

SENATE BILL NO. 67

INTRODUCED BY C. WOLKEN

BY REQUEST OF THE COMMISSION ON SENTENCING

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5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO OFFENDER
6 INTERVENTION PROGRAMS; REQUIRING THE BOARD OF CRIME CONTROL TO ADOPT STATEWIDE
7 STANDARDS TO ENSURE SERVICES OFFERED IN THE PROGRAMS ARE EVIDENCE-INFORMED;
8 ALLOWING THE BOARD TO OFFER GRANT FUNDING TO COURTS TO DEVELOP AND IMPLEMENT THE
9 STANDARDS; REQUIRING A PRELIMINARY ASSESSMENT AND COUNSELING PROVIDED TO AN
10 OFFENDER CONVICTED OF PARTNER OR FAMILY MEMBER ASSAULT TO MEET THE PROGRAM
11 STANDARDS; EXTENDING EXISTING BOARD RULEMAKING AUTHORITY; AND AMENDING SECTIONS
12 44-4-311 AND 45-5-206, MCA."

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

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16 NEW SECTION. **Section 1. Counseling and services to be evidence-informed.** (1) The Montana
17 board of crime control shall adopt statewide offender intervention program standards to ensure that counseling
18 and other services organized under the program are evidence-informed practices that are designed to reduce
19 the risk of future violent behavior.

20 (2) The board and the head of the offender intervention program may consult with the department of
21 corrections to develop evidence-informed programs and practices.

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23 **Section 2.** Section 44-4-311, MCA, is amended to read:

24 **"44-4-311. Domestic violence intervention program.** (1) The Montana board of crime control shall use
25 the money in the domestic violence intervention account established by 44-4-310 to fund a domestic violence
26 intervention program to provide grants to:

27 (a) communities for misdemeanor probation officers or compliance officers to monitor compliance with
28 sentencing requirements for offenders convicted of the offense of partner or family member assault under
29 45-5-206 or of a violation of an order of protection under 45-5-626; or

30 (b) a court to implement an offender intervention program that meets the standards adopted in [section

1 1.

2 (2) In administering the domestic violence intervention program, the Montana board of crime control
3 shall:

- 4 (a) identify priorities for funding services, activities, and criteria for the receipt of program funds;
- 5 (b) monitor the expenditure of funds by organizations receiving funds under this section;
- 6 (c) evaluate the effectiveness of services and activities under this section; and
- 7 (d) adopt rules necessary to implement 44-4-310 through 44-4-313."

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9 **Section 3.** Section 45-5-206, MCA, is amended to read:

10 **"45-5-206. Partner or family member assault -- penalty.** (1) A person commits the offense of partner
11 or family member assault if the person:

- 12 (a) purposely or knowingly causes bodily injury to a partner or family member;
- 13 (b) negligently causes bodily injury to a partner or family member with a weapon; or
- 14 (c) purposely or knowingly causes reasonable apprehension of bodily injury in a partner or family
15 member.

16 (2) For the purposes of Title 40, chapter 15, 45-5-231 through 45-5-234, 46-6-311, and this section, the
17 following definitions apply:

18 (a) "Family member" means mothers, fathers, children, brothers, sisters, and other past or present family
19 members of a household. These relationships include relationships created by adoption and remarriage, including
20 stepchildren, stepparents, in-laws, and adoptive children and parents. These relationships continue regardless
21 of the ages of the parties and whether the parties reside in the same household.

22 (b) "Partners" means spouses, former spouses, persons who have a child in common, and persons who
23 have been or are currently in a dating or ongoing intimate relationship.

24 (3) (a) (i) An offender convicted of partner or family member assault shall be fined an amount not less
25 than \$100 or more than \$1,000 and be imprisoned in the county jail for a term not to exceed 1 year or not less
26 than 24 hours for a first offense.

27 (ii) An offender convicted of a second offense under this section shall be fined not less than \$300 or more
28 than \$1,000 and be imprisoned in the county jail not less than 72 hours or more than 1 year.

29 (iii) Upon a first or second conviction, the offender may be ordered into misdemeanor probation as
30 provided in 46-23-1005.

1 (iv) On a third or subsequent conviction for partner or family member assault, the offender shall be fined
2 not less than \$500 and not more than \$50,000 and be imprisoned for a term not less than 30 days and not more
3 than 5 years. If the term of imprisonment does not exceed 1 year, the person shall be imprisoned in the county
4 jail. If the term of imprisonment exceeds 1 year, the person shall be imprisoned in the state prison.

5 (v) If the offense was committed within the vision or hearing of a minor, the judge shall consider the
6 minor's presence as a factor at the time of sentencing.

7 (b) For the purpose of determining the number of convictions under this section, a conviction means:

8 (i) a conviction, as defined in 45-2-101, under this section;

9 (ii) a conviction for domestic abuse under this section;

10 (iii) a conviction for a violation of a statute similar to this section in another state;

11 (iv) if the offender was a partner or family member of the victim, a conviction for aggravated assault under
12 45-5-202 or assault with a weapon under 45-5-213;

13 (v) a conviction in another state for an offense related to domestic violence between partners or family
14 members, as those terms are defined in this section, regardless of what the offense is named or whether it is
15 misdemeanor or felony, if the offense involves conduct similar to conduct that is prohibited under 45-5-202,
16 45-5-213, or this section; or

17 (vi) a forfeiture of bail or collateral deposited to secure the defendant's appearance in court in this state
18 or in another state for a violation of a statute similar to this section, which forfeiture has not been vacated.

19 (4) (a) An offender convicted of partner or family member assault is required to pay for and complete a
20 counseling assessment with a focus on violence, controlling behavior, dangerousness, and chemical dependency.
21 An investigative criminal justice report, as defined in 45-5-231, must be copied and sent to the offender
22 intervention program, as defined in 45-5-231, to assist the counseling provider in properly assessing the
23 offender's need for counseling and treatment. Counseling providers shall take all required precautions to ensure
24 the confidentiality of the report. If the report contains confidential information relating to the victim's location or
25 not related to the charged offense, that information must be deleted from the report prior to being sent to the
26 offender intervention program.

27 (b) The offender shall complete all recommendations for counseling, referrals, attendance at
28 psychoeducational groups, or treatment, including any indicated chemical dependency treatment, made by the
29 counseling provider. The counseling provider must be approved by the court. The counseling must include a
30 preliminary assessment for counseling, as defined in 45-5-231. The offender shall complete a minimum of 40

1 hours of counseling. The counseling may include attendance at psychoeducational groups, as defined in
2 45-5-231, in addition to the assessment. The preliminary assessment and counseling that holds the offender
3 accountable for the offender's violent or controlling behavior must meet the standards established pursuant to
4 [section 1] and be:

5 (i) with a person licensed under Title 37, chapter 17, 22, or 23;

6 (ii) with a professional person as defined in 53-21-102; or

7 (iii) in a specialized domestic violence intervention program.

8 (c) The minimum counseling and attendance at psychoeducational groups provided in subsection (4)(b)
9 must be directed to the violent or controlling conduct of the offender. Other issues indicated by the assessment
10 may be addressed in additional counseling beyond the minimum 40 hours. Subsection (4)(b) does not prohibit
11 the placement of the offender in other appropriate treatment if the court determines that there is no available
12 treatment program directed to the violent or controlling conduct of the offender.

13 (5) In addition to any sentence imposed under subsections (3) and (4), after determining the financial
14 resources and future ability of the offender to pay restitution as provided for in 46-18-242, the court shall require
15 the offender, if able, to pay the victim's reasonable actual medical, housing, wage loss, and counseling costs.

16 (6) In addition to the requirements of subsection (5), if financially able, the offender must be ordered to
17 pay for the costs of the offender's probation, if probation is ordered by the court.

18 (7) The court may prohibit an offender convicted under this section from possession or use of the firearm
19 used in the assault. The court may enforce 45-8-323 if a firearm was used in the assault.

20 (8) The court shall provide an offender with a written copy of the offender's sentence at the time of
21 sentencing or within 2 weeks of sentencing if the copy is sent electronically or by mail."

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23 **NEW SECTION. Section 4. Codification instruction.** [Section 1] is intended to be codified as an
24 integral part of Title 44, chapter 4, part 3, and the provisions of Title 44, chapter 4, part 3, apply to [section 1].

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