

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

March 9, 1987

The meeting of the Judiciary Committee was called to order by Chairman Earl Lory on March 9, 1987, at 9:00 a.m. in Room 312-D of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Darko, Rep. Meyers and Rep. Brown who were excused.

SENATE BILL NO. 119: Senator Weeding, District No. 14, sponsor, stated SB 119 corrected a conflict between the Plain Language in Contracts Act passed last session and the Life and Disability Insurance Policy Language Simplification Act passed in 1981. A problem being that the Plain Language Act applies to all consumer contracts except those covered by the Policy Language Simplification Act. Unfortunately, that Act also contained exceptions. The exceptions in the Policy Language Simplification Act then become subject to the Plain Language Act -- a result not intended by the drafters of either act. Senator Weeding asked that Mr. Loble explain the exceptions.

PROPOSERS:

LESTER H. LOBLE, V, representing the American Council of Life Insurance, explained the exceptions in the Policy Language Simplification Act. The exceptions are:

- (a) Policies subject to federal jurisdiction.
- (b) Group Policies covering 1000 or more lives, so long as the certificates issued pursuant to the group policy are in simplified language.
- (c) Group annuity contracts which fund retirement plans.
- (d) A form used in connection with an old policy that predates the policy Language Simplification Act.
- (e) A renewal of a policy that predates the Policy Language Simplification Act.

In summary, Mr. Loble stated the exceptions contained in the Policy Simplification Act were intended so that no state language simplification act apply, including the Plain Language in Contracts Act. The only reason the clarification is needed is that the Plain Language in Contracts Act is so all-inclusive it might be interpreted to pick up the policies and contracts excepted from the Policy Simplification Act. Written testimony was submitted (Exhibit A).

There were no further proponents and no opponents.

There were no questions from the committee.

Senator Weeding closed the hearing on Senate Bill No. 119.

SENATOR BILL NO. 190: Senator Lybeck, District No. 4, stated SB 190 dealt with the exemption of the homestead. The reason for the bill grew out of the agricultural crisis. It carries the requirement for a separate document to be presented and signed at the time of the closing of the loan with the mortgagor and the mortgagee, as to whether the homestead is actually in the loan and covered by the mortgage.

PROPOSERS:

GEORGE T. BENNETT, representing the Montana Bankers Association, submitted proposed amendments. (Exhibit A).

CHIP ERDMANN, representing the Montana League of Savings and Loans, supported the bill with proposed amendments presented by Mr. Bennett.

MICHAEL KORN, representing the North Plains Resource Council, stated they supported SB 190 because it strikes the nature of tradition. The bill clarifies that in the course of a mortgage agreement the homestead may be, in certain circumstances, included within the context of a sale.

BOB HELDING, representing the Montana Association of Realtors, supported the bill with the proposed amendments.

BOB PYFER, representing the Montana Credit Union League, also supported the bill with the amendments. He stated the amendments require a separate signing of the section.

There were no further proponents of the bill and no opponents.

QUESTIONS (OR DISCUSSION) ON SENATE BILL NO. 190:

Rep. Rapp-Svrcek asked Senator Lybeck how he felt about the proposed amendments and he responded if they clarify the bill, he could go along with them.

Rep. Addy asked Mr. Bennett to read section 1 with the amendment in. Mr. Bennett explained the amendment would break section 1 into 1(a) and 1(b). Rep. Addy asked Senator Lybeck what function the separate document served. He answered that if the mortgagee takes the time to make the borrower aware of the fact, at the time the mortgage is signed, that it does or does not include the actual homestead, this makes it clear enough. If the amendment

clarifies it enough, then Senator Lybeck stated he had no objection to the amendment.

Rep. Mercer stated he just was not sure how the bill was going to work and he had serious concerns regarding it. He asked Mr. Bennett if it should not be the duty of the bank or lending institution to be aware of whether or not the homestead information should be provided. He said the bill puts the burden on the borrower to sign the contract. Rep. Mercer asked Mr. Bennett what happens if the borrower does not sign the document and Mr. Bennett stated that if the mortgagee does not obtain the signature of the mortgager, the mortgagee would not be able to enforce the mortgage against the homestead.

Senator Lybeck closed the hearing on SB 190.

SENATE BILL NO. 189: Senator Van Valkenburg, District No. 30, stated SB 189 was introduced at the request of the chief probation officer in his district. The purpose of the introduction of the bill is to insure that youth court individuals could tell school officials about potential substance abuse problems that kids have so that intervention programs can be of assistance to them. Another purpose of the bill was to make sure kids knew there were consequences associated with their illegal actions. The Senate Judiciary Committee amended the bill on lines 5 and 6 so that protection was put into it in regard to disclosure outside the school setting. Senator Van Valkenburg urged the concept be kept in the bill. He said there needed to be a determination or an adjudication of guilt before information could be disclosed and school officials need to know they can disclose information for internal purposes within the school. He pointed out that disclosure was not to become part of the youth's permanent records.

PROPOSERS:

CITIZENS FOR CHEMICAL AWARENESS STEERING COMMITTEE, presented written testimony. (Exhibit A). An amendment was proposed to further clarify the bill. They requested the language, "may be disclosed by law enforcement officials", be amended to include youth court probation officers and/or justices of the peace.

JON RUSH, President of the Helena PTA, submitted written testimony. (Exhibit B). She stated the Helena PTA voted for the passage of SB 189. They believed the enforcement of school rules that deal with extra curricular activities and students becoming intoxicated, need to be enforced and one agency not being allowed to cooperate with another is incorrect.

M. E. NELSON, Lewis and Clark County Coroner and Chairman of the DUI Task Force, stated the bill reflects what the DUI task Force stands for.

JUDY H. GRIFFITH, representing the Helena School District as the drug and alcohol coordinator and also chairwoman of Project CARE, stated she had worked extensively for the past eight years with young people who are involved in alcohol and other drugs. She said she found, consistently, that alcohol, drugs, education and adolescence just do not mix. Science has proven that the younger the kids start using alcohol, the younger they will become addicted and a youngster can become dependant in six months to two years. It takes an adult ten to twenty years. The National Education Association sees alcohol and drug use as the number one problem confronting schools today.

KATHLEEN MANION, School Nurse with the East Helena School District and a member of Project CARE, Helena, and a member of the DUI STOP Task Force, Helena, stated that in the schools there are children as young as the 5th grade who are experimenting with alcohol and drugs. We need to send a clear message to these kids that adolescence drug and alcohol use is dangerous, unhealthy and illegal.

KATHY D. COLLINS, teacher in Helena School District No. 1, went on record in support of the bill.

JUDY HARRIS, parent, went on record in support of the bill.

OPPONENTS:

MIKE MALES, from Livingston, submitted written testimony. (Exhibit C). He opposed SB 189 because school policy enforcement proceedings for off-school violations by students were rife with hearsay evidence, presumption of guilt, a complete lack of ethical standards with respect to such sensitive issues as confidentiality, and a due process and appeals system that is a joke. He believed families were the basic institution emasculated by SB 189 and it simply allowed schools to override the family and force their own dubious solutions without parental permission or involvement. Mr. Males submitted an amendment with his written testimony. He stated if the bill must be enacted upon, he requested the committee seriously consider the proposed amendment.

QUESTIONS (OR DISCUSSION) OF SENATE BILL NO. 189: Rep. Eudaily agreed with many of the things that Ms. Manion had said but questioned her as to how many of the children would be effected by the bill because they would first have to be convicted. She stated the process of alcohol and drugs

starts early in life and by the time they get into high school and get convicted, they have a long history of problems. On one hand, we are looking at prevention and education and on the other hand, we are looking at intervention with kids who have crossed over the line. Rep. Eudaily said the bill would only reach a minor number of children before the information could be transmitted. Rep. Eudaily stated he was having trouble with the way the bill was written and asked Senator Van Valkenburg to explain why the bill goes from administrative officials of the school to just plain school officials. He stated it did need to be cleaned up and the language did need to be made clear. Rep. Eudaily then asked him if such information should be disclosed to a coach or teacher even if there was not a chemical dependency program. Senator Van Valkenburg answered, "yes".

Rep. Rapp-Svrcek asked Mr. Males how he felt about kids who have been caught using alcohol or drugs, if they should be able to continue in school activities without consequence for their actions. Mr. Males stated he looked at it in the context of law enforcement violations in general. He did not see why we were placing a burden on kids that was not placed on teachers and administrators within the school. If schools (all schools) had definite chemical dependency programs that were run in a professional manner and not a selective manner, then, you would want to look at this kind of legislation. He felt there should be consequences, but, was not sure this bill was the avenue that you want to administer them in.

Rep. Eudaily asked Senator Van Valkenburg if, from a legal standpoint, a school kid was arrested on a week end and the school was not involved at all, should the disclosure be made to the school. He stated, "definitely".

Rep. Mercer asked Senator Van Valkenburg if a student was walking to school with a concealed weapon and the police picked him up, could that information be disclosed to the school authorities under the current law and he stated that it could not. He stated that the breadth of the problem from the fourth grade on up, and the extent of the problem, was not the case with concealed weapons or other offenses. It just was not the subject of this bill. Most schools have rules that prohibit kids from participating in certain activities if they had been drinking.

Rep. Miles stated the heart of the bill applied to activities outside the school.

Rep. Lory asked Senator Van Valkenburg what other word could be used instead of "convicted". He said a string of words would have to be used.

Senator Van Valkenburg closed the hearing on SB 189 by stating he was very opposed to Mr. Males proposal in regard to consent of parents or legal guardians. He was not opposed to giving notice to the parents.

SENATE BILL NO. 195: Senator Rasmussen, District No. 22, stated SB 195 dealt with the matter of handicapped parking and it appeared there were some problems around the state in this regard. The State Highway Patrol will, under the bill, be able to ticket violations. He stated there are times when a state highway can be a main street of a town and this would allow handicapped permit holders to be able to have parking and would allow enforcement of the provision. The new fine, under the bill, has been set at \$50.00. It was a sufficient amount that would discourage violation of the law. There was also a provision in section 2 which allowed someone 24 hours to produce a permit if they were ticketed unjustly. Another important section of the bill dealt with long-term care facilities being given special parking permits to use the handicap parking spaces.

PROPOSERS:

JUDY HARRIS, representing the Montana Independent Living Project, stated the fifty dollar (\$50.00) state-wide fine for illegally parking in a handicapped parking zone is essential. SB 195 allowed enforcement of the fine on private, as well as, public lots which provide for the parking needs of disabled citizens and consumers at all places of business. She submitted written testimony. (Exhibit A).

KATHY COLLINS, representing the Montana Independent Living Project, The Independent Living Advisory Council and the Northern Rocky Mountain Easter Seal Association, stated the enforcement of designated handicapped parking was the worst problem the disabled people of the area have to deal with. Legal gray areas, lack of public awareness and already overburdened enforcement officers have helped increase violations and abuse. She felt enforcement was the key to success in the proposed bill. (Written testimony was submitted). (Exhibit B).

SYLVIA STEVENS, Montana Independent Living Project, believed the bill would help the effectiveness of handicapped parking spaces by the uniformity it presented. She submitted written testimony. (Exhibit C).

LARRY MAJERIS, representing the Montana Department of Justice, supported the bill, especially because it would give uniformity to the system.

GREG OLSEN, representing the West Mont Rehabilitation Center, primarily supported the bill for the special parking permits given for long-term care facilities.

ANNETTE LYMAN, from the Montana Independent Living Project, requested that signs be posted above the ground that could be easily read even when snow was very high. She submitted written testimony. (Exhibit D). She stated she felt it was important that the width of handicapped parking spaces be in accordance with Federal Regulations.

CONNIE WESTBY, from the Montana Independent Living Project, went on record in support of the bill.

There were no further proponents and no opponents.

QUESTIONS (OR DISCUSSION) ON SENATE BILL NO. 195:

Rep. Addy stated some people complain there are too many designated handicapped parking spaces and asked Ms. Collins what Federal regulations call for. She stated the Federal law required 1 in 25 parking spaces must be designated for the handicapped person and Montana did not have that many. In fact, there are not enough spaces.

Senator Rasmussen closed the hearing on SB 195.

ADJOURNMENT: There being no further business to come before the committee, the hearing was adjourned at 11:30 a.m.



EARL LORY, CHAIRMAN

DAILY ROLL CALL

JUDICIARY

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date March 9, 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)	✓		

WITNESS STATEMENT

EXHIBIT H
DATE 3-9-87
NB SB # 119

NAME Lester H. Loble, Jr. BILL NO. 4211
ADDRESS Box 176 Hekne 57627-0176 DATE 3/9/87
WHOM DO YOU REPRESENT? Am. Council of L. & Insurance
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

SB 119 corrects a conflict between the Plain Language in Contracts Act passed last session (Halligan, sponsor) and the Life and Disability Insurance Policy Language Simplification Act passed in 1981.

The problem: the Plain Language Act applies to all consumer contracts except those covered by the Policy Language Simplification Act. Unfortunately, that Act also contains exceptions. The exceptions in the Policy Language Simplification Act then become subject to the Plain Language Act--a result not intended by the drafters of either act.

Senator Halligan, the sponsor of the Plain Language in Contracts Act, agrees this amendment is needed. Accordingly, he co-sponsored SB 119.

The exceptions in the Policy Language Simplification Act were carefully considered by the National Association of Insurance Commissioners when it drafted the Policy Language Simplification Act.

The exceptions are:

- (a) Policies subject to federal jurisdiction
- (b) Group Policies covering 1000 or more lives, so long as the certificates issued pursuant to the group policy are in simplified language
- (c) Group annuity contracts which fund retirement plans
- (d) A form used in connection with an old policy that predates the Policy Language Simplification Act
- (e) A renewal of a policy that predates the Policy Language Simplification Act

These exceptions should not be subject to either act for the following reasons:

Exception (a) Federal jurisdiction: if a policy is controlled by federal law, then state law should not apply.

Exception (b) Group policies covering 1000 lives are negotiated by specialists who do not need or want special language simplification protection. However, the certificate, which is sent to the group members, is subject to the simplification requirements.

Exception (c) Group annuity contracts which fund retirement plans are governed by ERISA, a federal tax statute, which requires that the summary plan description "shall be written in a manner calculated to be understood by the average plan participant."

Exception (d) A form used in connection with an old policy would have been drafted at the time the old policy was drafted. It was designed with the same actuarial assumptions and costs; it was designed to mesh with the provisions of the old policy. Use of it should continue.

Exception (e) Renewal of old policies: Some contracts are by their own provisions renewable at the option of the policy holder (renewable term, for example). It would be an impairment of contract to insist that those contractually renewable contracts be re-written.

In summary, the exceptions contained in the Policy Simplification Act were intended so that no state language simplification act apply, including the Plain Language in Contracts Act. The only reason the clarification is needed is that the Plain Language in Contracts Act is so all-inclusive that it might be interpreted to pick up the policies and contracts excepted from the Policy Simplification Act.

SB 119 passed the Senate 48-2.

Please recommend that SB 119 "BE CONCURRED IN."

DATE 3-9-87
HB SB #189

CITIZENS FOR CHEMICAL AWARENESS

Steering Committee
Butte, Montana 59701

March 2, 1987

Senator Fred Van Valkenburg
Democratic Floor Leader
Montana State Senate
Capitol Building
Helena, Montana 59601

Dear Senator Van Valkenburg:

We would like to thank you for introducing SB 189 and let you know that we strongly endorse it. Enclosed is a letter which we have sent to each member of the House of Representatives in support of this bill.

We feel that there is one point which should be clarified. We suggest an amendment to include in your bill Section 41-5-401 of the Montana Youth Court Act which reads, "the admitted facts bring the case within the jurisdiction of the court".

This is important because under a consent adjustment without petition the youth is really not found guilty or pleads guilty. Even though this is a matter of interpretation, we feel this point of clarification would help us a lot in the intent of this bill.

In your bill to further clarify "may be disclosed by law enforcement officials", could this be amended to include youth court probation officers and/or justices of the peace?

If you have any questions, please call:

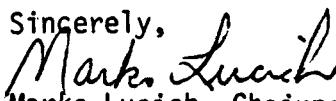
Marko Lucich
Work Phone 723-8262, Ext. 298
Home Phone 494-5471

or

Ed Heard
Work Phone 782-8315, Ext. 41
Home Phone 723-5005

Thank you for your consideration.

Sincerely,



Marko Lucich, Chairperson
Citizens for Chemical Awareness

Enc.

CITIZENS FOR CHEMICAL AWARENESS

**Steering Committee
Butte, Montana 59701**

February 17, 1987

We are writing this letter in support of Senate Bill 189. We firmly believe this legislation is long overdue. This bill will make things more fair and equitable in dealing with our young people. It affords our schools, law enforcement, probation officers and parents an opportunity to work together in a cooperative effort to effectively deal with the wide spread and ever increasing problem.

The Declaration of Purpose of the Montana Youth Court Act is as follows:

- 1) to preserve the unity and welfare of the family whenever possible and to provide for the care, protection, and wholesome mental and physical development of a youth.**
- 2) to remove from youth committing violations of the law the element of retribution and to substitute therefor a program of supervision, care, and rehabilitation. . .**

It is very difficult to even start to carry out the intent of the Montana Youth Court Act, when, in fact, we each have a piece of the puzzle and at the present time are prohibited in communicating with each other to put together the entire picture. This makes our jobs very difficult, but is also unfair to the youth we are trying to help.

You as a legislative body are continually trying to make people more responsible for their own actions and rightfully so. However, a reflection into our own communities at the teen suicide, automobile wrecks, school vandalisms, murders, crime in general, problems at home, dropping grades in school and school discipline problems, and you will see one common denominator in the majority of cases - chemical use.

With this bill, it will at least afford the communities the opportunity to work together to truly try to do what is in the best interest of our young people. It is a recognized fact that no one agency can truly combat this problem alone - we must work together.

If you have any questions, or concerns as to the impact of this bill, we would greatly appreciate an opportunity to discuss them with you.

Thank you for your time and help in this matter. Again, please support Senate Bill 189.

Sheriff Bob Buttermilk - Butte Silver Bow, Montana
Capt. Joseph E. Lee - Butte Silver Bow, Montana
Det. Sgt. Thomas Gallagher - Butte Silver Bow - Mont.
Robert M. McCarty - Butte Silver Bow County Attorney
Donald R. Boyler - Butte Silver Bow Local Gov't
Chap. Executive.
Jeff Satterly - Butte School District
Don Helms - Principal Butte High School
Bob Holman - Asst. Principal Butte High School
Jon McElroy - Head Football Coach Butte High
Fran MacDonald - Asst. of Head Butte High School
James C. Street - Head Wrestling Coach
Judy Madelon Burns, Butte Central Counselor
Midge Reeves - Butte Central Vice Principal
Brady D. Sells - Butte Central Athletic Director
Mickey Bennett - Butte Central Head Wrestling Coach

Marko Lueck - Chairperson for Citizens for Chemical Awareness
Deputy Probation Officer
School Trustee

Edward A. Heard - Attendance Officer &
Drug & Alcohol Co-ordinator
School Dist. #1 - Butte
Commissioner Dist. #3
BH + 72 - Silver Bow

Joan Cassidy - Director - C.D. Counselor
Butte Alcohol & Drug Program

Arlene Kaganakis - Butte Alcohol & Drug Program - Secretary
Jennis Byrnes - Butte Alcohol & Drug Program Counselor
- Mel Mooney - Butte Silver Bow - Justice of the Peace
M.G. Bartholomew - Butte Silver Bow - Justice of the Peace

February 23, 1987
Helena, Montana

EXHIBIT B
DATE 3-9-87
HB SB #189

State Capital Building
Helena, Montana

Dear Sir,

I am writing to you in regards to Senate Bill 189 introduced by Senator Van Valkenburg. As you know this bill would allow disclosure of the identity of youths cited or arrested for or charged with unlawful possession of a intoxicating substance..... My interest in this bill stems from the fact that I am the president of the Helena PTA and my organization has voted for the passage of this bill. We believe that the enforcement of school rules that deal with extra curricular activities and students becoming intoxicated need to be enforced and that one agency not being allowed to cooperate with another is incorrect.

Our students spend a great deal of time in the schools area of influence and it is here that society takes great efforts to educate them not only in academic matters but in social responsibility. Those individuals who choose to ignore society rules must not be shielded or allowed to be held up as examples of "beating the system". We deem that this bill will be a useful tool to the public at large and the school systems individually.

Thank you for your time and please consider passage of this bill.

Jon Rush
President Helena PTA
720 Holter Helena

for the Helena PTA Membership

TO: Members of the House Judiciary Committee
FROM: Mike Males, 528 N. F Street, Livingston 59047
RE: SB 189 (Van Valkenburg)

EXHIBIT C
DATE 3-9-87
8 March 1987
SB # 189

I am very disturbed about SB 189, which would allow certain school officials to receive from police otherwise confidential names of students arrested for drug and/or alcohol violations under 45-5-623 or 45-9-102.

This bill would permit school administrators to whimsically inflict unspecified punishments on students who have been proven guilty of nothing and will further lead anti-drug and -alcohol abuse efforts down a road that has proven fruitless and even damaging.

My concern about this issue stems from personal involvement. Three years ago, I was the principal author of a school policy for Park High School regarding intoxicants. I helped present the policy to our local school board, and it was adopted in late 1984.

After two years' experience, many members of the community are ready to repeal the whole thing. The local school administration has amply demonstrated that it can't handle the kind of authority over students' lives the policy, through its extra-curricular contracts, permits. Most other school districts can't either.

School policy enforcement proceedings for off-school violations by students are rife with hearsay evidence, presumption of guilt, a complete lack of ethical standards with respect to such sensitive issues as confidentiality, and a due process and appeals system that is a joke. Some examples from around the state:

-- In one community, a student was suspended from the football team for going into a bar to get car keys from his brother.

-- In another, a student was suspended from extra-curriculars because a school official saw his car parked at a party where drinking was alleged to be going on. The student presented plenty of evidence that he was not at the party himself, but he was suspended anyway.

-- In another, five students were suspended from football after a law violation, even though the administration neglected to have them sign contracts, as the policy required. The superintendent publicly referred to the contracts as "a mere formality." The County Attorney had to step in to warn the district they didn't have a leg to stand on, or a lawsuit most certainly would have resulted.

-- In yet another, school officials found out the name of a favored player arrested for DUI and tried to persuade the police to drop the charge so the star player could keep playing.

-- In Helena in 1984, 160 students were arrested supposedly at a kegger. School officials tried to find out the names of the students and were fortunately denied access by law enforcement officers. Only a handful of the students were ever found guilty of any crime. Again, had the school punished the students before they were found guilty of any offense, legal action against the school district would have been justified.

-- A number of students have been suspended from extra-curriculars because they were at a gathering where someone else drank or took drugs,

even though the punished students were not proven guilty of anything.

I could go on with examples like this (I just got a call tonight from a parent whose child was kicked out of extra-curriculars for a year because of a hearsay statement by another student who was later proven wrong), but I think the point is clear: school drug and alcohol programs, however well meaning, are subject to no licensing or certification to ensure compliance with professional procedures, ethics, or standards of confidentiality. I have had my own confidentiality breached by these school programs while I was participating in supposedly closed training sessions, but fortunately the consequences were not serious to me -- still, I was afraid for what might have happened had I been a 15 year-old with a real drug or alcohol problem and had my trust betrayed in such a fashion.

SB 189 basically allows schools to heap punishments on students over and above what the law allows. If certain people are dissatisfied with what the law provides (a \$50 fine, mandatory counseling at the youth's expense, and possible loss of drivers' license for up to 90 days), they are free to seek changes in the law. But it is very unwise to delegate authority to schools to use confidential information in ways neither the legislature nor the courts can predict for offenses committed by students during times when they are not subject to any lawful jurisdiction of the schools. Students do not answer to school authorities on a 24-hour-a-day, 7-day-a-week basis, as SB 189 would require; they answer to law enforcement and to their families.

Families are the basic institution emasculated by SB 189. After years of wrestling with my own feelings regarding how best to deal with student drug and alcohol abuse problems, my personal feeling is that the family is unquestionably the key. SB 189 simply allows schools to override the family and force their own dubious solutions without parental permission or involvement. If this committee must enact something akin to SB 189, I hope you will seriously consider the amendment I am proposing, which would mandate that schools contemplating disciplinary action against students for off-school conduct to obtain parental permission before acting.

Why do I argue that school approaches are "dubious"? First of all because of the hypocrisy involved. School teachers and administrators have won exemptions for themselves, through Board of Education rules, from disciplinary action even for offenses as serious as felony assault, drunken driving, or criminal possession of dangerous drugs (the same violation of 45-9-102 that SB 189 would authorize discipline of students for). That is, an adult within the school system can commit these offenses and walk in to school the next day assured that they will not result in any job action. It is manifestly unfair to make students the standards of morality for the school system.

Second, the best and most objective information we have indicates that these approaches do not work. The Great Falls schools have suspended and disciplined scores of students over the seven years of their program for off-school incidents, yet the latest Highway Patrol figures show that Great Falls has one of the highest (if not the highest) rate of juvenile drunken injury and fatal accidents due to drinking in the state. Great Falls teens are 50% more likely than teens elsewhere in Montana to be involved in an alcohol-related fatal or injury crash; in fact, one in four drunken fatal traffic accidents involving a teenager in Montana occurred in Great Falls. Now that is a serious problem, because juvenile drunken driving is the easiest form of alcohol abuse to reduce and has plummeted in most other areas of Montana.

I thank the committee for its attention to this matter. I hope you will kill SB 189 or amend it to make it acceptable. Thank you..

Page 2, line 5

Following: "OFFICIALS"

Insert: ", and neither the school officials nor any other employee or person acting on behalf of the school may take disciplinary or any other kind of action with regard to a student arrested or cited for or charged with violating 45-5-624 or 45-9-102 without first obtaining written permission from the parent or legal guardian of the student, unless the violation occurred at a time during which the school had lawful jurisdiction over the student"

(Mike Males)

WITNESS STATEMENT

EXHIBIT A
DATE 3-9-87
HB SB# 190

NAME George T. Bennett BILL NO. S.B. 190
ADDRESS 111No. Main, PO Box 1705, Helena 59624 DATE 3/9/87
WHOM DO YOU REPRESENT? Montana Bankers Association
SUPPORT X w/amendment OPPOSE _____ AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: The Montana Bankers Association will support the bill
with the attached amendments.

SENATE BILL 190

(Proposed Amendments)

Amendment to Senate Bill 190 (Third Reading) in order to allow the optional use of mortgage forms which incorporate the acknowledgement that real property is not exempt from execution as homestead where separately signed and identified.

Amend Senate Bill 190 (Third Reading) page, 1, line 11 following (1) by adding "(a)".

Continue and amend page 1, line 13, following "he shall" by striking the balance of the line.

Further amend page 1, line 14 by striking the language: "a document, separate from the mortgage agreement,"

Further amend page 1, line 15, by striking the word "acknowledging" and inserting the following:

"an acknowledgement of non-exemption stating"

Further amend page 1, following the material on line 18, by inserting the following:

"(b) The acknowledgement of non-exemption may be:

(i) a document separate from the mortgage document; or

(ii) a section incorporated in the mortgage document if it bears a separate bold face heading entitled 'Acknowledgement Of Non-exemption' and the mortgagor signs the acknowledgement in addition to signing the mortgage document as such."

MONTANA INDEPENDENT LIVING PROJECT

1301 Eleventh Avenue
Helena, Montana 59601

(406) 442-5755
TOLL-FREE 1-800-233-0805 (VOICE/TDD)

EXHIBIT A

DATE 3-9-87

HB SB #195

TO: Members of the House Judiciary Committee

FROM: Judy Harris

My name is Judy Harris. I am here representing Montana Independent Living Project where I am employed and I represent myself as a disabled consumer and citizen.

SB195 provides for a uniform penalty of fifty dollars (\$50) State-wide, for illegally parking in a Handicapped Parking Zone. I feel that this provision is essential to our state.

In travelling throughout Montana, it has been my experience that, in communities where there is a sizable fine, and it is enforced, there is very little misuse of Handicapped Parking Zones.

In Helena, since we got the change in our city ordinance, to enforce a fifty dollar (\$50) Fine, the able-bodied public has been more conscientious about leaving those parking spaces available for designated vehicles.

SB195 also allows enforcement of the fifty dollar (\$50) Fine on private as well as public lots. We feel it is essential to provide for the parking needs of disabled citizens and consumers at all places of business.

The one new section of our bill also allows long-term care facilities such as Nursing Homes, to obtain a Parking Permit to transport their clients to and from appointments.

We thank you for your thoughtful consideration of our concerns; and I urge you to pass SB195.

Testimony for SB195 - House Judiciary
Committee
March 9, 1987

EXHIBIT B
DATE 3-9-87
HB SB# 195

My name is Kathy Collins and I'm
from Helena. I represent The Mont Indep.
Proj., The Indep. Living Advisory Council, Northern Rock
I'd like to thank this Committee ^{managers &} for
giving me the opportunity to testify ⁱⁿ A.
of SB195.

As a member of the Helena Handicapped
Parking Task Force surveying area
businesses, I have found that many
owners do not feel enforcement is
necessary. They want to "take care
of their own problems" and not "stir
up things with their customers."
Without enforcement, these designated
parking places are useless. The
honor system DOES NOT WORK.

I'm extremely pleased with the
proposed \$50 fine and the section
which allows permit holders ~~to~~ who
have been ticketed, to have their
fine dismissed. ~~A large fine is~~
~~definitely a deterrent and~~

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Enforcement of designated handicapped parking is the worst problem we, the disabled, deal with regarding this issue. Legal gray areas, lack of public awareness, and already overburdened enforcement officers have helped increase violations and abuse. Enforcement is the key to this proposed bill's success and without it, designated handicapped parking is useless.

Thank you for your time.

My name is Sylvia Stevens. I have been asked by the Montana Independent Living Project to speak in support of the amendments to SB 195 introduced by Tom Rasmussen. I believe that the amendments to this bill will help the effectiveness of the bill and enable the handicapped to facilitate the use of the handicapped permits and parking spaces that are available to them. By making the State part of this bill, uniformity comes into play. This is very important in any area of effectiveness. It is very hard for a handicapped person to have one permit for one city and another permit for another city and the same for the enforcement laws behind the permits.

The part on the rehabilitation facilities being able to obtain a permit for parking will enable these facilities to use the appropriate parking spaces when they are transporting their clientele. This is a very important part of their job and a needed amendment to this bill.

A \$50.00 fine for improper use of the handicapped spaces may seem like a steep penalty but have you ever experienced the need of a space that makes life a little easier? You will hear people say, "I'm only going to be a few minutes." That is usually the time when a person will need this space and can't get into it. I have been known to block cars into spaces because of improper use of the handicapped spaces, and not feel guilty about it. The increase of the penalty fine will make some people more aware of the hardship it may be for handicapped person, MAYBE they won't violate the rights of the handicapped again. There will always be those few who will try to use those spaces no matter what. The fine will then help to defray the expense of writing those tickets.

I am in favor of Senate Bill 195 as amended.

EXHIBIT D
DATE 3-9-87
10 SB # 195

TO: Mr. Chairman, Members of the Committee

FROM: Annette Lyman

My name is Annette Lyman, I am from the Kalispell area, and here in Helena, attending Carroll College.

I have been disabled for two years and would like to show my full support of the uniform penalty of at least a Fine of fifty dollars (\$50) for persons illegally parked in Handicapped Parking Zones.

Also, I feel that it is important that these designated spaces are clearly marked with a sign that is above the ground. Due to the snow, logos printed on the cement are not sufficient and winter time is the most difficult in which to get around; therefore, a parking space, as close to the door as possible, is essential for disabled persons.

One last point I would like to cover is the width of Handicapped Parking Zones. Many times I have been unable to get back into my car because the space was too small and another vehicle was parked too close to mine.

Therefore, I feel that the specifications for these parking spaces are greatly needed.

I urge your support on these issues and thank you for your time and consideration.

Sincerely,

Annette Lyman
622 S. California St. # 505
Helena, Montana 59601

443-5256

EXH.

VISITORS' REGISTER

JUDICIARY

COMMITTEE

SENATE

BILL NO. 119DATE March 9, 1987

SPONSOR _____

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
LES LOBLE	Am Council of Lg Ints	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

JUDICIARY

COMMITTEE

SENATE

BILL NO. 190

DATE

March 9, 1987

SPONSOR _____

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
George T. Bennett	MONT. BIRDS ASSN	X with amendment	
BOB HELDING	Mt. Assoc. of Realtors		✓
Gladys Baggett	Mont. Assoc. of Realtors	✓	
Chris Fromann	Mt. League of Savings & Loans	X with Amendment	
Michael Korn	No. Plains Res. Cl.	X	
Bob Pyser	Mont. Credit Unions League	X with amendment	
Dan Aronowitz	Fort Benton High School	✓	
Corey Reminger	Fort Benton High School	✓	
Robbie Egan	Fort Benton High School	✓	
Mike Costant	Fort Benton High	✓	

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VISITORS' REGISTER

JUDICIARY

COMMITTEE

SENATE
BILL NO.195

DATE

march 9, 1987

SPONSOR

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
GREG A. OLSEN	WEST MONT HAB.	X	
Sylvia E. Stinson	MILP	X	
Jennifer Johnson	MILP	X	
Judith Harrow	Montana Independent Living Project	X	
Larry Maynard	Mont D of Justice	X	
George O. Poston	United Veterans Committee	X	
Kathy D. Cill	MILP	X	
Connie Westby	MILP	X	
Quinteclegmond	MILP	X	
Betty Swindler	Handicapped Mothers	X	

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