

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE COMMUNITY CORRECTIONS ACT; PROVIDING
5 THE MONTANA BOARD OF CRIME CONTROL WITH AUTHORITY TO GRANT FUNDS TO COMMUNITY
6 CORRECTIONS BOARDS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 46-18-104,
7 46-18-105, 46-18-201, 46-18-225, 53-30-303, 53-30-321, 53-30-322, AND 53-30-403, MCA; AND
8 REPEALING SECTIONS 53-30-311, 53-30-312, 53-30-313, AND 53-30-323, MCA."

9

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

11

12 NEW SECTION. **Section 1. Community corrections board.** A unit of local government, a tribal
13 government, or any combination of units of local government or tribal governments may establish and
14 operate a community corrections board for the purpose of coordinating or operating community corrections
15 programs. A unit of local government or a tribal government, in consultation with the community
16 corrections board, shall coordinate or operate community corrections programs for any of the following:

- 17 (1) the prevention of crime or delinquency;
- 18 (2) persons sentenced to imprisonment in a county or local detention center other than a
19 state-owned, state-operated, or state-contracted correctional facility;
- 20 (3) committed offenders;
- 21 (4) persons ordered to participate in a community corrections program as a condition of probation.

22

23 NEW SECTION. **Section 2. Community corrections programs authorized.** (1) The community
24 corrections programs described in [section 1] may include the following:

- 25 (a) residential or work release programs;
- 26 (b) house arrest, home detention, and electronic monitoring programs;
- 27 (c) community service restitution programs;
- 28 (d) victim-offender reconciliation programs;
- 29 (e) detention center services programs;
- 30 (f) detention center work crews;

- 1 (g) community work crews;
- 2 (h) juvenile detention alternative programs;
- 3 (i) day reporting programs; and
- 4 (j) other community corrections programs approved by the board.

5 (2) The community corrections board may also coordinate and operate educational, mental health,
6 drug or alcohol abuse counseling, or supervision services for persons described in [section 1] and may
7 provide housing as a part of any of these services.

8

9 **NEW SECTION. Section 3. Allowable acquisition and funding.** (1) A unit of local government,
10 a tribal government, or any combination of units of local government or tribal governments may acquire
11 premises and facilities for community corrections programs by purchase, lease, or gift. These facilities and
12 programs may be established and operated under a written contract with existing public or private agencies
13 or institutions.

14 (2) To provide necessary funding for the establishment, operation, and coordination of community
15 corrections programs, a unit of local government or a tribal government may use unexpended funds, use
16 appropriate tax funds, accept gifts, grants, and subsidies from any lawful source, and apply for and accept
17 federal funds.

18 (3) Private agencies may receive funding from any lawful source and shall comply with applicable
19 state law.

20 (4) Two or more units of local government or tribal governments may obtain programs from each
21 other by contract or may purchase services from one or more other units of local government or tribal
22 governments to be used by these programs.

23 (5) [Sections 1 through 7] do not exempt a facility or program from applicable licensing,
24 inspection, or other supervisory requirements imposed by law.

25

26 **NEW SECTION. Section 4. Community corrections board.** (1) To qualify for financial aid under
27 [sections 8 through 12], a unit of local government or a tribal government shall establish a community
28 corrections board by resolution of the executive body of the unit of local government or tribal government.
29 A community corrections board must have at least eight members, and the following persons must be
30 given the opportunity to serve on the board:

- 1 (a) a member from law enforcement for the unit of local government or tribal government,
2 appointed by the chief law enforcement officer, or the member's designee;
- 3 (b) the county attorney or the county attorney's designee;
- 4 (c) the director of the county office of child and family services or the director's designee;
- 5 (d) the major or chief executive of the most populous community of or within the unit of local
6 government or tribal government or the major or chief executive's designee;
- 7 (e) one judge from a court of limited jurisdiction, if available, appointed by the board of county
8 commissioners, or the judge's designee;
- 9 (f) one district court judge, appointed by the chief judge if the unit of local government is located
10 in a multijudge judicial district, or one tribal judge, appointed by the executive body of the tribal
11 government, or the judge's designee;
- 12 (g) one public defender or the public defender's designee or one attorney with a substantial
13 criminal defense practice, appointed by the executive body of the unit of local government or tribal
14 government;
- 15 (h) one victim or victim's advocate appointed by the executive body of the unit of local
16 government or tribal government;
- 17 (i) one ex-offender, if available, appointed by the executive body of the unit of local government
18 or tribal government; and
- 19 (j) the following members appointed by the executive body of a unit of local government or by a
20 tribal government:
- 21 (i) one member of the executive body of the unit of local government or tribal government, with
22 responsibilities for fiscal matters, or the member's designee;
- 23 (ii) one probation and parole officer, juvenile probation officer, or juvenile parole officer;
- 24 (iii) one school district representative;
- 25 (iv) one representative of a private correctional agency, if an agency exists in the county;
- 26 (v) one representative of a community mental health center or, if there is none available within
27 the unit of local government or tribal government, one psychiatrist, psychologist, or physician; and
- 28 (vi) four members of the public at least one of whom must be a member of a minority race if a
29 racial minority resides within the area governed by the unit of local government or tribal government and
30 a member of that minority is willing to serve.

1 (2) Designees of officials designated under subsections (1)(a) through (1)(g) and (1)(j)(i) serve at
2 the pleasure of the designating official.

3 (3) Members of the community corrections board appointed by an executive body of a unit of local
4 government or tribal government are appointed for terms of 4 years. Other members serve only while
5 holding the office or position held at the time of appointment. A vacancy occurring before the expiration
6 of the term of office must be filled in the same manner as the original appointment for the unexpired term.
7 Members may be reappointed.

8 (4) Two or more units of local government or tribal governments, by resolution of the respective
9 executive bodies, may combine to apply for financial aid under [sections 8 through 12]. If combined, the
10 units of local government or tribal governments may establish one community corrections board to serve
11 these units of local government or tribal governments. This community corrections board must contain the
12 representation prescribed in subsection (1), but the members may come from the participating units of
13 local government or tribal governments as determined by agreement of the executive bodies.

14 (5) The members of the community corrections board shall, within 30 days after the last initial
15 appointment is made, meet and elect one member as presiding officer and another as vice presiding officer
16 and appoint a secretary-treasurer who need not be a member. For purposes of transacting business, a
17 majority of the membership constitutes a quorum. The affirmative votes of at least five members, but not
18 less than a majority of the members present, are required for the community corrections board to take
19 action. A vacancy in the membership does not impair the right of a quorum to transact business.

20 (6) The executive body of each participating unit of local government or tribal government shall
21 provide necessary assistance and appropriations to the community corrections board established for that
22 unit of local government or tribal government. Appropriations required under this subsection are limited
23 to amounts received from the following sources:

24 (a) board grants;

25 (b) user fees; and

26 (c) other funds as contained within an approved community corrections plan.

27 (7) Additional funds may be appropriated as determined by the executive body of the unit of local
28 government or tribal government.

29

30 NEW SECTION. **Section 5. Powers and duties of community corrections boards.** (1) A community

1 corrections board shall:

2 (a) formulate the community corrections plan and the application for financial aid required by
3 [section 9];

4 (b) observe and coordinate community corrections programs in the county;

5 (c) make an annual report to the executive body of the unit of local government or to the tribal
6 government that contains an evaluation of the effectiveness of programs receiving financial aid under
7 [sections 8 through 12] and recommendations for improvement, modification, or discontinuance of these
8 programs;

9 (d) ensure that programs receiving financial aid under [sections 8 through 12] comply with the
10 standards adopted by the board under [section 10]; and

11 (e) recommend to the executive body of the unit of local government or tribal government the
12 approval or disapproval of contracts with other units of local government, units of tribal governments, or
13 nongovernmental agencies that desire to participate in the community corrections plan. Before
14 recommending approval of a contract, the community corrections board shall determine that a program
15 is capable of meeting the standards adopted by the board under [section 10].

16 (2) A community corrections board shall:

17 (a) adopt bylaws for the conduct of its own business;

18 (b) hold a regular meeting at least once every 3 months and at other times as needed to conduct
19 all necessary business. Dates of regular meetings must be established at the first meeting of each year.

20 (c) comply with the public meeting and notice requirements under Title 2, chapter 3, part 2.

21 (3) A community corrections board may maintain an office as designated by the executive body
22 of the unit of local government or tribal government.

23 (4) The director, if any, of the community corrections program must be appointed by the
24 community corrections board, subject to the approval of the executive body of the unit of local
25 government or tribal government. A director may be removed for cause by a majority vote of the
26 community corrections board, subject to the approval of the executive body of the unit of local
27 government or tribal government.

28 (5) The community corrections board may establish personnel policies, procedures, and salary
29 classification schedules for its paid employees. Unless designated as volunteers, employees of a
30 community corrections program are employees of the unit of local government or tribal government. The

1 policies, procedures, and schedules established under this subsection may not be inconsistent with those
2 established for other employees.

3

4 NEW SECTION. **Section 6. Allowable expenditures for financial aid.** (1) A unit of local
5 government or a tribal government may not use funds received under [sections 8 through 12] to replace
6 its spending for correctional purposes or to construct or renovate county detention centers.

7 (2) Units of local government or tribal governments acting jointly may use funds received under
8 [sections 8 through 12] to construct a county-operated residential work release facility if the facility is not:

9 (a) physically connected to a detention center; or

10 (b) used to house offenders who are required to serve their sentences in a county detention
11 center.

12 (3) The board may provide funds under [sections 8 through 12] for the construction of a facility
13 described under subsection (2) in an amount that does not exceed 50% of the cost of construction of the
14 facility. The funds provided under this subsection may not be used for any purpose other than the
15 construction of the facility.

16 (4) The unit of local government or the tribal government constructing a residential work release
17 facility under subsection (2) shall provide the funds required for:

18 (a) the construction of the facility in addition to the funds provided by the board under subsection
19 (3);

20 (b) the operation of the facility; and

21 (c) the administration of the community corrections program.

22 (5) A residential work release facility constructed under subsection (2) may not be used for any
23 purpose other than the operation of a community corrections program during the 10-year period following
24 the completion of construction.

25

26 NEW SECTION. **Section 7. Termination of community corrections board and participation in**
27 **financial aid program.** A unit of local government or tribal government receiving financial aid under
28 [sections 8 through 12] may terminate its participation by delivering to the board a resolution of the
29 executive body of the unit of local government or tribal government. Upon withdrawal from the subsidy
30 program, the executive body of a unit of local government or tribal government may adopt a resolution

1 stating that it is in the best interests of the unit of local government or the tribal government that the
2 community corrections board be dissolved, and upon adopting a resolution, the executive body of the unit
3 of local government or tribal government shall pay and discharge any debts or liabilities of the community
4 corrections board, collect and distribute assets of the community corrections board under applicable state
5 laws, and pay over any remaining proceeds or property to the proper fund.

6

7 NEW SECTION. **Section 8. State grants for community corrections.** For the purpose of
8 encouraging units of local government and tribal governments to develop a coordinated local corrections
9 and criminal justice system and providing effective alternatives to imprisonment at the state level, the
10 board shall make grants to units of local government and tribal governments for the establishment and
11 operation of community corrections programs. Money appropriated to the board for the purpose of making
12 grants under [sections 8 through 12] does not revert to the general fund at the close of any fiscal year,
13 but remains available to the board for its use in making grants under [sections 8 through 12].

14

15 NEW SECTION. **Section 9. Application for financial aid.** (1) A unit of local government or tribal
16 government or a combination of units of local government or tribal governments seeking financial aid under
17 [sections 8 through 12] shall apply to the board in a manner and form prescribed by the board by rule. The
18 application must include a community corrections plan that has been approved by the community
19 corrections board and the executive body of each unit of local government or each tribal government. A
20 unit of local government or a tribal government may not receive financial aid until its application is
21 approved by the board.

22 (2) A community corrections plan must comply with rules adopted under [section 10] and must
23 include:

- 24 (a) a description of each program for which financial aid is sought;
25 (b) the purpose, objective, administrative structure, staffing, and duration of the program;
26 (c) the program's total operating budget, including all other sources of anticipated income;
27 (d) the amount of community involvement and client participation in the program;
28 (e) the location and description of facilities that will be used in the program; and
29 (f) the manner in which units of local government or tribal governments that jointly apply for
30 financial aid under [sections 8 through 12] will operate a coordinated community corrections program.

1 (3) A community corrections plan must be updated annually, approved by the executive body of
2 each unit of local government or tribal government, and submitted to and approved by the board.

3 (4) An amendment to or substantial modification of an approved community corrections plan may
4 not be placed in effect until the community corrections board and executive body of each unit of local
5 government or tribal government have approved the amendment or modification.

6 (5) A copy of the final plan as approved by the board must be made available to the board in a
7 timely manner.

8

9 **NEW SECTION. Section 10. Board duties and responsibilities -- rulemaking.** (1) The board shall:

10 (a) provide consultation and technical assistance to units of local government or tribal
11 governments to aid in the development of community corrections plans;

12 (b) provide training for community corrections personnel and community corrections board
13 members to the extent that funds are available;

14 (c) examine and either approve or disapprove applications for financial aid. The board's approval
15 or disapproval must be based on [sections 8 through 12] and the rules adopted under this section.

16 (d) keep the governor and the legislature informed of the amount of appropriation needed to
17 adequately fund programs under [sections 1 through 7];

18 (e) keep local governments and tribal governments informed of money appropriated for the
19 purposes of [sections 1 through 7]; and

20 (f) provide an approved training curriculum for community corrections field officers.

21 (2) The board shall adopt administrative rules governing:

22 (a) application for financial aid under [sections 8 through 12], including the content of community
23 corrections plans;

24 (b) the disbursement of money to a unit of local government or tribal government and the
25 mechanism for the unit of local government or tribal government to certify expenditures;

26 (c) minimum standards for the establishment, operation, and evaluation of programs receiving
27 financial aid under [sections 8 through 12]. The standards must be sufficiently flexible to foster the
28 development of new and improved correctional practices.

29 (d) a formula or other method of determining a participating unit of local government's or tribal
30 government's share of funds appropriated for purposes of [sections 1 through 7]. This formula or method

1 must be approved by the board before the formula is adopted and must be designed to accurately reflect
2 a unit of local government's or a tribal government's correctional needs and ability to pay.

3 (e) the maximum amount that a community corrections program or a court may assess as a user
4 fee under [section 12]; and

5 (f) administration by community corrections boards of community corrections funds, including
6 criteria for expenditures from the funds.

7 (3) The board may:

8 (a) visit and inspect any program receiving financial aid under [sections 8 through 12];

9 (b) require a participating unit of local government or a tribal government to submit information
10 or statistics pertinent to the review of applications and programs;

11 (c) expend up to 3% of the money appropriated to the board for community correction grants to
12 provide technical assistance, consultation, and training to units of local government or to tribal
13 governments and to monitor and evaluate program delivery.

14 (4) Notwithstanding any law prohibiting advance payments, the board may advance grant money
15 to a unit of local government or to a tribal government in order to support a community corrections
16 program. However, not more than 25% of the amount awarded to a community corrections program may
17 be paid in advance.

18 (5) The board may not disburse more funds to a unit of local government or to a tribal government
19 under [sections 8 through 12] than are required to fund the community corrections plan.

20 (6) To remain eligible for financial aid under [sections 8 through 12], a unit of local government
21 or a tribal government shall comply with its community corrections plan and the rules and minimum
22 standards adopted by the board under this section. If the board determines that there are reasonable
23 grounds to believe that a unit of local government or a tribal government is not complying with its plan,
24 the rules, or the minimum standards, the board shall, after giving at least 30 days' written notice to the
25 executive body of each unit of local government or tribal government, the community corrections board,
26 and the directors of the program, if there is one, conduct a hearing to ascertain whether compliance has
27 been achieved. Upon a finding of noncompliance, the board may suspend any part of the financial aid until
28 compliance is achieved.

29 (7) Failure of a unit of local government or a tribal government to qualify for financial aid under
30 [sections 8 through 12] does not affect its eligibility for other state funds for correctional purposes

1 otherwise provided by law.

2

3 NEW SECTION. **Section 11. Authority not impaired.** [Sections 1 through 7] do not limit or impair
4 the statutory authority of any elected official, including the county sheriff's authority over a county
5 detention center and persons confined in a county detention center.

6

7 NEW SECTION. **Section 12. Community corrections fund.** (1) A community corrections fund is
8 established in each unit of local government or tribal government that has a community corrections
9 program. The fund must be administered by the community corrections board in accordance with rules
10 adopted by the board under [section 10]. The expenses of administering the fund must be paid from
11 money in the fund. Money in the fund at the end of a fiscal year does not revert to any other fund. The
12 fund consists of fees deposited under subsection (2). Money in the fund may be used only for the provision
13 of community corrections program services, including services allowed under [section 10(3)(c)].

14 (2) A community corrections program may collect from a participant a user fee assessed in
15 accordance with rules adopted under [section 10]. Community corrections user fees collected under this
16 section must be deposited in the community corrections fund established by this section.

17

18 **Section 13.** Section 46-18-104, MCA, is amended to read:

19 **"46-18-104. Definitions.** As used in 46-18-101, 46-18-105, 46-18-201, 46-18-225, and this
20 section, unless the context requires otherwise, the following definitions apply:

21 (1) "Community corrections" or "community corrections ~~facility or program~~" means a community
22 corrections ~~facility or program~~ as defined in 53-30-303.

23 (2) "Crime of violence" means:

24 (a) a crime in which an offender uses or possesses and threatens to use a deadly weapon during
25 the commission or attempted commission of a crime;

26 (b) a crime in which the offender causes a serious bodily injury or death to a person other than
27 the offender; or

28 (c) any sexual offense in which the offender causes bodily injury to the victim or uses threat,
29 intimidation, or force against the victim.

30 (3) "Nonviolent felony offender" means a person who has entered a plea of guilty or nolo

1 contendere to a felony offense other than a crime of violence or who has been convicted of a felony
2 offense other than a crime of violence."
3

4 **Section 14.** Section 46-18-105, MCA, is amended to read:

5 **"46-18-105. Community corrections facilities or programs.** The department of corrections may
6 provide community corrections facilities or programs for the rehabilitation of nonviolent felony offenders,
7 as authorized under Title 53, chapter 30, part 3."
8

9 **Section 15.** Section 46-18-201, MCA, is amended to read:

10 **"46-18-201. Sentences that may be imposed.** (1) (a) Whenever a person has been found guilty
11 of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may defer
12 imposition of sentence, except as otherwise specifically provided by statute, for a period:

13 (i) not exceeding 1 year for a misdemeanor or for a period not exceeding 3 years for a felony; or

14 (ii) not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for a felony if
15 a financial obligation is imposed as a condition of sentence for either the misdemeanor or the felony,
16 regardless of whether any other conditions are imposed.

17 (b) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred
18 in the case of an offender who has been convicted of a felony on a prior occasion, whether or not the
19 sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was
20 suspended.

21 (2) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of
22 guilty or nolo contendere, a sentencing judge may suspend execution of sentence, except as otherwise
23 specifically provided by statute, for a period up to the maximum sentence allowed or for a period of 6
24 months, whichever is greater, for each particular offense.

25 (3) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of
26 guilty or nolo contendere, a sentencing judge may impose a sentence that may include:

27 (a) a fine as provided by law for the offense;

28 (b) payment of costs, as provided in 46-18-232, or payment of costs of court-appointed counsel
29 as provided in 46-8-113;

30 (c) a term of incarceration at a county detention center or state prison, as provided in Title 45,

1 for the offense;

2 (d) commitment of:

3 (i) an offender not referred to in subsection (3)(d)(ii) to the department of corrections, with a
4 recommendation for placement in an appropriate correctional facility or program; however, all but the first
5 5 years of the commitment to the department of corrections must be suspended; or

6 (ii) a youth transferred to district court under 41-5-206 and found guilty in the district court of an
7 offense enumerated in 41-5-206 to the department of corrections for a period determined by the court for
8 placement in an appropriate correctional facility or program;

9 (e) with the approval of the ~~facility or~~ program, placement of the offender in a community
10 corrections ~~facility or~~ program as provided in 53-30-321;

11 (f) with the approval of the prerelease center or prerelease program and confirmation by the
12 department of corrections that space is available, placement of the offender in a prerelease center or
13 prerelease program for a period not to exceed 1 year;

14 (g) chemical treatment of sex offenders, as provided in 45-5-512, if applicable, that is paid for by
15 and for a period of time determined by the department of corrections, but not exceeding the period of state
16 supervision of the person; or

17 (h) any combination of subsections (2) through (3)(g).

18 (4) When deferring imposition of sentence or suspending all or a portion of execution of sentence,
19 the sentencing judge may impose upon the offender any reasonable restrictions or conditions during the
20 period of the deferred imposition or suspension of sentence. Reasonable restrictions or conditions imposed
21 under subsection (1)(a) or (2) may include but are not limited to:

22 (a) limited release during employment hours as provided in 46-18-701;

23 (b) incarceration in a detention center not exceeding 180 days;

24 (c) conditions for probation;

25 (d) payment of the costs of confinement;

26 (e) payment of a fine as provided in 46-18-231;

27 (f) payment of costs as provided in 46-18-232 and 46-18-233;

28 (g) payment of costs of court-appointed counsel as provided in 46-8-113;

29 (h) with the approval of the ~~facility or~~ program, an order that the offender be placed in a
30 community corrections ~~facility or~~ program as provided in 53-30-321;

1 (i) with the approval of the prerelease center or prerelease program and confirmation by the
2 department of corrections that space is available, an order that the offender be placed in a prerelease
3 center or prerelease program for a period not to exceed 1 year;

4 (j) community service;

5 (k) home arrest as provided in Title 46, chapter 18, part 10;

6 (l) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;

7 (m) with the approval of the department of corrections and with a signed statement from an
8 offender that the offender's participation in the boot camp incarceration program is voluntary, an order that
9 the offender complete the boot camp incarceration program established pursuant to 53-30-403;

10 (n) any other reasonable restrictions or conditions considered necessary for rehabilitation or for
11 the protection of the victim or society; or

12 (o) any combination of the restrictions or conditions listed in subsections (4)(a) through (4)(n).

13 (5) In addition to any penalties imposed pursuant to subsection (1), if the sentencing judge finds
14 that the victim of the offense has sustained a pecuniary loss, the sentencing judge shall require payment
15 of full restitution to the victim as provided in 46-18-241 through 46-18-249.

16 (6) In imposing a sentence on an offender convicted of a sexual or violent offense, as defined in
17 46-23-502, the sentencing judge may not waive the registration requirement provided in Title 46, chapter
18 23, part 5.

19 (7) If a felony sentence includes probation, the department of corrections shall supervise the
20 offender unless the court specifies otherwise."

21

22 **Section 16.** Section 46-18-225, MCA, is amended to read:

23 **"46-18-225. Sentencing of nonviolent felony offenders -- criteria -- alternatives to be considered**
24 **-- court to state reasons for imprisonment.** (1) In sentencing a nonviolent felony offender, the sentencing
25 judge shall first consider alternatives to imprisonment of the offender in a state prison, including placement
26 of the offender in a community corrections ~~facility or~~ program, a prerelease center, or a prerelease
27 program. In considering alternatives to imprisonment, the sentencing judge shall examine the sentencing
28 criteria contained in subsection (2).

29 (2) Prior to sentencing a nonviolent felony offender to whom 46-18-219 does not apply to a term
30 of imprisonment in a state prison, the sentencing judge shall take into account whether:

1 (a) the interests of justice and the needs of public safety truly require the level of security provided
2 by imprisonment of the offender in a state prison;

3 (b) the needs of the offender can be better served in the community or in a facility or program
4 other than a state prison;

5 (c) there are substantial grounds tending to excuse or justify the offense, though failing to
6 establish a defense;

7 (d) the offender acted under strong provocation;

8 (e) the offender has made restitution or will make restitution to the victim of the offender's
9 criminal conduct;

10 (f) the offender has no prior history of conviction for a criminal act or, if the offender has a prior
11 history of conviction for a criminal act, the offender has led a law-abiding life for a substantial period of
12 time before the commission of the present crime;

13 (g) the offender's criminal conduct was the result of circumstances that are unlikely to recur;

14 (h) the character and attitude of the offender indicate that the offender is likely to commit another
15 crime;

16 (i) the offender is likely to respond quickly to correctional or rehabilitative treatment; and

17 (j) imprisonment of the offender would create an excessive hardship on the offender or the
18 offender's family.

19 (3) If the judge sentences the offender to a state prison, the judge shall state the reasons why the
20 judge did not select an alternative to imprisonment, based on the criteria contained in subsection (2)."

21

22 **Section 17.** Section 53-30-303, MCA, is amended to read:

23 **"53-30-303. Definitions.** As used in this part, unless the context requires otherwise, the following
24 definitions apply:

25 (1) "Board" means the board of crime control provided for in 2-15-2006.

26 ~~(1)~~(2) "Community corrections board" means a community corrections board as provided in
27 ~~53-30-312~~ [section 1].

28 ~~(2)~~(3) "Community corrections facility ~~or~~ program" means a community-based ~~or~~
29 community-oriented facility ~~or~~ program, ~~other than a jail~~, that:

30 ~~— (a) is established by a local or tribal government and operated by a unit of local government, a~~

1 ~~tribal government, or a nongovernmental agency; and~~
 2 ~~—— (b) provides programs and services to aid offenders in:~~
 3 ~~—— (i) obtaining and holding regular employment;~~
 4 ~~—— (ii) enrolling in and maintaining academic courses;~~
 5 ~~—— (iii) participating in vocational training programs;~~
 6 ~~—— (iv) utilizing the resources of the community to meet their personal and family needs;~~
 7 ~~—— (v) obtaining the benefits of specialized treatment services that exist within the community; and~~
 8 ~~—— (vi) paying restitution or performing community restitution to crime victims~~ provides preventive
 9 services, services to offenders, services to persons charged with a crime or an act of delinquency, services
 10 to persons diverted from the criminal or delinquency process, services to persons sentenced to
 11 imprisonment, or services to victims of crime or delinquency and that is operated under a community
 12 corrections plan of a unit of local government or a tribal government and funded at least in part by the
 13 grant program as provided for in [sections 8 through 12].

14 ~~(3)~~(4) "Department" means the department of corrections created in 2-15-2301.

15 ~~(5)~~ (5) "Executive body" means the governing body of a unit of local government or a tribal
 16 government.

17 ~~(4)~~(6) "Nongovernmental agency" means a person, private, nonprofit agency, corporation,
 18 association, labor organization, or other nongovernmental entity.

19 ~~(5)~~(7) "Offender" means a person who has entered a plea of guilty or nolo contendere or has been
 20 convicted of a criminal offense.

21 ~~(6)~~(8) "Tribal government" means a federally recognized Indian tribe within the state of Montana.

22 ~~(7)~~(9) "Unit of local government" means a county, city, town, or city-county consolidated
 23 government."

24
 25 **Section 18.** Section 53-30-321, MCA, is amended to read:

26 **"53-30-321. Authority of judge to utilize use community corrections facilities ~~or programs~~ --**
 27 **restrictions.** (1) Subject to the restrictions contained in subsection (2), a judge may order placement of an
 28 offender in a community corrections ~~facility~~ or program operated by a unit of local government, a tribal
 29 government, or a nongovernmental agency.

30 (2) A judge may not order placement of an offender in a residential community corrections ~~facility~~

1 ~~or~~ program for a period exceeding 1 year. After completing the residential community corrections portion
 2 of a sentence, an offender shall serve the remainder of the sentence under normal probation supervision,
 3 if applicable.

4 (3) An offender is not eligible for parole while serving a sentence in a community corrections
 5 ~~facility or~~ program.

6 (4) The probation and parole officers for the judicial district shall include in their presentence report
 7 to the sentencing judge recommendations for ~~utilization~~ use of a community ~~correctional facility or~~
 8 corrections program that has been approved for use by the judicial district."
 9

10 **Section 19.** Section 53-30-322, MCA, is amended to read:

11 **"53-30-322. Powers and responsibilities of department.** (1) The department may:

12 ~~(1)(a)~~ upon the request of a ~~local~~ community corrections board, provide assistance in the planning
 13 of community corrections ~~facilities and~~ programs; and

14 ~~(2)(b)~~ contract with a community corrections ~~facility or~~ program for the provision of services for
 15 offenders under the custody of the department. The contract must address ~~facility or~~ program review and
 16 evaluation, accounting and reporting standards, and reimbursement of the ~~facility or~~ program.

17 (2) Reimbursement to a community corrections program operated by the department for the cost
 18 of room, board, and services must be paid at a rate established under 53-1-501."
 19

20 **Section 20.** Section 53-30-403, MCA, is amended to read:

21 **"53-30-403. Boot camp incarceration program -- eligibility -- rulemaking.** (1) The department shall
 22 establish a boot camp incarceration program for offenders incarcerated in a correctional institution.

23 (2) In order to be eligible for participation in the boot camp incarceration program, an inmate ~~must~~:

24 (a) must be serving a sentence of at least 1 year in a Montana correctional institution for a felony
 25 offense other than a felony punishable by death, except as provided in 46-18-201~~(1)(a)(xiv)~~(4)(o);

26 (b) shall obtain the concurrence of the sentencing court; and

27 (c) shall pass a physical examination to ensure sufficient health for participation.

28 (3) The boot camp incarceration program must include:

29 (a) as a major component, a strong emphasis on work, physical activity, physical conditioning, and
 30 good health practices;

1 (b) a strong emphasis on intensive counseling and treatment programming designed to correct
2 criminal and other maladaptive thought processes and behavior patterns and to instill self-discipline and
3 self-motivation;

4 (c) a detailed, clearly written explanation of program goals, objectives, rules, and criteria that must
5 be provided to, read by, and signed by all prospective enrollees; and

6 (d) a maximum enrollment period of 120 days.

7 (4) (a) Inmate participation in the boot camp incarceration program must be voluntary. The
8 admission of an inmate to the program is discretionary with the department. Enrollment may be revoked
9 only:

10 (i) at the participant's request; or

11 (ii) upon written ~~departmental~~ documentation by the department of a participant's failure or refusal
12 to comply with program requirements.

13 (b) A revocation of program enrollment is not subject to appeal. An inmate may not be admitted
14 to the boot camp incarceration program more than twice.

15 (5) The department may adopt rules for the establishment and administration of the boot camp
16 incarceration program."

17

18 NEW SECTION. Section 21. Repealer. Sections 53-30-311, 53-30-312, 53-30-313, and
19 53-30-323, MCA, are repealed.

20

21 NEW SECTION. Section 22. Notification to tribal governments. The secretary of state shall send
22 a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little
23 Shell band of Chippewa.

24

25 NEW SECTION. Section 23. Codification instruction. [Sections 1 through 12] are intended to be
26 codified as an integral part of Title 53, chapter 30, part 3, and the provisions of Title 53, chapter 30, part
27 3, apply to [sections 1 through 12].

28

- END -