

IN THE SENATE

APRIL 3, 1987

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 4, 1987

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

1 *Senate* BILL NO. *275*
 2 INTRODUCED BY *Jerguson, Rook, Keltner, Yellowstark,*
 3 *Holt, Hirsch, Brubaker, Van Halbeberg, Bob Brown, Hodge,*
 4 *NATHAN, David, Wilson, Mezger*
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT THE
 6 FINANCIAL RESOURCES OF A YOUTH AND THE PARENTS OF A YOUTH
 7 CHARGED WITH A FELONY BE CONSIDERED IN DETERMINING
 8 ELIGIBILITY FOR COURT-APPOINTED COUNSEL; AND AMENDING
 9 SECTIONS 46-8-102 AND 46-8-111, MCA."

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

11 Section 1. Section 46-8-102, MCA, is amended to read:
 12 "46-8-102. Waiver of counsel. (1) A defendant may
 13 waive his right to counsel, except that in all felony cases
 14 where the defendant is under 18 years of age, the defendant
 15 shall be represented by counsel at every stage of the
 16 proceedings following the filing of a petition under
 17 41-5-501.

18 (2) In determining whether a minor charged with a
 19 felony is eligible for court-appointed counsel, the court
 20 shall consider the resources of the minor and his parents."

21 Section 2. Section 46-8-111, MCA, is amended to read:

22 "46-8-111. Eligibility for court-appointed counsel.
 23 (1) Any defendant who desires counsel and is unable to
 24 employ counsel shall submit under oath to the court at the
 25 time of his initial appearance a verified financial

1 statement showing his financial inability to obtain counsel.
 2 (2) Appointed counsel may not be denied to any person
 3 merely because his friends or relatives have the resources
 4 to retain counsel or because he has deposited or is capable
 5 of depositing security for his release. Counsel shall be
 6 provided to any person who is financially unable to obtain
 7 representation without substantial hardship in providing
 8 necessities to himself or his family.
 9 (3) In determining whether a minor charged with a
 10 felony is eligible for court-appointed counsel, the court
 11 shall consider the resources of the minor and his parents.
 12 The minor and his parents shall submit under oath the
 13 verified financial statement required by subsection (1)."

-End-



-2- INTRODUCED BILL
 SB 275

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB275, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring that the financial resources of a youth and the parents of a youth charged with a felony be considered in determining the eligibility for court-appointed counsel; and amending sections 46-8-102 and 46-8-111, MCA.

FISCAL IMPACT:

County youth court indigent defense costs may be reduced, by the amount of costs the youth or parents of a youth could pay.

David L. Hunter

DATE 2/5/87

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

Greg Jerghson

DATE 2/4/87

GREG JERGHSON, PRIMARY SPONSOR

Fiscal Note for SB275, as introduced.

SB 275

APPROVED BY COMMITTEE
ON JUDICIARY

1 *Senate* BILL NO. *275*
 2 INTRODUCED BY *Jerguson, Rogak, Kulstad, Yellowtail,*
 3 *Hall, Hirsch, B. Williams, V. Latta, B. Brown, D. G. G.*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT THE
 5 FINANCIAL RESOURCES OF A YOUTH AND THE PARENTS OF A YOUTH
 6 CHARGED WITH A FELONY BE CONSIDERED IN DETERMINING
 7 ELIGIBILITY FOR COURT-APPOINTED COUNSEL; AND AMENDING
 8 SECTIONS 46-8-102 AND 46-8-111, MCA."

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 15 shall be represented by counsel at every stage of the
 16 proceedings following the filing of a petition under
 17 41-5-501.

18 (2) In determining whether a minor charged with a
 19 felony is eligible for court-appointed counsel, the court
 20 shall consider the resources of the minor and his parents."

21 Section 2. Section 46-8-111, MCA, is amended to read:

22 "46-8-111. Eligibility for court-appointed counsel.
 23 (1) Any defendant who desires counsel and is unable to
 24 employ counsel shall submit under oath to the court at the
 25 time of his initial appearance a verified financial

1 statement showing his financial inability to obtain counsel.

2 (2) Appointed counsel may not be denied to any person
 3 merely because his friends or relatives have the resources
 4 to retain counsel or because he has deposited or is capable
 5 of depositing security for his release. Counsel shall be
 6 provided to any person who is financially unable to obtain
 7 representation without substantial hardship in providing
 8 necessities to himself or his family.

9 (3) In determining whether a minor charged with a
 10 felony is eligible for court-appointed counsel, the court
 11 shall consider the resources of the minor and his parents.
 12 The minor and his parents shall submit under oath the
 13 verified financial statement required by subsection (1)."

-End-

1 *Senate* BILL NO. *275*
 2 INTRODUCED BY *Jerguson, Rook, Kellsted, Yellowtail,*
 3 *Scott, Huisk, Brantley, Van Valkenburg, Bob Brown, Hedges,*
 4 *NATH: Harold, Wilson, Marjorie*
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT THE
 6 FINANCIAL RESOURCES OF A YOUTH AND THE PARENTS OF A YOUTH
 7 CHARGED WITH A FELONY BE CONSIDERED IN DETERMINING
 8 ELIGIBILITY FOR COURT-APPOINTED COUNSEL; AND AMENDING
 9 SECTIONS 46-8-102 AND 46-8-111, MCA."

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

11 Section 1. Section 46-8-102, MCA, is amended to read:

12 "46-8-102. Waiver of counsel. (1) A defendant may
13 waive his right to counsel, except that in all felony cases
14 where the defendant is under 18 years of age, the defendant
15 shall be represented by counsel at every stage of the
16 proceedings following the filing of a petition under
17 41-5-501.

18 (2) In determining whether a minor charged with a
19 felony is eligible for court-appointed counsel, the court
20 shall consider the resources of the minor and his parents."

21 Section 2. Section 46-8-111, MCA, is amended to read:

22 "46-8-111. Eligibility for court-appointed counsel.

23 (1) Any defendant who desires counsel and is unable to
24 employ counsel shall submit under oath to the court at the
25 time of his initial appearance a verified financial

1 statement showing his financial inability to obtain counsel.

2 (2) Appointed counsel may not be denied to any person
3 merely because his friends or relatives have the resources
4 to retain counsel or because he has deposited or is capable
5 of depositing security for his release. Counsel shall be
6 provided to any person who is financially unable to obtain
7 representation without substantial hardship in providing
8 necessities to himself or his family.

9 (3) In determining whether a minor charged with a
10 felony is eligible for court-appointed counsel, the court
11 shall consider the resources of the minor and his parents.
12 The minor and his parents shall submit under oath the
13 verified financial statement required by subsection (1)."

-End-

1 SENATE BILL NO. 275

2 INTRODUCED BY JERGESON, PECK, KOLSTAD, YELLOWTAIL,
 3 GALT, HIRSCH, B. WILLIAMS, VAN VALKENBURG, B. BROWN,
 4 HALLIGAN, NATHE, HANNAH, GLASER, MAZUREK

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT THE
 7 FINANCIAL RESOURCES OF A YOUTH AND THE PARENTS OF A YOUTH
 8 CHARGED WITH AN OFFENSE WHICH, IF COMMITTED BY AN ADULT,
 9 WOULD BE A FELONY BE CONSIDERED IN DETERMINING ELIGIBILITY
 10 FOR COURT-APPOINTED COUNSEL; AND AMENDING SECTIONS--46-8-102
 11 AND SECTION 46-8-111, MCA."

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 ~~Section 1, Section 46-8-102, MCA, is amended to read:~~

15 ~~"46-8-102. Waiver of counsel. (1) A defendant may~~
 16 ~~waive his right to counsel, except that in all felony cases~~
 17 ~~where the defendant is under 18 years of age, the defendant~~
 18 ~~shall be represented by counsel at every stage of the~~
 19 ~~proceedings following the filing of a petition under~~
 20 ~~41-5-501.~~

21 ~~(2) In determining whether a minor charged with a~~
 22 ~~felony is eligible for court-appointed counsel, the court~~
 23 ~~shall consider the resources of the minor and his parents."~~

24 Section 1. Section 46-8-111, MCA, is amended to read:

25 "46-8-111. Eligibility for court-appointed counsel.

1 (1) Any defendant who desires counsel and is unable to
 2 employ counsel shall submit under oath to the court at the
 3 time of his initial appearance a verified financial
 4 statement showing his financial inability to obtain counsel.

5 (2) Appointed EXCEPT AS PROVIDED IN SUBSECTION (3),
 6 APPOINTED counsel may not be denied to any person merely
 7 because his friends or relatives have the resources to
 8 retain counsel or because he has deposited or is capable of
 9 depositing security for his release. Counsel shall be
 10 provided to any person who is financially unable to obtain
 11 representation without substantial hardship in providing
 12 necessities to himself or his family.

13 (3) In determining whether a minor charged with AN
 14 OFFENSE WHICH, IF COMMITTED BY AN ADULT, WOULD BE a felony
 15 is eligible for court-appointed counsel, the court shall
 16 consider the resources of the minor and his parents AND MAY
 17 DENY OR APPOINT COUNSEL ACCORDINGLY. The minor and his
 18 parents shall submit under oath the verified financial
 19 statement required by subsection (1)."

-End-

COMMITTEE OF THE WHOLE AMENDMENT

HOUSE

3-28-87

DATE

21:00

TIME

MR. CHAIRMAN: I MOVE TO AMEND SB 275

3rd reading copy (blue) as follows:
Color

1) Title, line 6.

Following: "WITH"

Insert: "AN OFFENSE WHICH, IF COMMITTED BY AN ADULT, WOULD BE"

ADOPT

REJECT

E. J. ...

STANDING COMMITTEE REPORT

HOUSE

MARCH 27, 1987

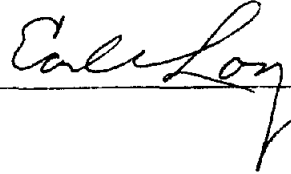
Mr. Speaker: We, the committee on JUDICIARY

report SENATE BILL NO. 275

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached



Chairman

1. Title, line 8.
Strike: "SECTIONS 46-8-102 AND"
Insert: "SECTION"

2. Page 1, lines 11 through 20.
Strike: section 1 of the bill in its entirety

Renumber: subsequent section

3. Page 2, line 2.
Strike: "Appointed"
Insert: "Except as provided in subsection (3), appointed"

4. Page 2, line 9.
Following: "with"
Insert: "an offense which, if committed by an adult, would be

5. Page 2, line 11.
Following: "parents"
Insert: "and may deny or appoint counsel accordingly"

Handwritten mark resembling a stylized 'W' or 'M' on the left margin.

THIRD

BLUE

REP. HANNAH WILL CARRY THE BILL!

reading copy () color