

HOUSE BILL NO. 240
INTRODUCED BY SHOCKLEY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE WRITTEN JUDGMENT IN A CRIMINAL CASE MUST BE ENTERED ON THE RECORD WITHIN 30 DAYS AFTER ORAL PRONOUNCEMENT OF THE DISPOSITION OF THE CASE; REQUIRING THE SHERIFF TRANSPORTING A CONVICTED PERSON TO A PLACE OF CONFINEMENT, COMMITMENT, OR EXECUTION TO GIVE THAT PLACE A LETTER STATING THE SPECIFICS OF THE ORALLY PRONOUNCED SENTENCE AN ORDER SIGNED BY THE SENTENCING JUDGE ON THE DATE OF ORAL PRONOUNCEMENT OF SENTENCE STATING THAT THE DEFENDANT IS SENTENCED TO THAT PLACE FOR IMPRISONMENT, COMMITMENT, PLACEMENT, OR EXECUTION, AS THE CASE MAY BE; PROVIDING THAT THE ORDER IS AUTHORITY FOR THAT PLACE TO HOLD THE DEFENDANT PENDING RECEIPT BY THAT PLACE OF A COPY OF THE WRITTEN JUDGMENT; AND AMENDING SECTIONS 46-18-116 AND 46-19-101, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 46-18-116, MCA, is amended to read:

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

(2) If a written judgment and an oral pronouncement of sentence or other disposition conflict, the defendant or the prosecutor in the county in which the sentence was imposed may, within 120 days after filing of the written judgment, request that the court modify the written judgment to conform to the oral pronouncement. The court shall modify the written judgment to conform to the oral pronouncement at a hearing, and the defendant must be present at the hearing unless the defendant waives the right to be present or elects to proceed pursuant to 46-18-115. The defendant and the prosecutor waive the right to request modification of the written judgment if a request for modification of the written judgment is not filed within 120 days after the filing of the written

judgment in the sentencing court.

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

Section 2. Section 46-19-101, MCA, is amended to read:

"46-19-101. Commitment of defendant. Upon ~~rendition of judgment after oral~~ pronouncement of a sentence imposing punishment of imprisonment, commitment to the department of corrections, placement in a prerelease center, community corrections facility, or other place of confinement, or death, the court shall commit the defendant to the custody of the sheriff, who shall deliver the defendant to the place of ~~his confinement,~~ commitment, or execution and give that place a letter stating the specifics of the orally pronounced sentence AN ORDER, WHICH MUST BE SIGNED BY THE SENTENCING JUDGE ON THE DATE OF ORAL PRONOUNCEMENT OF SENTENCE, STATING THAT THE DEFENDANT IS SENTENCED TO THAT PLACE FOR IMPRISONMENT, COMMITMENT, PLACEMENT, OR EXECUTION, AS THE CASE MAY BE. THE ORDER IS AUTHORITY FOR THAT PLACE TO HOLD THE DEFENDANT PENDING RECEIPT BY THAT PLACE OF A COPY OF THE WRITTEN JUDGMENT."

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