

# The Uniqueness of Montana's DOC Commit -

## A Multi-State Comparison of Similar Alternative Sentencing Strategies

*Montana Department of Corrections Research & Analytics Bureau*



## Background:

Montana's DOC Commit is a unique alternative-to-incarceration sentence in which the courts sentence an offender to the authority of the Department of Corrections for appropriate placement; including secure facilities, assessment, treatment, and/or conditional release. (MDOC, 2024; MT Legislative Fiscal Division, 2025) This type of alternative sentence allows the DOC and courts overall, to have greater flexibility in deciding the ultimate path an offender will take through the corrections system.

## Objective:

To conduct a legislatively mandated review of Montana's DOC Commit alternative-to-incarceration sentence type, with a focus on identifying how other states implement special sentencing or sentencing for treatment and their similarities to a DOC Commit. Only states with relevant similarities to Montana's DOC Commit will be reported here.

## Overall Findings:

While no state had a direct 1:1 equivalent of Montana's DOC Commit sentence, out of all 50 states (and Washington DC), 11 had legislation, policies, and/ or sentences that had at least one relevant similarity to Montana's DOC Commit sentence.

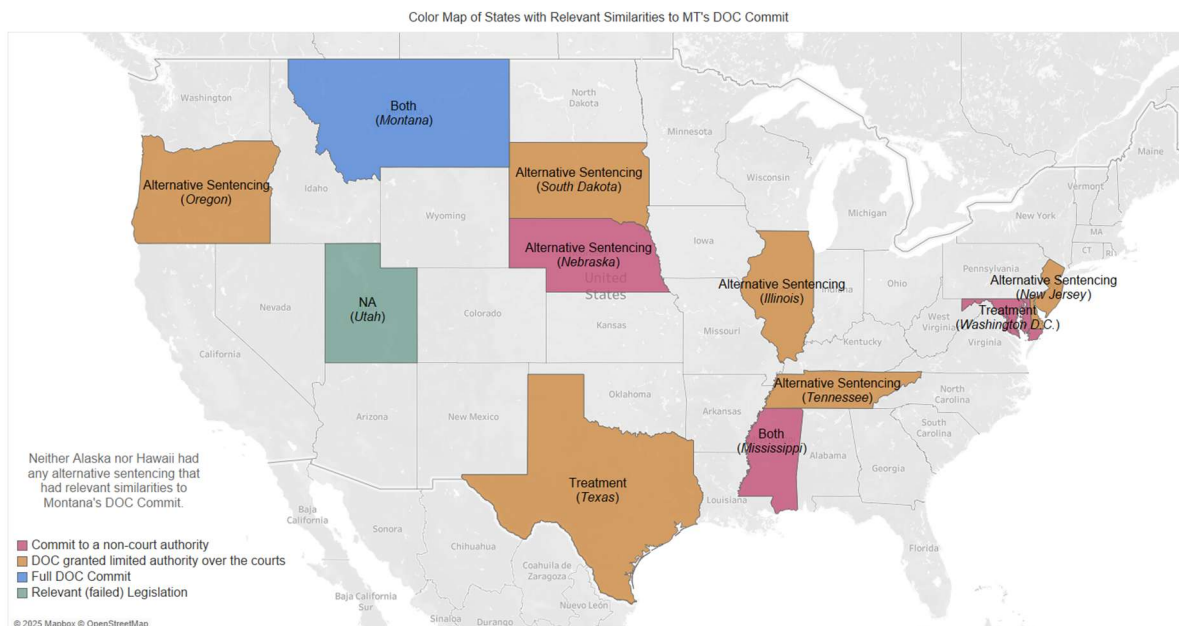


Figure 1. A map of the USA with colors highlighting specific states that have relevant similarities to MT's DOC Commit within their own correctional/judicial systems.

Of those 11 states, 6 had similarities to a DOC Commit related to alternative sentencing in general (*Illinois, Nebraska, New Jersey, Oregon, South Dakota, and Tennessee*), 4 had similarities related to alternative sentencing specifically for substance use treatment (*Delaware, Maryland, Texas, and Washington DC*), and 1 state had both qualities (*Mississippi*).

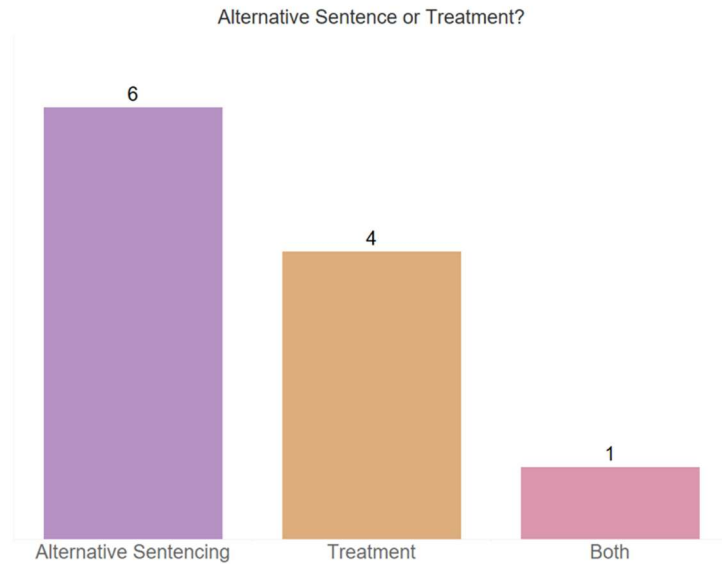


Figure 2. A bar chart depicting how many states had alternative sentencing similarities, treatment similarities, or both to MT's DOC Commit sentence.

Of those 11 states, 7 had policies that granted the department of correction (limited) authority over the courts (*Texas, Tennessee, South Dakota, Oregon, New Jersey, Illinois, and Delaware*), and 4 had sentences where the court can commit an offender to the authority of another department (*Maryland, Mississippi, Nebraska, and Washington DC*).

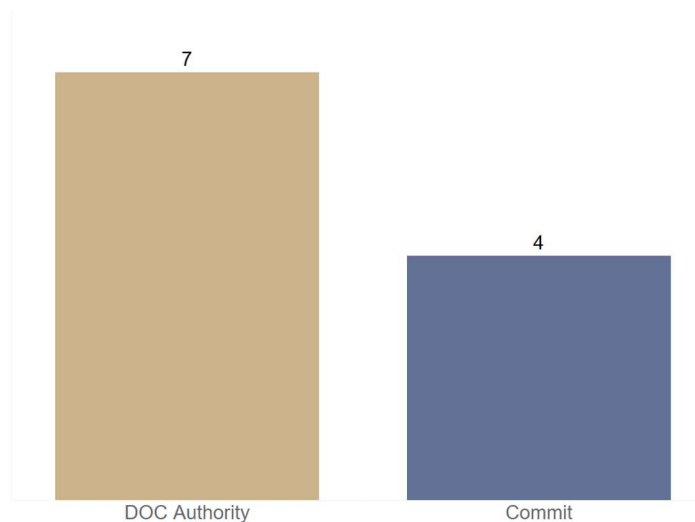


Figure 3. A bar chart depicting how many states had relevant similarities to MT's DOC Commit via the DOC having authority over the courts and how many had sentences where the court can commit an offender to the authority of another department.

### Comparison to Other States – DOC Authority Over the Courts

The following states have policies, procedures, and/ or legislative documents outlining how that state's DOC has authority over the courts. In general, this type of authority over the court is limited to specific programs.



### **Delaware –**

A 2008 bill, HB 434, codified DE's "Continuous Remote Alcohol Monitoring Program" as a permanent treatment focused alternative-to-incarceration sentencing option while also granting the DEDOC "...sole authority to determine which offenders are accepted into the program." (Del. H.B. 434, 2008) The Board of Parole and sentencing courts can make recommendations and request that certain offenders be placed in the program, but ultimately, the DEDOC is the final authority for this specific program, above the courts.



### **Illinois –**

Launched in 1990, IL's "Impact Incarceration Program" is a sentencing alternative for first time offenders in the form of a short-term boot camp designed to promote pro-social behavior. For this specific program, the IDOC has final authority over who is accepted for program placement and can overrule the court's placement sentencing by denying an offender entry into the program. (730 Ill. Comp. Stat. 5/5-8-1.2)



### **New Jersey –**

Operated on a county level, the "Sheriff's Labor Assistance Program" (SLAP) is an alternative sentence for eligible offenders to do manual labor in the community in lieu of incarceration. While the court imposes the sentence the NJDOC has the authority to overrule the court and deny an offender entry into the program and kick offenders out of the program, at their discretion. (NJDOC 2015 & 2025)



### **Oregon –**

As outlined in the Oregon Revised Statute 421.508 the ODOC has final authority over all alternative-to-incarceration program placement: "*The Department of Corrections is responsible for determining which offenders are eligible to participate in, and which offenders are accepted for, a program... The department may deny, for any reason, an offender's*

participation in a program. The department shall make the final determination regarding an offender's physical or mental ability to meet the requirements of the program." (ORS 421.508)



### **South Dakota –**

As outlined in SD's Codified Law 22-6-11 "Presumptive Probation" is an alternative sentencing type in SD in which there is an automatic sentence of probation for eligible offenders, this sentence places the offender under the authority of the SDDOC who can impose violations or early discharge at their discretion. (SD CL 22-6-11)



### **Tennessee –**

Tennessee Code 40-20-201 details the authority the TDOC has to place offenders with sentences <6 years into a special alternative incarceration unit program in lieu of traditional incarceration. This program is composed of a 90-day intense military style structured regime of work, exercise, and substance use treatment if needed. "...in the event that an offender is sentenced to confinement in the department of corrections ...the department shall have the authority to place the offender in a special alternative incarceration unit in lieu of confinement in a regular state penal facility." (TN Code § 40-20-201)



### **Texas –**

In the realm of substance abuse treatment, the Texas Board of Pardons and Paroles (TX BPP), which operates as a part of the Texas Department of Criminal Justice (TDCJ) holds considerable authority—often equal to or surpassing that of the courts—across a range of correctional programs, reflecting the TDCJ's limited authority over judicial decisions. These programs include the Intermediate Sanction Facility (ISF), which mandates either 45 days of cognitive behavioral therapy or 90 days of substance use treatment as ordered by a parole officer, The Substance Abuse Felony Punishment Facility involves a six-month prison term and requires either a judge's order or a BPP vote for placement, and Pre-release programs such as the Substance Abuse Program and the Therapeutic Community Program also span six months and depend on BPP votes or administrative placement. Additional in-prison initiatives include the DWI Recovery Program, as well as the Substance Use Treatment Program and the Substance Use Education Program, all of which also run for six months and admit inmates through BPP decision, administrative placement, or qualification via a screening tool. (TDCJ, 2025)

## Comparison to Other States – Court Commitment to Another Authority

*The following states have policies, procedures, and/ or legislative documents outlining how that state’s court system can commit an offender to the authority of another – usually another state department.*



### **Maryland –**

As detailed in Maryland’s General Health Article § 8-507, Maryland courts can commit a defendant to the MD Department of Health for mental health, drug, and alcohol treatment. *“...a court that finds in a criminal case that a defendant has an alcohol or drug dependency may commit the defendant as a condition of release, after conviction, or at any other time the defendant voluntarily agrees to participate in treatment, to the Department [of Health] for treatment.”* (MD GHA § 8-507)



### **Mississippi –**

Mississippi Code 47-7-47 outlines how, after a period of confinement, a judge may sentence an offender to be under the direct supervision of the Mississippi DOC for programs, treatment, or earned probation. *“The judge of any circuit court may place an offender on a program of earned probation, in an intensive supervision program or any intervention court authorized by law after a period of confinement as set out herein and the judge may seek the advice of the commissioner and shall direct that the defendant be under the supervision of the department.”* (MS Code 47-7-47)



### **Nebraska –**

As stated in the Nebraska Revised Statutes 29-2204 and 29-2204.03: The court can commit an offender to the DOC for up to 90 days for the purpose of "studying" the offender (criminal history, social and mental capacities, etc.), after the study period is over, the offender returns to the jurisdiction of the court and is sentenced based on DOC findings and recommendations. For the 90-day period, the offender is under the jurisdiction of the DOC. *“When the court is of the opinion that imprisonment may be appropriate but desires more detailed information as a basis for determining the sentence to be imposed...the court shall commit an offender to the Department of Correctional Services for a period not exceeding ninety*

days. The department shall conduct a complete study of the offender during that time.” (NRS 29-2204 & NRS 29-2204.03)



### Washington DC –

As outlined in the Code of the District of Columbia § 24–607, a court may commit an offender to the custody of the Mayor of Washington DC for inpatient treatment in the extreme case of the offender being a chronic alcoholic, and as a result of which, is in immediate danger of physical harm to others or to the self. The first commit lasts for 30 days and lasts for 90 days for each subsequent commit. *“The Court may...order a person to be committed to the custody of the mayor for inpatient treatment and care if...the Court determines that the person is a chronic alcoholic and that as a result of chronic or acute intoxication such person is in immediate danger of substantial physical harm.”* (DC Code § 24–607)



### Interesting - Idaho

Idaho has a "rider program“ sentencing option for Judges. Essentially, individuals sentenced to a "rider“ are incarcerated in an IDOC program but remain under the Judges jurisdiction. Upon completion of the program, the Judge can then place them under Probation (if they are successful) or can relinquish their jurisdiction and sentence them to prison.



### Almost Comparable – Utah

While there is no DOC Commit or DOC authority granted in Utah, there was legislation - a 2025 bill (HB136) for an alternative sentence work program which would have been imposed, supervised, and run by county Sheriffs, not the courts, but as of 3/7/25 it did not pass. (UT HB136)

### Summary Table

State	DOC Authority or Commit?	Program Name(s)
Delaware	DOC Authority	Continuous Remote Alcohol Monitoring Program
Illinois	DOC Authority	Impact Incarceration Program
New Jersey	DOC Authority	Sheriff’s Labor Assistance Program

Oregon	DOC Authority	Alternative Sentencing Programs in General
South Dakota	DOC Authority	Presumptive Probation
Tennessee	DOC Authority	Special Alternative Incarceration Unit Program
Texas	DOC Authority	Intermediate Sanction Facility, Substance Abuse Felony Punishment Facility, Substance Abuse Program, Therapeutic Community Program, DWI Recovery Program, Substance Use Treatment Program, Substance Use Education Program
Maryland	Commit	Department of Health Commit
Mississippi	Commit	DOC Commit – Limited Scope
Nebraska	Commit	DOC Commit – Limited Scope
Washington DC	Commit	Mayoral Commit

## Discussion & Conclusion

Montana’s DOC Commit sentence is a one-of-a-kind sentencing option in this country, with no other state having a true equivalent to the authority the MDOC has over an offender under a DOC Commit. While all states have some sort of alternative-to-incarceration sentencing options, the variety of options and the length of time those options have been available can vary greatly from state to state. A prime example of this is the state of Alaska, where archived legislative documents paint a long struggle of bringing alternative sentencing of any kind to the state. The need for alternative sentencing (AS) is first mentioned in archived documents in the 2001 legislative session – which at the time, the courts had no power to impose, in 2010 the need for AS was brought up to the legislature again, this time with examples of how other states had successfully implemented AS in their own judicial systems. The last mention we could find of AS in Alaskan legislative archive documents was 2015, where an alternative sentencing workgroup was looking at AS options for the state (Alaska State Legislature House Judiciary Standing Committee 2001, 2002, 2010, 2015). This is in stark



contrast to states like Connecticut, which experimentally launched AS in 1989 and made it permanent in 1994. (CT Legislature, n.d.)

For most states, all sentencing is handled exclusively through the courts, and the infrequent instances in which the DOC has authority over the courts, the scope of that authority is extremely limited. In Delaware, the DOC's authority over the courts only extends to its "Continuous Remove Alcohol Monitoring Program", in Illinois DOC full authority over the courts extends only to its "Impact Incarceration Program", and in New Jersey only in the Sherriff run SLAP does the DOC have authority over the courts. However, in the instances where the DOC has even limited authority over the courts there is a clear role of personalized placement for offenders - the DOC can pick and choose who to accept or deny entry to their programs which in turn allows the DOC to maximize the effectiveness of their alternative sentencing programs by excluding offenders who may disrupt the program or the other participants in it. In short, giving the DOC even limited authority over its court system to determine things like offender programming placement can have a net positive effect on program participation, efficiency, and outcomes.

Only 3 states and the District of Columbia had any sentences where the court commits an offender to the authority of another. For Mississippi and Nebraska, an offender may be committed to authority of the DOC - but with limitations. In MS, this only occurs after a period of incarceration for the offender, and in NE the commit is limited to 90 days maximum and for the strict purpose of studying the offender to make recommendations to the courts for sentencing. In Maryland and DC, the commitments have fewer limitations but are not to the authority of the department of corrections. In MD, offenders with substance use issues may be committed to the department of health specifically to receive treatment. In DC, severe cases of alcoholism can be committed to the Mayor of DC (which is a one-of-a-kind sentence in its own right) for treatment. Though not the same as being committed to the DOC in Montana, all 4 cases demonstrate a tacit acknowledgement by the court system that departments other than the judiciary may be better equipped to evaluate, determine, and implement treatment sentences for offenders than the court system itself. This is particularly true for Nebraska, where the DOC commit is centered around the fact that it is easier to get a realistic evaluation of an offender's needs in the place where treatment and programming will be received, rather than being screened through the courts.

To conclude, while no state can quite compare to Montana, there are other states which have similar policies to either grant the DOC limited authority over the courts, or to be able to commit an offender to an authority other than the court for more personalized, if not intensive, treatment and care. There is also a growing interest in offering more flexibility to

the DOC in terms of directing offender pathways through the system, as seen in the promising, though ultimately failed, legislation out of Utah from this year (2025). The DOC Commit *is* a unique type of alternative-to-incarceration sentencing option, and one that can serve as a model for other states to implement and expand their own alternative sentencing options.

### Limitations

The information that is presented in this report is limited to the accuracy and availability of state DOC and state legislature archived documents, website information, and in some cases, cooperation in returning phone calls. In some instances, the information on the state website was inaccurate or out of date. For example, in Maryland, on the “Drug Treatment Court” page of the Department of Public Safety and Correctional Services “shock incarceration” is listed as an alternative sentencing option, however we were unable to find any other evidence or instances of shock incarceration being recommended or implemented anywhere in the state. (DPSCS, 2024) To give another example, for some states, the links provided on their sites lead to 404 error webpages. Finally, in some cases, a phone call was placed to the state’s DOC to verify information or clarify certain questions; in the case of Alaska, we called to inquire about when AS was formally implemented as a sentencing option, but our call was never returned.

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