

House Bill 6

In The House

January 6, 1981	Introduced and referred to Committee on Judiciary. On motion by Chief Sponsor 43 representatives were added as authors to the pre-filled bill.
January 16, 1981	Committee recommend bill do pass as amended.
January 19, 1981	Bill printed and placed on members' desks. Second reading do pass as amended.
January 20, 1981	Correctly engrossed. Third reading passed.

In The Senate

January 21, 1981	Introduced and referred to Committee on Judiciary.
March 16, 1981	Committee recommend bill concurred as amended.
March 18, 1981	Second reading indefinitely postponed.

In The House

March 19, 1981	Returned from Senate indefinitely postponed.
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1 HOUSE BILL NO. 6
 2 INTRODUCED BY KEEDY
 3 BY REQUEST OF THE INTERIM COMMITTEE ON
 4 CORRECTIONS POLICY AND FACILITY NEEDS
 5

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE STATE TO
 7 REQUEST AN APPELLATE REVIEW OF THE DISPOSITION, WHETHER BY
 8 IMPOSITION OR DEFERRED IMPOSITION OF SENTENCE, OF A CRIMINAL
 9 CASE FOLLOWING A VERDICT OR PLEA OF GUILTY; AMENDING
 10 SECTIONS 46-18-903 THROUGH 46-18-905, MCA."
 11

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

13 Section 1. Section 46-18-903, MCA, is amended to read:
 14 "46-18-903. Application for review. (1) ~~Any whenever,~~
 15 ~~upon a verdict or a plea of guilty,~~ a person ~~has been~~
 16 sentenced to a term of 1 year or more in the state prison by
 17 any court of competent jurisdiction ~~and disposition has been~~
 18 ~~made by imposition or deferred imposition of sentence, the~~
 19 ~~defendant or, on behalf of the state, the attorney general~~
 20 may within 60 days from the date ~~such sentence--was--imposed~~
 21 ~~of disposition,~~ except in any case in which a different
 22 sentence ~~disposition~~ could not have been ~~imposed made,~~ file
 23 with the clerk of the district court in the county in which
 24 judgment was rendered an application for review of the
 25 sentence ~~disposition~~ by the review division. Upon ~~imposition~~

1 ~~of--the--sentence~~ ~~disposition,~~ the clerk shall give written
 2 notice to the ~~person-sentenced~~ ~~defendant~~ of his right to
 3 make such a request. Such notice shall include a statement
 4 that review of the ~~sentence court's disposition~~ may result
 5 in ~~decrease-or-increase-of-the-sentence~~ ~~a lesser or greater~~
 6 ~~sanction~~ within limits fixed by law.

7 (2) The clerk shall transmit such application to the
 8 review division and shall notify the judge ~~who-imposed-the~~
 9 ~~sentence making the disposition, the defendant,~~ and the
 10 county attorney of the county in which the ~~sentence-was~~
 11 ~~imposed disposition occurred.~~ Such judge may transmit to the
 12 review division a statement of his reasons for ~~imposing--the~~
 13 ~~sentence the disposition of the case~~ and shall transmit such
 14 a statement within 7 days if requested to do so by the
 15 review division.

16 (3) The review division may for cause shown consider
 17 any late request for review of ~~sentence disposition~~ and may
 18 grant such request.

19 (4) The filing of an application for review shall not
 20 stay the execution of ~~the a~~ sentence."

21 Section 2. Section 46-18-904, MCA, is amended to read:
 22 "46-18-904. Procedure upon review. (1) In each case in
 23 which an application for review is filed in accordance with
 24 46-18-903, the review division shall review the judgment so
 25 far as it relates to the ~~sentence-imposed~~ ~~disposition of the~~

1 ~~case~~, either increasing or decreasing the ~~penalty sanction~~,
 2 and any other ~~sentence sanction~~ imposed on the person at the
 3 same time and may order such different ~~sentence-or-sentences~~
 4 ~~to-be-imposed disposition~~ as could have been ~~imposed made~~ at
 5 the time of the ~~imposition~~ court's disposition of the
 6 ~~sentence case~~ under review or may decide that the ~~sentence~~
 7 disposition under review should stand.

8 (2) In reviewing any judgment, said division may
 9 require the production of presentence reports and any other
 10 records, documents, or exhibits relevant to such review
 11 proceedings. The ~~appellant~~ defendant may appear and be
 12 represented by counsel, and the state may be represented by
 13 the county attorney of the county in which the ~~sentence-was~~
 14 imposed disposition occurred.

15 (3) If the review division orders a different ~~sentence~~
 16 disposition, the court sitting in any convenient county
 17 shall ~~resentence--the---defendant~~ make such different
 18 disposition as ordered by the review division. Time served
 19 on ~~the a~~ sentence reviewed shall be deemed to have been
 20 served on ~~the a~~ sentence substituted."

21 Section 3. Section 46-18-905, MCA, is amended to read:

22 "46-18-905. Decision -- finality, report of. (1) The
 23 decision of the review division in each case shall be final,
 24 and the reasons for such decision shall be stated therein.
 25 The original of each decision shall be sent to the clerk of

1 the court for the county in which the judgment was rendered,
 2 and a copy shall be sent to the judge who ~~imposed-the~~
 3 sentence made the disposition reviewed, the ~~person-sentenced~~
 4 defendant, the prosecuting attorney, and the principal
 5 officer of the institution in which he is confined.

6 (2) The decision shall be reported in the Montana
 7 Reports."

-End-

Approved by Committee
on Judiciary

HOUSE BILL NO. 6

INTRODUCED BY KEEDY, KEYSER, MOORE, CONN, SIVERTSEN,
CONROY, ANDERSON, DONALDSON, THOFT, ELLERD, SALES,
SMITH, UNDERDAL, IVERSON, BURNETT, QUILICI,
O'CONNELL, PISTORIA, TEAGUE, DOZIER, MANUEL,
PAVLOVICH, SPILKER, FEDA, HEMSTAD, CURTISS,
LUND, ZABROCKI, WILLIAMS, HUENNEKENS, FARRAGA,
MENAHAH, EUDAILY, ABRAMS, BRIGGS, KANDUCH,
SEIFERT, KROPP, BENNETT, MUELLER, HARRINGTON,
MATSKO, PHILLIPS, ROBBINS
BY REQUEST OF THE INTERIM COMMITTEE ON
CORRECTIONS POLICY AND FACILITY NEEDS

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CASE FOLLOWING A VERDICT OR PLEA OF GUILTY; AMENDING
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Section 1. Section 46-18-903, MCA, is amended to read:

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~~upon a verdict or a plea of guilty, a person has been~~
sentenced ~~OR IS SUBJECT TO BEING SENTENCED~~ to a term of 1
year or more in the state prison by any court of competent

~~jurisdiction and disposition has been made by imposition OF~~
~~SENTENCE, WHETHER OR NOT EXECUTED, or deferred imposition of~~
~~sentence, the defendant or, on behalf of the state, the~~
~~COUNTY ATTORNEY OR attorney general~~ may within 60 days from
the date ~~such sentence was imposed~~ of disposition, except in
any case in which a different sentence disposition could not
have been imposed ~~made~~, file with the clerk of the district
court in the county in which judgment was rendered an
application for review of the sentence disposition by the
review division. Upon ~~imposition---of---the---sentence~~
~~disposition~~, the clerk shall give written notice to the
person--sentenced ~~defendant~~ of his right to make such a
request. Such notice shall include a statement that review
of the sentence ~~court's disposition~~ may result in decrease
~~or-increase-of-the-sentence a lesser or greater sanction~~
within limits fixed by law.

(2) The clerk shall transmit such application to the
review division and shall notify the judge ~~who--imposed--the~~
~~sentence making the disposition, the defendant,~~ and the
county attorney of the county in which the ~~sentence--was~~
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review division a statement of his reasons for ~~imposing the~~
~~sentence the disposition of the case~~ and shall transmit such
a statement within 7 days if requested to do so by the
review division.

SECOND READING

1 (3) The review division may for cause shown consider
2 any late request for review of sentence disposition and may
3 grant such request.

4 (4) The filing of an application for review shall not
5 stay the execution of the a sentence."

6 Section 2. Section 46-18-904, MCA, is amended to read:

7 "46-18-904. Procedure upon review. (1) In each case in
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10 far as it relates to the ~~sentence-imposed disposition of the~~
11 ~~case~~, either increasing or decreasing the ~~penalty sanction~~,
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19 require the production of presentence reports and any other
20 records, documents, or exhibits relevant to such review
21 proceedings. The ~~appellant defendant~~ may appear and be
22 represented by counsel, and the state may be represented by
23 the county attorney of the county in which the ~~sentence--was~~
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25 (3) If the review division orders a different sentence

1 ~~disposition~~, the court sitting in any convenient county
2 shall ~~resentence--the---defendant~~ ~~make___such___different~~
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11 the court for the county in which the judgment was rendered,
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13 ~~sentence made the disposition~~ reviewed, the person-sentenced
14 ~~defendant, the--prosecuting--attorneys~~ and the principal
15 officer of the institution in which he is confined, AND THE
16 PROSECUTING ATTORNEY.

17 (2) The decision shall be reported in the Montana
18 Reports."

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16 officer of the institution in which he is confined, AND THE
17 PROSECUTING ATTORNEY.

18 (2) The decision shall be reported in the Montana
19 Reports."

-End-

March 16, 1981

SENATE STANDING COMMITTEE REPORT
(Judiciary)

That House Bill No. 6 be amended as follows:

1. Page 3, line 22.

Following: "by"

Strike: "THE ATTORNEY GENERAL OR"

2. Page 3, line 23.

Following: "by"

Insert" "the attorney general or"