

## 1 SENATE BILL NO. 37

2 INTRODUCED BY M. MACDONALD

3 BY REQUEST OF THE DEPARTMENT OF CORRECTIONS

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO RECORDING OF PAROLE BOARD  
6 HEARINGS; REVISING WHEN THE BOARD MAY USE AN AUDIO RECORDING OR WRITTEN RECORD  
7 INSTEAD OF A VIDEO RECORDING; REVISING WHEN AND HOW A MEMBER OF THE PUBLIC MAY OBTAIN  
8 A RECORDING; AMENDING SECTION 46-23-110, MCA; REPEALING SECTION 2, CHAPTER 402, LAWS OF  
9 2015; AND PROVIDING AN EFFECTIVE DATE."

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

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13 **Section 1.** Section 46-23-110, MCA, is amended to read:

14 **"46-23-110. (Temporary) Records -- dissemination.** (1) (a) The department and the board shall keep  
15 a record of the board's acts and decisions. Citizens may inspect and make copies of the public records of the  
16 board, as provided in 2-6-1003, 2-6-1006, 2-6-1007, and this section.

17 (b) (i) The Except as provided in subsection (1)(b)(ii), the board shall video-record and audio-record all  
18 hearings conducted under part 2 or part 3 of this chapter or 46-23-1025. A recording may not personally identify  
19 the victim without the victim's written consent.

20 (ii) If the technological means to video-record is not available or in circumstances involving equipment  
21 malfunction, an audio recording or, in the board's discretion, a stenographic record commissioned by the board  
22 will suffice for all purposes.

23 (c) Except as provided in subsection (2), the board shall make video recordings publicly available. A  
24 recording is publicly available if it is available for review at the board's offices during normal business days and  
25 hours and upon reasonable advance notice.

26 (d) A member of the public may obtain a duplicate of a recording if the duplicate can be made using  
27 technology and equipment in use by the board at the time the request is made. The board may charge the actual  
28 costs of duplicating the recording including the staff time required to produce a duplicate.

29 (e) A recording or transcript may not personally identify the victim without the victim's written consent.

30 (2) Records and materials that are constitutionally protected from disclosure are not subject to disclosure

1 under the provisions of subsection (1). Information that is constitutionally protected from disclosure is information  
2 in which there is an individual privacy or safety interest that clearly exceeds the merits of public disclosure.

3 (3) Upon a request to inspect or copy records of the board's acts and decisions, the board or a board  
4 staff member shall review the record requested and determine whether any document in the file or any content  
5 in a video recording is subject to a personal privacy or safety interest that clearly exceeds the merits of public  
6 disclosure.

7 (4) The board may assert the privacy or safety interest and may withhold a document or redact content  
8 of a video recording if the board determines that the demand for individual privacy clearly exceeds the merits of  
9 public disclosure or if the document's or recording's contents would compromise the safety, order, or security of  
10 a facility or the safety of facility personnel, a member of the public, or an inmate of the facility if disclosed.

11 (5) The board may not withhold from public scrutiny under subsections (2) through (4) any more  
12 information than is required to protect an individual privacy interest or a safety interest.

13 (6) The board may charge a reasonable fee for copying and inspecting records.

14 (7) The board may limit the time and place that the records may be inspected or copied. (~~Terminates~~  
15 ~~June 30, 2019--sec. 2, Ch. 402, L. 2015.~~)

16 ~~**46-23-110. (Effective July 1, 2019) Records -- dissemination.**~~ (1) ~~The department and the board shall~~  
17 ~~keep a record of the board's acts and decisions. Citizens may inspect and make copies of the public records of~~  
18 ~~the board, as provided in 2-6-1003, 2-6-1006, 2-6-1007, and this section.~~

19 ~~———(2) Records and materials that are constitutionally protected from disclosure are not subject to disclosure~~  
20 ~~under the provisions of subsection (1). Information that is constitutionally protected from disclosure is information~~  
21 ~~in which there is an individual privacy or safety interest that clearly exceeds the merits of public disclosure.~~

22 ~~———(3) Upon a request to inspect or copy records of the board's acts and decisions, the board or a board~~  
23 ~~staff member shall review the file requested and determine whether any document in the file is subject to a~~  
24 ~~personal privacy or safety interest that clearly exceeds the merits of public disclosure.~~

25 ~~———(4) The board may assert the privacy or safety interest and may withhold a document if the board~~  
26 ~~determines that the demand for individual privacy clearly exceeds the merits of public disclosure or if the~~  
27 ~~document's contents would compromise the safety, order, or security of a facility or the safety of facility personnel,~~  
28 ~~a member of the public, or an inmate of the facility if disclosed.~~

29 ~~———(5) The board may not withhold from public scrutiny under subsections (2) through (4) any more~~  
30 ~~information than is required to protect an individual privacy interest or a safety interest.~~

1   ~~—— (6) The board may charge a reasonable fee for copying and inspecting records.~~

2   ~~—— (7) The board may limit the time and place that the records may be inspected or copied."~~

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4       NEW SECTION. **Section 2. Repealer.** Section 2, Chapter 402, Laws of 2015, is repealed.

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6       NEW SECTION. **Section 3. Effective date.** [This act] is effective July 1, 2019.

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