

HOUES BILL 369

Introduced by Cocchiarella, et al.

1/24	Introduced
1/25	Referred to Judiciary
2/02	Hearing
2/13	Tabled in Committee

1 House BILL NO. 369  
2 INTRODUCED BY Christina Vincent  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT THE  
5 DEFERRAL OF A SENTENCE FOR A PERSON WHO IS FOUND GUILTY OF  
6 OR WHO ENTERS A GUILTY PLEA FOR THE OFFENSE OF OPERATING A  
7 VEHICLE WHILE THE ALCOHOL CONCENTRATION IN HIS BLOOD,  
8 BREATH, OR URINE IS 0.10 OR MORE; AND AMENDING SECTION  
9 46-18-201, MCA."

10

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

12 **Section 1.** Section 46-18-201, MCA, is amended to read:13 "46-18-201. Sentences that may be imposed. (1)  
14 Whenever a person has been found guilty of an offense upon a  
15 verdict or a plea of guilty, the court may:16 (a) defer imposition of sentence, excepting sentences  
17 for driving under the influence of alcohol or drugs or  
18 operating a vehicle while the alcohol concentration in his  
19 blood, breath, or urine is 0.10 or more, for a period,  
20 except as otherwise provided, not exceeding 1 year for any  
21 misdemeanor or for a period not exceeding 3 years for any  
22 felony. The sentencing judge may impose upon the defendant  
23 any reasonable restrictions or conditions during the period  
24 of the deferred imposition. Such reasonable restrictions or  
25 conditions may include:

1 (i) jail base release;  
2 (ii) jail time not exceeding 180 days;  
3 (iii) conditions for probation;  
4 (iv) restitution;  
5 (v) payment of the costs of confinement;  
6 (vi) payment of a fine as provided in 46-18-231;  
7 (vii) payment of costs as provided in 46-18-232 and  
8 46-18-233;  
9 (viii) payment of costs of court appointed counsel as  
10 provided in 46-8-113;  
11 (ix) community service;  
12 (x) any other reasonable conditions considered  
13 necessary for rehabilitation or for the protection of  
14 society; or  
15 (xi) any combination of the above.  
16 (b) suspend execution of sentence up to the maximum  
17 sentence allowed for each particular offense. The sentencing  
18 judge may impose on the defendant any reasonable  
19 restrictions or conditions during the period of suspended  
20 sentence. Such reasonable restrictions or conditions may  
21 include any of those listed in subsections (1)(a)(i) through  
22 (1)(a)(xi).  
23 (c) impose a fine as provided by law for the offense;  
24 (d) require payment of costs as provided in 46-18-232  
25 or payment of costs of court-appointed counsel as provided

1 in 46-8-113;

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

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

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

11 (3) If any restrictions or conditions imposed under  
12 subsection (1)(a) or (1)(b) are violated, the court shall  
13 consider any elapsed time and either expressly allow part or  
14 all of it as a credit against the sentence or reject all or  
15 part as a credit and state its reasons in the order. Credit,  
16 however, must be allowed for jail time already served.

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

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

1 suspended.

2 (6) Except as provided in 46-18-222, imposition of  
3 sentence in a felony case may not be deferred in the case of  
4 a defendant who has been convicted of a felony on a prior  
5 occasion whether or not the sentence was imposed, imposition  
6 of the sentence was deferred, or execution of the sentence  
7 was suspended.

8 (7) If the victim was less than 16 years old, the  
9 imposition or execution of the first 30 days of a sentence  
10 of imprisonment imposed under 45-5-502(3), 45-5-503,  
11 45-5-504, 45-5-505, or 45-5-507 may not be deferred or  
12 suspended. Section 46-18-222 does not apply to the first 30  
13 days of such imprisonment."

-End-