

MINUTES FOR THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

March 15, 1985

The meeting of the Judiciary Committee was called to order by Chairman Tom Hannah on Friday, March 15, 1985 at 8:30 a.m. in Room 312-3 of the State Capitol.

ROLL CALL: All members were present with the exception of Reps. Brown and Krueger who were excused.

CONSIDERATION OF SENATE BILL NO. 257: Senator M. K. Daniels, District #24, sponsor of this bill, said that SB 257 was introduced at the request of the Department of Institutions. He introduced Nick Roterling, Department of Institutions, to explain the bill.

Nick Roterling, representing the Department of Institutions, testified as a proponent. This bill changes one portion of the existing agreement on detainers which has been introduced by approximately 40 states. The only change in this bill is on page 3, lines 6 and 7. This language is being brought into compliance with the uniform act.

There being no further proponents or opponents, Senator Daniels closed.

There were no questions from the committee. However, Rep. Hannah pointed out that there needs to be an amendment made to the bill for housekeeping purposes.

ACTION ON SENATE BILL NO. 257: Rep. Gould moved that the title of SB 257 be amended on line 7 by striking "UNIFORM DETAINER LAW" and inserting "INTERSTATE AGREEMENT ON DETAINERS". The motion was seconded by Rep. Bergene and carried unanimously.

Rep. Keyser further moved that SB 257 BE CONCURRED IN AS AMENDED. The motion was seconded by Rep. Gould and carried unanimously. Rep. Bergene volunteered to carry the bill.

CONSIDERATION OF SENATE BILL NO. 290: Senator M. K. Daniels, District #24, sponsor of this bill, testified. He informed the committee that this bill was introduced at the request of the Department of Justice. He introduced Rob Smith from the Attorney General's Office to explain the bill in further detail.

Rob Smith, attorney from the Attorney General's Office, testified on behalf of the bill. He said he has worked in the habeas corpus area with the Attorney General's Office. This bill will clarify the law indicating that any action attacking the revocation of a suspended or deferred sentence takes place in the court where the individual was tried. Right now, the law doesn't say anything about this one way or the other. Mr. Smith said their feeling was that the trial court is the appropriate place to have the matter considered because the trial judge is the one who already tried the case. He would be familiar with the facts of the case. In addition, the witnesses usually live in the area of where the trial court is. At present, if the prisoner proceeds in habeas corpus, he has his hearing considered either in the supreme court or in the court at the place of confinement which is Deer Lodge.

There being no further proponents or opponents, Senator Daniels closed.

The floor was opened for questions.

Rep. Eudaily wanted to know why the effective date was stricken from the bill. Senator Daniels said the Senate Judiciary Committee struck this language because they felt no urgency in this area. He said the committee was tired of seeing all these bills with effective dates included.

There being no further questions, hearing closed on SB 290.

CONSIDERATION OF SENATE BILL NO. 267: Senator Mike Halligan, District #29, sponsor of this bill, testified. This is an act providing to unmarried persons the same exemptions from execution of judgment as those granted to persons who are married. Presently, if a married person is sued and the other person gets a judgment against the married person, but he doesn't pay that judgment, and they execute by attaching some of his property, that married person gets all the exemptions currently in the law. However, if the person is single, he is not entitled to any of the same exemptions that a married person is entitled to.

Mark Jacobson, proponent to SB 267, said that the present law states that a single person is only allowed to keep his wearing apparel. He also said it is important that the Federal Bankruptcy Act allows the state the choice to apply their own exemption statutes.

There being no further proponents or opponents, Senator Halligan closed.

The floor was opened to questioning.

Rep. Eudaily wanted to know why the material was deleted on page 7, line 1 of the bill. Senator Halligan said he didn't know.

Rep. Mercer asked about the situations when a person is divorced and has to pay child support, then a lot of these exemptions do not apply because of federal law. That creates another group of people -- those who pay child support and those who do not pay child support which would require two separate exemptions. Do you think that is an additional group that some day should be addressed, or do you think that discrimination is justified? Senator Halligan responded by saying his guess is that the child support federal laws supercede this. He said there is a rational basis for that distinction.

There being no further questions, the hearing closed on SB 267.

EXECUTIVE SESSION

ACTION ON SENATE BILL NO. 267: Rep. Addy moved that SB 267 BE CONCURRED IN. The motion was seconded by Rep. Miles. The question was called, and the motion carried unanimously. Rep. Montayne volunteered to carry the bill on the floor.

ACTION ON SENATE BILL NO. 290: Rep. Gould moved that SB 290 BE CONCURRED IN. The motion was seconded by Rep. Montayne. Rep. Gould commented that he feels this is an excellent argument concerning the Sentence Review Board. The question was called, and the motion carried unanimously. Rep. Gould offered to carry the bill.

CONSIDERATION OF SENATE BILL NO. 292: Rep. Cobb, District #42, one of the sponsors of the bill, presented the bill in lieu of its chief sponsor, Senator Ted Neuman. Senator Neuman was unable to be at the meeting right then.

Larry Majerus, administrator of the Motor Vehicle Division, Department of Justice, testified as a proponent. This is an act revising and clarifying the Mandatory Liability Protection Law, Mr. Majerus said. He said that most states have to recognize an out-of-state vehicle if they are in conformance with their home state law. This merely clarifies it in the statute.

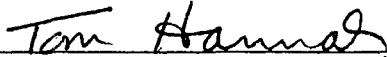
There being no further proponents or opponents, the floor was opened to questions.

On request of Rep. Montayne, Mr. Majerus explained the language on lines 21 through 24 on page 2. He said this language was developed by the 1983 legislative session in relationship to all the DUI bills that passed. We are merely extending this definition also to the insurance laws.

Rep. Hannah pointed out for the committee that there is no specific rule that deals with the question of who must present a bill before the committee; therefore, there is no procedural problem involved.

ACTION ON SENATE BILL NO. 292: Rep. Cobb moved that SB 292 BE CONCURRED IN. The motion was seconded by Rep. Hammond. There being no discussion, the question was called and the motion carried unanimously. Rep. Cobb will carry the bill on the floor.

ADJOURN: A motion having been made and seconded, the meeting adjourned at 9:10 a.m.


Rep. TOM HANNAH, Chairman

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3/15/85

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	✓		

STANDING COMMITTEE REPORT

March 15

19 35

MR. Speaker

We, your committee on Judiciary

having had under consideration Senate Bill No. 257

Third reading copy (Blue)
color

CHANGE TIME FOR TRIAL LIMITATION IN DETAINER LAW

Respectfully report as follows: That Senate Bill No. 257

be amended as follows:

1. Title, line 7.

Strike: "UNIFORM DETAINER LAW"

Insert: "INTERSTATE AGREEMENT ON DETAINERS"

AND AS AMENDED,
BE CONCURRED IN

~~DO PASS~~

STANDING COMMITTEE REPORT

March 15

19.25

Speaker

MR.

Judiciary

We, your committee on

Senate

having had under consideration Bill No. 267

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color

GIVE UNMARRIED PERSON SAME EXEMPTIONS FROM EXECUTION OF
JUDGMENT AS MARRIED

Senate

Respectfully report as follows: That Bill No. 267

BE CONCURRED IN

DO PASS

STANDING COMMITTEE REPORT

March 15

1985

MR. Speaker

We, your committee on Judiciary

having had under consideration Senate Bill No. 290

Third reading copy (Blue)
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CLARIFY HABEAS CORPUS & POSTCONVICTION RELIEF LAW

Respectfully report as follows: That Senate Bill No. 290

BE CONCURRED IN
REGRESS

STANDING COMMITTEE REPORT

March 15 19 95

MR. Speaker

We, your committee on Judiciary

having had under consideration Senate Bill No. 292

Third reading copy (Blue)
color

REVISE & CLARIFY MANDATORY LIABILITY INSURANCE LAW

Respectfully report as follows: That Senate Bill No. 292

BE CONCURRED IN

BY PASS

