

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

January 9, 1985

The meeting of the Judiciary Committee was called to order by Chairman Tom Hannah on Wednesday, January 9, 1985 at 8:00 a.m. in room 312-3 of the State Capitol Building.

ROLL CALL: Roll call was taken, all members being present.

HOUSE BILL NO. 115: Hearing commenced on House Bill 115 (Public access to death certificates - protection of living persons' privacy). The chief sponsor, Representative Joan Miles, appeared before the committee and offered testimony. She informed the committee that the bill was drafted on request of the Department of Health and Environmental Sciences. She briefly reviewed the intent of the bill stating that it would amend section 50-15-112 in that it would allow the applicant who has a direct and tangible interest in the data recorded to obtain said information when the information is necessary for the determination of personal or property rights of the deceased and if the privacy of living persons is not jeopardized by such access.

John Wilson from the Bureau of Records and Statistics, Department of Health and Environmental Sciences, spoke in support of the bill. Mr. Wilson informed the committee that the Bureau has been cooperating with the National Death Index for a number of years.

Steve Perlmutter from the legal division of the Department of Health and Environmental Sciences, spoke in support of the bill. He pointed out the constitutional problems the Department has been having with the current statute in balancing the right to know against the right to privacy. He said that when a person dies, the right of privacy terminates under the present law. This bill would attempt to bring the statutes in line with the constitution by making death certificates available to the public if the privacy of living persons is not jeopardized.

There being no further proponents or opponents of the bill, Representative Miles closed.

HOUSE BILL NO. 103: (Revise youth court jurisdiction - youth homicide triable in District Court). Representative Dave Brown, House District #72, chief sponsor, appeared and offered testimony. Basically, this bill is two-fold in that it would allow for changes with regard to the venue portion of youth court proceedings and allow youths to be tried for the offense of deliberate homicide and mitigated deliberate homicide regardless of age in district court.

Mike McGrath, county attorney for Lewis and Clark County, testi-

fied in support of HB 103. He informed the committee that this bill was submitted by Representative Brown on request of the county attorneys. He stated that this bill would allow in the case of a deliberate homicide or mitigated deliberate homicide offense that the district judge would be able to consider a number of factors outlined in the bill. The district judge would be able to transfer the youth from juvenile court to district court if conditions were met as outlined more fully in the bill.

This bill would also allow that a youth be transferred from Pine Hills School for Boys to the Montana State Prison when the youth reaches the age of majority. The bill would also allow actions charging youths to be brought not only in the county of residence but also in the county where the offense was committed.

Bob McCarthy, county attorney for Butte-Silver Bow, also testified in support of the bill. He stated that the bill would simply allow the Court to conduct a transfer hearing.

Brian Holland, deputy county attorney from Butte-Silver Bow, also commented on the bill. He mentioned several states that do not have an age limitation regarding the age the youth who commits a crime. He, too, felt that the Court should be able to have the option of looking at individual cases and deciding what to do with them.

Chairman Hannah asked for any opponents testimony to be presented. Carl Englund, an attorney representing the Montana Trial Lawyers Association, testified in opposition to the bill. Mr. Englund stated that he didn't have any problem with the venue part of the bill, but he was concerned about allowing the transfer of youths to district court at any age. His further considerations were whether or not Montana State Prison would have the facility to hold youths and whether or not Pine Hills School for Boys would also have the facility to retain youths after they reach the age of majority. He pointed out that he felt it was ironic that this bill was being considered today while House Bill 69 (admissibility of statements of minor victim of abuse or molestation) will be heard tomorrow. In addition, Mr. Englund cautioned the members not to act on emotional reactions due to certain heinous crimes that happened in Butte-Silver Bow last year.

There being no further opponents to the bill, Representative Brown closed with a brief summarization. He informed the members that the opportunity does exist for a six year old to be tried in adult court, but he feels the chance of this happening is very unlikely. He stated that what the bill will do is give judicial discretion where it is appropriate. Representative Brown commented on the institutional problem this bill may create.

He informed members of the committee that he planned to submit a resolution addressing this problem.

Chairman Hannah opened the meeting up for discussion on HB 103. Representative Addy stated he was concerned about including a youth who has been charged with mitigated deliberate homicide in the bill. Mr. McCarthy addressed this question and stated that this is typically raised as the defense. Representative Addy felt the mitigated deliberate homicide part should be deleted from the bill altogether.

Mr. McGrath explained why the county attorneys included the mitigated deliberate homicide portion of the bill. He felt the bill would provide for the following: for a heinous crime committed, and it would insure that mitigated deliberate homicide could be a lesser included offense. He did state that he would be willing to exclude the mitigated deliberate homicide portion of the bill.

Representative Krueger raised a question with regard to the minimum age as defined in Section 2(a) of the bill. It was Mr. McCarthy's opinion that it was more arbitrary to place a minimum age in the bill. He feels that the Court should have the freedom to make the appropriate determination. He also stated that he felt that in some cases, the youths themselves would be better handled as an adult.

Representative Bergene directed a question to Nick Rotering, attorney from the Department of Institutions, regarding the institutional problems of handling youths. In regards to security issues, Mr. Rotering stated that he has been able to deal with youths effectively in the past.

ADJOURN: There being no further business at this time, the meeting was adjourned at 9:00 a.m. by Chairman Hannah.


TOM HANNAH, Chairman

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 1/9/85

NAME	PRESENT	ABSENT	EXCUSED
Tom Hannah (Chairman)	✓		
Dave Brown (Vice Chairman)	✓		
Kelly Addy	✓		
Toni Bergene	✓		
John Cobb	✓		
Paula Darko	✓		
Ralph Eudaily	✓		
Budd Gould	✓		
Edward Grady	✓		
Joe Hammond	✓		
Kerry Keyser	✓		
Kurt Krueger	✓		
John Mercer	✓		
Joan Miles	✓		
John Montayne	✓		
Jesse O'Hara	✓		
Bing Poff	✓		
Paul Raop-Svrcek	✓		

VISITOR'S REGISTER

HOUSE JUDICIARY

COMMITTEE

BILL House Bills 103 and 115

DATE 1/9/85

SPONSOR

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.