

HOUSE BILL NO. 600

INTRODUCED BY F. GARNER, B. BENNETT, R. COOK, S. LAVIN, M. MACDONALD, D. SANDS,
N. SWANDAL

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:

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

NEW SECTION. Section 1. Enforcement of victim's rights. (1) (a) A peace officer shall make a reasonable attempt to give a victim's rights card to a person who is known to be a victim of a crime. A victim who receives a victim's rights card and is given contact information for a peace officer is presumed to have asserted the victim's rights provided in Article II, section 36, of the Montana constitution.

(b) Any other victim, a victim's attorney, or a victim's legal representative who is unknown to a peace officer or a prosecutor may assert and seek enforcement of the rights provided in Article II, section 36, of the Montana constitution.

(c) The rights enumerated in Article II, section 36, of the Montana constitution may be asserted or waived by the victim any time after victimization occurs.

(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;

(b) "person" means an individual, a human being, or a natural person and also includes a corporation, organization, or other legal entity;

(c) "proceeding" means a proceeding that is heard or that may be heard before a judicial or other governmental agency or by an official authorized to take evidence under oath, including any referee, hearings

1 examiner, commissioner, or other person taking testimony or a deposition in connection with the proceeding; and
 2 (d) "victim's rights card" means a card, also known as a Marsy's card, that informs a crime victim of the
 3 rights enumerated in Article II, section 36, of the Montana constitution.

4
 5 **NEW SECTION. Section 2. Victim's rights card.** The attorney general shall develop a model form of
 6 the victim's rights card as provided in Article II, section 36, of the Montana constitution. ~~Each local law~~
 7 ~~enforcement agency shall pay a fee of \$25 to the department of justice to receive the requirements of the model~~
 8 ~~form of the victim's rights card.~~ In addition to the requirements of the card and as provided in Article II, section
 9 36, of the Montana constitution, a local law enforcement agency may provide additional information.

10
 11 **NEW SECTION. Section 3. Information sharing.** (1) Article II, section 36(1)(e), of the Montana
 12 constitution, does not prohibit the sharing of victim information:

13 (a) with a domestic violence shelter, crisis line, victim's services provider, or a multidisciplinary team
 14 tasked with responding to issues of domestic and sexual violence; or

15 (b) pursuant to a court order.

16 (2) A victim may request that the victim's information not be shared under subsection (1)(a) with a
 17 domestic violence shelter, crisis line, victim's services provider, or multidisciplinary team tasked with responding
 18 to issues of domestic and sexual violence.

19
 20 **Section 4.** Section 53-1-203, MCA, is amended to read:

21 **"53-1-203. Powers and duties of department of corrections.** (1) The department of corrections shall:

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

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

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

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

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

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

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

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

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

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

15 (ii) residential methamphetamine treatment programs for the purpose of alternative sentencing as
16 provided for in 45-9-102, 46-18-201, 46-18-202, and any other sections relating to alternative sentences for
17 persons convicted of possession of methamphetamine. The department shall issue a request for proposals using
18 a competitive process and shall follow the applicable contract and procurement procedures in Title 18.

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

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

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

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

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

30 (i) maintain adequate data on placements that it funds in order to keep the legislature properly informed

1 of the specific information, by category, related to delinquent youth in out-of-home care facilities;
2 (j) provide funding for youth who are committed to the department for placement in a state youth
3 correctional facility;
4 (k) administer youth correctional facilities;
5 (l) provide supervision, care, and control of youth released from a state youth correctional facility; and
6 (m) use to maximum efficiency the resources of state government in a coordinated effort to:
7 (i) provide for delinquent youth committed to the department; and
8 (ii) coordinate and apply the principles of modern correctional administration to the facilities and programs
9 administered by the department.

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

13 (3) The department and a private, nonprofit or for-profit Montana corporation may not enter into a
14 contract under subsection (1)(c) or (2) for a period that exceeds 20 years. The provisions of 18-4-313 that limit
15 the term of a contract do not apply to a contract authorized by subsection (1)(c) or (2). Prior to entering into a
16 contract for a period of 20 years, the department shall submit the proposed contract to the legislative audit
17 committee. The legislative audit division shall review the contract and make recommendations or comments to
18 the legislative audit committee. The committee may make recommendations or comments to the department. The
19 department shall respond to the committee, accepting or rejecting the committee recommendations or comments
20 prior to entering into the contract.

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

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

29 (6) Rules adopted by the department pursuant to subsection (1)(a) may not amend or alter the statutory
30 powers and duties of the state board of pardons and parole. The rules for the siting, establishment, and

1 expansion of prerelease centers must state that the siting is subject to any existing conditions, covenants,
2 restrictions of record, and zoning regulations. The rules must provide that a prerelease center may not be sited
3 at any location without community support. The prerelease siting, establishment, and expansion must be subject
4 to, and the rules must include, a reasonable mechanism for a determination of community support for or objection
5 to the siting of a prerelease center in the area determined to be impacted. The prerelease siting, establishment,
6 and expansion rules must provide for a public hearing conducted pursuant to Title 2, chapter 3."

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8 **NEW SECTION. Section 5. Codification instruction.** [Sections 1 through 3] are intended to be codified
9 as an integral part of Title 46, chapter 24, and the provisions of Title 46, chapter 24, apply to [sections 1 through
10 3].

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12 **NEW SECTION. Section 6. Effective date.** [This act] is effective July 1, 2017.

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14 **NEW SECTION. Section 7. Applicability.** [This act] applies to victimizations occurring on or after [the
15 effective date of this act].

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