LC 0174/01

INTRODUCED BY Scully Vincent Fran Ł Z 3 A BILL FOR AN ACT ENTITLED: MAN ACT TO PERMIT DISTRICT 4 JUDGES TO SENTENCE PERSONS CONVICTED OF FELONIES TO 5 IMPRISONMENT WITH NO POSSIBILITY OF PAROLE OR PARTICIPATION 6 IN THE PRISONER FURLOUGH PROGRAM; AMENDING SECTIONS 95-2206. 7 95-2220, and 95-3214, R.C.H. 1947.* 8 9 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section L. Section 95-2206; R.C.M. 1947; is amended to 11 12 read as follows: #95-2206. Sentence. [1] Whenever any person has been 13 14 found quilty of a crime or offense upon a verdict or a plea of guilty the court may: 15 16 (1)(a). Defer defer imposition of sentence for a period 17 18 period not to exceed three-f3; years for any felony. The sentencing judge may impose upon the defendant any 19 reasonable restrictions or conditions during the period of 20 21 the deferred imposition. Such reasonable restrictions or 22 conditions may include: tet(i) jail base release; 23 24 fbf(ii) iail time not to exceed minety-f90; days;

25 tettiii conditions for probation;

1 (d)(iy) restitution;

tet(x) any other reasonable conditions deemed
 necessary for rehabilitation or for the protection of
 society;

5 tfl(vi) any combination of the above.

6 (2)(b) Suspend suspend execution of sentence up to the
7 maximum sentence allowed for the particular offense. The
8 sentencing judge may impose on the defendant any reasonable
9 restrictions during the period of suspended sentence. Such

10 reasonable restrictions may include:

11 tatii jail base release;

12 (b)(ii) jail time not to exceed (90) days;

13 tettii) conditions for probation;

14 td;(iv) restitution;

15 (e)(x) any other reasonable conditions deemed 16 necessary for rehabilitation or for the protection of 17 society;

18 <u>{f}(vi)</u> any combination of the above.

19 If any restrictions or conditions are violated, any 20 elapsed time, except jail time, shall not be a credit 21 against the sentence, unless the court shall otherwise 22 order.

23 (3)(c) Impose impose a fine as provided by law for the 24 offensew;

25 (4)(d) Commit commit the defendant to a correctional

INTRODUCED BILL

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1	institution with or without fine by law for the offensew:
2	(5≯<u>(e)</u> impose impose any combination of subsections
3	{2}+-+3)+-or-++}-above []][b]s_[]][C]s_and []][d]+
4	(6)[2] The district court may also impose any of the
5	following restrictions or conditions on the above sentence
6	which it deems necessary to obtain the objective of
7	rehabilitation and the protection of society:
8	(a) prohibit the defendant the right to hold public
9	office;
10	(b) prohibit the defendant the right to own or carry a
11	dangerous weapon;
12	(c) prohibit freedom of association;
13	(d) prohibit freedom of movement;
14	(e) any other limitation reasonably related to the
15	objectives of rehabilitation or the protection of society.
16	131 Whenever the district court imposes a sentence of
17	<u>imprisonment in the state prison for a term exceeding l</u>
18	year, the court may also impose the restriction that the
19	defendant be ineligible for parole and participation in the
20	prisoner fuclough program while serving his term. If such a
21	restriction; is to be imposed, the court shall state the
22	reasons for it in writing. If the court finds that the
23	restriction is necessary for the protection of society, it
24	<u>shall impose the restriction as part of the sentence and the</u>
25	judgement shall contain a statement of the reasons for the

l <u>restriction</u>.

2	<pre>{7}(4) The judge in the justice court shall not have</pre>
3	the authority to restrict an individual's rights as
4	-numerated in subsection-(6) subsections (2) and (3).

5 (5) Any judge who has suspended the execution of a sentence or deferred the imposition of a sentence of 6 7 imprisonment under this section, or his successor, is а authorized thereafter, in his discretion, during the period 9 of such suspended sentence or deferred imposition of 10 sentence to revoke such suspension or impose sentence and 11 order such person committedy or may, in his discretion, order the prisoner placed under the jurisdiction of the 12 state board of pardons as provided by lawy or retain such 13 jurisdiction with this court. Prior to the revocation of an 14 order suspending or deferring the imposition of sentence, 15 the person affected shall be given a hearing." 10 Section 2. Section 95-2220; R.C.M. 1947; is amended to

17Section 2+Section 95-2220; R+C+M+1947; is amend₂d to18read as follows:

19 "95-2220. Application for participation in furlough 20 program. Any prisoner confined in the state prison <u>except</u> a 21 prisoner serving a sentence imposed under <u>95-2206(3)</u> may 22 make application to participate in the furlough program at 23 least by the time the inmate has served one-half (1/2) of 24 the time required to be considered for parol2."

25 Section 3. Section 95-3214, R.C.M. 1947, is amended to

read as follows: 1

24

2 "95-3214. Parole authority and procedure. (1) The 3 board shall release on parole, by appropriate order, any person confined in the Montana state prison, except persons 4 5 under sentence of death and persons serving sentences 6 imposed under 95-2206(3), when in its opinion there is 7 reasonable propability that the prisoner can be released 8 without detriment to himself or to the community, provided: 9 (a) That that no convict serving a time sentence shall 10 may be paroled until he has served at least one-quarter 11 (1+7+4) of his full term, less good time allowances off, as 12 provided in section 80-1905; except that no convict 13 designated a persistent felony offender under section 95-2206.5 may be paroled until he has served at least 14 one-third (173) of his full term, less good time allowances 15 off, as provided in section 80-1905. A first offender 1.5 17 serving a time sentence may be paroled after he has served, 18 upon his term of sentence, tweive-and-one-half-fl2 1/2; years. A persistent felony offender as defined in section 19 20 95-2206.5 may be paroled after he has served, upon his term 21 of sentence, seventeen-and-one-half-(17 1/2) years. 22 (b) No no convict serving a life sentance shall may be 23 paroled until he has served thirty-(30) years, less the good

time allowances off, as provided in section 80-1905. 25 (2) Within two-(2) months after his admission and at

such intervals thereafter as it determines, the board shall 1 2 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, and attitude in prison, and the reports of and physical and 5 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 Q. 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 releasedy but shall be subject to the orders of the 16 board.

17 (4) The board may adopt other rules it considers proper or necessary, with respect to the eligibility of 15 19 prisoners for paroley 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."

-End-

HB 0079/02

Approved by Committee on Judiciary

HOUSE BILL NO. 79 1 2 INTRODUCED BY SCULLY, VINCENT, RYAN 3 A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT DISTRICT a 5 JUDGES TO SENTENCE PERSONS CONVICTED OF FELONIES TO IMPRISONMENT WITH NO POSSIBILITY OF PAROLE OR PARTICIPATION 6 7 IN THE PRISONER FURLOUGH PROGRAM: AMENDING SECTIONS 95-2206. 95-2220, and 95-3214, R.C.M. 1947." я 9 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 Section 1. Section 95-2206, R.C.M. 1947, is amended to 12 read as follows: "95-2206. Sentence. (1) Whenever any person has been 13 found guilty of a crime or offense upon a verdict or a plea 14 15 of guilty the court may: 16 (1) (a) Defer defer imposition of sentence for a period 17 not to exceed one-(1) year for any misdemeanors or for a period not to exceed three-{3} years for any felony. The 18 19 sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the period of 20 the deferred imposition. Such reasonable restrictions or 21 22 conditions may include: 23 (a) (i) jail base release; 24 (b) (ii) jail time not to exceed minety-(90) days;

25 (c) (iii conditions for probation; **BB 0079/02**

1 (d) (iv) restitution;

2 (e) (v) any other reasonable conditions deemed વ necessary for rehabilitation or for the protection of 4 society:

5 (f) (vi) any combination of the above.

6 (2)(b) Suspend suspend execution of sentence up to the 7 maximum sentence allowed for the particular offense. The 8 sentencing judge may impose on the defendant any reasonable restrictions during the period of suspended sentence. Such 9 10 reasonable restrictions may include:

11 (i) jail base release;

12 (b) (ii) jail time not to exceed (90) days:

13 (iii) conditions for probation:

14 {d}(iv) restitution;

15 (e) (v) any other reasonable conditions deemed 16 necessary for rehabilitation or for the protection of 17 society:

18 $\{ \{ \} \}$ (vi) any combination of the above.

19 If any restrictions or conditions are violated, any 20 elapsed time, except fail time, shall not be a credit 21 against the sentence, unless the court shall ctherwise 22 order.

23 (3) (c) Impose impose a fine as provided by law for the 24 offense+:

25 (4) (d) Commit commit the defendant to a correctional

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SECOND READING

1	institution with or without fine by law for the offenser;
2	(5) (c) Impose impose any combination of subsections
3	(2),-(3),-or-(4)-above (1)(b), (1)(c), and (1)(d).
4	(6)(2) The district court may also impose any of the
5	following restrictions or conditions on the above sentence
6	which it deems necessary to obtain the objective of
7	rehabilitation and the protection of society:
8	(a) prohibit the defendant the right to hold public
9	office;
10	(b) prohibit the defendant the right to cwn or carry a
11	dangerous weapon;
12	(c) prohibit freedom of association;
13	(d) prohibit freedom of movement;
14	(e) any other limitation reasonably related to the
15	objectives of rehabilitation or the protection of society.
16	(3) Whenever the district court imposes a sentence of
17	imprisonment in the state prison for a term exceeding 1
18	year, the court may also impose the restriction that the
19	defendant be ineligible for parole and participation in the
20	prisoner furlough program while serving his term. If such a
21	restriction is to be imposed, the court shall state the
22	reasons for it in writing. If the court finds that the
23	restriction is necessary for the protection of society. it
24	shall impose the restriction as part of the sentence and the
25	judgement JUDGHENT shall contain a statement of the reasons

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1 for the restriction.

2 (7) (4) The judge in the justice court shall not have 3 the authority to restrict an individual's rights as 4 enumerated in subsection (6) subsections (2) and (3).

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

17 Section 2. Section 95-2220, R.C.H. 1947, is amended to 18 read as follows:

19 "95-2220. Application for participation in furlough program. Any prisoner confined in the state prison except a 20 21 prisoner serving a sentence imposed under 95-2206(3) may 22 make application to participate in the furlough program at 23 least by the time the inmate has served one-half (4/2) of 24 the time required to be considered for parole." 25

Section 3. Section 95-3214, R.C.M. 1947, is amended to

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2 "95-3214. Parole authority and procedure. (1) The board shall release on parole, by appropriate order, any 3 person confined in the Montana state prison, except persons 4 under sentence of death and persons serving sentences 5 imposed under 95-2206(3), when in its opinion there is 6 7 reasonable probability that the prisoner can be released without detriment to himself or to the community, provided: 8 9 (a) That that no convict serving a time sentence shall may be paroled until he has served at least one-quarter 10 (1/4) of his full term, less good time allowances off, as 11 12 provided in sestion 80-1905; except that no convict designated a persistent felony offender under section 13 14 95-2206.5 may be paroled until he has served at least 15 one-third (1/3) of his full term, less good time allowances 16 off, as provided in section 80-1905. A first offender 17 serving a time sentence may be paroled after he has served, upon his term of sentence, twolve-and-one-balf-(12 1/2) 18 years. A persistent felony offender as defined in section 19 95-2206.5 may be paroled after he has served, upon his term 20 21 of sentence, seventeen-and-one-half-(17 1/2) years.

22 (b) Be no convict serving a life sentence shall may be paroled until he has served thirty-{30} years, less the good 23 24 time allowances off. as provided in section 80-1905.

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

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1 such intervals thereafter as it determines, the board shall 2 consider all pertipent information regarding each prisoner. including the circumstances of his offense, his previous 3 social history and criminal record, his conduct, employment, a. and attitude in prison, and the reports of and physical and 5 6 mental examinations which have been made.

7 (3) Before ordering the parole of any prisoner, the board shall interview him. A parole shall be ordered only я for the best interest of society, not as an award of 9 10 clemency or a reduction of sentence or pardon. A prisoner shall be placed on parole only when the board believes that 11 he is able and willing to fulfill the obligations of a 12 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 paroley 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."

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-End-

HB 0079/02

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INTRODUCED BY SCULLY, VINCENT, BYAR 2 3 A STAL FOR AN ACT ENTITLED: "AN ACT TO PERSIT DISTRICT ų, JUDGES TO SENTENCE PERSONS CONVICTED OF FELONIES TO 5 TAPRISONMENT WITH NO POSSIBILITY OF PAROLE OR PARTICIPATION 6 IN THE PRISONER FURLOUGH PROGRAM: AMENDING SECTIONS 95-2206. 7 95-2220, and 95-3214, R.C.H. 1947." 8 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 10 Section 1. Section 95-2206, R.C.E. 1947, is amended to 11 12 read as follows: "95-2206. Sentence. (1) Whenever any person has been 13 14 found quilty of a crime or offense upon a verdict or a plea 15 of guilty the court may:

HOUSE BILL NO. 79

16 (1)(a) Defer defer imposition of sentence for a period 17 not to exceed one-(1) year for any misdemeanor, or for a 18 period not to exceed three-(3) years for any felony. The 19 sentencing judge may impose upon the defendant any 20 reasonable restrictions or conditions during the period of 21 the deferred imposition. Such reasonable restrictions or 22 conditions may include:

23 (a) (i) jail base release;

24 (b) (ii) jail time not to exceed minety-(90) days;

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THIRD READING

(d) (iv) restitution;

1

2 (e) (Y) any other reasonable conditions deemed
3 necessary for rehabilitation or for the protection of
4 society;

5 (f) (vi) any combination of the above.

6 (2)(b) Suspend suspend execution of sentence up to the 7 maximum sentence allowed for the particular offense. The 8 sentencing judge may impose on the defendant any reasonable 9 restrictions during the period of suspended sentence. Such 10 reasonable restrictions may include:

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25 (4)(d) Commit commit the defendant to a correctional

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1	institution with or without fine by law for the offenser;
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3	(2), - (3), or - (4) above (1) (b) . (1) (c) . and (1) (d).
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5	following restrictions or conditions on the above sentence
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8	(a) prohibit the defendant the right to hold public
9	office;
10	(b) prohibit the defendant the right to own or carry a
11	dangerons weapon;
12	(C) prohibit freedom of association;
13	(d) prohibit freedom of movement;
14	(e) any other limitation reasonably related to the
15	objectives of rehabilitation or the protection of society.
16	[3] Whenever the district court imposes a sentence of
17	imprisonment in the state prison for a term exceeding 1
18	Year, the court may also impose the restriction that the
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25	tuireseas JUDGMENT shall contain a statement of the reasons
	a den service en encontra a la companya de la service de la companya de

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1 for the restriction.

2 (7) (4) The judge in the justice court shall not have 3 the authority to restrict an individual's rights as 4 enumerated in subsection (6) subsections (2) and (3).

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

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19 "95-2220. Application for participation in furlough
20 program. Any prisoner confined in the state prison <u>except_a</u>
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22 make application to participate in the furlough program at
23 least by the time the inmate has served one-half (1/2) of
24 the time required to be considered for parole."
25 Section 3. Section 95-3214, R.C.H. 1947, is amended to

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BB 79

1 read as follows:

2 "95-3214. Parole authority and procedure. (1) The board shall release on parole, by appropriate order, any 3 4 person confined in the Montana state prison, except persons 5 under sentence of death and persons serving sentences imposed under 95-2206(3), when in its opinion there is 6 7 reasonable probability that the prisoner can be released 8 without detriment to himself or to the community, provided: 9 (a) That that no convict serving a time sentence shall may be paroled until he has served at least one-quarter 10 11 +1/4 of his full term. less good time allowances off. as provided in section 80-1905: except that no convict 12 designated a persistent felony offender under section 13 95-2206.5 may be paroled until he has served at least 14 one-third (1/2) of his full term, less good time allowances 15 16 off, as provided in section 80-1905. A first offender serving a time sentence may be paroled after he has served, 17 upon his term of sentence, twelve-and-one-half-(12 1/2) 18 19 years. A persistent felony offender as defined in sestion 20 95-2206.5 may be paroled after he has served, upon his term 21 of sentence, seventeen and one-half-(17 1/2) years.

(b) Bo no convict serving a life sentence shall may be
paroled until he has served thirty (30) years, less the good
time allowances off, as provided in section 80-1905.

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.

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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 20 conditions to be imposed upon parolees. When an order for 21 parole is issued, it shall recite the conditions thereof."

-End-

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