

1 *Kropp* *State House*  
 2 INTRODUCED BY *Bill* *James Johnston*  
 3 *Shawitz* *Barnett* *Ellison* *Wyrick* *Wright*  
 4 *Hendrick* *Cubaly* *Wood* *Kellard* *Trapp*  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A SENTENCING  
 6 JUDGE TO IMPOSE A SENTENCE OF IMPRISONMENT FOR CERTAIN  
 7 CRIMES WHEN COMMITTED WITH A FIREARM OR KNIFE AND LIMITING  
 8 THE JUDGE'S POWER IN SUCH CASES TO DEFER IMPOSITION OR  
 9 SUSPEND EXECUTION OF THE SENTENCE; AMENDING SECTION 95-2206,  
 10 R.C.M. 1947." *Dugan* *Ramirez* *Wick*  
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: *Kvaalen* *Smith*

12 Section 1. Section 95-2206, R.C.M. 1947, is amended to  
 13 read as follows:  
 14 "95-2206. Sentence. (1) Whenever any person has been  
 15 found guilty of a crime or offense upon a verdict or a plea  
 16 of guilty, the court may:  
 17 (1)(a) Defer defer imposition of sentence for a period  
 18 not to exceed ~~one~~(1) year for any misdemeanor; for a period  
 19 not to exceed ~~three~~(3) years for any felony. The sentencing  
 20 judge may impose upon the defendant any reasonable  
 21 restrictions or conditions during the period of the deferred  
 22 imposition. Such reasonable restrictions or conditions may  
 23 include:  
 24 (a)(i) jail base release;  
 25 (b)(iii) jail time not to exceed ~~ninety~~(90) days;

1 (c)(iii) conditions for probation;  
 2 (d)(iv) restitution;  
 3 (e)(v) any other reasonable conditions deemed  
 4 necessary for rehabilitation or for the protection of  
 5 society;  
 6 (f)(vi) any combination of the above.  
 7 (2)(b) Suspend ~~suspend~~ execution of sentence up to the  
 8 maximum sentence allowed for the particular offense. The  
 9 sentencing judge may impose on the defendant any reasonable  
 10 restrictions during the period of suspended sentence. Such  
 11 reasonable restrictions may include:  
 12 (a)(i) jail base release;  
 13 (b)(iii) jail time not to exceed (90) days;  
 14 (c)(iii) conditions for probation;  
 15 (d)(iv) restitution;  
 16 (e)(v) any other reasonable conditions deemed  
 17 necessary for rehabilitation or for the protection of  
 18 society;  
 19 (f)(vi) any combination of the above.  
 20 If any restrictions or conditions are violated, any  
 21 elapsed time, except jail time, shall not be a credit  
 22 against the sentence, unless the court shall otherwise  
 23 order.  
 24 (3)(c) Impose ~~impose~~ a fine as provided by law for the  
 25 offense;

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1       ~~f4)(d) Commit~~ ~~commit~~ the defendant to a correctional  
2 institution with or without fine by law for the offense;

3       ~~f5)(e) impose~~ ~~impose~~ any combination of subsections  
4 ~~f2)(1)(b), f3)(1)(c), or f4)(1)(d)~~ above.

5       ~~(2) If the offense is deliberate or mitigated~~  
6 ~~deliberate homicide, aggravated assault, kidnapping,~~  
7 ~~aggravated kidnapping, robbery, sexual intercourse without~~  
8 ~~consent, or sexual assault and if the defendant used a~~  
9 ~~firearm or knife capable of causing death or serious injury~~  
10 ~~in the commission of the offense, the sentencing judge must~~  
11 ~~impose sentence under subsection (1)(d). The imposition or~~  
12 ~~execution of the sentence may not be deferred or suspended~~  
13 ~~under subsection (1)(a), (1)(b), or (1)(e), except that the~~  
14 ~~execution of any part of the sentence in excess of 1 year~~  
15 ~~may be suspended.~~

16       ~~f6)(3)~~ The district court may also impose any of the  
17 following restrictions or conditions on the above sentence  
18 which it deems necessary to obtain the objective of  
19 rehabilitation and the protection of society:

20       (a) prohibit the defendant the right to hold public  
21 office;

22       (b) prohibit the defendant the right to own or carry a  
23 dangerous weapon;

24       (c) prohibit freedom of association;

25       (d) prohibit freedom of movement;

1       (e) any other limitation reasonably related to the  
2 objectives of rehabilitation or the protection of society.

3       ~~f7)(4)~~ The judge in the justice court shall not have  
4 the authority to restrict an individual's rights as  
5 enumerated in subsection ~~f6)(3)~~.

6       ~~(5)~~ Any judge who has suspended the execution of a  
7 sentence or deferred the imposition of a sentence of  
8 imprisonment under this section, or his successor, is  
9 authorized thereafter, in his discretion, during the period  
10 of such suspended sentence or deferred imposition of  
11 sentence to revoke such suspension or impose sentence and  
12 order such person committed, or may, in his discretion,  
13 order the prisoner placed under the jurisdiction of the  
14 state board of pardons as provided by law, or retain such  
15 jurisdiction with this court. Prior to the revocation of an  
16 order suspending or deferring the imposition of sentence,  
17 the person affected shall be given a hearing."

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