_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO PRELIMINARY EXAMINATIONS; PROVIDING THAT PRELIMINARY EXAMINATIONS MUST BE HELD WHEN A DEFENDANT ALLEGES SELF-DEFENSE; PROVIDING THAT THE STANDARD OF REVIEW IS CLEAR AND CONVINCING; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Preliminary examination when self-defense is alleged.** If a preliminary examination is requested and self-defense is alleged or apparent before leave may be granted by the court for a prosecutor to file an information, a defendant must be granted a preliminary examination within a reasonable time consistent with 46-10-202.

NEW SECTION. **Section 2. Disposition of defendant when self-defense is alleged.** (1) If it appears from the evidence that there is clear and convincing evidence to believe that an offense has been committed and that the defendant committed the offense, the judge shall hold the defendant to answer to the court having jurisdiction of the offense.

(2) If it appears from the evidence that there is not clear and convincing evidence to believe that an offense has been committed or that the defendant committed the offense, the judge shall dismiss the complaint and discharge the defendant. The discharge of the defendant does not preclude the state from instituting a subsequent prosecution for the same offense.

NEW SECTION. **Section 3. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 46, chapter 10, part 1, and the provisions of Title 46, chapter 10, part 1, apply to [sections 1 and 2].

NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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