

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO THE CRIMINAL
5 SENTENCING OF YOUTH OFFENDERS; REVISING SENTENCING LAWS TO INCLUDE A RESTRICTION
6 ON A SENTENCE OF LIFE WITHOUT POSSIBILITY OF RELEASE FOR YOUTH OFFENDERS;
7 ESTABLISHING THAT A YOUTH OFFENDER IS ELIGIBLE FOR PAROLE CONSIDERATION AFTER
8 SERVING A MAXIMUM OF 20 YEARS OF THE SENTENCE; LIMITING THE AMOUNT OF TIME A YOUTH
9 OFFENDER MAY BE ORDERED TO SERVE BEFORE BEING GRANTED A SUBSEQUENT PAROLE
10 HEARING OR REVIEW; AMENDING SECTIONS 41-5-2503, 46-18-219, AND 46-23-201, MCA; AND
11 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."
12

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
14

15 NEW SECTION. **Section 1. Restriction on sentence of youth offender to life imprisonment**
16 **without possibility of release.** A court may not sentence an offender to a life sentence without the possibility
17 of release if the offender was less than 18 years of age at the time of the commission of the offense or offenses
18 for which the offender is to be sentenced.
19

20 **Section 2.** Section 41-5-2503, MCA, is amended to read:

21 **"41-5-2503. Disposition of criminally convicted youth.** (1) The district court, in sentencing a youth
22 adjudicated in district court pursuant to 41-5-206, shall:

23 (a) except as provided in [section 1], impose any sentence allowed by the statute that established the
24 penalty for the offense of which the youth is convicted as if the youth were an adult and any conditions or
25 restrictions allowed by statute;

26 (b) retain jurisdiction over the case until the criminally convicted youth reaches the age of 21;

27 (c) order the department to submit a status report to the court, county attorney, defense attorney, and
28 juvenile probation officer every 6 months until the youth attains the age of 21. The report must include a

1 recommendation from the department regarding the disposition of the criminally convicted youth.

2 (2) The district court shall review the criminally convicted youth's sentence pursuant to 41-5-2510
3 before the youth reaches the age of 21 if a hearing has not been requested under 41-5-2510."

4

5 **Section 3.** Section 46-18-219, MCA, is amended to read:

6 **"46-18-219. Life sentence without possibility of release.** (1) (a) Except as provided in [section 1]
7 or subsection (3) of this section, if an offender convicted of one of the following offenses was previously
8 convicted of one of the following offenses or of an offense under the laws of another state or of the United
9 States that, if committed in this state, would be one of the following offenses, the offender must be sentenced to
10 life in prison, unless the death penalty is applicable and imposed:

- 11 (i) 45-5-102, deliberate homicide;
- 12 (ii) 45-5-303, aggravated kidnapping;
- 13 (iii) 45-5-625, sexual abuse of children;
- 14 (iv) 45-5-627, except subsection (1)(b), ritual abuse of a minor; or
- 15 (v) 45-5-508, aggravated sexual intercourse without consent.

16 (b) Except as provided in [section 1] or subsection (3) of this section, if an offender convicted of one
17 of the following offenses was previously convicted of two of the following offenses, two of any combination of
18 the offenses listed in subsection (1)(a) or the following offenses, or two of any offenses under the laws of
19 another state or of the United States that, if committed in this state, would be one of the offenses listed in
20 subsection (1)(a) or this subsection (1)(b), the offender must be sentenced to life in prison, unless the death
21 penalty is applicable and imposed:

- 22 (i) 45-5-103, mitigated deliberate homicide;
- 23 (ii) 45-5-202, aggravated assault;
- 24 (iii) 45-5-215, strangulation of a partner or family member;
- 25 (iv) 45-5-302, kidnapping;
- 26 (v) 45-5-401, robbery; or
- 27 (vi) 45-5-603(2)(b), aggravated promotion of prostitution of a child.

28 (2) Except as provided in 46-23-210 and subsection (3) of this section, an offender sentenced under

1 subsection (1):

2 (a) shall serve the entire sentence;

3 (b) shall serve the sentence in prison;

4 (c) may not for any reason, except a medical reason, be transferred for any length of time to another
5 type of institution, facility, or program;

6 (d) may not be paroled; and

7 (e) may not be given time off for good behavior or otherwise be given an early release for any reason.

8 (3) If the offender was previously sentenced for either of two or three offenses listed in subsection (1),
9 pursuant to any of the exceptions listed in 46-18-222, then the provisions of subsections (1) and (2) of this
10 section do not apply to the offender's present sentence.

11 (4) The imposition or execution of the sentences prescribed by this section may not be deferred or
12 suspended. In the event of a conflict between this section and any provision of 46-18-201 or 46-18-205, this
13 section prevails.

14 (5) (a) For purposes of this section, "prison" means a secure detention facility in which inmates are
15 locked up 24 hours a day and that is operated by this state, another state, the federal government, or a private
16 contractor.

17 (b) Prison does not include a work release center, prerelease center, boot camp, or any other type of
18 facility that does not provide secure detention."

19

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

21 **"46-23-201. Prisoners eligible for nonmedical parole.** (1) Subject to the restrictions contained in
22 subsections (2) through (4) and the parole criteria in 46-23-208, the board may release on nonmedical parole
23 by appropriate order any person who is:

24 (a) confined in a state prison;

25 (b) sentenced to the state prison and confined in a prerelease center;

26 (c) sentenced to prison as an adult pursuant to 41-5-206 and confined in a youth correctional facility;

27 (d) sentenced to be committed to the custody of the director of the department of public health and
28 human services as provided in 46-14-312 and confined in the Montana state hospital, the Montana

1 developmental center, or the Montana mental health nursing care center.

2 (2) Persons under sentence of death, persons sentenced to the department who have been placed by
3 the department in a state prison temporarily for assessment or sanctioning, and persons serving sentences
4 imposed under 46-18-202(2) or 46-18-219 may not be granted a nonmedical parole.

5 (3) A Except as provided in subsection (5), a prisoner serving a time sentence may not be paroled
6 under this section until the prisoner has served at least one-fourth of the prisoner's full term.

7 (4) A Except as provided in subsection (5), a prisoner serving a life sentence may not be paroled
8 under this section until the prisoner has served 30 years.

9 (5) A prisoner who was less than 18 years of age at the time of the commission of the offense or
10 offenses for which the prisoner was sentenced is eligible for parole after the prisoner has served no more than
11 20 years unless the prisoner is eligible for an earlier parole consideration. The provisions of this subsection
12 apply regardless of any mandatory minimums, sentencing enhancements, parole restrictions, or multiple
13 sentences ordered to be served consecutively provided that the mandatory minimums, sentencing
14 enhancements, parole restrictions, or multiple sentences are for crimes committed by the prisoner before the
15 prisoner reached 18 years of age.

16 ~~(5)(6)~~ (a) If a hearing panel denies parole, it may order that the prisoner serve:

17 (i) except as provided in subsection (6)(b), up to 6 years if the prisoner is confined for a sexual or
18 violent offense, as defined in 46-23-502, before a hearing panel conducts another review or hearing; or

19 (ii) up to 1 year if the prisoner is confined for any other offense before a hearing panel conducts
20 another hearing or review.

21 (b) If a hearing panel denies parole to an offender who was less than 18 years of age at the time of
22 the commission of the sexual or violent offense or offenses, the hearing panel may not order that the prisoner
23 serve more than 3 years before a hearing panel conducts another review or hearing."

24
25 **NEW SECTION. Section 5. Codification instruction.** [Section 1] is intended to be codified as an
26 integral part of Title 46, chapter 18, part 2, and the provisions of Title 46, chapter 18, part 2, apply to [section 1].

27
28 **NEW SECTION. Section 6. Effective date.** [This act] is effective on passage and approval.

