

1 *Senate* BILL NO. 140
 2 INTRODUCED BY *Major Waterman* *Hockett* *NATA* *Johnson*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCLUDE ANABOLIC
 5 STEROIDS AS A SCHEDULE III DRUG; PROVIDING A MISDEMEANOR
 6 PENALTY FOR FIRST OFFENSE POSSESSION OF ANABOLIC STEROIDS;
 7 AND AMENDING SECTIONS 45-9-102, 46-18-201, 46-18-231, AND
 8 50-32-226, MCA."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 45-9-102, MCA, is amended to read:

12 **"45-9-102. Criminal possession of dangerous drugs. (1)**

13 A person commits the offense of criminal possession of
 14 dangerous drugs if he possesses any dangerous drug, as
 15 defined in 50-32-101.

16 (2) Any A person convicted of criminal possession of
 17 marijuana or its derivatives in an amount the aggregate
 18 weight of which does not exceed 60 grams of marijuana or 1
 19 gram of hashish is, for the first offense, guilty of a
 20 misdemeanor and shall be punished by a fine of not less than
 21 \$100 or more than \$500 and by imprisonment in the county
 22 jail for not more than 6 months. The minimum fine must be
 23 imposed as a condition of a suspended or deferred sentence.
 24 A person convicted of a second or subsequent offense under
 25 this subsection is punishable by a fine not to exceed \$1,000

1 or imprisonment in the county jail for a term not to exceed
 2 1 year or in the state prison for a term not to exceed 3
 3 years or both such fine and imprisonment.

4 (3) A person convicted of criminal possession of an
 5 anabolic steroid as listed in 50-32-226 is, for the first
 6 offense, guilty of a misdemeanor and shall be punished by a
 7 fine of not less than \$100 or more than \$500 and by
 8 imprisonment in the county jail for not more than 6 months.

9 (3)(4) A person convicted of criminal possession of an
 10 opiate, as defined in 50-32-101(19), shall be imprisoned in
 11 the state prison for a term of not less than 2 years or more
 12 than 5 years and may be fined not more than \$50,000, except
 13 as provided in 46-18-222.

14 (4)(5) A person convicted of criminal possession of
 15 dangerous drugs not otherwise provided for in subsection
 16 (2), or (3), or (4) shall be imprisoned in the state prison
 17 for a term not to exceed 5 years or be fined an amount not
 18 to exceed \$50,000, or both.

19 (5)(6) A person of the age of 21 years or under
 20 convicted of a first violation under this section ~~shall be~~
 21 is presumed to be entitled to a deferred imposition of
 22 sentence of imprisonment.

23 (6)(7) Ultimate users and practitioners and agents
 24 under their supervision acting in the course of a
 25 professional practice, as defined by 50-32-101, are exempt



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1 from this section."

2 **Section 2.** Section 46-18-201, MCA, is amended to read:

3 ***46-18-201. Sentences that may be imposed.** (1) Whenever
4 a person has been found guilty of an offense upon a verdict
5 or a plea of guilty, the court may:

6 (a) defer imposition of sentence, excepting sentences
7 for driving under the influence of alcohol or drugs, for a
8 period, except as otherwise provided, not exceeding 1 year
9 for any misdemeanor or for a period not exceeding 3 years
10 for any felony. The sentencing judge may impose upon the
11 defendant any reasonable restrictions or conditions during
12 the period of the deferred imposition. Reasonable
13 restrictions or conditions may include:

- 14 (i) jail base release;
15 (ii) jail time not exceeding 180 days;
16 (iii) conditions for probation;
17 (iv) restitution;
18 (v) payment of the costs of confinement;
19 (vi) payment of a fine as provided in 46-18-231;
20 (vii) payment of costs as provided in 46-18-232 and
21 46-18-233;
22 (viii) payment of costs of court---appointed
23 court-appointed counsel as provided in 46-8-113;
24 (ix) community service;
25 (x) any other reasonable conditions considered

1 necessary for rehabilitation or for the protection of
2 society; or

3 (xi) any combination of the above.

4 (b) suspend execution of sentence up to the maximum
5 sentence allowed for each particular offense. The sentencing
6 judge may impose on the defendant any reasonable
7 restrictions or conditions during the period of suspended
8 sentence. Reasonable restrictions or conditions may include
9 any of those listed in subsections (1)(a)(i) through
10 (1)(a)(xi).

11 (c) impose a fine as provided by law for the offense;
12 (d) require payment of costs as provided in 46-18-232
13 or payment of costs of court-appointed counsel as provided
14 in 46-8-113;

15 (e) commit the defendant to a correctional institution,
16 with or without a fine as provided by law for the offense;

17 (f) impose any combination of subsections (1)(b)
18 through (1)(e).

19 (2) If any financial obligation is imposed as a
20 condition under subsection (1)(a), sentence may be deferred
21 for a period not exceeding 2 years for any misdemeanor or
22 for a period not exceeding 6 years for any felony,
23 regardless of whether any other conditions are imposed.

24 (3) If any restrictions or conditions imposed under
25 subsection (1)(a) or (1)(b) are violated, the court shall

1 consider any elapsed time and either expressly allow part or
2 all of it as a credit against the sentence or reject all or
3 part as a credit and state its reasons in the order. Credit,
4 however, must be allowed for jail time already served.

5 (4) Except as provided in 46-18-222, the imposition or
6 execution of the first 2 years of a sentence of imprisonment
7 imposed under the following sections may not be deferred or
8 suspended: 45-5-103, 45-5-202(3) relating to aggravated
9 assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-503(2)
10 and (3), 45-9-101(2), (3), and (5)(d), 45-9-102~~(3)~~(4), and
11 45-9-103(2).

12 (5) Except as provided in 46-18-222, the imposition or
13 execution of the first 10 years of a sentence of
14 imprisonment imposed under 45-5-102 may not be deferred or
15 suspended.

16 (6) Except as provided in 46-18-222, imposition of
17 sentence in a felony case may not be deferred in the case of
18 a defendant who has been convicted of a felony on a prior
19 occasion, whether or not the sentence was imposed,
20 imposition of the sentence was deferred, or execution of the
21 sentence was suspended.

22 (7) If the victim was less than 16 years old, the
23 imposition or execution of the first 30 days of a sentence
24 of imprisonment imposed under 45-5-502(3), 45-5-503,
25 45-5-504, 45-5-505, or 45-5-507 may not be deferred or

1 suspended. Section 46-18-222 does not apply to the first 30
2 days of such imprisonment.

3 (8) In imposing a sentence on a defendant convicted of
4 a sexual offense as defined in 46-23-502, the court may not
5 waive the registration requirement provided in 46-18-254,
6 46-18-255, and Title 46, chapter 23, part 5.

7 (9) A person convicted of a sexual offense, as defined
8 in 46-23-502, and sentenced to imprisonment in the state
9 prison shall enroll in the educational phase of the prison's
10 sexual offender program."

11 **Section 3.** Section 46-18-231, MCA, is amended to read:
12 **"46-18-231. Fines in felony and misdemeanor cases.** (1)
13 Whenever, upon a verdict or a plea of guilty, a person has
14 been found guilty of an offense for which a felony penalty
15 of imprisonment could be imposed, the court may impose a
16 fine, only in accordance with subsection (3), and in lieu of
17 or in addition to a sentence of imprisonment. For those
18 crimes for which penalties are provided in 45-5-103,
19 45-5-202(3), 45-5-302(2), 45-5-303(2), 45-5-401(2),
20 45-5-502(3), 45-5-503(2) and (3), 45-9-101(2), (3), and
21 (5)(d), 45-9-102~~(3)~~(4), and 45-9-103(2), a fine may be
22 imposed in accordance with subsection (3) in addition to a
23 sentence of imprisonment.

24 (2) Whenever, upon a verdict or plea of guilty, a
25 person has been found guilty of an offense for which a

1 misdemeanor penalty of a fine could be imposed, the court
2 may impose a fine only in accordance with subsection (3).

3 (3) The court may not sentence a defendant to pay a
4 fine unless the defendant is or will be able to pay the
5 fine. In determining the amount and method of payment, the
6 court shall take into account the nature of the crime
7 committed, the financial resources of the defendant, and the
8 nature of the burden that payment of the fine will impose.

9 (4) Any fine levied under this section in a felony case
10 shall be in an amount fixed by the court not to exceed
11 \$50,000."

12 **Section 4.** Section 50-32-226, MCA, is amended to read:

13 **"50-32-226. Specific dangerous drugs included in**
14 **Schedule III.** Schedule III consists of the drugs and other
15 substances, by whatever official, common, usual, chemical,
16 or brand name designated, listed in this section.

17 (1) Stimulants. Unless specifically excepted or listed
18 in another schedule, any material, compound, mixture, or
19 preparation that contains any quantity of the following
20 substances having a stimulant effect on the central nervous
21 system, including its salts, isomers (whether optical,
22 position, or geometric), and salts of such isomers whenever
23 the existence of such salts, isomers, and salts of isomers
24 is possible within the specific chemical designation:

25 (a) benzphetamine;

1 (b) chlorphentermine;

2 (c) clortermine; and

3 (d) phendimetrazine.

4 (2) Depressants. Unless specifically excepted or listed
5 in another schedule, any material, compound, mixture, or
6 preparation that contains any quantity of the following
7 substances having a depressant effect on the central nervous
8 system:

9 (a) any substance that contains any quantity of a
10 derivative of barbituric acid or any salt thereof;

11 (b) chlorhexadol;

12 (c) glutethimide;

13 (d) lysergic acid;

14 (e) lysergic acid amide;

15 (f) methyprylon;

16 (g) sulfondiethylmethane;

17 (h) sulfonethylmethane;

18 (i) sulfonmethane;

19 (j) any compound, mixture, or preparation containing
20 amobarbital, secobarbital, or pentobarbital or any salt of
21 any of these drugs and one or more other active medicinal
22 ingredients that are not listed in any schedule; and

23 (k) any suppository dosage form containing amobarbital,
24 secobarbital, or pentobarbital or any salt of any of these
25 drugs approved by the federal food and drug administration

1 for marketing only as a suppository.

2 (3) Nalorphine.

3 (4) Narcotic drugs. Unless specifically excepted or
4 listed in another schedule, any material, compound, mixture,
5 or preparation containing any of the following narcotic
6 drugs or its salts calculated as the free anhydrous base or
7 alkaloid in the following limited quantities:

8 (a) not more than 1.8 grams of codeine per 100
9 milliliters or not more than 90 milligrams per dosage unit,
10 with an equal or greater quantity of an isoquinoline
11 alkaloid of opium;

12 (b) not more than 1.8 grams of codeine per 100
13 milliliters or not more than 90 milligrams per dosage unit,
14 with one or more active, nonnarcotic ingredients in
15 recognized therapeutic amounts;

16 (c) not more than 300 milligrams of dihydrocodeinone
17 per 100 milliliters or not more than 15 milligrams per
18 dosage unit, with a fourfold or greater quantity of an
19 isoquinoline alkaloid of opium;

20 (d) not more than 300 milligrams of dihydrocodeinone
21 per 100 milliliters or not more than 15 milligrams per
22 dosage unit, with one or more active, nonnarcotic
23 ingredients in recognized therapeutic amounts;

24 (e) not more than 1.8 grams of dihydrocodeine per 100
25 milliliters or not more than 90 milligrams per dosage unit,

1 with one or more active, nonnarcotic ingredients in
2 recognized therapeutic amounts;

3 (f) not more than 300 milligrams of ethylmorphine per
4 100 milliliters or not more than 15 milligrams per dosage
5 unit, with one or more active, nonnarcotic ingredients in
6 recognized therapeutic amounts;

7 (g) not more than 500 milligrams of opium per 100
8 milliliters or per 100 grams or not more than 25 milligrams
9 per dosage unit, with one or more active, nonnarcotic
10 ingredients in recognized therapeutic amounts; or

11 (h) not more than 50 milligrams of morphine per 100
12 milliliters or per 100 grams, with one or more active,
13 nonnarcotic ingredients in recognized therapeutic amounts.

14 (5) Anabolic steroids. Any material, compound, mixture,
15 or preparation containing an anabolic steroid, including but
16 not limited to the following:

17 (a) androisoxazole;

18 (b) androstendiol;

19 (c) bolandiol;

20 (d) bolasterone;

21 (e) boldenone;

22 (f) chlormethandienone;

23 (g) clostebol;

24 (h) dihydromesterone;

25 (i) ethylestrenol;

LC 0554/01

- 1 (j) fluoxymesterone;
- 2 (k) formyldienolone;
- 3 (l) 4-hydroxy-19-nortestosterone;
- 4 (m) mesterolone;
- 5 (n) methandriol;
- 6 (o) methandrostenolone;
- 7 (p) methenolone;
- 8 (q) 17-methyltestosterone;
- 9 (r) methyltrienolone;
- 10 (s) nandrolone;
- 11 (t) norbolethone;
- 12 (u) norethandrolone;
- 13 (v) normethandrolone;
- 14 (w) oxandrolone;
- 15 (x) oxymestrone;
- 16 (y) oxymetholone;
- 17 (z) quinbolone;
- 18 (aa) stanolone;
- 19 (bb) stanozolol;
- 20 (cc) stenbolone;
- 21 (dd) testosterone; or
- 22 (ee) trenbolone."

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0140, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to include anabolic steroids as a schedule III drug; and providing a misdemeanor penalty for first offense possession of anabolic steroids.

ASSUMPTIONS:

CRIME CONTROL:

1. Crime Control will track specific arrest data for anabolic steroids if they are included as a schedule III drug.
2. The Montana Uniform Crime Reporting System will require some reprogramming at the state and local level to capture this information.
3. Some of the reprogramming could be absorbed by MBCC staff and some would be contracted out. Contracted services would include 112 hours of programming @ \$25 per hour plus \$20 for printing costs.
4. Initial implementation costs will be funded by general fund.
5. After system is initially implemented no further costs will be incurred.
6. Executive recommended budget is used for current law FY92 and FY93.

DEPARTMENT OF INSTITUTIONS:


1. Possession of anabolic steroids is an offense under 45-9-102, MCA.
2. A first conviction for the offense is treated as a misdemeanor.
3. Subsequent offenses will be treated as felonies (although law is unclear).
4. Presently no data is available concerning the incidence of steroid use in Montana.
5. A potential fiscal impact could be an increase in the prison population which cannot be determined at this time.

DEPARTMENT OF FAMILY SERVICES:

1. Anabolic steroids will be classified as "dangerous drugs" per section 50-32-226, MCA.
2. Section 15-25-111, MCA, establishes a tax on dangerous drugs as defined in 50-32-226, MCA.
3. One third of the tax collected in 15-25-111, MCA is designated for the Department of Family Services.
4. The legality of the drug tax is being tested, so funds from the tax are not being budgeted for the 1993 biennium.
5. No fiscal impact for the FY 1993 biennium.

FISCAL IMPACT:

see next page


ROD SUNDSTED, BUDGET DIRECTOR
Office of Budget and Program Planning

DATE

1-26-91


MIGNON WATERMAN, PRIMARY SPONSOR

DATE

1/26/91

Fiscal Note for SB0140, as introduced

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FISCAL IMPACT:

Expenditures:
CRIME CONTROL:

	<u>FY 92</u>			<u>FY 93</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
FTE	18,00	18,00	0	18,00	18,00	0
Personal Services	536,119	536,119	0	535,618	535,618	0
Operating Expenses	217,065	220,165	3,100	223,157	223,157	0
Equipment	14,297	14,297	0	6,085	6,085	0
Grants	3,260,718	3,260,718	0	3,287,718	3,287,718	0
Benefits and Claims	375,000	375,000	0	375,000	375,000	0
Total	4,403,199	4,406,299	3,100	4,427,578	4,427,578	0
<u>Funding</u>						
General fund	483,360	486,460	3,100	510,876	510,876	0
State Special Revenue	462,901	462,901	0	459,764	459,764	0
Federal Special Revenue	356,938	3,456,938	0	3,456,938	3,456,938	0
Total	4,403,199	4,406,299	3,100	4,427,578	4,427,578	0

Impact, if any, on Departments of Institutions and Family Services cannot be determined at this time.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Not known at this time.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Not known at this time.

TECHNICAL NOTES:

New section 45-9-102 (3), MCA, provides for first offenses only and does not specify whether or not subsequent offenses for criminal possession of anabolic steroids constitute a felony. This "omission" of consequences for subsequent offenses also occurs in the existing law and makes interpretation unclear.

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APPROVED BY COMMITTEE
ON JUDICIARY

1 SENATE BILL NO. 140

2 INTRODUCED BY WATERMAN, HOCKETT, NATHE,

3 JACOBSON, J. JOHNSON

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCLUDE ANABOLIC
6 STEROIDS AS A SCHEDULE III DRUG; PROVIDING A MISDEMEANOR
7 PENALTY FOR FIRST OFFENSE POSSESSION OF ANABOLIC STEROIDS;
8 AND AMENDING SECTIONS 45-9-102, 46-18-201, 46-18-231, AND
9 50-32-226, MCA."

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

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14 A person commits the offense of criminal possession of
15 dangerous drugs if he possesses any dangerous drug, as
16 defined in 50-32-101.

17 (2) Any A person convicted of criminal possession of
18 marijuana or its derivatives in an amount the aggregate
19 weight of which does not exceed 60 grams of marijuana or 1
20 gram of hashish is, for the first offense, guilty of a
21 misdemeanor and shall be punished by a fine of not less than
22 \$100 or more than \$500 and by imprisonment in the county
23 jail for not more than 6 months. The minimum fine must be
24 imposed as a condition of a suspended or deferred sentence.

25 A person convicted of a second or subsequent offense under

1 this subsection is punishable by a fine not to exceed \$1,000
2 or imprisonment in the county jail for a term not to exceed
3 1 year or in the state prison for a term not to exceed 3
4 years or both such fine and imprisonment.

5 (3) A person convicted of criminal possession of an
6 anabolic steroid as listed in 50-32-226 is, for the first
7 offense, guilty of a misdemeanor and shall be punished by a
8 fine of not less than \$100 or more than \$500 and OR by
9 imprisonment in the county jail for not more than 6 months,
10 OR BOTH.

11 ~~(3)~~(4) A person convicted of criminal possession of an
12 opiate, as defined in 50-32-101(19), shall be imprisoned in
13 the state prison for a term of not less than 2 years or more
14 than 5 years and may be fined not more than \$50,000, except
15 as provided in 46-18-222.

16 ~~(4)~~(5) A person convicted of criminal possession of
17 dangerous drugs not otherwise provided for in subsection
18 (2), ~~or (3), or (4)~~ shall be imprisoned in the state prison
19 for a term not to exceed 5 years or be fined an amount not
20 to exceed \$50,000, or both.

21 ~~(5)~~(6) A person of the age of 21 years or under
22 convicted of a first violation under this section ~~shall--be~~
23 is presumed to be entitled to a deferred imposition of
24 sentence of imprisonment.

25 ~~(6)~~(7) Ultimate users and practitioners and agents

SECOND READING

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1 under their supervision acting in the course of a
 2 professional practice, as defined by 50-32-101, are exempt
 3 from this section."

4 **Section 2.** Section 46-18-201, MCA, is amended to read:

5 "46-18-201. Sentences that may be imposed. (1) Whenever
 6 a person has been found guilty of an offense upon a verdict
 7 or a plea of guilty, the court may:

8 (a) defer imposition of sentence, excepting sentences
 9 for driving under the influence of alcohol or drugs, for a
 10 period, except as otherwise provided, not exceeding 1 year
 11 for any misdemeanor or for a period not exceeding 3 years
 12 for any felony. The sentencing judge may impose upon the
 13 defendant any reasonable restrictions or conditions during
 14 the period of the deferred imposition. Reasonable
 15 restrictions or conditions may include:

- 16 (i) jail base release;
- 17 (ii) jail time not exceeding 180 days;
- 18 (iii) conditions for probation;
- 19 (iv) restitution;
- 20 (v) payment of the costs of confinement;
- 21 (vi) payment of a fine as provided in 46-18-231;
- 22 (vii) payment of costs as provided in 46-18-232 and
 23 46-18-233;
- 24 (viii) payment of costs of court---appointed
 25 court-appointed counsel as provided in 46-8-113;

1 (ix) community service;

2 (x) any other reasonable conditions considered
 3 necessary for rehabilitation or for the protection of
 4 society; or

5 (xi) any combination of the above.

6 (b) suspend execution of sentence up to the maximum
 7 sentence allowed for each particular offense. The sentencing
 8 judge may impose on the defendant any reasonable
 9 restrictions or conditions during the period of suspended
 10 sentence. Reasonable restrictions or conditions may include
 11 any of those listed in subsections (1)(a)(i) through
 12 (1)(a)(xi).

13 (c) impose a fine as provided by law for the offense;

14 (d) require payment of costs as provided in 46-18-232
 15 or payment of costs of court-appointed counsel as provided
 16 in 46-8-113;

17 (e) commit the defendant to a correctional institution,
 18 with or without a fine as provided by law for the offense;

19 (f) impose any combination of subsections (1)(b)
 20 through (1)(e).

21 (2) If any financial obligation is imposed as a
 22 condition under subsection (1)(a), sentence may be deferred
 23 for a period not exceeding 2 years for any misdemeanor or
 24 for a period not exceeding 6 years for any felony,
 25 regardless of whether any other conditions are imposed.

1 (3) If any restrictions or conditions imposed under
 2 subsection (1)(a) or (1)(b) are violated, the court shall
 3 consider any elapsed time and either expressly allow part or
 4 all of it as a credit against the sentence or reject all or
 5 part as a credit and state its reasons in the order. Credit,
 6 however, must be allowed for jail time already served.

7 (4) Except as provided in 46-18-222, the imposition or
 8 execution of the first 2 years of a sentence of imprisonment
 9 imposed under the following sections may not be deferred or
 10 suspended: 45-5-103, 45-5-202(3) relating to aggravated
 11 assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-503(2)
 12 and (3), 45-9-101(2), (3), and (5)(d), 45-9-102~~(3)~~(4), and
 13 45-9-103(2).

14 (5) Except as provided in 46-18-222, the imposition or
 15 execution of the first 10 years of a sentence of
 16 imprisonment imposed under 45-5-102 may not be deferred or
 17 suspended.

18 (6) Except as provided in 46-18-222, imposition of
 19 sentence in a felony case may not be deferred in the case of
 20 a defendant who has been convicted of a felony on a prior
 21 occasion, whether or not the sentence was imposed,
 22 imposition of the sentence was deferred, or execution of the
 23 sentence was suspended.

24 (7) If the victim was less than 16 years old, the
 25 imposition or execution of the first 30 days of a sentence

1 of imprisonment imposed under 45-5-502(3), 45-5-503,
 2 45-5-504, 45-5-505, or 45-5-507 may not be deferred or
 3 suspended. Section 46-18-222 does not apply to the first 30
 4 days of such imprisonment.

5 (8) In imposing a sentence on a defendant convicted of
 6 a sexual offense as defined in 46-23-502, the court may not
 7 waive the registration requirement provided in 46-18-254,
 8 46-18-255, and Title 46, chapter 23, part 5.

9 (9) A person convicted of a sexual offense, as defined
 10 in 46-23-502, and sentenced to imprisonment in the state
 11 prison shall enroll in the educational phase of the prison's
 12 sexual offender program."

13 **Section 3.** Section 46-18-231, MCA, is amended to read:

14 **"46-18-231. Fines in felony and misdemeanor cases.** (1)
 15 Whenever, upon a verdict or a plea of guilty, a person has
 16 been found guilty of an offense for which a felony penalty
 17 of imprisonment could be imposed, the court may impose a
 18 fine, only in accordance with subsection (3), and in lieu of
 19 or in addition to a sentence of imprisonment. For those
 20 crimes for which penalties are provided in 45-5-103,
 21 45-5-202(3), 45-5-302(2), 45-5-303(2), 45-5-401(2),
 22 45-5-502(3), 45-5-503(2) and (3), 45-9-101(2), (3), and
 23 (5)(d), 45-9-102~~(3)~~(4), and 45-9-103(2), a fine may be
 24 imposed in accordance with subsection (3) in addition to a
 25 sentence of imprisonment.

1 (2) Whenever, upon a verdict or plea of guilty, a
2 person has been found guilty of an offense for which a
3 misdemeanor penalty of a fine could be imposed, the court
4 may impose a fine only in accordance with subsection (3).

5 (3) The court may not sentence a defendant to pay a
6 fine unless the defendant is or will be able to pay the
7 fine. In determining the amount and method of payment, the
8 court shall take into account the nature of the crime
9 committed, the financial resources of the defendant, and the
10 nature of the burden that payment of the fine will impose.

11 (4) Any fine levied under this section in a felony case
12 shall be in an amount fixed by the court not to exceed
13 \$50,000."

14 **Section 4.** Section 50-32-226, MCA, is amended to read:

15 "50-32-226. Specific dangerous drugs included in
16 Schedule III. Schedule III consists of the drugs and other
17 substances, by whatever official, common, usual, chemical,
18 or brand name designated, listed in this section.

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20 in another schedule, any material, compound, mixture, or
21 preparation that contains any quantity of the following
22 substances having a stimulant effect on the central nervous
23 system, including its salts, isomers (whether optical,
24 position, or geometric), and salts of such isomers whenever
25 the existence of such salts, isomers, and salts of isomers

1 is possible within the specific chemical designation:

- 2 (a) benzphetamine;
- 3 (b) chlorphentermine;
- 4 (c) clortermine; and
- 5 (d) phendimetrazine.

6 (2) Depressants. Unless specifically excepted or listed
7 in another schedule, any material, compound, mixture, or
8 preparation that contains any quantity of the following
9 substances having a depressant effect on the central nervous
10 system:

- 11 (a) any substance that contains any quantity of a
12 derivative of barbituric acid or any salt thereof;
- 13 (b) chlorhexadol;
- 14 (c) glutethimide;
- 15 (d) lysergic acid;
- 16 (e) lysergic acid amide;
- 17 (f) methyprylon;
- 18 (g) sulfondiethylmethane;
- 19 (h) sulfonethylmethane;
- 20 (i) sulfonmethane;
- 21 (j) any compound, mixture, or preparation containing
22 amobarbital, secobarbital, or pentobarbital or any salt of
23 any of these drugs and one or more other active medicinal
24 ingredients that are not listed in any schedule; and
- 25 (k) any suppository dosage form containing amobarbital,

1 secobarbital, or pentobarbital or any salt of any of these
2 drugs approved by the federal food and drug administration
3 for marketing only as a suppository.

4 (3) Nalorphine.

5 (4) Narcotic drugs. Unless specifically excepted or
6 listed in another schedule, any material, compound, mixture,
7 or preparation containing any of the following narcotic
8 drugs or its salts calculated as the free anhydrous base or
9 alkaloid in the following limited quantities:

10 (a) not more than 1.8 grams of codeine per 100
11 milliliters or not more than 90 milligrams per dosage unit,
12 with an equal or greater quantity of an isoquinoline
13 alkaloid of opium;

14 (b) not more than 1.8 grams of codeine per 100
15 milliliters or not more than 90 milligrams per dosage unit,
16 with one or more active, nonnarcotic ingredients in
17 recognized therapeutic amounts;

18 (c) not more than 300 milligrams of dihydrocodeinone
19 per 100 milliliters or not more than 15 milligrams per
20 dosage unit, with a fourfold or greater quantity of an
21 isoquinoline alkaloid of opium;

22 (d) not more than 300 milligrams of dihydrocodeinone
23 per 100 milliliters or not more than 15 milligrams per
24 dosage unit, with one or more active, nonnarcotic
25 ingredients in recognized therapeutic amounts;

1 (e) not more than 1.8 grams of dihydrocodeine per 100
2 milliliters or not more than 90 milligrams per dosage unit,
3 with one or more active, nonnarcotic ingredients in
4 recognized therapeutic amounts;

5 (f) not more than 300 milligrams of ethylmorphine per
6 100 milliliters or not more than 15 milligrams per dosage
7 unit, with one or more active, nonnarcotic ingredients in
8 recognized therapeutic amounts;

9 (g) not more than 500 milligrams of opium per 100
10 milliliters or per 100 grams or not more than 25 milligrams
11 per dosage unit, with one or more active, nonnarcotic
12 ingredients in recognized therapeutic amounts; or

13 (h) not more than 50 milligrams of morphine per 100
14 milliliters or per 100 grams, with one or more active,
15 nonnarcotic ingredients in recognized therapeutic amounts.

16 (5) Anabolic steroids. Any material, compound, mixture,
17 or preparation containing an anabolic steroid, including but
18 not limited to the following:

19 (a) androisoxazole;

20 (b) androstendiol;

21 (c) bolandiol;

22 (d) bolasterone;

23 (e) boldenone;

24 (f) chlormethandienone;

25 (g) clostebol;

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- 1 (h) dihydromesterone;
- 2 (i) ethylestrenol;
- 3 (j) fluoxymesterone;
- 4 (k) formyldienolone;
- 5 (l) 4-hydroxy-19-nortestosterone;
- 6 (m) mesterolone;
- 7 (n) methandriol;
- 8 (o) methandrostenolone;
- 9 (p) methenolone;
- 10 (q) 17-methyltestosterone;
- 11 (r) methyltrienolone;
- 12 (s) nandrolone;
- 13 (t) norbolethone;
- 14 (u) norethandrolone;
- 15 (v) normethandrolone;
- 16 (w) oxandrolone;
- 17 (x) oxymestron;
- 18 (y) oxymetholone;
- 19 (z) quinbolone;
- 20 (aa) stanolone;
- 21 (bb) stanozolol;
- 22 (cc) stenbolone;
- 23 (dd) testosterone; or
- 24 (ee) trenbolone."

-End-

1 SENATE BILL NO. 140

2 INTRODUCED BY WATERMAN, HOCKETT, NATHE,

3 JACOBSON, J. JOHNSON

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCLUDE ANABOLIC
6 STEROIDS AS A SCHEDULE III DRUG; PROVIDING A MISDEMEANOR
7 PENALTY FOR FIRST OFFENSE POSSESSION OF ANABOLIC STEROIDS;
8 AND AMENDING SECTIONS 45-9-102, 46-18-201, 46-18-231, AND
9 50-32-226, MCA."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 45-9-102, MCA, is amended to read:

13 "45-9-102. Criminal possession of dangerous drugs. (1)

14 A person commits the offense of criminal possession of
15 dangerous drugs if he possesses any dangerous drug, as
16 defined in 50-32-101.

17 (2) Any A person convicted of criminal possession of
18 marijuana or its derivatives in an amount the aggregate
19 weight of which does not exceed 60 grams of marijuana or 1
20 gram of hashish is, for the first offense, guilty of a
21 misdemeanor and shall be punished by a fine of not less than
22 \$100 or more than \$500 and by imprisonment in the county
23 jail for not more than 6 months. The minimum fine must be
24 imposed as a condition of a suspended or deferred sentence.

25 A person convicted of a second or subsequent offense under

1 this subsection is punishable by a fine not to exceed \$1,000
2 or imprisonment in the county jail for a term not to exceed
3 1 year or in the state prison for a term not to exceed 3
4 years or both such fine and imprisonment.

5 (3) A person convicted of criminal possession of an
6 anabolic steroid as listed in 50-32-226 is, for the first
7 offense, guilty of a misdemeanor and shall be punished by a
8 fine of not less than \$100 or more than \$500 and OR by
9 imprisonment in the county jail for not more than 6 months,
10 OR BOTH.

11 ~~(3)~~(4) A person convicted of criminal possession of an
12 opiate, as defined in 50-32-101(19), shall be imprisoned in
13 the state prison for a term of not less than 2 years or more
14 than 5 years and may be fined not more than \$50,000, except
15 as provided in 46-18-222.

16 ~~(4)~~(5) A person convicted of criminal possession of
17 dangerous drugs not otherwise provided for in subsection
18 (2), or (3), or (4) shall be imprisoned in the state prison
19 for a term not to exceed 5 years or be fined an amount not
20 to exceed \$50,000, or both.

21 ~~(5)~~(6) A person of the age of 21 years or under
22 convicted of a first violation under this section ~~shall--be~~
23 is presumed to be entitled to a deferred imposition of
24 sentence of imprisonment.

25 ~~(6)~~(7) Ultimate users and practitioners and agents

THIRD READING

1 under their supervision acting in the course of a
 2 professional practice, as defined by 50-32-101, are exempt
 3 from this section."

4 **Section 2.** Section 46-18-201, MCA, is amended to read:

5 "46-18-201. Sentences that may be imposed. (1) Whenever
 6 a person has been found guilty of an offense upon a verdict
 7 or a plea of guilty, the court may:

8 (a) defer imposition of sentence, excepting sentences
 9 for driving under the influence of alcohol or drugs, for a
 10 period, except as otherwise provided, not exceeding 1 year
 11 for any misdemeanor or for a period not exceeding 3 years
 12 for any felony. The sentencing judge may impose upon the
 13 defendant any reasonable restrictions or conditions during
 14 the period of the deferred imposition. Reasonable
 15 restrictions or conditions may include:

- 16 (i) jail base release;
 17 (ii) jail time not exceeding 180 days;
 18 (iii) conditions for probation;
 19 (iv) restitution;
 20 (v) payment of the costs of confinement;
 21 (vi) payment of a fine as provided in 46-18-231;
 22 (vii) payment of costs as provided in 46-18-232 and
 23 46-18-233;
 24 (viii) payment of costs of court---appointed
 25 court-appointed counsel as provided in 46-8-113;

1 (ix) community service;

2 (x) any other reasonable conditions considered
 3 necessary for rehabilitation or for the protection of
 4 society; or

5 (xi) any combination of the above.

6 (b) suspend execution of sentence up to the maximum
 7 sentence allowed for each particular offense. The sentencing
 8 judge may impose on the defendant any reasonable
 9 restrictions or conditions during the period of suspended
 10 sentence. Reasonable restrictions or conditions may include
 11 any of those listed in subsections (1)(a)(i) through
 12 (1)(a)(xi).

13 (c) impose a fine as provided by law for the offense;

14 (d) require payment of costs as provided in 46-18-232
 15 or payment of costs of court-appointed counsel as provided
 16 in 46-8-113;

17 (e) commit the defendant to a correctional institution,
 18 with or without a fine as provided by law for the offense;

19 (f) impose any combination of subsections (1)(b)
 20 through (1)(e).

21 (2) If any financial obligation is imposed as a
 22 condition under subsection (1)(a), sentence may be deferred
 23 for a period not exceeding 2 years for any misdemeanor or
 24 for a period not exceeding 6 years for any felony,
 25 regardless of whether any other conditions are imposed.

1 (3) If any restrictions or conditions imposed under
 2 subsection (1)(a) or (1)(b) are violated, the court shall
 3 consider any elapsed time and either expressly allow part or
 4 all of it as a credit against the sentence or reject all or
 5 part as a credit and state its reasons in the order. Credit,
 6 however, must be allowed for jail time already served.

7 (4) Except as provided in 46-18-222, the imposition or
 8 execution of the first 2 years of a sentence of imprisonment
 9 imposed under the following sections may not be deferred or
 10 suspended: 45-5-103, 45-5-202(3) relating to aggravated
 11 assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-503(2)
 12 and (3), 45-9-101(2), (3), and (5)(d), 45-9-102+3}(4), and
 13 45-9-103(2).

14 (5) Except as provided in 46-18-222, the imposition or
 15 execution of the first 10 years of a sentence of
 16 imprisonment imposed under 45-5-102 may not be deferred or
 17 suspended.

18 (6) Except as provided in 46-18-222, imposition of
 19 sentence in a felony case may not be deferred in the case of
 20 a defendant who has been convicted of a felony on a prior
 21 occasion, whether or not the sentence was imposed,
 22 imposition of the sentence was deferred, or execution of the
 23 sentence was suspended.

24 (7) If the victim was less than 16 years old, the
 25 imposition or execution of the first 30 days of a sentence

1 of imprisonment imposed under 45-5-502(3), 45-5-503,
 2 45-5-504, 45-5-505, or 45-5-507 may not be deferred or
 3 suspended. Section 46-18-222 does not apply to the first 30
 4 days of such imprisonment.

5 (8) In imposing a sentence on a defendant convicted of
 6 a sexual offense as defined in 46-23-502, the court may not
 7 waive the registration requirement provided in 46-18-254,
 8 46-18-255, and Title 46, chapter 23, part 5.

9 (9) A person convicted of a sexual offense, as defined
 10 in 46-23-502, and sentenced to imprisonment in the state
 11 prison shall enroll in the educational phase of the prison's
 12 sexual offender program."

13 **Section 3.** Section 46-18-231, MCA, is amended to read:

14 "46-18-231. Fines in felony and misdemeanor cases. (1)
 15 Whenever, upon a verdict or a plea of guilty, a person has
 16 been found guilty of an offense for which a felony penalty
 17 of imprisonment could be imposed, the court may impose a
 18 fine, only in accordance with subsection (3), and in lieu of
 19 or in addition to a sentence of imprisonment. For those
 20 crimes for which penalties are provided in 45-5-103,
 21 45-5-202(3), 45-5-302(2), 45-5-303(2), 45-5-401(2),
 22 45-5-502(3), 45-5-503(2) and (3), 45-9-101(2), (3), and
 23 (5)(d), 45-9-102+3}(4), and 45-9-103(2), a fine may be
 24 imposed in accordance with subsection (3) in addition to a
 25 sentence of imprisonment.

1 (2) Whenever, upon a verdict or plea of guilty, a
 2 person has been found guilty of an offense for which a
 3 misdemeanor penalty of a fine could be imposed, the court
 4 may impose a fine only in accordance with subsection (3).

5 (3) The court may not sentence a defendant to pay a
 6 fine unless the defendant is or will be able to pay the
 7 fine. In determining the amount and method of payment, the
 8 court shall take into account the nature of the crime
 9 committed, the financial resources of the defendant, and the
 10 nature of the burden that payment of the fine will impose.

11 (4) Any fine levied under this section in a felony case
 12 shall be in an amount fixed by the court not to exceed
 13 \$50,000."

14 **Section 4.** Section 50-32-226, MCA, is amended to read:

15 "50-32-226. **Specific dangerous drugs included in**
 16 **Schedule III.** Schedule III consists of the drugs and other
 17 substances, by whatever official, common, usual, chemical,
 18 or brand name designated, listed in this section.

19 (1) Stimulants. Unless specifically excepted or listed
 20 in another schedule, any material, compound, mixture, or
 21 preparation that contains any quantity of the following
 22 substances having a stimulant effect on the central nervous
 23 system, including its salts, isomers (whether optical,
 24 position, or geometric), and salts of such isomers whenever
 25 the existence of such salts, isomers, and salts of isomers

1 is possible within the specific chemical designation:

- 2 (a) benzphetamine;
- 3 (b) chlorphentermine;
- 4 (c) clortermine; and
- 5 (d) phendimetrazine.

6 (2) Depressants. Unless specifically excepted or listed
 7 in another schedule, any material, compound, mixture, or
 8 preparation that contains any quantity of the following
 9 substances having a depressant effect on the central nervous
 10 system:

- 11 (a) any substance that contains any quantity of a
 12 derivative of barbituric acid or any salt thereof;
- 13 (b) chlorhexadol;
- 14 (c) glutethimide;
- 15 (d) lysergic acid;
- 16 (e) lysergic acid amide;
- 17 (f) methyprylon;
- 18 (g) sulfondiethylmethane;
- 19 (h) sulfonethylmethane;
- 20 (i) sulfonmethane;
- 21 (j) any compound, mixture, or preparation containing
 22 amobarbital, secobarbital, or pentobarbital or any salt of
 23 any of these drugs and one or more other active medicinal
 24 ingredients that are not listed in any schedule; and
- 25 (k) any suppository dosage form containing amobarbital,

1 secobarbital, or pentobarbital or any salt of any of these
 2 drugs approved by the federal food and drug administration
 3 for marketing only as a suppository.

4 (3) Nalorphine.

5 (4) Narcotic drugs. Unless specifically excepted or
 6 listed in another schedule, any material, compound, mixture,
 7 or preparation containing any of the following narcotic
 8 drugs or its salts calculated as the free anhydrous base or
 9 alkaloid in the following limited quantities:

10 (a) not more than 1.8 grams of codeine per 100
 11 milliliters or not more than 90 milligrams per dosage unit,
 12 with an equal or greater quantity of an isoquinoline
 13 alkaloid of opium;

14 (b) not more than 1.8 grams of codeine per 100
 15 milliliters or not more than 90 milligrams per dosage unit,
 16 with one or more active, nonnarcotic ingredients in
 17 recognized therapeutic amounts;

18 (c) not more than 300 milligrams of dihydrocodeinone
 19 per 100 milliliters or not more than 15 milligrams per
 20 dosage unit, with a fourfold or greater quantity of an
 21 isoquinoline alkaloid of opium;

22 (d) not more than 300 milligrams of dihydrocodeinone
 23 per 100 milliliters or not more than 15 milligrams per
 24 dosage unit, with one or more active, nonnarcotic
 25 ingredients in recognized therapeutic amounts;

1 (e) not more than 1.8 grams of dihydrocodeine per 100
 2 milliliters or not more than 90 milligrams per dosage unit,
 3 with one or more active, nonnarcotic ingredients in
 4 recognized therapeutic amounts;

5 (f) not more than 300 milligrams of ethylmorphine per
 6 100 milliliters or not more than 15 milligrams per dosage
 7 unit, with one or more active, nonnarcotic ingredients in
 8 recognized therapeutic amounts;

9 (g) not more than 500 milligrams of opium per 100
 10 milliliters or per 100 grams or not more than 25 milligrams
 11 per dosage unit, with one or more active, nonnarcotic
 12 ingredients in recognized therapeutic amounts; or

13 (h) not more than 50 milligrams of morphine per 100
 14 milliliters or per 100 grams, with one or more active,
 15 nonnarcotic ingredients in recognized therapeutic amounts.

16 (5) Anabolic steroids. Any material, compound, mixture,
 17 or preparation containing an anabolic steroid, including but
 18 not limited to the following:

19 (a) androisoxazole;

20 (b) androstendiol;

21 (c) bolandiol;

22 (d) bolasterone;

23 (e) boldenone;

24 (f) chlormethandienone;

25 (g) clostebol;

- 1 (h) dihydromesterone;
- 2 (i) ethylestrenol;
- 3 (j) fluoxymesterone;
- 4 (k) formyldienolone;
- 5 (l) 4-hydroxy-19-nortestosterone;
- 6 (m) mesterolone;
- 7 (n) methandriol;
- 8 (o) methandrostenolone;
- 9 (p) methenolone;
- 10 (q) 17-methyltestosterone;
- 11 (r) methyltrienolone;
- 12 (s) nandrolone;
- 13 (t) norbolethone;
- 14 (u) norethandrolone;
- 15 (v) normethandrolone;
- 16 (w) oxandrolone;
- 17 (x) oxymestrone;
- 18 (y) oxymetholone;
- 19 (z) quinbolone;
- 20 (aa) stanolone;
- 21 (bb) stanozolol;
- 22 (cc) stenbolone;
- 23 (dd) testosterone; or
- 24 (ee) trenbolone."

-End-

SENATE BILL NO. 140

INTRODUCED BY WATERMAN, HOCKETT, NATHE,
JACOBSON, J. JOHNSON

A BILL FOR AN ACT ENTITLED: "AN ACT TO INCLUDE ANABOLIC STEROIDS AS A SCHEDULE III DRUG; PROVIDING A MISDEMEANOR PENALTY FOR FIRST OFFENSE POSSESSION OF ANABOLIC STEROIDS; AND AMENDING SECTIONS 45-9-102, 46-18-201, 46-18-231, AND 50-32-226, MCA."

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

Section 1. Section 45-9-102, MCA, is amended to read:

"45-9-102. Criminal possession of dangerous drugs. (1)

A person commits the offense of criminal possession of dangerous drugs if he possesses any dangerous drug, as defined in 50-32-101.

(2) Any A person convicted of criminal possession of marijuana or its derivatives in an amount the aggregate weight of which does not exceed 60 grams of marijuana or 1 gram of hashish is, for the first offense, guilty of a misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500 and by imprisonment in the county jail for not more than 6 months. The minimum fine must be imposed as a condition of a suspended or deferred sentence.

A person convicted of a second or subsequent offense under

this subsection is punishable by a fine not to exceed \$1,000 or imprisonment in the county jail for a term not to exceed 1 year or in the state prison for a term not to exceed 3 years or both such fine and imprisonment.

(3) A person convicted of criminal possession of an anabolic steroid as listed in 50-32-226 is, for the first offense, guilty of a misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500 and OR by imprisonment in the county jail for not more than 6 months, OR BOTH.

(4) A person convicted of criminal possession of an opiate, as defined in 50-32-101(19), shall be imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined not more than \$50,000, except as provided in 46-18-222.

(5) A person convicted of criminal possession of dangerous drugs not otherwise provided for in subsection (2), or (3), or (4) shall be imprisoned in the state prison for a term not to exceed 5 years or be fined an amount not to exceed \$50,000, or both.

(6) A person of the age of 21 years or under convicted of a first violation under this section ~~shall~~ is presumed to be entitled to a deferred imposition of sentence of imprisonment.

(7) Ultimate users and practitioners and agents

REFERENCE BILL



1 under their supervision acting in the course of a
2 professional practice, as defined by 50-32-101, are exempt
3 from this section."

4 **Section 2.** Section 46-18-201, MCA, is amended to read:

5 "46-18-201. Sentences that may be imposed. (1) Whenever
6 a person has been found guilty of an offense upon a verdict
7 or a plea of guilty, the court may:

8 (a) defer imposition of sentence, excepting sentences
9 for driving under the influence of alcohol or drugs, for a
10 period, except as otherwise provided, not exceeding 1 year
11 for any misdemeanor or for a period not exceeding 3 years
12 for any felony. The sentencing judge may impose upon the
13 defendant any reasonable restrictions or conditions during
14 the period of the deferred imposition. Reasonable
15 restrictions or conditions may include:

- 16 (i) jail base release;
17 (ii) jail time not exceeding 180 days;
18 (iii) conditions for probation;
19 (iv) restitution;
20 (v) payment of the costs of confinement;
21 (vi) payment of a fine as provided in 46-18-231;
22 (vii) payment of costs as provided in 46-18-232 and
23 46-18-233;
24 (viii) payment of costs of court---appointed
25 court-appointed counsel as provided in 46-8-113;

1 (ix) community service;

2 (x) any other reasonable conditions considered
3 necessary for rehabilitation or for the protection of
4 society; or

5 (xi) any combination of the above.

6 (b) suspend execution of sentence up to the maximum
7 sentence allowed for each particular offense. The sentencing
8 judge may impose on the defendant any reasonable
9 restrictions or conditions during the period of suspended
10 sentence. Reasonable restrictions or conditions may include
11 any of those listed in subsections (1)(a)(i) through
12 (1)(a)(xi).

13 (c) impose a fine as provided by law for the offense;

14 (d) require payment of costs as provided in 46-18-232
15 or payment of costs of court-appointed counsel as provided
16 in 46-8-113;

17 (e) commit the defendant to a correctional institution,
18 with or without a fine as provided by law for the offense;

19 (f) impose any combination of subsections (1)(b)
20 through (1)(e).

21 (2) If any financial obligation is imposed as a
22 condition under subsection (1)(a), sentence may be deferred
23 for a period not exceeding 2 years for any misdemeanor or
24 for a period not exceeding 6 years for any felony,
25 regardless of whether any other conditions are imposed.

1 (3) If any restrictions or conditions imposed under
 2 subsection (1)(a) or (1)(b) are violated, the court shall
 3 consider any elapsed time and either expressly allow part or
 4 all of it as a credit against the sentence or reject all or
 5 part as a credit and state its reasons in the order. Credit,
 6 however, must be allowed for jail time already served.

7 (4) Except as provided in 46-18-222, the imposition or
 8 execution of the first 2 years of a sentence of imprisonment
 9 imposed under the following sections may not be deferred or
 10 suspended: 45-5-103, 45-5-202(3) relating to aggravated
 11 assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-503(2)
 12 and (3), 45-9-101(2), (3), and (5)(d), 45-9-102~~(3)~~(4), and
 13 45-9-103(2).

14 (5) Except as provided in 46-18-222, the imposition or
 15 execution of the first 10 years of a sentence of
 16 imprisonment imposed under 45-5-102 may not be deferred or
 17 suspended.

18 (6) Except as provided in 46-18-222, imposition of
 19 sentence in a felony case may not be deferred in the case of
 20 a defendant who has been convicted of a felony on a prior
 21 occasion, whether or not the sentence was imposed,
 22 imposition of the sentence was deferred, or execution of the
 23 sentence was suspended.

24 (7) If the victim was less than 16 years old, the
 25 imposition or execution of the first 30 days of a sentence

1 of imprisonment imposed under 45-5-502(3), 45-5-503,
 2 45-5-504, 45-5-505, or 45-5-507 may not be deferred or
 3 suspended. Section 46-18-222 does not apply to the first 30
 4 days of such imprisonment.

5 (8) In imposing a sentence on a defendant convicted of
 6 a sexual offense as defined in 46-23-502, the court may not
 7 waive the registration requirement provided in 46-18-254,
 8 46-18-255, and Title 46, chapter 23, part 5.

9 (9) A person convicted of a sexual offense, as defined
 10 in 46-23-502, and sentenced to imprisonment in the state
 11 prison shall enroll in the educational phase of the prison's
 12 sexual offender program."

13 **Section 3.** Section 46-18-231, MCA, is amended to read:

14 **"46-18-231. Fines in felony and misdemeanor cases.** (1)
 15 Whenever, upon a verdict or a plea of guilty, a person has
 16 been found guilty of an offense for which a felony penalty
 17 of imprisonment could be imposed, the court may impose a
 18 fine, only in accordance with subsection (3), and in lieu of
 19 or in addition to a sentence of imprisonment. For those
 20 crimes for which penalties are provided in 45-5-103,
 21 45-5-202(3), 45-5-302(2), 45-5-303(2), 45-5-401(2),
 22 45-5-502(3), 45-5-503(2) and (3), 45-9-101(2), (3), and
 23 (5)(d), 45-9-102~~(3)~~(4), and 45-9-103(2), a fine may be
 24 imposed in accordance with subsection (3) in addition to a
 25 sentence of imprisonment.

(2) Whenever, upon a verdict or plea of guilty, a person has been found guilty of an offense for which a misdemeanor penalty of a fine could be imposed, the court may impose a fine only in accordance with subsection (3).

(3) The court may not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine. In determining the amount and method of payment, the court shall take into account the nature of the crime committed, the financial resources of the defendant, and the nature of the burden that payment of the fine will impose.

(4) Any fine levied under this section in a felony case shall be in an amount fixed by the court not to exceed \$50,000."

Section 4. Section 50-32-226, MCA, is amended to read:

"50-32-226. Specific dangerous drugs included in Schedule III. Schedule III consists of the drugs and other substances, by whatever official, common, usual, chemical, or brand name designated, listed in this section.

(1) Stimulants. Unless specifically excepted or listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers

is possible within the specific chemical designation:

- (a) benzphetamine;
- (b) chlorphentermine;
- (c) clortermine; and
- (d) phendimetrazine.

(2) Depressants. Unless specifically excepted or listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system:

- (a) any substance that contains any quantity of a derivative of barbituric acid or any salt thereof;
- (b) chlorhexadol;
- (c) glutethimide;
- (d) lysergic acid;
- (e) lysergic acid amide;
- (f) methyprylon;
- (g) sulfondiethylmethane;
- (h) sulfonethylmethane;
- (i) sulfonmethane;
- (j) any compound, mixture, or preparation containing amobarbital, secobarbital, or pentobarbital or any salt of any of these drugs and one or more other active medicinal ingredients that are not listed in any schedule; and
- (k) any suppository dosage form containing amobarbital,

1 secobarbital, or pentobarbital or any salt of any of these
2 drugs approved by the federal food and drug administration
3 for marketing only as a suppository.

4 (3) Nalorphine.

5 (4) Narcotic drugs. Unless specifically excepted or
6 listed in another schedule, any material, compound, mixture,
7 or preparation containing any of the following narcotic
8 drugs or its salts calculated as the free anhydrous base or
9 alkaloid in the following limited quantities:

10 (a) not more than 1.8 grams of codeine per 100
11 milliliters or not more than 90 milligrams per dosage unit,
12 with an equal or greater quantity of an isoquinoline
13 alkaloid of opium;

14 (b) not more than 1.8 grams of codeine per 100
15 milliliters or not more than 90 milligrams per dosage unit,
16 with one or more active, nonnarcotic ingredients in
17 recognized therapeutic amounts;

18 (c) not more than 300 milligrams of dihydrocodeinone
19 per 100 milliliters or not more than 15 milligrams per
20 dosage unit, with a fourfold or greater quantity of an
21 isoquinoline alkaloid of opium;

22 (d) not more than 300 milligrams of dihydrocodeinone
23 per 100 milliliters or not more than 15 milligrams per
24 dosage unit, with one or more active, nonnarcotic
25 ingredients in recognized therapeutic amounts;

1 (e) not more than 1.8 grams of dihydrocodeine per 100
2 milliliters or not more than 90 milligrams per dosage unit,
3 with one or more active, nonnarcotic ingredients in
4 recognized therapeutic amounts;

5 (f) not more than 300 milligrams of ethylmorphine per
6 100 milliliters or not more than 15 milligrams per dosage
7 unit, with one or more active, nonnarcotic ingredients in
8 recognized therapeutic amounts;

9 (g) not more than 500 milligrams of opium per 100
10 milliliters or per 100 grams or not more than 25 milligrams
11 per dosage unit, with one or more active, nonnarcotic
12 ingredients in recognized therapeutic amounts; or

13 (h) not more than 50 milligrams of morphine per 100
14 milliliters or per 100 grams, with one or more active,
15 nonnarcotic ingredients in recognized therapeutic amounts.

16 (5) Anabolic steroids. Any material, compound, mixture,
17 or preparation containing an anabolic steroid, including but
18 not limited to the following:

19 (a) androisoxazole;

20 (b) androstendiol;

21 (c) bolandiol;

22 (d) bolasterone;

23 (e) boldenone;

24 (f) chlormethandienone;

25 (g) clostebol;

- 1 (h) dihydromesterone;
- 2 (i) ethylestrenol;
- 3 (j) fluoxymesterone;
- 4 (k) formyldienolone;
- 5 (l) 4-hydroxy-19-nortestosterone;
- 6 (m) mesterolone;
- 7 (n) methandriol;
- 8 (o) methandrostenolone;
- 9 (p) methenolone;
- 10 (q) 17-methyltestosterone;
- 11 (r) methyltrienolone;
- 12 (s) nandrolone;
- 13 (t) norbolethone;
- 14 (u) norethandrolone;
- 15 (v) normethandrolone;
- 16 (w) oxandrolone;
- 17 (x) oxymestrone;
- 18 (y) oxymetholone;
- 19 (z) quinbolone;
- 20 (aa) stanolone;
- 21 (bb) stanozolol;
- 22 (cc) stenbolone;
- 23 (dd) testosterone; or
- 24 (ee) trenbolone."

--End--