

Date 3-2-05
HB 66

RESOLUTION 2004-29

AMEND CREDIT FOR INCARCERATION PRIOR TO CONVICTION

It is the intent of the Montana Association of Counties to support legislation to amend Section 46-18-403 (2) M.C.A., which allows credit for time incarcerated, prior to conviction.

WHEREAS, the Supreme Court's interpretation of Section 46-18-403 (2) is causing statewide fiscal hardship due to diminished revenue generated by fines and fees in Justice of Peace and District Courts throughout the State of Montana; and

WHEREAS, counties and the State are suffering from lack of revenue and the interpretation and implementation of sub (2) of this law is creating a shortfall in the court collections; and

WHEREAS, counties are not only incurring the expense of detention costs, the fines previously used to offset these costs are now being reduced by the courts through credits for prisoner detention time served, in recognition of the Supreme Court's decision.

NOW, THEREFORE, BE IT RESOLVED that Section 46-18-403 (2) MCA be amended.
(See below)

46-18-403. Credit for incarceration prior to conviction. (1) any person incarcerated on a bailable offense and against whom a judgment of imprisonment is rendered must be allowed credit for each day of incarceration prior to or after conviction, except that the time allowed as a credit may not exceed the term of the prison sentence rendered.

(2) Any person incarcerated on a bailable offense who does not supply bail and against whom a fine is levied on conviction of the offense ~~must~~ may be allowed a credit for each day of incarceration prior to conviction, except that the amount allowed or credited may not exceed the amount of the fine. The daily rate of credit for incarceration must be established annually by the board of county commissioners by resolution. The daily rate must be equal to the actual cost incurred by the detention facility for which the rate is established

SPONSOR: Districts 10 and 11

RECOMMENDATION: Do Pass

PRIOPITY: High

REFERRED TO: MACo Justice and Public Safety Committee

ADOPTED: Annual Conference, Missoula, MT, September 29, 2004