

1 4 BILL NO. 356
 2 INTRODUCED BY Bob Hoyer, Frates, Johnston
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
 5 95-2206 TO PROVIDE THAT A SENTENCE FOR A TRAFFIC LAW
 6 VIOLATION IS NOT DEFERRABLE."

7
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 9 Section 1. Section 95-2206, R.C.M. 1947, is amended to
 10 read as follows:
 11 "95-2206. Sentence. Whenever any person has been found
 12 guilty of a crime or offense upon a verdict or a plea of
 13 guilty the court may:
 14 (1) Defer imposition of sentence, ~~excepting sentences~~
 15 ~~for traffic law violations,~~ for a period not to exceed one
 16 (1) year for any misdemeanor; for a period not to exceed
 17 three (3) years for any felony. The sentencing judge may
 18 impose upon the defendant any reasonable restrictions or
 19 conditions during the period of the deferred imposition.
 20 Such reasonable restrictions or conditions may include:
 21 (a) jail base release;
 22 (b) jail time not to exceed ninety (90) days;
 23 (c) conditions for probation;
 24 (d) restitution;
 25 (e) any other reasonable conditions deemed necessary

1 for rehabilitation or for the protection of society;
 2 (f) any combination of the above.
 3 (2) Suspend execution of sentence up to the maximum
 4 sentence allowed for the particular offense. The sentencing
 5 judge may impose on the defendant any reasonable
 6 restrictions during the period of suspended sentence. Such
 7 reasonable restrictions may include:
 8 (a) jail base release;
 9 (b) jail time not to exceed (90) days;
 10 (c) conditions for probation;
 11 (d) restitution;
 12 (e) any other reasonable conditions deemed necessary
 13 for rehabilitation or for the protection of society;
 14 (f) any combination of the above.
 15 If any restrictions or conditions are violated, any
 16 elapsed time, except jail time, shall not be a credit
 17 against the sentence, unless the court shall otherwise
 18 order.
 19 (3) Impose a fine as provided by law for the offense.
 20 (4) Commit the defendant to a correctional institution
 21 with or without fine by law for the offense.
 22 (5) Impose any combination of subsections (2), (3), or
 23 (4) above.
 24 (6) The district court may also impose any of the
 25 following restrictions or conditions on the above sentence

1 which it deems necessary to obtain the objective of
2 rehabilitation and the protection of society:

3 (a) prohibit the defendant the right to hold public
4 office;

5 (b) prohibit the defendant the right to own or carry a
6 dangerous weapon;

7 (c) prohibit freedom of association;

8 (d) prohibit freedom of movement;

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

11 (7) The judge in the justice court shall not have the
12 authority to restrict an individual's rights as enumerated
13 in subsection (6).

14 Any judge who has suspended the execution of a sentence
15 or deferred the imposition of a sentence of imprisonment
16 under this section, or his successor, is authorized
17 thereafter, in his discretion, during the period of such
18 suspended sentence or deferred imposition of sentence to
19 revoke such suspension or impose sentence and order such
20 person committed, or may, in his discretion, order the
21 prisoner placed under the jurisdiction of the state board of
22 pardons as provided by law, or retain such jurisdiction with
23 this court. Prior to the revocation of an order suspending
24 or deferring the imposition of sentence, the person affected
25 shall be given a hearing."

Committee on Judiciary
Objection Raised to
Adverse Committee Report

1 4 BILL NO. 356
2 INTRODUCED BY [Signature]
3 [Signature]

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
5 95-2206 TO PROVIDE THAT A SENTENCE FOR A TRAFFIC LAW
6 VIOLATION IS NOT DEFERRABLE."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
9 Section 1. Section 95-2206, R.C.M. 1947, is amended to
10 read as follows:

11 "95-2206. Sentence. Whenever any person has been found
12 guilty of a crime or offense upon a verdict or a plea of
13 guilty the court may:

14 (1) Defer imposition of sentence, excepting sentences
15 for traffic law violations, for a period not to exceed one
16 (1) year for any misdemeanor; for a period not to exceed
17 three (3) years for any felony. The sentencing judge may
18 impose upon the defendant any reasonable restrictions or
19 conditions during the period of the deferred imposition.
20 Such reasonable restrictions or conditions may include:

- 21 (a) jail base release;
- 22 (b) jail time not to exceed ninety (90) days;
- 23 (c) conditions for probation;
- 24 (d) restitution;
- 25 (e) any other reasonable conditions deemed necessary

- 1 for rehabilitation or for the protection of society;
- 2 (f) any combination of the above.
- 3 (2) Suspend execution of sentence up to the maximum
- 4 sentence allowed for the particular offense. The sentencing
- 5 judge may impose on the defendant any reasonable
- 6 restrictions during the period of suspended sentence. Such
- 7 reasonable restrictions may include:
 - 8 (a) jail base release;
 - 9 (b) jail time not to exceed (90) days;
 - 10 (c) conditions for probation;
 - 11 (d) restitution;
 - 12 (e) any other reasonable conditions deemed necessary
 - 13 for rehabilitation or for the protection of society;
 - 14 (f) any combination of the above.

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

- 19 (3) Impose a fine as provided by law for the offense.
- 20 (4) Commit the defendant to a correctional institution
- 21 with or without fine by law for the offense.
- 22 (5) Impose any combination of subsections (2), (3), or
- 23 (4) above.
- 24 (6) The district court may also impose any of the
- 25 following restrictions or conditions on the above sentence

HB 356

1 which it deems necessary to obtain the objective of
2 rehabilitation and the protection of society:

3 (a) prohibit the defendant the right to hold public
4 office;

5 (b) prohibit the defendant the right to own or carry a
6 dangerous weapon;

7 (c) prohibit freedom of association;

8 (d) prohibit freedom of movement;

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

11 (7) The judge in the justice court shall not have the
12 authority to restrict an individual's rights as enumerated
13 in subsection (6).

14 Any judge who has suspended the execution of a sentence
15 or deferred the imposition of a sentence of imprisonment
16 under this section, or his successor, is authorized
17 thereafter, in his discretion, during the period of such
18 suspended sentence or deferred imposition of sentence to
19 revoke such suspension or impose sentence and order such
20 person committed, or may, in his discretion, order the
21 prisoner placed under the jurisdiction of the state board of
22 pardons as provided by law, or retain such jurisdiction with
23 this court. Prior to the revocation of an order suspending
24 or deferring the imposition of sentence, the person affected
25 shall be given a hearing."

HOUSE BILL NO. 356

INTRODUCED BY GOULD, KEYSER, FRATES, JOHNSTON, LUND

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 95-2206 TO PROVIDE THAT A SENTENCE FOR A TRAFFIC LAW VIOLATION IS NOT DEFERRABLE."

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. Whenever any person has been found guilty of a crime or offense upon a verdict or a plea of guilty the court may:

(1) Defer imposition of sentence, ~~excepting sentences for traffic law violations~~ DRIVING WHILE INTOXICATED, a period not to exceed one (1) year for any misdemeanor; 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) jail base release;
- (b) jail time not to exceed ninety (90) days;
- (c) conditions for probation;
- (d) restitution;

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

(f) any combination of the above.

(2) 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) jail base release;

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

(c) conditions for probation;

(d) restitution;

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

(f) 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) Impose a fine as provided by law for the offense.

(4) Commit the defendant to a correctional institution with or without fine by law for the offense.

(5) Impose any combination of subsections (2), (3), or (4) above.

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

THIRD READING

1 following restrictions or conditions on the above sentence
 2 which it deems necessary to obtain the objective of
 3 rehabilitation and the protection of society:

4 (a) prohibit the defendant the right to hold public
 5 office;

6 (b) prohibit the defendant the right to own or carry a
 7 dangerous weapon;

8 (c) prohibit freedom of association;

9 (d) prohibit freedom of movement;

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

12 (7) The judge in the justice court shall not have the
 13 authority to restrict an individual's rights as enumerated
 14 in subsection (6).

15 Any judge who has suspended the execution of a sentence
 16 or deferred the imposition of a sentence of imprisonment
 17 under this section, or his successor, is authorized
 18 thereafter, in his discretion, during the period of such
 19 suspended sentence or deferred imposition of sentence to
 20 revoke such suspension or impose sentence and order such
 21 person committed, or may, in his discretion, order the
 22 prisoner placed under the jurisdiction of the state board of
 23 pardons as provided by law, or retain such jurisdiction with
 24 this court. Prior to the revocation of an order suspending
 25 or deferring the imposition of sentence, the person affected

1 shall be given a hearing."

-End-

April 2, 1977

SENATE
STANDING COMMITTEE REPORT
Committee on Judiciary

That House Bill No. 356, third reading, be amended as follows:

1. Amend title, lines 5 and 6.

Following: "FOR"

Strike: "A TRAFFIC LAW VIOLATION"

Insert: "DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS"

2. Amend page 1, section 1, line 15.

Following: "DRIVING"

Strike: "WHILE INTOXICATED"

Insert: "under the influence of alcohol or drugs"

1 HOUSE BILL NO. 356
 2 INTRODUCED BY GOULD, KEYSER, FRATES, JOHNSTON, LUND
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
 5 95-2206 TO PROVIDE THAT A SENTENCE FOR A ~~TRAFFIC-LAW~~
 6 ~~VIOLATION DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS IS~~
 7 NOT DEFERRABLE."
 8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 10 Section 1. Section 95-2206, R.C.M. 1947, is amended to
 11 read as follows:
 12 "95-2206. Sentence. Whenever any person has been found
 13 guilty of a crime or offense upon a verdict or a plea of
 14 guilty the court may:
 15 (1) Defer imposition of sentence, ~~excepting sentences~~
 16 ~~for traffic-law-violations DRIVING WHILE--INTOXICATED UNDER~~
 17 ~~THE INFLUENCE OF ALCOHOL OR DRUGS,~~ a period not to exceed
 18 one (1) year for any misdemeanor; for a period not to exceed
 19 three (3) years for any felony. The sentencing judge may
 20 impose upon the defendant any reasonable restrictions or
 21 conditions during the period of the deferred imposition.
 22 Such reasonable restrictions or conditions may include:
 23 (a) jail base release;
 24 (b) jail time not to exceed ninety (90) days;
 25 (c) conditions for probation;

1 (d) restitution;
 2 (e) any other reasonable conditions deemed necessary
 3 for rehabilitation or for the protection of society;
 4 (f) any combination of the above.
 5 (2) Suspend execution of sentence up to the maximum
 6 sentence allowed for the particular offense. The sentencing
 7 judge may impose on the defendant any reasonable
 8 restrictions during the period of suspended sentence. Such
 9 reasonable restrictions may include:
 10 (a) jail base release;
 11 (b) jail time not to exceed (90) days;
 12 (c) conditions for probation;
 13 (d) restitution;
 14 (e) any other reasonable conditions deemed necessary
 15 for rehabilitation or for the protection of society;
 16 (f) any combination of the above.
 17 If any restrictions or conditions are violated, any
 18 elapsed time, except jail time, shall not be a credit
 19 against the sentence, unless the court shall otherwise
 20 order.
 21 (3) Impose a fine as provided by law for the offense.
 22 (4) Commit the defendant to a correctional institution
 23 with or without fine by law for the offense.
 24 (5) Impose any combination of subsections (2), (3), or
 25 (4) above.

1 (6) The district court may also impose any of the
 2 following restrictions or conditions on the above sentence
 3 which it deems necessary to obtain the objective of
 4 rehabilitation and the protection of society:

5 (a) prohibit the defendant the right to hold public
 6 office;

7 (b) prohibit the defendant the right to own or carry a
 8 dangerous weapon;

9 (c) prohibit freedom of association;

10 (d) prohibit freedom of movement;

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

13 (7) The judge in the justice court shall not have the
 14 authority to restrict an individual's rights as enumerated
 15 in subsection (6).

16 Any judge who has suspended the execution of a sentence
 17 or deferred the imposition of a sentence of imprisonment
 18 under this section, or his successor, is authorized
 19 thereafter, in his discretion, during the period of such
 20 suspended sentence or deferred imposition of sentence to
 21 revoke such suspension or impose sentence and order such
 22 person committed, or may, in his discretion, order the
 23 prisoner placed under the jurisdiction of the state board of
 24 pardons as provided by law, or retain such jurisdiction with
 25 this court. Prior to the revocation of an order suspending

1 or deferring the imposition of sentence, the person affected
 2 shall be given a hearing.*

-End-