

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A RESTRICTED BIENNIUM APPROPRIATION TO THE
5 DEPARTMENT OF CORRECTIONS TO ALLOW THE DEPARTMENT TO HIRE ADDITIONAL PROBATION
6 AND PAROLE OFFICERS IF THE WORKLOAD OF A DISTRICT PROBATION AND PAROLE OFFICE EXCEEDS
7 THE OPTIMUM WORKLOAD FOR THE DISTRICT; ELIMINATING CONDITIONAL DISCHARGE OF
8 OFFENDERS BASED ON THE EXCESS WORKLOAD OF A DISTRICT PROBATION AND PAROLE OFFICE;
9 AMENDING SECTIONS 46-23-1011 AND 46-23-1021, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

12
13 NEW SECTION. **Section 1. Appropriation.** (1) There is appropriated \$600,000 for the 2003
14 biennium from the general fund to the department of corrections. The appropriation must be used by the
15 department to fund the hiring of additional probation and parole officers in any district in which the
16 workload of a district probation and parole office has exceeded the optimum workload for the district over
17 the preceding 60 days in order to perform the supervision duties required by 46-23-1011 and 46-23-1021.

18 (2) If the department certifies to the governor that the workload of a district probation and parole
19 office has exceeded the optimum workload for the district over the preceding 60 days, the department
20 may hire additional probation and parole officers in that district by using the funds appropriated in
21 subsection (1). The department shall determine the optimum workload for each district probation and
22 parole office.

23
24 **Section 2.** Section 46-23-1011, MCA, is amended to read:

25 **"46-23-1011. Supervision on probation.** (1) The department shall supervise offenders during their
26 probation period in ~~accord~~ accordance with the conditions set by a sentencing judge.

27 (2) A copy of the conditions of probation must be signed by the probationer and given to the
28 probationer and the probationer's probation and parole officer, who shall report on the probationer's
29 progress under rules of the sentencing judge. Any probation agreement signed by the probationer may
30 contain a clause waiving extradition.

1 (3) The probation and parole officer shall regularly advise and consult with the probationer to
2 encourage the probationer to improve the probationer's condition and conduct and shall inform the
3 probationer of the restoration of rights on successful completion of the sentence.

4 (4) The probation and parole officer may recommend and a judge may modify any condition of
5 probation or suspension of sentence at any time. Notice must be given to the probation and parole officer
6 before any condition is modified, and the officer must be given an opportunity to present the officer's ideas
7 or recommendations on any modification. A copy of a modification of conditions must be delivered to the
8 probation and parole officer and the probationer. Waiver or modification of restitution may be ordered only
9 as provided under the provisions of 46-18-246.

10 (5) The probation and parole officer shall keep records as the department or the sentencing judge
11 may require.

12 (6) (a) Upon recommendation of the probation and parole officer, a judge may conditionally
13 discharge a probationer from supervision before expiration of the probationer's sentence if:

14 (i) the judge determines that a conditional discharge from supervision:

15 (A) is in the best interests of the probationer and society; and

16 (B) will not present unreasonable risk of danger to the victim of the offense; and

17 (ii) the offender has paid all restitution and court-ordered financial obligations in full.

18 (b) Subsection (6)(a) does not prohibit a judge from revoking the order suspending execution or
19 deferring imposition of sentence, as provided in 46-18-203, for a probationer who has been conditionally
20 discharged from supervision.

21 ~~(c) If the department certifies to the sentencing judge that the workload of a district probation~~
22 ~~and parole office has exceeded the optimum workload for the district over the preceding 60 days, the~~
23 ~~judge may not place an offender on probation under supervision by that district office unless the judge~~
24 ~~grants a conditional discharge to a probationer being supervised by that district office. The department~~
25 ~~may recommend probationers to the judge for conditional discharge. The judge may accept or reject the~~
26 ~~recommendations of the department. The department shall determine the optimum workload for each~~
27 ~~district probation and parole office."~~

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29 **Section 3.** Section 46-23-1021, MCA, is amended to read:

30 **"46-23-1021. Supervision on parole.** (1) The department shall retain custody of all persons placed

1 on parole and shall supervise the persons during their parole periods in accordance with the conditions set
2 by the board.

3 (2) The department shall assign personnel to assist a person who is eligible for parole in preparing
4 a parole plan. Department personnel shall make a report of their efforts and findings to the board prior to
5 its consideration of the case of the eligible person.

6 (3) A copy of the conditions of parole must be signed by the parolee and given to the parolee and
7 to the parolee's probation and parole officer, who shall report on the parolee's progress under the rules
8 of the board.

9 (4) The probation and parole officer shall regularly advise and consult with the parolee, assist the
10 parolee in adjusting to community life, and inform the parolee of the restoration of rights on successful
11 completion of the sentence.

12 (5) The probation and parole officer shall keep records as the board or department may require.
13 All records must be entered in the master file of the individual.

14 (6) (a) Upon recommendation of the probation and parole officer, the board may conditionally
15 discharge a parolee from supervision before expiration of the parolee's sentence if the board determines
16 that a conditional discharge from supervision is in the best interests of the parolee and society and will not
17 present unreasonable risk of danger to the victim of the offense.

18 (b) Subsection (6)(a) does not prohibit the board from revoking the parole, as provided in
19 46-23-1025, of a parolee who has been conditionally discharged from supervision.

20 ~~(c) If the department certifies to the board that the workload of a district probation and parole
21 office has exceeded the optimum workload for the district over the preceding 60 days, the board may not
22 parole a prisoner to that district office unless it grants a conditional discharge to a parolee being supervised
23 by that district office. The department may recommend parolees to the board for conditional discharge.
24 The board may accept or reject the recommendations of the department. The department shall determine
25 the optimum workload for each district probation and parole office."~~

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27 NEW SECTION. **Section 4. Effective date.** [This act] is effective July 1, 2001.

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