

## 1 HOUSE BILL NO. 288

2 INTRODUCED BY NOENNIG, R. BROWN, HIMMELBERGER, PARKER, LANGE, GLASER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE DEPARTMENT OF CORRECTIONS  
5 INSTEAD OF THE CLERKS OF COURT TO COLLECT FEES CHARGED FOR SUPERVISION BY THE  
6 DEPARTMENT; AND AMENDING SECTIONS 45-9-202 AND 46-23-1031, MCA; ~~AND PROVIDING AN~~  
7 ~~EFFECTIVE DATE.~~"

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

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11 **Section 1.** Section 45-9-202, MCA, is amended to read:

12 **"45-9-202. Alternative sentencing authority.** (1) A person convicted of a dangerous drug felony  
13 offense under this chapter may, in lieu of imprisonment, be sentenced according to the alternatives provided in  
14 subsection (2).

15 (2) If the court determines, either from the face of the record or from a presentence investigation and  
16 report, that incarceration of the defendant is not appropriate, the court may, as a condition of a suspended or  
17 deferred sentence, impose one or more of the following alternatives:

18 (a) imposition of a fine not to exceed the maximum amount provided by statute for those offenses that  
19 specify a fine as part of the penalty or \$1,000 for those offenses that do not specify a fine;

20 (b) commitment to a residential drug treatment facility licensed and approved by the state for  
21 rehabilitative treatment for not less than the minimum recommended time determined necessary by the facility  
22 and not more than 1 year;

23 (c) mandatory service of not more than 2,000 hours in a community-based drug treatment or drug  
24 education program with compliance to be monitored by the probation and parole bureau of the department of  
25 corrections based upon information provided by the treatment or education program;

26 (d) if recommended by the probation and parole bureau, placement in a program of intensive probation  
27 that requires, at a minimum, that the defendant comply with all of the following conditions:

28 (i) maintain employment or full-time student status at an approved school, making progress satisfactory  
29 to the probation officer, or be involved in supervised job searches and community service work designated by  
30 the probation officer;

1 (ii) pay probation supervision fees through the ~~clerk of the district court~~ department of corrections of not  
 2 less than \$50 ~~per a~~ month to be deposited in ~~an the~~ account in the state special revenue fund to the credit of  
 3 ~~the department of corrections~~ established in 46-23-1031;

4 (iii) find a place to reside approved by the probation officer that may not be changed without the officer's  
 5 approval;

6 (iv) remain at the residence at all times except to go to work, to attend school, or to perform community  
 7 service or as otherwise specifically allowed by the probation officer;

8 (v) remain drug free and submit to drug and alcohol tests administered randomly not less than once  
 9 each month by or under supervision of the probation officer;

10 (vi) perform not less than 10 hours of community service each month as approved by the probation  
 11 officer, except that full-time students may be exempted or required to perform fewer hours of community service;

12 (vii) enroll or make satisfactory effort to seek enrollment in an approved drug rehabilitation program; and

13 (viii) comply with any other conditions imposed by the court to meet the needs of the community and the  
 14 defendant;

15 (e) suspension or revocation of the defendant's driver's license issued under Title 61, chapter 5, subject  
 16 to the following terms and conditions:

17 (i) upon the first conviction of an offense under this chapter, the driver's license must be suspended for  
 18 6 months;

19 (ii) upon the second conviction, the driver's license must be revoked for 1 year;

20 (iii) upon a third or subsequent conviction, the driver's license must be revoked for 3 years."

21  
 22 **Section 2.** Section 46-23-1031, MCA, is amended to read:

23 **"46-23-1031. Supervisory fees -- account established.** (1) (a) Except as provided in subsection (1)(b),  
 24 a probationer, parolee, or person committed to the department who is supervised by the department under  
 25 intensive supervision or conditional release shall pay to the ~~clerk of the district court that has jurisdiction over~~  
 26 ~~the person during the person's supervision~~ department a supervisory fee of no less than \$120 a year and no  
 27 more than \$360 a year, prorated at no less than \$10 a month for the number of months under supervision. A  
 28 person allowed to transfer supervision to another state shall pay a fee of \$50 to cover the cost of processing the  
 29 transfer. The interstate transfer fees required by this subsection must be collected by the department.

30 (b) The court, department, or board may reduce or waive a fee required by subsection (1)(a) or suspend

1 the monthly payment of the supervisory fee if it determines that the payment would cause the person a  
2 significant financial hardship.

3 (2) (a) There is an account in the state special revenue fund for the supervisory fees collected under  
4 the provisions of this section.

5 (b) Prior to July 1, 2003, district court clerks shall deduct from the total supervisory fees collected  
6 pursuant to subsection (1) the administrative cost of collecting and accounting for the fees and shall deposit the  
7 remaining amount into the state special revenue account established in subsection (2)(a). After June 30, 2003,  
8 district court clerks The department shall deposit the total supervisory fees collected pursuant to subsection (1)  
9 into the state special revenue account established in subsection (2)(a) ~~as specified by the supreme court~~  
10 ~~administrator.~~"

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12 ~~NEW SECTION. Section 3. Effective date. [This act] is effective July 1, 2005.~~

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14 COORDINATION SECTION. SECTION 3. COORDINATION INSTRUCTION. IF SENATE BILL NO. 207 AND [THIS  
15 ACT] ARE BOTH PASSED AND APPROVED, THEN [SECTION 8] OF SENATE BILL NO. 207 IS AMENDED AS FOLLOWS:

16 "NEW SECTION. Section 8. Effective date dates. (1) [This act] Except as provided in subsection (2),  
17 [this act] is effective July 1, 2005.

18 (2) [Section 6] is effective October 1, 2005."

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