

House Joint Resolution 16
March 27, 2007
Presented by Bob Lane
Senate Fish and Game Committee

Mr. Chairman and committee members, I am Bob Lane, Chief Legal Counsel of Montana Department of Fish, Wildlife & Parks (FWP).

The criminal code, including penalties, for hunting, fishing and trapping violations is intertwined with the general statutes granting administrative and civil authority to the Department and Fish, Wildlife & Parks Commission. Partly because of this and partly because the wording and structure of the criminal provisions have grown unwieldy, the criminal statutes and penalties in Title 87 need to be rewritten and reorganized. FWP supports the intent of HJR 16.

Many, including practitioners, judges, and citizens find the criminal codes in Title 87 difficult to use. FWP has heard from members of the legal profession, including judges and magistrates, that the difficulties in dealing with the organizational makeup of Title 87 creates problems in the speedy and appropriate application of justice in fish, wildlife and parks criminal cases.

The issue is how to accomplish this. A recodification of Title 87 will not do it. Recodification means to arrange, rearrange, and correct punctuation and grammar. Title 87's criminal provisions need to be rewritten. The purpose is to revise the criminal code intertwined within Title 87 without changing the substance of any policies adopted over the years by the Legislature in Title 87.

Other revisions of the criminal code, civil procedure codes, etc., have been guided and overseen by a committee or commission organized through the Montana Supreme Court. This would require some funding. A letter is attached that outlines how the Montana Criminal Code was rewritten in 1973.

To make sure all of this is accomplished and involves the right combination of input from magistrates, judges, county attorneys, the Attorney General's Office, defense attorneys, the Law School, the Code Commissioner, and FWP, the resolution should be amended. A proposed amendment is attached.



Montana Fish, Wildlife & Parks

P.O. Box 200701
Helena, MT 59620-0701
(406) 444-3186
FAX: 406-444-4952
Ref: DO0570-04
November 19, 2004

Honorable Johnny D. Seiffert
Justice of the Peace
President - MMA
P. O. Box 2
Red Lodge, MT 59068

RE: Recodification of the Fish and Game Code (Title 87)

Dear Magistrate Seiffert:

Thank you for your September 30, 2004 letter concerning Title 87 recodification. I agree that it would be very beneficial to have a recodification of Title 87, the Fish and Game Code, and would support such an effort. There is no doubt this effort will require substantial legal review and organization and we recommend efforts be focused for the 2007 Legislative session. Montana Fish, Wildlife & Parks (FWP) are currently working with the Attorney General's office and will submit a bill for the revision of our Title 87 Felony possession law in the 2005 Legislative session.

It may be possible to use the model of the Criminal Law Revision Commission that brought the new Criminal Code to the 1973 Legislature. Enclosed is a copy for your review.

The Criminal Law Revision Commission was a commission appointed by the Supreme Court (about 10 members). One of the Justices was the Chairman and one of that Justice's Clerks was assigned as the staff person working from Missoula with the Reporter of the Code. The Reporter was a law professor from the Law School in Missoula.

Possibly the Judicial Branch would be interested in a similar sponsorship for the Fish and Game Code but, of course, FWP would be a willing partner with staff participation.

Sincerely

M. Jeff Hagener
Director

Amendments to House Joint Resolution No. 16
1st Reading Copy

Requested by Representative Mike Milburn

For the House Fish, Wildlife and Parks Committee

Prepared by Doug Sternberg
February 12, 2007 (9:14am)

1. Title, line 5.

Strike: "RECODIFICATION OF"

Insert: "REVISION OF THE CRIMINAL CODES WITHIN"

2. Title, line 6.

Strike: "BY THE CODE COMMISSIONER"

3. Page 1, line 8 through line 9.

Strike: "WHEREAS" on line 8 through "and" on line 9

4. Page 1, line 16.

Following: "find"

Insert: "that the criminal codes intertwined within"

Following: "Annotated"

Insert: "are"

5. Page 1, line 17.

Strike: "use"

Insert: "read, understand, and prosecute"

6. Page 1, line 21.

Strike: line 21 in its entirety

Insert: "That priority be given to a revision of the criminal codes regarding fish, wildlife, and parks violations that are intertwined in Title 87 of the Montana Code Annotated and that the revision be proposed to the 2009 Legislature."

7. Page 1, line 22.

Strike: "recodification of"

Insert: "revision of the criminal codes in"

8. Page 1, line 23.

Following: "participation in"

Strike: "the recodification process"

Insert: "a proposed revision"

9. Page 1, line 24.

Insert: "BE IT FURTHER RESOLVED, that the Department of Fish, Wildlife, and Parks, the Attorney General, and the Montana Magistrates' Association join in requesting the Montana

Supreme Court to appoint a Fish, Wildlife, and Parks Criminal Code Revision Commission to oversee and direct a revision.

BE IT FURTHER RESOLVED, that the Attorney General's Office, the Legislative Services Division, and the Department of Fish, Wildlife, and Parks assist and participate in the proposed revision.

BE IT FURTHER RESOLVED, that the Law School at the University of Montana-Missoula be requested to provide assistance and participate in the proposed revision.

BE IT FURTHER RESOLVED, that funding for the revision project and for the Fish, Wildlife, and Parks Criminal Code Revision Commission be sought from private and public sources."

- END -