

1 HOUSE BILL NO. 71

2 INTRODUCED BY MACDONALD

3 BY REQUEST OF THE LAW AND JUSTICE INTERIM COMMITTEE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE INTENT AND DEFINITION OF RESTORATIVE
 6 JUSTICE; ELIMINATING THE OFFICE OF RESTORATIVE JUSTICE; ESTABLISHING A RESTORATIVE
 7 JUSTICE GRANT PROGRAM UNDER THE MONTANA BOARD OF CRIME CONTROL; ~~PROVIDING AN~~
 8 ~~APPROPRIATION;~~ PROVIDING A COORDINATION INSTRUCTION REGARDING APPROPRIATIONS FOR THE
 9 DEPARTMENT OF CORRECTIONS AND THE MONTANA BOARD OF CRIME CONTROL; AMENDING
 10 SECTIONS 2-15-2012, 2-15-2013, AND 46-15-411, MCA; REPEALING SECTION 2-15-2014, MCA; AND
 11 PROVIDING AN ~~EFFECTIVE DATE~~ EFFECTIVE DATES AND A TERMINATION DATE."

12
 13 WHEREAS, the Law and Justice Interim Committee examined the efficacy of restorative justice principles
 14 and practices within the criminal justice system as requested by Senate Joint Resolution No. 29 from the 2011
 15 legislative session; and

16 WHEREAS, the Committee found that restorative justice programs have been established in Gallatin
 17 County, Lewis and Clark County, Missoula County, and Flathead County; and

18 WHEREAS, the Committee found that these programs have proven successful in significantly reducing
 19 incarceration rates and the risk that offenders will reoffend;

20 WHEREAS, this saves the state money that would otherwise need to be spent on providing additional
 21 jail and prison capacity at a per-inmate cost averaging about \$90 a day or about \$33,000 a year; and

22 WHEREAS, the local programs were initially supported by federal grant money passed through the
 23 Montana Board of Crime Control and technical assistance was provided by the Office of Restorative Justice
 24 established by the Legislature in 2001 and placed under the Department of Justice; and

25 WHEREAS, the Office of Restorative Justice under the Department of Justice is no longer functioning
 26 and no further restorative justice grants have been applied for.

27

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

29

30 **Section 1.** Section 2-15-2012, MCA, is amended to read:

1 **"2-15-2012. Intent.** The legislature recognizes that incarcerating offenders carries an extremely high
 2 cost and may not be the most effective strategy for restoring victims, reforming offenders, and reducing
 3 recidivism. It is the intent of 2-15-2013 to create a grant program that will provide funds to state and local entities
 4 that establish restorative justice programs to divert from incarceration appropriate offenders who are at low risk
 5 for violence ~~from incarceration to community programs based on restorative justice and to divert funds from the~~
 6 ~~department of corrections to the department of justice to support an office of restorative justice and to support~~
 7 ~~community programs based on restorative justice.~~ It is also the intent that restorative justice programs be
 8 supported by federal, state, and local funds."

9

10 **Section 2.** Section 2-15-2013, MCA, is amended to read:

11 **"2-15-2013. ~~Office of restorative~~ Restorative justice grant program.** (1) There is ~~an office of a~~
 12 ~~restorative justice in the department of justice~~ grant program administered by the Montana board of crime control
 13 established in 2-15-2006.

14 (2) The purposes of the ~~office of restorative justice~~ grant program are to:

15 (a) promote the use of restorative justice practices throughout the state ~~by balancing the needs of~~
 16 ~~victims, communities, and juvenile and adult offenders;~~

17 (b) provide technical assistance to local jurisdictions and organizations interested in implementing the
 18 principles of restorative justice; and

19 (c) ~~bring additional resources~~ provide matching funds to Montana communities ~~for that invest in~~
 20 restorative justice programs.

21 (3) ~~(a)~~ For the purposes of 2-15-2012, ~~2-15-2014~~, and this section, the term "restorative justice" means
 22 ~~the philosophy of promoting and supporting practices, policies, and programs that focus on repairing the harm~~
 23 ~~of crime, strengthening communities around the state, emphasizing accountability, and providing alternatives to~~
 24 ~~incarceration for offenders who are at low risk for violence~~ criminal justice practices that elevate the role of crime
 25 victims and community members in the criminal justice process, hold offenders directly accountable to the people
 26 and communities they have harmed, restore emotional and material losses, and provide a range of opportunities
 27 for victim, offender, and community dialogue, negotiation, and problem solving to bring about a greater sense of
 28 justice, repair harm, provide restitution, reduce incarceration and recidivism rates, and increase public safety.

29 ~~(b) Restorative justice is intended to improve the ability of the justice system to meet the needs of~~
 30 ~~victims, to encourage community and victim participation in the criminal justice process, to reduce crime and~~

1 increase the public sense of safety, to hold offenders accountable, and to provide rehabilitation and reintegration
2 of offenders back into the community:

3 ~~(e)(4) Restorative justice programs~~ A restorative justice program eligible for grant funding pursuant to
4 this section shall use evidence-based practices, which may include but are not limited to facilitated victim-offender
5 meetings, family group conferencing, sentencing circles, use of victim and community impact statements panels,
6 offender accountability letters, restitution programs, constructive community service, victim awareness education,
7 victim empathy programs, school expulsion alternatives, peer mediation, diversion programs, and community
8 panels.

9 ~~(4)(5) Efforts of the office of restorative justice may include but are not limited to~~ The board may use up
10 to 10% of any money appropriated for this grant program for administrative costs and statewide coordination,
11 including:

12 (a) providing educational programs on the philosophical framework of restorative justice;

13 (b) providing technical assistance to schools, law enforcement, youth courts, probation and parole
14 officers, juvenile corrections programs, and prisons in designing and implementing ~~applications of~~ restorative
15 justice practices;

16 (c) ~~housing a repository for~~ developing a website with links to resources and information ~~to coordinate~~
17 ~~expertise in about~~ restorative justice;

18 (d) ~~servicing as a liaison between victims~~ coordinating the efforts of victim services agencies, the judiciary,
19 and state agencies, such as the department of justice, and the department of corrections, and local agencies that
20 are involved in criminal adult and juvenile justice efforts, including victim compensation programs;

21 (e) maintaining a statewide inventory and directory of restorative justice programs;

22 ~~(e)(f)~~ providing information to schools, local governments, law enforcement, state agencies, the judiciary,
23 and the legislature regarding systemic changes that may be necessary to enhance ~~further development of~~
24 restorative justice efforts in the state; and

25 ~~(f)(g) securing additional resources for restorative justice programs through a grant program~~
26 ~~administered by the board of crime control, which may be coordinated with other appropriate grant programs of~~
27 ~~agencies, and providing sustained funding for successful community programs~~ producing the report required in
28 subsection (8).

29 (6) To be eligible for a grant for a restorative justice program referred to in subsection (4), the grantee
30 shall:

- 1 (a) invest in the program an amount equal to at least 50% of the grant amount to be provided;
 2 (b) agree to collect and report program participation and evaluation data and information in a manner
 3 prescribed by the board; and
 4 (c) meet any other standard criteria established by the board.
 5 (7) The board shall actively seek federal grant money that may be used for the purposes of this section.
 6 (8) The board shall produce a biennial report summarizing the grants provided, how the grant money
 7 was spent, and the program data and information reported by grant recipients.
 8 (9) THE BOARD SHALL REPORT ANNUALLY TO THE LAW AND JUSTICE INTERIM COMMITTEE REGARDING THE STATUS
 9 AND PERFORMANCE OF THE RESTORATIVE JUSTICE GRANT PROGRAMS ESTABLISHED IN THIS SECTION."

10
 11 **Section 3.** Section 46-15-411, MCA, is amended to read:

12 **"46-15-411. Payment for medical evidence -- alleged sexual offenses.** (1) The local law enforcement
 13 agency within whose jurisdiction an alleged incident of sexual intercourse without consent, sexual assault, or
 14 incest occurs shall pay for the medical examination of a victim of the alleged offense when the examination is
 15 directed by the agency or when evidence obtained by the examination is used for the investigation, prosecution,
 16 or resolution of an offense.

17 (2) (a) ~~The office of restorative justice in the~~ department of justice shall, as long as funds are available
 18 from an appropriation made for this purpose, pay for the medical examination of a victim of an alleged incident
 19 of sexual intercourse without consent, sexual assault, or incest if the cost is not the responsibility of a local law
 20 enforcement agency under subsection (1).

21 (b) In administering the provisions of subsection (2)(a), the ~~office of restorative justice~~ department shall:

- 22 (i) identify priorities for funding services, activities, and criteria for the receipt of program funds;
 23 (ii) monitor the expenditure of funds by organizations receiving funds under this section;
 24 (iii) evaluate the effectiveness of services and activities under this section; and
 25 (iv) adopt rules necessary to implement this subsection (2).

26 (3) This section does not require a law enforcement agency or the state to pay any costs of treatment
 27 for injuries resulting from the alleged offense."
 28

29 **NEW SECTION. SECTION 4. RESTORATIVE JUSTICE FUND CREATED -- SOURCE OF FUNDING -- USE OF FUND.**

30 **(1) THERE IS AN ACCOUNT IN THE STATE SPECIAL REVENUE FUND ESTABLISHED BY 17-2-102 TO BE KNOWN AS THE**

1 RESTORATIVE JUSTICE FUND.

2 (2) THERE MUST BE DEPOSITED IN THE ACCOUNT:

3 (A) MONEY RECEIVED FROM LEGISLATIVE ALLOCATIONS;

4 (B) A TRANSFER OF MONEY FROM A STATE OR LOCAL AGENCY FOR THE PURPOSES OF 2-15-2013;

5 (C) A GIFT, DONATION, GRANT, LEGACY, BEQUEST, OR DEVISE MADE FOR THE PURPOSES OF 2-15-2013; AND

6 (D) MONEY RECEIVED BY THE DEPARTMENT OF JUSTICE FOR THE PURPOSE OF ADMINISTERING 46-15-411(2).

7 (3) EXCEPT AS PROVIDED IN SUBSECTION (2)(D), THE FUND MAY BE USED ONLY TO PROVIDE GRANTS FOR

8 RESTORATIVE JUSTICE PROGRAMS AS PROVIDED IN 2-15-2013 TO COMMUNITY-BASED, INCLUDING FAITH-BASED,

9 ORGANIZATIONS.

10

11 NEW SECTION. Section 5. Repealer. The following section of the Montana Code Annotated is
12 repealed:

13 2-15-2014. Restorative justice fund created -- source of funding -- use of fund.

14

15 ~~NEW SECTION. Section 5. Appropriation.~~ There is ~~appropriated from the general fund for the~~
16 ~~biennium beginning July 1, 2013, \$200,000 to the Montana board of crime control for the purposes of funding the~~
17 ~~grant program established in 2-15-2013.~~

18

19 NEW SECTION. SECTION 6. CODIFICATION INSTRUCTION. [SECTION 4] IS INTENDED TO BE CODIFIED AS AN
20 INTEGRAL PART OF TITLE 2, CHAPTER 15, PART 20, AND THE PROVISIONS OF TITLE 2, CHAPTER 15, PART 20, APPLY TO
21 [SECTION 4].

22

23 NEW SECTION. SECTION 7. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 2 AND [THIS ACT] ARE
24 PASSED AND APPROVED, THEN:

25 (1) THE GENERAL FUND APPROPRIATION FOR THE DEPARTMENT OF CORRECTIONS IN HOUSE BILL NO. 2 IS
26 DECREASED BY \$200,000 FOR THE BIENNIUM ENDING JUNE 30, 2015; AND

27 (2) THE GENERAL FUND APPROPRIATION FOR THE MONTANA BOARD OF CRIME CONTROL FOR THE PURPOSE OF
28 FUNDING THE RESTORATIVE JUSTICE GRANT PROGRAM ESTABLISHED IN 2-15-2013 IS INCREASED BY \$200,000 FOR THE
29 BIENNIUM ENDING JUNE 30, 2015.

30

1 NEW SECTION. Section 8. Effective date DATES. ~~[This act]~~ (1) EXCEPT AS PROVIDED IN SUBSECTION (2),

2 [THIS ACT] is effective July 1, 2013.

3 (2) [SECTION 4] IS EFFECTIVE JULY 1, 2017.

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5 NEW SECTION. SECTION 9. TERMINATION. [SECTIONS 1 THROUGH 3] TERMINATE JULY 1, 2017.

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- END -