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SENATE BILL NO. 258
INTRODUCED BY PINSONEAULT
BY REQUEST OF THE BOARD OF PARDONS

IN THE SENATE

JANUARY 27, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 2, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 3, 1989	PRINTING REPORT.
FEBRUARY 4, 1989	SECOND READING, DO PASS.
FEBRUARY 6, 1989	ENGROSSING REPORT.
FEBRUARY 7, 1989	THIRD READING, PASSED. AYES, 50; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 7, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
FEBRUARY 20, 1989	FIRST READING.
MARCH 7, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 8, 1989	SECOND READING, CONCURRED IN.
MARCH 9, 1989	THIRD READING, CONCURRED IN. AYES, 72; NOES, 20.
	RETURNED TO SENATE.

IN THE SENATE

MARCH 10, 1989

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *258*
 2 INTRODUCED BY *Sen. [Signature]*
 3 BY REQUEST OF THE BOARD OF PARDONS
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING
 6 PROVISIONS REGARDING GRANTING OF PAROLE; PROVIDING THAT
 7 DECISIONS OF THE BOARD OF PARDONS ARE NOT REVIEWABLE; MAKING
 8 PAROLE RELEASE DISCRETIONARY, RATHER THAN MANDATORY, IF
 9 CERTAIN STATUTORY CRITERIA ARE MET; CLARIFYING PROVISIONS
 10 REGARDING GRANTING OF PAROLE TO A PRISONER WHO COMMITS A NEW
 11 CRIME; AMENDING SECTIONS 46-23-107, 46-23-201, AND
 12 46-23-217, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE
 13 AND A RETROACTIVE APPLICABILITY DATE."
 14
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 16 **Section 1.** Section 46-23-107, MCA, is amended to read:
 17 "46-23-107. Orders of board -- reviewability.
 18 Decisions of the board ~~shall~~ must be by majority vote. The
 19 orders of the board are not reviewable ~~except--as--to~~
 20 ~~compliance--with--the--terms--of--parts--17--27--37--and--18--of--this~~
 21 ~~chapter.~~"
 22 **Section 2.** Section 46-23-201, MCA, is amended to read:
 23 "46-23-201. Prisoners eligible for parole. (1) Subject
 24 to the following restrictions contained in subsections (2)
 25 through (4), the board ~~shall~~ may release on parole by

1 appropriate order any person confined in the Montana state
 2 prison or the women's correction center, except persons
 3 under sentence of death and persons serving sentences
 4 imposed under 46-18-202(2), when in its opinion there is
 5 reasonable probability that the prisoner can be released
 6 without detriment to the prisoner or to the community:.
 7 ~~(a)~~ (2) No A convict serving a time sentence may not be
 8 paroled until he has served at least one-half of his full
 9 term, less the good time allowance provided for in
 10 53-30-105; except that a convict designated as a
 11 nondangerous offender under 46-18-404 may be paroled after
 12 he has served one-quarter of his full term, less the good
 13 time allowance provided for in 53-30-105. Any offender
 14 serving a time sentence may be paroled after he has served,
 15 upon his term of sentence, 17 1/2 years.
 16 ~~(b)~~ (3) No A convict serving a life sentence may not be
 17 paroled until he has served 30 years, less the good time
 18 allowance provided for in 53-30-105.
 19 ~~(2)~~ (4) A parole ~~shall~~ may be ordered only for the best
 20 interests of society and not as an award of clemency or a
 21 reduction of sentence or pardon. A prisoner ~~shall~~ may be
 22 placed on parole only when the board believes that he is
 23 able and willing to fulfill the obligations of a law-abiding
 24 citizen.
 25 ~~(3)~~ (5) If the department of institutions certifies to

the board that the population at the Montana state prison exceeds its design capacity of 744 by 96 inmates or that the population at the women's correction center exceeds its design capacity of 35 inmates and that the prison or the center has exceeded its capacity for a period of more than 30 days, the board shall consider convicts in the institution in which the design capacity has been exceeded eligible for parole 120 days prior to the eligibility date provided for in ~~subsection (1)~~ subsections (2) and (3).

~~(4)~~(6) Regardless of length of sentence, if the conditions of parole eligibility are met within the initial 12 months of incarceration at Montana state prison, the provisions of subsection ~~(3)~~ (5) do not apply."

Section 3. Section 46-23-217, MCA, is amended to read:

"46-23-217. Service of term for additional crime. A prisoner who commits a crime while ~~at--large~~ imprisoned in the state prison or while released on parole or conditional under the supervised release program and who is convicted and sentenced ~~therefor~~ for the crime shall serve ~~such the~~ sentence consecutively with the remainder of the original sentence as provided in 46-18-401. However, the prisoner remains eligible for parole consideration under 46-23-201 in regard to the original sentence. If paroled from the original sentence, the prisoner shall begin serving the subsequent sentence as provided in 46-18-401."

NEW SECTION. Section 4. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 6. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to sentences imposed before [the effective date of this act].

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

SENATE BILL NO. 258

INTRODUCED BY PINSONEAULT

BY REQUEST OF THE BOARD OF PARDONS

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PROVISIONS REGARDING GRANTING OF PAROLE; PROVIDING THAT DECISIONS OF THE BOARD OF PARDONS ARE NOT REVIEWABLE; MAKING PAROLE RELEASE DISCRETIONARY, RATHER THAN MANDATORY, IF CERTAIN STATUTORY CRITERIA ARE MET; CLARIFYING PROVISIONS REGARDING GRANTING OF PAROLE TO A PRISONER WHO COMMITS A NEW CRIME; AMENDING SECTIONS 46-23-107, 46-23-201, AND 46-23-217, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND-A-RETROACTIVE-APPLICABILITY-DATE."

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

Section 1. Section 46-23-107, MCA, is amended to read:

"46-23-107. Orders of board -- reviewability. Decisions of the board shall must be by majority vote. The orders of the board are not reviewable ~~except--as--to compliance--with--the--terms--of--parts--17-27-37--and--10--of--this chapter.~~"

Section 2. Section 46-23-201, MCA, is amended to read:

"46-23-201. Prisoners eligible for parole. (1) Subject to the following restrictions contained in subsections (2) through (4), the board shall may release on parole by

appropriate order any person confined in the Montana state prison or the women's correction center, except persons under sentence of death and persons serving sentences imposed under 46-18-202(2), when in its opinion there is reasonable probability that the prisoner can be released without detriment to the prisoner or to the community.

~~(a)~~(2) No A convict serving a time sentence may not be paroled until he has served at least one-half of his full term, less the good time allowance provided for in 53-30-105; except that a convict designated as a nondangerous offender under 46-18-404 may be paroled after he has served one-quarter of his full term, less the good time allowance provided for in 53-30-105. Any offender serving a time sentence may be paroled after he has served, upon his term of sentence, 17 1/2 years.

~~(b)~~(3) No A convict serving a life sentence may not be paroled until he has served 30 years, less the good time allowance provided for in 53-30-105.

~~(c)~~(4) A parole ~~shall~~ may be ordered only for the best interests of society and not as an award of clemency or a reduction of sentence or pardon. A prisoner ~~shall~~ may be placed on parole only when the board believes that he is able and willing to fulfill the obligations of a law-abiding citizen.

~~(d)~~(5) If the department of institutions certifies to

the board that the population at the Montana state prison exceeds its design capacity of 744 by 96 inmates or that the population at the women's correction center exceeds its design capacity of 35 inmates and that the prison or the center has exceeded its capacity for a period of more than 30 days, the board shall consider convicts in the institution in which the design capacity has been exceeded eligible for parole 120 days prior to the eligibility date provided for in ~~subsection (1)~~ subsections (2) and (3).

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~~(3)~~(5) If the department of institutions certifies to

the board that the population at the Montana state prison exceeds its design capacity of 744 by 96 inmates or that the population at the women's correction center exceeds its design capacity of 35 inmates and that the prison or the center has exceeded its capacity for a period of more than 30 days, the board shall consider convicts in the institution in which the design capacity has been exceeded eligible for parole 120 days prior to the eligibility date provided for in ~~subsection (1)~~ subsections (2) and (3).

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-End-