

Complete Shaded Areas

Form last update 1/18/2012

Proposed 2013 Session Legislation

Agency Name & No: Corrections 6401

Priority Number: 1 **Filename:** 6401-02-001

Short Title: Clarify disposition and placement of youth in adult corrections programs and facilities

Agency Contact Person/Phone: Pam Bunke 444-9601

1. Purpose:

Amend 41-5-206(6) to allow the department to evaluate and place youth sentenced as adults and committed to the department in whatever facility or program it deems most appropriate, and prohibit transfer of youth to adult supervision if youth has committed only misdemeanor offenses.

2. Background:

a. MCA 41-5-206(6) is currently confusing concerning the department's role when a youth is found guilty as an adult and committed to the department. The statute allows the department to place the youth in an "institution that it considers proper including a state youth correctional facility under the procedures of 52-5-111." However, 52-5-111 only refers to youth sentenced to prison. This legislation seeks to end this confusion by allowing the department to place the youth in any facility or program it deems appropriate. b. This legislation also seeks to amend 41-5-208 to prohibit the youth court from transferring youth to adult supervision if the youth has been adjudicated only for misdemeanor offenses. Currently, there is no such prohibition and a youth who has committed only misdemeanor offenses can be transferred to adult supervision, and if violated, be sent to prison.

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible.*

Part (a) will have no fiscal impact; Part (b) of this legislation will have a minimal positive impact on the Department of Corrections as it will, over the biennium, possibly prevent a youth from entering the adult system.

4. Summary Checklist [Check & complete all that apply]--

- Housekeeping Only Federal Requirement Audit Recommendation (Audit No.) [] Major Legislation
- Anticipated to be Controversial Legislation Bill Draft has been included in Legislation Submittal (if available)
- Supports Submitted EPP Item Number [] Local Government Fiscal Impact
- Increases FTE, or Decreases FTE by List FTE amount and program []
- Increases Existing Revenue Tax Fee Penalty [amount in #3]
- Decreases Existing Revenue Tax Fee Penalty [amount in #3]
- Establishes New Revenue Tax Fee Penalty [amount in #3]
- Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no): []
- Legislation would affect other state agencies (list): []
- Special Interest Groups Affected (list): []
- Other: County attorneys and courts

Proposed 2013 Session Legislation

Agency Name & No: Corrections 6401

Priority Number: 1 | Filename: 6401-02-002

Short Title: Amend sex offender registration statute to conform with presentence investigation statute concerning sex offender evaluation reports and tier level designations.

Agency Contact Person/Phone: Pam Bunke 444-9601

1. Purpose:

To have MCA 46-23-509 conform with 46-18-111 concerning who can do sex offender evaluations and tier level recommendations.

2. Background:

MCA 46-18-111 and 46-23-509 both refer to the same sex offender evaluation report and the same persons who do the reports, but the statutes differ concerning credentialing for the evaluators. One mandates the Department of Labor and Industry set the credentialing standard, the other gives that task to the Department of Corrections. This legislation seeks to make the two statutes consistent with each other and seeks to allow Department of Labor and Industry, who is in the best position, to set the standards for sex offender evaluators, to set credentialing standards for evaluators and make decisions concerning who has met the standards. Department of Corrections is not qualified to make those determinations.

3. Fiscal Impact by Fund Type: This impact should be as specific as possible.

None

4. Summary Checklist [Check & complete all that apply]--

- Housekeeping Only, Federal Requirement, Audit Recommendation, Major Legislation, Anticipated to be Controversial Legislation, Bill Draft has been included in Legislation Submittal, Supports Submitted EPP Item Number, Local Government Fiscal Impact, Increases/Decreases FTE, Revenue changes (Tax, Fee, Penalty), Leg. has been Submitted in Previous Legislative Sessions, Legislation would affect other state agencies (Department of Labor and Industry), Special Interest Groups Affected (Montana Sex Offender Treatment Association), Other.

Proposed 2013 Session Legislation

Agency Name & No: Corrections 6401

Priority Number: 1 Filename: 6401-03-004

Short Title: To make it illegal to transfer a cell phone to a prison or jail inmate.

Agency Contact Person/Phone: Leroy Kirkegard 846-1320 x: 2200

1. Purpose:

To amend 45-2-101 to make sure that cell phones are included in the definition of "illegal articles" that cannot be transferred to inmates.

2. Background:

MCA 45-7-307 makes it illegal to transfer an illegal article to a person subject to official detention (a person in prison or jail). The definition of "illegal article" is found in MCA 45-2-101(30). It only says an illegal article is an article or thing that is prohibited by statute, rule, or order from being in the possession of a person subject to official detention. This legislation seeks to prohibit persons from transferring cell phones to inmates of prisons or jails. Cell phones can be extremely harmful to the safety and security of a prison or jail. To make sure cell phones are included as illegal articles, 45-2-101 (30) needs to be amended.

3. Fiscal Impact by Fund Type: This impact should be as specific as possible.

The penalty for transferring an article other than a weapon or dangerous drug is up to 13 months in prison. The department estimates that if enacted, this legislation would have minimal fiscal impact.

4. Summary Checklist [Check & complete all that apply]--

- Housekeeping Only, Federal Requirement, Audit Recommendation, Major Legislation, Anticipated to be Controversial Legislation, Bill Draft has been included in Legislation Submittal, Supports Submitted EPP Item Number, Local Government Fiscal Impact, Increases FTE, Decreases FTE, Revenue changes (Tax, Fee, Penalty), Previous Legislative Sessions, Other state agencies, Special Interest Groups Affected (list): Counties that operate detention centers; county attorneys in countie, Other.

Proposed 2013 Session Legislation

Agency Name & No: Corrections 6401

Priority Number: 1 Filename: 6401-02-003

Short Title: Allow addictions counselors to treat gambling addictions.

Agency Contact Person/Phone: Pam Bunke 444-9601

1. Purpose:

The purpose of this legislation is to amend 37-35-102 to add gambling to the definition of addiction so persons licensed to treat addictions can treat gambling addictions as well as alcohol and drug addictions.

2. Background:

Currently, addiction counselors are only licensed to treat dependence on "alcohol or other drugs." Criminal offenders who have addictions often have gambling addictions as well as alcohol and drug addictions. Counselors who treat these offenders should be licensed to treat all these addictions, not just alcohol and drugs. The proposed legislation seeks to add "gambling" to the definition of addictions.

3. Fiscal Impact by Fund Type: This impact should be as specific as possible.

None

4. Summary Checklist [Check & complete all that apply]--

- Housekeeping Only Federal Requirement Audit Recommendation (Audit No.:) Major Legislation
- Anticipated to be Controversial Legislation Bill Draft has been included in Legislation Submittal (if available)
- Supports Submitted EPP Item Number Local Government Fiscal Impact
- Increases FTE, or Decreases FTE by List FTE amount and program
- Increases Existing Revenue Tax Fee Penalty [amount in #3]
- Decreases Existing Revenue Tax Fee Penalty [amount in #3]
- Establishes New Revenue Tax Fee Penalty [amount in #3]
- Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):
- Legislation would affect other state agencies (list): Department of Public Health and Human
- Special Interest Groups Affected (list): Licensed Clinical Social Workers; Licensed Clinical Professional Cc
- Other:

Complete Shaded Areas

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Proposed 2013 Session Legislation

Agency Name & No: Corrections 6401

Priority Number: 1 | **Filename:** 6401-03-005

Short Title: Peace officer status for Department of Corrections investigators

Agency Contact Person/Phone: Steve Barry 444-0406

1. Purpose:

To establish Department of Corrections' investigators as Peace Officers within the meaning of 46-1-202 MCA for the limited purpose of investigating suspected crimes in Department facilities and contracted Department secure facilities.

2. Background:

Department investigators now are able to investigate suspected crimes in Department facilities and contracted secure facilities by virtue of a memorandum of understanding with the Department of Justice. This legislation seeks to replace the MOU with a permanent legislative enactment that would confer peace officer status on Department investigators. A legislative enactment would give investigators the permanent status they need. The status would allow them to investigate suspected crimes at Montana state prisons (including the private prison, regional prisons, and the women's prison), youth correctional facilities, the Treasure State Correctional Training Center, the Missoula Assessment and Sanction Center, and the Great Falls Youth Transition Centers. Without this legislation or a sufficient morandum of understanding with the Department of Justice, local peace officers would have to investigate all the possible crimes in these facilities, including possible crimes under the Prison Rape Elimination Act (PREA). With new regulations for PREA, local officers would have a much increased case load. The Department and local law enforcement is in a more precarious position if it must rely on a MOU.

3. Fiscal Impact by Fund Type: *This impact should be as specific as possible.*

Minimal. The investigators would be members of Game Warden and Peace Officer Retirement System and the employer contribution is slightly more than the contribution for PERS.

4. Summary Checklist [Check & complete all that apply]--

- Housekeeping Only
- Federal Requirement
- Audit Recommendation (Audit No., [])
- Major Legislation
- Anticipated to be Controversial Legislation
- Bill Draft has been Included in Legislation Submittal (if available)
- Supports Submitted EPP Item Number []
- Local Government Fiscal Impact
- Increases FTE, or Decreases FTE by [] List FTE amount and program []
- Increases Existing Revenue Tax Fee Penalty [amount in #3]
- Decreases Existing Revenue Tax Fee Penalty [amount in #3]
- Establishes New Revenue Tax Fee Penalty [amount in #3]
- Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no): []
- Legislation would affect other state agencies (list): Department of Justice (DCI)
- Special Interest Groups Affected (list): Montana Sheriff and Peace Officer Association; Montana Associatic
- Other: []