

HB BILL NO. 250

INTRODUCED BY

Linda McCulloch *Sept. Halby*
Jewell Don *Melton*

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR GARNISHMENT AND ATTACHMENT OF PROPERTY OR REQUIRING COMMUNITY SERVICE FOR PERSONS WHO FAIL TO PAY FINES FOR MINOR TRAFFIC OFFENSES; ELIMINATING INCARCERATION PENALTY FOR THOSE OFFENSES IN SOME INSTANCES; AND AMENDING SECTIONS 61-8-711, 61-8-720, AND 61-9-511, MCA."

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

Section 1. Section 61-8-711, MCA, is amended to read:

"61-8-711. Violation of chapter -- penalty. (1) It is a misdemeanor for ~~any~~ a person to violate any of the provisions of this chapter unless the violation is declared to be a felony ~~by this chapter or other law of this state.~~

(2) ~~Every~~ Each person convicted of a misdemeanor for a violation of any of the provisions of this chapter for which another penalty is not provided shall for a first conviction ~~thereof~~ be punished by a fine of not less than \$10 or more than \$100 ~~or by imprisonment for not more than 10 days.~~ For a second conviction within 1 year ~~thereafter~~ after the first conviction, the person shall be punished by a fine of not less than \$25 or more than \$200 ~~or by imprisonment for not more than 20 days or by both such fine and imprisonment.~~ Upon a third or subsequent conviction within 1 year after the first conviction, the person shall be punished by a fine of not less than \$50 or more than \$500 ~~or by imprisonment for not more than 6 months or by both such fine and imprisonment.~~

(3) ~~On failure of payment of a fine, the offender in case of a misdemeanor~~ Except as provided in subsection (4), failure to pay a fine imposed under this chapter is a civil contempt of the court. On failure of payment of a fine, the court may:

(a) order enforcement of the fine by execution in the manner provided in 25-13-204 and under the provisions of Title 25, chapter 13; or

(b) if the court finds that the person is unable to pay, order the person to perform community service. For each hour of community service performed, the person must be credited with an amount equal to the state minimum hourly wage, as provided in 39-3-404.



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1 (4) If property is not found in an amount necessary to satisfy the unpaid portion of the fine and
 2 if the court makes a written finding that community service is inappropriate, the person shall be imprisoned
 3 in the county jail in the county in which the offense was committed, and the imprisonment shall be
 4 computed upon the basis of 1 day's incarceration for each \$25 of the fine.

5 ~~(4)(5)~~ Upon conviction, the court costs or any part ~~thereof~~ of the court costs may be assessed
 6 against the defendant in the discretion of the court."

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 8 **Section 2.** Section 61-8-720, MCA, is amended to read:

9 **"61-8-720. Penalty.** ~~Any A~~ A person who violates any of the provisions of 61-8-331(2) is guilty of
 10 a misdemeanor. Upon arrest and conviction ~~therefor, he~~ the person shall be punished by a fine of not less
 11 than \$5 or more than \$100 ~~or by imprisonment in the city or county jail for not less than 5 days or more~~
 12 ~~than 90 days or by both fine and imprisonment."~~

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 14 **Section 3.** Section 61-9-511, MCA, is amended to read:

15 **"61-9-511. Violation of chapter -- penalty.** (1) It is a misdemeanor for any person to violate any
 16 of the provisions of this chapter unless the violation is declared to be a felony.

17 (2) A person convicted of a misdemeanor for a violation of any of the provisions of this chapter
 18 for which another penalty is not provided shall for a first conviction be punished by a fine of not less than
 19 \$10 or more than \$100. For a second conviction within 1 year, the person shall be punished by a fine of
 20 not less than \$25 or more than \$200. Upon a third or subsequent conviction within 1 year after the first
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22 ~~(3) On failure of payment of fines, the offender in cases of misdemeanor~~ Except as provided in
 23 subsection (4), failure to pay a fine imposed under this chapter is a civil contempt of the court. On failure
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25 (a) order enforcement of the fine by execution in the manner provided in 25-13-204 and under the
 26 provisions of Title 25, chapter 13; or

27 (b) if the court finds that the person is unable to pay, order the person to perform community
 28 service. For each hour of community service performed, the person must be credited with an amount equal
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1 if the court makes a written finding that community service is inappropriate, the person shall be imprisoned
2 in the county jail in the county in which the offense has been committed. The imprisonment shall be
3 computed upon the basis of \$25 of the fine for each day's incarceration.

4 ~~(4)(5)~~ Upon conviction, the court costs or any part of the court costs may be assessed against the
5 defendant in the discretion of the court."

6

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0250, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill providing for garnishment and attachment of property or requiring community service for persons who fail to pay fines for minor traffic offenses.

ASSUMPTIONS:

1. The bill will have no fiscal impact on state expenditures or revenues.
2. The bill will have no material fiscal impact on local government expenditures or revenues.

FISCAL IMPACT:

None.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

It is estimated that the bill will have no material fiscal impact on local government expenditures or revenues. There may be some reduction in the costs incurred for incarceration in county jails due to a reduced number of imprisonments for failure to pay misdemeanor traffic fines.

 1-21-95

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1-23-95

LINDA MCCULLOCH, PRIMARY SPONSOR DATE

Fiscal Note for HB0250, as introduced

HB 250

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2 INTRODUCED BY MCCULLOCH, SOFT, HALLIGAN, WELDON, T. NELSON

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5 PROPERTY OR REQUIRING COMMUNITY SERVICE FOR PERSONS WHO FAIL TO PAY FINES FOR MINOR
6 TRAFFIC OFFENSES; ELIMINATING INCARCERATION PENALTY FOR THOSE OFFENSES IN SOME
7 INSTANCES; AND AMENDING SECTIONS 61-8-711, 61-8-720, AND 61-9-511, MCA."

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13 of the provisions of this chapter unless the violation is declared to be a felony ~~by this chapter or other law~~
14 ~~of this state.~~

15 (2) ~~Every~~ Each person convicted of a misdemeanor for a violation of any of the provisions of this
16 chapter for which another penalty is not provided shall for a first conviction ~~thereof~~ be punished by a fine
17 of not less than \$10 or more than \$100 ~~or by imprisonment for not more than 10 days.~~ For a second
18 conviction within 1 year ~~thereafter~~ after the first conviction, the person shall be punished by a fine of not
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24 subsection (4), failure to pay a fine imposed under this chapter is a civil contempt of the court. On failure
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27 provisions of Title 25, chapter 13; or

28 (b) if the court finds that the person is unable to pay, order the person to perform community
29 service. For each hour of community service performed, the person must be credited with an amount equal
30 to the state minimum hourly wage, as provided in 39-3-404.

1 ~~(4) If property is not found in an amount necessary to satisfy the unpaid portion of the fine and~~
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 5 THE FINE IS DIVISIBLE BY THE DOLLAR AMOUNT OF THE INCARCERATION CREDIT CONTAINED IN
 6 46-18-403.

7 ~~(4)(5) Upon conviction, the court costs or any part thereof of the court costs may be assessed~~
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11 "**61-8-720. Penalty.** ~~Any A~~ A person who violates any of the provisions of 61-8-331(2) is guilty of
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