

1 HOUSE BILL NO. 583

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CRIMINAL JUSTICE LAWS; ALLOWING

5 AN INCARCERATED INDIVIDUAL TO EARN EDUCATION CREDITS OR WORK CREDITS THAT REDUCE

6 THE TIME BEFORE THE INDIVIDUAL MAY BE CONSIDERED FOR PAROLE; ALLOWING AN INDIVIDUAL

7 WHO IS ON PROBATION OR PAROLE SUPERVISION TO EARN BEHAVIORAL CREDITS THAT REDUCE

8 THE TIME SERVED UNDER SUPERVISION; PROVIDING FOR CALCULATION AND DOCUMENTATION OF

9 THE CREDITS; REQUIRING THE DEPARTMENT OF CORRECTIONS TO SCREEN INMATES FOR

10 EDUCATION LEVEL; REQUIRING THE DEPARTMENT OF CORRECTIONS TO PROVIDE CERTAIN

11 EDUCATIONAL SERVICES IN PRISONS AND CERTAIN HOLDING FACILITIES, INCLUDING DETENTION

12 CENTERS; ALLOWING A CORRECTIONAL OFFICER TO PARTICIPATE IN EDUCATION CLASSES;

13 REQUIRING THE DEPARTMENT OF CORRECTIONS TO COMPILE A LIST OF CERTAIN SELF-

14 IMPROVEMENT PROGRAMS; ALLOWING CERTAIN INDIVIDUALS TO EARN SELF-IMPROVEMENT

15 CREDITS FOR PARTICIPATION IN SELF-IMPROVEMENT PROGRAMS; AMENDING SECTIONS 46-18-102

16 AND 46-23-216, MCA; AND PROVIDING AN EFFECTIVE DATE."

17

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

19

20 NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 7], the following definitions

21 apply:

22 (1) "Behavioral credit" means a credit earned by a returning citizen as provided in [section 4].

23 (2) "Compliance violation" has the meaning provided in 46-18-203.

24 (3) "Department" means the department of corrections established in 2-15-2301.

25 (4) "Detention center" has the meaning provided in 7-32-2241.

26 (5) "Education credit" means a credit earned by a returning citizen who completes educational

27 programs as provided in [section 3].

28 (6) "Returning citizen" means an individual sentenced for a criminal offense and whose sentence

1 includes a period of incarceration, probation, parole, or any combination of incarceration, probation, or parole.

2 (7) "Self-improvement credit" means a credit earned as provided in [section 7].

3 (8) "State prison" includes the prisons listed in 53-30-101(3), a prerelease facility, and a contracted or
4 holding facility or detention center that holds state inmates for 4 or more months.

5 (9) "Work credit" means a credit earned as provided in [section 3].

6
7 **NEW SECTION. Section 2. Credit calculations.** (1) The department shall calculate a returning
8 citizen's education credits, work credits, behavioral credits, and self-improvement credits quarterly and notify
9 the returning citizen of the total credits the returning citizen has earned. The department shall provide the
10 returning citizen with two copies of the most recent calculation. The calculation must include the date of parole
11 eligibility or the expiration date of the returning citizen's sentence based on the assumption that all possible
12 education credits, work credits, behavioral credits, and self-improvement credits are awarded. The calculation
13 form must include a notice that the date is tentative and subject to change if the returning citizen fails to accrue
14 education credits, work credits, behavioral credits, or self-improvement credits at the assumed rate.

15 (2) The returning citizen shall sign and return to the department one copy of calculation to
16 acknowledge receipt, and the department shall retain that copy in its files. The returning citizen may keep the
17 second copy.

18
19 **NEW SECTION. Section 3. Education credits -- work credits.** (1) (a) To ensure that a returning
20 citizen has an opportunity to earn education credits, the department of corrections shall facilitate education
21 programs in all state prisons as follows:

22 (b) within 15 days of a returning citizen's entry into a state prison, the department shall determine the
23 level of education attained by the returning citizen;

24 (c) within 30 days of the screening required in subsection (1)(b), the department shall offer each
25 returning citizen the opportunity to enroll in education classes, including vocational programs, apprenticeships,
26 internships, and accredited educational programs leading to a certificate or degree; and

27 (d) within 180 days of a returning citizen's request, the department shall ensure the returning citizen
28 starts classes.

1 (2) Returning citizens who are incarcerated on [the effective date of this act] must have 6 months of
2 clear conduct to enroll in an education class.

3 (3) Education credits accrue at the following rates for education levels attained while the returning
4 citizen is incarcerated in a state prison and as long as the returning citizen maintains a C average:

5 (a) for achieving 6th to 7th grade education proficiency, 60 days credit;

6 (b) for achieving 8th grade education proficiency, 60 days credit;

7 (c) for receiving a high school equivalency diploma, 180 days credit;

8 (d) for receiving a 2-year associate's degree, credits equal to one-quarter of the returning citizen's
9 sentence;

10 (e) for completing vocational education, credits equal to one-fifth of the returning citizen's sentence;

11 (f) for receiving 3 years of college credit, credits equal to one-third of the returning citizen's sentence;

12 and

13 (g) for receiving a 4-year graduate degree, credits equal to one-half of the returning citizen's
14 sentence.

15 (4) For every 10 days of work performed in a job while incarcerated, a returning citizen earns 3 days
16 of work credit.

17 (5) Education credits and work credits earned under this section are for the purposes of calculating a
18 returning citizen's date of eligibility for parole consideration.

19 (6) Education credits may not be awarded for education received prior to incarceration.

20 (7) Any individual incarcerated in a state prison must have an equal opportunity to enroll in
21 educational classes and may not be denied except as provided in [section 5].

22 (8) The department may not revoke a returning citizen's education credits or work credits after the
23 credits are earned.

24 (9) A returning citizen who commits a disciplinary infraction within an educational program may, at the
25 request of the teacher, be denied access to educational programs for no more than 1 year.

26

27 **NEW SECTION. Section 4. Behavioral credits -- types.** (1) (a) A returning citizen who is on parole
28 and who is on time for a scheduled appointment, tests clean on a urinalysis, and abides by the conditions of

1 parole is eligible for behavioral credits. For each 30 days that a returning citizen who is on parole meets the
2 behavioral requirements, 30 days must be removed from the remaining time the returning citizen shall serve on
3 parole.

4 (b) Behavioral credits may not accrue to a returning citizen who is on parole during a calendar month
5 in which a violation of parole has been reported to the board of pardons and parole as provided in 46-23-1025.
6 If the board or its hearing panel determines that the violation is a compliance violation or, if the violation is not a
7 compliance violation but the board or its hearing panel chooses to continue the returning citizen's parole without
8 any changes in conditions, the returning citizen must be awarded the behavioral credits that were suspended
9 during the parole violation decisionmaking process. If the board or the hearing panel determines the violation is
10 not a compliance violation and modifies the terms of parole or revokes parole, the returning citizen may not be
11 awarded behavioral credits for the time in which the violation was pending.

12 (2) (a) A returning citizen who is on probation and who is on time for a scheduled appointment, tests
13 clean on a urinalysis, and abides by the conditions of probation is eligible for behavioral credits. For each 30
14 days that a returning citizen who is on probation meets the behavioral requirements, 30 days must be removed
15 from the remaining time the returning citizen shall serve on probation.

16 (b) Behavioral credits may not accrue to a returning citizen who is on probation during a calendar
17 month in which a probation violation is alleged. If a court determines that the violation is a compliance violation
18 or, if the violation is not a compliance violation but the court chooses to continue the returning citizen's
19 probation without any changes in conditions, the returning citizen must be awarded the behavioral credits that
20 were suspended during the probation violation decisionmaking process. If the court determines the violation is
21 not a compliance violation and modifies the terms of probation or revokes the returning citizen's probation, the
22 returning citizen may not be awarded behavioral credits for the time in which the violation was pending.

23 (3) The department may not revoke a returning citizen's behavioral credits after the credits are
24 earned.

25
26 **NEW SECTION. Section 5. Exceptions.** The following types of returning citizens may take all
27 educational classes but may not earn education credits, work credits, behavioral credits, or self-improvement
28 credits:

1 (1) A person whose sentence includes incarceration for a sexual offense as defined in 46-23-502 and
2 who was designated by a judge as a level 3 sexually violent predator as provided in 46-23-509 may not receive
3 education credits, work credits, behavioral credits, or self-improvement credits until the offender is reassigned
4 to a risk level lower than level 3.

5 (2) A person who is determined by the department's risk assessment tool to be a high-risk offender
6 may not receive education credits or work credits until all assigned treatment programs are completed or the
7 person is reassessed at a lower risk level.

8 (3) A person sentenced to death or to life without the possibility of parole may not receive education
9 credits or work credits.

10

11 **NEW SECTION. Section 6. Educational attainment by correctional officer.** A correctional officer
12 who has been employed for 1 year may participate in an educational program if offered by the facility in which
13 the officer works. Nothing in this section may be construed to give the correctional officer a contract right to an
14 educational program.

15

16 **NEW SECTION. Section 7. Self-improvement programs -- credits.** (1) The department of
17 corrections shall provide a list of self-improvement programs that are offered by public, private, and faith-based
18 organizations.

19 (2) A returning citizen under supervision by the department of corrections as provided in 46-23-1011
20 or 46-23-1021 may earn credits for voluntarily completing the programs on the list. For each completed
21 program, a returning citizen will earn 60 days of self-improvement credit to be used for the purposes of
22 calculating a returning citizen's date of eligibility for parole, release date, or sentence expiration date.

23

24 **Section 8.** Section 46-18-102, MCA, is amended to read:

25 **"46-18-102. Rendering judgment and pronouncing sentence -- use of two-way electronic audio-**
26 **video communication.** (1) The judgment must be rendered in open court. For purposes of this section, a
27 judgment rendered through the use of two-way electronic audio-video communication, allowing all of the
28 participants to be heard in the courtroom by all present and allowing the party speaking to be seen, is

1 considered to be a judgment rendered in open court. Audio-video communication may be used if neither party
2 objects and the court agrees to its use and has informed the defendant that the defendant has the right to
3 object to its use. The audio-video communication must operate as provided in 46-12-201.

4 (2) If the verdict or finding is not guilty, judgment must be rendered immediately and the defendant
5 must be discharged from custody or from the obligation of a bail bond.

6 (3) (a) Except as provided in 46-18-301, if the verdict or finding is guilty, sentence must be
7 pronounced and judgment rendered within a reasonable time.

8 (b) When the sentence is pronounced, the judge shall clearly state for the record the reasons for
9 imposing the sentence and notify the defendant of the education credits, work credits, behavioral credits, and
10 self-improvement credits awarded pursuant to [sections 1 through 7] that may shorten the defendant's term of
11 imprisonment or supervision on probation or parole."

12

13 **Section 9.** Section 46-23-216, MCA, is amended to read:

14 **"46-23-216. Duration of parole.** (1) A prisoner on parole is considered released on parole until the
15 expiration of the maximum term or terms for which the prisoner was sentenced less the education credits, work
16 credits, behavioral credits, and self-improvement credits awarded pursuant to [sections 2 through 7].

17 (2) The period served on parole must be considered service of the term of imprisonment, and subject
18 to the provisions contained in 46-23-1023 through 46-23-1026 relating to a prisoner who is a fugitive from or
19 has fled from justice, the total time served may not exceed the maximum term or sentence. When a prisoner on
20 parole has performed the obligations of the release, the board shall make a final order or discharge and issue a
21 certificate of discharge to the prisoner."

22

23 NEW SECTION. **Section 10. Codification instruction.** [Sections 1 through 7] are intended to be
24 codified as an integral part of Title 53, chapter 30, and the provisions of Title 53, chapter 30, apply to [sections
25 1 through 7].

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27 NEW SECTION. **Section 11. Effective date.** [This act] is effective July 1, 2021.

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