

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

February 17, 1987

The meeting of the Judiciary Committee was called to order by Chairman Earl Lory on February 17, 1987, at 7:00 a.m. of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Eudaily, who was excused.

ACTION ON HOUSE BILL NO. 393:

Rep. Lory moved that HB 393 DO PASS. Rep. Hannah stated that he has concerns with this bill. Rep. Daily agreed with Rep. Hannah pointing out he also has concerns with HB 393. Rep. Addy moved to amend the 12 month period by inserting 180 days subject to review by the Human Rights Commission. Rep. Mercer stated that a 12 month review rule enables the HRC to do a lot of work on the case before it goes to the District Court, but there are a number of serious problems with this bill. One year of waiting is a long time and the terminology of "failure to comply" is a very vague term. There being no set time for the hearing is another area of concern. He further stated that anyone who does not want to be in front of the Commission can frustrate the Commission, so basically its usefulness is zero. He felt that there is a problem that needs a solution and the bill could be fixed. Question was called on the amendment and a voice vote was taken. The motion CARRIED unanimously.

Rep. Mercer moved to amend on pages 1, lines 3-4, with regard to failure to comply with a lawful subpoena, also amending language on page 4, line 16. Question was called and a voice vote was taken. The motion CARRIED unanimously. Rep. Bulger requested that subsection (d) of the bill be fixed. Rep. Mercer moved to delete subsection (d) on page 2, lines 9-10 and on page 4, lines 22-23. He explained that it should not matter if it is a case of first impression or not because that is no fault of the parties and it should be deleted out of the bill. Question was called and voice vote was taken. The motion CARRIED unanimously.

Rep. Hannah moved to amend Subsection E, by striking the language at the bottom of the page. Rep. Mercer agreed with that motion because if someone is delaying the process subsection (a) will cover it. Question was called and a voice vote was taken. The motion CARRIED 8-6. Rep. Gould

stated that he was not sure what was left of the bill and questioned if for the sake of time, everyone could take their likes and dislikes on this bill and work on them and the committee could take up HB 393 tomorrow in executive session. The bill was held in committee as of this date.

ACTION ON HOUSE BILL NO. 399:

Rep. Gould moved that HB 399 DO NOT PASS. Rep. Lory stated that we are not in the rulemaking business, and whenever the Legislature does not like an administrative ruling, all they have to do is pass a resolution. Rep. Mercer explained that he agrees with Rep. Lory to the extent that the Legislature can abrogate by resolution of rule, but the Legislature is not in session all of the time. A rule can go into effect that may be in conflict with certain rules that might be issued by a school board or other school entity and the Legislature will not be able to do anything about it until it meets again. He stated that the school boards and the Board of Public Education have constitutional authority and the Human Rights Commission have statutory authority. He suggested that this bill be taken and changed stating that upon petition of the Board of Public Education the effective date of those rules should be suspended until the next regular session of the Legislature. He moved that the effective date be suspended until after the Legislature has met in regular session. If the Legislature does nothing, then it takes effect, and if the Legislature acts on it and approves it or disapproves it, then that will be the rule. Rep. Miles agreed with Rep. Lory stating that the Legislature does not belong in the rulemaking business. Rep. Mercer pointed out that the Legislature presently has the authority to amend or delete any administrative rule and because we have that authority, it means it is our responsibility to keep our eyes on those things. Administrative agencies are not superior to the Legislature, they are inferior to it. Rep. Mercer stated that the Human Rights Commission was created by the Legislature and if the two come into conflict it is like a separation of powers, and the Board of Education should petition the Legislature. Rep. Lory stated that it bothers him that the Legislature is putting into statute, age discrimination and sex discrimination and he felt that those two things are separate things and it does not seem to be the proper way to approach the problem. Rep. Rapp-Svrcek agreed with Rep. Lory and stated that he is nervous about the precedent that is being set with this bill with regard to Legislative review prior to a rule being put into place. He made a substitute motion that HB 399, be tabled. A voice vote was called and the motion CARRIED 10-6. HB 399 was TABLED.

ACTION ON HOUSE BILL NO. 400:

Rep. Gould moved that HB 400. DO PASS. Rep. Bulger stated that this bill does not do a thing and he desired to table it. Rep. Gould pointed out that he would like to see the opponents of the bill be landlords for a year and then come back and see what they have to say to the Legislature.

Rep. Mercer moved to amend HB 400 stating that there is not a great housing problem in Montana. Rep. Lory stated that he has the same problem with this bill as he had with HB 399 with regard to the proper approach. This should be a joint resolution rather than putting it into statute. Rep. Bulger pointed out that if we have an argument with this it is with the law. Rep. Mercer stated that his motion is that we change the law. Rep. Addy explained that by not deciding on the issue we are deciding on this issue and we must make a decision. Rep. Mercer stated to do nothing in this area is preposterous. The Human Rights Commission recognized that this was not going to be very popular when they did not put on an effective date and if we do nothing then we are ignoring the desires of the people of Montana. He pointed out that the amendment goes a long way in addressing the problem. Question was called and a voice vote was taken. The motion CARRIED 13-3. (See Amendments Attached). Rep. Rapp-Svrcek stated that he is in total agreement with the concept of the amendment but wondered if the bill is the proper vehicle to carry it through. Question was called and a voice vote was taken. The motion CARRIED 12-2. HB 400 DO PASS AS AMENDED.

ACTION ON HOUSE BILL NO 605:

Rep. Bulger moved that HB 605 DO PASS AS AMENDED. He explained the amendments section by section. Rep. Mercer stated that he agrees with the amendments. Question was called and a voice vote was taken. The motion CARRIED unanimously. (See Amendments Attached). Rep. Bulger moved the Statement of Intent (See Attachment). A voice vote was taken and the motion CARRIED unanimously. Question was called on the bill and a voice vote was taken. The motion CARRIED unanimously. HB 605 DO PASS AS AMENDED.

ACTION ON HOUSE BILL NO. 322:

Rep. Eudaily moved that HB 322 DO PASS. He moved the amendments. Question was called and voice vote was taken. The motion CARRIED 14-2. (See Amendments Attached). Rep. Eudaily moved that HB 322 DO PASS AS AMENDED. Question was called and a voice vote was taken. The motion CARRIED 14-2, with Reps. Gould and Brown dissenting. HB 322 DO PASS AS AMENDED.

ACTION ON HOUSE BILL NO. 503:

Rep. Cobb moved that HB 503 DO PASS. Question was called and voice vote was taken. The motion CARRIED 16-1 with Rep. Addy dissenting. HB 503 DO PASS.

ACTION ON HOUSE BILL NO. 472:

Rep. Darko moved that HB 472 DO PASS. Rep. Darko moved the amendments.

Rep. Giacometto questioned how much money it would take to start mediation action.

Rep. Darko stated that it would cost \$100.00 per divorce. Rep. Gould asked Rep. Darko if mediation would now become mandatory and she stated, yes, it can be done privately or through the court.

Question was called and a voice vote was taken. (See Amendments Attached). The motion CARRIED 7-5.

Rep. Darko moved that HB 472 DO PASS AS AMENDED. Question was called and voice vote was taken. The motion CARRIED 8-4, with Reps. Grady, Bulger, Giacometto and Gould dissenting. HB 472 DO PASS AS AMENDED.

HOUSE BILL NO. 57, Rep. Sales, District No. 76, stated that this bill is simply a bill that prohibits preferential treatment of any person based on race, color, sex, culture, social origin or condition, political or religious ideas, or age, and amends Article II, Section 4, of the Montana Constitution, providing notice of a two-thirds vote requirement. He pointed out that the laws of the State of Montana should treat all people equally.

There were no proponents to this bill.

OPPONENTS:

MARGARET S. DAVIS, League of Women Voters of Montana, stated that the League opposes this bill because of the proposed addition of the words, "or give preferential treatment to" to the Montana Constitution. To discriminate against groups or individuals on the basis of race, color, sex, culture, social origin or condition is to deny rights, access, and full participation in the exercise of full civil and/or political rights.

She submitted written testimony. (Exhibit A).

BARBARA ARCHER, Women's Lobbyist Fund, stated that there is clear evidence that overcoming a long history of past

discrimination requires affirmative action. She urged a do not pass on this bill.

TOM HOPGOOD, American Council of Life Insurance and the Health Insurance Association of America, pointed out that they oppose this legislation because it lays the groundwork for an argument issue that age cannot be used as a means of setting premiums for either life insurance or health insurance policies.

MIGNON WATERMAN, Montana Association of Churches, stated that experience is not always the determining factor that decides which person should be hired for a position. She pointed out that the fiscal note speaks to the problem with regard to the impact that removing the age factor would have in this bill. We need to provide more opportunities for women.

ELENOR WEND, Peace Legislative Coalition, Lobbyist, stated that they are greatly concerned about the intent of this Constitutional amendment. She pointed out that this will choke legal action.

See Visitors' Register for further opponents.

QUESTIONS (or Discussion) ON HOUSE BILL NO. 57:

Rep. Cobb asked Ms. MacIntyre why the Human Rights Commission did not testify on the bill. She stated that the Commission has not taken a position on the bill because it was in the prerogative of the Legislature. She stated that the adding of the language concerning preferential treatment is necessary or adds that much to the Constitution or to the standards of relief that the Commission would look to in formulating relief under the Human Rights Act.

Rep. Gould asked Rep. Sales if age should be stricken and he stated, "yes".

Rep. Sales closed the hearing on HB 57 by stating that this bill does do away with affirmative action.

HOUSE BILL NO. 502, Rep. Cody, District No. 20, and due to illness Rep. Darko carried the bill for hearing. She stated that this act requires a District Court, to the extent of its jurisdiction, to dispose of the issues of child support and custody, maintenance, and property division in a dissolution decree. This legislation states that those individuals that wish to get divorced must have the question of property and custody settled and must be coincidental to the decree of divorce. This is an attempt to put some common

sense and objectivity into a time and situation where the majority of the time there is none.

There were no proponents, no opponents and no questions.

Rep. Darko closed the hearing on HB 502.

HOUSE BILL NO. 670, Rep. Bachini, District No. 14, stated that this act authorizes the Attorney General to appoint employees of Class I Railroad Corporations as special peace officers and defines the responsibility of the railroad corporation for the special peace officers. He pointed out that the applicant must have three years experience as a Class I railroad peace officer or have completed the training course at an approved law enforcement academy or meet the qualifications described in 732-303. He submitted letters from proponents as (Exhibits 1-51).

PROPOSERS:

JACK CLARK, Burlington Northern Railroad, Assistant Chief of Police, stated that they are not trying to usurp any authority from any state or local agency. They seek only to assist and support those agencies in their endeavors to provide their communities with the best possible law enforcement available. He submitted written testimony. (Exhibit A). He also submitted the Police Academy Training Catalog. (Exhibit B).

KEVIN OLSON, Montana Police Officer for the City of Havre, and the Montana Police Protection Association, stated that this bill will lead to a better system of law and order. He urged a do pass consideration.

BOB BUTOROVICH, Montana State Peace Officers Association, Sheriff of Butte-Silver-Bow, urged support for this legislation because it would be a welcome addition to have the peace officers as part of the Montana law enforcement status.

BOB LANDON, Chief of the Highway Patrol, stated that he supports this bill and Montana is only one of three states that do not grant arrest authority to railroad police.

MIKE SHAFER, Montana Sheriff and Peace Officer Association, President, and Sheriff of Yellowstone County, pointed out that this bill is a good bill and it will take some liability off the shoulders of the counties.

JIM MULAR, State Legislative Director of the Brotherhood Railway and Airline Clerks, strongly urged support for this legislation.

See the Visitors' Register for further proponents.

There were no opponents to HB 670.

QUESTIONS (or Discussion) ON HOUSE BILL NO. 670:

Rep. Rapp-Svrcek asked Rep. Bachini if the peace officer will have full police power only during railroad work hours and only on railroad property. Rep. Bachini pointed out that section 3 lists the limitations. Rep. Mercer asked Sheriff Butorovich a question in regard to supervision. He stated he is concerned about peace officers becoming deputies and he wondered if this bill should be amended so that the peace officers will come under the counties' supervision. Sheriff Butorovich said that he does not feel there will be a problem with that.

Rep. Bachini closed the hearing on HB 670 by stating that he would not have a problem with a proposed amendment as suggested by Rep. Mercer. He further stated that an effective date of July 1 should be added to this bill and urged support for HB 670.

HOUSE BILL NO. 668, Rep. Vincent, District No. 80, stated that there is a problem with the current DUI statutes because they leave big loopholes. He presented a graph. (Exhibit A). This bill will modify the driving under the influence and per se penalty statutes relating to alcohol or drug-related driving offenses to provide that a conviction under one constitutes a conviction under the other. He pointed out that he has learned that in an area like this that getting tough works.

PROPONENTS:

MIKE MCGRATH, Lewis and Clark County Attorney, rises in support of this bill. He acknowledged that there is a present loophole in the law and this bill is a good one.

COL. R. W. LANDON stated that there is currently a serious state problem. He pointed out that driving under the influence is the leading cause of death on the highway.

LARRY MAJERUS, Department of Justice, submitted an amendment to clarify the bill. (Exhibit B). He explained the amendment.

There were no further proponents and no opponents.

QUESTIONS (or Discussion) ON HOUSE BILL NO. 668:

Rep. Daily asked Rep. Vincent to explain what per se means. He suggested that Mr. McGrath could give a tight legal description of this phrase. He stated that DUI is driving under the influence and per se means having .1 percent alcohol in the blood. Mr. McGrath further stated that when someone is convicted of per se, there does not have to be proof of driving, just that they were in control of a vehicle. In a per se offense there is no mandatory jail sentence.

Rep. Mercer asked Rep. Vincent why we are treating people differently if it is their first per se or DUI. He stated that the rationale is deterrent because it does not make sense to put someone in jail for a mandatory one day for the first offense and let them go entirely for the second offense. Rep. Mercer pointed out that the question is: If someone has .1 in their blood and they are driving a car, there is not a mandatory 24 hours jail time but there is if they are convicted of a DUI.

Rep. Mercer asked the same question to Mr. McGrath. He explained that he does think it is healthy to preserve the no jail time per se and then have the penalties the same for second offense. The per se offense gives the authorities a very valuable tool to plea bargain with on first offense DUI cases.

Rep. Vincent closed the hearing on HB 668 by stating that whether it is DUI or per se the person is still drunk and is still dangerous. He pointed out that we must overcome the idea that we help people in situations like this by being kind. With the deterrent effect like this bill has in it there can be an accounting for society by stating that next time there will be a high price to pay. He strongly felt that this bill will be good step towards making Montana's roads, streets and highways safer.

HOUSE BILL NO. 470, Rep. Miles, District No. 45, stated that this bill revises the youth court procedures and revises the transfer to District Court provisions allowing wider investigatory authority for law enforcement personnel.

She submitted a handout explaining the bill section by section. (Exhibit A). She further explained that the fiscal note is in error. The language will be retained with regard to opening up traffic records to the public.

MIKE MCGRATH, Lewis and Clark County Attorney, Chairman of the Legislative Committee, explained some of the changes that are taking place in the bill. He stated that the Youth Court Act was written in 1970, and we now need more tools to deal with today's youth.

ROBERT MC CARTHY, Butte-Silver-Bow County Attorney, stated that along with all the members of the County Attorneys Association he is in support of this legislation. He pointed out that this is a realistic attempt to address the problems that are facing the citizens of Montana.

GREG MULLOWNEY, Deputy County Attorney of Yellowstone County, agreed with the changes in this bill and felt they are absolutely necessary at this time. He strongly urged adoption of this legislation.

BOB BUTOROVICH, Sheriff of Butte Silver-Bow, went on record in support of HB 470. He stated that law enforcement needs the authority to expand, and finger printing and photographing youths arrested for felonies can only be done pursuant to search warrants and must be supported by probable cause.

MARC RACICOT, Attorney General's Office, stated that at least 20 homicides have been committed by teenagers within the last 18 to 36 months. There is currently a crime wave. This is a very important piece of legislation that will allow authorities a fighting chance in a lot of the criminal investigations being done presently.

MIKE SHAFFER, President of the Montana Sheriff and Peace Officers Association, stated that they support this bill because it has the tools built in it that the law enforcement needs.

RICHARD MEEKER, Chief Probation Officer of the First Judicial District, spoke on behalf of the Juvenile Probation Association and stated that this bill is an attempt to bring the Youth Court more in line with the adult system. He acknowledged that this bill does remove some important protection, but the goal appears to be sincerely motivated. He urged support for this legislation.

OPPONENTS:

ED SHEEHY, JR., Lewis and Clark Public Defender, stated that he opposes this bill but does find some parts of it useful. He pointed out that his main concern with HB 470 has to do with the transfer hearing because the changes being proposed make that hearing a joke for a youth charged with a serious felony. In homicide cases of a youth 16 years or older the bill says that the court shall transfer the hearing, so, why have a hearing at all. Finger printing and photographs are already in the law and they are retained until the youth reaches the age of majority or the court orders them destroyed at an earlier point in time. He also stated he is concerned with the provisions dealing with a 16 year youth waiving his rights when he is being detained for

questioning. He can talk about the crime and authorities can only advise him of his rights against self incrimination and right to counsel. He feels it is important that the youth be advised of all of his rights under the Youth Court Act. The law says, if the youth is 16 years or older, the youth and his parents may waive his rights and Mr. Sheehy pointed out that that is important so that we can guarantee a knowing and voluntary waiver of rights. He further stated that this bill is unnecessary in terms of anything that is happening in the State of Montana and there are procedures that law enforcement can and do utilize under the law that do not inhibit the investigation of the crime. He also objected to public access to transfer hearings.

QUESTIONS (or Discussion) ON HOUSE BILL NO. 470:

Rep. Rapp-Svrcek stated that he has the same concerns that Mr. Sheehy has especially with regard to the youth being allowed to make a waiver of his rights. He asked Mr. McGrath about subsection (a) questioning that this may do a disserve to the youth. Mr. McGrath pointed out that the youth is not being treated any differently than any criminal.

Rep. Miles closed the hearing on HB 470 by stating that the language on page 14, points out that finger printing records and photographs may be used by the originating agency for comparison and identification purposes only when probable cause is established by the youth court judge.

HOUSE BILL NO. 577, Rep. Brown, District No. 72, explained that this is an act to require 16 hours of training for adult and juvenile probation officers. Under the present system the Department is supposed to provide a certain number of hours of training but it is not consistent. He submitted amendments. (Exhibit A).

PROPONENTS:

MIKE MCCARTY, Probation and Parole Officer, Missoula, stated that training is paramount. He urged support for this legislation.

STEVE NELSON went on record in support of HB 577.

There were no opponents and no questions.

Rep. Brown closed the hearing on HB 577.

HOUSE BILL NO. 610, Rep. Brown, District No. 72, sponsor, stated that this bill amends two sections of Montana law regarding Montana parole and probation officers trained in

the use of firearms to carry firearms in certain situations. He pointed out that HB 610 does not grant blanket authority to parole and probation officers to carry firearms. It does require training in the use of firearms and permits the Department of Institutions to limit those situations in which officers can carry firearms and permits the supervisors to grant permission for designated and trained officers to carry firearms if the conditions warrant.

PROPONENTS:

MIKE MCCARTY, Probation and Parole Officer, Missoula, stated that he has found that when people think of probation and parole officer they think of juveniles. He pointed out that 35 officers in the state handle adult cases. Since 1977, three officers have been killed in the state of Montana. He explained that under given situations the officers need the authority to carry firearms when the regional supervisor says that he thinks it is appropriate. The Legislature has given the probation and parole officers a lot of authority over the years and because of this authority and power there are a lot of situations that are very touchy. He strongly supported this bill and urged a do pass.

MIKE SHAFFER, President, Montana Police Association, stated that firearms should be part of the peace officers uniform and urged support of this bill.

RANDY G. GOWEN, District Probation and Parole Officer, pointed out that many clients use drugs which cause their personalities to change and there are times that firearms are needed for self protection and recommended a do pass.

MAURICE J. MUKAHY, Montana Federation of Teachers, urged support for this legislation.

OPPONENTS:

KURT CHISOLM, Department of Institutions, expressed concerns with regard to this bill. He stated that there have been numerous requests from probation officers that work for the Department for permission to carry firearms especially when they supervise their adult case loads. The County Attorney of Missoula has stated that probation officers are not peace officers by definition and they are not civil officers. He pointed out that this is a popular idea but the problem is that this is a field service that is not intended to be a law enforcement entity. The officer's role is to assist in the transition of living in society after having lived in the institution system. He stated that it is not good public policy to have a field staff that is armed.

QUESTIONS (or Discussion) ON HOUSE BILL NO. 610:

Rep. Rapp-Svrcek asked Mr. McCarty if arrests are typically made in the office and he stated that it works both ways. Mr. McCarty pointed out that he would like to clarify that probation and parole officers issue their own warrants and they do not have to go through District Court. When an arrest is made, Mr. McCarty said, he calls for law enforcement backup and often he makes house calls that can result in an arrest. The one man office probably makes more arrests out in the field and the regional office probably makes more arrests in the office.

Rep. Strizich asked Mr. McCarty how many clients he carries and he answered that he has 92 clients and that is not counting two on furlough for homicide.

Rep. Addy asked Rep. Brown why the certain situations are not defined in the bill stating when the officers can carry firearms. Rep. Brown stated that that is up to the supervisor to make the decision. He further stated that it is difficult in this kind of situation to provide the sideboards when the Department would be able to make wiser decisions.

Rep. Brown closed the hearing on HB 610 by stating that there is a serious problem and this bill is mandatory because of the caseload size and because of the dangerous nature of the crimes.

HOUSE BILL NO. 633, Rep. Menahan, District No. 67, stated that this act permits certain delinquent youth placed in Pine Hills School to be transferred to an adult correctional facility. He explained that upon touring all of the institutions in Montana he noticed that Pine Hills School had quite a degree in different age groups and the older, larger boys seemed to have too much influence on the younger boys. He pointed out that the Federal law stated that adults and teenagers should not be mixed in the institution system but at Pine Hills School that is going on. He felt that this is a serious problem and stated that we need to give some direction as to how this should be handled in the future.

There were no proponents to HB 633.

OPPONENTS:

KURT CHISOLM, Department of Institutions, stated that he knows the sponsor is trying to correct a problem. He pointed out that there is a problem with the bill in that it only deals with the male residents of the School. It does not deal with the female residents of Mountain View which

creates an immediate equal protection issue. The theory in dealing with the Youth Court Act and adjudicated delinquents is to deal with them in a rehabilitative system.

There were no further opponents.

QUESTIONS (or Discussion) ON HOUSE BILL NO. 633:

Rep. Daily asked Rep. Menahan if an agreement could be reached with other states where offenders could be sent. Rep. Menahan stated that that should be looked into.

Rep. Grady asked Rep. Menahan why girls are not addressed in the bill. He stated that it was an oversight.

Rep. Gould pointed out that there are only 5% at Pine Hills School that are really tough and bad offenders and there was talk that a regional facility might be built to accommodate several states and he asked Rep. Menahan if there is a possibility of getting such a facility built.

Rep. Menahan stated that that is one reason why he has presented the bill. He explained that 22% of the kids in Pine Hills School are 18 year olds.

Rep. Gould asked Mr. Chisolm if there have been any studies done on this facility being built and he pointed out that it has been explored and several states were going to share the cost of building a high intensity, high security treatment facility for older youth.

Rep. Menahan closed the hearing on House Bill No. 633 by stating that there is a problem and how we are going to address it is something we can work together on and at least start the wheels turning towards solving the problem.

HOUSE BILL NO. 636, Rep. Winslow, District No. 89, explained that this bill provides, with certain exceptions, immunity from suit for uncompensated directors, officers, trustees, and members of not-for-profit cooperatives, corporations, associations, or organizations. He stated that there is a serious problem that exists right now for nonprofit directors and officers in the state of Montana. This makes it very difficult to get a volunteer on a board.

PROPOSERS:

R. A. ELLIS, Montana Water Development Association and the Helena Valley Irrigation District, spoke on behalf of the Montana Stockgrowers and Cattle Women, presented testimony for them (Exhibit A), and stated that they strongly support this legislation and urged passage.

JEROME LOENDORF, Montana Medical Association, stated that they support this bill, as it will help many organizations.

ROLAND D. PRATT, Executive Director of the Montana Optometric Association and the Funeral Directors Association, went on record in support of this legislation.

BOB PYFER, Vice President Governmental Relations for the Montana Credit Unions League, stated that they support this bill and SB 49 because the high degree of liability exposure these days makes it difficult to enlist volunteers.

JIM ROBISCHON, Montana Liability Coalition, stated that they support HB 636.

KARL ENGLAND, Montana Trial Lawyers Association, stated that they agree that non-compensated directors, officers and trustees of nonprofit corporations should not be individually liable for the acts or commissions within the scope of their official capacity on behalf of the corporation. He made suggestions for tying down the bill. He pointed out that line 18 of the bill should have the language "tax exempted" included. Line 19 needs a technical change, he said.

See Visitors' Register for further proponents.

There were no opponents and no questions.

Rep. Winslow closed the hearing on HB 636 by thanking the committee for their time and stated that he will accept their wisdom on how to deal with the issue.

HOUSE BILL NO. 662, Rep. Spaeth, District No. 84, sponsor, stated that this act opens certain youth court records to public inspection if they directly relate to an offense where publicity must be allowed. The bill lists who may view records with regard to a youth's social, medical, psychological, predispositional studies and supervision records of probationers. He pointed out that this bill is introduced on behalf of the Montana Press Association. He stated that publicity can be given but not as to the disposition of the youth and this is not fair to the public or to the individual especially if he is exonerated.

PROPONENTS:

GEORGE W. MOORE, Executive Director of the Montana Press Association, stated that in HB 662 they are not seeking access to all the records that are filed in youth court. They are seeking docket information, petitions, motions and transcripts; just the hard documentation that deals with the

procedure of the case. In order to be fair to the public and the youth we must be able to conclude the story and this bill will allow us to do our job, he said. He submitted a witness statement as (Exhibit A).

JIM MOORE, CoPublisher of the Carbon County News in Red Lodge and the Record in Bridger, stated that he supports this legislation because it will eliminate the problems that are unfair to all parties involved.

There were no further proponents and no opponents or questions.

Rep. Spaeth closed the hearing on HB 662 by stating that Rep. Miles' bill does some of the same things that this bill is asking for and he stated that he will look into this matter. He pointed out that this is a clean bill and addresses the problem well and must be seriously considered. He further pointed out that there is one question in the bill and that deals with the last section of the bill with regard to rulemaking authority going to the SRS and he stated that this should come off the bill because there is not any rulemaking authority.

HOUSE BILL NO. 704, Rep. Giacometto, District No. 24, stated that this bill is introduced because there is currently an injustice in our civil procedures. He pointed out that there exists a onesided issue wherein a law suit is brought against an individual and he defends himself, he loses whether he wins or not. If he wins the case he still has to pay the attorney fees for defending himself and if he loses he has to award the defendant and also pay attorney fees. He stated that society has changed and we must address this law. Years ago people looked after themselves and had responsibility for themselves. This act provides that reasonable attorney fees must be awarded to a prevailing defendant in certain civil liability actions.

PROponents;

DON INGELS, Montana Chamber of Commerce, stated that they support the concept of this bill and they realize it is short but that it will be controversial.

LORNA FRANK, Montana Farm Bureau, went on record in support of this legislation.

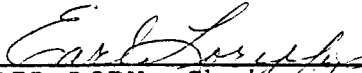
OPponents:

KARL ENGLAND, Montana Trial Lawyers Association, stated that this bill is unfair in that it is a one way attorney fee provision. He pointed out that this bill is not needed.

There were no further opponents and no questions.

Rep. Giacometto closed the hearing on HB 704 by stating that what is not fair is the middle class person who has to shell out a lot of money and even if he wins, he loses. He urged support for this bill.

ADJOURNMENT: There being no further business to come before this committee, the hearing was adjourned at 12:50 P.M.



EARL LORY, Chairman

DAILY ROLL CALL
 JUDICIARY COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Feb. 17, 1987

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

STANDING COMMITTEE REPORT

FEBRUARY 17,

19 87

JUDICIARY

Mr. Speaker: We, the committee on

HOUSE BILL NO. 400

report

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

Chairman

1. Title, lines 4 through 9.

Strike: "TO REQUIRE" on line 4 through "MONTANA" on line 9

Insert: "PROVIDING THAT AN OWNER, LESSEE, MANAGER, OR OTHER PERSON HAVING THE RIGHT TO SELL, LEASE, OR RENT A HOUSING ACCOMMODATION OR IMPROVED OR UNIMPROVED PROPERTY MAY REFUSE TO MAKE THE HOUSING ACCOMMODATION OR PROPERTY AVAILABLE TO A PERSON OR PERSONS WITH A CHILD OR CHILDREN; AMENDING SECTION 49-2-305, MCA"

2. Pages 1 and 2.

Strike: "49-2-204" on lines 13 of page 1 through end of line 13 on page 2

Insert: "49-2-305, MCA, is amended to read:

49-2-305. Discrimination in housing. (1) Except when the distinction is based on reasonable grounds, it is an unlawful discriminatory practice for the owner, lessee, manager, or other person having the right to sell, lease, or rent a housing accommodation or improved or unimproved property:

(a) to refuse to sell, lease, or rent the housing accommodation or property to a person because of sex, race, creed, religion, color, age, physical or mental handicap, or national origin;

(b) to discriminate against a person because of sex, race, creed, religion, age, physical or mental handicap, color, or national origin in a term, condition, or privilege relating to the use, sale, lease, or rental of the housing accommodation or property;

(c) to make a written or oral inquiry or record of the sex, race, creed, religion, age, physical or mental handicap, color, or national origin of a person seeking to buy, lease, or rent the housing accommodation or property; or

(d) to refuse to negotiate for a sale or to make a housing accommodation or property unavailable because of sex, race, creed, religion, age, physical or mental handicap, color, or national origin.

(2) A private residence designed for single-family occupancy in which sleeping space is rented to guests and in

FIRST

reading copy (WHITE)

color

17 February 87

House Judiciary Committee

League of Women Voters of Montana
Margaret S. Davis
816 Flowerree, Helena MT 59601, 443-3487

EXHIBIT A
DATE 2-17-87
HB # 57

RE: HB 57, sponsor Rep. Walter Sales - a proposed constitutional amendment that would include age in the nondiscrimination provision of Article II, Section 4 and that would prohibit preferential treatment of any person based on race, color, sex, culture, social origin or condition.

The League of Women Voters of Montana opposes HB 57 because of the proposed addition of the words "or give preferential treatment to" to the Montana constitution. To discriminate against groups or individuals as the basis of race, color, sex, culture, social origin or condition is to deny rights, access, and full participation in the exercise of full civil and/or political rights. To prohibit preferences is an entirely different matter. Government would not be able to meet or redress the effects of past discriminatory acts through such means as affirmative action and other programs aimed at those segments of society who cannot achieve equal individual dignity without assistance.

~~without assistance.~~

Margaret S. Davis

Insert: "S"

5. Page 9.

Following: line 16

Insert: "NEW SECTION. Section 12. Addition to mandatory list of code sections containing statutory appropriations. Section 17-7-502 is amended to add the section number of Section 3 to the list of sections contained in 17-7-501(3). The code commissioner shall codify the amendment made by this section."

Re-number: subsequent section

6. Page 9, lines 18 and 20.

Strike: "and 2" on lines 18 and 20

Insert: "through 3"

AHB472b/JH/JM2

STANDING COMMITTEE REPORT

February 17,

19 37

Mr. Speaker: We, the committee on JUDICIARY

report HOUSE BILL NO. 472

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

Chairman

1. Title, line 11.

Following: "SEPARATION;"

Insert: "PROVIDING A FUNDING MECHANISM FOR THE MEDIATOR PROGRAM;"

2. Title, line 12.

Strike: "SECTION"

Insert: "SECTIONS 17-7-502 AND"

3. Page 2, line 15.

Strike: "5"

Insert: "6"

Strike: "8"

Insert: "9"

Following: line 15

Insert: NEW SECTION. Section 3. Mediation fee -- disposition of fee. (1) Each party undergoing mediation of a marriage dissolution or legal separation before a court commissioner must pay a \$50 mediation fee to the clerk of the district court.

(2) There is an account in the state special revenue fund. Fees paid to a clerk of the district court under subsection (1) must be deposited in the account. The money in the account is statutorily appropriated, as provided in 17-7-502, to the supreme court to be used to operate the office of court commissioner created in [section 4], including the salaries of the court commissioners and their assistants and all other operational expenses and costs of the court commissioners and the commissioners' marriage dissolution and legal separation mediation program."

Renumber: subsequent sections 3 through 10 as 4 through 11

4. Page 6, line 5.

Strike: "7"

FIRST

WHITE

reading copy ()
color

STANDING COMMITTEE REPORT

February 17,

19 37

JUDICIARY

Mr. Speaker: We, the committee on

report HOUSE BILL NO. 322

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

Chairman

1. Title, lines 6 and 7.

Strike: "OR ARE" on line 6 through "CONTROL OF" on line 7

2. Title, line 7.

Following: "MOTORBOATS"

Strike: "OR"

Strike: "SAILBOATS"

Insert: ", INCLUDING A SAILBOAT PROPELLED BY A MOTOR OF ANY
KIND."

3. Page 1, line 21.

Strike: "knowingly"

Strike: "or"

4. Page 1, lines 22 and 23.

Strike: "be in" on line 22 through "of" at beginning of line 23

5. Page 1, line 23.

Following: "motorboat"

Strike: "or"

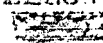
Strike: "SAILBOAT"

Insert: ", including a sailboat propelled by a motor of any
kind."

AHB322c/CM/JM2


SECOND

YELLOW

reading copy ()
color

STANDING COMMITTEE REPORT

February 17

19 87

JUDICIARY

Mr. Speaker: We, the committee on _____

HOUSE BILL NO. 503

report _____

~~xxx~~

- do pass
- do not pass

- be concurred in
- be not concurred in

- as amended
- statement of intent attached

Chairman

910
FIRST

WHITE

reading copy (_____)

color

STATEMENT OF INTENT

HOUSE BILL NO. 605

This bill requires a statement of intent because it authorizes the department of social and rehabilitation services to adopt rules to govern the disclosure of case records on reports of child abuse and neglect. The legislature intends that the rules should include procedures or criteria for:

- (1) requesting and disclosing information in the records;
- (2) protecting the identity of person named in the records if rights of privacy require such protection;
- (3) preparing records or reports (psychological, psychiatric, and medical) written by persons other than employees of the department;
- (4) documenting disclosure of the records;
- (5) amending; correcting; or expunging information in the records;
- (6) approving or denying requests for disclosure of the records.

STANDING COMMITTEE REPORT

February 17,

87

19

JUDICIARY

Mr. Speaker: We, the committee on _____
report _____
HOUSE BILL NO. 605

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

Chairman

1. Page 2, line 20.

Strike: "i"

2. Page 2, line 21.

Strike: "(i)"

3. Page 2, lines 22 through 24.

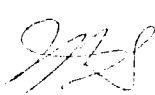
Strike: "or" on line 22 through "neglected;" on line 24

4. Page 3, lines 6 through 8.

Strike: subsection (e) in its entirety

Renumber: subsequent subsections

AHB605A/JK/JM2


FIRST

WHITE

reading copy (_____)
color

which the landlord also resides is excluded from the provisions of subsection (1).

(3) It is also an unlawful discriminatory practice to make, print, or publish or cause to be made, printed, or published any notice, statement, or advertisement that indicates any preference, limitation, or discrimination that is prohibited by subsection (1) or any intention to make or have such a preference, limitation, or discrimination.

(4) This section does not prohibit an owner, lessee, manager, or other person having the right to sell, lease, or rent a housing accommodation or improved or unimproved property from refusing to sell, lease, or rent such property to a person or persons with a child or children.

Renumber: subsequent section

7049c/L:JEA\WP:jj

WITNESS STATEMENT

EXHIBIT A
DATE 2-17-87
RE # 670

NAME JOHN CLARK BILL NO. 670

ADDRESS 9401 INDIAN CR. PKY. OVERLAND PARK, KS. DATE 2-17-87

WHOM DO YOU REPRESENT? BURLINGTON NORTHERN RR POLICE

SUPPORT OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

WITNESS STATEMENT

EXHIBIT A
DATE 2-17-87
670

NAME JOHN CLARK BILL NO. 670

ADDRESS 9401 INDIAN CR. PKY. OVERLAND PARK, KS DATE 2-17-87

WHOM DO YOU REPRESENT? BURLINGTON NORTHERN RR POLICE

SUPPORT OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

STATEMENT OF JOHN M. CLARK

IN SUPPORT OF HOUSE BILL NO. 670

A
2-17-87
670

Mr. Chairman, - - - - Members of the Committee:

My name is John Clark. I represent Burlington Northern Railroad as Assistant Chief of Police, headquartered in Overland Park, Kansas. I have been with Burlington Northern for 17 years as a police officer, the last 9 years in a headquarter capacity. I would like to thank you for allowing me to be here and testify on behalf of our department for the passage of House Bill 670.

HB 670 will benefit both local law enforcement and railroad police through mutual aid and cooperation; investigations, apprehensions, and arrests; and with the sharing of information.

At the present time, railroad police officers enjoy a limited, but vital, relationship with local law enforcement agencies. We assist in some investigations and arrests, and in some cases, we have provided needed manpower when asked. Upon successful passage of HB 670, our officers will be in a better position, legally, to provide more extensive assistance to the requesting agency, and at the same time resolve any question of liability. We stand ready, willing, and able to provide this assistance when requested.

Employment standards are high. We insist on employing and retaining only qualified people with high moral standards. As a proponent of

A
2-17-87
= 670

education and training, our department insures that those standards are maintained. We adhere to strict training standards as evidenced by our "Training Catalog". As an example of the quality of instruction offered by our training staff, we sponsored and conducted a 16 hour Regional School on handgun retention in Havre, Montana in May of 1985 (Regional Training Program #521 - Weapons Retention). The Montana Law Enforcement Academy recognized and accepted the course and our own railroad police instructors and granted 16 credit hours upon successful completion. Letters referencing this training are found as addendums in the supporting documents section of our catalog.

We are aware of the excellent program the Montana Law Enforcement Academy puts on. Some of our railroad police officers are graduates of the basic, intermediate, and advanced schools as well as several of the regional programs. With commissioning, our officers would be eligible to attend, either as a new recruit or take advantage of the advanced courses. We, of course, will pay our own way so there will be some funding realized by the academy. In addition, we would be available to support or assist the training efforts of the academy if called upon to do so.

I can also see the Montana law enforcement community benefiting from this bill through the sharing of information. We cannot presently request or receive some of the information transmitted between agencies because we do not have peace officer status in Montana. With commissions, our officers will be able to share in the information

A
2-17-87
#670

process, and possibly through this process, provide additional information to law enforcement agencies which could assist them in non-railroad related criminal investigations and arrests.

In closing, I want to assure all of the committee members that we are not trying to usurp any authority from any state or local agency. We seek only to assist and support those agencies in their endeavors to provide their communities with the best possible law enforcement available.

Again, I would like to thank you for allowing me the opportunity to testify in support of House Bill 670.

John M. Clark
Assistant Chief of Police
Burlington Northern Railroad

EXHIBIT _____
DATE 2-17-81
NB. # 670

BURLINGTON NORTHERN RAILROAD

POLICE AND SPECIAL SERVICES

POLICE ACADEMY TRAINING CATALOG

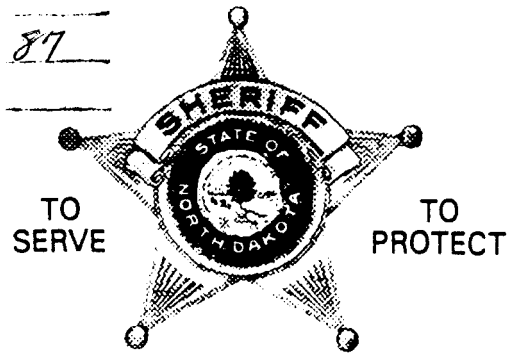


H.P. BURTON, CHIEF

WILLIAMS COUNTY
NORTH DAKOTA

STAN LYSON, Sheriff

Exhibit 1
Date 2-17-87
HB # 670



Law Enforcement Center 512 - 4th Ave. E. Williston, ND 58801
Phone: (701) 572-6739

12-31-86

Bill Warneke
Burlington Northern
Police & Special Services
235 Main Street
Havre, MT 59501

Dear Bill,

The North Dakota State Law has allowed special agents for the Burlington Northern to have full law enforcement authority while dealing with any criminal activities concerning the Burlington Northern.

Our Department has worked closely with special agents from Burlington Northern and have found the law to work to both the benefit of Burlington Northern and the Williams County Sheriff's Department. It has been much easier to work with the special agents when they do have law enforcement authority, and I feel that the State of Montana would certainly benefit if they had a law allowing the special agents from Burlington Northern to have full police powers while dealing with Burlington Northern's own property and merchandise.

Please relay to Montana Sheriff's Association that this law has worked well in North Dakota and we have not had any jurisdictional problems since this law went into effect.

If I can be of any further assistance, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stan Lyson".

Stan Lyson
Sheriff
Williams County

SL/bjb

MONTANA
DEPARTMENT OF
FISH, WILDLIFE AND PARKS

2
2-17-87
#620



Route #1-4210
Glasgow, MT 59230
July 5, 1985

Mr. J. R. Gaskill, Regional Director
Police and Special Services
Burlington Northern Railroad
2718 Montana Avenue
Billings, MT 59101

Dear Mr. Gaskill:

The Department of Fish, Wildlife and Parks, Enforcement Division, would like to thank you for the cooperation of Burlington Northern instructors Bill Warneke and Rich Miggins at a recent training school held May 29-30 at Havre, MT. Both Bill's and Rich's professional and low-key approach concerning weapons retention and "Shoot, Don't Shoot" slide series were vital training aids to the wardens in attendance.

The expertise shown by Bill Warneke and Rich Miggins were appreciated by all Region 6 game wardens.

Sincerely,

Ed Kelly
R-6 Warden Captain

EK/lmw



UNITED STATES BORDER PATROL

HAVRE BORDER PATROL SECTOR

P.O. BOX 112

HAVRE, MONTANA 59501

June 25, 1985

3
DATE 2-17-87
#670
HVM 71/42.1-C

Mr. Harold Burton
Chief of Police & Special Services
Burlington Northern Railroad

Dear Mr. Burton:

On May 29th and 30th Richard Kesler and Terry Adams conducted a weapons retention school here in Havre, Montana. U. S. Border Patrol Agents from the Havre Sector along with city, county and State law enforcement officers attended the training. The comments were that the training was very relevant, and the instruction was excellent.

Your instructors are to be commended for their knowledge of the material and the high professional manner in which they presented it.

Also, during this session, Special Agent Bill Warneke introduced a unique shoot no shoot training program which utilized color slides and audio effects. This realistic reaction training was well received by all the officers that took part.

We wish to thank you, your office, and Rich Miggins for the efforts to provide this valuable training. The cooperation and courtesy extended by you is a fine example of the mutual aid and assistance so essential to law enforcement. We look forward to working with your Agency in the future.

Sincerely

Norman L. Mercer
Norman L. Mercer
Chief Patrol Agent

MONTANA LAW ENFORCEMENT ACADEMY BUREAU
 REGIONAL TRAINING PROGRAM 521
 WEAPON RETENTION
 HAVRE, MT
 MAY 29 & 30, 1985

EXHIBIT 3
 DATE 2-17-87
 HB #670

ROSTER

ABRAHAMSON, John A.	Conrad P. D.	Conrad	59425
ANDERSON, David A.	Havre P. D.	Havre	59501
ANDERSON, Thomas L.	Chinook P. D.	Chinook	59523
BABCOCK, John I.	Dept. Fish, Wildlife, Parks P. O. Box 4041	Great Falls	59404
BENSON, Gary R.	Dept. Fish, Wildlife, Parks 1103 W/6	Havre	59501
BROST, Bernie L.	Sheridan County S. O.	Plentywood	59254
BURDITT, Darryl J.	Conrad P. D.	Conrad	59425
CARPENTER, Douglas A.	U. S. Border Patrol P. O. Box 36	Malta	59538
COMLY, Edward M.	Dept. Fish, Wildlife, Parks P. O. Box 421	Stanford	59479
COOPER, David E.	Dept. Fish, Wildlife, Parks 325 So. Jackson St.	Plentywood	59254
DELK, Alan D.	Chinook P. D.	Chinook	59523
DOHRMAN, Richard W.	Montana Highway Patrol 309 S. Dell	Havre	59501
DRAMSTAD, Rex E.	Havre P. D.	Havre	59501
FLOYD, Charles L.	U. S. Border Patrol P. O. Box 112	Havre	59501
FOX, Dennis L.	U. S. Border Patrol P. O. Box 128	Wolf Point	59201
GILLUND, Ronald D.	U. S. Border Patrol P. O. Box 112	Havre	59501
GRASKY, James M.	U. S. Border Patrol P. O. Box 112	Havre	59501
HALVER, Edward R.	Blaine County S. O.	Chinook	59523
HARADA, Gene F.	Havre P. D.	Havre	59501
HENDRICKSON, Leonard T.	U. S. Border Patrol P. O. Box 653	Shelby	59474
HINCKLEY, B. Roger	Montana Highway Patrol P. O. Box 1023	Havre	59501
JEPPESEN, K. Grant "Butch"	Liberty County S. O.	Chester	59522
JOHNSEN III, Clifford R.	Malmstrom Air Force Base 341 SPS/SPOL	Malmstrom AFB	59402

RT 521 - WEAPON RETENTION - PAGE 2

KELLER, David M.	U. S. Border Patrol P. O. Box 434	Plentywood	59254
KELLY, Edward J.	Dept. Fish, Wildlife, Parks 907 Jet	Glasgow	59230
LAMBERT, Alan J.	Toole County S. O.	Shelby	59474
LA VALLEY, Jack L.	Dept. Fish, Wildlife, Parks P. O. Box 4041	Great Falls	59404
MADDOX, Max W.	Blaine County S. O.	Chinook	59523
MAGNUSON, Ross D.	Havre P. D.	Havre	59501
MEHN, Mike D.	Dept. Fish, Wildlife, Parks P. O. Box 119	Fort Peck	59223
MEIER, Glen A.	Dept. Livestock, Brands Enforc. P. O. Box 492	Glasgow	59230
MIGGINS, Richard A.	BNRR - Police & Special Svs. 235 Main St.	Havre	59501
MILLS, James W.	Hill County S. O.	Havre	59501
MOORE, Michael P.	Malmstrom Air Force Base SPS/SPOL	Malmstrom AFB	59402
MYHRE, Wayne T.	U. S. Border Patrol P. O. Box 112	Havre	59501
OBERWEISER, Thomas M.	Havre P. D.	Havre	59501
OLSON, Kevin S.	Havre P. D.	Havre	59501
RUSH, Dennis A.	Dept. Fish, Wildlife, Parks P. O. Box 479	Malta	59538
SCHROEDER, Glen W.	U. S. Border Patrol P. O. Box 434	Plentywood	59254
SEIDLITZ, Richard E.	Musselshell County S. O.	Roundup	59072
STIEGLER, James H.	U. S. Border Patrol P. O. Box 1124	Malta	59538
STOLEN, Mark S.	Hill County S. O.	Havre	59501
WARNEKE, William W.	BNRR-Police & Special Svs. 235 Main	Havre	59501
WINTER, Randy E.	Toole County S. O.	Shelby	59474
YONKO, Nicholas W.	BNRR-Police & Special Svs. 235 Main	Havre	59501



UNITED STATES BORDER PATROL
HAVRE BORDER PATROL SECTOR

P.O. BOX 112
HAVRE, MONTANA 59501

4
2-17-87
#670

HVM 76/13-C

December 30, 1986

Honorable Robert Bachini
Representative District 14
House of Representatives
State of Montana
Helena, Montana 59601

Dear Bob:

The Havre Sector of the U. S. Border Patrol has a long history of cooperation with the Special Agents Department of the Burlington-Northern Railroad. We have found their officers to be professional and well-trained. We would be pleased to endorse your proposed bill to grant peace officer status to the Special Agents of Class One railroads operating in Montana.

If you have any questions concerning this matter, please do not hesitate to contact us.

Sincerely

Norman L. Mercer

Norman L. Mercer
Chief Patrol Agent

ef

PRESIDENT

Mike Schafer, Sheriff
Billings, MT 59101
256-2925

PAST PRESIDENT

Wally Schumacher, Deputy Sheriff
Bozeman, MT 59715
585-1478



SECRETARY-TREASURER

Tony Harbaugh, Sheriff
1010 Main Street
Miles City, MT 59301
Office: 232-2237
Home: 232-6299

OFFICIAL PUBLICATION
"THE MONTANA SHERIFF AND PEACE OFFICER"

Sheriffs and Peace Officers Association

OFFICE OF THE SECRETARY

1st VICE PRESIDENT

Curt Petty, Deputy Sheriff
Helena, MT 59601
443-1010 Ext. 248

2nd VICE PRESIDENT

Rick Later, Sheriff
Dillon, MT 59725
683-2383

3rd VICE PRESIDENT

Jim DuPont
Kalispell, MT 59901
752-6161

BOARD OF DIRECTORS

SHERIFFS

Bob Butorovich 782-4224
Butte, MT 59701

Jay Printz 363-3033
Hamilton, MT 59840

Tim Solomon 265-2512
Havre, MT 59501

Chuck O'Reilly 443-1010
Helena, MT 59601 ext. 243

Charles Rhodes 752-6161
Kalispell, MT 59901

UNDERSHERIFFS AND DEPUTIES

Rickard Ross 256-2967
Billings, MT 59101

James Burnes 761-6842
Great Falls, MT 59401

Jim Casheil 585-1485
Bozeman, MT 59715

Les Osborne 323-1402
Roundup, MT 59072

Jack Barney 538-3415
Lewistown, MT 59457

January 22, 1987

Mr. Bill Warneke
Burlington Norther
Police & Special Services
235 Main
Havre, Montana 59501

Dear Mr. Warneke:

I am writing this letter in reference to being a proponent for your request to have Railroad Police granted Peace Officer status in the State of Montana.

The intense training that the Railroad Police undergo would be an asset to Law Enforcement in our State. I've had the opportunity to work with Railroad Police and find them highly trained in their profession.

As Legislative Chairman of the Montana Sheriffs' and Peace Officers' Association, I would like to advise you of the Board of Directors' decision to go on record in supporting Peace Officer status for Burlington Northern Railroad Police.

If I can be of further assistance feel free to contact me at 782-4224.

Respectfully,

Robert Butorovich, Sheriff
BUTTE-SILVER BOW LAW ENFORCEMENT AGENCY

ly



Montana Police Protective Assn.
To Serve and Protect
Since 1938

6
2 17 87
#670

Representative Bob Bachini
Montana House of Representatives
State Capital
Helena, MT 59620

January 15, 1987

Dear Representative Bachini,

This letter is to inform you that the Montana Police Protective Association endorses and supports the Burlington Northern Police and Special Service Agents effort to obtain peace officer status in the State of Montana.

Many of us over the years have worked with Burlington Northern Police and have found them to be well qualified and conduct themselves with the utmost professionalism.

They have made themselves readily available and have assisted us at a moments notice. This has helped lead to the fine law enforcement service that Montana has become accustomed to.

I believe that by being granted the status of peace officer it would only lead to a better system of law and order not only upon the property of the Burlington Northern but also in the many communities that the Burlington Northern serves.

The consideration of the House of Representatives in this matter is greatly appreciated.

Respectfully,

Kevin Olson
Legislative Committee
Montana Police Protective Association

cc: Larry Connor, M.P.P.A. Legislative Chairman
William Warneke, B.N. Police & Special Services



DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
PO Box 35020, Billings, Mt
59107

7
2-17-87
670

REFER TO

January 12, 1987

Representative Robert Bachini
District 14 Representative
Montana House of Representatives
Helena, Montana

Dear Representative Bachini:

It has come to our attention that efforts are being made by your office to introduce a bill to the Montana Legislature providing for training and increased police powers for the Railroad Police.

I have had the personal pleasure of working with some of the Railroad Agents in Havre, Montana and elsewhere in the State of Montana and I can assure you they are very competent and professional investigators. I feel that any additional training they could receive by way of the Montana Law Enforcement Academy and any additional police powers they would receive as a result of your efforts would be fully justified and well worth it. I believe they would continue to make a major contribution toward law enforcement in the state of Montana and could probably make even more of a contribution toward that end if they had additional training and authorities.

Good luck on introducing your bill.

Sincerely yours

Donald E. Flickinger
Donald E. Flickinger
Special Agent

County of Yellowstone ⁸
2-17-87
= 670



OFFICE OF THE SHERIFF

P.O. BOX 35017
BILLINGS, MONTANA 59107

TO: Legislative Members
FROM: Sheriff Mike Schafer
DATE: December 29, 1986
SUBJ: Training for special agents of the railroad in first class counties

With the financial problems counties are having, it is very difficult to address all the law enforcement problems with limited manpower.

Here in Yellowstone County I have deputized special agents of the railroad so they can at least handle their own problems on their property. Prior to deputizing them, I have reviewed their training files and found that the vast majority have a large amount of experience and training in law enforcement and many of them have even more than our regular deputies who have many years of experience and training.

It is my recommendation that special agents in first class counties be given full law enforcement authority on railroad property after they have completed the Basic course at the Law Enforcement Academy in Bozeman, Montana. I feel it is time that they are recognized for the job and training they have. This would, in turn, create some financial support for the Academy because, being private enterprise, they should be charged the daily per diem cost to obtain the training.

If you have any questions regarding this, please feel free to contact me.

Sincerely,

MIKE SCHAFFER, SHERIFF

Mike Schafer

YELLOWSTONE COUNTY

lr

MISSOULA

"TO PROTECT AND TO SERVE"

CITY POLICE DEPARTMENT

201 W. SPRUCE • MISSOULA, MT 59802-4297 • (406) 721-4700



January 12, 1987

9

2-17-87
AB # 670

Honorable Bob Bachini
Montana State Representative
Capitol Station
Helena, Montana 59620

Re: Railroad Security Personnel

Representative Bachini:

This letter is to advise you that I wholeheartedly support legislation covering Class I railroads, granting railroad police in Montana "Peace Officer" status so that when on duty they have "the power and authority conferred by law on peace officers but exercise such power only in the protection of the property belonging to or under the control of the corporation at whose instance he is appointed and in preventing, and making arrest for, violations of law upon or in connection with such property. "

I thank you for allowing me this input.

Sincerely,

M. D. Hamilton
Chief of Police

EXHIBIT 10
DATE 2-17-87
HB #670

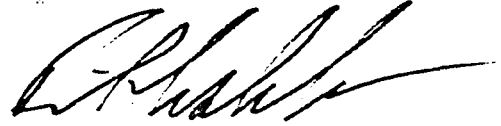
WILLIAM WARNEKE
B.N. POLICE AND SPECIAL SERVICES
235 Main
HAVRE, MT. 59501

Dear Bill:

Having had worked with you and other B.N. Police Officers in the past I was suprised to hear that you do not have any type of power to arrest or detain suspects in railroad matters.

In the past we have used your officers for locating and capturing of welfare fraud suspects that make use of the railroad systems in Montana to travel from county to county and state to state in order to receive multiple issuances of food stamps or other public assistance.

With no power of arrest or authority to detain it must make your job a little more than furstrating knowing that a suspect that you have located on a train or on railroad property can just walk away while you wait for a deputy or a police officer to arrive.



Rick Losleben Investigator
Montana Dept. of Revenue
Great Falls Regional Office

MISSOULA COUNTY

DANIEL L. MAGONE
SHERIFF

OFFICE OF THE SHERIFF
COUNTY COURTHOUSE
MISSOULA, MONTANA 59802

T. GREGORY HINTZ
UNDERSHERIFF

January 8, 1987

EXHIBIT 11
DATE 2-17-87
RE # 670

Mr. Howard Olson
Assistant Division Special Agent
Police & Special Services
Burlington Northern Railroad
P.O. Box 8289
Missoula, Montana 59807

Dear Howard:

I have reviewed B.N.'s proposal to the legislature of Montana to grant "Peace Officer" status to your railroad police.

I wholeheartedly support this proposal. All of the public law enforcement agencies in our state are understaffed and your proposal would relieve us of some duties that your agency can perform without our assistance.

I have always been impressed with the quality of the railroad police officers that I have worked with, and cannot foresee any problems arising from them being given "Peace Officer" status under the limitations contained in your proposal.

Sincerely,

Daniel L. Magone

DANIEL L. MAGONE
SHERIFF

DLM/ms



BARRY C. MICHELOTTI

12
2-17-87
#670
CASCADE COUNTY
325 Second Avenue North
Great Falls, Montana 59401
(406) 761-6842

January 7, 1987

Mr. Nick Yonko, Special Agent
Burlington Northern Railroad
P.O. Box 2525
Great Falls, Montana 59403

Dear Nick,

This letter is a follow-up to our meeting of January 6, 1987, concerning the proposal to authorize Burlington Northern police officers to have "peace officer" status in the State of Montana.

I feel all parties concerned, either the officer, Burlington Northern, the County of Cascade, or the State of Montana, would benefit by "peace officer" status being granted to railroad police for railroad activities only.

With the increasing case loads upon local and state law agencies and the decreasing budgets, the cooperation received from the Burlington Northern police in matters of public assistance and law enforcement has been an asset.

It is my hope that such legislation be considered.

Very truly yours,

BARRY C. MICHELOTTI
Sheriff/Coroner of Cascade County

BCM:jbs

cc: Mr. Bill Warneke
Burlington Northern Railroad
Police & Special Services
235 Main Street
Havre, MT 59501



BURLINGTON NORTHERN

January 8, 1987

13
2-17-87
#670

John A. Sitton, Special Agent
Burlington Northern Railroad
1 No. Central Avenue
Whitefish, Montana 59937

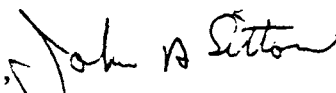
Representative Bob Bachini
Capitol Station
Helena, Montana 59620

Representative Bachini:

First let me express my appreciation for your work on this legislation. I have been assigned as a Burlington Northern Special Agent in Montana, at Whitefish since August 1984. I maintain state commissions as a railroad police officer in the states of Oregon, Washington, and Idaho. I have worked in many local jurisdictions in each of the mentioned states and have never encountered any problems with public law enforcement.

Enclosed please find survey returns from Flathead and Lincoln Counties and the Cities of Whitefish and Kalispell. The Burlington Northern Police Department enjoys excellent mutual assistance relationships with all these departments.

If I can be of any further assistance please call.

Sincerely, 
John A. Sitton



BURLINGTON NORTHERN

14

2-17-87

HB # 670

John A. Sitton, Special Agent
Burlington Northern Railroad
1 No. Central Ave.
Whitefish, Montana 59937

Mr. Chuck Rhodes, Sheriff
Flathead County
800 So. Main
Kalispell, Montana 59901

Dear Chuck:

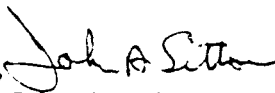
House District Representative Bob Bachini, District 14, is preparing legislation that will give railroad police officers "peace officer" status in the State of Montana. Presently each officer must obtain his police power from the several jurisdictions he is assigned.

As yet the bill is not drafted but I understand that Rep. Bachini is using the Washington State law as a model, (copy enclosed)

The new bill will include:

1. Give class I railroad police "peace officer" status in the protection of property under the control of the employing corporation.
2. Make the employing corporation responsible for the compensation and civil liability of the officer.

Representative Bachini and us at Burlington Northern Railroad request and would appreciate any input regarding this legislation.

Sincerely, 
John A. Sitton

With available information I am:

yes In favor of this legislation.
 _____ Not in favor of this legislation.

Remarks:





BURLINGTON NORTHERN

15
2-17-87
#670

John A. Sitton, Special Agent
Burlington Northern Railroad
1 N. Central Ave.
Whitefish, Montana 59937

Mr. Dave Dolson, Chief of Police
City of Whitefish
Whitefish, Montana 59937

Dear Dave:

House District 14 Representative Bob Bachini is proposing legislation this session that will give class I railroad police peace officer status state wide. Presently each railroad officer must obtain his police powers from each jurisdiction.

As yet a bill has not been drafted. I understand that Rep. Bachini will model his proposed bill along the lines of the Washington State Revised Code of Washington, sections 81.60, (copy enclosed).

The main points of the new legislation will be:

1. Peace officer status for officers, limited to the protection of property of the employing corporation.
2. Employing corporation to be solely responsible for the officers compensation and civil liability.

Rep. Bachini is requesting your input into this bill, along with us at Burlington Northern Railroad.

John A. Sitton
Sincerely, John A. Sitton

With the information available I am:

FOR LEGISLATION GIVING RAILROAD POLICE PEACE OFFICER STATUS.

AGAINST LEGISLATION GIVING RAILROAD POLICE PEACE OFFICER STATUS.

REMARKS:

David H. Dolson
Chief of Police
Whitefish, MT



BURLINGTON NORTHERN

Exhibit 16

Date 2-17-87

AB # 670

John A. Sitton, Special Agent
Burlington Northern Railroad
1 No. Central Avenue
Whitefish, Montana 59937

Mr. Ray Nixon, Sheriff
Lincoln County
Lincoln Co. Courthouse
Libby, Montana 59923

Dear Sheriff:

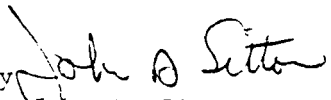
House District 14 Representative Bob Bachini is preparing legislation that will give railroad police "peace officer" status in the State of Montana. Presently each officer must obtain his police powers from the several jurisdictions he is assigned.

As yet a bill has not been drafted but as I understand it Rep. Bachini intends to use the Washington State Law as a model, (copy enclosed)

The new bill will include:

1. Give class I railroad police "peace officer" status in the protection of property under the control of the railroad corporation.
2. The railroad corporation to be liable for compensation and civil liability of the officer.

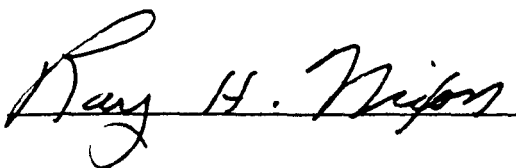
Representative Bachini and us at Burlington Northern Railroad request and would appreciate any input regarding this legislation.

Sincerely 
John A. Sitton

WITH AVAILABLE INFORMATION I AM:

- In favor of making railroad police peace officers.
- Non in favor of making railroad police peace officers.

REMARKS:





BURLINGTON NORTHERN

17
2-17-87
HB # 670

John A. Sitton, Special Agent
Burlington Northern Railroad
1 No. Central Ave.
Whitefish, Montana 59937

Mr. Martin Stefanic, Chief of Police
City of Kalispell
Drawer 1997
Kalispell, Montana 59901

Dear Chief:

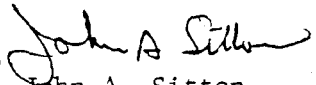
House District 14 Representative Bob Bachini is preparing legislation that will give railroad police officers "peace officer" status in the State of Montana. Presently each officer must obtain his police powers from the several jurisdictions he is assigned.

As yet a bill has not been drafted but as I understand, Rep. Bachini intends to use the Washington State law as a model, (copy enclosed).

The new bill will include:

1. Give class I railroad police officers "peace officer" status in the protection of property under the control of the employing corporation.
2. The employing corporation will be solely liable for the compensation and civil liability of the officer.

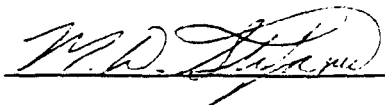
Representative Bachini and us at Burlington Northern request and would appreciate any input regarding this bill.

Sincerely, 
John A. Sitton

With available information I am:

- in favor of making railroad police peace officers.
- Not in favor of making railroad police peace officers.

Remarks:



MISSOULA COUNTY

EXHIBIT 18
DATE 2-17-87
HB #670

DANIEL L. MAGONE
SHERIFF

OFFICE OF THE SHERIFF
COUNTY COURTHOUSE
MISSOULA, MONTANA 59802

T. GREGORY HINTZ
UNDERSHERIFF

January 8, 1987

Mr. Howard Olson
Assistant Division Special Agent
Police & Special Services
Burlington Northern Railroad
P.O. Box 8289
Missoula, Montana 59807

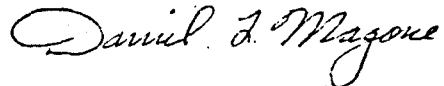
Dear Howard:

I have reviewed B.N.'s proposal to the legislature of Montana to grant "Peace Officer" status to your railroad police.

I wholeheartedly support this proposal. All of the public law enforcement agencies in our state are understaffed and your proposal would relieve us of some duties that your agency can perform without our assistance.

I have always been impressed with the quality of the railroad police officers that I have worked with, and cannot foresee any problems arising from them being given "Peace Officer" status under the limitations contained in your proposal.

Sincerely,



DANIEL L. MAGONE
SHERIFF

DLM/ms



City of GREAT FALLS Montana

59403-502

P. O. BOX 5021

TELEPHONE 406 / 727-5881

January 7, 1987

EXHIBIT 19
DATE 2-17-87
HB #670

N. W. Yonko, Special Agent
Police and Special Services
Burlington Northern Railroad
P. O. Box 2525
Great Falls, Montana 59403

Dear Nick:

As per our telephone conversation of December 30, 1986, in regards to railroad special agents or police obtaining the peace officer's status legislation proposed by Mr. Bob Bachini, District 14, Havre, Montana, I have shared this with our command level personnel at the Great Falls Police Department, and we are all in concurrence. We find that this legislation could only enhance law enforcement within Great Falls and Cascade County. Due to the contiguous properties owned by the City, County, and the Burlington Northern Railroad and the complexities of the crimes which occur within these jurisdictions, we feel that you should enjoy peace officer status within the State of Montana. Our full support will be given to you in regards to this endeavor.

Sincerely yours in law enforcement,

ROBERT G. JONES
CHIEF OF POLICE

RGJ:pab



BURLINGTON NORTHERN

EXHIBIT 20
DATE 2-17-87
HB # 670

John A. Sitton, Special Agent
Burlington Northern Railroad
1 No. Central Avenue
Whitefish, Montana 59937

Mr. Ray Nixon, Sheriff
Lincoln County
Lincoln Co. Courthouse
Libby, Montana 59923

Dear Sheriff:

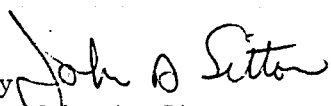
House District 14 Representative Bob Bachini is preparing legislation that will give railroad police "peace officer" status in the State of Montana. Presently each officer must obtain his police powers from the several jurisdictions he is assigned.

As yet a bill has not been drafted but as I understand it Rep. Bachini intends to use the Washington State Law as a model, (copy enclosed)

The new bill will include:

1. Give class I railroad police "peace officer" status in the protection of property under the control of the railroad corporation.
2. The railroad corporation to be liable for compensation and civil liability of the officer.

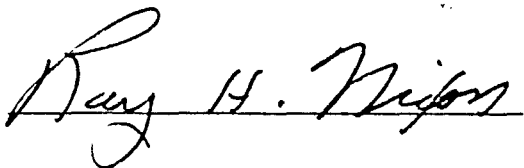
Representative Bachini and us at Burlington Northern Railroad request and would appreciate any input regarding this legislation.

Sincerely 
John A. Sitton

WITH AVAILABLE INFORMATION I AM:

- In favor of making railroad police peace officers.
- Non in favor of making railroad police peace officers.

REMARKS:





BURLINGTON NORTHERN

EXHIBIT 21
DATE 2-17-87
HB #670

John A. Sitton, Special Agent
Burlington Northern Railroad
1 N. Central Ave.
Whitefish, Montana 59937

Mr. Dave Dolson, Chief of Police
City of Whitefish
Whitefish, Montana 59937

Dear Dave:

House District 14 Representative Bob Bachini is proposing legislation this session that will give class I railroad police peace officer status state wide. Presently each railroad officer must obtain his police powers from each jurisdiction.

As yet a bill has not been drafted. I understand that Rep. Bachini will model his proposed bill along the lines of the Washington State Revised Code of Washington, sections 81.60, (copy enclosed).

The main points of the new legislation will be:

1. Peace officer status for officers, limited to the protection of property of the employing corporation.
2. Employing corporation to be solely responsible for the officers compensation and civil liability.

Rep. Bachini is requesting your input into this bill, along with us at Burlington Northern Railroad.

John A. Sitton
Sincerely, John A. Sitton

With the information available I am:

FOR LEGISLATION GIVING RAILROAD POLICE PEACE OFFICER STATUS.

AGAINST LEGISLATION GIVING RAILROAD POLICE PEACE OFFICER STATUS.

REMARKS:

David H. Dolson
Chief of Police
Whitefish, MT

MISSOULA COUNTY

EXHIBIT 22
D. 2-17-87
HB #670

DANIEL L. MAGONE
SHERIFF

OFFICE OF THE SHERIFF
MISSOULA, MONTANA 59802



T. GREGORY HINTZ
UNDERSHERIFF

January 8, 1987

Mr. Howard Olson
Assistant Division Special Agent
Police & Special Services
Burlington Northern Railroad
P.O. Box 8289
Missoula, Montana 59807

Dear Howard:

I have reviewed B.N.'s proposal to the legislature of Montana to grant "Peace Officer" status to your railroad police.

I wholeheartedly support this proposal. All of the public law enforcement agencies in our state are understaffed and your proposal would relieve us of some duties that your agency can perform without our assistance.

I have always been impressed with the quality of the railroad police officers that I have worked with, and cannot foresee any problems arising from them being given "Peace Officer" status under the limitations contained in your proposal.

Sincerely,

Daniel L. Magone

DANIEL L. MAGONE
SHERIFF

DLM/ms



OFFICE PHONE:
 (406) 232-2237
 (406) 232-2239

TONY HARBAUGH

Sheriff

Custer County, Montana

MILES CITY, MONTANA 59301

EXHIBIT 23
 DATE 2-17-87
 HB # 670



DON NEESE - UNDERSHERIFF
 County 13
 RAY MALLEY - DEPUTY
 County 12
 WALLY BADGETT - DEPUTY
 County 11
Special Deputies:
 Leonard Benasky - S.D. - J. 1
 Darrell Nash - S.D. - J. 2

Rep. Robert Bachini
 Montana HD 14
 Havre, Mont. 59501

Mr. Bachini,

This letter is to express my support for your sponsorship of a Bill to Legitimize Railroad police and give them Law Enforcement authority.

To my knowledge, Montana is one of only four states, in which these officers do not have this authority.

You never know, maybe if we train these officers at our Law Enforcement Academy, Burlington Northern might want to send a few dollars toward the Academy fund.

Sincerely,

Sheriff Tony Harbaugh

Custer County
 Miles City, Mont.

24
2 11 00
11 11 00

Area law enforcement to increase patrols

By RUSTY QUALLS
and KEVIN BROOKE
of the Daily News Staff

Law enforcement agencies in Havre and the surrounding area are prepared for what has traditionally been a busy night for them — New Year's Eve.

The Highway Patrol will have a 400-500 percent increase in number of personnel working the evening shift this evening, according to Sergeant Greg Szudera, as five of-

fficers will be on patrol compared with the normal one or two.

And while the Havre Police Department and the Hill County Sheriff's Office will be operating basically the same way as they would on a normal weekend night, one reserve member will be on duty in each department to ensure that they can adequately handle the festivities, according to Assistant Chief of Police Mike Shortell and Sheriff Tim Solomon.

In addition, all law enforcement officers interviewed agreed that the police department, sheriff's office, highway patrol, border patrol and special agents of Burlington Northern consistently help one another out, something they said is especially comforting on New Year's Eve.

An HPD program that has proven successful the past several years on New Year's Eve is their DUI Task

See LAW, Page 3

OFFICE OF SHERIFF
Coroner & Public Administrator

25

2 17 87

AB # 670

Office Phone: 759-5171

Liberty County Sheriff
Chester, Montana

January 13, 1986

Bill Warneke
Burlington Northern
Special Agent
Havre, Montana

Dear Bill:

I was very pleased to hear your group is putting forth a Bill to Grant Peace Officer Status to Burlington Northern Special Police.

Liberty County Sheriffs office and our officers have dealt with this group of people many times over the years, and have found them to be professional and well trained.

As Sheriff I appreciate the cooperation and efforts you have always given us to help with any investigations we have worked on, that involved your company.

I feel that to grant Peace Officer Status to you people would greatly benefit my department and others around the State of Montana.

I would be pleased to support your bill.

Good Luck!

Sincerely Yours



Richard A Burrows

Sheriff, Liberty County

P.O. Box K

Chester, Montana

59522

EXHIBIT 24
DATE 2-17-87
HB # 670

Havre Montana
January 30, 1987

Representative Bob Pachini
Montana House of Representatives
State Capitol
Helena Montana 59620

Dear Representative Pachini:

This letter is to inform you that we support the Burlington Northern Police and Special Services effort to obtain Peace Officer status in the State of Montana.

Many of us over the years have worked with Burlington Northern Police and have found them to be well qualified and conduct themselves in a professional manner. They have made themselves readily available to all law enforcement agencies in the area and have assisted at a moments notice.

We believe that by being granted the status of peace officer would lead to a better system of law and order in the many communities that the Burlington Northern serves.

Havre Detachment
Montana Highway Patrol
Sgt Greg Syden 171
Ptlm Tony Stoppo 303
Ptlm Roger Hurdley 203
Rozzie Bennett 176
PO Langli #152

cc; William Karneke, P.N. Police and Special Services



HAVRE CITY JUDGE

WALLACE A. JEWELL
P.O. BOX 231
HAVRE, MT. 59501 406-265-8575

EXHIBIT 27
DATE 2-17-87
HB # 670

January 6, 1987

Representative Bob Bachini
c/o Bill Warneke
BN Police
35 Main Street
Havre, Mt 59501

Dear Bob:

This is written regarding the proposed legislation that would empower members of the Burlington Northern Police Force to make arrests. I must heartily support such legislation.

It only makes sense, in times when nearly every police department in the country is crying for more manpower, to enact such a law. Why should the local police or sheriff department be called to arrest someone when that person is already detained by the BNPD.

According to Black's Law Dictionary arrest is defined as: "To deprive a person of his liberty by legal authority. Taking, under real or assumed authority, custody of another for the purpose of holding or detaining him to answer a criminal charge or civil demand". They do this already- perhaps the Montana Legislature should give them the "legal authority".

If a member of the BN Police Force has the proper training and qualifications, then I think they should have legal arrest power.

Sincerely,

Wallace A. Jewell

Wallace A. Jewell
City Judge

cc: Representative Ray Peck

POLICE DEPARTMENT

113 EAST MAIN STREET
CUT BANK, MONTANA 59427

PHONE 873-2288

EXHIBIT 28
DATE 2-17-87
HB #670

January 8, 1987

Dear Nick Yonko,

Burlington Northern has my total support in the attempt to allow Railroad Investigation Agents to gain Peace Officer Status in the State of Montana. This position is long overdue. I hope the Montana Legislature can see the need and the advantages the Peace Office Status would be for the State.

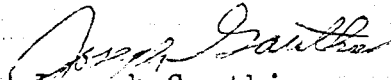
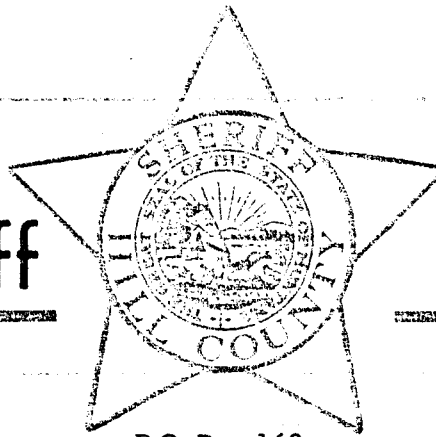

Joseph Gauthier
Chief of Police

EXHIBIT 29
DATE 2-17-87
NB # 670



Office of Sheriff

HOWARD C. TAYLOR
Sheriff

P.O. Box 169
Havre, Montana 59501

Hill County

TIM SOLOMON
Under Sheriff

January 9, 1987

Mr. William Warneke
Special Agent
Burlington Northern
Havre, Montana 59501

Dear Mr. Warneke:

The Hill County Sheriff's Department has been working closely with Burlington Northern Special Agents for a number of years. In working with them we have found them to be well trained and work in a professional manner. Their help has been very beneficial to our department.

I feel that a law granting the Burlington Northern Special Agents Peace Officers status, pertaining to Burlington Northern related crimes, would greatly benefit departments all over the State of Montana.

Sincerely yours,

Tim C. Solomon
Sheriff

grs

Office of the Sheriff

Radio KNID 912
Phone 406-822-4861

WADE A. VAN GILDER

Sheriff/Coroner

MINERAL COUNTY
Box 99
Superior, Montana 59872

EXHIBIT 30
DATE 2-17-87
HB #640

16 January 1987

Howard Olson
Burlington Northern Railroad

Reference: Expansion of arrest powers and "Peace Officer" status of Railroad Law Enforcement Agents.

Howard,

This correspondence is supportive of any legislative action promoting this issue.

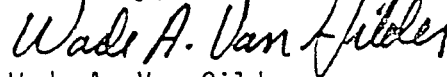
Law Enforcement suffers constantly due to a variety of restrictions in the area of budgets, constitutional rights, court decisions, manpower demands, and etc. The criminal element is here to stay. Railroad Law Enforcement agents need our assistance and visa versa. Jurisdictions constantly overlap. Law Enforcement officers need to be able to function.

Mineral County is 78 miles long with four sworn Law Enforcement Officers. The railroad travels through a major portion of this county. The point being that by expanding an agent's arrest powers makes that agent more flexible to provide assistance to local authorities as well as carry out their own duties more efficiently.

My experience in working with railroad detectives has always been very positive and they have always presented themselves in a very professional manner. It is my professional opinion that broadening the current arrest powers of Railroad Detectives in Montana, can only be to everyone's benefit in the Law Enforcement field.

Please feel free to contact me if I can be of any further assistance.

Sincerely,



Wade A. Van Gilder
Sheriff

WAVG/jfa

ROBERT A. JENSEN
SHERIFF
Phone 485-3445

SHERIFF'S OFFICE
McCone County, Montana
Phone 485-3405
CIRCLE, MONTANA 59215

JACK LIMESAND
UNDER SHERIFF
Phone 485-2177

EXHIBIT 31
DATE 2-17-87
HB # 670

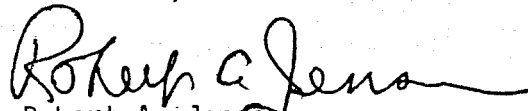
January 13, 1987

State Representative Dashini
House District 14
Havre, MT 59501

Representative Dashini:

I was asked to write a letter in support of Legislation to have the Railroad Detective's included in the realm of Peace Officers so they could be certified at the Academy and Post Council. This would make them available to be deputized in emergency situations to help with enforcement problems. In small rural departments this would be valuable in many instances.

Thank You,


Robert A. Jensen
McCone County Sheriff

RAJ/djs

DEPARTMENT of POLICE
CITY of GLENDIVE

STATE of MONTANA

P.O. Box 1372
59330

GLEN "ED" WILLIAMSON
ASSISTANT CHIEF

BUS: (406) 365-2364
RES: (406) 365-2994



12 January 1987

Exhibit 32
Date 2/17/87
HB # 670

Mr. Bob Bachini
Representative of District 14
409 19th Street
Havre, Montana 59501

Mr. Bachini:

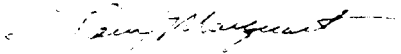
I have been contacted by Richard Madigan, Special Agent for Burlington Northern Railroad and he advises that you are sponsoring a bill granting the Special Agents full power and status of a police officer.

With what information was made available to me at the time of our discussion I would support such a bill granting them police powers to make an arrest, serve search warrants, arrest for alcohol and drug violations when they are done in conjunction of a legitimate Railroad investigation.

I would also have no objections to them attending the Montana Law Enforcement Academy at Bozeman or wherever they may move the Academy to if they would attend at railroad expense.

I feel that they are an important ally in the suppression of crime and in the apprehension of criminals and therefore should be granted the powers of arrest and have access to the same training as other peace officers.

Sincerely,


Larry D. Marquart
Chief of Police
Glendive, Montana

Office of Sheriff

HOWARD C. TAYLOR
Sheriff



P.O. Box 169
Havre, Montana 59501

Hill County

TIM SOLOMON
Under Sheriff

January 18, 1987

J.C. Jones
Assistant Superintendent
Police and Special Services
Burlington Northern Railroad
West 221 1St. Ave.
Spokane, Wa. 99203

33
2 17-87
HB #670

Dear Mr. Jones,

On January 17, 1987, two Special Agents from Burlington Northern Railroad were called by our office to assist us in searching for a fugitive that had escaped from the custody of our department. Within minutes of the call, Agents Bill Warneke and Rich Miggins were on the scene offering their assistance and expertise. We have always enjoyed a very close working relationship with Burlington Northern because of the professional way these two agents conduct themselves.

Please extend our thanks to Rich and Bill for the help they gave us. The fugitive was captured in part due to their efforts.

Sincerely,

Tim C. Solomon, Sheriff

Andrew I. Mygland
Deputy Sheriff

EXHIBIT 34
DATE 2-17-89
HB. # 670

Jan 6, 1987

Robert Bachini
District 14 Representative

Dear Mr. Bachini

I am writing this letter to make you aware that the rail road Police are asking for peace officer status. I have worked with the rail road Police during some of my livestock investigations. I have always found them to be very helpful and professional.

I would like to ask for your support in getting them Police Officer status.

Sincerely
Mark Elings
Mark Elings
District Investigator
Brands Enforcement Division

Office of the Sheriff

WADE A. VAN GILDER

Sheriff/Coroner

MINERAL COUNTY

Box 99

Superior, Montana 59872

Radio KNID 912

Phone 406-822-486

EXHIBIT 35
DATE 2-17-87
HB # 670

16 January 1987

Howard Olson
Burlington Northern Railroad

Reference: Expansion of arrest powers and "Peace Officer" status of Railroad Law Enforcement Agents.

Howard,

This coorespondence is supportive of any legislative action promoting this issue.

Law Enforcement suffers constantly due to a variety of restrictions in the area of budgets, constitutional rights, court decisions, manpower demands, and etc. The criminal element is here to stay. Railroad Law Enforcement agents need our assistance and visa versa. Jurisdictions constantly over lap. Law Enforcement officers need to be able to function.

Mineral County is 78 miles long with four sworn Law Enforcement Officers. The railroad travels through a major portion of this county. The point being that by expanding an agents arrest powers makes that agent more flexible to provide assistance to local authorities as well as carry out their own duties more efficiently.

My experience in working with railroad detectives has always been very positive and they have always presented themselves in a very professional manner. It is my professional opinion that broadening the current arrest powers of Railroad Detectives in Montana, can only be to everyone's benefit in the Law Enforcement field.

Please feel free to contact me if I can be of any further assistance.

Sincerely,

Wade A. Van Gilder

Wade A. Van Gilder
Sheriff

WAVG/jfa

POLICE DEPARTMENT

414 EAST CALLENDER BOX 897

LIVINGSTON, MONTANA

59047

(406) 222-2050

CHIEF OF POLICE
GEORGE A. BRYCE

36
2 17-87
= 670

January 9, 1987

Mr. Bob Bachini
House of Representatives
House District #14
% Capital Building
Helena, Montana 59620

Dear Mr. Bachini:


I have been requested by the Burlington Northern Railroad Security Officers to support legislation making them Peace Officers for the State of Montana.

In the past the BN Security Officers have been an assist to Law Enforcement in our community. They have exhibited professionalism conducting their responsibilities and we have a good working relationship with them.

Any legislation giving them Montana Peace Officers status must require them to be certified by the Montana Police Officer's Standards and Training (P.O.S.T.).

Thank you for your time in this matter.

Respectfully,


George A. Bryce
Chief of Police

Glacier County Sheriff

Jim Persling

Glacier County Courthouse

January 6, 1987

37
2-17-87
HB # 670

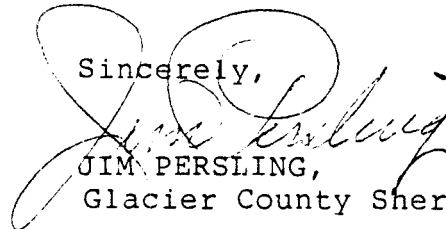
William W. Warneke
829 17th
Havre, MT 59501

RE: Letter Robert Bachini

Dear Bill:

Please find enclosed the letter you requested,
if I can be of any further help please let me know.

Sincerely,



JIM PERSLING,
Glacier County Sheriff

JP/aa

Glacier County Sheriff

Jim Persling

Glacier County Courthouse

December 29, 1986

38
2-17-87
#670

Robert Bachini
Montana State Representative, Hill County
Havre, MT 59501

Dear Bob:

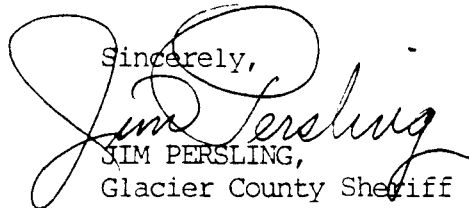
In regard to special agents working for Burlington Northern Railway, seeking Law Enforcement certification in the State of Montana.

The agents working in the Glacier County area, have always been a very professional type of people, well trained and know their job. We have had occasions to work with them and their assistance to our department has been greatly appreciated.

Anything the State of Montana can do to advance their training, would certainly be a benefit to all Law Enforcement.

If I can be of any further help, please let me know.

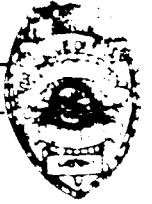
Sincerely,


JIM PERSLING,
Glacier County Sheriff

JP/aa

MISSOURI

CITY POLICE DEPARTMENT



January 12, 1987

Exhibit 39
Date 2-17-87
HB # 670

Honorable Bob Bachini
Montana State Representative
Capitol Station
Helena, Montana 59620

Re: Railroad Security Personnel

Representative Bachini:

This letter is to advise you that I wholeheartedly support legislation covering Class I railroads, granting railroad police in Montana "Peace Officer" status so that when on duty they have "the power and authority conferred by law on peace officers but exercise such power only in the protection of the property belonging to or under the control of the corporation at whose instance he is appointed and in preventing, and making arrest for, violations of law upon or in connection with such property. "

I thank you for allowing me this input.

Sincerely,

M. D. Hamilton
Chief of Police

Exhibit 40

Date 2-17-87

AB # 670

January 26, 1987

Burlington Northern Railroad
Mr. N.W. Yonko
Special Agent
Police & Special Services
P.O. Box 2525
Great Falls, Montana 59403

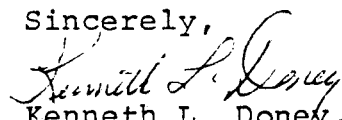
RE: Peace Officer status

Mr. Yonko;

Please be advised that I, as Sheriff of Fergus County to support the Legislation Bill of having U.S. Railroad Police granted the " peace Officer' status for the State of Montana.

Do to the fact that crimes are not committed within boundaries, it would work to the benefit of both County and State Law Enforcement to enable the Railroad Special Agents to have the Peace Officer status, through the State of Montana.

Sincerely,


Kenneth L. Doney, Sheriff
Fergus County
Lewistown, Montana

POLICE DEPARTMENT

414 EAST CALLENDER Box 897

LIVINGSTON, MONTANA

59047

(406) 222-2050

41
2-17-87
#670

CHIEF OF POLICE
GEORGE A. BRYCE

January 9, 1987

Mr. Bob Bachini
House of Representatives
House District #14
% Capital Building
Helena, Montana 59620

Dear Mr. Bachini:

I have been requested by the Burlington Northern Railroad Security Officers to support legislation making them Peace Officers for the State of Montana.

In the past the BN Security Officers have been an assist to Law Enforcement in our community. They have exhibited professionalism conducting their responsibilities and we have a good working relationship with them.

Any legislation giving them Montana Peace Officers status must require them to be certified by the Montana Police Officer's Standards and Training (P.O.S.T.).

Thank you for your time in this matter.

Respectfully,



George A. Bryce
Chief of Police



BURLINGTON NORTHERN

John A. Sitton, Special Agent
Burlington Northern Railroad
1 No. Central Ave.
Whitefish, Montana 59937

Mr. Martin Stefanic, Chief of Police
City of Kalispell
Drawer 1997
Kalispell, Montana 59901

EXHIBIT 42
DATE 2-17-87
HB # 67D

Dear Chief:

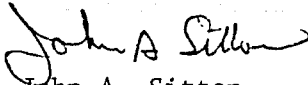
House District 14 Representative Bob Bachini is preparing legislation that will give railroad police officers "peace officer" status in the State of Montana. Presently each officer must obtain his police powers from the several jurisdictions he is assigned.

As yet a bill has not been drafted but as I understand, Rep. Bachini intends to use the Washington State law as a model, (copy enclosed).

The new bill will include:

1. Give class I railroad police officers "peace officer" status in the protection of property under the control of the employing corporation.
2. The employing corporation will be solely liable for the compensation and civil liability of the officer.

Representative Bachini and us at Burlington Northern request and would appreciate any input regarding this bill.


Sincerely, 
John A. Sitton

With available information I am:

In favor of making railroad police peace officers.

Not in favor of making railroad police peace officers.

Remarks:





BURLINGTON NORTHERN

EXHIBIT 43
DATE 2-14-87
HB # 670

John A. Sitton, Special Agent
Burlington Northern Railroad
1 No. Central Ave.
Whitefish, Montana 59937

Mr. Chuck Rhodes, Sheriff
Flathead County
800 So, Main
Kalispell, Montana 59901

Dear Chuck:

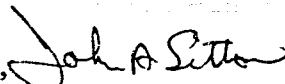
House District Representative Bob Bachini, District 14, is preparing legislation that will give railroad police officers "peace officer" status in the State of Montana. Presently each officer must obtain his police power from the several jurisdictions he is assigned.

As yet the bill is not drafted but I understand that Rep. Bachini is using the Washington State law as a model, (copy enclosed)

The new bill will include:

1. Give class I railroad police "peace officer" status in the protection of property under the control of the employing corporation.
2. Make the employing corporation responsible for the compensation and civil liability of the officer.

Representative Bachini and us at Burlington Northern Railroad request and would appreciate any input regarding this legislation.


Sincerely, 
John A. Sitton

With available information I am:

Yes In favor of this legislation.

_____ Not in favor of this legislation.

Remarks:





HAVRE CITY JUDGE

WALLACE A. JEWELL
P.O. BOX 231
HAVRE, MT. 59501 406-265-8575

EXHIBIT 44
DATE 2-17-87
HS # 670

January 6, 1987

Representative Bob Bachini
c/o Bill Warneke
BN Police
35 Main Street
Havre, Mt 59501

Dear Bob:

This is written regarding the proposed legislation that would empower members of the Burlington Northern Police Force to make arrests. I must heartily support such legislation.

It only makes sense, in times when nearly every police department in the country is crying for more manpower, to enact such a law. Why should the local police or sheriff department be called to arrest someone when that person is already detained by the BNPD.

According to Black's Law Dictionary arrest is defined as: "To deprive a person of his liberty by legal authority. Taking, under real or assumed authority, custody of another for the purpose of holding or detaining him to answer a criminal charge or civil demand". They do this already- perhaps the Montana Legislature should give them the "legal authority".

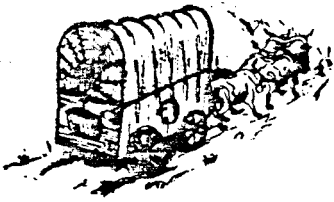
If a member of the BN Police Force has the proper training and qualifications, then I think they should have legal arrest power.

Sincerely,

Wallace A. Jewell

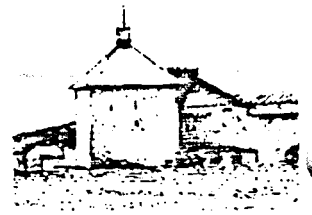
Wallace A. Jewell
City Judge

cc: Representative Ray Peck



OFFICE OF
SHERIFF OF CHOUTEAU COUNTY

FORT BENTON, MONTANA 59442



"The Birthplace of Montana"

PAUL WILLIAMS
Sheriff
TOM SHEEHY
County Attorney

Office Phone: 622-5451
Jail Phone: 622-5451

EXHIBIT 45
DATE 2-17-87
HB #670

William W. Warneke
829 17th
Havre, MT 59501

January 1, 1987

Dear Bill:

In reference to your phone call on December 29, 1986 requesting a letter from me concerning the Railroad Police Detectives being able to attend the Academy in Bozeman. I have worked with many of the Railroad Detectives and have no problem with them attending the Montana Law Enforcement Academy; but I would not like to see the State have to pay for the training of the officers, and think that the Burlington Northern Railroad should cover the expense.

I feel that training is very essential to the officers; that the officers are better and more ready for their job after completing the Academy.

Please do not hesitate to contact me further concerning this matter.

Sincerely,

Paul F. Williams
Paul F. Williams, Sheriff



46
2-17-87
HB # 670
City of Havre, Montana 59501

POLICE DEPARTMENT

Richard D. Stremcha, Chief of Police

406/265-4362

January 6, 1987

Mr. William Warneke
Special Agent
Burlington Northern
Havre, Montana 59501

Dear Bill:

This letter is to inform you that we support the bill being introduced by Representative Bob Bachini that would allow Burlington Northern Special Police peace officers status within the State of Montana. It appears to be a logical move, and has potential for mutual benefit to both Burlington Northern and to state and local law enforcement agencies.

Sincerely yours,

Richard D. Stremcha
Chief of Police

Michael F. Shortell
Assistant Chief of Police

County of Toole
Office of the Sheriff

V. L. Anderson, Sheriff

Shelby, Montana

59474

Exhibit 47
Date 2-17-87
HB # 670

PLEASE REFER

TO FILE NO. _____

December 23, 1986

Shelby, Montana

Mr. Bill Warneke
Police/Special Services Department
235 Main Street
Havre, Montana 59501

Dear Bill,

In re our phone conversation of this date, in regard to Burlington Northern Police being recognized as Police Officers in the State of Montana.

I feel that your police force being recognized as police officers in the State would bring about more uniformity, i.e. your employees being required to attend POST certified schools offered by the State of Montana.

For continued cooperation between our two Departments and for a safer Montana in which to live. Good luck with your endeavor.

Sincerely,



V.L. ANDERSON, SHERIFF

Address All Communication to V. L. Anderson, Sheriff

CITY OF CONRAD

48
2 17 87
HB 670

10 4TH AVENUE S.W.
CONRAD, MONTANA 59425

DON McCLAIN
Mayor

PETE HAUER

E J JURY
City Clerk Treasurer

TOM HAMMERBACKER

BETTY RAINVILLE
City Judge

BYRON GRUBB

LEON SIMPSON
Police Chief

LARRY BROWNELL

Aldermen

December 31, 1986

Conrad, Mt. 59425

Police/ Special Services Department

235 Main Street

Havre, Mt. 59501

Dear Nick:

In regard to our phone call on Tuesday December 30, 1986
I feel that your force being recognized as police officers
in the state would be beneficial as they would then be required
to attend POST certified schools offered by the State of
Montana, thus making for more uniformity.

If I can be of further service please call on me.

Sincerely,



Leon D. Simpson
Chief of Police



406/265-4362

49
2-17-87
AB #670
City of Havre, Montana 59501

POLICE DEPARTMENT

Richard D. Stremcha, Chief of Police

July 3, 1985

To: Mr. J.R. Gaskill
Regional Director
Police and Special Services
Burlington Northern Railroad
2718 Montana Avenue
Billings, Montana 59101

From: Captain Mike Shortell
Assistant Chief of Police
Havre Police Department
Havre, Montana 59501


Dear Sir:

I have received many favorable comments from Officers of this department and others about the Firearms Retention School conducted by the Burlington Northern on May 29 and 30. They thought it was excellent in both content and presentation. Instructors Terry Adams and Rich Kessler are to be commended.

We also thank you for including the Shoot Don't Shoot program presented by officers of this department in the overall program.

A special thanks to Special Agent Bill Warneke also..Bill has contributed much to the fine cooperation between the Havre Police Department and the Burlington Northern over the years. This cooperation is very important to us, considering that the Burlington Northern is unquestionably the major positive influence on this city.

We are looking forward to more cooperative efforts such as this in the future. As long as you have Special Agents like Bill and Rich Miggins stationed in Havre, I am sure that they will be mutually beneficial.

My Best Regards,

Mike Shortell
Assistant Chief of Police

EVIDENCE 50

DATE 2-17-87

HB # 670

City of Havre, Montana 59501



POLICE DEPARTMENT

Richard D. Stremcha, Chief of Police

406/265-4362

12 March 1986

Mr. J.R. Gaskill
Superintendent
Police and Special Services
2718 Montana Ave.
Billings, Montana 59101

Dear Sir:

On March 9th. an elderly gentleman walked away from a local rest home here in Havre, which necessitated an intensive search effort in the local area. The search involved several law enforcement agencies and volunteers from the community.

The purpose of this letter is to express to you are gratitude and appreciation for one of your employess who not only volunteered his services but his own personal vehicle in the search. Mr. Rich Miggins of your Havre Special Agents office spent considerable time and effort in the search, and was instrumental in the locating of the gentleman.

There are countless times that persons from the Special Agents office have been of great benefit to this office and the community, which I feel reflects the tremendous contribution that the Burlington Northern makes in this area and I'm sure in others.

If you would, please let him and others of your company know that their efforts are recognized and appreciated.

Sincerely,
Mike Shortell
Mike Shortell
Assistant Chief of Police

EXHIBIT 51
DATE 2-17-87
HE # 670

Subject: Firearms Instruction: Lesson Plan and Copies of Handouts

File: SA-Havre-503

Havre Montana
April 30, 1985

Mr. C.I. Schmasow:

Please find attached my lesson plan and various hand-outs for my firearms classes and qualification for my area on the Billings Region.

Writer will follow this lesson plan closely, but it could deviate slightly from time to time. Time elements involved, number of person in class or qualification, or type of range used could change the procedure slightly. Writer will attempt to have different hand-outs each year and copies of any new ones will be forwarded to training division for their records.

Writer will submit separate lesson plan for shotgun training and qualification at a later date. Writer is currently completing a Shoot-Don't Shoot type of training involving use of slides and a cassette tape. This will be used at a later date when it is completed and hopefully approved by the training section. Two sets of slides and two completed cassette tapes are being made. One set of each will be retained by myself for training and one set will be forwarded to the training staff either for their use or for their records. Writer will complete a lesson plan for this type of training as soon as it completed.

W.W. Warneke

W.W. Warneke
Patrolman-Firearms Instructor

cc: J.E. Saegill
P.F. Samplos
R.A. Miggins

Introduction: Firearms Training and Qualification.

EXHIBIT 51
DATE 2-17-87
HE # 670

I. Need for firearms training.

- A. Explain to students "Vicarious Liability". That liability which can attach to an individual who has the authority to direct the actions of another.
- B. An administrator, or our case, the company, can be held liable for the acts of the subinordinate under the theory of "Vicarious Liability" if:
 1. Plaintiff was injured or killed
 2. Plaintiff injury was caused by the administrator's negligence in appointing, retraining, failing to properly train or failing to properly supervise the subordinate.
- C. In case of a lawsuit, the courts will examine the following issues relative to the trial of the officer, his supervisors, or his employer: (Read to class)
 1. What pre-service instruction did the officer receive?
 2. What pre-service proficiency was required?
 3. What regulations were issued pertaining to the lawful use of force, (Intentional shootings) and safe handling of firearms, (Accidental Shootings)?
 4. What were the qualifications of the instructor?
 5. What records exist documenting training and proficiency?
 6. What in-service training has been given?
 7. What in-service proficiency is required?
- D. Qualification to be shot at least two times a year for company. (Under current firearms policy). (Point out that officers should make every effort to qualify with local law enforcement to become proficient and this will also show them you are proficient in the event they need a backup or you volunteer to back them up. Also firearms training films as provided by the company will be shown at least once a year.

II. Negligence: (Violation of the duty to use care)

- A. Officer negligent if:
 1. Use of weapon is found to be excessive force (A risk is unreasonable if a "reasonable man would recognize that act as involving a risk of harm and the risk of such magnitude as to outweigh the utility of the act or the manner in which it was done.
 2. Example: Officer A intentionally shoots and wounds B, a suspect fleeing from a criminal activity. B may bring civil suit in state court. A's action is that Officer A used excessive force in his effort to apprehend him and the use of his firearms was not justified. (At this point, point out the recent U.S. Supreme Court Decision concerning shooting at a fleeing felon.)
 3. Example: Officer A intentionally shoots at B, a fleeing felon, in a congested area but misses B and hits C, an innocent bystander. C, in a civil suit will allege that Officer A was negligent in the discharge of his firearms.

4. Warning shots are not permitted in company firearms policy. However, should one occur, the courts will carefully review the necessity of such shooting should an injury occur. The burden upon the one who fires such shots is almost that of an insurer. The law imposes a duty of extra-ordinary care.
5. Charges and/or suits could develop from unintentional shootings. These cases arise out of accidental discharge of a weapon, such as:
 - a. Horseplay
 - b. Mis-handling of weapons such as passing from one officer to another
 - c. Falling out of holster and discharging
 - d. Negligent cleaning where weapon fires from supposedly empty weapon.
 - e. Negligent target practice.

B. Supervisors:

1. Supervisors in court cases have been held liable for negligence in hiring an individual unqualified or unsuited for law enforcement.
 2. An administrator may be personally liable under the doctrine of proximate cause if his negligent supervision involves a breach of duty.
 3. Negligence in supervision imposes the same liability as if he had personally participated in the actual tort.
- C. Read to the class some court cases of negligence obtained from the Civil Liability handout received at the firearms instructor school.

III. Objectives of Firearms Training:

- A. To teach the individual officer the basic fundamentals of marksmanship necessary to proper safety precautions and accurate firing of weapons.
- B. To teach individual officers how to identify a target rapidly, to draw the weapon safely and with speed, and to deliver accurate firing from not only one, but many varying combat shooting positions.
- C. To teach responsibility for public safety when firearms are used; responsibility for positive identification of target; and responsibility for the justification of the use of firearm.
- D. To develop in all officers the desire to shoot their service revolver with accuracy and ability, so that officers turn to shooting for recreation and personal satisfaction as well as normal firearms practice.

EXHIBIT 51
DATE 2-17-87
670

- E. To have individual officers develop confidence with self as a key to efficient performance of prescribed law enforcement duties.
- F. A Burlington Northern Police Officer generally works alone and often is pitted against superior numbers and odds of the criminal element who may or will shoot without warning or provocation. Proper combat firearms training is that which instills confidence within the officers themselves to deal with such odds.

IV. Montana Statutes; Justifiable Use of Force.

A. 45-3-101 Definitions.

- 1. Forcible felony means any felony which involves the use or threat of physical force or violence against any individual.
- 2. Force likely to cause death or serious bodily harm within the meaning of this chapter includes but is not limited to:
 - a. The firing of a firearm in the direction of a person, even though no purpose exists to kill or inflict serious bodily harm and
 - b. The firing of a firearm at a vehicle in which a person is riding.

B. 45-3-102 Use of force in defense of person. A person is justified in the use of force or threat to use force against another when and to the extent that he reasonably believes that such conduct is necessary to defend himself or another against such other's imminent use of unlawful force. However, he is justified in the use of force likely to cause death or serious bodily harm only if he reasonably believes that such force is necessary to prevent imminent death or serious harm to himself or another or to prevent the commission of a forcible felony.

C. 45-3-103 Use of force in defense of occupied structure. A person is justified in the use of force or threat to use force against another when and to the extent that he reasonably believes that such conduct is necessary to prevent or terminate such other's unlawful entry into or attack upon an occupied structure. However, he is justified in the use of force likely to cause death or serious bodily harm only if:

- 1. The entry is made or attempted in violent, riotous, or tumultuous manner and he reasonably believed that such force is necessary to prevent an assault upon or off of personal violence to him or another then in the occupied structure
- 2. He reasonably believes that such force is necessary to prevent the commission of a forcible felony in the occupied structure.

D. 45-3-104 Use of force in defense of other property. A person is justified in the use of force or threat to use force against another when and to the extent that he reasonably believes that such conduct is necessary to prevent or terminate such other's trespass on or other tortious or criminal interference with either real property (Other than an occupied structure) or personal property lawfully in his possession or in the possession of another who is a member of his immediate family or household or of a person whose property he has legal duty to protect. However, he is justified in the use of force likely to cause death or serious bodily harm only if he reasonably believes that such force is necessary to prevent the commission of a forcible felony.

E. 45-3-105. Use of force by aggressor. The justification described in above is not available to a person who:

670

1. Is attempting to commit, committing or escaping after the commission of a forcible felony.
2. Purposely or knowingly provokes the use of force against himself, Unless:
 - a. Such force is so great that he reasonably believes that he is in imminent danger of death or serious bodily harm and that he has exhausted every reasonable means to escape such danger other than the use of force which is likely to cause death or serious bodily harm to the assailant
3. In good faith, he withdraws from physical contact with the assailant and indicates clearly to the assailant that he desires to withdraw and terminate the use of force but the assailant continues or resumes the use of force.

V. Officer Survival:

- A. 90% of officers are killed at 21' or less
- B. 80% occur in low-level light confrontation
- C. Explain tunnel vision to students.
- D. Explain that mind is thrust into maximum acceleration, that time slows and all concentration is on immediate danger, all actions seem to be slow motion and will appear hypnotic while occurring; the mind will already start to recall the event.
- E. In Most of officer-involved shootings, there is usually at least some latitude for anticipating danger and for taking precautions against it.
- F. The average shooting incident is over in 2 1/2 seconds, after an exchange of fewer than three shots.
- G. Forty percent of all officer-involved shooting involve more than one gunman.
- H. Officer cannot afford the luxury of "Lag Time" in responding to danger and the first shot must be on target or evasive tactics must be utilized.
 1. Do something (Don't freeze).
 2. Drop to prone position and out of normal line of fire.
 3. Seek immediate cover
 4. Back out of the situation if possible and call for backup if possible.
 5. Attempt to distract the attacker.
- I. Never assume any call is another routine transient or trespasser.
 1. The routine cases claim far more officers lives.
 2. We get routine in answering calls and forget there is always eminent danger

J. Two man search:

1. Use technique in which one provides constant fire cover while the other moves up.
2. Backup is no good and is unsafe to work with if both officers are not familiar in shooting or unfamiliar with his weapon.
3. Let eyes adjust to light level.
4. Notice which doors open
5. Check often for backlighting and avoid it, recesses or obstructions for cover

K. Fatal Tunnel:

1. Only area suspect has inside room for all shooting vision or firepower.
2. Regardless of position in room, if suspect is on that corner the door is

EXHIBIT 51
DATE 2-17-87
HB # 670

L. Use of light:

1. Darkness is used by suspect to his advantage
2. Officer must decide whether or not to illuminate
3. If illuminating, avoid becoming silhouetted (Demonstrate flashlight hold)
4. Use headlights or spotlights for a protective veil of light to flank out to either side without being seen by suspects looking into lights.
5. If using car lights, put some distance between yourselves and the light source as suspect will usually fire at the light.

M. Verbal Challenge:

1. When making verbal challenge, be sincere yet confident.
2. Don't try to bluff with a "Dirty Harry" attitude as suspect may feel he has no other choice but to shoot.
3. Officer must convey that he is totally in control and has confidence in using his handgun.
4. You should always use "Police. Don't Move". This provides immediate identification of the officer to anyone who might be confused about who he is
5. The officer should make his verbal command before the armed suspect has a chance to challenge first.
6. After using a verbal challenge, officer should try to move to a position of cover to assess the suspects actions.

N. Surprise:

1. Once a suspect makes a threatening move, the officers life depends on reaction time.
2. Combine quick movement with unexpected action.
3. If surprised, the suspect may suffer lag time and buy time for officer to exit the kill zone.
4. Surprise movements must be made with no hesitation. To telegraph them would heighten the risk.
5. Think about different situations and have a plan of action in mind should the incident occur.
6. Any moves such as disarming skills must be practiced so the officers skills can become second nature.
7. WATCH THEIR HANDS. NO-ONE HAS EVER BEEN SHOT WITH A PERSONS EYES.

O. Movement:

1. Make yourself a harder target by moving.
2. Don't feel it is cowardice to move from the area. To stop unprotected in the range of fire can be fatal.
3. From a safe position outside kill zone, officer can radio for backup, begin to seal off the area, and plan his strategy for response.
4. Here again "DO SOMETHING".

EXHIBIT 51
DATE 2-17-87
HB #670

P. Shooting behind cover:

1. Good officer cover can stop bullets or slow them down.
2. Officers should always be aware of nearest cover and practice this so that officer can immediately evaluate which cover provides best protection.
3. Choose a position that allows officer to blend in with the shape of the cover and still maintain fire superiority and mobility.
4. Basic body position is important.

Q. Instinct Shooting:

1. Targets are usually close and time is of the essence, careful sighting and slow trigger pull could be dangerous.
2. You need to shoot by instinct, point the gun like a finger and shoot.
3. John Wilkes Booth and Jack Ruby both used this position and method.
4. Instinct shooting (Quick Kill) developed by military and refined by law enforcement as a goal for getting off fast, accurate shots without taking the time to line up a sight picture.
5. It only takes a half second for a suspect to fire a gun that's already aimed. The best shots take twice that long to draw, aim and fire.
6. Don't take the time to bring your weapon up to eye level and try to close the eye. Make the weapon an extension of your arms and fingers. (Explain at this point that this is the reason for the combat portion of our qualification).
7. With instinctive shooting, the primary vision is always on the suspect and not on the weapons sights.
8. You need to practice this technique so that you actually begin sighting over the top of the weapon at the suspect.
9. Tell class a good way to practice this extension is to use his flashlight while on foot patrol. Grip the light like a weapon and practice drawing while turned off and toward a building. Hold in position where it stops and turn it on to see where bullet would have gone.
10. Keep arms straight out, wrists and elbows locked and torso bent slightly forward. Arms will absorb the recoil and prevent his pulling off target and officer can also pivot to other positions from waist height if more than one attacker.
11. By dropping lower, likelihood that initial rounds will miss you as most rounds will be on same as original plane.
12. With multiple suspects, return fire to one with most dangerous weapon.

R. Ricochet Shooting:

1. Bullets will ricochet off flat, hard surfaces and will not bounce back at the same angle at which they impact.
2. Fire at less than 45 degree angle, the bullet will travel in a slightly erratic manner, flatten out and travel between one and eight inches off the surface.
3. Ricochet shooting is effective also when firing off pavement. (ALWAYS MAKE THE AREA AROUND TO CLEAR OF IMMEDIATE PERSONS)
4. This subject is covered well in manual called SHOOTING BULLETS.

EXHIBIT 51
DATE 2-17-87
HR # 670

S. Muzzle Flash:

1. At night when a weapon is fired, the gaseous particles that escape as highly visible and a good tip-off of shooter's location.
2. Officer should try to place at least one round on each side of the attacker's muzzle flash. The first to the officer's right since most people are right handed and attacker's body mass will be in that direction if he is shooting right handed.
3. If firing at night always move to a different position after each shot if possible to avoid attacker doing same to you.
4. Stay low and shoot low. Suspects and officers alike tend to fire higher than normal under low light conditions.

T. Reloading under fire:

1. Most gunfights are over so quickly that reloading is not needed.
2. The key to success in a shooting is to make the first two shots effective.
3. If not sure what will happen next, replenish ammunition during a lapse in action or before advancing on suspect.
4. Officers should always carry spare ammunition with them. It should be carried in a pouch, speed loader, speed strips, etc and not loose in pockets. This way it can be tossed to a fellow officer who may have run out and needs more.
5. Always count the number of rounds you fire and if possible the suspects also. (This is why I have stressed importance to count your rounds while firing during qualification with time elements involved.)
6. Always keep your eyes on the suspect or his direction while re-loading. (This prevents his rushing you or changing position.) (Ask how many have lost sight of someone in the yards by just looking away for a second)
7. PRACTICE reloading without looking at the weapon.
8. KNOW your weapon so that if you only have time to load two or three rounds, when the cylinder is closed and trigger pulled, it will turn onto a live round.
9. Practice or at least think about how you're going to approach, handcuff, search, or transport a suspect.
10. REMEMBER YOUR SURVIVAL DEPENDS ON PREPARATION AND NOT ON PARANCOIA.

U. Safety:

A. On duty: General Safety:

1. The weapon must always be checked for live ammunition when picked up, drawn from the holster, or handed to or accepted from another person.
2. The weapon should always be holstered except when drawn for a definite purpose.
3. Never point the weapon at anything that you do not intend to shoot.
4. Do not cock the weapon unless you intend to shoot it, in fact do not even insert the finger in the trigger guard until you are ready to fire.
5. Dry-firing, even with dummy cartridges should not be done unless you are on a firing range or at a known inanimate target and only after double checking that empty cases or dummy rounds.
6. When the firearm is out of the holster and held in ready position, be certain that it is not pointing at any part of yourself or at persons that are in the immediate area.
7. Be aware of barrel obstructions. If when you are firing and you hear a tick or rattling report, cease firing at once and inspect the barrel for an obstruction. A bullet with no powder will drive the bullet into the barrel. A bullet with powder will blow up the barrel or the gun itself.
8. If your barrel comes in contact with the ground or snow etc. be sure to check the barrel.

EXHIBIT 51
DATE 2-17-87
670

9. Even an accumulation of grease or oils could cause the barrel to bulge or burst account of excess pressure.
10. At all times, treat the gun as the precision instrument it is.
11. Check your weapon occasionally to see if still operating right.
12. Be sure your weapon is secure in the holster and have one that holds the weapon securely and not allow it to jump or fall out. (Place empty weapon in holster and jump up and down several times to see if tight enough or if straps hold it securely in holster)
13. Do not take weapon out of holster to show someone the weapon when in a building or near any other persons.
14. Be sure that the hammer is covered to prevent snagging on clothing, seat belts or steering wheel and cause it to cock accidentally.
15. Never point the weapon at anyone even as a warning unless you are fully prepared to shoot that person.

B. Home Safety:

1. Always secure your weapon out of sight from visitors.
2. Always keep ammo and firearms separate in different rooms or drawers, especially if visitors or children can be around them.
3. Keep weapon high on shelf if not unloaded to prevent friends of your children from ricking the weapon up.
4. Instruct your children or grandchildren, or other relatives not to show the weapons to their friends unless you are present.
5. Do not keep your weapon right by the bed for an emergency use, as when you wake from a sound sleep, you may shoot someone by accident if you hear noises and are not awake enough to think about what you are doing.
6. The best defense against accidentally discharging the weapon is to lock all weapons and ammunition up with either a trigger guard lock or a locked drawer or gun cabinet.

C. Range Safety:

This is covered in company firearms policy and will go over it with class prior to going on the range.

D. Safety while cleaning:

1. Clean weapons in a designated area after practice or qualifying.
2. There is to be no live rounds in cleaning area.
3. Weapons should always be checked for any live rounds prior to reporting for cleaning area.

(Handouts covering cleaning tips and safety will be handed out)

EXHIBIT 51
2-17-87
670

VII. Equipment:

A. Care of firearm:

1. Firearms need to be cleaned periodically to remove any dust that may build up and to be sure that the powder from shooting does not build up.
2. Clean weapons with a good solvent or gun oil to insure that all parts continue to be in good working order at all times.
3. Check you weapons to be sure all parts are not getting loose.
4. Do not use pocket knives or other objects to scrape off powder or lead build up. Use only right size brushes or cleaning rods.
5. Check cylinder for easy swing, work ejector rod back and forth, Check the clearance between the trigger guard and trigger, check the plate screws for being loosened: all of these are checks if weapon has been dropped accidentally.
6. Don't slam cylinder shut.
7. Don't toss the weapon around, even in a holster
8. Don't attempt any internal repair, take it to a gunsmith
9. Don't loosen mainspring or shorten mainspring

B. Care of leather:

1. Should be of best quality leather
2. Holster should fit weapon snugly without being too tight
3. Holster should be cleaned to prevent buildup of lint that could clog your weapon. Cut a hole in bottom of holster if necessary.
4. Holster should have a safety strap to prevent accidental dis-lodging or someone grabbing it from you.
5. Holsters should be kept dry if at all possible to prevent the leather from shrinking or getting hard.

C. Ammunition:

1. Should be rotated periodically in your weapon.
2. Should be removed from belt loops every so often to prevent buildup
3. Boxes should be turned over on occasion to prevent powder from packing in cases.
4. Clean ammunition with a silicone treated cloth to remove grit, fingerprints or any moisture that may have collected.
5. Duty ammunition should be shot and new ones replaced about every six months
6. Never use re-loads in your weapon as duty ammunition.
7. Handouts will be given to each officer concerning this problem, and also tins for cleaning.

51

2-17-87

670

VIII. Department Firearms Policy:

- A. Read through it with entire class
- B. Class discussion of policy to insure each understands it or if any questions concerning it.

IX. Give written test on policy at least once a year.

X. Prepare for qualification at range.

- A. Discuss the courses
- B. Explain each position
- C. Explain reason for loading with only two or three rounds in courses.
- D. Basic Marksmanship: (Explain)
 1. Single Action firing and when used
 2. Double action firing and when used.
 3. Sighting and sight alignment
 4. Sight picture and aiming.
 5. Trigger squeeze. (Practice with small wooden block)
 6. Breath control
 7. Follow through
 8. Calling the shot

XI. Qualification:

- A. Check each weapon for:
 1. Barrel-Check for pitting or rust, bulges, tightness, lead buildup.
 2. Hammer-Check grooves or worn spots to indicate it is bent. Check to be sure hammer cannot be pushed forward from cocked position. Check firing pin to be sure not deformed or broken.
 3. Trigger-check for any appliances added such as a trigger shoe. Check to be sure trigger is not too wide to cause accident discharge during holstering or upon dropping weapon.
 4. Cylinder- Check all chambers for hairline cracks inside or out. Ejection assembly should be checked to be sure rod is tight and operates freely.
 5. Frame- Check for stress or hairline cracks, especially at area where barrel is attached and at rear of cylinder.
 6. Firing pin or hammer nose brushing- Check for cracks at rear of frame. Check for looseness of hammer nose.
 7. Main spring screw- Check to be sure tight and check all frame screws.
 8. Thumb Piece- Be sure it is tight. If loose could open hard
 9. Cylinder Roll-out- Try to rotate cylinder with weak hand. Should not roll out of locked position.
 10. Hearon timing- cylinder should lock in alignment with the barrel and firing pin.
 11. Sights- Check rear sight for looseness or bent
 12. Properly cleaned- Check to be sure that is not an excessive amount of lubricating oil in the cylinder charge holes. Check for bluing to be sure it is not rubbed off to cause rusting.

DATE 2-14-87

670

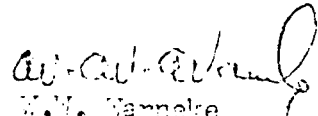
- B. Explain my rules for the range and advise department rules will be adhered to.
- C. Demonstrate positions if anyone not sure of them.
- D. Basic course fire for practice once and then for qualification.
1. Re-do it with anyone not qualifying or having problems.
- E. Dim light course fired per company policy.
1. If small range, only two at a time to fire for safety reasons.
 2. Practice first instinctive aiming
 3. While shooting each practice session, have each keep weapon in position it was last fired to see where he held it.
 4. Practice each phase of dim-light course with empty firearm. First eyes closed and then open without moving weapon to see where they held it and if proper grip and position etc.
 5. After shooting for qualification, re-do it with anyone having problems or failing to qualify.
- F. Shotgun course/ If applicable to that area or only if proper range is available.
1. Familiarization course and qualifying score.
 2. Shoot thrown clay pigeons if possible for practice at shooting at a moving target.
 3. For safety reasons, only one person at a time.

XII. Following live firing and qualification:

- A. Inspect all weapons to be sure no live rounds in them.
- B. Re-inspect each weapon to be sure they did not loosen up.
- C. Police and secure the range.
- D. Clean weapons in a safe area

XIII. Complete firearms qualification score sheet noting test scores and qualification scores and have each student sign his sheet before leaving the area.

XIV. If wanted by students, a critique of days activities.


W.W. Varnette
Patrolman-Firearms Instructor
Police & Special Services
Burlington Northern R.R.
Havre Montana

CURRENT LAW

EXHIBIT A
DATE 2-17-87
HB # 668

1st
PER SE
~~0~~
Jail time

1st
DUI
1 day
Mandatory
Jail
Time

~~2nd~~

↓
DUI
1 day
mandatory
Jail
Time

↓
PER SE
2 days
mandatory
Jail
Time

DUI ~~2nd~~
↓
7 days
Mandatory
Jail
Time
48 hours served
Consecutively

PER SE
↓
~~0~~
Jail
Time

1st
PER

EXHIBIT B

DATE 2-17-87

HB # 668

Amendment to HB 668, as introduced:

1. Page 3, line 17.

Following: "convictions"

Insert: "under this section"

2. Page 4, lines 3 and 4.

Following: "\$500-"

Strike: "Second or subsequent convictions of 61-8-406 shall be treated under 61-8-714."

Insert: "On a second conviction, he shall be punished by a fine of not less than \$300 or more than \$500 and by imprisonment for not less than 7 days, at least 48 hours of which must be served consecutively, or more than 6 months. Three days of the jail sentence may not be suspended unless the judge finds that the imposition of the jail sentence will pose a risk to the defendant's physical or mental well-being."

3. Page 4, line 8.

Following: "\$1,000-"

Insert: "(3) On a third or subsequent conviction, he shall be punished by imprisonment for a term of not less than 30 days, at least 48 hours of which must be served consecutively, or more than 1 year, to which may be added, in the discretion of the court, a fine of not less than \$500 or more than \$1,000. Notwithstanding any provision to the contrary providing for suspension of execution of a sentence imposed under this subsection, the imposition or execution of the first 10 days of the jail sentence imposed for a third or subsequent offense that occurred within 5 years of the first offense may not be deferred or suspended."

Renumber: subsequent subsections

4. Page 5, line 15.

Following: "convictions"

Insert: "under this section"

Summary of HB 470: General Revisions of Youth Court Proceduresp 1. Section 1

Amends "Youth in need of supervision" definition to reflect a common situation where we have youths who commit offenses and habitually disobey foster parents and other physical custodians, as well as parents.

p 5. Section 2

Allows each party in a Youth Court proceeding one opportunity to disqualify a judge, rather than 2 chances under present law.

p 5. Section 3

Amends provisions dealing with transfer to criminal court; includes felony assault, provides for "probable cause" - a more widely used and legally understood term, clears up some language, and provides for an automatic transfer to district court if the youth is 16 or older, and is charged with deliberate or mitigated deliberate homicide.

p 9. Section 4

Must be probable cause before petition can be filed (after a youth taken into custody) if the matter is referred to the county attorney. This is a standard that applies in adult cases and broadens rights of youths taken before court.

p 12. Section 5

Clarifies the rights of a youth upon questioning and amends provisions dealing with waiver of rights.

p 13. Section 6

Expands authority to fingerprint and photograph youths arrested for felonies, pursuant to a search warrant if supported by probable cause. Also, records could be retained and used in other investigations.

p 15. Section 7

Revises provisions regarding detention and shelter care of youth. Broadens criteria, similar to adults, concerning when a youth can be held. (Bail rights provided under Section 9).

p 17. Section 8

Continues the privilege for communications made by youth to counselor or probation officer. However, if court testimony is in contradiction to privileged statements, the statements may be used for impeachment purposes.

p 17. Section 9

Provides for bail provisions for youth before Youth Court.

p 19. Section 10

Allows the Youth Court to require, if necessary, examination of the parents or guardian prior to a dispositional hearing.

p 21. Section 11

Expands the judge's authority in sentencing a delinquent youth or youth in need of supervision.

p 25. Section 12

Revises publicity provisions to open all court proceedings regarding youths charged as delinquents (except for a transfer hearing). Continues to prohibit publicity regarding youths in need of supervision.

p 26. Section 13

Prohibits the public disclosure of law enforcement's records. This conforms the Youth Court Act to the provisions regarding adults.

p 27. Section 14

Youth Court records (documents, petitions, pleadings, etc.) open to public inspection when related to an offense for which access allowed under Section 12 (not a major change from present law).

p 29. Section 15

Provides that fingerprints and photographs (allowed in Section 6) excluded from requirements for sealing youth court records). Records not to be sealed for felony cases where access allowed under Section 12.

p 30. Section 16

New section to require that all youth court proceedings must be scheduled and heard as expeditiously as possible. Section 17 repeals existing statute requiring that a youth court petition must be taken to trial on the merits within 15 days.

AMENDMENTS TO HB 577, INTRODUCED COPY, PROPOSED BY REP. DAVE BROWN.

1. Title, line 5.
Following: "TRAINING"
Insert: "A YEAR"
Following: "OFFICERS"
Insert: "AND PAROLE OFFICERS"
2. Page 1, lines 22 and 23.
Strike: "at" on line 22 through "had" on line 23
3. Page 2, line 1.
Following: "subsection (1)."
Insert: "
(3) Each person appointed as a chief probation officer or probation officer under this section or as a deputy probation officer under 41-5-705 must, at his employer's expense and through a source approved by his employer, obtain 16 hours a year of training in subjects relating to the powers and duties of probation officers."
4. Page 2, line 5.
Following: "officers."
Insert: "(1)"
5. Page 2, line 6.
Strike: "and"
Insert: "and"
6. Page 2, lines 7 and 8.
Strike: ", and" on line 7 through "officer" on line 8
7. Page 2.
Following: line 15
Insert: "(2) Each probation and parole officer must, at his employer's expense and through a source approved by his employer, obtain 16 hours a year of training in subjects relating to the powers and duties of probation officers."

WITNESS STATEMENT

EXHIBIT A

DATE 2-17-87

HB # 636

House
BILL NO. 636

NAME Mons L. Tergan

ADDRESS Helena

DATE 2/17/87

WHOM DO YOU REPRESENT? Mt. Stockgrowers & Cattle Women

SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: Although our organizations have not as yet experienced problems with respect to getting people to serve on our various boards, the potential for suits is great and no reasonable liability protection is available.

We strongly urge passage and support testimony of James Robischon in this regard.

Reece

Bob Pyser testimony on

EXHIBIT A
DATE 2-17-87
HB # 636

HB 636

- 1) CUs non profit, nonstock, member-owned financial coops with each member having one vote regardless of number of shares.
- 2) CUs Established by fed. & state law to allow pooling of resources and to fill special societal need. CUs known for servicing small loan or small account. WhiteSigh CU - largest recently made \$15 loan to Indian women for food until a check came in & a Helena area CU recently made loan to finance one tire - Do this all the time.
- 3) CUs unique in a lot of ways including fact that can't raise capital like a stock company.
- 4) As service oriented coops, volunteerism is a big part of CU structure and philosophy. State fed. law required Bd of directors, supervisory comm, & credit comm to be uncompensated volunteers.
- 5) In this age of high liability difficult to obtain volunteer particularly in rural areas.
- 6) Important (hears repeating) that would not protect organization but only personal liability of those who give of their time for no compensation.
- 7)

7) Comm. should be aware that bill in Congress, HR 911, Volunteer Protection Act would mandate legislation similar to HB 636 or SB 49. ~~(at been following)~~

8) I would suggest rather than amending the nonprofit corporation act, a stand alone section like that contained in SB 49 and the federal Volunteer Protection Act, be used.

This would avoid any implication that coverage is restricted to domestic nonprofits organized under the Mont. nonprofit corp. act.

Fed. Act and SB 49 also refer to section 501(c) of Internal Revenue Code, which defines tax exempt nonprofits. We feel this would also be a good idea to help define coverage of this bill.

EXHIBIT A
DATE 2-17-87
HB # 16621

WITNESS STATEMENT

NAME GEORGE W. MAIZE BILL NO. 16621
ADDRESS 1900 W. MAIZE, DELEWIS DATE 2/17/87
WHOM DO YOU REPRESENT? MR. PIPSC JASON
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

VISITORS' REGISTER

Judiciary COMMITTEE

BILL NO. 636

DATE Feb. 17, 1987

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Jim Robischow	Helena - MLC	✓	
Mary Teigen	Helena, Mt. Stockgrowers ^{Collier} - ^{Wid. Al}	✓	
Lorna Frank	Mt. Farm Bureau	✓	
Jerry T. Zierly	mt. Nat. RSS	✓	
Brenda Schue	MONTANA Cultural Advocacy	✓	
Roland D. Pratt	mt. Financial Directors Assn mt. optometre Assoc	✓	
R. A. Ellis	mt. water Development Assn Helena Valley Irrig Dist	✓	
Bob Ryfer	Mont. Credit Unions League	✓	
Ken Hoovestol	MT. Snowmobile Assn	✓	
Bryan Enderle	Missoula Chamber of Commerce		
Mike Mesane	WETA	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Judiciary COMMITTEE

BILL NO. 662

DATE Feb. 17, 1987

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Jim Moore	Red Lodge	✓	
ESPERANZA MOORE	HELLMAN	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Judiciary COMMITTEE

BILL NO. 704

DATE Feb. 17, 1987

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
LORNA FRANK	MT. FARM Bureau	X	
Don WIGELS	Mt Chamber of Commerce	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Judiciary COMMITTEE

BILL NO. 577

DATE Feb. 17, 1987

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
MURKICK J. Mulcahy	M.F.T.	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Judiciary COMMITTEE

BILL NO. 610

DATE Feb. 17, 1987

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Maurice J. Mulcahy	M.F.T	✓	
Randy G. Gowen	Yellowstone Co.	✓	
Michael C. McCarty			

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Judiciary COMMITTEE

BILL NO. 470

DATE Feb. 17, 1987

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
MIKE McGRATH	Helena	X	
ROBERT Mc CARTHY	Battle-Silver Bow	✓	
Greg Mallowney	Billings	X	
Cynthia Clemens	Helena	X	
Col. R.W. Landon	Helena	X	
Bud Meehan	Helena	X	
Bob Dutorovitch	Morton Thompson off	X	
Ed [unclear]	Helena		X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Judiciary COMMITTEE

BILL NO. 668

DATE Feb. 17, 1987

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
LARRY MEYERUS	Dept. of Justice	X	
ROBERT MCGERTHY	Butte - Silver Bow	X	
Bob Butorovich	Butte Silver Bow	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Judiciary

COMMITTEE

BILL NO. 670

DATE Feb. 17, 1987

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
KEVIN OLSON	MT. POLICE PRCT. ASSOC. 520 4th ST. NAURE	✓	
THOMAS C. LAWSON	Burlington Northern R.R. ISSAQUAH, WA	✓	
WILLIAM W. WARNEKE	829 17th ST HAURE	✓	
Rick Miggins	1640 Elm Drive HAURE	✓	
JOHN CLARK	OVERLAND PARK KS.	✓	
JAMES T. MULAR	BRO RAILWAY and AIRLINE CLERKS R/P/D BUTTE	✓	
Mike S. Baker	mt Sheriff's Peace Off.	X	
Bob Dutorovich	mt Sheriff's Peace Off.	X	
Col. R.W. Landon	HIWAY PATROL	X	
James Mayenas	Dept of Justice	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Judiciary COMMITTEE

BILL NO. 57

DATE Feb. 17, 1987

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Margaret St Davo	League of Women Voters		X
Greg Mulbroney	Bellevue, MT		X
Elanor Uehd	Peace Legislative Action		X
Randy Cooper			
Lu LeGrand	Health Ins. Assn. / Amer. Conf. of		X
Anne Mac Intyre	Human Rights Comm.		
Mignon Waterman	Mont. Assoc. of Churches		X
Patricia Jards	Women's Lobbyist Fund		X
Barbara Becker	Women's Lobbyist Fund		X
Don Mays	Flora		
Edward	Whitefish		
A Schelling	" "		
Larry Cheff	Col. Falls Mont		
Ruth Hullitt	Bigfork Mt		
Jim Bell	Kelispell		
CHUCK CORRIGAN	Kanawha		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.