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As of: April 16, 2012 (3:33pm)

LC1j5B

**** Bill No. ****

Introduced By *****

By Request of the Law and Justice Interim Committee

A Bill for an Act entitled: "An Act clarifying the intent and definition of restorative justice; eliminating the office of restorative justice; establishing a restorative justice grant program under the Montana board of crime control; providing an appropriation; amending sections 2-15-2012 and 2-15-2013, MCA; repealing section 2-15-2014, MCA; and providing an effective date."

WHEREAS, the Law and Justice Interim Committee examined the efficacy of restorative justice principle and practices within the criminal justice system as requested by SJR 29; and

WHEREAS, the committee found that restorative justice programs have been established in the Gallatin County, Lewis & Clark County, Missoula County, and Flathead County; and

WHEREAS, the committee found that these programs have proven successful in significantly reducing incarceration rates and the risk of offenders committing crimes;

WHEREAS, this saves the state money that would otherwise need to be spent on additional jail and prison capacity at a per inmate cost averaging about \$90 a day or about \$33,000 a year; and

WHEREAS, the local programs were initially supported by federal grant money passed through the Montana board of crime

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control and technical assistance was provided by the office of restorative justice established by the legislature in 2001 and placed under the department of justice; and

WHEREAS, the office of restorative justice under the department of justice is no longer functioning and no further restorative justice grants have been applied for.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-2012, MCA, is amended to read:

"2-15-2012. Intent. The legislature recognizes that incarcerating offenders carries an extremely high cost and may not be the most effective strategy for restoring victims, reforming offenders, and reducing recidivism. It is the intent of 2-15-2013 to create a grant program that will provide funds to state and local entities that establish restorative justice programs to divert from incarceration appropriate offenders who are at low risk for violence from incarceration to community programs based on restorative justice and to divert funds from the department of corrections to the department of justice to support an office of restorative justice and to support community programs based on restorative justice. It is also the intent that restorative justice programs be supported by federal, state, and local funds."

{Internal References to 2-15-2012:
a2-15-2013 }

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Section 2. Section 2-15-2013, MCA, is amended to read:

"2-15-2013. ~~Office of restorative~~ Restorative justice grant program. (1) There is ~~an office of a~~ a restorative justice in the department of justice grant program administered by the Montana board of crime control established in 2-15-2006.

(2) The purposes of the ~~office of restorative justice grant program~~ are to:

(a) promote the use of restorative justice practices throughout the state by ~~balancing the needs of victims, communities, and juvenile and adult offenders;~~

(b) provide technical assistance to local jurisdictions and organizations interested in implementing the principles of restorative justice; and

(c) ~~bring additional resources~~ provide matching funds to Montana communities for that invest in restorative justice programs.

(3) ~~(a)~~ For the purposes of 2-15-2012, ~~2-15-2014,~~ and this section, the term "restorative justice" means ~~the philosophy of promoting and supporting practices, policies, and programs that focus on repairing the harm of crime, strengthening communities around the state, emphasizing accountability, and providing alternatives to incarceration for offenders who are at low risk for violence~~ criminal justice practices that elevate the role of crime victims and community members in the criminal justice process, hold offenders directly accountable to the people and communities they have harmed, restore emotional and material losses, and provide a range of opportunities for victim,

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offender, and community dialogue, negotiation, and problem solving to bring about a greater sense of justice, repair harm, provide restitution, reduce incarceration and recidivism rates, and increase public safety.

~~(b) Restorative justice is intended to improve the ability of the justice system to meet the needs of victims, to encourage community and victim participation in the criminal justice process, to reduce crime and increase the public sense of safety, to hold offenders accountable, and to provide rehabilitation and reintegration of offenders back into the community.~~

~~(c)(4) Restorative justice programs~~ A restorative justice program eligible for grant funding pursuant to this section must use evidence-based practices, which may include but are not limited to facilitated victim-offender meetings, family group conferencing, sentencing circles, use of victim and community impact statements panels, offender accountability letters, restitution programs, constructive community service, victim awareness education, victim empathy programs, school expulsion alternatives, peer mediation, diversion programs, and community panels.

~~(4)(5) Efforts of the office of restorative justice may include but are not limited to~~ The board may use up to 10% of any money legislatively appropriated for this grant program for administrative costs and statewide coordination, including:

(a) providing educational programs on the philosophical framework of restorative justice;

(b) providing technical assistance to schools, law

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enforcement, youth courts, probation and parole officers, juvenile corrections programs, and prisons in designing and implementing ~~applications of restorative justice~~ practices;

(c) ~~housing a repository for~~ developing a website with links to resources and information to coordinate expertise in about restorative justice;

(d) ~~serving as a liaison between victims~~ coordinating the efforts of victim services agencies, the judiciary, ~~and state agencies, such as the department of justice,~~ and the department of corrections, and local agencies that are involved in criminal adult and juvenile justice efforts, ~~including victim compensation programs~~;

(e) maintaining a statewide inventory and directory of restorative justice programs;

~~(e)~~(f) providing information to schools, local governments, law enforcement, state agencies, the judiciary, and the legislature regarding systemic changes that may be necessary to enhance ~~further development of restorative justice~~ efforts in the state; and

~~(f) securing additional resources for restorative justice programs through a grant program administered by the board of crime control, which may be coordinated with other appropriate grant programs of agencies, and providing sustained funding for successful community programs~~ producing the report required in subsection (8).

(6) To be eligible for a grant for a restorative justice program listed under subsection (4), the grantee must:

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_____ (a) invest in the program an amount equal to at least 50% of the grant amount to be provided;

_____ (b) agree to collect and report program participation and evaluation data and information in a manner prescribed by the board; and

_____ (c) meet any other standard criteria established by the board.

_____ (7) The board shall actively seek federal grant money that may be used for the purposes of this section.

_____ (8) The board shall produce a biennial report summarizing the grants provided, how the grant money was spent, and the program data and information reported by grant recipients."

{Internal References to 2-15-2013:

a2-15-2012 a2-15-2014 a2-15-2014 a2-15-2014 }

Section 3. Section 46-15-411, MCA, is amended to read:

"46-15-411. Payment for medical evidence -- alleged sexual offenses. (1) The local law enforcement agency within whose jurisdiction an alleged incident of sexual intercourse without consent, sexual assault, or incest occurs shall pay for the medical examination of a victim of the alleged offense when the examination is directed by the agency or when evidence obtained by the examination is used for the investigation, prosecution, or resolution of an offense.

(2) (a) ~~The office of restorative justice in the department of justice shall, as long as funds are available from an appropriation made for this purpose, pay for the medical~~

examination of a victim of an alleged incident of sexual intercourse without consent, sexual assault, or incest if the cost is not the responsibility of a local law enforcement agency under subsection (1).

(b) In administering the provisions of subsection (2)(a), the ~~office of restorative justice~~ department shall:

(i) identify priorities for funding services, activities, and criteria for the receipt of program funds;

(ii) monitor the expenditure of funds by organizations receiving funds under this section;

(iii) evaluate the effectiveness of services and activities under this section; and

(iv) adopt rules necessary to implement this subsection (2).

(3) This section does not require a law enforcement agency or the state to pay any costs of treatment for injuries resulting from the alleged offense."

{Internal References to 46-15-411:
r2-15-2014 }

NEW SECTION. **Section 4. {standard} Repealer.** The following section of the Montana Code Annotated is repealed:

2-15-2014. Restorative justice fund created -- source of funding -- use of fund.

{Internal References to 2-15-2014: a2-15-2013 }

NEW SECTION. **Section 5. Appropriation.** There is appropriated from the general fund for the 2015 biennium \$200,000

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to the Montana board of crime control for the purposes of 2-15-2013.

NEW SECTION. **Section 6. {standard} Effective date.** [This act] is effective July 1, 2013.

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