

House Bill 210

In The House

January 14, 1981	Introduced and referred to Committee on Judiciary
January 16, 1981	Fiscal note requested.
January 21, 1981	Fiscal note returned.
January 29, 1981	Committee recommend bill do not pass.

1 HOUSE BILL NO. 210
2 INTRODUCED BY Feely

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO DECREASE THE
5 INSTANCES IN WHICH AN OFFENDER IS DESIGNATED AS
6 NONDANGEROUS; AMENDING SECTION 46-18-404, MCA."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

10 "46-18-404. Designation as nondangerous offender for
11 purposes of parole eligibility. (1) The sentencing court
12 shall designate an offender a nondangerous offender for
13 purposes of eligibility for parole under part 2 of chapter
14 23 if:

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

21 (b) the court has determined, based on any presentence
22 report and the evidence presented at the trial and the
23 sentencing hearing, that the offender does not represent a
24 substantial danger to other persons or society; and

25 ~~(c) the offender is not being sentenced under~~

1 ~~45-5-102(2), 45-5-103(2), 45-5-104(2), 45-5-202(2),~~
2 ~~45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-503(2) and (3),~~
3 ~~45-5-103(2), 45-8-318(2), 45-9-101(2) and (3), 45-9-102(3),~~
4 ~~45-9-103(2), or 45-9-107(2).~~

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

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

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

12 (3) If the court determines that an offender is not
13 eligible to be designated as a nondangerous offender, it
14 shall make that determination a part of the sentence imposed
15 and shall state the determination in the judgment. ~~Whenever~~
16 ~~Except as provided in subsection (4), whenever~~ the sentence
17 and judgment do not contain such a determination, the
18 offender is considered to have been designated as a
19 nondangerous offender for purposes of eligibility for
20 parole.

21 ~~(4) The offender is considered to have been designated~~
22 ~~as a dangerous offender for purposes of eligibility for~~
23 ~~parole if:~~

24 ~~(a) during the 5 years preceding the commission of the~~
25 ~~offense for which he is being sentenced, the offender was~~

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1 either convicted of or incarcerated for a felony; or
2 (b) he is being sentenced for one or more of the
3 offenses enumerated in subsection (1)(c)."

-End-

STATE OF MONTANA

REQUEST NO. 120-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 17, 19 81, there is hereby submitted a Fiscal Note for House Bill # 210 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation: "An act to decrease the instances in which an offender is designated as nondangerous; amending section 46-18-404, MCA."

Assumptions:

- (1) "this bill would increase the average prison stay from 18.2 months to 22.75 months."
- (2) "the increase in average stay will cause an increase in the prison's population which will stabilize at 80 additional inmates after 18 months."
- (3) "The increase in population would exceed the Prison's capacity by 51 inmates, and because the increase will consist of "dangerous offenders," would require construction of additional security housing units in 1983, at a cost of \$34,000 per bed.

Fiscal Impact:

	<u>1982</u>	<u>1983</u>
Operating Expenses	\$53,808	\$ 182,000
Capital Outlay-Construction	- - -	1,734,000
TOTAL	<u>\$53,808</u>	<u>\$1,916,000</u>

Comment:

The fiscal impact is calculated based only on the provisions of this bill. The impact could be compounded, however, by several other bills currently being considered.

David M Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-21-81