

House Bill 245

In The House

January 15, 1981	Introduced and referred to Committee on State Administration.
January 17, 1981	Fiscal note requested.
January 20, 1981	Fiscal note returned.
January 29, 1981	Committee recommend bill do not pass.

1 HOUSE BILL NO. 245
2 INTRODUCED BY Grand Menahan

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO TRANSFER THE POWERS
5 AND DUTIES RELATING TO THE SUPERVISION OF PAROLEES AND
6 PROBATIONERS FROM THE DEPARTMENT OF INSTITUTIONS TO THE
7 BOARD OF PARDONS; AMENDING SECTIONS 46-23-103, 46-23-108,
8 46-23-1001 THROUGH 46-23-1004, 46-23-1011, AND 46-23-1021
9 THROUGH 46-23-1023, MCA."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 46-23-103, MCA, is amended to read:

13 "46-23-103. Definitions. Unless the context requires
14 otherwise, in this chapter the following definitions apply:

15 (1) "Board" means the board of pardons provided for in
16 2-15-2302.

17 (2) "Department" means the department of institutions
18 provided for in Title 2, chapter 15, part 23.

19 (3) "Executive clemency" refers to the powers of the
20 governor as provided by section 12 of Article VI of the
21 constitution of Montana.

22 (4) "Parole" means the release to the community of a
23 prisoner by the decision of the board prior to the
24 expiration of his term, subject to conditions imposed by the
25 board and subject to supervision of the ~~department--of~~

1 institutions board."

2 Section 2. Section 46-23-108, MCA, is amended to read:

3 "46-23-108. Records and reports -- confidentiality.

4 The department shall keep a record of the board's acts and
5 decisions available to the public. However, all social
6 records, including the presentence report, the preparole
7 report, and the supervision history obtained in the
8 discharge of official duty by the department or the board,
9 are confidential and may not be disclosed directly or
10 indirectly to anyone other than the members of the board or
11 a judge. The board or a court may, in its discretion, when
12 the best interests or welfare of a particular defendant or
13 prisoner makes such action desirable or helpful, permit the
14 inspection of the social record or any parts thereof by the
15 prisoner or his attorney."

16 Section 3. Section 46-23-1001, MCA, is amended to
17 read:

18 "46-23-1001. Definitions. As used in this part, unless
19 the context requires otherwise, the following definitions
20 apply:

21 (1) "Board" means the board of pardons provided for in
22 2-15-2302.

23 (2) "Department" means the department of institutions
24 provided for in Title 2, chapter 15, part 23.

25 (3) "Parole" means the release to the community of a

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1 prisoner by the decision of the board prior to the
2 expiration of his term, subject to conditions imposed by the
3 board and subject to supervision of the department board.

4 (4) "Probation" means the release by the court without
5 imprisonment, except as otherwise provided by law, of a
6 defendant found guilty of a crime upon verdict or plea,
7 subject to conditions imposed by the court and subject to
8 the supervision of the department board upon direction of
9 the court."

10 Section 4. Section 46-23-1002, MCA, is amended to
11 read:

12 "46-23-1002. Powers of the department board. The
13 department board may:

14 (1) appoint probation and parole officers and other
15 employees necessary to administer this part;

16 (2) adopt rules for the conduct of persons placed on
17 parole or probation, except that the department board may
18 not make any rule conflicting with conditions of parole
19 imposed by the board ~~it~~ or conditions of probation imposed
20 by a court."

21 Section 5. Section 46-23-1003, MCA, is amended to
22 read:

23 "46-23-1003. Qualifications of probation and parole
24 officers. Probation and parole officers shall have at least
25 a college degree and shall have received at least some

1 formal training in behavioral sciences. Exceptions to this
2 rule must be approved by the department board. Related work
3 experience in the areas listed in 2-15-2302(2) may be
4 substituted for educational requirements at the rate of 1
5 year of experience for 9 months formal education if approved
6 by the department board. All present employees will be
7 exempt from this requirement but are encouraged to further
8 their education at the earliest opportunity."

9 Section 6. Section 46-23-1004, MCA, is amended to
10 read:

11 "46-23-1004. Duties of the department board. The
12 department board is responsible for any investigation and
13 supervision requested by ~~the board or~~ the courts ~~or~~
14 ~~necessary to carry out its duties under this part.~~ The
15 department board shall:

16 (1) divide the state into districts and assign
17 probation and parole officers to serve in these districts
18 and courts;

19 (2) obtain any necessary office quarters for the staff
20 in each district;

21 (3) assign the secretarial, bookkeeping, and
22 accounting work to the clerical employees, including receipt
23 and disbursement of money;

24 (4) direct the work of the probation and parole
25 officers and other employees;

1 (5) formulate methods of investigation, supervision,
2 recordkeeping, and reports;

3 (6) conduct training courses for the staff;

4 (7) cooperate with all agencies, public and private,
5 which are concerned with the treatment or welfare of persons
6 on probation or parole;

7 (8) administer the interstate compact for the
8 supervision of parolees and probationers."

9 Section 7. Section 46-23-1011, MCA, is amended to
10 read:

11 "46-23-1011. Supervision on probation. (1) The
12 department board shall supervise persons during their
13 probation period in accord with the conditions set by a
14 court.

15 (2) A copy of the conditions of probation shall be
16 signed by the probationer and given to him and his probation
17 and parole officer who shall report on his progress under
18 rules of the court.

19 (3) The probation and parole officer shall regularly
20 advise and consult with the probationer to encourage him to
21 improve his condition and conduct and inform him of
22 restoration of his rights on successful completion of his
23 sentence.

24 (4) The probation and parole officer may recommend and
25 a court may modify any condition of probation or suspension

1 of sentence at any time. Notice shall be given to the
2 probation and parole officer before any condition is
3 modified, and he shall be given an opportunity to present
4 his ideas or recommendations on any modification. A copy of
5 a modification of conditions shall be delivered to the
6 probation and parole officer and the probationer.

7 (5) The probation and parole officer shall keep
8 records as the department board or the court may require."

9 Section 8. Section 46-23-1021, MCA, is amended to
10 read:

11 "46-23-1021. Supervision on parole. (1) The department
12 board shall retain custody of all persons placed on parole
13 and shall supervise the persons during their parole period
14 in accord with the conditions it has set ~~by the board~~.

15 (2) The department board shall assign personnel to
16 assist persons eligible for parole in preparing a parole
17 plan. ~~Department~~ Such personnel shall make a report of their
18 efforts and findings to the board prior to its consideration
19 of the case of the eligible person.

20 (3) A copy of the conditions of his parole shall be
21 signed by the parolee and given to him and to his probation
22 and parole officer, who shall report on his progress under
23 the rules of the board.

24 (4) The probation and parole officer shall regularly
25 advise and consult with the parolee, assist him in adjusting

1 to community life, and inform him of the restoration of his
2 rights on successful completion of sentence.

3 (5) The probation and parole officer shall keep such
4 records as the board or department may require. All records
5 shall be entered in the master file of the individual."

6 Section 9. Section 46-23-1022, MCA, is amended to
7 read:

8 "46-23-1022. Parole services. (1) To assist parolees
9 the department board may, in addition to other services,
10 provide the following:

11 (a) employment counseling, job placement, and
12 assistance in residential placement;

13 (b) family and individual counseling and treatment
14 placement;

15 (c) financial counseling;

16 (d) vocational and educational counseling and
17 placement; and

18 (e) referral services to any other state or local
19 agencies.

20 (2) The department board may purchase necessary
21 services for a parolee if they are otherwise unavailable and
22 the parolee is unable to pay for them. It may assess all or
23 part of the costs of such services to a parolee in
24 accordance with his ability to pay for them."

25 Section 10. Section 46-23-1023, MCA, is amended to

1 read:

2 "46-23-1023. Arrest of alleged parole violator. (1) At
3 any time during release on parole or conditional release,
4 the department board may issue a warrant for the arrest of
5 the released prisoner for violation of any of the conditions
6 of release or a notice to appear to answer to a charge of
7 violation. The notice shall be served personally upon the
8 prisoner. The warrant shall authorize all officers named
9 therein to return the prisoner to the actual custody of the
10 penal institution from which he was released or to any other
11 suitable detention facility designated by the department
12 board.

13 (2) Any probation and parole officer may arrest the
14 prisoner without a warrant or may deputize any other officer
15 with power to arrest to do so by giving him a written
16 statement setting forth that the prisoner has, in the
17 judgment of the probation and parole officer, violated the
18 conditions of his release. The written statement delivered
19 with the prisoner by the arresting officer to the official
20 in charge of the institution from which the prisoner was
21 released or other place of detention shall be sufficient
22 warrant for the detention of the parolee or conditional
23 releasee. The probation and parole officer, after making an
24 arrest, shall present to the detaining authorities a similar
25 statement of the circumstances of violation.

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1 (3) Pending hearing, as provided in 46-23-1024 and
2 46-23-1025, upon any charge of violation the prisoner may,
3 if circumstances warrant, be incarcerated in the
4 institution."

-End-

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STATE OF MONTANA

REQUEST NO. 141-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 19, 19 81, there is hereby submitted a Fiscal Note for House Bill #245 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation: "An act to transfer the powers and duties relating to the supervision of parolees and probationers from the Department of Institutions to the Board of Pardons; amending sections 46-23-103, 46-23-108, 46-23-1001 through 46-23-1004, 46-23-1011, and 46-23-1021 through 46-23-1023, MCA."

Assumptions:

1. Positions at the intermediate level of supervision would also be transferred to the Board of Pardons.
2. The duties and responsibilities of the Board's Executive Director would be increased so as to require a two grade pay increase.
3. At least one additional FTE secretarial staff will be required.

Fiscal Impact:

	<u>FY82</u>	<u>FY83</u>
Personal Services	18,790	20,293
Equipment	<u>1,000</u>	---
GENERAL FUND TOTAL	<u>19,790</u>	<u>20,293</u>

Passage of this measure will cost the state \$40,083 over the biennium.

David M Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-20-81