

**MINUTES**

**MONTANA SENATE  
52nd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON JUDICIARY**

**Call to Order:** By Chairman Dick Pinsoneault, on February 22, 1991,  
at 7:30 a.m.

**ROLL CALL**

**Members Present:**

Dick Pinsoneault, Chairman (D)  
Bill Yellowtail, Vice Chairman (D)  
Steve Doherty (D)  
Lorents Grosfield (R)  
Mike Halligan (D)  
John Harp (R)  
Joseph Mazurek (D)  
David Rye (R)  
Paul Svrcek (D)  
Thomas Towe (D)

**Members Excused:** Senators Robert Brown and Bruce Crippen

**Staff Present:** Valencia Lane (Legislative Council).

**Please Note:** These are summary minutes. Testimony and discussion  
are paraphrased and condensed.

**Announcements/Discussion:**

**EXECUTIVE ACTION ON SENATE BILL 337**

**Motion:**

Senator Rye made a motion that SB 337 DO PASS.

**Discussion:**

Senator Halligan commented that the proponents were sincere in their efforts, and said a pilot program could be made to say, "as it relates to misdemeanor cases". He said this is a new challenge to the Legislature, and the proponents probably knew this legislation would not pass. Senator Halligan stated it will probably come back in a few years as an option for the Judiciary Committee to look at as individuals.

Senator Svrcek stated that the primary goal of the proponents was to provide jurors with the opportunity to give lawmakers some

feedback without changing the way a jury acts. He said that language in the bill appears to suggest that juries should be given the opportunity to comment on the law at the same time they give their verdict. Senator Svrcek said he felt this would be a good compromise, and concurred with Senator Halligan's suggestion that the bill be given further study.

Senator Rye suggested the jury already has the right to find law and facts. He said they need to be advised of this right, and agreed that the issue needs further study.

Senator Towe, who provided a history of the case cited by the proponents when the bill was heard, said he felt there are some problems. He alluded to the statement made by John Connor at the hearing of SB 337, where Mr. Connor said a jury could find a defendant guilty because they did not like the way he combed his hair.

The motion made by Senator Rye failed 8-2 with all members voting aye except Senators Rye and Harp who voted no.

**Amendments, Discussion, and Votes:**

There were no amendment.

**Recommendation and Vote:**

Senator Mazurek made a motion that SB 337 DO NOT PASS. The vote from Senator Rye's motion was reversed, and the motion carried 8-2. Senator Towe was appointed to carry the Adverse Committee Report on the Senate floor.

**EXECUTIVE ACTION ON SENATE BILL 344**

**Motion:**

Senator Pinsoneault made a motion that SB 344 DO PASS.

**Discussion:**

There was no discussion.

**Amendments, Discussion, and Votes:**

There were no amendments.

**Recommendation and Vote:**

The motion made by Senator Pinsoneault carried 9-1 with all members voting aye except Senator Halligan who voted no.

EXECUTIVE ACTION ON SENATE BILL 432

Motion:

Senator Pinsoneault made a motion that SB 432 DO PASS.

Discussion:

There was no discussion.

Amendments, Discussion, and Votes:

There were no amendments.

Recommendation and Vote:

The motion made by Senator Pinsoneault carried unanimously.

EXECUTIVE ACTION ON SENATE BILL 392

Motion:

Discussion:

Amendments, Discussion, and Votes:

Senator Mazurek made a motion to strike section 2 in its entirety, and amend line 1, page 2 to make the bill applicable only to death certificates.

Recommendation and Vote:

Senator Harp made a substitute motion that SB 392 be TABLED. The motion carried 7-3 with all members voting aye except Senators Rye, Grosfield and Svrcek, who voted no.

EXECUTIVE ACTION ON SENATE BILL 443

Motion:

Senator Towe made a motion that SB 443 DO NOT PASS.

Discussion:

There was no discussion.

**Amendments, Discussion, and Votes:**

There were no amendments.

**Recommendation and Vote:**

The motion carried 9-1 with all members voting aye except Senator Harp who voted no. Chairman Pinsoneault asked Senator Towe to carry the Adverse Committee Report on the Senate floor.

**EXECUTIVE ACTION ON SENATE BILL 410****Motion:**

Senator Doherty made a motion to remove SB 410 from the table, and to place it on the Committee agenda for hearing later this morning.

**Discussion:**

There was no discussion.

**Amendments, Discussion, and Votes:**

There were no amendments.

**Recommendation and Vote:**

The motion made by Senator Doherty carried unanimously.

**EXECUTIVE ACTION ON SENATE BILL 342****Motion:****Discussion:****Amendments, Discussion, and Votes:**

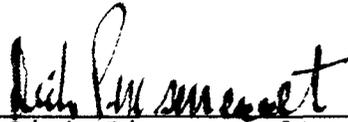
Senator Harp suggested that the amendments proposed by Zander Blewett, Great Falls attorney, be approved.

**Recommendation and Vote:**

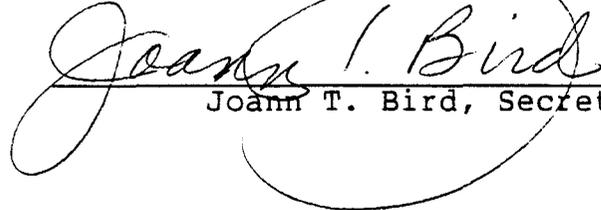
Chairman Pinsoneault announced that additional time was needed to discuss the proposed amendments. He advised those present that no action would be taken on the bill until the 7 a.m. meeting on Saturday, February 23, 1991.

ADJOURNMENT

Adjournment At: 8 a.m.



\_\_\_\_\_  
Senator Dick Pinsonneault, Chairman



\_\_\_\_\_  
Joann T. Bird, Secretary

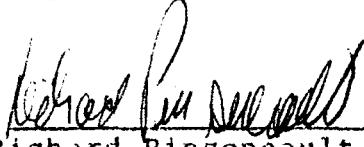
DP/jtb

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 22, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 337 (first reading copy -- white), respectfully report that Senate Bill No. 337 do not pass.

Signed:   
Richard Pinsonneault, Chairman

*191 2-22-91*  
Ad. Coord.

*SI 2-22-91 10 05*  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 22, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 344 (first reading copy -- white), respectfully report that Senate Bill No. 344 do pass.

Signed: *Richard Pinson*  
Richard Pinsonneault, Chairman

191 2-22-91  
Ad. Coord.

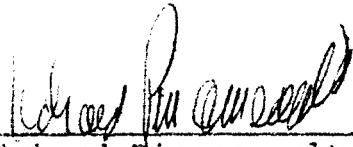
SB 2-22-91 10:05  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 22, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 432 (first reading copy -- white), respectfully report that Senate Bill No. 432 do pass.

Signed: 

Richard Pinsonneault, Chairman

191 2-22-91  
Asst. Coord.

EB 2-22-91 10:05  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 23, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 392 (first reading copy -- white), respectfully report that Senate Bill No. 392 be amended and as so amended do pass:

1. Title, line 5.

Strike: "VITAL STATISTICS RECORDS"

Insert: "DEATH CERTIFICATES"

2. Page 1, line 11.

Following: "(1)"

Strike: "The"

Insert: "Except as provided in subsection (3), the"

Following: "department"

Insert: "and county clerk and recorders"

3. Page 1, line 25.

Strike: "; and"

Insert: "."

4. Page 2, line 1.

Strike: "(c) the interest of"

Insert: "(3) The department and county clerk and recorders may permit inspection of a death certificate by and issue a copy of a death certificate to"

Signed:   
Richard Pinsoneault, Chairman

Amd. Coord.

SB 2-23 11:10  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 22, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 443 (first reading copy -- white), respectfully report that Senate Bill No. 443 do not pass.

Signed: Richard P. Pinsonneault  
Richard Pinsonneault, Chairman

AP 2-22-91  
Md. Coord.

SB 2-22-91 10 05  
Sec. of Senate

Exhibit 1

2-22-91 7:30 am

SB 392

Amendments to Senate Bill No. 392  
First Reading Copy (White)

Requested by Senator Keating  
For the Committee on Judiciary

Prepared by Valencia Lane (& Sam Sperry)  
February 22, 1991

1. Title, line 5.

Strike: "VITAL STATISTICS RECORDS"

Insert: "DEATH CERTIFICATES"

2. Page 1, line 11.

Following: "(1)"

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Insert: "Except as provided in subsection (3), the"

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Insert: "and county clerk and recorders"

3. Page 1, line 25.

Strike: "; and"

Insert: "."

4. Page 2, line 1.

Strike: "(c) the interest of"

Insert: "(3) The department and county clerk and recorders may  
permit inspection of a death certificate by and issue a copy  
of a death certificate to"

*State* BILL NO. *392*

(3) The department and county clerk and recorders may permit inspection of a death certificate by and issue a copy of a death certificate to

1 ~~to the interest of~~ a person conducting a title search  
2 to determine heirship on property owned or once owned by the  
3 deceased."

4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING PUBLIC ACCESS  
5 TO ~~VITAL STATISTICS RECORDS~~ WHEN CONDUCTING A TITLE SEARCH;  
6 AND AMENDING SECTIONS 50-15-112 AND 50-15-114, MCA."

7 Section 2. Section 50-15-114, MCA, is amended to read:  
8 "50-15-114. Unlawful acts and penalties. (1) It is  
9 unlawful to disclose data in the vital statistics records of  
10 the department, local registrars, or county clerk and  
11 recorder unless disclosure is authorized by law and approved  
12 by-the-department.

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

14 Section 1. Section 50-15-112, MCA, is amended to read:

15 "50-15-112. Inspection of records and issuance <sup>(f)</sup> of  
16 copies limited. (1) ~~The~~ department <sup>may</sup> not permit inspection  
17 of the records or issue copies of a certificate unless it is  
18 satisfied that the applicant has a direct and tangible  
19 interest in the data recorded and that the information is  
20 necessary for the determination of personal or property  
21 rights.

22 (2) A person shall be fined not more than \$1,000,  
23 imprisoned not more than 1 year, or both, if:

24 (a) he willfully and knowingly makes any false  
25 statement in a report, record, or certificate required to be  
26 filed by law or in an application for an amendment thereof  
27 or willfully and knowingly supplies false information  
28 intending that the information be used in the preparation of  
29 any report, record, or certificate or amendment;

30 (b) without lawful authority and with the intent to  
31 deceive, he makes, alters, amends, or mutilates any report,  
32 record, or certificate required to be filed under law or a  
33 certified copy of the report, record, or certificate;

34 (c) he willfully and knowingly uses or attempts to use  
35 or furnish to another for use, for any purpose of deception,  
36 any certificate, record, report, or certified copy made,  
37 altered, amended, or mutilated;

