

JUDICIARY COMMITTEE
February 15, 1977

The regularly scheduled meeting of the House Judiciary Committee was called to order in room 436 of the Capitol Building, Helena, Montana, at 7:30 a.m. Chairman Scully presided. All members were present with the exception of Representatives Roth and Seifert.

BILLS SCHEDULED FOR HEARING WERE House Bills 782, 719, 720, 734, 751, 533 and House Joint Resolution 63.

HOUSE BILL # 782:

REPRESENTATIVE RAMIREZ, DISTRICT #64:

This bill provides for offset of damages in a personal injury or wrongful death action by the amount of benefits to be paid from certain sources and also provides that evidence of remarriage of a surviving spouse is admissible in a wrongful death action. The jury is never told of any other benefits. It would provide that at the end of the trial the judge would then be able to deduct these benefits from the amount of the award. There will be no subrogation rights. He explained what benefits would be excluded under this bill.

THE HEARING CLOSED ON HOUSE BILL 782:

THE HEARING OPENED ON HOUSE BILLS 719 and 720:

REPRESENTATIVE MELOY, DISTRICT #29:

I would like to take these two bills together. They concern travel and per diem expenses, and are merely to clarify and make them conform to the remaining statutes. They are nothing more than a recodification and centralization of the travel expense statutes. On page 6, line 9 of HB 719, the number 59-807 should read 59-801. Also, on page 20, line 11, there is a new section amending the title. There is also a mistake on page 20, line 10.

DOYLE SAXBY, DEPUTY ADMINISTRATOR, DEPARTMENT OF ADMINISTRATION:

I would support the bills. Concerning the travel expense and the per diem, if we get them on the same basis, the department definitely supports the bills. He presented a copy of testimony to the committee.

THE HEARING CLOSED ON HOUSE BILLS 719 and 720.

THE HEARING OPENED ON HOUSE BILL 533.

REPRESENTATIVE BRAND, CHIEF SPONSOR could not attend, so co-sponsor REPRESENTATIVE KEYSER spoke and presented the bill to the committee. The problem with the bill is that they probably stuck it in the wrong section. We have cases in which it is just negligence that they have an accident, you don't want to charge them with reckless driving, because that is too drastic. In many instances it is not a reckless driving act, but only a violation of the law. This bill addresses an area that we need and can use, a lesser charge that we need in some cases.

PROPONENT, SERGEANT STOLLFUSS, MONTANA HIGHWAY PATROL:

We have a basic speed law, failure to drive in a careful and prudent manner. This is almost always used in the case of exceeding the speed limit. He discussed the reasons for this and how it might affect insurance premiums, causing them to rise for the under 25 age bracket. He said he would not like to see the basic speed law expanded to include this lesser charge.

REPRESENTATIVE KEYSER explained the basic speed law and the basic speed violation.

THE HEARING CLOSED ON HOUSE BILL #533:

THE HEARING OPENED ON HOUSE BILL #734:

REPRESENTATIVE BURNETT, DISTRICT #71:

The reason for this bill was because I got a letter from a man and his wife whose daughter had been killed by a drunk driver. I feel there has to be some way to get these people off the road. This bill changes the law so that they have to spend one year of incarceration if convicted of homicide in connection with driving a vehicle while intoxicated.

The question was raised, what would you do with all of the people convicted, since the prison is full now. Then followed general discussion about this.

THE HEARING CLOSED ON HOUSE BILL #734.

THE HEARING OPENED ON HOUSE BILL #751:

REPRESENTATIVE WALDRON, DISTRICT #97:

This bill would prohibit a person convicted twice in 3 years of issuing a bad check from maintaining a checking account in the state of Montana. In my opinion, if you can't open a checking account it is pretty hard to issue a bad check. However, there should be a time limit. If convicted, with this bill, you would automatically lose your privilege to open a checking account. There was some question about it being unconstitutional with federal banks.

Then followed discussion about banks, banking, checks and checking accounts, the fact that it might not be constitutional, etc.

THE HEARING CLOSED ON HOUSE BILL #751:

THE HEARING OPENED ON HOUSE JOINT RESOLUTION #63:

REPRESENTATIVE HOLMES, DISTRICT #67:

The Montana Justice Project has studied for two years the following areas that we were concerned about, law enforcement, courts, corrections, information systems, and community crime prevention. She showed the committee a stack of books that are the result of

the studies completed. This bill will create the criminal justice legislative drafting commission to design an integrated criminal justice system based on standards recommended by the Montana Justice Project. They would then present a master plan to the 46th legislature, along with specific legislation to implement the plan. The members of the commission will consist of 1 member of the crime control board, 6 members of the legislature to be chosen by the leadership, including 3 from each party, and 5 members to be appointed by the governor, including; a representative of the Montana Judicial Planning council, a representative of the executive branch of the state government with special qualifications in criminal justice, an educator with credentials in criminology or law, and a service provider with practical experience in community-based corrections, diversion, or rehabilitation who is a member of the Youth Justice Advisory Council, and 1 person with practical experience and up-to-date training in law enforcement or criminal prosecution.

There has been a lot of criticism of the Montana Justice Project, most of it unjustified. The board of crime control does not have legislative authority. We feel this is the best way to get a master plan. What this bill does is set up a legislative drafting council. The board of crime control would be the staff and the legislative council would be its lawyers and thus everything would be correlated. There would be continuing consultation with the Board of Crime Control, the Montana Judicial Planning Council, the Youth Justice Advisory Council, The Department of Institutions, and the Department of Social and Rehabilitation Services, the Department of Justice, and the Board of Pardons.

REPRESENTATIVE RAMIREZ, CO-SPONSOR OF THE BILL:

I have somewhat differing views from Polly, but I agree with her wholeheartedly on the bill. This bill will give us two years to work on this.

RAY STEWART, ADMINISTRATOR OF THE SUPREME COURT:

The court commends Representative Holmes for digging into this. The two areas that this commission would deal with represent only about 17% of the things the court will deal with in Montana.

PROPONENT, LEE TOPACK, HRJI-AFL-CIO:

I agree with the concept of this bill. The only thing that I might recommend is that I would certainly like to see either an inmate or a former offender on the committee.

GERALD DUNBAR, MONTANA POLICE CHIEFS ASSOCIATION:

I am both a proponent and opponent. I was involved in this. I have several things that I think this bill does not cover. There is no representation from law enforcement. I feel they should have a great input into this type of committee. The corrections task force was the toughest in the studies we did.

CHUCK O'REILLY, MONTANA JUSTICE PROJECT:

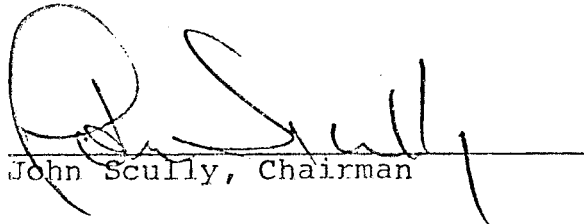
I don't agree that another group is needed. I do agree with the concept that these things have to be implemented but I think the Board of Crime Control is the place to have this done.

REPRESENTATIVE HOLMES:

In closing, I would like to say that this group would be making structural changes in the system. It would be proposing legislation that no other body can do except the legislature. She discussed the various studies that had been done.

THE HEARING CLOSED ON HOUSE JOINT RESOLUTION 63.

The meeting adjourned at 8:50 a.m.



John Scully, Chairman



Mary Ellen Connelly, Secretary