

HOUSE BILL 100

Introduced by Russell

1/05	Introduced
1/05	Fiscal Note Requested
1/05	Referred to Judiciary
1/07	First Reading
1/12	Fiscal Note Received
1/15	Fiscal Note Printed
1/18	Hearing
1/23	Tabled in Committee

HOUSE BILL NO. 100

INTRODUCED BY RUSSELL

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE

ON ADULT AND JUVENILE DETENTION

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR GARNISHMENT AND ATTACHMENT OF PROPERTY FOR PERSONS WHO FAIL TO PAY FINES FOR MINOR TRAFFIC OFFENSES; ELIMINATING INCARCERATION, IN MANY INSTANCES, FOR FAILURE TO PAY THE FINES; ALLOWING INDIVIDUALS WHO ARE UNABLE TO PAY THE FINES TO PERFORM COMMUNITY SERVICE IN LIEU OF PAYMENT; AND AMENDING SECTIONS 61-8-104, 61-8-711, 61-8-720, 61-9-104, 61-9-511, 61-9-515, 61-9-518, AND 61-9-519, MCA."

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

Section 1. Section 61-8-104, MCA, is amended to read:

"61-8-104. Required obedience to traffic laws. It is unlawful and, unless otherwise declared in this chapter with respect to particular offenses, it is a misdemeanor punishable as provided in 61-8-711 for any person to do any act forbidden or fail to perform any act required in this chapter."

Section 2. Section 61-8-711, MCA, is amended to read:

"61-8-711. Violation of chapter -- penalty. (1) It is a misdemeanor for any person to violate any of the provisions

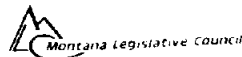
of this chapter unless the violation is declared to be a felony by this chapter or other law of this state.

(2) Every A person convicted of a misdemeanor for a violation of any of the provisions of this chapter for which another penalty is not provided shall for a first conviction thereof be punished by a fine of not less than \$10 or more than \$100 or by imprisonment for not more than 10 days. For a second conviction within 1 year thereafter, the person shall be punished by a fine of not less than \$25 or more than \$200 or by imprisonment for not more than 20 days or by both such fine and imprisonment. Upon a third or subsequent conviction within 1 year after the first conviction, the person shall be punished by a fine of not less than \$50 or more than \$500 or by imprisonment for not more than 6 months or by both such fine and imprisonment.

(3) On failure of payment of a fine, the offender in case of a misdemeanor Except as provided in subsection (4), failure to pay a fine imposed under this chapter is a civil contempt of the court. On failure of payment of a fine, the court may:

(a) order enforcement of the fine by execution in the same manner as if it were a judgment, as provided in 25-13-204, and pursuant to the provisions of Title 25, chapter 13; and

(b) order a defendant to perform community service. For



1 each hour of community service performed, the defendant
 2 shall be credited with an amount equal to the state minimum
 3 hourly wage, as provided in 39-3-404.

4 (4) If property is not found in an amount necessary to
 5 satisfy the unpaid portion of the fine and if the court
 6 makes a written finding that community service is
 7 inappropriate, the defendant shall be imprisoned in the
 8 county jail in the county in which the offense was
 9 committed, and the imprisonment shall be computed upon
 10 the basis of one 1 day's incarceration for each \$10 \$25 of
 11 the fine.

12 ~~(4)~~(5) Upon conviction, the court costs or any part
 13 thereof of the court costs may be assessed against the
 14 defendant in the discretion of the court."

15 **Section 3.** Section 61-8-720, MCA, is amended to read:

16 "61-8-720. Penalty. Any person who violates any of the
 17 provisions of 61-8-331(2) is guilty of a misdemeanor. Upon
 18 arrest and conviction therefor, he shall be punished by a
 19 fine of not less than \$5 or more than \$100 or--by
 20 imprisonment-in-the-city-or-county-jail-for-not-less-than--5
 21 days-or-more-than-90-days-or-by-both-fine-and-imprisonment."

22 **Section 4.** Section 61-9-104, MCA, is amended to read:

23 "61-9-104. Required obedience to traffic laws. It is
 24 unlawful and, unless otherwise declared in this chapter with
 25 respect to particular offenses, it is a misdemeanor

1 punishable as provided in 61-9-511 for any person to do any
 2 act forbidden or fail to perform any act required in this
 3 chapter."

4 **Section 5.** Section 61-9-511, MCA, is amended to read:

5 "61-9-511. Violation of chapter -- penalty. (1) It is a
 6 misdemeanor for any person to violate any of the provisions
 7 of this chapter unless such the violation is by-this-chapter
 8 or-other-law-of-this-state declared to be a felony.

9 (2) Every A person convicted of a misdemeanor for a
 10 violation of any of the provisions of this chapter for which
 11 another penalty is not provided shall for a first conviction
 12 thereof be punished by a fine of not less than \$10 or more
 13 than \$100 or-by-imprisonment-for-not-more-than-10-days. For
 14 a second conviction within 1 year, thereafter-such the
 15 person shall be punished by a fine of not less than \$25 or
 16 more than \$200 or-by-imprisonment-for-not-more-than-20-days
 17 or-by-both-such-fine--and--imprisonment. Upon a third or
 18 subsequent conviction within 1 year after the first
 19 conviction, such the person shall be punished by a fine of
 20 not less than \$50 or more than \$500 or-by-imprisonment-for
 21 not-more-than-6-months-or-by-both-fine-and-imprisonment.

22 (3) ~~On-failure-of-payment-of--fines--the--offender--in~~
 23 ~~cases--of--misdemeanor~~ Except as provided in subsection (4),
 24 failure to pay a fine imposed under this chapter is a civil
 25 contempt of the court. On failure of payment of a fine, the

1 court may:

2 (a) order enforcement of the fine by execution in the
 3 same manner as if it were a judgment, as provided in
 4 25-13-204, and pursuant to the provisions of Title 25,
 5 chapter 13; and

6 (b) order a defendant to perform community service. For
 7 each hour of community service performed, the defendant
 8 shall be credited with an amount equal to the state minimum
 9 hourly wage, as provided in 39-3-404.

10 (4) If property is not found in an amount necessary to
 11 satisfy the unpaid portion of the fine and if the court
 12 makes a written finding that community service is
 13 inappropriate, the defendant shall be imprisoned in the
 14 county jail in the county in which the offense has been
 15 committed, and said. The imprisonment shall be computed upon
 16 the basis of \$2 \$25 of said the fine for each day's
 17 incarceration.

18 (4)(5) Upon conviction, the court costs, or any part
 19 thereof, of the court costs may also be assessed against the
 20 defendant in the discretion of the court."

21 **Section 6.** Section 61-9-515, MCA, is amended to read:

22 "61-9-515. Violations of provisions relating to
 23 fenders, splash aprons, or flaps -- penalty. Any person
 24 violating any of the provisions of 61-9-407 shall be deemed
 25 is guilty of a misdemeanor and upon conviction thereof shall

1 be punished by a fine of not less than \$10 or more than \$25
 2 ~~or by imprisonment in the county jail for a period of not~~
 3 ~~more than 30 days or by both such fine and imprisonment."~~

4 **Section 7.** Section 61-9-518, MCA, is amended to read:

5 "61-9-518. Violation of motorcycle or quadricycle
 6 requirements -- penalty. (1) A person convicted of the
 7 violation of 61-9-417 shall be fined \$5.

8 (2) A person convicted of the violation of 61-9-418
 9 shall be punished by a fine of not less than \$10 or more
 10 than \$100 ~~or by imprisonment for not more than 10 days or by~~
 11 ~~both such fine and imprisonment~~ for the first such
 12 conviction. For a second conviction within 1 year
 13 thereafter, such the person shall be punished by a fine of
 14 not less than \$25 or more than \$200 ~~or by imprisonment for~~
 15 ~~not more than 20 days or by both such fine and imprisonment.~~
 16 Upon a third or subsequent conviction within 1 year after
 17 the first conviction, such the person shall be punished by a
 18 fine of not less than \$50 or more than \$500 ~~or by~~
 19 ~~imprisonment for not more than 6 months or by both such fine~~
 20 ~~and imprisonment."~~

21 **Section 8.** Section 61-9-519, MCA, is amended to read:

22 "61-9-519. Violation of tire restrictions -- penalty. A
 23 person violating 61-9-406 is guilty of a misdemeanor and is
 24 subject to a penalty as provided in 61-9-511."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0100, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

The proposed legislation provides for the garnishment and attachment of property for persons who fail to pay fines for minor traffic offenses; eliminates incarceration for failure to pay fines; and allows individuals who are unable to pay fines to perform community service in lieu of payment.

ASSUMPTIONS:


1. Section 2 of the bill provides for enforcement of misdemeanor fines through judgment against property. While this may increase revenue for some fines which are otherwise uncollectible, the amount of the revenue can not be estimated.
2. Section 3-10-601, MCA, provides for the distribution of 50% of fines and forfeitures collected by justices of the peace to the state treasury. 23% of such state collections are deposited in the state general fund. However, as noted in assumption #1, increased collections from property judgments are not subject to reasonable estimate.

FISCAL IMPACT:

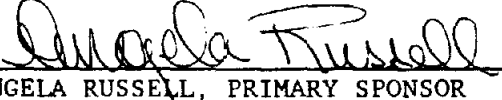
The fiscal impact to state government is not subject to reasonable estimate.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

City and county government revenues may be increased through property judgments against unpaid fines. Expenditures for incarcerations will be reduced because fewer incarcerations will occur for misdemeanor offenses. The reduction in incarcerations may reduce jail overcrowding which would impact expansion decisions by local governments.



ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning 1-11-91



ANGELA RUSSELL, PRIMARY SPONSOR DATE
Fiscal Note for HB0100, as introduced 1/14/91

HB 100