

1 *Senate* BILL NO. **390**
 2 INTRODUCED BY *Mehrens Requested by Board of pardons*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS
 5 95-2217, 95-2219, 95-2220, 95-2221, 95-2222, 95-2223,
 6 95-2224, AND 95-2226, R.C.M. 1947, TO PLACE CONTROL OF THE
 7 PRISON FURLOUGH PROGRAM IN THE BOARD OF PARDONS TO PROVIDE
 8 FOR HEARINGS FOR ALLEGED VIOLATIONS BY THE PRISONER; TO
 9 RAISE THE MINIMUM WAGE FOR INMATES."

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

12 Section 1. Section 95-2217, R.C.M. 1947, is amended to
 13 read as follows:

14 "95-2217. Prisoner furlough program--purpose and
 15 intent. The purpose and intent of this act is to establish a
 16 program for the rehabilitation, education, and betterment of
 17 selected prisoners confined in the state prison; to increase
 18 their responsibility to society; to make it possible that
 19 they may, while serving their sentences, work gainfully to
 20 support their dependents in whole or in part; and providing
 21 for a minimum ~~wage-of-one-and-40/100-(61.40)-dollars-an-hour~~
 22 hourly wage as required by section 41-2303(a) to be paid to
 23 said convicts while so employed; continue their education or
 24 training; and at the same time fulfill the obligations of
 25 the sentence of imprisonment imposed; placing the

1 establishment, regulation, guidance, and control of such
 2 program under the direction of the warden of the state
 3 prison with the advice and consent of the state board of
 4 pardons, which program shall operate by supplementing and
 5 not replacing established penal procedures now or hereafter
 6 established by law. This act is to be liberally construed to
 7 effect the over-all objectives set forth above."

8 Section 2. Section 95-2219, R.C.M. 1947, is amended to
 9 read as follows:

10 "95-2219. Warden Board of pardons to establish program
 11 and rules--privileges granted prisoners. The ~~warden~~ board of
 12 pardons is authorized and directed to establish a furlough
 13 program and rules to implement and control the same. A
 14 prisoner sentenced to the state prison may be granted the
 15 privilege of:

- 16 (1) Working at paid employment for a rate of pay not
- 17 less than ~~one-and-40/100-(61.40)-dollars-an-hour~~ the minimum
- 18 wage as established by section 41-2303(a), or
- 19 (2) Participating in an educational or training
- 20 program."

21 Section 3. Section 95-2220, R.C.M. 1947, is amended to
 22 read as follows:

23 "95-2220. Application for participation in furlough
 24 program. Any prisoner confined in the state prison ~~may make~~
 25 ~~application-to-participate-in-the-furlough-program-according~~

1 ~~to rules adopted by the warden with the advice and consent~~
 2 ~~of the board,~~ who is within one (1) year of his parole
 3 eligibility date, or one (1) year of discharge may make
 4 application for the work furlough program. The warden or
 5 his designee upon review of the application may recommend
 6 furlough to the board of pardons for the purpose of
 7 employment or education. Upon receipt of such
 8 recommendation the board of pardons shall notify the judge,
 9 county attorney and sheriff from the county of commitment to
 10 the effect that the inmate will be considered for furlough
 11 within twenty (20) days and that any recommendation for or
 12 against furlough should be forwarded to the board of pardons
 13 prior to the furlough hearing. The board, upon receipt of
 14 all recommendations, shall review the inmate's case and the
 15 warden's recommendation. The board shall either approve or
 16 deny the warden's recommendation. If approval is granted,
 17 background information and notice of approval shall be
 18 forwarded to a parole agent who shall develop a plan which
 19 shall state where the inmate will reside and where he will
 20 be working or attending school. Upon completion of the plan
 21 the parole agent shall issue a release order to the warden."

22 Section 4. Section 95-2221, R.C.M. 1947, is amended to
 23 read as follows:

24 "95-2221. Consideration of application -- furlough
 25 plan -- consent of sheriff necessary. ~~(1) The board shall~~

1 ~~approve or deny the application of the prisoner after~~
 2 ~~careful study of the prisoner's conduct, attitude and~~
 3 ~~behavior in the prison in which the prisoner is confined,~~
 4 ~~his criminal history, and all other pertinent case material.~~

5 ~~(2) If the application is approved, the warden shall~~
 6 ~~adopt a furlough plan for the prisoner, which shall~~
 7 ~~constitute an extension of the limits of confinement.~~

8 ~~(3) No prisoner shall be released without the written~~
 9 ~~consent of the sheriff of the county receiving the prisoner.~~

10 When an inmate is to reside in the county jail, the
 11 consent of the sheriff in receiving county is necessary.
 12 However, when the inmate is to reside in a community
 13 corrections center or some other supervised setting the
 14 sheriff of the receiving county shall be notified."

15 Section 5. Section 95-2223, R.C.M. 1947, is amended to
 16 read as follows:

17 "95-2223. Administrative rules--co-operation by state
 18 agencies. (1) The warden is authorized to make rules ~~for the~~
 19 ~~administration of the provision of this act with the advice~~
 20 ~~and consent of the board,~~ pertaining to the eligibility of
 21 applicants. The board of pardons is authorized to make
 22 rules for the administration of this act.

23 (2) All state agencies shall co-operate with the warden
 24 and sheriff in the administration of the furlough program."

25 Section 6. Section 95-2224, R.C.M. 1947, is amended to

1 read as follows:

2 "95-2224. Prisoner not agent, employee or involuntary
3 servant of warden, board of pardons, or sheriff. No prisoner
4 employed in the community under the provisions of this act
5 ~~shall be deemed to be~~ is an agent, employee, or involuntary
6 servant of the warden, board of pardons, or sheriff while
7 released from confinement pursuant to the terms of the
8 furlough program."

9 Section 7. Section 95-2226, R.C.M. 1947, is amended to
10 read as follows:

11 "95-2226. Sheriff's Board of pardon's responsibility--
12 cancellation or revocation of furlough. (1) ~~The sheriff of~~
13 ~~the county to which the prisoner has been released~~ The board
14 of pardons is responsible for the activities of the prisoner
15 according to the rules approved by the board. ~~The sheriff~~
16 ~~shall keep the warden informed of the prisoner's activities.~~
17 When an inmate is confined in a county jail the respective
18 sheriff shall supervise that inmate's action while in jail.

19 (2) If any a prisoner released from actual prison
20 confinement under the furlough program fails to comply with
21 the rules of the furlough program, ~~the furlough shall be~~
22 ~~cancelled and the prisoner shall be returned to prison to~~
23 ~~complete his sentence. A prisoner may not be returned to~~
24 ~~prison to complete his sentence without first being charged~~
25 ~~with a violation of the rules of the furlough program in the~~

1 ~~district court of the county in which the violation took~~
2 ~~place. The prisoner is entitled to have counsel appointed to~~
3 ~~represent him at the hearing. However, if the prisoner,~~
4 ~~except where disabled from working because of a temporary~~
5 ~~illness, is unemployed for a period of thirty (30) days or~~
6 ~~more (after his availability for employment is reported in~~
7 ~~writing by the sheriff of the county to which the prisoner~~
8 ~~is released, to the department of labor and industry's~~
9 ~~office serving the area, and to the union to which the~~
10 ~~prisoner belongs, if any) the warden, upon request of the~~
11 ~~sheriff and upon a showing by the sheriff of the county in~~
12 ~~the district court either that: (a) the employee has been so~~
13 ~~unemployed, (b) the prisoner has become so disabled that he~~
14 ~~is unemployable, or (c) the prisoner is on an education~~
15 ~~furlough and the prisoner has demonstrated for a period of~~
16 ~~six (6) weeks or more that he is unable to benefit from the~~
17 ~~schooling or training, shall revoke the furlough and the~~
18 ~~prisoner shall be returned to the prison, the prisoner is in~~
19 violation of the conditions of the furlough program and
20 subject to return to the state prison. The prisoner shall
21 be granted a hearing on the violation within a reasonable
22 time on or near the site of the alleged violation to
23 determine whether there is probable cause or reasonable
24 grounds to believe that a violation of the conditions of the
25 furlough agreement exists. The hearing is to be conducted

1 by a hearing officer of the board of pardons. The prisoner
2 on furlough shall have all opportunities provided under
3 95-2220 pertaining to on-site hearings for parole
4 revocation. If reasonable grounds are established for
5 violation of the furlough agreement, the furlough shall be
6 cancelled and the prisoner shall be returned to the prison.
7 Upon his return to the prison as soon as possible, he shall
8 be granted a due process hearing by the board of pardons in
9 order to determine if he has in fact violated the terms of
10 his furlough release. If it is determined that he has in
11 fact violated the terms he shall remain at the prison. If
12 the terms of his release have not been violated his case
13 shall be assigned to a parole agent and a new furlough
14 arrangement shall be worked out. In the event of extended
15 sickness, school termination or employment termination the
16 inmate shall be returned to the prison for re-programming
17 and a new furlough program."

-End-