

1 HOUSE BILL NO. 94

2 INTRODUCED BY F. GARNER

3 BY REQUEST OF THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PUBLIC SAFETY OFFICER STANDARDS
6 AND TRAINING COUNCIL LAWS; CLARIFYING EDUCATION REQUIREMENTS FOR COUNTY CORONERS
7 AND DEPUTY CORONERS; REVISING PEACE OFFICER EMPLOYMENT, EDUCATION, AND
8 CERTIFICATION STANDARDS; REVISING COUNCIL DUTIES; REVISING LAWS RELATED TO THE
9 SUSPENSION OR REVOCATION OF A PUBLIC SAFETY OFFICER'S CERTIFICATION; REVISING DUTIES
10 OF APPOINTING AUTHORITIES; PROVIDING A PENALTY FOR A VIOLATION OF CERTAIN PUBLIC SAFETY
11 OFFICER CERTIFICATION REQUIREMENTS; PROVIDING REQUIREMENTS FOR PRETRIAL SERVICES
12 OFFICERS; CLARIFYING TRAINING REQUIREMENTS FOR PROBATION AND PAROLE OFFICERS
13 EMPLOYED BY THE DEPARTMENT OF CORRECTIONS; EXTENDING THE BOARD'S RULEMAKING
14 AUTHORITY; AND AMENDING SECTIONS 7-4-2901, 7-4-2904, 7-4-2905, 7-32-240, 7-32-303, 44-4-401,
15 44-4-403, 44-4-404, 46-9-108, 46-9-505, 46-23-1001, 46-23-1003, ~~AND 46-23-1005, AND 46-23-1012~~, MCA."

16

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

18

19 **Section 1.** Section 7-4-2901, MCA, is amended to read:20 **"7-4-2901. Appointment of deputy coroners.** (1) The coroner, with approval of the county
21 commissioners, may appoint one or more deputy coroners to assist the coroner or act in the coroner's absence.22 (2) At the time of appointment, a deputy coroner or acting coroner must meet the qualifications required
23 of a coroner as provided in 7-4-2904(1) and (2)(a). Within a reasonable time after appointment, a deputy shall
24 successfully complete the basic coroner course, as provided for in 7-4-2905(2)(a). ~~The~~ After the successful
25 completion of the basic coroner course, the deputy shall ~~must~~ also meet the requirements for advanced education
26 as provided in 7-4-2905(2)(b).

27 (3) A deputy coroner may be the coroner or qualified deputy coroner from another county."

28

29 **Section 2.** Section 7-4-2904, MCA, is amended to read:30 **"7-4-2904. Qualifications for office of county coroner.** (1) In addition to the qualifications set forth in

1 7-4-2201, to be eligible for the office of coroner, at the time of election or appointment to office a person must be
 2 a high school graduate or holder of an equivalency of completion of secondary education as provided by the
 3 superintendent of public instruction under 20-7-131 or of an equivalency issued by another state or jurisdiction.

4 (2) Each coroner, before entering the duties of office, shall:

5 (a) take and file with the county clerk the constitutional oath of office; and

6 (b) certify to the county clerk that:

7 (i) the individual has ~~satisfactorily~~ successfully completed the basic coroner course of study provided
 8 in 7-4-2905 or that the individual has completed the equivalent educational requirements as approved by the
 9 ~~attorney general~~ Montana public safety officer standards and training council established in 2-15-2029; or

10 (ii) the individual intends to take the basic coroner course at the next offering of the course if the coroner
 11 has been appointed or was elected by other than a local government general election and, from the date of
 12 appointment or election and assumption of the duties as coroner, a basic coroner course was not offered. A
 13 coroner forfeits office for failure to take and satisfactorily complete the next offering of the basic coroner course."

14

15 **Section 3.** Section 7-4-2905, MCA, is amended to read:

16 **"7-4-2905. Coroner education and continuing education.** (1) Coroner education must be conducted
 17 by the Montana public safety officer standards and training council established in 2-15-2029. The council may
 18 adopt rules establishing standards and procedures for basic and advanced education. The cost of conducting
 19 the education must be borne by the ~~department of justice~~ council from money appropriated for the education. The
 20 county shall pay the salary, mileage, and per diem of each coroner-elect, coroner, and deputy coroner attending
 21 from that county.

22 (2) (a) The council shall conduct a 40-hour basic coroner course of study after each general election.
 23 The course, or an equivalent course approved by the council, must be completed before the first Monday in
 24 January following the election. The council may conduct other basic coroner courses at times it considers
 25 appropriate.

26 (b) The council shall annually conduct a 16-hour advanced coroner course. Unless there are exigent
 27 circumstances, failure of any coroner or deputy coroner to satisfactorily complete the advanced coroner course,
 28 or an equivalent course approved by the council, at least once every 2 years results in forfeiture of office. The
 29 council may adopt rules providing a procedure to extend the 2-year period because of exigent circumstances."

30

1 **Section 4.** Section 7-32-240, MCA, is amended to read:

2 **"7-32-240. Certification of Montana peace officer who leaves full-time or part-time employment**
 3 **to active reserve status in Montana.** ~~A peace officer~~ (1) Except as provided in subsection (2), an officer who leaves
 4 full-time or part-time employment and enters an active reserve status within 36 to 60 months retains basic
 5 certification status after entering reserve status for as long as the peace officer remains an active reserve officer.
 6 has been issued a peace officer basic certification by the Montana public safety officer standards and training
 7 council or who is eligible for the certification and who becomes an active reserve officer in Montana may retain
 8 the officer's peace officer certification and return to full-time or part-time employment as a peace officer under
 9 the following circumstances:

10 (a) If 36 or more months have passed the reserve officer has not had a break in service of more than 3
 11 years at any time since the peace officer's last date of employment as a full-time or part-time employment and
 12 the peace officer returns to full-time or part-time employment, the peace officer shall, upon return to retains the
 13 peace officer certification and may return to full-time or part-time employment as a peace officer from reserve
 14 status without attending an equivalency course or returning to the basic academy, comply with 7-32-303(5)(e).

15 (b) If the reserve officer has had a break in service of more than 3 years at any time since the officer's
 16 last date of employment as a full-time or part-time peace officer in Montana, the officer must successfully
 17 complete the peace officer basic equivalency course, as approved by the council, within 1 year of the officer's
 18 most recent appointment as a full-time or a part-time peace officer in Montana in order to maintain the officer's
 19 peace officer certification. If the officer fails the basic equivalency course, the officer must attend the peace officer
 20 basic course at the Montana law enforcement academy at the next available opportunity.

21 (c) If the reserve officer has had a break in service of more than 5 years at any time since the officer's
 22 last date of employment as a full-time or a part-time peace officer in Montana, the officer must successfully
 23 complete the peace officer basic course at the Montana law enforcement academy, as approved by the council,
 24 within 1 year of the officer's most recent appointment as a full-time or part-time peace officer in Montana in order
 25 to retain the officer's peace officer certification.

26 (2) (a) The provisions of subsection (1) do not apply to a peace officer who was last employed as a
 27 full-time or part-time peace officer outside of Montana, a peace officer who was last employed by a federal or
 28 United States military law enforcement agency, or to a reserve officer outside of Montana.

29 (b) Officers listed in subsection (2)(a) are subject to the provisions of 7-32-303(5).

30 (3) For the purposes of this chapter, "break in service" means a continuous period in which the officer

1 is not performing the duties of a peace officer in Montana, either as a part-time or a full-time officer or as an active
 2 reserve officer."

3

4 **Section 5.** Section 7-32-303, MCA, is amended to read:

5 **"7-32-303. Peace officer employment, education, and certification standards -- suspension or**
 6 **revocation -- penalty.** (1) For purposes of this section, unless the context clearly indicates otherwise, "peace
 7 officer" means a deputy sheriff, undersheriff, police officer, highway patrol officer, fish and game warden, park
 8 ranger, campus security officer, or airport police officer.

9 (2) A sheriff of a county, the mayor of a city, a board, a commission, or any other person authorized by
 10 law to appoint peace officers in this state may not appoint any person as a peace officer who does not meet the
 11 ~~following~~ qualifications provided in this subsection plus any additional qualifying standards for employment
 12 promulgated by the Montana public safety officer standards and training council established in 2-15-2029. A
 13 peace officer must:

14 (a) be a citizen of the United States;

15 (b) be at least 18 years of age;

16 (c) be fingerprinted and a search made of the local, state, and national fingerprint files to disclose any
 17 criminal record;

18 (d) not have been convicted of a crime for which the person could have been imprisoned in a federal or
 19 state penitentiary;

20 (e) be of good moral character, as determined by a thorough background investigation;

21 (f) be a high school graduate or have been issued a high school equivalency diploma by the
 22 superintendent of public instruction or by an appropriate issuing agency of another state or of the federal
 23 government;

24 (g) ~~(f)~~ be free from any mental condition that might adversely affect performance of the duties of a peace
 25 officer, as determined after:

26 ~~(i) be examined by a licensed physician or, for the purposes of a mental health evaluation; performed by~~
 27 ~~a person~~ licensed physician or a mental health professional who is licensed by the state under Title 37 and acting
 28 within the scope of the person's licensure when performing a mental health evaluation, who is not the applicant's
 29 personal physician or licensed mental health professional, and who is appointed or approved by the employing
 30 authority ~~to determine if the applicant is free from any mental or physical condition that might adversely affect~~

1 ~~performance by the applicant of the duties of a peace officer; or~~

2 (ii) satisfactory completion of a standardized mental health evaluation instrument determined by the
 3 employing authority to be sufficient to examine for any mental conditions within the meaning of this subsection
 4 (2)(g), if the instrument is scored by a licensed physician or a mental health professional acting within the scope
 5 of the person's licensure by the state;

6 (h) be free from any physical condition that might adversely affect performance of the duties of a peace
 7 officer, as determined after a satisfactory completion of a physical examination performed by a health care
 8 provider who is licensed by the state under Title 37 and acting within the scope of the person's licensure when
 9 performing the physical examination, who is not the applicant's personal health care provider, and who is
 10 appointed or approved by the employing authority;

11 ~~(ii) (A) satisfactorily complete the physical examination required by subsection (2)(g)(i); and~~
 12 ~~—— (B) complete a standardized mental health evaluation instrument determined by the employing authority~~
 13 ~~to be sufficient to examine for any mental health conditions that might adversely affect the performance by the~~
 14 ~~applicant of the duties of a peace officer if the instrument is scored by a mental health professional acting within~~
 15 ~~the scope of licensure by any state and the mental health professional finds that the applicant is free of any such~~
 16 ~~mental health condition;~~

17 ~~(h)(i) successfully complete an oral examination conducted by the appointing authority or its designated~~
 18 ~~representative to demonstrate the possession of communication skills, temperament, motivation, and other~~
 19 ~~characteristics necessary to the accomplishment of the duties and functions of a peace officer; and~~

20 ~~(i)(j) possess or be eligible for a valid Montana driver's license;~~

21 (k) be certified or be eligible for certification as a peace officer by the council.

22 (3) At the time of appointment, a peace officer shall take a formal oath of office AS PROVIDED IN ARTICLE
 23 III, SECTION 3, OF THE MONTANA CONSTITUTION and an ethics oath, as promulgated by the council, AND NO OTHER
 24 OATH MAY BE REQUIRED.

25 (4) Within 10 days of the appointment, termination, resignation, or death of any peace officer, written
 26 notice of the event must be given to the Montana public safety officer standards and training council by the
 27 employing authority.

28 (5) ~~(a) Except as provided in subsections (5)(b) and (5)(c), it is the duty of an appointing authority in~~
 29 Montana to ensure that each peace officer appointed under its authority ~~to attend and successfully~~
 30 complete, within 1 year of the initial appointment, an appropriate peace officer basic course certified by ~~has the~~

1 appropriate basic training, including any training required in subsections (6) through (8), in addition to meeting
2 all other requirements of peace officer certification promulgated by the Montana public safety officer standards
3 and training council. Any peace officer appointed after September 30, 1983, who fails to meet the minimum
4 requirements as set forth in subsection (2) or who fails to complete the basic course as required by this
5 subsection (5)(a) training required by subsections (6) through (8) forfeits the position, authority, and arrest powers
6 accorded a peace officer in this state.

7 (6) Except as provided in subsections (7) and (8), a peace officer shall successfully complete the peace
8 officer basic course at the Montana law enforcement academy, as approved by the council, within 1 year of:

9 (a) the peace officer's initial appointment as a peace officer; or

10 (b) the peace officer's most recent appointment as a peace officer if a peace officer has had a break in
11 service as a peace officer of more than 5 years.

12 (7) (a) If a peace officer previously satisfied the requirement in subsection (6), is certified or eligible for
13 certification as a peace officer in Montana, and has had a break in service as a peace officer of less than 3 years,
14 the peace officer is not required to satisfy the requirement in subsection (6) or to attend an equivalency course
15 prior to returning to work in Montana as a peace officer;

16 (b) If a peace officer previously satisfied the requirement in subsection (6), is certified or eligible for
17 certification as a peace officer in Montana, and has been continually employed as a peace officer outside of
18 Montana for no more than 3 years, the peace officer is not required to satisfy the requirement in subsection (6)
19 or to attend an equivalency course prior to returning to work in Montana as a peace officer.

20 (c) If a peace officer previously completed the peace officer basic course successfully, is certified or
21 eligible for certification as a peace officer in Montana, and has been continually employed as a peace officer
22 outside of Montana for more than 3 years or who has had a break in service as a peace officer for more than 3
23 years but less than 5 years, the peace officer shall successfully complete the peace officer basic equivalency
24 course, as approved by the council, within 1 year of the peace officer's most recent appointment as a peace
25 officer in Montana. If the peace officer fails the basic equivalency course, the officer shall satisfy the requirement
26 in subsection (6) at the next available opportunity.

27 (d) If a person satisfied the requirement in subsection (6) prior to the person's appointment or
28 employment and is hired or appointed as a peace officer more than 3 years but less than 5 years after the date
29 that the person satisfied the requirement in subsection (6), the person shall successfully complete the peace
30 officer basic equivalency course, as approved by the council, within 1 year of the person's most recent

1 appointment or employment as a peace officer. If the person is not appointed or employed as a peace officer
2 within 5 years after the date of the person's successful completion of the requirement in subsection (6), the
3 person shall satisfy the requirement in subsection (6) within 1 year of the person's most recent appointment as
4 a peace officer in Montana.

5 (8) (a) Except as provided in subsection (8)(b), if a peace officer has successfully completed a peace
6 officer basic course that is taught or approved by a federal, state, local, or United States military law enforcement
7 agency, that satisfies the peace officer basic training requirement for that agency, and that the council has
8 reviewed and approved as commensurate with the current peace officer basic course offered at the Montana law
9 enforcement academy, the peace officer shall successfully complete the peace officer basic equivalency course,
10 as approved by the council, within 1 year of the officer's initial appointment in Montana. If the officer fails the basic
11 equivalency course, the officer must satisfy the requirement in subsection (6) at the next available opportunity.

12 (b) The peace officer shall complete the requirement of subsection (6) within 1 year of the officer's initial
13 appointment as a peace officer in Montana if the officer has had a break in service as a peace officer for more
14 than 5 years.

15 ~~(b) A peace officer who has been issued a basic certificate by the Montana public safety officer~~
16 ~~standards and training council and whose last date of employment as a peace officer was less than 36 months~~
17 ~~prior to the date of the person's present appointment as a peace officer is not required to fulfill the basic~~
18 ~~educational requirements of subsection (5)(a). If the peace officer's last date of employment as a peace officer~~
19 ~~was 36 or more but less than 60 months prior to the date of present employment as a peace officer, the peace~~
20 ~~officer may satisfy the basic educational requirements as set forth in subsection (5)(c).~~

21 ~~————(c) A peace officer referred to in subsection (5)(b) or a peace officer who has completed a basic peace~~
22 ~~officer's course that is taught by a federal, state, or United States military law enforcement agency and that is~~
23 ~~reviewed and approved by the Montana public safety officer standards and training council as equivalent with~~
24 ~~current training in Montana and whose last date of employment as a peace officer or member of the military law~~
25 ~~enforcement was less than 60 months prior to the date of present appointment as a peace officer may, within 1~~
26 ~~year of the peace officer's present employment or initial appointment as a peace officer within this state, satisfy~~
27 ~~the basic educational requirements by successfully completing a basic equivalency course administered by the~~
28 ~~Montana law enforcement academy. The prior employment of a member of the military law enforcement must~~
29 ~~be reviewed and approved by the Montana public safety officer standards and training council. If the peace officer~~
30 ~~fails the basic equivalency course, the peace officer shall complete the next available appropriate basic course.~~

1 ~~(6)~~(9) The Montana public safety officer standards and training council may extend the 1-year time
 2 requirements of subsections ~~(5)(a) and (5)(c)~~ (6) through (8) upon the written application of the peace officer and
 3 the appointing authority of the officer. The application must explain the circumstances that make the extension
 4 necessary. Factors that the council may consider in granting or denying the extension include but are not limited
 5 to illness of the peace officer or a member of the peace officer's immediate family, absence of reasonable access
 6 to the basic equivalency course, and an unreasonable shortage of personnel within the department. The council
 7 may not grant an extension to exceed 180 days.

8 ~~(7)~~(10) A peace officer who has successfully met the qualification, training, employment, and educational
 9 ~~standards and qualifications and the educational requirements~~ of this section, successfully met the qualification,
 10 training, and employment standards set by the council, and who has completed a 1-year probationary term of
 11 employment must be issued a peace officer basic certificate by the council certifying that the peace officer has
 12 met all the basic qualifying peace officer standards of this state.

13 ~~(8)~~(11) It is unlawful for a person whose basic certification as a peace officer, ~~detention officer, or~~
 14 ~~detention center administrator~~ has been revoked or ~~suspended~~ denied by the Montana public safety officer
 15 standards and training council for misconduct to act as a peace officer, ~~detention officer, or detention center~~
 16 ~~administrator~~. It is unlawful for a person whose peace officer basic certification has been suspended by the
 17 council to act or be appointed or employed as a peace officer in Montana during the period in which the
 18 certification is suspended. A person convicted of violating this subsection is guilty of a misdemeanor, punishable
 19 by a term of imprisonment not to exceed 6 months in the county jail or by a fine not to exceed \$500, or both."
 20

21 **Section 6.** Section 44-4-401, MCA, is amended to read:

22 **"44-4-401. Definitions.** For the purposes of this part, the following definitions apply:

23 (1) "Council" means the Montana public safety officer standards and training council established in
 24 2-15-2029.

25 (2) "Public safety officer" means:

26 (a) a corrections officer who is employed by the department of corrections, established in 2-15-2301,
 27 and who has full-time or part-time authority or responsibility for maintaining custody of inmates in a state
 28 correctional facility for adults or juveniles;

29 (b) a detention officer who is employed by a county and who has full-time or part-time authority or
 30 responsibility for maintaining custody of inmates in a detention center, as defined in 7-32-2241, or a youth

1 detention facility, as defined in 41-5-103;

2 (c) a peace officer, as defined in 7-32-303 or 46-1-202;

3 (d) a department of transportation employee appointed as a peace officer pursuant to 61-12-201;

4 (e) a law enforcement officer or reserve officer, as the terms are defined in 7-32-201;

5 (f) a public safety communications officer, as defined in 7-31-201;

6 (g) a probation or parole officer who is employed by the department of corrections pursuant to

7 46-23-1002;

8 (h) a person subject to training requirements pursuant to 44-2-113 or 44-4-902; ~~and~~

9 (i) a sheriff, except that nothing in this part may be construed to require a sheriff to possess a certificate

10 issued by the council or be eligible for certification;

11 (j) a coroner with the duties described in 7-4-2911 or a deputy coroner appointed pursuant to 7-4-2901;

12 (k) a publicly employed misdemeanor probation officer as described in 46-23-1005;

13 (l) a publicly employed pretrial services officer employed by a pretrial services agency, as those terms

14 are defined in [section 9]; and

15 ~~(h)(m)~~ any other person required by law to meet the qualification or training standards established by the

16 council."

17

18 **Section 7.** Section 44-4-403, MCA, is amended to read:

19 **"44-4-403. Council duties -- determinations -- appeals.** (1) The council shall:

20 (a) establish through administrative rule the basic, and advanced, and continuing qualification, and

21 training, and employment standards, including ethics and professional conduct standards for employment all

22 public safety officers in Montana;

23 (b) ~~conduct and approve or review the training necessary to satisfy the standards established pursuant~~

24 to subsection (1)(a) for all public safety officers in Montana; ~~and~~

25 (c) approve or deny requests for training credit based on procedures and standards set by administrative

26 rule;

27 ~~(e)(d) provide for the certification or recertification of~~ determine an individual's eligibility or ineligibility for

28 certification as a public safety officers officer in Montana;

29 (e) provide for a minimum for basic certification for a public safety officer who meets the qualification,

30 training, and employment standards for the discipline in which the officer is currently employed; and

1 (f) sanction, suspend, revoke, or deny for the suspension or revocation of the certification of public safety
2 officers who violate or fail to meet standards.

3 (2) The council may waive or modify a qualification or training standard set in administrative rule for good
4 cause. Standards set pursuant to subsection (1)(a) must be in addition to and not inconsistent with standards set
5 by statute.

6 (3) (a) A person who has been denied certification or recertification or whose certification or
7 recertification has been sanctioned, suspended, or revoked, or denied based on misconduct or who has been
8 declared ineligible for certification by the council is entitled to a contested case hearing before the council
9 pursuant to Title 2, chapter 4, part 6, and administrative rules established by the council that are not inconsistent
10 with Title 2, chapter 4, part 6, except that a decision by the council may be appealed to the board of crime control,
11 as provided for in 44-4-301. A decision of the board of crime control is a final agency decision subject to judicial
12 review.

13 (b) The revocation or suspension of a public safety officer's basic certificate in any discipline
14 automatically revokes or suspends for the same period of time all other public safety certificates held by the
15 officer. A person may not be appointed or employed as a public safety officer if the person has ever had a public
16 safety officer basic certificate revoked or if the person currently has a public safety officer basic certificate
17 suspended.

18 (4) The council is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose
19 of obtaining and retaining confidential criminal justice information, as defined in 44-5-103, regarding public safety
20 officers in order to ~~provide for the certification or recertification of a public safety officer and for the suspension~~
21 ~~or revocation of certification of a public safety officer~~ fulfill the duties of subsections (1)(d) through (1)(f). The
22 council may not record or retain any confidential criminal justice information without complying with the provisions
23 of the Montana Criminal Justice Information Act of 1979 provided for in Title 44, chapter 5.

24 (5) The council may delegate decisions related to the grant or denial of equivalent credit or the duties
25 listed in 7-32-303(9) and subsections (1)(b) through (1)(d) of this section to its staff or executive director as long
26 as the council reviews any decision that adversely affects the rights of an individual pursuant to Title 2, chapter
27 4, part 6."

28
29 **Section 8.** Section 44-4-404, MCA, is amended to read:
30 **"44-4-404. Appointing authority responsible for applying standards.** (1) A public safety officer in

1 Montana must meet the applicable qualification, training, and employment standards for the discipline in which
 2 the officer is currently employed and must be certified in that discipline by the council or eligible for the
 3 certification after the completion of a 1-year probationary period.

4 (2) It is the responsibility of a public safety officer's appointing authority to apply ensure that every public
 5 safety officer the authority employs meets the qualification, training, and employment standards and training
 6 criteria established by the council pursuant to this part, including but not limited to:

7 (a) requiring the successful completion of minimum training standards that the public safety officer be
 8 certified by the council in the discipline in which the officer is currently employed or be eligible for the certification
 9 within 1 year of the public safety officer's hire date; and

10 (b) terminating or suspending the employment of a public safety officer for failure to meet the minimum
 11 standards established by the council pursuant to this part whose certification has been sanctioned, suspended,
 12 revoked, or denied or who has been declared ineligible for certification until the officer has a valid certification
 13 from the council in the appropriate discipline.

14 (3) It is unlawful for a person whose basic certification as a public safety officer in any discipline has been
 15 revoked or denied by the council for misconduct or who has been declared ineligible for certification by the council
 16 based on misconduct to act, be appointed, or be employed as a public safety officer in any discipline in Montana.
 17 It is unlawful for a person whose basic certification has been suspended by the council to act, be appointed, or
 18 be employed as a public safety officer in any discipline in Montana during the period for which the certification
 19 is suspended. A person convicted of violating this subsection is guilty of a misdemeanor, punishable by a term
 20 of imprisonment not to exceed 6 months in the county jail or by a fine not to exceed \$500, or both.

21 (4) Within 10 days of the appointment, termination, resignation, or death of a public safety officer, the
 22 officer's employing authority shall give written notice of the event to the council."

23

24 **NEW SECTION. Section 9. Definitions.** As used in this chapter the following definitions apply:

25 (1) "DESIGNATED AGENCY OR INDIVIDUAL" MEANS A NONGOVERNMENTAL AGENCY, OR AN EMPLOYEE OF THE
 26 AGENCY, THAT PROVIDES SERVICES TO A LOCAL GOVERNMENT AND IS DESIGNATED BY A DISTRICT COURT, JUSTICE'S
 27 COURT, MUNICIPAL COURT, OR CITY COURT PURSUANT TO 46-9-108(1)(F) TO PROVIDE PRETRIAL SERVICES.

28 (+)(2) "Pretrial services agency" means a government agency whose employees are pretrial services
 29 officers and that is designated by a district court, justice's court, municipal court, or city court to provide services
 30 pending a trial.

1 ~~(2)~~(3) "Pretrial services officer" means an employee of a pretrial services agency who provides services
2 on behalf of the agency and who is subject to the requirements of [section 10].

3
4 NEW SECTION. Section 10. Requirements for pretrial services officers AND DESIGNATED
5 INDIVIDUALS. (1) A EXCEPT AS PROVIDED IN SUBSECTIONS (4) THROUGH (6), PRETRIAL SERVICES MUST BE PROVIDED BY
6 A pretrial services officer ~~must be~~ WHO IS a public safety officer, as defined in 44-4-401.

7 (2) A pretrial services officer must have the minimum training required by the Montana public safety
8 officer standards and training council established in 2-15-2029 and be certified or be eligible for certification by
9 that council.

10 (3) A pretrial services officer may not be an employee of a private entity that contracts with a local
11 government to provide pretrial services.

12 (4) A DESIGNATED AGENCY, AS USED IN THIS PART, IS NOT A PUBLIC SAFETY AGENCY. AN EMPLOYEE OF A
13 DESIGNATED AGENCY OR A DESIGNATED INDIVIDUAL, AS USED IN THIS PART, IS NOT A PUBLIC SAFETY OFFICER AS DEFINED
14 IN 44-4-401 AND IS NOT REQUIRED TO BE CERTIFIED BY OR MEET THE MINIMUM TRAINING REQUIREMENTS OR STANDARDS
15 FOR CERTIFICATION ADOPTED BY THE MONTANA PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL CREATED
16 IN 2-15-2029.

17 (5) A LOCAL GOVERNMENT MAY AUTHORIZE A DESIGNATED AGENCY OR INDIVIDUAL TO MAKE ARRESTS PURSUANT
18 TO 46-9-505(3).

19 (6) A LOCAL GOVERNMENT MAY IMPOSE TRAINING STANDARDS ON A DESIGNATED AGENCY OR INDIVIDUAL.

20
21 **Section 11.** Section 46-9-108, MCA, is amended to read:

22 **"46-9-108. Conditions upon defendant's release -- notice to victim of stalker's release.** (1) The
23 court may impose any condition that will reasonably ensure the appearance of the defendant as required or that
24 will ensure the safety of any person or the community, including but not limited to the following conditions:

25 (a) the defendant may not commit an offense during the period of release;

26 (b) the defendant shall remain in the custody of a designated person who agrees to supervise the
27 defendant and report any violation of a release condition to the court, if the designated person is reasonably able
28 to assure the court that the defendant will appear as required and will not pose a danger to the safety of any
29 person or the community;

30 (c) the defendant shall maintain employment or, if unemployed, actively seek employment;

1 (d) the defendant shall abide by specified restrictions on the defendant's personal associations, place
2 of abode, and travel;

3 (e) the defendant shall avoid all contact with:

4 (i) an alleged victim of the crime, including in a case of partner or family member assault the restrictions
5 contained in a no contact order issued under 45-5-209; and

6 (ii) any potential witness who may testify concerning the offense;

7 (f) the defendant shall report on a regular basis to a designated agency or individual, pretrial services
8 agency, pretrial services officer, or other appropriate individual;

9 (g) the defendant shall comply with a specified curfew;

10 (h) the defendant may not possess a firearm, destructive device, or other dangerous weapon;

11 (i) the defendant may not use or possess alcohol or use or possess any dangerous drug or other
12 controlled substance without a legal prescription;

13 (j) if applicable, the defendant shall comply with either a mental health or chemical dependency treatment
14 program, or both;

15 (k) the defendant shall furnish bail in accordance with 46-9-401; or

16 (l) the defendant shall return to custody for specified hours following release from employment,
17 schooling, or other approved purposes.

18 (2) The court may not impose an unreasonable condition that results in pretrial detention of the defendant
19 and shall subject the defendant to the least restrictive condition or combination of conditions that will ensure the
20 defendant's appearance and provide for protection of any person or the community. At any time, the court may,
21 upon a reasonable basis, amend the order to impose additional or different conditions of release upon its own
22 motion or upon the motion of either party.

23 (3) Whenever a person accused of a violation of 45-5-206, 45-5-220, or 45-5-626 is admitted to bail, the
24 detention center shall, as soon as possible under the circumstances, make one and if necessary more reasonable
25 attempts, by means that include but are not limited to certified mail, to notify the alleged victim or, if the alleged
26 victim is a minor, the alleged victim's parent or guardian of the accused's release."
27

28 **Section 12.** Section 46-9-505, MCA, is amended to read:

29 **"46-9-505. Issuance of arrest warrant -- redetermining bail -- definition.** (1) Upon failure to comply
30 with any condition of a bail or recognizance, the court having jurisdiction at the time of the failure may, in addition

1 to any other action provided by law, issue a warrant for the arrest of the person.

2 (2) On verified application by the prosecutor setting forth facts or circumstances constituting a breach
3 or threatened breach of any of the conditions of the bail or a threat or an attempt to influence the pending
4 proceeding, the court may issue a warrant for the arrest of the defendant.

5 (3) If the defendant has been released under the supervision of a pretrial services agency or pretrial
6 services officer, referred to in 46-9-108(1)(f), an officer of that agency the OR A DESIGNATED AGENCY OR INDIVIDUAL
7 THAT HAS RECEIVED AUTHORIZATION UNDER [SECTION 10], A pretrial services officer OF THAT AGENCY OR THE
8 DESIGNATED AGENCY OR INDIVIDUAL may arrest the defendant without a warrant ~~or~~. THE PRETRIAL SERVICES OFFICER
9 OR OTHER DESIGNATED AGENCY OR INDIVIDUAL may deputize any other officer with power of arrest to arrest the
10 defendant by giving the officer oral authorization and within 12 hours delivering to the place of detention a verified
11 written statement setting forth that the defendant has, in the judgment of the PRETRIAL SERVICES officer OR
12 DESIGNATED AGENCY OR INDIVIDUAL, violated the conditions of the defendant's release. An oral authorization
13 delivered with the defendant by the arresting officer to the official in charge of a county detention center or other
14 place of detention is a sufficient warrant for detention of the defendant if the pretrial officer SERVICES OFFICER OR
15 DESIGNATED AGENCY OR INDIVIDUAL delivers a verified written statement within 12 hours of the defendant's arrest.

16 (4) Upon the arrest, the defendant must be brought before the court without unnecessary delay and the
17 court shall conduct a hearing and determine bail in accordance with 46-9-311.

18 ~~(5) As used in this section, "pretrial services agency" means a government agency or a private entity~~
19 ~~under contract with a local government whose employees have the minimum training required in 46-23-1003 and~~
20 ~~that is designated by a district court, justice's court, municipal court, or city court to provide services pending a~~
21 ~~trial."~~

22

23 **Section 13.** Section 46-23-1001, MCA, is amended to read:

24 **"46-23-1001. Definitions.** As used in this part, unless the context requires otherwise, the following
25 definitions apply:

26 (1) "Board" means the board of pardons and parole provided for in 2-15-2302.

27 (2) "Department" means the department of corrections provided for in 2-15-2301.

28 (3) "Parole" means the release to the community of a prisoner by the decision of the board prior to the
29 expiration of the prisoner's term, subject to conditions imposed by the board and subject to supervision of the
30 department.

1 (4) "Probation" means the release by the court without imprisonment, except as otherwise provided by
 2 law, of a defendant found guilty of a crime upon verdict or plea, subject to conditions imposed by the court and
 3 subject to the supervision of the department upon direction of the court.

4 (5) "Probation and parole officer" means an officer employed by the department pursuant to 46-23-1002."
 5

6 **Section 14.** Section 46-23-1003, MCA, is amended to read:

7 **"46-23-1003. Qualifications of probation and parole officers.** (1) Probation and parole officers are
 8 public safety officers pursuant to 44-4-401.

9 (2) Probation Each probation and parole officers officer must have at least a college degree and some
 10 formal training in behavioral sciences. Exceptions to this rule must be approved by the department. Related work
 11 experience in the areas listed in 2-15-2302(2)(c) may be substituted for educational requirements at the rate of
 12 1 year of experience for 9 months formal education if approved by the department. All present employees are
 13 exempt from this requirement but are encouraged to further their education at the earliest opportunity.

14 (2)(3) Each probation and parole officer shall, ~~through a source approved by the officer's employer,~~
 15 obtain 16 hours a of training each year of training in subjects relating to the powers and duties of probation
 16 officers, at least 1 hour of which must include training on serious mental illness and recovery from serious mental
 17 illness.

18 (4) In addition to the training required in subsection (3), each probation and parole officer must receive
 19 training in accordance with standards adopted by the Montana public safety officer standards and training council
 20 established in 2-15-2029 and be certified or eligible for certification by the council as a probation and parole
 21 officer. The training must be provided by the department and approved by the council. The training must be at
 22 the Montana law enforcement academy unless the council finds that training at some other place is more
 23 appropriate."
 24

25 **Section 15.** Section 46-23-1005, MCA, is amended to read:

26 **"46-23-1005. Misdemeanor probation offices -- officers -- costs.** (1) ~~A~~ EXCEPT AS PROVIDED IN
 27 SUBSECTION (3), A local government may establish a misdemeanor probation office associated with a justice's
 28 court, municipal court, or city court. The misdemeanor probation office shall monitor offenders for misdemeanor
 29 sentence compliance and restitution payments. An offender is considered a fugitive under the conditions provided
 30 in 46-23-1014.

1 (2) ~~A~~ EXCEPT AS PROVIDED IN SUBSECTION (3), A local government may appoint misdemeanor probation
 2 officers and other employees necessary to administer this section OR MAY RECEIVE MISDEMEANOR PROBATION
 3 SERVICES FROM A NONGOVERNMENTAL AGENCY AS PROVIDED IN SUBSECTION (3). Misdemeanor probation officers:
 4 (a) must be public employees;
 5 (b) may not be employees of a private entity contracting with a local government;
 6 (c) are public safety officers pursuant to 44-4-401;
 7 ~~(a)~~(d) must have the minimum training required in ~~46-23-1003~~ by the Montana public safety officer
 8 standards and training council established in 2-15-2029 and be certified or eligible for certification by the council;
 9 ~~(b)~~(e) shall follow the supervision guidelines required in 46-23-1011; and
 10 ~~(e)~~(f) may order the arrest of an offender as provided in 46-23-1012.

11 (3) AS AN ALTERNATIVE TO SUBSECTIONS (1) AND (2), A LOCAL GOVERNMENT MAY RECEIVE MISDEMEANOR
 12 PROBATION SERVICES FROM A NONGOVERNMENTAL AGENCY. AGENTS OF THE NONGOVERNMENTAL AGENCY ARE NOT
 13 SUBJECT TO THE REQUIREMENTS OF SUBSECTION (2), EXCEPT THAT THEY ARE SUBJECT TO THE SUPERVISION GUIDELINES
 14 UNDER SUBSECTION (2)(E), AND A LOCAL GOVERNMENT MAY AUTHORIZE THE NONGOVERNMENTAL AGENCY AND ITS
 15 AGENTS TO MAKE AN ARREST OR ORDER AN ARREST AS PROVIDED IN SUBSECTION (2)(F). THE LOCAL GOVERNMENT MAY
 16 IMPOSE ITS OWN TRAINING STANDARDS FOR THE NONGOVERNMENTAL AGENCY AND ITS AGENTS.

17 ~~(3)~~(4) An offender who is convicted of the offense of partner or family member assault under 45-5-206
 18 or of a violation of an order of protection under 45-5-626 and who is ordered to be supervised by misdemeanor
 19 probation, WHETHER PROVIDED BY A MISDEMEANOR PROBATION OFFICE OR A NONGOVERNMENTAL AGENCY, must be
 20 ordered to pay for the cost of the misdemeanor probation. The actual cost of probation supervision over the
 21 offender's sentence must be paid by the offender unless the offender can show that the offender is unable to pay
 22 those costs. The costs of misdemeanor probation are in addition to any other fines, restitution, or counseling
 23 ordered."

24
 25 **SECTION 16. SECTION 46-23-1012, MCA, IS AMENDED TO READ:**
 26 **"46-23-1012. Arrest when violations of probation alleged -- probation compliance plan -- probation**
 27 **violation intervention.** (1) At any time during probation, if a probation and parole officer, misdemeanor probation
 28 officer described in 46-23-1005(2), or an employee of a nongovernmental agency described in 46-23-1005(3) that
 29 has received authorization from its local government to make arrests reasonably believes that the probationer
 30 has violated a condition of probation, a court may issue a warrant for the arrest of the probationer or a county

1 attorney may issue a notice to appear to answer to a charge of probation violation. The notice must be personally
2 served upon the probationer. The warrant must authorize law enforcement officers to return the probationer to
3 any suitable detention center.

4 (2) Any probation and parole officer, misdemeanor probation officer described in 46-23-1005(2), or an
5 employee of a nongovernmental agency described in 46-23-1005(3) that has received authorization from its local
6 government to make arrests may arrest the probationer without a warrant or may orally deputize any other officer
7 with power of arrest to do so by giving the officer oral authorization and within 12 hours delivering to the detention
8 center a written statement setting forth that the probationer has, in the judgment of the probation and parole
9 officer, misdemeanor probation officer described in 46-23-1005(2), or an employee of a nongovernmental agency
10 described in 46-23-1005(3) that has received authorization from its local government to make arrests, violated
11 the conditions of probation. A written statement or oral authorization delivered with the probationer by the
12 arresting officer to the official in charge of a detention center is sufficient warrant for the detention of the
13 probationer if the probation and parole officer, misdemeanor probation officer described in 46-23-1005(2), or an
14 employee of a nongovernmental agency described in 46-23-1005(3) that has received authorization from its local
15 government to make arrests delivers the written statement within 12 hours of the probationer's arrest. The
16 probation and parole officer, misdemeanor probation officer described in 46-23-1005(2), or an employee of a
17 nongovernmental agency described in 46-23-1005(3) that has received authorization from its local government
18 to make arrests, after making an arrest, shall present to the detaining authorities a similar statement of the
19 circumstances of violation.

20 (3) A probation and parole officer, misdemeanor probation officer described in 46-23-1005(2), or an
21 employee of a nongovernmental agency described in 46-23-1005(3) that has received authorization from its local
22 government to make arrests may authorize a detention center to hold a probationer arrested under this section
23 without bail for 72 hours. Within 72 hours following the probationer's detention, the probation and parole officer,
24 misdemeanor probation officer described in 46-23-1005(2), or an employee of a nongovernmental agency
25 described in 46-23-1005(3) that has received authorization from its local government to make arrests shall:

26 (a) authorize the detention center to release the probationer;
27 (b) hold an intervention hearing pursuant to 46-23-1015; or
28 (c) arrange for the probationer to appear before a magistrate to set bail. In setting bail, the provisions
29 of chapter 9 of this title regarding release on bail of persons charged with a crime apply.

30 (4) If the probationer is detained and bond is set, the probation and parole officer, misdemeanor

1 probation officer described in 46-23-1005(2), or an employee of a nongovernmental agency described in
2 46-23-1005(3) that has received authorization from its local government to make arrests shall file a report of
3 violation within 10 days of the arrest of the probationer.

4 (5) After the probation and parole officer, misdemeanor probation officer described in 46-23-1005(2),
5 or an employee of a nongovernmental agency described in 46-23-1005(3) that has received authorization from
6 its local government to make arrests files a report of violation, the court may proceed with revocation of probation
7 in the manner provided in 46-18-203."

8
9 NEW SECTION. Section 17. Codification instruction. [Sections 9 and 10] are intended to be codified
10 as an integral part of Title 46, chapter 9, part 1, and the provisions of Title 46, chapter 9, part 1, apply to [sections
11 9 and 10].

12 - END -