

MINUTES FOR THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

January 15, 1985

The meeting of the Judiciary Committee was called to order by Chairman Tom Hannah on Tuesday, January 15, 1985 at 9:00 a.m. in Room 312-3 of the State Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL NO. 155: Hearing commenced on HB 155 with its chief sponsor, Representative Hal Harper, testifying in support of it. He said that this bill pertains to the sport of animal fighting, more particularly that of dogfighting. He said that this sport is growing in the United States, and he feels it is a very sadistic sport. He said that more states have been making the sport of dogfighting a felony. He informed members briefly of dogfighting's history and the procedure of dogfighting. A dog seldom participates in more than three or four matches because in approximately 40% of the fights, both dogs either die or are mortally wounded. In 75% of the fights, at least one dog will die.

He said that as more states make dogfighting a felony offense, the remaining states with low penalties will become havens for the dogfighters.

Also speaking in favor of the bill was Barbara Dahlgren, president of the Federated Humane Societies of Montana. She read her testimony (attached as Exhibit A) to the committee as to why she vehemently opposes dogfighting.

Judy Fenton, secretary/treasurer for the Federated Humane Societies of Montana, appeared and offered testimony in support of HB 155. She pointed out a number of concerns she had stating that dogfighting is a brutal activity that breeds violence. She had a concern for the young children that are encouraged to watch and participate in this activity; the illegal gambling it encourages; and the pet animals that are stolen by dogfighters to be used in training their fighting dogs. She stated that a small fine is no deterrent to the crime when so much money can be gained. A copy of her testimony is attached hereto and labeled Exhibit B.

There being no further proponents or opponents, Representative Harper made a brief closing statement. The chairman then opened the floor up for discussion.

Representative Eudaily stated that he has a problem with charging a spectator with a felony. He thought that perhaps a spectator could be charged with a misdemeanor but not a felony. Representative Harper said that it was a valid concern, but without

the participation of spectators, the sport couldn't continue. Therefore, he feels the spectators should be held accountable for their part in the crime.

There being no further discussion, hearing was closed on HB 155.

EXECUTIVE SESSION:

An executive session was called at 9:30 a.m. by the chairman to act on House Bills 155 and 103.

ACTION ON HB 155: Representative Rapp-Svrcek moved that HB 155 DO PASS. The motion was seconded by Representative Darko. Discussion followed. Representative Hannah questioned whether or not spectators should be charged with a felony. Representative Rapp-Svrcek felt very strongly that the felony provision should be left in the bill. Both Representatives Eudaily and Gould felt the felony provision should be left as is even when it involves the spectator. Representatives Addy and Grady also felt that because spectators are a part of the dogfighting scheme, they should be held accountable as well. The question was called and a roll call vote taken. Motion carried with Representative Dave Brown dissenting. (Representative Keyser was not present for this particular vote.)

ACTION ON HB 103: Representative Brown moved that HB 103 DO PASS. The motion was seconded by Representative Hannah and discussed. Representative Brown submitted three amendments. His first amendment would basically change a drafting mistake in the bill. The proposed amendment is as follows:

1. Page 3, line 1.
Following: "(a)"
Insert: "(i)"
2. Page 3, line 5.
Following: "adult;"
Insert: "or"
3. Page 3, line 6.
Strike: "(b)"
Insert: "ii"

Reletter subsequent subsections

4. Page 3, line 23.
Strike: (1)(a)(i) through (1)(a)(ix)
Insert: (1)(a)(ii)(A) through (1)(a)(ii)(J)

Representative Brown moved that the above amendments be adopted. The motion was seconded by Representative Miles, and a roll call vote taken. Motion carried unanimously.

Representative Brown moved that a further amendment be adopted. Motion was seconded by Representative Gould. The motion is as follows:

1. Title, line 8.
Following: "YOUTH"
Insert: "12 YEARS OF AGE OR OLDER"
2. Page 3, line 1.
Following "(a)"
Insert: "the youth charged was 12 years of age or more at the time of the conduct alleged to be unlawful and"
3. Page 3, line 2.
Following: "youth"
Strike: ", regardless of age,"

There being no discussion on this particular motion, the question was called and a roll call vote taken. The motion carried unanimously.

Representative Brown further moved the following amendment be adopted. Motion was seconded by Representative Gould and is as follows:

1. Title, line 10.
Strike: "OR"
Insert: ", "
Following: "HOMICIDE"
Insert: ", ATTEMPTED DELIBERATE HOMICIDE, OR ATTEMPTED MITIGATED DELIBERATE HOMICIDE"
2. Page 3, line 3.
Following: "45-5-102"
Strike: "or"
Insert: ", "
3. Page 3, line 4.
Following: "45-5-103"
Insert: ", or attempt as defined in 45-4-103 of either deliberate or mitigated deliberate homicide"

Discussion followed as to Representative Brown's reason for this particular amendment. He felt that attempted deliberate homicide and attempted mitigated deliberate homicide are also crimes that should be triable in a district court. Representative Miles stated that she feels this language should also be included in the title of the bill and that the "regardless of age" language should be deleted from the title of the bill. The committee

accepted Representative Miles recommendation.

Representative Krueger stated his opposition to the amendment.

It was Representative Gould's opinion that the latest amendment proposed by Representative Brown, is indeed, a very good amendment. Representative Keyser supports the amendment and said he can't see a problem with the attempted deliberate homicide or attempted mitigated deliberate homicide language. He feels that the insertion would strengthen our handle over juveniles in the gray areas. It would enable the court to handle these matters at its own discretion. He stated further that he feels this would not be abused in the slightest.

Representatives Montayne and Mercer voiced their support for this amendment. Representative Mercer said that this act would give the courts discretion. He said there are all kinds of precautions included in the bill. The question was called, and a roll call vote taken. Motion passed 16 to 2.

Representative Montayne moved that on page 4, line 17, the word "may" be stricken and the word "shall" be inserted in lieu thereof. The motion was seconded by Representative Rapp-Svrcek and carried unanimously.

Representative Mercer submitted to the committee a list of his proposed amendments to HB 103. He divided them up into three amendments: the first amendment dealing with 4., 5., and 6.; the second amendment dealing with 7., 8., and 9; the third amendment dealing with 10. See copy marked Exhibit C.

Representative Mercer moved that the part including five additional crimes be adopted into the bill. The motion was seconded by Representative Rapp-Svrcek and discussion followed. The reason Rep. Mercer wished to add these additional crimes is because he feels these crimes are crimes against people and should be included in the bill because they differ from the typical juvenile crimes. He thinks the court should have the discretion to decide whether or not a juvenile should be tried and punished as an adult. He feels this addition would expand the act to give more discretion to the court.

Representative Brown stated his strong opposition to the amendment proposed by Rep. Mercer. He, in particular, was opposed to adding aggravated assault to the bill in addition to sexual intercourse without consent.

It was Rep. Montayne's opinion that this amendment would not be necessary in that he feels there are too many statutes in the books now. He said it would make this bill into a mishmash.

Representative Miles expressed her opposition to the amendment. She feels that we are getting beyond the original intent of the bill.

Representative Rapp-Svrcek spoke in favor of the amendment. He feels the populace has become increasingly upset over the lack of discipline in our society. He feels that youths are aware of what they are doing when they commit these violent crimes and should be handled as adults. Adding these crimes to the Youth Court Act would provide a great deterrent and would help to create some responsibility among the youth of this state. Representative Mercer made a closing statement in support of his amendment.

Representative Mercer made a substitute motion at this time to delete from his proposed amendment the portion dealing with aggravated assault as defined in 45-5-202. Likewise, 8. and 9. would be deleted in its entirety. The motion was seconded by Representative Brown, and a roll call vote taken. Motion carried with Rep. Gould dissenting.

In favor of the original motion, Representative Hannah stated that these were crimes against people and should be considered. Representative Keyser felt the bill should be kept as uncluttered as possible. With that, a roll call vote was taken, and the motion to adopt Rep. Mercer's second amendment failed 10 to 8.

Representative Mercer moved that the following amendment be adopted. The motion was seconded and unanimously carried:

Page 1, line 24.
Following: "any"
Delete: "either"
Insert: "any"

Page 2, line 2.
Following: "found;"
Delete: "or"

Page 2, following line 4.
Insert: "(b) the county in which the youth is alleged to have violated the law;"

Reletter subsequent subsections

Representative Mercer further moved that his third amendment be adopted. The motion was seconded by Representative Rapp-Svrcek and discussion was opened. The proposed language is:

Page 4, line 7.
Following: "finds"
Strike: remainder of line 7 through "believe" on line 9.
Insert: "that there is clear and convincing evidence"

Representative Keyser disagreed with the proposed language. He feels that the language is not needed. Representative Brown agreed with Representative Keyser in this regard. He said this particular section pertains to all of the preceding sections. The question was called and a roll call vote taken. The motion failed 12 to 6.

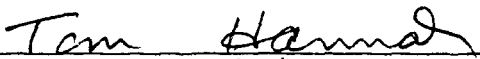
Representative Addy moved to exclude any and all references made to "mitigated deliberate homicide and attempted mitigated deliberate homicide" from the bill. Representative Krueger seconded the motion and discussion followed. Representative Addy explained that in order to be charged with mitigated deliberate homicide, a person who committed the act, would have to be under extreme mental and emotional stress. He feels that youths and adults should be treated differently under this charge.

Representative Brown strongly opposes Representative Addy's amendment to exclude. Representative Rapp-Svrcek also stated his opposition to the amendment. He feels there are adequate precautions set forth in the act. Representative O'Hara feels that if this amendment were adopted, plea bargaining would be more common on the more serious charge.

The question was called and a roll call vote was taken with the motion failing 16 to 2.

Representative Keyser moved that HB 103 DO PASS AS AMENDED. The motion was seconded by Representative Brown and carried unanimously. A roll call vote was taken on this motion.

ADJOURN: A motion having been made and seconded, the meeting was adjourned at 11:35 a.m.



TOM HANNAH, Chairman

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 1-15-85

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 Rapp-Svrcek	✓		

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 1-15-85 BILL NO. HB 103 TIME 10:10

NAME	AYE	NAY
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 Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)	✓	

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Rep. Brown moved for the following amendment. It was seconded by Rep. Miles:

1. Page 3, line 1
Following: "(a)"
Insert: "(i)"
2. Page 3, line 5
Following: "adult;"
Insert: "or"
3. Page 3, line 6,
Strike: "(b)"
Insert: "ii"
Reletter subsequent subsections
4. Page 3, line 23
Strike: (1)(a)(i) through (1)(a)(ix)
Insert: (1)(a)(ii)(A) through (1)(a)(ii)(J)

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 1-15-85 BILL NO. 103 TIME 10:15

NAME	AYE	NAY
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 Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)	✓	

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Rep. Brown moved the following amendment. It was seconded by Rep. Gould:

1. Title, line 8
Following: "YOUTH"
Insert: "12 YEARS OF AGE OR OLDER"
2. Page 3, line 1
Following "(a)"
Insert: "the youth charged was 12 years of age or more at the time of the conduct alleged to be unlawful and"
3. Page 3, line 2
Following: "youth"
Strike: ", regardless of age,"

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 1-15-85 BILL NO. 103 TIME 10:40

NAME	AYE	NAY
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 Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)	✓	

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Rep. Brown moved that the following amendment be adopted.

Motion was seconded by Representative Gould and carried 16 to 2.

1. Title, line 10
 Strike: "OR"
 Insert: ", "
 Following: "HOMICIDE"
 Insert: ", ATTEMPTED DELIBERATE HOMICIDE, OR ATTEMPTED MITIGATED DELIBERATE HOMICIDE"

2. Page 3, line 3
 Following: "45-5-102"
 Strike: "or"
 Insert: ", "

3. Page 3, line 4
 Following: "45-5-103"
 Insert: ", or attempt as defined in 45-4-103 of either deliberate or mitigated deliberate homicide"

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 1-15-85 BILL NO. 103 TIME 11:05

NAME	AYE	NAY
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 Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)	✓	

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Substitute motion made by Mercer.

Seconded by Rep. Brown. The motion had to deal with deleting the aggravated assault portion (c) from his proposed amendment #2. Likewise, nos. 8 and 9 in their entirety would also be deleted.

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 1-15-85 BILL NO. 103 TIME 11:10

NAME	AYE	NAY
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 Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)		✓
Tom Hannah (Chairman)	✓	

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Rep. Mercer moved that the following amendment be made. The motion was seconded by Rep. Rapp-Svrcek:

Page 3, lines 1 through 5
 Strike: subsection (a) in its entirety
 Insert: "(a) (1) the youth charged was 12 years of age or more at the time of the conduct alleged to be unlawful and the unlawful act is one of the following:
 (A) deliberate homicide as defined in 45-5-102;
 (B) mitigated deliberate homicide as defined in 45-5-103;
 (C) sexual intercourse without consent as defined in 45-5-503;
 (D) aggravated kidnapping as defined in 45-5-303; or"

Motion failed 10 to 8.

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 1-15-85 BILL NO. 103 TIME 11:25

NAME	AYE	NAY
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 Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)		✓
Tom Hannah (Chairman)		✓

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Representative Mercer moved that the following amendment be adopted. Motion was seconded by Rep. Rapp-Svrcek and failed 12-6.

Page 4, line 7

Following: "finds"

Strike: remainder of line 7 through "believe" on line 9.

Insert: "that there is clear and convincing evidence"

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE _____ BILL NO. _____ TIME 11:33

NAME	AYE	NAY
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 Rapp-Svrcek		✓
Dave Brown (Vice Chairman)		✓
Tom Hannah (Chairman)		✓

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Rep. Addy moved to exclude any and all references made to
"mitigated deliberate homicide and attempted mitigated deliberate
homicide" from the bill. The motion was seconded by Rep. Krueger
and failed 16 to 2.

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 1-14-85 BILL NO. 103 TIME 11:34

NAME	AYE	NAY
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 Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)	✓	

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Representative Keyser moved that HB 103 DO PASS AS AMENDED.

MOTION was seconded by Rep. Brown and carried unanimously.

STANDING COMMITTEE REPORT

January 15

191935

Page 1 of 2

MR. Speaker:

We, your committee on Judiciary

having had under consideration House Bill No. 103

first reading copy (white color)

REVISE YOUTH COURT JURISDICTION- YOUTH HOMICIDE TRIABLE IN DISTRICT COURT

Respectfully report as follows: That House Bill No. 103

BE AMENDED AS FOLLOWS:

1. Title, line 6.
Following: "FOR"
Insert: "INITIAL"

2. Title, line 8.
Following: "YOUTH"
Insert: "17 YEARS OF AGE OR OLDER"

3. Title, line 10.
Strike: "OR"
Insert: ", "
Following: "HOMICIDE"
Strike: "REGARDLESS OF AGE"
Insert: ", ATTEMPTED DELIBERATE HOMICIDE, OR ATTEMPTED
MITIGATED DELIBERATE HOMICIDE"

~~OKRASSX~~

AN-1/15/85

CONTINUED

4. Page 1, line 24.
Following: "and"
Strike: "either"
Insert: "and"

5. Page 2, line 2.
Following: "found;"
Strike: "or"

6. Page 2, following line 4.
Insert: "(b) the county in which the youth is alleged to
have violated the law; or"
Relatter: Subsequent subsections

7. Page 3, line 1.
Following: "(a)"
Insert: "(1) the youth charged was 12 years of age or more
at the time of the conduct alleged to be unlawful and"
Following: "not"
Strike: "alleged" through "age," on line 3.

8. Page 3, line 3.
Following: "45-5-102"
Strike: "or"
Insert: "and"

9. Page 3, line 4.
Following: "45-5-103"
Insert: ", or the attempt, as defined in 45-4-103, of
either deliberate or mitigated deliberate homicide"

10. Page 3, line 5.
Following: "adult;"
Insert: "or"

11. Page 3, line 6.
Strike: "(b)"
Insert: "(c)"
Relatter: Subsequent subsections

12. Page 3, line 13.
Strike: "(1) (a) (i)"
Insert: "(1) (a) (ii) (A)"
Strike: "(1) (a) (ii)"
Insert: "(1) (a) (ii) (B)"

13. Page 4, line 17.
Following: "the court"
Strike: "and"
Insert: "shall"

AND AS AMENDED,
DO PASS

GR 1115/85
STATE PUB. CO.
Helena, Mont.

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 1-15-85 BILL NO. HB 155 TIME 9:45

NAME	AYE	NAY
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 Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)	✓	✓
Tom Hannah (Chairman)	✓	

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Representative Rapp-Svrcek moved that HB 155 DO PASS.

Motion seconded by Rep. Darko and passed.

STANDING COMMITTEE REPORT

January 15

1935

MR. SPEAKER

JUDICIARY

We, your committee on

having had under consideration HOUSE Bill No. 155

FIRST reading copy (WHITE)
color

DECLARES A FELONY TO CAUSE OR ALLOW THE FIGHTING OF ANIMALS
FOR SPORT

Respectfully report as follows: That HOUSE Bill No. 155

DO PASS

JR 1/15/35

VISITOR'S REGISTER

HOUSE JUDICIARY

COMMITTEE

HOUSE BILL NO. 155

DATE 1-15-85

SPONSOR REP. HAL HARPER

(PLEASE PRINT NAME BELOW)

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
<i>Andy Fenton</i>	<i>Blue Sky Freights Clancy, Mt</i>	<i>Federated Humane Societies of Mt</i>	<input checked="" type="checkbox"/>	
<i>Barbara Plabger</i>	<i>Missoula Mt 834 Marshall St.</i>	<i>Fed. Humane Soc. of Mt</i>	<input checked="" type="checkbox"/>	
<i>Shirley R. Linn</i>	<i>4624 Hwy 12W Helena</i>	<i>Lewis & Clark Humane Soc</i>	YES	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.
WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

Name Luzanne McGrew

Committee On Increasing Violence and Fighting

Address 834 Marlboro St. W. Va.

Date Jan 15, 1985

Representing Felton News Service

Support

Bill No. NO 155

Oppose

Amend

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. The gruesome aspects of dog fighting was explained
2. How a dog fight takes place was pointed out. The fact that promoters do not trust one another & thus must examine each other dogs.
3. American Pit Bull Terriers are bred especially for this strong game & aggression accompanied by special training seeing better & since dogs to increase their best for killing
4. Spectators can only come by invitation since promoters do not trust anyone, at least those they know. The inhumanity of it all & the crime element that accompanies this so called sport. States do not receive any revenue from these events.

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

WITNESS STATEMENT

Name Judith Fenton Committee On HB 155
Address Blue Sky Heights #26 Date Jan 15, 1985
Clancy, MT
Representing: Federated Humane Support
Societies of
Bill No. HB 155 Oppose
Montana Amend

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Concerns other than animal cruelty —
Dog fighting encourages insensitivity to cruelty and lack of respect for the law.
2. Sex, drugs, guns, and even murder are associated with dogfighting.
3. Why dogfighting should be a felony offense?
A small fine is no deterrent.
4. For only a minor misdemeanor law enforcement expends little effort.
As more state increase the penalty these people move their activity to state like Montana where it is still a minor offense.
Spectators are willing participants and must share the guilt & punishment.

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

Federated Humane Societies of Montana



TESTAMONY
HB 155
JUDICIARY COMMITTEE
JANUARY 15, 1985

My name is Barbara Dahlgren, President of the Federated Humane Societies of Montana. I have resided in Missoula for 40 years. I have spent 22 years in animal welfare work, on a local, state, and national level. During those years I have witnessed much unbelievable cruelty to animals in many forms, but never a cock or dog fight.

Due to the early scheduling of this hearing it has been impossible for us to secure the testimony of three gentlemen, all of whom have had experience assisting law enforcement officials with raids or "busts" on actual dogfights. They are Mr. Frantz Dantzler, Director of Field Services and Investigations for HSUS (the Humane Society of the United States), Washington, D.C., and Mr. Phil Stewart, Field Service Associate concerning Animal Protection for the American Humane Association, from Denver, and Mr. Dale Dunning, from the Humane Society of Arizona in Phoenix.

By the conclusion of our testimony today I am sure you will know much more about this gruesome so called "sport" than you care to.

WHAT IS DOGFIGHTING?

Dogfighting is a sadistic "contest" in which two dogs, specifically bred and trained to fight to the death, are placed in a "pit" and encouraged to attack and maul each other. This underground "sport" is presented to cheering spectators for their enjoyment and greed.

Dogfighting became an organized activity in this country in the early 1800's with the importation of the Staffordshire Terrier. This breed was originally developed in Britain as a pit dog by cross breeding the English Bulldog with various terriers to give it greater speed, agility, and intelligence. The Staffordshire Terrier is the forerunner of the American Pit Bull Terrier, the preferred breed of the dogfighting underworld. All pit bulls are not fighting dogs, but the dog was bred purely for its bite and jaw-strength. Weighing between 38 and 40 pounds, an American Pit Bull can down a 150-pound German Shepherd, because the Shepherds bite is only half as strong. Registered American Pit Bull pups frequently cost \$300 to \$500, and stud fees for champions or grand champions can top \$1,000.

A typical dogfight "convention", consists of several matches. It takes weeks or months of planning by promoters and participants. It often involves dogs from several states and other countries. Those interested communicate with

each other through national magazines and newsletters. One underground newspaper is called "Your Friend and Mine".

Most matches are arranged by telephone and interested bettors and spectators may be notified by postcard. Handlers agree to fight their dogs on a specified date, at a weight, for a sum of money. Contracts are drawn up and signed, and contract fees of as much as \$30,000 are put up immediately, in case one of the breeders forfeits.

A typical dogfight is held on a Saturday night. Promoters collect the guests from one or more meeting places. Caravans of several cars are led to a checkpoint, at which passengers are usually identified. No one gets any further unless they are recognized or vouched for by a known member of the inner circle of breeders or bettors. The group then proceeds to another checkpoint nearer the pit, where a stationary car waits to ensure that no one is following.

The actual "pit" site may not be decided until shortly before the convention. The "pit" itself is usually a twenty-foot square plywood arena, with a carpeted floor and two-and-a-half foot high sides. The "pit" can always be disassembled and taken elsewhere on short notice. Once inside the make-shift pit, no one can leave until the last match is over.

The promoter greets fanciers and collects the \$10 to \$50 admission fee. Women and children are often allowed to attend the "show" at no charge. There is a one or two hour delay between arrival and the start of the first match, during which time the fanciers dine and socialize.

Prior to the first match the handlers toss a coin in the presence of the referee to determine washing order and corners. They wash and examine each other's dogs. Dogs are washed down to ensure that no poisons are put on their bodies, and their teeth are checked to see if the owner has filed them even sharper. The dogs are then returned to their handlers wrapped in towels. Once in the pit the referee commands "Face your dogs," then "Release," at which point the dogs rush together and immediately attempt to gain an advantageous hold. The handlers stay within the dog's field of vision and encourage them by voice, claps and whistles. If a dog hesitates or turns its head away, the dogs are parted. Either a handler or the referee can call a turn. Handlers have 15 seconds to sponge away blood, saliva, and urine. The dog that committed the turn is released and must cross the pit and make contact within ten seconds and the fight resumes. This is called scratching. The fight continues until one of the dogs cannot or will not scratch to its opponent. Frequently a pit bull, carefully bred for aggressiveness, will continue to fight until it passes out or dies. Matches can last as long as two hours. If a handler senses that his dog is about to quit he will usually pick the dog up, thereby conceding the match. If a dog finally refuses to continue fighting, this is called "curring out". If it "curs out" the dog is usually disposed of, often immediately.

While fighting, the dogs do not bark or growl. Most of the noise during a match comes from the spectators and handlers, shouting bets and encouragement. Breeders and observers at a fight make as many side bets as they can. Betting is vigorous and the stakes are high. Fifties and hundreds are the common denominators in ring-side betting. At the conclusion of the evening three

judges, who were chosen earlier, select the best fighting dogs of the night. They are awarded "Best in Show" and "Gamest" trophies.

WHY IS THIS CRUELTY TO ANIMALS?

Dogfighting causes acute suffering and pain to the dogs involved. American Pit Bull Terriers have extremely powerful jaw muscles and take hold with their front teeth while they chew away with their rear teeth. This produces severe bruising, as well as deep and straight cuts resembling knife and puncture wounds. While fighting there is no barking or growling. Just relentless biting and chewing, and blood everywhere! The only sounds from the dogs in the pit are those of crunching bones and cartilage. (A dog seldom participates in more than two or three matches because in about 49 percent of fights both dogs either die or are mortally wounded. Some enthusiasts claim that in 75 percent of fights at least one dog will die.) Even dogs who win their fights often die days or weeks later from their injuries.

Cruelty to animals is also a part of training a pit bull. Training a fighting pit bull is a full-time endeavor. It is officially called "in keep". According to writer Edward Meadows, a columnist for a South Carolina newsweekly; "Proper training of a bull terrier for dogfighting requires two dozen live kitten a week. Each kitten is tied to a stick and dangled in front of the dog to whet his lust for killing. A good pit bull will quickly tear the kitten's front legs off and then its head. After perhaps eight weeks of kittens...the dog graduates to the killing of puppies and small dogs. Some participants deny such things take place in training a pit bull. Another participant suggested that this was a good as any other way of getting rid of unwanted pets. Trainers look for these small animals through classified ads that offer puppies or kitten free, or they scout animal shelters which lack strong adoption policies and follow-up procedures. I assure you all Montana shelters are alert to this possibility and they deny questionable adoptions.

A "Cat Mill" may also be used in training the pit bull. It is a device with one or more rotating spokes radiating outward from a central axis planted in the ground. The dog is harnessed to one spoke and a small animal (dead or alive) is attached to a spoke in front of the dog as a lure.

Also fighting dogs are also forced to run for hours on a treadmill to build its muscles, or they may have to swim in a tank for long periods. Prior to a fight, dogs are usually dehydrated to lesson blood loss and reduce their weight. This reduces their chances of recovering from a serious injury.

Approximately 40 federal and state law enforcement officials joined The HSUS in the raid. Two hundred and fifty people were caught at the dogfight site. Twenty were arrested on charges ranging from drug possession to possessing dogs as gambling devices.



An HSUS agent holds one of the seized pit bull terriers. All of the dogs were taken to a veterinarian's shelter. They are in the temporary custody of the U.S. Department of Agriculture.

California Law Should Be Example to Nation

The California law which prohibits dogfighting is printed below. The HSUS believes that this law is one of the nation's best. It makes dogfighting a felony and makes it a misdemeanor to be a spectator at a dogfight. After reading the law, you may want to compare it with your state's law.

If you think your state's law should be modeled after California's, send a copy to your legislator, governor, or attorney general.

§ 597.5 [Fighting dogs.] (a) Any person who does any of the following is guilty of a crime and is punishable by imprisonment in a state prison not to exceed one year and one day, or by imprisonment in a county jail not to exceed one year, or by a fine not to exceed fifty thousand dollars (\$50,000), or by both such fine and imprisonment:

(1) Owns, possesses, keeps, or trains any dog, with the intent that such dog shall be engaged in an exhibition of fighting with another dog.

(2) For amusement or gain, causes any dog to fight with another dog, or causes any dogs to injure each other.

(3) Permits any act in violation of paragraph (1) or (2) to be done on any premises under his charge or control, or aids or abets any such act.

(b) Any person who is knowingly present, as a spectator, at any place, building, or tenement where preparations are being made for an exhibition of the fighting of dogs, with the intent to be present at such preparations, or is knowingly present at such exhibition or at any other fighting or injuring as described in paragraph (2) of subdivision (a), with the intent to be present at such exhibition, fighting, or injuring, is guilty of a misdemeanor.

The Animal Welfare Act (Animal Fighting Section)

Section 26. (a) It shall be unlawful for any person to knowingly sponsor or exhibit an animal in any animal fighting venture to which any animal was moved in interstate or foreign commerce.

(b) It shall be unlawful for any person to knowingly sell, buy, transport, or deliver to another person or receive from another person for purposes of transportation, in interstate or foreign commerce, any dog or other animal for purposes of having the dog or other animal participate in an animal fighting venture.

(c) It shall be unlawful for any person to knowingly use the mail service of the United States Postal Service or any interstate instrumentality for purposes of promoting or in any other manner furthering an animal fighting venture except as performed outside the limits of the United States.

DOGFIGHTING ON INCREASE



The dog fighting reports that have come to the public's attention has not even scratched the surface of the number of actual incidents that are taking place nationwide. This 10 month old Staffordshire Terrier male was rescued by a New York resident. The dog had been brought to a veterinarian for treatment of a badly injured leg. Due to extensive damage, the vet hospital had to amputate the leg; however, the owner never returned. No doubt he felt that he may be implicated in a possible legal action. Also, a 3-legged dog is no longer useful for the purpose for which his owner had used him. Clyde is a very sweet dog, gentle with adults but will only be adopted into a home where there are no other animals. Because of the particular breed, the Society is taking special precautions in adopting Clyde so that he will not be abused, misused, exploited nor would we want Clyde to be a threat to youngsters or animals. As we go to press, the Society has just picked up three other Staffordshire Terriers in the Newark area, 2 of which have been cruelly exploited, near starvation & one with extensive untreated leg injuries. A complaint has already been signed against the owner of the 2 dogs. That story will appear in the next issue of the HUMANE NEWS. File 0-20770 (Forked River).

NATION-WIDE ADOPTION PROGRAM

The Society has been gratified by the number of people who have inquired about adopting a pet. All animals that are adopted out of state are neutered, are given heartworm tests, fecal checks, up-to-date inoculations, health and rabies certificates -- all at no charge to the adopter. The only cost for those who are adopting an animal that is shipped by plane is the cost of the air freight and the airline kennel. For more information on a particular animal or a specific breed, please send a note to Nation-Wide Adoption Program, c/o Society, P.O. Box AF, Keyport, N J 07735.

Windsor, Connecticut



During a trip to the Society's Forked River facilities, Linda Giuliano of Woodbridge, Connecticut, saw an extremely affectionate young cat that just stole her heart away. Without hesitation, the lovable lass was quickly adopted. From the looks of the photo, it seems they have their own mutual admiration society.

Willington, Vermont



Featured on the April cover of the HUMANE NEWS was a black pup who had been rescued from a drunk in a bar. The man had neglected an extremely bad wound on the front paw of the sorrowful pup & from the condition of the coat, it was obvious that he had been kept in extremely tight, filthy quarters. There was no alternative but to amputate the leg. Laura Murphy of Willington, Vermont, who is the proud owner of 7 cats & an aging dog, has been looking to add another pooch to the household. As soon as she saw this sad sack, she hopped into her car & drove to the Society's Newark Animal Care Center where the 3-legged lad was waiting — with nary an offer for adoption. In a post-adoption conversation, Laura advises that "Pogo" has fit in just beautifully with her pets. He has rejuvenated her elderly dog who now enjoys exercising with his new playmate. Pogo is quite fearful of men. He also dislikes cars & refuses to get into one. No doubt, he fears that he'll be returned to the place from whence he came. Pogo's life is filled with love & companionship & before long, those cruel memories will soon be forgotten.

PEST ELIMINATOR WARNING

There are many types of high frequency pest eliminators now on the market which are said to be effective against fleas, roaches, rats, mice, waterbugs, flies, mosquitoes, crickets, spiders, bats, bees, wasps, ants, squirrels, chipmunks, weasels, raccoons, skunks, moths, etc. Some of the names are Sonic Guard, Ultra Sonic pest Controller, Pestgon, Pest Free, Pests Away, Pest Guard. These are supposedly effective. However, if given time, they will kill gerbils, hamsters, mice, guinea pigs, rabbits, rats, etc. So if you have any of these as pets in your home, either move them to new quarters or use other methods of pest control.

AIRLINES CITED FOR VIOLATIONS

The U.S. Dept of Agriculture is asking that American Airlines be fined \$3,000 in civil penalties for 9 counts of violating transportation standards of the Animal Welfare Act. On Dec. 20, 1980, American Airlines, headquartered in Dallas-Fort Worth Airport in Texas, shipped a cat which was dead on arrival at Boston, Mass. from exposure to freezing temperatures. Also, on 2 occasions between Feb. & March 1981, 7 dogs were shipped from Los Angeles to Honolulu in crates that were too small for them; Monkeys shipped from Tuscon to Washington, D.C. in crates that were inadequately ventilated, lacked rims to prevent obstruction of ventilation, there was no label indicating "wild animal" & nothing to indicate upright position. Moreover, on an inspection by the USDA, the animal holding areas at Dallas-Fort

Worth was not sufficiently cleaned & was littered with spilled feed & other materials. American has 20 days to respond to the charges.

The U.S. Dept. of Agriculture charged Aeromech Airlines of Clarksburg, W. Va. shipped 12 rabbits intended as laboratory animals from Little Rock, Ark. to Portland, Ore. in poorly ventilated cardboard boxes not strong enough to withstand the transportation nor were they marked as live animals. Aeromech Airlines agreed to a \$1500 penalty to settle the charge.

NEUTER IS NEATER! DON'T LET YOUR PET HAVE LITTERS.

Federated Humane Societies of Montana



TESTIMONY ON HB 155
JANUARY 15, 1985

I am JUDY FENTON. I live at Blue Sky Heights near Clancy, Montana. I am presently Secretary/Treasurer for the Federated Humane Societies of Montana. This organization represents 8 Humane Societies across the State, plus we work closely with the Montana Animal Control Association. I have been involved with humane work on a local and state level for almost seven years.

CONCERNS OTHER THAN ANIMAL CRUELTY

Dogfighting is a violent, in-humane, brutal activity that breeds violence. Young children are often encouraged to watch and participate which makes them insensitive to animal cruelty and promotes an enthusiasm for violence, while at the same time developing a lack of respect for the law.

Illegal gambling is the norm at organized dogfights. Other than the enjoyment of watching the animals maim and injure each other, thousands of dollars exchange hands when the handlers and spectators wager high sums on their favorite dogs. The large sums of money involved in this activity makes it attractive to organized crime.

Undercover investigators of HSUS and AHA, at great personal risk, have aided law enforcement agencies across the country by infiltrating the dogfighting underworld. They insist that sex, drugs, guns, and even murder are part of the dogfighting lifestyle. Cut-rate prostitutes work the darkened pit rooms. Firearms and other weapons are quite common because of the large sums of money present. The sale and use of illegal drugs is common. In a recent raid in Arkansas 250 spectators were caught crowded around the pit and significant quantities of cocaine, marijuana, and hashish were found.

Another concern is the pet animals that are stolen by dogfighters to be used in training their fighting dogs.

WHY SHOULD DOGFIGHTING BE A FELONY OFFENSE?

A small fine is no deterrent to the crime when so much money can be gained. The dogfighters merely calculate the fines as a cost of doing business.

Because dogfighting involves so many people working to keep their "sport" a secret, an investigation and subsequent raid is a time-consuming event for law enforcement officials. So much work cannot be justified if the violators of the law will only be guilty of a minor misdemeanor. It is ironic that the most severe penalties doled out to those that have been arrested at dogfights in the past, have been on gambling, drug, and weapons charges -

not for the cruelty to animals. Law enforcement officials across the country have welcomed the upgrading of the penalty for dogfighting.

The cruelty involved should be punished by more than a slap on the hand. This cruelty is not a spur of the moment act. It is a pre-meditated act which is a serious offense against civilized society.

(As more states make dogfighting a felony offense, the remaining states with low penalties will become havens for the dogfighters.

SOME STATES ALREADY HAVE FELONY LAWS

Dogfighting was declared illegal throughout most of Europe over a hundred years ago, and in 1976 the U.S. Federal Animal Welfare Act was amended to specifically outlaw dogfighting. In spite of this the activity has grown to immense proportions, especially in America. Dogfighters are so successful at being secretive that most Americans don't even know the activity exists. Too many of those who do know about it are under the impression that it's dying out. Nothing could be further from the truth. It is estimated that the dogfighting "elite" of breeders, handlers, trainers, promoters, and spectators, number over 810,000. In addition, amateurs and backyard breeders, who think dogfighting is macho, have added to its popularity. Not only is it growing here in the U.S., but also in Japan, Germany, Canada, England, and in parts of South America.

No states had felony provisions for dogfighting in their law at the beginning of 1975. By 1981, seven states had enacted felony laws. Now the total is 28 states (SEE ATTACHED LIST) with several more expected before the year ends. Efforts are presently underway to enact this law in South Dakota and in Utah. Many of these state laws apply to all types of animal fighting, including cockfighting. It is clear that the public has become incensed with this kind of animal cruelty and wants to see it eradicated once and for all.

Since 1975, federal law has prohibited the interstate transportation of animals for fighting purposes and the use of the mail service to promote an animal fighting venture. Enforcement of this law was inadequate. In 1980 HSUS filed suit against the United States Department of Agriculture and the U.S. Department of Justice in an effort to see the law enforced.

HSUS investigators have information connecting dogfighters to every state in the U.S. Most of this data is gathered through the National Information Center on Pit Bulls. Mr. Dale Dunning from Arizona, whom Barbara already mentioned was unable to be here, has access to this information network. He said he could provide us with information to show a connection to dogfighting in Montana. Although we are unable to show you definite proof today that organized dogfighting has actually taken place in Montana, those of us who do humane work have heard rumors of it for years.

While attending a large dogshow here two years ago, I got into a conversation with a couple from Billings who were showing a Staffordshire Terrier. The conversation got around to fighting dogs, and the man told me that a fight had taken place here in Helena the night before. He claimed that three pit bulls had been tore up so bad that after being examined by a vet they were put-to-sleep. When my husband came over to join me, he mentioned that I work

for a Humane Society. Needless to say, the guy clammed up quick. Those of us at the local Humane Society tried to find out if these animals had been treated by any of our vets. We even looked in their garbage dumpsters for the bodies, but we found nothing.

Even though it is illegal and there have been some "busts", on the whole there has been no concerted effort to clean up this activity. According to Mr. Frantz Dantzler, HSUS investigator, "The best way to end dogfighting is through good effective state laws that are enforced." All states need to help eradicate this cruel practice, and the best way to do this is to make dogfighting a felony in each state.

BEING A SPECTATOR SHOULD ALSO BE A FELONY OFFENSE

Since spectators do not merely "happen" upon one of these fights, but rather have to seek them out, they are willing participants in this criminal act and actually aid and abet such criminal action through their admission fees and the money they wager on the outcome of the fights. Without the money paid in admissions and the money wagered by the spectators, the fights would rarely take place.

STATES WHERE DOGFIGHTING IS A FELONY

1. Alabama
2. Alaska
3. Arizona
4. California
5. Colorado
6. Georgia
7. Illinois
8. Indiana
9. Kansas
10. Kentucky
11. Massachusetts
12. Michigan
13. Minnesota
14. Missouri
15. New Hampshire
16. New Mexico
17. New York
18. North Dakota
19. Ohio
20. Oklahoma
21. Rhode Island
22. Tennessee
23. Texas
24. Wisconsin
25. Louisiana

STATES UPGRADING DOGFIGHTING PENALTIES TO THE HIGHEST MISDEMEANOR

1. Arkansas
2. Nevada
3. Washington

PROPOSED AMENDMENTS TO HB 103

1. Title, line 8
Following: "YOUTH"
Insert: "12 YEARS OF AGE OR OLDER"

2. Title, line 9
Following: "THE"
Strike: "OFFENSE"
Insert: "OFFENSES"

3. Title, line 10
Strike: "OR"
Insert: ", "

Following: "HOMICIDE"
Insert: ", AGGRAVATED ASSAULT, SEXUAL INTERCOURSE WITHOUT CONSENT,
OR AGGRAVATED KIDNAPPING"

4. Page 1, line 24
Following: "any"
Delete: "either"
Insert: "any"

5. Page 2, line 2
Following: "found;"
Delete: "or"

6. Page 2, following line 4
Insert: "(b) the county in which the youth is alleged to have
violated the law;"

Reletter subsequent subsections

7. Page 3, lines 1 through 5
Strike: subsection (a) in its entirety
Insert: "(a)(i) the youth charged was 12 years of age or more at
the time of the conduct alleged to be unlawful and the
unlawful act is one of the following:
(A) deliberate homicide as defined in 45-5-102;
(B) mitigated deliberate homicide as defined in 45-5-103;
(C) ~~aggravated assault as defined in 45-5-202;~~
(D) sexual intercourse without consent as defined in
45-5-503;
(E) aggravated kidnapping as defined in 45-5-303; or"

8. Page 3, line 12
Delete: subsection (iii) in its entirety

Page 3, lines 16-18
Delete: subsections (vi) and (vii) in their entirety

Reletter subsequent subsections

9. Page 3, line 23
Strike: "(1)(a)(i) through (1)(a)(ix)"
Insert: "(1)(a)(ii)(A) through (1)(a)(ii)(F)"

10. Page 4, line 7.

Following: "finds"

Strike: remainder of line 7 through "believe" on line 9.

Insert: "that there is clear and convincing evidence"

3*