

HB 881 INTRODUCED BY BRADLEY, ET AL.
PROVIDE FOR ADULT COMMUNITY CORRECTIONAL FACILITIES
AND PROGRAMS

3/13	INTRODUCED		
3/13	REFERRED TO APPROPRIATIONS		
3/20	HEARING		
3/21	COMMITTEE REPORT--BILL PASSED AS AMENDED		
3/25	2ND READING PASSED	79	18
3/28	3RD READING PASSED	73	17
	TRANSMITTED TO SENATE		
3/31	REFERRED TO FINANCE & CLAIMS		
4/06	HEARING		
4/07	COMMITTEE REPORT--BILL CONCURRED		
4/09	2ND READING CONCUR MOTION FAILED	21	29
4/09	2ND READING INDEFINITELY POSTPONED	29	20
4/10	RETURNED TO HOUSE NOT CONCURRED		

1 Corrections Act".

2 NEW SECTION. Section 2. Purpose. It is the purpose of
3 [this act] to:

4 (1) encourage the development of community
5 correctional facilities and programs by units of local
6 government and nongovernmental agencies;

7 (2) reduce court commitments to the state penitentiary
8 through diversion of low-risk, nonviolent felony offenders
9 to community correctional facilities and programs;

10 (3) provide a procedure by which units of local
11 government and nongovernmental agencies may provide
12 correctional services to the sentencing courts; and

13 (4) include citizen participation in the policymaking
14 and program planning related to community correctional
15 facilities and programs through the formation of local
16 corrections boards.

17 NEW SECTION. Section 3. Definitions. As used in [this
18 act], unless the context requires otherwise, the following
19 definitions apply:

20 (1) "Community correctional facility or program" means
21 a community-based or community-oriented facility or program
22 that:

23 (a) is operated by a unit of local government or a
24 nongovernmental agency; and

25 (b) provides programs and services to aid offenders

1 in:

2 (i) obtaining and holding regular employment;

3 (ii) enrolling in and maintaining academic courses;

4 (iii) participating in vocational training programs;

5 (iv) utilizing the resources of the community to meet
6 their personal and family needs;

7 (v) obtaining the benefits of specialized treatment
8 services that exist within the community; and

9 (vi) paying restitution or performing community
10 restitution to crime victims.

11 (2) "Corrections board" means a community corrections
12 board as provided in [section 5].

13 (3) "Crime of violence" means:

14 (a) a crime in which an offender uses or possesses and
15 threatens the use of a deadly weapon during the commission
16 or attempted commission of any crime, including the offense
17 of criminal homicide, deliberate homicide, aggravated
18 assault, felony assault, kidnapping, aggravated kidnapping,
19 sexual assault, robbery, arson, burglary, aggravated
20 burglary, escape, or intimidation;

21 (b) a crime in which the offender causes serious
22 bodily injury or death to a person other than himself or a
23 participant during the commission or attempted commission of
24 such crime; or

25 (c) any sexual offense in which the offender causes

1 bodily injury to the victim or uses threat, intimidation, or
2 force against the victim.

3 (4) "Department" means the department of institutions
4 provided for in 2-15-2301.

5 (5) "Nongovernmental agency" means a person, private
6 nonprofit agency, corporation, association, labor
7 organization, or other nongovernmental entity.

8 (6) "Offender" means a person who has entered a plea
9 of guilty or has been convicted of a felony. The term
10 excludes a person who has committed a crime of violence or a
11 felony for which a minimum term is fixed by statute.

12 (7) "Unit of local government" means a county, city,
13 or town.

14 NEW SECTION. Section 4. Community correctional
15 facilities and programs operated by units of local
16 government. (1) A unit of local government may establish,
17 maintain, and operate any community correctional facilities
18 and programs that it considers necessary to serve its own
19 needs or the needs of offenders who are sentenced to the
20 facility or program by a sentencing judge as provided in
21 [section 8].

22 (2) A unit of local government may enter into a
23 contract or agreement with a nongovernmental agency or
24 another unit of local government for the purpose of
25 providing community correctional facilities and programs for

1 offenders.

2 NEW SECTION. Section 5. Creation of community
3 corrections boards -- membership -- appointment -- terms --
4 compensation. (1) A unit of local government or the
5 governing bodies of two or more units of local government
6 may establish a community corrections board.

7 (2) A corrections board consists of 10 members who
8 must be appointed as follows:

9 (a) one local law enforcement officer;

10 (b) one county attorney;

11 (c) one district court judge;

12 (d) one probation officer;

13 (e) one parole officer;

14 (f) one local private employer or representative of
15 the department of labor and industry;

16 (g) one mental health professional;

17 (h) one person representing local drug and alcohol
18 treatment programs; and

19 (i) two members of the public.

20 (3) Members of the corrections board must be nominated
21 by representatives of units of local government and
22 appointed by the district court judges in the judicial
23 district in which community correctional facilities or
24 programs may be established.

25 (4) Members of the corrections board shall serve for a

1 term of 4 years.

2 (5) Members of the corrections board shall serve
3 without compensation except as otherwise decided by the
4 units of local government.

5 NEW SECTION. Section 6. Powers and duties of
6 corrections boards. (1) The corrections board may establish
7 and enforce standards for:

8 (a) the operation of community correctional facilities
9 and programs operated by the unit of local government served
10 by the corrections board; and

11 (b) the conduct of offenders placed in local community
12 correctional facilities and programs.

13 (2) The corrections board, together with the
14 department and the judicial district, shall establish
15 procedures for screening offenders who are to be placed in
16 the community correctional facility or program. The
17 screening must take into account the aptitude, attitude, and
18 social and occupational skills of the offender and the risk
19 of harm the offender may present to himself and others.

20 (3) The corrections board may accept, reject, or
21 reject after acceptance the placement of any offender in the
22 community correctional facility or program. If an offender
23 is rejected by the corrections board after initial
24 acceptance, the offender must remain in the custody of the
25 corrections board for a reasonable period of time pending

1 receipt of appropriate orders for the transfer of the
2 offender.

3 NEW SECTION. Section 7. Community correctional
4 facilities and programs operated by nongovernmental
5 agencies. (1) Except as provided in subsection (2), a
6 nongovernmental agency may establish, maintain, and operate
7 a community correctional facility or program for the purpose
8 of providing services to:

9 (a) a unit of local government as provided in [section
10 4]; or

11 (b) a judicial district as provided in [section 8].

12 (2) A nongovernmental agency is prohibited from
13 establishing a community correctional facility or program
14 unless approved by the local community corrections board.

15 (3) A nongovernmental agency may enter into a contract
16 or agreement to provide services to a unit of local
17 government or a judicial district. Such contract or
18 agreement must provide for strict accountability procedures
19 and practices for the conduct and supervision of offenders
20 assigned or sentenced to a facility or program operated by a
21 nongovernmental agency.

22 (4) A nongovernmental agency operating a community
23 correctional facility or program may accept, reject, or
24 reject after acceptance the placement of any offender in the
25 facility or program pursuant to a contract or agreement with

1 a unit of local government or a judicial district. If an
 2 offender is rejected by the nongovernmental agency after
 3 initial acceptance and the offender is a court referral, the
 4 offender must be remanded to the custody of a probation
 5 officer.

6 NEW SECTION. Section 8. Authority of sentencing judge
 7 to utilize community correctional facilities or programs.

8 (1) A sentencing judge may order placement of a nonviolent
 9 felony offender in a community correctional facility or
 10 program operated by a unit of local government or a
 11 nongovernmental agency. Such program or facility may be
 12 utilized for persons who have:

- 13 (a) entered a plea of guilty;
- 14 (b) been convicted and are awaiting sentence; or
- 15 (c) been sentenced, including those persons who have
 16 been granted probation.

17 (2) Placement of an offender in a community
 18 correctional facility or program may be ordered only if:

19 (a) the community correctional facility or program is
 20 operated by a unit of local government or a nongovernmental
 21 agency that has entered into a contract or agreement with
 22 the judicial district to provide community correctional
 23 services for offenders; and

- 24 (b) funding for the placement is available.
- 25 (3) The probation officers for the judicial district

1 shall include in their presentence report to the sentencing
 2 judge recommendations for utilization of any community
 3 correctional facility or program that has been approved for
 4 use by the judicial district.

5 (4) The probation officers for the judicial district
 6 shall have general supervisory authority over all offenders
 7 placed in a community correctional facility or program as
 8 provided for in this section.

9 (5) A judicial district may contract for services with
 10 any unit of local government or nongovernmental agency that
 11 has established a community correctional facility or
 12 program. However, prior to entering into a contract with a
 13 nongovernmental agency, the judicial district shall submit
 14 the contract to the governing body of all units of local
 15 government in the judicial district for their review and
 16 recommendations.

17 NEW SECTION. Section 9. Powers and responsibilities
 18 of department -- rulemaking authority. The department shall:

19 (1) with the active and full participation of the
 20 local corrections board, establish minimum standards for
 21 community correctional facilities and programs operated by a
 22 unit of local government or a nongovernmental agency that
 23 has entered into an agreement or contract with a judicial
 24 district to provide services for offenders;

25 (2) review and evaluate all community correctional

1 facilities and programs funded under [this act], subject to
2 the requirements established in [section 12];

3 (3) prescribe accounting and reporting standards for
4 all units of local government and nongovernmental agencies
5 receiving funds under [this act];

6 (4) reimburse units of local government or
7 nongovernmental agencies for community correctional services
8 at a rate to be established by legislative appropriation;

9 (5) adopt rules necessary to carry out the provisions
10 of [this act].

11 NEW SECTION. Section 10. Offender payments. (1) An
12 offender placed in a community correctional facility or
13 program under [this act] shall execute a written contract or
14 agreement setting forth the terms and conditions for
15 placement in the facility or program. Such contract or
16 agreement may provide that a portion of any money received
17 from employment of the offender be set aside for payment of
18 the following expenses in order of the priority in which
19 they appear below:

20 (a) reimbursement to a unit of local government or a
21 nongovernmental agency for the room and board provided at a
22 residential community corrections facility or program;

23 (b) victim restitution ordered by the sentencing
24 court, which may not exceed 20% of the offender's net
25 employment income;

1 (c) deposits to a savings account or fund to be used
2 by the offender for general living expenses following his
3 release from the community correctional facility or program;
4 and

5 (d) payment of family support.

6 (2) In a community correctional facility or program,
7 the offender has the primary obligation to obtain
8 employment, but the department of labor and industry shall
9 provide assistance to the offender in obtaining suitable
10 employment.

11 NEW SECTION. Section 11. Technical assistance and
12 training. The department shall contract with qualified
13 community corrections specialists to provide necessary
14 technical assistance and training to judicial districts and
15 corrections boards.

16 NEW SECTION. Section 12. Report to legislature. No
17 later than January 30, 1989, the department shall submit to
18 the legislature a report describing:

19 (1) the number of community correctional facilities
20 and programs that have been established;

21 (2) the number and type of court-referred offenders
22 assigned to community correctional facilities and programs;

23 (3) the number and type of department-referred
24 offenders assigned to community-based prerelease centers;

25 (4) the extent to which offenders have received and

1 benefited from educational or job training programs related
2 to rehabilitation;

3 (5) the rate of reconviction of community correctional
4 program participants as compared to the reconviction rates
5 for offenders sentenced to the state penitentiary;

6 (6) the amount of taxes, restitution, and room and
7 board fees paid by offenders assigned to community
8 correctional facilities and programs; and

9 (7) the number of court-referred offenders who, in the
10 absence of community correctional facilities and programs,
11 would have been sentenced to the custody of the department.

12 NEW SECTION. Section 13. Nonsupplantation of funds.
13 No funds appropriated under [this act] may be utilized to
14 support the costs of any program or activity authorized
15 under 53-1-203(3) or existing community correctional
16 programs operated by the department.

17 NEW SECTION. Section 14. Escape from custody. An
18 offender is guilty of escape from official detention and
19 shall be punished as provided in 45-7-306 if, without proper
20 authorization, he:

21 (1) fails to remain within the extended limits of his
22 confinement or fails to return within the time specified to
23 a community correctional facility to which he has been
24 assigned, sentenced, or transferred; or

25 (2) leaves his place of employment or neglects or

1 fails to return to the community correctional facility after
2 being specifically ordered to do so.

3 Section 15. Section 45-7-306, MCA, is amended to read:

4 "45-7-306. Escape. (1) "Official detention" means
5 imprisonment which resulted from a conviction for an
6 offense, confinement for an offense, confinement of a person
7 charged with an offense, detention by a peace officer
8 pursuant to arrest, detention for extradition or
9 deportation, placement in a community correctional facility
10 or program, supervision while under a supervised release
11 program, or any lawful detention for the purpose of the
12 protection of the welfare of the person detained or for the
13 protection of society. "Official detention" does not include
14 supervision of probation or parole, constraint incidental to
15 release on bail, or an unlawful arrest unless the person
16 arrested employed physical force, a threat of physical
17 force, or a weapon to escape.

18 (2) A person subject to official detention commits the
19 offense of escape if he knowingly or purposely removes
20 himself from official detention or fails to return to
21 official detention following temporary leave granted for a
22 specific purpose or limited time.

23 (3) A person convicted of the offense of escape shall
24 be:

25 (a) imprisoned in the state prison for a term not to

1 exceed 20 years if he escapes from a state prison, county
2 jail, city jail, community correctional facility or program,
3 or supervised release program by the use or threat of force,
4 physical violence, weapon, or simulated weapon;

5 (b) imprisoned in the state prison for a term not to
6 exceed 10 years if he:

7 (i) escapes from a state prison, county jail, city
8 jail, halfway house, life skills center, community
9 correctional facility or program, or supervised release
10 program; or

11 (ii) escapes from another official detention by the use
12 or threat of force, physical violence, weapon, or simulated
13 weapon; or

14 (c) fined not to exceed \$500 or imprisoned in the
15 county jail for a term not to exceed 6 months, or both, if
16 he commits escape under circumstances other than (a) and (b)
17 of this subsection."

18 Section 16. Section 46-18-201, MCA, is amended to
19 read:

20 "46-18-201. Sentences that may be imposed. (1)
21 Whenever a person has been found guilty of an offense upon a
22 verdict or a plea of guilty, the court may:

23 (a) defer imposition of sentence, excepting sentences
24 for driving under the influence of alcohol or drugs, for a
25 period, except as otherwise provided, not exceeding 1 year

1 for any misdemeanor or for a period not exceeding 3 years
2 for any felony. The sentencing judge may impose upon the
3 defendant any reasonable restrictions or conditions during
4 the period of the deferred imposition. Such reasonable
5 restrictions or conditions may include:

6 (i) jail base release;

7 (ii) jail time not exceeding 180 days;

8 (iii) conditions for probation;

9 (iv) restitution;

10 (v) payment of the costs of confinement;

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

12 (vii) payment of costs as provided in 46-18-232 and
13 46-18-233;

14 (viii) payment of costs of court appointed counsel as
15 provided in 46-8-113;

16 (ix) participation in a community correctional program
17 as provided in [section 8];

18 ~~(ix)~~(x) community service;

19 ~~(x)~~(xi) any other reasonable conditions considered
20 necessary for rehabilitation or for the protection of
21 society; or

22 ~~(xi)~~(xii) any combination of the above.

23 (b) suspend execution of sentence up to the maximum
24 sentence allowed for each particular offense. The sentencing
25 judge may impose on the defendant any reasonable

1 restrictions or conditions during the period of suspended
2 sentence. Such reasonable restrictions or conditions may
3 include any of those listed in subsections (1)(a)(i) through
4 ~~(1)(a)(xi)~~ (1)(a)(xii).

5 (c) impose a fine as provided by law for the offense;

6 (d) require payment of costs as provided in 46-18-232
7 or payment of costs of court-appointed counsel as provided
8 in 46-8-113;

9 (e) commit the defendant to a correctional institution
10 with or without a fine as provided by law for the offense;

11 (f) order the offender to be placed in a community
12 correctional facility or program as provided in [section 8];

13 ~~(f)(g)~~ impose any combination of subsections (1)(b)
14 through ~~(1)(e)~~ (1)(f).

15 (2) If any financial obligation is imposed as a
16 condition under subsection (1)(a), sentence may be deferred
17 for a period not exceeding 2 years for any misdemeanor or
18 for a period not exceeding 6 years for any felony,
19 regardless of whether any other conditions are imposed.

20 (3) If any restrictions or conditions imposed under
21 subsection (1)(a) or (1)(b) are violated, any elapsed time,
22 except jail time, is not a credit against the sentence
23 unless the court orders otherwise.

24 (4) Except as provided in 46-18-222, the imposition or
25 execution of the first 2 years of a sentence of imprisonment

1 imposed under the following sections may not be deferred or
2 suspended: 45-5-103(2), 45-5-202(2), 45-5-302(2),
3 45-5-303(2), 45-5-401~~(2)~~(1)(a), and 45-5-503(2) and (3)~~7~~
4 ~~45-9-101(2) and (3)7, 45-9-102(3)7 and 45-9-103(2)7.~~

5 (5) Except as provided in 46-18-222, the imposition or
6 execution of the first 10 years of a sentence of
7 imprisonment imposed under 45-5-102(2) may not be deferred
8 or suspended.

9 ~~(6) Except as provided in 46-18-222, imposition of~~
10 ~~sentence in a felony case may not be deferred in the case of~~
11 ~~a defendant who has been convicted of a felony on a prior~~
12 ~~occasion whether or not the sentence was imposed, imposition~~
13 ~~of the sentence was deferred, or execution of the sentence~~
14 ~~was suspended.~~

15 ~~(7)(6)~~ If the victim was less than 16 years old, the
16 imposition or execution of the first 30 days of a sentence
17 of imprisonment imposed under 45-5-502(3), 45-5-503,
18 45-5-504, 45-5-505, or 45-5-507 may not be deferred or
19 suspended. Section 46-18-222 does not apply to the first 30
20 days of such imprisonment."

21 NEW SECTION. Section 17. Appropriation. (1) There is
22 appropriated to the department of institutions from the
23 general fund \$1,500,000 for the biennium ending June 30,
24 1989, for the purpose of carrying out the provisions of this
25 act.

1 (2) The appropriation contained in subsection (1)
2 includes adequate funds to pay for the services of two
3 30-bed residential community correctional facilities, at a
4 rate not to exceed \$35 per day for each court-referred
5 offender at an average daily occupancy rate of 90% for each
6 facility.

7 (3) Five percent of the appropriation provided for in
8 subsection (1) is reserved for staff development, staff
9 training, and technical assistance for the department,
10 judicial districts, and local corrections boards.

11 NEW SECTION. Section 18. Effective date. This act is
12 effective July 1, 1987.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 881

3 House Appropriations Committee

4

5 A statement of intent is required for this bill because
6 section 9 grants the department of institutions authority to
7 adopt rules necessary to carry out the provisions of this
8 act.

9 It is the intent of the legislature that the department
10 adopt regulations and standards for the operation of
11 community correctional facilities and programs. In adopting
12 such rules, the department shall comply with the
13 requirements established under section 9. In addition, the
14 department should consider the goals of this act, which are:

15 (1) to reduce reliance upon the Montana state prison
16 for detention of low-risk, nonviolent felony offenders;

17 (2) to increase services to offenders to help them
18 become productive members of society;

19 (3) to require offenders to pay restitution to crime
20 victims;

21 (4) to impose upon offenders responsibility for
22 payment of a portion of the costs of their room and board at
23 community correctional facilities;

24 (5) to decentralize authority from state government to
25 local governments;

1 (6) to stimulate local participation in the
2 establishment of community correctional facilities and
3 programs;

4 (7) to reduce the long-term costs of adult
5 corrections; and

6 (8) to reduce court commitments to the state prison,
7 thereby reducing the long-term capital construction costs
8 for the Montana state prison and other correctional
9 facilities.

10 To ensure the success of the community correctional
11 program, the department, when contracting for services,
12 should consider a potential service provider's knowledge,
13 background, and special expertise in the area of
14 postconviction diversion community correctional programs.

15 Prior to adopting rules under this act, the department
16 should examine community corrections programs established in
17 other states, especially in the states of Colorado, Iowa,
18 Minnesota, Oregon, and Wyoming. In addition, the input of
19 potential service providers should be encouraged during the
20 rulemaking process.

1 HOUSE BILL NO. 881
 2 INTRODUCED BY BRADLEY, REGAN, GIACOMETTO,
 3 MILLER, SPAETH, DONALDSON, HARPER, BOYLAN
 4
 5 A BILL FOR AN ACT ENTITLED: "THE MONTANA ADULT COMMUNITY
 6 CORRECTIONS ACT; AUTHORIZING LOCAL GOVERNMENTS AND PRIVATE
 7 AGENCIES TO ESTABLISH AND OPERATE COMMUNITY CORRECTIONAL
 8 FACILITIES AND PROGRAMS; PROVIDING FOR CREATION OF COMMUNITY
 9 CORRECTIONS BOARDS; ALLOWING SENTENCING COURTS TO SENTENCE
 10 NONVIOLENT FELONY OFFENDERS TO A COMMUNITY CORRECTIONAL
 11 FACILITY OR PROGRAM; GRANTING THE DEPARTMENT OF INSTITUTIONS
 12 AUTHORITY TO ADOPT RULES GOVERNING OPERATION OF COMMUNITY
 13 CORRECTIONAL FACILITIES AND PROGRAMS; ESTABLISHING PENALTIES
 14 FOR OFFENDERS WHO ESCAPE FROM COMMUNITY CORRECTIONAL
 15 FACILITIES; ~~REVISING--CERTAIN--RESTRICTIONS--ON--THE--DEFERRED~~
 16 ~~IMPOSITION---OR---SUSPENDED---EXECUTION---OF---SENTENCES;~~
 17 APPROPRIATING MONEY FOR COMMUNITY CORRECTIONAL FACILITIES
 18 AND PROGRAMS; AMENDING SECTIONS 45-7-306 AND 46-18-201, MCA;
 19 AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

20
 21 WHEREAS, Article II, section 28, of the Montana
 22 Constitution requires that laws for the punishment of crime
 23 must be founded on the principles of prevention and
 24 reformation; and

25 WHEREAS, it is the state's policy that persons

1 convicted of crime should be treated in accordance with
 2 their individual characteristics, circumstances, needs, and
 3 potentialities; and

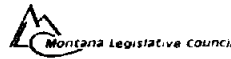
4 WHEREAS, the existing state corrections system offers
 5 few alternatives to imprisonment for offenders who have been
 6 convicted of a serious, nonviolent felony offense; and

7 WHEREAS, community correctional programs provide an
 8 alternative to imprisonment that is of value both to society
 9 and to the individual because such programs provide
 10 offenders opportunities to overcome alcohol and drug
 11 problems, to obtain employment or become involved in an
 12 educational or vocational program, to learn life skills, or
 13 to be engaged in other activities that will reduce the
 14 recidivism of offenders and enable them to be productive
 15 members of society; and

16 WHEREAS, community correctional programs are desirable
 17 because such programs cost substantially less compared to
 18 the costs of imprisonment in the Montana State Prison.

19 THEREFORE, the Legislature of the State of Montana
 20 finds it appropriate to enact legislation to establish
 21 community correctional facilities and programs for the
 22 placement and treatment of nonviolent felony offenders.

23
 24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 25 NEW SECTION. Section 1. Short title. [This act] may



1 be known and cited as the "Montana Adult Community
2 Corrections Act".

3 NEW SECTION. Section 2. Purpose. It is the purpose of
4 [this act] to:

5 (1) encourage the development of community
6 correctional facilities and programs by units of local
7 government and nongovernmental agencies;

8 (2) reduce court commitments to the state penitentiary
9 through diversion of low-risk, nonviolent felony offenders
10 to community correctional facilities and programs;

11 (3) provide a procedure by which units of local
12 government and nongovernmental agencies may provide
13 correctional services to the sentencing courts; and

14 (4) include citizen participation in the policymaking
15 and program planning related to community correctional
16 facilities and programs through the formation of local
17 corrections boards.

18 NEW SECTION. Section 3. Definitions. As used in [this
19 act], unless the context requires otherwise, the following
20 definitions apply:

21 (1) "Community correctional facility or program" means
22 a community-based or community-oriented facility or program,
23 OTHER THAN A JAIL, that:

24 (a) is operated by a unit of local government or a
25 nongovernmental agency; and

1 (b) provides programs and services to aid offenders
2 in:

3 (i) obtaining and holding regular employment;

4 (ii) enrolling in and maintaining academic courses;

5 (iii) participating in vocational training programs;

6 (iv) utilizing the resources of the community to meet
7 their personal and family needs;

8 (v) obtaining the benefits of specialized treatment
9 services that exist within the community; and

10 (vi) paying restitution or performing community
11 restitution to crime victims.

12 (2) "Corrections board" means a community corrections
13 board as provided in [section 5].

14 (3) "Crime of violence" means:

15 (a) a crime in which an offender uses or possesses and
16 threatens the use of a deadly weapon during the commission
17 or attempted commission of any crime, including the offense
18 of criminal homicide, deliberate homicide, aggravated
19 assault, felony assault, kidnapping, aggravated kidnapping,
20 sexual assault, robbery, arson, burglary, aggravated
21 burglary, escape, or intimidation;

22 (b) a crime in which the offender causes serious
23 bodily injury or death to a person other than himself or a
24 participant during the commission or attempted commission of
25 such crime; or

1 (c) any sexual offense in which the offender causes
 2 bodily injury to the victim or uses threat, intimidation, or
 3 force against the victim.

4 (4) "Department" means the department of institutions
 5 provided for in 2-15-2301.

6 (5) "Nongovernmental agency" means a person, private
 7 nonprofit agency, corporation, association, labor
 8 organization, or other nongovernmental entity.

9 (6) "Offender" means a person who has entered a plea
 10 of guilty or has been convicted of a felony. The term
 11 excludes a person who has committed a crime of violence ~~or a~~
 12 ~~felony for which a minimum term is fixed by statute.~~

13 (7) "Unit of local government" means a county, city,
 14 or town, OR CONSOLIDATED GOVERNMENT.

15 NEW SECTION. Section 4. Community correctional
 16 facilities and programs operated by units of local
 17 government. (1) A unit of local government may establish,
 18 maintain, and operate any community correctional facilities
 19 and programs that it considers necessary to serve its own
 20 needs or the needs of offenders who are sentenced to the
 21 facility or program by a sentencing DISTRICT COURT judge as
 22 provided in [section 8].

23 (2) A unit of local government may enter into a
 24 contract or agreement with ~~a nongovernmental agency or~~
 25 ~~another unit of local government~~ THE DEPARTMENT for the

1 purpose of providing community correctional facilities and
 2 programs for offenders.

3 NEW SECTION. Section 5. Creation of community
 4 corrections boards -- membership -- appointment -- terms --
 5 compensation. (1) A unit of local government or the
 6 governing bodies of two or more units of local government
 7 may establish a community corrections board.

8 (2) A corrections board consists of ~~10~~ NINE members
 9 who must be appointed as follows:

- 10 (a) one local law enforcement officer;
- 11 (b) one county attorney;
- 12 (c) one district court judge;
- 13 (d) one probation AND PAROLE officer;
- 14 ~~(e) one parole officer;~~
- 15 ~~(f)~~ (E) one local private employer or representative of
- 16 the department of labor and industry;
- 17 ~~(g)~~ (F) one mental health professional;
- 18 ~~(h)~~ (G) one person representing local drug and alcohol
- 19 treatment programs; and
- 20 ~~(i)~~ (H) two members of the public.

21 (3) Members of the corrections board must be nominated
 22 by representatives of units of local government and
 23 appointed by the district court judges in the judicial
 24 district in which community correctional facilities or
 25 programs may be established.

1 (4) Members of the corrections board shall serve for a
2 term of 4 years.

3 (5) Members of the corrections board shall serve
4 without compensation except as otherwise decided by the
5 units of local government.

6 NEW SECTION. Section 6. Powers and duties of
7 corrections boards. (1) The corrections board may establish
8 and enforce standards for:

9 (a) the operation of community correctional facilities
10 and programs operated by the unit of local government served
11 by the corrections board; and

12 (b) the conduct of offenders placed in local community
13 correctional facilities and programs.

14 (2) The corrections board, together with the
15 department and the judicial district, shall establish
16 procedures for screening offenders who are to be placed in
17 the community correctional facility or program. The
18 screening must take into account the aptitude, attitude, and
19 social and occupational skills of the offender and the risk
20 of harm the offender may present to himself and others.

21 (3) The corrections board may accept, reject, or
22 reject after acceptance the placement of any offender in the
23 community correctional facility or program. If an offender
24 is rejected by the corrections board after initial
25 acceptance, the offender must ~~remain in~~ BE REMANDED TO the

1 custody of the ~~corrections-board-for-a-reasonable-period-of~~
2 ~~time-pending-receipt-of-appropriate-orders-for-the--transfer~~
3 ~~of-the-offender: SHERIFF OF THE COUNTY IN WHICH THE FACILITY~~
4 ~~IS LOCATED. THE CORRECTIONS BOARD SHALL NOTIFY IN WRITING~~
5 ~~THE SENTENCING JUDGE WHO, AFTER CONSIDERING THE BOARD'S~~
6 ~~REASONS FOR REJECTION, SHALL APPROPRIATELY MODIFY THE~~
7 ~~SENTENCING ORDER.~~

8 NEW SECTION. Section 7. Community correctional
9 facilities and programs operated by nongovernmental
10 agencies. (1) Except as provided in subsection (2), a
11 nongovernmental agency may establish, maintain, and operate
12 a community correctional facility or program for the purpose
13 of providing services to:

14 (a) a unit of local government as provided in [section
15 4]; or

16 (b) a judicial district as provided in [section 8].

17 (2) A nongovernmental agency is prohibited from
18 establishing a community correctional facility or program
19 unless approved by the local community corrections board.

20 (3) A nongovernmental agency may enter into a contract
21 or agreement WITH THE DEPARTMENT to provide COMMUNITY
22 CORRECTIONAL services ~~to--a--unit-of-local-government-or-a~~
23 ~~judicial-district.~~ Such contract or agreement must provide
24 for strict accountability procedures and practices for the
25 conduct and supervision of offenders assigned or sentenced

1 to a facility or program operated by a nongovernmental
2 agency.

3 (4) A nongovernmental agency operating a community
4 correctional facility or program may accept, reject, or
5 reject after acceptance the placement of any offender in the
6 facility or program pursuant to a contract or agreement with
7 a unit of local government or a judicial district. If an
8 offender is rejected by the nongovernmental agency after
9 initial acceptance and the offender is a court referral, the
10 offender must be remanded to the custody of a--probation
11 officer; THE SHERIFF OF THE COUNTY IN WHICH THE FACILITY IS
12 LOCATED. THE NONGOVERNMENTAL AGENCY SHALL NOTIFY IN WRITING
13 THE SENTENCING JUDGE WHO, AFTER CONSIDERING THE AGENCY'S
14 REASONS FOR REJECTION, SHALL APPROPRIATELY MODIFY THE
15 SENTENCING ORDER.

16 NEW SECTION. Section 8. Authority of sentencing
17 DISTRICT COURT judge to utilize community correctional
18 facilities or programs. (1) A--sentencing SUBJECT TO THE
19 RESTRICTIONS CONTAINED IN THIS SECTION, A DISTRICT COURT
20 judge may order placement of a nonviolent felony offender in
21 a community correctional facility or program operated by a
22 unit of local government or a nongovernmental agency. Such
23 program-or-facility-may-be-utilized-for-persons-who-have:

- 24 (a)--entered-a-plea-of-guilty;
25 (b)--been-convicted-and-are-awaiting-sentence;-or

1 ~~(c)--been--sentenced;-including-those-persons-who-have~~
2 ~~been-granted-probation; IF A JUDGE ORDERS PLACEMENT OF AN~~
3 ~~OFFENDER IN A COMMUNITY CORRECTIONAL FACILITY OR PROGRAM,~~
4 ~~THE JUDGE SHALL INDICATE IN THE SENTENCING ORDER THAT THE~~
5 ~~OFFENDER WOULD HAVE BEEN SENTENCED TO PRISON IF THE~~
6 ~~COMMUNITY CORRECTIONAL FACILITY OR PROGRAM HAD NOT BEEN~~
7 ~~AVAILABLE.~~

8 (2) Placement of an offender in a community
9 correctional facility or program may be ordered only if:

10 (a) the community correctional facility or program is
11 operated by a unit of local government or a nongovernmental
12 agency that has entered into a contract or agreement with
13 the ~~judicial--district~~ DEPARTMENT to provide community
14 correctional services for offenders; and

15 (b) funding for the placement is available.

16 (3) A JUDGE MAY NOT ORDER PLACEMENT OF AN OFFENDER IN
17 A RESIDENTIAL COMMUNITY CORRECTIONAL FACILITY OR PROGRAM FOR
18 A PERIOD EXCEEDING 1 YEAR. AFTER COMPLETING THE RESIDENTIAL
19 COMMUNITY CORRECTIONAL PORTION OF HIS SENTENCE, AN OFFENDER
20 SHALL SERVE THE REMAINDER OF HIS SENTENCE UNDER NORMAL
21 PROBATION SUPERVISION, IF APPLICABLE.

22 (4) AN OFFENDER PLACED IN A COMMUNITY CORRECTIONAL
23 FACILITY OR PROGRAM IS NOT ELIGIBLE FOR PAROLE.

24 (3)(5) The probation AND PAROLE officers for the
25 judicial district shall include in their presentence report

1 to the sentencing DISTRICT COURT judge recommendations for
 2 utilization of any community correctional facility or
 3 program that has been approved for use by the judicial
 4 district.

5 ~~{4}--The-probation-officers-for-the--judicial--district~~
 6 ~~shall--have-general-supervisory-authority-over-all-offenders~~
 7 ~~placed-in-a-community-correctional-facility--or--program--as~~
 8 ~~provided-for-in-this-section.~~

9 ~~{5}--A-judicial-district-may-contract-for-services-with~~
 10 ~~any--unit-of-local-government-or-nongovernmental-agency-that~~
 11 ~~has--established--a--community--correctional--facility--or~~
 12 ~~program.--However,--prior-to-entering-into-a-contract-with-a~~
 13 ~~nongovernmental-agency,--the-judicial-district--shall--submit~~
 14 ~~the--contract--to--the--governing-body-of-all-units-of-local~~
 15 ~~government-in-the-judicial-district--for--their--review--and~~
 16 ~~recommendations.~~

17 NEW SECTION. Section 9. Powers and responsibilities
 18 of department -- rulemaking authority. The department shall:

19 (1) with the active and full participation of the
 20 local corrections board, establish minimum OPERATING
 21 standards for community correctional facilities and programs
 22 operated by a unit of local government or a nongovernmental
 23 agency that has entered into an agreement or contract with a
 24 judicial--district THE DEPARTMENT to provide services for
 25 offenders;

1 (2) review and evaluate all community correctional
 2 facilities and programs funded under [this act], subject to
 3 the requirements established in [section 12];

4 (3) prescribe accounting and reporting standards for
 5 all units of local government and nongovernmental agencies
 6 receiving funds under [this act];

7 (4) reimburse units of local government or
 8 nongovernmental agencies for community correctional services
 9 at a rate to be established NEGOTIATED by legislative
 10 appropriation THE DEPARTMENT;

11 (5) adopt rules necessary to carry out the provisions
 12 of [this act].

13 NEW SECTION. Section 10. Offender payments. (1) An
 14 offender placed in a community correctional facility or
 15 program under [this act] shall execute a written contract or
 16 agreement WITH THE DIRECTOR OF THE COMMUNITY CORRECTIONAL
 17 FACILITY OR PROGRAM, setting forth the terms and conditions
 18 for placement in the facility or program. Such contract or
 19 agreement may provide that a portion of any money received
 20 from employment of the offender be set aside for payment of
 21 the following expenses in order of the priority in which
 22 they appear below:

23 (a) reimbursement to a-unit-of-local-government-or-a
 24 nongovernmental-agency THE COMMUNITY CORRECTIONAL FACILITY
 25 OR PROGRAM for A PORTION OF the room and board provided at a

1 ~~residential--community-corrections~~ facility or program. THE
 2 REIMBURSEMENT RATE MUST BE REASONABLE, DEPENDING ON THE
 3 OFFENDER'S EMPLOYMENT STATUS AND OTHER FINANCIAL
 4 OBLIGATIONS, BUT UNDER NO CIRCUMSTANCES MAY THE ROOM AND
 5 BOARD CHARGES EXCEED 20% OF THE OFFENDER'S NET INCOME.

6 (b) victim restitution ordered by the sentencing
 7 court, which may not exceed 20% of the offender's net
 8 employment income;

9 (c) deposits to a savings account or fund to be used
 10 by the offender for general living expenses following his
 11 release from the community correctional facility or program;
 12 and

13 (d) payment of family support.

14 (2) In a community correctional facility or program,
 15 the offender has the primary obligation to obtain
 16 employment, but the department of labor and industry shall
 17 provide assistance to the offender in obtaining suitable
 18 employment.

19 NEW SECTION. SECTION 11. GOOD TIME ALLOWANCES. IF AN
 20 OFFENDER SUCCESSFULLY COMPLETES THE RESIDENTIAL COMMUNITY
 21 CORRECTIONAL PORTION OF HIS SENTENCE, HE ACCRUES A GOOD TIME
 22 ALLOWANCE AT A RATE OF 1 DAY OF GOOD TIME FOR EACH DAY
 23 SERVED IN THE FACILITY OR PROGRAM. THE GOOD TIME ALLOWANCE
 24 OPERATES AS A CREDIT ON THE REMAINDER OF HIS SENTENCE.

25 NEW SECTION. Section 12. Technical assistance and

1 training. The department shall contract with qualified
 2 community corrections specialists to provide necessary
 3 technical assistance and training to judicial districts and
 4 corrections boards.

5 NEW SECTION. Section 13. Report to legislature. No
 6 later than January 30, 1989, the department shall submit to
 7 the legislature a report describing:

8 (1) the number of community correctional facilities
 9 and programs that have been established;

10 (2) the number and type of court-referred offenders
 11 assigned to community correctional facilities and programs;

12 (3) the number and type of department-referred
 13 offenders assigned to community-based prerelease centers;

14 (4) the extent to which offenders have received and
 15 benefited from educational or job training programs related
 16 to rehabilitation;

17 (5) the rate of reconviction of community correctional
 18 program participants as compared to the reconviction rates
 19 for COMPARABLE offenders sentenced to the state
 20 penitentiary;

21 (6) the amount of taxes, restitution, and room and
 22 board fees paid by offenders assigned to community
 23 correctional facilities and programs; and

24 (7) the number of court-referred offenders who, in the
 25 absence of community correctional facilities and programs,

1 would have been sentenced to the custody of the department.

2 NEW SECTION. Section 14. Nonsupplantation of funds.
 3 No funds appropriated under [this act] may be utilized to
 4 support the costs of any EXISTING program or activity
 5 ~~authorized---under---53-1-203(3)---or---existing---community~~
 6 ~~correctional-programs~~ operated by the department.

7 NEW SECTION. Section 15. Escape from custody. An
 8 offender is guilty of escape from official detention and
 9 shall be punished as provided in 45-7-306 if, without proper
 10 authorization, he:

11 (1) fails to remain within the extended limits of his
 12 confinement or fails to return within the time specified to
 13 a community correctional facility to which he has been
 14 assigned, sentenced, or transferred; or

15 (2) leaves his place of employment or neglects or
 16 fails to return to the community correctional facility after
 17 being specifically ordered to do so.

18 Section 16. Section 45-7-306, MCA, is amended to read:

19 "45-7-306. Escape. (1) "Official detention" means
 20 imprisonment which resulted from a conviction for an
 21 offense, confinement for an offense, confinement of a person
 22 charged with an offense, detention by a peace officer
 23 pursuant to arrest, detention for extradition or
 24 deportation, placement in a community correctional facility
 25 or program, supervision while under a supervised release

1 program, or any lawful detention for the purpose of the
 2 protection of the welfare of the person detained or for the
 3 protection of society. "Official detention" does not include
 4 supervision of probation or parole, constraint incidental to
 5 release on bail, or an unlawful arrest unless the person
 6 arrested employed physical force, a threat of physical
 7 force, or a weapon to escape.

8 (2) A person subject to official detention commits the
 9 offense of escape if he knowingly or purposely removes
 10 himself from official detention or fails to return to
 11 official detention following temporary leave granted for a
 12 specific purpose or limited time.

13 (3) A person convicted of the offense of escape shall
 14 be:

15 (a) imprisoned in the state prison for a term not to
 16 exceed 20 years if he escapes from a state prison, county
 17 jail, city jail, community correctional facility or program,
 18 or supervised release program by the use or threat of force,
 19 physical violence, weapon, or simulated weapon;

20 (b) imprisoned in the state prison for a term not to
 21 exceed 10 years if he:

22 (i) escapes from a state prison, county jail, city
 23 jail, halfway house, life skills center, community
 24 correctional facility or program, or supervised release
 25 program; or

1 (ii) escapes from another official detention by the use
 2 or threat of force, physical violence, weapon, or simulated
 3 weapon; or

4 (c) fined not to exceed \$500 or imprisoned in the
 5 county jail for a term not to exceed 6 months, or both, if
 6 he commits escape under circumstances other than (a) and (b)
 7 of this subsection."

8 Section 17. Section 46-18-201, MCA, is amended to
 9 read:

10 "46-18-201. Sentences that may be imposed. (1)
 11 Whenever a person has been found guilty of an offense upon a
 12 verdict or a plea of guilty, the court may:

13 (a) defer imposition of sentence, excepting sentences
 14 for driving under the influence of alcohol or drugs, for a
 15 period, except as otherwise provided, not exceeding 1 year
 16 for any misdemeanor or for a period not exceeding 3 years
 17 for any felony. The sentencing judge may impose upon the
 18 defendant any reasonable restrictions or conditions during
 19 the period of the deferred imposition. Such reasonable
 20 restrictions or conditions may include:

- 21 (i) jail base release;
- 22 (ii) jail time not exceeding 180 days;
- 23 (iii) conditions for probation;
- 24 (iv) restitution;
- 25 (v) payment of the costs of confinement;

1 (vi) payment of a fine as provided in 46-18-231;
 2 (vii) payment of costs as provided in 46-18-232 and
 3 46-18-233;

4 (viii) payment of costs of court appointed counsel as
 5 provided in 46-8-113;

6 ~~(ix) participation in a community correctional program~~
 7 ~~as provided in (section 8);~~

8 ~~(ix)(X)~~ community service;

9 ~~(x)(X)~~ any other reasonable conditions considered
 10 necessary for rehabilitation or for the protection of
 11 society; or

12 ~~(xi)(XI)~~ any combination of the above.

13 (b) suspend execution of sentence up to the maximum
 14 sentence allowed for each particular offense. The sentencing
 15 judge may impose on the defendant any reasonable
 16 restrictions or conditions during the period of suspended
 17 sentence. Such reasonable restrictions or conditions may
 18 include any of those listed in subsections (1)(a)(i) through
 19 ~~(i)(a)(xi) (i)(a)(xi) (1)(A)(XI).~~

20 (c) impose a fine as provided by law for the offense;

21 (d) require payment of costs as provided in 46-18-232
 22 or payment of costs of court-appointed counsel as provided
 23 in 46-8-113;

24 (e) commit the defendant to a correctional institution
 25 with or without a fine as provided by law for the offense;

1 (f) order the offender to be placed in a community
2 correctional facility or program as provided in [section 8];

3 ~~(f)(g)~~ impose any combination of subsections (1)(b)
4 through ~~(i)(e)~~ (1)(f).

5 (2) If any financial obligation is imposed as a
6 condition under subsection (1)(a), sentence may be deferred
7 for a period not exceeding 2 years for any misdemeanor or
8 for a period not exceeding 6 years for any felony,
9 regardless of whether any other conditions are imposed.

10 (3) If any restrictions or conditions imposed under
11 subsection (1)(a) or (1)(b) are violated, any elapsed time,
12 except jail time, is not a credit against the sentence
13 unless the court orders otherwise.

14 (4) Except as provided in 46-18-222, the imposition or
15 execution of the first 2 years of a sentence of imprisonment
16 imposed under the following sections may not be deferred or
17 suspended: 45-5-103(2), 45-5-202(2), 45-5-302(2),
18 45-5-303(2), 45-5-401~~(2)~~(1)(a)(2), and 45-5-503(2) and (3)
19 ~~45-9-101(2) and (3), 45-9-102(3), and 45-9-103(2),~~
20 45-9-101(2) AND (3), 45-9-102(3), AND 45-9-103(2).

21 (5) Except as provided in 46-18-222, the imposition or
22 execution of the first 10 years of a sentence of
23 imprisonment imposed under 45-5-102(2) may not be deferred
24 or suspended.

25 ~~(6) Except as provided in 46-18-222, imposition of~~

1 ~~sentence in a felony case may not be deferred in the case of~~
2 ~~a defendant who has been convicted of a felony on a prior~~
3 ~~occasion whether or not the sentence was imposed, imposition~~
4 ~~of the sentence was deferred, or execution of the sentence~~
5 ~~was suspended.~~

6 (6) EXCEPT AS PROVIDED IN 46-18-222, IMPOSITION OF
7 SENTENCE IN A FELONY CASE MAY NOT BE DEFERRED IN THE CASE OF
8 A DEFENDANT WHO HAS BEEN CONVICTED OF A FELONY ON A PRIOR
9 OCCASION WHETHER OR NOT THE SENTENCE WAS IMPOSED, IMPOSITION
10 OF THE SENTENCE WAS DEFERRED, OR EXECUTION OF THE SENTENCE
11 WAS SUSPENDED.

12 ~~(7)(6)(7)~~ If the victim was less than 16 years old,
13 the imposition or execution of the first 30 days of a
14 sentence of imprisonment imposed under 45-5-502(3),
15 45-5-503, 45-5-504, 45-5-505, or 45-5-507 may not be
16 deferred or suspended. Section 46-18-222 does not apply to
17 the first 30 days of such imprisonment."

18 NEW SECTION. Section 18. Appropriation. (1) There is
19 appropriated to the department of institutions from the
20 general fund ~~\$1,500,000~~ \$750,000 for the biennium ending
21 June 30, 1989, for the purpose of carrying out the
22 provisions of this act.

23 (2) The appropriation contained in subsection (1)
24 includes adequate funds to pay for the services of two ONE
25 30-bed residential community correctional facilities, at a

1 ~~rate-not-to-exceed--\$35--per--day--for--each--court-referred~~
2 ~~offender--at-an-average-daily-occupancy-rate-of-90%-for-each~~
3 ~~facility.~~

4 (3) Five percent of the appropriation provided for in
5 subsection (1) is reserved for staff development, staff
6 training, and technical assistance for the department,
7 judicial districts, and local corrections boards.

8 NEW SECTION. Section 19. Effective date --
9 TERMINATION. This act is effective July 1, 1987, AND
10 TERMINATES JUNE 30, 1989.

-End-

STATEMENT OF INTENT

HOUSE BILL 881

House Appropriations Committee

A statement of intent is required for this bill because section 9 grants the department of institutions authority to adopt rules necessary to carry out the provisions of this act.

It is the intent of the legislature that the department adopt regulations and standards for the operation of community correctional facilities and programs. In adopting such rules, the department shall comply with the requirements established under section 9. In addition, the department should consider the goals of this act, which are:

- (1) to reduce reliance upon the Montana state prison for detention of low-risk, nonviolent felony offenders;
- (2) to increase services to offenders to help them become productive members of society;
- (3) to require offenders to pay restitution to crime victims;
- (4) to impose upon offenders responsibility for payment of a portion of the costs of their room and board at community correctional facilities;
- (5) to decentralize authority from state government to local governments;

(6) to stimulate local participation in the establishment of community correctional facilities and programs;

(7) to reduce the long-term costs of adult corrections; and

(8) to reduce court commitments to the state prison, thereby reducing the long-term capital construction costs for the Montana state prison and other correctional facilities.

To ensure the success of the community correctional program, the department, when contracting for services, should consider a potential service provider's knowledge, background, and special expertise in the area of postconviction diversion community correctional programs.

Prior to adopting rules under this act, the department should examine community corrections programs established in other states, especially in the states of Colorado, Iowa, Minnesota, Oregon, and Wyoming. In addition, the input of potential service providers should be encouraged during the rulemaking process.



1 HOUSE BILL NO. 881
2 INTRODUCED BY BRADLEY, REGAN, GIACOMETTO,
3 MILLER, SPAETH, DONALDSON, HARPER, BOYLAN
4
5 A BILL FOR AN ACT ENTITLED: "THE MONTANA ADULT COMMUNITY
6 CORRECTIONS ACT; AUTHORIZING LOCAL GOVERNMENTS AND PRIVATE
7 AGENCIES TO ESTABLISH AND OPERATE COMMUNITY CORRECTIONAL
8 FACILITIES AND PROGRAMS; PROVIDING FOR CREATION OF COMMUNITY
9 CORRECTIONS BOARDS; ALLOWING SENTENCING COURTS TO SENTENCE
10 NONVIOLENT FELONY OFFENDERS TO A COMMUNITY CORRECTIONAL
11 FACILITY OR PROGRAM; GRANTING THE DEPARTMENT OF INSTITUTIONS
12 AUTHORITY TO ADOPT RULES GOVERNING OPERATION OF COMMUNITY
13 CORRECTIONAL FACILITIES AND PROGRAMS; ESTABLISHING PENALTIES
14 FOR OFFENDERS WHO ESCAPE FROM COMMUNITY CORRECTIONAL
15 FACILITIES; ~~REVISING--CERTAIN--RESTRICTIONS--ON--THE--DEFERRED~~
16 ~~IMPOSITION---OR---SUSPENDED---EXECUTION---OF---SENTENCES;~~
17 APPROPRIATING MONEY FOR COMMUNITY CORRECTIONAL FACILITIES
18 AND PROGRAMS; AMENDING SECTIONS 45-7-306 AND 46-18-201, MCA;
19 AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."
20
21 WHEREAS, Article II, section 28, of the Montana
22 Constitution requires that laws for the punishment of crime
23 must be founded on the principles of prevention and
24 reformation; and
25 WHEREAS, it is the state's policy that persons

1 convicted of crime should be treated in accordance with
2 their individual characteristics, circumstances, needs, and
3 potentialities; and
4 WHEREAS, the existing state corrections system offers
5 few alternatives to imprisonment for offenders who have been
6 convicted of a serious, nonviolent felony offense; and
7 WHEREAS, community correctional programs provide an
8 alternative to imprisonment that is of value both to society
9 and to the individual because such programs provide
10 offenders opportunities to overcome alcohol and drug
11 problems, to obtain employment or become involved in an
12 educational or vocational program, to learn life skills, or
13 to be engaged in other activities that will reduce the
14 recidivism of offenders and enable them to be productive
15 members of society; and
16 WHEREAS, community correctional programs are desirable
17 because such programs cost substantially less compared to
18 the costs of imprisonment in the Montana State Prison.
19 THEREFORE, the Legislature of the State of Montana
20 finds it appropriate to enact legislation to establish
21 community correctional facilities and programs for the
22 placement and treatment of nonviolent felony offenders.
23
24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
25 NEW SECTION. Section 1. Short title. [This act] may



1 be known and cited as the "Montana Adult Community
2 Corrections Act".

3 NEW SECTION. Section 2. Purpose. It is the purpose of
4 [this act] to:

5 (1) encourage the development of community
6 correctional facilities and programs by units of local
7 government and nongovernmental agencies;

8 (2) reduce court commitments to the state penitentiary
9 through diversion of low-risk, nonviolent felony offenders
10 to community correctional facilities and programs;

11 (3) provide a procedure by which units of local
12 government and nongovernmental agencies may provide
13 correctional services to the sentencing courts; and

14 (4) include citizen participation in the policymaking
15 and program planning related to community correctional
16 facilities and programs through the formation of local
17 corrections boards.

18 NEW SECTION. Section 3. Definitions. As used in [this
19 act], unless the context requires otherwise, the following
20 definitions apply:

21 (1) "Community correctional facility or program" means
22 a community-based or community-oriented facility or program,
23 OTHER THAN A JAIL, that:

24 (a) is operated by a unit of local government or a
25 nongovernmental agency; and

1 (b) provides programs and services to aid offenders
2 in:

3 (i) obtaining and holding regular employment;

4 (ii) enrolling in and maintaining academic courses;

5 (iii) participating in vocational training programs;

6 (iv) utilizing the resources of the community to meet
7 their personal and family needs;

8 (v) obtaining the benefits of specialized treatment
9 services that exist within the community; and

10 (vi) paying restitution or performing community
11 restitution to crime victims.

12 (2) "Corrections board" means a community corrections
13 board as provided in [section 5].

14 (3) "Crime of violence" means:

15 (a) a crime in which an offender uses or possesses and
16 threatens the use of a deadly weapon during the commission
17 or attempted commission of any crime, including the offense
18 of criminal homicide, deliberate homicide, aggravated
19 assault, felony assault, kidnapping, aggravated kidnapping,
20 sexual assault, robbery, arson, burglary, aggravated
21 burglary, escape, or intimidation;

22 (b) a crime in which the offender causes serious
23 bodily injury or death to a person other than himself or a
24 participant during the commission or attempted commission of
25 such crime; or

1 (c) any sexual offense in which the offender causes
 2 bodily injury to the victim or uses threat, intimidation, or
 3 force against the victim.

4 (4) "Department" means the department of institutions
 5 provided for in 2-15-2301.

6 (5) "Nongovernmental agency" means a person, private
 7 nonprofit agency, corporation, association, labor
 8 organization, or other nongovernmental entity.

9 (6) "Offender" means a person who has entered a plea
 10 of guilty or has been convicted of a felony. The term
 11 excludes a person who has committed a crime of violence or a
 12 felony for which a minimum term is fixed by statute.

13 (7) "Unit of local government" means a county, city,
 14 or town, OR CONSOLIDATED GOVERNMENT.

15 NEW SECTION. Section 4. Community correctional
 16 facilities and programs operated by units of local
 17 government. (1) A unit of local government may establish,
 18 maintain, and operate any community correctional facilities
 19 and programs that it considers necessary to serve its own
 20 needs or the needs of offenders who are sentenced to the
 21 facility or program by a sentencing DISTRICT COURT judge as
 22 provided in [section 8].

23 (2) A unit of local government may enter into a
 24 contract or agreement with a ~~nongovernmental~~ agency or
 25 another ~~unit of local government~~ THE DEPARTMENT for the

1 purpose of providing community correctional facilities and
 2 programs for offenders.

3 NEW SECTION. Section 5. Creation of community
 4 corrections boards -- membership -- appointment -- terms --
 5 compensation. (1) A unit of local government or the
 6 governing bodies of two or more units of local government
 7 may establish a community corrections board.

8 (2) A corrections board consists of ~~10~~ NINE members
 9 who must be appointed as follows:

- 10 (a) one local law enforcement officer;
- 11 (b) one county attorney;
- 12 (c) one district court judge;
- 13 (d) one probation AND PAROLE officer;
- 14 ~~(e) one parole officer;~~
- 15 ~~(f)~~ (E) one local private employer or representative of
- 16 the department of labor and industry;
- 17 ~~(g)~~ (F) one mental health professional;
- 18 ~~(h)~~ (G) one person representing local drug and alcohol
- 19 treatment programs; and
- 20 ~~(i)~~ (H) two members of the public.

21 (3) Members of the corrections board must be nominated
 22 by representatives of units of local government and
 23 appointed by the district court judges in the judicial
 24 district in which community correctional facilities or
 25 programs may be established.

1 (4) Members of the corrections board shall serve for a
2 term of 4 years.

3 (5) Members of the corrections board shall serve
4 without compensation except as otherwise decided by the
5 units of local government.

6 NEW SECTION. Section 6. Powers and duties of
7 corrections boards. (1) The corrections board may establish
8 and enforce standards for:

9 (a) the operation of community correctional facilities
10 and programs operated by the unit of local government served
11 by the corrections board; and

12 (b) the conduct of offenders placed in local community
13 correctional facilities and programs.

14 (2) The corrections board, together with the
15 department and the judicial district, shall establish
16 procedures for screening offenders who are to be placed in
17 the community correctional facility or program. The
18 screening must take into account the aptitude, attitude, and
19 social and occupational skills of the offender and the risk
20 of harm the offender may present to himself and others.

21 (3) The corrections board may accept, reject, or
22 reject after acceptance the placement of any offender in the
23 community correctional facility or program. If an offender
24 is rejected by the corrections board after initial
25 acceptance, the offender must remain in BE REMANDED TO the

1 custody of the corrections-board-for-a-reasonable-period-of
2 time-pending-receipt-of-appropriate-orders-for-the-transfer
3 of-the-offender. SHERIFF OF THE COUNTY IN WHICH THE FACILITY
4 IS LOCATED. THE CORRECTIONS BOARD SHALL NOTIFY IN WRITING
5 THE SENTENCING JUDGE WHO, AFTER CONSIDERING THE BOARD'S
6 REASONS FOR REJECTION, SHALL APPROPRIATELY MODIFY THE
7 SENTENCING ORDER.

8 NEW SECTION. Section 7. Community correctional
9 facilities and programs operated by nongovernmental
10 agencies. (1) Except as provided in subsection (2), a
11 nongovernmental agency may establish, maintain, and operate
12 a community correctional facility or program for the purpose
13 of providing services to:

14 (a) a unit of local government as provided in [section
15 4]; or

16 (b) a judicial district as provided in [section 8].

17 (2) A nongovernmental agency is prohibited from
18 establishing a community correctional facility or program
19 unless approved by the local community corrections board.

20 (3) A nongovernmental agency may enter into a contract
21 or agreement WITH THE DEPARTMENT to provide COMMUNITY
22 CORRECTIONAL services to--a--unit-of-local-government-or-a
23 judicial-district. Such contract or agreement must provide
24 for strict accountability procedures and practices for the
25 conduct and supervision of offenders assigned or sentenced

1 to a facility or program operated by a nongovernmental
2 agency.

3 (4) A nongovernmental agency operating a community
4 correctional facility or program may accept, reject, or
5 reject after acceptance the placement of any offender in the
6 facility or program pursuant to a contract or agreement with
7 a unit of local government or a judicial district. If an
8 offender is rejected by the nongovernmental agency after
9 initial acceptance and the offender is a court referral, the
10 offender must be remanded to the custody of a--probation
11 officer. THE SHERIFF OF THE COUNTY IN WHICH THE FACILITY IS
12 LOCATED. THE NONGOVERNMENTAL AGENCY SHALL NOTIFY IN WRITING
13 THE SENTENCING JUDGE WHO, AFTER CONSIDERING THE AGENCY'S
14 REASONS FOR REJECTION, SHALL APPROPRIATELY MODIFY THE
15 SENTENCING ORDER.

16 NEW SECTION. Section 8. Authority of sentencing
17 DISTRICT COURT judge to utilize community correctional
18 facilities or programs. (1) A--sentencing SUBJECT TO THE
19 RESTRICTIONS CONTAINED IN THIS SECTION, A DISTRICT COURT
20 judge may order placement of a nonviolent felony offender in
21 a community correctional facility or program operated by a
22 unit of local government or a nongovernmental agency. Such
23 program-or-facility-may-be-utilized-for-persons-who-have:

- 24 (a)--entered-a-plea-of-guilty;
- 25 (b)--been-convicted-and-are-awaiting-sentence;-or

1 ~~(c)--been--sentenced,--including-those-persons-who-have~~
2 ~~been-granted-probation.~~ IF A JUDGE ORDERS PLACEMENT OF AN
3 OFFENDER IN A COMMUNITY CORRECTIONAL FACILITY OR PROGRAM,
4 THE JUDGE SHALL INDICATE IN THE SENTENCING ORDER THAT THE
5 OFFENDER WOULD HAVE BEEN SENTENCED TO PRISON IF THE
6 COMMUNITY CORRECTIONAL FACILITY OR PROGRAM HAD NOT BEEN
7 AVAILABLE.

8 (2) Placement of an offender in a community
9 correctional facility or program may be ordered only if:

10 (a) the community correctional facility or program is
11 operated by a unit of local government or a nongovernmental
12 agency that has entered into a contract or agreement with
13 the ~~judicial--district~~ DEPARTMENT to provide community
14 correctional services for offenders; and

15 (b) funding for the placement is available.

16 (3) A JUDGE MAY NOT ORDER PLACEMENT OF AN OFFENDER IN
17 A RESIDENTIAL COMMUNITY CORRECTIONAL FACILITY OR PROGRAM FOR
18 A PERIOD EXCEEDING 1 YEAR. AFTER COMPLETING THE RESIDENTIAL
19 COMMUNITY CORRECTIONAL PORTION OF HIS SENTENCE, AN OFFENDER
20 SHALL SERVE THE REMAINDER OF HIS SENTENCE UNDER NORMAL
21 PROBATION SUPERVISION, IF APPLICABLE.

22 (4) AN OFFENDER PLACED IN A COMMUNITY CORRECTIONAL
23 FACILITY OR PROGRAM IS NOT ELIGIBLE FOR PAROLE.

24 (3)(5) The probation AND PAROLE officers for the
25 judicial district shall include in their presentence report

1 to the sentencing DISTRICT COURT judge recommendations for
2 utilization of any community correctional facility or
3 program that has been approved for use by the judicial
4 district.

5 ~~(4) -- The probation officers for the -- judicial -- district~~
6 ~~shall -- have general supervisory authority over all offenders~~
7 ~~placed in a community correctional facility -- or -- program -- as~~
8 ~~provided for in this section.~~

9 ~~(5) -- A judicial district may contract for services with~~
10 ~~any -- unit of local government or nongovernmental agency that~~
11 ~~has -- established -- a -- community -- correctional -- facility -- or~~
12 ~~program. -- However, -- prior to entering into a contract with a~~
13 ~~nongovernmental agency, the judicial district shall -- submit~~
14 ~~the -- contract -- to -- the -- governing body of all units of local~~
15 ~~government in the judicial district -- for -- their -- review -- and~~
16 ~~recommendations.~~

17 NEW SECTION. Section 9. Powers and responsibilities
18 of department -- rulemaking authority. The department shall:

19 (1) with the active and full participation of the
20 local corrections board, establish minimum OPERATING
21 standards for community correctional facilities and programs
22 operated by a unit of local government or a nongovernmental
23 agency that has entered into an agreement or contract with a
24 ~~judicial -- district~~ THE DEPARTMENT to provide services for
25 offenders;

1 (2) review and evaluate all community correctional
2 facilities and programs funded under [this act], subject to
3 the requirements established in [section 12];

4 (3) prescribe accounting and reporting standards for
5 all units of local government and nongovernmental agencies
6 receiving funds under [this act];

7 (4) reimburse units of local government or
8 nongovernmental agencies for community correctional services
9 at a rate to be established NEGOTIATED by legislative
10 appropriation THE DEPARTMENT;

11 (5) adopt rules necessary to carry out the provisions
12 of [this act].

13 NEW SECTION. Section 10. Offender payments. (1) An
14 offender placed in a community correctional facility or
15 program under [this act] shall execute a written contract or
16 agreement WITH THE DIRECTOR OF THE COMMUNITY CORRECTIONAL
17 FACILITY OR PROGRAM, setting forth the terms and conditions
18 for placement in the facility or program. Such contract or
19 agreement may provide that a portion of any money received
20 from employment of the offender be set aside for payment of
21 the following expenses in order of the priority in which
22 they appear below:

23 (a) reimbursement to ~~a unit of local government or a~~
24 ~~nongovernmental agency~~ THE COMMUNITY CORRECTIONAL FACILITY
25 OR PROGRAM for A PORTION OF the room and board provided at a

1 ~~residential--community-corrections~~ facility or program. THE
 2 REIMBURSEMENT RATE MUST BE REASONABLE, DEPENDING ON THE
 3 OFFENDER'S EMPLOYMENT STATUS AND OTHER FINANCIAL
 4 OBLIGATIONS, BUT UNDER NO CIRCUMSTANCES MAY THE ROOM AND
 5 BOARD CHARGES EXCEED 20% OF THE OFFENDER'S NET INCOME.

6 (b) victim restitution ordered by the sentencing
 7 court, which may not exceed 20% of the offender's net
 8 employment income;

9 (c) deposits to a savings account or fund to be used
 10 by the offender for general living expenses following his
 11 release from the community correctional facility or program;
 12 and

13 (d) payment of family support.

14 (2) In a community correctional facility or program,
 15 the offender has the primary obligation to obtain
 16 employment, but the department of labor and industry shall
 17 provide assistance to the offender in obtaining suitable
 18 employment.

19 NEW SECTION. SECTION 11. GOOD TIME ALLOWANCES. IF AN
 20 OFFENDER SUCCESSFULLY COMPLETES THE RESIDENTIAL COMMUNITY
 21 CORRECTIONAL PORTION OF HIS SENTENCE, HE ACCRUES A GOOD TIME
 22 ALLOWANCE AT A RATE OF 1 DAY OF GOOD TIME FOR EACH DAY
 23 SERVED IN THE FACILITY OR PROGRAM. THE GOOD TIME ALLOWANCE
 24 OPERATES AS A CREDIT ON THE REMAINDER OF HIS SENTENCE.

25 NEW SECTION. Section 12. Technical assistance and

1 training. The department shall contract with qualified
 2 community corrections specialists to provide necessary
 3 technical assistance and training to judicial districts and
 4 corrections boards.

5 NEW SECTION. Section 13. Report to legislature. No
 6 later than January 30, 1989, the department shall submit to
 7 the legislature a report describing:

8 (1) the number of community correctional facilities
 9 and programs that have been established;

10 (2) the number and type of court-referred offenders
 11 assigned to community correctional facilities and programs;

12 (3) the number and type of department-referred
 13 offenders assigned to community-based prerelease centers;

14 (4) the extent to which offenders have received and
 15 benefited from educational or job training programs related
 16 to rehabilitation;

17 (5) the rate of reconviction of community correctional
 18 program participants as compared to the reconviction rates
 19 for COMPARABLE offenders sentenced to the state
 20 penitentiary;

21 (6) the amount of taxes, restitution, and room and
 22 board fees paid by offenders assigned to community
 23 correctional facilities and programs; and

24 (7) the number of court-referred offenders who, in the
 25 absence of community correctional facilities and programs,

1 would have been sentenced to the custody of the department.

2 NEW SECTION. Section 14. Nonsupplantation of funds.
3 No funds appropriated under [this act] may be utilized to
4 support the costs of any EXISTING program or activity
5 authorized---under---53-1-203(3)---or---existing---community
6 correctional-programs operated by the department.

7 NEW SECTION. Section 15. Escape from custody. An
8 offender is guilty of escape from official detention and
9 shall be punished as provided in 45-7-306 if, without proper
10 authorization, he:

11 (1) fails to remain within the extended limits of his
12 confinement or fails to return within the time specified to
13 a community correctional facility to which he has been
14 assigned, sentenced, or transferred; or

15 (2) leaves his place of employment or neglects or
16 fails to return to the community correctional facility after
17 being specifically ordered to do so.

18 Section 16. Section 45-7-306, MCA, is amended to read:

19 "45-7-306. Escape. (1) "Official detention" means
20 imprisonment which resulted from a conviction for an
21 offense, confinement for an offense, confinement of a person
22 charged with an offense, detention by a peace officer
23 pursuant to arrest, detention for extradition or
24 deportation, placement in a community correctional facility
25 or program, supervision while under a supervised release

1 program, or any lawful detention for the purpose of the
2 protection of the welfare of the person detained or for the
3 protection of society. "Official detention" does not include
4 supervision of probation or parole, constraint incidental to
5 release on bail, or an unlawful arrest unless the person
6 arrested employed physical force, a threat of physical
7 force, or a weapon to escape.

8 (2) A person subject to official detention commits the
9 offense of escape if he knowingly or purposely removes
10 himself from official detention or fails to return to
11 official detention following temporary leave granted for a
12 specific purpose or limited time.

13 (3) A person convicted of the offense of escape shall
14 be:

15 (a) imprisoned in the state prison for a term not to
16 exceed 20 years if he escapes from a state prison, county
17 jail, city jail, community correctional facility or program,
18 or supervised release program by the use or threat of force,
19 physical violence, weapon, or simulated weapon;

20 (b) imprisoned in the state prison for a term not to
21 exceed 10 years if he:

22 (i) escapes from a state prison, county jail, city
23 jail, halfway house, life skills center, community
24 correctional facility or program, or supervised release
25 program; or

1 (ii) escapes from another official detention by the use
 2 or threat of force, physical violence, weapon, or simulated
 3 weapon; or

4 (c) fined not to exceed \$500 or imprisoned in the
 5 county jail for a term not to exceed 6 months, or both, if
 6 he commits escape under circumstances other than (a) and (b)
 7 of this subsection."

8 Section 17. Section 46-18-201, MCA, is amended to
 9 read:

10 "46-18-201. Sentences that may be imposed. (1)
 11 Whenever a person has been found guilty of an offense upon a
 12 verdict or a plea of guilty, the court may:

13 (a) defer imposition of sentence, excepting sentences
 14 for driving under the influence of alcohol or drugs, for a
 15 period, except as otherwise provided, not exceeding 1 year
 16 for any misdemeanor or for a period not exceeding 3 years
 17 for any felony. The sentencing judge may impose upon the
 18 defendant any reasonable restrictions or conditions during
 19 the period of the deferred imposition. Such reasonable
 20 restrictions or conditions may include:

- 21 (i) jail base release;
- 22 (ii) jail time not exceeding 180 days;
- 23 (iii) conditions for probation;
- 24 (iv) restitution;
- 25 (v) payment of the costs of confinement;

1 (vi) payment of a fine as provided in 46-18-231;
 2 (vii) payment of costs as provided in 46-18-232 and
 3 46-18-233;

4 (viii) payment of costs of court appointed counsel as
 5 provided in 46-8-113;

6 ~~(ix) participation in a community correctional program~~
 7 ~~as provided in (section 8);~~

8 ~~(ix)(IX)~~ community service;

9 ~~(x)(X)~~ any other reasonable conditions considered
 10 necessary for rehabilitation or for the protection of
 11 society; or

12 ~~(xi)(XI)~~ any combination of the above.

13 (b) suspend execution of sentence up to the maximum
 14 sentence allowed for each particular offense. The sentencing
 15 judge may impose on the defendant any reasonable
 16 restrictions or conditions during the period of suspended
 17 sentence. Such reasonable restrictions or conditions may
 18 include any of those listed in subsections (1)(a)(i) through
 19 ~~(i)(a)(xi) (i)(A)(XI)~~.

20 (c) impose a fine as provided by law for the offense;

21 (d) require payment of costs as provided in 46-18-232
 22 or payment of costs of court-appointed counsel as provided
 23 in 46-8-113;

24 (e) commit the defendant to a correctional institution
 25 with or without a fine as provided by law for the offense;

1 (f) order the offender to be placed in a community
 2 correctional facility or program as provided in [section B];
 3 {f}{g} impose any combination of subsections (1)(b)
 4 through {t}{e} (1)(f).

5 (2) If any financial obligation is imposed as a
 6 condition under subsection (1)(a), sentence may be deferred
 7 for a period not exceeding 2 years for any misdemeanor or
 8 for a period not exceeding 6 years for any felony,
 9 regardless of whether any other conditions are imposed.

10 (3) If any restrictions or conditions imposed under
 11 subsection (1)(a) or (1)(b) are violated, any elapsed time,
 12 except jail time, is not a credit against the sentence
 13 unless the court orders otherwise.

14 (4) Except as provided in 46-18-222, the imposition or
 15 execution of the first 2 years of a sentence of imprisonment
 16 imposed under the following sections may not be deferred or
 17 suspended: 45-5-103(2), 45-5-202(2), 45-5-302(2),
 18 45-5-303(2), 45-5-401(2){t}{a}(2), and 45-5-503(2) and (3),
 19 45-9-101(2)---and---{3},---45-9-102(3),---and---45-9-103(2),
 20 45-9-101(2) AND (3), 45-9-102(3), AND 45-9-103(2).

21 (5) Except as provided in 46-18-222, the imposition or
 22 execution of the first 10 years of a sentence of
 23 imprisonment imposed under 45-5-102(2) may not be deferred
 24 or suspended.

25 ~~{6}---Except as provided in 46-18-222, imposition of~~

1 ~~sentence in a felony case may not be deferred in the case of~~
 2 ~~a defendant who has been convicted of a felony on a prior~~
 3 ~~occasion whether or not the sentence was imposed, imposition~~
 4 ~~of the sentence was deferred, or execution of the sentence~~
 5 ~~was suspended.~~

6 (6) EXCEPT AS PROVIDED IN 46-18-222, IMPOSITION OF
 7 SENTENCE IN A FELONY CASE MAY NOT BE DEFERRED IN THE CASE OF
 8 A DEFENDANT WHO HAS BEEN CONVICTED OF A FELONY ON A PRIOR
 9 OCCASION WHETHER OR NOT THE SENTENCE WAS IMPOSED, IMPOSITION
 10 OF THE SENTENCE WAS DEFERRED, OR EXECUTION OF THE SENTENCE
 11 WAS SUSPENDED.

12 ~~{7}{6}(7)~~ If the victim was less than 16 years old,
 13 the imposition or execution of the first 30 days of a
 14 sentence of imprisonment imposed under 45-5-502(3),
 15 45-5-503, 45-5-504, 45-5-505, or 45-5-507 may not be
 16 deferred or suspended. Section 46-18-222 does not apply to
 17 the first 30 days of such imprisonment."

18 NEW SECTION. Section 18. Appropriation. (1) There is
 19 appropriated to the department of institutions from the
 20 general fund ~~91,500,000~~ \$750,000 for the biennium ending
 21 June 30, 1989, for the purpose of carrying out the
 22 provisions of this act.

23 (2) The appropriation contained in subsection (1)
 24 includes adequate funds to pay for the services of two ONE
 25 30-bed residential community correctional facilities, at a

1 rate-not-to-exceed--\$35--per--day--for--each--court-referred
2 offender--at-an-average-daily-occupancy-rate-of-90%--for--each
3 facility.

4 (3) Five percent of the appropriation provided for in
5 subsection (1) is reserved for staff development, staff
6 training, and technical assistance for the department,
7 judicial districts, and local corrections boards.

8 NEW SECTION. Section 19. Effective date --
9 TERMINATION. This act is effective July 1, 1987, AND
10 TERMINATES JUNE 30, 1989.

-End-