

MINUTES OF MEETING  
SENATE JUDICIARY COMMITTEE  
January 29, 1979

The eighteenth meeting of the Senate Judiciary Committee was called to order by Senator Everett R. Lensink, in room 331 of the Capitol Building on the above date at 9:32 a.m.

ROLL CALL:

All members were present.

CONSIDERATION OF SENATE BILL 204:

Senator Aklestad gave the committee copies of a statement (See Exhibit A) from Rae V. Kalbfleisch, County Attorney from Toole County in connection with this bill, which is an act to permit a court to admit a defendant convicted of deliberate homicide to bail only if the defendant proves by a preponderance of the evidence that he is not a danger to others.

He introduced Tom Honzel, representing the Montana Association of County Attorneys, who gave a statement in support of this bill. He stated that he did not think this bill would be overburdensome to a defendant, and that some homicide cases may be done in a heat of passion over some family trouble and this person would not be a danger to society if he is let out of jail.

He introduced Mr. Marc Racicot, Prosecution Coordinator in the Law Enforcement Services Division of the Department of Justice, who gave a statement in support of this bill.

There were no further proponents and no opponents.

Senator Aklestad stated that he was sure the committee was aware of the problems of law and order in the state. He felt this bill at least would make a small step forward so victims aren't being victimized and criminals aren't being coddled.

Senator Towe asked how does this differ from the criteria which the judge uses now when he makes that decision. Mr. Honzel replied that right now it is up to the discretion of the judge and there is no criteria set out.

Senator Anderson commented that the burden of proof is on the defense attorney rather than on the prosecuting attorney and it should enlighten the judge a little more.

Senator Van Valkenburg questioned if he would object to the insertion of the word, "substantial" before danger in the last line. Mr. Honzel replied that "substantial danger" is again one of those terms that we can play around with, and he didn't know if it is defined properly and maybe a better word would be "present".

Senator Turnage suggested that we look at the statute as to a definition of deliberate homicide, which states "A person commits the offense of criminal homicide if he purposely, knowingly, or negligently causes the death of another human being." He suggested that the

language be changed by striking what is there and adding in lieu thereof, "the defendant convicted of the offense of deliberate homicide is presumed to be a danger to others and not entitled to be admitted to bail which presumption may be rebutted." He commented that this would get the presumption on the side of the state and then the defendant has to assume the burden.

Senator Lensink said that the committee will not take action today and this will give time to propose amendments. The hearing on this bill closed at 10:50 a.m.

CONSIDERATION OF SENATE BILL 205:

Senator Aklestad gave an explanation of this bill, which is an act to delete the exception relating to the absence of serious bodily injury to the victim from the list of exceptions to mandatory minimum sentences and certain restrictions on deferred imposition and suspended execution of sentence.

He introduced Tom Honzel, representing the Montana Association of County Attorneys, who stated that in 1977, the state passed the mandatory minimum sentencing act for major crimes and criminal sale of dangerous drugs. He stated that the most common place where this bill would apply would be in the case of armed robberies and there have been no infliction of bodily injury and it would seem to be an exception to it.

There were no further proponents and no opponents.

Senator Aklestad stated that he was trying to strengthen the laws of the state of Montana and again felt that some victims were being victimized and criminals were being coddled and he did not want to make this a police state.

Senator Towe commented that he was concerned where there might be a threat but no bodily injury and wondered if the words "or threat thereof" should be inserted. Mr. Honzel explained that this does conflict with one section. He did not think that it should be treated in its entirety.

Senator Van Valkenburg commented that this provision of law might be an incentive for a person not to inflict bodily harm to another - say, in the case of a hostage or something. Mr. Honzel replied that you would still have the other exceptions. He thought that if there were any exceptions there, it would be minimal.

There was some discussion on the deterring effect of exclusion of bodily injury and the hearing on this bill was closed at 10:10 a.m.

CONSIDERATION OF SENATE BILL 197:

Senator Van Valkenburg gave an explanation of this bill, which is an act to authorize the use of videotape equipment to record the testimony of the victim in a case arising under felony sexual assault.

He introduced Tom Honzel, representing the Montana Association of County Attorneys, who stated that the videotape is probably more needed in the case of felony sexual assault than any others. He said that as a general rule, the situation involves a considerable age difference. He said that they are dealing with small children and that they often have many problems. There is a time lapse and the child has problems remembering an unhappy experience, there are problems putting a small child on the witness stand, telling about an experience that they do not want to tell the whole world. He gave an example of a six-year old girl who was sexually molested by an individual in his 30's and they attempted at that time to take testimony on the videotape and that they were not able to use that tape in the trial.

He also cited a case where one year ago, a 23-year old man molested a 5-year old girl. He stated that she was able to tell everything, but the mother was extremely reluctant to let the little girl testify because of the traumatic impact on the child. He said that it was virtually impossible to try that case without her testimony, and that she was literally the only witness they had. He commented that it was very difficult for that child and the parents of that child - probably more so than in a rape case.

Karen Townsend, the Deputy County Attorney from Missoula County offered testimony in support of this bill. She stated that one job she has is working with victims of sexual crimes and that it is particularly difficult to get these young children to want to talk about it at all. She said that it is extremely frightening and a traumatic experience for them.

She cited a case wherein a 46-year old man, previously convicted of rape of his stepmother and stepdaughter, was charged with two counts of sexual assault against a 13-year old girl and a 6-year old boy. She said that they were going to have to put three children on the stand and that they were frightened to death but the man decided to plead guilty at the last minute. She stated that these incidents were in July and the trial was scheduled in September.

She also cited a case where a father was charged with sexual assault of his 8-year old child. She stated that her testimony was videotaped and that it is very hard for a child to testify against her own father when he is right there on the stand. She said that this does provide adequate protection for the defendant's rights and gives protection to the victim.

There were no further proponents and no opponents.

Senator Van Valkenburg introduced a letter into the committee from Barney Reagan, an attorney-at-law from Cut Bank, Montana. (See Exhibit B) In this letter, he strongly opposes this bill.

Senator Turnage questioned how many cases have come to trial using videotape, and Ms. Townsend replied that they have not had an opportunity to use it. She stated that in Great Falls they have had experience with it. Senator Turnage commented that he was curious about the record of success in using it.

Mr. Honzel stated that if the victim was an adult in a rape case, they would rather have the victim testify.

Senator Towe referred to Barney Reagan's letter and wondered about the constitutional rights to a public trial. Under these circumstances, the constitutional right of a public trial is nullified. Ms. Townsend said that she disagrees. She stated that the public trial would be there and instead of the victim being placed on the stand, the videotape would be played. She said that all the other rights are protected. Senator Turnage commented that they allow depositions. Ms. Townsend commented that it is possible on a T.V. screen to get the demeanor of the witness.

Senator Towe moved the bill do pass. The motion carried unanimously.

#### CONSIDERATION OF HOUSE BILL 165:

Representative Kvaalen was not here to present this bill, so Randy McDonald, representing the code commission, went over this bill section by section. This is an act to generally revise and clarify the law relating to minors.

Senator Towe questioned on lines 21 and 22, page 2, if this was the appropriate thing to do in every case. Mr. McDonald said that that is the way it is done now. Senator Towe stated that so many times these people are sent to Warm Springs or Boulder when it could be done at the local level.

There were no further proponents and no opponents.

Senator Brown moved that we concur in this bill. The motion carried unanimously.

#### CONSIDERATION OF HOUSE BILL 167:

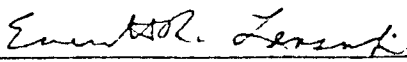
Randy McDonald from the Legislative Council, gave an explanation of this bill, which is an act to revise and clarify the law relating to the family.

Senator Turnage moved that on line 20 and 21 on page 6 that the bill be amended by striking this material in its entirety. The motion carried unanimously.

There were no further proponents and no opponents.

Senator Towe moved that the bill be concurred in, as amended.  
The motion carried unanimously.

There being no further business, the meeting adjourned at  
10:51 a.m.

  
\_\_\_\_\_  
SENATOR EVERETT R. LENSINK  
CHAIRMAN, SENATE JUDICIARY  
COMMITTEE

Date 1/29/79

ROLL CALL

JUDICIARY COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
Lensink, Everett R., Chr. (R)	✓		
Olson, S. A., V. Chr. (R)	✓		
Turnage, Jean A. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Anderson, Mike (R)	✓		
Galt, Jack E. (R)	✓		
Towe, Thomas E. (D)	✓		
Brown, Steve (D)	✓		
Van Valkenburg, Fred (D)	✓		
Healy, John E. (Jack) (D)	✓		

Each Day Attach to Minutes.

N. G. NESBO, Chairman  
I. SHERRARD, Commissioner  
E. G. GOTTFRIED, Commissioner  
V. KALBFLEISCH, Attorney  
Z. BETH MUNSON, Clerk and Recorder  
N. L. BROOKS, Sheriff



## COUNTY OF TOOLE

SHELBY, MONTANA  
January 23, 1979

VIVIAN S. HALL, Clerk of Court  
MARY E. WESTERMARK, Treasurer  
EARL O. BONDERUD, Assessor  
JANICE E. BAILEY, Co. Supt.  
RONALD W. Fleck, M.D., Coroner  
P.J. JACQUEMART, Public Administrator  
JAMES C. FARRAR, Justice of the Peace

Senate Judiciary Committee  
Montana Senate

Dear Committee Members :

As a county attorney with 20 years experience as a prosecutor I would like to urge you to support Senate Bill No. 204.

Recently I prosecuted a defendant for the offense of Deliberate Homicide which is the equivalent of murder in the first degree. A jury convicted the defendant of that offense and the judge sentenced the defendant to prison for 30 years with 10 suspended and denied defendant bail during his appeal on the merits. The judge also granted defendant bail while he appealed the denial of bail to the Montana Supreme Court and the supreme court also permitted defendant to remain on bail until October when the defendant was finally imprisoned. The defendant was free from June until October, after having shot another human being to death.

My office received numerous complaints from witnesses who testified against the defendant and jurors who decided the case that they were very fearful of harm from defendant when he was free on bail. Several of these people refused to ever again become involved in the judicial process because they sincerely believed the defendant received much more protection from the judicial system than they did. A psychiatric report which the court was aware of showed the defendant was a real threat to the local residents.

I realize we cannot place all criminals into a single mold, however once a person has been convicted of deliberate homicide by a jury of his peers it is my honest opinion that such person should not be permitted to run at large and present a threat to local residents who had the courage to take part in the judicial process at much person risk. The Montana Supreme Court this past week finally denied defendant bail during his appeal yet the bitterness felt by local citizens will not be quickly erased by that decision. This bill will not automatically and finally deny bail to all defendants but it will place the burden upon the defendant to prove to the court that he does not present a danger to society.

Thank you for your consideration .

Respectfully yours,



Rae V. Kalbfleisch  
Toole County Attorney



BARNEY REAGAN  
Attorney at Law  
9 First Avenue S.W. . . . Box 342  
CUT BANK MONTANA 59427

January 23, 1979

Hon. Fred Van Valkenburg  
State Senator  
State Capitol  
Helena, MT 59601

Re: S.B. 197

Dear Fred:

Although I have not seen your bill, what has been reported in the paper frightens me no end.

I appreciate the Womens' Libbers' complaints concerning a rape victim being abused at trial, but it is not the rights of the victim that are to be adjudicated at a criminal trial; it is the accused.

The Sixth Amendment to the U.S. Constitution requires that "...the accused shall enjoy the right to a speedy and public trial,...,and,...; be confronted with the witnesses against him...." (Emphasis added.) Such provisions are also found in our 1972 Montana Constitution.

To "split" the concept of "public trial" and "confrontation with the witness against him" destroys the intent embodied in this Constitutional provision.

I appreciate that your bill probably involves allowing the defendant and his counsel to be present at the video-taping and to cross examine the complaintant. But such would not be in the presence of the Jury and/or the public.

The concept of a public trial involves both the concept that it is open to the public view and not a Star Chamber proceeding, but also that witnesses are not so apt or prone to lie in public.

Rape is a crime provable without corroboration, just on the word of the complaintant. Of all crimes charged, it more than any of the rest, should require full public scrutiny.

I appreciate that no young lady (or now man) relishes the idea of publicly having to recount all the gory details of a rape in public. But such trial is not for the protection of the "victim's rights"; by constitutional mandate it is for the protection of the accused's rights.

I sincerely believe that your bill probably suffers from constitutional infirmities.

*Exhibit B  
#18*

Hon. Fred Van Valkenburg  
January 23, 1979

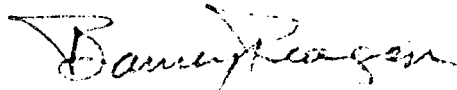
page 2

If a person alleges that one committed such a heinous crime as rape, that person should be required to testify concerning such in an open trial. They should not be allowed to hide behind an electronic screen wherein the Jury and the public cannot truly judge their demeanor and credibility.

Fred, we don't need such legislation as this. Let us make the system we have work.

I remain,

Sincerely yours,

  
Barney Reagan

# STANDING COMMITTEE REPORT

January 29, 19 79

MR. President:

We, your committee on Judiciary

having had under consideration Senate Bill No. 197

Respectfully report as follows: That Senate Bill No. 197

DO PASS

# STANDING COMMITTEE REPORT

January 29 19 79

MR. President:

We, your committee on Judiciary

having had under consideration House Bill No. 167

Respectfully report as follows: That House Bill No. 167

in the third reading bill, be amended as follows:

1. Page 6, lines 20 through 21.

Following: line 19

Strike: lines 20 through 21 in their entirety

Renumber: subsequent subsections accordingly

And, as so amended, BE CONCURRED IN  
UNANIMOUSLY

# STANDING COMMITTEE REPORT

January 29, 1979

MR. President:

We, your committee on Judiciary

having had under consideration House Bill No. 165

Respectfully report as follows: That House Bill No. 165

BE CONCURRED IN

~~DO PASS~~

SENATE COMMITTEE JUDICIARY

Date \_\_\_\_\_ Bill No. SR 122 Time 5:05 p.m.

*tabled*

NAME	YES	NO
Lensink, Everett R., Chr. (R)	✓	
Olson, S. A., V. Chr. (R)	✓	
Turnage, Jean A. (R)	✓	
O'Hara, Jesse A. (R)	✓	
Anderson, Mike (R)	✓	
Galt, Jack E. (R)	✓	
Towe, Thomas E. (D)		✓
Brown, Steve (D)		✓
Van Valkenburg, Fred (D)	✓	
Healy, John E. (Jack) (D)		<i>absent</i>

*Robert C. Conway*  
Secretary

*Everett R. Lensink* a/o  
Chairman

Motion: *Motion to table*

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

# STANDING COMMITTEE REPORT

.....January 30..... 19 79.....

MR. President.....

We, your committee on Judiciary.....

having had under consideration Senate..... Bill No. 152.....

Respectfully report as follows: That Senate..... Bill No. 152,  
introduced bill, be amended as follows:

1. Page 1, line 19.

Following: "residing"

Insert: "or is found"

2. Page 1, line 22.

Following: "earlier."

Insert: "The purpose of the hearing is to determine whether the youth committed the violation and, if so, whether the violation is of such a nature that he should be returned to the juvenile facility from which he was released or a different plan for treatment should be pursued by the department of institutions."

3. Page 2, line 7.

Following: "notice"

Strike: "that"

Insert: "of"

~~EX-155~~

(continued)

January 30, 1979

Committee on Judiciary

SB 152

Page 2

4. Page 2, lines 8 through 13.

Following: "hearing" on line 8

Strike: remainder of line 8 through "institutions" on line 13

5. Page 2, line 20.

Following: "to"

Strike: "request that"

Insert: "have"

6. Page 2, line 24.

Strike: "and"

7. Page 2.

Following: line 24

Insert: "(g) a record of the hearing; and"

Renumber: subsequent subsection accordingly

8. Page 3, lines 9 and 10.

Following: "hearing." on line 9

Strike: "The county attorney shall assist the department in the conduct of the hearing as necessary"

Insert: "In the conduct of the hearing, the department may request the county attorney's assistance as necessary"

9. Page 3, lines 15 through 17.

Following: "violation" on line 15

Strike: "and that there are no mitigating circumstances"

10. Page 3, line 20.

Following: "youth."

Insert: "In making this recommendation, the referee may consider mitigating circumstances."

And, as so amended

DO PASS J.A.



# STANDING COMMITTEE REPORT

January 30

19 79

MR. President

We, your committee on Judiciary

having had under consideration Senate Bill No. 104

Respectfully report as follows: That Judiciary Bill No. 104,  
introduced bill, be amended as follows:

1. Title, lines 6 through 11.

Following: "AN ACT"

Strike: lines 6 through 11 in their entirety

Insert: "TO GIVE EXPRESS RULEMAKING AUTHORITY FOR CERTAIN  
PROGRAMS TO THE DEPARTMENT OF SOCIAL AND REHABILITATION  
SERVICES; AMENDING SECTIONS 53-2-201; 53-3-102; 53-5-304  
AND 53-7-302, MCA."

2. Pages 1 through 9.

Strike: all of the bill following the enacting clause

Insert: "SECTION 1. SECTION 53-2-201, MCA, is amended to read:  
"53-2-201. Powers and duties of department. (1) The  
department shall:

(a) administer or supervise all forms of public assistance,  
child protection, and child welfare, including the provision  
of medical care payments in behalf of recipients of public  
assistance;

~~EXCESS~~ (b) administer or supervise all child welfare activities,  
including importation and exportation of children; licensing

(continued)

and supervising of private and local child-caring agencies; the care of dependent, neglected, and delinquent children in foster family homes, especially children placed for adoption or those of illegitimate birth;

(c) give consultant service to private institutions providing care for the needy, indigent, handicapped, or dependent adults;

(d) cooperate with other state agencies and develop provisions for services to the blind, including the prevention of blindness, the location of blind persons, medical services for eye conditions, and vocational guidance and training of the blind;

(e) provide services in respect to organization and supervise county departments of public welfare and county boards of public welfare in the administration of public assistance functions and for efficiency and economy;

(f) assist and cooperate with other state and federal departments, bureaus, agencies, and institutions, when so requested, by performing services in conformity with public assistance purposes; and

(g) administer and supervise all state and federal funds allocated to this state and all state funds appropriated to the department for public assistance activities. The department shall and do all things necessary, in conformity with federal and state law, for the proper fulfillment of public assistance purposes; and

(h) make rules governing payment for services and supplies provided to recipients of public assistance.

(2) The department may:

(a) purchase, exchange, condemn, or receive by gift either real or personal property which is necessary to carry out its public assistance functions. Title to property obtained under this subsection shall be taken in the name of the state of Montana for the use and benefit of the department.

(b) contract with the federal government to carry out its public assistance functions. The department may do all things necessary in order to avail itself of federal aid and assistance.

(c) make rules, consistent with state and federal law, establishing the amount, scope, and duration of services to be provided to recipients of public assistance."

SECTION 2. SECTION 53-3-102, MCA, is amended to read:

"53-3-102. Administration. The department and county departments of public welfare are hereby authorized and charged with the administration and supervision of general relief under the powers, duties, and functions as prescribed in chapter 2 of this title. The department may adopt rules and take other action necessary to carry out its responsibilities under this chapter."

SECTION 3. SECTION 53-5-304, MCA, is amended to read:

"53-5-304. Standards for adult foster family care homes. The department may establish by rules standards by which private residences may be licensed as adult foster family

(continued)

Chairman.

care homes. These standards shall provide for the safety and comfort of the residents and shall be subject to the advice and recommendations of the department of health and environmental sciences in relation to fire and safety requirements."

SECTION 4. SECTION 53-7-302, MCA, is amended to read:

"53-7-302. Administration. The department shall provide the services authorized by this part to blind individuals determined by it to be eligible therefor. In carrying out the purposes of this part, the department may, among other things:

(1) cooperate with other departments, agencies, and institutions, both public and private, in providing the services authorized by this part to blind individuals; in studying the problems involved therein; and in establishing, developing, and providing, in conformity with the purposes of this part, such programs, facilities, and services as may be necessary or desirable;

(2) enter into reciprocal agreements with other states to provide the services authorized by this part to residents of the states concerned;

(3) conduct research and compile statistics relating to the provision of services to or the need of services of blind individuals;

(4) provide supplementary services to any applicant or recipient who is in need of treatment either to prevent blindness or to restore his eyesight, whether or not he is blind, if he is otherwise qualified for services or training under this part and if the supplementary services are recommended because of the findings of an ophthalmologist or optometric examination. The supplementary services may include necessary travel and other expenses to receive treatment from a hospital or clinic designated by the department.

(5) make rules and take other action necessary or appropriate to carry out this part."

*P.A.*

And, as so amended,

DO PASS

Everett R. Lensink,

Chairman.

# STANDING COMMITTEE REPORT

January 30 19 79

MR. President

We, your committee on Judiciary

having had under consideration Senate Bill No. 164

Respectfully report as follows: That Senate Bill No. 164, introduced bill, be amended as follows:

1. Title, line 9.  
Following: "ANNOTATED,"  
Insert: "TO PROVIDE PROCEDURES FOR THE ACCOMPLISHMENT OF RECODIFICATION,"
2. Title, line 9.  
Following: "MCA"  
Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"
3. Page 2, line 8.  
Following: "language"  
Insert: "as"
4. Page 2, line 20.  
Following: "amendments"  
Strike: "."  
Insert: ";

EXPOS

(continued)

5. Page 2.

Following: line 20

Insert: "(j) renumbering all ARM rules in the new three-part numbering system;

(k) eliminating unnecessary information in the history of ARM rules;

(l) reserving blocks of page numbers in ARM where growth has been consistent in the past or future growth is anticipated;

(m) providing the secretary of state with an "Old to New" numbering table to be filed in front of each title;

(n) removing all repealed rules from ARM and listing them on the "Old to New" numbering table;

(o) providing the secretary of state with a schedule of prospective chapter numbers and prospective page numbers, indicating the blocks of page numbers to be reserved in the agency's title, for the purpose of assisting the secretary of state in providing to ARM subscribers instructions for page removal and insertion of replacement pages."

6. Page 2, line 22.

Following: line 21

Strike: "January"

Insert: "July"

7. Page 2, line 24.

Following: "publication, and"

Strike: "file"

Insert: "refile"

8. Page 2, line 25.

Following: "state."

Strike: "Rules not refiled are invalid."

9. Page 2.

Following: line 25

Insert: "(2) The secretary of state may set a schedule requiring an agency to recodify and refile its rules in chapter increments and prescribing the number of recodified pages to be submitted by each agency to the secretary of state at each scheduled date for replacement pages during the period beginning on [the effective date of this act] and ending on July 1, 1980.

(3) Each agency shall submit a schedule to the secretary of state listing the chapter names, chapter numbers, and pages in its title that will be recodified and refiled to meet the requirements of subsection (2). The validity of the rules that are not refiled by the scheduled date is suspended on that date.

(4) Such suspended rules may be recodified and refiled with the secretary of state by the next scheduled replacement page date, and if so recodified and refiled, they become valid and effective on that date. If such suspended rules are not so recodified and

(continued)

refiled by that date, they are permanently invalid and may be revived only by fulfilling all requirements of the Montana Administrative Procedure Act relating to rulemaking in the same manner as new rules proposed for adoption."

Renumber: subsequent subsections

10. Page 3, line 1.  
Following: "to"  
Strike: "January"  
Insert: "September"

11. Page 3, lines 4 and 5.  
Following: "Title ...."  
Strike: ", together with replacement pages for that title."

12. Page 3, line 8.  
Following: "(4)(e)"  
Insert: "and (4)(j) through (4)(o)"

13. Page 3, lines 9 through 11.  
Following: "change." on line 9  
Strike: lines 9 through 11 in their entirety  
Insert: "The report must be made available by the secretary of state on request and at a fee set by 2-6-103."

14. Page 3, line 13.  
Following: "date"  
Insert: "of"  
Following: "replacement"  
Strike: "pages are distributed"  
Insert: "page issue"

15. Page 3.  
Following: line 13  
Insert: "NEW SECTION. Section 3. Effect of recodification and refileing. The rules in ARM that are recodified and refiled pursuant to [section 2] shall be given effect as a continuation of the rules in ARM as they exist on [the effective date of this act] and not as a new adoption. A rule that is invalid, in whole or in part, on [the effective date of this act] is not rendered valid by the process of recodification and refileing."

Renumber: subsequent section

16. Page 3, lines 18 through 21.  
Following: "repealed." on line 18  
Strike: lines 18 through 21 in their entirety

17. Page 3, line 24.  
Following: "report"  
Insert: "to the administrative code committee"

(continued)

January 30 19 79

18. Page 4.

Following: line 2

Insert: "Section 5. Effective date. This act is effective on  
passage and approval."

And, as so amended,  
DO PASS

*PA.*

# STANDING COMMITTEE REPORT

January 30

19 79

MR. President

We, your committee on Judiciary

having had under consideration House Bill No. 75

Respectfully report as follows: That House Bill No. 75,  
third reading bill, be amended as follows:

1. Title, line 9.

Following: "VACATED"

Insert: ", WHICH CONVICTION OR FORFEITURE OCCURRED WITHIN 5 YEARS  
OF THE COMMISSION OF THE PRESENT OFFENSE"

2. Page 2.

Following: line 20

Insert: "An offender is considered to have been previously  
convicted for the purposes of this section if less than 5 years  
has elapsed between the commission of the present offense and  
a previous conviction."

And, as so amended, BE CONCURRED IN  
OR PASSED

*P.Q.*



# STANDING COMMITTEE REPORT

January 30, 1979

President

MR. ....

Judiciary

We, your committee on .....

Senate

149

having had under consideration ..... Bill No. ....

Senate

149

Respectfully report as follows: That..... Bill No.....

introduced ibill, be amended as follows:

1. Page 2, lines 3 and 4.

Following: "elections." on line 3

Strike: "Special elections"

Insert: "A special election"

2. Page 2, lines 5 through 7.

Following: "certified in" on line 5

Strike: "all respects as was the election in which the officer was elected to the office"

Insert: "the same manner that the law in effect at the time of the election for recall requires for an election to fill the office that is the subject of the recall petition"

3. Page 2, line 8.

Following: line 7

Strike: "appointed officials"

Insert: "an official holding a nonelective office"

~~XXXXXX~~

continued

4. Page 2, lines 9 and 10.

Following: "in" on line 9

Strike: "all respects as was the election of the person who appointed the official"

Insert: "the same manner that the law in effect at the time of the election for recall requires for an election to fill the office of the person who has the power to appoint such official"

and as so amended,

DO PASS

# STANDING COMMITTEE REPORT

..... January 30 ..... 19 79 .....

MR. .... President .....

We, your committee on ..... Judiciary .....

having had under consideration ..... House ..... Bill No. .... 7 .....

Respectfully report as follows: That ..... House ..... Bill No. .... 7, .....

third reading bill, be amended as follows:

1. Page 46, line 2.

Following: "date"

Strike: "of such payment"

Insert: "the cause of action accrues"

And, as so amended,

DO PASS

# STANDING COMMITTEE REPORT

January 30

19 79

MR. President

We, your committee on Judiciary

having had under consideration Senate Bill No. 205

Respectfully report as follows: That Senate Bill No. 205,  
introduced bill, be amended as follows:

1. Title, line 5.

Following: "MCA, TO"

Strike: "DELETE"

Insert: "RESTRICT"

2. Page 2.

Following: line 11

Insert: "(5) where applicable, no serious bodily injury was  
inflicted on the victim unless a weapon was used in the  
commission of the offense."

And, as so amended,

DO PASS

# STANDING COMMITTEE REPORT

January 30, 1979

President

MR. ....

Judiciary

We, your committee on .....

Senate

204

having had under consideration ..... Bill No. ....

Senate

204

Respectfully report as follows: That .....

introduced bill, be amended as follows:

1. Title, lines 5 through 8.

Following: "MCA, To" on line 5

Strike: lines 5 through 8 in their entirety

Insert: "PROVIDE THAT THERE IS A REBUTTABLE PRESUMPTION THAT A  
DEFENDANT CONVICTED OF DELIBERATE HOMICIDE IS A DANGER TO OTHERS  
AND NOT ENTITLED TO BAIL."

2. Page 1, lines 19 through 23.

Following: "(2)" on line 19

Strike: lines 19 through 23 in their entirety

Insert: "A defendant convicted of the offense of deliberate homicide  
is presumed to be a danger to others and not entitled to be admitted  
to bail, which presumption is rebuttable."

and as so amended,

DO PASS

*Mc.*