

HOUSE BILL NO. 564

INTRODUCED BY M. WILLIAMS, SPAETH

IN THE HOUSE

JANUARY 31, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

FEBRUARY 21, 1987 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 23, 1987 PRINTING REPORT.

FEBRUARY 24, 1987 SECOND READING, DO PASS AS AMENDED.

ON MOTION, RULES SUSPENDED AND BILL
PLACED ON THIRD READING THIS DAY.

THIRD READING, PASSED.
AYES, 99; NOES, 0.

TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 2, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

MARCH 26, 1987 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 30, 1987 SECOND READING, CONCURRED IN.

ON MOTION, RULES SUSPENDED AND BILL
PLACED ON THIRD READING THIS DAY.

THIRD READING, CONCURRED IN.
AYES, 50; NOES, 0.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 8, 1987

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 9, 1987

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

1 House BILL NO. 564
 2 INTRODUCED BY M. Williams Spartz
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
 5 LAW CONCERNING CITY COURTS; ALLOWING A CITY COURT TO EXTEND
 6 JURISDICTION TO THE BOUNDARY OF THE COUNTY IN WHICH IT IS
 7 LOCATED; DEFINING A CITY COURT'S CONCURRENT JURISDICTION
 8 WITH JUSTICES' COURTS; PROVIDING FOR PROCEDURES IN CITY
 9 COURTS; AMENDING SECTIONS 3-11-101, 3-11-102, 3-11-201
 10 THROUGH 3-11-203, 3-11-205, 3-11-302, 7-4-4102, 7-4-4103,
 11 AND 25-32-101 THROUGH 25-32-104, MCA; AND PROVIDING AN
 12 IMMEDIATE EFFECTIVE DATE."
 13

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

15 Section 1. Section 3-11-101, MCA, is amended to read:
 16 "3-11-101. City court established. (1) A city court is
 17 established in each city or town. The city judge shall
 18 establish regular sessions of the court. On judicial days,
 19 the court shall be open for all business, civil and
 20 criminal. On nonjudicial days, as defined in 3-1-302, the
 21 court may transact criminal business only.

22 (2) Police court is hereby renamed city court, and all
 23 references to police court or police judges in the Montana
 24 Code Annotated shall be considered amended to read city
 25 court or city judge.

1 (3) A city court judicial district may be established
 2 by a city or town within and coextensive to the county
 3 boundary of the county in which it is located under
 4 3-11-205."

5 Section 2. Section 3-11-102, MCA, is amended to read:
 6 "3-11-102. Concurrent jurisdiction. (1) The city court
 7 has concurrent jurisdiction with the justice's court of all
 8 misdemeanors ~~punishable by a fine not exceeding \$500--or--by~~
 9 ~~imprisonment--not--exceeding--6--months--or--by--both--fine--and~~
 10 imprisonment and proceedings mentioned and provided for
 11 under chapter 10, part 3, of this title.

12 (2) Applications for search warrants and complaints
 13 charging the commission of a felony may be filed in the city
 14 court. When they are filed, the city judge has the same
 15 jurisdiction and responsibility as a justice of the peace,
 16 including the holding of a preliminary hearing. The city
 17 attorney may file an application for a search warrant or a
 18 complaint charging the commission of a felony when the
 19 offense was committed within the city limits. The county
 20 attorney, however, must handle any action after a defendant
 21 is bound over to district court."

22 Section 3. Section 3-11-201, MCA, is amended to read:
 23 "3-11-201. Term of office. (1) A city judge must be
 24 elected by the electors of the city or town at the general
 25 election provided for in 13-1-104(1).

1 ~~f1)~~(2) An-elected-or-appointed A city judge shall hold
2 office for a term of 4 years and until the qualification of
3 his successor.

4 ~~f2)~~(3) A justice of the peace designated to act as
5 city judge for a city or town under 3-11-205 shall serve as
6 city judge for the duration of his term as justice of the
7 peace ~~unless-the-council-terminates-the-designation.~~"

8 Section 4. Section 3-11-202, MCA, is amended to read:

9 "3-11-202. Salary -- qualifications. (1) A city judge,
10 at the time of election or appointment, shall meet the
11 qualifications of a justice of the peace under 3-10-202 and
12 any additional qualifications prescribed by ordinance.

13 (2) The annual salary and compensation of city judges
14 must be fixed by ordinance or resolution. The salary must
15 meet the minimum requirements for justices of the peace
16 under 3-10-207.

17 (3) Each city judge shall receive his actual and
18 necessary travel expenses, as defined and provided in
19 2-18-501 through 2-18-503, incurred in the performance of
20 his official duties."

21 Section 5. Section 3-11-203, MCA, is amended to read:

22 "3-11-203. When substitute for judge called in. (1)
23 The city judge or mayor may call in a city judge, a justice
24 of the peace, or some qualified ~~resident-of-the-city-or-town~~
25 person to act in the judge's place whenever the judge is:

1 (a) a party in a case;

2 (b) interested in a case;

3 (c) the spouse of or related to either party in a case
4 by consanguinity or affinity within the sixth degree; or

5 (d) sick, absent, or unable to act.

6 (2) The city judge may call in a city judge, justice
7 of the peace, or some qualified ~~resident-of-the-city-or-town~~
8 person to act in his stead when a disqualifying affidavit is
9 filed against him pursuant to the supreme court's rules on
10 disqualification and substitution of judges.

11 (3) A city judge of any city or a justice of the peace
12 of any county may sit as city judge at the city judge's
13 request."

14 Section 6. Section 3-11-205, MCA, is amended to read:

15 "3-11-205. Justice of the peace as city judge. (1) In
16 a third-class city or town, the council may designate a
17 ~~justice-of-the-peace~~ justices' court of the county in which
18 the city or town is situated to act as city judge ~~and may by~~
19 ~~ordinance--fix--the-compensation-for-his-services~~ court. The
20 ~~justice-of-the-peace~~ justices' court so designated ~~who~~
21 ~~agrees-to-act-in-that-capacity~~ shall act as city judge court
22 in all cases arising out of violations of ordinances in
23 which the city or town is a party. If the justice of the
24 peace must travel from his place of residence to hold court,
25 he shall be paid his actual and necessary travel expenses,

1 as defined and provided in 2-18-501 through 2-18-503, by the
2 city or town in which the court is held.

3 (2) The offices of city judge and justice of the peace
4 may be combined if a justice of the peace is authorized in a
5 city pursuant to 3-10-101 and when combined establish a city
6 court judicial district.

7 (3) If a justices' court is designated to act as city
8 court pursuant to subsections (1) and (2), the city or town
9 shall enter into an agreement with the county for
10 establishing a city court judicial district coextensive with
11 the county and for proportionate payment of the justice's
12 salary and training, based upon its proportion of the total
13 number of civil and criminal actions commenced in the city
14 and justices' courts in the preceding year. The salary of
15 the justice of the peace serving as city judge must be
16 adjusted proportionally to reflect the additional duties.

17 (4) A judge of a city court district need not be a
18 resident of the city or town but must reside in the county
19 in which the city or town is located."

20 Section 7. Section 3-11-302, MCA, is amended to read:

21 "3-11-302. Who named as plaintiff. (1) An A criminal
22 action brought for violation of a city or town ordinance
23 must be brought in the name of the city or town as the
24 plaintiff and against the accused as the defendant.

25 (2) An A criminal action brought for violation of a

1 state law within the city or town may be brought either in
2 the name of the state of Montana as the plaintiff or in the
3 name of the city or town as the plaintiff and must be
4 brought against the accused as the defendant.

5 (3) A criminal action brought for violation of a state
6 law within the county and within its concurrent jurisdiction
7 with the justices' court must be brought in the name of the
8 state of Montana as the plaintiff and against the accused as
9 the defendant.

10 (4) A civil action brought in the city court must be
11 prosecuted or defended in the same manner as a civil action
12 in justices' courts under the Montana Justice Courts Rules
13 of Civil Procedure (Title 25, chapter 22)."

14 Section 8. Section 7-4-4102, MCA, is amended to read:

15 "7-4-4102. Officers of city of second or third class.
16 (1) The officers of a city of the second or third class
17 consist of:

- 18 (a) one mayor;
19 (b) two aldermen from each ward;
20 (c) one city judge.

21 (2) The officers listed in subsection (1), except the
22 city judge for a city of the third class, must be elected by
23 the qualified electors of the city as hereinafter provided.

24 (3) The governing body of a city of the third class
25 may by ordinance determine whether the office of city judge

1 shall be filled by ~~appointment-by-the-governing-body-or-by~~
 2 election or may designate a justices' court to act as city
 3 court as provided in 3-11-205.

4 (4) There may also be appointed by the mayor, with the
 5 advice and consent of the council:

6 (a) one city attorney;

7 (b) one city clerk, who is ex officio city assessor;

8 (c) one city treasurer or one city clerk-treasurer;

9 (d) one chief of police; and

10 (e) any other officers necessary to carry out the
 11 provisions of this title.

12 (5) The city council may prescribe the duties of all
 13 city officers and fix their compensation."

14 Section 9. Section 7-4-4103, MCA, is amended to read:

15 "7-4-4103. Officers of towns. (1) The officers of a
 16 town consist of:

17 (a) one mayor;

18 (b) two aldermen from each ward; and

19 (c) one city judge.

20 (2) The officers listed in subsection (1), except for
 21 the city judge, must be elected by the qualified electors of
 22 the town, as hereinafter provided.

23 (3) The governing body of the town ~~shall appoint a~~
 24 city judge may by ordinance determine that the office of
 25 city judge must be filled by election or may designate a

1 ~~justice-of-the-peace justices' court~~ to act as city judge
 2 court as provided in 3-11-205.

3 (4) There may be appointed by the mayor, with the
 4 advice and consent of the council:

5 (a) one clerk, who may be ex officio assessor and tax
 6 collector and a member of the council;

7 (b) one marshal, who may be ex officio street
 8 commissioner; and

9 (c) any other officers necessary to carry out the
 10 provisions of this title.

11 (5) The town council may prescribe the duties of all
 12 town officers and fix their compensation, subject to the
 13 limitations contained in this title."

14 Section 10. Section 25-32-101, MCA, is amended to
 15 read:

16 "25-32-101. Applicability of laws on procedure in
 17 justices' courts. All proceedings in civil actions in city
 18 courts must, except as in this chapter otherwise provided,
 19 be conducted in the same manner as civil actions in
 20 justices' courts and conform to the Montana Justice Courts
 21 Rules of Civil Procedure (Title 25, chapter 22)."

22 Section 11. Section 25-32-102, MCA, is amended to
 23 read:

24 "25-32-102. Commencement of action -- complaint. (1)
 25 Civil actions in city courts are commenced by filing a

1 complaint ~~setting forth the violation of the ordinance~~
 2 ~~complained of, with such particulars of time, place, and~~
 3 ~~manner of violation as to enable the defendant to understand~~
 4 ~~distinctly the character of the violation complained of and~~
 5 ~~to answer the complaint as provided under the Montana~~
 6 Justice Courts Rules of Civil Procedure (Title 25, chapter
 7 22).

8 (2) The complaint must set forth a concise statement
 9 of the facts constituting the cause of action.

10 (3) A complaint under 3-11-103 must set forth the
 11 interest of the city in the action. An allegation that the
 12 cause of action arose from a violation of a city ordinance
 13 or failure to perform a duty required by city ordinance is a
 14 sufficient interest of the city.

15 (4) The ordinance may be referred to by its title, and
 16 section, and the number thereof."

17 Section 12. Section 25-32-103, MCA, is amended to
 18 read:

19 "25-32-103. Summons. Immediately after filing the
 20 complaint, a summons must be issued, directed to the
 21 defendant and returnable ~~either immediately or at any time~~
 22 ~~designated therein, not exceeding 4 days from the date of~~
 23 ~~its issuing as provided under the Montana Justice Courts~~
 24 Rules of Civil Procedure (Title 25, chapter 22)."

25 Section 13. Section 25-32-104, MCA, is amended to

1 read:

2 "25-32-104. Answer and immediate trial. On the return
 3 of the summons, the defendant ~~may~~ shall file a written
 4 answer to the complaint. The answer ~~may be oral or in~~
 5 writing, and immediately thereafter must conform to the
 6 Montana Justice Courts Rules of Civil Procedure (Title 25,
 7 chapter 22). Upon return of the answer the case must be
 8 tried unless, for good cause shown, an adjournment is
 9 granted as in justices' court."

10 NEW SECTION. Section 14. Effective date. This act is
 11 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

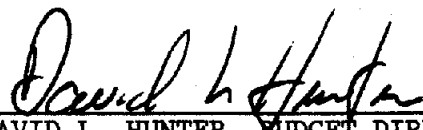
In compliance with a written request, there is hereby submitted a Fiscal Note for HB564, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


An act generally revising the law concerning city courts; allowing a city court to extend jurisdiction to the boundary of the county in which it is located; defining a city court's concurrent jurisdiction with justices' courts; providing for procedures in city courts; amending sections 3-11-101, 3-11-102, 3-11-201 through 3-11-203, 3-11-302, 7-4-4102, 7-4-4103, and 25-32-101 through 25-32-104, MCA; and providing an immediate effective date.

FISCAL IMPACT:

None.

 DATE 2/6/87

DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

 DATE 2-6-87

MELVIN WILLIAMS, PRIMARY SPONSOR

Fiscal Note for HB564, as introduced.

HB 564

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 564

INTRODUCED BY M. WILLIAMS, SPAETH

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAW CONCERNING CITY COURTS; ~~ALLOWING A CITY COURT TO EXTEND JURISDICTION TO THE BOUNDARY OF THE COUNTY IN WHICH IT IS LOCATED;~~ DEFINING A CITY COURT'S CONCURRENT JURISDICTION WITH JUSTICES' COURTS; PROVIDING FOR PROCEDURES IN CITY COURTS; AMENDING SECTIONS 3-11-101, 3-11-102, 3-11-201 THROUGH 3-11-203, ~~3-11-205,~~ 3-11-302, 7-4-4102, 7-4-4103, AND 25-32-101 THROUGH 25-32-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 3-11-101, MCA, is amended to read:

"3-11-101. City court established. (1) A city court is established in each city or town. The city judge shall establish regular sessions of the court. On judicial days, the court shall be open for all business, civil and criminal. On nonjudicial days, as defined in 3-1-302, the court may transact criminal business only.

(2) Police court is hereby renamed city court, and all references to police court or police judges in the Montana Code Annotated shall be considered amended to read city court or city judge.

~~(3) A city court judicial district may be established by a city or town within and coextensive to the county boundary of the county in which it is located under 3-11-205.~~"

Section 2. Section 3-11-102, MCA, is amended to read:

"3-11-102. Concurrent jurisdiction. (1) The city court has concurrent jurisdiction with the justice's court of all misdemeanors ~~punishable by a fine not exceeding \$500 or by imprisonment not exceeding 6 months or by both fine and imprisonment~~ and proceedings mentioned and provided for under chapter 10, part 3, of this title.

(2) Applications for search warrants and complaints charging the commission of a felony may be filed in the city court. When they are filed, the city judge has the same jurisdiction and responsibility as a justice of the peace, including the holding of a preliminary hearing. The city attorney may file an application for a search warrant or a complaint charging the commission of a felony when the offense was committed within the city limits. The county attorney, however, must handle any action after a defendant is bound over to district court."

Section 3. Section 3-11-201, MCA, is amended to read:

"3-11-201. Term of office. (1) A city judge must be elected by the electors of the city or town at the general election provided for in 13-1-104(1).



~~{1}~~(2) An elected or appointed A city judge shall hold office for a term of 4 years and until the qualification of his successor.

~~{2}~~(3) A justice of the peace designated to act as city judge for a city or town under 3-11-205 shall serve as city judge for the duration of his term as justice of the peace unless the council terminates the designation."

Section 4. Section 3-11-202, MCA, is amended to read:

"3-11-202. Salary -- qualifications. (1) A city judge, at the time of election or appointment, shall meet the qualifications of a justice of the peace under 3-10-202 and any additional qualifications prescribed by ordinance.

(2) The annual salary and compensation of city judges must be fixed by ordinance or resolution. ~~The salary must meet the minimum requirements for justices of the peace under 3-10-207.~~

(3) Each city judge shall receive his actual and necessary travel expenses, as defined and provided in 2-18-501 through 2-18-503, incurred in the performance of his official duties."

Section 5. Section 3-11-203, MCA, is amended to read:

"3-11-203. When substitute for judge called in. (1) The city judge or mayor may call in a city judge, a justice of the peace, or some qualified resident of the city or town person to act in the judge's place whenever the judge is:

(a) a party in a case;

(b) interested in a case;

(c) the spouse of or related to either party in a case by consanguinity or affinity within the sixth degree; or

(d) sick, absent, or unable to act.

(2) The city judge may call in a city judge, justice of the peace, or some qualified resident of the city or town person to act in his stead when a disqualifying affidavit is filed against him pursuant to the supreme court's rules on disqualification and substitution of judges.

(3) A city judge of any city or a justice of the peace of any county may sit as city judge at the city judge's request."

~~Section 6. Section 3-11-205, MCA, is amended to read:~~

~~"3-11-205. Justice of the peace as city judge. (1) In a third class city or town, the council may designate a justice of the peace justices' court of the county in which the city or town is situated to act as city judge and may by ordinance fix the compensation for his services court. The justice of the peace justices' court so designated who agrees to act in that capacity shall act as city judge court in all cases arising out of violations of ordinances in which the city or town is a party. If the justice of the peace must travel from his place of residence to hold court, he shall be paid his actual and necessary travel expenses,~~

1 ~~as defined and provided in 2-18-501 through 2-18-503, by the~~
 2 ~~city or town in which the court is held;~~

3 ~~(2) The offices of city judge and justice of the peace~~
 4 ~~may be combined if a justice of the peace is authorized in a~~
 5 ~~city pursuant to 3-10-101 and when combined establish a city~~
 6 ~~court judicial district;~~

7 ~~(3) If a justices' court is designated to act as city~~
 8 ~~court pursuant to subsections (1) and (2), the city or town~~
 9 ~~shall enter into an agreement with the county for~~
 10 ~~establishing a city court judicial district coextensive with~~
 11 ~~the county and for proportionate payment of the justice's~~
 12 ~~salary and training, based upon its proportion of the total~~
 13 ~~number of civil and criminal actions commenced in the city~~
 14 ~~and justices' courts in the preceding year. The salary of~~
 15 ~~the justice of the peace serving as city judge must be~~
 16 ~~adjusted proportionally to reflect the additional duties;~~

17 ~~(4) A judge of a city court district need not be a~~
 18 ~~resident of the city or town but must reside in the county~~
 19 ~~in which the city or town is located;"~~

20 Section 6. Section 3-11-302, MCA, is amended to read:

21 "3-11-302. Who named as plaintiff. (1) An A criminal
 22 action brought for violation of a city or town ordinance
 23 must be brought in the name of the city or town as the
 24 plaintiff and against the accused as the defendant.

25 (2) An A criminal action brought for violation of a

1 state law within the city or town may be brought either in
 2 the name of the state of Montana as the plaintiff or in the
 3 name of the city or town as the plaintiff and must be
 4 brought against the accused as the defendant.

5 (3) A criminal action brought for violation of a state
 6 law within the county and within its concurrent jurisdiction
 7 with the justices' court must be brought in the name of the
 8 state of Montana as the plaintiff and against the accused as
 9 the defendant.

10 (4) A civil action brought in the city court must be
 11 prosecuted or defended in the same manner as a civil action
 12 in justices' courts under the Montana Justice Courts Rules
 13 of Civil Procedure (Title 25, chapter 22)."

14 Section 7. Section 7-4-4102, MCA, is amended to read:

15 "7-4-4102. Officers of city of second or third class.

16 (1) The officers of a city of the second or third class
 17 consist of:

- 18 (a) one mayor;
- 19 (b) two aldermen from each ward;
- 20 (c) one city judge.

21 (2) The officers listed in subsection (1), except the
 22 city judge for a city of the third class, must be elected by
 23 the qualified electors of the city as hereinafter provided.

24 (3) The governing body of a city of the third class
 25 may by ordinance determine whether the office of city judge

1 shall be filled by ~~appointment by the governing body or by~~
 2 election or may designate a justices' court to act as city
 3 court as provided in 3-11-205.

4 (4) There may also be appointed by the mayor, with the
 5 advice and consent of the council:

- 6 (a) one city attorney;
- 7 (b) one city clerk, who is ex officio city assessor;
- 8 (c) one city treasurer or one city clerk-treasurer;
- 9 (d) one chief of police; and
- 10 (e) any other officers necessary to carry out the
- 11 provisions of this title.

12 (5) The city council may prescribe the duties of all
 13 city officers and fix their compensation."

14 Section 8. Section 7-4-4103, MCA, is amended to read:

15 "7-4-4103. Officers of towns. (1) The officers of a
 16 town consist of:

- 17 (a) one mayor;
- 18 (b) two aldermen from each ward; and
- 19 (c) one city judge.

20 (2) The officers listed in subsection (1), except for
 21 the city judge, must be elected by the qualified electors of
 22 the town, as hereinafter provided.

23 (3) The governing body of the town ~~shall appoint a~~
 24 city judge may by ordinance determine that the office of
 25 city judge must be filled by election or may designate a

1 ~~justice of the peace~~ justices' court to act as city judge
 2 court as provided in 3-11-205.

3 (4) There may be appointed by the mayor, with the
 4 advice and consent of the council:

- 5 (a) one clerk, who may be ex officio assessor and tax
- 6 collector and a member of the council;
- 7 (b) one marshal, who may be ex officio street
- 8 commissioner; and
- 9 (c) any other officers necessary to carry out the
- 10 provisions of this title.

11 (5) The town council may prescribe the duties of all
 12 town officers and fix their compensation, subject to the
 13 limitations contained in this title."

14 Section 9. Section 25-32-101, MCA, is amended to read:

15 "25-32-101. Applicability of laws on procedure in
 16 justices' courts. All proceedings in civil actions in city
 17 courts must, except as in this chapter otherwise provided,
 18 be conducted in the same manner as civil actions in
 19 justices' courts and conform to the Montana Justice Courts
 20 Rules of Civil Procedure (Title 25, chapter 22)."

21 Section 10. Section 25-32-102, MCA, is amended to
 22 read:

23 "25-32-102. Commencement of action -- complaint. (1)
 24 Civil actions in city courts are commenced by filing a
 25 complaint ~~setting forth the violation of the ordinance~~

1 ~~complained--of,--with--such--particulars-of-time,place,--and~~
 2 ~~manner-of-violation-as-to-enable-the-defendant-to-understand~~
 3 ~~distinctly-the-character-of-the-violation-complained-of--and~~
 4 ~~to--answer--the--complaint~~ as provided under the Montana
 5 Justice Courts Rules of Civil Procedure (Title 25, chapter
 6 22).

7 (2) The complaint must set forth a concise statement
 8 of the facts constituting the cause of action.

9 (3) A complaint under 3-11-103 must set forth the
 10 interest of the city in the action. An allegation that the
 11 cause of action arose from a violation of a city ordinance
 12 or failure to perform a duty required by city ordinance is a
 13 sufficient interest of the city.

14 (4) The ordinance may be referred to by its title, and
 15 section, and the number thereof."

16 Section 11. Section 25-32-103, MCA, is amended to
 17 read:

18 "25-32-103. Summons. Immediately after filing the
 19 complaint, a summons must be issued, directed to the
 20 defendant and returnable ~~either-immediately-or-at--any--time~~
 21 ~~designated--therein,--not--exceeding-4-days-from-the-date-of~~
 22 ~~its-issuing~~ as provided under the Montana Justice Courts
 23 Rules of Civil Procedure (Title 25, chapter 22)."

24 Section 12. Section 25-32-104, MCA, is amended to
 25 read:

1 "25-32-104. Answer and immediate trial. On the return
 2 of the summons, the defendant may shall file a written
 3 answer to the complaint. The answer ~~may--be--oral--or--in~~
 4 ~~writing,--and--immediately--thereafter~~ must conform to the
 5 Montana Justice Courts Rules of Civil Procedure (Title 25,
 6 chapter 22). Upon return of the answer the case must be
 7 ~~tried unless,--for--good--cause--shown,--an--adjournment--is~~
 8 ~~granted as in justices' court."~~

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

-End-

HOUSE BILL NO. 564

INTRODUCED BY M. WILLIAMS, SPAETH

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAW CONCERNING CITY COURTS; ~~ALLOWING A CITY COURT TO EXTEND JURISDICTION TO THE BOUNDARY OF THE COUNTY IN WHICH IT IS LOCATED;~~ DEFINING A CITY COURT'S CONCURRENT JURISDICTION WITH JUSTICES' COURTS; PROVIDING FOR PROCEDURES IN CITY COURTS; AMENDING SECTIONS 3-11-101, 3-11-102, 3-11-201 THROUGH 3-11-203, ~~3-11-205,~~ 3-11-302, 7-4-4102, 7-4-4103, AND 25-32-101 THROUGH 25-32-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 3-11-101, MCA, is amended to read:

"3-11-101. City court established. (1) A city court is established in each city or town. The city judge shall establish regular sessions of the court. On judicial days, the court shall be open for all business, civil and criminal. On nonjudicial days, as defined in 3-1-302, the court may transact criminal business only.

(2) Police court is hereby renamed city court, and all references to police court or police judges in the Montana Code Annotated shall be considered amended to read city court or city judge.

~~(3) A city court judicial district may be established by a city or town within and coextensive to the county boundary of the county in which it is located under 3-11-205.~~"

Section 2. Section 3-11-102, MCA, is amended to read:

"3-11-102. Concurrent jurisdiction. (1) The city court has concurrent jurisdiction with the justice's court of all misdemeanors ~~punishable by a fine not exceeding \$500 or by imprisonment not exceeding 6 months or by both fine and imprisonment~~ and proceedings mentioned and provided for under chapter 10, part 3, of this title.

(2) Applications for search warrants and complaints charging the commission of a felony may be filed in the city court. When they are filed, the city judge has the same jurisdiction and responsibility as a justice of the peace, including the holding of a preliminary hearing. The city attorney may file an application for a search warrant or a complaint charging the commission of a felony when the offense was committed within the city limits. The county attorney, however, must handle any action after a defendant is bound over to district court."

Section 3. Section 3-11-201, MCA, is amended to read:

"3-11-201. Term of office. ~~(1) A city judge must be elected by the electors of the city or town at the general election provided for in 13-1-104(1).~~"

1 (1) AN ELECTED OR APPOINTED An--elected---or
 2 appointed A city judge shall hold office for a term of 4
 3 years and until the qualification of his successor.

4 (2) A justice of the peace designated to act as
 5 city judge for a city or town under 3-11-205 shall serve as
 6 city judge for the duration of his term as justice of the
 7 peace ~~unless the council terminates the designation.~~

8 Section 4. Section 3-11-202, MCA, is amended to read:

9 "3-11-202. Salary -- qualifications. (1) A city judge,
 10 at the time of election or appointment, shall meet the
 11 qualifications of a justice of the peace under 3-10-202 and
 12 any additional qualifications prescribed by ordinance.

13 (2) The annual salary and compensation of city judges
 14 must be fixed by ordinance or resolution. ~~The salary must~~
 15 ~~meet the minimum requirements for justices of the peace~~
 16 ~~under 3-10-207.~~

17 (3) Each city judge shall receive his actual and
 18 necessary travel expenses, as defined and provided in
 19 2-18-501 through 2-18-503, incurred in the performance of
 20 his official duties."

21 Section 5. Section 3-11-203, MCA, is amended to read:

22 "3-11-203. When substitute for judge called in. (1)
 23 The city judge or mayor may call in a city judge, a justice
 24 of the peace, or some qualified ~~resident of the city or town~~
 25 person to act in the judge's place whenever the judge is:

- 1 (a) a party in a case;
- 2 (b) interested in a case;
- 3 (c) the spouse of or related to either party in a case
- 4 by consanguinity or affinity within the sixth degree; or
- 5 (d) sick, absent, or unable to act.

6 (2) The city judge may call in a city judge, justice
 7 of the peace, or some qualified ~~resident of the city or town~~
 8 person to act in his stead when a disqualifying affidavit is
 9 filed against him pursuant to the supreme court's rules on
 10 disqualification and substitution of judges.

11 (3) A city judge of any city or a justice of the peace
 12 of any county may sit as city judge at the city judge's
 13 request."

14 ~~Section 6. Section 3-11-205, MCA, is amended to read:~~

15 ~~"3-11-205. Justice of the peace as city judge. (1) In~~
 16 ~~a third class city or town, the council may designate a~~
 17 ~~justice of the peace justices' court of the county in which~~
 18 ~~the city or town is situated to act as city judge and may by~~
 19 ~~ordinance fix the compensation for his services court. The~~
 20 ~~justice of the peace justices' court so designated who~~
 21 ~~agrees to act in that capacity shall act as city judge court~~
 22 ~~in all cases arising out of violations of ordinances in~~
 23 ~~which the city or town is a party; if the justice of the~~
 24 ~~peace must travel from his place of residence to hold court,~~
 25 ~~he shall be paid his actual and necessary travel expenses;~~

1 ~~as defined and provided in 2-10-501 through 2-10-503, by the~~
2 ~~city or town in which the court is held;~~

3 ~~(2) The offices of city judge and justice of the peace~~
4 ~~may be combined if a justice of the peace is authorized in a~~
5 ~~city pursuant to 3-10-101 and when combined establish a city~~
6 ~~court judicial district;~~

7 ~~(3) If a justices' court is designated to act as city~~
8 ~~court pursuant to subsections (1) and (2), the city or town~~
9 ~~shall enter into an agreement with the county for~~
10 ~~establishing a city court judicial district coextensive with~~
11 ~~the county and for proportionate payment of the justice's~~
12 ~~salary and training, based upon its proportion of the total~~
13 ~~number of civil and criminal actions commenced in the city~~
14 ~~and justices' courts in the preceding year. The salary of~~
15 ~~the justice of the peace serving as city judge must be~~
16 ~~adjusted proportionally to reflect the additional duties;~~

17 ~~(4) A judge of a city court district need not be a~~
18 ~~resident of the city or town but must reside in the county~~
19 ~~in which the city or town is located."~~

20 Section 6. Section 3-11-302, MCA, is amended to read:

21 "3-11-302. Who named as plaintiff. (1) An A criminal
22 action brought for violation of a city or town ordinance
23 must be brought in the name of the city or town as the
24 plaintiff and against the accused as the defendant.

25 (2) An A criminal action brought for violation of a

1 state law within the city or town may be brought either in
2 the name of the state of Montana as the plaintiff or in the
3 name of the city or town as the plaintiff and must be
4 brought against the accused as the defendant.

5 (3) A criminal action brought for violation of a state
6 law within the county and within its concurrent jurisdiction
7 with the justices' court must be brought in the name of the
8 state of Montana as the plaintiff and against the accused as
9 the defendant.

10 (4) A civil action brought in the city court must be
11 prosecuted or defended in the same manner as a civil action
12 in justices' courts under the Montana Justice Courts Rules
13 of Civil Procedure (Title 25, chapter 22)."

14 Section 7. Section 7-4-4102, MCA, is amended to read:

15 "7-4-4102. Officers of city of second or third class.

16 (1) The officers of a city of the second or third class
17 consist of:

- 18 (a) one mayor;
- 19 (b) two aldermen from each ward;
- 20 (c) one city judge.

21 (2) The officers listed in subsection (1), except the
22 city judge for a city of the third class, must be elected by
23 the qualified electors of the city as hereinafter provided.

24 (3) The governing body of a city of the third class
25 may by ordinance determine whether the office of city judge

1 shall be filled by ~~appointment-by-the-governing body-or-by~~
 2 APPOINTMENT BY THE GOVERNING BODY OR BY election, or may
 3 designate a justices' court to act as city court as provided
 4 in 3-11-205.

5 (4) There may also be appointed by the mayor, with the
 6 advice and consent of the council:

- 7 (a) one city attorney;
- 8 (b) one city clerk, who is ex officio city assessor;
- 9 (c) one city treasurer or one city clerk-treasurer;
- 10 (d) one chief of police; and
- 11 (e) any other officers necessary to carry out the

12 provisions of this title.

13 (5) The city council may prescribe the duties of all
 14 city officers and fix their compensation."

15 Section 8. Section 7-4-4103, MCA, is amended to read:

16 "7-4-4103. Officers of towns. (1) The officers of a
 17 town consist of:

- 18 (a) one mayor;
- 19 (b) two aldermen from each ward; and
- 20 (c) one city judge.

21 (2) The officers listed in subsection (1), except for
 22 the city judge, must be elected by the qualified electors of
 23 the town, as hereinafter provided.

24 (3) The governing body of the town ~~shall appoint a~~
 25 city-judge may by ordinance determine that the office of

1 city judge must be filled EITHER by election OR APPOINTMENT
 2 or may designate a justice-of-the-peace justices' court to
 3 act as city judge court as provided in 3-11-205.

4 (4) There may be appointed by the mayor, with the
 5 advice and consent of the council:

- 6 (a) one clerk, who may be ex officio assessor and tax
 7 collector and a member of the council;
- 8 (b) one marshal, who may be ex officio street
 9 commissioner; and

10 (c) any other officers necessary to carry out the
 11 provisions of this title.

12 (5) The town council may prescribe the duties of all
 13 town officers and fix their compensation, subject to the
 14 limitations contained in this title."

15 Section 9. Section 25-32-101, MCA, is amended to read:

16 "25-32-101. Applicability of laws on procedure in
 17 justices' courts. All proceedings in civil actions in city
 18 courts must, except as in this chapter otherwise provided,
 19 be conducted in the same manner as civil actions in
 20 justices' courts and conform to the Montana Justice Courts
 21 Rules of Civil Procedure (Title 25, chapter 22)."

22 Section 10. Section 25-32-102, MCA, is amended to
 23 read:

24 "25-32-102. Commencement of action -- complaint. (1)
 25 Civil actions in city courts are commenced by filing a

1 complaint ~~setting forth the violation of the ordinance~~
 2 ~~complained of, with such particulars of time, place, and~~
 3 ~~manner of violation as to enable the defendant to understand~~
 4 ~~distinctly the character of the violation complained of and~~
 5 ~~to answer the complaint as provided under the Montana~~
 6 ~~Justice Courts Rules of Civil Procedure (Title 25, chapter~~
 7 ~~22).~~

8 (2) The complaint must set forth a concise statement
 9 of the facts constituting the cause of action.

10 (3) A complaint under 3-11-103 must set forth the
 11 interest of the city in the action. An allegation that the
 12 cause of action arose from a violation of a city ordinance
 13 or failure to perform a duty required by city ordinance is a
 14 sufficient interest of the city.

15 (4) The ordinance may be referred to by its title, and
 16 section, and the number thereof."

17 Section 11. Section 25-32-103, MCA, is amended to
 18 read:

19 "25-32-103. Summons. Immediately after filing the
 20 complaint, a summons must be issued, directed to the
 21 defendant and returnable ~~either immediately or at any time~~
 22 ~~designated therein, not exceeding 4 days from the date of~~
 23 ~~its issuing as provided under the Montana Justice Courts~~
 24 ~~Rules of Civil Procedure (Title 25, chapter 22)."~~

25 Section 12. Section 25-32-104, MCA, is amended to

1 read:

2 "25-32-104. Answer and immediate trial. On the return
 3 of the summons, the defendant may shall file a written
 4 answer to the complaint. The answer ~~may be oral or in~~
 5 ~~writing, and immediately thereafter must conform to the~~
 6 ~~Montana Justice Courts Rules of Civil Procedure (Title 25,~~
 7 ~~chapter 22). Upon return of the answer the case must be~~
 8 ~~tried unless, for good cause shown, an adjournment is~~
 9 ~~granted as in justices' court."~~

10 NEW SECTION. Section 13. Effective date. This act is
 11 effective on passage and approval.

-End-

HOUSE BILL NO. 564

INTRODUCED BY M. WILLIAMS, SPAETH

1
2
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
5 LAW CONCERNING CITY COURTS; ~~ALLOWING-A-CITY-COURT-TO-EXTEND~~
6 ~~JURISDICTION-TO-THE-BOUNDARY-OF-THE-COUNTY-IN-WHICH-IT-IS~~
7 ~~LOCATED~~; DEFINING A CITY COURT'S CONCURRENT JURISDICTION
8 WITH JUSTICES' COURTS; PROVIDING FOR PROCEDURES IN CITY
9 COURTS; AMENDING SECTIONS 3-11-101, 3-11-102, 3-11-201
10 THROUGH 3-11-203, ~~3-11-205~~, 3-11-302, 7-4-4102, 7-4-4103,
11 AND 25-32-101 THROUGH 25-32-104, MCA; AND PROVIDING AN
12 IMMEDIATE EFFECTIVE DATE."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Section 3-11-101, MCA, is amended to read:

16 "3-11-101. City court established. (1) A city court is
17 established in each city or town. The city judge shall
18 establish regular sessions of the court. On judicial days,
19 the court shall be open for all business, civil and
20 criminal. On nonjudicial days, as defined in 3-1-302, the
21 court may transact criminal business only.

22 (2) Police court is hereby renamed city court, and all
23 references to police court or police judges in the Montana
24 Code Annotated shall be considered amended to read city
25 court or city judge.

1 ~~(3) A city court judicial district may be established~~
2 ~~by a city or town within and coextensive to the county~~
3 ~~boundary of the county in which it is located under~~
4 ~~3-11-205."~~

5 Section 2. Section 3-11-102, MCA, is amended to read:

6 "3-11-102. Concurrent jurisdiction. (1) The city court
7 has concurrent jurisdiction with the justice's court of all
8 misdemeanors ~~punishable by a fine not exceeding \$500 or by~~
9 ~~imprisonment not exceeding 6 months or by both fine and~~
10 ~~imprisonment and proceedings mentioned and provided for~~
11 ~~under chapter 10, part 3, of this title.~~

12 (2) Applications for search warrants and complaints
13 charging the commission of a felony may be filed in the city
14 court. When they are filed, the city judge has the same
15 jurisdiction and responsibility as a justice of the peace,
16 including the holding of a preliminary hearing. The city
17 attorney may file an application for a search warrant or a
18 complaint charging the commission of a felony when the
19 offense was committed within the city limits. The county
20 attorney, however, must handle any action after a defendant
21 is bound over to district court."

22 Section 3. Section 3-11-201, MCA, is amended to read:

23 "3-11-201. Term of office. ~~(1) A city judge must be~~
24 ~~elected by the electors of the city or town at the general~~
25 ~~election provided for in 13-1-104(1).~~

1 ~~{1}{2}~~(1) AN ELECTED OR APPOINTED ~~An--elected---or~~
2 appointed A city judge shall hold office for a term of 4
3 years and until the qualification of his successor.

4 ~~{2}{3}~~(2) A justice of the peace designated to act as
5 city judge for a city or town under 3-11-205 shall serve as
6 city judge for the duration of his term as justice of the
7 peace ~~unless--the--council--terminates--the--designation~~ [OR
8 UNTIL THE AGREEMENT PROVIDED FOR IN 3-11-205 TERMINATES]."

9 Section 4. Section 3-11-202, MCA, is amended to read:

10 "3-11-202. Salary -- qualifications. (1) A city judge,
11 at the time of election or appointment, shall meet the
12 qualifications of a justice of the peace under 3-10-202 and
13 any additional qualifications prescribed by ordinance.

14 (2) The annual salary and compensation of city judges
15 must be fixed by ordinance or resolution. ~~The salary must~~
16 ~~meet the minimum requirements for justices of the peace~~
17 ~~under 3-10-207.~~

18 (3) Each city judge shall receive his actual and
19 necessary travel expenses, as defined and provided in
20 2-18-501 through 2-18-503, incurred in the performance of
21 his official duties."

22 Section 5. Section 3-11-203, MCA, is amended to read:

23 "3-11-203. When substitute for judge called in. (1)
24 The city judge or mayor may call in a city judge, a justice
25 of the peace, or some qualified ~~resident-of-the-city-or-town~~

1 person to act in the judge's place whenever the judge is:

- 2 (a) a party in a case;
- 3 (b) interested in a case;
- 4 (c) the spouse of or related to either party in a case
- 5 by consanguinity or affinity within the sixth degree; or
- 6 (d) sick, absent, or unable to act.

7 (2) The city judge may call in a city judge, justice
8 of the peace, or some qualified ~~resident-of-the-city-or-town~~
9 person to act in his stead when a disqualifying affidavit is
10 filed against him pursuant to the supreme court's rules on
11 disqualification and substitution of judges.

12 (3) A city judge of any city or a justice of the peace
13 of any county may sit as city judge at the city judge's
14 request."

15 Section 6. ~~Section 3-11-205, MCA, is amended to read:~~

16 "3-11-205. ~~Justice of the peace as city judge--(1) in~~
17 ~~a third-class--city--or town--the council may designate a~~
18 ~~justice of the peace justices' court of the county in which~~
19 ~~the city or town is situated to act as city judge and may by~~
20 ~~ordinance fix the compensation for his services court. The~~
21 ~~justice of the peace justices' court so designated who~~
22 ~~agrees to act in that capacity shall act as city judge court~~
23 ~~in all cases arising out of violations of ordinances in~~
24 ~~which the city or town is a party. If the justice of the~~
25 ~~peace must travel from his place of residence to hold court,~~

1 ~~he shall be paid his actual and necessary travel expenses,~~
 2 ~~as defined and provided in 2-18-501 through 2-18-503, by the~~
 3 ~~city or town in which the court is held.~~

4 ~~(2) The offices of city judge and justice of the peace~~
 5 ~~may be combined if a justice of the peace is authorized in a~~
 6 ~~city pursuant to 3-10-101 and when combined establish a city~~
 7 ~~court-judicial district.~~

8 ~~(3) If a justices' court is designated to act as city~~
 9 ~~court pursuant to subsections (1) and (2), the city or town~~
 10 ~~shall enter into an agreement with the county for~~
 11 ~~establishing a city court-judicial district coextensive with~~
 12 ~~the county and for proportionate payment of the justice's~~
 13 ~~salary and training, based upon its proportion of the total~~
 14 ~~number of civil and criminal actions commenced in the city~~
 15 ~~and justices' courts in the preceding year. The salary of~~
 16 ~~the justice of the peace serving as city judge must be~~
 17 ~~adjusted proportionally to reflect the additional duties.~~

18 ~~(4) A judge of a city court district need not be a~~
 19 ~~resident of the city or town but must reside in the county~~
 20 ~~in which the city or town is located."~~

21 Section 6. Section 3-11-302, MCA, is amended to read:

22 "3-11-302. Who named as plaintiff. (1) An A criminal
 23 action brought for violation of a city or town ordinance
 24 must be brought in the name of the city or town as the
 25 plaintiff and against the accused as the defendant.

1 (2) An A criminal action brought for violation of a
 2 state law within the city or town may be brought either in
 3 the name of the state of Montana as the plaintiff or in the
 4 name of the city or town as the plaintiff and must be
 5 brought against the accused as the defendant.

6 (3) A criminal action brought for violation of a state
 7 law within the county and within its concurrent jurisdiction
 8 with the justices' court must be brought in the name of the
 9 state of Montana as the plaintiff and against the accused as
 10 the defendant.

11 (4) A civil action brought in the city court must be
 12 prosecuted or defended in the same manner as a civil action
 13 in justices' courts under the Montana Justice Courts Rules
 14 of Civil Procedure (Title 25, chapter 22)."

15 Section 7. Section 7-4-4102, MCA, is amended to read:

16 "7-4-4102. Officers of city of second or third class.

17 (1) The officers of a city of the second or third class
 18 consist of:

- 19 (a) one mayor;
- 20 (b) two aldermen from each ward;
- 21 (c) one city judge.

22 (2) The officers listed in subsection (1), except the
 23 city judge for a city of the third class, must be elected by
 24 the qualified electors of the city as hereinafter provided.

25 (3) The governing body of a city of the third class

1 may by ordinance determine whether the office of city judge
 2 shall be filled by ~~appointment-by-the-governing-body-or-by~~
 3 APPOINTMENT BY THE GOVERNING BODY OR BY election, or may
 4 designate a justices' court to act as city court as provided
 5 in 3-11-205.

6 (4) There may also be appointed by the mayor, with the
 7 advice and consent of the council:

- 8 (a) one city attorney;
- 9 (b) one city clerk, who is ex officio city assessor;
- 10 (c) one city treasurer or one city clerk-treasurer;
- 11 (d) one chief of police; and
- 12 (e) any other officers necessary to carry out the
- 13 provisions of this title.

14 (5) The city council may prescribe the duties of all
 15 city officers and fix their compensation."

16 Section 8. Section 7-4-4103, MCA, is amended to read:
 17 "7-4-4103. Officers of towns. (1) The officers of a
 18 town consist of:

- 19 (a) one mayor;
- 20 (b) two aldermen from each ward; and
- 21 (c) one city judge.

22 (2) The officers listed in subsection (1), except for
 23 the city judge, must be elected by the qualified electors of
 24 the town, as hereinafter provided.

25 (3) The governing body of the town shall ~~appoint-a~~

1 city-judge may by ordinance determine that the office of
 2 city judge must be filled EITHER by election OR APPOINTMENT
 3 or may designate a justice-of-the-peace justices' court to
 4 act as city judge court as provided in 3-11-205.

5 (4) There may be appointed by the mayor, with the
 6 advice and consent of the council:

- 7 (a) one clerk, who may be ex officio assessor and tax
- 8 collector and a member of the council;
- 9 (b) one marshal, who may be ex officio street
- 10 commissioner; and
- 11 (c) any other officers necessary to carry out the
- 12 provisions of this title.

13 (5) The town council may prescribe the duties of all
 14 town officers and fix their compensation, subject to the
 15 limitations contained in this title."

16 Section 9. Section 25-32-101, MCA, is amended to read:
 17 "25-32-101. Applicability of laws on procedure in
 18 justices' courts. All proceedings in civil actions in city
 19 courts must, except as in this chapter otherwise provided,
 20 be conducted in the same manner as civil actions in
 21 justices' courts and conform to the Montana Justice Courts
 22 Rules of Civil Procedure (Title 25, chapter 22)."

23 Section 10. Section 25-32-102, MCA, is amended to
 24 read:
 25 "25-32-102. Commencement of action -- complaint. (1)

1 Civil actions in city courts are commenced by filing a
 2 complaint ~~setting forth the violation of the ordinance~~
 3 ~~complained of, with such particulars of time, place, and~~
 4 ~~manner of violation as to enable the defendant to understand~~
 5 ~~distinctly the character of the violation complained of and~~
 6 ~~to answer the complaint~~ as provided under the Montana
 7 Justice Courts Rules of Civil Procedure (Title 25, chapter
 8 22).

9 (2) The complaint must set forth a concise statement
 10 of the facts constituting the cause of action.

11 (3) A complaint under 3-11-103 must set forth the
 12 interest of the city in the action. An allegation that the
 13 cause of action arose from a violation of a city ordinance
 14 or failure to perform a duty required by city ordinance is a
 15 sufficient interest of the city.

16 (4) The ordinance may be referred to by its title, and
 17 section, and the number thereof."

18 Section 11. Section 25-32-103, MCA, is amended to
 19 read:

20 "25-32-103. Summons. Immediately after filing the
 21 complaint, a summons must be issued, directed to the
 22 defendant and returnable ~~either immediately or at any time~~
 23 ~~designated therein, not exceeding 4 days from the date of~~
 24 ~~its issuing~~ as provided under the Montana Justice Courts
 25 Rules of Civil Procedure (Title 25, chapter 22)."

1 Section 12. Section 25-32-104, MCA, is amended to
 2 read:

3 "25-32-104. Answer and immediate trial. On the return
 4 of the summons, the defendant may shall file a written
 5 answer to the complaint. The answer may be oral or in
 6 writing, and immediately thereafter must conform to the
 7 Montana Justice Courts Rules of Civil Procedure (Title 25,
 8 chapter 22). Upon return of the answer the case must be
 9 tried unless, for good cause shown, an adjournment is
 10 granted as in justices' court."

11 NEW SECTION. SECTION 13. COORDINATION INSTRUCTION.
 12 IF HOUSE BILL NO. 482, INCLUDING THE SECTION OF THAT BILL
 13 AMENDING 3-11-205, IS NOT PASSED AND APPROVED, THE BRACKETED
 14 LANGUAGE IN SECTION 3(2) IS VOID.

15 NEW SECTION. Section 14. Effective date. This act is
 16 effective on passage and approval.

-End-

1 Civil actions in city courts are commenced by filing a
 2 complaint ~~setting forth the violation of the ordinance~~
 3 ~~complained of, with such particulars of time, place, and~~
 4 ~~manner of violation as to enable the defendant to understand~~
 5 ~~distinctly the character of the violation complained of and~~
 6 ~~to answer the complaint as provided under the Montana~~
 7 Justice Courts Rules of Civil Procedure (Title 25, chapter
 8 22).

9 (2) The complaint must set forth a concise statement
 10 of the facts constituting the cause of action.

11 (3) A complaint under 3-11-103 must set forth the
 12 interest of the city in the action. An allegation that the
 13 cause of action arose from a violation of a city ordinance
 14 or failure to perform a duty required by city ordinance is a
 15 sufficient interest of the city.

16 (4) The ordinance may be referred to by its title, and
 17 section, and the number thereof."

18 Section 11. Section 25-32-103, MCA, is amended to
 19 read:

20 "25-32-103. Summons. Immediately after filing the
 21 complaint, a summons must be issued, directed to the
 22 defendant and returnable ~~either immediately or at any time~~
 23 ~~designated therein, not exceeding 4 days from the date of~~
 24 ~~its issuing as provided under the Montana Justice Courts~~
 25 Rules of Civil Procedure (Title 25, chapter 22)."

1 Section 12. Section 25-32-104, MCA, is amended to
 2 read:

3 "25-32-104. Answer and immediate trial. On the return
 4 of the summons, the defendant may shall file a written
 5 answer to the complaint. The answer may be oral or in
 6 writing, and immediately thereafter must conform to the
 7 Montana Justice Courts Rules of Civil Procedure (Title 25,
 8 chapter 22). Upon return of the answer the case must be
 9 tried ~~unless, for good cause shown, an adjournment is~~
 10 ~~granted as in justices' court."~~

11 NEW SECTION. SECTION 13. COORDINATION INSTRUCTION.
 12 IF HOUSE BILL NO. 482, INCLUDING THE SECTION OF THAT BILL
 13 AMENDING 3-11-205, IS NOT PASSED AND APPROVED, THE BRACKETED
 14 LANGUAGE IN SECTION 3(2) IS VOID.

15 NEW SECTION. Section 14. Effective date. This act is
 16 effective on passage and approval.

-End-

STANDING COMMITTEE REPORT

SENATE

hb564.scr

March 26, 19 87

MR. PRESIDENT

JUDICIARY

We, your committee on.....

HOUSE BILL

564

having had under consideration..... No.....

third blue reading copy () color

REVISE CITY COURT JURISDICTION AND PROCEDURE

M. WILLIAMS (BLAYLOCK)

Respectfully report as follows: That..... HOUSE BILL..... No. 564.....

BE AMENDED AS FOLLOWS:

1. Page 3, line 7.

Following: "designation"

Insert: "[or until the agreement provided for in 3-11-205 terminates]"

2. Page 10, line 10.

Following: line 9

Insert: "NEW SECTION. Section 13. Coordination instruction. If House Bill No. 482, including the section of that bill amending 3-11-205, is not passed and approved, the bracketed language in section 3(2) is void."

Renumber: subsequent section

KMK

AND AS AMENDED, BE CONCURRED IN

~~DO NOT PASS~~

~~DO NOT PASS~~

Mazurek

Senator Mazurek

Chairman.

3/26/87
6
11
10