

HOUSE BILL NO. 213
INTRODUCED BY KEEDY

IN THE HOUSE

January 14, 1981	Introduced and referred to Committee on Judiciary.
January 23, 1981	Committee recommend bill do pass. Report adopted.
January 24, 1981	Bill printed and placed on members' desks.
January 26, 1981	Second reading, do pass.
January 27, 1981	Considered correctly engrossed. Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 28, 1981	Introduced and referred to Committee on Judiciary.
March 16, 1981	Committee recommend bill be concurred in. Report adopted.
March 17, 1981	Second reading, pass consideration.
March 18, 1981	On motion taken from second reading and rereferred to Committee on Judiciary. Motion adopted.
March 25, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 26, 1981	Second reading, concurred in as amended.
March 28, 1981	Third reading, concurred in as amended. Ayes, 49; Noes, 0.

IN THE HOUSE

March 28, 1981

Returned from Senate with amendments.

April 8, 1981

Second reading, amendments not concurred in.

On motion Conference Committee requested and appointed.

April 20, 1981

On motion that the Conference Committee be dissolved. Motion adopted.

On motion to suspend the rules and reconsider House actions on the Senate amendments and place on second reading on April 21, 1981. Motion adopted.

April 22, 1981

Second reading, amendments concurred in.

On motion rules suspended and bill placed on third reading this day.

Third reading, amendments concurred in. Ayes, 92; Noes, 2. Sent to enrolling.

Reported correctly enrolled.

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1 the defendant did not have a particular state of mind that
2 is an essential element of the offense charged."

-End-

Approved by Committee on Judiciary

1 HOUSE BILL NO. 213
2 INTRODUCED BY Keady

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO BROADEN THE
5 DISCOVERY OF WITNESSES AND DEFENSES IN CRIMINAL CASES;
6 AMENDING SECTION 46-15-301, MCA."

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

9 Section 1. Section 46-15-301, MCA, is amended to read:

10 "46-15-301. Discovery of witnesses, notice of certain
11 defenses. In all criminal cases originally triable in
12 district court, the following rules apply:

13 (1) For the purpose of notice only and to prevent
14 surprise, the prosecution shall furnish to the defendant and
15 file with the clerk of the court at the time of arraignment
16 a list of the witnesses the prosecution intends to call. The
17 prosecution may, any time after arraignment, add to the list
18 the names of any additional witnesses upon a showing of good
19 cause. The list shall include the names and addresses of the
20 witnesses. This subsection does not apply to rebuttal
21 witnesses.

22 (2) ~~For~~ For purpose of notice only and to prevent
23 surprise, the defendant shall furnish to the prosecution and
24 file with the clerk of the court, at the time of entering
25 his plea of not guilty or within 10 days thereafter or at

1 such later time as the court may for good cause permit;

2 (a) a statement of intention to interpose the defense
3 of ~~self-defense~~ justifiable use of force, entrapment,
4 compulsion, or alibi or the defense that the defendant did
5 not have a particular state of mind that is an essential
6 element of the offense charged; and

7 ~~(b) If the defendant intends to interpose any of these~~
8 ~~defenses, he shall also furnish to the prosecution and file~~
9 ~~with the clerk of the court~~ the names and addresses of all
10 witnesses other than the defendant to be called by the
11 defense ~~in support thereof~~. Prior to trial the defendant
12 may, upon motion and showing of good cause, add to the list
13 of witnesses the names of any additional witnesses. After
14 the trial commences, no witnesses may be called by the
15 defendant in support of these defenses unless the name of
16 the witness is included on the list, except upon good cause
17 shown. This subsection does not apply to rebuttal
18 witnesses.

19 ~~(3) For the purpose of notice only and to prevent~~
20 ~~surprise, the prosecution shall furnish to the defendant and~~
21 ~~file with the clerk of the court no later than 5 days before~~
22 ~~trial or at such later time as the court may for good cause~~
23 ~~permit a list of witnesses the prosecution intends to call~~
24 ~~as rebuttal witnesses to the defenses of justifiable use of~~
25 ~~force, entrapment, compulsion, alibi, or the defense that~~

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21 witnesses.

22 (2) ~~(1)~~ For purpose of notice only and to prevent
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24 file with the clerk of the court, at the time of entering
25 his plea of not guilty or within 10 days thereafter or at

1 such later time as the court may for good cause permit;

2 (a) a statement of intention to interpose the defense
3 of ~~self-defense justifiable use of force, entrapment,~~
4 ~~compulsion,~~ or alibi or the defense that the defendant did
5 not have a particular state of mind that is an essential
6 element of the offense charged; and

7 (b) ~~if the defendant intends to interpose any of these~~
8 ~~defenses, he shall also furnish to the prosecution and file~~
9 ~~with the clerk of the court~~ the names and addresses of all
10 witnesses ~~other than the defendant~~ to be called by the
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20 ~~surprise, the prosecution shall furnish to the defendant and~~
21 ~~file with the clerk of the court no later than 5 days before~~
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A BILL FOR AN ACT ENTITLED: "AN ACT TO BROADEN THE
DISCOVERY OF WITNESSES AND DEFENSES IN CRIMINAL CASES;
AMENDING SECTION 46-15-301, MCA."

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

Section 1. Section 46-15-301, MCA, is amended to read:

"46-15-301. Discovery of witnesses, notice of certain
defenses. In all criminal cases originally triable in
district court, the following rules apply:

(1) For the purpose of notice only and to prevent
surprise, the prosecution shall furnish to the defendant and
file with the clerk of the court at the time of arraignment
a list of the witnesses the prosecution intends to call. The
prosecution may, any time after arraignment, add to the list
the names of any additional witnesses upon a showing of good
cause. The list shall include the names and addresses of the
witnesses. This subsection does not apply to rebuttal
witnesses.

(2) ~~For~~ For purpose of notice only and to prevent
surprise, the defendant shall furnish to the prosecution and
file with the clerk of the court, at the time of entering
his plea of not guilty or within 10 days thereafter or at

such later time as the court may for good cause permit:

(a) a statement of intention to interpose the defense
of self-defense ~~SELF--DEFENSE~~ justifiable use of force
(FORMERLY SELF DEFENSE, entrapment, compulsion, or alibi or
the defense that the defendant did not have a particular
state of mind that is an essential element of the offense
charged; and

~~(b) if the defendant intends to interpose any of these
defenses, he shall also furnish to the prosecution and file
with the clerk of the court~~ IF THE DEFENDANT INTENDS TO
INTERPOSE ANY OF THESE DEFENSES, HE SHALL ALSO FURNISH TO
THE PROSECUTION AND FILE WITH THE CLERK OF THE COURT the
names and addresses of all witnesses other than the
defendant to be called by the defense in support thereof IN
SUPPORT THEREOF. Prior to trial the defendant may, upon
motion and showing of good cause, add to the list of
witnesses the names of any additional witnesses. After the
trial commences, no witnesses may be called by the defendant
in support of these defenses unless the name of the witness
is included on the list, except upon good cause shown. This
subsection does not apply to rebuttal witnesses.

(3) For the purpose of notice only and to prevent
surprise, the prosecution shall furnish to the defendant and
file with the clerk of the court no later than 5 days before
trial or at such later time as the court may for good cause

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1 permit a list of witnesses the prosecution intends to call
2 as rebuttal witnesses to the defenses of justifiable use of
3 force, entrapment, compulsion, alibi, or the defense that
4 the defendant did not have a particular state of mind that
5 is an essential element of the offense charged."

-End-

March 25, 1981

SENATE STANDING COMMITTEE REPORT
(Judiciary)

That House Bill No. 213 be amended as follows:

1. Page 2, line 3.

Following: "defense"

Insert: "self defense,"

March 26, 1981

SENATE COMMITTEE OF THE WHOLE

Proposed amendments to House Bill 213, third reading copy, as follows:

THAT THE FOLLOWING AMENDMENT OF THE SENATE STANDING COMMITTEE ON JUDICIARY OF MARCH 25, 1981, BE STRICKEN;

1. Page 2, line 3.
Following: "defense"
Insert: "self defense,"

AND, FURTHER, THAT THE FOLLOWING AMENDMENT BE MADE TO THE BILL:

1. Page 2, line 3.
Following: "force"
Insert: "(formerly self defense)"

And, proposed further amendments to House Bill 213, third reading copy, as follows:

1. Page 2, line 9.
Following: "**court**"
Insert: "if the defendant intends to interpose any of these defenses, he shall also furnish to the prosecution and file with the clerk of the court"
2. Page 2, line 11.
Following: "**thereof**"
Insert: "in support thereof"