

1 SENATE BILL NO. 31

2 INTRODUCED BY JENKINS

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR CHEMICAL TREATMENT OR SURGICAL
5 CASTRATION OF CERTAIN SEX OFFENDERS; AND PROVIDING APPLICABILITY DATES."6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:8
9 **NEW SECTION. Section 1. Chemical treatment and surgical castration of sex offenders.** (1) A
10 person convicted of a first offense under 45-5-502(3), 45-5-503(3), or 45-5-507(4) may, in addition to the
11 sentence imposed under those sections, be sentenced to undergo medroxyprogesterone acetate treatment
12 or its chemical equivalent, administered by the department of corrections or its agent pursuant to
13 subsection (4).14 (2) A person convicted of a second or subsequent offense under 45-5-502(3), 45-5-503, or
15 45-5-507 shall, in addition to the sentence imposed under those sections, be sentenced to undergo
16 medroxyprogesterone acetate treatment or its chemical equivalent, administered by the department of
17 corrections or its agent pursuant to subsection (4).18 (3) A person convicted of a first or subsequent offense under 45-5-502, 45-5-503, or 45-5-507
19 who is not sentenced to undergo medroxyprogesterone acetate treatment or its chemical equivalent may
20 voluntarily undergo such treatment or surgical castration, which must be administered by the department
21 of corrections or its agent and paid for by the department of corrections.22 (4) Treatment under subsection (1) or (2) must begin 1 week before release from confinement and,
23 unless the person voluntarily undergoes surgical castration, which must be administered by the department
24 of corrections or its agent and paid for by the department of corrections, must continue until the
25 department of corrections determines that the treatment is no longer necessary. Failure to continue
26 treatment as ordered by the department of corrections constitutes a criminal contempt of court for failure
27 to comply with the sentence, for which the sentencing court shall impose a term of incarceration without
28 possibility of parole of not less than 10 years or more than 100 years.29 (5) Prior to chemical treatment or surgical castration under this section, the person must be fully
30 medically informed of its effects.

1 (6) A state employee who is a professional medical person may not be compelled against the
2 employee's wishes to administer chemical treatment or surgical castration under this section.

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4 NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an
5 integral part of Title 45, chapter 5, part 5, and the provisions of Title 45 apply to [section 1].

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7 NEW SECTION. **Section 3. Applicability.** [Section 1] applies to offenses committed after [the
8 effective date of this act], except that subsection (3) of [section 1] also applies to offenses committed
9 before [the effective date of this act].

10

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0031, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing for chemical treatment or surgical castration of certain sex offenders; and providing applicability dates.

ASSUMPTIONS:

1. Cost per inmate for Depo-Provera treatment is \$131 per week for an annual cost of \$6,812. Medical monitoring costs of \$300 for preliminary clearance and a cost of \$50 for each of 3 quarterly monitoring visits would also be incurred. Total annual cost per inmate would be \$7,262.
2. This bill will be effective 10/1/97.
3. This bill only applies to offenders committing sexual crimes after 10/1/97 except for those offenders who committed crimes prior to 10/1/97 who may volunteer for this treatment.
4. Any offenders who are sentenced to prison for sexual offenses covered under this bill in fiscal year 1998 or fiscal year 1999 will not be released until after fiscal year 2000. Therefore, there will be no treatment costs for these offenders in fiscal year 1998 or 1999.
5. In fiscal year 1995, there were 67 sex offenders who received only probation sentences. The Department of Corrections (DOC) assumes this number will remain the same for fiscal years 1998 and 1999.
6. Fiscal year 1996 data shows that 9% of sexual offender admissions to Montana State Prison (MSP) were for second sexual offenses.
7. Of the 67 probation admissions assumed for fiscal years 1998 and 1999, 91% will be for first offenses. There will be no effect of this bill on these admissions in fiscal year 1998 because of the time it takes from commission of crime until sentencing.
8. Six offenders or 9% of 67 will be sentenced directly to probation for second offenses in fiscal year 1999. The DOC assumes that all of these offenders will be sentenced to receive this treatment.
9. Of the 67 offenders, 61 will be first time sexual offenders directly admitted to probation in fiscal year 1999. The Bureau of Justice Statistics data shows that 66.8 % of sexual offenses nationally are against victims under the age of 16. This means that 41 first time offenders will be affected by this bill in fiscal year 1999. It is assumed that the sentencing court will sentence 25% of these offenders to the treatment, for a total of 10 offenders.
10. The DOC assumes that 14 sex offenders sentenced after 10/1/97 will volunteer for this treatment in order to get a more lenient sentence. These volunteers will incur treatment costs in both years.

	<u>FY98</u>	<u>FY99</u>
	<u># of offenders</u>	<u># of offenders</u>
Committed crime after 10/1/97, sentenced only to probation:		
1st offense	0	10
2nd offense	0	6
Sentenced after 10/1/97, volunteer for treatment:	<u>14</u>	<u>28</u>
Total offenders to receive treatment	14	44

(Continued)

Dave Lewis 1-11-97
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

 LOREN JENKINS, PRIMARY SPONSOR DATE
 Fiscal Note for SB0031, as introduced

FISCAL IMPACT:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
<u>Expenditures:</u>		
Chemical treatment costs	101,668	319,528
<u>Funding:</u>		
General Fund (01)	101,668	319,528

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The cost of this bill in future years will increase linearly as the treatment costs will continue until the DOC deems the treatment is no longer necessary or the offender dies. Without historical data as to the effectiveness of this treatment, the DOC is unable to predict the average length of treatment time per offender. In fiscal year 0010, the cost of this bill based on current data (without any inflation factor for the cost of treatment) could be as much as \$3,834,336.

The department is unable to estimate the potential impact on prison population as a result of offenders being subject to sentence enhancement (additional sentences 10-100 years) due to their failure to comply with this treatment and subsequent conviction for contempt and/or parole revocation.

The department is also unable to estimate the potential impact on prison population as a result of a recidivism rate reduction due to forced or voluntary treatment.

The department is not able to estimate the potential fiscal liability for administration of or the failure to administer this treatment.

APPROVED BY COM
ON JUDICIARY

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STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0031, reference bill

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing for chemical treatment of certain sex offenders and providing applicability dates.

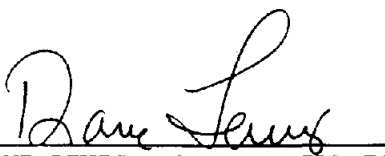
ASSUMPTIONS:

1. Cost per inmate for Depo-Provera treatment is \$131 per week for an annual cost of \$6,812. Medical monitoring costs of \$300 for preliminary clearance and a cost of \$50 for each of 3 quarterly monitoring visit would also be incurred. Total annual cost per inmate would be \$7,262.
2. This bill will be effective 10/1/97.
3. This bill only applies to offenders committing sexual crimes after 10/1/97 except for those offenders who committed crimes prior to 10/1/97 who may volunteer for this treatment.
4. Any offenders who are sentenced to prison for sexual offenses covered under this bill in fiscal year 1998 or fiscal year 1999 will not be released until after fiscal year 2000. Therefore, there will be no treatment costs for these offenders in fiscal year 1998 or 1999.
5. In fiscal year 1995, there were 67 sex offenders who received only probation sentences. The Department of Corrections (DOC) assumes this number will remain the same for fiscal years 1998 and 1999.
6. Fiscal year 1996 data shows that 9% of sexual offender admissions to Montana State Prison (MSP) were for second sexual offenses.
7. Of the 67 probation admissions assumed for fiscal year 1998 and 1999, 91% will be for first offenses. There will be no effect of this bill on these admissions in fiscal year 1998 because of the time it takes from commission of crime until sentencing.
8. Six offenders or 9% of 67 offenders will be sentenced directly to probation for second offenses in fiscal year 1999. The DOC assumes that all of these offenders will be sentenced to receive this treatment.
9. Of the 67 offenders, 61 will be first time sexual offenders directly admitted to probation in fiscal year 1999. The Bureau of Justice Statistics data shows that 66.8 percent of sexual offenses nationally are against victims under the age of 16. This means that 41 first time offenders will be affected by this bill in fiscal year 1999. It is assumed that the sentencing court will sentence 25% of these offenders to the treatment, for a total of 10 offenders.
10. The DOC assumes that 14 sex offenders sentenced after 10/1/97 will volunteer for this treatment in order to get a more lenient sentence. These volunteers will incur treatment costs in both years.

FISCAL IMPACT:

<u>Expenditures:</u>	<u>FY98</u>	<u>FY99</u>
	<u># of offenders</u>	<u># of offenders</u>
Committed crime after 10/1/97, sentenced only to probation:		
1st offense	0	10
2nd offense	0	6
Sentenced after 10/1/97, volunteer for treatment:		
Total offenders to receive treatment	<u>14</u>	<u>28</u>
	14	44

(Continued)

 4-3-97
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

LOREN JENKINS, PRIMARY SPONSOR DATE

Fiscal Note for SB0031, reference bill

SB 31-#2

	<u>FY98</u>	<u>FY99</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
Chemical treatment costs	77,126	319,528
 <u>Funding:</u>		
General Fund (01)	77,126	319,528

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The cost of this bill in future years will increase linearly as the treatment costs will continue until the DOC deems the treatment is no longer necessary or the offender dies. Without historical data as to the effectiveness of this treatment, the DOC is unable to predict the average length of treatment time per offender. In fiscal year 0010, the cost of this bill based on current data (without any inflation factor for the cost of treatment) could be as much as \$2,517,796. This calculation does not include the long-term cost of offenders who are released from incarceration with this treatment as a condition of their release.

The department is unable to estimate the potential impact on prison population and the associated costs as a result of offenders being subject to sentence enhancement (additional sentences 10-100 years) due to their failure to comply with this treatment and subsequent conviction for contempt and/or parole revocation.

The department is not able to estimate the potential fiscal liability for administration of or the failure to administer this treatment.

OFFICE OF THE GOVERNOR

STATE OF MONTANA



MARC RACICOT
GOVERNOR

STATE CAPITOL
HELENA, MONTANA 59620-0801

March 31, 1997

The Honorable Gary Aklestad
President of the Senate
State Capitol
Helena MT 59620

The Honorable John Mercer
Speaker of the House
State Capitol
Helena MT 59620

Dear President Aklestad and Speaker Mercer:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return Senate Bill 31, **"AN ACT PROVIDING FOR CHEMICAL TREATMENT OF CERTAIN SEX OFFENDERS; AND PROVIDING APPLICABILITY DATES."**

Senate Bill 31 provides for chemical treatment of certain sex offenders, the costs of which treatment would be paid for by the Department of Corrections.

Estimates of the fiscal impact of Senate Bill 31 as it has been amended, are \$77,126 for fiscal year 1998 and \$319,028 for fiscal year 1999. A revised fiscal note was not requested.

The operation of Senate Bill 31 would result in projected additional costs to the Department of Corrections budget of \$77,126 for fiscal year 1998 and \$319,028 for fiscal year 1999. Since there is no funding provided in the bill, I am returning Senate Bill 31 with a proposed amendment that it not become effective until funding is included in House Bill 2.

Senator Jenkins, the bill's sponsor, has been informed of the need for this amendment.

Sincerely,

Handwritten signature of Marc Racicot in black ink.

MARC RACICOT
Governor

GOVERNOR'S AMENDMENTS TO
SENATE BILL NO. 31
(REFERENCE COPY)
March 31, 1997

1. Title, line 5.

Strike: "AND"

Following: "DATES"

Insert: "; AND PROVIDING A CONTINGENT VOIDNESS PROVISION"

2. Page 2, line 10.

Insert: "NEW SECTION. Section 4. Contingent voidness. [This act] increases spending without providing corresponding funding. If a corresponding increase in funding for [this act] is not contained in House Bill No. 2, then [this act] is void."

OFFICE OF THE GOVERNOR

STATE OF MONTANA



MARC RACICOT
GOVERNOR

STATE CAPITOL
HELENA, MONTANA 59620-0801

April 18, 1997

The Honorable Gary Aklestad
President of the Senate
State Capitol
Helena MT 59620

The Honorable John Mercer
Speaker of the House
State Capitol
Helena MT 59620

Dear President Aklestad and Speaker Mercer:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby veto Senate Bill 31, "AN ACT PROVIDING FOR CHEMICAL TREATMENT OF CERTAIN SEX OFFENDERS; AND PROVIDING APPLICABILITY DATES" for the following reasons.

Senate Bill 31 provides for chemical treatment of certain sex offenders, the costs of which treatment would be paid for by the Department of Corrections.

On March 31, 1997, I returned the bill with a proposed amendment that would make the act void if funding was not provided in House Bill 2 to cover corresponding costs. The amendment was not adopted, leaving the Department of Corrections facing estimated costs amounting to \$77,126 for fiscal year 1988 and \$319,028 for fiscal year 1999.

The legislative and executive branches have worked very hard to provide sufficient funding for the Department of Corrections, an agency that has historically been underfunded. I cannot agree to add this unfunded responsibility to a department, the resources of which are strained to a filament.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc Racicot".

MARC RACICOT
Governor