

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

February 23, 1985

The thirty-ninth meeting of the Senate Judiciary Committee was called to order at 12:10 p.m. on February 23, 1985, by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present.

ACTION ON SB 392: Senator Shaw moved SB 392 be recommended DO PASS. Senator Towe asked Senator Daniels if he had anything to say about the constitutional problem raised. Senator Daniels responded he sees no constitutional problem with this bill. Senator Towe stated one of the precepts of the constitution is the death penalty is arbitrary. He also had concerns that the word "persistent" is not defined. Mr. Petesch stated we have that classification in the current law. Senator Daniels moved to amend SB 392 as follows:

Page 1, line 19.
Following: "inmate"
Strike: "may"
Insert: "must"

The motion failed (see roll call vote attached as Exhibit 1). Chairman Mazurek then reverted to Senator Shaw's motion that SB 392 be recommended DO PASS. The motion carried with Senators Blaylock, Brown, Mazurek, and Towe voting in opposition.

ACTION ON SB 364: Senator Pinsoneault distributed proposed amendments to the bill (Exhibit 2). He stated the bill as originally drafted only included Schedule I drugs from our criminal code. He felt that was too restrictive and left the bill with practically no meaning at all. Schedules I and II would encompass popular street drugs. Senator Pinsoneault suggested this bill as a preventive piece of legislation to give notice to those that come to Montana, if you deal in drugs and someone dies because of it, you might be put to death. He thinks the preventive aspect of this bill is very important, but hopes it will never be used. Senator Towe asked if Schedules I and II include most drugs except marijuana. Senator Pinsoneault responded those that have an accepted medical use are on Schedules III, IV, and V. Those that create a drug dependency are on Schedule II. Senator Pinsoneault moved the proposed amendments be adopted. The motion carried unanimously. Senator Pinsoneault moved SB 364 be recommended DO PASS AS AMENDED.

Senator Towe stated he accepts the argument the death penalty is not in any way a deterrent to criminal activity. He thinks it is a mistake to have the state take people's lives because it cheapens life, and for these reasons, he cannot support the bill. Senator Blaylock contended that if you could deter criminal conduct by severity of punishment, we could have stopped it a long time ago. If this is what we are saying this bill is going to deter, we are kidding ourselves. We should at least say as a society, we want vengeance and revenge. Senator Crippen stated he doesn't like taking anyone's life, but we have the death penalty on the books for certain offenses. That is the law right or wrong. We are not discussing that at this time because it has been decided in the past. We are finding ourselves in a real serious problem with drugs. He doesn't know if this will help, but he cannot envision where it will hurt. As long as it is discretionary for that person who comes in and sells drugs and makes a livelihood out of it. For that reason, he would say this rightfully belongs in those categories that we have set up for taking someone's life. The motion to recommend SB 364 DO PASS AS AMENDED carried (see roll call vote attached as Exhibit 3).

ACTION ON SB 412: Senator Blaylock stated he thinks this would make sense the judge could make them get treatment, but to put them in jail is useless. Senator Towe moved SB 412 be recommended DO NOT PASS. Senator Daniels stated he is in favor of a mandatory 30-day period. He believes 90% of these cases involve prominent citizens that weasel their way out of going to jail. If they have a short period in the slammer to think about what they have done, they may come to the realization they need help. He believes if they go to treatment thinking they don't need it, the treatment will do them no good. The motion to recommend SB 412 DO NOT pass failed with Senators Crippen, Towe, and Yellowtail voting in favor. Senator Daniels moved SB 412 be amended as follows:

Page 4, line 2.

Following: "46-18-222,"

Insert: "if the victim were less than 16 years old,"

Page 4, lines 4 and 5.

Following: "45-5-504," on line 4

Strike: "or"

Following: "45-5-505"

Strike: remainder of line 4 through "old" on line 5

Insert: ","

The motion carried unanimously. Senator Daniels moved SB 412 be recommended DO PASS AS AMENDED. The motion carried with Senators Blaylock, Mazurek, Towe, and Yellowtail voting in opposition.

ACTION ON SB 417: Proposed amendments were distributed to the committee (Exhibit 4). Senator Daniels moved adoption of the amendments. Mr. Petesch stated the amendments clarify that the penalty is for operating a motor vehicle which contains an open container so the driver would be the person charged. The motion to amend the bill carried unanimously. Senator Daniels moved SB 417 be recommended DO NOT PASS AS AMENDED. Senator Brown spoke in opposition to the motion. He stated most other states have laws similar to this. If we are serious as MADD billboards indicate and the federal government feels with its highway money, he believes this bill should be passed. He thinks if we want to save lives on the highway, this is the proper thing to do. Senator Daniels asked how the bill would be enforced. Senator Crippen stated if you are coming down from a fishing trip and are in a two-door vehicle that is not excluded from this bill, and you have a half-full bottle of booze in your backpack, you are subject to the penalties described in this bill. He stated he was not knocking the bill, but believes there is a problem in this regard. Senator Yellowtail asked if a police officer would have to have some probable cause to go searching through a vehicle. Senator Galt asked what would happen if the person were to have an accident along the way. Senator Towe asked what would happen if you were to stop and pick up a hitchhiker or a friend to give them a ride and they have a bottle in their possession that is open. Senator Mazurek asked about the designated driver where you hold the driver responsible for the other people in the car. Senator Brown stated he doesn't believe you need to be drinking while the car is going down the road. The motion to recommend the bill DO NOT PASS AS AMENDED carried with Senators Brown and Yellowtail voting in opposition.

ACTION ON SB 446: Senator Blaylock moved to amend SB 446 as follows:

Page 1, line 18.
Following: "any"
Insert: "permanent"

The motion carried unanimously. Senator Towe stated the presumption on the bottom of page 1 is the same as the presumption of stolen goods. He would like to change the word "possession" to "fact," because you have to remove the fact and not the possession. That is the way the presumption language is in the possession of stolen goods statute. Senator Towe moved SB 446 be amended as follows:

Page 2, line 24.
Following: line 23
Strike: "having possession"
Following: "such"
Strike: "possession"
Insert: "fact"

The motion carried unanimously. Senator Daniels moved SB 446 be recommended DO NOT PASS AS AMENDED. Senator Crippen asked if this were covered under the theft statutes. He asked why these people couldn't get remedy under the present law. Senator Mazurek stated Mr. Petesch points out we do have a law on possession of stolen property with this same presumption. Senator Towe stated there is a slight difference. The stolen property has to be proven to be stolen; this one presumes it unless you can prove otherwise. Senator Mazurek stated he sympathizes with the problem, but thinks it is covered under our present statutes. Senator Towe stated he speaks for the bill because it gives these people some authority. The motion to recommend the bill DO NOT PASS AS AMENDED failed with Senators Daniels and Mazurek voting in favor. Senator Shaw moved SB 446 be recommended DO PASS AS AMENDED. The motion carried with Senators Daniels and Mazurek voting in opposition.

ACTION ON SB 429: Proposed amendments from the Montana Secretary of State's office were presented to the committee (Exhibit 5). Senator Pinsoneault reminded the committee this bill doesn't relate to drug activity, but it does relate to any racketeering activity that comes under that definition. If you don't want to kill people for engaging in crimes, you must go after their assets. It allows you to go after the Mercedes Benz, the Swiss bank account, and it allows them to tie them up and sell them to be used for the state law enforcement and to compensate the victims. Coming from the little RICO bill and the Illinois law, that is what this is intended to do. Senator Pinsoneault moved SB 429 be recommended DO PASS. Senator Towe stated he had concerns with the language on page 8, lines 2-7. There isn't a bank in the state which didn't prior to 1981 have usurious loans. Every bank did it before we changed the usury law. He also had concerns with section 6, lines 8-12--collection of unlawful debt which has been defined as a usurious one, and page 8, lines 13-16, page 12, line 14. Pat Driscoll stated Section 31-1-111, MCA, exempts banks from usury limits. Senator Towe stated the existing loan is based on statutes that were in effect while that statute was in effect. Mr. Driscoll stated if the committee is concerned about the grandfather effect, it should amend the bill. Senator Mazurek stated we could grandfather it in if you want to do that. Senator Towe stated it is a very broad bill in that it involves anyone that is employed or associated with these people. Joe Roberts stated you have to go after the fruits of the crime to hurt these people. Senator Towe referred to Section 45-5-501, MCA, and stated if you assume that all we are going to get is the drug pushers and the gangland criminals that is fine, but it is much broader than that and it will pick up a lot more than that. Senator Mazurek asked about the treble damages section on the federal level. Mr. Roberts stated the civil litigant is acting in the capacity of a private attorney general, they added it had to be with the approval of the attorney general. Senator Mazurek asked if that same statement is in the federal statute.

Mr. Roberts stated no. Senator Towe moved as a substitute motion that SB 429 be recommended DO NOT PASS. The motion failed (see roll call vote attached as Exhibit 6). Mr. Petesch reminded the committee it needed to consider the Secretary of State's amendments before voting on the bill. Senator Pinsoneault moved the amendments be adopted. The motion carried unanimously. Senator Pinsoneault then moved SB 429 be recommended DO PASS AS AMENDED. Senator Towe asked if the committee wished to address the question of unlawful debts. The motion to recommend the bill DO PASS AS AMENDED carried with Senators Blaylock, Daniels, and Towe voting in opposition.

ACTION ON SB 451: Proposed amendments to SB 451 were distributed to the committee (Exhibit 7). The effect of these amendments is to delete Sections 7, 12, and 14. Senator Galt moved the committee adopt the amendments. The motion carried unanimously. Senator Brown moved SB 451 be recommended DO PASS AS AMENDED. The motion carried unanimously.

ACTION ON SB 449: Proposed amendments to SB 449 were distributed to the committee (Exhibit 8). Senator Towe asked what will happen if the officer picks both parties up and put them both in jail. Another thing that is bothersome to him is he is concerned some wives will learn they can use this as a big club. Senator Blaylock stated he thinks the bill is too broad. Senator Towe stated he likes the idea this bill is trying to get at. Mr. Petesch stated Senator Regan suggested removing the immunity section. He further stated facially this bill is fine, but in reality, all of these arrests are going to be warrantless. The case of Payton v. New York stated warrantless arrests in the home were found to be unconstitutional, so the amendment concerning exigent circumstances was proposed. Senator Blaylock stated there is no doubt that it is a very difficult thing and most of the time it is the woman, but he hates the idea of leaving that on the officer and saying he has to make the decision because there are times when they are both at fault. He thinks what will happen is just what was said: the officer, to protect himself, will arrest both parties. Senator Brown stated it is hard to vote against this bill, but it is not a very good bill. Senator Towe stated the committee could put in the exigent circumstances and cut out the rest of the bill. A complaint along with probable cause to support it from a family member constitutes exigent circumstances for making an arrest. What bothers him more than anything else is it won't take long for the woman to call the police and to get her husband put in jail. Senator Mazurek asked if by statute we can make it presumptive that it is exigent. Mr. Petesch stated if you have a warrant, there is no problem, but if you are making a warrantless arrest in the home, you have to have those exigent circumstances. Senator Towe suggested changing the word "shall" to "may" and putting in the exigent circumstances. Senator Towe moved the amendments attached as Exhibit 8. The

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motion carried unanimously. Senator Towe moved the bill be further amended as follows:

Title, line 6.
Following: "OFFENSE;"
Strike: "REQUIRING"
Insert: "AUTHORIZING"

Page 5, lines 6 through 8.
Following: "officer."
Strike: remainder of line 6 through line 8 in their entirety

The motion carried unanimously. Senator Towe moved the bill be further amended as follows:

Page 2, line 11.
Following: "spouse,"
Strike: "adult person related by blood or marriage,"

Senator Mazurek stated that language referred to is the in-law or grand-parent situation. The motion carried unanimously. Senator Towe moved SB 449 be recommended DO PASS AS AMENDED. The motion carried unanimously.

ACTION ON SB 453: Mr. Petesch stated the House committee on the bill which is much broader changed in the criminal provision the intent from willfully to purposely because willfully is not a defined state of mind in Montana. Senator Towe moved the bill be amended as follows:

Page 4, line 19.
Following: "(a)"
Strike: "willfully"
Insert: "purposely"

Page 4, line 22.
Following: "(b)"
Strike: "willfully"
Insert: "purposely"

Page 5, line 6.
Following: "(c)"
Strike: "willfully"
Insert: "purposely"

Page 5, line 11.
Following: "(d)"
Strike: "willfully"
Insert: "purposely"

The motion carried unanimously. Senator Pinsoneault moved SB 453 be recommended DO PASS AS AMENDED. Senator Towe asked if anyone had any concern about one-party bugging. Senator Mazurek stated no, because this bill is so limited. Senator Towe stated this is not limited that way, although Senator VanValkenburg thought it was, but it isn't. Senator Mazurek stated it was by virtue of page 9. The motion to recommend the bill DO PASS AS AMENDED carried unanimously.

INTRODUCTION TO ACTION ON SB 418, SB 421, AND SB 424: Chairman Mazurek then stated the committee would move on to consideration of the three water bills. He stated HB 265, the stream access bill, is in this committee. It has been suggested we table these bills. If we don't table them, he suggested the committee amend the language of HB 265 into these bills. He is not sure we know all of the issues in this controversy yet. Senator Shaw reminded the committee it has not heard HB 265 yet. Chairman Mazurek stated he agrees, and there is a lot of concern with it. Senator Galt asked what was wrong with passing them out and passing them over there. If HB 265 gets amended and passes, he believes they would die over there. Senator Shaw stated they could amend them over there. Chairman Mazurek stated now you have a fairly delicate compromise. HB 265 is the only vehicle, and everyone realizes we have to do something. If you pass this over, it gets too easy to abandon ship. Senator Crippen stated if you table these, there is no way to compromise at all. Senator Towe suggested the language of these three bills could be put into HB 265. Chairman Mazurek stated if the only vehicle is HB 265, let's take the language out of HB 265 and put it into each of the concepts here. Senator Crippen responded no, at least definitely not regarding easement. Chairman Mazurek stated the reason land is not in there is because you are bringing in a whole new gambit of things. Senator Brown stated maybe what we should do is pass SB 424 because that is the only one that is significant. Chairman Mazurek stated his concern is that there has been a rather hasty hearing on three bills, the subject of which is covered in HB 265. If we throw these across, people will think the compromise has blown apart, and we will have a problem putting it back together. Senator Galt stated he will try to amend HB 265 along these lines. They may kill it and if it does, there would be nothing to work on. Senator Shaw stated he thinks SB 424 is very important; he thinks SB 418 is also good. Senator Galt stated SB 418 is already in the soil conservation law.

ACTION ON SB 418: Senator Shaw moved SB 418 be recommended DO PASS. Senator Towe stated he doesn't think this is as good a definition as that in HB 265. Senator Galt reminded Senator Towe that he voted for this same definition in the Streambank Preservation Act. The motion to recommend SB 418 DO PASS carried with Senators Blaylock, Mazurek, Towe, and Yellowtail voting in opposition.

ACTION ON SB 421: Senator Shaw moved SB 421 be tabled, since the language is in HB 265. Senator Crippen moved to amend SB 421 as follows:

Title, line 5.
Following: "LANDOWNER"
Insert: ", HIS AGENT,"
Following: "OR"
Insert: "HIS"

Title, line 7.
Following: "LANDOWNER'S"
Insert: ", HIS AGENT'S,"
Following: "OR"
Insert: "HIS"

Page 1, line 10.
Following: "landowner"
Insert: ", agent,"

Page 1, line 18.
Following: "landowner"
Insert: ", his agent,"
Following: "or"
Insert: "his"

The motion to amend carried unanimously. Senator Shaw moved as a substitute motion to his original motion to table SB 421, that SB 421 be recommended DO PASS AS AMENDED. The motion carried with Senator Mazurek voting in opposition.

ACTION ON SB 424: Senator Yellowtail moved to amend SB 424 as follows:

Page 1, line 16.
Following: "purposes"
Insert: "or for the purpose of crossing the land to reach
surface waters"

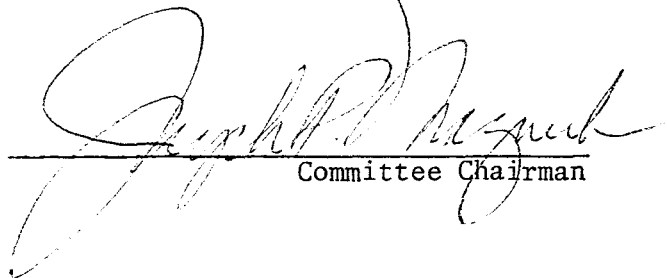
Senator Mazurek stated he would like to caution the committee at this point. This may be a laudable concept; it is not addressed in HB 265, but it opens up a whole new ball game. Senator Yellowtail stated he thinks a person would be ill advised to purchase the property without the easement to begin with. The motion to amend carried unanimously. Senator Shaw moved SB 424 be recommended DO PASS AS AMENDED. He stated he thinks this is a good bill. Senator Yellowtail stated this bill applies to recreational purposes only. Senator Mazurek stated this arises because of the water situation, but it does upset the law of adverse possession. Senator Crippen responded no, it doesn't. The

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motion to recommend SB 424 DO PASS AS AMENDED carried with Senators Blaylock, Daniels, Mazurek, and Towe voting in opposition.

FURTHER CONSIDERATION OF TABLED BILLS: Senator Mazurek reminded the committee that it had tabled SB 97, 98, 125, 150, 179, 63, 128, 153, 299, 69, 383, 439, and 381 during the past several weeks. He asked whether the committee would like to reconsider its action on any of these bills, in particular Senator Goodover's bill, SB 179. The consensus of the committee was that it wished all of these bills to remain on the table.

There being no further business to come before the committee, the meeting was adjourned at 2:00 p.m.


Committee Chairman

(Type in committee name, committee number, and bill number. Have at least 50 printed to start.)

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 022385 Senate Bill No. 392 Time 12:15

NAME	YES	NO
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

Cindy Staley
Secretary

Mazurek (4) (6)
Chairman

Motion: Amend by striking "may"
and inserting "must"

(include enough information on motion—put with yellow copy of committee report.)

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 1
DATE 022385
BILL NO. SB 392

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Senators BILL NO. 364
 INTRODUCED BY Sen. Bob Brown
 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THE DEATH OFFENSE
 PENALTY FOR A PERSON WHO SELLS, ^{or distributes} ~~or distributes~~ TO A PERSON WHO
 DIES FROM ITS INTRODUCTION INTO HIS BODY; AMENDING SECTIONS
 45-9-101 AND 46-18-03, MCA."

tetrahydrocannabinols, who has a prior conviction for
 criminal sale of such a drug shall be imprisoned in the
 state prison for a term of not less than 10 years or more
 than life and may be fined not more than \$50,000, except as
 provided in 46-18-222. Upon a third or subsequent conviction
 for criminal sale of such a drug, he shall be imprisoned in
 the state prison for a term of not less than 20 years or
 more than life and may be fined not more than \$50,000,
 except as provided in 46-18-222. Whenever a conviction under
 this subsection is for criminal sale of such a drug to a
 minor, the sentence shall include the restriction that the
 defendant be ineligible for parole and participation in the
 supervised release program while serving his term.

(4) A person convicted of criminal sale of dangerous
 drugs not otherwise provided for in subsection (2) or (3)
 shall be imprisoned in the state prison for a term of not
 less than 1 year or more than life or be fined an amount of
 not more than \$50,000, or both.

(5) Practitioners and agents under their supervision
 acting in the course of a professional practice, as defined
 by 50-32-101, are exempt from this section."

Section 2. Section 46-18-303, MCA, is amended to read:

"46-18-303. Aggravating circumstances. Aggravating
 circumstances are any of the following:

(1) The offense was deliberate homicide and was

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 2

DATE 022385

BILL NO. SB 364

Section 1. Section 45-9-101, MCA, is amended to read:

"45-9-101. Criminal sale of dangerous drugs. (1) A
 person commits the offense of criminal sale of dangerous
 drugs if he sells, barters, exchanges, gives away, or offers
 to sell, barter, exchange, or give away or manufactures,
 prepares, cultivates, compounds, or processes any dangerous
 drug, as defined in 50-32-101.

(2) A person convicted of criminal sale of an opiate,
 as defined in 50-32-101(18)(19), shall be punished by death,
 as provided in 46-18-301 through 46-18-310, or imprisoned in
 the state prison for a term of not less than 2 years or more
 than life and may be fined not more than \$50,000, except as
 provided in 46-18-222.

(3) A person convicted of criminal sale of a dangerous
 drug included in Schedule I or Schedule II pursuant to
 50-32-222 or 50-32-224, except marijuana or

-2- INTRODUCED BILL

SB 364

Montana Legislative Council

1 committed by a person serving a sentence of imprisonment in
2 the state prison.

3 (2) The offense was deliberate homicide and was
4 committed by a defendant who had been previously convicted
5 of another deliberate homicide.

6 (3) The offense was deliberate homicide and was
7 committed by means of torture.

8 (4) The offense was deliberate homicide and was
9 committed by a person lying in wait or ambush.

10 (5) The offense was deliberate homicide and was
11 committed as a part of a scheme or operation which, if
12 completed, would result in the death of more than one
13 person.

14 (6) The offense was deliberate homicide as defined in
15 subsection (1)(a) of 45-5-102, and the victim was a peace
16 officer killed while performing his duty.

17 (7) The offense was aggravated kidnapping which
18 resulted in the death of the victim.

19 (8) The offense was the criminal sale of ^{drugs} ~~an~~ opiate in
20 violation of 45-9-101 to a person under 21 years of age or
21 whose mental faculties precluded an intelligent decision
22 concerning the introduction of the ^{drug} ~~opiate~~ into any of the
23 body systems, and as a result of the sale and introduction
24 the person died. The causal relationship between the
25 introduction and death must be established by competent

1 medical testimony, and the sentencing judge must be
2 convinced beyond reasonable doubt that the ^{drug} opiate sold by
3 the defendant was the introduced opiate that caused the
4 death of the person."

*North that the death would not have occurred if the
-End-
drug had not been introduced*

Proposed amendments to SB 364, introduced copy.

1. Title, line 5.

Following: "SELLS"

Strike: "AN OPIATE"

Insert: "A DANGEROUS DRUG"

2. Page 2, lines 2, 6, and 16

Following: "shall be"

Insert: "punished by death, as provided in 46-18-301 through 46-18-310, or"

3. Page 2, line 11.

Following: "minor,"

Strike: "the sentence"

Insert: "a sentence of imprisonment"

4. Page 3, line 19.

Following: "sale of"

Strike: "an opiate"

Insert: "a dangerous drug"

5. Page 3, line 22.

Following: "of the"

Strike: "opiate"

Insert: "drug"

6. Page 4, line 2.

Following: "that the"

Strike: "opiate"

Insert: "drug"

7. Page 4, line 3.

Following: "defendant"

Strike: "was the introduced opiate that"

8. Page 4, line 4.

Following: "person"

Insert: "or that the death would not have occurred if the drug had not
been introduced"

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 2

DATE 022385

BILL NO. SB 364

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 022385 Senate Bill No. 364 Time 12:25

NAME	YES	NO
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	XX

Secretary Cindy Staley Chairman Mazurek ⁽⁷⁾ ⁽³⁾

Motion: Bill be recommended
Do Pass As Amended

(include enough information on motion—put with yellow copy of committee report.)

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 3
DATE 022385
BILL NO. SB 364

PROPOSED AMENDMENTS TO SB 417:

1. Page 2, line 9.

Following: "may"

Strike: "keep or have in his possession"

Insert: "operate a motor vehicle upon a public highway while"

2. Page 2, line 10.

Following: "container"

Insert: "is"

Following: "of"

Strike: "a"

Insert: "the"

3. Page 2, line 11.

Following: "vehicle"

Strike: "being operated upon a public highway"

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 4

DATE 022385

BILL NO. SB 417

AMENDMENTS TO S.B. 429
Proposed by the Secretary of State's Office.

1. To create an initial filing.

- a. Section 31, page 32, line 16.
Following: "must"
Strike: "have"
- b. Section 31, page 32, line 17.
Following: "acquisition"
Strike: the comma (",")
Insert: a colon (":") followed by "(a) have"
- c. Section 31, page 32, line 20.
Strike: "(a)"
Insert: "(i)"
- d. Section 31, page 32, line 21.
Strike: "(b)"
Insert: "(ii)"
- e. Section 31, page 32, line 25.
Following: "registered office"
Strike: the period (".")
Insert: a semi-colon (";") followed by "and (b) file with the secretary of state an initial version of the report required by subsection (3)."
- f. Section 31, page 33, line 1.
Following: "agent"
Strike: "must"
Insert: "shall"
- g. Section 31, page 33, line 3.
Following: "designation"
And before: the period (".")
Insert: "and until such acceptance has been filed the corporation is not in compliance with subsection (1)"
- h. Section 31, page 33, line 3.
Following: "may"
Insert: "none the less"
- i. Section 31, page 33, line 4.
Following: "agent"
And before: the period
Insert: "designated, as against the corporation, regardless of whether or not an acceptance has been filed"

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 5
DATE 022385
BILL NO. SB 429

2. Dealing with annual reports.

- a. Section 31, page 33, line 5.
Following: "(3)"
Strike: "An"
Insert: "Each"
- b. Section 31, page 33, line 5.
Following: "corporation"
Strike: "must"
Insert: "shall"
- c. Section 31, page 33, line 6.
Following: "state"
Strike: "on January 1"
Insert: "before April 15"
- d. Section 31, page 33, line 6.
Following: "a"
Strike: "sworn"
- e. Section 31, page 33, line 6.
Following: "on"
Strike: "such"
- f. Section 31, page 33, line 7.
Following: "forms"
Strike: "as"
Insert: "prescribed by"
- g. Section 31, page 33, line 7.
Following: "state"
Strike: "shall prescribe"
Insert: "and verified by the corporation by its president or a vice president and by its secretary or treasurer"
- h. Section 31, page 33, line 9.
Following: "corporation"
And before: the semi-colon
Insert: "and the country under the laws of which it is incorporated"
- i. Section 31, page 33, line 10.
Following: "(b) the"
Strike: "street"
- j. Section 31, page 33, line 10.
Following: "address"
Insert: ", including street and number, if any,"

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 5

DATE 022385

BILL NO. SB 429

- k. Section 31, page 33, line 11.
Following: "corporation"
And before: the semi-colon
Insert: "in the country under the laws of which it is incorporated"
- l. Section 31, page 33, line 12.
Following: "(c) the "
Strike: "name and street address"
Insert: "names and respective addresses, including street and number, if any,"
- m. Section 31, page 33, line 14.
Following: "(d) the"
Strike: "name and street"
- n. Section 31, page 33, line 14.
Following: "of the"
Strike: "registered agent and"
- o. Section 31, page 33, line 15.
Following: "corporation"
And before: the semi-colon
Insert: "in this state and the name of its registered agent in this state at such address, including street and number, if any"
- p. Section 31, page 33, line 16.
Strike: existing subsection (e) in its entirety
Insert: "(e) that the information therein contained is accurate as of the date of execution of the report."

3. Dealing with collecting filing fees.

- a. Section 31, page 33, line 20.
Following: "shall"
Insert: "charge and"
- b. Section 31, page 33, line 20.
Following: "collect"
Strike: "a \$15 filing fee for each report and an additional \$20 fee for a late filing."
Insert: "fees for filing documents as required by [this act]. Such fees shall be established by the secretary of state and adopted by administrative rule. The fees must be reasonably related to the costs of processing the documents."

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 5
DATE ~~88~~ 022385
BILL NO. 5B 429

4. Not relating to anything specifically.

a. Section 31, page 33, line 23.

Strike subsection (5) in its entirety and renumber subsequent subsections.

5. Dealing with impact of this act on alien corporations which qualify to transact business under Title 35.

Section 31, page 34.

Following: line 9.

Insert new subsection as follows:

"(8) An alien corporation is deemed to be in compliance with this section if it has qualified, and continues in good standing, under chapters 1, 2, or 4 of Title 35."

6. Dealing with Definition of Alien Corporation.

Section 5, page 2, line 24.

Following: "States"

And before: the period

Insert, depending on intent:

Option (a): "including corporations which have qualified to transact business in this state under Title 35"

Option (b): "excluding corporations which have qualified to transact business in this state under Title 35"

Option (c): "including corporations which have qualified to transact business in this state under chapter 1 of Title 35 but excluding corporations which have qualified to transact business in this state under chapter 2 and 4 of Title 35."

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 5
DATE 022385
BILL NO. SB 429

7. Dealing with change of registered agent or registered office.

Page 34.

Before line 10.

Insert new section as follows:

"Section 32. Change of registered agent or registered office of alien corporation. (1) An alien corporation may change its registered office or its registered agent, or both, upon filing in the office of the secretary of state a statement setting forth:

- (a) the name of the corporation;
- (b) the address, including street and number, if any, of its then registered office;
- (c) if the address of its registered office be changed, the address, including street and number, if any, to which the registered office is to be changed;
- (d) the name of its then registered agent;
- (e) if its registered agent be changed, the name of its successor registered agent; and
- (f) that the address, including street and number, if any, of its registered office and the address of the business office of its registered agent, as changed, will be identical.

(2) Such statement shall be executed for the corporation by any officer thereof and delivered to the secretary of state. If the secretary of state finds that such statement conforms to the provisions of this chapter, he shall, upon payment of the required fee, file such statement in his office and, upon such filing, the change of address of the registered office or the appointment of a new registered agent, or both, as the case may be, shall become effective.

(3) A registered agent of an alien corporation may resign as registered agent upon executing a written notice of resignation and filing one original and one copy with the secretary of state, who shall immediately mail a copy thereof to the corporation at its principal office. The appointment of the agent shall, however, not terminate until his successor has been appointed and such successor has filed his acceptance."

And renumber subsequent sections.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 5
DATE 022385
BILL NO. SB 429

(Type in committee name, chairman, secretary and chairman. Have at least 50 printed to start.)

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 022385 Senate Bill No. 429 Time 1:12

NAME	YES	NO
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

(4)

(4)

Cindy Staley
Secretary

Chairman

Motion: Do Not Pass

(include enough information on motion—put with yellow copy of committee report.)

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 6

DATE 022385

BILL NO. SB 429

PROPOSED AMENDMENTS TO SB 451:

1. Title, lines 7 through 9.

Following: "WITNESSES,"

Strike: remainder of line 7 through "DATE" on line 9

2. Page 5, lines 14 through 18.

Strike: Section 7 in its entirety

Renumber: subsequent sections

3. Page 6, line 25 through line 4, page 7.

Strike: Section 12 in its entirety

Renumber: subsequent sections

4. Page 7, lines 9 through 11.

Strike: Section 14 in its entirety

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 7
DATE 022385
BILL NO. SB 451

Proposed amendments to SB 449

1. Title, line 7.

Following: "ABUSE;"

Strike: remainder of line 7 through "CIRCUMSTANCES;" on line 8

2. Page 2, lines 21 through 24.

Strike: section 2 in its entirety

Renumber: subsequent sections

3. Page 4, line 9.

Following: "member."

Insert: "A summons of a peace officer to the home or private dwelling by a family or household member constitutes an exigent circumstance for making an arrest pursuant to 46-6-401(2)."

4. Page 5, line 6.

Following: "officer."

Insert: "A summons of a peace officer to a place of residence by a family or household member constitutes an exigent circumstance for making an arrest."

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 8
DATE 022385
BILL NO. SB 449

STANDING COMMITTEE REPORT

Page 1 of 2

February 23 1965

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration SENATE BILL No. 364

first reading copy (white)
color

DEATH PENALTY FOR SELLING OPIATE TO A PERSON WHO DIES FROM USING IT

Respectfully report as follows: That SENATE BILL No. 364

be amended as follows:

1. Title, line 5.

Following: "SELLS"

Strike: "AN OPIATE"

Insert: "A DANGEROUS DRUG"

2. Page 2, lines 2, 6, and 16.

Following: "shall be"

Insert: "punished by death, as provided in 46-18-301 through
46-18-319, or"

3. Page 2, line 11.

Following: "minor,"

Strike: "the sentence"

Insert: "a sentence of imprisonment"

4. Page 3, line 19.

Following: "sale of"

Strike: "an opiate"

Insert: "a dangerous drug"

XXXXXX

XXXXXXXXXX

CONTINUED

Senator Joe Mazurek

Chairman.

Page 2 of 2

SENATE BILL NO. 364

5. Page 3, line 22.

Following: "of the"

Strike: "opiate"

Insert: "drug"

6. Page 4, line 2.

Following: "that the"

Strike: "opiate"

Insert: "drug"

7. Page 4, line 5.

Following: "defendant"

Strike: "was the introduced opiate that"

8. Page 4, line 4.

Following: "person"

Insert: "or that the death would not have occurred if the drug had
not been introduced"

AND AS AMENDED

DO PASS


Senator Joe Mazurek, Chairman

STANDING COMMITTEE REPORT

February 23

1945

MR. PRESIDENT

JUDICIARY

We, your committee on

SENATE BILL

having had under consideration

No. 392

first

reading copy (white)
color

AUTHORIZING DEATH PENALTY FOR CERTAIN CRIMES COMMITTED BY INMATES AT MSP

Respectfully report as follows: That

SENATE BILL

No. 392

DO PASS

~~DO NOT PASS~~

Senator Joe Mazurek

Chairman.

STANDING COMMITTEE REPORT

February 23 1985

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration SENATE BILL No. 412

first reading copy (white)
color

MANDATORY 30 DAYS IN JAIL FOR CERTAIN CHILD ABUSE OFFENSES

Respectfully report as follows: That SENATE BILL No. 412

be amended as follows:

1. Page 4, line 2.

Following: "46-18-222,"

Insert: "if the victim were less than 16 years old,"

2. Page 4, lines 4 and 5.

Following: "45-5-504," on line 4

Strike: "or"

Following: "45-5-505"

Strike: remainder of line 4 through "old" on line 5

Insert: ", "

AND AS AMENDED

DO PASS

~~XXXXXXXXXX~~

Senator Joe Maurer

Chairman.

STANDING COMMITTEE REPORT

February 23 1945

MR. PRESIDENT

We, your committee on **JUDICIARY**

having had under consideration **SENATE BILL** No. **417**

first reading copy (**white**)
color

POSSESSION OF ALCOHOLIC BEVERAGE IN A MOTOR VEHICLE AS AN OFFENSE

Respectfully report as follows: That **SENATE BILL** No. **417**

be amended as follows:

1. Page 2, line 9.

Following: "may"

Strike: "keep or have in his possession"

Insert: "operate a motor vehicle upon a public highway while"

2. Page 2, line 10.

Following: "container"

Insert: "is"

Following: "of"

Strike: "a"

Insert: "the"

3. Page 2, line 11.

Following: "vehicle"

Strike: "being operated upon a public highway"

AND AS AMENDED

~~XXXXXX~~
DO NOT PASS

DO NOT PASS

Senator Joe Mazurek

Chairman.

STANDING COMMITTEE REPORT

February 23 1985

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration SENATE BILL No. 413

first reading copy (white)
color

DEFINING HIGH WATER MARK

Respectfully report as follows: That SENATE BILL No. 418

DO PASS

~~DO NOT PASS~~

Senator Joe Mazurek

Chairman.

STANDING COMMITTEE REPORT

February 23, 1955

MR. PRESIDENT

JUDICIARY

We, your committee on

SENATE BILL

having had under consideration

No. 421

first

reading copy (white)
color

RESTRICTING LANDOWNER LIABILITY TOWARDS RECREATIONAL USERS OF LAND

SENATE BILL

Respectfully report as follows: That

No. 421

be amended as follows:

1. Title, line 5.

Following: "LANDOWNER"

Insert: ", HIS AGENT,"

Following: "OR"

Insert: "HIS"

2. Title, line 7.

Following: "LANDOWNER'S"

Insert: ", HIS AGENT'S,"

Following: "OR"

Insert: "HIS"

3. Page 1, line 10.

Following: "landowner"

Insert: ", agent,"

4. Page 1, line 12.

Following: "landowner"

Insert: ", his agent,"

Following: "or"

Insert: "his"

AND AS AMENDED

DO PASS

~~DO NOT PASS~~

Senator Joe Mazurek

Chairman.

STANDING COMMITTEE REPORT

February 23

19. 85

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration SENATE BILL

No. 424

first reading copy (white)
color

PRESCRIPTIVE EASEMENT NOT ACQUIRED BY RECREATIONAL USE OF LAND OR WATER

Respectfully report as follows: That SENATE BILL

No. 424

be amended as follows:

1. Page 1, line 16.

Following: "purposes"

Insert: "or for the purpose of crossing the land to reach surface
waters"

AND AS AMENDED

DO PASS

ADOPTED

Senator Joe Mazurek

Chairman.

STANDING COMMITTEE REPORT

February 23

19 65

MR. PRESIDENT

Page 1 of 5

JUDICIARY

We, your committee on.....

SENATE BILL

having had under consideration.....

No. 429

first

reading copy (white)
color

ADOPT A LAW TO CURTAIL ORGANIZED CRIME

SENATE BILL

Respectfully report as follows: That.....

No. 429

be amended as follows:

1. Page 2, line 24.

Following: "States"

Insert: ", including corporations which have
qualified to transact business in this
state under Title 35"

2. Page 32, line 16.

Following: "must"

Strike: "have"

3. Page 32, line 17.

Following: "acquisition"

Strike: ", "

Insert: "; (a) have"

XXXXXX

XXXXXXXXXX

CONTINUED

Senator Kormit Daniels, Vice

Chairman.

4. Page 32, line 20.

Strike: "(a)"

Insert: "(1)"

5. Page 32, line 21.

Strike: "(b)"

Insert: "(ii)"

6. Page 32, line 25.

Following: "registered office"

Strike: "."

Insert: "; and"

7. Page 33, line 1.

Following: line 25 on page 32

Insert: "(b) file with the secretary of state an initial version of the report required by subsection (3)."

8. Page 33, line 3.

Following: "designation"

Insert: "and until such acceptance has been filed the corporation is not in compliance with subsection (1)"

Following: "may"

Insert: "nonetheless"

9. Page 33, line 4.

Following: "agent"

Insert: "designated, as against the corporation, regardless of whether or not an acceptance has been filed"

10. Page 33, line 5.

Following: "(3)"

Strike: "An"

Insert: "Each"

CONTINUED

Senator Kernit Daniels, Vice Chairman

Page 3 of 5

11. Page 33, line 6.

Following: "state"

Strike: "on January 1"

Insert: "before April 15"

Following: "a"

Strike: "sworn"

Following: "report"

Insert: "verified for the corporation by its president
or a vice president and by its secretary or
treasurer"

Following: "on"

Strike: "such"

12. Page 33, line 7.

Following: "forms"

Strike: "as"

Insert: "prescribed by"

Following: "state"

Strike: "shall prescribe"

13. Page 33, line 9.

Following: "corporation"

Insert: "and the country under the laws of which it is
incorporated "

14. Page 33, line 10.

Following: "(b) the"

Strike: "street"

Following: "address"

Insert: ", including street and number, if any,"

15. Page 33, line 11.

Following: "corporation"

Insert: "in the country under the laws of which it is
incorporated"

16. Page 33, line 12.

Following: "(c) the"

Strike: "name and street address"

Insert: "names and respective addresses, including
street and number, if any,"

CONTINUED

Senator Kermit Daniels, Vice Chairman

Page 4 of 5

17. Page 33, lines 14 and 15.

Following: "(d) the" on line 14

Strike: "name and street"

Following: "of the"

Strike: remainder of line 14 through "agent and" on line 15

18. Page 33, line 15.

Following: "corporation"

Insert: "in this state and the name of its registered agent in this state at such address, including street and number, if any"

19. Page 19. Page 33, lines 16 through 19.

Following: "(e)" on line 16

Strike: remainder of line 16 through "filing" on line 19

Insert: "that the information therein contained is accurate as of the date of execution"

20. Page 33, line 20.

Following: "shall"

Insert: "charge and"

Following: "collect"

Strike: remainder of line 20 through line 22

Insert: "fees for filing documents as required by [sections 31 and 32]. Such fees shall be established by the secretary of state and adopted by administrative rule. The fees must be reasonably related to the costs of processing the documents."

21. Page 33, lines 23 through 25.

Strike: subsection (5) in its entirety

Renumber: subsequent subsections

22. Page 34, line 10.

Following: line 9

Insert: "(7) An alien corporation is deemed to be in compliance with this section if it has qualified, and continues in good standing, under chapters 1, 2, or 4 of Title 35."

CONTINUED

Senator Kermit Daniels, Vice Chairman

NEW SECTION.

"Section 32. Change of registered agent or registered office of alien corporation. (1) An alien corporation may change its registered office or its registered agent, or both, upon filing in the office of the secretary of state a statement setting forth:

- (a) the name of the corporation;
- (b) the address, including street and number, if any, of its then registered office;
- (c) if the address of its registered office be changed, the address, including street and number, if any, to which the registered office is to be changed;
- (d) the name of its then registered agent;
- (e) if its registered agent be changed, the name of its successor registered agent; and
- (f) that the address, including street and number, if any, of its registered office and the address of the business office of its registered agent, as changed, will be identical.

(2) Such statement shall be executed for the corporation by any officer thereof and delivered to the secretary of state. If the secretary of state finds that such statement conforms to the provisions of this chapter, he shall, upon payment of the required fee, file such statement in his office and, upon such filing, the change of address of the registered office or the appointment of a new registered agent, or both, as the case may be, shall become effective.

(3) A registered agent of an alien corporation may resign as registered agent upon executing a written notice of resignation and filing one original and one copy with the secretary of state, who shall immediately mail a copy thereof to the corporation at its principal office. The appointment of the agent shall, however, not terminate until his successor has been appointed and such successor has filed his acceptance."

Renumber: subsequent sections

AND AS AMENDED

DO PASS

STANDING COMMITTEE REPORT

February 23

19 85

MR. PRESIDENT

We, your committee on **JUDICIARY**

having had under consideration **SENATE BILL** No. **446**

first reading copy (**white**)
color

PROVIDES FOR THE OFFENSE OF UNLAWFUL APPROPRIATION OF RETAILER PROPERTY

Respectfully report as follows: That **SENATE BILL** No. **446**

be amended as follows:

1. Page 1, line 13.

Following: "any"

Insert: "permanent"

2. Page 2, line 24.

Following: line 23

Strike: "having possession"

Following: "such"

Strike: "possession"

Insert: "fact"

AND AS AMENDED

DO PASS

EXAMINED

Senator Joe Mazurek

Chairman.

STANDING COMMITTEE REPORT

Page 1 of 2

February 23 19 85

MR. PRESIDENT

JUDICIARY

We, your committee on.....

SENATE BILL

having had under consideration.....

No. 449

first reading copy (white)
color

CREATES CRIME OF DOMESTIC ABUSE; REQUIRES ARREST FOR ITS VIOLATION

Respectfully report as follows: That.....

SENATE BILL

No. 449

be amended as follows:

1. Title, line 6.

Following: "OFFENSE;"

Strike: "REQUIRING"

Insert: "AUTHORIZING"

2. Title, lines 7 and 8.

Following: "ABUSE;" on line 7

Strike: remainder of line 7 through "CIRCUMSTANCES;" on line 8

3. Page 2, line 11.

Following: "spouse,"

Strike: "adult person related by blood or marriage,"

4. Page 2, lines 21 through 24.

Strike: section 2 in its entirety

Re-number: subsequent sections

~~DO NOT PASS~~

~~DO NOT PASS~~

CONTINUED

Senator Joe Mazurek

Chairman.

Page 2 of 2

SENATE BILL NO. 449

5. Page 4, line 9.

Following: "member."

Insert: "A summons of a peace officer to the home or private dwelling by a family or household member constitutes an exigent circumstance for making an arrest pursuant to 46-6-401(2)."

6. Page 5, line 1.

Following: "officer"

Strike: "shall"

Insert: "may"

7. Page 5, lines 6 through 8.

Following: "officer."

Strike: remainder of line 6 through line 8 in their entirety

Insert: "A summons of a peace officer to a place of residence by a family or household member constitutes an exigent circumstance for making an arrest."

AND AS AMENDED

DO PASS

Senator Joe Mazurek, Chairman

STANDING COMMITTEE REPORT

February 23

1985

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration SENATE BILL No. 451

first reading copy (white)
color

PROVIDES FOR THE FAIR AND PROPER TREATMENT OF CRIME VICTIMS AND WITNESSES

Respectfully report as follows: That SENATE BILL No. 451

be amended as follows:

1. Title, lines 7 through 9.
Following: "WITNESSES,"
Strike: remainder of line 7 through "DATE" on line 9
2. Page 5, lines 14 through 18.
Strike: Section 7 in its entirety
Re-number: subsequent sections
3. Page 6, line 25 through line 4, page 7.
Strike: Section 12 in its entirety
Re-number: subsequent sections
4. Page 7, line 6.
Following: "through"
Strike: "12"
Insert: "10"
5. Page 7, lines 9 through 11.
Strike: Section 14 in its entirety

AND AS AMENDED

DO PASS

DO NOT PASS

Senator Joe Mazurek

Chairman.

STANDING COMMITTEE REPORT

February 25

1985

MR. PRESIDENT

JUDICIARY

We, your committee on

SENATE BILL

having had under consideration

No. 453

first reading copy (white)
color

REGULATE WIRETAPS

Respectfully report as follows: That

SENATE BILL

No. 453

be amended as follows:

1. Page 4, line 19.

Following: "(a)"

Strike: "willfully"

Insert: "purposely"

2. Page 4, line 22.

Following: "(b)"

Strike: "willfully"

Insert: "purposely"

3. Page 5, line 6.

Following: "(c)"

Strike: "willfully"

Insert: "purposely"

4. Page 5, line 11.

Following: "(d)"

Strike: "willfully"

Insert: "purposely"

AND AS AMENDED

DO PASS

100-107466

Senator Joe Mazurek

Chairman.