

1 HOUSE BILL NO. 693

2 INTRODUCED BY B. MERCER, J. FULLER, F. NAVE, J. PATELIS

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING PROVISIONS OF THE GENERAL
5 APPROPRIATIONS ACT; PROVIDING FOR REPORTING REQUIREMENTS FOR THE DEPARTMENT OF
6 CORRECTIONS; PROVIDING FOR REPORTING REQUIREMENTS FOR THE OFFICE OF STATE PUBLIC
7 DEFENDER; PROVIDING FOR REPORTING REQUIREMENTS FOR THE DEPARTMENT OF JUSTICE;
8 PROVIDING FOR REPORTING REQUIREMENTS FOR THE OFFICE OF COURT ADMINISTRATOR;
9 PROVIDING FOR LEGISLATIVE INTENT; PROVIDING FOR AN ADDITIONAL JUDGE TO THE 11TH AND
10 THE 18TH JUDICIAL DISTRICT DISTRICTS; ~~REVISING EXPUNGEMENT PROVISIONS IN TREATMENT~~
11 ~~COURTS;~~ EXTENDING THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING BUREAU;
12 REQUIRING THE INVESTIGATION OF CERTAIN ORGANIZATIONS BY THE DEPARTMENT OF JUSTICE;
13 ~~PROVIDING A DEFINITION OF "RECIDIVIST" FOR THE PURPOSE OF EVALUATION;~~ TRANSFERRING
14 ADMINISTRATION OF 9-1-1 FUNDS FROM THE DEPARTMENT OF ADMINISTRATION TO THE
15 DEPARTMENT OF JUSTICE; GRANTING CONSENT TO DISCONTINUE THE CONTRACT WITH THE
16 GREAT FALLS REGIONAL PRISON; PROVIDING NOTIFICATION OF DISCHARGE ELIGIBILITY;
17 ESTABLISHING AN EVIDENCE-BASED PROGRAM UNIT AT THE DEPARTMENT OF CORRECTIONS;
18 PROVIDING FOR A TRANSFER OF FUNDS; ALLOWING A DRIVER TO RENEW A DRIVER'S LICENSE
19 WHEN APPLYING FOR A REAL ID-COMPLIANT LICENSE; REDUCING FEES FOR A REAL ID-COMPLIANT
20 DRIVER'S LICENSE OR IDENTIFICATION CARD REQUESTED PRIOR TO RENEWAL; REVISING FUNDING
21 FOR THE MOTOR VEHICLE INFORMATION TECHNOLOGY SYSTEM ACCOUNT; AMENDING SECTIONS
22 3-5-102, 10-4-101, 10-4-105, 10-4-304, 44-7-204, 46-1-1104, 46-1-1204, AND 46-18-1108, 46-23-1011, 53-1-
23 211, 61-3-103, 61-3-109, 61-3-203, 61-5-111, AND 61-5-129, MCA; AMENDING SECTION 23, CHAPTER 456,
24 LAWS OF 2019; AND PROVIDING EFFECTIVE DATES."

25

26 WHEREAS, the Legislature is concerned with the delays associated with transferring defendants to
27 state custody after imposition of sentence. When the Department of Corrections does not timely assume
28 custody of defendants after sentencing, local government facilities may lack capacity to hold other persons. It is

1 the expectation of the Legislature that the Department of Corrections will ensure that defendants sentenced for
2 one or more felonies will not remain in a county detention facility for more than 10 business days after
3 sentencing unless unusual circumstances arise; and

4 WHEREAS, with respect to the Department of Corrections, the Legislature has been advised that the
5 vocational opportunities at the Montana Women's Prison are inadequate, particularly when compared to the
6 offerings at the Montana State Men's Prison. The Legislature is mindful that the campuses may face different
7 limitations in what programming may be offered based on location, footprint, and facilities; and

8 WHEREAS, with respect to the Department of Corrections, the Legislature is concerned with the
9 findings of the Legislative Audit Division in 2020 that the Department of Corrections had drug treatment beds
10 that were not fully utilized in fiscal year 2019, which resulted in a payment for failure to allow the contractor to
11 operate at 75% capacity; and

12 WHEREAS, with respect to the Department of Corrections, the Legislature is concerned that the
13 Department of Corrections has yet to fully implement statutory directives to measure the effectiveness of its
14 programs—both those provided by the Department of Corrections employees and those provided by
15 contractors. In 2017, the Legislature directed the Department of Corrections to conduct evaluations of programs
16 to determine their impact on reducing recidivism. This work, in addition to other requirements in Senate Bill No.
17 59 (2017), appears to be unaddressed or incomplete. Moreover, the Department of Corrections' definition of
18 recidivism is an inadequate measure for the determination of effectiveness of its programming. The Legislature
19 is interested in having data on crimes committed by those discharged from the Department of Corrections'
20 custody, not merely "the rate at which adult offenders return to prison in Montana for any reason within three
21 years of their release from prison", which fails to address reentry outcomes of many individuals committed to
22 the Department of Corrections' custody and evaluates a truncated time period; and

23 WHEREAS, with respect to the Office of State Public Defender, the Legislature is concerned with the
24 findings of the Legislative Audit Division in 2020 regarding billing practices by contractors, including the failure
25 to require the use of assistants for nonattorney tasks, and allowing contractors to work a number of hours each
26 year that may induce attorneys to be contractors instead of the Office of State Public Defender employees; and

27 WHEREAS, with respect to the Office of State Public Defender, it is the sense of the Legislature that
28 the Office of State Public Defender expends its appropriation, in part, to perform tasks that are not required by

1 the state or federal constitution or by statutory directive, such as in section 47-1-104(4), MCA. Given limited
2 resources and the demands on the Office of State Public Defender staff, the Legislature believes that it is
3 incumbent on the Office of State Public Defender management to limit the scope of its work to what is required
4 by statute and the constitution; and

5 WHEREAS, with respect to the Office of State Public Defender, neither through its employees nor its
6 contractors should the Office of State Public Defender impair the Legislature's intent to have defendants share
7 in the costs of counsel provided by the Office of State Public Defender. The Office of State Public Defender
8 employees and contractors should not move the court to waive assessments under section 46-8-113, MCA,
9 unless the defendant can show a compelling reason why they cannot pay this assessment over the course of
10 the sentence; and

11 WHEREAS, in House Bill No. 640 (2019), the Legislature established a mechanism to ensure that
12 sexual abuse reports generated by those with mandatory reporting responsibilities are provided to county
13 attorneys and that county attorneys report to the Attorney General on the status of the investigations and
14 prosecutions generated from these referrals. It is the sense of the Legislature that the Department of
15 ~~Corrections~~ JUSTICE has not undertaken a thorough review of the reports generated pursuant to section 41-3-
16 210(3), MCA, and the Legislature urges the Department of ~~Corrections~~ JUSTICE to do so; and

17 WHEREAS, the Legislature has taken a number of steps to strengthen the laws and investigative
18 response to address human trafficking and sexual exploitation of minors. Given the collective commitment in
19 the legislative and executive branches to combat these crimes, the Legislature needs greater clarity on whether
20 its appropriations and statutory changes are having an impact; and

21 WHEREAS, the Legislature expresses its concern that the backlog of testing on sexual assault kits
22 must be eliminated as soon as possible; and

23 WHEREAS, the definition of recidivism utilized by the judicial branch in evaluating the effectiveness of
24 treatment courts is different than the definition used by the Department of Corrections for its programming,
25 making it difficult to compare the effectiveness of treatment courts to in-patient treatment. It is the sense of the
26 Legislature that a single definition of recidivism would make it possible to have a consistent evaluation of
27 effectiveness; and

28 WHEREAS, the Legislature believes that expungement of a conviction for driving under the influence of

1 drugs or alcohol will impair the correctional and public safety goals that the Legislature aims to achieve through
2 the Section D appropriation.

3

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

5

6 NEW SECTION. Section 1. Department of corrections to report. (1) Beginning July 1, 2021, and
7 each quarter ~~afterward~~ OF THE 2023 BIENNIUM, the department of corrections shall report, in accordance with 5-
8 11-210, to the law and justice interim committee and the legislative finance committee on the utilization of drug
9 treatment beds and any payments made to contractors for the failure to allow the contractor to operate at 75%
10 capacity.

11 (2) The department of corrections shall report to the law and justice interim committee and the
12 legislative finance committee no later than September 1, 2022, on the rental voucher program to identify:

13 (a) where the voucher program is being utilized based on the location of expenditures; AND

14 ~~(b) whether the program is effectively connected to treatment and supervision; and~~

15 ~~(c)(B)~~ the strengths and weaknesses of the program as identified by the department.

16 (3) The department of corrections shall examine additional vocational programming options for the
17 Montana women's prison and report its findings to the law and justice interim committee and the legislative
18 finance committee no later than September 1, 2022.

19 (4) Beginning July 1, 2021, and each quarter ~~afterward~~ OF THE 2023 BIENNIUM, for the quarter
20 preceding the report, the department of corrections shall report to the law and justice interim committee and the
21 legislative finance committee on:

22 (a) the number of occasions a defendant sentenced for one or more felonies remained in a county
23 detention facility for more than 10 business days after sentencing; ~~and~~

24 (b) the names of the defendants who remained in a county detention facility for more than 10
25 business days after sentencing and the county detention facility in which they were held; AND

26 (C) FOR THOSE DEFENDANTS REMAINING IN A COUNTY DETENTION FACILITY FOR MORE THAN 10 BUSINESS
27 DAYS AFTER SENTENCING, ON THE RELEVANT FACTS LEADING TO THE DELAY IN TRANSFER OUT OF THE FACILITY AND
28 WHETHER THE DELAY IS ATTRIBUTABLE TO UNTIMELY RECEIPT OF A JUDGMENT OR OTHER SENTENCING DOCUMENTS

1 FROM THE JUDICIAL BRANCH.

2 (5) No later than September 1, 2022, for offenders who were under the department's supervision or in
3 the department's custody between July 1, 2015, and July 1, 2021, the department of corrections shall report to
4 the law and justice interim committee and the criminal justice oversight council the identity, criminal history,
5 including the crimes or violations requiring the report, and correctional institution history of individuals:

6 (a) who were sentenced for a felony offense between July 1, 2021, and June 30, 2022; or

7 (b) whose sentences were revoked for a violation of the terms and conditions of a suspended or
8 deferred sentence between July 1, 2021, and June 30, 2022, excluding a violation that:

9 ~~(i) is a compliance violation as defined in 46-18-203; or~~

10 ~~(ii) is not a compliance violation as defined in 46-18-203.~~

11

12 NEW SECTION. Section 2. The office of state public defender to report. (1) By July 1, 2021, the
13 office of state public defender shall report to the legislative finance committee on what measures it is taking in
14 fiscal years 2022 and 2023 to ensure that its employees are accurately and completely making time entries that
15 demonstrate how much time is:

16 (a) dedicated to core tasks;

17 (b) spent on specific cases; and

18 (c) spent on tasks other than those required to meet the constitutional requirement to provide counsel
19 for individuals not financially able to afford counsel for crimes if jail or prison time may be the punishment if
20 convicted.

21 (2) By July 1, 2021, the office of state public defender shall report to the legislative finance committee
22 on what it will do in fiscal years 2022 and 2023 to address the concerns identified by the legislative audit
23 division in 2020 regarding billing practices by contractors, including the failure to require the use of assistants
24 for nonattorney tasks, and allowing contractors to work a number of hours each year that may induce attorneys
25 to be contractors instead of the office of state public defender employees.

26 (3) No later than August 1, 2022, the office of state public defender shall report to the legislative
27 finance committee on the tasks performed by attorneys and nonattorneys in fiscal year 2022 that were not
28 required by statute or constitutional requirement and the amount of time dedicated to that work.

1 (4) No later than September 1, 2022, the office of state public defender shall report to the legislative
2 finance committee on whether funding from Title IV-E of the Social Security Act provided all funding needed to
3 provide legal representation for children and parents in child abuse and neglect proceedings in fiscal year 2022
4 and, if not, what necessary expenditures were made from other appropriated funds.

5 (5) The office of state public defender shall identify data needs for measuring agency performance
6 and establish data-based performance measurements and targets and shall report to the legislative finance
7 committee on these needs and measurements by September 1, 2022.

8 (6) No later than September 1, 2022, the office of state public defender shall report to the legislative
9 finance committee on the cases in fiscal year 2022 in which it moved for waiver of the assessment and the
10 basis for the motion.

11 (7) No later than September 1, 2022, the office of state public defender shall report to the legislative
12 finance committee on the time spent by employees and contractors in cases involving defendants in treatment
13 courts in the preceding fiscal year for each defendant. The report must report on each defendant without
14 identifying the defendant by name for each district court or court of limited jurisdiction.

15 (8) No later than September 1, 2022, the office of state public defender shall report to the legislative
16 finance committee on the time spent by employees and contractors in cases involving defendants in capital
17 cases in fiscal year 2022 for each defendant.

18
19 **NEW SECTION. Section 3. Department of justice to report.** (1) The department shall undertake a
20 thorough review of the reports generated pursuant to 41-3-210(3) and report to the law and justice interim
21 committee and the legislative finance committee no later than August 1, 2021, on the status of reporting by
22 county attorneys since the initial report deadline identified in House Bill No. 640 (2019) and its review of the
23 county attorney reports and overall assessment of the law enforcement and prosecutorial response to reports
24 from mandatory reporters.

25 (2) No later than September 1, 2022, the department of justice shall report to the law and justice
26 interim committee and the legislative finance committee on the number of human trafficking investigations
27 initiated by the department of justice in fiscal years 2021 and 2022 and the number of prosecutions generated
28 from the investigations. The report must also include information on the sentences imposed for convictions

1 obtained as a result of these prosecutions, including the names of the defendants and the crimes for which
 2 convictions were obtained.

3 (3) No later than September 1, 2022, the department of justice shall report to the law and justice
 4 interim committee and the legislative finance committee on the number of referrals to ICAC-funded programs in
 5 fiscal years 2021 and 2022 and the number of investigations initiated in response. The report must also include
 6 information on prosecutions initiated in fiscal years 2021 and 2022 as the result of these investigations and the
 7 sentences imposed for convictions obtained as a result of these prosecutions.

8 (4) The legislature expresses its concern that the backlog of testing on sexual assault kits must be
 9 eliminated as soon as possible. It has provided one-time-only funding in fiscal years 2022 and 2023 to provide
 10 additional resources to the department of justice to complete this work. No later than September 1, 2022, the
 11 department shall report to the legislative finance committee on the number of sexual assault kits evaluated in
 12 fiscal year 2022 and the work remaining to eliminate any backlog.

13 (5) NO LATER THAN SEPTEMBER 1, 2022, THE DEPARTMENT OF JUSTICE SHALL REPORT TO THE LAW AND
 14 JUSTICE INTERIM COMMITTEE AND THE LEGISLATIVE FINANCE COMMITTEE ON HOW MANY OFFENDERS HAVE HAD THEIR
 15 CONVICTIONS EXPUNGED SINCE THE PASSAGE OF [THIS ACT] THROUGH A TREATMENT COURT AND WHAT THE
 16 UNDERLYING CRIME WAS FOR.

17
 18 NEW SECTION. SECTION 4. OFFICE OF COURT ADMINISTRATOR TO REPORT. EACH QUARTER OF THE
 19 FISCAL YEAR, THE OFFICE OF COURT ADMINISTRATOR SHALL REPORT TO THE LAW AND JUSTICE INTERIM COMMITTEE AND
 20 THE LEGISLATIVE FINANCE COMMITTEE ON THE NUMBER OF CIVIL CASES THAT HAVE BEEN PENDING FOR MORE THAN 2
 21 YEARS BY JUDICIAL DISTRICT. THE REPORT MUST IDENTIFY:

22 (1) THE JUDICIAL DISTRICT;

23 (2) THE NUMBER OF CASES IN THAT DISTRICT THAT ARE PENDING FOR MORE THAN 2 YEARS BUT LESS THAN 3
 24 YEARS;

25 (3) THE NUMBER OF CASES IN THAT DISTRICT THAT ARE PENDING FOR MORE THAN 3 YEARS BUT LESS THAN 4
 26 YEARS;

27 (4) THE NUMBER OF CASES IN THAT DISTRICT THAT ARE PENDING FOR MORE THAN 4 YEARS BUT LESS THAN 5
 28 YEARS; AND

1 ~~(5) THE NUMBER OF CASES IN THAT DISTRICT THAT ARE PENDING FOR MORE THAN 5 YEARS.~~

2
3 ~~NEW SECTION. Section 5. Legislative intent.~~ It is the intent of the legislature that the judicial
4 branch confer with the Montana state library and other states' law libraries to evaluate whether a fee for service
5 model would be appropriate given the services offered by the state law library.

6
7 ~~NEW SECTION. Section 5. — Recidivism evaluation -- definitions.~~ (1) If the department of corrections,
8 the department of justice, the board of crime control, or the judicial branch undertakes an
9 evaluation of recidivist behavior, except for driving under the influence offenses, the following definitions apply:

10 ~~(a) "Custody" means a period in which a person is in the custody of the department of corrections or~~
11 ~~another correctional institution in another state based on a sentence for a felony conviction.~~

12 ~~(b) "Recidivist" means a person sentenced for a felony crime after the effective date of the bill:~~

13 ~~(i) who was previously sentenced for a felony crime within 6 years of the date of the imposition of the~~
14 ~~sentence ;~~

15 ~~(ii) who was released from custody within 6 years of the date of the imposition of the sentence; or~~

16 ~~(iii) whose sentence terminated from supervision as a probationer or parolee by the department of~~
17 ~~corrections or another state's correctional institution within 6 years of the date of the imposition of the sentence.~~

18 ~~(2) If the department of corrections, the department of justice, the board of crime control, or the~~
19 ~~judicial branch undertakes an evaluation of recidivist behavior, the government entity conducting the evaluation~~
20 ~~of recidivism rates is not required to determine whether a person released from the custody of the department~~
21 ~~of corrections has been convicted of a felony crime committed in a jurisdiction outside the state after release.~~

22 ~~(3) If the department of corrections, the department of justice, the board of crime control, or the~~
23 ~~judicial branch undertakes an evaluation to determine the recidivism rate for defendants convicted of an initial~~
24 ~~driving under the influence offense who are convicted of one or more subsequent driving under the influence~~
25 ~~offenses, "driving under the influence recidivist" means a person sentenced for a misdemeanor or felony driving~~
26 ~~under the influence offense who has been previously convicted of a subsequent misdemeanor or felony driving~~
27 ~~under the influence offense.~~

1 ~~NEW SECTION. SECTION 6.~~ SECTION 6. INVESTIGATION OF ENVIRONMENTAL ORGANIZATION COMPLIANCE . (1)
2 USING ITS CONSUMER PROTECTION OVERSIGHT AND AUTHORITY IN ACCORDANCE WITH TITLE 30, CHAPTER 14, THE
3 DEPARTMENT OF JUSTICE SHALL INVESTIGATE THE ELECTIONEERING AND RELATED POLITICAL AND LOBBYING ACTIVITIES
4 OF ENVIRONMENTAL ORGANIZATIONS OPERATING IN MONTANA. THE INVESTIGATION MUST INCLUDE BUT IS NOT LIMITED
5 TO:
6 (A) IF ORGANIZATIONS ARE MEETING THEIR EXEMPT PURPOSE AS ESTABLISHED IN THEIR TAX-EXEMPT STATUS;
7 (B) THE COMPOSITION OF ENVIRONMENTAL ORGANIZATIONS OPERATING IN MONTANA AND THE NUMBER OF
8 MONTANA RESIDENTS ACTIVELY SIGNING ANNUAL MEMBERSHIP AGREEMENTS;
9 (C) FUNDING STRUCTURES USED TO PROVIDE REVENUE TO ENVIRONMENTAL ORGANIZATIONS OPERATING IN
10 MONTANA AND THE PERCENTAGE OF FUNDING PROVIDED BY OUT-OF-STATE SOURCES, OUT-OF-COUNTRY SOURCES, OR
11 BOTH;
12 (D) POTENTIAL FAILURE TO REGISTER AS A CORPORATION OR BUSINESS ENTITY WITH THE MONTANA
13 SECRETARY OF STATE'S OFFICE WHILE SOLICITING MONETARY OR OTHER SUPPORT AND POTENTIALLY MISLEADING
14 MONTANA RESIDENTS UNDER CONSUMER PROTECTION LAWS;
15 (E) ENGAGEMENT IN POLITICAL SPEECH, LOBBYING, AND OTHER POLITICALLY MOTIVATED ACTIVITIES,
16 INCLUDING HOW ORGANIZATIONS SPEND MONEY AND PROVIDE FOR ACCOUNTABILITY AND STANDARD AUDITING
17 PRACTICES FOR FUNDING AND STAFF EMPLOYMENT; AND
18 (F) INTERPLAY BETWEEN ENVIRONMENTAL ORGANIZATIONS AND AFFILIATED FUNDING SOURCES.
19 (2) THE DEPARTMENT SHALL RESEARCH, IDENTIFY, AND LIST ALL LEGAL ACTIONS INVOLVING ENVIRONMENTAL
20 ORGANIZATIONS ACTING TO BLOCK OR OTHERWISE INFLUENCE PERMITTING, LICENSING, AND OTHER GOVERNMENTAL
21 ACTION OR REGULATION SINCE JANUARY 1, 2011.
22 (3) THE DEPARTMENT SHALL PREPARE A REPORT OUTLINING ITS FINDINGS BASED ON THE REQUIREMENTS OF
23 THIS SECTION AND PROVIDE THE REPORT TO THE LEGISLATIVE COUNCIL AND THE LEGISLATURE, IN ACCORDANCE WITH 5-
24 11-210, NO LATER THAN DECEMBER 1, 2022.

25
26 **Section 6.** Section 3-5-102, MCA, is amended to read:
27 **"3-5-102. Number of judges.** In each judicial district, there must be the following number of judges of
28 the district court:

- 1 (1) in the 2nd, 7th, 16th, 20th, and 21st districts, two judges each;
 2 ~~(2) in the 18th district, three judges;~~
 3 ~~(3)(2) in the 1st, 8th, and 11th, and 18th districts, four judges each;~~
 4 ~~(4)(3) in the 4th district AND 11TH DISTRICTS, five judges;~~
 5 ~~(5)(4) in the 13th district, eight judges; and~~
 6 ~~(6)(5) in all other districts, one judge each."~~

7
 8 **NEW SECTION. Section 7. Appointment and election of judges.** (1) The additional judge for the
 9 18th judicial district must be appointed pursuant to the provisions of Title 3, chapter 1, part 10, to take office
 10 January 3, 2022. The appointee shall serve until the day before the first Monday of January following the first
 11 general election after appointment. The candidate elected at that election holds the office for the remainder of
 12 the unexpired 6-year term.

13 (2) THE ADDITIONAL JUDGE FOR THE 11TH JUDICIAL DISTRICT MUST BE ELECTED TO TAKE OFFICE JANUARY 2,
 14 2023.

15
 16 **NEW SECTION. Section 8. AUTHORITY TO DISCONTINUE USE.** THE LEGISLATURE PROVIDES CONSENT FOR
 17 THE DEPARTMENT OF CORRECTIONS TO DISCONTINUE THE USE OF THE GREAT FALLS REGIONAL PRISON IN ACCORDANCE
 18 WITH 53-1-202(4).

19
 20 **SECTION 9. SECTION 10-4-101, MCA, IS AMENDED TO READ:**
 21 **"10-4-101. Definitions.** As used in this chapter, unless the context requires otherwise, the following
 22 definitions apply:

- 23 (1) "9-1-1 system" means telecommunications facilities, circuits, equipment, devices, software, and
 24 associated contracted services for the transmission of emergency communications. A 9-1-1 system includes
 25 the transmission of emergency communications:
 26 (a) from persons requesting emergency services to a primary public safety answering point and
 27 communications systems for the direct dispatch, relay, and transfer of emergency communications; and
 28 (b) to or from a public safety answering point to or from emergency service units.

1 (2) "Access line" means a voice service of a provider of exchange access services, a wireless
2 provider, or a provider of interconnected voice over IP service that has enabled and activated service for its
3 subscriber to contact a public safety answering point via a 9-1-1 system by entering or dialing the digits 9-1-1.
4 When the service has the capacity, as enabled and activated by a provider, to make more than one
5 simultaneous outbound 9-1-1 call, then each separate simultaneous outbound call, voice channel, or other
6 capacity constitutes a separate access line.

7 (3) "Commercial mobile radio service" means:

8 (a) a mobile service that is:

9 (i) provided for profit with the intent of receiving compensation or monetary gain;

10 (ii) an interconnected service; and

11 (iii) available to the public or to classes of eligible users so as to be effectively available to a substantial
12 portion of the public; or

13 (b) a mobile service that is the functional equivalent of a mobile service described in subsection

14 (3)(a).

15 (4) "Department" means the department of ~~administration~~ justice provided for in Title 2, chapter 15,
16 part ~~10~~ 20.

17 (5) "Emergency communications" means any form of communication requesting any type of
18 emergency services by contacting a public safety answering point through a 9-1-1 system, including voice,
19 nonvoice, or video communications, as well as transmission of any text message or analog digital data.

20 (6) "Emergency services" means services provided by a public or private safety agency, including law
21 enforcement, firefighting, ambulance or medical services, and civil defense services.

22 (7) "Exchange access services" means:

23 (a) telephone exchange access lines or channels that provide local access from the premises of a
24 subscriber in this state to the local telecommunications network to effect the transfer of information; and

25 (b) unless a separate tariff rate is charged for the exchange access lines or channels, a facility or
26 service provided in connection with the services described in subsection (7)(a).

27 (8) "Interconnected voice over IP service" means a service that:

28 (a) enables real-time, two-way voice communications;

- 1 (b) requires a broadband connection from a user's location;
2 (c) requires IP-compatible customer premises equipment; and
3 (d) permits users generally to receive calls that originate on the public switched telephone network
4 and to terminate calls to the public switched telephone network.

5 (9) "IP" means internet protocol, or the method by which data are sent on the internet, or a
6 communications protocol for computers connected to a network, especially the internet.

7 (10) "Local government" has the meaning provided in 7-11-1002.

8 (11) "Next-generation 9-1-1" means a system composed of hardware, software, data, and operational
9 policies and procedures that:

- 10 (a) provides standardized interfaces from call and message services;
11 (b) processes all types of emergency calls, including nonvoice or multimedia messages;
12 (c) acquires and integrates additional data useful to emergency communications;
13 (d) delivers the emergency communications or messages, or both, and data to the appropriate public
14 safety answering point and other appropriate emergency entities;
15 (e) supports data and communications needs for coordinated incident response and management;
16 and
17 (f) provides a secure environment for emergency communications.

18 (12) "Originating service provider" means an entity that provides capability for a retail customer to
19 initiate emergency communications.

20 (13) "Per capita basis" means a calculation made to allocate a monetary amount for each person
21 residing within the jurisdictional boundary of a county according to the most recent decennial census compiled
22 by the United States bureau of the census.

23 (14) "Private safety agency" means an entity, except a public safety agency, providing emergency fire,
24 ambulance, or medical services.

25 (15) "Provider" means a public utility, a cooperative telephone company, a wireless provider, a provider
26 of interconnected voice over IP service, a provider of exchange access services, or any other entity that
27 provides access lines.

28 (16) "Public safety agency" means a functional division of a local or tribal government or the state that

1 dispatches or provides law enforcement, firefighting, or emergency medical services or other emergency
2 services.

3 (17) "Public safety answering point" means a communications facility operated on a 24-hour basis that
4 first receives emergency communications from persons requesting emergency services and that may, as
5 appropriate, directly dispatch emergency services or transfer or relay the emergency communications to
6 appropriate public safety agencies.

7 (18) "Relay" means a 9-1-1 service in which a public safety answering point, upon receipt of a
8 telephone request for emergency services, notes the pertinent information from the caller and relays the
9 information to the appropriate public safety agency, other agencies, or other providers of emergency services
10 for dispatch of an emergency unit.

11 (19) "Subscriber" means an end user who has an access line or who contracts with a wireless provider
12 for commercial mobile radio services.

13 (20) "Transfer" means a service in which a public safety answering point, upon receipt of a telephone
14 request for emergency services, directly transfers the request to an appropriate public safety agency or other
15 emergency services provider.

16 (21) "Tribal government" has the meaning provided in 2-15-141.

17 (22) "Wireless provider" means an entity that is authorized by the federal communications commission
18 to provide facilities-based commercial mobile radio service within this state."

19

20 **SECTION 10. SECTION 10-4-105, MCA, IS AMENDED TO READ:**

21 **"10-4-105. 9-1-1 advisory council.** (1) There is a 9-1-1 advisory council.

22 (2) The council consists of 18 members appointed by the governor as follows:

23 (a) ~~the director of the department or the director's attorney general or the attorney general's~~ designee,
24 who serves as presiding officer of the council;

25 (b) a representative of the department of justice, Montana highway patrol;

26 (c) a representative of the Montana emergency medical services association;

27 (d) three representatives of Montana telecommunications providers, including at least one wireless
28 provider;

- 1 (e) a representative of the Montana association of public safety communications officials;
- 2 (f) two public safety answering point managers, one serving a population of less than 30,000 and one
3 serving a population of greater than 30,000;
- 4 (g) a representative of the department of military affairs, disaster and emergency services division;
- 5 (h) a representative of the Montana association of chiefs of police;
- 6 (i) a representative of the Montana sheriffs and peace officers association;
- 7 (j) a representative of the Montana state fire chiefs' association;
- 8 (k) a representative of the Montana state volunteer firefighters association;
- 9 (l) a representative of the Montana association of counties;
- 10 (m) a representative of the Montana league of cities and towns;
- 11 (n) the state librarian or the state librarian's designee; and
- 12 (o) the state director of Indian affairs provided for in 2-15-217.
- 13 (3) The council is attached to the department for administrative purposes only, as provided in 2-15-
14 121.
- 15 (4) The council shall, within its authorized budget, hold quarterly meetings.
- 16 (5) Council members shall serve without additional salary but are entitled to reimbursement for travel
17 expenses incurred while engaged in council activities as provided for in 2-18-501 through 2-18-503."

18

19 **SECTION 11. SECTION 10-4-304, MCA, IS AMENDED TO READ:**

- 20 **"10-4-304. Establishment of 9-1-1 accounts.** (1) Beginning July 1, 2018, there is established in the
21 state special revenue fund an account for fees collected for 9-1-1 services pursuant to 10-4-201.
- 22 (2) Funds in the account are statutorily appropriated to the department, as provided in 17-7-502.
23 Except as provided in subsection (3), beginning July 1, 2018, funds that are not used for the administration of
24 this chapter by the department or used for public safety radio communications, if allowable, are allocated as
25 follows:
- 26 (a) 75% of the account must be deposited in an account for distribution to local and tribal government
27 entities that host public safety answering points in accordance with 10-4-305 and with rules adopted by the
28 department in accordance with 10-4-108; and

1 (b) 25% of the account must be deposited in an account for distribution in the form of grants to private
 2 telecommunications providers, local or tribal government entities that host public safety answering points, or
 3 both in accordance with 10-4-306.

4 (3) Beginning July 1, 2018, all money received by the department of revenue pursuant to 10-4-201
 5 must be paid to the state treasurer for deposit in the appropriate account.

6 (4) The accounts established in subsections (1) and (2) retain interest earned from the investment of
 7 money in the accounts."

8

9 **Section 12.** SECTION 44-7-204, MCA, IS AMENDED TO READ:

10 **"44-7-204. Restriction on use of funds.** Funds deposited in the domestic violence intervention
 11 account may be used only for the program authorized in 44-7-201 and the costs authorized under 44-7-203 and
 12 may not be used to pay the expenses of any other program or service administered in whole or in part by the
 13 Montana board of crime control or the department of ~~corrections~~ justice."

14

15 **Section 8.** ~~Section 46-1-1104, MCA, is amended to read:~~

16 **~~"46-1-1104. Drug treatment court structure.~~** ~~(1) Each judicial district or court of limited jurisdiction~~
 17 ~~may establish a drug treatment court under which drug offenders may be processed to address an identified~~
 18 ~~substance abuse problem as a condition of pretrial release, pretrial diversion under 46-16-130, probation,~~
 19 ~~incarceration, parole, or other release from a detention or correctional facility.~~

20 ~~(2) Participation in drug treatment court is voluntary and is subject to the consent of the prosecutor,~~
 21 ~~the defense attorney, and the court pursuant to a written agreement.~~

22 ~~(3) A drug treatment court and governmental entities that refer an offender to a drug treatment court~~
 23 ~~shall adopt an evidence-based program evaluation tool that measures how closely the drug treatment court~~
 24 ~~programs meet the known principles of effective intervention. The tool must measure program content and~~
 25 ~~capacity to ensure the delivery of effective interventions for offenders.~~

26 ~~(4) A drug treatment court may grant reasonable incentives under a written agreement if the court~~
 27 ~~finds that a drug offender is performing satisfactorily in drug treatment court, is benefiting from education,~~
 28 ~~treatment, and rehabilitation, has not engaged in criminal conduct, and has not violated the terms and~~

1 conditions of the agreement. Reasonable incentives may include but are not limited to:

2 (a) ~~graduation certificates;~~

3 (b) ~~early graduation;~~

4 (c) ~~fee reduction or waiver of fees;~~

5

6 (d) ~~record expungement of the underlying case, unless the offense is a driving under the influence~~

7 ~~offense ; or~~

8 (e) ~~reduced contact with a probation officer.~~

9 (5) ~~The court may impose reasonable sanctions under the agreement, including incarceration or~~

10 ~~termination from the drug treatment court, if the court finds that the drug offender is not performing satisfactorily~~

11 ~~in drug treatment court, is not benefiting from education, treatment, or rehabilitation, has engaged in conduct~~

12 ~~rendering the offender unsuitable for the program, has otherwise violated the terms and conditions of the~~

13 ~~agreement, or is for any reason unable to participate. Sanctions may include but are not limited to:~~

14 (a) ~~a short term jail sentence;~~

15 (b) ~~fines;~~

16 (c) ~~extension of time in the program;~~

17 (d) ~~peer review;~~

18 (e) ~~geographical restrictions;~~

19 (f) ~~termination; or~~

20 (g) ~~contempt of court.~~

21 (6) ~~Upon successful completion of drug treatment court, a drug offender's case must be disposed of~~

22 ~~by the judge in the manner prescribed by the agreement and by the applicable policies and procedures adopted~~

23 ~~by the drug treatment court. This may include but is not limited to pretrial diversion under 46-16-130, dismissal~~

24 ~~of criminal charges, probation, deferred sentencing, suspended sentencing, or a reduced period of~~

25 ~~incarceration. A drug offender who successfully completes the program may be given credit for the time the~~

26 ~~offender served in the drug treatment program by the judge upon disposition.~~

27 (7) ~~Each local jurisdiction that intends to establish a drug treatment court or to continue the operation~~

28 ~~of an existing drug treatment court shall establish a local drug treatment court team.~~

1 ~~(8) The drug treatment court team shall, when practicable, conduct a staff meeting prior to each drug~~
2 ~~treatment court session to discuss and provide updated information regarding drug offenders. After determining~~
3 ~~the offender's progress or lack of progress, the court, with input from the drug treatment court team, shall~~
4 ~~determine the appropriate incentive or sanction to be applied.~~

5 ~~(9) The provisions of this part apply only to offenders who qualify for participation based on~~
6 ~~qualifications established by each drug treatment court. The provisions of this part do not apply to drug~~
7 ~~offenders who have been convicted of a sexual offense, as defined in 46-23-502 . . This part does not confer a~~
8 ~~right or expectation of a right to participate in a drug treatment court and does not obligate a drug treatment~~
9 ~~court to accept any offender. The establishment of a drug treatment court may not be construed as limiting the~~
10 ~~discretion of a prosecutor to act on any criminal case that the prosecutor considers advisable to prosecute.~~
11 ~~Each drug treatment court judge may establish rules and may make special orders and necessary rules that do~~
12 ~~not conflict with rules adopted by the Montana supreme court.~~

13 ~~(10) Each drug offender shall contribute to the cost of drug treatment court in accordance with 46-1-~~
14 ~~1112 (2).~~

15 ~~(11) A drug treatment court coordinator is responsible for the general administration of a drug~~
16 ~~treatment court under the direction of the drug treatment court judge.~~

17 ~~(12) The supervising agency shall timely forward information to the drug treatment court concerning~~
18 ~~the drug offender's progress and compliance with any court imposed terms and conditions.~~

19 ~~(13) A department of corrections probation and parole officer may participate in a drug treatment court~~
20 ~~team if authorized by the department. The department may authorize participation if it determines, in its~~
21 ~~discretion, that the caseloads of local probation and parole officers permit participation. If necessitated by a~~
22 ~~change in caseloads, the department may withdraw authorization for participation by its probation and parole~~
23 ~~officers in a drug treatment court. The department of corrections may not authorize its probation and parole~~
24 ~~officers to supervise a participant of a drug treatment court program who has not been convicted of a felony~~
25 ~~offense and committed to the supervision of the department."~~

26
27 **Section 9.** Section 46-1-1204, MCA, is amended to read:
28

1 ~~"46-1-1204.—Mental health treatment court structure.~~ (1) Each judicial district or court of limited
 2 jurisdiction may establish a mental health treatment court under which persons with a mental disorder who are
 3 charged with a criminal offense may be processed to address an identified mental health problem as a
 4 condition of pretrial release, pretrial diversion under 46-16-130, probation, incarceration, parole, or other
 5 release from a detention or correctional facility.

6 ~~(2)—~~ Participation in a mental health treatment court is voluntary and is subject to the consent of the
 7 prosecutor, the defense attorney, and the court pursuant to a written agreement.

8 ~~(3)—~~ A mental health treatment court may grant reasonable incentives under a written agreement.
 9 Reasonable incentives may include but are not limited to:

10 ~~(a)—~~ graduation certificates;

11 ~~(b)—~~ early graduation;

12 ~~(c)—~~ fee reduction or waiver of fees;

13 ~~(d)—~~ record expungement of the underlying case, unless the offense is a driving under the influence of
 14 fense ; or

15 ~~(e)—~~ reduced contact with a probation officer.

16 ~~(4)—~~ The court may impose reasonable sanctions under the agreement for failure to comply with the
 17 agreement. Prior to imposition of a sanction, the mental health treatment court team shall review the
 18 participant's individual treatment program and the participant's conduct. If the mental health treatment court
 19 team determines that the participant's failure to comply:

20 ~~(a)—~~ was not willful, was a symptom of a mental disorder, or was a result of an inappropriate treatment
 21 plan, the court may impose sanctions, including but not limited to:

22 ~~(i)—~~ fines;

23 ~~(ii)—~~ extension of time in the program;

24 ~~(iii)—~~ peer review; or

25 ~~(iv)—~~ geographical restrictions; or

26 ~~(b)—~~ was willful, not a symptom of a mental disorder, and not the result of an inappropriate treatment
 27 plan, the court may impose sanctions, including:

28 ~~(i)—~~ a short term jail sentence;

1 (ii) ~~termination of participation in the program; or~~

2 (iii) ~~contempt of court.~~

3 (5) ~~Upon successful completion of mental health treatment court, a participant's case must be~~
4 ~~disposed of by the judge in the manner prescribed by the agreement and by the applicable policies and~~
5 ~~procedures adopted by the mental health treatment court. This may include but is not limited to pretrial~~
6 ~~diversion under 46-16-130, dismissal of criminal charges, probation, deferred sentencing, suspended~~
7 ~~sentencing, or a reduced period of incarceration. A participant who successfully completes the program must~~
8 ~~be given credit for the time the participant served in the mental health treatment program by the judge upon~~
9 ~~disposition.~~

10 (6) ~~Each local jurisdiction that intends to establish a mental health treatment court or to continue the~~
11 ~~operation of an existing mental health treatment court shall establish a local mental health treatment court~~
12 ~~team.~~

13 (7) ~~The mental health treatment court team shall, when practicable, conduct a staff meeting prior to~~
14 ~~each mental health treatment court session to discuss and provide updated information regarding participants.~~
15 ~~After determining the participant's progress or lack of progress, the court, with input from the mental health~~
16 ~~treatment court team, shall determine the appropriate incentive or sanction to be applied. The provisions of this~~
17 ~~part apply only to persons with a mental disorder who are charged with a criminal offense and who qualify for~~
18 ~~participation based on qualifications established by each mental health treatment court. The provisions of this~~
19 ~~part do not apply to participants who have been convicted of a sexual offense, as defined in 46-23-502 . . . This~~
20 ~~part does not confer a right or expectation of a right to participate in a mental health treatment court and does~~
21 ~~not obligate a mental health treatment court to accept any offender. The establishment of a mental health~~
22 ~~treatment court may not be construed as limiting the discretion of a prosecutor to act on any criminal case that~~
23 ~~the prosecutor considers advisable to prosecute. Each mental health treatment court judge may establish rules~~
24 ~~and may make special orders and necessary rules that do not conflict with rules adopted by the Montana~~
25 ~~supreme court.~~

26 (8) ~~Each participant shall contribute to the cost of treatment and the program in accordance with 46-1-~~
27 ~~1212 (2). A mental health treatment court coordinator is responsible for the general administration of a mental~~
28 ~~health treatment court under the direction of the mental health treatment court judge. The supervising agency~~

1 shall timely forward information to the mental health treatment court concerning the participant's progress and
 2 compliance with any court-imposed terms and conditions.

3 (9) ~~A department of corrections probation and parole officer may participate in a mental health
 4 treatment court team if authorized by the department. The department may authorize participation if it
 5 determines, in its discretion, that the caseloads of local probation and parole officers permit participation. If
 6 necessitated by a change in caseloads, the department may withdraw authorization for participation by its
 7 probation and parole officers in a mental health treatment court. The department of corrections may not
 8 authorize its probation and parole officers to supervise a participant of a mental health treatment program who
 9 has not been convicted of a felony offense and committed to the supervision of the department."~~

10

11 **Section 10.** Section 46-18-1108, MCA, is amended to read:

12 **"46-18-1108. — When expungement not presumed.** (1) Expungement may not be presumed if the
 13 person seeking expungement has one or more convictions for assault under 45-5-201, partner or family
 14 member assault under 45-5-206, stalking under 45-5-220, sexual assault under 45-5-502, a violation of a
 15 protective order under 45-5-626, or driving under the influence of alcohol or drugs, however named, under Title
 16 61, chapter 8, part 4, or any offense that carries a statutorily enhanced penalty as a result of the offender
 17 driving under the influence of alcohol or drugs . . .

18 (2) ~~In making the determination of whether expungement should be granted, the district court shall
 19 consider:~~

20 (a) ~~the age of the petitioner at the time the offense was committed;~~

21 (b) ~~the length of time between the offense and the request;~~

22 (c) ~~the rehabilitation of the petitioner;~~

23 (d) ~~the likelihood that the person will reoffend; and~~

24 (e) ~~any other factor the court considers relevant.~~

25 (3) ~~Expungement in treatment courts provided for in 4 6-1-1104 AND 46-1-1204 IS NOT PERMITTED FOR
 26 A DRIVING UNDER THE INFLUENCE OFFENSE. "~~

27

28 ~~NEW SECTION. Section 11 . . . LEGISLATIVE INTENT . . . IT IS THE INTENT OF THE LEGISLATURE THAT THE~~

1 DEPARTMENT OF CORRECTIONS ESTABLISH AN EVIDENCE-BASED PROGRAM UNIT BY MOVING THREE FULL-TIME
2 EQUIVALENT POSITIONS FROM THE EXISTING QUALITY ASSURANCE UNIT, INCLUDING ANY MANAGEMENT POSITION, TO THE
3 EVIDENCE-BASED PROGRAM UNIT. IT IS ALSO THE INTENT OF THE LEGISLATURE THAT THE DEPARTMENT OF CORRECTIONS
4 DISBAND THE CURRENT QUALITY ASSURANCE UNIT AND ASSIGN THE REMAINING DUTIES AND FULL-TIME EQUIVALENT
5 POSITIONS TO OTHER APPROPRIATE WORK GROUPS.

6

7 **Section 13.** SECTION 46-23-1011, MCA, IS AMENDED TO READ:

8 **"46-23-1011. Supervision on probation.** (1) The department shall supervise probationers during
9 their probation period, including supervision after release from imprisonment imposed pursuant to 45-5-503(4),
10 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4), in accord with the conditions set by a
11 sentencing judge. If the sentencing judge did not set conditions of probation at the time of sentencing, the court
12 shall, at the request of the department, hold a hearing and set conditions of probation. The probationer must be
13 present at the hearing. The probationer has the right to counsel as provided in chapter 8 of this title.

14 (2) If the probationer is being supervised for a sexual offense as defined in 46-23-502, the conditions
15 of probation may require the probationer to refrain from direct or indirect contact with the victim of the offense or
16 an immediate family member of the victim. If the victim or an immediate family member of the victim requests to
17 the department that the probationer not contact the victim or immediate family member, the department shall
18 request a hearing with a sentencing judge and recommend that the judge add the condition of probation. If the
19 victim is a minor, a parent or guardian of the victim may make the request on the victim's behalf.

20 (3) A copy of the conditions of probation must be signed by the probationer. The department may
21 require a probationer to waive extradition for the probationer's return to Montana.

22 (4) The probation and parole officer shall regularly advise and consult with the probationer using
23 effective communication strategies and other evidence-based practices to encourage the probationer to
24 improve the probationer's condition and conduct and shall inform the probationer of the restoration of rights on
25 successful completion of the sentence.

26 (5) (a) The probation and parole officer may recommend and a judge may modify or add any
27 condition of probation or suspension of sentence at any time.

28 (b) The probation and parole officer shall provide the county attorney in the sentencing jurisdiction

1 with a report that identifies the conditions of probation and the reason why the officer believes that the judge
2 should modify or add the conditions.

3 (c) The county attorney may file a petition requesting that the court modify or add conditions as
4 requested by the probation and parole officer.

5 (d) The court may grant the petition if the probationer does not object. If the probationer objects to the
6 petition, the court shall hold a hearing pursuant to the provisions of 46-18-203.

7 (e) Except as they apply to supervision after release from imprisonment imposed pursuant to 45-5-
8 503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4), the provisions of 46-18-
9 203(7)(a)(ii) do not apply to this section.

10 (f) The probationer shall sign a copy of new or modified conditions of probation. The court may waive
11 or modify a condition of restitution only as provided in 46-18-246.

12 (6) Based on the risk and needs of each individual as determined by the individual's most recent risk
13 and needs assessment, the probation and parole officer shall ~~recommend~~ notify the probationer of eligibility for
14 conditional discharge from supervision when a probationer is in compliance with the conditions of supervision
15 when:

16 ~~(a) a low-risk probationer has served 9 months;~~

17 ~~(b) a moderate-risk probationer has served 12 months;~~

18 ~~(c) a medium-risk probationer has served 18 months; and~~

19 ~~(d) a high-risk probationer has served 24 months.~~

20

21 (a) under the women's risks and needs assessment:

22 (i) a low-risk probationer has served 9 months;

23 (ii) a moderate-risk probationer has served 12 months;

24 (iii) a medium-risk probationer has served 18 months; and

25 (iv) a high-risk probationer has served 24 months; and

26 (b) under the Montana offender reentry and risk assessment:

27 (i) a low-risk probationer has served 9 months;

28 (ii) a moderate-risk probationer has served 12 months;

1 (iii) a high-risk probationer has served 18 months; and

2 (iv) a very high-risk probationer has served 24 months.

3 (7) The probationer, the probationer's attorney, or the prosecutor may file a motion recommending
4 conditional discharge. The motion must set forth the following:

5 (a) why the probationer meets the requirements of subsection (6); and

6 (b) whether the department of corrections supports or opposes the motion.

7 (8) The motion must be served on the county attorney serving in the county of the presiding district
8 court. The movant does not need to file an accompanying brief as otherwise required by Rule 2 of the Montana
9 Uniform District Court Rules.

10 (9) The department of corrections shall make reasonable efforts to notify the victim if required by 46-
11 24-212, and the county attorney shall make reasonable efforts to notify the victim. The victim must be provided
12 the following:

13 (a) a copy of the motion;

14 (b) written notice that:

15 (i) the victim may provide written input regarding the motion or may ask the county attorney to state
16 the victim's position on the motion;

17 (ii) if a hearing is set, the date, time, and place of the hearing; and

18 (iii) the victim may appear and testify at any hearing held on the motion.

19 (10) (a) The court may hold a hearing on the motion. A judge may conditionally discharge a
20 probationer from supervision before expiration of the probationer's sentence if:

21 (i) the judge determines that a conditional discharge from supervision:

22 (A) is in the best interests of the probationer and society; and

23 (B) will not present unreasonable risk of danger to the victim of the offense; and

24 (ii) the offender has paid all restitution and court-ordered financial obligations in full.

25 (b) Subsection (10)(a) does not prohibit a judge from revoking the order suspending execution or
26 deferring imposition of sentence, as provided in 46-18-203, for a probationer who has been conditionally
27 discharged from supervision."

28

1 **Section 13.** SECTION 53-1-211, MCA, IS AMENDED TO READ:

2 ~~"53-1-211. Quality assurance EVIDENCE-BASED PROGRAM unit -- program standards -- evaluation --~~
 3 ~~cooperation with department of public health and human services -- report.~~ (1) There is a quality
 4 assurance an evidence-based program unit in the department of corrections.

5 ~~(2) In addition to duties assigned to it by the department director or otherwise required by law, the unit~~
 6 shall:

7 ~~(a) adopt an evidence-based program evaluation tool that measures how closely correctional~~
 8 ~~programs meet the known principles of effective intervention. The tool must measure program content and~~
 9 ~~capacity to ensure the delivery of effective interventions for offenders.~~

10 ~~(b) conduct evaluations of programs to reduce recidivism that are funded by the state; and~~

11 ~~(c) enforce standards to ensure that department-run and contracted programs are using best~~
 12 ~~practices for reducing recidivism, including targeting highest-risk individuals, adhering to evidence-based or~~
 13 ~~research-driven practices, and integrating opportunities for ongoing quality assurance and evaluation ; and~~

14 ~~(d) work to enhance training opportunities for evidence-based programs for both department staff~~
 15 ~~and contracted staff, to the extent that resources allow .~~

16 ~~(3) Subject to the availability of funding, the department may contract with an independent contractor~~
 17 ~~or academic institution to complete evaluations and training .~~

18 ~~(4) The unit leader shall work jointly with the department of public health and human services report~~
 19 ~~directly to the department director or deputy director and work with stakeholder and department clinical staff to~~
 20 ~~develop standards for quality assurance in behavioral health programs or other clinical programs.~~

21 ~~(5) The unit shall conduct regular evaluations of programs operated by the department or under a~~
 22 ~~contract with the department.~~

23 ~~(6) The department shall:~~

24 ~~(a) develop and maintain a list of evidence-based treatment curriculums to be utilized in programs~~
 25 ~~operated by or under contract with the department with priority being placed on adopting treatment curriculums~~
 26 ~~that are in the public domain and evidence-based; and~~

27 ~~(b) report the results of all initial and ongoing program evaluations to the law and justice interim~~
 28 ~~committee each interim, including any identified program deficiencies and the department's plan to correct~~

1 ~~these deficiencies.~~

2 ~~(7) After May 19, 2017, the The department shall ensure that contracts signed or renewed with~~
 3 ~~providers contain:~~

4 ~~(a) minimum program standards that adhere to the evidence-based program evaluation tool adopted~~
 5 ~~as required in subsection (2);~~

6 ~~(b) offender eligibility criteria for program entry with the contractor; and~~

7 ~~(c) program dosage requirements that conform to evidence-based practices."~~

8

9 **SECTION 14. SECTION 61-3-103, MCA, IS AMENDED TO READ:**

10 **"61-3-103. Filing of security interests -- perfection -- rights -- procedure -- fees.** (1) (a) Except as
 11 provided in subsection (2), the department, its authorized agent, or a county treasurer shall, upon payment of
 12 the fee required by subsection (8), enter a voluntary security interest or lien against the electronic record of title
 13 for a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or
 14 snowmobile upon receipt of a written acknowledgment of a voluntary security interest or lien by the owner of a
 15 motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile
 16 on a form prescribed by the department.

17 (b) After the voluntary security interest or lien has been entered on the electronic record of title for the
 18 motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile,
 19 the department, its authorized agent, or a county treasurer shall issue a transaction summary receipt to the
 20 owner and, if requested, to the secured party or lienholder, showing the date that the security interest or lien
 21 was perfected.

22 (c) A voluntary security interest or lien is perfected on the date that the department, its authorized
 23 agent, or a county treasurer receives the written acknowledgment of the voluntary security interest or lien from
 24 the owner of the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat,
 25 or snowmobile.

26 (d) Except as provided in subsection (3), when a person applying for a certificate of title requests
 27 issuance of a certificate of title under 61-3-201, the department shall record the voluntary security interest or
 28 lien on the face of a certificate of title.

1 (2) A security interest in a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal
2 watercraft, sailboat, or snowmobile held as inventory by a dealer licensed under Title 23, chapter 2, part 5, 6, or
3 8, or chapter 4 of this title must be perfected in accordance with Title 30, chapter 9A.

4 (3) Whenever a security interest or lien is filed against the electronic record of title for a motor vehicle,
5 trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile that is subject
6 to two security interests previously perfected under this section and the applicant has requested issuance of a
7 certificate of title under 61-3-201, the department shall endorse on the face of the certificate of title, "NOTICE.
8 This vehicle is subject to additional security interests on file with the Department of Justice." Other information
9 regarding the additional security interests is not required to be endorsed on the certificate.

10 (4) Upon default under a chattel mortgage or conditional sales contract covering a motor vehicle,
11 trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile, the mortgagee
12 or vendor has the same remedies as in the case of other personal property. In case of attachment of motor
13 vehicles, trailers, semitrailers, pole trailers, campers, motorboats, personal watercraft, sailboats, or
14 snowmobiles, all the provisions of 27-18-413, 27-18-414, and 27-18-804 are applicable except that deposits
15 must be made with the department.

16 (5) A secured party or lienholder who has a perfected security interest in a motor vehicle, trailer,
17 semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile and who fails to file a
18 satisfaction of the security interest or lien within 21 days after receiving final payment is required to pay the
19 department \$25 for each day that the secured party or lienholder fails to file the satisfaction.

20 (6) Within 24 hours after receiving notice of any involuntary liens or attachments against the record of
21 any motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or
22 snowmobile registered in this state, the department shall mail to the owner or any secured party or lienholder of
23 record a notice showing the name and address of the lien claimant, the amount of the lien, the date of
24 execution of the lien, and, in the case of attachment, the full title of the court and the action and the names of
25 the attorneys for the plaintiff and attaching creditor.

26 (7) (a) This section does not prevent a secured party or lienholder from assigning the secured party's
27 or lienholder's interest in a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal
28 watercraft, sailboat, or snowmobile, for which a certificate of title is issued under this chapter, to any other

1 person without the consent of and without affecting the interest of the holder of the certificate of title.

2 (b) If a secured party assigns all or part of the party's interest in a motor vehicle, trailer, semitrailer,
3 pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile for which a certificate of title is
4 issued under this chapter, the secured party assigning the interest shall file a copy of the assignment with the
5 department and the department shall record the assignment in the department's records.

6 (8) (a) A fee must be paid to the department to file any security interest or other lien against a motor
7 vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile. The
8 fee covers the cost of entering and, upon the subsequent satisfaction or release, of removing the security
9 interest or lien from the electronic record of title.

10 (b) ~~Beginning January 1, 2002, and ending June 30, 2019, the~~ The fee to file a lien is \$8. Of the \$8
11 fee, \$4 must be deposited in the state general fund in accordance with 15-1-504. The remaining \$4 must be
12 forwarded to the state for deposit in the motor vehicle information technology system account provided for in
13 61-3-550.

14 ~~(c) Beginning July 1, 2019, the fee is \$4 and must be deposited in the state general fund.~~

15 (9) (a) Until June 30, ~~2026~~ 2034, a fee of \$10 must be paid to the department by a vehicle owner if,
16 following satisfaction or release of a security interest and its removal from the department's records, the motor
17 vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile owner
18 requests issuance of a new certificate of title without the security interest or lien shown on the face of the title.
19 Beginning July 1, ~~2026~~ 2034, the fee for a new certificate of title under this subsection is \$5.

20 (b) Until June 30, ~~2026~~ 2034, the fee must be deposited in the motor vehicle information technology
21 system account provided for in 61-3-550.

22 (c) Beginning July 1, ~~2026~~ 2034, the \$5 fee must be deposited in the state general fund."
23

24 **SECTION 15. SECTION 61-3-109, MCA, IS AMENDED TO READ:**

25 **"61-3-109. Electronic title, lien filing, and registration.** (1) The department shall develop and
26 implement a pilot program to allow:

27 (a) electronic transmission of data by an authorized agent, a county treasurer, or a person to or from
28 the department in lieu of the transmission of paper documents;

1 (b) substantiation of electronic record transactions performed by the department, an authorized agent,
2 a county treasurer, or a person;

3 (c) the production and certification by a court or an authorized agent of a motor vehicle record
4 generated from electronic records of title and registration maintained by the department;

5 (d) electronic filing, perfection, and release of security interests or liens of record;

6 (e) certification and audit by the department of its authorized agents; and

7 (f) expedited title services for customers with exceptional needs who are willing to pay an optional fee
8 prescribed by the department by rule.

9 (2) Money collected from the fee imposed under subsection (1)(f) must be deposited in the ~~highway~~
10 ~~nonrestricted~~ motor vehicle information technology system account provided for in ~~45-70-125~~ 61-3-550."

11

12 **SECTION 16. SECTION 61-3-203, MCA, IS AMENDED TO READ:**

13 **"61-3-203. Fee for original certificate of title -- disposition.** (1) Until June 30, ~~2026~~ 2028, a person
14 applying for a certificate of title shall pay the department, its authorized agent, or a county treasurer a fee of:

15 (a) \$10 if the vehicle for which a certificate of title is sought is not a light vehicle or a truck or bus that
16 weighs 1 ton or less; or

17 (b) \$12 if the vehicle for which application is made is a light vehicle or a truck or bus that weighs 1 ton
18 or less.

19 (2) The amount of \$5 of the fee imposed pursuant to subsection (1) must be forwarded to the
20 department for deposit in the motor vehicle information technology system account provided for in 61-3-550,
21 and the remaining amount must be deposited in the state general fund.

22 (3) For expedited certificates of title, which may only be issued by the Montana motor vehicle division,
23 the entirety of the fee imposed pursuant to subsection (1) must be deposited into the motor vehicle information
24 technology system account provided for in 61-3-550.

25 (4) Beginning July 1, ~~2026~~ 2028, the fee imposed in subsection (1)(a) is \$5 and the fee imposed in
26 subsection (1)(b) is \$7 and all fees paid pursuant to this section must be deposited in the state general fund."

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28 **Section 17. SECTION 61-5-111, MCA, IS AMENDED TO READ:**

1 **"61-5-111. Contents of driver's license, renewal, license expirations, license replacements,**
2 **grace period, and fees for licenses, permits, and endorsements -- notice of expiration.** (1) (a) The
3 department may appoint county treasurers and other qualified officers to act as its agents for the sale of driver's
4 license receipts. In areas in which the department provides driver licensing services 3 days or more a week, the
5 department is responsible for sale of receipts and may appoint an agent to sell receipts.

6 (b) The department may enter into an authorized agent agreement with the county treasurer of any
7 county in which the department no longer maintains a driver examination station for the purpose of providing
8 driver's license renewal services.

9 (2) (a) The department, upon receipt of payment of the fees specified in this section, shall issue a
10 driver's license to each qualifying applicant. The license must contain:

11 (i) a full-face photograph of the licensee in the size and form prescribed by the department;

12 (ii) a distinguishing number issued to the licensee;

13 (iii) the full legal name, date of birth, and Montana residence address unless the licensee requests use
14 of the mailing address, except that the Montana residence address must be used for a REAL ID-compliant
15 driver's license unless authorized by department rule;

16 (iv) a brief description of the licensee;

17 (v) either the licensee's customary manual signature or a reproduction of the licensee's customary
18 manual signature; and

19 (vi) if the applicant qualifies under subsection (7), indication of the applicant's status as a veteran.

20 (b) The department may not use the licensee's social security number as the distinguishing number. A
21 license is not valid until it is signed by the licensee.

22 (3) (a) When a person applies for renewal of a driver's license, the department shall conduct a
23 records check in accordance with 61-5-110(1) to determine the applicant's eligibility status and shall test the
24 applicant's eyesight. The department may also require the applicant to submit to a knowledge and road or skills
25 test if:

26 (i) the renewal applicant has a physical or mental disability, limitation, or condition that impairs, or
27 may impair, the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor
28 vehicle on the highway; and

1 (ii) the expired or expiring license does not include adaptive equipment or operational restrictions
2 appropriate to the applicant's functional abilities; or

3 (iii) the applicant wants to remove or modify the restrictions stated on the expired or expiring license.

4 (b) In the case of a commercial driver's license, the department shall, if the information was not
5 provided in a prior licensing cycle, require the renewal applicant to provide the name of each jurisdiction in
6 which the applicant was previously licensed to drive any type of motor vehicle during the 10-year period
7 immediately preceding the date of the renewal application and may also require that the applicant successfully
8 complete a written examination as required by federal regulations.

9 (c) A person is considered to have applied for renewal of a Montana driver's license if the application
10 is made within 6 months before or 3 months after the expiration of the person's license, or if the person has
11 applied for a REAL ID-compliant driver's license pursuant to 61-5-129. Except as provided in subsection (3)(d),
12 a person seeking to renew a driver's license shall appear in person at a Montana driver's examination station.

13 (d) (i) Except as provided in subsections (3)(d)(iii) through (3)(d)(vi), a person may renew a driver's
14 license by mail or online.

15 (ii) An applicant who renews a driver's license by mail or online shall submit to the department an
16 approved vision examination and a medical evaluation from a licensed physician, licensed physician assistant,
17 or advanced practice registered nurse, as defined in 37-8-102, in addition to the fees required for renewal.

18 (iii) If the department does not have a digitized photograph and signature record of the renewal
19 applicant from the expiring license, then the renewal applicant shall apply in person.

20 (iv) Except as provided in subsections (4)(b) and (4)(c), the term of a license renewed by mail or online
21 is 8 years.

22 (v) The department may not renew a license by mail or online if:

23 (A) the records check conducted in accordance with 61-5-110(1) shows an ineligible license status for
24 the applicant;

25 (B) the applicant holds a commercial driver's license with a hazardous materials endorsement, the
26 retention of which requires additional testing and a security threat assessment under 49 CFR, part 1572;

27 (C) the applicant seeks a change of address, a change of date of birth, or a name change; or

28 (D) the applicant's license:

1 (I) has been expired for 3 months or longer; or

2 (II) except as provided in subsection (3)(e), was renewed by mail or online at the time of the applicant's
3 previous renewal.

4 (vi) If a license was issued to a foreign national whose presence in the United States is temporarily
5 authorized under federal law, the license may not be renewed by mail or online.

6 (e) The spouse or a dependent of a renewal applicant who is stationed outside Montana on active
7 military duty may renew the applicant's license by mail or online for one additional consecutive term following a
8 renewal by mail or online.

9 (f) The department shall send electronically or mail a driver's license renewal notice no earlier than
10 120 days and no later than 30 days prior to the expiration date of a driver's license. The department shall send
11 the notice to the licensee's Montana mailing address shown on the driver's license or, if requested by the
12 licensee, provide the notice using an authorized method of electronic delivery, or both.

13 (4) (a) Except as provided in subsections (4)(b) through (4)(e), a license expires on the anniversary
14 of the licensee's birthday 8 years or less after the date of issue or on the licensee's 75th birthday, whichever
15 occurs first.

16 (b) A license issued to a person who is 75 years of age or older expires on the anniversary of the
17 licensee's birthday 4 years or less after the date of issue.

18 (c) A license issued to a person who is under 21 years of age expires on the licensee's 21st birthday.

19 (d) (i) Except as provided in subsection (4)(d)(ii), a commercial driver's license expires on the
20 anniversary of the licensee's birthday 4 years or less after the date of issue.

21 (ii) When a person obtains a Montana commercial driver's license with a hazardous materials
22 endorsement after surrendering a comparable commercial driver's license with a hazardous materials
23 endorsement from another licensing jurisdiction, the license expires on the anniversary of the licensee's
24 birthday 4 years or less after the date of the issue of the surrendered license if, as reported in the commercial
25 driver's license information system, a security threat assessment was performed on the person as a condition of
26 issuance of the surrendered license.

27 (e) A license issued to a person who is a foreign national whose presence in the United States is
28 temporarily authorized under federal law expires, as determined by the department, no later than the expiration

1 date of the official document issued to the person by the bureau of citizenship and immigration services of the
2 department of homeland security authorizing the person's presence in the United States.

3 (5) When the department issues a driver's license to a person under 18 years of age, the license must
4 be clearly marked with a notation that conveys the restrictions imposed under 61-5-133.

5 (6) (a) Upon application for a driver's license or commercial driver's license and any combination of
6 the specified endorsements, the following fees must be paid:

7 (i) driver's license, except a commercial driver's license -- \$5 a year or fraction of a year;

8 (ii) motorcycle endorsement -- 50 cents a year or fraction of a year;

9 (iii) commercial driver's license:

10 (A) interstate -- \$10 a year or fraction of a year; or

11 (B) intrastate -- \$8.50 a year or fraction of a year.

12 (b) A renewal notice for either a driver's license or a commercial driver's license is 50 cents.

13 (7) (a) Upon receiving a request from a person whose status as a veteran has been verified by the
14 department of military affairs pursuant to 10-2-1301 and upon receiving the information and fees required in this
15 part, the department shall include the word "veteran" on the face of the license.

16 (b) After a person's status as a veteran is denoted on a driver's license, the department may not
17 require further documentation of that status from the holder of the license upon subsequent renewal or
18 replacement.

19 (8) (a) Except as provided in subsection (8)(b), an applicant may request a replacement driver's
20 license online or by mail.

21 (b) If the department does not have a digitized photograph and signature record of the applicant, the
22 applicant shall apply in person.

23 (c) The term of the replacement license must be the term of the applicant's current driver's license.

24 (9) (a) An applicant may request an expedited delivery service for a driver's license or identification
25 card. The department shall set a fee for expedited delivery based on the cost of providing this service.

26 (b) The fees for expedited delivery must be deposited in the motor vehicle division administration
27 account established in 61-3-112 and used for the purposes of expediting delivery, including actual costs for
28 delivery, personnel, and related technology."

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Section 18. SECTION 61-5-129, MCA, IS AMENDED TO READ:

"61-5-129. (Temporary) REAL ID-compliant driver's license or identification card -- voluntary application. (1) The department shall issue a Montana driver's license or identification card that complies with the requirements of the federal REAL ID Act of 2005, Public Law 109-13, to each qualifying applicant.

(2) (a) When required to obtain a Montana driver's license or identification card, a person may choose to apply for either a standard driver's license or identification card, or for a REAL ID-compliant driver's license or REAL ID-compliant identification card.

(b) A person may not hold a valid standard driver's license or identification card and a valid REAL ID-compliant driver's license or identification card at the same time.

(3) (a) A REAL ID-compliant driver's license issued pursuant to this section is subject to the other requirements of obtaining, renewing, and using a standard driver's license issued pursuant to this chapter.

(b) A REAL ID-compliant identification card issued pursuant to this section is subject to the other requirements of obtaining, renewing, and using a standard identification card issued pursuant to Title 61, chapter 12, part 5, and this chapter.

(4) (a) In addition to the fees charged to apply for or renew a standard driver's license under 61-5-111(6) and the fees charged to apply for a standard identification card under 61-12-504, the department may charge the following additional fees:

(i) for a person who is applying for a REAL ID-compliant driver's license or identification card during or prior to a renewal period specified in 61-5-111(3)(c), the additional fee is \$25; and

~~(ii) for a person who is applying for a REAL ID-compliant driver's license or identification card prior to the renewal period specified in 61-5-111 (3)(c), the additional fee is \$50; and~~

~~(iii)~~(ii) for a person who renews a standard driver's license or a standard identification card under 61-5-111(3)(c) between June 1, 2017, through December 31, 2017, and is applying for a REAL ID-compliant driver's license or identification card between January 1, 2018, and June 30, 2018, the additional fee is \$25.

(b) The fees collected under this subsection (4) must be deposited in the state special revenue fund to be used to fund the equipment and staffing necessary to provide REAL ID-compliant driver's licenses and identification cards. (Void on occurrence of contingency--sec. 8, Ch. 443, L. 2017.)"

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Section 19. Section 23, Chapter 456, Laws of 2019, is amended to read:

"Section 23. Termination. [Sections 3 and 4 5 4] terminate June 30, ~~2021~~ 2023."

NEW SECTION. Section 20. TRANSFER OF FUNDS. BY AUGUST 15, 2021, THE DEPARTMENT OF JUSTICE SHALL TRANSFER \$354,901 IN STATE SPECIAL REVENUE FROM THE ACCOUNT PROVIDED FOR IN 30-14-143 TO THE STATE SPECIAL REVENUE ACCOUNT PROVIDED FOR IN 46-1-1115. THE TRANSFER SHALL UTILIZE THE PROCEEDS FROM THE SETTLEMENT IN STATE OF MONTANA V. MCKINSEY & COMPANY, INC., DDV 2021-107 (1ST JUDICIAL DISTRICT), AND THE FINAL CONSENT JUDGMENT ORDERED ON FEBRUARY 5, 2021.

NEW SECTION. Section 21. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2021.

(2) [Sections ~~4 4~~ and ~~12 16~~ and 18 19 and 21] are effective June 30, 2021.

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