

SENATE JUDICIARY
SUBMIT NO. 1
DATE 2/1/11
SEN. NO. SB42

Amendments to Senate Bill No. 42
1st Reading Copy

Requested by Senator Jim Shockley

For the Senate Judiciary Committee

Prepared by Valencia Lane
January 26, 2011 (3:54pm)

1. Title, line 9.

Following: "TESTING;"

Insert: "REQUIRING INCARCERATION OF A PERSON WHO REFUSES TO
SUBMIT TO TESTING IN CERTAIN CIRCUMSTANCES;"

Following: "SECTIONS"

Insert: "45-7-302,"

2. Page 1, line 14.

Following: line 13

Insert: "Section 1. Section 45-7-302, MCA, is amended to read:

"45-7-302. Obstructing peace officer or other public servant. (1) A person commits the offense of obstructing a peace officer or public servant if the person:

(a) knowingly obstructs, impairs, or hinders the enforcement of the criminal law, the preservation of the peace, or the performance of a governmental function, including service of process; or

(b) refuses to submit to a blood test for alcohol, drugs, or both after a search warrant has been issued authorizing the test as provided in [section 3].

(2) It is no defense to a prosecution under this section that the peace officer was acting in an illegal manner, provided that the peace officer was acting under the peace officer's official authority.

(3) (a) Except as provided in subsection (3)(b), a person convicted of the offense of obstructing a peace officer or other public servant, including a person serving process, shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(b) A person who refuses to submit to a blood test pursuant to a search warrant issued under [section 3] shall upon conviction be imprisoned in the county jail for 10 days if the person has on a prior occasion:

(i) refused to submit to one or more tests requested by an officer under 61-8-402; or

(ii) refused to submit to a blood test after a search warrant has been issued under [section 3]."

{Internal References to 45-7-302:

ok 7-1-4138 ok 13-35-203 ok 25-3-105 ok 25-3-105
ok 39-71-522 ok 53-1-108 ok 85-7-1924 }

3. Page 2, line 9.

Following: line 8

Insert: "(7) This section does not authorize the forcible administration of a blood test. A person who prevents a blood test from being administered by interfering with or refusing to cooperate with the administration of the test is guilty of obstruction of a public servant and is punishable as provided in 45-7-302."

4. Page 6, line 9.

Strike: "[Section 2]"

Insert: "[Section 3]"

5. Page 6, line 10.

Strike: "[section 2]"

Insert: "[section 3]"

- END -