

1 HOUSE BILL NO. 916
2 INTRODUCED BY B. MERCER

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; ~~EXTENDING THE TERMINATION DATE OF PUBLIC SAFETY~~
10 ~~OFFICER STANDARDS AND TRAINING AND ITS REPORTING REQUIREMENTS~~; EXPANDING ELIGIBLE
11 ~~USES OF THE PETROLEUM TANK RELEASE CLEANUP FUND~~; ESTABLISHING REPORTING
12 ~~REQUIREMENTS; AMENDING SECTION 75-11-313, MCA; AMENDING SECTION 23, CHAPTER 456, LAWS~~
13 ~~OF 2019, AND SECTION 19, CHAPTER 566, LAWS OF 2021~~; AND PROVIDING AN EFFECTIVE DATE AND
14 ~~A TERMINATION DATE.~~"

15
16 WHEREAS, the 68th Legislature has funded new programs in Section D entities and enacted new
17 statutes, both of which will impact governmental operations. The Legislature has an interest in monitoring the
18 implementation of the programs and whether they are effective; and

19 WHEREAS, the work of the judicial branch, law enforcement, and justice budget committee in 2021
20 and 2022 and the 68th Legislature has generated interest in a number of subjects that require ongoing data
21 gathering and analysis to perform oversight regarding the administration of justice.

22
23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

24
25 NEW SECTION. **Section 1. Reporting requirement for agencies whose budgets are considered**
26 **by subcommittee of committee on appropriations for judicial branch, law enforcement, and justice.** No
27 later than September 1, 2023, each agency that reports to the judicial branch, law enforcement, and justice joint
28 subcommittee shall report to the judicial branch, law enforcement, and justice budget committee on their

1 respective inventories of equipment, including computers, servers, vehicles, and other assets, and the
2 projected useful life of each asset.

3
4 **NEW SECTION. Section 2. Department of corrections to report.** (1) Beginning July 1, 2023, and
5 each quarter of the 2025 biennium, the department of corrections shall report, in accordance with 5-11-210, to
6 the law and justice interim committee and the judicial branch, law enforcement, and justice budget committee
7 on the utilization of drug treatment beds and any payments made to contractors for the failure to allow the
8 contractor to operate at 75% capacity.

9 (2) The department of corrections shall report to the law and justice interim committee and the
10 judicial branch, law enforcement, and justice budget committee no later than September 1, 2023, and
11 September 1, 2024, on the expenditures in the previous fiscal year in the rental voucher program to identify:

12 (a) where the voucher program is being utilized based on the location of expenditures for each
13 county;

14 (b) the strengths and weaknesses of the program as identified by the department of corrections;
15 and

16 (c) programming to reduce recidivism offered in each of the facilities by the property owner
17 accepting rental vouchers.

18 (3) Beginning July 1, 2023, and each quarter of the 2025 biennium, for the quarter preceding the
19 report, the department of corrections shall report to the law and justice interim committee and the judicial
20 branch, law enforcement, and justice budget committee on:

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

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

25 (c) for those defendants remaining in a county detention facility for more than 10 business days
26 after sentencing, the relevant facts leading to the delay in transfer out of the facility, and whether the delay is
27 attributable to untimely receipt of a judgment of other sentencing documents from the judicial branch.

28 (4) Beginning October 15, 2023, and by the 15th day of the first month following the end of each

1 quarter of the 2025 biennium, for the new expenditures funded under the efficiencies in community corrections
2 program, the department of corrections shall report to the law and justice interim committee and the judicial
3 branch, law enforcement, and justice budget committee on the number of offenders for each county
4 participating in the program, the identity of the entities providing housing to participants, and the physical
5 addresses for the housing locations.

6 (5) Beginning October 15, 2023, and by the 15th day of the first month following the end of each
7 quarter of the 2025 biennium, for the new expenditures funded under DOC Supplemental Option 1, the
8 department of corrections shall report to the law and justice interim committee and the judicial branch, law
9 enforcement, and justice budget committee on the number of days that the supplemental placements in
10 community corrections facilities were not fully utilized for each facility.

11 (6) Beginning on July 15, 2023, and on the 15th day of the first month of every subsequent quarter
12 in the 2025 biennium, for evaluations conducted pursuant to 53-1-211(2)(b) of programs to reduce recidivism,
13 the department of corrections shall report on the status of ongoing evaluations and provide written reports on
14 evaluations completed subsequent to the last quarterly report to the law and justice interim committee and the
15 judicial branch, law enforcement, and justice budget committee.

16 (7) The department of corrections and the board of pardons and parole shall:

17 (a) report to the law and justice interim committee and the judicial branch, law enforcement, and
18 justice budget committee on its plan to comply with 46-23-218(4) no later than July 15, 2023; and

19 (b) submit a report, including all data required to be gathered, pursuant to 46-23-218(4) to the law
20 and justice interim committee and the judicial branch, law enforcement, and justice budget committee no later
21 than July 1, 2024.

22 (8) The department of corrections shall contract with a third party to study the adequacy of its
23 staffing at the men's prison and the women's prison and ensure that the report is completed and delivered to
24 the law and justice interim committee and the judicial branch, law enforcement, and justice budget committee
25 no later than September 1, 2024.

26 (9) For evaluations conducted pursuant to 53-1-211(5) of programs not otherwise reported to the
27 law and justice interim committee and the judicial branch, law enforcement, and justice budget committee
28 pursuant to subsection (6), beginning on July 15, 2023, and on the 15th day of the first month of every

1 subsequent quarter in the 2025 biennium, the department of corrections shall report quarterly on the status of
2 ongoing evaluations and provide written reports on evaluations completed subsequent to the last quarterly
3 report to each committee.

4 (10) Beginning on October 15, 2023, and on the 15th day of the first month of every subsequent
5 quarter in the 2025 biennium, the department of corrections shall report to the judicial branch, law enforcement,
6 and justice budget committee on the costs incurred due to the enactment of House Bill 174 from the 2023
7 legislative session.

8 (11) No later than September 1, 2024, the department of corrections shall report to the judicial
9 branch, law enforcement, and justice budget committee on actions taken in fiscal year 2024 to address
10 performance audits 20P-05 and 22P-03 completed by the legislative audit division.

11 (12) Beginning on October 15, 2023, and on the 15th day of the first month of every subsequent
12 quarter in the 2025 biennium, the department of corrections shall report to the judicial branch, law enforcement,
13 and justice budget committee on the number of individuals in its custody on waiting lists for chemical addiction,
14 sex offender treatment, or anger management. The information must be provided for each facility treatment
15 type, and include community corrections providers.

16 (13) Beginning on October 15, 2023, and on the 15th day of the first month of every subsequent
17 quarter in the 2025 biennium, the department of corrections shall provide to the judicial branch, law
18 enforcement, and justice budget committee the names of offenders paroled during the prior quarter and the
19 communities to which they were paroled.

20 (14) Beginning on October 15, 2023, and on the 15th day of the first month of every subsequent
21 quarter in the 2025 biennium, the department of corrections shall provide to the judicial branch, law
22 enforcement, and justice budget committee the names of offenders conditionally released during the prior
23 quarter and the communities in which they are residing due to the conditional release.

24 (15) Beginning on October 15, 2023, and on the 15th day of the first month of every subsequent
25 quarter in the 2025 biennium, the department of corrections shall provide to the judicial branch, law
26 enforcement, and justice budget committee the numbers of offenders on probation in each city or town.

27 (16) Beginning on October 15, 2023, and on the 15th day of the first month of every subsequent
28 quarter in the 2025 biennium, the department of corrections shall provide to the judicial branch, law

1 enforcement, and justice budget committee the numbers of offenders on parole, conditional release, or
2 probation who are alleged to have committed felonies in the previous quarter and the communities in which the
3 alleged crimes occurred.

4 (17) No later than September 1, 2024, and September 1, 2025, the department of corrections shall
5 report to the judicial branch, law enforcement, and justice budget committee the number of occasions that the
6 department of corrections used the authority provided in House Bill 426 from the 2023 legislative session in the
7 prior fiscal year.

8 (18) Beginning on October 15, 2023, and on the 15th day of the first month of every subsequent
9 quarter in the 2025 biennium, the department of corrections shall report to the judicial branch, law enforcement,
10 and justice budget committee on the number of inmates on parole who remain incarcerated 30 days after their
11 hearing and the basis for the continued incarceration.

12 (19) Beginning on October 15, 2023, and on the 15th day of the first month of every subsequent
13 quarter in the 2025 biennium, the department of corrections shall report to the judicial branch, law enforcement,
14 and justice budget committee on the number of inmates for each facility who are on a waiting list for vocational
15 training and the training to be commenced when it is available.

16
17 **NEW SECTION. Section 3. The office of state public defender to report.** (1) Beginning October
18 15, 2023, and on the 15th day of the first month each quarter after that in the 2025 biennium, the office of state
19 public defender shall report to the judicial branch, law enforcement, and justice budget committee on the tasks
20 performed by attorneys and nonattorneys that were not required by statute or constitutional requirement and
21 the amount of time dedicated to that work.

22 (2) Beginning October 15, 2023, and by the 15th day of the month following each quarter after that
23 in the 2025 biennium, the office of state public defender shall report to the judicial branch, law enforcement, and
24 justice budget committee on whether funding from Title IV-E of the Social Security Act provided all funding
25 needed to provide legal representation for children and parents in child abuse and neglect proceedings in the
26 preceding quarter and, if not, what necessary expenditures were made from other appropriated funds.

27 (3) Beginning October 15, 2023, and on the 15th day of the first month of each quarter after that in
28 the 2025 biennium, the office of state public defender shall forward to the judicial branch, law enforcement, and

Amendment - 2nd Reading-yellow - Requested by: Barry Usher - (S) Committee of Whole

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0916.004.001

1 justice budget committee a report on the cases in the previous quarter in which the office of state public
2 defender moved for waiver of the cost of counsel pursuant to 46-8-113(1) and the basis for the motion.

3 (4) No later than September 1, 2024, the office of state public defender shall report to the judicial
4 branch, law enforcement, and justice budget committee on the time spent by employees and contractors in
5 cases involving defendants in capital cases in fiscal year 2024 for each defendant.

6 (5) Beginning July 15, 2023, and on the 15th day of each quarter after that in the biennium, the
7 office of state public defender shall report to the judicial branch, law enforcement, and justice budget committee
8 on the number of employees of the office of state public defender qualified to be appointed as counsel for
9 defendants in cases in which the state has elected to seek the death penalty.

10 (6) Beginning July 15, 2023, and on the 15th day of the first month of each quarter after that in the
11 2025 biennium, the office of state public defender shall report to the judicial branch, law enforcement, and
12 justice budget committee on any protocols issued pursuant to 47-1-104.

13 (7) Beginning October 15, 2023, and on the 15th day of the first month of each quarter after that in
14 the 2025 biennium, the office of state public defender shall report the data required by 47-1-125(1)(b)(xi) to the
15 judicial branch, law enforcement, and justice budget committee.

16 (8) BEGINNING OCTOBER 15, 2023, AND ON THE 15TH DAY OF THE FIRST MONTH OF EACH QUARTER
17 AFTER THAT IN THE 2025 BIENNIUM, THE OFFICE OF STATE PUBLIC DEFENDER SHALL REPORT TO THE JUDICIAL BRANCH,
18 LAW ENFORCEMENT, AND JUSTICE BUDGET COMMITTEE ON:

19 (A) THE NUMBER OF CASES IN WHICH THE OFFICE OF STATE PUBLIC DEFENDER WAS APPOINTED TO
20 REPRESENT DEFENDANTS IN THE PREVIOUS QUARTER IN EACH COUNTY, INCLUDING A SEPARATE DISCLOSURE OF THE
21 NUMBER OF APPOINTMENTS TO EMPLOYEES OF THE OFFICE OF PUBLIC DEFENDER COMPARED TO CONTRACT
22 ATTORNEYS;

23 (B) REGARDING THE NUMBER OF APPOINTMENTS REPORTED PURSUANT TO SUBSECTION (A), THE NUMBER
24 OF APPOINTMENTS MADE IN EACH COUNTY FOR CASES IN WHICH THE OFFENSE OR OFFENSES CHARGED ALLEGE
25 VIOLATIONS OF LOCAL ORDINANCES AND NOT STATE STATUTES; AND

26 (C) REGARDING THE NUMBER OF APPOINTMENTS REPORTED PURSUANT TO SUBSECTION (A), THE COSTS
27 INCURRED IN EACH COUNTY TO COMPENSATE CONTRACTORS.

28

1 NEW SECTION. Section 4. Department of justice to report. (1) The department of justice shall
2 undertake a thorough review of the reports generated pursuant to 41-3-210(3) and report to the law and justice
3 interim committee and the judicial branch, law enforcement, and justice budget committee no later than January
4 15, 2024, on the status of reporting by county attorneys and the review by the department of justice of the
5 county attorney reports and overall assessment of the law enforcement and prosecutorial response to reports
6 from mandatory reporters and law enforcement agencies.

7 (2) No later than September 1 in each year of the 2025 biennium, the department of justice shall
8 report to the law and justice interim committee and the judicial branch, law enforcement, and justice budget
9 committee on the number of human trafficking investigations initiated by the department of justice in the prior
10 fiscal years and the number of prosecutions generated from the investigations. The report must also include
11 information on the sentences imposed for convictions obtained as a result of these prosecutions, including the
12 names of the defendants and the crimes for which convictions were obtained.

13 (3) By August 1, 2024, the department of justice shall provide a report to the judicial branch, law
14 enforcement, and justice budget committee that documents the number of times the ~~department~~ DIVISION of
15 criminal ~~investigations~~ INVESTIGATION was asked to lead or participate in an investigation in the prior fiscal year
16 but could not due to resource constraints. The report must provide the information by county.

17 (4) By August 1, 2024, the department of justice shall provide a report to the judicial branch, law
18 enforcement, and justice budget committee documenting the number of times the prosecution services bureau
19 was asked to lead or participate in a prosecution in the prior fiscal year but could not due to resource constraint.
20 The report must provide the information by county.

21 (5) By August 1, 2024, the department of justice shall provide a report to the judicial branch, law
22 enforcement, and justice budget committee documenting the number of investigations by the division of criminal
23 ~~investigations~~ INVESTIGATION referred to federal prosecutors in fiscal year 2024 that resulted in charges being
24 filed in federal court, the names of the defendants, and the crimes charged.

25 (6) NO LATER THAN JULY 15, 2023, AND ON THE 15TH DAY OF THE FIRST MONTH OF EACH QUARTER
26 AFTER THAT IN THE 2025 BIENNIUM, THE DEPARTMENT SHALL REPORT TO THE JUDICIAL BRANCH, LAW ENFORCEMENT,
27 AND JUSTICE BUDGET COMMITTEE ON:

28 (A) THE ALLOCATION OF THE SETTLEMENT PROCEEDS FROM THE SETTLEMENT AGREEMENTS WITH

1 MCKESSON CORPORATION, CARDINAL HEALTH, INC., AMERISOURCE BERGEN CORPORATION, JANSSEN
 2 PHARMACEUTICALS, INC., ORTHOMcNEIL-JANSSEN PHARMACEUTICALS, INC., JANSSEN PHARMACEUTICA, INC., AND
 3 JOHNSON & JOHNSON BY THE MONTANA ABATEMENT TRUST;
 4 (B) OUTCOME DATA REQUIRED BY THE MONTANA ABATEMENT TRUST FOR ANY PARTY RECEIVING MONEY
 5 FROM IT;
 6 (C) EVALUATIONS OF PROGRAMS FUNDED BY THE MONTANA ABATEMENT TRUST; AND
 7 (D) PROGRAMS FUNDED WITH THE ALLOCATION OF THE SETTLEMENT PROCEEDS PROVIDED TO THE STATE
 8 FROM THE SETTLEMENT AGREEMENTS WITH THE COMPANIES LISTED IN SUBSECTION (6)(A).

9
 10 **NEW SECTION. Section 5. Office of court administrator to report.** (1) Each quarter of the 2025
 11 biennium, the office of court administrator shall report to the law and justice interim committee and the judicial
 12 branch, law enforcement, and justice budget committee on the number of civil cases that have been pending for
 13 more than 2 years by judicial district. The report must identify:

- 14 (a) the judicial district;
 - 15 (b) the number of cases in that district that are pending for more than 2 years but less than 3
 16 years;
 - 17 (c) the number of cases in that district that are pending for more than 3 years but less than 4
 18 years;
 - 19 (d) the number of cases in that district that are pending for more than 4 years but less than 5
 20 years; and
 - 21 (e) the number of cases in that district that are pending for more than 5 years.
- 22 (2) Each quarter of the 2025 biennium, the office of the court administrator shall report to the law
 23 and justice interim committee and the judicial branch, law enforcement, and justice budget committee on the
 24 number of participants in treatment courts for each court, including the number of participants who successfully
 25 completed the treatment court program.
- 26 (3) Throughout the 2025 biennium, the office of court administrator shall provide to the law and
 27 justice interim committee and the judicial branch, law enforcement, and justice budget committee the reports
 28 the office of court administrator is required to provide to the office of state public defender pursuant to 46-8-

1 113(2)(a), WITH NAMES INCLUDED BUT ALL OTHER PERSONAL IDENTIFYING INFORMATION REDACTED.

2 (4) Each quarter of the 2025 biennium, the office of the court administrator shall report to the law
3 and justice interim committee and the judicial branch, law enforcement, and justice budget committee on the
4 number of program participants in the pretrial program and related costs.

6 NEW SECTION. SECTION 6. BUDGET SUBMISSION. WHEN SUBMITTING THE BUDGET FOR THE 2027
7 BIENNIUM, THE DEPARTMENT OF CORRECTIONS SHALL SUBMIT A LINE-ITEM BUDGET TO THE SECOND LEVEL OF DETAIL
8 FOR EACH OF THE STATE-OWNED CORRECTIONAL FACILITIES UNDER ITS SUPERVISION.

10 NEW SECTION. SECTION 7. STAFFING AT DEPARTMENT OF CORRECTIONS. BEGINNING JULY 1, 2023, AND
11 EACH QUARTER OF THE 2025 BIENNIUM, THE DEPARTMENT OF CORRECTIONS SHALL SUBMIT TO THE LAW AND JUSTICE
12 INTERIM COMMITTEE AND THE JUDICIAL BRANCH, LAW ENFORCEMENT, AND JUSTICE BUDGET COMMITTEE THE FOLLOWING
13 INFORMATION FOR STAFFING AT THE STATE-OWNED CORRECTIONAL FACILITIES UNDER ITS SUPERVISION:

- 14 (1) A LIST OF ALL JOB CLASSIFICATIONS AT EACH INSTITUTION BY JOB TITLE;
- 15 (2) THE NUMBER OF FTE ASSIGNED TO EACH JOB CLASSIFICATION;
- 16 (3) THE NUMBER OF STATE EMPLOYEES EMPLOYED IN EACH JOB CLASSIFICATION;
- 17 (4) THE NUMBER OF CONTRACT OR TRAVELING STAFF EMPLOYED IN EACH JOB CLASSIFICATION;
- 18 (5) THE NUMBER OF POSITIONS IN EACH JOB CLASSIFICATION THAT ARE NOT FILLED BY EITHER A STATE
19 EMPLOYEE OR CONTRACT STAFF AND THEREFORE ARE TRULY VACANT POSITIONS;
- 20 (6) THE TOTAL NUMBER OF NEW HIRES AND TERMINATIONS IN EACH JOB CLASSIFICATION; AND
- 21 (7) A NARRATIVE EXPLAINING HOW THE DEPARTMENT CONDUCTED RECRUITMENT EFFORTS TO FILL VACANT
22 POSITIONS AT EACH CORRECTIONAL FACILITY.

24 **Section 6.** Section 75-11-313, MCA, is amended to read:

25 **"75-11-313. Petroleum tank release cleanup fund.** (1) There is a petroleum tank release cleanup
26 fund in the state special revenue fund established in 17-2-102. The fund is administered as a revolving fund by
27 the board and is statutorily appropriated, as provided in 17-7-502, for the purposes provided for under
28 subsections (3)(c) and (3)(d) through (3)(e). Administrative costs under subsections (3)(a) and (3)(b) must be

1 paid pursuant to a legislative appropriation.

2 (2) — There is deposited in the fund:

3 (a) — all revenue from the petroleum storage tank cleanup fee as provided in 75-11-314;

4 (b) — money received by the board in the form of gifts, grants, reimbursements, or appropriations,
5 from any source, intended to be used for the purposes of this fund;

6 (c) — money appropriated or advanced to the fund by the legislature;

7 (d) — money loaned to the board by the board of investments; and

8 (e) — all interest earned on money in the fund.

9 (3) — As provided in 75-11-318, the fund may be used only:

10 (a) — to administer this part, including payment of board expenses associated with administration;

11 (b) — to pay the actual and necessary department expenses associated with administration;

12 (c) — to reimburse owners and operators for eligible costs caused by a release from a petroleum
13 storage tank and approved by the board; and

14 (d) — for repayment of any advance and any loan made pursuant to 17-6-225, plus interest earned
15 on the advance or loan; and

16 (e) — for any other purpose as determined by the legislature.

17 (4) — Whenever the board accepts a loan from the board of investments pursuant to 17-6-225, the
18 receipts from the fees provided for in 75-11-314 in each fiscal year until the loan is repaid are pledged and
19 dedicated for the repayment of the loan in an amount sufficient to meet the repayment obligation for that fiscal
20 year. "

21

22 **Section 8.** Section 23, Chapter 456, Laws of 2019, is amended to read:

23 **"Section 23. Termination.** [Sections 3 and 4] terminate June 30, 2021 2025."

24

25 **Section 9.** Section 19, Chapter 566, Laws of 2021, is amended to read:

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

27 **"Section 23. Termination.** [Sections 3 and 4] terminate June 30, 2021 2023-2025."

28

1 NEW SECTION. Section 8. Transfer of funds. By August 15, 2023, the department of justice shall
2 transfer \$908,180 in state special revenue from the account provided for in 30-14-143 to the state special
3 revenue account provided for in 46-1-1115. The transfer must utilize the proceeds from the settlement in State
4 of Montana v. McKinsey & Company, Inc., DDV 2021-107 (1st Judicial District), and the final consent judgment
5 ordered on February 5, 2021.

6

7 NEW SECTION. Section 9. Effective date. [This act] is effective June 30, 2023.

8

9 NEW SECTION. Section 11. Termination. [Section 6] terminates June 30, 2025.

10

- END -