

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	Introduced and referred to Committee on State Administration.
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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 in

January 23, 1979

Third reading, be concurred in.

IN THE SENATE

January 24, 1979

Returned from second house.
Sent to enrolling.

Report correctly enrolled.

SENATE BILL NO. 38

INTRODUCED BY _____

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO LAW ENFORCEMENT AND FORENSIC SCIENCE; REPEALING SECTIONS 31-102, 80-2001, AND 89-3902, R.C.M. 1947."

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

Section 1. Section 44-1-404, MCA, is amended to read:

"44-1-404. Status of replacements for patrolmen who enter the armed forces. Patrolmen filling vacancies caused by the incumbents' entrance into the armed forces of the United States shall, on the return of the incumbents, be placed in the patrol reserve without pay, ~~otherwise except that~~ they shall hold their probationary or permanent appointments while there are sufficient operating funds. Reserve patrolmen shall then be used for future replacements in the permanent patrol."

Section 2. Section 44-1-501, MCA, is amended to read:

"44-1-501. Payment of salaries. All salaries of members of the highway patrol shall be paid out of ~~the highway department's account in~~ the earmarked revenue fund ~~of the department of highways.~~"

Section 3. Section 44-1-601, MCA, is amended to read:

"44-1-601. Probationary training and service -- patrolmen. ~~At~~ A new ~~patrolmen~~ patrolman shall be placed under probationary training and service for a period of 6 months to 1 year, ~~during which time the division must recommend permanent appointments; otherwise if the division fails to recommend a permanent appointment by the end of the probationary period,~~ the probationary ~~patrolmen~~ patrolman will automatically be discharged."

Section 4. Section 44-1-602, MCA, is amended to read:

"44-1-602. Probationary training and service -- supervisory personnel. All newly appointed supervisory personnel shall be placed under probationary training and service for a period of 6 months to 1 year, ~~during which time the division must recommend permanent appointments; otherwise if the division fails to recommend a permanent appointment by the end of the probationary period,~~ the probationary supervisory personnel will automatically revert to their previous ranks without prejudice."

Section 5. Section 44-1-612, MCA, is amended to read:

"44-1-612. Cause for suspension, demotion, or discharge. Cause for suspension, demotion, or discharge ~~will~~ be is:

(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 fame 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;

8 (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."

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,

22 serve written notice on the accused patrolman, specifying

23 the charge or charges filed and stating the name of the

24 person or persons making the charge or charges--~~on--the~~

25 ~~accused-patrolman-personally-if-his-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 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

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 ~~back--pay~~ backpay 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 are true, it may punish the offending party

24 by reprimand, suspension without pay, demotion, or

25 discharge."

1 Section 9. Section 44-1-807, MCA, is amended to read:

2 "44-1-807. Length of suspension. Any A member under
3 suspension shall be on leave without pay end for a period
4 not to exceed 30 days-in-time."

5 Section 10. Section 44-1-901, MCA, is amended to reads:

6 "44-1-901. Right to appeal. (1) Any patrolman who is
7 suspended, demoted, or discharged may-have has 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:

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

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--duties--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 any of the patrolmen if committed in a rural~~
3 ~~district upon the request of a peace officer or if~~
4 ~~committed in a city or town of less than 2,500 inhabitants~~
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 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 (1)(a) deliberate homicide;

18 (2)(b) assault with a deadly weapon;

19 (3)(c) arson;

20 (4)(d) criminal mischief;

21 (5)(e) burglary;

22 (6)(f) theft;

23 (7)(g) kidnappings;

24 (8)(h) illegal transportation of narcotics; or

25 (9)(i) violation of the Dyer Act regarding the

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
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 59-12-203. The
8 highway patrol bureau division 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 ~~Patrolmen upon~~ Upon making an arrest, a patrolman shall;
16 either

17 (1) deliver the offender to the nearest justice of the
18 peace during office hours or to the county jail; ~~or in lieu~~
19 thereof

20 (2) 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; ~~or in lieu of reporting to the nearest justice~~
24 ~~of the peace the patrolman has the right to set and~~

25 (3) accept a deposit for appearance justifiable for

1 ~~the offense charged~~ bail determined pursuant to Title 46,
2 ~~chapter 9, part 3."~~

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

5 "44-1-1102. Procedure when patrolman accepts bail. ~~(1)~~
6 ~~In the event if~~ the patrolman ~~sets and~~ accepts bail, he
7 shall give a signed receipt to the offender, setting forth
8 the amount received. The patrolman shall then deliver the
9 bail money to the justice of the peace before whom the
10 offender is to appear, and the justice of the peace shall
11 give a receipt to the patrolman for the amount of bail money
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 ~~fix~~ and accept further
15 appearance bail bond.

16 ~~(2) for the purpose of this chapter only, the fee of~~
17 ~~justices of the peace in all offenses in which the statutory~~
18 ~~fine is \$5 or less shall be \$1; but if the statutory fine is~~
19 ~~in excess of \$5, the justices of the peace shall be~~
20 ~~permitted the fee now prescribed by law provided that no~~
21 ~~additional fees shall be paid justices of the peace where~~
22 ~~salaries are fixed by law."~~

23 Section 16. Section 44-2-115, MCA, is amended to read:

24 "44-2-115. Powers and duties of agents. An agent shall
25 have the power and duty to:

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 enforcement officers when
7 requested;

8 ~~(3) cooperate with the department of justice;~~

9 ~~(4)~~⁽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 enforcement 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 enforcement
17 officers in the establishment of a complete state system of
18 criminal identification."

19 Section 18. Section 44-2-202, MCA, is amended to read:

20 "44-2-202. Assistance to and instruction of local
21 officers. The department shall assist and, when practicable,
22 instruct sheriffs, chiefs of police, and other law
23 enforcement officers in establishing efficient local bureaus
24 of identification in their districts and in making them
25 proficient in procuring 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
4 ~~is hereby directed to~~ shall contact federal law enforcement
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~~
8 ~~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
11 ~~deposited to the credit of the communication fund in the~~
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 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

1 there is a federal intertie. This assessment shall be made
 2 monthly ~~the same~~ as ~~to~~ 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."

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:

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

22 (2) refuses to make available prior medical or other
 23 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

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, MCA, 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 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 ~~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~~ Montana;

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
 23 criminal law information;

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

1 law enforcement official;

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:

6 "44-11-202. Employing entity to pay normal expenses of
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 expense incurred by the officer in rendering
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' compensation
16 coverage for its employees while they are rendering
17 assistance.

18 (2) ~~Upon making such payments such if it so requests,~~
19 ~~the law enforcement entity shall, must if it so requests,~~ be
20 reimbursed 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
23 neither the employing entity nor the officer is otherwise
24 entitled to reimbursement by operation of law or a
25 contract."

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

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
12 by the physicians submitting reports under the provisions of
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
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
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 jurisdiction, or the state medical examiner, who shall
25 certify the cause of death according to his best knowledge

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, 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 and the state medical examiner for
 23 investigation and certification."

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

1 "50-15-405. Permit for disposition of body. (1) No
 2 dead body shall may be disposed of or removed from a
 3 registration district until a permit for disposition or
 4 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, MCA, is amended to read:

15 "61-7-111. Accident report forms. (1) The division
 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.

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.

-End-

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
 11 report as required herein ~~shall be deemed~~ is guilty of a
 12 misdemeanor and ~~punished~~ punishable by a fine of not more
 13 than \$25."

14 Section 32. Section 61-7-112, MCA, is amended to read:

15 "61-7-112. Coroners ~~and medical examiners~~ to report.
 16 Every ~~Each~~ coroner, ~~medical examiner,~~ or other official
 17 performing like functions shall, on or before the 10th day
 18 of each month, report in writing to the division the ~~death~~
 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
 22 place of ~~the~~ each accident and the circumstances relating
 23 thereto."

24 Section 33. Repealer. Sections 31-102, 80-2001, and
 25 82-3902, R.C.M. 1947, are repealed.

SENATE MEMBERS

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CHAIRMAN

FRANK HAZELLBAKER
VICE CHAIRMAN

CHET BLAYLOCK

PAT M. GOODOVER

DIANA S. DOWLING
EXECUTIVE DIRECTOR
CODE COMMISSIONER

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ROBERTA MOODY
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ROBERT PERSON
DIRECTOR, RESEARCH

LC 0039

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. 44-1-612. 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. 44-1-805 and 44-1-806. In both sections, "be" is changed to "are" for grammar and to provide modern usage.

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

Section 10. 44-1-901. 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. 44-1-1101. 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. 44-1-1102. 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. 44-2-115. 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. 44-2-313. "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.

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

Section 23. 44-3-404. 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. 44-4-103. 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. 44-11-202. 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. 31-102, 80-2001, and 82-3902, R.C.M. 1947. Section 31-102, R.C.M. 1947, is recommended for repeal as obsolete due to abolishment of the highway patrol board by 82A-1205, R.C.M. 1947, under executive reorganization. Section 80-2001, R.C.M. 1947, is recommended for repeal as obsolete due to abolishment of the bureau of criminal identification and investigation by 82A-1202(1), R.C.M. 1947, under executive reorganization. Section 82-3902, R.C.M. 1947, is recommended for repeal as obsolete due to abolishment of teletypewriter communications committee by 82A-1202(3), R.C.M. 1947, under executive reorganization.

Approved by Committee
on State Administration

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3 BY REQUEST OF THE CODE COMMISSIONER

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5 months to 1 year, ~~during which time the division must~~
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8 probationary period, the probationary ~~patrolmen~~ patrolman
9 will automatically be discharged."

10 Section 4. Section 44-1-602, MCA, is amended to read:
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13 personnel shall be placed under probationary training and
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15 ~~time the division must recommend permanent appointments;~~
16 ~~otherwise~~ if the division fails to recommend a permanent
17 appointment by the end of the probationary period, the
18 probationary supervisory personnel will automatically revert
19 to their previous ranks without prejudice."

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21 "44-1-612. Cause for suspension, demotion, or
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23 be is:

24 (1) conviction of any crime involving moral turpitude
25 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 fame 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;

8 (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."

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22 serve written notice on the accused patrolman, specifying

23 the charge or charges filed and stating the name of the

24 person or persons ~~making the charge or charges--on--the~~

25 ~~accused patrolman personally if his 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 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~~

9 ~~the state~~, service may be made upon him by mailing the

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15 the charge or charges made against the patrolman ~~be~~ are not

16 true, the division shall reinstate the accused patrolman to

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18 salary withheld pending the determination of the charge or

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 17 division shall pay to the patrolman any salary or wages
 18 withheld from him pending the determination of the charge or
 19 charges, or take such action as may be directed by the
 20 court."

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 22 read:

23 "44-1-1001. Offenses for which patrolmen may make
 24 arrests. ~~In--addition--to--the--above--duties--the~~ ~~all~~ ~~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 any of the patrolmen if committed in a rural~~
 3 ~~district upon the request of a peace officer, or if~~
 4 ~~committed in a city or town of less than 2,500 inhabitants~~
 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 patrolman;

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 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 ~~(1)(a)~~ (a) deliberate homicide;

18 ~~(2)(b)~~ (b) assault with a deadly weapon;

19 ~~(3)(c)~~ (c) arson;

20 ~~(4)(d)~~ (d) criminal mischief;

21 ~~(5)(e)~~ (e) burglary;

22 ~~(6)(f)~~ (f) theft;

23 ~~(7)(g)~~ (g) kidnapping;

24 ~~(8)(h)~~ (h) illegal transportation of narcotics; or

25 ~~(9)(i)~~ (i) violation of the Dyer Act regarding the

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9 public service commission and the department of highways to
10 assure minimum duplication and maximum coordination of
11 enforcement effort."

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14 "44-1-1101. Duty of patrolman upon making an arrest.
15 ~~Patrolmen upon~~ Upon making an arrest, a patrolman shall;
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17 (1) deliver the offender to the nearest justice of the
18 peace during office hours or to the county jail; ~~or in lieu~~
19 thereof;

20 (2) ~~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; ~~or in lieu of reporting to the nearest justice~~
24 ~~of the peace, the patrolman has the right to set and~~

25 (3) accept a deposit for appearance justifiable for

1 ~~the offense charged~~ bail determined pursuant to Title 46,
2 chapter 9, part 3."

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

5 "44-1-1102. Procedure when patrolman accepts bail. ~~(1)~~
6 ~~in the event if~~ the patrolman sets and accepts bail, he
7 shall give a signed receipt to the offender, setting forth
8 the amount received. The patrolman shall then deliver the
9 bail money to the justice of the peace before whom the
10 offender is to appear, and the justice of the peace shall
11 give a receipt to the patrolman for the amount of bail money
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 ~~fix~~ and accept further
15 appearance bail bond.

16 ~~(2) For the purpose of this chapter only, the fee of~~
17 ~~justices of the peace in all offenses in which the statutory~~
18 ~~fine is \$5 or less shall be \$1, but if the statutory fine is~~
19 ~~in excess of \$5, the justices of the peace shall be~~
20 ~~permitted the fee now prescribed by law provided that no~~
21 ~~additional fees shall be paid justices of the peace where~~
22 ~~setories are fixed by law."~~

23 Section 16. Section 44-2-115, MCA, is amended to read:

24 "44-2-115. Powers and duties of agents. An agent shall
25 have the power and duty to:

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 ~~enforcement~~ officers when
7 requested;

8 ~~(3) cooperate with the department of justice;~~

9 ~~(4)(1)~~ 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 ~~enforcement~~ 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 ~~enforcement~~
17 officers in the establishment of a complete state system of
18 criminal identification."

19 Section 18. Section 44-2-202, MCA, is amended to read:

20 "44-2-202. Assistance to and instruction of local
21 officers. The department shall assist and, when practicable,
22 instruct sheriffs, chiefs of police, and other law
23 ~~enforcement~~ officers in establishing efficient local bureaus
24 of identification in their districts and in making them
25 proficient in procuring 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
4 ~~is hereby directed to shall~~ contact federal law enforcement
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~~
8 ~~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
11 deposited ~~to the credit of the communication fund in the~~
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 44-2-316, MCA, is amended to read:

22 "44-2-316. Assessment for personnel. A special
23 ~~pro-rated~~ assessment ~~pro-rate~~ 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

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."

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:

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

22 (2) refuses to make available prior medical or other
 23 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

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, MCA, 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 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 ~~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~~ Montana;

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
 23 criminal law information;

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

1 law enforcement official;

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:

6 "44-11-202. Employing entity to pay normal expenses of
7 assisting officer -- reimbursement. (1) The law enforcement
8 entity employing a peace officer who renders assistance
9 shall make all wages, pensions, 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
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' compensation
16 coverage for its employees while ~~they are~~ rendering
17 assistance.

18 (2) ~~Upon making such payments such if it so requests~~
19 ~~the law enforcement entity shall, must if it so requests,~~ be
20 reimbursed 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
23 neither the employing entity nor the officer is otherwise
24 entitled to reimbursement by operation of law or a
25 contract."

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

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
12 by the physicians submitting reports under the provisions of
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
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
20 from persons best qualified to supply the data and enter it
21 on the death or fetal death certificate;

22 (2) ~~also~~ 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
25 certify the cause of death according to his best knowledge

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, 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 ~~and the state medical examiner~~ for
23 investigation and certification."

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

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

5 (2) No permit shall ~~any~~ 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, MCA, is amended to read:

15 "61-7-111. Accident report forms. (1) The division
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.

-End-

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
 6 drive of any resident ~~and any of 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
 11 report as required herein ~~shall be deemed~~ is guilty of a
 12 misdemeanor and ~~punished~~ punishable by a fine of not more
 13 than \$25."

14 Section 32. Section 61-7-112, MCA, is amended to read:

15 "61-7-112. Coroners ~~and medical examiners~~ to report.
 16 Every ~~Each~~ coroner, ~~medical examiner,~~ or other official
 17 performing like functions shall, on or before the 10th day
 18 of each month, report in writing to the division the ~~death~~
 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
 22 place of the ~~each~~ accident and the circumstances relating
 23 thereto."

24 Section 33. Repealer. Sections 31-102, 80-2001, and
 25 82-3902, R.C.M. 1947, are repealed.

SENATE BILL NO. 38

INTRODUCED BY *Stacy*

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO LAW ENFORCEMENT AND FORENSIC SCIENCE; REPEALING SECTIONS 31-102, 80-2001, AND 89-3902, R.C.M. 1947."

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

Section 1. Section 44-1-404, MCA, is amended to read:

"44-1-404. Status of replacements for patrolmen who enter the armed forces. Patrolmen filling vacancies caused by the incumbents' entrance into the armed forces of the United States shall, on the return of the incumbents, be placed in the patrol reserve without pay, otherwise except that they shall hold their probationary or permanent appointments while there are sufficient operating funds. Reserve patrolmen shall then be used for future replacements in the permanent patrol."

Section 2. Section 44-1-501, MCA, is amended to read:

"44-1-501. Payment of salaries. All salaries of members of the highway patrol shall be paid out of the highway department's account in the earmarked revenue fund of the department of highways."

Section 3. Section 44-1-601, MCA, is amended to read:

"44-1-601. Probationary training and service -- patrolmen. ~~+++~~ A new patrolmen patrolman shall be placed under probationary training and service for a period of 6 months to 1 year, during which time the division must recommend permanent appointments; otherwise if the division fails to recommend a permanent appointment by the end of the probationary period, the probationary patrolmen patrolman will automatically be discharged."

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

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THIRD READING

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

6 conducted or to be in progress, except in the immediate

7 discharge of duty;

8 (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;

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24 person or persons making the charge or charges--~~on the~~

25 ~~accused patrolman personally if his 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 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~~

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4 ~~committed in a city or town of less than 2,500 inhabitants,~~
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:~~

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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

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22 thereon for the offender to report to the nearest justice of
23 the peace; ~~or in lieu of reporting to the nearest justice~~
24 ~~of the peace the patrolman has the right to set and~~

25 (3) ~~accept a deposit for appearance justifiable for~~

1 ~~the offense charged~~ bail determined pursuant to Title 46,
2 ~~chapter 9, part 3."~~

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

5 "44-1-1102. Procedure when patrolman accepts bail. ~~(1)~~
6 ~~In the event~~ If the patrolman sets and accepts bail, he
7 shall give a signed receipt to the offender, setting forth
8 the amount received. The patrolman shall then deliver the
9 bail money to the justice of the peace before whom the
10 offender is to appear, and the justice of the peace shall
11 give a receipt to the patrolman for the amount of bail money
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 ~~fix~~ and accept further
15 appearance bail bond.

16 ~~(2) For the purpose of this chapter only, the fees of~~
17 ~~justices of the peace in all offenses in which the statutory~~
18 ~~fine is \$5 or less shall be \$3, but if the statutory fine is~~
19 ~~in excess of \$5, the justices of the peace shall be~~
20 ~~permitted the fee now prescribed by law provided that no~~
21 ~~additional fees shall be paid justices of the peace where~~
22 ~~set rates are fixed by law."~~

23 Section 16. Section 44-2-115, MCA, is amended to read:

24 "44-2-115. Powers and duties of agents. An agent shall
25 have the power and duty to:

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 enforcement officers when
7 requested;

8 ~~(3) cooperate with the department of justice;~~
9 ~~(4)~~(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 enforcement agencies as provided in this section."

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5 agencies or officials relative to federal cost sharing in
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7 are available from federal sources, the attorney general ~~is~~
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 10 certainty by the state medical examiner or his associate,
 11 whether by review of a coronar's report or by personal
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 14 determination as to the cause of death."

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 22 (2) refuses to make available prior medical or other
 23 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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 9 "44-4-103. Functions. The training coordinator shall
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- 13 (1) providing local training in current aspects of the
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 15 personnel;
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 17 standards, procedures, and policies which will insure that
 18 criminal laws are applied consistently and uniformly
 19 throughout ~~the state of~~ Montana;
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 22 of official opinions, legal briefs, and other relevant
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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
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6 "44-11-202. Employing entity to pay normal expenses of
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 expense incurred by the officer in rendering
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' compensation
16 coverage for its employees while ~~they~~ are rendering
17 assistance.

18 (2) ~~Upon making such payments, such if it so requests,~~
19 ~~the~~ law enforcement entity shall ~~must if it so requests,~~ be
20 reimbursed 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
23 neither the employing entity nor the officer is otherwise
24 entitled to reimbursement by operation of law or a
25 contract."

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

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
12 by the physicians submitting reports under the provisions of
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
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
20 from persons best qualified to supply the data and enter it
21 on the death or fetal death certificate;

22 (2) ~~la~~ 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
25 certify the cause of death according to his best knowledge

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, 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 and the state medical examiner for
 23 investigation and certification."
 24 Section 30. Section 50-15-405, MCA, is amended to
 25 read:

1 "50-15-405. Permit for disposition of body. (1) No
 2 dead body shall may be disposed of or removed from a
 3 registration district until a permit for disposition or
 4 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, MCA, is amended to read:
 15 "61-7-111. Accident report forms. (1) The division
 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.

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.

-End-

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
 11 report as required herein ~~shall be deemed~~ is guilty of a
 12 misdemeanor and ~~punished~~ punishable by a fine of not more
 13 than \$25."

14 Section 32. Section 61-7-112, MCA, is amended to read:
 15 ~~61-7-112. Coroners and medical examiners to report.~~
 16 Every ~~Each~~ Each coroner, ~~medical examiner,~~ or other official
 17 performing like functions shall, on or before the 10th day
 18 of each ~~month,~~ report in writing to the division the ~~death~~
 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
 22 place of the ~~each~~ accident and the circumstances relating
 23 thereto."

24 Section 33. Repealer. Sections 31-102, 80-2001, and
 25 82-3902, R.C.M. 1947, are repealed.

SB 38

1 SENATE BILL NO. 38

2 INTRODUCED BY STORY

3 BY REQUEST OF THE CODE COMMISSIONER

4
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, 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
16 placed in the patrol reserve without pay, ~~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, 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 ~~the~~
24 ~~highway department's account in~~ the earmarked revenue fund
25 ~~of the department of highways."~~

1 Section 3. Section 44-1-601, MCA, is amended to read:

2 "44-1-601. Probationary training and service --
3 patrolmen. ~~At~~ A new patrolmen ~~patrolman~~ shall be placed
4 under probationary training and service for a period of 6
5 months to 1 year, ~~during--which--time--the--division--must~~
6 ~~recommend--permanent--appointments; otherwise~~ if the division
7 fails to recommend a permanent appointment by the end of the
8 probationary period, the probationary patrolmen ~~patrolman~~
9 will automatically be discharged."

10 Section 4. Section 44-1-602, MCA, is amended to read:

11 "44-1-602. Probationary training and service --
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 year, ~~during--which~~
15 ~~time--the--division--must--recommend--permanent--appointments;~~
16 ~~otherwise~~ if the division fails to recommend a permanent
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 ~~wi~~
23 ~~be is:~~

24 (1) conviction of any crime involving moral turpitude
25 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 fame 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;

8 (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."

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,
22 serve written notice on the accused patrolman, specifying
23 the charge or charges filed and stating the name of the
24 person or persons making the charge or charges--~~on the~~
25 ~~accused-patrolman-personally-if-his-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 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~~
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 back--pay ~~backpay~~ 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 are true, it may punish the offending party
24 by reprimand, suspension without pay, demotion, or
25 discharge."

1 Section 9. Section 44-1-807, MCA, is amended to read:

2 "44-1-807. Length of suspension. Any ~~A~~ member under
3 suspension shall be on leave without pay and for a period
4 not to exceed 30 days ~~in time.~~"

5 Section 10. Section 44-1-901, MCA, is amended to read:

6 "44-1-901. Right to appeal. (1) Any patrolman who is
7 suspended, demoted, or discharged ~~may have~~ has 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:

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

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 duties, 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 any of the patrolmen if committed in a rural~~
3 ~~district, upon the request of a peace officer, or if~~
4 ~~committed in a city or town of less than 2,500 inhabitants,~~
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 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 (1)(a) deliberate homicide;

18 (1)(b) assault with a deadly weapon;

19 (1)(c) arson;

20 (1)(d) criminal mischief;

21 (1)(e) burglary;

22 (1)(f) theft;

23 (1)(g) kidnapping;

24 (1)(h) illegal transportation of narcotics; or

25 (1)(i) violation of the Dyer Act regarding the

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
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 highway--patrol--bureau division 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 Patrolmen--upon ~~upon~~ making an arrest, a patrolman shall;
16 either

17 (1) deliver the offender to the nearest justice of the
18 peace during office hours or to the county jail; ~~or in lieu~~
19 thereof;

20 (2) 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; ~~or in lieu of reporting to the nearest justice~~
24 ~~of the peace--the patrolman has the right to set and~~

25 (3) accept a deposit for--appearance--justifiable--for

1 the--offense--charged bail determined pursuant to Title 46,
2 chapter 9, part 2."

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13 appearance of the defendant, the justice of the peace shall
14 assume jurisdiction and may setv--fixv and accept further
15 appearance bail bond.

16 ~~(2)--For--the--purpose--of--this--chapter--only--the--fees--of~~
17 ~~justices--of--the--peace--in--all--offenses--in--which--the--statutory~~
18 ~~fine--is--\$5--or--less--shall--be--\$1;--but--if--the--statutory--fine--is~~
19 ~~in--excess--of--\$5--the--justices--of--the--peace--shall--be~~
20 ~~permitted--the--fee--now--prescribed--by--law--provided--that--no~~
21 ~~additional--fees--shall--be--paid--justices--of--the--peace--where~~
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 15 personnel;

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 17 standards, procedures, and policies which will insure that
 18 criminal laws are applied consistently and uniformly
 19 throughout ~~the state of~~ Montana;

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 21 important aspects of the criminal law and providing a pool
 22 of official opinions, legal briefs, and other relevant
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 25 other technical services requested by a county attorney or

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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 expense incurred by the officer in rendering
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' compensation
16 coverage for its employees while they are rendering
17 assistance.

18 ~~(2) Upon making such payment, such if it so requests,~~
19 ~~the law enforcement entity shall, must if it so requests,~~ be
20 reimbursed 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
23 neither the employing entity nor the officer is otherwise
24 entitled to reimbursement by operation of law or a
25 contract."

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

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
12 by the physicians submitting reports under the provisions of
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
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
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 jurisdiction, or the state medical examiner, who shall
25 certify the cause of death according to his best knowledge

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, 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 and the state medical examiner for
23 investigation and certification."

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

1 "50-15-405. Permit for disposition of body. (1) No
2 dead body shall may be disposed of or removed from a
3 registration district until a permit for disposition or
4 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, MCA, is amended to read:

15 "61-7-111. Accident report forms. (1) The division
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.

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
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
11 report as required herein ~~shall be deemed is~~ guilty of a
12 misdemeanor and ~~punished punishable~~ by a fine of not more
13 than \$25."

14 Section 32. Section 61-7-112, MCA, is amended to read:

15 "61-7-112. Coroners ~~and medical examiners~~ to report.
16 Every Each coroner, ~~medical examiner,~~ or other official
17 performing like functions shall, on or before the 10th day
18 of each month, report in writing to the division the ~~death~~
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
22 place of ~~the each~~ accident and the circumstances relating
23 thereto."

24 Section 33. Repealer. Sections 31-102, 80-2001, and
25 82-3902, R.C.M. 1947, are repealed.