

HOUSE BILL NO. 362

INTRODUCED BY SANDS

BY REQUEST OF THE TASK FORCE ON CORRECTIONS

IN THE HOUSE

January 19, 1983	Introduced and referred to Committee on Judiciary.
February 2, 1983	Committee recommend bill do pass. Report adopted.
February 3, 1983	Bill printed and placed on members' desks.
February 4, 1983	Second reading, do pass as amended.
February 5, 1983	Correctly engrossed.
February 7, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 8, 1983	Introduced and referred to Committee on Judiciary.
March 25, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 26, 1983	Second reading, concurred in.
March 28, 1983	Third reading, concurred in. Ayes, 40; Noes, 7.

IN THE HOUSE

March 28, 1983	Returned to House with amendments.
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April 1, 1983

Second reading, amendments
concurred in.

April 4, 1983

Third reading, amendments
concurred in.

Sent to enrolling.

Reported correctly enrolled.

1 House BILL NO. 362
2 INTRODUCED BY Sanders
3 BY REQUEST OF THE TASK FORCE ON CORRECTIONS
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
6 46-18-222, MCA, TO PROVIDE THAT A VOLUNTARILY INDUCED
7 INTOXICATED OR DRUGGED CONDITION MAY NOT BE CONSIDERED AN
8 IMPAIRMENT TO A DEFENDANT'S MENTAL CAPACITY FOR THE PURPOSE
9 OF PROVIDING AN EXCEPTION TO MANDATORY SENTENCES OR
10 RESTRICTIONS ON DEFERRED IMPOSITION AND SUSPENDED EXECUTION
11 OF SENTENCES."
12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
14 Section 1. Section 46-18-222, MCA, is amended to read:
15 "46-18-222. Exceptions to mandatory minimum sentences
16 and restrictions on deferred imposition and suspended
17 execution of sentence. All mandatory minimum sentences
18 prescribed by the laws of this state and the restrictions on
19 deferred imposition and suspended execution of sentence
20 prescribed by subsections (3), (4), and (5) of 46-18-201,
21 46-18-221(3), and 46-18-502(3) do not apply if:
22 (1) the defendant was less than 18 years of age at the
23 time of the commission of the offense for which he is to be
24 sentenced;
25 (2) the defendant's mental capacity, at the time of

1 the commission of the offense for which he is to be
2 sentenced, was significantly impaired, although not so
3 impaired as to constitute a defense to the prosecution;
4 however, a voluntarily induced intoxicated or drugged
5 condition may not be considered an impairment for the
6 purposes of this subsection;
7 (3) the defendant, at the time of the commission of
8 the offense for which he is to be sentenced, was acting
9 under unusual and substantial duress, although not such
10 duress as would constitute a defense to the prosecution;
11 (4) the defendant was an accomplice, the conduct
12 constituting the offense was principally the conduct of
13 another, and the defendant's participation was relatively
14 minor; or
15 (5) where applicable, no serious bodily injury was
16 inflicted on the victim unless a weapon was used in the
17 commission of the offense."

-End-

INTRODUCED BILL

Approved by Committee
on Judiciary

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2 INTRODUCED BY Lands
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5 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
6 46-18-222, MCA, TO PROVIDE THAT A VOLUNTARILY INDUCED
7 INTOXICATED OR DRUGGED CONDITION MAY NOT BE CONSIDERED AN
8 IMPAIRMENT TO A DEFENDANT'S MENTAL CAPACITY FOR THE PURPOSE
9 OF PROVIDING AN EXCEPTION TO MANDATORY SENTENCES OR
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13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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15 "46-18-222. Exceptions to mandatory minimum sentences
16 and restrictions on deferred imposition and suspended
17 execution of sentence. All mandatory minimum sentences
18 prescribed by the laws of this state and the restrictions on
19 deferred imposition and suspended execution of sentence
20 prescribed by subsections (3), (4), and (5) of 46-18-201,
21 46-18-221(3), and 46-18-502(3) do not apply if:
22 (1) the defendant was less than 18 years of age at the
23 time of the commission of the offense for which he is to be
24 sentenced;
25 (2) the defendant's mental capacity, at the time of

1 the commission of the offense for which he is to be
2 sentenced, was significantly impaired, although not so
3 impaired as to constitute a defense to the prosecution;
4 however, a voluntarily induced intoxicated or drugged
5 condition may not be considered an impairment for the
6 purposes of this subsection;
7 (3) the defendant, at the time of the commission of
8 the offense for which he is to be sentenced, was acting
9 under unusual and substantial duress, although not such
10 duress as would constitute a defense to the prosecution;
11 (4) the defendant was an accomplice, the conduct
12 constituting the offense was principally the conduct of
13 another, and the defendant's participation was relatively
14 minor; or
15 (5) where applicable, no serious bodily injury was
16 inflicted on the victim unless a weapon was used in the
17 commission of the offense."

-End-

SECOND READING

HOUSE BILL NO. 362

INTRODUCED BY SANDS

BY REQUEST OF THE TASK FORCE ON CORRECTIONS

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 46-18-222, MCA, TO PROVIDE THAT, EXCEPT WHEN IT IS A DEFENDANT'S FIRST OFFENSE, A VOLUNTARILY INDUCED INTOXICATED OR DRUGGED CONDITION MAY NOT BE CONSIDERED AN IMPAIRMENT TO A DEFENDANT'S MENTAL CAPACITY FOR THE PURPOSE OF PROVIDING AN EXCEPTION TO MANDATORY SENTENCES OR RESTRICTIONS ON DEFERRED IMPOSITION AND SUSPENDED EXECUTION OF SENTENCES."

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 subsections (3), (4), and (5) of 46-18-201, 46-18-221(3), and 46-18-502(3) 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; however, IF DEFENDANT WAS FORMERLY SENTENCED OR HAD IMPOSITION OF A SENTENCE DEFERRED FOR AN OFFENSE AND IT WAS FOUND ON THAT OCCASION THAT HIS MENTAL CAPACITY WAS SIGNIFICANTLY IMPAIRED AT THE TIME OF THE COMMISSION OF THE OFFENSE BY A VOLUNTARILY INDUCED INTOXICATED OR DRUGGED CONDITION, THEN a voluntarily induced intoxicated or drugged condition may not be considered an impairment for the purposes of this subsection;

(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;

(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; or

(5) where applicable, no serious bodily injury was inflicted on the victim unless a weapon was used in the commission of the offense."

-End-

March 25, 1983

SENATE STANDING COMMITTEE REPORT
(Judiciary)

That House Bill No. 362 be amended as follows:

1. Title, lines 6 and 7.

Strike: ",EXCEPT WHEN IT IS A DEFENDANT'S FIRST OFFENSE,"

2. Page 2, line 3.

Strike: " ; "

Insert: " . "

3. Page 2, lines 4 through 9.

Strike: "however" on line 4 through "THEN" on line 9

Insert: "However,"

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A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 46-18-222, MCA, TO PROVIDE THAT: ~~EXCEPT WHEN IT IS A DEFENDANT'S FIRST OFFENSE,~~ A VOLUNTARILY INDUCED INTOXICATED OR DRUGGED CONDITION MAY NOT BE CONSIDERED AN IMPAIRMENT TO A DEFENDANT'S MENTAL CAPACITY FOR THE PURPOSE OF PROVIDING AN EXCEPTION TO MANDATORY SENTENCES OR RESTRICTIONS ON DEFERRED IMPOSITION AND SUSPENDED EXECUTION OF SENTENCES."

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 subsections (3), (4), and (5) of 46-18-201, 46-18-221(3), and 46-18-502(3) do not apply if:

(1) the defendant was less than 19 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; ~~however, if a defendant was formerly sentenced or had imposition of a sentence deferred for an offense and it was found on that occasion that his mental capacity was significantly impaired at the time of the commission of the offense by a voluntarily induced intoxicated or drugged condition, then~~ however, a voluntarily induced intoxicated or drugged condition may not be considered an impairment for the purposes of this subsection;

(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;

(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; or

(5) where applicable, no serious bodily injury was inflicted on the victim unless a weapon was used in the commission of the offense."

-End-