

1 HOUSE BILL NO. 102

2 INTRODUCED BY BEAUDRY

3 BY REQUEST OF THE DEPARTMENT OF CORRECTIONS

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE CORRECTIONAL AND SENTENCING POLICY
6 FOR THE STATE OF MONTANA; ADOPTING PRINCIPLES TO IMPLEMENT THE STATE POLICY; AND
7 AMENDING SECTION 46-18-101, MCA."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10
11 Section 1. Section 46-18-101, MCA, is amended to read:

12 "46-18-101. Correctional and sentencing policy. (1) It is the purpose of this section to ~~declare~~
13 establish the correctional and sentencing policy of the state of Montana. Laws for the punishment of crime
14 ~~and for the rehabilitation of the convicted~~ are drawn to implement the policy established by this section.

15 (2) The correctional and sentencing policy of the state of Montana is to ~~protect society by~~
16 ~~preventing crime through punishment and rehabilitation of the convicted. The legislature finds that an~~
17 ~~individual is responsible for and must be held accountable for the individual's actions, including, whenever~~
18 ~~possible, the restoration of all pecuniary losses sustained by a victim of the offense. Corrections laws and~~
19 ~~programs must be implemented to impress upon each individual the responsibility for obeying the law. To~~
20 ~~achieve this end, it is the policy of the state to assure that prosecution of criminal offenses occurs~~
21 ~~whenever probable cause exists and that punishment of the convicted is certain, timely, and consistent.~~
22 ~~Furthermore, it is the state's policy that persons convicted of a crime be dealt with in accordance with their~~
23 ~~individual characteristics, circumstances, needs, and potentialities. Finally, it is the policy of the state to~~
24 ~~recognize that the interests of crime victims should be considered so that, to the extent possible, victims~~
25 ~~of crime may be protected from threat of future harm by the offender.~~

26 (3) ~~(a) Sentences imposed upon those convicted of crime must be based primarily on the following:~~

27 ~~(i) the crime committed;~~

28 ~~(ii) the prospects of rehabilitation of the offender;~~

29 ~~(iii) the circumstances under which the crime was committed;~~

30 ~~(iv) the criminal history of the offender; and~~

1 ~~(v) consideration of alternatives to imprisonment of the offender in the state prison or the women's~~
2 ~~correctional system.~~

3 ~~(b) Dangerous offenders who habitually violate the law and victimize the public must be removed~~
4 ~~from society and correctively treated in custody for long terms, as needed. Other offenders must be dealt~~
5 ~~with by probation, suspended sentence, community corrections, community service, or fine whenever the~~
6 ~~disposition appears practicable and not detrimental to the needs of public safety and the welfare of the~~
7 ~~individual. Whenever possible, sentences for offenders must include restitution to the victim, payment of~~
8 ~~costs as provided in 46-18-232, and payment of costs of court-appointed counsel as provided in 46-8-113;~~

9 (a) punish each offender commensurate with the nature and degree of harm caused by the offense;

10 (b) protect the public by incarcerating violent offenders and serious repeat offenders;

11 (c) provide restitution, reparation, and restoration to the victim of the offense; and

12 (d) encourage the offender's self-improvement.

13 ~~(4) It is also the policy of the state that alternatives to imprisonment, such as community~~
14 ~~corrections, should be used whenever appropriate for nonviolent felony offenders in order to provide them~~
15 ~~opportunities to gain work experience, to learn life skills, to obtain education and training, or to participate~~
16 ~~in other activities that will reduce recidivism and enable offenders to become productive members of society~~

17 (3) To achieve the policy outlined in subsection (2), the state of Montana adopts the following
18 principles:

19 (a) Sentencing and punishment must be certain, timely, consistent, and understandable.

20 (b) Sentences should be commensurate with the punishment imposed on other persons committing
21 the same offenses.

22 (c) Sentencing practices must be neutral with respect to the offender's race, gender, religion,
23 national origin, or social or economic status.

24 (d) Sentencing practices must permit judicial discretion to consider aggravating and mitigating
25 circumstances.

26 (e) Sentencing practices must punish violent and serious repeat felony offenders with incarceration.

27 (f) Sentencing practices must provide alternatives to imprisonment for the punishment of those
28 nonviolent felony offenders who do not have serious criminal records.

29 (g) Sentencing and correctional practices must emphasize that the offender is responsible for
30 obeying the law and must hold the offender accountable for the offender's actions.

1 HOUSE BILL NO. 102

2 INTRODUCED BY BEAUDRY

3 BY REQUEST OF THE DEPARTMENT OF CORRECTIONS

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE CORRECTIONAL AND SENTENCING POLICY
6 FOR THE STATE OF MONTANA; ADOPTING PRINCIPLES TO IMPLEMENT THE STATE POLICY; AND
7 AMENDING SECTION 46-18-101, MCA."8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:10
11 **Section 1.** Section 46-18-101, MCA, is amended to read:12 **"46-18-101. Correctional and sentencing policy.** (1) It is the purpose of this section to ~~declare~~
13 ~~establish~~ the correctional and sentencing policy of the state of Montana. Laws for the punishment of crime
14 ~~and for the rehabilitation of the convicted~~ are drawn to implement the policy established by this section.15 (2) The correctional and sentencing policy of the state of Montana is to ~~protect society by~~
16 ~~preventing crime through punishment and rehabilitation of the convicted.~~ The legislature finds that an
17 individual is responsible for and must be held accountable for the individual's actions, including, whenever
18 possible, the restoration of all pecuniary losses sustained by a victim of the offense. Corrections laws and
19 programs must be implemented to impress upon each individual the responsibility for obeying the law. To
20 achieve this end, it is the policy of the state to assure that prosecution of criminal offenses occurs
21 whenever probable cause exists and that punishment of the convicted is certain, timely, and consistent.
22 Furthermore, it is the state's policy that persons convicted of a crime be dealt with in accordance with their
23 individual characteristics, circumstances, needs, and potentialities. Finally, it is the policy of the state to
24 recognize that the interests of crime victims should be considered so that, to the extent possible, victims
25 of crime may be protected from threat of future harm by the offender.26 (3) ~~(a) Sentences imposed upon those convicted of crime must be based primarily on the following:~~27 ~~(i) the crime committed;~~28 ~~(ii) the prospects of rehabilitation of the offender;~~29 ~~(iii) the circumstances under which the crime was committed;~~30 ~~(iv) the criminal history of the offender; and~~

1 ~~(v) consideration of alternatives to imprisonment of the offender in the state prison or the women's~~
2 ~~correctional system.~~

3 ~~(b) Dangerous offenders who habitually violate the law and victimize the public must be removed~~
4 ~~from society and correctively treated in custody for long terms, as needed. Other offenders must be dealt~~
5 ~~with by probation, suspended sentence, community corrections, community service, or fine whenever the~~
6 ~~disposition appears practicable and not detrimental to the needs of public safety and the welfare of the~~
7 ~~individual. Whenever possible, sentences for offenders must include restitution to the victim, payment of~~
8 ~~costs as provided in 46-18-232, and payment of costs of court-appointed counsel as provided in 46-8-113;~~

9 (a) punish each offender commensurate with the nature and degree of harm caused by the offense;

10 (b) protect the public by incarcerating violent offenders and serious repeat offenders;

11 (c) provide restitution, reparation, and restoration to the victim of the offense; and

12 (d) encourage the offender's self-improvement.

13 ~~(4) It is also the policy of the state that alternatives to imprisonment, such as community~~
14 ~~corrections, should be used whenever appropriate for nonviolent felony offenders in order to provide them~~
15 ~~opportunities to gain work experience, to learn life skills, to obtain education and training, or to participate~~
16 ~~in other activities that will reduce recidivism and enable offenders to become productive members of society~~

17 (3) To achieve the policy outlined in subsection (2), the state of Montana adopts the following
18 principles:

19 (a) Sentencing and punishment must be certain, timely, consistent, and understandable.

20 (b) Sentences should be commensurate with the punishment imposed on other persons committing
21 the same offenses.

22 (c) Sentencing practices must be neutral with respect to the offender's race, gender, religion,
23 national origin, or social or economic status.

24 (d) Sentencing practices must permit judicial discretion to consider aggravating and mitigating
25 circumstances.

26 (e) Sentencing practices ~~must~~ SHOULD punish violent and serious repeat felony offenders with
27 incarceration.

28 (f) Sentencing practices must provide alternatives to imprisonment for the punishment of those
29 nonviolent felony offenders who do not have serious criminal records.

30 (g) Sentencing and correctional practices must emphasize that the offender is responsible for

1 obeying the law and must hold the offender accountable for the offender's actions.

2 ~~(h) Adequate prison space and community facilities and programs must be available to ensure~~
3 ~~implementation of the correctional and sentencing policy of the state of Montana~~ SENTENCING PRACTICES
4 MUST EMPHASIZE RESTITUTION BY THE OFFENDER TO THE VICTIM."

5 -END-

HOUSE BILL NO. 102

INTRODUCED BY BEAUDRY

BY REQUEST OF THE DEPARTMENT OF CORRECTIONS

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE CORRECTIONAL AND SENTENCING POLICY FOR THE STATE OF MONTANA; ADOPTING PRINCIPLES TO IMPLEMENT THE STATE POLICY; AND AMENDING SECTION 46-18-101, MCA."

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

Section 1. Section 46-18-101, MCA, is amended to read:

"46-18-101. Correctional and sentencing policy. (1) It is the purpose of this section to ~~declare~~ establish the correctional and sentencing policy of the state of Montana. Laws for the punishment of crime and for the rehabilitation of the convicted are drawn to implement the policy established by this section.

(2) The correctional and sentencing policy of the state of Montana is to ~~protect society by preventing crime through punishment and rehabilitation of the convicted. The legislature finds that an individual is responsible for and must be held accountable for the individual's actions, including, whenever possible, the restoration of all pecuniary losses sustained by a victim of the offense. Corrections laws and programs must be implemented to impress upon each individual the responsibility for obeying the law. To achieve this end, it is the policy of the state to assure that prosecution of criminal offenses occurs whenever probable cause exists and that punishment of the convicted is certain, timely, and consistent. Furthermore, it is the state's policy that persons convicted of a crime be dealt with in accordance with their individual characteristics, circumstances, needs, and potentialities. Finally, it is the policy of the state to recognize that the interests of crime victims should be considered so that, to the extent possible, victims of crime may be protected from threat of future harm by the offender.~~

~~(3) (a) Sentences imposed upon those convicted of crime must be based primarily on the following:~~

~~(i) the crime committed;~~

~~(ii) the prospects of rehabilitation of the offender;~~

~~(iii) the circumstances under which the crime was committed;~~

~~(iv) the criminal history of the offender; and~~

1 ~~(v) consideration of alternatives to imprisonment of the offender in the state prison or the women's~~
2 ~~correctional system.~~

3 ~~(b) Dangerous offenders who habitually violate the law and victimize the public must be removed~~
4 ~~from society and correctively treated in custody for long terms, as needed. Other offenders must be dealt~~
5 ~~with by probation, suspended sentence, community corrections, community service, or fine whenever the~~
6 ~~disposition appears practicable and not detrimental to the needs of public safety and the welfare of the~~
7 ~~individual. Whenever possible, sentences for offenders must include restitution to the victim, payment of~~
8 ~~costs as provided in 46-18-232, and payment of costs of court-appointed counsel as provided in 46-8-113;~~

9 (a) punish each offender commensurate with the nature and degree of harm caused by the offense;

10 (b) protect the public by incarcerating violent offenders and serious repeat offenders;

11 (c) provide restitution, reparation, and restoration to the victim of the offense; and

12 (d) encourage the offender's self-improvement.

13 ~~(4) It is also the policy of the state that alternatives to imprisonment, such as community~~
14 ~~corrections, should be used whenever appropriate for nonviolent felony offenders in order to provide them~~
15 ~~opportunities to gain work experience, to learn life skills, to obtain education and training, or to participate~~
16 ~~in other activities that will reduce recidivism and enable offenders to become productive members of society~~

17 (3) To achieve the policy outlined in subsection (2), the state of Montana adopts the following
18 principles:

19 (a) Sentencing and punishment must be certain, timely, consistent, and understandable.

20 (b) Sentences should be commensurate with the punishment imposed on other persons committing
21 the same offenses.

22 (c) Sentencing practices must be neutral with respect to the offender's race, gender, religion,
23 national origin, or social or economic status.

24 (d) Sentencing practices must permit judicial discretion to consider aggravating and mitigating
25 circumstances.

26 (e) Sentencing practices ~~must~~ SHOULD punish violent and serious repeat felony offenders with
27 incarceration.

28 (f) Sentencing practices must provide alternatives to imprisonment for the punishment of those
29 nonviolent felony offenders who do not have serious criminal records. ALTERNATIVES TO IMPRISONMENT,
30 SUCH AS COMMUNITY CORRECTIONS, SHOULD BE USED WHENEVER APPROPRIATE IN ORDER TO

1 PROVIDE THEM OPPORTUNITIES TO GAIN WORK EXPERIENCE, TO LEARN LIFE SKILLS, TO OBTAIN
2 EDUCATION AND TRAINING, OR TO PARTICIPATE IN OTHER ACTIVITIES THAT WILL REDUCE
3 RECIDIVISM AND ENABLE OFFENDERS TO BECOME PRODUCTIVE MEMBERS OF SOCIETY.

4 (g) Sentencing and correctional practices must emphasize that the offender is responsible for
5 obeying the law and must hold the offender accountable for the offender's actions.

6 (h) Adequate prison space and community facilities and programs must be available to ensure
7 implementation of the correctional and sentencing policy of the state of Montana SENTENCING PRACTICES
8 MUST EMPHASIZE RESTITUTION BY THE OFFENDER TO THE VICTIM, AS REQUIRED BY 46-18-241."

9 -END-

HOUSE BILL NO. 102

INTRODUCED BY BEAUDRY

BY REQUEST OF THE DEPARTMENT OF CORRECTIONS

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE CORRECTIONAL AND SENTENCING POLICY FOR THE STATE OF MONTANA; ADOPTING PRINCIPLES TO IMPLEMENT THE STATE POLICY; AND AMENDING SECTION 46-18-101, MCA."

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

Section 1. Section 46-18-101, MCA, is amended to read:

"46-18-101. Correctional and sentencing policy. (1) It is the purpose of this section to ~~declare~~ establish the correctional and sentencing policy of the state of Montana. Laws for the punishment of crime ~~and for the rehabilitation of the convicted~~ are drawn to implement the policy established by this section.

(2) The correctional and sentencing policy of the state of Montana is to ~~protect society by preventing crime through punishment and rehabilitation of the convicted. The legislature finds that an individual is responsible for and must be held accountable for the individual's actions, including, whenever possible, the restoration of all pecuniary losses sustained by a victim of the offense. Corrections laws and programs must be implemented to impress upon each individual the responsibility for obeying the law. To achieve this end, it is the policy of the state to assure that prosecution of criminal offenses occurs whenever probable cause exists and that punishment of the convicted is certain, timely, and consistent. Furthermore, it is the state's policy that persons convicted of a crime be dealt with in accordance with their individual characteristics, circumstances, needs, and potentialities. Finally, it is the policy of the state to recognize that the interests of crime victims should be considered so that, to the extent possible, victims of crime may be protected from threat of future harm by the offender.~~

~~(3) (a) Sentences imposed upon those convicted of crime must be based primarily on the following:~~

- ~~(i) the crime committed;~~
- ~~(ii) the prospects of rehabilitation of the offender;~~
- ~~(iii) the circumstances under which the crime was committed;~~
- ~~(iv) the criminal history of the offender; and~~

1 ~~(v) consideration of alternatives to imprisonment of the offender in the state prison or the women's~~
2 ~~correctional system.~~

3 ~~(b) Dangerous offenders who habitually violate the law and victimize the public must be removed~~
4 ~~from society and correctively treated in custody for long terms, as needed. Other offenders must be dealt~~
5 ~~with by probation, suspended sentence, community corrections, community service, or fine whenever the~~
6 ~~disposition appears practicable and not detrimental to the needs of public safety and the welfare of the~~
7 ~~individual. Whenever possible, sentences for offenders must include restitution to the victim, payment of~~
8 ~~costs as provided in 46-18-232, and payment of costs of court appointed counsel as provided in 46-8-113;~~

9 (a) punish each offender commensurate with the nature and degree of harm caused by the offense;

10 (b) protect the public by incarcerating violent offenders and serious repeat offenders;

11 (c) provide restitution, reparation, and restoration to the victim of the offense; and

12 (d) encourage AND PROVIDE OPPORTUNITIES FOR the offender's self-improvement.

13 ~~(4) It is also the policy of the state that alternatives to imprisonment, such as community~~
14 ~~corrections, should be used whenever appropriate for nonviolent felony offenders in order to provide them~~
15 ~~opportunities to gain work experience, to learn life skills, to obtain education and training, or to participate~~
16 ~~in other activities that will reduce recidivism and enable offenders to become productive members of society~~

17 (3) To achieve the policy outlined in subsection (2), the state of Montana adopts the following
18 principles:

19 (a) Sentencing and punishment must be certain, timely, consistent, and understandable.

20 (b) Sentences should be commensurate with the punishment imposed on other persons committing
21 the same offenses.

22 (c) Sentencing practices must be neutral with respect to the offender's race, gender, religion,
23 national origin, or social or economic status.

24 (d) Sentencing practices must permit judicial discretion to consider aggravating and mitigating
25 circumstances.

26 (e) Sentencing practices ~~must~~ SHOULD MUST punish violent and serious repeat felony offenders
27 with incarceration.

28 (f) Sentencing practices must provide alternatives to imprisonment for the punishment of those
29 nonviolent felony offenders who do not have serious criminal records. ALTERNATIVES TO IMPRISONMENT,
30 SUCH AS COMMUNITY CORRECTIONS, SHOULD BE USED WHENEVER APPROPRIATE IN ORDER TO

1 ~~PROVIDE THEM OPPORTUNITIES TO GAIN WORK EXPERIENCE, TO LEARN LIFE SKILLS, TO OBTAIN~~
2 ~~EDUCATION AND TRAINING, OR TO PARTICIPATE IN OTHER ACTIVITIES THAT WILL REDUCE~~
3 ~~RECIDIVISM AND ENABLE OFFENDERS TO BECOME PRODUCTIVE MEMBERS OF SOCIETY.~~

4 (g) Sentencing and correctional practices must emphasize that the offender is responsible for
5 obeying the law and must hold the offender accountable for the offender's actions.

6 ~~(h) Adequate prison space and community facilities and programs must be available to ensure~~
7 ~~implementation of the correctional and sentencing policy of the state of Montana~~ SENTENCING PRACTICES
8 MUST EMPHASIZE RESTITUTION BY THE OFFENDER TO THE VICTIM, AS REQUIRED BY 46-18-241. BY
9 THE OFFENDER."

10

-END-

HOUSE BILL NO. 102

INTRODUCED BY BEAUDRY

BY REQUEST OF THE DEPARTMENT OF CORRECTIONS

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE CORRECTIONAL AND SENTENCING POLICY FOR THE STATE OF MONTANA; ADOPTING PRINCIPLES TO IMPLEMENT THE STATE POLICY; AND AMENDING SECTION 46-18-101, MCA."

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

Section 1. Section 46-18-101, MCA, is amended to read:

"46-18-101. Correctional and sentencing policy. (1) It is the purpose of this section to ~~declare~~ establish the correctional and sentencing policy of the state of Montana. Laws for the punishment of crime ~~and for the rehabilitation of the convicted~~ are drawn to implement the policy established by this section.

(2) The correctional and sentencing policy of the state of Montana is to ~~protect society by preventing crime through punishment and rehabilitation of the convicted. The legislature finds that an individual is responsible for and must be held accountable for the individual's actions, including, whenever possible, the restoration of all pecuniary losses sustained by a victim of the offense. Corrections laws and programs must be implemented to impress upon each individual the responsibility for obeying the law. To achieve this end, it is the policy of the state to assure that prosecution of criminal offenses occurs whenever probable cause exists and that punishment of the convicted is certain, timely, and consistent. Furthermore, it is the state's policy that persons convicted of a crime be dealt with in accordance with their individual characteristics, circumstances, needs, and potentialities. Finally, it is the policy of the state to recognize that the interests of crime victims should be considered so that, to the extent possible, victims of crime may be protected from threat of future harm by the offender.~~

~~(3) (a) Sentences imposed upon those convicted of crime must be based primarily on the following:~~

~~(i) the crime committed;~~

~~(ii) the prospects of rehabilitation of the offender;~~

~~(iii) the circumstances under which the crime was committed;~~

~~(iv) the criminal history of the offender; and~~

1 ~~(v) consideration of alternatives to imprisonment of the offender in the state prison or the women's~~
2 ~~correctional system.~~

3 ~~(b) Dangerous offenders who habitually violate the law and victimize the public must be removed~~
4 ~~from society and correctively treated in custody for long terms, as needed. Other offenders must be dealt~~
5 ~~with by probation, suspended sentence, community corrections, community service, or fine whenever the~~
6 ~~disposition appears practicable and not detrimental to the needs of public safety and the welfare of the~~
7 ~~individual. Whenever possible, sentences for offenders must include restitution to the victim, payment of~~
8 ~~costs as provided in 46-18-232, and payment of costs of court appointed counsel as provided in 46-8-113;~~

9 (a) punish each offender commensurate with the nature and degree of harm caused by the offense;

10 (b) protect the public by incarcerating violent offenders and serious repeat offenders;

11 (c) provide restitution, reparation, and restoration to the victim of the offense; and

12 (d) encourage AND PROVIDE OPPORTUNITIES FOR the offender's self-improvement.

13 ~~(4) It is also the policy of the state that alternatives to imprisonment, such as community~~
14 ~~corrections, should be used whenever appropriate for nonviolent felony offenders in order to provide them~~
15 ~~opportunities to gain work experience, to learn life skills, to obtain education and training, or to participate~~
16 ~~in other activities that will reduce recidivism and enable offenders to become productive members of society~~

17 (3) To achieve the policy outlined in subsection (2), the state of Montana adopts the following
18 principles:

19 (a) Sentencing and punishment must be certain, timely, consistent, and understandable.

20 (b) Sentences should be commensurate with the punishment imposed on other persons committing
21 the same offenses.

22 (c) Sentencing practices must be neutral with respect to the offender's race, gender, religion,
23 national origin, or social or economic status.

24 (d) Sentencing practices must permit judicial discretion to consider aggravating and mitigating
25 circumstances.

26 (e) Sentencing practices ~~must~~ SHOULD MUST punish violent and serious repeat felony offenders
27 with incarceration.

28 (f) Sentencing practices must provide alternatives to imprisonment for the punishment of those
29 nonviolent felony offenders who do not have serious criminal records. ~~ALTERNATIVES TO IMPRISONMENT,~~
30 ~~SUCH AS COMMUNITY CORRECTIONS, SHOULD BE USED WHENEVER APPROPRIATE IN ORDER TO~~

1 ~~PROVIDE THEM OPPORTUNITIES TO GAIN WORK EXPERIENCE, TO LEARN LIFE SKILLS, TO OBTAIN~~
2 ~~EDUCATION AND TRAINING, OR TO PARTICIPATE IN OTHER ACTIVITIES THAT WILL REDUCE~~
3 ~~RECIDIVISM AND ENABLE OFFENDERS TO BECOME PRODUCTIVE MEMBERS OF SOCIETY.~~

4 (g) Sentencing and correctional practices must emphasize that the offender is responsible for
5 obeying the law and must hold the offender accountable for the offender's actions.

6 ~~(h) Adequate prison space and community facilities and programs must be available to ensure~~
7 ~~implementation of the correctional and sentencing policy of the state of Montana~~ SENTENCING PRACTICES
8 MUST EMPHASIZE RESTITUTION BY THE OFFENDER TO THE VICTIM, AS REQUIRED BY 46-18-241. BY
9 THE OFFENDER. A SENTENCE MUST REQUIRE AN OFFENDER WHO IS FINANCIALLY ABLE TO DO SO TO
10 PAY RESTITUTION, COSTS AS PROVIDED IN 46-18-232, COSTS OF COURT-APPOINTED COUNSEL AS
11 PROVIDED IN 46-8-113, AND, IF THE OFFENDER IS A SEX OFFENDER, COSTS OF ANY COURT-ORDERED
12 CHEMICAL TREATMENT."

13 -END-



FREE CONFERENCE COMMITTEE

on House Bill 102
Report No. 1, April 16, 1997

Page 1 of 1

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 102** (reference copy -- salmon) and recommend that **House Bill 102** be amended as follows:


1. Page 2, line 26.
Strike: "punish"
Insert: "include punishing"
2. Page 3, line 11.
Strike: "COURT-ORDERED"

And this FREE Conference Committee report be adopted.

For the House:



Representative Feland, Chair



Representative Beaudry

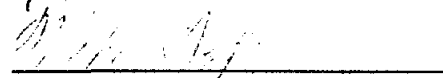


Representative Menahan

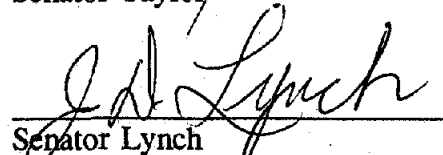
For the Senate:



Senator Jenkins, Chair



Senator Taylor



Senator Lynch

ADOPT

REJECT

FCCR#1
HB 102
AC HB 102-1

811529CC.Hgd

1 HOUSE BILL NO. 102

2 INTRODUCED BY BEAUDRY

3 BY REQUEST OF THE DEPARTMENT OF CORRECTIONS

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE CORRECTIONAL AND SENTENCING POLICY
6 FOR THE STATE OF MONTANA; ADOPTING PRINCIPLES TO IMPLEMENT THE STATE POLICY; AND
7 AMENDING SECTION 46-18-101, MCA."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10
11 Section 1. Section 46-18-101, MCA, is amended to read:

12 "46-18-101. Correctional and sentencing policy. (1) It is the purpose of this section to ~~declare~~
13 establish the correctional and sentencing policy of the state of Montana. Laws for the punishment of crime
14 ~~and for the rehabilitation of the convicted~~ are drawn to implement the policy established by this section.

15 (2) The correctional and sentencing policy of the state of Montana is to ~~protect society by~~
16 ~~preventing crime through punishment and rehabilitation of the convicted.~~ The legislature finds that an
17 individual is responsible for and must be held accountable for the individual's actions, including, whenever
18 possible, the restoration of all pecuniary losses sustained by a victim of the offense. Corrections laws and
19 programs must be implemented to impress upon each individual the responsibility for obeying the law. To
20 achieve this end, it is the policy of the state to assure that prosecution of criminal offenses occurs
21 whenever probable cause exists and that punishment of the convicted is certain, timely, and consistent.
22 Furthermore, it is the state's policy that persons convicted of a crime be dealt with in accordance with their
23 individual characteristics, circumstances, needs, and potentialities. Finally, it is the policy of the state to
24 recognize that the interests of crime victims should be considered so that, to the extent possible, victims
25 of crime may be protected from threat of future harm by the offender.

26 (3) (a) Sentences imposed upon those convicted of crime must be based primarily on the following:

27 (i) ~~the crime committed;~~

28 (ii) ~~the prospects of rehabilitation of the offender;~~

29 (iii) ~~the circumstances under which the crime was committed;~~

30 (iv) ~~the criminal history of the offender; and~~

1 ~~(v) consideration of alternatives to imprisonment of the offender in the state prison or the women's~~
2 ~~correctional system.~~

3 ~~(b) Dangerous offenders who habitually violate the law and victimize the public must be removed~~
4 ~~from society and correctively treated in custody for long terms, as needed. Other offenders must be dealt~~
5 ~~with by probation, suspended sentence, community corrections, community service, or fine whenever the~~
6 ~~disposition appears practicable and not detrimental to the needs of public safety and the welfare of the~~
7 ~~individual. Whenever possible, sentences for offenders must include restitution to the victim, payment of~~
8 ~~costs as provided in 46-18-232, and payment of costs of court-appointed counsel as provided in 46-8-113;~~

9 (a) punish each offender commensurate with the nature and degree of harm caused by the offense;

10 (b) protect the public by incarcerating violent offenders and serious repeat offenders;

11 (c) provide restitution, reparation, and restoration to the victim of the offense; and

12 (d) encourage AND PROVIDE OPPORTUNITIES FOR the offender's self-improvement.

13 ~~(4) It is also the policy of the state that alternatives to imprisonment, such as community~~
14 ~~corrections, should be used whenever appropriate for nonviolent felony offenders in order to provide them~~
15 ~~opportunities to gain work experience, to learn life skills, to obtain education and training, or to participate~~
16 ~~in other activities that will reduce recidivism and enable offenders to become productive members of society~~

17 (3) To achieve the policy outlined in subsection (2), the state of Montana adopts the following
18 principles:

19 (a) Sentencing and punishment must be certain, timely, consistent, and understandable.

20 (b) Sentences should be commensurate with the punishment imposed on other persons committing
21 the same offenses.

22 (c) Sentencing practices must be neutral with respect to the offender's race, gender, religion,
23 national origin, or social or economic status.

24 (d) Sentencing practices must permit judicial discretion to consider aggravating and mitigating
25 circumstances.

26 (e) Sentencing practices ~~must~~ SHOULD MUST ~~punish~~ INCLUDE PUNISHING violent and serious
27 repeat felony offenders with incarceration.

28 (f) Sentencing practices must provide alternatives to imprisonment for the punishment of those
29 nonviolent felony offenders who do not have serious criminal records. ALTERNATIVES TO IMPRISONMENT,
30 SUCH AS COMMUNITY CORRECTIONS, SHOULD BE USED WHENEVER APPROPRIATE IN ORDER TO

1 ~~PROVIDE THEM OPPORTUNITIES TO GAIN WORK EXPERIENCE, TO LEARN LIFE SKILLS, TO OBTAIN~~
2 ~~EDUCATION AND TRAINING, OR TO PARTICIPATE IN OTHER ACTIVITIES THAT WILL REDUCE~~
3 ~~RECIDIVISM AND ENABLE OFFENDERS TO BECOME PRODUCTIVE MEMBERS OF SOCIETY.~~

4 (g) Sentencing and correctional practices must emphasize that the offender is responsible for
5 obeying the law and must hold the offender accountable for the offender's actions.

6 ~~(h) Adequate prison space and community facilities and programs must be available to ensure~~
7 ~~implementation of the correctional and sentencing policy of the state of Montana~~ SENTENCING PRACTICES
8 MUST EMPHASIZE RESTITUTION BY THE OFFENDER TO THE VICTIM, AS REQUIRED BY 46-18-241, BY
9 THE OFFENDER. A SENTENCE MUST REQUIRE AN OFFENDER WHO IS FINANCIALLY ABLE TO DO SO TO
10 PAY RESTITUTION, COSTS AS PROVIDED IN 46-18-232, COSTS OF COURT-APPOINTED COUNSEL AS
11 PROVIDED IN 46-8-113, AND, IF THE OFFENDER IS A SEX OFFENDER, COSTS OF ANY COURT-ORDERED
12 CHEMICAL TREATMENT."

13

-END-