional resources.

13 (6) study sentence reviews by the sentence review board, the provisions governing the board, the
14 adequacy of its resources, representation of offenders in the sentence review process, potential
15 alternatives to the current system, and any impacts on the court system of those alternatives;

16 (7) study the parole system and the board of pardons and parole, including the standards used in
17 making parole decisions, the impact of the availability of programs in the prisons on parole decisions,
18 consideration of a mandatory period of postrelease supervision, the effect of parole practices on
19 correctional resources, comparison of the correctional and sentencing policy in the Montana constitution
20 and the statutes to parole practices;

21 (8) study the length of stay in prison and the goals of the correctional and sentencing policy to
22 determine if they are being fulfilled;

23 (9) determine the actual level of resources that the state has in the criminal justice and correctional
24 systems and how the actions of the criminal justice, court, and correctional systems determine the need
25 and competition for resources for prevention, detention, the prosecution and defense of criminal offenders,
26 incarceration, and supervision of persons on probation and parole;

27 (10) monitor the continued development and integration of databases containing criminal justice
28 or juvenile justice information in the department of justice, the department of corrections, the department
29 of public health and human services, and the judiciary, including issues of access and use of data and
30 quality of data;

1 (11) report to the law, justice, and Indian affairs interim committee on a regular basis and prior to
2 each legislative session on recommendations for modification or enactment of sentencing and related
3 statutes that are necessary or advisable to carry out a consistent, effective, humane, and rational
4 correctional and sentencing policy that is within the available resources of the state; and

5 (12) research and pursue grant opportunities for any of the commission's related activities in order
6 to further the efficient operation of the criminal justice and correctional systems and for the education of
7 the public on issues related to the costs and benefits of the systems.

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9 NEW SECTION. **Section 3. Appropriation.** There is appropriated from the general fund to the
10 department of justice \$350,000 for the biennium ending June 30, 2003, for the administration and
11 operating expenses of the commission.

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13 NEW SECTION. **Section 4. Codification instruction.** [Sections 1 and 2] are intended to be codified
14 as an integral part of Title 2, chapter 15, part 20, and the provisions of Title 2, chapter 15, part 20, apply
15 to [sections 1 and 2].

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17 NEW SECTION. **Section 5. Effective dates.** (1) [Section 1 and this section] are effective upon
18 passage and approval for the purposes of making appointments to the commission.

19 (2) [Sections 2 through 4] are effective July 1, 2001.

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