

MCSC: The Voice of Montana's ~~DUI~~ DUI Victims 275

## HB 275 Extend Felony DUI Penalty—Fiscal Note Rebuttal

### CURRENT SENTENCING:

- Maximum 13 months Department of Corrections (DOC)
  - Credit for time served in jail.
  - Typical DOC process is WATCH to prerelease to community (this requires most of 13 months)
  - Offenders may be released back to community without treatment if there isn't enough time left on sentence to go to WATCH or if they fail WATCH (10% of offenders)
- Up to 5 years which MUST be suspended
  - During this time the offender is not eligible for treatment programs such as WATCH

### PROPOSED SENTENCING:

- Minimum 13 months DOC; Allow up to 5 years DOC
  - Credit for time served in jail
  - Ensure enough DOC time to participate in WATCH and prerelease
  - Up to 5 years may be suspended
  - Most offenders will be eligible for community corrections programs
- Up to 5 years (more) which MUST be suspended

### FISCAL NOTE ASSUMPTIONS:

"1. The Department of Corrections assumes that the maximum sentencing will be followed per the modified guidelines of this bill." NOT TRUE In my court monitoring in Flathead County the current maximum sentence is 5 years and only 15% of offenders were sentenced to 5 years and those offenders had multiple felony DUI convictions and/or other crimes.

"2(b) With the modified language they would serve the remainder of a 5 year sentence, or an additional length of stay equaling 47 months." NOT TRUE They might serve the remainder in prison, but more likely they would serve the remainder of the time in community supervision.

The 24/7 sobriety program monitors aggravated DUI offenders and second and third DUI offenders to keep them clean and sober. Over time this program will significantly decrease the number of felony DUI offenders. Other states using this model have seen savings in prison costs. So the assumption that DOC costs will continue to escalate is NOT TRUE

The purpose of this bill is to ensure that the DUI felony offender will receive treatment and adequate supervision to prevent subsequent offenses. This will decrease the number of persistent felony offenders who are subject to prolonged incarceration. This will SAVE EVEN MORE PRISON TIME

The public is outraged when a person is arrested for the 6<sup>th</sup> or 16<sup>th</sup> DUI. This bill will help to keep that from happening.

**The Montana Common Sense Coalition** [www.MontanaCSC.org](http://www.MontanaCSC.org)

The Coalition is made up of volunteers and receives no public funding.

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## Excerpts from the 2013 Department of Corrections Biennial Report

"Success for offenders means stable housing and employment, effective treatment, positive personal relationships, family support and appropriate supervision. Success means fewer future victims, less crime and a safer Montana."

"Community corrections continues to account for about eight out of every 10 offenders. The largest segment of community corrections, probation and parole, has slightly more than six out of every 10 offenders. Prisons hold only 20 percent of all offenders under department jurisdiction. Sixteen percent of DOC commits initially went to prison in fiscal year 2012. Five years earlier, that rate was 21.2 percent. Twenty-two percent go to a treatment program, an increase from 2008 when only 14 percent went to such programs. Most of the DOC commits (57 percent) are placed in assessment centers for further evaluation as to their needs and final decisions on where they should go."

**DOC commit** – Commitment by a court to the Department of Corrections that allows the agency to determine where to place an adult offender within legal guidelines.

**Diversion** – Placement of an offender by a court or the department in facility or program as an alternative to prison

NOTE: Prisoners are eligible for parole after they have served  $\frac{1}{4}$  of their sentence in the prison.

### DOC Programs Other than Prison:

**Warm Springs Addictions Treatment and Change (WATCH)** programs provide treatment to those convicted of felony drunken driving. WATCH West located at Warm Springs opened in 2002 and has a capacity of 115 male offenders. WATCH East at Glendive started in 2005 and houses up to 50 male and female offenders. Both programs, operated by Community, Counseling and Correctional Services Inc. under contract with the state, offer intensive, six-month residential treatment that is modified to meet the needs and issues of a correctional population. The program teaches offenders how to live and function while in treatment, home communities and with their families. WATCH West has developed programs to help DUI offenders who face additional treatment and recovery issues related to their offenses. The KNIGHTS program, started in 2007, addresses specific needs of offenders convicted of negligent vehicular homicide while under the influence. The five-bed program has a completion rate of 83.3 percent among its 50 admissions. Only 2.8 percent of those received another drunken-driving conviction. Since opening, the WATCH programs have a 91 percent completion rate among the more than 2,900 offenders leaving the program. Of those completing WATCH and returning to communities, just 12.3 percent received another DUI.

**Adult community corrections** – Programs in the community that provide for the supervision of low-risk felony adult offenders and offenders moving from prison to the community. The programs involve citizens in setting policy, and determining placement and programming.

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**Conditional release** – This refers to instances when an inmate is released into the community under auspices of the department and subject to its rules. This is not a parole and inmates are not eligible for parole consideration while on conditional release. Offenders who violate conditions of their release and sent to prison would become eligible for parole when prison records show they have served their minimum sentence.

**Electronic monitoring** – An automated system capable of recording and transmitting information about an offender's location, using conventional or cellular phones and sometimes relying on global positioning satellites (GPS). The systems are usually used to monitor offenders ordered to remain in their homes during certain times of day or for certain periods of time. Monitoring is sometimes required as a condition of pretrial release, probation, parole or conditional release.

**ESP** – "Enhanced supervision program," which relies on contracts with prerelease center staffs to provide daily assistance to offenders having trouble finding a job and struggling with substance abuse.

**Home arrest** – Using a person's home for confinement, usually through some form of electronic monitoring.

**ISP** – Intensive supervision program, which is a more structured level of probation or parole that can include electronic monitoring of offenders in the community.

**PRC** – Prerelease center, which is a low-security community-based residence for offenders. The state has contracts with nonprofit Montana corporations for operation of six prerelease centers that house, treat and supervise about 840 men and women offenders at any one time. The centers offer a six-month program that provides transition from prison to community and give judges an alternative to prison for offenders when public safety and the offenders' interests are best served by a level of supervision between prison and probation.

## FISCAL NOTE ASSUMPTIONS:

- 310 1st Felony DUI offenders; 57 enter prison [Not eligible for WATCH]  
All 57 will be sentenced to 5 years and serve all 5 years in prison
- 57 2<sup>nd</sup> or subsequent Felony DUI offenders [25 sentenced as persistent felony offender]  
32 sentenced to 10 years; serve an additional 15 months in prison before parole

SETTING	Cost per Day*	FY 2015	FY 2016	FY 2017
Adult Probation/Parole	\$4.62			
Intensive Supervision	\$9.75			
Transitional Living/ESP	\$16.88			
Prerelease (female)	\$52.33			
Prerelease (male)	\$64.08			
WATCH (male)	\$85.16			
WATCH (female)	\$116.25			
Montana State Prison	\$97.63	\$890,976	\$2,895,017	\$4,959,317
		\$142,541	\$633,333	\$756,218
Montana Women's Prison	\$104.07			
<b>TOTALS</b>		<b>\$1,033,517</b>	<b>\$3,528,350</b>	<b>\$5,715,535</b>

DUI 4  
DUI 5+

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