

HOUSE

MINUTES OF THE JUDICIARY COMMITTEE February 17, 1983

The House Judiciary Committee meeting was called to order by Chairman Dave Brown at 9:06 a.m. in room 224A of the capitol building, Helena, Montana. All members were present except for Representative Seifert, who was excused. Brenda Desmond, Staff Attorney for the Legislative Council, was also present.

HOUSE BILL 540

This bill revises and extends the geographical application of the laws prohibiting driving under the influence of alcohol or drugs, making it an offense to drive a motor vehicle with a blood alcohol concentration of more than .10; and providing for the admissibility of evidence.

REPRESENTATIVE KEYSER moved that this bill DO PASS. REPRESENTATIVE BERGENE seconded the motion.

REPRESENTATIVE ADDY moved to amend the bill on page 6, line 17, by striking "60 days" and insert "6 months". REPRESENTATIVE DARKO seconded that motion.

REPRESENTATIVE RAMIREZ stated that he thought they were getting off the track of the purpose of this bill; there is a real fundamental question when you make changes like this and you really have not had a hearing on the bill; there is really nothing in the title that refers to this; he guessed they could do it, but it seems to him to be getting away from what the bill is designed to do.

CHAIRMAN BROWN indicated that he agreed.

REPRESENTATIVE ADDY explained that this was in response to a question that he asked Representative Vincent during the hearing; we are making the threshold for a conviction of a dui much lower; and, therefore, increasing the incentive for a person to decline to take a breathalyzer test; and unless we increase the penalties for declining to take a breathalyzer test, they may very well be doing nothing.

REPRESENTATIVE KEYSER wondered why they are making this lower.

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REPRESENTATIVE ADDY responded that on a dui, he thought that they were making it a simpler case for them to prove; all they have to prove is a .10 blood alcohol content and they have a conviction; in the past, they had to prove .10 and that led to a certain rebuttable presumption; but they also had to prove that that person was drunk at .10 blood alcohol level. He contended that as they lower the threshold for a conviction, they are increasing the incentive for a person to decline to take a breathalyzer test. He commented that you can do 60 days without a license standing on your head; and he felt that this bill said, if you are drunk, you should be convicted of a dui.

REPRESENTATIVE HANNAH asked if there was a 60-day penalty on the books right now for not taking the breathalyzer test.

REPRESENTATIVE KEYSER replied that that is right - the implied consent law that has been upheld by the Montana Supreme Court numerous times.

REPRESENTATIVE HANNAH asked if he got picked up right now and refused to take the breathalyzer test, does he lose his license for 60 days.

REPRESENTATIVE KEYSER replied after an affidavit is sent in.

REPRESENTATIVE HANNAH asked what would happen if he gets picked up, takes the breathalyzer test and his blood alcohol content is above .10.

CHAIRMAN BROWN replied that it would be a 24-hour mandatory sentence for the first offense.

REPRESENTATIVE HANNAH asked how does the 60 days relate to the changes in this bill.

CHAIRMAN BROWN replied that it doesn't and he does not believe that this amendment is appropriate to this bill; it is his opinion that this amendment is well outside the scope of the title of this bill and he did not believe that they could, in good conscience, change it without some kind of a public hearing in that area.

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A vote was taken on the motion and the motion failed with REPRESENTATIVE ADDY voting yes.

REPRESENTATIVE EUDAILY made a motion that they amend the bill on page 4, line 13, following "alcohol." insert "Such presumption is rebuttable." REPRESENTATIVE JENSEN seconded the motion. The motion carried with REPRESENTATIVE HANNAH and REPRESENTATIVE KEYSER voting no.

REPRESENTATIVE RAMIREZ moved to amend this bill on page 2, line 15, by striking "61-9-714(1)" and insert [section 8] and then insert a new section 8, which would be the penalty for driving with alcohol concentration of .10. He explained that he wants to have penalties of not more than 10 days in jail and not less than \$100.00 to \$500.00 for the first offense, and not more than 30 days and \$300.00 to \$500.00 for the second offense, and not more than 6 months and \$500.00 to \$1,000.00 for the third offense. He stated that they might as well strike section 2 for the second offense right out of the books as far as he is concerned, because who is ever going to prosecute for dui when they can prosecute for the per se and have the same penalty; what you are doing now is they are changing the penalty to all those minimum mandatory sentences, but they are also now saying that anyone with .10, they are guilty; in fact, they don't even have to bring the lab technician down - it is in the lab report and that is it; and it just seems to him that there should be a difference in penalty on those two things - that the driving under the influence where your behavior is truly affected and they can prove your behavior is affected should carry with it a real severe penalty; but if they are going to let them prosecute someone for just .10, and they are guilty, he thinks they should have a less severe penalty. He commented that these are certainly not real easy penalties that he proposed, and he doesn't have any strong feelings about them; but he didn't think, especially on the first offense, they should get on this minimum mandatory thing for being convicted of this offense, which is much, much different to him than driving under the influence.

REPRESENTATIVE ADDY seconded the motion and asked why he wanted the minimum mandatory fine for the second offense.

REPRESENTATIVE RAMIREZ responded that the fine doesn't bother him; he still thinks people shouldn't drive when they have .10; but he will amend his motion to take off the minimum fines; i.e. not more than 10 days in jail or not more than \$500.00 for the first offense; the second offense not more than 30 days and not more than \$500.00; and for the third offense not more than 6 months and not more than \$1,000.00. REPRESENTATIVE ADDY seconded the motion. The motion carried unanimously.

REPRESENTATIVE EUDAILY commented that the language "anywhere in the state" is really a broad term; and he does not know how you can correct it; he has some problems with a person sitting in his own driveway, not going anyplace and he hasn't turned the car off.

REPRESENTATIVE KEYSER indicated that was one of the questions that he raised at the hearing; he asked them specifically if they had some cases; and the testimony was that no supreme court cases have ever overturned this.

REPRESENTATIVE ADDY suggested that where it says, "anywhere in the state" they strike that language and insert "upon the highways of the state".

REPRESENTATIVE EUDAILY responded that they gave examples of parking lots, public parking lots, around the malls, and things like that; and he felt that they do have a problem there.

REPRESENTATIVE ADDY advised that there was an accident at the Rimrock Mall parking lot about a year ago, wherein some guy hit six or seven cars and did \$10,000.00 worth of damage; they called the police and the police told them that they didn't have jurisdiction.

REPRESENTATIVE RAMIREZ said that they do not have jurisdiction - they will not even investigate an accident in a parking lot.

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REPRESENTATIVE KEYSER explained that back in 1957 or 1958, the language allowed for an arrest for D.W.I. any place - even on private property, on a person's field, any place; as the D.W.I. law was weakened and sentences were reduced, that language was eventually taken out and replaced with the language they have here; but that use to be the language and they operated under that language and apparently, at that time, they never lost in a supreme court decision.

REPRESENTATIVE DAVE BROWN indicated that he would have an amendment prepared to propose when this bill gets on the floor. He also suggested an amendment on page 2, line 21, following "a" to insert "moving"; and he said that his concern is if a guy comes out of Jorgensons, who was a little inebriated, gets into his car and goes to sleep, he can be arrested under this statute if he put the key in the car, turns it on and lets the motor run so he can keep warm. He indicated that he felt that moving vehicles were the problem and he asked if it creates a problem if some guy pulls off to the side of the highway.

REPRESENTATIVE KEYSER informed the committee that in Billings, a psychiatrist was in a car, the motor was running; the door was locked; he would not open the door for the officers; it was proven later that he was drunk; and they finally went and got a wrecker, lifted the car up and took it to a safe spot. He said he did not know how he finally got out of there, but that went to the supreme court.

REPRESENTATIVE DAVE BROWN moved that they amend this bill as he suggested. REPRESENTATIVE JENSEN seconded the motion.

REPRESENTATIVE SPAETH stated that he has some problems with "moving" such as an individual who would pull into one of the check stations; and they have had a lot of problems with what is moving and what is not moving.

REPRESENTATIVE ADDY said that he had a client who was parked on the shoulder of the interstate, who was parked on the wrong lane; and he would not be in violation of a D.U.I.

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REPRESENTATIVE JENSEN indicated that there are a lot of vehicles these days in which the front seat is designed to be slept in; he can see some problems with a stationary vehicle, but he is really concerned about people driving while drunk.

REPRESENTATIVE DAILY said that they could talk about this thing forever and no matter which way they go, somebody is going to get burned.

A vote was taken on the amendment and it failed with 11 voting no and 7 voting yes. See ROLL CALL VOTE.

REPRESENTATIVE KEYSER moved that the bill DO PASS AS AMENDED. REPRESENTATIVE ADDY seconded the motion. The motion carried with REPRESENTATIVE IVERSON, REPRESENTATIVE JENSEN, REPRESENTATIVE KENNERLY and CHAIRMAN BROWN voting no.

HEARING SESSION

HOUSE BILL 774

REPRESENTATIVE ADDY stated that this is an act which creates a certification process for court reporters in the state of Montana.

JEROME ANDERSON, representing the Montana Shorthand Reporters' Association, stated that he represented some 66 shorthand reporters in the state and they use a particular method of recording court proceedings, administrative proceedings, depositions, etc. He indicated that some are official reporters appointed by the judicial judges and other are free lance reporters.

JULIE LAKE, representing the Montana Shorthand Reporters' Association in Missoula, passed out an example of what their shorthand looks like. See EXHIBIT A.

There were no further proponents and no opponents.

REPRESENTATIVE ADDY pointed out that Mr. Abley was here from the supreme court; they have reviewed the legislation and are in support of the measure.

REPRESENTATIVE VELEBER asked if there were any court reporter schools in Montana. MS. LAKE responded that Montana does not have any court reporter schools.

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REPRESENTATIVE HANNAH asked if this bill will require the judge to hire someone who has this certification. MR. ANDERSON responded that this bill will not require someone to have the certificate to be employed by the district judge; that at this stage of development of the profession in the state of Montana, there might be some difficulty with some people who might not completely fulfill the requirements; and at least one judge in Montana has what is called voice mask and is not a shorthand reporter.

REPRESENTATIVE JAN BROWN asked if there was a fiscal note and a statement of intent with this bill. MR. ANDERSON responded that there was a fiscal note, which indicated an expenditure of \$9,000.00 the first year and \$5,000.00 the second; but this bill provides that the examination fees and certification fees be sufficient to defray the expenses and so, in a sense, it is self-funding.

MIKE ABLEY, Court Administrator for the Supreme Court of Montana, said that they should be aware of the fact that not all court reporters will be getting this certification; if there were only five court reporters being certified in one year, he thought it was a little unreasonable to expect them to pay \$1,000.00 a piece; so the committee may have to take a look at that and set it up so that some time in the future the certification costs are covered by the applicants.

MS. LAKE indicated that in regard to the costs, there are very few costs; the association has been giving the tests for the last few years; the association has been picking up the costs; and the national organization gives them a rebate of the cost - it covers the cost of giving the test and various other costs.

CHAIRMAN BROWN said that Ms. Desmond pointed out that they do not need a statement of intent because the Supreme Court is not an administrative agency.

REPRESENTATIVE HANNAH asked if the association would pick up the difference in costs. MR. ANDERSON replied that he

has not had an opportunity to discuss the fiscal note with the administrator of the supreme court, but as he envisions this, the examination will be an examination that will be offered to the supreme court that is already prepared and ready to use; the examination lasts several hours; it is administered by the board itself and he can't envision any expense on the part of the supreme court with respect to the examination. He continued that there would be some expense in the issuance of the certificates, but beyond that, he cannot envision any substantial cost factor.

REPRESENTATIVE SCHYE indicated that he comes from a rural area; he knows people who have been court reporters and they are not easy to come by in rural counties; and if they put something like this in, will they have a harder time getting people. MR. ANDERSON responded that the reporters in rural counties are solidly behind this; and there is also a bill now, Senate Bill 196, which was passed by the Senate and this adjusts salaries of court reporters and provides for updating the transcript fee costs.

REPRESENTATIVE JENSEN asked what the judges' response is to this bill. MR. ANDERSON responded that they are in support of the bill.

REPRESENTATIVE JENSEN commented that his understanding of the bill is that it does not require them to hire a certified court reporter. MR. ANDERSON answered no, but it establishes a classification of a certified shorthand reporter and they anticipate that they will hire one of them if they want to have someone with a high level of proficiency.

REPRESENTATIVE JENSEN asked if he thought in the future the supreme court will require certified reporters. MR. ANDERSON replied that the supreme court cannot go beyond the statutory language of the bill and the bill itself does not set that as a standard of requirement.

REPRESENTATIVE KEYSER noted that they want to set up a board there and he wondered if there was any problem if this legislature put on that board, as they do on most all other boards of the state of Montana, one public member. MR. ABLEY responded that he didn't see any problem and the only problem would be who would compensate that member.

REPRESENTATIVE KEYSER asked the same question of Ms. Lake. MS. LAKE replied that if the legislature thought it was necessary, it would be fine.

REPRESENTATIVE KEYSER explained that the problems they have had with other boards have been that often times when the boards are strictly comprised of members of the same profession, they have at times got out of hand in some areas; and, for that reason, most boards now do have a public member.

MR. ANDERSON noted that he would have one problem with that as the real purpose of the board is to give the examination and a public member is just not capable of that.

CHAIRMAN BROWN asked if this would have any conflict with voice reporters. MR. ANDERSON answered that this bill only covers what are defined as shorthand reporters, who use symbols; and a voice reporter uses a voice recorder and it would not affect them.

CHAIRMAN BROWN asked if this would, in any way, negate that profession. MR. ANDERSON replied, "No." MS. LAKE indicated that the voice mask profession has its own association.

There were no further questions and the hearing on this bill was closed.

HOUSE BILL 741

REPRESENTATIVE ADDY said that this bill was introduced at the request of the House Judiciary Committee and provides that the training services of the county attorney training coordinator may be made available to city attorneys and that the training coordinator may charge a fee for the training.

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ALEC HANSEN, representing the Montana League of Cities and Towns, said that this bill provides that the city attorneys will have an opportunity to take advantage of the training courses provided by the attorney general's office; and they think that this is very important. He presented to the committee a letter from Jim Nugent, City Attorney for the city of Missoula. See EXHIBIT B.

There were no further proponents and no opponents.

REPRESENTATIVE ADDY closed.

There were no questions and the hearing on this bill was closed.

HOUSE BILL 731

REPRESENTATIVE RAMIREZ stated that this bill is to adopt the 1978 revisions to the uniform federal lien registration law; there is a national conference on commissioners of state laws; two members on that commission from Montana are Diana Dowling and former Senator Steve Brown, and also Bob Sullivan, who use to be the dean of the law school at Missoula and now with the Montana Power Company; and this commission looks into various areas where there are laws that are not only needed, but where there is a need for uniformity in all states in enacting those laws and this is one of many, many uniform laws. He advised that they now have what is called the federal tax lien registration act and that basically provides for a method by which federal tax liens can be recorded and perfected in the state of Montana.

There were no proponents and no opponents.

REPRESENTATIVE RAMIREZ closed.

There were no questions and the hearing on this bill was closed.

EXECUTIVE SESSION

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HOUSE BILL 731

REPRESENTATIVE KEYSER moved that this bill DO PASS. The motion was seconded by REPRESENTATIVE EUDAILY. The motion passed unanimously.

HOUSE BILL 741

REPRESENTATIVE JENSEN moved that this bill DO PASS. REPRESENTATIVE CURTISS seconded the motion. The motion carried unanimously.

HOUSE BILL 774

REPRESENTATIVE ADDY moved that this bill DO PASS. The motion was seconded by REPRESENTATIVE JENSEN.

REPRESENTATIVE ADDY moved that the bill be amended as per the written amendment. See EXHIBIT C. REPRESENTATIVE JENSEN seconded the motion. The motion carried unanimously.

REPRESENTATIVE JAN BROWN asked why they did not need a statement of intent if it is the supreme court making the rules - why are they different. MS. DESMOND responded that a statement of intent is required when there is a delegation of authority to administrative agencies and the Montana Administrative Procedure Act specifically does not include courts as an administrative agency, so it is not required that there be a statement of intent.

REPRESENTATIVE EUDAILY indicated that the gentlemen who made the testimony referred to administrative rules; and he said he had a problem on page 2, where it says they can adopt rules for implementing the program; and unless they make some provision saying what they are going to do here, he is not sure that these people will know what they are doing.

MS. DESMOND responded that the supreme court does have the power to adopt rules; she meant that the supreme court's adoption of rules does not come within the Administrative Procedure Act - they are just not governed by it.

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REPRESENTATIVE EUDAILY said that maybe they don't have to, but maybe they should give them a push and wondered if there was any way they could do that.

MS. DESMOND responded that it was her understanding that you can attach a statement of intent to any bill that you want to, but if it is not required, it will need a 2/3 vote.

REPRESENTATIVE EUDAILY made a motion that a statement of intent be drafted. REPRESENTATIVE KEYSER seconded the motion.

REPRESENTATIVE KEYSER thought that it should be clear that this pertains to these people and also there was a question about where some of these moneys were going to come from; and he thought they should make it clear along that line what the intent is of this committee.

The motion passed with REPRESENTATIVE FARRIS voting no.

REPRESENTATIVE RAMIREZ moved to amend the bill on page 6, line 20, where they are talking about "earmarked revenue funds" and that should be called "a special revenue account" and he so moved to amend the bill to put this correct language in. The motion was seconded by REPRESENTATIVE KEYSER. The motion carried unanimously.

REPRESENTATIVE SCHYE stated that in their rural counties and in Glasgow, there can be problems in getting reporters; they had a reporter for many years; she left; they couldn't find another one; they finally got someone; but she got on-the-job training because no one else would do it.

REPRESENTATIVE RAMIREZ indicated that there was no provision in this bill for a person who passes the examination and gets certified, and they don't work for ten years or they lose their skills for one reason or another, there is no way to get them out of this once they are in it that first time - whether the court can terminate or refuse to renew - there is nothing in there about that.

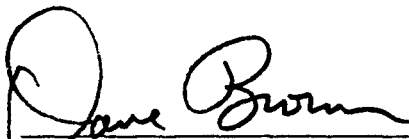
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REPRESENTATIVE ADDY moved that the bill DO PASS AS AMENDED.
REPRESENTATIVE JENSEN seconded the motion.

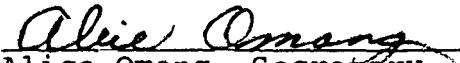
CHAIRMAN BROWN said that the court will undoubtedly
set up rules that say if they haven't practiced for five
years or something, that they will have to be retested.

The motion carried unanimously.

REPRESENTATIVE KEYSER moved that the meeting adjourn at
11:09 a.m.



DAVE BROWN, Chairman



Alice Omang, Secretary

STANDING COMMITTEE REPORT (1 of 3)

February 17 19 83

HOUSE

MR. **SPEAKER:**

We, your committee on **JUDICIARY**

having had under consideration **HOUSE** Bill No. **540**

FIRST reading copy (white)
Color

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING AND EXTENDING THE GEOGRAPHICAL APPLICATION OF THE LAWS PROHIBITING DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; MAKING IT AN OFFENSE TO DRIVE A MOTOR VEHICLE WITH A BLOOD ALCOHOL CONCENTRATION OF MORE THAN .10; PROVIDING FOR THE ADMISSIBILITY OF EVIDENCE; AMENDING SECTIONS 61-8-101 AND 61-8-401 THROUGH 61-8-404, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That **HOUSE** Bill No. **540**

BE AMENDED AS FOLLOWS:

1. Title, line 8.
Following: ".10"
Insert: "AND PROVIDING PENALTIES FOR THAT OFFENSE"
2. Title, line 9.
Following: "61-8-101"
Strike: "AND:"
Insert: ", "
3. Title, line 10.
Following: "61-8-404"
Insert: ", AND 61-8-714"
4. Page 2, line 20.
Strike: "61-8-714 (1)"
Insert: "61-8-714(2)"

DO PASS

5. Page 4, line 13.

Following: "alcohol."

Insert: "Such presumption is rebuttable."

6. Page 9, following line 12.

Insert: "Section 6. Section 61-8-714, MCA is amended to read:

"61-8-714. Penalty Penalties for driving with excessive blood alcohol concentration and for driving while intoxicated.

(1) (a) A person convicted of a violation of 61-8-401(1) shall be punished by imprisonment in the county jail for not more than 10 days and shall be punished by a fine of not more than \$500.

(b) On a second conviction of a violation of 61-8-401(1), he shall be punished by imprisonment in the county jail for not more than 30 days and by a fine of not more than \$500.

(c) On a third or subsequent conviction of a violation of 61-8-401(1), he shall be punished by imprisonment in the county jail for not more than 6 months and by a fine of not more than \$1000.

(2) (a) A person convicted of a violation of 61-8-401(2) may, in the discretion of the court, be punished by imprisonment in the county jail for up to 24 hours, and shall be punished by a fine of not less than \$100 or more than \$500. The jail sentence may not be suspended unless the judge finds that the imposition of the jail sentence will pose a risk to the defendant's physical or mental well-being.

(2) (b) On a second conviction of a violation of 61-8-401(2), he shall be punished by a fine of not less than \$300 or more than \$500 and by imprisonment for not less than 7 days or more than 30 days. Three days of the jail sentence may not be suspended unless the judge finds that the imposition of the jail sentence will pose a risk to the defendant's physical or mental well-being.

(3) (c) On the third or subsequent conviction of a violation of 61-8-401(2), he shall be punished by imprisonment for a term of not less than 30 days or more than 1 year, to which may be added, in the discretion of the court, a fine of not less than \$500 or more than \$1000. Notwithstanding any provision to the contrary providing for suspension of execution of a sentence imposed under this sub-section, the imposition or execution of the first 10 days of the jail sentence imposed for a third or subsequent offense that occurred within 5 years of the first offense may not be deferred or suspended.

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(4) (3) In addition to the punishment provided in this section, regardless of disposition, the defendant shall complete an alcohol information course at an alcohol treatment program approved by the department of institutions, which may include alcohol or drug treatment, or both, if considered necessary by the counselor conducting the program. Each counselor providing such education or treatment shall, at the commencement of the education or treatment, notify the court that the defendant has been enrolled in a course or treatment program. If the defendant fails to attend the course or the treatment program, the counselor shall notify the court of the failure.

(5) (4) For the purpose of determining the number of convictions under this section, "conviction" means a final conviction, as defined in 45-2-101, or a forfeiture of bail or collateral deposited to secure the defendant's appearance in court, which forfeiture has not been vacated. An offender is considered to have been previously convicted for the purposes of this section if less than 5 years have elapsed between the commission of the present offense and a previous conviction. If there has been no additional conviction for an offense under this section for a period of 5 years after a prior conviction hereunder, then such prior offense shall be expunged from the defendant's record."

STANDING COMMITTEE REPORT

February 17, 1983

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 731

FIRST reading copy (white)
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A BILL FOR AN ACT ENTITLED: "AN ACT TO ADOPT 1978 REVISIONS TO
THE UNIFORM FEDERAL LIEN REGISTRATION LAW; AMENDING SECTIONS
71-3-201 AND 71-3-203 THROUGH 71-3-206, MCA."

Respectfully report as follows: That HOUSE Bill No. 731

DO PASS



DAVE BROWN,

Chairman.

STANDING COMMITTEE REPORT

February 17, 19 83

MR. **SPEAKER:**

We, your committee on **JUDICIARY**

having had under consideration **HOUSE** Bill No. **741**

FIRST reading copy (white)
Color

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT THE TRAINING SERVICES OF THE COUNTY ATTORNEY TRAINING COORDINATOR MAY BE MADE AVAILABLE TO CITY ATTORNEYS AND THAT THE TRAINING COORDINATOR MAY CHARGE A FEE FOR THE TRAINING; AMENDING SECTION 44-4-103, MCA"

Respectfully report as follows: That **HOUSE** Bill No. **741**

DO PASS



DAVE BROWN,

Chairman.

STANDING COMMITTEE REPORT

(1 of 3)

February 17

1983

MR. **SPEAKER**

We, your committee on **JUDICIARY**

having had under consideration **HOUSE** Bill No. **774**

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A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A CLASSIFICATION OF SHORTHAND REPORTERS TO BE KNOWN AS CERTIFIED SHORTHAND REPORTERS; AUTHORIZING THE SUPREME COURT TO APPOINT AN EXAMINING BOARD TO ASSIST THE COURT IN ISSUING CERTIFICATES; AUTHORIZING THE SUPREME COURT TO GIVE EXAMINATIONS, GRANT CERTIFICATES, ADOPT RULES, AND REVOKE, SUSPEND, OR REFUSE TO RENEW CERTIFICATES, REQUIRING FEES TO BE PAID TO THE CLERK OF THE SUPREME COURT; REQUIRING CERTIFICATION OF TRANSCRIPTS; REQUIRING RENEWAL OF CERTIFICATES; AND PROVIDING A PENALTY."

HOUSE

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

be amended as follows:

1. Page 5, following line 1.

Insert: "(5) A person who has been a resident of the state of Montana for 6 months prior to [the effective date of this act] and who during that time has been principally engaged in the profession of court reporting and has been practicing continuously as a shorthand reporter must upon application therefore and payment of the required fee, be issued a certificate without examination if application for the certificate is made no later than 6 months after [the effective date of this act]."

AND AS AMENDED

DG-PASS

STATEMENT OF INTENT ATTACHED

MR. SPEAKER:

WE, YOUR COMMITTEE ON JUDICIARY, HAVING HAD UNDER CONSIDERATION

HOUSE BILL NO. 774

FIRST READING COPY (WHITE), ATTACH THE FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT
HOUSE BILL NO. 774

A Statement of Intent is not required for this bill. However, one was prepared because the bill grants rulemaking authority to the Montana Supreme Court for the purpose of establishing a program of certification of shorthand reporters.

Section 1 authorizes the court to adopt rules to implement the act. Section 3 authorizes the court to appoint a three-member examining board to conduct the examination of applicants for certification under rules adopted by the court. Section 4 authorizes the court to determine the amount of compensation to be received by the board. Section 6 authorizes the court to administer the court reporter certification examination. Section 8 authorizes the court to renew court reporter certificates annually upon payment of a fee set under section 9. Under section 9, the court may set various fees to fund the administration of the act.

It is the intent of the legislature that the court adopt all rules necessary to establish and administer a program of certification of shorthand reporters. A program that will ensure the proficiency of court reporters will be a benefit to the judicial system of the state. It is the intent of the legislature that the court limit its rulemaking authority to the administration of the certification program, including setting standards for suspension and revocation of certificates, and that the court not adopt rules requiring certification as a condition of employment of court reporters by the district courts.

It is the intent of the legislature that the duties of the board appointed under section 3 be limited to duties associated with conducting the examination of applicants for certification and duties associated with certificate revocation and suspension proceedings.

It is the intent of the legislature that all fees prescribed by the court under this bill be commensurate with cost.

**STATEMENT OF INTENT
HOUSE BILL NO 774**

(3 of 3)

February 17, 19**83**.....

It is the intent of the legislature that in enacting rules to implement section 8, the court set standards for renewal of a certificate when more than 5 years have elapsed since expiration of the certificate, including provisions for re-examination of the shorthand reporter.

	Date: 2/17 No: HB 540 D. Brown's Amendment	Date: No:	Date: No:	Date: No:	Date: No:	Date: No:
BROWN, Dave	yes					
ADDY, Kelly	no					
BERGENE, Toni	no					
BROWN, Jan	no					
CURTISS, Aubyn	no					
DAILY, Fritz	yes					
DARKO, Paula	no					
EUDAILY, Ralph	yes					
FARRIS, Carol	no					
HANNAH, Tom	no					
IVERSON, Dennis	yes					
JENSEN, James	yes					
KENNERLY, Roland	yes					
KEYSER, Kerry	no					
RAMIREZ, Jack	no					
SCHYE, Ted	no					
SEIFERT, Carl	—					
SPAETH, Gary	no					
VELEBER, Dennis	yes					

11-no
7-yes

VISITOR'S REGISTER

HOUSE JUDICIARY

COMMITTEE

BILL HOUSE BILL 774

DATE 2/17/83

SPONSOR Rep. Addy[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

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H A E P S T
S T P H

WITNESS STATEMENT

Name James Anderson Committee On Industry
Address Puller, N.Y. Date 4/17/83
Representing Montana Abortion Rights Ass Support ✓
Bill No. HB 774 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Julie M. Rake Committee On Judiciary
Address Helena, MT Date 2/17/83
Representing Mont. Shorthand Rep. Assn. Support ☒
Bill No. HB 774 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

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4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Phyllis J. Galovich Committee On Judiciary
Address Helena, Mt. Date 7/17/83
Representing Mont. Shovelers Rep. Assn. Support ☒
Bill No. HB 774 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

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4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

VISITOR'S REGISTER

HOUSE JUDICIARY

COMMITTEE

BILL HOUSE BILL 1741

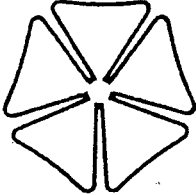
DATE Feb. 17, 1983

SPONSOR Rep. Addy

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.



THE GARDEN CITY
HUB OF FIVE VALLEYS

Missoula, Montana 59802

February 17, 1983

OFFICE OF CITY ATTORNEY
201 West Spruce Street
Phone 721-4700
83-124

House Judiciary Committee Members
State Capitol
Helena, Montana 59620

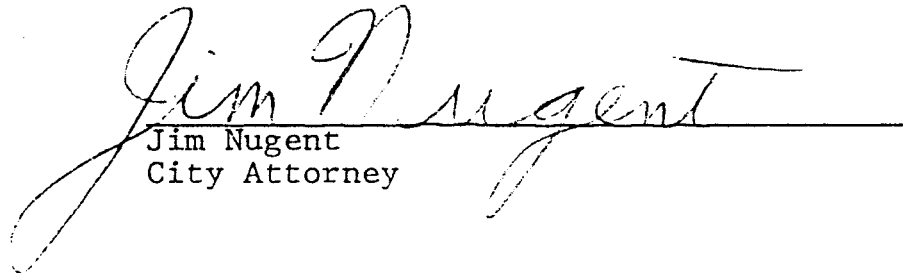
Re: HB 741

Dear House Judiciary Committee Members:

I would like to take this opportunity to urge your support for the enactment of House Bill 741. The League of Cities & Towns as well as the City of Missoula Attorney's Office supports this Bill. The city attorneys prosecute state misdemeanor offenses in city court. We believe that the training coordinator seminars could be of great value to those city prosecutors who are able to attend.

Thank you for your consideration of our request for your support of House Bill 741.

Yours truly,


Jim Nugent
City Attorney

JN/jd

Exhibit B
2/17/83
HB 741

Exhibit C
HB 774
2/17/83

1. Amend Section 6 of the Bill on page 5 line 1 by adding an additional subsection which reads as follows:

"(5) All persons who have been residents of the State of Montana for 6 months prior to the effective date of this Act and who have been principally engaged in the profession of and have been practicing continuously as pharmacists registered during such period of time shall, upon application thereof and payment of the required fee, be issued said certificate without examination if application for said certificate be made no later than six (6) months after [the effective date of this Act.]"

2 Codification Instruction,

3 Statement of Intent.