

Senate Bill 214

In The Senate

January 20, 1981

Introduced and referred
to Committee on Judiciary.

April 23, 1981

Died in Committee.

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Sen. Patrick Ryan BILL NO. *214*
Patrick Ryan

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT TO ABOLISH THE PRISONER FURLOUGH PROGRAM; AMENDING SECTIONS 45-9-101, 46-18-202, AND 46-18-401, MCA; REPEALING SECTIONS 46-23-401 THROUGH 46-23-426, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 45-9-101, MCA, is amended to read:

"45-9-101. Criminal sale of dangerous drugs. (1) A person commits the offense of criminal sale of dangerous drugs if he sells, barter, exchanges, gives away, or offers to sell, barter, exchange, or give away or manufactures, prepares, cultivates, compounds, or processes any dangerous drug, as defined in 50-32-101.

(2) A person convicted of criminal sale of an opiate, as defined in 50-32-101(18), shall be imprisoned in the state prison for a term of not less than 2 years or more than life, except as provided in 46-18-222.

(3) A person convicted of criminal sale of a dangerous drug included in Schedule I or Schedule II pursuant to 50-32-222 or 50-32-224, except marijuana or tetrahydrocannabinols, who has a prior conviction for criminal sale of such a drug shall be imprisoned in the

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state prison for a term of not less than 5 years or more than life, except as provided in 46-18-222. Upon a third or subsequent conviction for criminal sale of such a drug, he shall be imprisoned in the state prison for a term of not less than 10 years or more than life, except as provided in 46-18-222. Whenever a conviction under this subsection is for criminal sale of such a drug to a minor, the sentence shall include the restriction that the defendant be ineligible for parole ~~and participation in the prisoner furlough program~~ while serving his term.

(4) A person convicted of criminal sale of dangerous drugs not otherwise provided for in subsection (2) or (3) shall be imprisoned in the state prison for a term of not less than 1 year or more than life.

(5) Practitioners and agents under their supervision acting in the course of a professional practice, as defined by 50-32-101, are exempt from this section."

Section 2. 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) prohibition of the defendant's holding public office;

1 (b) prohibition of his owning or carrying a dangerous
2 weapon;

3 (c) restrictions on his freedom of association;

4 (d) restrictions on his freedom of movement;

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

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

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

21 Section 3. Section 46-18-401, MCA, is amended to read:

22 "46-18-401. Merger of sentences. (1) Unless the judge
23 otherwise orders:

24 (a) whenever a person serving a term of commitment
25 imposed by a court in this state is committed for another

1 offense, the shorter term or shorter remaining term shall be
2 merged in the other term except as provided in subsection
3 (5); and

4 (b) whenever a person under suspended sentence or on
5 probation for an offense committed in this state is
6 sentenced for another offense, the period still to be served
7 on suspended sentence or probation shall be merged in any
8 new sentence of commitment or probation.

9 (2) The court merging the sentences shall immediately
10 furnish each of the other courts and penal institutions in
11 which the defendant is confined under sentence with
12 authenticated copies of its sentence, which must cite the
13 sentences being merged.

14 (3) If an unexpired sentence is merged pursuant to
15 subsection (1), the court which imposed such sentence shall
16 modify it in accordance with the effect of the merger.

17 (4) Separate sentences for two or more offenses shall
18 run concurrently unless the court otherwise orders.

19 (5) Except as provided in this subsection, whenever a
20 prisoner is sentenced for an offense committed while he was
21 imprisoned in the state prison or while he was released on
22 parole ~~or under the prisoner-furlough-program~~, the new
23 sentence runs consecutively with the remainder of the
24 original sentence. The prisoner starts serving the new
25 sentence when the original sentence has expired or when he

1 is released on parole under chapter 23, part 2, of this
2 title in regard to the original sentence, whichever is
3 sooner. In the latter case, the sentences run concurrently
4 from the time of his release on parole."

5 Section 4. Transition. A prisoner who is participating
6 in the prisoner furlough program on June 30, 1981, shall
7 continue his participation, notwithstanding the provisions
8 of this act, in accordance with the law in effect on that
9 date. However, after that date no prisoner may apply to
10 participate.

11 Section 5. Repealer. Sections 46-23-401 through
12 46-23-426, MCA, are repealed.

13 Section 6. Effective date. This act is effective July
14 1, 1981.

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