

SENATE BILL NO. 14
INTRODUCED BY TOWE
BY REQUEST OF COMMITTEE
ON CORRECTIONS POLICY AND FACILITY NEEDS

IN THE SENATE

January 5, 1981	Introduced and referred to Committee on Judiciary.
February 9, 1981	Committee recommend bill do pass as amended. Report adopted.
February 10, 1981	Bill printed and placed on members' desks.
February 11, 1981	Second reading, do pass.
February 12, 1981	Correctly engrossed.
February 13, 1981	Third reading, passed. Ayes, 46; Noes, 1. Transmitted to House.

IN THE HOUSE

February 14, 1981	Introduced and referred to Committee on Judiciary.
March 11, 1981	Committee recommend bill be concurred in. Report adopted.
March 12, 1981	Second reading, concurred in. Bill segregated.
March 14, 1981	Motion pass consideration.
March 18, 1981	Second reading, bill concurred in.
March 20, 1981	Third reading, concurred in. Ayes, 78; Noes, 15.

IN THE SENATE

March 21, 1981

Returned from House. Con-
curred in. Sent to enrolling.

Reported correctly enrolled.

1 SENATE BILL NO. 14
 2 INTRODUCED BY TOWE
 3 BY REQUEST OF COMMITTEE
 4 ON CORRECTIONS POLICY AND FACILITY NEEDS

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR FINES AND
 7 ASSESSMENT OF COSTS IN FELONY CRIMINAL CASES; ALLOWING
 8 COMMUNITY SERVICE AS A CONDITION OF DEFERRED OR SUSPENDED
 9 SENTENCES; AMENDING SECTION 46-18-201, MCA."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 NEW SECTION. Section 1. Fines in felony cases. (1)
 13 Whenever, upon a verdict or a plea of guilty, a person has
 14 been found guilty of an offense for which a felony penalty
 15 could be imposed, the court may impose a fine. Except as
 16 provided in 45-5-103(2), 45-5-202(2), 45-5-302(2),
 17 45-5-303(2), 45-5-401(2), 45-5-503(2) and (3), 45-9-101(2)
 18 and (3), 45-9-102(3), and 45-9-103(2), a fine may be imposed
 19 in lieu of or in addition to a sentence of imprisonment.

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

1 (3) The fine shall be in an amount fixed by the court.
 2 NEW SECTION. Section 2. Payment of costs by defendant.

3 (1) A court may require a convicted defendant in a felony
 4 case to pay costs, as defined in 25-10-201, plus costs of
 5 jury service as a part of his sentence. Such costs shall be
 6 limited to expenses specifically incurred by the prosecution
 7 in connection with the proceedings against the defendant.

8 (2) The court may not sentence a defendant to pay costs
 9 unless the defendant is or will be able to pay them. In
 10 determining the amount and method of payment of costs, the
 11 court shall take into account the financial resources of the
 12 defendant and the nature of the burden that payment of costs
 13 will impose.

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

22 NEW SECTION. Section 3. Fine or costs as a condition
 23 on suspended or deferred sentence. (1) Whenever a defendant
 24 is sentenced to pay a fine or costs under [section 1 or 2]
 25 and the imposition or execution of the rest of his sentence

1 is deferred or suspended, the court may make payment of the
2 fine or costs a condition for probation.

3 (2) A suspended or deferred sentence may not be revoked
4 if the defendant defaults on the payment of the fine and the
5 default is not attributable to an intentional refusal to
6 obey the order of the court or a failure to make a good
7 faith effort to make the payment.

8 NEW SECTION. Section 4. When payment of fine or costs
9 due. Whenever a defendant is sentenced to pay a fine or
10 costs under [section 1 or 2], the court may grant permission
11 for payment to be made within a specified period of time or
12 in specified installments. If no such permission is included
13 in the sentence, the payment is due immediately.

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

20 Section 6. Section 46-18-201, MCA, is amended to read:

21 "46-18-201. Sentences that may be imposed. (1) Whenever
22 a person has been found guilty of an offense upon a verdict
23 or a plea of guilty, the court may:

24 (a) defer imposition of sentence, excepting sentences
25 for driving under the influence of alcohol or drugs, for a

1 period not exceeding 1 year for any misdemeanor or for a
2 period not exceeding 3 years for any felony. The sentencing
3 judge may impose upon the defendant any reasonable
4 restrictions or conditions during the period of the deferred
5 imposition. Such reasonable restrictions or conditions may
6 include:

- 7 (i) jail base release;
8 (ii) jail time not exceeding 90 days;
9 (iii) conditions for probation;
10 (iv) restitution;
11 (v) payment of a fine as provided in [section 1];
12 (vi) payment of costs as provided in [sections 2 and 3];
13 (vii) community service;
14 ~~(viii)~~ any other reasonable conditions considered
15 necessary for rehabilitation or for the protection of
16 society; or

17 ~~(vix)~~ any combination of the above;

18 (b) suspend execution of sentence up to the maximum
19 sentence allowed for the particular offense. The sentencing
20 judge may impose on the defendant any reasonable
21 restrictions or conditions during the period of suspended
22 sentence. Such reasonable restrictions or conditions may
23 include any of those listed in subsections (1)(a)(i) through
24 ~~(i)(a)(ix)~~.

25 (c) impose a fine as provided by law for the offense;

1 (d) require payment of costs as provided in [section
2 2]i

3 ~~(d)(e)~~ commit the defendant to a correctional
4 institution with or without a fine as provided by law for
5 the offense;

6 ~~(e)(f)~~ impose any combination of subsections (1)(b) ~~v~~
7 ~~(i)(e) and (i)(d)~~ through (1)(e).

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

12 (3) Except as provided in 46-18-222, the imposition or
13 execution of the first 2 years of a sentence of imprisonment
14 imposed under the following sections may not be deferred or
15 suspended: 45-5-103(2), 45-5-202(2), 45-5-302(2),
16 45-5-303(2), 45-5-401(2), 45-5-503(2) and (3), 45-9-101(2)
17 and (3), 45-9-102(3), and 45-9-103(2).

18 (4) Except as provided in 46-18-222, the imposition or
19 execution of the first 10 years of a sentence of
20 imprisonment imposed under 45-5-102(2) may not be deferred
21 or suspended."

22 Section 7. Codification instruction. It is intended
23 that sections 1 through 5 be codified as an integral part of
24 Title 46, chapter 18, and the provisions of Title 46,
25 chapter 18, apply to sections 1 through 5.

-End-

SB14

Approved by Committee
on Judiciary

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 2 INTRODUCED BY TOWE
 3 BY REQUEST OF COMMITTEE
 4 ON CORRECTIONS POLICY AND FACILITY NEEDS
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 6 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR FINES AND
 7 ASSESSMENT OF COSTS IN FELONY AND MISDEMEANOR CRIMINAL
 8 CASES; ALLOWING COMMUNITY SERVICE AS A CONDITION OF DEFERRED
 9 OR SUSPENDED SENTENCES; AMENDING SECTION 46-18-201, MCA."
 10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 NEW SECTION. Section 1. Fines in felony AND
 13 MISDEMEANOR cases. (1) Whenever, upon a verdict or a plea of
 14 guilty, a person has been found guilty of an offense for
 15 which a felony penalty OF IMPRISONMENT could be imposed, the
 16 court may impose a fine, ONLY IN ACCORDANCE WITH SUBSECTION
 17 {3}, AND IN LIEU OF OR IN ADDITION TO A SENTENCE OF
 18 IMPRISONMENT. ~~except-as~~ FOR THOSE CRIMES FOR WHICH PENALTIES
 19 ARE provided in 45-5-103(2), 45-5-202(2), 45-5-302(2),
 20 45-5-303(2), 45-5-401(2), 45-5-502(3), 45-5-503(2) and (3),
 21 45-9-101(2) and (3), 45-9-102(3), and 45-9-103(2), a fine
 22 may be imposed in ~~lieu-of-or~~ ACCORDANCE WITH SUBSECTION {3}
 23 in addition to a sentence of imprisonment.
 24 {2} WHENEVER, UPON A VERDICT OR PLEA OF GUILTY, A
 25 PERSON HAS BEEN FOUND GUILTY OF AN OFFENSE FOR WHICH A

1 MISDEMEANOR PENALTY OF A FINE COULD BE IMPOSED, THE COURT
 2 MAY IMPOSE A FINE ONLY IN ACCORDANCE WITH SUBSECTION {3}.
 3 ~~{2}{3}~~ The court may not sentence a defendant to pay a
 4 fine unless the defendant is or will be able to pay the
 5 fine. In determining the amount and method of payment, the
 6 court shall take into account the nature of the crime
 7 committed, the financial resources of the defendant, and the
 8 nature of the burden that payment of the fine will impose.
 9 ~~{3}{4}~~ The ANY fine LEVIED UNDER THIS SECTION IN A
 10 FELONY CASE shall be in an amount fixed by the court NOT TO
 11 EXCEED \$50,000.
 12 NEW SECTION. Section 2. Payment of costs by
 13 defendant. (1) A court may require a convicted defendant in
 14 a felony OR MISDEMEANOR case to pay costs, as defined in
 15 25-10-201, plus costs of jury service as a part of his
 16 sentence. Such costs shall be limited to expenses
 17 specifically incurred by the prosecution in connection with
 18 the proceedings against the defendant.
 19 (2) The court may not sentence a defendant to pay
 20 costs unless the defendant is or will be able to pay them.
 21 In determining the amount and method of payment of costs,
 22 the court shall take into account the financial resources of
 23 the defendant and the nature of the burden that payment of
 24 costs will impose.
 25 (3) A defendant who has been sentenced to pay costs

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

9 NEW SECTION. Section 3. Fine or costs as a condition
 10 on suspended or deferred sentence. (1) Whenever a defendant
 11 is sentenced to pay a fine or costs under [section 1 or 2]
 12 and the imposition or execution of the rest of his sentence
 13 is deferred or suspended, the court may make payment of the
 14 fine or costs a condition for probation.

15 (2) A suspended or deferred sentence may not be
 16 revoked if the defendant defaults on the payment of the fine
 17 and the default is not attributable to an intentional
 18 refusal to obey the order of the court or a failure to make
 19 a good faith effort to make the payment.

20 NEW SECTION. Section 4. When payment of fine or costs
 21 due. Whenever a defendant is sentenced to pay a fine or
 22 costs under [section 1 or 2], the court may grant permission
 23 for payment to be made within a specified period of time or
 24 in specified installments. If no such permission is included
 25 in the sentence, the payment is due 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 as provided in [section 1];
 24 (vi) payment of costs as provided in [sections 2 and
 25 3];

1 (vii) community service;
 2 ~~(v)~~(viii) any other reasonable conditions considered
 3 necessary for rehabilitation or for the protection of
 4 society; or
 5 ~~(vi)~~(ix) any combination of the above~~s~~.
 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 or conditions during the period of suspended
 10 sentence. Such reasonable restrictions or conditions may
 11 include any of those listed in subsections (1)(a)(i) through
 12 ~~(i)~~~~(j)~~~~(k)~~ (1)(a)(ix).
 13 (c) impose a fine as provided by law for the offense;
 14 (d) require payment of costs as provided in [section
 15 2]i
 16 ~~(d)~~(e) commit the defendant to a correctional
 17 institution with or without a fine as provided by law for
 18 the offense;
 19 ~~(e)~~(f) impose any combination of subsections (1)(b)~~s~~
 20 ~~(i)~~~~(j)~~~~(k)~~~~(l)~~ through (1)(e).
 21 (2) If any restrictions or conditions imposed under
 22 subsection (1)(a) or (1)(b) are violated, any elapsed time,
 23 except jail time, is not a credit against the sentence
 24 unless the court orders otherwise.
 25 (3) Except as provided in 46-18-222, the imposition or

1 execution of the first 2 years of a sentence of imprisonment
 2 imposed under the following sections may not be deferred or
 3 suspended: 45-5-103(2), 45-5-202(2), 45-5-302(2),
 4 45-5-303(2), 45-5-401(2), 45-5-503(2) and (3), 45-9-101(2)
 5 and (3), 45-9-102(3), and 45-9-103(2).

6 (4) Except as provided in 46-18-222, the imposition or
 7 execution of the first 10 years of a sentence of
 8 imprisonment imposed under 45-5-102(2) may not be deferred
 9 or suspended."

10 Section 7. Codification instruction. (1) It is
 11 intended that sections 1 through 5 be codified as an
 12 integral part of Title 46, chapter 18, and the provisions of
 13 Title 46, chapter 18, apply to sections 1 through 5.

14 (2) THERE IS ADDED TO THOSE SECTIONS LISTED IN
 15 SUBSECTION (1) OF SECTION 1, FOLLOWING THE LANGUAGE IN THOSE
 16 SECTIONS SPECIFYING THE TERM OF IMPRISONMENT FOR WHICH AN
 17 OFFENDER MAY BE IMPRISONED, THE WORDS "AND MAY BE FINED NOT
 18 MORE THAN \$50,000" OR OTHER SIMILAR LANGUAGE ALLOWING THE
 19 COURT TO FINE THE OFFENDER A MAXIMUM OF \$50,000 IN ADDITION
 20 TO A TERM OF IMPRISONMENT. THE CODE COMMISSIONER SHALL
 21 CHANGE THE LISTED SECTIONS IN ACCORDANCE WITH THIS SECTION
 22 AND MAY MAKE MINOR INCIDENTAL ADJUSTMENTS CONSISTENT WITH
 23 THIS SECTION AS MAY BE NECESSARY TO REFLECT THE INTENT OF
 24 THIS SECTION WITHOUT CHANGING THE MEANING OF THE LISTED
 25 SECTIONS AS AMENDED BY THIS SECTION.

1 (3) THERE IS ADDED TO THOSE SECTIONS LISTED IN
2 SUBSECTION (4) OF THIS SECTION, FOLLOWING ANY LANGUAGE IN
3 THOSE SECTIONS SPECIFYING THE TERM OF IMPRISONMENT FOR WHICH
4 AN OFFENDER MAY BE IMPRISONED BUT WITHOUT SPECIFYING A FINE
5 THAT MAY BE ORDERED TO BE PAID, THE WORDS "OR SHALL BE
6 PUNISHED BY A FINE OF NOT MORE THAN \$50,000 OR BY BOTH SUCH
7 FINE AND IMPRISONMENT", OR OTHER SIMILAR LANGUAGE ALLOWING
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11 SECTIONS IN ACCORDANCE WITH THIS SECTION AND MAY MAKE MINOR
12 INCIDENTAL ADJUSTMENTS CONSISTENT WITH THIS SECTION AS MAY
13 BE NECESSARY TO REFLECT THE INTENT OF THIS SECTION WITHOUT
14 CHANGING THE MEANING OF THE LISTED SECTIONS AS AMENDED BY
15 THIS SECTION.

16 (4) 13-27-205, 13-27-206, 19-11-207, 20-9-435,
17 23-5-106, 30-13-142, 32-1-236, 32-1-473, 32-1-505, 45-5-104,
18 45-5-204, 45-5-105, 45-5-201, 45-5-203, 45-5-204, 45-5-304,
19 45-5-505, 45-5-603, 45-5-613, 45-5-621, 45-6-101 THROUGH
20 45-6-103, 45-6-204, 45-6-301, 45-6-316, 45-6-317, 45-6-325,
21 45-6-327, 45-7-101, 45-7-102, 45-7-201, 45-7-206 THROUGH
22 45-7-208, 45-8-106, 45-8-215, 45-8-318, 45-8-334, 45-8-335,
23 45-9-101(4), 45-9-102(4), 45-9-103(3), 45-9-107, 46-18-213,
24 46-18-502, 46-31-204, 50-38-107, 61-3-604, 81-5-102 AND
25 81-9-118.

-End-
-7-

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3 ~~(2)(3)~~ The court may not sentence a defendant to pay a
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9 ~~(3)(4)~~ The ANY fine LEVIED UNDER THIS SECTION IN A
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 4 society; or
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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 or conditions during the period of suspended
 10 sentence. Such reasonable restrictions or conditions may
 11 include any of those listed in subsections (1)(a)(i) through
 12 ~~(i)-(v)~~ (1)(a)(ix).

13 (c) impose a fine as provided by law for the offense;
 14 (d) require payment of costs as provided in [section
 15 2];
 16 ~~(d)~~(e) commit the defendant to a correctional
 17 institution with or without a fine as provided by law for
 18 the offense;
 19 ~~(e)~~(f) impose any combination of subsections (1)(b) ~~or~~
 20 ~~(c)-(e)~~ and (f) through (1)(e).

21 (2) If any restrictions or conditions imposed under
 22 subsection (1)(a) or (1)(b) are violated, any elapsed time,
 23 except jail time, is not a credit against the sentence
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 7 execution of the first 10 years of a sentence of
 8 imprisonment imposed under 45-5-102(2) may not be deferred
 9 or suspended."

10 Section 7. Codification instruction. (1) It is
 11 intended that sections 1 through 5 be codified as an
 12 integral part of Title 46, chapter 18, and the provisions of
 13 Title 46, chapter 18, apply to sections 1 through 5.

14 (2) THERE IS ADDED TO THOSE SECTIONS LISTED IN
 15 SUBSECTION (1) OF SECTION 1, FOLLOWING THE LANGUAGE IN THOSE
 16 SECTIONS SPECIFYING THE TERM OF IMPRISONMENT FOR WHICH AN
 17 OFFENDER MAY BE IMPRISONED, THE WORDS "AND MAY BE FINED NOT
 18 MORE THAN \$50,000" OR OTHER SIMILAR LANGUAGE ALLOWING THE
 19 COURT TO FINE THE OFFENDER A MAXIMUM OF \$50,000 IN ADDITION
 20 TO A TERM OF IMPRISONMENT. THE CODE COMMISSIONER SHALL
 21 CHANGE THE LISTED SECTIONS IN ACCORDANCE WITH THIS SECTION
 22 AND MAY MAKE MINOR INCIDENTAL ADJUSTMENTS CONSISTENT WITH
 23 THIS SECTION AS MAY BE NECESSARY TO REFLECT THE INTENT OF
 24 THIS SECTION WITHOUT CHANGING THE MEANING OF THE LISTED
 25 SECTIONS AS AMENDED BY THIS SECTION.

1 (3) THERE IS ADDED TO THOSE SECTIONS LISTED IN
2 SUBSECTION (4) OF THIS SECTION, FOLLOWING ANY LANGUAGE IN
3 THOSE SECTIONS SPECIFYING THE TERM OF IMPRISONMENT FOR WHICH
4 AN OFFENDER MAY BE IMPRISONED BUT WITHOUT SPECIFYING A FINE
5 THAT MAY BE ORDERED TO BE PAID, THE WORDS "OR SHALL BE
6 PUNISHED BY A FINE OF NOT MORE THAN \$50,000 OR BY BOTH SUCH
7 FINE AND IMPRISONMENT", OR OTHER SIMILAR LANGUAGE ALLOWING
8 THE COURT TO FINE THE OFFENDER A MAXIMUM OF \$50,000 IN LIEU
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11 SECTIONS IN ACCORDANCE WITH THIS SECTION AND MAY MAKE MINOR
12 INCIDENTAL ADJUSTMENTS CONSISTENT WITH THIS SECTION AS MAY
13 BE NECESSARY TO REFLECT THE INTENT OF THIS SECTION WITHOUT
14 CHANGING THE MEANING OF THE LISTED SECTIONS AS AMENDED BY
15 THIS SECTION.

16 (4) ~~13-27-205, 13-27-206, 19-11-207, 20-9-435,~~
17 ~~23-5-106, 30-13-142, 32-1-236, 32-1-473, 32-1-505, 45-5-104,~~
18 ~~45-5-204, 45-5-105, 45-5-201, 45-5-203, 45-5-204, 45-5-304,~~
19 ~~45-5-505, 45-5-603, 45-5-613, 45-5-621, 45-6-101 THROUGH~~
20 ~~45-6-103, 45-6-204, 45-6-301, 45-6-316, 45-6-317, 45-6-325,~~
21 ~~45-6-327, 45-7-101, 45-7-102, 45-7-201, 45-7-206 THROUGH~~
22 ~~45-7-208, 45-8-106, 45-8-215, 45-8-318, 45-8-334, 45-8-335,~~
23 ~~45-9-101(4), 45-9-102(4), 45-9-103(3), 45-9-107, 46-18-213,~~
24 ~~46-18-502, 46-31-204, 50-38-107, 61-3-604, 81-5-102 AND~~
25 ~~81-9-118.~~

1 SENATE BILL NO. 14

2 INTRODUCED BY TOME

3 BY REQUEST OF COMMITTEE

4 ON CORRECTIONS POLICY AND FACILITY NEEDS

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR FINES AND
7 ASSESSMENT OF COSTS IN FELONY AND MISDEMEANOR CRIMINAL
8 CASES; ALLOWING COMMUNITY SERVICE AS A CONDITION OF DEFERRED
9 OR SUSPENDED SENTENCES; AMENDING SECTION 46-18-201, MCA."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 NEW SECTION. Section 1. Fines in felony AND
13 MISDEMEANOR cases. (1) Whenever, upon a verdict or a plea of
14 guilty, a person has been found guilty of an offense for
15 which a felony penalty OF IMPRISONMENT could be imposed, the
16 court may impose a fine, ONLY IN ACCORDANCE WITH SUBSECTION
17 (3), AND IN LIEU OF OR IN ADDITION TO A SENTENCE OF
18 IMPRISONMENT. Except-as FOR THOSE CRIMES FOR WHICH PENALTIES
19 ARE provided in 45-5-103(2), 45-5-202(2), 45-5-302(2),
20 45-5-303(2), 45-5-401(2), 45-5-502(3), 45-5-503(2) and (3),
21 45-9-101(2) and (3), 45-9-102(3), and 45-9-103(2), a fine
22 may be imposed in lieu-of-or ACCORDANCE WITH SUBSECTION (3)
23 in addition to a sentence of imprisonment.

24 (2) WHENEVER, UPON A VERDICT OR PLEA OF GUILTY, A
25 PERSON HAS BEEN FOUND GUILTY OF AN OFFENSE FOR WHICH A

1 MISDEMEANOR PENALTY OF A FINE COULD BE IMPOSED, THE COURT
2 MAY IMPOSE A FINE ONLY IN ACCORDANCE WITH SUBSECTION (3).

3 (2)(3) The court may not sentence a defendant to pay a
4 fine unless the defendant is or will be able to pay the
5 fine. In determining the amount and method of payment, the
6 court shall take into account the nature of the crime
7 committed, the financial resources of the defendant, and the
8 nature of the burden that payment of the fine will impose.

9 (3)(4) The ANY fine LEVIED UNDER THIS SECTION IN A
10 FELONY CASE shall be in an amount fixed by the court NOT TO
11 EXCEED \$50,000.

12 NEW SECTION. Section 2. Payment of costs by
13 defendant. (1) A court may require a convicted defendant in
14 a felony OR MISDEMEANOR case to pay costs, as defined in
15 25-10-201, plus costs of jury service as a part of his
16 sentence. Such costs shall be limited to expenses
17 specifically incurred by the prosecution in connection with
18 the proceedings against the defendant.

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

25 (3) A defendant who has been sentenced to pay costs

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

9 NEW SECTION. Section 3. Fine or costs as a condition
 10 on suspended or deferred sentence. (1) Whenever a defendant
 11 is sentenced to pay a fine or costs under [section 1 or 2]
 12 and the imposition or execution of the rest of his sentence
 13 is deferred or suspended, the court may make payment of the
 14 fine or costs a condition for probation.

15 (2) A suspended or deferred sentence may not be
 16 revoked if the defendant defaults on the payment of the fine
 17 and the default is not attributable to an intentional
 18 refusal to obey the order of the court or a failure to make
 19 a good faith effort to make the payment.

20 NEW SECTION. Section 4. When payment of fine or costs
 21 due. Whenever a defendant is sentenced to pay a fine or
 22 costs under [section 1 or 2], the court may grant permission
 23 for payment to be made within a specified period of time or
 24 in specified installments. If no such permission is included
 25 in the sentence, the payment is due 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 as provided in [section 1];
 24 (vi) payment of costs as provided in [sections 2 and
 25 3];

1 (vii) community service;

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

5 ~~(vi)~~(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 or conditions during the period of suspended
10 sentence. Such reasonable restrictions or conditions may
11 include any of those listed in subsections (1)(a)(i) through
12 ~~(1)(a)(vii)~~ (1)(a)(ix).

13 (c) impose a fine as provided by law for the offense;

14 (d) require payment of costs as provided in [section
15 2];

16 ~~(d)~~(e) commit the defendant to a correctional
17 institution with or without a fine as provided by law for
18 the offense;

19 ~~(e)~~(f) impose any combination of subsections (1)(b) ~~or~~
20 ~~(1)(c) and (1)(d)~~ through (1)(e).

21 (2) If any restrictions or conditions imposed under
22 subsection (1)(a) or (1)(b) are violated, any elapsed time,
23 except jail time, is not a credit against the sentence
24 unless the court orders otherwise.

25 (3) Except as provided in 46-18-222, the imposition or

1 execution of the first 2 years of a sentence of imprisonment
2 imposed under the following sections may not be deferred or
3 suspended: 45-5-103(2), 45-5-202(2), 45-5-302(2),
4 45-5-303(2), 45-5-401(2), 45-5-503(2) and (3), 45-9-101(2)
5 and (3), 45-9-102(3), and 45-9-103(2).

6 (4) Except as provided in 46-18-222, the imposition or
7 execution of the first 10 years of a sentence of
8 imprisonment imposed under 45-5-102(2) may not be deferred
9 or suspended."

10 Section 7. Codification instruction. (1) It is
11 intended that sections 1 through 5 be codified as an
12 integral part of Title 46, chapter 18, and the provisions of
13 Title 46, chapter 18, apply to sections 1 through 5.

14 (2) THERE IS ADDED TO THOSE SECTIONS LISTED IN
15 SUBSECTION (1) OF SECTION 1, FOLLOWING THE LANGUAGE IN THOSE
16 SECTIONS SPECIFYING THE TERM OF IMPRISONMENT FOR WHICH AN
17 OFFENDER MAY BE IMPRISONED, THE WORDS "AND MAY BE FINED NOT
18 MORE THAN \$50,000" OR OTHER SIMILAR LANGUAGE ALLOWING THE
19 COURT TO FINE THE OFFENDER A MAXIMUM OF \$50,000 IN ADDITION
20 TO A TERM OF IMPRISONMENT. THE CODE COMMISSIONER SHALL
21 CHANGE THE LISTED SECTIONS IN ACCORDANCE WITH THIS SECTION
22 AND MAY MAKE MINOR INCIDENTAL ADJUSTMENTS CONSISTENT WITH
23 THIS SECTION AS MAY BE NECESSARY TO REFLECT THE INTENT OF
24 THIS SECTION WITHOUT CHANGING THE MEANING OF THE LISTED
25 SECTIONS AS AMENDED BY THIS SECTION.

1 (3) THERE IS ADDED TO THOSE SECTIONS LISTED IN
 2 SUBSECTION (4) OF THIS SECTION, FOLLOWING ANY LANGUAGE IN
 3 THOSE SECTIONS SPECIFYING THE TERM OF IMPRISONMENT FOR WHICH
 4 AN OFFENDER MAY BE IMPRISONED BUT WITHOUT SPECIFYING A FINE
 5 THAT MAY BE ORDERED TO BE PAID, THE WORDS "OR SHALL BE
 6 PUNISHED BY A FINE OF NOT MORE THAN \$50,000 OR BY BOTH SUCH
 7 FINE AND IMPRISONMENT", OR OTHER SIMILAR LANGUAGE ALLOWING
 8 THE COURT TO FINE THE OFFENDER A MAXIMUM OF \$50,000 IN LIEU
 9 OF IMPRISONMENT OR TO PUNISH THE OFFENDER BY BOTH A FINE AND
 10 IMPRISONMENT. THE CODE COMMISSIONER SHALL CHANGE THE LISTED
 11 SECTIONS IN ACCORDANCE WITH THIS SECTION AND MAY MAKE MINOR
 12 INCIDENTAL ADJUSTMENTS CONSISTENT WITH THIS SECTION AS MAY
 13 BE NECESSARY TO REFLECT THE INTENT OF THIS SECTION WITHOUT
 14 CHANGING THE MEANING OF THE LISTED SECTIONS AS AMENDED BY
 15 THIS SECTION.

16 (4) 13-27-205, 13-27-206, 19-11-207, 20-9-435,
 17 23-5-106, 30-13-142, 32-1-236, 32-1-473, 32-1-505, 45-5-104,
 18 45-5-204, 45-5-105, 45-5-201, 45-5-203, 45-5-204, 45-5-304,
 19 45-5-505, 45-5-603, 45-5-613, 45-5-621, 45-6-101 THROUGH
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 23 45-9-101(4), 45-9-102(4), 45-9-103(3), 45-9-107, 46-18-213,
 24 46-18-502, 46-31-204, 50-38-107, 61-3-604, 81-5-102 AND
 25 81-9-118.

-End-