DEPARTMENT OF JUSTICE
SB 30: Requiring Fingerprinting for Cumulative Misdemeanor Offenses

Background

The Department of Justice maintains the central criminal history repository for the state. Local criminal justice agencies have access to the repository through the criminal justice information network. Agencies rely on the state repository to research criminal histories and determine appropriate charging decisions and sentencing recommendations.

Inconsistencies in Fingerprinting

Montana law requires fingerprinting for all felony offenses. While the law **allows** fingerprinting for misdemeanor offenses, it does not **require** it. Most misdemeanor offenders are fingerprinted upon booking, but there is no uniform reporting across the state of these offenders to the state repository.

As a result, misdemeanor offenses are routinely not entered into the state repository. Criminal justice agencies are often unaware of the existence of an earlier misdemeanor offense.

> Example: An offender commits a first offense of partner/family member assault in Lewis and Clark County, and then moves to Chouteau County and commits another partner family member assault. Because the first offense was never entered into the state repository, Chouteau County is unaware of the prior conviction and handles the subsequent offense as if it were the offender's first.

Repeated Offenses, Stiffer Penalties

Certain Montana offenses are cumulative offenses that have progressively stiffer penalties and become felony offenses upon repeat commission of the offense.

> Example: A third or subsequent conviction for partner/family member assault, or a fourth or subsequent conviction for driving under the influence, is a felony offense.

However, without a record of prior convictions in the state repository, offenses that should be prosecuted as felonies are treated as misdemeanors.

Proposed Amendments

SB 30 would amend MCA 44-5-202 to capture those cumulative offenses. Criminal justice agencies would be aware of prior convictions and offenders would be appropriately prosecuted and punished. The amendments would also ensure that offenders who are required to register as sexual or violent offenders are properly identified.

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SENATE JUDICIARY
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