

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

The meeting of the Judiciary Committee was called to order by Chairman Earl Lory on Thursday, January 8, 1987 at 10:00 a.m. in Room 312-D of the State Capitol Building.

ROLL CALL: All members were present with the exception of Representative Tom Hannah and Representative Joan Miles.

HOUSE BILL NO. 37: (An Act To Clarify That A Defendant's Record Is Expunged After Deferred Imposition; And Amending Section 46-18-204, MCA). The chief sponsor, Representative Dorothy Bradley, of District No. 79, and representing the Montana magistrate association, testified. She read the statute and presented the committee with a memo to her from Mr. Michael Miller of the Montana department of justice, identification bureau. (See Exhibit A).

SUPPORTERS: Mr. Tim Haynes, from Hamilton, a lobbyist for the Montana Magistrate Association, recommended that line 18 be amended and that a formal petition to expunge be used by the state-wide court system. (See Exhibit B). He stated this bill is intended to clear up the department of justice's records. He added that he is referring to the misdemeanor offender level and not the felony level.

Mr. Michael Miller, representing the Department of Justice, Identification Bureau, supports this bill.

Mr. Haynes asked the committee to consider letting Representative Leo Giacometto, who was formerly a Montana justice of the peace, look over the bill and clarify the amendments.

Chairman Lory requested that Mr. John MacMaster, attorney from the Legislative Council and Rep. Giacometto review the bill and report back to the committee on any amendments.

Representative Al Myers questioned Mr. Haynes as to how he identified repeat offenders. He stated that prior to sentencing, a presentence report is done by the probation officer and it lists the defendant's complete record.

Representative Tom Bulger requested that the committee review the state of California's petition to expunge.

There being no further proponents or opponents testifying, Chairman Lory asked Rep. Bradley if she wished to close the meeting and she favored doing so.

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Judiciary Committee
January 8, 1987

No action was taken until the amendments can be reviewed.

ADJOURN: There being no further business, the meeting was adjourned at 10:55 a.m.



EARL LORY, Chairman

DAILY ROLL CALL

JUDICIARY

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date January 8, 1987

NAME	PRESENT	ABSENT	EXCUSED
EARL LORY (R)	✓		
JOHN MERCER (R)	✓		
KELLY ADDY (D)	✓		
DAVE BROWN (D)	✓	u	
TOM BULGER (D)	✓		
JOHN COBB (R)	✓		
FRITZ DAILY (D)	✓		
PAULA DARKO (D)	✓		
RALPH EUDAILY (R)	✓		
LEO GIACOMETTO (R)	✓		
BUDD GOULD (R)	✓		
ED GRADY (R)	✓		
TOM HANNAH (R)		✓	
VERNON KELLER (R)	✓		
AL MYERS (R)	✓		
JOAN MILES (D)		✓	
PAUL RAPP-SVRCEK (D)	✓	u	
BILL STRIZICH (D)	✓	u	
JOHN McMASTER			

STATE
OF
MONTANA

DEPARTMENT OF JUSTICE

Identification Bureau

303 Roberts, Helena, Montana 59620. (406) 444-3625

EXHIBIT A
DATE 1/8/87
HB No. 37

January 7, 1987

MEMO

To: Ms. Dorothy Bradley - Legislative Council
From: Mr. Michael J. Miller *MJM* - Identification Bureau
Re: Amendment to House Bill #37

A Bill for an Act entitled: "An act to clarify that a defendant's record is expunged after deferred imposition; and amending section 46-18-204, MCA."

For the purpose of complete and accurate information gathering on the part of the Montana State Identification Bureau it is requested that House Bill #37 be amended to read, "Upon the dismissal of the charges, the clerk of court shall send an order directing the department of justice to expunge the defendant's record, and that that court order shall include complete identifiers such as sex, race, date of birth, charge at arrest, current charge status and the local agency arrest number for the charge being expunged."

EXHIBIT B
DATE 1/8/87
HB No. 37

IN THE DISTRICT COURT OF _____ JUDICIAL DISTRICT
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

The People of the State of California
vs.

Plaintiff
Defendant(s)

Case No. _____

CII No. _____

PETITION AND ORDER UNDER
P.C. 1203.4 or P.C. 1203.4a

PETITION to Exchange

I, the undersigned, say: that I am _____ the defendant in the above-entitled
criminal action, who was convicted of the misdemeanor offense of violation of Section _____
of _____ on _____ DATE _____

(applicable items
checked)

That probation was granted on the terms and conditions set forth in the docket of the above entitled
court; that the defendant is not serving a sentence for any offense, nor on probation for any offense,
nor under charge of commission of any crime, and that the defendant has

Probationary
Sentence (P.C. 1203.4)

fulfilled the conditions of probation for the entire period thereof; Please refer
to attached letter.
 been discharged from probation prior to the termination of the period thereof.

Other
Sentence
(P.C. 1203.4a)

That probation was not granted; that more than one year has elapsed since the date of pronouncement
of judgement; that defendant has complied with the sentence of the court; that defendant is
not serving a sentence for any offense nor under charge of commission of any crime, and has since
said pronouncement of judgment lived an honest and upright life, and conformed to and obeyed the
laws of the land.

Wherefore petitioner hereby requests that defendant be permitted to withdraw his plea of guilty, or that the verdict or
finding of guilt be set aside and that a plea of not guilty be entered and that the court dismiss this action pursuant
to Section 1203.4 of the Penal Code.

Executed on February 2, 1983 DATE at Hamilton PLACE Montana City/County.

I declare under penalty of perjury that the foregoing is true and correct.

ORDER

It appearing to the court from the records on file in this case, and from the foregoing petition, that the defendant herein is
eligible for the relief requested.

It is hereby ordered that the plea, verdict, or finding of guilt in the above-entitled action be set aside and vacated and a plea
of not guilty be entered; and that the complaint be, and is hereby dismissed. Further, if this order is granted pursuant to the
provisions of 1203.4 the defendant is required to disclose the above conviction in response to any direct question contained in
any questionnaire or application for public office or for licensure by any state or local agency.

Dated 1/31 4/9/83 1/31 Justice W. Light JUDGE

DISTRIBUTION: ORIGINAL TO FILE; 1 COPY TO DEFENDANT; 2 COPIES TO ARRESTING AGENCY WHO WILL FORWARD ONE TO D.O.J.; 1 COPY TO PROBATION OFFICE, IF ON FORMAL
PROBATION.

PETITION AND ORDER UNDER P.C. 1203.4 or P.C. 1203.4a