

\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the \*\*\*\*\*

A Bill for an Act entitled: "An Act generally revising laws related to community corrections facilities; revising how a court sentences an offender to a community corrections facility or prerelease; requiring the department of corrections to adopt rules and develop policies related to the oversight and operation of prerelease centers and contracted facilities and report to the law and justice interim committee; revising term limits of contracts with community corrections facilities; requiring a competitive bidding process for certain contracts; requiring the department to monitor progress of certain facilities in achieving standards; allowing the department to rebid contracts in certain circumstances; and amending sections 18-4-313, 46-18-201, 53-1-203, and 53-30-403, MCA."

Be it enacted by the Legislature of the State of Montana:

**Section 1.** Section 18-4-313 , MCA, is amended to read:

**"18-4-313. Contracts -- terms, extensions, and time limits.**

(1) Except as provided in subsection (2) or unless otherwise provided by law, a contract, lease, or rental agreement for supplies or services may not be made for a period of more than 7 years. A contract, lease, or rental agreement may be extended or renewed if the terms of the extension or renewal, if any, are included in the solicitation,

if funds are available for the first fiscal period at the time of the agreement, and if the total contract period, including any extension or renewal, does not exceed 7 years. Payment and performance obligations for succeeding fiscal periods are subject to the availability and appropriation of funds for the fiscal periods.

(2) The contract term limit specified in subsection (1) does not apply to:

(a) a contract for hardware, software, or other information technology resources, which may be made for a period not to exceed 10 years;

(b) a department of revenue liquor store contract governed by the term specified in 16-2-101;

(c) a department of corrections contract governed by the term specified in 53-1-203(3)(b), 53-30-505, or 53-30-608;

(d) the department of administration state employee group benefit plans contracts governed by the term specified in 2-18-811, including group benefit plan contracts made in partnership with the Montana university system group benefit plan; and

(e) a contract for concessions or visitor services for a state park, state recreational area, state monument, or state historic site established under Title 23, chapter 1, part 1, that, with the consent of the state parks and recreation board, may be made for a period of not more than 20 years if a capital improvement is made, subject to subsection (5).

(3) Prior to the issuance, extension, or renewal of a contract, it must be determined that:

(a) estimated requirements cover the period of the contract and are reasonably firm and continuing; and

(b) the contract will serve the best interests of the state by encouraging effective competition or otherwise promoting economies in state procurement.

(4) If funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract must be canceled.

(5) A contract under subsection (2)(e) must require the concessionaire to provide a business plan offering a reasonable estimation that the cost of any capital improvement by the concessionaire will be repaid within the life of the contract or that where a proprietary interest is held, the concessionaire's interest in any capital improvement may be sold at appraised value to a subsequent concessionaire when the contract concludes."

{Internal References to 18-4-313:

23-1-102x 53-1-203a 53-30-505x 53-30-608x 8/25 }

**Section 2.** Section 46-18-201 , MCA, is amended to read:

**"46-18-201. Sentences that may be imposed.** (1) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may defer imposition of sentence, except as otherwise specifically provided by statute, for a period:

(i) not exceeding 1 year for a misdemeanor or for a period not exceeding 3 years for a felony; or

(ii) not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for a felony if a financial obligation is imposed as a condition of sentence for either the misdemeanor or the felony, regardless of whether any other conditions are imposed.

(b) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred in the case of an offender who has been convicted of a felony on a prior occasion, whether or not the sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was suspended.

(2) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may suspend execution of sentence, except as otherwise specifically provided by statute, for a period up to the maximum sentence allowed or for a period of 6 months, whichever is greater, for each particular offense.

(3) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may impose a sentence that may include:

(i) a fine as provided by law for the offense;

(ii) payment of costs, as provided in 46-18-232, or payment of costs of assigned counsel as provided in 46-8-113;

(iii) a term of incarceration, as provided in Title 45 for the offense, at a county detention center or at a state prison to be designated by the department of corrections;

(iv) commitment of:

(A) an offender not referred to in subsection (3)(a)(iv)(B) to

the department of corrections, with a recommendation for placement in an appropriate correctional facility or program; however, all but the first 5 years of the commitment to the department of corrections must be suspended, except as provided in 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), and 45-5-625(4); or

(B) a youth transferred to district court under 41-5-206 and found guilty in the district court of an offense enumerated in 41-5-206 to the department of corrections for a period determined by the court for placement in an appropriate correctional facility or program;

~~(v) with the approval of the facility or program, placement of the offender in a community corrections facility or program as provided in 53-30-321;~~

~~(vi) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available, placement of the offender in a prerelease center or prerelease program for a period not to exceed 1 year;~~

~~(vii)~~(v) chemical treatment of sexual offenders, as provided in 45-5-512, if applicable, that is paid for by and for a period of time determined by the department of corrections, but not exceeding the period of state supervision of the person; or

~~(viii)~~(vi) any combination of subsections (2) and (3)(a)(i) through ~~(3)(a)(vii)~~ (3)(a)(v).

(b) A court may permit a part or all of a fine to be satisfied by a donation of food to a food bank program.

(4) When deferring imposition of sentence or suspending all or

a portion of execution of sentence, the sentencing judge may impose upon the offender any reasonable restrictions or conditions during the period of the deferred imposition or suspension of sentence. Reasonable restrictions or conditions imposed under subsection (1)(a) or (2) may include but are not limited to:

(a) limited release during employment hours as provided in 46-18-701;

(b) incarceration in a detention center not exceeding 180 days;

(c) conditions for probation;

(d) payment of the costs of confinement;

(e) payment of a fine as provided in 46-18-231;

(f) payment of costs as provided in 46-18-232 and 46-18-233;

(g) payment of costs of assigned counsel as provided in 46-8-113;

~~(h) with the approval of the facility or program, an order that the offender be placed in a community corrections facility or program as provided in 53-30-321;~~

~~(i)(h) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available and that the offender is a suitable candidate, an order that the offender be placed in a prerelease center or prerelease chemical dependency treatment program for a period not to exceed 1 year;~~

~~(j)(i) community service;~~

~~(k)(j) home arrest as provided in Title 46, chapter 18, part 10;~~

~~(l)~~(lk) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;

~~(m)~~(l) with the approval of the department of corrections and with a signed statement from an offender that the offender's participation in the boot camp incarceration program is voluntary, an order that the offender complete the boot camp incarceration program established pursuant to 53-30-403;

~~(n)~~(m) participation in a day reporting program provided for in 53-1-203;

~~(o)~~(n) participation in the 24/7 sobriety and drug monitoring program provided for in Title 44, chapter 4, part 12, for a violation of 61-8-465, a second or subsequent violation of 61-8-401, 61-8-406, or 61-8-411, or a second or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime or for a violation of any statute involving domestic abuse or the abuse or neglect of a minor if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime regardless of whether the charge or conviction was for a first, second, or subsequent violation of the statute;

~~(p)~~(o) participation in a restorative justice program approved by court order and payment of a participation fee of up to \$150 for program expenses if the program agrees to accept the offender;

~~(q)~~(p) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the protection of the victim or society; or

~~(r)~~(q) any combination of the restrictions or conditions listed in subsections (4)(a) through ~~(4)(q)~~ (4)(p).

(5) In addition to any other penalties imposed, if a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere and the sentencing judge finds that a victim, as defined in 46-18-243, has sustained a pecuniary loss, the sentencing judge shall, as part of the sentence, require payment of full restitution to the victim, as provided in 46-18-241 through 46-18-249, whether or not any part of the sentence is deferred or suspended.

(6) In addition to any of the penalties, restrictions, or conditions imposed pursuant to subsections (1) through (5), the sentencing judge may include the suspension of the license or driving privilege of the person to be imposed upon the failure to comply with any penalty, restriction, or condition of the sentence, after notice and hearing before the sentencing judge. A suspension of the license or driving privilege of the person must be accomplished as provided in 61-5-214 through 61-5-217.

(7) In imposing a sentence on an offender convicted of a sexual or violent offense, as defined in 46-23-502, the sentencing judge may not waive the registration requirement provided in Title 46, chapter 23, part 5.

(8) If a felony sentence includes probation, the department of corrections shall supervise the offender unless the court specifies otherwise.

(9) As used in this section, "dangerous drug" has the meaning



provided in 50-32-101."

{Internal References to 46-18-201:

41-5-208xx *	41-5-2510xx	45-6-106xx	46-8-114 xx
46-18-104xx	46-18-202xx	46-18-219xx	46-18-222 xx
46-18-241xx	46-18-241xx	46-23-215xx	53-1-203 xx
53-1-203xx	53-1-203xx	53-30-403xa	61-5-214x x
61-5-214x x	61-5-214x x	61-8-732xx }	

**Section 3.** Section 53-1-203 , MCA, is amended to read:

**"53-1-203. Powers and duties of department of corrections. (1)**

The department of corrections shall:

(a) subject to subsection (6), adopt rules necessary:

(i) to carry out the purposes of 41-5-125;

(ii) for the siting, establishment, and expansion of prerelease centers and that provide the standards of operation required under subsection (8);

(iii) for the expansion of treatment facilities or programs previously established by contract through a competitive procurement process;

(iv) for the establishment and maintenance of residential methamphetamine treatment programs; and

(v) for the admission, custody, transfer, and release of persons in department programs except as otherwise provided by law;

(vi) for the oversight of quality and effectiveness of contracted treatment facilities and prerelease centers in accordance with research-driven practices;

(b) subject to the functions of the department of administration, lease or purchase lands for use by correctional

facilities and classify those lands to determine those that may be most profitably used for agricultural purposes, taking into consideration the needs of all correctional facilities for the food products that can be grown or produced on the lands and the relative value of agricultural programs in the treatment or rehabilitation of the persons confined in correctional facilities;

(c) contract with private, nonprofit Montana corporations or, pursuant to the Montana Community Corrections Act, with community corrections facilities or programs or local or tribal governments to establish and maintain:

(i) prerelease centers for purposes of preparing inmates of a Montana prison who are approaching parole eligibility or discharge for release into the community, providing an alternative placement for offenders who have violated parole or probation, and providing a sentencing option for felony offenders committed to the department pursuant to 46-18-201. The centers shall provide a less restrictive environment than the prison while maintaining adequate security. The centers must be operated in coordination with other department correctional programs and in compliance with the standards of operation under subsection (8). This subsection does not affect the department's authority to operate and maintain prerelease centers.

(ii) residential methamphetamine treatment programs for the purpose of alternative sentencing as provided for in 45-9-102, 46-18-201, 46-18-202, and any other sections relating to alternative sentences for persons convicted of possession of methamphetamine. ~~The department shall issue a request for proposals using a competitive~~

~~process and shall follow the applicable contract and procurement procedures in Title 18.;~~

(d) use the staff and services of other state agencies and units of the Montana university system, within their respective statutory functions, to carry out its functions under this title;

(e) propose programs to the legislature to meet the projected long-range needs of corrections, including programs and facilities for the custody, supervision, treatment, parole, and skill development of persons placed in correctional facilities or programs;

(f) encourage the establishment of programs at the local and state level for the rehabilitation and education of felony offenders;

(g) administer all state and federal funds allocated to the department for delinquent youth, as defined in 41-5-103;

(h) collect and disseminate information relating to youth who are committed to the department for placement in a state youth correctional facility;

(i) maintain adequate data on placements that it funds in order to keep the legislature properly informed of the specific information, by category, related to delinquent youth in out-of-home care facilities;

(j) provide funding for youth who are committed to the department for placement in a state youth correctional facility;

(k) administer youth correctional facilities;

(l) provide supervision, care, and control of youth released from a state youth correctional facility; and

(m) use to maximum efficiency the resources of state government

in a coordinated effort to:

(i) provide for delinquent youth committed to the department;  
and

(ii) coordinate and apply the principles of modern correctional administration to the facilities and programs administered by the department.

(2) The department may contract with private, nonprofit or for-profit Montana corporations to establish and maintain a residential sexual offender treatment program. If the department intends to contract for that purpose, the department shall adopt rules for the establishment and maintenance of that program.

~~(3) The department and a private, nonprofit or for-profit Montana corporation may not enter into a contract under subsection (1)(c) or (2) for a period that exceeds 20 years. The provisions of 18-4-313 that limit the term of a contract do not apply to a contract authorized by subsection (1)(c) or (2). Prior to entering into a contract for a period of 20 years, the department shall submit the proposed contract to the legislative audit committee. The legislative audit division shall review the contract and make recommendations or comments to the legislative audit committee. The committee may make recommendations or comments to the department. The department shall respond to the committee, accepting or rejecting the committee recommendations or comments prior to entering into the contract.~~

(3) (a) Except as provided in subsection (3)(b), the department and a private, nonprofit or for-profit Montana corporation may not enter a contract authorized by subsection (1)(c) or (2) for a term

exceeding the provisions of 18-4-313 that limit the term of a contract.

(b) The department and a private, nonprofit or for-profit Montana corporation may enter a contract under subsection (1)(c) or (2) for a period not to exceed 20 years if the contract funds construction bonds. The contract may not extend longer than the period necessary to satisfy payment of the bonds.

(c) For contracts authorized by subsection (1)(c) or (2), regardless of the term of the contract, the department shall issue a request for proposals using a competitive process and shall follow the applicable contract and procurement procedures in Title 18.

(4) The department of corrections may enter into contracts with nonprofit corporations or associations or private organizations to provide substitute care for delinquent youth in state youth correctional facilities or on juvenile parole supervision.

(5) The department may contract with Montana corporations to operate a day reporting program as an alternate sentencing option as provided in 46-18-201 and 46-18-225 and as a sanction option under 46-23-1015. The department shall adopt by rule the requirements for a day reporting program, including but not limited to requirements for daily check-in, participation in programs to develop life skills, and the monitoring of compliance with any conditions of probation, such as drug testing.

(6) Rules adopted by the department pursuant to subsection (1)(a) may not amend or alter the statutory powers and duties of the state board of pardons and parole. The rules for the siting,

establishment, and expansion of prerelease centers must state that the siting is subject to any existing conditions, covenants, restrictions of record, and zoning regulations. The rules must provide that a prerelease center may not be sited at any location without community support. The prerelease siting, establishment, and expansion must be subject to, and the rules must include, a reasonable mechanism for a determination of community support for or objection to the siting of a prerelease center in the area determined to be impacted. The prerelease siting, establishment, and expansion rules must provide for a public hearing conducted pursuant to Title 2, chapter 3.

(7) The department shall develop and follow policies to ensure that referrals to prerelease centers:

(a) are made with all documentation necessary for screening;

(b) prioritize placement of higher risk and higher need offenders;

(c) limit the rejection of placements of offenders under 53-30-313, 53-30-314, and 53-30-315; and

(d) prioritize the geographic placement of offenders to allow employment continuity and proximity to the home location in the offender's approved reentry plan.

(8) The rules adopted by the department pursuant to subsection (1)(a)(ii) must ensure that a prerelease center operated by or under contract with the department:

(a) provides programming from a selection of evidence-based interventions approved by the department;

(b) develops and maintains relationships with community physical and behavioral health care treatment centers that bill medicaid for billable services; and

(c) provides for periodic offender progress reports beginning after 90 days of the offender's placement at a prerelease center.

(9) The department shall:

(a) report quarterly to the law and justice interim committee on the adoption of policies and standards under subsection (7) and (8); and

(b) monitor whether each prerelease center has made adequate progress to meet standards required by subsection (8) and, within 2 years of [the effective date of this act], determine whether the contract for the prerelease center should be rebid."

{*Internal References to 53-1-203:*

18-4-313a 45-5-621x 46-18-111x 46-18-201 x

46-18-207x 46-18-225 x 46-23-1015x 61-8-734x 8/25 }

**Section 4.** Section 53-30-403 , MCA, is amended to read:

**"53-30-403. Boot camp incarceration program -- eligibility -- rulemaking.** (1) The department shall establish a boot camp incarceration program for offenders incarcerated in a correctional institution.

(2) In order to be eligible for participation in the boot camp incarceration program, an inmate:

(a) must be serving a sentence of at least 1 year in a Montana correctional institution for a felony offense other than a felony punishable by death, except as provided in 46-18-201(4)(m)(4)(1);

(b) shall obtain the concurrence of the sentencing court; and  
(c) shall pass a physical examination to ensure sufficient health for participation.

(3) The boot camp incarceration program must include:

(a) as a major component, a strong emphasis on work, physical activity, physical conditioning, and good health practices;

(b) a strong emphasis on intensive counseling and treatment programming designed to correct criminal and other maladaptive thought processes and behavior patterns and to instill self-discipline and self-motivation;

(c) a detailed, clearly written explanation of program goals, objectives, rules, and criteria that must be provided to, read by, and signed by all prospective enrollees; and

(d) a maximum enrollment period of 120 days.

(4) (a) Inmate participation in the boot camp incarceration program must be voluntary. The admission of an inmate to the program is discretionary with the department, which shall request and consider the written recommendation of the prosecuting attorney's office. Enrollment may be revoked only:

(i) at the participant's request; or

(ii) upon written departmental documentation of a participant's failure or refusal to comply with program requirements.

(b) A revocation of program enrollment is not subject to appeal. An inmate may not be admitted to the boot camp incarceration program more than twice.

(5) The department may adopt rules for the establishment and



administration of the boot camp incarceration program."

{*Internal References to 53-30-403:*

46-18-201 53-1-202 }

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