

HOUSE BILL NO. 290

INTRODUCED BY J. O'NEIL

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A COURT IN ANY CRIMINAL PROCEEDING TO PERMIT THE DEFENSE TO INFORM THE JURY THAT IT MAY JUDGE THE FACTS AND THE APPLICATION OF THE LAW IN RELATION TO THE FACTS IN CONTROVERSY; AMENDING SECTIONS 26-1-201 AND 46-16-103, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Short title.** [This act] may be cited as the "Larry Dodge Fully Informed Jury Act".

NEW SECTION. **Section 2. Right of jury to judge facts and application of law in relation to facts.** In any criminal proceeding the court shall permit the defense to inform the jury that it has the right to judge the facts and the application of the law in relation to the facts in controversy.

Section 3. Section 26-1-201, MCA, is amended to read:
"26-1-201. Questions of law. Except as provided in Article II, section 7, of the Montana constitution and [section 2], all questions of law, including the admissibility of testimony, the facts preliminary to such admission, the construction of statutes and other writings, and other rules of evidence, must be decided by the court."

Section 4. Section 46-16-103, MCA, is amended to read:
"46-16-103. Who decides questions of law and fact. (1) All prosecutions deciding issues of fact must be tried by the court and jury, except on a plea of guilty or nolo contendere.

(2) ~~Questions~~ Except as provided in [section 2], questions of law must be decided by the court and questions of fact by the jury, except that on a trial for criminal defamation, the jury shall determine both questions of law and of fact. Questions of law and fact must be decided by the court when a trial by jury is waived under 46-16-110(3)."



