

HOUSE BILL NO. 537

Introduced: 01/27/83

Referred to Committee on Judiciary: 01/27/83

Hearing: 2/7/83

Died in Committee

1 *House* BILL NO. *537*  
 2 INTRODUCED BY *Connelly Smith Richard E. Manning Keith*  
 3 *Undersdal Pictoria Connolly* *Salberg*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THERE *Heber*  
 5 MAY BE NO DEFERRAL OF IMPOSITION OF SENTENCE OR SUSPENSION  
 6 OF EXECUTION OF AN IMPOSED SENTENCE FOR CERTAIN MAJOR CRIMES  
 7 AGAINST DISABLED PERSONS OR PERSONS 60 YEARS OF AGE OR  
 8 OLDER; AMENDING SECTIONS 46-18-201 AND 46-18-222, MCA."  
 9  
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 11 Section 1. Section 46-18-201, MCA, is amended to read:  
 12 "46-18-201. Sentences that may be imposed. (1)  
 13 Whenever a person has been found guilty of an offense upon a  
 14 verdict or a plea of guilty, the court may:  
 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) payment of a fine as provided in 46-18-231;  
 3 (vi) payment of costs as provided in 46-18-232 and  
 4 46-18-233;  
 5 (vii) payment of costs of court appointed counsel as  
 6 provided in 46-8-113;  
 7 (viii) community service;  
 8 (ix) any other reasonable conditions considered  
 9 necessary for rehabilitation or for the protection of  
 10 society; or  
 11 (x) any combination of the above.  
 12 (b) suspend execution of sentence up to the maximum  
 13 sentence allowed for the particular offense. The sentencing  
 14 judge may impose on the defendant any reasonable  
 15 restrictions or conditions during the period of suspended  
 16 sentence. Such reasonable restrictions or conditions may  
 17 include any of those listed in subsections (1)(a)(i) through  
 18 (1)(a)(x).  
 19 (c) impose a fine as provided by law for the offense;  
 20 (d) require payment of costs as provided in 46-18-232  
 21 or payment of costs of court appointed counsel as provided  
 22 in 46-8-113;  
 23 (e) commit the defendant to a correctional institution  
 24 with or without a fine as provided by law for the offense;  
 25 (f) impose any combination of subsections (1)(b)

1 through (1)(e).

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

6 (3) Except as provided in 46-18-222, the imposition or  
7 execution of the first 2 years of a sentence of imprisonment  
8 imposed under the following sections may not be deferred or  
9 suspended: 45-5-103(2), 45-5-202(2), 45-5-302(2),  
10 45-5-303(2), 45-5-401(2), 45-5-503(2) and (3), 45-9-101(2)  
11 and (3), 45-9-102(3), and 45-9-103(2).

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

16 (5) Except as provided in 46-18-222, imposition of  
17 sentence in a felony case may not be deferred in the case of  
18 a defendant who has been convicted of a felony on a prior  
19 occasion whether or not the sentence was imposed, imposition  
20 of the sentence was deferred, or execution of the sentence  
21 was suspended.

22 (6) Except as provided in 46-18-222, imposition or  
23 execution of a sentence may not be deferred or suspended, if  
24 a person is convicted of committing or attempting to commit  
25 one of the offenses described in 45-5-102, 45-5-103,

1 45-5-302, 45-5-303, 45-5-401, 45-5-503, or 45-6-204 against  
2 a person who is 60 years of age or older or who is blind,  
3 paraplegic, or quadriplegic. However, such age or  
4 disability must be alleged and proven at the trial, and it  
5 must also be alleged and proven that the defendant:

6 (a) knew or reasonably should have known of the age or  
7 disability; and

8 (b) inflicted serious bodily harm upon the aged or  
9 disabled person."

10 Section 2. Section 46-18-222, MCA, is amended to read:  
11 "46-18-222. Exceptions to mandatory minimum sentences  
12 and restrictions on deferred imposition and suspended  
13 execution of sentence. (1) All mandatory minimum sentences  
14 prescribed by the laws of this state and the restrictions on  
15 deferred imposition and suspended execution of sentence  
16 prescribed by subsections (3), (4), and (5) of 46-18-201,  
17 46-18-221(3), and 46-18-502(3) do not apply if:

18 ~~(1)~~(a) the defendant was less than 18 years of age at  
19 the time of the commission of the offense for which he is to  
20 be sentenced;

21 ~~(2)~~(b) the defendant's mental capacity, at the time of  
22 the commission of the offense for which he is to be  
23 sentenced, was significantly impaired, although not so  
24 impaired as to constitute a defense to the prosecution;

25 ~~(3)~~(c) the defendant, at the time of the commission of

1 the offense for which he is to be sentenced, was acting  
2 under unusual and substantial duress, although not such  
3 duress as would constitute a defense to the prosecution;

4 (4)(d) the defendant was an accomplice, the conduct  
5 constituting the offense was principally the conduct of  
6 another, and the defendant's participation was relatively  
7 minor; or

8 (5)(e) where--applicable-- the defendant inflicted no  
9 serious bodily injury was inflicted on upon the victim,  
10 unless a weapon was used in the commission of the offense.

11 (2) The restriction on deferred imposition, or  
12 suspended execution of a sentence prescribed by 46-18-201(6)  
13 does not apply if the defendant is a person described in (b)  
14 through (e) of subsection (1)."

-End-