

HOUSE OF REPRESENTATIVES
JUDICIARY COMMITTEE
March 23, 1979

Following the regular meeting the Judiciary Committee was called to order by Chairman John Scully at 10:35 a.m. in room 436 of the Capitol Building. All members were present except Representatives Day and Holmes, both excused.

The meeting was called to take action on HOUSE JOINT RESOLUTION 59, sponsored by Representative Gould, and SENATE BILL NO. 202, Senator Van Valkenburg.

REPRESENTATIVE GOULD: What you have here is a request for an interim study and the reason for this request is very valid and very important. What Senate Bill 21 would have done was make a minimum sentence for rape, or assault with a knife. He explained what happened to the bill. I carried a petition with me when I was going door to door and campaigning. He discussed the bill SB 21 and felt it wasn't much of a bill. What the public is asking for is honesty in sentencing. He discussed kinds of crime. It is now time to have a study to find out what needs to be done in this area. I feel that it is important that we as legislators do it rather than have the public do it.

REPRESENTATIVE KEMMIS: Is there any reason that the resolution has to refer to mandatory and not just sentencing. I guess my feeling is that it should take account of aspects of sentencing.

REPRESENTATIVE GOULD: Yes, that is fine with me.

REPRESENTATIVE ROTH: If you remove the mandatory would you have something else, and Representative Kemmis commented, I guess the best way would be to just remove it.

There was no other discussion and the hearing closed on HJR 59.

SENATE BILL NO. 202: Senator Van Valkenburg. This bill would provide for a fourth district court judge in the fourth judicial district. In the 1st, 2nd, 11th, 16th, and 18th districts, two judges each and in the 8th district, three judges each and in the 4th and 13th districts, four judges each. I don't want to do anything that might jeopardize our getting a judge. The best thing to do would be to just add a judge to the judicial district. The figures we used were from the Supreme Court, but one significant difference would be the ratio of district to judge. He gave figures of number of lawyers per judge that would bring the ratio in line with the statewide average. He discussed a possible amendment.

There was a request by Senator Turnage to take his bill off the table and move it back to remain in Senate Judiciary.

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REPRESENTATIVE KEMMIS:

County. General laughter.

I wonder if you don't need a bill to get rid of some lawyers in Missoula

There was no other discussion and the hearing closed on Senate Bill 202.

10:30 a.m.

EXECUTIVE SESSION

SENATE BILL NO. 393:

said that following their discussion the vote ended up a tie. It would stay in the bill that a professional person could still testify.

Representative Kemmis moved the adoption of the subcommittee amendments. The motion to amend carried with the vote unanimous.

Representative Kemmis moved "be concurred in as amended". The motion carried with Representatives Keyser, Pavlovich and Curtiss voting "no". Representative Kemmis will carry on the floor.

SENATE BILL NO. 202:

Discussion was held concerning what the bill does and doesn't do.

Representative Uhde moved to create the new district in Lake County.

Representative Kemmis, questioned whether this was within the scope of the title.

We may need a rules decision. Then followed discussion about where the judge would have his office, and about who would elect the judge.

REPRESENTATIVE ANDERSON:

I can't see why we should leave the judge in Missoula. I know those counties are growing and it wouldn't be long before they will be needed. I support the new district.

REPRESENTATIVE KEYSER:

I very definitely feel that we could do this within the title. I move a substitute motion that we provide a fourth judge but state that he must conduct his business in Lake County.

REPRESENTATIVE KEEDY:

Is that what 219 does, the Turnage bill?

REPRESENTATIVE SCULLY:

Yes, that is what the bill does.

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Representative Day came in.
The question was called and the motion
carried with Representatives Anderson,
Keedy and Day voting "no".

Representative Lory moved "be concurred
in as amended". The motion carried
with Representative Anderson and Day voting "no".

There was general discussion about
the bills that have been tabled.

HOUSE JOINT RESOLUTION 59: Representative Keyser moved to amend
the title by striking "mandatory", and
on page 2, line 1, by striking "mandatory". The motion carried with
the vote unanimous.

Representative Keyser moved "do pass
as amended". The motion carried with
Representative Day voting "no".

SENATE BILL NO. 221: Representative Scully explained the
amendments. He then went on to explain
the federal statute concerning the language on page 7. I made them
insert language on page 9, line 9, and page 11, section 10.

There was discussion about the section
on the exemption from fees. On page 14
there was discussion about the new language concerning adoptive
parents. On page 14, lines 12 and 13, we made them mesh that with
the committee bill we just passed. Page 36, section 27 should be
taken out completely. On page 38, line 17, this is your waiver pri-
vilege and charge off lien and this amendment takes care of that. It
should clear it up.

REPRESENTATIVE KEMMIS: I move the adoption of the amendments.
The motion carried with the vote
unanimous.

REPRESENTATIVE KEEDY: Led discussion of the definitions. They
don't go back there and use the terms
that they define. He moved to amend by striking the word "minor"
and inserting "dependent" all through the bill. The motion carried
with the vote unanimous.

REPRESENTATIVE KEEDY: On page 6, following "for" insert "any",
strike "provider" insert "debt". On
page 6, line 22, strike "enter" and on line 23, strike "to" and strike
"an obligation", insert "a responsible". The motion carried with the
vote unanimous.

I move to amend page 8, line 15. He
asked why the parent was not included.
Insert the word "parent" and on line 16 insert "parent". The motion

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carried with the vote unanimous. He then moved to amend page 14, line 3, strike "natural or adoptive" and insert "responsible". And on page 14, lines 4 and 5, strike "who are responsible for the support of such children". The motion carried with the vote unanimous.

There was discussion about changing it in the definition rather than amending the word child.

Representative Lory moved "be concurred in as amended" and the motion carried with the vote unanimous. Representative Scully will carry on the floor.

There was no further business at this time and the meeting adjourned at 11:45.



John P. Scully, Chairman

Mary Ellen Connelly, Secretary