

1 HB BILL NO. 79
 2 INTRODUCED BY Scully Vincent Ryan

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT DISTRICT
 5 JUDGES TO SENTENCE PERSONS CONVICTED OF FELONIES TO
 6 IMPRISONMENT WITH NO POSSIBILITY OF PAROLE OR PARTICIPATION
 7 IN THE PRISONER FURLOUGH PROGRAM; AMENDING SECTIONS 95-2206,
 8 95-2220, and 95-3214, R.C.M. 1947."

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:

13 "95-2206. Sentence. (1) Whenever any person has been
 14 found guilty of a crime or offense upon a verdict or a plea
 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 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 (1)(i) jail base release;
- 24 (1)(ii) jail time not to exceed ~~ninety~~ (90) days;
- 25 (1)(iii) conditions for probation;

- 1 ~~(1)(iv)~~ restitution;
- 2 ~~(1)(v)~~ any other reasonable conditions deemed
- 3 necessary for rehabilitation or for the protection of
- 4 society;
- 5 ~~(1)(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 ~~(2)(i)~~ jail base release;
- 12 ~~(2)(ii)~~ jail time not to exceed ~~(90)~~ days;
- 13 ~~(2)(iii)~~ conditions for probation;
- 14 ~~(2)(iv)~~ restitution;
- 15 ~~(2)(v)~~ any other reasonable conditions deemed
- 16 necessary for rehabilitation or for the protection of
- 17 society;
- 18 ~~(2)(vi)~~ 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 offense;
- 25 ~~(4)(d)~~ Commit ~~commit~~ the defendant to a correctional

1 institution with or without fine by law for the offense;
 2 ~~(5)(e)~~ 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 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 (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 judgment shall contain a statement of the reasons for the

1 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
 8 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 committed, or may, in his discretion,
 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."
 17 Section 2. Section 95-2220, R.C.M. 1947, is amended to
 18 read as follows:
 19 "95-2220. Application for participation in furlough
 20 program. Any prisoner confined in the state prison except a
 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 ~~(1/2)~~ of
 24 the time required to be considered for parole."
 25 Section 3. Section 95-3214, R.C.M. 1947, is amended to

1 read as follows:

2 "95-3214. Parole authority and procedure. (1) The
3 board shall release on parole, by appropriate order, any
4 person confined in the Montana state prison, except persons
5 under sentence of death and persons serving sentences
6 imposed under 95-2206(3), when in its opinion there is
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
10 ~~may~~ be paroled until he has served at least one-quarter
11 ~~{1/4}~~ 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
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,
18 upon his term of sentence, ~~twelve-and-one-half-{12 1/2}~~
19 years. A persistent felony offender as defined in section
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 sentence shall ~~may~~ be
23 paroled until he has served ~~thirty-{30}~~ years, less the good
24 time allowances off, as provided in section 80-1905.

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

1 such intervals thereafter as it determines, the board shall
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,
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.

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-

Approved by Committee
on Judiciary

HOUSE BILL NO. 79

INTRODUCED BY SCULLY, VINCENT, RYAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT DISTRICT JUDGES TO SENTENCE PERSONS CONVICTED OF FELONIES TO IMPRISONMENT WITH NO POSSIBILITY OF PAROLE OR PARTICIPATION IN THE PRISONER FURLOUGH PROGRAM; AMENDING SECTIONS 95-2206, 95-2220, and 95-3214, R.C.M. 1947."

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

Section 1. Section 95-2206, R.C.M. 1947, is amended to read as follows:

"95-2206. Sentence. (1) Whenever any person has been found guilty of a crime or offense upon a verdict or a plea of guilty the court may:

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

- (a)(i) jail base release;
- (b)(ii) jail time not to exceed ~~ninety~~(90) days;
- (c)(iii) conditions for probation;

(d)(iv) restitution;

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

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

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

- (a)(i) jail base release;
- (b)(ii) jail time not to exceed ~~(90)~~ days;
- (c)(iii) conditions for probation;
- (d)(iv) restitution;
- (e)(v) any other reasonable conditions deemed necessary for rehabilitation or for the protection of society;
- (f)(vi) any combination of the above.

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

(3)(c) ~~Impose impose~~ a fine as provided by law for the offense;

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

1 institution with or without fine by law for the offense;

2 ~~(5)(e) 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 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 (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 judgment JUDGMENT shall contain a statement of the reasons

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
8 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 committed, or may, in his discretion,
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."

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

19 "95-2220. Application for participation in furlough
20 program. Any prisoner confined in the state prison except a
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 ~~(1/2)~~ of
24 the time required to be considered for parole."

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

1 read as follows:

2 "95-3214. Parole authority and procedure. (1) The
3 board shall release on parole, by appropriate order, any
4 person confined in the Montana state prison, except persons
5 under sentence of death and persons serving sentences
6 imposed under 95-2206(3), when in its opinion there is
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~~
10 ~~may~~ be paroled until he has served at least one-quarter
11 ~~(1/4)~~ 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~~
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,
18 upon his term of sentence, ~~twelve and one half~~ ~~(12 1/2)~~
19 years. A persistent felony offender as defined in ~~section~~
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 sentence ~~shall~~ may be
23 paroled until he has served ~~thirty~~ ~~(30)~~ years, less the good
24 time allowances off, as provided in ~~section~~ 80-1905.

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

1 such intervals thereafter as it determines, the board shall
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,
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.

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."

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~~(3)(c)~~ ~~impose~~ impose a fine as provided by law for the offense;

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1 institution with or without fine by law for the offense;

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4 ~~(6) (2)~~ The district court may also impose any of the

5 following restrictions or conditions on the above sentence

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9 office;

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11 dangerous weapon;

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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 judgment JUDGMENT shall contain a statement of the reasons

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4 enumerated in ~~subsection (6)~~ subsections (2) and (3).

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6 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

9 of such suspended sentence or deferred imposition of

10 sentence to revoke such suspension or impose sentence and

11 order such person committed, or may, in his discretion,

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13 designated a persistent felony offender under ~~section~~
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,
18 upon his term of sentence, ~~twelve and one half (12 1/2)~~
19 years. A persistent felony offender as defined in ~~section~~
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) ~~So no~~ convict serving a life sentence shall may be
23 paroled until he has served ~~thirty (30)~~ years, less the good
24 time allowances off, as provided in ~~section~~ 80-1905.

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

1 such intervals thereafter as it determines, the board shall
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,
5 and attitude in prison, and the reports of and physical and
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8 board shall interview him. A parole shall be ordered only
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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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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."

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