

MONTANA STATE SENATE  
JUDICIARY COMMITTEE  
MINUTES OF THE MEETING

March 4, 1987

The thirty-fifth meeting of the Senate Judiciary Committee was called to order at 10:00 a.m. on March 4, 1987 by chairman Joe Mazurek, in Room 325 of the state Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 267: Representative John Mercer, House District 50, Polson, presented the bill, and said it imposes a duty on mental health professionals to warn of a patient's violent behavior in certain cases, establishes the means of discharging that duty, and grants immunity from suit in other cases. (Exhibit 1)

PROPOSERS: Steve Waldron, Mental Health Centers, supports HB 267. (Exhibit 2)

Dr. Hugh Black, Montana Psychological Association, stated the duty to warn people about a mental health patient's attitude toward them can lead to liability problems. (See witness sheet)

Joan Rebich, Mental Health Counselor's Association, said the counselors support the bill but don't want an amendment that makes a psychiatrist tell a person who could be a victim, about a mentally ill person's feelings toward them because she felt that was in their code of ethics already.

Judith Carlson, Montana Association of Social Workers, is in favor of the bill.

Bill Leary, Montana Hospital Association, said the threat is only reported, not the mental diagnosis of the patient, so the hospitals feel it is not a breach of confidentiality.

Joy McGrath, Mental Health Association, gave the committee the amendment that several other proponents didn't like. (Exhibit 3) She felt the amendment will take into consideration the client's rights, so the amendment will allow the mental health professional, after the patient tells the professional that he might do something violent, to tell the patient that he will warn the victim-to-be of the patient's intent.

OPPONENTS: There were none.

DISCUSSION ON HOUSE BILL 267: Senator Pinsoneault asked if the amendment wouldn't hurt the patient/professional therapist relationship. Ms. McGrath felt it was a fundamental right for the client to know about this.

Senator Yellowtail inquired how specific the threat must be before taking action. Rep. Mercer said one has to determine specific means, like details on how the client would hurt or kill a person. He said a simple sentence of "I am going to kill my wife" can't be taken seriously, but if a client said "I am going to kill my wife with a 6 inch knife", then the professional has merit to warn of harm.

Senator Crippen said a professional therapist is damned if he does tell because he loses his relationship with the patient, and damned if he doesn't tell because there could be an act of violence, which is followed by a lawsuit. Ms. McGrath said that is true, but this is a compromise because some people wanted therapists to tell a patient everytime they had a visit that they could divulge information that sounded threatening. She said what she has presented is a therapist only tells a client he might tell the authorities about the client's threat if the threat is severe. She said the professional would not start every visit with a warning of what might be said may be used against the client.

Senator Blaylock asked if this would include priests and ministers. Mr. Waldron said he felt they were not included in this bill. He said there are requirements to breach confidentiality in certain situations. Senator Blaylock asked if school counselors were included. Mr. Waldron said they were not. He said it is only mental health professionals that can make a professional decision on a person's mental well being. Senator Blaylock mentioned the Lewistown youth that killed the substitute teacher. He felt

school counselors should be included because they may know more about a student who might "blow". Mr. Waldron said school counselors are not trained to decide if someone is mentally ill.

Senator Beck asked why the threat provision is so light. He felt a simple threat should be taken seriously from a mental patient. Rep. Mercer said a threat that comes to nothing will start to be a "cry of wolf". He said no one will take a "cry wolf" client seriously until the client really does do something, and then it is too late.

Rep. Mercer closed by saying if a mentally ill person calls a hotline crisis number and gets a therapist on the other end who says, "I must warn you that anything you say may be used against you", that person will probably hang up. He felt the McGrath amendment does this. He doesn't agree with the amendment.

CONSIDERATION OF HOUSE BILL 65: Representative Ray Peck of Havre introduced House Bill 65, which amends the statute that provides for serving out traffic fines by spending time in jail. Under current law, a misdemeanor fine can be served out at \$2 a day. Under this bill, the amount credited per day is raised to \$10 a day.

PROPOSERS: Jim Haynes, Montana Magistrates Association, supports the bill.

OPPOSERS: There were none.

DISCUSSION ON HOUSE BILL 65: Senator Mazurek asked when was the last time this fine was raised. Rep. Peck said he didn't know; around 30 years.

Representative Peck closed the hearing on House Bill 65.

ACTION ON HOUSE BILL 65: Senator Blaylock moved HB 65 BE CONCURRED IN. The motion carried.

CONSIDERATION OF HOUSE BILL 139: Representative Francis Koehnke, Townsend, presented the bill, which amends the Good Samaritan law to change the amount that a person be compensated for volunteer services and still fall within the Good Samaritan exemption from liability.

PROPOSERS: Ellen Calligan, Emergency Medical Technicians, said because Montana is such a large state, many emergency assistance people are volunteers. She said many EMT daily crews are homemakers, and they do not have any liability insurance as an EMT.

Drew Dawson, Montana Department of Health, said the department supports the bill.

Lyle P. Nagel, Montana State Volunteer Firefighters Association, stated many homemakers, college students, and unemployed people have volunteered for emergency medical work, and need liability insurance.

Bill Leary, Montana Hospital Association, supports HB 139.

Henry Elohn, Montana State Volunteer Firefighters, supports the bill.

OPPONENTS: There were none.

DISCUSSION OF HOUSE BILL 139: There was none.

CONSIDERATION OF HOUSE BILL 58: Representative Nancy Keenan, Anaconda, introduced HB 58, which amends five criminal procedure statutes to authorize "licensed clinical psychologists", as well as psychiatrists, to examine defendants who rely on mental disease or defect as an issue in criminal actions. She distributed a summary on the bill. (Exhibit 4) She also presented a letter from District Judge Michael Keedy on the bill. (Exhibit 5)

PROPONENTS: Dr. Hugh Black, Montana Psychologist Assn. supported the bill. (see witness sheet)

OPPONENTS: There were none.

DISCUSSION OF HOUSE BILL 58: Senator Pinsoneault asked who came to Rep. Keenan to request this bill. She said the psychologists have been doing this for awhile, and they felt it should be clarified in the law.

Rep. Keenan closed the hearing on HB 58.

ACTION ON HOUSE BILL 58: Senatot Blaylock moved the bill BE CONCURRED IN. The motion carried.

ACTION ON HOUSE BILL 21: Valencia Lane gave the committee a gray bill for HB 21. (Exhibit 6) Senator Mazurek asked if there was a state constitutional delegation problem in the 55 mph bill. Valencia said there wasn't. She said that problem was if the federal government repealed the requirement of the 55 mph requirement, then the Attorney General will change the speed limit. She said the Montana Supreme Court found that unconstitutional.

Senator Brown moved the amendments in the gray bill. The motion carried. Senator Halligan moved House Bill 21 BE CONCURRED IN AS AMENDED. The motion carried.

ACTION ON HOUSE BILL 139: Senator Halligan moved House Bill 139 BE CONCURRED IN. The motion carried.

ACTION ON HOUSE BILL 267: Senator Pinsoneault moved on page 2, line 5, to strike "or" and insert the word "and", so the psychologist will warn both, the authorities and the victim. Senator Bishop said it works both ways; he felt if the victim knew of the threat, the victim might cause the violent act. Senator Beck felt the police should be the only ones to know, because they will try to contact you instead of a psychiatrist. The motion carried, with Senators Halligan, Beck and Crippen voting no.

Senator Blaylock moved Joy McGrath's amendment (exhibit 3). He agreed the patient should know when confidentiality is broken. Senator Bishop said a patient won't divulge what is on his mind if the committee passes this amendment. Senator Pinsoneault agreed with Senator Bishop. Senator Blaylock said to the five attorneys on the committee, that he knew they would probably break confidentiality to clear someone of a conviction. Senator Mazurek pointed out a priest can't break confidentiality at all. Senator Crippen felt the amendment puts the mental health professional in a tight spot. Senator Mazurek agreed with Representative Mercer on his closing about a desperate person calling a crisis center and hanging up if this amendment was adopted. Senator Blaylock believed the patient is going to a mental health session with trust for the psychiatrist, and if this amendment doesn't pass, there is a break in that trust and relationship. The motion FAILS by a vote of 2 to 8, with Senators Blaylock and Yellowtail voting yes.

ACTION ON HOUSE BILL 77: Senator Mazurek explained the agency will not get federal funds unless the legislature passes this bill. Senator Crippen moved the bill BE CONCURRED IN. The motion carried.

ACTION ON HOUSE BILL 79: Senator Brown moved the bill BE CONCURRED IN. Senator Yellowtail expressed how he did not like the \$100 a month penalty. Senator Halligan said in all of his child support cases, he has never seen a provision about a supporting parent having to pay for health coverage like this. Senator Mazurek said maybe this \$100 penalty is cheaper than a health insurance premium.

Senator Yellowtail said the bill says if the hearing finds the supporting parent not guilty of not paying the insurance, the fine is taken away from his record. The motion carried to BE CONCURRED IN.


ACTION ON HOUSE BILL 81: Senator Halligan moved the presented amendments by Rep. Jan Brown. (see Standing Committee Report) The motion carried. Senator Halligan moved House Bill 81 BE CONCURRED IN AS AMENDED. The motion carried.

ACTION ON HOUSE BILL 82: Senator Crippen said there was an amendment by the Department of Revenue on this about preventing the retroactive modification of administrative order. Senator Mazurek said on page 2, line 6, following "after", insert "actual notice of modification". Senator Mazurek said this amendment would undo what the last legislature did. Senator Pinsoneault moved House Bill 82 BE CONCURRED IN, without amendments. The motion carried.

ACTION ON HOUSE BILL 335: Valencia Lane handed out amendments to HB 335. (Exhibit 7) Senator Halligan asked why the law just doesn't impound the vehicle. Senator Mazurek said it was less expensive operation with the barrel. Senator Mazurek felt the contract part should be in the title. Senator Bishop said he would rather have the barrel than tow the car away. Senator Pinsoneault moved to have the new (2) of the prepared amendments put into the bill, and delete the old (2). The motion carried.

Senator Halligan believed if someone is on private property, they will have to pay the consequences. Senator Yellowtail wondered if Rep. Pistoria would be happy about the towing away of his car. Senator Mazurek took a straw vote to see how many would like to see towing away of a car in the bill. Senators Mazurek, Yellowtail and Blaylock voted no. Senator Pinsoneault moved to delete sub (3) of the bill. The motion carried. Senator Halligan moved the rest of prepared amendments 1, 2 and 3. The motion carried. Senator Halligan moved House Bill 335 BE CONCURRED IN AS AMENDED. The motion carried.

ADJOURNMENT: The meeting adjourned at 12:00 noon.

  
SENATOR JOE MAZUREK, Chairman

# ROLL CALL

Judiciary

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date March 4

NAME	PRESENT	ABSENT	EXCUSED
<u>Senator Joe Mazurek, Chairman</u>	X		
<u>Senator Bruce Crippen, Vice Chairman</u>	X		
<u>Senator Tom Beck</u>	X		
<u>Senator Al Bishop</u>	X		
<u>Senator Chet Blaylock</u>	X		
<u>Senator Bob Brown</u>	X		
<u>Senator Jack Galt</u>	X		
<u>Senator Mike Halligan</u>	X		
<u>Senator Dick Pinsoneault</u>	X		
<u>Senator Bill Yellowtail</u>	X		

Each day attach to minutes.

DATE March 4<sup>th</sup>

COMMITTEE ON

## VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)



NAME: Hugh M Black PhD DATE: 3-4-87

ADDRESS: 414 North Benton, Helena, MT 59601

PHONE: 406-449-3880

REPRESENTING WHOM? Montana Psychological Association

APPEARING ON WHICH PROPOSAL: House Bill 267

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: At this time judicial decisions have made the responsibility of mental health professionals to warn potential victims of their violent patients very vague. They are possibly in liability no matter what they do due to confidentiality laws. This law will clarify the responsibilities of mental health professionals. The patient needs to be informed of the limits of confidentiality when the clinical working relationship is formed, but if an amendment is made that each patient be informed of this limit at onset of treatment, the clinical decision about when to do so is overruled, which may interfere with the working relationship.

Hugh M Black PhD

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Hugh M. Black, PhD DATE: 3-4-87

ADDRESS: 414 North Benton, Helena, MT 59604

PHONE: 406-442-3880

REPRESENTING WHOM? Montana Psychological Association

APPEARING ON WHICH PROPOSAL: House Bill 58

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: At this time psychologists are frequently requested to evaluate persons with respect to competency to stand trial or persons relying upon mental illness or defect as an issue in criminal actions. Psychological testing, clinical interviews, and diagnostic skills are utilized. Psychologists are equally qualified as psychiatrists in this task because they have training of similar length and intensity (i.e. 4-6 years' academic and clinical training, followed by at least one year's intensive clinical internship), and because they are trained and qualified in interpreting psychological testing, especially as it relates to personal functioning, diminished capacity, and ability to recognize rights and responsibilities. Congress has recently passed the Comprehensive Criminal Control Act Amendments, in which psychologists receive complete parity with psychiatrists.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Hugh M. Black, PhD

## SUMMARY OF HB267 (MERCER)

(Prepared by Senate Judiciary Committee staff)

HB267 imposes a duty on mental health professionals to warn of a patient's violent behavior in certain cases, establishes the means of discharging that duty, and grants immunity from suit in other cases.

Section 1. Definitions.

Section 2. Duty to warn. A mental health professional has a duty to warn of violent behavior only if the patient has communicated an actual threat of physical violence by specific means against a clearly identified or reasonably identifiable victim. The duty is discharged if the mental health professional: 1) has made reasonable efforts to communicate the threat to the victim or notify the law enforcement agency closest to the patient's or victim's residence; and 2) has supplied a requesting law enforcement agency with any information about the threat.

Section 3. Immunity from liability. A mental health professional can not be held civilly liable for failing to predict, warn of, or take precautions to provide protection from a patient's threatened behavior unless he has a duty to warn of violent behavior [and presumably, does not discharge that duty].

Section 4. To be codified with general liability statutes.

COMMENTS: Generally, under common law, there was no duty to

warn of a patient's violent behavior because of the doctor/patient privilege. However, there have been recent cases in which liability has been imposed for failure to warn.

# MONTANA COUNCIL OF MENTAL HEALTH CENTERS

## MONTANA MENTAL HEALTH CENTERS

512 Logan  
Helena, Mt. 59601  
(406) 442-7808

SENATE JUDICIARY

EXHIBIT NO. 2

DATE March 31, 1987

BILL NO. HB 267

**REGION I**  
EASTERN MONTANA COMMUNITY  
MENTAL HEALTH CENTER  
1819 Main Street  
Missoula, Montana 59801  
(232-0734)

### HB 267 - DUTY TO WARN

**REGION II**  
GOLDEN TRIANGLE COMMUNITY  
MENTAL HEALTH CENTER  
Holiday Village Shopping Center  
P.O. Box 3048  
Great Falls, Montana 59403  
(761-2100)

**REGION III**  
MENTAL HEALTH CENTER  
1245 North 29th Street  
Billings, Montana 59101  
(252-2882)

**REGION IV**  
MENTAL HEALTH  
SERVICES, INC.  
512 Logan  
Helena, Montana 59601  
(442-0310)

**REGION V**  
WESTERN MONTANA COMMUNITY  
MENTAL HEALTH CENTER  
Fort Missoula T-12  
Missoula, Montana 59801  
(728-6870)

HB 267 creates a new liability for mental health professionals.

If a patient expresses an actual intent to do violence to someone, the mental health professional must break the confidentiality requirements in order to warn law enforcement and/or the potential victim. In addition the mental health professional must assist law enforcement in locating the potentially violent patient.

The bill also limits the liability of the professional for notifying the victim and police of the violent threat and for breaking the professional-patient confidentiality.

The intent of the bill is to protect innocent potential victims from potentially violent mental patients. It also protects the mental health professional from suit for attempting to warn about the potential violence.

The overwhelming majority of patients with mental disorders are harmless. HB 267 would only cover those extremely small number of situations where there is a serious threat of danger to an innocent third party.

v2.dtwhb267.87

*When all else is lost, the future still remains.—Bovee*



# Mental Health Association of Montana

A Division of the national Mental Health Association

State Headquarters  
201 South East Chance Gulch - 555 Fuller  
Helena, Montana 59601  
(406) 442-4276

SENATE JUDICIARY

EXHIBIT NO. 3

DATE March 4, 1977

BILL NO. HB 267

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Great Falls

## DIRECTOR-AT-LARGE

Jayne Winegardner  
Billings

3/3/87

amendment to HB 267 - Duty to Warn

Page 2, line 9

following: "violence"

insert: "; and

(3) made reasonable efforts to communicate to the client at the onset of the course of treatment that confidentiality will be breached in the course of the duty to warn."

## H.B. 58

"An act to authorize psychologists to have the same authority as psychiatrists to examine persons relying on mental disease or defect as an issue in criminal actions..."

Sponsor: Rep. Nancy Keenan

Committee: Heard in Human Services on 1-14-86

Proponents: Montana Psychological Association

Opponents: None

Background: Under present law only psychiatrists (MDs) have the authority to testify in court regarding the competency of a defendant.

Psychologists have a minimum of 5 years of graduate training in testing and evaluation which is critical in determining if a defendant is competent to stand trial.

In Oct. 1986 Congress passed the Comprehensive Crime Control Act Amendments (S.1236) which gives clinical psychologists complete parity with psychiatrists in all aspects of the Federal Criminal Code.

## Summary of Education and Training

<u>Psychiatrist</u>	<u>Psychologist</u>	<u>Social Worker</u>	<u>Counselor</u>
4 yrs medical school; 3-4 yr residency in psychiatry (M.D.)	4-5 yrs graduate school + 1 yr internship (Ph.D.)	2 yrs graduate school for MSW+ 3,000 hours Supervised internship	41 licensed counselors in Mt with a variety of degrees: 1 MSW, 8 M.Eds, 1 MFT, 21 MA & MS, 5 Ed.Ds. & 5 Ph.Ds

That there were no opponents to H.B. 58, and the fact the Congress has given psychologists parity with psychiatrists suggests that psychologist's intensive training in testing and evaluation make them well qualified to determine whether a defendant is competent to stand trial.

H.B. 58, which gives psychologists parity with psychiatrists should be considered independently and on its own merits. Whether or not other mental health professionals have the specific education and training to do the testing and evaluation necessary to determine competency in these matters is significantly more complicated, and should be carefully considered in separate legislation.



SENATE JUDICIARY

EXHIBIT NO. 5DATE March 4, 1987FILE NO. HB 58

## State of Montana Eleventh Judicial District

POST OFFICE BOX 839 KALISPELL, MONTANA 59903-0839 752-5300 EXT. 221

MICHAEL H. KEEDY  
JUDGE OF THE DISTRICT COURT

January 14, 1987

ROBERT G. MEERKATZ  
COURT REPORTERRepresentative Nancy Keenan  
c/o Capitol Station  
Helena, MT 59620

Re: Mental Disease or Defect Legislation

Dear Representative Keenan:

I have seen a copy of your House Bill 58, which authorizes psychologists (as well as psychiatrists) to examine and evaluate criminal defendants who intend to rely upon a "mental disease or defect" in defending against charges filed against them. My interest in this legislation stems from my recent work as a trial judge, having had to confront the defense in particular cases, and from the fact that Chapter 14 of the Montana Criminal Code, which would be affected by your bill, originated with legislation drafted and carried by me during the 1979 legislative session.

I just want you to know, for what it's worth, that I'm wholeheartedly in favor of your proposal, and sorry (in retrospect) that I didn't have the foresight to see the need for this provision several sessions ago, or to include it in the original, '79 bill. You may be able to carry House Bill 58 through both houses of the '87 legislature without any difficulty, and you probably will; however, if you feel the need to use my endorsement at any time, I'd be glad to have you do so. If necessary, on reasonable notice I'm also willing to come to Helena to testify in support of your bill, although that probably wouldn't be necessary.

Good luck with this idea. Please do let me know if I can help you with it in any way. Thank you.

Very truly yours,

Handwritten signature of Michael H. Keedy in cursive script.  
Michael H. Keedy  
District Judge

MHK/cs

cc: Mr. Ted O. Lympus, Flathead County Attorney, w/encl.



## HB 21 PROPOSED AMENDMENTS (technical only)

1. Title, line 7.  
Following: "STATES"  
Strike: "SUPREME COURT"  
Insert: "CONGRESS REPEALS OR REMOVES OR A FINAL JUDGMENT"
2. Page 1, line 15 through page 6, line 23.  
Strike: sections 1 through 5 in their entirety  
ReNUMBER: subsequent sections
3. Page 12, line 5 through page 17, line 10.  
Strike: sections 11 through 16 in their entirety  
ReNUMBER: subsequent sections
4. Page 17, line 21.  
Following: line 20  
Insert: "NEW SECTION. Section 8. Applicability. The provisions of this act do not apply to persons who were born on or between April 1, 1966, and April 1, 1968."  
ReNUMBER: subsequent section
5. Page 17, line 21.  
Following: "Effective"  
Strike: "dates"  
Insert: "date"  
Following: "--"  
Insert: "contingent"
6. Page 17, line 22.  
Following: "termination"  
Insert: "date"
7. Page 17, lines 22 through page 18, line 2.  
Following: "(1)" on line 22  
Strike: the remainder of line 22 through page 18, line 2  
Insert: "This act is effective April 1, 1987."  
ReNUMBER: subsequent subsection
8. Page 18, line 3.  
Following: "STATES"  
Strike: "SUPREME COURT"  
Insert: "congress repeals or removes or a final judgment"
9. Page 18, line 8.  
Following: "OF THE"  
Insert: "repeal, removal, or"
10. Page 18, line 9.  
Following: "MONTANA."  
Strike: the remainder of line 9  
Insert: "This act terminates on the date of such"

## HOUSE BILL NO. 21

INTRODUCED BY FRITZ

A BILL FOR AN ACT ENTITLED: "AN ACT RAISING THE LEGAL DRINKING AGE FROM 19 TO 21; ALLOWING THOSE PERSONS OF LEGAL DRINKING AGE TO CONTINUE TO DRINK; RETURNING THE LEGAL DRINKING AGE TO 19 IF THE UNITED STATES SUPREME-COURT CONGRESS REPEALS OR REMOVES OR A FINAL JUDGMENT INVALIDATES THE PROVISION OF FEDERAL LAW REQUIRING STATES TO RAISE THE AGE TO 21 OR LOSE A PORTION OF FEDERAL HIGHWAY FUNDS; AMENDING SECTIONS 16-3-301, ~~16-3-305~~ 16-6-305, 16-6-314, 45-5-623, AND 45-5-624, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."

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

~~Section 1. Section 16-3-301, MCA, is amended to read:~~

~~"16-3-301. Unlawful purchases, sales, or deliveries. (1) It shall be unlawful for a licensed retailer to purchase or acquire beer from anyone except a brewer or wholesaler licensed under the provisions of this code.~~

~~(2) It shall be unlawful for any licensee, his or her employee or employees, or any other person to sell, deliver, or give away or cause or permit to be sold, delivered, or given away any alcoholic beverage to:~~

~~(a) any person under 19 years of age born after July~~

SENATE JUDICIARY

EXHIBIT NO. 6DATE 3-4-87BILL NO. HB 21

1 APRIL 17--1968

2 (b)--any--intoxicated--person--or--any-person-actually,  
3 apparently,--or--obviously--intoxicated.

4 (3)--Any-person-under-19-years-of-age born--after July  
5 APRIL 17--1968, or-other-person-who-knowingly-misrepresents  
6 his-or-her-qualifications-for-the-purpose--of--obtaining--an  
7 alcoholic--beverage--from--such--licensee--shall--be-equally  
8 guilty--with--said--licensee--and--shall,--upon--conviction  
9 thereof,--be--subject--to--the-penalty-provided-in-45-5-624,  
10 provided,--however,--that-nothing-herein--contained--shall--be  
11 construed--as--authorizing--or--permitting--the--sale--of--an  
12 alcoholic-beverage-to-any-person-in-violation-of-any-federal  
13 law.

14 (4)--It-shall-be-further-mandatory-under-the-provisions  
15 of-this-code-that-all-licensees-display-in-a-prominent-place  
16 in-their-premises-a-placard--as--issued--by--the--department  
17 stating--fully--the--consequences--for--violations---of--the  
18 provisions-of-this-code-by-persons-under--19--years--of--age  
19 born-after July APRIL 17--1968."

20 Section-2.--Section--16-6-305, MCA, is-amended-to-read:

21 "16-6-305.--Age-limit-for-sale-of-alcoholic--beverages:

22 (1)--Except--in-the-case-of-an-alcoholic-beverage-given-to-a  
23 person-under-19-years-of-age born-after July APRIL 17--1968,  
24 by-his-parent-or-guardian-for-beverage-or-medicinal-purposes  
25 or--administered--to--him--by--his--physician-or-dentist-for

SENATE JUDICIARY

-2- EXHIBIT NO. 6

HB 21

DATE 3-4-87

BILL NO. H.B. 21

1 medicinal purposes or sold to him by a vendor or druggist  
 2 upon the prescription of a physician, no person shall sell,  
 3 give, or otherwise supply an alcoholic beverage to any  
 4 person under 19 years of age born after July APRIL 17, 1968,  
 5 or permit any person under that age to consume an alcoholic  
 6 beverage.

7 (2) Any person shall be guilty of a misdemeanor who:

8 (a) invites a person under the age of 19 years born  
 9 after July APRIL 17, 1968, into a public place where an  
 10 alcoholic beverage is sold and treats, gives, or purchases  
 11 an alcoholic beverage for such person;

12 (b) permits such person in a public place where an  
 13 alcoholic beverage is sold to treat, give, or purchase  
 14 liquor for him; or

15 (c) holds out such person to be 19 years of age or  
 16 older born after July BEFORE APRIL 17, 1968, to the owner of  
 17 the establishment or his or her employee or employees.

18 (3) It is unlawful for any person to fraudulently  
 19 misrepresent his or her age to any dispenser of alcoholic  
 20 beverages or to falsely procure any identification card or  
 21 to alter any of the statements contained in any  
 22 identification card."

23 Section 3: Section 16-6-314, MCA, is amended to read:

24 "16-6-314: Penalty for violating code --- revocation of  
 25 license --- penalty for violation by underage person: (1) A

1 person--who-violates-a-provision-of-this-code-is-guilty-of-a  
 2 misdemeanor-punishable-as-provided-in-46-18-2127--except--as  
 3 is-herein-otherwise-provided.

4 {2}--If--a--retail--licensee-is-convicted-of-an-offense  
 5 under-this-code, his-license-shall--be--immediately--revoked  
 6 or, in-the-discretion-of-the-department, such-other-sanction  
 7 imposed-as-may-be-authorized-under-16-4-406.

8 {3}--A--person--under--19--years-of-age born-after July  
 9 APRIL 17-1968, who-violates-16-3-301(3)--or--16-6-305(3)--is  
 10 subject-to-the-penalty-provided-in-45-5-624(2)."

11 Section-4.--Section--45-5-623, MCA, is-amended-to-read:

12 "45-5-623.--Unlawful-transactions-with-children.--(1)-A  
 13 person-commits-the-offense--of--unlawful--transactions--with  
 14 children-if-he-knowingly:

15 {a)--sells-or-gives-explosives-to-a-child-under-the-age  
 16 of--majority--except--as--authorized--under-appropriate-city  
 17 ordinances;

18 {b)--sells-or-gives-intoxicating-substances-other--than  
 19 alcoholic-beverages-to-a-child-under-the-age-of-majority;

20 {c)--sells--or--gives--alcoholic--beverages-to-a-person  
 21 under-19-years-of-age born-after July APRIL 17-1968--or

22 {d)--being-a-junk--dealer,--pawnbroker,--or--secondhand  
 23 dealer,--receives--or--purchases-goods-from-a-child-under-the  
 24 age-of-majority--without--authorization--of--the--parent--or  
 25 guardian.

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(2)--A--person--convicted--of--the--offense--of--unlawful transactions--with--children--shall--be--fined--not--to--exceed--\$500 or--be--imprisoned--in--the--county--jail--for--any--term--not--to exceed--6--months,--or--both. A--person--convicted--of--a--second offense--of--unlawful--transactions--with--children--shall--be fined--not--to--exceed--\$1,000--or--be--imprisoned--in--the--county jail--for--any--term--not--to--exceed--6--months,--or--both."

Section-5.--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--person--under--the--age--of--18--years--commits--the--offense--of possession--of--an--intoxicating--substance--if--he--knowingly--has in--his--possession--an--intoxicating--substance--other--than--an alcoholic--beverage. A--person--under--the--age--of--19 born after July APRIL 17-1968, commits--the--offense--of--possession--of--an intoxicating--substance--if--he--knowingly--has--in--his--possession an--alcoholic--beverage,--except--that--he--does--not--commit--the offense--when--in--the--course--of--his--employment--it--is--necessary to--possess--alcoholic--beverages.

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

(a)--be--fined--not--to--exceed--\$50;

(b)--be--ordered--to--complete--and,--if--financially--able, pay--all--costs--of--his--participation--in--a--community--based substance--abuse--information--course;

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(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

(d)--be--sentenced--to---any---combination---of---these  
penalties-

(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(13).--In--such  
case,-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--purposefully--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."

Section 1. Section 16-3-301, MCA, is amended to read:

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1 "16-3-301. Unlawful purchases, sales, or deliveries.

2 (1) It shall be unlawful for a licensed retailer to purchase  
3 or acquire beer from anyone except a brewer or wholesaler  
4 licensed under the provisions of this code.

5 (2) It shall be unlawful for any licensee, his or her  
6 employee or employees, or any other person to sell, deliver,  
7 or give away or cause or permit to be sold, delivered, or  
8 given away any alcoholic beverage to:

9 (a) any person under ~~19~~ 21 years of age;

10 (b) any intoxicated person or any person actually,  
11 apparently, or obviously intoxicated.

12 (3) Any person under ~~19~~ 21 years of age or other  
13 person who knowingly misrepresents his or her qualifications  
14 for the purpose of obtaining an alcoholic beverage from such  
15 licensee shall be equally guilty with said licensee and  
16 shall, upon conviction thereof, be subject to the penalty  
17 provided in 45-5-624; provided, however, that nothing herein  
18 contained shall be construed as authorizing or permitting  
19 the sale of an alcoholic beverage to any person in violation  
20 of any federal law.

21 (4) It shall be further mandatory under the provisions  
22 of this code that all licensees display in a prominent place  
23 in their premises a placard as issued by the department  
24 stating fully the consequences for violations of the  
25 provisions of this code by persons under ~~19~~ 21 years of

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1 age."

2 Section 2. Section 16-6-305, MCA, is amended to read:

3 "16-6-305. Age limit for sale of alcoholic beverages.

4 (1) Except in the case of an alcoholic beverage given to a  
5 person under ~~19~~ 21 years of age by his parent or guardian  
6 for beverage or medicinal purposes or administered to him by  
7 his physician or dentist for medicinal purposes or sold to  
8 him by a vendor or druggist upon the prescription of a  
9 physician, no person shall sell, give, or otherwise supply  
10 an alcoholic beverage to any person under ~~19~~ 21 years of age  
11 or permit any person under that age to consume an alcoholic  
12 beverage.

13 (2) Any person shall be guilty of a misdemeanor who:

14 (a) invites a person under the age of ~~19~~ 21 years into  
15 a public place where an alcoholic beverage is sold and  
16 treats, gives, or purchases an alcoholic beverage for such  
17 person;

18 (b) permits such person in a public place where an  
19 alcoholic beverage is sold to treat, give, or purchase  
20 liquor for him; or

21 (c) holds out such person to be ~~19~~ 21 years of age or  
22 older to the owner of the establishment or his or her  
23 employee or employees.

24 (3) It is unlawful for any person to fraudulently  
25 misrepresent his or her age to any dispenser of alcoholic

1 beverages or to falsely procure any identification card or  
2 to alter any of the statements contained in any  
3 identification card."

4 Section 3. Section 16-6-314, MCA, is amended to read:

5 "16-6-314. Penalty for violating code -- revocation of  
6 license -- penalty for violation by underage person. (1) A  
7 person who violates a provision of this code is guilty of a  
8 misdemeanor punishable as provided in 46-18-212, except as  
9 is herein otherwise provided.

10 (2) If a retail licensee is convicted of an offense  
11 under this code, his license shall be immediately revoked  
12 or, in the discretion of the department, such other sanction  
13 imposed as may be authorized under 16-4-406.

14 (3) A person under 19 21 years of age who violates  
15 16-3-301(3) or 16-6-305(3) is subject to the penalty  
16 provided in 45-5-624(2)."

17 Section 4. Section 45-5-623, MCA, is amended to read:

18 "45-5-623. Unlawful transactions with children. (1) A  
19 person commits the offense of unlawful transactions with  
20 children if he knowingly:

21 (a) sells or gives explosives to a child under the age  
22 of majority except as authorized under appropriate city  
23 ordinances;

24 (b) sells or gives intoxicating substances other than  
25 alcoholic beverages to a child under the age of majority;

1 (c) sells or gives alcoholic beverages to a person  
2 under 19 21 years of age; or

3 (d) being a junk dealer, pawnbroker, or secondhand  
4 dealer, receives or purchases goods from a child under the  
5 age of majority without authorization of the parent or  
6 guardian.

7 (2) A person convicted of the offense of unlawful  
8 transactions with children shall be fined not to exceed \$500  
9 or be imprisoned in the county jail for any term not to  
10 exceed 6 months, or both. A person convicted of a second  
11 offense of unlawful transactions with children shall be  
12 fined not to exceed \$1,000 or be imprisoned in the county  
13 jail for any term not to exceed 6 months, or both."

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

15 "45-5-624. Unlawful possession of an intoxicating  
16 substance -- interference with sentence or court order. (1)  
17 A person under the age of 18 years commits the offense of  
18 possession of an intoxicating substance if he knowingly has  
19 in his possession an intoxicating substance other than an  
20 alcoholic beverage. A person under the age of 19 21 commits  
21 the offense of possession of an intoxicating substance if he  
22 knowingly has in his possession an alcoholic beverage,  
23 except that he does not commit the offense when in the  
24 course of his employment it is necessary to possess  
25 alcoholic beverages.

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1           (2) A person convicted of the offense of possession of  
2 an intoxicating substance shall:

3           (a) be fined not to exceed \$50;

4           (b) be ordered to complete and, if financially able,  
5 pay all costs of his participation in a community-based  
6 substance abuse information course;

7           (c) have his driver's license confiscated by the court  
8 for not more than 90 days and be ordered not to drive during  
9 that period if he was driving or otherwise in actual  
10 physical control of a motor vehicle when the offense  
11 occurred; or

12           (d) be sentenced to any combination of these  
13 penalties.

14           (3) A defendant who fails to comply with a sentence  
15 and is under 21 years of age and was under 18 years of age  
16 when he failed to comply must be transferred to the youth  
17 court. If proceedings for violation of subsection (1) are  
18 held in the youth court, the penalties in subsection (2) do  
19 not apply. If proceedings for violation of subsection (1) or  
20 for failure to comply with a sentence are held in the youth  
21 court, the offender shall be treated as an alleged youth in  
22 need of supervision as defined in 41-5-103(13). In such  
23 case, the youth court may enter its judgment under 41-5-523.

24           (4) A person commits the offense of interference with  
25 a sentence or court order if he purposely or knowingly

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1 causes his child or ward to fail to comply with a sentence  
 2 imposed under this section or a youth court disposition  
 3 order for a youth found to have violated this section and  
 4 upon conviction shall be fined \$100 or imprisoned in the  
 5 county jail for 10 days, or both."

6 SECTION-11--SECTION-16-3-301-MCA-IS-AMENDED-TO-READ:

7 "16-3-301--Unlawful-purchases, sales,--or--deliveries:  
 8 (1)--It-shall-be-unlawful-for-a-licensed-retailer-to-purchase  
 9 or--acquire--beer--from-anyone-except-a-brewer-or-wholesaler  
 10 licensed-under-the-provisions-of-this-code:

11 (2)--It-shall-be-unlawful-for-any-licensee, his-or--her  
 12 employee-or-employees, or-any-other-person-to-sell, deliver,  
 13 or--give--away--or-cause-or-permit-to-be-sold, delivered, or  
 14 given-away-any-alcoholic-beverage-to:

15 (a)--any-person-under-19-years-of-age;

16 (b)--any-intoxicated-person--or--any--person--actually,  
 17 apparently, or-obviously-intoxicated:

18 (3)--Any--person--under-19-years-of-age-or-other-person  
 19 who-knowingly-misrepresents-his-or--her--qualifications--for  
 20 the--purpose--of--obtaining--an-alcoholic-beverage-from-such  
 21 licensee-shall-be-equally--guilty--with--said--licensee--and  
 22 shall,--upon--conviction--thereof, be-subject-to-the-penalty  
 23 provided-in-45-5-624; provided, however, that-nothing-herein  
 24 contained-shall-be-construed-as--authorizing--or--permitting  
 25 the-sale-of-an-alcoholic-beverage-to-any-person-in-violation

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1 of-any-federal-law-

2 (4)--it-shall-be-further-mandatory-under-the-provisions  
3 of-this-code-that-all-licensees-display-in-a-prominent-place  
4 in--their--premises--a--placard--as-issued-by-the-department  
5 stating--fully--the--consequences--for--violations---of--the  
6 provisions--of--this-code-by-persons-under-19-years-of-age."

7 SECTION-12--SECTION-16-6-305, MCA, IS AMENDED TO READ:

8 "16-6-305.--Age-limit-for-sale-of-alcoholic--beverages:  
9 (1)--Except--in-the-case-of-an-alcoholic-beverage-given-to-a  
10 person-under-19-years-of-age-by-his-parent-or--guardian--for  
11 beverage-or-medicinal-purposes-or-administered-to-him-by-his  
12 physician--or--dentist-for-medicinal-purposes-or-sold-to-him  
13 by--a--vendor--or--druggist--upon--the--prescription--of---a  
14 physician,--no--person-shall-sell, give, or otherwise supply  
15 an-alcoholic-beverage-to-any-person-under-19-years-of-age-or  
16 permit-any-person-under-that-age--to--consume--an--alcoholic  
17 beverage-

18 (2)--Any--person--shall-be-guilty-of-a-misdemeanor-who:

19 (a)--invites-a-person-under-the-age-of-19-years-into--a  
20 public-place-where-an-alcoholic-beverage-is-sold-and-treats,  
21 gives,--or--purchases-an-alcoholic-beverage-for-such-person,

22 (b)--permits-such-person-in-a--public--place--where--an  
23 alcoholic--beverage--is--sold--to--treat,--give, or purchase  
24 liquor-for-him, or

25 (c)--holds-out-such-person-to-be-19--years--of--age--or

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1 older--to--the--owner--of--the--establishment--or--his--or--her  
2 employee--or--employees.

3 (3)--It-is-unlawful--for--any--person--to--fraudulently  
4 misrepresent--his--or--her--age--to--any--dispenser--of--alcoholic  
5 beverages--or--to--falsely--procure--any--identification--card--or  
6 to--alter--any--of--the--statements--contained--in--any  
7 identification--card."

8 SECTION-13--SECTION-16-6-314, MCA, IS AMENDED TO READ:

9 "16-6-314--Penalty-for-violating-code---revocation-of  
10 license---penalty-for-violation-by-underage-person--(1)--A  
11 person--who--violates--a--provision--of--this--code--is--guilty--of--a  
12 misdemeanor--punishable--as--provided--in--46-18-212--except--as  
13 is--herein--otherwise--provided.

14 (2)--If--a--retail--licensee--is--convicted--of--an--offense  
15 under--this--code, his--license--shall--be--immediately--revoked  
16 or, in--the--discretion--of--the--department, such--other--sanction  
17 imposed--as--may--be--authorized--under--16-4-406.

18 (3)--A--person--under--19--years--of--age--who--violates  
19 16-3-301(3)--or--16-6-305(3)--is--subject--to--the--penalty  
20 provided--in--45-5-624(2)."

21 SECTION-14--SECTION-45-5-623, MCA, IS AMENDED TO READ:

22 "45-5-623--Unlawful-transactions-with-children--(1)--A  
23 person--commits--the--offense--of--unlawful-transactions--with  
24 children--if--he--knowingly:

25 (a)--sells--or--gives--explosives--to--a--child--under--the--age

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1 of-majority-except--as--authorized--under--appropriate--city  
2 ordinances;

3 (b)--sells--or-gives-intoxicating-substances-other-than  
4 alcoholic-beverages-to-a-child-under-the-age-of-majority;

5 (c)--sells-or-gives-alcoholic-beverages--to--a--person  
6 under-19-years-of-age;-or

7 (d)--being--a--junk--dealer;-pawnbroker;-or-secondhand  
8 dealer;-receives-or-purchases-goods-from-a-child--under--the  
9 age--of--majority--without--authorization--of--the-parent-or  
10 guardian-

11 (2)--A-person-convicted--of--the--offense--of--unlawful  
12 transactions-with-children-shall-be-fined-not-to-exceed-\$500  
13 or--be--imprisoned--in--the--county-jail-for-any-term-not-to  
14 exceed-6-months;-or-both;-A-person--convicted--of--a--second  
15 offense--of--unlawful--transactions--with--children-shall-be  
16 fined-not-to-exceed-\$1,000-or-be-imprisoned--in--the--county  
17 jail-for-any-term-not-to-exceed-6-months;-or-both."

18 SECTION 15.--SECTION 45-5-624, MCA, IS AMENDED TO READ:

19 "45-5-624.--Unlawful--possession--of--an--intoxicating  
20 substance---interference-with-sentence-or-court-order---(1)  
21 A-person-under-the-age-of-18-years-commits--the--offense--of  
22 possession--of--an-intoxicating-substance-if-he-knowingly-has  
23 in-his-possession-an-intoxicating-substance--other--than--an  
24 alcoholic-beverage;-A-person-under-the-age-of-19-commits-the  
25 offense--of--possession--of--an-intoxicating-substance-if-he

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1 knowingly-has--in--his--possession--an--alcoholic--beverage,  
 2 except--that--he--does--not--commit--the--offense--when--in--the  
 3 course--of--his--employment--it--is--necessary--to--possess  
 4 alcoholic-beverages.

5 (2)--A-person-convicted-of-the-offense-of-possession-of  
 6 an-intoxicating-substance-shall:

7 (a)--be-fined-not-to-exceed-\$50;

8 (b)--be--ordered--to-complete-and,if-financially-able,  
 9 pay-all-costs-of-his-participation-in-a-community-based  
 10 substance-abuse-information-course;

11 (c)--have-his-driver's-license-confiscated-by-the-court  
 12 for-not-more-than-90-days-and-be-ordered-not-to-drive-during  
 13 that-period-if-he-was-driving-or-otherwise-in-actual  
 14 physical-control-of-a-motor-vehicle-when-the-offense  
 15 occurred;-or

16 (d)--be--sentenced--to--any--combination--of--these  
 17 penalties.

18 (3)--A-defendant-who-fails-to-comply-with-a-sentence  
 19 and-is-under-21-years-of-age-and-was-under-18-years-of-age  
 20 when-he-failed-to-comply-must-be-transferred-to-the-youth  
 21 court---if-proceedings-for-violation-of-subsection-(1)-are  
 22 held-in-the-youth-court,the-penalties-in-subsection-(2)--do  
 23 not-apply.-if-proceedings-for-violation-of-subsection-(1)-or  
 24 for-failure-to-comply-with-a-sentence-are-held-in-the-youth  
 25 court,the-offender-shall-be-treated-as-an-alleged-youth-in

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11 R 11

1 need--of--supervision--as--defined--in-41-5-103(13)--in-such  
2 case, the youth court may enter its judgment under 41-5-523.

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

10 NEW SECTION. SECTION 16. REPEALER. SECTIONS 1  
11 THROUGH 10 OF THIS ACT ARE REPEALED.

12 NEW SECTION. SECTION 6. EXTENSION OF AUTHORITY. ANY  
13 EXISTING AUTHORITY OF THE DEPARTMENT OF REVENUE TO MAKE  
14 RULES ON THE SUBJECT OF THE PROVISIONS OF THIS ACT IS  
15 EXTENDED TO THE PROVISIONS OF THIS ACT.

16 NEW SECTION. SECTION 7. SEVERABILITY. IF A PART OF  
17 THIS ACT IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM  
18 THE INVALID PART REMAIN IN EFFECT. IF A PART OF THIS ACT IS  
19 INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS  
20 IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM  
21 THE INVALID APPLICATIONS.

22 NEW SECTION. SECTION 8. APPLICABILITY. THE  
23 PROVISIONS OF THIS ACT DO NOT APPLY TO PERSONS WHO WERE BORN  
24 ON OR BETWEEN APRIL 1, 1966, AND APRIL 1, 1968.

25 NEW SECTION. Section 9. Effective dates DATE --

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RH NO

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1 CONTINGENT termination DATE. (1) Sections-1-through--57--177  
 2 187--AND-THIS-SECTION are-effective-July APRIL 17-1987--and7  
 3 EXCEPT-FOR-SECTIONS-177-187-AND-THIS-SECTION7 terminate-July  
 4 APRIL 17-1989-

5 (2)--Sections-6-through-10-are-effective-July APRIL 17  
 6 1989- THIS ACT IS EFFECTIVE APRIL 1, 1987.

7 (3)(2) IF THE UNITED STATES SUPREME-COURT CONGRESS  
 8 REPEALS OR REMOVES OR A FINAL JUDGMENT INVALIDATES THE  
 9 PROVISIONS OF FEDERAL LAW THAT REQUIRE STATES TO RAISE THE  
 10 LEGAL AGE FOR PURCHASING AND POSSESSING ALCOHOLIC BEVERAGES  
 11 TO 21 AS A CONDITION OF FULL RECEIPT OF FEDERAL HIGHWAY  
 12 FUNDS, THE GOVERNOR OF MONTANA SHALL IMMEDIATELY CERTIFY THE  
 13 FACT OF THE REPEAL, REMOVAL, OR INVALIDATION TO THE  
 14 SECRETARY OF STATE OF MONTANA. SECTIONS-11-THROUGH-16-ARE  
 15 EFFECTIVE-UPON THIS ACT TERMINATES ON THE DATE OF SUCH  
 16 CERTIFICATION.

-End-

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EXHIBIT NO. 6

DATE 3-4-87

BILL NO. H.B. 21

HOUSE BILL NO. 335

INTRODUCED BY PISTORIA

**AUTHORIZING**

4 A BILL FOR AN ACT ENTITLED: "AN ACT ~~PROHIBITING~~ A PRIVATE  
5 PARKING SERVICE ~~FROM IMPOUNDING A MOTOR VEHICLE~~ PROVIDING  
6 ~~THAT FAILURE TO COMPLY WITH THE PARKING REGULATIONS OF A~~  
7 ~~PRIVATE PARKING SERVICE RESULTS IN A CIVIL LIABILITY; AND~~  
8 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

11 Section 1. Private parking services -- ~~limitation on~~  
12 ~~penalties.~~ (1) As used in this section, the following  
13 definitions apply:

14 (a) "Local government" means a municipality, if the  
15 private parking service operates parking services within a  
16 municipality, or a county, if such services are not operated  
17 within a municipality.

18 (b) "Private parking service" means the service of  
19 providing areas for parking motor vehicles, as defined in  
20 61-1-102, by the general public for compensation and  
21 includes such services conducted:

- 22 (i) on private property; or
- 23 (ii) on public property under contract or agreement
- 24 with the local government.

25 (2) ~~a private parking service may not impound a motor~~

1 ~~vehicle either by removing it to a location that is not~~  
2 unconditionally accessible to its operator or by attaching a  
3 device that makes the motor vehicle immobile.

4 (3) Failure to comply with the parking regulations of  
5 a private parking service results in a civil liability by  
6 the violator that may be remedied by the private parking  
7 service as any other civil action is remedied. A violation  
8 of a regulation of a private parking service does not  
9 constitute a violation of the parking regulations or  
10 ordinances of the local government. In addition to any  
11 civil remedies, the private parking service may refuse to  
12 provide parking services to a violator who has not satisfied  
13 ~~his liability to the private parking service.~~

14 Section 2. Effective date. This act is effective on  
15 passage and approval.

-End-

(2) a private parking service may enter into an agreement with the local government to authorize employees of the private parking service to issue citations for parking violations as defined by state, municipal, or county laws which occur within the boundaries of the private parking services' parking areas. All citations must be considered REFERENCE BILL within the jurisdiction of the local government and must be issued in the same manner as citations issued in Montana.

HB 335

1. Title, line 4.

Following: " " AN ACT "

Strike: " PROHIBITING "

Insert: " AUTHORIZING "

2. Title, lines 5 through 7.

Following: " SERVICE " on line 5

Strike: the remainder of line 5 through  
" LIABILITY " on line 7Insert: " TO ISSUE CITATIONS FOR,  
PARKING VIOLATIONS "

3. Page 1, lines 11 and 12.

Following: " services -- " on line 11

Strike: the remainder of line 11 through  
" penalties " on line 12

Insert: " parking citations "

4. Page 1, line ~~25~~ 25 through page 2, line 13.

Strike: subsections (2) and (3) in their entirety

Insert: " (2) A private parking service may  
enter into an agreement with the local  
government to authorize employees of  
the private parking service to issue  
citations for parking violations as  
defined by state, ~~a~~ municipal, or

county laws which occur within the boundaries of the private parking service's parking areas. All such citations must be considered within the jurisdiction of the local government and must be handled in the same manner as citations issued by peace officers thereof."

# STANDING COMMITTEE REPORT

March 4

19 67

MR. PRESIDENT

We, your committee on SENATE JUDICIARY

having had under consideration HOUSE BILL No. X 21 21

Third reading copy ( blue )  
color

Raise legal drinking age from 19 to 21; provide effective dates.  
Fritz (Bishop)

HOUSE BILL

21 21

Respectfully report as follows: That..... No. II

1. Title, line 7.

Following: "STATES"

Strike: "SUPREME COURT"

Insert: "CONGRESS REPEALS OR REMOVES OR A FINAL JUDGMENT"

2. Page 1, line 15 through page 6, line 23.

Strike: sections 1 through 5 in their entirety

Renumber: subsequent sections

3. Page 12, line 5 through page 17, line 10.

Strike: sections 11 through 16 in their entirety

Renumber: subsequent sections

4. Page 17, line 21.

Following: line 20

Insert: "NEW SECTION. Section 3. Applicability. The provisions of this act do not apply to persons who were born on or between April 1, 1966, and April 1, 1968."

Renumber: subsequent section

5. Page 17, line 21.

Following: "Effective"

Strike: "dates"

Insert: "date"

~~DO PASS~~

~~DO NOT PASS~~

Senator Mazurek

Chairman.

Following: "---"

Insert: "contingent"

6. Page 17, line 22.

Following: "termination"

Insert: "date"

7. Page 17, lines 22 through page 18, line 2.

Following: "(1)" on line 22

Strike: the remainder of line 22 through page 18, line 2

Insert: "This act is effective April 1, 1987."

Renumber: subsequent subsection

8. Page 18, line 3.

Following: "STATES"

Strike: "SUPREME COURT"

Insert: "congress repeals or removes or a final judgment"

9. Page 18, line 8.

Following: "OF THE"

Insert: "repeal, removal, or"

10. Page 18, line 9.

Following: "MONTANA."

Strike: the remainder of line 9

Insert: "This act terminates on the date of such"

7062c/c:JEANNE\WP:jj

AND AS AMENDED  
BE CONCURRED IN



# STANDING COMMITTEE REPORT

March 4

1927

MR. PRESIDENT

~~SENATE JUDICIARY~~

We, your committee on

HOUSE BILL

58

having had under consideration

No.

Third

reading copy ( ~~blue~~ blue )  
color

Let psychologists examine persons when mental defect is a criminal  
issue.

Keenan (Mazurek)

HOUSE BILL

58

Respectfully report as follows: That

No.

~~DO PASS~~

BE CONCURRED IN

~~DO NOT PASS~~

Senator Mazurek

Chairman.

# STANDING COMMITTEE REPORT

March 4

37

19.....

MR. PRESIDENT

## SENATE JUDICIARY

We, your committee on .....

having had under consideration..... HOUSE BILL No. 65

Third ~~NINE~~ reading copy ( blue )  
color

Serving out traffic fines at \$10 per day.  
Peck (Blaylock)

HOUSE BILL

65

Respectfully report as follows: That..... No.

BE CONCURRED IN

~~XXXXXX~~  
DO PASS

~~XXXXXX~~

~~DO NOT PASS~~

Senator Mazurek

Chairman.

# STANDING COMMITTEE REPORT

March 4

19. 57

MR. PRESIDENT

We, your committee on **SENATE JUDICIARY**

having had under consideration..... **HOUSE BILL** No. **77**

**Third** reading copy ( **blue** )  
color

**Allows paternity action by state agency until child becomes 21 years of age.**

**Brown (Brown)**

Respectfully report as follows: That..... **HOUSE BILL** No. **77**

~~DO NOT PASS~~

**BE CONCURRED IN**

~~DO NOT PASS~~

~~Senator Masurek~~

Chairman.

# STANDING COMMITTEE REPORT

March 4

19 87

MR. PRESIDENT

## SENATE JUDICIARY

We, your committee on

HOUSE BILL

79

having had under consideration

No.

third

blue

reading copy ( )

color

Allow DOJ to require health coverage when child support is being enforced.

Brown (Brown)

HOUSE BILL

79

Respectfully report as follows: That

No.

~~DO NOT PASS~~

~~DO NOT PASS~~

BE CONCURRED IN

Senator Mazurek

Chairman.

# STANDING COMMITTEE REPORT

March 4

37  
19.....

MR. PRESIDENT

We, your committee on..... **SENATE JUDICIARY**

having had under consideration..... **HOUSE BILL** No. **81**

third reading copy ( blue )  
color

Clarify that Admin. support order of DOR may not be retroactively modified.  
Brown (Crippen)

Respectfully report as follows: That..... **HOUSE BILL** No. **81**

1. Title, lines 5 through 8.

Following: "AN ACT" on line 5

Strike: the remainder of line 5 through "MODIFIED" on line 8

Insert: "CONFORMING MONTANA LAW WITH THE OMNIBUS BUDGET  
RECONCILIATION ACT OF 1984 BY PROVIDING THAT CHILD SUPPORT  
ORDERS, WHETHER ESTABLISHED BY ADMINISTRATIVE OR JUDICIAL  
PROCESS, MAY ONLY BE PROSPECTIVELY MODIFIED; PROVIDING THAT  
A MODIFICATION OF SUPPORT MAY BE EFFECTIVE ONLY FOR  
INSTALLMENTS ACCRUING SUBSEQUENT TO ACTUAL NOTICE OF THE  
MOTION FOR MODIFICATION"

2. Title, line 8.

Following: "AMENDING"

Strike: "SECTION"

Insert: "SECTIONS 40-4-208 AND"

3. Page 1, line 12.

Following: line 11

Insert: "Section 1. Section 40-4-208, MCA, is amended to read:  
"40-4-208. Modification and termination of provisions  
for maintenance, support, and property disposition. (1)  
Except as otherwise provided in 40-4-201(6), a decree may be  
modified by a court as to maintenance or support only as to

~~XXXXXX~~  
DO PASS

~~CONFIRM~~

.....  
Chairman.

installments accruing subsequent to actual notice to the parties of the motion for modification.

(2) (a) Whenever the decree proposed for modification does not contain provisions relating to maintenance or support, modification under subsection (1) may only be made within 2 years of the date of the decree.

(b) Whenever the decree proposed for modification contains provisions relating to maintenance or support, modification under subsection (1) may only be made:

(i) upon a showing of changed circumstances so substantial and continuing as to make the terms unconscionable; or

(ii) upon written consent of the parties.

(3) The provisions as to property disposition may not be revoked or modified by a court, except:

(a) upon written consent of the parties; or

(b) if the court finds the existence of conditions that justify the reopening of a judgment under the laws of this state.

(4) Unless otherwise agreed in writing or expressly provided in the decree, the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

(5) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child are terminated by emancipation of the child but not by the death of a parent obligated to support the child. When a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump-sum payment, to the extent just and appropriate in the circumstances."

Renumber: subsequent sections

4. Page 2, line 6.

Following: "after"

Insert: "actual notice to the parties of"

7041f\c:\eleanor\wp:ec

AND AS AMENDED BE CONCURRED IN

# STANDING COMMITTEE REPORT

~~XXXXXX~~ March 4 1967

MR. PRESIDENT

SENATE JUDICIARY

We, your committee on .....

HOUSE BILL 82

having had under consideration..... No.....

Third reading copy ( blue )  
color

Rights of DOR and recipients of public assistance as to assigned support.

Brown (Finsoneault)

HOUSE BILL 82

Respectfully report as follows: That..... No.....

~~XXXXXX~~  
DO PASS

BE CONCURRED IN

~~XXXXXX~~  
DO NOT PASS

..... Senator Mazurek .....

Chairman.

# STANDING COMMITTEE REPORT

March 4

87

19

MR. PRESIDENT

We, your committee on.....SENATE JUDICIARY.....

having had under consideration.....HOUSE BILL.....No. 139.....

Third reading copy ( blue )  
color

Minimum compensation provision is scene of injury good samaritan law.

Koehnke (~~ROSEN~~) (Hofman)

HOUSE BILL

IN 139

Respectfully report as follows: That.....No.....

~~DO PASS~~

BE CONCURRED IN

~~DO NOT PASS~~

Senator Mazurek.....

Chairman.



# STANDING COMMITTEE REPORT

March 4

19 87

MR. PRESIDENT

## SENATE JUDICIARY

We, your committee on

HOUSE BILL

No. 267

having had under consideration

Third

blue

reading copy ( )

color

Duty of mental health professionals to warn of violent patients.  
Mercer (Mazurek)

HOUSE BILL

No. 267

Respectfully report as follows: That

be amended as follows:

~~XXXXXX~~

1. Page 2, line 5.  
Following: "victim"  
Strike: "or"  
Insert: "and"

~~XXXXXX~~  
DO PASS

~~XXXXXX~~  
DO NOT PASS

BE CONCURRED IN

Senator Mazurek

Chairman.

# STANDING COMMITTEE REPORT

March 5

1987

MR. PRESIDENT

We, your committee on SENATE JUDICIARY

having had under consideration HOUSE BILL No. 335

Reference reading copy ( salmon )  
color

~~SENATE~~ Prohibit private parking service from impounding motor vehicle.  
Pistoria (Meyer)

HOUSE BILL 335

Respectfully report as follows: That..... No.....

be amended as follows:

1. Title, line 4.

Following: "AN ACT"

Strike: "PROHIBITING"

Insert: "AUTHORIZING"

2. Title, lines 5 through 7.

Following: "SERVICE" on line 5

Strike: the remainder of line 5 through "LIABILITY" on line 7

Insert: "TO ENTER INTO AN AGREEMENT WITH A LOCAL GOVERNMENT FOR ENFORCEMENT OF PARKING REGULATIONS"

3. Page 1, lines 11 and 12.

Following: "services --" on line 11

Strike: the remainder of line 11 through "penalties" on line 12

Insert: "parking citations"

4. Page 1, line 25 through page 2, line 13.

Strike: subsections (2) and (3) in their entirety

Insert: "(2) A private parking service may enter into an agreement with the local government to authorize employees of the private parking service to issue citations for parking violations as defined by state, municipal, or county laws, which occur within the boundaries of the private parking service's parking areas. All such citations must be considered within the jurisdiction of the local government and must be handled in the same manner as citations issued by peace officers thereof."

~~CONCURRENCE~~

AND AS AMENDED  
BE CONCURRED IN

~~RECONCILED~~

Senator Mazurek

Chairman.