

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

INTRODUCED BY ^{Miller} Wm E BoharSKI ^{Peck} Denny ^{Marble}

House BILL NO. 357

BY REQUEST OF THE DEPARTMENT OF CORRECTIONS AND HUMAN SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A COMMISSION ON SENTENCING TO STUDY SENTENCING PRACTICES AND GUIDELINES AND THE EFFECTS OF SENTENCES; PROVIDING FOR THE SUBMISSION OF PROPOSED SENTENCING GUIDELINES TO THE LEGISLATURE BY THE COMMISSION; PROVIDING FOR RECOMMENDATIONS TO THE LEGISLATURE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

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

NEW SECTION. Section 1. Commission on sentencing. (1) There is a commission on sentencing.

The commission is allocated to the department of corrections and human services for administrative purposes only, as provided in 2-15-121.

(2) The commission consists of:

- (a) two members of the house of representatives, selected by the speaker of the house of representatives, no more than one of whom may be from the same political party;
 - (b) two members of the senate, selected by the president of the senate, no more than one of whom may be from the same political party;
 - (c) two district court judges selected by the chief justice of the Montana supreme court;
 - (d) the director of the department of corrections and human services or the director's designee;
- and
- (e) the following persons appointed by the governor:
 - (i) a county attorney;
 - (ii) a criminal defense attorney;
 - (iii) a probation and parole officer;
 - (iv) a county sheriff;
 - (v) a chief of police;
 - (vi) a member of the board of pardons;

1 (vii) an employee of the department of justice; and

2 (viii) two members of the public, one of whom must be a victim of a crime for which a sentence
3 of death or of imprisonment for more than 1 year was imposed.

4 (3) Appointments under subsection (2) must be made within 60 days after [the effective date of
5 this act].

6 (4) The commission shall select a presiding officer from its members.

7 (5) The commission shall meet at least quarterly.

8

9 **NEW SECTION. Section 2. Duties.** The commission may:

10 (1) collect and study data, studies, and research from public and private entities concerning
11 sentencing processes and guidelines;

12 (2) publish or distribute material concerning sentencing processes, sentencing guidelines, sentences
13 imposed, and the effect of those sentences;

14 (3) make recommendations to the 55th legislature concerning modification or enactment of
15 sentencing and correctional statutes that the commission believes is necessary or advisable to carry out
16 an effective, humane, and rational sentencing policy;

17 (4) make a recommendation to the 55th legislature as to whether the commission should be
18 continued in existence;

19 (5) identify the impact of good time credits and sentencing guidelines on the criminal justice
20 system; and

21 (6) make a recommendation to the 55th legislature concerning the advisability of good time credits.

22

23 **NEW SECTION. Section 3. Sentencing guidelines.** (1) The commission shall determine the
24 advisability of proposing advisory sentencing guidelines to the 55th legislature.

25 (2) If submitted to the legislature for consideration, the guidelines must specify:

26 (a) the range of sentences applicable to each crime;

27 (b) a range of sentences for a defendant previously convicted of a felony or felonies or convicted
28 of a crime involving the use of a deadly weapon;

29 (c) variations from the range of applicable sentences due to aggravating or mitigating
30 circumstances;

1 (d) the circumstances under which imprisonment of an offender is proper;

2 (e) a presumptive sentence for offenders for whom imprisonment is proper, based upon an
3 appropriate evaluation of the crime committed, the prospects of rehabilitation of the offender, the
4 circumstances under which the crime was committed, and the criminal history of the offender; and

5 (f) appropriate sanctions for an offender for whom imprisonment is not proper.

6 (3) In establishing the sentencing guidelines, the primary consideration of the commission must be
7 public safety and the restoration of the victim. The commission shall also consider the prospects of
8 rehabilitation, responsibility, and accountability of the offender; current sentencing and release practices;
9 and correctional resources.

10

11 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

12

13 NEW SECTION. **Section 5. Termination.** [This act] terminates May 31, 1997.

14

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0357, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill creating a commission on sentencing to study sentencing practices and guidelines and the effects of sentences.

ASSUMPTIONS:

1. A commission on sentencing is allocated to the Department of Corrections and Human Services (DCHS) for administrative purposes only, as provided by 2-15-121, MCA.
2. The commission would consist of 16 members as defined within the bill who would evaluate the elimination of good time and determine the advisability of proposing advisory sentencing guidelines.
3. DCHS present law base staff would provide supportive services to the commission, with some contracted clerical support for the final report.
4. The commission will have four (4) full 16-member meetings, nine (9) five-member subcommittee meetings, and 20 four-member public meetings statewide during the 1997 biennium.
5. The commission report of its findings will be printed and distributed to the 55th Legislature and interested parties.
6. The commission will terminate May 31, 1997.

FISCAL IMPACT:

	<u>FY96</u> <u>Difference</u>	<u>FY97</u> <u>Difference</u>
<u>Expenditures:</u>		
Commission Per Diem	4,700	4,700
Operating Expenses	<u>5,500</u>	<u>7,500</u>
Total	10,200	12,200
<u>Funding:</u>		
General Fund	10,200	12,200

Dave Lewis 2.2.95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Wm E Boharski
WILLIAM BOHARSKI, PRIMARY SPONSOR DATE
Fiscal Note for HB0357, as introduced

HB 357

STATE OF MONTANA - FISCAL NOTE

Revised Fiscal Note for HB0357, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill creating a commission on sentencing to study sentencing practices and guidelines and the effects of sentences.

ASSUMPTIONS:

1. A commission on sentencing is allocated to the Department of Corrections and Human Services (DCHS) for administrative purposes only, as provided by 2-15-121, MCA.
2. The commission would consist of 16 members as defined within the bill who would evaluate the elimination of good time and determine the advisability of proposing advisory sentencing guidelines.
3. Assume that two (2) FTE will be needed to staff the commission. These FTE would consist of one grade 15, project manager and one grade 10, administrative support.
4. The commission will have four (4) full 16-member meetings, nine (9) five-member subcommittee meetings, and 20 four-member public meetings statewide during the 1997 biennium.
5. The commission report of its findings will be printed and distributed to the 55th Legislature and interested parties.
6. The commission will terminate May 31, 1997.

FISCAL IMPACT:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
<u>Expenditures:</u>		
FTE	2.00	2.00
Personal Services	70,040	70,040
Commission Per Diem	4,725	4,725
Operating Expenses	20,104	24,603
Equipment	<u>3,000</u>	<u> </u>
Total	97,894	99,393
<u>Funding:</u>		
General Fund	97,894	99,393

Dave Lewis 3-28-95

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

William Boharski

WILLIAM BOHARSKI, PRIMARY SPONSOR DATE

Revised Fiscal Note for HB0357, as introduced

HB 357-#2

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

House BILL NO. 357
INTRODUCED BY *Wm E BoharSKI* *Peck* *Denny*

BY REQUEST OF THE DEPARTMENT OF CORRECTIONS AND HUMAN SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A COMMISSION ON SENTENCING TO STUDY SENTENCING PRACTICES AND GUIDELINES AND THE EFFECTS OF SENTENCES; PROVIDING FOR THE SUBMISSION OF PROPOSED SENTENCING GUIDELINES TO THE LEGISLATURE BY THE COMMISSION; PROVIDING FOR RECOMMENDATIONS TO THE LEGISLATURE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

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

NEW SECTION. Section 1. Commission on sentencing. (1) There is a commission on sentencing.

The commission is allocated to the department of corrections and human services for administrative purposes only, as provided in 2-15-121.

(2) The commission consists of:

- (a) two members of the house of representatives, selected by the speaker of the house of representatives, no more than one of whom may be from the same political party;
 - (b) two members of the senate, selected by the president of the senate, no more than one of whom may be from the same political party;
 - (c) two district court judges selected by the chief justice of the Montana supreme court;
 - (d) the director of the department of corrections and human services or the director's designee;
- and
- (e) the following persons appointed by the governor:
 - (i) a county attorney;
 - (ii) a criminal defense attorney;
 - (iii) a probation and parole officer;
 - (iv) a county sheriff;
 - (v) a chief of police;
 - (vi) a member of the board of pardons;

1 (vii) an employee of the department of justice; and

2 (viii) two members of the public, one of whom must be a victim of a crime for which a sentence
3 of death or of imprisonment for more than 1 year was imposed.

4 (3) Appointments under subsection (2) must be made within 60 days after [the effective date of
5 this act].

6 (4) The commission shall select a presiding officer from its members.

7 (5) The commission shall meet at least quarterly.

8

9 **NEW SECTION. Section 2. Duties.** The commission may:

10 (1) collect and study data, studies, and research from public and private entities concerning
11 sentencing processes and guidelines;

12 (2) publish or distribute material concerning sentencing processes, sentencing guidelines, sentences
13 imposed, and the effect of those sentences;

14 (3) make recommendations to the 55th legislature concerning modification or enactment of
15 sentencing and correctional statutes that the commission believes is necessary or advisable to carry out
16 an effective, humane, and rational sentencing policy;

17 (4) make a recommendation to the 55th legislature as to whether the commission should be
18 continued in existence;

19 (5) identify the impact of good time credits and sentencing guidelines on the criminal justice
20 system; and

21 (6) make a recommendation to the 55th legislature concerning the advisability of good time credits.

22

23 **NEW SECTION. Section 3. Sentencing guidelines.** (1) The commission shall determine the
24 advisability of proposing advisory sentencing guidelines to the 55th legislature.

25 (2) If submitted to the legislature for consideration, the guidelines must specify:

26 (a) the range of sentences applicable to each crime;

27 (b) a range of sentences for a defendant previously convicted of a felony or felonies or convicted
28 of a crime involving the use of a deadly weapon;

29 (c) variations from the range of applicable sentences due to aggravating or mitigating
30 circumstances;

1 (d) the circumstances under which imprisonment of an offender is proper;

2 (e) a presumptive sentence for offenders for whom imprisonment is proper, based upon an
3 appropriate evaluation of the crime committed, the prospects of rehabilitation of the offender, the
4 circumstances under which the crime was committed, and the criminal history of the offender; and

5 (f) appropriate sanctions for an offender for whom imprisonment is not proper.

6 (3) In establishing the sentencing guidelines, the primary consideration of the commission must be
7 public safety and the restoration of the victim. The commission shall also consider the prospects of
8 rehabilitation, responsibility, and accountability of the offender; current sentencing and release practices;
9 and correctional resources.

10

11 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

12

13 NEW SECTION. **Section 5. Termination.** [This act] terminates May 31, 1997.

14

-END-

1 (vii) an employee of the department of justice; and

2 (viii) two members of the public, one of whom must be a victim of a crime for which a sentence
3 of death or of imprisonment for more than 1 year was imposed.

4 (3) Appointments under subsection (2) must be made within 60 days after [the effective date of
5 this act].

6 (4) The commission shall select a presiding officer from its members.

7 (5) The commission shall meet at least quarterly.

8

9 **NEW SECTION. Section 2. Duties.** The commission may:

10 (1) collect and study data, studies, and research from public and private entities concerning
11 sentencing processes and guidelines;

12 (2) publish or distribute material concerning sentencing processes, sentencing guidelines, sentences
13 imposed, and the effect of those sentences;

14 (3) make recommendations to the 55th legislature concerning modification or enactment of
15 sentencing and correctional statutes that the commission believes is necessary or advisable to carry out
16 an effective, humane, and rational sentencing policy;

17 (4) make a recommendation to the 55th legislature as to whether the commission should be
18 continued in existence;

19 (5) identify the impact of good time credits and sentencing guidelines on the criminal justice
20 system; and

21 (6) make a recommendation to the 55th legislature concerning the advisability of good time credits.

22

23 **NEW SECTION. Section 3. Sentencing guidelines.** (1) The commission shall determine the
24 advisability of proposing advisory sentencing guidelines to the 55th legislature.

25 (2) If submitted to the legislature for consideration, the guidelines must specify:

26 (a) the range of sentences applicable to each crime;

27 (b) a range of sentences for a defendant previously convicted of a felony or felonies or convicted
28 of a crime involving the use of a deadly weapon;

29 (c) variations from the range of applicable sentences due to aggravating or mitigating
30 circumstances;

1 (d) the circumstances under which imprisonment of an offender is proper;

2 (e) a presumptive sentence for offenders for whom imprisonment is proper, based upon an
3 appropriate evaluation of the crime committed, the prospects of rehabilitation of the offender, the
4 circumstances under which the crime was committed, and the criminal history of the offender; and

5 (f) appropriate sanctions for an offender for whom imprisonment is not proper.

6 (3) In establishing the sentencing guidelines, the primary consideration of the commission must be
7 public safety and the restoration of the victim. The commission shall also consider the prospects of
8 rehabilitation, responsibility, and accountability of the offender; current sentencing and release practices;
9 and correctional resources.

10

11 **NEW SECTION. Section 4. Effective date.** [This act] is effective on passage and approval.

12

13 **NEW SECTION. Section 5. Termination.** [This act] terminates May 31, 1997.

14

-END-

1 HOUSE BILL NO. 357

2 INTRODUCED BY BOHARSKI, MILLS, S. SMITH, PECK, DENNY, MARTINEZ, L. SMITH, OHS, KNOX,
3 FORBES, GRINDE, MURDOCK, KEENAN, H.S. HANSON, HIBBARD, MCKEE, BARNETT, MERCER,
4 ANDERSON, DEVANEY, TASH, SIMON, CURTISS, T. NELSON, SOMERVILLE, AHNER, ORR, STOVALL
5 BY REQUEST OF THE DEPARTMENT OF CORRECTIONS AND HUMAN SERVICES
6

7 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A COMMISSION ON SENTENCING TO STUDY
8 SENTENCING PRACTICES AND GUIDELINES AND THE EFFECTS OF SENTENCES; PROVIDING FOR THE
9 SUBMISSION OF PROPOSED SENTENCING GUIDELINES TO THE LEGISLATURE BY THE COMMISSION;
10 PROVIDING FOR RECOMMENDATIONS TO THE LEGISLATURE; AND PROVIDING AN IMMEDIATE
11 EFFECTIVE DATE AND A TERMINATION DATE."
12

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
14

15 NEW SECTION. **Section 1. Commission on sentencing.** (1) There is a commission on sentencing.
16 The commission is allocated to the department of corrections and human services for administrative
17 purposes only, as provided in 2-15-121.

18 (2) The commission consists of:

19 (a) two members of the house of representatives, selected by the speaker of the house of
20 representatives, no more than one of whom may be from the same political party;

21 (b) two members of the senate, selected by the president of the senate, no more than one of whom
22 may be from the same political party;

23 (c) two district court judges selected by the chief justice of the Montana supreme court;

24 (d) the director of the department of corrections and human services or the director's designee;

25 and

26 (e) the following persons appointed by the governor:

27 (i) a county attorney;

28 (ii) a criminal defense attorney;

29 (iii) a probation and parole officer;

30 (iv) a county sheriff;

1 (v) a chief of police;
2 (vi) a member of the board of pardons;
3 (vii) an employee of the department of justice; and
4 (viii) two members of the public, one of whom must be a victim of a crime for which a sentence
5 of death or of imprisonment for more than 1 year was imposed.

6 (3) Appointments under subsection (2) must be made within 60 days after [the effective date of
7 this act].

8 (4) The commission shall select a presiding officer from its members.

9 (5) The commission shall meet at least quarterly.

10
11 **NEW SECTION. Section 2. Duties.** The commission may:

12 (1) collect and study data, studies, and research from public and private entities concerning
13 sentencing processes and guidelines;

14 (2) publish or distribute material concerning sentencing processes, sentencing guidelines, sentences
15 imposed, and the effect of those sentences;

16 (3) make recommendations to the 55th legislature concerning modification or enactment of
17 sentencing and correctional statutes that the commission believes is necessary or advisable to carry out
18 an effective, humane, and rational sentencing policy;

19 (4) make a recommendation to the 55th legislature as to whether the commission should be
20 continued in existence;

21 (5) identify the impact of good time credits and sentencing guidelines on the criminal justice
22 system; and

23 (6) make a recommendation to the 55th legislature concerning the advisability of good time credits.
24

25 **NEW SECTION. Section 3. Sentencing guidelines.** (1) The commission shall determine the
26 advisability of proposing advisory sentencing guidelines to the 55th legislature.

27 (2) If submitted to the legislature for consideration, the guidelines must specify:

28 (a) the range of sentences applicable to each crime;

29 (b) a range of sentences for a defendant previously convicted of a felony or felonies or convicted
30 of a crime involving the use of a deadly weapon;

1 (c) variations from the range of applicable sentences due to aggravating or mitigating
2 circumstances;

3 (d) the circumstances under which imprisonment of an offender is proper;

4 (e) a presumptive sentence for offenders for whom imprisonment is proper, based upon an
5 appropriate evaluation of the crime committed, the prospects of rehabilitation of the offender, the
6 circumstances under which the crime was committed, and the criminal history of the offender; and

7 (f) appropriate sanctions for an offender for whom imprisonment is not proper.

8 (3) In establishing the sentencing guidelines, the primary consideration of the commission must be
9 public safety and the restoration of the victim. The commission shall also consider the prospects of
10 rehabilitation, responsibility, and accountability of the offender; current sentencing and release practices;
11 and correctional resources.

12

13 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

14

15 NEW SECTION. **Section 5. Termination.** [This act] terminates May 31, 1997.

16

-END-