20.9.635 PRISON RAPE ELIMINATION ACT

(1) Each facility must have a written policy, procedure, and practice to ensure that information is provided to juveniles about sexual abuse/assault including:

(a) each policy, procedure, and practice will include information regarding:

(i) prevention/intervention;

(ii) self-protection;

(iii) reporting sexual abuse/assault; and

(iv) treatment and counseling.

(b) the information will be communicated orally and in writing, in a language clearly understood by the juvenile, upon arrival at the facility.

(2) Each facility must have procedures to assure that juveniles are screened at the facility, via review of records and face-to-face interview, for potential vulnerabilities or tendencies of acting out with sexually aggressive behavior. Housing assignments will be made accordingly.

(3) Each facility must have a written policy, procedure, and practice requiring that an investigation will be conducted and documented whenever a sexual assault is alleged, threatened, or occurs.

(4) Each facility must have a written policy, procedure, and practice requiring that juveniles identified as at-risk for sexual victimization are assessed by a mental health or other qualified professional. Such juveniles are identified, monitored, and counseled.

(5) Each facility must have a written policy, procedure, and practice to ensure that sexual conduct between staff and juveniles, volunteers and juveniles, and contract personnel and juveniles, regardless of consensual status, is prohibited and subject to administrative and criminal disciplinary sanctions.

(6) All occurrences or allegations of sexual assault shall be referred to an appropriate medical facility for clinical assessment and gathering of forensic evidence by professionals who are trained and experienced in management of victims of sexual assault. If these procedures are performed in-house, the following guidelines shall be used:

(a) provisions will be made for testing for sexually transmitted diseases (for example, HIV, gonorrhea, hepatitis, and other diseases) and release of information for purposes of medical management of both the victim and alleged perpetrator;

(b) a history will be taken by healthcare professionals who conduct an examination to document the extent of physical injury and to determine if referral to another facility is indicated. With

the victim's consent, the examination includes collection of evidence from the victim, using a kit approved by the appropriate authority;

(c) prophylactic treatment and follow-up for sexually transmitted diseases will be offered to all victims, as appropriate, if not already done in the emergency room;

(d) follow-up by a mental health professional will be offered to assess the need for crisis intervention counseling and long-term follow-up; and

(e) a report will be made to the facility or program administrator or designee to assure separation of the victim from the youth's assailant.

(7) Each facility will have a written policy, procedure, and practice to provide that juveniles who are victims of sexual abuse and/or assault have the option to report the incident to a designated staff member other than an immediate point-of-contact line staff member.

(8) Each facility will have a written policy, procedure, and practice to provide that all case records associated with claims of sexual abuse and/or assault, including incident reports, investigative reports, juvenile information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment and/or counseling are retained in accordance with an established schedule.

Authorizing statute(s): 41-5-1802, MCA

Implementing statute(s): 41-5-1802, MCA

History: NEW, 2011 MAR p. 570, Eff. 4/15/11.