

1 *House* BILL NO. *405*
 2 INTRODUCED BY *Wyatt Christine Davel*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A COMMUNITY SUPERVISED RELEASE PROGRAM
 5 TO DIVERT NONVIOLENT OFFENDERS FROM PRISON; AND PROVIDING AN EFFECTIVE DATE."
 6

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

9 **NEW SECTION. Section 1. Community supervised release program for nonviolent offenders pilot**
 10 **program -- purpose.** (1) There is a pilot program called the "Community Supervised Release Program for
 11 Nonviolent Offenders". A total of 100 offenders may be served in the pilot program, and there may be pilot
 12 projects in two locations across the state.

13 (2) The purpose of the program is to provide a less costly and restrictive alternative to incarceration
 14 for offenders who have not committed violent felony offenses that holds an offender accountable, provides
 15 for community safety, and addresses the deficiencies and needs of the offenders in order to give the
 16 offender the opportunity to obtain treatment, to gain and maintain stable employment, and to meet the
 17 responsibilities of being a member of society.
 18

19 **NEW SECTION. Section 2. Definitions.** As used in [sections 1 through 8], the following definitions
 20 apply:

21 (1) "Department" means the department of corrections as provided in 2-15-2301.

22 (2) "Educational entity" means a public or private institution of higher education that has graduate
 23 programs in corrections and human services-related disciplines.

24 (3) "Immediate family" means a person who lives with the offender and is related by blood,
 25 marriage, or adoption. If an offender has no relatives by blood, marriage, adoption, or law the offender may
 26 name a person with whom the offender lives to be considered as a member of immediate family for the
 27 purposes of [sections 1 through 8], if the person agrees to abide by the requirements imposed on members
 28 of an immediate family.

29 (4) "Mental health professional" means any social worker, clinical social worker, professional
 30 counselor, clinical professional counselor, psychologist, psychiatrist, occupational therapist, or other

1 professional who is licensed or certified to provide mental health services in this state pursuant to Title 37.

2 (5) "Offender" means an offender who has not committed a violent felony offense, as defined in
3 46-18-1001.

4
5 **NEW SECTION. Section 3. Qualifications to be selected as pilot project.** (1) A judicial district may
6 apply to the department to be selected as a site of a pilot project.

7 (2) For a judicial district to qualify for the project, the jurisdiction must have an intensive
8 supervision program and electronic monitoring.

9 (3) For the purposes of application, the judicial district shall organize a community supervised
10 release program team composed of:

- 11 (a) a representative of an educational entity;
12 (b) a probation and parole officer;
13 (c) an intensive supervision officer, if necessary;
14 (d) a certified chemical dependency counselor; and
15 (e) a mental health professional.

16 (4) The members of a team shall enter into a written agreement that outlines each member's and
17 each member's agency's responsibilities and that contains a provision for compliance with the requirements
18 of the agreement.

19 (5) The program may pursue Job Training Partnership Act funding; any other federal, state, or local
20 government funding; and any private funding to develop programs for the offenders sentenced to this
21 program.

22
23 **NEW SECTION. Section 4. Application -- eligibility criteria.** (1) Upon conviction for an offense
24 other than a violent felony offense, as defined in 46-18-1001, and after a presentence investigation report,
25 as provided in 46-18-111, that recommends a sentence of imprisonment, a probation and parole officer or
26 the offender's counsel may make application to the court for participation in the community supervised
27 release program.

28 (2) The community supervised release program team members shall review the application and
29 make a determination on eligibility. Eligibility requirements for application into the program are:

- 30 (a) an offender must be convicted of an offense other than a violent felony offense, as defined in

1 46-18-1001;

2 (b) the presentence investigation report prepared by the probation and parole officer must indicate
3 that a prison sentence is recommended for this offender;

4 (c) an offender shall agree to submit to electronic monitoring and related requirements;

5 (d) an offender shall agree to submit to chemical dependency and mental health evaluation;

6 (e) an offender shall indicate an amenability to treatment and aftercare for chemical dependency
7 or mental health, as may be determined through evaluation;

8 (f) the members of an offender's immediate family shall agree to participate in counseling and
9 treatment activities that are considered necessary for the success of the offender in the program;

10 (g) the offender shall agree to participate in education, job readiness, or job placement activities
11 as developed for the offender;

12 (h) the offender shall agree to participate in victim-offender mediation, if the victim desires
13 mediation;

14 (i) the offender shall agree to participate in other programming as considered necessary by the
15 team; and

16 (j) the offender shall agree to pay part or all of the costs of treatment, supervision, or other
17 activities required by the program, based on the current and future ability to pay in a reasonable payment
18 schedule over the duration of the sentence.

19

20 **NEW SECTION.** **Section 5. Acceptance to program -- program responsibilities.** (1) Upon
21 acceptance into the program, the team shall meet as soon as possible and organize the initial intake and
22 screening procedures.

23 (2) Intake and screening procedures include:

24 (a) contact with the victim to determine whether the victim is amenable to victim-offender
25 mediation and, if the victim is amenable, organizing an initial meeting before sentencing;

26 (b) contact with the members of the offender's immediate family to determine their concerns,
27 needs, and responsibilities;

28 (c) a chemical dependency and mental health evaluation;

29 (d) an educational and job assessment to determine what educational needs or job placement needs
30 an offender may have. If an offender is currently enrolled in an educational program or is currently

1 employed, the evaluation must include an assessment of the program or job and any needs to stabilize or
2 assist the success of that program.

3 (e) a general assessment of other programming needs, such as anger management, financial
4 management, and life skills; and

5 (f) a general assessment of residential and housing needs. This component may include use of a
6 community corrections facility or program, as defined in 46-18-104, or use of a residential aftercare setting,
7 an offender's own home, or other community resources that contribute to the success of the program and
8 that can operate in conjunction with the requirements for electronic monitoring.

9 (3) The members of the team and each member's responsibilities are as follows:

10 (a) A person who is the representative of an educational entity is the team leader. The team leader
11 is responsible for developing the overall program. The team leader shall develop a program using students
12 of a graduate program in a discipline related to human services, such as social work, criminal justice,
13 sociology, or psychology, who assist the offender in the development of a program and who organize the
14 contacts for the electronic monitoring, chemical dependency and mental health evaluation, chemical
15 dependency and mental health treatment, and other programming as needed.

16 (b) The team member responsible for setting up the electronic monitoring element of the program
17 is the intensive supervision officer or the probation and parole officer. The probation and parole officer shall
18 participate in the capacity of coordinating with the other team members for the purpose of conducting the
19 presentence investigation, as provided in 46-18-111, and development of the plan to present to the
20 sentencing judge.

21 (c) A certified chemical dependency counselor is responsible for conducting the initial chemical
22 dependency evaluation and for setting up a treatment and aftercare plan that the offender shall follow to
23 successfully complete the program.

24 (d) A mental health professional is responsible for conducting the initial mental health evaluation
25 and for setting up a treatment and aftercare plan as needed, in conjunction with the chemical dependency
26 counselor, that the offender shall follow to successfully complete the program.

27 (4) The team shall recommend imposition of the following conditions:

28 (a) 24-hour-a-day electronic monitoring for the first 3 months of the sentence, unless the offender
29 resides at a community corrections facility;

30 (b) financial responsibility for dependents; and

1 (c) payment of costs of restitution and treatment in a reasonable schedule of payment over the
2 duration of the sentence. The payments may be deferred for an initial period of time to allow the offender
3 to receive treatment, job training, and job placement assistance.

4 (5) The team may recommend the imposition of any combination of the following conditions, as
5 determined by the needs of the community, the victim, and the offender:

6 (a) an extension of the 24-hour-a-day electronic monitoring beyond the initial 3 months;

7 (b) chemical dependency education and counseling;

8 (c) chemical dependency treatment and aftercare if determined necessary by a certified chemical
9 dependency counselor;

10 (d) mental health treatment and aftercare if determined necessary by a mental health professional;

11 (e) specialized treatment and education, such as programs for check-writing offenders and domestic
12 violence offenders;

13 (f) family counseling;

14 (g) parenting classes;

15 (h) education;

16 (i) vocational training;

17 (j) job training and placement programs or full-time employment;

18 (k) financial management and budgeting training, using the offender's restitution and other
19 payments; or

20 (l) life skills such as health and nutrition, anger management, and crisis management.

21
22 **NEW SECTION. Section 6. Recommendations for sentence and conditions.** (1) Upon completion
23 of the initial intake and evaluation, the team shall meet to develop a substitute recommendation to the
24 sentencing judge on the type of sentence that is appropriate, a recommendation for the length of time that
25 the offender needs to successfully complete the treatment and programming necessary, and the conditions
26 that the offender must meet to be considered successful in the completion of the program.

27 (2) The probation and parole officer who performed the presentence investigation shall include the
28 substitute recommendations for sentencing with the officer's presentence investigation report to the court.

29 (3) The sentencing judge may suspend or defer an offender's sentence as provided in 46-18-201
30 and place the offender, under the commitment to the department, in a community supervised release

1 program and impose any combination of the conditions listed in [section 5] as recommended by the team
2 and any additional conditions the judge believes to be necessary.

3 (4) The offender is subject to the provisions of 46-18-203 upon failure to successfully complete
4 the program. Upon a minor violation of the conditions of the sentence, sanctions may be applied in an
5 effort to maintain an offender in the program prior to revocation proceedings.

6
7 **NEW SECTION. Section 7. Department responsibilities.** (1) The department shall provide
8 electronic monitoring devices and equipment and may assess a fee on the offender for the actual cost of
9 supplying the devices and equipment.

10 (2) The department is responsible for the payment of treatment and programming. The department
11 may assess a reasonable fee on the offender, based on the offender's ability to pay throughout the duration
12 of the sentence, for the use of electronic monitoring devices and equipment and treatment and supervision
13 costs. These costs may not exceed those charged for other offenders in other department programs.

14 (3) If an offender is unable to pay for services, the department shall coordinate with other state
15 and local agencies to obtain any services for which the offender is eligible.

16 (4) The department or judicial district may pursue federal or private grant funds to assist the
17 program in the provision of services for the offender.

18 (5) The department shall negotiate a fee to be paid to the educational entity for the costs
19 associated with supervising students and coordinating the community supervised release program.

20
21 **NEW SECTION. Section 8. Juvenile nonviolent offender program.** (1) Subject to the provisions
22 in Title 41, chapter 5, a youth who has been adjudicated as a delinquent and who qualifies for placement
23 at a state youth correctional facility, as defined in 41-5-103, may be placed in the court-supervised release
24 program for nonviolent offenders. This program may be used as a disposition under 41-5-523 as a
25 commitment to the department.

26 (2) The youth placement committee, as provided in 41-5-525, shall perform the responsibilities of
27 the community supervised release program team in determining the conditions of the youth's disposition.
28 The representative of the educational entity shall coordinate with the youth placement committee to
29 organize any contacts necessary for the programming for the youth.

30

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0405, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

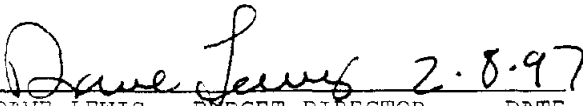
A bill for an act creating a community supervised release program to divert nonviolent offenders from prison; and providing an effective date.

ASSUMPTIONS:

1. All costs of chemical dependency and mental health evaluations will be paid by the offenders. The Department of Corrections (DOC) also assumes that offenders would be responsible for all treatment and programming costs including: education, chemical dependency and/or mental health treatment, vocational training, financial management, life skills, family and parental counseling and other specialized treatment programs. Currently, offenders in pre-release centers access these services through community programs with costs based on the ability to pay. However, the DOC assumes that it would be responsible for \$50,000 of costs each year for treatment/programming that the offenders would not be able to pay for.
2. This bill gives DOC the ability to assess fees to the offender for costs of this program. Fees will be collected at a rate of \$10 per day for 66% of the participants. (Current offenders in pre-release centers are assessed \$10/day.)
3. Assume colleges and universities will assume liability and workers' compensation costs for the team leaders. The DOC assumes that it can contract with the education entity to supervise these offenders at a cost of \$10 per hour. It is assumed that the educational entity will spend 4 hours per week to supervise each offender.
4. DOC will be able to lease the necessary electronic monitoring equipment for \$8.00 per day per offender and monitoring will be by a private vendor.
5. One probation and parole officer (grade 14) would be needed for each 50 offenders served through this program, resulting in an additional 2.00 FTE. This bill will require additional time for probation and parole officers to prepare presentence investigations and oversee the offenders in this program.
6. The DOC assumes that 10 of these offenders would otherwise have been incarcerated in Montana State Prison at an average daily cost of \$44.47, 10 would have gone to a pre-release center at a cost of \$37.63 per day, 10 in an intensive supervision program at \$17.39 per day, and 70 would have received probation services at a cost per day of \$2.68.

FISCAL IMPACT:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
<u>Revenues:</u>		
Offender Fees	240,900	240,900
<u>Expenditures:</u>		
FTE	2.00	2.00
Personal Services	63,670	63,670
Treatment/Programming Costs	50,000	50,000
Contracted Services	208,000	208,000
Electronic Monitoring	292,000	292,000
Savings in prison costs	(162,316)	(162,316)
Savings in pre-release costs	(137,350)	(137,350)
Savings in intensive supervision	(63,474)	(63,474)
Savings in probation costs	<u>(68,474)</u>	<u>(68,474)</u>
Total	182,056	182,056
<u>Net Impact on Fund Balance:</u>		
General Fund Savings (01)	58,844	58,844


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

 DIANA WYATT, PRIMARY SPONSOR DATE

Fiscal Note for HB0405, as introduced

HB 405

1 HOUSE BILL NO. 405

2 INTRODUCED BY WYATT, CHRISTIAENS, DOWELL

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A COMMUNITY SUPERVISED RELEASE PROGRAM
5 TO DIVERT ~~NONVIOLENT~~ FELONY OFFENDERS FROM PRISON; AND PROVIDING AN EFFECTIVE DATE."6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:8
9 NEW SECTION. **Section 1. Community supervised release program for ~~nonviolent~~ FELONY**
10 **offenders pilot program -- purpose.** (1) There is a pilot program called the "Community Supervised Release
11 Program for ~~Nonviolent~~ FELONY Offenders". A total of 100 offenders may be served in the pilot program,
12 and there may be pilot projects in ~~two~~ FOUR locations across the state.

13 (2) The purpose of the program is to provide:

14 (A) a less costly and restrictive alternative to incarceration for offenders who have ~~not~~ committed
15 ~~violent~~ felony offenses that holds an offender accountable, PROVIDES FOR RESTITUTION TO VICTIMS,
16 provides for community safety, and addresses the deficiencies and needs of the offenders in order to give
17 the offender the opportunity to obtain treatment, to gain and maintain stable employment, and to meet the
18 responsibilities of being a member of society; AND19 (B) AN INCREASED LEVEL OF SUPERVISION FOR PROBATION AND PAROLE OFFENDERS WHO
20 HAVE VIOLATED THE TERMS OF THEIR SUPERVISION.21
22 NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 8], the following definitions
23 apply:

24 (1) "Department" means the department of corrections as provided in 2-15-2301.

25 (2) "Educational entity" means a public or private institution of higher education that has graduate
26 programs in corrections and human services-related disciplines.27 (3) "Immediate family" means a person who lives with the offender and is related by blood,
28 marriage, or adoption. ~~If an offender has no relatives by blood, marriage, adoption, or law the offender may~~
29 ~~name a person with whom the offender lives to be considered as a member of immediate family for the~~
30 ~~purpose of [sections 1 through 8], if the person agrees to abide by the requirements imposed on members~~

1 ~~of an immediate family.~~

2 (4) "Mental health professional" means any social worker, clinical social worker, professional
3 counselor, clinical professional counselor, psychologist, psychiatrist, occupational therapist, or other
4 professional who is licensed or certified to provide mental health services in this state pursuant to Title 37.

5 (5) "Offender" means an offender who has ~~not~~ committed a ~~violent~~ felony offense, as defined in
6 ~~46-18-1001~~ 45-2-101.

7 (6) "SPONSOR" MEANS A PERSON, NAMED BY THE OFFENDER, WITH WHOM THE OFFENDER
8 LIVES AND WHO AGREES TO ABIDE BY THE REQUIREMENTS IMPOSED ON MEMBERS OF AN IMMEDIATE
9 FAMILY.

10
11 NEW SECTION. Section 3. Qualifications to be selected as pilot project. (1) A judicial district may
12 apply to the department to be selected as a site of a pilot project.

13 ~~(2) For a judicial district to qualify for the project, the jurisdiction must have an intensive~~
14 ~~supervision program and electronic monitoring.~~

15 ~~(3)(2) (A)~~ For the purposes of application, the judicial district shall organize a community supervised
16 release program team composed of:

17 ~~(a)(I)~~ a representative of an educational entity;

18 ~~(b)(II)~~ a probation and parole officer;

19 ~~(c) an intensive supervision officer, if necessary;~~

20 ~~(d)(III)~~ a certified chemical dependency counselor; and

21 ~~(e)(IV)~~ a mental health professional.

22 (B) THE TEAM REQUIRED IN SUBSECTION (2)(A) MAY INCLUDE A VICTIM.

23 ~~(4)(3)~~ The members of a team shall enter into a written agreement that outlines each member's
24 and each member's agency's responsibilities and that contains a provision for compliance with the
25 requirements of the agreement.

26 ~~(5)(4)~~ The program may pursue Job Training Partnership Act funding; any other federal, state, or
27 local government funding; and any private funding to develop programs for the offenders sentenced to this
28 program.

29
30 NEW SECTION. Section 4. Application -- eligibility criteria. (1) Upon conviction ~~for an offense~~

1 ~~other than a violent~~ OF A felony offense, ~~as defined in 46-18-1001,~~ and after a presentence investigation
 2 report, as provided in 46-18-111, that recommends a sentence of imprisonment, a probation and parole
 3 officer or the offender's counsel may make application to the court for participation in the community
 4 supervised release program. APPLICATION MAY ALSO BE MADE DURING REVOCATION PROCEEDINGS
 5 OF AN OFFENDER'S PROBATION OR PAROLE.

6 (2) AFTER A REPORT OF VIOLATION HAS BEEN WRITTEN ON A PROBATIONER OR PAROLEE,
 7 IF THE DETERMINATION IS THAT THE OFFENDER NEEDS CLOSER SUPERVISION THAN STANDARD
 8 PROBATION AND PAROLE SUPERVISION CAN PROVIDE BUT THAT IT IS NOT NECESSARY TO
 9 INCARCERATE, THEN THE PROBATION AND PAROLE OFFICER OR THE OFFENDER'S COUNSEL MAY
 10 MAKE APPLICATION TO THE COURT FOR PARTICIPATION IN THE COMMUNITY SUPERVISED RELEASE
 11 PROGRAM.

12 ~~(2)(3)~~ The community supervised release program team members shall review the application and
 13 make a determination on eligibility. Eligibility requirements for application into the program are:

14 (a) an offender must be convicted of ~~an~~ A FELONY offense ~~other than a violent felony offense, as~~
 15 ~~defined in 46-18-1001;~~

16 (b) the presentence investigation report prepared by the probation and parole officer must indicate
 17 that a prison sentence is recommended for this offender OR THAT THE OFFENDER NEEDS CLOSER
 18 SUPERVISION THAN REGULAR PROBATION AND PAROLE STANDARDS BUT THAT INCARCERATION MAY
 19 NOT BE NECESSARY;

20 (c) ~~an offender shall agree to submit to electronic monitoring and related requirements~~ THE
 21 PROBATION OR PAROLE VIOLATION REPORT PREPARED BY THE PROBATION AND PAROLE OFFICER
 22 MUST INDICATE THE NEED FOR CLOSER SUPERVISION BUT MUST INDICATE THAT INCARCERATION
 23 MAY NOT BE NECESSARY;

24 (d) an offender shall agree to submit to chemical dependency and mental health evaluation;

25 (e) an offender shall indicate an amenability to treatment and aftercare for chemical dependency
 26 or mental health, as may be determined through evaluation;

27 (f) the members of an offender's immediate family OR THE SPONSOR shall agree to participate in
 28 counseling and treatment activities that are considered necessary for the success of the offender in the
 29 program;

30 (g) the offender shall agree to participate in education, job readiness, or job placement activities

1 as developed for the offender;

2 (h) the offender shall agree to participate in victim-offender mediation, if the victim desires
3 mediation;

4 (i) the offender shall agree to participate in other programming as considered necessary by the
5 team; and

6 (j) the offender shall agree to pay part or all of the costs of treatment, supervision, or other
7 activities required by the program, based on the current and future ability to pay in a reasonable payment
8 schedule over the duration of the sentence OR BY CONTRACT PAST THE DURATION OF THE SENTENCE.

9

10 NEW SECTION. **Section 5. Acceptance to program -- program responsibilities.** (1) Upon
11 acceptance into the program, the team shall meet as soon as possible and organize the initial intake and
12 screening procedures.

13 (2) Intake and screening procedures include:

14 (a) contact with the victim to determine whether the victim is amenable to victim-offender
15 mediation and, if the victim is amenable, organizing an initial meeting before sentencing;

16 (b) contact with the members of the offender's immediate family OR THE SPONSOR to determine
17 ~~their~~ THE MEMBERS' OR SPONSOR'S concerns, needs, and responsibilities;

18 (c) a chemical dependency and mental health evaluation;

19 (d) an educational and job assessment to determine what educational needs or job placement needs
20 an offender may have. If an offender is currently enrolled in an educational program or is currently
21 employed, the evaluation must include an assessment of the program or job and any needs to stabilize or
22 assist the success of that program.

23 (e) a general assessment of other programming needs, such as anger management, financial
24 management, and life skills; and

25 (f) a general assessment of residential and housing needs. This component may include use of a
26 community corrections facility or program, as defined in 46-18-104, or use of a residential aftercare setting,
27 an offender's own home, or other community resources that contribute to the success of the program and
28 that can operate in conjunction with the requirements for electronic monitoring.

29 (3) The members of the team and each member's responsibilities are as follows:

30 (a) A person who is the representative of an educational entity is the team leader. The team leader

1 is responsible for developing the overall program. The team leader shall develop a program using students
 2 of a graduate program in a discipline related to human services, such as social work, criminal justice,
 3 sociology, or psychology, who assist the offender in the development of a program and who organize the
 4 contacts WITH A PROBATION AND PAROLE OFFICER for the ~~electronic monitoring~~, chemical dependency
 5 and mental health evaluation, chemical dependency and mental health treatment, and other programming
 6 as needed.

7 (b) ~~The team member responsible for setting up the electronic monitoring element of the program~~
 8 ~~is the intensive supervision officer or the probation and parole officer.~~ The probation and parole officer shall
 9 participate in the capacity of coordinating with the other team members for the purpose of conducting the
 10 presentence investigation, as provided in 46-18-111, and OR PREPARING THE REPORT OF VIOLATION FOR
 11 THE development of the plan to present to the sentencing judge.

12 (c) A certified chemical dependency counselor is responsible for conducting the initial chemical
 13 dependency evaluation and for setting up a treatment and aftercare plan that the offender shall follow to
 14 successfully complete the program.

15 (d) A mental health professional is responsible for conducting the initial mental health evaluation
 16 and for setting up a treatment and aftercare plan as needed, in conjunction with the chemical dependency
 17 counselor, that the offender shall follow to successfully complete the program.

18 (4) The team shall recommend imposition of the following conditions:

19 ~~(a) 24-hour-a-day electronic monitoring for the first 3 months of the sentence, unless the offender~~
 20 ~~resides at a community corrections facility;~~

21 ~~(b)~~(A) financial responsibility for dependents; and

22 ~~(c)~~(B) payment of costs of restitution and treatment in a reasonable schedule of payment over the
 23 duration of the sentence. The payments may be deferred for an initial period of time to allow the offender
 24 to receive treatment, job training, and job placement assistance.

25 (5) The team may recommend the imposition of any combination of the following conditions, as
 26 determined by the needs of the community, the victim, and the offender:

27 ~~(a) an extension of the 24-hour-a-day electronic monitoring beyond the initial 3 months;~~

28 (B) DAY REPORTING OR TRANSITIONAL LIVING AT A PRERELEASE CENTER;

29 ~~(b)~~(C) chemical dependency education and counseling;

30 ~~(c)~~(D) chemical dependency treatment and aftercare if determined necessary by a certified chemical

- 1 dependency counselor;
- 2 ~~(d)~~(E) mental health treatment and aftercare if determined necessary by a mental health
- 3 professional;
- 4 ~~(e)~~(F) specialized treatment and education, such as programs for check-writing offenders and
- 5 domestic violence offenders;
- 6 ~~(f)~~(G) family counseling;
- 7 ~~(g)~~(H) parenting classes;
- 8 ~~(h)~~(I) education;
- 9 ~~(i)~~(J) vocational training;
- 10 ~~(j)~~(K) job training and placement programs or full-time employment;
- 11 ~~(k)~~(L) financial management and budgeting training, using the offender's restitution and other
- 12 payments; or
- 13 ~~(l)~~(M) life skills such as health and nutrition, anger management, and crisis management.
- 14

15 **NEW SECTION. Section 6. Recommendations for sentence and conditions.** (1) Upon completion

16 of the initial intake and evaluation, the team shall ~~meet to~~ HELP THE PROBATION AND PAROLE OFFICER

17 develop a substitute recommendation to the sentencing judge on the type of sentence that is appropriate,

18 a recommendation for the length of time that the offender needs to successfully complete the treatment

19 and programming necessary, and the conditions that the offender must meet to be considered successful

20 in the completion of the program.

21 (2) The probation and parole officer who performed the presentence investigation OR PREPARED

22 THE REPORT OF VIOLATION shall ~~include~~ ATTACH the substitute recommendations for sentencing with

23 the officer's presentence investigation report OR REPORT OF VIOLATION to the court.

24 (3) The sentencing judge may suspend ~~or defer~~ an offender's sentence as provided in 46-18-201

25 ~~and~~ OR place the offender, under the commitment to the department, in a community supervised release

26 program and impose any combination of the conditions listed in [section 5] as recommended by the team

27 and any additional conditions the judge believes to be necessary.

28 (4) The offender is subject to the provisions of 46-18-203 upon failure to successfully complete

29 the program. Upon a minor violation of the conditions of the sentence, sanctions may be applied in an

30 effort to maintain an offender in the program prior to revocation proceedings.

1 NEW SECTION. Section 7. Department responsibilities. (1) The department shall provide
 2 ~~electronic monitoring devices and equipment and may assess a fee on the offender for the actual cost of~~
 3 ~~supplying the devices and equipment~~ A PROBATION AND PAROLE OFFICER TO BE THE LEAD IN THE
 4 SUPERVISION OF THE OFFENDERS PARTICIPATING IN THE PROGRAM PROVIDED FOR IN [SECTIONS 1
 5 THROUGH 8].

6 (2) ~~The department is responsible for the payment of treatment and programming.~~ The department
 7 may assess a reasonable fee on the offender, based on the offender's ability to pay throughout the duration
 8 of the sentence, for the use of electronic monitoring devices and equipment and treatment and supervision
 9 costs. These costs may not exceed those charged for other offenders in other department programs.

10 ~~(3) If an offender is unable to pay for services, the department shall coordinate with other state~~
 11 ~~and local agencies to obtain any services for which the offender is eligible.~~

12 ~~(4)~~(3) The department or judicial district may pursue federal or private grant funds to assist the
 13 program in the provision of services for the offender.

14 ~~(5)~~(4) The department shall negotiate a fee to be paid to the educational entity for the costs
 15 associated with supervising students and coordinating the community supervised release program.

16
 17 NEW SECTION. Section 8. Juvenile nonviolent offender program. (1) Subject to the provisions
 18 in Title 41, chapter 5, a youth who has been adjudicated as a delinquent and who qualifies for placement
 19 at a state youth correctional facility, as defined in 41-5-103, may be placed in the ~~court-supervised~~
 20 DEPARTMENT-SUPERVISED release program for nonviolent YOUTH offenders. This program may be used
 21 as a disposition under 41-5-523 as a commitment to the department.

22 (2) The youth placement committee, as provided in 41-5-525, shall perform the responsibilities of
 23 the community supervised release program team in determining the conditions of the youth's disposition.
 24 The representative of the educational entity shall coordinate with the youth placement committee to
 25 organize any contacts necessary for the programming for the youth.

26
 27 NEW SECTION. Section 9. Codification instruction. [Sections 1 through 8] are intended to be
 28 codified as an integral part of Title 46, chapter 18, and the provisions of Title 46, chapter 18, apply to
 29 [sections 1 through 8].

1
2
3
4
5
6
7

HOUSE BILL NO. 405

INTRODUCED BY WYATT, CHRISTIAENS, DOWELL

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A COMMUNITY SUPERVISED RELEASE PROGRAM TO DIVERT ~~NONVIOLENT~~ FELONY OFFENDERS FROM PRISON; AND PROVIDING AN EFFECTIVE DATE."

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

THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE REPRINTED. PLEASE REFER TO SECOND READING COPY (YELLOW) FOR COMPLETE TEXT.