

HOUSE BILL NO. 446

INTRODUCED BY E. HILL

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE LEGISLATURE'S PURPOSE REGARDING HOUSING OPTIONS FOR INDIVIDUALS LEAVING THE MONTANA STATE PRISON OR OTHER DEPARTMENT OF CORRECTIONS PROGRAMS; REQUIRING REPORTING BY REGISTRATION AGENCIES WHEN CERTAIN SEXUAL OFFENDERS INDICATE THEY ARE STAYING AT A HOMELESS SHELTER OR ARE IN A HOMELESS SITUATION; AND AMENDING SECTIONS 46-23-504, 46-23-505, AND 53-1-203, MCA."

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

NEW SECTION. Section 1. Legislative purpose. (1) It is the purpose of this section that individuals released from the Montana state prison or community corrections programs be afforded every opportunity to obtain permanent housing in order to increase the likelihood that the individuals will succeed in:

- (a) finding employment;
- (b) establishing ties to the community; and
- (c) avoiding recidivism and a return to prison or other corrections programs.

(2) In order to accomplish the purposes of this section, the department shall:

- (a) coordinate with local governments and local agencies to identify all available housing options within a community;
- (b) encourage efforts to increase available housing options; and
- (c) identify for each individual leaving the corrections system the community resources available to the individual to assist with housing needs.

Section 2. Section 46-23-504, MCA, is amended to read:

"46-23-504. Persons required to register -- procedure. (1) Except as provided in 41-5-1513, a sexual or violent offender:

- (a) shall register immediately upon conclusion of the sentencing hearing if the offender is not sentenced to confinement or is not sentenced to the department and placed in confinement by the department;
- (b) must be registered as provided in 46-23-503 at least 10 days prior to release from confinement if

1 sentenced to confinement or sentenced to the department and placed in confinement by the department;

2 (c) shall register within 3 business days of entering a county of this state for the purpose of residing or
3 setting up a temporary residence for 10 days or more or for an aggregate period exceeding 30 days in a calendar
4 year; and

5 (d) who is a transient shall register within 3 business days of entering a county of this state.

6 (2) Registration under subsection (1)(a), (1)(c), or (1)(d) must be with the appropriate registration agency.

7 If an offender registers with a police department, the department shall notify the sheriff's office of the county in
8 which the municipality is located of the registration. The probation officer having supervision over an offender
9 required to register under subsection (1)(a) shall verify the offender's registration status with the appropriate
10 registration agency.

11 (3) At the time of registering, the offender shall sign a statement in writing giving the information required
12 by subsections (3)(a) through (3)(g) and any other information required by the department of justice. The
13 registration agency shall fingerprint the offender, unless the offender's fingerprints are on file with the department
14 of justice, and shall photograph the offender. Within 3 days, the registration agency shall send copies of the
15 statement, fingerprints, and photographs to the department of justice. The registration agency shall require an
16 offender given a level 2 or level 3 designation to appear before the registration agency for a new photograph
17 every year. The information collected from the offender at the time of registration must include the:

18 (a) name of the offender and any aliases used by the offender;

19 (b) offender's social security number;

20 (c) residence information required by subsection (4);

21 (d) name and address of any business or other place where the offender is or will be an employee;

22 (e) name and address of any school where the offender will be a student;

23 (f) offender's driver's license number; and

24 (g) description and license number of any motor vehicle owned or operated by the offender.

25 (4) (a) If, at the time of registration, the offender regularly resides in more than one county or
26 municipality, the offender shall register with the registration agency of each county or municipality in which the
27 offender resides. If an offender resides in more than one location within the same county or municipality, the
28 registration agency may require the offender to provide all of the locations where the offender regularly resides
29 and to designate one of them as the offender's primary residence.

30 (b) Registration of more than one residence pursuant to this section is an exception from the single

1 residence rule provided in 1-1-215.

2 (5) A transient shall report monthly, in person, to the registration agency with which the transient
3 registered pursuant to subsection (1)(d). The transient shall report on a day specified by the registration agency
4 and during the normal business hours of that agency. On that day, the transient shall provide the registration
5 agency with the information listed in subsections (3)(a) through (3)(g). The registration agency to which the
6 transient reports may also require the transient to provide the locations where the transient stayed during the
7 previous 30 days and may stay during the next 30 days.

8 (6) (a) The department of justice shall mail a registration verification form:

9 (i) each 90 days to an offender designated as a level 3 offender under 46-23-509;

10 (ii) each 180 days to an offender designated as a level 2 offender under 46-23-509; and

11 (iii) each year to a violent offender or an offender designated as a level 1 offender under 46-23-509.

12 (b) If the offender is a transient, the department of justice shall mail the offender's registration verification
13 form to the registration agency with which the offender last registered.

14 (c) The form must require the offender's notarized signature. Within 10 days after receipt of the form,
15 the offender shall complete the form and return it to the registration agency where the offender last registered
16 or, if the offender was initially registered pursuant to subsection (1)(b), to the registration agency in the county
17 or municipality in which the offender is located. A sexual offender shall return the form to the appropriate
18 registration agency in person, and at the time that the sexual offender returns the registration verification form,
19 the registration agency shall take a photograph of the offender.

20 (7) Within 3 days after receipt of a registration verification form, the registration agency shall provide a
21 copy of the form and most recent photograph to the department of justice.

22 (8) The offender is responsible, if able to pay, for costs associated with registration. The fees charged
23 for registration may not exceed the actual costs of registration. The department of justice may adopt a rule
24 establishing fees to cover registration costs incurred by the department of justice in maintaining registration and
25 address verification records. The fees must be deposited in the general fund.

26 (9) A registration agency shall notify the department if an offender who is still under the supervision of
27 the department:

28 (a) lists the offender's residence as a homeless shelter or a location that is outdoors or outside of a
29 building; or

30 (b) if the offender is a transient, indicates in the monthly report to the registration agency that the offender

1 has stayed at a homeless shelter or a location that is outdoors or outside of a building during the previous 30 days
 2 or intends to stay at a homeless shelter or a location that is outdoors or outside of a building during the next 30
 3 days.

4 ~~(9)~~(10) The clerk of the district court in the county in which a person is convicted of a sexual or violent
 5 offense shall notify the sheriff in that county of the conviction within 10 days after entry of the judgment."
 6

7 **Section 3.** Section 46-23-505, MCA, is amended to read:

8 **"46-23-505. Notice of change of name or residence or student, employment, or transient status**

9 **-- duty to inform -- forwarding of information.** (1) If an offender required to register under this part has a
 10 change of name or residence or a change in student, employment, or transient status, the offender shall within
 11 3 business days of the change appear in person and give notification of the change to the registration agency
 12 with whom the offender last registered or, if the offender was initially registered under 46-23-504(1)(b), to the
 13 registration agency for the county or municipality from which the offender is moving. The registration agency shall
 14 require the offender to appear before the registration agency for a new photograph every year.

15 (2) If an offender required to register under this part is a transient, the offender shall provide written
 16 notification to the registration agency with which the offender last registered or, if the offender initially registered
 17 pursuant to 46-23-504(1)(b), shall provide notice within 3 business days to the registration agency in the county
 18 or municipality in which the offender resides.

19 (3) Within 3 business days after receipt of the information concerning the new name or residence or a
 20 change in the student, employment, or transient status, the registration agency shall forward the information to:

21 (a) the department if the offender is still under the supervision of the department and lists the offender's
 22 residence as a homeless shelter or indicates that the offender intends to stay at a homeless shelter or a location
 23 that is outdoors or outside of a building; and

24 (b) the department of justice, which shall forward a copy of the information and photograph to:

25 ~~(a)~~(i) in the event of a change in residence, the registration agency for the county to which the offender
 26 moves and, if the offender lives in a municipality, the registration agency for that municipality to which the offender
 27 moves;

28 ~~(b)~~(ii) in the event of a change of name or of student, employment, or transient status, the registration
 29 agency of the appropriate county or municipality."
 30

1 **Section 4.** Section 53-1-203, MCA, is amended to read:

2 **"53-1-203. Powers and duties of department of corrections.** (1) The department of corrections shall:

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

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

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

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

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

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

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

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

8 (g) encourage efforts within the department of corrections and at the local level that would develop
9 housing options and resource materials related to housing for individuals who are released from the Montana
10 state prison or community corrections programs;

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

13 ~~(h)~~(i) collect and disseminate information relating to youth who are committed to the department for
14 placement in a state youth correctional facility;

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

18 ~~(j)~~(k) provide funding for youth who are committed to the department for placement in a state youth
19 correctional facility;

20 ~~(k)~~(l) administer youth correctional facilities;

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

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

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

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

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

29 (3) The department and a private, nonprofit or for-profit Montana corporation may not enter into a
30 contract under subsection (1)(c) or (2) for a period that exceeds 20 years. The provisions of 18-4-313 that limit

1 the term of a contract do not apply to a contract authorized by subsection (1)(c) or (2). Prior to entering into a
2 contract for a period of 20 years, the department shall submit the proposed contract to the legislative audit
3 committee. The legislative audit division shall review the contract and make recommendations or comments to
4 the legislative audit committee. The committee may make recommendations or comments to the department. The
5 department shall respond to the committee, accepting or rejecting the committee recommendations or comments
6 prior to entering into the contract.

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

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

15
16 NEW SECTION. **Section 5. Codification instruction.** [Section 1] is intended to be codified as an
17 integral part of Title 46, chapter 23, part 10, and the provisions of Title 46, chapter 23, part 10, apply to [section
18 1].

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