VINCENT INTRODUCED BY THE PRISONER RO AMEND FOR AN OF PRISONERS BY FURLOUGH PROGRAM PROVIDING PREVATE SUPERVISING AGENCIES AND PLACING AND RESPONSIBILITY FOR THE PROGRAM WITH THE DEPARTMENT dr. INSTITUTIONS BY AMENDING SECTIONS 82-4202, 95-2217 THROUGH 95-2224, R.C.M. 1947, AND REPEALING SECTION 95-2226, R.C.M. TERLVE 1947. " Kuhan 11

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
Section 1. Section 95-2217, R.C.M. 1947, is amended to
read as follows:

"95-2217. Prisoner furlough program -- purpose and 15 intent. The purpose and intent of this act is to establish a 16 program for the rehabilitation, education, and betterment of 17 selected prisoners confined in the state prison; to increase 18 their responsibility to society; to make it possible that 19 they may, while serving their sentences, work gainfully to 20 support their dependents in whole or in part; and providing 21 for a the minimum hourly wage required by law of--one--and 22 40/100--{01-40}--dollars-an-hour to be paid to said convicts 23 while so employed; continue their education or training; and 24 at the same time fulfill the obligations of the sentence of 25

INTRODUCED BILL

1	imprisonment imposed; placing the establishment, regulation,
2	guidance, and control of such program under the direction of
3	the wardenofthe-state-prison department of institutions
4	with the advice and consent of the stateboardofpardons
5	furlough committee created in section 4 of this act which
б	program shall operate by supplementing and not replacing
7	established penal procedures now or hereafter established by
8	law and shall serve to extend the limits of confinement for
9	treatment as well as jurisdictional purposes. This act is
10	to be liberally construed to effect the over-all objectives
11	set forth above."
12	Section 2. Section 95-2218, R.C.M. 1947, is amended to
13	read as follows:
14	*95-2218. Definitions. Unless the context requires
15	otherwise, in this act:
16	(1) "Board Department" means the stateboardof
17	pardens department of institutions provided for in section
18	82A-804 <u>82A-801;</u>
19	(2) "State prison" means the Montana state prison at
20	Deer Lodge and any adult correctional facility under the
21	direction of the department;
22	(3) "Prisoner" means a person sentenced by a district
23	court to a term of confinement in the state prison;
24	(4) "Sheriff Supervising agency" means any county
25	sheriffincludingalldeputiesorother-persons-working
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1 under-his-direction--or--quidance federal, state, county. 2 local or private agency, Indian tribe and reservation, or 3 any person, group, association or organization approved by 4 the department to undertake the supervision of prisoners 5 participating in the furlough program; 6 (5) "Jail" means any county jail; 7 (6) "Warden Furlough committee" means the 8 superintendent-of-the-state-prison-appointed-by-the-board-of 9 institutions, committee established in section 4 of this 10 act; 11 (7) "Applicant" means any prisoner who has signed an application to participate in the prisoner furlough 12 13 program." Section 3. Section 95-2219, R.C.M. 1947, is amended to 14 15 read as follows: 16 "95-2219. Warden Department to establish program and 17 rules --- privileges-granted-prisoners. The warden department is authorized and directed to establish a furlough program 18 19 and rules to implement and control the same, in accordance 20 with the provisions of Title 82, chapter 42, R.C.M. 1947. A 21 prisoner--sentenced--to--the-state-prison-may-be-granted-the 22 privilege-of Rules shall include provisions for: 23 (1) Working at paid employment for a rate of pay not 24 less than one--and--40/100-(61-40)-dollars-an-houry-or the 25 minimum hourly wage as required by law; -3-

1 (2) Participating in an educational or training 2 program; 3 (3) Approval of supervising agency; and 4 (4) Review of determinations in furlough application." ٩ Section 4. There is a new R.C.M. section numbered 6 95-2219.1 that reads as follows: 7 95-2219.1. Creation of furlough committee composition. There is created a prisoner furlough committee 8 at the state prison. It shall be composed of the following 9 10 staff members of the prison: 11 (1) The warden or his designated representative; 12 (2) Employment counselor; 13 Applicant's social case worker; (3) 14 (4) Psychologist (or psychiatrist); 15 (5) Member chosen by the applicant. 16 member shall have an equal vote in all Each 17 proceedings. The furlough committee shall meet on a regular monthly schedule which shall be adopted, printed and 18 19 circulated throughout the prison. Each inmate of the prison shall be notified of any variation in the schedule at least 20 one week in advance of the rescheduled meeting. 21 22 Section 5. Section 95-2220, R.C.M. 1947, is amended to 23 read as follows: 24 "95-2220. Application for participation in furlough 25 program. Any prisoner confined in the state prison may make

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1	application to participate in the furlough program according
2	to-rules-adopted-by-the-warden-with-the-adviceandconsent
3	ofthe-board after having served at least one-half (1/2) of
4	the time required to be considered for parole."
5	Section 6. Section 95-2221, R.C.M. 1947, is amended to
6	read as follows:
7	*95-2221. Consideration of application furlough
8	planconsentof-sheriff-necessary duties of committee.
9	(1) At the monthly meeting of the furlough committee
10	following the signing of any prisoner's application, The
11	beard the committee shall approve or deny the application of
12	the each prisoner after careful study of theprisoner's
13	conductyattitudeandbehavior-in-the-prison-in-which-the
14	prisonerisconfined his furlough plans, his criminal
15	history, and all other pertinent case material. The
16	following rules shall be observed when the committee meets
17	to consider any application:
18	(a) every applicant shall be allowed to call two (2)
19	witnesses from outside the institution to testify as to his
20	general attitude, participation in self-help activities, or
21	his character or job references;
22	(b) every applicant shall be allowed one summary
23	dismissal of any committee member for reason of personality
24	conflict, in which event an appropriate and mutually
25	agreeable substitute shall be made;
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1	(c) every applicant shall remain present during the
2	discussion of his application by the committee and be given
3	an oral decision on his application before the adjournment
4	of the committee. Nothing contained herein shall be
5	construed to allow an executive session of the committee to
6	be held in the absence of the applicant;
7	(d) every applicant shall be viewed singly, and shall
8	be recognized as an individual, with individual problems,
9	and individual capabilities; the decision of the committee
10	shall take into account the potential of the individual and
11	shall determine the course which is most likely to provide
12	optimum benefit to both society and the individual;
13	(e) each applicant shall be allowed to discuss any
14	specific problem areas with any member of the furlough
15	committee;
16	(f) a secretary shall be in attendance at each meeting
17	to record the entire proceedings, including the
18	determination of the committee, and the record shall be sent
19	to each person participating in the meeting within ten (10)
20	days following the meeting and the original copy shall be
21	filed with the department.
22	(2) If the application is approved, the warden
23	department shall, adoptafurlough-plan-for-the-prisoner
24	within the shortest possible period of time, locate an
25	agency capable of supervising the prisoner applicant. The
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1	supervising agency, the department, and the prisoner
2	applicant shall enter into a written agreement setting out
3	the conditions and purposes of the furlough and specifying
4	the responsibility assumed by each of the parties. The
5	agreement shall be executed, signed by the parties before a
6	notary public, in triplicate, with one copy each to be filed
7	with the committee and the department and one copy to be
8	retained by the applicant. Upon the signing of the
9	agreement, the prisoner will be released to the supervising
10	agency, which shall constitute an extension of the limits of
11	confinement.
12	(3) No-prisoner-shall-be-released-without-thewritten

13 consent-of-the-sheriff-of-the-county-receiving-the-prisoner
14 If the application is denied the prisoner may reapply after
15 six (6) months time. After an applicant has been denied
16 three (3) times he may appeal to the department for a
17 hearing by the board of pardons."

18 Section 7. Section 95-2222, R.C.M. 1947, is amended to 19 read as follows:

20 "95-2222. Disposition of prisoner's earnings -- trust 21 fund -- schooling costs. (1) A prisoner employed in the 22 community under a work furlough plan shall surrender-to-the 23 sheriff-his-total-carnings-less-payroll-deductions--required 24 by--lawr--The-sheriff-shall-deduct-from-such-carnings-in-the 25 following-order-of-priority enter into a written financial -7-

1	agreement with the supervising agency and the department
_	
2	concerning the acquisition and disposition of his earnings.
3	This financial agreement shall provide for the payment of:
4	(a) A standard charge for all-prisoners-determined-by
5	the-county-commissioners-to-be-the-costtothecountyof
6	providing food, lodging and clothing for such the prisoner
7	if incurred and if applicable;
8	(b) The actual and necessary travel and other expenses
9	of such the prisoner under furlough from actual confinement
10	under the program; and
11	(c) Such An amount as-the-prisoner-may-be-determined
12	by-thedistrictjudge to pay for the support of his
13	dependents, which amount shall be paid to such the
14	dependents; and
15	(d) A-minimal An allowance for personal items, and
16	other expenses or disbursements agreed upon by the prisoner
17	and the supervising agency.
18	(2) Unless the financial agreement specifically
19	provides for other disbursement of the money, Any any
20	balance remaining after such deductions and payments shall
21	be deposited to an interest-bearing account held in trust
2 2	for said the prisoner and shall be paid to him upon release.
23	(3) If no other sources of support are available, The
24	above the costs of a prisoner under furlough who is in
25	training or school shall be the responsibility of the

1 state."

2 Section 8. Section 95-2223, R.C.M. 1947, is amended to 3 read as follows:

4 "95-2223. Administrative rules -- co-operation by 5 state agencies. (1) The warden <u>department</u> is authorized to 6 make rules for the administration of the provision of this 7 act with-the-advice-and-consent-of-the-board in accordance 8 with Title 82, chapter 42, R.C.M. 1947.

9 (2) All state, county and local agencies shall 10 co-operate with-the-warden-and-sheriff in the administration 11 of the furlough program."

12 Section 9. Section 95-2224, R.C.M. 1947, is amended to 13 read as follows:

"95-2224, Prisoner not agent, employee or involuntary 14 servant of--warden--or-sheriff. No prisoner employed in the 15 community under the provisions of this act shall be deemed 16 17 to be an agent, employee, or involuntary servant of the warden-or-sheriff department or of the supervising agency 18 while released from confinement pursuant to the terms of the 19 20 furlough program. Abuse of this section shall be deemed 21 official misconduct pursuant to 94-7-401, R.C.M. 1947."

22 Section 10. There is a new R.C.M. section numbered 23 95-2226.1 that reads as follows:

24 95-2226.1. Responsibility of department and
25 supervising agency -- revocation of furlough -- escape. (1)

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The department shall be responsible for the activities of a
 prisoner participating in a furlough program under this act.
 The supervising agency shall be responsible for those
 activities of a furloughed prisoner for which it is
 responsible in the written furlough agreement.

(2) If any prisoner released from actual prison 6 7 confinement under the furlough program fails to comply with Q the rules and regulations of the furlough agreement, he 9 shall be called by the department or by the supervising 10 agency to appear before the department or supervising 11 agency. If a conference is not sufficient to resolve the 12 situation and if the prisoner continues in his 13 noncompliance, the department shall file an affidavit in the district court of the county in which the violation took 14 15 place charging the prisoner with a violation of the rules 16 and regulations of the furlough agreement. The district 17 court shall hold a hearing on the charge at which the 18 prisoner is entitled to have counsel appointed to represent 19 him. Upon determining that the prisoner has violated the 20 rules and regulations of the furlough agreement, the court 21 shall order the prisoner returned to prison.

22 (3) If the department determines that a prisoner 23 presents an immediate grave threat to the community in which 24 he is furloughed, it may order the prisoner returned to 25 prison before a hearing is held, but in this case a hearing

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on the charges against the prisoner, as provided for in the
 above subsection, must be held in the district court no
 later than ten (10) days after the return of the prisoner to
 the state prison.

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5 (4) If a prisoner, while not disabled from working by temporary illness, is unemployed for a period of thirty (30) 6 7 days, or more, after his availability for employment is reported in writing by the supervising agency to the 8 9 department of labor and industry office serving the area in 10 which the prisoner is furloughed and to the union to which the prisoner belongs, or if a prisoner has become so 11 12 disabled as to be unemployable, or if a prisoner is on an educational furlough and has demonstrated for a period of 13 six (6) weeks or more that he is unable to benefit from 14 15 schooling or training, then the prisoner, the department, or 16 the supervising agency may request that a conference be held 17 with the department, the prisoner, and a representative of 18 the supervising agency to consider the problem of the 19 prisoner's unemployment, disability, or inability to benefit from schooling or training. At this conference the prisoner 20 21 may request that his supervision be transferred to another 22 supervising agency, and a representative of the new agency 23 may be at the conference. If the conference does not result in a resolution of the problem of the prisoner's 24 25 unemployment, disability, or inability to benefit, the

department may file an affidavit in the district court of 1 the county in which the prisoner is furloughed, stating that 2 the prisoner is not benefiting from the furlough program and 3 will not benefit from continued participation in the program 4 and requesting a hearing to determine an alternate proposal. 5 In this hearing the prisoner is entitled to have counsel 6 7 appointed to represent him. Upon determining that the prisoner is not benefiting from the furlough program and 8 9 will not benefit from continued participation in the 10 program, the court shall order the prisoner returned to the prison. 11

12 (5) For the purpose of this act, the provisions
13 relating to escape in section 94-7-306, R.C.M. 1947, shall
14 apply, unless aggravating circumstances require a more
15 severe penalty.

16 Section 11. Section 82-4202, R.C.M. 1947, is amended 17 to read as follows:

18 "82-4202. Definitions. For purposes of this act:

(1) "Agency" means any board, bureau, commission,
department, authority or officer of the state government
authorized by law to make rules and to determine contested
cases, except that the provisions of this act shall not
apply to the following:

24 (a) the legislature and any branch, committee or25 officer thereof;

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(b) the judicial branches and any committee or officer
 thereof;

3 (c) the governor, except that an agency otherwise
4 covered by this act shall not be exempt because the governor
5 has been designated as a member thereof;

6 (d) the state military establishment and agencies
7 concerned with civil defense and recovery from hostile
8 attack;

9 (e) the state board of pardons, except that said board 10 shall be subject to the requirements of section 3 [82-4203] 11 and 5 [82-4205] of this act and its rules shall be published 12 in the Montana administrative code and register;

13 (f) the supervision and administration of any penal, 14 mental, medical or eleemosynary institution with regard to 15 the admission, release, institutional supervision, custody, 16 control, care or treatment of inmates, prisoners or 17 patients, except as provided in sections 95-2219 and

18 95-2223, R.C.M. 1947;

19 (g) the administration and management of educational 20 institutions;

21 (h) the financing, construction and maintenance of 22 public works.

(2) "Rule" means each agency regulation, standard or
statement of general applicability that implements,
interprets, or prescribes law or policy or describes the

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organization, procedures, or practice requirements of an
 agency. The term includes the amendment or repeal of a prior

3 rule, but does not include:

4 (a) statements concerning only the internal management
5 of an agency and not affecting private rights or procedures
6 available to the public;

7 (b) declaratory rulings issued pursuant to section 18
8 [82-4218] of this act;

9 (c) intra-agency memoranda;

10 (d) rules relating to the use of public works,
11 facilities, streets and highways, when the substance of such
12 rules is indicated to the public by means of signs or
13 signals;

(e) seasonal rules adopted annually relating to hunting, fishing and trapping when there is a statutory requirement for the publication of such rules, and rules adopted annually relating to the seasonal recreational use of lands and waters owned or controlled by the state when the substance of such rules is indicated to the public by means of signs or signals;

21 (f) rules relating to personnel standards, job
22 classifications or salary ranges for agency employees;

(g) uniform rules adopted pursuant to interstate
compact, except that such rules shall be filed in accordance
with section 10 [82-4210] of this act and shall be published

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1 in the Montana administrative code and register.

2 (3) "Contested case" means any proceeding before an 3 agency in which a determination of legal rights, duties or 4 privileges of a party is required by law to be made after an 5 opportunity for hearing. The term includes, but is not 6 restricted to, rate making, price fixing and licensing.

7 (4) "License" includes the whole or part of any agency 8 permit, certificate, approval, registration, charter or 9 other form of permission required by law, but does not 10 include a license required solely for revenue purposes.

11 (5) "Licensing" includes any agency process respecting grant, denial, renewal, revocation, suspension, 12 the annulment, withdrawal, limitation or amendment of a license. 13 14 (6) "Party" means any person or agency named or 15 admitted as a party, or properly seeking and entitled as of 16 right to be admitted as a party; but nothing herein shall be 17 construed to prevent an agency from admitting any person or agency as a party for limited purposes. 18

19 (7) "Person" means any individual, partnership,
20 corporation, association, governmental subdivision or public
21 organization of any character other than an agency."

22 Section 12. Section 95-2226, R.C.M. 1947, is repealed. -End-

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44th Legislature

HB 0637/02

HB 0637/02

Approved by Committee on Judiciary

HOUSE BILL NO. 637 1 INTRODUCED BY HOLMES, HUENNEKENS, MELOY, WOLFE, VINCENT, 2 JACK MOORE, JOHNSON, HALVORSON, SHELDEN, GUNDERSON, 3 DRISCOLL, KEMMIS, GUTHRIE, MCKITTRICK, BRADLEY, RASMUSSEN, 4 MERCER, SLOAN, JARDANOUVE, DUSSAULT, C.R. ANDERSON, 5 FINLEY, LORY, KENDALL, ELLIS, RICHARDS, LUEBECK, б 7 O'CONNELL, KIMBLE, TEAGUE 8 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE PRISONER 9 FURLOUGE PROGRAM PROVIDING FOR SUPERVISION OF PRISONERS BY 10 PUBLIC AND PRIVATE SUPERVISING AGENCIES, AND PLACING 11 RESPONSIBILITY FOR THE PROGRAM WITH THE DEPARTMENT OF 12 INSTITUTIONS BY AMENDING SECTIONS 82-4202, 95-2217 THROUGH 13 95-2224, R.C.M. 1947, AND REPEALING SECTION 95-2226, R.C.M. 14 1947." 15 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 17 Section 1. Section 95-2217, R.C.M. 1947, is amended to

18 Section 1. Section 95-2217, R.C.M. 1947, is amended 19 read as follows:

95-2217. Prisoner furlough program -- purpose and intent. The purpose and intent of this act is to establish a program for the rehabilitation, education, and betterment of selected prisoners confined in the state prison; to increase their responsibility to society; to make it possible that they may, while serving their sentences, work gainfully to

1	support their dependents in whole or in part; and providing
2	for a the minimum <u>hourly</u> wage <u>required</u> by law OR THE
3	PREVAILING RATE OF PAY FOR PERSONS EMPLOYED IN SIMILAR
4	OCCUPATIONS BY THE SAME EMPLOYER of-one-and40/100{\$1.40}
5	dollarsanhour to be paid to said convicts while so
6	employed; continue their education or training; and at the
7	same time fulfill the obligations of the sentence of
8	imprisonment imposed; placing the establishment, regulation,
9	guidance, and control of such program under the direction of
10	the warden-of-the-state-prison department of institutions
11	withtheadviceand-consent-of-the-state-board-of-pardons
12	furlough-committee-created-in-section-4-of-thisact which.
13	THE PRISONER program shall operate by supplementing and not
14	replacing established penal procedures now or hereafter
15	established by law and shall serve to extend the limits of
16	confinement for treatment as well as jurisdictional
17	purposes. This act is to be liberally construed to effect
18	the over-all objectives set forth above."
19	Section 2. Section 95-2218, R.C.M. 1947, is amended to
20	read as follows:
21	"95-2218. Definitions. Unless the context requires
22	otherwise, in this act:
23	(1) "Board Department" means the stateboardof
24	pardons department of institutions provided for in section
25	82A-804 <u>82A-801</u> ;

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SECOND READING

1	(2) "BOARD" MEANS THE BOARD OF PARDONS PROVIDED FOR IN
2	SECTION 82A-804.
3	(2) "State prison" means the Montana state prison
4	at Deer Lodge and any adult correctional facility under the
5	direction of the department;
6	(3) <u>(4)</u> "Prisoner" means a person sentenced by a
7	district court to a term of confinement in the state prison;
8	(4) (5) "Sheriff Supervising agency" means any county
9	sheriff-including-alldeputicsorotherpersonsworking
10	underhisdirectionorguidance federal, state, county,
11	local or private agency, Indian tribe and reservation, or
12	any person, group, association or organization approved by
13	the department to undertake the supervision of prisoners
14	participating in the furlough program;
15	<pre>(6) *Jail means any county jail;</pre>
16	(6)"Warden <u>Furloughcommittee</u> meansthe
17	superintendent-of-the-state-prison-appointed-by-the-board-of
18	institutions. committeeestablishedinsection-4-of-this
19	act;
20	(7) "Applicant" means any prisoner who has signed an
21	application to participate in the prisoner furlough
22	program."
23	Section 3. Section 95-2219, R.C.M. 1947, is amended to
24	read as follows:
25	*95-2219. Warden Department to establish program and
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1	rulesprivileges-granted-prisoners. The warden department
2	is authorized and directed to establish a furlough program
3	and rules to implement and control the same, in accordance
4	with the provisions of Title 82, chapter 42, R.C.M. 1947. A
5	prisonersentencedtothe-state-prison-may-be-granted-the
6	privilege of Rules shall include provisions for:
7	(1) Working at paid employment for a rate of pay not
8	less than oneand40/100-(61.40)-dollars-an-hour,-or the
9	minimum hourly wage as required by law OR THE PREVAILING
10	RATE OF PAY FOR PERSONS EMPLOYED IN SIMILAR OCCUPATIONS BY
11	THE SAME EMPLOYER;
12	(2) Participating in an educational, TREATMENT, or
13	training program <u>;</u>
14	(3) Approval of supervising agency; and
15	(4) Review of determinations in furlough application."
16	Section-4There-isanewR-C-Msectionnumbered
17	95-2219.1-that-reads-as-follows:
18	95-2219.1Erectionoffurloughcommittee
19	compositionThere-is-created-a-prisoner-furlough-committee
20	at-the-state-prisonIt-shall-be-composed-of-thefollowing
21	staff-members-of-the-prison:
22	{1}The -warden-or-his-designated-representative;
23	(2)Bmpleyment-counselor;
24	(3) Applicant's-social-case-worker;
25	{4}Psychologist-{or-psychiatrist};
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1	(5)Member-chos en-by-the-applicant.
2	Hachmembershallhaveanequalvoteinall
3	proceedingsThe-furlough-committee-shall-meet-on-a-regular
4	monthlyschedulewhichshallbeadoptedyprintedand
5	circulated-throughout-the-prisonBach-inmate-of-the-prison
6	shallbe-notified-of-any-variation-in-the-schedule-at-least
7	one-week-in-advance-of-the-rescheduied-meeting;
8	Section 4. Section 95-2220, R.C.M. 1947, is amended to
9	read as follows:
10	"95-2220. Application for participation in furlough
11	program. Any prisoner confined in the state prison may make
12	application to participate in the furlough program according
13	to-rules-adopted-by-the-warden-with-the-adviceandconsent
14	oftheboard after-having-served-at least BY THE TIME THE
15	INMATE HAS SERVED one-half (1/2) of the time required to be
16	considered for parole."
17	Beetion-6Bection-95-22217-R.C.M19477-is-amended-to
18	read-as-follows:
19	495-2221Considerationofapplicationfurlough
20	planconsentof-sheriff-necessary duties-of-committee.
21	(1)Atthemonthlymeetingofthefurloughcommittee
22	followingthesigningofany-prisoner's-application, The
23	board <u>the-committee</u> shall-approve-or-deny-the-application-of
24	the <u>each</u> prisoner-aftercarefulstudyoftheprisoner's
25	conductyattitudeandbehavior-in-the-prison-in-which-the
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1	prisonerisconfined hisfurloughplans, hiscriminal
2	history,andallotherpertinentcasematerialThe
3	following-rules-shall-be-observed-when-thecommitteemeets
4	to-consider-any-application:
5	{a}everyapplicantshall-be-allowed-to-call-two-{2}
6	witnesses-from-outside-the-institution-to-testify-as-tohis
7	generalattitudey-participation-in-self-help-activitiesy-or
8	his-character-or-job-references?
9	(b)everyapplicantshallbeallowed-onesummary
10	dismissalof-any-committee-member-for-reason-of-personality
11	conflictyinwhicheventanappropriateandmutually
12	agrecable-substitute-shall-be-made;
13	(c)everyapplicantshallremain-present-during-the
14	discussion-of-his-application-by-the-committee-and-begiven
14 15	discussion-of-his-application-by-the-committee-and-begiven anoraldecision-on-his-application-before-the-adjournment
15	an-oral-decision-on-his-application-before-the-adjournment
15 16	an-oraldecision-on-his-application-before-the-adjournment of-thecommitteerNothingcontainedhereinshallbe
15 16 17	an-oral-decision-on-his-application-before-the-adjournment of-the-committeerNothingcontainedhereinshallbe construedto-allow-an-executive-session-of-the-committee-to
15 16 17 18	an-oraldecision-on-his-application-before-the-adjournment of-thecommitteerNothingcontainedhereinshallbe construedto-allow-an-executive-session-of-the-committee-to be-held-in-the-absence-of-the-applicant;
15 16 17 18 19	an-oral-decision-on-his-application-before-the-adjournment of-the-committeerNothingcontained-herein-shallbe construedto-allow-an-executive-session-of-the-committee-to be-held-in-the-absence-of-the-applicant; (d)every-applicant-shall-be-viewed-singly;-andshall
15 16 17 18 19 20	an-oraldecision-on-his-application-before-the-adjournment of-thecommitteeNothingcontainedhereinshallbe construedto-allow-an-executive-session-of-the-committee-to be-held-in-the-absence-of-the-applicant; (d)every-applicant-shall-be-viewed-singly;-andshall berecognizedasan-individual;-with-individual-problems;
15 16 17 18 19 20 21	an-oral-decision-on-his-application-before-the-adjournment of-the-committeerNothingcontainedhereinshallbe construedto-allow-an-executive-session-of-the-committee-to be-held-in-the-absence-of-the-applicant; (d)every-applicant-shall-be-viewed-singly;-andshall berecognizedasan-individual;-with-individual-problems; and-individual-capabilities;-the-decision-ofthecommittee
15 16 17 18 19 20 21 22	an-oraldecision-on-his-application-before-the-adjournment of-thecommitteeNothingcontainedhereinshallbe construedto-allow-an-executive-session-of-the-committee-to be-held-in-the-absence-of-the-applicant; (d)every-applicant-shall-be-viewed-singly;-andshall berecognizedasan-individual-problems; and-individual-capabilities;-the-decision-ofthecommittee shalltake-into-account-the-potential-of-the-individual-and
15 16 17 18 19 20 21 22 23	an-oral-decision-on-his-application-before-the-adjournment of-the-committeerNothing-contained-herein-shallbe construcdto-allow-an-executive-session-of-the-committee-to be-held-in-the-absence-of-the-applicant; (d)every-applicant-shall-be-viewed-singly,-andshall be-recognizedasan-individual-problems; and-individual-capabilities;-the-decision-ofthecommittee shalltake-into-account-the-potential-of-the-individual-and shall-determine-the-course-which-is-most-likelytoprovide

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1	specific-problem-areaswithanymemberofthefurlough	1	If-the-application-i
2	committee;	2	six{6}monthsti
3	{f}a-secretary-shall-be-in-attendance-at-each-meeting	3	three-(3)-times-he
4	torecordtheentireproceedings7includingthe	4	hearing-by-the-board
5	determination-of-the-committee7-and-the-record-shall-be-sent	5	SECTION 5. SEC
6	to-each-person-participating-in-the-meeting-within-ten(10)	6	READ AS FOLLOWS:
7	daysfollowingthemeeting-and-the-original-copy-shell-be	7	95-2221 . Cons
8	filed-with-the-department.	8	plan <u>notification</u> of
9	(2)Iftheapplicationisapproved7thewarden	9	of board. (1) The A
10	department shallyadoptafurlough-plan-for-the-prisoner	10	signing of any pr
11	within-the-shortestpossibleperiodoftime;locatean	11	approve or deny th
12	agencycapableof-supervising-the-prisoner-applicantThe	12	careful study of
13	supervisingagencyythedepartmentyandtheprisoner	13	behaviorinthep
14	applicantshallenter-into-a-written-agreement-setting-out	14	h is <u>furlough</u> plans
15	the-conditions-and-purposes-of-the-furloughandspecifying	15	pertinent case mat
16	theresponsibility-assumedbyeachof-the-partiesThe	16	observed when the bo
17	agreement-shall-be-executedy-signed-by-the-parties-beforea	17	<u>(a) each appli</u>
18	notary-public7-in-triplicate7-with-one-copy-each-to-be-filed	18	outside the instit
19	withthecommitteeandthe-department-and-one-copy-to-be	19	general attitude, pa
20	retained-bytheapplicantUponthesigningofthe	20	his character or job
21	agreement7the-prisoner-will-be-released-to-the-supervising	21	(b) each appl
22	agency; which-shall-constitute-an-extension-of-the-limits-of	22	discussion of his ap
23	sonfinement.	23	oral decision on h
24	(3)No-prisoner-shall-be-released-without-thewritten	24	the board as well as
25	consentof-the-sheriff-of-the-county-receiving-the-prisoner	25	statement of reasons
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1	If-the-application-is-denied-the-prisoner-may-reapplyafter
2	six{6}monthstimeAfter-an-applicant-has-been-denied
3	three-(3)-times-hemayappealtothedepartmentfora
4	hearing-by-the-board-of-pardons-
5	SECTION 5. SECTION 95-2221, R.C.M. 1947, IS AMENDED TO
6	READ AS FOLLOWS:
7	95-2221. Consideration of applicationfurlough
8	plan <u>notification or</u> consent of sheriff necessaryduties
9	of board. (1) The At the meeting of the board following the
10	signing of any prisoner's application the board shall
11	approve or deny the application of the each prisoner after
12	careful study of the prisoner's conductyattitudeand
13	behaviorintheprison-in-which-the-prisoner-is-confined;
14	his furlough plans, criminal history, and all other
15	pertinent case material. The following rules shall be
16	observed when the board meets to consider an application:
17	(a) each applicant may call two (2) witnesses from
1.8	outside the institution to testify as to the applicant's
19	general attitude, participation in self-help activities, or
20	his character or job references;
21	(b) each applicant shall remain present during the
22	discussion of his application by the board and be given an
23	oral decision on his application before the adjournment of
24	the board as well as a written decision including a thorough
25	statement of reasons for the decision;

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1	(c) each applicant shall be viewed singly, and shall
2	be recognized as an individual;
3	(d) each applicant shall be allowed to discuss any
4	specific problem areas with any member of the board.
5	(2) If the application is approved, the warden-shall
6	adoptafurloughplanfortheprisonerywhichshall
7	constituteanextensionofthelimitsofconfinement.
8	department shall: within the shortest possible time, locate
9	an agency capable of supervising the applicant.
10	(3) Noprisoner-shall-be-released-without-the-written
11	consent-of-the-sheriff-of-the-county-receiving-the-prisoner-
12	The supervising agency, the department, and the applicant
13	shall enter into a written agreement setting out the
14	conditions and purposes of the furlough and specifying the
15	responsibility assumed by each of the parties. The
16	agreement shall be executed, signed by the parties before a
17	notary public, in triplicate, with one copy to be filed with
18	the supervising agency and the department and one copy to be
19	retained by the applicant.
20	(4) Upon the signing of the agreement, the prisoner
21	shall be released to the supervising agency.
22	(5) Final authority in all matters pertaining to
23	prisoner furloughs is in the department.
24	(6) When an inmate is to reside in the county jail,
25	the consent of the sheriff in the receiving county is
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1	necessary. However, when the inmate is to reside in a
2	community corrections center or some other supervised
3	setting the sheriff of the receiving county shall be
4	notified.
5	(7) If the application is denied the prisoner may
6	reapply after six (6) months time. After an applicant has
7	been denied three (3) times he may appeal to the department
8	for a hearing."
9	Section 6. Section 95-2222, R.C.M. 1947, is amended to
10	read as follows:
11	95-2222. Disposition of prisoner's earnings trust
12	fund schooling costs. (1) A prisoner employed in the
13	community under a work furlough plan shall surrender-tothe
14	sheriffhis-total-carnings-less-payroll-deductions-required
15	by-lawThe-sheriff-shall-deduct-from-such-carningsinthe
16	followingorderof-priority enter into a written financial
17	agreement with the supervising agency and the department
18	concerning the acquisition and disposition of his earnings.
19	This financial agreement shall provide for the payment of:
20	(a) A standard charge for all prisoners-determined by
21	thecountycommissionerstobe-the-cost-to-the-county-of
22	providing food, lodging and clothing for such the prisoner
23	if incurred and if applicable;
24	(b) The actual and necessary travel and other expenses
25	of such the prisoner under furlough from actual confinement

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1 under the program; and 2 (c) Such An amount as-the-prisoner-may--be--determined 3 by-the-district-judge to pay for the support of his dependents, which amount shall be paid to such 4 the 5 dependents; and 6 (d) A--minimal An allowance for personal items, and 7 other expenses or disbursements agreed upon by the prisoner 8 and the supervising agency. 9 (2) Unless the financial agreement specifically provides for other disbursement of the money, Any any 10 11 balance remaining after such deductions and payments shall 12 be deposited to an interest-bearing account held in trust for said the prisoner and shall be paid to him upon release. 13 14 (3) If no other sources of support are available, The 15 above the costs of a prisoner under furlough who is in training or school shall be the responsibility of the 16 17 state." 18 Section 7. Section 95-2223, R.C.M. 1947, is amended to 19 read as follows: 20 *95-2223. Administrative rules -- co-operation bγ state agencies. (1) The warden department is authorized to 21 make rules for the administration of the provision of this 22 23 act with--the-advice-and-consent-of-the-board in accordance with Title 82, chapter 42, R.C.M. 1947. 24 25 (2) All state, county and local agencies shall -11-HB 637

1 co-operate with-the-warden-and-sheriff in the administration 2 of the furlough program." 3 Section 8. Section 95-2224, R.C.M. 1947, is amended to 4 read as follows: "95-2224. Prisoner not agent, employee or involuntary 5 6 servant of-warden-or-sheriff. No prisoner employed in the 7 community under the provisions of this act shall be deemed 8 to be an agent, employee, or involuntary servant of the 9 warden--or--sheriff department or of the supervising agency while released from confinement pursuant to the terms of the 10 furlough program. Abuse of this section shall be deemed 11 12 official misconduct pursuant to 94-7-401, R.C.M. 1947." 13 Section 9. There is a new R.C.M. section numbered 14 95-2226.1 that reads as follows: 15 95-2226.1. Responsibility of department and 16 supervising agency -- CHANGE OR revocation of furlough --17 escape. (1) The department shall be responsible for the 18 activities of a prisoner participating in a furlough program 19 under this act. THE DEPARTMENT MAY DELEGATE JURISDICTIONAL 20 SUPERVISION OF WORK FURLOUGH PARTICIPANTS TO THE ADULT 21 PAROLE AND PROBATION FIELD SERVICE. The supervising agency 22 shall be responsible for those activities of a furloughed prisoner for which it is responsible in the written furlough 23 24 agreement. 25 (2) If any prisoner released from actual prison -12-HB 637

confinement under the furlough program fails to comply with 1 the rules and regulations of the furlough agreement, he 2 ٦ shall be called by the department or by the supervising agency to appear before the department or supervising ۵ agency. If a conference is not sufficient to resolve the 5 situation and if the prisoner continues in his 6 noncompliance, the-department-shall-file-an-affidavit-in-the 7 district-court-of-the-county-in--which--the--wiolation--took 8 place---charging---the--prisoner-with-a-violation-of-the-rules a 10 and-regulations-of-the--furlough--agreement; --- The--district court THE BOARD shall hold a hearing on the charge at which 11 the prisoner is entitled to have counsel appointed to 12 13 represent him. Upon determining that the prisoner has 14 violated the rules and regulations of the furlough 15 agreement, the court BOARD shall order the prisoner returned to prison. 16

(3) If the department determines AFTER HAVING BEEN 17 ADVISED BY THE SUPERVISING AGENCY OR THE ADULT PAROLE AND 18 19 PROBATION FIELD SERVICE, that a prisoner presents an immediate grave threat to the community in which he is 20 furloughed, it may order the prisoner returned to prison 21 22 before a hearing is held, but in this case a hearing on the 23 charges against the prisoner, as provided for in the above 24 subsection, must be held in the district court no later than 25 ten-{10} THIRTY (30) days after the return of the prisoner HB 637 -13-

to the state prison. 1 2 (4) IF, AFTER A REASONABLE TIME, A FURLOUGHED PRISONER 3 DETERMINES THAT HIS FURLOUGH PLAN IS UNSATISFACTORY DUE TO 4 PERSONALITY CONFLICT, A VIOLATION OF HIS RIGHTS BY HIS 5 SUPERVISOR, OR A CHANGE OF INTEREST OR EMPLOYMENT STATUS, THE DEPARTMENT SHALL GRANT HIM A HEARING TO DETERMINE 6 7 WHETHER OR NOT A NEW FURLOUGH PLAN SHOULD BE EXECUTED. (4) (5) If a prisoner, while not disabled from working 8 by temporary illness, is unemployed for a period of thirty 9 (30) days, or more, after his availability for employment is 10 reported in writing by the supervising agency to the 11 department of labor and industry office serving the area in 12 which the prisoner is furloughed and to the union to which 13 the prisoner belongs, or if a prisoner has become so 14 disabled as to be unemployable, or if a prisoner is on an 15 educational furlough and has demonstrated for a period of 16 17 six (6) weeks or more that he is unable to benefit from 18 schooling, TREATMENT, or training, then the prisoner, the department, or the supervising agency may request that a 19 conference be held with the department, the prisoner, and a 20 representative of the supervising agency to consider the 21 problem of the prisoner's unemployment, disability, or 22 23 inability to benefit from schooling or training. At this 24 conference the prisoner may request that his supervision be transferred to another supervising agency, 25 anđ а

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1 representative of the new agency may be at the conference. 2 If the conference does not result in a resolution of the 3 problem of the prisoner's unemployment, disability, or 4 inability to benefit, the department may file--an--affidavit 5 in-the-district-court-of-the-county-in-which-the-prisoner-is 6 furloughed,-stating-that-the-prisoner-is-not-benefiting-from 7 the--furlough--program--and--will-not-benefit-from-continued 8 participation--in--the--program--and--requesting--a--hearing 9 REQUEST A HEARING BY THE BOARD OF PARDONS to determine an 10 alternate proposal. In this hearing the prisoner is entitled to have counsel appointed to represent him. Upon 11 12 determining that the prisoner is not benefiting from the furlough program and will not benefit from continued 13 14 participation in the program, the court BOARD shall order 15 the prisoner returned to the prison.

16 (5) (6) For the purpose of this act, the provisions
17 relating to escape in section 94-7-306, R.C.M. 1947, shall
18 apply, unless aggravating circumstances require a more
19 severe penalty.

 20
 Section-11:--Section-82-42027-R.C.M.-19477--is--amended

 21
 to-read-as-follows:

 22
 #02-4202:--Definitions:--For-purposes-of-this-act:

 23
 (1)--#Agency#--means--any--board;--bureau;--commission;

 24
 department;-authority-or-officer--of-the--state--government

 25
 authorized--by--law-to-make-rules-and-to-determine-contested

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1	casesy-except-that-the-provisionsofthisactshallnot
2	apply-to-the-following;
3	{a}thelegislatureandanybranchycommitteeor
4	officer-thercof7
5	(b)the-judicial-branches-and-any-com mittee-or-officer
6	thereof;
7	{c}the-governor;exceptthatanagencyotherwise
8	covered-by-this-act-shall-not-be-exempt-because-the-governor
9	has-been-designated-as-a-member-thereofy
10	(d)thestatemilitaryestablishmentandagencies
11	concerned-withcivildefenseandrecoveryfromhostile
12	attack;
13	(e)the-state-board-of-pardons;-except-that-said-board
14	shallbe-subject-to-the-requirements-of-section-3-{82-4283}
15	and-5-{82-4285}-of-this-act-and-its-rules-shall-be-published
16	in-the-Montana-administrative-code-and-register;
17	{f}the-supervision-and-administration-ofanypenal y
18	mentalymedicalor-elecmosynary-institution-with-regard-to
19	the-admissiony-releasey-institutional-supervisionycustodyy
20	controlycareortreatmentofinmatesyprisonersor
21	patientsyexceptasprovidedinsections95-2219and
22	95-22237-R-67M-1947
23	(g)theadministrationand-management-of-educational
24	institutions;
25	{h} the-financing,constructionandmaintenanceof
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2	{2}#Rule"meanseach-agency-regulation,-standard-or
3	statementofgeneralapplicabilitythatimplements;
4	interprets,orprescribeslawor-policy-or-describes-the
5	organizationy-proceduresy-orpracticerequirementsofan
6	agencyThe-term-includes-the-amendment-or-repeal-of-a-prior
7	ruley-but-does-not-include:
8	(a)statements-concerning-only-the-internal-management
9	ofan-agency-and-not-affecting-private-rights-or-procedures
10	available-to-the-public;
11	(b)declaratory-rulings-issued-pursuant-to-section18
12	{82-4218}-of-this-act;
13	{c}intra-agency-memoranda;
14	{d}rulesrelatingtotheuseofpublicworks;
15	faciliticsy-streets-and-highways7-when-the-substance-of-such
16	rules-is-indicated-tothepublicbymeansofsignsor
17	signals;
18	{c}seasonalrulesadoptedannuallyrelatingto
19	hunting7-fishing-and-trappingwhenthereisastatutory
20	requirementforthepublicationof-such-rules7-and-rules
21	adopted-annually-relating-to-the-seasonalrecreationaluse
22	oflandsandwaters-owned-or-controlled-by-the-state-when
23	the-substance-of-such-rules-is-indicated-tothepublicby
24	means-of-signs-or-signals;
25	(f)rulesrelatingtopersonnelstandards7job
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public-works.

1	classifications-or-salary-ranges-for-agency-employees;
2	(g}uniformrulesadoptedpursuanttointerstate
3	compacty-except-that-such-rules-shall-be-filed-in-accordance
4	with-section-10-{02-4210}-of-this-act-and-shall-be-published
5	in-the-Montana-administrative-code-and-register;
6	{3}#Contestedcase#meansany-proceeding-before-an
7	agency-in-which-a-determination-of-legal-rights7dutiesor
8	privileges-of-a-party-is-required-by-law-to-be-made-after-an
9	opportunityforhearingThetermincludes7but-is-not
10	restricted-toy-rate-makingy-price-fixing-and-licensing.
11	<pre>{4}#hitense#-includes-the-whole-or-part-of-any-agency</pre>
12	permit7certificate7approval7registration7charteror
13	otherformofpermissionrequiredbylaw7-but-does-not
14	include-a-license-required-solely-for-revenue-purposes.
15	{5}*Licensing*-includes-any-agency-process-respecting
16	thegrantydenialyrenewalyrevocationysuspensiony
17	annulmenty-withdrawaly-limitation-or-amendment-of-a-license-
18	{6}*Party*meansanypersonoragencynamedor
19	admitted-as-a-party,-or-properly-seeking-and-entitled-asof
20	right-to-be-admitted-as-a-party;-but-nothing-herein-shall-be
21	construcdto-prevent-an-agency-from-admitting-any-person-or
22	agency-as-a-party-for-limited-purposes.
23	{7}*Person"meansanyindividualypartnershipy
24	corporation7-association7-governmental-subdivision-or-public
25	organization-of-any-character-other-than-an-agency-
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1	SECTION 10. ALL RULES PROMULGATED UNDER THIS ACT SHALL
2	COMPLY WITH THE MONTANA ADMINISTRATIVE PROCEDURE ACT.
3	SECTION 11. SEVERABILITY. IF A PART OF THIS ACT IS
4	INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM THE INVALID
5	PART REMAIN IN EFFECT. IF A PART OF THIS ACT IS INVALID IN
6	ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS IN EFFECT
7	IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE
8	INVALID APPLICATIONS.
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9 Section <u>12</u>. Section 95-2226, R.C.M. 1947, is repealed.

-End-

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HOUSE BILL NO. 637 1 2 INTRODUCED BY HOLMES, HUENNEKENS, MELOY, WOLFE, VINCENT, JACK MOORE, JOHNSON, HALVORSON, SHELDEN, GUNDERSON, 3 DRISCOLL, KEMMIS, GUTHRIE, MCKITTRICK, BRADLEY, RASMUSSEN, 4 MERCER, SLOAN, BARDANOUVE, DUSSAULT, C.R. ANDERSON, 5 FINLEY, LORY, KENDALL, ELLIS, RICHARDS, LUEBECK, 6 7 O'CONNELL, KIMBLE, TEAGUE 8 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE PRISONER 9 FURLOUGE PROGRAM PROVIDING FOR SUPERVISION OF PRISONERS BY 10 PUBLIC AND PRIVATE SUPERVISING AGENCIES, AND PLACING 11 RESPONSIBILITY FOR THE PROGRAM WITH THE DEPARTMENT OF 12 INSTITUTIONS BY AMENDING SECTIONS 82-4202, 95-2217 THROUGH 13 95-2224, R.C.M. 1947, AND REPEALING SECTION 95-2226, R.C.M. 14 1947." 15 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 17 Section 1. Section 95-2217, R.C.M. 1947, is amended to 18 19 read as follows: "95-2217. Prisoner furlough program -- purpose and 20 intent. The purpose and intent of this act is to establish a 21 program for the renabilitation, education, and betterment of 22 23 selected prisoners confined in the state prison; to increase their responsibility to society; to make it possible that 24 they may, while serving their sentences, work gainfully to 25

1 support their dependents in whole or in part; and providing 2 for a the minimum hourly wage required by law OR THE 3 PREVAILING RATE OF PAY FOR PERSONS EMPLOYED IN SIMILAR 4 OCCUPATIONS BY THE SAME EMPLOYER of-one-and--40/100--(\$1,40) 5 dollars--an--hour to be paid to said convicts while so employed; continue their education or training; and at the 6 7 same time fulfill the obligations of the sentence of 8 imprisonment imposed; placing the establishment, regulation, 9 quidance, and control of such program under the direction of 10 the warden-of-the-state-prison department of institutions 11 with--the--advice--and-consent-of-the-state-board-of-pardons 12 furlough-committee-created-in-section-4-of-this--act which. THE PRISONER program shall operate by supplementing and not 13 14 replacing established penal procedures now or hereafter established by law and shall serve to extend the limits of 15 confinement for treatment as well as jurisdictional 16 17 purposes. This act is to be liberally construed to effect the over-all objectives set forth above." 18 19 Section 2. Section 95-2218, R.C.M. 1947, is amended to 20 read as follows: 21 *95-2218. Definitions. Unless the context requires 22 otherwise, in this act: 23 (1) "Board Department" means the state--board--of 24 pardens department of institutions provided for in section 82A-804 82A-801; 25

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THIRD READING

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1	(2) "BOARD" MEANS THE BOARD OF PARDONS PROVIDED FOR IN
2	SECTION 82A-804.
3	(2) (3) "State prison" means the Montana state prison
4	at Deer Lodge and any adult correctional facility under the
5	direction of the department;
6	(3) (4) "Prisoner" means a person sentenced by a
7	district court to a term of confinement in the state prison;
8	(4) (5) "Sheriff Supervising agency" means any county
9	sheriff-including-alldeputiesorotherpersonsworking
10	underhisdirectionorguidance [federal, state, county,
11	local or private agency, Indian tribe and reservation, or
12	any person, group, association or organization approved by
13	the department to undertake the supervision of prisoners
14	participating in the furlough program;
15	<pre>(6) "Jail" means any county jail;</pre>
16	(6)#Warden <u>Furloughcommittee</u> meansthe
17	superintendent-of-the-state-prison-appointed-by-the-board-of
18	institutions. <u>committeeestablishedinsection-4-of-this</u>
19	act7
20	(7) "Applicant" means any prisoner who has signed an
21	application to participate in the prisoner furlough
22	
	program."
23	program." Section 3. Section 95-2219, R.C.M. 1947, is amended to
23	Section 3. Section 95-2219, R.C.M. 1947, is amended to
23 24	Section 3. Section 95-2219, R.C.M. 1947, is amended to read as follows:

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1	rules privileges-granted-prisoners. The warden department
2	is authorized and directed to establish a furlough program
3	and rules to implement and control the same, in accordance
4	with the provisions of Title 82, chapter 42, R.C.M. 1947.
5	prisonersentencedtothe-state-prison-may-be-grantea-the
6	privilege of Rules shall include provisions for:
7	(1) Working at paid employment for a rate of pay not
, 8	less than oneand40/100-(61:40)-dollars-an-houror the
9	
	minimum hourly wage as required by law OR THE PREVAILING
10	RATE OF PAY FOR PERSONS EMPLOYED IN SIMILAR OCCUPATIONS BY
11	THE SAME EMPLOYER;
12	(2) Participating in an educational, TREATMENT, or
13	training program <u>;</u>
14	(3) Approval of supervising agency; and
15	(4) Review of determinations in furlough application."
16	Section-4There-isanewR+C+M+sectionnumbered
17	95-2219:1-that-reads-as-follows+
18	95-2219,1Ereationoffurloughcommittee
1.9	composition,There-is-created-a-prisoner-furlough-committee
20	at-the-state-prisonIt-shall-be-composed-of-thefollowing
21	staff-members-of-the-prison:
22	{1}The-warden-or-his-designated-representative;
23	{2}Employment-counselor;
24	(3)Applicant ¹ s-social-case-worker;
25	(4)Psychologist-(or-psychiatrist);
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1	(5)Member-chosen-by-the-applicant.
2	Bachmembershallhaveanequalvoteinall
3	proceedingsThe-furlough-committee-shail-meet-on-a-regular
4	monthlyschedulewhichshallbeadoptedyprintedand
5	circulated-throughout-the-prisonEach-inmate-of-the-prison
6	shall-be-notified-of-any-variation-in-the-schedule-at-least
7	one-week-in-advance-of-the-rescheduled-meeting.
8	Section 4. Section 95-2220, R.C.M. 1947, is amended to
9	read as follows:
10	*95-2220. Application for participation in furlough
11	program. Any prisoner confined in the state prison may make
12	application to participate in the furlough program according
13	to-rules-adopted-by-the-warden-with-the-adviceandconsent
14	oftheboard after-having-served-at least_BY THE TIME THE
14 15	oftheboard after-having-served-at least_BY THE TIME THE INMATE HAS SERVED one-half (1/2) of the time required to be
15	INMATE HAS SERVED one-half $(1/2)$ of the time required to be
15 16	INMATE HAS SERVED one-half (1/2) of the time required to be considered for parole."
15 16 17	INMATE HAS SERVED one-half (1/2) of the time required to be considered for parole." Section-6Section-95-2221,-R.C.M1947,-is-amended-to
15 16 17 18	INMATE HAS SERVED one-half (1/2) of the time required to be considered for parole." Section-6Section-95-2221,-R.C.M1947,-is-amended-to read-as-follows:
15 16 17 18 19	INMATE HAS SERVED one-half (1/2) of the time required to be considered for parole." Section-67Section-95-22217-R.C.M19477-is-amended-to read-as-follows: #95-2221Gonsideration-ofapplicationfurlough
15 16 17 18 19 20	INMATE HAS SERVED one-half (1/2) of the time required to be considered for parole." Section-6Section-95-2221,-R.C.M1947,-is-amended-to read-as-follows: #95-2221Considerationofapplicationfurlough planconsentof-sheriff-necessary <u>duties-of-committee.</u>
15 16 17 18 19 20 21	INMATE HAS SERVED one-half (1/2) of the time required to be considered for parole." Section-67Section-95-22217-R.C.M19477-is-amended-to read-as-follows: #95-2221Consideration-of-applicationfurlough planconsentof-sheriff-necessary duties-of-committee: (1) <u>Atthemonthlymeeting-ofthefurloughcommittee</u>
15 16 17 18 19 20 21 22	INMATE HAS SERVED one-half (1/2) of the time required to be considered for parole." Section-6Section-95-2221,-R.C.M1947,-is-amended-to read-as-follows: #95-2221Considerationofapplicationfurlough planfurloughfurlough-committee. (1)Atthemonthlymeetingofthefurloughcommittee followingthesigningofany-prisoner's-application; The
15 16 17 18 19 20 21 22 23	INMATE HAS SERVED one-half (1/2) of the time required to be considered for parole." Section-67Section-95-22217-R.C.M19477-is-amended-to read-as-follows: *95-2221Considerationofapplicationfurlough planfurlough planfurlough

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1	prisonerisconfined <u>hisfurloughplans</u> , hiscriminal
2	history,andallotherpertinentcasematerialThe
3	following-rules-shall-be-observed-when-thecommitteemeets
4	to-consider-any-application:
5	{a}everyapplicantshall-be-allowed-to-call-two-{2}
6	witnesses-from-outside-the-institution-to-testify-as-tohis
7	generalattitudey-participation-in-self-help-activitiesy-or
8	his-character-or-job-references;
9	{b}everyapplicantshallbeallowedonesummary
10	dismissalof-any-committee-member-for-reason-of-personality
11	conflictyinwhicheventanappropriateandmutually
12	<u>agreeable-substitute-shall-be-made;</u>
13	{c}everyapplicantshallremain-present-during-the
14	discussion-of-his-application-by-the-committee-and-begiven
15	anoraldecision-on-his-application-before-the-adjournment
16	of-thecommitteeNothingcontained-hereinshallbe
17	construedto-allow-an-executive-session-of-the-committee-to
18	be-held-in-the-absence-of-the-applicant;
19	{d}every-applicant-shall-be-viewed-singly;-andshall
20	berecognizedasan-individualy-with-individual-problemsy
21	and-individual-capabilities;-the-decision-ofthecommittee
22	shalltake-into-account-the-potential-of-the-individual-and
23	shall-determine-the-course-which-is-most-likelytoprovide
24	optimum-benefit-to-both-society-and-the-individual?
25	{e}cachapplicantshallbeallowed-to-discuss-any

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1	specific-problem-areaswithanymemberofthefurlough	1	If-the-application-is-denied-the-prise
2	committee;	2	six{6}monthetimeAfter-an-app
3	{f}a-secretary-shall-be-in-attendance-at-each-meeting	3	three-(3)-times-hemayappealtot
4	tofecordtheentireproceedings7includingthe	4	hearing-by-the-board-of-pardons
5	determination-of-the-committee;-and-the-record-shall-be-sent	5	SECTION 5. SECTION 95-2221, R.C.J
6	to-cach-person-participating-in-the-meeting-within-ten(10)	6	READ AS FOLLOWS:
7	daysfollowingthemeeting-and-the-original-copy-shall-be	7	"95-2221. Consideration of
8	filed-with-the-department.	8	plannotification or consent of sher
9	(2)Iftheapplicationisapproved,thewarden	9	of board. (1) The At the meeting of the
10	department shall7adoptafurlough-plan-for-the-prisoner	10	signing of any prisoner's applicat:
11	within-the-shortestpossibleperiodoftime,locatean	11	approve or deny the application of t
12	agencycapableof-supervising-the-prisoner-applicantThe	12	careful study of the prisoner's e
13	supervisingagency,thedepartment,andtheprisoner	13	behaviorintheprison-in-which-the-
14	applicantshallenter-into-a-written-agreement-setting-out	14	his furlough plans, criminal histor
15	the-conditions-and-purposes-of-the-furloughandspecifying	15	pertinent case material. The follow
16	theresponsibilityassumedbycachof-the-partiesThe	16	observed when the board meets to consid
17	agreement-shall-be-executedy-signed-by-the-parties-beforea	17	(a) each applicant may call two
18	notary-public7-in-triplicate7-with-one-copy-each-to-be-filed	18	outside the institution to testify
19	withthecommitteeandthe-department-and-one-copy-to-be	19	general attitude, participation in sel
20	retained-bytheapplicantBponthesigningofthe	20	his character or job references;
21	agreement,the-prisoner-will-be-released-to-the-supervising	21	(b) each applicant shall remain
22	agency; which-shall-constitute-an-extension-of-the-limits-of	22	discussion of his application by the bo
23	confinement.	23	oral decision on his application before
24	(3)No-prisoner-shall-be-released-without-thewritten	24	the board as well as a written decision
25	consentof-the-sheriff-of-the-county-receiving-the-prisoner	25	statement of reasons for the decision;
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l	H-the-application-is-denied-the-prisoner-may-reapplyafter
2	six{6}monthstime;After-an-applicant-has-been-denied
3	three-{3}-times-hemayappealtothedepartmentfora
4	hearing-by-the-board-of-pardons.
5	SECTION 5. SECTION 95-2221, R.C.M. 1947, IS AMENDED TO
6	READ AS FOLLOWS:
7	"95-2221. Consideration of applicationfurlough
8	plannotification or consent of sheriff necessaryduties
9	of board. (1) The At the meeting of the board following the
10	signing of any prisoner's application the board shall
11	approve or deny the application of the each prisoner after
12	careful study of the prisoner's conduct,attitudeand
13	behaviorintheprison-in-which-the-prisoner-is-confined;
14	his furlough plans, criminal history, and all other
15	pertinent case material. The following rules shall be
16	observed when the board meets to consider an application:
17	(a) each applicant may call two (2) witnesses from
18	outside the institution to testify as to the applicant's
19	general attitude, participation in self-help activities, or
20	his character or job references;
21	(b) each applicant shall remain present during the
22	discussion of his application by the board and be given an
23	oral decision on his application before the adjournment of
24	the board as well as a written decision including a thorough

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1	(c) each applicant shall be viewed singly, and shall
2	be recognized as an individual;
3	(d) each applicant shall be allowed to discuss any
4	specific problem areas with any member of the board.
5	(2) If the application is approved, the wardenshall
6	adoptafurioughplanfortheprisoner7whichshall
7	constituteanextensionofthelimitsofconfinement.
8	department shall: within the shortest possible time, locate
9	an agency capable of supervising the applicant.
10	(3) Noprisoner-shall-be-released-without-the-written
11	consent-of-the-sheriff-of-the-county-receiving-the-prisoner.
12	The supervising agency, the department, and the applicant
13	shall enter into a written agreement setting out the
14	conditions and purposes of the furlough and specifying the
15	responsibility assumed by each of the parties. The
16	agreement shall be executed, signed by the parties before a
17	notary public, in triplicate, with one copy to be filed with
18	the supervising agency and the department and one copy to be
19	retained by the applicant.
20	(4) Upon the signing of the agreement, the prisoner
21	shall be released to the supervising agency.
22	(5) Final authority in all matters pertaining to
23	prisoner furloughs is in the department.
24	(6) When an inmate is to reside in the county jail,
25	the consent of the sheriff in the receiving county is
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1	necessary. However, when the inmate is to reside in a
2	community corrections center or some other supervised
3	setting the sheriff of the receiving county shall be
4	notified.
5	(7) If the application is denied the prisoner may
6	reapply after six (6) months time. After an applicant has
7	been denied three (3) times he may appeal to the department
8	for a hearing."
9	Section 6. Section 95-2222, R.C.M. 1947, is amended to
10	read as follows:
11	"95-2222. Disposition of prisoner's earnings trust
12	fund schooling costs. (1) A prisoner employed in the
13	community under a work furlough plan shall surrender-tothe
14	sheriff-his-total-carnings-less-payroll-deductions-required
15	by-lawThe-sheriff-shall-deduct-from-such-carningsinthe
16	followingorderof-priority enter into a written financial
17	agreement with the supervising agency and the department
18	concerning the acquisition and disposition of his earnings.
19	This financial agreement shall provide for the payment of:
20	(a) A standard charge for all-prisoners-determined-by
21	thecountycommissionerstobe-the-cost-to-the-county-of
22	providing food, lodging and clothing for such the prisoner
23	if incurred and if applicable;
24	(b) The actual and necessary travel and other expenses
25	of such the prisoner under furlough from actual confinement

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under the program; and	1	co-operate with the warden and sheriff in the administration
(c) Such An amount as-the-prisoner-maybedetermined	2	of the furlough program."
by-the-district-judge to pay for the support of his	3	Section 8. Section 95-2224, R.C.M. 1947, is amended to
dependents, which amount shall be paid to such the	4	read as follows:
dependents; and	5	"95-2224. Prisoner not agent, employee or involuntary
(d) Aminimal An allowance for personal items, and	6	servant of-warden-or-sheriff. No prisoner employed in the
other expenses or disbursements agreed upon by the prisoner	7	community under the provisions of this act shall be deemed
and the supervising agency.	8	to be an agent, employee, or involuntary servant of the
(2) Unless the financial agreement specifically	9	wardenorsheriff department or of the supervising agency
provides for other disbursement of the money, Any any	10	while released from confinement pursuant to the terms of the
balance remaining after such deductions and payments shall	11	furlough program. Abuse of this section shall be deemed
be deposited to an interest-bearing account held in trust	12	official misconduct pursuant to 94-7-401, R.C.M. 1947."
for said the prisoner and shall be paid to him upon release.	13	Section 9. There is a new R.C.M. section numbered
(3) If no other sources of support are available, Phe	14	95-2226.1 that reads as follows:
above the costs of a prisoner under furlough who is in	15	95-2226.1. Responsibility of department and
training or school shall be the responsibility of the	16	supervising agency CHANGE OR revocation of furlough
state."	17	escape. (1) The department shall be responsible for the
Section 7. Section 95-2223, R.C.M. 1947, is amended to	18	activities of a prisoner participating in a furlough program
read as follows:	19	under this act. THE DEPARTMENT MAY DELEGATE JURISDICTIONAL
"95-2223. Administrative rules co-operation by	20	SUPERVISION OF WORK FURLOUGH PARTICIPANTS TO THE ADULT
state agencies. (1) The warden department is authorized to	21	PAROLE AND PROBATION FIELD SERVICE. The supervising agency
make rules for the administration of the provision of this	22	shall be responsible for those activities of a furloughed
act withthe-advice-and-consent-of-the-board in accordance	23	prisoner for which it is responsible in the written furlough
with Title 82, chapter 42, R.C.M. 1947.	24	agreement.
(2) All state, county and local agencies shall	25	(2) If any prisoner released from actual prison

confinement under the furlough program fails to comply with 1 the rules and regulations of the furlough agreement, he 2 shall be called by the department or by the supervising 3 agency to appear before the department or supervising 4 agency. If a conference is not sufficient to resolve the 5 situation and if the prisoner continues in his 6 noncompliance, the-department-shall-file-an-affidavit-in-the 7 district-court-of-the-county-in--which--the--violation--took 8 9 place--charging--the--prisoner-with-a-violation-of-the-rules 10 and-regulations-of-the--furlough--agreement.---The--district court THE BOARD shall hold a hearing on the charge at which 11 the prisoner is entitled to have counsel appointed to 12 13 represent him. Upon determining that the prisoner has violated the rules and regulations of the furlough 14 agreement, the court BOARD shall order the prisoner returned 15 **1**6 to prison.

17 (3) If the department determines AFTER HAVING BEEN ADVISED BY THE SUPERVISING AGENCY OR THE ADULT PAROLE AND 13 19 PROBATION FIELD SERVICE, that a prisoner presents an immediate grave threat to the community in which he is 20 21 furloughed, it may order the prisoner returned to prison 22 before a hearing is held, but in this case a hearing on the 23 charges against the prisoner, as provided for in the above 24 subsection, must be held in the district court no later than 25 ten-(10) THIRTY (30) days after the return of the prisoner -13-HB 637

1	to the state prison.
2	(4) IF, AFTER A REASONABLE TIME, A FURLOUGHED PRISONER
3	DETERMINES THAT HIS FURLOUGH PLAN IS UNSATISFACTORY DUE TO
4	PERSONALITY CONFLICT, A VIOLATION OF HIS RIGHTS BY HIS
5	SUPERVISOR, OR A CHANGE OF INTEREST OR EMPLOYMENT STATUS,
6	THE DEPARTMENT SHALL GRANT HIM A HEARING TO DETERMINE
7	WHETHER OR NOT A NEW FURLOUGH PLAN SHOULD BE EXECUTED.
8	. (4) <u>(5)</u> If a prisoner, while not disabled from working
9	by temporary illness, is unemployed for a period of thirty
10	(30) days, or more, after his availability for employment is
11	reported in writing by the suppervising agency to the
12	department of labor and industry office serving the area in
13	which the prisoner is furloughed and to the union to which
14	the prisoner belongs, or if a prisoner has become so
15	disabled as to be unemployable, or if a prisoner is on an
16	educational furlough and has demonstrated for a period of
17	six (6) weeks or more that he is unable to benefit from
18	schooling, TREATMENT, or training, then the prisoner, the
19	department, or the supervising agency may request that a
20	conference be held with the department, the prisoner, and a
21	representative of the supervising agency to consider the
22	problem of the prisoner's unemployment, disability, or
23	inability to benefit from schooling or training. At this
24	conference the prisoner may request that his supervision be
25	transferred to another supervising agency, and a
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1 representative of the new agency may be at the conference. 2 If the conference does not result in a resolution of the problem of the prisoner's unemployment, disability, or 3 4 inability to benefit, the department may file--an--affidavit 5 in-the-district-court-of-the-county-in-which-the-prisoner-is 6 furloughedy-stating-that-the-prisoner-is-not-benefiting-from 7 the--furlough--program--and--will-not-benefit-from-continued 8 participation--in--the--program--and--requesting--a-hearing 9 REQUEST A HEARING BY THE BOARD OF PARDONS to determine an 10 alternate proposal. In this hearing the prisoner is 11 entitled to have counsel appointed to represent him. Upon 12 determining that the prisoner is not benefiting from the 13 furlough program and will not benefit from continued 14 participation in the program, the court BOARD shall order 15 the prisoner returned to the prison.

16 (5) (6) For the purpose of this act, the provisions 17 relating to escape in section 94-7-306, R.C.M. 1947, shall 18 apply, unless aggravating circumstances require a more 19 severe penalty.

 20
 Section-11.--Section-02-42027-R.C.M.-19477--is--amended

 21
 to-read-as-follows:

 22
 #82-4202:--Definitions.--Por-purposes-of-this-act:

 23
 (1)--#Agency#--means--any--board;--bureau;--commission;

 24
 department;-authority-or-officer--of--the--state--government

 25
 authorized--by--law-to-make-rules-and-to-determine-contested

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1	cases, except-that-the-provisions-ofthisactshallpot
2	apply-to-the-following:
3	(a)thelegislatureandanybrunchycommitteeor
4	officer-thereofy
5	(b)the-judicial-branches-and-any-committee-or -officer
6	thercof7
7	(c)the -governor ,exceptth atana gencyotherwise
8	covered-by-this-act-shell-not-be-exempt-because-the-governer
9	has-been-designated-as-a-member-thercof7
10	(d)thestatemilitaryestablishmentandagoncies
11	concerned-withcivildefenseandrecoveryfromhostile
12	attack;
13	(e)the-state-board-of-pardonsy-except-that-said-board
14	shallbe-subject-to-the-requirements-of-section-3-{82-4283}
15	and-5-{82-4285}-of-this-act-and-its-rules-shall-be-published
16	in-the-Montana-administrative-code-and-register;
17	(f)the-supervision-and-administration-ofanypenal;
18	mentalymedicalor-elecmosynary-institution-with-regard-to
19	the-admissiony-releasey-institutional-supervisionycustodyy
20	controlycareortreatmentofinmates,prisonersor
21	patients7exceptasprovidedinsections95-2219and
22	<u>95-22237-R.E.M1947;</u>
23	(g)theadministrationand-management-of-educational
24	institutions;
25	(h)the-financing,constructionandmaintenanceof
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1	public-works.
2	{2}#Rule"mcanseach-agency-regulation,-standard-or
3	statementofgeneralapplicabilitythatimplements;
4	interprets,orprescribeslawor-policy-or-describes-the
5	organizationy-proceduresy-orpracticerequirementsofan
6	agencyThe-term-includes-the-amondment-or-repeal-of-a-prior
7	rule;-but-does-not-include:
8	(a) statements-concerning-only-the-internal-management
9	ofan-agency-and-not-affecting-private-rights-or-procedures
10	available-to-the-public;
11	(b)declaratory-rulings-issued-pursuant-to-section10
12	{82-4218}-of-this-act;
13	{c}intra-ageney-memoranda;
14	{d}rulesrelatingtotheusesfpublicworks;
15	facilities,-streets-and-highways,-when-the-substance-of-such
16	rules-is-indicated-tothepublicbymeansofsignsor
17	signals;
18	(c) seasonal rules adopted annually relating to
19	huntingy-fishing-and-trappingwhenthereisastatutory
20	requirementforthepublicationof-such-rules7-and-rules
21	adopted-annually-relating-to-the-seasonalrecreationaluse
22	oflandsandwaters-owned-or-controlled-by-the-state-when
23	the-substance-of-such-sules-is-indicated-tothepublicby
24	means-of-signs-or-signals;
25	(#)rulesrelatingtopersonnelstandards;job
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1	classifications-or-salary-ranges-for-agency-employees;
2	(g)uniformrulesadoptedpursuanttointerstate
3	compacty-except-that-such-rules-shall-be-filed-in-accordance
4	with-section-10-{02-4210}-of-this-act-and-shall-be-published
5	in-the-Montana-administrative-code-and-register.
6	{3} #Contestedcase#meansany-proceeding-before-an
7	agency-in-which-a-determination-of-legal-rightsydutiesor
8	privileges-of-a-party-is-required-by-law-to-be-made-after-an
9	opportunityforhearingThetermincludesybut-is-not
10	restricted-toy-rate-makingy-price-fixing-and-licensing.
11	{4}"bicense"-includ es-the-whole-or-part-of-any-agency
12	permitycertificateyapprovalyregistrationycharteror
13	otherformofpermissionrequiredbylawy-but-does-not
14	include-a-license-required-solely-for-revenue-purposes;
15	(5)"bicensing"-includes-any-agency-process-respecting
16	thegrantydenialyrenewalyrevocationysuspensiony
17	annulment;-withdrawal;-limitation-or-amendment-of-a-license.
18	<pre>{6}*Party*meansanypersonoragencynamedor</pre>
19	admitted-as-a-party,-or-properly-seeking-and-entitled-asof
20	right-to-be-admitted-as-a-party;-but-nothing-herein-shall-be
21	construedto-prevent-an-agency-from-admitting-any-person-or
22	agency-as-a-party-for-limited-purposes-
23	{7}*Person*meansanyindividual;partnership;
24	corporation,-association,-governmental-subdivision-or-public
25	organization-of-any-character-other-than-an-agency-#
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1	SECTION 10. ALL RULES PROMULGATED UNDER THIS ACT SHALL
2	COMPLY WITH THE MONTANA ADMINISTRATIVE PROCEDURE ACT.
3	SECTION 11. SEVERABILITY. IF A PART OF THIS ACT IS
4	INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM THE INVALID
5	PART REMAIN IN EFFECT. IF A PART OF THIS ACT IS INVALID IN
6	ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS IN EFFECT
7	IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE
8	INVALID APPLICATIONS.

9 Section <u>12</u>. Section 95-2226, R.C.M. 1947, is repealed.

-End-

March 18, 1975

SENATE COMMITTEE ON JUDICIARY

AMENDMENTS TO HOUSE BILL NO. 637

That House Bill No. 637, third reading, be amended as follows:

- 1. Amend page 3, section 2, line 15. Following: "jail" Insert: "or tribal jail"
- 2. Amend page 4, section 3, lines 3 and 4. Following: "same" Strike: lines 3 and 4 in their entirety Insert: "."
- 3. Amend page 8. section 5, line 18. Following: "outside" Insert: "or inside"
- 4. Amend page 9, section 5, line 24. Following: "county" Insert: "or tribal"
- 5. Amend page 9, section 5, line 25. Following: "sheriff" Insert: "or tribal chief of police"
- 6. Amend page 9, section 5, line 25. Following: "county" Insert: "or reservation"
- 7. Amend page 10, section 5, line 3. Following: "sheriff" Insert: "or tribal chief of police"
- 8. Amend page 10, section 5, line 3. Following: "county" Insert: "or reservation"
- 9. Amend page 11, section 7, line 25. Following: "shall" Insert: "be encouraged to"
- 10. Amend page 13, section 9, line 11. Following: "court" Strike: line 11 in its entirety Insert: "The prisoner shall be granted a hearing on the violation within a reasonable time on or near the site of the alleged violation to determine whether a violation of the furlough agreement exists."

- 11. Amend page 13, section 9, line 12.
 Following: line 11
 Strike: "the"
 Insert: "The"
- Amend page 13, section 9, lines 13 thorugh 16. 12. Following "him" Strike: lines 13 through 16 in their entirety Insert: " at the hearing. The hearing shall be conducted by a hearing officer of the board of pardons. The prisoner on furlough shall have all opportunities provided under section 95-3220, R.C.M. 1947, pertaining to on-site hearings for parole revocation. If reasonable grounds are established for violation of the furlough agreement, the furlough shall be cancelled and the prisoner shall be returned to the prison. At the next meeting of the board of pardons after the return of the prisoner to the prison, the prisoner shall be granted a due process hearing in order to determine if the prisoner has, in fact, violated the terms of the prisoner's furlough release. If it is determined that the prisoner has, in fact, violated the terms of the prisoner's furlough, the prisoner shall remain at the prison. If the terms of the prisoner's release have not been violated, the prisoner's case shall be assigned to a parole agent and a new furlough arrangement shall be worked out."
 - 13. Amend page 13, section 9, line 24. Following: "held" Strike: "in the district court" Insert: "by the board"
 - 14. Amend page 14, section 9, line 13. Following: "and to" Strike: "the" Insert: "any"
 - 15. Amend page 19, section 10, lines 1 through 2. Strike: Section 10 in its entirety Renumber: All subsequent sections

HOUSE BILL NO. 637 1 2 INTRODUCED BY HOLMES, HUENNEKENS, MELOY, WOLFE, VINCENT, 3 JACK MOORE, JOHNSON, HALVORSON, SHELDEN, GUNDERSON, 4 DRISCOLL, KEMMIS, GUTHRIE, MCKITTRICK, BRADLEY, RASMUSSEN, 5 MERCER, SLOAN, BARDANOUVE, DUSSAULT, C.R. ANDERSON, 6 FINLEY, LORY, KENDALL, ELLIS, RICHARDS, LUEBECK, 7 O'CONNELL, KIMBLE, TEAGUE я A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE PRISONER 9 FURLOUGH PROGRAM PROVIDING FOR SUPERVISION OF PRISONERS BY 10 PUBLIC AND PRIVATE SUPERVISING AGENCIES, AND PLACING 11 RESPONSIBILITY FOR THE PROGRAM WITH THE DEPARTMENT OF 12 INSTITUTIONS BY AMENDING SECTIONS 32-4202, 95-2217 THROUGH 13 14 95-2224, R.C.M. 1947, AND REPEALING SECTION 95-2226, R.C.M. 1947." 15 16 17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 18 Section 1. Section 95-2217, R.C.M. 1947, is amended to 19 read as follows: 20 "95-2217. Prisoner furlough program -- purpose and 21 intent. The purpose and intent of this act is to establish a 22 program for the rehabilitation, education, and betterment of 23 selected prisoners confined in the state prison: to increase 24 their responsibility to society; to make it possible that 25 they may, while serving their sentences, work gainfully to

support their dependents in whole or in part; and providing 1 2 for a the minimum hourly wage required by law OR THE 3 PREVAILING RATE OF PAY FOR PERSONS EMPLOYED IN SIMILAR OCCUPATIONS BY THE SAME EMPLOYER of-one-and--40/100--+\$1,40+ 4 **dellars--an--hear** to be paid to said convicts while so 5 6 employed; continue their education or training; and at the 7 same time fulfill the obligations of the sentence of 8 imprisonment imposed; placing the establishment, regulation, 9 quidance, and control of such program under the direction of 10 the warden-of-the-state-prison department of institutions 11 with--the--edvice--and-consent-of-the-state-board-of-pardons 12 furlough-committee-orcated-in-section-4-of-this--act which. THE PRISONER program shall operate by supplementing and not 13 14 replacing established penal procedures now or hereafter 15 established by law and shall serve to extend the limits of 16 confinement for treatment as well as jurisdictional 17 This act is to be liberally construed to effect purposes. 18 the over-all objectives set forth above." 19 Section 2. Section 95-2218, R.C.M. 1947, is amended to 20 read as follows: 21 "95-2218. Definitions. Unless the context requires 22 otherwise, in this act: 23 (1) "Beard Department" means the state--beard--of 24 pardons department of institutions provided for in section 25 82A-804 82A-801;

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1	(2) "BOARD" MEANS THE BOARD OF PARDONS PROVIDED FOR IN
2	SECTION 82A-804.
3	(2) (3) "State prison" means the Montana state prison
4	at Deer Lodge and any adult correctional facility under the
5	direction of the department;
6	(3) [4] "Prisoner" means a person sentenced by a
7	district court to a term of confinement in the state prison;
8	(4) (5) "Sheriff Supervising agency" means any county
9	sheriffincludingalldeputiesorother-persons-working
10	under-his-directionorguidance federal, state, county,
11	local or private agency, Indian tribe and reservation, or
12	any person, group, association or organization approved by
13	the department to undertake the supervision of prisoners
14	participating in the furlough program;
15	(6) "Jail" means any county jail OR TRIBAL JAIL;
16	(6)"Warden <u>Furloughcommittee"</u> meansthe
17	superintendent-of-the-state-prison-appointed-by-the-board-of
18	institutions. committeeestablishedinsection-4-of-this
19	acti
20	(7) "Applicant" means any prisoner who has signed an
21	application to participate in the prisoner furlough
2 2	program."
23	Section 3. Section 95-2219, R.C.M. 1947, is amended to
24	read as follows:
25	*95-2219. Werden Department to establish program and
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1	rulesprivileges-granted-prisoners. The warden department
2	is authorized and directed to establish a furlough program
3	and rules to implement and control the samer. inaccordance
4	with-the-provisions-of-Witle-88y-shapter-48y-R.G.K1947. A
5	prisonersentencedtethe-state-prison-may-be-granted-the
6	privilege-of Rules shall include provisions for:
7	(1) Working at paid employment for a rate of pay not
8	less than oneand40/100-(61.40)-dollars-an-houry-er the
9	minimum hourly wage as required by law OR THE PREVAILING
10	RATE OF PAY FOR PERSONS EMPLOYED IN SIMILAR OCCUPATIONS BY
11	THE SAME EMPLOYER;
12	(2) Participating in an educational, TREATMENT, or
13	training program:
14	(3) Approval of supervising agency; and
15	(4) Review of determinations in furlough application.
16	Section-4There-isanewRtCtMtsectionnumbered
17	95-2219+1-that-reads-as-follows+
18	95-2219.1ereationfurloughcommittee
19	compositionThere-is-created-a-prisoner-furlough-committee
20	at-the-state-prisonIt-shall-be-composed-of-thefollowing
21	staff-members-of-the-prioen+
22	{}}The-warden-or-his-designated-representativer
23	(2)
24	(3)Applicant-s-cocial-case-worker;
25	{++Psychelogist-{or-psychiatrist};
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1	{5}Member-chosen-by-the-applicant;
2	Bachmembershallhaveanequalvoteinall
3	proceedingsThe-furlough-committee-shall-meet-on-a-regular
4	monthlyschedulewhichshallbeadopted,printedand
5	circulated-throughout-the-prisonEach-inmate-of-the-prison
6	shellbe-notified-of-any-variation-in-the-schedule-at-least
7	one-week-in-advance-of-the-rescheduled-meeting;
8	Section 4. Section 95-2220, R.C.M. 1947, is amended to
9	read as follows:
10	95-2220. Application for participation in furlough
11	program. Any prisoner confined in the state prison may make
12	application to participate in the furlough program according
13	to-rules-adopted-by-the-warden-with-the-adviceandconsent
14	oftheboard after-having-served-at least BY THE TIME THE
14 15	oftheboard after-having-served-at least BY THE TIME THE INMATE HAS SERVED one-half (1/2) of the time required to be
_	
15	INMATE HAS SERVED one-half $(1/2)$ of the time required to be
15 16	INMATE HAS SERVED one-half (1/2) of the time required to be considered for parole."
15 16 17	INMATE HAS SERVED one-half (1/2) of the time required to be considered for parole." Section-66ection-95-22217-R-C-M19477-is-amended-to
15 16 17 18	INMATE HAS SERVED one-half (1/2) of the time required to be considered for parole." Section-6Gection-95-22217-RrC.Mr-19477-is-amended-to read-as-follows:
15 16 17 18 19	INMATE HAS SERVED one-half (1/2) of the time required to be considered for parole." Section-6Section-95-22217-R-C-M19477-is-amended-to read-as-follows: #95-2221Considerationofapplicationfurlough
15 16 17 18 19 20	INMATE HAS SERVED one-half (1/2) of the time required to be considered for parole." Gestion-6Gestion-95-2222+-RrC+M++29477-is-amended-to read-as-follows: 495-222+Considerationofapplicationfurlough planconsentof-sheriff-necessary duties-of-committeet
15 16 17 18 19 20 21	INMATE HAS SERVED one-half (1/2) of the time required to be considered for parole." Section-6Section-95-22217-R+C+M++19477-is-amended-to read-as-follows: #95-2221+Considerationofapplicationfurlough planfurloughfurloughcommittee (1)Atthemonthlymeetingofthefurloughcommittee
15 16 17 18 19 20 21 22	INMATE HAS SERVED one-half (1/2) of the time required to be considered for parole." Gestion-6Gestion-95-2222+-RrC+M++19477-is-amended-to read-as-follows: 495-2222+Considerationofapplicationfurlough planfurlough planfurloughcommitteet (1)Atthemonthlymeetingofthefurloughcommittee followingthesigningofany-prisoner's-application; The
15 16 17 18 19 20 21 22 23	INMATE HAS SERVED one-half (1/2) of the time required to be considered for parole." Section-6Section-95-22217-RrC.Mr-19477-is-amended-to read-as-follows: "95-2221rConsiderationofapplicationfurlough planfurlough planconsentof-sheriff-necessary duties-of-committeer (1)Atthemonthlymeetingofthefurloughcommittee followingthesigningofany-prisoner's-application. The board the-committee shall-approve-or-deny-the-application-of

1	prisonerisconfined <u>hisfurloughplans</u> , hiscriminal
2	history7andallotherpertinentcasematerial <u>The</u>
3	following-rules-shall-be-observed-when-thecommitteemeets
4	to-consider-any-application:
5	{a}everyapplicantshall-be-allowed-to-call-two-{2}
6	witnesses-from-outside-the-institution-to-testify-as-tohis
7	generalattitudey-participation-in-self-help-activitiesy-or
8	his-character-or-job-references;
9	{b}everyapplicantshallbeallowedonesummary
10	dismissalof-any-committee-member-for-reason-of-personality
11	conflictyinwhicheventanappropriateandmutually
12	agreeable-substitute-shall-be-made;
13	{c}everyapplicantshallremain-present-during-the
14	discussion-of-his-application-by-the-committee-and-begiven
15	anoraldecision-on-his-application-before-the-adjournment
16	of-thecommitteerNothingcontainedhereinshallbe
17	construedto-allow-an-executive-session-of-the-committee-to
18	be-held-in-the-absence-of-the-applicant;
19	<u>{d}every-applicant-shall-be-viewed-singly-andshall</u>
20	berecognizedasan-individualy-with-individual-problems;
21	and-individual-capabilities;-the-decision-ofthecommittee
22	shalltake-into-account-the-potential-of-the-individual-and
23	shall-determine-the-course-which-is-most-likelytoprovide
24	optimum-benefit-to-both-society-and-the-individual;
25	(e)eachapplicantshallbeallowed-to-discuss-any

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1	specific-problem-areaswithanymemberofthefurlough
2	committeer
3	{f}a-secretary-shall-be-in-attendance-at-each-meeting
4	torecordtheentireproceedings,includingthe
5	determination-of-the-committeey-and-the-record-shall-be-sent
6	to-each-person-participating-in-the-meeting-within-ten{10}
7	daysfollowingthemeeting-and-the-original-copy-shall-be
8	filed-with-the-department.
9	{2}Iftheapplicationisapprovedythewarden
10	department shallyadoptafurlough-plan-for-the-prisoner
11	within-the-shortestpossibleperiodoftimeylocatean
12	agencycapableof-supervising-the-prisoner-applicantThe
13	supervisingagencythedepartmentyandtheprisoner
14	applicantshallenter-into-a-written-agreement-setting-out
15	the-conditions-and-purposes-of-the-furloughandspecifying
16	theresponsibilityassumedbycashof-the-partiesThe
17	agreement-shall-be-executedy-signed-by-the-parties-beforea
18	notary-publicy-in-triplicatey-with-one-copy-each-to-be-filed
19	withthecommitteeandthe-department-and-one-copy-to-be
20	retained-bytheapplicantUponthesigningofthe
21	Agreementythe-prisoner-will-be-released-to-the-supervising
22	<u>agency7</u> which-shall-constitute-an-extension-of-the-limits-of
23	confinement.
24	(3)No-prisoner-shall-be-released-without-thewritten
25	consentof-the-sheriff-of-the-county-receiving-the-prisoner
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1	If the application is denied the prisoner may reapply - after
2	six{6}monthstimerAfter-an-applicant-has-been-denied
3	three-(3)-times-hemayappealtothedepartmentfora
4	hearing-by-the-board-of-pardons-1
5	SECTION 5. SECTION 95-2221, R.C.M. 1947, IS AMENDED TO
6	READ AS FOLLOWS:
7	95-2221. Consideration of applicationfurlough
8	plannotification or consent of sheriff necessaryduties
9	of board. (1) The At the meeting of the board following the
10	signing of any prisoner's application the board shall
11	approve or deny the application of the each prisoner after
12	careful study of the prisoner's conduct,attitudeand
13	behaviorintheprison-in-which-the-prisoner-is-confined,
14	his furlough plans, criminal history, and all other
15	pertinent case material. The following rules shall be
16	observed when the board meets to consider an application:
17	(a) each applicant may call two (2) witnesses from
18	outside OR INSIDE the institution to testify as to the
19	applicant's general attitude, participation in self-help
20	activities, or his character or job references;
21	(b) each applicant shall remain present during the
22	discussion of his application by the board and be given an
23	oral decision on his application before the adjournment of
24	the board as well as a written decision including a thorough
25	statement of reasons for the decision;
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1	(c) each applicant shall be viewed singly, and shall
2	be recognized as an individual;
3	(d) each applicant shall be allowed to discuss any
4	specific problem areas with any member of the board.
5	(2) If the application is approved, the wardenshall
6	adoptafurloughplanfortheprisoner7whichshall
7	constituteanextensionofthelimitsofconfinement.
8	department shall: within the shortest possible time, locate
9	an agency capable of supervising the applicant.
10	(3) Noprisoner-shall-be-released-without-the-written
11	consent-of-the-sheriff-of-the-county-receiving-the-prisoner.
12	The supervising agency, the department, and the applicant
13	shall enter into a written agreement setting out the
14	conditions and purposes of the furlough and specifying the
15	responsibility assumed by each of the parties. The
16	agreement shall be executed, signed by the parties before a
17	notary public, in triplicate, with one copy to be filed with
18	the supervising agency and the department and one copy to be
19	retained by the applicant.
20	(4) Upon the signing of the agreement, the prisoner
21	shall be released to the supervising agency.
22	(5) Final authority in all matters pertaining to
23	prisoner furloughs is in the department.
24	(6) When an inmate is to reside in the county OR
25	TRIBAL jail, the consent of the sheriff OR TRIBAL CHIEF OF
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1	POLICE in the receiving county OR RESERVATION is necessary.
2	However, when the inmate is to reside in a community
3	corrections center or some other supervised setting the
4	sheriff OR TRIBAL CHIEF OF POLICE of the receiving county OR
5	RESERVATION shall be notified.
6	(7) If the application is denied the prisoner may
7	reapply after six (6) months' time. After an applicant has
8	been denied three (3) times he may appeal to the department
9	for a hearing."
10	Section <u>6</u> . Section 95-2222, R.C.M. 1947, is amended to
11	read as follows:
12	*95-2222. Disposition of prisoner's earnings trust
13	fund schooling costs. (1) A prisoner employed in the
14	community under a work furlough plan shall surrender-tothe
15	sheriffhis-total-carnings-less-payroll-deductions-required
16	by-lawThe-sheriff-shall-deduct-from-such-earningsinthe
17	followingorderof-priority enter into a written financial
18	agreement with the supervising agency and the department
19	concerning the acquisition and disposition of his earnings.
20	This financial agreement shall provide for the payment of:
21	(a) A standard charge for all-prisoners-determinedby
22	thecountycommissionerstobe-the-cost-to-the-county-of
23	providing food, lodging and clothing for such the prisoner
24	if incurred and if applicable;
25	(b) The actual and necessary travel and other expenses
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1 of such the prisoner under furlough from actual confinement 2 under the program; and 3 (c) Such An amount as-the-prisoner-may-be-determined 4 by-the--district--judge to pay for the support of his 5 dependents, which amount shall be paid to such the dependents; and 6 7 (d) A-minimal An allowance for personal items, and 8 other expenses or disbursements agreed upon by the prisoner 9 and the supervising agency. 10 (2) Unless the financial agreement specifically provides for other disbursement of the money, Any any 11 12 balance remaining after such deductions and payments shall be deposited to an interest-bearing account held in trust 13 14 for said the prisoner and shall be paid to him upon release. 15 (3) If no other sources of support are available, The 16 above the costs of a prisoner under furlough who is in training or school shall be the responsibility of the 17 state." 18 19 Section 7. Section 95-2223, R.C.M. 1947, is amended to read as follows: 20 21 95-2223. Administrative rules -- co-operation by

state agencies. (1) The warden <u>department</u> is authorized to make rules for the administration of the provision of this act with-the-advice-and-consent-of-the-board <u>in accordance</u> with Title 82, chapter 42, R.C.M. 1947.

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1 (2) All state, county and local agencies shall BE 2 ENCOURAGED TO co-operate with-the-warden-and-sheriff in the 3 administration of the furlough program." 4 Section 8. Section 95-2224, R.C.M. 1947, is amended to 5 read as follows: 6 *95-2224. Prisoner not agent, employee or involuntary 7 servant of-warden-or-sheriff. No prisoner employed in the 8 community under the provisions of this act shall be deemed 9 to be an agent, employee, or involuntary servant of the 10 warden--or--sheriff department or of the supervising agency 11 while released from confinement pursuant to the terms of the 12 furlough program. Abuse of this section shall be deemed 13 official misconduct pursuant to 94-7-401, R.C.M. 1947." 14 Section 9. There is a new R.C.M. section numbered 15 95-2226.1 that reads as follows: 16 95-2226.1. Responsibility department and of 17 supervising agency -- CHANGE OR revocation of furlough --18 escape. (1) The department shall be responsible for the 19 activities of a prisoner participating in a furlough program under this act. THE DEPARTMENT MAY DELEGATE JURISDICTIONAL 20 21 SUPERVISION OF WORK FURLOUGH PARTICIPANTS TO THE ADULT 22 PAROLE AND PROBATION FIELD SERVICE. The supervising agency shall be responsible for those activities of a furloughed 23 prisoner for which it is responsible in the written furlough 24 25 agreement.

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(2) If any prisoner released from actual prison 1 confinement under the furlough program fails to comply with 2 the rules and regulations of the furlough agreement, he 3 shall be called by the department or by the supervising 4 5 agency to appear before the department or supervising agency. If a conference is not sufficient to resolve the 6 7 situation and if the prisoner continues in his noncompliance, the-department-shall-file-an-affidavit-in-the 8 district-court-of-the-county-in--which--the--violation--took 9 place--sharging--the--prisoner-with-a-violation-of-the-rules 10 11 and-regulations-of-the--furlough--agreementr---The--district court THE-BOARD shall-hold-a-hearing-on-the-charge-at-which 12 13 THE PRISONER SHALL BE GRANTED A HEARING ON THE VIOLATION WITHIN A REASONABLE TIME ON OR NEAR THE SITE OF THE ALLEGED 14 VIOLATION TO DETERMINE WHETHER A VIOLATION OF THE FURLOUGH 15 AGREEMENT EXISTS. the THE prisoner is entitled to have 16 17 counsel appointed to represent him---Upon--determining--that 18 the--prisoner--has-violated-the-rules-and-regulations-of-the 19 furlough-agreementy-the-court BOARD shall-order-the-prisoner 20 returned-to-prison, AT THE HEARING. THE HEARING SHALL BE 21 CONDUCTED BY A HEARING OFFICER OF THE BOARD OF PARDONS. THE 22 PRISONER ON FURLOUGH SHALL HAVE ALL OPPORTUNITIES PROVIDED 23 UNDER SECTION 95-3220, R.C.M. 1947, PERTAINING TO ON-SITE 24 HEARINGS FOR PAROLE REVOCATION. IF REASONABLE GROUNDS ARE 25 ESTABLISHED FOR VIOLATION OF THE FURLOUGH AGREEMENT, THE -13-HB 637

1	FURLOUGH SHALL BE CANCELLED AND THE PRISONER SHALL BE
2	RETURNED TO THE PRISON. AT THE NEXT MEETING OF THE BOARD OF
3	PARDONS AFTER THE RETURN OF THE PRISONER TO THE PRISON, THE
4	PRISONER SHALL BE GRANTED A DUE PROCESS HEARING IN ORDER TO
5	DETERMINE IF THE PRISONER HAS, IN FACT, VIOLATED THE TERMS
6	OF THE PRISONER'S FURLOUGH RELEASE. IF IT IS DETERMINED
7	THAT THE PRISONER HAS, IN FACT, VIOLATED THE TERMS OF THE
8	PRISONER'S FURLOUGH, THE PRISONER SHALL REMAIN AT THE
9	PRISON. IF THE TERMS OF THE PRISONER'S RELEASE HAVE NOT
10	BEEN VIOLATED, THE PRISONER'S CASE SHALL BE ASSIGNED TO A
11	PAROLE AGENT AND A NEW FURLOUGH ARRANGEMENT SHALL BE WORKED
12	OUT.
13	(3) If the department determines AFTER HAVING BEEN
14	ADVISED BY THE SUPERVISING AGENCY OR THE ADULT PAROLE AND
15	PROBATION FIELD SERVICE, that a prisoner presents an
16	immediate grave threat to the community in which he is
17	furloughed, it may order the prisoner returned to prison
18	before a hearing is held, but in this case a hearing on the
19	charges against the prisoner, as provided for in the above
20	subsection, must be held in-the-district-court BY THE BOARD
21	no later than ten-(10) THIRTY (30) days after the return of
22	the prisoner to the state prison.
23	(4) IF, AFTER A REASONABLE TIME, A FURLOUGHED PRISONER
24	DETERMINES THAT HIS FURLOUGH PLAN IS UNSATISFACTORY DUE TO
25	PERSONALITY CONFLICT, A VIOLATION OF HIS RIGHTS BY HIS
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1	SUPERVISOR, OR A CHANGE OF INTEREST OR EMPLOYMENT STATUS,	1	in-the-district-court-of-the-county-in-which-the-prisoner-is
2	THE DEPARTMENT SHALL GRANT HIM A HEARING TO DETERMINE	2	furloughed,-stating-that-the-prisoner-is-not-benefiting-from
3	WHETHER OR NOT A NEW FURLOUGH PLAN SHOULD BE EXECUTED.	3	the-furlough-program-and-willnotbenefitframcontinued
4	(4) (5) If a prisoner, while not disabled from working	4	participationintheprogramandrequestingahearing
5	by temporary illness, is unemployed for a period of thirty	5	REQUEST A HEARING BY THE BOARD OF PARDONS to determine an
6	(30) days, or more, after his availability for employment is	6	alternate proposal. In this hearing the prisoner is
7	reported in writing by the supervising agency to the	7	entitled to have counsel appointed to represent him. Upon
8	department of labor and industry office serving the area in	8	determining that the prisoner is not benefiting from the
9	which the prisoner is furloughed and to the ANY union to	9	furlough program and will not benefit from continued
10	which the prisoner belongs, or if a prisoner has become so	10	participation in the program, the court BOARD shall order
11	disabled as to be unemployable, or if a prisoner is on an	11	the prisoner returned to the prison.
12	educational furlough and has demonstrated for a period of	12	(5) (6) For the purpose of this act, the provisions
13	six (6) weeks or more that he is unable to benefit from	13	relating to escape in section 94-7-306, R.C.M. 1947, shall
14	schooling, TREATMENT, or training, then the prisoner, the	14	apply, unless aggravating circumstances require a more
15	department, or the supervising agency may request that a	15	severe penalty.
16	conference be held with the department, the prisoner, and a	16	Section-llSection-82-4282y-RyCyMy-1947yisamended
17	representative of the supervising agency to consider the	17	to-read-as-follows+
18	problem of the prisoner's unemployment, disability, or	18	#82-42827BefinitionstFor-purposes-of-this-act+
19	inability to benefit from schooling or training. At this	19	{1}#Ageney#meansanybeardybureauycommissiony
20	conference the prisoner may request that his supervision be	20	departmenty-authority-or-officerofthestategovernment
21	transferred to another supervising agency, and a	21	authorizedbylaw-to-make-rules-and-to-determine-contested
22	representative of the new agency may be at the conference.	22	casesy-except-that-the-provisions-~ofthisactshallnot
23	If the conference does not result in a resolution of the	23	apply-to-the-following:
24	problem of the prisoner's unemployment, disability, or	24	{a}thelegislatureandanybranchcommitteeor
25	inability to benefit, the department may file-an-affidavit	25	officer-thereofy
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1	<pre>{b}the-judicial-branches-and-any-committee-or-officer</pre>
2	thereofy
3	{e}the-governor;exceptthatanagencyotherwise
4	covered-by-this-act-shall-not-be-exempt-because-the-governor
5	has-been-designated-as-a-member-thereof;
6	{d}thestatemilitaryestablishmentandagencies
7	concerned-withcivildefenseandrecoveryfromhostile
8	attacky
9	{e}the-state-board-of-pardonsy-except-that-said-board
10	shallbe-subject-to-the-requirements-of-section-3-{82-4203}
11	and-5-{82-4285}-of-this-act-and-its-rules-shall-be-published
12	in-the-Montana-administrative-code-and-register;
13	{f}the-supervision-and-administration-ofanypenal;
14	mentalymedicalor-elecmosynary-institution-with-regard-to
15	the-admissiony-releasey-institutional-supervisionycustodyy
16	controlycareortreatmentofinmatesyprisonersor
17	patients <u>exceptasprovidedinsections95-2219and</u>
18	<u>95-2223y-R+C+M+-1947</u> +
19	(g)theadministrationand-management-of-educational
20	institutions;
21	{h}the-financingyconstructionandmaintenanceof
22	public-works.
23	{2}"Rule"meanscach-agency-regulationy-standard-or
24	statementofgeneralapplicabilitythatimplements,
25	interprets,orprescribeslawor-policy-or-describes-the
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1	organization;-procedures;-orpracticerequirementsofan
2	agencyThe-term-includes-the-amendment-or-repeal-of-a-prior
3	rule7-but-does-not-include:
4	{a}statements-concerning-only-the-internal-management
5	ofan-agency-and-not-affecting-private-rights-or-procedures
6	available-to-the-public;
7	{b}declaratory-rulings-issued-pursuant-to-section18
8	{82-4218}-of-this-act7
9	{c}intra-agency-memoranda;
10	{d}rulesrelatingtotheuseofpublicworks7
11	facilities7-streets-and-highways7-when-the-substance-of-such
12	rules-is-indicated-tothepublicbymeansofsignsor
13	signals;
14	(c)seasonalrulesadoptedannuallyrelatingto
15	hunting7-fishing-and-trappingwhenthereisastatutory
16	requirementforthepublicationof-such-rules,-and-rules
17	adopted-annually-relating-to-the-seasonalrecreationaluse
18	oflandsandwaters-owned-or-controlled-by-the-state-when
19	the-substance-of-such-rules-is-indicated-tothepublicby
20	means-of-signs-or-signals;
21	(f)rulesrelatingtopersonnelstandards7job
22	classifications-or-salary-ranges-for-agency-employees;
23	{g}uniformrulesadoptedpursuanttointerstate
24	compacty-except-that-such-rules-shall-be-filed-in-accordance
25	With-section-10-{02-4210}-of-this-act-and-shall-be-published

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1	in-the-Montana-administrative-code-and-register.
2	(3)¤Contested case [#] meansany-proceeding-before-an
3	agency-in-which-a-determination-of-legal-rightsydutiesor
4	privileges-of-a-party-is-required-by-law-to-be-made-after-an
5	opportunityforhearingThetermincludesybut-is-not
6	restricted-to,-rate-making,-price-fixing-and-licensing,
7	{4}*License*-includes-the-whole-or-part-of-any-agency
8	permitycertificateyapprovalyregistrationycharteror
9	otherformofpermissionrequiredbylawy-but-does-not
10	include-a-license-required-solely-for-revenue-purposes.
11	(5)"Licensing"-includes-any-agency-process-respecting
12	thegrantydenialyrenewalyrevocationysuspensiony
13	annulmenty-withdrawaly-limitation-or-amendment-of-a-licenser
14	<pre>{6}*Party*meansanypersonoragencynamedor</pre>
15	admitted-as-a-party-or-properly-seeking-and-entitled-asof
16	right-to-be-admitted-as-a-party;-but-nothing-herein-shall-be
17	construcdto-prevent-an-agency-from-admitting-any-person-or
18	agency-as-a-party-for-limited-purposes.
19	(7)"Person"meansanyindividualypartnership ;
20	corporationy-associationy-governmental-subdivision-or-public
21	organization-of-any-character-other-than-an-agency-
22	Section-10ALL-Rubes-promulgated-under-this-act-shall
23	Comply-with-the-montana-administrative-procedure-act
24	SECTION 11. SEVERABILITY. IF A PART OF THIS ACT IS
25	INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM THE INVALID
	-19- нв 637

- 1 PART REMAIN IN EFFECT. IF A PART OF THIS ACT IS INVALID IN
- 2 ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS IN EFFECT
- 3 IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE
- 4 INVALID APPLICATIONS.
- 5 Section <u>12</u>. Section 95-2226, R.C.M. 1947, is repealed. -End-

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1 HOUSE BILL NO. 637 2 INTRODUCED BY HOLMES, HUENNEKENS, MELOY, W(LPE, VINCENT, з JACK HOOPE, JOHNSON, HALVORSON, SHELDEN, GUNDERSON, 4 DRISCOLL, KENNIS, GUTHRIE, ECKITTRICK, BLADLEY, RASHUSSEN, 5 MERCER. SLOAN. BARDANOUVE, DUSSAULT, C.B. ANDERSON, 6 FIBLEY, LORY, KENDALL, ELLIS, BICHARDS, LUBBECK, 7 O'CONVELL, KIMBLE, TENGUE 8 A BILL FOR AN ACT ENTITLED: "AN ACT TO AREND THE PRISONER 9 FURLOUGH PROGRAM PROVIDING FOR SUPERVISION OF PRISONERS BY 10 PUBLIC AND PRIVATE SUPERVISING AGENCIES, AND PLACING 11 RESPONSIBILITY FOR THE PROGRAM WITH THE DEPARTMENT OF 12 13 INSTITUTIONS BY AMENDING SECTIONS 82-4202, 95-2217 THROUGH 14 95-2224. R.C.M. 1947, AND REPEALING SECTION 95-2226. R.C.M. 1947." 15 16 17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HONTANA: Section 1. Section 95-2217, R.C.M. 1947, is amended to 18 19 read as follows: #95-2217. Prisoner furlough program --- purpose and 20 intent. The purpose and intent of this act is to establish a 21 22 program for the rehabilitation, education, and betterment of 23 selected prisoners confined in the state prison; to increase 24 their responsibility to society; to make it possible that 25 they may, while serving their sentences, work gainfully to

1 support their dependents in whole or in part; and providing 2 for a the minimum hourly wage required by law OB THE 3 PREVAILING RATE OF PAY FOR PERSONS EMPLOYED IN SIMILAR 4 OCCUPATIONS BY THE SAME ESPLOYBE of one-and 40/100-(\$1.40) 5 dollars an hear to be paid to said convicts while so employed; continue their education or training; and at the б 7 same time fulfill the obligations of the sentence of R imprisonment imposed; placing the establishment, regulation, q guidance, and control of such program under the direction of 10 the warden of the state prison department of institutions with-the advice and concent of the state beard of pardons 11 12 furlowsh compittee created is section 4 of this act which. 13 THE PRISONER program shall operate by supplementing and not 14 replacing established penal procedures now or hereafter 15 established by law and shall serve to extend the limits of 16 confinement for treatment as vell as jurisdictional 17 purposes. This act is to be liberally construed to effect 18 the over-all objectives set forth above." 19 Section 2. Section 95-2218, B.C.M. 1947, is amended to 20 read as follows: 21 "95-2218. Definitions. Unless the context requires 22 otherwise, in this act: 23 (1) "Beard Department" means the state-beard-of pardons department of institutions provided for in section 24

-2-

REFERENCE BILL 4/18/15 Second Printing - Governor's Amendments Included

25

823 804 823 801;

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1	(2) "BOARD" MEANS THE BOARD OF PARDONS PROVIDED FOR IN
2	SECTION 821-804.
3	(2) <u>(3)</u> "State prison" means the Montana state prison
4	at Deer Lodge and any adult correctional facility under the
5	direction of the department;
6	(3) <u>(4)</u> ■Prisoner = means a person sentenced by a
7	district court to a term of confinement in the state prison;
8	(4) (5) "Shemiff Supervising agency" means any county
9	cheriff-isoluding-all-deputico-or-other-pergens-working
10	under his direction or guidance federal, state, county,
11	local or private agency, Indian tribe and reservation, or
12	any person, group, association or organization approved by
13	the department to undertake the supervision of prisoners
14	participating in the furlough program;
15	(5) (6) "Jail" means any county jail OR TRIBAL JAIL;
16	(6) ^mWarden <u>Fyrloyds</u> committeeⁿ means the
17	superintendent of the state prises appointed by the board of
18	institutions. <u>committee ostablished in section 4 of this</u>
19	asta
20	(7) "Applicant" means any prisoner who has signed an
21	application to participate in the prisoner furlough
22	program. [#]
23	Section 3. Section 95-2219, B.C.M. 1947, is amended to
24	read as follows:
25	*95-2219. Warden <u>Department</u> to establish program an d
	3 HB 637

r .

1	lules privileges granted prisoners. The warden department
2	is authorized and directed to establish a furlough program
3	and rules to implement and control the same r_{1} is accordance
4	<u>with the provisions of Title 82, chapter 42, by G.M. 1947.</u> A
5	prisoner contended to the state prison may be granted the
6	privilege of <u>Bules shall include provisions for</u> :
7	(1) Working at paid employment for a rate of pay not
8	less than one and 40/100 (\$1,40) dollars an hour, or <u>the</u>
9	minimum hourly wage as required by law OF THE PREVAILING
10	RATE OF PAY FOR PERSONS EMPLOYED IN SIMILAR OCCUPATIONS BY
11	THE SAME EMPLOYER;
12	(2) Participating in an educational <u>, TREATHERT,</u> or
13	training program <u>;</u>
14	[3] Approval of supervising agency; and
15	(4) Review of determinations in furlough application."
16	Scotion 4. There is a new R.C.M. Scotion numbered
17	95-2219.1 that reads as follows:
18	95-2219.1. Creation of furlough cossittee
19	compositionThere-is-oreated-a-prisoner-furlough-committee
20	at the state prices. It shall be composed of the following
21	staff-seabers of the prices:
22	{1}The warden or his designated representative;
23	(2)Baployaest-cousseler,
24	(3)- Applicant 's social case worker;
25	(4) Psychologist- (or-psychiatrist) ;
	-4 BB 637

2	Bachmombershallhaveamequalyotoimall
3	proceedingsThe-furlough-committee-shall-meet-on-a-regular
4	monthly-cohedule-which-chall-be-adoptedy-printed and
5	circulated throughout the prices. Back issate of the prices
6	shall—be notified of any variation in the schedule at least
7	one week in advance of the resonated meeting.
8	Section 4. Section 95-2220, R.C.M. 1947, is amended to
9	read as follows:
10	*95-2220. Application for participation in furlough
11	program. Any prisoner confined in the state prison may make
12	application to participate in the furlough program according
13	to rules adopted by the wardes with the advice and consent
14	of the board after having served at least BY THE THE THE
15	INMATE HAS SERVED one-half (1/2) of the time required to be
1 6	considered for parole."
17	Scotion-6 Section-95-2221, B.C.M. 1947, is amended to
18	read as follows:
19	#95-2221
20	plan consent of shoriff neconsenty duties of committee.
21	(1) <u>At the monthly secting of the furlough committee</u>
22	following_the_signing_of_any_prisoner_sapplication, The
23	board <u>the committee</u> shall approve or dony the application of
24	the <u>cach</u> prisonor after—careful—study—of—the—prisoner ¹ s
25	conduct, attitude and behavior in the prison in which the
	5 HB 637

(5) -- Ecabor chosen by the applicant.

1

1	prisoner is confined hip furlough plans, his crisinal
2	history, and all other pertinent case material. The
3	following rules shall be observed when the committee meets
4	to consider app application.
5	
6	<u>withcoses from ontoide the institution to tostify as to his</u>
7	<u>qeactal attitude, participation in self-help activities, or</u>
8	
9	The proven of the received one sussays
-	
10	dipaised of apy compittee member for reapon of persopality
11	conflict, in which event an appropriate and sutually
12	agreeable substitute chall be made1
13	(c) ctert_applicant_shall_renain_present_during_the
14	discussion of his application by the committee and be given
15	an oral decipion on his application before the adjournment
16	of the compittee. Nothing contained hereis shall be
17	construct to allow an excoutive session of the committee to
18	be held in the absence of the applicant,
19	(d) every appliquet shall be viewed singly, and shall
20	<u>be recognized as an individual, with individual problems,</u>
21	and individual capabilities; the desision of the committee
22	shall take into account the potential of the individual and
23	shall determine the course which is most likely to provide
24	optipus benefit to both pociety and the individual;
25	fe}cachapplicastshall-beallowed to discuss-asy
	-6 BB 637

1	specific problem areas with any member of the furlough
2	corrittee1
3	<u>(f) a secretary shall be is attendance at each secting</u>
4	to <u>record</u> the estire proceedings, including the
5	determination of the committee, and the record shall be sent
6	to cash person perticipating in the secting within ten (10)
7	darg following the ageting and the original copy shall be
8	filed with the department.
9	{2} If the application is approved, the warden
10	department shall, adopt a furlough plan for the prisoner
11	<u>Fithin the shortest possible period of tipe, locate ap</u>
12	accast supul of supervising the prisener applicant. The
13	supervising agency, the department, and the prisoner
14	applicant shall opter into a written agreement setting out
15	the conditions and purposes of the furlough and specifying
16	the responsibility accured by each of the parties. The
17	agreement shall be executed, signed by the parties before_a
18	Botary public, in triplicate, with one copy cach to be filed
19	vith the committee and the department and one copy to be
20	retained by the applicant. Upon the signing of the
21	agreement. the pricemer will be released to the supervising
22	ageney, which chall-constitute an extension of the limits of
23	COLTINGERS.
24	{3}#0-pricence-shall-be-released-without-thewritten
25	concent of the sheriff of the county receiving the prisoner
	-7- HB 637

1	If the application is denied the prisoner may reapply after
2	siz-{6}gonthotimehfter an applicant has been-denied
3	three (3) times be may appeal to the department for a
4	bearing by the board of pardons.
5	SECTION 5. SECTION 95-2221, R.C.S. 1947, IS AMENDED TO
6	BEAD AS POLLOWS:
7	*95-2221. Consideration of application-furlough
8	plan- <u>notification or</u> consent of sheriff necessary <u>duties</u>
9	of board. (1) The <u>At the meeting of the board following the</u>
10	signing of any prisoner's application the board shall
11	approve or deny the application of the <u>each</u> prisoner after
12	careful study of the prisoner's conducty attitude and
13	behavior-in-the prison in which the prisoner is confinedy
14	his furlough plans, criminal history, and all other
15	pertinent case material. <u>The following rules shall be</u>
16	observed when the board meets to consider an application;
17	(a) each applicant may call two (2) witnesses from
18	<u>outside OR INSIDE the institution to testify as to the</u>
19	applicant's general attitude, participation in self-help
20	activities, or his character or tob references;
21	{b} caob applicant shall remain present during the
22	disoussion of his application by the board and be given an
23	oral decision on his application before the adjournment of
24	<u>the board as yell as a written depision including a thorough</u>
25	statement of reasons for the desisions
	—8— НВ 637

l	(B) AN APPLICANT MAY REMAIN PRESENT DURING THE BOARD
2	PROCEEDINGS ON HIS APPLICATION; HOWEVER, THE BOARD MAY MEET
3	IN EXECUTIVE SESSION WITHOUT THE APPLICANT FOR FINAL
4	DECISION ON THE APPLICATION;
5	(C) THE BOARD SHALL CAUSE THE APPLICANT TO BE NOTIFIED
б	OF ITS DECISION IMMEDIATELY AND SHALL PROVIDE THE APPLICANT
7	WITH A WRITTEN DECISION INCLUDING A THOROUGH STATEMENT OF
8	THE REASONS FOR THE DECISION WITHIN TWO (2) DAYS FOLLOWING
9	ADJOURNMENT;
10	(c) (D) each applicant shall be viewed singly, and
11	shall be recognized as an individual;
12	(d) (E) each applicant shall be allowed to discuss
13	any specific problem areas with any member of the board.
14	(2) If the application is approved, the wardenshall
15	adoptafurloughplanfortheprisonerywhichshall
16	constituteanextensionofthelimitsofconfinement:
17	department shall: within the shortest possible time, locate
18	an agency capable of supervising the applicant.
19	(3) Noprisoner-shall-be-released-without-the-written
20	consent-of-the-sheriff-of-the-county-receiving-the-prisoner.
21	The supervising agency, the department, and the applicant
22	shall enter into a written agreement setting out the
23	conditions and purposes of the furlough and specifying the
24	responsibility assumed by each of the parties. The
25	agreement shall be executed, signed by the parties before a
	-9- нв 637

1	notary public, in triplicate, with one copy to be filed with
2	the supervising agency and the department and one copy to be
3	retained by the applicant.
4	(4) Upon the signing of the agreement, the prisoner
5	shall be released to the supervising agency.
6	(5) Final authority in all matters pertaining to
7	prisoner furloughs is in the departnept.
8	(6) When an inmate is to reside in the county OF
9	TRIBAL jail, the consent of the sheriff OF TRIBAL CHIEP OF
10	POLICE in the receiving county Ok BESERVATION is necessary.
11	Rowewer, when the inmate is to reside in a community
12	corrections center or some other supervised setting the
13	sheriff OR TRIBAL CHIFF OF POLICE of the receiving county Ok
14	RESERVATION shall be notified.
15	(7) If the application is denied the prisoner may
16	reapply after six (6) months' time. After an applicant has
17	been denied three (3) times he may appeal to the department
18	for a hearing."
19	Section 6. Section 95-2222, R.C.M. 1947, is amended to
20	read as follows:
21	#95-2222. Disposition of prisoner's earnings — trust
22	fund — schooling costs. (1) A prisoner employed in the
23	community under a work furlough plan shall currender to the
24	cheriff his total carnings less payroll doductions required
25	by law. The sheriff shall deduct from such carmings in the
	-10- HB 637

1 following order of priority enter into a written financial 2 agreement with the supervising agency and the department concerning the acquisition and disposition of his earnings. 3 ۵ This financial agreement shall provide for the payment of: 5 (a) A standard charge for all prisoners determined by 6 the gounty country to be the cost to the country of 7 providing food. lodging and clothing for such the prisoner 8 if incurred and if applicable; 9 (b) The actual and necessary travel and other expenses 10 of such the prisoner under furlough from actual confinement 11 under the program: and 12 (c) Such An amount as the prisoner may be determined 13 by the district judge to pay for the support of his 14 dependents, which amount shall be paid to such the 15 dependents; and 16 (d) A-minimal An allowance for personal items, and

17 other expenses or disbursements agreed upon by the prisoner
 18 and the supervising agency.

19 (2) Unless the financial agreement specifically 20 provides for other disbursement of the money, any 21 balance remaining after such deductions and payments shall 22 be deposited to an interest-bearing account held in trust 23 for said the prisoner and shall be paid to him upon release. 24 (3) If no other sources of support are available, The 25 above the costs of a prisoner under furlough who is in -11-HB 637 training or school shall be the responsibility of the
state."

3 Section 7. Section 95-2223, R.C.M. 1947, is amended to 4 read as follows:

state agencies. (1) The wardow department is authorized to
state agencies. (1) The wardow department is authorized to
make rules for the administration of the provision of this
act with the advice and consent of the board in accordance
with Title B2, chapter 42, R.C.B. 1947.
(2) All state, county and local agencies shall <u>BE</u>

11 <u>EFCOURAGED_TO</u> co-operate with the warden and sheriff in the 12 administration of the furlough program."

13 Section 8. Section 95-2224, R.C.E. 1947, is amended to
14 read as follows:

15 "95-2224. Prisoner not agent, employee or involuntary servant of warden or shoriff. No prisoner employed in the 16 17 community under the provisions of this act shall be deemed 18 to be an agent, employee, or involuntary servant of the 19 wardon or shoriff department or of the supervising agency while released from confinement pursuant to the terms of the 20 21 furlough program. Abuse of this section shall be deemed 22 official misconduct pursuant to 94-7-401, B.C.M. 1947." 23 Section 9. There is a new R.C.B. section numbered 24 95-2226.1 that reads as follows:

25 95-2226.1. kesponsibility of department and -12-- HB 637

supervising agency --- CHANGE OR revocation of furlough ----1 escape. (1) The department shall be responsible for the 2 з activities of a prisoner participating in a furlough program under this act. THE DEPARTMENT MAY DELEGATE _JURISDICTIONAL 4 5 SUPERVISION OF WORK FURLOUGH PARTICIFARTS TO THE ADULT PAROLE AND PROBATION FIRLD SERVICE. The supervising agency 6 7 shall be responsible for those activities of a furloughed 8 prisoner for which it is responsible in the written furlough 9 agreement.

10 (2) If any prisoner released from actual prison confinement under the furlough program fails to comply with 11 the rules and regulations of the furlough agreement, he 12 shall be called by the department or by the supervising 13 agency to appear before the department or supervising 14 15 agency. If a conference is not sufficient to resolve the 16 situation and if the prisoner continues in his noncompliance, the department shall-file an affidavit-in-the 17 18 district -- court -- of -- the -- county -- in - which the - violation took place charging the priceser with a violation of the rules 19 20 and regulations of the furlough agreement. The district 21 court THE-BOABD shall bold a hearing on the charge at which 22 THE PRISONER SHALL BE GRANTED & BEABING ON THE VIOLATION 23 WITHIB A LEASONABLE TIME ON OR NEAR THE SITE OF THE ALLEGED VIOLATION TO DETERMINE WHETHER & VIOLATION OF THE PUBLOUGH 24 25 AGREENENT EXISTS. the THE prisoner is entitled to have -13-HB 637

1	counsel appointed to represent hi s. Upon determining that
2	the prisoner-has-violated the rales and regulations of the
3	farlough-agreement, the court BOLRD shall-order the pricemer
4	TOTUTED to PRICOR. AT THE REARING. THE HEARING SHALL BE
5	CONDUCTED BY A HEARING OFFICER OF THE BOARD OF PARDONS. THE
6	PRISONER ON FUBLOUGH SHALL HAVE ALL OPPORTUNITIES PROVIDED
7	UNDER SECTION 95-3220. B.C.M. 1947, PERTAINING TO ON-SITE
8	HEARINGS FOR PAROLE REVOCATION. IF BEASONABLE GROUNDS ARE
9	ESTABLISHED FOR VIOLATION OF THE FURLOUGH AGREEMENT, THE
10	PURLOUGH SHALL BE CANCELLED AND THE PEISONER SHALL BE
11	BETUREED TO THE PRISON. AT THE NEXT MEETING OF THE BOARD OF
12	PARDONS AFTER THE RETURN OF THE PRISONER TO THE PRISON, THE
13	PRISONER SHALL BE GRANTED A DUE PROCESS HEARING IN ORDER TO
14	DETERMINE IF THE PRISONEE HAS, IN PACT, VIOLATED THE TELES
15	OP THE PRISONER'S FURLOUGH RELEASE. IF IT IS DETERMINED
16	THAT THE PHISONER HAS, IN PACT, VIOLATED THE TERMS OF THE
17	PRISONER'S FORLOUGH, THE PRISONER SHALL REMAIN AT THE
18	PRISON. IF THE TELMS OF THE PRISONER'S FELBASE HAVE NOT
19	BEEN VIOLATED, THE FRISONEL'S CASE SHALL BE ASSIGNED TO A
20	PAROLE AGENT AND A NEW FURLOUGH ARRANGEMENT SHALL BE WORKED
21	<u>007.</u>
22	(3) If the department determines <u>APTER HAVING BEEN</u>
23	ADVISED BY THE SUPERVISING AGENCY OB THE ADULT PAROLE AND
24	<u>PROBATION FIELD SERVICE.</u> that a prisoner presents an
25	immediate grave threat to the community in which he is
	-14- BB 637

1 furloughed, it may order the prisoner returned to prison 2 before a hearing is held, but in this case a hearing on the 3 charges against the prisoner, as provided for in the above 4 subsection, must be held in the district court <u>BY THE BOARD</u> 5 no later than ton (10) <u>THIRTY (30)</u> days after the return of 6 the prisoner to the state prison.

7 <u>141 IP, AFTER A REASONABLE TIKE, A FURLOUGHED PRISONER</u> 8 <u>DETERMINES THAT HIS FURLOUGH PLAN IS UNSATISFACTORY DUE TO</u> 9 <u>PERSONALITY CONFLICT, A VIOLATION OP HIS KIGHTS BY HIS</u> 10 <u>SUPERVISOR, OR A CHANGE OF INTEREST OF EMPLOYMENT STATUS</u>, 11 <u>THE DEPARTMENT SHALL GRANT HIE A HEADING TO DETERMINE</u> 12 <u>WHETHER OR NOT A NEW FURLOUGH PLAN SHOULD BE EXECUTED</u>.

13 (4) (5) If a prisoner, while not disabled from working 14 by temporary illness, is unemployed for a period of thirty 15 (30) days, or more, after his availability for employment is 16 reported in writing by the supervising agency to the department of labor and industry office serving the area in 17 18 which the prisoner is furloughed and to the ANY union to 19 which the prisoner belongs, or if a prisoner has become so 20 disabled as to be unemployable, or if a prisoner is on an 21 educational furlough and has demonstrated for a period of 22 six (6) weeks or more that he is unable to benefit from 23 schooling, TREATBENT, or training, then the prisoner, the 24 department. or the supervising agency may request that a 25 conference be held with the department, the prisoner, and a -15-**EB 637**

1 representative of the supervising agency to consider the 2 problem of the prisoner's unemployment, disability, or inability to benefit from schooling or training. At this 3 conference the prisoner may request that his supervision be 4 5 transferred to another supervising agency. and a representative of the new agency may be at the conference. б 7 If the conference does not result in a resolution of the 8 problem of the prisoner's unemployment, disability, or 9 inability to benefit, the department may file an affidavit in the district court of the county in which the prisoner is 10 11 furlowshed. Gtating that the pricency is not benefiting from the furloagh program and will not benefit from continued 12 13 participation-in-the-program-and--requesting-a--hearing 14 REQUEST & HEARING BY THE BOARD OF PARDONS to determine an alternate proposal. In this hearing the prisoner is 15 entitled to have counsel appointed to represent him. Upon 16 determining that the prisoner is not benefiting from the 17 18 furlough program and will not benefit from continued participation in the program, the sourt BOARD shall order 19 20 the prisoner returned to the prison. (5) (6) For the purpose of this act, the provisions 21

relating to escape in section 94-7-306, B.C.M. 1947, shall
apply, unless aggravating circumstances require a more
severe penalty.

25 Section 11. Section 82-4202, L.C.H. 1947, is archaed -16- BB 637

HB 0637/04

1	to read as follows:
2	#82-4202. Definitions. For purposes of this acts
3	{1}
4	department, authority or officer of the state government
5	authorised by law to make sules and to determine contested
6	cases, except-that the provisions of this act shall not
7	apply to the following+
8	(a)-the-legislature-and-any-branch,-committee-or
9	officer-thereof;
10	(b)the-judicial-branches-and any sometitee-or officer
11	thereof;
12	(c) the governer, except that an agency otherwise
13	covered-by-this-act-chall-not-be-exempt-because-the-governor
14	has been designated as a member thereof ;
15	(d) the state silitary establishment and agenoise
16	concorned with civil defense and recovery from hostile
17	attack;
18	{o}- the state board of pardons, except that said board
19	shall be subject to the reguirements of section 3 [82-4203]
20	and-5 [82-4205] of this act and its rules shall be published
21	in the Sontana administrative code and register;
22	(f)- the supervision-and administration-of any -penal,
23	scatal, addigal or electorypary institution-with regard to
24	the admission, release, institutional supervision, - custody,
25	coatrol,dareortreatmentofinmates,prisoversor
	-17 HB 637

1	pationto <u>, ercept as provided in sections 95-2219 and</u>
2	95-2222, R.C.B. 1947,
3	{g}theadministrationand-management of educational
4	isotitatiosa;
5	{h} the financing, construction and maintenance of
6	public works.
7	{2}Bulc=scandcach-agency-regulation, standard or
8	statoment-of-general-applicability-that-implements
9	interprets, or prescribes law or policy or describes the
10	organization, procedures, or practice requirezents of an
11	agency. The term includes the amendment or repeal of a prior
12	rule, but does sot include:
13	{a}statements-concerning-coly-the-internal-management
14	of an agoney and not affecting private rights or procedures
15	available-to-the-public;
16	{b}- declaratory rulings issued pursuant to section -18
17	[82-4218] of this act;
18	{0} istra-agency-acaoranda;
19	{d}rulosrelatingtotheuseofpublic-works/
20	facilities, streets and highways, when the substance of such
21	Fules is indicated to the public by sease of signs or
22	signals;
23	{e} scassal rules adopted annually relating to
24	bunting, fighing and trapping, whon there is a statutory
25	regairenest for the publication of such rules, and rules
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1	adopted annually rolating to the geasonal represtional use
2	of-lands and waters owned or controlled by the state when
3	the substance of such rules is indicated to the public by
4	Boabs of signals;
5	(f) - rules - relating - to - personnal - standards, - job
6	classifications or salary ranges for agency employees;
7	{}} waifors rules adopted pursuant to interstate
8	compacty except that such rules shall be filed in accordance
9	with section 10 [82 4210] of this act and shall be published
10	in the Bontana-administrative code and register.
11	{3}#Contented once#-means any proceeding before an
12	agenøy in which a deternination of legal rights, duties or
13	privileges of a party is required by law to be made after an
14	opportunity for bearing. The term includes, but is not
15	restricted to, rate making, price figing and licensing.
16	(4) "License" includes the whole or part of any agency
17	pormit, certificate, approval, registration, sharter or
18	other form of permission required by lawy but does not
1 9	isolude a livence required cololy for revenue purposes.
20	(5)"Licensing" includes any agenoy process respecting
21	the grant, denial, reneval, revocation, suspension,
22	assulmenty withdrawaly limitation or amondmont of a licenser
23	(6) "Party" acars any person or agency-named or
24	ad aitted as a party, or proporly seeking and entitled as of
25	right to be admitted as a party; but nothing herein shall be
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1	construed to prevent an agency from admitting any person or
2	agensy as a party for limited purposes.
3	(7) — "Person" — ecans — any — iadivid aal , — yartaership,
4	corporation, association, governmental subdivision or public
5	organizetion of any charactor other than an agency."
6	SECTION 10, ALL BULES PROPOLGATED UNDER THIS ACT SHALL
7	CONPLETESTES DOUTLY ADDIDIOTRATIVE DEOCEDURE ACT.
8	SECTION 11. SEVERABILITY, IF & PART OF THIS ACT IS
9	INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM THE INVALID
10	PART BERAIN IN REFECT. IP & PART OF THIS ACT IS INVALID IN
11	ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS IN EFFECT
12	IN ALL VALID APPLICATIONS THAT AND SEVERABLE FROM THE
13	INVALID APPLICATIONS.
14	Section <u>12</u> . Section 95-2226, B.C.B. 1947, is repealed.

-End-

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