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**** BILL NO. ****

INTRODUCED BY ****

HJ4-1

BY REQUEST OF THE ****

A BILL FOR AN ACT ENTITLED: "AN ACT HJ4-1: DRAFT LEGISLATION FOR THE CONSIDERATION OF THE LAW AND JUSTICE INTERIM COMMITTEE AT ITS MAY 9-10, 2022, MEETING; GENERALLY REVISING LAWS RELATED TO CONDITIONAL RELEASE OF A PERSON CRIMINALLY COMMITTED TO THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; AND AMENDING SECTIONS 45-7-306 AND 46-14-304, MCA."

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

Section 1. Section 45-7-306, MCA, is amended to read:

"45-7-306. Escape. (a) "Official detention" means placement of a person in the legal custody of a municipality, a county, or the state as a result of:

- (i) a conviction for an offense or of having been charged with an offense;
- (ii) the actual or constructive restraint or custody of a person by a peace officer pursuant to arrest, transport, or court order;
- (iii) detention for extradition or deportation;
- (iv) placement in a community corrections facility or program;
- (v) supervision while under a supervised release program;
- (vi) participation in a county jail work program under 7-32-2225 through 7-32-2227; or
- (vii) any lawful detention for the purpose of the protection of the welfare of the person detained or for

the protection of society; or

(viii) a condition of release pursuant to 46-14-304.

(b) Official detention does not include supervision of a person on probation or parole, constraint incidental to release on bail, or an unlawful arrest unless the person arrested employed physical force, a threat of physical force, or a weapon to escape.

1 (2) A person subject to official detention commits the offense of escape if the person knowingly or
2 purposely eludes official detention or fails to return to official detention following temporary leave granted for a
3 specific purpose or limited time. A person also commits the offense of escape if the person is participating in a
4 county jail work program under 7-32-2225 through 7-32-2227 and knowingly or purposely fails to appear for
5 work at a time and place scheduled for participation in the program.

6 (3) A person convicted of the offense of escape shall be:

7 (a) imprisoned in the state prison for a term not to exceed 20 years if the person escapes by the use
8 or threat of force, physical violence, a weapon, or a simulated weapon;

9 (b) imprisoned in the state prison for a term not to exceed 10 years if the person escapes after having
10 been charged with or convicted of a felony; or

11 (c) fined an amount not to exceed \$500 or imprisoned in the county jail for a term not to exceed 6
12 months, or both, if the person escapes under circumstances other than those described in subsections (3)(a)
13 and (3)(b)."
14

15 **Section 2.**~~Section 4.~~ Section 46-14-304, MCA, is amended to read:

16 **"46-14-304. ~~Revocation of conditional release~~Conditional release -- revocation.** (1) A person
17 who has been conditionally released remains under the supervision of the department of public health and
18 human services until the committing court discharges the person.

19 (2) When the person is conditionally released, the director of the department of public health and
20 human services shall provide written notice of the conditions of the person's release to any community facility of
21 program that is treating the person, the county attorney of the county in which the person was committed, and
22 the county attorney of the county in which the person is required to receive treatment. The community facility or
23 program shall report in writing every 3 months regarding the treatment and status of the person to the director
24 of the department of public health and human services, the county attorney of the county in which the person
25 was committed, and the county attorney of the county in which the person is required to receive treatment. The
26 report must include all known violations of the terms and conditions of the person's release and any changes in
27 the person's mental status that would indicate that the person's conditional release should be revoked.

28 (4)(3) The Upon motion of the department of public health and human services or a county attorney,

1 the court may order revocation of a person's conditional release if the court determines after hearing evidence
2 that:

3 (a) the conditions of release have not been fulfilled; and

4 (b) based on the violations of the conditions and the person's past mental health history, there is a
5 substantial likelihood that the person continues to suffer from a mental disease or disorder that causes the
6 person to present a substantial risk of:

7 (i) serious bodily injury or death to the person or others;

8 (ii) an imminent a threat of physical injury to the person or others; or

9 (iii) substantial property damage.

10 ~~(2) The court may retain jurisdiction to revoke a conditional release for no longer than 5 years.~~

11 ~~(3)(4)~~ If the court finds that the conditional release should be revoked, the court shall immediately
12 order the person to be recommitted to the custody of the director of the department of public health and human
13 services, subject to discharge or release only in accordance with the procedures provided in 46-14-302 and 46-
14 14-303.

15 (5) When a person fails to comply with conditions of the person's release that require the person to
16 establish, maintain, and reside at a specific residence and the person's whereabouts have become unknown to
17 the supervising authorities or when the person leaves the state of Montana without the consent of the
18 committing court, the person's absence from supervision constitutes a violation of 45-7-306. The offense is
19 considered to have occurred in the county in which the person is authorized to reside."

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- END -