

1 *Senate* BILL NO. *255*
 2 INTRODUCED BY *Robert Murray*

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REDUCE THE PENALTIES
 5 FOR CRIMINAL POSSESSION OF 60 GRAMS OR LESS OF MARIHUANA OR
 6 OF 1 GRAM OR LESS OF HASHISH; TO REPEAL THE PROVISION THAT
 7 FIRST OFFENDERS OF 21 YEARS OF AGE OR UNDER ARE PRESUMED TO
 8 BE ENTITLED TO A SUSPENDED SENTENCE; AND TO PROVIDE
 9 JURISDICTION IN JUSTICES' COURTS OVER CASES OF CRIMINAL
 10 POSSESSION; AMENDING SECTIONS 54-133 AND 95-302, R.C.M.
 11 1947."

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Section 54-133, R.C.M. 1947, is amended to
 15 read as follows:

16 "54-133. Criminal possession of dangerous drugs.

17 (a) A person commits the offense of criminal possession of
 18 dangerous drugs if he possesses any dangerous drug as
 19 defined in this act.

20 (b) Any person convicted of a criminal possession of
 21 marihuana or its derivatives in any amount, the aggregate
 22 weight of which does not exceed sixty (60) grams of
 23 marihuana, or one (1) gram of hashish, shall, for the first
 24 offense, be guilty of a misdemeanor and is punishable by a
 25 fine not to exceed ~~one thousand dollars (\$1,000)~~ \$100 or by

1 imprisonment in the county jail not to exceed ~~one (1) year~~
 2 10 days or by both such fine and imprisonment. A person
 3 convicted of a second ~~or subsequent~~ offense under this
 4 subsection is punishable by a fine not to exceed ~~one~~
 5 ~~thousand dollars (\$1,000)~~ \$500 or by imprisonment in the
 6 county jail not to exceed ~~one (1) year or in the state~~
 7 ~~prison not to exceed three (3) years~~ 6 months or by both
 8 such fine and imprisonment. A person convicted of a third or
 9 subsequent offense under this subsection is punishable by a
 10 fine not to exceed \$1000 or imprisonment in the county jail
 11 not to exceed 1 year, or both.

12 (c) A person convicted of criminal possession of
 13 dangerous drugs not otherwise provided for in subsection (b)
 14 shall be imprisoned by imprisonment in the state prison not
 15 to exceed five (5) years.

16 ~~(d) A person of the age of twenty-one (21) years or~~
 17 ~~under convicted of a first violation under this section~~
 18 ~~shall be presumed to be entitled to a deferred imposition of~~
 19 ~~sentences. Jurisdiction under this section shall be~~
 20 ~~exclusively in the district courts."~~

21 Section 2. Section 95-302, R.C.M. 1947, is amended to
 22 read as follows:

23 "95-302. Jurisdiction of the justice of the peace
 24 courts. The justices' courts have:

25 (a) Jurisdiction of all misdemeanors punishable by a

1 fine not exceeding five hundred dollars (\$500.00) or
2 imprisonment not exceeding six (6) months, or both such fine
3 and imprisonment; ~~excluding-jurisdiction-in-cases--commenced~~
4 ~~under--the--Montana--Dangerous--Drug--Act--except--to--act--as~~
5 ~~examining--and--committing--courts--and--to--conduct--preliminary~~
6 ~~hearings--as--provided--in--subsection--(c).*~~

7 (b) Concurrent jurisdiction, with district courts, of
8 all misdemeanors punishable by a fine only, not exceeding
9 fifteen hundred dollars (\$1,500.00); and

10 (c) Jurisdiction to act as examining and committing
11 courts and for such purpose to conduct preliminary
12 hearings.*

-End-

Approved by Committee on Judiciary

SENATE BILL NO. 255

INTRODUCED BY ROBERTS, MURRAY

A BILL FOR AN ACT ENTITLED: "AN ACT TO REDUCE THE PENALTIES FOR CRIMINAL POSSESSION OF 60 GRAMS OR LESS OF MARIHUANA OR OF 1 GRAM OR LESS OF HASHISH; TO REPEAL THE PROVISION THAT FIRST OFFENDERS OF 21 YEARS OF AGE OR UNDER ARE PRESUMED TO BE ENTITLED TO A SUSPENDED SENTENCE; AND TO PROVIDE JURISDICTION IN JUSTICES' COURTS OVER CASES OF CRIMINAL POSSESSION; AMENDING SECTIONS 54-133 AND 95-302, R.C.M. 1947."

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

Section 1. Section 54-133, R.C.M. 1947, is amended to read as follows:

"54-133. Criminal possession of dangerous drugs.

(a) A person commits the offense of criminal possession of dangerous drugs if he possesses any dangerous drug as defined in this act.

(b) Any person convicted of a criminal possession of marihuana or its derivatives in any amount, the aggregate weight of which does not exceed sixty (60) grams of marihuana, or one (1) gram of hashish, shall, for the first offense, be guilty of a misdemeanor and is punishable by a fine not to exceed one-thousand-dollars-(\$1,000) ~~\$100~~ \$250

or by imprisonment in the county jail not to exceed one--(1)-- year ~~10 days~~ or by both such fine and imprisonment. A person convicted of a second--or-subsequent-- offense under this subsection is punishable by a fine not to exceed one thousand-dollars-(\$1,000) \$500 or by imprisonment in the county jail not to exceed one--(1)--year-or-in-the-state prison-not-to-exceed-three-(3)-years ~~6 months~~ or by both such fine and imprisonment. A person convicted of a third or subsequent offense under this subsection is punishable by a fine not to exceed \$1000 or imprisonment in the county jail not to exceed 1 year, or both.

(c) A person convicted of criminal possession of dangerous drugs not otherwise provided for in subsection (b) shall be imprisoned by imprisonment in the state prison not to exceed five (5) years.

~~(d) A person of the age of twenty-one (21) years or under, convicted of a first violation under this section shall be presumed to be entitled to a deferred imposition of sentence, jurisdiction under this section shall be exclusively in the district courts."~~

Section 2. Section 95-302, R.C.M. 1947, is amended to read as follows:

"95-302. Jurisdiction of the justice of the peace courts. The justices' courts have:

(a) Jurisdiction of all misdemeanors punishable by a

1 fine not exceeding five hundred dollars (\$500.00) or
2 imprisonment not exceeding six (6) months, or both such fine
3 and imprisonment; ~~excluding jurisdiction in cases commenced~~
4 ~~under the Montana Dangerous Drug Act except to act as~~
5 ~~examining and committing courts and to conduct preliminary~~
6 ~~hearings as provided in subsection (c);~~

7 (b) Concurrent jurisdiction, with district courts, of
8 all misdemeanors punishable by a fine only, not exceeding
9 fifteen hundred dollars (\$1,500.00); and

10 (c) Jurisdiction to act as examining and committing
11 courts and for such purpose to conduct preliminary
12 hearings."

-End-

SENATE BILL NO. 255

INTRODUCED BY ROBERTS, MURRAY

A BILL FOR AN ACT ENTITLED: "AN ACT TO ~~REDUCE THE PENALTIES FOR CRIMINAL POSSESSION OF 60 GRAMS OR LESS OF MARIJUANA OR OF 1 GRAM OR LESS OF HASHISH; TO REPEAL THE PROVISION THAT FIRST OFFENDERS OF 21 YEARS OF AGE OR UNDER ARE PRESUMED TO BE ENTITLED TO A SUSPENDED SENTENCE; IMPROVE THE ENFORCEMENT OF MARIJUANA LAWS BY INCREASING PENALTIES IN SOME CASES AND REDUCING PENALTIES IN OTHER CASES~~ AND TO PROVIDE JURISDICTION IN JUSTICES' COURTS OVER CASES OF CRIMINAL POSSESSION; AMENDING SECTIONS 54-133 AND 95-302, R.C.M. 1947."

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

Section 1. Section 54-133, R.C.M. 1947, is amended to read as follows:

"54-133. Criminal possession of dangerous drugs.

(a) A person commits the offense of criminal possession of dangerous drugs if he possesses any dangerous drug as defined in this act.

(b) Any person convicted of a criminal possession of marihuana or its derivatives in any amount, the aggregate weight of which does not exceed sixty (60) grams of marihuana, or one (1) gram of hashish, shall, for the first

offense, be guilty of a misdemeanor and is punishable by a fine not to exceed ~~one thousand dollars (\$1,000)~~ ~~\$100~~ \$250 or by imprisonment in the county jail not to exceed ~~one (1)~~ year 10 days or by both such fine and imprisonment. A person convicted of a second or subsequent offense under this subsection is punishable by a fine not to exceed ~~one thousand dollars (\$1,000)~~ \$500 or by imprisonment in the county jail not to exceed ~~one (1) year or in the state prison not to exceed three (3) years~~ 6 months or by both such fine and imprisonment. A person convicted of a third or subsequent offense under this subsection is punishable by a fine not to exceed \$1000 or imprisonment in the county jail not to exceed 1 year, or both.

(c) A person convicted of criminal possession of dangerous drugs not otherwise provided for in subsection (b) shall be imprisoned by imprisonment in the state prison not to exceed five (5) years.

~~(d) A person of the age of twenty one (21) years or under, convicted of a first violation under this section shall be presumed to be entitled to a deferred imposition of sentence. Jurisdiction under this section shall be exclusively in the district courts."~~

Section 2. Section 95-302, R.C.M. 1947, is amended to read as follows:

"95-302. Jurisdiction of the justice of the peace

1 courts. The justices' courts have:

2 (a) Jurisdiction of all misdemeanors punishable by a
3 fine not exceeding five hundred dollars (\$500.00) or
4 imprisonment not exceeding six (6) months, or both such fine
5 and imprisonment; ~~excluding jurisdiction in cases commenced~~
6 ~~under the Montana Dangerous Drug Act except to act as~~
7 ~~examining and committing courts and to conduct preliminary~~
8 ~~hearings as provided in subsection (c).~~

9 (b) Concurrent jurisdiction, with district courts, of
10 all misdemeanors punishable by a fine only, not exceeding
11 fifteen hundred dollars (\$1,500.00); and

12 (c) Jurisdiction to act as examining and committing
13 courts and for such purpose to conduct preliminary
14 hearings."

-End-