SENATE BILL NO. 398

INTRODUCED BY TOWE, HARP, DOHERTY, PINSONEAULT, HALLIGAN, YELLOWTAIL, RYE, GROSFIELD, MAZUREK, CRIPPEN, SVRCEK
BY REQUEST OF THE SENATE JUDICIARY COMMITTEE

IN THE SENATE

	IN THE SENATE
FEBRUARY 15, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 21, 1991	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 22, 1991	PRINTING REPORT.
FEBRUARY 23, 1991	SECOND READING, DO PASS.
FEBRUARY 25, 1991	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 49; NOES, 0.
	TRANSMITTED TO HOUSE.
	Tidinohililib 10 moobb.
	IN THE HOUSE
MARCH 4, 1991	
MARCH 4, 1991	IN THE HOUSE INTRODUCED AND REFERRED TO COMMITTEE
MARCH 4, 1991 MARCH 12, 1991	IN THE HOUSE INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	IN THE HOUSE INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY. FIRST READING. COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT
MARCH 12, 1991	IN THE HOUSE INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY. FIRST READING. COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 12, 1991 MARCH 16, 1991	IN THE HOUSE INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY. FIRST READING. COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED. SECOND READING, CONCURRED IN. THIRD READING, CONCURRED IN.

MARCH 23, 1991 RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS

CONCURRED IN.

MARCH 25, 1991

THIRD READING, AMENDMENTS CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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1 2 3 manuel 4 5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A MINOR 6 CONVICTED UNLAWFIII. POSSESSION OF AN INTOXICATING 7 SUBSTANCE MAY BE SENTENCED TO PERFORM COURT-ORDERED 8 COMMUNITY SERVICE; AND AMENDING SECTION 45-5-624, MCA." 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 10 11 Section 1. Section 45-5-624, MCA, is amended to read: 12 *45-5-624. Unlawful possession of an intoxicating 13 substance -- interference with sentence or court order. 14 (1) (a) A person under the age of 19 years commits the 15 offense of possession of an intoxicating substance if he 16 knowingly consumes or has in his possession an intoxicating 17 substance. The person need not be consuming or in possession 18 of the intoxicating substance at the time of his arrest to 19 violate this subsection. 20 (b) A person under the age of 21 commits the offense of 21 possession of an intoxicating substance if he knowingly has 22 in his possession an alcoholic beverage, except as provided 23 in 16-6-305 and except that he does not commit the offense 24 if he consumes or gains possession of the beverage because

it was lawfully supplied to him under 16-6-305 or when in

the course of his employment it is necessary to possess alcoholic beverages.

- 3 (2) A person convicted of the offense of possession of 4 an intoxicating substance shall:
 - (a) if the person:
- (i) is less than 18 years of age, be fined not to exceed \$50; or
- 8 (ii) is 18 years or older, be fined an amount not to
 9 exceed \$50 for a first offense, \$100 for a second offense,
 10 and \$200 for a third offense; for a fourth or subsequent
 11 offense a person may be fined an amount not to exceed \$300
 12 or be imprisoned in the county jail for a term not to exceed
 13 6 months, or both; and
 - (b) be ordered to complete and pay, either directly with money or indirectly through court-ordered community service, all costs of his participation in a community-based substance abuse information course;
 - (c) have his driver's license confiscated by the court for not more than 90 days and be ordered not to drive during that period if he was driving or otherwise in actual physical control of a motor vehicle when the offense occurred: or
- 23 (d) be ordered to perform community service; or
- 24 (d)(e) be sentenced to any combination of these

25 penalties.

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INTRODUCED BILL SB 398

1 (3) A defendant who fails to comply with a sentence and 2 is under 21 years of age and was under 18 years of age when he failed to comply must be transferred to the youth court. 3 If proceedings for violation of subsection (1) are held in 4 5 the youth court, the penalties in subsection (2) do not apply. If proceedings for violation of subsection (1) or for 6 7 failure to comply with a sentence are held in the youth court, the offender shall be treated as an alleged youth in 8 need of supervision as defined in 41-5-103. The youth court 9 may enter its judgment under 41-5-523. 10

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16 17 (4) A person commits the offense of interference with a sentence or court order if he purposely or knowingly causes his child or ward to fail to comply with a sentence imposed under this section or a youth court disposition order for a youth found to have violated this section and upon conviction shall be fined \$100 or imprisoned in the county jail for 10 days, or both."

-End-

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APPROVED BY COMMITTEE ON JUDICIARY

1 INTRODUCED BY 2 OF THE SENATE JUDICIARY COMMITTEE 3 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A MINOR CONVICTED OF UNLAWFUL POSSESSION OF AN INTOXICATING SUBSTANCE MAY BE SENTENCED 7 TO PERFORM COURT-ORDERED COMMUNITY SERVICE; AND AMENDING SECTION 45-5-624, MCA." 8 9 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 Section 1. Section 45-5-624, MCA, is amended to read: "45-5-624. Unlawful possession of an intoxicating 12 13 substance -- interference with sentence or court order. 14 (1) (a) A person under the age of 19 years commits the

offense of possession of an intoxicating substance if he knowingly consumes or has in his possession an intoxicating substance. The person need not be consuming or in possession of the intoxicating substance at the time of his arrest to violate this subsection.

(b) A person under the age of 21 commits the offense of possession of an intoxicating substance if he knowingly has in his possession an alcoholic beverage, except as provided in 16-6-305 and except that he does not commit the offense if he consumes or gains possession of the beverage because it was lawfully supplied to him under 16-6-305 or when in

- the course of his employment it is necessary to possess
- (2) A person convicted of the offense of possession of 3 an intoxicating substance shall:
 - (a) if the person:

6 months, or both; and

alcoholic beverages.

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- (i) is less than 18 years of age, be fined not to 6 exceed \$50; or
 - (ii) is 18 years or older, be fined an amount not to exceed \$50 for a first offense, \$100 for a second offense, and \$200 for a third offense; for a fourth or subsequent offense a person may be fined an amount not to exceed \$300 or be imprisoned in the county jail for a term not to exceed
- (b) be ordered to complete and pay, either directly 14 with money or indirectly through court-ordered community 15 service, all costs of his participation in a community-based 16 substance abuse information course; 17
- (c) have his driver's license confiscated by the court 18 for not more than 90 days and be ordered not to drive during 19 that period if he was driving or otherwise in actual 20 physical control of a motor vehicle when the offense 21 22 occurred; or
- (d) be ordered to perform community service; or 23
- sentenced to any combination of these 24 td+(e) be
- penalties. 25

SECOND READING

(3) A defendant who fails to comply with a sentence and is under 21 years of age and was under 18 years of age when he failed to comply must be transferred to the youth court. If proceedings for violation of subsection (1) are held in the youth court, the penalties in subsection (2) do not apply. If proceedings for violation of subsection (1) or for failure to comply with a sentence are held in the youth court, the offender shall be treated as an alleged youth in need of supervision as defined in 41-5-103. The youth court may enter its judgment under 41-5-523.

 (4) A person commits the offense of interference with a sentence or court order if he purposely or knowingly causes his child or ward to fail to comply with a sentence imposed under this section or a youth court disposition order for a youth found to have violated this section and upon conviction shall be fined \$100 or imprisoned in the county jail for 10 days, or both."

-End-

INTRODUCED BY SAN HAR DOWNY COMMITTEE

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COSTSCILL THE SENATE UDICIARY COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A MINOR CONVICTED OF UNLAWFUL POSSESSION OF AN INTOXICATING SUBSTANCE MAY BE SENTENCED TO PERFORM COURT-ORDERED COMMUNITY SERVICE; AND AMENDING SECTION 45-5-624, MCA."

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

Section 1. Section 45-5-624, MCA, is amended to read:

*45-5-624. Unlawful possession of an intoxicating substance -- interference with sentence or court order.

(1) (a) A person under the age of 19 years commits the offense of possession of an intoxicating substance if he knowingly consumes or has in his possession an intoxicating substance. The person need not be consuming or in possession of the intoxicating substance at the time of his arrest to violate this subsection.

(b) A person under the age of 21 commits the offense of possession of an intoxicating substance if he knowingly has in his possession an alcoholic beverage, except as provided in 16-6-305 and except that he does not commit the offense if he consumes or gains possession of the beverage because it was lawfully supplied to him under 16-6-305 or when in

the course of his employment it is necessary to possess
alcoholic beverages.

- 3 (2) A person convicted of the offense of possession of 4 an intoxicating substance shall:
 - (a) if the person:

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- 6 (i) is less than 18 years of age, be fined not to 7 exceed \$50; or
 - (ii) is 18 years or older, be fined an amount not to exceed \$50 for a first offense, \$100 for a second offense, and \$200 for a third offense; for a fourth or subsequent offense a person may be fined an amount not to exceed \$300 or be imprisoned in the county jail for a term not to exceed 6 months, or both; and
- 14 (b) be ordered to complete and pay, either directly
 15 with money or indirectly through court-ordered community
 16 service, all costs of his participation in a community-based
 17 substance abuse information course;
- 18 (c) have his driver's license confiscated by the court
 19 for not more than 90 days and be ordered not to drive during
 20 that period if he was driving or otherwise in actual
 21 physical control of a motor vehicle when the offense
 22 occurred; or
- 23 (d) be ordered to perform community service; or
- 24 (d)(e) be sentenced to any combination of these

25 penalties.

THIRD READING

Countains Legislative Council

· sb 398

1 (3) A defendant who fails to comply with a sentence and 2 is under 21 years of age and was under 18 years of age when 3 he failed to comply must be transferred to the youth court. 4 If proceedings for violation of subsection (1) are held in 5 the youth court, the penalties in subsection (2) do not 6 apply. If proceedings for violation of subsection (1) or for 7 failure to comply with a sentence are held in the youth 8 court, the offender shall be treated as an alleged youth in 9 need of supervision as defined in 41-5-103. The youth court 10 may enter its judgment under 41-5-523.

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(4) A person commits the offense of interference with a sentence or court order if he purposely or knowingly causes his child or ward to fail to comply with a sentence imposed under this section or a youth court disposition order for a youth found to have violated this section and upon conviction shall be fined \$100 or imprisoned in the county jail for 10 days, or both."

-End-

HOUSE STANDING COMMITTEE REPORT

March 12, 1991 Page 1 of 1

Mr. Speaker: We, the committee on <u>Judiciary</u> report that <u>Senate Bill 398</u> (third reading copy -- blue) <u>be concurred in as amended</u>.

Signed:

Bill Strizich, Chairman

Carried by: Rep. Lee

And, that such amendments read:

1. Page 3, line 18. Following: line 17

Insert: "NEW SECTION. Section 2. Coordination instruction. If House Bill No. 668 is passed and approved, then the amendment in [this act] must be codified both as 45-5-624(2)(a)(iii) and 45-5-624(2)(b)(iii) and relate both to persons less than 18 years of age and persons 18 years of age or older."

HOUSE SB 398 531150sc.hsf

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-	02.3.12
2	INTRODUCED BY TOWE, HARP, DOHERTY, PINSONEAULT,
3	HALLIGAN, YELLOWTAIL, RYE, GROSFIELD,
4	MAZUREK, CRIPPEN, SVRCEK
5	BY REQUEST OF THE SENATE JUDICIARY COMMITTEE
6	
7	A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A MINOR
8	CONVICTED OF UNLAWFUL POSSESSION OF AN INTOXICATING
9	SUBSTANCE MAY BE SENTENCED TO PERFORM COURT-ORDERED
10	COMMUNITY SERVICE; AND AMENDING SECTION 45-5-624, MCA."
11	
12	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13	Section 1. Section 45-5-624, MCA, is amended to read:
14	"45-5-624. Unlawful possession of an intoxicating
15	substance interference with sentence or court order.
16	(1) (a) A person under the age of 19 years commits the
17	offense of possession of an intoxicating substance if he
18	knowingly consumes or has in his possession an intoxicating
19	substance. The person need not be consuming or in possession
20	of the intoxicating substance at the time of his arrest to
21	violate this subsection.
22	(b) A person under the age of 21 commits the offense of
23	possession of an intoxicating substance if he knowingly has
24	in his possession an alcoholic beverage, except as provided

in 16-6-305 and except that he does not commit the offense

SENATE BILL NO. 398

- if he consumes or gains possession of the beverage because 1 it was lawfully supplied to him under 16-6-305 or when in 3 the course of his employment it is necessary to possess alcoholic beverages. 5 (2) A person convicted of the offense of possession of an intoxicating substance shall: 7 (a) if the person: 8 (i) is less than 18 years of age, be fined not to 9 exceed \$50; or (ii) is 18 years or older, be fined an amount not to 10 11 exceed \$50 for a first offense, \$100 for a second offense, 12 and \$200 for a third offense; for a fourth or subsequent 13 offense a person may be fined an amount not to exceed \$300 14 or be imprisoned in the county jail for a term not to exceed 15 6 months, or both; and (b) be ordered to complete and pay, either directly 16 17 18
 - with money or indirectly through court-ordered community service, all costs of his participation in a community-based substance abuse information course:
- (c) have his driver's license confiscated by the court 21 for not more than 90 days and be ordered not to drive during that period if he was driving or otherwise in actual 23 physical control of a motor vehicle when the offense occurred; or

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25 (d) be ordered to perform community service; or



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- 3 (3) A defendant who fails to comply with a sentence and 4 is under 21 years of age and was under 18 years of age when 5 he failed to comply must be transferred to the youth court. 6 If proceedings for violation of subsection (1) are held in
- 7 the youth court, the penalties in subsection (2) do not
- 8 apply. If proceedings for violation of subsection (1) or for
- 9 failure to comply with a sentence are held in the youth
- 10 court, the offender shall be treated as an alleged youth in
- 11 need of supervision as defined in 41-5-103. The youth court
- 12 may enter its judgment under 41-5-523.
- 13 (4) A person commits the offense of interference with a
 14 sentence or court order if he purposely or knowingly causes
 15 his child or ward to fail to comply with a sentence imposed
 16 under this section or a youth court disposition order for a
 17 youth found to have violated this section and upon
 18 conviction shall be fined \$100 or imprisoned in the county
- 19 jail for 10 days, or both."
- 20 NEW SECTION. SECTION 2. COORDINATION INSTRUCTION. IF
- 21 HOUSE BILL NO. 668 IS PASSED AND APPROVED, THEN THE
- 22 AMENDMENT IN [THIS ACT] MUST BE CODIFIED BOTH AS
- 23 45-5-624(2)(A)(III) AND 45-5-624(2)(B)(III) AND RELATE BOTH
- TO PERSONS LESS THAN 18 YEARS OF AGE AND PERSONS 18 YEARS OF
- 25 AGE OR OLDER.