

1 HOUSE BILL NO. 28

2 INTRODUCED BY J. ECK

3 BY REQUEST OF THE LAW AND JUSTICE INTERIM COMMITTEE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE BOARD OF PARDONS AND PAROLE TO
6 VIDEO-RECORD AND AUDIO-RECORD MEETINGS OF THE BOARD AND ALL HEARINGS HELD TO
7 CONSIDER PAROLE, RECISSION, REVOCATION, OR CLEMENCY DECISIONS; REQUIRING THE BOARD
8 TO MAKE THE RECORDINGS PUBLICLY AVAILABLE; ~~AND~~ REQUIRING THE BOARD TO RECORD
9 MEETINGS AND HEARINGS USING EXISTING RESOURCES; AMENDING SECTION 46-23-110, MCA; AND
10 PROVIDING A TERMINATION DATE."

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

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14 **Section 1.** Section 46-23-110, MCA, is amended to read:

15 **"46-23-110. Records -- dissemination.** (1) (a) The department and the board shall keep a record of
16 the board's acts and decisions. Citizens may inspect and make copies of the public records of the board, as
17 provided in 2-6-102, 2-6-110, and this section.

18 (b) The board shall video-record AND AUDIO-RECORD all meetings held pursuant to 46-23-104(2) and all
19 hearings conducted under part 2 or part 3 of this chapter or 46-23-1025. ~~A video recording may not display the~~
20 ~~image of a victim who offers testimony at a hearing.~~ A RECORDING MAY NOT PERSONALLY IDENTIFY THE VICTIM
21 WITHOUT THE VICTIM'S WRITTEN CONSENT.

22 (c) Except as provided in subsection (2), the board shall make video recordings publicly available.

23 (2) Records and materials that are constitutionally protected from disclosure are not subject to disclosure
24 under the provisions of subsection (1). Information that is constitutionally protected from disclosure is information
25 in which there is an individual privacy or safety interest that clearly exceeds the merits of public disclosure.

26 (3) Upon a request to inspect or copy records of the board's acts and decisions, the board or a board
27 staff member shall review the file record requested and determine whether any document in the file or any content
28 in a video recording is subject to a personal privacy or safety interest that clearly exceeds the merits of public
29 disclosure.

30 (4) The board may assert the privacy or safety interest and may withhold a document or redact content

1 of a video recording if the board determines that the demand for individual privacy clearly exceeds the merits of
2 public disclosure or if the document's or recording's contents would compromise the safety, order, or security of
3 a facility or the safety of facility personnel, a member of the public, or an inmate of the facility if disclosed.

4 (5) The board may not withhold from public scrutiny under subsections (2) through (4) any more
5 information than is required to protect an individual privacy interest or a safety interest.

6 (6) The board may charge a reasonable fee for copying and inspecting records.

7 (7) The board may limit the time and place that the records may be inspected or copied."
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9 NEW SECTION. SECTION 2. INTENT. IT IS THE INTENT OF THE LEGISLATURE THAT THE BOARD OF PARDONS
10 AND PAROLE IMPLEMENT THE PROVISIONS OF [THIS ACT] WITHIN EXISTING RESOURCES.

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12 NEW SECTION. SECTION 3. TERMINATION. [SECTION 1] TERMINATES JUNE 30, 2019.

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