

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 4, 1981

The thirty-fifth 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.

CONSIDERATION OF HOUSE BILL 301:

TO INCREASE THE ABILITY OF VICTIMS
OF CRIMINAL MISCHIEF TO RECOVER
RESTITUTION FROM THE OFFENDER.

Rep. Matsko presented the bill and said that the scope of the bill was described in the title. He felt that when an individual takes it upon himself to inflict damage he should have to make restitution.

Senator Mazurek questioned the constitutionality of "shall" on page 2, line 24. Rep. Matsko replied that under this language the debt would hang over the defendant until the damage was paid.

CONSIDERATION OF HOUSE BILL 254:

TO CLARIFY THE ACTIONS TO BE TAKEN
TO REMOVE AN UNATTENDED VEHICLE FROM
A ROADWAY.

Rep. Kropp, District 5, presented the bill.

Captain Walt Miller, of the Montana Highway Patrol, spoke in support of the bill and said that the state has had a problem in this area because they have an obligation to clear the roadway of the unattended vehicle but no authority to obtain payment for the wrecker operator who does the job.

Senator Mazurek asked whether, in the case of a car's breaking down on an interstate and having to be left temporarily while the owner gets help, this law would apply. Captain Miller replied that it would not apply so long as the vehicle was off the road and not obstructing traffic.

CONSIDERATION OF HOUSE BILL 273:

TO PERMIT PUBLICATION OF THE NAMES

OF JUVENILE OFFENDERS UNDER CERTAIN
CIRCUMSTANCES.

Rep. Metcalf presented the bill, saying that it intends to limit its application to hardcore juvenile offenders. He spoke of a problem in Lewis & Clark County with sixteen- and seventeen-year-olds who habitually cause serious damage and take advantage of the fact that they are relatively immune to punishment under existing law. He said that this bill would not be a cure, but would hopefully prove to be a deterrent by acting as a warning to youths, and parents of youths, who hang around with juvenile delinquents.

Nancy Walter, representing the Montana Education Association, spoke in support of the bill. She said that her group has taken the position that this bill would be helpful in certain instances, and that this particular bill is the best of its type presently under consideration by the legislature because it protects the rights of juvenile offenders who are not hardcore.

Karen Mikota, representing the League of Women Voters, spoke in opposition, saying that while the intent of the bill may have been to hit only at the hardcore offender it does not exclude the first-time offender.

CONSIDERATION OF HOUSE BILL 315:

PROVIDING THAT AN EXCAPE FROM A HALFWAY
HOUSE, LIFE SKILLS CENTER, OR FURLOUGH
PLACEMENT CONSTITUTES FELONY ESCAPE.

This bill was presented by Rep. Gould, District 98, Missoula.

Nick Rotering, counsel for the Department of Institutions, spoke in support as shown on his attached testimony sheet.

CONSIDERATION OF HOUSE BILL 335:

TO CHANGE THE EFFECTIVE DATE OF AN
INITIATIVE, CONSTITUTIONAL AMENDMENT,
OR REFERENDUM TO OCTOBER 1 FOLLOWING
APPROVAL.

Rep. Kanduch, District 89, Anaconda, presented the bill.

Pete Jackson, representing W.E.T.A., said that his organization favors passage of the bill.

DISPOSITION OF HOUSE BILL 335:

Senator S. Brown moved that the bill BE CONCURRED IN, and his motion passed unanimously.

DISPOSITION OF HOUSE BILL 315:

Senator Mazurek moved that the bill BE CONCURRED IN, and his motion passed unanimously.

DISPOSITION OF HOUSE BILL 254:

Senator Crippen moved that the bill BE CONCURRED IN, and his motion carried with Senator Mazurek opposing and Senator S. Brown abstaining.

DISPOSITION OF HOUSE BILL 301:

Senator Mazurek moved that the bill be amended on page 2, line 24, following "mischief", by striking "shall" and inserting "may". His motion passed with Senator Tveit opposing.

Senator O'Hara moved that the bill BE CONCURRED IN AS AMENDED, and his motion passed over the opposition of Senator Tveit.

A handwritten signature in cursive script that reads "Mike Anderson". The signature is written in dark ink and is positioned above a horizontal line.

Mike Anderson
Chairman, Judiciary Committee

ROLL CALL

JUDICIARY COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date March 4, 1981

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.

*rep. Krupp's
statement of
presentation*

THIS BILL AMENDS SECTION 61-8-705 TO RESOLVE A PROBLEM IN THE REMOVAL OF VEHICLES WHICH ARE ABANDONED ON THE ROADWAY. CURRENT WORDING STATES THAT WHEN SUCH A VEHICLE IS FOUND THAT IT BE "REMOVED TO A PLACE OF SAFETY". THE PROBLEM ARISES WHEN A WRECKER IS CALLED TO REMOVE THE VEHICLE. THE OWNER MIGHT THEN RETURN AND PICK UP HIS VEHICLE WITHOUT NOTIFICATION OF EITHER THE OFFICER OR THE WRECKER OPERATOR, LEAVING THE STATE LIABLE FOR THE WRECKER FEE. IN ADDITION, THERE IS NO PROTECTION FOR THE OWNER OF THE VEHICLE WHO MAY RETURN TO THE SCENE TO FIND HIS VEHICLE STRIPPED. IF THIS AMENDMENT IS PASSED, THE VEHICLE WOULD BE REMOVED TO THE WRECKER OPERATOR'S PLACE OF BUSINESS OR THE SHERIFF'S IMPOUND LOT AND SO BE PROTECTED.

CAPTAIN WALTER MILLER WILL TESTIFY

NAME: Walt Miller

DATE: 3-4-81

ADDRESS: Helen A

PHONE: 447-3000

REPRESENTING WHOM? *MDP*

APPEARING ON WHICH PROPOSAL: 254

DO YOU: SUPPORT? ✓ AMEND? OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

35

NAME: Karen Mikota DATE: 3/4/81

ADDRESS: 406 W. Ewing

PHONE: 443-6287

REPRESENTING WHOM? League of Women Voters of Montana

APPEARING ON WHICH PROPOSAL: HB 273

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ☒

COMMENTS: _____

1. Should not publish prior to conviction
2. Does not benefit juvenile or community
3. Other juvenile bills address actual problems
have been killed - assumption will be a
interim study - ^{superficial} this approach is questionable
in value - should be included in study.
4. definition of bodily injury too broad
5. doesn't deal only with second + offenders.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Norm K. H. H. DATE: 3-4-71

ADDRESS: 550 11th Ave, Helena

PHONE: 444-750

REPRESENTING WHOM? Dept of Institutions

APPEARING ON WHICH PROPOSAL: HB 315

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: The bill was reported by the
Dept. of Institutions to the Senate for
approval. The bill is a bill to
amend the law relating to the
Department of Institutions, not a
bill to amend the law relating to
the Department of Institutions.
The bill is a bill to amend the
law relating to the Department of
Institutions, not a bill to amend
the law relating to the Department
of Institutions.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



The Big Sky Country

MONTANA STATE SENATE

Senator Mike Anderson
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Helena, MT 59620
Judiciary Ph. 449-4886
Home Address
5485 Spaulding Bridge Rd
Belgrade, MT 59714
Bus. Ph.: 406-587-4254
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Committees:
Judiciary, Chairman.
Labor

March 4, 1981

Senator Stan Stephens
Representative Jerry Metcalf

Gentlemen:

The Senate Judiciary Committee has some serious concerns regarding potential conflicts between the two bills noted above.

Would you please visit with each other to make sure that the most meritorious provisions of both bills survive the legislative process.

Our researcher, David Niss, is a very capable attorney, and he is at your disposal should you wish to use him. We will be holding HB 273 until we receive some form of resolution from either of you or our researcher that we can proceed.

Sincerely yours,

A handwritten signature in cursive script that reads "Mike".

Mike Anderson
Chairman, Judiciary Committee

cc: Kerry Keyser

MA:rc

DATE March 4, 1981

COMMITTEE ON JUDICIARY

HB 254

HB 273 HB 315

HB 301 HB 335

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Committee.)

STANDING COMMITTEE REPORT

March 4, 19 31

MR. PRESIDENT:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 315
GOULD (ANDERSON)

Respectfully report as follows: That HOUSE Bill No. 315

JRF

~~DO NOT~~
BE CONCURRED IN

STANDING COMMITTEE REPORT

March 4, 1981

MR. **PRESIDENT:**

We, your committee on **JUDICIARY**

having had under consideration **HOUSE** Bill No. **254**

KROPP (HALLIGAN)

Respectfully report as follows: That **HOUSE** Bill No. **254**

RF

~~DO PASS~~

BE CONCURRED IN

STANDING COMMITTEE REPORT

March 4, 1931

MR. PRESIDENT:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 335

KANDUCH (BERG)

Respectfully report as follows: That HOUSE Bill No. 335

DO NOT
BE CONCURRED IN

JRF