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64th Montana Legislature

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TO: Committee Members
FROM: Julianne Burkhardt, Staff Attorney
RE: Administrative Rule Activity
DATE: December 4, 2015

Rule Review -- Board of Pardons and Parole

MAR 2015 Issue No. 22 (November 25, 2015) MAR Notice No. 20-25-57

The Board of Pardons and Parole issued a NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT. The board has filed a NOTICE in the matter of proposed amendments to ARM 20.25.101, 20.25.202, 20.25.401, 20.25.505, 20.25.601, 20.25.801, 20.25.901, 20.25.902, 20.25.903, and 20.25.904 regarding parole and executive clemency. A hearing on the proposed rules is scheduled for December 15, 2015, at the Board office located at 1002 Hollenbeck Road, Deer Lodge, Montana.

ARM 20.25.101 -- This amendment is necessary to implement House Bill 43 (2015), to reflect that the governor has final authority regarding clemency applications.

ARM 20.25.202 -- This amendment is necessary to implement HB 43, to reflect that the governor has final authority regarding clemency applications.

ARM 20.25.401 -- The criteria for nonmedical parole are specifically removed by this amendment and moved to ARM 20.25.505. The criteria for nonmedical parole are still incorporated by reference. The amendments to ARM 20.25.401(4) and (5) were necessary to incorporate language from section 1 of House Bill 135 (2015), which became 46-23-208, MCA.

ARM 20.25.505 -- This amendment restructures the rule to conform with section 1 of HB 135, which became 46-23-208, MCA. This rule primarily deals with parole criteria.

ARM 20.25.601 -- This amendment incorporates House Bill 28 (2015), requiring the Board to video and audio record parole rescission hearings.

ARM 20.25.801 -- This amendment incorporates HB 28 requiring the Board to video and audio record parole revocation hearings.

ARM 20.25.901 -- This amendment provides a procedure for addressing resubmitted clemency applications under the broad authority provided in 46-23-218, MCA, and became necessary upon the passage of HB 43.

ARM 20.25.902 -- This amendment provides a procedure for the transmittal of a clemency application to the governor if the Board hearing panel decides to reject an application. This amendment became necessary upon the passage of HB 43.

ARM 20.25.903 -- This amendment incorporates the requirement from HB 28 for an audio and video recording to be made of each clemency proceeding.

ARM 20.25.904 -- This amendment provides a procedure for forwarding clemency applications to the governor under the broad authority provided in 46-23-218, MCA, and became necessary upon the passage of HB 43.