

BEFORE THE DEPARTMENT OF CORRECTIONS
OF THE STATE OF MONTANA

In the matter of the adoption of NEW) NOTICE OF PUBLIC HEARING ON
RULES I through VI pertaining to pre-) PROPOSED ADOPTION
parole screening)

TO: All Concerned Persons

1. On June 14, 2024, at 10:00 a.m., the Department of Corrections will hold a public hearing via remote conferencing to consider the proposed adoption of the above-stated rules. Interested parties may access the remote conferencing platform in the following ways:

(a) Join via Microsoft Teams:

Meeting ID: 247 546 205 131
Passcode: cpPtXU

(b) Telephone:

(406)-318-5487
Passcode: 518113974#

(c) Join on a video conferencing device:

Tenant key: 291818717@t.plcm.vc
Video ID: 112 079 745 2

2. The Department of Corrections will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Corrections no later than June 7, 2024, to advise us of the nature of the accommodation that you need. Please contact Pamela Lammey, Department of Corrections, 5 South Last Chance Gulch, Helena, Montana, 59601; telephone (406) 444-9819; or e-mail Pamela.Lammey@mt.gov.

3. The rules as proposed to be adopted are as follows:

NEW RULE I INSTITUTIONAL SCREENING (1) The Department of Corrections (department) will screen eligible inmates for potential placement in a treatment or prelease facility prior to their parole eligibility.

(2) Potential placement in a treatment or prerelease facility prior to parole eligibility is a privilege, not a right.

AUTH: 53-1-203, MCA
IMP: 53-1-203, MCA

NEW RULE II INITIAL ELIGIBILITY CRITERIA (1) To be considered an eligible inmate, the inmate must meet all of the following criteria:

- (a) be under physical custody of the department as a secure placement inmate;
- (b) be within up to 14 months of parole eligibility;
- (c) not have any active detainers or warrants;
- (d) have 120 days of clear conduct prior to review;
- (e) have not refused placement within the last 180 days prior to review;
- (f) have not refused recommended treatment or other recommended programming within the last 180 days prior to review; and
- (g) have not been removed from recommended treatment or other recommended programming for disciplinary reasons within 180 days prior to review.

AUTH: 53-1-203, MCA

IMP: 53-1-203, MCA

NEW RULE III SCREENING FACTORS (1) In making its decision regarding eligibility for potential placement, the department will weigh and consider the following factors:

- (a) time until parole eligibility;
- (b) current risk assessment of the eligible inmate;
- (c) eligible inmate's compliance with recommended treatment or other recommended programming;
- (d) the type of crime for which the sentence is being served;
- (e) whether the eligible inmate is required to register as a sexual or a violent offender upon release;
- (f) whether the eligible inmate's sentence contains any parole restrictions;
- (g) victim input;
- (h) eligible inmate's overall conduct while in secure custody;
- (i) eligible inmate's expressed interest in placement in a treatment or a prerelease facility; and
- (j) any other factor that may be relevant based on the individual circumstances of the eligible inmate being considered.

(2) The department may, in its sole discretion, interview the eligible inmate being considered as part of its decision process.

(3) Any one factor may be sufficient to deny an eligible inmate's potential placement outside of the secure facility prior to the individual's parole eligibility.

AUTH: 53-1-203, MCA

IMP: 53-1-203, MCA

NEW RULE IV DECISION IN WRITING (1) The department will provide the eligible inmate being considered for potential placement with its decision in writing.

(2) If the department decides that placement outside of the secure facility is not appropriate prior to the eligible inmate's parole eligibility, the department must state the reason for its decision in the written decision.

(3) If the department decides that placement outside of the secure facility is appropriate prior to the eligible inmate's parole eligibility, that determination does not guarantee the inmate will be placed in any specific facility or placed at all.

AUTH: 53-1-203, MCA
IMP: 53-1-203, MCA

NEW RULE V FINAL DECISION (1) The decision of the department is final and is not subject to appeal or grievance.

AUTH: 53-1-203, MCA
IMP: 53-1-203, MCA

NEW RULE VI ONE-TIME CONSIDERATION (1) An eligible individual may be considered by the department only one time for any one particular sentence.

AUTH: 53-1-203, MCA
IMP: 53-1-203, MCA

REASON: House Bill 426 (2023) clarified the department's authority to place inmates within 14 months of parole eligibility or discharge in prerelease and treatment centers. These rules set forth the criteria the department will use to screen eligible inmates for potential placement in community programs. They articulate threshold criteria, factors to be considered, and provide for a notification process.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Pamela Lammey, Department of Corrections, 5 South Last Chance Gulch, Helena, Montana, 59601; telephone (406) 444-3930; or e-mail Pamela.Lammey@mt.gov, and must be received no later than 5:00 p.m., June 21, 2024.

5. The Legal Unit of the department has been designated to preside over and conduct this hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

7. An electronic copy of this proposal notice is available through the Secretary of State's website at <http://sosmt.gov/ARM/Register>.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by e-mail and telephone on February 1, 2024, and April 25, 2024, respectively.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Andres Haladay
Andres Haladay
Rule Reviewer

/s/ Brian Gootkin
Brian Gootkin
Director
Department of Corrections

Certified to the Secretary of State May 14, 2024.