

## 1 SENATE BILL NO. 109

2 INTRODUCED BY HOLDEN

3 BY REQUEST OF THE DEPARTMENT OF CORRECTIONS

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE DEPARTMENT OF CORRECTIONS AND  
6 CORRECTIONAL FACILITIES; PROVIDING FOR CERTIFICATION BY THE DEPARTMENT OF CORRECTIONS  
7 OF APPROPRIATIONS FOR YOUTH COURT AND PROBATION FOSTER CARE PLACEMENTS; CLARIFYING  
8 NAMES OF PRISONS AND CORRECTIONAL FACILITIES AND THE APPLICATION OF CERTAIN STATUTES  
9 TO THOSE PRISONS AND FACILITIES; REQUIRING A PSYCHOSEXUAL EVALUATION OF CERTAIN  
10 OFFENDERS; PROVIDING FOR QUALIFICATIONS OF PERSONS CONDUCTING PRESENTENCE  
11 INVESTIGATIONS; PROVIDING FOR LIMITED RELEASE FROM JAIL FOR PURPOSES OF EMPLOYMENT;  
12 REQUIRING THAT CERTAIN INFORMATION BE MADE AVAILABLE CONCERNING A PERSON'S  
13 CONFINEMENT; CLARIFYING STATUTES RELATING TO THE POWERS OF THE DEPARTMENT,  
14 CORRECTIONAL FACILITIES, AND PRISON INDUSTRIES TRAINING PROGRAMS; AMENDING SECTIONS  
15 1-1-207, 3-5-901, 46-18-101, 46-18-111, 46-18-201, 46-18-225, 46-18-701, 46-23-201, 46-23-215,  
16 46-23-401, 46-24-203, 46-24-212, 53-1-102, 53-1-103, 53-1-104, 53-1-202, 53-1-203, 53-1-301,  
17 53-1-302, 53-30-101, 53-30-102, 53-30-105, 53-30-131, 53-30-132, 53-30-151, 53-30-503, AND  
18 87-2-802, MCA; AND PROVIDING EFFECTIVE DATES."

19  
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21  
22 **Section 1.** Section 1-1-207, MCA, is amended to read:

23 "1-1-207. **Miscellaneous terms.** (1) Unless the context requires otherwise, the following  
24 definitions apply in the Montana Code Annotated:

25 ~~(1)~~(a) "Bribe" means anything of value or advantage, present or prospective, or any promise or  
26 undertaking to give anything of value or advantage, that is asked, given, or accepted with a corrupt intent  
27 to unlawfully influence the person to whom it is given in ~~his~~ the person's action, vote, or opinion in any  
28 public or official capacity.

29 (b) "Montana state prison" means the Montana state prison as defined in 53-30-101(3)(b).

30 ~~(2)~~(c) "Peace officer" has the meaning as defined in 46-1-202.

1 (d) "State prison" or "prison" means:

2 (i) the Montana state prison as described in 53-30-101(1);

3 (ii) the Montana women's prison as defined in 53-30-101(3)(c);

4 (iii) a Montana regional correctional facility;

5 (iv) a detention center in another jurisdiction detaining inmates from Montana pursuant to  
6 53-30-106; or

7 (v) a combination of the facilities listed in this subsection (1)(d).

8 ~~(3)(e)~~ "Vessel", when used in reference to shipping, includes ships of all kinds, steamboats and  
9 steamships, canal boats, and every structure adapted to be navigated from place to place.

10 (2) Subsections (1)(b) and (1)(d) do not authorize a court to sentence a person to a correctional  
11 facility listed in those subsections."

12  
13 **Section 2.** Section 3-5-901, MCA, is amended to read:

14 **"3-5-901. State assumption of certain district court expenses -- designation as district court**  
15 **criminal reimbursement program.** (1) To the extent that revenue is available under 61-3-509, the state shall  
16 fund:

17 (a) the following district court expenses in criminal cases only:

18 (i) salaries of court reporters;

19 (ii) fees for transcripts of proceedings;

20 (iii) witness fees and necessary expenses;

21 (iv) juror fees;

22 (v) expenses for indigent defense; and

23 (vi) expenses for psychiatric examinations;

24 (b) the district court expenses, as listed in subsection (1)(a), in all postconviction proceedings held  
25 pursuant to Title 46, chapter 21, and in all habeas corpus proceedings held pursuant to Title 46, chapter  
26 22, and appeals from those proceedings; and

27 (c) the following expenses incurred by the state in federal habeas corpus cases that challenge the  
28 validity of a conviction or of a sentence:

29 (i) transcript fees;

30 (ii) witness fees; and

1 (iii) expenses for psychiatric examinations.

2 (2) If revenue received under 61-3-509 exceeds the amount appropriated by the legislature to fund  
3 the expenses of the appellate defender program, the excess amount is statutorily appropriated, as provided  
4 in 17-7-502, to the supreme court to fund the expenses described in subsections (1)(a) through (1)(c) and  
5 the costs of administering this section.

6 (3) If money appropriated for the expenses listed in subsection (1):

7 (a) exceeds the amount necessary to fully fund those expenses, up to \$500,000 of the excess  
8 amount must be used for youth court and probation foster care placements if the department of corrections  
9 certifies to the supreme court that appropriations for youth court and probation foster care placements will  
10 be inadequate to fund those costs and remaining excess amounts must be used for district court grants as  
11 provided in 7-6-2352; or

12 (b) is insufficient to fully fund those expenses, the county is responsible for payment of the  
13 balance."  
14

15 **Section 3.** Section 46-18-101, MCA, is amended to read:

16 **"46-18-101. Correctional policy.** (1) It is the purpose of this section to declare the correctional  
17 policy of the state of Montana. Laws for the punishment of crime and for the rehabilitation of the convicted  
18 are drawn to implement the policy established by this section.

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

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

1 (i) the crime committed;

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

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

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

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

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

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  
17 society."  
18

19 **Section 4.** Section 46-18-111, MCA, is amended to read:

20 **"46-18-111. (Temporary) Presentence investigation -- when required.** (1) Upon the acceptance  
21 of a plea or upon a verdict or finding of guilty to one or more felony offenses, the district court shall direct  
22 the probation officer to make a presentence investigation and report. The district court shall consider the  
23 presentence investigation report prior to sentencing. If the defendant was convicted of an offense under  
24 45-5-502, 45-5-503, 45-5-504, 45-5-505, 45-5-507, or 45-5-625 involving a victim who was less than  
25 16 years of age when the offense was committed, the investigation must include an evaluation of the  
26 defendant and a recommendation as to treatment of the offender in the least restrictive environment,  
27 considering community safety and offender needs. The evaluation must be completed by a person who is  
28 determined to be qualified under guidelines established by the department of corrections. All costs related  
29 to the evaluation must be paid by the defendant. If the defendant is determined by the district court to be  
30 indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by

1 the county or the state, or both, under Title 3, chapter 5, part 9.

2 (2) Unless the court makes a finding that a report is unnecessary, a defendant convicted of any  
3 offense not enumerated in subsection (1) that may result in incarceration for 1 year or more may not be  
4 sentenced before a written presentence investigation report by a probation officer is presented to and  
5 considered by the district court. The district court may, in its discretion, order a presentence investigation  
6 for a defendant convicted of a misdemeanor.

7 **46-18-111. (Effective July 1, 1997) Presentence investigation -- when required.** (1) Upon the  
8 acceptance of a plea or upon a verdict or finding of guilty to one or more felony offenses, the district court  
9 shall direct the probation officer to make a presentence investigation and report. The district court shall  
10 consider the presentence investigation report prior to sentencing. If the defendant was convicted of an  
11 offense under 45-5-502, 45-5-503, 45-5-504, 45-5-505, ~~or 45-5-507, or under 45-5-625, or 45-5-627~~  
12 involving a victim who was less than 16 years of age when the offense was committed, the investigation  
13 must include ~~an~~ a psychosexual evaluation of the defendant and a recommendation as to treatment of the  
14 offender in the least restrictive environment, considering the risk the offender presents to the community  
15 ~~safety~~ and offender needs, unless the defendant was sentenced under 46-18-219. The evaluation must be  
16 completed by a ~~person who is determined to be qualified under guidelines established by the department~~  
17 ~~of corrections~~ sex offender therapist who is a member of the Montana sex offender treatment association  
18 or has comparable credentials acceptable to the professional and occupational licensing bureau of the  
19 department of commerce. The psychosexual evaluation must be made available to the county attorney's  
20 office, the defense attorney, the probation and parole officer, and the sentencing judge. All costs related  
21 to the evaluation must be paid by the defendant. If the defendant is determined by the district court to be  
22 indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by  
23 the county or the state, or both, under Title 3, chapter 5, part 9.

24 (2) ~~Unless the court makes a finding that a report is unnecessary,~~ The psychosexual evaluation  
25 required by subsection (1) may not be waived for a defendant convicted of any offense not an offense  
26 enumerated in subsection (1) that may result in incarceration for 1 year or more. A defendant convicted  
27 of an offense enumerated in subsection (1) may not be sentenced before a written presentence  
28 investigation report by a probation officer is presented to and considered by the district court. The district  
29 court may, in its discretion, order a presentence investigation for a defendant convicted of a misdemeanor  
30 sexual offense."

1           **Section 5.** Section 46-18-201, MCA, is amended to read:

2           **"46-18-201. (Temporary) Sentences that may be imposed.** (1) Whenever a person has been found  
3 guilty of an offense upon a verdict or a plea of guilty, the court may:

4           (a) defer imposition of sentence, except as provided in 61-8-714 and 61-8-722 for sentences for  
5 driving under the influence of alcohol or drugs or as provided in 61-6-304, for a period, except as otherwise  
6 provided, not exceeding 1 year for any misdemeanor or for a period not exceeding 3 years for any felony.  
7 The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the  
8 period of the deferred imposition. Reasonable restrictions or conditions may include:

9           (i) jail base release;

10           (ii) jail time not exceeding 180 days;

11           (iii) conditions for probation;

12           (iv) payment of the costs of confinement;

13           (v) payment of a fine as provided in 46-18-231;

14           (vi) payment of costs as provided in 46-18-232 and 46-18-233;

15           (vii) payment of costs of court-appointed counsel as provided in 46-8-113;

16           (viii) with the approval of the facility or program, an order that the offender be placed in a  
17 community corrections facility or program as provided in 53-30-321;

18           (ix) community service;

19           (x) home arrest as provided in Title 46, chapter 18, part 10;

20           (xi) any other reasonable conditions considered necessary for rehabilitation or for the protection of  
21 society;

22           (xii) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;

23 or

24           (xiii) any combination of the restrictions or conditions in subsections (1)(a)(i) through (1)(a)(xii).

25           (b) suspend execution of sentence for a period up to the maximum sentence allowed or for a period  
26 of 6 months, whichever is greater, for each particular offense. The sentencing judge may impose on the  
27 defendant any reasonable restrictions or conditions during the period of suspended sentence. Reasonable  
28 restrictions or conditions may include any of those listed in subsection (1)(a).

29           (c) impose a fine as provided by law for the offense;

30           (d) require payment of costs as provided in 46-18-232 or payment of costs of court-appointed

1 counsel as provided in 46-8-113;

2 (e) impose a county jail or state prison sentence, as provided in Title 45, for the offense or commit  
3 the defendant to the department of corrections for placement in an appropriate correctional institution or  
4 program;

5 (f) with the approval of the facility or program, order the offender to be placed in a community  
6 corrections facility or program as provided in 53-30-321; or

7 (g) impose any combination of subsections (1)(b) through (1)(f).

8 (2) In addition to any penalties imposed pursuant to subsection (1), if the court finds that the victim  
9 of the offense has sustained a pecuniary loss, the court shall require payment of restitution to the victim  
10 as provided in 46-18-241 through 46-18-249. If the court determines that the defendant is unable to pay  
11 restitution, then it may impose, in addition to any other sentence, community service under 46-18-241.

12 (3) If a financial obligation is imposed as a condition under subsection (1)(a), sentence may be  
13 deferred for a period not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for  
14 a felony, regardless of whether any other conditions are imposed.

15 (4) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, the court  
16 shall consider any elapsed time and either expressly allow part or all of it as a credit against the sentence  
17 or reject all or part as a credit. The court shall state its reasons in the order. Credit, however, must be  
18 allowed for jail or home arrest time already served.

19 (5) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years  
20 of a sentence of imprisonment imposed under the following sections may not be deferred or suspended:  
21 45-5-103, 45-5-202(3) relating to aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-502(3),  
22 45-5-503(2) and (3), 45-9-101(2), (3), and (5)(d), 45-9-102(4), and 45-9-103(2).

23 (6) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence  
24 of imprisonment imposed under 45-5-102 may not be deferred or suspended.

25 (7) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred  
26 in the case of a defendant who has been convicted of a felony on a prior occasion, whether or not the  
27 sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was  
28 suspended.

29 (8) If the victim was less than 16 years old, the imposition or execution of the first 30 days of a  
30 sentence of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505, or 45-5-507 may not be deferred

1 or suspended. Section 46-18-222 does not apply to the first 30 days of the imprisonment.

2 (9) In imposing a sentence on a defendant convicted of a sexual or violent offense as defined in  
3 46-23-502, the court may not waive the registration requirement provided in 46-18-254, 46-18-255, and  
4 Title 46, chapter 23, part 5.

5 (10) A person convicted of a sexual offense, as defined in 46-23-502, and sentenced to  
6 imprisonment in the state prison shall enroll in the educational phase of the prison's sexual offender  
7 program.

8 (11) In sentencing a nonviolent felony offender, the court shall first consider alternatives to  
9 imprisonment of the offender in the state prison, including placement of the offender in a community  
10 corrections facility or program. In considering alternatives to imprisonment, the court shall examine the  
11 sentencing criteria contained in 46-18-225. If the offender is subsequently sentenced to ~~the~~ a state prison  
12 ~~or the women's correctional system~~, the court shall state its reasons why alternatives to imprisonment were  
13 not selected, based on the criteria contained in 46-18-225.

14 **46-18-201. (Effective July 1, 1997) Sentences that may be imposed.** (1) Whenever a person has  
15 been found guilty of an offense upon a verdict or a plea of guilty, the court may:

16 (a) defer imposition of sentence, except as provided in 61-8-714 and 61-8-722 for sentences for  
17 driving under the influence of alcohol or drugs or as provided in 61-6-304, for a period, except as otherwise  
18 provided, not exceeding 1 year for any misdemeanor or for a period not exceeding 3 years for any felony.  
19 The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the  
20 period of the deferred imposition. Reasonable restrictions or conditions may include:

- 21 (i) jail base release;
- 22 (ii) jail time not exceeding 180 days;
- 23 (iii) conditions for probation;
- 24 (iv) payment of the costs of confinement;
- 25 (v) payment of a fine as provided in 46-18-231;
- 26 (vi) payment of costs as provided in 46-18-232 and 46-18-233;
- 27 (vii) payment of costs of court-appointed counsel as provided in 46-8-113;
- 28 (viii) with the approval of the facility or program, an order that the offender be placed in a  
29 community corrections facility or program as provided in 53-30-321;
- 30 (ix) community service;



- 1 (x) home arrest as provided in Title 46, chapter 18, part 10;
- 2 (xi) any other reasonable conditions considered necessary for rehabilitation or for the protection of  
3 society;
- 4 (xii) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;  
5 or
- 6 (xiii) any combination of the restrictions or conditions in subsections (1)(a)(i) through (1)(a)(xii).
- 7 (b) suspend execution of sentence for a period up to the maximum sentence allowed or for a period  
8 of 6 months, whichever is greater, for each particular offense. The sentencing judge may impose on the  
9 defendant any reasonable restrictions or conditions during the period of suspended sentence. Reasonable  
10 restrictions or conditions may include any of those listed in subsection (1)(a).
- 11 (c) impose a fine as provided by law for the offense;
- 12 (d) require payment of costs as provided in 46-18-232 or payment of costs of court-appointed  
13 counsel as provided in 46-8-113;
- 14 (e) impose a county jail or state prison sentence, as provided in Title 45, for the offense or commit  
15 the defendant to the department of corrections for placement in an appropriate correctional ~~institution~~  
16 facility or program;
- 17 (f) with the approval of the facility or program, order the offender to be placed in a community  
18 corrections facility or program as provided in 53-30-321; or
- 19 (g) impose any combination of subsections (1)(b) through (1)(f).
- 20 (2) In addition to any penalties imposed pursuant to subsection (1), if the court finds that the victim  
21 of the offense has sustained a pecuniary loss, the court shall require payment of restitution to the victim  
22 as provided in 46-18-241 through 46-18-249. If the court determines that the defendant is unable to pay  
23 restitution, then it may impose, in addition to any other sentence, community service under 46-18-241.
- 24 (3) If a financial obligation is imposed as a condition under subsection (1)(a), sentence may be  
25 deferred for a period not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for  
26 a felony, regardless of whether any other conditions are imposed.
- 27 (4) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, the court  
28 shall consider any elapsed time and either expressly allow part or all of it as a credit against the sentence  
29 or reject all or part as a credit. The court shall state its reasons in the order. Credit, however, must be  
30 allowed for jail or home arrest time already served.

1 (5) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years  
 2 of a sentence of imprisonment imposed under the following sections may not be deferred or suspended:  
 3 45-5-103, 45-5-202(3) relating to aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-502(3),  
 4 45-5-503(2) and (3), 45-9-101(2), (3), and (5)(d), 45-9-102(4), and 45-9-103(2).

5 (6) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence  
 6 of imprisonment imposed under 45-5-102 may not be deferred or suspended.

7 (7) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred  
 8 in the case of a defendant who has been convicted of a felony on a prior occasion, whether or not the  
 9 sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was  
 10 suspended.

11 (8) If the victim was less than 16 years old, the imposition or execution of the first 30 days of a  
 12 sentence of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505, or 45-5-507 may not be deferred  
 13 or suspended. Section 46-18-222 does not apply to the first 30 days of the imprisonment.

14 (9) In imposing a sentence on a defendant convicted of a sexual or violent offense as defined in  
 15 46-23-502, the court may not waive the registration requirement provided in 46-18-254, 46-18-255, and  
 16 Title 46, chapter 23, part 5.

17 (10) A person convicted of a sexual offense, as defined in 46-23-502, and sentenced to  
 18 imprisonment in the state prison shall enroll in and complete the educational phase of the prison's sexual  
 19 offender program.

20 (11) In sentencing a nonviolent felony offender, the court shall first consider alternatives to  
 21 imprisonment of the offender in the state prison, including placement of the offender in a community  
 22 corrections facility or program. In considering alternatives to imprisonment, the court shall examine the  
 23 sentencing criteria contained in 46-18-225. If the offender is subsequently sentenced to ~~the a~~ state prison  
 24 ~~or the women's correctional system~~, the court shall state its reasons why alternatives to imprisonment were  
 25 not selected, based on the criteria contained in 46-18-225.

26 (12) Except as provided in 46-18-222, a provision of this section that conflicts with 46-18-219 does  
 27 not apply to a person sentenced under 46-18-219."  
 28

29 **Section 6.** Section 46-18-225, MCA, is amended to read:

30 **"46-18-225. (Temporary) Criteria for sentencing nonviolent felony offenders.** Prior to sentencing

1 a nonviolent felony offender to a term of imprisonment in ~~the a state prison or the women's correctional~~  
2 ~~system~~, the court shall take into account whether:

3 (1) the interests of justice and the needs of public safety truly require the level of security provided  
4 by imprisonment of the offender in ~~the a state prison or the women's correctional system~~;

5 (2) the needs of the offender can be better served in the community or in a facility or program  
6 other than ~~the a state prison or the women's correctional system~~;

7 (3) there are substantial grounds tending to excuse or justify the offense, though failing to establish  
8 a defense;

9 (4) the offender acted under strong provocation;

10 (5) the offender has made restitution or will make restitution to the victim of the offender's criminal  
11 conduct;

12 (6) the offender has no prior history of conviction for a criminal act or has led a law-abiding life for  
13 a substantial period of time before the commission of the present crime;

14 (7) the offender's criminal conduct was the result of circumstances that are unlikely to recur;

15 (8) the character and attitude of the offender indicate that the offender is likely to commit another  
16 crime;

17 (9) the offender is likely to respond quickly to correctional or rehabilitative treatment; and

18 (10) imprisonment of the offender would create an excessive hardship on the offender or the  
19 offender's family.

20 **46-18-225. (Effective July 1, 1997) Criteria for sentencing nonviolent felony offenders.** Prior to  
21 sentencing a nonviolent felony offender to whom 46-18-219 does not apply to a term of imprisonment in  
22 ~~the a state prison or the women's correctional system~~, the court shall take into account whether:

23 (1) the interests of justice and the needs of public safety truly require the level of security provided  
24 by imprisonment of the offender in ~~the a state prison or the women's correctional system~~;

25 (2) the needs of the offender can be better served in the community or in a facility or program  
26 other than ~~the a state prison or the women's correctional system~~;

27 (3) there are substantial grounds tending to excuse or justify the offense, though failing to establish  
28 a defense;

29 (4) the offender acted under strong provocation;

30 (5) the offender has made restitution or will make restitution to the victim of the offender's criminal

1 conduct;

2 (6) the offender has no prior history of conviction for a criminal act or has led a law-abiding life for  
3 a substantial period of time before the commission of the present crime;

4 (7) the offender's criminal conduct was the result of circumstances that are unlikely to recur;

5 (8) the character and attitude of the offender indicate that the offender is likely to commit another  
6 crime;

7 (9) the offender is likely to respond quickly to correctional or rehabilitative treatment; and

8 (10) imprisonment of the offender would create an excessive hardship on the offender or the  
9 offender's family."

10

11 **Section 7.** Section 46-18-701, MCA, is amended to read:

12 **"46-18-701. Parole Limited release during employment hours.** (1) A court, after having sentenced  
13 a person to confinement in a county jail, may, in its discretion, upon request of the county attorney and  
14 sheriff of ~~such~~ the county and with the consent of the convicted person, order that any part of the  
15 imprisonment ~~so~~ imposed be served in confinement with ~~parole~~ limited release during the hours or periods  
16 the convicted person is actually employed.

17 (2) Upon the issuance of ~~such~~ an order for limited release under this part, the sheriff shall arrange  
18 for the convicted person to continue ~~his~~ the person's regular employment without interruption insofar as  
19 is reasonably possible. However, ~~said~~ the prisoner shall must be confined in the county jail during the hours  
20 when ~~he~~ the prisoner is not employed."

21

22 **Section 8.** Section 46-23-201, MCA, is amended to read:

23 **"46-23-201. (Temporary) Prisoners eligible for nonmedical parole.** (1) Subject to the restrictions  
24 contained in subsections (2) through (4), the board may release on nonmedical parole by appropriate order  
25 any person confined in the Montana state prison or the women's correctional system, except persons under  
26 sentence of death and persons serving sentences imposed under 46-18-202(2), when in its opinion there  
27 is reasonable probability that the prisoner can be released without detriment to the prisoner or to the  
28 community.

29 (2) A prisoner serving a time sentence may not be paroled under this section until the prisoner has  
30 served at least one-fourth of the prisoner's full term.

1 (3) A prisoner serving a life sentence may not be paroled under this section until the prisoner has  
2 served 30 years.

3 (4) A parole may be ordered under this section only for the best interests of society and not as an  
4 award of clemency or a reduction of sentence or pardon. A prisoner may be placed on parole only when  
5 the board believes that the prisoner is able and willing to fulfill the obligations of a law-abiding citizen.

6 **46-23-201. (Effective July 1, 1997) Prisoners eligible for nonmedical parole.** (1) Subject to the  
7 restrictions contained in subsections (2) through (4), the board may release on nonmedical parole by  
8 appropriate order any person confined in the Montana state prison or the women's ~~correctional system~~  
9 prison, except persons under sentence of death and persons serving sentences imposed under  
10 46-18-202(2) or 46-18-219, when in its opinion there is reasonable probability that the prisoner can be  
11 released without detriment to the prisoner or to the community.

12 (2) A prisoner serving a time sentence may not be paroled under this section until the prisoner has  
13 served at least one-fourth of the prisoner's full term.

14 (3) A prisoner serving a life sentence may not be paroled under this section until the prisoner has  
15 served 30 years.

16 (4) A parole may be ordered under this section only for the best interests of society and not as an  
17 award of clemency or a reduction of sentence or pardon. A prisoner may be placed on parole only when  
18 the board believes that the prisoner is able and willing to fulfill the obligations of a law-abiding citizen."  
19

20 **Section 9.** Section 46-23-215, MCA, is amended to read:

21 **"46-23-215. Conditions of parole.** (1) A prisoner while on parole remains in the legal custody of  
22 the ~~institution~~ correctional facility from which the prisoner was released but is subject to the orders of the  
23 board.

24 (2) When an order for parole is issued, it must recite the conditions of parole. If restitution was  
25 imposed as part of the sentence under 46-18-201, the order of parole must contain a condition to pay  
26 restitution to the victim. An order for parole or any parole agreement signed by a prisoner may contain a  
27 clause waiving extradition.

28 (3) Whenever a prisoner in the Montana state prison or the Montana women's prison has been  
29 approved for parole on condition that the prisoner obtain employment or secure suitable living arrangements  
30 or on any other condition that is difficult to fulfill while incarcerated, the warden may grant the prisoner a

1 furlough, not to exceed 10 days, for purposes of fulfilling the condition. While on furlough, the prisoner  
2 remains in the legal custody of the prison and is subject to all other conditions recited by the board."

3  
4 **Section 10.** Section 46-23-401, MCA, is amended to read:

5 **"46-23-401. Definitions.** Unless the context requires otherwise, in this part, the following  
6 definitions apply:

7 (1) "Applicant" means any prisoner who is eligible under 46-23-411 and who signs an application  
8 to participate in the supervised release program.

9 (2) "Board" means the board of pardons and parole provided for in 2-15-2302.

10 (3) "Department" means the department of corrections provided for in 2-15-2301.

11 (4) "Prisoner" means a person sentenced by a state district court to a term of confinement in the  
12 state prison.

13 (5) "Sponsor" means any federal, state, county, local, or private agency, Indian tribe and  
14 reservation, or any person, group, association, or organization approved by the department to undertake  
15 the supervision of prisoners participating in the supervised release program.

16 (6) "State prison" means the Montana state prison at Deer Lodge, the Montana women's prison,  
17 or any adult correctional facility designated by the department.

18 (7) "Supervising agent" means a probation and parole officer of the department."  
19

20 **Section 11.** Section 46-24-203, MCA, is amended to read:

21 **"46-24-203. Prompt notification to victims and witnesses of certain offenses.** (1) A person  
22 described in subsection (2) who provides the appropriate official with a current address and telephone  
23 number must receive prompt advance notification, if possible, of proceedings relating to the person's case,  
24 including:

25 (a) the arrest of an accused;

26 (b) the release of the accused pending judicial proceedings;

27 (c) the crime with which the accused has been charged, including an explanation of the elements  
28 of the offense when necessary to an understanding of the nature of the crime;

29 (d) proceedings in the prosecution of the accused, including entry of a plea of guilty and the setting  
30 of a trial date;

- 1 (e) if the accused is convicted or pleads guilty;
- 2 (i) the function of a presentence report;
- 3 (ii) the name, office address, and telephone number of the person preparing the report; and
- 4 (iii) the convicted person's right of access to the report, as well as the victim's right under
- 5 46-18-115 to present a statement in writing or orally at the sentencing proceeding and the convicted
- 6 person's right to be present at the sentencing proceeding and to have access to the victim's statement;
- 7 (f) the date, time, and place of any sentencing hearing, the sentence imposed, and the term of
- 8 imprisonment, if imposed; and
- 9 (g) the right under 46-24-212 of a victim of a felony offense to receive information from the
- 10 department of corrections concerning the convicted ~~person's incarceration~~ person.

11 (2) A person entitled to notification under subsection (1) must be a victim or witness of a felony

12 offense or a misdemeanor offense involving actual, threatened, or potential bodily injury to the victim, a

13 relative of ~~such~~ a victim or witness who is a minor, or a relative of a homicide victim."

14

15 **Section 12.** Section 46-24-212, MCA, is amended to read:

16 "**46-24-212. Information concerning confinement.** Upon request of a victim of a felony offense,

17 the department of corrections or the board of pardons and parole, as applicable, shall:

18 (1) promptly inform the victim of the following information concerning a prisoner committing the

19 offense:

20 (a) the custody level;

21 (b) the projected discharge or parole eligibility date;

22 (c) the ~~estimated~~ actual date of the prisoner's ~~release~~ discharge from confinement in the Montana

23 state prison or parole, if reasonably ascertainable;

24 ~~(2)(d) promptly inform the victim of~~ the time and place of a parole hearing concerning the prisoner

25 and of the victim's right to submit a statement to the board of pardons and parole under 46-23-202; and

26 (e) the community in which the prisoner will reside after parole;

27 ~~(3)(2)~~ provide reasonable advance notice to the victim before release of the defendant on furlough

28 or to a work-release program, half-way house, or other community-based program or correctional facility;

29 and

30 ~~(4)(3)~~ promptly inform the victim of the occurrence of any of the following events concerning the

1 prisoner:

- 2 (a) an escape from a correctional or mental health facility or community program;
- 3 (b) a recapture;
- 4 (c) a decision of the board of pardons;
- 5 (d) a decision of the governor to commute the sentence or to grant executive clemency;
- 6 (e) a release from confinement and any conditions attached to the release; and
- 7 (f) the prisoner's death."

8

9 **Section 13.** Section 53-1-102, MCA, is amended to read:

10 **"53-1-102. Removal of patients from state custodial institutions or correctional facilities without**  
 11 **permission a misdemeanor.** (1) A person, other than a parent or one having legal custody of ~~the person of~~  
 12 ~~the~~ a patient or inmate, who permits or assists a resident patient or inmate of a state custodial institution  
 13 or correctional facility to leave the institution or facility without permission from the properly authorized  
 14 member of the staff or proper court order is guilty of a misdemeanor and upon conviction is punishable by  
 15 imprisonment in a county jail not exceeding 6 months or by a fine not exceeding \$500, or both.

16 (2) ~~Nothing herein is to~~ This section may not be construed to conflict with laws relative to inmates  
 17 of ~~the~~ a Montana state prison."

18

19 **Section 14.** Section 53-1-103, MCA, is amended to read:

20 **"53-1-103. Distribution of alcoholic beverages or drugs to patients at state custodial institutions**  
 21 **or correctional facilities a misdemeanor.** (1) A person who knowingly sells or distributes or attempts to sell  
 22 or distribute alcoholic beverages or drugs to the resident patients or inmates of a state custodial institution  
 23 or correctional facility without permission of the medical staff is guilty of a misdemeanor and, upon  
 24 conviction, is punishable by imprisonment in a county jail not exceeding 6 months or by a fine not  
 25 exceeding \$500, or both.

26 (2) ~~Nothing herein is to~~ This section may not be construed to conflict with laws relative to inmates  
 27 of ~~the~~ a Montana state prison."

28

29 **Section 15.** Section 53-1-104, MCA, is amended to read:

30 **"53-1-104. Release of arsonist -- notification of department of justice.** (1) Each of the following



1 institutions ~~or, correctional facilities, or other~~ facilities having the charge or custody of a person convicted  
 2 of arson or of a person acquitted of arson on the ground of mental disease or defect shall give written  
 3 notification to the department of justice ~~whenever~~ when the person is admitted or released by it:

- 4 (a) Montana state hospital;
- 5 (b) ~~state~~ a Montana prison;
- 6 (c) ~~Mountain View school~~ a Montana youth correctional facility; or
- 7 (d) ~~Pine Hills school; or~~
- 8 ~~(e) any~~ a county or city detention facility.

9 (2) The notification must disclose:

- 10 (a) the name of the person;
- 11 (b) where the person is or will be located; and
- 12 (c) the type of fire the person was involved in."

13  
 14 **Section 16.** Section 53-1-202, MCA, is amended to read:

15 **"53-1-202. (Temporary) Department of corrections.** (1) Adult and youth correctional services are  
 16 included in the department of corrections to carry out the purposes of the department.

17 (2) Adult corrections services consist of the following ~~institutional components~~ correctional facilities  
 18 or programs to incarcerate and rehabilitate felons pursuant to Title 46, chapter 18:

- 19 (a) the Montana state prison;
- 20 (b) the Montana women's ~~correctional system~~ prison; and
- 21 (c) appropriate community-based programs for the placement, supervision, and rehabilitation of  
 22 adult felons who meet the criteria developed by the department for placement:
  - 23 (i) in prerelease centers;
  - 24 (ii) under intensive supervision;
  - 25 (iii) under parole or probation pursuant to Title 46, chapter 23, part 2; or
  - 26 (iv) in other appropriate programs.

27 (3) Youth correctional services consist of the following ~~institutional components to diagnose, care~~  
 28 ~~for, train, educate, and rehabilitate~~ correctional facilities or programs to provide for custody, supervision,  
 29 training, education, and rehabilitation of delinquent youth pursuant to Title 52, chapter 5:

- 30 ~~(a) Mountain View school;~~

1 ~~(b)(a)~~ Pine Hills school or other juvenile correctional facility; and  
 2 ~~(e)(b)~~ any other ~~institution~~ facility or program that provides ~~care~~ custody and services for delinquent  
 3 youth.

4 (4) A state institution or facility may not be moved, discontinued, or abandoned without the  
 5 consent of the legislature.

6 **53-1-202. (Effective on occurrence of contingency) Department of corrections.** (1) Adult and  
 7 youth correctional services are included in the department of corrections to carry out the purposes of the  
 8 department.

9 (2) Adult corrections services consist of the following ~~institutional components~~ correctional facilities  
 10 or programs to incarcerate and rehabilitate felons pursuant to Title 46, chapter 18:

11 (a) the Montana state prison;

12 (b) the Montana women's ~~correctional system~~ prison;

13 (c) appropriate community-based programs for the placement, supervision, and rehabilitation of  
 14 adult felons who meet the criteria developed by the department for placement:

15 (i) in prerelease centers;

16 (ii) under intensive supervision;

17 (iii) under parole or probation pursuant to Title 46, chapter 23, part 2; or

18 (iv) in other appropriate programs; and

19 (d) the forensic unit at Warm Springs.

20 (3) Youth correctional services consist of the following ~~institutional components to diagnose, care~~  
 21 ~~for, train, educate, and rehabilitate~~ correctional facilities or programs to provide for custody, supervision,  
 22 training, education, and rehabilitation of delinquent youth pursuant to Title 52, chapter 5:

23 ~~(a) Mountain View school;~~

24 ~~(b)(a)~~ Pine Hills school or other juvenile correctional facility; and

25 ~~(e)(b)~~ any other ~~institution~~ facility or program that provides ~~care~~ custody and services for delinquent  
 26 youth.

27 (4) A state institution or correctional facility may not be moved, discontinued, or abandoned  
 28 without the consent of the legislature."

29  
 30 **Section 17.** Section 53-1-203, MCA, is amended to read:

1           **"53-1-203. Powers and duties of department of corrections.** (1) The department of corrections  
2 shall:

3           (a) adopt rules necessary to carry out the purposes of 41-5-527 through 41-5-529 and rules for  
4 the admission, custody, transfer, and release of persons in department programs except as otherwise  
5 provided by law. However, rules adopted by the department may not amend or alter the statutory powers  
6 and duties of the state board of pardons and parole.

7           (b) subject to the functions of the department of administration, lease or purchase lands for use  
8 by ~~institutions~~ correctional facilities and classify those lands to determine those that may be most profitably  
9 used for agricultural purposes, taking into consideration the needs of all ~~institutions~~ correctional facilities  
10 for the food products that can be grown or produced on the lands and the relative value of agricultural  
11 programs in the treatment or rehabilitation of the persons confined in the ~~institutions~~ correctional facilities;

12           (c) contract with private, nonprofit Montana corporations to establish and maintain  
13 community-based prerelease centers for purposes of preparing inmates of ~~the a~~ Montana ~~state~~ prison who  
14 are approaching parole eligibility or discharge for release into the community. The centers shall provide a  
15 less restrictive environment than the prison while maintaining adequate security. The centers must be  
16 operated in coordination with other department correctional programs, including the supervised release  
17 program provided for in Title 46, chapter 23, part 4. This subsection does not affect the department's  
18 authority to operate and maintain community-based prerelease centers.

19           (d) utilize the staff and services of other state agencies and units of the Montana university system,  
20 within their respective statutory functions, to carry out its functions under this title;

21           (e) propose programs to the legislature to meet the projected long-range needs of ~~institutions~~  
22 correctional facilities, including programs and facilities for the diagnosis, treatment, care, and aftercare of  
23 persons placed in ~~institutions~~ correctional facilities;

24           (f) encourage the establishment of programs at the local and ~~institutional~~ facility level for the  
25 rehabilitation and education of adult felony offenders;

26           (g) administer all state and federal funds allocated to the department for youth in need of  
27 supervision and delinquent youth, as defined in 41-5-103;

28           (h) collect and disseminate information relating to youth in need of supervision and delinquent  
29 youth;

30           (i) maintain adequate data on placements that it funds in order to keep the legislature properly

1 informed of the specific information, by category, related to youth in need of supervision and delinquent  
2 youth in out-of-home care facilities;

3 (j) provide funding for and place youth who are ~~alleged or~~ adjudicated to be delinquent or in need  
4 of supervision and who are ~~referred or~~ committed to the department;

5 (k) administer youth correctional facilities;

6 (l) provide supervision, care, and control of youth released from a state youth correctional facility;  
7 and

8 (m) use to maximum efficiency the resources of state government in a coordinated effort to:

9 (i) provide for ~~children in need of temporary protection or correctional services~~ delinquent youth  
10 committed to the department; and

11 (ii) coordinate and apply the principles of modern ~~institutional~~ corrections administration to the  
12 ~~institutions in the~~ department facilities and programs.

13 (2) The department and a private, nonprofit Montana corporation may not enter into a contract  
14 under subsection (1)(c) for a period that exceeds 10 years. The provisions of 18-3-104 and 18-4-313 that  
15 limit the term of a contract do not apply to a contract authorized by subsection (1)(c).

16 (3) The department of corrections may enter into contracts with nonprofit corporations or  
17 associations or private organizations to provide substitute care for youth in need of supervision and  
18 delinquent youth in youth ~~care~~ correctional facilities."

19

20 **Section 18.** Section 53-1-301, MCA, is amended to read:

21 **"53-1-301. Permitted institutional or correctional facility industries, powers of departments, and**  
22 **incentive pay to inmates.** (1) Except as provided in subsection (4), the department of corrections or the  
23 department of public health and human services may:

24 (a) establish industries in institutions or correctional facilities that will result in the production or  
25 manufacture of products and the rendering of services as may be needed by any department or agency of  
26 the state or any political subdivision of the state, by any agency of the federal government, by any other  
27 states or their political subdivisions, or by nonprofit organizations and that will assist in the rehabilitation  
28 of residents in institutions;

29 (b) obtain federal certification of specific prison industries programs in order to gain access to  
30 interstate markets for prison industries products;

1 (c) contract with private industry for the sale of goods or components manufactured or produced  
2 in shops under its jurisdiction and for the employment of inmates in federally certified prison industries  
3 programs;

4 (d) print catalogs describing goods manufactured or produced by institutions or correctional  
5 facilities and distribute the catalogs;

6 (e) fix the sale price for goods produced or manufactured at institutions or correctional facilities.  
7 Prices may not exceed prices existing in the open market for goods of comparable quality.

8 (f) require institutions or correctional facilities to purchase needed goods from other institutions  
9 or correctional facilities;

10 (g) provide for the repair and maintenance of property and equipment of institutions or correctional  
11 facilities by their residents of institutions;

12 (h) provide for construction projects, up to the aggregate sum of \$25,000 per project, performed  
13 by residents of institutions or correctional facilities, except when the construction work is covered by a  
14 collective bargaining agreement;

15 (i) provide for the repair and maintenance at an institution or correctional facility of furniture and  
16 equipment of any state agency;

17 (j) provide for the manufacture at an institution or correctional facility of motor vehicle license  
18 plates and other related articles;

19 (k) sell manufactured or agricultural products and livestock on the open market;

20 (l) provide for the manufacture at an institution or correctional facility of highway, road, and street  
21 marking signs for the use of the state or any of its political subdivisions, except when the manufacture of  
22 the signs is in violation of a collective bargaining contract;

23 (m) pay an inmate or resident of an institution or correctional facility from receipts from the sale  
24 of products produced or manufactured or services rendered in a program in which the inmate or resident  
25 is working;

26 (n) collect 15% of the net wages paid to an inmate employed in a federally certified prison  
27 industries program for deposit in the Montana crime victims compensation and assistance account  
28 established under 53-9-109; and

29 (o) collect from an inmate employed in a federally certified prison industries program charges for  
30 room and board consistent with charges established by the director for inmates assigned to prerelease

1 centers.

2 (2) (a) Except as provided for in subsection (2)(b), payment for the performance of work may be  
3 based on the following criteria:

4 (i) knowledge and skill;

5 (ii) attitude toward authority;

6 (iii) physical effort;

7 (iv) responsibility for equipment and materials; and

8 (v) regard for safety of others.

9 (b) The maximum rate of pay must be determined by the appropriation established for each  
10 program, except that an inmate employed in a federally certified prison industries program must be paid at  
11 a rate not less than the rate paid for similar work in the locality where the inmate performs the work.

12 (3) Premiums for workers' compensation and occupational disease coverage for federally certified  
13 prison industries programs must be paid by the prison industries program or by the department of  
14 corrections. If the department of corrections pays the premium, reimbursement for premium payments for  
15 workers' compensation and occupational disease coverage must be made to the department of corrections  
16 by the private company contracting with the federally certified prison industries program for services and  
17 products.

18 (4) Except as provided in subsection (5), furniture made in ~~the~~ a prison may be purchased by state  
19 agencies in accordance with the procurement provisions under Title 18, chapter 4. All other prison-made  
20 furniture may be sold only through licensed wholesale or retail furniture outlets or through export firms for  
21 sale to international markets.

22 (5) Any state ~~institution, correctional~~ facility, or program operated by the department of corrections  
23 may purchase prison-made furniture without complying with the procurement provisions under Title 18,  
24 chapter 4."

25

26 **Section 19.** Section 53-1-302, MCA, is amended to read:

27 **"53-1-302. Disposition of receipts from sale of goods.** Receipts from the sale of goods produced  
28 or manufactured by an institution ~~shall~~ or correctional facility must be deposited in the appropriate  
29 enterprise or internal service fund for the use of the industries program of the institution or facility."

30

1           **Section 20.** Section 53-30-101, MCA, is amended to read:

2           "**53-30-101. Location and function of ~~prison and women's correctional system~~ prisons --**  
3 **definitions.** (1) The ~~institution~~ correctional facility at Deer Lodge is the Montana state prison and as its  
4 primary function ~~provides facilities~~ is to provide for the custody, treatment, training, and rehabilitation of  
5 adult male criminal offenders. The custody, treatment, training, and rehabilitation of adult male offenders  
6 may also occur at a correctional facility in another jurisdiction pursuant to an agreement as provided in  
7 53-30-106.

8           (2) The ~~institution~~ correctional facility located in Billings is the Montana women's ~~correctional~~  
9 ~~system~~ prison, and its primary function is to provide ~~facilities~~ for the custody, treatment, training, and  
10 rehabilitation of adult female criminal offenders.

11           (3) As used in this title, unless the context indicates otherwise, the following definitions apply:

12           (a) "Montana prison" means:

13           (i) the Montana state prison;

14           (ii) the Montana women's prison;

15           (iii) a Montana regional correctional facility;

16           (iv) a detention center in another jurisdiction detaining inmates from Montana pursuant to  
17 53-30-106; or

18           (v) a combination of the facilities listed in this subsection (3)(a).

19           (b) "Montana state prison" means:

20           (i) the correctional facility located at Deer Lodge;

21           (ii) a Montana regional correctional facility; or

22           (iii) a detention center in another jurisdiction detaining inmates from Montana pursuant to  
23 53-30-106.

24           (c) "Montana women's prison" or "women's prison" means:

25           (i) the correctional facility located at Billings;

26           (ii) a Montana regional correctional facility; or

27           (iii) a detention center in another jurisdiction detaining inmates from Montana pursuant to  
28 53-30-106."

29

30           **Section 21.** Section 53-30-102, MCA, is amended to read:

1           **"53-30-102. Qualifications of warden of state prison and warden of women's ~~correctional system~~**  
 2 **prison**. The warden of the Montana state prison and the warden of the women's ~~correctional system~~ prison  
 3 must be persons trained through education and experience in directing a training, rehabilitation, or custodial  
 4 program in a penal institution."

5  
 6           **Section 22.** Section 53-30-105, MCA, is amended to read:

7           **"53-30-105. (Temporary) Good time allowance.** (1) The department of corrections may grant a  
 8 good time allowance to inmates housed at an adult correctional facility or a supervised release program  
 9 facility. The good time allowance may operate as a credit on the inmate's sentence as imposed by the  
 10 court, conditioned upon the inmate's good behavior and compliance with the rules adopted by the  
 11 department. The department may not grant good time allowance to exceed 1 day for each day served at  
 12 an adult correctional facility or a supervised release program facility.

13           (2) In the event of an attempted escape by an inmate or a violation of the rules prescribed by the  
 14 department, the inmate may be punished by the forfeiture of part or all good time allowances.

15           (3) A person may not earn good time under this section while the person is on probation. A person  
 16 may earn good time while on parole at the rate of 1 day per day served on parole. If the department  
 17 determines that a person has violated the conditions of parole, it may, in its discretion, deduct good time  
 18 credit accumulated under this subsection in an amount up to and including all credit accumulated on the  
 19 date of the violation.

20           (4) The department may restore all or portions of any previously forfeited good time as a result of  
 21 subsequent good behavior.

22           (5) If the population at the Montana state prison or the Montana women's ~~correctional system~~  
 23 prison exceeds the design capacity of the institution, the department may grant an inmate additional good  
 24 time credits in an amount necessary to permit the inmate to become eligible for parole or to discharge the  
 25 inmate's sentence. Good time credits for the discharge of a sentence may not exceed 180 days. The award  
 26 of good time under this subsection must generally be provided to inmates who are nearest to parole  
 27 eligibility or discharge. (Repealed effective January 31, 1997--secs. 12(2), 13, Ch. 372, L. 1995.)"

28  
 29           **Section 23.** Section 53-30-131, MCA, is amended to read:

30           **"53-30-131. Prison industries training program -- purpose and scope.** (1) In addition to any



1 ~~institutional~~ correctional facility industry operated at ~~the a~~ a Montana ~~state~~ prison under Title 53, chapter 1,  
2 part 3, the department of corrections shall conduct a prison industries training program.

3 (2) The purpose of the prison industries training program is to:

4 (a) provide innovative and progressive inmate reformation and rehabilitation possibilities by  
5 exposing inmates to worthwhile training;

6 (b) prepare inmates for release by providing industries at the prison that utilize their skills, thus  
7 providing experience beyond mere training, inculcating inmates with good production and work habits, and  
8 providing them with a means to earn money that will be available to them upon release.

9 (3) The prison industries training program consists of vocational training, on-the-job training, and  
10 production experience. The department may contract with public and private vocational education entities  
11 to provide this training.

12 (4) The program may provide training and experience involving cultivation, production, repair,  
13 construction, refurbishment, service, and related processes involving personal property, including but not  
14 limited to such items as crops, livestock, furniture, office and electrical equipment, and motor vehicles. The  
15 products and services, with the exception of livestock and agricultural products produced from the Montana  
16 state prison ranch and products or services of a federally certified prison industries program, may be  
17 provided only to state agencies, local government units, school districts, authorities, and other  
18 governmental entities."

19  
20 **Section 24.** Section 53-30-132, MCA, is amended to read:

21 "**53-30-132. Inmate participation and status -- prison industries and vocational training program**  
22 **-- wages and benefits.** (1) While engaged in on-the-job training and production, inmates not employed in  
23 a federally certified prison industries program may be paid a wage ~~commensurate with their production~~  
24 ~~function in accordance with 53-1-301(2). Wages must be established at a rate that encourages efficient~~  
25 ~~production and effective levels of inmate participation.~~ Inmates employed in a federally certified prison  
26 industries program must be paid as provided in 53-1-301(2).

27 (2) Inmates not working in a federally certified prison industries training program are not  
28 employees, either public or private, and employment rights accorded other classes of workers do not apply  
29 to the inmates. Inmates working in a federally certified prison industry program are entitled to coverage and  
30 benefits as provided in 39-71-744.

1 (3) Able-bodied persons committed to ~~the~~ a Montana ~~state~~ prison as adult offenders must be  
 2 required to perform work as provided for by the department of corrections, including the manufacture of  
 3 products or the rendering of services."

4  
 5 **Section 25.** Section 53-30-151, MCA, is amended to read:

6 **"53-30-151. Prison maintenance by inmates.** An inmate of ~~the~~ a Montana ~~state~~ prison may be  
 7 required to:

- 8 (1) keep ~~his own~~ the living quarters assigned to that inmate clean and orderly;  
 9 (2) perform general maintenance and repair work on prison grounds and facilities and assist in  
 10 providing services essential to the administration of the prison, including but not limited to food and laundry  
 11 services."

12  
 13 **Section 26.** Section 53-30-503, MCA, is amended to read:

14 **"53-30-503. Definitions.** As used in this part, the following definitions apply:

- 15 (1) "Department" means the department of corrections.  
 16 (2) "Interlocal cooperation commission" means a commission established in accordance with Title  
 17 7, chapter 11, part 2.  
 18 (3) "Local governmental entity" means:  
 19 (a) a local governmental unit;  
 20 (b) a multijurisdictional service district; or  
 21 (c) an interlocal cooperation commission.  
 22 (4) "Multijurisdictional service district" means a district established in accordance with Title 7,  
 23 chapter 11, part 11.  
 24 (5) "Regional correctional facility" means a correctional facility, except the Montana state prison,  
 25 the women's ~~correctional system~~ prison, or the Swan River boot camp, designed, constructed, or operated  
 26 under this part by a local governmental entity or the department, or both, for the housing of convicted  
 27 felons."

28  
 29 **Section 27.** Section 87-2-802, MCA, is amended to read:

30 **"87-2-802. Veterans in VA hospitals and residents of state institutions.** Any veteran who is a

1 patient residing at a hospital operated by the department of veterans affairs, within or outside the state,  
2 and residents of all correctional facilities and institutions under the jurisdiction of the department of  
3 corrections and the department of public health and human services, except the Montana state prison at  
4 Deer Lodge or the Montana women's ~~correctional system~~ prison, ~~will be entitled to~~ may fish without a  
5 license. The residents shall carry a permit on a form prescribed by the department and signed by the  
6 superintendent of the institution in lieu of a license."

7

8 **NEW SECTION. Section 28. Effective dates.** (1) Except as provided in subsections (2) and (3),  
9 [this act] is effective October 1, 1997.

10 (2) [Section 16 and this section] are effective on passage and approval.

11 (3) [Section 4] is effective July 1, 1997.

12

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0109, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act related to the Department of Corrections and correctional facilities; providing for certification by the Department of Corrections of appropriations for Youth Court and probation foster care placements; clarifying names of prisons and correctional facilities and the application of certain statutes to those prisons and facilities; requiring a psychosexual evaluation of certain offenders; providing for qualifications of persons conducting presentence investigations; providing for limited release from jail for purposes of employment; requiring that certain information be made available concerning a person's confinement; clarifying statutes relating to the powers of the Department, correctional facilities, and Prison Industries Training programs and providing effective dates.

ASSUMPTIONS:

1. The clarification of names of prisons and correctional facilities will have minimal impact on signage, letterhead, etc. These costs can be assumed through existing funding.
2. The Department of Corrections (DOC) currently reviews 2 to 3 applications from therapists (who are not members of the Montana Sex Offender Treatment Association) per year to determine whether the therapist is qualified to perform psychosexual evaluations. The proposed bill would transfer this determination to the Department of Commerce. There would be minimal cost savings to the DOC because of this change.
3. Changes to limited release during employment hours have no effect to the DOC.
4. Upon request from the victim, the DOC currently releases the information under Section 12, MCA, except for the custody level of the offender. This change will have no fiscal impact to the DOC. The Governor's Executive Budget includes the victim notification system as a new proposal, which is repeated below for information. The general fund cost is \$18,600 and the other half will be paid by counties.
5. There is no fiscal impact to the Department of Public Health and Human Services.

FISCAL IMPACT:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
<u>Expenditures:</u> [As shown in the Executive Budget]		
Operating Expenses	37,200	37,200
<u>Funding:</u>		
General Fund (01)	18,600	18,600
State Special Revenue (02)	<u>18,600</u>	<u>18,600</u>
Total	37,200	37,200

*Dave Lewis* 1-15-97  
 DAVE LEWIS, BUDGET DIRECTOR      DATE  
 Office of Budget and Program Planning

*Ric Holden* 1-16-97  
 RIC HOLDEN, PRIMARY SPONSOR      DATE

Fiscal Note for SB0109, as introduced

**SB 109**

## 1 SENATE BILL NO. 109

2 INTRODUCED BY HOLDEN

3 BY REQUEST OF THE DEPARTMENT OF CORRECTIONS  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE DEPARTMENT OF CORRECTIONS AND  
6 CORRECTIONAL FACILITIES; PROVIDING FOR CERTIFICATION BY THE DEPARTMENT OF CORRECTIONS  
7 OF APPROPRIATIONS FOR YOUTH COURT AND PROBATION FOSTER CARE PLACEMENTS; CLARIFYING  
8 NAMES OF PRISONS AND CORRECTIONAL FACILITIES AND THE APPLICATION OF CERTAIN STATUTES  
9 TO THOSE PRISONS AND FACILITIES; REQUIRING A PSYCHOSEXUAL EVALUATION OF CERTAIN  
10 OFFENDERS; REQUIRING THAT THE PRESENTENCE INVESTIGATION REPORT BE MADE AVAILABLE TO  
11 THE PROBATION AND PAROLE OFFICER IN ADDITION TO OTHERS; PROVIDING FOR QUALIFICATIONS  
12 OF PERSONS CONDUCTING PRESENTENCE INVESTIGATIONS; PROVIDING FOR LIMITED RELEASE FROM  
13 JAIL FOR PURPOSES OF EMPLOYMENT; REQUIRING THAT CERTAIN INFORMATION BE MADE AVAILABLE  
14 CONCERNING A PERSON'S CONFINEMENT; CLARIFYING STATUTES RELATING TO THE POWERS OF THE  
15 DEPARTMENT, CORRECTIONAL FACILITIES, AND PRISON INDUSTRIES TRAINING PROGRAMS;  
16 AMENDING SECTIONS 1-1-207, ~~3-5-901~~, 46-18-101, 46-18-111, 46-18-113, 46-18-201, 46-18-225,  
17 46-18-701, 46-23-201, 46-23-215, 46-23-401, ~~46-24-203~~, 46-24-212, 53-1-102, 53-1-103, 53-1-104,  
18 53-1-202, 53-1-203, 53-1-301, 53-1-302, 53-30-101, 53-30-102, 53-30-105, 53-30-131, 53-30-132,  
19 53-30-151, 53-30-503, AND 87-2-802, MCA; AND PROVIDING EFFECTIVE DATES."

20  
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
2223 **Section 1.** Section 1-1-207, MCA, is amended to read:24 **"1-1-207. Miscellaneous terms. (1)** Unless the context requires otherwise, the following  
25 definitions apply in the Montana Code Annotated:26 ~~(1)(a)~~ **(a)** "Bribe" means anything of value or advantage, present or prospective, or any promise or  
27 undertaking to give anything of value or advantage, that is asked, given, or accepted with a corrupt intent  
28 to unlawfully influence the person to whom it is given in ~~his~~ the person's action, vote, or opinion in any  
29 public or official capacity.30 **(b)** "Montana state prison" means the Montana state prison as defined in 53-30-101(3)(b).

- 1       ~~(2)(c)~~ "Peace officer" has the meaning as defined in 46-1-202.
- 2       ~~(d)~~ "State prison" or "prison" means:
- 3       ~~(i)~~ the Montana state prison as described in 53-30-101(1);
- 4       ~~(ii)~~ the Montana women's prison as defined in 53-30-101(3)(c);
- 5       ~~(iii)~~ a Montana regional correctional facility;
- 6       ~~(iv)~~ a detention center in another jurisdiction detaining inmates from Montana pursuant to
- 7       53-30-106; or
- 8       ~~(v)~~ a combination of the facilities listed in this subsection (1)(d).
- 9       ~~(3)(e)~~ "Vessel", when used in reference to shipping, includes ships of all kinds, steamboats and
- 10      steamships, canal boats, and every structure adapted to be navigated from place to place.
- 11      ~~(2)~~ Subsections (1)(b) and (1)(d) do not authorize a court to sentence a person to a correctional
- 12      ~~facility listed in those subsections."~~

13

14      ~~Section 2. Section 3-5-901, MCA, is amended to read:~~

15      ~~"3-5-901. State assumption of certain district court expenses—designation as district court~~

16      ~~criminal reimbursement program. (1) To the extent that revenue is available under 61-3-509, the state shall~~

17      ~~fund:~~

18      ~~(a) the following district court expenses in criminal cases only:~~

- 19      ~~(i) salaries of court reporters;~~
- 20      ~~(ii) fees for transcripts of proceedings;~~
- 21      ~~(iii) witness fees and necessary expenses;~~
- 22      ~~(iv) juror fees;~~
- 23      ~~(v) expenses for indigent defense; and~~
- 24      ~~(vi) expenses for psychiatric examinations;~~

25      ~~(b) the district court expenses, as listed in subsection (1)(a), in all postconviction proceedings held~~

26      ~~pursuant to Title 46, chapter 21, and in all habeas corpus proceedings held pursuant to Title 46, chapter~~

27      ~~22, and appeals from these proceedings; and~~

28      ~~(c) the following expenses incurred by the state in federal habeas corpus cases that challenge the~~

29      ~~validity of a conviction or of a sentence:~~

30      ~~(i) transcript fees;~~

1           ~~(iii) witness fees; and~~

2           ~~(iii) expenses for psychiatric examinations.~~

3           ~~(2) If revenue received under 6-3-508 exceeds the amount appropriated by the legislature to fund~~  
 4 ~~the expenses of the appellate defender program, the excess amount is statutorily appropriated, as provided~~  
 5 ~~in 17-7-502, to the supreme court to fund the expenses described in subsections (1)(a) through (1)(c) and~~  
 6 ~~the costs of administering this section.~~

7           ~~(3) If money appropriated for the expenses listed in subsection (1):~~

8           ~~(a) exceeds the amount necessary to fully fund those expenses, up to \$500,000 of the excess~~  
 9 ~~amount must be used for youth court and probation foster care placements if the department of corrections~~  
 10 ~~certifies to the supreme court that appropriations for youth court and probation foster care placements will~~  
 11 ~~be inadequate to fund those costs and remaining excess amounts must be used for district court grants as~~  
 12 ~~provided in 7-6-2352; or~~

13           ~~(b) is insufficient to fully fund those expenses, the county is responsible for payment of the~~  
 14 ~~balance."~~

15

16           **Section 2.** Section 46-18-101, MCA, is amended to read:

17           **"46-18-101. Correctional policy.** (1) It is the purpose of this section to declare the correctional  
 18 policy of the state of Montana. Laws for the punishment of crime and for the rehabilitation of the convicted  
 19 are drawn to implement the policy established by this section.

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

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

2 (i) the crime committed;

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

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

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

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

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

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

19

20 **Section 3.** Section 46-18-111, MCA, is amended to read:

21 **"46-18-111. (Temporary) Presentence investigation -- when required.** (1) Upon the acceptance  
22 of a plea or upon a verdict or finding of guilty to one or more felony offenses, the district court shall direct  
23 the probation officer to make a presentence investigation and report. The district court shall consider the  
24 presentence investigation report prior to sentencing. If the defendant was convicted of an offense under  
25 45-5-502, 45-5-503, 45-5-504, 45-5-505, 45-5-507, or 45-5-625 involving a victim who was less than  
26 16 years of age when the offense was committed, the investigation must include an evaluation of the  
27 defendant and a recommendation as to treatment of the offender in the least restrictive environment,  
28 considering community safety and offender needs. The evaluation must be completed by a person who is  
29 determined to be qualified under guidelines established by the department of corrections. All costs related  
30 to the evaluation must be paid by the defendant. If the defendant is determined by the district court to be



1 indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by  
2 the county or the state, or both, under Title 3, chapter 5, part 9.

3 (2) Unless the court makes a finding that a report is unnecessary, a defendant convicted of any  
4 offense not enumerated in subsection (1) that may result in incarceration for 1 year or more may not be  
5 sentenced before a written presentence investigation report by a probation officer is presented to and  
6 considered by the district court. The district court may, in its discretion, order a presentence investigation  
7 for a defendant convicted of a misdemeanor.

8 **46-18-111. (Effective July 1, 1997) Presentence investigation -- when required.** (1) Upon the  
9 acceptance of a plea or upon a verdict or finding of guilty to one or more felony offenses, the district court  
10 shall direct the probation officer to make a presentence investigation and report. The district court shall  
11 consider the presentence investigation report prior to sentencing. If the defendant was convicted of an  
12 offense under 45-5-502, 45-5-503, 45-5-504, 45-5-505, ~~or 45-5-507, or under 45-5-625, or 45-5-627~~  
13 ~~involving a victim who was less than 16 years of age when the offense was committed~~, the investigation  
14 must include an a psychosexual evaluation of the defendant and a recommendation as to treatment of the  
15 offender in the least restrictive environment, considering the risk the offender presents to the community  
16 ~~safety~~ and offender needs, unless the defendant was sentenced under 46-18-219. The evaluation must be  
17 completed by a ~~person who is determined to be qualified under guidelines established by the department~~  
18 ~~of corrections~~ sex offender therapist who is a member of the Montana sex offender treatment association  
19 or has comparable credentials acceptable to the professional and occupational licensing bureau of the  
20 department of commerce. The psychosexual evaluation must be made available to the county attorney's  
21 office, the defense attorney, the probation and parole officer, and the sentencing judge. All costs related  
22 to the evaluation must be paid by the defendant. If the defendant is determined by the district court to be  
23 indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by  
24 the county or the state, or both, under Title 3, chapter 5, part 9.

25 (2) ~~Unless the court makes a finding that a report is unnecessary, The psychosexual evaluation~~  
26 ~~required by subsection (1) may not be waived for~~ THE COURT SHALL ORDER A PRESENTENCE REPORT  
27 UNLESS THE COURT MAKES A FINDING THAT A REPORT IS UNNECESSARY. UNLESS THE COURT  
28 MAKES SUCH A FINDING, a defendant convicted of ~~any offense not an offense~~ ANY OFFENSE NOT  
29 enumerated in subsection (1) that may result in incarceration for 1 year or more. A defendant convicted  
30 of an offense enumerated in subsection (1) may not be sentenced before a written presentence

1 investigation report by a probation officer is presented to and considered by the district court. The district  
2 court may, in its discretion, order a presentence investigation for a defendant convicted of a misdemeanor  
3 sexual offense."

4  
5 **SECTION 4. SECTION 46-18-113, MCA, IS AMENDED TO READ:**

6 "46-18-113. **Availability of presentence investigation report.** (1) All presentence investigation  
7 reports must be a part of the court record but may not be opened for public inspection. A copy of the  
8 presentence investigation report must be provided to the prosecution, the defendant and the defendant's  
9 attorney, the probation and parole officer, and the agency or institution to which the defendant is  
10 committed. The prosecutor may disclose the contents of the presentence report to a victim of the offense.

11 (2) The court having jurisdiction of the case may permit other access to the presentence  
12 investigation report as it considers necessary."

13

14 **Section 5.** Section 46-18-201, MCA, is amended to read:

15 "46-18-201. **(Temporary) Sentences that may be imposed.** (1) Whenever a person has been found  
16 guilty of an offense upon a verdict or a plea of guilty, the court may:

17 (a) defer imposition of sentence, except as provided in 61-8-714 and 61-8-722 for sentences for  
18 driving under the influence of alcohol or drugs or as provided in 61-6-304, for a period, except as otherwise  
19 provided, not exceeding 1 year for any misdemeanor or for a period not exceeding 3 years for any felony.  
20 The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the  
21 period of the deferred imposition. Reasonable restrictions or conditions may include:

22 (i) jail base release;

23 (ii) jail time not exceeding 180 days;

24 (iii) conditions for probation;

25 (iv) payment of the costs of confinement;

26 (v) payment of a fine as provided in 46-18-231;

27 (vi) payment of costs as provided in 46-18-232 and 46-18-233;

28 (vii) payment of costs of court-appointed counsel as provided in 46-8-113;

29 (viii) with the approval of the facility or program, an order that the offender be placed in a  
30 community corrections facility or program as provided in 53-30-321;

1 (ix) community service;

2 (x) home arrest as provided in Title 46, chapter 18, part 10;

3 (xi) any other reasonable conditions considered necessary for rehabilitation or for the protection of  
4 society;

5 (xii) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;

6 or

7 (xiii) any combination of the restrictions or conditions in subsections (1)(a)(i) through (1)(a)(xii).

8 (b) suspend execution of sentence for a period up to the maximum sentence allowed or for a period  
9 of 6 months, whichever is greater, for each particular offense. The sentencing judge may impose on the  
10 defendant any reasonable restrictions or conditions during the period of suspended sentence. Reasonable  
11 restrictions or conditions may include any of those listed in subsection (1)(a).

12 (c) impose a fine as provided by law for the offense;

13 (d) require payment of costs as provided in 46-18-232 or payment of costs of court-appointed  
14 counsel as provided in 46-8-113;

15 (e) impose a county jail or state prison sentence, as provided in Title 45, for the offense or commit  
16 the defendant to the department of corrections for placement in an appropriate correctional institution or  
17 program;

18 (f) with the approval of the facility or program, order the offender to be placed in a community  
19 corrections facility or program as provided in 53-30-321; or

20 (g) impose any combination of subsections (1)(b) through (1)(f).

21 (2) In addition to any penalties imposed pursuant to subsection (1), if the court finds that the victim  
22 of the offense has sustained a pecuniary loss, the court shall require payment of restitution to the victim  
23 as provided in 46-18-241 through 46-18-249. If the court determines that the defendant is unable to pay  
24 restitution, then it may impose, in addition to any other sentence, community service under 46-18-241.

25 (3) If a financial obligation is imposed as a condition under subsection (1)(a), sentence may be  
26 deferred for a period not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for  
27 a felony, regardless of whether any other conditions are imposed.

28 (4) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, the court  
29 shall consider any elapsed time and either expressly allow part or all of it as a credit against the sentence  
30 or reject all or part as a credit. The court shall state its reasons in the order. Credit, however, must be

1 allowed for jail or home arrest time already served.

2 (5) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years  
3 of a sentence of imprisonment imposed under the following sections may not be deferred or suspended:  
4 45-5-103, 45-5-202(3) relating to aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-502(3),  
5 45-5-503(2) and (3), 45-9-101(2), (3), and (5)(d), 45-9-102(4), and 45-9-103(2).

6 (6) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence  
7 of imprisonment imposed under 45-5-102 may not be deferred or suspended.

8 (7) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred  
9 in the case of a defendant who has been convicted of a felony on a prior occasion, whether or not the  
10 sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was  
11 suspended.

12 (8) If the victim was less than 16 years old, the imposition or execution of the first 30 days of a  
13 sentence of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505, or 45-5-507 may not be deferred  
14 or suspended. Section 46-18-222 does not apply to the first 30 days of the imprisonment.

15 (9) In imposing a sentence on a defendant convicted of a sexual or violent offense as defined in  
16 46-23-502, the court may not waive the registration requirement provided in 46-18-254, 46-18-255, and  
17 Title 46, chapter 23, part 5.

18 (10) A person convicted of a sexual offense, as defined in 46-23-502, and sentenced to  
19 imprisonment in the state prison shall enroll in the educational phase of the prison's sexual offender  
20 program.

21 (11) In sentencing a nonviolent felony offender, the court shall first consider alternatives to  
22 imprisonment of the offender in the state prison, including placement of the offender in a community  
23 corrections facility or program. In considering alternatives to imprisonment, the court shall examine the  
24 sentencing criteria contained in 46-18-225. If the offender is subsequently sentenced to ~~the~~ a state prison  
25 ~~or the women's correctional system~~, the court shall state its reasons why alternatives to imprisonment were  
26 not selected, based on the criteria contained in 46-18-225.

27 **46-18-201. (Effective July 1, 1997) Sentences that may be imposed.** (1) Whenever a person has  
28 been found guilty of an offense upon a verdict or a plea of guilty, the court may:

29 (a) defer imposition of sentence, except as provided in 61-8-714 and 61-8-722 for sentences for  
30 driving under the influence of alcohol or drugs or as provided in 61-6-304, for a period, except as otherwise

- 1 provided, not exceeding 1 year for any misdemeanor or for a period not exceeding 3 years for any felony.  
2 The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the  
3 period of the deferred imposition. Reasonable restrictions or conditions may include:
- 4 (i) jail base release;
  - 5 (ii) jail time not exceeding 180 days;
  - 6 (iii) conditions for probation;
  - 7 (iv) payment of the costs of confinement;
  - 8 (v) payment of a fine as provided in 46-18-231;
  - 9 (vi) payment of costs as provided in 46-18-232 and 46-18-233;
  - 10 (vii) payment of costs of court-appointed counsel as provided in 46-8-113;
  - 11 (viii) with the approval of the facility or program, an order that the offender be placed in a  
12 community corrections facility or program as provided in 53-30-321;
  - 13 (ix) community service;
  - 14 (x) home arrest as provided in Title 46, chapter 18, part 10;
  - 15 (xi) any other reasonable conditions considered necessary for rehabilitation or for the protection of  
16 society;
  - 17 (xii) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;
- 18 or
- 19 (xiii) any combination of the restrictions or conditions in subsections (1)(a)(i) through (1)(a)(xii).
- 20 (b) suspend execution of sentence for a period up to the maximum sentence allowed or for a period  
21 of 6 months, whichever is greater, for each particular offense. The sentencing judge may impose on the  
22 defendant any reasonable restrictions or conditions during the period of suspended sentence. Reasonable  
23 restrictions or conditions may include any of those listed in subsection (1)(a).
- 24 (c) impose a fine as provided by law for the offense;
  - 25 (d) require payment of costs as provided in 46-18-232 or payment of costs of court-appointed  
26 counsel as provided in 46-8-113;
  - 27 (e) impose a county jail or state prison sentence, as provided in Title 45, for the offense or commit  
28 the defendant to the department of corrections for placement in an appropriate correctional ~~institution~~  
29 facility or program;
  - 30 (f) with the approval of the facility or program, order the offender to be placed in a community

1 corrections facility or program as provided in 53-30-321; or

2 (g) impose any combination of subsections (1)(b) through (1)(f).

3 (2) In addition to any penalties imposed pursuant to subsection (1), if the court finds that the victim  
4 of the offense has sustained a pecuniary loss, the court shall require payment of restitution to the victim  
5 as provided in 46-18-241 through 46-18-249. If the court determines that the defendant is unable to pay  
6 restitution, then it may impose, in addition to any other sentence, community service under 46-18-241.

7 (3) If a financial obligation is imposed as a condition under subsection (1)(a), sentence may be  
8 deferred for a period not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for  
9 a felony, regardless of whether any other conditions are imposed.

10 (4) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, the court  
11 shall consider any elapsed time and either expressly allow part or all of it as a credit against the sentence  
12 or reject all or part as a credit. The court shall state its reasons in the order. Credit, however, must be  
13 allowed for jail or home arrest time already served.

14 (5) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years  
15 of a sentence of imprisonment imposed under the following sections may not be deferred or suspended:  
16 45-5-103, 45-5-202(3) relating to aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-502(3),  
17 45-5-503(2) and (3), 45-9-101(2), (3), and (5)(d), 45-9-102(4), and 45-9-103(2).

18 (6) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence  
19 of imprisonment imposed under 45-5-102 may not be deferred or suspended.

20 (7) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred  
21 in the case of a defendant who has been convicted of a felony on a prior occasion, whether or not the  
22 sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was  
23 suspended.

24 (8) If the victim was less than 16 years old, the imposition or execution of the first 30 days of a  
25 sentence of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505, or 45-5-507 may not be deferred  
26 or suspended. Section 46-18-222 does not apply to the first 30 days of the imprisonment.

27 (9) In imposing a sentence on a defendant convicted of a sexual or violent offense as defined in  
28 46-23-502, the court may not waive the registration requirement provided in 46-18-254, 46-18-255, and  
29 Title 46, chapter 23, part 5.

30 (10) A person convicted of a sexual offense, as defined in 46-23-502, and sentenced to

1 imprisonment in the state prison shall enroll in and complete the educational phase of the prison's sexual  
2 offender program.

3 (11) In sentencing a nonviolent felony offender, the court shall first consider alternatives to  
4 imprisonment of the offender in the state prison, including placement of the offender in a community  
5 corrections facility or program. In considering alternatives to imprisonment, the court shall examine the  
6 sentencing criteria contained in 46-18-225. If the offender is subsequently sentenced to ~~the a~~ state prison  
7 ~~or the women's correctional system~~, the court shall state its reasons why alternatives to imprisonment were  
8 not selected, based on the criteria contained in 46-18-225.

9 (12) Except as provided in 46-18-222, a provision of this section that conflicts with 46-18-219 does  
10 not apply to a person sentenced under 46-18-219."  
11

12 **Section 6.** Section 46-18-225, MCA, is amended to read:

13 **"46-18-225. (Temporary) Criteria for sentencing nonviolent felony offenders.** Prior to sentencing  
14 a nonviolent felony offender to a term of imprisonment in ~~the a~~ state prison ~~or the women's correctional~~  
15 ~~system~~, the court shall take into account whether:

16 (1) the interests of justice and the needs of public safety truly require the level of security provided  
17 by imprisonment of the offender in ~~the a~~ state prison ~~or the women's correctional system~~;

18 (2) the needs of the offender can be better served in the community or in a facility or program  
19 other than ~~the a~~ state prison ~~or the women's correctional system~~;

20 (3) there are substantial grounds tending to excuse or justify the offense, though failing to establish  
21 a defense;

22 (4) the offender acted under strong provocation;

23 (5) the offender has made restitution or will make restitution to the victim of the offender's criminal  
24 conduct;

25 (6) the offender has no prior history of conviction for a criminal act or has led a law-abiding life for  
26 a substantial period of time before the commission of the present crime;

27 (7) the offender's criminal conduct was the result of circumstances that are unlikely to recur;

28 (8) the character and attitude of the offender indicate that the offender is likely to commit another  
29 crime;

30 (9) the offender is likely to respond quickly to correctional or rehabilitative treatment; and

1 (10) imprisonment of the offender would create an excessive hardship on the offender or the  
2 offender's family.

3 **46-18-225. (Effective July 1, 1997) Criteria for sentencing nonviolent felony offenders.** Prior to  
4 sentencing a nonviolent felony offender to whom 46-18-219 does not apply to a term of imprisonment in  
5 ~~the a state prison or the women's correctional system,~~ the court shall take into account whether:

6 (1) the interests of justice and the needs of public safety truly require the level of security provided  
7 by imprisonment of the offender in ~~the a state prison or the women's correctional system;~~

8 (2) the needs of the offender can be better served in the community or in a facility or program  
9 other than ~~the a state prison or the women's correctional system;~~

10 (3) there are substantial grounds tending to excuse or justify the offense, though failing to establish  
11 a defense;

12 (4) the offender acted under strong provocation;

13 (5) the offender has made restitution or will make restitution to the victim of the offender's criminal  
14 conduct;

15 (6) the offender has no prior history of conviction for a criminal act or has led a law-abiding life for  
16 a substantial period of time before the commission of the present crime;

17 (7) the offender's criminal conduct was the result of circumstances that are unlikely to recur;

18 (8) the character and attitude of the offender indicate that the offender is likely to commit another  
19 crime;

20 (9) the offender is likely to respond quickly to correctional or rehabilitative treatment; and

21 (10) imprisonment of the offender would create an excessive hardship on the offender or the  
22 offender's family."

23  
24 **Section 7.** Section 46-18-701, MCA, is amended to read:

25 **"46-18-701. Parole Limited release during employment hours.** (1) A court, after having sentenced  
26 a person to confinement in a county jail, may, in its discretion, upon request of the county attorney and  
27 sheriff of ~~such~~ the county and with the consent of the convicted person, order that any part of the  
28 imprisonment ~~so~~ imposed be served in confinement with ~~parole~~ limited release during the hours or periods  
29 the convicted person is actually employed.

30 (2) Upon the issuance of ~~such~~ an order for limited release under this part, the sheriff shall arrange



1 for the convicted person to continue ~~his~~ the person's regular employment without interruption insofar as  
2 is reasonably possible. However, ~~said the prisoner shall~~ must be confined in the county jail during the hours  
3 when ~~he~~ the prisoner is not employed."  
4

5 **Section 8.** Section 46-23-201, MCA, is amended to read:

6 **"46-23-201. (Temporary) Prisoners eligible for nonmedical parole.** (1) Subject to the restrictions  
7 contained in subsections (2) through (4), the board may release on nonmedical parole by appropriate order  
8 any person confined in the Montana state prison or the women's correctional system, except persons under  
9 sentence of death and persons serving sentences imposed under 46-18-202(2), when in its opinion there  
10 is reasonable probability that the prisoner can be released without detriment to the prisoner or to the  
11 community.

12 (2) A prisoner serving a time sentence may not be paroled under this section until the prisoner has  
13 served at least one-fourth of the prisoner's full term.

14 (3) A prisoner serving a life sentence may not be paroled under this section until the prisoner has  
15 served 30 years.

16 (4) A parole may be ordered under this section only for the best interests of society and not as an  
17 award of clemency or a reduction of sentence or pardon. A prisoner may be placed on parole only when  
18 the board believes that the prisoner is able and willing to fulfill the obligations of a law-abiding citizen.

19 **46-23-201. (Effective July 1, 1997) Prisoners eligible for nonmedical parole.** (1) Subject to the  
20 restrictions contained in subsections (2) through (4), the board may release on nonmedical parole by  
21 appropriate order any person confined in the Montana state prison or the women's ~~correctional system~~  
22 prison, except persons under sentence of death and persons serving sentences imposed under  
23 46-18-202(2) or 46-18-219, when in its opinion there is reasonable probability that the prisoner can be  
24 released without detriment to the prisoner or to the community.

25 (2) A prisoner serving a time sentence may not be paroled under this section until the prisoner has  
26 served at least one-fourth of the prisoner's full term.

27 (3) A prisoner serving a life sentence may not be paroled under this section until the prisoner has  
28 served 30 years.

29 (4) A parole may be ordered under this section only for the best interests of society and not as an  
30 award of clemency or a reduction of sentence or pardon. A prisoner may be placed on parole only when

1 the board believes that the prisoner is able and willing to fulfill the obligations of a law-abiding citizen."

2

3 **Section 9.** Section 46-23-215, MCA, is amended to read:

4 **"46-23-215. Conditions of parole.** (1) A prisoner while on parole remains in the legal custody of  
5 the ~~institution~~ correctional facility from which the prisoner was released but is subject to the orders of the  
6 board.

7 (2) When an order for parole is issued, it must recite the conditions of parole. If restitution was  
8 imposed as part of the sentence under 46-18-201, the order of parole must contain a condition to pay  
9 restitution to the victim. An order for parole or any parole agreement signed by a prisoner may contain a  
10 clause waiving extradition.

11 (3) Whenever a prisoner in the Montana state prison or the Montana women's prison has been  
12 approved for parole on condition that the prisoner obtain employment or secure suitable living arrangements  
13 or on any other condition that is difficult to fulfill while incarcerated, the warden may grant the prisoner a  
14 furlough, not to exceed 10 days, for purposes of fulfilling the condition. While on furlough, the prisoner  
15 remains in the legal custody of the prison and is subject to all other conditions recited by the board."

16

17 **Section 10.** Section 46-23-401, MCA, is amended to read:

18 **"46-23-401. Definitions.** Unless the context requires otherwise, in this part, the following  
19 definitions apply:

20 (1) "Applicant" means any prisoner who is eligible under 46-23-411 and who signs an application  
21 to participate in the supervised release program.

22 (2) "Board" means the board of pardons and parole provided for in 2-15-2302.

23 (3) "Department" means the department of corrections provided for in 2-15-2301.

24 (4) "Prisoner" means a person sentenced by a state district court to a term of confinement in the  
25 state prison.

26 (5) "Sponsor" means any federal, state, county, local, or private agency, Indian tribe and  
27 reservation, or any person, group, association, or organization approved by the department to undertake  
28 the supervision of prisoners participating in the supervised release program.

29 (6) "State prison" means the Montana state prison at Deer Lodge, the Montana women's prison,  
30 or any adult correctional facility designated by the department.

1 (7) "Supervising agent" means a probation and parole officer of the department."

2  
3 ~~Section 11. Section 46-24-203, MCA, is amended to read:~~

4 ~~"46-24-203. Prompt notification to victims and witnesses of certain offenses. (1) A person~~  
5 ~~described in subsection (2) who provides the appropriate official with a current address and telephone~~  
6 ~~number must receive prompt advance notification, if possible, of proceedings relating to the person's case,~~  
7 ~~including:~~

- 8 ~~(a) the arrest of an accused;~~  
9 ~~(b) the release of the accused pending judicial proceedings;~~  
10 ~~(c) the crime with which the accused has been charged, including an explanation of the elements~~  
11 ~~of the offense when necessary to an understanding of the nature of the crime;~~  
12 ~~(d) proceedings in the prosecution of the accused, including entry of a plea of guilty and the setting~~  
13 ~~of a trial date;~~  
14 ~~(e) if the accused is convicted or pleads guilty;~~  
15 ~~(i) the function of a presentence report;~~  
16 ~~(ii) the name, office address, and telephone number of the person preparing the report; and~~  
17 ~~(iii) the convicted person's right of access to the report, as well as the victim's right under~~  
18 ~~46-18-115 to present a statement in writing or orally at the sentencing proceeding and the convicted~~  
19 ~~person's right to be present at the sentencing proceeding and to have access to the victim's statement;~~  
20 ~~(f) the date, time, and place of any sentencing hearing, the sentence imposed, and the term of~~  
21 ~~imprisonment, if imposed; and~~  
22 ~~(g) the right under 46-24-212 of a victim of a felony offense to receive information from the~~  
23 ~~department of corrections concerning the convicted person's incarceration person.~~

24 ~~(2) A person entitled to notification under subsection (1) must be a victim or witness of a felony~~  
25 ~~offense or a misdemeanor offense involving actual, threatened, or potential bodily injury to the victim, a~~  
26 ~~relative of such a victim or witness who is a minor, or a relative of a homicide victim."~~

27  
28 **Section 11.** Section 46-24-212, MCA, is amended to read:

29 **"46-24-212. Information concerning confinement.** Upon request of a victim of a felony offense,  
30 the department of corrections or the board of pardons and parole, as applicable, shall:

1 (1) promptly inform the victim of the following information concerning a prisoner committing the  
 2 offense:

3 (a) the custody level;

4 (b) the projected discharge or parole eligibility date;

5 (c) the estimated actual date of the prisoner's release discharge from confinement in the Montana  
 6 state prison or parole, if reasonably ascertainable;

7 ~~(2)(d)~~ promptly inform the victim of the time and place of a parole hearing concerning the prisoner  
 8 and of the victim's right to submit a statement to the board of pardons and parole under 46-23-202; and

9 (e) the community in which the prisoner will reside after parole;

10 ~~(3)(2)~~ provide reasonable advance notice to the victim before release of the defendant on furlough  
 11 or to a work-release program, half-way house, or other community-based program or correctional facility;  
 12 and

13 ~~(4)(3)~~ promptly inform the victim of the occurrence of any of the following events concerning the  
 14 prisoner:

15 (a) an escape from a correctional or mental health facility or community program;

16 (b) a recapture;

17 (c) a decision of the board of pardons AND PAROLE;

18 (d) a decision of the governor to commute the sentence or to grant executive clemency;

19 (e) a release from confinement and any conditions attached to the release; and

20 (f) the prisoner's death."

21  
 22 **Section 12.** Section 53-1-102, MCA, is amended to read:

23 **"53-1-102. Removal of patients from state custodial institutions or correctional facilities without**  
 24 **permission a misdemeanor.** (1) A person, other than a parent or one having legal custody of ~~the person of~~  
 25 ~~the~~ a patient or inmate, who permits or assists a resident patient or inmate of a state custodial institution  
 26 or correctional facility to leave the institution or facility without permission from the properly authorized  
 27 member of the staff or proper court order is guilty of a misdemeanor and upon conviction is punishable by  
 28 imprisonment in a county jail not exceeding 6 months or by a fine not exceeding \$500, or both.

29 (2) ~~Nothing herein is to~~ This section may not be construed to conflict with laws relative to inmates  
 30 of ~~the~~ a Montana state prison."

1           **Section 13.** Section 53-1-103, MCA, is amended to read:

2           "**53-1-103. Distribution of alcoholic beverages or drugs to patients at state custodial institutions**  
3 **or correctional facilities a misdemeanor.** (1) A person who knowingly sells or distributes or attempts to sell  
4 or distribute alcoholic beverages or drugs to the resident patients or inmates of a state custodial institution  
5 or correctional facility without permission of the medical staff is guilty of a misdemeanor and, upon  
6 conviction, is punishable by imprisonment in a county jail not exceeding 6 months or by a fine not  
7 exceeding \$500, or both.

8           (2) ~~Nothing herein is to~~ This section may not be construed to conflict with laws relative to inmates  
9 of ~~the a~~ a Montana ~~state~~ prison."

10

11           **Section 14.** Section 53-1-104, MCA, is amended to read:

12           "**53-1-104. Release of arsonist -- notification of department of justice.** (1) Each of the following  
13 institutions ~~or~~ correctional facilities, or other facilities having the charge or custody of a person convicted  
14 of arson or of a person acquitted of arson on the ground of mental disease or defect shall give written  
15 notification to the department of justice ~~whenever~~ when the person is admitted or released by it:

16           (a) Montana state hospital;

17           (b) ~~state a~~ a Montana prison;

18           (c) ~~Mountain View school~~ a Montana youth correctional facility; or

19           (d) ~~Pine Hills school; or~~

20           ~~(e) any a~~ a county or city detention facility.

21           (2) The notification must disclose:

22           (a) the name of the person;

23           (b) where the person is or will be located; and

24           (c) the type of fire the person was involved in."

25

26           **Section 15.** Section 53-1-202, MCA, is amended to read:

27           "**53-1-202. (Temporary) Department of corrections.** (1) Adult and youth correctional services are  
28 included in the department of corrections to carry out the purposes of the department.

29           (2) Adult corrections services consist of the following ~~institutional components~~ correctional facilities  
30 or programs to incarcerate and rehabilitate felons pursuant to Title 46, chapter 18:

- 1 (a) the Montana state prison;
- 2 (b) the Montana women's ~~correctional system~~ prison; and
- 3 (c) appropriate community-based programs for the placement, supervision, and rehabilitation of
- 4 adult felons who meet the criteria developed by the department for placement:
- 5 (i) in prerelease centers;
- 6 (ii) under intensive supervision;
- 7 (iii) under parole or probation pursuant to Title 46, chapter 23, part 2; or
- 8 (iv) in other appropriate programs.
- 9 (3) Youth correctional services consist of the following ~~institutional components to diagnose, care~~
- 10 ~~for, train, educate, and rehabilitate~~ correctional facilities or programs to provide for custody, supervision,
- 11 training, education, and rehabilitation of delinquent youth pursuant to Title 52, chapter 5:
- 12 ~~(a) Mountain View school;~~
- 13 ~~(b)~~ (a) Pine Hills school or other juvenile correctional facility; and
- 14 ~~(c)~~ (b) any other institution facility or program that provides care custody and services for delinquent
- 15 youth.
- 16 (4) A state institution or facility may not be moved, discontinued, or abandoned without the
- 17 consent of the legislature.
- 18 **53-1-202. (Effective on occurrence of contingency) Department of corrections.** (1) Adult and
- 19 youth correctional services are included in the department of corrections to carry out the purposes of the
- 20 department.
- 21 (2) Adult corrections services consist of the following ~~institutional components~~ correctional facilities
- 22 or programs to incarcerate and rehabilitate felons pursuant to Title 46, chapter 18:
- 23 (a) the Montana state prison;
- 24 (b) the Montana women's ~~correctional system~~ prison;
- 25 (c) appropriate community-based programs for the placement, supervision, and rehabilitation of
- 26 adult felons who meet the criteria developed by the department for placement:
- 27 (i) in prerelease centers;
- 28 (ii) under intensive supervision;
- 29 (iii) under parole or probation pursuant to Title 46, chapter 23, part 2; or
- 30 (iv) in other appropriate programs; and

1 (d) the forensic unit at Warm Springs.

2 (3) Youth correctional services consist of the following ~~institutional components to diagnose, care~~  
 3 ~~for, train, educate, and rehabilitate~~ correctional facilities or programs to provide for custody, supervision,  
 4 training, education, and rehabilitation of delinquent youth pursuant to Title 52, chapter 5:

5 ~~(a) Mountain View school;~~

6 ~~(b)~~(a) Pine Hills school or other juvenile correctional facility; and

7 ~~(c)~~(b) any other ~~institution~~ facility or program that provides ~~care~~ custody and services for delinquent  
 8 youth.

9 (4) A state institution or correctional facility may not be moved, discontinued, or abandoned  
 10 without the consent of the legislature."

11  
 12 **Section 16.** Section 53-1-203, MCA, is amended to read:

13 **"53-1-203. Powers and duties of department of corrections.** (1) The department of corrections  
 14 shall:

15 (a) adopt rules necessary to carry out the purposes of 41-5-527 through 41-5-529 and rules for  
 16 the admission, custody, transfer, and release of persons in department programs except as otherwise  
 17 provided by law. However, rules adopted by the department may not amend or alter the statutory powers  
 18 and duties of the state board of pardons and parole.

19 (b) subject to the functions of the department of administration, lease or purchase lands for use  
 20 by ~~institutions~~ correctional facilities and classify those lands to determine those that may be most profitably  
 21 used for agricultural purposes, taking into consideration the needs of all ~~institutions~~ correctional facilities  
 22 for the food products that can be grown or produced on the lands and the relative value of agricultural  
 23 programs in the treatment or rehabilitation of the persons confined in the ~~institutions~~ correctional facilities;

24 (c) contract with private, nonprofit Montana corporations to establish and maintain  
 25 community-based prerelease centers for purposes of preparing inmates of ~~the a~~ a Montana state prison who  
 26 are approaching parole eligibility or discharge for release into the community. The centers shall provide a  
 27 less restrictive environment than the prison while maintaining adequate security. The centers must be  
 28 operated in coordination with other department correctional programs, including the supervised release  
 29 program provided for in Title 46, chapter 23, part 4. This subsection does not affect the department's  
 30 authority to operate and maintain community-based prerelease centers.

1 (d) utilize the staff and services of other state agencies and units of the Montana university system,  
2 within their respective statutory functions, to carry out its functions under this title;

3 (e) propose programs to the legislature to meet the projected long-range needs of ~~institutions~~  
4 correctional facilities, including programs and facilities for the diagnosis, treatment, care, and aftercare of  
5 persons placed in ~~institutions~~ correctional facilities;

6 (f) encourage the establishment of programs at the local and ~~institutional~~ facility level for the  
7 rehabilitation and education of adult felony offenders;

8 (g) administer all state and federal funds allocated to the department for youth in need of  
9 supervision and delinquent youth, as defined in 41-5-103;

10 (h) collect and disseminate information relating to youth in need of supervision and delinquent  
11 youth;

12 (i) maintain adequate data on placements that it funds in order to keep the legislature properly  
13 informed of the specific information, by category, related to youth in need of supervision and delinquent  
14 youth in out-of-home care facilities;

15 (j) provide funding for and place youth who are ~~alleged or~~ adjudicated to be delinquent or in need  
16 of supervision and who are ~~referred or~~ committed to the department;

17 (k) administer youth correctional facilities;

18 (l) provide supervision, care, and control of youth released from a state youth correctional facility;  
19 and

20 (m) use to maximum efficiency the resources of state government in a coordinated effort to:

21 (i) provide for ~~children in need of temporary protection or correctional services~~ delinquent youth  
22 committed to the department; and

23 (ii) coordinate and apply the principles of modern ~~institutional~~ corrections administration to the  
24 ~~institutions in the department~~ facilities and programs.

25 (2) The department and a private, nonprofit Montana corporation may not enter into a contract  
26 under subsection (1)(c) for a period that exceeds 10 years. The provisions of 18-3-104 and 18-4-313 that  
27 limit the term of a contract do not apply to a contract authorized by subsection (1)(c).

28 (3) The department of corrections may enter into contracts with nonprofit corporations or  
29 associations or private organizations to provide substitute care for youth in need of supervision and  
30 delinquent youth in youth ~~care~~ correctional facilities."



1           **Section 17.** Section 53-1-301, MCA, is amended to read:

2           **"53-1-301. Permitted institutional or correctional facility industries, powers of departments, and**  
3 **incentive pay to inmates.** (1) Except as provided in subsection (4), the department of corrections or the  
4 department of public health and human services may:

5           (a) establish industries in institutions or correctional facilities that will result in the production or  
6 manufacture of products and the rendering of services as may be needed by any department or agency of  
7 the state or any political subdivision of the state, by any agency of the federal government, by any other  
8 states or their political subdivisions, or by nonprofit organizations and that will assist in the rehabilitation  
9 of residents in institutions;

10           (b) obtain federal certification of specific prison industries programs in order to gain access to  
11 interstate markets for prison industries products;

12           (c) contract with private industry for the sale of goods or components manufactured or produced  
13 in shops under its jurisdiction and for the employment of inmates in federally certified prison industries  
14 programs;

15           (d) print catalogs describing goods manufactured or produced by institutions or correctional  
16 facilities and distribute the catalogs;

17           (e) fix the sale price for goods produced or manufactured at institutions or correctional facilities.  
18 Prices may not exceed prices existing in the open market for goods of comparable quality.

19           (f) require institutions or correctional facilities to purchase needed goods from other institutions  
20 or correctional facilities;

21           (g) provide for the repair and maintenance of property and equipment of institutions or correctional  
22 facilities by their residents ~~of institutions~~;

23           (h) provide for construction projects, up to the aggregate sum of \$25,000 per project, performed  
24 by residents of institutions or correctional facilities, except when the construction work is covered by a  
25 collective bargaining agreement;

26           (i) provide for the repair and maintenance at an institution or correctional facility of furniture and  
27 equipment of any state agency;

28           (j) provide for the manufacture at an institution or correctional facility of motor vehicle license  
29 plates and other related articles;

30           (k) sell manufactured or agricultural products and livestock on the open market;

1 (l) provide for the manufacture at an institution or correctional facility of highway, road, and street  
2 marking signs for the use of the state or any of its political subdivisions, except when the manufacture of  
3 the signs is in violation of a collective bargaining contract;

4 (m) pay an inmate or resident of an institution or correctional facility from receipts from the sale  
5 of products produced or manufactured or services rendered in a program in which the inmate or resident  
6 is working;

7 (n) collect 15% of the net wages paid to an inmate employed in a federally certified prison  
8 industries program for deposit in the Montana crime victims compensation and assistance account  
9 established under 53-9-109; and

10 (o) collect from an inmate employed in a federally certified prison industries program charges for  
11 room and board consistent with charges established by the director for inmates assigned to prerelease  
12 centers.

13 (2) (a) Except as provided for in subsection (2)(b), payment for the performance of work may be  
14 based on the following criteria:

15 (i) knowledge and skill;

16 (ii) attitude toward authority;

17 (iii) physical effort;

18 (iv) responsibility for equipment and materials; and

19 (v) regard for safety of others.

20 (b) The maximum rate of pay must be determined by the appropriation established for each  
21 program, except that an inmate employed in a federally certified prison industries program must be paid at  
22 a rate not less than the rate paid for similar work in the locality where the inmate performs the work.

23 (3) Premiums for workers' compensation and occupational disease coverage for federally certified  
24 prison industries programs must be paid by the prison industries program or by the department of  
25 corrections. If the department of corrections pays the premium, reimbursement for premium payments for  
26 workers' compensation and occupational disease coverage must be made to the department of corrections  
27 by the private company contracting with the federally certified prison industries program for services and  
28 products.

29 (4) Except as provided in subsection (5), furniture made in ~~the~~ a prison may be purchased by state  
30 agencies in accordance with the procurement provisions under Title 18, chapter 4. All other prison-made

1 furniture may be sold only through licensed wholesale or retail furniture outlets or through export firms for  
2 sale to international markets.

3 (5) Any state ~~institution,~~ correctional facility, or program operated by the department of corrections  
4 may purchase prison-made furniture without complying with the procurement provisions under Title 18,  
5 chapter 4."

6

7 **Section 18.** Section 53-1-302, MCA, is amended to read:

8 "**53-1-302. Disposition of receipts from sale of goods.** Receipts from the sale of goods produced  
9 or manufactured by an institution ~~shall~~ or correctional facility must be deposited in the appropriate  
10 enterprise or internal service fund for the use of the industries program of the institution or facility."

11

12 **Section 19.** Section 53-30-101, MCA, is amended to read:

13 "**53-30-101. Location and function of ~~prison and women's correctional system~~ prisons --**  
14 **definitions.** (1) The ~~institution~~ correctional facility at Deer Lodge is the Montana state prison and ~~as~~ its  
15 primary function ~~provides facilities~~ is to provide for the custody, treatment, training, and rehabilitation of  
16 adult male criminal offenders. The custody, treatment, training, and rehabilitation of adult male offenders  
17 may also occur at a correctional facility in another jurisdiction pursuant to an agreement as provided in  
18 53-30-106.

19 (2) The ~~institution~~ correctional facility located in Billings is the Montana women's ~~correctional~~  
20 ~~system~~ prison, and its primary function is to provide ~~facilities~~ for the custody, treatment, training, and  
21 rehabilitation of adult female criminal offenders.

22 (3) As used in this title, unless the context indicates otherwise, the following definitions apply:

23 (a) "Montana prison" means:

24 (i) the Montana state prison;

25 (ii) the Montana women's prison;

26 (iii) a Montana regional correctional facility;

27 (iv) a detention center in another jurisdiction detaining inmates from Montana pursuant to

28 53-30-106; or

29 (v) a combination of the facilities listed in this subsection (3)(a).

30 (b) "Montana state prison" means:

1 (i) the correctional facility located at Deer Lodge;

2 (ii) a Montana regional correctional facility; or

3 (iii) a detention center in another jurisdiction detaining inmates from Montana pursuant to

4 53-30-106.

5 (c) "Montana women's prison" or "women's prison" means:

6 (i) the correctional facility located at Billings;

7 (ii) a Montana regional correctional facility; or

8 (iii) a detention center in another jurisdiction detaining inmates from Montana pursuant to

9 53-30-106."

10  
11 **Section 20.** Section 53-30-102, MCA, is amended to read:

12 **"53-30-102. Qualifications of warden of state prison and warden of women's ~~correctional system~~**  
13 **prison.** The warden of the Montana state prison and the warden of the women's ~~correctional system~~ prison  
14 must be persons trained through education and experience in directing a training, rehabilitation, or custodial  
15 program in a penal institution."

16  
17 **Section 21.** Section 53-30-105, MCA, is amended to read:

18 **"53-30-105. (Temporary) Good time allowance.** (1) The department of corrections may grant a  
19 good time allowance to inmates housed at an adult correctional facility or a supervised release program  
20 facility. The good time allowance may operate as a credit on the inmate's sentence as imposed by the  
21 court, conditioned upon the inmate's good behavior and compliance with the rules adopted by the  
22 department. The department may not grant good time allowance to exceed 1 day for each day served at  
23 an adult correctional facility or a supervised release program facility.

24 (2) In the event of an attempted escape by an inmate or a violation of the rules prescribed by the  
25 department, the inmate may be punished by the forfeiture of part or all good time allowances.

26 (3) A person may not earn good time under this section while the person is on probation. A person  
27 may earn good time while on parole at the rate of 1 day per day served on parole. If the department  
28 determines that a person has violated the conditions of parole, it may, in its discretion, deduct good time  
29 credit accumulated under this subsection in an amount up to and including all credit accumulated on the  
30 date of the violation.

1 (4) The department may restore all or portions of any previously forfeited good time as a result of  
2 subsequent good behavior.

3 (5) If the population at the Montana state prison or the Montana women's ~~correctional system~~  
4 prison exceeds the design capacity of the institution, the department may grant an inmate additional good  
5 time credits in an amount necessary to permit the inmate to become eligible for parole or to discharge the  
6 inmate's sentence. Good time credits for the discharge of a sentence may not exceed 180 days. The award  
7 of good time under this subsection must generally be provided to inmates who are nearest to parole  
8 eligibility or discharge. (Repealed effective January 31, 1997--secs. 12(2), 13, Ch. 372, L. 1995.)"

9

10 **Section 22.** Section 53-30-131, MCA, is amended to read:

11 **"53-30-131. Prison industries training program -- purpose and scope.** (1) In addition to any  
12 ~~institutional~~ correctional facility industry operated at the a Montana ~~state~~ prison under Title 53, chapter 1,  
13 part 3, the department of corrections shall conduct a prison industries training program.

14 (2) The purpose of the prison industries training program is to:

15 (a) provide innovative and progressive inmate reformation and rehabilitation possibilities by  
16 exposing inmates to worthwhile training;

17 (b) prepare inmates for release by providing industries at the prison that utilize their skills, thus  
18 providing experience beyond mere training, inculcating inmates with good production and work habits, and  
19 providing them with a means to earn money that will be available to them upon release.

20 (3) The prison industries training program consists of vocational training, on-the-job training, and  
21 production experience. The department may contract with public and private vocational education entities  
22 to provide this training.

23 (4) The program may provide training and experience involving cultivation, production, repair,  
24 construction, refurbishment, service, and related processes involving personal property, including but not  
25 limited to such items as crops, livestock, furniture, office and electrical equipment, and motor vehicles. The  
26 products and services, with the exception of livestock and agricultural products produced from the Montana  
27 state prison ranch and products or services of a federally certified prison industries program, may be  
28 provided only to state agencies, local government units, school districts, authorities, and other  
29 governmental entities."

30

1           **Section 23.** Section 53-30-132, MCA, is amended to read:

2           **"53-30-132. Inmate participation and status -- prison industries and vocational training program**  
3 **-- wages and benefits.** (1) While engaged in on-the-job training and production, inmates not employed in  
4 a federally certified prison industries program may be paid a wage ~~commensurate with their production~~  
5 ~~function in accordance with 53-1-301(2). Wages must be established at a rate that encourages efficient~~  
6 ~~production and effective levels of inmate participation.~~ Inmates employed in a federally certified prison  
7 industries program must be paid as provided in 53-1-301(2).

8           (2) Inmates not working in a federally certified prison industries training program are not  
9 employees, either public or private, and employment rights accorded other classes of workers do not apply  
10 to the inmates. Inmates working in a federally certified prison industry program are entitled to coverage and  
11 benefits as provided in 39-71-744.

12           (3) Able-bodied persons committed to ~~the~~ a Montana ~~state~~ prison as adult offenders must be  
13 required to perform work as provided for by the department of corrections, including the manufacture of  
14 products or the rendering of services."

15

16           **Section 24.** Section 53-30-151, MCA, is amended to read:

17           **"53-30-151. Prison maintenance by inmates.** An inmate of ~~the~~ a Montana ~~state~~ prison may be  
18 required to:

19           (1) keep ~~his own~~ the living quarters assigned to that inmate clean and orderly;

20           (2) perform general maintenance and repair work on prison grounds and facilities and assist in  
21 providing services essential to the administration of the prison, including but not limited to food and laundry  
22 services."

23

24           **Section 25.** Section 53-30-503, MCA, is amended to read:

25           **"53-30-503. Definitions.** As used in this part, the following definitions apply:

26           (1) "Department" means the department of corrections.

27           (2) "Interlocal cooperation commission" means a commission established in accordance with Title  
28 7, chapter 11, part 2.

29           (3) "Local governmental entity" means:

30           (a) a local governmental unit;

1 (b) a multijurisdictional service district; or

2 (c) an interlocal cooperation commission.

3 (4) "Multijurisdictional service district" means a district established in accordance with Title 7,  
4 chapter 11, part 11.

5 (5) "Regional correctional facility" means a correctional facility, except the Montana state prison,  
6 the women's ~~correctional system~~ prison, or the Swan River boot camp, designed, constructed, or operated  
7 under this part by a local governmental entity or the department, or both, for the housing of convicted  
8 felons."

9

10 **Section 26.** Section 87-2-802, MCA, is amended to read:

11 **"87-2-802. Veterans in VA hospitals and residents of state institutions.** Any veteran who is a  
12 patient residing at a hospital operated by the department of veterans affairs, within or outside the state,  
13 and residents of all correctional facilities and institutions under the jurisdiction of the department of  
14 corrections and the department of public health and human services, except the Montana state prison at  
15 Deer Lodge or the Montana women's ~~correctional system~~ prison, ~~will be entitled to~~ may fish without a  
16 license. The residents shall carry a permit on a form prescribed by the department and signed by the  
17 superintendent of the institution in lieu of a license."

18

19 **NEW SECTION. Section 27. Effective dates.** (1) Except as provided in subsections (2) and (3),  
20 [this act] is effective October 1, 1997.

21 (2) [Section ~~46~~ 15 and this section] are effective on passage and approval.

22 (3) [Section 4 3] is effective July 1, 1997.

23

-END-

## 1 SENATE BILL NO. 109

2 INTRODUCED BY HOLDEN

3 BY REQUEST OF THE DEPARTMENT OF CORRECTIONS  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE DEPARTMENT OF CORRECTIONS AND  
6 CORRECTIONAL FACILITIES; PROVIDING FOR CERTIFICATION BY THE DEPARTMENT OF CORRECTIONS  
7 OF APPROPRIATIONS FOR YOUTH COURT AND PROBATION FOSTER CARE PLACEMENTS; CLARIFYING  
8 NAMES OF PRISONS AND CORRECTIONAL FACILITIES AND THE APPLICATION OF CERTAIN STATUTES  
9 TO THOSE PRISONS AND FACILITIES; REQUIRING A PSYCHOSEXUAL EVALUATION OF CERTAIN  
10 OFFENDERS; REQUIRING THAT THE PRESENTENCE INVESTIGATION REPORT BE MADE AVAILABLE TO  
11 THE PROBATION AND PAROLE OFFICER IN ADDITION TO OTHERS; PROVIDING FOR QUALIFICATIONS  
12 OF PERSONS CONDUCTING PRESENTENCE INVESTIGATIONS; PROVIDING FOR LIMITED RELEASE FROM  
13 JAIL FOR PURPOSES OF EMPLOYMENT; REQUIRING THAT CERTAIN INFORMATION BE MADE AVAILABLE  
14 CONCERNING A PERSON'S CONFINEMENT; CLARIFYING STATUTES RELATING TO THE POWERS OF THE  
15 DEPARTMENT, CORRECTIONAL FACILITIES, AND PRISON INDUSTRIES TRAINING PROGRAMS;  
16 AMENDING SECTIONS 1-1-207, ~~3-5-901~~, 46-18-101, 46-18-111, 46-18-113, 46-18-201, 46-18-225,  
17 46-18-701, 46-23-201, 46-23-215, 46-23-401, ~~46-24-203~~, 46-24-212, 53-1-102, 53-1-103, 53-1-104,  
18 53-1-202, 53-1-203, 53-1-301, 53-1-302, 53-30-101, 53-30-102, 53-30-105, 53-30-131, 53-30-132,  
19 53-30-151, 53-30-503, AND 87-2-802, MCA; AND PROVIDING EFFECTIVE DATES."

20  
21 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.**



SENATE BILL NO. 109

INTRODUCED BY HOLDEN

BY REQUEST OF THE DEPARTMENT OF CORRECTIONS

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE DEPARTMENT OF CORRECTIONS AND CORRECTIONAL FACILITIES; PROVIDING FOR CERTIFICATION BY THE DEPARTMENT OF CORRECTIONS OF APPROPRIATIONS FOR YOUTH COURT AND PROBATION FOSTER CARE PLACEMENTS; CLARIFYING NAMES OF PRISONS AND CORRECTIONAL FACILITIES AND THE APPLICATION OF CERTAIN STATUTES TO THOSE PRISONS AND FACILITIES; REQUIRING A PSYCHOSEXUAL EVALUATION OF CERTAIN OFFENDERS; REQUIRING THAT THE PRESENTENCE INVESTIGATION REPORT BE MADE AVAILABLE TO THE PROBATION AND PAROLE OFFICER IN ADDITION TO OTHERS; PROVIDING FOR QUALIFICATIONS OF PERSONS CONDUCTING PRESENTENCE INVESTIGATIONS; PROVIDING FOR LIMITED RELEASE FROM JAIL FOR PURPOSES OF EMPLOYMENT; REQUIRING THAT CERTAIN INFORMATION BE MADE AVAILABLE CONCERNING A PERSON'S CONFINEMENT; CLARIFYING STATUTES RELATING TO THE POWERS OF THE DEPARTMENT, CORRECTIONAL FACILITIES, AND PRISON INDUSTRIES TRAINING PROGRAMS; AMENDING SECTIONS 1-1-207, ~~3-5-901~~, 41-5-103, 46-18-101, 46-18-111, 46-18-113, 46-18-201, 46-18-225, 46-18-701, 46-23-201, 46-23-215, 46-23-401, ~~46-24-203~~, 46-24-212, 52-5-101, 52-5-108, 52-5-109, 52-5-112, 52-5-113, 53-1-102, 53-1-103, 53-1-104, 53-1-202, 53-1-203, ~~53-1-301~~, 53-1-302, 53-30-101, 53-30-102, 53-30-105, ~~53-30-131~~, ~~53-30-132~~, 53-30-151, 53-30-503, AND 87-2-802, MCA; AND PROVIDING EFFECTIVE DATES."

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

**Section 1.** Section 1-1-207, MCA, is amended to read:

**"1-1-207. Miscellaneous terms. (1)** Unless the context requires otherwise, the following definitions apply in the Montana Code Annotated:

~~(1)(a)~~ **"Bribe"** means anything of value or advantage, present or prospective, or any promise or undertaking to give anything of value or advantage, that is asked, given, or accepted with a corrupt intent to unlawfully influence the person to whom it is given in ~~his~~ the person's action, vote, or opinion in any public or official capacity.

- 1           **(b) "Montana state prison" means the Montana state prison as defined in 53-30-101(3)(b).**
- 2           ~~(2)(c)~~ "Peace officer" has the meaning as defined in 46-1-202.
- 3           **(d) "State prison" or "prison" means:**
- 4           **(i) the Montana state prison as described in 53-30-101(1);**
- 5           **(ii) the Montana women's prison as defined in 53-30-101(3)(c);**
- 6           **(iii) a Montana regional correctional facility;**
- 7           **(iv) a detention center in another jurisdiction detaining inmates from Montana pursuant to**
- 8 **53-30-106; or**
- 9           **(v) a combination of the facilities listed in this subsection (1)(d).**
- 10          ~~(3)(e)~~ "Vessel", when used in reference to shipping, includes ships of all kinds, steamboats and
- 11 steamships, canal boats, and every structure adapted to be navigated from place to place.
- 12          **(2) Subsections (1)(b) and (1)(d) do not authorize a court to sentence a person to a correctional**
- 13 **facility listed in those subsections."**

14

15          **~~Section 2. Section 3-5-901, MCA, is amended to read:~~**

16          **~~"3-5-901. State assumption of certain district court expenses—designation as district court~~**

17 **~~criminal reimbursement program. (1) To the extent that revenue is available under 61-3-509, the state shall~~**

18 **~~fund:~~**

19          ~~(a) the following district court expenses in criminal cases only:~~

- 20          ~~(i) salaries of court reporters;~~
- 21          ~~(ii) fees for transcripts of proceedings;~~
- 22          ~~(iii) witness fees and necessary expenses;~~
- 23          ~~(iv) juror fees;~~
- 24          ~~(v) expenses for indigent defense; and~~
- 25          ~~(vi) expenses for psychiatric examinations;~~

26          ~~(b) the district court expenses, as listed in subsection (1)(a), in all postconviction proceedings held~~

27 ~~pursuant to Title 46, chapter 21, and in all habeas corpus proceedings held pursuant to Title 46, chapter~~

28 ~~22, and appeals from these proceedings; and~~

29          ~~(c) the following expenses incurred by the state in federal habeas corpus cases that challenge the~~

30 ~~validity of a conviction or of a sentence:~~

1           ~~(i) transcript fees;~~  
2           ~~(ii) witness fees; and~~  
3           ~~(iii) expenses for psychiatric examinations.~~  
4           ~~(2) If revenue received under 61-3-509 exceeds the amount appropriated by the legislature to fund~~  
5 ~~the expenses of the appellate defender program, the excess amount is statutorily appropriated, as provided~~  
6 ~~in 17-7-502, to the supreme court to fund the expenses described in subsections (1)(a) through (1)(c) and~~  
7 ~~the costs of administering this section.~~  
8           ~~(3) If money appropriated for the expenses listed in subsection (1):~~  
9           ~~(a) exceeds the amount necessary to fully fund those expenses, up to \$500,000 of the excess~~  
10 ~~amount must be used for youth court and probation foster care placements if the department of corrections~~  
11 ~~certifies to the supreme court that appropriations for youth court and probation foster care placements will~~  
12 ~~be inadequate to fund those costs and remaining excess amounts must be used for district court grants as~~  
13 ~~provided in 7-6-2352; or~~  
14           ~~(b) is insufficient to fully fund those expenses, the county is responsible for payment of the~~  
15 ~~balance."~~

**SECTION 2. SECTION 41-5-103, MCA, IS AMENDED TO READ:**

**"41-5-103. Definitions.** As used in the Montana Youth Court Act, unless the context requires otherwise, the following definitions apply:

- 20           (1) "Adult" means an individual who is 18 years of age or older.
- 21           (2) "Agency" means any entity of state or local government authorized by law to be responsible
- 22 for the care or rehabilitation of youth.
- 23           (3) "Commit" means to transfer to legal custody.
- 24           (4) "Correctional facility" means a public or private residential facility used for the placement of
- 25 delinquent youth or individuals convicted of criminal offenses.
- 26           (5) "Court", when used without further qualification, means the youth court of the district court.
- 27           (6) "Custodian" means a person, other than a parent or guardian, to whom legal custody of the
- 28 youth has been given but does not include a person who has only physical custody.
- 29           (7) "Delinquent youth" means a youth:
- 30           (a) who has committed an offense that, if committed by an adult, would constitute a criminal

1 offense; or

2 (b) who, having been placed on probation as a delinquent youth or a youth in need of supervision,  
3 violates any condition of probation.

4 (8) "Department" means the department of corrections provided for in 2-15-2301.

5 (9) "Detention" means the holding or temporary placement of a youth in the youth's home under  
6 home arrest or in a facility other than the youth's own home for the purpose of ensuring the continued  
7 custody of the youth at any time after the youth is taken into custody and before final disposition of the  
8 youth's case.

9 (10) "Detention facility" means a physically restricting facility designed to prevent a youth from  
10 departing at will. The term includes a youth detention facility, short-term detention center, and regional  
11 detention facility.

12 (11) "Final disposition" means the implementation of a court order for the disposition or placement  
13 of a youth as provided in 41-5-523.

14 (12) "Foster home" means a private residence licensed by the department for placement of a youth.

15 (13) "Guardianship" means the status created and defined by law between a youth and an adult  
16 with the reciprocal rights, duties, and responsibilities.

17 (14) "Holdover" means a room, office, building, or other place approved by the board of crime  
18 control for the temporary detention and supervision of youth in a physically unrestricting setting for a period  
19 not to exceed 24 hours while the youth is awaiting a probable cause hearing, release, or transfer to an  
20 appropriate detention or shelter care facility. The term does not include a jail.

21 (15) "Jail" means a facility used for the confinement of adults accused or convicted of criminal  
22 offenses. The term includes a lockup or other facility used primarily for the temporary confinement of adults  
23 after arrest.

24 (16) "Judge", when used without further qualification, means the judge of the youth court.

25 (17) (a) "Legal custody" means the legal status created by order of a court of competent jurisdiction  
26 that gives a person the right and duty to:

27 (i) have physical custody of the youth;

28 (ii) determine with whom the youth shall live and for what period;

29 (iii) protect, train, and discipline the youth; and

30 (iv) provide the youth with food, shelter, education, and ordinary medical care.

1 (b) An individual granted legal custody of a youth shall personally exercise the individual's rights  
2 and duties as guardian unless otherwise authorized by the court entering the order.

3 (18) "Necessary parties" includes the youth, the youth's parents, guardian, custodian, or spouse.

4 (19) "Parent" means the natural or adoptive parent but does not include a person whose parental  
5 rights have been judicially terminated, nor does it include the putative father of an illegitimate youth unless  
6 the putative father's paternity is established by an adjudication or by other clear and convincing proof.

7 (20) "Probable cause hearing" means the hearing provided for in 41-5-303.

8 (21) "Regional detention facility" means a youth detention facility established and maintained by  
9 two or more counties, as authorized in 41-5-811.

10 (22) "Restitution" means payments in cash to the victim or with services to the victim or the general  
11 community when these payments are made pursuant to an informal adjustment, consent decree, or other  
12 youth court order.

13 (23) "Secure detention facility" means any public or private facility that:

14 (a) is used for the temporary placement of youth or individuals accused or convicted of criminal  
15 offenses; and

16 (b) is designed to physically restrict the movements and activities of youth or other individuals held  
17 in lawful custody of the facility.

18 (24) "Serious juvenile offender" means a youth who has committed an offense that would be  
19 considered a felony offense if committed by an adult and that is an offense against a person, an offense  
20 against property, or an offense involving dangerous drugs.

21 (25) "Shelter care" means the temporary substitute care of youth in physically unrestricting  
22 facilities.

23 (26) "Shelter care facility" means a facility used for the shelter care of youth. The term is limited  
24 to the facilities enumerated in 41-5-306(1).

25 (27) "Short-term detention center" means a detention facility licensed by the department for the  
26 temporary placement or care of youth, for a period not to exceed 96 hours, pending a probable cause  
27 hearing, release, or transfer of the youth to an appropriate detention facility or shelter care facility.

28 (28) "State youth correctional facility" means a residential facility used for the placement and  
29 rehabilitation of delinquent youth, such as the Pine Hills ~~school~~ youth correctional facility in Miles City and  
30 ~~the Mountain View school in Helena.~~

1 (29) "Substitute care" means full-time care of youth in a residential setting for the purpose of  
2 providing food, shelter, security and safety, guidance, direction, and, if necessary, treatment to youth who  
3 are removed from or are without the care and supervision of their parents or guardian.

4 (30) "Youth" means an individual who is less than 18 years of age without regard to sex or  
5 emancipation.

6 (31) "Youth court" means the court established pursuant to this chapter to hear all proceedings in  
7 which a youth is alleged to be a delinquent youth, a youth in need of supervision, or a youth in need of care  
8 and includes the youth court judge and probation officers.

9 (32) "Youth detention facility" means a secure detention facility licensed by the department for the  
10 temporary substitute care of youth that:

11 (a) is operated, administered, and staffed separately and independently of a jail; and

12 (b) is used exclusively for the lawful detention of alleged or adjudicated delinquent youth.

13 (33) "Youth in need of care" has the meaning provided for in 41-3-102.

14 (34) "Youth in need of supervision" means a youth who commits an offense prohibited by law that,  
15 if committed by an adult, would not constitute a criminal offense, including but not limited to a youth who:

16 (a) violates any Montana municipal or state law regarding use of alcoholic beverages by minors;

17 (b) continues to exhibit behavior beyond the control of the youth's parents, foster parents, physical  
18 custodian, or guardian despite the attempt of the youth's parents, foster parents, physical custodian, or  
19 guardian to exert all reasonable efforts to mediate, resolve, or control the youth's behavior; or

20 (c) has committed any of the acts of a delinquent youth but whom the youth court, in its  
21 discretion, chooses to regard as a youth in need of supervision."

22

23 **Section 3.** Section 46-18-101, MCA, is amended to read:

24 **"46-18-101. Correctional policy.** (1) It is the purpose of this section to declare the correctional  
25 policy of the state of Montana. Laws for the punishment of crime and for the rehabilitation of the convicted  
26 are drawn to implement the policy established by this section.

27 (2) The correctional policy of the state of Montana is to protect society by preventing crime  
28 through punishment and rehabilitation of the convicted. The legislature finds that an individual is responsible  
29 for and must be held accountable for the individual's actions, including, whenever possible, the restoration  
30 of all pecuniary losses sustained by a victim of the offense. Corrections laws and programs must be

1 implemented to impress upon each individual the responsibility for obeying the law. To achieve this end,  
2 it is the policy of the state to ~~assure~~ ensure that prosecution of criminal offenses occurs whenever probable  
3 cause exists and that punishment of the convicted is certain, timely, and consistent. Furthermore, it is the  
4 state's policy that persons convicted of a crime be dealt with in accordance with their individual  
5 characteristics, circumstances, needs, and potentialities. Finally, it is the policy of the state to recognize  
6 that the interests of crime victims should be considered so that, to the extent possible, victims of crime  
7 may be protected from threat of future harm by the offender.

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

9 (i) the crime committed;

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

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

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

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

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

21 (4) It is also the policy of the state that alternatives to imprisonment, such as community  
22 corrections, should be used whenever appropriate for nonviolent felony offenders in order to provide them  
23 opportunities to gain work experience, to learn life skills, to obtain education and training, or to participate  
24 in other activities that will reduce recidivism and enable offenders to become productive members of  
25 society."  
26

27 **Section 4.** Section 46-18-111, MCA, is amended to read:

28 **"46-18-111. (Temporary) Presentence investigation -- when required.** (1) Upon the acceptance  
29 of a plea or upon a verdict or finding of guilty to one or more felony offenses, the district court shall direct  
30 the probation officer to make a presentence investigation and report. The district court shall consider the

1 presentence investigation report prior to sentencing. If the defendant was convicted of an offense under  
2 45-5-502, 45-5-503, 45-5-504, 45-5-505, 45-5-507, or 45-5-625 involving a victim who was less than  
3 16 years of age when the offense was committed, the investigation must include an evaluation of the  
4 defendant and a recommendation as to treatment of the offender in the least restrictive environment,  
5 considering community safety and offender needs. The evaluation must be completed by a person who is  
6 determined to be qualified under guidelines established by the department of corrections. All costs related  
7 to the evaluation must be paid by the defendant. If the defendant is determined by the district court to be  
8 indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by  
9 the county or the state, or both, under Title 3, chapter 5, part 9.

10 (2) Unless the court makes a finding that a report is unnecessary, a defendant convicted of any  
11 offense not enumerated in subsection (1) that may result in incarceration for 1 year or more may not be  
12 sentenced before a written presentence investigation report by a probation officer is presented to and  
13 considered by the district court. The district court may, in its discretion, order a presentence investigation  
14 for a defendant convicted of a misdemeanor.

15 **46-18-111. (Effective July 1, 1997) Presentence investigation -- when required.** (1) Upon the  
16 acceptance of a plea or upon a verdict or finding of guilty to one or more felony offenses, the district court  
17 shall direct the probation officer to make a presentence investigation and report. The district court shall  
18 consider the presentence investigation report prior to sentencing. If the defendant was convicted of an  
19 offense under 45-5-502, 45-5-503, 45-5-504, 45-5-505, ~~or 45-5-507, or under 45-5-625, or 45-5-627~~  
20 ~~involving a victim who was less than 16 years of age when the offense was committed~~, the investigation  
21 must include an a psychosexual evaluation of the defendant and a recommendation as to treatment of the  
22 offender in the least restrictive environment, considering the risk the offender presents to the community  
23 ~~safety~~ and offender needs, unless the defendant was sentenced under 46-18-219. The evaluation must be  
24 completed by a ~~person who is determined to be qualified under guidelines established by the department~~  
25 ~~of corrections~~ sex offender therapist who is a member of the Montana sex offender treatment association  
26 or has comparable credentials acceptable to the professional and occupational licensing bureau of the  
27 department of commerce. The psychosexual evaluation must be made available to the county attorney's  
28 office, the defense attorney, the probation and parole officer, and the sentencing judge. All costs related  
29 to the evaluation must be paid by the defendant. If the defendant is determined by the district court to be  
30 indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by



1 the county or the state, or both, under Title 3, chapter 5, part 9.

2 (2) ~~Unless the court makes a finding that a report is unnecessary, The psychosocial evaluation~~  
 3 ~~required by subsection (1) may not be waived for~~ THE COURT SHALL ORDER A PRESENTENCE REPORT  
 4 UNLESS THE COURT MAKES A FINDING THAT A REPORT IS UNNECESSARY. UNLESS THE COURT  
 5 MAKES SUCH A FINDING, a defendant convicted of ~~any offense not an offense~~ ANY OFFENSE NOT  
 6 enumerated in subsection (1) that may result in incarceration for 1 year or more, ~~A defendant convicted~~  
 7 ~~of an offense enumerated in subsection (1)~~ may not be sentenced before a written presentence  
 8 investigation report by a probation officer is presented to and considered by the district court. The district  
 9 court may, in its discretion, order a presentence investigation for a defendant convicted of a misdemeanor  
 10 sexual offense."

11

12 **SECTION 5. SECTION 46-18-113, MCA, IS AMENDED TO READ:**

13 **"46-18-113. Availability of presentence investigation report.** (1) All presentence investigation  
 14 reports must be a part of the court record but may not be opened for public inspection. A copy of the  
 15 presentence investigation report must be provided to the prosecution, the defendant and the defendant's  
 16 attorney, the probation and parole officer, and the agency or institution to which the defendant is  
 17 committed. The prosecutor may disclose the contents of the presentence report to a victim of the offense.

18 (2) The court having jurisdiction of the case may permit other access to the presentence  
 19 investigation report as it considers necessary."

20

21 **Section 6.** Section 46-18-201, MCA, is amended to read:

22 **"46-18-201. (Temporary) Sentences that may be imposed.** (1) Whenever a person has been found  
 23 guilty of an offense upon a verdict or a plea of guilty, the court may:

24 (a) defer imposition of sentence, except as provided in 61-8-714 and 61-8-722 for sentences for  
 25 driving under the influence of alcohol or drugs or as provided in 61-6-304, for a period, except as otherwise  
 26 provided, not exceeding 1 year for any misdemeanor or for a period not exceeding 3 years for any felony.  
 27 The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the  
 28 period of the deferred imposition. Reasonable restrictions or conditions may include:

29 (i) jail base release;

30 (ii) jail time not exceeding 180 days;

- 1 (iii) conditions for probation;
- 2 (iv) payment of the costs of confinement;
- 3 (v) payment of a fine as provided in 46-18-231;
- 4 (vi) payment of costs as provided in 46-18-232 and 46-18-233;
- 5 (vii) payment of costs of court-appointed counsel as provided in 46-8-113;
- 6 (viii) with the approval of the facility or program, an order that the offender be placed in a  
7 community corrections facility or program as provided in 53-30-321;
- 8 (ix) community service;
- 9 (x) home arrest as provided in Title 46, chapter 18, part 10;
- 10 (xi) any other reasonable conditions considered necessary for rehabilitation or for the protection of  
11 society;
- 12 (xii) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;
- 13 or
- 14 (xiii) any combination of the restrictions or conditions in subsections (1)(a)(i) through (1)(a)(xii).
- 15 (b) suspend execution of sentence for a period up to the maximum sentence allowed or for a period  
16 of 6 months, whichever is greater, for each particular offense. The sentencing judge may impose on the  
17 defendant any reasonable restrictions or conditions during the period of suspended sentence. Reasonable  
18 restrictions or conditions may include any of those listed in subsection (1)(a).
- 19 (c) impose a fine as provided by law for the offense;
- 20 (d) require payment of costs as provided in 46-18-232 or payment of costs of court-appointed  
21 counsel as provided in 46-8-113;
- 22 (e) impose a county jail or state prison sentence, as provided in Title 45, for the offense or commit  
23 the defendant to the department of corrections for placement in an appropriate correctional institution or  
24 program;
- 25 (f) with the approval of the facility or program, order the offender to be placed in a community  
26 corrections facility or program as provided in 53-30-321; or
- 27 (g) impose any combination of subsections (1)(b) through (1)(f).
- 28 (2) In addition to any penalties imposed pursuant to subsection (1), if the court finds that the victim  
29 of the offense has sustained a pecuniary loss, the court shall require payment of restitution to the victim  
30 as provided in 46-18-241 through 46-18-249. If the court determines that the defendant is unable to pay

1 restitution, then it may impose, in addition to any other sentence, community service under 46-18-241.

2 (3) If a financial obligation is imposed as a condition under subsection (1)(a), sentence may be  
3 deferred for a period not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for  
4 a felony, regardless of whether any other conditions are imposed.

5 (4) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, the court  
6 shall consider any elapsed time and either expressly allow part or all of it as a credit against the sentence  
7 or reject all or part as a credit. The court shall state its reasons in the order. Credit, however, must be  
8 allowed for jail or home arrest time already served.

9 (5) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years  
10 of a sentence of imprisonment imposed under the following sections may not be deferred or suspended:  
11 45-5-103, 45-5-202(3) relating to aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-502(3),  
12 45-5-503(2) and (3), 45-9-101(2), (3), and (5)(d), 45-9-102(4), and 45-9-103(2).

13 (6) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence  
14 of imprisonment imposed under 45-5-102 may not be deferred or suspended.

15 (7) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred  
16 in the case of a defendant who has been convicted of a felony on a prior occasion, whether or not the  
17 sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was  
18 suspended.

19 (8) If the victim was less than 16 years old, the imposition or execution of the first 30 days of a  
20 sentence of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505, or 45-5-507 may not be deferred  
21 or suspended. Section 46-18-222 does not apply to the first 30 days of the imprisonment.

22 (9) In imposing a sentence on a defendant convicted of a sexual or violent offense as defined in  
23 46-23-502, the court may not waive the registration requirement provided in 46-18-254, 46-18-255, and  
24 Title 46, chapter 23, part 5.

25 (10) A person convicted of a sexual offense, as defined in 46-23-502, and sentenced to  
26 imprisonment in the state prison shall enroll in the educational phase of the prison's sexual offender  
27 program.

28 (11) In sentencing a nonviolent felony offender, the court shall first consider alternatives to  
29 imprisonment of the offender in the state prison, including placement of the offender in a community  
30 corrections facility or program. In considering alternatives to imprisonment, the court shall examine the

1 sentencing criteria contained in 46-18-225. If the offender is subsequently sentenced to ~~the~~ a state prison  
2 ~~or the women's correctional system~~, the court shall state its reasons why alternatives to imprisonment were  
3 not selected, based on the criteria contained in 46-18-225.

4 **46-18-201. (Effective July 1, 1997) Sentences that may be imposed.** (1) Whenever a person has  
5 been found guilty of an offense upon a verdict or a plea of guilty, the court may:

6 (a) defer imposition of sentence, except as provided in 61-8-714 and 61-8-722 for sentences for  
7 driving under the influence of alcohol or drugs or as provided in 61-6-304, for a period, except as otherwise  
8 provided, not exceeding 1 year for any misdemeanor or for a period not exceeding 3 years for any felony.  
9 The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the  
10 period of the deferred imposition. Reasonable restrictions or conditions may include:

- 11 (i) jail base release;
- 12 (ii) jail time not exceeding 180 days;
- 13 (iii) conditions for probation;
- 14 (iv) payment of the costs of confinement;
- 15 (v) payment of a fine as provided in 46-18-231;
- 16 (vi) payment of costs as provided in 46-18-232 and 46-18-233;
- 17 (vii) payment of costs of court-appointed counsel as provided in 46-8-113;
- 18 (viii) with the approval of the facility or program, an order that the offender be placed in a  
19 community corrections facility or program as provided in 53-30-321;
- 20 (ix) community service;
- 21 (x) home arrest as provided in Title 46, chapter 18, part 10;
- 22 (xi) any other reasonable conditions considered necessary for rehabilitation or for the protection of  
23 society;
- 24 (xii) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;
- 25 or
- 26 (xiii) any combination of the restrictions or conditions in subsections (1)(a)(i) through (1)(a)(xii).
- 27 (b) suspend execution of sentence for a period up to the maximum sentence allowed or for a period  
28 of 6 months, whichever is greater, for each particular offense. The sentencing judge may impose on the  
29 defendant any reasonable restrictions or conditions during the period of suspended sentence. Reasonable  
30 restrictions or conditions may include any of those listed in subsection (1)(a).

1 (c) impose a fine as provided by law for the offense;

2 (d) require payment of costs as provided in 46-18-232 or payment of costs of court-appointed  
3 counsel as provided in 46-8-113;

4 (e) impose a county jail or state prison sentence, as provided in Title 45, for the offense or commit  
5 the defendant to the department of corrections for placement in an appropriate correctional ~~institution~~  
6 facility or program;

7 (f) with the approval of the facility or program, order the offender to be placed in a community  
8 corrections facility or program as provided in 53-30-321; or

9 (g) impose any combination of subsections (1)(b) through (1)(f).

10 (2) In addition to any penalties imposed pursuant to subsection (1), if the court finds that the victim  
11 of the offense has sustained a pecuniary loss, the court shall require payment of restitution to the victim  
12 as provided in 46-18-241 through 46-18-249. If the court determines that the defendant is unable to pay  
13 restitution, then it may impose, in addition to any other sentence, community service under 46-18-241.

14 (3) If a financial obligation is imposed as a condition under subsection (1)(a), sentence may be  
15 deferred for a period not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for  
16 a felony, regardless of whether any other conditions are imposed.

17 (4) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, the court  
18 shall consider any elapsed time and either expressly allow part or all of it as a credit against the sentence  
19 or reject all or part as a credit. The court shall state its reasons in the order. Credit, however, must be  
20 allowed for jail or home arrest time already served.

21 (5) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years  
22 of a sentence of imprisonment imposed under the following sections may not be deferred or suspended:  
23 45-5-103, 45-5-202(3) relating to aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-502(3),  
24 45-5-503(2) and (3), 45-9-101(2), (3), and (5)(d), 45-9-102(4), and 45-9-103(2).

25 (6) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence  
26 of imprisonment imposed under 45-5-102 may not be deferred or suspended.

27 (7) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred  
28 in the case of a defendant who has been convicted of a felony on a prior occasion, whether or not the  
29 sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was  
30 suspended.

1 (8) If the victim was less than 16 years old, the imposition or execution of the first 30 days of a  
 2 sentence of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505, or 45-5-507 may not be deferred  
 3 or suspended. Section 46-18-222 does not apply to the first 30 days of the imprisonment.

4 (9) In imposing a sentence on a defendant convicted of a sexual or violent offense as defined in  
 5 46-23-502, the court may not waive the registration requirement provided in 46-18-254, 46-18-255, and  
 6 Title 46, chapter 23, part 5.

7 (10) A person convicted of a sexual offense, as defined in 46-23-502, and sentenced to  
 8 imprisonment in the state prison shall enroll in and complete the educational phase of the prison's sexual  
 9 offender program.

10 (11) In sentencing a nonviolent felony offender, the court shall first consider alternatives to  
 11 imprisonment of the offender in the state prison, including placement of the offender in a community  
 12 corrections facility or program. In considering alternatives to imprisonment, the court shall examine the  
 13 sentencing criteria contained in 46-18-225. If the offender is subsequently sentenced to ~~the a~~ state prison  
 14 ~~or the women's correctional system~~, the court shall state its reasons why alternatives to imprisonment were  
 15 not selected, based on the criteria contained in 46-18-225.

16 (12) Except as provided in 46-18-222, a provision of this section that conflicts with 46-18-219 does  
 17 not apply to a person sentenced under 46-18-219."

18

19 **Section 7.** Section 46-18-225, MCA, is amended to read:

20 **"46-18-225. (Temporary) Criteria for sentencing nonviolent felony offenders.** Prior to sentencing  
 21 a nonviolent felony offender to a term of imprisonment in ~~the a~~ state prison ~~or the women's correctional~~  
 22 ~~system~~, the court shall take into account whether:

23 (1) the interests of justice and the needs of public safety truly require the level of security provided  
 24 by imprisonment of the offender in ~~the a~~ state prison ~~or the women's correctional system~~;

25 (2) the needs of the offender can be better served in the community or in a facility or program  
 26 other than ~~the a~~ state prison ~~or the women's correctional system~~;

27 (3) there are substantial grounds tending to excuse or justify the offense, though failing to establish  
 28 a defense;

29 (4) the offender acted under strong provocation;

30 (5) the offender has made restitution or will make restitution to the victim of the offender's criminal

1 conduct;

2 (6) the offender has no prior history of conviction for a criminal act or has led a law-abiding life for  
3 a substantial period of time before the commission of the present crime;

4 (7) the offender's criminal conduct was the result of circumstances that are unlikely to recur;

5 (8) the character and attitude of the offender indicate that the offender is likely to commit another  
6 crime;

7 (9) the offender is likely to respond quickly to correctional or rehabilitative treatment; and

8 (10) imprisonment of the offender would create an excessive hardship on the offender or the  
9 offender's family.

10 **46-18-225. (Effective July 1, 1997) Criteria for sentencing nonviolent felony offenders.** Prior to  
11 sentencing a nonviolent felony offender to whom 46-18-219 does not apply to a term of imprisonment in  
12 ~~the a state prison or the women's correctional system~~, the court shall take into account whether:

13 (1) the interests of justice and the needs of public safety truly require the level of security provided  
14 by imprisonment of the offender in ~~the a state prison or the women's correctional system~~;

15 (2) the needs of the offender can be better served in the community or in a facility or program  
16 other than ~~the a state prison or the women's correctional system~~;

17 (3) there are substantial grounds tending to excuse or justify the offense, though failing to establish  
18 a defense;

19 (4) the offender acted under strong provocation;

20 (5) the offender has made restitution or will make restitution to the victim of the offender's criminal  
21 conduct;

22 (6) the offender has no prior history of conviction for a criminal act or has led a law-abiding life for  
23 a substantial period of time before the commission of the present crime;

24 (7) the offender's criminal conduct was the result of circumstances that are unlikely to recur;

25 (8) the character and attitude of the offender indicate that the offender is likely to commit another  
26 crime;

27 (9) the offender is likely to respond quickly to correctional or rehabilitative treatment; and

28 (10) imprisonment of the offender would create an excessive hardship on the offender or the  
29 offender's family."

30

1           **Section 8.** Section 46-18-701, MCA, is amended to read:

2           **"46-18-701. ~~Parole~~ Limited release during employment hours.** (1) A court, after having sentenced  
3 a person to confinement in a county jail, may, in its discretion, upon request of the county attorney and  
4 sheriff of ~~such~~ the county and with the consent of the convicted person, order that any part of the  
5 imprisonment ~~so~~ imposed be served in confinement with ~~parole~~ limited release during the hours or periods  
6 the convicted person is actually employed.

7           (2) Upon the issuance of ~~such~~ an order for limited release under this part, the sheriff shall arrange  
8 for the convicted person to continue ~~his~~ the person's regular employment without interruption insofar as  
9 is reasonably possible. However, ~~said~~ the prisoner ~~shall~~ must be confined in the county jail during the hours  
10 when ~~he~~ the prisoner is not employed."  
11

12           **Section 9.** Section 46-23-201, MCA, is amended to read:

13           **"46-23-201. (Temporary) Prisoners eligible for nonmedical parole.** (1) Subject to the restrictions  
14 contained in subsections (2) through (4), the board may release on nonmedical parole by appropriate order  
15 any person confined in the Montana state prison or the women's correctional system, except persons under  
16 sentence of death and persons serving sentences imposed under 46-18-202(2), when in its opinion there  
17 is reasonable probability that the prisoner can be released without detriment to the prisoner or to the  
18 community.

19           (2) A prisoner serving a time sentence may not be paroled under this section until the prisoner has  
20 served at least one-fourth of the prisoner's full term.

21           (3) A prisoner serving a life sentence may not be paroled under this section until the prisoner has  
22 served 30 years.

23           (4) A parole may be ordered under this section only for the best interests of society and not as an  
24 award of clemency or a reduction of sentence or pardon. A prisoner may be placed on parole only when  
25 the board believes that the prisoner is able and willing to fulfill the obligations of a law-abiding citizen.

26           **46-23-201. (Effective July 1, 1997) Prisoners eligible for nonmedical parole.** (1) Subject to the  
27 restrictions contained in subsections (2) through (4), the board may release on nonmedical parole by  
28 appropriate order any person confined in the Montana state prison or the women's ~~correctional system~~  
29 prison, except persons under sentence of death and persons serving sentences imposed under  
30 46-18-202(2) or 46-18-219, when in its opinion there is reasonable probability that the prisoner can be



1 released without detriment to the prisoner or to the community.

2 (2) A prisoner serving a time sentence may not be paroled under this section until the prisoner has  
3 served at least one-fourth of the prisoner's full term.

4 (3) A prisoner serving a life sentence may not be paroled under this section until the prisoner has  
5 served 30 years.

6 (4) A parole may be ordered under this section only for the best interests of society and not as an  
7 award of clemency or a reduction of sentence or pardon. A prisoner may be placed on parole only when  
8 the board believes that the prisoner is able and willing to fulfill the obligations of a law-abiding citizen."  
9

10 **Section 10.** Section 46-23-215, MCA, is amended to read:

11 **"46-23-215. Conditions of parole.** (1) A prisoner while on parole remains in the legal custody of  
12 the ~~institution~~ correctional facility from which the prisoner was released but is subject to the orders of the  
13 board.

14 (2) When an order for parole is issued, it must recite the conditions of parole. If restitution was  
15 imposed as part of the sentence under 46-18-201, the order of parole must contain a condition to pay  
16 restitution to the victim. An order for parole or any parole agreement signed by a prisoner may contain a  
17 clause waiving extradition.

18 (3) Whenever a prisoner in the Montana state prison or the Montana women's prison has been  
19 approved for parole on condition that the prisoner obtain employment or secure suitable living arrangements  
20 or on any other condition that is difficult to fulfill while incarcerated, the warden may grant the prisoner a  
21 furlough, not to exceed 10 days, for purposes of fulfilling the condition. While on furlough, the prisoner  
22 remains in the legal custody of the prison and is subject to all other conditions recited by the board."  
23

24 **Section 11.** Section 46-23-401, MCA, is amended to read:

25 **"46-23-401. Definitions.** Unless the context requires otherwise, in this part, the following  
26 definitions apply:

27 (1) "Applicant" means any prisoner who is eligible under 46-23-411 and who signs an application  
28 to participate in the supervised release program.

29 (2) "Board" means the board of pardons and parole provided for in 2-15-2302.

30 (3) "Department" means the department of corrections provided for in 2-15-2301.

1 (4) "Prisoner" means a person sentenced by a state district court to a term of confinement in the  
2 state prison.

3 (5) "Sponsor" means any federal, state, county, local, or private agency, Indian tribe and  
4 reservation, or any person, group, association, or organization approved by the department to undertake  
5 the supervision of prisoners participating in the supervised release program.

6 (6) "State prison" means the Montana state prison at Deer Lodge, the Montana women's prison,  
7 or any adult correctional facility designated by the department.

8 (7) "Supervising agent" means a probation and parole officer of the department."  
9

10 ~~Section 11. Section 46-24-203, MCA, is amended to read:~~

11 ~~"46-24-203. Prompt notification to victims and witnesses of certain offenses. (1) A person~~  
12 ~~described in subsection (2) who provides the appropriate official with a current address and telephone~~  
13 ~~number must receive prompt advance notification, if possible, of proceedings relating to the person's case,~~  
14 ~~including:~~

15 ~~(a) the arrest of an accused;~~

16 ~~(b) the release of the accused pending judicial proceedings;~~

17 ~~(c) the crime with which the accused has been charged, including an explanation of the elements~~  
18 ~~of the offense when necessary to an understanding of the nature of the crime;~~

19 ~~(d) proceedings in the prosecution of the accused, including entry of a plea of guilty and the setting~~  
20 ~~of a trial date;~~

21 ~~(e) if the accused is convicted or pleads guilty,;~~

22 ~~(i) the function of a presentence report;~~

23 ~~(ii) the name, office address, and telephone number of the person preparing the report; and~~

24 ~~(iii) the convicted person's right of access to the report, as well as the victim's right under~~  
25 ~~46-18-115 to present a statement in writing or orally at the sentencing proceeding and the convicted~~  
26 ~~person's right to be present at the sentencing proceeding and to have access to the victim's statement;~~

27 ~~(f) the date, time, and place of any sentencing hearing, the sentence imposed, and the term of~~  
28 ~~imprisonment, if imposed; and~~

29 ~~(g) the right under 46-24-212 of a victim of a felony offense to receive information from the~~  
30 ~~department of corrections concerning the convicted person's incarceration person.~~

~~(2) A person entitled to notification under subsection (1) must be a victim or witness of a felony offense or a misdemeanor offense involving actual, threatened, or potential bodily injury to the victim, a relative of such a victim or witness who is a minor, or a relative of a homicide victim."~~

**Section 12.** Section 46-24-212, MCA, is amended to read:

**"46-24-212. Information concerning confinement.** Upon request of a victim of a felony offense, the department of corrections or the board of pardons and parole, as applicable, shall:

(1) promptly inform the victim of the following information concerning a prisoner committing the offense:

(a) the custody level;

(b) the projected discharge or parole eligibility date;

(c) the ~~estimated~~ actual date of the prisoner's ~~release~~ discharge from confinement in the Montana state prison or parole, if reasonably ascertainable;

~~(2)(d)~~ promptly inform the victim of the time and place of a parole hearing concerning the prisoner and of the victim's right to submit a statement to the board of pardons and parole under 46-23-202; and

(e) the community in which the prisoner will reside after parole;

~~(3)(2)~~ provide reasonable advance notice to the victim before release of the defendant on furlough or to a work-release program, half-way house, or other community-based program or correctional facility; and

~~(4)(3)~~ promptly inform the victim of the occurrence of any of the following events concerning the prisoner:

(a) an escape from a correctional or mental health facility or community program;

(b) a recapture;

(c) a decision of the board of pardons AND PAROLE;

(d) a decision of the governor to commute the sentence or to grant executive clemency;

(e) a release from confinement and any conditions attached to the release; and

(f) the prisoner's death."

**SECTION 13. SECTION 52-5-101, MCA, IS AMENDED TO READ:**

**"52-5-101. Establishment of state youth correctional facilities -- prohibitions.** (1) The department

1 of corrections, within the annual or biennial budgetary appropriation, may establish, maintain, and operate  
 2 facilities to properly diagnose, care for, train, educate, and rehabilitate youth in need of these services. The  
 3 youth must be 10 years of age or older and under 19 years of age. The facilities include but are not limited  
 4 to the ~~state youth correctional facilities at the Mountain View school in Helena and the Pine Hills school~~  
 5 youth correctional facility in Miles City.

6 (2) A youth alleged or found to be a youth in need of supervision may not be placed in a state  
 7 youth correctional facility as defined in 41-5-103."

8

9 **SECTION 14. SECTION 52-5-108, MCA, IS AMENDED TO READ:**

10 **"52-5-108. Medical examination before admission -- records required to accompany child youth**  
 11 **committed.** (1) Before a child youth is admitted for any purpose or for any length of time to ~~the Mountain~~  
 12 ~~View school,~~ the Pine Hills ~~school,~~ youth correctional facility or other facility under an order of commitment  
 13 to the department of corrections, the child youth must be examined by a licensed physician. A child youth  
 14 committed to one of the ~~schools~~ state youth correctional facilities or the department must be accompanied  
 15 by the order of commitment, a medical examination report, an adequate social history, and any school  
 16 records.

17 (2) The medical examination required under this section must be a current, complete physical  
 18 examination of the child youth."

19

20 **SECTION 15. SECTION 52-5-109, MCA, IS AMENDED TO READ:**

21 **"52-5-109. Commitment expenses -- arrangement for transportation.** The expenses of committing  
 22 a child youth to the ~~Mountain View school,~~ the Pine Hills ~~school,~~ youth correctional facility or the  
 23 department of corrections and transporting the child youth to the ~~Mountain View school,~~ the Pine Hills  
 24 ~~school,~~ youth correctional facility or the place designated by the department for it to receive custody and  
 25 the expense of returning the child youth to the county of residence must be borne by the county of  
 26 residence. The district judge shall arrange for transportation of the child youth to the place where the  
 27 department has directed that it will receive custody of the child youth."

28

29 **SECTION 16. SECTION 52-5-112, MCA, IS AMENDED TO READ:**

30 **"52-5-112. University aid to residents of schools.** The department of corrections may, on the

1 recommendation of the superintendent, authorize a resident of ~~the Mountain View school or Pine Hills~~  
 2 ~~school~~ a state youth correctional facility who has completed high school and who is otherwise eligible to  
 3 receive up to \$800 per year toward the resident's expenses incurred in attending a unit of the Montana  
 4 university system. The money may be used for transportation, clothing, books, board, and room and must  
 5 be paid in the same manner as other expenses of the school. The board of regents of higher education may  
 6 waive fees and tuition for these residents pursuant to 20-25-421. No more than eight residents of each  
 7 ~~school~~ state youth correctional facility may receive these benefits each year. The department shall notify  
 8 the board of regents before August 1 of each year of the residents that it has designated to receive the  
 9 benefits for the next school year."

10  
 11 **SECTION 17. SECTION 52-5-113, MCA, IS AMENDED TO READ:**

12 **"52-5-113. Apprehension and return of youth leaving youth correctional facility without**  
 13 **permission.** A youth who has left a youth correctional facility of the department of corrections without  
 14 permission may be apprehended and returned by any citizen. The term "youth correctional facility of the  
 15 department" means any facility under the supervision and control of the department of corrections that has  
 16 as its primary function the care, training, custody, and control of youth and specifically includes the Pine  
 17 Hills ~~school for boys and the Mountain View school for girls~~ youth correctional facility."

18  
 19 **Section 18.** Section 53-1-102, MCA, is amended to read:

20 **"53-1-102. Removal of patients from state custodial institutions or correctional facilities without**  
 21 **permission a misdemeanor.** (1) A person, other than a parent or one having legal custody of ~~the person of~~  
 22 ~~the~~ a patient or inmate, who permits or assists a resident patient or inmate of a state custodial institution  
 23 or correctional facility to leave the institution or facility without permission from the properly authorized  
 24 member of the staff or proper court order is guilty of a misdemeanor and upon conviction is punishable by  
 25 imprisonment in a county jail not exceeding 6 months or by a fine not exceeding \$500, or both.

26 (2) ~~Nothing herein is to~~ This section may not be construed to conflict with laws relative to inmates  
 27 of ~~the~~ a Montana ~~state~~ prison."

28  
 29 **Section 19.** Section 53-1-103, MCA, is amended to read:

30 **"53-1-103. Distribution of alcoholic beverages or drugs to patients at state custodial institutions**

1 or correctional facilities a misdemeanor. (1) A person who knowingly sells or distributes or attempts to sell  
 2 or distribute alcoholic beverages or drugs to the resident patients or inmates of a state custodial institution  
 3 or correctional facility without permission of the medical staff is guilty of a misdemeanor and, upon  
 4 conviction, is punishable by imprisonment in a county jail not exceeding 6 months or by a fine not  
 5 exceeding \$500, or both.

6 (2) ~~Nothing herein is to~~ This section may not be construed to conflict with laws relative to inmates  
 7 of ~~the a~~ a Montana ~~state~~ prison."

8

9 **Section 20.** Section 53-1-104, MCA, is amended to read:

10 **"53-1-104. Release of arsonist -- notification of department of justice.** (1) Each of the following  
 11 institutions ~~or, correctional facilities, or other~~ facilities having the charge or custody of a person convicted  
 12 of arson or of a person acquitted of arson on the ground of mental disease or defect shall give written  
 13 notification to the department of justice ~~whenever~~ when the person is admitted or released by it:

- 14 (a) Montana state hospital;  
 15 (b) ~~state a~~ Montana prison;  
 16 (c) ~~Mountain View school~~ a Montana youth correctional facility; or  
 17 (d) ~~Pine Hills school; or~~  
 18 ~~(e) any~~ a county or city detention facility.

- 19 (2) The notification must disclose:  
 20 (a) the name of the person;  
 21 (b) where the person is or will be located; and  
 22 (c) the type of fire the person was involved in."

23

24 **Section 21.** Section 53-1-202, MCA, is amended to read:

25 **"53-1-202. (Temporary) Department of corrections.** (1) Adult and youth correctional services are  
 26 included in the department of corrections to carry out the purposes of the department.

27 (2) Adult corrections services consist of the following ~~institutional components~~ correctional facilities  
 28 or programs to incarcerate and rehabilitate felons pursuant to Title 46, chapter 18:

- 29 (a) the Montana state prison;  
 30 (b) the Montana women's ~~correctional system~~ prison; and

1 (c) appropriate community-based programs for the placement, supervision, and rehabilitation of  
2 adult felons who meet the criteria developed by the department for placement:

3 (i) in prerelease centers;

4 (ii) under intensive supervision;

5 (iii) under parole or probation pursuant to Title 46, chapter 23, part 2; or

6 (iv) in other appropriate programs.

7 (3) Youth correctional services consist of the following ~~institutional components to diagnose, care~~  
8 ~~for, train, educate, and rehabilitate~~ correctional facilities or programs to provide for custody, supervision,  
9 training, education, and rehabilitation of delinquent youth AND YOUTH IN NEED OF SUPERVISION pursuant  
10 to Title 52, chapter 5:

11 ~~(a) Mountain View school;~~

12 ~~(b)(a) Pine Hills school~~ YOUTH CORRECTIONAL FACILITY or other juvenile STATE YOUTH  
13 correctional facility; and

14 ~~(c)(b) any other institution~~ facility or program that provides ~~care~~ custody and services for delinquent  
15 youth.

16 (4) A state institution or facility may not be moved, discontinued, or abandoned without the  
17 consent of the legislature.

18 **53-1-202. (Effective on occurrence of contingency) Department of corrections.** (1) Adult and  
19 youth correctional services are included in the department of corrections to carry out the purposes of the  
20 department.

21 (2) Adult corrections services consist of the following ~~institutional components~~ correctional facilities  
22 or programs to incarcerate and rehabilitate felons pursuant to Title 46, chapter 18:

23 (a) the Montana state prison;

24 (b) the Montana women's ~~correctional system~~ prison;

25 (c) appropriate community-based programs for the placement, supervision, and rehabilitation of  
26 adult felons who meet the criteria developed by the department for placement:

27 (i) in prerelease centers;

28 (ii) under intensive supervision;

29 (iii) under parole or probation pursuant to Title 46, chapter 23, part 2; or

30 (iv) in other appropriate programs; and

1 (d) the forensic unit at Warm Springs.

2 (3) Youth correctional services consist of the following ~~institutional components to diagnose, care~~  
 3 ~~for, train, educate, and rehabilitate~~ correctional facilities or programs to provide for custody, supervision,  
 4 training, education, and rehabilitation of delinquent youth AND YOUTH IN NEED OF SUPERVISION pursuant  
 5 to Title 52, chapter 5:

6 ~~(a) Mountain View school;~~

7 ~~(b)(a) Pine Hills school~~ YOUTH CORRECTIONAL FACILITY or other ~~juvenile~~ STATE YOUTH  
 8 correctional facility; and

9 ~~(c)(b)~~ any other ~~institution~~ facility or program that provides ~~care~~ custody and services for delinquent  
 10 youth.

11 (4) A state institution or correctional facility may not be moved, discontinued, or abandoned  
 12 without the consent of the legislature."

13

14 **Section 22.** Section 53-1-203, MCA, is amended to read:

15 **"53-1-203. Powers and duties of department of corrections.** (1) The department of corrections  
 16 shall:

17 (a) adopt rules necessary to carry out the purposes of 41-5-527 through 41-5-529 and rules for  
 18 the admission, custody, transfer, and release of persons in department programs except as otherwise  
 19 provided by law. However, rules adopted by the department may not amend or alter the statutory powers  
 20 and duties of the state board of pardons and parole.

21 (b) subject to the functions of the department of administration, lease or purchase lands for use  
 22 by ~~institutions~~ correctional facilities and classify those lands to determine those that may be most profitably  
 23 used for agricultural purposes, taking into consideration the needs of all ~~institutions~~ correctional facilities  
 24 for the food products that can be grown or produced on the lands and the relative value of agricultural  
 25 programs in the treatment or rehabilitation of the persons confined in the ~~institutions~~ correctional facilities;

26 (c) contract with private, nonprofit Montana corporations to establish and maintain  
 27 community-based prerelease centers for purposes of preparing inmates of ~~the a~~ a Montana ~~state~~ prison who  
 28 are approaching parole eligibility or discharge for release into the community. The centers shall provide a  
 29 less restrictive environment than the prison while maintaining adequate security. The centers must be  
 30 operated in coordination with other department correctional programs, including the supervised release



1 program provided for in Title 46, chapter 23, part 4. This subsection does not affect the department's  
2 authority to operate and maintain community-based prerelease centers.

3 (d) utilize the staff and services of other state agencies and units of the Montana university system,  
4 within their respective statutory functions, to carry out its functions under this title;

5 (e) propose programs to the legislature to meet the projected long-range needs of ~~institutions~~  
6 correctional facilities, including programs and facilities for the diagnosis, treatment, care, and aftercare of  
7 persons placed in ~~institutions~~ correctional facilities;

8 (f) encourage the establishment of programs at the local and ~~institutional~~ facility level for the  
9 rehabilitation and education of adult felony offenders;

10 (g) administer all state and federal funds allocated to the department for youth in need of  
11 supervision and delinquent youth, as defined in 41-5-103;

12 (h) collect and disseminate information relating to youth in need of supervision and delinquent  
13 youth;

14 (i) maintain adequate data on placements that it funds in order to keep the legislature properly  
15 informed of the specific information, by category, related to youth in need of supervision and delinquent  
16 youth in out-of-home care facilities;

17 (j) provide funding for and place youth who are ~~alleged or~~ adjudicated to be delinquent or in need  
18 of supervision and who are ~~referred or~~ committed to the department;

19 (k) administer youth correctional facilities;

20 (l) provide supervision, care, and control of youth released from a state youth correctional facility;  
21 and

22 (m) use to maximum efficiency the resources of state government in a coordinated effort to:

23 (i) provide for ~~children in need of temporary protection or correctional services~~ delinquent youth  
24 committed to the department; and

25 (ii) coordinate and apply the principles of modern ~~institutional~~ corrections administration to the  
26 ~~institutions in the department~~ facilities and programs.

27 (2) The department and a private, nonprofit Montana corporation may not enter into a contract  
28 under subsection (1)(c) for a period that exceeds 10 years. The provisions of 18-3-104 and 18-4-313 that  
29 limit the term of a contract do not apply to a contract authorized by subsection (1)(c).

30 (3) The department of corrections may enter into contracts with nonprofit corporations or

1 associations or private organizations to provide substitute care for youth in need of supervision and  
 2 delinquent youth in youth ~~care~~ correctional facilities."

3  
 4 ~~Section 17. Section 53-1-301, MCA, is amended to read:~~

5 ~~"53-1-301. Permitted institutional or correctional facility industries, powers of departments, and~~  
 6 ~~incentive pay to inmates. (1) Except as provided in subsection (4), the department of corrections or the~~  
 7 ~~department of public health and human services may:~~

8 ~~(a) establish industries in institutions or correctional facilities that will result in the production or~~  
 9 ~~manufacture of products and the rendering of services as may be needed by any department or agency of~~  
 10 ~~the state or any political subdivision of the state, by any agency of the federal government, by any other~~  
 11 ~~states or their political subdivisions, or by nonprofit organizations and that will assist in the rehabilitation~~  
 12 ~~of residents in institutions;~~

13 ~~(b) obtain federal certification of specific prison industries programs in order to gain access to~~  
 14 ~~interstate markets for prison industries products;~~

15 ~~(c) contract with private industry for the sale of goods or components manufactured or produced~~  
 16 ~~in shops under its jurisdiction and for the employment of inmates in federally certified prison industries~~  
 17 ~~programs;~~

18 ~~(d) print catalogs describing goods manufactured or produced by institutions or correctional~~  
 19 ~~facilities and distribute the catalogs;~~

20 ~~(e) fix the sale price for goods produced or manufactured at institutions or correctional facilities.~~  
 21 ~~Prices may not exceed prices existing in the open market for goods of comparable quality.~~

22 ~~(f) require institutions or correctional facilities to purchase needed goods from other institutions~~  
 23 ~~or correctional facilities;~~

24 ~~(g) provide for the repair and maintenance of property and equipment of institutions or correctional~~  
 25 ~~facilities by their residents of institutions;~~

26 ~~(h) provide for construction projects, up to the aggregate sum of \$25,000 per project, performed~~  
 27 ~~by residents of institutions or correctional facilities, except when the construction work is covered by a~~  
 28 ~~collective bargaining agreement;~~

29 ~~(i) provide for the repair and maintenance at an institution or correctional facility of furniture and~~  
 30 ~~equipment of any state agency;~~

1 ~~(j) provide for the manufacture at an institution or correctional facility of motor vehicle license~~  
 2 ~~plates and other related articles;~~

3 ~~(k) sell manufactured or agricultural products and livestock on the open market;~~

4 ~~(l) provide for the manufacture at an institution or correctional facility of highway, road, and street~~  
 5 ~~marking signs for the use of the state or any of its political subdivisions, except when the manufacture of~~  
 6 ~~the signs is in violation of a collective bargaining contract;~~

7 ~~(m) pay an inmate or resident of an institution or correctional facility from receipts from the sale~~  
 8 ~~of products produced or manufactured or services rendered in a program in which the inmate or resident~~  
 9 ~~is working;~~

10 ~~(n) collect 15% of the net wages paid to an inmate employed in a federally certified prison~~  
 11 ~~industries program for deposit in the Montana crime victims compensation and assistance account~~  
 12 ~~established under 53-9-109; and~~

13 ~~(o) collect from an inmate employed in a federally certified prison industries program charges for~~  
 14 ~~room and board consistent with charges established by the director for inmates assigned to prerelease~~  
 15 ~~centers.~~

16 ~~(2) (a) Except as provided for in subsection (2)(b), payment for the performance of work may be~~  
 17 ~~based on the following criteria:~~

18 ~~(i) knowledge and skill;~~

19 ~~(ii) attitude toward authority;~~

20 ~~(iii) physical effort;~~

21 ~~(iv) responsibility for equipment and materials; and~~

22 ~~(v) regard for safety of others.~~

23 ~~(b) The maximum rate of pay must be determined by the appropriation established for each~~  
 24 ~~program, except that an inmate employed in a federally certified prison industries program must be paid at~~  
 25 ~~a rate not less than the rate paid for similar work in the locality where the inmate performs the work.~~

26 ~~(3) Premiums for workers' compensation and occupational disease coverage for federally certified~~  
 27 ~~prison industries programs must be paid by the prison industries program or by the department of~~  
 28 ~~corrections. If the department of corrections pays the premium, reimbursement for premium payments for~~  
 29 ~~workers' compensation and occupational disease coverage must be made to the department of corrections~~  
 30 ~~by the private company contracting with the federally certified prison industries program for services and~~

1 products.

2 ~~(4) Except as provided in subsection (5), furniture made in the a prison may be purchased by state~~  
 3 ~~agencies in accordance with the procurement provisions under Title 18, chapter 4. All other prison-made~~  
 4 ~~furniture may be sold only through licensed wholesale or retail furniture outlets or through export firms for~~  
 5 ~~sale to international markets.~~

6 ~~(5) Any state institution, correctional facility, or program operated by the department of corrections~~  
 7 ~~may purchase prison-made furniture without complying with the procurement provisions under Title 18,~~  
 8 ~~chapter 4."~~

9

10 **Section 23.** Section 53-1-302, MCA, is amended to read:

11 **"53-1-302. Disposition of receipts from sale of goods.** Receipts from the sale of goods produced  
 12 or manufactured by an institution ~~shall~~ or correctional facility must be deposited in the appropriate  
 13 enterprise or internal service fund for the use of the industries program of the institution or facility."

14

15 **Section 24.** Section 53-30-101, MCA, is amended to read:

16 **"53-30-101. Location and function of ~~prison and women's correctional system prisons --~~**  
 17 **definitions.** (1) The ~~institution~~ correctional facility at Deer Lodge is the Montana state prison and as its  
 18 primary function ~~provides facilities~~ is to provide for the custody, treatment, training, and rehabilitation of  
 19 adult male criminal offenders. The custody, treatment, training, and rehabilitation of adult male offenders  
 20 may also occur at a correctional facility in another jurisdiction pursuant to an agreement as provided in  
 21 53-30-106.

22 (2) The ~~institution~~ correctional facility located in Billings is the Montana women's ~~correctional~~  
 23 ~~system~~ prison, and its primary function is to provide ~~facilities~~ for the custody, treatment, training, and  
 24 rehabilitation of adult female criminal offenders.

25 (3) As used in this title, unless the context indicates otherwise, the following definitions apply:

26 (a) "Montana prison" means:

27 (i) the Montana state prison;

28 (ii) the Montana women's prison;

29 (iii) a Montana regional correctional facility;

30 (iv) a detention center in another jurisdiction detaining inmates from Montana pursuant to

1 53-30-106; or

2 (v) a combination of the facilities listed in this subsection (3)(a).

3 (b) "Montana state prison" means:

4 (i) the correctional facility located at Deer Lodge;

5 (ii) a Montana regional correctional facility; or

6 (iii) a detention center in another jurisdiction detaining inmates from Montana pursuant to

7 53-30-106.

8 (c) "Montana women's prison" or "women's prison" means:

9 (i) the correctional facility located at Billings;

10 (ii) a Montana regional correctional facility; or

11 (iii) a detention center in another jurisdiction detaining inmates from Montana pursuant to

12 53-30-106."

13

14 **Section 25.** Section 53-30-102, MCA, is amended to read:

15 **"53-30-102. Qualifications of warden of state prison and warden of women's ~~correctional system~~**  
 16 **~~prison~~.** The warden of the Montana state prison and the warden of the women's ~~correctional system~~ prison  
 17 must be persons trained through education and experience in directing a training, rehabilitation, or custodial  
 18 program in a penal institution."

19

20 **Section 26.** Section 53-30-105, MCA, is amended to read:

21 **"53-30-105. (Temporary) Good time allowance.** (1) The department of corrections may grant a  
 22 good time allowance to inmates housed at an adult correctional facility or a supervised release program  
 23 facility. The good time allowance may operate as a credit on the inmate's sentence as imposed by the  
 24 court, conditioned upon the inmate's good behavior and compliance with the rules adopted by the  
 25 department. The department may not grant good time allowance to exceed 1 day for each day served at  
 26 an adult correctional facility or a supervised release program facility.

27 (2) In the event of an attempted escape by an inmate or a violation of the rules prescribed by the  
 28 department, the inmate may be punished by the forfeiture of part or all good time allowances.

29 (3) A person may not earn good time under this section while the person is on probation. A person  
 30 may earn good time while on parole at the rate of 1 day per day served on parole. If the department

1 determines that a person has violated the conditions of parole, it may, in its discretion, deduct good time  
2 credit accumulated under this subsection in an amount up to and including all credit accumulated on the  
3 date of the violation.

4 (4) The department may restore all or portions of any previously forfeited good time as a result of  
5 subsequent good behavior.

6 (5) If the population at the Montana state prison or the Montana women's ~~correctional system~~  
7 prison exceeds the design capacity of the institution, the department may grant an inmate additional good  
8 time credits in an amount necessary to permit the inmate to become eligible for parole or to discharge the  
9 inmate's sentence. Good time credits for the discharge of a sentence may not exceed 180 days. The award  
10 of good time under this subsection must generally be provided to inmates who are nearest to parole  
11 eligibility or discharge. (Repealed effective January 31, 1997--secs. 12(2), 13, Ch. 372, L. 1995.)"

12  
13 ~~Section 22. Section 53-30-131, MCA, is amended to read:~~

14 ~~"53-30-131. Prison industries training program—purpose and scope. (1) In addition to any~~  
15 ~~institutional correctional facility industry operated at the a Montana state prison under Title 53, chapter 1,~~  
16 ~~part 3, the department of corrections shall conduct a prison industries training program.~~

17 ~~(2) The purpose of the prison industries training program is to:~~

18 ~~(a) provide innovative and progressive inmate reformation and rehabilitation possibilities by~~  
19 ~~exposing inmates to worthwhile training;~~

20 ~~(b) prepare inmates for release by providing industries at the prison that utilize their skills, thus~~  
21 ~~providing experience beyond mere training, inculcating inmates with good production and work habits, and~~  
22 ~~providing them with a means to earn money that will be available to them upon release.~~

23 ~~(3) The prison industries training program consists of vocational training, on-the-job training, and~~  
24 ~~production experience. The department may contract with public and private vocational education entities~~  
25 ~~to provide this training.~~

26 ~~(4) The program may provide training and experience involving cultivation, production, repair,~~  
27 ~~construction, refurbishment, service, and related processes involving personal property, including but not~~  
28 ~~limited to such items as crops, livestock, furniture, office and electrical equipment, and motor vehicles. The~~  
29 ~~products and services, with the exception of livestock and agricultural products produced from the Montana~~  
30 ~~state prison ranch and products or services of a federally certified prison industries program, may be~~

1 ~~provided only to state agencies, local government units, school districts, authorities, and other~~  
 2 ~~governmental entities."~~

3

4 **Section 23.** ~~Section 53-30-132, MCA, is amended to read:~~

5 ~~"53-30-132. Inmate participation and status -- prison industries and vocational training program~~  
 6 ~~-- wages and benefits. (1) While engaged in on the job training and production, inmates not employed in~~  
 7 ~~a federally certified prison industries program may be paid a wage commensurate with their production~~  
 8 ~~function in accordance with 53-1-301(2). Wages must be established at a rate that encourages efficient~~  
 9 ~~production and effective levels of inmate participation. Inmates employed in a federally certified prison~~  
 10 ~~industries program must be paid as provided in 53-1-301(2).~~

11 ~~(2) Inmates not working in a federally certified prison industries training program are not~~  
 12 ~~employees, either public or private, and employment rights accorded other classes of workers do not apply~~  
 13 ~~to the inmates. Inmates working in a federally certified prison industry program are entitled to coverage and~~  
 14 ~~benefits as provided in 39-71-744.~~

15 ~~(3) Able-bodied persons committed to the a Montana state prison as adult offenders must be~~  
 16 ~~required to perform work as provided for by the department of corrections, including the manufacture of~~  
 17 ~~products or the rendering of services."~~

18

19 **Section 27.** Section 53-30-151, MCA, is amended to read:

20 **"53-30-151. Prison maintenance by inmates.** An inmate of the a Montana state prison may be  
 21 required to:

22 (1) keep his own the living quarters assigned to that inmate clean and orderly;

23 (2) perform general maintenance and repair work on prison grounds and facilities and assist in  
 24 providing services essential to the administration of the prison, including but not limited to food and laundry  
 25 services."

26

27 **Section 28.** Section 53-30-503, MCA, is amended to read:

28 **"53-30-503. Definitions.** As used in this part, the following definitions apply:

29 (1) "Department" means the department of corrections.

30 (2) "Interlocal cooperation commission" means a commission established in accordance with Title

1 7, chapter 11, part 2.

2 (3) "Local governmental entity" means:

3 (a) a local governmental unit;

4 (b) a multijurisdictional service district; or

5 (c) an interlocal cooperation commission.

6 (4) "Multijurisdictional service district" means a district established in accordance with Title 7,  
7 chapter 11, part 11.

8 (5) "Regional correctional facility" means a correctional facility, except the Montana state prison,  
9 the women's ~~correctional system~~ prison, or the Swan River boot camp, designed, constructed, or operated  
10 under this part by a local governmental entity or the department, or both, for the housing of convicted  
11 felons."

12

13 **Section 29.** Section 87-2-802, MCA, is amended to read:

14 **"87-2-802. Veterans in VA hospitals and residents of state institutions.** Any veteran who is a  
15 patient residing at a hospital operated by the department of veterans affairs, within or outside the state,  
16 and residents of all correctional facilities and institutions under the jurisdiction of the department of  
17 corrections and the department of public health and human services, except the Montana state prison at  
18 Deer Lodge or the Montana women's ~~correctional system~~ prison, ~~will be entitled to~~ may fish without a  
19 license. The residents shall carry a permit on a form prescribed by the department and signed by the  
20 superintendent of the institution in lieu of a license."

21

22 **NEW SECTION. SECTION 30. CODE COMMISSIONER INSTRUCTION. WHEREVER A REFERENCE**  
23 **TO THE "PINE HILLS SCHOOL" IS INCLUDED IN LEGISLATION ENACTED BY THE 55TH LEGISLATURE,**  
24 **THE CODE COMMISSIONER IS INSTRUCTED TO CHANGE THE REFERENCE TO THE "PINE HILLS YOUTH**  
25 **CORRECTIONAL FACILITY".**

26

27 **NEW SECTION. Section 31. Effective dates.** (1) Except as provided in subsections (2) and (3),  
28 [this act] is effective October 1, 1997.

29 (2) [Section ~~46-15~~ 21 and this section] are effective on passage and approval.

30 (3) [Section ~~4-3~~ 4] is effective July 1, 1997.

-END-



STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0109, reference bill

DESCRIPTION OF PROPOSED LEGISLATION:

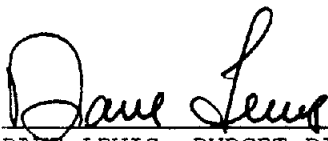
A bill for an act related to the Department of Corrections and correctional facilities; providing for certification by the Department of Corrections of appropriations for Youth Court and probation foster care placements; clarifying names of prisons and correctional facilities and the application of certain statutes to those prisons and facilities; requiring a psychosexual evaluation of certain offenders; requiring that the presentence investigation report be made available to the probation and parole officer in addition to others; providing for qualifications of persons conducting presentence investigations; providing for limited release from jail for purposes of employment; requiring that certain information be made available concerning a person's confinement; clarifying statutes relating to the powers of the Department, correctional facilities, and Prison Industries Training programs and providing effective dates.

ASSUMPTIONS:

1. The clarification of names of prisons and correctional facilities will have minimal impact on signage, letterhead, etc. These costs can be assumed through existing funding.
2. The Department of Corrections (DOC) currently reviews 2 to 3 applications from therapists (who are not members of the Montana Sex Offender Treatment Association) per year to determine whether the therapist is qualified to perform psychosexual evaluations. This bill would transfer this determination to the Department of Commerce. There would be minimal cost savings to the DOC because of this change.
3. Changes to limited release during employment hours have no effect to the DOC.
4. Upon request from the victim, the DOC currently releases the information under Section 12 except for the custody level of the offender. This change will have no fiscal impact to the DOC.
5. The Governor's Executive Budget includes the victim notification system as a new proposal which has been funded through House Floor action at a general fund cost of \$37,200 each year of the 1999 biennium.
6. There is no fiscal impact to Department of Public Health and Human Services.

FISCAL IMPACT:

Based on the above stated assumptions, this bill has no fiscal impact to the DOC.

 3-20-97  
DAVE LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

 3/20/97  
RIC HOLDEN, PRIMARY SPONSOR      DATE

Fiscal Note for SB0109, reference bill

SB 109 #2

## 1 SENATE BILL NO. 109

2 INTRODUCED BY HOLDEN

3 BY REQUEST OF THE DEPARTMENT OF CORRECTIONS  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE DEPARTMENT OF CORRECTIONS AND  
6 CORRECTIONAL FACILITIES; PROVIDING FOR CERTIFICATION BY THE DEPARTMENT OF CORRECTIONS  
7 OF APPROPRIATIONS FOR YOUTH COURT AND PROBATION FOSTER CARE PLACEMENTS; CLARIFYING  
8 NAMES OF PRISONS AND CORRECTIONAL FACILITIES AND THE APPLICATION OF CERTAIN STATUTES  
9 TO THOSE PRISONS AND FACILITIES; REQUIRING A PSYCHOSEXUAL EVALUATION OF CERTAIN  
10 OFFENDERS; REQUIRING THAT THE PRESENTENCE INVESTIGATION REPORT BE MADE AVAILABLE TO  
11 THE PROBATION AND PAROLE OFFICER IN ADDITION TO OTHERS; PROVIDING FOR QUALIFICATIONS  
12 OF PERSONS CONDUCTING PRESENTENCE INVESTIGATIONS; PROVIDING FOR LIMITED RELEASE FROM  
13 JAIL FOR PURPOSES OF EMPLOYMENT; REQUIRING THAT CERTAIN INFORMATION BE MADE AVAILABLE  
14 CONCERNING A PERSON'S CONFINEMENT; CLARIFYING STATUTES RELATING TO THE POWERS OF THE  
15 DEPARTMENT, CORRECTIONAL FACILITIES, AND PRISON INDUSTRIES TRAINING PROGRAMS;  
16 AMENDING SECTIONS 1-1-207, ~~3-5-901~~, 41-5-103, 46-18-101, 46-18-111, 46-18-113, 46-18-201,  
17 46-18-225, 46-18-701, 46-23-201, 46-23-215, 46-23-401, ~~46-24-203~~, 46-24-212, 52-5-101, 52-5-108,  
18 52-5-109, 52-5-112, 52-5-113, 53-1-102, 53-1-103, 53-1-104, 53-1-202, 53-1-203, ~~53-1-301~~, 53-1-302,  
19 53-30-101, 53-30-102, 53-30-105, ~~53-30-131~~, ~~53-30-132~~, 53-30-151, 53-30-503, AND 87-2-802, MCA;  
20 AND PROVIDING EFFECTIVE DATES."

21  
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
2324 **Section 1.** Section 1-1-207, MCA, is amended to read:25 "1-1-207. **Miscellaneous terms.** (1) Unless the context requires otherwise, the following  
26 definitions apply in the Montana Code Annotated:27 (1)(a) "Bribe" means anything of value or advantage, present or prospective, or any promise or  
28 undertaking to give anything of value or advantage, that is asked, given, or accepted with a corrupt intent  
29 to unlawfully influence the person to whom it is given in ~~his~~ the person's action, vote, or opinion in any  
30 public or official capacity.

- 1           (b) "Montana state prison" means the Montana state prison as defined in 53-30-101(3)(b).  
 2           ~~(2)(c)~~ "Peace officer" has the meaning as defined in 46-1-202.  
 3           (d) "State prison" or "prison" means:  
 4           (i) the Montana state prison as described in 53-30-101(1);  
 5           (ii) the Montana women's prison as defined in 53-30-101(3)(c);  
 6           (iii) a Montana regional correctional facility;  
 7           (iv) a detention center in another jurisdiction detaining inmates from Montana pursuant to  
 8           53-30-106; or  
 9           (v) a combination of the facilities listed in this subsection (1)(d).  
 10          ~~(3)(e)~~ "Vessel", when used in reference to shipping, includes ships of all kinds, steamboats and  
 11 steamships, canal boats, and every structure adapted to be navigated from place to place.  
 12          (2) Subsections (1)(b) and (1)(d) do not authorize a court to sentence a person to a correctional  
 13 facility listed in those subsections."

14  
 15           ~~Section 2. Section 3-5-901, MCA, is amended to read:~~

16           ~~"3-5-901. State assumption of certain district court expenses -- designation as district court~~  
 17 ~~criminal reimbursement program. (1) To the extent that revenue is available under 61-3-509, the state shall~~  
 18 ~~fund:~~

19           ~~(a) the following district court expenses in criminal cases only:~~

- 20           ~~(i) salaries of court reporters;~~  
 21           ~~(ii) fees for transcripts of proceedings;~~  
 22           ~~(iii) witness fees and necessary expenses;~~  
 23           ~~(iv) juror fees;~~  
 24           ~~(v) expenses for indigent defense; and~~  
 25           ~~(vi) expenses for psychiatric examinations;~~

26           ~~(b) the district court expenses, as listed in subsection (1)(a), in all postconviction proceedings held~~  
 27 ~~pursuant to Title 46, chapter 21, and in all habeas corpus proceedings held pursuant to Title 46, chapter~~  
 28 ~~22, and appeals from those proceedings; and~~

29           ~~(c) the following expenses incurred by the state in federal habeas corpus cases that challenge the~~  
 30 ~~validity of a conviction or of a sentence:~~

1           ~~(i) transcript fees;~~

2           ~~(ii) witness fees; and~~

3           ~~(iii) expenses for psychiatric examinations.~~

4           ~~(2) If revenue received under 61-3-509 exceeds the amount appropriated by the legislature to fund~~  
 5 ~~the expenses of the appellate defender program, the excess amount is statutorily appropriated, as provided~~  
 6 ~~in 17-7-502, to the supreme court to fund the expenses described in subsections (1)(a) through (1)(c) and~~  
 7 ~~the costs of administering this section.~~

8           ~~(3) If money appropriated for the expenses listed in subsection (1):~~

9           ~~(a) exceeds the amount necessary to fully fund those expenses, up to \$500,000 of the excess~~  
 10 ~~amount must be used for youth court and probation foster care placements if the department of corrections~~  
 11 ~~certifies to the supreme court that appropriations for youth court and probation foster care placements will~~  
 12 ~~be inadequate to fund those costs and remaining excess amounts must be used for district court grants as~~  
 13 ~~provided in 7-6-2352; or~~

14           ~~(b) is insufficient to fully fund those expenses, the county is responsible for payment of the~~  
 15 ~~balance."~~

16

17           **SECTION 2. SECTION 41-5-103, MCA, IS AMENDED TO READ:**

18           **"41-5-103. Definitions.** As used in the Montana Youth Court Act, unless the context requires  
 19 otherwise, the following definitions apply:

20           (1) "Adult" means an individual who is 18 years of age or older.

21           (2) "Agency" means any entity of state or local government authorized by law to be responsible  
 22 for the care or rehabilitation of youth.

23           (3) "Commit" means to transfer to legal custody.

24           (4) "Correctional facility" means a public or private residential facility used for the placement of  
 25 delinquent youth or individuals convicted of criminal offenses.

26           (5) "Court", when used without further qualification, means the youth court of the district court.

27           (6) "Custodian" means a person, other than a parent or guardian, to whom legal custody of the  
 28 youth has been given but does not include a person who has only physical custody.

29           (7) "Delinquent youth" means a youth:

30           (a) who has committed an offense that, if committed by an adult, would constitute a criminal

1 offense; or

2 (b) who, having been placed on probation as a delinquent youth or a youth in need of supervision,  
3 violates any condition of probation.

4 (8) "Department" means the department of corrections provided for in 2-15-2301.

5 (9) "Detention" means the holding or temporary placement of a youth in the youth's home under  
6 home arrest or in a facility other than the youth's own home for the purpose of ensuring the continued  
7 custody of the youth at any time after the youth is taken into custody and before final disposition of the  
8 youth's case.

9 (10) "Detention facility" means a physically restricting facility designed to prevent a youth from  
10 departing at will. The term includes a youth detention facility, short-term detention center, and regional  
11 detention facility.

12 (11) "Final disposition" means the implementation of a court order for the disposition or placement  
13 of a youth as provided in 41-5-523.

14 (12) "Foster home" means a private residence licensed by the department for placement of a youth.

15 (13) "Guardianship" means the status created and defined by law between a youth and an adult  
16 with the reciprocal rights, duties, and responsibilities.

17 (14) "Holdover" means a room, office, building, or other place approved by the board of crime  
18 control for the temporary detention and supervision of youth in a physically unrestricting setting for a period  
19 not to exceed 24 hours while the youth is awaiting a probable cause hearing, release, or transfer to an  
20 appropriate detention or shelter care facility. The term does not include a jail.

21 (15) "Jail" means a facility used for the confinement of adults accused or convicted of criminal  
22 offenses. The term includes a lockup or other facility used primarily for the temporary confinement of adults  
23 after arrest.

24 (16) "Judge", when used without further qualification, means the judge of the youth court.

25 (17) (a) "Legal custody" means the legal status created by order of a court of competent jurisdiction  
26 that gives a person the right and duty to:

27 (i) have physical custody of the youth;

28 (ii) determine with whom the youth shall live and for what period;

29 (iii) protect, train, and discipline the youth; and

30 (iv) provide the youth with food, shelter, education, and ordinary medical care.

1 (b) An individual granted legal custody of a youth shall personally exercise the individual's rights  
2 and duties as guardian unless otherwise authorized by the court entering the order.

3 (18) "Necessary parties" includes the youth, the youth's parents, guardian, custodian, or spouse.

4 (19) "Parent" means the natural or adoptive parent but does not include a person whose parental  
5 rights have been judicially terminated, nor does it include the putative father of an illegitimate youth unless  
6 the putative father's paternity is established by an adjudication or by other clear and convincing proof.

7 (20) "Probable cause hearing" means the hearing provided for in 41-5-303.

8 (21) "Regional detention facility" means a youth detention facility established and maintained by  
9 two or more counties, as authorized in 41-5-811.

10 (22) "Restitution" means payments in cash to the victim or with services to the victim or the general  
11 community when these payments are made pursuant to an informal adjustment, consent decree, or other  
12 youth court order.

13 (23) "Secure detention facility" means any public or private facility that:

14 (a) is used for the temporary placement of youth or individuals accused or convicted of criminal  
15 offenses; and

16 (b) is designed to physically restrict the movements and activities of youth or other individuals held  
17 in lawful custody of the facility.

18 (24) "Serious juvenile offender" means a youth who has committed an offense that would be  
19 considered a felony offense if committed by an adult and that is an offense against a person, an offense  
20 against property, or an offense involving dangerous drugs.

21 (25) "Shelter care" means the temporary substitute care of youth in physically unrestricting  
22 facilities.

23 (26) "Shelter care facility" means a facility used for the shelter care of youth. The term is limited  
24 to the facilities enumerated in 41-5-306(1).

25 (27) "Short-term detention center" means a detention facility licensed by the department for the  
26 temporary placement or care of youth, for a period not to exceed 96 hours, pending a probable cause  
27 hearing, release, or transfer of the youth to an appropriate detention facility or shelter care facility.

28 (28) "State youth correctional facility" means a residential facility used for the placement and  
29 rehabilitation of delinquent youth, such as the Pine Hills ~~school~~ youth correctional facility in Miles City ~~and~~  
30 ~~the Mountain View school in Helena.~~

1           (29) "Substitute care" means full-time care of youth in a residential setting for the purpose of  
2 providing food, shelter, security and safety, guidance, direction, and, if necessary, treatment to youth who  
3 are removed from or are without the care and supervision of their parents or guardian.

4           (30) "Youth" means an individual who is less than 18 years of age without regard to sex or  
5 emancipation.

6           (31) "Youth court" means the court established pursuant to this chapter to hear all proceedings in  
7 which a youth is alleged to be a delinquent youth, a youth in need of supervision, or a youth in need of care  
8 and includes the youth court judge and probation officers.

9           (32) "Youth detention facility" means a secure detention facility licensed by the department for the  
10 temporary substitute care of youth that:

11           (a) is operated, administered, and staffed separately and independently of a jail; and

12           (b) is used exclusively for the lawful detention of alleged or adjudicated delinquent youth.

13           (33) "Youth in need of care" has the meaning provided for in 41-3-102.

14           (34) "Youth in need of supervision" means a youth who commits an offense prohibited by law that,  
15 if committed by an adult, would not constitute a criminal offense, including but not limited to a youth who:

16           (a) violates any Montana municipal or state law regarding use of alcoholic beverages by minors;

17           (b) continues to exhibit behavior beyond the control of the youth's parents, foster parents, physical  
18 custodian, or guardian despite the attempt of the youth's parents, foster parents, physical custodian, or  
19 guardian to exert all reasonable efforts to mediate, resolve, or control the youth's behavior; or

20           (c) has committed any of the acts of a delinquent youth but whom the youth court, in its  
21 discretion, chooses to regard as a youth in need of supervision."

22

23           **Section 3.** Section 46-18-101, MCA, is amended to read:

24           "~~46-18-101.~~ **Correctional policy.** (1) It is the purpose of this section to declare the correctional  
25 policy of the state of Montana. Laws for the punishment of crime and for the rehabilitation of the convicted  
26 are drawn to implement the policy established by this section.

27           (2) The correctional policy of the state of Montana is to protect society by preventing crime  
28 through punishment and rehabilitation of the convicted. The legislature finds that an individual is responsible  
29 for and must be held accountable for the individual's actions, including, whenever possible, the restoration  
30 of all pecuniary losses sustained by a victim of the offense. Corrections laws and programs must be

1 implemented to impress upon each individual the responsibility for obeying the law. To achieve this end,  
2 it is the policy of the state to ~~assure~~ ensure that prosecution of criminal offenses occurs whenever probable  
3 cause exists and that punishment of the convicted is certain, timely, and consistent. Furthermore, it is the  
4 state's policy that persons convicted of a crime be dealt with in accordance with their individual  
5 characteristics, circumstances, needs, and potentialities. Finally, it is the policy of the state to recognize  
6 that the interests of crime victims should be considered so that, to the extent possible, victims of crime  
7 may be protected from threat of future harm by the offender.

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

9 (i) the crime committed;

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

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

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

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

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

21 (4) It is also the policy of the state that alternatives to imprisonment, such as community  
22 corrections, should be used whenever appropriate for nonviolent felony offenders in order to provide them  
23 opportunities to gain work experience, to learn life skills, to obtain education and training, or to participate  
24 in other activities that will reduce recidivism and enable offenders to become productive members of  
25 society."  
26

27 **Section 4.** Section 46-18-111, MCA, is amended to read:

28 **"46-18-111. (Temporary) Presentence investigation -- when required.** (1) Upon the acceptance  
29 of a plea or upon a verdict or finding of guilty to one or more felony offenses, the district court shall direct  
30 the probation officer to make a presentence investigation and report. The district court shall consider the



1 presentence investigation report prior to sentencing. If the defendant was convicted of an offense under  
 2 45-5-502, 45-5-503, 45-5-504, 45-5-505, 45-5-507, or 45-5-625 involving a victim who was less than  
 3 16 years of age when the offense was committed, the investigation must include an evaluation of the  
 4 defendant and a recommendation as to treatment of the offender in the least restrictive environment,  
 5 considering community safety and offender needs. The evaluation must be completed by a person who is  
 6 determined to be qualified under guidelines established by the department of corrections. All costs related  
 7 to the evaluation must be paid by the defendant. If the defendant is determined by the district court to be  
 8 indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by  
 9 the county or the state, or both, under Title 3, chapter 5, part 9.

10 (2) Unless the court makes a finding that a report is unnecessary, a defendant convicted of any  
 11 offense not enumerated in subsection (1) that may result in incarceration for 1 year or more may not be  
 12 sentenced before a written presentence investigation report by a probation officer is presented to and  
 13 considered by the district court. The district court may, in its discretion, order a presentence investigation  
 14 for a defendant convicted of a misdemeanor.

15 **46-18-111. (Effective July 1, 1997) Presentence investigation -- when required.** (1) Upon the  
 16 acceptance of a plea or upon a verdict or finding of guilty to one or more felony offenses, the district court  
 17 shall direct the probation officer to make a presentence investigation and report. The district court shall  
 18 consider the presentence investigation report prior to sentencing. If the defendant was convicted of an  
 19 offense under 45-5-502, 45-5-503, 45-5-504, 45-5-505, ~~or 45-5-507, or under 45-5-625, or 45-5-627~~  
 20 ~~involving a victim who was less than 16 years of age when the offense was committed~~, the investigation  
 21 must include ~~an~~ a psychosexual evaluation of the defendant and a recommendation as to treatment of the  
 22 offender in the least restrictive environment, considering the risk the offender presents to the community  
 23 ~~safety~~ and offender needs, unless the defendant was sentenced under 46-18-219. The evaluation must be  
 24 completed by a ~~person who is determined to be qualified under guidelines established by the department~~  
 25 ~~of corrections~~ sex offender therapist who is a member of the Montana sex offender treatment association  
 26 or has comparable credentials acceptable to the professional and occupational licensing bureau of the  
 27 department of commerce. The psychosexual evaluation must be made available to the county attorney's  
 28 office, the defense attorney, the probation and parole officer, and the sentencing judge. All costs related  
 29 to the evaluation must be paid by the defendant. If the defendant is determined by the district court to be  
 30 indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by

1 the county or the state, or both, under Title 3, chapter 5, part 9.

2 (2) ~~Unless the court makes a finding that a report is unnecessary, The psychosexual evaluation~~  
 3 ~~required by subsection (1) may not be waived for~~ THE COURT SHALL ORDER A PRESENTENCE REPORT  
 4 UNLESS THE COURT MAKES A FINDING THAT A REPORT IS UNNECESSARY. UNLESS THE COURT  
 5 MAKES SUCH A FINDING, a defendant convicted of ~~any offense not an offense~~ ANY OFFENSE NOT  
 6 enumerated in subsection (1) that may result in incarceration for 1 year or more, ~~A defendant convicted~~  
 7 ~~of an offense enumerated in subsection (1)~~ may not be sentenced before a written presentence  
 8 investigation report by a probation officer is presented to and considered by the district court. The district  
 9 court may, in its discretion, order a presentence investigation for a defendant convicted of a misdemeanor  
 10 sexual offense."

11

12 **SECTION 5. SECTION 46-18-113, MCA, IS AMENDED TO READ:**

13 **"46-18-113. Availability of presentence investigation report.** (1) All presentence investigation  
 14 reports must be a part of the court record but may not be opened for public inspection. A copy of the  
 15 presentence investigation report must be provided to the prosecution, the defendant and the defendant's  
 16 attorney, the probation and parole officer, and the agency or institution to which the defendant is  
 17 committed. The prosecutor may disclose the contents of the presentence report to a victim of the offense.

18 (2) The court having jurisdiction of the case may permit other access to the presentence  
 19 investigation report as it considers necessary."

20

21 **Section 6.** Section 46-18-201, MCA, is amended to read:

22 **"46-18-201. (Temporary) Sentences that may be imposed.** (1) Whenever a person has been found  
 23 guilty of an offense upon a verdict or a plea of guilty, the court may:

24 (a) defer imposition of sentence, except as provided in 61-8-714 and 61-8-722 for sentences for  
 25 driving under the influence of alcohol or drugs or as provided in 61-6-304, for a period, except as otherwise  
 26 provided, not exceeding 1 year for any misdemeanor or for a period not exceeding 3 years for any felony.  
 27 The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the  
 28 period of the deferred imposition. Reasonable restrictions or conditions may include:

29 (i) jail base release;

30 (ii) jail time not exceeding 180 days;

- 1 (iii) conditions for probation;
- 2 (iv) payment of the costs of confinement;
- 3 (v) payment of a fine as provided in 46-18-231;
- 4 (vi) payment of costs as provided in 46-18-232 and 46-18-233;
- 5 (vii) payment of costs of court-appointed counsel as provided in 46-8-113;
- 6 (viii) with the approval of the facility or program, an order that the offender be placed in a  
7 community corrections facility or program as provided in 53-30-321;
- 8 (ix) community service;
- 9 (x) home arrest as provided in Title 46, chapter 18, part 10;
- 10 (xi) any other reasonable conditions considered necessary for rehabilitation or for the protection of  
11 society;
- 12 (xii) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;
- 13 or
- 14 (xiii) any combination of the restrictions or conditions in subsections (1)(a)(i) through (1)(a)(xii).
- 15 (b) suspend execution of sentence for a period up to the maximum sentence allowed or for a period  
16 of 6 months, whichever is greater, for each particular offense. The sentencing judge may impose on the  
17 defendant any reasonable restrictions or conditions during the period of suspended sentence. Reasonable  
18 restrictions or conditions may include any of those listed in subsection (1)(a).
- 19 (c) impose a fine as provided by law for the offense;
- 20 (d) require payment of costs as provided in 46-18-232 or payment of costs of court-appointed  
21 counsel as provided in 46-8-113;
- 22 (e) impose a county jail or state prison sentence, as provided in Title 45, for the offense or commit  
23 the defendant to the department of corrections for placement in an appropriate correctional institution or  
24 program;
- 25 (f) with the approval of the facility or program, order the offender to be placed in a community  
26 corrections facility or program as provided in 53-30-321; or
- 27 (g) impose any combination of subsections (1)(b) through (1)(f).
- 28 (2) In addition to any penalties imposed pursuant to subsection (1), if the court finds that the victim  
29 of the offense has sustained a pecuniary loss, the court shall require payment of restitution to the victim  
30 as provided in 46-18-241 through 46-18-249. If the court determines that the defendant is unable to pay

1 restitution, then it may impose, in addition to any other sentence, community service under 46-18-241.

2 (3) If a financial obligation is imposed as a condition under subsection (1)(a), sentence may be  
3 deferred for a period not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for  
4 a felony, regardless of whether any other conditions are imposed.

5 (4) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, the court  
6 shall consider any elapsed time and either expressly allow part or all of it as a credit against the sentence  
7 or reject all or part as a credit. The court shall state its reasons in the order. Credit, however, must be  
8 allowed for jail or home arrest time already served.

9 (5) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years  
10 of a sentence of imprisonment imposed under the following sections may not be deferred or suspended:  
11 45-5-103, 45-5-202(3) relating to aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-502(3),  
12 45-5-503(2) and (3), 45-9-101(2), (3), and (5)(d), 45-9-102(4), and 45-9-103(2).

13 (6) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence  
14 of imprisonment imposed under 45-5-102 may not be deferred or suspended.

15 (7) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred  
16 in the case of a defendant who has been convicted of a felony on a prior occasion, whether or not the  
17 sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was  
18 suspended.

19 (8) If the victim was less than 16 years old, the imposition or execution of the first 30 days of a  
20 sentence of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505, or 45-5-507 may not be deferred  
21 or suspended. Section 46-18-222 does not apply to the first 30 days of the imprisonment.

22 (9) In imposing a sentence on a defendant convicted of a sexual or violent offense as defined in  
23 46-23-502, the court may not waive the registration requirement provided in 46-18-254, 46-18-255, and  
24 Title 46, chapter 23, part 5.

25 (10) A person convicted of a sexual offense, as defined in 46-23-502, and sentenced to  
26 imprisonment in the state prison shall enroll in the educational phase of the prison's sexual offender  
27 program.

28 (11) In sentencing a nonviolent felony offender, the court shall first consider alternatives to  
29 imprisonment of the offender in the state prison, including placement of the offender in a community  
30 corrections facility or program. In considering alternatives to imprisonment, the court shall examine the

1 sentencing criteria contained in 46-18-225. If the offender is subsequently sentenced to ~~the~~ a state prison  
 2 ~~or the women's correctional system~~, the court shall state its reasons why alternatives to imprisonment were  
 3 not selected, based on the criteria contained in 46-18-225.

4 **46-18-201. (Effective July 1, 1997) Sentences that may be imposed.** (1) Whenever a person has  
 5 been found guilty of an offense upon a verdict or a plea of guilty, the court may:

6 (a) defer imposition of sentence, except as provided in 61-8-714 and 61-8-722 for sentences for  
 7 driving under the influence of alcohol or drugs or as provided in 61-6-304, for a period, except as otherwise  
 8 provided, not exceeding 1 year for any misdemeanor or for a period not exceeding 3 years for any felony.

9 The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the  
 10 period of the deferred imposition. Reasonable restrictions or conditions may include:

11 (i) jail base release;

12 (ii) jail time not exceeding 180 days;

13 (iii) conditions for probation;

14 (iv) payment of the costs of confinement;

15 (v) payment of a fine as provided in 46-18-231;

16 (vi) payment of costs as provided in 46-18-232 and 46-18-233;

17 (vii) payment of costs of court-appointed counsel as provided in 46-8-113;

18 (viii) with the approval of the facility or program, an order that the offender be placed in a  
 19 community corrections facility or program as provided in 53-30-321;

20 (ix) community service;

21 (x) home arrest as provided in Title 46, chapter 18, part 10;

22 (xi) any other reasonable conditions considered necessary for rehabilitation or for the protection of  
 23 society;

24 (xii) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;

25 or

26 (xiii) any combination of the restrictions or conditions in subsections (1)(a)(i) through (1)(a)(xii).

27 (b) suspend execution of sentence for a period up to the maximum sentence allowed or for a period  
 28 of 6 months, whichever is greater, for each particular offense. The sentencing judge may impose on the  
 29 defendant any reasonable restrictions or conditions during the period of suspended sentence. Reasonable  
 30 restrictions or conditions may include any of those listed in subsection (1)(a).

- 1 (c) impose a fine as provided by law for the offense;
- 2 (d) require payment of costs as provided in 46-18-232 or payment of costs of court-appointed  
3 counsel as provided in 46-8-113;
- 4 (e) impose a county jail or state prison sentence, as provided in Title 45, for the offense or commit  
5 the defendant to the department of corrections for placement in an appropriate correctional ~~institution~~  
6 facility or program;
- 7 (f) with the approval of the facility or program, order the offender to be placed in a community  
8 corrections facility or program as provided in 53-30-321; or
- 9 (g) impose any combination of subsections (1)(b) through (1)(f).
- 10 (2) In addition to any penalties imposed pursuant to subsection (1), if the court finds that the victim  
11 of the offense has sustained a pecuniary loss, the court shall require payment of restitution to the victim  
12 as provided in 46-18-241 through 46-18-249. If the court determines that the defendant is unable to pay  
13 restitution, then it may impose, in addition to any other sentence, community service under 46-18-241.
- 14 (3) If a financial obligation is imposed as a condition under subsection (1)(a), sentence may be  
15 deferred for a period not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for  
16 a felony, regardless of whether any other conditions are imposed.
- 17 (4) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, the court  
18 shall consider any elapsed time and either expressly allow part or all of it as a credit against the sentence  
19 or reject all or part as a credit. The court shall state its reasons in the order. Credit, however, must be  
20 allowed for jail or home arrest time already served.
- 21 (5) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years  
22 of a sentence of imprisonment imposed under the following sections may not be deferred or suspended:  
23 45-5-103, 45-5-202(3) relating to aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-502(3),  
24 45-5-503(2) and (3), 45-9-101(2), (3), and (5)(d), 45-9-102(4), and 45-9-103(2).
- 25 (6) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence  
26 of imprisonment imposed under 45-5-102 may not be deferred or suspended.
- 27 (7) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred  
28 in the case of a defendant who has been convicted of a felony on a prior occasion, whether or not the  
29 sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was  
30 suspended.

1 (8) If the victim was less than 16 years old, the imposition or execution of the first 30 days of a  
 2 sentence of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505, or 45-5-507 may not be deferred  
 3 or suspended. Section 46-18-222 does not apply to the first 30 days of the imprisonment.

4 (9) In imposing a sentence on a defendant convicted of a sexual or violent offense as defined in  
 5 46-23-502, the court may not waive the registration requirement provided in 46-18-254, 46-18-255, and  
 6 Title 46, chapter 23, part 5.

7 (10) A person convicted of a sexual offense, as defined in 46-23-502, and sentenced to  
 8 imprisonment in the state prison shall enroll in and complete the educational phase of the prison's sexual  
 9 offender program.

10 (11) In sentencing a nonviolent felony offender, the court shall first consider alternatives to  
 11 imprisonment of the offender in the state prison, including placement of the offender in a community  
 12 corrections facility or program. In considering alternatives to imprisonment, the court shall examine the  
 13 sentencing criteria contained in 46-18-225. If the offender is subsequently sentenced to ~~the a~~ state prison  
 14 ~~or the women's correctional system~~, the court shall state its reasons why alternatives to imprisonment were  
 15 not selected, based on the criteria contained in 46-18-225.

16 (12) Except as provided in 46-18-222, a provision of this section that conflicts with 46-18-219 does  
 17 not apply to a person sentenced under 46-18-219."

18

19 **Section 7.** Section 46-18-225, MCA, is amended to read:

20 **"46-18-225. (Temporary) Criteria for sentencing nonviolent felony offenders.** Prior to sentencing  
 21 a nonviolent felony offender to a term of imprisonment in ~~the a~~ state prison ~~or the women's correctional~~  
 22 ~~system~~, the court shall take into account whether:

23 (1) the interests of justice and the needs of public safety truly require the level of security provided  
 24 by imprisonment of the offender in ~~the a~~ state prison ~~or the women's correctional system~~;

25 (2) the needs of the offender can be better served in the community or in a facility or program  
 26 other than ~~the a~~ state prison ~~or the women's correctional system~~;

27 (3) there are substantial grounds tending to excuse or justify the offense, though failing to establish  
 28 a defense;

29 (4) the offender acted under strong provocation;

30 (5) the offender has made restitution or will make restitution to the victim of the offender's criminal

1 conduct;

2 (6) the offender has no prior history of conviction for a criminal act or has led a law-abiding life for  
3 a substantial period of time before the commission of the present crime;

4 (7) the offender's criminal conduct was the result of circumstances that are unlikely to recur;

5 (8) the character and attitude of the offender indicate that the offender is likely to commit another  
6 crime;

7 (9) the offender is likely to respond quickly to correctional or rehabilitative treatment; and

8 (10) imprisonment of the offender would create an excessive hardship on the offender or the  
9 offender's family.

10 **46-18-225. (Effective July 1, 1997) Criteria for sentencing nonviolent felony offenders.** Prior to  
11 sentencing a nonviolent felony offender to whom 46-18-219 does not apply to a term of imprisonment in  
12 ~~the a state prison or the women's correctional system~~, the court shall take into account whether:

13 (1) the interests of justice and the needs of public safety truly require the level of security provided  
14 by imprisonment of the offender in ~~the a state prison or the women's correctional system~~;

15 (2) the needs of the offender can be better served in the community or in a facility or program  
16 other than ~~the a state prison or the women's correctional system~~;

17 (3) there are substantial grounds tending to excuse or justify the offense, though failing to establish  
18 a defense;

19 (4) the offender acted under strong provocation;

20 (5) the offender has made restitution or will make restitution to the victim of the offender's criminal  
21 conduct;

22 (6) the offender has no prior history of conviction for a criminal act or has led a law-abiding life for  
23 a substantial period of time before the commission of the present crime;

24 (7) the offender's criminal conduct was the result of circumstances that are unlikely to recur;

25 (8) the character and attitude of the offender indicate that the offender is likely to commit another  
26 crime;

27 (9) the offender is likely to respond quickly to correctional or rehabilitative treatment; and

28 (10) imprisonment of the offender would create an excessive hardship on the offender or the  
29 offender's family."

30



1           **Section 8.** Section 46-18-701, MCA, is amended to read:

2           **"46-18-701. Parole Limited release during employment hours.** (1) A court, after having sentenced  
3 a person to confinement in a county jail, may, in its discretion, upon request of the county attorney and  
4 sheriff of ~~each~~ the county and with the consent of the convicted person, order that any part of the  
5 imprisonment ~~be~~ imposed be served in confinement with ~~parole~~ limited release during the hours or periods  
6 the convicted person is actually employed.

7           (2) Upon the issuance of ~~such~~ an order for limited release under this part, the sheriff shall arrange  
8 for the convicted person to continue ~~his~~ the person's regular employment without interruption insofar as  
9 is reasonably possible. However, ~~said~~ the prisoner shall must be confined in the county jail during the hours  
10 when ~~he~~ the prisoner is not employed."

11

12           **Section 9.** Section 46-23-201, MCA, is amended to read:

13           **"46-23-201. (Temporary) Prisoners eligible for nonmedical parole.** (1) Subject to the restrictions  
14 contained in subsections (2) through (4), the board may release on nonmedical parole by appropriate order  
15 any person confined in the Montana state prison or the women's correctional system, except persons under  
16 sentence of death and persons serving sentences imposed under 46-18-202(2), when in its opinion there  
17 is reasonable probability that the prisoner can be released without detriment to the prisoner or to the  
18 community.

19           (2) A prisoner serving a time sentence may not be paroled under this section until the prisoner has  
20 served at least one-fourth of the prisoner's full term.

21           (3) A prisoner serving a life sentence may not be paroled under this section until the prisoner has  
22 served 30 years.

23           (4) A parole may be ordered under this section only for the best interests of society and not as an  
24 award of clemency or a reduction of sentence or pardon. A prisoner may be placed on parole only when  
25 the board believes that the prisoner is able and willing to fulfill the obligations of a law-abiding citizen.

26           **46-23-201. (Effective July 1, 1997) Prisoners eligible for nonmedical parole.** (1) Subject to the  
27 restrictions contained in subsections (2) through (4), the board may release on nonmedical parole by  
28 appropriate order any person confined in the Montana state prison or the women's ~~correctional system~~  
29 prison, except persons under sentence of death and persons serving sentences imposed under  
30 46-18-202(2) or 46-18-219, when in its opinion there is reasonable probability that the prisoner can be

1. released without detriment to the prisoner or to the community.

2 (2) A prisoner serving a time sentence may not be paroled under this section until the prisoner has  
3 served at least one-fourth of the prisoner's full term.

4 (3) A prisoner serving a life sentence may not be paroled under this section until the prisoner has  
5 served 30 years.

6 (4) A parole may be ordered under this section only for the best interests of society and not as an  
7 award of clemency or a reduction of sentence or pardon. A prisoner may be placed on parole only when  
8 the board believes that the prisoner is able and willing to fulfill the obligations of a law-abiding citizen."  
9

10 **Section 10.** Section 46-23-215, MCA, is amended to read:

11 "**46-23-215. Conditions of parole.** (1) A prisoner while on parole remains in the legal custody of  
12 the ~~institution~~ correctional facility from which the prisoner was released but is subject to the orders of the  
13 board.

14 (2) When an order for parole is issued, it must recite the conditions of parole. If restitution was  
15 imposed as part of the sentence under 46-18-201, the order of parole must contain a condition to pay  
16 restitution to the victim. An order for parole or any parole agreement signed by a prisoner may contain a  
17 clause waiving extradition.

18 (3) Whenever a prisoner in the Montana state prison or the Montana women's prison has been  
19 approved for parole on condition that the prisoner obtain employment or secure suitable living arrangements  
20 or on any other condition that is difficult to fulfill while incarcerated, the warden may grant the prisoner a  
21 furlough, not to exceed 10 days, for purposes of fulfilling the condition. While on furlough, the prisoner  
22 remains in the legal custody of the prison and is subject to all other conditions recited by the board."  
23

24 **Section 11.** Section 46-23-401, MCA, is amended to read:

25 "**46-23-401. Definitions.** Unless the context requires otherwise, in this part, the following  
26 definitions apply:

27 (1) "Applicant" means any prisoner who is eligible under 46-23-411 and who signs an application  
28 to participate in the supervised release program.

29 (2) "Board" means the board of pardons and parole provided for in 2-15-2302.

30 (3) "Department" means the department of corrections provided for in 2-15-2301.

1 (4) "Prisoner" means a person sentenced by a state district court to a term of confinement in the  
2 state prison.

3 (5) "Sponsor" means any federal, state, county, local, or private agency, Indian tribe and  
4 reservation, or any person, group, association, or organization approved by the department to undertake  
5 the supervision of prisoners participating in the supervised release program.

6 (6) "State prison" means the Montana state prison at Deer Lodge, the Montana women's prison,  
7 or any adult correctional facility designated by the department.

8 (7) "Supervising agent" means a probation and parole officer of the department."  
9

10 ~~Section 11. Section 46-24-203, MCA, is amended to read:~~

11 ~~"46-24-203. Prompt notification to victims and witnesses of certain offenses. (1) A person~~  
12 ~~described in subsection (2) who provides the appropriate official with a current address and telephone~~  
13 ~~number must receive prompt advance notification, if possible, of proceedings relating to the person's case,~~  
14 ~~including:~~

15 ~~(a) the arrest of an accused;~~

16 ~~(b) the release of the accused pending judicial proceedings;~~

17 ~~(c) the crime with which the accused has been charged, including an explanation of the elements~~  
18 ~~of the offense when necessary to an understanding of the nature of the crime;~~

19 ~~(d) proceedings in the prosecution of the accused, including entry of a plea of guilty and the setting~~  
20 ~~of a trial date;~~

21 ~~(e) if the accused is convicted or pleads guilty,;~~

22 ~~(i) the function of a presentence report;~~

23 ~~(ii) the name, office address, and telephone number of the person preparing the report; and~~

24 ~~(iii) the convicted person's right of access to the report, as well as the victim's right under~~  
25 ~~46-18-115 to present a statement in writing or orally at the sentencing proceeding and the convicted~~  
26 ~~person's right to be present at the sentencing proceeding and to have access to the victim's statement;~~

27 ~~(f) the date, time, and place of any sentencing hearing, the sentence imposed, and the term of~~  
28 ~~imprisonment, if imposed; and~~

29 ~~(g) the right under 46-24-212 of a victim of a felony offense to receive information from the~~  
30 ~~department of corrections concerning the convicted person's incarceration person.~~

1           ~~(2) A person entitled to notification under subsection (1) must be a victim or witness of a felony~~  
 2 ~~offense or a misdemeanor offense involving actual, threatened, or potential bodily injury to the victim, a~~  
 3 ~~relative of such a victim or witness who is a minor, or a relative of a homicide victim."~~

4  
 5           **Section 12.** Section 46-24-212, MCA, is amended to read:

6           "**46-24-212. Information concerning confinement.** Upon request of a victim of a felony offense,  
 7 the department of corrections or the board of pardons and parole, as applicable, shall:

8           (1) promptly inform the victim of the following information concerning a prisoner committing the  
 9 offense:

10           (a) the custody level;

11           (b) the projected discharge or parole eligibility date;

12           (c) the ~~estimated~~ actual date of the prisoner's ~~release~~ discharge from confinement in the Montana  
 13 state prison or parole, if reasonably ascertainable;

14           ~~(2)(d) promptly inform the victim of~~ the time and place of a parole hearing concerning the prisoner  
 15 and of the victim's right to submit a statement to the board of pardons and parole under 46-23-202; and

16           (e) the community in which the prisoner will reside after parole;

17           ~~(3)(2)~~ provide reasonable advance notice to the victim before release of the defendant on furlough  
 18 or to a work-release program, half-way house, or other community-based program or correctional facility;  
 19 and

20           ~~(4)(3)~~ promptly inform the victim of the occurrence of any of the following events concerning the  
 21 prisoner:

22           (a) an escape from a correctional or mental health facility or community program;

23           (b) a recapture;

24           (c) a decision of the board of pardons **AND PAROLE**;

25           (d) a decision of the governor to commute the sentence or to grant executive clemency;

26           (e) a release from confinement and any conditions attached to the release; and

27           (f) the prisoner's death."

28  
 29           **SECTION 13. SECTION 52-5-101, MCA, IS AMENDED TO READ:**

30           "**52-5-101. Establishment of state youth correctional facilities -- prohibitions.** (1) The department

1 of corrections, within the annual or biennial budgetary appropriation, may establish, maintain, and operate  
 2 facilities to properly diagnose, care for, train, educate, and rehabilitate youth in need of these services. The  
 3 youth must be 10 years of age or older and under 19 years of age. The facilities include but are not limited  
 4 to the ~~state youth correctional facilities at the Mountain View school in Helena and the Pine Hills school~~  
 5 youth correctional facility in Miles City.

6 (2) A youth alleged or found to be a youth in need of supervision may not be placed in a state  
 7 youth correctional facility as defined in 41-5-103."

8  
 9 **SECTION 14. SECTION 52-5-108, MCA, IS AMENDED TO READ:**

10 **"52-5-108. Medical examination before admission -- records required to accompany child youth**  
 11 **committed.** (1) Before a child youth is admitted for any purpose or for any length of time to the ~~Mountain~~  
 12 ~~View school~~, the Pine Hills ~~school~~, youth correctional facility or other facility under an order of commitment  
 13 to the department of corrections, the child youth must be examined by a licensed physician. A child youth  
 14 committed to one of the ~~schools~~ state youth correctional facilities or the department must be accompanied  
 15 by the order of commitment, a medical examination report, an adequate social history, and any school  
 16 records.

17 (2) The medical examination required under this section must be a current, complete physical  
 18 examination of the child youth."

19  
 20 **SECTION 15. SECTION 52-5-109, MCA, IS AMENDED TO READ:**

21 **"52-5-109. Commitment expenses -- arrangement for transportation.** The expenses of committing  
 22 a child youth to the ~~Mountain View school~~, the Pine Hills ~~school~~, youth correctional facility or the  
 23 department of corrections and transporting the child youth to the ~~Mountain View school~~, the Pine Hills  
 24 ~~school~~, youth correctional facility or the place designated by the department for it to receive custody and  
 25 the expense of returning the child youth to the county of residence must be borne by the county of  
 26 residence. The district judge shall arrange for transportation of the child youth to the place where the  
 27 department has directed that it will receive custody of the child youth."

28  
 29 **SECTION 16. SECTION 52-5-112, MCA, IS AMENDED TO READ:**

30 **"52-5-112. University aid to residents of schools.** The department of corrections may, on the

1 recommendation of the superintendent, authorize a resident of ~~the Mountain View school or Pine Hills~~  
 2 ~~school~~ a state youth correctional facility who has completed high school and who is otherwise eligible to  
 3 receive up to \$800 per year toward the resident's expenses incurred in attending a unit of the Montana  
 4 university system. The money may be used for transportation, clothing, books, board, and room and must  
 5 be paid in the same manner as other expenses of the school. The board of regents of higher education may  
 6 waive fees and tuition for these residents pursuant to 20-25-421. No more than eight residents of each  
 7 ~~school~~ state youth correctional facility may receive these benefits each year. The department shall notify  
 8 the board of regents before August 1 of each year of the residents that it has designated to receive the  
 9 benefits for the next school year."

11 **SECTION 17. SECTION 52-5-113, MCA, IS AMENDED TO READ:**

12 "52-5-113. **Apprehension and return of youth leaving youth correctional facility without**  
 13 **permission.** A youth who has left a youth correctional facility of the department of corrections without  
 14 permission may be apprehended and returned by any citizen. The term "youth correctional facility of the  
 15 department" means any facility under the supervision and control of the department of corrections that has  
 16 as its primary function the care, training, custody, and control of youth and specifically includes the Pine  
 17 Hills ~~school for boys and the Mountain View school for girls~~ youth correctional facility."

19 **Section 18.** Section 53-1-102, MCA, is amended to read:

20 "53-1-102. **Removal of patients from state custodial institutions or correctional facilities without**  
 21 **permission a misdemeanor.** (1) A person, other than a parent or one having legal custody of ~~the person of~~  
 22 ~~the~~ a patient or inmate, who permits or assists a resident patient or inmate of a state custodial institution  
 23 or correctional facility to leave the institution or facility without permission from the properly authorized  
 24 member of the staff or proper court order is guilty of a misdemeanor and upon conviction is punishable by  
 25 imprisonment in a county jail not exceeding 6 months or by a fine not exceeding \$500, or both.

26 (2) ~~Nothing herein is to~~ This section may not be construed to conflict with laws relative to inmates  
 27 of the a Montana state prison."

29 **Section 19.** Section 53-1-103, MCA, is amended to read:

30 "53-1-103. **Distribution of alcoholic beverages or drugs to patients at state custodial institutions**

1 or correctional facilities a misdemeanor. (1) A person who knowingly sells or distributes or attempts to sell  
 2 or distribute alcoholic beverages or drugs to the resident patients or inmates of a state custodial institution  
 3 or correctional facility without permission of the medical staff is guilty of a misdemeanor and, upon  
 4 conviction, is punishable by imprisonment in a county jail not exceeding 6 months or by a fine not  
 5 exceeding \$500, or both.

6 (2) ~~Nothing herein is to~~ This section may not be construed to conflict with laws relative to inmates  
 7 ~~of the a Montana state prison."~~

8  
 9 **Section 20.** Section 53-1-104, MCA, is amended to read:

10 "**53-1-104. Release of arsonist -- notification of department of justice.** (1) Each of the following  
 11 institutions ~~or, correctional facilities, or other~~ facilities having the charge or custody of a person convicted  
 12 of arson or of a person acquitted of arson on the ground of mental disease or defect shall give written  
 13 notification to the department of justice ~~whenever~~ when the person is admitted or released by it:

- 14 (a) Montana state hospital;  
 15 (b) ~~state a~~ Montana prison;  
 16 (c) ~~Mountain View school~~ a Montana youth correctional facility; or  
 17 (d) ~~Pine Hills school; or~~  
 18 ~~(e) any a~~ county or city detention facility.

19 (2) The notification must disclose:

- 20 (a) the name of the person;  
 21 (b) where the person is or will be located; and  
 22 (c) the type of fire the person was involved in."  
 23

24 **Section 21.** Section 53-1-202, MCA, is amended to read:

25 "**53-1-202. (Temporary) Department of corrections.** (1) Adult and youth correctional services are  
 26 included in the department of corrections to carry out the purposes of the department.

27 (2) Adult corrections services consist of the following ~~institutional components~~ correctional facilities  
 28 or programs to incarcerate and rehabilitate felons pursuant to Title 46, chapter 18:

- 29 (a) the Montana state prison;  
 30 (b) the Montana women's ~~correctional system~~ prison; and

1 (c) appropriate community-based programs for the placement, supervision, and rehabilitation of  
2 adult felons who meet the criteria developed by the department for placement:

3 (i) in prerelease centers;

4 (ii) under intensive supervision;

5 (iii) under parole or probation pursuant to Title 46, chapter 23, part 2; or

6 (iv) in other appropriate programs.

7 (3) Youth correctional services consist of the following ~~institutional components to diagnose, care~~  
8 ~~for, train, educate, and rehabilitate~~ correctional facilities or programs to provide for custody, supervision,  
9 training, education, and rehabilitation of delinquent youth AND YOUTH IN NEED OF SUPERVISION pursuant  
10 to Title 52, chapter 5:

11 ~~(a) Mountain View school;~~

12 ~~(b)(a) Pine Hills school~~ YOUTH CORRECTIONAL FACILITY or other juvenile STATE YOUTH  
13 correctional facility; and

14 ~~(c)(b) any other institution facility or program that provides care custody~~ and services for delinquent  
15 youth.

16 (4) A state institution or facility may not be moved, discontinued, or abandoned without the  
17 consent of the legislature.

18 **53-1-202. (Effective on occurrence of contingency) Department of corrections.** (1) Adult and  
19 youth correctional services are included in the department of corrections to carry out the purposes of the  
20 department.

21 (2) Adult corrections services consist of the following ~~institutional components~~ correctional facilities  
22 or programs to incarcerate and rehabilitate felons pursuant to Title 46, chapter 18:

23 (a) the Montana state prison;

24 (b) the Montana women's ~~correctional system~~ prison;

25 (c) appropriate community-based programs for the placement, supervision, and rehabilitation of  
26 adult felons who meet the criteria developed by the department for placement:

27 (i) in prerelease centers;

28 (ii) under intensive supervision;

29 (iii) under parole or probation pursuant to Title 46, chapter 23, part 2; or

30 (iv) in other appropriate programs; and



1 (d) the forensic unit at Warm Springs.

2 (3) Youth correctional services consist of the following ~~institutional components to diagnose, care~~  
 3 ~~for, train, educate, and rehabilitate~~ correctional facilities or programs to provide for custody, supervision,  
 4 training, education, and rehabilitation of delinquent youth AND YOUTH IN NEED OF SUPERVISION pursuant  
 5 to Title 52, chapter 5:

6 ~~(a) Mountain View school;~~

7 ~~(b)(a) Pine Hills school~~ YOUTH CORRECTIONAL FACILITY or other juvenile STATE YOUTH  
 8 correctional facility; and

9 ~~(c)(b) any other institution~~ facility or program that provides care custody and services for delinquent  
 10 youth.

11 (4) A state institution or correctional facility may not be moved, discontinued, or abandoned  
 12 without the consent of the legislature."

13

14 **Section 22.** Section 53-1-203, MCA, is amended to read:

15 **"53-1-203. Powers and duties of department of corrections.** (1) The department of corrections  
 16 shall:

17 (a) adopt rules necessary to carry out the purposes of 41-5-527 through 41-5-529 and rules for  
 18 the admission, custody, transfer, and release of persons in department programs except as otherwise  
 19 provided by law. However, rules adopted by the department may not amend or alter the statutory powers  
 20 and duties of the state board of pardons and parole.

21 (b) subject to the functions of the department of administration, lease or purchase lands for use  
 22 by ~~institutions~~ correctional facilities and classify those lands to determine those that may be most profitably  
 23 used for agricultural purposes, taking into consideration the needs of all ~~institutions~~ correctional facilities  
 24 for the food products that can be grown or produced on the lands and the relative value of agricultural  
 25 programs in the treatment or rehabilitation of the persons confined in the ~~institutions~~ correctional facilities;

26 (c) contract with private, nonprofit Montana corporations to establish and maintain  
 27 community-based prerelease centers for purposes of preparing inmates of ~~the a~~ Montana ~~state~~ prison who  
 28 are approaching parole eligibility or discharge for release into the community. The centers shall provide a  
 29 less restrictive environment than the prison while maintaining adequate security. The centers must be  
 30 operated in coordination with other department correctional programs, including the supervised release

1 program provided for in Title 46, chapter 23, part 4. This subsection does not affect the department's  
2 authority to operate and maintain community-based prerelease centers.

3 (d) utilize the staff and services of other state agencies and units of the Montana university system,  
4 within their respective statutory functions, to carry out its functions under this title;

5 (e) propose programs to the legislature to meet the projected long-range needs of ~~institutions~~  
6 correctional facilities, including programs and facilities for the diagnosis, treatment, care, and aftercare of  
7 persons placed in ~~institutions~~ correctional facilities;

8 (f) encourage the establishment of programs at the local and ~~institutional~~ facility level for the  
9 rehabilitation and education of adult felony offenders;

10 (g) administer all state and federal funds allocated to the department for youth in need of  
11 supervision and delinquent youth, as defined in 41-5-103;

12 (h) collect and disseminate information relating to youth in need of supervision and delinquent  
13 youth;

14 (i) maintain adequate data on placements that it funds in order to keep the legislature properly  
15 informed of the specific information, by category, related to youth in need of supervision and delinquent  
16 youth in out-of-home care facilities;

17 (j) provide funding for and place youth who are ~~alleged or~~ adjudicated to be delinquent or in need  
18 of supervision and who are ~~referred or~~ committed to the department;

19 (k) administer youth correctional facilities;

20 (l) provide supervision, care, and control of youth released from a state youth correctional facility;  
21 and

22 (m) use to maximum efficiency the resources of state government in a coordinated effort to:

23 (i) provide for ~~children in need of temporary protection or correctional services~~ delinquent youth  
24 committed to the department; and

25 (ii) coordinate and apply the principles of modern ~~institutional~~ corrections administration to the  
26 ~~institutions in the department~~ facilities and programs.

27 (2) The department and a private, nonprofit Montana corporation may not enter into a contract  
28 under subsection (1)(c) for a period that exceeds 10 years. The provisions of 18-3-104 and 18-4-313 that  
29 limit the term of a contract do not apply to a contract authorized by subsection (1)(c).

30 (3) The department of corrections may enter into contracts with nonprofit corporations or

1 associations or private organizations to provide substitute care for youth in need of supervision and  
2 delinquent youth in youth ~~care~~ correctional facilities."

3  
4 ~~Section 17. Section 53-1-301, MCA, is amended to read:~~

5 ~~"53-1-301. Permitted institutional or correctional facility industries, powers of departments, and~~  
6 ~~incentive pay to inmates. (1) Except as provided in subsection (4), the department of corrections or the~~  
7 ~~department of public health and human services may:~~

8 ~~(a) establish industries in institutions or correctional facilities that will result in the production or~~  
9 ~~manufacture of products and the rendering of services as may be needed by any department or agency of~~  
10 ~~the state or any political subdivision of the state, by any agency of the federal government, by any other~~  
11 ~~states or their political subdivisions, or by nonprofit organizations and that will assist in the rehabilitation~~  
12 ~~of residents in institutions;~~

13 ~~(b) obtain federal certification of specific prison industries programs in order to gain access to~~  
14 ~~interstate markets for prison industries products;~~

15 ~~(c) contract with private industry for the sale of goods or components manufactured or produced~~  
16 ~~in shops under its jurisdiction and for the employment of inmates in federally certified prison industries~~  
17 ~~programs;~~

18 ~~(d) print catalogs describing goods manufactured or produced by institutions or correctional~~  
19 ~~facilities and distribute the catalogs;~~

20 ~~(e) fix the sale price for goods produced or manufactured at institutions or correctional facilities.~~  
21 ~~Prices may not exceed prices existing in the open market for goods of comparable quality.~~

22 ~~(f) require institutions or correctional facilities to purchase needed goods from other institutions~~  
23 ~~or correctional facilities;~~

24 ~~(g) provide for the repair and maintenance of property and equipment of institutions or correctional~~  
25 ~~facilities by their residents of institutions;~~

26 ~~(h) provide for construction projects, up to the aggregate sum of \$25,000 per project, performed~~  
27 ~~by residents of institutions or correctional facilities, except when the construction work is covered by a~~  
28 ~~collective bargaining agreement;~~

29 ~~(i) provide for the repair and maintenance at an institution or correctional facility of furniture and~~  
30 ~~equipment of any state agency;~~

1 ~~(j) provide for the manufacture at an institution or correctional facility of motor vehicle license~~  
2 ~~plates and other related articles;~~

3 ~~(k) sell manufactured or agricultural products and livestock on the open market;~~

4 ~~(l) provide for the manufacture at an institution or correctional facility of highway, road, and street~~  
5 ~~marking signs for the use of the state or any of its political subdivisions, except when the manufacture of~~  
6 ~~the signs is in violation of a collective bargaining contract;~~

7 ~~(m) pay an inmate or resident of an institution or correctional facility from receipts from the sale~~  
8 ~~of products produced or manufactured or services rendered in a program in which the inmate or resident~~  
9 ~~is working;~~

10 ~~(n) collect 15% of the net wages paid to an inmate employed in a federally certified prison~~  
11 ~~industries program for deposit in the Montana crime victims compensation and assistance account~~  
12 ~~established under 53-9-109; and~~

13 ~~(o) collect from an inmate employed in a federally certified prison industries program charges for~~  
14 ~~room and board consistent with charges established by the director for inmates assigned to prerelease~~  
15 ~~centers.~~

16 ~~(2) (a) Except as provided for in subsection (2)(b), payment for the performance of work may be~~  
17 ~~based on the following criteria:~~

18 ~~(i) knowledge and skill;~~

19 ~~(ii) attitude toward authority;~~

20 ~~(iii) physical effort;~~

21 ~~(iv) responsibility for equipment and materials; and~~

22 ~~(v) regard for safety of others.~~

23 ~~(b) The maximum rate of pay must be determined by the appropriation established for each~~  
24 ~~program, except that an inmate employed in a federally certified prison industries program must be paid at~~  
25 ~~a rate not less than the rate paid for similar work in the locality where the inmate performs the work.~~

26 ~~(3) Premiums for workers' compensation and occupational disease coverage for federally certified~~  
27 ~~prison industries programs must be paid by the prison industries program or by the department of~~  
28 ~~corrections. If the department of corrections pays the premium, reimbursement for premium payments for~~  
29 ~~workers' compensation and occupational disease coverage must be made to the department of corrections~~  
30 ~~by the private company contracting with the federally certified prison industries program for services and~~

1 ~~products.~~

2 ~~(4) Except as provided in subsection (5), furniture made in the a prison may be purchased by state~~  
 3 ~~agencies in accordance with the procurement provisions under Title 18, chapter 4. All other prison-made~~  
 4 ~~furniture may be sold only through licensed wholesale or retail furniture outlets or through export firms for~~  
 5 ~~sale to international markets.~~

6 ~~(5) Any state institution, correctional facility, or program operated by the department of corrections~~  
 7 ~~may purchase prison-made furniture without complying with the procurement provisions under Title 18,~~  
 8 ~~chapter 4."~~

9

10 **Section 23.** Section 53-1-302, MCA, is amended to read:

11 **"53-1-302. Disposition of receipts from sale of goods.** Receipts from the sale of goods produced  
 12 or manufactured by an institution ~~shall~~ or correctional facility must be deposited in the appropriate  
 13 enterprise or internal service fund for the use of the industries program of the institution or facility."

14

15 **Section 24.** Section 53-30-101, MCA, is amended to read:

16 **"53-30-101. Location and function of ~~prison and women's correctional system~~ prisons --**  
 17 **definitions.** (1) The ~~institution~~ correctional facility at Deer Lodge is the Montana state prison and ~~as its~~  
 18 primary function ~~provides facilities~~ is to provide for the custody, treatment, training, and rehabilitation of  
 19 adult male criminal offenders. The custody, treatment, training, and rehabilitation of adult male offenders  
 20 may also occur at a correctional facility in another jurisdiction pursuant to an agreement as provided in  
 21 53-30-106.

22 (2) The ~~institution~~ correctional facility located in Billings is the Montana women's ~~correctional~~  
 23 ~~system~~ prison, and its primary function is to provide ~~facilities~~ for the custody, treatment, training, and  
 24 rehabilitation of adult female criminal offenders.

25 (3) As used in this title, unless the context indicates otherwise, the following definitions apply:

26 (a) "Montana prison" means:

27 (i) the Montana state prison;

28 (ii) the Montana women's prison;

29 (iii) a Montana regional correctional facility;

30 (iv) a detention center in another jurisdiction detaining inmates from Montana pursuant to

1 53-30-106; or

2 (v) a combination of the facilities listed in this subsection (3)(a).

3 (b) "Montana state prison" means:

4 (i) the correctional facility located at Deer Lodge;

5 (ii) a Montana regional correctional facility; or

6 (iii) a detention center in another jurisdiction detaining inmates from Montana pursuant to

7 53-30-106.

8 (c) "Montana women's prison" or "women's prison" means:

9 (i) the correctional facility located at Billings;

10 (ii) a Montana regional correctional facility; or

11 (iii) a detention center in another jurisdiction detaining inmates from Montana pursuant to

12 53-30-106."

13

14 **Section 25.** Section 53-30-102, MCA, is amended to read:

15 **"53-30-102. Qualifications of warden of state prison and warden of women's ~~correctional system~~**

16 **prison.** The warden of the Montana state prison and the warden of the women's ~~correctional system~~ prison

17 must be persons trained through education and experience in directing a training, rehabilitation, or custodial  
18 program in a penal institution."

19

20 **Section 26.** Section 53-30-105, MCA, is amended to read:

21 **"53-30-105. (Temporary) Good time allowance.** (1) The department of corrections may grant a

22 good time allowance to inmates housed at an adult correctional facility or a supervised release program

23 facility. The good time allowance may operate as a credit on the inmate's sentence as imposed by the

24 court, conditioned upon the inmate's good behavior and compliance with the rules adopted by the

25 department. The department may not grant good time allowance to exceed 1 day for each day served at

26 an adult correctional facility or a supervised release program facility.

27 (2) In the event of an attempted escape by an inmate or a violation of the rules prescribed by the

28 department, the inmate may be punished by the forfeiture of part or all good time allowances.

29 (3) A person may not earn good time under this section while the person is on probation. A person

30 may earn good time while on parole at the rate of 1 day per day served on parole. If the department

1 determines that a person has violated the conditions of parole, it may, in its discretion, deduct good time  
2 credit accumulated under this subsection in an amount up to and including all credit accumulated on the  
3 date of the violation.

4 (4) The department may restore all or portions of any previously forfeited good time as a result of  
5 subsequent good behavior.

6 (5) If the population at the Montana state prison or the Montana women's ~~correctional system~~  
7 prison exceeds the design capacity of the institution, the department may grant an inmate additional good  
8 time credits in an amount necessary to permit the inmate to become eligible for parole or to discharge the  
9 inmate's sentence. Good time credits for the discharge of a sentence may not exceed 180 days. The award  
10 of good time under this subsection must generally be provided to inmates who are nearest to parole  
11 eligibility or discharge. (Repealed effective January 31, 1997--secs. 12(2), 13, Ch. 372, L. 1995.)"

12  
13 **Section 22.** ~~Section 53-30-131, MCA, is amended to read:~~

14 ~~"53-30-131. Prison industries training program -- purpose and scope. (1) In addition to any~~  
15 ~~institutional correctional facility industry operated at the a Montana state prison under Title 53, chapter 1,~~  
16 ~~part 3, the department of corrections shall conduct a prison industries training program.~~

17 ~~(2) The purpose of the prison industries training program is to:~~

18 ~~(a) provide innovative and progressive inmate reformation and rehabilitation possibilities by~~  
19 ~~exposing inmates to worthwhile training;~~

20 ~~(b) prepare inmates for release by providing industries at the prison that utilize their skills, thus~~  
21 ~~providing experience beyond mere training, inculcating inmates with good production and work habits, and~~  
22 ~~providing them with a means to earn money that will be available to them upon release.~~

23 ~~(3) The prison industries training program consists of vocational training, on the job training, and~~  
24 ~~production experience. The department may contract with public and private vocational education entities~~  
25 ~~to provide this training.~~

26 ~~(4) The program may provide training and experience involving cultivation, production, repair,~~  
27 ~~construction, refurbishment, service, and related processes involving personal property, including but not~~  
28 ~~limited to such items as crops, livestock, furniture, office and electrical equipment, and motor vehicles. The~~  
29 ~~products and services, with the exception of livestock and agricultural products produced from the Montana~~  
30 ~~state prison ranch and products or services of a federally certified prison industries program, may be~~

1 ~~provided only to state agencies, local government units, school districts, authorities, and other~~  
 2 ~~governmental entities."~~

3

4 ~~Section 23. Section 53-30-132, MCA, is amended to read:~~

5 ~~"53-30-132. Inmate participation and status -- prison industries and vocational training program~~  
 6 ~~-- wages and benefits. (1) While engaged in on the job training and production, inmates not employed in~~  
 7 ~~a federally certified prison industries program may be paid a wage commensurate with their production~~  
 8 ~~function in accordance with 53-1-301(2). Wages must be established at a rate that encourages efficient~~  
 9 ~~production and effective levels of inmate participation. Inmates employed in a federally certified prison~~  
 10 ~~industries program must be paid as provided in 53-1-301(2).~~

11 ~~(2) Inmates not working in a federally certified prison industries training program are not~~  
 12 ~~employees, either public or private, and employment rights accorded other classes of workers do not apply~~  
 13 ~~to the inmates. Inmates working in a federally certified prison industry program are entitled to coverage and~~  
 14 ~~benefits as provided in 39-71-744.~~

15 ~~(3) Able-bodied persons committed to the a Montana state prison as adult offenders must be~~  
 16 ~~required to perform work as provided for by the department of corrections, including the manufacture of~~  
 17 ~~products or the rendering of services."~~

18

19 ~~Section 27. Section 53-30-151, MCA, is amended to read:~~

20 ~~"53-30-151. **Prison maintenance by inmates.** An inmate of the a Montana state prison may be~~  
 21 ~~required to:~~

22 ~~(1) keep his own the living quarters assigned to that inmate clean and orderly;~~

23 ~~(2) perform general maintenance and repair work on prison grounds and facilities and assist in~~  
 24 ~~providing services essential to the administration of the prison, including but not limited to food and laundry~~  
 25 ~~services."~~

26

27 ~~Section 28. Section 53-30-503, MCA, is amended to read:~~

28 ~~"53-30-503. **Definitions.** As used in this part, the following definitions apply:~~

29 ~~(1) "Department" means the department of corrections.~~

30 ~~(2) "Interlocal cooperation commission" means a commission established in accordance with Title~~



1 7, chapter 11, part 2.

2 (3) "Local governmental entity" means:

3 (a) a local governmental unit;

4 (b) a multijurisdictional service district; or

5 (c) an interlocal cooperation commission.

6 (4) "Multijurisdictional service district" means a district established in accordance with Title 7,  
7 chapter 11, part 11.

8 (5) "Regional correctional facility" means a correctional facility, except the Montana state prison,  
9 the women's ~~correctional system~~ prison, or the Swan River boot camp, designed, constructed, or operated  
10 under this part by a local governmental entity or the department, or both, for the housing of convicted  
11 felons."

12

13 **Section 29.** Section 87-2-802, MCA, is amended to read:

14 **"87-2-802. Veterans in VA hospitals and residents of state institutions.** Any veteran who is a  
15 patient residing at a hospital operated by the department of veterans affairs, within or outside the state,  
16 and residents of all correctional facilities and institutions under the jurisdiction of the department of  
17 corrections and the department of public health and human services, except the Montana state prison at  
18 Deer Lodge or the Montana women's ~~correctional system~~ prison, ~~will be entitled to~~ may fish without a  
19 license. The residents shall carry a permit on a form prescribed by the department and signed by the  
20 superintendent of the institution in lieu of a license."

21

22 **NEW SECTION. SECTION 30. CODE COMMISSIONER INSTRUCTION. WHEREVER A REFERENCE**  
23 **TO THE "PINE HILLS SCHOOL" IS INCLUDED IN LEGISLATION ENACTED BY THE 55TH LEGISLATURE,**  
24 **THE CODE COMMISSIONER IS INSTRUCTED TO CHANGE THE REFERENCE TO THE "PINE HILLS YOUTH**  
25 **CORRECTIONAL FACILITY".**

26

27 **NEW SECTION. Section 31. Effective dates.** (1) Except as provided in subsections (2) and (3),  
28 [this act] is effective October 1, 1997.

29 (2) [Section ~~4-15~~ 21 and this section] are effective on passage and approval.

30 (3) [Section ~~4-3~~ 4] is effective July 1, 1997.

-END-