

MINUTES OF MEETING  
SENATE JUDICIARY COMMITTEE  
March 4, 1977

The meeting of this committee was called to order by Senator Turnage, Chairman, at 9:35 a.m. on the above date in Room 442 of the State Capitol Building.

ROLL CALL:

All committee members were present except Senator Murray who was excused.

WITNESSES PRESENT TO TESTIFY:

Rep. John Scully - District 76, Bozeman  
Tom Honzel - County Attorneys Assn.  
Ray Stuart - Court Administrator, Montana Supreme Court  
Pat McKittrick - Judges Assn.

CONSIDERATION OF HOUSE BILL 79:

Rep. John Scully of Bozeman, sponsor of the bill, said that it concerns the sentencing procedure on felony convictions and that this bill would deal with the problem of previous offenders and first time ones because the circumstances usually differ. He further said that a flat time sentenced individual would not be eligible for any parole such as we have today. He told the committee that an individual's background should be looked at before sentencing and that this is not mandatory. This bill calls for the judge to make his findings in writing subject to a review board. He said that H.B. 79 passed the House with overwhelming support and has not gone to the Appropriations Committee because there is no way a fiscal note could be figured for it. He further told the committee that the chief justice had lobbied to not have any change in their justice system until it was studied.

The first proponent of this bill was Tom Honzel, representing the County Attorney's Assn., who said that they support this bill and that they do not think it would have an impact on the prison system. He further said that the sentencing judge should have the authority to impose a sentence and that, if there is a jury trial, the sentencing judge has the opportunity to study all the data from the trial.

Ray Stuart, court administrator of the Supreme Court, testified as a "friend of the committee" rather than as an opponent. He said that they are interested in the bill because they fear that it will fill the prisons.

Rep. Scully at this time said he liked the bill because it allows sentencing at the district court levels.

Senator Olson moved to amend page 3, line 18, following "also", by inserting "upon a specific finding that it is necessary for the

protection of society"; and to further amend page 3, line 20, following "term" by inserting "or any portion thereof". The motion carried unanimously.

CONSIDERATION OF HOUSE BILL 202:

Representative Scully, sponsor of this bill, said that there is no magic in the figures he proposes to raise the liability of parents to for malicious destruction by children. He thought that \$1,500 appeared to be a logical figure, but would have no objection if the committee decided to amend it. However, he does not think it should go up very much. He said that he had basically introduced H.B. 202 at the request of the probation officers throughout the state who have been faced with the problem of restitution.

There were no opponents to H.B. 202 present.

Senator Towe moved that H.B. 202 BE CONCURRED IN. The motion carried unanimously.

CONSIDERATION OF HOUSE BILL 499:

Rep. Scully as sponsor of this bill told the committee that it deals with the increase of court fees at the district court level. The increase of \$10 to \$35 was objected to by people in Legal Services. He reminded them that people had the right to invoke the pauper's right. He said that the court costs have risen a lot in the past nine years, but that the fees have not been raised. He said that the suggested fees are very much in line with other states and that most states are on the \$35 fee for complaints. He said further that one-fourth of the fees collected would go back to the counties' operation of the court system, but that varies a lot in different counties. There will not be a windfall to the judges' retirement system if this bill is passed.

Pat McKittrick, a former representative who was appearing on behalf of the Judges' Assn., said that Mr. Cavin of Billings was also representing them, and that they were concerned about the setting of salaries. He told the committee that \$4 million dollars approximately is spent in Montana each year out of Montana taxpayers' money for litigation. He said that this bill addresses that there should be a reasonable charge to those 5% who use the court litigation process each year. He gave the committee an exhibit containing the scheduling of fees in several states. (See Exhibit 1)

The next proponent was Ray Stuart, court administrator for the Montana Supreme Court, who said that there has been a fiscal note prepared for this and similar bills, and that, actuarially speaking, the judges' retirement fund was getting in trouble. The fund was about \$70,000 behind itself then. The fund should be based on a portion of the salaries.

There were no opponents present.

Rep. Scully told the committee that he had not requested any witnesses to be present before this committee as proponents of H.B. 499.

At this time there were questions by the committee and the following motions were made to amend H.B. 499:

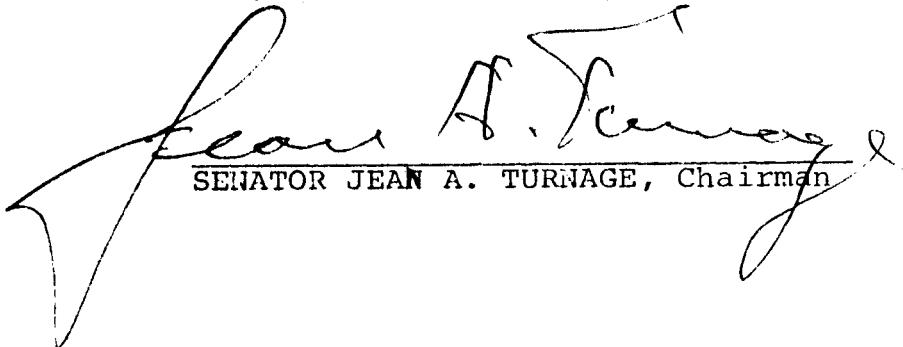
Senator Warden moved to strike subsection (q). The motion carried unanimously.

Senator Towe moved to amend line 17 by inserting "no additional fee shall be collected for admitting a will to probate". The motion carried unanimously.

The witnesses were then excused and thanked by the Chairman.

Senator Towe moved to further amend H.B. 499 in line 9, following "clerk" by inserting "established subsequent to the date of this act". The motion carried unanimously.

There being no further business, the committee adjourned at 11:00 a.m..



SENATOR JEAN A. TURNAGE, Chairman

## ROLL CALL

**JUDICIARY COMMITTEE**

45th LEGISLATIVE SESSION - - 1977

Date 34/77

*HB 499*  
*McKittrick*  
**Ex-1**

**CIVIL PROCESS FEES**

The Civil Process Division in all civil actions, suits and proceedings for each case delivered to his office on one day, shall collect in advance the following fees:

Service of summons, subpoena, citation, order, notice or similar documents, directed to not more than two different parties	7.50
Each additional party to be served in excess of two	3.00
Service of notice of small claim	6.00
Service of writ of execution or attachment where money only is seized	7.50
If by garnishment in addition for each garnishee served under the same writ in excess of two	3.00
Seizure and sale of personal property, sale of real property, enforcement of writ of restitution, or other enforcement or seizure under writ of attachment or execution or other process or proceeding	25.00
In addition, such sums as may be reasonable and necessary to secure each keeper or custodian of property in custody, the expense of inventory of property in custody and other expenses incurred in execution of such process	
Making a conveyance of real property sold on any process, to be paid by, or for, the grantee	10.00
Process fees and disbursements, as provided, except on a not found return, incurred after the docketing of a judgment, shall be added to the judgment and collected from the judgment debtor	
For any service not specified in this section which the sheriff may be required by law to perform for parties in civil actions, suits or proceedings, such fee as may favorably compare with fees fixed as established in this section.	
Fees collected shall be retained by the Civil Process Division for the benefit of the county where the party to be served cannot be found and a "not found" return is made	
No mileage or commission shall be collected for service of any document or process but in any service involving travel in excess of 100 miles round trip additional fee of \$7.50 shall be billed and collected.	

**CIRCUIT COURT OF OREGON  
MULTNOMAH COUNTY, OREGON**

**FOURTH JUDICIAL DISTRICT**

**SCHEDULE OF FEES**

Revised  
April 1, 1976

CIVIL CASES

DEPOSITS AND FEES EFFECTIVE JAN. 1, 1975  
AS SET OUT UNDER H. B. 496, 76th GENERAL  
ASSEMBLY, 483.530, 483.540, 483.541  
RULES OF COURT - 21st JUDICIAL CIRCUIT, ST. LOUIS COUNTY, MO.

FILING PETITION:

Dissolution of Marriage

Civil Jury Cases

Separate Maintenance

Equitable Actions

Extraordinary Writs

(Rule of Court 3.3) \$71.00 -

OTHER FILINGS:

Uniform Support

Registration of Foreign Judgments

Change of Name

Pro-Forma

Appointment of Successor Trustee

Controversy Without Action Stipulation

(Rule of Court 3) 46.00

ADOPTION CASES:

(Should be Filed at Juvenile Court) 85.00

LIMITED DRIVING PRIVILEGES (Petition) (Attorney's Checks Only)

Review of Revocation of Drivers License (Petition)

(Includes Certified Copies)

(Rule of Court 3-8.8) 39.00

GARNISHMENT and EXECUTION CIRCUIT CLERK FEE 25.00

(Separate check required for Sheriff's Fee)

EACH ADDITIONAL SUMMONS ISSUED 1.00

MISCELLANEOUS FILINGS - DEPOSIT REQUIRED

APPEALS:

Appeal from Magistrate Court* Or Municipal Court (Filing Fee Only) (By Appellant) Civil	63.00
Both Parties Waive a Jury: (By Appellant)	46.00
Criminal Appeal from Magistrate or Municipal Court	63.00
Appeal to Appellate or Supreme Court from Circuit Court	20.00
 Certification from Magistrate Court	71.00
Both Parties Waive a Jury	46.00
Motion to Modify Divorce Decree	25.00
Motion for Examination of Judgment Debtor	25.00
Motion for Contempt	25.00
Change of Venue	10.00
Scire Facias to Revive Judgment	25.00
Writ of Sequestration	2.00
Writ of Sequestration, Cole County	4.00

MISCELLANEOUS CLERK FEES:

Filing of Transcript of Magistrate Court Filing	1.00
Releasing Transcript Judgments	.35
Three Day Waiver	1.00
Approval of Motor Vehicle Safety Responsibility Bond	3.00
Certified Copy of Decree - on page and seal	1.50
Each Additional Page	.30
Filing Mechanic's Lien	1.00
Releasing Mechanic's Lien	.25
Registered Mail	1.50
Authenticated Copy	3.50
Missouri Uniform Gifts to Minors (Plus Certified Copy \$1.50)	3.00

\*MAGISTRATE APPEALS:

The plaintiff in a lawsuit in a Magistrate Court is not required to give security for cost in the Circuit Court if he is the respondent in an appeal to the Circuit Court. (See Supreme Court Rule 77.03 and H. B. 496, 76th General Assembly, Section 483.540)

OTHER STATUTORY COSTS ARE:

Court Steno Fee, 485.120 R.S. Mo.; Jury Fee, 494.160 R.S. Mo.; Sheriff, H.B. 69, October 13, 1969; and Witness, Deposition, Publication and Miscellaneous Costs are governed by Statutes and Nature of Trial.

NO DEPOSIT REQUIRED ON THE FOLLOWING:

Actions brought by the State of Missouri or by the County, or by an Agency, Bureau or Board of the same.  
Criminal or Support Actions brought by Prosecuting Attorney.  
Appeals from Probate Court.  
Actions brought by Sheriff.

RAYMOND V. CLIFFORD, CIRCUIT CLERK  
21st Judicial Circuit  
St. Louis County, Missouri

FILING FEES		TOTAL /	
AUTHORITY	FILING	AUTHORITY	FILING
21.270 Trial with Jury	\$33.50	21.110 Complaint	\$35.80
21.270 Trial without Jury	17.00	21.110 Appeal to Circuit Court (Civil, Criminal & Traffic)	35.80
21.310 Trial—Probate	10.00	21.110 Separate Maintenance	70.80
Divorce by Default	\$ 8.50	21.110 Petition for Support	19.00
Trial Fee	10.00	21.110 Divorce or Annulment	95.80
Reporter Fee	18.50	21.110 Defendant or Respondent	15.90
21.460 <del>rule 10.08 (2)</del> Divorce by Affidavit	6.00	21.320 Adoption	16.90
Reporter	20.00	21.320 Name Change	16.90
Per Day	10.00	21.010 Appeal from Circuit Court	25.00
Half Day or Less		Certification of transfer from District Court to Circuit Court:	
		Filing Fee	35.80
		Defendant or Respondent	15.90
		Total	\$1.70

See also ORS 21.120, 21.350, 21.112, 21.130, and Chapter 88 Oregon Laws 1975.

#### MISCELLANEOUS FEES

TOTAL		TOTAL	
AUTHORITY		AUTHORITY	
21.375 Making transcript of Judgment Docket	\$ 2.00	21.375 Filing and docketing transcript of Judgment	3.00
21.375 Certificate of Search	8.50	205.335 Certificate of Search	2.00
205.320 Issuance of Execution	2.00	205.320 Preparation of Clerk's Satisfaction	1.50
b. Ordin. 105 (4)		205.320 Certification of Judgment to Department of Motor Vehicles	2.00
		205.320 Certificate of Adoption or Name Change	1.50
		205.320 Issuing letters of Probate	2.00
		205.320 For each official Certificate or Certification	1.50
		205.320 For each exemplification	4.50
		205.320 For supplying copies of records or files	1.50
		Search to locate records	.10
		Copies per page	.25
		205.320 For copies not prepared by clerk but by him compared—per folio (est. 3 folios per page 8.1/2 x 11)	215.00
			14.00

All fees are paid in ad

## COUNTY CLERK'S FEE SCHEDULE

Effective State Wide July 1, 1972

### CIVIL FEES:

Filing Civil Case	\$32.00
Domestic Relations (Divorce, Annulment and Separate Maintenance)	32.00
Appeal from Justice or Other Court	32.00
Filing Transcript of Judgment or Verdict, from any Court	5.00
Filing Tax Warrant	5.00
For Each Garnishee Defendant Named in Affidavit for Garnishment	5.00
Filing Demand for Jury (Effective May 23, 1972)	
12 Member	50.00
6 Member	25.00

### PROBATE FEES:

Estate	\$32.00
Guardianship	32.00
Adoption	32.00
Petition Contesting Will	32.00
Petition to Admit Rejected Will	32.00
Filing Will Only	2.00
Certificate of Qualification	2.00
Certified Copy of Letters	2.00

### MISCELLANEOUS FEES:

Approving Notary and Other Bonds	\$ 2.00
Executing Notary Certificates	2.00
Executing any Certificate (With or Without Seal)	2.00
Assumed Name Certificate or Other Miscellaneous Filing	2.00
Copies (With or Without Seal):	
First Page	2.00
Additional Pages, each	1.00
Exemplified Copies:	
First Page	4.00
Additional Pages, each	1.00

Compliments of:

DAILY JOURNAL OF COMMERCE

RECEIVED

SEP 30 1969



GAYL C. ROWLAND  
WOODWARD CO. CIRCUIT CLERK

ADMINISTRATIVE OFFICE OF THE ILLINOIS COURTS

ROY O. GULLEY  
DIRECTOR  
THE COURT BUILDING  
PRINFIELD 0R700

80 NORTH MICHIGAN AVENUE  
CHICAGO 00002

September 26, 1969

To the Chief Judges and Clerks of the Circuit Courts:

Attached herewith is a copy of Public Act 76-1526 approved by the Governor on September 22, 1969.

This Act amends the fee statute applicable to counties of the First and Second Class. The new fee provisions are in effect now.

Effective immediately you should be charging the fees specified in the attached Act. Disregard the statutory fees set forth in Ill. Rev. Stat. 1967, Chap. 53, paragraphs 31 and 36, and the fee schedule previously published by this office.

Very truly yours,

Roy O. Gulley  
Director

SENATE

## Judiciary

## COMMITTEE

BILLS 74-202-499

**VISITORS' REGISTER**

DATE

~~3/4/77~~

Please note bill no.

|| (check one)