

1 Senate BILL NO. 210
2 INTRODUCED BY Sen. Turriage

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR
5 INCREASED MAXIMUM PRISON SENTENCES FOR CERTAIN OFFENSES WHEN
6 COMMITTED WITH A KNIFE OR FIREARM CAPABLE OF CAUSING DEATH
7 OR SERIOUS BODILY INJURY; AMENDING SECTION 95-2206, R.C.M.
8 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; for a period
18 not to exceed three (3) years for any felony. The sentencing
19 judge may impose upon the defendant any reasonable
20 restrictions or conditions during the period of the deferred
21 imposition. Such reasonable restrictions or conditions may
22 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)(1)(b)~~, ~~(3)(1)(c)~~, or ~~(4)(1)(d)~~ above.

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

19 ~~(4)~~ Any judge who has suspended the execution of a
20 sentence or deferred the imposition of a sentence of
21 imprisonment under this section, or his successor, is
22 authorized thereafter, in his discretion, during the period
23 of such suspended sentence or deferred imposition of
24 sentence to revoke such suspension or impose sentence and
25 order such person committed, or may, in his discretion,

1 order the prisoner placed under the jurisdiction of the
2 state board of pardons as provided by law, or retain such
3 jurisdiction with this court. Prior to the revocation of an
4 order suspending or deferring the imposition of sentence,
5 the person affected shall be given a hearing.

6 (5) If the offense for which the sentence is being
7 imposed is deliberate or mitigated deliberate homicide,
8 aggravated assault, kidnapping, aggravated kidnapping,
9 robbery, sexual intercourse without consent, or sexual
10 assault and if the defendant employed a firearm or knife
11 capable of causing death or serious bodily injury in the
12 commission of the offense, the maximum term of imprisonment
13 which may be imposed for the commission of the offense is
14 increased by 10 years over the maximum which would apply if
15 this subsection had not been enacted."

-End-

STATE OF MONTANA

REQUEST NO. 547-77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 10, 19 77, there is hereby submitted a Fiscal Note for Senate Bill 210 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to provide for increased maximum prison sentences for certain offenses when committed with a knife or firearm capable of causing death or bodily harm.

ASSUMPTIONS:

1. Adding ten (10) years to a sentence for violent crimes committed with a knife or firearm would increase the length of stay in the prison by approximately twenty months.
2. Prison data shows that 41% of current population (207) are serving time for violent crimes. 33% (68 persons) used a knife or firearm in committing crimes. If this percentage remains constant, the effects of the proposed law will not be seen for two or more years.
3. The average sentence for the 207 inmates is 34.5 years. The average time spent in prison before parole would be 5.75 years. The proposed law would add 20 months on to the 5.75 years.
4. Per diem cost in the prison is \$26.87 per day, and this will hold steady for subsequent bienniums.

FISCAL IMPACT:

Based on the current population (which will not be affected), the additional cost would be \$1,096,200, which cost would be realized in subsequent bienniums.

Richard D. Drayton
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-22-77