

SENATE BILL NO. 386

Introduced: 02/09/83

Referred to Committee on Judiciary: 02/09/83

Hearing: 2/15/83

Report: 02/15/83, Do Pass

2nd Reading: 02/17/83

3rd Reading: 02/21/83

Transmitted to House: 02/21/83

Referred to Committee on Judiciary: 02/28/83

Hearing: 3/11/83

Report: 03/11/83, Be Not Concurred In, As Amended

Bill Killed: 03/14/83

1 *Senate* BILL NO. 386
 2 INTRODUCED BY *Dellinger*
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A DIRECT
 5 COMMUNICATION TO A JUDGE BY A LITIGANT OR HIS ATTORNEY THAT
 6 IS INTENDED TO INFLUENCE THE OUTCOME OF ANY MATTER PENDING
 7 BEFORE THE JUDGE CONSTITUTES A CONTEMPT OF COURT; PROVIDING
 8 THAT ANY SUCH CONTEMPT IS CONSIDERED TO HAVE OCCURRED IN THE
 9 IMMEDIATE PRESENCE OF THE COURT OR JUDGE; PROVIDING
 10 INCREASED PENALTIES FOR THIRD AND SUBSEQUENT CONTEMPTS;
 11 AMENDING SECTIONS 3-1-501, 3-1-511, AND 3-1-519, MCA."
 12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 14 Section 1. Section 3-1-501, MCA, is amended to read:
 15 "3-1-501. What acts or omissions are contempts. (1)
 16 The following acts or omissions in respect to a court of
 17 justice or proceedings therein are contempts of the
 18 authority of the court:
 19 (a) disorderly, contemptuous, or insolent behavior
 20 toward the judge while holding the court tending to
 21 interrupt the due course of a trial or other judicial
 22 proceeding;
 23 (b) a breach of the peace, boisterous conduct, or
 24 violent disturbance tending to interrupt the due course of a
 25 trial or other judicial proceeding;

1 (c) misbehavior in office or other willful neglect or
 2 violation of duty by an attorney, counsel, clerk, sheriff,
 3 coroner, or other person appointed or elected to perform a
 4 judicial or ministerial service;
 5 (d) deceit or abuse of the process or proceedings of
 6 the court by a party to an action or special proceeding;
 7 (e) disobedience of any lawful judgment, order, or
 8 process of the court;
 9 (f) assuming to be an officer, attorney, or counsel of
 10 a court and acting as such without authority;
 11 (g) rescuing any person or property in the custody of
 12 an officer by virtue of an order or process of such court;
 13 (h) unlawfully detaining a witness or party to an
 14 action while going to, remaining at, or returning from the
 15 court where the action is on the calendar for trial;
 16 (i) any other unlawful interference with the process
 17 or proceedings of a court;
 18 (j) disobedience of a subpoena duly served or refusing
 19 to be sworn or answer as a witness;
 20 (k) when summoned as a juror in a court, neglecting to
 21 attend or serve as such or improperly conversing with a
 22 party to an action to be tried at such court or with any
 23 other person in relation to the merits of such action or
 24 receiving a communication from a party or other person in
 25 respect to it without immediately disclosing the same to the

1 court;

2 (1) disobedience by an inferior tribunal, magistrate,
3 or officer of the lawful judgment, order, or process of a
4 superior court or proceeding in an action or special
5 proceeding contrary to law after such action or special
6 proceeding is removed from the jurisdiction of such inferior
7 tribunal, magistrate, or officer;

8 (a) direct communication made to a judge, including
9 any statement or expression made in person or by writing,
10 telephone, or any other electronic means, at any place or
11 location in this state by any litigant or his attorney which
12 is intended to influence the outcome of any matter pending
13 before that judge in which the litigant or his attorney is
14 interested. This subsection (1)(m) does not apply to:

15 (i) documents filed with the clerk of court, unless
16 the documents are scandalous or abusive; or

17 (ii) an argument given in the judge's chambers, in the
18 presence of all parties to the proceeding or fewer than all
19 parties when permitted by law, or given in open court unless
20 the argument constitutes contempt under (a) through (l) of
21 this subsection (1) or other provisions of law.

22 (2) Disobedience of the lawful orders or process of a
23 judicial officer is also a contempt of the authority of such
24 officer."

25 Section 2. Section 3-1-511, MCA, is amended to read:

1 "3-1-511. Procedure -- contempt committed in the
2 presence of the court. (1) When a contempt is committed in
3 the immediate view and presence of the court or judge at
4 chambers, it may be punished summarily, for which an order
5 must be made reciting the facts as occurring in such
6 immediate view and presence and adjudging that the person
7 proceeded against is thereby guilty of a contempt and that
8 he be punished as therein prescribed.

9 (2) Contempts described in 3-1-501(1)(m) are
10 considered to be in the immediate view and presence of the
11 court or judge."

12 Section 3. Section 3-1-519, MCA, is amended to read:

13 "3-1-519. Penalty. (1) Upon the answer and evidence
14 taken, the court or judge must determine whether the person
15 proceeded against is guilty of the contempt charged. If it
16 be adjudged that he is guilty of the contempt, a fine may be
17 imposed on him not exceeding \$500 or he may be imprisoned
18 not exceeding 5 days, or both.

19 (2) Upon finding a person guilty of a third contempt,
20 a fine may be imposed on him not exceeding \$1,000 or he may
21 be imprisoned not exceeding 30 days, or both, for such third
22 and each subsequent contempt."

-End-

Approved by Committee
on Judiciary

Senate BILL NO. 386

INTRODUCED BY *Dellinger*

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A DIRECT COMMUNICATION TO A JUDGE BY A LITIGANT OR HIS ATTORNEY THAT IS INTENDED TO INFLUENCE THE OUTCOME OF ANY MATTER PENDING BEFORE THE JUDGE CONSTITUTES A CONTEMPT OF COURT; PROVIDING THAT ANY SUCH CONTEMPT IS CONSIDERED TO HAVE OCCURRED IN THE IMMEDIATE PRESENCE OF THE COURT OR JUDGE; PROVIDING INCREASED PENALTIES FOR THIRD AND SUBSEQUENT CONTEMPTS; AMENDING SECTIONS 3-1-501, 3-1-511, AND 3-1-519, MCA."

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

Section 1. Section 3-1-501, MCA, is amended to read:

"3-1-501. What acts or omissions are contempts. (1)

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(a) disorderly, contemptuous, or insolent behavior toward the judge while holding the court tending to interrupt the due course of a trial or other judicial proceeding;

(b) a breach of the peace, boisterous conduct, or violent disturbance tending to interrupt the due course of a trial or other judicial proceeding;

(c) misbehavior in office or other willful neglect or violation of duty by an attorney, counsel, clerk, sheriff, coroner, or other person appointed or elected to perform a judicial or ministerial service;

(d) deceit or abuse of the process or proceedings of the court by a party to an action or special proceeding;

(e) disobedience of any lawful judgment, order, or process of the court;

(f) assuming to be an officer, attorney, or counsel of a court and acting as such without authority;

(g) rescuing any person or property in the custody of an officer by virtue of an order or process of such court;

(h) unlawfully detaining a witness or party to an action while going to, remaining at, or returning from the court where the action is on the calendar for trial;

(i) any other unlawful interference with the process or proceedings of a court;

(j) disobedience of a subpoena duly served or refusing to be sworn or answer as a witness;

(k) when summoned as a juror in a court, neglecting to attend or serve as such or improperly conversing with a party to an action to be tried at such court or with any other person in relation to the merits of such action or receiving a communication from a party or other person in respect to it without immediately disclosing the same to the

1 court;

2 (1) disobedience by an inferior tribunal, magistrate,
3 or officer of the lawful judgment, order, or process of a
4 superior court or proceeding in an action or special
5 proceeding contrary to law after such action or special
6 proceeding is removed from the jurisdiction of such inferior
7 tribunal, magistrate, or officer;

8 ~~(a) direct communication made to a judge, including~~
9 ~~any statement or expression made in person or by writing,~~
10 ~~telephone, or any other electronic means, at any place or~~
11 ~~location in this state by any litigant or his attorney which~~
12 ~~is intended to influence the outcome of any matter pending~~
13 ~~before that judge in which the litigant or his attorney is~~
14 ~~interested. This subsection (1)(m) does not apply to:~~

15 ~~(i) documents filed with the clerk of court, unless~~
16 ~~the documents are scandalous or abusive; or~~

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18 ~~presence of all parties to the proceeding or fewer than all~~
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22 (2) Disobedience of the lawful orders or process of a
23 judicial officer is also a contempt of the authority of such
24 officer."

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1 "3-1-511. Procedure -- contempt committed in the
2 presence of the court. (1) When a contempt is committed in
3 the immediate view and presence of the court or judge at
4 chambers, it may be punished summarily, for which an order
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6 immediate view and presence and adjudging that the person
7 proceeded against is thereby guilty of a contempt and that
8 he be punished as therein prescribed.

9 ~~(2) Contempts described in 3-1-501(1)(m) are~~
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11 ~~court or judge."~~

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13 "3-1-519. Penalty. (1) Upon the answer and evidence
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16 be adjudged that he is guilty of the contempt, a fine may be
17 imposed on him not exceeding \$500 or he may be imprisoned
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21 ~~be imprisoned not exceeding 30 days, or both, for such third~~
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-End-

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INTRODUCED BY DeLugan

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-End-