

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
February 14, 1977

The meeting of this committee was called to order by the Chairman, Senator Turnage, at 9:30 a.m. on the above date in Room 442 of the State Capitol Building.

ROLL CALL:

All members of the committee were present for this meeting.

WITNESSES PRESENT TO TESTIFY:

Bob Keller - Kalispell
Joan Uda - Office of Budget & Program Planning
Jim Larson - Montana Hospital Assn.
Tom Boland - Board of Visitors
Donald L. Harr - Billings and Great Falls Deaconess Hospital,
Dept. of Psychiatry
Duncan D. Burford - M.D., President of Montana Psychiatric
Assn., Billings
Jerry T. Loendorf - Montana Medical Assn.
Chad Smith - Montana Hospital Assn.
William Leary - Montana Hospital Assn.
Nick Rotering - attorney, Dept. of Institutions

CONSIDERATION OF SENATE BILL 413:

Senator Towe, sponsor of S.B. 413, explained the bill corrects some things which were omitted last session. He then went over these items for the committee. After doing this, he introduced Mr. Bob Keller of Kalispell as his first proponent of S.B. 413. Mr. Keller suggested amendments to page 20, line 17, and to page 25, line 17. Mr. Keller told the committee that it was wrong to have to wait until people get seriously mentally ill before they can be helped.

The next proponent to testify was Nick Rotering of the Department of Institutions. He said that he was concerned about lines 3 and 5 on page 35 and about section 16 on page 44 which concerns the makeup of the Board of Visitors. He was also concerned about the payment of legal counsel used by the Board of Visitors which is on page 47.

Joan Uda, attorney for the office of Budget and Program Planning, appeared in support of S.B. 413, however, she said that they question the time on the voluntary admissions and suggested that perhaps there should be a valuation period of ten days.

The next proponent was Tom Boland of the Board of Visitors who testified for himself and not the board, saying that he felt that S.B. 413 is a compromise bill and not left wing legislation as has been rumored, and that he is afraid the opponents will try to convince the committee of this.

Jim Larson, Veterans Admin., also appeared in support of S.B. 413. He was present on behalf of the Montana Hospital Association.

Dr. Harr, from Billings, representing the Billings and Great Falls Deaconess Hospitals, was the next proponent of S.B. 413. He said that they are very much in concurrence with the bill's changes to the law. He suggested that page 44, line 23, be amended by putting in physicians or medical profession rather than medical sciences. He also said he believed that page 47, line 17, should be changed so that there would be something to determine if there was an irregularity. He then complimented Senator Towe and others who worked on S.B. 413 on the remarkable job they had done. At this time Dr. Harr was allowed to speak on S.B. 417 as he had to leave early. He said that he felt that this bill is quite unnecessary if S.B. 413 is passed because the subject is well covered in S.B. 413. Therefore, he opposed S.B. 417.

Dr. Duncan D. Burford, of Billings, president of the Montana Psychiatric Assn. was the next proponent of S.B. 413 to testify. He said that he appreciated the work that had been done on S.B. 413. Dr. Burford said that mentally ill is a very restrictive definition and called for a better definition of seriously mentally ill. He told the committee that they now can offer effective and quick treatment for serious mental disorders and that the law should not stand in the way of a person getting the treatment he is in need of.

The next proponent was Tom Honzel, representing the County Attorney Assn. ^{who} said that they generally support S.B. 413, however, they are concerned in the smaller counties about the provisions for the immediate appointment of counsel and the five day period.

Jerry Loendorf, representing the Montana Medical Assn., told the committee that they supported S.B. 413 if it is true that attorneys can work with it.

Nancy Lien of the Mental Health Advisory Council then appeared as a proponent of S.B. 413 and simply said that they supported it.

Chad Smith, representing the Montana Hospital Assn., was the next proponent to testify and he offered some amendments to the bill. (See Exhibit 1) He explained that one was that the patient should not be heavily sedated and that the other two amendments would allow the hospital facility to determine if they will take a patient or not. He further explained the amendments they proposed to the committee and presented amendments for S.B. 417. (Ex. 2)

CONSIDERATION OF SENATE BILL 419:

Senator Towe explained this bill to the committee and said that, in some ways, this is worse than commitment.

Dr. Burford of Billings, psychiatrist, said they favored this bill if it is workable.

There were no opponents present to testify on S.B. 419.

CONSIDERATION OF SENATE BILL 417:

Dr. Burford, the Billings psychiatrist, said that S.B. 413 accomplishes the purpose of this bill and that he thinks this bill is not necessary. He favored putting it into S.B. 413.

Senator Dover, the bill sponsor, said the rural community is different from cities and that is why he had sponsored this legislation. He read a prepared statement to the committee. (Ex. 3)

Jim Larson, representing the Montana Hospital Assn., told the committee that he thinks section 3 is an existent provision of the law -- and also section 13, and that they should be included in any legislation that comes out of this committee.

There was no more testimony on the above bills considered at this meeting so the Chairman told the witnesses that the committee would consider the testimony given and then would consider putting these bills together and incorporating them into one bill.

There being no further business, the committee adjourned at 11:05 a.m..

SENATOR JEAN A. TURNAGE, Chairman

ROLL CALL

JUDICIARY COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date 2-14-77

(C. L.)

SENATE BILL NO. 413

Amend Senate Bill No. 413 as follows:

On page 2 in line 25, after the word "hospital", the second time, add "which is equipped and staffed to provide treatment for mentally ill persons".

On page 11 in line 2, after the period following the word "public", add the following: "No person shall be detained in any hospital or other medical facility which is not a mental health facility unless such hospital or facility has agreed in writing to admit such person".

On page 17 in line 21, after the period following the word "others", add the following: "The respondent shall not be detained in any hospital or other mental facility which is not a mental health facility unless such hospital or facility has agreed in writing to admit the respondent".

On page 25 in line 21, after the word "patient", insert the words "at the place of detention".

Brad Smith
MT Rep. Class.

(662)

SENATE BILL NO. 417

Amend Senate Bill No. 417 as follows:

On page 2 in line 4, after the word "hospital" the second time it appears, insert the words "which is equipped and staffed to provide treatment for mentally ill persons".

On page 9 in line 11, after the period following the word "hours", add the following: "The respondent shall not be detained in any hospital or other medical facility which is not a mental health facility unless such hospital or facility has agreed in writing to admit the respondent."

On page 16 in line 16, after the period following the word "treatment", add the following: "The respondent shall not be detained in any hospital or other medical facility which is not a mental health facility unless such hospital or facility has agreed in writing to admit the respondent."

On page 20 in line 20, following the word "patient", insert "at the place of detention".

On page 23 in line 18, after the period following the word "treatment", insert the following: "No person shall be detained in any hospital or other medical facility which is not a mental health facility unless such hospital or facility has agreed in writing to admit such person."

*Chad Smith
Mt. Hope, Iowa*

(Ex. 2)

TESTIMONY ON SENATE BILL 417

Mr. Chairman, members of the committee, for the record I'm Harold Dover, from Senate District 24, Lewistown.

This bill was drafted with three main things in mind.

1. Protecting the rights of the individual
2. Providing help and treatment for those with a serious mental illness. Those who are a danger to themselves or others.
3. One very important addition is allowance for the treatment of mental disorders for those who have serious mental problems to the point they are not able to help themselves, but are not an imminent threat to themselves or others. Because of our present laws on mental illness, it has been very difficult if not impossible to offer the treatment to these people they need.

The definition of those to be treated has been enlarged to allow for the third group.

"Seriously mentally ill person, or a person suffering from a mental disorder".

An emergency situations (section 5 includes only the seriously mentally ill. The person may be detained for 72 hour emergency evaluation and treatment. After the 72 hour evaluation period which I feel is necessary to get the person calmed down and allow a period of time to evaluate the persons need they may be released. The professional person in charge of the respondent during his 72 hour emergency evaluation and treatment shall make a report to the court. If the respondent needs further treatment the respondent will be advised of his

rights and all the normal proceedings and they will set a time for a hearing to determine the need of the respondent for further treatment. This may be further medical treatment at home or in a local facility or may include commitment to a mental health facility for a period not to exceed 3 months. There are provisions for extension of this time under the old statute.

Section 2 and 3, is where the rights of an individual are protected for anyone "suffering from a mental disorder". The person must be informed of their rights, and the county attorney will file a petition which is presented to the court and if further treatment seems to be necessary he is again informed of his rights.

Three things may be done after up to 72 hours of evaluation.

1. They may be released with no further treatment.
2. They may be directed to have further medical treatment or follow-up treatment at a local facility
3. Or they may be committed to a mental facility for a period not to exceed 3 months.

This section is new but I feel very important. We need to protect the rights of an individual but by the same token a person must have a right to treatment not just a right to mental illness with no provision for help under the law.

I urge you to give Senate Bill 417 a "DO PASS".

JUDICIARY
VISITOR'S REGISTER

Please Note: 2011 is

27th - 1900

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
February 14, 1977

The second meeting of the committee on the above date was called to order by Senator Turnage, Chairman, at 4:45 p.m. in Room 415 of the State Capitol Building. The purpose of this meeting was to take executive action on Senate bills.

EXECUTIVE SESSION

The following action was taken on Senate Bills:

343 - Senator Towe moved DO NOT PASS. Motion carried unanimously.

337 - Senator Roberts moved DO PASS. Motion withdrawn.
Senator Towe moved DO NOT PASS. Motion carried with Senator Regan voting "No".

338 - Senator Regan moved DO NOT PASS. Motion carried with Senator Roberts and Senator Towe voting "No".

356 - Senator Towe moved to amend (see attached amendments - Ex. #1). Senator Warden moved as amended DO PASS. The motion carried unanimously.

369 - Senator Regan moved DO NOT PASS. The motion carried with Senator Olson voting "No".

SJR 28 - Senator Roberts moved that SJR 28 BE ADOPTED. The motion carried unanimously.

210 - Senator Roberts moved DO NOT PASS with the explanation being that this bill is to be considered within the scope of SJR 28. The motion carried with Senator Towe voting "No".

278 - Senator Roberts move DO NOT PASS with the explanation being that this bill is to be considered within the scope of SJR 28. The motion carried with Senator Towe voting "No".

180 - Senator Regan moved DO NOT PASS. The motion carried with Senator Towe voting "No".

182 - Senator Towe moved that the attached amendments (Ex. #2) be adopted. The motion carried unanimously.
Senator Warden moved to amend page 4, section 6, following line 9. The motion carried but was withdrawn by Senator Warden.
Senator Roberts moved that S.B. 182 as amended DO PASS. The motion carried with Senator Towe voting "No".

185 - Senator Regan moved DO NOT PASS. The motion carried with

Senators Towe and Roberts voting "No".
Senator Regan then moved to reconsider the previous motion. This motion carried unanimously.
Senator Regan moved that S.B. 185 be LAID ON THE TABLE.
The motion carried unanimously.

There being no more business before the committee at this time, they adjourned at 6:00 p.m.

SENATOR JEAN A. TURNAGE, Chairman

4:45 p.m.

ROLL CALL

JUDICIARY COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date 2/14/17

(Ex-1)

That the introduced bill, be amended as follows:

1. Amend title, line 6.

Following: line 5

Strike: "PROVIDING AN IMMEDIATE EFFECTIVE DATE"

Insert: "TO CLARIFY THE EFFECT OF DISABILITIES ON STATUTES OF LIMITATIONS;
AMENDING SECTION 93-2703, R.C.M. 1947"

2. Amend page 1, section 1, lines 9 through 19.

Following: line 8

Strike: section 1 in its entirety

Renumber: subsequent section

3. Amend page 1, section 2, line 20.

Following: "Section 2."

Insert: "There is a new R.C.M. section numbered 93-2625 that reads as follows:

'93-2625.'

4. Amend page 1, section 2, line 21.

Following: "attorney"

Insert: "licensed to practice law in Montana"

Following: "attorney,"

Insert: "or"

EX-1

Following: "assistant"

Strike: "/"

5. Amend page 1, section 2, line 22.

Following: "intern"

Insert: "employed by an attorney."

6. Amend page 2, section 2, line 4.

Following: "omission."

Insert: " , "

Following: line 4.

Insert: "Section 2. Section 93-2703, R.C.M. 1947, is amended to read as follows:

'93-2703. Exception as to persons under disabilities. If a person entitled to bring an action, mentioned in sections 93-2601 to 93-2609 or sections 93-2613 to 93-2618, Title 93, chapter 26, be, at the time the cause of action accrued, either:

1. Within the age of majority; or,

2. Insane; or,

3. Imprisoned on a criminal charge, or in execution under the sentence of a criminal court for a term less than for life; the time of such disability is not a part of the time limited in sections 93-2401 to 93-2720 for commencing the action; except that the time so limited cannot be extended more than five years by any such disability, except infancy; or, in any case, more than one year after the disability ceases.'

7. Amend page 2, section 3, lines 5 and 6.

Following: line 4

Strike: section 3 in its entirety

(Ex-2)

[REDACTED] that SENATE..... Bill No. 132,
the introduced bill, be amended as follows:

1. Amend page 2, section 2, subsection (1), line 6.
Following: "profit"

Insert: "any sound recordings onto which such sounds are transferred"

2. Amend page 2, section 2, subsection (1), lines 6 and 7.
Following: "or to"

Strike: "be used"

Insert: "use such sound recordings"

3. Amend page 2, section 2, subsection (2), line 13.

Following: "or"

Insert: "to be"

Following: "product"

Strike: ","

4. Amend page 3, section 3, line 5.

Following: "know,"

Insert: "advertise, offer for sale or resale."

~~Following: "resell,"~~

Insert: "or"

Following: "distribute"

Strike: "!"

[REDACTED] COMMERCIAL

5. Amend page 3, section 4, subsection (1), line 16.

Following: "or"

Insert: "distribute or"

[REDACTED]

4:45 p.m.

ROLL CALL

JUDICIARY COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date 1/14/2000

that this introduced bill, be amended as follows:

1. Amend title, line 6.

Following: line 5

Strike: "PROVIDING AN IMMEDIATE EFFECTIVE DATE"

Insert: "TO CLARIFY THE EFFECT OF DISABILITIES ON STATUTES OF LIMITATIONS;
AMENDING SECTION 93-2703, R.C.M. 1947"

2. Amend page 1, section 1, lines 9 through 19.

Following: line 8

Strike: section 1 in its entirety

Remember: subsequent section

3. Amend page 1, section 2, line 20.

Following: "Section 2."

Insert: "There is a new R.C.M. section numbered 93-2625 that reads as follows:

"93-2625."

4. Amend page 1, section 2, line 21.

Following: "attorney"

Insert: "licensed to practice law in Montana"

Following: "attorney,"

Insert: "or"

XXXXXX

Following: "assistant"

Strike: "?"

5. Amend page 1, section 2, line 22.

Following: "intern"

Insert: "employed by an attorney."

6. Amend page 2, section 2, line 4.

Following: "omission."

Insert: " "

Following: line 4.

Insert: "Section 2. Section 93-2703, R.C.M. 1947, is amended to read as follows:

"93-2703. Exception as to persons under disabilities. If a person entitled to bring an action, mentioned in sections 93-2601 to 93-2609 or sections 93-2613 to 93-2618, Title 93, chapter 26, be, at the time the cause of action accrued, either:

1. Within the age of majority; or,

2. Insane; or,

3. Imprisoned on a criminal charge, or in execution under the sentence of a criminal court for a term less than for life; the time of such disability is not a part of the time limited in sections 93-2401 to 93-2720 for commencing the action; except that the time so limited cannot be extended more than five years by any such disability, except infancy; or, in any case, more than one year after the disability ceases."

7. Amend page 2, section 3, lines 5 and 6.

Following: line 4

(Ex.2)

That.....SENATE.....Bill No. 132,
the introduced bill, be amended as follows:

1. Amend page 2, section 2, subsection (1), line 6.

Following: "profit"

Insert: "any sound recordings onto which such sounds are transferred"

2. Amend page 2, section 2, subsection (1), lines 6 and 7.

Following: "or to"

Strike: "be used"

Insert: "use such sound recordings"

3. Amend page 2, section 2, subsection (1), line 13.

Following: "or"

Insert: "to be"

Following: "product"

Strike: ","

4. Amend page 3, section 3, line 5.

Following: "know,"

Insert: "advertise, offer for sale or resale."

Following: "resell,"

Insert: "or"

Following: "distribute"

Strike: "?"

Other

5. Amend page 3, section 4, subsection (1), line 16.

Following: "or"

Insert: "distribute or"