

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
February 7, 1981

The twenty-second 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.

DISPOSITION OF SENATE BILL 14:

Senator S. Brown moved that the amendments, illustrated on the attached Committee Report, be adopted. His motion passed unanimously. He then moved that the bill DO PASS AS AMENDED, and that motion carried unanimously.

DISPOSITION OF SENATE BILL 120:

Senator S. Brown moved that the amendments, illustrated on the attached Committee Report, be adopted. His motion passed with Senators Mazurek and Tveit opposing. Senator S. Brown then moved that the bill DO PASS AS AMENDED, and the motion carried with Senators Crippen, Mazurek and Tveit opposing, and Senator Berg abstaining.

DISPOSITION OF SENATE BILL 164:

Senator Anderson moved that the bill be amended on page 2, line 3, by striking "6" and inserting "2". Senator S. Brown substituted "3" for "2", and his motion carried with Senators Anderson and Berg in opposition.

It was moved that the first amendment on the attached Committee Report be adopted; and it carried with Senators Crippen and Olson in opposition.

Senator S. Brown moved for adoption of the sixth and seventh amendments on the attached Committee Report, and his motion carried unanimously.

Senator S. Brown then moved that the third, fourth, fifth and eighth amendments on the attached Committee Report be adopted, and his motion carried with Senators Berg and Crippen opposing.

Senator S. Brown's motion that the bill DO PASS AS AMENDED carried with Senator Crippen in opposition.

DISPOSITION OF SENATE BILL 222

Senator O'Hara moved that amendments 1, 3, 4, 5, 6, 7, and 8 on the attached Committee Report be approved. This motion carried unanimously.

Senator S. Brown moved for adoption of amendment 9 on the attached Committee Report and his motion passed unanimously.

Senator Mazurek moved that the eleventh amendment from the attached Committee Report include Section 2, and his motion carried unanimously. He then moved that the second and tenth amendments on the attached Committee Report be adopted, and his motion carried over Senator Crippen's opposition.

Senator B. Brown then moved that the bill DO PASS AS AMENDED, and the bill passed with Senator Berg in opposition.

DISPOSITION OF SENATE BILL 238

Senator S. Brown moved that the committee adopt the sixth amendment as shown on the attached Committee Report, and the motion carried.

Senator Mazurek moved that the first and second amendments on the attached Committee Report be adopted, and his motion passed unanimously.

Senator S. Brown moved that the fifth, seventh, and eighth amendments on the attached Committee Report be adopted, and his motion carried with Senator Anderson in opposition.

Senator S. Brown then moved that the committee adopt the third and fourth amendments on the attached Committee Report, and his motion passed with Senator Olson abstaining and Senator Crippen in opposition.

Senator Berg moved that the bill DO PASS AS AMENDED, and his motion carried with Senators Mazurek, Crippen, and Anderson in opposition.



Senator Anderson
Chairman, Judiciary Committee

ROLL CALL

JUDICIARY COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 2/07/81

NAME	PRESENT	ABSENT	EXCUSED
Anderson, Mike, Chr. (R)	✓		
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.

STANDING COMMITTEE REPORT

.....February 7,..... 1921.....

MR.PRESIDENT.....

We, your committee on.....JUDICIARY.....

having had under considerationSENATE..... Bill No. 14.....

Respectfully report as follows: That.....SENATE..... Bill No. 14.....
be amended as follows:

1. Title, line 7.
Following: "FELONY"
Insert: "AND MISDEMEANOR"

2. Page 1, line 12.
Following: "felony"
Insert: "and misdemeanor"

3. Page 1.
Following: line 14
Insert: "of imprisonment"

4. Page 1, line 15.
Following: "fine"
Insert: ", only in accordance with subsection (3), and in lieu of
or in addition to a sentence of imprisonment"
Strike: "Except as"
Insert: "For those crimes for which penalties are"

DO:PASS

continued

February 7, 1981

5. Page 1, line 17.
Following: "45-5-401(2),"
Insert: "45-5-502(3),"

6. Page 1.
Following: line 18
Strike: "in lieu of or"
Insert: "in accordance with subsection (3)"

7. Page 1.
Following: line 19
Insert: "(2) Whenever, upon a verdict or plea of guilty, a person has been found guilty of an offense for which a misdemeanor penalty of a fine could be imposed, the court may impose a fine only in accordance with subsection (3)."
Renumber: subsequent sections

8. Page 2, line 1.
Strike: "The"
Insert: "Any"
Following: "fine"
Insert: "levied under this section in a felony case"
Following: "court"
Insert: "not to exceed \$50,000"

9. Page 2.
Following: line 3
Insert: "or misdemeanor"

10. Page 5, line 22.
Following: "instruction."
Insert: "(1)"

11. Page 5.
Following: line 25
Insert: "(2) There is added to those sections listed in subsection (1) of section 1, following the language in those sections specifying the term of imprisonment for which an offender may be imprisoned, the words "and may be fined not more than \$50,000" or other similar language allowing the court to fine the offender a maximum of \$50,000 in addition to a term of imprisonment. The code commissioner shall change the listed sections in accordance with this section and may make minor incidental adjustments consistent with this section as may be necessary to reflect the intent of this section without changing the meaning of the listed sections as amended by this section.

(3) There is added to those sections listed in subsection (4) of this section, following any language in those sections specifying the term of imprisonment for which an offender may be imprisoned but without specifying a fine that may be ordered to be paid, the words "or shall be punished by a fine of not more than \$50,000 or

continued

February 7, 19 81

by both such fine and imprisonment", or other similar language allowing the court to fine the offender a maximum of \$50,000 in lieu of imprisonment or to punish the offender by both a fine and imprisonment. The sole commissioner shall change the listed sections in accordance with this section and may make minor incidental adjustments consistent with this section as may be necessary to reflect the intent of this section without changing the meaning of the listed sections as amended by this section.

(4) 13-27-205, 13-27-206, 19-11-207, 20-9-435, 23-5-106, 30-13-142, 32-1-236, 32-1-473, 32-1-505, 45-5-104, 45-5-204, 45-5-105, 45-5-201, 45-5-203, 45-5-204, 45-5-304, 45-5-505, 45-5-603, 45-5-613, 45-5-621, 45-6-101, 45-6-102, 45-6-103, 45-6-204, 45-6-301, 45-6-316, 45-6-317, 45-6-325, 45-6-327, 45-7-101, 45-7-102, 45-7-201, 45-7-206, 45-7-207, 45-7-208, 45-8-106, 45-8-215, 45-8-318, 45-8-334, 45-8-335, 45-9-101(4), 45-9-102(4), 45-9-103(3), 45-9-107, 46-18-213, 46-18-502, 46-31-204, 50-38-107, 61-3-604, 81-5-102 and 81-9-118."

And, as so amended,
DO PASS

.....Mike Anderson.....
Chairman.

STANDING COMMITTEE REPORT

February 7, 1931

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 120

Respectfully report as follows: That SENATE Bill No. 120
be amended as follows:

1. Page 3, line 22.

Following: "commissioner"

Strike: "1"

Insert: "1"

Strike: remainder of line 22

2. Page 3.

Following: line 22

Strike: lines 23, 24, and 25 in their entirety.

Insert: "The court may delegate to the jury commissioner the authority
to select the panel and excuse jurors under Section 3-15-313, and
generally take charge of the jury administration in the presence of
a person designated by the court."

And, as so amended,

DO PASS

P.A.

STANDING COMMITTEE REPORT

February 7, 1921

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 164

Respectfully report as follows: That SENATE Bill No. 164
be amended as follows:

1. Page 1, line 23.
Following: "(3)"
Insert: "the department of revenue or the department of social
and rehabilitation services of"

2. Page 2, line 3.
Following: "to"
Strike: "6"
Insert: "3"

3. Page 3, line 23.
Following: ";"
Insert: "and"

4. Page 4, line 1.
Strike: "; and"
Insert: "."

~~DO PASS~~

JRF

continued

February 7, 19 31

5. Page 4.

Following: line 1

Strike: lines 2, 3, 4, and 5 in their entirety.

6. Page 4, line 14.

Following: "within"

Strike: "1 year"

Insert: "2 years"

7. Page 4, line 16.

Following: "of"

Strike: "\$1"

Insert: "not to exceed \$5"

8. Page 5.

Following: line 9

Strike: Section 11 in its entirety

Renumber: subsequent sections

And, as so amended,
DO PASS

JRF

STANDING COMMITTEE REPORT

February 7. 19 81

MR. PRESIDENT

JUDICIARY

We, your committee on

having had under consideration SENATE Bill No. 222

Respectfully report as follows: That SENATE Bill No. 222
Be amended as follows:

1. Title, line 7.

Following: "SUBDIVISION"

Strike: "AND"

Insert: ";

2. Title, line 8.

Following: "THAT"

Strike: "COSTS"

Insert: "ATTORNEY'S FEES"

Following: "MAY"

Strike: "NOT"

3. Title, lines 9 and 10.

Strike: "SUBSTANTIALLY JUSTIFIED"

Insert: "REASONABLE"

4. Title, line 10.

Following: "JUSTIFIED"

Strike: "OR AN AWARD OF COSTS UNJUST"

continued

February 17, 1981

5. Title, line 10.

Following: "UNJUST"

Insert: "AND PROVIDING A SAVING CLAUSE"

6. Page 1, line 14.

Following: "costs"

Insert: "and attorney's fees"

7. Page 1, line 16.

Following: "action"

Insert: "listed in 25-10-101"

8. Page 1, lines 20 and 21.

Following: "25-10-201"

Strike: "and reasonable attorney's fees as determined by the court"

9. Page 1, line 23.

Following: "agency"

Strike: ", "

Insert: "."

10. Page 2.

Following: line 1

Insert: "(2) In any civil action, except an action brought under Title 2, chapter 9, part 3, that is brought by or against the state, a political subdivision, or an agency of either, the opposing party, whether plaintiff or defendant, is entitled to his reasonable attorney's fees as determined by the court if he prevails against the state, political subdivision or agency of either,"

Renumber: following subsection

11. Page 2, line 2.

Following: "such"

Strike: "costs"

Insert: "attorney's fees"

12. Page 2, line 4.

Following: "was"

Strike: "substantially justified"

Insert: "reasonable"

13. Page 2.

Following: line 8

Insert: "Section 2. Saving clause. This act does not apply to any cause of action arising before the effective date of this act."

And, as so amended,
DO PASS

P.R.

STANDING COMMITTEE REPORT

February 7, 19 81

MR. PRESIDENT

Ve, your committee on JUDICIARY

having had under consideration SENATE Bill No. 238

Respectfully report as follows: That SENATE Bill No. 238
be amended as follows:

1. Title.

Following: line 5

Insert: "FOR PROPERTY DAMAGE"

2. Page 2, line 4.

Following: "arising"

Insert: "for property damage to a motor vehicle"

3. Page 2, line 12.

Following: "."

Insert: "(1)"

4. Page 2.

Following: line 12

Insert: "property"

DOOPASSX

JRF

continued

February 7, 1981

5. Page 2, line 13.

Following: "damages"

Strike: "for the damage to or the loss of

Insert: "arising out of the ownership, maintenance or"

6. Page 2, line 14.

Following: "judgment"

Insert: "equal to or"

7. Page 2, lines 15 and 16.

Following: "amount"

Strike: "remainder of line 15 through "by" on line 16

Insert: "of damages claimed by the plaintiff in his last written
offer to the defendant or"

8. Page 2.

Following: line 24

Insert: "(2) If the plaintiff secures a judgment equal to or greater
than the amount offered to the plaintiff by the defendant or by
his agent prior to the filing of the cause of action, the court
shall allow, as part of the costs, defendant's reasonable attorney's
fee, which shall be fixed by the court, notwithstanding any
agreement between the parties to the contrary.

JRF

And, as so amended,
DO PASS

Mike Anderson.....
Chairman.

SENATE COMMITTEE JUDICIARY

Date February 7, 1981 SENATE Bill No. 238 Time 12:45 p.m.

NAME	YES	NO
Anderson, Mike		✓
O'Hara, Jesse A.	✓	
Olson, S. A.		
Brown, Bob	✓	
Crippen, Bruce D.	✓	
Tveit, Larry J.	✓	
Brown, Steve	✓	
Berg, Harry K.	✓	
Mazurek, Joseph P.	✓	
Halligan, Michael		

Robin Campbell
Secretary

John Anderson
Chairman

Motion: Motion to amend bill in title, line 5, by inserting
"for property damage" at the end of the line; and by
inserting "for property damage to a motor vehicle" following
"action" on page 2, line 4.

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

SENATE COMMITTEE JUDICIARY

Date February 7, 1981 Senate Bill No. 222 Time 12:25

NAME	YES	NO
Anderson, Mike	✓	
O'Hara, Jesse A.	✓	
Olson, S. A.	✓	
Brown, Bob	✓	
Crippen, Bruce D.		✓
Tveit, Larry J.	✓	
Brown, Steve	✓	
Berg, Harry K.	✓	
Mazurek, Joseph P.	✓	
Halligan, Michael	✓	

Robin Campbell
Secretary

Mark Anderson
Chairman

Motion: To strike "substantially justified" and replace it with
"reasonable" in the title and on page 2, line 4.

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