63rd Legislature

1	HOUSE BILL NO. 290
2	INTRODUCED BY J. O'NEIL
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A COURT IN ANY CRIMINAL PROCEEDING TO
5	PERMIT THE DEFENSE TO INFORM THE JURY THAT IT MAY JUDGE THE FACTS AND THE APPLICATION
6	OF THE LAW IN RELATION TO THE FACTS IN CONTROVERSY; AMENDING SECTIONS 26-1-201 AND
7	46-16-103, MCA; AND PROVIDING AN APPLICABILITY DATE."
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9	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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11	NEW SECTION. Section 1. Short title. [This act] may be cited as the "Larry Dodge Fully Informed Jury
12	Act".
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14	<u>NEW SECTION.</u> Section 2. Right of jury to judge facts and application of law in relation to facts.
15	In any criminal proceeding the court shall permit the defense to inform the jury that it has the right to judge the
16	facts and the application of the law in relation to the facts in controversy.
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18	Section 3. Section 26-1-201, MCA, is amended to read:
19	"26-1-201. Questions of law. Except as provided in Article II, section 7, of the Montana constitution and
20	[section 2], all questions of law, including the admissibility of testimony, the facts preliminary to such admission,
21	the construction of statutes and other writings, and other rules of evidence, must be decided by the court."
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23	Section 4. Section 46-16-103, MCA, is amended to read:
24	"46-16-103. Who decides questions of law and fact. (1) All prosecutions deciding issues of fact must
25	be tried by the court and jury, except on a plea of guilty or nolo contendere.
26	(2) Questions Except as provided in [section 2], questions of law must be decided by the court and
27	questions of fact by the jury, except that on a trial for criminal defamation, the jury shall determine both questions
28	of law and of fact. Questions of law and fact must be decided by the court when a trial by jury is waived under
29	46-16-110(3)."
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1	NEW SECTION. Section 5. Codification instruction. [Section 2] is intended to be codified as an
2	integral part of Title 46, chapter 16, and the provisions of Title 46, chapter 16, apply to [section 2].
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4	NEW SECTION. Section 6. Saving clause. [This act] does not affect rights and duties that matured,
5	penalties that were incurred, or proceedings that were begun before [the effective date of this act].
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7	NEW SECTION. Section 7. Applicability. [This act] applies to offenses committed on or after [the
8	effective date of this act].
9	- END -

