

HOUSE BILL NO. 618

INTRODUCED BY KEEDY, RAMIREZ, SIVERTSEN, CONROY, KROPP,
MARKS, MOORE, SEIFERT, IVERSON, DASSINGER, MANUEL,
DOZIER, JOHNSTON, KEYSER, ANDERSON, JENSEN, ROTH,
WYRICK, NATHE, ERNST, SCHULTZ, SPILKER, HURWITZ, UNDERDAL,
ELLISON, VINGER, FEDA, HEMSTAD, MEYER, GOULD, PISTORIA,
DAY, CURTISS, BURNETT, PORTER, DONALDSON, HAYNE,
C. SMITH, KVAALEN, FABREGA, PAVLOVICH, TEAGUE, O'CONNELL

IN THE HOUSE

February 7, 1979	Introduced and referred to Committee on Judiciary.
February 13, 1979	Committee recommend bill do pass as amended. Report adopted.
February 15, 1979	Printed and placed on members' desks.
February 16, 1979	Second reading, do pass.
February 17, 1979	Considered correctly engrossed.
February 19, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 20, 1979	Introduced and referred to Committee on Judiciary.
March 8, 1979	Committee recommend bill be not concurred in. Report adopted. On motion, Senate reconsider its action taken on adverse committee report and order placed on second reading. Motion adopted.

IN THE HOUSE

March 9, 1979

Returned from second house.
Not concurred in.

March 10, 1979

On motion, request of Senate
granted for return of H. B.
No. 618 for further con-
sideration.

IN THE SENATE

March 12, 1979

Returned from second house.

March 13, 1979

Second reading, concurred in.

March 16, 1979

Third reading, concurred in.

IN THE HOUSE

March 17, 1979

Returned from second house.
Concurred in. Sent to
enrolling.

Reported correctly enrolled.

House BILL NO. *618* *More Defat*

1 *Thompson*
2 INTRODUCED BY *Kelley Kammer*
3 *Quisinger* *Manuel Dozier* *John* *By* *Arverson*
4 *Jensen* *Roth* *Wynick* *NATHA* *Earl* *Schutte* *Walters*
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO RAISE THE MANDATORY *Epison*
6 MINIMUM SENTENCE FOR DELIBERATE HOMICIDE FROM 2 YEARS TO 10 *Wagon*
7 YEARS; ESTABLISHING A MANDATORY MINIMUM SENTENCE OF 2 YEARS *Beck*
8 FOR NEGLIGENT HOMICIDE AND FOR AIDING OR SOLICITING SUICIDE; *Leontat*
9 RESTRICTING DEFERMENT OR SUSPENSION OF THE MANDATORY MINIMUM *Wagon*
10 SENTENCES ESTABLISHED IN THIS ACT; AMENDING SECTIONS *Doyle*
11 45-5-102, 45-5-104, 45-5-105, 46-18-201, AND 46-18-222, *Doyle*
12 MCA." *Carroll*

1 *Wright*
2 *Winters*
3 *Wright*
4 *Winters*
5 *Wright*
6 *Winters*
7 *Wright*
8 *Winters*
9 *Wright*
10 *Winters*
11 *Wright*
12 *Winters*

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

Section 1. Section 45-5-102, MCA, is amended to read:

"45-5-102. Deliberate homicide. (1) Except as provided in 45-5-103(1), criminal homicide constitutes deliberate homicide if:

- (a) it is committed purposely or knowingly; or
- (b) it is committed while the offender is engaged in or is an accomplice in the commission of, an attempt to commit, or flight after committing or attempting to commit robbery, sexual intercourse without consent, arson, burglary, kidnapping, felonious escape, or any other felony which involves the use or threat of physical force or violence against any individual.

(2) A person convicted of the offense of deliberate homicide shall be punished by death or life imprisonment as provided in 46-18-301 through 46-18-310 or by imprisonment in the state prison for a term of not less than 2 10 years or more than 100 years, except as provided in 46-18-222."

Section 2. Section 45-5-104, MCA, is amended to read:

"45-5-104. Negligent homicide. (1) Criminal homicide constitutes negligent homicide when it is committed negligently.

(2) A person convicted of negligent homicide shall be imprisoned in the state prison for ~~any term not to exceed a term of not less than 2 years or more than 10 years, except as provided in 46-18-222."~~

Section 3. Section 45-5-105, MCA, is amended to read:

"45-5-105. Aiding or soliciting suicide. (1) A person who purposely aids or solicits another to commit suicide, but such suicide does not occur, commits the offense of aiding or soliciting suicide.

(2) A person convicted of the offense of aiding or soliciting a suicide shall be imprisoned in the state prison for ~~any term not to exceed a term of not less than 2 years or more than 10 years, except as provided in 46-18-222."~~

Section 4. Section 46-18-201, MCA, is amended to read:

"46-18-201. Sentences that may be imposed. (1) Whenever a person has been found guilty of an offense upon a

1 verdict or a plea of guilty, the court may:

2 (a) defer imposition of sentence, excepting sentences
3 for driving under the influence of alcohol or drugs, for a
4 period not exceeding 1 year for any misdemeanor or for a
5 period not exceeding 3 years for any felony. The sentencing
6 judge may impose upon the defendant any reasonable
7 restrictions or conditions during the period of the deferred
8 imposition. Such reasonable restrictions or conditions may
9 include:

- 10 (i) jail base release;
- 11 (ii) jail time not exceeding 90 days;
- 12 (iii) conditions for probation;
- 13 (iv) restitution;
- 14 (v) any other reasonable conditions considered
15 necessary for rehabilitation or for the protection of
16 society; or

17 (vi) any combination of the above.
18 (b) suspend execution of sentence up to the maximum
19 sentence allowed for the particular offense. The sentencing
20 judge may impose on the defendant any reasonable
21 restrictions during the period of suspended sentence. Such
22 reasonable restrictions may include:

- 23 (i) jail base release;
- 24 (ii) jail time not exceeding 90 days;
- 25 (iii) conditions for probation;

1 (iv) restitution;

2 (v) any other reasonable conditions considered
3 necessary for rehabilitation or for the protection of
4 society;

5 (vi) any combination of the above.

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

7 (d) commit the defendant to a correctional institution
8 with or without a fine as provided by law for the offense;

9 (e) impose any combination of subsections (1)(b),
10 (1)(c), and (1)(d).

11 (2) If any restrictions or conditions imposed under
12 subsection (1)(a) or (1)(b) are violated, any elapsed time,
13 except jail time, shall not be a credit against the sentence
14 unless the court orders otherwise.

15 (3) Except as provided in 46-18-222, the imposition or
16 execution of the first 2 years of a sentence of imprisonment
17 imposed under the following sections may not be deferred or
18 suspended: ~~45-5-102(2)~~, 45-5-103(2), ~~45-5-104(2)~~,
19 ~~45-5-105(2)a~~, 45-5-202(2), 45-5-302(2), 45-5-303(2),
20 45-5-401(2), 45-5-503(2) and (3), 45-9-101(2), 45-9-102(3),
21 and 45-9-103(2).

22 (4) Except as provided in 46-18-222, the imposition or
23 execution of the first 10 years of a sentence of
24 imprisonment imposed under 45-5-102(2) may not be deferred
25 or suspended."

1 Section 5. Section 46-18-222, MCA, is amended to read:
 2 "46-18-222. Exceptions to mandatory minimum sentences
 3 and restrictions on deferred imposition and suspended
 4 execution of sentence. All mandatory minimum sentences
 5 prescribed by the laws of this state and the restrictions on
 6 deferred imposition and suspended execution of sentence
 7 prescribed by subsections (3) and (4) of 46-18-201(3),
 8 46-18-221(3), and 46-18-502(2) do not apply if:

9 (1) the defendant was less than 18 years of age at the
 10 time of the commission of the offense for which he is to be
 11 sentenced;

12 (2) the defendant's mental capacity, at the time of
 13 the commission of the offense for which he is to be
 14 sentenced, was significantly impaired, although not so
 15 impaired as to constitute a defense to the prosecution;

16 (3) the defendant, at the time of the commission of
 17 the offense for which he is to be sentenced, was acting
 18 under unusual and substantial duress, although not such
 19 duress as would constitute a defense to the prosecution;

20 (4) the defendant was an accomplice, the conduct
 21 constituting the offense was principally the conduct of
 22 another, and the defendant's participation was relatively
 23 minor; or

24 (5) where applicable, no serious bodily injury was
 25 inflicted on the victim."

1 Section 6. Saving clause. This act applies only to
 2 offenses committed after the effective date of this act.

-End-

ME 619

Approved by Committee on Judiciary

HOUSE BILL NO. 618

INTRODUCED BY KEEDY, RAMIREZ, SIVERTSEN, CONROY, KROPP, MARKS, MOORE, SEIFERT, IVERSON, DASSINGER, MANUFL, DOZIER, JOHNSTON, KEYSER, ANDERSON, JENSEN, ROTH, WYRICK, NATHE, ERNST, SCHULTZ, SPILKER, MURWITZ, UNDERDAL, ELLISON, VINGER, FEDA, HEMSTAD, MEYER, GOULD, PISTORIA, DAY, CURTISS, BURNETT, PORTER, DONALDSON, HAYNE, C. SMITH, KVAALEN, FABREGA, PAVLOVICH, TEAGUE, O'CONNELL

A BILL FOR AN ACT ENTITLED: "AN ACT TO RAISE THE MANDATORY MINIMUM SENTENCE FOR DELIBERATE HOMICIDE FROM 2 YEARS TO 10 YEARS; ESTABLISHING A MANDATORY MINIMUM SENTENCE OF 2 YEARS FOR NEGLIGENT HOMICIDE AND FOR AIDING OR SOLICITING SUICIDE; RESTRICTING DEFERMENT OR SUSPENSION OF THE MANDATORY MINIMUM SENTENCES ESTABLISHED IN THIS ACT; AMENDING SECTIONS 45-5-102, 45-5-104, 45-5-105, 46-18-201, AND 46-18-222, MCA."

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

Section 1. Section 45-5-102, MCA, is amended to read:

"45-5-102. Deliberate homicide. (1) Except as provided in 45-5-103(1), criminal homicide constitutes deliberate homicide if:

- (a) it is committed purposely or knowingly; or
(b) it is committed while the offender is engaged in

or is an accomplice in the commission of, an attempt to commit, or flight after committing or attempting to commit robbery, sexual intercourse without consent, arson, burglary, kidnapping, felonious escape, or any other felony which involves the use or threat of physical force or violence against any individual.

(2) A person convicted of the offense of deliberate homicide shall be punished by death or life imprisonment as provided in 46-18-301 through 46-18-310 or by imprisonment in the state prison for a term of not less than 2 1/2 years or more than 100 years, except as provided in 46-18-222."

Section 2. Section 45-5-104, MCA, is amended to read: "45-5-104. Negligent homicide. (1) Criminal homicide constitutes negligent homicide when it is committed negligently.

(2) A person convicted of negligent homicide shall be imprisoned in the state prison for any term not to exceed 2 years or not less than 2 years or more than 10 years, except as provided in 46-18-222."

Section 3. Section 45-5-105, MCA, is amended to read:

"45-5-105. Aiding or soliciting suicide. (1) A person who purposely aids or solicits another to commit suicide but such suicide does not occur, commits the offense of aiding or soliciting suicide.

(2) A person convicted of the offense of aiding or

1 ~~soliciting a suicide shall be imprisoned in the state prison~~
2 ~~for any term not to exceed a term of not less than 2 years~~
3 ~~or more than 10 years, except as provided in 46-18-222.~~

4 Section 2. Section 46-18-201, MCA, is amended to read:

5 "46-18-201. Sentences that may be imposed. (1)
6 Whenever a person has been found guilty of an offense upon a
7 verdict or a plea of guilty, the court may:

8 (a) defer imposition of sentence, excepting sentences
9 for driving under the influence of alcohol or drugs, for a
10 period not exceeding 1 year for any misdemeanor or for a
11 period not exceeding 3 years for any felony. The sentencing
12 judge may impose upon the defendant any reasonable
13 restrictions or conditions during the period of the deferred
14 imposition. Such reasonable restrictions or conditions may
15 include:

- 16 (i) jail base release;
- 17 (ii) jail time not exceeding 90 days;
- 18 (iii) conditions for probation;
- 19 (iv) restitution;
- 20 (v) any other reasonable conditions considered
21 necessary for rehabilitation or for the protection of
22 society; or
- 23 (vi) any combination of the above.

24 (b) suspend execution of sentence up to the maximum
25 sentence allowed for the particular offense. The sentencing

1 judge may impose on the defendant any reasonable
2 restrictions during the period of suspended sentence. Such
3 reasonable restrictions may include:

- 4 (i) jail base release;
- 5 (ii) jail time not exceeding 90 days;
- 6 (iii) conditions for probation;
- 7 (iv) restitution;
- 8 (v) any other reasonable conditions considered
9 necessary for rehabilitation or for the protection of
10 society;
- 11 (vi) any combination of the above.

12 (c) impose a fine as provided by law for the offense;
13 (d) commit the defendant to a correctional institution
14 with or without a fine as provided by law for the offense;
15 (e) impose any combination of subsections (1)(b),
16 (1)(c), and (1)(d).

17 (2) If any restrictions or conditions imposed under
18 subsection (1)(a) or (1)(b) are violated, any elapsed time,
19 except jail time, shall not be a credit against the sentence
20 unless the court orders otherwise.

21 (3) Except as provided in 46-18-222, the imposition or
22 execution of the first 2 years of a sentence of imprisonment
23 imposed under the following sections may not be deferred or
24 suspended: ~~45-5-102(2)~~, 45-5-103(2), ~~45-5-104(2)~~
25 ~~45-5-105(2)~~, 45-5-202(2), 45-5-302(2), 45-5-303(2),

1 45-5-401(2), 45-5-503(2) and (3), 45-9-101(2), 45-9-102(3),
 2 and 45-9-103(2).

3 ~~(4) Except as provided in 46-18-222, the imposition or~~
 4 ~~execution of the first 10 years of a sentence of~~
 5 ~~imprisonment imposed under 45-5-102(2) may not be deferred~~
 6 ~~or suspended."~~

7 Section 3. Section 46-18-222, MCA, is amended to read:

8 "46-18-222. Exceptions to mandatory minimum sentences
 9 and restrictions on deferred imposition and suspended
 10 execution of sentence. All mandatory minimum sentences
 11 prescribed by the laws of this state and the restrictions on
 12 deferred imposition and suspended execution of sentence
 13 prescribed by ~~subsections (3) and (4) of 46-18-201(3),~~
 14 ~~46-18-221(3), and 46-18-502(2)~~ do not apply if:

15 (1) the defendant was less than 18 years of age at the
 16 time of the commission of the offense for which he is to be
 17 sentenced;

18 (2) the defendant's mental capacity, at the time of
 19 the commission of the offense for which he is to be
 20 sentenced, was significantly impaired, although not so
 21 impaired as to constitute a defense to the prosecution;

22 (3) the defendant, at the time of the commission of
 23 the offense for which he is to be sentenced, was acting
 24 under unusual and substantial duress, although not such
 25 duress as would constitute a defense to the prosecution;

1 (4) the defendant was an accomplice, the conduct
 2 constituting the offense was principally the conduct of
 3 another, and the defendant's participation was relatively
 4 minor; or

5 (5) where applicable, no serious bodily injury was
 6 inflicted on the victim."

7 Section 4. Saving clause. This act applies only to
 8 offenses committed after the effective date of this act.

-End-

HOUSE BILL NO. 618

INTRODUCED BY KEEDY, RAMIREZ, SIVERTSEN, CONROY, KROPP,
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 DAY, CURTISS, BURNETT, PORTER, DONALDSON, HAYNE,
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A BILL FOR AN ACT ENTITLED: "AN ACT TO RAISE THE MANDATORY
 MINIMUM SENTENCE FOR DELIBERATE HOMICIDE FROM 2 YEARS TO 10
 YEARS; ESTABLISHING A MANDATORY MINIMUM SENTENCE OF 2 YEARS
 FOR NEGLIGENT HOMICIDE AND FOR AIDING OR SOLICITING SUICIDE;
 RESTRICTING DEFERMENT OR SUSPENSION OF THE MANDATORY MINIMUM
 SENTENCES ESTABLISHED IN THIS ACT; AMENDING SECTIONS
 45-5-102, 45-5-104, 45-5-105, 46-18-201, AND 46-18-222,
 MCA."

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

Section 1. Section 45-5-102, MCA, is amended to read:

"45-5-102. Deliberate homicide. (1) Except as provided
 in 45-5-103(1), criminal homicide constitutes deliberate
 homicide if:

- (a) it is committed purposely or knowingly; or
- (b) it is committed while the offender is engaged in

or is an accomplice in the commission of, an attempt to
 commit, or flight after committing or attempting to commit
 robbery, sexual intercourse without consent, arson,
 burglary, kidnapping, felonious escape, or any other felony
 which involves the use or threat of physical force or
 violence against any individual.

(2) A person convicted of the offense of deliberate
 homicide shall be punished by death or life imprisonment as
 provided in 46-18-301 through 46-18-310 or by imprisonment
 in the state prison for a term of not less than 2 1/2 years
 or more than 100 years, except as provided in 46-18-222."

~~Section 2. Section 45-5-104, MCA, is amended to read:~~
~~"45-5-104. Negligent homicide. (1) Criminal homicide~~
~~constitutes negligent homicide when it is committed~~
~~negligently.~~

~~(2) A person convicted of negligent homicide shall be~~
~~imprisoned in the state prison for any term not to exceed a~~
~~term of not less than 2 years or more than 10 years, except~~
~~as provided in 46-18-222."~~

~~Section 3. Section 45-5-105, MCA, is amended to read:~~
~~"45-5-105. Aiding or soliciting suicide. (1) A person~~
~~who purposely aids or solicits another to commit suicide~~
~~but such suicide does not occur, commits the offense of~~
~~aiding or soliciting suicide.~~

~~(2) A person convicted of the offense of aiding or~~

1 ~~soliciting-a-suicide-shall-be-imprisoned-in-the-state-prison~~
 2 ~~for--any--term-not-to-exceed-a-term-of-not-less-than-2-years~~
 3 ~~or-more-than-10-years-except-as-provided-in-46-10-222.~~"

4 Section 2. Section 46-18-201, MCA, is amended to read:
 5 "46-18-201. Sentences that may be imposed. (1)
 6 Whenever a person has been found guilty of an offense upon a
 7 verdict or a plea of guilty, the court may:

8 (a) defer imposition of sentence, excepting sentences
 9 for driving under the influence of alcohol or drugs, for a
 10 period not exceeding 1 year for any misdemeanor or for a
 11 period not exceeding 3 years for any felony. The sentencing
 12 judge may impose upon the defendant any reasonable
 13 restrictions or conditions during the period of the deferred
 14 imposition. Such reasonable restrictions or conditions may
 15 include:

- 16 (i) jail base release;
- 17 (ii) jail time not exceeding 90 days;
- 18 (iii) conditions for probation;
- 19 (iv) restitution;
- 20 (v) any other reasonable conditions considered
 21 necessary for rehabilitation or for the protection of
 22 society; or
- 23 (vi) any combination of the above.

24 (b) suspend execution of sentence up to the maximum
 25 sentence allowed for the particular offense. The sentencing

1 judge may impose on the defendant any reasonable
 2 restrictions during the period of suspended sentence. Such
 3 reasonable restrictions may include:

- 4 (i) jail base release;
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 9 necessary for rehabilitation or for the protection of
 10 society;
- 11 (vi) any combination of the above.

- 12 (c) impose a fine as provided by law for the offense;
- 13 (d) commit the defendant to a correctional institution
 14 with or without a fine as provided by law for the offense;
- 15 (e) impose any combination of subsections (1)(b),
 16 (1)(c), and (1)(d).

17 (2) If any restrictions or conditions imposed under
 18 subsection (1)(a) or (1)(b) are violated, any elapsed tim .
 19 except jail time, shall not be a credit against the sentence
 20 unless the court orders otherwise.

21 (3) Except as provided in 46-18-222, the imposition or
 22 execution of the first 2 years of a sentence of imprisonment
 23 imposed under the following sections may not be deferred or
 24 suspended: ~~45-5-102(2),~~ 45-5-103(2), ~~45-5-104(2),~~
 25 ~~45-5-105(2),~~ 45-5-202(2), 45-5-302(2), 45-5-303(2),

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2 and 45-9-103(2).

3 (4) Except as provided in 46-18-222, the imposition or
4 execution of the first 10 years of a sentence of
5 imprisonment imposed under 45-5-102(2) may not be deferred
6 or suspended."

7 Section 3. Section 46-18-222, MCA, is amended to read:

8 "46-18-222. Exceptions to mandatory minimum sentences
9 and restrictions on deferred imposition and suspended
10 execution of sentence. All mandatory minimum sentences
11 prescribed by the laws of this state and the restrictions on
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13 prescribed by subsections (3) and (4) of 46-18-201(3),
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15 (1) the defendant was less than 18 years of age at the
16 time of the commission of the offense for which he is to be
17 sentenced;

18 (2) the defendant's mental capacity, at the time of
19 the commission of the offense for which he is to be
20 sentenced, was significantly impaired, although not so
21 impaired as to constitute a defense to the prosecution;

22 (3) the defendant, at the time of the commission of
23 the offense for which he is to be sentenced, was acting
24 under unusual and substantial duress, although not such
25 duress as would constitute a defense to the prosecution;

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2 constituting the offense was principally the conduct of
3 another, and the defendant's participation was relatively
4 minor; or

5 (5) where applicable, no serious bodily injury was
6 inflicted on the victim."

7 Section 4. Saving clause. This act applies only to
8 offenses committed after the effective date of this act.

-End-

1 HOUSE BILL NO. 618
 2 INTRODUCED BY KEEDY, RAMIREZ, SIVERTSEN, CONROY, KROPP,
 3 MARKS, MOORE, SEIFERT, IVERSON, DASSINGER, MANUEL,
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9
 10 A BILL FOR AN ACT ENTITLED: "AN ACT TO RAISE THE MANDATORY
 11 MINIMUM SENTENCE FOR DELIBERATE HOMICIDE FROM 2 YEARS TO 10
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 13 FOR NEGLIGENT HOMICIDE AND FOR AIDING OR SOLICITING SUICIDE;
 14 RESTRICTING DEFERMENT OR SUSPENSION OF THE MANDATORY MINIMUM
 15 SENTENCES ESTABLISHED IN THIS ACT; AMENDING SECTIONS
 16 45-5-102, 45-5-104, 45-5-105, 46-18-201, AND 46-18-222,
 17 MCA."

18
 19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 Section 1. Section 45-5-102, MCA, is amended to read:
 21 "45-5-102. Deliberate homicide. (1) Except as provided
 22 in 45-5-103(1), criminal homicide constitutes deliberate
 23 homicide if:
 24 (a) it is committed purposely or knowingly; or
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1 or is an accomplice in the commission of, an attempt to
 2 commit, or flight after committing or attempting to commit
 3 robbery, sexual intercourse without consent, arson,
 4 burglary, kidnapping, felonious escape, or any other felony
 5 which involves the use or threat of physical force or
 6 violence against any individual.

7 (2) A person convicted of the offense of deliberate
 8 homicide shall be punished by death or life imprisonment as
 9 provided in 46-18-301 through 46-18-310 or by imprisonment
 10 in the state prison for a term of not less than 2 10 years
 11 or more than 100 years, except as provided in 46-18-222."

12 Section 2. Section 45-5-104, MCA, is amended to read:
 13 "45-5-104. Negligent homicide. (1) Criminal homicide
 14 constitutes negligent homicide when it is committed
 15 negligently.

16 (2) A person convicted of negligent homicide shall be
 17 imprisoned in the state prison for any term not to exceed a
 18 term of not less than 2 years or more than 10 years, except
 19 as provided in 46-18-222."

20 Section 3. Section 45-5-105, MCA, is amended to read:
 21 "45-5-105. Aiding or soliciting suicide. (1) A person
 22 who purposely aids or solicits another to commit suicide
 23 but such suicide does not occur commits the offense of
 24 aiding or soliciting suicide.

25 (2) A person convicted of the offense of aiding or

1 ~~soliciting a suicide shall be imprisoned in the state prison~~
 2 ~~for any term not to exceed a term of not less than 2 years~~
 3 ~~or more than 10 years, except as provided in 46-18-222.~~

4 Section 2. Section 46-18-201, MCA, is amended to read:
 5 "46-18-201. Sentences that may be imposed. (1)
 6 Whenever a person has been found guilty of an offense upon a
 7 verdict or a plea of guilty, the court may:

8 (a) defer imposition of sentence, excepting sentences
 9 for driving under the influence of alcohol or drugs, for a
 10 period not exceeding 1 year for any misdemeanor or for a
 11 period not exceeding 3 years for any felony. The sentencing
 12 judge may impose upon the defendant any reasonable
 13 restrictions or conditions during the period of the deferred
 14 imposition. Such reasonable restrictions or conditions may
 15 include:

- 16 (i) jail base release;
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- 21 necessary for rehabilitation or for the protection of
- 22 society; or
- 23 (vi) any combination of the above.

24 (b) suspend execution of sentence up to the maximum
 25 sentence allowed for the particular offense. The sentencing

1 judge may impose on the defendant any reasonable
 2 restrictions during the period of suspended sentence. Such
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- 12 (c) impose a fine as provided by law for the offense;
- 13 (d) commit the defendant to a correctional institution
- 14 with or without a fine as provided by law for the offense;
- 15 (e) impose any combination of subsections (1)(b),
- 16 (1)(c), and (1)(d).

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 18 subsection (1)(a) or (1)(b) are violated, any elapsed time,
 19 except jail time, shall not be a credit against the sentence
 20 unless the court orders otherwise.

21 (3) Except as provided in 46-18-222, the imposition or
 22 execution of the first 2 years of a sentence of imprisonment
 23 imposed under the following sections may not be deferred or
 24 suspended: ~~45-5-102(2),~~ 45-5-103(2), ~~45-5-104(2),~~
 25 ~~45-5-105(2),~~ 45-5-202(2), 45-5-302(2), 45-5-303(2),

1 45-5-401(2), 45-5-503(2) and (3), 45-9-101(2), 45-9-102(3),
 2 and 45-9-103(2).

3 ~~(4) Except as provided in 46-18-222, the imposition or~~
 4 ~~execution of the first 10 years of a sentence of~~
 5 ~~imprisonment imposed under 45-5-102(2) may not be deferred~~
 6 ~~or suspended."~~

7 Section 3. Section 46-18-222, MCA, is amended to read:

8 "46-18-222. Exceptions to mandatory minimum sentences
 9 and restrictions on deferred imposition and suspended
 10 execution of sentence. All mandatory minimum sentences
 11 prescribed by the laws of this state and the restrictions on
 12 deferred imposition and suspended execution of sentence
 13 prescribed by ~~subsections (3) and (4) of 46-18-201(3),~~
 14 46-18-221(3), and 46-18-502(2) do not apply if:

15 (1) the defendant was less than 18 years of age at the
 16 time of the commission of the offense for which he is to be
 17 sentenced;

18 (2) the defendant's mental capacity, at the time of
 19 the commission of the offense for which he is to be
 20 sentenced, was significantly impaired, although not so
 21 impaired as to constitute a defense to the prosecution;

22 (3) the defendant, at the time of the commission of
 23 the offense for which he is to be sentenced, was acting
 24 under unusual and substantial duress, although not such
 25 duress as would constitute a defense to the prosecution;

1 (4) the defendant was an accomplice, the conduct
 2 constituting the offense was principally the conduct of
 3 another, and the defendant's participation was relatively
 4 minor; or

5 (5) where applicable, no serious bodily injury was
 6 inflicted on the victim."

7 Section 4. Saving clause. This act applies only to
 8 offenses committed after the effective date of this act.

-End-