

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 19, 1977

The meeting of this committee was called to order by Senator Turnage, Chairman, at 9:40 a.m. on the above date in Room 415 of the State Capitol Building.

ROLL CALL:

All members of the committee were present for this meeting.

EXECUTIVE SESSION

The following bills were acted on in executive session this day:

HB 363 - Sen. Regan moved to adopt the amendment proposed by Rep. Cooney which amended page 1, section 1, line 17, following "evidence.", by inserting "The victim need not be physically present in the courtroom when the videotape is admitted into evidence.;" and to further amend page 2, section 2, line 6, following line 6, by adding a new section 3. "Court record -- privacy of victim. Videotapes which are part of a court record are subject to a protective order of the court for the purpose of protecting the privacy of the victim." The motion carried unanimously. She then moved that HB 363 as amended BE CONCURRED IN. The motion carried unanimously.

HB 533 - Sen. Regan moved that HB 533 BE CONCURRED IN. The motion carried unanimously.

HB 371 - Sen. Olson moved that HB 371 BE CONCURRED IN. The motion carried unanimously.

HB 28 - Sen. Towe Moved that HB 28 BE CONCURRED IN. The motion failed on a vote of 4-4 and went out of committee with a WITHOUT RECOMMENDATION report. The "No" votes were cast by Senators Roberts, Olson, Regan and Warden.

HB 29 - Sen. Towe moved to amend page 1, section 1, lines 17 through 20, following "that" by striking lines 17 through 20 in their entirety and inserting "the legislature or the people by initiative may establish the legal age for consuming or possessing alcoholic beverages." The motion carried with Sen. Warden voting "No".

Sen. Towe then moved to amend page 2, section 3, line 4, following "raise", by striking "RAISING" and inserting "allowing the legislature or the people to establish" and to further amend page 2, section 3, line 5, following "age", by striking "to 19"; and to further amend page 2, section 3, line 6, following "AGAINST", by striking "raising" and inserting "allowing the legislature or the people to establish" and following "age" by striking "to 19" in the same line. The motion carried with Sen. Warden voting "No".

Sen. Warden moved to amend page 1, section 1, line 16, by striking "18" and inserting "19". Motion failed on a vote of 1-7.

Sen. Roberts moved that HB 29 as amended BE CONCURRED IN. The motion carried with Sen. Warden voting "No".

At this time, it was noted that in the list of the sponsor's names on page 1, Rep. Lien's name was misspelled.

HB 5 - Sen. Regan explained why she did not like the bill as it now is and then moved the adoption of the following amendments:

Amend page 1, section 1, lines 11 and 12, following "administrator" on line 11, by striking the remainder of line 11 and line 12;

Amend page 1, section 2, lines 15 through 17, following "Sec. 2." by striking "Staff. With the approval of the supreme court, the court administrator may hire assistants to assist him in the performance of his duties" and inserting "Practice of law prohibited";

Amend page 2, section 5, lines 12 through 14, following line 11, by striking section 5 in its entirety and renumbering the subsequent section.

The motion to adopt the above amendments carried unanimously.

Sen. Towe then moved that HB 5 as amended BE CONCURRED IN. The motion carried unanimously.

Sen. Towe moved to reconsider the action of this committee on HJR 2 and 3. The motion carried unanimously.

HJR 2 - Sen. Olson moved that HJR 2 BE NOT CONCURRED IN. The motion carried unanimously.

HJR 3 - After discussion, Sen. Towe moved that HJR 3 BE CONCURRED IN. The motion carried unanimously. Sen. Towe volunteered to carry HJR 3 on 2nd Reading.

HB 164 - Sen. Towe moved to amend line 23 by striking "including" and inserting a ","; and to amend line 24 after "the" by inserting "state". The motion carried unanimously. The committee will consider this bill again.

HB 260 - Sen. Roberts moved BE CONCURRED IN. The motion carried unanimously.

HB 456 - Sen. Murray moved that HB 456 BE NOT CONCURRED IN. The motion carried unanimously.

HB 668 - Sen. Lensink moved that HB 668 BE NOT CONCURRED IN. Sen. Towe moved, as a substitute motion, for a straw vote on just the agricultural provision. The vote was 4-4. This bill will be taken up again.

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

SENATOR JEAN A. TURNAGE, Chairman

ROLL CALL

JUDICIARY COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date 3-19-77

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 21, 1977

The meeting of this committee was called to order by Senator Turnage, Chairman, at 9:45 a.m. on the above date in Room 442 of the State Capitol Building.

ROLL CALL:

All members were present except Sen. Regan, Towe and Warden who were excused to attend other meetings.

Senator Roberts, Vice-chairman, assumed the Chair at this time.

CONSIDERATION OF HOUSE BILL 589:

Rep. Williams, District 70 at Laurel, sponsor of the bill, proposes to include drinking offenses in justice, municipal and city courts by this piece of legislation. The reason for this is that they can handle drinking by youths at any hour in these courts without waiting for the youth court which is in the district court and only meets Monday through Friday each week. This would act as a deterrent for youths drinking and driving after hours and on weekends, and it should help control the alcoholic consumption of youths as they could be hauled into court at the time of the offense instead of waiting for the youth court to meet. The acting Chairman said that the committee will consider this bill. There were no other proponent or opponents present.

CONSIDERATION OF HOUSE BILL 71:

Rep. Feda of District 4 at Glasgow, sponsor of the bill, told this committee that it had been previously heard by the Sen. Business and Industry Committee. The main question regarding this bill is on page 4, line 6. They have added that in order to allow the small businessman who does not own a computer to have a simplified method of figuring interest on installment contracts. There were no other proponents or opponents present. Rep. Feda was thanked for appearing and excused.

CONSIDERATION OF HOUSE BILL 758:

Rep. South of District 51 at Miles City, sponsor of the bill, said that this bill has to do with child custody and avoiding jurisdictional conflict between states in these matters. It is a matter of philosophy. There were no other proponents or opponents present. Sen. Roberts said he realizes the necessity for this type of legislation. Montana would be the 13th state to adopt this.

CONSIDERATION OF HOUSE JOINT RESOLUTION 63:

Rep. Holmes of District 67 at Billings, sponsor of the bill said it would allow a legislative criminal justice drafting commission to be set up by the legislature and that it would be a working committee.

This bill was put together by a lot of committees. It passed the House 86-4. The National Clearing House for Criminal Justice Planning bulletin says that 6 members of the legislature and 5 from the group on page 4 will make up the composition of this commission. There is great disparity in sentencing and this must be straightened out. The Board of Crime Control will be their staff and the Legislative Council will be their legal drafting staff. This group is to come up with a comprehensive plan. This is not a study commission but it is a working commission set up for 2 years. She made some recommendations to the committee. (See Exhibit 1)

At this time Sen. Murray arrived from another meeting.

Rep. Ramirez spoke as a proponent of the bill, saying the purpose of the bill is very good and that it will make some organization out of chaos in regard to sentencing, etc.. He thinks that this bill will accomplish a great deal.

Mike McGrath of the Department of Justice said that they wholeheartedly agree with Rep. Ramirez on this bill.

Paul Spengler of the Secretary of State's office and a professor at Carroll said that this commission will not be a duplication of the Montana Justice Commission.

There were no other proponents or opponents present.

Chuck O'Reilly, assistant director of the project, said there were other bills in the House and one in this committee which deal with the same subject and that the legislative subcommittee had prioritized which legislation should be introduced at this session.

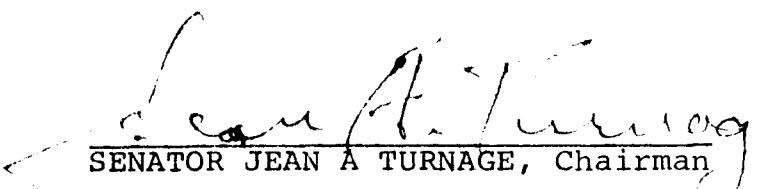
DISPOSITION OF HOUSE BILL 758:

Sen. Roberts moved that HB 758 BE CONCURRED IN. The motion carried unanimously. He volunteered to carry this bill on 2nd Reading.

DISPOSITION OF HOUSE BILL 71:

Sen. Roberts moved that HB 71 BE CONCURRED IN. 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 3-21-17

MONTANA JUSTICE PROJECT

(Ex-1)

EXCERPTS

FROM

COUNCIL

RECOMMENDATION

ON SENTENCING

THE LEGISLATURE SHOULD, AS SOON AS POSSIBLE, PROVIDE A MEANS FOR THE THOROUGH STUDY AND ANALYSIS OF MONTANA'S CRIMINAL SENTENCING PHILOSOPHY, PRACTICE AND PROCEDURE; TO STUDY THE CONCEPTS OF FIXED SENTENCING, MINIMUM AND MAXIMUM SENTENCING, INDEFINITE SENTENCING, "FLAT TIME" SENTENCING, AND; TO DETERMINE THE EFFECTS WHICH "GOOD TIME" STATUTES, PAROLE ELIGIBILITY STATUTES AND THE PERSISTENT FELONY OFFENDER STATUTE HAVE UPON EXISTING SENTENCING PRACTICES.

STANDARD 1.1

ADOPTED

RECTIONS

NATIONAL COMMISSION

Ninety-eight standards and recommendations proposed by the Corrections Task Force were adopted by the Montana Council on Criminal Justice Standards and Goals.

From this material, the Council selected the following priority areas for immediate implementation:

• Unification of Corrections

• Diversion

• Sentencing the Non-dangerous Offender

• Expediting Criminal Trials

• Public Information

KEY
COMMISSION
PROPOSALS

CRIMINAL JUSTICE STANDARDS AND GOALS

The recommendation opposite expresses the council's concern about one of the most conflicting processes in the entire criminal justice system.

Solutions to our sentencing problems will not be easily found. The council urges the legislature to create and fund a mechanism (perhaps within the office of the governor or within the legislative council) which, within two years, will provide the legislative body with a comprehensive analysis of Montana's criminal sentencing philosophy, purpose and procedures with clear recommendations for change.

In particular, the council urges the legislature to examine the concept of "fixed" sentences.

An analysis prepared by Donald W. Molloy, Esq. titled "Sentencing: Alternatives to Montana's Code of Criminal Procedure" is also included as reference material in Appendix E.

Legislative efforts to study the practice of criminal sentencing should extend far beyond both of these documents.

CORRECTIONS "A National Strategy to reduce time"

The Commission proposes fundamental changes in the system of corrections that exists in States, counties, and cities in America -- changes based on the belief that correctional systems usually are little more than "schools of crime." Key recommendations include:

- Restricting construction of major State institutions for adult offenders.
- Phasing out of all major juvenile offender institutions.
- Elimination of disparate sentencing practices.
- Establishment of community-based correctional programs and facilities.
- Unification of all correctional functions within the State.
- Increased and expanded salary, education, and training levels for correctional personnel.

SENATE *Health Care* COMMITTEE

BILL 7,238.584 758

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VISITORS' REGISTER

DATE

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