

MINUTES FOR THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

April 18, 1985

The meeting of the Judiciary Committee was called to order by Chairman Tom Hannah on Thursday, April 18, 1985 at 10:00 a.m. in Room 312-3 of the State Capitol.

ROLL CALL: All members were present with the exception of Reps. Bergene, Darko, Keyser, Krueger, Mercer and O'Hara.

CONSIDERATION OF HOUSE JOINT RESOLUTION NO. 61: Hearing commenced on HJR 61. Rep. Tom Hannah, House District #86 and chief sponsor of HJR 61, testified. This is a joint resolution requesting an interim study to examine and propose a set of judicial sentencing guidelines. He proposed this resolution as an alternative to SB 186, Senator Himsl's sentencing guidelines commission bill which was killed by the House. He urged the committee to pass the resolution.

Rep. Addy, a co-sponsor of the resolution, also urged for its passage.

There being no further proponents or opponents, Rep. Hannah closed, and the floor was opened to questions.

Rep. Rapp-Svrcek asked Rep. Hannah why he thinks it is the responsibility of the Legislature to statutorily define sentencing guidelines. Rep. Hannah pointed out that Supreme Court Justice Frank Morrison's testimony during the hearing on SB 186 indicated that it is the Legislature's responsibility to study judicial sentencing guidelines.

Rep. Eudaily asked if the legal system doesn't have some sort of an ongoing study group who could look into this particular area. Rep. Hannah said they do have an ongoing study group that is doing this; however, according to the testimony presented at the hearing on Senator Himsl's bill, SB 186, the group didn't have the money, continuity, nor the staff. Basically, they wanted the Legislative Council to staff this particular study.

There being no further questions, hearing closed on HJR 61.

ACTION ON HJR 61: Rep. Gould moved that HJR 61 DO PASS. The motion was seconded by Rep. Brown. Rep. Gould submitted some proposed amendments. He feels the total scope of this area needs to be reviewed. One of the areas that this Legislature has looked at through two different bills this session is the Sentencing Review Commission. He thinks this is an integral part of the sentencing procedure and what happens to a person after he is convicted.

Also, for several sessions now, we have had a cap process as far as the overcrowding at the prison. As a result, some of the inmates are being allowed up to a three-month early release. Rep. Gould feels this should be further investigated to see if there aren't other alternatives that may be better than a premature release. On that basis, he moved the following amendments:

1. Page 2, line 9.

Following: "sentences"

Insert: "; and WHEREAS, the Sentence Review Division of the Supreme Court of Montana has been closely scrutinized by the 49th Legislature; and

WHEREAS, House Bill 200, making permanent the early parole provision enacted by 48th Legislature for the purpose of relieving overcrowding at the Montana State Prison, has been passed by the 49th Legislature and approved by the Governor"

2. Page 2, line 15.

Following: "courts"

Insert: "and to study the role of the Sentence Review Division of the Supreme Court of Montana in the overall sentencing process"

3. Page 2, line 23.

Following: "proper;"

Strike: "and"

4. Page 2, line 25.

Following: "concurrently"

Insert: "; (4) an analysis of the role and scope of review of the Sentence Review Division of the Supreme Court of Montana and of whether its role and scope of review should be modified to reflect possible changes in the overall sentencing process; and

(5) alternative solutions to prison overcrowding other than early parole"

The motion was seconded by Rep. Addy. Rep. Hannah said he didn't have any objection to the amendments. The question was called, and the motion carried with Rep. Brown dissenting. Rep. Gould further moved that HJR 61 DO PASS AS AMENDED. The motion was seconded by Rep. Hannah and carried with Rep. Brown dissenting.

ADJOURN: Upon motion of Rep. Rapp-Svrcek, the meeting adjourned at 10:14 a.m.


REP. TOM HANNAH, Chairman

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 4/18/85

| 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 | ✓ | | |
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| | | | |
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Amendments to HJR 53:

19

1. Page 1, following line 10.

Insert: "WHEREAS, Article 2, Section 4 of the Montana constitution prohibits "discrimination against any person in the exercise of his civil or political rights on account of race, color, sex, culture, social origin or conditions, or political or religious ideas;" and

WHEREAS, the Montana Legislature enacted the Human Rights Act in 1974 and the Governmental Code of Fair Practices in 1975; and"

2. Page 1, following line 35.

Strike: all material on pages 2 through page 7, line 14

Insert: "WHEREAS, since its inception in 1974, there has not been a comprehensive legislative study of the goals and effectiveness of the Human Rights Commission and the law it enforces; and

WHEREAS, the Human Rights Commission has been designated as the local agency authorized to enforce compliance with § 504 of the Rehabilitation Act of 1973, the federal law providing for rights of handicapped persons; and

WHEREAS, if there is no local agency designated to enforce § 504 of the Rehabilitation Act of 1973, the law will be enforced by the U.S. Office of Civil Rights' regional office located in Denver, Colorado; and"

3. Page 3, following line 7.

Strike: subsection (4) in its entirety

Re-number: subsequent subsections

4. Page 3, following line 12.

Strike: subsection (6) in its entirety

Re-number: subsequent subsections

5. Page 3, following line 18.

Strike: subsections 8 through 10 in their entirety

Insert: "(6) compile and evaluate the range of legal remedies for discrimination that are available in other jurisdictions and analyze their suitability for use in Montana;

(7) consider the advisability of requiring submission of complaints to mediation procedures prior to the institution of formal proceedings;

(8) develop a comparison of the costs associated with various means of resolution of cases filed with the Human Rights Commission; and

(9) evaluate the enforcement of § 504 of the Rehabilitation Act of 1973 by the Human Rights Commission and the effect, if any, on that enforcement if the U.S. Office of Civil Rights assumed enforcement of the law."

TOM HANNAH, Chairman
Judiciary Committee

STANDING COMMITTEE REPORT

April 18

1985

page 1 of 2

MR. Speaker:

We, your committee on Judiciary

having had under consideration House Joint Resolution ~~HB~~ No. 61

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INTERIM STUDY TO EXAMINE & PROPOSE SENTENCING GUIDELINES

Respectfully report as follows: That House Joint Resolution 61
~~HB~~ No.

be amended as follows:

1. Page 2, line 9.

Following: "sentences"

Insert: "; and WHEREAS, the Sentence Review Division of the Supreme Court of Montana has been closely scrutinized by the 49th Legislature; and

WHEREAS, House Bill 200, making permanent the early parole provision enacted by the 48th Legislature for the purpose of relieving overcrowding at the Montana State Prison, has been passed by the 49th Legislature and approved by the Governor"

2. Page 2, line 15.

Following: "courts"

Insert: "and to study the role of the Sentence Review Division of the Supreme Court of Montana in the overall sentencing process"

DEPASSX

(continued)

April 13, 1985

page 2 of 2
AJR 61

3. Page 2, line 23.
Following: "proper;"
Strike: "and"

4. Page 2, line 25.
Following: "concurrently"
Insert: "; (4) an analysis of the role and scope of review of the
Sentence Review Division of the Supreme Court of Montana
and of whether its role and scope of review should be modi-
fied to reflect possible changes in the overall sentencing
process; and

(5) alternative solutions to prison overcrowding other than
early parole"

AND AS AMENDED,
DO PASS