

SENATE BILL NO. 71

INTRODUCED BY J. GROSS

BY REQUEST OF THE DEPARTMENT OF CORRECTIONS

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR AN INTERVENTION HEARING FOR PAROLEES; AND AMENDING SECTIONS 46-23-1015, 46-23-1024, AND 46-23-1025, MCA."

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

Section 1. Section 46-23-1015, MCA, is amended to read:

"46-23-1015. Informal ~~probation~~ violation intervention hearing. (1) A probation and parole officer who reasonably believes that a ~~probationer~~ an offender has violated a condition of ~~probation~~ supervision may initiate an informal ~~probation violation~~ intervention hearing to gain the ~~probationer's~~ offender's compliance with the conditions of ~~probation~~ supervision without a formal revocation hearing under 46-18-203 or 46-23-1025.

(2) A hearings officer designated by the department shall conduct the intervention hearing.

(3) If the hearings officer determines by a preponderance of the evidence that the ~~probationer~~ offender has violated a condition of ~~probation~~ supervision, the hearings officer may order the ~~probationer~~ offender to serve up to 30 days in a county detention center, with credit for time served since the time of arrest, or order the ~~probationer~~ offender to participate in a day reporting program as provided for in 53-1-203 and order the ~~probationer~~ offender to pay the costs of incarceration or participation in the day reporting program. The department shall pay the incarceration costs not paid by the ~~probationer~~ offender.

(4) The provisions of chapter 9 of this title regarding release on bail of a person charged with a crime are not applicable to a ~~probationer~~ or a parolee ordered to be held in a county detention center under this section."

Section 2. Section 46-23-1024, MCA, is amended to read:

"46-23-1024. Initial hearing after arrest. (1) After the arrest of the parolee, a hearing must be held within a reasonable time, unless:

- (a) the hearing is waived by the parolee; ~~or~~
- (b) the parolee has been charged in any court with a violation of the law; or



1           (c) the department conducts an intervention hearing for the parolee, as provided in 46-23-1015.

2           (2) The initial hearing is an onsite hearing and must be held to determine whether there is probable  
3 cause or reasonable grounds to believe that the arrested parolee has committed acts that would constitute a  
4 violation of parole conditions. An independent officer, who need not be a judicial officer, shall preside over the  
5 hearing. The hearing must be conducted at or reasonably near the place of the alleged parole violation or arrest  
6 and as promptly as convenient after arrest. The parolee must be given notice of the hearing and must be allowed  
7 to appear and speak in the parolee's own behalf and introduce relevant information to the hearings officer.

8           (3) The hearings officer shall make a summary of what transpires at the hearing in terms of the  
9 responses and position of the parolee and the substance of the documents or evidence given in support of parole  
10 revocation. Based on the information given to the hearings officer, the hearings officer shall determine whether  
11 there is probable cause to hold the parolee for the final decision of the board of pardons and parole as provided  
12 in 46-23-1025."

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14           **Section 3.** Section 46-23-1025, MCA, is amended to read:

15           **"46-23-1025. Report to and action by board.** (1) If the hearings officer conducts an onsite hearing and  
16 determines that there is probable cause to believe that the prisoner has violated a condition of parole, the  
17 probation and parole officer shall immediately notify the board and shall submit in writing a report showing in what  
18 manner the prisoner has violated the conditions of release. This report must be accompanied by the findings of  
19 the hearings officer.

20           (2) Upon receipt of a report, the board shall cause the prisoner to be promptly brought before a hearing  
21 panel for a hearing on the violation charged under rules that the board may adopt. If the violation is established,  
22 the hearing panel may continue or revoke the parole or may enter an order as it sees fit.

23           (3) If the prisoner has violated a condition of release requiring the payment of restitution, the supervising  
24 parole officer shall notify the victim of the offense prior to the hearing required by 46-23-1024 and give the victim  
25 an opportunity to provide written or oral comment.

26           (4) If the hearing panel finds that because of circumstances beyond the prisoner's control the prisoner  
27 is unable to make the required restitution payments, the hearing panel may not revoke the prisoner's parole for  
28 failure to pay restitution. The hearing panel may modify the time or method of making restitution and may extend  
29 the restitution schedule, but the schedule may not be extended beyond the period of state supervision over the  
30 prisoner.

