

SENATE BILL NO. 65

INTRODUCED BY HALLIGAN

IN THE SENATE

January 6, 1983	Introduced and referred to Committee on Judiciary.
January 20, 1983	Committee recommend bill do pass as amended. Report adopted.
January 21, 1983	Bill printed and placed on members' desks.
January 22, 1983	Second reading, do pass as amended.
January 24, 1983	Correctly engrossed.
January 25, 1983	Third reading, passed. Ayes, 50; Noes, 0. Transmitted to House.

IN THE HOUSE

January 26, 1983	Introduced and referred to Committee on Judiciary.
March 11, 1983	Committee recommend bill be concurred in. Report adopted.
March 12, 1983	Second reading, concurred in.
March 14, 1983	Third reading, concurred in.

IN THE SENATE

March 15, 1983

Returned to Senate. Sent
to enrolling.

Reported correctly
enrolled.

1 *Senate* BILL NO. *65*
2 INTRODUCED BY *Holligan*

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT
5 WHENEVER A PERSON IS FOUND GUILTY OF TWO OR MORE CRIMINAL
6 OFFENSES IN THE SAME PROCEEDING, ANY PERMISSIBLE SENTENCE
7 MAY BE IMPOSED FOR EACH OFFENSE; AMENDING SECTION 46-18-201,
8 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 one or~~
14 ~~more offenses in the same proceeding~~ upon a verdict or a
15 plea of guilty, the court may, ~~with respect to each offense:~~

16 (a) defer imposition of sentence, excepting sentences
17 for driving under the influence of alcohol or drugs, for a
18 period not exceeding 1 year for any each misdemeanor or for
19 a period not exceeding 3 years for any each felony. The
20 sentencing judge may impose upon the defendant any
21 reasonable restrictions or conditions during the period of
22 the deferred imposition. Such reasonable restrictions or
23 conditions may include:

- 24 (i) jail base release;
25 (ii) jail time not exceeding 90 days;

- 1 (iii) conditions for probation;
2 (iv) restitution;
3 (v) payment of a fine as provided in 46-18-231;
4 (vi) payment of costs as provided in 46-18-232 and
5 46-18-233;
6 (vii) payment of costs of court appointed counsel as
7 provided in 46-8-113;
8 (viii) community service;
9 (ix) any other reasonable conditions considered
10 necessary for rehabilitation or for the protection of
11 society; or
12 (x) any combination of the above.
13 (b) suspend execution of sentence up to the maximum
14 sentence allowed for the each particular offense. The
15 sentencing judge may impose on the defendant any reasonable
16 restrictions or conditions during the period of suspended
17 sentence. Such reasonable restrictions or conditions may
18 include any of those listed in subsections (1)(a)(i) through
19 (1)(a)(x).
20 (c) impose a fine as provided by law for the offense;
21 (d) require payment of costs as provided in 46-18-232
22 or payment of costs of court appointed counsel as provided
23 in 46-8-113;
24 (e) commit the defendant to a correctional institution
25 with or without a fine as provided by law for the offense;

-2- INTRODUCED BILL

SB 65

1 (f) impose any combination of subsections (1)(b)
2 through (1)(e).

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

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

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

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

-End-

Approved by Committee
on Judiciary

SENATE BILL NO. 65

INTRODUCED BY HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT
WHENEVER A PERSON IS FOUND GUILTY OF TWO OR MORE CRIMINAL
OFFENSES IN THE SAME PROCEEDING, ANY PERMISSIBLE SENTENCE
MAY BE IMPOSED FOR EACH OFFENSE TO INCREASE THE TIME FOR
WHICH SENTENCE FOR ANY OFFENSE MAY BE DEFERRED OR SUSPENDED
IF RESTITUTION IS IMPOSED; AMENDING SECTION 46-18-201, MCA."

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

Section 1. Section 46-18-201, MCA, is amended to read:

"46-18-201. Sentences that may be imposed. (1)
Whenever a person has been found guilty of an offense ~~one or~~
~~more offenses in the same proceeding~~ AN OFFENSE upon a
verdict or a plea of guilty, the court may ~~with respect to~~
~~each offense~~:

(a) defer imposition of sentence, excepting sentences
for driving under the influence of alcohol or drugs, for a
period, ~~EXCEPT AS OTHERWISE PROVIDED~~, not exceeding 1 year
for any ~~each~~ ANY misdemeanor or for a period not exceeding 3
years for any ~~each~~ ANY felony. The sentencing judge may
impose upon the defendant any reasonable restrictions or
conditions during the period of the deferred imposition.
Such reasonable restrictions or conditions may include:

- (i) jail base release;
- (ii) jail time not exceeding 90 days;
- (iii) conditions for probation;
- (iv) restitution, AS PROVIDED IN SUBSECTION (2);
- (v) payment of a fine as provided in 46-18-231;
- (vi) payment of costs as provided in 46-18-232 and
46-18-233;
- (vii) payment of costs of court appointed counsel as
provided in 46-8-113;
- (viii) community service;
- (ix) any other reasonable conditions considered
necessary for rehabilitation or for the protection of
society; or
- (x) any combination of the above.
- (b) suspend execution of sentence up to the maximum
sentence allowed for the ~~each~~ THE particular offense. The
sentencing judge may impose on the defendant any reasonable
restrictions or conditions during the period of suspended
sentence. Such reasonable restrictions or conditions may
include any of those listed in subsections (1)(a)(i) through
(1)(a)(x).
- (c) impose a fine as provided by law for the offense;
- (d) require payment of costs as provided in 46-18-232
or payment of costs of court appointed counsel as provided
in 46-8-113;

(e) commit the defendant to a correctional institution with or without a fine as provided by law for the offense;

(f) impose any combination of subsections (1)(b) through (1)(e).

~~(2) IF RESTITUTION IS IMPOSED AS A CONDITION UNDER SUBSECTION (1)(A) OR (1)(B), SENTENCE MAY BE DEFERRED OR SUSPENDED FOR A PERIOD NOT EXCEEDING 2 YEARS FOR ANY MISDEMEANOR OR FOR A PERIOD NOT EXCEEDING 6 YEARS FOR ANY FELONY, REGARDLESS OF WHETHER ANY OTHER CONDITIONS ARE IMPOSED.~~

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

~~(3)(4)~~ Except as provided in 46-18-222, the imposition or execution of the first 2 years of a sentence of imprisonment imposed under the following sections may not be deferred or suspended: 45-5-103(2), 45-5-202(2), 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-503(2) and (3), 45-9-101(2) and (3), 45-9-102(3), and 45-9-103(2).

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

~~(5)(6)~~ Except as provided in 46-18-222, imposition of

sentence in a felony case may not be deferred in the case of a defendant who has been convicted of a felony on a prior occasion whether or not the sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was suspended."

-End-

SENATE BILL NO. 65

INTRODUCED BY HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT WHENEVER A PERSON IS FOUND GUILTY OF TWO OR MORE CRIMINAL OFFENSES IN THE SAME PROCEEDING, ANY PERMISSIBLE SENTENCE MAY BE IMPOSED FOR EACH OFFENSE TO INCREASE THE TIME FOR WHICH SENTENCE FOR ANY OFFENSE MAY BE DEFERRED OR SUSPENDED IF RESTITUTION IS IMPOSED; AMENDING SECTION 46-18-201, MCA."

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

Section 1. Section 46-18-201, MCA, is amended to read:

"46-18-201. Sentences that may be imposed. (1) Whenever a person has been found guilty of an offense ~~one or more offenses in the same proceeding~~ AN OFFENSE upon a verdict or a plea of guilty, the court ~~may, with respect to each offense:~~

(a) defer imposition of sentence, excepting sentences for driving under the influence of alcohol or drugs, for a period, EXCEPT AS OTHERWISE PROVIDED, not exceeding 1 year for any sach ANY misdemeanor or for a period not exceeding 3 years for any sach ANY felony. The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the period of the deferred imposition. Such reasonable restrictions or conditions may include:

- (i) jail base release;
 - (ii) jail time not exceeding 90 days;
 - (iii) conditions for probation;
 - (iv) restitution, AS PROVIDED IN SUBSECTION (2);
 - (v) payment of a fine as provided in 46-18-231;
 - (vi) payment of costs as provided in 46-18-232 and 46-18-233;
 - (vii) payment of costs of court appointed counsel as provided in 46-8-113;
 - (viii) community service;
 - (ix) any other reasonable conditions considered necessary for rehabilitation or for the protection of society; or
 - (x) any combination of the above.
- (b) suspend execution of sentence up to the maximum sentence allowed for the ~~each~~ EACH particular offense. The sentencing judge may impose on the defendant any reasonable restrictions or conditions during the period of suspended sentence. Such reasonable restrictions or conditions may include any of those listed in subsections (1)(a)(i) through (1)(a)(x).
- (c) impose a fine as provided by law for the offense;
 - (d) require payment of costs as provided in 46-18-232 or payment of costs of court appointed counsel as provided in 46-8-113;

(e) commit the defendant to a correctional institution with or without a fine as provided by law for the offense;

(f) impose any combination of subsections (1)(b) through (1)(e).

(2) IF RESTITUTION IS IMPOSED AS A CONDITION UNDER SUBSECTION (1)(A) OR (1)(B), SENTENCE MAY BE DEFERRED OR SUSPENDED FOR A PERIOD NOT EXCEEDING 2 YEARS FOR ANY MISDEMEANOR OR FOR A PERIOD NOT EXCEEDING 6 YEARS FOR ANY FELONY, REGARDLESS OF WHETHER ANY OTHER CONDITIONS ARE IMPOSED.

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

~~(3)(4)~~ Except as provided in 46-18-222, the imposition or execution of the first 2 years of a sentence of imprisonment imposed under the following sections may not be deferred or suspended: 45-5-103(2), 45-5-202(2), 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-503(2) and (3), 45-9-101(2) and (3), 45-9-102(3), and 45-9-103(2).

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

~~(5)(6)~~ Except as provided in 46-18-222, imposition of

1 sentence in a felony case may not be deferred in the case of
2 a defendant who has been convicted of a felony on a prior
3 occasion whether or not the sentence was imposed, imposition
4 of the sentence was deferred, or execution of the sentence
5 was suspended."

-End-

SENATE BILL NO. 65

INTRODUCED BY HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT WHENEVER A PERSON IS FOUND GUILTY OF TWO OR MORE CRIMINAL OFFENSES IN THE SAME PROCEEDING, ANY PERMISSIBLE SENTENCE MAY BE IMPOSED FOR EACH OFFENSE TO INCREASE THE TIME FOR WHICH SENTENCE FOR ANY OFFENSE MAY BE DEFERRED OR SUSPENDED IF RESTITUTION IS IMPOSED; AMENDING SECTION 46-18-201, MCA."

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

Section 1. Section 46-18-201, MCA, is amended to read:

"46-18-201. Sentences that may be imposed. (1)

Whenever a person has been found guilty of an offense ~~one or more offenses in the same proceeding~~ AN OFFENSE upon a verdict or a plea of guilty, the court ~~may, with respect to each offense:~~

(a) defer imposition of sentence, excepting sentences for driving under the influence of alcohol or drugs, for a period EXCEPT AS OTHERWISE PROVIDED, not exceeding 1 year for any ~~each~~ ANY misdemeanor or for a period not exceeding 3 years for any ~~each~~ ANY felony. The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the period of the deferred imposition. Such reasonable restrictions or conditions may include:

- (i) jail base release;
 - (ii) jail time not exceeding 90 days;
 - (iii) conditions for probation;
 - (iv) restitution, AS PROVIDED IN SUBSECTION (2);
 - (v) payment of a fine as provided in 46-18-231;
 - (vi) payment of costs as provided in 46-18-232 and 46-18-233;
 - (vii) payment of costs of court appointed counsel as provided in 46-8-113;
 - (viii) community service;
 - (ix) any other reasonable conditions considered necessary for rehabilitation or for the protection of society; or
 - (x) any combination of the above.
- (b) suspend execution of sentence up to the maximum sentence allowed for the ~~each~~ EACH particular offense. The sentencing judge may impose on the defendant any reasonable restrictions or conditions during the period of suspended sentence. Such reasonable restrictions or conditions may include any of those listed in subsections (1)(a)(i) through (1)(a)(x).
- (c) impose a fine as provided by law for the offense;
 - (d) require payment of costs as provided in 46-18-232 or payment of costs of court appointed counsel as provided in 46-8-113;

1 (e) commit the defendant to a correctional institution
 2 with or without a fine as provided by law for the offense;
 3 (f) impose any combination of subsections (1)(b)
 4 through (1)(e).

5 ~~(2) IF RESTITUTION IS IMPOSED AS A CONDITION UNDER~~
 6 ~~SUBSECTION (1)(A) OR (1)(B), SENTENCE MAY BE DEFERRED OR~~
 7 ~~SUSPENDED FOR A PERIOD NOT EXCEEDING 2 YEARS FOR ANY~~
 8 ~~MISDEMEANOR OR FOR A PERIOD NOT EXCEEDING 6 YEARS FOR ANY~~
 9 ~~FELONY, REGARDLESS OF WHETHER ANY OTHER CONDITIONS ARE~~
 10 ~~IMPOSED.~~

11 ~~(2)(3)~~ If any restrictions or conditions imposed under
 12 subsection (1)(a) or (1)(b) are violated, any elapsed time,
 13 except jail time, is not a credit against the sentence
 14 unless the court orders otherwise.

15 ~~(3)(4)~~ Except as provided in 46-18-222, the imposition
 16 or execution of the first 2 years of a sentence of
 17 imprisonment imposed under the following sections may not be
 18 deferred or suspended: 45-5-103(2), 45-5-202(2),
 19 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-503(2) and (3),
 20 45-9-101(2) and (3), 45-9-102(3), and 45-9-103(2).

21 ~~(4)(5)~~ Except as provided in 46-18-222, the imposition
 22 or execution of the first 10 years of a sentence of
 23 imprisonment imposed under 45-5-102(2) may not be deferred
 24 or suspended.

25 ~~(5)(6)~~ Except as provided in 46-18-222, imposition of

1 sentence in a felony case may not be deferred in the case of
 2 a defendant who has been convicted of a felony on a prior
 3 occasion whether or not the sentence was imposed, imposition
 4 of the sentence was deferred, or execution of the sentence
 5 was suspended."

-End-