

Revising Counseling Provider Approval to Include the Department of Corrections

AN ACT REVISING PARTNER OR FAMILY MEMBER ASSAULT PENALTY LAWS; REQUIRING THAT A COUNSELING PROVIDER MUST BE APPROVED BY THE COURT OR THE DEPARTMENT OF CORRECTIONS; AND AMENDING SECTION 45-5-206, MCA.

The statute as written requires that only a court can approve of a counseling provider an offender can utilize to complete the assessment and any and all recommendation for counseling, referrals, attendance, and/or treatment. This does not adequately address offenders who are committed to the Department of Corrections at sentencing.

PROPOSAL

By adding the Department of Corrections as an approving entity for counseling providers for offenders, it addresses the requirements of offenders sentenced to the Department of Corrections more adequately.



Establishing Reasonable Restorative Justice Participation Fees

AN ACT REVISING SENTENCES THAT MAY BE IMPOSED; ALLOWING RESTORATIVE JUSTICE PROGRAM PARTICAPATION FEES TO BE ESTABLISHED BY PROGRAM PROVIDERS FOR REASONABLE EXPENSES; AND AMENDING SECTION 46-18-201, MCA.

The current statute only allows providers offering restorative justice programs to offenders to charge a \$150.00 participation fee. This fee does not cover the actual expenses providers incurs to run the program. The provider may choose not to accept the offender into the program if the program is not financially sustainable.

PROPOSAL

To allow program providers to recover actual costs for offered programming by allowing them to determine reasonable fees for programs to cover actual expenses to run the program. This ensures that the restorative justice program remains a programming option to offenders. By not setting a monetary amount in statute, it allows adjustments for locality cost differences, and changes overtime to occur due to inflation without having to amend the statute in the future for this purpose alone.



Revising the Timeframe to Hold Initial Hearing After Arrest of Parolee

AN ACT REVISING THE TIMEFRAME TO HOLD AN INITIAL HEARING AFTER THE ARREST OF A PAROLEE; AMENDING SECTION 46-23-1024, MCA.

When arrests occur after 5:00 pm on a Friday of a holiday weekend, the required Tuesday on-site hearing does not allow 24-hour notice or adequate investigation. This compressed timeline undermines due process and risks releasing parolees, including violent and sexual offenders, solely to avoid missing a deadline.

Additional time ensures the supervising officer can receive reports regarding arrest events or new legal matters from investigating agencies, prior to authoring paperwork for the on-site hearing.

Additional time allows for the collection of witness statements as requested by the parolee for the hearing.

Obtaining evidence, such as lab results, take more than 5 days.

PROPOSAL

Afford additional time to ensure

- 1) arrested parolee's due process is preserved while
- 2) providing a reasonable time for the officer to administratively prepare for the on-site hearing.



Revising Presentence Investigation Reports

AN ACT REVISING PRESENTENCE INVESTIGATION REPORT LAWS

The Department of Corrections prepares presentence investigation reports (PSIs) at judges' request, but varying requirements create inconsistencies. A standardized format would streamline the process, ensure consistency, and reduce workload.

Mandatory risk and needs assessments delay PSI completion because writers must be trained and finish the assessment before drafting; allowing the assessment after sentencing and removing it from PSI requirements would expedite PSIs.

Clarifying that courts can share PSIs and allowing one initial PSI with updates would cut duplicate reports and ease PSI writers workload.

PROPOSAL

1. Remove language requiring that a defendant's characteristics, circumstances, needs, and potentialities be reported as reflected in a validated risk and needs assessment as a prerequisite to preparing a presentence investigation report.
2. Authorize the department of corrections to utilize presentence investigation reports to be utilized for penological and rehabilitative purposes.
3. Facilitate efficient sentencing by requiring courts to share existing presentence investigation reports with other Montana courts for sentencing purposes, while maintaining the confidential status of those reports.
4. Remove duplicative language and add clarifying language regarding the content of presentence investigation reports, and remove all references to "presentence investigation and reports" which is presumably a federal PSR holdover terminology.

