

1 HOUSE BILL NO. 540

2 INTRODUCED BY S. KELLY, S. KLAKKEN, T. SHARP, A. REGIER, G. KMETZ

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE POWERS AND DUTIES OF THE DEPARTMENT
5 OF CORRECTIONS; ALLOWING THE DEPARTMENT OF CORRECTIONS TO CONTRACT WITH PRIVATE
6 CORPORATIONS TO ESTABLISH AND MAINTAIN CERTAIN FACILITIES AND PROGRAMS; AND
7 AMENDING SECTION 53-1-203, MCA."

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

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

12 **"53-1-203. Powers and duties of department of corrections.** (1) The department of corrections
13 shall:

- 14 (a) subject to subsection (6), adopt rules necessary:
- 15 (i) for the siting, establishment, and expansion of prerelease centers;
- 16 (ii) for the expansion of treatment facilities or programs previously established by contract through
17 a competitive procurement process;
- 18 (iii) for the establishment and maintenance of residential methamphetamine treatment programs;
- 19 and
- 20 (iv) for the admission, custody, transfer, and release of persons in department programs and state
21 prisons, as defined in 53-30-101, except as otherwise provided by law;
- 22 (b) subject to the functions of the department of administration, lease or purchase lands for use by
23 correctional facilities and classify those lands to determine those that may be most profitably used for
24 agricultural purposes, taking into consideration the needs of all correctional facilities for the food products that
25 can be grown or produced on the lands and the relative value of agricultural programs in the treatment or
26 rehabilitation of the persons confined in correctional facilities;
- 27 (c) contract with private, ~~nonprofit~~ Montana corporations or, pursuant to the Montana Community
28 Corrections Act, with community corrections facilities or programs or local or tribal governments to establish

1 and maintain:

2 (i) prerelease and treatment centers for purposes of preparing inmates of a Montana prison who
3 are within 14 months of parole eligibility or discharge for release into the community, providing an alternative
4 placement for offenders who have violated parole or probation, and providing a sentencing option for felony
5 offenders pursuant to 46-18-201. The centers shall provide a less restrictive environment than the prison while
6 maintaining adequate security. The centers must be operated in coordination with other department correctional
7 programs. This subsection does not affect the department's authority to operate and maintain prerelease or
8 treatment centers.

9 (ii) residential methamphetamine treatment programs for the purpose of alternative sentencing as
10 provided for in 46-18-201 or 46-18-202 and any other sections relating to alternative sentences for persons
11 convicted of possession of methamphetamine. The department shall issue a request for proposals using a
12 competitive process and shall follow the applicable contract and procurement procedures in Title 18.

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

15 (e) propose programs to the legislature to meet the projected long-range needs of corrections,
16 including programs and facilities for the custody, supervision, treatment, parole, and skill development of
17 persons placed in correctional facilities or programs;

18 (f) encourage the establishment of programs at the local and state level for the rehabilitation and
19 education of felony offenders;

20 (g) encourage efforts within the department and at the local level that would develop housing
21 options and resource materials related to housing for individuals who are released from the Montana state
22 prison or community corrections programs;

23 (h) maintain data on the number of individuals who are discharged from the adult correction
24 services listed in 53-1-202 into a homeless shelter or a homeless situation;

25 (i) administer all state and federal funds allocated to the department for delinquent youth, as
26 defined in 41-5-103;

27 (j) collect and disseminate information relating to youth who are committed to the department for
28 placement in a correctional facility as defined in 41-5-103;

1 (k) maintain adequate data on placements that it funds in order to keep the legislature properly
2 informed of the specific information, by category, related to delinquent youth in out-of-home care facilities;
3 (l) provide funding for youth who are committed to the department for placement in a correctional
4 facility as defined in 41-5-103;
5 (m) administer correctional facilities as defined in 41-5-103; and
6 (n) use to maximum efficiency the resources of state government in a coordinated effort to:
7 (i) provide for delinquent youth committed to the department; and
8 (ii) coordinate and apply the principles of modern correctional administration to the facilities and
9 programs administered by the department.

10 (2) The department may contract with private, nonprofit or for-profit Montana corporations to
11 establish and maintain a residential sexual offender treatment program. If the department intends to contract for
12 that purpose, the department shall adopt rules for the establishment and maintenance of that program.

13 (3) The department and a private, nonprofit or for-profit Montana corporation may not enter into a
14 contract under subsection (1)(c) or (2) for a period that exceeds 20 years. The provisions of 18-4-313 that limit
15 the term of a contract do not apply to a contract authorized by subsection (1)(c) or (2). Prior to entering into a
16 contract for a period of 20 years, the department shall submit the proposed contract to the legislative audit
17 committee. The legislative audit division shall review the contract and make recommendations or comments to
18 the legislative audit committee. The committee may make recommendations or comments to the department.
19 The department shall respond to the committee, accepting or rejecting the committee recommendations or
20 comments prior to entering into the contract.

21 (4) The department of corrections may enter into contracts with nonprofit corporations or
22 associations or private organizations to provide substitute care for delinquent youth in correctional facilities.

23 (5) The department may contract with Montana corporations to operate a day reporting program as
24 an alternate sentencing option as provided in 46-18-201 and 46-18-225 and as a sanction option under 46-23-
25 1015. The department shall adopt by rule the requirements for a day reporting program, including but not
26 limited to requirements for daily check-in, participation in programs to develop life skills, and the monitoring of
27 compliance with any conditions of probation, such as drug testing.

28 (6) Rules adopted by the department pursuant to subsection (1)(a) may not amend or alter the

1 statutory powers and duties of the state board of pardons and parole. The rules for the siting, establishment,
2 and expansion of prerelease centers must state that the siting is subject to any existing conditions, covenants,
3 restrictions of record, and zoning regulations. The rules must provide that a prerelease center may not be sited
4 at any location without community support. The prerelease siting, establishment, and expansion must be
5 subject to, and the rules must include, a reasonable mechanism for a determination of community support for or
6 objection to the siting of a prerelease center in the area determined to be impacted. The prerelease siting,
7 establishment, and expansion rules must provide for a public hearing conducted pursuant to Title 2, chapter 3.

8 (7) The department shall ensure that risk and needs assessments drive the department's
9 supervision and correctional practices, including integrating assessment results into supervision contact
10 standards and case management. The department shall regularly validate its risk assessment tool."

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