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SB BILL NO. 145

INTRODUCED BY Bishop

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE CONCURRENT JURISDICTION PROVISION FOR FORMER PROSECUTIONS IN ANOTHER JURISDICTION; AMENDING SECTION 46-11-504, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

WHEREAS, the Montana Supreme Court has suggested in State v. Pierce, 199 Mont. 57 (1982), State v. Sword, 229 Mont. 370 (1987), and State v. Tadewaldt, 53 St. Rep. 635 (1996), that the concurrent jurisdiction provisions of section 46-11-504, MCA, be clarified.

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

**Section 1.** Section 46-11-504, MCA, is amended to read:

**"46-11-504. Former prosecution in another jurisdiction.** When conduct constitutes an offense within the concurrent jurisdiction of this state and of the United States or another state ~~or of two courts of separate, overlapping, or concurrent jurisdiction in this state~~, a prosecution in any other jurisdiction is a bar to a subsequent prosecution in this state under the same circumstances barring further prosecution in this state if:

(1) the first prosecution resulted in an acquittal or in a conviction and the subsequent prosecution is based on an offense arising out of the same transaction; or

(2) the former prosecution was terminated, after the charge had been filed, by an acquittal or by a final order or judgment for the defendant that has not been set aside, reversed, or vacated and the acquittal, final order, or judgment necessarily required a determination inconsistent with a fact that must be established for conviction of the offense for which the defendant is subsequently prosecuted."

**NEW SECTION. Section 2. Applicability.** [Section 1] applies to offenses occurring on or after [the effective date of this act].

**NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

-END-

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APPROVED BY COM  
ON JUDICIARY

1 SENATE BILL NO. 145

2 INTRODUCED BY BISHOP

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18 COURT ~~or of two courts of separate, overlapping, or concurrent jurisdiction in this state~~, a prosecution in  
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30 REFERENCE BILL



