

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

February 7, 1985

The twenty-third meeting of the Senate Judiciary Committee was called to order at 10:06 a.m. on February 7, 1985, by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present.

CONSIDERATION OF SB 268: Senator Mike Halligan, sponsor of SB 268, introduced the bill and stated this bill focuses on the more immediate and more important issue of under what circumstances a youth can be placed in a detention facility or a jail. The effect of setting forth this distinction is to separate status offenders from delinquent youths. Most status offenders have been picked up for alcohol or curfew violations.

PROPOSERS: Steve Nelson, Montana Board of Crime Control, testified in support of the bill and presented written testimony (Exhibit 1). He stated over the last decade, we have seen a lot of litigation in our country over our jails. This litigation has grown into the jailing of juveniles. In an adult facility, you have staff trained to handle adult inmates and not youths. Mr. Nelson believes states should work towards removing juveniles from adult jails. In Montana, we are in a position where we are one of two states that does not have a youth detention facility, although we do have two youth correctional facilities. The youth population in jails is dropping drastically. Rather than throw out a vast amount of resources to build a detention home, what the bill does is define what youths can be held in detention. Jeff Langan, member of Montana Youth Justice Council, testified this legislation does two things in terms of their objectives: (1) It reduces the potential liability of probation officers placing youths in county jails; and (2) once and for all, officially and in statute, it takes status offenders out of jails. This is an issue about deprivation of liberties. Mr. Langan asked whether we wanted to take the risk of exposing youths to physical abuse by other juveniles or to other adult felons in those facilities. Children deserve those rights and should not be deprived of their liberties. This bill is a way we can keep from embittering youths against the authorities that have to detain them. Pete Howard, Teton County Sheriff, supported the bill and stated he believed it had been adequately explained. He stated it would effectively delineate or enumerate what a crime is. In his opinion, it is as much a crime to put a child in jail as a status offender as it is to go out and commit a crime on the street. He believes society is as wrong if not more wrong

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Page 2

than those committing crimes on the street. He believes this bill will help reduce the number of people who fill county jails. It will put together a better system of working with youths before they become criminals. Craig Anderson, Chief Probation Officer, Seventh Judicial District, and member of the Governor's Youth Justice Council, testified there are some serious liability problems in keeping youths in adult facilities; it is also a philosophical problem. He believes what is important is the section that speaks specifically to criteria being established by the youth court. Rural areas do not deal with a lot of kids. By detaining them, it is necessary they hang on to them. He testified the Probation Officers Association, as a group, is split as to whether status offenders should be included. Mr. Anderson's personal view is a status offender should not be included in detention with others. Jeremiah Johnson, President, Montana Probation Officers Association, testified that 16 of the judicial districts were present at their January 21, 1985, meeting. It was a split decision by one vote to try to request that status offenders be included in this bill at least as an option. The Missoula County Commissioners have requested they support the bill as it is with no changes whatsoever. Marie McAlear, Madison County Commissioner and Chairman of the Montana Association of Counties' Legislative Committee, testified the counties not providing jails for these youths are put in a greater and greater position of liability. They support this bill because it clearly defines under what reasons juveniles would use the jail facilities. This bill forces counties to find alternative methods for holding juveniles when they are in trouble. Cathy Campbell, representing the Montana Association of Churches, presented written testimony in favor of SB 268 (Exhibit 2). Walter Hammermeister, Pondera County Sheriff, supported the bill. Curt Chisholm, Deputy Director, Department of Institutions, stated the department supports the efforts of the Board of Crime Control (Exhibit 3). In reviewing the bill, they found a problem and offered an amendment to correct this oversight (Exhibit 4). With the amendment, they support the bill.

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: Senator Mazurek asked Senator Halligan if he accepted the amendment. Senator Halligan responded he supported it.

CLOSING STATEMENT: None.

Hearing on SB 268 was closed.

Chairman Mazurek turned the chair of the committee over to Vice Chairman Daniels while he left to present a bill to another committee.

CONSIDERATION OF HB 52: Representative Rex Manuel, sponsor of HB 52, testified the theme of this bill is to try to help our children, not put them in jail. There is a conflict in the Montana statute and the federal acts: Montana law permits a youth to be sentenced to jail for 10 days for illegal possession of alcohol, which is in contradiction with the federal act.

PROPONENTS: Steve Nelson, representing the Montana Board of Crime Control, testified this is a bill that cleans up a section of law that allows juveniles to be held in jail. Dorothy McCarter, Assistant Attorney General, testified she sat in during the drafting of the bill (Exhibit 5). The bill takes the incarceration penalty out of the existing law. It increases the justices' options with respect to disposition of these kids. It also puts some teeth in the bill which prevent parents from keeping children from complying with the justices' orders. This bill would not be affected by raising the drinking age to 21. Pete Howard, Teton County Sheriff, testified he supports the bill. We decriminalized alcohol and related problems at the adult level, but we did not do this for youths. Mr. Howard can see no reason or purpose that is served by allowing a juvenile to go to jail for 10 days when our courts are daily releasing charged felons. Curt Chisholm, Deputy Director, Department of Institutions, stated the department was asked to participate in some of the planning stages that resulted in this bill. They recommended education programs, with the costs for the programs being deferred to the people who would use them. Senator J. D. Lynch stated he wants to commend Representative Manuel for coming out with an excellent bill. He would not resist an amendment that would make the bill even better and more applicable to those communities that are present successfully involved in this process we are looking at today and suggested the following:

Page 2, line 5.

Following: "a"

Insert: "community based"

This would let the community run its affairs. Ira Feiger, Director, Center for Adolescent Development, supported the bill and the amendment. He stated there is a real danger in looking at a statewide approach to this. The skill levels are different. It is essential that we leave the option to the communities. There are other reasons for looking at providing options. We can't make the assumption the kids that will go through a program like this are at the low end of the scale. He is not sure all of the treatment centers around the state could meet their needs. It should be a community decision with school input. It is a wonderful idea, but the amendment allowing this bill to specifically address community needs as well as individual needs is necessary. (See

witness sheet attached as Exhibit 6.) Mike Males proposed an amendment to HB 52 (Exhibit 7). He testified anyone who violates any provision of the alcohol codes is subject to a fine of \$100. He believes Section 16-6-314, MCA, is extremely vague. Section 61-5-302, MCA, provides misdemeanor penalties to have or display falsified drivers' licenses. One of his proposed amendments would provide a \$50 limit for counseling services. Costs have a tendency of getting out of hand. Joyce Coombe, Director, Youth Health Services, submitted written testimony in support of the bill (Exhibit 8). Mark Lucich presented written testimony in support of the bill (Exhibit 9). Ed Heard, Attendance Officer, Butte-Silver Bow School District, submitted written testimony in support of the bill (Exhibit 10). Jeremiah Johnson, President, Montana Probation Officers Association, testified the youth courts share concurrent jurisdiction with justice courts over illegal possession of alcohol. The committee that was organized to address this problem believed in lieu of jail, there should be an education program. This does provide some options for the justice of the peace. If a youth refuses to participate, that youth can be referred into the youth court, and the youth court can take action. Judy Griffith, Chairman, Helena Chemical Awareness Coalition, stated her testimony did not reflect the views of Shodair. She agreed with Senator Lynch's proposed amendment and stated this issue is too large for drug/alcohol agencies to deal with alone. Mike Murray, Chemical Dependency Programs of Montana, testified the second issue before the committee is one of the amendments proposed to put a \$50 ceiling on the maximum amount to be paid. He believes a program such as this providing a service ought to be able to get its actual costs back. He further believes the limit is an unrealistic amount.

OPPONENTS: None.

There being no further witnesses, Vice Chairman Daniels asked if there were any comments regarding Senator Lynch's proposed amendment.

COMMENTS TO SENATOR LYNCH'S PROPOSED AMENDMENT: Mr. Johnson stated he had no problems with it and believed it would not hurt the bill at all. Mr. Chisholm stated if you simply insert the words "community based" and leave in the words "department of institutions" in both instances where they appear, it would cause problems. As far as the department of institutions is concerned, when they offer their services, they did so for several reasons. Their programs are already in existence. They have a certain level of expertise. They could approve the curriculum and keep a lid on costs. They did not want to exclude or condemn the work being done by community services. They, as a department, do not want to be in a position of going out and approving community programs or evaluating their effectiveness. Other than that objection, as far as they are concerned, it doesn't matter to them.

Vice Chairman Daniels then called for comments to Mr. Males' proposed amendments.

COMMENTS TO MIKE MALES' PROPOSED AMENDMENTS: Representative Manuel responded the first amendment is out of the scope of the title of the bill and shouldn't be included in this bill. Regarding the \$50 maximum amendment, he testified the charge right now is approximately \$30. He believes there is no reason to put that in the statute, because the judge will make sure the cost is kept down. Mr. Johnson stated all of these amendments should be totally left out of the bill. Mr. Males stated these are equivalent situations under the law. He discussed these amendments with the Board of Crime Control before he submitted them, and they had no problems.

QUESTIONS FROM THE COMMITTEE: Senator Crippen addressed Mr. Males and stated he liked the amendment but believed this was not the place to put it. He asked if Mr. Males discussed this with regard to the drinking age bills and alluded to this problem in some of that literature. Mr. Males responded yes, he had. Senator Crippen stated he believes we should deal with that section of the law in the drinking age bills that have been passed over to the House. Mr. Males responded his concern about HB 52 is it should eliminate jail terms for minors, but it doesn't do that because Section 61-5-302, MCA, is still on the books.

CLOSING STATEMENT: Representative Manuel stated he realizes there is a local concern about the programs. It is up to the discretion of the sentencing judge.

Hearing on HB 52 was closed.

CONSIDERATION OF HB 103: Representative Dave Brown, sponsor of HB 103, testified this bill is as much a result of his interest in a case in Butte as it is a position taken by the County Attorneys' Association. The bill contains two elements: (1) dealing with flexibility in changes in venue in youth court cases; and (2) the ability to try a youth in district court at the discretion of the judge in those cases for the most serious and violent crimes against human nature. Representative Brown stated the amendment to page 3, line 7, was added in the House after considerable discussion. He believes the amendment relating to sexual intercourse without consent should not be included in the bill. Representative Brown reminded the committee the foundation of this bill is based on judicial discretion. It does not mean that in every case a youth committing a murder will be tried in district court, but in those cases where the judge decides where the length of the record is such that it warrants society's knowledge of what has gone on in that person's life, he should have the right to so order.

PROPONENTS: Mike McGrath, Lewis and Clark County Attorney, representing the Montana County Attorneys' Association, stated this bill was introduced at their request. Under the present system (Youth Court Act), if a youth is found to be delinquent and transferred to Pine Hills, generally upon reaching age 18, the youth is freed of the system. There are no criminal records of that crime. The problem that creates is in a particularly serious or heinous crime, the youth could be released from Pine Hills and go somewhere else, and there will be no record that follows that youth. This bill would allow transferring the youth from youth court jurisdiction to the district court following hearing and after looking at certain things. When that is done, the youth could still be sentenced to Pine Hills. The bill applies to youths 16 or older, but in cases of rape or homicide, it would allow transfer of youths age 12 and older. It is unlikely a youth would be transferred to Montana state prison. This bill allows venue to occur in the county where the youth is a resident (current law) or in the county where the delinquent act is alleged to have occurred. Bob McCarthy, Butte-Silver Bow County Attorney, testified he would also urge the committee to concur in HB 103. The bill does a couple of things: It provides for a change in the venue provisions and includes two offenses at this time where a transfer hearing could be held by a youth court where the youth court judge, after considering a number of factors, would then consider whether a youth for commission of the offense could be transferred to district court and tried there. There is a serious gap in Montana law, and Montana is in a minority position compared with other states. Recent events have pointed out that the Montana Youth Court Act does not address problems of handling particularly heinous crimes. This bill does not provide the county attorney may file an information if the youth has reached the age of 12 years. It's just an abomination that youths could commit one of these crimes, be sent to Pine Hills, be released by age 21, and not have a record. Ross Richardson, Chief Deputy County Attorney, Butte-Silver Bow, stated the important thing that should be noted is while this bill does lower the age of prosecution of juveniles for certain things, we do have a transfer hearing. Montana would then be in the mainstream in the way it treats the violent juveniles if it passes this bill. Some states allow transfer without a hearing. Many states just allow the juvenile to be bound over to district court as soon as the prosecution files the information. Jeremiah Johnson, President, Montana Probation Officers Association, stated they are in support of this bill and offered some amendments (Exhibit 11). They feel this bill should be addressed to the most heinous of all possible crimes, but they have a lot of concern over youth who could be dealt with in the youth court being tried as an adult for the crime of sexual intercourse without consent. They think it is important the violent offender at least have due process, but they also think the state should have due process. Jeff Langan stated he is not

particularly in support of this piece of legislation. Judicial decisions are not sacred. Violent crimes are often quite political, especially in small communities. When you talk about 12-year-olds being subjected to long-term trials, he is concerned. He supports pulling sexual intercourse out of the bill and believes it should be limited to those most heinous of crimes. In addition, the 12-year-old limit is not good. That age should be uplifted to 14 at the low end. Representative Paul Rapp-Svrcek stated he thinks the instances we have seen in this state in the past year are adequate justification for this bill. He is in favor of keeping sexual intercourse without consent in the bill. He believes this is an adult act and should be treated in an adult manner. He believes sexual intercourse without consent is a most heinous crime. He believes it is the most blatant of violations of a woman's body. Many women think it is worse than murder. Representative John Mercer stated he is in support of this bill and urged the committee to retain sexual intercourse without consent in it. The public is outraged when they see an adult crime committed in an adult manner. Juvenile court is not open to the public. There are many protections in this law that will prevent abuses. All the House is asking the Senate is to give the court the flexibility where rape has occurred to treat it in the same manner as an adult. Gale Kline, Women's Lobbyist Fund, submitted written testimony in support of the bill (Exhibit 12).

OPPONENTS: None.

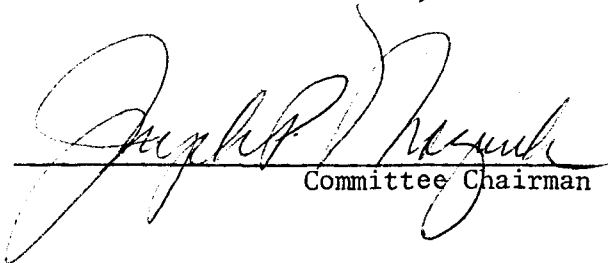
CLOSING STATEMENT: Representative Brown stated he has a difficult time arguing against the Representatives who spoke. He thinks the committee needs to discuss the issue and look at it in detail. If it decides as the House did, he can live with this bill. He worries about the cases that might arise in that area more than with homicide. He addressed the proposed amendment on page 5, line 4, changing "may" to "shall." He stated this only demands the court address all of the issues listed. He believes in making a judgment as serious as this, the court should be demanded to make those assessments.

QUESTIONS FROM THE COMMITTEE: Senator Towe addressed a question to Representative Rapp-Svrcek. He stated Section 45-5-503, MCA, includes other matters other than sexual intercourse without consent. He asked if they intended statutory rape to be included within the effect of the bill. Representative Rapp-Svrcek stated sexual intercourse without consent as used in the context of this bill should be considered in view of the language found on page 5, lines 1 and 2. Representative Mercer added he thinks there are also other protections in the bill. Representative Rapp-Svrcek pointed out the purpose of the amendment was to deal with the violent crime of rape. He stated the committee can delete the section that deals with statutory rape because that is a different thing. Senator Pinsoneault asked Mr. Richardson if there were an age

limit imposed. Mr. Richardson responded a good number of the states have no age limit at all, but in no case is it above age 14. Senator Pinsoneault asked if he'd like the age limit out of the bill. Mr. Richardson stated he had no problem with the age limit. Senator Pinsoneault addressed a question to Mr. Langan, who voiced some opposition to the subject of sexual intercourse without consent. He asked what he felt about this in light of the previous discussion. Mr. Langan stated children deserve the same benefit of the doubt as adults. Senator Pinsoneault asked Mr. Langan what commission he served on. Mr. Langan responded he serves on the Montana Youth Justice Council, but he is not representing the council in making his statements with regard to this bill. Senator Blaylock stated Mr. McGrath indicated one of the reasons they should allow these cases to go to court is the matter of the record. He asked if the juvenile could possibly go to prison. Mr. McGrath responded theoretically yes, but practically no. Senator Blaylock asked if the youth court could send a juvenile to prison. Mr. McGrath responded no. Senator Blaylock asked if a juvenile could be released from Miles City and then sent to prison. Mr. McGrath responded no. Senator Blaylock asked if a youth could be released and tried again. Mr. McGrath responded no. Senator Blaylock asked if under this bill a youth could be sentenced to prison for life. Mr. McGrath responded yes. Representative Brown responded there are three categories of criminal homicide: deliberate homicide, mitigated deliberate homicide, and negligent homicide. Negligent homicide was left to apply to ages 16 and over.

Hearing on HB 103 was closed.

There being no further business to come before the committee, the meeting was adjourned at 12:02 p.m.


Committee Chairman

ROLL CALL

SENATE JUDICIARY

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 020785

NAME	PRESENT	ABSENT	EXCUSED
Senator Chet Blaylock	X		
Senator Bob Brown	X		
Senator Bruce D. Crippen	X		
Senator Jack Galt	X		
Senator R. J. "Dick" Pinsoneault	X		
Senator James Shaw	X		
Senator Thomas E. Towe	X		
Senator William P. Yellowtail, Jr.	X		
Vice Chairman Senator M. K. "Kermit" Daniels	X		
Chairman Senator Joe Mazurek	X		

DATE

January 7, 1985

COMMITTEE ON

Judiciary

HB 52, 103 + SB 268

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Jayne Coonley	Butte - Silver Bow	HB 52	✓ with amend.	
Barbara J. Pauls	Butte - Silver Bow	HB 52	✓ with amendment	
Jane E. Wright	Butte - Silver Bow	HB 52	✓ with amendment	
Mark L. Luch	Butte - Silver Bow	HB 52	✓ with amendment	
Lester Madril Burns	Butte - Silver Bow	HB 52	✓ with amendment	
Sam J. D. Lynch	Senate Dist #34	HB 52	✓ with amendment	
Charles A. Hest	Butte - Silver Bow	HB 52	✓ with amendment	
Dave Brown	Butte - Silver Bow #72	HB 103	✓	
Lois Feiger	Center for Adolescent Dev	HB 52	✓ with amendment	
Dusan C. O'Hucham	ACLU	SB 268	✓	
Judy Griffith	PRESENT-CHEMICAL AWARENESS ST. DENIS	HB 52	✓ with amend.	
Shirley A. Mead	Butte - Silver Bow	HB 103	✓	
Cathy Campbell	MT. Dean of Churches	SB 268	✓	
Jeremiah Johnson	MT. PROBATION OFFICERS ASSOC.	HB 103	amend	
JEFFREY M. LANGAN	MT. YOUTH JUSTICE COUNCIL	SB 268 HB 103	✓	
Craig J. Anderson	MT. Youth Justice Council	SB 268	X	
J.L. "Tote" Howard	Teton County Sheriff	HB 52 SB 268	X	
W.L. Hammermeister	Bonder & Sherr	HB 52 SB 268	✓	
Ed Hall	MBCC	HB 52 SB 268	✓	
Marie McAlister	MACC	SB 268	✓	
Marvin Dye	Board of Criminals	SB 268	✓	
Mike McRath	CITY ATTYS ASSOC	HB 103	✓	
Art Criswell	INSTITUTIONS		✓	
Mike Males	SELF	HB 52	✓	
Hal Kline WLF	WLF	HB 103	✓ with amendment	
Mike Murray	Chronical Dep. Program of 2	HB 52	✓	

(Please leave prepared statement with Secretary)

COMMITTEE ON

NAME _____

REPRESENTING

BILL #

Check One

[illegible]

Rep. PAUL RAPP-SURCEK

Self

103



Rep Kurt Krueger

103

without
amendment on

REP. JOHN A. MERCER

House District 50

103

X

GARY LOSHEKY

Juv. PROBATION ANACONDO 208 52
103

268 52

X

Rise Demmons

a " Hamilton

2

X

ALLEN HORSFALL

11 11 11

11

X

Steve Nelson

Board of Crime ^{Control} # 52
5266

第 52
53268

S.B. 268 BY HALLIGAN

JUVENILE DETENTION CRITERIA

PROBLEM - JUVENILES CAN NO LONGER BE HELD IN ADULT JAILS

1. The Federal Juvenile Justice and Delinquency Prevention Act of 1984 mandates removal of all juveniles from adult jails.
2. An Oregon federal court case (D.B. vs. Tewksbury) condemned the practice of using adult jails for juveniles. It also held county officials personally liable for damages.
3. National jail standards developed by the National Sheriff's Association, the American Corrections Association and the American Bar Association/Institute for Judicial Administrations call for the removal of juveniles from adult jails and the development of objective criteria for the use of secure detentions.
4. The United State Supreme Court Decision (Shall vs. Martin) in 1984 authorized the use of "Preventive Detention", but cautioned that the decision to detain a youth must be based on clearly stated, objective criteria.

MONTANA'S STATUS

1. County jails are the only secure (pretrial detention) facilities available to hold youth awaiting court action. Most of these facilities do not meet nationally accepted standards for adults, and are not prepared to meet the special needs of young people.
2. Montana and Wyoming are the only states in the nation with no juvenile detention facilities. The cost of constructing a 10 bed facility would exceed \$1,000,000 and cost over \$120,000 to operate per year.
3. Montana does not have enough youth to justify detention facilities. The daily population of youth in Montana jails is less than 5. The recommended minimum size of a detention facility is 20.
4. The number of youth detained in Montana has been declining for the past 5 years. A 56% decline occurred from 1977 to 1983, and the projected data for 1984 indicates another 50% reduction. This dramatic change makes it nearly impossible to determine the number of secure beds needed to meet the needs of Youth Courts.
5. There is little statutory guidance for making the pretrial detention decision. The responsibility is left with individual probation officers. The use of objective criteria

for detaining youth would establish more consistency and uniformity in this decision and result in a more stable rate of detention.

YOUTH JUSTICE COUNCIL - BOARD OF CRIME CONTROL

During 1984 the Juvenile Detention Task Force of the Youth Justice Council met to determine solutions to the detention problem. An initial project was a survey of the Youth Courts to determine what detention criteria would be acceptable. The results of this survey were presented to the Montana Probation Officers Association and the Task Force adopted a model set of criteria which could be implemented by Youth Courts.

The Task Force, Youth Justice Council and Board of Crime Control endorsed 3 major recommendations for this legislative session.

1. Require Youth Courts to develop Detention Criteria (SB 268)
2. Providing financial assistance to Youth Courts implementing the Council's criteria (HB 589).
3. Permit the detention of youth at state correctional facilities, (HB 667).

WHAT ARE CRITERIA

Objective written criteria spell out the reasons a young person should or should not be held in secure detention. These criteria should be based on offense, legal status and legal history. Only those youths who meet the criteria ought to be held in secure detention. Those who do not meet the criteria would be released to their parents or would be supervised in nonsecure facilities.

RESULT OF CRITERIA

Implementation of the YJC criteria would reduce the number of youth held in jail in 1983 by 80%.

Implementation of criteria will create consistent decision making and a stable detention population, allowing courts to project their need for secure beds.

Implementation of criteria will give Youth Court officials clear guidance for making the detention decision and reduce their vulnerability to liability.

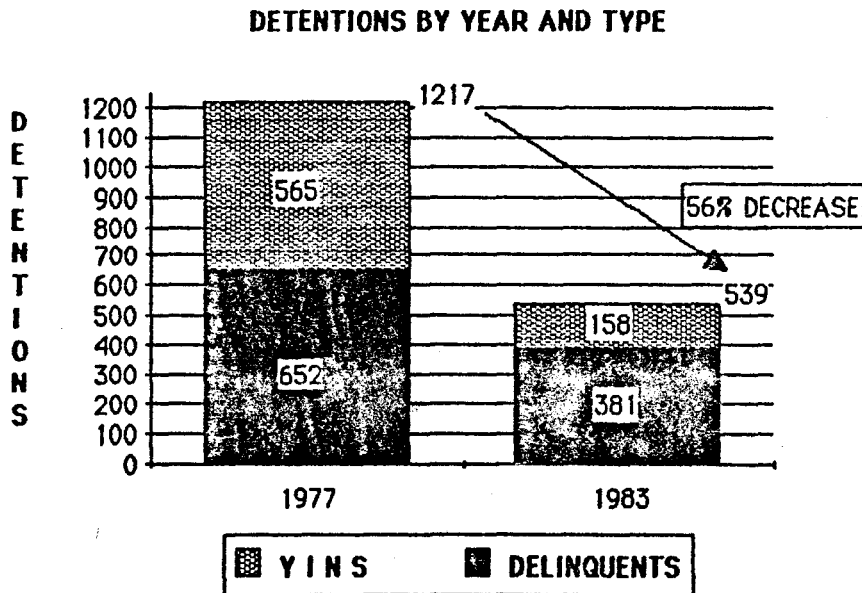
JUVENILE DETENTIONS IN 1977 AND 1983

SENATE JUDICIARY COMMITTEE

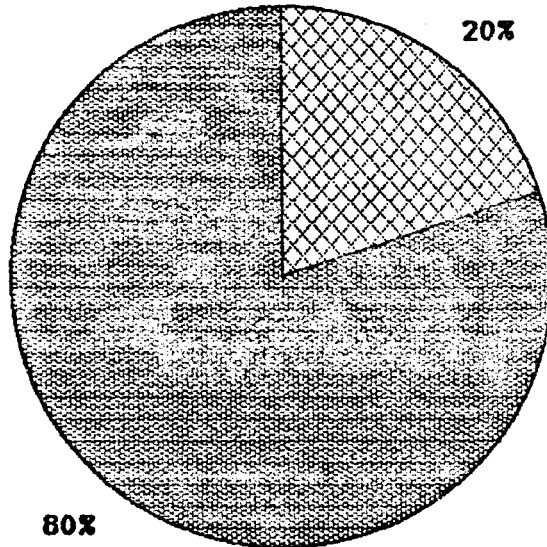
EXHIBIT NO. 1

DATE 02 07 85

BILL NO. S.B. 268



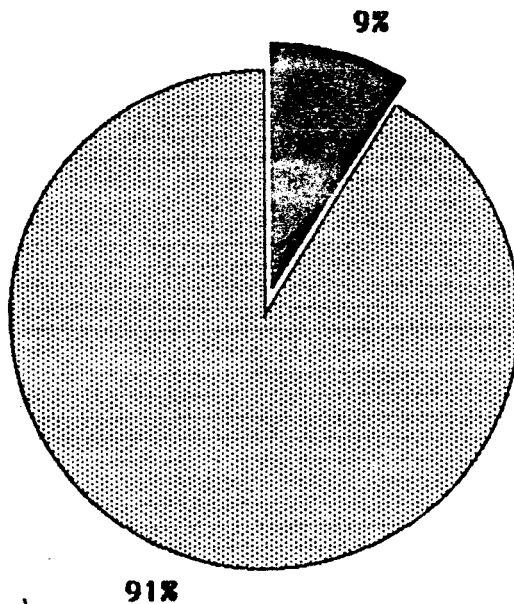
PERCENTAGE OF REFERRALS DETAINED



☐ DETAINED
☐ NOT DETAINED

1977
6,677 REFERRALS

PERCENTAGE OF REFERRALS DETAINED —
1983



☐ DETAINED
☐ NOT DETAINED

6,004 REFERRALS

Montana Association of Churches

MONTANA RELIGIOUS LEGISLATIVE COALITION • P.O. Box 745 • Helena, MT 59624

February 7, 1985

WORKING TOGETHER:

American Baptist Churches
of the Northwest

American Lutheran Church
Rocky Mountain District

Christian Church
(Disciples of Christ)
in Montana

Episcopal Church
Diocese of Montana

Lutheran Church
in America
Pacific Northwest Synod

Roman Catholic Diocese
of Great Falls-Billings

Roman Catholic Diocese
of Helena

United Church
of Christ
MT-N.W.Y. Conference

United Methodist Church
Yellowstone Conference

Presbyterian Church (U.S.A.)
Glacier Presbytery

Presbyterian Church (U.S.A.)
Yellowstone Presbytery

MR. CHAIRMAN AND MEMBERS OF THE SENATE JUDICIARY
COMMITTEE:

I am Cathy Campbell, representing the Montana
Association of Churches and speaking in support of
SB 268.

We support a corrections system with alternatives
that take into account public safety and the offenders'
needs. Some youth will need to be detained in a
secure facility, but those that don't need to be,
should not.

In some cases, alternatives have already been
developed, and just need to be used consistently
according to criteria for detention. In other
cases, alternatives may need to be developed. SB 268
will encourage their development. We therefore support
SB 268.

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 2

DATE 02-07-85

BILL NO. S.B. 268

(This sheet to be used by those testifying on a bill.)

NAME: CURT CHISOLM DATE: 2.7.85

ADDRESS: DEPT OF INSTITUTIONS

PHONE: 444 - 3930

REPRESENTING WHOM? _____

APPEARING ON WHICH PROPOSAL: HB 52 / SB 268
W. AMENDMENTS

DO YOU: SUPPORT? ☒ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 3
DATE 02-07-85
BILL NO. H.B. 52
SB 268

Amendment to Senate Bill 268, Introduced Copy

Page 2, Line 5 after the word "or", add the following:

he has violated or has alleged to have violated his aftercare agreement as defined in 53-30-226 MCA; or

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 4

DATE 02-07-85

BILL NO. S.B. 268

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 5
DATE 02 07 85
BILL NO. H.B. 52

NAME: Ira Feiger DATE: 2/7/85

ADDRESS: Center for Adolescent Development
P.O. Box 345 Helena 59624

PHONE: 406-442-2733 (Helena) 1-800-Call-CAD

REPRESENTING WHOM? _____

APPEARING ON WHICH PROPOSAL: HR 52

DO YOU: SUPPORT? _____ AMEND? ☒ OPPOSE? _____

COMMENTS: I, and many schools, are uncomfortable
with these educational programs being located
solely in the state certified programs.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. #6
DATE 02-07-85
BILL NO. H.B. 52

PROPOSED AMENDMENTS TO HB 52:

1. Title, line 10.

Following: "AMENDING"

Strike: "SECTION"

Insert: "SECTIONS 16-6-314, AND"

2. Page 2, line 5.

Following: "pay"

Strike: "all"

Following: "costs"

Insert: "not to exceed \$50"

3. Page 3, line 9.

Insert: "Section 2. Section 16-6-314, MCA, is amended to read:

16-5-314. Penalty for violating code -- revocation of license
penalty for violation by underage person. (1) Any A person violating
any-of-the-provisions who violates a provision of this code shall,
upon-conviction-thereof,-be-deemed is guilty of a misdemeanor and
punishable by-such-fine-or-imprisonment,-or-both, as provided in
46-18-212, except as is herein otherwise provided.

(2) If any a retail licensee is convicted of any an offense
under this code, his license shall be immediately revoked or, in the
discretion of the department, such other sanction imposed as may be
authorized under 16-4-406.

(3) Further,-if-any A person under 19 years of age is-convicted
of-an-offense-under-this-code-he-shall-be-subject-to-a-\$100-fine-or
30-days-in-confinement who violates 16-6-301() or 16-6-305(3) is
subject to the penalty provided in 45-5-624(2).

16-3-301(3)

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 7

DATE 02-07-85

BILL NO. H.B. 52

NAME: Joyce Coombe, Dr. Sch Haller Seminar DATE: 2/7/85

ADDRESS: 7 Cedar Lake Dr. Butte

PHONE: 494-5870

REPRESENTING WHOM? Community

APPEARING ON WHICH PROPOSAL: HB52

DO YOU: SUPPORT? AMEND? ✓ OPPOSE?

COMMENTS: Excellent bill with amendment to
Section 2 (b) which would allow total
community involvement in the substance
abuse education.

Amend to read:

(b) be ordered to complete and, if financially
able, pay all costs of his participation in a
community based substance abuse information course.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 8

DATE 02 07 85

BILL NO. HR 52

NAME: Marko Lucich DATE: 2-7-85

ADDRESS: 131 Rocky mtn Lane - Butte, Montana

PHONE: 494-5771

REPRESENTING WHOM? Community

APPEARING ON WHICH PROPOSAL: HB 52

DO YOU: SUPPORT? _____ AMEND? ☒ OPPOSE? _____

COMMENTS: Excellent bill, however, a proposed Amendment
to Subsection 2b should be considered to
allow community involvement and input into the
much needed education approach.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 9

DATE 02 07 85

BILL NO. H.B. 52

Rationale For Proposed Amendment To House Bill 52

In order for a community to deal EFFECTIVELY with the problems of underage drinking, it must have a combination approach of public awareness, enforcement and prevention through education. In order for a law to be EFFECTIVE, there are important factors which must be considered; 1. How will the law be enforced? 2. Will it be consistent? 3. How will it be monitored? 4. Are all facets of the community who should be involved, considered in the proposed law?

Enforcement

A consistent policy of enforcement is necessary for EFFECTIVENESS. This must be addressed on a community by community basis.

Consistency

Once the enforcement factor is considered the question of inconsistencies must be addressed. In order for change to occur, a community must be prepared to be consistent. If there are inconsistencies, a change in attitude will be much more difficult.

Monitoring

It is most important to monitor the effectiveness of a new law or program. This must be done on a community by community basis, due to the fluctuation of penalties.

Community Involvement

The community must be involved as a whole to combat the problem at hand. The law enforcement, schools, probation, parents, community based alcohol and drug programs and any other agencies who have the welfare and best interest of the youth at heart. To limit the educational approach to any one individual or program with a course that might not address individual community needs, does not have the welfare and best interest of the youth in mind. House Bill 52 is a bill which is much needed, however, let each community evaluate their needs and develop a program or programs which would meet those needs and be EFFECTIVE. To eliminate community involvement will lead to the elimination of enforcement, consistency and monitoring.

Thank you for your time and consideration of our proposed amendment of House Bill 52.

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 9

DATE 02 07 85

BILL NO. H.B. 52

NAME: Ed Heard DATE: 2/7/85

ADDRESS: 1950 Howard Bldg

PHONE: 727-5005

REPRESENTING WHOM? Betta-Silver Bow

APPEARING ON WHICH PROPOSAL: HB 52

DO YOU: SUPPORT? ✓ AMEND? ✓ OPPOSE?

COMMENTS: Support the bill but would
like to amend so as to
maintain local control of
the Education process
for first time offenders.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 10

DATE 02 07 85

BILL NO H.R. 52

MONTANA PROBATION OFFICERS ASSOCIATION

PROPOSED ADMENDMENTS TO HOUSE BILL 103

1. Page 1, Line 11
Strike: "Sexual Intercourse Without Consent"
2. Page 3, Lines 10 and 11
Strike: "Sexual Intercourse Without Consent as
defined in 41-5-503,"
3. Page 5, Line 4
Strike: "Shall"
Insert: "May"

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 11

DATE 02 07 85

BILL NO. H.B. 103

February 7, 1985

Testimony of the Women's Lobbyist Fund by Gail Kline, before the Senate Judiciary Committee on HB 103

Mr. Chairman and members of the Judiciary Committee:

For the record my name is Gail Kline, representing the Women's Lobbyist Fund (WLF). I am here to support inclusion of the crime of rape as a serious crime in HB 103.

Rape is a crime of violence. Rapists are usually repeat offenders. Convicted rapists may learn to avoid future convictions by murdering their victims.

Youthful rapists are impressionable, and still have the chance to become rehabilitated. Adequate treatment programs, including counseling, education and psychological help, may be able to turn a young rapist into a productive citizen. But in order to be effective, the programs must be completed by the offender. Youths should not be released solely upon reaching the age of 21, whether or not they are rehabilitated. A thorough evaluation should be conducted at that time to determine whether the youth is in need of further treatment --or even institutionalization in an adult prison.

The Women's Lobbyist Fund does not support the notion of sending youth to prison for any crime. However, we believe certain crimes are serious enough to warrant re-evaluation at the age of 21 to determine whether the individual should be released into society, or whether further treatment or institutionalization is necessary. The crime of rape is sufficiently violent to require this type of evaluation.

The Women's Lobbyist Fund urges the committee to support inclusion of rape in HB 103.

Written by Laurie Lanson

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 12

DATE 02-07-85

BILL NO. H.B. 103