

1 HOUSE BILL NO. 210

2 INTRODUCED BY J. PARKER

3 BY REQUEST OF THE SUPREME COURT

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A CRIMINAL JUDGMENT TO DIRECT THE CLERK
6 OF COURT TO SERVE COPIES OF THE JUDGMENT ON THE DEFENDANT AND COUNSEL, THE
7 ATTORNEY GENERAL, AND THE FACILITY TO WHICH THE DEFENDANT IS COMMITTED OR THE
8 DEPARTMENT OF CORRECTIONS; RELIEVING THE PROSECUTOR OF THE COUNTY IN WHICH THE
9 SENTENCE WAS IMPOSED OF THE DUTY TO SERVE A COPY OF THE JUDGMENT; AMENDING SECTION
10 46-18-116, MCA; AND PROVIDING AN EFFECTIVE 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 46-18-116, MCA, is amended to read:

15 **"46-18-116. Judgment -- conflict between written judgment and oral pronouncement -- correction**
16 **of factually erroneous sentence or judgment.** (1) The judgment must set forth the plea, the verdict or finding,
17 and the adjudication. If the defendant is convicted, it must set forth the sentence or other disposition. The written
18 judgment must be signed and must be entered on the record within 30 days after the oral pronouncement of the
19 disposition of the case. ~~At the time that the judgment is filed, the prosecutor of the county in which the sentence~~
20 ~~was imposed shall serve a copy of the judgment on the defendant.~~ The written judgment must include a
21 statement of the rights set forth in subsection ~~(2)~~ (3).

22 (2) The written judgment must direct the clerk of the district court to serve a copy of the judgment upon:

23 (a) the defendant;

24 (b) the defendant's counsel, if the defendant is represented by counsel;

25 (c) the office of the attorney general; and

26 (d) either the director of the facility to which the defendant is committed or the department of corrections,
27 if the defendant is committed to the department.

28 ~~(2)~~(3) If a written judgment and an oral pronouncement of sentence or other disposition conflict, the
29 defendant or the prosecutor in the county in which the sentence was imposed may, within 120 days after filing
30 of the written judgment, request that the court modify the written judgment to conform to the oral pronouncement.

1 The court shall modify the written judgment to conform to the oral pronouncement at a hearing, and the
2 defendant must be present at the hearing unless the defendant waives the right to be present or elects to
3 proceed pursuant to 46-18-115. The defendant and the prosecutor waive the right to request modification of the
4 written judgment if a request for modification of the written judgment is not filed within 120 days after the filing
5 of the written judgment in the sentencing court.

6 ~~(3)(4)~~ The court may correct a factually erroneous sentence or judgment at any time. Illegal sentences
7 must be addressed in the manner provided by law for appeal and postconviction relief."

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9 NEW SECTION. **Section 2. Effective date.** [This act] is effective July 1, 2005.

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