

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bob Clark, on January 14, 1997, at 8:00 AM, in Room 312-1.

ROLL CALL

Members Present:

Rep. Robert C. Clark, Chairman (R)
Rep. Daniel W. McGee, Vice Chairman (Majority) (R)
Rep. Diana E. Wyatt, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Shiell W. Anderson (R)
Rep. Ellen Bergman (R)
Rep. William E. Boharski (R)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. Duane Grimes (R)
Rep. H.S. "Sonny" Hanson (R)
Rep. Joan Hurdle (D)
Rep. Deb Kottel (D)
Rep. Linda McCulloch (D)
Rep. Brad Molnar (R)
Rep. Gerald Pease (D)
Rep. Diane Sands (D)
Rep. Liz Smith (R)
Rep. Loren L. Soft (R)
Rep. Bill Tash (R)

Staff Present: John MacMaster, Legislative Services Division
Joanne Gunderson, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 111, POSTED 1/8/97
Executive Action: HB 15 TABLED
HB 29, DO PASS AS AMENDED

EXECUTIVE ACTION ON HB 15

Motion: REP. H.S. "SONNY" HANSON moved HB 15 DO PASS.
{Tape: 1; Side: A; Approx. Time Count: 2.9}

Amendments: REP. BRAD MOLNAR and REP. AUBYN CURTISS discussed amending Line 10 after "or" to insert "operated in this state."
{Tape: 1; Side: A; Approx. Time Count: 3.0 - 8.3}

Motion: REP. CURTISS moved to adopt the amendment.
{Tape: 1; Side: A; Approx. Time Count: 8.4 - 9.4}

Discussion:
{Tape: 1; Side: A; Approx. Time Count: 9.5 - 20.6}

Vote: Motion carried 18 - 2, REPS. MC GEE and BOHARSKI voting no.
{Tape: 1; Side: A; Approx. Time Count: 20.7 - 21.9}

Motion: REP. LIZ SMITH moved HB 15 DO PASS AS AMENDED.
{Tape: 1; Side: A; Approx. Time Count: 22.0}

Discussion:
{Tape: 1; Side: a; Approx. Time Count: 22.1 - 25.7}

Motion/Vote: REP. WILLIAM BOHARSKI moved to Table HB 15. The motion passed 10 - 9, REP. SOFT abstained. REPS. MC GEE, HURDLE, AHNER, BERGMAN, MOLNAR, HANSON, GRIMES, CURTISS, and CLARK voting no.
{Tape: 1; Side: A; Approx. Time Count: 25.8}

HEARING ON HB 111

Sponsor: REP. CHRIS AHNER
{Tape: 1; Side: B; Approx. Time Count: 0.1 - 4.4}

Proponents:

DAVE OHLER, Department of Corrections
{Tape: 1; Side: B; Approx. Time Count: 4.6 - 4.9}

BETH BAKER, Department of Justice - EXHIBITS 1, 2, and 3
{Tape: 1; Side: B; Approx. Time Count: 5.0 - 14.4}

CATHY KENDALL, Board of Crime Control
{Tape: 1; Side: B; Approx. Time Count: 14.4 - 17.7}

MARY ALICE COOK, Advocate for Children and Families
{Tape: 1; Side: b; Approx. Time Count: 18.1 - 18.4}

Opponents:

W. JAMES KEMBEL, City of Billings
{Tape: 1; Side: B; Approx. Time Count: 18.8 - 20}

SCOTT CRICHTON, ACLU - EXHIBIT 4
{Tape: 1; Side: B; Approx. Time Count: 20.2 - 26.8}

Informational Testimony:

BETTY WADDELL, Montana Association of Churches
{Tape: 1; Side: B; Approx. Time Count: 27.0 - Tape 2, Side A 1.8;..}

REP. JOAN HURDLE - EXHIBIT 5

{Tape: 2; Side: A; Approx. Time Count: 1.9 - 7.9}

Questions From Committee Members and Responses:

{Tape: 2; Side: A; Approx. Time Count: 8.0 - Tape 3; Side A; 6.5}

Closing by Sponsor: REPRESENTATIVE AHNER

{Tape: 3; Side: A; Approx. Time Count: 6.6 - 7.7}

EXECUTIVE ACTION ON HB 29

Motion: REP. SHIELL ANDERSON moved DO PASS on HB 29.

{Tape: 3; Side: A; Approx. Time Count: 7.2}

Motion/Vote: REP. ANDERSON moved that the seven amendments brought by Representative Bohlinger be adopted. The motion carried unanimously.

{Tape: 3; Side: A; Approx. Time Count: 7.3 - 12.5; Comments: The amendments were offered at the 1/10/97 hearing.}

Motion: REP. ANDERSON moved HB 29 DO PASS AS AMENDED.

Motion: REP. JOAN HURDLE moved to amend Page 1, Line 26 by inserting "or other alternative sentencing as may be recommended in" at the end of the line.

Discussion: The committee discussed the proposed amendment.

{Tape: 3; Side: A; Approx. Time Count: 14.5 - 17.6; Comments: John MacMaster clarified the proposed amendment; i.e., insert a sentence, "Sentencing court must consider available alternatives to incarceration including those listed in 46-18-201 sub section 1 a, and particularly (i), (ix), (x) and (xi).}

Motion: EXHIBIT 6 - Roll call vote, on the Hurdle Amendment failed 9 voting yes, 10 voting no.

{Tape: 3; Side: A; Approx. Time Count: 18.3 - 19.4}

Motion: REP. DIANE SANDS moved to amend at Page 1, Line 23 be amended to delete everything after "in the school building" and substitute "for any appropriate purpose."

REP. BILL BOHARSKI recommended a substitute amendment to place a period after "building" on line 23. REP. SANDS agreed to the substitution.

Motion: Motion to adopt the amendment passed by unanimous vote.

{Tape: 3; Side: A; Approx. Time Count: 22.0 - 22.7}

Amendments: REP. BRAD MOLNAR proposed an amendment to Line 1, Page 2 to re-insert "any destructive device as defined in 45-8-332" after the comma and to strike the entire sentence after "length."

{Tape: 3; Side: A; Approx. Time Count: 22.8 - end of Side A}

Discussion: The committee discussed the proposed amendment.

{Tape: 3; Side: B; Approx. Time Count: 0.1 - 15.0}

Amendments: REP. MOLNAR moved a substitute amendment placing a period after the word, "knuckles" as in the Bohlinger amendment.

{Tape: 3; Side: B; Approx. Time Count: 15.1 - 18.9}

Vote: The motion to adopt the Molnar amendment passed 15 - 4, Reps. Wyatt, McGee, Grimes and Anderson voting no. Rep. Ahner was absent.

{Tape: 3; Side: B; Approx. Time Count: 20.8 - 21.1}

Motion: REP. MOLNAR moved another amendment to Line 19 to say "purposely and knowingly" rather than "purposely or knowingly."

{Tape: 3; Side: B; Approx. Time Count: 21.2 - Tape 4; Side A; Approximate Time Count 19.6}

Motion/Vote: The motion failed.

Motion: REP. H.S. "SONNY" HANSON moved DO PASS AS AMENDED.

{Tape: 4; Side: A; Approx. Time Count: 19.7 - 19.9}

Motion: REP. JOAN HURDLE moved to amend the end of line 26 to insert "The court shall consider alternatives to incarceration that are available in the community."

{Tape: 4; Side: A; Approx. Time Count: 21.0 - 25.9}

Vote: The motion on the Hurdle amendment passed, 12 - 7, Reps. McGee, Curtiss, Hanson, Anderson, Tash, Boharski and Clark voting no.

{Tape: 4; Side: A; Approx. Time Count: 26.2 - 27.5}

Motion: REP. ANDERSON moved HB 29 DO PASS AS AMENDED.

Discussion: REP. LOREN SOFT

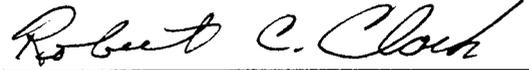
{Tape: 4; Side: A; Approx. Time Count: 28.0 - 29.4}

Vote: The committee voted HB 29 DO PASS AS AMENDED, 19 - 1, Rep. Clark voting no.

Motion/Vote: REP. ANDERSON moved to adjourn, the motion was seconded and passed unanimously.

ADJOURNMENT

Adjournment: The meeting was adjourned at 11:40 AM.



REP. ROBERT C. CLARK, Chairman



JOANNE GUNDERSON, Secretary

BC/jg