

*Hansen*

*Fisher*

*Smith*

House BILL NO. *356*

*Peck*

*Denny ORR*

*Wm E Boharski*

*J. Smith*

*Uhner*

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INTRODUCED BY

BY REQUEST OF THE DEPARTMENT OF CORRECTIONS AND HUMAN SERVICES

*L. Smith*

*Chs Knox*

*Falkes*

*Grande*

*Lawson*

*Markley*

*Albert Bergman*

*McKee*

A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING TRUTH IN SENTENCING BY MAKING THE TIME A PRISONER WILL ACTUALLY SERVE MORE APPARENT; CHANGING GOOD TIME, PAROLE, AND CONSECUTIVE SENTENCE PROVISIONS; ABOLISHING GOOD TIME AS OF FEBRUARY 1, 1997; ABOLISHING THE DESIGNATION OF CRIMINALS AS DANGEROUS OR NONDANGEROUS FOR PURPOSES OFFPAROLE; AMENDING SECTIONS 44-2-601, 46-18-401, 46-18-402, 46-23-201, 46-23-202, 46-23-216, 46-23-217, 46-23-426, 53-30-105, AND 53-30-132, MCA; REPEALING SECTIONS 46-18-404 AND 53-30-105, MCA; AND PROVIDING EFFECTIVE DATES."

*Curtiss*

*Tom Nelson*

*Storall*

*Sammons*

*Joe Wagner*

*Jack Mercer*

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

Section 1. Section 44-2-601, MCA, is amended to read:

"44-2-601. Notification of escape or release from confinement. (1) The notice required by subsection (2) must be given if:

(a) a person committed to a hospital or mental health facility under Title 46, chapter 14, escapes or is released from confinement;

(b) a person confined in an institution other than a jail pending or during trial for a criminal offense involving the use or threat of physical force or violence or confined in a prison or other state institution after conviction of a criminal offense involving the use or threat of physical force or violence ~~or after being designated as a dangerous offender under 46-18-404~~ escapes or is released from confinement; or

(c) a person confined in a jail pending or during trial for a criminal offense involving the use or threat of physical force or violence or confined in a jail after conviction of a criminal offense involving the use or threat of physical force or violence ~~or after being designated as a dangerous offender under 46-18-404~~ escapes from confinement.

(2) If a person referred to in subsection (1) escapes or is released from confinement, the institution in which the person was confined shall notify:

(a) the sheriff or other law enforcement officials in the county in which the offense occurred;

1 (b) the sheriff or other law enforcement officials in the county or counties, if known, in which a  
2 victim or the victims of the offense reside at the time of the escape or release;

3 (c) the sheriff or other law enforcement officials in the county, if known, in which the person  
4 intends to reside upon leaving confinement;

5 (d) the sheriff or other law enforcement officials in the county in which the jail, prison, hospital,  
6 mental health facility, or other institution from which the person escaped or was released is located; and

7 (e) a court that has requested that it be notified in the event of a release or an escape of the  
8 person."  
9

10 **Section 2.** Section 46-18-401, MCA, is amended to read:

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

12 (a) whenever a person serving a term of commitment imposed by a court in this state is committed  
13 for another offense, the shorter term or shorter remaining term may not be merged in the other term; and

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

17 (2) The court, whether or not it merges the sentences, shall immediately furnish each of the other  
18 courts and the penal institutions in which the defendant is confined under sentence with authenticated  
19 copies of its sentence, which must cite any sentence that is merged.

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

22 (4) Separate sentences for two or more offenses must run consecutively unless the court otherwise  
23 orders.

24 ~~(5) Except as provided in this subsection, whenever a prisoner is sentenced for an offense~~  
25 ~~committed while he was imprisoned in the state prison or while he was released on parole or under the~~  
26 ~~supervised release program, the new sentence runs consecutively with the remainder of the original~~  
27 ~~sentence. The prisoner starts serving the new sentence when the original sentence has expired or when~~  
28 ~~he is released on parole under chapter 23, part 2, of this title in regard to the original sentence, whichever~~  
29 ~~is sooner. In the latter case, the sentences run concurrently from the time of his release on parole."~~  
30

1           **Section 3.** Section 46-18-402, MCA, is amended to read:

2           "**46-18-402. Credit for time served.** ~~Where~~ If a defendant has served any portion of ~~his~~ the  
3 defendant's sentence under a commitment based upon a judgment ~~which~~ that is subsequently declared  
4 invalid or ~~which~~ that is modified during the term of imprisonment, ~~such~~ the time ~~shall~~ served ~~must~~ be  
5 credited ~~upon~~ against any subsequent sentence ~~he may receive~~ received upon a new commitment for the  
6 same criminal act or acts. ~~In calculating the time imprisoned, the person so convicted shall have the credit~~  
7 ~~for all the time earned in diminution of sentence as provided under 53-30-105, unless the sentencing~~  
8 ~~authority, in its discretion, may choose to deny such credit."~~

9  
10           **Section 4.** Section 46-23-201, MCA, is amended to read:

11           "**46-23-201. Prisoners eligible for nonmedical parole.** (1) Subject to the restrictions contained in  
12 subsections (2) through ~~(5)~~ (4), the board may release on nonmedical parole by appropriate order any  
13 person confined in the Montana state prison or the women's correctional center, except persons under  
14 sentence of death and persons serving sentences imposed under 46-18-202(2), when in its opinion there  
15 is reasonable probability that the prisoner can be released without detriment to the prisoner or to the  
16 community.

17           (2) A prisoner serving a time sentence may not be paroled under this section until the prisoner has  
18 served at least ~~one-half~~ one-fourth of the prisoner's full term, ~~less the good time allowance provided for~~  
19 ~~in 53-30-105. Except as provided in subsection (3), a prisoner designated as a nondangerous offender~~  
20 ~~under 46-18-404 may be paroled after the prisoner has served one-quarter of the prisoner's full term, less~~  
21 ~~the good time allowance provided for in 53-30-105. Any prisoner serving a time sentence may be paroled~~  
22 ~~after the prisoner has served 17 1/2 years of the sentence.~~

23           ~~(3) A prisoner serving a time sentence under 45-9-109 may not be paroled until the prisoner has~~  
24 ~~served at least one-half of the full term, less the good time allowance provided for in 53-30-105.~~

25           ~~(4)~~(3) A prisoner serving a life sentence may not be paroled under this section until the prisoner  
26 has served 30 years, ~~less the good time allowance provided for in 53-30-105.~~

27           ~~(5)~~(4) A parole may be ordered under this section only for the best interests of society and not as  
28 an award of clemency or a reduction of sentence or pardon. A prisoner may be placed on parole only when  
29 the board believes that the prisoner is able and willing to fulfill the obligations of a law-abiding citizen.

30           ~~(6) Whenever the department of corrections and human services certifies to the board that the~~

1 ~~population at either the male or female correctional facility has exceeded its designed capacity for 30~~  
2 ~~consecutive days, the board shall consider the respective male or female prisoners under the jurisdiction~~  
3 ~~of the department eligible for parole 120 days prior to the eligibility dates provided for in subsections (2)~~  
4 ~~through (4).~~

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

7  
8 **Section 5.** Section 46-23-202, MCA, is amended to read:

9 **"46-23-202. Investigation of prisoner by board.** (1) Within the 2 months prior to a prisoner's official  
10 parole eligibility date ~~or within the 2 months following the date a prisoner becomes eligible pursuant to~~  
11 ~~53-30-105(5),~~ the board shall consider all pertinent information regarding ~~each~~ the prisoner, including the  
12 circumstances of the offense, the prisoner's previous social history and criminal record, the prisoner's  
13 conduct, employment, and attitude in prison, and the reports of any physical and mental examinations that  
14 have been made.

15 (2) Before ordering the parole of any prisoner, the board shall interview the prisoner."

16  
17 **Section 6.** Section 46-23-216, MCA, is amended to read:

18 **"46-23-216. Duration of parole.** (1) A prisoner on parole ~~who has served one half of his term or~~  
19 ~~terms, less the good time allowance, or a nondangerous offender on parole who has served one quarter~~  
20 ~~of his term or terms, less the good time allowance,~~ is considered released on parole until the expiration of  
21 the maximum term or terms for which ~~he~~ the prisoner was sentenced, less the good time allowance as  
22 provided for in 53-30-105.

23 (2) The period served on parole or conditional release ~~shall be deemed~~ must be considered service  
24 of the term of imprisonment, and subject to the provisions contained in 46-23-1023 through 46-23-1026  
25 relating to a prisoner who is a fugitive from or has fled from justice, the total time served may not exceed  
26 the maximum term or sentence. When a prisoner on parole or conditional release has performed the  
27 obligations of ~~his~~ the release, the board shall make a final order or discharge and issue a certificate of  
28 discharge to the prisoner."

29  
30 **Section 7.** Section 46-23-216, MCA, is amended to read:

1           **"46-23-216. Duration of parole.** (1) A prisoner on parole ~~who has served one half of his term or~~  
 2 ~~terms, less the good time allowance, or a nondangerous offender on parole who has served one quarter~~  
 3 ~~of his term or terms, less the good time allowance,~~ is considered released on parole until the expiration of  
 4 the maximum term or terms for which he the prisoner was sentenced, ~~less the good time allowance as~~  
 5 ~~provided for in 53-30-105.~~

6           (2) The period served on parole or conditional release ~~shall be deemed~~ must be considered service  
 7 of the term of imprisonment, and subject to the provisions contained in 46-23-1023 through 46-23-1026  
 8 relating to a prisoner who is a fugitive from or has fled from justice, the total time served may not exceed  
 9 the maximum term or sentence. When a prisoner on parole or conditional release has performed the  
 10 obligations of ~~his~~ the release, the board shall make a final order or discharge and issue a certificate of  
 11 discharge to the prisoner."

12  
 13           **Section 8.** Section 46-23-217, MCA, is amended to read:

14           **"46-23-217. Service of term for additional crime.** A prisoner who commits a crime while imprisoned  
 15 in the state prison or while released on parole or under the supervised release program and who is  
 16 convicted and sentenced for the crime shall serve the sentence consecutively with the remainder of the  
 17 original sentence ~~as provided in 46-18-401.~~ However, the prisoner remains eligible for parole consideration  
 18 under 46-23-201 in regard to the original sentence. If paroled from the original sentence, the prisoner shall  
 19 begin serving the subsequent sentence ~~as provided in 46-18-401.~~"

20  
 21           **Section 9.** Section 46-23-426, MCA, is amended to read:

22           **"46-23-426. Escape.** A person convicted of escape from a supervised release program is  
 23 punishable as provided in 45-7-306. ~~A person convicted of such an escape and sentenced therefor shall~~  
 24 and must serve such the sentence for escape consecutively with the remainder of the original sentence ~~as~~  
 25 ~~provided in 46-18-401.~~"

26  
 27           **Section 10.** Section 53-30-105, MCA, is amended to read:

28           **"53-30-105. Good time allowance.** (1) The department of corrections and human services shall  
 29 ~~adopt rules providing for the granting of~~ may grant a good time allowance for to inmates employed in any  
 30 ~~prison work or activity and to implement subsection (5)~~ housed at an adult correctional facility or a

1 supervised release program facility. The good time allowance ~~shall~~ may operate as a credit on the inmate's  
2 sentence as imposed by the court, conditioned upon the inmate's good behavior and compliance with the  
3 rules ~~made~~ adopted by the department ~~or the warden~~. The rules ~~adopted by the department under this~~  
4 ~~subsection~~ may not grant good time allowance to exceed:

5 (a) ~~10 days per month for inmates assigned to maximum, close, and medium I security~~  
6 ~~classifications;~~

7 (b) ~~13 days per month for those classified as medium II and minimum security classifications;~~

8 (c) ~~15 days per month for inmates after having been assigned as medium II or minimum security~~  
9 ~~for an uninterrupted period of 1 year;~~

10 (d) ~~13 days per month for those inmates enrolled in school who successfully complete the course~~  
11 ~~of study or who while so enrolled are released from prison by discharge or parole;~~

12 (e) ~~3 days per month for those inmates participating in self-improvement activities designated by~~  
13 ~~the department~~ 1 day for each day served at an adult correctional facility or a supervised release program  
14 facility.

15 (2) In the event of an attempted escape by an inmate or a violation of the rules prescribed by the  
16 department ~~or warden~~, the inmate may be punished by the forfeiture of part or all good time allowances.  
17 ~~The warden of the state prison shall advise the department of any attempted escape or violation of rules~~  
18 ~~on the part of the inmate. Any punishment by forfeiture of good time allowance must be approved by the~~  
19 ~~department.~~

20 (3) A person may not earn good time under this section while the person is on probation. A person  
21 may earn good time while on parole at the rate of ~~30 days per month~~ 1 day per day served on parole. If the  
22 department determines that a person has violated the conditions of parole, it may, in its discretion, deduct  
23 good time credit accumulated under this subsection in an amount up to and including all credit accumulated  
24 on the date of the violation.

25 (4) The ~~warden of the state prison~~ department may ~~request that~~ restore all or portions of any  
26 previously forfeited good time ~~be restored~~ as a result of subsequent good behavior. ~~Any restoration of good~~  
27 ~~time allowance must be approved by the department.~~

28 (5) If the population at the Montana state prison or the Montana women's correctional center  
29 exceeds the design capacity of the institution, the department may grant an inmate additional good time  
30 credits in an amount necessary to permit the inmate to become eligible for parole or to discharge the

1 inmate's sentence. Good time credits for the discharge of a sentence may not exceed 180 days. The award  
 2 of good time under this subsection must generally be provided to inmates who are nearest to parole  
 3 eligibility or discharge."

4  
 5 **Section 11.** Section 53-30-132, MCA, is amended to read:

6 **"53-30-132. Inmate participation and status -- prison industries training program -- wages and**  
 7 **benefits.** (1) ~~An inmate participating in the prison industries training program may be granted a good time~~  
 8 ~~allowance, not to exceed 15 days per month, notwithstanding the limits contained in 53-30-105, for~~  
 9 ~~outstanding participation in the program as defined by rules adopted by the department of corrections and~~  
 10 ~~human services. The good time allowance has the same effect as a good time allowance granted under~~  
 11 ~~53-30-105, and the provisions of subsections (2) and (3) of 53-30-105 apply to the good time allowance.~~  
 12 ~~However, an inmate may not receive good time for participation in this program under any other section~~  
 13 ~~or rule that would duplicate the good time authorized in this section.~~

14 ~~(2)~~ While engaged in on-the-job training and production, inmates not employed in a federally  
 15 certified prison industries program may be paid a wage commensurate with their production function.  
 16 Wages must be established at a rate that encourages efficient production and effective levels of inmate  
 17 participation. Inmates employed in a federally certified prison industries program must be paid as provided  
 18 in 53-1-301(2).

19 ~~(3)~~(2) Inmates not working in a federally certified prison industries training program are not  
 20 employees, either public or private, and employment rights accorded other classes of workers do not apply  
 21 to the inmates. Inmates working in a federally certified prison industry program are entitled to coverage and  
 22 benefits as provided in 39-71-744.

23 ~~(4)~~(3) Able-bodied persons committed to the Montana state prison as adult offenders ~~shall~~ must  
 24 be required to perform work as provided for by the department of corrections and human services."

25  
 26 **NEW SECTION. Section 12. Repealer.** (1) Section 46-18-404, MCA, is repealed.

27 (2) Section 53-30-105, MCA, is repealed.

28  
 29 **NEW SECTION. Section 13. Effective dates.** (1) [Sections 1, 2, 4, 5, 6, 8 through 11, subsection  
 30 (1) of section 12, and this section] are effective on passage and approval.





STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0356, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill implementing truth in sentencing by making the time a prisoner will actually serve more apparent.

ASSUMPTIONS:

1. This bill would set parole eligibility dates at a flat 25% of sentence for all inmates by eliminating the nondangerous and dangerous designation and essentially abolishing the minimum time served through the dangerous designation. Department of Corrections and Human Services (DCHS) estimates that this would have no impact on the average length of stay per inmate.
2. The bill would eliminate the early parole eligibility in the event of prison overcrowding provision 46-23-201, MCA. The early parole eligibility provision has had little impact on the prison population size since its enactment.
3. Good time will be granted on a basis of one (1) day for each day served at an adult correctional facility or a supervised release program facility. The provision for good time will be eliminated entirely on January 31, 1997.
4. The fiscal impact of this bill is related to the repeal of the good time statute, 53-30-105, MCA. The fiscal impact will be related to the length of sentences issued by the district courts. If court sentences remain consistent with today's sentences and with the elimination of good time, the average stay in prison will be extended and the prison population will grow. If court sentences take into consideration the elimination of good time, and thus are adjusted accordingly, this bill will have minimal fiscal impact on DCHS.

FISCAL IMPACT:

Expenditures:

Minimal fiscal impact during the 1997 biennium.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The long-range effects of this legislation will be dependent on the sentences imposed by the district courts as described in Assumption #4 above. Again, if length of sentences imposed after January 31, 1997, is reduced to reflect the loss of good time, there should be little effect on the prison population growth. If length of sentence is not reduced, inmates who do not receive parole (37.4 % of all inmates in the last five years) will serve twice as much time in prison. It is projected that the prison population would grow by an estimated 898 inmates by fiscal year 2001. An increase in prison population of this proportion would necessitate the construction of additional prison capacity.

*Dave Lewis 2-2-95*  
DAVE LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

WILLIAM BOHARSKI, PRIMARY SPONSOR      DATE

Fiscal Note for HB0356, as introduced

**HB 356**

## 1 HOUSE BILL NO. 356

2 INTRODUCED BY BOHARSKI, S. SMITH, AHNER, GREEN, FISHER, PECK, DENNY, ORR, MILLS,  
3 MURDOCK, L. SMITH, OHS, KNOX, FORBES, GRINDE, H.S. HANSON, HIBBARD, MCKEE, BERGMAN,  
4 MARTINEZ, HERRON, TAYLOR, M. HANSON, VICK, BARNETT, WISEMAN, TASH, ARNOTT,  
5 SOMERVILLE, JORE, WAGNER, CURTISS, T. NELSON, STOVALL, ZOOK, MERCER  
6 BY REQUEST OF THE DEPARTMENT OF CORRECTIONS AND HUMAN SERVICES  
7

8 A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING TRUTH IN SENTENCING BY MAKING THE TIME  
9 A PRISONER WILL ACTUALLY SERVE MORE APPARENT; CHANGING GOOD TIME, PAROLE, AND  
10 CONSECUTIVE SENTENCE PROVISIONS; ABOLISHING GOOD TIME AS OF FEBRUARY 1, 1997;  
11 ABOLISHING THE DESIGNATION OF CRIMINALS AS DANGEROUS OR NONDANGEROUS FOR PURPOSES  
12 OF PAROLE; AMENDING SECTIONS 44-2-601, 46-18-401, 46-18-402, 46-23-201, 46-23-202, 46-23-216,  
13 46-23-217, 46-23-426, 53-30-105, AND 53-30-132, MCA; REPEALING SECTIONS 46-18-404 AND  
14 53-30-105, MCA; AND PROVIDING EFFECTIVE DATES."  
15

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
17

18 **Section 1.** Section 44-2-601, MCA, is amended to read:

19 **"44-2-601. Notification of escape or release from confinement.** (1) The notice required by  
20 subsection (2) must be given if:

21 (a) a person committed to a hospital or mental health facility under Title 46, chapter 14, escapes  
22 or is released from confinement;

23 (b) a person confined in an institution other than a jail pending or during trial for a criminal offense  
24 involving the use or threat of physical force or violence or confined in a prison or other state institution after  
25 conviction of a criminal offense involving the use or threat of physical force or violence ~~or after being~~  
26 ~~designated as a dangerous offender under 46-18-404~~ escapes or is released from confinement; or

27 (c) a person confined in a jail pending or during trial for a criminal offense involving the use or  
28 threat of physical force or violence or confined in a jail after conviction of a criminal offense involving the  
29 use or threat of physical force or violence ~~or after being designated as a dangerous offender under~~  
30 ~~46-18-404~~ escapes from confinement.

1 (2) If a person referred to in subsection (1) escapes or is released from confinement, the institution  
2 in which the person was confined shall, WITHIN 72 HOURS, notify:

3 (a) the sheriff or other law enforcement officials in the county in which the offense occurred;

4 (b) the sheriff or other law enforcement officials in the county or counties, if known, in which a  
5 victim or the victims of the offense reside at the time of the escape or release; THE SHERIFF OR OTHER  
6 OFFICIALS SHALL NOTIFY THE VICTIM OR VICTIMS OF THE OFFENSE OR THE IMMEDIATE FAMILY OF  
7 A DECEASED VICTIM, IF KNOWN.

8 (c) the sheriff or other law enforcement officials in the county, if known, in which the person  
9 intends to reside upon leaving confinement;

10 (d) the sheriff or other law enforcement officials in the county in which the jail, prison, hospital,  
11 mental health facility, or other institution from which the person escaped or was released is located; and

12 (e) a court that has requested that it be notified in the event of a release or an escape of the  
13 person."  
14

15 **Section 2.** Section 46-18-401, MCA, is amended to read:

16 **"46-18-401. Consecutive sentences.** (1) Unless the judge otherwise orders:

17 (a) whenever a person serving a term of commitment imposed by a court in this state is committed  
18 for another offense, the shorter term or shorter remaining term may not be merged in the other term; and

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

22 (2) The court, whether or not it merges the sentences, shall immediately furnish each of the other  
23 courts and the penal institutions in which the defendant is confined under sentence with authenticated  
24 copies of its sentence, which must cite any sentence that is merged.

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

27 (4) Separate sentences for two or more offenses must run consecutively unless the court otherwise  
28 orders.

29 ~~(5) Except as provided in this subsection, whenever a prisoner is sentenced for an offense~~  
30 ~~committed while he was imprisoned in the state prison or while he was released on parole or under the~~

1 supervised release program, the new sentence runs consecutively with the remainder of the original  
 2 sentence. The prisoner starts serving the new sentence when the original sentence has expired or when  
 3 he is released on parole under chapter 23, part 2, of this title in regard to the original sentence, whichever  
 4 is sooner. In the latter case, the sentences run concurrently from the time of his release on parole."

5  
 6 **Section 3.** Section 46-18-402, MCA, is amended to read:

7 "46-18-402. **Credit for time served.** ~~Where~~ If a defendant has served any portion of ~~his~~ the  
 8 defendant's sentence under a commitment based upon a judgment ~~which~~ that is subsequently declared  
 9 invalid or ~~which~~ that is modified during the term of imprisonment, ~~such~~ the time ~~shall~~ served must be  
 10 credited ~~upon~~ against any subsequent sentence ~~he may receive~~ received upon a new commitment for the  
 11 same criminal act or acts. ~~In calculating the time imprisoned, the person so convicted shall have the credit~~  
 12 ~~for all the time earned in diminution of sentence as provided under 53-30-105, unless the sentencing~~  
 13 ~~authority, in its discretion, may choose to deny such credit."~~

14  
 15 **Section 4.** Section 46-23-201, MCA, is amended to read:

16 "46-23-201. **Prisoners eligible for nonmedical parole.** (1) Subject to the restrictions contained in  
 17 subsections (2) through ~~(5)~~ (4), the board may release on nonmedical parole by appropriate order any  
 18 person confined in the Montana state prison or the women's correctional center, except persons under  
 19 sentence of death and persons serving sentences imposed under 46-18-202(2), when in its opinion there  
 20 is reasonable probability that the prisoner can be released without detriment to the prisoner or to the  
 21 community.

22 (2) A prisoner serving a time sentence may not be paroled under this section until the prisoner has  
 23 served at least ~~one-half~~ one-fourth of the prisoner's full term, ~~less the good time allowance provided for~~  
 24 ~~in 53-30-105. Except as provided in subsection (3), a prisoner designated as a nondangerous offender~~  
 25 ~~under 46-18-404 may be paroled after the prisoner has served one-quarter of the prisoner's full term, less~~  
 26 ~~the good time allowance provided for in 53-30-105. Any prisoner serving a time sentence may be paroled~~  
 27 ~~after the prisoner has served 17 1/2 years of the sentence.~~

28 (3) ~~A prisoner serving a time sentence under 45-9-109 may not be paroled until the prisoner has~~  
 29 ~~served at least one-half of the full term, less the good time allowance provided for in 53-30-105.~~

30 ~~(4)~~(3) A prisoner serving a life sentence may not be paroled under this section until the prisoner

1 has served 30 years, ~~less the good time allowance provided for in 53-30-105.~~

2 ~~(5)(4)~~ A parole may be ordered under this section only for the best interests of society and not as  
3 an award of clemency or a reduction of sentence or pardon. A prisoner may be placed on parole only when  
4 the board believes that the prisoner is able and willing to fulfill the obligations of a law-abiding citizen.

5 ~~(6)~~ Whenever the department of corrections and human services certifies to the board that the  
6 population at either the male or female correctional facility has exceeded its designed capacity for 30  
7 consecutive days, the board shall consider the respective male or female prisoners under the jurisdiction  
8 of the department eligible for parole 120 days prior to the eligibility dates provided for in subsections (2)  
9 through (4).

10 ~~(7)~~ Regardless of length of sentence, if the conditions of parole eligibility are met within the initial  
11 12 months of incarceration, the provisions of subsection (6) do not apply."

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14 **"46-23-202. Investigation of prisoner by board.** (1) Within the 2 months prior to a prisoner's official  
15 parole eligibility date ~~or within the 2 months following the date a prisoner becomes eligible pursuant to~~  
16 ~~53-30-105(5)~~, the board shall consider all pertinent information regarding ~~each~~ the prisoner, including the  
17 circumstances of the offense, the prisoner's previous social history and criminal record, the prisoner's  
18 conduct, employment, and attitude in prison, and the reports of any physical and mental examinations that  
19 have been made.

20 (2) Before ordering the parole of any prisoner, the board shall interview the prisoner."  
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22 **Section 6.** Section 46-23-216, MCA, is amended to read:

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24 ~~terms, less the good time allowance, or a nondangerous offender on parole who has served one quarter~~  
25 ~~of his term or terms, less the good time allowance,~~ is considered released on parole until the expiration of  
26 the maximum term or terms for which ~~he~~ the prisoner was sentenced, less the good time allowance as  
27 provided for in 53-30-105.

28 (2) The period served on parole or conditional release ~~shall be deemed~~ must be considered service  
29 of the term of imprisonment, and subject to the provisions contained in 46-23-1023 through 46-23-1026  
30 relating to a prisoner who is a fugitive from or has fled from justice, the total time served may not exceed

1 the maximum term or sentence. When a prisoner on parole or conditional release has performed the  
 2 obligations of ~~his~~ the release, the board shall make a final order or discharge and issue a certificate of  
 3 discharge to the prisoner."

4  
 5 **Section 7.** Section 46-23-216, MCA, is amended to read:

6 **"46-23-216. Duration of parole.** (1) A prisoner on parole ~~who has served one half of his term or~~  
 7 ~~terms, less the good time allowance, or a nondangerous offender on parole who has served one quarter~~  
 8 ~~of his term or terms, less the good time allowance,~~ is considered released on parole until the expiration of  
 9 the maximum term or terms for which ~~he~~ the prisoner was sentenced, ~~less the good time allowance as~~  
 10 ~~provided for in 53-30-105.~~

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 14 the maximum term or sentence. When a prisoner on parole or conditional release has performed the  
 15 obligations of ~~his~~ the release, the board shall make a final order or discharge and issue a certificate of  
 16 discharge to the prisoner."

17  
 18 **Section 8.** Section 46-23-217, MCA, is amended to read:

19 **"46-23-217. Service of term for additional crime.** A prisoner who commits a crime while imprisoned  
 20 in the state prison or while released on parole or under the supervised release program and who is  
 21 convicted and sentenced for the crime shall serve the sentence consecutively with the remainder of the  
 22 original sentence ~~as provided in 46-18-401.~~ However, the prisoner remains eligible for parole consideration  
 23 under 46-23-201 in regard to the original sentence. If paroled from the original sentence, the prisoner shall  
 24 begin serving the subsequent sentence ~~as provided in 46-18-401."~~

25  
 26 **Section 9.** Section 46-23-426, MCA, is amended to read:

27 **"46-23-426. Escape.** A person convicted of escape from a supervised release program is  
 28 punishable as provided in 45-7-306. ~~A person convicted of such an escape and sentenced therefor shall~~  
 29 and must serve such the sentence for escape consecutively with the remainder of the original sentence as  
 30 ~~provided in 46-18-401."~~

1           **Section 10.** Section 53-30-105, MCA, is amended to read:

2           "**53-30-105. Good time allowance.** (1) The department of corrections and human services shall  
3 ~~adopt rules providing for the granting of~~ may grant a good time allowance ~~for to~~ inmates ~~employed in any~~  
4 ~~prison work or activity and to implement subsection (5)~~ housed at an adult correctional facility or a  
5 supervised release program facility. The good time allowance ~~shall~~ may operate as a credit on the inmate's  
6 sentence as imposed by the court, conditioned upon the inmate's good behavior and compliance with the  
7 rules ~~made~~ adopted by the department ~~or the warden~~. The ~~rules adopted by the department under this~~  
8 ~~subsection~~ may not grant good time allowance to exceed:

9           ~~(a) 10 days per month for inmates assigned to maximum, close, and medium I security~~  
10 ~~classifications;~~

11           ~~(b) 13 days per month for those classified as medium II and minimum security classifications;~~

12           ~~(c) 15 days per month for inmates after having been assigned as medium II or minimum security~~  
13 ~~for an uninterrupted period of 1 year;~~

14           ~~(d) 13 days per month for those inmates enrolled in school who successfully complete the course~~  
15 ~~of study or who while so enrolled are released from prison by discharge or parole;~~

16           ~~(e) 3 days per month for those inmates participating in self-improvement activities designated by~~  
17 ~~the department~~ 1 day for each day served at an adult correctional facility or a supervised release program  
18 facility.

19           (2) In the event of an attempted escape by an inmate or a violation of the rules prescribed by the  
20 department ~~or warden~~, the inmate may be punished by the forfeiture of part or all good time allowances.  
21 ~~The warden of the state prison shall advise the department of any attempted escape or violation of rules~~  
22 ~~on the part of the inmate. Any punishment by forfeiture of good time allowance must be approved by the~~  
23 ~~department.~~

24           (3) A person may not earn good time under this section while the person is on probation. A person  
25 may earn good time while on parole at the rate of ~~30 days per month~~ 1 day per day served on parole. If  
26 the department determines that a person has violated the conditions of parole, it may, in its discretion,  
27 deduct good time credit accumulated under this subsection in an amount up to and including all credit  
28 accumulated on the date of the violation.

29           (4) The ~~warden of the state prison~~ department may ~~request that~~ restore all or portions of any  
30 previously forfeited good time ~~be restored~~ as a result of subsequent good behavior. ~~Any restoration of good~~

1 ~~time allowance must be approved by the department.~~

2 (5) If the population at the Montana state prison or the Montana women's correctional center  
3 exceeds the design capacity of the institution, the department may grant an inmate additional good time  
4 credits in an amount necessary to permit the inmate to become eligible for parole or to discharge the  
5 inmate's sentence. Good time credits for the discharge of a sentence may not exceed 180 days. The award  
6 of good time under this subsection must generally be provided to inmates who are nearest to parole  
7 eligibility or discharge."

8

9 **Section 11.** Section 53-30-132, MCA, is amended to read:

10 **"53-30-132. Inmate participation and status -- prison industries training program -- wages and**  
11 **benefits.** (1) ~~An inmate participating in the prison industries training program may be granted a good time~~  
12 ~~allowance, not to exceed 15 days per month, notwithstanding the limits contained in 53-30-105, for~~  
13 ~~outstanding participation in the program as defined by rules adopted by the department of corrections and~~  
14 ~~human services. The good time allowance has the same effect as a good time allowance granted under~~  
15 ~~53-30-105, and the provisions of subsections (2) and (3) of 53-30-105 apply to the good time allowance.~~  
16 ~~However, an inmate may not receive good time for participation in this program under any other section~~  
17 ~~or rule that would duplicate the good time authorized in this section.~~

18 ~~(2)~~ While engaged in on-the-job training and production, inmates not employed in a federally  
19 certified prison industries program may be paid a wage commensurate with their production function.  
20 Wages must be established at a rate that encourages efficient production and effective levels of inmate  
21 participation. Inmates employed in a federally certified prison industries program must be paid as provided  
22 in 53-1-301(2).

23 ~~(3)~~(2) Inmates not working in a federally certified prison industries training program are not  
24 employees, either public or private, and employment rights accorded other classes of workers do not apply  
25 to the inmates. Inmates working in a federally certified prison industry program are entitled to coverage and  
26 benefits as provided in 39-71-744.

27 ~~(4)~~(3) Able-bodied persons committed to the Montana state prison as adult offenders ~~shall~~ must  
28 be required to perform work as provided for by the department of corrections and human services."

29

30 **NEW SECTION. Section 12. Repealer.** (1) Section 46-18-404, MCA, is repealed.



1 (2) Section 53-30-105, MCA, is repealed.

2

3 **NEW SECTION. Section 13. Effective dates.** (1) [Sections 1, 2, 4, 5, 6, 8 through 11, subsection  
4 (1) of section 12, and this section] are effective on passage and approval.

5 (2) [Sections 3 and 7 and subsection (2) of section 12] are effective January 31, 1997.

6

-END-

## 1 HOUSE BILL NO. 356

2 INTRODUCED BY BOHARSKI, S. SMITH, AHNER, GREEN, FISHER, PECK, DENNY, ORR, MILLS,  
3 MURDOCK, L. SMITH, OHS, KNOX, FORBES, GRINDE, H.S. HANSON, HIBBARD, MCKEE, BERGMAN,  
4 MARTINEZ, HERRON, TAYLOR, M. HANSON, VICK, BARNETT, WISEMAN, TASH, ARNOTT,  
5 SOMERVILLE, JORE, WAGNER, CURTISS, T. NELSON, STOVALL, ZOOK, MERCER  
6 BY REQUEST OF THE DEPARTMENT OF CORRECTIONS AND HUMAN SERVICES  
7

8 A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING TRUTH IN SENTENCING BY MAKING THE TIME  
9 A PRISONER WILL ACTUALLY SERVE MORE APPARENT; CHANGING GOOD TIME, PAROLE, AND  
10 CONSECUTIVE SENTENCE PROVISIONS; ABOLISHING GOOD TIME AS OF FEBRUARY 1, 1997;  
11 ABOLISHING THE DESIGNATION OF CRIMINALS AS DANGEROUS OR NONDANGEROUS FOR PURPOSES  
12 OF PAROLE; AMENDING SECTIONS 44-2-601, 46-18-401, 46-18-402, 46-23-201, 46-23-202, 46-23-216,  
13 46-23-217, 46-23-426, 53-30-105, AND 53-30-132, MCA; REPEALING SECTIONS 46-18-404 AND  
14 53-30-105, MCA; AND PROVIDING EFFECTIVE DATES."  
15

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

THERE ARE NO CHANGES IN THIS BILL AND IT WILL  
NOT BE REPRINTED. PLEASE REFER TO SECOND  
READING COPY (YELLOW) FOR COMPLETE TEXT.

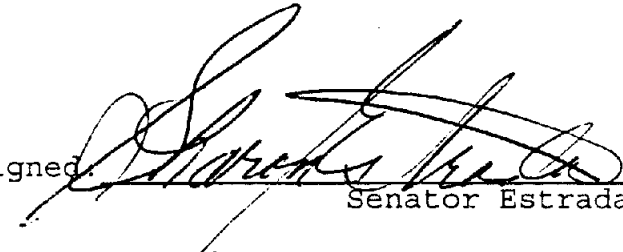
SENATE COMMITTEE OF THE WHOLE AMENDMENT

March 21, 1995 11:43 am

Mr. Chairman: I move to amend HB 356 (third reading copy -- blue).

ADOPT *J.V.*

REJECT

Signed: 

Senator Estrada

That such amendments read:

1. Page 2, line 2.

Strike: "WITHIN 72 HOURS."

2. Page 2, lines 5 through 7.

Following: "7" on line 5

Strike: remainder of line 5 through "1" on line 7

Insert: ";"

3. Page 2, line 14.

Insert: "(3) The department shall adopt a methodology for notifying the individuals and entities listed in subsection (2). The methodology must take into account the public safety concerns related to escape. Notification concerning a pending release must be made prior to the release."

-END-



Amd. Coord.

HB 356  
SENATE

651143CW.SRF

## 1 HOUSE BILL NO. 356

2 INTRODUCED BY BOHARSKI, S. SMITH, AHNER, GREEN, FISHER, PECK, DENNY, ORR, MILLS,  
 3 MURDOCK, L. SMITH, OHS, KNOX, FORBES, GRINDE, H.S. HANSON, HIBBARD, MCKEE, BERGMAN,  
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 6 BY REQUEST OF THE DEPARTMENT OF CORRECTIONS AND HUMAN SERVICES  
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8 A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING TRUTH IN SENTENCING BY MAKING THE TIME  
 9 A PRISONER WILL ACTUALLY SERVE MORE APPARENT; CHANGING GOOD TIME, PAROLE, AND  
 10 CONSECUTIVE SENTENCE PROVISIONS; ABOLISHING GOOD TIME AS OF FEBRUARY 1, 1997;  
 11 ABOLISHING THE DESIGNATION OF CRIMINALS AS DANGEROUS OR NONDANGEROUS FOR PURPOSES  
 12 OF PAROLE; AMENDING SECTIONS 44-2-601, 46-18-401, 46-18-402, 46-23-201, 46-23-202, 46-23-216,  
 13 46-23-217, 46-23-426, 53-30-105, AND 53-30-132, MCA; REPEALING SECTIONS 46-18-404 AND  
 14 53-30-105, MCA; AND PROVIDING EFFECTIVE DATES."  
 15

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 17

18 **Section 1.** Section 44-2-601, MCA, is amended to read:

19 **"44-2-601. Notification of escape or release from confinement.** (1) The notice required by  
 20 subsection (2) must be given if:

21 (a) a person committed to a hospital or mental health facility under Title 46, chapter 14, escapes  
 22 or is released from confinement;

23 (b) a person confined in an institution other than a jail pending or during trial for a criminal offense  
 24 involving the use or threat of physical force or violence or confined in a prison or other state institution after  
 25 conviction of a criminal offense involving the use or threat of physical force or violence ~~or after being~~  
 26 ~~designated as a dangerous offender under 46-18-404~~ escapes or is released from confinement; or

27 (c) a person confined in a jail pending or during trial for a criminal offense involving the use or  
 28 threat of physical force or violence or confined in a jail after conviction of a criminal offense involving the  
 29 use or threat of physical force or violence ~~or after being designated as a dangerous offender under~~  
 30 ~~46-18-404~~ escapes from confinement.

1 (2) If a person referred to in subsection (1) escapes or is released from confinement, the institution  
2 in which the person was confined shall, ~~WITHIN 72 HOURS,~~ notify:

3 (a) the sheriff or other law enforcement officials in the county in which the offense occurred;

4 (b) the sheriff or other law enforcement officials in the county or counties, if known, in which a  
5 victim or the victims of the offense reside at the time of the escape or release; ~~THE SHERIFF OR OTHER~~  
6 ~~OFFICIALS SHALL NOTIFY THE VICTIM OR VICTIMS OF THE OFFENSE OR THE IMMEDIATE FAMILY OF~~  
7 ~~A DECEASED VICTIM, IF KNOWN;~~

8 (c) the sheriff or other law enforcement officials in the county, if known, in which the person  
9 intends to reside upon leaving confinement;

10 (d) the sheriff or other law enforcement officials in the county in which the jail, prison, hospital,  
11 mental health facility, or other institution from which the person escaped or was released is located; and

12 (e) a court that has requested that it be notified in the event of a release or an escape of the  
13 person.

14 (3) THE DEPARTMENT SHALL ADOPT A METHODOLOGY FOR NOTIFYING THE INDIVIDUALS AND  
15 ENTITIES LISTED IN SUBSECTION (2). THE METHODOLOGY MUST TAKE INTO ACCOUNT THE PUBLIC  
16 SAFETY CONCERNS RELATED TO ESCAPE. NOTIFICATION CONCERNING A PENDING RELEASE MUST  
17 BE MADE PRIOR TO THE RELEASE."

18  
19 **Section 2.** Section 46-18-401, MCA, is amended to read:

20 **"46-18-401. Consecutive sentences.** (1) Unless the judge otherwise orders:

21 (a) whenever a person serving a term of commitment imposed by a court in this state is committed  
22 for another offense, the shorter term or shorter remaining term may not be merged in the other term; and

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

26 (2) The court, whether or not it merges the sentences, shall immediately furnish each of the other  
27 courts and the penal institutions in which the defendant is confined under sentence with authenticated  
28 copies of its sentence, which must cite any sentence that is merged.

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

1 (4) Separate sentences for two or more offenses must run consecutively unless the court otherwise  
2 orders.

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

9

10 **Section 3.** Section 46-18-402, MCA, is amended to read:

11 **"46-18-402. Credit for time served.** ~~Where~~ If a defendant has served any portion of ~~his~~ the  
12 defendant's sentence under a commitment based upon a judgment ~~which~~ that is subsequently declared  
13 invalid or ~~which~~ that is modified during the term of imprisonment, ~~such~~ the time ~~shall~~ served must be  
14 credited ~~upon~~ against any subsequent sentence ~~he may receive~~ received upon a new commitment for the  
15 same criminal act or acts. ~~In calculating the time imprisoned, the person so convicted shall have the credit~~  
16 ~~for all the time earned in diminution of sentence as provided under 53-30-105, unless the sentencing~~  
17 ~~authority, in its discretion, may choose to deny such credit."~~

18

19 **Section 4.** Section 46-23-201, MCA, is amended to read:

20 **"46-23-201. Prisoners eligible for nonmedical parole.** (1) Subject to the restrictions contained in  
21 subsections (2) through ~~(6)~~ (4), the board may release on nonmedical parole by appropriate order any  
22 person confined in the Montana state prison or the women's correctional center, except persons under  
23 sentence of death and persons serving sentences imposed under 46-18-202(2), when in its opinion there  
24 is reasonable probability that the prisoner can be released without detriment to the prisoner or to the  
25 community.

26 (2) A prisoner serving a time sentence may not be paroled under this section until the prisoner has  
27 served at least ~~one-half~~ one-fourth of the prisoner's full term, ~~less the good time allowance provided for~~  
28 ~~in 53-30-105. Except as provided in subsection (3), a prisoner designated as a nondangerous offender~~  
29 ~~under 46-18-404 may be paroled after the prisoner has served one-quarter of the prisoner's full term, less~~  
30 ~~the good time allowance provided for in 53-30-105. Any prisoner serving a time sentence may be paroled~~

1 ~~after the prisoner has served 17 1/2 years of the sentence.~~

2 ~~(3) A prisoner serving a time sentence under 45-9-109 may not be paroled until the prisoner has~~  
3 ~~served at least one-half of the full term, less the good time allowance provided for in 53-30-105.~~

4 ~~(4)(3) A prisoner serving a life sentence may not be paroled under this section until the prisoner~~  
5 ~~has served 30 years, less the good time allowance provided for in 53-30-105.~~

6 ~~(5)(4) A parole may be ordered under this section only for the best interests of society and not as~~  
7 ~~an award of clemency or a reduction of sentence or pardon. A prisoner may be placed on parole only when~~  
8 ~~the board believes that the prisoner is able and willing to fulfill the obligations of a law-abiding citizen.~~

9 ~~(6) Whenever the department of corrections and human services certifies to the board that the~~  
10 ~~population at either the male or female correctional facility has exceeded its designed capacity for 30~~  
11 ~~consecutive days, the board shall consider the respective male or female prisoners under the jurisdiction~~  
12 ~~of the department eligible for parole 120 days prior to the eligibility dates provided for in subsections (2)~~  
13 ~~through (4).~~

14 ~~(7) Regardless of length of sentence, if the conditions of parole eligibility are met within the initial~~  
15 ~~12 months of incarceration, the provisions of subsection (6) do not apply."~~

16  
17 **Section 5.** Section 46-23-202, MCA, is amended to read:

18 **"46-23-202. Investigation of prisoner by board.** (1) Within the 2 months prior to a prisoner's official  
19 parole eligibility date ~~or within the 2 months following the date a prisoner becomes eligible pursuant to~~  
20 ~~53-30-105(5),~~ the board shall consider all pertinent information regarding each the prisoner, including the  
21 circumstances of the offense, the prisoner's previous social history and criminal record, the prisoner's  
22 conduct, employment, and attitude in prison, and the reports of any physical and mental examinations that  
23 have been made.

24 (2) Before ordering the parole of any prisoner, the board shall interview the prisoner."  
25

26 **Section 6.** Section 46-23-216, MCA, is amended to read:

27 **"46-23-216. Duration of parole.** (1) A prisoner on parole ~~who has served one-half of his term or~~  
28 ~~terms, less the good time allowance, or a nondangerous offender on parole who has served one-quarter~~  
29 ~~of his term or terms, less the good time allowance,~~ is considered released on parole until the expiration of  
30 the maximum term or terms for which ~~he~~ the prisoner was sentenced, less the good time allowance as

1 provided for in 53-30-105.

2 (2) The period served on parole or conditional release ~~shall be deemed~~ must be considered service  
3 of the term of imprisonment, and subject to the provisions contained in 46-23-1023 through 46-23-1026  
4 relating to a prisoner who is a fugitive from or has fled from justice, the total time served may not exceed  
5 the maximum term or sentence. When a prisoner on parole or conditional release has performed the  
6 obligations of ~~his~~ the release, the board shall make a final order or discharge and issue a certificate of  
7 discharge to the prisoner."  
8

9 **Section 7.** Section 46-23-216, MCA, is amended to read:

10 **"46-23-216. Duration of parole.** (1) A prisoner on parole ~~who has served one half of his term or~~  
11 ~~terms, less the good time allowance, or a nondangerous offender on parole who has served one quarter~~  
12 ~~of his term or terms, less the good time allowance,~~ is considered released on parole until the expiration of  
13 the maximum term or terms for which ~~he~~ the prisoner was sentenced, ~~less the good time allowance as~~  
14 ~~provided for in 53-30-105.~~

15 (2) The period served on parole or conditional release ~~shall be deemed~~ must be considered service  
16 of the term of imprisonment, and subject to the provisions contained in 46-23-1023 through 46-23-1026  
17 relating to a prisoner who is a fugitive from or has fled from justice, the total time served may not exceed  
18 the maximum term or sentence. When a prisoner on parole or conditional release has performed the  
19 obligations of ~~his~~ the release, the board shall make a final order or discharge and issue a certificate of  
20 discharge to the prisoner."  
21

22 **Section 8.** Section 46-23-217, MCA, is amended to read:

23 **"46-23-217. Service of term for additional crime.** A prisoner who commits a crime while imprisoned  
24 in the state prison or while released on parole or under the supervised release program and who is  
25 convicted and sentenced for the crime shall serve the sentence consecutively with the remainder of the  
26 original sentence ~~as provided in 46-18-401.~~ However, the prisoner remains eligible for parole consideration  
27 under 46-23-201 in regard to the original sentence. If paroled from the original sentence, the prisoner shall  
28 begin serving the subsequent sentence ~~as provided in 46-18-401.~~"  
29

30 **Section 9.** Section 46-23-426, MCA, is amended to read:



1           **"46-23-426. Escape.** A person convicted of escape from a supervised release program is  
 2 punishable as provided in 45-7-306. ~~A person convicted of such an escape and sentenced therefor shall~~  
 3 and must serve such the sentence for escape consecutively with the remainder of the original sentence as  
 4 ~~provided in 46-18-401."~~

5  
 6           **Section 10.** Section 53-30-105, MCA, is amended to read:

7           **"53-30-105. Good time allowance.** (1) The department of corrections and human services ~~shall~~  
 8 ~~adopt rules providing for the granting of~~ may grant a good time allowance ~~for~~ to inmates employed in any  
 9 ~~prison work or activity and to implement subsection (5)~~ housed at an adult correctional facility or a  
 10 supervised release program facility. The good time allowance ~~shall~~ may operate as a credit on the inmate's  
 11 sentence as imposed by the court, conditioned upon the inmate's good behavior and compliance with the  
 12 rules ~~made~~ adopted by the department ~~or the warden~~. The rules ~~adopted by the department under this~~  
 13 ~~subsection~~ may not grant good time allowance to exceed:

14           ~~(a) 10 days per month for inmates assigned to maximum, close, and medium I security~~  
 15 ~~classifications;~~

16           ~~(b) 13 days per month for those classified as medium II and minimum security classifications;~~

17           ~~(c) 15 days per month for inmates after having been assigned as medium II or minimum security~~  
 18 ~~for an uninterrupted period of 1 year;~~

19           ~~(d) 13 days per month for those inmates enrolled in school who successfully complete the course~~  
 20 ~~of study or who while so enrolled are released from prison by discharge or parole;~~

21           ~~(e) 3 days per month for those inmates participating in self-improvement activities designated by~~  
 22 ~~the department~~ 1 day for each day served at an adult correctional facility or a supervised release program  
 23 facility.

24           (2) In the event of an attempted escape by an inmate or a violation of the rules prescribed by the  
 25 department ~~or warden~~, the inmate may be punished by the forfeiture of part or all good time allowances.  
 26 ~~The warden of the state prison shall advise the department of any attempted escape or violation of rules~~  
 27 ~~on the part of the inmate. Any punishment by forfeiture of good time allowance must be approved by the~~  
 28 ~~department.~~

29           (3) A person may not earn good time under this section while the person is on probation. A person  
 30 may earn good time while on parole at the rate of ~~30 days per month~~ 1 day per day served on parole. If

1 the department determines that a person has violated the conditions of parole, it may, in its discretion,  
2 deduct good time credit accumulated under this subsection in an amount up to and including all credit  
3 accumulated on the date of the violation.

4 (4) The ~~warden of the state prison department~~ department may ~~request that~~ restore all or portions of any  
5 previously forfeited good time ~~be restored~~ as a result of subsequent good behavior. ~~Any restoration of good~~  
6 ~~time allowance must be approved by the department.~~

7 (5) If the population at the Montana state prison or the Montana women's correctional center  
8 exceeds the design capacity of the institution, the department may grant an inmate additional good time  
9 credits in an amount necessary to permit the inmate to become eligible for parole or to discharge the  
10 inmate's sentence. Good time credits for the discharge of a sentence may not exceed 180 days. The award  
11 of good time under this subsection must generally be provided to inmates who are nearest to parole  
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14 **Section 11.** Section 53-30-132, MCA, is amended to read:

15 **"53-30-132. Inmate participation and status -- prison industries training program -- wages and**  
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18 ~~outstanding participation in the program as defined by rules adopted by the department of corrections and~~  
19 ~~human services. The good time allowance has the same effect as a good time allowance granted under~~  
20 ~~53-30-105, and the provisions of subsections (2) and (3) of 53-30-105 apply to the good time allowance.~~  
21 ~~However, an inmate may not receive good time for participation in this program under any other section~~  
22 ~~or rule that would duplicate the good time authorized in this section.~~

23 (2) While engaged in on-the-job training and production, inmates not employed in a federally  
24 certified prison industries program may be paid a wage commensurate with their production function.  
25 Wages must be established at a rate that encourages efficient production and effective levels of inmate  
26 participation. Inmates employed in a federally certified prison industries program must be paid as provided  
27 in 53-1-301(2).

28 (3)(2) Inmates not working in a federally certified prison industries training program are not  
29 employees, either public or private, and employment rights accorded other classes of workers do not apply  
30 to the inmates. Inmates working in a federally certified prison industry program are entitled to coverage and

1 benefits as provided in 39-71-744.

2 ~~(4)~~(3) Able-bodied persons committed to the Montana state prison as adult offenders ~~shall~~ must  
3 be required to perform work as provided for by the department of corrections and human services."

4

5 NEW SECTION. Section 12. Repealer. (1) Section 46-18-404, MCA, is repealed.

6 (2) Section 53-30-105, MCA, is repealed.

7

8 NEW SECTION. Section 13. Effective dates. (1) [Sections 1, 2, 4, 5, 6, 8 through 11, subsection  
9 (1) of section 12, and this section] are effective on passage and approval.

10 (2) [Sections 3 and 7 and subsection (2) of section 12] are effective January 31, 1997.

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