

CHAPTER NO. 426.

SENATE BILL NO. 426

INTRODUCED BY STIMATZ, RYAN

IN THE SENATE

February 9, 1979	Introduced and referred to Committee on Judiciary.
February 17, 1979	Committee recommend bill do pass. Report adopted.
February 19, 1979	Printed and placed on members' desks.
February 20, 1979	Second reading, do pass.
February 21, 1979	Considered correctly engrossed.
February 22, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 23, 1979	Introduced and referred to Committee on Judiciary.
March 15, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 16, 1979	Second reading, concurred in.
March 19, 1979	Third reading, concurred in as amended.

IN THE SENATE

March 20, 1979	Returned from second house. Concurred in as amended.
March 21, 1979	Second reading, pass consideration.

March 22, 1979

Second reading, pass consideration.

March 23, 1979

Second reading, amendments adopted.

March 24, 1979

Third reading, amendments adopted. Sent to enrolling.

Reported correctly enrolled.

1 Sen. Ryan BILL NO. 426
 2 INTRODUCED BY Sen. Ryan

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT A
 5 CRIMINAL OFFENDER IS CONSIDERED NONDANGEROUS FOR PURPOSES OF
 6 PAROLE ELIGIBILITY UNLESS THE SENTENCING COURT SPECIFIES
 7 THAT THE OFFENDER IS NOT A NONDANGEROUS OFFENDER; AMENDING
 8 SECTION 46-18-404, MCA."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 46-18-404, MCA, is amended to read:

12 "46-18-404. Designation as nondangerous offender for
 13 purposes of parole eligibility. (1) The sentencing court
 14 shall designate an offender a nondangerous offender for
 15 purposes of eligibility for parole under part 2 of chapter
 16 23 if:

17 (a) during the 5 years preceding the commission of the
 18 offense for which the offender is being sentenced, the
 19 offender was neither convicted of nor incarcerated for an
 20 offense committed in this state or any other jurisdiction
 21 for which a sentence to a term of imprisonment in excess of
 22 1 year could have been imposed; or

23 (b) the court has determined, based on any presentence
 24 report and the evidence presented at the trial and the
 25 sentencing hearing, that the offender does not represent a

1 substantial danger to other persons or society.

2 (2) A conviction or incarceration may not be
 3 considered under subsection (1)(a) if:

4 (a) the offender was less than 18 years of age at the
 5 time of the commission of the present offense; or

6 (b) the offender has been pardoned for the previous
 7 offense on the grounds of innocence or the conviction for
 8 such offense has been set aside in a postconviction hearing.

9 ~~(3) If the court determines that an offender is not
 10 eligible to be designated as a nondangerous offender, it
 11 shall make that determination a part of the sentence imposed
 12 and shall state the determination in the judgment. Whenever
 13 the sentence and judgment do not contain such a
 14 determination, the offender is considered to have been
 15 designated as a nondangerous offender for purposes of
 16 eligibility for parole."~~

-End-

1 *State* BILL NO. *426*
 2 INTRODUCED BY *James Ryan*

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT A
 5 CRIMINAL OFFENDER IS CONSIDERED NONDANGEROUS FOR PURPOSES OF
 6 PAROLE ELIGIBILITY UNLESS THE SENTENCING COURT SPECIFIES
 7 THAT THE OFFENDER IS NOT A NONDANGEROUS OFFENDER; AMENDING
 8 SECTION 46-18-404, MCA."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 46-18-404, MCA, is amended to read:

12 "46-18-404. Designation as nondangerous offender for
 13 purposes of parole eligibility. (1) The sentencing court
 14 shall designate an offender a nondangerous offender for
 15 purposes of eligibility for parole under part 2 of chapter
 16 23 if:

17 (a) during the 5 years preceding the commission of the
 18 offense for which the offender is being sentenced, the
 19 offender was neither convicted of nor incarcerated for an
 20 offense committed in this state or any other jurisdiction
 21 for which a sentence to a term of imprisonment in excess of
 22 1 year could have been imposed; or

23 (b) the court has determined, based on any presentence
 24 report and the evidence presented at the trial and the
 25 sentencing hearing, that the offender does not represent a

1 substantial danger to other persons or society.

2 (2) A conviction or incarceration may not be
 3 considered under subsection (1)(a) if:

4 (a) the offender was less than 18 years of age at the
 5 time of the commission of the present offense; or

6 (b) the offender has been pardoned for the previous
 7 offense on the grounds of innocence or the conviction for
 8 such offense has been set aside in a postconviction hearing.

9 ~~(3) If the court determines that an offender is not
 10 eligible to be designated as a nondangerous offender, it
 11 shall make that determination a part of the sentence imposed
 12 and shall state the determination in the judgment. Whenever
 13 the sentence and judgment do not contain such a
 14 determination, the offender is considered to have been
 15 designated as a nondangerous offender for purposes of
 16 eligibility for parole."~~

-End-

SB 426

1 SENATE BILL NO. 426
 2 INTRODUCED BY STIMATZ, RYAN
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT A
 5 CRIMINAL OFFENDER IS CONSIDERED NONDANGEROUS FOR PURPOSES OF
 6 PAROLE ELIGIBILITY UNLESS THE SENTENCING COURT SPECIFIES
 7 THAT THE OFFENDER IS NOT A NONDANGEROUS OFFENDER AND TO
 8 REVISE THE REQUIREMENTS FOR CLASSIFICATION AS A NONDANGEROUS
 9 OFFENDER; AMENDING SECTION 46-18-404, MCA."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 46-18-404, MCA, is amended to read:

13 "46-18-404. Designation as nondangerous offender for
 14 purposes of parole eligibility. (1) The sentencing court
 15 shall designate an offender a nondangerous offender for
 16 purposes of eligibility for parole under part 2 of chapter
 17 23 if:

18 (a) during the 5 years preceding the commission of the
 19 offense for which the offender is being sentenced, the
 20 offender was neither convicted of nor incarcerated for an
 21 offense committed in this state or any other jurisdiction
 22 for which a sentence to a term of imprisonment in excess of
 23 1 year could have been imposed; or AND

24 (b) the court has determined, based on any presentence
 25 report and the evidence presented at the trial and the

1 sentencing hearing, that the offender does not represent a
 2 substantial danger to other persons or society.

3 (2) A conviction or incarceration may not be
 4 considered under subsection (1)(a) if:

5 (a) the offender was less than 18 years of age at the
 6 time of the commission of the present offense; or

7 (b) the offender has been pardoned for the previous
 8 offense on the grounds of innocence or the conviction for
 9 such offense has been set aside in a postconviction hearing.

10 ~~(3) If the court determines that an offender is not~~
 11 ~~eligible to be designated as a nondangerous offender, it~~
 12 ~~shall make that determination a part of the sentence imposed~~
 13 ~~and shall state the determination in the judgment. Whenever~~
 14 ~~the sentence and judgment do not contain such a~~
 15 ~~determination, the offender is considered to have been~~
 16 ~~designated as a nondangerous offender for purposes of~~
 17 ~~eligibility for parole."~~

-End-

March 15, 1979

HOUSE OF REPRESENTATIVES

Judiciary Committee amendments to SENATE BILL NO. 426,
third reading copy, as follows:

1. Title, line 7.

Following: "NONDANGEROUS OFFENDER"

Insert: "AND TO REVISE THE REQUIREMENTS FOR CLASSIFICATION AS A
NONDANGEROUS OFFENDER"

2. Page 1, line 22.

Following: "imposed;"

Strike: "or"

Insert: "and"