

HOUSE BILL NO. 552

INTRODUCED BY R. MEHLHOFF

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A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE PLACEMENT OF ANY SEXUAL OFFENDERS AT A PRERELEASE CENTER IF THE COUNTY COMMISSION OF THE COUNTY WITHIN WHICH THE CENTER IS LOCATED VOTES NOT TO ALLOW THE PLACEMENT OF OFFENDERS AT THE PRERELEASE CENTER; AMENDING SECTION 53-1-203, MCA; AND PROVIDING A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 53-1-203, MCA, is amended to read:

"53-1-203. Powers and duties of department of corrections. (1) The department of corrections shall:

(a) adopt rules necessary to carry out the purposes of 41-5-125, rules necessary for the siting, establishment, and expansion of prerelease centers, rules for the establishment and maintenance of residential methamphetamine treatment programs, and rules for the admission, custody, transfer, and release of persons in department programs except as otherwise provided by law. However, rules adopted by the department may not amend or alter the statutory powers and duties of the state board of pardons and parole. The rules for the siting, establishment, and expansion of prerelease centers must state that the siting is subject to any existing conditions, covenants, restrictions of record, and zoning regulations. The rules must provide that a prerelease center may not be sited at any location without community support. The prerelease siting, establishment, and expansion must be subject to, and the rules must include, a reasonable mechanism for a determination of community support or objection to the siting of a prerelease center in the area determined to be impacted. The prerelease siting, establishment, and expansion rules must provide for a public hearing conducted pursuant to Title 2, chapter 3.

(b) subject to the functions of the department of administration, lease or purchase lands for use by correctional facilities and classify those lands to determine those that may be most profitably used for agricultural purposes, taking into consideration the needs of all correctional facilities for the food products that can be grown or produced on the lands and the relative value of agricultural programs in the treatment or rehabilitation of the persons confined in correctional facilities;

(c) contract with private, nonprofit Montana corporations to establish and maintain:



1 (i) prerelease centers for purposes of preparing inmates of a Montana prison who are approaching parole
2 eligibility or discharge for release into the community, providing an alternative placement for offenders who have
3 violated parole or probation, and providing a sentencing option for felony offenders pursuant to 46-18-201. The
4 centers shall provide a less restrictive environment than the prison while maintaining adequate security. The
5 centers must be operated in coordination with other department correctional programs. This subsection does not
6 affect the department's authority to operate and maintain prerelease centers.

7 (ii) residential methamphetamine treatment programs for the purpose of alternative sentencing as
8 provided for in 45-9-102, 46-18-201, 46-18-202, and any other sections relating to alternative sentences for
9 persons convicted of possession of methamphetamine. The department shall issue a request for proposals using
10 a competitive process and shall follow the applicable contract and procurement procedures in Title 18.

11 (d) use the staff and services of other state agencies and units of the Montana university system, within
12 their respective statutory functions, to carry out its functions under this title;

13 (e) propose programs to the legislature to meet the projected long-range needs of corrections, including
14 programs and facilities for the custody, supervision, treatment, parole, and skill development of persons placed
15 in correctional facilities or programs;

16 (f) encourage the establishment of programs at the local and state level for the rehabilitation and
17 education of felony offenders;

18 (g) administer all state and federal funds allocated to the department for youth in need of intervention
19 and delinquent youth, as defined in 41-5-103, except as provided in 41-5-2012;

20 (h) collect and disseminate information relating to youth who are committed to the department for
21 placement in a state youth correctional facility;

22 (i) maintain adequate data on placements that it funds in order to keep the legislature properly informed
23 of the specific information, by category, related to youth in need of intervention and delinquent youth in
24 out-of-home care facilities;

25 (j) provide funding for youth who are committed to the department for placement in a state youth
26 correctional facility;

27 (k) administer youth correctional facilities;

28 (l) provide supervision, care, and control of youth released from a state youth correctional facility; and

29 (m) use to maximum efficiency the resources of state government in a coordinated effort to:

30 (i) provide for delinquent youth committed to the department; and

1 (ii) coordinate and apply the principles of modern correctional administration to the facilities and programs
2 administered by the department.

3 (2) The department may contract with private, nonprofit or for-profit Montana corporations to establish
4 and maintain a residential sexual offender treatment program. If the department intends to contract for that
5 purpose, the department shall adopt rules for the establishment and maintenance of that program.

6 (3) The department and a private, nonprofit or for-profit Montana corporation may not enter into a
7 contract under subsection (1)(c) or (2) for a period that exceeds 20 years. The provisions of 18-4-313 that limit
8 the term of a contract do not apply to a contract authorized by subsection (1)(c) or (2). Prior to entering into a
9 contract for a period of 20 years, the department shall submit the proposed contract to the legislative audit
10 committee. The legislative audit division shall review the contract and make recommendations or comments to
11 the legislative audit committee. The committee may make recommendations or comments to the department. The
12 department shall respond to the committee, accepting or rejecting the committee recommendations or comments
13 prior to entering into the contract.

14 (4) The department may not place any sexual offenders at a prerelease center if the county commission
15 of the county in which the prerelease center is located has voted against allowing the placement of the offenders
16 at that center. This subsection does not:

17 (a) require a vote of the commissioners unless the commissioners have determined to hold a vote on the
18 issue of placement of any offenders; or

19 (b) apply to any sexual offenders placed at a prerelease center:

20 (i) by the department before January 1, 2007; or

21 (ii) by a court pursuant to 46-18-201, 46-19-101, or 61-8-734 at any time.

22 ~~(4)~~(5) The department of corrections may enter into contracts with nonprofit corporations or associations
23 or private organizations to provide substitute care for delinquent youth in state youth correctional facilities or on
24 juvenile parole supervision.

25 ~~(5)~~(6) The department may contract with Montana corporations to operate a day reporting program as
26 an alternate sentencing option as provided in 46-18-201 and 46-18-225 and as a sanction option under
27 46-23-1015. The department shall adopt by rule the requirements for a day reporting program, including but not
28 limited to requirements for daily check-in, participation in programs to develop life skills, and the monitoring of
29 compliance with any conditions of probation, such as drug testing."
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