

HOUSE BILL NO. 426

INTRODUCED BY M. YAKAWICH, K. SEEKINS-CROWE, T. MCGILLVRAY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO INMATES APPROACHING PAROLE ELIGIBILITY OR DISCHARGE; AND AMENDING ~~SECTION~~ SECTIONS 46-23-201 AND 53-1-203, MCA."

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

SECTION 1. SECTION 46-23-201, MCA, IS AMENDED TO READ:

"46-23-201. Prisoners eligible for nonmedical parole. (1) Subject to the restrictions contained in subsections (2) through (4) and the parole criteria in 46-23-208, the board may release on nonmedical parole by appropriate order any person who is:

- (a) confined in a state prison;
- (b) sentenced to the state prison and confined in a prerelease center;
- (c) sentenced to prison as an adult pursuant to 41-5-206 and confined in a correctional facility as defined in 41-5-103;
- (d) sentenced to be committed to the custody of the director of the department of public health and human services as provided in 46-14-312 and confined in the Montana state hospital, the Montana developmental center, or the Montana mental health nursing care center.

(2) Persons under sentence of death, persons sentenced to the department who have been placed by the department in a state prison temporarily for assessment or sanctioning, and persons serving sentences imposed under 46-18-202(2) or 46-18-219 may not be granted a nonmedical parole.

(3) A prisoner serving a time sentence may not be paroled under this section until the prisoner has served at least one-fourth of the prisoner's full term.

(4) A prisoner serving a life sentence may not be paroled under this section until the prisoner has served 30 years.

(5) If a hearing panel denies parole, it may order that the prisoner serve up to 6 years if the

1 prisoner is confined for a sexual or violent offense, as defined in 46-23-502, or up to 1 year if the prisoner is
2 confined for any other offense before a hearing panel conducts another hearing or review.

3 (6) Nothing in this section prohibits the department from transferring a prisoner who is within 14
4 months of parole eligibility to a prerelease or treatment center for the purposes of preparing the prisoner for
5 release into the community."

6

7 **Section 2.** Section 53-1-203, MCA, is amended to read:

8 **"53-1-203. Powers and duties of department of corrections.** (1) The department of corrections
9 shall:

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

11 (i) for the siting, establishment, and expansion of prerelease centers;

12 (ii) for the expansion of treatment facilities or programs previously established by contract through
13 a competitive procurement process;

14 (iii) for the establishment and maintenance of residential methamphetamine treatment programs;

15 and

16 (iv) for the admission, custody, transfer, and release of persons in department programs AND STATE
17 PRISONS, AS DEFINED IN 53-30-101, except as otherwise provided by law;

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

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

26 (i) prerelease AND TREATMENT centers for purposes of preparing inmates of a Montana prison who
27 are ~~approaching~~ within 14 months of parole eligibility or discharge for release into the community, providing an
28 alternative placement for offenders who have violated parole or probation, and providing a sentencing option for

1 felony offenders pursuant to 46-18-201. The centers shall provide a less restrictive environment than the prison
2 while maintaining adequate security. The centers must be operated in coordination with other department
3 correctional programs. This subsection does not affect the department's authority to operate and maintain
4 prerelease OR TREATMENT centers.

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

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

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

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

16 (g) encourage efforts within the department and at the local level that would develop housing
17 options and resource materials related to housing for individuals who are released from the Montana state
18 prison or community corrections programs;

19 (h) maintain data on the number of individuals who are discharged from the adult correction
20 services listed in 53-1-202 into a homeless shelter or a homeless situation;

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

23 (j) collect and disseminate information relating to youth who are committed to the department for
24 placement in a correctional facility as defined in 41-5-103;

25 (k) maintain adequate data on placements that it funds in order to keep the legislature properly
26 informed of the specific information, by category, related to delinquent youth in out-of-home care facilities;

27 (l) provide funding for youth who are committed to the department for placement in a correctional
28 facility as defined in 41-5-103;

- 1 (m) administer correctional facilities as defined in 41-5-103; and
2 (n) use to maximum efficiency the resources of state government in a coordinated effort to:
3 (i) provide for delinquent youth committed to the department; and
4 (ii) coordinate and apply the principles of modern correctional administration to the facilities and
5 programs administered by the department.

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

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

17 (4) The department of corrections may enter into contracts with nonprofit corporations or
18 associations or private organizations to provide substitute care for delinquent youth in correctional facilities.

19 (5) The department may contract with Montana corporations to operate a day reporting program as
20 an alternate sentencing option as provided in 46-18-201 and 46-18-225 and as a sanction option under 46-23-
21 1015. The department shall adopt by rule the requirements for a day reporting program, including but not
22 limited to requirements for daily check-in, participation in programs to develop life skills, and the monitoring of
23 compliance with any conditions of probation, such as drug testing.

24 (6) Rules adopted by the department pursuant to subsection (1)(a) may not amend or alter the
25 statutory powers and duties of the state board of pardons and parole. The rules for the siting, establishment,
26 and expansion of prerelease centers must state that the siting is subject to any existing conditions, covenants,
27 restrictions of record, and zoning regulations. The rules must provide that a prerelease center may not be sited
28 at any location without community support. The prerelease siting, establishment, and expansion must be

1 subject to, and the rules must include, a reasonable mechanism for a determination of community support for or
2 objection to the siting of a prerelease center in the area determined to be impacted. The prerelease siting,
3 establishment, and expansion rules must provide for a public hearing conducted pursuant to Title 2, chapter 3.

4 (7) The department shall ensure that risk and needs assessments drive the department's
5 supervision and correctional practices, including integrating assessment results into supervision contact
6 standards and case management. The department shall regularly validate its risk assessment tool."

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