

1 HOUSE BILL NO. 143

2 INTRODUCED BY R. LYNCH

3 BY REQUEST OF THE COMMISSION ON SENTENCING

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CRIMINAL JUSTICE LAWS; CREATING
6 AN OVERSIGHT COUNCIL TO MONITOR AND REPORT ON THE EFFECTS OF CRIMINAL JUSTICE
7 LEGISLATION; REQUIRING THE DEPARTMENT OF CORRECTIONS TO REPORT ON CERTAIN CRIMINAL
8 JUSTICE REINVESTMENT IMPACT DATA; REQUIRING THE QUALITY ASSURANCE UNIT OF THE
9 DEPARTMENT OF CORRECTIONS TO ADOPT AN EVALUATION TOOL AND CONDUCT PROGRAM
10 EVALUATIONS; REQUIRING THE DEPARTMENT OF CORRECTIONS TO ADOPT AND MAINTAIN AN
11 INCENTIVES AND INTERVENTIONS GRID TO GUIDE COMMUNITY SUPERVISION OF OFFENDERS;
12 PROVIDING AN APPROPRIATION; PROVIDING A CONTINGENT VOIDNESS; AND PROVIDING EFFECTIVE
13 DATES AND A TERMINATION DATE."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16
17 **NEW SECTION. Section 1. Montana criminal justice oversight council -- duties -- membership.**

18 (1) There is a Montana criminal justice oversight council. The council consists of 12 members as follows:

19 (a) one member of the house of representatives selected by the speaker of the house and one member
20 of the senate selected by the president of the senate. The legislative members must be selected in consultation
21 with the minority leaders and may not be of the same political party.

22 (b) one member selected by the chief justice of the Montana supreme court;

23 (c) the director of the department of corrections or the director's designee;

24 (d) an employee of the department of corrections selected by the director who has expertise in data
25 collection and reporting;

26 (e) one member selected by the director of the department of public health and human services who has
27 expertise in behavioral health treatment services;

28 (f) the executive director of the board of crime control or the director's designee;

29 (g) a county sheriff appointed by the attorney general; and

30 (h) the following individuals appointed by the governor:

- 1 (i) a member of a state-recognized or federally recognized Indian tribe located within the boundaries of
2 the state of Montana who has expertise in criminal justice;
- 3 (ii) one member of the board of pardons and parole;
- 4 (iii) one representative of crime victims; and
- 5 (iv) one representative of a community corrections facility, treatment facility, or prerelease center.
- 6 (2) The director of the department of corrections or the director's designee shall serve as presiding officer.
- 7 (3) The council shall:
- 8 (a) review the recommendations of the commission on sentencing established in Chapter 343, Laws of
9 2015, and oversee implementation of and compliance with any legislation resulting from those recommendations;
- 10 (b) receive and analyze data collected by agencies and entities charged with implementing the
11 recommendations of the commission on sentencing and that are collecting data during the implementation and
12 management of specific recommendations;
- 13 (c) assess outcomes from the recommendations the commission on sentencing has made and
14 corresponding criminal justice reforms;
- 15 (d) request, receive, and review data and report on performance outcome data relating to criminal justice
16 reform; and
- 17 (e) receive reports required by [section 2] to be produced by the department of corrections.
- 18 (4) The council shall submit by September 1 of each even-numbered year a biennial report to the
19 governor and legislature, as provided in 5-11-210. The report must include:
- 20 (a) a description of the council's proceedings since the previous report;
- 21 (b) a summary of savings from criminal justice reforms and recommendations for how the savings should
22 be reinvested to reduce recidivism; and
- 23 (c) a description of performance measures and outcomes related to criminal justice reforms.
- 24 (5) The council may appoint a working group to track implementation, evaluate compliance with any
25 legislation resulting from criminal justice reforms, and perform other detailed analysis as directed by the council.
26 If appointed, the working group shall meet regularly and report to the council as the council requires. The working
27 group may include representatives of criminal justice agencies and key constituencies that are not members of
28 the council.
- 29 (6) The council may request legislation to enact changes to the state's criminal justice system that the
30 council finds necessary.

1 (7) The judicial branch, the department of corrections, the department of public health and human
2 services, the board of pardons and parole, and the legislative services and fiscal divisions shall provide data and
3 information as requested by the council.

4 (8) Appointments made under subsection (1) must be made within 60 days after [the effective date of this
5 act]. A vacancy on the council must be filled in the manner of the original appointment.

6 (9) Council members must be reimbursed for travel expenses as provided in 2-18-501 through 2-18-503.
7 Members of the council who are full-time salaried officers or employees of this state or any political subdivision
8 are entitled to their regular compensation. Legislative members must be compensated as provided in 5-2-302.

9 (10) The council shall report to the law and justice interim committee and the legislative finance
10 committee as requested.

11
12 **NEW SECTION. Section 2. Department of corrections to report on criminal justice reinvestment**
13 **legislation impacts.** In addition to any data or reports required by the Montana criminal justice oversight council
14 pursuant to [section 1], the department of corrections shall:

15 (1) submit an annual report to the Montana criminal justice oversight council by August 15 of each year.
16 The report must include the impact of any legislation related to recommendations from the commission on
17 sentencing established in Chapter 343, Laws of 2015, and the extent to which the department has established
18 and met implementation goals and projections concerning the prison population, recidivism rate, and other key
19 public safety metrics.

20 (2) report to the legislature by January 1 of each year on the amount of savings generated and on the
21 prison population impact under any legislation resulting from the recommendations of the commission on
22 sentencing established in Chapter 343, Laws of 2015, for the purpose of tracking the progress toward meeting
23 the impact estimates and goals of the legislation.

24
25 **NEW SECTION. Section 3. Supervision responses grid.** (1) The department shall revise, maintain,
26 and fully implement the policy known as the Montana incentives and interventions grid. The grid must guide
27 responses to negative and positive behavior by people under supervision by the department, including responses
28 to violations of supervision conditions in a swift, certain, and proportional manner. The grid must include guidance
29 and procedures to determine when and how to:

30 (a) request a warrant or arrest without a warrant;

- 1 (b) use a 72-hour detention;
- 2 (c) initiate an intervention hearing;
- 3 (d) seek departmental approval to use up to 90-day interventions; and
- 4 (e) exhaust appropriate graduated violation responses before initiating the revocation process.
- 5 (2) The department shall:
- 6 (a) provide information and training on the grid for probation and parole officers and supervisors and for
- 7 members and staff of the board of pardons and parole; and
- 8 (b) offer information and training on the grid to district court judges, prosecution and defense attorneys,
- 9 law enforcement personnel, and county detention center personnel.
- 10 (3) The department shall review the grid every 5 years to ensure it adheres to evidence-based practices
- 11 and that the use of sanctions and incentives by probation and parole officers is consistent across the state.
- 12
- 13 **NEW SECTION. Section 4. Quality assurance unit -- program standards -- evaluation --**
- 14 **cooperation with department of public health and human services.** (1) There is a quality assurance unit in
- 15 the department of corrections.
- 16 (2) In addition to duties assigned to it by the department director or otherwise required by law, the unit
- 17 shall:
- 18 (a) adopt a program evaluation tool that ensures adherence to evidence-based practices;
- 19 (b) conduct evaluations of programs to reduce recidivism that are funded by the state; and
- 20 (c) enforce standards to ensure programs are using best practices for reducing recidivism, including
- 21 targeting highest-risk individuals, adhering to evidence-based or research-driven practices, and integrating
- 22 opportunities for ongoing quality assurance and evaluation.
- 23 (3) Subject to the availability of funding, the department may contract with an independent contractor or
- 24 academic institution to complete evaluations.
- 25 (4) The unit shall work jointly with the department of public health and human services to develop
- 26 standards for the quality assurance in behavioral health or other clinical programs.
- 27 (5) The unit shall conduct regular evaluations of programs operated by the department or under a
- 28 contract with the department.
- 29 (6) After [the effective date of this act], the department shall ensure contracts signed or renewed with
- 30 providers include minimum program standards, eligibility criteria for program entry, and program dosage

1 requirements that conform with the latest research available on best practices.

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3 **NEW SECTION. Section 5. Appropriation.** There is appropriated \$28,000 from the general fund to the
4 department of corrections for the biennium beginning July 1, 2017, for the purposes of funding the council as
5 provided in [section 1].

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7 **NEW SECTION. Section 6. Notification to tribal governments.** The secretary of state shall send a
8 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
9 Chippewa tribe.

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11 **NEW SECTION. Section 7. Codification instruction.** (1) [Section 3] is intended to be codified as an
12 integral part of Title 46, chapter 23, part 10, and the provisions of Title 46, chapter 23, part 10, apply to [section
13 3].

14 (2) [Section 4] is intended to be codified as an integral part of Title 53, chapter 1, part 2, and the
15 provisions of Title 53, chapter 1, part 2, apply to [section 4].

16

17 **NEW SECTION. Section 8. Contingent voidness.** (1) Pursuant to Joint Rule 40-65, if [this act] does
18 not include an appropriation prior to being transmitted to the governor, then [section 1 and section 2(1)] are void.

19 (2) If the appropriation in [section 5] is vetoed, then [this act] is void.

20

21 **NEW SECTION. Section 9. Effective dates.** (1) Except as provided in subsection (2), [this act] is
22 effective on passage and approval.

23 (2) [Section 5] is effective July 1, 2017.

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25 **NEW SECTION. Section 10. Termination.** [Sections 1 and 2] terminate on June 30, 2019.

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