

MINUTES OF THE MEETING

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

January 22, 1979

The fifth meeting of the Public Health, Welfare and Safety Committee met January 19, 1979, in Room 410 of the State Capitol Building at 1:00 p.m.

ROLL CALL: All committee members were present.

ACTION ON HOUSE BILL 40: Discussion on House Bill 40 was opened by Chairman Olson at 1:00 p.m. Senator Himsl once again raised the question on why the age of the senior citizen was set at 60 instead of 55. Senator Lensink then questioned whether specifying the age of the consumer to sit on the Board is even constitutional. Dave Cogley, Director of Legal Services for the Legislative Council, stated that setting an age is legal if there is good cause; and in this case there is definitely good cause.

Senator Palmer made a motion that the Committee strike "60" and change it to "55." The motion was seconded and passed unanimously.

Senator Palmer moved that House Bill 40 do pass as amended. The motion was seconded and passed unanimously.

CONSIDERATION OF SENATE BILL 125: Senate Bill 125, by request of the Code Commissioner, is an act to generally revise and clarify the laws relating to health and safety.

John Bobinski, staff counsel for the Personnel Division of the Department of Administration, stated that he had put the bill together for the Code Commissioner. He went through the summary of changes made to Senate Bill 125. See Attachment "A."

Chairman Olson asked the Committee if anyone had any questions. Senator Himsl asked for clarification on why both references were deleted on page 17, lines 7 through 13.

The hearing on Senate Bill 125 was closed at 1:35 p.m.

CONSIDERATION OF SENATE BILL 127: Senate Bill 127, by request of the Code Commissioner, is an act to generally revise and clarify the laws relating to social services and institutions.

John Bobinski, staff counsel for the Personnel Division of the Department of Administration, stated that he also drafted this bill for the Code Commissioner. He went through the summary of changes made to Senate Bill 127. See Attachment "B." He stated that Section 2 was changed because of a phone call from Tom Mahan, legal counsel for the Department of Social and Rehabilitative Services, who referred him to Chapter 30 of the Laws of 1943. He said this language is no

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longer appropriate in the code. It sets the yearly fund for legal services at \$2400. A lengthy discussion followed on whether this \$2400 limitation is for the Attorney General or for outside legal council for the departments. Senator Lensink asked that someone obtain a copy of the Laws of 1943 to help clarify this change.

Mr. Bobinski stated that Section 13 was revised to clarify that there are two ways of providing services: (1) by state agency, and (2) by independent contractor. The way it is worded would make one believe there are three ways to provide services.

Section 14 was changed to clarify that if a minor is committed to a state institution by guardian or parent without his consent it would be regarded as a mandatory voluntary commitment and would require a court hearing. This was clarified to conform with the original intent of the law.

Section 18 was changed to clarify that both an intoxicated person and a person incapacitated by alcohol can receive emergency treatment.

The area covered in Section 19 authorizes the governor with approval of the Board of Pardons to commute the sentence for a youth under 21 years of age from prison to a juvenile home. Chairman Olson questioned why the age is 21 instead of 18. Nick Rotering from the Department of Institutions stated that the department asked in 1975 to return the age to 21 or 25 and that it has held up in the courts. The Federal law has a separate law where you can deal with them clear up to age 25. The court recognizes them as youthful offenders. More discussion followed on this. Senator Lensink stated that since this is a recodification bill the law should not be changed in it.

Discussion returned to Chapter 30 of the Laws of 1943. The original law was drafted in 1937. Therefore the Laws of 1943 do supersede the original law; and the \$2400 limit for legal council was deleted.

Aage Hansen, Association for the Retarded, spoke in opposition to the sentence on page 9, lines 3 and 4. He said that the association is not happy about having the department establish the qualifications for persons employed to do a job. They feel that if they accomplish the job which they are contracted to do that is all that is necessary. The Committee pointed out to Mr. Hansen that this item has been a part of the present law and that it is not being changed. They said that if the association wants to change this they will have to come back in two years with an amendment.

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Nick Rottering, legal counsel for the Department of Institutions, expressed concern about deleting Boulder River School and Hospital as proposed in Section 20 of Attachment "B." He says that they use this part of the law to get assistance from the local law enforcement officials to bring back juveniles who have escaped from Boulder River School and Hospital. After much discussion, Mr. Rottering stated that to make the bill consistent with the Code he would propose that the change stay in and if the department has a problem in the next two years they will bring it up at the next session.

Chairman Olson closed the hearing on Senate Bill 127.

ACTION ON SENATE BILL 125: Senator Norman moved to pass Senate Bill 125. The motion was seconded and passed unanimously. Senator Palmer moved to put Senate Bill 125 on the Consent Calendar. The motion was seconded and passed unanimously.

ACTION ON SENATE BILL 127: Senator Lensink made a motion that Senate Bill 127 do pass. The motion was seconded and passed unanimously.

ADJOURNMENT: With no further business being discussed, the meeting was adjourned at 2:50 p.m.

S. A. Olson

S. A. OLSON, CHAIRMAN

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CODE COMMISSIONER

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DIRECTOR, LEGAL SERVICES

ROBERT PERSON
DIRECTOR, RESEARCH

Montana Legislative Council

State Capitol

Helena, 59601

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LC 0027

1979 Legislature
Code Commissioner Bill -- Summary

Sen Bill No. 125

AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO
HEALTH AND SAFETY.

(This summary does not include discussion of routine form or
grammatical changes.)

Section 1. 50-2-120. "Public officer" was changed to
"peace officer" for uniformity with rest of the code (see
45-2-101(42)). *Line 12, page 1*

Section 2. 50-5-201. In (2) made grammatical change. *Line 42, p. 1*

Section 3. 50-5-301. In (1) made grammatical change. *Line 6, p. 1*

Section 4. 50-15-302. In (1), "divorce" was changed to
"dissolution" and "annulment" was changed to "declaration of
invalidity" to bring this section into conformity with
terminology used in Montana's uniform marriage and divorce act.
In (2) made grammatical changes.

Section 5. 50-15-303. This section was amended as indicated
to bring it into conformity with Montana's uniform
marriage and divorce act.

Section 6. 50-17-105. In (3)(b) made grammatical change. *Line 18, p. 1*

Section 7. 50-30-301. In (4) corrected an erroneous *Line 17, p. 1*
internal reference. In (7), "of" was changed to "or" for clarification
and to correct an apparent typographical error.

Section 8. 50-31-103. In (4)(c), "[section 17(a)(B) or *Line 13, p. 1*
16(k) of this act]" was changed to "50-31-306(1)(m) or
50-31-307(1)(c)" for clarification and to correct an apparent
typographical error. (This change was made pursuant to advice
and recommendations received from Doug Olsen, staff attorney,
and Vernon Sloulin, Food and Consumer Safety Bureau Chief, of
the Department of Health and Environmental Sciences). In

(10)(a) and (18), "official Homeopathic Pharmacopoeia of the United States" was deleted since this book is no longer in print. (It's possible that this book was never in print).

Section 9. 50-31-111. Made grammatical changes.

Section 10. 50-31-303. In (1) made grammatical change.

Section 11. 50-31-305. In (6), the last sentence was deleted since the Homeopathic Pharmacopoeia of the United States is not in print. This amendment is also necessary for consistency with sections 8 and 12 of this act. In (7), "or" was added for clarification and grammatical reasons.

Section 12. 50-31-306. In (1)(g), language was deleted as indicated since the Homeopathic Pharmacopoeia of the United States is not in print. This amendment is also necessary for consistency with sections 8 and 11 of this act. In (1)(p), "or" was added for clarification and grammatical reasons.

Section 13. 50-32-208. In (2), changed "50-32-312" to "50-32-309" to correct obvious inaccurate reference.

Section 14. 50-32-229. Made grammatical changes.

Section 15. 50-32-232. Made grammatical changes.

Section 16. 50-37-102. In (1), changed "army, navy, or marine corps" to "armed forces" to include air force and to simplify.

Section 17. 50-38-304. Changed "length" to "height" for clarification.

Section 18. 50-51-106. Made grammatical change.

Section 19. 50-51-202. Made grammatical change.

Section 20. 50-61-118. "Law" was changed to "Chapter" for clarification.

Section 21. 50-62-103. This section was amended primarily to change the ambiguous "should" to a mandatory "shall".

Section 22. 50-70-114. In (5), the last sentence was deleted since 50-70-111 no longer provides for judicial review. See also section 42, Chapter 349, Laws of 1974. All other changes were routine style and grammatical changes.

Section 23. 50-71-325. In (3), changed "industrial accident administrative" to "division of workers' compensation" to reflect the current designation of the earmarked revenue account (17-2-102 and 17-2-106, MCA). *17-2-106, p. 3
17-2-106, p. 3*

Section 24. 50-75-105. All language following "... perform their duties..." was deleted as obsolete. The bracketed R.C.M. sections have all been repealed. All other changes were routine style and grammatical changes. *17-2-105, p. 3
17-2-105, p. 3*

Section 25. 50-75-107. Deleted "inspector of steamboats" as obsolete. (Word search of statutes showed no such position exists.)

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LC 0032

1979 Legislature
 Code Commissioner Bill -- Summary

Sen Bill No. 127

AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO SOCIAL SERVICES AND INSTITUTIONS.

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. 53-2-104. "Welfare" was changed to "public assistance" for consistency with 53-2-101(2) defining "public assistance" and to update language. There no longer is a definition of "welfare" in the Code.

Section 2. 53-2-202. The last sentence of this section was deleted as obsolete and not in line with current law (see Ch. 30, Laws of 1943, which repealed acts and parts of acts in conflict with its provisions.)

Section 3. 53-2-205. "Public Law 93-641" was changed to "Public Law 93-647" to correct an obvious error in citing Title XX of the Social Security Act.

Section 4. 53-3-103. "And" was changed to "or" in subsection (4) for consistency with 53-2-612.

Section 5. 53-4-213. Changed "[act]" to "part". Sections 53-2-305 and 53-2-306, MCA adequately establish that county departments are subject to rules of the department of social and rehabilitation services. Thus, a restriction in the scope of this internal reference is appropriate under part 2.

Section 6. 53-4-406. "Parents" was changed to "parent" for grammatical reasons and because under 1-1-218 the singular includes the plural.

Section 7. 53-4-501. "And all" was changed to "or any" in subsection (2) for grammatical reasons and for clarification.

Section 8. 53-4-505. "Department of justice" was changed to "state fire marshal of the department of justice" or "state fire marshal" throughout to clarify legislative intent that the state fire marshal of the department of justice is to be the state agency responsible for fire safety in Montana. (See Ch. 519, L. 1977).

Section 9. 53-4-509. "Department of justice" was changed to "state fire marshal of the department of justice" to clarify legislative intent expressed in Ch. 519, L. 1977.

Section 10. 53-5-303. Changed "federal law in Title XX, Social Services Amendments of 1974" to "Title XX of the Social Security Act, Public Law 93-647" for uniformity in citation and clarity of reference.

Section 11. 53-5-304. Changed "department of health and environmental sciences" to "state fire marshal of the department of justice" to clarify legislative intent expressed in Ch. 519, L. 1977.

Section 12. 53-20-112. In (2)(d), deleted "be" for grammatical reasons.

Section 13. 53-20-205. Subsection (1) was reworded for clarification. See Chapter 325, section 5, Laws of 1974 and 53-21-203(1).

Section 14. 53-21-112. Subsection (2) was added for clarification and because of the split-up of 38-1303, R.C.M. 1947, during recodification. Subsection (3) was amended as indicated for clarification and to further legislative intent.

Section 15. 53-24-104. "Alcohol", in the phrase "alcohol and drug dependence", was changed to "alcoholism" for consistency with the rest of the chapter and for clarification.

Section 16. 53-24-108. "And" was changed to "or" at the end of subsection (1)(a) for grammatical reasons.

Section 17. 53-24-206. "Alcohol", in the phrase alcohol and drug dependence", was changed to "alcoholism" throughout for consistency with the rest of the chapter and for clarification.

Section 18. 53-24-304. "A person" was added to subsection (1) to clarify the distinction between "intoxicated person" and a person "incapacitated by alcohol" (See 53-24-103, MCA).

Section 19. 50-30-212. "During his minority" was changed to "until he is 21 years of age" in subsection (1) for clarification since, under current Montana law, a minor is a person under 18 years of age. All other changes were either for grammatical reasons or for purposes of uniform style within the Code.

Section 20. 53-30-214. "The Montana children's center, Boulder River school and hospital", and "Eastmont training center" were deleted as obsolete in the context of this section and to clarify that the juvenile facilities being referred to in Title 53, chapter 30, are juvenile correctional facilities. "Whose" was changed to "which has as its" and "is" was deleted for grammatical reasons.

Section 21. Repealer. 38-121, R.C.M. 1947, is recommended for repeal because the target terminology therein was appropriately changed throughout the MCA to reflect current terminology. In instances where "of unsound mind" did not fit well, it was replaced by amendment.

80-2101 through 80-2107 are recommended for repeal because the Montana children's center is out of operation and references to it are obsolete.

ROLL CALL
PUBLIC HEALTH COMMITTEE

46th LEGISLATIVE SESSION - - 1979

Date 1-22-77

SENATE

COMMITTEE

BILL

VISITORS' REGISTER

DATE

SENATE COMMITTEE

PUBLIC HEALTH

Date 1-22-19 7:15 a.m. Bill No. 40 Time 1:15 p.m.

July 1, 1928.
Secretary

S. A. Olson
Chairman

Motion: Do Pass As Amended

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE

PUBLIC HEALTH

Date 12-2-19 Senate Bill No. 127 Time 2:42 p.m.

Secretary John Olson

S.A. Olson
Chairman

Motion: No Pass

(include enough information on motion--put with yellow copy of committee report.)

Date 1-22-79 Senator Bill No. 125 Time 2:40 p.m.

Secretary

Chairman

Motion: Do Pass

SA Olson

(include enough information on motion--put with yellow copy of committee report.)