

HOUSE BILL NO. 454

INTRODUCED BY CONNELLY, SPAETH, ADDY, HARPER, WALKER,  
PINSONEAULT, B. BROWN, HARP, KOEHNKE, VINCENT,  
LEE, J. BROWN, REAM, PECK, BACHINI

IN THE HOUSE

JANUARY 26, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 27, 1989	FIRST READING.  ON MOTION BY CHIEF SPONSOR, REPRESENTATIVES LEE, J. BROWN, REAM, PECK, AND BACHINI ADDED AS SPONSORS.
JANUARY 31, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 1, 1989	PRINTING REPORT.
FEBRUARY 2, 1989	SECOND READING, DO PASS.
FEBRUARY 3, 1989	ENGROSSING REPORT.
FEBRUARY 4, 1989	THIRD READING, PASSED. AYES, 88; NOES, 8.  TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 6, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.  FIRST READING.
MARCH 6, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 7, 1989	SECOND READING, CONCURRED IN.
MARCH 9, 1989	THIRD READING, CONCURRED IN.

AYES, 50; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 11, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

MARCH 13, 1989

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *454*  
 2 INTRODUCED BY *Connelly* *Spicer* *Adley* *Harmon*  
 3 *John* *Bohannon* *Bob Brown* *HARP* *KOEHNKE* *Vannett*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT A DEFENDANT  
 5 WHO VOLUNTARILY ENTERS A GUILTY PLEA IN A LOWER COURT FROM  
 6 APPEALING TO A DISTRICT COURT; AND AMENDING SECTIONS  
 7 3-5-303, 3-11-301, AND 46-17-203, MCA."

8  
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 **Section 1.** Section 3-5-303, MCA, is amended to read:

11 "3-5-303. Appellate jurisdiction. The Except as  
 12 provided in 46-17-203, the district court has appellate  
 13 jurisdiction in such cases arising in justices' courts and  
 14 other courts of limited jurisdiction in their respective  
 15 districts as may be prescribed by law and consistent with  
 16 the constitution."

17 **Section 2.** Section 3-11-301, MCA, is amended to read:

18 "3-11-301. City attorney to prosecute. The Except as  
 19 provided in 46-17-203, the city attorney must prosecute all  
 20 cases for the violation of any ordinance and prosecute,  
 21 conduct, and control all proceedings in cases mentioned in  
 22 3-11-103, both in the city court and on appeal ~~therefrom~~  
 23 from the city court to the district court."

24 **Section 3.** Section 46-17-203, MCA, is amended to read:

25 "46-17-203. Plea of guilty. (1) Before or during

1 trial, a plea of guilty may be accepted when:

2 {1}(a) the defendant enters a plea of guilty in open  
 3 court; and

4 {2}(b) the court has informed the defendant of the  
 5 consequences of his plea and of the maximum penalty provided  
 6 by law which may be imposed upon acceptance of such the  
 7 plea.

8 (2) A plea of guilty in a justices' court, city court,  
 9 or other court of limited jurisdiction waives the right of  
 10 appeal to the district court. A defendant must be informed  
 11 of the waiver of appeal before the plea is accepted, and the  
 12 justice or judge shall question the defendant to ensure that  
 13 the plea and waiver are entered voluntarily."

-End-

APPROVED BY COMMITTEE  
ON JUDICIARY

## HOUSE BILL NO. 454

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PINSONEAULT, B. BROWN, HARP, KOEHNKE, VINCENT,  
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A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT A DEFENDANT  
WHO VOLUNTARILY ENTERS A GUILTY PLEA IN A LOWER COURT FROM  
APPEALING TO A DISTRICT COURT; AND AMENDING SECTIONS  
3-5-303, 3-11-301, AND 46-17-203, MCA."

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from the city court to the district court."

**Section 3.** Section 46-17-203, MCA, is amended to read:

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trial, a plea of guilty may be accepted when:

~~††~~(a) the defendant enters a plea of guilty in open  
court; and

~~††~~(b) the court has informed the defendant of the  
consequences of his plea and of the maximum penalty provided  
by law which may be imposed upon acceptance of ~~such the~~  
plea.

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or other court of limited jurisdiction waives the right of  
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14 justice or judge shall question the defendant to ensure that  
15 the plea and waiver are entered voluntarily."

-End-

SENATE STANDING COMMITTEE REPORT

March 6, 1989

MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration HB 454 (third reading copy -- blue), respectfully report that HB 454 be amended and as so amended be concurred in:

Sponsor: Connelly (Pinsonneault)

1. Title, lines 6 and 7.

Following: "PROHIBIT" on line 6

Strike: remainder of line 6 through "ENTERS" on line 7

Insert: "TRIAL DE NOVO IN DISTRICT COURT AFTER ENTRY OF"

2. Title, lines 7 and 8.

Following: "COURT" on line 7

Strike: remainder of line 7 through "COURT" on line 8

3. Title, line 9.

Strike: "AND"

Following: "46-17-203,"

Insert: "AND 46-17-311,"

4. Page 2, line 12.

Following: line 11

Strike: "appeal to the"

Insert: "trial de novo in"

5. Page 2, line 13.

Following: "waiver"

Strike: "of appeal"

6. Page 2.

Following: line 15

Insert: " Section 4. Section 46-17-311, MCA, is amended to read:

"46-17-311. Appeal. (1) All Except as provided in 46-17-203,  
all cases on appeal from justices' or city courts must be tried  
anew in the district court and may be tried before a jury of six  
selected in the same manner as a trial jury in a civil action,  
except that the total number of jurors drawn shall be at least six  
plus the total number of peremptory challenges.

(2) A party may appeal to the district court by giving  
written notice of his intention to appeal within 10 days after  
judgment, except that the state may only appeal in the cases  
provided for in 46-20-103.

(3) Within 30 days, the entire record of the justice's or  
city court proceedings must be transferred to the district court  
or the appeal must be dismissed. It is the duty of the appellant  
to perfect the appeal."

AND AS AMENDED BE CONCURRED IN

Signed: 

Bruce D. Crippen, Chairman

SENATE

scrhb454.306

HB 454

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9 DISTRICT-COURT; AND AMENDING SECTIONS 3-5-303, 3-11-301, AND  
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HB 0454/03

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