

## HOUSE BILL NO. 316

INTRODUCED BY J. SHOCKLEY

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT IF THE INMATE POPULATION OF A  
5 CORRECTIONAL INSTITUTION OR SYSTEM EXCEEDS THE EMERGENCY CAPACITY FOR 30  
6 CONSECUTIVE DAYS, THE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS MAY, UNTIL THE  
7 INMATE POPULATION IS REDUCED TO 95 PERCENT OR LESS OF THE EMERGENCY CAPACITY AND  
8 IF THE GOVERNOR APPROVES, DISCHARGE INMATES WHO ARE NOT SERVING A SENTENCE FOR A  
9 SEXUAL OR VIOLENT OFFENSE AT ANY TIME WITHIN 90 DAYS PRIOR TO THE DAY ON WHICH THE  
10 INMATE IS ELIGIBLE FOR DISCHARGE; AMENDING SECTION 53-30-106, MCA; AND PROVIDING AN  
11 IMMEDIATE EFFECTIVE DATE."

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

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15 **Section 1.** Section 53-30-106, MCA, is amended to read:

16 **"53-30-106. Excessive inmate population -- confinement of inmates in other institutions.** (1) If the  
17 inmate population of a correctional institution or system exceeds the emergency capacity for 30 consecutive  
18 days, the director of the department of corrections may ~~declare that the emergency capacity has been exceeded~~  
19 ~~and temporarily stop admissions to the institution or system. The director shall notify each sheriff and district~~  
20 ~~court that new inmates will not be accepted by the department for admission into the institution or system until~~  
21 ~~the inmate population is reduced to 95% or less of the emergency capacity. Persons committed to the~~  
22 ~~department and persons sought to be admitted remain in the department's legal custody but must be kept in a~~  
23 ~~detention center in the jurisdiction holding them. In the event the jurisdiction holding the inmate is at maximum~~  
24 ~~capacity, the inmate may be placed in an available detention center in another jurisdiction. The department shall~~  
25 ~~reimburse that jurisdiction for the cost of detention for the period beyond the normal time of delivery to a~~  
26 ~~correctional institution administered by the department. Reimbursement must be at a rate mutually agreeable~~  
27 ~~to the department and the jurisdiction holding the person. The rate must cover the reasonable costs of the~~  
28 ~~holding jurisdiction. Expenses for medication, medical services, or hospitalization for persons confined in a~~  
29 ~~detention center under this section must be paid by the department. until the inmate population is reduced to~~  
30 95% or less of the emergency capacity and if the governor approves in a letter addressed to the director,

1 discharge inmates who are not serving a sentence for a sexual or violent offense, as defined in 46-23-502, from  
2 the correctional institution or system at any time within 90 days prior to the day on which the inmate is eligible  
3 for discharge.

4 (2) The department may enter into contracts with the federal government, other states, or the  
5 commissioners of counties that have suitable detention centers for confining inmates committed to a correctional  
6 institution or system administered by the department, either because a correctional institution or system has  
7 exceeded its emergency capacity or because the department has no institution that is adequate for certain  
8 inmates.

9 (3) Within budgetary limits, the department may also enter into contracts with public or private  
10 corporations for the confinement of selected inmates if suitable programs have been established."  
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12 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.  
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