

HOUSE BILL NO. 186

INTRODUCED BY REAM

BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS

IN THE HOUSE

JANUARY 14, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON FISH & GAME.
JANUARY 16, 1989	FIRST READING.
FEBRUARY 10, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 11, 1989	PRINTING REPORT.
FEBRUARY 13, 1989	SECOND READING, DO PASS.
FEBRUARY 14, 1989	ENGROSSING REPORT.
FEBRUARY 15, 1989	THIRD READING, PASSED. AYES, 93; NOES, 3.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 16, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON FISH & GAME.
	FIRST READING.
MARCH 3, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 4, 1989	SECOND READING, CONCURRED IN.
MARCH 7, 1989	THIRD READING, CONCURRED IN. AYES, 43; NOES, 7.
	RETURNED TO HOUSE.

MARCH 8, 1989

IN THE HOUSE

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE FISH AND
6 WILDLIFE RESTITUTION LAWS BY SPECIFICALLY PROVIDING FOR
7 FORFEITURE OF BOND OR BAIL; AMENDING SECTIONS 46-9-504,
8 87-1-111, 87-1-112, AND 87-1-114, MCA; AND PROVIDING AN
9 IMMEDIATE EFFECTIVE DATE."

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

12 **Section 1.** Section 46-9-504, MCA, is amended to read:

13 **"46-9-504. Procedure on forfeiture -- restitution. (1)**

14 Unless restitution is ordered as provided for in subsection
15 (2), the court having jurisdiction shall proceed with the
16 disposition of forfeited bail as follows:

17 (a) If judgment be rendered or the forfeiture not
18 discharged and the defendant has deposited money as bail,
19 the court with whom it is deposited must, immediately after
20 receiving notice of said judgment or order of forfeiture,
21 pay over the money deposited to the treasury of the city or
22 county wherein the bail was taken.

23 (b) When judgment is entered in favor of the state or
24 the order of forfeiture is not discharged on any bail,
25 execution may be issued forthwith for levy on stocks or

1 bonds deposited with the court or upon the real estate
2 described in the bail schedule. Such stocks, bonds, and real
3 estate shall be sold in the same manner as in execution
4 sales in civil actions. The proceeds of such sale shall be
5 used to satisfy all court costs and prior encumbrances, if
6 any, and from the balance a sufficient sum to satisfy the
7 judgment or forfeiture shall be paid into the treasury of
8 the city or county wherein the bail bond was taken. The
9 balance shall be returned to the owner. The real estate so
10 sold may be redeemed in the same manner as real estate may
11 be redeemed after execution sales in civil actions.

12 (c) When judgment is entered in favor of the state and
13 against the sureties or the surety company or when the
14 forfeiture has not been discharged, execution may be issued
15 against the sureties or the surety company in the same
16 manner as executions in civil actions.

17 (2) If the court enters a judgment declaring bail to
18 be forfeited or if the order of forfeiture is not
19 discharged, the court having jurisdiction may order the bail
20 forfeited to be paid as restitution to any victim of the
21 offense for which the court has received bail. Whenever
22 Except as provided in 87-1-111, whenever the court believes
23 that restitution may be proper, the court shall order a
24 hearing for the purpose of considering the nature and extent
25 of the victim's pecuniary loss as defined in 46-18-243. If

1 the court finds that restitution is appropriate, the court
 2 shall order restitution in an amount not exceeding the
 3 amount of the victim's complaint or the amount of the
 4 victim's pecuniary loss. An order to require restitution is
 5 a judgment against the defendant and his sureties, and the
 6 court may order the restitution to be made by payment of
 7 money deposited as bail. Any balance of the bail money must
 8 be disposed of in the same manner as provided in subsection
 9 (1). Provided no such determination or decision under this
 10 subsection shall be admissible as evidence in any other
 11 civil action, nor shall it be res judicata in any other
 12 civil action."

13 **Section 2.** Section 87-1-111, MCA, is amended to read:

14 "87-1-111. Restitution for illegal killing or
 15 possession of certain wildlife. (1) In addition to other
 16 penalties provided by law, a person convicted or forfeiting
 17 bond or bail upon a charge of the illegal killing or
 18 possession of a wild bird, mammal, or fish listed in this
 19 section shall reimburse the state for each such bird,
 20 mammal, or fish according to the following schedule:

21 {1}(a) bighorn sheep, mountain goat, caribou, buffalo,
 22 grizzly bear, moose, and endangered species, \$1,000;

23 {2}(b) elk, mountain lion, black bear, lynx, and
 24 wolverine, \$500;

25 {3}(c) deer, antelope, fisher, raptor, swan, bobcat,

1 and pallid and white sturgeon, \$300;

2 {4}(d) paddlefish, grayling, and furbearers not listed
 3 in subsection (1)(a), {2}(1)(b), or {3}(1)(c), \$100;

4 {5}(e) game bird (except swan), \$25;

5 {6}(f) game fish, \$10.

6 (2) When a court enters an order declaring bond or
 7 bail to be forfeited, the court may also order that some or
 8 all of the forfeited bond or bail be paid as restitution to
 9 the state according to the schedule in subsection (1). A
 10 hearing to determine the amount of restitution, as required
 11 under 46-9-504, is not required for an order of restitution
 12 under this section."

13 **Section 3.** Section 87-1-112, MCA, is amended to read:

14 "87-1-112. Finding required. Before restitution may be
 15 ordered pursuant to 87-1-111, the finder of fact at trial or
 16 the court upon entry of a guilty plea must find that such
 17 illegal killing or possession was done knowingly or
 18 purposely as defined in 45-2-101. This finding is not
 19 required for state reimbursement under 87-1-111 when bond or
 20 bail is forfeited."

21 **Section 4.** Section 87-1-114, MCA, is amended to read:

22 "87-1-114. Disposition of proceeds. All money
 23 collected by a court pursuant to 87-1-111 through 87-1-113
 24 must be remitted to the state treasurer for deposit in the
 25 state special revenue fund as provided in 87-1-601(1). If

1 restitution is ordered out of a forfeited bond or bail, any
2 balance of bond or bail money must be disposed of as
3 provided in 87-1-601(4)."

4 NEW SECTION. Section 5. Extension of authority. Any
5 existing authority to make rules on the subject of the
6 provisions of [this act] is extended to the provisions of
7 [this act].

8 NEW SECTION. Section 6. Effective date. [This act] is
9 effective on passage and approval.

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APPROVED BY COMM.
ON FISH AND GAME

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21 pay over the money deposited to the treasury of the city or
22 county wherein the bail was taken.

23 (b) When judgment is entered in favor of the state or
24 the order of forfeiture is not discharged on any bail,
25 execution may be issued forthwith for levy on stocks or

1 bonds deposited with the court or upon the real estate
2 described in the bail schedule. Such stocks, bonds, and real
3 estate shall be sold in the same manner as in execution
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22 Except as provided in 87-1-111, whenever the court believes
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(2) When a court enters an order declaring bond or bail to be forfeited, the court may also order that some or all of the forfeited bond or bail be paid as restitution to the state according to the schedule in subsection (1). A hearing to determine the amount of restitution, as required under 46-9-504, is not required for an order of restitution under this section."

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"87-1-112. Finding required. Before restitution may be ordered pursuant to 87-1-111, the finder of fact at trial or the court upon entry of a guilty plea must find that such illegal killing or possession was done knowingly or purposely as defined in 45-2-101. This finding is not required for state reimbursement under 87-1-111 when bond or bail is forfeited."

Section 4. Section 87-1-114, MCA, is amended to read:

"87-1-114. Disposition of proceeds. All money collected by a court pursuant to 87-1-111 through 87-1-113 must be remitted to the state treasurer for deposit in the state special revenue fund as provided in 87-1-601(1). If

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