

HOUSE JOINT RESOLUTION NO. 61

4/17 Introduced  
4/17 Referred to Judiciary  
4/18 Hearing  
4/18 Committee Report-Bill Pass As Amended  
4/19 2nd Reading Pass  
4/22 3rd Reading Pass

Transmitted to Senate

Died in Process

1                    HOUSE JOINT RESOLUTION NO. 61  
 2    INTRODUCED BY Harold Alby Spauld  
 3  
 4    A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF  
 5    REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN  
 6    INTERIM STUDY TO EXAMINE AND PROPOSE A SET OF JUDICIAL  
 7    SENTENCING GUIDELINES AND REQUIRING A REPORT OF THE FINDINGS  
 8    AND RECOMMENDATIONS OF THE STUDY TO BE SUBMITTED TO THE 50TH  
 9    LEGISLATURE.

11            WHEREAS, it is the proper responsibility of the  
 12    Legislature to statutorily define the range of sentences  
 13    that may be imposed upon conviction of a statutory offense;  
 14    and

15            WHEREAS, the current system of criminal sentencing  
 16    lacks specific standards to guide the discretion of judges  
 17    in sentencing offenders; and

18            WHEREAS, discretion in sentencing offenders extends to  
 19    parole boards that are empowered to set the release date of  
 20    an offender based upon a subjective evaluation of an  
 21    offender's progress toward rehabilitation; and

22            WHEREAS, the discretion exercised by judges and parole  
 23    boards has resulted in widespread disparity in sentencing  
 24    and in the time actually served by convicted felons for  
 25    similar offenses; and

1            WHEREAS, public faith in the administration of criminal  
 2    justice has been seriously weakened due to the public's  
 3    perception that injustice exists because some offenders  
 4    have received sentences that seemed inordinately long, while  
 5    other offenders have served sentences that seemed too short;  
 6    and

7            WHEREAS, the Legislature can help restore the public  
 8    faith in our system of criminal justice by providing for  
 9    consistent and rational sentences.

11            NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE  
 12    OF REPRESENTATIVES OF THE STATE OF MONTANA:

13            That an appropriate interim committee be assigned to  
 14    study and recommend a set of judicial sentencing guidelines  
 15    for the district courts.

16            BE IT FURTHER RESOLVED, that the committee include in  
 17    its recommendations:

18            (1) a series of recommended standard sentence ranges  
 19    for all felony offenses and a system for determining  
 20    punishment based on reasonable offense and offender  
 21    characteristics;

22            (2) a recommended sentencing standard establishing the  
 23    circumstances in which imprisonment is proper; and

24            (3) a recommended standard to govern whether prison  
 25    sentences are to be served consecutively or concurrently.

1           BE IT FURTHER RESOLVED, that the committee develop  
2 standards for determining appropriate sanctions for  
3 offenders for whom imprisonment is not proper. Such  
4 standards should make specific reference to noninstitutional  
5 sanctions, including but not limited to the following:

- 6           (1) payment of fines;
- 7           (2) restitution;
- 8           (3) community work orders;
- 9           (4) work-release programs;
- 10          (5) community-based residential and nonresidential  
11 programs;
- 12          (6) incarceration in local correctional facilities;
- 13 and
- 14          (7) probation.

15           BE IT FURTHER RESOLVED, that the committee report its  
16 findings and recommendations to the 50th Legislature and, if  
17 appropriate, draft legislation to implement its  
18 recommendations.

-End-

APPROVED BY COMMITTEE  
ON JUDICIARY

1 HOUSE JOINT RESOLUTION NO. 61  
2 INTRODUCED BY HANNAH, ADDY, SPAETH, TOWE, GOULD

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13 that may be imposed upon conviction of a statutory offense;  
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15 WHEREAS, the current system of criminal sentencing  
16 lacks specific standards to guide the discretion of judges  
17 in sentencing offenders; and

18 WHEREAS, discretion in sentencing offenders extends to  
19 parole boards that are empowered to set the release date of  
20 an offender based upon a subjective evaluation of an  
21 offender's progress toward rehabilitation; and

22 WHEREAS, the discretion exercised by judges and parole  
23 boards has resulted in widespread disparity in sentencing  
24 and in the time actually served by convicted felons for  
25 similar offenses; and

1 WHEREAS, public faith in the administration of criminal  
2 justice has been seriously weakened due to the public's  
3 perception that injustice exists because some offenders  
4 have received sentences that seemed inordinately long, while  
5 other offenders have served sentences that seemed too short;  
6 and

7 WHEREAS, the Legislature can help restore the public  
8 faith in our system of criminal justice by providing for  
9 consistent and rational sentences; AND

10 WHEREAS, THE SENTENCE REVIEW DIVISION OF THE SUPREME  
11 COURT OF MONTANA HAS BEEN CLOSELY SCRUTINIZED BY THE 49TH  
12 LEGISLATURE; AND

13 WHEREAS, HOUSE BILL 200, MAKING PERMANENT THE EARLY  
14 PAROLE PROVISION ENACTED BY THE 48TH LEGISLATURE FOR THE  
15 PURPOSE OF RELIEVING OVERCROWDING AT THE MONTANA STATE  
16 PRISON, HAS BEEN PASSED BY THE 49TH LEGISLATURE AND APPROVED  
17 BY THE GOVERNOR.

18  
19 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE  
20 OF REPRESENTATIVES OF THE STATE OF MONTANA:

21 That an appropriate interim committee be assigned to  
22 study and recommend a set of judicial sentencing guidelines  
23 for the district courts AND TO STUDY THE ROLE OF THE  
24 SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA IN  
25 THE OVERALL SENTENCING PROCESS.

1 BE IT FURTHER RESOLVED, that the committee include in  
2 its recommendations:

3 (1) a series of recommended standard sentence ranges  
4 for all felony offenses and a system for determining  
5 punishment based on reasonable offense and offender  
6 characteristics;

7 (2) a recommended sentencing standard establishing the  
8 circumstances in which imprisonment is proper; and

9 (3) a recommended standard to govern whether prison  
10 sentences are to be served consecutively or concurrently;

11 (4) AN ANALYSIS OF THE ROLE AND SCOPE OF REVIEW OF THE  
12 SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA AND  
13 OF WHETHER ITS ROLE AND SCOPE OF REVIEW SHOULD BE MODIFIED  
14 TO REFLECT POSSIBLE CHANGES IN THE OVERALL SENTENCING  
15 PROCESS; AND

16 (5) ALTERNATIVE SOLUTIONS TO PRISON OVERCROWDING OTHER  
17 THAN EARLY PAROLE.

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19 standards for determining appropriate sanctions for  
20 offenders for whom imprisonment is not proper. Such  
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- 23 (1) payment of fines;
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- 2 (5) community-based residential and nonresidential  
3 programs;
- 4 (6) incarceration in local correctional facilities;
- 5 and
- 6 (7) probation.

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