



IN THE HOUSE

MARCH 16, 1987

RECEIVED FROM SENATE.

ON MOTION, CONSIDERATION PASSED  
FOR THE DAY.

MARCH 17, 1987

SECOND READING, AMENDMENTS NOT  
CONCURRED IN.

ON MOTION, CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

IN THE SENATE

MARCH 19, 1987

ON MOTION, CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 7, 1987

ON MOTION, CONFERENCE COMMITTEE  
DISSOLVED.

ON MOTION, FREE CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 9, 1987

ON MOTION, FREE CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 15, 1987

FREE CONFERENCE COMMITTEE REPORTED.

IN THE SENATE

APRIL 17, 1987

FREE CONFERENCE  
COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 20, 1987

SECOND READING, FREE CONFERENCE  
COMMITTEE REPORT ADOPTED.

APRIL 21, 1987

THIRD READING, FREE CONFERENCE  
COMMITTEE REPORT ADOPTED.

SENT TO ENROLLING.

1 House BILL NO. 326  
 2 INTRODUCED BY Atkins  
 3 BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS

4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE CREDIT FOR  
 6 ELAPSED TIME SERVED ON DEFERRED AND SUSPENDED SENTENCES THAT  
 7 ARE REVOKED, UNLESS THE SENTENCING COURT ORDERS OTHERWISE;  
 8 AND AMENDING SECTION 46-18-201, 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, except as otherwise provided, not exceeding 1 year  
 18 for any misdemeanor or for a period not exceeding 3 years  
 19 for any felony. The sentencing judge may impose upon the  
 20 defendant any reasonable restrictions or conditions during  
 21 the period of the deferred imposition. Such reasonable  
 22 restrictions or conditions may include:

- 23 (i) jail base release;
- 24 (ii) jail time not exceeding 180 days;
- 25 (iii) conditions for probation;

- 1 (iv) restitution;
- 2 (v) payment of the costs of confinement;
- 3 (vi) payment of a fine as provided in 46-18-231;
- 4 (vii) payment of costs as provided in 46-18-232 and
- 5 46-18-233;
- 6 (viii) payment of costs of court appointed counsel as
- 7 provided in 46-8-113;
- 8 (ix) community service;
- 9 (x) any other reasonable conditions considered
- 10 necessary for rehabilitation or for the protection of
- 11 society; or
- 12 (xi) any combination of the above.
- 13 (b) suspend execution of sentence up to the maximum
- 14 sentence allowed for each particular offense. The sentencing
- 15 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)(xi).
- 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;

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

3 (2) If any financial obligation is imposed as a  
4 condition under subsection (1)(a), sentence may be deferred  
5 for a period not exceeding 2 years for any misdemeanor or  
6 for a period not exceeding 6 years for any felony,  
7 regardless of whether any other conditions are imposed.

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

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

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

22 (6) Except as provided in 46-18-222, imposition of  
23 sentence in a felony case may not be deferred in the case of  
24 a defendant who has been convicted of a felony on a prior  
25 occasion whether or not the sentence was imposed, imposition

1 of the sentence was deferred, or execution of the sentence  
2 was suspended.

3 (7) If the victim was less than 16 years old, the  
4 imposition or execution of the first 30 days of a sentence  
5 of imprisonment imposed under 45-5-502(3), 45-5-503,  
6 45-5-504, 45-5-505, or 45-5-507 may not be deferred or  
7 suspended. Section 46-18-222 does not apply to the first 30  
8 days of such imprisonment."

-End-

APPROVED BY COMMITTEE  
ON JUDICIARY

1 HOUSE BILL NO. 326  
 2 INTRODUCED BY ADDY  
 3 BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS  
 4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT A JUDGE  
 6 HAS DISCRETION TO GRANT CREDIT FOR ELAPSED TIME SERVED ON  
 7 DEFERRED AND SUSPENDED SENTENCES THAT ARE REVOKED ~~7~~ ~~UNLESS~~  
 8 ~~THE SENTENCING COURT ORDERS OTHERWISE~~; AND AMENDING SECTION  
 9 46-18-201, MCA."

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21 defendant any reasonable restrictions or conditions during  
22 the period of the deferred imposition. Such reasonable  
23 restrictions or conditions may include:

- 24 (i) jail base release;
- 25 (ii) jail time not exceeding 180 days;

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- 8 provided in 46-8-113;
- 9 (ix) community service;
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- 11 necessary for rehabilitation or for the protection of
- 12 society; or
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- 14 (b) suspend execution of sentence up to the maximum
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- 23 or payment of costs of court-appointed counsel as provided
- 24 in 46-8-113;
- 25 (e) commit the defendant to a correctional institution



1 with or without a fine as provided by law for the offense;

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3 through (1)(e).

4 (2) If any financial obligation is imposed as a  
5 condition under subsection (1)(a), sentence may be deferred  
6 for a period not exceeding 2 years for any misdemeanor or  
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8 regardless of whether any other conditions are imposed.

9 (3) If any restrictions or conditions imposed under  
10 subsection (1)(a) or (1)(b) are violated, any elapsed time  
11 ~~except-jail-time, is not~~ MAY, AT THE DISCRETION OF THE  
12 JUDGE, BE GRANTED AS a credit against the sentence ~~unless~~  
13 ~~the-court-orders-otherwise.~~

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

24 (6) Except as provided in 46-18-222, imposition of  
25 sentence in a felony case may not be deferred in the case of

1 a defendant who has been convicted of a felony on a prior  
2 occasion whether or not the sentence was imposed, imposition  
3 of the sentence was deferred, or execution of the sentence  
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5 (7) If the victim was less than 16 years old, the  
6 imposition or execution of the first 30 days of a sentence  
7 of imprisonment imposed under 45-5-502(3), 45-5-503,  
8 45-5-504, 45-5-505, or 45-5-507 may not be deferred or  
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13 ~~JUDGE,--BE--GRANTED--AS IS~~ a credit against the sentence unless  
14 ~~the---court---orders---otherwise~~ UNLESS THE COURT ORDERS  
15 OTHERWISE.

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22 (5) Except as provided in 46-18-222, the imposition or  
23 execution of the first 10 years of a sentence of  
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25 or suspended.

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7 (7) If the victim was less than 16 years old, the  
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10 45-5-504, 45-5-505, or 45-5-507 may not be deferred or  
11 suspended. Section 46-18-222 does not apply to the first 30  
12 days of such imprisonment."

-End-

# STANDING COMMITTEE REPORT

March 5 1987

MR. PRESIDENT

We, your committee on SENATE JUDICIARY

having had under consideration HOUSE BILL No. 326

Third reading copy ( blue )  
color

Credit for time served on sentence when probation is revoked.

Addy (Halligan)

Respectfully report as follows: That HOUSE BILL No. 326

be amended as follows:

1. Title, lines 5 and 6.  
Following: "PROVIDE" on line 5  
Strike: the remainder of line 5 through "GRANT" on line 6
2. Title, line 8.  
Following: "OTHERWISE"  
Insert: ", UNLESS THE SENTENCING COURT ORDERS OTHERWISE"
3. Page 3, lines 11 and 12.  
Following: "~~not~~" on line 11  
Strike: the remainder of line 11 through "AS" on line 12  
Insert: "is"
4. Page 3, line 13.  
Following: "~~otherwise~~"  
Insert: "unless the court orders otherwise"

~~XXXXXXXXXX~~

*KIK*

AND AS AMENDED  
BE CONCURRED IN

~~XXXXXXXXXX~~

*Mazurek*

Senator Mazurek

Chairman.

*3-5-87  
H:35*

# CONFERENCE COMMITTEE REPORT

Report No. .... One .....

..... 4-14 ..... 19.87.....

MR. SPEAKER

We, your \_\_\_\_\_ Free \_\_\_\_\_ Conference Committee on

HB 326

met and considered \_\_\_\_\_ House Bill 326 in its entirety.

We recommend as follows:

THAT HOUSE BILL 326, REFERENCE COPY SALMON, BE AMENDED AS FOLLOWS:

1) Title, line 5.

Following: "PROVIDE"

Insert: "THAT A JUDGE MUST SPECIFY"

2) Title, line 8.

Following: "~~OTHERWISE~~"

Strike: ", UNLESS THE SENTENCING COURT ORDERS OTHERWISE"

3) Page 3, line 11.

Following: "violated,"

Strike: "remainder of line 11 through 15 in their entirety

Insert: "the court shall consider any elapsed time and either expressly allow part or all of it as a credit against the sentence, or reject all or part as a credit and state its reasons in the order. Credit, however, must be allowed for jail time already served."

And that this Conference Committee report be adopted.

FOR THE SENATE

  
\_\_\_\_\_  
SENATOR HALLIGAN, Chairman

  
\_\_\_\_\_  
SENATOR BISHOP

  
\_\_\_\_\_  
SENATOR BROWN

FOR THE HOUSE

  
\_\_\_\_\_  
REP. MERCER

\_\_\_\_\_  
REP. GOULD

  
\_\_\_\_\_  
REP. ADDY

ADOPT REJECT

1 HOUSE BILL NO. 326  
 2 INTRODUCED BY ADDY  
 3 BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS  
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 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT A JUDGE  
 6 MUST SPECIFY THAT A JUDGE HAS DISCRETION TO GRANT CREDIT FOR  
 7 ELAPSED TIME SERVED ON DEFERRED AND SUSPENDED SENTENCES THAT  
 8 ARE REVOKED, ~~UNLESS THE SENTENCING COURT ORDERS OTHERWISE,~~  
 9 ~~UNLESS THE SENTENCING COURT ORDERS OTHERWISE;~~ AND AMENDING  
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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).

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6 condition under subsection (1)(a), sentence may be deferred  
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11 subsection (1)(a) or (1)(b) are violated, ~~any elapsed time,~~  
12 ~~except jail time, is not MAY AT THE DISCRETION OF THE~~  
13 ~~JUDGE BE GRANTED AS IS a credit against the sentence unless~~  
14 ~~the court orders otherwise UNLESS THE COURT ORDERS~~  
15 ~~OTHERWISE. THE COURT SHALL CONSIDER ANY ELAPSED TIME AND~~  
16 ~~EITHER EXPRESSLY ALLOW PART OR ALL OF IT AS A CREDIT AGAINST~~  
17 ~~THE SENTENCE OR REJECT ALL OR PART AS A CREDIT AND STATE ITS~~  
18 ~~REASONS IN THE ORDER. CREDIT, HOWEVER, MUST BE ALLOWED FOR~~  
19 ~~JAIL TIME ALREADY SERVED.~~

20 (4) Except as provided in 46-18-222, the imposition or  
21 execution of the first 2 years of a sentence of imprisonment  
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11 (7) If the victim was less than 16 years old, the  
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