

## 1 SENATE BILL NO. 425

2 INTRODUCED BY E. BOLDMAN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE DEPARTMENT OF CORRECTIONS FROM  
5 INCARCERATING AN INMATE OUT OF STATE IF THE INMATE HAS A CHILD WHO IS UNDER 13 YEARS  
6 OF AGE AND RESIDES IN MONTANA; AND AMENDING SECTION 53-30-106, MCA."

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

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10 **Section 1.** Section 53-30-106, MCA, is amended to read:

11 **"53-30-106. Excessive inmate population -- confinement of inmates in other institutions.** (1) If  
12 the inmate population of a correctional institution or system exceeds the emergency capacity for 30 consecutive  
13 days, the director of the department of corrections may declare that the emergency capacity has been  
14 exceeded and temporarily stop admissions to the institution or system. The director shall notify each sheriff and  
15 district court that new inmates will not be accepted by the department for admission into the institution or  
16 system until the inmate population is reduced to 95% or less of the emergency capacity. Persons committed to  
17 the department and persons sought to be admitted remain in the department's legal custody but must be kept in  
18 a detention center in the jurisdiction holding them. In the event the jurisdiction holding the inmate is at maximum  
19 capacity, the inmate may be placed in an available detention center in another jurisdiction. The department  
20 shall reimburse that jurisdiction for the cost of detention for the period beyond the normal time of delivery to a  
21 correctional institution administered by the department. Reimbursement must be at a rate mutually agreeable to  
22 the department and the jurisdiction holding the person. The rate must cover the reasonable costs of the holding  
23 jurisdiction. Expenses for medication, medical services, or hospitalization for persons confined in a detention  
24 center under this section must be paid by the department.

25 (2) The department may enter into contracts with the federal government, other states, or the  
26 commissioners of counties that have suitable detention centers for confining inmates committed to a  
27 correctional institution or system administered by the department, either because a correctional institution or  
28 system has exceeded its emergency capacity or because the department has no institution that is adequate for

1 certain inmates.

2 (3) Within budgetary limits, the department may also enter into contracts with public or private  
3 corporations for the confinement of selected inmates if suitable programs have been established.

4 (4) Unless an inmate's parental rights have been terminated or the inmate's incarceration is due to  
5 conviction of a sexual offense, the department may not select an inmate for confinement in an institution out of  
6 state if the inmate has a child who is under 13 years of age and resides in Montana."

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