

JUDICIARY COMMITTEE

March 9, 1977

The regularly scheduled meeting of the House Judiciary Committee was called to order by Chairman Scully at 8:00 a.m. in room 436 of the Capitol Building, Helena, on Wednesday, March 9. All members were present with the exception of Representatives Colburn and Kennerly.

Scheduled for hearing were Senate Bills 58, 119, 215, 229, 250, 254, 326 and 176.

SENATE BILL #215:

SENATOR TURNAGE, DISTRICT #14:

This bill came about because people raising buffalo let them run at large, and they have become a problem in some areas. The fish and game doesn't want them on their list, they don't want to bother with them. The bill states there would be liability of the owners for trespass.

There were no other proponents and no opponents.

The hearing closed on Senate Bill #215.

The hearing opened on Senate Bill #326:

SENATE BILL #326:

SENATOR TURNAGE, DISTRICT #14:

This came up in Lake County. In cases in which the term used to be annulment, it is now declaring the invalidity of a marriage. We changed the wording because of the common law marriage. Before we adopted the uniform marriage law you could annul any marriage. The law now states certain circumstances in which a marriage cannot be annulled. He cited these instances.

No other proponents and no opponents.

The hearing closed on Senate Bill #326.

The hearing opened on Senate Bill #119

SENATE BILL #119:

SENATOR HAZELBAKER, DISTRICT #24:

This bill is designed from bills from other states, to retain all privileges and immunities from liability, when responding to or providing assistance to any other peace officer who has called for assistance. It would provide guidelines. This would be if a peace officer is rendering assistance and is injured while doing so this would entitle him to his same salary, insurance, pension and other benefits.

PROPONENT, JOE SOLE, MONTANA HIGHWAY PATROL:

We want to be able to give help if in a situation where it might be required, such as a family fight. This would help there, they would

be under our umbrella. He gave other examples in which the patrol might give assistance to other officers, such as fire, riot, etc.

PROPONENT, CLAYTON BAIN, BOARD OF CRIME CONTROL:
We favor this bill. This clears up all of the gray areas, all those situations that could arise.

CHUCK O'REILLY, MONTANA JUSTICE PROJECT:
I am in support of this bill.

There being no other proponents and no opponents, the hearing closed on Senate Bill #119.

The hearing opened on Senate Bill #250:
SENATOR HAZELBAKER, DISTRICT #41:
This bill is revising the board of crime control, to include the court administration. There were 16 on the board and it will be raised to 18. This would be to comply with the guidelines of the federal regulations of the board of crime control.

PROPONENT, VIRGINIA GRIFFING:
She gave the committee a copy of proposed revisions as compiled by the board of crime control. (attached)

The hearing closed on Senate Bill #250.

The hearing opened on Senate Bill #229:
SENATOR HAZELBAKER, District #41:
This bill would clarify the order of priorities for the distribution of assets of liquidation of insurance companies. He went through the bill and explained it and gave the list of priorities. He commented that this bill has the endorsement of the state insurance department.

PROPONENT, TERRY MAR, OFFICE OF STATE AUDITOR:
I am the chief executive under Sonny Omholt. Our office is in support of this bill. It would clarify. We are already attempting to do these things, and this bill would help us.

PROPONENT, CHAD SMITH, AMERICAN INSURANCE ALLIANCE:
He presented the committee with a copy of a prepared statement in support of the bill. The insurance companies are strongly behind this type of policing. He went through sections of the bill and explained some of their ideas of it. Page 2 of the bill, the only things that come ahead of the policy holders are expenses of administration, compensation of employees, taxes and debts due which are considered by liens. The second part of the bill deals with early access to the money. This provides that within 120 days they can go to court.

PROPONENT, GLEN DRAKE, AMERICAN INSURANCE CORPORATION:
I represent 80 stock companies. We support the bill. We would urge it to pass.

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PROPONENT, CHAD SMITH, MONTANA HOSPITAL ASSOCIATION:
We want to add our name in support of this bill.

MARY MARROTT, NURSING ASSOCIATION AND ST. PETERS HOSPITAL:
We want to be on record in support of the bill.

There were no other proponents and no opponents.

There followed a discussion about the review board, the confidentiality of the records and the fact that the board is required to keep any records confidential and whether there was now a review committee.

Mr. Smith stated that this bill would expand and extend the board more. It would be a self-policing type of thing.

REPRESENTATIVE ROTH:
Who appoints this committee?

MR. SMITH:
The professional staff of the hospital.

Representative Ramirez wondered if they had considered a more detailed description of who was contained in the term professional.

Representative Dussault wondered if the new material was designed to protect the peer review from liability on the review.

MR. SMITH:
The idea was that it would be open for these peer review committees to do their work but keep it confidential.

Discussion about the peer review process.

REPRESENTATIVE DUSSAULT:
What is the responsibility of that committee in the case of malpractice?

Mr. SMITH:
The board would review with the doctor and might give recommendations.

Then followed discussion about small town or single doctor communities. A general question and answer session followed about nurses, how the bill came about, etc.

The hearing closed on Senate Bill #58.

THE HEARING OPENED ON SENATE BILL #254:

PAT MELBY, DIRECTOR OF SOCIAL REHABILITATION:
We are asking that this bill be used to amend so that welfare fraud will be classed as a felony instead of a misdemeanor, and that fraud

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There were no other proponents and no opponents.

REPRESENTATIVE DUSSAULT:

Is the first priority the expenses of administration?

Mr. MAR:

That is already a priority.

Some general discussion followed about the priorities and some other claims, liquidated insurance, etc.

The hearing closed on Senate Bill #229.

The hearing opened on Senate Bill #176.

SENATE BILL #176:

SENATOR MURRAY, DISTRICT #50:

This bill is amending the waiting period of 20 days after filing a petition for dissolution of marriage before it may be entered. He went through the bill and explained the parts. Commencing on line 17 it stated in the original act that the opposing party could file within 20 days of the date of service.

REPRESENTATIVE DUSSAULT:

What was the original purpose of the 20 days, was it a cooling off period?

SENATOR MURRAY:

Yes, more or less. The committee wanted to preserve the 20 days.

After some general discussion the hearing closed on Senate Bill #176.

The hearing opened on Senate Bill #58.

SENATE BILL #58:

SENATOR RASMUSSEN, DISTRICT #16:

This bill deals with peer review committee regarding liability and professional standards and amending so the statute will apply to all health care professionals on such committees. The need for this has grown up as the government has gotten into the health care field. There are essentially two parts to this bill. It differentiates between the different professions. It mentioned the exemptions that are contained in the bill, and also stated that nurses are now included as part of the health care group.

PROPONENT, ROD GUDGEL, MNHA, MSPA and MOA:

I am representing the state pharmaceutical association and also the nurses association and in doing so, I go on record as supporting the bill.

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involving welfare payments be treated under the criminal code.

BOB COCHRAN, COUNSELL FOR THE DEPARTMENT OF REVENUE:

We are responsible for prosecuting all welfare fraud. We have 3 cases right now. We have charged the criminal under the new criminal code. He discussed cases in which the judge had dismissed the action he said it should be under another statute. We want to change the misdemeanor statute. We feel it is equal to many other crimes of theft. In federal cases, such as welfare, the punishment does not fit the crime. In addition, the statute of limitations is substantially different. We need the time in some cases to find the fraud. It would make a substantial difference in the department of revenue ability to recover in these cases.

There was discussion about the stricken language, and that it was taken out by the senate judiciary committee. Discussion about how many cases, 75 at this time, with potential of several hundred. The average is around \$1,000 but they had one case of 13,000 dollars.

The question was asked what is the dollar amount before it is a felony. Mr. Cochran said we don't have any specific amount in the theft statute, but that \$150 is in the new criminal code.

OPPONENT, CAROL FARRIS:

The reason that we are opposed is that we think the penalty is too high. We think 6 months in jail and a fine of \$500 is excessive. We think SB 254 is ill-advised. She mentioned a government study that was done in which only 8% of 1% of welfare cases were fraudulent. With the rate of fraud this low we don't need this bill. 90% of the people receiving assistance would rather get their money some other way. This study was done by low income people to investigate welfare fraud. She left the address for the committee to get a copy of the study.

There followed a quite heated discussion about the welfare fraud, cases in particular, and the deferred imposition of sentence.

The hearing closed on Senate Bill #254:

The meeting adjourned at 9:45 a.m.


JOHN P. SCULLY, CHAIRMAN


Mary Ellen Connelly, Secretary