

HOUSE BILL NO. 493

INTRODUCED BY C. SCHREINER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING STATE USE OF PRIVATE CORRECTIONAL
5 FACILITIES; PROVIDING A TRANSITION; REQUIRING THE DEPARTMENT OF CORRECTIONS TO PLAN
6 FOR THE CLOSURE OF ANY EXISTING PRIVATE CORRECTIONAL FACILITIES AND TO REPORT TO
7 CERTAIN LEGISLATIVE COMMITTEES; AMENDING SECTIONS 18-4-313, 45-2-101, 53-1-107, 53-1-109, AND
8 53-30-101, MCA; REPEALING SECTIONS 53-30-601, 53-30-602, 53-30-603, 53-30-604, 53-30-605, 53-30-606,
9 53-30-607, 53-30-608, 53-30-609, 53-30-610, AND 53-30-611, MCA; AND PROVIDING EFFECTIVE DATES."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 NEW SECTION. **Section 1. Prohibition on state use of for-profit prison.** The department of
14 corrections may not contract with a for-profit corporation for the operation of a state prison. As used in this
15 section, the term "state prison" has the meaning provided in 53-30-101.

16
17 **Section 2.** Section 18-4-313, MCA, is amended to read:

18 **"18-4-313. Contracts -- terms, extensions, and time limits.** (1) Except as provided in subsection (2)
19 or unless otherwise provided by law, a contract, lease, or rental agreement for supplies or services may not be
20 made for a period of more than 7 years. A contract, lease, or rental agreement may be extended or renewed if
21 the terms of the extension or renewal, if any, are included in the solicitation, if funds are available for the first fiscal
22 period at the time of the agreement, and if the total contract period, including any extension or renewal, does not
23 exceed 7 years. Payment and performance obligations for succeeding fiscal periods are subject to the availability
24 and appropriation of funds for the fiscal periods.

25 (2) The contract term limit specified in subsection (1) does not apply to:

26 (a) a contract for hardware, software, or other information technology resources, which may be made
27 for a period not to exceed 10 years;

28 (b) a department of revenue liquor store contract governed by the term specified in 16-2-101;

29 (c) a department of corrections contract governed by the term specified in 53-1-203; or 53-30-505; ~~or~~
30 ~~53-30-608;~~

1 (d) the department of administration state employee group benefit plans contracts governed by the term
2 specified in 2-18-811, including group benefit plan contracts made in partnership with the Montana university
3 system group benefit plan; and

4 (e) a contract for concessions or visitor services for a state park, state recreational area, state
5 monument, or state historic site established under Title 23, chapter 1, part 1, that, with the consent of the state
6 parks and recreation board, may be made for a period of not more than 20 years if a capital improvement is
7 made, subject to subsection (5).

8 (3) Prior to the issuance, extension, or renewal of a contract, it must be determined that:

9 (a) estimated requirements cover the period of the contract and are reasonably firm and continuing; and

10 (b) the contract will serve the best interests of the state by encouraging effective competition or otherwise
11 promoting economies in state procurement.

12 (4) If funds are not appropriated or otherwise made available to support continuation of performance in
13 a subsequent fiscal period, the contract must be canceled.

14 (5) A contract under subsection (2)(e) must require the concessionaire to provide a business plan
15 offering a reasonable estimation that the cost of any capital improvement by the concessionaire will be repaid
16 within the life of the contract or that where a proprietary interest is held, the concessionaire's interest in any capital
17 improvement may be sold at appraised value to a subsequent concessionaire when the contract concludes."
18

19 **Section 3.** Section 45-2-101, MCA, is amended to read:

20 **"45-2-101. General definitions.** Unless otherwise specified in the statute, all words must be taken in
21 the objective standard rather than in the subjective, and unless a different meaning plainly is required, the
22 following definitions apply in this title:

23 (1) "Acts" has its usual and ordinary meaning and includes any bodily movement, any form of
24 communication, and when relevant, a failure or omission to take action.

25 (2) "Administrative proceeding" means a proceeding the outcome of which is required to be based on
26 a record or documentation prescribed by law or in which a law or a regulation is particularized in its application
27 to an individual.

28 (3) "Another" means a person or persons other than the offender.

29 (4) (a) "Benefit" means gain or advantage or anything regarded by the beneficiary as gain or advantage,
30 including benefit to another person or entity in whose welfare the beneficiary is interested.

1 (b) Benefit does not include an advantage promised generally to a group or class of voters as a
2 consequence of public measures that a candidate engages to support or oppose.

3 (5) "Bodily injury" means physical pain, illness, or an impairment of physical condition and includes
4 mental illness or impairment.

5 (6) "Child" or "children" means any individual or individuals under 18 years of age, unless a different age
6 is specified.

7 (7) "Cohabit" means to live together under the representation of being married.

8 (8) "Common scheme" means a series of acts or omissions motivated by a purpose to accomplish a
9 single criminal objective or by a common purpose or plan that results in the repeated commission of the same
10 offense or that affects the same person or the same persons or the property of the same person or persons.

11 (9) "Computer" means an electronic device that performs logical, arithmetic, and memory functions by
12 the manipulation of electronic or magnetic impulses and includes all input, output, processing, storage, software,
13 or communication facilities that are connected or related to that device in a system or network.

14 (10) "Computer network" means the interconnection of communication systems between computers or
15 computers and remote terminals.

16 (11) "Computer program" means an instruction or statement or a series of instructions or statements, in
17 a form acceptable to a computer, that in actual or modified form permits the functioning of a computer or computer
18 system and causes it to perform specified functions.

19 (12) "Computer services" include but are not limited to computer time, data processing, and storage
20 functions.

21 (13) "Computer software" means a set of computer programs, procedures, and associated documentation
22 concerned with the operation of a computer system.

23 (14) "Computer system" means a set of related, connected, or unconnected devices, computer software,
24 or other related computer equipment.

25 (15) "Conduct" means an act or series of acts and the accompanying mental state.

26 (16) "Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or nolo
27 contendere or upon a verdict or finding of guilty of an offense rendered by a legally constituted jury or by a court
28 of competent jurisdiction authorized to try the case without a jury.

29 (17) "Correctional institution" means a state prison, detention center, multijurisdictional detention center,
30 private detention center, regional correctional facility, ~~private correctional facility~~, or other institution for the

1 incarceration of inmates under sentence for offenses or the custody of individuals awaiting trial or sentence for
2 offenses.

3 (18) "Deception" means knowingly to:

4 (a) create or confirm in another an impression that is false and that the offender does not believe to be
5 true;

6 (b) fail to correct a false impression that the offender previously has created or confirmed;

7 (c) prevent another from acquiring information pertinent to the disposition of the property involved;

8 (d) sell or otherwise transfer or encumber property without disclosing a lien, adverse claim, or other legal
9 impediment to the enjoyment of the property, whether the impediment is or is not of value or is or is not a matter
10 of official record; or

11 (e) promise performance that the offender does not intend to perform or knows will not be performed.

12 Failure to perform, standing alone, is not evidence that the offender did not intend to perform.

13 (19) "Defamatory matter" means anything that exposes a person or a group, class, or association to
14 hatred, contempt, ridicule, degradation, or disgrace in society or to injury to the person's or its business or
15 occupation.

16 (20) "Deprive" means:

17 (a) to withhold property of another:

18 (i) permanently;

19 (ii) for such a period as to appropriate a portion of its value; or

20 (iii) with the purpose to restore it only upon payment of reward or other compensation; or

21 (b) to dispose of the property of another and use or deal with the property so as to make it unlikely that
22 the owner will recover it.

23 (21) "Deviate sexual relations" means any form of sexual intercourse with an animal.

24 (22) "Document" means, with respect to offenses involving the medicaid program, any application, claim,
25 form, report, record, writing, or correspondence, whether in written, electronic, magnetic, microfilm, or other form.

26 (23) "Felony" means an offense in which the sentence imposed upon conviction is death or imprisonment
27 in a state prison for a term exceeding 1 year.

28 (24) "Forcible felony" means a felony that involves the use or threat of physical force or violence against
29 any individual.

30 (25) A "frisk" is a search by an external patting of a person's clothing.

1 (26) "Government" includes a branch, subdivision, or agency of the government of the state or a locality
2 within it.

3 (27) "Harm" means loss, disadvantage, or injury or anything so regarded by the person affected, including
4 loss, disadvantage, or injury to a person or entity in whose welfare the affected person is interested.

5 (28) A "house of prostitution" means a place where prostitution or promotion of prostitution is regularly
6 carried on by one or more persons under the control, management, or supervision of another.

7 (29) "Human being" means a person who has been born and is alive.

8 (30) An "illegal article" is an article or thing that is prohibited by statute, rule, or order from being in the
9 possession of a person subject to official detention.

10 (31) "Inmate" means a person who is confined in a correctional institution.

11 (32) (a) "Intoxicating substance" means a controlled substance, as defined in Title 50, chapter 32, and
12 an alcoholic beverage, including but not limited to a beverage containing 1/2 of 1% or more of alcohol by volume.

13 (b) Intoxicating substance does not include dealcoholized wine or a beverage or liquid produced by the
14 process by which beer, ale, port, or wine is produced if it contains less than 1/2 of 1% of alcohol by volume.

15 (33) An "involuntary act" means an act that is:

16 (a) a reflex or convulsion;

17 (b) a bodily movement during unconsciousness or sleep;

18 (c) conduct during hypnosis or resulting from hypnotic suggestion; or

19 (d) a bodily movement that otherwise is not a product of the effort or determination of the actor, either
20 conscious or habitual.

21 (34) "Juror" means a person who is a member of a jury, including a grand jury, impaneled by a court in
22 this state in an action or proceeding or by an officer authorized by law to impanel a jury in an action or
23 proceeding. The term "juror" also includes a person who has been drawn or summoned to attend as a prospective
24 juror.

25 (35) "Knowingly"--a person acts knowingly with respect to conduct or to a circumstance described by a
26 statute defining an offense when the person is aware of the person's own conduct or that the circumstance exists.
27 A person acts knowingly with respect to the result of conduct described by a statute defining an offense when
28 the person is aware that it is highly probable that the result will be caused by the person's conduct. When
29 knowledge of the existence of a particular fact is an element of an offense, knowledge is established if a person
30 is aware of a high probability of its existence. Equivalent terms, such as "knowing" or "with knowledge", have the

1 same meaning.

2 (36) "Medicaid" means the Montana medical assistance program provided for in Title 53, chapter 6.

3 (37) "Medicaid agency" has the meaning in 53-6-155.

4 (38) "Medicaid benefit" means the provision of anything of pecuniary value to or on behalf of a recipient
5 under the medicaid program.

6 (39) (a) "Medicaid claim" means a communication, whether in oral, written, electronic, magnetic, or other
7 form:

8 (i) that is used to claim specific services or items as payable or reimbursable under the medicaid
9 program; or

10 (ii) that states income, expense, or other information that is or may be used to determine entitlement to
11 or the rate of payment under the medicaid program.

12 (b) The term includes related documents submitted as a part of or in support of the claim.

13 (40) "Mentally disordered" means that a person suffers from a mental disease or disorder that renders
14 the person incapable of appreciating the nature of the person's own conduct.

15 (41) "Mentally incapacitated" means that a person is rendered temporarily incapable of appreciating or
16 controlling the person's own conduct as a result of the influence of an intoxicating substance.

17 (42) "Misdemeanor" means an offense for which the sentence imposed upon conviction is imprisonment
18 in the county jail for a term or a fine, or both, or for which the sentence imposed is imprisonment in a state prison
19 for a term of 1 year or less.

20 (43) "Negligently"--a person acts negligently with respect to a result or to a circumstance described by
21 a statute defining an offense when the person consciously disregards a risk that the result will occur or that the
22 circumstance exists or when the person disregards a risk of which the person should be aware that the result will
23 occur or that the circumstance exists. The risk must be of a nature and degree that to disregard it involves a gross
24 deviation from the standard of conduct that a reasonable person would observe in the actor's situation. "Gross
25 deviation" means a deviation that is considerably greater than lack of ordinary care. Relevant terms, such as
26 "negligent" and "with negligence", have the same meaning.

27 (44) "Nolo contendere" means a plea in which the defendant does not contest the charge or charges
28 against the defendant and neither admits nor denies the charge or charges.

29 (45) "Obtain" means:

30 (a) in relation to property, to bring about a transfer of interest or possession, whether to the offender or

1 to another; and

2 (b) in relation to labor or services, to secure the performance of the labor or service.

3 (46) "Obtains or exerts control" includes but is not limited to the taking, the carrying away, or the sale,
4 conveyance, or transfer of title to, interest in, or possession of property.

5 (47) "Occupied structure" means any building, vehicle, or other place suitable for human occupancy or
6 night lodging of persons or for carrying on business, whether or not a person is actually present, including any
7 outbuilding that is immediately adjacent to or in close proximity to an occupied structure and that is habitually
8 used for personal use or employment. Each unit of a building consisting of two or more units separately secured
9 or occupied is a separate occupied structure.

10 (48) "Offender" means a person who has been or is liable to be arrested, charged, convicted, or punished
11 for a public offense.

12 (49) "Offense" means a crime for which a sentence of death or of imprisonment or a fine is authorized.
13 Offenses are classified as felonies or misdemeanors.

14 (50) (a) "Official detention" means imprisonment resulting from a conviction for an offense, confinement
15 for an offense, confinement of a person charged with an offense, detention by a peace officer pursuant to arrest,
16 detention for extradition or deportation, or lawful detention for the purpose of the protection of the welfare of the
17 person detained or for the protection of society.

18 (b) Official detention does not include supervision of probation or parole, constraint incidental to release
19 on bail, or an unlawful arrest unless the person arrested employed physical force, a threat of physical force, or
20 a weapon to escape.

21 (51) "Official proceeding" means a proceeding heard or that may be heard before a legislative, a judicial,
22 an administrative, or another governmental agency or official authorized to take evidence under oath, including
23 any referee, hearings examiner, commissioner, notary, or other person taking testimony or deposition in
24 connection with the proceeding.

25 (52) "Other state" means a state or territory of the United States, the District of Columbia, and the
26 Commonwealth of Puerto Rico.

27 (53) "Owner" means a person other than the offender who has possession of or other interest in the
28 property involved, even though the interest or possession is unlawful, and without whose consent the offender
29 has no authority to exert control over the property.

30 (54) "Party official" means a person who holds an elective or appointive post in a political party in the

1 United States by virtue of which the person directs or conducts or participates in directing or conducting party
2 affairs at any level of responsibility.

3 (55) "Peace officer" means a person who by virtue of the person's office or public employment is vested
4 by law with a duty to maintain public order or to make arrests for offenses while acting within the scope of the
5 person's authority.

6 (56) "Pecuniary benefit" is benefit in the form of money, property, commercial interests, or anything else
7 the primary significance of which is economic gain.

8 (57) "Person" includes an individual, business association, partnership, corporation, government, or other
9 legal entity and an individual acting or purporting to act for or on behalf of a government or subdivision of
10 government.

11 (58) "Physically helpless" means that a person is unconscious or is otherwise physically unable to
12 communicate unwillingness to act.

13 (59) "Possession" is the knowing control of anything for a sufficient time to be able to terminate control.

14 (60) "Premises" includes any type of structure or building and real property.

15 (61) "Property" means a tangible or intangible thing of value. Property includes but is not limited to:

16 (a) real estate;

17 (b) money;

18 (c) commercial instruments;

19 (d) admission or transportation tickets;

20 (e) written instruments that represent or embody rights concerning anything of value, including labor or
21 services, or that are otherwise of value to the owner;

22 (f) things growing on, affixed to, or found on land and things that are part of or affixed to a building;

23 (g) electricity, gas, and water;

24 (h) birds, animals, and fish that ordinarily are kept in a state of confinement;

25 (i) food and drink, samples, cultures, microorganisms, specimens, records, recordings, documents,
26 blueprints, drawings, maps, and whole or partial copies, descriptions, photographs, prototypes, or models thereof;

27 (j) other articles, materials, devices, substances, and whole or partial copies, descriptions, photographs,
28 prototypes, or models thereof that constitute, represent, evidence, reflect, or record secret scientific, technical,
29 merchandising, production, or management information or a secret designed process, procedure, formula,
30 invention, or improvement; and

1 (k) electronic impulses, electronically processed or produced data or information, commercial
2 instruments, computer software or computer programs, in either machine- or human-readable form, computer
3 services, any other tangible or intangible item of value relating to a computer, computer system, or computer
4 network, and copies thereof.

5 (62) "Property of another" means real or personal property in which a person other than the offender has
6 an interest that the offender has no authority to defeat or impair, even though the offender may have an interest
7 in the property.

8 (63) "Public place" means a place to which the public or a substantial group has access.

9 (64) (a) "Public servant" means an officer or employee of government, including but not limited to
10 legislators, judges, and firefighters, and a person participating as a juror, adviser, consultant, administrator,
11 executor, guardian, or court-appointed fiduciary. The term "public servant" includes one who has been elected
12 or designated to become a public servant.

13 (b) The term does not include witnesses.

14 (65) "Purposely"--a person acts purposely with respect to a result or to conduct described by a statute
15 defining an offense if it is the person's conscious object to engage in that conduct or to cause that result. When
16 a particular purpose is an element of an offense, the element is established although the purpose is conditional,
17 unless the condition negatives the harm or evil sought to be prevented by the law defining the offense. Equivalent
18 terms, such as "purpose" and "with the purpose", have the same meaning.

19 (66) (a) "Serious bodily injury" means bodily injury that:

20 (i) creates a substantial risk of death;

21 (ii) causes serious permanent disfigurement or protracted loss or impairment of the function or process
22 of a bodily member or organ; or

23 (iii) at the time of injury, can reasonably be expected to result in serious permanent disfigurement or
24 protracted loss or impairment of the function or process of a bodily member or organ.

25 (b) The term includes serious mental illness or impairment.

26 (67) "Sexual contact" means touching of the sexual or other intimate parts of the person of another,
27 directly or through clothing, in order to knowingly or purposely:

28 (a) cause bodily injury to or humiliate, harass, or degrade another; or

29 (b) arouse or gratify the sexual response or desire of either party.

30 (68) (a) "Sexual intercourse" means penetration of the vulva, anus, or mouth of one person by the penis

1 of another person, penetration of the vulva or anus of one person by a body member of another person, or
2 penetration of the vulva or anus of one person by a foreign instrument or object manipulated by another person
3 to knowingly or purposely:

4 (i) cause bodily injury or humiliate, harass, or degrade; or

5 (ii) arouse or gratify the sexual response or desire of either party.

6 (b) For purposes of subsection (68)(a), any penetration, however slight, is sufficient.

7 (69) "Solicit" or "solicitation" means to command, authorize, urge, incite, request, or advise another to
8 commit an offense.

9 (70) "State" or "this state" means the state of Montana, all the land and water in respect to which the state
10 of Montana has either exclusive or concurrent jurisdiction, and the air space above the land and water.

11 (71) "Statute" means an act of the legislature of this state.

12 (72) "Stolen property" means property over which control has been obtained by theft.

13 (73) A "stop" is the temporary detention of a person that results when a peace officer orders the person
14 to remain in the peace officer's presence.

15 (74) "Tamper" means to interfere with something improperly, meddle with it, make unwarranted
16 alterations in its existing condition, or deposit refuse upon it.

17 (75) "Telephone" means any type of telephone, including but not limited to a corded, uncoded, cellular,
18 or satellite telephone.

19 (76) "Threat" means a menace, however communicated, to:

20 (a) inflict physical harm on the person threatened or any other person or on property;

21 (b) subject any person to physical confinement or restraint;

22 (c) commit a criminal offense;

23 (d) accuse a person of a criminal offense;

24 (e) expose a person to hatred, contempt, or ridicule;

25 (f) harm the credit or business repute of a person;

26 (g) reveal information sought to be concealed by the person threatened;

27 (h) take action as an official against anyone or anything, withhold official action, or cause the action or
28 withholding;

29 (i) bring about or continue a strike, boycott, or other similar collective action if the person making the
30 threat demands or receives property that is not for the benefit of groups that the person purports to represent;

1 or

2 (j) testify or provide information or withhold testimony or information with respect to another's legal claim
3 or defense.

4 (77) (a) "Value" means the market value of the property at the time and place of the crime or, if the market
5 value cannot be satisfactorily ascertained, the cost of the replacement of the property within a reasonable time
6 after the crime. If the offender appropriates a portion of the value of the property, the value must be determined
7 as follows:

8 (i) The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory
9 note, is considered the amount due or collectible. The figure is ordinarily the face amount of the indebtedness
10 less any portion of the indebtedness that has been satisfied.

11 (ii) The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable
12 legal right, privilege, or obligation is considered the amount of economic loss that the owner of the instrument
13 might reasonably suffer by virtue of the loss of the instrument.

14 (iii) The value of electronic impulses, electronically produced data or information, computer software or
15 programs, or any other tangible or intangible item relating to a computer, computer system, or computer network
16 is considered to be the amount of economic loss that the owner of the item might reasonably suffer by virtue of
17 the loss of the item. The determination of the amount of economic loss includes but is not limited to consideration
18 of the value of the owner's right to exclusive use or disposition of the item.

19 (b) When it cannot be determined if the value of the property is more or less than \$1,500 by the
20 standards set forth in subsection (77)(a), its value is considered to be an amount less than \$1,500.

21 (c) Amounts involved in thefts committed pursuant to a common scheme or the same transaction,
22 whether from the same person or several persons, may be aggregated in determining the value of the property.

23 (78) "Vehicle" means a device for transportation by land, water, or air or by mobile equipment, with
24 provision for transport of an operator.

25 (79) "Weapon" means an instrument, article, or substance that, regardless of its primary function, is
26 readily capable of being used to produce death or serious bodily injury.

27 (80) "Witness" means a person whose testimony is desired in an official proceeding, in any investigation
28 by a grand jury, or in a criminal action, prosecution, or proceeding."

29

30 **Section 4.** Section 53-1-107, MCA, is amended to read:

1 **"53-1-107. (Temporary) Inmate financial transactions and trust account system.** (1) An inmate of
2 a state prison, as defined in 53-30-101(3)(c)(i) through (3)(c)(iii) ~~and (3)(c)(v)~~, shall use the prison inmate trust
3 account system administered by the department of corrections to send money out of or receive money in the
4 facility unless the department grants the inmate an exception. The department may charge an inmate a minimum
5 fee, not to exceed \$2 each month, to administer the inmate's account.

6 (2) The department may, consistent with administrative rules adopted by the department, use a portion
7 of the funds in an inmate's account to:

- 8 (a) satisfy court-ordered restitution, whether or not restitution is a condition of probation or parole;
9 (b) satisfy court-ordered child support;
10 (c) satisfy court-ordered fines, fees, or costs;
11 (d) pay for the inmate's medical and dental expenses and costs of incarceration; and
12 (e) pay any other fees, costs, expenses, or monetary sanctions ordered by a court or imposed by a state
13 prison and pay reasonable claims by a debt collection or financial institution.

14 (3) (a) Money taken under subsection (2) for the payment of restitution must be paid in the following
15 order:

- 16 (i) to the victim until the victim's unreimbursed pecuniary loss is satisfied;
17 (ii) to the crime victims compensation and assistance program in the department of justice for deposit in
18 the account provided for in 53-9-113 until the state is fully reimbursed for compensation to the victim provided
19 pursuant to Title 53, chapter 9, part 1;
20 (iii) to any other government agency that has compensated the victim for the victim's pecuniary loss; and
21 (iv) to any insurance company that has compensated the victim for the victim's pecuniary loss.

22 (b) If there is a balance of money in the inmate's account after payments under subsection (2), the
23 department may allow the balance to accumulate in a savings subaccount for the inmate.

24 (4) (a) The department shall adopt rules to set a percentage of earnings not to exceed 25% that an
25 inmate worker is required to save in a savings subaccount.

26 (b) The rules must include that, upon release of an inmate from a state prison, the department shall
27 dispense money directly from the subaccount to the former inmate, the inmate's landlord, or other approved
28 recipients, including service providers.

29 (5) The department shall adopt rules establishing the prison inmate trust account system and criteria for
30 the use of funds under this section. The rules must contain clear guidelines regarding the use of funds that ensure

1 payment under subsection (2) and that inhibit an inmate's ability to deal in contraband or illegal acts within or
2 outside the state prison.

3 (6) An inmate is responsible for the inmate's medical and dental expenses and is obligated to repay the
4 department for reasonable costs incurred by the department for the inmate's medical and dental expenses. The
5 department may investigate, identify, take in any manner allowed by law for the satisfaction of a judgment, and
6 use to pay the inmate's medical and dental expenses any assets of the inmate or any income of the inmate from
7 sources outside the state prison that is not deposited in the account provided for in subsection (1). (Terminates
8 June 30, 2021--sec. 27, Ch. 285, L. 2015; sec. 1, Ch. 292, L. 2015.)

9 **53-1-107. (Effective July 1, 2021) Inmate financial transactions and trust account system.** (1) An
10 inmate of a state prison, as defined in 53-30-101(3)(c)(i) through (3)(c)(iii) ~~and (3)(e)(v)~~, shall use the prison
11 inmate trust account system administered by the department of corrections to send money out of or receive
12 money in the facility unless the department grants the inmate an exception. The department may charge an
13 inmate a minimum fee, not to exceed \$2 each month, to administer the inmate's account.

14 (2) The department may, consistent with administrative rules adopted by the department, use a portion
15 of the funds in an inmate's account to:

- 16 (a) satisfy court-ordered restitution, whether or not restitution is a condition of probation or parole;
17 (b) satisfy court-ordered child support;
18 (c) satisfy court-ordered fines, fees, or costs;
19 (d) pay for the inmate's medical and dental expenses and costs of incarceration; and
20 (e) pay any other fees, costs, expenses, or monetary sanctions ordered by a court or imposed by a state
21 prison and pay reasonable claims by a debt collection or financial institution.

22 (3) (a) Money taken under subsection (2) for the payment of restitution must be paid in the following
23 order:

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25 (ii) to the crime victims compensation and assistance program in the department of justice for deposit in
26 the state general fund until the state is fully reimbursed for compensation to the victim provided pursuant to Title
27 53, chapter 9, part 1;
28 (iii) to any other government agency that has compensated the victim for the victim's pecuniary loss; and
29 (iv) to any insurance company that has compensated the victim for the victim's pecuniary loss.

30 (b) If there is a balance of money in the inmate's account after payments under subsection (2), the

1 department may allow the balance to accumulate in a savings subaccount for the inmate.

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3 inmate worker is required to save in a savings subaccount.

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5 dispense money directly from the subaccount to the former inmate, the inmate's landlord, or other approved
6 recipients, including service providers.

7 (5) The department shall adopt rules establishing the prison inmate trust account system and criteria for
8 the use of funds under this section. The rules must contain clear guidelines regarding the use of funds that ensure
9 payment under subsection (2) and that inhibit an inmate's ability to deal in contraband or illegal acts within or
10 outside the state prison.

11 (6) An inmate is responsible for the inmate's medical and dental expenses and is obligated to repay the
12 department for reasonable costs incurred by the department for the inmate's medical and dental expenses. The
13 department may investigate, identify, take in any manner allowed by law for the satisfaction of a judgment, and
14 use to pay the inmate's medical and dental expenses any assets of the inmate or any income of the inmate from
15 sources outside the state prison that is not deposited in the account provided for in subsection (1)."

16

17 **Section 5.** Section 53-1-109, MCA, is amended to read:

18 **"53-1-109. Prison inmate welfare account.** (1) There is an account in the state special revenue fund.
19 The net proceeds from state prison inmate canteen purchases and inmate telephone use, cash proceeds from
20 the disposition of confiscated contraband, and any public money held for the needs of inmates and their families
21 and not otherwise allocated must be deposited in the account. Money in an account established under 53-1-107
22 may not be deposited in the account established in this subsection.

23 (2) The money in the account is statutorily appropriated, as provided in 17-7-502, to the department of
24 corrections, which may allocate the money referred to in subsection (1) to the state prisons in proportion to the
25 amount that each state prison contributed to the fund. The administrator of each state prison shall consult with
26 the inmates about the use of the money allocated to the state prison and may use the money for the needs of the
27 inmates and their families.

28 (3) For purposes of this section, "state prison" has the meaning provided in 53-30-101(3)(c)(i) through
29 (3)(c)(iii) and ~~(3)(c)(v)~~."

30

1 **Section 6.** Section 53-30-101, MCA, is amended to read:

2 **"53-30-101. Location and function of prisons -- definitions.** (1) The correctional facility at Deer Lodge
3 is the Montana state prison, and its primary function is to provide for the custody, treatment, training, and
4 rehabilitation of adult male criminal offenders.

5 (2) The correctional facility located in Billings is the Montana women's prison, and its primary function
6 is to provide for the custody, treatment, training, and rehabilitation of adult female criminal offenders.

7 (3) As used in this title, unless the context indicates otherwise, the following definitions apply:

8 (a) "Montana state prison" means the correctional facility located at Deer Lodge.

9 (b) "Montana women's prison" or "women's prison" means the correctional facility located at Billings.

10 (c) "State prison" means:

11 (i) the Montana state prison;

12 (ii) the Montana women's prison;

13 (iii) a state correctional facility portion of a Montana regional correctional facility;

14 (iv) a detention center in another jurisdiction detaining inmates from Montana pursuant to 53-30-106; or

15 ~~(v) a private correctional facility licensed by the department of corrections or a private correctional facility~~
16 ~~portion of a Montana regional correctional facility licensed by the department of corrections; or~~

17 ~~(vi)~~(v) a combination of the facilities listed in this subsection (3)(c)."

18
19 NEW SECTION. **Section 7. Repealer.** The following sections of the Montana Code Annotated are

20 repealed:

21 53-30-601. Policy.

22 53-30-602. Definitions.

23 53-30-603. Private correctional facilities -- confinable persons.

24 53-30-604. Department duties and responsibilities -- rulemaking authority.

25 53-30-605. Requirements of request for proposals.

26 53-30-606. License -- inspection.

27 53-30-607. Licensure limitations -- siting of private correctional facilities.

28 53-30-608. Contracts with owners or operators of private correctional facilities.

29 53-30-609. Contractor costs responsibility.

30 53-30-610. Restrictions on inmate movements.

1 53-30-611. Failure to comply with law -- action by department.

2

3 NEW SECTION. Section 8. Transition. After [the effective date of this section], the department of
4 corrections shall plan for the closure of any private correctional facilities operating in the state. The department
5 may include stakeholders in the planning process. The department shall report on the progress of the transition
6 plan to the legislative finance committee and the law and justice interim committee as requested and, if
7 necessary, make recommendations to the committees for carrying out the purposes of [this act], including a
8 recommendation about whether the state should exercise any contractual rights to purchase existing private
9 correctional facilities.

10

11 NEW SECTION. Section 9. Codification instruction. [Section 1] is intended to be codified as an
12 integral part of Title 53, chapter 30, part 1, and the provisions of Title 53, chapter 30, part 1, apply to [section 1].

13

14 NEW SECTION. Section 10. Effective dates. (1) Except as provided in subsection (2), [this act] is
15 effective September 1, 2019.

16 (2) [Section 8] and this section are effective on passage and approval.

17

- END -