

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

January 30, 1987

The eighteenth meeting of the Senate Judiciary Committee was called to order at 10:00 a.m. on January 30, 1987, by Chairman Joe Mazurek in Room 402 of the state Capitol.

ROLL CALL: All committee members were present.

CONSIDERATION OF SENATE BILL 164: Senator Gage, District 5, introduced SB 164, which was requested by the Department of Justice. He said trials do not pay state employees when they are subpoenaed to appear in a trial, and because a trial does not pay these people, the department feels there is some abuse with putting them on the bottom of the ladder as far as using their testimony. He said this bill provides billing the party that subpoenaed the department employee, so that the department will be reimbursed for the employee's time spent on the subpoena.

PROPOSERS: Kim Kradolfer, Assistant Attorney General of the Department of Justice, supported the bill because there is a similar statute that will be repealed by this bill (Section 44-1-502, MCA), that is very handy to highway patrolmen, and this just adds department employees to this. The bill also includes criminal matters, so it will cover the forensic scientists, fire marshalls, and the employees of the identification bureau, all of which are called quite often in criminal matters. She said the criminal trial using forensic scientists is where abuses are occurring. She said it is not unusual for a forensic scientist to sit for four days to testify for 45 minutes. She felt if we have this bill in effect, maybe the courts will be a little more considerate of our people and their time.

OPPOSERS: There were no opponents.

DISCUSSION BY THE COMMITTEE ON SENATE BILL 164:

Senator Mazurek asked what the charge will be for a person to testify in a criminal matter.

Ms. Kradolfer said she felt they would not charge for time testifying in a criminal matter, but if he was testifying in a civil matter, we would break it down into the hourly wage we were paying him and compensation for what he lost at his job, and expenses that incurred during this time. To her knowledge no policeman has been compensated for a criminal trial.

Senator Mazurek asked Ms. Kradolfer if the department would object to the committee amending out county people in billing in criminal trials. She did object because she said the county attorneys are one of the main abusers.

Senator Gage closed by saying when these people are waiting to testify, there is work to be done back at their place of employment, so it is just adding to the workload of the department, which causes the department to hire extra people while others are testifying.

Senator Mazurek released the chair to Senator Crippen.

CONSIDERATION OF SENATE BILL 161: Senator Joe Mazurek, District 23, chief sponsor of SB 161, which keeps the Montana Supreme Court at 7 members instead of reducing to 5 members. He explained that the 1979 Legislature passed a bill to add 2 seats to the court to make it 7 members. At the time it was done, the bill had a sunset clause which would terminate on the first Monday of January, 1989. Senator Mazurek said it is no secret that Montana is a litigate state. He distributed charts by Jim Opendahl, Supreme Court Administrator. He explained the statistics on case filings and written opinions in Montana. (Exhibit 1, page 2) He showed how much higher Montana's statistics were with 7 members, against neighboring states. He explained how the chart shows the substantial use in case filings and written opinions if the court went back to five members. He felt one reason Montana is so much higher in case loads is we have adopted a new constitution in 1972, which established a new standard of policy in the state. He said the legislature has passed laws that have added to their burden, such as the Montana Administration Procedures Act, Major Facilities Citing Act and amendments to the Workers' Compensation Act. We have created a Workman's Comp. Court; we have added a State Tax Appeal Board; we have adopted

a Uniform Probate Code; a new marriage and divorce code; we have implemented a new Human Rights Act and established a Human Rights Commission; we have Water Court; a new criminal code, and a new Youth Court. He said all of these were adopted in the 1970's and have caused litigation to rise since. He felt if the bill was not passed the court would have serious difficulty in getting their work load done and he said in Montana, unlike other states, every litigant has the constitutional right to appeal to the Supreme Court on their case for final disposition. He said it would take a constitutional change to stop some cases from being taken to the Supreme Court. It has also been suggested the state set up an intermediate appellate court similar to Idaho, but he felt it would not be as cost effective as the 7 member Supreme Court. Senator Mazurek said there have been many editorials stating support for the 7 member court. The fiscal note to SB 161 said the bill would cost \$114,906 in the coming biennium because we're only dealing with one half the biennium. He felt this was a small cost considering the delays and human factors. He felt the issues before the legislature this session in the areas of tort reform and worker's compensation reform are going to put a lot of new laws on the book, which will cause more litigation. He said if we go back to 5 judges, we will increase the human suffering factor. Senator Mazurek stated the Chief Justice of Court will testify as will Jim Opendahl, Administrator of the Supreme Court.

PROponents: Pat Melby, Helena, representing the State Bar of Montana, echoed Senator Mazurek's feeling that it is essential to keep the 7 member court in Montana. He stated these are hard economic times which bring crime increases, business closures, and more litigation. He said reducing the court to 5 members will hurt constituents more than saving a few dollars. He strongly urged passage of Senate Bill 161.

Steve Brown, Chairman of the State Bar's Committee on Judicial Compensations and Selection, and representing himself, said at least as far as the State Bar is concerned, there needs to be 7 justices to get the work done in a timely manner. He felt the outcome of this session will cause more litigation, thus, we must keep a 7 member court.

Neil Ugrend, a lawyer from Great Falls, said he has a general practice in Great Falls and he felt the quality of opinions would suffer if it went back to a 5 member court. He stated it is very important to the citizens to have quality opinions in a short period of time. He urged passage of the bill.

Jean A. Turnage, Chief Justice of the Montana Supreme Court, testified in support of Senate Bill 161. He explained a letter from Judge Leonard H. Langdon, District 17, Glasgow, who thought the court would survive with five members, but there would be much more delay in the process of the court. Judge Langdon said in the delay of litigation, the human cost cannot be measured in dollars, but it is an expense that is unacceptable. He stated it is only natural when you are behind in your work, you tend to get further behind, and you can't fast-forward an opinion without losing some quality in the opinion. He said he would answer any questions.

OPPONENTS: Frank Morrison, Justice of the Supreme Court, represented himself in opposing Senate Bill 161. He said he has the greatest respect for the Supreme Court, but there are two sides to this issue and times are tough and it should make us very carefully scrutinize when asking for money. He said he was going to give the other side because he doesn't think it will be given. He pointed out his leaving the court has nothing to do with his opposing the bill because his interest in quality justice and speedy administration of that justice will be just as high. He said he has questioned the 7 member court for over a year, and it wasn't until two weeks ago that Steve Shirley of Lee newspapers called me and asked why I questioned the 7 member court. He felt the case filings that Jim Opendahl gave were the least reliable indicator for the work load in the Supreme Court, and the reason is it includes every letter sent over to the clerk's office and it doesn't indicate the contested cases that take our time. He also said many cases are settled and never heard by the court, so what you look at is the number of opinions that are issued by the Montana Supreme Court this year. Justice Morrison showed charts showing the work load of the court from 1982 to 1986 and cases argued from 1983 to 1986. He also had a break down of cases argued. (Exhibit 2) He stated Montana ranked 47th out of 50 states in litigiousness, so he feels Montana is not overworked. He explained his chart on opinions and how there are up years and down years, and the reason is the cases that come out in December and January are cases near completion. He felt

the opinions were level through 1982 to 1986 because of this reason. He said it averages about 50 per justice, or 300 a year, and not all cases are treated the same; the real difficult ones are argued in front of the court, while the rest are not. He explained the cases argued in the court room take up to 4 times the number of hours spent per justice on the other cases not argued. He pointed out from the chart that the number of argued cases has dropped from 1983 with 159 cases to 1986 with 86 cases, which eases the work load. He said the reason for this is the decline in criminal appeals. He stated more criminal cases are heard in Supreme Court than civil because when people's liberty is being taken away, there tends to be more oral arguments. He commented there are more constitutional questioning in criminal cases also. He said there is a decline in criminal appeals because of the Supreme Court and the law enforcement. He showed the committee how the criminal appeals have gone from 78 in 1984 to 48 in 1986. (See Exhibit 2) Because of this he feels the work load on the court has lessened. He said he would not be here today if he thought a 5 member court would cause long delays in opinions, because opinion writing is only 10% of the time used. The rest is used on reading briefs and making judgments. He stated a normal work load is 375 cases and 275 are not argued. Each case is given to a 5 judge panel on a rotating basis, so that puts each judge having 2 out of 7 cases to work on, for a total of 195 unargued plus 100 argued. He felt the workload was reduced. He commented it only takes 3 judges instead of 5 to give an opinion on a divorce case, so he felt the work load would not increase for a 5 member court because of the statistics he presented to the committee. He felt since he has been on the Supreme Court he has not seen a substantial rise in litigation and doesn't think there will be in the future. He felt the quality of opinions would still continue to be high with a 5 member court. He said he would answer any questions.

QUESTIONS FROM THE COMMITTEE ON SB 161: Senator Pinson-eault asked Senator Mazurek if he agrees with Justice Morrison that you don't need 5 judges to write an opinion on a divorce case.

Senator Mazurek replied the majority of the court must decide on a decision because that is the law, but if you don't have unanimity in the 3 judge panel out of a 5 judge court, then the rest of the judges are going to have to hear it, and that could be a problem. He said with a 7 member court and a 5 judge panel, you need 4

from the panel to agree and then the matter can be dealt with because that is a majority of a 7 member court.

Senator Pinsoneault redirected the question to Jean Turnage. Justice Turnage responded that if the 5 member panel can't get 4 to agree, it goes before all 7, which happens quite a bit.

Senator Halligan thought the bill should have been sent to Finance and Claims because they deal with budgets all the time and he stated no information was given to the committee on the budget of the Supreme Court, the staff, and who does what. He said he could not make a decision on this until he has information on their budget. Mr. Opendahl said he would provide information on the budget to the committee.

Senator Blaylock asked Justice Morrison to respond. Justice Morrison replied it is not clear that a majority is needed on the court for a decision in the Constitution, but in the statute created by the legislature when they added the 2 members to the Supreme Court, it said a majority of the whole court was needed for a decision. He said the Constitution says it just takes a majority, so it would allow 3 panel judges to work pretty well if the Constitution interpretation of just a majority is to be used. He felt 90% of the cases that are on briefs are unanimous decisions; it is the cases in the courtroom that are split. The same procedure is for a 5 member and a 3 member panel; when there is not a majority of the court, it goes before the full court. He felt the Constitution interpretation does not mean majority of the court, but just a majority.

Senator Blaylock asked Justice Morrison if the legislature had not extended the court to 7, would he be one that would not have been a justice. Justice Morrison replied he does occupy one of the additional seats. Senator Blaylock questioned him about the work load the years he has been on the court. Justice Morrison felt the load has decreased. Senator Blaylock asked if the 2 positions created were really needed in the first place. Justice Morrison replied the positions were not essential, but at the time when the legislature had the money, it improved the court. Senator Blaylock asked him why he did not speak against the additions in 1979. Justice Morrison stated he was an outsider then because he was not in the court at the time.

Senator Galt asked about our neighboring states' courts. Justice Morrison replied Idaho has a 5 judge court and a 3 judge appeals court. He felt Montana should do this. He said Utah and Nevada have a 5 judge court and no appeals court and they have a much heavier load than us because they are a more populace state. He said Alaska has a 5 judge court and a 3 judge appeals court. Jim Opendahl referred to his chart (Exhibit 1, page 2). He said he did not chart out Idaho because of their 3 judge appeals court which was different from Montana's court system.

Senator Halligan said he felt, like Justice Morrison, case filings are not the best measure to look at the justices' work load.

Senator Mazurek said to look at the statistics on opinions per justice (Exhibit 1, page). They have gone up, and to have a 5 member court will increase the opinions even more. He said he did some quick calculations on Montana's litigiousness, based on case filings, against other states. Wyoming's case filings are .6 per 1000, North Dakota's are .5 per 1000, South Dakota's are .53 per 1000; and in Montana, they are .78 per 1000. He said Montana is much higher in case filings, and those numbers will go up.

Senator Blaylock asked Mr. Opendahl what kind of cost would it be to have an appellate court like Idaho, that would sit for a 2 month period at a time during a 2 year biennium. Jim Opendahl answered the cost of the present system for a year with 2 extra justices is about \$250,000 a year. He felt if you went to a 3 member appeals court on the side, the personal services for 3 people would be around \$350,000 to \$400,000, plus operating expenses, so it would be half a million a year and a million for a biennium. He stated each state is different, so it is hard to compare.

Senator Blaylock inquired how far the Supreme Court was behind in their opinion writing in 1979-1980 as compared to today. Mr. Opendahl replied his handout on case filings can show how far they are behind now, and how far they were behind then.

Senator Crippen asked Karl Englund if trials have increased in the courtroom. Mr. Englund replied he had no status on that. Senator Crippen asked why he did not testify, and if by not testifying, is he in favor of a 5 member court.

Mr. Englund answered he and the Trial Lawyers Assn. had so much to do that they did not take an official stand on this matter.

Senator Halligan asked how quickly were opinions issued with 5 justices compared to 7 justices. Justice Morrison responded the statistics would not be comparable because the 5 justices in 1979 were hearing at least one-half of the cases in the courtroom, where now we don't argue that many cases in the courtroom. Because the 5 member court spent so much time in the courtroom, they had less time to write opinions, where now we have more time because we are not in the courtroom as much. He said the court now doesn't have utility rate cases, which are complex. He stated in 1979, a utility rate case would take up the time of 20 divorce cases. He felt many cases are settled before going to the Supreme Court now because of the expense. He stated we are not in the courtroom and they were, 'so information would not be valid.

Senator Halligan asked if there is any way of knowing the average delay of an opinion. Justice Morrison stated a dispute in the court members delays an opinion. He said the number 1 delay is the typing of the case, and the number two reason is the dispute between the members of the court.

Senator Crippen asked Justice Morrison why is it now you are here before us with concern for finances and the economic shape of our state, when before, the legislature tried to control the budget of the Supreme Court. Now you are telling us we need to control the Supreme Court.

Justice Morrison answered he was not aware of the problems four years ago or two years. He stated he started talking about this a year ago and he also stated he was not here to advocate a seven or five judge court, but to show the other side of the coin, and if you are not interested in both sides, then disregard my information.

Senator Crippen told Justice Morrison we are always interested in both sides.

Senator Beck asked Justice Turnage what he thought of the decrease in case loads. Justice Turnage responded that he was not sure the number of oral arguments are decreasing. He stated that assuming these statistics are

are right, doesn't mean the case load has gone down because the number of written opinions has gone up.

Senator Mazurek closed by saying he would like to review Justice Morrison's statistics with Mr. Opendahl, and he felt the Constitution is clear on the majority of the court making a decision. He thought people would not be happy that only 2 or 3 justices are acting on their case when there are five that could act. He said if you want an appeals court, then you better be prepared to add money to the fiscal note. He said he thought Justice Morrison brought up some good points and he hopes to look over his information, but he feels what we have provided shows it is essential to the state to keep 7 justice court members.

EXECUTIVE ACTION:

ACTION ON SENATE BILL 189: Valencia Lane gave the committee amendments on the bill. (Exhibit 3) Ms. Lane explained the amendments were new amendments for the bill.

Senator Pineseault wondered if the bill should be limited to private or public record.

Senator Mazurek said the main concern of the bill is to make sure the school doesn't disclose the arrest records of students to anyone.

Senator Pineseault said the bill should state only school officials can have knowledge of the students' arrest records.

Senator Beck suggested just to have a record of arrests in the court, but not at the school.

Senator Crippen said that no matter how hard people try in schools to keep something a secret, it becomes public knowledge. He understood the counselors concern about having the right to know what student was arrested for drugs or alcohol, but he felt the public knowledge will hurt the student in the future.

Senator Beck said the courts should just handle what record the arrests go into.

Senator Brown said it is double or triple dose to a kid if he is caught by the police; the parents ground him,

and school eliminates him from all extra-curricular activities because he broke training. He felt it was a bit much for a teenager to handle.

Senator Mazurek said one can't stop the school from punishing the student because most extra-curricular events in high school must have a contract signed by the student stating punishments.

Jeff Lynch, Carroll College Intern for Senator Mazurek, stated when he went to Great Falls High, the police would give a list of names of who was arrested for illegal drinking, to the school.

Senator Halligan felt the committee should go along with the amendments, but the disclosure section should be tightened up some.

Senator Brown wanted to MOVE to put the bill on the TABLE because the committee had taken some executive action before on the bill. On January 28th, Senator Halligan had moved the bill DO PASS AS AMENDED, but it was not voted on. Senator Brown had moved to reconsider committee action on Senate Bill 189 on January 28. The motion CARRIED.

Senator Blaylock moved to table the bill. The motion CARRIED with Senator Galt voting no. (The amendments on the 28th of January gave school officials access to records of the child). (See Exhibit 4)

ACTION ON SENATE BILL 121: The committee discussed the concern over the limiting product liability in the bill. Senator Brown moved the amendment on the Standing Committee Report. (Exhibit 5) The motion carried.

Senator Brown moved the Senate Bill 121 DO PASS AS AMENDED. The motion CARRIED with Senators Yellowtail and Blaylock voting no.

ADJOURNMENT: The committee adjourned at 12:10 p.m.


SENATOR JOE MAZUREK, Chairman

ROLL CALL

Judiciary

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Jan. 30th

| 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 | | |
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Each day attach to minutes.

DATE

Jan. 30th

COMMITTEE ON _____

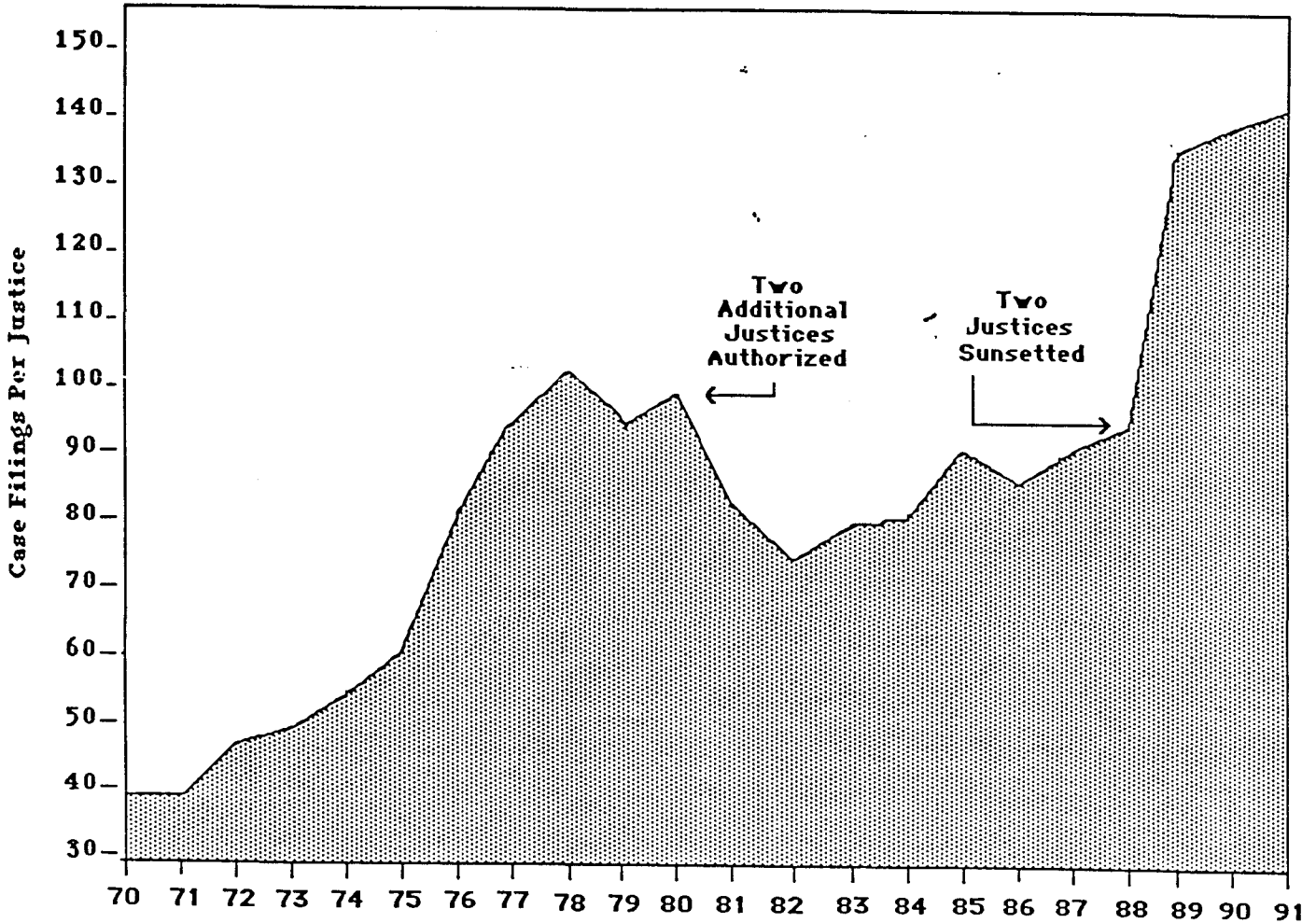
VISITORS' REGISTER

| NAME | REPRESENTING | BILL # | Check One | |
|--------------------|-------------------|--------|-------------------------------------|-------------------------------------|
| | | | Support | Oppose |
| Pat Melby | State Bar of Mont | SB161 | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Kim Kueker | Dept. of Justice | SB164 | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| H. B. [unclear] | Supreme Ct | SB161 | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| STEVE Brown | Self | SB165 | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| V. Van [unclear] | MSEA | SB1302 | <input type="checkbox"/> | <input type="checkbox"/> |
| Frank Morrison | self | SB161 | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Kimberly [unclear] | self | SB161 | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
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(Please leave prepared statement with Secretary)

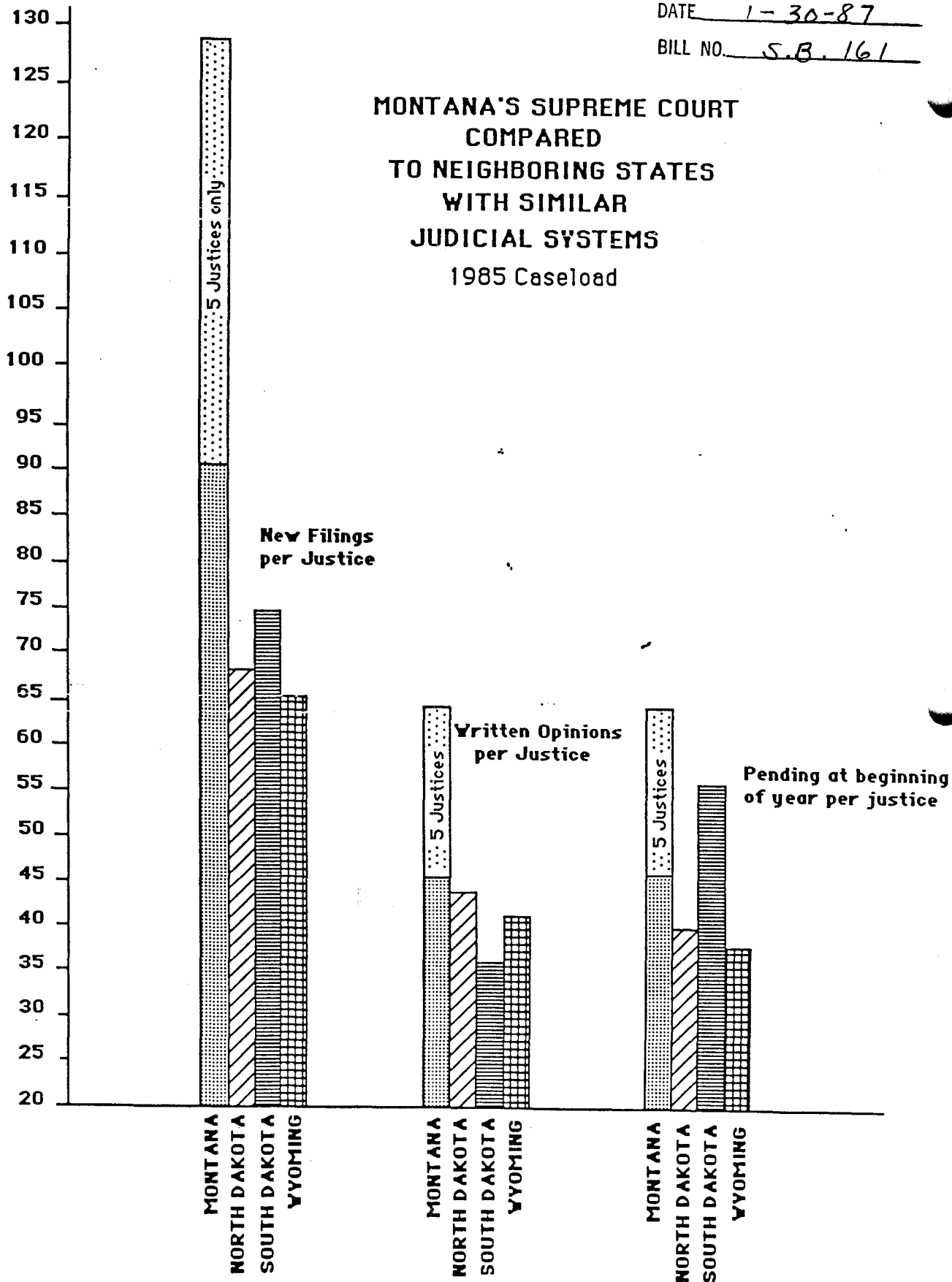
MONTANA SUPREME COURT

ACTUAL AND PROJECTED
CASE FILINGS PER JUSTICE
1970 TO 1991



PROJECTIONS PAST 1986 ARE ESTIMATES DONE BY THE NATIONAL CENTER FOR STATE COURTS, WILLIAMSBURG, VA.

MONTANA'S SUPREME COURT
COMPARED
TO NEIGHBORING STATES
WITH SIMILAR
JUDICIAL SYSTEMS
1985 Caseload



MONTANA SUPREME COURT CASELOAD

| | <u>FILINGS</u> | <u>STILL ACTIVE</u> | <u>OPINIONS</u> |
|----------------------|----------------|---------------------|-----------------|
| 1991 | 712 | | |
| 1990 | 694 | | |
| 1989 | 675 | | |
| 1988 | 657 | | |
| 1987 | 639 | | |
| -----*PROJECTED----- | | | |
| 1986 | 602 | 379 | 374 |
| 1985 | 639 | 320 | 322 |
| 1984 | 567 | 251 | 373 |
| 1983 | 561 | 330 | 285 |
| 1982 | 522 | 350 | 313 |
| 1981 | 574 | 357 | 298 |
| 1980 | 490 | 369 | 292 |
| 1979 | 481 | 375 | 323 |
| 1978 | 516 | 350 | 269 |
| 1977 | 469 | 303 | 255 |
| 1976 | 408 | 207 | 210 |
| 1975 | 301 | 191 | 210 |
| 1974 | 265 | 150 | 153 |
| 1973 | 243 | 174 | 195 |
| 1972 | 230 | 135 | 147 |
| 1971 | 198 | 146 | 149 |
| 1970 | 194 | 110 | 130 |

* Projections are those made by the National Center for State Courts, Williamsburg, Virginia, using the period from 1976 to 1986.

MONTANA: CASELOAD PER JUSTICE

| | <u>FILING PER JUSTICE</u> | <u>STILL ACTIVE PER JUSTICE</u> | <u>OPINIONS PER JUSTICE</u> |
|---------------------|-------------------------------|-------------------------------------|---------------------------------|
| 5 Justices | 1991 | 142 | 81 |
| | 1990 | 139 | 79 |
| | 1989 | 135 | 77 |
| | 1988 | 94 | 53 |
| | 1987 | 91 | 52 |
| -----PROJECTED----- | | | |
| 7 Justices | 1986 | 86 | 54 |
| | 1985 | 91 | 46 |
| | 1984 | 81 | 35 |
| | 1983 | 80 | 47 |
| | 1982 | 75 | 50 |
| | 1981 | 82 | 51 |
| | 1980 | 98 | 53 |
| 5 Justices | 1979 | 96 | 75 |
| | 1978 | 103 | 70 |
| | 1977 | 94 | 61 |
| | 1976 | 81 | 41 |
| | 1975 | 60 | 38 |
| | 1974 | 53 | 30 |
| | 1973 | 49 | 35 |
| | 1972 | 46 | 27 |
| | 1971 | 39 | 29 |
| | 1970 | 39 | 22 |

January 30, 1987 Justice Frank Morrison's testimony on SB 161.

OPINIONS

1982 340
 1983 286
 1984 391
 1985 302
 1986 374

* 50 per justice = 300 per year.

CASES ARGUED

1983 159
 1984 124
 1985 112
 1986 86

| | <u>1984</u> | <u>1985</u> | <u>1986</u> |
|----------------|-------------|-------------|-------------|
| Divorce | 37 | 37 | 46 |
| Contracts | 30 | 32 | 35 |
| Con. Law | 30 | 17 | 34 |
| Criminal Law * | 78 | 36 | 48 |
| Ins. | 13 | 14 | 12 |
| Neg. | 7 | 11 | 15 |
| Work Comp. | 22 | 24 | 29 |

ASSUMED CASES = 375

ARGUED = 100

275 considered without arguement

7 Judge Ct. has 5 judge panels. $5/7$ of 275 = 195 + 100 = 295

5 Judge Ct. has 3 judge panels. $3/5$ of 275 = 165 + 100 = 265

Alternative proposed amendments to SB 189:

1. Title, line 4.

Following: "PROVIDE FOR"

Strike: "PUBLIC"

2. Title, line 5.

Following: "DISCLOSURE"

Insert: "TO CERTAIN SCHOOL OFFICIALS"

3. Title, line 7.

Following: "SUBSTANCE"

Insert: "OR A DANGEROUS DRUG"

4. Page 1, line 24.

Following: line 23

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

Insert: "The"

5. Page 2, line 1.

Following: "45-5-624"

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"

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

Strike: section 2 in its entirety

An Act BILL NO. 169
De Velleky

OR 45-9-102 may be disclosed to law enforcement officials to the administrative officials of the school in which the youth is

1 INTRODUCED BY
2
3 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR ~~public~~
4 TO CERTAIN SCHOOL OFFICIALS
5 DISCLOSURE OF THE IDENTITY OF A YOUTH CITED OR ARRESTED FOR
6 OR CHARGED WITH UNLAWFUL POSSESSION OF AN INTOXICATING
7 SUBSTANCE AND AMENDING SECTIONS 41-5-601 AND 41-5-602,
8 MCA."
9

1 violation of 45-5-624." student
2 ~~Section 2. Section 41-5-602, MCA, is amended to read:~~
3 "41-5-602. Law enforcement records. (1) No law
4 enforcement records concerning a youth, except traffic
5 records, may be open to public inspection or their contents
6 disclosed to the public unless the records are directly
7 related to an offense to which publicity must be allowed
8 under subsections (2) and (3) of 41-5-601 or
9 unless inspection is ordered by the court.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 Section 1. Section 41-5-601, MCA, is amended to read:
12 "41-5-601. Publicity. (1) No publicity shall be given
13 to the identity of an arrested youth or to any matter or
14 proceeding in the youth court involving a youth proceeded
15 against as, or found to be, a delinquent youth or youth in
16 need of supervision except as provided in subsection
17 subsections (2) and (3).
18

10 (2) Inspection of law enforcement records concerning a
11 youth, which records are not open to public inspection under
12 subsection (1), is permitted prior to the sealing of the
13 records by:
14 (a) a youth court having the youth currently before it
15 in any proceeding;
16 (b) the officers of agencies having legal custody of
17 the youth and those responsible for his supervision after
18 release;
19 (c) any other person, by order of the court, having a
20 legitimate interest in the case or in the work of the law
21 enforcement agency;
22 (d) law enforcement officers of Montana, when
23 necessary for the discharge of their immediate duties;
24 (e) a district court in which the youth is convicted
25 of a ~~criminal offense, for the purpose of a prearrest~~

SENATE JUDICIARY
EXHIBIT NO. 3

DATE 1-30-87



*original
audits
~~the~~ then
recessed
& "stripped"
from bill*

Proposed amendments to SB 189:

1. Title, line 7.
Following: "SUBSTANCE"
Insert: "OR A DANGEROUS DRUG"
2. Page 1, line 24.
Following: line 23
Strike: "Publicity may not be withheld"
Insert: "Disclosure may be made as provided in 41-5-602(2)(h)"
3. Page 1, line 25.
Following: "youth"
Strike: "arrested or"
4. Page 2, line 1.
Following: "45-5-624"
Insert: "or 45-9-102"
5. Page 3, line 2.
Following: "attorney;"
Strike: "or"
6. Page 3, line 3.
Following: "counsel"
Strike: "."
Insert: "; or"
7. Page 3, line 4.
Following: line 3
Insert: "(h) the administrative officials of the school in which a youth referred to in 41-5-601(3) is a student."

*not noted
by
committee*

STANDING COMMITTEE REPORT

January 30

19 87

MR. PRESIDENT

We, your committee on **SENATE JUDICIARY**

having had under consideration **SENATE BILL** No. **121**

first reading copy (white)
color

Firearms liability criteria.

Respectfully report as follows: That **SENATE BILL** No. **121**

BE AMENDED AS FOLLOWS:

1. Page 1, line 10.
Following: "liability --"
Strike: "defectiveness"
Insert: "defect in design"

AND AS AMENDED

DO PASS

~~DO NOT PASS~~

SENATE JUDICIARY

EXHIBIT NO. 5

DATE 1-30-87

BILL NO. S.B. 121

Senator Mazurek

Chairman.