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Montana Legislative Services Division  
Office of the Code Commissioner

Ravalli County Commissioners

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January 20, 2022

Re: 2021 Montana Code Annotated (MCA) – Corrections to Titles 53 and 87

Dear MCA User:

Enclosed with this letter are pages containing corrected text for 2021 MCA Titles 53 and 87. The number of enclosed copies reflects the number of Volumes 8 and 10 or Titles 49/50/52/53 and Titles 80/81/87 booklets that you purchased (either as part of a set or as a separate item). You can insert each copy in a corresponding Volume 8 and 10 or Titles 49/50/52/53 and Titles 80/81/87 booklet.

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House Bill 691 (Ch. 577, L. 2021) amended 53-20-204 and enacted 53-20-216.

Sections 87-1-296, 87-1-297, 87-1-505, and 87-4-526 were repealed by HB 637 (Ch. 552, L. 2021).

Section 87-2-702 was amended by SB 57 (Ch. 261, L. 2021).

Section 76-22-109 was renumbered to 87-5-909 by SB 249 (Ch. 326, L. 2021), but references to 76-22-109 in 87-5-911(1)(b)(i) and (1)(b)(ii) were mistakenly changed to 7-5-909 instead of 87-5-909.

House Bill 637 (Ch. 552, L. 2021) amended 87-6-404 and voided the amendment to 87-6-404 made by HB 468 (Ch. 359, L. 2021). Due to an error during the codification process, the section text, history, and compiler's comments of 87-6-404 printed in the 2021 MCA reflected the amendment made by Ch. 359 instead of the amendment made by Ch. 552.

We apologize for this inconvenience.

Sincerely,

Todd M. Everts  
Code Commissioner  
Montana Legislative Services Division

**53-20-204. Rules.** (1) The department may adopt rules necessary for the proper administration of this part, including but not limited to:

(a) the training and other standards necessary to provide crisis support services as allowed under 53-20-216; and

(b) the reimbursement rates for crisis support services provided pursuant to 53-20-216.

(2) The department shall adopt rules in cooperation with the board of nursing under which a properly trained staff member of a facility providing services to persons with developmental disabilities under this part may assist and supervise a client of the facility in taking medication if the medication is usually self-administered and if a physician has prescribed the assistance.

**History:** En. 80-2614 by Sec. 4, Ch. 325, L. 1974; R.C.M. 1947, 80-2614; amd. and redes. 71-2404 by Sec. 3, Ch. 239, L. 1975; amd. Sec. 41, Ch. 37, L. 1977; amd. Sec. 3, Ch. 559, L. 1977; R.C.M. 1947, 71-2404(1), (4); amd. Sec. 21, Ch. 255, L. 1995; amd. Sec. 2, Ch. 577, L. 2021.

**Compiler's Comments**

*2021 Amendment:* Chapter 577 in (1) at end of introductory clause inserted "including but not limited to"; inserted (1)(a) regarding training and other standards; inserted (1)(b) regarding reimbursement rates; and made minor changes in style. Amendment effective July 1, 2021.

**Cross-References**

Rule defined — applicability of Montana Administrative Procedure Act, 2-4-102.

Adoption and publication of rules, Title 2, ch. 4, part 3.

Right to be free from unnecessary or excessive medication, 53-20-145.

**53-20-216. Crisis response services – department and provider responsibilities.**

(1) (a) The department shall establish crisis response services to help individuals with developmental disabilities minimize or avoid instances of crisis. The services must assist providers and families in preventing, deescalating, and intervening in instances in which individuals with developmental disabilities are likely to go into crisis.

(b) For the purposes of this section, “crisis” means an instance in which an individual is upset, afraid, confused, or otherwise experiencing emotional or physical disequilibrium, which negatively affects the individual’s actions and places the individual at risk of incarceration, hospitalization, civil commitment, or loss of the individual’s placement in community services.

(2) The crisis response services must consist of three different levels of prevention, intervention, and crisis support services:

(a) a preventive level of response that involves training providers and families in identifying and preventing crisis and in responding to a crisis in its initial stages before the crisis escalates to require a higher level of intervention;

(b) an intermediate level of response that involves providing direct professional staff support to an individual in the individual’s current community placement when the individual is in or is approaching crisis; and

(c) an advanced level of response that involves qualified providers providing support services to an individual approaching or in crisis outside of the individual’s current community placement. A provider offering crisis support services at this level must receive an enhanced reimbursement rate that reflects the higher level of support being provided to the individual in crisis.

(3) (a) To access crisis response services, providers shall:

(i) contact the department for assistance when an individual with developmental disabilities is in or is approaching crisis; and

(ii) implement the suggestions made for crisis response.

(b) If the individual needs the highest level of response, the department shall find an appropriate placement for the individual if the provider is unable to offer the level of response needed to mitigate the crisis and maintain the individual in the current placement.

(4) (a) A person offering training in crisis response or providing direct crisis response services must:

(i) be licensed in the practice of applied behavior analysis pursuant to Title 37, chapter 17; and

(ii) meet other requirements established by the department by rule.

(b) If a team of individuals is offering training under this section, at least one member of the team must meet the licensure requirements of Title 37, chapter 17.

(5) The department may not provide the training or direct services described under this section and shall contract with one or more private entities for the services.

(6) In developing and carrying out crisis response services, the department shall consult with and include other entities that respond to crisis situations involving individuals with developmental disabilities, including but not limited to law enforcement agencies, hospitals, and mental health providers.

**History:** En. Sec. 1, Ch. 577, L. 2021.

**Compiler’s Comments**

*Effective Date:* Section 7, Ch. 577, L. 2021, provided: “[This act] is effective July 1, 2021.”

**53-20-217 through 53-20-219 reserved.**

**87-2-702. Restrictions on special licenses – availability of bear and mountain lion licenses.** (1) A person who has killed or taken any game animal, except a deer, an elk, or an antelope, during the current license year is not permitted to receive a special license under this chapter to hunt or kill a second game animal of the same species.

(2) The commission may require applicants for special permits authorized by this chapter to obtain a valid big game license for that species for the current year prior to applying for a special permit.

(3) Except as provided in 87-2-815, a person may take only one grizzly bear in Montana with a license authorized by 87-2-701.

(4) (a) Except as provided in 87-1-271(2) and 87-2-815, a person who receives a moose, mountain goat, or limited mountain sheep license, as authorized by 87-2-701, with the exception of an antlerless moose or an adult ewe game management license issued under 87-2-104, is not eligible to receive another special license for that species for the next 7 years. For the purposes of this subsection (4)(a), “limited mountain sheep license” means a license that is valid for an area in which the number of licenses issued is restricted.

(b) (i) Except as provided in 87-1-271(2) and 87-2-815, a person who takes a legal ram mountain sheep with at least one horn that is equal to or greater than a three-fourths curl using an unlimited mountain sheep license or a population management license issued pursuant to 87-2-701 is not eligible to receive another special license for that species for the next 7 years. For the purposes of this subsection (4)(b)(i), “unlimited mountain sheep license” means a license that is valid for an area in which the number of licenses issued is not restricted.

(ii) The department shall biennially report to the environmental quality council in accordance with 5-11-210 information on:

(A) mountain sheep harvested pursuant to this subsection (4) from the Tendoy Mountain herd;

(B) efforts to collect tissue samples and other biological information from mountain sheep harvested from the Tendoy Mountain herd to determine the immunity of surviving herd members to pneumonia outbreaks; and

(C) attempts by the department to share tissue samples and other biological information collected from the Tendoy Mountain herd with Washington State University, other public entities, and private entities that research the interaction between mountain sheep and domestic sheep.]

(5) An application for a wild buffalo or bison license must be made on the same form and is subject to the same license application deadline as the special license for moose, mountain goat, and mountain sheep. *(Bracketed language in subsection (4)(b) terminates July 1, 2027—sec. 3, Ch. 186, L. 2017.)*

**History:** En. Sec. 2, Ch. 267, L. 1955; amd. Sec. 1, Ch. 65, L. 1963; amd. Sec. 1, Ch. 72, L. 1969; amd. Sec. 1, Ch. 48, L. 1971; amd. Sec. 3, Ch. 167, L. 1973; amd. Sec. 1, Ch. 195, L. 1973; amd. Sec. 28, Ch. 9, L. 1977; R.C.M. 1947, 26-202.2(1), (2); amd. Sec. 15, Ch. 478, L. 1979; amd. Sec. 11, Ch. 554, L. 1981; amd. Sec. 1, Ch. 241, L. 1987; amd. Sec. 3, Ch. 431, L. 1989; amd. Sec. 1, Ch. 57, L. 1991; amd. Sec. 1, Ch. 115, L. 1995; amd. Sec. 4, Ch. 201, L. 2003; amd. Sec. 5, Ch. 471, L. 2005; amd. Sec. 3, Ch. 25, L. 2007; amd. Sec. 1, Ch. 136, L. 2009; amd. Sec. 2, Ch. 54, L. 2013; amd. Sec. 1, Ch. 151, L. 2013; amd. Sec. 1, Ch. 186, L. 2017; amd. Sec. 130, Ch. 261, L. 2021; amd. Sec. 9, Ch. 552, L. 2021.

**Compiler’s Comments**

*2021 Amendments — Composite Section:* Chapter 261 in (4)(b)(ii) in introductory clause substituted current text for former text that read: “Before September 1 of each even-numbered year, the department shall report to the environmental quality council information on”. Amendment effective April 20, 2021.

Chapter 552 deleted former (6) and (7) (see 2021 Session Law for former text). Amendment effective May 15, 2021.

**87-5-911. Compensatory mitigation – findings.** (1) The legislature finds that allowing a project developer to provide compensatory mitigation for the debits of a project is consistent with the purpose of incentivizing voluntary conservation measures for sage grouse habitat and populations. The project developer may provide compensatory mitigation by:

(a) using the habitat quantification tool to calculate the debits attributable to the project; and

(b) under a mitigation plan approved by the oversight team, offsetting those debits in whole or in part by:

(i) purchasing an equal number of credits from a habitat exchange authorized by the United States fish and wildlife service or from the available credits tracked by the oversight team pursuant to 87-5-904. Payments received for credits tracked by the oversight team must be deposited in the sage grouse stewardship account established in 87-5-909.

(ii) if sufficient conservation credits are unavailable for purchase, making a financial contribution to the sage grouse stewardship account established in 87-5-909 that is equal to the average cost of the credits that would otherwise be required;

(iii) providing funds to establish a habitat exchange or finance a conservation project for the purpose of creating credits to offset debits. However, the funds may not be used to subsidize mitigation by or decrease the mitigation obligations of any party involved in the project.

(iv) undertaking other mitigation options identified and approved by the oversight team, including but not limited to sage grouse habitat enhancement, participation in a conservation bank, or funding stand-alone mitigation actions.

(2) All mitigation undertaken pursuant to this section must be taken in consideration of applicable United States fish and wildlife service sage grouse policies, state law, and any rules adopted pursuant to this part.

(3) A mitigation action taken under this section must be conducted within general habitat, core areas, or connectivity areas.

(4) A project developer may submit alternative locations for a project to compare the compensatory mitigation requirements of each and choose which alternative to develop based upon that information.

**History:** En. Sec. 9, Ch. 445, L. 2015; amd. Sec. 3, Ch. 311, L. 2017; amd. Sec. 5, Ch. 267, L. 2019; Sec. 76-22-111, MCA 2019; redes. 87-5-911 by Sec. 3, Ch. 326, L. 2021.

**87-6-404. Unlawful use of dog while hunting.** (1) Except as provided in subsections (3) through (6), a person may not:

(a) chase any game animal or fur-bearing animal with a dog; or

(b) purposely, knowingly, or negligently permit a dog to chase, stalk, pursue, attack, or kill a hooved game animal. If the dog is not under the control of an adult at the time of the violation, the owner of the dog is personally responsible. A defense that the dog was allowed to run at large by another person is not allowable unless it is shown that at the time of the violation, the dog was running at large without the consent of the owner and that the owner took reasonable precautions to prevent the dog from running at large.

(2) Except as provided in subsection (3)(g), a peace officer, game warden, or other person authorized to enforce the Montana fish and game laws who witnesses a dog chasing, stalking, pursuing, attacking, or killing a hooved game animal may destroy that dog on public land or on private land at the request of the landowner without criminal or civil liability.

(3) A person may:

(a) take game birds during the appropriate open season with the aid of a dog;

(b) hunt mountain lions during the winter open season, as established by the commission, with the aid of a dog or dogs;

(c) hunt bobcats during the trapping season, as established by the commission, with the aid of a dog or dogs;

(d) subject to subsection (5), hunt black bears during the spring season with the aid of a dog or dogs as authorized by the commission;

(e) train bird hunting dogs pursuant to the requirements of 87-3-602;

(f) conduct field trials for bird hunting dogs pursuant to the requirements of 87-3-603 or on private land; and

(g) use trained or controlled dogs to chase or herd away game animals or fur-bearing animals to protect humans, lawns, gardens, livestock, or agricultural products, including growing crops and stored hay and grain. The dog may not be destroyed pursuant to subsection (2).

(4) A resident who possesses a Class D-3 resident hound training license may:

(a) pursue mountain lions and bobcats with a dog or dogs during a training season from December 2 of each year to April 14 of the following year; and

(b) pursue black bears with a dog or dogs during a training season from the end of the spring season for black bear through June 15 of that year as authorized by the commission.

(5) A nonresident who possesses a Class D-4 hound license may pursue mountain lions or black bears with a dog or dogs pursuant to 87-2-519.

(6) (a) A person with a valid hunting license issued pursuant to Title 87, chapter 2, may use a dog to track a wounded game animal during an appropriate open season. Any person using a dog in this manner:

(i) shall maintain physical control of the dog at all times by means of a maximum 50-foot lead attached to the dog's collar or harness;

(ii) during the general season, whether handling or accompanying the dog, shall wear hunter orange material pursuant to 87-6-414;

(iii) may carry any weapon allowed by law;

(iv) may dispose of the wounded game animal using any weapon allowed by the valid hunting license; and

(v) shall tag an animal that has been reduced to possession in accordance with 87-6-411.

(b) Dog handlers tracking a wounded game animal with a dog are exempt from licensing requirements under Title 87, chapter 2, as long as they are accompanied by the licensed hunter who wounded the game animal.

(7) A person who is convicted of or who forfeits bond or bail after being charged with a violation of this section shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, and trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(8) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 through 87-6-907.

**History:** En. Sec. 36, Ch. 258, L. 2011; amd. Sec. 127, Ch. 258, L. 2011; amd. Sec. 2, Ch. 149, L. 2015; amd. Sec. 6, Ch. 103, L. 2019; amd. Sec. 3, Ch. 378, L. 2019; amd. Secs. 19, 30, Ch. 552, L. 2021.

**Compiler's Comments**

*2021 Amendment — Coordination:* Section 30, Ch. 552, L. 2021, a coordination section, provided that if House Bill No. 468 and Ch. 552 were both passed and approved, then sec. 2 of House Bill No. 468, amending 87-6-404, is void, sec. 19, Ch. 552, amending 87-6-404, terminates September 30, 2021, and 87-6-404 was amended as provided in the coordination section. House Bill No. 468 was passed and approved as Ch. 359, L. 2021. Section 30, Ch. 552, inserted (3)(d) relating to black bears and dogs; inserted (4)(b) relating to black bear and dog training seasons; in (5) near middle after "hound" deleted "handler" and after "mountain lions" inserted "or black bears"; and made minor changes in style. Amendment effective October 1, 2021.

Pursuant to sec. 30, Ch. 552, the Code Commissioner has not codified the amendments made by sec. 19, Ch. 552, because of their short duration.

*2021 MCA Errata Insert*

**87-4-526. Repealed. Sec. 25, Ch. 552, L. 2021.**

**History:** En. Sec. 9, Ch. 265, L. 1965; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-1609; amd. Sec. 7, Ch. 499, L. 2003.

**87-1-296. Repealed. Sec. 25, Ch. 552, L. 2021.**

**History: En. Sec. 2, Ch. 296, L. 2019.**

**87-1-297. Repealed. Sec. 25, Ch. 552, L. 2021.**

**History: En. Sec. 3, Ch. 296, L. 2019.**

**87-1-505. Repealed.** Sec. 25, Ch. 552, L. 2021.

**History:** En. Sec. 2, Ch. 85, L. 1969; amd. Sec. 36, Ch. 513, L. 1973; R.C.M. 1947, 26-110.2; amd. Sec. 120, Ch. 2, L. 2009.

*2021 MCA Errata Insert*