

## 1 HOUSE BILL NO. 217

2 INTRODUCED BY C. KNUDSEN, K. ABBOTT, B. BEARD, Z. BROWN, G. DEVRIES, A. DOANE, K. DUDIK,  
3 D. DUNN, W. GALT, L. JONES, D. LENZ, R. LYNCH, S. MORIGEAU, D. MORTENSEN, Z. PERRY,  
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6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE SUSPENSION OF A DRIVER'S  
7 LICENSE FOR NONPAYMENT OF FINES, FEES, OR RESTITUTION; REMOVING SUSPENSION OF A  
8 DRIVER'S LICENSE OR PRIVILEGE AS A SENTENCING OPTION FOR NONPAYMENT OF FINES, FEES, OR  
9 RESTITUTION; ALLOWING A PERSON TO PETITION THE COURT TO ORDER THE PERSON'S DRIVER'S  
10 LICENSE TO BE REINSTATED FOR A PREVIOUS FAILURE TO PAY FINES, FEES, OR RESTITUTION;  
11 PROVIDING THE PERSON MAY NOT BE CHARGED A REINSTATEMENT FEE; AMENDING SECTIONS  
12 46-18-201, 61-5-214, AND 61-5-216, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A  
13 RETROACTIVE APPLICABILITY DATE."  
14

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
16

17 **Section 1.** Section 46-18-201, MCA, is amended to read:

18 **"46-18-201. Sentences that may be imposed.** (1) (a) Whenever a person has been found guilty of an  
19 offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may defer imposition  
20 of sentence, except as otherwise specifically provided by statute, for a period:

21 (i) not exceeding 1 year for a misdemeanor or for a period not exceeding 3 years for a felony; or

22 (ii) not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for a felony if a  
23 financial obligation is imposed as a condition of sentence for either the misdemeanor or the felony, regardless  
24 of whether any other conditions are imposed.

25 (b) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred in the  
26 case of an offender who has been convicted of a felony on a prior occasion, whether or not the sentence was  
27 imposed, imposition of the sentence was deferred, or execution of the sentence was suspended.

28 (2) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or  
29 nolo contendere, a sentencing judge may suspend execution of sentence, except as otherwise specifically  
30 provided by statute, for a period up to the maximum sentence allowed or for a period of 6 months, whichever is

1 greater, for each particular offense.

2 (3) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty  
3 or nolo contendere, a sentencing judge may impose a sentence that may include:

4 (i) a fine as provided by law for the offense;

5 (ii) payment of costs, as provided in 46-18-232, or payment of costs of assigned counsel as provided in  
6 46-8-113;

7 (iii) a term of incarceration, as provided in Title 45 for the offense, at a county detention center or at a  
8 state prison to be designated by the department of corrections;

9 (iv) commitment of:

10 (A) an offender not referred to in subsection (3)(a)(iv)(B) to the department of corrections with a  
11 recommendation for placement in an appropriate correctional facility or program; however, all but the first 5 years  
12 of the commitment to the department of corrections must be suspended, except as provided in 45-5-503(4),  
13 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), and 45-5-625(4); or

14 (B) a youth transferred to district court under 41-5-206 and found guilty in the district court of an offense  
15 enumerated in 41-5-206 to the department of corrections for a period determined by the court for placement in  
16 an appropriate correctional facility or program;

17 (v) chemical treatment of sexual offenders, as provided in 45-5-512, if applicable, that is paid for by and  
18 for a period of time determined by the department of corrections, but not exceeding the period of state supervision  
19 of the person;

20 (vi) commitment of an offender to the department of corrections with the requirement that immediately  
21 subsequent to sentencing or disposition the offender is released to community supervision and that any  
22 subsequent violation must be addressed as provided in 46-23-1011 through 46-23-1015; or

23 (vii) any combination of subsections (2) and (3)(a)(i) through (3)(a)(vii).

24 (b) A court may permit a part or all of a fine to be satisfied by a donation of food to a food bank program.

25 (4) When deferring imposition of sentence or suspending all or a portion of execution of sentence, the  
26 sentencing judge may impose on the offender any reasonable restrictions or conditions during the period of the  
27 deferred imposition or suspension of sentence. Reasonable restrictions or conditions imposed under subsection  
28 (1)(a) or (2) may include but are not limited to:

29 (a) limited release during employment hours as provided in 46-18-701;

30 (b) incarceration in a detention center not exceeding 180 days;

- 1 (c) conditions for probation;
- 2 (d) payment of the costs of confinement;
- 3 (e) payment of a fine as provided in 46-18-231;
- 4 (f) payment of costs as provided in 46-18-232 and 46-18-233;
- 5 (g) payment of costs of assigned counsel as provided in 46-8-113;
- 6 (h) with the approval of the facility or program, an order that the offender be placed in a community
- 7 corrections facility or program as provided in 53-30-321;
- 8 (i) with the approval of the prerelease center or prerelease program and confirmation by the department
- 9 of corrections that space is available and that the offender is a suitable candidate, an order that the offender be
- 10 placed in a chemical dependency treatment program, prerelease center, or prerelease program for a period not
- 11 to exceed 1 year;
- 12 (j) community service;
- 13 (k) home arrest as provided in Title 46, chapter 18, part 10;
- 14 (l) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;
- 15 (m) participation in a day reporting program provided for in 53-1-203;
- 16 (n) participation in the 24/7 sobriety and drug monitoring program provided for in Title 44, chapter 4, part
- 17 12, for a violation of 61-8-465, a second or subsequent violation of 61-8-401, 61-8-406, or 61-8-411, or a second
- 18 or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if the abuse of alcohol
- 19 or dangerous drugs was a contributing factor in the commission of the crime or for a violation of any statute
- 20 involving domestic abuse or the abuse or neglect of a minor if the abuse of alcohol or dangerous drugs was a
- 21 contributing factor in the commission of the crime regardless of whether the charge or conviction was for a first,
- 22 second, or subsequent violation of the statute;
- 23 (o) participation in a restorative justice program approved by court order and payment of a participation
- 24 fee of up to \$150 for program expenses if the program agrees to accept the offender;
- 25 (p) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the
- 26 protection of the victim or society;
- 27 (q) with approval of the program and confirmation by the department of corrections that space is
- 28 available, an order that the offender be placed in a residential treatment program; or
- 29 (r) any combination of the restrictions or conditions listed in this subsection (4).
- 30 (5) In addition to any other penalties imposed, if a person has been found guilty of an offense upon a

1 verdict of guilty or a plea of guilty or nolo contendere and the sentencing judge finds that a victim, as defined in  
 2 46-18-243, has sustained a pecuniary loss, the sentencing judge shall, as part of the sentence, require payment  
 3 of full restitution to the victim, as provided in 46-18-241 through 46-18-249, whether or not any part of the  
 4 sentence is deferred or suspended.

5 (6) (a) ~~Except as provided in subsection (6)(b),~~ in addition to any of the penalties, restrictions, or  
 6 conditions imposed pursuant to subsections (1) through (5), the sentencing judge may include the suspension  
 7 of the license or driving privilege of the person to be imposed upon the failure to comply with any penalty,  
 8 restriction, or condition of the sentence. A suspension of the license or driving privilege of the person must be  
 9 accomplished as provided in 61-5-214 through 61-5-217.

10 (b) A person's license or driving privilege may not be suspended due to nonpayment of fines, costs, or  
 11 restitution.

12 (7) In imposing a sentence on an offender convicted of a sexual or violent offense, as defined in  
 13 46-23-502, the sentencing judge may not waive the registration requirement provided in Title 46, chapter 23, part  
 14 5.

15 (8) If a felony sentence includes probation, the department of corrections shall supervise the offender  
 16 unless the court specifies otherwise.

17 (9) When imposing a sentence under this section that includes incarceration in a detention facility or the  
 18 state prison, as defined in 53-30-101, the court shall provide credit for time served by the offender before trial or  
 19 sentencing.

20 (10) As used in this section, "dangerous drug" has the meaning provided in 50-32-101."  
 21

22 **Section 2.** Section 61-5-214, MCA, is amended to read:

23 **"61-5-214. Mandatory suspension for failure to appear or comply with criminal sentence --**  
 24 **administrative fee -- notice.** (1) The department shall suspend the driver's license or driving privilege of a person  
 25 upon receipt of a report from the court, certified under penalty of law and in a form prescribed by the department,  
 26 that the person:

27 (a) failed to appear upon an issued complaint, summons, or court order after being charged with a  
 28 misdemeanor violation under Title 45 or Title 61, chapters 3 through 10, or after posting a driver's license in lieu  
 29 of bail as provided in 46-9-401(1)(e); or

30 (b) failed to comply with a sentence imposed pursuant to 46-18-201, ~~including but not limited to the~~

1 ~~payment of a fine, costs, or restitution as provided in 46-18-201(6).~~

2 (2) The suspension continues in effect until the court notifies the department that:

3 (a) the person has either appeared in court or complied with the sentence imposed pursuant to  
4 46-18-201, ~~including the payment of any assessed fines, costs, or restitution;~~ and

5 (b) the person has paid the court an administrative fee of \$25 if the court was holding the offender's  
6 driver's license in lieu of bail under 44-1-1102, 46-9-302, or 46-9-401.

7 (3) (a) Before a report is submitted under this section, a person must be given written notice that the  
8 failure to appear on a criminal charge or comply with a criminal sentence may result in the suspension of the  
9 person's driver's license or driving privilege. Initial notice of the possibility of a license suspension must either be  
10 included on the summons or complaint and notice to appear form given to the person when charges are initially  
11 filed or be contained in a court order, either hand-delivered to the person while in court or sent by certified mail,  
12 postage prepaid, to the most current address for that person received by or on record with the court.

13 (b) The initial notice must be followed by a written warning from the court, sent by first-class mail,  
14 advising the person that a license suspension is imminent unless, by a specified date, the failure to appear or  
15 comply is remedied or the person appears before the court to contest the impending license suspension.

16 (4) The court shall deposit any administrative fee received under subsection (2)(b) in the appropriate  
17 county or city general fund."  
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19 **Section 3.** Section 61-5-216, MCA, is amended to read:

20 **"61-5-216. Reinstatement of license.** Upon receipt of notification from the court that the operator has  
21 appeared; ~~or posted the bond, or paid the fine, costs, or restitution amounts~~ and has paid the administrative fee  
22 required under 61-5-214 and; if the reinstatement fee required under 61-2-107 or 61-5-218 has been paid, the  
23 department shall reinstate the license; unless the operator otherwise is not entitled to reinstatement."  
24

25 NEW SECTION. **Section 4. Transition.** (1) A person whose driver's license is currently suspended  
26 because the person failed to comply with a court order for the payment of fines, fees, costs, or restitution may  
27 file a petition with the court that issued the order of suspension. If the court finds that the person's license was  
28 suspended because of the failure to pay fines, fees, costs, or restitution and not for another legal reason, the  
29 court shall order the department of justice to reinstate the person's driver's license.

30 (2) The reinstatement fee required by 61-5-218(1) must be waived by the department for a person's

1 whose driver's license is reinstated pursuant to [this act].

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3 NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

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5 NEW SECTION. **Section 6. Retroactive applicability.** [This act] applies retroactively, within the  
6 meaning of 1-2-109, to a person whose driver's license was suspended prior to [the effective date of this act] due  
7 to failure to comply with a sentencing order that imposed a duty to pay fines, fees, or restitution in a criminal case.

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