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HOUSE BILL NO. 137
INTRODUCED BY K. DUDIK

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING APPLICATION OF PAROLE ELIGIBILITY RESTRICTIONS; AMENDING SECTION 46-18-222, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 46-18-222, MCA, is amended to read:

"46-18-222. Exceptions to mandatory minimum sentences, restrictions on deferred imposition and suspended execution of sentence, and restrictions on parole eligibility. Mandatory minimum sentences prescribed by the laws of this state, mandatory life sentences prescribed by 46-18-219, the restrictions on deferred imposition and suspended execution of sentence prescribed by 46-18-201(1)(b), 46-18-205, 46-18-221(3), 46-18-224, and 46-18-502(3), and restrictions on parole eligibility prescribed by 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(c), and 45-5-625(4) do not apply if:

- (1) the offender was less than 18 years of age at the time of the commission of the offense for which the offender is to be sentenced;
- (2) the offender's mental capacity, at the time of the commission of the offense for which the offender is to be sentenced, was significantly impaired, although not so impaired as to constitute a defense to the prosecution. However, a voluntarily induced intoxicated or drugged condition may not be considered an impairment for the purposes of this subsection.
- (3) the offender, at the time of the commission of the offense for which the offender is to be sentenced, was acting under unusual and substantial duress, although not such duress as would constitute a defense to the prosecution;
- (4) the offender was an accomplice, the conduct constituting the offense was principally the conduct of another, and the offender's participation was relatively minor;
- (5) in a case in which the threat of bodily injury or actual infliction of bodily injury is an actual element

1 of the crime, no serious bodily injury was inflicted on the victim unless a weapon was used in the commission of
2 the offense; or

3 (6) the offense was committed under 45-5-502(3), 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3),
4 45-5-603(2)(c), or 45-5-625(4) and the judge determines, based on the findings contained in a sexual offender
5 evaluation report prepared by a qualified sexual offender evaluator pursuant to the provisions of 46-23-509, that
6 treatment of the offender while incarcerated, while in a residential treatment facility, or while in a local community
7 affords a better opportunity for rehabilitation of the offender and for the ultimate protection of the victim and
8 society, in which case the judge shall include in its judgment a statement of the reasons for its determination."

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10 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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