

MINUTES FOR THE MEETING  
JUDICIARY COMMITTEE  
MONTANA STATE  
HOUSE OF REPRESENTATIVES

February 19, 1985

An executive session was called to order by Chairman Tom Hannah on Tuesday, February 19, 1985 at the hour of 12:15 p.m. in Room 312-3 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Rep. Miles who was excused.

CONSIDERATION OF HOUSE BILL NO. 17: The committee considered HB 17 with the newly proposed amendments. Rep. Hannah stated that the amendments are contrary to the title of the bill. Rep. Hannah moved that HB 17 DO PASS as is.

Rep. Mercer stated that he cannot support the bill with the amendments. He feels that by adopting the amendments, we would be going completely backwards as to where we are in Montana on this particular issue.

Rep. Keyser stated that HB 17 was requested by the Interim Subcommittee 2; however, the subcommittee did not vote unanimously to adopt this particular piece of legislation.

Rep. Hannah's motion for a DO PASS died without a second. Upon request of the committee, action will be delayed.

CONSIDERATION OF HOUSE BILL NO. 738: Rep. Hammond moved that HB 738 DO PASS. The motion was seconded by Rep. O'Hara.

Rep. Mercer moved to place commas around "or from the director upon the consent of the parties to the claim" on pages 7 through 8. The motion was seconded by Rep. O'Hara and carried.

Rep. Mercer further moved the following amendments:

1. Page 7, line 8.  
Following: "administrator of"  
Strike: "one of"

Following: "the"  
Insert: "same type of"

2. Page 7, line 10.  
Strike: "facilities"  
Insert: "facility"

The motion was seconded by Rep. Hammond, the question called, and the motion to amend carried unanimously.

Rep. Brown moved that HB 738 DO PASS AS AMENDED. The motion was seconded by Rep. Hammond and further discussed.

Rep. Eudaily expressed his opposition in allowing corporations to be brought before the panel.

Rep. Hannah moved another amendment on page 2, lines 8 and 9 by reinstating the original language. Following further discussion, Rep. Hannah withdrew his motion to amend.

The question was called on the DO PASS AS AMENDED motion, and the motion carried with Reps. Eudaily, Hannah and Montayne dissenting.

CONSIDERATION OF HOUSE BILL NO. 17: Rep. Keyser moved that HB 17 DO PASS. The motion was seconded by Rep. Montayne. Rep. Grady moved that the proposed amendments be adopted. The motion was seconded by Rep. O'Hara and discussed.

Rep. Eudaily asked if the requirement of written notice was being eliminated, since the bill states that property is closed if the painted markers alone are present. Brenda Desmond, committee researcher, responded by saying yes, written notice is required; however, under section 4, if the person has a painted object, and if the written notice is no longer affixed to that object, a person still may be charged with trespass.

Rep. Eudaily stated that the inspection requirement should be changed to at least 15 days before the fishing and hunting season opens so that the public can learn that the property is closed before the season opens.

Rep. Hannah spoke against the amendments. He feels that the landowner has a fundamental right, and by adopting these amendments, a whole new bill would be required.

Rep. Keyser pointed out that the landowners are not happy with the present law, nor does he feel they will be happy with HB 17 with its proposed amendments.

Following further debate, the committee came to an agreement to move to suspend the rules on the floor and request a new bill.

ACTION ON HOUSE BILL NO. 717: Rep. Hammond moved that HB 717 DO PASS. The motion was seconded by Rep. Bergene.

Rep. Krueger moved the following amendments:

1. Title, line 6.  
Strike: "MAY"  
Following: "AWARDED"  
Strike: ", "  
Following: "PREFERENCE"  
Strike: ", ONLY" through "IT" on line 7.
2. Page 3, line 4.  
Following: "~~disputes~~"  
Strike: "it" through "child" on line 5.  
Insert: "the court finds joint custody in the best interests of the children in the case then before the court. The intent of 40-4-222 through 40-4-225 is to establish certain guidelines for resolution of custody disputes"
3. Page 3, line 15.  
Following "or"  
Strike: "upon" through "parents"

The motion was seconded by Rep. Hammond, and the question called. The motion to amend carried with Reps. Montayne and Keyser dissenting.

Rep. Addy moved that HB 717 DO PASS AS AMENDED. The motion was seconded by Rep. Gould and carried with Reps. Montayne, Hannah, Poff and Keyser dissenting.

RE-CONSIDERATION OF HOUSE BILL NO. 366: Rep. Gould moved to reconsider action on HB 366 which was tabled by the committee. Rep. O'Hara seconded the motion.

Rep. Brown objected to the motion to reconsider, as he pointed out that the full committee is not present. Rep. Kreuger also stated his objection to voting on this when all the committee members are not present. For that reason, no further action was taken on HB 366.

ADJOURN: A motion having been made and seconded, the meeting was adjourned at 1:05 p.m.

  
REP. TOM HANNAH, Chairman

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

EXECUTIVE SESSION - 12:15 p.m.

Date 2/19/85

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	✓		

# STANDING COMMITTEE REPORT

February 19..... 19 85

(page 1 of 2 HB 738)

MR. SPEAKER:

We, your committee on ..... JUDICIARY

having had under consideration ..... HOUSE Bill No. 738

FIRST reading copy ( WHITE )  
color

## GENERALLY REVISE MEDICAL LEGAL PANEL ACT

Respectfully report as follows: That ..... HOUSE Bill No. 738

be amended as follows:

1. Page 7, line 8.  
Following: "administrator of"  
Strike: "one of"

Following: "the"  
Insert: "same type of"

2. Page 7, line 10.  
Strike: "facilities"  
Insert: "facility"

3. Page 7, line 25.  
Following: "chairman"  
Insert: " , "

4. Page 8, line 1.  
Following: ~~"parties"~~ "claim"  
DO PASS  
Insert: " , "

..... (continued) .....

.....February 19.....19..85.....

(page 2 of 2 HB 738)

5. Page 3, line 4.

Strike: "and"

Insert: "or"

AND AS AMENDED  
DO PASS

STATE PUB. CO.  
Helena, Mont.

REP. TOM HAYMAN

.....  
Chairman.

# STANDING COMMITTEE REPORT

February 19 19 35

page 1 of 2 (HB 717)

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 717

FIRST reading copy ( WHITE )  
color

AWARD JOINT CUSTODY, ONLY WHEN BOTH PARENTS REQUEST

Respectfully report as follows: That HOUSE Bill No. 717

be amended as follows:

1. Title, line 6.

Strike: "MAY"

Following: "AWARDED"

Strike: ", "

Following: "PREFERENCE"

Strike: ", ONLY" through "IT" on line 7.

2. Page 3, line 4.

Following: "disputes"

Strike: "it" through "child" on line 5.

Insert: "the court finds joint custody in the best interests of the children in the case then before the court. The intent of 40-4-222 through 40-4-225 is to establish certain guidelines for resolution of custody disputes"

XBO:PASS

(continued)

3. Page 3, line 15.

Following: "or"

Strike: "upon" through "parents"

AND AS AMENDED,  
DO PASS

SKD



# STANDING COMMITTEE REPORT

February 19 1955

MR. **SPEAKER:**

We, your committee on **JUDICIARY**

having had under consideration **HOUSE** Bill No. **722**

**FIRST** reading copy ( **WHITE** )  
color

**IMMUNITY OF TELEVISION BROADCASTER OR CABLECASTER FROM LITIGATION**

Respectfully report as follows: That **HOUSE** Bill No. **722**

be amended as follows:

1. Title, line 8.

Strike: "THROUGH"

Insert: "AND"

2. Page 1, following line 22.

Strike: section 2 in its entirety.

Renumber subsequent section.

**AND AS AMENDED,  
DO PASS**

# ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE February 19, 1985 BILL NO. HB 722 TIME 10:00

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 to amend the bill by deleting  
section 2 in its entirety. The title would be amended accordingly.  
The motion was seconded by Rep. Addy and carried 10-8.

# STANDING COMMITTEE REPORT

February 19

19 85

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 837

FIRST reading copy (WHITE  
color)

PROVIDES FOR THE OFFENSE OF HARMING A POLICE DOG AND PRESCRIBES  
PENALTIES

Respectfully report as follows: That HOUSE Bill No. 837

be amended as follows:

1. Page 1, line 19.

Following: "shoots,"

Insert: "or"

Following: "kills"

Strike: ", or" through "means" on line 20.

2. Page 1, line 24.

Strike: "\$10,000"

Insert: "\$5,000"

3. Page 1, line 25.

Strike: "3"

Insert: "3"

AND AS AMENDED,

DO PASS.

# STANDING COMMITTEE REPORT

February 19 ..... 19 85 .....

MR. SPEAKER: .....

We, your committee on ..... JUDICIARY .....

having had under consideration ..... HOUSE ..... Bill No. 742 .....

FIRST ..... reading copy ( WHITE )  
color

CONVICTION OF DRIVING WITH .10 OF ALCOHOL; MANDATORY 1 DAY IN JAIL

Respectfully report as follows: That ..... HOUSE ..... Bill No. 742 .....

~~DO NOT PASS~~  
~~ADO PASS~~

# ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE February 19, 1985 BILL NO. HB 742 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: Rep. O'Hara made a substitute motion for a DO PASS.

The motion was seconded by Rep. Rapp-Svrcek and failed 3-15.

# STANDING COMMITTEE REPORT

February 19 19 85

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 795

FIRST reading copy (WHITE)  
color

**REMOVE LIMITATIONS ON ARRESTS BY A US CUSTOMS OR IMMIGRATION SERVICE OFFICER**

Respectfully report as follows: That HOUSE Bill No. 795

DO PASS

# STANDING COMMITTEE REPORT

February 13 19 35

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 726

FIRST reading copy ( WHITE )  
color

PROBATIONARY LICENSE; 1ST REFUSAL TO TAKE BREATH TEST;  
PENALTY FOR VIOLATION

Respectfully report as follows: That HOUSE Bill No. 726

DO PASS

# ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE February 19, 1985 BILL NO. HB 726 TIME 9:35

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 made a substitute motion that HB 726 DO

PASS. The motion was seconded by Rep. Rapp-Svrcek and carried

16-2.



# ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE February 19, 1985

BILL NO. HB 726

TIME 9:35

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. Krueger moved a substitute motion to leave  
"district" as is but to further insert "justice court" on page 7,  
line 7 of the bill. The motion was seconded by Rep. Brown and  
failed 8-10.

# ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE February 19, 1985

BILL NO. HB 366

TIME 9:15

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 a substitute motion TO TABLE HB 366.

The motion was seconded by Rep. Hammond, and it carried 10-8.

# ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE February 19, 1985 BILL NO. 837 TIME \_\_\_\_\_

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. Kreuger moved to table HB 837. The motion was  
seconded by Rep. Brown and failed 4-14.

WITNESS STATEMENT

Name Nick Tomasek Committee On \_\_\_\_\_  
Address Harlem MT Date 2-19-85  
Representing State Support ✓  
Bill No. 717 Oppose \_\_\_\_\_  
Amend ✓

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Change - Amending Section 40 d-204  
I would like to see the state of Montana to be a more  
independent state and to be able to make its own  
decisions without being influenced by the federal government.
2. I would like to see the state of Montana to be a more  
independent state and to be able to make its own  
decisions without being influenced by the federal government.
3. I would like to see the state of Montana to be a more  
independent state and to be able to make its own  
decisions without being influenced by the federal government.
4. I would like to see the state of Montana to be a more  
independent state and to be able to make its own  
decisions without being influenced by the federal government.

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

2/19/85

HB 717

# WOMEN'S LOBBYIST FUND

Box 1099  
Helena, MT 59624  
449-7917

February 19, 1985

## TESTIMONY ON HB 717

Mr. Chairman and Members of the House Judiciary Committee:

My name is Anne Brodsky and I am speaking on behalf of the Women's Lobbyist Fund on HB 717. As informational background to the committee, the Senate Judiciary Committee has considered a bill related to joint custody, SB 152, which has passed the Senate on third reading. That bill does largely the opposite of what is contained in this bill, in that it creates a presumption of joint custody "unless the court finds, under the factors set forth in 40-4-212 by a preponderance of the evidence that joint custody is not in the best interests of the minor child."

SB 152 was presented in the Senate to remedy the problems of fathers in obtaining joint custody orders, particularly in cases in which the mother was seeking sole custody. The WLF agreed, in the Senate hearing, that under our present laws and because of judicial attitudes, it can be extremely difficult for one parent to obtain a joint custody order if the other parent opposes it. The WLF also agreed that, ideally both parents in a divorce situation should share equally the decision-making and physical responsibilities of their children. Our position in the Senate, and here before you today, is that the most important factor in deciding a custody case should be the child's best interests.

It appears, however, that the requirement <sup>in HB 717</sup> that both parents request joint custody for such an order to be made may not, in fact, be in the child's best interests.

I would also point out that custody determinations are very individual ones, and I ask you, in your deliberations, to be very careful that you do not set forth in statute an inflexible situation -- whether it be to promote or restrict joint custody.

A further suggestion made by the WLF in the Senate is that a process for dispute resolution, either outside of or concurrently within the legal system, could be a positive, constructive approach to help rectify the assumptions which are now made against joint custody and the practical difficulties that are invariably a part of any custody determination.

It appears that subsection (2) of section 3 of the bill (page 4, lines 3 - 5) is a beginning step to the thoughtful considerations that should be made in the implementation of any custody order.

A final point I wish to make is with regard to the provision of the bill in section 1, subsection (2) (page 2, lines 10 - 13) regarding child support. Again, the Senate Judiciary Committee is considering a bill that would establish a minimum amount for child support. I am unclear as to why a court may "not order a parent owing a duty of support to a child to pay any amount for the child's support." The WLF supports

a statutory establishment of a minimum amount of child support.

In conclusion, the WLF asks you to seriously consider that custody cases are very individual ones, that it is extremely difficult at present for one parent to obtain joint custody if the other parent opposes it, and, most important, that the child's best interests should be the determining factor in any custody order.

WITNESS STATEMENT

Name BOB VERNILLION Committee On SUPICIARY  
Address 1001 ADOBE GREAT FALLS Date FEB. 19, 1985  
Representing SELF Support ✓  
Bill No. 722 Oppose \_\_\_\_\_  
Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. CITIES WILL BE INCREASINGLY OPERATING THEIR OWN PUBLIC ACCESS T.V. CHANNELS VIA FRANCHISE AGREEMENTS WITH CABLE COMPANIES
2. SUCH PUBLIC ACCESS CHANNELS CAN BE AN IMPORTANT VEHICLE FOR COMMUNITY **CREATED**
3. PROGRAMMING + EDITORIALIZING (THE EQUIVALENT OF LETTERS TO THE EDIT) WITHOUT PROTECTION FROM LIBEL, CITIES COULD BE HELD LIABLE WITHOUT FAULT.
4. 722 WOULD NOT PROTECT THE PERSONS WHO ACTUALLY UTTER DEFAMATORY REMARKS

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

WITNESS STATEMENT

NAME Gerald J. Neely BILL No. 738  
ADDRESS PO Box 21137, Billings, MT. 59104 DATE 2/19/85  
WHOM DO YOU REPRESENT MONTANA MEDICAL legal Panel  
SUPPORT ✓ OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: ATTACHED



## EXPLANATION OF PROPOSED AMENDMENTS: Montana Medical Legal Panel

## Section 1. Definitions.

(1) "Health Care Facility". A Governmental "hospital" was inadvertently included as one of the exempt facilities under "health care facilities" in the last legislative changes. The new bill changes that. State and local hospitals licensed as health care facilities under Title 50, chapter 5 have always been treated as covered by the panel legislation, and would under the proposed amendment.

(4) "Malpractice Claim". Under the definition of "malpractice claim", the language of the statute has been broadened to include claimants other than patients, i.e. individuals that allege harm arising out of a malpractice act even though not the patient.

For example, a husband witnessing the death of a wife, with the wife's death being attributed to malpractice, creates a cause of action in the husband. Such a claim should be subject to the panel, or if not, at least made clear that patients and only patients can properly come before the Panel. The current language of the statute is ambiguous in this regard.

(6) "Physician". Under the definition of "physician", the language of the act has been clarified, by deleting the language in section 27-6-206(2) which exempts physicians from assessments when "not engaged in the private practice of medicine", and making more specific what that means.

The definition is broken down into physicians for purposes of assessments and physicians for purposes of whether they come before the panel. For assessment purposes, a physician is an individual not retired or employed full-time by the federal government who additionally has his or her principal residence or place of practice in Montana. For applicability of the Panel, it includes all individual physicians except full-time federal employees and those whose principal residence or place of practice is not Montana.

Additionally, entities which are in fact owned and operated by physicians, such as clinics, are clearly brought within the confines of the panel, a current practice. Additionally, physicians working as employees for hospitals are clearly subject to the assessment under the new legislation; the current language subjects itself to the argument that hospital employees are not engaged in the private practice of medicine.

## Section 2. Funding.

(2) (Assessments) The current statutory language is subject to the interpretation that individual physicians and hospitals brought before the panel are responsible for the assessment, when the practice is to allocate that assessment amongst the physician and hospital population as a whole. The new language makes the matter more clear and provides more clear external standards for assessment determination.

(3) (Late Charges) The proposed legislation adds a late charge for delinquent assessments. Because of the late payment of assessments, the annual per physician and per bed assessment is substantially higher than it ought to be. Timely payment of assessments or a penalty for those paying late would allow reduction of the assessment by some \$18,000 for 1985.

Section 3. How Cases Submitted. The proposed change conforms to the broadening of the type of claimant which can come before the panel, set out above.

Section 4. Composition of Panel. The current statutory language is vague and unclear as to the composition of the panel under all circumstances, e.g. single hospitals and multiple hospitals as sole parties defendant; single and multiple physicians as sole parties defendant; and multiple physicians and single hospitals or other health care facilities as parties defendant. The language proposed conforms to current practice.

Section 5. Tolling of Statute of Limitations. The current statute is unclear as to whether the statute does or does not toll as to those not parties to the panel, such as nurses, under circumstances where physicians in the same matter are brought before the panel. The proposed legislation clarifies this, providing for the tolling of the statute as to all those parties named in the application, whether proper health care providers before the panel or not.

The proposed legislation also permits the dismissal of the action by the panel chairman or director of the panel (if all parties consent) in a manner that will clearly start the statute of limitations running again. The current legislation is unclear in this regard.

WITNESS STATEMENT

Before the Judiciary Committee, House of Representatives.

NAME Jeannette Buchanan BILL NO. 726

ADDRESS 301 W. Alder Missoula DATE 2-19-85

WHOM DO YOU REPRESENT? Missoula County DUI Task Force

SUPPORT \_\_\_\_\_ OPPOSE X AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I am not opposed to a system of justice which allows appeal.

I am concerned, however, about the implied consent that goes with the privilege of driving.

The use of alcohol and other drugs which impair judgement <sup>is</sup> ~~are~~ insidious. The user becomes very cunning.

The peace officer should be supported in his findings. Testing is one of the concrete methods available to him.

I am therefore opposed to alternatives that will reduce the findings used to identify the impaired driver. In Missoula, refusals are already on the increase - up to 26% in Missoula for January - up from less than 10% for the year 1984.

I support the peace officer retaining authority and not giving the suspected impaired driver another opportunity to defy that authority and to deny his condition further. Removal of privileges gives impetus to fact finding.

Thank you.

WITNESS STATEMENT

Name Molly Munn Committee On Judiciary  
Address Helena Date 2/17/85  
Representing Mont. Assoc. Home for the Aging Support ☒  
Bill No. HB 738 Oppose \_\_\_\_\_  
Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. The Montana Association of Homes for the Aging  
wants to go on record as supporting HB 738

2.

3.

4.

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

## VISITORS' REGISTER

JUDICIARY

COMMITTEE

717; 722; 726; 738; 742;

BILL NO. 795; 837

DATE February 19, 1985

SPONSOR

PLEASE STATE # OF BILL

NAME (please print)	<del>RESIDENCE</del> REPRESENTING	SUPPORT	OPPOSE
Ante Tomasic	Self	717 ✓	
Bar Venable	Self	722 ✓	
Albert Loh	Highway Traffic Safety - Justice		726 ✓
G B RIAN F I N S	MT. M.F.D. ASSN.	738	
James Arnold	MT Med-Legal Panel	738	
W. F. Furris	Motor Vehicle Division		726
Jim T. Zander	mt. Medical Assn	738	
Ken T. Zander	mt. Medical Assn	732	
Lyle R. Nagel	MT Vol Firemen's Assn	<del>732</del>	
Barley M. Monahan	MT Psychological Assn	717 ✓	
Jeannette Buchanan	Missoula DUI Task Force		726
Anne Brodsky	WLF		717 ✓
Cecilia Miller	MT Med-Legal Panel	738	
Anne Donnelly	MACO 742		
Molly Mearns	MONTANA - Helena	738 ✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.