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66th Montana Legislature

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TO: Committee Members

FROM: Julianne Burkhardt, Staff Attorney

RE: Administrative Rule Activity

DATE: September 10, 2020

### Board of Pardons and Parole (BOPP)

MAR 2020 Issue No. 16 (August 28, 2020) MAR Notice No. 20-25-70

The BOPP issued a NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION AND AMENDMENT regarding a New Rule pertaining to parole guidelines and an amendment to ARM 20.25.704 addressing conditional discharge from supervision. A public hearing was initially scheduled to take place on September 21, 2020 via Zoom but was rescheduled for October 1, 2020 at 11:00 a.m. in MAR 2020 Issue No 17 (September 11, 2020) MAR Notice No. 20-25-70.

The BOPP drafted the guidelines in consultation with the Department of Corrections. A working group of the BOPP was formed that consulted and worked in conjunction with the Council on State Governments and the National Parole Resource Center. The BOPP states that it began gathering data to validate the parole guidelines in April of 2018 as required by 46-23-218(4), MCA, but did not adopt rules to govern the transition to the use of parole guidelines as allowed by 46-23-218(4), MCA.

NEW RULE 1 generally tracks the requirements of 46-23-218(3)(a)(i) - (iv), MCA, but does not appear to provide "a process by which a prisoner who has been denied parole and has more than 1 year before a scheduled hearing or review may request an earlier hearing or review[.]" as required by 46-23-218(3)(b), MCA.

The proposed amendments to ARM 20.25.704 addressing conditional discharge generally update the rule to provide a consistent application of the criteria for parolees seeking conditional discharge.