## SENATE BILL NO. 391

INTRODUCED BY ECK, HALLIGAN, VAN VALKENBURG

IN THE SENATE

February 10, 1983

February 11, 1983
February 16, 1983

February 17, 1983

February 18, 1983
February 19, 1983
February 21, 1983

Introduced and referred to Committee on Judiciary.

Fiscal Note requested.
Fiscal Note returned.
Committee recommend bill do pass as amended. Report adopted.

Bill printed and placed on members' desks.

Second reading, do pass.
Correctly engrossed.
Third reading, passed. Ayes, 50; Noes, 0. Transmitted to House.

IN THE HOUSE

February 28, 1983

March 24, 1983

March 26, 1983
March 28, 1983
Introduced and referred to Committee on Judiciary.

Committee recommend bill be concurred in as amended. Report adopted.

Second reading, concurred in.
Third reading, concurred in.

IN THE SENATE
March 28, 1983

Returned to Senate with amendments.

April 6, 1983

April 7, 1983

Second reading, amendments concurred in.

Third reading, amendments concurred in. Ayes, 47; Noes, 3.

Sent to enrolling.
Reported correctly enrolled.
INTRDDJCED BY

a bil: for an act entitled: man act to generally revise CRIminal penalties; increasing the dollar arount requtred to be inyolved in a crime before penalties for that crime are INCREASED; PROVIDING FOR REIMBURSEMENT TO THE COUNTIES OF CERTAIN COSTS OF CONFINEMENT; REQUIRING MANOATORY RESTITUTION. PAYMENT DF COSTS OF COURT-APPOINTED COUNSEL, ANO REPAYMENT OF CERTAIN COSTS OF CONFINEMENT REIMBURSED BY THE STATE TO THE COUNTIES; AMENDING SECTIONS 45-6-101. 45-6-301, 45-6-309, 45-6-311, 45-6-316, 45-6-317, 45-6-325, 45-7-210, 46-8-112, 46-8-113, AND 46-18-201. MCA; REPEALING SECTIJNS 46-8-114 AND 46-8-115, MCA; ANO PROVIOING AN EFFECTIVE DATE."
It enacteo gy the legislature of the state of montana:
Section le Section 45-6-101, MCA, is amended to read:
"45-6-101. Criminal mischief. (1) A person commits the offense of criminal mischief if he knowingly or purposely:
(a) injures, damages, or destroys any property of another or public property without cansent;
(b) without consent tampers with property of another or public property so as to endanger or interfere with persons or property or its use;
(c) damages or destroys property with the purpose to defraud an insurer; or
(d) fails to close a gate previously unopened which he has opened, leading in or out of any enclosed premises. This does not apply to gates located in cities or towns.
(2) A persan convicted of criminal mischief shall be ordered to make restitution in an amount and manner to be set by the court. The court shall determine the manner and amount of restitution after full consideration of the convicted person's ability to pay the same. Upon good cause shown by the convicted person, the court may modify any previous order specifying the amount and manner of restitution. full payment of the amount of restitution ordered shall be made prior to the release of state juristiction over the person convicted.
(3) A person convicted of the offense of criminal mischief shall be fined not to exceed $\$ 500$ or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the offender comaits the offense of criminal mischief and causes pecuniary loss in excess of $\$ 350 \$ 500$, injures or kills a commonly domesticated hoofed animaly or causes a substantial interruption or impairment of public communication, transportation, supply of water, gas, or power, or other public services, he shall be fined an amount not to exceed $\$ 50,000$ or be imprisoned in the state prison
-2- INTRODUCED BILL 391

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for any term not to exceed 10 yearsp or both."
    Section 2. Section 45-6-301, MCA, is amended to read:
    *45-6-301. Theft. (1) A person commits the offense of
theft when he purposely or knowingly ootains or exerts
unauthorized control over property of the owner and:
(a) has the purpose of depriving the owner of the property;
(b) purposely or knowingly uses; conceals or abandons the property in such manner as to deprive the owner of the property; or
(c) uses, conceals, or abandons the property knowing such use, concealment, or abandonment probably will deprive the owner of the property.
(2) A person commits the offense of theft when he purposely or knowingly obtains by threat or deception contral over property of the owner and:
(a) has the purpose of depriving the owner of the property;
(b) purposely or knowingly uses, conceals, or abandons the property in such manner as to deprive the owner of the property; or
(c) uses, conceals or abandons the property knowing such use, concealment, or abandonment probably will deprive the owner of the property.
(3) A person commits the offense of theft when he
purposely or knowingly obtains control over stolen property knowing the property to have been stolen by another and:
(a) has the pursose of depriving the owner of the property;
(b) purposely or knowingly uses, conceals, or abandons the property in such manner as to deprive the owner of the property; or
(c) uses, conceals, or abandons the property knowing such use, concealment, or abandonment probably will deprive the owner of the property.
(4) A person commits the offense of theft when he purposely or knowingly obtains or exerts unauthorized control over any part of any public assistance, as defined in 53-3-101, by means of:
(a) a knowingly false statement, representation or impersonation; or
(b) a fraudulent scheme or device.
(5) A person convicted of the offense of theft of property not exceeding \(\$ \pm 50\) s 500 in value shall be fined not to exceed \(\$ 500\) or be \(i\) mprisoned in the county jail for any term not to exceed 6 monthsp or both. A person convicted of the offense of theft of property exceeding \$t50 \(\$ 500\) in value or theft of any commonly domesticated hoofed animal shall be fined not to exceed 550,000 or be imprisoned in the state prison for any term not to exceed 10 yearst or betns
(6) Amounts involved in thefts comitted pursuant to a common scheme or the same transaction, whether fram the same person or several persons, may be aggregated in determining the value of the property."
Section 3. Section 45-6-309, MCAp is amended to read:
*45-6-309. Failure to return rented or leased personal property. (1) A person commits the offense of failure to return rented or leased personal property if, without notice to and permission of the lessor, he purposely and knowingly fails to return such property within 48 hours after the time provited for such return in the rental agreement, provided that =lear written notice, in bold print, of the date and time when return of the property is required and of the penalty prescribed in this section is stated in the rental or lease agreenent.
(2) Presentation to the lessor by the lessee of identification that is false for the purpose of obtaining a rental or lease agreement constitutes prima facie evidence of commission of the offense.
(3) After the rental or lease period specified in the rental or lease agreement nas expired, fallure to return rented or leased personal property within 72 hours of written demand by the lessor, sent by certified mail to the renter or lessee at the address given at the time of entering the rental or lease agreement, constitutes prima
facie evidence of commission of the offense.
(4) (a) A person convicted of failure to return rented or 1 eased personal property not exceeding \(\$ 450\) \(\$ 500\) in value shall be fined not to exceed \(\$ 500\) or be iaprisoned in the county jafl for \(a\) term not to exceed 6 months, or both.
(b) A person convicted of failure to return rented or leased personal property exceeding \(\$ 50\) s 500 in value shall be imprisoned in the state prison for a term not to exceed 10 years."

Section 4. Section 45-6-311, HCA, is amended to read:
m45-6-311. Unlawful use of a computer. (1) A person commits the offense of unlawful use of a computer if he knowingly or purposely:
(a) obtains the use of any computery computer system. or computer network without consent of the owner;
(D) alters or destroys or causes another to alter or destroy a computer progran or computer software without consent of the owner; or
(c) obtains the use of or alters or destroys a computer, computer system, computer network, or any part thereof as part of deception for the purpose of obtaining money, property, or computer services from the owner of the computer, computer system, computer network, or part thereof or from any other person.
(2) A person convicted of the offense of unlawful use
of a computer involving property not exceeding \(\$ 150\) s500 in value shall be fined not to exceed \(\$ 500\) or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of the offense of unlawful use of a computer involving property exceeding \(\$ \pm 50\) s 500 in value shall be fined not more than \(21 / 2\) times the value of the property used, altered, destroyed, or obtained or be imprisoned in the state prison for a term not to exceed 10 yearsp or both."

Section 5. Section 45-6-316, MCA, is amended to read:
"45-6-316. Issuing a bad check. (1) A person commits the offense of issuing a bad check when, with the purpose of obtaining control over property or to secure property, labor, or services of another, he issues or delivers a check or other order upon a real or fictitious depository for the payment of money knowing that it will not be paid by the depository.
(2) If the offender has an account with the depository, fallure to make good the check or other order within 5 days after written notice of nompayment has been received by the issuer is prima facie evidence that he knew that it would not be paid by the depositorye
(3) A person convicted of issuing a bad check shall be fined not to exceed \(\$ 500\) or be imprisoned in the county jail for any term not to exceed 6 monthsp or both. if the
> offender has enoaged in issuing bad checks which are part of a common scheme or if the value of any property, labor, or services obtained or attempted to be obtained exceeds \(\$ 159\) 5502, he shall be fined not to exceed 150,000 or be imprijoned in the state prison for any terin not to exceed 10 years, or both."
> section 6. Section 45-6-317, MCA, is amended to read:
> "45-6-317. Deceptive practices. (1) A person commits the offense of deceptive practices when he purposely or knowingly:
> (a) causes another, by deception or threat, to execute a document disposing of property or a document by which a pecuniary obilgation is incurredi
> \((0)\) makes or directs another to make a false or deceptive statement addressed to the public or any person for the purpose of promoting or procuring the sale of property or services;
> (c) makes or directs unother to make a false or deceptive statement to any person respecting his financial condition for the purpose of procuring a loan or credit or accepts a false or deceptive statement from any person who is attempting to procure a loan or credit regarding that person"s financial condition: or
> (d) obtains or attempts to obtain property, labor, or services by any of the following means:
(i) using a credit card which was issued to another
withost the other"s consent;
(il) using a credit card that has been revoked or cancel ed;
(iii) using a credit card that has been falsely made, counterfeited, or altered in any material respect;
(iv) using the pretended number or description of 3 fictitious credit card;
(v) using a credit card which has expired provided the credit card clearly indicates the expiration date.
(2) A person convicted of the offense of deceptive practices shall be fined not to exceed \(\$ 500\) or imprisoned in the county Jail for a term not to exceed 5 monthsy or both If the deceptive practices are part of a common scheme or the value of any property, labor, or services obtained or attemsted to be obtained exceeds 3450 550, the offender shall be fined not to exceed \(\$ 50,000\) or be imprisoned in the state prison for a term not to exceed 10 years, or both."
section 7. Section 45-6-325, MCA, is amended to read:
"45-6-325. Forgery. (1) A person commits the offense of forgery when with purpose to defraud he knowingly:
(a) Without authority makes or alters any document or other object apparently capable of being used to defraud anothar in such manner that it purports to have been made by another or at another time or with different provisions or

\section*{of different composition;}
(b) issues or delivers such document or other object knowing it to have been thus made or altered;
(c) possesses with the purpose of issuing or delivering any such document or other object knowing it to have been thus made or altered; or
(d) possesses with knowledge of its character any plate, die, or other device, apparatus, equipment, or article specifically designed for use in counterfeiting or otherwise forging written instruments.
(2) A purpose to defraud means the purpose of causing another to assume, create, transfer, alter. or terminate any right, obligation, or power with reference to any person or property.
(3) A document or other object capable of being used to defraud another includes but is not limited to one by which any right, obligation, or power with reference to any person or property may be created, transferred, altered, or terminated.
(4) A person convicted of the offense of forgery shall be fined not to exceed \(\$ 500\) or be imprisoned in the county jail for any terin not to exceed ómonths, or both. If the forgery is Dart of a common scheme or if the value of the property, labor, or services obtained or attempted to be obtained exceeds \(\$+5 \Leftrightarrow 5500\), the offender shall be fined not
(2) (a) Except as provided in subsection (2)(b), a person convicted of an offerise onder this section shall be fined not to exceed \(\$ 500\) or imprisoned in the county jail for a terin not to exceed 6 months, or both.
(b) If false or fraudulent claims are submitted purposely and knowingly as part of common scheme or if the value of the claim or the aggregate value of all claims exceeds \$t5e s500, a person convicted of an offense under this section shall be fined not to exceed \(\$ 10,000\) or imprisoned in the state prison for a term not to exceed 10 year's, or both."

Saction 9. Section 46-18-201, MCA, is amended to read:
in46-18-201. Sentences that mistinatid may be imposed. (1) Mnenever a person has been found guility of an offense upon a verdict or a plea of futhty the court shall ceatice
to exceed \(\$ 50,000\) or be imprisoned in the state prison for any term not to exceed 20 years; or both." Section 8. Section 45-7-210, "MCA, is amended to read: m4-7-210. False claims to public agencies. (1) A person comits an offense under this section if he purposely and knowingly presents for allowance or for payment any false or fraudulent claim, bill, account, vouchert or writing to any public agency, public servant, or contractor authorized to allow or pay claims presented to public
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2ag_rapayment_of_any_costs_of_confinement_under_[section_10]
and may:
(\exists) defer imposition of sentence, excepting sentences
for driving under the influence of alcohol or drugs, for a
period not exceeding l year for any misdemeanor or for a
period not exceeding 3 years for any felony. The sentencing
judge may impose upon the defendant any reasonable
restrictions or conditions during the period of the deferred
imposition. Such reasonable restrictions or conditions may
include:
(i) jail base release;
.. (ii) jail time not exceeding 90 lig days;
(iii) conditions for probation;
t+*J-restitationt
fvifixl payment of a fine as provided in 46-18-231;
frif(x) payment of costs as provided in 46-18-232 and
46-18-233;
fv+iみ-parment--of--costs--of-court-appointed-eounset-ss
provided-7n-46-0-7434
frit+fixil community service;
f+xtlyill any other reasonable conditions considered
necessary for rehabilitation or for the protection of
society; or
txifxilil any combination of the above.

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(D) suspend execution of sentence up to the maximum sentence allowed for the particular offense. The sentencing judge may impose on the defendant any reasonable restrictions or conditions during the period of suspended sentence. Such reasonable restrictions or conditions may include any of those listed in subsections (1)(a)(i) through (1) (a) tx+fxiiil.
(c) impose a fine as provided by law for the offense;
(d) require payment of costs as provided in 46-18-232 or--parment--of-eosts-of-court-appointed-eounstl-as-prorided +n-46-8-z 33 ;
(e) commit the defendant to a correctional institution with or without a fine as provided by law for the offense; (f) impose any combination of subsections (1)(b) througn (1)(e).
(2) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, any elapsed time, except jail time, is not a credit against the sentence unless the court orders otherwise.
(3) Except as provided in 46-18-222, the imposition or execution of the first 2 years of a sentence of imprisomment inposed under the following sections may not be deferred or suspended: 45-5-103(2). 45-5-202(2). 45-5-302(2). 45-5-3.33(2), 45-5-401(2), 45-5-503(2) and (3), 45-9-101(2) and (3), 45-9-102(3), and 45-9-103(2).
(4) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence of imprisonment imposed under 45-5-102(2) may not be deferred or suspended.
(5) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred in the case of a defendant who has been convicted of a felony on a prior occasion whether or not the sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was suspended.

YEH_SECIIONe Section 10. Restitution and repayment of costs of confinement and counsel mandatory. (l) If a person has been found guilty of an offense upon a verdict or plea of guilty, the court must, in addition to any other sentence or pinishment ordered and either as a condition of a deferred or suspended sentence under subsection (1)(a) or (1)(b) of 46-18-ट01 or as part of the sentence actually imposed upon the offender, order the offenter to:
(a) make restitution in accordance with this section to a7y innocent person who has suffered direct, tangible. out-of-pocket expenses as a result of the acts constituting the offense:
(b) repay any costs of court-appointed counsel whose servises were received under Title 46 , chapter 8 , part \(1 ;\) and
(=) repay to the state any costs of confinement reimbursed to the county under [section 15].
(2) If restitution or repayment is ordered under this section as a condition of a deferred or suspended sentence under subsection (1)(a) or (1)(b) of 46-18-201, the sentence may \(b=\) deferred or suspended for a period not exceeding 2 years for any misdemeanor and a period not exceeding 6 years for gny felony: regardless of whether any other conditions are imposed.
(3) Payments required under this section must be ordered by the court, made by the defendant, and applied by the clerk of the district court as provided in [sections 11 and 121.

WEV_SECLIONe Section 11. Determination and application of mandatory payments. (1) The court may not sentence a defemant to make restitution, pay the costs of court-appointed counsel, or repay to the state any costs of confinement unless the defendant is or will be able to pay the same in the mamer provided in this section. In determining the amount and method of payment, the court shall take account of the financial resources of the defendant and the nature of the burden tinat payment of any restitution and costs will impose
(2) If the court determines that the defendant is or will be able to make restitution or payments as required by
[section 10\(]\), it must order that any restitution required under \(\{s e c t i o n 10\}\) be paid first, then that payment of costs of any court-appointed counsel be made, and that any remaining funds be applied to repay the state any costs of his confinement reimbursed to the county under [section 15]-
(3) A copy of any order requiring the defendant to repay the state any money reimbursed to the county under [section 15] must be sent to the cepartment of administration•

YEH-SECLIQNe Section 12. Time and metnod of payment of restitution and costs. When \(\Rightarrow\) defendant is sentenced to make restitution or pay costs under [sections 10 and 11], the court may order payment to be made within a specified period of time or in specified installments. Such payments must be made to the clerk of the court in which the defentant was sentenced to make the payments. rhe clerk shall disburse the payments to the countyp cityp or town responsible for the expenses of court-appointed counsel as provided for in 46-8-201, to the state agency responsible for the costs of confinement under [section 15] or to the person entitled to restitution as ordered by the court.

NEW_SECILQNe Section 13. Release of obligation. A defendant who has been sentenced to make restitution or to pay costs of counsel or confinement and who is not in contumacious default in the payment thereof may at any time
petition the court that sentenced hial for release from the obligation of restitution or payment of costs or of any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardsnip on the defendant or his immediate family, the court may release the defendant from his obligation to pay all or part of the amounts due or nodify the method of payment.

YEU_SECIIQNe Section 14. Effect of nonpayment of restitution or costs. (1) When a defendant who is sentenced to make restitution or pay the costs of court-appointed counsel or confinement under [section 11] defaults in payment thereof or of any installment, the court, on its own motion or the motion of the prosecuting attorney, or as ts restitation, on the motion of the person entitled to restitution:
(a) may require him to show cause why a sentence should not be imposed or why a suspended sentence should not be revoked or his default should not be treated as contempt of court; and
(D) may issue a show cause citation or a warant of arrest for his appearance.
(2) Unless the defendant shows that his default was not attributable to an intentional refusal to obey the order of the court or to a failure on his part to make a good

\section*{faith effort to make the payment, the court may:}
(a) revoke a suspended sentence or impose a sentence in accordance with 45-18-203; or
(0) find that his default constitutes civil contempt.
(3) The term of imprisonment for contempt for failure to make any required payments shall be set forth in the judgment and may not exceed 1 day for each 325 of the payment, 30 days if the order for payment of costs was imposed upon conviction of a misdemeanor, or 1 year in any other case, whichever is the shorter period. A person committed for nonpayment of restitution or costs must be given credit toward payment for each day of imprisonment, at the rate specified in the judgment.
(4) If it appears to the satisfaction of the court that the default in the payment of restitution or costs is not attributable to an intentional refusal to obey the order of the court or to a failure on the defendant's part to make a good faith effort to make the payment, the court may enter an order allowing the defendant additional tine for peyment, reduciag the amount of the payment or of each installment, or revoking the order for dayment or the unpaia portion theref in whols or in part.
(5) A default in the payment of restitution or costs or any installment thereaf may also de collected by any means authorized by law for the enforcement of a judgment.

The writ of execution for the collection of restitution or costs does not discharge 3 defendant comaitted to imprisonment for contempt until the amount of the dayment for restitution or costs has actually been collected.

YEh SECIIQN: Section 15. State to pay jail expenses upon deferred imposition or suspended sentence. If a person has been found guilty of an offense upon a verdict or a plea of guilty and is required to serve time in jail under 46-18-201(1)(a)(ii) as a condition of deferrec imposition of sentence or under 46-18-201(1)(b) as a condition of suspended execution of sentence, the department of administration shally from an appropriation for that purpose, reimburse the county or city in which the person is confined for its costs in confining such person. Such reimbursement is limited to a maximum of 90 days' confinement and to a maximum of \(\$ 35\) per day for each day of confinement. Reimbursement must be made upon request of the county or city in such form as the department prescribes. The department shall certify the reimbursed amount to the clerk of the court in which the defendant was sentenced.

Section 16. Section 46-8-112, MCA, is amended to read:
"46-8-112. Informing defendant regarding false swearing of oath on financial statement -- repayment of costs of counsel. The court shall inform the defendant that:
(1) if he makes a false statement under oath regarding
his financial inability to obtain counsel, he may be charged with the additional offense of false swearing;
(2) if__it__is_determined_that_he_has_or_will_haxe_the ability_to-daye he may will be required to pay all or \(\rightarrow\) portion of the compensation and expenses incurred by his court-appointed counsel as a part of or a condition under his sentence should he be convicted of an offense."

Section 17. Section 46-8-113, MCA. is amended to read:
"46-8-113. Payment of costs of court-appointed counsel by defendant -- condition of sentence. ttt Under the provisions of \(46-\mathbf{t e - z e t}\) [section_10], the court may shall require a convicted defendant to pay the costs of court-appointed counsel as a part of or a condition under his sontence.
tzt costs must be limited to reasonable compensation and costs incurred by the court-appointed counsel in the criminal proceeding. Costs may not include expenses inherent in providing a constitutionally guaranteed jury trial or expenditures in connection with the maintenance and operation of government agencies that must be made by the public irrespective of specific violations of law.
f3t--Fhe-eourt-mey-not-sentenee-a-defendant-te-par--tme costs--of-court-appointed-eounsel-untess-the-defendant-ts-or witl-be-obte-to-pay-themw--fn--determintng--the--amount--ans wethod--of-payment-of-costsy-the-court-shatt-tike-pecaunt-of
the-financiat-resourees-of-the-defentant-and-the--nteture--of the-burden-that-payment-of-costs-wit+-imposev
t4t--A--defendant--who--has-been-sentereed-to-pay-eosts and-nho-is--not--in--eontumaetous--defayte-tn--the--payment thereof--may-at--any-time-petition-the-court-that-sentenced him-for-remission-ef-the-payment-of-cests-or-of--any--anpoid portion--thereofv--¥f--it-appears-to-the-satisfacton-of-the eeurt-that-payment-of-the-amount-due--wit+--impose--menifest hardsinio-on-the-defendant-or-his-immediate-fami+yv-the-court may--rentt--at+-or-paft-of-the-omount-due-in-eosts-or-modify the-method-of-paymentr"

YEy_SECIIQNe Section 1B. Repealer. Sections 46-8-114 and 46-8-115, MCA, are repealed.

UEH_SECIIQNe Section 19. Codification instruction. Sections 10 through 15 are intended to be codified as an integral part of Title 46, chapter 18 , part 2, and the provisions of Title 46 , chapter 18 , apply to sections 10 through 15.

YEH_SEGLIQNe Section 20. Effective date. This act is effoctive July \(1,1983\).
-End-

FISCAL NOTE

In compliance with a written request received February 11, 19 , there is hereby submitted a Fiscal Note for Senate Bill 391 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.

\section*{DESCRIPTION OF PROPOSED LEGISLATION:}

Senate Bill 391 is an act to generally revise criminal penalties; increases the dollar amount required to be involved in a crime before penalties for that crime are increased; provides for reimbursement to the counties of certain costs of confinement; requires mandatory restitution, payment of costs of court-appointed counsel, and repayment of certain costs of confinement reimbursed by the state to the counties; amends Sections 45-6-101, 45-6-301, 45-6-309, 45-6-309, 45-6-311, 45-6-316, 45-6-317, 45-6-325, 45-7-210, 46-8-112, 46-3-113, and 46-18-201, MCA; repeals Sections 46-8-114 and 46-8-115, MCA; and provides an effective date.

\section*{COMMENTS:}

In an analysis of sentencing trends in 1981 and 1982, it is apparent that reimbursement to the victim and to the county is already a very common part of a sentence. Those sentences in which reimbursement is not required are those of indigent defendants. Since those defendants will not be liable under this proposed legislation, it is estimated that any fiscal impact would be minimal.

\section*{LOCAL IMPACT:}

The impact to local governments is threefold:
(1) increased fine and forfeiture revenue to county and city general funds;
(2) increased revenue from "care of prisoner" reimbursements and;
(3) reduced expenses for court-appointed counsel due to reimbursements.

FISCAL IMPACT: 13:T/1


BUDGET DIRECTOR
Office of Budget and Program Planning
Date:


Approved by Committee on Judiciary

\section*{SENATE BILL NO. 391}

INTRODUCED BY ECK, HALLIGAN, VAN VALKENBURG

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE CRIMINAL PENALTIES; INCREASING THE DOLLAR AMOUNT REQUIREO TO ae involved in a crime before penalties for that crime are



 FHE-SFAFE--FE--FHE--EGUNFFESt AMENDING SECTIONS 45-6-101, 45-6-391, 45-6-309, 45-6-311, 45-6-316, 45-6-317, 45-6-325,

 an lmaldiaie effective datea"

SE It enacteo by the legislature of the state of montana:
Section 1. Section 45-6-101, MCA, is amended to read:
"45-6-1:31. Criminal mischief. (1) A person commits the offense of criminal mischief if he knowingly or purposely:
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(b) without consent tampers with property of another or public property so as to endanger or interferz with persons or property or its use;
(c) damages or destroys property with the purpose to defraud an insurer; or
(d) fails to close a gate previously unopened which he has opened, leading in or out of any enclosed premises. This does not apply to gates located in cities or townse
(2) A person convicted of criminal mischief shall be ordered to make restitution in an amount and manner to be set by the court. The court shall determine the manner and amount of restitution after full consideration of the convicted person's ability to pay the same. Upon good cause shown by the convicted person, the court may modify any previous order specifying the amount and manner of restitution. full payment of the amount of restitution ordered shall be made prior to the release of state jurisdiction over the person convicted.
(3) A person convicted of the offense of criminal inischief shall be fined not to exceed \(\$ 500\) or be imprisoned in the county jail for any term not to exceed 6 months, or Doth. If the offender commits the offense of crimina ilischief and causes pecuniary loss in excess of \(\$ 450\) \$200. injures or kills a commonly domesticated hoofed animaly or causes a substantial interruption or impairment of public communication, transportationg supply of water, gas, or power. or other public servicesp he shall be fined an amount not to exceed 550,000 or be imprisoned in the state prison
for any term not to exceed 10 years, or both."
Section 2. Section 45-6-301, MCA, is amended to read:
m45-6-301. Theft. (1) A person commits the offense of theft when he purposely or knowingly obtains or exerts unauthorized control over property of the owner and:
(a) has the purpose of depriving the owner of the property;
(b) purposely or knowingly uses, conceals, or abandons the property in such manner as to deprive the owner of the property; or
(c) uses, conceals, or abandons the property knowing such use, concealment, or abandonment probably will deprive the owner of the property.
(2) A person commits the offense of theft when he purposely or knowingly obtains by threat or deception control over property of the owner and:
(a) has the purpose of depriving the owner of the property;
(b) purposely or knowingly uses, conceals, or abandons the property in such manner as to deprive the owner of the property; or
(c) usest conceals, or abandons the property knowing such use, concealment, or abandonment probably will deprive the awner of the property.
(3) A person commits the offense of theft when he
purposely or knowingly obtains control over stolen property knowing the property to nave been stolen by another and:
(d) has the purpose of depriving the owner of the property;
(b) purposely or knowingly uses, conceals, or abandons the property in such manner as to deprive the owner of the property: or
(c) uses, conceals, or abandons the property knowing such use, concealment, or abandonment probably will deprive the owner of the property.
(4) A person commits the offense of theft when he purposely or knowingly obtains or exerts unauthorized control over any part of any public assistance, as defined in 53-3-101, by means of:
(a) a knowingly false statement, representatione or impersonation; or
(b) a fraudulent scheme or device.
(5) A person convicted of the offense of theft of property not exceeding \(\$ 550 \$ 500\) in value shall be fined not to exceed \(\$ 500\) or be \(i m p r i s o n e d\) in the county jail for any term not to exceed 6 months, or both. A person convicted of the offense of theft of property exceeding \(\$ \$ 50 \$ 500\) in value or theft of any commonly domesticated hoofed animal shall be fined not to exceed \(\$ 50,000\) or be imprisoned in the state prison for any term not to exceed 10 years, or both.
(6) Amounts involved in thefts committed pursuant to a common scheme or the same transaction, whether from the same person or several persons, may be aggregated in determining the value of the property.n

Section 3. Section 45-6-309, MCA, is amended to read:
n45-6-309. Failure to return rented or leased personal property. [1] A person comits the offense of failure to return rented or leased personal property if, without notice to and permission of the lessor, he purposely and knowingly fails to return such property within 48 hours after the time provided for such return in the rental agreement, provided that clear written notice, in bold print, of the date and time when return of the property is required and of the penalty prescribed in this section is stated in the rental or lease agreement.
(2) Presentation to the lessor by the lessee of identification that is false for the purpose of obtaining a rental or lease agreement constitutes prima facie evidence of commission of the offense.
(3) After the rental or lease period specified in the rental or lease agreement has expired, failure to return rented or leasea personal property within 72 hours of written demand bytr: lessor, sent by certified mail to the renter or lessee at the address given at the time of entering the rental or lease agreement, constitutes prima

\section*{facie evidence of commission of the offense.}
(4) (a) A person convicted of failure to return rented or leased personal property not exceeding \(\$ 45 \theta\) \$500 in value shall be fined not to exceed \(\$ 500\) or be imprisoned in the county jail for a term not to exceed 6 months, or both.
(0) A person convicted of failure to return rented or leased personal property exceeding \(\$ \mathbf{t 5 0} \$ 500\) in value shall be imprisoned in the state prison for a term not to exceed 10 vears."

Section 4. Section 45-6-311, MCA, is amended to read:
"45-6-311. Unlawful use of a computer. (1) A person comnits the offense of unlawful use of a computer if he knowingly or purposely:
(a) obtains the use of any computer, computer system. or computer network without consent of the owner;
(b) alters or destroys or causes another to alter or destroy a computer program or computer software without consent of the owner; or
(c) obtains the use of or alters or destroys a computer, computer system, computer network, or any part thereof as part of a deception for the purpose of obtaining money, property, or computer services from the owner of the computer, computer system, computer network, or part thereof or from any other person.
(2) A person convicted of the offense of unlawful use
of 3 computer involving property not exceeding \(3 t 50\) s 500 in value shall be fined not to exceed \(\$ 500\) or be imprisoned in the county jail for a term not to exceed \(\mathrm{a}^{\text {monthsp or both. }}\) \(A\) person convicted of the offense of unlawful use of a computer involving property exceeding \(\$ \$ 50\) \$500 in value shall be fined not more than \(21 / 2\) times the value of the property used, altered, destroyed, or obtained or be imprisoned in the state prison for a term not to exceed 10 year 5 , or both."

Section 5. Section 45-6-316, MCA, is amended to read:
m45-6-316. Issuing a bad check. (1) A person commits the offense of issuing a bad check when, with the purpose of obtaining control over property or to secure property. labor, or services of another, he issues or delivers a check or otner order upon a real or fictitious depository for the payment of money knowing that it will not be paid by the depository.
(2) If the offenger has an account with the depository, failure to make good the check or other order within 5 days after written notice of nonpayment has been received by the issuer is prima facie evidence that he knew that it would not be paid by the depository.
(3) A person convicted of issuing a bad check shall be fined not to exceed \(\$ 500\) or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the
offender has engaged in issuing bad checks which are Dart of a common scheme or if the value of any property, labor, or services obtained or attempted to be obtained exceeds stisg \$5QC, he shall be fined not to exceed \(\$ 50,000\) or be imprisuned in the state prison for any term not to exceed 10 years, or both."

Section 6. Section 45-6-317, MCA, is amenjed to reaa:
m45-6-317. Deceptive practices. (1) A person commits the offense of deceptive practices when he purposely or knowingly:
(a) causes another, by deception or threat, to execute a document disposing of property or a document by which a pecuniary obligation is incurred;
(t) makes or directs another to make a false or deceptive statement addressed to the public or any person for the purpose of promoting or procuring the sale of property or services;
(C) makes or directs another to make a false or deceptive statement to any person respecting his financial condition for the purpose of procuring a loan or credit or accepts a false or deceptive statement from any person who is attempting to procure a loan or credit regarding that person's financial condition; or
(0) obtains or attempts to obtain property, labor, or servicas by any of the following means:
(i) using a credit card which was issued to another without the other's consent;
(ii) using a credit card that has been revoked or canceled;
(iii) using a credit card that has been falsely made, counterfeited, or altered in any material respect;
(iv) using the pretended number or description of a fictitious credit card;
(v) using a credit card which mas expired provided the credit card clearly indicates the expiration date.
(2) A person convicted of the offense of deceptive practices shall be fined not to exceed \(\$ 500\) or imprisoned in the county jail for a term. not to exceed 6 months, or both. If the deceptive practices are part of a common scheme or the value of any property, labor, or services obtained or attempted to be obtained exceeds \(\$ 450\) \$500, the offender shall be fined not to exceed \(\$ 50,000\) or be imprisoned in the state prison for a term not to exceed 10 years, or both."

Section 7. Section 45-6-325, MCA, is amended to read:
"45-6-325. Forgery. (1) A person commits the offense of foryery when with purpose to defraud he knowingly:
(a) without authority makes or alters any document or other object apparently capable of being used to defraud another in such manner that it purports to have been mate by another or at another time or with different provisions or

\section*{of different composition;}
(b) issues or delivers such document or other object knowing it to have been thus made or altered;
(c) possesses with the purpose of issuing or delivering any such document or other object knowing it to have been thus made or altered; or (d) possesses with knowledge of its character any plate, die, or other device, apparatus, equipment, or article specifically designed for use in counterfeiting or otherwise forging written instruments.
(2) A purpose to defraud means the purpose of causing another to assume, create, transfer, alter, or terminate any right, obligation, or power with reference to any person or property.
(3) A document or other abject capable of being used to defraud another includes but is not limited to one by which any right, ooligation, or power with reference to any person or property may be created, transferred, altered, or terminated.
(4) A person convicted of the offense of forgery shall be fined not to exceed \(\$ 500\) or be imprisoned in the county jail for any term not to exceed 6 monthsp or both. If the forgery is Dart of a common scheme or if the value of the proderty, labor, or services obtained or attempted to be obtained exceeds \(\$ \$ 50\) \$200, the offender shall be fined not (3) hich any right, ooligation, or power with reference to any -10-
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to exceed \$50,000 or be imprisoned in the state prison for
any term not to exceed 20 years, or both."
Section 8. Section 45-7-210, MCA, is amended to read:
145-7-210. False claims to public aqencies. (1) A
person commits an offense under this section if he purposely
and knowinyly presents for allowance or for payment any
false or fraudulent claim, bill, account, voucher, or
writing to any public agency, public servant, or contractor
authorized to allow or pay clainis presented to public
agencies if genuine.
(2) (a) Except as provided in subsection (2)(b), a
person convicted of an offense under this section shall be
fined not to exceed \$500 or imprisoned in the county jail
for a term not to exceed 6 months; or both.
(b) If false or fraudulent claims are submitted
purposely and knowingly as part of a common scheme or if the
value of the claim or the aggregate value of all claims
exceeds tt5e \$50Q, a person convicted of an offense under
this section shall be fined not to exceed \$10,000 or
imprisoned in the state prison for a term not to exceed 10
years, or both."
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t5t--A--defautt--in-the-parment-of-restitution-or-eosts or-any-instatlment-thereof-may--atso-be--eotlected--by--any means--authorized--by-taw-for-the-enforcement-of-a-judgment.

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HEV－fitixatn－－Section－45\％－－5tate－te－－pay－jort－expenses upon－deferfed－imposft＋on－or－suspended－sentencer－－まf－a－person hes－been－found－guifty－ef－an－offense－upon－a－verdict－or－a－ptet of－guitty－and－is－requifed－－to－－serve－－time－－in－－jait－under 46－76－z sentence－－－or－－－tunder－－46－t8－Z日tftytbt－－B3－－a－－condition－of suspended－－execution－－of－－－sentencev－－－the－－－department－－－of administfation－－－shatly－－－from－－an－－appropriation－－for－that purposey－reimburse－the－county－or－eity－in－whieh－the－person－is EOAfined－for－－its－costs－－in－－eonfining－－sueh－－personw－－5uch reimbursement－－－is－－－timited－－－to－－o－－maximum－－of－－90－－days＊ eonfinement－and－t0－8－maximum－of－335－per－day－for－each－day－of confinementr－－Reimbursement－must－be－made－upon－request－of－the
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 swearing－－of－oath－－on－－finaneiet－－statement－－－－repayment－of eosts－of－eounsełr－－Fhe－－eourt－－shatl－－inform－－the－－defendent that＊
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HY－－Fhe－court－may－not－sentence－e－defendant－to－par－－the eosts－－of－court－appointed－eounset－untess－the－defendent－is－or witl－be－obte－to－pay－themm－－fn－－determining－－the－－anount－－and
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## SENATE BILL NO. 391

INTRODUCED BY ECK, HALLIGAN, VAN ValKENBURG
 be it enacted by the legislature of the state of montana:

Section 1. Section 45-6-101, MCA, is amended to read:
*45-6-101. Criminal mischief. (1) A person commits the offense of criminal mischief if he knowingly or purposely:
(a) injures, damages, or destroys any property of another or public property without consent;
(b) without consent tampers with property of another or public property so as to endanger or interfere with persons or property or its use;
(C) damages or destroys property with the purpose to defraud an insurer: or
(d) fails to close a gate previousiy unopened which he has opened, leading in or out of any enclosed premises. This does not apply to gates located in cities or towns.
(2) A person convicted of criminal mischief shall be urdered to make restitution in an amount and manner to be set by the court. The court shall determine the manner and amonnt of restitution after full consideration of the convicted person's ability to pay the same. Upon good cause shown by the convicted person, the court may modify any previous order specifying the amount and manner of restitution. full payment of the amount of restitution ordered shall be made prior to the release of state jurisdiction over the person convicted.
(3) A person convicted of the offense of criminal mischief shall be fined not to exceed $\$ 500$ or be imprisoned in the county jail for any term not to exceed 6 months, or poth. If the offender commits the offense of criminal wischief and causes pecuniary loss in excess of 550 2500. injures or kills a commonly domesticated hoofed animaly or causes a substantial interruption or impairment of public communication, transportation, supply of water, gas, or powery or other public services, he shall be fined an amount not to exceed $\$ 50,000$ or be imprisoned in the state prison
for any term not to exceed 10 years, or both."
Section 2. Section 45-6-301, MCA, is amended to read:
m45-6-301. Theft. (1) A person commits the offense of theft when he purposely or knowingly obtains or exerts unduthorized control over property of the owner and:
(a) has the purpose of depriving the owner of the property;
(b) purposely or knowingly uses, conceals, or abandons the property in such manner as to deprive the owner of the property; or
(c) uses, conceals, or abandons the property knowing such use, concealment, or abandonment probably will deprive the owner of the property.
(2) A person commits the offense of theft when he purposely or knowingly obtains by threat or deception control over property of the owner and:
(a) has the purpose of depriving the owner of the property;
(b) purposely or knowingly usesp concealsy or abandons the property in such manner as to deprive the owner of the property; or
(c) uses, conceals, or abandons the property knowing such use, concealment, or abandonment probably will deprive the owner of the property.
(3) A person commits the offense of theft when he
purposely or knowingly obtains control over stolen property knowing the property to have been stolen by another and:
(a) has the purpose of depriving the owner of the property;
$(b)$ purposely or knowingly uses, conceals, or abandons the property in such manner as to deprive the owner of the property; or
(c) uses, conceals, or abandons the property knowing such use, concealment, or abandonment probably will deprive the owner of the property.
(4) A person commits the offense of theft when he purposely or knowingly obtains or exerts unauthorized control over any part of any public assistance; as defined in 53-3-101, by means of:
(a) a knowingly false statement, representation or impersonation; or
(0) a fraudulent scheme or device.
(5) A person convicted of the offense of theft of property not exceeding $\$ 450$ 500 in value shall be fined not to exceed $\$ 500$ or be imprisoned in the county jail for any term not to exceed 6 months, or both. A person convicted of the offense of theft of property exceeding $5 \$ 50$ s 500 in value or theft of any commonly domesticated hoofed animal shall be fined not to exceed $\$ 50,000$ or be imprisoned in the state prison for any term not to exceed 10 years, or bothe.
(6) Amounts involved in thefts committed pursuant to a comon scheme or the same transaction, whether from the same person or several persons, may be aggregated in determining the value of the propertyo"

Section 3. Section 45-6-309. MCA, is amended to read:
"45-6-309. Failure to return rented or leased personal property. (1) A person commits the offense of failure to return rented or leased personal property if, without notice to and permission of the lessor, he purposely and knowingly fails to return such property within 48 hours after the time provided for such return in the rental agreement, provided that clear written noticep in bold print, of the date and time when return of the property is required and of the penalty prescribed in this section is stated in the rental or lease agreement.
(2) Presentation to the lessor by the lessee of identification that is false for the purpose of obtaining a rental or lease agrement constitutes prima facie evidence of commission of the offense.
(3) After the rental or lease period specified in the rental or lease agreement has expired, failure to return rented or leased personal property within 72 nours of written demand by the lessor, sent by certified mail to the renter or lessee at the address given at the time of entering the rental or lease agreument, constitutes prima

## facie evidence of commission of the offense.

(4) (a) A person convicted of failure to return rented or leased personal property not exceeding $\$ 750$ \$ $\mathbf{\$ 2 0}$ in value shall be fined not to exceed $\$ 500$ or be imprisoned in the county jail for a term not to exceed 6 months, or both.
(b) A person convicted of failure to return rented or leased personal property exceeding $\$ 50$ s 500 in value shall be imprisoned in the state prison for a term not to exceed 10 years."

Section 4. Section 45-6-311, MCA, is amended to read:
"45-6-311. Unlawful use of a computer. (1) A person commits the offense of unlawful use of a computer if he knowingly or purposely:
(a) abtains the use of any computer, computer system. or computer network without consent of the owner;
(b) alters or destroys or causes another to alter or destroy a computer program or computer software without consent of the owner; or
(c) obtains the use of or alters or destrays a computer, computer system, computer network, or any part thereof as part of a deception for the purpose of obtaining money, property, or computer services from the owner of the computer, computer system* computer network, or part thereof or from any other person.
(2) A person convicted of the offense of unlawful use
of computer involving property not exceeding $\mathbf{t 5 \theta} 5500$ in value shall be fined not to exceed $\$ 500$ or be imprisoned in the county jail for a term not to exceed 6 months, or bothe A person convicted of the offense of unlawful use of a computer involving property exceeding $\$ \pm 50$ $\$ 500$ in value shall be fined not more than $21 / 2$ times the value of the property used, altered, destrayed, or obtained or be imprisoned in the state prison for a term not to exceed 10 years ${ }^{( }$or both."
Section 5. Section 45-6-316. MCAD is amended to read:
n45-6-316. Issuing a bad check. (1) A person commits the offense of issuing a bad check when, with the purpose of obtaining control over property or to secure property. labor, or services of another, he issues or delivers a check or other order upon a real or fictitious depository for the payment of money knowing that it will not be paid by the depository.
(2) If the offencer has an account with the depository, failure to make good the check or other order within 5 days after written notice of nonpayment has been received by the issuer is prima facie evidence that he knew that it would not be paid by the depository.
(3) A person convicted of issuiny a bad check shall be fined not to exceed $\$ 500$ or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the
offender has engaged in issuing bad checks which are part of a common scheme or if the value of any property, labor, or services obtained or attempted to be obtained exceeds $\boldsymbol{s t 5 \theta}$ \$500, he shall be fined not to exceed $\$ 50,000$ or be imprisoned in the state prison for any term not to exceed 10 years. or both."

Section 6. Section 45-6-317, MCA, is amended to read:
"45-6-317. Deceptive practices. (1) A person commits the offense of deceptive practices when he purposely or knowingly:
(a) causes another, by deception or threat, to execute a document disposing of property or a document by which a pecuniary obligation is incurred;
(t) makes or directs another to make a false or deceptive statement addressed to the public or any person for the purpose of promoting or procuring the sale of property or services;
(c) makes or directs another to make a false or deceptive statement to any person respecting his financial condition for the purpose of procuring a loan or credit or accepts a false or deceptive statement from any person who is attempting to procure a loan or credit regarding that person's financial condition; or
(d) obtains or attempts to obtain property, labor, or services by any of the following means:
(i) using a credit card which was issued to another without the other"s consent;
(ii) using a credit card that has been revoked or canceled;
(iii) using a credit card that has been falsely made, counterfeited, or altered in any material respect;
(iv) using the pretended number or description of a fictitious credit card;
(v) using a credit card which has expired provided the credit card clearly indicates the expiration date.
(2) A person convicted of the offense of deceptive practices shall be fined not ta exceed $\$ 500$ or imprisoned in the county jail for a term not to exceed 6 months, or both. If the deceptive practices are part of a common scheme or the value of any property, labor, or services obtained or attempted to be obtained exceeds $\$ \$ 50$ \$500, the offender shall be fined not to exceed $\$ 50,000$ or be imprisoned in the state prison for a term not to exceed 10 yearsp or both."

Section 7. Section 45-6-325, MCA, is amended to read:
0045-6-325. Fargery. (1) A person commits the offense of forgery when with purpose to defraud he knowingly:
(a) without authority makes or alters any document or other object apparently capable of being used to defraud another in such manner that it purports to have been made by another or at another time or with different provisions or

## of different composition;

(D) issues or delivers such document or other object knowing it to have been thus made or altered;
(c) possesses with the purpose of issuing or delivering any such document or other object knowing it to have been thus made or altered; or
(d) possesses with knowledge of its charactar any plate, diep or other device. apparatus, equipment, or article specifically designed for use in counterfeiting or otherwise forging written instruments.
(2) A purpose to defraud means the purpose of causing another to assume, create, transfer, alter, or terminate any right, obligation, or power with reference to any person or property.
(3) A document or other object capable of being used to defraud another includes but is not limited to one by which any right, ooligation, or power with reference to any person or property may be created, transferred, altered, or terminated.
(4) A person convicted of the offense of forgery shall be fined nat to exceed $\$ 500$ or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the forgery is dart of common scheme or if the value of the property, labor, or services obtained or attempted to be obtained exceeds $\$ \$ 5 \theta \leqslant 500$, the offender shall be fined not
to exceed $\$ 50,000$ or be imprisoned in the state prison for any term not to exceed 20 yearsp or bothe＂

Section B．Section 45－7－210，MCA，is amended to read： ＂45－7－210．False claims to public agencies．（1）A person commits an offense under this section if he purposely and knowingly presents for allowance or for payment any false or fraudulent claim，bill，account，voucher，or writing to any public agency，public servant，or contractor authorized to allow or pay claims presented to public agencies if genuine．
（2）（a）Except as provided in subsection（2）（D），a person convicted of an offense under this section shall be fined not to exceed $\$ 500$ or imprisoned in the county jail for a term not to exceed 6 months，or both．
（b）If false or fraudulent claims are submitted purposely and knowingly as part of a common scheme or if the value of the claim or the aggregate value of all claims exceeds 5450 s．500，a person convicted of an offense under this section shall be fined not to exceed $\$ 10,000$ or imprisoned in the state prison for a term not to exceed 10 years，or both．＂

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fer－－repay－－te－－the－－state－－any－－costs－－of－－confinement reimbursed－to－the－eounty－under－fsection－ 25 f＊
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fヨt－－Payments－－fequifed－－under－－this－－seetion－－must－oe ofdered－by－the－eourttr－mode－by－the－defendanty－and－apptied－by the－－efert－of－the－distfiet－eourt－as－provided－in－tsections－tt and－3ziv
 apptieation－－of－－mandatory－－paymentsw－－ttf－Fhe－court－may－not sentence－a－defendant－to－make－restitutiony－poy－the－reogts－－of eourt－oppointed－－eounsetr－or－repar－to－the－state－ony－eosts－of confinement－untess－the－defendant－is－or－mifl－be－able－－to－pay the－－same－－in－－the－－manner－－provided－－in－－this－－sectionz－－In deternining－the－amount－and－－method－－of－－paymentr－－the－－court shat7－－take－－aceount－－of－－the－－financiat－－resourees－－of－－the defendant－and－the－noture－of－the－burden－that－payment－－of－－any pestitution－and－costs－wit＋－imposen
tジー－iff－the－－eourt－determines－that－the－defendant－is－or nit＋－be－abte－to－make－restitution－or－payments－as－required－－by
fseetron－－t日fv－－it－－must－order－thet－any－restitution－required under－tsection－ $\mathbf{t} \theta$－be－poid－firsty－then－that－payment－of－costs of－－any－－court－appointed－－counset－－be－－mader－－and－－that－－any Pemaining－－funds－－be－apotied－to－repar－the－state－any－costs－of his－eanfinement－reimbursed－to－the－county－under－fsection－i5jo

ナアナー－ repar－－the－－stote－－any－－money－refmbursed－to－the－countr－under tseetion－－45才－must－－－be－－－sent－－－too－－the－－－department－－－of administration：

SEH二5EEFI日As－－5eetion－HZ＊－－Fime－－and－－method－of－ooyment of－Festitution－and－eestst－－Hhen－a－defendant－is－sentenced－－to make－restitution－－or－－pay－costs－under－fsections－t日－ond－itiv the－eevft－may－efter－payment－to－ba－made－within－－a－－specifited period－－of－－time－or－in－speeified－instatlmentse－Such－payments must－be－made－－te－－the－－eterk－－of－－the－－court－－in－－whieh－－the defendant－－was－－sentenced－－to－－make－－the－paymentsr－Fhe－eterk shatt－disbyrse－the－payments－to－the－－countyr－eityy－－or－－town fesponstbte－－for－－the－expenses－of－court－appointed－eounset－at pFetided－for－ifi－46－8－Z日If－te－the－－state－－egeney－－pesponsibte for－－the－－costs－of－confinement－under－fsection－k5tr－or－to－the person－entitted－te－restitution－as－ofdered－by－the－court．
 defendant－who－－has－been－sentenced－to－make－restitution－or－to pay－eosts－of－counset－－or－－eonfinement－－and－－who－－is－～not－－in contumaeious－－defautt－in－the－payment－thereaf－may－at－any－time
petition-the-eouft-that-sentenced-him-for-retease--from--the obtigation--of--Festitution--or--parment--of-costs-or-of-any unpaid-portion-thereofn-if-it-oppears-to-the-sotisfaction-of the-eourt--that--payment--of--the--amount--due--witt--impose manifest--hardship-on-the-defendant-or-his-inmediate-famityy the-ceurt-may-Fetease-the-defendomt-from-his--obtigation-to pay--at7--or-part-of-the-amounts-due-or-modify-the-method-of payment:
 Festitution-or-costsf--tさt-When-a-defendant-who-is-sentenced to--make--restitution--or--pay--the-costs-of-eourt-appointed eounset--or--confinement--under--fsection--Ztf--defautts-nin payment-thereof-or-of-anr-instatlmentr-the-courty-on-its-own motion--or-the-motion-of-the-prosecuting-attorneyr-or-as-to restitutiony-- on -the--motion--of--the--person--entitted--to restitutiont
tat-may--require--him--to-show--eause--why-a-sentence shoutd-not-be-imposed-of-why-a-suspended-sentence-shoutd-not be-revoked-or-his-defautt-shoutd-not-be-treated-as--contempt of-eeuret-and
tbt--may--issue--a--show-eause-ettation-or-a-worrant-of arrest-for-his-appearoneer
fZt--Hntess-the-defendant-shows-thot--his--defoutt-mas not-attfibutable-te-an-intentionat-refusat-to-obey-the-order of--the--coupt--or--to--o-faiture-on-his-part-to-make-a-good
foith-effort-to-make-the-paymenty-the-eadrt-mayt
tot--revoke-a-suspended-sentence-or-impose--a--sentence
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tbr--find--that-his-defautt-eonstitates-eivit-contempts
f3t--Fme-term-of-impfisonment-for-eontempt-for--foiture
to--moke--any--required--payments--shatt-be-set-forth-in-the
judgment-and-mar-not-e*eeed--
poymenty--30--days--if--the--order--for-payment-of-easts-wos
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other--caser-whichever--is--the--shorter--period---A-person
committed-for-nonpayment-of-restitution--or--eosts--must-be
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the-fate-speeifited-in-the-judgment.
t4t--4f-ith-appears--to--the-sotisfaction-of-the-eourt
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of-the-court-or-to-a-faiture-on-the-defendants-part-to-make
a-good-faith-effort-to-moke-the-paymentr-the-court-mor-enter
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or-any-instatlment-thereof-may--atso--be--colteeted--by-any
means--authorized--by-taw-for-the-enforeement-of-a-judgment.

Fhe－writ－of－execution－for－the－eottection－of－－restitution－－or costs－－－does－－－not－－－disherge－－－a－－defendant－－eommitted－－te ＋mprisonment－for－contempt－unti＋－the－amount－－of－－the－－poyment for－restitution－or－eosts－has－aetuatty－been－cot＋eeteda
 upon－deferfed－imposition－or－suspended－sentencev－－if－a－person has－been－found－guitty－of－an－offense－upon－a－veraiet－or－a－ptee ef－guitty－and－is－fequifed－－to－－serve－－time－－in－－jait－under 46－k母－zetttiftoffiti－as－a－condition－of－deferred－imposition－of sentence－－－or－－－under－－46－i8－zettzttbt－－os－－s－－condition－－of suspended－－execution－－of－－－sentencev－－－the－－－department－－－of odministration－－－shatli－－－from－－an－－appropriation－－for－－that purposer－keimburse－the－eounty－or－tity－in－whith－the－person－is eonfined－for－－its－－eosts－－in－－confining－－such－－personv－－Such reimbursement－－－is－－－7＋mited－－－te－－a－－moximum－－of－－9日－－days eonfinement－and－to－a－ma＊imum－of－335－per－day－for－eaeh－day－of confinementr－－Reimbursement－must－be－made－upon－request－of－the eounty－ar－tity－in－sueh－form－as－the－－department－－preseribesv Fhe－－department－－shat＋－－certify－the－reimbursed－amount－to－the eferk－of－the－eaurt－in－whieh－the－defendant－was－sentenceds

Section－t6\％－Seetion－46－8－tIz7－HEAT－is－amended－to－readt
＝46－8－472＝－7nforming－－－defendant－－－－＊egarding－－－－fatse sweafing－－ef－－ooth－－on－－finameiat－－statement－－－－repopment－of egsts－af－eouncetw－－Fhe－－couft－－shat＋－－inform－－the－－defendant thotet
fłt－－ff－he－mattes－o－fatse－statement－under－oath－regarding his－finanerat－inabitity－te－obtain－counsety－he－may－be－eharged with－the－additionat－offense－of－fatse－smearingt
 gbitity－te－Rayz－me－mey nitit－be－required－－to－－pay－att－－or－e portion－－of－the－－compensation－－and－expenses－incurred－by－his eөurt－appoifted－eounset－as－a－part－of－or－－a－－eondition－－under his－sentenee－shoutd－he－be－eonvieted－of－on－offenser

Seetion－17．－－5eetion－46－8－143T－MEAv－is－amended－to－readt
a4b－8－743－－Parment－of－costs－of－court－appointed－counset br－－defendant－－－－－Condition－－of－－sentencez－－－ttt－－Under－the provisions－of－46－ie－Z日t fiection＝i日fy－the－－eourt－－may shati Fequife－－－a－－－convieted－－－defendant－－to－－pay－－the－－costs－－of eourt－appointed－eounset－as－a－part－of－or－－a－－eondition－－under hits－sentenee．
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f3t－－Fhe－eourt－may－not－sentenee－o－defendant－to－pay－－the costs－－of－eourt－appointed－eounset－untess－the－defendent－is－or wi＋7－be－able－te－par－themy－－In－－determining－－the－－amount－－and
method--of-payment-of-costsp-the-eourt-shatt-take-aceount-of the-financfat-fesourees-of-the-defandent-and-the--nature-of the-burden-that-payment-of-costs-wi+7-imposet
tht--A--defendant-whe--has-been-senteneed-te-pay-costs and-who-is--not--in--contumectous--defautt--tn--the--payment thereaf--may--at-any-time-petition-the-eourt-that-sentenced hin-for-remission-of-the-payment-of-costs-or-of--any--unpard portion--thereoff--tf--it-appears-to-the-satisfaction-of-the court-that-payment-of-the-amount-due-wit7-impose--monifest hardship-an-the-defendant-or-his-immediate-famity-the-eourt may--remit--a++-or-part-of-the-amount-due-in-eosts-or-modify the-method-of-parment펼
 and-46-g-ti5v-MEAp-are-fepentedy

MEN-SEEİ
 integrat-part-of-Fit+e-46p--ehapter--48y--part--Zy--and--the provisions--of--Fitte--46y--chapter- $\mathbf{t 8}$ \%-opply-to-sections-te through-t5s

NEH_SECIIOME Section 9. Effective date. This act is effective futy-¥v- $\mathbf{4 9} 93$ DN_PASSAGE_AND_AREROYAL.
-End-

## be amended as follows:

1. Title, line 7.
ollowing: "INCREASED
risert: "INCREASING TO 180 DAYS THE TIME PERIOD THE COURT MAY ORDER the defendant to be confined in Jail as a condition of a deferred or SUSPENDED SENTENCE; PROVIDING THAT AS A CONDITION OF A DEFERP R SUSPENDED SENTENCE, THE COURT MAY ORDER THE DEFENDANT TO PA The cost of such confinement:"
2. Title, line 13.
Eollowing: "45-7-210,
ollowing: "45-7-210,
3. Title, line 13
trike: ";" and trhough "DATE" on line 15.
. Page 2, line 20.
Strike: "\$500"
unsert: "\$300
. Page 4, line 19.
Strike: "\$500
4. Paye 4, line 22.

Strike: "\$500"
7. Zage 6, line 3
trike: " $\$ 560$ "
4. Page 5, line 7

Strike: "\$550"
Insert: "\$30n
9. Fage 7, line 1.

Strike: "\$500"
12. Faye 7, line 5.
strike: "\$500"
11. zuge 8 , line 4 .

Strike: "\$500"
nsert: "300"
2. Page 9, line 16

Strike: "\$500"
13. Page 10 , line 25

Strike: " $\$ 500$ "
Insert: " $\$ 300$
14. Page 11, line 18.
trike: "\$500"
15. Page 14, following line 10.

Insert: "Section 9. Section 46-18-201, MCA, is amended to read:
46-18-201. Sentences that may be imposed. (1) Whenever a person has been found guilty of an offense upon a verdict or a plea of guilty, the court may:
(a) defer imposition of sentence, excepting sentences for driving under the influence of alcohol or drugs, for a period not exceeding 1 year for any misdemeanor or for a period not exceeding 3 years for any felony. The sentencing judge may impose upon the defendant any easonable restrictions or imposition. Such reasonable restrictions or conditions may include:
(i) jail base release;
(ii) jail time not exceeding $9 \theta \underline{180}$ days
(iii) conditions for probation;
(iv) restitution,
(v) payment of the costs of confinement;
tvi (vi) payment of a fine as provided in 46-18-231;
tサit (vii) payment of costs as provided in 46-18-232 and 46-18-233; tyitt (viii)payment of costs of court appointed counsel as provided in $4 \overline{46-8-113 ;}$
tritty (ix) community service:
ixt (x) any other reasonable conditions considered necessary for
rehabilltation or for the protection of society; or
$x+$ (xi) any combination of the above
(b) suspend execution of sentence up to the maximum sentence allowed for the particular offense. The sentencing judge may impose on the defendant any reasonable restrictions or conditions during the period of suspended sentence. Such resonable restrictions or conditions
ay include any of those listed in subsections (1) (a) (i) through (1)
(a) txt (xi).
(c) impose a fine as provided by law for the offense
(d) reguire payment of costs as provided in 46-18-232 or payment
of costs of court appointed counscl as provided in $46-8-113$,
(e) commit the defendant to a correctional institution with or
without a fine as provided by law for the offense;
(f) impose any combination of subsection' (1)(b) through (1)(e).
(2) If any restrictions or conditions imposed under subsection
(1) (a) or (1) (b) are violated, any elapsed time, except jail tian,
(3) Except as provided in 46-18-222, the impasition or execution
of the first 2 years of a sentence of imprisonment imposed under
the following sections may not be deferred or suspended: 45-5-103(2) 45-5-202(2), 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-503(2) and (3), 45-9-101 (2) and (3), 45-9-102 (3), and 45-9-103(2).
(4) Except as provided in 46-18-222, the imposition or execution f the first 10 years of a sentence of imprisonment imposed under 45-5-102(2) may not be deferred or suspended.
(5) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred in the case of a defendant who has een convicted of a felony on a prior occasion whether or not the sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was suspended."
16. Page 21, lines 20 and 21 .

Strike: Section 9 in its entirety.

## ND AS AMENDED

## SENATE BILL NO. 391

introduced by eck, halligan, van valkenburg

A BIL: FOR AN ACT ENTITLED: AN ACT TO GENERALLY REVISE CRIMINAL pENALTIES; INCREASING THE DOLLAR AMOUNT REQUIRED f be involved in a crime before penalties for that crime are INCREASED; INCREASLNA_IO_1BO_DAYS_IHE_IIME_RERIOR_IHE_COURT MAY__IBREE__IHE__DEEENDANI__ID_BE__CONEINED__IN__工AIL_AS_A CONDLILQN_OE_A_DEEEBRED__OR_SUSPENDED__SENIENCE:__RRUYIOING IHAI_ES_A_CONDIILON_QE_A_DEEERBEQ_QR_SUSPENDED_SENIENCE2_IHE CQURI__KBY__QRQER_IHE__DEEENDANL_ID__RAY_IHE_COSI_OE_SUCH



 FHE-SFAFE--FG--FHE--EBUNFIESS AMENDING SECTIONS 45-6-101, 45-6-301, 45-6-309, 45-6-311, 45-6-316, 45-6-317, 45-6-325,




## be tt enacted by the legislature of the state of montana:

Section 1. Section 45-6-101, MCA, is amended to read:
n45-6-101. Criminal misehief. (1) A person commits the offense of criminal mischief if ne knowingly or purposely:
(a) injures, damages, or destroys any property of another or public property without consent;
(b) without consent tampers with property of another or pubilic property so as to endanger or interfere with persons or property or its use;
(c) damages or destroys property with the purpose to defraud an insurer; or
(d) fails to close a gate previously unopened which he nas oyened, leading in or out of any enclosed premises. This does not apply to gates located in cities or towns.
(2) A person convicted of criminal mischief shall be ordered to make restitution in an amount and manner to be set by the court. The court shall determine the manner and amount of restitution after full consideration of the convicted person's ability to pay the same. Upon good cause stown ty the convicted person, the court may modify any previous order specifying the amount and manner of restitution. full payment of the amount of restitution orderes shall be made prior to the release of state jurishiction over the person convicted.
(3) A person convicted of the offense of criminal mischief shall be fined not to exceed $\$ 500$ or be imarisoned in the county jail for any term not to exceed b monthsp or both. If the offender commits the offense of criminal mischief and causes pecuniary loss in excess of $\$ 350$ 250日

4300, injures or kills a commonly domesticated hoofed animal, or causes a substantial interruption or impairment of public communication, transportation, supply of water, gas, or power, or other public services, he shall be fined an amount not to exceed 850,000 or be iminisoned in the state prison for any term not to exceed 10 vears, or toth."
section 2. Section 45-6-301, MCA, is amended so read:
m45-6-301. Theft. (1) A person commits the offense of theft when he purposely or knowingly obtains or exerts unauthorized control over property of the owner and:
(a) has the purpose of depriving the owner of the property;
(b) purposely or knowinaly uses, conceals, or abandons the property in such manner as to deprive the owner of the property; or
(c) uses, conceals, or abandons the property knowing such use, concealment, or abandonment probably will deprive the owner of the property.
(2) A person commits the offense of theft when ne purposely or knowingly obtains by threat or deception control over property of the owner and:
(a) has the purpose of depriving the owner of the property;
(b) purposely or knowingly uses, concealsp or abandons the property in such manner as to deprive the owner of the
proderty; or
(c) uses, conceals, or abandons the proderty knowing such use, concealment, or abandonment probably will deprive the unner of the property.
(3) A person commits the offense of theft when ne purposely or knowingly obtains contrel over stolen property knowing the praperty to have been stolen by another and:
(a) has the purpose of depriving the owner of the property;
(b) purposely or knowingly uses, conceals, or abandons the property in such manner as to deprive the owner of the property; or
(c) uses, conceals, or abandons the property knowing such use, concealment, or abandonment probablywill deprive the owner of the property.
(4) A person commits the offense of theft when he purposely or knowingly obtains or exerts unauthorized control over any part of any public assistance, as defined in 53-3-101, by means of:
(a) a knowingly false statement, representation, or impersonation; or
(b) a froudulent scheme or device.
(5) A person convicted of the offense of theft of
 fined not to exceed 5500 or be imprisoned in the county jail
for 3.7y teral not to exceed 3 months, or both. A person
cnnvicted of the affense of theft of property exceeding $3+5 \theta$
E2日e i 3 QQ in value or theft of any commonly domesticated
hoofed animal shall be fined not to exceed 550,000 or de imprisoned in the state prison for any term not to exceed 10 years. or both.
(6) Amounts involved in thefts committed pursuant to a common scheme or the same transaction, whether from the same person or several persons, may be aggregated in determining the value of the property.*
Section 3. Section 45-6-309, MCA, is amended to read:
n45-6-309. Failure to return rented or leased personal froperty. (1) A person commits the offense of failure to return rented or leased personal property if, without notice to aid permission of the lessor, he purposely and knowingly fails to return such property aithin 48 nours after the time provijed for sucn return in the rental agreement, provided that clear written notice, in bold print, of the date and tine when return of the property is required and of the penality prescribed in this section is stated in the rental or lease agreement.
(2) Presentation to the lessor by the lessee of identification that is false for the porpose of obtainina a rental or lease aqreement constitutes prima facie evidence of commission of the offense.
(3) After the rental or lease period specified in the rental or lease agreement has expired, failure to return renter or leased personal property within 72 nours of written dearand by the lessor, sent by certified mail to the renter or lessee at the address given at the time of enteriag the rental or lease agreement, constitutes prina facie evidence of commission of the affense.
(4) (a) A person convicted of failure to return rented or leased personal property not exceeding $3+50$ 2 202 E 200 in value shall be fined not to exceed $\$ 500$ or be imprisoned in the =ounty jail for a term not to exceed 6 months, or both.
(b) A person convicted of failure to return rented or leased personal property exceedinq $\$ 50$ \$ $\$ 292300$ in value shall de imprisoned in the state prison for a term not to exceet 10 years."

Section 4. Section 45-6-311, MCA, is amended to read:
*45-6-311. Unlawful use of a computer. (1) A person commits the offense of unlawful use of a computer if he knowingly or purposely:
(a) obtains the use of any computer, computer system, or computer network without consent of the owner;
(b) alters or destroys or causes another to alter or destriv a computer profram or computer software without consent of the owner; or
(c) obtains the use of or aiters or destroys a
computer, computer system, computer network, or any part thereof as part of a deception for the purpose of obtaining money, oroperty, or computer services from the owner of the computer, computer system, computer network, or part thereof or from any other person.
(2) A person convicted of the offense of unlawful use of a computer involving property not exceeding $\$ 450$ \$58e $\$ 320$ in value shall be fined not to exceed $\$ 500$ or be imprisoned in the county jail for a term not to exceed 6 months, or both. $A$ person convicted of the offense of unlawful use of a computer involving property exceeding \$t5e
 the value of the property used, altered, destroyed, or obtained or be imprisoned in the state prison for a term not to exceed 10 years, or both."

Section 5. Section 45-6-310, MCA, is amended to read:
m45-6-315. Issuing a bad check. (1) A person commits the offense of issuing a bad check when, with the purpose of obtaining control over property or to secure property, labor, or services of another, he issues or delivers a check or other order upon a real or fictitious depositary for the payment of money knowing that it will not be paid by the depository*
(2) If the offender has an tecount with the depository, failure to make good the check or other order
within 5 days after written notice of nonpayment has been received by the issuer is prima facie evidence that he knew that it would not be paid by the depository.
(3) A person convicted of issuing a bad check shall be fined not to exceed $\$ 500$ or be imprisoned in the county jail for $\exists n y$ term not to exceed 6 months, or both. If the offender has engaoed in issuing bad checks which are part of a comnon scheme or if the value of any property, labor, or services obtained or attempted to de obtained exceeds 4 the 15ee $\$ 300$, he shall be fined not to exceed $\$ 50,000$ or be imprisoned in the state prison for any term not to exceed 10 years, or bath."

Section 6. Section 45-6-3i7, MCA, is amended to read:
" +5 -6-317. Deceptive practices. (1) A person commits the offense of deceptive practices when he purposely or knowingly:
(a) causes another, by deception or threat, to execute
a dociment disposing of property or a document by wich a pecuniary obligation is incurred;
( 0 ) makes or directs another to make a faise or deceptive statement addressed to the public or any person for the purnose of promoting or procuring the sale of proderty or services;
(c) makes or directs another to make a false or deceptive statement to any person respecting his financial
he




condition for the purpose of procuring a loan or credit or accepts a false or deceptive statement from any person who is attempting to procure a loan or credit regarding that person's financial condition; or
(f) obtains or attempts to obtain property, labor, or servicas by any of the following means:
(i) using a credit card which was issued to another withost the other"s consent;
(ii) using a credit card that has been revoked or canceled;
(iii) using a credit card that has been falsely made. counterfeited, or altered in any material respect;
(iv) using the pretended number or description of a fictitious credit card;
(v) using a credit card which has expired provided the credit card clearly indicates the expiration date.
(2) A person convicted of the offense of deceptive practices shall be fined not to exceed $\$ 500$ or imprisoned in the county jail for a term not to exceed 6 months, or buth. If the deceptive oractices are part of a common scheme or the vilue of any property, labor, or services obtained or attempted to be obtalned exceeds $\$ 50$ \&5日月 $\$ 300$, the offender shall be fined not to exceed $\$ 50,000$ or be imprispnef in the state prison for term not to exceed 10 years. or toth."

Section 7. Section 45-6-325. MCA, is anended to read:
445-6-325. Forgery. (1) A person commits the offense of forgery when with purpose to defraud he knowingly:
(7) without authority makes or alters any document or other object apparently capable of being used to defraud another in such manner that it purports to have been made by another or at another time or with different provisions or of different composition;
(b) issues or dellvers such document or other object knowinf it to have been thus made or altered;
(c) possesses with the purpose of issuing or delivering any such document or other object knowing it to have been thus made or altered; or
(d) possesses with knowledge of its character any plate, die, or other device, apparatus, equipment, or article specifically designed for use in counterfeiting or othermise forqing written instruments.
(2) A purpose to defraud means the purpose of causing anotner to assume, create, transfer, alter, or terminate any right, obliqation, or Dower with reference to any person or pronerty.
(5) A document or other object capable of being used to defrdud another includes but is not inited to one by which any right, otsigation, or power with reference to any person or oroperty may be created, transferred, altered, or

under this section shall be fined not to exceed $\$ 10,000$ or imprisoned in the state prison for a term not to exceed 10 years，or both．＂

## Seetion－9z－－Seetton－46－4日－2日ty－MEAq－is－amended－terread

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 of－－restitution－and－eostsw－－When－a－defendant－is－senteneed－to make－restitution－or－pey－costs－under－fseetions－－te－and－－4tyy the－－court－－mey－－order－payment－to－be－made－within－a－speeifiten perion－of－time－or－in－spectfied－instattmentsu－－Such－－perments must－－be－－made－－to－－the－－cterk－－of－－the－－eourt－－in－which－the defendant－was－sentenced－to－－meke－－the－－parmentsz－－Fhe－－eferk shott－－disburse－－the－－poyments－－ta－the－eountyr－eityp－or－town resornsibte－for－the－expenses－of－eourt－appofnted－－eounset－－0s
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 defendant－who－has－been－sentenced－to－make－restitution－－or－－to pny－－easts－－of－－counset－－or－－canf＋nement－－and－－who－is－mot－tn contunacious－defantt－in－the－poyment－thereof－mey－at－any－time petition－－the－court－thot－sentenced－him－for－retease－from－the obtigation－of－restitgtion－or－papment－－of－－costy－－or－ot－－anr unpeid－portton－thereafr－ff－it－appears－to－the－satisfaetion－of the－－court－－that－－payment－－of－－the－－amount－－Aue－－w＋＋7－impose montfegt－mardship－on－the－defendont－or－hts－immedtate－－famityn the－－eourt－－nay－petease－the－defendant－from－mis－ob7igotion－to pay－aft－or－part－of－the－amounts－dae－or－modify－the－－method－－of porment．YEH＝SEEXIGUY－－Section－i4＊－－Effect－－－of－－－nonpayment－－of restitution－or－eostsw－－ftt－When－e－defendant－who－is－sentenced to－make－restitution－or－－pay－－the－－eosts－－of－－eourt－appointed coanset－－or－－comfinement－－under－－Fseetion－－¥tł－－defaułes－－in onyment－thereaf－or－of－any－instatlmentr－the－earty－on－its－own motion－or－the－motion－of－the－prosecutinq－attorneyr－or－－ms－－to restitutiont－－on－－the－－motion－－of－－the－－person－－entitted－－to restitation＊
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t5t－－A－defoutt＋in－the－payment－of－restitution－－or－－costs or－－any－－instat＋ment－－thereof－－mey－－atso－be－eotlected－by－any means－authorifed－by－taw－for－the－enforeement－of－－a－－fudgments Fhe－－wrtt－－of－exteution－for－the－coltection－of－restitution－or costs－－does－－not－－dfseharge－－－a－－－difencant－－－commiteed－－－to imprisonment－－for－－eontempt－－untit－the－omount－of－the－oayment for－restitution－or－eosts－has－ectoat7y－been－eot＋ectedv
 emon－deferfed－impesition－or－suspended－sentencew－－ff－z－person hes－been－found－auitty－of－an－offense－upan－e－verdiet－or－a－ptea of－－gut子ty－－and－－is－－required－－to－－serve－－time－tn－jeit－under 46－£日－zetttitotti＋t－as－a－eondition－of－deferred－imposition－of sentence－－or－－qnder－－46－t日－2日tt¥ttbt－－os－－a－－－condttion－－－of suspended－－－execution－－－of－－－sentemeep－－－the－－departwemt－－of ntmint strotion－－shatty－－from－－an－－approprintian－－－for－－－that parposev－retmburse－the－eaunty－or－eity－in－wnieh－the－person－is confined－－for－－its－－costs－－in－－eanfining－－sueh－－personv－Sueh reimbarsenent－－＋s－－7imited－－te－te－naximam－－－of－－－9日－－－darsi confinement－－and－te－a－maximum－of－63s－per－day－for－each－der－of confinementr－feimbursement－must－be－made－apon－request－of－－the county－or－－eity－－in－sueh－form－as－the－deportment－preseribest

Fhe－department－shatz－eertify－the－ceimbarsed－－amant－－to－－the eferk－of－the－court－in－whieh－the－defendont－was－senteneca＊

 swearinn－of－oath－on－－financtat－－statement－－－－－－repayment－－of eosts－－of－－eounset＝－－－干he－－court－－shatt－inform－the－defendisnt thet＊
fit－－if－he－makes－a－fatse－statement－tidmp－ooth－fegordina his－finaneial－inabitity－to－obtain－counsety－he－may－be－enarged with－the－additionat－offense－of－fatse－swearinst

 portion－of－the－eompensotion－and－－expenses－－inearred－by－－nis eourt－appointed－－counsef－－as－－o－part－of－or－a－eondition－under his－sentenee－shnatd－he－be－convieted－of－an－offenser＊ Seetton－士7＊－5ection－46－8－4t3－MEAv－is－amended－to－reoot
－46－9－4士7\％－－Payment－of－costs－of－courtmappotnted－counsef by－defendant－－－－－－condition－－of－－senteneev－－－ttt－－Ander－－the
 require－－m－－eonvicted－－Aefendant－－to－－pey－－－the－－－ensts－－－of eourt－appeinted－－counset－－as－－a－part－of－or－o－eondition－under his－senteneer
tZt－－Gosts－mast－be－timfted－to－－featonable－－compensetion and－－easts－－ineurred－－by－－the－court－appointed－eounset－in－the eriminat－proceedinge－Eosts－may－not－inetude－expenses－inherent
 －20－
in－prsvidfng－a－constitutionally－－guaranteed－－jury－－triat－－or
expentitures－－－tn－－－connection－－－with－－the－－maintenanee－－and operation－of－government－agencies－thet－mast－be－－made－－by－－the phb＋ie－irfespective－of－speeifie－viotations－of－7awn
f3t－－Fhe－－court－may－not－sentence－a－defendent－to－par－the cests－of－eourt－apnointed－eounset－untess－the－defendant－is－ar wit＋－－be－－abte－－to－－par－－themv－fn－determining－the－amount－and methor－of－popment－of－costst－the－court－ghett－take－necount－－of the－－financiaf－－resoarees－of－the－defendant－and－the－natare－of the－bupten－that－payment－of－costs－wit＋－imposts
＋4t－－A－defendant－who－has－been－senteneed－－to－－pay－－eosts and－－who－－is－－not－－in－－eontumerious－－defaułt－－in－the－papment thereof－may－at－any－time－petition－the－－court－－thet－－sentenced mim－for－－pemission－of－the－payment－of－costs－or－of－any－unpeid portinn－thereotr－¥f－it－sppears－to－the－satisfoetion－－of－－the court－－that－－borment－－of－the－omoont－due－witl－impose－manifest nerfshio－on－the－defenfont－or－mis－immediate－4amityt－the－court mpy－remit－att－or－sart－of－the－amount－due－in－costs－－or－－modify the－method－of－dnymentw
 and－46－6－4t5y－MEAv－are－repestedz
 Sections－ $\mathbf{7 8}$－throteh－45－are－intended－to－－be－－codffied－－es－an integrat－－port－－of－－千itte－－46r－－ehapter－－t甘r－o日ft－zr－and－the


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SECIIDN＿92＿－SECIIDN＿46＝18＝2Q12＿MEA2＿IS＿AMENDED＿IO＿READE 446－18－201．Sentences that may be imposed．（1） Whenever \(\exists\) person has been found guilty of an offense upon a vertict or a plea of guilty，the court may：
（3）defer imposition of sentence，excepting sentences for friving under the influence of alcohol or drugs，for a perind not exceeding 1 year for any misdemeanor or for a period not exceeding 3 years for any felony．The sentencing judge may impose uoon the defendant any reasonable restrictions or conditions during the period of the deferred imposition．Such reasonable restrictions or conditions may include：
（i）jail base release；
（ii）jail time not exceeding 98180 days；
（iii）conditions for probation；
（iv）restitution；
（x）＿Qayment＿of＿the＿costs＿of＿coafiaementi
trifinil payment of a fine as provided in 46－18－231；
friffyiil payment of costs as provided in 46－18－232 and 45－19－233；
foritixiiil dayment of costs of court appointed counsel as provided in 46－8－113；
trifttlixl community service；
tixifxl any other reasonable conditions considered
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necessary for renabilitation or for the protection of
society; or
\(f x+1 x i l\) any combination of the above.
(o) suspend execution of sentence up to the maximum sentence allowed for the particular offense. The sentencing judge may impose on the defendant any reasonable restrictions or conditions during the period of suspended senterce. Such reasonable restrictions or conditions may include any of those listed in subsections (i)(a)(i) through (1)(a)t天f(xil.
(c) impose a fine as provided by law for the offense;
(a) require payment of costs as provided in 46-18-232 or payment of costs of court appointed counsel as provided in 46-8-113;
(e) cominit the defendant to a correctional institution with or without a fine as provided by law for the offense;
(f) impose any combination of subsections (l)(b) througn (1)(e).
(2) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, any elapsed time, except jail tine, is not a credit against the sentence unless the court orders otherwise.
(3) Except as provided in 46-18-222, the inposition or execution of the first 2 years of a sentence of imprisonment imposed under the following sections may not be deferred or
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susDended: 45-5-103(2), 45-5-202(2), 45-5-302(2),
45-5-303(2), 45-5-401(2). 45-5-503(2) and (3), 45-9-101(2)
and (?). 45-9-102(3), and 45-9-103(2).
    (4) Except as provided in 46-18-222, the imposition or
execution of the first 10 years of a sentence of
imorisonment imposed under 45-5-102(2) may not be deferred
or susponded.
(5) Except as provided in 46-18-222, imposition of
sentence in a felony case may not de deferred in the case of
a defengant who has been convicted of a felony on a prior
occasion whether or not the sentence was imposed, imposition
of the sentence was deferred, or execution of the sentence
was susoended.m
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-End-

