

SENATE BILL NO. 186

1/21 Introduced
1/22 Referred to Judiciary
1/23 Fiscal Note Requested
1/29 Fiscal Note Received
2/06 Hearing
2/11 Committee Report-Bill Pass As Amended
2/13 2nd Reading Pass
2/15 3rd Reading Pass

Transmitted to House

2/27 Referred to Judiciary
3/14 Hearing
3/14 Comm Report-Bill Concurred As Amended
3/16 2nd Reading Not Concurred
3/16 Bill Killed

1 *Senate* BILL NO. *186*
 2 INTRODUCED BY *Senator Bob Brown* *Stony*
 3 *Goodman Maguire Boyle*

4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A COMMISSION
 5 ON JUDICIAL SENTENCING GUIDELINES; REQUIRING THE COMMISSION
 6 TO PROPOSE PRESUMPTIVE SENTENCING GUIDELINES; PROVIDING FOR
 7 THE COMMISSION'S TERMINATION; AND PROVIDING AN EFFECTIVE
 8 DATE."

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

11 Section 1. Short title. [Sections 1 through 9] shall
 12 be known and may be cited as the "Montana Sentencing
 13 Guidelines Commission Act of 1985".

14 Section 2. Purpose. The purpose of [sections 1 through
 15 9] is to establish a commission to develop and study a
 16 system of uniform sentencing guidelines designed to:

17 (1) restore the public faith in the administration of
 18 criminal justice by providing for consistent sentences that
 19 impose sanctions proportional to the severity of the offense
 20 and the criminal history of the offender;

21 (2) punish a criminal offender by assuring the
 22 imposition of a just sentence;

23 (3) assure fair treatment of all criminal offenders by
 24 eliminating unjustified disparity in sentences, by providing
 25 fair notice of the nature of the sentence to be imposed, and

1 by establishing a fair procedure for the imposition of
 2 sentences; and

3 (4) prevent crime and promote respect for law by:

4 (a) incarcerating offenders with a long history of
 5 criminal conduct;

6 (b) providing speed and certainty of criminal
 7 punishment; and

8 (c) creating a presumptive length of sentence to be
 9 served by an offender upon conviction.

10 Section 3. Commission established. (1) There is
 11 created a sentencing guidelines commission comprised of nine
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13 (2) The commission shall consist of the following:

14 (a) one state supreme court justice appointed by the
 15 members of the supreme court;

16 (b) two district court judges appointed by the supreme
 17 court;

18 (c) one public defender and one county prosecuting
 19 attorney appointed by the governor;

20 (d) the director of the department of institutions;

21 (e) one person who is the chief law enforcement
 22 officer of a county or city, to be appointed by the
 23 governor; and

24 (f) two members of the public appointed by the
 25 governor who are not and have never been prosecutors,

1 attorneys, judges, or law enforcement officers.

2 (3) The supreme court shall designate one of the
3 members of the commission as chairman.

4 Section 4. Terms of the commission -- vacancies. Each
5 member of the commission shall serve until May 1, 1987. A
6 vacancy exists upon the death, disqualification, or
7 resignation of a member and shall be filled in the manner of
8 the original appointment. A member is disqualified if the
9 conditions required for appointment no longer obtain.

10 Section 5. Compensation and expenses. (1) Each member
11 of the commission appointed under [section 3(2)(a) through
12 (2)(e)] is entitled to be reimbursed by the commission for
13 all reasonable expenses actually paid or incurred in the
14 performance of official duties in the manner provided for in
15 2-18-501 through 2-18-503. Service on the commission is an
16 official duty of the position that qualifies the member for
17 service. Salary and benefits shall continue as compensation
18 for service on the commission.

19 (2) Members of the commission appointed under [section
20 3(2)(f)], while attending commission meetings or performing
21 the official duties of the commission, are entitled to
22 receive the same compensation and expenses as would be due a
23 member of the legislature serving on legislative business
24 under 5-2-302.

25 Section 6. Powers and duties of commission. (1) The

1 commission shall propose sentencing guidelines for the
2 district courts and any other courts having jurisdiction in
3 criminal cases. The guidelines are advisory to the courts
4 and must contain:

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

9 (b) a recommended sentencing standard establishing the
10 circumstances under which imprisonment of an offender is
11 proper;

12 (c) a recommended standard to govern whether prison
13 sentences are to be served consecutively or concurrently.

14 (2) The commission may also establish guidelines
15 incorporating standards for determining appropriate
16 sanctions for offenders for whom imprisonment is not proper.
17 Such standards, if established, must make specific reference
18 to noninstitutional sanctions, including but not limited to
19 one or more of the following:

20 (a) payment of fines;

21 (b) restitution;

22 (c) community work orders;

23 (d) work-release programs;

24 (e) community-based residential and nonresidential
25 programs;

1 (f) incarceration in local correctional facilities;
 2 and
 3 (g) probation.

4 (3) In establishing the sentencing guidelines, the
 5 commission shall take into substantial consideration current
 6 sentencing and release practices.

7 (4) The commission shall conduct a study to determine
 8 the capacity of correctional facilities and programs that
 9 are or will be available. The commission shall project
 10 whether the implementation of its guidelines would result in
 11 exceeding such capacity. If the commission finds that
 12 implementation of its guidelines would probably result in
 13 exceeding the capacity of correctional facilities and
 14 programs, the commission shall prepare an additional set of
 15 guidelines consistent with such capacity.

16 (5) The commission shall collect, prepare, analyze,
 17 and disseminate information on state and local sentencing
 18 practices and shall conduct continuous research regarding
 19 sentencing guidelines, use of imprisonment and alternatives
 20 to imprisonment, plea bargaining, and other matters
 21 pertaining to improvement of the criminal justice system.

22 (6) The commission may recommend to the legislature
 23 revisions or modifications to the criminal code, criminal
 24 procedure laws, and other aspects of sentencing.

25 (7) By October 1, 1986, the commission shall submit

1 its recommended sentencing guidelines to the supreme court.

2 (8) By October 1, 1986, the commission shall also
 3 publish its recommended guidelines and provide a copy to:

4 (a) each judge of each court having criminal
 5 jurisdiction;

6 (b) the speaker of the house of representatives;

7 (c) the president of the senate; and

8 (d) the chairman of the judiciary committee of each
 9 house of the legislature.

10 Section 7. Legislative council to provide technical
 11 and clerical services. The executive director of the
 12 legislative council, under the direction of the commission,
 13 shall provide the technical staff and clerical services
 14 required by the commission to accomplish its duties.

15 Section 8. Assistance of judiciary and state agencies.
 16 The judicial branch and state executive agencies shall
 17 cooperate with the commission in providing such information
 18 as they have available and is required by the commission to
 19 accomplish its duties.

20 Section 9. Grants, gifts, and funds. The commission
 21 may receive grants, gifts, and other funds from any public
 22 or private source to assist in its activities under
 23 [sections 1 through 9].

24 Section 10. Termination date. The commission shall
 25 terminate May 1, 1987.

LC 0179/01

1 Section 11. Effective date. This act is effective July
2 1, 1985.

-End-

STATE OF MONTANA

FISCAL NOTE

REQUEST NO. FNN 193-85

Form BD-15

In compliance with a written request received January 24, 1985, there is hereby submitted a Fiscal Note for Senate Bill 186 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). 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:

Senate Bill 186 would establish a nine-member commission composed of members of the judiciary, law enforcement professionals, and members of the public to review current sentencing practices and, based on that review, propose sentencing guidelines that could then be adopted by the courts or the legislature. The bill requires assistance from state agencies and specifically provides for staffing assistance from the Legislative Council. The commission would have to report by October 1, 1986. The commission terminates May 1, 1987, just after the adjournment of the 50th Legislature.

ASSUMPTIONS:

1. The commission would hold 9 one-day meetings in Helena.
2. The Legislative Council would assign 1 committee researcher full-time and secretarial assistance half-time to support the study at the expense of other potential assignments such as interim study work. Thus this work could be absorbed without additional staff costs.
3. Data and data processing would be available through the court administrator's office sufficient to provide analysis of each of the following areas cross-tabulated with offense and offender characteristics:
 - a) current ranges of sentences for felony offenders
 - b) current range of conditions that indicate the propriety of imprisonment
 - c) current patterns of concurrent and consecutive sentencing
 - d) current non-prison sentencing practices
 - e) the Department of Institutions can provide support for the following:
information on current correctional system capacity.

FISCAL IMPACT:

	<u>Biennium</u>
Expenditures	
General Fund	\$17,285

David L Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: JAN 29, 1985
SB/86

APPROVED BY COMMITTEE
ON JUDICIARY

SENATE BILL NO. 186

INTRODUCED BY HIMSL, B. BROWN, CRIPPEN, STORY,
FARRELL, ANDERSON, GOODOVER, MAZUREK, BOYLAN

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A COMMISSION
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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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be known and may be cited as the "Montana Sentencing
Guidelines Commission Act of 1985".

Section 2. Purpose. The purpose of [sections 1 through
9] is to establish a commission to develop and study a
system of uniform sentencing guidelines designed to:

(1) restore the public faith in the administration of
criminal justice by providing for consistent sentences that
impose sanctions proportional to the severity of the offense
and the criminal history of the offender;

(2) ~~punish-a-criminal-offender-by-assuring~~ ASSURE the
imposition of a just sentence;

(3) assure fair treatment of all criminal offenders by
eliminating unjustified disparity in sentences, by providing

fair notice of the nature of the sentence to be imposed, and
by establishing a fair procedure for the imposition of
sentences; and

(4) prevent crime and promote respect for law by:

(a) incarcerating offenders with a long history of
criminal conduct;

(b) providing speed and certainty of criminal
punishment; and

(c) creating a presumptive length of sentence to be
served by an offender upon conviction.

Section 3. Commission established. (1) There is
created a sentencing guidelines commission comprised of nine
members.

(2) The commission shall consist of the following:

(a) one state supreme court justice appointed by the
members of the supreme court;

(b) two district court judges appointed by the supreme
court;

(c) one public defender and one county prosecuting
attorney appointed by the governor;

(d) the director of the department of institutions;

(e) one person who is the chief law enforcement
officer of a county or city, to be appointed by the
governor; and

(f) two members of the public appointed by the



1 governor who are not and have never been prosecutors,
2 attorneys, judges, or law enforcement officers.

3 (3) The supreme court shall designate one of the
4 members of the commission as chairman.

5 Section 4. Terms of the commission -- vacancies. Each
6 member of the commission shall serve until May 1, 1987. A
7 vacancy exists upon the death, disqualification, or
8 resignation of a member and shall be filled in the manner of
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10 conditions required for appointment no longer obtain.

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15 performance of official duties in the manner provided for in
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18 service. Salary and benefits shall continue as compensation
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3 district courts ~~and any other courts having jurisdiction in~~
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15 (2) The commission may also establish guidelines
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17 sanctions for offenders for whom imprisonment is not proper.
18 Such standards, if established, must make specific reference
19 to noninstitutional sanctions, including but not limited to
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4 (g) probation.

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SB 0186/02

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SB 0186/02

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3 1, 1985.

-End-

STANDING COMMITTEE REPORT

March 14 19 85

MR. Speaker

We, your committee on Judiciary

having had under consideration Senate Bill No. 186

Third reading copy (Blue color)

SENTENCING GUIDELINES COMMISSION ACT

Respectfully report as follows: That Senate Bill No. 186

be amended as follows:

- 1. Page 1, line 12. Strike: "9" Insert: "8"
2. Page 1, line 16. Strike: "9" Insert: "8"
3. Page 6, following line 10. Strike Section 7 in its entirety.

Renumber subsequent sections

- 4. Page 6, line 24. Strike: "9" Insert: "8"

AND AS AMENDED, BE CONCURRED IN

Handwritten signature and date: Jan 31/85

REP. TOM HANNAH, Chairman. Handwritten signature: Tom Hannah