

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

January 28, 1987

The sixteenth meeting of the Senate Judiciary Committee was called to order at 10:00 a.m. on January 28, 1987 by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION ON SB 189: Senator Fred Van Valkenburg of Missoula introduced SB 189, which amends the youth court laws relating to confidentiality of youth court proceedings. He said this bill requires disclosure of the identity of a youth cited or arrested for or charged with unlawful possession of an intoxication substance. He stated under current law only the identity of youths charged with a felony may be disclosed. He said a police officer that picks up a kid from a kegger can not disclose that kid's name to the school officials because of the law now. He said the counselors at the schools, therefore, can't help kids with alcohol problems because they are not allowed to know who was charged with the possession of liquor.

PROPOSERS: Dave Demmons, Youth Court Probation, said a coach at a high school will call the police station and ask if any team members were picked up in a keg bust and the department can not give that information, unless the bust was on school grounds. He felt the schools need this information.

OPPOSERS: None

DISCUSSION ON SB 189: Senator Blaylock asked Senator Van Valkenburg if this bill will really make a difference if a police report turns in the name of a state ball player to the school and they will not "kick" him off the team a week before the State tournament. Senator Blaylock felt the coach would probably ignore the report that the police gave the school. Mr. Demmons replied the bill will get the schools' off his back as far as his job and will put the responsibility on the school boards.

Senator Crippen inquired if the police will state who was drinking and who wasn't at beer bust. He asked if the schools would make a different judgment on the ones who did drink and the ones who didn't. Mr. Demmons said it depends on the school's policy. Mr. Demmons said the police usually bust everyone no matter if they were drinking or not drinking. Mr. Demmons felt the bill will put pressure on the school boards to look over their policies on this subject more carefully.

Senator Beck questioned if this policy of not disclosing to schools the

names of youth that were busted at a party, is just in Missoula County, because he said in his county they take a list of names up to the school after the bust. Mr. Demmons said it is a state law not to disclose names of youth that are caught in a beer bust and he said it very easy for someone to sue over this because of the confidentiality clause. Senator Beck asked if this information will be given to the public or just the school. Mr. Demmons said it will be given to the school only.

Senator Crippen asked if drugs were included in this bill. Mr. Demmons said drugs were not included. Senator Crippen asked if all schools have programs for kids with drugs abuses. Mr. Demmons said the programs around the state are called "Insight" and these programs would benefit from the bill because it would give them a list of kids that might need help.

Senator Mazurek asked what the "Insight" program would do for a kid with a drug abuse problem. Mr. Demmons responded the majority of the kids that go into "Insight" lies about their problem because the program never caught one the kids at a beer bust. He said the students then have one of the "Insight" counselors sign a release form and the student doesn't have to attend any more. Mr. Demmons explained that he asks students to attend the program, but most just get a release form and don't attend the program.

Senator Blaylock echoed his statement about how a school will use the names to dismiss students from extra school activities if the tournaments have come and gone or the school doesn't have a very good team to begin with. Mr. Demmons felt some of these star athletes are getting away with murder.

Senator Crippen felt the star athlete should get the same punishment for drinking while on training as the the third trupet in the band gets.

Senator Brown wanted to insert drugs into the bill.

Senator Van Valkenburg closed.

CONSIDERATION OF SB 190: Senator Ray Lybeck, Senate District #4, introduced SB 190, which establishes a new requirement that a person mortgaging property that could qualify for a homestead exemption must sign an acknowledgement by separate document that the property is not exempt from execution as a homestead. He said the bill is merely intended to be a notification to mortgagors of the status of current law.

PROPOSERS: Robbie Green, Tongue River Stage of Miles City, said SB 190 would insure a borrower that he would be aware that land could be part of the homestead right that was morgaged.

OPPONENTS: Bob Pyfer, Montana Credit Union League, said the bill is just another piece of paper to deal with and another expense.

DISCUSSION ON SB 190: Senator Crippen didn't think it was another form to fill out because it keeps a mortgagor up to date on his mortgaged land and what a change in the law could do to that mortgage.

Meg Nelson, NPRC, said the bill is trying to get a form that will say that under the law a person might lose the homestead because he mortgaged it. She said some borrowers don't even know they mortgaged off the homestead right to a bank. She felt these borrowers have to be informed of what they are doing in writing.

Senator Lybeck closed.

The committee adjourned the hearings and proceeded with executive action.

ACTION ON SB 96: SB 96 was referred back to the committee. Senator Mazurek read the standing committee report and felt the committee had decided in their last executive action on SB 96 to strike "felony" from the bill and let the judge decide if the abuse was a felony. Senator Yellowtail felt the word "felony" should be left in the bill because many of the senior citizens wanted it left in the bill. Senator Halligan explained a second offense might be a minute incident. Senator Galt asked Elmer Hausken, Retired Persons Association, if his intent in this bill was to have the second offense a felony conviction. Mr. Hausken said it was the intent to have it left as a felony. Valencia presented amendments to the committee (see Exhibit 1). Senator Blaylock moved the amendments. The motion carried with Senators Galt and Yellowtail voting no. Senator Blaylock moved the bill DO PASS AS AMENDED. The motion carried.

ACTION ON SB 104: Valencial Lane explained some background information on the bill and stated that Mike McGrath, Lewis and Clark County Attorney, said the bill would not hurt anything. Senator Pinsonault moved the bill DO PASS. Senator Blaylock said the merchants might go over board with this bill. The motion carried.

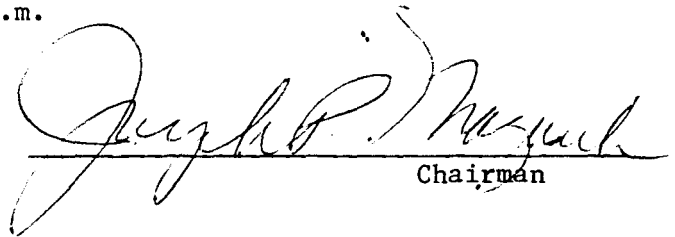
ACTION ON SB 189: Senator Brown felt drugs should be included in this bill. Senator Mazurek wanted to see just the school officials get the names, but not have the incident be put on the kid's record. Senator Blaylock felt that it was not the school's business to know what a student does after school hours off school property. Valencia asked if the committee wanted to include not only the use of drugs but the selling of it. Senator Mazurek said the selling of a drug is in another statute. Valencia presented amendments (see Exhibit 2). Senator Halligan moved the amendments. The motion carried. Senator Halligan moved the bill DO PASS AS AMENDED. Senator Brown asked if places like West Point could

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get a school record that might show an arrest or charge for possession of alcohol. Senator Mazurek said if the committee allows school administrators to know about a beer bust, then it does go on the student's record. The committee decided to wait on action.

ACTION ON SB 190: Senator Mazurek asked if a person doesn't fill out this form does it make his homestead right exempt or not. Senator Bishop said there will be law suits if the bank didn't give proper disclosures of current mortgaged accounts. Senator Pinsoneault moved the bill DO NOT PASS. Senator Crippen made a substitute motion to DO PASS the bill. Senator Yellowtail wondered if the bill could be amended to remove the separate document part. Senator Mazurek thought the separate document part should remain in the bill. Senators Mazurek, Pinsoneault and Halligan voted no; the motion carried.

The committee adjourned at 12:00 p.m.


Chairman

ROLL CALL

Judiciary

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Jun. 28th

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.

DATE _____

Jan. 28th

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
<i>V. Lynn Thompson</i>	<i>Youth Court Pop.</i>	<i>170</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Allen Thurston</i>	<i>All PP</i>	<i>96</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Montie McKee</i>	<i>NPRC - MAA</i>	<i>190</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>John G. Beck</i>	<i>NPRC - BMRS</i>	<i>190</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Bobby Ser</i>	<i>Mont Credit Union League</i>	<i>190</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

STANDING COMMITTEE REPORT

January 28, 1987

MR. PRESIDENT

We, your committee on SENATE JUDICIARY

having had under consideration SENATE BILL No. 96

second reading copy (yellow)
color

Increasing penalty for second offense of elder abuse.

Respectfully report as follows: That SENATE BILL No. 96

BE AMENDED AS FOLLOWS:

1. Page 1, lines 19 through 20.

Following: "of "

Strike: the remainder of line 19 through "FIRST" on line 20

Insert: "an"

2. Page 1, line 20.

Following: "upon"

Insert: "a first"

3. Page 1, line 24.

Following: "both"

Strike: ":",

Insert: ":",

4. Page 1, line 25 through line 1, page 2.

Following: line 24

Strike: line 25, page 1 through "AND" on line 1, page 2

5. Page 2, line 1.

Following: "UPON"

Insert: "a second or succeeding"

AND AS AMENDED

DO PASS

~~DO NOT PASS~~

SENATE JUDICIARY

EXHIBIT NO. 1

DATE 1-28-87

BILL NO. S.B. 96

Chairman.

STANDING COMMITTEE REPORT

SB189

February 3, 1987

MR. PRESIDENT

Judiciary

We, your committee on Judiciary Senate Bill 189

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

first white reading copy (white)
color

DISCLOSURE OF IDENTITY OF YOUTH POSSESSING INTOXICATING SUBSTANCE

Respectfully report as follows: That.....Senate Bill..... No.189.....

BE AMENDED AS FOLLOWS;

1. Title, line 4.

Strike: "PUBLIC"

2. Title, line 5.

Following: "DISCLOSURE"

Insert: "TO CERTAIN SCHOOL OFFICIALS"

3. Title, line 7.

Following: "SUBSTANCE"

Insert: "OR A DANGEROUS DRUG"

Following: "PENDING"

Strike: "SECTIONS"

Insert: "SECTION"

Following: "41-5-601"

Strike: "AND 41-5-602"

4. Page 1, line 24.

Strike: "Publicity may not be withheld as to the"

Insert: "The"

SENATE JUDICIARY

EXHIBIT NO. 2

DATE 1-28-87

BILL NO. S.B. 189

~~XXXXXX~~
DO PASS

~~XXXXXX~~
DO NOT PASS

7.

CONTINUED

Chairman.

February 3,

87

..... 19.....

5. Page 2, line 1.

Following: "45-5-824"

Insert: "or 45-9-102 may be disclosed by law enforcement officials to the administrative officials of the school in which the youth is a student. However, the information may not be further disclosed by the school officials"

6. Page 2, line 2 through line 3, page 3.

Strike: section 2 in its entirety

AND AS AMENDED
DO PASS

NAME: ROBBIE GREEN DATE: 1/28/87

ADDRESS: TONGUE RIVER STAGE, MILES CITY

PHONE: 421 5511

REPRESENTING WHOM? NPRC

APPEARING ON WHICH PROPOSAL: HOME STEAD EXEMPTED SB 190

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

STANDING COMMITTEE REPORT

January 23

19 87

MR. PRESIDENT

SENATE JUDICIARY

We, your committee on.....

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

SENATE BILL

199

first reading copy (white)
color

Requiring mortgagor acknowledge mortgaged property not exempt as
homestead

SENATE BILL

199

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

DO PASS

~~XXXXXXXXXX~~
DO NOT PASS

.....
Chairman.

STANDING COMMITTEE REPORT

January 28

19 67

MR. PRESIDENT

We, your committee on SENATE JUDICIARY

having had under consideration SENATE BILL

No. 104

first reading copy (white)
color

Repeal 46-6-504

Respectfully report as follows: That SENATE BILL

No. 104

DO PASS

~~DO NOT PASS~~

.....
Chairman.