

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

January 6, 1987

The first meeting of the Senate Judiciary Committee was called to order at 10:05 a.m. on January 6, 1987 by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present.

INITIAL COMMITTEE CONSIDERATIONS: Chairman Mazurek introduced the committee to those in attendance. The introductions included the committee members, the legislative staff attorney, Valencia Lane; the secretary, Mary Huber; and his legislative aide, Jeff Lynch.

Chairman Mazurek announced that Valencia Lane will prepare a bill summary on each bill to be heard and these will be prepared on separate sheets so they can be filed with the corresponding bill in the notebooks.

Chairman Mazurek also announced that executive session would take place at the table located in front of the bench.

Chairman Mazurek proceeded with the hearing of the scheduled bills, since there were no further questions from the committee.

CONSIDERATION OF SB 25: Senator Delwyn Gage, Senate District #5, introduced SB 25 as the result of a meeting with the tavern owners in his area. He explained the purpose of the bill is to amend the existing statute to provide that parents cannot buy liquor for minor children as a beverage or for medicinal purposes in an establishment that is licensed to sell alcoholic beverages.

PROPOSERS: There were no proponents.

OPPOSERS: There were no opponents.

QUESTIONS FROM THE COMMITTEE ON SB 25 There was no discussion by the Committee on SB 25.

Senator Gage closed without further comment.

CONSIDERATION OF SENATE BILL NO. 24: Senator Mike Halligan, Senate District #29, sponsored this bill for the reason that it would clarify the language in the child abuse and neglect statutes. It would allow

hearsay testimony by both sides in a temporary investigative hearing. He commented that this law would not take away the privacy rights of a family. It would allow such persons as social workers, teachers and foster parents to testify as to what other people may have said about the case involved. He did not feel the hearsay testimony would be abused in a case and some judges do now allow hearsay testimony.

PROPONENTS: John Madsen, Department of Social and Rehabilitative Services, urged passage of the bill.

Janet Finn, social worker for the Casey Family Program, supported the bill also. She felt that during a crisis, it's important to be able to protect the child while further investigation of the allegations is carried out (refer to witness sheet).

Mary Peterson, social worker from Lewis and Clark County, said they are very aggressive about pursuing these cases in the county and urged the Committee's support of the bill.

OPPONENTS: There were no opponents.

DISCUSSION OF SENATE BILL NO. 24: Chairman Mazurek asked the social workers present if there had been occasions where the prohibition of hearsay evidence has resulted in the failure of obtaining temporary authority.

Senator Crippen asked Senator Halligan if this hearsay testimony would be available for use later on in other court actions. Senator Halligan replied that hearsay testimony would not be admissible at any future court proceedings. Senator Blaylock stated a hypothetical situation in which a four year-old-child tells a social worker that he has been abused and whether the social worker could then tell the county attorney. Senator Halligan replied that the social worker would take the child to a physician, and the social worker would then testify for the physician's report. He said that the parents can protest at the hearing and if he feels there will be a protest he asks the physician to be present at the hearing instead of relying on hearsay testimony.

In closing Senator Halligan stated that the maximum time a child can be kept out of the home is 90 days but a hearing must be held within 20 days.

ACTION ON SENATE BILL NO. 25: Senator Halligan asked if, by stating specifically the underlined language on page 1, lines 14 and 15, this allows minor children to be served alcoholic beverages at other places. This would only prohibit it being served in an establishment licensed to sell alcohol.

Senator Beck asked if parents are allowed to give children alcohol for medicinal purposes and if there are statutes covering contributing to the delinquency of a minor. Chairman Mazurek stated that the only change in the law would be the underlined language and that the present law contemplates the parent being able to give the child alcohol for beverage or medicinal purposes. Valencia Lane told the members of the Committee that there are statutes that would cover the situation where a parent could be held responsible under abuse and neglect statutes for giving alcohol to a minor.

Senator Crippen said that at the present time the bar owner or bartender could be found guilty or fined a misdemeanor.

Senator Pinsoneault moved that SB 25 DO PASS. The motion CARRIED unanimously.

ACTION ON SENATE BILL NO. 24: Senator Pinsoneault said that this is a very preliminary step and it is critical at this step that all evidence be considered as expeditiously as possible.

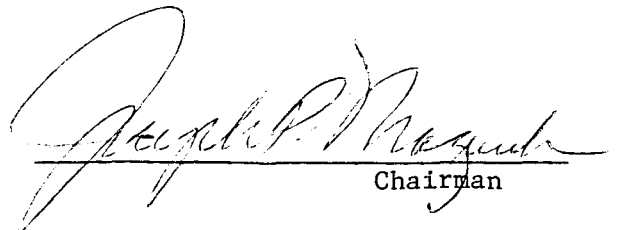
Chairman Mazurek questioned the use of the conjunction "and" on page 2, line 10 and asked if the language should be more clear concerning the rules of civil procedure and the rules of evidence. There was discussion concerning a change to the underlined material in the bill.

Senator Beck asked if this amendment is essential to get the child out of the situation, to which Senator Halligan replied that at least in 90% of the cases it is essential. It gives them the temporary authority to stabilize the home, not always remove the child from the home.

Senator Blaylock suggested rewording the amendment. Chairman Mazurek stated the amendment to read as follows: Page 2, line 10, following "apply", strike ", and" and insert ".". The amendment was ADOPTED.

Senator Blaylock moved SB 24 DO PASS AS AMENDED. The motion CARRIED.

The meeting adjourned at 10:35 a.m.


Chairman

ROLL CALL

Judiciary

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Jan. 6th, 1987

NAME	PRESENT	ABSENT	EXCUSED
<u>Senator Joe Mazurek, Chairman</u>	X		
<u>Senator Bruce Crippen, Vice Chairman</u>	X		
<u>Senator Tom Beck</u>	X		
<u>Senator Al Bishop</u>	X		
<u>Senator Chet Blaylock</u>	X		
<u>Senator Bob Brown</u>	X		
<u>Senator Jack Galt</u>	X		
<u>Senator Mike Halligan</u>	X		
<u>Senator Dick Pinsoneault</u>	X		
<u>Senator Bill Yellowtail</u>	X		

Each day attach to minutes.

NAME: JANET FINN DATE: 1/6/87

ADDRESS: 440 N. BENTON, Helena, MT

PHONE: (W) 443-4730 (H) 449-7834

REPRESENTING WHOM? THE PASEY Family Program

APPEARING ON WHICH PROPOSAL: SB 24

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: I want to speak in favor of SB 24
As a social worker I know the value &
necessity of being able to act quickly to
protect the safety of a child. During a
crisis, its important to be able to protect
the child while further investigation of
the allegations is carried out. Without a
safe environment, a child victim is often
too afraid to tell what he or she has been
through. Its very frustrating as a social worker to
know a child is at risk, that the child is too afraid
or confused to talk any more, & that your state-
ment based on observations & inquiry is not enough to
protect that child. SB 24 offers needed protection to

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

child victims

NAME: John Madsen DATE: 1-6-87

ADDRESS: 1814 Linn St

PHONE: 444-3865

REPRESENTING WHOM? Dept of SRS

APPEARING ON WHICH PROPOSAL: SB 24

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: The Department of SRS Community Services Division support passage of this bill

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Mary Peterson DATE: 1-6-87

ADDRESS: 1819 Lockey Avenue, Helena, MT.

PHONE: 442-2198

REPRESENTING WHOM? self

APPEARING ON WHICH PROPOSAL: SB 34

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

STANDING COMMITTEE REPORT

January 6th 1937

MR. PRESIDENT

We, your committee on **JUDICIARY**

having had under consideration..... **Senate Bill** No. **24**

first reading copy (white)
color

Respectfully report as follows: That..... **Senate Bill** No. **24**

be amended as followed:

1. Page 2, line 10.
Following: "apply"
Strike: ", and"
Insert: "."

AND AS AMENDED

DO PASS

~~XXXXXXXXXX~~
DO NOT PASS

.....
Chairman.

STANDING COMMITTEE REPORT

.....January 6th..... 19.88.....

MR. PRESIDENT

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

having had under consideration.....**SENATE BILL**..... No. **25**

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REGULATION OF PARENTS GIVING THEIR CHILDREN ALCOHOLIC BEVERAGES.

Respectfully report as follows: That.....**Senate Bill**..... No. **25**

DO PASS

~~DO NOT PASS~~

.....
Chairman.