

EXHIBIT 5
DATE 2/20/13
518

Montana Code Annotated 2011

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46-23-1020. Conditional discharge -- definition -- revocation. (1) (a) A conditional discharge granted under 46-23-1011 or 46-23-1021 is:

(i) a discharge from supervision by the department for the time remaining on the sentence imposed if the probationer or parolee complies with all the conditions imposed by the district court or the board; and

(ii) a release from the obligation to pay supervision fees imposed as part of a sentence or as terms of parole or probation.

(b) If an individual who has been granted a conditional discharge under 46-23-1011 or 46-23-1021 becomes a resident of another state, the conditional discharge must be construed as a discharge of the imposed sentence subject to revocation as provided in subsection (2).

(2) A conditional discharge may be revoked if, within the time remaining on the sentence that was conditionally discharged, the individual:

(a) is charged with a felony offense;

(b) is charged with a misdemeanor offense for which the individual could be sentenced to incarceration for a period of more than 6 months; or

(c) violates any condition imposed by the district court or the board.

(3) A sexual or violent offender who is subject to lifetime supervision by the department is not eligible for a conditional discharge from supervision.

History: En. Sec. 1, Ch. 228, L. 2009.

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46-23-1027. Parole achievement credit. (1) The department shall acknowledge achievements by a parolee who, by completion of an activity described in subsection (2), has shown a willingness to reenter society as a productive and responsible member.

(2) The department shall acknowledge achievements, such as:

- (a) obtaining a high school diploma or general equivalency diploma;
- (b) obtaining a degree from an accredited postsecondary educational institution;
- (c) completion of an approved apprenticeship program;
- (d) completion of an accredited vocational certification program;
- (e) employment of at least 20 scheduled hours a week, for 6 or more months;
- (f) attendance at a faith-based, social service, or rehabilitation activity for 6 or more months; or
- (g) any other achievement designated by a department rule.

History: En. Sec. 1, Ch. 238, L. 2007.

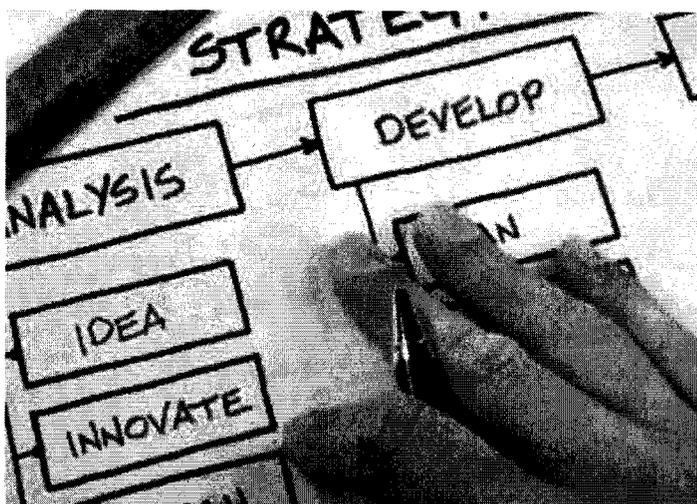
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Innovative Policies & Foresight at the Montana Department of Corrections

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The recent national recession has prompted corrections systems to look at ways to reduce their prison populations as a way to save money, relieve overcrowding or both. They have developed or expanded treatment and other diversion programs, tinkered with sentencing laws, or released large numbers voluntarily or under court orders.

The Montana Department of Corrections has avoided those dilemmas due to careful planning, innovative policies and foresight that have their roots in the past decade.

While Montana's prison population is small compared to that in many more-populous states, the average daily population of about 2,550 inmates is significant for a state with less than 1 million residents.

In 2006, the department's projections anticipated the prison population would increase 47.7 percent between 2006 and 2011. The actual change turned out to be a 0.3 percent decrease. Two years later, the department projected prison growth of 12 percent between 2008 and 2011, but the actual increase was about half of that – 6.4 percent.

So what happened to head off projected growth?

In 2005, the state embarked on an ambitious effort to turn the tide. A new governor, legislators and corrections officials recognized that the state could not afford the social and financial cost of constantly expanding the prison system to accommodate more and more inmates. The state had tried to build its way out of the problem in the 1990s, adding four new prisons that expanded the system by almost two-thirds. Once again, the cells were full.

Gov. Brian Schweitzer, elected in 2004, supported proposals designed to expand community corrections alternatives to incarceration. He and corrections officials reasoned that development of myriad options to address the individualized needs of offenders would do more in the long run to control the prison population than building more cells. Providing sufficient treatment for offenders' addictions and offering programs to address mental health problems would have a greater chance of getting to the roots of recidivism than mere incarceration, they concluded.

The state already had a 3-year-old program to treat those convicted of felony drunken driving that had trouble meeting the demand. Located in western Montana, the program was expanded with a second facility to serve the eastern part of a state that is more 500 miles across. The WATCH (Warm Springs Addictions Treatment and Change) program has a 92 percent success rate.

The department launched a new program in 2005 designed to divert from prison those offenders who violated conditions of their community placement. The START (Sanction, Treatment, Assessment, Revocation and Transition) program serves as a wake-up call for offenders, offering treatment and counseling to get them back on track and back to the community rather than placed in a prison cell. The most recent three-year recidivism rate for offenders released from START is 22 percent.

Sparked by concerns over epidemic-level methamphetamine use in the state, lawmakers in 2005 approved funding for development of a meth treatment program. The result was two treatment centers, one for men and another for women, that have evolved into programs that deal with meth and other severe drug addictions that have proven resistant to other treatment efforts. After three years of operation, the programs have seen just 1 percent of graduates go to prison.

Since 2004, Montana has increased the population in six prerelease centers (called halfway houses or re-entry centers in some other states) by 41 percent, to more than 800 offenders. These programs not only provide services to offenders transitioning to communities from prison, but also offer a sentencing option for courts.

The department, with the support from the governor and legislators, also has expanded the number of probation and parole officers by 27 percent since 2004. Two-thirds of all offenders under department supervision are probationers or parolees and 80 percent of all offenders are managed outside of prison.

With the help of a federal grant, the state added eight specialized probation and parole officers in early 2010 with a goal of reducing recidivism among two high-risk populations: Native American offenders and offenders facing the dual challenges of drug addiction and mental health problems. Initial results show the revocation rate among the specialized Native American caseload declined 45 percent and the rate among those with co-occurring disorders was down 20 percent.

Between 2004 and 2010, Montana expanded its various community corrections programs by rates ranging from 15 percent to 131 percent. At the same time, the male prison population grew just 5 percent and the female prison population dropped 13 percent.

Overall, Montana's recidivism rate of 37.6 percent is lower than the national average of 40 percent found in 2010 survey by the Association of State Correctional Administrators. A 2011 report by the Pew Center for the States showed Montana's recidivism rate for new crimes is the lowest in the country and that Montana had the nation's second slowest-growing recidivism rate in the nation when comparing offenders released in 1999 to those released in 2004.

"We try to be innovative and imaginative in our approach to corrections, looking to create a system that recognizes a one-size-fits-all approach is less-effective than one that focuses resources on addressing the varied individual needs of offenders," says Corrections Director Mike Ferriter. "With the support of the governor, legislators and Montana citizens, we think we have done that and the results show its working."

Although most of the new correctional programs were started in the past decade, one major step was taken 18 years ago when the Legislature gave judges the option of sentencing offenders to the Department of Corrections for it to decide on placement in an appropriate program or facility. This "DOC commitment" provision in sentencing law was based on the theory that, in some instances, correctional professionals are in the best position to determine placement of offenders.

The provision, believed to be unique in the country, has had increasing success in helping to control the prison population. In 2001, about 52 percent of such "DOC commits" went to prison. Ten years later, less than 23 percent were placed in prison.

Since before statehood, Montana corrections officials have recognized the value of providing work-skill programs in prison. Montana Correctional Enterprises, a division of the department, carries on that philosophy in the 21st century. The success of its programs is evident in the status of offenders after leaving prison. The recidivism rate among those involved in industry programs more than a year is about 29 percent, compared with 38.4 percent for offenders not participating.

While Montana hasn't found a magic wand for stopping growth of the prison population, it has found a philosophy and programs that appear to have stemmed the tide and prevented razor wire from dotting the landscape under the state's Big Sky.

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