

SENATE BILL 364

IN THE SENATE

February 5, 1979	Introduced and referred to Committee on Judiciary.
February 12, 1979	Committee recommend bill, as amended.
February 14, 1979	Printed and placed on members' desks.
February 15, 1979	Second reading, do pass.
February 17, 1979	Considered correctly engrossed.
February 19, 1979	Third reading, passed.

IN THE HOUSE

February 20, 1979	Introduced and referred to Committee on Judiciary.
March 15, 1979	Committee recommend bill, not concurred.
March 17, 1979	Report adopted.

IN THE SENATE

March 19, 1979	Returned from House, not concurred.
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1 *Senate* BILL NO. *364*  
 2 INTRODUCED BY *S. Brown*  
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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR FINES IN  
 5 FELONY CRIMINAL CASES AND ASSESSMENT OF COSTS IN ALL  
 6 CRIMINAL CASES; AMENDING SECTION 46-18-201, MCA."

7  
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 NEW SECTION. Section 1. Fines in felony cases.  
 10 Whenever, upon a verdict or a plea of guilty, a person has  
 11 been found guilty of an offense for which a felony penalty  
 12 could be imposed, the court may impose a fine in lieu of a  
 13 sentence of imprisonment. The fine shall be in an amount  
 14 fixed by the court not to exceed \$10,000.

15 NEW SECTION. Section 2. Payment of costs by  
 16 defendant. (1) A court may require a convicted defendant in  
 17 a criminal case to pay costs as a part of his sentence. Such  
 18 costs shall be limited to expenses specifically incurred by  
 19 the prosecution in connection with the proceedings against  
 20 the defendant.

21 (2) The court may not sentence a defendant to pay  
 22 costs unless the defendant is or will be able to pay them.  
 23 In determining the amount and method of payment of costs,  
 24 the court shall take into account the financial resources of  
 25 the defendant and the nature of the burden that payment of

1 costs will impose.

2 (3) A defendant who has been sentenced to pay costs  
 3 and who is not in default in the payment thereof may at any  
 4 time petition the court that sentenced him for remission of  
 5 the payment of costs or of any unpaid portion thereof. If  
 6 it appears to the satisfaction of the court that payment of  
 7 the amount due will impose manifest hardship on the  
 8 defendant or his immediate family, the court may remit all  
 9 or part of the amount due in costs or modify the method of  
 10 payment.

11 NEW SECTION. Section 3. Fine or costs as a condition  
 12 on suspended or deferred sentence. Whenever a defendant is  
 13 sentenced to pay a fine or costs and the imposition or  
 14 execution of the rest of his sentence is deferred or  
 15 suspended, the court may make payment of the fine or costs a  
 16 condition for probation.

17 NEW SECTION. Section 4. When payment of fine or costs  
 18 due. Whenever a defendant is sentenced to pay a fine or  
 19 costs, the court may grant permission for payment to be made  
 20 within a specified period of time or in specified  
 21 installments. If no such permission is included in the  
 22 sentence, the fine is payable immediately.

23 NEW SECTION. Section 5. Disposition of money  
 24 collected as fines and costs. The money collected by a court  
 25 as a result of the imposition of fines or assessment of

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 INTRODUCED BILL

1 costs under the provisions of [sections 1 and 2] shall be  
 2 paid to the county general fund of the county in which the  
 3 court is held.

4 Section 6. Section 46-18-201, MCA, is amended to read:  
 5 "46-18-201. Sentences that may be imposed. (1)  
 6 Whenever a person has been found guilty of an offense upon a  
 7 verdict or a plea of guilty, the court may:

8 (a) defer imposition of sentence, excepting sentences  
 9 for driving under the influence of alcohol or drugs, for a  
 10 period not exceeding 1 year for any misdemeanor or for a  
 11 period not exceeding 3 years for any felony. The sentencing  
 12 judge may impose upon the defendant any reasonable  
 13 restrictions or conditions during the period of the deferred  
 14 imposition. Such reasonable restrictions or conditions may  
 15 include:

- 16 (i) jail base release;
- 17 (ii) jail time not exceeding 90 days;
- 18 (iii) conditions for probation;
- 19 (iv) restitution;
- 20 ~~(v) payment of a fine;~~
- 21 ~~(vi) payment of costs;~~
- 22 ~~††(vii) any other reasonable conditions considered~~  
 23 necessary for rehabilitation or for the protection of  
 24 society; or  
 25 ~~†††(viii) any combination of the above.~~

1 (b) suspend execution of sentence up to the maximum  
 2 sentence allowed for the particular offense. The sentencing  
 3 judge may impose on the defendant any reasonable  
 4 restrictions during the period of suspended sentence. Such  
 5 reasonable restrictions may include:

- 6 (i) jail base release;
- 7 (ii) jail time not exceeding 90 days;
- 8 (iii) conditions for probation;
- 9 (iv) restitution;
- 10 ~~(v) payment of a fine;~~
- 11 ~~(vi) payment of costs;~~
- 12 ~~††(vii) any other reasonable conditions considered~~  
 13 necessary for rehabilitation or for the protection of  
 14 society;
- 15 ~~†††(viii) any combination of the above.~~
- 16 (c) impose a fine as provided by law for the offense;
- 17 ~~(d) require payment of costs as provided in [section~~  
 18 ~~2];~~
- 19 ~~††(e) commit the defendant to a correctional~~  
 20 institution with or without a fine as provided by law for  
 21 the offense;
- 22 ~~†††(f) impose any combination of subsections (1)(b)†~~  
 23 ~~†††††-end-††††† through (1)(e)-~~
- 24 (2) If any restrictions or conditions imposed under  
 25 subsection (1)(a) or (1)(b) are violated, any elapsed time,

1 except jail time, shall not be a credit against the sentence  
2 unless the court orders otherwise.

3 (3) Except as provided in 46-18-222, the imposition or  
4 execution of the first 2 years of a sentence of imprisonment  
5 imposed under the following sections may not be deferred or  
6 suspended: 45-5-102(2), 45-5-103(2), 45-5-202(2),  
7 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-503(2) and (3),  
8 45-9-101(2), 45-9-102(3), and 45-9-103(2)."

-End-

Approved by Committee  
on Judiciary

SENATE BILL NO. 364

INTRODUCED BY S. BROWN, REGAN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR FINES AND  
ASSESSMENT OF COSTS IN FELONY CRIMINAL CASES AND--ASSESSMENT  
OF--COSTS--IN--ALL--CRIMINAL--CASES; ALLOWING COMMUNITY SERVICE  
AS A CONDITION OF DEFERRED OR SUSPENDED SENTENCES; AMENDING  
SECTION 46-18-201, MCA."

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

NEW SECTION. Section 1. Fines in felony cases.  
Whenever, upon a verdict or a plea of guilty, a person has  
been found guilty of an offense for which a felony penalty  
could be imposed, the court may impose a fine in lieu of a  
sentence of imprisonment. The fine shall be in an amount  
fixed by the court not to exceed ~~\$10,000~~ \$50,000.

NEW SECTION. Section 2. Payment of costs by  
defendant. (1) A court may require a convicted defendant in  
a ~~criminal~~ FELONY case to pay costs, AS DEFINED IN  
25-10-201, PLUS COSTS OF JURY SERVICE as a part of his  
sentence. Such costs shall be limited to expenses  
specifically incurred by the prosecution in connection with  
the proceedings against the defendant.

(2) The court may not sentence a defendant to pay  
costs unless the defendant is or will be able to pay them.

In determining the amount and method of payment of costs,  
the court shall take into account the financial resources of  
the defendant and the nature of the burden that payment of  
costs will impose.

(3) A defendant who has been sentenced to pay costs  
and who is not in default in the payment thereof may at any  
time petition the court that sentenced him for remission of  
the payment of costs or of any unpaid portion thereof. If  
it appears to the satisfaction of the court that payment of  
the amount due will impose manifest hardship on the  
defendant or his immediate family, the court may remit all  
or part of the amount due in costs or modify the method of  
payment.

NEW SECTION. Section 3. Fine or costs as a condition  
on suspended or deferred sentence. Whenever a defendant is  
sentenced to pay a fine or costs and the imposition or  
execution of the rest of his sentence is deferred or  
suspended, the court may make payment of the fine or costs a  
condition for probation.

NEW SECTION. Section 4. When payment of fine or costs  
due. Whenever a defendant is sentenced to pay a fine or  
costs, the court may grant permission for payment to be made  
within a specified period of time or in specified  
installments. If no such permission is included in the  
sentence, the fine is payable immediately.

1 NEW SECTION. Section 5. Disposition of money  
 2 collected as fines and costs. The money collected by a court  
 3 as a result of the imposition of fines or assessment of  
 4 costs under the provisions of [sections 1 and 2] shall be  
 5 paid to the county general fund of the county in which the  
 6 court is held.

7 Section 6. Section 46-18-201, MCA, is amended to read:  
 8 "46-18-201. Sentences that may be imposed. (1)  
 9 Whenever a person has been found guilty of an offense upon a  
 10 verdict or a plea of guilty, the court may:

11 (a) defer imposition of sentence, excepting sentences  
 12 for driving under the influence of alcohol or drugs, for a  
 13 period not exceeding 1 year for any misdemeanor or for a  
 14 period not exceeding 3 years for any felony. The sentencing  
 15 judge may impose upon the defendant any reasonable  
 16 restrictions or conditions during the period of the deferred  
 17 imposition. Such reasonable restrictions or conditions may  
 18 include:

- 19 (i) jail base release;
- 20 (ii) jail time not exceeding 90 days;
- 21 (iii) conditions for probation;
- 22 (iv) restitution;
- 23 ~~(v) payment of a fine;~~
- 24 ~~(vi) payment of costs AS PROVIDED IN [SECTIONS 2 AND~~

25 3]i

1 ~~(VII) COMMUNITY SERVICE;~~  
 2 ~~(v)(viii)(VIII)~~ any other reasonable conditions  
 3 considered necessary for rehabilitation or for the  
 4 protection of society; or

5 ~~(v)(viii)(IX)~~ any combination of the above.  
 6 (b) suspend execution of sentence up to the maximum  
 7 sentence allowed for the particular offense. The sentencing  
 8 judge may impose on the defendant any reasonable  
 9 restrictions during the period of suspended sentence. Such  
 10 reasonable restrictions may include:

- 11 (i) jail base release;
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 20 considered necessary for rehabilitation or for the  
 21 protection of society;

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 23 (c) impose a fine as provided by law for the offense;  
 24 ~~(d) require payment of costs as provided in [section~~

25 2]i

1        ~~(d)(g)~~ commit the defendant to a correctional  
2 institution with or without a fine as provided by law for  
3 the offense;

4        ~~(e)(f)~~ impose any combination of subsections (1)(b) ~~and~~  
5 ~~(1)(c) and (1)(d) through (1)(g).~~

6        (2) If any restrictions or conditions imposed under  
7 subsection (1)(a) or (1)(b) are violated, any elapsed time,  
8 except jail time, shall not be a credit against the sentence  
9 unless the court orders otherwise.

10        (3) Except as provided in 46-18-222, the imposition or  
11 execution of the first 2 years of a sentence of imprisonment  
12 imposed under the following sections may not be deferred or  
13 suspended: 45-5-102(2), 45-5-103(2), 45-5-202(2),  
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-End-