

HOUSE BILL NO. 618

INTRODUCED BY BERGSAGEL, WHALEN, TOOLE,  
MERCER, STRIZICH

IN THE HOUSE

FEBRUARY 5, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
ON JUDICIARY.

FEBRUARY 6, 1991                   FIRST READING.

FEBRUARY 20, 1991                  COMMITTEE RECOMMEND BILL  
DO PASS. REPORT ADOPTED.

FEBRUARY 21, 1991                  PRINTING REPORT.

FEBRUARY 23, 1991                  SECOND READING, DO PASS.

FEBRUARY 25, 1991                  ENGROSSING REPORT.

FEBRUARY 26, 1991                  THIRD READING, PASSED.  
AYES, 99; NOES, 0.

TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 27, 1991                  INTRODUCED AND REFERRED TO COMMITTEE  
ON JUDICIARY.

FIRST READING.

MARCH 22, 1991                    COMMITTEE RECOMMEND BILL BE  
CONCURRED IN AS AMENDED. REPORT  
ADOPTED.

MARCH 23, 1991                    SECOND READING, CONCURRED IN.

MARCH 25, 1991                    THIRD READING, CONCURRED IN.  
AYES, 48; NOES, 0.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 9, 1991                    RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

APRIL 10, 1991

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 618  
 2 INTRODUCED BY Benny Whalen  
 3 MERCER

4 A BILL FOR AN ACT ENTITLED: "AN ACT CONFORMING THE  
 5 PROCEDURE FOR AN APPEAL OF A CRIMINAL DECISION FROM A  
 6 JUSTICE'S OR CITY COURT TO THE APPEAL OF A CIVIL DECISION;  
 7 CLARIFYING THE DUTY TO FILE THE APPEAL AND TO TRANSMIT THE  
 8 APPEAL RECORD; PROVIDING FOR A FINE FOR FAILURE TO TRANSMIT  
 9 THE APPEAL RECORD; AND AMENDING SECTION 46-17-311, MCA."

10  
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 46-17-311, MCA, is amended to read:

13 "46-17-311. Appeal. (1) Except as provided in  
 14 46-17-203, all cases on appeal from justices' or city courts  
 15 must be tried anew in the district court and may be tried  
 16 before a jury of six selected in the same manner as a trial  
 17 jury in a civil action, except that the total number of  
 18 jurors drawn shall be at least six plus the total number of  
 19 peremptory challenges.

20 (2) A party may appeal to the district court by giving  
 21 filing a written notice of his intention to appeal within 10  
 22 days after judgment with the justice's court or city court  
 23 that entered the judgment, except that the state may only  
 24 appeal in the cases provided for in 46-20-103.

25 (3) ~~Within--30--days~~ Upon the filing of a notice of

1 appeal, the justice of the peace or city court judge shall  
 2 transmit the entire record of the justice's-or-city-court  
 3 proceedings must-be-transferred to the district court or-the  
 4 appeal-must-be-dismissed--it-is-the-duty-of-the-appellant-to  
 5 perfect-the-appeal within 10 days. The justice of the peace  
 6 or city court judge may be compelled by the district court,  
 7 by an order entered upon motion, to transmit the record and  
 8 may be fined for neglect or refusal to transmit the record."

-End-



-2- INTRODUCED BILL  
 HB618

APPROVED BY COMMITTEE  
ON JUDICIARY

1 HOUSE BILL NO. 618  
 2 INTRODUCED BY Benjamin Whalen  
 3 MERCER  
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-End-

SECOND READING

HB618



1 House BILL NO. 618  
 2 INTRODUCED BY Bernard Whalen Tolc  
 3 Mercer  
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1 appeal, the justice of the peace or city court judge shall  
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 3 proceedings must be transferred to the district court or the  
 4 appeal must be dismissed. It is the duty of the appellant to  
 5 perfect the appeal within 10 days. The justice of the peace  
 6 or city court judge may be compelled by the district court,  
 7 by an order entered upon motion, to transmit the record and  
 8 may be fined for neglect or refusal to transmit the record."

-End-

THIRD READING

HB618



SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 22, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 618 (third reading copy -- blue), respectfully report that House Bill No. 618 be amended and as so amended be concurred in:

1. Page 2, line 9.

Insert: "NEW SECTION. Section 2. Coordination instruction. If Senate Bill No. 51 is passed and approved and if Senate Bill No. 51 contains a section amending 46-17-311, then [this act] is void."

Signed: Wm Yellowtail  
Richard Pinsoneault, Chairman

AM 3-22-91  
And. Coord.  
SB 3-22 1:10  
Sec. of Senate

SENATE  
HB 618

## 1 HOUSE BILL NO. 618

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3 MERCER, STRIZICH

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9 may be fined for neglect or refusal to transmit the record."

10 NEW SECTION. SECTION 2. COORDINATION INSTRUCTION. IF  
11 SENATE BILL NO. 51 IS PASSED AND APPROVED AND IF SENATE BILL  
12 NO. 51 CONTAINS A SECTION AMENDING 46-17-311, THEN [THIS  
13 ACT] IS VOID.

-End-