

HOUSE BILL NO. 600

INTRODUCED BY F. GARNER

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO VICTIMS' RIGHTS; PROVIDING FOR THE ENFORCEMENT OF VICTIMS' RIGHTS; PROVIDING FOR A VICTIM'S RIGHTS CARD; PROVIDING A FEE FOR THE FORM OF THE VICTIM'S RIGHTS CARD; PROVIDING FOR RULEMAKING AUTHORITY TO THE DEPARTMENT OF CORRECTIONS FOR RULES RELATED TO VICTIMS' RIGHTS; AMENDING SECTION 53-1-203, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Enforcement of victim's rights. (1) A victim, the victim's attorney, the victim's legal representative, or the prosecuting attorney may at the request of the victim assert and seek enforcement of the rights enumerated in Article II, section 36, of the Montana constitution at any point after victimization.

(2) With regard to implementation of Article II, section 36, of the Montana constitution:

(a) "delinquency", "felony", and "misdemeanor" refer to offenses under Title 30, Title 41, Title 45, Title 49, and Title 52; and

(b) "person" means an individual, a human being, or a natural person and does not include a corporation, an organization, or other legal entity.

NEW SECTION. Section 2. Victim's rights card. The attorney general shall specify the form of the victim's rights card as provided in Article II, section 36, of the Montana constitution. The requirements of the form must be distributed to local law enforcement agencies in the state of Montana. Each local law enforcement agency shall pay a fee of \$25 to the department of justice to receive the requirements of the form of the victim's rights card. In addition to the requirements of the card and as provided in Article II, section 36, of the Montana constitution, a local law enforcement agency may provide additional information.

NEW SECTION. Section 3. Information sharing. Article II, section 36(1)(e), of the Montana constitution, does not preclude the sharing of victim information with a domestic violence shelter, crisis line, or



1 victim's services provider or the sharing of the information with a multidisciplinary team tasked with responding
2 to issues of domestic and sexual violence. In both circumstances, the victim shall consent to the sharing of the
3 information.

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5 **Section 4.** Section 53-1-203, MCA, is amended to read:

6 **"53-1-203. Powers and duties of department of corrections.** (1) The department of corrections shall:

7 (a) subject to subsection (6), adopt rules necessary:

8 (i) to carry out the purposes of 41-5-125;

9 (ii) for the siting, establishment, and expansion of prerelease centers;

10 (iii) for the expansion of treatment facilities or programs previously established by contract through a
11 competitive procurement process;

12 (iv) for the establishment and maintenance of residential methamphetamine treatment programs; ~~and~~

13 (v) for the admission, custody, transfer, and release of persons in department programs except as
14 otherwise provided by law; and

15 (vi) to carry out the purposes of Article II, section 36, of the Montana constitution;

16 (b) subject to the functions of the department of administration, lease or purchase lands for use by
17 correctional facilities and classify those lands to determine those that may be most profitably used for agricultural
18 purposes, taking into consideration the needs of all correctional facilities for the food products that can be grown
19 or produced on the lands and the relative value of agricultural programs in the treatment or rehabilitation of the
20 persons confined in correctional facilities;

21 (c) contract with private, nonprofit Montana corporations or, pursuant to the Montana Community
22 Corrections Act, with community corrections facilities or programs or local or tribal governments to establish and
23 maintain:

24 (i) prerelease centers for purposes of preparing inmates of a Montana prison who are approaching parole
25 eligibility or discharge for release into the community, providing an alternative placement for offenders who have
26 violated parole or probation, and providing a sentencing option for felony offenders pursuant to 46-18-201. The
27 centers shall provide a less restrictive environment than the prison while maintaining adequate security. The
28 centers must be operated in coordination with other department correctional programs. This subsection does not
29 affect the department's authority to operate and maintain prerelease centers.

30 (ii) residential methamphetamine treatment programs for the purpose of alternative sentencing as

1 provided for in 45-9-102, 46-18-201, 46-18-202, and any other sections relating to alternative sentences for
2 persons convicted of possession of methamphetamine. The department shall issue a request for proposals using
3 a competitive process and shall follow the applicable contract and procurement procedures in Title 18.

4 (d) use the staff and services of other state agencies and units of the Montana university system, within
5 their respective statutory functions, to carry out its functions under this title;

6 (e) propose programs to the legislature to meet the projected long-range needs of corrections, including
7 programs and facilities for the custody, supervision, treatment, parole, and skill development of persons placed
8 in correctional facilities or programs;

9 (f) encourage the establishment of programs at the local and state level for the rehabilitation and
10 education of felony offenders;

11 (g) administer all state and federal funds allocated to the department for delinquent youth, as defined
12 in 41-5-103;

13 (h) collect and disseminate information relating to youth who are committed to the department for
14 placement in a state youth correctional facility;

15 (i) maintain adequate data on placements that it funds in order to keep the legislature properly informed
16 of the specific information, by category, related to delinquent youth in out-of-home care facilities;

17 (j) provide funding for youth who are committed to the department for placement in a state youth
18 correctional facility;

19 (k) administer youth correctional facilities;

20 (l) provide supervision, care, and control of youth released from a state youth correctional facility; and

21 (m) use to maximum efficiency the resources of state government in a coordinated effort to:

22 (i) provide for delinquent youth committed to the department; and

23 (ii) coordinate and apply the principles of modern correctional administration to the facilities and programs
24 administered by the department.

25 (2) The department may contract with private, nonprofit or for-profit Montana corporations to establish
26 and maintain a residential sexual offender treatment program. If the department intends to contract for that
27 purpose, the department shall adopt rules for the establishment and maintenance of that program.

28 (3) The department and a private, nonprofit or for-profit Montana corporation may not enter into a
29 contract under subsection (1)(c) or (2) for a period that exceeds 20 years. The provisions of 18-4-313 that limit
30 the term of a contract do not apply to a contract authorized by subsection (1)(c) or (2). Prior to entering into a

1 contract for a period of 20 years, the department shall submit the proposed contract to the legislative audit
2 committee. The legislative audit division shall review the contract and make recommendations or comments to
3 the legislative audit committee. The committee may make recommendations or comments to the department. The
4 department shall respond to the committee, accepting or rejecting the committee recommendations or comments
5 prior to entering into the contract.

6 (4) The department of corrections may enter into contracts with nonprofit corporations or associations
7 or private organizations to provide substitute care for delinquent youth in state youth correctional facilities or on
8 juvenile parole supervision.

9 (5) The department may contract with Montana corporations to operate a day reporting program as an
10 alternate sentencing option as provided in 46-18-201 and 46-18-225 and as a sanction option under 46-23-1015.
11 The department shall adopt by rule the requirements for a day reporting program, including but not limited to
12 requirements for daily check-in, participation in programs to develop life skills, and the monitoring of compliance
13 with any conditions of probation, such as drug testing.

14 (6) Rules adopted by the department pursuant to subsection (1)(a) may not amend or alter the statutory
15 powers and duties of the state board of pardons and parole. The rules for the siting, establishment, and
16 expansion of prerelease centers must state that the siting is subject to any existing conditions, covenants,
17 restrictions of record, and zoning regulations. The rules must provide that a prerelease center may not be sited
18 at any location without community support. The prerelease siting, establishment, and expansion must be subject
19 to, and the rules must include, a reasonable mechanism for a determination of community support for or objection
20 to the siting of a prerelease center in the area determined to be impacted. The prerelease siting, establishment,
21 and expansion rules must provide for a public hearing conducted pursuant to Title 2, chapter 3."
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23 **NEW SECTION. Section 5. Codification instruction.** [Sections 1 through 3] are intended to be codified
24 as an integral part of Title 46, chapter 24, and the provisions of Title 46, chapter 24, apply to [sections 1 through
25 3].

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27 **NEW SECTION. Section 6. Effective date.** [This act] is effective July 1, 2017.
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29 **NEW SECTION. Section 7. Applicability.** [This act] applies to victimizations occurring on or after [the
30 effective date of this act].

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