

HOUSE BILL NO. 585  
INTRODUCED BY GOULD, CAMPBELL

IN THE HOUSE

January 31, 1985	Introduced and referred to Committee on Judiciary.
February 16, 1985	Committee recommend bill do pass. Report adopted.  Bill printed and placed on members' desks.
February 18, 1985	Second reading, pass consideration until 39th Legislative Day.
February 20, 1985	Second reading, do pass as amended.  Correctly engrossed.
February 21, 1985	Third reading, passed.  Transmitted to Senate.

IN THE SENATE

February 22, 1985	Introduced and referred to Committee on Judiciary.
March 25, 1985	Committee recommend bill be concurrred in as amended. Report adopted.
March 28, 1985	Second reading, concurrred in.
March 30, 1985	Third reading, concurrred in. Ayes, 49; Noes, 0.  Returned to House with amendments.

IN THE HOUSE

March 30, 1985	Received from Senate.
April 8, 1985	Second reading, amendments not concurred in.  On motion, Conference Committee requested.
April 9, 1985	Conference Committee appointed.
April 15, 1985	Conference Committee dissolved.  On motion, Free Conference Committee requested and appointed.
April 17, 1985	Free Conference Committee reported.
April 18, 1985	Second reading, Free Conference Committee report adopted.  Third reading, Free Conference Committee report adopted.  Free Conference Committee report adopted by Senate.
April 19, 1985	Sent to enrolling.  Reported correctly enrolled.

1 HOUSE BILL NO. 585  
2 INTRODUCED BY Mark Campbell  
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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE SENTENCE  
5 REVIEW PROCEDURE; PROVIDING THAT ANY INTERESTED PERSON MAY  
6 PARTICIPATE IN REVIEW PROCEEDINGS; CREATING A PRESUMPTION IN  
7 FAVOR OF THE SENTENCE IMPOSED; AMENDING SECTION 46-18-904,  
8 MCA."  
9

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

11 Section 1. Section 46-18-904, MCA, is amended to read:

12 "46-18-904. Procedure upon review. (1) In each case in  
13 which an application for review is filed in accordance with  
14 46-18-903, the review division shall review the judgment so  
15 far as it relates to the sentence imposed, either increasing  
16 or decreasing the penalty, and any other sentence imposed on  
17 the person at the same time and may order such different  
18 sentence or sentences to be imposed as could have been  
19 imposed at the time of the imposition of the sentence under  
20 review or may decide that the sentence under review should  
21 stand.

22 (2) In reviewing any judgment, said division may  
23 require the production of presentence reports and any other  
24 records, documents, or exhibits relevant to such review  
25 proceedings. The appellant may appear and be represented by

1 counsel, and the state may be represented by the county  
2 attorney of the county in which the sentence was imposed.  
3 Any other interested person, including the sentencing judge,  
4 may attend and participate in the review proceedings.

5 (3) The sentence imposed by the district court is  
6 presumed correct. The review division may order a new  
7 sentence only upon a showing by clear and convincing  
8 evidence of the impropriety of the sentence imposed. If the  
9 review division orders a different sentence, the court  
10 sitting in any convenient county shall resentence the  
11 defendant as ordered by the review division. Time served on  
12 the sentence reviewed shall be deemed to have been served on  
13 the sentence substituted."

-End-



INTRODUCED BILL  
HB585



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HOUSE BILL NO. 585  
INTRODUCED BY GOULD, CAMPBELL

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE SENTENCE REVIEW PROCEDURE; PROVIDING THAT ANY INTERESTED PERSON MAY PARTICIPATE IN REVIEW PROCEEDINGS; CREATING A PRESUMPTION IN FAVOR OF THE SENTENCE IMPOSED; AMENDING SECTION 46-18-904, MCA."

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

Section 1. Section 46-18-904, MCA, is amended to read:

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(2) In reviewing any judgment, said division may require the production of presentence reports and any other records, documents, or exhibits relevant to such review proceedings. The appellant may appear and be represented by

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counsel, and the state may be represented by the county attorney of the county in which the sentence was imposed. Any other interested person, including the sentencing judge, may attend and participate in the review proceedings.

(3) The sentence imposed by the district court is presumed-correct ENTITLED TO DEFERENCE. The review division may order a new sentence only upon a showing by clear and convincing evidence of the impropriety of the sentence imposed. If the review division orders a different sentence, the court sitting in any convenient county shall resentence the defendant as ordered by the review division. Time served on the sentence reviewed shall be deemed to have been served on the sentence substituted.

-End-



SENATE

STANDING COMMITTEE REPORT

March 23 19 85

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration HOUSE BILL No. 585

third reading copy ( blue color )

(Senator Crippen)

REVISE SENTENCE REVIEW PROCEDURE

Respectfully report as follows: That HOUSE BILL No. 585

be amended as follows:

- 1. Title, line 6. Following: "PROCEEDINGS;" Strike: remainder of line 6 through "IMPOSED;" on line 7
2. Page 2, lines 5 through 9. Following: "(3)" on line 5 Strike: remainder of line 5 through "imposed." on line 9

LB AND AS AMENDED

BE CONCURRED IN

XXXXXX

XXXXXXXXXX

Handwritten signature of Senator Joe Mazurek, Chairman.

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 7 FAVOR-OF-THE-SENTENCE-IMPOSED; AMENDING SECTION 46-18-904,  
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 16 or decreasing the penalty, and any other sentence imposed on  
 17 the person at the same time and may order such different  
 18 sentence or sentences to be imposed as could have been  
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 21 stand.

22 (2) In reviewing any judgment, said division may  
 23 require the production of presentence reports and any other  
 24 records, documents, or exhibits relevant to such review  
 25 proceedings. The appellant may appear and be represented by

1 counsel, and the state may be represented by the county  
 2 attorney of the county in which the sentence was imposed.  
 3 Any other interested person, including the sentencing judge,  
 4 may attend and participate in the review proceedings.

5 (3) ~~The--sentence--imposed--by--the--district-court-is~~  
 6 ~~presumed-correct ENTITLED-TO-DEFERENCE;--The-review-division~~  
 7 ~~may-order-a-new-sentence-only-upon-a-showing-by-clear-and~~  
 8 ~~convincing-evidence-of-the-impropriety-of-the-sentence~~  
 9 ~~imposed;~~ If the review division orders a different sentence,  
 10 the court sitting in any convenient county shall resentence  
 11 the defendant as ordered by the review division. Time served  
 12 on the sentence reviewed shall be deemed to have been served  
 13 on the sentence substituted."

-End-



# CONFERENCE COMMITTEE REPORT

Report No. ...1.....

.....April..17 19..85...

MR. SPEAKER

We, your Free Conference Committee on

House Bill 585, REFERENCE COPY, salmon

met and considered Senate Judiciary Report of March 23, 1985

We recommend as follows:

1. Title, line 7.

Following: "~~IMPOSED,~~"

Insert: "CREATING A PRESUMPTION IN FAVOR OF THE SENTENCE  
IMPOSED;"

2. Page 2, line 9.

Following: "~~imposed.~~"

Insert: "The sentence imposed by the district court is  
presumed correct."

And that this Conference Committee report be adopted.

FOR THE SENATE

FOR THE HOUSE

  
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Daniels


  
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Mazurek

  
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Galt

  
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Gould

  
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Hannah

ADOPT REJECT

  
\_\_\_\_\_  
Rapp-Svrcek



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7 ~~FAVOR OF THE SENTENCE IMPOSED;~~ CREATING A PRESUMPTION IN  
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7 ~~presumed correct ENTITLED TO DEFERENCE; The review division~~  
8 ~~may order a new sentence only upon a showing by clear and~~  
9 ~~convincing evidence of the impropriety of the sentence~~  
10 ~~imposed; THE SENTENCE IMPOSED BY THE DISTRICT COURT IS~~  
11 PRESUMED CORRECT. If the review division orders a different  
12 sentence, the court sitting in any convenient county shall  
13 resentence the defendant as ordered by the review division.  
14 Time served on the sentence reviewed shall be deemed to have  
15 been served on the sentence substituted."

-End-