

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Brown, on April 20, 1989, at 12:30
p.m.

ROLL CALL

Members Present: All members were present with the following
exceptions:

Members Excused: Rep. Gould, Rep. Nelson, Rep. Rice

Members Absent: None.

Staff Present: Terri Dore, Secretary (filling in for Julie Emge)
John MacMaster, Legislative Council

Announcements/Discussion: None.

HEARING ON SENATE JOINT RESOLUTION 23

Presentation and Opening Statement by Sponsor:

Sen. Mike Halligan, District 29, stated that federal regulations require that there be a separate detention center for minors by 1991. Presently, there are no such facilities in Montana. This resolution would study the possibilities for mutual aid agreements between counties or other suggestions.

Testifying Proponents and Who They Represent:

Gordon Morris, Montana Association of Counties

Proponent Testimony:

Mr. Morris stated that this is a major priority of the association and would appreciate the committee's support of the resolution.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: Rep. Stickney asked Rep. Strizich about his bill that dealt with a similar subject. Rep. Strizich responded that the bill (the removal bill) passed and this study would be another delay.

Rep. Hannah asked Senator Halligan if he would object if lines 13 through 15 were deleted. Senator Halligan responded that if the Board of Crime Control's analysis of the existing standards that have been adopted by the National Sheriffs' Association working with the Bar Association, Montana doesn't comply. It is not a major consideration of the bill but Montana will be required to be in compliance. Rep. Hannah responded that there is no constitutional scrutiny test that we are failing. We are failing a test that is put together by the national organization of peace officers who argue that there should be separate standards. Lines 13 through 15 are non-germane to the study and line 19 is the only reference that need be made and all former lines are unnecessary. Sen. Halligan preferred that "may" be added to those lines rather than delete the lines entirely. Rep. Hannah replied that the heart of the matter is that the requirement that juveniles be in separate facilities is a requirement by the Federal Juvenile Justice and Delinquency Act. Sen. Halligan responded that it is federal law.

Rep. Eudaily asked Sen. Halligan why adult detention centers were being studied if the real issue is juvenile detention. Sen. Halligan responded that county jails are now for adults. Rural communities are probably going to have to trade with adjoining counties to use one county's jail for adults and a neighboring one for juveniles. All facilities will still be used but adult and juvenile offenders will not be mixed. The study will not study the adult populations but the use of the facility. The intent is to see how Montana counties can comply with the federal mandate. Rep. Eudaily stated that this study could be enormous especially under section 5 when talking about funding. The intent of the resolution is to only deal with the funding relating to getting youth out of those jails.

Rep. Mercer asked for further clarification of Rep. Hannah's concern. Sen. Halligan responded and added that amendments can kill the bill because of the late hour of the session.

Closing by Sponsor: Sen. Halligan closed.

DISPOSITION OF SENATE JOINT RESOLUTION 23

Motion: Rep. Daily moved the SJR 23 BE CONCURRED IN. Rep. Hannah seconded.

Discussion: None.

Amendments, Discussion, and Votes: Rep. Hannah moved to amend as previously discussed. Rep. Stickney seconded. Rep. Addy spoke in opposition to the amendment. Rep. Hannah responded that there has been plenty of time for the resolution to be introduced before this stage of the session. It should not leave if it is wrong and it is wrong in his opinion the way it is written. Roll call vote was taken. The motion FAILED 6 to 9.

Rep. Mercer stated opposition to the resolution because of serious concerns about the State of Montana saying that we have detention facilities that do not pass constitutional scrutiny. It indicates that it is being allowed and the damages that may have to be paid will be paid by local governments and not by the state legislature.

Recommendation and Vote: The motion that SJR 23 BE CONCURRED IN CARRIED. Reps. Aafedt, Eudaily, Hannah, Boharski, Mercer and Knapp opposed.

ADJOURNMENT

Adjournment At: 12:55 p.m.



REP. DAVE BROWN, Chairman

DB/td

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DAILY ROLL CALL

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date April 20, 1989

NAME	PRESENT	ABSENT	EXCUSED
REP. KELLY ADDY, VICE-CHAIRMAN	X		
REP. OLE AAFEDT	X		
REP. WILLIAM BOHARSKI	X		
REP. VIVIAN BROOKE	X		
REP. FRITZ DAILY	X		
REP. PAULA DARKO	X		
REP. RALPH EUDAILY	X		
REP. BUDD GOULD			X
REP. TOM HANNAH	X		
REP. ROGER KNAPP	X		
REP. MARY McDONOUGH	X		
REP. JOHN MERCER	X		
REP. LINDA NELSON			X
REP. JIM RICE			X
REP. JESSICA STICKNEY	X		
REP. BILL STRIZICH	X		
REP. DIANA WYATT	X		
REP. DAVE BROWN, CHAIRMAN	X		

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Mr. Speaker: We, the committee on Judiciary report that SENATE JOINT RESOLUTION 23 (third reading copy -- blue) be concurred in .

Signed: *Dave Brown*
Dave Brown, Chairman

[REP. *Dave Brown* WILL CARRY THIS BILL ON THE HOUSE FLOOR]

ROLL CALL VOTE

JUDICIARY

COMMITTEE

DATE April 20, 1989

BILL NO. SJR 23

NUMBER 1

NAME	AYE	NAY
REP. KELLY ADDY, VICE-CHAIRMAN		X
REP. OLE AAFEDT	X	
REP. WILLIAM BOHARSKI	X	
REP. VIVIAN BROOKE		X
REP. FRITZ DAILY		X
REP. PAULA DARKO		X
REP. RALPH EUDAILY	X	
REP. BUDD GOULD		
REP. TOM HANNAH	X	
REP. ROGER KNAPP	X	
REP. MARY McDONOUGH		X
REP. JOHN MERCER	X	
REP. LINDA NELSON		
REP. JIM RICE		
REP. JESSICA STICKNEY		X
REP. BILL STRIZICH		X
REP. DIANA WYATT		X
REP. DAVE BROWN, CHAIRMAN		X

TALLY

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Terris Dove
Secretary

Dave Brown
Chairman

Motion: Rep. Hannah's amendment to Delete lines
13-15, motion seconded by Rep. Stickney.
Motion FAILED.