

MONTANA STATE SENATE  
JUDICIARY COMMITTEE  
MINUTES OF THE MEETING

March 28, 1985

The sixty-second meeting of the Senate Judiciary Committee was called to order at 10:00 a.m. on March 28, 1985, by Chairman Joe Mazurek, in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present.

ACTION ON HB 837: Senator Daniels moved HB 837 be amended as follows:

Page 1, line 22.  
Following: "duty"  
Strike: "or power of his office"  
Insert: "in a reasonable and proper manner"

Senator Blaylock pointed out this bill arose out of a police dog's being killed in one community. He asked if the man who hurt the dog were caught and punished. Senator Mazurek replied yes. He also pointed out the only statute available to prosecute the man under was for a misdemeanor. The motion to amend carried unanimously. Senator Brown moved the word "seriously" be added before the word "disables" on page 1, line 19. Senator Yellowtail asked if the word "disabled" indicated the dog would be rendered useless. Senator Mazurek explained he may have a disability, but it may only be one percent of his body. He stated if you just disable the animal, you still have a criminal penalty. Senator Towe moved as a substitute motion the bill be amended as follows:

Page 1, line 19.  
Following: "knowingly"  
Strike: "disables,"  
Following: "shoots"  
Strike: ",,"

The motion carried unanimously. Senator Pinsoneault stated he would like to leave this a felony matter, but moved the bill be amended as follows:

Page 2, line 1.  
Following: "5"  
Strike: "3 years"  
Insert: "1 year"

The motion carried with Senators Blaylock and Galt voting in opposition. Senator Pinsoneault moved HB 837 be recommended BE CONCURRED IN AS AMENDED. The motion carried with Senator Blaylock voting in opposition.

ACTION ON HB 911: Amendments proposed by Lorents Grosfield of Big Timber were submitted to the committee (Exhibit 1). Senator Blaylock asked Senator Galt if the amendments sounded reasonable to him. Senator Galt responded no, but his bill was killed in the House. Senator Towe stated he had one problem. He didn't think a metal fence post was adequate warning, as frequently fence posts are orange anyway. Senator Mazurek commented he felt this was one place where the burden should be on the recreationists. Senator Daniels questioned what would happen if the fisherman were to come along with black spray paint in his kit and paint the orange fence post black. He also felt there was ambiguity in the words "the entire exterior side." Senator Shaw stated there are a lot of orange fence posts. He felt it might be easier to lock up the land, and after HB 265, that is what we have done anyway, so he thinks it is okay. Senator Towe moved the committee strike the last two lines of proposed amendment No. 2 and adopt the remainder of the amendments proposed on Exhibit 1. Chairman Mazurek stated he would divide the motion and act first on the deletion of the last two lines of amendment No. 2, which would be the reference to metal fence posts. The motion failed (see roll call vote attached as Exhibit 2). Chairman Mazurek stated the committee would then revert to the remainder of the motion which was to adopt the proposed amendments. Senator Towe felt the farmers will think they have an orange fence post that complies because it is orange and the sportsmen will say it does not comply because it is not fluorescent. Senator Mazurek felt the rancher who wanted to post his property would go the extra step to make sure he does it properly. Mr. Petesch pointed out these are at each outer gate. There are not too many metal fence posts used as gate posts. Senator Towe stated he is worried about on the streams. Senator Yellowtail asked if Senator Towe would be willing to amend his motion to indicate amendment No. 1 would say 50 square inches instead of 100. He pointed out fluorescent orange is very visible. Senator Towe so amended his motion. Senator Mazurek pointed out amendment No. 5 requires the Fish and Game to use media other than its own to inform the public about this bill. He stated the Fish and Game did not object to this. The motion to accept the amendments, including the reference to 50 square inches, carried unanimously. Senator Towe suggested striking the word "side" on amendment No. 2. Senator Brown questioned why the word "entire" was used. He suggested just using the word "exterior." Senator Brown moved that amendment No. 2 be changed to state "the entire post must be painted." The motion carried unanimously. Senator Towe moved HB 911 be recommended BE CONCURRED IN AS AMENDED. The motion carried with Senator Shaw voting in opposition.

ACTION ON HB 700: Senator Pinsonneault submitted proposed amendments to HB 700. He stated we are not talking about a constitutional thing. Plea bargaining just grew and grew. The amendments take the judge out of the plea bargaining process. It is between the prosecutor and the defendant and his counsel. The defendant makes one plea only. The defense counsel advises that after the plea has been entered, the judge will ask about a plea bargaining agreement, and he may or may not go along with it. In order to apply some due process, we have provided some agreements. He does not believe the judges will like this. Section 46-12-202, MCA, is the arraignment stage of the proceeding. If he enters into a plea bargaining agreement, he alerts him to the fact if you are thinking about a plea bargaining agreement, you should take a look at what will happen. Whatever you do in entering your plea, it may have an impact on what automatically happens to your sentence. He advises him again concerning what he already told him at the arraignment. You are not allowing him to withdraw his guilty plea. Either you are guilty or you are not. Senator Pinsonneault doesn't think our system was ever designed to function like this. He believes you should get the judge out of this bargaining process. Senator Shaw moved adoption of the amendments. Senator Towe asked what was contained in Title 46, chapter 18. Senator Pinsonneault responded all of the sentencing statutes. Mr. Petesch stated that contained the sentencing alternatives. Senator Pinsonneault went on to explain it contained the sentencing alternatives and what the judge can impose. Senator Towe asked if it were the specific sentences for specific crimes. Senator Pinsonneault answered it is the various sentencing alternatives. Senator Yellowtail asked what Rule 11 was. Mr. Petesch explained that is one of the federal rules of criminal procedure that have been adopted which requires where a plea bargain is not accepted by a judge, the defendant must be allowed to withdraw his plea. Currently, the Montana Supreme Court has adopted the federal rule and the American Bar Association standards that say if the judge does not accept the plea bargain, the defendant must be allowed to withdraw his guilty plea. Senator Towe stated he doesn't have any problem with participating in the making of an agreement, but would like to see some system devised where we might be able to provide somewhere the judge can indicate whether he is inclined to accept it after it is worked out and solve this problem. Senator Pinsonneault stated as defense counsel, you have precious little sometimes to work with, and the plea bargain gives you leverage. Sometimes that is all you've got. You are saying I am guilty, but I am not if you don't accept my plea. Senator Mazurek pointed out all this says is it is not mandatory. Senator Crippen stated he has had some concerns about this procedure in the past with regard to the rights of the defendant, but he feels Senator Pinsonneault has convinced him what we are trying to do is we are being fair to the defendant. They know it up front. They enter into this thing. The people who really get hurt are the people outside--the

citizens. He thinks we need to get tougher on this. He doesn't believe we will have frivolous plea bargaining agreements. Senator Blaylock stated Senator Towe has been fighting to get more judges to handle the case load, but if we put this in, then the fellow who had agreed to this shouldn't be tried at all because he is mentally incompetent. If we are going to jam these cases into our court system, we will have to be prepared to fund more judges. Senator Daniels added, and more prisons. Senator Pinsonneault stated he has never taken a plea bargain agreement in front of Judge Green that he didn't accept. As a defense counsel, you present your case to the judge in light of all circumstances--you should not be able to dicker with the judge. You run the risk. There are many cases you won't ever take in front of a jury. Senator Towe stated admittedly he hasn't been in the criminal process for a number of years, but he pointed out he remembered one federal case he had fairly recently, and the rule in federal court is you don't bargain with the judge period. The district attorney went to the judge when he wasn't present and told the judge about the situation. The judge said he would go along with the plea bargain unless there were something in the presentencing investigation. He does not think that is undignified on the part of the judge. Senator Towe then presented some proposed amendments to the committee (Exhibit 4). Senator Pinsonneault stated from the arguments, the committee is talking about two different policies, and he thinks there is an in between. Senator Yellowtail submitted the judicial system has spoken. We have rules which permit plea bargaining. Secondly, if we are going to kill plea bargaining, he believes we should write a bill that says in the title we are going to kill plea bargaining and then we should do it. Senator Towe stated he thinks he would agree if you have to pass the bill, it is better with Senator Pinsonneault's amendments, but he thinks there is a middle ground. Senator Towe moved as a substitute motion that the amendments presented on Exhibit 4 be adopted. Senator Mazurek stated you have a presentence investigation which will give the judge lots of evidence that would never be admissible at trial. If you do this and the judge says based on this record, I won't accept it, then the judge is placed in a position where he must disqualify himself. Senator Towe stated he will likely know about that anyway. The question will be raised whether the prior conviction can be used for evidentiary purposes. The one question you may raise is the probation officer will ask the individual about this particular crime. The defense counsel can simply tell the individual you are taking a risk if you explain to the probation officer about that particular crime. The motion to adopt the amendments on Exhibit 4 failed (see roll call vote attached as Exhibit 5). The committee then reverted to the motion to adopt the amendments on Exhibit 3. The motion carried unanimously (see roll call vote attached as Exhibit 6). Senator Pinsonneault moved HB 700 be recommended BE CON-CURRED IN AS AMENDED. He stated if the purpose of our system is to

rehabilitate, a plea of guilty is the first step toward acknowledgment on the part of the defendant. That is very important. The motion carried (see roll call vote attached as Exhibit 7).

TABLING OF HB 329: Chairman Mazurek explained that HB 329 still remained in committee. A previous motion to table the bill failed on a tie vote. Senator Shaw moved HB 329 be tabled. The motion to table HB 329 carried (see roll call vote attached as Exhibit 8).

ACTION ON HB 520: Senator Towe moved HB 520 be recommended BE CONCURRED IN. The motion carried with Senators Mazurek and Yellowtail voting in opposition.

ACTION ON HB 643: Senator Shaw moved HB 643 be recommended BE CONCURRED IN. Senator Mazurek stated if we ever have a sales tax, you won't be able to apply it to guns. Senator Towe suggested a compromise. The issue is public buildings. The issue of the propriety of the bill is a very legitimate one. He thinks there is also a very serious problem about the public buildings, because that says the city or the county cannot protect itself. Senator Towe moved HB 643 be amended as follows:

1. Page 1, lines 24 and 25.  
Following: "assembly"  
Insert: ", publicly-owned building, park under its jurisdiction,"  
Following: "school"  
Strike: remainder of line 24 through "alarm" on line 25
2. Page 2, line 2.  
Following: "minors."  
Insert: "Nothing contained herein shall allow any government to prohibit the legitimate display of firearms at shows or other public occasions by collectors and others nor shall anything contained herein prohibit the legitimate transportation of firearms through any jurisdiction, whether in airports or otherwise."

Senator Shaw stated as he understands it, there has been an effort other places to ban all firearms. This bill is saying towns cannot ban firearms period. That is what he wants. He doesn't want the city fathers deciding they have to ban firearms to cut down on criminal activity. Senator Blaylock questioned whether they realized what they were doing. We are talking about local control, but we are saying cities and towns don't have the right to regulate themselves. The motion to adopt Senator Towe's amendments carried with Senator Crippen voting in opposition. Senator Shaw moved HB 643 be recommended BE CONCURRED IN AS AMENDED. He agreed with Senator Blaylock but knows there is a movement

on to disarm our country. He doesn't want to see that here. Senator Pinsonneault commented he didn't like the bill, but believed it was better with the amendments. He thinks you are taking away from the local population the right to handle this problem as they determine appropriate. Senator Blaylock stated when we talk about what we are going to do with guns, it is one of the most sensitive issues in Montana. We have to use some common sense. Our problem in this country and this state is with handguns. What happens is you have the pistols in these homes with people trying to protect their property. That is what's happening in Montana. We have killed more people with handguns in this country than we have lost in the wars. Senator Crippen stated he could certainly appreciate Senator Blaylock's argument but felt the committee should look at the language which says "may prohibit." The power to tax is the power to destroy. He believes licensing guns is the same thing, and allowing a city council to do this is violating our rights. Senator Blaylock asked if there has been one community that has done this. Senator Brown responded no, and there won't be. The motion to recommend the bill BE CONCURRED IN AS AMENDED carried (see roll call vote attached as Exhibit 9).

ACTION ON HB 793: Mr. Petesch commented he compared this bill with Senator Regan's SB 449. He had just been informed the House put in mandatory arrest within four hours of the abuse's happening so it is back to a mandatory arrest bill at this point. There are some differences between the two bills. SB 499 uses the term "domestic abuse" and uses two of the tests of assault. This bill uses the term "domestic violence" and uses all of the assault tests. There is also a difference between who can be arrested in the bill, as a child is not in SB 449. Senator Towe stated he likes this bill a little better with one modification, and that is the intimate relationship. Senator Towe suggested lines 16 and 17 on page 2 be stricken and the comparable language from SB 449 be inserted. He commented lines 19-25, page 2, might be a better way to handle this problem. That says a police officer had better think twice before he leaves the scene where there has just been an arrest. Senator Mazurek suggested deleting subsection (e) and making the amendment to subsection (c). Senator Towe commented household member covers that even without saying that. Senator Towe moved the bill be amended as follows:

1. Page 2, line 13.

Following: "member"

Insert: "including an adult person of the opposite sex residing with the defendant or who formerly resided with the defendant"

Following: ";

Insert: "or"

2. Page 2, lines 15 through 17.

Following: "common" on line 15

Strike: remainder of line 15 through "relationship" on line 17

Mr. Petesch pointed out a child is not included in SB 449. The motion to amend carried unanimously. Senator Mazurek pointed out Mr. Petesch mentioned intimidation. Section 201 is assault, 202 is aggravated assault, and 203 is intimidation. Senator Towe stated all the bill says is the officer has to file a written report. Senator Mazurek stated section 1 defines when he can make an arrest and defines domestic violence. Mr. Petesch explained for warrantless arrests in the home, the committee inserted language that a call to a police officer constituted exigent circumstances for making the arrest. Senator Towe moved the bill be amended as follows:

Page 2, line 5.

Following: "arrest."

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."

The motion carried unanimously. Senator Towe moved HB 793 be recommended BE CONCURRED IN AS AMENDED. The motion carried unanimously.

ACTION ON HB 778: Senator Brown moved HB 778 be taken from the table. He explained the timber industry in his part of the state is paying through the nose for trial attorneys in situations like this. The system seemed to work well before the White case. People got by, and fees were less. Senator Towe commented that assumes the employees were made whole by that situation. It worked well because the people who were injured didn't get as much compensation. Senator Mazurek responded we negotiate fees with the claimant's attorney in virtually every case he handles. We are not changing the net recovery. The attorney gets his money over and above what the claimant recovers. Senator Towe inquired how you address the problem of the claimant who comes to an attorney and signs a contingency fee agreement. That agreement is submitted to the Workers' Compensation Division and approved. That is a valid, binding obligation on all parties. The claimant then gets a recovery. The attorney wants his percentage. The insurance company says he is not entitled to that much. He questioned who got stuck for the other money. Senator Mazurek replied no one. The attorney will take the money which he has agreed is his reasonable hourly rate, if this is a case where there is a serious question of liability. The motion to remove the bill from the table carried with Senators Towe and Yellowtail voting in opposition. Senator Towe then commented you are saying the attorneys, out of the goodness of their hearts, won't take

that money. Senator Mazurek responded you are applying the law as it exists now to what it would be under this bill. He doesn't think lawyers will use a contingency fee agreement in compensation cases like they have in the past. Senator Towe then questioned what might happen if you lose the case. Senator Shaw moved HB 778 be recommended BE CONCURRED IN AS AMENDED. The motion carried (see roll call vote attached as Exhibit 10).

FURTHER CONSIDERATION OF HB 353: Senator Brown moved HB 353 be removed from the table. Senator Mazurek pointed out it was tabled because if a person went in to commit a crime, you might as well not have burglary, because burglary is going into the house of another for committing an offense. Aggravated burglary is you intended to commit a felony. You eliminate one. Senator Blaylock asked why would we need to have aggravated burglary if you have burglary. Senator Mazurek responded we have burglary. This says if you went in to commit an offense, you have burglary. Sections 1 and 2 read essentially identically. Senator Brown pointed out subsections (a) and (b) qualify that he has to be armed. Mr. Petesch pointed out a weapon, as you remember from previous bills, can be anything. The motion to remove the bill from the table failed on a tie vote (see roll call vote attached as Exhibit 11).

FURTHER CONSIDERATION OF HBs 438-447: Mr. Petesch explained the federal law requires the state to have a support withholding procedure up to a maximum allowance. It requires that withholding has to be given priority. They require a determination of paternity at any time. They add tax refund deductions and liens against real or personal property. They require those, but they need not be used or applied when the state determines they would not be necessary to carry out the federal act. Senator Towe asked if the state makes a policy decision and they are not necessary to carry out the federal act, would they be necessary here? Mr. Petesch responded it says you need procedures, but they need not be used or applied in cases where the state determines so. It appears to be an administrative decision. Senator Towe suggested adding language to that effect at the end of these bills, which language would be referred to as the caveat insertion to be prepared by Mr. Petesch.

ACTION ON HB 438: Senator Daniels raised a question about a joint return and what would be done in a remarriage situation where the husband owes child support. The department said the existing practice was to amend the return to determine if the wife were entitled to half of the refund. Senator Brown moved HB 438 be recommended BE CONCURRED IN. Senator Mazurek asked why the parties couldn't make a reasonable effort to agree. You can't require them to file separately, because that will have an impact on the amount of the refund. Chairman Mazurek pointed out Dennis Shober, Child Support Enforcement Bureau; Bill



Harrington, Investigations and Enforcement Bureau; and John McRae, of the Department of Revenue were present to answer questions and asked that one of them respond to this comment. Mr. Shober stated the wife could file an amended tax return to get her portion back. Mr. Harrington stated we have patterned this bill after the federal tax offset program. Senator Mazurek stated one spouse is not protected against losing a portion of the refund. Senator Towe moved as a substitute motion that HB 438 be amended as follows:

Page 3, line 1.

Following: "child."

Insert: "The department shall promulgate rules to assure no person not liable hereunder is affected if he files a joint return against which an offset is applied."

The motion carried unanimously. Senator Towe moved HB 438 be recommended BE CONCURRED IN AS AMENDED. The motion carried unanimously.

ACTION ON HB 439: Senator Towe submitted a proposed amendment to the committee (Exhibit 12). Senator Daniels moved the adoption of the amendment. The motion carried unanimously. Senator Towe questioned whether this were a case where the caveat applied. Mr. Petesch explained you have to have a procedure for it, but it doesn't have to be used. If the agency determines such use or application would not carry out the purposes of the federal act. Senator Towe moved the bill be further amended by adding the caveat insertion. Senator Mazurek pointed out the effect of that will be to give the department the opportunity to say you don't have to do this. Senator Towe asked why else would it be in the federal law. Mr. Harrington commented that is fine; if they decide they need it, they can use it. The motion carried unanimously. Senator Towe moved HB 439 be recommended BE CONCURRED IN AS AMENDED. The motion carried unanimously.

ACTION ON HB 440: Senator Towe submitted proposed amendments to the committee (Exhibit 13). Mr. Petesch commented the federal government says this is required, and there is no caveat on it. Senator Towe stated it has to allow maintenance for the wife as well as include a child support procedure. Mr. Petesch explained amendments No. 1, 4, 5, and 6 take section 3 out of the bill, which conforms this to Senator Eck's bill. Amendments No. 2 and 3 address John Hollow's concern. If you had a divorced parent who is remarried and who owes back child support, and the wife is remarried and has other children, it would only apply it to the one who is responsible for it. Senator Towe moved adoption of the amendments. Senator Daniels asked if this addressed John Hollow's concern about ability to pay. The motion carried unanimously. Senator Towe moved HB 440 be recommended BE CONCURRED IN AS AMENDED. The motion carried unanimously.

ACTION ON HB 441: Senator Towe submitted a proposed amendment to the committee (Exhibit 14). Senator Towe moved adoption of the amendment as proposed with the following change to the inserted sentence: ". . . the court may reconsider the order on its merits." Senator Daniels stated he liked the amendment and the change because this allows the court to review the order if the judge thinks something is fishy. Senator Mazurek questioned whether the court would grant the order if the judge thought it were fishy in the first place. The motion to amend carried unanimously. Senator Brown moved HB 441 be recommended BE CONCURRED IN AS AMENDED. The motion carried unanimously.

ACTION ON HB 442: Senator Daniels commented he didn't think a kid should be raised and then turn around and sue his parent. Mr. Petesch stated the federal government requires that paternity be determinable any time prior to the child's 18th birthday. Senator Mazurek pointed out this does limit the agency to two years after the application. Senator Pinsonneault moved HB 442 be recommended BE CONCURRED IN ~~AS~~ AMENDED. The motion carried unanimously.

ACTION ON HB 443: Senator Towe submitted proposed amendments to the committee (Exhibit 15). Mr. Petesch pointed out the federal government says you have to have the withholding procedure, but says the state can determine what wages means. Senator Towe moved adoption of the proposed amendments. Senator Mazurek stated what you do by this is you encourage independent contractors. Senator Towe contended this gives the department the ability to issue an order to an employer to withhold. He referred to page 4, lines 3-9. Senator Yellowtail asked about page 5, lines 7-10, subsection (2). Senator Towe explained that means that after this order comes, if you don't pay to the defendant, that is a gift and you have to pay it over again. Mr. McRae stated the primary essence is the timeliness of the action. We have to monitor the payments. What we have done is made a statement of what has been referred to as the law of the assignment process. Once the debtor is given notice of an assignment, if he still pays a third party, he is still obligated. Senator Towe asked about the consent of the spouse. Senator Mazurek said there is a problem with making it a gift, because you could get it back under any circumstances. Mr. McRae said many of these cases are welfare cases, and the money is properly payable to the state because of subrogation and assignment. The wife does not have the ability to accept these moneys, and it may affect her welfare assignment. Senator Yellowtail moved HB 443 be amended as follows:

1. Page 2, line 3.  
Following: "including"  
Strike: "but not limited to"  
Following: "earnings"  
Strike: ", "  
Insert: "and"  
Following: "wages"  
Strike: ", "  
Insert: "."

2. Page 2, lines 4 through 7.

Following: line 3

Strike: line 4 through line 7

3. Page 5, lines 7 through 10.

Following: "court." on line 7

Strike: remainder of line 7 through line 10

4. Page 11, line 15.

Following: line 14

Insert: "state"

The motion carried unanimously. Senator Mazurek stated section 11 makes employers pay twice if they don't withhold. He doesn't see how you can get around that. Senator Brown moved HB 443 be recommended BE CONCURRED IN AS AMENDED. The motion carried unanimously.

ACTION ON HB 444: Senator Towe submitted proposed amendments to the committee (Exhibit 16) and moved their adoption. The motion carried unanimously. Senator Towe then moved HB 444 be recommended BE CONCURRED IN AS AMENDED. The motion carried unanimously.

ACTION ON HB 445: Senator Towe submitted a proposed amendment to the committee (Exhibit 17) and moved adoption of the amendment along with the following amendments:

1. Title, line 7.

Following: "OF"

Strike: "3"

Insert: "6"

2. Title, line 8.

Following: "COURT"

Strike: "SHALL"

Insert: "MAY"

3. Page 1, line 20.

Following: "of"

Strike: "3"

Insert: "6"

Following: "court"

Strike: "shall"

Insert: "may"

4. Page 2, line 1.

Following: "of"

Strike: "3"

Insert: "6"

The motion carried unanimously. Senator Towe then moved inclusion of the caveat language. The motion carried unanimously. Senator Mazurek suggested just leaving it at a bond. Senator Towe asked what if they can't put up the bond. Senator Mazurek stated it may be a property bond. Senator Towe stated you have to get two people on a property bond. If you put up your home, you would have to as well get someone else to do it for you. Senator Mazurek commented the problem we have is who is the beneficiary of the mortgage. Senator Towe stated if you can do it with only one signature, that is fine. Senator Daniels asked who is the mortgagor and who is the mortgagee. Senator Towe responded you would give the mortgage to the department, so the bond would be to the department. Senator Daniels suggested the words "security or other guaranty" included a mortgage. Senator Towe moved HB 445 be recommended BE CONCURRED IN AS AMENDED. The motion carried unanimously.

ACTION ON HB 446: Senator Towe submitted proposed amendments to the committee (Exhibit 18). Mr. Petesch commented this bill is required, but it is a caveat situation. Senator Towe moved that the caveat language be inserted. The motion carried unanimously. Senator Towe questioned whether proposed amendment No. 3 meant that until the notice is served, there is no lien. Senator Mazurek stated the agency must have possession of the property before the lien attaches. Mr. Petesch explained you have to serve notice of the lien on whomever is in possession of the property due to or owned by the obligor. He stated you have the notice going before. If they pay it after the notice, then he is liable to the lienor. It is one on which you have to have a procedure, but it is caveated. Senator Towe asked what procedure we had to have. Mr. Petesch explained a procedure under which liens are imposed against real property for amounts owed for child support. Senator Mazurek asked if a judgment decree ordering child support were a lien. Senator Yellowtail moved that the caveat amendment be stripped and HB 446 be recommended BE NOT CONCURRED IN. Mr. Shober stated that means you are only creating liens against real property. Senator Mazurek responded they understand that, but it creates problems with motor vehicles when you want to execute against them. The motion carried unanimously.

ACTION ON HB 447: Mr. Petesch commented this is the most discretionary bill of the bunch. Senator Mazurek suggested changing the word "and" on page 1, line 22, to "or." Senator Towe stated that limits it to welfare people or people using the department's services. He felt you ought to open the bill up or not have it at all. Senator Brown moved HB 447 be recommended BE NOT CONCURRED IN. Senator Mazurek stated he thinks we have given the Department of Revenue lots of new tools--more than they would have been given had the federal government not been leaning down their throats. The motion carried unanimously.

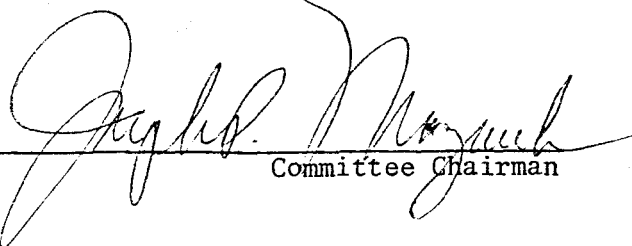
FURTHER CONSIDERATION OF HB 443: Senator Brown asked if the language on page 4, lines 21-25, meant if the payment is one day late, then the department must commence proceedings. Senator Mazurek responded the argument in favor of that is you have to keep that money rolling in, but yes, you are right. Mr. Petesch stated it appears to be required by the federal government or the state can set an earlier date. Senator Yellowtail stated that is totally unreasonable. He suggested changing it to two months. Senator Yellowtail moved the committee reconsider its action on the bill and amend page five to state two months. Senator Towe commented he did not think you could do that legally. Senator Mazurek said this is to protect the citizens from the abuse and over-burdensome regulations of the federal government. Senator Towe suggested putting in something about a reasonable excuse, except for reasonable cause as determined by the department. Senator Yellowtail withdrew his motion.

TABLING OF HJR 24: Senator Blaylock moved adoption of the following amendment:

Page 2, lines 16 through 18.  
Strike: subsection (2) in its entirety  
Re-number: subsequent subsection

The motion carried unanimously. Senator Blaylock moved HJR 24 be recommended BE CONCURRED IN AS AMENDED. The motion failed with Senators Crippen, Daniels, Galt, Mazurek, Pinsoneault, and Shaw voting in opposition. Senator Crippen moved HJR 24 be TABLED. The motion carried with Senators Blaylock, Towe, and Yellowtail voting in opposition.

There being no further business to come before the committee, the meeting was adjourned at 12:52 p.m.

  
Committee Chairman



PROPOSED AMENDMENTS TO HB 911:

1. Page 2, line 12.

Following: "with"

Strike: "a strip"

Insert: "not less than <sup>50</sup> 100 square inches"

2. Page 2, line 13.

Following: "paint"

Strike: "at least 3 feet high"

Insert: ", except that when metal fenceposts are used, the entire <sup>post</sup>  
~~exterior side~~ must be painted"

3. Page 2, line 16.

Following: "property"

Strike: "and at all points where any"

Insert: "including both sides of a"

4. Page 2, line 17.

Following: "property"

Insert: "wherever the water body"

5. Page 3, line 14.

Following: "LAND."

Insert: "The department shall use public media, as well as its own  
publications, in attempting to educate and inform other  
recreational users of the provisions of this section."

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 1

DATE 032885

BILL NO. HB 911

secretary and chairman. Have at least 50 printed to start.)

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 032785 House Bill No. 911 Time 10:18 am

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
	(3)	(7)

Secretary \_\_\_\_\_

Chairman \_\_\_\_\_

Motion: metal fenceposts deleted

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

SENATE JUDICIARY COMMITTEE  
EXHIBIT NO. 2  
DATE 032885  
BILL NO. HB 911



SENATOR PINSONEAULT'S PROPOSED AMENDMENTS TO HB 700:

1. Title, line 6.

Following: "SECTIONS"

Insert: "46-12-202,"

Following: "46-12-204"

Insert: ",,"

2. Page 1, following enacting clause.

Insert: "Section 1. Section 46-12-202, MCA, is amended to read:

"46-12-202. Court to advise defendant of his rights and the charges. (1) The defendant shall be advised by the court as follows:

(a) of the nature of the crime charged against him;

(b) of the punishment as set forth by statute for the crime charged;

(c) if the defendant intends to enter into a plea bargain agreement:

(i) that under 46-12-204, the court is not bound by such agreements;

(ii) that under 46-12-204, if the court does not impose the sentence recommended by the prosecution pursuant to a plea agreement, the court is not required to allow the defendant to withdraw a plea of guilty;

(iii) that criminal sentencing is governed by Title 46, chapter 18;

(iv) that the defendant and his counsel should carefully review Title 46, chapter 18, and consider the most severe sentence that can be imposed for a particular crime;

(e) (d) if the defendant appears for arraignment without counsel, of his right to counsel and of his right to assigned counsel if he is unable to employ counsel. If counsel is or has been waived by the defendant, the court shall ascertain if the waiver is or was voluntary before proceeding.

(d) (e) of the time prescribed by statute to enter a plea;

(e) (f) of his right to secure bail to release him from custody.

(2) The court, or the clerk or county attorney under its direction, must:

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 3

DATE 032885

BILL NO. HB 700

(a) deliver to the defendant a true copy of the indictment, information, or complaint, including the endorsements thereon and the list of witnesses when required;

(b) read the indictment, information, or complaint to the defendant unless the defendant or his counsel waives such reading; and

(c) ask him whether he pleads guilty or not guilty to the indictment."

Renumber: subsequent sections

3. Page 2, line 5.

Following: "defendant"

Insert: ": (i)"

4. Page 2, line 6.

Following: "(3) (a)"

Insert: "; (ii) of the punishment as set forth by statute for the crime charged;

(iii) that prior to entering a plea of guilty, the defendant and his counsel should have carefully reviewed Title 46, chapter 18, and considered the most severe sentence that can be imposed for a particular crime;"

5. Page 2, line 6.

Following: "and"

Insert: "(iv)"

Following: "that"

Strike: "he"

Insert: "the judge"

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 3

DATE 032885

BILL NO. HB 700

PROPOSED AMENDMENTS TO HB 700:

1. Page 1, line 20.

Following: "(3)"

Strike: "(a)"

2. Page 1, line 25.

Following: "agreement."

Strike: remainder of line 25 through "guilty." on page 2, line 3

Insert: (4) If a defendant and a prosecutor have entered into a proposed plea bargain agreement, they <sup>may</sup> ~~must~~ ask the judge if he will accept a plea bargain in the case. The judge may condition his acceptance of a plea bargain upon review of a report from a probation officer containing the information in 46-18-112. The judge, after review of the report, shall inform the defendant and the prosecutor of his decision concerning acceptance of a plea bargain."

3. Page 2, line 4.

Following: line 3

Strike: "(b)"

Insert: "(5)"

4. Page 2, line 6.

Following: "(3)"

Strike: "(a)"

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 4

DATE 032885

BILL NO. HB 700

secretary and chairman. Have at least 50 printed to start.)

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 032885 House Bill No. ~~92~~ 700 Time 10:43 am

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	X	
Senator M. K. "Kermit" Daniels	X	
Chairman		X
Senator Joe Mazurek		X
	(4)	(6)

Secretary \_\_\_\_\_

Chairman \_\_\_\_\_

Motion: Towe's amendments

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

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 5

DATE 032885

BILL NO. HB 911

secretary and chairman. Have at least 50 printed to start.)

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 032885 House Bill No. 700 Time 10:50

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	X	
Senator M. K. "Kermit" Daniels	X	
Chairman	X	
Senator Joe Mazurek	X	
	(10)	(0)

Secretary \_\_\_\_\_

Chairman \_\_\_\_\_

Motion: Pinsoneault's amendments

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

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 6

DATE 032885

BILL NO. HB 700

secretary and chairman. Have at least 50 printed to start.)

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 032885 House Bill No. 700 Time 10:53 am

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		X
Senator M. K. "Kermit" Daniels		X
Chairman	X	
Senator Joe Mazurek		
	(6)	(4)

Secretary \_\_\_\_\_

Chairman \_\_\_\_\_

Motion: BCIAA

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

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 7

DATE 032885

BILL NO. HB 700

secretary and chairman. Have at least 50 printed to start.)

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 032885 House Bill No. 329 Time 10:53 am

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		X
Senator M. K. "Kermit" Daniels		X
Chairman		X
Senator Joe Mazurek		X
	(4)	(4)

Secretary \_\_\_\_\_

Chairman \_\_\_\_\_

Motion: Table. 329

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

SENATE JUDICIARY COMMITTEE  
EXHIBIT NO. 8  
DATE 032885  
BILL NO. HB 329

secretary and chairman. Have at least 50 printed to start.)

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 032885 House Bill No. 643 Time 11:15 am

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	
	(6)	(4)

Secretary \_\_\_\_\_

Chairman \_\_\_\_\_

Motion: BCIAA

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

SENATE JUDICIARY COMMITTEE  
EXHIBIT NO. 9  
DATE 032885  
BILL NO. HB 643



secretary and chairman. Have at least 50 printed to start.)

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 032885 House Bill No. 778 Time 11:34 am

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	
	(7)	(3)

Secretary \_\_\_\_\_

Chairman \_\_\_\_\_

Motion: BCIAA

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

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 10

DATE 032885

BILL NO. HB 778

secretary and chairman. Have at least 50 printed to start.)

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 032885 House Bill No. 353 Time 11:41 am

NAME	YES	NO
Senator Chet Blaylock		X
Senator Bob Brown	X	
Senator Bruce D. Crippen		
Senator Jack Galt		X
Senator R. J. "Dick" Pinsoneault	X	
Senator James Shaw		
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)

Secretary \_\_\_\_\_

Chairman \_\_\_\_\_

Motion: take 353 off the table

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

SENATE JUDICIARY COMMITTEE

EXH'BIT NO. 11

DATE 032885

BILL NO. HB 353

AMENDMENTS TO HB 439:

Page 3, line 6.

Following: line 5

Insert: "If the individual does not agree with the administrative decision, he is entitled to have a statement of dispute, as provided in 31-3-124, included in the information provided to the consumer reporting agency."

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 12

DATE 032885

BILL NO. HB 439

AMENDMENTS TO HB 440:

1. Title, lines 11 and 12.

Following: "40-5-201" on line 11

Strike: remainder of line 11 through "40-5-203" on line 12

Insert: ", 40-5-202,"

2. Page 5, line 22.

Following: "to"

Insert: ": (a) the lesser of"

3. Page 5, line 24.

Following: line 23

Insert: ", of the responsible parent, or the amount of support  
contained in the court order;"

Following: "and"

Insert: "(b)"

4. Page 6, line 9 through page 7, line 10.

Strike: section 3 in its entirety

Re-number: subsequent sections

5. Page 8, line 14.

Following: "Section"

Strike: "5"

Insert: "4"

6. Page 8, line 16.

Following: "section"

Strike: "5"

Insert: "4"

SENATE JUDICIARY COMMITTEE  
REPORT NO. 13  
DATE 032885  
BILL NO. HB 440

AMENDMENTS TO HB 441:

Page 1, line 20.

Following: "Montana."

Insert: "If the administrative order has been entered by nonappearance or default on the part of the responsible parent, the court ~~on its own motion~~ may ~~open and hear~~ the order on its merits."

Following: "order" ~~insert~~

Insert: ", if approved,"

SENATE JUDICIARY COMMITTEE  
EXHIBIT NO. 14  
DATE 032885  
BILL NO. HB 441

AMENDMENTS TO HB 443:

1. Page 2, line 3.  
Following: "including"  
Strike: "but not limited to"  
Following: "earnings"  
Strike: ","  
Insert: "and"  
Following: "wages"  
Strike: ","

*redone plus  
amendment  
on p. 11  
line 14*

2. Page 2, lines 4 through 7.  
Following: line 3  
Strike: line 4 through "source" on line 7

*plus amendment  
on p. 5*

SENATE JUDICIARY COMMITTEE  
EXHIBIT NO. 15  
DATE 032885  
BILL NO. HB 443

AMENDMENTS TO HB 444:

1. Title, line 5.  
Following: ~~"ACT"~~ " "AN ACT"  
Strike: "TO REQUIRE"  
Insert: "PROVIDING FOR"

2. Page 1, line 15.  
Following: "act]"  
Strike: "must"  
Insert: "may"

3. Page 1, line 16.  
Following: "include a"  
Insert: "warning"

4. Page 1, line 17.  
Following: "income"  
Strike: "is"  
Insert: "may be"

5. Page 1, line 19.  
Following: "436]."  
Insert: "~~Provided, however,~~ failure to include a warning statement in  
a judgment or order does not preclude the use of withholding  
procedures."

SENATE JUDICIARY COMMITTEE  
EXHIBIT NO. 16  
DATE 032885  
BILL NO. HB 444

AMENDMENTS TO HB 445:

Page 2, line 4.  
Following: line 3  
Strike: "shall"  
Insert: "may"

*plus amendment  
to page 1, line 20,  
+ amendment  
to title  
+ page 2, line 1*

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 17

DATE 032885

BILL NO. HB 445



AMENDMENTS TO HB 446:

1. Page 2, line 15.

Following: "THIS"

Strike: "CHAPTER BECOMES"

Insert: "title, may as provided in subsection (3), become"

2. Page 2, lines 18 and 19.

Following: "ORDER" on line 18

Strike: remainder of line 18 through "CREDITOR" on line 19

3. Page 3, line 11.

Following: line 10

Insert: "(4) The person or public agency authorized to collect or enforce the child support order must serve notice of the support lien on any person, firm, corporation, association, political subdivision, or state agency in possession of real or personal property due to or owned by the obligor and to which the lien applies."

Renumber: subsequent subsections

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 18

DATE 032885

BILL NO. HB 446

# STANDING COMMITTEE REPORT

March 23

19 85

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration HOUSE BILL No. 438

third reading copy ( blue )  
color  
(Senator Mazurek)

## OFFSET CHILD SUPPORT DEBTS AGAINST STATE INCOME TAX REPUNDS

Respectfully report as follows: That HOUSE BILL No. 438

be amended as follows:

Page 3, line 1.

Following: "child."

Insert: "The department shall promulgate rules to assure no person not liable hereunder is affected if he files a joint return against which an offset is applied."

AND AS AMENDED

BE CONCURRED IN

~~XXXXXX~~  
DO PASS

~~XXXXXXXX~~  
DO NOT PASS

Senator Joe Mazurek

Chairman.

# STANDING COMMITTEE REPORT

March 28 19 85

MR. PRESIDENT

JUDICIARY

We, your committee on.....

HOUSE BILL

No. 439

having had under consideration.....

third reading copy ( blue )  
color

(Senator Towe)

## CONSUMER CREDIT REPORTING AGENCIES ACCESS TO CHILD SUPPORT BEST INFORMATION

Respectfully report as follows: That..... HOUSE BILL No. 439

be amended as follows:

1. Page 3, line 6.

Following: line 5

Insert: "If the individual does not agree with the administrative decision, he is entitled to have a statement of dispute, as provided in 31-3-124, included in the information provided to the consumer reporting agency."

2. Page 3, line 11.

Following: "section."

Insert: "The department shall adopt guidelines which take into account the payment record of the individual, the availability of other remedies, and other considerations which it determines relevant for determining whether use of the procedures provided in [this act] would carry out the purpose of enforcing payment of child support or would be appropriate in the circumstances. If after application of the guidelines to the request for information the department determines the procedures provided in [this act] are not appropriate, it may deny the request."

AND AS AMENDED

BE CONCURRED IN

~~XXXXXXXX~~

~~XXXXXXXX~~

Senator Joe Mazurek

Chairman.

# STANDING COMMITTEE REPORT

Page 1 of 2

March 23

19 85

MR. PRESIDENT

## JUDICIARY

We, your committee on

having had under consideration

## HOUSE BILL

No. 440<sup>3</sup>

third reading copy ( blue )  
color  
(Senator Pinsonneault)

## ENFORCEMENT OF SPOUSAL SUPPORT BY DEPARTMENT OF REVENUE

## HOUSE BILL

440

Respectfully report as follows: That

No.

be amended as follows:

1. Title, lines 11 and 12.

Following: "40-5-201" on line 11

Strike: remainder of line 11 through "40-5-203" on line 12

Insert: ", 40-5-202,"

2. Page 5, line 22.

Following: "to"

Insert: ": (a) the lesser of"

3. Page 5, line 24.

Following: line 23

Insert: ", of the responsible parent, or the amount of support  
contained in the court order;"

Following: "and"

Insert: "(b)"

4. Page 6, line 9 through page 7, line 10.

Strike: section 3 in its entirety

Remember: subsequent sections

~~XXXXXX~~  
DO PASS

~~XXXXXXXXXX~~  
DO NOT PASS

CONTINUED

Chairman.

Page 2 of 2

HOUSE BILL NO. 440

5. Page 3, line 14.  
Following: "Section"  
Strike: "5"  
Insert: "4"

6. Page 3, line 16.  
Following: "section"  
Strike: "5"  
Insert: "4"

AND AS AMENDED

BE CONCURRED IN

*Joe Mazurek*  
Senator Joe Mazurek, Chairman

# STANDING COMMITTEE REPORT

March 28

19 85

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration HOUSE BILL No. 441

third reading copy ( blue )  
color

(Senator Crippen)

## ENFORCEMENT OF ADMINISTRATIVE CHILD SUPPORT ORDERS THROUGH DISTRICT COURT

Respectfully report as follows: That HOUSE BILL No. 441

be amended as follows:

Page 1, line 20.

Following: "Montana."

Insert: "If the administrative order has been entered by nonappearance or default on the part of the responsible parent, the court may reconsider the order on its merits."

Following: "order"

Insert: ", if approved,"

AND AS AMENDED

BE CONCURRED IN

~~XXXXXX~~

~~XXXXXXXX~~

Senator Joe Mazurek

Chairman.

# STANDING COMMITTEE REPORT

March 28

19 35

MR. PRESIDENT

JUDICIARY

We, your committee on.....

HOUSE BILL

No. 442

having had under consideration.....

third

reading copy (

blue

color

(Senator Shaw)

EXTEND PATERNITY STATUTE OF LIMITATIONS TO CHILD'S 21ST YEAR

HOUSE BILL

No. 442

Respectfully report as follows: That.....

No.

BE CONCURRED IN

~~XXXXXX~~  
DO PASS

~~XXXXXXXXXX~~  
DO NOT PASS

Senator Joe Mazurek

Chairman.

# STANDING COMMITTEE REPORT

March 28

19. 85

MR. PRESIDENT

## JUDICIARY

We, your committee on.....

## HOUSE BILL

No. 443

having had under consideration.....

third reading copy ( blue )  
color

(Senator Towe)

## INCOME WITHHOLDING FOR DELINQUENT CHILD SUPPORT PAYMENTS

## HOUSE BILL

443

Respectfully report as follows: That.....

No.....

be amended as follows:

1. Page 2, line 5.  
Following: "including"  
Strike: "but not limited to"  
Following: "earnings"  
Strike: ", "  
Insert: "and"  
Following: "wages"  
Strike: ", "  
Insert: "."
2. Page 2, lines 4 through 7.  
Following: line 3  
Strike: line 4 through line 7
3. Page 5, lines 7 through 10.  
Following: "court." on line 7  
Strike: remainder of line 7 through line 10
4. Page 11, line 15.  
Following: line 14  
Insert: "state"

AND AS AMENDED

BE CONCURRED IN

~~XXXXXX~~

~~XXXXXXXXXX~~

.....  
Senator Joe Mazurek

Chairman.



# STANDING COMMITTEE REPORT

March 28

19 85

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration HOUSE BILL

No. 444

third reading copy ( blue )  
color  
(Senator Brown)

## NOTICE OF INCOME WITHHOLDING PROCEDURE INCLUDED IN ALL CHILD SUPPORT ORDERS

Respectfully report as follows: That HOUSE BILL

No. 444

be amended as follows:

1. Title, line 5.  
Following: "AN ACT"  
Strike: "TO REQUIRE"  
Insert: "PROVIDING FOR"

2. Page 1, line 15.  
Following: "act"  
Strike: "must"  
Insert: "may"

3. Page 1, line 16.  
Following: "include a"  
Insert: "warning"

4. Page 1, line 17.  
Following: "income"  
Strike: "is"  
Insert: "may be"

5. Page 1, line 19.  
Following: "436]."

Insert: "Failure to include a warning statement in a judgment or order does not preclude the use of withholding procedures."

AND AS AMENDED

BE CONCURRED IN

~~XXXXX~~  
DO PASS

~~XXXXXXXXX~~  
DO NOT PASS

Senator Joe Mazurek

Chairman.

# STANDING COMMITTEE REPORT

Page 1 of 2

March 23

19 85

MR. PRESIDENT

**JUDICIARY**

We, your committee on.....

**HOUSE BILL**

**445**

having had under consideration.....

No.....

**third**

reading copy (

**blue**

color

**(Senator Daniels)**

## REQUIRING PERSON DELINQUENT IN CHILD SUPPORT PAYMENTS TO POST BOND

**HOUSE BILL**

**445**

Respectfully report as follows: That.....

No.....

be amended as follows:

1. Title, line 7.

Following: "OF"

Strike: "3"

Insert: "6"

2. Title, line 3.

Following: "COURT"

Strike: "SHALL"

Insert: "MAY"

3. Page 1, line 20.

Following: "of"

Strike: "3"

Insert: "6"

Following: "court"

Strike: "shall"

Insert: "may"

4. Page 2, line 1.

Following: "of"

Strike: "3"

Insert: "6"

~~XXXXXX~~

DO PASS

~~XXXXXXXXXX~~

DO NOT PASS

CONTINUED

Chairman.

Page 2 of 2

HOUSE BILL NO. 445

5. Page 2, line 4.

Following: line 3

Strike: "shall"

Insert: "may"

6. Page 2, line 21.

Following: line 20

Insert: "(5) The department shall adopt guidelines which take into account the payment record of the obligated person, the availability of other remedies, and other considerations which it determines relevant for determining whether the procedure provided in this section would carry out the purpose of enforcing payments of child support or would be appropriate in the circumstances. If after application of the guidelines the department determines an application for an order requiring security is not appropriate, it may not request the order."

AND AS AMENDED

BE CONCURRED IN

  
.....  
Senator Joe Marurek, Chairman

# STANDING COMMITTEE REPORT

March 28 19 85

MR. PRESIDENT

**JUDICIARY**

We, your committee on.....

**HOUSE BILL**

**446**

having had under consideration..... No.....

third reading copy ( blue )

color

(Senator Mazurek)

## LIENS AGAINST REAL AND PERSONAL PROPERTY FOR UNPAID CHILD SUPPORT

**HOUSE BILL**

**446**

Respectfully report as follows: That..... No.....

BE NOT CONCURRED IN

~~XXXXXX~~

~~XXXXXXXXXX~~

  
.....  
Senator Joe Mazurek

Chairman.

# STANDING COMMITTEE REPORT

March 28 19 85

MR. PRESIDENT

JUDICIARY

We, your committee on .....

having had under consideration..... HOUSE BILL No. 447

third reading copy ( blue )  
color

(Senator Mazurek)

GARNISH WORKERS' COMPENSATION BENEFITS FOR CHILD SUPPORT DEBTS

Respectfully report as follows: That..... HOUSE BILL No. 447

BE NOT CONCURRED IN

~~XXXXXXXX~~

~~XXXXXXXX~~

Senator Joe Mazurek

Chairman.

# STANDING COMMITTEE REPORT

March 28 19 55

MR. PRESIDENT

JUDICIARY

We, your committee on

HOUSE BILL

No. 520

having had under consideration...

third reading copy ( blue )  
color

(Senator Towe)

CLARIFYING PUBLIC DOES NOT HAVE RIGHT TO USE DIVERTED WATER FOR RECREATION

HOUSE BILL

No. 520

Respectfully report as follows: That

BE CONCURRED IN

~~DO PASS~~

~~RECOMMEND~~

Senator Joe Mazurek

Chairman.

# STANDING COMMITTEE REPORT

March 28 19 85

MR. PRESIDENT

## JUDICIARY

We, your committee on

## HOUSE BILL

No. 643

having had under consideration

third reading copy ( blue )  
color  
(Senator Shaw)

## PROHIBIT LOCAL ORDINANCE BANNING OR REGULATING FIREARM SALE OR POSSESSION

## HOUSE BILL

No. 643

Respectfully report as follows: That

be amended as follows:

1. Page 1, lines 24 and 25.

Following: "assembly"

Insert: ", publicly-owned building, park under its jurisdiction,"

Following: "school"

Strike: remainder of line 24 through "alarm" on line 25

2. Page 2, line 2.

Following: "minors."

Insert: "Nothing contained herein shall allow any government to prohibit the legitimate display of firearms at shows or other public occasions by collectors and others nor shall anything contained herein prohibit the legitimate transportation of firearms through any jurisdiction, whether in airports or otherwise."

AND AS AMENDED

BE CONCURRED IN

XXXXXX

XXXXXX

Senator Joe Mazurek

Chairman.

# STANDING COMMITTEE REPORT

March 28

19 85

Page 1 of 3

MR. PRESIDENT

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

having had under consideration..... **HOUSE BILL** ..... No. **700**

third reading copy ( blue )  
color  
(Senator Pinsonneault)

**REGULATE PLEA BARGAINS; REQUIRE GOOD CAUSE BE SHOWN FOR DISMISSAL**

Respectfully report as follows: That..... **HOUSE BILL** ..... No. **700**

be amended as follows:

1. Title, line 6.  
Following: "SECTIONS"  
Insert: "46-12-202,"  
Following: "46-12-204"  
Insert: ",,"

2. Page 1, line 10.  
Following: line 9  
Insert: "Section 1. Section 46-12-202, MCA, is amended to read:

"46-12-202. Court to advise defendant of his rights and the charges. (1) The defendant shall be advised by the court as follows:

(a) of the nature of the crime charged against him;  
(b) of the punishment as set forth by statute for the crime charged;

(c) if the defendant intends to enter into a plea bargain agreement:

(1) that under 46-12-204, the court is not bound by such agreements;

~~XXXXXX~~

~~XXXXXXXXXX~~

CONTINUED

.....  
Chairman.



Page 2 of 3

HOUSE BILL NO. 700

(ii) that under 46-12-204, if the court does not impose the sentence recommended by the prosecution pursuant to a plea agreement, the court is not required to allow the defendant to withdraw a plea of guilty;

(iii) that criminal sentencing is governed by Title 46, chapter 18; and

(iv) that the defendant and his counsel should carefully review Title 46, chapter 18, and consider the most severe sentence that can be imposed for a particular crime;

~~(a)~~ (d) if the defendant appears for arraignment without counsel, of his right to counsel and of his right to assigned counsel if he is unable to employ counsel. If counsel is or has been waived by the defendant, the court shall ascertain if the waiver is or was voluntary before proceeding.

~~(d)~~ (e) of the time prescribed by statute to enter a plea;

~~(e)~~ (f) of his right to secure bail to release him from custody.

(2) The court, or the clerk or county attorney under its direction, must:

(a) deliver to the defendant a true copy of the indictment, information, or complaint, including the endorsements thereon and the list of witnesses when required;

(b) read the indictment, information, or complaint to the defendant unless the defendant or his counsel waives such reading; and

(c) ask him whether he pleads guilty or not guilty to the indictment, information, or complaint."

Remember: subsequent sections

3. Page 2, line 5.

Following: "defendant"

Insert: ":(1)"

CONTINUED

Page 3 of 3

HOUSE BILL NO. 700

4. Page 2, line 6.

Following: "(3) (a)"

Insert: "; (ii) of the punishment as set forth by statute for the crime charged;

(iii) that prior to entering a plea of guilty, the defendant and his counsel should have carefully reviewed Title 46, chapter 18, and considered the most severe sentence that can be imposed for a particular crime;"

Following: "and"

Insert: "(iv)"

Following: "that"

Strike: "he"

Insert: "the judge"

AND AS AMENDED

BE CONCURRED IN

Senator Joe Mazurek, Chairman

# STANDING COMMITTEE REPORT

March 23 1985

MR. PRESIDENT

JUDICIARY

We, your committee on

HOUSE BILL

having had under consideration

No. 775

third reading copy ( blue )  
color  
(Senator Mazurek)

## REVISE ATTORNEY FEE PROVISIONS OF WORKERS' COMPENSATION ACT

HOUSE BILL

Respectfully report as follows: That

No. 778

be amended as follows:

1. Page 2, line 13.

Following: "shall"

Strike: "determine a reasonable attorney fee and"

2. Page 2, line 21.

Following: "on"

Strike: "a"

Insert: "the attorney's"

Following: "fee"

Strike: remainder of line 21 through "fee" on line 22

AND AS AMENDED

BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

Senator Joe Mazurek

Chairman.

# STANDING COMMITTEE REPORT

March 25

19 85

MR. PRESIDENT

JUDICIARY

We, your committee on

HOUSE BILL

No. 793

having had under consideration

third reading copy ( blue )  
color

(Senator Towe)

## DEFINING DOMESTIC VIOLENCE AND PERMITTING WARRANTLESS ARRESTS IN SOME CASES

HOUSE BILL

No. 793

Respectfully report as follows: That

be amended as follows:

1. Page 2, line 5.

Following: "arrest."

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."

2. Page 2, line 13.

Following: "member"

Insert: "including an adult person of the opposite sex residing with the defendant or who formerly resided with the defendant"

Following: "j"

Insert: "or"

3. Page 2, lines 15 through 17.

Following: "common" on line 15

Strike: remainder of line 15 through "relationship" on line 17

AND AS AMENDED

BE CONCURRED IN

XXXXXX

XXXXXXXXXX

Senator Joe Mazurek

Chairman.

CLERICAL

Date: 3/30/85

House Bill 793

Time: 11:15 am

In accordance with Joint Rule 3-7(b) the following clerical errors may be corrected:

Senate Judiciary Committee

3/28

amend. # 2. Insert: <sub>1</sub> including an adult ...

Sponsor

Mazurek

Secretary of Senate  
or  
Chief Clerk

Legislative Council

# STANDING COMMITTEE REPORT

March 28

85

19.....

MR. PRESIDENT

## JUDICIARY

We, your committee on.....

HOUSE BILL °

337

having had under consideration.....

No.....

third reading copy ( blue )  
color

(Senator Brown)

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

HOUSE BILL

337

Respectfully report as follows: That.....

No.....

be amended as follows:

1. Page 1, line 19.

Following: "knowingly"

Strike: "disables,"

Following: "shoots"

Strike: ","

2. Page 1, line 22.

Following: "duty"

Strike: "or power of his office"

Insert: "in a reasonable and proper manner"

3. Page 2, line 1.

Following: "5"

Strike: "3 years"

Insert: "1 year"

AND AS AMENDED

BE CONCURRED IN

~~XXXXXX~~  
DO NOT PASS

~~XXXXXX~~  
DO NOT PASS

  
.....  
Senator Joe Mazurek

Chairman.

# STANDING COMMITTEE REPORT

March 28 19 85

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration HOUSE BILL No. 911

third reading copy ( blue )  
color

(Senator Mazurek)

## CRIMINAL TRESPASS POSTING REQUIREMENTS

HOUSE BILL No. 911

Respectfully report as follows: That.....

be amended as follows:

1. Page 2, line 12.

Following: "with"

Strike: "a strip"

Insert: "not less than 50 square inches"

2. Page 2, line 13.

Following: "paint"

Strike: "at least 3 feet high"

Insert: " , except that when metal fenceposts are used, the entire post must be painted"

3. Page 2, line 16.

Following: "property"

Strike: "and at all points where any"

Insert: "including both sides of a"

4. Page 2, line 17.

Following: "property"

Insert: "wherever the water body"

5. Page 3, line 14.

Following: "LAND."

Insert: "The department shall use public media, as well as its own publications, in attempting to educate and inform other recreational users of the provisions of this section."

~~HOUSE~~  
DO PASS

AND AS AMENDED

~~HOUSE~~  
DO NOT PASS

BE CONCURRED IN

Senator Joe Mazurek

Chairman.

CLERICAL

Date: 3/30/85

House Bill 911

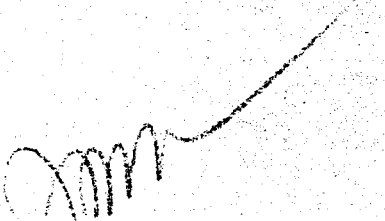
Time: \_\_\_\_\_

In accordance with Joint Rule 3-7(b) the following clerical errors may be corrected:

Senate Judiciary Committee

3/28

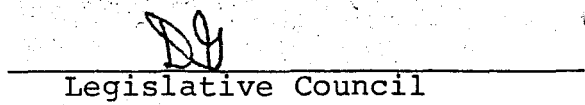
Amend. # 3. Insert: , including both  
^



Sponsor

Mazurek

Secretary of Senate  
or  
Chief Clerk



Legislative Council