

Amendments to House Bill No. 684  
Reference Copy

Requested by Representative Matt Regier

For the Senate Free Conference Committee

Prepared by Julie Johnson  
April 17, 2019 (3:02pm)

1. Title, page 1, line 15.

**Following:** "3-1-711,"

**Insert:** "46-1-1104, 46-1-1211,"

2. Page 7.

**Following:** line 1

**Insert:** "**Section 8.** Section 46-1-1104, MCA, is amended to read:

**"46-1-1104. Drug treatment court structure.** (1) Each judicial district or court of limited jurisdiction may establish a drug treatment court under which drug offenders may be processed to address an identified substance abuse problem as a condition of pretrial release, pretrial diversion under 46-16-130, probation, incarceration, parole, or other release from a detention or correctional facility.

(2) Participation in drug treatment court is voluntary and is subject to the consent of the prosecutor, the defense attorney, and the court pursuant to a written agreement.

(3) A drug treatment court and governmental entities that refer an offender to a drug treatment court shall adopt an evidence-based program evaluation tool that measures how closely the drug treatment court programs meet the known principles of effective intervention. The tool must measure program content and capacity to ensure the delivery of effective interventions for offenders.

~~(3)~~(4) A drug treatment court may grant reasonable incentives under a written agreement if the court finds that a drug offender is performing satisfactorily in drug treatment court, is benefiting from education, treatment, and rehabilitation, has not engaged in criminal conduct, and has not violated the terms and conditions of the agreement. Reasonable incentives may include but are not limited to:

- (a) graduation certificates;
- (b) early graduation;
- (c) fee reduction or waiver of fees;
- (d) record expungement of the underlying case; or
- (e) reduced contact with a probation officer.

~~(4)~~(5) The court may impose reasonable sanctions under the agreement, including incarceration or termination from the drug treatment court, if the court finds that the drug offender is not

performing satisfactorily in drug treatment court, is not benefiting from education, treatment, or rehabilitation, has engaged in conduct rendering the offender unsuitable for the program, has otherwise violated the terms and conditions of the agreement, or is for any reason unable to participate. Sanctions may include but are not limited to:

- (a) a short-term jail sentence;
- (b) fines;
- (c) extension of time in the program;
- (d) peer review;
- (e) geographical restrictions;
- (f) termination; or
- (g) contempt of court.

~~(5)~~(6) Upon successful completion of drug treatment court, a drug offender's case must be disposed of by the judge in the manner prescribed by the agreement and by the applicable policies and procedures adopted by the drug treatment court. This may include but is not limited to pretrial diversion under 46-16-130, dismissal of criminal charges, probation, deferred sentencing, suspended sentencing, or a reduced period of incarceration. A drug offender who successfully completes the program may be given credit for the time the offender served in the drug treatment program by the judge upon disposition.

~~(6)~~(7) Each local jurisdiction that intends to establish a drug treatment court or to continue the operation of an existing drug treatment court shall establish a local drug treatment court team.

~~(7)~~(8) The drug treatment court team shall, when practicable, conduct a staff meeting prior to each drug treatment court session to discuss and provide updated information regarding drug offenders. After determining the offender's progress or lack of progress, the court, with input from the drug treatment court team, shall determine the appropriate incentive or sanction to be applied.

~~(8)~~(9) The provisions of this part apply only to offenders who qualify for participation based on qualifications established by each drug treatment court. The provisions of this part do not apply to drug offenders who have been convicted of a sexual offense, as defined in 46-23-502. This part does not confer a right or expectation of a right to participate in a drug treatment court and does not obligate a drug treatment court to accept any offender. The establishment of a drug treatment court may not be construed as limiting the discretion of a prosecutor to act on any criminal case that the prosecutor considers advisable to prosecute. Each drug treatment court judge may establish rules and may make special orders and necessary rules that do not conflict with rules adopted by the Montana supreme court.

~~(9)~~(10) Each drug offender shall contribute to the cost of drug treatment court in accordance with 46-1-1112(2).

~~(10)~~(11) A drug treatment court coordinator is responsible

for the general administration of a drug treatment court under the direction of the drug treatment court judge.

~~(11)~~(12) The supervising agency shall timely forward information to the drug treatment court concerning the drug offender's progress and compliance with any court-imposed terms and conditions.

~~(12)~~(13) A department of corrections probation and parole officer may participate in a drug treatment court team if authorized by the department. The department may authorize participation if it determines, in its discretion, that the caseloads of local probation and parole officers permit participation. If necessitated by a change in caseloads, the department may withdraw authorization for participation by its probation and parole officers in a drug treatment court. The department of corrections may not authorize its probation and parole officers to supervise a participant of a drug treatment court program who has not been convicted of a felony offense and committed to the supervision of the department."

{Internal References to 46-1-1104:

46-16-130ok}"

**Insert: "Section 9.** Section 46-1-1211, MCA, is amended to read:

**"46-1-1211. Treatment and support services.** (1) As part of a diagnostic assessment, each jurisdiction shall establish a system to ensure that participants are placed into a clinically approved mental health treatment program. To accomplish this, the program conducting the individual assessment shall make specific recommendations to the mental health treatment court team regarding the type of treatment program and duration necessary so that a participant's individualized needs are addressed. The assessments and recommendations must be based upon evidence-based treatment principles. The mental health treatment court and governmental entities that refer an offender to a mental health treatment court shall adopt an evidence-based program evaluation tool that measures how closely the mental health treatment court programs meet the known principles of effective intervention. The tool must measure program content, and capacity to ensure the delivery of effective interventions for offenders. Treatment recommendations accepted by the mental health treatment court pursuant to this part must be considered to be reasonable and necessary and be evidence-based or research-driven.

(2) An adequate continuum of care for participants must be established in response to this part.

(3) The mental health treatment court shall, when practicable, ensure that one agency may not provide both assessment and treatment services for the mental health treatment court to avoid potential conflicts of interest or the appearance that a diagnostic assessment agency might benefit by determining that a participant is in need of the particular form of treatment that the agency provides.

(4) A mental health treatment court making a referral for mental health services or substance abuse treatment shall refer

the participant to a program that is licensed, certified, or approved by the court.

(5) The court shall determine which treatment programs are authorized to provide the recommended treatment to participants. The relationship between the treatment program and the court must be governed by a memorandum of understanding, which must include the timely reporting of the participant's progress or lack of progress to the mental health treatment court."

{*Internal References to 46-1-1211: None.*}

**Renumber:** subsequent sections

3. Page 9, line 12 through line 13.

**Strike:** "is a member" on line 12 through "comparable" on line 13

**Insert:** "has"

4. Page 9, line 14.

**Following:** "industry"

**Insert:** "and the court"

5. Page 15.

**Following:** line 8

**Insert:** "COORDINATION SECTION. Section 21. Coordination instruction. If both [this act] and [House Bill No. 654] are passed and approved, [section 2(1)(a) of House Bill No. 654] must read:

"(1) (a) Except as provided in subsection (1)(b), A person engaging in the initial sale of opioids in the state shall first obtain a license from the department and pay the annual license fee of \$100. The license is valid from January 1 through December 31 each year. If a license is obtained after January 1 in any year, the license is valid from the date the license is obtained through December 31 of that year."

**Insert:** "COORDINATION SECTION. Section 22. Coordination instruction. If [this act], [section 1 of Senate Bill No. 352 funding an interdiction team], and House Bill No. 2 are passed and approved, then the state special revenue appropriations for the department of justice, Montana Highway Patrol, in House Bill No. 2 is reduced by \$300,206 for the fiscal year beginning July 1, 2019, and by \$299,336 for the fiscal year beginning July 1, 2020."

**Renumber:** subsequent sections

6. Page 15, line 11.

**Strike:** "[SECTIONS 15 AND 17 THROUGH 19]"

**Insert:** "[Sections 17 and 19 through 23]"

- END -

Explanation -

1. Requires drug treatment courts and mental health treatment courts to adopt an evidence based program evaluation tool.

2. Revises criteria for who can perform a sexual offender evaluation.

3. Changes the license fee in HB 654 from \$500 to \$100.

4. Reduces funding for personal services for the department of justice.