

CHAPTER NO. 396

SENATE BILL NO. 205

INTRODUCED BY AKLESTAD, KOLSTAD, MEHRENS, THOMAS,
E. SMITH, NELSON, GALT, O'HARA

IN THE SENATE

January 23, 1979	Introduced and referred to Committee on Judiciary.
January 30, 1979	Committee recommend bill do pass as amended. Report adopted.
January 31, 1979	Printed and placed on members' desks.
February 1, 1979	Second reading, do pass.
February 2, 1979	Considered correctly engrossed.
February 3, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 5, 1979	Introduced and referred to Committee on Judiciary.
March 15, 1979	Committee recommend bill be concurred in. Report adopted.
March 16, 1979	Second reading, concurred in.
March 20, 1979	Third reading, concurred in.

IN THE SENATE

March 21, 1979	Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 *Senate* BILL NO. *205*
 2 INTRODUCED BY *Albert Robert McHenry Thomas*
 3 *E. Smith NELSON Holt*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
 5 46-18-222, MCA, TO DELETE THE EXCEPTION RELATING TO THE
 6 ABSENCE OF SERIOUS BODILY INJURY TO THE VICTIM FROM THE LIST
 7 OF EXCEPTIONS TO MANDATORY MINIMUM SENTENCES AND CERTAIN
 8 RESTRICTIONS ON DEFERRED IMPOSITION AND SUSPENDED EXECUTION
 9 OF SENTENCE."

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

12 Section 1. Section 46-18-222, MCA, is amended to read:
 13 "46-18-222. Exceptions to mandatory minimum sentences
 14 and restrictions on deferred imposition and suspended
 15 execution of sentence. All mandatory minimum sentences
 16 prescribed by the laws of this state and the restrictions on
 17 deferred imposition and suspended execution of sentence
 18 prescribed by 46-18-201(3), 46-18-221(3), and 46-18-502(2)
 19 do not apply if:

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

23 (2) the defendant's mental capacity, at the time of
 24 the commission of the offense for which he is to be
 25 sentenced, was significantly impaired, although not so

1 impaired as to constitute a defense to the prosecution;
 2 (3) the defendant, at the time of the commission of
 3 the offense for which he is to be sentenced, was acting
 4 under unusual and substantial duress, although not such
 5 duress as would constitute a defense to the prosecution; ~~or~~
 6 (4) the defendant was an accomplice, the conduct
 7 constituting the offense was principally the conduct of
 8 another, and the defendant's participation was relatively
 9 minor ~~or~~;
 10 ~~(5) where applicable, no serious bodily injury was~~
 11 ~~inflicted on the victim"~~

-End-

Approved by Committee
on Judiciary

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2 INTRODUCED BY AKLESTAD, KOLSTAD, MEHRENS, THOMAS,
3 E. SMITH, NELSON, GALT, O'HARA
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
6 46-18-222, MCA, TO ~~BELEFE~~ RESRICT THE EXCEPTION RELATING TO
7 THE ABSENCE OF SERIOUS BODILY INJURY TO THE VICTIM FROM THE
8 LIST OF EXCEPTIONS TO MANDATORY MINIMUM SENTENCES AND
9 CERTAIN RESTRICTIONS ON DEFERRED IMPOSITION AND SUSPENDED
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22 time of the commission of the offense for which he is to be
23 sentenced;

24 (2) the defendant's mental capacity, at the time of
25 the commission of the offense for which he is to be

1 sentenced, was significantly impaired, although not so
2 impaired as to constitute a defense to the prosecution;

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

7 (4) the defendant was an accomplice, the conduct
8 constituting the offense was principally the conduct of
9 another, and the defendant's participation was relatively
10 minor; ~~OR~~

11 ~~(5) --where applicable, no serious bodily injury was~~
12 ~~inflicted on the victim~~

13 (5) WHERE APPLICABLE, NO SERIOUS BODILY INJURY WAS
14 INFLICTED ON THE VICTIM UNLESS A WEAPON WAS USED IN THE
15 COMMISSION OF THE OFFENSE."

-End-

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3 E. SMITH, NELSON, GALT, O'HARA

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5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
6 46-18-222, MCA, TO ~~DELETE~~ RESTRICT THE EXCEPTION RELATING TO
7 THE ABSENCE OF SERIOUS BODILY INJURY TO THE VICTIM FROM THE
8 LIST OF EXCEPTIONS TO MANDATORY MINIMUM SENTENCES AND
9 CERTAIN RESTRICTIONS ON DEFERRED IMPOSITION AND SUSPENDED
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8 constituting the offense was principally the conduct of
9 another, and the defendant's participation was relatively
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12 ~~inflicted on the victim.~~

13 (5) WHERE APPLICABLE, NO SERIOUS BODILY INJURY WAS
14 INFLECTED ON THE VICTIM UNLESS A WEAPON WAS USED IN THE
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-End-

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E. SMITH, NELSON, GALT, O'HARA

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 46-18-222, MCA, TO ~~DELETE~~ RESIRICI THE EXCEPTION RELATING TO THE ABSENCE OF SERIOUS BODILY INJURY TO THE VICTIM FROM THE LIST OF EXCEPTIONS TO MANDATORY MINIMUM SENTENCES AND CERTAIN RESTRICTIONS ON DEFERRED IMPOSITION AND SUSPENDED EXECUTION OF SENTENCE."

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

Section 1. Section 46-18-222, MCA, is amended to read:

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

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

(2) the defendant's mental capacity, at the time of the commission of the offense for which he is to be

sentenced, was significantly impaired, although not so impaired as to constitute a defense to the prosecution;

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

(4) the defendant was an accomplice, the conduct constituting the offense was principally the conduct of another, and the defendant's participation was relatively ~~minor~~

~~(5) where applicable, no serious bodily injury was inflicted on the victim~~

(5) WHERE APPLICABLE, NO SERIOUS BODILY INJURY WAS INFLICTED ON THE VICTIM UNLESS A WEAPON WAS USED IN THE COMMISSION OF THE OFFENSE."

-End-