

JUDICIARY COMMITTEE

January 21, 1977

The regular meeting of the House Judiciary Committee was called to order at 8:00 a.m. by Chairman Scully in room 436 of the Capitol Building, Helena, Montana on Friday, January 21, 1977. All members were present with the exception of Representatives Dussault and Seifert, excused, and Kennerly absent.

Scheduled for hearing, after being postponed from an earlier date, were SB 7 and HB 165.

SENATE BILL #7:

Senator Blaylock of District #35 spoke in behalf of the bill. This bill will clear up an earlier bill which attempted to transfer the responsibility for vocational education from the Board of Education to the State Board of Education. It was declared unconstitutional and decided that the Board of Education's authority is strictly limited to long-range planning, coordination, and evaluation and that administering vocational education cannot come within this authority. This bill will take it out of the code, because the provisions are now severable and are unconstitutional.

The hearing closed on SENATE BILL #7:

The hearing opened on HOUSE BILL #165:

Representative South, sponsor of the bill, from District #51: This bill is concerned with whether a law enforcement record concerning a youth should be open to the public for public inspection. He gave examples of cases in his home community, and as a result and on the suggestion of a large number of people he decided to introduce this legislation. There is now a law that prohibits the publication on names. I think it is time that this legislature take a good look at whether or not we are tying the hands of the judges. He suggested an amendment on page 2, lines 8 and 9 and asked that this language be stricken. He stated he feels there should be a total repeal of the ban on the publication of names. I think we might be doing an injustice to the courts when we have a total ban. He mentioned a number of other states that have this ban, and that we should be taking a look to see whether it is solving the problem of the increase in juvenile delinquency.

There were no proponents.

OPPONENT, SUZANNE TIDDY, NATIONAL ASSOCIATION OF SOCIAL WORKERS:

I think we really need to question whether publishing the names of these youth might not be what they are seeking. Maybe that is why they do some of these things, for recognition. We also have to take a look at how it might harm them. We do not think it will be a deterrent and might contribute to others doing the same thing.

OPPONENT, CHARLIE McCARTHY, CHILD AND YOUTH DEVELOPMENT BUREAU, SRS: The general public should not have access to these records. Look at what the implications are.

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OPPONENT, RICHARD VANDEVER, MONTANA COUNTY ATTORNEYS ASSOCIATION:

As a criminologist I feel, that first of all, the research evidence indicates that publicity in newspapers does not cut down on juvenile delinquency and it does not cut down on cases. It does cut down on court contacts, however. First of all, it creates a kind of stigma and it might ruin the reputation of the youth, and maybe on the other members of the family. What happens to the brothers and sisters. Those young people also suffer when only one of the kids is in trouble.

OPPONENT, STEVE NELSON, BOARD OF CRIME CONTROL:

We drafted the Montana Youth Court Act. The feeling was that people who had legitimate reason to look at those records already had access to them. He gave examples of actual cases he is familiar with.

OPPONENT, JOHN WILKERSON:

I am a private citizen, speaking only for myself. I think that 90% of the kids will never be apprehended again. What about the status offenses, for that reason alone, I would like you to consider not passing this bill. What this bill would do is take away the total ban and allow the publication of names. It would rather, leave to the judge whether to publish the names. Only the judge can be the final arbitrator in that respect. I would prefer that the juvenile could have one offense and many never do anything again. You may be implicating many innocent kids and people will always find out anyway. Usually the status offender is the first time offender.


REPRESENTATIVE COLBURN asked if the victim of the act would also have the name published.

REPRESENTATIVE SOUTH: There is protection of the public right to know. The repealer section bans publicity. It would leave to the discretion of the judge. It would take away the total ban. I would prefer that no publicity be given on the 1st offense.

There followed general questions and answers and discussion about kinds of cases and whether it would do any good toward curbing the increasing crime rate.

The hearing closed on HOUSE BILL #165:

The regular meeting adjourned and the committee went into executive session.



JOHN P. SCULLY, CHAIRMAN



Mary Ellen Connelly, Secretary