

MINUTES FOR THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 13, 1985

An executive session of the Judiciary Committee was called to order by Chairman Tom Hannah on Wednesday, February 13, 1985 at 7:00 a.m. in Room 312-3 of the State Capitol.

ROLL CALL: All members were present.

ACTION ON HOUSE BILL NO. 40: Rep. Gould moved that HB 40 DO PASS. The motion was seconded by Rep. Montayne.

Rep. Addy made a substitute motion for a DO NOT PASS. It is Rep. Addy's opinion that to pass the bill would be an invasion of privacy. He said there is no compelling state interest in this bill. He feels that this bill goes way beyond any invasion of privacy that has been talked about before, and he feels strongly that it should be killed.

Rep. O'Hara stated that he has supported this legislation ever since he has been in the legislature. He said the U.S. Supreme Court thinks it's time to clarify this issue. People also feel something needs to be done because the laws of our judicial system have lost a lot of credibility. It is suppose to be a search for truth and justice, and too often, it has not been that. It has rather been a search for technicalities and loopholes. Rep. O'Hara feels this bill will help prevent some of the abuse.

Rep. Keyser also stated his objection to the do not pass motion. He feels the bill is very straight forward. He said that we use the supreme court laws when they fit our own needs. The U.S. Supreme Court has said this law is legal. The bill would provide that if the search and seizure were illegal, the evidence is not admissible against the defendant in any criminal proceeding unless they find that the search and seizure was made in an objectively reasonable, good faith reliance.

Rep. Montayne wished to remove his second on the motion for a DO PASS.

Rep. Kruegar feels this bill would erode our constitution. Rep. Brown said the most compelling argument against this bill is that Montana's constitution provides one of the strongest rights to privacy of any in the nation.

Rep. O'Hara wanted to point out that the two great supporters of this legislation in the last session were Judge

Michael Keedy and Supreme Court Justice Jean Turnage. Rep. Addy said that to do away with the deterrent effect of the rule at this particular time would be disastrous.

Rep. Hannah stated that one of the key ingredients to consider is the case that went before the U.S. Supreme Court which is very instructive of the situation that is being talked about. He feels it is a fallacious argument to say that the police would run around and knock down doors under a good faith exception to the search warrant situation that is being talked about. The good faith exception protects only the guilty. It doesn't help the innocent.

Rep. Darko feels that both guilty and innocent people have rights under the constitution.

Rep. Krueger seconded the DO NOT PASS motion, and the question was called for. The motion carried 11-7.
(See roll call vote.)

ACTION ON HOUSE BILL NO. 304: Rep. Addy moved that HB 304 DO NOT PASS. The motion was seconded by Rep. Hannah. Rep. Brown made a substitute motion that HB 304 DO PASS. The motion was seconded by Rep. O'Hara and further discussed.

Rep. Addy stated this bill ends spousal immunity. Rep. Krueger said we are not just talking about domestic violence crimes in this bill, but we are talking about the whole question of spousal immunity. It is just too broad in nature.

The question was called on the DO PASS motion, and the motion failed 7-11. (See roll call vote) Rep. Brown moved to reverse the vote on the do pass motion. The motion carried without objection, and HB 304 was reported out of committee with a DO NOT PASS recommendation.

ACTION ON HOUSE BILL NO. 620: Rep. Brown moved that HB 620 DO PASS. The motion was seconded by Rep. Krueger. There being no further discussion, the question was called, and the DO PASS motion carried with Rep. Montayne dissenting.

ACTION ON HOUSE BILL NO. 566: Rep. Keyser moved that HB 566 DO PASS. The motion was seconded by Rep. Brown. Rep. Keyser moved to amend the bill by restricting certain automatic dial-up systems. The motion would also include that no person may install or use an alarm system designed to automatically call a predetermined law enforcement number without written permission from the chief law enforcement officer of the local government in which the alarm system is installed. Furthermore, the motion to amend includes that all installations must be done by a licensed alarm installer. The motion was seconded by Rep. O'Hara.

Rep. Montayne requested that the motion to amend be divided for purposes of voting.

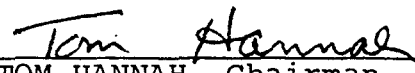
It was Rep. Miles' opinion that HB 566 was not very well written. She feels that they are going way beyond the title of the bill when talking about who needs to be licensed to do what.

Rep. Hannah argued that he feels it is very reasonable to require a licensed alarm installer to do the installations for security reasons. He further feels that a reputable electrician can very easily obtain a license to install security systems.

The question was called on the first part of Rep. Keyser's motion to amend requiring that written permission from the chief law enforcement officer be received before an alarm system can be installed. The motion carried with Rep. Miles dissenting.

As to the motion to amend requiring that all installations must be done by a licensed alarm installer, that motion failed 6-12. (See roll call vote.) Due to a tie vote, HB 566 was reported out of committee WITHOUT RECOMMENDATION.

Executive session recessed at 8:00 a.m., and the regular committee meeting scheduled for this day convened.



TOM HANNAH, Chairman