

HOUSE BILL NO. 857

INTRODUCED BY ABRAMS, SPAETH, PAVLOVICH

BY REQUEST OF THE DEPARTMENT OF JUSTICE

IN THE HOUSE

| | |
|-------------------|---|
| February 15, 1983 | Introduced and referred to Committee on Judiciary. |
| February 21, 1983 | Committee recommend bill do pass. Report adopted. |
| February 22, 1983 | Bill printed and placed on members' desks. |
| February 23, 1983 | Second reading, do pass. Considered correctly engrossed. Third reading, passed. Transmitted to Senate. |

IN THE SENATE

| | |
|----------------|---|
| March 1, 1983 | Introduced and referred to Committee on Judiciary. |
| March 17, 1983 | Committee recommend bill be concurred in. Report adopted. |
| March 19, 1983 | Second reading, concurred in. |
| March 22, 1983 | Third reading, concurred in. Ayes, 49; Noes, 0. |

IN THE HOUSE

| | |
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| March 22, 1983 | Returned to House. |
| March 23, 1983 | Sent to enrolling. Reported correctly enrolled. |

1 *House* BILL NO. *857*
2 INTRODUCED BY *Abraham Smith*
3 BY REQUEST OF THE DEPARTMENT OF JUSTICE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING MUTUAL AID
6 AGREEMENTS AMONG LAW ENFORCEMENT AGENCIES OF THIS AND OTHER
7 STATES AND THE UNITED STATES; SPECIFYING AUTHORITY OF LAW
8 ENFORCEMENT OFFICERS AND AGENCIES; CLARIFYING THE EFFECT OF
9 AGREEMENTS ON LEGAL DUTIES OF LAW ENFORCEMENT AGENCIES;
10 PROVIDING FOR APPROVAL AND FILING OF AGREEMENTS; AUTHORIZING
11 AGENCY COMMITMENT OF FUNDS, PERSONNEL, AND EQUIPMENT FOR
12 PURPOSES OF AGREEMENTS; AND PROVIDING AN IMMEDIATE EFFECTIVE
13 DATE."

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

16 Section 1. Short title. [Sections 1 through 12] shall
17 be known and may be cited as the "Interstate Law Enforcement
18 Mutual Aid Act".

19 Section 2. Purpose. It is the purpose of [sections 1
20 through 12] to permit one or more law enforcement agencies
21 of this state to enter into mutual aid agreements, on the
22 basis of mutual advantage, with one or more law enforcement
23 agencies of any other state or the United States in order to
24 facilitate and coordinate efficient, cooperative enforcement
25 efforts directed at mutual law enforcement problems

1 transcending jurisdictional boundaries and to insure the
2 prompt and effective delivery of law enforcement and
3 emergency services in areas that, due to geographic
4 remoteness, population sparsity, and economic and other
5 factors are in need of an increased law enforcement
6 presence.

7 Section 3. Definitions. When used in [sections 1
8 through 12], unless the context requires otherwise, the
9 following definitions apply:

10 (1) "Law enforcement agency" means a public agency
11 lawfully established by statute or executive order that is
12 responsible for the prevention and detection of crime and
13 the enforcement of penal, traffic, regulatory, or game laws.

14 (2) "Law enforcement agency of this state" or "law
15 enforcement agency of another (or any other) state"
16 includes, respectively, a law enforcement agency of a
17 political subdivision of this state and a law enforcement
18 agency of a political subdivision of another state.

19 (3) "Mutual aid agreement" or "agreement" means an
20 agreement between two or more law enforcement agencies,
21 consistent with the purposes of [sections 1 through 12].

22 (4) "Party law enforcement agency" means a law
23 enforcement agency that is a party to a mutual aid agreement
24 as set forth in [sections 1 through 12].

25 (5) "Peace officer" has the meaning as the term is

INTRODUCED BILL

1 defined in 46-1-201.

2 Section 4. Authorization to enter agreement -- general
3 content -- authority of peace officer. (1) Any one or more
4 law enforcement agencies of this state may enter into a
5 mutual aid agreement with any one or more law enforcement
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7 the law enforcement or emergency services that all of the
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12 (2) The agreement must fully set forth the powers,
13 rights, and obligations of the parties to the agreement.

14 (3) Subject to [section 8], a mutual aid agreement may
15 grant a peace officer of any party law enforcement agency
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17 party law enforcement agency authority to act as if he were
18 a duly appointed and qualified peace officer of the law
19 enforcement agency he is assisting.

20 Section 5. Detailed content of agreement. The
21 agreement authorized by [section 4] must specify the
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24 (2) the precise organization, composition, and nature
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2 (4) the manner of financing the agreement and
3 establishing and maintaining a budget therefor;

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6 disposing of property upon such partial or complete
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(13) any other necessary and proper matters.

Section 6. Right of state in actions involving agreements. In any case or controversy involving performance or interpretation of or liability under a mutual aid agreement entered into between one or more law enforcement agencies of political subdivisions of this state and one or more law enforcement agencies of another state or of the United States, the parties to the agreement are the real parties in interest. This state may maintain an action against any law enforcement agency whose default, failure, performance, or other conduct caused or contributed to any liability incurred by this state.

Section 7. Agreement not to relieve agency of duties. No agreement made under [sections 1 through 12] may relieve any law enforcement agency of this state of any duty imposed upon it by law. Timely performance of such a duty by a joint board or other legal or administrative entity created by a mutual aid agreement may be offered in satisfaction of the duty.

Section 8. Limitation of powers. Except for the right granted by [sections 1 through 12] to jointly exercise powers, [sections 1 through 12] do not authorize any law enforcement agency of this state to exercise any power that it is not otherwise authorized to exercise.

Section 9. Submission of agreement to attorney

general. (1) As a condition precedent to an agreement becoming effective under [sections 1 through 12], the agreement must be submitted to and receive the approval of the attorney general of Montana.

(2) The attorney general shall approve an agreement submitted to him under [sections 1 through 12] unless he finds that it is not in proper form, does not meet the requirements set forth in [sections 1 through 12], or otherwise does not conform to the laws of Montana. If he disapproves an agreement, he shall provide a detailed, written statement to the governing bodies of the party law enforcement agencies.

(3) If the attorney general does not disapprove an agreement within 60 days after its submission to him, it is considered approved by him.

Section 10. Filing of agreement. Within 20 days after approval by the attorney general, an agreement made pursuant to [sections 1 through 12] must be filed in the office of:

(1) each clerk and recorder of each county of this state where the principal office of one of the parties to the agreement is located; and

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Section 11. Authorization to appropriate funds for purpose of agreement. Any law enforcement agency of this state may appropriate funds for and may sell, lease, or

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2 purpose of performance of an agreement and may provide such
3 personnel or services therefor as are within its authority
4 to furnish.

5 Section 12. Effect of other law. The procedures and
6 remedies provided in [sections 1 through 11] apply to the
7 exclusion of those remedies and procedures for interlocal
8 agreements generally under Title 7, chapter 11, part 1.

9 Section 13. Effective date. This act is effective on
10 passage and approval.

-End-

STATE OF MONTANA

REQUEST NO. 487-83

FISCAL NOTE

Form BD-15

In compliance with a written request received February 19, 19 83, there is hereby submitted a Fiscal Note for House Bill 857 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

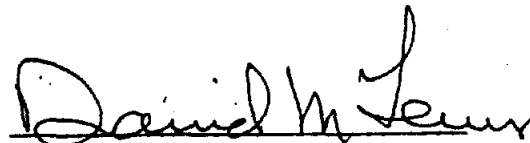
DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 857 authorizes mutual aid agreement among law enforcement agencies of this and other states and the United States; specifies authority of law enforcement officer's and agencies; clarifies the effect of agreements on legal duties of law enforcement agencies; provides for approval and filing of agreements; authorizes agency commitment of funds, personnel, and equipment for purposes of agreements; and provides an immediate effective date.

FISCAL IMPACT:

None.

FISCAL NOTE: 16:CC/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-21-83

Approved by Committee
on Judiciary

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21 of this state to enter into mutual aid agreements, on the
22 basis of mutual advantage, with one or more law enforcement
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19 (3) "Mutual aid agreement" or "agreement" means an
20 agreement between two or more law enforcement agencies,
21 consistent with the purposes of [sections 1 through 12].

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23 enforcement agency that is a party to a mutual aid agreement
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25 (5) "Peace officer" has the meaning as the term is

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Section 9. Submission of agreement to attorney

general. (1) As a condition precedent to an agreement becoming effective under [sections 1 through 12], the agreement must be submitted to and receive the approval of the attorney general of Montana.

(2) The attorney general shall approve an agreement submitted to him under [sections 1 through 12] unless he finds that it is not in proper form, does not meet the requirements set forth in [sections 1 through 12], or otherwise does not conform to the laws of Montana. If he disapproves an agreement, he shall provide a detailed, written statement to the governing bodies of the party law enforcement agencies.

(3) If the attorney general does not disapprove an agreement within 60 days after its submission to him, it is considered approved by him.

Section 10. Filing of agreement. Within 20 days after approval by the attorney general, an agreement made pursuant to [sections 1 through 12] must be filed in the office of:

(1) each clerk and recorder of each county of this state where the principal office of one of the parties to the agreement is located; and

(2) the secretary of state.

Section 11. Authorization to appropriate funds for purpose of agreement. Any law enforcement agency of this state may appropriate funds for and may sell, lease, or

1 otherwise supply material to any entity created for the
2 purpose of performance of an agreement and may provide such
3 personnel or services therefor as are within its authority
4 to furnish.

5 Section 12. Effect of other law. The procedures and
6 remedies provided in [sections 1 through 11] apply to the
7 exclusion of those remedies and procedures for interlocal
8 agreements generally under Title 7, chapter 11, part 1.

9 Section 13. Effective date. This act is effective on
10 passage and approval.

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