

THE MINUTES OF THE MEETING OF HUMAN SERVICES COMMITTEE
March 9, 1981

The Human Services Committee convened at 12:30 p.m. in Room 103 of the Capitol on March 9, 1981 with CHAIRMAN BUDD GOULD presiding. All members were present except REPRESENTATIVES BARDANOUVE and MENAHAN.

SB 228.

SENATOR PAT REGAN opened the hearing on SB 228, which would amend laws relating to foster care. She said that SRS has worked out an agreement with the probation department on certain amendments to the bill. She presented those amendments (EXHIBIT I), and explained them to the committee. The purpose of the bill is to ensure regular review of foster care and a committee is provided for that purpose. It attempts to reduce the number of children in foster care.

PROPONENTS:

MARY BLAKE, representing the Social and Rehabilitation Services, and employed as the after-care manager for that agency, said this bill was introduced in an attempt to solve a financial problem and to address the well-being of the children in foster care. There are 900 children in foster care in the state. Children are sometimes placed through youth courts without consulting with the SRS and this results in the department being unable to budget with any degree of effectiveness, she said. Because of the requirement that the county pay half the costs for special care, local courts are reluctant to order it for children in foster care. The proposed change will allow the department to pay more than half the cost, if it is agreed to by both the department and the courts. The second main proposal of the bill is providing every child with a permanent home, wherever best for the child.

JEREMIAH F. JOHNSON, President of the Montana Probation Officers' Association, appeared in support of the bill but proposed amendments (EXHIBIT II).

MARK RICKS, representing LDS Social Services, presented written testimony in favor of the bill. (EXHIBIT III).

VINCE MATULE, Director of the Casey Family Program, stated that the youth placed with his agency are referred by SRS, and placed at no cost to the state. He feels that this bill is in the best interest of children because they are referred at an earlier date. The Casey Family Program is a private program that provides for some of the children that otherwise would be wards of the state. If a child is reviewed every year, a determination can be made whether or not he should return home, or should remain in long-term foster care. Review will assure the best interest of the child and not allow him to "slip through the system", said Mr. Matule. Reviews are made voluntarily in many places and work very

well, he said; however, they are not mandated. He urged support of SB 228.

OPPONENTS: There were none.

QUESTIONS FROM THE COMMITTEE:

REP. SEIFERT questioned page 2, lines 15 through 25, which calls for the foster care review board. He thought the definition was very broad; he also asked about the fiscal note which said there would be no increase in staff or budget. He wondered if the members of the review board would meet in Helena.

SENATOR REGAN stated that the child would be placed on a permanent basis or they would be returned home, in either case at no cost to the state. She felt the SRS representative would not be traveling all over the state, but would be delegating authority to employees in various areas of the state.

REP. BRAND asked if MARY BLAKE would clarify the payments made. Ms. Blake said that, in the case of exceptional care operations etc., the determination would have to be made by the county and SRS as to how the payment would be made. The county probably would be requesting a reduction of payment, she said.

REP. BRAND asked what kind of reviews have been made in the past. Mr. BLAKE said that reviews are made by supervisory administrative personnel every two months until six months' time, and then every six months thereafter. This bill requires a review originating outside of the department. There is presently no requirement for a youth court review.

REP. BRAND asked MR. MATULE where he is from, and who supports his program. VINCE MATULE said that he's from Helena and that his funds come from a private foundation, the Annie Casey Foundation. There are programs set up in Idaho, Washington, California, Oregon and Montana to provide homes for troubled youth, and the staff is comprised of five and one half people in his agency, he said.

REP. BRAND asked if the Casey Program was a placement center. MR. MATULE said he places children in foster homes, sometimes through the courts. The program is for long-term care, similiar to adoptive care.

REP. BRAND thought the Casey program also should be required to work through the courts. MR. MATULE said the average age of the children placed through his agency is ten and they have few probation cases.

REP. BRAND asked how the Montana Probation Officers Association felt about a private foundation placing children. MR. JOHNSON said he was on the board of directors for the Casey Foundation in Montana. The Casey program is set up for children whose parents refuse to have anything further to do with them he said, so the children need long-term foster care to give them a sense of permanency. He felt it was an excellent service to the state of Montana.

SENATOR REGAN stated that the bill had the support of JOHN FRANKINO of the Catholic Charities and from EUNICE ANN, president of the Montana State Foster Parents and from DEANNA HANSON of the Yellowstone Boys and Girls Ranch. She then closed the hearing on the bill.

SB 270.

SENATOR PAT RYAN, Cascade, opened the hearing on SB 270, which would increase the amount of money that an inmate may have, (up to \$100) upon release from prison. SEN. RYAN said that an inmate needs money for a bus trip, food, and a place to stay, and if he doesn't have enough money to get by, he will end up in trouble in a short time. The bill would not cost the state any more, as the money will be earned completely by the inmates working in prison, or by his supplementing funds from family or friends.

PROPOSERS:

ED HALL, Department of Institutions, Helena, stated that the inmates currently receive \$25 upon discharge. If an inmate doesn't have a family or friends to help him, he needs more than that \$25 to get a start. Not all inmates would receive \$100, but the bill would allow the Corrections Division to give up to that amount, if there is a clear need.

OPPOSERS:

There were none.

QUESTIONS FROM THE COMMITTEE:

REP. BRAND asked if the inmates who refuse to work will receive the money the same as those who do work? Mr. Hall said that many times there aren't enough jobs; but for those who refuse to work, that would probably be taken into consideration.

REP. BRAND asked if Mr. Hall would object to an amendment stipulating that inmates who refuse to work would not receive the increased amount of money. Mr. Hall thought that could be taken care of in rulemaking, that an amendment was not necessary.

REP. BENNETT asked how an inmate could refuse to work. NICK ROETERING, legal counsel for the Department of Institutions,

said that if an inmate takes a consistent attitude of not being willing to work, he will end up in maximum security. If he disobeys orders, that is a rule violation and he is brought up for disciplinary action. The prisoner can end up with detention and loss of privileges. The department wants to make the inmate's reentry into a community run more smoothly than it would if the inmate continues to receive \$25 upon release.

RUSS JOSEPHSON, legal researcher, asked for clarification on where the \$100 would come from. SENATOR RYAN said that some of it could come from the inmate's family.

SENATOR RYAN closed the hearing on the bill.

SB 271.

SENATOR PAT RYAN, sponsor of SB 271, opened the hearing. He said the bill asks that the payroll officers not be required to supervise released patients from Warm Springs. He felt they should be under the supervision of a mental health agency.

PROPOSERS:

NICK ROETERING, of the Department of Institutions, said this concerns persons who have been charged with crimes and then sent to Warm Springs for treatment after they have been acquitted by reason of insanity. After conditional discharges, provided for in the statutes, these patients are placed in the care of parole officers by the courts, he said. There are 12 rules stipulating how a parolee must behave; but the Montana Supreme Court ruled that a person released from Warm Springs does not have to abide by these rules, because he's not a convicted criminal. He continued that these persons do need supervision, but said that parole officers are not trained for this type of supervision.

OPPOSERS:

There were none.

QUESTIONS FROM THE COMMITTEE:

REP. BRAND asked who places these patients in the parole officer's care. MR. ROETERING said the District Judge. REP. BRAND asked why they aren't placed under the care of someone with the proper type of training. MR. ROETERING said the parole officer is appointed to do this supervision, but is restricted from making rules for the supervision of these people. The only tool a parole officer has to work with has been taken away from him, he said. He felt mental health centers could do the job much better.

REP. BRAND asked why the judges continue to do this. MR. ROETERING said the courts trust parole officers, and they don't always trust

the mental health professionals. The parole officers have asked to be relieved of this duty.

REP. METCALF asked who Mr. ROETERING suggested to do the job. MR. ROETERING said that Mental Health Centers have done the supervision in some cases, and that every region in the state has one.

RUSS JOSEPHSON asked if the term "conditionally released" applied to all patients. He said the proposed amendment contains the term, but that the title did not, and felt it should possibly be amended, too. Mr. RYAN agreed with that suggestion. He then closed the hearing on SB 271.

CHAIRMAN GOULD assigned REP. MENAHAN to carry SB 270 and 271 as they are acted upon in committee.

EXECUTIVE SESSION.

SB 270.

REP. KEYSER moved that SB 270 DO PASS.

REP. PAVLOVICH asked if a prisoner has more than \$100, would he only be allowed to take \$100 upon release from Prison. REP. BRAND stated that there have been many programs to rehabilitate prisoners, and that many prisoners have refused to work. He suggested amending the bill to increasing the release money only for those who had cooperated in prison. REP. MANNING said released inmates have to have enough money to get started. REP. GOULD said that type of amendment could mean a bookkeeping system being set up which could cost more in time and personnel than giving the additional money.

REP. KEYSER said he felt most of the parole officers were trying to do a good job. He thought this bill would be mostly for the benefit of the parole officers and the communities where parolees went.

REP. NILSON said there was a Fiscal Note which said the bill was based on the \$25 release money, and said the prison would limit expenditures to what is appropriated. REP. BRAND said an increase could occur as an appropriation bill could be submitted at a future date.

REP. DEVLIN said it costs \$20 to go by bus to Miles City or Glendive, and if a parolee ate a meal, he would arrive at his destination without any money. He felt the parolee must have more money, or he would end up in trouble all over again.

The bill was seconded and PASSED with REP. BRAND OPPOSING.

SB 271

REP. KEYSER moved SB 271 DO PASS.

REP. BRAND said that the Supreme Court already has the power to handle this situation. He felt this bill was introduced as a result of a feud between the parole officers and the Department.

REP. SEIFERT suggested that the committee might consider amending the title with the work "conditional" (release). RUSS JOSEPHSON, said the title and the reference to the person released on page 3 should be the same. He said that some patients are conditionally released and some are not. Also, he said there might be an amendment to include "Warm Springs".

REP. KEYSER said the law as written applies only to Warm Springs.

REP. METCALF moved that on page 1, line 7, the work "conditionally" be inserted.

REP. BENNETT suggested striking the work "conditionally" in (5).

REP. SWITZER opposed REP. METCALF's motion saying he felt the parole officers should not be completely released from this requirement (of supervising released patients).

A vote was taken on the amendment and REP. MANNING also opposed the amendments.

REP. KEYSER moved for a DO PASS AS AMENDED.

REP. SIVERTSON wondered if this was class legislation for just one institution and wondered if the legislature might wish to consider a bill which would apply to all institutions. REP. KEYSER said there were no other institutions which would apply in this instance. REP. SIVERTSEN thought we would soon have parole officers specialized in dealing only with persons from Warm Springs.

REP. KEYSER said the parole officers are under supervision of the Department of Institutions, where they originally wanted to be, but that now they want that changed.

REP. SEIFERT said the basic reason for the amendment was to define direct and conditional release.

REP. MANNING stated that the bill deals with people being released who have a mental health problem; he felt the parole officers were not trained to handle that type of parole.

The motion that HB 271 DO PASS AS AMENDED was seconded and PASSED

with three committee members voting NO: Representatives BRAND, SWITZER and DEVLIN.

SB 230.

REP. NILSON moved for a DO PASS on SB 230.

RUSS JOSEPHSON explained the proposed amendments and said that they would allow a plan to be developed, not implemented, before the doctor saw the patient.

REP. KEYSER moved the amendments be accepted by the committee. The motion was seconded and passed.

REP. NILSON said he would oppose an amendment to restrict the bill to schools or other special setting. REP. NILSON moved the bill DO PASS AS AMENDED.

REP. BENNETT felt the bill was not necessary and REP. BRAND wondered how much it would cost the consumer if the bill were implemented. REP. BENNETT said the testimony claimed there would be a savings, but he disagreed.

REP. SWITZER thought the bill could be beneficial in small towns that had no doctor.

REP. NILSON moved that SB 230 be CONCURRED IN AS AMENDED.

A vote was taken and the results were a seven to seven tie with the following representatives voting NO: KEYSER, SEIFERT, BENNETT, SIVERTSEN, DEVLIN, PAVLOVICH and BRAND. THE MOTION FAILED.

SB 288.

REP. MANNING moved for a DO PASS on SB 228.

REP. BERGENE volunteered to CARRY the bill if it passes.

RUSS JOSEPHSON explained the amendments (see EXHIBIT I).

REP. SEIFERT moved the amendments be accepted by the committee.

REP. KEYSER asked for a clarification on the sharing of payments, and if the new language on page 2 means that the counties' portion will be less than the existing portion.

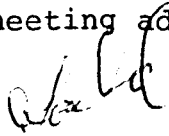
JOHN LAFAVER, of the SRS, said the law states the way the budget is now budgeted. He said that one half the payment is not the same as one half the federal share.

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CHAIRMAN GOULD said the bill will be researched further and acted upon at a later time. REP. BRAND asked Mr. LaFaver to see if the bill will result in less cost to the counties.

The meeting adjourned at 2:30 p.m.



REP. BUDD GOULD, Chairman

rj

VISITORS' REGISTER

HOUSE HUMAN SERVICES

COMMITTEE

BILL SB 228

Date 3-9-81

SPONSOR REGAN

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Mary Blake	Helena MT	SRS	X	
Denice Matalc	Helena, Mt.	Corey Family Program	X	
Jeremiah F. Johnson	MISSOULA, MT.	MT. PROBATION OFFICERS ASSN.	X	
NORMA VESTRE	Helena	SRS	X	
Al. Mark Ricka	Helena	LDS Social Service	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

AMENDMENTS TO SB228 FOR HOUSE HUMAN SERVICES COMMITTEE

- page 2, line 2 after "children for" insert "no more than" and reinstate
original language "one-half the payments so made during the month"
- line 3 delete entire line
- line 4 delete entire line
- line 5 delete "the nonfederal share"
- line 22 change "five" to "four "
- page 3, line 5 & 6 change (d) to read "a representative of a local school district"
and delete all of line 6
- page 5, line 12 after "into an agreement" insert "according to federal regulations"
- line 13 change "care" to "placement" and change "the child" to "children"
delete "and"
- line 15 after "by [section 2]" add ";and (d) the youth court retains
supervision of the child in placement."

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WITNESS STATEMENT

NAME Jeremiah F. Johnson BILL No. S.B. 228
ADDRESS Youth Court, MSLA, Co. Courthouse DATE 3/9/81
Missoula, MT.
WHOM DO YOU REPRESENT MONTANA PROBATION OFFICERS ASSOCIATION
SUPPORT _____ OPPOSE _____ AMEND ✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: Please see attached copy

COMMENTS REGARDING S.B. 228

The Montana Probation Officers Association generally support the intent of S.B.228. However, there are some major concerns with this bill that need to be changed in order for the Courts to give a positive endorsement.

On Page 2, line 22, it is recommended that, "the Committee shall be composed of not less than ~~three~~ five or more than seven members." be amended to read:

The committee shall be composed of not less than ~~three~~ five ~~three~~ or more than five members.

On Page 3, line 5, it is recommended that, "~~{D}~~ The superintendent or his designee of the school district where the child is to be placed." be deleted entirely.

This particular revision could cause a lot of problems for several reasons.

1. This bill addresses review of the case not placement.
In many instances, the youth who is placed in foster care may be from a different county. Under the law, the county of residence pays the foster care bill, not the county where the youth is placed.
2. Depending upon the size of the judicial district and whether the youth is in grade school, junior high, high school, etc., you could end up having several superintendents or their designee on the same committee in several counties in order to comply with the review of the case.

3. If it is necessary to have a school person on the committee, the judge could appoint one for the district as part of the committee. However, someone would have to pay for his mileage every time the committee meets.

Further amendments are proposed on Page 5, lines 6 through 15.

The proposed amendment would read as follows:

- (2) All foster homes established by the Youth Court which are licensed by the pursuant to 41-3-104, the Department of Social and Rehabilitation Services shall be financed by the Department as set forth in 53-2-201(1)(b)- finance foster homes established by the Youth Court if:
- (a) The foster home is licensed by the Department;
 - (b) The Youth Court enters into an agreement, as required by Federal regulations, with the Department for the placement of children; care of the child; and;
 - (c) The placement of the child is reviewed as required by [Section 2];
 - (c) The Youth Court retains supervision of the child in placement; and
 - (d) The placement of the child is reviewed as required by [Section 2].

WITNESS STATEMENT

NAME D. Mark Ricks BILL No. 228
ADDRESS 2201 11th Ave Hickam, HI DATE 3/9/81
WHOM DO YOU REPRESENT LDS Social Services
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: will leave prepared statement

HOUSE OF REPRESENTATIVES
PUBLIC HEALTH COMMITTEE

March 9, 1981

Senate Bill 228

My name is D. Mark Ricks. I am from Helena, Montana. I serve as the director of the LDS Social Services, a private child placing agency, licensed in the State of Montana by the Department of Social and Rehabilitation Services.

I wish to testify in behalf of Senate Bill 228. Having spent the past fifteen (15) years working with foster care, I have come to find that planning is an important part of our work. Another important part is to be able to join with other agencies, probation officers and juvenile courts in determining what is in the best interests of the child for whom concern has been raised.

It has always been my desire to use other modes of treatment (i.e., counseling with the child and natural parents, mental health referrals, testing) before foster care is considered, and only then should we use foster care if it is diagnostically determined to be the most appropriate method of treatment. It should be temporary, with the objective for family reunification. Preventing unnecessary separation of the child from his natural or extended family is always a primary concern. I also feel that natural parents should be willing to involve themselves in an appropriate treatment program and work towards assuming total responsibility for the child.

These needs and objectives can be better met by establishing in each Judicial District a foster care review committee. Through the administration and functioning of this committee, people working together can determine needs of the child, the natural parents; and then can determine the appropriate mode of treatment that would help meet those needs. It would be my impression that as the members of the committee meet together and begin looking at their resources and the resources of the community, that more children will remain in their homes under a contract and treatment program rather than foster care. This will motivate the child and the natural parents to work together and also this family will be able to maintain their self-

This legislation will establish accountability for probation officers, resource workers of the Department of Social and Rehabilitation Services, and other agencies involved in foster care. This will be accomplished by the committee in a review at least every twelve(12) months of the status of each foster child. This, then, protects the rights of the child, and also the interests of the natural parents. It is my feeling that should circumstances require long-term placement (over one year), permanent planning should be considered.

Another argument that I present in favor of Senate Bill 228 is, (and I quote), "The committee is subject to the call of the Youth Court Judge to meet and confer with him in all matters pertaining to the foster care of the child before the Youth Court." (end of quote). It would be my feeling that judges would want to use this committee to help determine if foster care would be the best solution, or if other resources were available.

I would also suggest that Senate Bill 228 would provide a more consistent practice of foster care services throughout the state. The committee will be required to look at each case and be able to consider what is in the best interest of the child, which home, if foster care is recommended, would be best for the child, and what time period is deemed necessary before the foster child should be returned to the natural home.

Citizens of Montana are concerned about their children. Probation officers, resource workers for the Department of Social and Rehabilitation Services and private agencies are also concerned about people. Senate Bill 228 can, and will, demonstrate that people can and will work together, and from this not only will we see a healthier Montana, but a happier people. I recommend to this committee and urge your support for this legislation. Thank you.

VISITORS' REGISTER

HOUSE HUMAN SERVICES COMMITTEE

BILL SB 270

Date March 9, 1981

SPONSOR RYAN

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE HUMAN SERVICES COMMITTEE

BILL SB 271

Date March 9, 1981

SPONSOR RYAN

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Amendments to ~~H~~.B. 230

1. Page 1, line 11.
Following: "therapy"
Insert: "evaluation"
2. Page 1, line 15.
Following: "structures"
Strike: the comma
Insert: ";"
Following "the"
Strike: "establishment and"
Insert: "development, but not the implementation, of a plan"
3. Page 1, line 16.
Following: line 15
Strike: "modification"
Following: "treatment"
Strike: the comma and "and"
Insert: ";"
4. Page 1, line 17.
Following "services"
Strike: the comma
Insert: ";"

Senate BILL NO. 230
Hager Nixon

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW PHYSICAL
 THERAPISTS TO EVALUATE WITHOUT REFERRAL; AMENDING SECTION
 37-11-104, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-11-104, MCA, is amended to read:

"37-11-104. Physical therapy -- ~~practiced~~ --- under
 referral --- evaluation and treatment. (1) Physical therapy

is practiced under referral from physicians, osteopaths,
 dentists, and podiatrists and includes the administration,
 interpretation, and evaluation of tests and measurements of
 bodily functions and structures; the ~~establishment and~~
~~modification~~ of treatment; and consultative, educational,
 and other advisory services; and instruction and supervision
 of supportive personnel.

(2) Treatment employs, for therapeutic effects,
 physical measures, activities and devices, for preventive
 and therapeutic purposes, exercises, rehabilitative
 procedures, massage, mobilization, and physical agents
 including but not limited to mechanical devices, heat, cold,
 air, light, water, electricity, and sound.

(3) The evaluation procedures listed in subsection (1)

1 may be performed by a licensed physical therapist without
 2 referral from physicians, osteopaths, dentists, or
 3 podiatrists but treatment may be rendered only to patients
 4 referred by physicians, osteopaths, dentists, or
 5 podiatrists."

-End-

evaluation

not the implementation, of a plan

Proposed amendments for SB 427

1. Page 7, line 2.
Following: "nine"
Strike: "TEN"
Insert: "NINE"
2. Page 7, line 4.
Following: "four"
Strike: "FIVE"
Insert: "FOUR"
3. Page 8, line 5.
Following: "practitioners"
Strike: "or"
Insert: ", "
4. Page 8, line 6.
Following: "nursing"
Insert: " , or administrators of Montana health care facilities"
5. Page 14, line 6.
Following: "nine"
Strike: "TEN"
Insert: "NINE"
6. Page 16.
Following: line 12
Insert: " (5) The board of nursing may define the educational requirements and other qualifications applicable to specialty areas of nursing. Specialty areas of nursing are those that require additional professional education beyond the basic nursing degree required of a registered nurse, which additional education is obtained in courses offered in a university setting or its equivalent and certified by the American Nurses' Association. Specialty areas of nursing include nurse practitioners, nurse-midwives, and nurse-anesthetists."

(If amendment 6 is adopted, the statement of intent will need amendments. The following are suggested.)

7. Page 1, line 7.
Following: "sections"
Insert: "7,"
8. Page 1.
Following: line 7
Insert: "Section 7 allows the Board of Nursing to approve certain programs related to registration and licensure and the section

also permits the Board to define the educational requirements and other qualifications applicable to specialty areas of nursing. It is the intent of the Legislature that the rules adopted by the Board pursuant to these delegations of rule-making power be sufficient to ensure the competency of those practicing nursing in Montana. Program approval rules are intended to be as described in the following paragraph. Rules concerning specialty areas should address the overall nature of the required courses, the approval of such courses through American Nurses' Association certification or by other means, and the prohibition of the use of a title indicating a nursing specialty by a person not approved by the Board as such a specialist."