

HOUSE OF REPRESENTATIVES
JUDICIARY COMMITTEE
February 15, 1979

The regular meeting of the Judiciary Committee was called to order at 8:00 by Chairman Scully in room 436 of the Capitol Building. All members were present except Representatives Eudaily and Rosenthal.

HOUSE BILL NO. 678: Representative Pistoria. This bill would allow publicity for the identity of a youth delinquent or in need of supervision and provide the public would not be excluded from court proceedings. Why would I want to introduce this bill. Youth crime has increased and in the past year it is so bad that it is uncontrollable. I strongly campaigned on this issue. I was appointed to a crime control board and I still serve on it.

There was little discussion and no questions and the hearing closed on House Bill No. 678.

HOUSE BILL NO. 691: Representative Harrington. This bill would provide prepaid legal services for small corporations. They would pay an annual fee. It would also regulate the activities of such corporations.

DONALD C. Rdison: Prepaid Legal Protective Plan. I am an attorney from Butte. This bill was killed in the Senate last session. I am in support of this bill, for several reasons. First, I was the attorney representing the employer for the Teamsters Union. I also represented a nursing group of a hundred people. I am presently the chairman of a non-profit corporation sponsored by the state bar of Montana. One of the things we are ignoring in our society is the lack of preventive legal services. There is an old adage that a first rate legal mind avoids problems. We would submit that legal services, if delivered at an early stage, there would be less overall cost to the consumer. He gave several other reasons why he supported the bill. This would avoid the traumatic and catastrophic legal problems that could come up. We could have prepaid legal services as a fringe benefit. They are sometimes established voluntarily by some corporations, such as a credit union. The need for this legislation is very urgent. The program in Butte is still in the formative stage. This legislation would not impose a cost obligation on the state and it does not endorse a policy by the state.

LES LOBLE: Prepaid legal Protection Plan.
I have been talking with the Insurance Commissioner and they are concerned about the cost to that office. I do think we are going to see a giant explosion. I think this will move slowly. The concept has always been that it will pay its way.

JO DRISCOLL:

Chief Deputy, Insurance Commissioners office.

We have studied this type of insurance and have also prepared a substitute legal services act. The problem has been to secure practical, effective legislation. There are some who have filed prepaid and they would be subject to all of the laws covering insurers. This is similar to the one now on the books for Blue Shield and Blue Cross, but it is neither the Model Act nor the substitute. At the present time, the Insurance Department is inadequately staffed to have any more additional duties. We request a fiscal note for this bill or some way to have some funds directed to us. We would need two more employees.

REPRESENTATIVE HARRINGTON: I feel this is a very necessary service in the State of Montana. In the long run this would be a great benefit to the state.

There was no discussion, and the hearing closed on House Bill 691.

HOUSE BILL NO. 699:

Representative Ramirez. This is an act to revise the procedure of the JP court.

Number 1, it provides that a pamphlet has to be printed to explain what the procedures are. Number 2, must have time from 20 to 40 days in which the defendant has to respond to the complaint. Number 3, it permits counter claims so that if the plaintiff files, then a counterclaim must be of the same subject matter, and must be served within 72 hours before the date set for the hearing. And, number 4, finally, the fee is increased from \$3.50 to \$5.00.

JIM JENSON:

Montana Magistrates Association. We heartily support this bill. In our case,

the extended time is absolutely necessary for us to get action from the court.

No other proponents, no opponents, no discussion, no questions, the hearing

closed on House Bill No. 699.

HOUSE BILL NO. 697:

Representative Day. This bill amends to set venue for procedures to revoke or

suspend medical licenses in Lewis and Clark County. He gave the list of reasons that might cause suspension or revocation.

JERRY LENS DORF:

Montana Medical Association. We requested this bill be introduced on behalf of the

Board of Medical Examiners. The issue that gave rise to this was a certain disciplinary action. The bill actually makes two changes. On page 2, lines 16 and 17, the substitute word. And, second, it sets the venue for disciplinary action in Lewis and Clark County. I think

if you examine the history of the disciplinary procedure as a whole, you would agree. He mentioned and discussed several cases that have resulted in disciplinary action. We do not have any history of action brought by the board that was not justified.

Representative Keyser asked how many had been revoked or suspended in the last two years. Mr. Lendorf said he thought there had been 10 in the last four years.

No further discussion and the hearing closed on House Bill No. 697.

HOUSE BILL NO. 705:

Representative Yardley. This bill was not introduced for a substitute for any other bill. All meetings of any state agency, board, or bureau must be open to the public.

MIKE MELOY:

Lee Newspapers and the Montana Press Association. During the interim I would get calls from people that were turned out of a meeting. The most common method used by public bodies to avoid the law, is to form a subcommittee. It is really ironic that they would be doing that because the reason originally was to let people attend. He discussed how a quorum is used to avoid opening a meeting to the public, and gave examples of cases where that has happened. He also gave an example of a case where 3 or 5 members would hold a meeting without telling the other two members. The last section in the bill probably does more than you want to do. We have a proposed amendment which says that a public body may not appoint a subcommittee for acting on the jurisdiction unless covered by the statute. He gave an example of a situation which might not be covered.

WAYNE BUCHANAN:

Montana School Boards Association. Contrary to reports in the press the vast majority of school boards are not interested in getting around the open meeting law. We have recommended that each school district in the state embrace both the word and the intent of the open meeting law. We are recommending an amendment.

RON SEMPLE:

Montana Press Association. I think this bill would effectively close a loop hole. I think that the amendments are reasonable.

REPRESENTATIVE YARDLEY:

I have only point in mind, and that is to have any subcommittee meeting be open to the public. Without this amendment the open meeting law will become almost useless.

Representative Keyser asked if this language in here is much the same as a previous bill that was killed in committee.

Mr. Yardley replied, I do think that its very similar to the previous bill.

The hearing closed on House Bill 705 with no further discussion.

HOUSE BILL NO. 701: Representative Rosenthal. I am seriously proposing this bill for two reasons. There has been a lot of talk about raising the speed limit. Currently, Montana average speed limit is 62 miles per hour, and one purpose is to get people to comply with the present law and second it is to pay for the cost of the ticket. He gave the statistics for writing tickets. What I am trying to do is raise the fines for speeding gradually in steps.

ALBERT GOLK: Highway Safety, Department of Community Affairs. I want to leave this material with the committee. He passed a handout to the members. I have tried to relate to you what has happened since the decrease in speed. There are a number of people who are obviously not observing the 55 mile speed limit. What that relates to is that the state could be in a financial situation by the end of the year. The penalty for the first two years would be only 5%. I think we are far from a secure position as it relates to federal funds. I think the 55 mile speed has done a lot for our state in terms of death reduction.

JOE SOL: Highway Patrol. I would like to talk about the enforcement aspects. We have tried to zealously enforce the 55 mile speed. It will assist us in that the individual motorist would have some incentive to comply with the 55 speed. It does address the driver history. It will go a long way with assisting us in adjusting our activity.

JIM BECK: Highway Department. I am here primarily for information purposes. We get 100 million dollars a year. If we get into a penalty provision we could lose 5%. This bill could help get extra money.

JERRY DOVER: I am here as a concerned citizen. He gave a series of statistics about consumer energy savings. He said that Americans have been lied to, and so they deny, deny, deny and indulge, and then resist sacrifice for immediate gratification. He said we used 10.69 million barrels of oil in 1976. He compared average speeds and the amount of consumption and what the savings would be in energy. He gave the fuel statistics at 55 rather than 70 miles per hour.

MIKE GREELEY:

Attorney General. I would suggest to the committee, that over the past years and doing driver surveys the majority of Montanans favor strict enforcement of the 55 mile speed limit. However, I recognize that the economy sets the limit. He gave figures on the cost of going to justice court. We also feel that the number of contacts with the driving public would be reduced if we have a stiffer fine. I would encourage the committee to look at this very carefully.

Representative Lory asked, if the average cost is \$12 why not start with \$10 and split the cost somewhat. Representative Rosenthal said, I had to start somewhere and you can amend it. Discussion about this.

Representative Roth asked how many people would be hired. Mr. Sol replied, it should not have an impact in that regard.

Representative Day asked how Glendive compared with other areas of the state. Mr. Greeley said in answer, we don't know what the actual speeds are but we could tell you how many citations we issue.

Representative Curtiss said that in her area there was a feeling of contempt toward the Highway Patrol and the lack of enforcement.

REPERSENTATIVE ROSENTHAL:

The idea is not to issue more tickets, the idea is to make people comply with the speed law.

Representative Anderson asked what is the anticipated amount of revenue, and the answer was \$855,000.

MR. GREELEY:

Part of the problem with that figure is that we have a warning. The figure of \$12 is more or less an assumed cost. So, you would have to figure how many are warnings and how many are actual fines. It is not intended to be a revenue measure.

There was discussion about the highway earmarked fund and the general fund and the fact that for out of state persons they do not recover any money. The comment was made that there had to be a certain amount of compliance or the federal funds would be cut off.

Following discussion about the current rate, the hearing closed on House Bill 701

HOUSE BILL NO. 693:

Representative Bardanouve. Thank you
for your courtesy in waiting for me.

This bill would allow the payment of expenses to sheriffs who transport certain prisoners and mentally ill persons. We were reviewing the operation of the Department of Administration and the department has been kind of a hodge podge because every time the Legislature has any new law they don't know what to do with they hang it in the Department of Administration. This department has no function in the law enforcement field at all. Mr. Greely said it might cost a little more money. I think the Attorney General, with the contact they have with the sheriffs in the State of Montana may be able to better coordinate with the transport of prisoners. I think it could bring about a more compatible arrangement and may bring about better, more efficient use of our money.

DAVE LEWIS:

Department of Administration. There is
one problem with the bill. I noticed

they didn't address the section that handles extraditions. They will bring us an amendment.

There was no discussion and the hearing
closed on House Bill No. 693.

The meeting adjourned at 9:30 and after
a short break resumed to take executive

action on pending bills.



John P. Scully, Chairman



Mary Ellen Connelly, Secretary