

HOUSE OF REPRESENTATIVES
JUDICIARY COMMITTEE
March 8, 1979

The regular meeting of the Judiciary Committee was called to order by Chairman John Scully in room 436 of the Capitol Building at 8:00 a.m. Thursday, the 8th of March. All members were present. Scheduled for hearing were Senate Bills 404, 426, 431, 461, 468 and 516.

SENATE BILL NO. 404: Senator Kolstad. This bill would change the filing time for a financing statement, with respect to a purchase money security interest from 10 days to 20 days. It would also change the rules on priority.

ANN TOBIN: Montana Hardware and Implement Association. It was at our request that this bill was introduced. We urge your support.

HAROLD PITTS: Montana Bankers. We support the bill. He went through the bill and explained some of the changes.

There was no discussion and the hearing closed on Senate Bill 404.

SENATE BILL NO. 431: Senator Hafferman. This was introduced at the request of the Department of Professional and Occupational Licensing. It would clarify the notice requirements for denial, suspension, or revocation of a license.

ED CARNEY: Director, Professional and Occupational Licensing. The bill clarifies the note requirement.

REPRESENTATIVE KEYSER: You said that they are going to show compliance.

MR. CARNEY: Discussed the permits. Then he explained the section on notice requirements.

REPRESENTATIVE KEEDY: In asking about the prior notice, it is not your intention to take that part out of the law? Then followed discussion about adequate notice. The comment was made that the way this section now reads he is given the option.

Representative Keedy then asked about the section 1, subsection 1 and that it might be taken out by subsection 3. Discussion followed.

The hearing closed on Senate Bill No. 431.

SENATE BILL NO. 426: Senator Stimatz. This bill is to clarify what is meant by a non-dangerous offender. There has been some confusion and this clears it up. If the court shall determine that an offender is not eligible to be designated as a nondangerous offender, whenever the sentence and judgment do not contain such a determination, the offender is considered to have been designated as a nondangerous offender for purposes of eligibility for parole.

NICK ROTERING: Department of Institutions, Chief Counsel. This will clarify a problem we have had for about two years. Before, when it did not say so it had to be assumed that he was dangerous. There has been some times when a person got out on parole when they weren't eligible.

REPRESENTATIVE ROSENTHAL: What is the difference between this bill and Mike Keedys bill.

SENATOR STIMATZ: I am not aware of his bill.

REPRESENTATIVE KEEDY: Why should the judge be required to make a designation. Senator Stimatz answered, he must do something if he is mandated to do it.

Then followed an exchange between Senator Stimatz and Representative Keedy about the dangerous and nondangerous offender. There was no other discussion and the hearing closed on Senate Bill No. 426.

SENATE BILL NO. 468: Senator Stimatz. This bill will revise the laws relating to courts of limited jurisdiction. This bill would provide for annual training for Justices of the Peace at the Montana law school under the supervision of the Supreme Court. Costs, books and mileage would be paid by each county. It is not the intention of this bill to place any burden on any individual county. He may be excused for a good cause, such as a death.

JIM JENSON: Montana Magistrates. This bill is legislative substantiation for a Supreme Court that says judges have to go to a school. It makes it mandatory that judges do attend these sessions. I think it is very important that we have well-trained judges in the lower courts because that is where 90% of people might end up, such as a traffic ticket. He spoke to proposed amendments.

MIKE ABLEY: Supreme Court. The primary reason for this bill is that the judges need training. He stated that a Justice of the Peace must not necessarily be a lawyer but they must be well-trained. There is frankly a need for training

JUDICIARY COMMITTEE

March 8, 1979

Page 3

We would pick up all of the cost. We have reached an agreement with Mike Greely and the room and board will be \$10 a day. They will be able to use the police academy facilities.

MARGARET DAVIS: League of Women Voters. We have long held the position that they should be better trained, the judges in the courts of limited jurisdiction. There is a constitutional question that has been raised about parking tickets. In the end it will be more cost effective and also much better.

DAN MIZNER: League of Cities and Towns. He discussed third-class cities, and then presented amendments he would like the committee to consider. On page 3, lines 1 through 5, if the city judge is a justice of the peace. On page 4, line 4, the city or town would provide facilities and we think that is adequate. We feel there is some conflict in the language, on page 4, line 4. He presented prepared copies of the amendments.

REPRESENTATIVE DAY: How are you going to provide this time, if he is to attend this training before he serves. It was mentioned that they could tell how much time they spend and keep track of it.

Discussion about the position being an elected office and Representative Keyser wondered, are you saying that some of the JP's are double-dipping as a police judge. Mr. Mizner said that there is another bill around somewhere that clarifies this.

REPRESENTATIVE KEYSER: Isn't it true that the JP has to be in the county seat. Mr. Jenson answered, one has to reside in the county seat but another JP could be appointed to serve in the other specified area. A JP can sit as a city judge to hear city ordinances.

There was no other discussion and the hearing closed on Senate Bill No. 468.

SENATE BILL NO. 516: Senator Turnage. This bill would revise the law relating to custody orders. It will do two things. Number 1, it will allow a district judge in a custody matter to make a temporary custody order. Number 2, it allows a motion to modify a custody decree earlier than two years. The old law would not allow this. Quite often, little thought is given to what might happen to a child six months from now.

SENATOR VAN VALKENBURG: The part of the bill that I was involved with were the amendments on pages 3 and 4. They give the court authority to act without a hearing for temporary custody. It may not be in the best interests of the child to be in the custody of one party for a long length of time. This would be within a twenty day period.

SENATOR TURNAGE: This bill was really the law prior to 1975 and in 1975 we adopted the model marriage and divorce act.

There was no discussion and the hearing closed on Senate Bill No. 516.

SENATE BILL NO. 461: Senator Steve Brown. This will revise the appointment procedures and duties for city attorneys. On page 2, lines 9 and 10, we are putting into the statutes what is now being done. It would also provide additional duties for the city attorney. Section 4, they need a formal opinion oftentimes. In addition to duties set forth by statute on a question by questions basis they can contract for other duties. They can contract separately.

DAN MIZNER: League of Cities and Towns. It is a problem that you may not realize. He discussed cities he was familiar with that had contracted out.

REPRESENTATIVE DAY: Where are the cities that contract with North Dakota, and the answer was, a group up by the border, Westby and Culbertson.

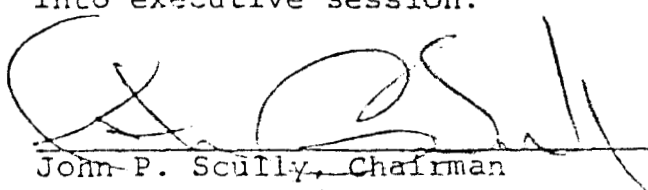
REPRESENTATIVE EUDAILY: What about my bill? Mr. Mizner said they did not want to confuse the attorney issue with the other bill.

REPRESENTATIVE KEEDY: Does it include the city attorney, and Senator Brown said, yes, in section 4.

DAN MIZNER: Explained section 2 and sections 3 and 4.
Representative Keedy led discussion about the fact that there is no maximum allowed for contracting. Mr. Mizner said, what we are trying to do is segregate out the city attorneys. This section includes all employees of the city.

Representative Keyser wondered whether this affects the city manager form of government. Discussion about this. There was no other discussion and the hearing closed on Senate Bill No. 461.

The meeting adjourned at 9:00 a.m. to go into executive session.


John P. Scully, Chairman