

**Proposed 2011 Session Legislation**

**Agency Name & No:** Corrections 6401

**Priority Number:** 1 | **Filename:** 6401-01-001

**Short Title:** Amend 53-1-203 pertaining to Community Corrections programs

**Agency Contact Person/Phone:** Gary Willems x 4941

**1. Purpose:**  
 Amend 53-1-203 to 1) clarify the definition of "expansion" of existing department programs and 2) to allow the department to contract with private, nonprofit Montana corporations or local or tribal governments to establish and maintain prerelease centers or residential methamphetamine treatment programs.

**2. Background:**  
 The Legislative Audit Division's contracts audit of the department recommended in recommendation #1 that department "procure all facilities according to the provisions of the Montana Procurement Act when Title 53, MCA is silent." The department seeks to put in statute precisely what constitutes an expansion of an existing program so the statute is no longer "silent." In recommendation #2 the auditors recommended that the department contract "with Montana nonprofit corporations for prerelease centers as required in Section 53-1-203." 53-1-203 mandates the department contract with Montana nonprofit corporations for prerelease centers. The department, however, has authority in 53-30-311 and 322 to contract with a local or tribal government to provide a community corrections facility or program. Bozeman built a community corrections facility and the department contracts with it. The services of the community corrections facility and prerelease are identical and the department treats them identically. The auditors believed, therefore, that the department had contracted with a governmental entity for prerelease services in contravention of 53-1-203. This proposed legislation allows the department to contract with a local or tribal government for prerelease services.

**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.: 09P-08       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: \_\_\_\_\_

Proposed 2011 Session Legislation

Agency Name & No: Corrections 6401

Priority Number: 3 Filename: 6401-01-003

Short Title: Set a standard rate for county jail per diem costs

Agency Contact Person/Phone: Gary Willems x 4941

1. Purpose:

The department seeks the authority to set a standard rate in administrative rules for county jail per diem costs paid by outside agencies who use county detention centers.

2. Background:

Counties have extreme differences in what they deem reasonable costs of confinement. This would give the department authority to adopt administrative rules that determine a standard rate.

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): MHP
- Special Interest Groups Affected (list): \_\_\_\_\_
- Other: \_\_\_\_\_

Proposed 2011 Session Legislation

Agency Name & No: Corrections 6401

Priority Number: 4 Filename: 6401-02-004

Short Title: Clarify arrest procedures for probationers

Agency Contact Person/Phone: Ron Alsbury x 9529

1. Purpose:

The department seeks to amend 46-23-1012 to clarify 1) that the Probation and Parole officer must only arrange for a bond hearing within 72 hours of the offender's arrest, but the officer does not have a duty to assure the offender sees a magistrate within 72 hours; and 2) that the probation and parole officer has 10 business days, not 10 calendar days within which to file the report of violation.

2. Background:

Some courts are releasing offenders if the Probation and Parole officer does not have the offender appear in front of a magistrate within 72 hours of the offender's arrest. This clarifies that the officer's duty ends after the officer arranges for the offender to appear, even if that appearance is more than 72 hours after the offender's arrest. Also, courts interpret the 10 days in 46-23-1012 as 10 calendar days, and in rural probation and parole offices sometimes 10 days is not enough time. Ten business days would be adequate for every office and conforms to legal rules for calculating time (if the amount of time is less than 11 days, it is calculated as business days).

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, Special Interest Groups Affected, Other.