

HOUSE BILL 924

IN THE HOUSE

April 5, 1979 On motion, rules suspended and
Bill allowed to be introduced.

April 7, 1979 Introduced and referred to
Committee on Judiciary.

April 13, 1979 Committee recommend bill, as
amended.

April 16, 1979 Printed and placed on members'
desks.

Second reading, do pass.

Third reading, passed.

IN THE SENATE

April 17, 1979 Introduced and referred to
Committee on Judiciary.

April 18, 1979 On motion, rules temporarily
suspended to allow consideration
this legislative session. Motion
failed.

IN THE HOUSE

April 18, 1979 Bill not accepted by Senate and
returned to House.

1 House BILL NO. 924
2 INTRODUCED BY Foster
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE THE CRIMINAL
5 OFFENSE OF BOMBING A PUBLIC PLACE; TO PROVIDE FOR THE DEATH
6 PENALTY IN CERTAIN CASES; AND TO RESTRICT ELIGIBILITY FOR
7 PAROLE AND PARTICIPATION IN THE PRISONER FURLOUGH PROGRAM;
8 AMENDING SECTIONS 46-18-202, 46-18-303, 46-23-201, AND
9 46-23-411, MCA."
10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12 NEW SECTION. Section 1. Bombing a public place. (1) A
13 person commits the offense of bombing a public place if he
14 knowingly or purposely places explosives, as defined in
15 50-38-101, in or near an occupied structure or a conveyance
16 operated by a common carrier knowing that he is creating a
17 substantial risk of death or injury to another person.
18 (2) A person convicted of bombing a public place shall
19 be imprisoned in the state prison for a term of not less
20 than 10 years or more than 40 years, except as provided in
21 46-18-222.
22 (3) A person convicted of a second or subsequent
23 offense of bombing a public place shall be imprisoned in the
24 state prison for a term of not less than 20 years or more
25 than 100 years, except as provided in 46-18-222.

1 Section 2. Section 46-18-303, MCA, is amended to read:
2 "46-18-303. Aggravating circumstances. Aggravating
3 circumstances are any of the following:
4 (1) The offense was deliberate homicide and was
5 committed by a person serving a sentence of imprisonment in
6 the state prison.
7 (2) The offense was deliberate homicide and was
8 committed by a defendant who had been previously convicted
9 of another deliberate homicide.
10 (3) The offense was deliberate homicide and was
11 committed by means of torture.
12 (4) The offense was deliberate homicide and was
13 committed by a person lying in wait or ambush.
14 (5) The offense was deliberate homicide and was
15 committed as a part of a scheme or operation which, if
16 completed, would result in the death of more than one
17 person.
18 (6) The offense was deliberate homicide as defined in
19 subsection (1)(a) of 45-5-102, and the victim was a peace
20 officer killed while performing his duty.
21 (7) The offense was aggravated kidnapping which
22 resulted in the death of the victim.
23 ~~(8) The offense was deliberate homicide and was~~
24 ~~committed by means of bombing a public place, as described~~
25 ~~in [section 1]."~~

Section 3. Section 46-18-202, MCA, is amended to read:

"46-18-202. Additional restrictions on sentence. (1)

The district court may also impose any of the following restrictions or conditions on the sentence provided for in 46-18-201 which it considers necessary to obtain the objectives of rehabilitation and the protection of society:

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

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

(c) prohibit freedom of association;

(d) prohibit freedom of movement;

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

(2) Whenever the district court imposes a sentence of imprisonment in the state prison for a term exceeding 1 year, the court may also impose the restriction that the defendant be ineligible for parole and participation in the prisoner furlough program while serving his term. If such a restriction is to be imposed, the court shall state the reasons for it in writing. If the court finds that the restriction is necessary for the protection of society, it shall impose the restriction as part of the sentence and the judgment shall contain a statement of the reasons for the restriction.

~~(3) Whenever the district court imposes a sentence of imprisonment under [section 1], the court shall also impose the restriction that the defendant is ineligible for parole and participation in the prisoner furlough program while serving in the case of a sentence imposed under [section 1(2)], the first 10 years of his term or, in the case of a sentence imposed under [section 1(3)], the first 20 years of his term. The court shall impose the restriction as part of the sentence, and the judgment shall contain a statement that the restriction is required by statute.~~

~~{3}{4} The judge in a justice's, city, or municipal court does not have the authority to restrict an individual's rights as enumerated in subsections (1), and (2), and (3)."~~

Section 4. Section 46-23-201, MCA, is amended to read:

"46-23-201. Prisoners eligible for parole. (1) Subject to the following restrictions, the board shall release on parole by appropriate order any person confined in the Montana state prison, except persons under sentence of death and persons serving sentences imposed under 46-18-202(2) or ~~46-18-202(3)~~, when in its opinion there is reasonable probability that the prisoner can be released without detriment to himself or to the community:

(a) No convict serving a time sentence may be paroled until he has served at least one-half of his full term, less

1 the good time allowance provided for in 53-30-105; except
 2 that a convict designated as a nondangerous offender under
 3 46-18-404 may be paroled after he has served one-quarter of
 4 his full term, less the good time allowance provided for in
 5 53-30-105. Any offender serving a time sentence may be
 6 paroled after he has served, upon his term of sentence,
 7 17 1/2 years.

8 (b) No convict serving a life sentence may be paroled
 9 until he has served 30 years, less the good time allowance
 10 provided for in 53-30-105.

11 (2) A parole shall be ordered only for the best
 12 interests of society and not as an award of clemency or a
 13 reduction of sentence or pardon. A prisoner shall be placed
 14 on parole only when the board believes that he is able and
 15 willing to fulfill the obligations of a law-abiding
 16 citizen."

17 Section 5. Section 46-23-411, MCA, is amended to read:

18 "46-23-411. Application to participate. Any prisoner
 19 confined in the state prison, except a prisoner serving a
 20 sentence imposed under 46-18-202(2) or ~~46-18-202(3)~~, may
 21 make application to participate in the furlough program at
 22 least by the time the inmate has served one-half of the time
 23 required to be considered for parole."

24 Section 6. Codification. Section 1 is intended to be
 25 codified as an integral part of Title 45, chapter 5, and the

1 provisions of Title 45 apply to section 1.

-End-

HB 924

Approved by Committee
on Judiciary

HOUSE BILL NO. 924

INTRODUCED BY FRATES

A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE THE CRIMINAL
OFFENSE OF BOMBING A PUBLIC PLACE; TO PROVIDE FOR THE DEATH
PENALTY IN CERTAIN CASES; AND TO RESTRICT ELIGIBILITY FOR
PAROLE AND PARTICIPATION IN THE PRISONER FURLOUGH PROGRAM;
AMENDING SECTIONS 46-18-202, 46-18-303, 46-23-201, AND
46-23-411, MCA."

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

NEW SECTION. Section 1. Bombing a public place. (1) A
person commits the offense of bombing a public place if he
knowingly or purposely places explosives, as defined in
50-38-101, in or near an occupied structure or a conveyance
operated by a common carrier OR PRIVATE VEHICLE knowing that
he is creating a substantial risk of death or injury to
another person.

(2) A person convicted of bombing a public place shall
be imprisoned in the state prison for a term of not less
than 10 years or more than 40 years, except as provided in
46-18-222.

(3) A person convicted of a second or subsequent
offense of bombing a public place shall be imprisoned in the
state prison for a term of not less than 20 years or more

than 100 years, except as provided in 46-18-222.

Section 2. Section 46-18-303, MCA, is amended to read:

"46-18-303. Aggravating circumstances. Aggravating
circumstances are any of the following:

(1) The offense was deliberate homicide and was
committed by a person serving a sentence of imprisonment in
the state prison.

(2) The offense was deliberate homicide and was
committed by a defendant who had been previously convicted
of another deliberate homicide.

(3) The offense was deliberate homicide and was
committed by means of torture.

(4) The offense was deliberate homicide and was
committed by a person lying in wait or ambush.

(5) The offense was deliberate homicide and was
committed as a part of a scheme or operation which, if
completed, would result in the death of more than one
person.

(6) The offense was deliberate homicide as defined in
subsection (1)(a) of 45-5-102, and the victim was a peace
officer killed while performing his duty.

(7) The offense was aggravated kidnapping which
resulted in the death of the victim.

(8) The offense was deliberate homicide and was
committed by means of bombing a public place, as described

1 ~~in [section 1].~~"

2 Section 3. Section 46-18-202, MCA, is amended to read:

3 "46-18-202. Additional restrictions on sentence. (1)

4 The district court may also impose any of the following
5 restrictions or conditions on the sentence provided for in
6 46-18-201 which it considers necessary to obtain the
7 objectives of 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 and the protection of society.

16 (2) 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 ~~(3) Whenever the district court imposes a sentence of~~
3 ~~imprisonment under [section 1], the court shall also impose~~
4 ~~the restriction that the defendant is ineligible for parole~~
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6 ~~serving, in the case of a sentence imposed under [section~~
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9 ~~his term. The court shall impose the restriction as part of~~
10 ~~the sentence, and the judgment shall contain a statement~~
11 ~~that the restriction is required by statute.~~

12 ~~(3)(4) The judge in a justice's, city, or municipal~~
13 ~~court does not have the authority to restrict an~~
14 ~~individual's rights as enumerated in subsections (1), and~~
15 ~~(2), and (3).~~"

16 Section 4. Section 46-23-201, MCA, is amended to read:

17 "46-23-201. Prisoners eligible for parole. (1) Subject
18 to the following restrictions, the board shall release on
19 parole by appropriate order any person confined in the
20 Montana state prison, except persons under sentence of death
21 and persons serving sentences imposed under 46-18-202(2) ~~or~~
22 ~~46-18-202(3)~~, when in its opinion there is reasonable
23 probability that the prisoner can be released without
24 detriment to himself or to the community:

25 (a) No convict serving a time sentence may be paroled

1 until he has served at least one-half of his full term, less
 2 the good time allowance provided for in 53-30-105; except
 3 that a convict designated as a nondangerous offender under
 4 46-18-404 may be paroled after he has served one-quarter of
 5 his full term, less the good time allowance provided for in
 6 53-30-105. Any offender serving a time sentence may be
 7 paroled after he has served, upon his term of sentence,
 8 17 1/2 years.

9 (b) No convict serving a life sentence may be paroled
 10 until he has served 30 years, less the good time allowance
 11 provided for in 53-30-105.

12 (2) A parole shall be ordered only for the best
 13 interests of society and not as an award of clemency or a
 14 reduction of sentence or pardon. A prisoner shall be placed
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 16 willing to fulfill the obligations of a law-abiding
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18 Section 5. Section 46-23-411, MCA, is amended to read:

19 "46-23-411. Application to participate. Any prisoner
 20 confined in the state prison, except a prisoner serving a
 21 sentence imposed under 46-18-202(2) or 46-18-202(3), may
 22 make application to participate in the furlough program at
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