ı		Linate	BILL I	NO.	3 <i>37</i>
2	INTRODUCED BY	Roberts			
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A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE A JUDICIAL DESIGNATION OF CERTAIN FELONY OFFENDERS AS PERSISTENT FELONY OFFENDERS FOR PURPOSES OF PAROLE ELIGIBILITY; TO EQUALIZE GOOD TIME ALLOWANCES FOR ALL OFFENDERS: TO ALLOW INMATES GOOD TIME FOR DESIGNATED SELF-IMPROVEMENT ACTIVITIES; AMENDING SECTIONS 80-1905, 95-3214, AND 95-3215, R.C.M. 1947."

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

Section 1. Section 80-1905, R.C.M. 1947, is amended to read as follows:

*80-1905. Good time allowance -- forfeiture -probationers and parolees -- application of prior law -good--time--allowance-offenders. (1) The state department of institutions shall adopt rules and regulations providing for the granting of good time allowance for inmates employed in any prison work or activity. The good time allowance shall operate as a credit on his sentence as imposed by the court, conditioned upon the inmate's good behavior and compliance with the rules and regulations made by the department or the warden. Except-as-provided-in-subsection-(4)7-the The rules adopted by the department may not grant good time allowance

1 to exceed:

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(a) ten (10) days per month for inmates assigned within the confines of the walls of the prison:

- (b) thirteen (13) days per month for those inmates placed outside the confines of the walls of the prison;
- 6 (c) fifteen (15) days per month for those inmates who have been assigned outside the walls of the prison for an uninterrupted period of one year on a minimum status.
- 9 (d) thirteen (13) days per month for those inmates 10 enrolled in school inside the walls who successfully 1.1 complete the course of study or who while so enrolled are 12 released from prison by discharge or parole;
- 13 (e) ten (10) days for each pint of blood donated by an inmate:; 14
 - (f) three (3) days per month for those inmates participating in self-improvement activities designated by the department of institutions.
 - (2) In the event of an attempted escape by an inmate, or a violation of the rules and regulations prescribed by the department or warden, the inmate may be punished by the forfeiture of part or all good time allowances. The warden of the state prison shall advise the department institutions of any attempted escape or violation of rules and regulations on the part of the inmate. Any punishment by forfeiture of good time allowance must be approved by the

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(3) Theprovisionsof-subsections-(1)and-(2)-apply
This section applies to all persons who are on probation or
parole or eligible to be placed on probation or parole. No
person convicted and sentenced before April 1, 1955, shall
have his good time allowance reduced as a result of this
section.

(4)The-maximum-allowances-for-good-time-describedin
subsection(1)shallbe-reduced-for-a-person-who-has-been
convicted-of-a-felony-offense-on-more-than-two-(2)-occasions
within-a-ten-(10)-year-period;-provided;however;forthe
purposeofdetermining-such-ten-(10)-year-period,-the-time
during-which-a-person-is-incarcerated-shall-not-becounted:
Themaximumamountofgoodtimeallowableforsuch-s
habitual-offender-shall-be-computed-as-follows:

(a)--five-(5)--days--per--month--for--inmates--assigned
within-the-confines-of-the-walks-of-the-prison;

(b)--eight--(0)-days-per-month-for-those-inmates-placed outside-the-confines-of-the-walls-of-the-prison;

(c)--ten-(10)-days-per-month-for-those-immates-who-have been-assigned--outside--the--walls--of--the--prison--for--an uninterrupted-period-of-one-(1)-year-on-a-minimum-status;

(d)--eight---(8)--days--per--month--for--those--inmates
enrolled--in--school--inside--the--walls--who---successfully
complete--the--course--of-study-or-who-while-so-enrolled-are

2	{e}five-(5}-days-for-each-pint-of-blood-donated-by-an
3	inmates
4	(5)No-person-convicted-and-sentenced-beforeJulyly
5	19747-shall-have-his-good-time-allowance-reduced-as-required
6	by-subsection-(4)."

released-from-prison-by-discharge-or-pareler

7 Section 2. There is a new R.C.M. section numbered 8 95-2206.5 that reads as follows:

9 95-2206.5. Judicial designation of persistent felony 10 offenders for purposes of parole eliquipility. (1) When an 11 offender has been previously convicted of a felony and the 12 present offense is a second felony committed on a different 13 occasion than the first, the sentencing court shall 14 designate the offender a persistent felony offender for purposes of eligibility for parole under section 95-3214, 15 16 provided:

- 17 (a) the previous felony conviction was for an offense
 18 committed in this state or any other jurisdiction for which
 19 a sentence to a term of imprisonment in excess of one (1)
 20 year could have been imposed; and
- 21 (b) less than five (5) years have elapsed between the 22 commission of the present offense and either:
- 23 (i) the previous felony conviction, or
- 24 (ii) the offender's release on parole or otherwise from 25 prison or other commitment imposed as a result of the

previous felony conviction; and

- 2 (c) the offender was more than eighteen (18) years of 3 age at the time of the commission of the present offense.
- 4 (2) A previous felony conviction shall not be
 5 considered for the purposes of this section if the offender
 6 has been pardoned on the grounds of innocence, or if the
 7 conviction had been set aside in any post-conviction
 8 hearing.
 - Section 3. Section 95-3214, R.C.M. 1947, is amended to read as follows:
 - "95-3214. Parole authority and procedure. (1) The board shall release on parole, by appropriate order, any person confined in the Montana state prison, except persons under sentence of death, when in its opinion there is reasonable probability that the prisoner can be released without detriment to himself or to the community, provided:
 - (a) That no convict serving a time sentence shall be paroled until he has served at least one-quarter (1/4) of his full term, less good time allowances off, as provided in section 80-1905; except that any no convict designated a persistent felony offender under section 95-2206.5 may be paroled until he has served at least one-third (1/3) of his full term, less good time allowances off, as provided in section 80-1905. A first offender serving a time sentence may be paroled after he has served, upon his term of

sentence, twelve and one-half (12 1/2) years. A persistent
felony offender as defined in section 95-2206.5 may be
paroled after he has served, upon his term of sentence,

seventeen and one-half (17 1/2) years.

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- (b) No convict serving a life sentence shall be paroled until he has served twenty-five-(25) thirty (30) years, less the good time allowances off, as provided in section 80-1905.
- (2) Within two (2) months after his admission and at such intervals thereafter as it determines, the board shall consider all pertinent information regarding each prisoner, including the circumstances of his offense, his previous social history and criminal record, his conduct, employment, and attitude in prison, and the reports of and physical and mental examinations which have been made.
- (3) Before ordering the parole of any prisoner, the board shall interview him. A parole shall be ordered only for the best interest of society, not as an award of clemency or a reduction of sentence or pardon. A prisoner shall be placed on parole only when the board believes that he is able and willing to fulfill the obligations of a law-abiding citizen. Every prisoner while on parole shall remain in the legal custody of the institution from which he was released, but shall be subject to the orders of the board.

(4) The board may adopt other rules it considers proper or necessary, with respect to the eligibility of prisoners for parole, and the conduct of parole hearings or conditions to be imposed upon parolees. When an order for parole is issued it shall recite the conditions thereof."

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Section 4. Section 95-3215, R.C.M. 1947, is amended to read as follows:

*95-3215. Conditional release. A prisoner en--parele 8 who has served one-fourth (1/4) of his term or terms, less 9 good time allowances, or a persistent felony offender who 10 has served one-third (1/3) of his term or terms, less good 11 12 time allowances, is considered released on parole until the expiration of the maximum term or terms for which he was 13 14 sentenced, less good time allowances as provided in section 15 80-1905."

-End-

Approved by Committee on Judiciary

1	SENATE BILL NO. 339
2	INTRODUCED BY ROBERTS
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO-REQUIREAJUDICIAL
5	decignation-op-certain-pelony-oppenders-ac-percistent-pelony
6	eppendersperpurposesep-parole-ebigibibity; TO EQUALIZE
7	GOOD TIME ALLOWANCES FOR ALL OFFENDERS; TO ALLOW INMATES
8	GOOD TIME FOR DESIGNATED SELF-IMPROVEMENT ACTIVITIES;
9	AMENDING SECTION 80-1905, 95-32147AND95-32157
10	R.C.M. 1947."
11	
12	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13	Section 1. Section 80-1905, R.C.M. 1947, is amended to
14	read as follows:
15	"80-1905. Good time allowance forfeiture
16	probationers and parolees application of prior law
17	goodtimeallowance-offenders. (1) The state department of
18	institutions shall adopt rules and regulations providing for
19	the granting of good time allowance for inmates employed in
20	any prison work or activity. The good time allowance shall
21	operate as a credit on his sentence as imposed by the court,
22	conditioned upon the inmate's good behavior and compliance
23	with the rules and regulations made by the department or the
24	warden. Except-as-provided-in-subsection-(4),-the The rules
25	adopted by the department may not grant good time allowance

1	to	exceed:
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- 2 (a) ten (10) days per month for inmates assigned
 3 within the confines of the walls of the prison;
- 4 (b) thirteen (13) days per month for those inmates
 5 placed outside the confines of the walls of the prison;
- 6 (c) fifteen (15) days per month for those inmates who
 7 have been assigned outside the walls of the prison for an
 8 uninterrupted period of one year on a minimum status.
- 9 (d) thirteen (13) days per month for those inmates
 10 enrolled in school inside the walls who successfully
 11 complete the course of study or who while so enrolled are
 12 released from prison by discharge or parole;
- (e) ten (10) days for each pint of blood donated by an inmater;
- 15 (f) three (3) days per month for those inmates

 16 participating in self-improvement activities designated by

 17 the department of institutions.
- 18 (2) In the event of an attempted escape by an inmate, 19 or a violation of the rules and regulations prescribed by 20 the department or warden, the inmate may be punished by the 21 forfeiture of part or all good time allowances. The warden 22 of the state prison shall advise the department institutions of any attempted escape or violation of rules 23 24 and regulations on the part of the inmate. Any punishment by 25 forfeiture of good time allowance must be approved by

1	department.
2	(3) Theprovisionsof-subsections-(1)and-(2)-apply
3	This section applies to all persons who are on probation or
4	parole or eligible to be placed on probation or parole. No
5	person convicted and sentenced before April 1, 1955, shall
6	have his good time allowance reduced as a result of this
7	section.
8	(4)The-maximum-allowances-for-good-time-describedin
9	subsection(1)shallbe-reduced-for-a-person-who-has-been
.0	convicted-of-a-felony-offense-on-more-than-two-{2}-occasions
1	within-a-ten-(10)-year-period;-provided;however;forthe
.2	purposeofdetermining-such-ten-(10)-year-period;-the-time
.3	during-which-a-person-is-incarcerated-shall-not-becounted-
.4	Themaximumamountofgoodtimeallowableforsuch-a
.5	habitual-offender-shall-be-computed-as-follows:
L6	(a)five-(5)dayspermonthforinmatesassigned
L 7	within-the-confines-of-the-walls-of-the-prison;
L 8	(b)eight(8)-days-per-month-for-those-inmates-placed
L 9	outside-the-confines-of-the-walls-of-the-prison;
20	(c)ten-(10)-days-per-month-for-those-inmates-who-have
21	been-assignedoutsidethewallsoftheprisonforan
22	uninterrupted-period-of-one-(i)-year-on-a-minimum-status;
23	4d}cight4d}davanermenthferthoseinmetes

enrolled--in--school--inside--the--walls--who---successfully

complete--the--course--of-study-or-who-while-so-enrolled-are

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1	released-from-prison-by-discharge-or-parole;
2	<pre>+e}five-(5)-days-for-cach-pint-of-blood-donated-by-an</pre>
3	inmater
4	(5)No-person-convicted-and-sentenced-before&ulyly
5	19747-shall-have-his-good-time-allowance-reduced-as-required
6	by-subsection-(4)-"
7	Section-2There-isanewR-G-Nsectionnumbered
8	95-2206-5-that-reads-as-follows:
9	95-2206-5Judicial-designation-ofpersistentfelony
10	offendersforpurposes-of-parole-eligibility(l)-When-an
11	offender-has-been-previously-convicted-of-a-felonyandthe
12	presentoffense-is-a-second-felony-committed-on-a-different
13	ossasionthanthefirstythesentencingcourtshall
14	designatetheoffenderapersistentfelony-offender-for
15	purposes-of-eligibility-for-paroleundersection95-32147
16	provided:
17	(a)theprevious-felony-conviction-was-for-an-offense
18	committed-in-this-state-or-any-other-jurisdiction-forwhich
19	asentencetoa-term-of-imprisonment-in-excess-of-one-{1}
20	year-could-have-been-imposed;-and
21	(b)less-than-five-(5)-years-have-elapsed-betweenthe
22	commission-of-the-present-offcnsc-and-either:
23	(i)the-previous-felony-conviction;-or
24	(ii)-the-offender's-release-on-parole-or-otherwise-from
25	prisonorothercommitmentimposedasaresult-of-the

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1	previous-felony-conviction;-and
2	(c)the-offender-was-more-than-eighteen-(18)-yearsof
3	age-at-the-time-of-the-commission-of-the-present-offense;
4	(2)Apreviousfelonyconvictionshallnotbe
5	considered-for-the-purposes-of-this-section-if-theoffender
6	hasbeenpardonedonthe-grounds-of-innocence,-or-if-the
7	convictionhadbeensetasideinanypost-conviction
8	hearing
9	Section-3:Section-95-3214;-R:C:M:-1947;-is-amended-to
10	read-as-follows:
11	495-3214Paroleauthorityandprocedure(1)-The
12	board-shall-release-on-parole;byappropriateorder;any
13	personconfined-in-the-Montana-state-prisony-except-persons
14	under-sentence-ofdeathywheninitsopinionthereis
15	reasonableprobabilitythattheprisoner-can-be-released
16	without-detriment-to-himself-or-to-the-community,provided:
17	(a)Thatnoconvict-serving-a-time-sentence-shall-be
18	paroled-until-he-has-served-at-leastone-quarter(1/4)of
19	his-full-termy-less-good-time-allowances-offy-as-provided-in
20	section88-1985;exceptthatany-no convict-designated-a
21	persistent-felony-offender-under-section95-2206-5maybe
22	pareleduntil-he-has-served-at-least-one-third-(1/3)-of-his
23	full-termy-less-good-time-allowancesoffyasprovidedin
24	section80-1905,A-first-offender serving-a-time-sentence
25	may-be-paroledafterhehasservedyuponhistermof

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seventeen-and-one-half-{17-1/2}-years.	
(b)Noconvictservingalife	sentenceshallbe
paroleduntilhehasserved-twenty-fi	we-{25} thirty-{30}
years,-less-the-good-time-allowancesoff	yasprovidedin
section-80-1905,	
(2)Withintwo(2)-months-after-h	is-admission-and-at
such-intervals-thereafter-as-it-determine	esy-the-boardshall
considerall-pertinent-information-regar	ding-each-prisoner,
including-the-circumstances-ofhisoffe	nseyhisprevious
social-history-and-criminal-recordy-his-c	onduct,-employment,
andattitude-in-prison;-and-the-reports-	of-and-physical-and
mental-examinations-which-have-been-made:	•
(3)Before-ordering-the-parole-of	anyprisonerythe
boardshallinterviewhimh-parole-sh	all-be-ordered-only
for-the-bestinterestofsociety7not	asanawardof
clemencyora-reduction-of-sentence-or-	pardonA-prisoner
shall-be-placed-on-parole-only-when-the-b	oard-believesthat
heisableandwillingtofulfill-t	he-obligations-of-a
law-abiding-citizen	e-onparoleshall
remain-in-the-legal-eustody-of-the-instit	ution-from-which-he
wasreleasedybutshallbesubject-t	o-the-orders-of-the
board.	

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sentence; -- twelve-and-one-half-(12-1/2)-years; -- A-persistent

felony-offender-as--defined--in--section--95-2286.5--may--be
paroled--after--he--has--servedy--upon-his-term-of-sentence;

(4)--The-board--may--adopt--other--rules--it--considers

proper--or--necessary,--with--respect--to-the-eligibility-of

prisoners-for-parole,-and-the-conduct-of-parole-hearings--or

conditions--to--be--imposed-upon-parolees--When-an-order-for

parole-is-issued-it-shall-recite-the-conditions-thereof.*

Section-4:--Section-95-3215;-R:C:M:-1947;-is-amended-to

read-as-follows:

**95-3215:--Conditional-release:--A-prisoner--on--parole

who--has--served-one-fourth-(1/4)-of-his-term-or-terms;-less

good-time-allowances;-or-a-persistent--felony--offender--who

has--served--one-third-(1/3)-of-his-term-or-terms;-less-good

time-allowances; is-considered-released-on-parole-until--the

expiration--of--the--maximum--term-or-terms-for-which-he-was

sentenced;-less-good-time-allowances-as-provided-in--section

60-1905:**

-End-

44th Legislature

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25

1	SENATE BILL NO. 339
2	INTRODUCED BY ROBERTS
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO-REQUEREASUBJETAL
5	Designation-of-certain-fe lo ny-offenders-as-persistent-felony
6	OFFENDERSFORPURPOSES-OF-PAROLE-ELIGIBILITY? TO REQUIRE A
7	JUDICIAL DESIGNATION OF CERTAIN FELONY OFFENDERS AS
8	PERSISTENT FELONY OFFENDERS FOR PURPOSES OF PAROLE
9	ELIGIBILITY; TO EQUALIZE GOOD TIME ALLOWANCES FOR ALL
10	OFFENDERS; TO ALLOW INMATES GOOD TIME FOR DESIGNATED
11	SELF-IMPROVEMENT ACTIVITIES; AMENDING SECTIONS SECTIONS
12	BECTION 80-1905, 95-3214, AND 95-3215 95-32147AND
13	95-32157 R.C.M. 1947."
14	
15	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
16	Section 1. Section 80-1905, R.C.M. 1947, is amended to
17	read as follows:
18	"80-1905. Good time allowance forfeiture
19	probationers and parolees application of prior law
20	goodtimeallowance-offenders. (1) The state department of
21	institutions shall adopt rules and regulations providing for
22	the granting of good time allowance for inmates employed in
23	any prison work or activity. The good time allowance shall

operate as a credit on his sentence as imposed by the court,

conditioned upon the inmate's good behavior and compliance

1	with the rules and regulations made by the department or the
2	warden. Except-as-provided-in-subsection-(4)7-the The rules
3	adopted by the department may not grant good time allowance
4	to exceed:
5	(a) ten (10) days per month for inmates assigned
6	within the confines of the walls of the prison;
7	(b) thirteen (13) days per month for those inmates
8	placed outside the confines of the walls of the prison;
9	(c) fifteen (15) days per month for those inmates who
10	have been assigned outside the walls of the prison for an
11	uninterrupted period of one year on a minimum status.
12	(d) thirteen (13) days per month for those inmates
13	enrolled in school inside the walls who successfully
14	complete the course of study or who while so enrolled are
15	released from prison by discharge or parolet:
16	(e) ten (10) days for each pint of blood donated by an
17	inmate .
18	(f) three (3) days per month for those inmates
19	participating in self-improvement activities designated by
20	the department of institutions.
21	(2) In the event of an attempted escape by an inmate,
22	or a violation of the rules and regulations prescribed by
23	the department or warden, the inmate may be puhished by the

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Except-as-provided-in-subsection-(4)7-the The rules ted by the department may not grant good time allowance cceed: (a) ten (10) days per month for inmates assigned in the confines of the walls of the prison: (b) thirteen (13) days per month for those inmates ed outside the confines of the walls of the prison; (c) fifteen (15) days per month for those inmates who been assigned outside the walls of the prison for an terrupted period of one year on a minimum status. thirteen (13) days per month for those inmates in school inside the walls who successfully the course of study or who while so enrolled are ased from prison by discharge or parolet; (e) ten (10) days for each pint of blood donated by an te:: (f) three (3) days per month for those inmates icipating in self-improvement activities designated by department of institutions. (2) In the event of an attempted escape by an inmate, a violation of the rules and regulations prescribed by department or warden, the inmate may be puhished by the forfeiture of part or all good time allowances. The warden of the state prison shall advise the department

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institutions of any attempted escape or violation of rules								
and regulations on the part of the inmate. Any punishment by								
forfeiture of good time allowance must be approved by the								
department.								

- This section applies to all persons who are on probation or parole or eligible to be placed on probation or parole. No person convicted and sentenced before April 1, 1955, shall have his good time allowance reduced as a result of this section.
- (4)--The-maximum-allowances-for-good-time-described--in subsection--(1)--shall--be-reduced-for-a-person-who-has-been convicted-of-a-felony-offense-on-more-than-two-(2)-occasions within-a-ten-(10)-year-period;-provided;--however;--for--the purpose--of--determining-such-ten-(10)-year-period;-the-time during-which-a-person-is-incarcerated-shall-not-be--counted; The--maximum--amount--of--good--time--allowable--for--such-a habitual-offender-shall-be-computed-as-follows:
- {a}--five-(5)--days--per--month--for--inmates--assigned
 within-the-confines-of-the-walls-of-the-prison;
- (b)--eight--(8)-days-per-month-for-those-inmates-placed outside-the-confines-of-the-walls-of-the-prison;
- {c}--ten-(10)-days-per-month-for-those-inmates-who-have
 been-assigned--outside--the--walls--of--the--prison--for--an
 uninterrupted-period-of-one-(1)-year-on-a-minimum-status;

1	(d)eight(8)dayspermonthforthoseinmates
2	enrolledinschoolinsidethewallswhosuccessfully
3	complete-the-course-of-study-or-who-while-so-enrolled-are
4	released-from-prison-by-discharge-or-parole;
5	{e}five-{5}-days-for-each-pint-of-blood-donated-by-an
6	inmater
7	45}No-person-convicted-and-sentenced-beforeJulyly
8	19747-shall-have-his-good-time-allowance-reduced-as-required
9	by-subsection-(4)."
10	Section-2:There-isanewR:C:M:sectionnumbered
11	95-2206.5-that-reads-as-follows:
12	95-2206-5Judicial-designation-ofpersistentfelony
13	offendersforpurposes-of-parole-eligibility:(1)-When-an
14	offender-has-been-previously-convicted-of-a-felonyandthe
15	presentoffense-is-a-second-felony-committed-on-a-different
16	occasionthanthefirstythesentencingcourtshall
17	designatetheoffenderapersistentfelony-offender-for
18	purposes-of-eligibility-for-paroleundersection95-32147
19	provided:
20	{a}theprevious-folony-conviction-was-for-an-offense
21	committed-in-this-state-or-any-other-jurisdiction-forwhich
22	asentencetoa-term-of-imprisonment-in-excess-of-one-(1)
23	year-could-have-been-imposed;-and

fb}--less-than-five-(5)-years-have-elapsed-between--the

commission-of-the-present-offense-and-either:

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1	(i)the-previous-felony-conviction,-or
2	(ii)-the-offender-s-release-on-parole-or-otherwise-from
3	prisonerothercommitmentimposedasaresult-of-the
4	previous-felony-conviction;-and
5	<pre>{c}the-offender-was-more-than-eighteen-{18}-yearsof</pre>
6	age-at-the-time-of-the-commission-of-the-present-offenser
7	(2)Apreviousfelonyconvictionshallnotbe
8	considered-for-the-purposes-of-this-section-if-theoffender
9	hasbeenpardonedonthe-grounds-of-innocencey-or-if-the
10	convictionhadbeensetasideinanypost-conviction
11	hearing
12	Section-3:Section-95-32147-R:6:M:-19477-is-amended-to
13	read-as-follows+
14	#95-3214Paroteauthorityandprocedure(1)-The
15	board-shall-release-on-parole,byappropriateorder,any
16	personconfined-in-the-Montana-state-prison;-except-persons
17	under-sentence-ofdeathywheninitsopinionthereis
18	reasonableprobabilitythattheprisoner-can-be-released
19	without-detriment-to-himself-or-to-the-community;provided:
20	(a)Thatnoconvict-serving-a-time-sentence-shall-be
21	paroled-until-he-has-scrved-at-leastone-quarter(1/4)of
22	his-full-termy-less-good-time-allowances-offy-as-provided-in
23	section00-19057exceptthatany-no convict-designated-a
24	persistent-felony-offender-under-section95-2206.5maybe
25	paroleduntil-he-has-served-at-least-one-third-(1/3)-of-his

1	full-termy-less-good-time-allowancesoffyasprovidedin
2	section80-1905A-first-offender serving-a-time-sentence
3	may-be-paroledafterhehasserved;uponhistermof
4	sentence;twelve-and-one-half-(12-1/2)-years;A-persistent
5	felony-offender-asdefinedinsection95-2206-5maybe
6	paroledafterhehasserved;upon-his-term-of-sentence;
7	seventeen-and-one-half-{17-1/2}-years.
8	{b}Noconvictservingalifesentenceshallbe
9	paroleduntilhehasserved-twenty-five-(25) thirty-(30)
10	years,-less-the-good-time-allowancesoff,asprovidedin
11	scation-00-1905.
12	{2}Withintwo{2}-months-after-his-admission-and-at
13	such-intervals-thereafter-as-it-determines,-the-boardshall
14	considerall-pertinent-information-regarding-each-prisoner,
15	including-the-circumstances-ofhisoffenseyhisprevious
16	secial-history-and-criminal-recordy-his-conducty-employmenty
17	andattitude-in-prison;-and-the-reports-of-and-physical-and
18	mental-examinations-which-have-been-made-
19	(3)Before-ordering-the-parole-ofanyprisoner;the
20	boardshallinterviewhimA-parole-shall-be-ordered-only
21	for-the-bestinterestofsociety7notasanawardof
22	clemencyora-reduction-of-sentence-or-pardon;A-prisoner
23	shall-be-placed-on-parole-only-when-the-board-believesthat
24	heisableandwillingtofulfill-the-obligations-of-a
25	law-abiding-citizen:Every-prisoner-while-onparoleshall

1	remain-in-the-legal-custody-of-the-institution-from-which-he
2	wasreleased;butshallbesubject-to-the-orders-of-the
3	board
4	(4)The-boardmayadoptotherrulesitconsiders
5	properernecessary;withrespectto-the-eligibility-of
6	prisoners-for-parole;-and-the-conduct-of-parole-hearingsor
7	conditionstobeimposed-upon-parolees;-When-an-order-for
8	parole-is-issued-it-shall-recite-the-conditions-thereof.*
9	Section-4:Section-95-3215;-R:E:M:-1947;-is-amended-to
10	read-as-follows:
11	#95-3215;Conditional-release;A-prisoneronparole
12	whohasserved-one-fourth-(1/4)-of-his-term-or-termsy-less
13	good-time-allowancesy-or-a-persistentfelonyoffenderwho
14	hasservedone-third-(1/3)-of-his-term-or-termsy-less-good
15	time-allowances; is-considered-released-on-parole-untilthe
16	expirationofthemaximumterm-or-terms-for-which-he-was
17	sentencedy-less-good-time-allowances-as-provided-insection
18	66-1965-1
19	SECTION 2. THERE IS A NEW R.C.M. SECTION NUMBERED
20	95-2206.5 THAT READS AS FOLLOWS:
21	95-2206.5. Judicial designation of persistent felony
22	offenders for purposes of parole eligibility. (1) When an
23	offender has been previously convicted of a felony and the
24	present offense is a second felony committed on a different
25	occasion than the first, the sentencing court shall

- designate the offender a persistent felony offender for purposes of eligibility for parole under section 95-3214, provided:
- 4 (a) the previous felony conviction was for an offense 5 committed in this state or any other jurisdiction for which 6 a sentence to a term of imprisonment in excess of one (1) 7 year could have been imposed; and
- 8 (b) less than five (5) years have elapsed between the
 9 commission of the present offense and either:
- 10 (i) the previous felony conviction, or
- 11 (ii) the offender's release on parole or otherwise from 12 prison or other commitment imposed as a result of the 13 previous felony conviction; and
- 14 (c) the offender was more than eighteen (18) years of 15 age at the time of the commission of the present offense.
- 16 (2) A previous felony conviction shall not be
 17 considered for the purposes of this section if the offender
 18 has been pardoned on the grounds of innocence, or if the
 19 conviction had been set aside in any post-conviction
 20 hearing.
- 21 (3) A judicial determination of persistent felony 22 offender under this section may be made only when the 23 conviction for the present offense occurs after July 1, 24 1975.
- 25 SECTION 3. SECTION 95-3214, R.C.M. 1947, IS AMENDED TO

S3 339

READ AS FOLLOWS:

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- "95-3214. Parole authority and procedure. (1) The board shall release on parole, by appropriate order, any person confined in the Montana state prison, except persons under sentence of death, when in its opinion there is reasonable probability that the prisoner can be released without detriment to himself or to the community, provided:
- (a) That no convict serving a time sentence shall be paroled until he has served at least one-quarter (1/4) of his full term, less good time allowances off, as provided in section 80-1905; except that any no convict designated a persistent felony offender under section 95-2206.5 may be paroled until he has served at least one-third (1/3) of his full term, less good time allowances off, as provided in section 80-1905. A first offender serving a time sentence may be paroled after he has served, upon his term of sentence, twelve and one-half (12 1/2) years. A persistent felony offender as defined in section 95-2206.5 may be paroled after he has served, upon his term of sentence, seventeen and one-half (17 1/2) years.
- 21 (b) No convict serving a life sentence shall be
 22 paroled until he has served twenty-five--(25) thirty (30)
 23 years, less the good time allowances off, as provided in
 24 section 80-1905.
- 25 (2) Within two (2) months after his admission and at

- such intervals thereafter as it determines, the board shall consider all pertinent information regarding each prisoner.
- 3 including the circumstances of his offense, his previous
- 4 Social history and criminal record, his conduct, employment,
- 5 and attitude in prison, and the reports of and physical and
- 6 mental examinations which have been made.
- 7 (3) Before ordering the parole of any prisoner, the
- 8 board shall interview him. A parole shall be ordered only
- 9 for the best interest of society, not as an award of
- 10 clemency or a reduction of sentence or pardon. A prisoner
- 11 shall be placed on parole only when the board believes that
- 12 he is able and willing to fulfill the obligations of a
- 13 law-abiding citizen. Every prisoner while on parole shall
- 14 remain in the legal custody of the institution from which he
- 15 was released, but shall be subject to the orders of the
- 16 board.

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- 17 (4) The board may adopt other rules it considers
- 18 proper or necessary, with respect to the eligibility of
- 19 prisoners for parole, and the conduct of parole hearings or

conditions to be imposed upon parolees. When an order for

- 21 parole is issued it shall recite the conditions thereof."
- 22 SECTION 4. SECTION 95-3215, R.C.M. 1947, IS AMENDED TO
- 23 READ AS FOLLOWS:
- 24 "95-3215. Conditional release. A prisoner on parole
- 25 who has served one-fourth (1/4) of his term or terms, less

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- good time allowances, or a persistent felony offender who
- 2 has served one-third (1/3) of his term or terms, less good
- 3 time allowances, is considered released on parole until the
- 4 expiration of the maximum term or terms for which he was
- 5 sentenced, less good time allowances as provided in section
- 6 80-1905."

-End-

S3 33º

HOUSE OF REPRESENTATIVES

DATE: March 12, 1975

COMMITTEE ON JUDICIARY AMENDMENT TO SENATE BILL NO. 339.

Be amended in the third reading bill as follows:

 Amend page 2, section 1, subsection (f), line 18. Following: "(f)"

Following: "(f)"
Strike: "three (3)"
Insert: "five (5)"

AS SO AMENDED IN

SB 0339/03

SENATE BILL NO. 339
2 INTRODUCED BY ROBERTS

A BILL FOR AN ACT ENTITLED: "AN ACT TO-REQUIRE -A--JUDICIAL DESIGNATION OF CERTAIN FELONY OFFENDERS AS PERSISTENT FELONY OFFENDERS FOR PURPOSES OF PAROLE ELIGIBILITY; TO EQUALIZE GOOD TIME ALLOWANCES FOR ALL OFFENDERS; TO ALLOW INMATES GOOD TIME FOR DESIGNATED SELF-IMPROVEMENT ACTIVITIES; AMENDING SECTIONS SHETIONS SHETIONS

13 R.C.M. 1947.

44th Legislature

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

16 Section 1. Section 80-1905, R.C.M. 1947, is amended to 17 read as follows:

"80-1905. Good time allowance -- forfeiture -probationers and parolees -- application of prior law -good--time--allowance-offenders. (1) The state department of
institutions shall adopt rules and regulations providing for
the granting of good time allowance for inmates employed in
any prison work or activity. The good time allowance shall
operate as a credit on his sentence as imposed by the court,
conditioned upon the inmate's good behavior and compliance

- with the rules and regulations made by the department or the warden. Except-as-provided-in-subsection-(4)7-the The rules adopted by the department may not grant good time allowance to exceed:
- (a) ten (10) days per month for inmates assigned within the confines of the walls of the prison:
- 7 (b) thirteen (13) days per month for those inmates 8 placed outside the confines of the walls of the prison:
- 9 (c) fifteen (15) days per month for those inmates who
 10 have been assigned outside the walls of the prison for an
 11 uninterrupted period of one year on a minimum status;
- 12 (d) thirteen (13) days per month for those inmates
 13 enrolled in school inside the walls who successfully
 14 complete the course of study or who while so enrolled are
 15 released from prison by discharge or parole;
- (e) ten (10) days for each pint of blood donated by an inmate;
- 18 (f) three (3) FIVE (5) days per month for those

 19 inmates participating in self-improvement activities

 20 designated by the department of institutions.
 - (2) In the event of an attempted escape by an inmate, or a violation of the rules and regulations prescribed by the department or warden, the inmate may be punished by the forfeiture of part or all good time allowances. The warden of the state prison shall advise the department of

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and regulations on the part of the inmate. Any punishment by
forfeiture of good time allowance must be approved by the
department.
(3) The-provisions-of-subsections-(1)and(2)apply
This section applies to all persons who are on probation or
parole or eligible to be placed on probation or parole. No
person convicted and sentenced before April 1, 1955, shall
have his good time allowance reduced as a result of this
section.
(4)The-maximum-allowances-for-good-time-describedin
subsection{1}shallbe-reduced-for-a-person-who-has-been
convicted-of-a-felony-offense-on-more-than-two-{2}-occasions
within-a-ten-{10}-year-period;-provided;however;forthe
purposeofdetermining-such-ten-(10)-year-period;-the-time
during-which-a-person-is-incarcerated-shall-not-becounted-
Themaximumamountofgoodtimeallowableforsuch-a
habitual-offender-shall-be-computed-as-follows:
<pre>fa}five-{5}dayspermonthforinmatesassigned</pre>
within-the-confines-of-the-walls-of-the-prison;
(b)eight(8)-days-per-month-for-those-inmates-placed
outside-the-confines-of-the-walls-of-the-prison;
(c)ten-(10)-days-per-month-for-those-inmates-who-have
been-assignedoutsidethewallsoftheprisonforan
uninterrupted-period-of-one-{1}-year-on-a-minimum-status;

institutions of any attempted escape or violation of rules

1	{d}eight{8}daysper-montnforthoseinmate
2	enroliedinschoolinsidethewallswhosuccessfull
3	completethecourseof-study-or-who-while-so-enrolled-ar
4	released-from-prison-by-discharge-or-parole;
5	{e}five-{5}-days-for-each-pint-of-blood-donated-by-a
6	inmate.
7	(5)No-person-convicted-and-sentenced-beforeduly1
8	19747-shail-have-his-good-time-allowance-reduced-as-require
9	by-subsection-{4}-r"
10	Section-2There-isanewR-G-Msectionnumbere
11	95-2286:5-that-reads-as-follows:
12	95-2206.5 dudicial-designation-ofpersistentfelon
13	offendersforpurposes-of-parole-eligibility{l}-When-a
14	offender-has-been-previously-convicted-of-a-felonyandth
15	presentoffense-is-a-second-felony-committed-on-a-differen
16	occasionthanthefirstythesentencingcourtsnal
17	designatetheoffenderapersistentfelony-offender-fo
13	purposes-of-eligibility-for-paroleundersection95-3214
19	provided:
20	(a)theprevious-felony-conviction-was-for-an-offense
21	committed-in-this-state-or-any-other-jurisdiction-forwhich
22	asentencetoa-term-of-imprisonment-in-excess-of-one-(i)
23	year-could-have-been-imposed;-and
24	(b)less-than-five-(5)-years-nave-elapsed-betweenthe
25	commission-of-the-present-offense-and-cithera

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1	(i)the-previous-felony-convictiony-or
2	(ii)-the-offender's-release-on-parole-or-otherwise-from
3	prisonorothercommitmentimposedasaresult-of-the
4	previous-felony-conviction;-and
5	(c)the-offender-was-more-than-eighteen-(18)-yearsof
6	age-at-the-time-of-the-commission-of-the-present-offenser
7	(2)Apreviousfelonyconvictionshallnotbe
8	considered-for-the-purposes-of-this-section-if-theoffender
9	hasbeenpardonedonthe-grounds-of-innocencey-or-if-the
10	convictionhadbeensetasideinanypost-conviction
11	hearings
12	Section-3Section-95-32147-R-C-M19477-is-amended-to
13	read-as-follows:
14	#95-3214Paroleauthorityandprocedure(1)-The
15	board-shall-release-on-paroleybyappropriateorderyany
16	personconfined-in-the-Montana-state-prisony-except-persons
17	under-sentence-ofdeathywheninitsopinionthereis
18	reasonableprobabilitythattheprisoner-can-be-released
19	without-detriment-to-himself-or-to-the-community,provided:
20	{a}Thatnoconvict-serving-a-time-sentence-shall-be
21	paroled-until-he-has-served-at-leastone-quarter(1/4)of
22	nis-full-term,-less-good-time-allowances-off,-as-provided-in
23	section00-1905;exceptthatany-no convict-designated-a
24	persistent-felony-offender-under-section95-2296-5maybe
25	pareleduntil-he-has-served-at-least-one-third-(1/3)-of-his

full-termy-less-good-time-allowancesoffyasprovidedin
section89-1905A-first-offender serving-a-time-sentence
may-be-paroledafterhehasservedyuponhistermef
sentenceytweive-and-one-half-(12-1/2)-years;A-persistent
felony-offender-asdefinedinsection95-2206:5maybe
paroledafterhehasservedyupon-his-term-of-sentencey
seventeen-and-one-half-(17-1/2)-years-
{b}Noconvictservingalifesentenceshallbe
paroleduntilhehasserved-twenty-five-{25} thirty-{30}
yearsy-less-the-good-time-allowancesoffyasprovidedin
section-80-1985+
{2}Withintwo{2}-months-after-his-admission-and-at
such-intervals-thereafter-as-it-determinesy-the-boardshall
considerall-pertinent-information-regarding-each-prisoner,
including-the-circumstances-ofhisoffenseyhisprevious
social-history-and-criminal-recordy-his-conducty-employmenty
andattitude-in-prisony-and-the-reports-of-and-physical-and
mental-examinations-which-have-been-made:
(3)Before-ordering-the-parole-ofanyprisonerythe
boardshallinterviewhimA-parole-shall-be-ordered-only
for-the-bestinterestofsociety7notasanawardof
elemencyora-reduction-of-sentence-or-pardonA-prisoner
shall-be-placed-on-parole-only-when-the-board-believestnat
heisabieandwillingtofulfill-the-obligations-of-a
law-abiding-citizenEvery-prisoner-while-onparoleshall

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remain-in-the-legal-custody-of-the-institution-from-which-he
wasreleasedybutshallbesubject-to-the-orders-of-the
boardy
(4)The-boardmayadoptotherrulesitconsider:
properornecessary;withrespectto-the-eligibility-e
prisoners-for-parole;-and-the-conduct-of-parole-hearingso
conditionstobeimposed-upon-paroleesWhen-an-order-fo
parole-is-issued-it-shall-recite-the-conditions-thereof-"
Bection-4:Section-95-3215;-R:C:M:-1947;-is-amended-to
read-as-follows:
#95-3215Conditional-releaseA-prisoneronparolo
whohasserved-one-fourth-{1/4}-of-his-term-or-termsy-less
good-time-allowancesor-a-persistentfelonyoffenderwho
hasservedone-third-(1/3)-of-his-term-or-terms;-less-good
time-allowances, is-considered-released-on-parole-untilthe
expirationofthemaximumterm-or-terms-for-which-he-was
sentenced;-less-good-time-allowances-as-provided-insection
80-1905+ ^a
SECTION 2. THERE IS A NEW R.C.M. SECTION NUMBERED
95-2206.5 THAT READS AS FOLLOWS:
95-2206.5. Judicial designation of persistent felony
95-2206.5. Judicial designation of persistent felony offenders for purposes of parole eligibility. (1) When an
95-2206.5. Judicial designation of persistent felony offenders for purposes of parole eligibility. (1) When an offender has been previously convicted of a felony and the
95-2206.5. Judicial designation of persistent felony offenders for purposes of parole eligibility. (1) When an

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1	designate	the	offender	a a	persis	tent	felony	off	ender	ن 1
2	purposes o	f eli	gibility	for	parole	under	sect	Lon	95-32	214
3	nrowided.									

- 4 (a) the previous felony conviction was for an offense
 5 committed in this state or any other jurisdiction for which
 6 a sentence to a term of imprisonment in excess of one (1)
 7 year could have been imposed; and
- 8 (b) less than five (5) years have elapsed between the
 9 commission of the present offense and either:
- 10 (i) the previous felony conviction, or

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- (ii) the offender's release on parole or otherwise from prison or other commitment imposed as a result of the previous felony conviction; and
- 14 (c) the offender was more than eighteen (18) years of 15 age at the time of the commission of the present offense.
- 16 (2) A previous felony conviction shall not be
 17 considered for the purposes of this section if the offender
 18 has been pardoned on the grounds of innocence, or if the
 19 conviction had been set aside in any post-conviction
 20 hearing.
- 21 (3) A judicial determination of persistent felony 22 offender under this section may be made only when the 23 conviction for the present offense occurs after July 1, 24 1975.
- 25 <u>SECTION 3. SECTION 95-3214, R.C.M. 1947, IS AMENDED TO</u>
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READ AS FOLLOWS:

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section 30-1905.

"95-3214. Parole authority and procedure. (1) The board shall release on parole, by appropriate order, any person confined in the Montana state prison, except persons under sentence of death, when in its opinion there is reasonable probability that the prisoner can be released without detriment to himself or to the community, provided:

(a) That no convict serving a time sentence shall be paroled until he has served at least one-quarter (1/4) of his full term, less good time allowances off, as provided in section 80-1905; except that any no convict designated a persistent felony offender under section 95-2206.5 may be paroled until he has served at least one-third (1/3) of his full term, less good time allowances off, as provided in section 80-1905. A first offender serving a time sentence may be paroled after he has served, upon his term of

sentence, twelve and one-half (12 1/2) years. A persistent

felony offender as defined in section 95-2206.5 may be

paroled after he has served, upon his term of sentence,

21 (b) No convict serving a life sentence shall be 22 paroled until he has served twenty-five--(25) thirty (30) 23 years, less the good time allowances off, as provided in

seventeen and one-half (17 1/2) years.

25 (2) Within two (2) months after his admission and at

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such intervals thereafter as it determines, the board shall consider all pertinent information regarding each prisoner, including the circumstances of his offense, his previous social history and criminal record, his conduct, employment, and attitude in prison, and the reports of and physical and mental examinations which have been made.

(3) Before ordering the parole of any prisoner, the 7 board shall interview him. A parole shall be ordered only for the best interest of society, not as an award of 10 clemency or a reduction of sentence or pardon. A prisoner 11 shall be placed on parole only when the board believes that 12 he is able and willing to fulfill the obligations of a law-abiding citizen. Every prisoner while on parole shall 13 14 remain in the legal custody of the institution from which he 15 was released, but shall be subject to the orders of the 16 board.

17 (4) The board may adopt other rules it considers
18 proper or necessary, with respect to the eligibility of
19 prisoners for parole, and the conduct of parole hearings or
20 conditions to be imposed upon parolees. When an order for
21 parole is issued it shall recite the conditions thereof."

22 SECTION 4. SECTION 95-3215, R.C.M. 1947, IS AMENDED TO
23 READ AS FOLLOWS:

24 "95-3215. Conditional release. A prisoner on parole
25 who has served one-fourth (1/4) of his term or terms, less
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- 1 good time allowances, or a persistent felony offender who
- has served one-third (1/3) of his term or terms, less good
- 3 time allowances, is considered released on parole until the
- 4 expiration of the maximum term or terms for which he was
- 5 sentenced, less good time allowances as provided in section
- 6 80-1905."

-End-