

HJR 16: State-Operated Institutions
Considerations Related to LCCF10 and LCCF11
for the Children, Families, Health, and Human Services Interim Committee
August 2014

Background

At its June 2014 meeting, the Children, Families, Health, and Human Services Interim Committee asked for two versions of a bill for a forensic prerelease center. The facility would serve people who were convicted of a crime but found to be mentally ill at the time the crime was committed. Members requested a bill for a privately operated prerelease center and one for a state-run prerelease center so they could consider which approach might be best.

This briefing paper outlines the basic elements of LCCF10, for a privately operated prerelease center, and LCCF11, for a state-run prerelease center. It also provides general information on prerelease centers and identifies questions for committee review and consideration.

Elements Common to Both Bills

Both LCCF10 and LCCF11 appropriate \$3 million in the 2017 biennium for a prerelease center for people who have been found to be guilty but mentally ill (GBMI). Both bills also require the prerelease center to make mental health services available to residents, either by hiring staff or by contracting with mental health providers.

As drafted, both bills would allow the prerelease center to serve GBMI offenders who have been:

- released on parole by the Board of Pardons and Parole; or
- determined by the director of the Department of Public Health and Human Services (DPHHS) to be ready for placement in a prerelease center.

Under 46-14-312, MCA, a GBMI offender must be sentenced to the custody of the DPHHS director. The director then decides whether the person should be placed in a correctional facility, a mental health facility, or a facility for people with intellectual disabilities. Most GBMI offenders are placed at the Montana State Hospital, but some are also placed at the Montana State Prison or the Montana Women's Prison.

Because a prerelease center is a correctional facility, the committee may want to consider whether a forensic prerelease center could be used as a placement option for GBMI offenders who have not yet been paroled but have progressed in their treatment and are ready for placement in a community setting.

Currently, privately operated prerelease centers supervise individuals who have been either paroled or sentenced to the center as an alternative to placement in prison. They have not been used as an alternative placement for GBMI offenders who have not yet been paroled.

The Community Role: Private vs. State-Run Facilities

State law allows for substantial community involvement in community correctional facilities by:

- requiring community input in the siting of a prerelease center;
- prohibiting establishment of a prerelease in a location that does not have community support;
- allowing a prerelease operator to accept or reject any offender who applies to the facility; and
- allowing communities to create community corrections boards that may establish screening procedures and may accept or reject any offender for placement in the facility.

The laws and administrative rules for the siting of prerelease centers apply to both privately operated and state-run facilities. Thus either type of facility would have to follow the procedures for community involvement and for determining whether local support exists for the facility.

However, a community corrections board would not have authority over a state-run prerelease center. Thus any screening procedures established by a community board would not apply to a state facility. In addition, a local board would not be able to reject any offender the state proposes to place in the prerelease center.

A Look at the Numbers

Montana State Hospital records show that:

- 34 GBMI offenders had a parole hearing from 2008 through 2014;
- 27 of the offenders were paroled, five of them after having been denied at least one time;
- seven were denied parole;
- the number of people paroled each year ranged from a low of two in 2011 to a high of six in both 2008 and 2013, averaging out to four parolees a year from 2007 through 2013; and
- three offenders were paroled to prerelease centers, while the remaining were paroled to family members, mental health group homes, or other residential placements with mental health center involvement.

Montana currently has prerelease centers in six cities. Combined, the centers have more than 800 beds. The smallest facility has 34 beds. Most of the others have more than 100 beds, with the largest having 180 beds.

According to the department's 2013 Biennial Report, the average stay in a prerelease center is 200 days and the facilities serve nearly 1,700 people a year.

Committee Considerations and Decision Points

If the committee wants to proceed with either LCCF10 or LCCF11, members may want to consider and decide the following questions:

1. Should the pool of GBMI offenders eligible for placement in the forensic prerelease center include people who have not been paroled?
 - a. If so, should the legislation establish any guidelines to be used by the DPHHS director in determining placement of those offenders?
2. Should the statutory authority of community corrections boards be extended to include a state-run prerelease center?
3. Will the pool of eligible GBMI offenders be large enough to support a forensic prerelease center?
 - a. If not, should the facility serve other offenders, as well?
 - i. If the facility is open to other offenders, should there be any guidelines on the types of offenders who may be placed there?
 - b. If not, does the committee want to consider an alternative to creating a forensic prerelease center? Alternatives could include:
 - i. paying an enhanced rate to existing prerelease centers that agree to accept GBMI offenders and provide or arrange for the mental health treatment they need; or
 - ii. appropriating money for a mental health group home. A group home would be a mental health facility, not a correctional facility, and would be limited to eight beds to meet licensing standards.

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