

Proposed 2007 Session Legislative **CONCEPT NOT APPROVED YET**

Agency Name & No: Corrections 6401

Priority Number: 1 Filename: 6401-03-001

Short Title: Medical Parole

Agency Contact Person/Phone:

1. Purpose:

The purpose is two-fold: 1, to define the word "incapacitating;" and, 2, to add statutory authority for the Parole Board to medically parole an inmate to a prerelease or other community corrections facility or program.

2. Background:

Medical parole is desirable for terminally ill and very sick inmates as these are the inmates at the prison who consume the bulk of the medical resources. If they can be medically paroled they can access Federally funded services. The Parole Board needs the assurance that the inmate's condition incapacitates him/her to the point he/she is not likely to re-offend. The statute needs to define "incapacitating" so more inmates can at least request medical parole. Also, the Board would probably medically parole more inmates if the parolee could reside in a facility that would provide security, such as a prerelease. The inmates could access federal benefits, but would not pose a risk to the community or to other residents of a nursing home-type facility.

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible.*

Fiscal impact depends on a case-by-case analysis of the inmate's condition and medical demands.

4. Summary Checklist [Check & complete all that apply]--

- Housekeeping Only Federal Requirement Audit Recommendation (Audit No. _____) Major Legislation
- Anticipated to be Controversial Legislation Bill Draft has been included in Legislation Submittal (if available)
- Supports Submitted EPP Item Number: _____ Local Government Fiscal Impact.
- Increases FTE, or Decreases FTE by _____ List FTE amount and program _____
- Increases Existing Revenue Tax Fee Penalty [amount in #3]
- Decreases Existing Revenue Tax Fee Penalty [amount in #3]
- Establishes New Revenue Tax Fee Penalty [amount in #3]
- Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no): _____
- Legislation would affect other state agencies (list): _____
- Special Interest Groups Affected (list): _____
- Other: _____

Proposed 2007 Session Legislative CONCEPT NOT APPROVED YET

Agency Name & No: Corrections 6401

Priority Number: 2 | Filename: 6401-01-002

Short Title: Exempt DOC from Vacancy Savings

Agency Contact Person/Phone: Diana Koch 6401

1. Purpose:

The purpose of this bill is to exempt Department of Corrections institutional staff and probation and parole officers from vacancy savings.

2. Background:

The 2005 Legislature exempted the Montana Highway Patrol "authorized positions" from vacancy savings. The Department of Corrections needs a similar exemption. The Department cannot leave institutional security positions or probation and parole officer positions vacant as it would compromise public safety. The Department, therefore, is penalized in that it must keep positions vacant in other areas.

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible.*

It would cost general fund money to exempt positions from vacancy savings, but would not create or increase a supplemental appropriation.

4. Summary Checklist [Check & complete all that apply]--

- Housekeeping Only Federal Requirement Audit Recommendation (Audit No. _____) Major Legislation
- Anticipated to be Controversial Legislation Bill Draft has been included in Legislation Submittal (if available)
- Supports Submitted EPP Item Number _____ Local Government Fiscal Impact
- Increases FTE, or Decreases FTE by _____ List FTE amount and program _____
- Increases Existing Revenue Tax Fee Penalty [amount in #3]
- Decreases Existing Revenue Tax Fee Penalty [amount in #3]
- Establishes New Revenue Tax Fee Penalty [amount in #3]
- Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no): _____
- Legislation would affect other state agencies (list): _____
- Special Interest Groups Affected (list): _____
- Other: _____

Proposed 2007 Session Legislative CONCEPT NOT APPROVED YET

Agency Name & No: Corrections 6401

Priority Number: 3 | Filename: 6401-05-003

Short Title: Prohibit Commitment of seriously mentally ill youth to Pine Hills or Riverside

Agency Contact Person/Phone: Steve Gibson 444-0851

1. Purpose:

The purpose is to have the Youth Courts, Juvenile Probation officers and Placement Committees find alternative placements for seriously mentally ill youth rather than commit them to Pine Hills or Riverside.

2. Background:

This bill was introduced in 2003 and passed the Senate 50-0, but was stalled in the House when mental health advocates could not agree on the definition of "seriously mentally ill." [A copy of SB 25 is attached to this as a worksheet.] This time we will have all integral parties agree to a definition before we draft the bill.

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible.*

Probably neutral as Juvenile Probation can access JDIP to pay for alternative placements.

4. Summary Checklist [Check & complete all that apply]--

- Housekeeping Only
- Federal Requirement
- Audit Recommendation (Audit No. _____)
- Major Legislation
- Anticipated to be Controversial Legislation
- Bill Draft has been included in Legislation Submittal (if available)
- Supports Submitted EPP Item Number _____
- Local Government Fiscal Impact
- Increases FTE, or Decreases FTE by _____
- List FTE amount and program _____
- Increases Existing Revenue Tax Fee Penalty [amount in #3]
- Decreases Existing Revenue Tax Fee Penalty [amount in #3]
- Establishes New Revenue Tax Fee Penalty [amount in #3]
- Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no): SB 25 (2003) (attached as a
- Legislation would affect other state agencies (list): _____
- Special Interest Groups Affected (list): _____
- Other: _____

Proposed 2007 Session Legislative **CONCEPT NOT APPROVED YET**

Agency Name & No: Corrections 6401

Priority Number: 4 | Filename: 6401-05-004

Short Title: Prohibit Misdemeanants at Pine Hills and Riverside

Agency Contact Person/Phone: Steve Gibson 444-0851

1. Purpose:

The purpose of this bill is to prohibit youth court judges from committing youth to a secure youth facility when the youth has only committed misdemeanor offenses.

2. Background:

Judges now may commit youth to Pine Hills (boys) or Riverside (girls) if the youth has committed 4 or more misdemeanor offenses in the previous 12 months. This bill would delete the authority of the youth court to commit a youth to the state's secure juvenile facilities if the youth has only committed misdemeanor offenses. The parallel is that judges cannot commit adult offenders to prison if they have not committed a felony offense. Youth should have the same protection.

3. Fiscal Impact by Fund Type:

This impact should be as specific as possible.

Probably neutral, but depends on the number of misdemeanor offenders and the facility demands.

4. Summary Checklist [Check & complete all that apply]--

- Housekeeping Only
- Federal Requirement
- Audit Recommendation (Audit No. _____)
- Major Legislation
- Anticipated to be Controversial Legislation
- Bill Draft has been included in Legislation Submittal (if available)
- Supports Submitted EPP Item Number _____
- Local Government Fiscal Impact
- Increases FTE, or Decreases FTE by _____
- List FTE amount and program _____
- Increases Existing Revenue Tax Fee Penalty [amount in #3]
- Decreases Existing Revenue Tax Fee Penalty [amount in #3]
- Establishes New Revenue Tax Fee Penalty [amount in #3]
- Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no): _____
- Legislation would affect other state agencies (list): _____
- Special Interest Groups Affected (list): _____
- Other: _____

Proposed 2007 Session Legislative CONCEPT NOT APPROVED YET

Agency Name & No: Corrections; 6401

Priority Number: 5 | Filename: 6401-02-005

Short Title: Add to list of offenders who cannot consent to sexual relations

Agency Contact Person/Phone: Diana Koch 444-9593

1. Purpose:

The purpose of this bill is to add offenders placed in the community to the list of persons who cannot consent to sexual relations with someone who has supervisory authority over them.

2. Background:

The 1999 Legislature passed a law that said someone who is incarcerated "in an adult or juvenile correctional, detention, or treatment facility" cannot consent to sexual relations with someone who has supervisory or disciplinary authority over them. Pursuant to the Federally mandated Prison Rape Elimination Act (PREA) requirements, the statute needs to extend to non-incarcerated offenders who are placed in the community, either on probation or parole or in a prerelease or other community program and needs to say these offenders cannot consent to sexual relations with persons who have supervisory authority over them.

3. Fiscal Impact by Fund Type:

This impact should be as specific as possible.

This would have negligible fiscal impact.

4. Summary Checklist [Check & complete all that apply]--

Housekeeping Only
 Federal Requirement
 Audit Recommendation (Audit No.: _____)
 Major Legislation

Anticipated to be Controversial Legislation
 Bill Draft has been included in Legislation Submittal (if available)

Supports Submitted EPP Item Number _____
 Local Government Fiscal Impact

Increases FTE, or Decreases FTE by _____
 List FTE amount and program: _____

Increases Existing Revenue
 Tax
 Fee
 Penalty [amount in #3]

Decreases Existing Revenue
 Tax
 Fee
 Penalty [amount in #3]

Establishes New Revenue
 Tax
 Fee
 Penalty [amount in #3]

Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no): _____

Legislation would affect other state agencies (list): _____

Special Interest Groups Affected (list): _____

Other: _____

Proposed 2007 Session Legislative CONCEPT NOT APPROVED YET

Agency Name & No: Corrections 6401

Priority Number: 6 Filename: 6401-02-006

Short Title: Repeal 41-5-208--Transfer to adult court for supervision

Agency Contact Person/Phone: Diana Koch 444-9593

1. Purpose:

41-5-208 allows the youth court to transfer jurisdiction of a youth's case who has reached 18 years of age to district court and supervision from juvenile probation to adult probation. This bill would repeal the statute.

2. Background:

Youth who commit criminal offenses are not "convicted" of a criminal offense, but in keeping with the Youth Court Act's goals are only "adjudicated." A youth is not in jeopardy of a prison placement unless the case is transferred pursuant to 41-5-206. 41-5-208 was enacted initially to try to collect restitution from a youth who reached 18 years of age. The result, however, is that youth who have probation transferred to adult probation are in jeopardy of prison placement until age 25 if they violate probation, or even if they are at Pine Hills or Riverside at the time of transfer. This greatly reduces the protections for these youth; consequently, it probably violates Montana Constitution Art. II, Section 15 that says youth have all adult rights PLUS laws that ENHANCE those rights.

3. Fiscal Impact by Fund Type: This impact should be as specific as possible.

Probably no fiscal impact.

4. Summary Checklist [Check & complete all that apply]--

- Housekeeping Only Federal Requirement Audit Recommendation (Audit No. _____) Major Legislation
- Anticipated to be Controversial Legislation Bill Draft has been included in Legislation Submittal (if available)
- Supports Submitted EPP Item Number: _____ Local Government Fiscal Impact
- Increases FTE, or Decreases FTE by _____ List FTE amount and program _____
- Increases Existing Revenue Tax Fee Penalty [amount in #3]
- Decreases Existing Revenue Tax Fee Penalty [amount in #3]
- Establishes New Revenue Tax Fee Penalty [amount in #3]
- Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no): _____
- Legislation would affect other state agencies (list): _____
- Special Interest Groups Affected (list): _____
- Other: _____

Proposed 2007 Session Legislative CONCEPT NOT APPROVED YET

Agency Name & No: Corrections 6401

Priority Number: 7 Filename: 6401-01-007

Short Title: Employee Drug Testing

Agency Contact Person/Phone: Diana Koch 444-9593

1. Purpose:

The purpose of this bill is to mandate that the Department of Corrections drug test applicants and employees who supervise, manage or work in security positions, public safety positions, or fiduciary positions.

2. Background:

The Department of Corrections believes it is important to drug test employees in or applicants for the above-listed positions. 39-2-207 allows the Department to do it, but makes it discretionary. The DOC proposes to add mandatory drug testing to the list of powers and duties of the Department to have a positive impact on public safety, and as an example for other agencies. The debate about this subject, the Department believes, needs to take place in the legislative forum.

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible.*

It will cost the Department general fund money for the drug tests and for any follow-up rehabilitative treatment it will need to offer employees.

4. Summary Checklist [Check & complete all that apply]--

- Housekeeping Only Federal Requirement Audit Recommendation (Audit No. _____) Major Legislation
- Anticipated to be Controversial Legislation Bill Draft has been Included in Legislation Submittal (if available)
- Supports Submitted EPP Item Number _____ Local Government Fiscal Impact
- Increases FTE, or Decreases FTE by _____ List FTE amount and program _____
- Increases Existing Revenue Tax Fee Penalty [amount in #3]
- Decreases Existing Revenue Tax Fee Penalty [amount in #3]
- Establishes New Revenue Tax Fee Penalty [amount in #3]
- Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no): _____
- Legislation would affect other state agencies (list): _____
- Special Interest Groups Affected (list): Unions and civil liberties groups like the ACLU
- Other: _____

Proposed 2007 Session Legislative **CONCEPT NOT APPROVED YET**

Agency Name & No: Corrections 6401

Priority Number: 8 | Filename: 6401-05-008

Short Title: Update Youth Court Act to reflect current structure of and funding for Youth Courts

Agency Contact Person/Phone: Diana Koch 444-9593

1. Purpose:

The Legislative Audit Division concluded an audit of the Juvenile Delinquency Intervention Program in October 2005. One of the audit's recommendations was that the, "Department of Corrections and the Supreme Court cooperatively seek legislation to update the Youth Court Act as outlined in the report, including the Juvenile Delinquency Intervention Program, to reflect the current structure of and funding for Montana's youth courts."

2. Background:

This is the legislation from the Department of Corrections. DOC expects the Judiciary to join in this legislation.

3. Fiscal Impact by Fund Type:

This impact should be as specific as possible.

4. Summary Checklist [Check & complete all that apply]--

- Housekeeping Only Federal Requirement Audit Recommendation (Audit No. 04P-13) Major Legislation
- Anticipated to be Controversial Legislation Bill Draft has been included in Legislation Submittal (if available)
- Supports Submitted EPP Item Number _____ Local Government Fiscal Impact
- Increases FTE, or Decreases FTE by _____ List FTE amount and program _____
- Increases Existing Revenue Tax Fee Penalty [amount in #3]
- Decreases Existing Revenue Tax Fee Penalty [amount in #3]
- Establishes New Revenue Tax Fee Penalty [amount in #3]
- Leg. has been Submitted in Previous Legislative Sessions (list priority no., LC no., or bill no): _____
- Legislation would affect other state agencies (list): _____
- Special Interest Groups Affected (list): _____
- Other: _____

Proposed 2007 Session Legislative CONCEPT NOT APPROVED YET

Agency Name & No: Corrections 6401

Priority Number: 9 | Filename: 6401-02-009

Short Title: Jail Sanction for Parolees and add DOC facilities for sanction

Agency Contact Person/Phone: Diana Koch 444-9593

1. Purpose:

The DOC proposes with this to enable parole officers to impose a sanction of up to 30 days in a jail or community corrections program or facility for parole violators as well as probation violators to gain the violator's compliance with supervision.

2. Background:

The DOC has authority to sanction probationers with up to 30 days in a "county detention center." The DOC proposes to add authority to sanction parolees and to expand the sanction capability to community corrections facilities or programs. That would include the START program, BASC and MASC, and prereleases as places where the DOC could sanction probationers and parolees.

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible.*

None

4. Summary Checklist [Check & complete all that apply]--

- Housekeeping Only Federal Requirement Audit Recommendation (Audit No. _____) Major Legislation
- Anticipated to be Controversial Legislation Bill Draft has been included in Legislation Submittal (if available)
- Supports Submitted EPP Item Number _____ Local Government Fiscal Impact
- Increases FTE, or Decreases FTE by _____ List FTE amount and program: _____
- Increases Existing Revenue Tax Fee Penalty [amount in #3]
- Decreases Existing Revenue Tax Fee Penalty [amount in #3]
- Establishes New Revenue Tax Fee Penalty [amount in #3]
- Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no): _____
- Legislation would affect other state agencies (list): _____
- Special Interest Groups Affected (list): _____
- Other: _____

Proposed 2007 Session Legislative CONCEPT NOT APPROVED YET

Agency Name & No: Corrections 6401

Priority Number: 10 | Filename: 6401-02-010

Short Title: Unconditional Discharge if Workload exceeds optimum

Agency Contact Person/Phone: Mike Ferriter 444-4913

1. Purpose:

The purpose of this bill is two-fold: 1, to clarify that a conditional discharge from supervision pursuant to 46-23-1011 (5) terminates all supervision and all consequences except revocation if the offender commits a new offense; and 2, that if a probation and parole workload of a district exceeds the optimum for the district for 60 days judges of the district may not put an offender on probation unless a judge grants an unconditional discharge from supervision that would terminate even the possibility of revocation.

2. Background:

All that is in place now is *conditional* discharge and with a conditional discharge, the probation and parole office still carry the offender on the office's caseload. The DOC proposes a two-step process: step 1, conditional discharge that would end all supervision but still subject the offender to revocation proceedings if the offender commits a new offense; and step 2, an unconditional discharge that would end even the possibility of revocation proceedings. The DOC proposes to couple this with the certification that the workload of a probation & parole district exceeds the optimum for over 60 days.

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible.*

Probably no fiscal impact.

4. Summary Checklist [Check & complete all that apply]--

- Housekeeping Only Federal Requirement Audit Recommendation (Audit No. _____) Major Legislation
- Anticipated to be Controversial Legislation Bill Draft has been included in Legislation Submittal (if available)
- Supports Submitted EPP Item Number _____ Local Government Fiscal Impact
- Increases FTE, or Decreases FTE by _____ List FTE amount and program _____
- Increases Existing Revenue Tax Fee Penalty [amount in #3]
- Decreases Existing Revenue Tax Fee Penalty [amount in #3]
- Establishes New Revenue Tax Fee Penalty [amount in #3]
- Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no): _____
- Legislation would affect other state agencies (list): _____
- Special Interest Groups Affected (list): _____
- Other: _____