

Schindler, Pam

SENATE JUDICIARY
SENATE NO. 2
DATE 3/25/13
HB 233

From: Osler, Fern
Sent: Tuesday, March 19, 2013 3:49 PM
To: Schindler, Pam; Burkhardt, Julianne; Thigpen, Helen; 'stevlavin4hd8@gmail.com'
Cc: Mike McKee (michaelemckee@yahoo.com); Bunke, Pam; Reed, Ben; Ambrose, Colleen; Batista, Mike; Omholt-Mason, Myrna
Subject: House Bill 233

Good afternoon Representative Lavin and staff; I would like to comment on HB 233 on behalf of the Montana Board of Pardons and Parole as I see it's been amended and now referred to Senate Judiciary. My comments are as follows:

The Parole Board has no opposition on the concept of this bill, in fact the Board, does currently use the "24/7 program" as a condition of parole. However, there is some wording that has the Board concerned. The first is On page 4...**Section 5 44-4-1205 Authority of court and other entities to order participation in sobriety and drug monitoring program – probationary license—condition of parole.**

The concern of the Parole Board is that this wording appears to give the court the ability to order a condition of parole. It has determined that courts cannot set conditions of parole. A suggestion, might be to leave in "and other entities" or to take out the words "condition of parole".

On page 5...**Section ~~(5)~~ (4) The board of pardons and parole, the department of corrections, or a parole officer may condition parole FOR A VIOLATION OF 61-8-465, for a second or subsequent violation of 61-8-401 or 61-8-406, or for any OTHER crime in which the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime upon participation in the sobriety program and payment of the fees required by 44-4-1204.**

The concern here is that, per statute, only the parole board can set conditions of parole. A parole officer can request that the Parole Board set a condition, but a parole officer cannot condition parole. Nor can the Department of Corrections set conditions of parole. They can set conditions of conditional release and they can, through the parole officer, request that the parole board set a condition, but they cannot "conditional parole" with participation in this program.

A suggestion here, might be to break this into two sections, one for the Board of Pardons and Parole and one for Department of Corrections and not use the word "parole" for the DOC. Although I certainly am not speaking for the DOC, only the Parole Board, a suggestion might be to substitute the word "supervision" instead of "parole". One last suggestion might be to strike the words "or a parole officer".

Thank you for your time, and if I can answer any questions or further explain our position, please don't hesitate to call me.

*Fern Osler,
Executive Director
Montana Board of Pardons and Parole
1002 Hollenbeck
Deer Lodge, MT 59722
406-846-1404, fax 406-846-3512*