

1 HOUSE BILL NO. 693
2 INTRODUCED BY B. MERCER, J. FULLER, F. NAVE, J. PATELIS
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING PROVISIONS OF THE GENERAL
5 APPROPRIATIONS ACT; PROVIDING FOR REPORTING REQUIREMENTS FOR THE DEPARTMENT OF
6 CORRECTIONS; PROVIDING FOR REPORTING REQUIREMENTS FOR THE OFFICE OF STATE PUBLIC
7 DEFENDER; PROVIDING FOR REPORTING REQUIREMENTS FOR THE DEPARTMENT OF JUSTICE;
8 PROVIDING FOR LEGISLATIVE INTENT; PROVIDING FOR AN ADDITIONAL JUDGE TO THE 18TH
9 JUDICIAL DISTRICT; REVISING EXPUNGEMENT PROVISIONS IN TREATMENT COURTS; EXTENDING
10 THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING BUREAU; REQUIRING THE
11 INVESTIGATION OF CERTAIN ORGANIZATIONS BY THE DEPARTMENT OF JUSTICE; PROVIDING A
12 DEFINITION OF "RECIDIVIST" FOR THE PURPOSE OF EVALUATION; AMENDING SECTIONS 3-5-102, 46-
13 1-1104, 46-1-1204, AND 46-18-1108, MCA; AMENDING SECTION 23, CHAPTER 456, LAWS OF 2019; AND
14 PROVIDING EFFECTIVE DATES."

15
16 WHEREAS, the Legislature is concerned with the delays associated with transferring defendants to
17 state custody after imposition of sentence. When the Department of Corrections does not timely assume
18 custody of defendants after sentencing, local government facilities may lack capacity to hold other persons. It is
19 the expectation of the Legislature that the Department of Corrections will ensure that defendants sentenced for
20 one or more felonies will not remain in a county detention facility for more than 10 business days after
21 sentencing unless unusual circumstances arise; and

22 WHEREAS, with respect to the Department of Corrections, the Legislature has been advised that the
23 vocational opportunities at the Montana Women's Prison are inadequate, particularly when compared to the
24 offerings at the Montana State Men's Prison. The Legislature is mindful that the campuses may face different
25 limitations in what programming may be offered based on location, footprint, and facilities; and

26 WHEREAS, with respect to the Department of Corrections, the Legislature is concerned with the
27 findings of the Legislative Audit Division in 2020 that the Department of Corrections had drug treatment beds
28 that were not fully utilized in fiscal year 2019, which resulted in a payment for failure to allow the contractor to

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67th Legislature

Drafter: Sonja Nowakowski, 406-444-3078

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1 operate at 75% capacity; and

2 WHEREAS, with respect to the Department of Corrections, the Legislature is concerned that the
3 Department of Corrections has yet to fully implement statutory directives to measure the effectiveness of its
4 programs—both those provided by the Department of Corrections employees and those provided by
5 contractors. In 2017, the Legislature directed the Department of Corrections to conduct evaluations of programs
6 to determine their impact on reducing recidivism. This work, in addition to other requirements in Senate Bill No.
7 59 (2017), appears to be unaddressed or incomplete. Moreover, the Department of Corrections' definition of
8 recidivism is an inadequate measure for the determination of effectiveness of its programming. The Legislature
9 is interested in having data on crimes committed by those discharged from the Department of Corrections'
10 custody, not merely "the rate at which adult offenders return to prison in Montana for any reason within three
11 years of their release from prison", which fails to address reentry outcomes of many individuals committed to
12 the Department of Corrections' custody and evaluates a truncated time period; and

13 WHEREAS, with respect to the Office of State Public Defender, the Legislature is concerned with the
14 findings of the Legislative Audit Division in 2020 regarding billing practices by contractors, including the failure
15 to require the use of assistants for nonattorney tasks, and allowing contractors to work a number of hours each
16 year that may induce attorneys to be contractors instead of the Office of State Public Defender employees; and

17 WHEREAS, with respect to the Office of State Public Defender, it is the sense of the Legislature that
18 the Office of State Public Defender expends its appropriation, in part, to perform tasks that are not required by
19 the state or federal constitution or by statutory directive, such as in section 47-1-104(4), MCA. Given limited
20 resources and the demands on the Office of State Public Defender staff, the Legislature believes that it is
21 incumbent on the Office of State Public Defender management to limit the scope of its work to what is required
22 by statute and the constitution; and

23 WHEREAS, with respect to the Office of State Public Defender, neither through its employees nor its
24 contractors should the Office of State Public Defender impair the Legislature's intent to have defendants share
25 in the costs of counsel provided by the Office of State Public Defender. The Office of State Public Defender
26 employees and contractors should not move the court to waive assessments under section 46-8-113, MCA,
27 unless the defendant can show a compelling reason why they cannot pay this assessment over the course of
28 the sentence; and

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1 WHEREAS, in House Bill No. 640 (2019), the Legislature established a mechanism to ensure that
2 sexual abuse reports generated by those with mandatory reporting responsibilities are provided to county
3 attorneys and that county attorneys report to the Attorney General on the status of the investigations and
4 prosecutions generated from these referrals. It is the sense of the Legislature that the Department of
5 Corrections has not undertaken a thorough review of the reports generated pursuant to section 41-3-210(3),
6 MCA, and the Legislature urges the Department of Corrections to do so; and

7 WHEREAS, the Legislature has taken a number of steps to strengthen the laws and investigative
8 response to address human trafficking and sexual exploitation of minors. Given the collective commitment in
9 the legislative and executive branches to combat these crimes, the Legislature needs greater clarity on whether
10 its appropriations and statutory changes are having an impact; and

11 WHEREAS, the Legislature expresses its concern that the backlog of testing on sexual assault kits
12 must be eliminated as soon as possible; and

13 WHEREAS, the definition of recidivism utilized by the judicial branch in evaluating the effectiveness of
14 treatment courts is different than the definition used by the Department of Corrections for its programming,
15 making it difficult to compare the effectiveness of treatment courts to in-patient treatment. It is the sense of the
16 Legislature that a single definition of recidivism would make it possible to have a consistent evaluation of
17 effectiveness; and

18 WHEREAS, the Legislature believes that expungement of a conviction for driving under the influence of
19 drugs or alcohol will impair the correctional and public safety goals that the Legislature aims to achieve through
20 the Section D appropriation.

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

23
24 NEW SECTION. **Section 1. Department of corrections to report.** (1) Beginning July 1, 2021, and
25 each quarter afterward, the department of corrections shall report, in accordance with 5-11-210, to the law and
26 justice interim committee and the legislative finance committee on the utilization of drug treatment beds and any
27 payments made to contractors for the failure to allow the contractor to operate at 75% capacity.

28 (2) The department of corrections shall report to the law and justice interim committee and the

1 legislative finance committee no later than September 1, 2022, on the rental voucher program to identify:

2 (a) where the voucher program is being utilized based on the location of expenditures;

3 (b) whether the program is effectively connected to treatment and supervision; and

4 (c) the strengths and weaknesses of the program as identified by the department.

5 (3) The department of corrections shall examine additional vocational programming options for the
6 Montana women's prison and report its findings to the law and justice interim committee and the legislative
7 finance committee no later than September 1, 2022.

8 (4) Beginning July 1, 2021, and each quarter afterward, for the quarter preceding the report, the
9 department of corrections shall report to the law and justice interim committee and the legislative finance
10 committee on:

11 (a) the number of occasions a defendant sentenced for one or more felonies remained in a county
12 detention facility for more than 10 business days after sentencing; and

13 (b) the names of the defendants who remained in a county detention facility for more than 10
14 business days after sentencing and the county detention facility in which they were held.

15 (5) No later than September 1, 2022, for offenders who were under the department's supervision or in
16 the department's custody between July 1, 2015, and July 1, 2021, the department of corrections shall report to
17 the law and justice interim committee and the criminal justice oversight council the identity, criminal history,
18 including the crimes or violations requiring the report, and correctional institution history of individuals:

19 (a) who were sentenced for a felony offense between July 1, 2021, and June 30, 2022; or

20 (b) whose sentences were revoked for a violation of the terms and conditions of a suspended or
21 deferred sentence between July 1, 2021, and June 30, 2022, excluding a violation that:

22 (i) is a compliance violation as defined in 46-18-203; or

23 (ii) is not a compliance violation as defined in 46-18-203.

24

25

26 **NEW SECTION. Section 2. The office of state public defender to report.** (1) By July 1, 2021, the
27 office of state public defender shall report to the legislative finance committee on what measures it is taking in
28 fiscal years 2022 and 2023 to ensure that its employees are accurately and completely making time entries that

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1 demonstrate how much time is:

2 (a) dedicated to core tasks;

3 (b) spent on specific cases; and

4 (c) spent on tasks other than those required to meet the constitutional requirement to provide counsel
5 for individuals not financially able to afford counsel for crimes if jail or prison time may be the punishment if
6 convicted.

7 (2) By July 1, 2021, the office of state public defender shall report to the legislative finance committee
8 on what it will do in fiscal years 2022 and 2023 to address the concerns identified by the legislative audit
9 division in 2020 regarding billing practices by contractors, including the failure to require the use of assistants
10 for nonattorney tasks, and allowing contractors to work a number of hours each year that may induce attorneys
11 to be contractors instead of the office of state public defender employees.

12 (3) No later than August 1, 2022, the office of state public defender shall report to the legislative
13 finance committee on the tasks performed by attorneys and nonattorneys in fiscal year 2022 that were not
14 required by statute or constitutional requirement and the amount of time dedicated to that work.

15 (4) No later than September 1, 2022, the office of state public defender shall report to the legislative
16 finance committee on whether funding from Title IV-E of the Social Security Act provided all funding needed to
17 provide legal representation for children and parents in child abuse and neglect proceedings in fiscal year 2022
18 and, if not, what necessary expenditures were made from other appropriated funds.

19 (5) The office of state public defender shall identify data needs for measuring agency performance
20 and establish data-based performance measurements and targets and shall report to the legislative finance
21 committee on these needs and measurements by September 1, 2022.

22 (6) No later than September 1, 2022, the office of state public defender shall report to the legislative
23 finance committee on the cases in fiscal year 2022 in which it moved for waiver of the assessment and the
24 basis for the motion.

25 (7) No later than September 1, 2022, the office of state public defender shall report to the legislative
26 finance committee on the time spent by employees and contractors in cases involving defendants in treatment
27 courts in the preceding fiscal year for each defendant. The report must report on each defendant without
28 identifying the defendant by name for each district court or court of limited jurisdiction.

1 (8) No later than September 1, 2022, the office of state public defender shall report to the legislative
2 finance committee on the time spent by employees and contractors in cases involving defendants in capital
3 cases in fiscal year 2022 for each defendant.
4

5 NEW SECTION. Section 3. Department of justice to report. (1) The department shall undertake a
6 thorough review of the reports generated pursuant to 41-3-210(3) and report to the law and justice interim
7 committee and the legislative finance committee no later than August 1, 2021, on the status of reporting by
8 county attorneys since the initial report deadline identified in House Bill No. 640 (2019) and its review of the
9 county attorney reports and overall assessment of the law enforcement and prosecutorial response to reports
10 from mandatory reporters.

11 (2) No later than September 1, 2022, the department of justice shall report to the law and justice
12 interim committee and the legislative finance committee on the number of human trafficking investigations
13 initiated by the department of justice in fiscal years 2021 and 2022 and the number of prosecutions generated
14 from the investigations. The report must also include information on the sentences imposed for convictions
15 obtained as a result of these prosecutions, including the names of the defendants and the crimes for which
16 convictions were obtained.

17 (3) No later than September 1, 2022, the department of justice shall report to the law and justice
18 interim committee and the legislative finance committee on the number of referrals to ICAC-funded programs in
19 fiscal years 2021 and 2022 and the number of investigations initiated in response. The report must also include
20 information on prosecutions initiated in fiscal years 2021 and 2022 as the result of these investigations and the
21 sentences imposed for convictions obtained as a result of these prosecutions.

22 (4) The legislature expresses its concern that the backlog of testing on sexual assault kits must be
23 eliminated as soon as possible. It has provided one-time-only funding in fiscal years 2022 and 2023 to provide
24 additional resources to the department of justice to complete this work. No later than September 1, 2022, the
25 department shall report to the legislative finance committee on the number of sexual assault kits evaluated in
26 fiscal year 2022 and the work remaining to eliminate any backlog.
27

28 NEW SECTION. Section 4. Legislative intent. It is the intent of the legislature that the judicial

1 branch confer with the Montana state library and other states' law libraries to evaluate whether a fee for service
2 model would be appropriate given the services offered by the state law library.

3
4 **NEW SECTION. Section 5. Recidivism evaluation -- definitions.** (1) If the department of
5 corrections, the department of justice, the board of crime control, or the judicial branch undertakes an
6 evaluation of recidivist behavior, except for driving under the influence offenses, the following definitions apply:

7 (a) "Custody" means a period in which a person is in the custody of the department of corrections or
8 another correctional institution in another state based on a sentence for a felony conviction.

9 (b) "Recidivist" means a person sentenced for a felony crime after the effective date of the bill:

10 (i) who was previously sentenced for a felony crime within 6 years of the date of the imposition of the
11 sentence;

12 (ii) who was released from custody within 6 years of the date of the imposition of the sentence; or

13 (iii) whose sentence terminated from supervision as a probationer or parolee by the department of
14 corrections or another state's correctional institution within 6 years of the date of the imposition of the sentence.

15 (2) If the department of corrections, the department of justice, the board of crime control, or the
16 judicial branch undertakes an evaluation of recidivist behavior, the government entity conducting the evaluation
17 of recidivism rates is not required to determine whether a person released from the custody of the department
18 of corrections has been convicted of a felony crime committed in a jurisdiction outside the state after release.

19 (3) If the department of corrections, the department of justice, the board of crime control, or the
20 judicial branch undertakes an evaluation to determine the recidivism rate for defendants convicted of an initial
21 driving under the influence offense who are convicted of one or more subsequent driving under the influence
22 offenses, "driving under the influence recidivist" means a person sentenced for a misdemeanor or felony driving
23 under the influence offense who has been previously convicted of a subsequent misdemeanor or felony driving
24 under the influence offense.

25
26 **NEW SECTION. Section 6. Investigation of environmental organization compliance.** (1) Using its
27 consumer protection oversight and authority in accordance with Title 30, chapter 14, the department of justice
28 shall investigate the electioneering and related political and lobbying activities of environmental organizations

1 operating in Montana. The investigation must include but is not limited to:

- 2 (a) if organizations are meeting their exempt purpose as established in their tax-exempt status;
- 3 (b) the composition of environmental organizations operating in Montana and the number of Montana
- 4 residents actively signing annual membership agreements;
- 5 (c) funding structures used to provide revenue to environmental organizations operating in Montana
- 6 and the percentage of funding provided by out-of-state sources, out-of-country sources, or both;
- 7 (d) potential failure to register as a corporation or business entity with the Montana secretary of state's
- 8 office while soliciting monetary or other support and potentially misleading Montana residents under consumer
- 9 protection laws;
- 10 (e) engagement in political speech, lobbying, and other politically motivated activities, including how
- 11 organizations spend money and provide for accountability and standard auditing practices for funding and staff
- 12 employment; and
- 13 (f) interplay between environmental organizations and affiliated funding sources.

14 (2) The department shall research, identify, and list all legal actions involving environmental
15 organizations acting to block or otherwise influence permitting, licensing, and other governmental action or
16 regulation since January 1, 2011.

17 (3) The department shall prepare a report outlining its findings based on the requirements of this
18 section and provide the report to the legislative council and the legislature, in accordance with 5-11-210, no
19 later than December 1, 2022.

20

21 **Section 7.** Section 3-5-102, MCA, is amended to read:

22 **"3-5-102. Number of judges.** In each judicial district, there must be the following number of judges of
23 the district court:

24 (1) in the 2nd, 7th, 16th, 20th, and 21st districts, two judges each;

25 ~~(2) in the 18th district, three judges;~~

26 ~~(3)(2)~~ in the 1st, 8th, ~~and 11th,~~ and 18th districts, four judges each;

27 ~~(4)(3)~~ in the 4th district, five judges;

28 ~~(5)(4)~~ in the 13th district, eight judges; and

1 ~~(6)~~(5) in all other districts, one judge each."

2
3 NEW SECTION. Section 8. Appointment and election of judges. The additional judge for the 18th
4 judicial district must be appointed pursuant to the provisions of Title 3, chapter 1, part 10, to take office January
5 3, 2022. The appointee shall serve until the day before the first Monday of January following the first general
6 election after appointment. The candidate elected at that election holds the office for the remainder of the
7 unexpired 6-year term.

8
9 **Section 9.** Section 46-1-1104, MCA, is amended to read:

10 **"46-1-1104. Drug treatment court structure.** (1) Each judicial district or court of limited jurisdiction
11 may establish a drug treatment court under which drug offenders may be processed to address an identified
12 substance abuse problem as a condition of pretrial release, pretrial diversion under 46-16-130, probation,
13 incarceration, parole, or other release from a detention or correctional facility.

14 (2) Participation in drug treatment court is voluntary and is subject to the consent of the prosecutor,
15 the defense attorney, and the court pursuant to a written agreement.

16 (3) A drug treatment court and governmental entities that refer an offender to a drug treatment court
17 shall adopt an evidence-based program evaluation tool that measures how closely the drug treatment court
18 programs meet the known principles of effective intervention. The tool must measure program content and
19 capacity to ensure the delivery of effective interventions for offenders.

20 (4) A drug treatment court may grant reasonable incentives under a written agreement if the court
21 finds that a drug offender is performing satisfactorily in drug treatment court, is benefiting from education,
22 treatment, and rehabilitation, has not engaged in criminal conduct, and has not violated the terms and
23 conditions of the agreement. Reasonable incentives may include but are not limited to:

24 (a) graduation certificates;

25 (b) early graduation;

26 (c) fee reduction or waiver of fees;

27 (d) record expungement of the underlying case, unless the offense is a driving under the influence
28 offense; or

1 (e) reduced contact with a probation officer.

2 (5) The court may impose reasonable sanctions under the agreement, including incarceration or
3 termination from the drug treatment court, if the court finds that the drug offender is not performing satisfactorily
4 in drug treatment court, is not benefiting from education, treatment, or rehabilitation, has engaged in conduct
5 rendering the offender unsuitable for the program, has otherwise violated the terms and conditions of the
6 agreement, or is for any reason unable to participate. Sanctions may include but are not limited to:

7 (a) a short-term jail sentence;

8 (b) fines;

9 (c) extension of time in the program;

10 (d) peer review;

11 (e) geographical restrictions;

12 (f) termination; or

13 (g) contempt of court.

14 (6) Upon successful completion of drug treatment court, a drug offender's case must be disposed of
15 by the judge in the manner prescribed by the agreement and by the applicable policies and procedures adopted
16 by the drug treatment court. This may include but is not limited to pretrial diversion under 46-16-130, dismissal
17 of criminal charges, probation, deferred sentencing, suspended sentencing, or a reduced period of
18 incarceration. A drug offender who successfully completes the program may be given credit for the time the
19 offender served in the drug treatment program by the judge upon disposition.

20 (7) Each local jurisdiction that intends to establish a drug treatment court or to continue the operation
21 of an existing drug treatment court shall establish a local drug treatment court team.

22 (8) The drug treatment court team shall, when practicable, conduct a staff meeting prior to each drug
23 treatment court session to discuss and provide updated information regarding drug offenders. After determining
24 the offender's progress or lack of progress, the court, with input from the drug treatment court team, shall
25 determine the appropriate incentive or sanction to be applied.

26 (9) The provisions of this part apply only to offenders who qualify for participation based on
27 qualifications established by each drug treatment court. The provisions of this part do not apply to drug
28 offenders who have been convicted of a sexual offense, as defined in 46-23-502. This part does not confer a

1 right or expectation of a right to participate in a drug treatment court and does not obligate a drug treatment
2 court to accept any offender. The establishment of a drug treatment court may not be construed as limiting the
3 discretion of a prosecutor to act on any criminal case that the prosecutor considers advisable to prosecute.
4 Each drug treatment court judge may establish rules and may make special orders and necessary rules that do
5 not conflict with rules adopted by the Montana supreme court.

6 (10) Each drug offender shall contribute to the cost of drug treatment court in accordance with 46-1-
7 1112(2).

8 (11) A drug treatment court coordinator is responsible for the general administration of a drug
9 treatment court under the direction of the drug treatment court judge.

10 (12) The supervising agency shall timely forward information to the drug treatment court concerning
11 the drug offender's progress and compliance with any court-imposed terms and conditions.

12 (13) A department of corrections probation and parole officer may participate in a drug treatment court
13 team if authorized by the department. The department may authorize participation if it determines, in its
14 discretion, that the caseloads of local probation and parole officers permit participation. If necessitated by a
15 change in caseloads, the department may withdraw authorization for participation by its probation and parole
16 officers in a drug treatment court. The department of corrections may not authorize its probation and parole
17 officers to supervise a participant of a drug treatment court program who has not been convicted of a felony
18 offense and committed to the supervision of the department."
19

20 **Section 10.** Section 46-1-1204, MCA, is amended to read:

21 **"46-1-1204. Mental health treatment court structure.** (1) Each judicial district or court of limited
22 jurisdiction may establish a mental health treatment court under which persons with a mental disorder who are
23 charged with a criminal offense may be processed to address an identified mental health problem as a
24 condition of pretrial release, pretrial diversion under 46-16-130, probation, incarceration, parole, or other
25 release from a detention or correctional facility.

26 (2) Participation in a mental health treatment court is voluntary and is subject to the consent of the
27 prosecutor, the defense attorney, and the court pursuant to a written agreement.

28 (3) A mental health treatment court may grant reasonable incentives under a written agreement.

1 Reasonable incentives may include but are not limited to:

2 (a) graduation certificates;

3 (b) early graduation;

4 (c) fee reduction or waiver of fees;

5 (d) record expungement of the underlying case, unless the offense is a driving under the influence
6 offense; or

7 (e) reduced contact with a probation officer.

8 (4) The court may impose reasonable sanctions under the agreement for failure to comply with the
9 agreement. Prior to imposition of a sanction, the mental health treatment court team shall review the
10 participant's individual treatment program and the participant's conduct. If the mental health treatment court
11 team determines that the participant's failure to comply:

12 (a) was not willful, was a symptom of a mental disorder, or was a result of an inappropriate treatment
13 plan, the court may impose sanctions, including but not limited to:

14 (i) fines;

15 (ii) extension of time in the program;

16 (iii) peer review; or

17 (iv) geographical restrictions; or

18 (b) was willful, not a symptom of a mental disorder, and not the result of an inappropriate treatment
19 plan, the court may impose sanctions, including:

20 (i) a short-term jail sentence;

21 (ii) termination of participation in the program; or

22 (iii) contempt of court.

23 (5) Upon successful completion of mental health treatment court, a participant's case must be
24 disposed of by the judge in the manner prescribed by the agreement and by the applicable policies and
25 procedures adopted by the mental health treatment court. This may include but is not limited to pretrial
26 diversion under 46-16-130, dismissal of criminal charges, probation, deferred sentencing, suspended
27 sentencing, or a reduced period of incarceration. A participant who successfully completes the program must
28 be given credit for the time the participant served in the mental health treatment program by the judge upon

1 disposition.

2 (6) Each local jurisdiction that intends to establish a mental health treatment court or to continue the
3 operation of an existing mental health treatment court shall establish a local mental health treatment court
4 team.

5 (7) The mental health treatment court team shall, when practicable, conduct a staff meeting prior to
6 each mental health treatment court session to discuss and provide updated information regarding participants.
7 After determining the participant's progress or lack of progress, the court, with input from the mental health
8 treatment court team, shall determine the appropriate incentive or sanction to be applied. The provisions of this
9 part apply only to persons with a mental disorder who are charged with a criminal offense and who qualify for
10 participation based on qualifications established by each mental health treatment court. The provisions of this
11 part do not apply to participants who have been convicted of a sexual offense, as defined in 46-23-502. This
12 part does not confer a right or expectation of a right to participate in a mental health treatment court and does
13 not obligate a mental health treatment court to accept any offender. The establishment of a mental health
14 treatment court may not be construed as limiting the discretion of a prosecutor to act on any criminal case that
15 the prosecutor considers advisable to prosecute. Each mental health treatment court judge may establish rules
16 and may make special orders and necessary rules that do not conflict with rules adopted by the Montana
17 supreme court.

18 (8) Each participant shall contribute to the cost of treatment and the program in accordance with 46-1-
19 1212(2). A mental health treatment court coordinator is responsible for the general administration of a mental
20 health treatment court under the direction of the mental health treatment court judge. The supervising agency
21 shall timely forward information to the mental health treatment court concerning the participant's progress and
22 compliance with any court-imposed terms and conditions.

23 (9) A department of corrections probation and parole officer may participate in a mental health
24 treatment court team if authorized by the department. The department may authorize participation if it
25 determines, in its discretion, that the caseloads of local probation and parole officers permit participation. If
26 necessitated by a change in caseloads, the department may withdraw authorization for participation by its
27 probation and parole officers in a mental health treatment court. The department of corrections may not
28 authorize its probation and parole officers to supervise a participant of a mental health treatment program who

1 has not been convicted of a felony offense and committed to the supervision of the department."

2

3 **Section 11.** Section 46-18-1108, MCA, is amended to read:

4 **"46-18-1108. When expungement not presumed.** (1) Expungement may not be presumed if the
5 person seeking expungement has one or more convictions for assault under 45-5-201, partner or family
6 member assault under 45-5-206, stalking under 45-5-220, sexual assault under 45-5-502, a violation of a
7 protective order under 45-5-626, or driving under the influence of alcohol or drugs, however named, under Title
8 61, chapter 8, part 4, or any offense that carries a statutorily enhanced penalty as a result of the offender
9 driving under the influence of alcohol or drugs.

10 (2) In making the determination of whether expungement should be granted, the district court shall
11 consider:

- 12 (a) the age of the petitioner at the time the offense was committed;
- 13 (b) the length of time between the offense and the request;
- 14 (c) the rehabilitation of the petitioner;
- 15 (d) the likelihood that the person will reoffend; and
- 16 (e) any other factor the court considers relevant.

17 (3) Expungement in treatment courts provided for in 46-1-1104 and 46-1-1204 is not permitted for a
18 driving under the influence offense."

19

20 **Section 12.** Section 23, Chapter 456, Laws of 2019, is amended to read:

21 **"Section 23. Termination.** [Sections 3 and 4] terminate June 30, ~~2021~~ 2023."

22

23 NEW SECTION. **Section 13. Effective dates.** (1) Except as provided in subsection (2), [this act] is
24 effective July 1, 2021.

25 (2) [Sections ~~11 and 12 and 13~~] are effective June 30, 2021.

26

- END -