

MONTANA STATE SENATE  
JUDICIARY COMMITTEE  
MINUTES OF THE MEETING

February 20, 1987

The Senate Judiciary Committee met at 7:00 a.m. on February 20, 1987 in Room 415 to work strictly on Executive Action before their 10:00 a.m. meeting.

ROLL CALL: All present, except for Senator Halligan who came late.

ACTION ON SB 338: Valencia Lane and John Fitzpatrick worked on amendments for this bill (see Exhibit 1). Mr. Fitzpatrick felt these amendments will get rid of 95 percent of the problems in drug testing employees on both sides. He said the fairness comes within the amendments where it states an employee can get a second drug test and the employer will pay for it.

Bill Leaphart, representing himself, commented there should be a stronger provision on the evidence needed to make an employee take the test. He suggested a subjective test, because an employer just thinking an employee is taking drugs will not hold up in court. Mr. Leaphart said making a person take a drug test without good probable cause, violates the person privacy rights.

Senator Bishop asked if this bill is a condition to employ someone, or for someone that is working right now. Senator Bishop felt the committee should make it definite in the bill if it is a condition for employment or not. Mr. Leaphart thought so too. Senator Mazurek felt the bill should list jobs that would be most highly vulnerable to drug users. He said security jobs should have drug testing before a person is employed. Mr. Fitzpatrick said that would be fine to put in security jobs has mandatory drug testing. Senator Beck felt jobs that are somewhat hazardous to someone should have drug testing too before employment, because someone on drugs could hurt a fellow employee at the workplace. Senator Mazurek said right now the committee sounds like they want some drug testing done before employment and have a subjective test after employment has been established. Senator Mazurek said the problem with drug testing before getting a job is if the test is not accurate and someone is tested positive, the guy probably will not hire that person even if a second test is negative because the employer will want to play it safe. Senator Mazurek said a medicine used for some physical or mental condition could make someone test positive for an illegal drug and that excuse for testing positive still might not work on an employer who is hiring.

Senator Brown moved the technical amendments. The motion CARRIED with Senators Halligan, Yellowtail, and Blaylock voting no.

Judiciary Committee  
Minutes of the meeting  
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Senator Beck felt a bank clerk did not need a drug test. He said the committee better define what jobs they want tested and the ones they don't care if they are tested.

Senator Crippen felt a subjective test will get an employer into a law suit because there is not much of a definition to a subjective test.

The committee asked Valencia to find some language to define security jobs and high risk jobs into an amendment for the 10:00 a.m. meeting.

ACTION ON SB 223: Senator Beck moved SB 223 from the TABLE. The motion CARRIED. Valencia presented amendments to the bill (see Exhibit 2). Senator Brown moved the amendments. The motion CARRIED. Senator Crippen moved the bill DO PASS AS AMENDED. The motion CARRIED.

ACTION ON SB 241: Valencia explained amendments to the bill that she prepared (see Exhibit 3). She explained that some of the amendments (5 and 6) were requested by the sponsor. Senator Pinsoneault moved the new subsection 3 and the rest of the amended language. Senator Halligan thought the language was too strict in the disposition of property following a hearing. The motion CARRIED. Senator Halligan moved the bill DO PASS AS AMENDED. The motion CARRIED.

ACTION ON SB 361: Senator Mazurek said this bill allows the department to set guidelines to see what they could provide these mentally disturbed kids with. Senator Mazurek pointed out private or public schools can not do anything with a mentally disturbed child until he commits a criminal offense. Steve Nelson, Board of Crime Control and Joy McGrath, AG's Office, presented amendments to the bill (see Exhibit 4). Senator Halligan moved the amendments. Senator Mazurek asked what the fiscal note will look like with these amendments. Mr. Nelson said he did not know. The motion CARRIED.

Senator Crippen moved the bill DO PASS AS AMENDED. The motion CARRIED.

Senator Halligan moved the STATEMENT OF INTENT. The motion CARRIED.  
(See STATEMENT OF INTENT)

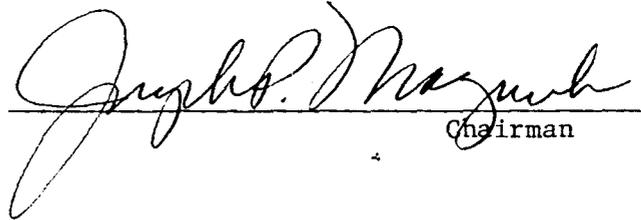
ACTION ON SB 96: Senator Halligan moved SB 96 from the TABLE. The motion CARRIED with Senators Galt, Pinsoneault, and Crippen voting no. Senator Lybeck explained he never heard a thing from the committee about the bill and would like to see the bill passed out of committee. Senator Halligan moved the bill DO PASS. The motion CARRIED with Senators Galt, Pinsoneault, and Crippen voting no.

ACTION ON SB 137: Senator Weeding asked for the committee to consider SB 137 one more time because it is a desperately needed bill. Senator

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Weeding gave the committee amendments on the bill (see Exhibit 5).  
Senator Yellowtail moved the amendments. The motion CARRIED. Senator  
Yellowtail moved the bill DO PASS AS AMENDED. The motion CARRIED with  
Senators Beck, Halligan, Mazurek, and Pinsoneault voting no.

The committee adjourned until 10:00 a.m. February 20, 1987.

  
Chairman

ROLL CALL

Judiciary

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Feb. 20th  
7:00 am

NAME	PRESENT	ABSENT	EXCUSED
<u>Senator Joe Mazurek, Chairman</u>	X		
<u>Senator Bruce Crippen, Vice Chairman</u>	X		
<u>Senator Tom Beck</u>	X		
<u>Senator Al Bishop</u>	X		
<u>Senator Chet Blaylock</u>	X		
<u>Senator Bob Brown</u>	X		
<u>Senator Jack Galt</u>	X		
<u>Senator Mike Halligan</u>	X		X
<u>Senator Dick Pinsoneault</u>	X		
<u>Senator Bill Yellowtail</u>	X		

Each day attach to minutes.

SB338 IS AMENDED AS FOLLOWS:

1. Page 1, line 17.  
Following: "employment"  
Insert: "or continuation of employment"
  
2. Page 1, lines 18 through 25.  
Following: "test" on line 18  
Strike: the remainder of line 18 through line 25  
Insert: "unless the person, firm, corporation, or other business entity or its representative adopts a written drug testing procedure and makes it available to all persons subject to drug testing prior to the administration of such tests. A drug testing procedure must provide for the:  
(i) collection of blood or urine specimen in a manner that minimizes invasion of personal privacy while ensuring the integrity of the collection process;  
(ii) collection of a quantity of specimen sufficient to ensure the administration of several tests;  
(iii) collection, storage, and transportation of specimen in tamper proof containers;  
(iv) adoption of chain-of-custody documentation procedures identifying how the specimen was handled and tested;  
(v) verification of drug test results by two or more different testing procedures before judging a drug test positive; and  
(vi) prohibition of the release of drug test results, except as authorized by the person tested or as required by a court of law."
  
3. Page 2, line 1.  
Following: page 1  
Strike: "(iii) the employer gives the employee"  
Insert: "(c) The person, firm, corporation, or other business entity or its representative shall provide a copy of drug test results to the person tested and provide him"
  
4. Page 2, line 2.  
Following: "the"  
Strike: "employer's"  
Following: "expense"  
Insert: "of the person requiring the test"
  
5. Page 2, line 3.  
Following: "laboratory"  
Strike: "i;"  
Insert: "selected by the person tested"

6. Page 2, line 4.  
Following: line 3  
Strike: "(iv)"  
Following: "the"  
Strike: "employee"  
Insert: "person tested"

7. Page 2, line 6.  
Following: "against"  
Strike: "an"  
Insert: "a"

8. Page 2, line 7.  
Following: line 6  
Strike: "employee"  
Insert: "person"  
Following: "under"  
Strike: "subsection"  
Insert: "subsections (1)(b) and"  
Following: "if the"  
Strike: "employee"  
Insert: "person tested"

7050j/L:JEA\WP:jj

*State* BILL NO. 338  
INTRODUCED BY *Boyd* *Supervisor* *Vincent* *Stall*

(c) the person, firm, or corporation, or other business entity or its representative shall provide a copy of drug test results to the person tested and provide him

1 ~~that the employer gives the employee the opportunity,~~  
2 ~~at the employer's expense, to obtain a confirmatory test of~~  
3 ~~the blood or urine by an independent laboratory, and~~  
4 ~~that the employer is given the opportunity to rebut or~~  
5 explain the results of either test or both tests.  
6 (2) Adverse action may not be taken against ~~the~~ *person*  
7 ~~employee tested under subsection (1)(c) if the employee~~ *person tested*  
8 ~~presents a reasonable explanation or medical opinion~~ *person tested*  
9 indicating that the results of the test were not caused by  
10 illegal drug use.

11 (3) A person who violates this section is guilty of a  
12 misdemeanor.  
13 (4) This section shall not apply to public law  
14 enforcement agencies."

-End-

A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING THE TESTING  
OF BLOOD AND URINE OF EMPLOYEES AND PROSPECTIVE EMPLOYEES;  
AND AMENDING SECTION 39-2-304, MCA."

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

Section 1. Section 39-2-304, MCA, is amended to read:  
"39-2-304. Lie detector tests prohibited -- exception  
regulation of blood and urine testing. (1) No person, firm,  
corporation, or other business entity or representative  
thereof shall require:

(a) as a condition for employment or continuation of  
employment, any person to take a polygraph test or any form  
of a mechanical lie detector test;

(b) as a condition for employment, any person to  
submit to a blood or urine test;

~~(c) as a condition for continuation of employment, any  
employee to submit to a blood or urine test unless:~~

(i) the employer has demonstrable evidence that the  
employee's faculties are impaired on the job as a result of  
illegal drug use;

~~(ii) the employee's impairment presents a clear and  
present danger to his own safety or the safety of others;~~

*or continuation of employment*

*← add amendment #2 here*



PROPOSED AMENDMENTS TO SB223, FIRST READING  
COPY (WHITE):

1. Title, line 5.  
Following: line 4  
Strike: "ARBITRATION"  
Insert: "MEDIATION"  
Following: "PROCEDURES;"  
Insert: "AND"
2. Title, line 6.  
Following: "FOR"  
Strike: "ARBITRATORS AND"
3. Title, lines 7 and 8.  
Following: "MEDIATORS" on line 7  
Strike: the remainder of line 7 through "AWARDS" on line 8
4. Page 1, line 11.  
Following: "Mediator"  
Strike: "-arbitrator"
5. Page 1, line 12.  
Following: "mediator"  
Strike: "or an arbitrator"
6. Page 1, line 13.  
Following: "mediation"  
Strike: "or arbitration"
7. Page 1, lines 15 and 16.  
Following: "mediation" on line 15  
Strike: the remainder of line 15 through "arbitration" on line 16
8. Page 1, lines 17 through 22.  
Following: line 16  
Strike: section 2 in its entirety

C:\LANE\WP\AMDSB223.

1 INTRODUCED BY Steve Keenan FILE NO. 523

2  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE  
5 ~~ARBITRATION~~ <sup>MEDIATION</sup> PROCEDURES; AND ESTABLISHING A PRIVILEGE FROM  
6 EXAMINATION IN CIVIL PROCEEDINGS FOR ~~JURISCONSULTS AND~~  
7 ~~MEDIATORS, AND PROVIDING A STANDARD OF REVIEW FOR HIS~~  
8 ~~ARBITRATION AWARDS."~~

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Mediator ~~arbitrator~~ <sup>privilege</sup>. A person  
12 acting as a mediator ~~or an arbitrator~~ cannot, without the  
13 consent of the parties to the mediation ~~or arbitration~~, be  
14 examined in a civil action as to any communication made by a  
15 party to him during the course of the mediation ~~or~~  
16 ~~arbitration~~.

17 ~~Section 2. Review of arbitration awards (1). An~~  
18 arbitration award may only be reviewed as provided in Title  
19 27, chapter 5, part 3.

20 (2) Subsection (1) applies to any arbitration award  
21 regardless of whether the arbitration was conducted pursuant  
22 ~~to title 27, chapter 5, part 3.~~

-End-

INTRODUCED BILL  
56-223



## Proposed Amendments to SB 241

1. Title, line 9.

Following: "ENFORCEMENT"

Strike: "AND EDUCATION"

2. Title, line 11.

Following: "SECTIONS"

Strike: "17-7-502,"

Following: "44-12-102,"

Insert: "44-12-205,"

3. Page 4, line 3.

Following: line 2

Insert: "Section 2. Section 44-12-205, MCA, is amended to read:

"44-12-205. Disposition of property following hearing.

(1) If the court finds that the property was not used for the purpose charged or that the property listed in 44-12-102(1)(g) was used without the knowledge or consent of the owner, it shall order the property released to the owner of record as of the date of the seizure.

(2) If the court finds that the property was used for the purpose charged and that the property listed in 44-12-102(1)(g) was used with the knowledge or consent of the owner, the property shall be disposed of as follows:

(a) If proper proof of his claim is presented at the hearing by the holder of a security interest, the court shall order the property released to the holder of the security interest if the amount due him is equal to or in excess of the value of the property as of the date of seizure, it being the purpose of this chapter to forfeit only the right, title, or interest of the owner. If the amount due the holder of the security interest is less than the value of the property, the property must be sold at public auction by the sheriff of the county in which the seizure was made in the same manner provided by law for the sale of property under execution or the state may return the property to the holder of the security interest without proceeding with an auction.

(b) If no claimant exists and the confiscating agency wishes to retain the property for its official use, it may do so. If such property is not to be retained, it must be sold as provided in subsection (2)(a).

(c) If a claimant who has presented proper proof of his claim exists and the confiscating agency wishes to retain the property for its official use, it may do so provided it compensates the claimant in the amount of the security interest outstanding at the time of the seizure.

(3) In making a disposition of property under this chapter, the court may take any action to protect the rights of innocent persons [alternative language: that is in the interests of justice and that is not inconsistent with the provisions of this chapter]."

Renumber: subsequent sections

(over)

4. Page 5, line 12.

Following: "(3)"

Strike: "there is"

Insert: "Net proceeds received under subsections (1)(d) and (1)(e) must be deposited in"

5. Page 5, lines 13 through 17.

Following: "fund"

Strike: the remainder of line 13 through line 17

Insert: "to the credit of the department of justice. The department may expend the money in the account, as appropriated by the legislature, only for purposes of enforcement of drug laws."

6. Page 5, line 18 through line 12, page 8.

Following: line 17

Strike: Section 3 in its entirety

7:00 am.

## PROPOSED AMENDMENTS TO SB361

[Proposed by Steve Nelson (Bd. of Crime Control), Mary Blake (SRS), Joy McGrath, Dorothy McCarter (AG's office)]

## 1. Title, lines 5 through 13.

Following: " "AN ACT"

Strike: lines 5 through 13 in their entirety

Insert: "REQUIRING THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES TO DEVELOP A PLAN FOR PROVIDING SERVICES TO EMOTIONALLY DISTURBED CHILDREN; DEFINING "EMOTIONALLY DISTURBED CHILD"; AND AMENDING SECTION 53-4-101, MCA."

## 2. Pages 1 through 10.

Strike: everything following the enacting clause

Insert: "NEW SECTION. Section 1. Emotionally disturbed children - - plan -- study committee. (1) The department shall develop a comprehensive plan for services for emotionally disturbed children to be presented to the 51st legislature and each regular session of the legislature thereafter. The department shall recommend a comprehensive service delivery system for emotionally disturbed children, including a plan for gradual implementation of the comprehensive service delivery system.

(2) The plan must identify:

(a) the services needed by emotionally disturbed children;

(b) the number of emotionally disturbed children needing services; and

(c) the interdepartmental responsibility and coordination needed to provide services to emotionally disturbed children.

(3) The department shall appoint a study committee to make recommendations to the department regarding services for emotionally disturbed children. The members of the committee must be willing to serve without compensation and must include but not be limited to representatives of:

(a) the department;

(b) the department of institutions;

(c) the office of public instruction;

(d) a youth court; and

(e) parents of emotionally disturbed children.

Section 2. Section 53-4-101, MCA, is amended to read:

"53-4-101. Definitions. As used in this part, the following definitions apply:

(1) "Child welfare services" means the establishing, extending, and strengthening of child welfare services (especially in predominantly rural areas) for the protection and care of homeless, dependent, and neglected children and children in danger of becoming delinquent.

(2) "Child welfare worker" means staff personnel who have had education and training in the field of child

welfare and who are qualified and accepted as such in conformity with the standards established by the department.

(3) "Department" means the department of social and rehabilitation services provided for in Title 2, chapter 15, part 22.

(4) (a) "Emotionally disturbed child" means a child determined by a psychologist, psychiatrist, or licensed social worker to have:

(i) an identifiable mental health problem as identified in a nationally recognized classification system; and

(ii) a substantial impairment, evident for a reasonable length of time, that is characterized by a dysfunction in any of the following areas:

(A) relationships;

(B) behavior;

(C) cognition; or

(D) education.

(b) The nationally recognized classification system must be one recognized by rules established by the department.

(4)(5) "Public assistance" or "assistance" means any type of monetary or other assistance furnished under this title to a person by a state or county agency, regardless of the original source of the assistance."

NEW SECTION. Section 3. Codification instruction. Section 1 is intended to be codified as an integral part of Title 53, chapter 4, part 1, and the provisions of Title 53, chapter 4, part 1, apply to section 1."

C:\LANE\WP\AMDSB361.

SENATE JUDICIARY

EXHIBIT NO. 11

DATE 2-20-87

BILL NO. S.B. 361

7 a.m

Amendments to SB 137, white copy:

1. Title, line 5.  
Following: "CHARGE"  
Strike: "TO SUPPORT THE LAW ENFORCEMENT ACADEMY"
2. Title, lines 6 through 10.  
Following: "CONVICTED OF" on line 6  
Strike: the remainder of line 6 through "APPROPRIATION" on line 10  
Insert: "CERTAIN OFFENSES"
3. Title, line 10.  
Strike: "SECTIONS"  
Insert: "SECTION"
4. Title, line 11.  
Following: line 10  
Strike: "17-7-502, 44-10-202,"  
Following: "46-18-236,"  
Strike: "AND 61-8-718,"
5. Page 2, line 1.  
Following: "misdemeanor"  
Strike: "or"  
Insert: "set forth in Title 45, for any"
6. Page 2, lines 1 through 6.  
Following: "charge,"  
Strike: the remainder of line 1 through "(1)(b)" on line 6  
Insert: "and for any conviction for violation of 61-7-103, 61-8-301, 61-8-302, 61-8-401, 61-8-406, or 61-11-213"
7. Page 4, lines 4 and 5.  
Following: "in the" on line 4  
Strike: the remainder of line 4 through "[section 5]" on line 5  
Insert: "motor vehicle account in the state special revenue fund"
8. Page 4, line 6 through page 9, line 13.  
Strike: sections 2 through 5 in their entirety  
Re-number: subsequent section
9. Page 9, lines 18 through 20.  
Strike: section 7 in its entirety

sb137amd

*Senate* BILL NO. 137  
*intending*

*set forth in Title 45, for any*

SENATE JUDICIARY  
EXHIBIT NO. 5

DATE 2-20-87  
BILL NO. S.B. 137

1 INTRODUCED BY intending

2 A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING AN ADDITIONAL

3 CHARGE ~~TO SUPPORT THE LAW ENFORCEMENT ACADEMY~~ ON EACH PERSON

4 CONVICTED ~~(Keep) A CRIMINAL OFFENSE OR OF VIOLATING THE BUREAU~~

5 CONSERVATION SPEED LIMIT; ALLOWING THE DEPARTMENT OF JUSTICE

6 TO ACQUIRE AND OPERATE LAW ENFORCEMENT ACADEMY BUILDINGS AND

7 PROPERTY; ESTABLISHING A STATE SPECIAL REVENUE ACCOUNT AND

8 ~~PROVIDING A STATUTORY APPROPRIATION; AND AMENDING SECTION~~

9 ~~47-7-503, 44-10-202, 46-18-236, AND 61-8-710, MCA."~~

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

11 Section 1. Section 46-18-236, MCA, is amended to read:

12 "46-18-236. Imposition of charge charges upon

13 conviction or forfeiture -- administration. (1) Except as

14 provided in subsection (2), there must be imposed by all

15 courts of original jurisdiction on a defendant upon his

16 conviction for any conduct made criminal by state statute or

17 upon forfeiture of bond or bail, ~~a--charge--that--is~~ in

18 addition to other taxable court costs, fees, or fines,

19 charges that are as follows:

20 (a) \$10 for each misdemeanor charge; and

21 (b) the greater of \$20 or 10% of the fine levied for

22 each felony charge; and

1 (b) \$10 for each misdemeanor ~~or~~ felony charge, ~~except~~

2 charges under 61-8-354 through 61-8-357, but the judge may

3 consolidate multiple nonmoving violations of the provisions

4 of Title 61, chapter 8, ~~part 3~~, by one defendant into one

5 offense for the purposes of assessing the charge under this

6 ~~provision.~~ *and for any conviction for violation*

7 (2) If a convicting court determines ~~under~~ *61-7-103, 61-8-301, 61-8-302, 61-8*

8 *46-18-236, 44-10-202, 46-18-236, and 61-8-710*

9 and 46-18-232 that the defendant is not able to pay the fine

10 and costs or that he is unable to pay within a reasonable

11 time, the court must waive payment of the charge charges

12 imposed by this section.

13 (3) The charge charges imposed by this section is are

14 not a fine fines and must be imposed in addition to any fine

15 and may not be used in determining the jurisdiction of any

16 court.

17 (4) When the payment of a fine is to be made in

18 installments over a period of time, the charge charges

19 imposed by this section must be collected from the first

20 payment made and each subsequent payment as necessary if the

21 first payment is not sufficient to cover the charge charges.

22 (5) The charges collected under subsection (1)(a) must

23 be deposited with the appropriate local government finance

24 officer or treasurer. If a city municipal court or city or

25 town court is the court of original jurisdiction, the

charges collected under subsection (1)(a) must be deposited



SENATE JUDICIARY

EXHIBIT NO. 5

DATE 2-20-87

BILL NO. S.B. 137

1 with the city or town finance officer or treasurer. If a  
 2 justice's court or district court is the court of original  
 3 jurisdiction, the charges collected under subsection (1)(a)  
 4 must be deposited with the county finance officer or  
 5 treasurer. If the court of original jurisdiction is a court  
 6 within a consolidated city-county government within the  
 7 meaning of Title 7, Chapter 3, the charges collected under  
 8 subsection (1)(a) must be deposited with the finance officer  
 9 or treasurer of the consolidated government.

10 (6) (a) A city or town finance officer or treasurer  
 11 may retain the charges collected under subsection (1)(a) by  
 12 a city municipal court or a city or town court and may use  
 13 that money for the payment of salaries of the city or town  
 14 attorney and his deputies.

15 (b) Each county finance officer or treasurer may  
 16 retain the charges collected under subsection (1)(a) by  
 17 district or justices' courts for crimes committed or alleged  
 18 to have been committed within that county. The county  
 19 finance officer or treasurer shall use the money for the  
 20 payment of salaries of its deputy county attorneys and for  
 21 the payment of other salaries in the office of the county  
 22 attorney, and any funds not needed for such salaries may be  
 23 used for the payment of any other county salaries.

24 (7) The charges collected under subsection (1)(b) must  
 25 be deposited with the county finance officer or treasurer,

1 and within 5 days after the last day of the month, the  
 2 county finance officer or treasurer shall pay the amount  
 3 deposited with him under subsection (1)(b) in the previous  
 4 month to the state treasurer for deposit in the ~~treasury~~  
 5 ~~established in subsection 57.~~ motor vehicle account in  
 6 ~~Section 27, Section 61-8-718, MEA, is amended to read:~~ state special revenue fund  
 7 "61-8-718. Penalty for violation of fuel conservation  
 8 speed limit -- charge to support law enforcement academy.  
 9 (1) A person violating the speed limit imposed pursuant to  
 10 61-8-304 is guilty of the offense of unnecessary waste of a  
 11 resource and upon conviction shall be fined \$5, and no jail  
 12 sentence may be imposed. Bond for this offense shall be \$5.  
 13 (2) For the purpose of this section only, the fees of  
 14 the justice's court shall be the balance of the fine not  
 15 otherwise allocated by law and shall be remitted as set  
 16 forth in 3-10-603(3).  
 17 (3) A violation of 61-8-304 is not a misdemeanor  
 18 pursuant to 45-2-101, 61-8-104, or 61-8-711.  
 19 (4) In addition to the fine imposed in subsection (1),  
 20 a person who is guilty of violating 61-8-304 is subject to a  
 21 charge of \$40 to support the law enforcement academy, which  
 22 must be paid when the fine or the bond imposed in subsection  
 23 (1) is paid. Upon collection, the charge of \$40 must be  
 24 deposited with the county finance officer or treasurer, and  
 25 within 6 days after the last day of the month the county

# STANDING COMMITTEE REPORT

February 20 19 87

MR. PRESIDENT

We, your committee on SENATE JUDICIARY

having had under consideration SENATE BILL No. 137

first reading copy ( white )  
color

~~XXX~~ Fee added to fines to support law enforcement academy.

SENATE BILL 137

Respectfully report as follows: That..... No.....

## BE AMENDED AS FOLLOWS:

1. Title, line 5.  
Following: "CHARGE"  
Strike: "TO SUPPORT THE LAW ENFORCEMENT ACADEMY"
2. Title, lines 6 through 10.  
Following: "CONVICTED OF" on line 6  
Strike: the remainder of line 6 through "APPROPRIATION" on line 10  
Insert: "CERTAIN OFFENSES"
3. Title, line 10.  
Strike: "SECTIONS"  
Insert: "SECTION"
4. Title, line 11.  
Following: line 10  
Strike: "17-7-502, 44-10-202,"  
Following: "46-18-236,"  
Strike: "AND 61-8-718,"
5. Page 2, line 1.  
Following: "misdemeanor"  
Strike: "or"  
Insert: "set forth in Title 45, for any"

~~XXXXX~~ DO PASS CONTINUED

~~XXXXXXXXX~~ DO NOT PASS

~~XXX~~ Senator Mazurek

Chairman.

6. Page 2, lines 1 through 6.

Following: "charge," on line 1

Strike: the remainder of line 1 through "(1)(b)" on line 6

Insert: "and for any conviction for violation of 61-7-103, 61-8-301, 61-8-302, 61-8-401, 61-8-406, or 61-11-213"

7. Page 4, lines 4 and 5.

Following: "in the" on line 4

Strike: the remainder of line 4 through "[section 5]" on line 5

Insert: "motor vehicle account in the state special revenue fund"

8. Page 4, line 6 through page 9, line 13.

Strike: sections 2 through 5 in their entirety

Re-number: subsequent section

9. Page 9, lines 18 through 20.

Strike: section 7 in its entirety

sb137amd

AND AS AMENDED  
DO PASS

# STANDING COMMITTEE REPORT

February 20

19 67

MR. PRESIDENT

## SENATE JUDICIARY

We, your committee on

SENATE BILL

223

having had under consideration

No.

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color

**Revise arbitration procedures.**

SENATE BILL

223

Respectfully report as follows: That

No.

**XXXXXX BE BE AMENDED AS FOLLOWS:**

1. Title, line 5.

Following: line 4

Strike: "ARBITRATION"

Insert: "MEDIATION"

Following: "PROCEDURES;"

Insert: "AND"

2. Title, line 6.

Following: "FOR"

Strike: "ARBITRATORS AND"

3. Title, lines 7 and 8.

Following: "MEDIATORS" on line 7

Strike: the remainder of line 7 through "AWARDS" on line 8

4. Page 1, line 11.

Following: "Mediator"

Strike: "-arbitrator"

5. Page 1, line 12.

Following: "mediator"

Strike: "or an arbitrator"

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DO PASS

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DO NOT PASS

CONTINUED

Senator Mazurek

Chairman.

6. Page 1, line 13.

Following: "mediation"

Strike: "or arbitration"

7. Page 1, lines 15 and 16.

Following: "mediation" on line 15

Strike: the remainder of line 15 through "arbitration" on line 16

8. Page 1, lines 17 through 22.

Following: line 16

Strike: section 2 in its entirety

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AND AS AMENDED DO PASS

# STANDING COMMITTEE REPORT

February 20

19 87

MR. PRESIDENT

We, your committee on **SENATE JUDICIARY**

having had under consideration **SENATE BILL** No. **241**

first reading copy ( white )  
color

Envisage law relating to forfeiture and sale of items relating to drug offense.

Respectfully report as follows: That **SENATE BILL** **SHE SEN** No. **241**

**XEN BE AMENDED AS FOLLOWS:**

1. Title, line 9.  
Following: "ENFORCEMENT"  
Strike: "AND EDUCATION"

2. Title, line 11.  
Following: "SECTIONS"  
Strike: "17-7-502,"  
Following: "44-12-102,"  
Insert: "44-12-205,"

3. Page 4, line 3.  
Following: line 2  
Insert: "Section 2. Section 44-12-205, MCA, is amended to read:  
"44-12-205. Disposition of property following hearing.  
(1) If the court finds that the property was not used for the purpose charged or that the property listed in 44-12-102(1)(g) was used without the knowledge or consent of the owner, it shall order the property released to the owner of record as of the date of the seizure.  
(2) If the court finds that the property was used for the purpose charged and that the property listed in 44-12-102(1)(g) was used with the knowledge or consent of the owner, the property shall be disposed of as follows:

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RE CONTINUED

Senator Hazurek

Chairman.

MR. PRESIDENT:

WE, YOUR COMMITTEE ON JUDICIARY HAVING HAD UNDER CONSIDERATION  
SENATE BILL NO. 361, ATTACH THE FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT

SB Bill No. 361

A statement of intent is required for this bill because the purpose of this bill is to allow the department of social and rehabilitation services to develop rules for identifying youth who are emotionally disturbed. The department shall use a nationally recognized classification system such as the Diagnostic and Statistical Manual of Mental Disorders, 3rd Edition (DSM-III) to identify mental health problems used to define "emotionally disturbed child".

# STANDING COMMITTEE REPORT

N

February 20

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19.....

MR. PRESIDENT

SENATE JUDICIARY

We, your committee on.....

having had under consideration..... SENATE BILL No. 361

first reading copy ( white )  
color

Revice youth court act.

Respectfully report as follows: That..... SENATE BILL No. 361

## BE AMENDED AS FOLLOWS:

1. Title, lines 5 through 13.

Following: "AN ACT"

Strike: lines 5 through 13 in their entirety

Insert: "REQUIRING THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES TO DEVELOP A PLAN FOR PROVIDING SERVICES TO EMOTIONALLY DISTURBED CHILDREN; DEFINING "EMOTIONALLY DISTURBED CHILD"; AND AMENDING SECTION 53-4-101, MCA."

2. Pages 1 through 10.

Strike: everything following the enacting clause

Insert: "NEW SECTION. Section 1. Emotionally disturbed children - plan -- study committee. (1) The department shall develop a comprehensive plan for services for emotionally disturbed children to be presented to the 51st legislature and each regular session of the legislature thereafter. The department shall recommend a comprehensive service delivery system for emotionally disturbed children, including a plan for gradual implementation of the comprehensive service delivery system.

(2) The plan must identify:

(a) the services needed by emotionally disturbed children;

(b) the number of emotionally disturbed children needing services; and

~~XXXXXX~~

~~XXXXXXXXXX~~

CONTINUED

Senato, Mazurek

Chairman.

(c) the interdepartmental responsibility and coordination needed to provide services to emotionally disturbed children.

(3) The department shall appoint a study committee to make recommendations to the department regarding services for emotionally disturbed children. The members of the committee must be willing to serve without compensation and must include but not be limited to representatives of:

- (a) the department;
- (b) the department of institutions;
- (c) the office of public instruction;
- (d) a youth court; and
- (e) parents of emotionally disturbed children.

Section 2. Section 53-4-101, MCA, is amended to read:

"53-4-101. Definitions. As used in this part, the following definitions apply:

(1) "Child welfare services" means the establishing, extending, and strengthening of child welfare services (especially in predominantly rural areas) for the protection and care of homeless, dependent, and neglected children and children in danger of becoming delinquent.

(2) "Child welfare worker" means staff personnel who have had education and training in the field of child welfare and who are qualified and accepted as such in conformity with the standards established by the department.

(3) "Department" means the department of social and rehabilitation services provided for in Title 2, chapter 15, part 22.

(4) (a) "Emotionally disturbed child" means a child determined by a psychologist, psychiatrist, or licensed social worker to have:

(i) an identifiable mental health problem as identified in a nationally recognized classification system; and

(ii) a substantial impairment, evident for a reasonable length of time, that is characterized by a dysfunction in any of the following areas:

- (A) relationships;
- (B) behavior;
- (C) cognition; or
- (D) education.

(b) The nationally recognized classification system referred to in subsection (4)(a)(i) must be one recognized by rules established by the department.

~~(4)~~ (5) "Public assistance" or "assistance" means any type of monetary or other assistance furnished under this

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title to a person by a state or county agency, regardless of the original source of the assistance."

NEW SECTION. Section 3. Codification instruction.

Section 1 is intended to be codified as an integral part of Title 53, chapter 4, part 1, and the provisions of Title 53, chapter 4, part 1, apply to section 1."

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AND AS AMENDED  
DO PASS

STATEMENT OF INTENT ADOPTED AND ATTACHED