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INTRODUCED BY

Orin Kattil, *House* BILL NO. *257*

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4 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING DEFENDANTS TO ONE JURY TRIAL IN MISDEMEANOR
 5 CRIMINAL CASES FILED IN A JUSTICE'S OR CITY COURT; REQUIRING A DEFENDANT TO ELECT THE
 6 FORUM IN WHICH THE JURY TRIAL WILL OCCUR; PROVIDING THAT A TRIAL DE NOVO IN THE DISTRICT
 7 COURT ON APPEAL FROM A JUSTICE'S OR CITY COURT MAY NOT BE BY JURY IF THE DEFENDANT
 8 ELECTED A JURY TRIAL IN THE JUSTICE'S OR CITY COURT; AMENDING SECTIONS 46-7-102,
 9 46-17-201, AND 46-17-311, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN
 10 APPLICABILITY DATE."

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

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14 **Section 1.** Section 46-7-102, MCA, is amended to read:15 "46-7-102. **Duty of court.** (1) The judge shall inform the defendant:

16 (a) of the charge or charges against the defendant;

17 (b) of the defendant's right to counsel;

18 (c) of the defendant's right to have counsel assigned by a court of record in accordance with the
19 provisions of 46-8-101;

20 (d) of the general circumstances under which the defendant may obtain pretrial release;

21 (e) of the defendant's right to refuse to make a statement and the fact that any statement made
22 by the defendant may be offered in evidence at the defendant's trial; ~~and~~23 (f) of the defendant's right to a judicial determination of whether probable cause exists if the
24 charge is made by a complaint alleging the commission of a felony; and25 (g) if the charge is a misdemeanor filed in justice's or city court, of the defendant's right to elect
26 one jury trial, either in justice's or city court or on appeal to the district court, as provided in 46-17-201.27 (2) The judge shall admit the defendant to bail as provided by law."
2829 **Section 2.** Section 46-17-201, MCA, is amended to read:30 "46-17-201. **Juries in misdemeanor cases.** (1) ~~The~~ Subject to subsection (3), the parties in a

1 misdemeanor case are entitled to a jury of six qualified persons but may agree to a number less than six
2 at any time before the verdict.

3 (2) Upon consent of the parties, a trial by jury may be waived.

4 (3) A defendant in a misdemeanor case filed in justice's or city court is limited to one jury trial,
5 either in justice's or city court or on appeal to the district court. The defendant shall either elect a jury trial
6 in justice's or city court or reserve jury trial for the district court in the event of conviction and subsequent
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10 **Section 3.** Section 46-17-311, MCA, is amended to read:

11 **"46-17-311. Appeal from justices', municipal, and city courts.** (1) Except for cases in which legal
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17 court is governed by 3-6-110.

18 (2) The defendant may appeal to the district court by filing written notice of intention to appeal
19 within 10 days after a judgment is rendered following trial. In the case of an appeal by the prosecution, the
20 notice must be filed within 10 days of the date that the order complained of is given. The prosecution may
21 only appeal only in the cases provided for in 46-20-103.

22 (3) Within 30 days of filing the notice of appeal, the court shall transfer the entire record of the
23 court of limited jurisdiction to the district court."

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25 **NEW SECTION. Section 4. Effective date.** [This act] is effective on passage and approval.

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27 **NEW SECTION. Section 5. Applicability.** [This act] applies to criminal charges filed on or after [the
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-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0257, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act limiting defendants to one jury trial in misdemeanor criminal cases filed in a justice's or city court; requiring a defendant to elect the forum in which the jury trial will occur; providing that a trial de novo in the district court on appeal from a justice's or city court may not be by jury if the defendant elected a jury trial in the justice's or city court.

ASSUMPTIONS:

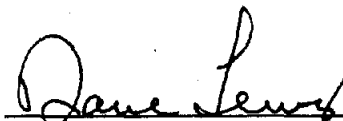
1. This legislation could result in a decline in the number of jury trials in district courts. If defendants who appeal their case to district court have already had a jury trial in justice or city court, then this legislation prohibits them from having another jury trial in district court.
2. If the number of jury trials does decline, certain District Court Criminal Reimbursement Program costs could decrease. However, information currently available is not quantifiable.

FISCAL IMPACT:

Decreasing but not quantifiable costs.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

If there are fewer jury trials in district courts there could be some reductions in the operating costs of the courts.

 1-20-97
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

DEB KOTTEL, PRIMARY SPONSOR DATE

Fiscal Note for HB0257, as introduced

HB 257

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20 (d) of the general circumstances under which the defendant may obtain pretrial release;

21 (e) of the defendant's right to refuse to make a statement and the fact that any statement made
22 by the defendant may be offered in evidence at the defendant's trial; ~~and~~

23 (f) of the defendant's right to a judicial determination of whether probable cause exists if the
24 charge is made by a complaint alleging the commission of a felony; and

25 (g) if the charge is a misdemeanor filed in justice's or city court, of the defendant's right to elect
26 one jury trial, either in justice's or city court or on appeal to the district court, as provided in 46-17-201.

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30 **"46-17-201. Juries in misdemeanor cases.** (1) The Subject to subsection (3), the parties in a

1 misdemeanor case are entitled to a jury of six qualified persons but may agree to a number less than six
2 at any time before the verdict.

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21 ~~only~~ appeal only in the cases provided for in 46-20-103.

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