CHAPTER NO. 7

SENATE BILL NO. 38

INTRODUCED BY STORY

BY REQUEST OF THE CODE COMMISSIONER

IN THE SENATE

January 4, 1979	Introduced and referred to Committee on State Administration.
	On motion Senator Story was added as author to the Pre-Filed Bill.
January 9, 1979	Committee recommend bill do pass. Report adopted.
January 10, 1979	Printed and placed on members' desks.
January 11, 1979	Motion pass consideration.
January 12, 1979	Second reading, do pass.
January 13, 1979	Considered correctly engrossed.
January 15, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

January 16, 1979

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Introduced and referred to Committee on State Administration.

January	19,	1979	Committee recommend bill be concurred in. Report adopted.
January	20,	1979	Second reading, pass consideration.
January	22,	1979	Second reading, be concurred ir
January	23,	1979	Third reading, be concurred in.

IN THE SENATE

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January 24, 1979

Returned from second house. Sent to enrolling.

Report correctly enrolled.

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46th Legislature

LC 0039/01

1	SENATE BILL NO. 38
2	INTRODUCED BY
3	BY REQUEST OF THE CODE CONKISSIONER
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5	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6	CLARIFY THE LAWS RELATING TO LAW ENFORCEMENT AND FORENSIC
7	SCIENCE; REPEALING SECTIONS 31-102, 80-2001, AND 89-3902,
8	R.C.M. 1947."
9	
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11	Section 1. Section 44-1-404, NCA, is amended to read:
12	#44-1-404。 Status of replacements for patrolmen who
13	enter the armed forces. Patrolmen filling vacancies caused
14	by the incumbents' entrance into the armed forces of the
15	United States shall, on the return of the incumbents, be
16	placed in the patrol reserve without pay <u>te otherwise except</u>
17	that they shall hold their probationary or permanent
18	appointments while there are sufficient operating funds.
19	Reserve patrolmen shall then be used for future replacements
20	in the permanent patrol."
21	Section 2. Section 44-1-501; HCA; is amended to read:
22	#44-1-501. Payment of salaries. All salaries of
23	members of the highway patrol shall be paid out of <u>the</u>
24	<u>bighway_department's_account in</u> the earmarked revenue fund
25	of -the-department-of-nighways ."

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1	Section 3. Section 44-1-601, NCA, is amended to read:
2	"44-1-601. Probationary training and service
3	patrolmen. All <u>A</u> new potrolmen <u>patrolman</u> shall be placed
4	under probationary training and service for a period of 6
5	months to 1 year ys during -whichtimethedivisionmust
6	recommendpermanent-oppointmentsp-otherwise If the division
7	fails to recommend a permanent appointment by the end of the
8	probationary periods the probationary petrolmen patrolman
9	will automatically be discharged."
10	Section 4. Section 44-1-602, NCA, is amended to read:
11	• • • • • • • • • • • • • • • • • • •
12	supervisory personnel. All newly appointed supervisory
13	personnel shall be placed under probationary training and
14	service for a period of 6 months to 1 yearva during-which
15	time-the-divisionsustrecommendpermonentoppointments;
15	otherwise If the division fails to recommend a vermanent
17	appointment by the end of the probationary period. the
18	probationary supervisory personnel will automatically revert
19	to their previous ranks without prejudice."
20	Section 5. Section 44-1-612, MCA, is amended to read:
21	"44-1-612. Cause for suspension, demotion, or
22	discharge. Cause for suspension, demotion, or discharge will
23	be <u>is</u>:
24	(1) conviction of any crime involving moral turpitude

in any court of competent jurisdiction subsequent to the

1 commencement of such employment;

2 (2) gross neglect of duty or willful violation or
3 disobedience of orders or regulations;

4 (3) loitering about or entering places of ill fime or
5 ill repute or where in which illegal gambling is known to be
6 conducted or to be in progress, except in the immediate
7 discharge of auty;

3 (4) conduct unbecoming an officer;

9 (5) drinking intoxicating liquor while using
10 state-owned cars or in uniform or being intoxicated in a
11 public place;

12 (6) sleeping while on duty;

13 (7) incapacity or partial incapacity materially
 14 affecting his ability to perform his official duties;

15 (8) gross inefficiency in performing duties; or

16 (9) willful disobedience of rules adopted by the 17 division governing the conduct and discipline of members of 18 the patrol."

Section 6. Section 44-1-301, MCA, is amended to read: "44-1-801. Notice of hearing. (1) The division shall. at least 10 days before the time appointed for a hearing. Surve written notice on the accused patrolman. specifying the charge or charges filed and stating the name of the person or persons making the charge or charges--on--the occused-patrolman-personnity-if-nis-whereabouts-is-known-in 1 the-state.

2	(2) If the accused patrolman is located within the
3	state and his whereabouts is known, the service required by
4	subsection (1) shall be made personally. If the accused
5	patrolman is located outside the state and his whereabouts
6	is known, service may be mady by mailing the written notice
7	to his plac, of residence. If, at the time, the whereabouts
8	of the accised patrolman is unknown-or-if-he-be-outside-of
9	the-state, service may be made upon him by mailing the
10	written notice to his at his last-known place of residence
11	in Montana."
12	Section 7. Section 44-1-805, MCA, is amended to read:
13	#44-1-805。 Reinstatement and backpay <u>backpay</u> upon
14	exoneration. If after the hearing the division finds that
14 15	exoneration. If after the hearing the division finds that the charge or charges made against the patrolman be <u>are</u> not
15	the charge or charges made against the patrolman be are not
15 16	the charge or charges made against the patrolman be are not true, the division shall reinstate the accused patrolman to
15 16 17	the charge or charges made against the patrolman be are not true, the division shall reinstate the accused patrolman to his position and rank and shall order the payment of any
15 16 17 18	the charge or charges made against the patrolman be are not true, the division shall reinstate the accused patrolman to his position and rank and shall order the payment of any salary withheld pending the determination of the charge or
15 16 17 18 19	the charge or charges made against the patrolman be are not true, the division shall reinstate the accused patrolman to his position and rank and shall order the payment of any salary withheld pending the determination of the charge or charges."
15 16 17 18 19 20	the charge or charges made against the patrolman be <u>are</u> not true, the division shall reinstate the accused patrolman to his position and rank and shall order the payment of any salary withheld pending the determination of the charge or charges." Section 8. Section 44-1-806, MCA, is amended to read:
15 16 17 18 19 20 21	<pre>the charge or charges made against the patrolman be are not true, the division shall reinstate the accused patrolman to his position and rank and shall order the payment of any salary withhold pending the determination of the charge or charges." Section 8. Section 44-1-806. MCA, is amended to read: "44-1-806. Disciplinary action. If after a hearing the</pre>

24 by reprimend, suspension without pay, demotion, or 25 discharge."

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Section 9. Section 44-1-807, MCA, is amended to read:
 "44-1-807. Length of suspension. Any <u>A</u> member under
 suspension shall be on leave without pay and for a period
 not to exceed 30 days-in-time."
 Section 10. Section 44-1-901, NCA, is amended to read:

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6 **"44-1-901.** Right to appeal. (1) Any patrolman who is 7 suspended, demoted, or discharged may-have <u>has</u> a right of 8 appeal to the district court of Lewis and Clark County.

9 (2) Such The appeal must be made within 10 days after
 10 such the decision or determination of the division."

11 Section 11. Section 44-1-903, MCA, is amended to read: #44-1-903. Reinstatement and back--pay backbay upon 12 reversal or modification. If the decision or determination 13 of the division shell-be is finally reversed or modified by 14 the district court, the accused patrolman shell must be 15 16 reinstated in his position, and Upon reinstatement, the division shall pay to the patrolman any salary or wages 17 18 withheld from him pending the determination of the charge or charges, or take such action as may be directed by the 19 court." 20

21 Section 12. Section 44-1-1001, MCA, is amended to 22 read:

23 "44-1-1001. Offenses for which patrolmen may make
 24 arrests. In--addition-to--the--above--dutiesy--the (1) The
 25 highway patrol chief and all patrolmen may make arrests for

the following offenses if-committed-in-the-presence-of-the chief-or-ony-of-the--potrolment--if--committed--in--o--rurol districty--upon--the--request--of--a--peace--officart--or-if

- 4 committed-in-a-city-or-town-of-less-then-2y500--inhabitentsy
- 5 upon--the--request--of-any-peace-officer-or-the-mayor-of-the
- 6 city-or-town+ listed in subsection (2) under the following
- 7 <u>circumstances</u>:

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- 8 (a) the offense is compitted in the presence of the
- 9 chief or any patrolman:
- 10 (b) the offense is compitted in a rural district and a
- 11 request for assistance is made by a peace officer: or
- 12 (c) the offense is committed in a city or town with a
- 13 population of less than 2.500 and a request for assistance
- 14 is made by a peace officer or the mayor of the city or towns
- 15 (2) Offenses for which arrests may be made under
- 16 <u>subsection (1) are:</u>
- 17 (1)(a) deliberate homicide;
- 18 t2t(b) assault with a deadly weapon;
- 19 (3)[<u>(</u>) arson;
- 20 (4)(d) criminal mischief;
- 21 (5)(e) Surglary;
- 22 (6)[f] theft;
- 23 (7719) kidnappingi
- 24 (0)(1) illegal transportation of narcotics; or
- 25 (9)(i) violation of the Over Act regarding the

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1 transportation of stolen automobiles."

2 Section 13. Section 44-1-1005, MCA, is amended to 3 read:

4 "44-1-1005. Enforcement of motor carriers' licensing law. A highway patrolman has the same authority to enforce -5 6 provisions of the motor carriers' licensing law as that 7 granted the public service commission under 69-12-203. The 8 highway--patrol--bureau givision shall cooperate with the Q public service commission and the department of highways to 10 assure minimum duplication and maximum coordination of 11 enforcement effort."

12 Section 14. Section 44-1-1101, MCA, is amended to 13 read:

14 "44-1-1101. Duty of patrolman upon making an arrest.
 15 Patrolman_upon Upon making an arrest. <u>a_patrolman</u> shail:
 16 either

17 <u>(1)</u> deliver the offender to the nearest justice of the
18 peace during office hours or to the county jai); ory-in-lieu
19 thereofy

20 <u>121</u> deliver-to give the offender a form-of summons 21 describing the nature of the offense with instructions 22 thereon for the offender to report to the nearest justice of 23 the peace; ory-in-lieu-of-reporting-to-the-meanest-justice 24 of-the-peacey-the-petroluon-hos-the-right-to-set-and 25 <u>131</u> accept n-deposit-tor-coppearance-justifiable-for

3 Section 15. Section 44+1+1202, HCA, is amended to 4 read:

#44-1-1102. Procedure when patrolman accepts bail. (1) 5 to-the want if the patrolman sets and accepts ball, he 6 7 shall give a signed receipt to the offenders setting forth the amount received. The patrolman shall then deliver the 8 bail money to the justice of the peace before whom the 9 offender is o appear, and the justice of the peace shall 10 give a receipt to the patrolman for the amount of bail money 11 delivered. After the filing of the complaint and the 12 appearance of the defendant, the justice of the peace shall 13 14 assume jurisdiction and may sety---fixy and accept further copearence bail bond. 15

16 121-For-the-purpose of this chapter only the fees of justices-of-the-peace-in-all-offenses-in-which-the-statutory 17 18 fing-is-\$5-or-less-shall-be-\$2v-but-if-the-statutory-fine-is in-excass--of--\$5y--the--justices--of--the--peace--shall--be 19 permitted--the--fee--now-prescribed-by-lawy-provided-that-no 20 additional-feas-shall-be-paid-justicas-of--the-peace--where 21 22 sateries-ere-fixed-by-tew.* Section 16. Section 44-2-115, MCA, is amended to read: 23 24 •44-2-115. Powers and duties of agents. An agent shall

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hove-the-power-and-duty-to:

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1 (1) assist city, county, state, and federal law 2 enforcement agencies at their request by providing expert 3 and immediate aid in investigation and solution of felonies 4 committed in the state;

5 (2) assist verious any law enforcement schools school 6 held in the state for law <u>enforcement</u> officers when 7 requested;

8 (3)--cooperate-with-the-deportment-of-justice;

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9 (+)(3) act as a peace officer, as defined in the laws 10 of Montana, when engaged in assisting or acting under the 11 direction of city, county, state, and federal law 12 <u>enforcement</u> agencies as provided in this section.*

Section 17. Section 44-2-201, MCA, is amended to read: #44-2-201. Establishment of state system. The department of justice shall cooperate with and assist sheriffs, chiefs of police, and other law <u>enforcement</u> officers in the establishment of a complete state system of criminal identification.#

Section 18. Section 44-2-202, MCA, is amended to read: "44-2-202. Assistance to and instruction of local officers. The department shall assist and, when practicable, instruct sheriffs, chiefs of police, and other law enforcement officers in establishing efficient local bureaus of identification in their districts and in making them proficient in procuring and maintaining fingerprint 1 records."

Section 19. Section 44-2-303. MCA. is amended to read: 2 #44-2-303. Federal cost sharing. The attorney general 3 is-hereby-directed-to shall contact federal law enforcement 4 5 agencies or officials relative to federal cost sharing in 6 the teletypewriter communications system, and if such funds 7 are available from federal sources, the attorney general is hereby--outhorized--to may sign agreements with the federal 8 9 agencies. Any federal funds received in any blennium for 10 which Montana funds have been appropriated shall be deposited to-the-credit-of-the--compunication--fund in the 11 12 system's account and shall be used, if at all possible, to 13 reduce the spending of moneys money appropriated from the 14 general fund." 15 Section 20. Section 44-2-313. MCA. is amended to read:

16 "44-2-313. Payment of charge. Such charge shall be 17 billed monthly to the agencies. Payments made as a result of 18 the billing shall be remitted to the attorney general and 19 shall--be deposited by him in a special account in the state 20 treasurer's office treasury."

21	Section 21. Section 94-2-316, HCA, is amended to read:
22	#44-2-316. Assessment for personnel. A special
23	<u>prorated</u> assessment pro-rata shall be made against all
24	participating agencies for personnel necessary to assist in
25	the operation at one central location or key point at which

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there is a federal intertie. This assessment shall be made 1 monthly the same as is the operational assessment charge. It 2 3 shall be transmitted, and deposited, and drawn by warrant as are other warrants as provided in 44-2-312 through 44-2-315. 4 except that the assessment shall may not be levied against 5 the one central station for which the assessment is made." 6 Section 22. Section 44-3-213, MCA, is amended to read: 7 8 #44-3-213. Report to county attorney. When the cause 9 of death has been established within reasonable medical certainty by the state medical examiner or his associate. 10 11 whether by review of a coroner's report or by personal examination, he the state medical examiner shall make 12 13 available in writing to the county attorney his 14 determination as to the cause of depth.* 15 Section 23. Section 44-3-404. MCA. is amended to read:

16 "44-3-404. Criminal penalty. A person is guilty of a 17 misdemeanor and may be fined not more than \$500 or 18 imprisoned in the county jail for not more than 1 year, or 19 both, if he:

(1) willfully purposely fails to report or conceals a
 death;

(2) refuses to make available prior medical or other
 information in a death investigation; or

(3) without an order from the coroner or state medical
 examiner, willfully purposely touches, removes, or disturbs

a corpse, its clothing, or anything near the corpse under
 investigation with the intent to alter the evidence or
 circumstances surrounding the death."

Section 24. Section 44-4-101, MCAy is amended to read:
"44-4-101. Position established. There is created
within the department of justice or the position of training
coordinator for county attorneys."

8 Section 25. Section 44~4-103. HCA, is amended to read: 9 ***44~4-103. Functions.** The training coordinator shall 10 perform the functions: assigned by the department*-head 11 <u>attorney...general</u>. The functions may include but are not 12 limited to the following:

(1) providing local training in current aspects of the
criminal law for county attorneys and other law enforcement
personnel;

(2) assisting in developing and disseminating
standards, procedures, and policies which will insure that
criminal laws are applied consistently and uniformly
throughout the state of Montana;

(3) consolidating present and past information on
important aspects of the criminal law and providing a pool
of official opinions, legal briefs, and other relevant
criminal law information;

24 (4) providing assistance with research, briefs, or
25 other technical services requested by a county attorney or

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1 law enforcement official;

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2 (5) applying for and disbursing federal funds
3 available to aid the prosecutorial function.

4 Section 26. Section 44-11-202, MCA, is amended to 5 read:

"44-11-202. Employing entity to pay normal expenses of 6 assisting officer --- reimbursement. (1) The law enforcement 7 8 entity employing a peace officer who renders assistance shall make all wage, pension, and disability payments and 9 10 payments for damage to clothing and equipment due to the officer as a result of the rendering of assistance and shall 11 pay any medical expense incurred by the officer in rendering 12 13 assistance for which the officer is not otherwise entitled 14 to reimbursement by operation of law or a contract. The 15 employing entity shall also provide workers' companyation coverage for its employees while they are rendering 16 17 assistance.

(2) Upon--making-such-paymenty-such If it so requests. 18 the law enforcement entity shally must if-it-so-requests, be 19 reimbursed by the law enforcement entity that requested the 20 services for all payments made for wages and damage to 21 22 clothing and equipment and for any medical expense for which neither the employing entity nor the officer is otherwise 23 entitled to reimbursement by operation of law or a 24 25 contract."

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1 Section 27. Section 39-72-606, MCA, is amended to 2 read:

#39-72-606. Autopsy. Upon the filing of a claim for 3 4 compensation for death caused by an occupational disease where if an autopsy is necessary to determine the cause of 5 6 death, an autopsy shall be ordered by the division. The 7 autopsy shall be made under the supervision of the county 8 coroner or a medical examiner. The division may designate a duly licensed physician who is a specialist in such 9 examinations to perform or attend the autopsies and to 10 certify his findings thereon. The findings shall be examined 11 by the physicians submitting reports under the provisions of 12 13 39-72-604 and 39-72-605 before the final reports under those sections are submitted to the division." 14

15 Section 28. Section 50-15-403, MCA, is amended to 16 read:

17 "50-15-403. Preparation of certificate when death medically attended. A person in charge of interment shall: 19 (1) optain personal data required by the department 20 from persons best qualified to supply the data and enter it 21 on the death or fetal death certificate; 22 (2) (a) present the death certificate to the physician 23 last in attendance upon the deceased, or the coroner having

24 jurisdictions or the state medical examiners who shall

25 certify the cause of death according to his best knowledge

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1 and belief; or

2 (3)(b) present the fetal death certificate to the 3 physician, widwife, or other person in attendance, who shall 4 certify the fetal death and supply my pertinent additional 5 medical data:

6 (49)(3) notify the local registrar if the death or
7 fetal death occurred without attendance or if the physician
8 last in attendance failed to sign the death certificate;

9 (5)(4) file the death or fetal death certificate with
10 the local registrar within 3 days after the occurrence."
11 Section 29. Section 50-15-404, MCA, is amended to
12 read:

13 "50-15-404. Preparation of certificate when death not 14 medically attended. (1) If the death or fetal death occurred 15 without medical attendance or the physician last in 16 attendance failed to sign the death certificate, the local 17 registrar may complete the certificate on the basis of 18 information received from persons having knowledge of the 19 facts.

20 (2) If it appears the death or fetal death resulted 21 from other than natural causes, the local registrar shall 22 notify the coroner <u>and the state medical examiner</u> for 23 investigation and certification.⁴⁰

24 Section 30+ Section 50-15-405+ MCA+ is amended to 25 read: *50~15~405. Permit for disposition of body. (1) No
 dead body shall may be disposed of or removed from a
 registration district until a permit for disposition or
 removel has been issued by the local registrar.

5 (2) No permit shall may be issued until a death 6 certificate, fetal death certificate, or notice of delay as 7 required in subsection (3) of this section has been filed 8 with the local registrar.

9 (3) If the cause of death or fetal death cannot be
10 determined within 3 dars after the occurrence, the attending
11 physicians or coroners or medical scaningr shall give the
12 local registrar written notice of the reason for delay so
13 that a permit may be issued for disposition of the body."

Section 31. Section 61-7-111, MCA, is amended to read: 14 #61-7-111. Accident report forms. [1] The division 15 16 shall prepare and upon request supply to police 17 departments, coroners, medical examiners, sheriffs, garages, 18 and other suitable agencies or individuals forms for 19 accident reports required hereunder, appropriate with 20 respect to the persons required to make such reports and the 21 purposes to be served. The written reports to be made by 22 persons involved in accidents and by investigating officers 23 shall call for sufficiently detailed information to disclose 24 with reference to a traffic accident the causes, conditions 25 then existing, and the persons and vehicles involved.

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1 (2) Every accident report required to be made in 2 writing shall be made on the appropriate form approved by 3 the division and shall contain all of the information 4 required therein unless not available.

5 (3) The division may suspend the license or permit to drive of any resident and any or the nonresident operating 6 privilege of any person failing to report an accident as 7 8 herein provided until such report has been filed. Any person 9 convicted of failing to report an accident by the guickest means of communication or failing to forward a written 10 11 report as required herein shall-be-dequed is quilty of a misdemeanor and punished punishable by a fine of not more 12 13 than \$25."

14 Section 32. Section 61-7-112, MCA, is amended to read: "61-7-112. Coroners and medical examiners to report. 15 Every Each coroner, medical examiner, or other official 16 performing like functions shalls on or before the 10th day 17 of each months report in writing to the division the death 13 19 deaths of env-person all persons within his respective 20 jurisdiction during the preceding calendar month as the 21 result of a traffic accidents, giving the time and 22 place of the each accident and the circumstances relating 23 thereto."

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 Section 33. Repealer. Sections 31-102, 80-2001, and

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 82-3902, R.C.M. 1947, are repealed.

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SENATE MEMBERS

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FRANK HAZELBAKER VICE CHAIBMAN

CHET BLAYLOCK

PATIM GOODOVER -DIANAIS DOWLING -

DIANA'S DOWLING EXECUTIVE DRECTOR CODE COMMISSIONER ELEANOR ECK ADMINISTRATIVE ASSISTANT

ROBERTA MOODY DIRECTOR, LEGISLATIVE SERVICES



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1979 Legislature Code Commissioner Bill - Summary

SENATE Bill No. 38

AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO LAW ENFORCEMENT AND FORENSIC SCIENCE; REPEALING SECTIONS 31-102, 80-2001, AND 82-3902, R.C.M. 1947.

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. 44-1-404. "Otherwise" is changed to "except that" and "then" is deleted for clarity.

Section 2. 44-1-501. Reference to the earmarked revenue fund is rewritten to conform with the state fund structure.

Sections 3 and 4. 44-1-601 and 44-1-602. These sections are rewritten for clarity.

Section 5. <u>44-1-612</u>. In subsection (3), "gambling" is changed to "illegal gambling" to reflect the fact that certain forms of gambling are legal under present law. In subsection (7), deleted "his" in two places as redundant and ungrammatical since there is no antecedent. In subsection (8), added "or" for clarity.

Section 6. 44-1-801. This section is rewritten for clarity and to add a requirement that notice to nonresidents be sent to their out-of-state residence to provide consistency with other notice provisions.

Sections 7 and 8. <u>44-1-805 and 44-1-806</u>. In both sections, "be" is changed to "are" for grammar and to provide modern usage.

Section 9. <u>44-1-807</u>. "And" is deleted for clarity. "In time" is deleted as redundant.

Section 10. <u>44-1-901</u>. In subsection (1), "may have" is changed to "has" for clarity.

Section 11. 44-1-903. This section is rewritten for clarity.

Section 12. 44-1-1001. This section is rewritten for clarity.

Section 13. 44-1-1005. "Highway patrol bureau" is changed to "division" to achieve consistency with 44-1-102, which gives general supervisory control to the division.

Section 14. <u>44-1-1101</u>. This section is rewritten for clarity and language permitting a patrolman to set and accept bail is changed to permit the patrolman only to accept bail as provided in the criminal code.

Section 15. <u>44-1-1102</u>. In subsection (1), reference to setting bail is deleted since a patrolman is not authorized to set bail and "fix" and "appearance" are deleted as redundant. Subsection (2) is deleted because the justice of the peace no longer receives fees but rather a salary.

Section 16. <u>44-2-115</u>. Subsection (3) is deleted as obsolete. Originally it read "cooperate with the bureau of criminal identification and investigation". Executive reorganization (Section 1, Ch. 272, L. 1971; 82A-1202(1)) transferred the bureau's functions to the department of justice. Since the agents are within that department, a mandate to cooperate with the department is superfluous. In subsection (4), "law agencies" is changed to "law enforcement agencies" to be consistent with subsection (1).

Sections 17 and 18. 44-2-201 and 44-2-202. In both sections, "law officers" is changed to "law enforcement officers". to provide consistent terminology.

Section 19. 44-2-303. Material relating to the "communications fund" is rewritten to provide consistency with state fund structure.

Section 20. <u>44-2-313</u>. "State treasurer's office" is changed to "state treasury" for clarity and to reflect the fact that the office of state treasurer no longer exists as an independent office.

Section 21. 44-2-316. "Operational assessment" is changed to "operational charge" for consistency with the terminology of 44-2-312.

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Section 22. 44-3-213. "He" is changed to "the state medical examiner" for clarity.

Section 23. <u>44-3-404</u>. In subsections (1) and (3), "willfully" is changed to "purposely" to use the language of the criminal code which seems to best reflect the meaning of willfully.

Section 24. 44-4-101. Added "the position of" for clarity.

Section 25. <u>44-4-103</u>. In the introductory phrase, "department head" is changed to "attorney general" for clarity because the attorney general is the department head in this case.

Section 26. <u>44-11-202</u>. In subsection (2), "Upon making such payment, such" is changed to "The" for clarity and to eliminate redundant language.

Sections 27 through 32. 39-72-606, 50-15-403, 50-15-404, 50-15-405, 61-7-111, and 61-7-112. In all sections references to the state medical examiner or to medical examiners are made for consistency with the forensic sciences law enacted by Chapter 530, Laws of 1977.

Section 33. <u>31-102</u>, 80-2001, and 82-3902, R.C.M. <u>1947</u>. Section 31-102, R.C.M. <u>1947</u>, is recommended for repeal as obsolete due to abolishment of the highway patrol board by 82A-1205, R.C.M. <u>1947</u>, under executive reorganization. Section 80-2001, R.C.M. <u>1947</u>, is recommended for repeal as obsolete due to abolishment of the bureau of criminal identification and investigation by 82A-1202(1), R.C.M. <u>1947</u>, under executive reorganization. Section 82-3902, R.C.M. <u>1947</u>, is recommended for repeal as obsolete due to abolishment of teletypewriter communications committee by 82A-1202(3), R.C.M. <u>1947</u>, under executive reorganization.

Approved by Committee on State Administration

1	SENATE HILL NO. 38
2	INTRODUCED BY
3	BY REQUEST OF THE CODE COMMISSIONER
4	
5	A BELL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6	CLARIFY THE LAWS RELATING TO LAW ENFORCEMENT AND FORENSIC
1	SCIENCE: REPEALING SECTIONS 31-102, B0-2001, AND 89-3902,
8	R.C.H. 1947.*
9	
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11	Section 1. Section 44-1-404, HCA, is upended to read:
12	944-1-404. Status of replacements for patrolmen who
13	enter the armed forces. Patrolmen filling vacancies caused
14	by the incumbents' entrance into the armed forces of the
15	United States shall, on the return of the incumbents, be
16	placed in the patrol reserve without payts otherwise except
17	that they shall hold their probationary or permanent
18	appointments while there are sufficient operating funds.
19	Reserve patrolmen shall then be used for future replacements
20	in the permanent patrol."
21	Section 2. Section 44-1-501, HCA, is amended to read:
22	#44-1-501. Payment of salaries. All salaries of
23	members of the highway petrol shall be paid out of the
24	highway department's account in the earmarked revenue fund
25	of-the-deportment-of-highxaya."

1	Section 3. Section 44-1-601, MCA; is amended to read:
z	"44-1-601. Probationary training and service
3	patrolmen . All <u>A</u> new patrolmen <u>patrolman</u> shall be placed
4	under probationary training and service for a period of 6
5	months to 1 year ys duringwhichtimethedivisionmust
ó	recommend permanent-appointments}-otherwise <u>If the division</u>
ד	fails to recommend a permanent appointment by the end of the
8	probationary periods the probationary petroleen patrolman
9	will automatically be discharged."
10	Section 4. Section 44-1-602, MCA, is amended to read:
11	<pre>"44-1-602. Probationary training and service</pre>
12	supervisory personnel. All newly appointed supervisory
13	personnel shall be placed under probationary training and
14	service for a period of 6 months to 1 yearva during-which
15	tise-the-divisionaustrecommendperubmentappointments;
16	otherwise If the division fails to recommend a permanent
17	appointment by the end of the probationary periods the
18	probationary supervisory personnel will automatically revert
19	to their previous ranks without prejudice."
20	Section 5. Section 44-1-612, MCA, is amended to read:
21	"44-1-612. Cause for suspension, demotion, or
22	discharge. Cause for suspension, demotion, or discharge will
23	be is:
24	 conviction of any crime involving moral turpitude
25	in any court of competent jurisdiction subsequent to the

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SECOND READING SB38

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1	commencement	of	such	enolovnent:	

2 {2} gross neglect of duty or willful violation or
3 disobedience of orders or regulations;

4 (3) loitering about or entering places of ill fime or
5 ill repute or where in which illegal gambling is known to be
6 conducted or to be in progress, except in the immediate
7 discharge of duty;

3 (4) conduct unbecoming an officer;

9 (5) drinking intoxicating liquor while using
 10 state-owned cars or in uniform or being intoxicated in a
 11 public place;

12 (6) sleeping while on duty;

13 (7) incapacity or partial incapacity materially
 14 affecting his ability to perform his official duties;

15 (8) gross inefficiency in performing duties; or

16 (9) willful disobedience of rules adopted by the
17 division governing the conduct and discipline of members of
18 the patrol."

19Section 6. Section 44-1-301, NCA, is amended to read:20"44-1-801. Notice of hearing. (1) The division snall,21at least 10 days before the time appointed for a hearing,22serve written notice on the accused patrolman. specifying23the charge or charges filed and stating the name of the24person or persons making the charge or charges-on-the25occused-patrolman-personallyy-if-his-whereabouts-is-known-in

3 the-state. Z (2) If the accused patrolean is located within the 3 state and his whereabouts is known, the service required by 4 subsection (1) shall be made personally. If the accused patrolman is located outside the state and his whereabouts 5 6 is known, service may be made by mailing the written notice 7 to his place of residence. If, at the time, the whereabouts 8 of the accused patrolman is unknown-or-if-he-be-outside-of the-state, service may be made upon him by mailing the 9 written notice to him at his last-known place of residence 10 in Nontana." 11 Section 7. Section 44-1-805. MCA. is amended to read: 12 #44-1-805. Reinstatement and beck--pey hacknay upon 13 14 exoneration. If after the hearing the division finds that the charge or charges made against the patrolman be are not 15 true, the division shall reinstate the accused patrolman to 16 his position and rank and shall order the payment of any 17 18 salary withheld pensing the determination of the charge or charges." 19 20 Section 8. Section 44-1-806, MCA, is amended to read: 21 #44-1-806. Disciplinary action. If after a hearing the 22 division finds that any such charge or charges made against the putrolman be are true, it may punish the offending party 23 24 reprimand, suspension without pay, demotion, or bw.

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25

Section 9. Section 44-1-807. ACA. is amended to read: 1 #44-1-807. Length of suspension. Any A member under 2 suspension shall be on leave without pay and for a period 3 not to exceed 30 days-in-time." 4 5 Section 10. Section 44-1-901, MCA, is amended to read: #44-1-901. Right to appeal. (1) Any patrolman who is 6 7 suspended, demoted, or discharged may have has a right of 8 appeal to the district court of Lewis and Clark County. (2) Such The appeal must be made within 10 days after 9 10 such the decision or determination of the division." 11 Section 11. Section 44-1-903. MCA. is amended to read: #44-1-903. Reinstatement and back--pey backbay upon 12 13 reversal or modification. If the decision or determination of the division shall-be is finally reversed or modified by 14 the district court, the accused patrolman shell must be 15 reinstated in his position, and Upon reinstatement, the 16 division shall pay to the patrolman any salary or wages 17 18 withheld from him pending the determination of the charge or chargesy or take such action as may be directed by the 19 20 court."

21 Section 12. Section 44-1-1001, MCA, is amanded to 22 read:

23 #44-1-1001. Offenses for which patrolmen may make
 24 arrests. In--addition--to--the--above--dutiesy--the [1] The
 25 highway patrol chief and all patrolmen may make arrests for

1 the following offenses if-committed-in-the-presence-of-the 2 chief-or-ony-of-the--potrolment--if--compitted--in--a--rurol 3 districty-upon--the--request--of--a--peace--afficeri--ar-if 4 committed-in-a-city-of-town-of-less-than-2y500--inhabitontsy 5 upon--the--request--of-any-peace-officer-or-the-mayor-of-the city-or-town+ listed in subsection (2) under the following 6 7 circumstances: (a) the offense is committed in the presence of the 8 9 chief or any patrolean: 10 (b) the offense is committed in a rural district and a 11 request for assistance is made by a neace officer; or 12 icl the offense is committed in a city or town with a 13 population of less than 2.500 and a request for assistance 14 is made by a peace officer or the mayor of the city or town. 15 (21. Offenses for which arrests may be made under 16 subsection (1) are: 17 (tt) deliberate homicide; 18 f2f(b) assault with a deadly weapon; 19 tatic) arson; 20 (4)(d) criminal mischief; 21 tstel Surglary; Z 2 {6}(f) theft; 23 (ff)(g) kidnapping; 24 (8)(h) illegal transportation of narcotics; or 25 (9)(i) violation of the Dyer Act regarding the

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1	transportation of stolen outomobiles."
Z	Section 13. Section 44-1~1005, MCA, is amended to
3	read:
4	#44-1-1005. Enforcement of motor carriers* licensing
5	law. A highway patrolman has the same authority to enforce
6	provisions of the motor carriers" licensing law as that
7	granted the public service commission under 69-12-203. The
8	highwaypatrolbureau <u>dixision</u> shall cooperate with the
9	public service commission and the department of highways to
10	assure minimum duplication and maximum coordination of
11	enforcement effort."
12	Section 14. Section 44-1-1101, MCA, is amended to
13	read:
14	#44-1-1101. Duty of patrolman upon making an arrest.
15	Potrolmeny-upon <u>Upon</u> making an arrest≄ <u>a_patrolman</u> shall <u>i</u>
16	either
17	(1) deliver the offender to the nearest justice of the
18	peace during office hours or to the county jail <u>; ory-in-lieu</u>
19	thereofy
20	<u>(2) deliver-to give</u> the offender a form-of summons
21	describing the nature of the offense with instructions
22	thereon for the offender to report to the nearest justice of
23	the peace <u>:</u> or y-in-lieu-of-reporting-to-the-nearest-justice
24	of-the-peaces-the-patrolmon-has-the-right-to-set-and

25 [3] accept a-deposit-for--eppearance--justifiable--for

-7-

1 the--offense--chorged bail determined oursuant to Title 461

2 chapter 9. part 3.*

3 Section 15. Section 44-1-1102, NCA, is amended to 4 read:

5 "44-1-1102. Procedure when patrolman accepts bail. (1) in-the-event if the patrolman sets-and accepts bail, he 6 shall give a signed receipt to the offenders setting forth 7 the amount received. The patrolman shall then deliver the 8 bail money to the justice of the peace before whom the 9 10 offender is to appear, and the justice of the peace shall give a receipt to the patrolman for the amount of bail money 11 12 delivered. After the filing of the complaint and the appearance of the defendant, the justice of the peace shall 13 assume jurisdiction and may sety--fixy and accept further 14

- 15 appearance bail bond.
- 16 +23--For--the-purpose-of-this-chapter-onlys-the-feas-of
- 17 justices-of-the-pecc-in-offenses-in-which-the-statutory
- 18 fine-is-65-or-less-shall-be-fly-but-if-the-statutory-fine-is
- 19 in-excess-of---#5v--the--justices--of--the--peace--shall--be
- 20 permitted--the--fee--new-prescribed-by-laws-provided-thet-ne
- 21 additional-fees-shall-be-pald-justices-of--the--peace--where
- 22 salaries-are-fixed-by-law."
- 23 Section 16. Section 44-2-115, NCA, is amended to read:
- 24 "44-2-115. Powers and duties of agents. An agent shall
- 25 have-the-power-and-duty-to:

ŝ

1 (1) assist city, county, state, and federal law 2 enforcement agencies at their request by providing expert 3 and immediate aid in investigation and solution of felonies 4 committed in the state:

5 (2) assist various any law enforcement schools school 6 held in the state for law <u>enforcement</u> officers when 7 requested;

8 (3)--cooperate-with-the-deportment-of-justice;

9 (+)(3) act as a peace officer, as defined in the laws 10 of Montana, when engaged in assisting or acting under the 11 direction of city, county, state, and federal law 12 <u>enforcement</u> agencies as provided in this section."

13 Section 17. Section 44-2-201, MCA, is amended to read: 14 "44-2-201. Establishment of state system. The 15 department of justice shall cooperate with and assist 16 sheriffs, chiefs of police, and other law <u>enforcement</u> 17 officers in the establishment of a complete state system of 18 criminal identification."

Section 18. Section 44-2-202, MCA, is amended to read: #44-2-202. Assistance to and instruction of local officers. The department shall assist and, when practicable, instruct sheriffs, chiefs of police, and other law <u>enforcement</u> officers in establishin, efficient local bureaus of identification in their districts and in making them proficient in procurin; and maintaining fingerprint 1 records."

2 Section 19. Section 44-2-303, MCA, is amended to read: 3 #44-2-303. Federal cost sharing. The attorney general is-hereby-directed-to shall contact federal law enforcement 4 5 agencies or officials relative to federal cost sharing in 6 the teletypewriter communications system, and if such funds 7 are available from federal sources, the attorney general is R hereby--authorized---to may sign agreements with the federal 9 agencies. Any federal funds received in any biennium for 10 which Montana funds have been appropriated shall be deposited to-the-credit-of-the--communication--fund in the 11 12 system's account and shall be used, if at all possible, to 13 reduce the spending of moneys money appropriated from the general fund." 14 15 Section 20. Section 44-2-313, MCA, is amended to read:

16 "44-2-313. Payment of charge. Such charge shall be 17 billed monthly to the agencies. Payments made as a result of 18 the billing shall be remitted to the attorney general and 19 shall--be deposited by him in a special account in the state 20 treesurer*s-office treasury."

21 Section 21. Section 44-2-316, MCA, is amended to read:
22 "44-2-316. Assessment for personnel. A special
23 prorated assessment pro--rote shall be made against all
24 participating agencies for personnel necessary to assist in
25 the operation at one central location or key point at which

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1 there is a federal intertie. This assessment shall be made 2 monthly the same as is the operational assessment charge. It 3 shall be transmitted, and deposited, and drawn by warrant as 4 are other warrants as provided in 44-2-312 through 44-2-315, 5 except that the assessment shall may not be levied against 6 the one central station for which the assessment is made." 7 Section 22. Section 44-3-213, MCA, is amended to read: 8 #44-3-213. Report to county attorney. When the cause 9 of death has been established within reasonable medical 10 certainty by the state medical examiner or his associate, 11 whether by review of a coroner's report or by personal 12 examination: he the state medical examiner shall make 13 available in writing to the county attorney his 14 determination as to the cause of death." Section 23. Section 44-3-404, MCA, is amended to read: 15

16 "44-3-404. Criminal penalty. A person is guilty of a 17 misdemeanor and may be fined not more than \$500 or 18 imprisoned in the county jail for not more than \$ year, or 19 both, if he:

(1) willfully purposely fails to report or conceals a
 death;

(2) refuses to make available prior medical or other
 information in a death investigation; or

24 (3) without an order from the coroner or state medical
 25 examiner, willfully purposely touches, removes, or disturbs

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1	a corpset its clothing or anything near the corpse under
2	investigation with the intent to alter the evidence or
3	circumstances surrounding the death."
4	Section 24. Section 44-4-101, MCA, is amended to read:
5	"44-4-101. Position established. There is created
6	within the department of justice a <u>the position of</u> training
7	coordinator for county attorneys."
8	Section 25. Section 44-4-103, MCA, is amended to read:
9	#44-4-103. Functions. The training coordinator shall
10	perform the functions assigned by the departmenthead
11	attorney_general. The functions may include but are not
12	limited to the following:
13	(1) providing local training in current aspects of the
14	criminal law for county attorneys and other law enforcement
15	personnel;
16	(2) assisting in developing and disseminating
17	standards, procedures, and policies which will insure that
18	criminal laws are applied consistently and uniformly
19	throughout the state of Hontana;
20	(3) consolidating present and past information on
21	important aspects of the criminal law and providing a pool
22	of official opinions, legal briefs, and other relevant
Z 3	criminal law information;
24	(4) providing assistance with research, briefs, or
25	other technical services requested by a county attorney or

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1 law enforcement official;

2 (5) applying for and disbursing federal tunds
3 available to aid the prostoutorial function.

4 Section 26. Section 44-11-202, MCA, is usended to 5 read:

#44-11-202. Employin, entity to pay normal expenses of 6 7 assisting officer -- reimbursement. (1) The law enforcement 8 entity employing a peace officer who renders assistance 9 shall make all wage, pension, and disability payments and 10 payments for damage to clothing and equipment due to the 11 officer as a result of the rendering of assistance and shall 12 pay any medical expanse incurred by the officer in rendering 13 assistance for which the officer is not otherwise entitled to reimbursement by operation of law or a contract. The 14 15 employing entity shall also provide workers* compensation 16 coverage for its employees while they are rendering 17 assistanc.

18 (2) Upon--making-such-paymenty-such If_it_so_requests. 12 the law enforcement entity shelly must if-it-so-requests, be 20 reigbursed by the law enforcement entity that requested the 21 services for all payments made for wages and damage to 22 clothing and equipment and for any medical expense for which neither the caployin, entity nor the officer is otherwise 23 entitled to reinbursement by operation of law or a 24 25 contract."

Section 27. Section 39-72-606, MCA, is amended to react

3 #39-72-606. Autopsy. Upon the filing of a claim for 4 compensation for death caused by an occupational disease 5 where if an autopsy is necessary to determine the cause of 6 death, an autopsy shall be ordered by the division. The 7 autopsy shall be made under the supervision of the county 8 coroner or a medical examiner. The division may designate a 9 duly licensed physician who is a specialist in such 10 examinations to perform or attend the autopsies and to 11 certify his findings thereon. The findings shall be examined by the physicians submitting reports under the provisions of 12 39-72-604 and 39-72-605 before the final reports under those 13 sections are submitted to the division." 14

15 Section 28. Section 50-15-403. MCA, is amended to to read:

17 "50-15-403. Preparation of certificate when death 18 medically attended. A person in charge of interment shall: 19 (1) obtain personal data required by the department 20 from persons best qualified to supply the data and enter it 21 on the death or fetal death certificate;

(2) (a) present the death certificate to the physician last in attendance upon the deceased<u>a</u> or the coroner having jurisdiction<u>a</u> or the state medical examiners who shall certify the cause of death according to his best knowledge

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1 and belief; or

t3+(b) present the fetal death certificate to the
physician, midwife, or other person in attendance, who shall
certify the fetal death and supply any pertinent additional
medical data;

6 (4)(3) notify the local registrar if the death or
7 fetal death occurred without attendance or if the physician
8 last in attendance failed to sign the death certificate;

9 (5)(4) file the death or fetal death certificate with
10 the local registrar within 3 days after the occurrence."

11 Section 29. Section 50-15-404, HCA, is amended to 12 read:

13 "50-15-404. Preparation of certificate when death not 14 medically attended. [1] If the death or fetal death occurred 15 without medical attendance or the physician last in 16 attendance failed to sign the death certificate, the local 17 registrar may complete the certificate on the basis of 18 information received from persons having knowledge of the 19 facts.

20 (2) If it appears the death or fetal death resulted 21 from other than natural causes, the local registrar shall 22 notify the coroner <u>and the state medical examiner</u> for 23 investigation and certification.*

24 Section 30. Section 50-15-405, MCA, is amended to 25 read:

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#50-15-405. Permit for disposition of body. (1) No
 dead body shall may be disposed of or removed from a
 registration district until a permit for disposition or
 removal has been issued by the local registrar.

5 (2) No permit shell any be issued until a death
6 certificate, fetal usath certificate, or notice of delay as
7 required in subsection (3) of this section has been filed
8 with the local registrar.

9 (3) If the cause of death or fetal death cannot be 10 determined within 3 days after the occurrence, the attending 11 physician<u>a</u> or coroner<u>a</u> or medical examiner shall give the 12 local registrar written notice of the reason for delay so 13 that a permit may be issued for disposition of the body." 14 Section 31. Section 61-7-111, MCA, is amended to read:

"61-7-111. Accident report forms. (1) The division 15 shall prepare and upon request supply to police 16 17 departments, coroners, <u>medical examiners</u>, sheriffs, garages, and other suitable agencies or individuals forms for 18 accident reports required hereuader, appropriate with 19 20 respect to the persons required to make such reports and the 21 purposes to be served. The written reports to be made by 27 persons involved in accidents and by investigating officers 23 shall call for sufficiently detailed information to disclose with reference to a traffic accident the causes, conditions 24

25 then existing, and the perions and vehicles involved.

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(2) Every accident report required to be made in
 writing shall be made on the appropriate form approved by
 the division and shall contain all of the information
 required therein unless not available.

5 (3) The division may suspend the license or permit to 6 drive of any resident and any or the nonresident operating 7 privilege of any person failing to report an accident as 8 herein provided until such report has been filed. Any person 9 convicted of failing to report an accident by the quickest 10 means of communication or failing to forward a written report as required herein shall-be-deemed is guilty of a 11 12 misdemeanor and punished <u>punishable</u> by a fine of not more than \$25.* 13

14 Section 32. Section 61-7-112, MCA, is amended to read: #61-7-112. Coroners and medical examiners to report. 15 16 Every Each coroner, medical examiners or other official 17 performing like functions shalls on or before the 10th day 13 of each months report in writing to the division the aeath 19 deaths of env-person all persons within his respective 20 jurisdiction during the preceding culendar month as the result of a traffic accidents, giving the time and 21 place of the <u>each</u> accident and the circumstances relating 22 thereto." 23

 24
 Section 33. Repealer. Sections 31-102, 80-2001, and

 25
 82-3902, R.C.M. 1947, are repealed.

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-End-

-15-

5B38

1 SENATE BILL NO. 38 INTRODUCED BY 2 BY REQUEST OF THE CODE CONMISSIONER 3 4 A RILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND 5 6 CLARIFY THE LAWS RELATING TO LAW ENFORCEMENT AND FORENSIC 7 SCIENCE; REPEALING SECTIONS 31-102, 80-2001, AND 89-3902, R.C.H. 1947.* R 9 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 Section 1. Section 44-1-404. HCA. is amended to read: 12 #44-1-404. Status of replacements for patrolmen who enter the armed forces. Patrolmen filling vacancies caused 13 14 by the incumbents' entrance into the armed forces of the United States shall, on the return of the incumbents, be 15 placed in the patrol reserve without pays otherwise except 16 that they shall hold their probationary or permanent 17 appointments while there are sufficient operating funds. 18 Reserve patrolmen shall then be used for future replacements 19 in the permanent patrol." 20 21 Section 2. Section 44-1-501, NCA, is amended to read: 22 #44-1-501. Payment of salaries. All salaries of 23 members of the highway patrol shall be paid out of the 24 highway department's account in the earmarked revenue fund

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1 commencement of such employment; 2 (2) gross neglect of duty or willful violation or 3 disobedience of orders or regulations: 4 (3) loitering about or entering places of ill fame or 5 ill repute or where in which illegal gambling is known to be conducted or to be in progress, except in the immediate 6 7 discharge of duty: 3 (4) conduct unbecoming an officer: 9 (5) drinking intoxicating liquor while using 10 state-owned cars or in uniform or being intericated in a 11 oublic place: (6) sleeping while on duty; 12 13 (7) incapacity or partial incapacity materially 14 affecting his ability to perform his official duties; 15 (8) gross inefficiency in performing duties: or (9) willful disobedience of rules adopted by the 16 17 division governing the conduct and discipline of members of 18 the patrol." 19 Section 6. Section 44-1-801, MCA, is amended to read: 20 "44-1-801. Notice of hearing. (1) The division shall. 21 at least 10 days before the time appointed for a hearing. serve written notice on the accused patrolman. specifying 22 the charge or charges filed and stating the name of the 23 24 person or persons making the charge or charges---on---the sccused-potrolson-personallyy-if-his-whereabouts-is-known-in 25

(2) If the accused patrolean is located within the Z 3 state and his whereabouts is known, the service required by subsection (1) shall be made personally. If the accused 4 patrolman is located outside the state and his whereabouts 5 is knowns service day be made by mailing the written notice 6 to his place of residence. If, at the time, the whereabouts 7 of the accused patrolman is unknown-or-if-he-be-outside-of 8 the-state, service may be made upon him by mailing the 9 written notice to him at his last-known place of residence 10 11 in Nontana.* 12 Section 7. Section 44-1-805; NCA; is amended to read: 13 #44-1-805. Reinstatement and beck--pay backnay upon exoneration. If after the hearing the division finds that 14 the charge or charges made against the patrolman be are not 15 true, the division shall reinstate the accused patrolman to 16 his position and rank and shall order the payment of any 17 18 salary withheld pending the determination of the charge or charges." 19 Section 8. Section 44-1-806, MCA, is amended to read: Z0 21 #44-1-806. Disciplinary action. If after a hearing the 22 division finds that any such charge or charges made against 23 the patrolman be are true, it may punish the offending party 24 by reprimand, suspension without pay, demotion, or discharge." 25

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Section 9. Section 44-1-807, MCA, is amended to read:
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 suspension shall be on leave without pay end for a period
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2	chief-or-any-of-thepotrolaenjifcommittedinarural
3	districtyupontherequestofa-peaceofficergor-if
4	committed-in-a-city-or-town-of-less-than-2y500inhabitantsy
5	upontherequestof-any-peace-officer-or-the-mayor-of-the
6	city-or-town+ listed in subsection (2) under the following
7	<u>circumstances;</u>
8	(a) the offense is conditted in the presence of the
9	chief_or_any_patrolman:
10	(b) the offense is committed in a rural district and a
11	request for assistance is made by a peace officer; or
12	[c] the offense is committed in a city or town with a
13	population of less than 2+500 and a request for assistance
14	is made by a peace officer or the mayor of the city or town.
15	(2) Offenses for which arrests may be made under
16	subsection (1) are:
17	<pre>tty[a] deliberate homicide;</pre>
18	<pre>(2)(b) assault with a deadly weapon;</pre>
19	(3)[c] arson;
20	<pre>(4)(d) criminal mischief;</pre>
21	tstel burglary;
22	(0)[<u>f]</u> theft;
23	(7)[] kidnapping;
24	<pre>(0)(h) illegal transportation of marcotics; or</pre>

25 total violation of the Dyer Act regarding the

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12	delivered. After the filing of the complaint and the
13	appearance of the defendant, the justice of the peace shall
14	assume jurisdiction and may set $-$ fixe (and accept further
15	appuarance bail bond.
16	121-For-the purpose of this chapter anyy the feas of
17	justices-of-the-poble-in-off-off-chara-in-shirt-the-statutory
18	fine-is-85-er-tese-shelt-be-Sty-but-if-the-statubory-fine-te
19	in-axeessof85ythejusticesofthepepceshallbe
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15 Section 23. Section 44-3-404, MCA, is amended to read: 16 "44-3-404. Criminal penalty. A person is guilty of a 17 misdemeanor and may be fined not more than \$500 or 18 imprisoned in the county jail for not more than 1 year, or 19 both, if he:

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(2) refuses to make available prior medical or other
 information in a death investigation; or

(3) without an order from the coroner or state medical
 examiner, willfully purposely touches, removes, or disturbs

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1	a corpse, its clothing, or anything near the corpse under
2	investigation with the intent to alter the evidence or
3	circumstances surrounding the death."
4	Section 24. Section 44-4-101. HCA, is amended to read:
5	"44-4-101. Position established. There is created
6	within the department of justice & the position of training
7	coordinator for county attornays."
8	Section 25. Section 44-4-103, HCA, is amended to read:
9	#44-4-103. Functions. The training coerdinator shall
10	perform the functions assigned by the "deperturntradad
11	attorneygeneral. The functions may include but are not
12	limited to the following:
13	
13	(1) providing local training in current espects of the
15	(1) providing local training in current espects of the criminal law for county attorneys and other law enforcement
14	criminal law for county attorneys and other law enforcement
14 15	criminal law for county attorneys and other law enforcement personnel;
14 15 16	criminal law for county attorneys and other law enforcement personnel; (2) assisting in developing and disseminating
14 15 16 17	criminal law for county attorneys and other law enforcement personnel; (2) assisting in developing and disseminating standards, procedures, and policies which will insure that
14 15 16 17 18	criminal law for county attorneys and other law enforcement personnel; (2) assisting in developing and disseminating standards, procedures, and policies which will insure that criminal laws are applied consistently and uniformly
14 15 16 17 18 19	criminal law for county attorneys and other law enforcement personnel; (2) assisting in developing and disseminating standards, procedures, and policies which will insure that criminal laws are applied consistently and uniformly throughout the state of Montana;
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1 law enforcement official;

2 (5) applying for and disbursing federal funds 3 available to aid the prosecutorial function."

Section 26. Section 44-11-202. MCA. is amended to 4 5 read:

#44-11-202. Employing entity to pay normal expenses of 6 7 assisting officer --- reimbursement. (1) The law enforcement 8 entity employing # peace officer who renders assistance 9 shall make all wage, pension, and disability payments and 10 payments for damage to clothing and equipment due to the 11 officer as a result of the rendering of assistance and shall 12 pay any medical expense incurred by the officer in rendering assistance for which the officer is not otherwise entitled 13 to reimbursement by operation of law or a contract. The 14 15 employing entity shall also provide workers* compensation coverage for its employees while they are rendering 16 17 assistance.

(2) Upon--adking-such-poysenty-such If It is requests. 18 the law enforcement entity shally must if-it-so-requests, be 19 reisbursed by the law enforcement entity that requested the 20 21 services for all payments made for wages and damage to 22 clothing and equipment and for any medical expense for which 23 neither the caploying entity nor the officer is otherwise 24 entitled to reimbursement by operation of law or a contract." 25

1 Section 27. Section 39-72-606. MCA. is amended to read: Z

#39-72-606. Autopsy. Upon the filing of a claim for 3 compensation for death caused by an occupational disease 4 where if an autopsy is necessary to determine the cause of 5 death. an autopsy shall be ordered by the division. The 6 7 autopsy shall be made under the supervision of the county 8 coroner ar a medical examiner. The division may designate a 9 duly licensed physician who is a specialist in such examinations to perform or attend the autopsies and to 10 certify his findings thereon. The findings shall be examined 11 by the physicians submitting reports under the provisions of 12 39-72-604 and 39-72-605 before the final reports under those 13 14 sections are submitted to the division." 15 Section 28. Section 50-15-403. MCA. is amended to 16 read:

17 #50-15-403. Preparation of certificate when death 18 medically attended. A person in charge of interment shall: 19 (1) obtain personal data required by the department from persons best qualified to supply the data and enter it 20 on the death or fetal death certificate: 21

22 (2) (a) present the death certificate to the physician 23 last in attendance upon the deceased or the coroner having 24 jurisdiction, or the state medical examiner, who shall certify the cause of death according to his best knowledge 25 SB 38

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1 and belief; or

2 (3)(b) present the fetal death certificate to the
3 physician, midwife, or other person in attendance, who shall
4 certify the fetal death and supply any pertinent additional
5 medical data;

6 (4)(3) notify the local registrar if the death or 7 fetal death occurred without attendance or if the physician 8 last in attendance failed to sign the death certificate:

9 (5)(4) file the death or fetal death certificate with
10 the local registrar within 3 days after the occurrence."

11 Section 29. Section 50-15-404, HCA, is amended to 12 read:

13 "50-15-404. Preparation of certificate when death not medically attended. (1) If the death or fetal death occurred without medical attendance or the physician last in attendance failed to sign the death certificate, the local registrar may complete the certificate on the basis of information received from persons having knowledge of the facts.

20 (2) If it appears the death or fetal death resulted 21 from other than natural causes, the local registrar shall 22 notify the coroner and the state medical examiner for 23 investigation and certification."

24 Section 30. Section 50-15-405, NCA, is amended to 25 read: "50-15-405. Permit for disposition of body. (1) No
 dead body shall may be disposed of or removed from a
 registration district until a permit for disposition or
 removal has been issued by the local registrar.

5 (2) No permit shall may be issued until a death 6 certificate, fetal death certificate, or notice of delay as 7 required in subsection (3) of this section has been filed 8 with the local registrar.

9 (3) If the cause of death or fetal death cannot be 10 determined within 3 days after the occurrence, the attending 11 physicians or coroner. or medical examiner shall give the local registrar written notice of the reason for delay so 12 that a permit may be issued for disposition of the body." 13 14 Section 31. Section 61-7-111, MCA, is amended to read: "61-7-111. Accident report forms. [1] The division 15 16 shall prepare and upon requests supply to police departments, coroners, medical examiners, sheriffs, garages, 17 18 and other suitable agancies or individuals forms for 19 accident reports required hereunder, appropriate with 20 respect to the persons required to make such reports and the 21 purposes to be served. The written reports to be made by 22 persons involved in accidents and by investigating officers 23 shall call for sufficiently detailed information to disclose 24 with reference to a traffic accident the causes, conditions 25 then existing, and the persons and vehicles involved.

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1 (2) Every accident report required to be made in 2 writing shall be made on the appropriate form approved by 3 the division and shall contain all of the information 4 required therein unless not available.

(3) The division may suspend the license or permit to 5 drive of any resident end-env or the nonresident operating 6 7 privilege of any person failing to report an accident as herein provided until such report has been filed. Any person 9 convicted of failing to report an accident by the guickest 10 means of communication or failing to forward a written report as required herein shall-be-deemed is guilty of a 11 misdemeanor and punished <u>nunishable</u> by a find of not more 12 than \$25." 13

14 Section 32. Section 61-7-112, MCA, is accuded to read: 15 Every Each coroners medical texaminers' or other official 16 17 performing like functions shalls on or before the 10th day 18 of each south report in writing to the division the death deaths of eny-person all persons within his respective 19 jurisdiction during the preceding calendar month as the 20 21 result of a traffic secident <u>accidents</u>, giving the time and place of the each accident and the circumstances relating 22 23 thereto.*

 24
 Section 33. Repeater. Sections 31-102, 80-2001, and

 25
 82-3902; R.C.M. 1947, are repeated.

-End-



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1 SENATE BILL NO. 38 Z INTRODUCED BY STORY 3 BY REQUEST OF THE CODE COMMISSIONER 4 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO LAW ENFORCEMENT AND FORENSIC 6 7 SCIENCE; REPEALING SECTIONS 31-102. 80-2001. AND 89-3902. R.C.M. 1947." 9 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 Section 1. Section 44-1-404. MCA. is amended to read: 12 #44-1-404. Status of replacements for patrolmen who 13 enter the armed forces. Patrolmen filling vacancies caused 14 by the incumbents' entrance into the armed forces of the 15 United States shall, on the return of the incumbents, be placed in the patrol reserve without payts otherwise except 16 17 that they shall hold their probationary or permanent 18 appointments while there are sufficient operating funds. 19 Reserve patrolmen shall then be used for future replacements 20 in the permanent patrol."

21 Section 2. Section 44-1-501, MCA, is amended to read: 22 "44-1-501. Payment of salaries. All salaries of 23 members of the highway patrol shall be paid out of <u>the</u> 24 <u>highway_department*s_account_in</u> the earmarked revenue fund 25 of-the-department-of-highwaya."

1 Section 3. Section 44-1-601, MCA, is amended to read: 2 #44-1-601. Probationary training and service ---3 patrolmen. All A new patrolmen patrolman shall be placed under probationary training and service for a period of 6 . 5 months to 1 yeary, during--which--time--the--division--sust recommend--permanent-oppointmentst-otherwise If the division 6 7 fails to recommend a permanent appointment by the end of the 8 probationary periods the probationary patrolman 9 will automatically be discharged." Section 4. Section 44-1-602, MCA, is amended to read: 10 #44-1-602. Probationary training and service --11 supervisory personnel. All newly appointed supervisory 12 13 personnel shall be placed under probationary training and service for a period of 6 months to 1 yearva during-which 14 15 time-the-division--must--recommend--permanent--appointments; otherwise If the division fails to recommend a permanent 16 17 appointment by the end of the probationary periods the 18 probationary supervisory personnel will automatically revert 19 to their previous ranks without prejudice." Section 5. Section 44-1-612, MCA, is amended to read: 20 "44-1-612. Cause for suspension, demotion, 21 or 22 discharge. Cause for suspension, demotion, or discharge with be is: 23

24 (1) conviction of any crime involving moral turpitude
 25 in any court of competent jurisdiction subsequent to the

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1 commencement of such employment;

2 (2) gross neglect of duty or willful violation or
3 disobedience of orders or regulations;

(3) loitering about or entering places of ill fame or
ill repute or where in which illegal gambling is known to be
conducted or to be in progress, except in the immediate
discharge of duty;

(4) conduct unbecoming an officer;

9 (5) drinking intoxicating liquor while using 10 stata-owned cars or in uniform or being intoxicated in a 11 public place;

12 (6) sleeping while on duty;

8

13 (7) incapacity or partial incapacity materially
14 affecting his ability to perform his official duties;

15 (5) gross inefficiency in performing duties; or

16 (9) willful disobedience of rules adopted by the 17 division governing the conduct and discipline of members of 18 the patrol."

19Section 6. Section 44-1-801. MCA. is amended to read:20"44-1-801. Notice of hearing. (1) The division shall.21at least 10 days before the time appointed for a hearing.22serve written notice on the accused patrolmans specifying23the charge or charges filed and stating the name of the24person or persons making the charge or charges-on-the25accused-petrolman-personally-if-his-whereabouts-is-known-in

-3-

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the-state.

1

2	(2) If the accused patrolwan is located within the
3	<pre>state_and_bis_whereabouts_is_known+_tbe_service_requiredby</pre>
4	<pre>subsection_(1)_shall_be_made_personally_lf_the_accused</pre>
5	<u>patrolman_is_located_outside_the_state_andhiswhereabouts</u>
6	<u>is_knowns_service_may be made by mailing the written notice</u>
7	to his place of residence. If, at the time, the whereabouts
8	of the accused patrolman is unknown-or-if-he-be-outside-of
9	the-state; service may be made upon him by mailing the
10	written notice to him at his last-known place of residence
11	in Montana."
12	Section 7. Section 44-1-805. MCA, is amended to read:
13	#44-1-805。 Reinstatement and backpay <u>backpay</u> upon
14	exoneration. If after the hearing the division finds that
15	the charge or charges made against the patrolman be are not
16	true, the division shall reinstate the accused patrolman to
17	his position and rank and shall order the payment of any

18 salary withheld pending the determination of the charge or 19 charges."

20 Section 8. Section 44-1-806, MCA, is amended to read: 21 "44-1-806. Disciplinary action. If after a hearing the 22 division finds that any such charge or charges made against 23 the patrolman be <u>are</u> true, it may punish the offending party 24 by reprimand, suspension without pay, demotion, or 25 discharge."

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- 4 -

Section 9. Section 44-1-807, MCA, is amended to read: 1 2 #44-1-807. Length of suspension. Any A member under suspension shall be on leave without pay and for a period З not to exceed 30 days-in-time." 4 Section 10. Section 44-1-901, MCA, is amended to read: 5 #44-1-901. Right to appeal. {1} Any patrolman who is 6 suspended, demoted, or discharged may-have has a right of 7 appeal to the district court of Lewis and Clark County. 8 (2) Such The appeal must be made within 10 days after 9 such the decision or determination of the division." 10 Section 11. Section 44-1-903, MCA, is amended to read: 11 #44-1-903. Reinstatement and back--pay backpay upon 12 reversal or modification. If the decision or determination 13 of the division shall-be is finally reversed or modified by 14 the district court, the accused patrolman shall must be 15 reinstated in his position, and Upon reinstatement, the 16 division shall pay to the patrolman any salary or wages 17 withheld from him pending the determination of the charge or 18 charges, or take such action as may be directed by the 19

21 Section 12. Section 44-1-1001, MCA, is amended to 22 read:

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court."

20

1 the following offenses if-committed-in-the-presence-of-the chief-or-env-of-the--patrolment--if--committed--in--e--rural 2 districty--upon--the--request--of--s--pesce--officeri--or-if 3 committed-in-s-city-or-town-of-less-then-2,500--inhebitants, 4 5 upon--the--request--of-any-peace-officer-or-the-mayor-of-the 6 city-or-town+ listed in subsection [2] under the following 7 circumstances: 8 (a) the offense is committed in the presence of the 9 chief or any patrolmani 10 (b) the offense is committed in a rural district and a 11 request for assistance is made by a peace officer; or 12 ic) the offense is committed in a city or town with a 13 population_of_less_than_2.500_and_a_request_for_assistance 14 is made by a peace officer or the mayor of the city or towns 15 (2) Offenses for which arrests may be made under 16 subsection (1) are: 17 flial deliberate homicide; tet(b) assault with a deadly weapon; 18 19 t3t(c) arson; 20 (4)(d) criminal mischief; tstiel burglary; 21 22 +6+(f) theft; 23 t7)(g) kidnapping; 24 (0)(h) illegal transportation of narcotics; or 25 191(1) violation of the Over Act regarding the

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25 []] accept a-deposit-for--appearance--justifiable--for

-7-

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1 the--offense--charged bail_determined_pursuant_to_Title_46:

2 chapter_9*_part_3.*

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16 f2)--For--the-purpose-of-this-chapter-onlyy-the-fees-of 17 justices-of-the-peace-in-sll-offenses-in-which-the-statutory 18 fine-is-\$5-or-less-shall-be-\$1y-but-if-the-statutory-fine-is 19 in-excess--of--\$5.--the--justices--of--the--peace--shall--be permitted--the--fee--now-prescribed-by-fawt-provided-that-no 20 21 additional-fees-shall-be-paid-justices-of--the--peace--where 22 sataries-pre-fixed-by-tows" 23 Section 16. Section 44-2-115, MCA, is amended to read: 24 #44-2-115. Powers and duties of agents. An agent shall

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1 a corpse, its clothing, or anything near the corpse under 2 investigation with the intent to alter the evidence or circumstances surrounding the death." 3. 4 Section 24. Section 44-4-101, MCA, is amended to read: 5 #44-4-101. Position established. There is created 6 within the department of justice a the position of training 7 coordinator for county attorneys." 8 Section 25. Section 44-4-103. MCA. is amended to read: a #44-4-103. Functions. The training coordinator shall 10 perform the functions assigned by the department--head 11 attorney general. The functions may include but are not 12 limited to the following: 13 (1) providing local training in current aspects of the 14 criminal law for county attorneys and other law enforcement 15 personnel; 16 (2) assisting in developing and disseminating 17 standards, procedures, and policies which will insure that 18 criminal laws are applied consistently and uniformly 19 throughout the-state-of Hontana: (3) consolidating present and past information on 20 21 important aspects of the criminal law and providing a pool of official opinions, legal briefs, and other relevant 22 23 criminal law information: 24 (4) providing assistance with research, briefs, or 25 other technical services requested by a county attorney or

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law enforcement official; 1

(5) applying for and disbursing federal funds 2 available to aid the prosecutorial function." 3

Section 26. Section 44-11-202, MCA, is amended to 4 5 read:

6 #44-11-202. Employing entity to pay normal expenses of 7 assisting officer -- reimbursement. (1) The law enforcement entity employing a peace officer who renders assistance R shall make all wage, pension, and disability payments and 9 payments for damage to clothing and equipment due to the 10 officer as a result of the rendering of assistance and shall 11 pay any medical expense incurred by the officer in rendering 12 assistance for which the officer is not otherwise entitled 13 to reimbursement by operation of law or a contract. The 14 employing entity shall also provide workers' compensation 15 coverage for its employees while they are rendering 16 17 assistance.

18 (2) Hoon-making-such-paymenty-such If it so requests: the law enforcement entity shally must if-it-so-requestsy be 19 reimbursed by the law enforcement entity that requested the 20 services for all payments made for wages and damage to 21 clothing and equipment and for any medical expense for which 22 neither the employing entity nor the officer is otherwise 23 entitled to reimbursement by operation of law or a 24 25 contract."

Section 27. Section 39-72-606. MCA. is amended to 1 read: 2

#39-72-606. Autopsy. Upon the filing of a claim for 3 compensation for death caused by an occupational disease 4 where if an autopsy is necessary to determine the cause of 5 6 death, an autopsy shall be ordered by the division. The autoosy shall be made under the supervision of the county 7 8 coroner or a medical examiner. The division way designate a duly licensed physician who is a specialist in such 9 examinations to perform or attend the autopsies and to 10 certify his findings thereon. The findings shall be examined 11 by the physicians submitting reports under the provisions of 12 13 39-72-604 and 39-72-605 before the final reports under those 14 sections are submitted to the division." 15 Section 28. Section 50-15-403, MCA, is amended to read:

#50-15-403. Preparation of certificate when death 17 18 medically attended. A person in charge of interment shall: 19 (1) obtain personal data required by the department 20 from persons best qualified to supply the data and enter it on the death or fetal death certificate: 21

(2) (a) present the death certificate to the physician 22 23 last in attendance upon the deceased, or the coroner having jurisdiction or the state medical examiners who shall 24 certify the cause of death according to his best knowledge 25

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1 and belief; or

2 (3)(b) present the fetal death certificate to the
3 physician, midwife, or other person in attendance, who shall
4 certify the fetal death and supply any pertinent additional
5 medical data;

6 <u>(4)(3)</u> notify the local registrar if the death or
7 fetal death occurred without attendance or if the physician
8 last in attendance failed to sign the death certificate;

9 (5)(4) file the death or fetal death certificate with
10 the local registrar within 3 days after the occurrence."
11 Section 29. Section 50-15-404, MCA, is amended to

12 read:

13 "50-15-404. Preparation of certificate when death not 14 medically attended. (1) If the death or fetal death occurred 15 without medical attendance or the physician last in 16 attendance failed to sign the death certificate, the local 17 registrar may complete the certificate on the basis of 18 information received from persons having knowledge of the 19 facts.

(2) If it appears the death or fetal death resulted
from other than natural causes, the local registrar shall
notify the coroner and the state medical examiner for
investigation and certification."

24 Section 30. Section 50-15-405. MCA, is amended to 25 read: #50-15-405. Permit for disposition of body. (1) No
 dead body shall may be disposed of or removed from a
 registration district until a permit for disposition or
 removal has been issued by the local registrar.

5 (2) No permit shall may be issued until a death 6 certificate, fetal death certificate, or notice of delay as 7 required in subsection (3) of this section has been filed 8 with the local registrar.

9 (3) If the cause of death or fetal death cannot be
10 determined within 3 days after the occurrence, the attending
11 physician, or coroner, or medical examiner shall give the
12 local registrar written notice of the reason for delay so
13 that a permit may be issued for disposition of the body."

14 Section 31. Section 61-7-111, HCA, is amended to read: #61-7-111. Accident report forms. (1) The division 15 16 shall prepare and upon request supply to police departments, coroners, <u>medical examiners</u>, sheriffs, qarages, 17 18 and other suitable agencies or individuals forms for 19 accident reports required hereunder, appropriate with 20 respect to the persons required to make such reports and the purposes to be served. The written reports to be made by 21 22 persons involved in accidents and by investigating officers 23 shall call for sufficiently detailed information to disclose 24 with reference to a traffic accident the causes, conditions 25 then existing, and the persons and vehicles involved.

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1 (2) Every accident report required to be made in 2 writing shall be made on the appropriate form approved by 3 the division and shall contain all of the information 4 required therein unless not available.

(3) The division may suspend the license or permit to 5 6 drive of any resident and any or the nonresident operating privilege of any person failing to report an accident as 7 herein provided until such report has been filed. Any person 8 convicted of failing to report an accident by the guickest 9 means of communication or failing to forward a written 10 report as required herein shell-be-deemed is quilty of a 11 12 misdemeanor and punished punishable by a fine of not more 13 than \$25.*

Section 32. Section 61-7-112, HCA, is amended to read: 14 15 "61-7-112. Coroners and medical examiners to report. Every Each coroner, medical examiners or other official 16 performing like functions shalls on or before the 10th day 17 of each months report in writing to the division the death 18 19 deaths of any--person all persons within his respective 20 jurisdiction during the preceding calendar month as the 21 result of a traffic accident accidents, giving the time and place of the each accident and the circumstances relating 22 23 thereto."

 24
 Section 33. Repealer. Sections 31-102, 80-2001, and

 25
 82-3902, R.C.M. 1947, are repealed.