

HOUSE BILL NO. 168

INTRODUCED BY LEE, BISHOP, CONNELLY

IN THE HOUSE

JANUARY 13, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 14, 1989	FIRST READING.
JANUARY 31, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 1, 1989	PRINTING REPORT.
FEBRUARY 2, 1989	SECOND READING, DO PASS.
FEBRUARY 3, 1989	ENGROSSING REPORT.
FEBRUARY 4, 1989	THIRD READING, PASSED. AYES, 74; NOES, 21.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 6, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 2, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 3, 1989	SECOND READING, CONCURRED IN.
MARCH 6, 1989	THIRD READING, CONCURRED IN. AYES, 28; NOES, 22.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 7, 1989	RECEIVED FROM SENATE.
---------------	-----------------------

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 168
2 INTRODUCED BY Lee Bishop Connolly
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT IF A
5 PERSON SERVING A SENTENCE IS AGAIN CONVICTED, THE TWO
6 SENTENCES ARE SERVED CONSECUTIVELY UNLESS THE COURT ORDERS
7 OTHERWISE; AND AMENDING SECTION 46-18-401, MCA."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 **Section 1.** Section 46-18-401, MCA, is amended to read:

11 **"46-18-401. Merger---of Consecutive sentences. (1)**
12 Unless the judge otherwise orders:

13 (a) whenever a person serving a term of commitment
14 imposed by a court in this state is committed for another
15 offense, the shorter term or shorter remaining term ~~shall~~
16 may not be merged in the other term ~~except as provided in~~
17 ~~subsection-(5); and~~

18 (b) whenever a person under suspended sentence or on
19 probation for an offense committed in this state is
20 sentenced for another offense, the period still to be served
21 on suspended sentence or probation ~~shall may not~~ be merged
22 in any new sentence of commitment or probation.

23 (2) The court merging, whether or not it merges the
24 sentences, shall immediately furnish each of the other
25 courts and penal institutions in which the defendant is

1 confined under sentence with authenticated copies of its
2 sentence, which must cite ~~the-sentences-being~~ any sentence
3 that is merged.

4 (3) If an unexpired sentence is merged pursuant to
5 subsection (1), the court which imposed such sentence shall
6 modify it in accordance with the effect of the merger.

7 (4) Separate sentences for two or more offenses ~~shall~~
8 must run concurrently consecutively unless the court
9 otherwise orders.

10 (5) Except as provided in this subsection, whenever a
11 prisoner is sentenced for an offense committed while he was
12 imprisoned in the state prison or while he was released on
13 parole or under the supervised release program, the new
14 sentence runs consecutively with the remainder of the
15 original sentence. The prisoner starts serving the new
16 sentence when the original sentence has expired or when he
17 is released on parole under chapter 23, part 2, of this
18 title in regard to the original sentence, whichever is
19 sooner. In the latter case, the sentences run concurrently
20 from the time of his release on parole."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB168, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing that if a person serving a sentence is again convicted, the two sentences are served consecutively unless the court orders otherwise; and amending Section 46-18-401, MCA.

ASSUMPTIONS:

1. 51.5 percent of male population were repeat offenders in 1988.
2. Average net sentence length of the 1988 male population was 23.1 years.
3. Average net sentence length of all 1988 male offenders with all sentences computed as consecutive was 32.4 years, a 40.25 percent increase. To be conservative, assume that only one-half that increase should be considered since repeat offenders comprise just over one-half the population. A 20.125 percent increase would result.
4. The average length of stay in 1988 was 30.5 months for all incarcerated males. A 20.125 percent increase would result in an average LOS of 36.64 months.
5. Assume that all, one-half and one-quarter of repeat offenders receive increased (consecutive) sentences as a result of HB168. Future length of stay would be affected as follows:
 - A) All repeat offenders receive increased sentences...
 - 50% of population LOS unchanged
 - 50% of population LOS increases 20.125%
 - Average increase in LOS - 10%
 - B) One-half of repeat offenders receive increased sentences...
 - 75% of population LOS unchanged
 - 25% of population LOS increases 20.125%
 - Average increase in LOS is 5.1%
 - C) One-quarter of repeat offenders receive increased sentences...
 - 87.5% of population LOS unchanged
 - 12.5% of population LOS increases 20.128%
 - Average increase in LOS is 2.6%

Future lengths of stay for the HB168 option were calculated by multiplying anticipated lengths of stay by the increases derived above.

Ray Shackelford

RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

1/21/89

DATE

Thomas N. Lee

THOMAS N. LEE, PRIMARY SPONSOR

1/23/89

DATE

Fiscal Note for HB168, as introduced

HB 168

6. Projected system populations added to increases in admissions and average length of stay already projected for the system.

A) All repeat offenders receive longer sentences

	FISCAL YEAR					
	1990	1991	1992	1993	1994	1995
with HB168	1249	1297	1338	1376	1411	1442
without HB168	1241	1274	1297	1318	1337	1354
population impact	8	23	41	58	74	88

B) One-half of repeat offenders receive longer sentences

	FISCAL YEAR					
	1990	1991	1992	1993	1994	1995
with HB168	1245	1286	1319	1349	1376	1401
without HB168	1241	1274	1297	1318	1337	1354
population impact	4	12	22	31	39	47

C) One-quarter of repeat offenders receive longer sentences

	FISCAL YEAR					
	1990	1991	1992	1993	1994	1995
with HB168	1243	1280	1308	1334	1357	1378
without HB168	1241	1274	1297	1318	1337	1354
population impact	2	6	11	16	20	24

D) The prison currently operates at 137 percent of its designed capacity.

E) The department estimates the 1995 population will be 156 percent.

HB 168

FISCAL IMPACT:

		<u>FY90</u>			<u>FY91</u>	
<u>Montana</u>	<u>Current</u>	<u>Proposed</u>	<u>Difference</u>	<u>Current</u>	<u>Proposed</u>	<u>Difference</u>
<u>State Prison</u>	<u>Law</u>	<u>Law</u>		<u>Law</u>	<u>Law</u>	
<u>Expenditures:</u>						
Personal Services	\$10,659,661	\$10,659,661	\$ -0-	\$10,701,664	\$10,701,664	\$ -0-
Operating Expenses	6,200,060	6,206,864	6,804	6,719,243	6,740,486	21,243
Equipment	290,932	290,932	-0-	301,676	301,676	-0-
Capital Outlay	16,500	16,500	-0-	16,500	16,500	-0-
Total	\$17,167,153	\$17,173,957	\$ 6,804	\$17,739,083	\$17,760,326	\$ 21,243
<u>Funding Sources:</u>						
General Fund	\$13,022,787	\$13,029,591	\$ 6,804	\$13,178,168	\$13,199,411	\$ 21,243
State Special						
Revenue Fund	1,402,047	1,402,047	-0-	1,656,166	1,656,166	-0-
Federal & Other						
Spec. Rev. Fund	127,713	127,713	-0-	127,760	127,760	-0-
Proprietary Fund	2,614,606	2,614,606	-0-	2,776,989	2,776,989	-0-
Total	\$17,167,153	\$17,173,957	\$ 6,804	\$17,739,083	\$17,760,326	\$ 21,243

LONG RANGE EFFECTS OF PROPOSED LEGISLATION:

A new housing unit at MSP would be required in 1995.

Current costs for a low security 96 bed housing unit:

FTE	9.60
Personal Services	\$ 205,785
Operating	\$ 1,907
Building	\$1,184,600

Possible future costs/requirements for a low, medium or high security unit:

FTE	18.00
Housing Unit	
possible cost	\$4,000,000

HB 168

APPROVED BY COMMITTEE
ON JUDICIARY

1 House BILL NO. 168
2 INTRODUCED BY Rep. Bridget Connolly
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT IF A
5 PERSON SERVING A SENTENCE IS AGAIN CONVICTED, THE TWO
6 SENTENCES ARE SERVED CONSECUTIVELY UNLESS THE COURT ORDERS
7 OTHERWISE; AND AMENDING SECTION 46-18-401, MCA."
8

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

10 **Section 1.** Section 46-18-401, MCA, is amended to read:

11 "**46-18-401. Merger**---of Consecutive sentences. (1)
12 Unless the judge otherwise orders:

13 (a) whenever a person serving a term of commitment
14 imposed by a court in this state is committed for another
15 offense, the shorter term or shorter remaining term ~~shall~~
16 may not be merged in the other term ~~except as provided in~~
17 ~~subsection-(5); and~~

18 (b) whenever a person under suspended sentence or on
19 probation for an offense committed in this state is
20 sentenced for another offense, the period still to be served
21 on suspended sentence or probation ~~shall may not~~ be merged
22 in any new sentence of commitment or probation.

23 (2) The court merging, whether or not it merges the
24 sentences, shall immediately furnish each of the other
25 courts and penal institutions in which the defendant is

1 confined under sentence with authenticated copies of its
2 sentence, which must cite ~~the sentences being~~ any sentence
3 that is merged.

4 (3) If an unexpired sentence is merged pursuant to
5 subsection (1), the court which imposed such sentence shall
6 modify it in accordance with the effect of the merger.

7 (4) Separate sentences for two or more offenses ~~shall~~
8 must run concurrently consecutively unless the court
9 otherwise orders.

10 (5) Except as provided in this subsection, whenever a
11 prisoner is sentenced for an offense committed while he was
12 imprisoned in the state prison or while he was released on
13 parole or under the supervised release program, the new
14 sentence runs consecutively with the remainder of the
15 original sentence. The prisoner starts serving the new
16 sentence when the original sentence has expired or when he
17 is released on parole under chapter 23, part 2, of this
18 title in regard to the original sentence, whichever is
19 sooner. In the latter case, the sentences run concurrently
20 from the time of his release on parole."

-End-

SECOND READING
HB 168

1 HOUSE BILL NO. 168
2 INTRODUCED BY Sen. Bridget Connelly
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT IF A
5 PERSON SERVING A SENTENCE IS AGAIN CONVICTED, THE TWO
6 SENTENCES ARE SERVED CONSECUTIVELY UNLESS THE COURT ORDERS
7 OTHERWISE; AND AMENDING SECTION 46-18-401, MCA."
8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
10 **Section 1.** Section 46-18-401, MCA, is amended to read:
11 "46-18-401. Merger---of Consecutive sentences. (1)
12 Unless the judge otherwise orders:
13 (a) whenever a person serving a term of commitment
14 imposed by a court in this state is committed for another
15 offense, the shorter term or shorter remaining term ~~shall~~
16 may not be merged in the other term ~~except-as-provided-in~~
17 ~~subsection-(5); and~~
18 (b) whenever a person under suspended sentence or on
19 probation for an offense committed in this state is
20 sentenced for another offense, the period still to be served
21 on suspended sentence or probation ~~shall~~ may not be merged
22 in any new sentence of commitment or probation.
23 (2) The court merging, whether or not it merges the
24 sentences, shall immediately furnish each of the other
25 courts and penal institutions in which the defendant is

1 confined under sentence with authenticated copies of its
2 sentence, which must cite ~~the-sentences-being~~ any sentence
3 that is merged.
4 (3) If an unexpired sentence is merged pursuant to
5 subsection (1), the court which imposed such sentence shall
6 modify it in accordance with the effect of the merger.
7 (4) Separate sentences for two or more offenses ~~shall~~
8 must run concurrently consecutively unless the court
9 otherwise orders.
10 (5) Except as provided in this subsection, whenever a
11 prisoner is sentenced for an offense committed while he was
12 imprisoned in the state prison or while he was released on
13 parole or under the supervised release program, the new
14 sentence runs consecutively with the remainder of the
15 original sentence. The prisoner starts serving the new
16 sentence when the original sentence has expired or when he
17 is released on parole under chapter 23, part 2, of this
18 title in regard to the original sentence, whichever is
19 sooner. In the latter case, the sentences run concurrently
20 from the time of his release on parole."

-End-

HOUSE BILL NO. 168

INTRODUCED BY LEE, BISHOP, CONNELLY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT IF A PERSON SERVING A SENTENCE IS AGAIN CONVICTED, THE TWO SENTENCES ARE SERVED CONSECUTIVELY UNLESS THE COURT ORDERS OTHERWISE; AND AMENDING SECTION 46-18-401, MCA."

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

Section 1. Section 46-18-401, MCA, is amended to read:

"46-18-401. Merger---of Consecutive sentences. (1)

Unless the judge otherwise orders:

(a) whenever a person serving a term of commitment imposed by a court in this state is committed for another offense, the shorter term or shorter remaining term ~~shall~~ may not be merged in the other term ~~except-as-provided-in subsection-(5); and~~

(b) whenever a person under suspended sentence or on probation for an offense committed in this state is sentenced for another offense, the period still to be served on suspended sentence or probation ~~shall~~ may not be merged in any new sentence of commitment or probation.

(2) The court merging, whether or not it merges the sentences, shall immediately furnish each of the other courts and penal institutions in which the defendant is

confined under sentence with authenticated copies of its sentence, which must cite ~~the-sentences-being~~ any sentence that is merged.

(3) If an unexpired sentence is merged pursuant to subsection (1), the court which imposed such sentence shall modify it in accordance with the effect of the merger.

(4) Separate sentences for two or more offenses ~~shall~~ must run concurrently consecutively unless the court otherwise orders.

(5) Except as provided in this subsection, whenever a prisoner is sentenced for an offense committed while he was imprisoned in the state prison or while he was released on parole or under the supervised release program, the new sentence runs consecutively with the remainder of the original sentence. The prisoner starts serving the new sentence when the original sentence has expired or when he is released on parole under chapter 23, part 2, of this title in regard to the original sentence, whichever is sooner. In the latter case, the sentences run concurrently from the time of his release on parole."

-End-