

HOUSE BILL NO. 137

INTRODUCED BY E. HILL

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A LEGISLATIVE POLICY 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. Policy -- housing options after release.** (1) It is the policy of the state of Montana 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;

1 (b) must be registered as provided in 46-23-503 at least 10 days prior to release from confinement if  
2 sentenced to confinement or sentenced to the department and placed in confinement by the department;

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

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

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

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

12 (3) At the time of registering, the offender shall sign a statement in writing giving the information required  
13 by subsections (3)(a) through (3)(g) and any other information required by the department of justice. The  
14 registration agency shall fingerprint the offender, unless the offender's fingerprints are on file with the department  
15 of justice, photograph the offender, and obtain a DNA sample from the offender. Within 3 days, the registration  
16 agency shall send copies of the statement, fingerprints, and photographs to the department of justice. The  
17 registration agency shall send the DNA sample to the department of justice for analysis and entry of the DNA  
18 record into the DNA identification index. The registration agency shall require an offender given a level 2 or level  
19 3 designation to appear before the registration agency for a new photograph every year. The information collected  
20 from the offender at the time of registration must include the:

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

22 (b) offender's social security number;

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

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

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

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

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

28 (4) (a) If, at the time of registration, the offender regularly resides in more than one county or  
29 municipality, the offender shall register with the registration agency of each county or municipality in which the  
30 offender resides. If an offender resides in more than one location within the same county or municipality, the

1 registration agency may require the offender to provide all of the locations where the offender regularly resides  
2 and to designate one of them as the offender's primary residence.

3 (b) Registration of more than one residence pursuant to this section is an exception from the single  
4 residence rule provided in 1-1-215.

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

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

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

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

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

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

17 (c) The form must require the offender's notarized signature. Within 10 days after receipt of the form,  
18 the offender shall complete the form and return it to the registration agency where the offender last registered  
19 or, if the offender was initially registered pursuant to subsection (1)(b), to the registration agency in the county  
20 or municipality in which the offender is located. A sexual offender shall return the form to the appropriate  
21 registration agency in person, and at the time that the sexual offender returns the registration verification form,  
22 the registration agency shall take a photograph of the offender and collect a DNA sample if one has not already  
23 been collected. The registration agency shall send the DNA sample to the department of justice for analysis and  
24 entry into the DNA identification index.

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

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

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

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

5 (b) if the offender is a transient, indicates in the monthly report to the registration agency that the offender  
 6 has stayed at a homeless shelter or a location that is outdoors or outside of a building during the previous 30 days  
 7 or intends to stay at a homeless shelter or a location that is outdoors or outside of a building during the next 30  
 8 days.

9 ~~(9)~~(10) The clerk of the district court in the county in which a person is convicted of a sexual or violent  
 10 offense shall notify the sheriff in that county of the conviction within 10 days after entry of the judgment."  
 11

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

13 **"46-23-505. Notice of change of name or residence or student, employment, or transient status**  
 14 **-- duty to inform -- forwarding of information.** (1) If an offender required to register under this part has a  
 15 change of name or residence or a change in student, employment, or transient status, the offender shall within  
 16 3 business days of the change appear in person and give notification of the change to the registration agency  
 17 with whom the offender last registered or, if the offender was initially registered under 46-23-504(1)(b), to the  
 18 registration agency for the county or municipality from which the offender is moving. The registration agency shall  
 19 require the offender to appear before the registration agency for a new photograph every year.

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

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

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

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

30 ~~(a)~~(i) in the event of a change in residence, the registration agency for the county to which the offender

1 moves and, if the offender lives in a municipality, the registration agency for that municipality to which the offender  
2 moves;

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

5 (4) If an offender who is required to register under this part is physically absent from the offender's  
6 county of residence for more than 10 consecutive days, the offender shall register in the county where the  
7 offender is physically located on the 11th day even if the offender claims to maintain a residence, as defined in  
8 46-23-502, in that county. The offender shall register again in the offender's county of residence when the  
9 offender returns to that county.

10 (5) If an offender is required to register under subsection (4), the offender shall register in any  
11 subsequent county where the offender is present for more than 24 hours until the offender registers again in the  
12 offender's county of residence."

13

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

15 **"53-1-203. Powers and duties of department of corrections.** (1) The department of corrections shall:

16 (a) subject to subsection (6), adopt rules necessary:

17 (i) to carry out the purposes of 41-5-125;

18 (ii) for the siting, establishment, and expansion of prerelease centers;

19 (iii) for the expansion of treatment facilities or programs previously established by contract through a  
20 competitive procurement process;

21 (iv) for the establishment and maintenance of residential methamphetamine treatment programs; and

22 (v) for the admission, custody, transfer, and release of persons in department programs except as  
23 otherwise provided by law;

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

29 (c) contract with private, nonprofit Montana corporations or, pursuant to the Montana Community  
30 Corrections Act, with community corrections facilities or programs or local or tribal governments to establish and

1 maintain:

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

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

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

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

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

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

22 (h) maintain data on the number of individuals who are discharged from the adult correction services  
23 listed in 53-1-202 into a homeless shelter or a homeless situation;

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

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

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

1           ~~(j)~~(l) provide funding for youth who are committed to the department for placement in a state youth  
2 correctional facility;

3           ~~(k)~~(m) administer youth correctional facilities;

4           ~~(h)~~(n) provide supervision, care, and control of youth released from a state youth correctional facility; and

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

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

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

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

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

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

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

28           (6) Rules adopted by the department pursuant to subsection (1)(a) may not amend or alter the statutory  
29 powers and duties of the state board of pardons and parole. The rules for the siting, establishment, and  
30 expansion of prerelease centers must state that the siting is subject to any existing conditions, covenants,

1 restrictions of record, and zoning regulations. The rules must provide that a prerelease center may not be sited  
2 at any location without community support. The prerelease siting, establishment, and expansion must be subject  
3 to, and the rules must include, a reasonable mechanism for a determination of community support for or objection  
4 to the siting of a prerelease center in the area determined to be impacted. The prerelease siting, establishment,  
5 and expansion rules must provide for a public hearing conducted pursuant to Title 2, chapter 3."

6  
7 **NEW SECTION. Section 5. Codification instruction.** [Section 1] is intended to be codified as an  
8 integral part of Title 46, chapter 23, part 10, and the provisions of Title 46, chapter 23, part 10, apply to [section  
9 1].

10 - END -