

1
3-18-05
HB 726

Amendments to House Bill No. 726
3rd Reading Copy

Requested by Senator Jeff Mangan

For the Senate Judiciary Committee

Prepared by Valencia Lane
March 18, 2005 (6:55am)

1. Title, line 5.

Following: "WITH"

Strike: "PRERELEASE PROGRAMS"

Insert: "MONTANA CORPORATIONS"

2. Page 8, line 9.

Following: "with"

Strike: "private, nonprofit"

3. Page 8, line 10.

Following: "program"

Strike: "in conjunction with a prerelease program"

- END -



1 HOUSE BILL NO. 726

2 INTRODUCED BY GUTSCHE, WINDHAM

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT OF CORRECTIONS TO
5 ~~CONTRACT WITH PRERELEASE PROGRAMS~~ ^{MONTANA CORPORATIONS} TO OPERATE DAY REPORTING PROGRAMS TO PROVIDE
6 AN ALTERNATE SENTENCING OPTION AND TO SANCTION PROBATION VIOLATORS; PROVIDING THAT
7 A CONVICTED PERSON PAY A \$50 PRESENTENCE REPORT FEE TO FUND THE ALTERNATE
8 SENTENCING OPTION; AMENDING SECTIONS 46-18-111, 46-18-201, 46-18-225, 46-23-1015, 53-1-203, AND
9 53-1-501, MCA; AND PROVIDING AN EFFECTIVE DATE DATES."

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

12
13 SECTION 1. SECTION 46-18-111, MCA, IS AMENDED TO READ:

14 "46-18-111. Presentence investigation -- when required. (1) Upon the acceptance of a plea or upon
15 a verdict or finding of guilty to one or more felony offenses, the district court shall direct the probation officer to
16 make a presentence investigation and report. The district court shall consider the presentence investigation
17 report prior to sentencing. If the defendant was convicted of an offense under 45-5-502, 45-5-503, 45-5-504,
18 45-5-505, 45-5-507, 45-5-625, or 45-5-627, the investigation must include a psychosexual evaluation of the
19 defendant and a recommendation as to treatment of the defendant in the least restrictive environment,
20 considering the risk the defendant presents to the community and the defendant's needs, unless the defendant
21 was sentenced under 46-18-219. The evaluation must be completed by a sex offender therapist who is a
22 member of the Montana sex offender treatment association or has comparable credentials acceptable to the
23 department of labor and industry. The psychosexual evaluation must be made available to the county attorney's
24 office, the defense attorney, the probation and parole officer, and the sentencing judge. All costs related to the
25 evaluation must be paid by the defendant. If the defendant is determined by the district court to be indigent, all
26 costs related to the evaluation are the responsibility of the district court and must be paid by the county or the
27 state, or both, under Title 3, chapter 5, part 9.

28 (2) The court shall order a presentence report unless the court makes a finding that a report is
29 unnecessary. Unless the court makes that finding, a defendant convicted of any offense not enumerated in
30 subsection (1) that may result in incarceration for 1 year or more may not be sentenced before a written

1 years, the department shall submit the proposed contract to the legislative audit committee. The legislative audit
 2 division shall review the contract and make recommendations or comments to the legislative audit committee.
 3 The committee may make recommendations or comments to the department. The department shall respond
 4 to the committee, accepting or rejecting the committee recommendations or comments prior to entering into the
 5 contract.

6 (3) The department of corrections may enter into contracts with nonprofit corporations or associations
 7 or private organizations to provide substitute care for youth in need of intervention and delinquent youth in youth
 8 correctional facilities.

9 (4) The department may contract with private, nonprofit Montana corporations to operate a day reporting
 10 program in conjunction with a prerelease program as an alternate sentencing option as provided in 46-18-201
 11 AND 46-18-225 AND AS A SANCTION OPTION UNDER 46-23-1015. The department shall adopt by rule the
 12 requirements for a day reporting program, including but not limited to requirements for daily check-in,
 13 participation in programs to develop life skills, and the monitoring of compliance with any conditions of probation,
 14 such as drug testing."

15
 16 **Section 6.** Section 53-1-501, MCA, is amended to read:

17 **"53-1-501. Rates for residential community correctional program board, room, and services**
 18 **charged by the department of corrections.** (1) The department of corrections shall establish per diem rates
 19 for room, board, and services for persons placed in or committed to a community correctional program operated
 20 by the department of corrections. The department of corrections may adopt rules allowing it to order part of a
 21 person's employment income to be used to pay restitution, fines, and child or spousal support.

22 (2) The department of corrections shall prescribe rules and procedures for the establishment of rates
 23 and charges to residents or participants in any community correctional program that is under contract with the
 24 department of corrections and that provides room, board, or services or any combination of room, board, and
 25 services to residents of those facilities or to participants in programs. The amount assessed by these programs
 26 must be subject to the resident's ability to pay, based on the rates established as the basis for assessed charges,
 27 and subject to approval by the department of corrections."

28
 29 NEW SECTION. Section 7. Effective date DATES. [This act] is (1) [SECTION 1] AND THIS SECTION ARE
 30 effective July 1, 2005.