

HOUSE BILL NO. 585

Introduced: 01/31/83

Referred to Committee on Judiciary: 01/31/83

Hearing: 2/9/83

Report: 02/14/83, Do Not Pass, As Amended

bill Killed: 2/15/83

1 House BILL NO. 585
 2 INTRODUCED BY Harold - FALGOUT Swift
 3 BY REQUEST OF THE TASK FORCE ON CORRECTIONS
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO DECREASE THE
 6 INSTANCES IN WHICH AN OFFENDER IS DESIGNATED AS
 7 NONDANGEROUS; AMENDING SECTION 46-18-404, MCA."
 8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 10 Section 1. Section 46-18-404, MCA, is amended to read:
 11 "46-18-404. Designation as nondangerous offender for
 12 purposes of parole eligibility. (1) The sentencing court
 13 shall designate an offender a nondangerous offender for
 14 purposes of eligibility for parole under part 2 of chapter
 15 23 if:
 16 (a) during the 5 years preceding the commission of the
 17 offense for which the offender is being sentenced, the
 18 offender was neither convicted of nor incarcerated for an
 19 offense committed in this state or any other jurisdiction
 20 for which a sentence to a term of imprisonment in excess of
 21 1 year could have been imposed; and
 22 (b) the court has determined, based on any presentence
 23 report and the evidence presented at the trial and the
 24 sentencing hearing, that the offender does not represent a
 25 substantial danger to other persons or society; and

1 ~~(c) the offender is not being sentenced under~~
 2 ~~45-5-102(2), 45-5-103(2), 45-5-104(2), 45-5-202(2),~~
 3 ~~45-5-202(2), 45-5-303(2), 45-5-401(2), 45-5-503(2) or (3),~~
 4 ~~45-6-103(2), 45-8-318(2), 45-9-101(2) or (3), 45-9-102(3),~~
 5 ~~45-9-103(2), or 45-9-107(2).~~
 6 (2) A conviction or incarceration may not be
 7 considered under subsection (1)(a) if:
 8 (a) the offender was less than 18 years of age at the
 9 time of the commission of the present offense; or
 10 (b) the offender has been pardoned for the previous
 11 offense on the grounds of innocence or the conviction for
 12 such offense has been set aside in a postconviction hearing.
 13 (3) If the court determines that an offender is not
 14 eligible to be designated as a nondangerous offender, it
 15 shall make that determination a part of the sentence imposed
 16 and shall state the determination in the judgment. Whenever
 17 ~~Except as provided in subsection (4),~~ if the sentence and
 18 judgment do not contain such a determination, the offender
 19 is considered to have been designated as a nondangerous
 20 offender for purposes of eligibility for 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

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. 309-83

FISCAL NOTE

Form BD-15

In compliance with a written request received February 4, 19 83, there is hereby submitted a Fiscal Note for House Bill 585 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

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:

House Bill 585 decreases the instances in which an offender is designated as non-dangerous.

ASSUMPTIONS:

- 1) Offenses against persons make up 29.2% of prison admissions.
- 2) Non-dangerous designations are given to 80% of convictions of offenses against persons and with dangerous given 20%.
- 3) Average sentence length for offenses against persons:

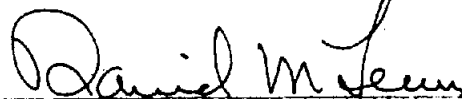
Dangerous - 14.5 years

Non-Dangerous - 13.9 years

FISCAL IMPACT:

There will be no fiscal impact from this bill for the 1984-85 Biennium. Beginning in 1986, it would increase the prison population by 109 inmates and then compound this for 1987 and beyond.

FISCAL IMPACT 11:L/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-8-83