

HOUSE BILL 282

Introduced by Strizich, et al.

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|------|--|
| 1/17 | Introduced |
| 1/18 | Referred to Human Services & Aging |
| 1/19 | Fiscal Note Requested |
| 1/25 | Fiscal Note Received |
| 1/27 | Hearing |
| 1/27 | Fiscal Note Printed |
| 2/07 | Committee Report--Bill Passed as Amended |
| 2/09 | 2nd Reading Passed |
| 2/09 | Taken from Engrossing |
| 2/09 | Rereferred to Appropriations |
| 3/01 | Hearing |
| 3/18 | Committee Report--Bill Not Passed |
| 3/20 | Adverse Committee Report Adopted |

HOUSE BILL NO. *282*

INTRODUCED BY *McBride* *Stacy* *Don* *Disanto*

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A DETENTION CENTER STANDARDS COMMISSION; AUTHORIZING THE COMMISSION TO ADOPT STANDARDS FOR DETENTION CENTERS AND TEMPORARY DETENTION CENTERS; PROVIDING FOR IMPLEMENTATION OF STANDARDS FOR DETENTION CENTERS AND TEMPORARY DETENTION CENTERS; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Declaration of policy. It is the policy of the state of Montana that all detention centers and temporary detention centers for adult inmates in the state conform to certain minimum standards of construction, maintenance, and operation. The commission and its staff shall regulate and assist detention centers, temporary detention centers, and governing bodies in achieving minimum standards.

Section 2. Definitions. As used in [this act], the following definitions apply:

(1) "Commission" means the detention center standards commission established in [section 3].

(2) "Detention center" means a confinement facility for adult inmates:

(a) established and maintained by a city;

(b) established and maintained by a county;

(c) established and maintained by two or more local governments; or

(d) privately owned or operated for one or more units of local government.

(3) "Detention center administrator" means the sheriff, chief of police, administrator, superintendent, director, or other individual serving as the chief executive officer of a detention center or temporary detention center.

(4) "Detention center staff" means detention officers and personnel whose duties include:

(a) ongoing supervision of the inmates in a detention center or temporary detention center; or

(b) support of the detention center or temporary detention center operation.

(5) "Detention officer" means a person or a peace officer who has full-time or part-time authority and responsibility for maintaining custody of inmates and who performs tasks related to the operation of a detention center or temporary detention center.

(6) "Governing body" means the entity having authority to establish and maintain a detention center or temporary detention center.

(7) "Inmate" means an adult person who is confined in

1 a detention center or temporary detention center.

2 (8) "Temporary detention center" means a facility for
3 the temporary detention of an arrested person for up to 72
4 hours, excluding holidays, Saturdays, and Sundays. The
5 period of time a person is held in temporary detention may
6 not exceed 96 hours.

7 **Section 3. Detention center standards commission --**
8 **allocation -- composition.** (1) There is a detention center
9 standards commission.

10 (2) The commission is allocated to the department of
11 justice for administrative purposes only as prescribed in
12 2-15-121, except that 2-15-121(2)(d) does not apply.

13 (3) The commission is composed of nine members
14 appointed by the governor. The members may be appointed from
15 recommendation lists containing at least three names from
16 each of the following:

17 (a) the Montana judges association;

18 (b) the Montana sheriffs and peace officers
19 association;

20 (c) the Montana association of counties; and

21 (d) the Montana county attorney association.

22 (4) The commission shall consist of:

23 (a) one district judge;

24 (b) one county attorney;

25 (c) one county commissioner;

1 (d) two sheriffs;

2 (e) one state legislator;

3 (f) one detention center administrator;

4 (g) one representative of the corrections division of
5 the department of institutions; and

6 (h) one person representing the general public.

7 (5) Members shall serve staggered 4-year terms. A
8 member may serve during his appointed term only if he
9 remains a member of the entity from which he was selected.
10 If a vacancy occurs, a member must be appointed to fill the
11 unexpired term in compliance with the representational
12 requirements of subsections (3) and (4). Members may
13 continue to serve past the expiration of their terms until
14 reappointed or replaced by the governor.

15 **Section 4. Meetings -- expenses -- quorum.** (1) The
16 commission shall elect a chairman and other necessary
17 officers at its initial meeting and annually thereafter.

18 (2) Commission members are not entitled to
19 compensation while attending meetings or conducting official
20 commission duties. Members are entitled to reimbursement for
21 actual and necessary expenses as provided in 2-18-501
22 through 2-18-503.

23 (3) The commission shall meet quarterly and may hold
24 additional meetings on the call of the chairman or at the
25 request of any five members.

(4) Five members constitute a quorum for the transaction of business.

Section 5. Powers and duties of commission -- standards -- rulemaking. (1) The commission shall:

(a) by rule establish standards for the construction, maintenance, and operation of:

(i) detention centers; and

(ii) temporary detention centers;

(b) perform such other duties as may be necessary to implement and enforce the standards adopted pursuant to subsection (1)(a); and

(c) assist jurisdictions in the development of detention centers and temporary detention centers complying with the adopted standards.

(2) The commission shall study, develop, and implement standards for the maintenance, operation, and construction of detention centers and temporary detention centers by July 1, 1991.

(3) The commission shall adopt rules to implement [this act], including but not limited to rules establishing standards for the construction, maintenance, and operation of detention centers and temporary detention centers.

Section 6. Maintenance standards. The standards adopted for maintenance of detention centers and temporary detention centers must include but not be limited to

standards for:

(1) maintenance of the physical plant, including the structure, its furnishings, and equipment;

(2) maintenance of all security systems, such as locks and related hardware, surveillance and detection systems, and communication systems;

(3) maintenance of fire safety systems and equipment; and

(4) procedures for maintenance of adequate levels of detention center and temporary detention center sanitation and housekeeping.

Section 7. Operation standards. The standards adopted for the operation of detention centers and temporary detention centers must include but not be limited to standards for:

(1) establishment of written policies and procedures to govern detention center and temporary detention center operations;

(2) staffing levels of detention centers and temporary detention centers;

(3) selection, training, assignment, and supervision of detention center staff;

(4) admission and release of inmates;

(5) classification and reclassification of inmates, including procedures for assignment to housing, programs,

and related activities;

(6) documentation to verify the establishment of standardized recordkeeping systems and provision of essential functions, programs, and services;

(7) establishment of systems and procedures for the handling of inmate mail, visits, and telephone services;

(8) procedures for inmate access to media, a general library, and exercise;

(9) procedures for inmate access to legal materials, legal counsel, and religion;

(10) detention center and temporary detention center security procedures and supervision of inmates;

(11) the conduct of inmates, including inmate disciplinary and grievance procedures;

(12) procedures for supervision and use of the detention center and temporary detention center arsenal, firearms, and keys;

(13) procedures for the searching of prisoners and visitors to the detention center or temporary detention center;

(14) admission of visitors, service providers, and other professionals and their supervision while in the detention center or temporary detention center; and

(15) provision of essential detention center and temporary detention center services, including:

(a) food services;

(b) medical, dental, and mental health services;

(c) laundry services;

(d) educational, counseling, and other rehabilitative services;

(e) prisoner hygiene services and access to personal hygiene items; and

(f) commissary services.

Section 8. Construction standards. (1) The standards adopted for construction of detention centers and temporary detention centers must include but not be limited to standards for the planning, design, and actual construction of new, modified, or renovated detention centers and temporary detention centers when the cost is in excess of \$50,000.

(2) Prior to contracting for or constructing a detention center or temporary detention center, the governing body shall submit all applicable construction or renovation plans to the commission for review to determine compliance with adopted standards.

Section 9. Staff -- inspections -- reports. (1) The commission shall hire staff or contract for services to assist the commission in its duties.

(2) Staff of the commission shall annually visit and inspect each detention center and temporary detention center

in the state for purposes of determining whether such centers comply with the standards adopted by the commission.

(3) A written report of each inspection must be made to the detention center administrator and governing body within 30 days following an inspection. The report must specify those areas in which the detention center or temporary detention center does not comply with the applicable standards.

Section 10. Failure to meet standards -- corrective action. (1) If an inspection under [section 9] discloses that a detention center or temporary detention center does not meet the standards adopted by the commission, the commission shall send notice, together with the inspection report, to the detention center administrator and the governing body responsible for the detention center or temporary detention center.

(2) The detention center administrator and the appropriate governing body receiving notice of deficiencies shall meet promptly to consider the inspection report. The inspection personnel shall attend the meeting to advise and consult concerning appropriate corrective action. The governing body shall prepare a written plan of corrective action. The governing body may close the detention center or temporary detention center or the portion of the center failing to meet the adopted standards.

Section 11. Corrective action plan -- approval. The

written corrective action plan adopted pursuant to [section 10] must specify the actions to be undertaken and establish a reasonable time schedule for attaining compliance with the standards. The commission shall review and approve or disapprove the plan and the time schedule.

Section 12. Failure to take corrective action. (1) The

commission may petition the district court in which a detention center or temporary detention center is located, or the first judicial district court, for an order directing the governing body to correct those areas in which the detention center or temporary detention center does not comply with the adopted standards or to close the detention center or temporary detention center if the governing body fails to:

(a) initiate corrective action within 6 months of the receipt of an inspection report;

(b) correct the noncomplying conditions; or

(c) close the detention center or temporary detention center or the portion of the center not complying with adopted standards.

(2) A petition to the district court must include the inspection report regarding the detention center or temporary detention center. The governing body has 30 days to respond to the petition.

1 (3) The district court shall hold a hearing on the
2 petition and issue an order either:

3 (a) dismissing the petition;

4 (b) directing that corrective action be initiated in
5 some form by the governing body of the detention center or
6 temporary detention center; or

7 (c) directing that the detention center or temporary
8 detention center be closed.

9 **Section 13. When standards applicable.** (1) [This act]
10 must be implemented upon adoption of standards developed by
11 the commission. Inspections must begin after the adoption of
12 the standards.

13 (2) A detention center or temporary detention center
14 may not be closed for noncompliance with the standards for
15 operation or maintenance within 2 years of the date of
16 adoption of the standards.

17 (3) Except as provided in subsection (4), standards
18 relating to the construction of a detention center or
19 temporary detention center, including plumbing, heating, and
20 wiring, may not be enforced for a period of 3 years from the
21 date of adoption of construction standards.

22 (4) If any violations of the adopted standards are
23 life-threatening to the inmates or detention center or
24 temporary detention center personnel, immediate corrective
25 action must be undertaken. The detention center

1 administrator must close the detention center or temporary
2 detention center until the threat is removed and corrected.

3 **Section 14. Role of commission -- assistance.** The
4 commission may assist the governing body of a detention
5 center or temporary detention center in the implementation
6 of standards, preparation of corrective plans, planning of
7 new centers, and any other area requiring advisory
8 assistance.

9 **Section 15. Initial appointments -- terms.** (1) Within
10 30 days after [the effective date of this act], the governor
11 shall appoint the commission.

12 (2) Five persons must be appointed to 4-year terms.
13 Four persons must be appointed to 2-year terms.

14 **Section 16. Effective date.** [This act] is effective
15 July 1, 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB282, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act creating a detention center standards commission; authorizing the commission to adopt standards for detention centers and temporary detention centers; providing for implementation of standards for detention centers and temporary detention centers; and providing an effective date.

ASSUMPTIONS:

1. The nine member commission will meet on a quarterly basis and will be reimbursed for actual and necessary expenses, but are not entitled compensation while attending meetings or conducting official commission duties.
2. The commission will require four staff people - director, 2 inspectors, and a secretary.

FISCAL IMPACT:

| | | FY90 | | | FY91 | |
|----------------------|------------|------------|-------------------|------------|------------|-------------------|
| Dept. of Justice | Current | Proposed | | Current | Proposed | |
| <u>Expenditures:</u> | <u>Law</u> | <u>Law</u> | <u>Difference</u> | <u>Law</u> | <u>Law</u> | <u>Difference</u> |
| FTE | -0- | 4 | 4 | -0- | 4 | 4 |
| Personal Services | \$ -0- | \$109,400 | \$ 109,400 | \$ -0- | \$111,700 | \$ 111,700 |
| Operating Expenses | -0- | 33,900 | 33,900 | -0- | 38,500 | 38,500 |
| Equipment | -0- | 8,300 | 8,300 | -0- | -0- | -0- |
| TOTAL | \$ -0- | \$151,600 | \$ 151,600 | \$ -0- | \$150,200 | \$ 150,200 |

Funding: General Fund

Ray Shackelford

1/25/89

RAY SHACKLEFORD, BUDGET DIRECTOR DATE
OFFICE OF BUDGET AND PROGRAM PLANNING

Bill Strizich

1-26-89

BILL STRIZICH, PRIMARY SPONSOR DATE

Fiscal Note for HB282, as introduced

HB 282

APPROVED BY COMM. ON
HUMAN SERVICES AND AGING

HOUSE BILL NO. 282

INTRODUCED BY STRIZICH, GAGE, WALKER, D. BROWN, NISBET,
MCDONOUGH, HARPER, GOOD, GIACOMETTO, MCLANE,

MANNING, ABRAMS

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A DETENTION
CENTER STANDARDS COMMISSION; PROVIDING THAT THE COMMISSION
CONSIST OF NINE MEMBERS OF THE BOARD OF CRIME CONTROL;
AUTHORIZING THE COMMISSION TO ADOPT STANDARDS FOR DETENTION
CENTERS AND TEMPORARY DETENTION CENTERS; PROVIDING FOR
IMPLEMENTATION OF STANDARDS FOR DETENTION CENTERS AND
TEMPORARY DETENTION CENTERS; AMENDING SECTION 2-15-2006,
MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

The intent of this proposal is to establish a
nine-member detention center standards commission. The
majority of members must be representatives of local
government. It is intended that the person representing the
general public have an interest in and knowledge of inmates'
rights. The commission will have a professional staff and
will meet not less than quarterly to adopt standards, review
applicable design or renovation plans, review inspections
for compliance with standards, and assist governing bodies
to comply with standards. It is intended that the

commission and its staff serve to help detention centers and
temporary detention centers comply with standards, rather
than act solely as enforcers.

The commission shall adopt by rule minimum standards of
design, maintenance, and operation for jails and lockups.
Jails have been redefined as detention centers and lockups
as temporary detention centers. The standards are intended
to be an outline of the mandatory minimum necessary for
design, maintenance, and operation of constitutionally
acceptable detention centers and temporary detention centers
based on the "evolving standard of decency" provided in
statute and case law.

It is intended that the commission hire staff to assist
and to inspect for compliance with standards. When a
detention center or temporary detention center is found to
be noncompliant with certain standards, it is intended that
any threat to life of inmates or staff be immediately
remedied. In cases where noncompliance is not
life-threatening, it is intended that governing bodies work
with the commission to develop an action plan to remedy the
problem within a reasonable time period. If, however, no
action plan is developed and no corrective action is taken,
it is intended that the commission may take appropriate
court action, including closure of the facility.

It is intended that the commission will retain the

1 right to evaluate each design or renovation plan on an
 2 individual basis. The design and specifics will be worked
 3 out among the commission, the local governing body, the
 4 respective project architect, appropriate building code
 5 inspectors, and the state architect.

6 Finally, it is intended that the standards be adopted
 7 by 1991 but that no facility be closed for noncompliance to
 8 design standards within 3 years of the adoption of the
 9 design standards. This is because design involves much time
 10 in planning, bonding, and bidding.

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

13 NEW SECTION. **Section 1. Declaration of policy.** It is
 14 the policy of the state of Montana that all detention
 15 centers and temporary detention centers for adult inmates in
 16 the state conform to certain minimum standards of
 17 construction DESIGN, maintenance, and operation. The
 18 commission and its staff shall regulate and assist detention
 19 centers, temporary detention centers, and governing bodies
 20 in achieving minimum standards.

21 NEW SECTION. **Section 2. Definitions.** As used in [this
 22 act], the following definitions apply:

23 (1) "Commission" means the detention center standards
 24 commission established in [section 3].

25 (2) "Detention center" means a confinement facility

1 for adult inmates:

2 (a) established and maintained by a city;

3 (b) established and maintained by a county;

4 (c) established and maintained by two or more local
 5 governments; or

6 (d) privately owned or operated for one or more units
 7 of local government.

8 (3) "Detention center administrator" means the
 9 sheriff, chief of police, administrator, superintendent,
 10 director, or other individual serving as the chief executive
 11 officer of a detention center or temporary detention center.

12 (4) "Detention center staff" means detention officers
 13 and personnel whose duties include:

14 (a) ongoing supervision of the inmates in a detention
 15 center or temporary detention center; or

16 (b) support of the detention center or temporary
 17 detention center operation.

18 (5) "Detention officer" means a person or a peace
 19 officer who has full-time or part-time authority and
 20 responsibility for maintaining custody of inmates and who
 21 performs tasks related to the operation of a detention
 22 center or temporary detention center.

23 (6) "Governing body" means the entity having authority
 24 to establish and maintain a detention center or temporary
 25 detention center.

1 (7) "Inmate" means an adult person who is confined in
2 a detention center or temporary detention center.

3 (8) "Temporary detention center" means a facility for
4 the temporary detention of an arrested person for up to 72
5 hours, excluding holidays, Saturdays, and Sundays. The
6 period of time a person is held in temporary detention may
7 not exceed 96 hours.

8 NEW SECTION. Section 3. Detention center standards
9 commission -- allocation -- composition. (1) There is a
10 detention center standards commission.

11 (2) The commission is allocated to the department of
12 justice for administrative purposes only as prescribed in
13 2-15-121, except that 2-15-121(2)(d) does not apply.

14 (3) The commission is composed of nine members
15 appointed OF THE BOARD OF CRIME CONTROL DESIGNATED by the
16 governor. The--members--may--be--appointed--from--recommendation
17 lists--containing--at--least--three--names--from--each--of--the
18 following:

- 19 {a}--the-Montana-judges-association;
- 20 {b}--the----Montana---sheriffs---and---peace---officers
- 21 association;
- 22 {c}--the-Montana-association-of-counties;-and
- 23 {d}--the-Montana-county-attorney-association;
- 24 {4}--The-commission-shall-consist-of:
- 25 {a}--one-district-judge;

- 1 {b}--one-county-attorney;
- 2 {c}--one-county-commissioner;
- 3 {d}--two-sheriffs;
- 4 {e}--one-state-legislator;
- 5 {f}--one-detention-center-administrator;
- 6 {g}--one-representative-of-the-corrections-division--of
- 7 the-department-of-institutions;-and
- 8 {h}--one-person-representing-the-general-public;
- 9 {5}--Members--shall--serve--staggered--4-year--terms--A
- 10 member-may-serve--during--his--appointed--term--only--if--he
- 11 remains--a--member-of-the-entity-from-which-he-was-selected;
- 12 if-a-vacancy-occurs;-a-member-must-be-appointed-to-fill--the
- 13 unexpired--term--in--compliance--with--the--representational
- 14 requirements--of--subsections--{3}--and--{4};--Members--may
- 15 continue--to--serve--past--the--expiration--of--their--terms--until
- 16 reappointed-or-replaced-by-the-governor;

17 NEW SECTION. Section 4. Meetings -- expenses --
18 quorum. (1) The commission shall elect a chairman and other
19 necessary officers at its initial meeting and annually
20 thereafter.

21 (2) Commission members are not entitled to
22 compensation while attending meetings or conducting official
23 commission duties. Members are entitled to reimbursement for
24 actual and necessary expenses as provided in 2-18-501
25 through 2-18-503.

(3) The commission shall meet quarterly and may hold additional meetings on the call of the chairman or at the request of any five members.

(4) Five members constitute a quorum for the transaction of business.

NEW SECTION. Section 5. Powers and duties of commission -- standards -- rulemaking. (1) The commission shall:

(a) by rule establish standards for the construction DESIGN, maintenance, and operation of:

(i) detention centers; and

(ii) temporary detention centers;

(b) perform such other duties as may be necessary to implement and enforce the standards adopted pursuant to subsection (1)(a); and

(c) assist jurisdictions in the development of detention centers and temporary detention centers complying with the adopted standards.

(2) The commission shall study, develop, and implement standards for the maintenance, operation, and construction DESIGN of detention centers and temporary detention centers by July 1, 1991.

(3) The commission shall adopt rules to implement [this act], including but not limited to rules establishing standards for the construction DESIGN, maintenance, and

operation of detention centers and temporary detention centers.

NEW SECTION. Section 6. Maintenance standards. The standards adopted for maintenance of detention centers and temporary detention centers must include but not be limited to standards for:

(1) maintenance of the physical plant, including the structure, its furnishings, and equipment;

(2) maintenance of all security systems, such as locks and related hardware, surveillance and detection systems, and communication systems;

(3) maintenance of fire safety systems and equipment; and

(4) procedures for maintenance of adequate levels of detention center and temporary detention center sanitation and housekeeping.

NEW SECTION. Section 7. Operation standards. The standards adopted for the operation of detention centers and temporary detention centers must include but not be limited to standards for:

(1) establishment of written policies and procedures to govern detention center and temporary detention center operations;

(2) staffing levels of detention centers and temporary detention centers;

1 (3) selection, training, assignment, and supervision
 2 of detention center staff;
 3 (4) admission and release of inmates;
 4 (5) classification and reclassification of inmates,
 5 including procedures for assignment to housing, programs,
 6 and related activities;
 7 (6) documentation to verify the establishment of
 8 standardized recordkeeping systems and provision of
 9 essential functions, programs, and services;
 10 (7) establishment of systems and procedures for the
 11 handling of inmate mail, visits, and telephone services;
 12 (8) procedures for inmate access to media, a general
 13 library, and exercise;
 14 (9) procedures for inmate access to legal materials,
 15 legal counsel, and religion;
 16 (10) detention center and temporary detention center
 17 security procedures and supervision of inmates;
 18 (11) the conduct of inmates, including inmate
 19 disciplinary and grievance procedures;
 20 (12) procedures for supervision and use of the
 21 detention center and temporary detention center arsenal,
 22 firearms, and keys;
 23 (13) procedures for the searching of prisoners and
 24 visitors to the detention center or temporary detention
 25 center;

1 (14) admission of visitors, service providers, and
 2 other professionals and their supervision while in the
 3 detention center or temporary detention center; and
 4 (15) provision of essential detention center and
 5 temporary detention center services, including:
 6 (a) food services;
 7 (b) medical, dental, and mental health services;
 8 (c) laundry services;
 9 (d) educational, counseling, and other rehabilitative
 10 services;
 11 (e) prisoner hygiene services and access to personal
 12 hygiene items; and
 13 (f) commissary services.
 14 NEW SECTION. Section 8. Construction DESIGN
 15 standards. (1) The standards adopted for ~~construction~~ DESIGN
 16 of detention centers and temporary detention centers must
 17 include but not be limited to standards for the ~~planning,~~
 18 ~~design,---and---actual---construction~~ of new, modified, or
 19 renovated detention centers and temporary detention centers
 20 when the cost is in excess of \$50,000.
 21 (2) Prior to contracting for or constructing a
 22 detention center or temporary detention center, the
 23 governing body shall submit all applicable ~~construction-or~~
 24 ~~renovation~~ plans to the commission for review to determine
 25 compliance with adopted standards.

NEW SECTION. Section 9. Staff -- inspections -- reports. (1) The commission shall hire MAY, TO THE EXTENT POSSIBLE, UTILIZE THE staff OF THE BOARD OF CRIME CONTROL or contract for services to assist the commission in its duties.

(2) Staff of the commission shall annually visit and inspect each detention center and temporary detention center in the state for purposes of determining whether such centers comply with the standards adopted by the commission.

(3) A written report of each inspection must be made to the detention center administrator and governing body within 30 days following an inspection. The report must specify those areas in which the detention center or temporary detention center does not comply with the applicable standards.

NEW SECTION. Section 10. Failure to meet standards -- corrective action. (1) If an inspection under [section 9] discloses that a detention center or temporary detention center does not meet the standards adopted by the commission, the commission shall send notice, together with the inspection report, to the detention center administrator and the governing body responsible for the detention center or temporary detention center.

(2) The detention center administrator and the appropriate governing body receiving notice of deficiencies

shall meet promptly to consider the inspection report. The inspection personnel shall attend the meeting to advise and consult concerning appropriate corrective action. The governing body shall prepare a written plan of corrective action. The governing body may close the detention center or temporary detention center or the portion of the center failing to meet the adopted standards.

NEW SECTION. Section 11. Corrective action plan -- approval. The written corrective action plan adopted pursuant to [section 10] must specify the actions to be undertaken and establish a reasonable time schedule for attaining compliance with the standards. The commission shall review and approve or disapprove the plan and the time schedule.

NEW SECTION. Section 12. Failure to take corrective action. (1) The commission may petition the district court in which a detention center or temporary detention center is located, or the first judicial district court, for an order directing the governing body to correct those areas in which the detention center or temporary detention center does not comply with the adopted standards or to close the detention center or temporary detention center if the governing body fails to:

(a) initiate corrective action within 6 months of the receipt of an inspection report;

1 (b) correct the noncomplying conditions; or
 2 (c) close the detention center or temporary detention
 3 center or the portion of the center not complying with
 4 adopted standards.

5 (2) A petition to the district court must include the
 6 inspection report regarding the detention center or
 7 temporary detention center. The governing body has 30 days
 8 to respond to the petition.

9 (3) The district court shall hold a hearing on the
 10 petition and issue an order either:

11 (a) dismissing the petition;

12 (b) directing that corrective action be initiated in
 13 some form by the governing body of the detention center or
 14 temporary detention center; or

15 (c) directing that the detention center or temporary
 16 detention center be closed.

17 NEW SECTION. Section 13. When standards applicable.

18 (1) [This act] must be implemented upon adoption of
 19 standards developed by the commission. Inspections must
 20 begin after the adoption of the standards.

21 (2) A detention center or temporary detention center
 22 may not be closed for noncompliance with the standards for
 23 operation or maintenance within 2 years of the date of
 24 adoption of the standards.

25 (3) Except as provided in subsection (4), standards

1 relating to the ~~construction~~ DESIGN of a detention center or
 2 temporary detention center, including plumbing, heating, and
 3 wiring, may not be enforced for a period of 3 years from the
 4 date of adoption of ~~construction~~ DESIGN standards.

5 (4) If any violations of the adopted standards are
 6 life-threatening to the inmates or detention center or
 7 temporary detention center personnel, immediate corrective
 8 action must be undertaken. The detention center
 9 administrator must close the detention center or temporary
 10 detention center until the threat is removed and corrected.

11 NEW SECTION. Section 14. Role of commission --
 12 assistance. The commission may assist the governing body of
 13 a detention center or temporary detention center in the
 14 implementation of standards, preparation of corrective
 15 plans, planning of new centers, and any other area requiring
 16 advisory assistance.

17 NEW SECTION. Section 15. Initial appointments
 18 DESIGNATIONS -- terms. (1) Within 30 days after [the
 19 effective date of this act], the governor shall appoint
 20 DESIGNATE the commission.

21 (2) Five persons must be appointed-to DESIGNATED FOR
 22 4-year terms. Four persons must be appointed-to DESIGNATED
 23 FOR 2-year terms.

24 SECTION 16. SECTION 2-15-2006, MCA, IS AMENDED TO
 25 READ:

1 "2-15-2006. Board of crime control -- composition --
2 allocation. (1) There is a board of crime control.

3 (2) The board is allocated to the department for
4 administrative purposes only as prescribed in 2-15-121.
5 However, the board may hire its own personnel, and
6 2-15-121(2)(d) does not apply.

7 (3) The board is composed of 18 members appointed by
8 the governor in accordance with subsections (4) and (5),
9 2-15-124, and any special requirements of Title I of the
10 Omnibus Crime Control and Safe Streets Act, as amended. The
11 board shall be representative of state and local law
12 enforcement and criminal justice agencies, including
13 agencies directly related to the prevention and control of
14 juvenile delinquency, units of general local government, and
15 public agencies maintaining programs to reduce and control
16 crime and shall include representatives of citizens and
17 professional and community organizations, including
18 organizations directly related to delinquency prevention.

19 (4) Nine members of the board designated by the
20 governor constitute the detention center standards
21 commission provided for in [section 3]. The board members
22 constituting the commission may be designated from
23 recommendation lists containing at least three names from
24 each of the following:

25 (a) the Montana judges association;

1 (b) the Montana sheriffs and peace officers
2 association;

3 (c) the Montana association of counties; and

4 (d) the Montana county attorney association.

5 (5) The board members designated as the commission
6 shall consist of:

7 (a) one district judge;

8 (b) one lower court judge;

9 (c) one county attorney;

10 (d) one county commissioner;

11 (e) one sheriff;

12 (f) one police chief;

13 (g) one detention center administrator;

14 (h) one representative of the corrections division of
15 the department of institutions; and

16 (i) one person representing the general public.

17 (6) Members designated as the detention center
18 standards commission serve staggered 4-year terms. A member
19 may serve during his appointed term only if he remains a
20 member of the entity from which he was selected. If a
21 vacancy occurs, a member must be designated to fill the
22 unexpired term in compliance with the representational
23 requirements of subsections (4) and (5). Members may
24 continue to serve past the expiration of their terms until
25 reappointed or replaced by the governor."

HB 0282/02

1 NEW SECTION. **Section 17.** Effective date. {This act}
2 is effective July 1, 1989.

-End-