

SENATE BILL NO. 220

INTRODUCED BY K. REGIER, S. HINEBAUCH, T. RICHMOND, D. SANDS, F. SMITH

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO PROBATION; ALLOWING CLARIFYING THAT A LOCAL GOVERNMENT HAS THE AUTHORITY TO CONTRACT WITH A PRIVATE MONTANA ENTITY FOR MISDEMEANOR PROBATION SERVICES; PROVIDING THAT ONLY PUBLICLY EMPLOYED PROBATION OFFICERS MAY MAKE ARRESTS; AND AMENDING SECTIONS 46-23-1001 AND 46-23-1005, MCA."

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

Section 1. Section 46-23-1001, MCA, is amended to read:

"46-23-1001. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Absconding" means when an offender deliberately makes the offender's whereabouts unknown to a probation and parole officer or fails to report for the purposes of avoiding supervision, and reasonable efforts by the probation and parole officer to locate the offender have been unsuccessful.

(2) "Board" means the board of pardons and parole provided for in 2-15-2305.

(3) "Compliance violation" means a violation of the conditions of supervision that is not:

(a) a new criminal offense;

(b) possession of a firearm in violation of a condition of probation or parole;

(c) behavior by the offender or any person acting at the offender's direction that could be considered stalking, harassing, or threatening the victim of an offense or a member of the victim's immediate family or support network;

(d) absconding; or

(e) failure to enroll in or complete a required sex offender treatment program or a treatment program designed to treat violent offenders.

(4) "Department" means the department of corrections provided for in 2-15-2301.

(5) "Misdemeanor probation officer" means a person who is employed by a county or municipality or who is employed by a private entity that contracts with a local government to provide misdemeanor probation

1 supervision services pursuant to 46-23-1005.

2 ~~(5)(6)~~ "Parole" means the release to the community of a prisoner by the decision of the board prior to
3 the expiration of the prisoner's term, subject to conditions imposed by the board and subject to supervision of the
4 department.

5 ~~(6)(7)~~ "Probation" means the release by the court without imprisonment, except as otherwise provided
6 by law, of a defendant found guilty of a crime upon verdict or plea, subject to conditions imposed by the court and
7 subject to the supervision of the department upon direction of the court.

8 (8) "Probation and parole officer" means an officer employed by the department pursuant to 46-23-1002."

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10 **Section 2.** Section 46-23-1005, MCA, is amended to read:

11 **"46-23-1005. Misdemeanor probation offices -- misdemeanor probation officers -- costs.** (1) A local
12 government may establish a misdemeanor probation office associated with a justice's court, municipal court, or
13 city court. The misdemeanor probation office shall monitor offenders for misdemeanor sentence compliance and
14 restitution payments. An offender is considered a fugitive under the conditions provided in 46-23-1014.

15 (2) A local government may appoint or contract with a private Montana entity for the provision of
16 misdemeanor probation officers and other employees necessary to administer this section. Misdemeanor
17 probation officers:

18 ~~(a) must have the minimum training required in 46-23-1003;~~

19 (A) MUST HAVE THE MINIMUM TRAINING REQUIRED IN 46-23-1003; AND

20 ~~(b)(a)(B) shall follow the supervision guidelines required in 46-23-1011; and,~~

21 ~~(c)(b)(3) A PUBLICLY EMPLOYED MISDEMEANOR PROBATION OFFICER~~ may order the arrest of an offender as
22 provided in 46-23-1012.

23 ~~(3)(4)~~ An offender who is convicted of the offense of partner or family member assault under 45-5-206
24 or of a violation of an order of protection under 45-5-626 and who is ordered to be supervised by misdemeanor
25 probation must be ordered to pay for the cost of the misdemeanor probation. The actual cost of probation
26 supervision over the offender's sentence must be paid by the offender unless the offender can show that the
27 offender is unable to pay those costs. The costs of misdemeanor probation are in addition to any other fines,
28 restitution, or counseling ordered."

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