

SENATE BILL NO. 452

INTRODUCED BY GAGE

BY REQUEST OF THE BOARD OF CRIME CONTROL

IN THE SENATE

FEBRUARY 16, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 17, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 20, 1989	PRINTING REPORT.
	SECOND READING, DO PASS.
	ENGROSSING REPORT.
FEBRUARY 21, 1989	THIRD READING, PASSED. AYES, 49; NOES, 1.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 21, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
FEBRUARY 28, 1989	FIRST READING.
MARCH 22, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 28, 1989	SECOND READING, CONCURRED IN.
MARCH 29, 1989	THIRD READING, CONCURRED IN. AYES, 96; NOES, 1.

RETURNED TO SENATE.

IN THE SENATE

MARCH 29, 1989

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *452*
2 INTRODUCED BY *Dip*
3 BY REQUEST OF THE BOARD OF CRIME CONTROL
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
6 LAWS RELATING TO JAILS, JAIL ADMINISTRATORS, AND INMATES;
7 REDEFINING JAILS AS DETENTION CENTERS; DEFINING TERMS;
8 PROVIDING FOR THE ADMINISTRATION OF DETENTION CENTERS;
9 PROVIDING FOR MULTIJURISDICTIONAL DETENTION CENTERS;
10 REGULATING DETENTION OF JUVENILES IN DETENTION CENTERS;
11 REQUIRING INMATES TO PAY CONFINEMENT COSTS; ALLOWING THE
12 TEMPORARY RELEASE OF INMATES; CREATING CRIMINAL OFFENSES
13 RELATED TO THE TREATMENT OF INMATES; AMENDING SECTIONS
14 7-32-2121, 7-32-2123, 7-32-2127, 7-32-2128, 7-32-2132,
15 7-32-2143, 7-32-2201 THROUGH 7-32-2205, 7-32-2207,
16 7-32-2208, 7-32-2211, 7-32-2222, 7-32-2231 THROUGH
17 7-32-2234, AND 7-32-4201, MCA; AND REPEALING SECTIONS
18 7-32-2206, 7-32-2209, 7-32-2210, 7-32-2212, 7-32-2213,
19 7-32-2221, 7-32-2223, 7-32-4202, AND 7-32-4203, MCA."
20
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
22 NEW SECTION. **Section 1.** Definitions. As used in this
23 part, the following definitions apply:
24 (1) "Detention center" means a facility established
25 and maintained by an appropriate entity for the purpose of

1 confining arrested persons or persons sentenced to the
2 detention center.
3 (2) "Detention center administrator" means the
4 sheriff, chief of police, administrator, superintendent,
5 director, or other individual serving as the chief executive
6 officer of a detention center.
7 (3) "Detention center staff" means custodial personnel
8 whose duties include ongoing supervision of the inmates in a
9 detention center.
10 (4) "Inmate" means a person who is confined in a
11 detention center.
12 (5) "Local government" means a city, town, county, or
13 consolidated city-county government.
14 (6) "Multijurisdictional detention center" means a
15 detention center established and maintained by two or more
16 local governments for the confinement of persons arrested or
17 sentenced to confinement or a local government detention
18 center contracting to confine persons arrested or sentenced
19 in other local governments.
20 (7) "Private detention center" means a detention
21 center owned by private industry and leased to or operated
22 under a contract with a local government.
23 NEW SECTION. **Section 2.** Use of detention center --
24 payment of costs. (1) Local government, state, and federal
25 law enforcement and correctional agencies may use any

1 detention center for the confinement of arrested persons and
2 the punishment of offenders, under conditions imposed by law
3 and with the consent of the governing body responsible for
4 the detention center.

5 (2) If a person is committed to a detention center by
6 a government unit not responsible for the operation of the
7 detention center, the committing government unit shall pay
8 the costs of holding the person in confinement as agreed
9 upon by the government unit and the detention center, except
10 that if a city or town commits a person to the detention
11 center of the county in which the city or town is located
12 for a reason other than detention pending trial for or
13 detention for service of a sentence for violating an
14 ordinance of that city or town, the costs must be paid by
15 the county. Payments must be made to the government unit
16 responsible for the detention center or to the administrator
17 operating a private detention center under an agreement
18 provided for in 7-32-2201, upon presentation of a claim to
19 the committing government unit.

20 NEW SECTION. Section 3. Contracts for detention
21 center services. (1) Contracts concerning detention center
22 services and facilities between state or local government
23 units, the state of Montana, or the federal government must
24 be made pursuant to the Interlocal Cooperation Act, Title 7,
25 chapter 11, part 1.

1 (2) A government unit responsible for a detention
2 center may contract with a government unit of another state
3 for the confinement of lawfully committed inmates in a
4 detention center located in either jurisdiction.

5 NEW SECTION. Section 4. Juvenile detention center
6 standards. (1) Juveniles may be held in a detention center
7 only in accordance with 41-5-301 through 41-5-309.

8 (2) Detention centers that hold juveniles must comply
9 with the standards for the detention of juveniles
10 promulgated by the department of family services.

11 NEW SECTION. Section 5. Payment of confinement costs
12 by inmate. An inmate found by the sentencing court to have
13 the ability to pay is liable for the costs of his
14 confinement in a detention center. The rate at which the
15 inmate must pay the costs must be established at the
16 sentencing hearing.

17 NEW SECTION. Section 6. Temporary release from
18 detention center. A detention center inmate may be granted,
19 by court order, the privilege of leaving the detention
20 center during necessary and reasonable hours for any of the
21 following purposes:

- 22 (1) seeking employment;
- 23 (2) working at his employment;
- 24 (3) conducting his own business or self-employment;
- 25 (4) attending to the needs of his family;

(5) attending an educational institution; or

(6) obtaining medical treatment.

NEW SECTION. Section 7. Annoyance of inmate prohibited -- penalty. (1) The detention center administrator or staff member in charge of an inmate must use necessary and proper means to protect an inmate from purposeful or knowing insults and annoyance by others and to prevent others from communicating with the inmate while the inmate is at or is going to or returning from employment.

(2) A person persisting in purposefully or knowingly insulting, annoying, or communicating with an inmate after being told by the detention center administrator or staff member to desist commits the offense of inmate annoyance.

(3) A person convicted of the offense of inmate annoyance shall be fined an amount not to exceed \$500.

NEW SECTION. Section 8. Inmate endangerment -- penalty. (1) A detention center administrator or staff member commits the offense of inmate endangerment if he knowingly:

(a) places or keeps a juvenile with adult inmates;

(b) uses corporal punishment against an inmate; or

(c) uses physical force against an inmate, except as necessary for:

(i) self-defense;

(ii) control of inmates;

(iii) protection of another person from imminent physical attack; or

(iv) prevention of riot or escape.

(2) A person who commits the offense of inmate endangerment shall be fined an amount not to exceed \$500.

Section 9. Section 7-32-2121, MCA, is amended to read:

"7-32-2121. Duties of sheriff. The sheriff must:

(1) preserve the peace;

(2) arrest and take before the nearest magistrate for examination all persons who attempt to commit or have committed a public offense;

(3) prevent and suppress all affrays, breaches of the peace, riots, and insurrections which may come to his knowledge;

(4) perform the duties of a humane officer within the county with reference to the protection of dumb animals;

(5) attend all courts, except municipal, justices', and city courts, at their respective terms or sessions held within the county and obey their lawful orders and directions;

(6) command the aid of as many inhabitants of the county as are necessary in the execution of the sheriff's duties;

(7) take charge of and keep the county-jail detention center and the prisoners inmates therein, unless the jail

detention center is operated by a private party under an agreement entered into under 7-32-2201 or by a jail detention center administrator or by another local government;

(8) endorse upon all notices and process the year, month, day, hour, and minute of reception and issue therefor to the person delivering them, on payment of fees, a certificate showing the names of the parties, the title of the paper, and the time of reception;

(9) serve all process or notices in the manner prescribed by law;

(10) certify in writing upon the process or notices the manner and time of service or, if he fails to make service, the reasons of this failure, and return the papers without delay;

(11) take charge of and supervise search and rescue units and their officers whenever search and rescue units are called into service; and

(12) perform such other duties as are required by law."

Section 10. Section 7-32-2123, MCA, is amended to read:

"7-32-2123. Appointment of jailer detention center staff. A sheriff who operates a county--jail--pursuant--to detention center under 7-32-2121 may appoint deputy sheriffs or nonsworn individuals as jailers detention center staff. A

nonsworn individual appointed as-a-jailer to the detention center staff need not receive the same salary as a deputy sheriff."

Section 11. Section 7-32-2127, MCA, is amended to read:

"7-32-2127. Prosecution of action involving county law enforcement personnel brought against executor or administrator. Any action for default or misconduct of any sheriff, his undersheriff, his jailer detention center staff, or any of his deputies may be prosecuted against the executors or administrators of such sheriff."

Section 12. Section 7-32-2128, MCA, is amended to read:

"7-32-2128. False claims by detention center administrator or sheriff. (1) Every sheriff detention center administrator who falsely represents to the board-of--county commissioners governing body of a local government the actual expenses of boarding prisoners detention center inmates, for furnishing food and supplies therefor, or for any--service--rendered--in--connection--therewith providing services or who presents to said-board the governing body false items in a claim or false vouchers or, if he is not a private detention center administrator, makes any profit whatever-out-of from the board--or keeping of prisoners inmates in his custody and every person who gives a false

1 item or false voucher to be used by ~~such--sheriff~~ the
 2 detention center administrator in any claim against the
 3 ~~county-before-such-board~~ local government is guilty of a
 4 misdemeanor.

5 (2) Every sheriff who falsely represents to the board
 6 of county commissioners or attorney general his actual
 7 traveling expenses in the performance of any official duty
 8 or causes to be paid to him from the state or any county
 9 treasury a sum exceeding his actual expenses in the
 10 performance of ~~such~~ his duty is guilty of a misdemeanor."

11 **Section 13.** Section 7-32-2132, MCA, is amended to
 12 read:

13 "7-32-2132. Liability for escape in civil actions. (1)
 14 A ~~sheriff,--jail~~ detention center administrator, ~~or-private~~
 15 ~~party-jailer~~ who fails to prevent the escape or rescue of a
 16 person in his custody arrested in a civil action without the
 17 consent or connivance of the party in whose behalf the
 18 arrest or imprisonment was made is liable as follows:

19 (a) When the arrest is upon an order to hold for bail
 20 or upon a surrender in exoneration of bail before judgment,
 21 the ~~sheriff,--jail~~ detention center administrator, ~~or-private~~
 22 ~~party-jailer~~ is liable to the plaintiff for the bail.

23 (b) When the arrest is on an execution or commitment
 24 to enforce the payment of money, the ~~sheriff,--jail~~ detention
 25 center administrator, ~~or-private-party-jailer~~ is liable for

1 the amount expressed in the execution or commitment.

2 (c) When the arrest is on an execution or commitment
 3 other than to enforce the payment of money, the ~~sheriff,~~
 4 ~~jail~~ detention center administrator, ~~or-private-party-jailer~~
 5 is liable for the actual damages sustained.

6 (2) Upon being sued for damages for an escape or
 7 rescue of a person in his custody, the ~~sheriff,--jail~~
 8 detention center administrator, ~~or-private-party-jailer~~ may
 9 introduce evidence in mitigation or exculpation.

10 (3) An action may not be maintained against a ~~sheriff,~~
 11 ~~jail~~ detention center administrator, ~~or-private-party-jailer~~
 12 for a rescue or for an escape of a person arrested upon an
 13 execution or commitment if, after his rescue or escape and
 14 before the commencement of the action, the prisoner inmate
 15 returns to the jail detention center or is retaken by the
 16 ~~sheriff,--jail~~ detention center administrator, ~~or-private~~
 17 ~~party-jailer.~~"

18 **Section 14.** Section 7-32-2143, MCA, is amended to
 19 read:

20 "7-32-2143. Mileage and expenses of sheriff in
 21 general. (1) Except as provided in 7-32-2144 and 7-32-2145,
 22 in addition to the fees specified in 7-32-2141 and
 23 7-32-2142, the sheriff shall receive for each mile actually
 24 traveled in serving any writ, process, order, or other
 25 paper, including a warrant of arrest, or in conveying a

1 person under arrest before a magistrate or to ~~jaill~~ a
 2 detention center only his actual expenses when such travel
 3 is made by railroad or airline; and when travel is other
 4 than by railroad or airline, he shall receive a mileage
 5 allowance as provided in 2-18-503 for each mile actually
 6 traveled by him both going and returning and the actual
 7 expenses incurred by him in conveying a person under arrest
 8 before a magistrate or to ~~jaill~~ a detention center. He shall
 9 receive the same mileage and his actual expenses for the
 10 person conveyed or transported under order of court within
 11 the county, the same to be in full payment for transporting
 12 and feeding such persons during such transportation.
 13 Whenever more than one person is transported by the sheriff
 14 or when one or more papers are served on the same trip made
 15 for the transportation of one or more prisoners inmates,
 16 only one mileage may be charged.

17 (2) No mileage may be paid by the county to sheriffs
 18 whose vehicles are provided and maintained by the county.
 19 All mileage paid to sheriffs whose vehicles are provided and
 20 maintained by the county shall be paid over to the county
 21 treasurer and deposited in the county general fund.

22 (3) (a) No mileage may be allowed on an attachment,
 23 order of arrest, order for delivery of personal property, or
 24 any other order, notice, or paper when the same accompanies
 25 the summons and the service thereof may be made at the time

1 of the service of the summons, except for the distance
 2 actually traveled beyond that required to serve the summons.
 3 When two or more papers are served on the same person at the
 4 same time or when any paper or papers are served on more
 5 than one person on the same trip, only one mileage may be
 6 allowed or charged; and in the service of subpoenas, only
 7 one mileage may be charged when the persons named therein
 8 live in the same place or in the same direction; but mileage
 9 may be charged for the longest distance actually traveled.
 10 Any writ, order, or other paper for service must be received
 11 at any place in the county where a sheriff or a deputy is
 12 found, and mileage must be computed only from such place to
 13 the place of service. When two or more officers travel in
 14 the same automobile in the discharge of any duty, only one
 15 mileage may be allowed.

16 (b) When any sheriff or constable serves more than one
 17 process in the same cause, not requiring more than one
 18 journey from his office, he shall receive mileage only for
 19 the more distant service, and no mileage in any case may be
 20 allowed for less than 1 mile actually traveled.

21 (4) In lieu of charging mileage for the service of
 22 items of a civil nature as provided in subsections (1) and
 23 (3), a sheriff may charge \$1 for the service of each item of
 24 a civil nature that requires a return or proof of service."

25 **Section 15.** Section 7-32-2201, MCA, is amended to

1 read:

2 "7-32-2201. County----jail----required Establishing
3 detention center -- detention center contract -- regional
4 detention center. For the confinement of lawfully committed
5 persons, the governing body of a county may participate in
6 or undertake one or more of the following:

7 (1) A ~~jail-shall~~ detention center may be built or
8 provided and kept in good repair at the expense of the
9 county in each county, except that whenever in the
10 discretion of the commissioners governing body of two or
11 more counties local governments it is necessary or desirable
12 to build, provide, or utilize a ~~common----~~jail
13 multijurisdictional detention center, they may do so in any
14 ~~city--or--town--located--within--one~~ of the ~~counties---~~so
15 jurisdictions concerned. ~~Such----~~common----~~jail~~ The
16 multijurisdictional detention center shall be built or
17 provided and kept in good repair at the expense of the
18 counties local governments concerned on a basis as the
19 ~~commissioners--of-the-counties-shall~~ governing bodies agree.

20 (2) A county, or two or more counties local
21 governments acting together, may provide for the jail
22 required detention center allowed by subsection (1) by:

23 (a) establishing in the county government the position
24 of jail detention center administrator and,--with--the
25 sheriff's concurrence, hiring a person, who is answerable to

1 the governing body of the county, to fill the position or
2 appointing the sheriff as detention center administrator; or

3 (b) entering into an agreement,--with--the--concurrence
4 ~~of--the--sheriffs--of--all--participating--counties~~, with a
5 private party under which the private party will provide,
6 maintain, or operate the jail detention center.

7 (3) The ~~common-jails~~ detention centers in the several
8 ~~counties-of~~ this state are kept by the ~~sheriffs--jail~~
9 detention center administrators, or private parties agreeing
10 to act as jailers of the counties local governments in which
11 they are respectively situated. In the case of ~~more than one~~
12 county utilizing a common-jail multijurisdictional detention
13 center as provided in subsection (1), ~~such--jail the~~
14 detention center shall be kept by the ~~sheriffs--of--the~~
15 counties local governments utilizing the ~~common--jail~~
16 detention center on a basis as the ~~sheriffs-shall~~ governing
17 bodies agree, by a jail administrator hired by the county in
18 which--the--jail is situated, or by a private party agreeing
19 to act as the jailer.

20 (4) The board of county commissioners has jurisdiction
21 and power, under such limitations and restrictions as are
22 prescribed by law, to cause a jail detention center to be
23 erected, furnished, and maintained, and operated. The costs
24 must be paid for out of the county treasury."

25 **Section 16.** Section 7-32-2202, MCA, is amended to

1 read:

2 "7-32-2202. Use of jail detention center in contiguous
3 county. (1) When there is no jail detention center in the
4 county or when the jail detention center becomes unfit or
5 unsafe for the confinement of prisoners inmates, the
6 district judge may, by written appointment filed with the
7 clerk, designate the jail detention center of a contiguous
8 county for the confinement of the prisoners inmates of his
9 county ~~for any of them~~ and may at any time modify or annul
10 the appointment.

11 (2) A copy of the appointment, certified by the clerk,
12 must be served on the sheriff detention center administrator
13 of each county involved, ~~or the keeper of the designated~~
14 ~~jail if the keeper is not the sheriff~~, who must receive into
15 his jail detention center all prisoners inmates authorized
16 to be confined therein pursuant to this section and who is
17 responsible for the safekeeping of the persons so committed
18 in the same manner and to the same extent as if he were the
19 ~~sheriff, jail detention center administrator, or private~~
20 ~~party--jailer~~ of the county for whose use his jail detention
21 center is designated. With respect to the persons so
22 committed, he is deemed the sheriff, jail detention center
23 ~~administrator, or private party--jailer~~ of the county from
24 which they were removed.

25 (3) When a jail detention center is erected in the

1 county for the use of which the designation was made or its
2 jail detention center is rendered fit and safe for the
3 confinement of prisoners inmates, the district judge of that
4 county must, by a written revocation filed with the clerk,
5 declare that the necessity for the designation has ceased
6 and that it is revoked.

7 (4) The clerk must immediately serve a copy of the
8 revocation upon the sheriff detention center administrator
9 of each county ~~or the keeper of the jail in each county--if~~
10 ~~the keeper is not the sheriff involved~~. The ~~keeper of the~~
11 jail detention center administrator in the designated county
12 must thereupon remove the prisoners inmates to the jail
13 detention center from which the removal was had."

14 **Section 17.** Section 7-32-2203, MCA, is amended to
15 read:

16 "7-32-2203. Purpose of county jail Who may be confined
17 in a detention center. ~~The common--jails~~ Detention centers
18 are used as follows:

19 (1) for the detention of persons committed in order to
20 secure their attendance as witnesses in criminal cases;

21 (2) for the detention of persons charged with crime
22 and committed for trial;

23 (3) for the confinement of persons committed for
24 contempt or upon civil process or by other authority of law;

25 (4) for the confinement of persons sentenced to

imprisonment therein upon conviction of a crime;

(5) for the confinement of persons sentenced to the state prison, as agreed upon by the state and the governing body of the local government in charge of the detention center."

Section 18. Section 7-32-2204, MCA, is amended to read:

"7-32-2204. Maintenance of county--jail detention center. ~~{1}~~ The county commissioners, or the private party when provided in an agreement entered into under 7-32-2201(2), have the duty of building, operating, inspecting, and repairing the jail detention center and must take all necessary precautions against escape, sickness, or infection.

~~{2}--The--county--commissioners--must--inquire--into--the security--of--the--jail--and--the--condition--of--the--prisoners every-3-months--"~~

Section 19. Section 7-32-2205, MCA, is amended to read:

"7-32-2205. Confinement of prisoners inmates. The ~~sheriff,--jail~~ detention center administrator, ~~or-private party-jailer-must~~ shall receive all persons committed to jail the detention center by competent authority and provide them with necessary food, clothing, and bedding, ~~for-which sheriffs-or-jail-administrators,--but-not-jailers-operating-a~~

~~jail-under-an-agreement-provided-for-in-7-32-2201{2},--shall submit--claims-for-the-actual-expenses-incurred-to-the-board of-county-commissioners-for-their-determination-and,--except as--provided--in--7-32-2207,--to--be--paid-out-of-the-county treasury."~~

Section 20. Section 7-32-2207, MCA, is amended to read:

"7-32-2207. Confinement of persons on civil process. (1) Whenever a person is committed upon process in a civil action or proceeding, except when the state is a party thereto, the ~~sheriff,--jail~~ detention center administrator, ~~or--private-party-jailer~~ is not bound to receive such person unless security is given on the part of the party at whose instance the process is issued, by a deposit of money, to meet the expenses for him of necessary food, clothing, and bedding or to detain such person any longer than these expenses are provided for.

(2) This section does not apply to cases where a party is committed as a punishment for disobedience to the mandates, process, writs, or orders of court."

Section 21. Section 7-32-2208, MCA, is amended to read:

"7-32-2208. Actual confinement of prisoners inmates required. A-prisoner An inmate committed to ~~the-county-jail~~ a detention center for trial, for examination, or upon

conviction for a public offense must be actually confined in the jail detention center until he is legally discharged. If he is permitted to go at large out of the jail, except by virtue of a legal order or process, it is an escape."

Section 22. Section 7-32-2211, MCA, is amended to read:

"7-32-2211. Service of papers upon jailer detention center administrator for prisoner. A sheriff or jailer detention center administrator upon whom a paper in a judicial proceeding, directed to a prisoner an inmate in his custody, is served must forthwith deliver it to the prisoner, with a note thereon of the time of its service inmate. For neglect to do so, he is liable to the prisoner for all damages occasioned thereby."

Section 23. Section 7-32-2222, MCA, is amended to read:

"7-32-2222. Health and safety of prisoners. (1) When a county jail or building contiguous to it is on fire and there is reason to believe that the prisoners may be injured or endangered, the sheriff, jail administrator, or private party jailer must remove them to a safe and convenient place and there confine them as long as it may be necessary to avoid the danger.

(2) When a pestilence or contagious disease breaks out in or near a jail and the physician thereof certifies that

it is likely to endanger the health of the prisoners, the district judge may by a written appointment designate a safe and convenient place in the county or the jail in a contiguous county as the place of their confinement. The appointment must be filed in the office of the clerk and authorize the sheriff, jail administrator, or private party jailer to remove the prisoners to the designated place or jail and there confine them until they can be safely returned to the jail from which they were taken.

(3) If in the opinion of the sheriff, jail administrator, or private party jailer any prisoner while detained, requires medication, medical services, or hospitalization, the expense of the same shall be borne by the agency or authority at whose instance the prisoner is detained when the agency or authority is not the county wherein the prisoner is being detained. The county attorney shall initiate proceedings to collect any charges arising from such medical services or hospitalization for the prisoner involved if it is determined the prisoner is financially able to pay. Each detention center must comply with state and local fire codes for correctional occupancy and with sanitation, safety, and health codes.

(2) Designated exits must permit prompt evacuation of inmates and detention center staff in an emergency.

(3) When there is good reason to believe that the

inmates may be injured or endangered, the detention center administrator must remove them to a safe and convenient place and confine them there as long as necessary to avoid the danger.

(4) If in the opinion of the detention center administrator an inmate under his jurisdiction requires medication, medical services, or hospitalization, the expense must be borne by the agency or authority at whose instance the inmate was arrested when the arresting agency or authority is not the county in which the inmate is confined, except that if a city or town commits a person to the detention center of the county in which the city or town is located for a reason other than detention pending trial for or detention for service of a sentence for violating an ordinance of that city or town, the expense must be paid by the county. The county attorney shall initiate proceedings to collect from the inmate any charges arising from the medical services or hospitalization for the inmate involved if he determines the inmate is financially able to pay."

Section 24. Section 7-32-2231, MCA, is amended to read:

"7-32-2231. Purpose to allow private industry involvement. It is the purpose of 7-32-2231 through 7-32-2234 to allow regional ~~multijurisdictional~~ or single-county-jails single-jurisdiction detention centers to

be built by private industry and leased back to the participating county--or--counties local government or governments for operation by the county local government, collectively by participating counties local governments, or by a private entity with the concurrence of the sheriff--or sheriffs local governments involved."

Section 25. Section 7-32-2232, MCA, is amended to read:

"7-32-2232. County---jails Detention centers -- contracts with private parties. (1) The term of an agreement under 7-32-2201 with a private party may not exceed 3 years.

(2) The agreement must include:

(a) detailed standards for the operation of the jail detention center and the incarceration of prisoners inmates;

(b) a performance bond from the private party acceptable to the county local government;

(c) a promise from the private party to indemnify the county local government for any damages for which the county local government is found liable as a result of the operation of the jail detention center;

(d) a provision that the private party must purchase liability insurance in an amount acceptable to the county local government;

(e) minimum standards for the training of jailers detention center staff and a provision that the private

1 party will ensure such training; and

2 (f) a provision that the county local government may
3 immediately terminate the contract for good cause; and

4 (g) a provision that the detention center will meet
5 the standards of the detention center standards commission.

6 (3) The provisions of Title 7 relating to bids for
7 county local government contracts and purchases do not apply
8 to a contract entered into under 7-32-2201 and this
9 section."

10 **Section 26.** Section 7-32-2233, MCA, is amended to
11 read:

12 "7-32-2233. Requests for contract proposals. (1) A
13 county local government seeking to enter into a contract
14 under 7-32-2201 and 7-32-2232 may publish a request for
15 proposals. The request for proposals must be published in a
16 newspaper of general circulation in the county once a week
17 for 3 successive weeks and must include information
18 concerning the type of jail detention center services
19 required.

20 (2) Requests for proposals must be sent to persons who
21 have previously requested that their names be placed on a
22 list of persons providing jail detention center services.
23 The Montana board of crime control shall maintain a list of
24 persons providing jail detention center services and furnish
25 the list to a county local government upon request.

1 (3) In selecting a proposal and awarding a contract, a
2 county local government need not accept the proposal with
3 the lowest cost.

4 (4) The county local government must base its
5 selection on demonstrated competence, knowledge and
6 qualifications, the reasonableness of the services proposed,
7 and the reasonableness of the proposed contract price for
8 the jail detention center services.

9 (5) A copy of all proposals must be kept available for
10 public inspection in the office of the county clerk and
11 recorder.

12 (6) The county local government must give specific
13 reasons for its selection of a proposal. The reasons must be
14 recorded in the minutes of the governing body of the county
15 local government."

16 **Section 27.** Section 7-32-2234, MCA, is amended to
17 read:

18 "7-32-2234. Powers of jail detention center
19 administrators and private-party-jailers. A jail detention
20 center administrator or a private-party-acting-as-a-jailer
21 under an agreement, as provided for in 7-32-2201(2), is
22 responsible for the immediate management and control of the
23 jail detention center subject to general policies and
24 programs established pursuant to the agreement provided for
25 in 7-32-2201(2) and any applicable interlocal agreement. The

1 powers of such an administrator and corrections detention
 2 center personnel employed under his authority include
 3 control over prisoners inmates:

4 (1) within the confines and grounds of the jail
 5 detention center; and

6 (2) outside the jail detention center confines and
 7 grounds while transporting any prisoner inmate or in the hot
 8 pursuit or apprehension of any escapee."

9 **Section 28.** Section 7-32-4201, MCA, is amended to
 10 read:

11 "7-32-4201. Municipal jails detention centers
 12 authorized. The city or town council has power to establish
 13 and maintain a jail detention center, as defined in [section
 14 1], for the confinement of persons convicted of violating
 15 the ordinances of the city or town and to make rules for
 16 the government of the same~~and to cause the prisoners to~~
 17 ~~work on streets or elsewhere within 3 miles of the city.~~"

18 **NEW SECTION. Section 29.** Codification instruction.
 19 [Section 1] is intended to be codified as an integral part
 20 of Title 7, chapter 32, parts 21 and 22, and the provisions
 21 of Title 7, chapter 32, parts 21 and 22, apply to [section
 22 1].

23 **NEW SECTION. Section 30.** Coordination instruction. If
 24 Bill No. [LC 20] is not passed and approved, the
 25 amendment in [section 25 of this act] that inserts

1 7-32-2232(2)(g) is void.

2 **NEW SECTION. Section 31. Repealer.** Sections
 3 7-32-2206, 7-32-2209, 7-32-2210, 7-32-2212, 7-32-2213,
 4 7-32-2221, 7-32-2223, 7-32-4202, and 7-32-4203, MCA, are
 5 repealed.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

SENATE BILL NO. 452

INTRODUCED BY GAGE

BY REQUEST OF THE BOARD OF CRIME CONTROL

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO JAILS, JAIL ADMINISTRATORS, AND INMATES; REDEFINING JAILS AS DETENTION CENTERS; DEFINING TERMS; PROVIDING FOR THE ADMINISTRATION OF DETENTION CENTERS; PROVIDING FOR MULTIJURISDICTIONAL DETENTION CENTERS; REGULATING DETENTION OF JUVENILES IN DETENTION CENTERS; REQUIRING INMATES TO PAY CONFINEMENT COSTS; ALLOWING THE TEMPORARY RELEASE OF INMATES; CREATING CRIMINAL OFFENSES RELATED TO THE TREATMENT OF INMATES; AMENDING SECTIONS 7-32-2121, 7-32-2123, 7-32-2127, 7-32-2128, 7-32-2132, 7-32-2143, 7-32-2201 THROUGH 7-32-2205, 7-32-2207, 7-32-2208, 7-32-2211, 7-32-2222, 7-32-2231 THROUGH 7-32-2234, AND 7-32-4201, MCA; AND REPEALING SECTIONS 7-32-2206, 7-32-2209, 7-32-2210, 7-32-2212, 7-32-2213, 7-32-2221, 7-32-2223, 7-32-4202, AND 7-32-4203, MCA."

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

NEW SECTION. **Section 1.** Definitions. As used in this part, the following definitions apply:

(1) "Detention center" means a facility established and maintained by an appropriate entity for the purpose of

confining arrested persons or persons sentenced to the detention center.

(2) "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.

(3) "Detention center staff" means custodial personnel whose duties include ongoing supervision of the inmates in a detention center.

(4) "Inmate" means a person who is confined in a detention center.

(5) "Local government" means a city, town, county, or consolidated city-county government.

(6) "Multijurisdictional detention center" means a detention center established and maintained by two or more local governments for the confinement of persons arrested or sentenced to confinement or a local government detention center contracting to confine persons arrested or sentenced in other local governments.

(7) "Private detention center" means a detention center owned by private industry and leased to or operated under a contract with a local government.

NEW SECTION. **Section 2.** Use of detention center -- payment of costs. (1) Local government, state, and federal law enforcement and correctional agencies may use any

detention center for the confinement of arrested persons and the punishment of offenders, under conditions imposed by law and with the consent of the governing body responsible for the detention center.

(2) If a person is committed to a detention center by a government unit not responsible for the operation of the detention center, the committing government unit shall pay the costs of holding the person in confinement as agreed upon by the government unit and the detention center, except that if a city or town commits a person to the detention center of the county in which the city or town is located for a reason other than detention pending trial for or detention for service of a sentence for violating an ordinance of that city or town, the costs must be paid by the county. Payments must be made to the government unit responsible for the detention center or to the administrator operating a private detention center under an agreement provided for in 7-32-2201, upon presentation of a claim to the committing government unit.

NEW SECTION. Section 3. Contracts for detention center services. (1) Contracts concerning detention center services and facilities between state or local government units, the state of Montana, or the federal government must be made pursuant to the Interlocal Cooperation Act, Title 7, chapter 11, part 1.

(2) A government unit responsible for a detention center may contract with a government unit of another state for the confinement of lawfully committed inmates in a detention center located in either jurisdiction.

NEW SECTION. Section 4. Juvenile detention center standards. (1) Juveniles may be held in a detention center only in accordance with 41-5-301 through 41-5-309.

(2) Detention centers that hold juveniles must comply with the standards for the detention of juveniles promulgated by the department of family services.

NEW SECTION. Section 5. Payment of confinement costs by inmate. An inmate found by the sentencing court to have the ability to pay is liable for the costs of his confinement in a detention center. The rate at which the inmate must pay the costs must be established at the sentencing hearing.

NEW SECTION. Section 6. Temporary release from detention center. A detention center inmate may be granted, by court order AND WITH THE CONSENT OF THE SHERIFF, the privilege of leaving the detention center during necessary and reasonable hours for any of the following purposes:

- (1) seeking employment;
- (2) working at his employment;
- (3) conducting his own business or self-employment;
- (4) attending to the needs of his family;

(5) attending an educational institution; or

(6) obtaining medical treatment.

NEW SECTION. Section 7. Annoyance of inmate

prohibited -- penalty. (1) The detention center administrator or staff member in charge of an inmate must use necessary and proper means to protect an inmate from purposeful or knowing insults and annoyance by others and to prevent others from communicating with the inmate while the inmate is at or is going to or returning from employment.

(2) A person persisting in purposefully or knowingly insulting, annoying, or communicating with an inmate after being told by the detention center administrator or staff member to desist commits the offense of inmate annoyance.

(3) A person convicted of the offense of inmate annoyance shall be fined an amount not to exceed \$500.

NEW SECTION. Section 8. Inmate endangerment --

penalty. (1) A detention center administrator or staff member commits the offense of inmate endangerment if he knowingly:

(a) places or keeps a juvenile with adult inmates;

(b) uses corporal punishment against an inmate; or

(c) uses physical force against an inmate, except as necessary for:

(i) self-defense;

(ii) control of inmates;

(iii) protection of another person from imminent physical attack; or

(iv) prevention of riot or escape.

(2) A person who commits the offense of inmate endangerment shall be fined an amount not to exceed \$500.

Section 9. Section 7-32-2121, MCA, is amended to read:

"7-32-2121. Duties of sheriff. The sheriff must:

(1) preserve the peace;

(2) arrest and take before the nearest magistrate for examination all persons who attempt to commit or have committed a public offense;

(3) prevent and suppress all affrays, breaches of the peace, riots, and insurrections which may come to his knowledge;

(4) perform the duties of a humane officer within the county with reference to the protection of dumb animals;

(5) attend all courts, except municipal, justices', and city courts, at their respective terms or sessions held within the county and obey their lawful orders and directions;

(6) command the aid of as many inhabitants of the county as are necessary in the execution of the sheriff's duties;

(7) take charge of and keep the county-jail detention center and the prisoners inmates therein, unless the jail

1 detention center is operated by a private party under an
 2 agreement entered into under 7-32-2201 or by a jail
 3 detention center administrator or by another local
 4 government;

5 (8) endorse upon all notices and process the year,
 6 month, day, hour, and minute of reception and issue therefor
 7 to the person delivering them, on payment of fees, a
 8 certificate showing the names of the parties, the title of
 9 the paper, and the time of reception;

10 (9) serve all process or notices in the manner
 11 prescribed by law;

12 (10) certify in writing upon the process or notices the
 13 manner and time of service or, if he fails to make service,
 14 the reasons of this failure, and return the papers without
 15 delay;

16 (11) take charge of and supervise search and rescue
 17 units and their officers whenever search and rescue units
 18 are called into service; and

19 (12) perform such other duties as are required by law."

20 **Section 10.** Section 7-32-2123, MCA, is amended to
 21 read:

22 "7-32-2123. Appointment of jailer detention center
 23 staff. A sheriff who operates a county--jail--pursuant--to
 24 detention center under 7-32-2121 may appoint deputy sheriffs
 25 or nonsworn individuals as jaillers detention center staff. A

1 nonsworn individual appointed as-a-jailer to the detention
 2 center staff need not receive the same salary as a deputy
 3 sheriff."

4 **Section 11.** Section 7-32-2127, MCA, is amended to
 5 read:

6 "7-32-2127. Prosecution of action involving county law
 7 enforcement personnel brought against executor or
 8 administrator. Any action for default or misconduct of any
 9 sheriff, his undersheriff, his jailer detention center
 10 staff, or any of his deputies may be prosecuted against the
 11 executors or administrators of such sheriff."

12 **Section 12.** Section 7-32-2128, MCA, is amended to
 13 read:

14 "7-32-2128. False claims by detention center
 15 administrator or sheriff. (1) Every sheriff detention center
 16 administrator who falsely represents to the board-of--county
 17 commissioners governing body of a local government the
 18 actual expenses of boarding prisoners detention center
 19 inmates, for furnishing food and supplies therefor, or for
 20 any--service--rendered--in--connection--therewith providing
 21 services or who presents to said-board the governing body
 22 false items in a claim or false vouchers or, if he is not a
 23 private detention center administrator, makes any profit
 24 whatever-out-of from the board--or keeping of prisoners
 25 inmates in his custody and every person who gives a false

item or false voucher to be used by ~~such--sheriff~~ the detention center administrator in any claim against the ~~county-before-such-board~~ local government is guilty of a misdemeanor.

(2) Every sheriff who falsely represents to the board of county commissioners or attorney general his actual traveling expenses in the performance of any official duty or causes to be paid to him from the state or any county treasury a sum exceeding his actual expenses in the performance of ~~such~~ his duty is guilty of a misdemeanor."

Section 13. Section 7-32-2132, MCA, is amended to read:

"7-32-2132. Liability for escape in civil actions. (1) A ~~sheriff,--jail~~ detention center administrator,--or-private party-jailer who fails to prevent the escape or rescue of a person in his custody arrested in a civil action without the consent or connivance of the party in whose behalf the arrest or imprisonment was made is liable as follows:

(a) When the arrest is upon an order to hold for bail or upon a surrender in exoneration of bail before judgment, the ~~sheriff,--jail~~ detention center administrator,--or-private party-jailer is liable to the plaintiff for the bail.

(b) When the arrest is on an execution or commitment to enforce the payment of money, the ~~sheriff,--jail~~ detention center administrator,--or-private-party-jailer is liable for

the amount expressed in the execution or commitment.

(c) When the arrest is on an execution or commitment other than to enforce the payment of money, the ~~sheriff, jail~~ detention center administrator,--or-private-party-jailer is liable for the actual damages sustained.

(2) Upon being sued for damages for an escape or rescue of a person in his custody, the ~~sheriff,--jail~~ detention center administrator,--or-private-party-jailer may introduce evidence in mitigation or exculpation.

(3) An action may not be maintained against a ~~sheriff, jail~~ detention center administrator,--or-private-party-jailer for a rescue or for an escape of a person arrested upon an execution or commitment if, after his rescue or escape and before the commencement of the action, the prisoner inmate returns to the ~~jail~~ detention center or is retaken by the ~~sheriff,--jail~~ detention center administrator,--or-private party-jailer."

Section 14. Section 7-32-2143, MCA, is amended to read:

"7-32-2143. Mileage and expenses of sheriff in general. (1) Except as provided in 7-32-2144 and 7-32-2145, in addition to the fees specified in 7-32-2141 and 7-32-2142, the sheriff shall receive for each mile actually traveled in serving any writ, process, order, or other paper, including a warrant of arrest, or in conveying a

1 person under arrest before a magistrate or to ~~jaill~~ a
 2 detention center only his actual expenses when such travel
 3 is made by railroad or airline; and when travel is other
 4 than by railroad or airline, he shall receive a mileage
 5 allowance as provided in 2-18-503 for each mile actually
 6 traveled by him both going and returning and the actual
 7 expenses incurred by him in conveying a person under arrest
 8 before a magistrate or to ~~jaill~~ a detention center. He shall
 9 receive the same mileage and his actual expenses for the
 10 person conveyed or transported under order of court within
 11 the county, the same to be in full payment for transporting
 12 and feeding such persons during such transportation.
 13 Whenever more than one person is transported by the sheriff
 14 or when one or more papers are served on the same trip made
 15 for the transportation of one or more prisoners inmates,
 16 only one mileage may be charged.

17 (2) No mileage may be paid by the county to sheriffs
 18 whose vehicles are provided and maintained by the county.
 19 All mileage paid to sheriffs whose vehicles are provided and
 20 maintained by the county shall be paid over to the county
 21 treasurer and deposited in the county general fund.

22 (3) (a) No mileage may be allowed on an attachment,
 23 order of arrest, order for delivery of personal property, or
 24 any other order, notice, or paper when the same accompanies
 25 the summons and the service thereof may be made at the time

1 of the service of the summons, except for the distance
 2 actually traveled beyond that required to serve the summons.
 3 When two or more papers are served on the same person at the
 4 same time or when any paper or papers are served on more
 5 than one person on the same trip, only one mileage may be
 6 allowed or charged; and in the service of subpoenas, only
 7 one mileage may be charged when the persons named therein
 8 live in the same place or in the same direction; but mileage
 9 may be charged for the longest distance actually traveled.
 10 Any writ, order, or other paper for service must be received
 11 at any place in the county where a sheriff or a deputy is
 12 found, and mileage must be computed only from such place to
 13 the place of service. When two or more officers travel in
 14 the same automobile in the discharge of any duty, only one
 15 mileage may be allowed.

16 (b) When any sheriff or constable serves more than one
 17 process in the same cause, not requiring more than one
 18 journey from his office, he shall receive mileage only for
 19 the more distant service, and no mileage in any case may be
 20 allowed for less than 1 mile actually traveled.

21 (4) In lieu of charging mileage for the service of
 22 items of a civil nature as provided in subsections (1) and
 23 (3), a sheriff may charge \$1 for the service of each item of
 24 a civil nature that requires a return or proof of service."

25 **Section 15.** Section 7-32-2201, MCA, is amended to

1 read:

2 "7-32-2201. County---jail---required Establishing
3 detention center -- detention center contract -- regional
4 detention center. For the confinement of lawfully committed
5 persons, the governing body of a county may participate in
6 or undertake one or more of the following:

7 (1) A jail-shall detention center may be built or
8 provided and kept in good repair at the expense of the
9 county in each county, except that whenever in the
10 discretion of the commissioners governing body of two or
11 more counties local governments it is necessary or desirable
12 to build, provide, or utilize a common---jail
13 multijurisdictional detention center, they may do so in any
14 city--or--town--located--within--one of the counties---so
15 jurisdictions concerned. Such---common---jail The
16 multijurisdictional detention center shall be built or
17 provided and kept in good repair at the expense of the
18 counties local governments concerned on a basis as the
19 commissioners--of-the-counties-shall governing bodies agree.

20 (2) A county, or two or more counties local
21 governments acting together, may provide for the jail
22 required detention center allowed by subsection (1) by:

23 (a) establishing in the county government the position
24 of jail detention center administrator and,--with--the
25 sheriff's-concurrence, hiring a person, who is answerable to

1 the governing body of the county, to fill the position or
2 appointing the sheriff as detention center administrator; or

3 (b) entering into an agreement,--with--the--concurrence
4 of--the--sheriffs--of--all--participating--counties, with a
5 private party under which the private party will provide,
6 maintain, or operate the jail detention center.

7 (3) The common-jails detention centers in the-several
8 counties-of this state are kept by the sheriffs--jail
9 detention center administrators--or-private-parties-agreeing
10 to-act-as-jailers of the counties local governments in which
11 they are respectively situated. In the case of more-than-one
12 county-utilizing a common-jail multijurisdictional detention
13 center as provided in subsection (1), such--jail the
14 detention center shall be kept by the sheriffs--of--the
15 counties local governments utilizing the common--jail
16 detention center on a basis as the sheriffs-shall governing
17 bodies agree--by-a-jail-administrator-hired-by-the-county-in
18 which--the--jail-is-situated--or-by-a-private-party-agreeing
19 to-act-as-the-jailer.

20 (4) The board of county commissioners has jurisdiction
21 and power, under such limitations and restrictions as are
22 prescribed by law, to cause a jail detention center to be
23 erected, furnished, and maintained, and operated. The costs
24 must be paid for out of the county treasury."

25 **Section 16.** Section 7-32-2202, MCA, is amended to

1 read:

2 "7-32-2202. Use of jail detention center in contiguous
3 county. (1) When there is no jail detention center in the
4 county or when the jail detention center becomes unfit or
5 unsafe for the confinement of prisoners inmates, the
6 district judge may, by written appointment filed with the
7 clerk, designate the jail detention center of a contiguous
8 county for the confinement of the prisoners inmates of his
9 county ~~for any of them~~ and may at any time modify or annul
10 the appointment.

11 (2) A copy of the appointment, certified by the clerk,
12 must be served on the sheriff detention center administrator
13 of each county involved, ~~or the keeper of the designated~~
14 ~~jail if the keeper is not the sheriff~~, who must receive into
15 his jail detention center all prisoners inmates authorized
16 to be confined therein pursuant to this section and who is
17 responsible for the safekeeping of the persons so committed
18 in the same manner and to the same extent as if he were the
19 ~~sheriff~~, jail detention center administrator, ~~or private~~
20 ~~party~~ ~~jailer~~ of the county for whose use his jail detention
21 center is designated. With respect to the persons so
22 committed, he is deemed the ~~sheriff~~, jail detention center
23 ~~administrator~~, ~~or private party~~ ~~jailer~~ of the county from
24 which they were removed.

25 (3) When a jail detention center is erected in the

1 county for the use of which the designation was made or its
2 jail detention center is rendered fit and safe for the
3 confinement of prisoners inmates, the district judge of that
4 county must, by a written revocation filed with the clerk,
5 declare that the necessity for the designation has ceased
6 and that it is revoked.

7 (4) The clerk must immediately serve a copy of the
8 revocation upon the sheriff detention center administrator
9 of each county ~~or the keeper of the jail in each county if~~
10 ~~the keeper is not the sheriff involved~~. The ~~keeper of the~~
11 jail detention center administrator in the designated county
12 must thereupon remove the prisoners inmates to the jail
13 detention center from which the removal was had."

14 **Section 17.** Section 7-32-2203, MCA, is amended to
15 read:

16 "7-32-2203. Purpose of county jail Who may be confined
17 in a detention center. ~~The common jails~~ Detention centers
18 are used as follows:

19 (1) for the detention of persons committed in order to
20 secure their attendance as witnesses in criminal cases;

21 (2) for the detention of persons charged with crime
22 and committed for trial;

23 (3) for the confinement of persons committed for
24 contempt or upon civil process or by other authority of law;

25 (4) for the confinement of persons sentenced to

1 imprisonment therein upon conviction of a crime;

2 (5) for the confinement of persons sentenced to the
3 state prison, as agreed upon by the state and the governing
4 body-of-the-local-government ADMINISTRATOR in charge of the
5 detention center."

6 **Section 18.** Section 7-32-2204, MCA, is amended to
7 read:

8 "7-32-2204. Maintenance of county---jail detention
9 center. ~~{1}~~ The county commissioners, or the private party
10 when provided in an agreement entered into under
11 7-32-2201(2), have the duty of building, operating,
12 inspecting, and repairing the jail detention center and must
13 take all necessary precautions against escape, sickness, or
14 infection.

15 ~~{2}--The--county--commissioners--must--inquire--into--the~~
16 ~~security-of-the-jail-and--the--condition--of--the--prisoners~~
17 ~~every-3-months."~~

18 **Section 19.** Section 7-32-2205, MCA, is amended to
19 read:

20 "7-32-2205. Confinement of prisoners inmates. The
21 sheriff,--jail detention center administrator,--or--private
22 party-jailer--must shall receive all persons committed to
23 jail the detention center by competent authority and provide
24 them with necessary food, clothing, and bedding, ~~for which~~
25 ~~sheriffs-or-jail-administrators,--but-not-jailers-operating-a~~

1 ~~jail-under-an-agreement-provided-for-in-7-32-2201{2},--shall~~
2 ~~submit--claims-for-the-actual-expenses-incurred-to-the-board~~
3 ~~of-county-commissioners-for-their-determination-and,--except~~
4 ~~as--provided--in--7-32-2207,--to--be--paid-out-of-the-county~~
5 ~~treasury."~~

6 **Section 20.** Section 7-32-2207, MCA, is amended to
7 read:

8 "7-32-2207. Confinement of persons on civil process.
9 (1) Whenever a person is committed upon process in a civil
10 action or proceeding, except when the state is a party
11 thereto, the ~~sheriff,--jail detention center~~ administrator,
12 ~~or--private-party-jailer~~ is not bound to receive such person
13 unless security is given on the part of the party at whose
14 instance the process is issued, by a deposit of money, to
15 meet the expenses for him of necessary food, clothing, and
16 bedding or to detain such person any longer than these
17 expenses are provided for.

18 (2) This section does not apply to cases where a party
19 is committed as a punishment for disobedience to the
20 mandates, process, writs, or orders of court."

21 **Section 21.** Section 7-32-2208, MCA, is amended to
22 read:

23 "7-32-2208. Actual confinement of prisoners inmates
24 required. A-prisoner An inmate committed to the-county-jail
25 a detention center for trial, for examination, or upon

conviction for a public offense must be actually confined in the jail detention center until he is legally discharged. If he is permitted to go at large out of the jail, except by virtue of a legal order or process, it is an escape."

Section 22. Section 7-32-2211, MCA, is amended to read:

"7-32-2211. Service of papers upon jailer detention center administrator for prisoner. A sheriff or jailer detention center administrator upon whom a paper in a judicial proceeding, directed to a prisoner an inmate in his custody, is served must forthwith deliver it to the prisoner, with a note thereon of the time of its service inmate. For neglect to do so, he is liable to the prisoner for all damages occasioned thereby."

Section 23. Section 7-32-2222, MCA, is amended to read:

"7-32-2222. Health and safety of prisoners. (1) When a county jail or building contiguous to it is on fire and there is reason to believe that the prisoners may be injured or endangered, the sheriff, jail administrator, or private party jailer must remove them to a safe and convenient place and there confine them as long as it may be necessary to avoid the danger.

(2) When a pestilence or contagious disease breaks out in or near a jail and the physician thereof certifies that

it is likely to endanger the health of the prisoners, the district judge may by a written appointment designate a safe and convenient place in the county or the jail in a contiguous county as the place of their confinement. The appointment must be filed in the office of the clerk and authorize the sheriff, jail administrator, or private party jailer to remove the prisoners to the designated place or jail and there confine them until they can be safely returned to the jail from which they were taken.

(3) If in the opinion of the sheriff, jail administrator, or private party jailer any prisoner while detained, requires medication, medical services, or hospitalization, the expense of the same shall be borne by the agency or authority at whose instance the prisoner is detained when the agency or authority is not the county wherein the prisoner is being detained. The county attorney shall initiate proceedings to collect any charges arising from such medical services or hospitalization for the prisoner involved if it is determined the prisoner is financially able to pay. Each detention center must comply with state and local fire codes for correctional occupancy and with sanitation, safety, and health codes.

(2) Designated exits must permit prompt evacuation of inmates and detention center staff in an emergency.

(3) When there is good reason to believe that the

1 inmates may be injured or endangered, the detention center
 2 administrator must remove them to a safe and convenient
 3 place and confine them there as long as necessary to avoid
 4 the danger.

5 (4) If in the opinion of the detention center
 6 administrator an inmate under his jurisdiction requires
 7 medication, medical services, or hospitalization, the
 8 expense must be borne by the agency or authority at whose
 9 instance the inmate was arrested when the arresting agency
 10 or authority is not the county in which the inmate is
 11 confined, except that if a city or town commits a person to
 12 the detention center of the county in which the city or town
 13 is located for a reason other than detention pending trial
 14 for or detention for service of a sentence for violating an
 15 ordinance of that city or town, the expense must be paid by
 16 the county. The county attorney shall initiate proceedings
 17 to collect from the inmate any charges arising from the
 18 medical services or hospitalization for the inmate involved
 19 if he determines the inmate is financially able to pay."

20 **Section 24.** Section 7-32-2231, MCA, is amended to
 21 read:

22 "7-32-2231. Purpose to allow private industry
 23 involvement. It is the purpose of 7-32-2231 through
 24 7-32-2234 to allow regional multi-jurisdictional or
 25 single-county-jails single-jurisdiction detention centers to

1 be built by private industry and leased back to the
 2 participating county--or--counties local government or
 3 governments for operation by the county local government,
 4 collectively by participating counties local governments, or
 5 by a private entity with the concurrence of the sheriff--or
 6 sheriffs local governments involved."

7 **Section 25.** Section 7-32-2232, MCA, is amended to
 8 read:

9 "7-32-2232. County---jails Detention centers --
 10 contracts with private parties. (1) The term of an agreement
 11 under 7-32-2201 with a private party may not exceed 3 years.

12 (2) The agreement must include:

13 (a) detailed standards for the operation of the jail
 14 detention center and the incarceration of prisoners inmates;

15 (b) a performance bond from the private party
 16 acceptable to the county local government;

17 (c) a promise from the private party to indemnify the
 18 county local government for any damages for which the county
 19 local government is found liable as a result of the
 20 operation of the jail detention center;

21 (d) a provision that the private party must purchase
 22 liability insurance in an amount acceptable to the county
 23 local government;

24 (e) minimum standards for the training of jailers
 25 detention center staff and a provision that the private

1 party will ensure such training; and

2 (f) a provision that the county local government may
3 immediately terminate the contract for good cause; and

4 (g) a provision that the detention center will meet
5 the standards of the detention center standards commission.

6 (3) The provisions of Title 7 relating to bids for
7 county local government contracts and purchases do not apply
8 to a contract entered into under 7-32-2201 and this
9 section."

10 **Section 26.** Section 7-32-2233, MCA, is amended to
11 read:

12 "7-32-2233. Requests for contract proposals. (1) A
13 county local government seeking to enter into a contract
14 under 7-32-2201 and 7-32-2232 may publish a request for
15 proposals. The request for proposals must be published in a
16 newspaper of general circulation in the county once a week
17 for 3 successive weeks and must include information
18 concerning the type of jail detention center services
19 required.

20 (2) Requests for proposals must be sent to persons who
21 have previously requested that their names be placed on a
22 list of persons providing jail detention center services.
23 The Montana board of crime control shall maintain a list of
24 persons providing jail detention center services and furnish
25 the list to a county local government upon request.

1 (3) In selecting a proposal and awarding a contract, a
2 county local government need not accept the proposal with
3 the lowest cost.

4 (4) The county local government must base its
5 selection on demonstrated competence, knowledge and
6 qualifications, the reasonableness of the services proposed,
7 and the reasonableness of the proposed contract price for
8 the jail detention center services.

9 (5) A copy of all proposals must be kept available for
10 public inspection in the office of the county clerk and
11 recorder.

12 (6) The county local government must give specific
13 reasons for its selection of a proposal. The reasons must be
14 recorded in the minutes of the governing body of the county
15 local government."

16 **Section 27.** Section 7-32-2234, MCA, is amended to
17 read:

18 "7-32-2234. Powers of jail detention center
19 administrators and private-party-jailers. A jail detention
20 center administrator or a private-party-acting-as-a-jailer
21 under an agreement, as provided for in 7-32-2201(2), is
22 responsible for the immediate management and control of the
23 jail detention center subject to general policies and
24 programs established pursuant to the agreement provided for
25 in 7-32-2201(2) and any applicable interlocal agreement. The

1 powers of such an administrator and corrections detention
 2 center personnel employed under his authority include
 3 control over prisoners inmates:

4 (1) within the confines and grounds of the jail
 5 detention center; and

6 (2) outside the jail detention center confines and
 7 grounds while transporting any prisoner inmate or in the hot
 8 pursuit or apprehension of any escapee."

9 **Section 28.** Section 7-32-4201, MCA, is amended to
 10 read:

11 "7-32-4201. Municipal jails detention centers
 12 authorized. The city or town council has power to establish
 13 and maintain a jail detention center, as defined in [section
 14 1], for the confinement of persons convicted of violating
 15 the ordinances of the city or town, and to make rules for
 16 the government of the same, ~~and to cause the prisoners to~~
 17 ~~work on streets or elsewhere within 3 miles of the city.~~"

18 **NEW SECTION. Section 29.** Codification instruction.
 19 [Section 1] is intended to be codified as an integral part
 20 of Title 7, chapter 32, parts 21 and 22, and the provisions
 21 of Title 7, chapter 32, parts 21 and 22, apply to [section
 22 1].

23 **NEW SECTION. Section 30.** Coordination instruction. If
 24 __ Bill No. __ [LC 20] is not passed and approved, the
 25 amendment in [section 25 of this act] that inserts

1 7-32-2232(2)(g) is void.

2 **NEW SECTION. Section 31.** Repealer. Sections
 3 7-32-2206, 7-32-2209, 7-32-2210, 7-32-2212, 7-32-2213,
 4 7-32-2221, 7-32-2223, 7-32-4202, and 7-32-4203, MCA, are
 5 repealed.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

SENATE BILL NO. 452

INTRODUCED BY GAGE

BY REQUEST OF THE BOARD OF CRIME CONTROL

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO JAILS, JAIL ADMINISTRATORS, AND INMATES; REDEFINING JAILS AS DETENTION CENTERS; DEFINING TERMS; PROVIDING FOR THE ADMINISTRATION OF DETENTION CENTERS; PROVIDING FOR MULTIJURISDICTIONAL DETENTION CENTERS; REGULATING DETENTION OF JUVENILES IN DETENTION CENTERS; REQUIRING INMATES TO PAY CONFINEMENT COSTS; ALLOWING THE TEMPORARY RELEASE OF INMATES; CREATING CRIMINAL OFFENSES RELATED TO THE TREATMENT OF INMATES; AMENDING SECTIONS 7-32-2121, 7-32-2123, 7-32-2127, 7-32-2128, 7-32-2132, 7-32-2143, 7-32-2201 THROUGH 7-32-2205, 7-32-2207, 7-32-2208, 7-32-2211, 7-32-2222, 7-32-2231 THROUGH 7-32-2234, AND 7-32-4201, MCA; AND REPEALING SECTIONS 7-32-2206, 7-32-2209, 7-32-2210, 7-32-2212, 7-32-2213, 7-32-2221, 7-32-2223, 7-32-4202, AND 7-32-4203, MCA."

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

NEW SECTION. **Section 1.** Definitions. As used in this part, the following definitions apply:

(1) "Detention center" means a facility established and maintained by an appropriate entity for the purpose of

There is no change on SB 452 and will not be reprinted. Please refer to second reading (yellow) for complete text.

SENATE BILL NO. 452

INTRODUCED BY GAGE

BY REQUEST OF THE BOARD OF CRIME CONTROL

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO JAILS, JAIL ADMINISTRATORS, AND INMATES; REDEFINING JAILS AS DETENTION CENTERS; DEFINING TERMS; PROVIDING FOR THE ADMINISTRATION OF DETENTION CENTERS; PROVIDING FOR MULTIJURISDICTIONAL DETENTION CENTERS; REGULATING DETENTION OF JUVENILES IN DETENTION CENTERS; REQUIRING INMATES TO PAY CONFINEMENT COSTS; ALLOWING THE TEMPORARY RELEASE OF INMATES; CREATING CRIMINAL OFFENSES RELATED TO THE TREATMENT OF INMATES; AMENDING SECTIONS 7-32-2121, 7-32-2123, 7-32-2127, 7-32-2128, 7-32-2132, 7-32-2143, 7-32-2201 THROUGH 7-32-2205, 7-32-2207, 7-32-2208, 7-32-2211, 7-32-2222, 7-32-2231 THROUGH 7-32-2234, AND 7-32-4201, MCA; AND REPEALING SECTIONS 7-32-2206, 7-32-2209, 7-32-2210, 7-32-2212, 7-32-2213, 7-32-2221, 7-32-2223, 7-32-4202, AND 7-32-4203, MCA."

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

NEW SECTION. **Section 1.** Definitions. As used in this part, the following definitions apply:

(1) "Detention center" means a facility established and maintained by an appropriate entity for the purpose of

confining arrested persons or persons sentenced to the detention center.

(2) "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.

(3) "Detention center staff" means custodial personnel whose duties include ongoing supervision of the inmates in a detention center.

(4) "Inmate" means a person who is confined in a detention center.

(5) "Local government" means a city, town, county, or consolidated city-county government.

(6) "Multijurisdictional detention center" means a detention center established and maintained by two or more local governments for the confinement of persons arrested or sentenced to confinement or a local government detention center contracting to confine persons arrested or sentenced in other local governments.

(7) "Private detention center" means a detention center owned by private industry and leased to or operated under a contract with a local government.

NEW SECTION. **Section 2.** Use of detention center -- payment of costs. (1) Local government, state, and federal law enforcement and correctional agencies may use any



1 detention center for the confinement of arrested persons and
2 the punishment of offenders, under conditions imposed by law
3 and with the consent of the governing body responsible for
4 the detention center.

5 (2) If a person is committed to a detention center by
6 a government unit not responsible for the operation of the
7 detention center, the committing government unit shall pay
8 the costs of holding the person in confinement as agreed
9 upon by the government unit and the detention center, except
10 that if a city or town commits a person to the detention
11 center of the county in which the city or town is located
12 for a reason other than detention pending trial for or
13 detention for service of a sentence for violating an
14 ordinance of that city or town, the costs must be paid by
15 the county. Payments must be made to the government unit
16 responsible for the detention center or to the administrator
17 operating a private detention center under an agreement
18 provided for in 7-32-2201, upon presentation of a claim to
19 the committing government unit.

20 NEW SECTION. Section 3. Contracts for detention
21 center services. (1) Contracts concerning detention center
22 services and facilities between state or local government
23 units, the state of Montana, or the federal government must
24 be made pursuant to the Interlocal Cooperation Act, Title 7,
25 chapter 11, part 1.

1 (2) A government unit responsible for a detention
2 center may contract with a government unit of another state
3 for the confinement of lawfully committed inmates in a
4 detention center located in either jurisdiction.

5 NEW SECTION. Section 4. Juvenile detention center
6 standards. (1) Juveniles may be held in a detention center
7 only in accordance with 41-5-301 through 41-5-309.

8 (2) Detention centers that hold juveniles must comply
9 with the standards for the detention of juveniles
10 promulgated by the department of family services.

11 NEW SECTION. Section 5. Payment of confinement costs
12 by inmate. An inmate found by the sentencing court to have
13 the ability to pay is liable for the costs of his
14 confinement in a detention center. The rate at which the
15 inmate must pay the costs must be established at the
16 sentencing hearing.

17 NEW SECTION. Section 6. Temporary release from
18 detention center. A detention center inmate may be granted,
19 by court order AND WITH THE CONSENT OF THE SHERIFF, the
20 privilege of leaving the detention center during necessary
21 and reasonable hours for any of the following purposes:

- 22 (1) seeking employment;
- 23 (2) working at his employment;
- 24 (3) conducting his own business or self-employment;
- 25 (4) attending to the needs of his family;

(5) attending an educational institution; or

(6) obtaining medical treatment.

NEW SECTION. Section 7. Annoyance of inmate prohibited -- penalty. (1) The detention center administrator or staff member in charge of an inmate must use necessary and proper means to protect an inmate from purposeful or knowing insults and annoyance by others and to prevent others from communicating with the inmate while the inmate is at or is going to or returning from employment.

(2) A person persisting in purposefully or knowingly insulting, annoying, or communicating with an inmate after being told by the detention center administrator or staff member to desist commits the offense of inmate annoyance.

(3) A person convicted of the offense of inmate annoyance shall be fined an amount not to exceed \$500.

NEW SECTION. Section 8. Inmate endangerment -- penalty. (1) A detention center administrator or staff member commits the offense of inmate endangerment if he knowingly:

(a) places or keeps a juvenile with adult inmates;

(b) uses corporal punishment against an inmate; or

(c) uses physical force against an inmate, except as necessary for:

(i) self-defense;

(ii) control of inmates;

(iii) protection of another person from imminent physical attack; or

(iv) prevention of riot or escape.

(2) A person who commits the offense of inmate endangerment shall be fined an amount not to exceed \$500.

Section 9. Section 7-32-2121, MCA, is amended to read:

"7-32-2121. Duties of sheriff. The sheriff must:

(1) preserve the peace;

(2) arrest and take before the nearest magistrate for examination all persons who attempt to commit or have committed a public offense;

(3) prevent and suppress all affrays, breaches of the peace, riots, and insurrections which may come to his knowledge;

(4) perform the duties of a humane officer within the county with reference to the protection of dumb animals;

(5) attend all courts, except municipal, justices', and city courts, at their respective terms or sessions held within the county and obey their lawful orders and directions;

(6) command the aid of as many inhabitants of the county as are necessary in the execution of the sheriff's duties;

(7) take charge of and keep the county-jail detention center and the prisoners inmates therein, unless the jail

1 detention center is operated by a private party under an
 2 agreement entered into under 7-32-2201 or by a jail
 3 detention center administrator or by another local
 4 government;

5 (8) endorse upon all notices and process the year,
 6 month, day, hour, and minute of reception and issue therefor
 7 to the person delivering them, on payment of fees, a
 8 certificate showing the names of the parties, the title of
 9 the paper, and the time of reception;

10 (9) serve all process or notices in the manner
 11 prescribed by law;

12 (10) certify in writing upon the process or notices the
 13 manner and time of service or, if he fails to make service,
 14 the reasons of this failure, and return the papers without
 15 delay;

16 (11) take charge of and supervise search and rescue
 17 units and their officers whenever search and rescue units
 18 are called into service; and

19 (12) perform such other duties as are required by law."

20 **Section 10.** Section 7-32-2123, MCA, is amended to
 21 read:

22 "7-32-2123. Appointment of jailer detention center
 23 staff. A sheriff who operates a county--jail--pursuant--to
 24 detention center under 7-32-2121 may appoint deputy sheriffs
 25 or nonsworn individuals as jailers detention center staff. A

1 nonsworn individual appointed ~~as-a-jailer to the detention~~
 2 center staff need not receive the same salary as a deputy
 3 sheriff."

4 **Section 11.** Section 7-32-2127, MCA, is amended to
 5 read:

6 "7-32-2127. Prosecution of action involving county law
 7 enforcement personnel brought against executor or
 8 administrator. Any action for default or misconduct of any
 9 sheriff, his undersheriff, his jailer detention center
 10 staff, or any of his deputies may be prosecuted against the
 11 executors or administrators of such sheriff."

12 **Section 12.** Section 7-32-2128, MCA, is amended to
 13 read:

14 "7-32-2128. False claims by detention center
 15 administrator or sheriff. (1) Every sheriff detention center
 16 administrator who falsely represents to the board-of--county
 17 commissioners governing body of a local government the
 18 actual expenses of boarding prisoners detention center
 19 inmates, for furnishing food and supplies therefor, or for
 20 any--service--rendered--in--connection--therewith providing
 21 services or who presents to said board the governing body
 22 false items in a claim or false vouchers or, if he is not a
 23 private detention center administrator, makes any profit
 24 whatever-out-of from the board--or keeping of prisoners
 25 inmates in his custody and every person who gives a false

1 item or false voucher to be used by ~~such--sheriff~~ the
 2 detention center administrator in any claim against the
 3 ~~county-before-such-board~~ local government is guilty of a
 4 misdemeanor.

5 (2) Every sheriff who falsely represents to the board
 6 of county commissioners or attorney general his actual
 7 traveling expenses in the performance of any official duty
 8 or causes to be paid to him from the state or any county
 9 treasury a sum exceeding his actual expenses in the
 10 performance of ~~such~~ his duty is guilty of a misdemeanor."

11 **Section 13.** Section 7-32-2132, MCA, is amended to
 12 read:

13 "7-32-2132. Liability for escape in civil actions. (1)
 14 A ~~sheriff--jail~~ detention center administrator~~--or-private~~
 15 ~~party-jailer~~ who fails to prevent the escape or rescue of a
 16 person in his custody arrested in a civil action without the
 17 consent or connivance of the party in whose behalf the
 18 arrest or imprisonment was made is liable as follows:

19 (a) When the arrest is upon an order to hold for bail
 20 or upon a surrender in exoneration of bail before judgment,
 21 the ~~sheriff--jail~~ detention center administrator~~--or-private~~
 22 ~~party-jailer~~ is liable to the plaintiff for the bail.

23 (b) When the arrest is on an execution or commitment
 24 to enforce the payment of money, the ~~sheriff--jail~~ detention
 25 center administrator~~--or-private-party-jailer~~ is liable for

1 the amount expressed in the execution or commitment.

2 (c) When the arrest is on an execution or commitment
 3 other than to enforce the payment of money, the ~~sheriff--~~
 4 ~~jail~~ detention center administrator~~--or-private-party-jailer~~
 5 is liable for the actual damages sustained.

6 (2) Upon being sued for damages for an escape or
 7 rescue of a person in his custody, the ~~sheriff--jail~~
 8 detention center administrator~~--or-private-party-jailer~~ may
 9 introduce evidence in mitigation or exculpation.

10 (3) An action may not be maintained against a ~~sheriff--~~
 11 ~~jail~~ detention center administrator~~--or-private-party-jailer~~
 12 for a rescue or for an escape of a person arrested upon an
 13 execution or commitment if, after his rescue or escape and
 14 before the commencement of the action, the prisoner inmate
 15 returns to the ~~jail~~ detention center or is retaken by the
 16 ~~sheriff--jail~~ detention center administrator~~--or-private~~
 17 ~~party-jailer~~."

18 **Section 14.** Section 7-32-2143, MCA, is amended to
 19 read:

20 "7-32-2143. Mileage and expenses of sheriff in
 21 general. (1) Except as provided in 7-32-2144 and 7-32-2145,
 22 in addition to the fees specified in 7-32-2141 and
 23 7-32-2142, the sheriff shall receive for each mile actually
 24 traveled in serving any writ, process, order, or other
 25 paper, including a warrant of arrest, or in conveying a

1 person under arrest before a magistrate or to jail a
 2 detention center only his actual expenses when such travel
 3 is made by railroad or airline; and when travel is other
 4 than by railroad or airline, he shall receive a mileage
 5 allowance as provided in 2-18-503 for each mile actually
 6 traveled by him both going and returning and the actual
 7 expenses incurred by him in conveying a person under arrest
 8 before a magistrate or to jail a detention center. He shall
 9 receive the same mileage and his actual expenses for the
 10 person conveyed or transported under order of court within
 11 the county, the same to be in full payment for transporting
 12 and feeding such persons during such transportation.
 13 Whenever more than one person is transported by the sheriff
 14 or when one or more papers are served on the same trip made
 15 for the transportation of one or more prisoners inmates,
 16 only one mileage may be charged.

17 (2) No mileage may be paid by the county to sheriffs
 18 whose vehicles are provided and maintained by the county.
 19 All mileage paid to sheriffs whose vehicles are provided and
 20 maintained by the county shall be paid over to the county
 21 treasurer and deposited in the county general fund.

22 (3) (a) No mileage may be allowed on an attachment,
 23 order of arrest, order for delivery of personal property, or
 24 any other order, notice, or paper when the same accompanies
 25 the summons and the service thereof may be made at the time

1 of the service of the summons, except for the distance
 2 actually traveled beyond that required to serve the summons.
 3 When two or more papers are served on the same person at the
 4 same time or when any paper or papers are served on more
 5 than one person on the same trip, only one mileage may be
 6 allowed or charged; and in the service of subpoenas, only
 7 one mileage may be charged when the persons named therein
 8 live in the same place or in the same direction; but mileage
 9 may be charged for the longest distance actually traveled.
 10 Any writ, order, or other paper for service must be received
 11 at any place in the county where a sheriff or a deputy is
 12 found, and mileage must be computed only from such place to
 13 the place of service. When two or more officers travel in
 14 the same automobile in the discharge of any duty, only one
 15 mileage may be allowed.

16 (b) When any sheriff or constable serves more than one
 17 process in the same cause, not requiring more than one
 18 journey from his office, he shall receive mileage only for
 19 the more distant service, and no mileage in any case may be
 20 allowed for less than 1 mile actually traveled.

21 (4) In lieu of charging mileage for the service of
 22 items of a civil nature as provided in subsections (1) and
 23 (3), a sheriff may charge \$1 for the service of each item of
 24 a civil nature that requires a return or proof of service."

25 **Section 15.** Section 7-32-2201, MCA, is amended to

1 read:

2 "7-32-2201. ~~County---jail---required~~ Establishing
3 detention center -- detention center contract -- regional
4 detention center. For the confinement of lawfully committed
5 persons, the governing body of a county may participate in
6 or undertake one or more of the following:

7 (1) ~~A jail-shall~~ detention center may be built or
8 provided and kept in good repair at the expense of the
9 county in each county, except that whenever in the
10 discretion of the commissioners governing body of two or
11 more counties local governments it is necessary or desirable
12 to build, provide, or utilize a ~~common---jail~~
13 multijurisdictional detention center, they may do so in any
14 ~~city--or--town--located--within--one of the counties---so~~
15 jurisdictions concerned. ~~Such---common---jail~~ The
16 multijurisdictional detention center shall be built or
17 provided and kept in good repair at the expense of the
18 counties local governments concerned on a basis as the
19 ~~commissioners--of-the-counties-shall~~ governing bodies agree.

20 (2) A county, or two or more counties local
21 governments acting together, may provide for the jail
22 required detention center allowed by subsection (1) by:

23 (a) establishing in the county government the position
24 of jail detention center administrator and, ~~with---the~~
25 ~~sheriff's-concurrence~~, hiring a person, who is answerable to

1 the governing body of the county, to fill the position or
2 appointing the sheriff as detention center administrator; or

3 (b) entering into an agreement, ~~with--the--concurrence~~
4 ~~of--the--sheriffs--of--all--participating--counties,~~ with a
5 private party under which the private party will provide,
6 maintain, or operate the jail detention center.

7 (3) The ~~common-jails~~ detention centers in the ~~several~~
8 ~~counties-of~~ this state are kept by the ~~sheriffs--jail~~
9 detention center administrators, ~~or-private-parties-agreeing~~
10 ~~to-act-as-jailers~~ of the counties local governments in which
11 they are ~~respectively~~ situated. In the case of ~~more-than-one~~
12 county-utilizing a common-jail multijurisdictional detention
13 center as provided in subsection (1), ~~such--jail the~~
14 detention center shall be kept by the ~~sheriffs--of--the~~
15 counties local governments utilizing the ~~common--jail~~
16 detention center on a basis as the ~~sheriffs-shall~~ governing
17 bodies agree-by-a-jail-administrator-hired-by-the-county-in
18 which--the--jail-is-situated,--or-by-a-private-party-agreeing
19 to-act-as-the-jailer.

20 (4) The board of county commissioners has jurisdiction
21 and power, under such limitations and restrictions as are
22 prescribed by law, to cause a jail detention center to be
23 erected, furnished, and maintained, and operated. The costs
24 must be paid for out of the county treasury."

25 **Section 16.** Section 7-32-2202, MCA, is amended to

1 read:

2 "7-32-2202. Use of jail detention center in contiguous
3 county. (1) When there is no jail detention center in the
4 county or when the jail detention center becomes unfit or
5 unsafe for the confinement of prisoners inmates, the
6 district judge may, by written appointment filed with the
7 clerk, designate the jail detention center of a contiguous
8 county for the confinement of the prisoners inmates of his
9 county ~~for any of them~~ and may at any time modify or annul
10 the appointment.

11 (2) A copy of the appointment, certified by the clerk,
12 must be served on the sheriff detention center administrator
13 of each county involved, ~~or the keeper of the designated~~
14 ~~jail if the keeper is not the sheriff~~, who must receive into
15 his jail detention center all prisoners inmates authorized
16 to be confined therein pursuant to this section and who is
17 responsible for the safekeeping of the persons so committed
18 in the same manner and to the same extent as if he were the
19 ~~sheriff~~, jail detention center administrator, ~~or private~~
20 ~~party~~ jailer of the county for whose use his jail detention
21 center is designated. With respect to the persons so
22 committed, he is deemed the ~~sheriff~~, jail detention center
23 administrator, ~~or private party~~ jailer of the county from
24 which they were removed.

25 (3) When a jail detention center is erected in the

1 county for the use of which the designation was made or its
2 jail detention center is rendered fit and safe for the
3 confinement of prisoners inmates, the district judge of that
4 county must, by a written revocation filed with the clerk,
5 declare that the necessity for the designation has ceased
6 and that it is revoked.

7 (4) The clerk must immediately serve a copy of the
8 revocation upon the sheriff detention center administrator
9 of each county ~~or the keeper of the jail in each county if~~
10 ~~the keeper is not the sheriff~~ involved. The ~~keeper of the~~
11 jail detention center administrator in the designated county
12 must thereupon remove the prisoners inmates to the jail
13 detention center from which the removal was had."

14 **Section 17.** Section 7-32-2203, MCA, is amended to
15 read:

16 "7-32-2203. Purpose of county jail Who may be confined
17 in a detention center. ~~The common jails~~ Detention centers
18 are used as follows:

19 (1) for the detention of persons committed in order to
20 secure their attendance as witnesses in criminal cases;

21 (2) for the detention of persons charged with crime
22 and committed for trial;

23 (3) for the confinement of persons committed for
24 contempt or upon civil process or by other authority of law;

25 (4) for the confinement of persons sentenced to

imprisonment therein upon conviction of a crime;
 (5) for the confinement of persons sentenced to the state prison, as agreed upon by the state and the governing body of the local government ADMINISTRATOR in charge of the detention center."

Section 18. Section 7-32-2204, MCA, is amended to read:

"7-32-2204. Maintenance of county--jail detention center. {1} The county commissioners, or the private party when provided in an agreement entered into under 7-32-2201(2), have the duty of building, operating, inspecting, and repairing the jail detention center and must take all necessary precautions against escape, sickness, or infection.

{2}--The--county--commissioners--must--inquire--into--the security--of--the--jail--and--the--condition--of--the--prisoners every-3-months--"

Section 19. Section 7-32-2205, MCA, is amended to read:

"7-32-2205. Confinement of prisoners inmates. The sheriff,--jail detention center administrator,--or--private party--jailer--must shall receive all persons committed to jail the detention center by competent authority and provide them with necessary food, clothing, and bedding, for--which sheriffs--or--jail-administrators,--but--not--jailers--operating--a

jail--under--an--agreement--provided--for--in--7-32-2201(2),--shall submit--claims--for--the--actual--expenses--incurred--to--the--board of--county--commissioners--for--their--determination--and,--except as--provided--in--7-32-2207,--to--be--paid--out--of--the--county treasury."

Section 20. Section 7-32-2207, MCA, is amended to read:

"7-32-2207. Confinement of persons on civil process.
 (1) Whenever a person is committed upon process in a civil action or proceeding, except when the state is a party thereto, the sheriff,--jail detention center administrator,--or--private-party-jailer is not bound to receive such person unless security is given on the part of the party at whose instance the process is issued, by a deposit of money, to meet the expenses for him of necessary food, clothing, and bedding or to detain such person any longer than these expenses are provided for.

(2) This section does not apply to cases where a party is committed as a punishment for disobedience to the mandates, process, writs, or orders of court."

Section 21. Section 7-32-2208, MCA, is amended to read:

"7-32-2208. Actual confinement of prisoners inmates required. A-prisoner An inmate committed to the-county-jail a detention center for trial, for examination, or upon

1 conviction for a public offense must be actually confined in
2 the jail detention center until he is legally discharged. If
3 he is permitted to go at large out of the jail, except by
4 virtue of a legal order or process, it is an escape."

5 Section 22. Section 7-32-2211, MCA, is amended to
6 read:

7 "7-32-2211. Service of papers upon jailer detention
8 center administrator for prisoner. A sheriff or jailer
9 detention center administrator upon whom a paper in a
10 judicial proceeding, directed to a prisoner an inmate in his
11 custody, is served must forthwith deliver it to the
12 prisoner, with a note thereon of the time of its service
13 inmate. For neglect to do so, he is liable to the prisoner
14 for all damages occasioned thereby."

15 Section 23. Section 7-32-2222, MCA, is amended to
16 read:

17 "7-32-2222. Health and safety of prisoners. (1) When a
18 county jail or building contiguous to it is on fire and
19 there is reason to believe that the prisoners may be injured
20 or endangered, the sheriff, jail administrator, or private
21 party jailer must remove them to a safe and convenient place
22 and there confine them as long as it may be necessary to
23 avoid the danger.

24 (2) When a pestilence or contagious disease breaks out
25 in or near a jail and the physician thereof certifies that

1 it is likely to endanger the health of the prisoners, the
2 district judge may by a written appointment designate a safe
3 and convenient place in the county or the jail in a
4 contiguous county as the place of their confinement. The
5 appointment must be filed in the office of the clerk and
6 authorize the sheriff, jail administrator, or private party
7 jailer to remove the prisoners to the designated place or
8 jail and there confine them until they can be safely
9 returned to the jail from which they were taken.

10 (3) If in the opinion of the sheriff, jail
11 administrator, or private party jailer any prisoner while
12 detained, requires medication, medical services, or
13 hospitalization, the expense of the same shall be borne by
14 the agency or authority at whose instance the prisoner is
15 detained when the agency or authority is not the county
16 wherein the prisoner is being detained. The county attorney
17 shall initiate proceedings to collect any charges arising
18 from such medical services or hospitalization for the
19 prisoner involved if it is determined the prisoner is
20 financially able to pay. Each detention center must comply
21 with state and local fire codes for correctional occupancy
22 and with sanitation, safety, and health codes.

23 (2) Designated exits must permit prompt evacuation of
24 inmates and detention center staff in an emergency.

25 (3) When there is good reason to believe that the

inmates may be injured or endangered, the detention center administrator must remove them to a safe and convenient place and confine them there as long as necessary to avoid the danger.

(4) If in the opinion of the detention center administrator an inmate under his jurisdiction requires medication, medical services, or hospitalization, the expense must be borne by the agency or authority at whose instance the inmate was arrested when the arresting agency or authority is not the county in which the inmate is confined, except that if a city or town commits a person to the detention center of the county in which the city or town is located for a reason other than detention pending trial for or detention for service of a sentence for violating an ordinance of that city or town, the expense must be paid by the county. The county attorney shall initiate proceedings to collect from the inmate any charges arising from the medical services or hospitalization for the inmate involved if he determines the inmate is financially able to pay."

Section 24. Section 7-32-2231, MCA, is amended to read:

"7-32-2231. Purpose to allow private industry involvement. It is the purpose of 7-32-2231 through 7-32-2234 to allow regional multi-jurisdictional or single-county-jails single-jurisdiction detention centers to

be built by private industry and leased back to the participating ~~county--or--counties~~ local government or governments for operation by the county local government, collectively by participating counties local governments, or by a private entity with the concurrence of the ~~sheriff--or~~ sheriffs local governments involved."

Section 25. Section 7-32-2232, MCA, is amended to read:

"7-32-2232. ~~County--jails~~ Detention centers -- contracts with private parties. (1) The term of an agreement under 7-32-2201 with a private party may not exceed 3 years.

(2) The agreement must include:

(a) detailed standards for the operation of the ~~jail~~ detention center and the incarceration of prisoners inmates;

(b) a performance bond from the private party acceptable to the county local government;

(c) a promise from the private party to indemnify the county local government for any damages for which the county local government is found liable as a result of the operation of the ~~jail~~ detention center;

(d) a provision that the private party must purchase liability insurance in an amount acceptable to the county local government;

(e) minimum standards for the training of jailers detention center staff and a provision that the private

1 party will ensure such training; and

2 (f) a provision that the county local government may
3 immediately terminate the contract for good cause; and

4 (g) a provision that the detention center will meet
5 the standards of the detention center standards commission.

6 (3) The provisions of Title 7 relating to bids for
7 county local government contracts and purchases do not apply
8 to a contract entered into under 7-32-2201 and this
9 section."

10 **Section 26.** Section 7-32-2233, MCA, is amended to
11 read:

12 "7-32-2233. Requests for contract proposals. (1) A
13 county local government seeking to enter into a contract
14 under 7-32-2201 and 7-32-2232 may publish a request for
15 proposals. The request for proposals must be published in a
16 newspaper of general circulation in the county once a week
17 for 3 successive weeks and must include information
18 concerning the type of jail detention center services
19 required.

20 (2) Requests for proposals must be sent to persons who
21 have previously requested that their names be placed on a
22 list of persons providing jail detention center services.
23 The Montana board of crime control shall maintain a list of
24 persons providing jail detention center services and furnish
25 the list to a county local government upon request.

1 (3) In selecting a proposal and awarding a contract, a
2 county local government need not accept the proposal with
3 the lowest cost.

4 (4) The county local government must base its
5 selection on demonstrated competence, knowledge and
6 qualifications, the reasonableness of the services proposed,
7 and the reasonableness of the proposed contract price for
8 the jail detention center services.

9 (5) A copy of all proposals must be kept available for
10 public inspection in the office of the county clerk and
11 recorder.

12 (6) The county local government must give specific
13 reasons for its selection of a proposal. The reasons must be
14 recorded in the minutes of the governing body of the county
15 local government."

16 **Section 27.** Section 7-32-2234, MCA, is amended to
17 read:

18 "7-32-2234. Powers of jail detention center
19 administrators and-private-party-jailers. A jail detention
20 center administrator or-a-private-party-acting-as-a-jailer
21 under-an-agreement-as--provided--for--in--7-32-2201(2), is
22 responsible for the immediate management and control of the
23 jail detention center subject to general policies and
24 programs established pursuant to the agreement provided for
25 in 7-32-2201(2) and any applicable interlocal agreement. The

1 powers of such an administrator and corrections detention
 2 center personnel employed under his authority include
 3 control over prisoners inmates:

4 (1) within the confines and grounds of the jail
 5 detention center; and

6 (2) outside the jail detention center confines and
 7 grounds while transporting any prisoner inmate or in the hot
 8 pursuit or apprehension of any escapee."

9 **Section 28.** Section 7-32-4201, MCA, is amended to
 10 read:

11 "7-32-4201. Municipal jails detention centers
 12 authorized. The city or town council has power to establish
 13 and maintain a jail detention center, as defined in [section
 14 1], for the confinement of persons convicted of violating
 15 the ordinances of the city or town, and to make rules for
 16 the government of the same, ~~and to cause the prisoners to~~
 17 ~~work on streets or elsewhere within 3 miles of the city.~~"

18 **NEW SECTION. Section 29.** Codification instruction.
 19 [Section 1] is intended to be codified as an integral part
 20 of Title 7, chapter 32, parts 21 and 22, and the provisions
 21 of Title 7, chapter 32, parts 21 and 22, apply to [section
 22 1].

23 **NEW SECTION. Section 30.** Coordination instruction. If
 24 Bill No. [LC 20] is not passed and approved, the
 25 amendment in [section 25 of this act] that inserts

1 7-32-2232(2)(g) is void.

2 **NEW SECTION. Section 31.** Repealer. Sections
 3 7-32-2206, 7-32-2209, 7-32-2210, 7-32-2212, 7-32-2213,
 4 7-32-2221, 7-32-2223, 7-32-4202, and 7-32-4203, MCA, are
 5 repealed.

-End-