

HOUSE BILL NO. 398

INTRODUCED BY B. MERCER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO RECIDIVISM; DEFINING "RECIDIVISM"; REQUIRING THE DEPARTMENT OF CORRECTIONS TO REPORT ANNUALLY ON RECIDIVISM RATES; REQUIRING ALL REPORTS BY STATE ENTITIES TO USE THE DEFINITION OF RECIDIVISM; ESTABLISHING REPORTING REQUIREMENTS; AMENDING SECTIONS 1-1-207 AND 46-1-1103, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Inventory of felony convictions – department to calculate**

recidivism. (1) The department of corrections shall create an inventory of every offender sentenced for a felony by a state court on or after July 1, 2020. The judicial branch shall provide data to the department as necessary to ensure the inventory is complete.

(2) (a) No later than September 1, 2026, and each September 1 afterward, the department shall determine the recidivism rate for offenders sentenced for a felony by a state court in the previous fiscal year.

(b) (i) The recidivism rate must be calculated by determining whether the offenders who were sentenced for one or more successive felonies or who violated the terms of parole or probation release in the prior fiscal year, as determined by a court or the board of pardons and parole, had been sentenced for one or more felonies or were determined by a court or the board of pardons and parole to have violated the terms of probation or parole during the previous 5 fiscal years.

(ii) The department shall exclude compliance violations, as defined in 46-23-1001, in the calculation.

(3) (a) The department shall report the results of the recidivism rate calculation to the governor, the legislature in accordance with 5-11-210, and the supreme court and make the report available to the public.

(b) The report must contain:

(i) the rate of recidivism calculated as required in subsection (2); and

1 (ii) the identity, criminal history, and placement history of each offender included in the recidivism
2 report, including the crime or violations that required the offender's inclusion in the report.

3
4 NEW SECTION. Section 2. Recidivism. Any report produced by a state entity that requires the
5 disclosure of information regarding recidivism or recidivism rates other than the reports required by [section 1]
6 must use the definition of recidivism provided in 1-1-207.

7
8 **Section 3.** Section 1-1-207, MCA, is amended to read:

9 **"1-1-207. Miscellaneous terms.** Unless the context requires otherwise, the following definitions apply
10 in the Montana Code Annotated:

11 (1) "Bribe" means anything of value or advantage, present or prospective, or any promise or
12 undertaking to give anything of value or advantage, that is asked, given, or accepted with a corrupt intent to
13 unlawfully influence the person to whom it is given in the person's action, vote, or opinion in any public or official
14 capacity.

15 (2) "Peace officer" has the meaning as defined in 46-1-202.

16 (3) (a) "Recidivism" means a circumstance in which any sentence is imposed for a new felony or in
17 which a judge or the board of pardons and parole determines that a person convicted of a felony has violated
18 the person's terms of probation or parole within 5 years of the imposition of a sentence for a previous felony
19 conviction.

20 (b) The term does not include a violation that is a compliance violation, as defined in 46-23-1001.

21 ~~(3)~~(4) "Vessel", when used in reference to shipping, includes ships of all kinds, steamboats and
22 steamships, canal boats, and every structure adapted to be navigated from place to place. "

23
24 **Section 4.** Section 46-1-1103, MCA, is amended to read:

25 **"46-1-1103. Definitions.** As used in this part, the following definitions apply:

26 (1) "Assessment" means a diagnostic evaluation to determine whether and to what extent a person
27 is a drug offender under this part and would benefit from the provisions of this part.

28 (2) "Continuum of care" means a seamless and coordinated course of substance abuse education

1 and treatment designed to meet the needs of drug offenders as they move through the criminal justice system
2 and beyond, maximizing self-sufficiency.

3 (3) "Drug" includes:

4 (a) a controlled substance, which is a drug or other substance for which a medical prescription or
5 other legal authorization is required for purchase or possession;

6 (b) an illegal drug, which is a drug whose manufacture, sale, use, or possession is forbidden by
7 law; or

8 (c) a harmful substance, which is a misused substance otherwise legal to possess, including
9 alcohol.

10 (4) "Drug offender" means a person charged with a drug-related offense or an offense in which
11 substance abuse is determined to have been a significant factor in the commission of an offense.

12 (5) "Drug treatment court" means a court established by a court pursuant to this part implementing
13 a program of incentives and sanctions intended to assist a participant to end the participant's addiction to drugs
14 and to cease criminal behavior associated with drug use and addiction.

15 (6) "Drug treatment court coordinator" means an individual who, under the direction of the drug
16 treatment court judge, is responsible for coordinating the establishment, staffing, operation, evaluation, and
17 integrity of the drug treatment court.

18 (7) "Drug treatment court team" means a group of individuals appointed by the drug treatment
19 court that may consist of the following members:

20 (a) the judge, which may include a magistrate or other hearing officer;

21 (b) the prosecutor;

22 (c) the defense attorney;

23 (d) a law enforcement officer;

24 (e) the drug treatment court coordinator;

25 (f) a probation and parole officer;

26 (g) substance abuse treatment providers;

27 (h) a representative from the department of public health and human services; and

28 (i) any other person selected by the drug treatment court.

1 (8) "Memorandum of understanding" means a written document setting forth an agreed-upon
2 procedure.

3 (9) "Recidivism" ~~means any arrest for a serious offense that results in the filing of a charge and~~
4 ~~can carry a sentence of 1 or more years~~ has the meaning provided in 1-1-207.

5 (10) "Staff meeting" means the meeting before a drug offender's appearance in drug treatment court
6 in which the drug treatment court team discusses a coordinated response to the drug offender's behavior.

7 (11) "Substance abuse" means the illegal or improper consumption of a drug as defined in this
8 section.

9 (12) "Substance abuse treatment" means a program designed to provide prevention, education, and
10 therapy directed toward ending substance abuse and preventing a return to substance use."

11
12 **NEW SECTION. Section 5. Codification instruction.** (1) [Section 1] is intended to be codified as an
13 integral part of Title 53, chapter 1, part 2, and the provisions of Title 53, chapter 1, part 2, apply to [section 1].

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

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17 **NEW SECTION. Section 6. Effective date.** [This act] is effective July 1, 2023.

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