

MINUTES OF MEETING  
SENATE JUDICIARY COMMITTEE  
January 23, 1981

Page 1.

The twelfth meeting of the Senate Judiciary Committee was called to order by Mike Anderson, Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present.

Chairman Anderson read from letters which he had received concerning various bills the committee has considered. These letters are marked Exhibits A through C, and are attached to these minutes.

CONSIDERATION OF SENATE BILL 149:

AN ACT TO MAKE IT A MISDEMEANOR TO MAKE A  
FALSE STATEMENT FOR THE PURPOSE OF  
OBTAINING A CHECKING, SAVINGS, OR SHARE  
DRAFT ACCOUNT FROM A FINANCIAL INSTITUTION.

The bill was presented by Senator S. Brown on behalf of Senator Van Valkenburg, who was unable to attend this meeting. Senator Brown stated that the savings and loan association supports the bill.

Michael Weigel, with the State Crime Prevention Association and member of the Missoula police, stated that check problems are increasing at a rate double that of other crimes, and that under present law nothing can be done about the offender until he actually passes a bad check -- and by that time the bank has lost money.

Jean Boyce, Operations Officer of the First Security Bank, Missoula, spoke in support of the bill.

Senator S. Brown suggested that the bill be amended on page 1, line 11, by inserting "purposely or" before "knowingly".

Senator Berg said that he felt the banks probably should already be on top of their new accounts, and that this bill would not be necessary, or even necessarily helpful in preventing false statements in setting up a new account.

Senator Olson wanted to know why savings accounts were included in line 13, and was told by Ms. Boyce that the opening of a new savings account entitles a customer to

the other services offered by the bank, including cashing out-of-town checks.

Senator S. Brown stated that Senator Van Valkenburg would come to the executive session when this bill would be decided.

CONSIDERATION OF SENATE BILL 145:

AN ACT TO INCREASE FROM \$1,500 to \$7,500  
THE VALUE OF AN ESTATE THAT MAY BE ADMIN-  
ISTERED USING THE SMALL ESTATE SUMMARY  
PROCEDURE; AMENDING SECTIONS 72-3-1101,  
72-3-1103, and 72-3-1104, MCA.

This bill was presented by Senator Hager, who stated that attorneys, including Senator Turnage, support the bill.

J. C. Weingartner said that this bill would hasten most estate settlements, and said that the State Bar Association supports its passage.

DISPOSITION OF SENATE BILL 145:

Senator S. Brown moved that the bill DO PASS. This motion carried unanimously.

AMENDMENT OF SENATE BILL 149:

Senator S. Brown moved to amend the bill on page 1, line 11, by inserting after the word "who", the words "purposely or". This motion was passed unanimously.

FURTHER CONSIDERATION OF SENATE BILL 14:

David Niss stated that by including all of the felonies for which there is no fine currently allowed, he has had to amend this bill and also go back into all sections defining the individual offense to amend the punishment for felonies. Senator Anderson said that he feels the bill has enough merit to warrant this additional effort.

FURTHER CONSIDERATION OF SENATE BILL 24:

The proposed amendments (marked Exhibit D and attached to these minutes) have been approved by J. C. Weingartner and by Senator Hafferman.

Senator S. Brown suggested taking the words "district" and "judge" out in both places that the words appear in the amendment. He also suggested striking "Section 1" at the

end of the amendment and inserting in its place "Subsection (1)". He further felt that Section 4 of the bill should be stricken.

Senator B. Brown moved that the committee amend Senate Bill 14 in keeping with the proposed amendments as modified by Senator S. Brown. This motion passed unanimously.

Senator S. Brown then suggested that page 2, line 14 be amended by striking "No exemptions from jury service may be allowed." This amendment was withdrawn after a prolonged discussion over the usage of the words "excuse" and "exempt", and further amending was turned over to David Niss, S. Brown, and Senator Mazurek for further work.

FURTHER CONSIDERATION OF SENATE BILL 33:

Senator Anderson stated that regarding the Evidence section, the Supreme Court would like to have a resolution requesting a study as a committee bill, and the Court would then study the matter and submit recommendations to the next legislative session. The portion of the bill dealing with public employees' holidays will be deleted also, because another bill on the subject has been undertaken.

FURTHER CONSIDERATION OF SENATE BILL 112:

Senator Anderson questioned whether this bill was broad enough to prevent a person who had filed an action with the Human Rights Commission from filing simultaneously in district court.

Senator S. Brown asked Senator Tveit, the bill's sponsor, if the purpose of the bill had been to have one action at a time. Senator Tveit agreed that that had been the purpose. Senator S. Brown then suggested that the committee hold off on this bill until a similar bill sponsored by Senator Regan was disposed of. The committee unanimously agreed to this.

DISPOSITION OF SENATE BILL 117:

Senator O'Hara moved that this bill be amended in the title, lines 6 and 7, by striking the words "IF NO YOUTH GUIDANCE HOME HAS BEEN ESTABLISHED IN A DISTRICT" and that it further be amended on lines 18 and 19 by striking the words "if a district youth guidance home has not been established,". This motion passed unanimously.

Senator Mazurek then moved the the bill DO PASS AS AMENDED, and this motion passed unanimously.

DISPOSITION OF SENATE BILL 119:

Senator S. Brown moved that the bill DO PASS, and the motion

passed unanimously.

A handwritten signature in dark ink, appearing to read "Mike Anderson", is written over a horizontal line.

Senator Anderson  
Chairman, Judiciary Committee

ROLL CALL

JUDICIARY COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 1/23/81

NAME	PRESENT	ABSENT	EXCUSED
<del>Anderson, Mike, Chr. (R)</del>	✓		
O'Hara, Jesse A. (R)	✓		
Olson, S. A. (R)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Tveit, Larry J. (R)	✓		
Brown, Steve (D)	✓		
Berg, Harry K. (D)	✓		
Mazurek, Joseph P. (D)	✓		
Halligan, Michael (D)	✓		

Each day attach to minutes.

## COMMITTEE

BILLS: SB 145  
SB 149

VISITORS' REGISTER

DATE 1/23/81

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

NAME: Michael D. Weigel DATE: 1-23-81

ADDRESS: 240 Benton Missoula MT.

PHONE: 721-1150

REPRESENTING WHOM? Missouri Police & State Crime Prevention Assoc

APPEARING ON WHICH PROPOSAL: Legislative probability false statement to the other director

DO YOU: SUPPORT? X AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENTS: \_\_\_\_\_

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: JEAN BOYCE DATE: 1-23-81

ADDRESS: 7105 DEVONSHIRE LANE, M319, MT.

PHONE: 251-3817

REPRESENTING WHOM? First Security Bank b6

APPEARING ON WHICH PROPOSAL: Prohibiting false Stmt's on Sup's Acc Chks a

DO YOU: SUPPORT? ✓ AMEND?            OPPOSE?           

COMMENTS: \_\_\_\_\_

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

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M. James Sorte  
District Judge



Calmer A. Ernsness  
Court Reporter

**District Court**  
Fifteenth Judicial District  
Wolf Point, Montana 59201

January 16, 1981

Honorable Robert Marks  
Speaker of the House of Representatives  
Capitol Station  
Helena Mt.  
59601

Dear Mr. Speaker,

On behalf of the Montana Judges Association I would like to express our opposition to legislation that would provide mandatory prison sentences.

I read in the newspaper that at a hearing held on the proposed mandatory sentences Representative Keedy expressed surprise that no Montana Judges appeared to oppose the measure. I doubt that any of the Judges had notice or opportunity to arrange an appearance.

We did meet during the Summer of 1980 with members of the Select Committee on Sentencing of the House and Senate to express our views and opposition to mandatory sentences.

We would like representatives of the Montana Judges Association to appear and testify in opposition. If you would please advise me, by phone or letter, I will arrange for appearances on our behalf.

Respectfully yours,

A handwritten signature in cursive script, reading "M. James Sorte".

M. James Sorte  
President, Montana  
Judges Association  
P. O. Box 978

Phone: 653-2613  
653-2092

Home: 653-2277

MJS/mlk

Enclosures:  
Copies for Committees

*Exhibit B*

M. James Sorte  
District Judge



Calmer A. Ernsness  
Court Reporter

**District Court**  
Fifteenth Judicial District  
Wolf Point, Montana 59201

January 16, 1981

Honorable Jean Turnage  
Montana State Senate  
State Capitol  
Helena, Montana 59601

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Home: 653-2277

MJS/mlk

Enclosures:  
Copies for Committees

M. James Ponto, Judge  
C. A. Eversess, Court Reporter  
Wilma Antonson, Deputy

# County of Roosevelt

OFFICE OF

M. Lorene Knudson

CLERK OF COURT

WOLF POINT, MONTANA

Exhibit C

Phone 653-2452

January 20, 1981

Senator Mike Anderson  
Chairman

RE: SB 120      Juries

The subject of this bill was dicussed thoroughly and it was agreed upon by the Clerks at their convention that the willingness to serve as a juror would be inhanced. The fee for serving is unrealistic, although it would be a little more costly to Counties.

As to the Clerk of Court being the jury commissioner, and the proceedure for drawing jurors, excusing jurors, etc, under the supervision of the Court, that is very realistic.

I would like you to support this bill.

Thank you,  
Sincerely,

M. Lorene Knudson  
Clerk of District Court.

*Exhibit 11*

PROPOSED AMENDMENT TO SB 24

1. Page 1, line 19.

Following: "excused"

Strike: the remainder of line 19 through line 2 on page 2

Insert: "; affidavit to claim excuse.

(1) The court shall excuse a person from jury service upon finding that the jury service would entail undue hardship on the person or the public served by the person.

(2) If a person believes jury service would entail undue hardship on him or the public served, he may make and transmit an affidavit to the clerk of the court for which he is summoned stating his occupation and the facts which excuse him from jury service. The affidavit shall be filed with the clerk of the court who shall then transmit it to the District Court Judge. The District Court Judge may excuse a prospective juror from jury service if the court believes the prospective juror satisfies the provisions of Section 1.

# STANDING COMMITTEE REPORT

January 23, 1981

MR. **PRESIDENT**

We, your committee on **JUDICIARY**

having had under consideration **SENATE** Bill No. **145**

Respectfully report as follows: That **SENATE** Bill No. **145**

DO PASS

*P.A.*

# STANDING COMMITTEE REPORT

January 23 19 81

MR. **PRESIDENT**

We, your committee on **JUDICIARY**

having had under consideration **SENATE** Bill No. **119**

Respectfully report as follows: That **SENATE** Bill No. **119**

DO PASS

*B. A.*

# STANDING COMMITTEE REPORT

January 23, 1961

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 117

Respectfully report as follows: That SENATE Bill No. 117  
be amended as follows:

1. Title, lines 6 and 7.  
Following: "GUIDANCE HOME"  
Strike: "IF NO YOUTH GUIDANCE HOME HAS BEEN ESTABLISHED IN A DISTRICT"
2. Lines 18 and 19.  
Following: "or"  
Strike: "if a district youth guidance home has not been established,"

And, as so amended,  
DO PASS