

HOUSE BILL NO. 99

INTRODUCED BY DAILY, HARRINGTON

IN THE HOUSE

January 7, 1981	Introduced and referred to Committee on Judiciary.
February 20, 1981	Committee recommend bill do pass as amended. Report adopted.
February 21, 1981	Bill printed and placed on members' desks. Second reading, do pass.
February 23, 1981	Correctly engrossed.
February 24, 1981	Third reading, passed. Ayes, 75; Noes, 23. Transmitted to Senate.

IN THE SENATE

March 2, 1981	Introduced and referred to Committee on Judiciary.
March 16, 1981	Committee recommend bill be concurred in. Report adopted.
March 17, 1981	Second reading, concurred in.
March 19, 1981	Third reading, concurred in. Ayes, 48; Noes, 0.

IN THE HOUSE

March 20, 1981	Returned from Senate. Sent to enrolling. Reported correctly enrolled.
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1 HOUSE BILL NO. 99
2 INTRODUCED BY *[Signature]*

3 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING DEFERRAL OR
4 SUSPENSION OF IMPOSITION OR EXECUTION OF A SENTENCE OF
5 IMPRISONMENT FOR A DEFENDANT CONVICTED OF A FELONY ON A
6 PRIOR OCCASION; PROVIDING EXCEPTIONS; AND AMENDING SECTIONS
7 46-18-201 AND 46-18-222, MCA."
8

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

10 Section 1. Section 46-18-201, MCA, is amended to read:
11 "46-18-201. Sentences that may be imposed. (1) Whenever
12 a person has been found guilty of an offense upon a verdict
13 or a plea of guilty, the court may:
14

15 (a) defer imposition of sentence, excepting sentences
16 for driving under the influence of alcohol or drugs, for a
17 period not exceeding 1 year for any misdemeanor or for a
18 period not exceeding 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 (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; or

5 (vi) any combination of the above;
6 (b) suspend execution of sentence up to the maximum
7 sentence allowed for the particular offense. The sentencing
8 judge may impose on the defendant any reasonable
9 restrictions during the period of suspended sentence. Such
10 reasonable restrictions may include any of those listed in
11 subsections (1)(a)(i) through (1)(a)(vi).

- 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, is not 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: 45-5-103(2), 45-5-202(2), 45-5-302(2),
25 45-5-303(2), 45-5-401(2), 45-5-503(2) and (3), 45-9-101(2)

1 and (3), 45-9-102(3), and 45-9-103(2).

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

6 (5) Except as provided in 46-18-222, imposition or
7 execution of a sentence of imprisonment may not be deferred
8 or suspended in the case of a defendant who has been
9 convicted of a felony on a prior occasion, whether or not
10 the sentence was imposed, imposition of the sentence was
11 deferred, or execution of the sentence was suspended."

12 Section 2. 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 subsections (3), and (4), and (5) of
19 46-18-201, 46-18-221(3), and 46-18-502(2) 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 the
24 commission of the offense for which he is to be sentenced,
25 was significantly impaired, although not so impaired as to

1 constitute a defense to the prosecution;

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

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 unless a weapon was used in the
12 commission of the offense."

-End-

Approved by Committee
on Judiciary

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SUSPENSION OF IMPOSITION OR--EXECUTION OF A SENTENCE OF
IMPRISONMENT IN A FELONY CASE FOR A DEFENDANT CONVICTED OF A
FELONY ON A PRIOR OCCASION; PROVIDING EXCEPTIONS; AND
AMENDING SECTIONS 46-18-201 AND 46-18-222, MCA."

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

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

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

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

- (iv) restitution;
- (v) any other reasonable conditions considered
necessary for rehabilitation or for the protection of
society; or
- (vi) any combination of the above;

(b) suspend execution of sentence up to the maximum
sentence allowed for the particular offense. The sentencing
judge may impose on the defendant any reasonable
restrictions during the period of suspended sentence. Such
reasonable restrictions may include any of those listed in
subsections (1)(a)(i) through (1)(a)(vi).

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

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

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

1 and (3), 45-9-102(3), and 45-9-103(2).

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

6 (5) Except as provided in 46-18-222, imposition or
7 execution of a sentence of imprisonment IN A FELONY CASE may
8 not be deferred or suspended in the case of a defendant who
9 has been convicted of a felony on a prior occasion, whether
10 or not the sentence was imposed, imposition of the sentence
11 was deferred, or execution of the sentence was suspended."

12 Section 2. 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 subsections (3), (4), and (5) of
19 46-18-201, 46-18-221(3), and 46-18-502(2) 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;

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 unless a weapon was used in the
12 commission of the offense."

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

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

- (i) jail base release;
- (ii) jail time not exceeding 90 days;
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(v) any other reasonable conditions considered necessary for rehabilitation or for the protection of society; or

(vi) any combination of the above;

(b) suspend execution of sentence up to the maximum sentence allowed for the particular offense. The sentencing judge may impose on the defendant any reasonable restrictions during the period of suspended sentence. Such reasonable restrictions may include any of those listed in subsections (1)(a)(i) through (1)(a)(vi).

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

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

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

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

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

1 and (3), 45-9-102(3), and 45-9-103(2).

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4 imprisonment imposed under 45-5-102(2) may not be deferred
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25 sentenced, was significantly impaired, although not so

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