

SENATE BILL NO. 181

INTRODUCED BY J. GROSS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PROBATION AND PAROLE OFFICERS TO INFORM
5 A PROBATIONER OR A PAROLEE THAT THE INDIVIDUAL'S RIGHT TO VOTE IS RESTORED AFTER THE
6 INDIVIDUAL IS RELEASED FROM A PENAL INSTITUTION; REQUIRING THE OFFICER TO DOCUMENT
7 THAT THE REQUIREMENT IS COMPLETE; AND AMENDING SECTIONS 46-23-1011 AND 46-23-1021, MCA."

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

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11 **Section 1.** Section 46-23-1011, MCA, is amended to read:
12 **"46-23-1011. Supervision on probation.** (1) The department shall supervise probationers during their
13 probation period, including supervision after release from imprisonment imposed pursuant to 45-5-503(4),
14 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4), in accord with the conditions set by a
15 sentencing judge. If the sentencing judge did not set conditions of probation at the time of sentencing, the court
16 shall, at the request of the department, hold a hearing and set conditions of probation. The probationer must be
17 present at the hearing. The probationer has the right to counsel as provided in chapter 8 of this title.

18 (2) If the probationer is being supervised for a sexual offense as defined in 46-23-502, the conditions
19 of probation may require the probationer to refrain from direct or indirect contact with the victim of the offense or
20 an immediate family member of the victim. If the victim or an immediate family member of the victim requests to
21 the department that the probationer not contact the victim or immediate family member, the department shall
22 request a hearing with a sentencing judge and recommend that the judge add the condition of probation. If the
23 victim is a minor, a parent or guardian of the victim may make the request on the victim's behalf.

24 (3) A copy of the conditions of probation must be signed by the probationer. The department may require
25 a probationer to waive extradition for the probationer's return to Montana.

26 (4) The probation and parole officer shall regularly advise and consult with the probationer using effective
27 communication strategies and other evidence-based practices to encourage the probationer to improve the
28 probationer's condition and conduct. ~~and~~ The probation and parole officer shall inform the probationer of:

29 (a) that the probationer's right to vote is restored after release from a penal institution as provided in
30 Article IV, section 2, of the Montana constitution; and

1 **(b)** of the restoration of rights on successful completion of the sentence.

2 (5) (a) The probation and parole officer may recommend and a judge may modify or add any condition
3 of probation or suspension of sentence at any time.

4 (b) The probation and parole officer shall provide the county attorney in the sentencing jurisdiction with
5 a report that identifies the conditions of probation and the reason why the officer believes that the judge should
6 modify or add the conditions.

7 (c) The county attorney may file a petition requesting that the court modify or add conditions as
8 requested by the probation and parole officer.

9 (d) The court may grant the petition if the probationer does not object. If the probationer objects to the
10 petition, the court shall hold a hearing pursuant to the provisions of 46-18-203.

11 (e) Except as they apply to supervision after release from imprisonment imposed pursuant to
12 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4), the provisions of
13 46-18-203(7)(a)(ii) do not apply to this section.

14 (f) The probationer shall sign a copy of new or modified conditions of probation. The court may waive
15 or modify a condition of restitution only as provided in 46-18-246.

16 (6) (a) Based on the risk and needs of each individual as determined by the individual's most recent risk
17 and needs assessment, the probation and parole officer shall recommend conditional discharge when a
18 probationer is in compliance with the conditions of supervision when:

19 (i) a low-risk probationer has served 9 months;

20 (ii) a medium-risk probationer has served 12 months;

21 (iii) a moderate-risk probationer has served 18 months; and

22 (iv) a high-risk probationer has served 24 months.

23 (b) On recommendation of the probation and parole officer, a judge may conditionally discharge a
24 probationer from supervision before expiration of the probationer's sentence if:

25 (i) the judge determines that a conditional discharge from supervision:

26 (A) is in the best interests of the probationer and society; and

27 (B) will not present unreasonable risk of danger to the victim of the offense; and

28 (ii) the offender has paid all restitution and court-ordered financial obligations in full.

29 (c) Subsection (6)(b) does not prohibit a judge from revoking the order suspending execution or deferring
30 imposition of sentence, as provided in 46-18-203, for a probationer who has been conditionally discharged from

1 supervision.

2 (7) Records kept by the probation and parole officer must include documentation that the requirement
3 in subsection (4)(a) has been completed."

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5 **Section 2.** Section 46-23-1021, MCA, is amended to read:

6 **"46-23-1021. Supervision on parole.** (1) The department shall retain custody of all persons placed on
7 parole and shall supervise the persons during their parole periods in accordance with the conditions set by the
8 board.

9 (2) The department shall assign personnel to assist a person who is eligible for parole in preparing a
10 parole plan. Department personnel shall make a report of their efforts and findings to the board prior to its
11 consideration of the case of the eligible person.

12 (3) A copy of the conditions of parole must be signed by the parolee and given to the parolee and to the
13 parolee's probation and parole officer, who shall report on the parolee's progress under the rules of the board.

14 (4) The probation and parole officer shall regularly advise and consult with the parolee, use effective
15 communication strategies and other evidence-based practices, and assist the parolee in adjusting to community
16 life, and. The probation and parole officer shall inform the parolee of:

17 (a) that the parolee's right to vote is restored after release from a penal institution as provided in Article
18 IV, section 2, of the Montana constitution; and

19 (b) of the restoration of rights on successful completion of the sentence.

20 (5) The probation and parole officer shall keep records as the board or department may require. The
21 records must include documentation that the requirement in subsection (4)(a) has been completed. All records
22 must be entered in the master file of the individual.

23 (6) (a) Upon recommendation of the probation and parole officer, the board may conditionally discharge
24 a parolee from supervision before expiration of the parolee's sentence if the board determines that a conditional
25 discharge from supervision is in the best interests of the parolee and society and will not present unreasonable
26 risk of danger to the victim of the offense.

27 (b) Any of the achievements listed in 46-23-1027(2) must be considered a significant achievement by
28 the board in deciding whether to grant a conditional discharge from supervision to a parolee.

29 (c) If the board discharges a parolee from supervision, the department is relieved of the obligation of
30 supervising the parolee.

