



**MONTANA BOARD OF  
PARDONS AND PAROLE**

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## Report to Montana Legislature May 2024



Montana Board of Pardons and Parole's  
Decision-Making Tool

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## Agency Overview

The Board of Pardons and Parole, as an essential part of the criminal justice process, serves all Montana Citizens by administering a parole system that is balanced with public safety, offender accountability and rehabilitation, as well as, protecting the interests of victims and communities, with the goal of successfully reintegrating merited offenders back into society through a reentry process. All employees and members of the Board of Pardons and Parole are committed to securing the effective application of and improvements to the clemency and release system, as well as the laws upon which they are based. The parole process is carried out in an effective, fair, safe, and efficient fashion.

The Board's primary responsibility in making decisions about parole and executive clemency is public safety. Montana law states that the board may release any person committed to prison when the Board believes:

- the person is able and willing to fulfill the obligations of a law-abiding citizen and the inmate can be released without detriment to the inmate or to the community. This does not apply to anyone who is under the sentence of death or a life sentence without the possibility of parole. Additionally, the person must have served at least one-fourth of his/her sentence or if he/she has a life sentence, at least 30 years must have been served.

Parole and executive clemency are privileges, not rights, earned by inmates convicted of felony crimes. As part of the criminal justice system, the Board is doing its part by following the appropriate laws, releasing deserving offenders to community placements, and keeping undeserving or dangerous inmates in prison. The Board also promptly returns to custody offenders who prove to be unwilling to abide by the conditions of their release.

## Mission Statement

The Montana Board of Pardons and Parole is committed to a parole and pardon system that promotes fair and consistent decisions based on public safety, victim concerns, successful inmate re-entry and sensible use of state resources. Further, evidence-based strategies and technologies in decision-making to promote risk reduction. Collaborate with available community and state stakeholders to promote positive reintegration. Implement policies and procedures that best promote best professional practices.

## Contact Information

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May 9, 2024

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Honorable Senator Ellsworth and Representative Regier:

The Montana Board of Pardons and Parole (BOPP) is pleased to report to the Montana Legislature the work that it has done to bring the BOPP into compliance with statutory requirements mandating the development of Parole Guidelines as well as data tracking for the purpose of validating the use of Parole Guidelines.

This initial report is intended to provide the Montana Legislature with a briefing of the actions taken by the BOPP to comply with the statutory requirement to develop and validate the evidence-based decision-making tool.

This report will be available as public information on the Montana BOPP Website:  
<https://bopp.mt.gov/>

If there are any questions, concerns, or additional information we can provide, please contact me at your convenience.

Respectfully,

Michael A. Buckley  
BOPP Chief of Staff

Enclosure

Cc: Steve Hurd, Chairman Montana Board of Pardons and Parole  
Board Members, Montana Board of Pardons and Parole  
Brian Gootkin, Director Montana Department of Corrections

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## Statutory Directives

Montana Code Annotated 46-23-218 (3) In consultation with the department, the board shall adopt rules to establish:

(a) parole guidelines to structure and guide parole release decisions and the imposition of release conditions. The guidelines must include, in decreasing order of importance, the prisoner's:

- (i) risk and needs levels, as determined by a validated risk and needs assessment;
- (ii) participation in risk-reducing programs and treatment;
- (iii) institutional behavior as reflected by disciplinary records; and
- (iv) offense severity.

(4) The board and the department shall compile data to validate the parole guidelines after gathering recidivism results for the last 3 years and every 5 years thereafter. The board may adopt rules to govern the transition to use of parole guidelines. The data collection must start by April 2018.

## Introduction and Background

Senate Bill 64, passed by the 2017 Legislature, substantially changed Montana's Board of Pardons and Parole. Most notably, SB 64 created a full-time, five-member professional board.

SB 64 also charged the Board with adopting guidelines to structure and guide parole decisions and release conditions. The guidelines must include consideration of an inmate's:

- risk and needs levels, as determined by a validated risk and needs assessment
- participation in risk-reducing programs and treatment
- institutional behavior as reflected by disciplinary records
- offense severity

In May 2017, Montana enacted Justice Reinvestment policies that provided a framework for the state to transition to a full-time, professional decision-making body (SB 64). This statute required the new board to fully adopt paroling best practices, including structured release decision-making guidelines. As a professional board, consideration of decision-making practices can be part of a strategy for enhancing public safety and the wise use of resources.

Sections of the Montana Code Annotated amended include: 46-23-103;46-23-104;46-23-110;46-201;46-23-202;46-23-208;46-23-218;46-23-1001;46-23-1003;46-23-1021;46-23-1023; 46-23-1024 and 46-23-1025. Section 2-15-2302 was repealed.

In August 2017, the Board of Pardons and Parole, adopted and placed into use guidelines to structure and guide parole decisions and release conditions. In part, the guidelines consider: an inmate's risk and needs as determined by the Department of Corrections validated risk-and-needs assessment, participation in risk-reducing programs and treatment, institutional behavior as reflected by disciplinary records, and the severity of the offense.

The guidelines were derived from a paper-and-pencil draft administrative release guideline instrument created by the BOPP in partnership with the Montana Department of Corrections and The Council of State Governments. At that time, the guidelines were aptly titled Guideline Scores (GLS). The goal of the GLS is to provide a consistent framework for the Board to evaluate and weigh specific release decision factors and, based on a structured decision matrix, to offer an advisory release decision recommendation for parole applicants. Since that time, the GLS has been available for utilization by Parole Board Members in preparation for Parole Hearings on individual offenders that come before the BOPP for parole consideration.

The GLS provides an individual score for Board Members that then places the offender into one of two categories: *“Likely to Parole”* and *“Not Likely to Parole”*. The GLS offers the significant advantage of uniformity in the application of decision criteria, but the GLS cannot adapt to the unique and emergent characteristics of each offender discovered during the parole hearing. Board members may choose to agree with or depart from the recommendation provided by the GLS in reaching their decision to parole an inmate. Additional factors considered outside of GLS include:

- Criminal history
- Narrative details provided in the circumstances of the offense.
- Programming trajectory
- Clinical services reports
- Presentence interviews
- Judgments of convictions to determine any court-ordered conditions prior to release.
- Victim Input
- Input from local law enforcement, legal professionals involved in the adjudication process, and other key stakeholders from the community in which the offense occurred.

The GLS recommendation is not considered a standard by which Board decisions are to be measured but, rather, provides only an advisory recommendation. In fact, there is no objective standard by which Board member decisions may be measured. The utilization of the GLS, however, provides an element of structured decision-making that unites the parole board members with a common philosophy and a set of goals and purposes while also retaining the authority of individual parole board members to make decisions that are appropriate for extremely important case-by-case considerations that are necessary to ensure public safety within the Montana communities.

## Agency Responsiveness

Though the newly professionalized Board utilized GLS from its inception through 2021, it lacked crucial resources to effectively track and measure data to validate the use of GLS. The BOPP had minimal operations staff FTE as the majority of prior existing FTE were utilized to convert the prior volunteer Board Member positions into full-time professional positions. As a result, the limited staffing was dedicated almost exclusively to accomplishing the primary function of the BOPP to schedule and conduct hearings within the appropriate timelines established within Montana Statutes. Furthermore, the BOPP was utilizing an antiquated database to track and schedule hearings that did not effectively interface with the Department of Corrections Offender Management Information System (OMIS), which the Legislature had deemed the official record for all sources of information pertaining to corrections. As a result, many GLS sheets were either retained in hard copy form and stored for later use, while others were entered into the antiquated system with no real plan on how to converge the data so that it could be adequately measured to fulfill the statutory responsibility of reporting to the Legislature.

In 2022, under the leadership of a newly appointed Chairman, the BOPP recognized that it needed to cultivate necessary resources to update operations to meet the statutory responsibilities to the Legislature. Central to these efforts was the recruitment of a Chief of Staff to oversee and modernize operations in the BOPP Deer Lodge Office. The Chief of Staff worked directly with DOC personnel to create and implement a BOPP Module within OMIS to record hearing outcomes, accurately capture the use of GLS, and provide real time data on the effectiveness of the decision-making tool. With that accomplished, the BOPP operations staff then spent hundreds of man hours entering GLS from the score sheets filed by previous Board Members and manually converting archived scores from the prior utilized antiquated system into OMIS to back fill data so that GLS effectiveness could be measured.

## Data Integrity

Of noted importance, the current BOPP appointed Board Members and Operations Staff are none of the initial appointed Board Members or existing staff that were in place prior to the BOPP acting on these objectives in 2022. As such, many challenges were encountered in efforts to accurately enter historical data that was produced by predecessors not available to explain the data they left behind. In the interest of maintaining the fidelity of the data during entry in OMIS, four categories were utilized to accurately capture GLS on each hearing:

- GLS Not Used - no record of GLS associated with hearing available
- GLS Not Scored - Current Risk Assessment/information regarding risk reduction program completion not provided by DOC
- Weighs Against Parole
- Weighs in Favor of Parole

Upon completion of all historical data entry, the BOPP collaborated with DOC to utilize OMIS to produce data to help study the correlation between the use of GLS in Parole decision-making and offender success/failure in the community. Once the data was received from DOC, BOPP took an opportunity to partner with the Criminal Justice Institute (CJI) for an independent party to study the data and provide feedback based on CJI impressions and trends they noted regarding BOPP practices.

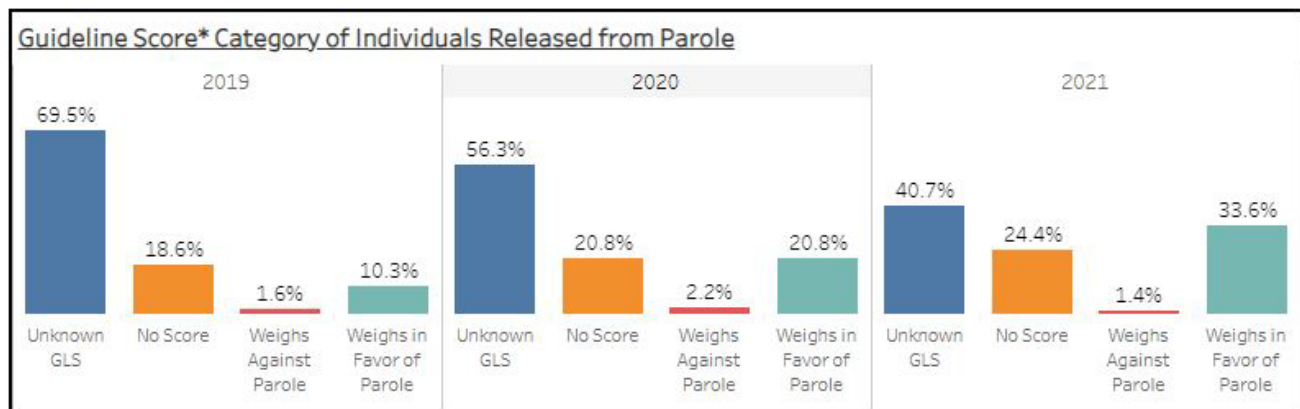
## Data from DOC OMIS

*Data obtained from the Montana Department of Corrections' Offender Management Information System (OMIS) as of June 16, 2023*

Montana adopted a new recidivism definition in 2022, and analysis using that definition began with the FY2019 release cohort. Montana defines parole return recidivism using three measures: 1) return to DOC or a higher level of supervision/custody for any reason within three years of release from parole, 2) reconviction within three years after release from parole, and 3) rearrest within three years after release from parole. For parole recidivism, an individual could come back to the DOC through reconviction or a revocation during a following probation or deferred portion of their sentence.

GLS: The following graph and table show the distribution of individuals released from parole by Guideline Score (GLS) category they received at their parole board hearing. A table with actual release numbers for each GLS Category and the total number of individuals released from parole per release fiscal year has been provided.

*\*Based on last guideline score assessment score prior to release from parole*



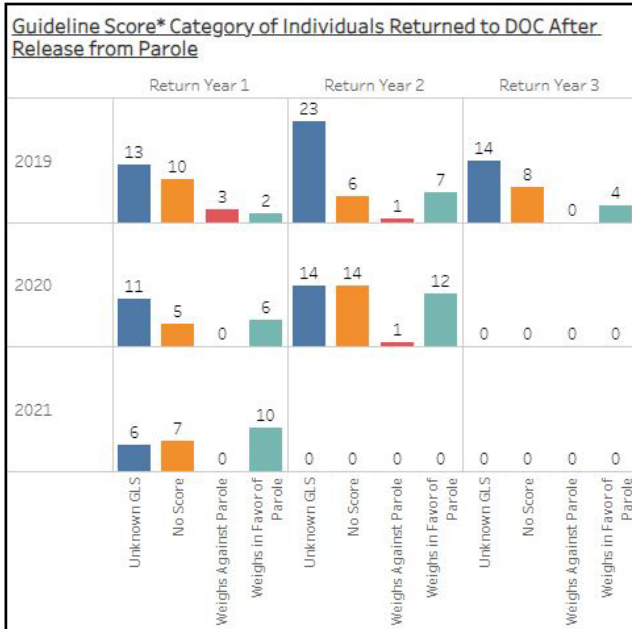
### Individuals Released from Parole by Guideline Score\* per Release Fiscal Year

	Unknown GLS	No Score	GLS Weighs Against Parole	GLS Weighs in Favor of Parole	# Released from Parole
2019	257	69	6	38	370
2020	206	76	8	76	366
2021	177	106	6	146	435



GLS2: The following graph and table examine parole recidivism for adult individuals released from parole, by the Guideline Score (GLS) category they received at their parole board hearing. The graph shows the number of individuals that returned to the DOC after released from parole by GLS category and the year they returned. The table provides the actual number of individuals who were released and returned for each release fiscal year as represented in the graph.

*\*Based on last guideline score assessment score prior to release from parole*



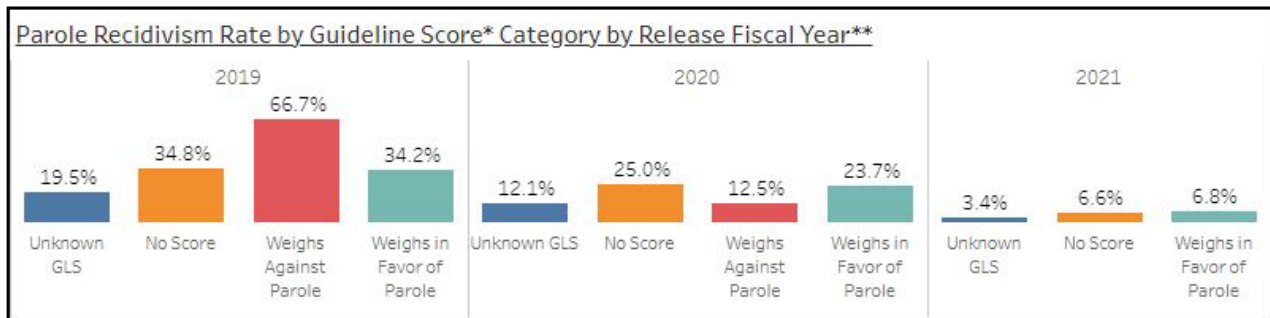
**Offense Type**

- (All)
- Non-Sexual Crime
- Sexual Crime

**Individuals Released and Returned from Parole by Guideline Score\* per Release Fiscal Year**

Release Fiscal Year	Guideline Score Category	# Returned with GLS	# Released with GLS
2019	Unknown GLS	50	257
	No Score	24	69
	Weighs Against Parole	4	6
	Weighs in Favor of Parole	13	38
2020	Unknown GLS	25	206
	No Score	19	76
	Weighs Against Parole	1	8
	Weighs in Favor of Parole	18	76
2021	Unknown GLS	6	177
	No Score	7	106
	Weighs Against Parole	0	6
	Weighs in Favor of Parole	10	146

GLS3: The following graph and table examine parole recidivism for adult individuals released from parole, by the Guideline Score (GLS) category they received at their parole board hearing. The graph examines the rate individuals returned to the DOC for each GLS category. A table has been provided with actual release and return numbers represented in the graph due to small numbers.



**Parole Release and Return by Guideline Score\* Category by Release Fiscal Year**

Release Fiscal Year	Guideline Score Category	# Returned with GLS	# Released with GLS
2019	Unknown GLS	50	257
	No Score	24	69
	Weighs Against Parole	4	6
	Weighs in Favor of Parole	13	38
2020	Unknown GLS	25	206
	No Score	19	76
	Weighs Against Parole	1	8
	Weighs in Favor of Parole	18	76
2021	Unknown GLS	6	177
	No Score	7	106
	Weighs Against Parole	0	6
	Weighs in Favor of Parole	10	146

## GLS Assessment

The BOPP was able to determine that the BOPP OMIS module was functioning as intended once DOC was able to begin producing data specific to GLS from OMIS. BOPP then contacted the Crime and Justice Institute (CJI) to arrange an independent assessment of the use of GLS.

“CJI is a division of Community Resources for Justice, a 140-year-old nonprofit human services organization headquartered in Boston. The CJI team brings decades of experience developing evidence-based, data-driven policies, managing complex processes with diverse stakeholders, and driving systems-level organizational change. They develop strong partnerships with organizations to improve performance and build capacity for lasting change. Their goal is to create an environment of continuous improvement that ensures the sustainability and success of initiatives long after the technical assistance engagement concludes. Their recommendations are informed by the latest research and knowledge of what has worked in other organizations.” <https://www.cj institute.org/about/>

the Board of Pardons and Parole requested assistance from CJI in assessing the Montana Parole Guidelines tool. Specifically, CJI examined the following:

- 1) Whether the tool is being used by the Parole Board as designed,
- 2) Whether the guidelines tool is functioning as intended, and
- 3) Whether scores accurately align with parole outcomes.

CJI's assessment was guided by MT Code 46-23-218 when reviewing factors in the parole guidelines framework, including risk and need assessments, an individual's participation in programming, institutional behavior, and nature of the underlying offense. The assessment covered the process for completing the parole guidelines forms, how this information is tracked electronically in the BOPP Data Quality and Statistics Dashboard, statistics around parole revocations, and other relevant features of the parole decision framework.

CJI presented initial findings from the assessment to Association of Paroling Authorities International 2024 Training Conference in Seattle, WA on May 7, 2024.

The BOPP anticipates receiving the full report from CJI in November 2024. This work will inform improvements to the quality, effectiveness, and efficiency of the Parole Board's decision-making function.

## Closing

The objective of the Parole Board is to increase public safety by critical evaluation, through the utilization of evidence-based practices of inmate potential for successful reintegration to society. The release of an offender at the discretion of the Parole Board on parole is not a right, but a privilege, and, as such, the Board is committed to utilizing effective tools to select the most appropriate candidates for parole. Currently, no universally accepted percentage exists for the number of discretionary releases that a releasing authority should be providing. For the FY 2019-2021 hearings included in this sample, the Board granted 59% (3425) requests from offenders and denied 41% (2363).

Any assumption that the GLS is a sole predictor of parole success is distorted given that the tool is still in its infancy. Since its inception in 2018, further validation and enhancements of the tool have not yet been completed and are still in the process; however, it is the intention of the Board to study the outcomes from the next 5 years to ensure that the tool is providing the most effective and informative advisory recommendations.

At this time, all GLS data is now captured live during each hearing and the BOPP anticipates that the integrity of GLS data will be even more stable when it is studied again in 5 years as per the statute. The Board would like to work to make future changes to the GLS tool, to include additional information to be considered in the GLS recommendation, such as history of new offenses committed while already on parole supervision, and language to allow for consideration of conduct during the offense rather than strictly what the conviction was for. It is the intention of the BOPP to collaborate further with CJI and DOC on enhancing the tool and continuing to work toward a reliability agreement level that is in line with existing standards of decision-making tools.

## TITLE 46. CRIMINAL PROCEDURE

**CHAPTER 23. PROBATION, PAROLE, AND CLEMENCY**

## Part 2. Granting of Parole

## Authority Of Board To Adopt Rules -- Purpose For Training -- Data Collection

**46-23-218. Authority of board to adopt rules -- purpose for training -- data collection.** (1) The board may adopt any rules that it considers proper or necessary with respect to the eligibility of prisoners for parole, the conduct of parole and parole revocation hearings, videoconference hearings, telephone conference administrative reviews, progress reviews, clemency proceedings, the conditions to be imposed upon parolees, the training of board members regarding American Indian culture and problems, and other matters pertinent to service on the board.

(2) The legislature finds that American Indians incarcerated in state prisons constitute a disproportionate percentage of the total inmate population when compared to the American Indian population percentage of the total state population. The training of board members regarding American Indian culture and problems is necessary in order for the board to deal appropriately with American Indian inmates appearing before the board.

(3) In consultation with the department, the board shall adopt rules to establish:

(a) parole guidelines to structure and guide parole release decisions and the imposition of release conditions. The guidelines must include, in decreasing order of importance, the prisoner's:

- (i) risk and needs levels, as determined by a validated risk and needs assessment;
- (ii) participation in risk-reducing programs and treatment;
- (iii) institutional behavior as reflected by disciplinary records; and
- (iv) offense severity.

(b) 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; and

(c) criteria for consideration of conditional discharges, which must include supervision compliance, residential stability, employment stability, engagement in treatment, and other factors indicative of adequate reentry stability.

(4) The board and the department shall compile data to validate the parole guidelines after gathering recidivism results for the last 3 years and every 5 years thereafter. The board may adopt rules to govern the transition to use of parole guidelines. The data collection must start by April 2018.

(5) The board shall annually assess and prioritize inservice training needs and arrange for training to strengthen knowledge and skills needed for case assessment, interviewing, and parole decisionmaking. Board members, parole analysts, and the hearings officers shall attend the training, as well as other board and department staff as needed.

**History:** En. Sec. 12, Ch. 153, L. 1955; Sec. 94-9832, R.C.M. 1947; redes. 95-3214 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 86, Ch. 120, L. 1974; amd. Sec. 3, Ch. 312, L. 1975; amd. Sec. 60, Ch. 184, L. 1977; amd. Sec. 3, Ch. 340, L. 1977; amd. Sec. 3, Ch. 580, L. 1977; R.C.M. 1947, 95-3214(5); amd. Sec. 3, Ch. 450, L. 1999; amd. Sec. 9, Ch. 559, L. 2003; amd. Sec. 9, Ch. 102, L. 2011; amd. Sec. 10, Ch. 392, L. 2017.

**20.25.507 PAROLE GUIDELINES**

(1) The purpose of the parole guidelines is to structure and guide parole release decisions and decisions relating to imposition of release conditions. Guidelines are a tool that ensure that members of the Board of Pardons and Parole (board) consider the identified factors when reviewing individual cases. Guidelines are not, in themselves, dispositive of the board's decisions. They provide a framework to facilitate reasonable consistency in paroling decisions.

(2) The board will consider in its guidelines the following factors in decreasing order of importance:

(a) The resulting score contained in a validated risk and needs assessment instrument administered to the offender by trained and certified corrections personnel and provided to the board for parole purposes. The resulting score on the risk and needs assessment is based on a point-range of 0 to 6 with 0 being low risk and 6 being very high or high risk, depending on the assessment instrument used. General validated risk and needs assessment instruments reviewed by the board are the Montana Offender Reentry and Risk Assessment (MORRA) for a male offender and the Women's Risk/Needs Assessment (WRNA) for a female offender. Sub-population or specialized assessments are reviewed if they are made available to the board. Sex-offender assessments are administered by a sex offender treatment therapist meeting the qualification standards set in ARM Title 20, chapter 7, subchapter 3. If both a general assessment instrument and a sub-population specific instrument are administered to an offender, the higher of the two scores will take precedence.

(b) Risk reduction program and treatment completion, scored as follows:

(i) 0 points for completion of all required programming, no programs recommended, or sentence did not allow sufficient time for completion;

(ii) 1 point for current enrollment in risk reduction programming;

(iii) 2 points for being on the waitlist for risk reduction programming; or

(iv) 5 points for refusal to participate in or having been terminated from risk reduction programming.

(c) Institutional behavior, scored as follows:

(i) 0 points for having no infractions in the past 6 months;

(ii) 2 points for having major infractions but no highest severity infractions within the past 6 months;

or

(iii) 3 points for having any highest severity major infraction in the past 6 months.

(d) Severity of the offense currently being served by a parole-eligible offender under [46-23-201](#), MCA, scored as follows:

(i) 0 points for non-violent; or

(ii) 2 points for a violent offense or a sex offense as those terms are defined in [46-18-104](#), MCA.

(3) Generally, an aggregate score of 0 to 8 points under (2)(a) through (2)(d) weighs in favor of the offender and an aggregate score of 9 or more points under (2)(a) through (2)(d) weighs against the offender. The board is not bound to grant or deny parole based solely on the aggregate score.

(4) For purposes of applying the parole guidelines set out in (1)(c), the Board adopts the list of institutional infractions and the characterizations of their severity currently used in "state prisons" as that term is defined in [53-30-101](#), MCA. The current list will be maintained by the board on its website <https://bopp.mt.gov/> at all times.

(5) Board decisions concerning imposition of parole release conditions are based in part upon the domains evaluated by the risk and needs instruments. These include, but are not limited to: Education, Employment and Social Support; Substance Abuse and Mental Health; Criminal Attitudes and Behavioral Patterns and upon indicated treatment recommendations contained therein.

(6) The board may develop one or more forms to use in applying the guidelines.

History: [46-23-218](#), MCA; [IMP](#), [46-23-208](#), [46-23-218](#), MCA; [NEW](#), 2020 MAR p. 2401, Eff. 12/25/20.