

**** Bill No. ****

Introduced By *****

By Request of the Law and Justice Interim Committee

A Bill for an Act entitled: "An Act providing that the Board of Pardons and Parole may not assign additional prerequisites to release that were not assigned by the sentencing judge; amending sections 46-23-201, and 46-23-202, MCA."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-23-201 , MCA, is amended to read:

"46-23-201. Prisoners eligible for nonmedical parole -- rulemaking. (1) Subject to the restrictions contained in subsections (2) through (5) and when in the board's opinion there is reasonable probability that a prisoner can be released without detriment to the prisoner or to the community, the board may release on nonmedical parole by appropriate order any person who is:

(a) confined in a state prison;

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

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

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

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

(2) The board is prohibited from assigning additional prerequisites to release on parole that were not assigned by the sentencing judge.

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

~~(3)~~(4) A prisoner serving a time sentence may not be paroled under this section until the prisoner has served at least one-fourth of the prisoner's full term.

~~(4)~~(5) A prisoner serving a life sentence may not be paroled under this section until the prisoner has served 30 years.

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

~~(6)~~(7) For a prisoner sentenced to be committed to the custody of the director of the department of public health and human services as provided in 46-14-312:

(a) the board may require as a condition of parole participation in a supervised mental health treatment program to ensure that the prisoner continues to treat the prisoner's mental

disorder; and

(b) parole may be revoked if a prisoner fails to comply with the terms of a supervised mental health treatment program described in subsection (6)(a), in which case the prisoner must be recommitted to the custody of the director of the department of public health and human services pursuant to 46-14-312.

~~(7)~~(8) If a hearing panel denies parole, it may order that the prisoner serve up to 6 years before a hearing panel conducts another hearing or review. The board shall adopt by administrative rule a process by which a prisoner may request an earlier hearing or review."

{*Internal References to 46-23-201:*

46-23-217x }

Section 2. Section 46-23-202 , MCA, is amended to read:

"46-23-202. Initial parole hearing -- conduct of hearing.

Within the 2 months prior to a prisoner's official parole eligibility date or as soon after that date as possible, the department shall make the prisoner available for a hearing before a hearing panel. The hearing panel shall consider all available and pertinent information regarding the prisoner, including:

- (1) the circumstances of the offense;
- (2) the prisoner's previous social history and criminal record;
- (3) the prisoner's conduct, employment, and attitude in prison;
- (4) the reports of any physical, psychological, and mental

evaluations that have been made; and

(5) written or oral statements from criminal justice authorities or any other interested person or the interested person's legal representative, including written or oral statements from a victim regarding the effects of the crime on the victim. A victim's statement may also include but is not limited to the circumstances surrounding the crime, the manner in which the crime was committed, and the victim's opinion as to whether the prisoner should be paroled. The victim's statement may be kept confidential.

(6) The board is prohibited from assigning additional prerequisites to release on parole that were not assigned by the sentencing judge."

{*Internal References to 46-23-202:*

46-24-212x }

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