

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

March 21, 1987

The forty-eighth meeting of the Senate Judiciary Committee was called to order at 9:00 a.m. on March 21, 1987, by the chairman, Joe Mazurek, in Room 325 of the state Capitol.

ROLL CALL: All members were present with the exception of Senators Blaylock and Crippen, who were excused.

EXECUTIVE SESSION

ACTION ON HOUSE BILL 696: Senator Halligan moved to TABLE House Bill 696. Senators Galt, Brown, Beck and Bishop voted no. The motion FAILED because of a tie. The committee decided to wait on action until Senators Blaylock and Crippen returned.

ACTION ON HOUSE BILL 509: Valencia Lane explained the amendments she had prepared. (Exhibit 1) Senator Pinsoneault checked into the aircraft safety laws and found one is legally drunk in a plane at .04. Senator Mazurek thought the 5th amendment should strike "to have been" in the 10th line, and insert "was". The committee agreed. Senator Pinsoneault moved the changed amendments. The motion carried. Senator Pinsoneault moved House Bill 509 BE CONCURRED IN AS AMENDED. The motion CARRIED.

ACTION ON HOUSE BILL 504: Valencia Lane explained the prepared amendments. (Exhibit 2) Senator Mazurek asked how one determines in HB 504 amendment #3, (i), what is "serious and material" in violating qualification for the ballot. Senator Brown suggested illegal signatures. He felt one would have to have quite a few to make a difference. Senator Mazurek suggested taking "serious and material" out of the amendments. The committee agreed. Senator Brown moved the amendments, and the motion carried. Senator Brown moved House Bill 504 BE CONCURRED IN AS AMENDED. The motion carried with Senators Halligan and Pinsoneault voting no.

ACTION ON HOUSE BILL 470: Valencia Lane presented prepared amendments. (Exhibit 3) Senator Mazurek felt the amendments left wide open, juvenile records, which he did not like.

He didn't like Title 45, Chapter 5. Senator Mazurek suggested deleting section 13 of the bill and leaving the record section the way it was. Ms. Lane explained section 6 includes finger prints, which would deal with juvenile records. Senator Halligan MOVED TO STRIKE section 13 of the bill and maintain the record section the way it stands now. The motion CARRIED.

Senator Mazurek said in section 12, he didn't know if it was wise to allow the victim of a crime by a juvenile to know the identity of the juvenile or their background, unless it disclosed important factors.

Senator Galt said if a delinquent youth broke your arm, you would want to know. Senator Galt asked if a youth gets to stay in youth court if he commits a serious offense. Senator Mazurek said sometimes a serious juvenile offender does stay in youth court because they can't do anything to him anyway until he is 21 years old.

Senator Pinsoneault said last session the legislature passed a bill allowing 16 year olds to be tried as adults. Senator Mazurek stated that was correct. Ms. Lane said on page 7 of the bill, there is a list of crimes that a youth can be tried as an adult for. She pointed out on page 22, line 3, it states the restitution by the parents. Senator Pinsoneault said some parents make kids do time in jail or pay the fine to teach them to respect the law. Senator Mazurek reminded the committee the parents are only liable if the youth lives at home. Senator Mazurek asked if the committee wanted to limit restitution for parents. The committee responded no. Senator Brown MOVED the change in the amendments. The motion CARRIED.

Senator Brown moved the bill BE CONCURRED IN AS AMENDED. Senators Yellowtail and Mazurek voting no, the motion CARRIED.

ACTION ON HOUSE BILL 73: Ms. Lane gave the committee amendments. (Exhibit 4) The committee added an amendment to make the sentence structure more clear. (See Standing Committee Report) The committee discussed the first proposed amendment. Senator Mazurek didn't like the fact the youth could be tried as an adult in this bill. The committee decided against that amended language and put in the second amendment on the Standing Committee Report. The committee adopted the second proposed amendment. (See Exhibit 4 and 3rd amendment on Standing Committee Report). The committee did not agree on the third proposed amendment because it was compatible to the

first proposed amendment. Senator Yellowtail moved the amended amendments. The motion CARRIED.

Senator Brown moved House Bill 73 BE CONCURRED IN AS AMENDED. The motion CARRIED.

ACTION ON HOUSE BILL 283: Valencia Lane distributed the amendments and explained them. (Exhibit 5) Senator Mazurek suggested changing the last amendment on Exhibit 5 so that the language was more clear. The amendments passed with the changes. Senator Halligan moved House Bill 283 BE CONCURRED IN AS AMENDED. The motion CARRIED.

ACTION ON HOUSE BILL 284: Valencia Lane distributed copies of amendment. (Exhibit 6) Senator Beck said the amendment or bill doesn't make it clear if a person has to give notice for a vacation. He said a vacation might be more than two weeks. Senator Mazurek felt this bill should not include the penalty as an aggravated felony.

Mr. Bill Harrington, Child Support Advisory Council, and an attorney, stated the major problem with not receiving child support is visitation rights because the rights have been violated, so the child support stops. Ms. Lane found section 2 in the bill where it clarifies vacation time. She said there is great concern about the father showing up drunk for visits. Senator Halligan felt the bill should include the words "good cause" when it comes to rejecting a visitation.

Senator Pinsoneault thought "good cause" was too broad a term and could open a lot of avenues. Senator Halligan said the county attorney needs broad terms in these cases because it gives him discretion. Valencia Lane suggested using the word "reasonable" over "good". Senator Halligan moved the "reasonable cause" clause on page 2, line 18. Senator Pinsoneault wanted to adopt the amendments given March 16. (Exhibit 7) Senator Halligan echoed a broad area is better to work with in family law. Senator Yellowtail said there should be clearer language on page 2, line 3, with the vacation problem. Senator Halligan moved with his other motion, Valencia Lane's amendment and a change on page 2, line 3, to clear the vacation situation. The motion CARRIED. Senator Halligan moved House Bill 284 BE CONCURRED IN AS AMENDED. The motion CARRIED, with Senator Mazurek voting no.

ACTION ON HOUSE BILL 495: Valencia Lane handed out amendments. (Exhibit 8) Senator Brown moved the amendments. The motion carried. Senator Brown moved House Bill 495 BE CONCURRED IN AS AMENDED. The motion CARRIED.

ACTION ON HOUSE BILL 393: Senator Galt moved amendments presented by Valencia Lane. (Exhibit 9) The motion carried. Senator Brown moved House Bill 393 BE CONCURRED IN AS AMENDED. The motion CARRIED.

ACTION ON HOUSE BILL 400: Senator Halligan moved BE NOT CONCURRED IN. Senator Mazurek said the proponents thought this problem had liability problems. Senator Halligan WITHDREW his motion after discussing the idea of looking at other states' laws on this subject. Ann MacIntyre, Human Rights Commission, said repealing rule 24.9.1107, would give the Commission guidelines to follow. Senator Blaylock thought the committee should give a statement of intent. Senator Mazurek appointed a subcommittee to the bill. Senators Halligan, Yellowtail and Mazurek would be on the subcommittee. Valencia Lane said she would prepare amendments for it.

ADJOURNMENT: The meeting adjourned at 11:30 a.m.



SENATOR JOE MAZUREK, Chairman

ROLL CALL

Judiciary

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date March 21

NAME	PRESENT	ABSENT	EXCUSED
<u>Senator Joe Mazurek, Chairman</u>	X		
<u>Senator Bruce Crippen, Vice Chairman</u>		X	X
<u>Senator Tom Beck</u>	X		
<u>Senator Al Bishop</u>	X		
<u>Senator Chet Blaylock</u>		X	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 March 21, 1987BILL NO. HB 509

Proposed amendments to HB 509 (Schye), third reading copy (blue)

1. Page 3, line 10.

Following: line 9

Insert: "(8) A person having information regarding a violation of subsection (7) shall report such information to the department.

Section 2. Section 67-1-205, MCA, is amended to read:
"67-1-205. Penalties. A person who violates any provision of this part, except 67-1-204(8), shall be guilty of a misdemeanor and punishable by a fine of not more than \$500 or by imprisonment for not more than 6 months, or both."

Renumber: subsequent sections

2. Page 3, line 13.

Following: "of"

Strike: "a civil"

Insert: "an"

3. Page 3, line 15.

Following: "is"

Insert: "conclusively"

4. Page 3, line 16.

Following: "alcohol"

Insert: "or drugs and is"

5. Page 4, line 3.

Following: line 2

Insert: "(4) Any person who operates an aircraft over the lands and waters of this state shall be deemed to have given consent to a chemical test of his blood, breath, or urine for the purpose of determining the alcoholic or drug content of his blood if arrested by a peace officer for operating, attempting to operate, or being in actual physical control of an aircraft while under the influence of alcohol or drugs. The test shall be administered at the direction of a peace officer having reasonable grounds to believe the person ^{was} ~~(to have been)~~ operating, attempting to operate, or in actual physical control of an aircraft while under the influence of alcohol or drugs. The arresting officer may designate which one of the aforesaid tests shall be administered. Any person who is unconscious or who is otherwise in a condition rendering him incapable of refusal shall be deemed not to have withdrawn the consent provided by this subsection."

Renumber: subsequent subsections

6. Page 4, line 11.

Strike: "61-8-402 AND"

7080c/C:JEANNE\WP:jj

(8) A person having information regarding a violation of subsection (7) shall report such information to the department.

Section 2. Section 67-1-205, MCA, is amended to read: "67-1-205. Penalties. A person who violates any provision of this part, except 67-1-204(8), shall be guilty of a misdemeanor and punishable by a fine of not more than \$500 or by imprisonment for not more than 6 months, or both."

1 pilot shall be liable for actual damage caused by such
2 forced landing.
3 (2) No person may knowingly operate, attempt to
4 operate, or be in actual physical control of an aircraft
5 while under the influence of alcohol or drugs. "UNDER THE
6 INFLUENCE" MEANS THAT AS A RESULT OF TAKING INTO THE BODY
7 ALCOHOL, DRUGS, OR ANY COMBINATION THEREOF A PERSON'S
8 ABILITY TO SAFELY OPERATE THE AIRCRAFT HAS BEEN DIMINISHED
9 TO THE SLIGHTEST DEGREE."

10 NEW SECTION. Section 3. blood alcohol concentration
11 standards -- evidence admissible -- administration of tests.
12 (1) Person -- to -- if a person acting or
13 attempting to act as a crewmember of an aircraft has a
14 blood alcohol concentration of 0.04% by weight or more as
15 defined in 61-8-407, that person is presumed to be under the
16 influence of alcohol in violation of 67-1-204.
17 (2) Evidence of the amount of alcohol in a person's
18 blood at the time of the act alleged under subsection (1)
19 and any other competent evidence bearing on the question of
20 whether the person was under the influence of alcohol at the
21 time of the act alleged is admissible in any criminal action
22 or proceeding arising out of acts alleged to have been
23 committed in violation of 67-1-204.
24 (3) In any criminal action or proceeding arising out
25 of acts alleged to have been committed in violation of

(4) Any person who operates an aircraft over the lands and waters of this state shall be deemed to have given consent to a chemical test of his blood, breath, or urine for the purpose of determining the alcoholic or drug content of his blood if arrested by a peace officer for operating, attempting to operate, or being in actual physical control of an aircraft while under the influence of alcohol or drugs. The test shall be administered at the direction of a peace officer having reasonable grounds to believe the person to have been operating, attempting to operate, or in actual physical control of an aircraft while under the influence of alcohol or drugs. The arresting officer may designate which one of the aforesaid tests shall be administered. Any person who is unconscious or who is otherwise in a condition rendering him incapable of refusal shall be deemed not to have withdrawn the consent provided by this subsection.

67-1-204, the court or jury may consider federal regulations governing aeronautics.

(5) If a person charged with violation of 67-1-204 refuses to submit to a chemical test of his blood, breath, or urine for the purpose of determining the alcohol content of his blood, none will be given, but proof of refusal is admissible in any criminal action or proceeding arising out of acts alleged to have been committed in violation of 67-1-204.

(6) The provisions relating to administration of tests provided in 61-8-405 and the definition of alcohol concentration provided in 61-8-407 apply to any testing done to determine the blood alcohol concentration of a person charged with violation of 67-1-204.

NEW SECTION. Section 4. Extension of authority. Any existing authority of the department of commerce to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 5. Codification. Instruction. Section 2 is intended to be codified as an integral part of Title 67, Chapter 1, part 2, and the provisions of Title 67, Chapter 1, part 2, apply to section 2.
NEW SECTION. Section 6. Effective date. This act is effective on passage and approval.

Proposed amendments to HB504, reference copy (salmon)

1. Title, lines 5 through 7.

Following: "ELECTIONS" on line 5

Strike: the remainder of line 5 through "LAWS" on line 7

2. Page 2, lines 7 through 17.

Strike: subsection (3) in its entirety

Insert: "(3) (a) Except as provided in subsection (b), a contest of a ballot issue submitted by initiative or referendum may be brought prior to the election only if it is filed within 30 days after the date on which the issue was certified to the governor, as provided in 13-27-308, and only for the following causes:

~~*(i) serious and material~~ violation of any provision of the law relating to qualifications for inclusion on the ballot;

(ii) constitutional defects in the substance of a proposed ballot issue; or

(iii) illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.

(b) A contest of a ballot issue based on subsection (3)(a)(iii) may be brought at any time after discovery of illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.

(c) Nothing in this subsection limits the right to challenge a measure enacted by a vote of the people."

3. Page 4, lines 5 through 15.

Strike: subsection (6) in its entirety

Insert: "(6) (a) Except as provided in subsection (b), a contest of a ballot issue submitted by initiative or referendum may be brought prior to the election only if it is filed within 30 days after the date on which the issue was certified to the governor, as provided in 13-27-308, and only for the following causes:

(i) ~~serious and material~~ violation of any provision of the law relating to qualifications for inclusion on the ballot;

(ii) constitutional defects in the substance of a proposed ballot issue; or

(iii) illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.

(b) A contest of a ballot issue based on subsection (3)(a)(iii) may be brought at any time after discovery of illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.

(c) Nothing in this subsection limits the right to challenge a measure enacted by a vote of the people."

C:\LANE\WP\AMDHB504.

PROPOSED AMENDMENTS TO HOUSE BILL 73
(Bradley) (Proposed by David Hull)
Third reading copy (blue)

1. Page 1, line 20.

Following: "TITLE"

Strike: "MUST BE TRIED AS AN ADULT AND"

2. Page 1, line 23.

Following: "\$50"

Strike: "NOT LESS THAN AND"

3. Page 2, line 14.

Following: line 13

Insert: ~~"(5) Nothing in this section shall restrict the
authority of a county attorney to prosecute a case in
accordance with Title 41, chapter 5."~~

Proposed amendments to HB 283, third reading copy (blue)

1. Title, line 5.
Following: "REQUIRE"
Strike: "A"
2. Title, line 6.
Following: line 5
Strike: "AGREEMENT OR COURT ORDER FOR"
Insert: "NOTICE WHEN"
Following: "PARENT"
Strike: "TO MOVE"
Insert: "MOVES"
3. Title, line 7.
Following: "RESIDENCE"
Strike: "OUTSIDE"
Insert: "FROM"
Following: "MAKE"
Insert: "CHANGE OF A CHILD'S RESIDENCE TO ANOTHER STATE
AND"
4. Title, line 9.
Following: "PARENT"
Strike: "A"
5. Page 2, line 10.
Following: "SHALL"
Strike: "not change"
Insert: ", before changing"
6. Page 2, line 11.
Following: "state"
Insert: ", "
7. Page 2, line 12.
Following: "consent"
Strike: "or"
Insert: ", "
8. Page 2, lines 13 and 14.
Following: "UPON" on line 13
Strike: remainder of line 13 through "AFTER" on line 14
Insert: "give written"
9. Page 2, lines 14 and 15.
Following: "PARENT" on line 14
Strike: the remainder of line 14 through "hearing." on
line 15
Insert: ", as provided in subsection (5).
(5) The written notice required by subsection (4)

must be submitted to the court that issued the custody order not less than 30 days before the proposed change in residence. The court shall immediately serve notice of the proposed change on the noncustodial parent personally or by certified mail."

10. Page 2, line 15.
Following: "of the"
Strike: "hearing"
Insert: "notice"
11. Page 2, lines 17 through 19.
Following: "schedule." on line 17
Strike: remainder of line 17 through line 19
12. Page 3, line 12.
Strike: "or"
13. Page 3, line 19.
Following: "rights"
Insert: "; or
(f) the custodial parent has changed or intends to change the child's residence to another state"
14. Page 3, line 23.
Following: line 22
Insert: "(3) If a custody decree is modified based on subsection (1)(f), the court may modify the prior decree to provide a new visitation schedule and to apportion transportation costs between the parents."
Renumber: subsequent subsections

How HB 283 would read if amendments adopted:

Title: "AN ACT TO REQUIRE WRITTEN NOTICE WHEN A CUSTODIAL PARENT MOVES A CHILD'S RESIDENCE FROM THE STATE; TO MAKE CHANGE OF A CHILD'S RESIDENCE TO ANOTHER STATE AND A CUSTODIAL PARENT'S ATTEMPTS TO PREVENT CONTACT OR VISITATION BETWEEN THE CHILD AND THE NONCUSTODIAL PARENT BASIS FOR MODIFICATION OF THE CUSTODY DECREE,"

SUBSECTION (4) AND (5), lines 7 - 19, page 2:

"(4) So long as a noncustodial parent who has been granted visitation rights ~~by the court or by a~~ ^{under a custody} agreement remains a resident of this state, a resident custodial parent shall, before changing the child's residence to another state ^{and} unless the noncustodial parent has given written consent, give written notice to the noncustodial parent, as provided in subsection (5).

(5) The written notice required by subsection (4) ^{given and served by the mail (val)} must be ~~submitted~~ ^{given} to the court that issued the custody order not less than 30 days before the proposed change in ^{from} residence. The court must immediately serve notice of the proposed change on the noncustodial parent personally or by certified mail. The purpose of the notice is to allow the noncustodial parent to seek a modification of his visitation schedule."

1 circumstances of the child or his custodian and that the
 2 modification is necessary to serve the best interest of the
 3 child and if it further finds that:

- 4 (a) the custodian agrees to the modification;
 5 (b) the child has been integrated into the family of
 6 the petitioner with consent of the custodian;
 7 (c) the child's present environment endangers
 8 seriously his physical, mental, moral, or emotional health
 9 and the harm likely to be caused by a change of environment
 10 is outweighed by its advantages to him; or
 11 (d) the child is 14 years of age or older and desires
 12 the modification; ~~or~~

13 (e) the custodian willfully and consistently:

14 (i) refuses to allow the child to have any contact
 15 with the noncustodial parent; OR

16 ~~the custodian attempts to frustrate or deny the~~
 17 ~~noncustodial parent's exercise of visitation rights;~~

18 ~~(2) The court shall presume the custodian is not~~
 19 ~~acting in the child's best interest if the custodian does~~
 20 ~~any of the acts specified in subsection (1)(e).~~

21 ~~(3) If a custody decree is modified based on~~
 22 ~~subsection (1)(f), the court may modify the prior~~
 23 ~~decree to provide a new visitation schedule and to~~
 24 ~~apportion transportation costs between the parents.~~
 25

1 harassment.

2 (3) A custody decree may be modified upon the death
 3 of the custodial parent pursuant to 40-4-221."

-End-

; OR
 (f) the custodial parent has changed or intends
 to change the child's residence to another state

(3) If a custody decree is modified based on
 subsection (1)(f), the court may modify the prior
 decree to provide a new visitation schedule and to
 apportion transportation costs between the parents.

SENATE JUDICIARY

EXHIBIT NO. 5
 DATE 3-21-87
 BILL NO. H.B. 283

-4-

HB 283

-3-

Proposed Amendments to HB 284

Third Reading Copy (Blue)

1. Page 2, line 4.
Following: "custody"
Insert: "without having given written notice as required
by 40-4-217 or"

HB 284 be amended as follows:

1. Page 2, line 17.

Following: "vacation;"

Strike: "or"

2. Page 2, line 18.

Following: "order"

Insert: "; or"

3. Page 2, line 18.

Following: "order"

Insert: "(c) Under circumstances which tend to demonstrate probable cause to believe that physical harm to the child or the custodial parent will occur if the visitation right is exercised."

Proposed amendments to HB 495 (Corne) (prepared for the sponsor),
third reading copy (blue)

1. Page 1, line 10.

Following: "(1)"

Strike: "(a)"

2. Page 1, line 12.

Following: "so"

Strike: ", "

Insert: ": (a)"

3. Page 1, line 15.

Following: "institution"

Strike: "."

Insert: "; "

4. Page 1.

Following: line 20

Insert: "(b) prior to the entry of a court order determining
custodial rights, he takes, entices, or withholds any child
from the other parent where the action manifests a purpose
to substantially deprive that parent of parental rights; or"

5. Page 1, line 21.

Following: "te"

Strike: "(B) If"

Insert: "(c) he is one of"

Following: "persons"

Strike: "have"

Insert: "who has"

6. Page 1, lines 22 and 23.

Following: "court" on line 22

Strike: remainder of line 22 through "them" on line 23

Insert: "order and he"

7. Page 1, lines 24 and 25.

Following: "other" on line 24

Strike: remainder of line 24 through "decree" on line 25

Insert: "where this action manifests a purpose substantially to
deprive that parent of parental rights"

1 HOUSE BILL NO. 495
2 INTRODUCED BY CORNE'

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXPAND THE COVERAGE
5 OF THE OFFENSE OF CUSTODIAL INTERFERENCE; AND AMENDING
6 SECTION 45-5-304, MCA."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 45-5-304, MCA, is amended to read:
10 "45-5-304. Custodial interference. (1) ~~if~~ A person
11 commits the offense of custodial interference if, knowing
12 that he has no legal right to do so, ^(a) he takes, entices, or
13 withholds from lawful custody any child, incompetent person,
14 or other person entrusted by authority of law to the custody
15 of another person or institution;

16 ~~(b) if the parents of a child and the child live~~
17 ~~together; each parent has lawful custody of the child and~~
18 ~~the offense of custodial interference is committed if one~~
19 ~~parent takes, entices, or withholds the child from the other~~

20 ~~parent;~~ (c) he is one of ^{who has} joint custody of a child
21 ~~(c) if two persons have~~
22 under a court decree the offense of custodial interference
23 ~~is committed if one of them~~ ^{order and he} takes, entices, or withholds the
24 child from the other during a period when the child resides
25 ~~with the other under the decree.~~

where this action
manifests a purpose to substantially
deprive that parent of
parental rights.

Montana Legislative Council

1 (2) A person convicted of the offense of custodial
2 interference shall be imprisoned in the state prison for any
3 term not to exceed 10 years or be fined an amount not to
4 exceed \$50,000, or both.

5 (3) A person who has not left the state does not
6 commit an offense under this section if he voluntarily
7 returns such person to lawful custody prior to arraignment.
8 A person who has left the state does not commit an offense
9 under this section if he voluntarily returns such person to
10 lawful custody prior to arrest."

-End-

(b) prior to the entry of a court order determining
custodial rights, he takes, entices, or
withholds any child from the other parent
where the action manifests a purpose to
substantially deprive that parent of parental
rights; or

SENATE JUDICIARY

EXHIBIT NO. 8

DATE 3-21-17

BILL NO. H.B. 495

HB 495

THIRD READING

STANDING COMMITTEE REPORT

SENATE JUDICIARY

EXHIBIT NO. 9

DATE March 21, 1987

March 23

BILL NO. HB 19 37 393

MR. PRESIDENT

SENATE JUDICIARY

We, your committee on

having had under consideration..... HOUSE BILL No. 393

Third reading copy (blue)
color

Revise procedure for removing human rights case to district court.
Lory (Bishop)

Respectfully report as follows: That..... HOUSE BILL No. 393

1. Title, line 7.

Following: "COURT;"

Insert: "TO CLARIFY THE EXCLUSIVE NATURE OF REMEDIES AVAILABLE
FOR DISCRIMINATION;"

2. Page 4, line 6.

Following: line 5

Insert: "(7) The provisions of this chapter establish the
exclusive remedy for acts constituting an alleged violation
of this chapter, including acts that may otherwise also
constitute a violation of the discrimination provisions of
Article II, section 4, of the Montana constitution or 49-1-
102. No other claim or request for relief based upon such
acts may be entertained by a district court other than by
the procedures specified in this chapter."

~~XXXXXX~~
DO PASS

~~XXXXXXXXXX~~
DO NOT PASS

CONTINUED

.....Senator Mazurek.....

Chairman.

3. Page 6, line 25.

Following: line 24

Insert: "(7) The provisions of this chapter establish the exclusive remedy for acts constituting an alleged violation of this chapter, including acts that may otherwise also constitute a violation of the discrimination provisions of Article II, section 4, of the Montana constitution or 49-1-102. No other claim or request for relief based upon such acts may be entertained by a district court other than by the procedures specified in this chapter."

C:\LANE\WF\AMDH393.

AND AS AMENDED
BE CONCURRED IN

SENATE JUDICIARY

EXHIBIT NO. 9

DATE 3-21-87

BILL NO. H.B. 393

Senator Mazurek

STANDING COMMITTEE REPORT

March 23 19 87

MR. PRESIDENT

We, your committee on SENATE JUDICIARY

having had under consideration HOUSE BILL No. 73

Third reading copy (blue)
color

Application of motor vehicle laws to minors--Except penalty imposition.

Bradley (Tveit)

Respectfully report as follows: That HOUSE BILL No. 73

1. Page 1, line 19.

Following: "WHO"

Strike: "COMMITTS"

Insert: "is convicted of"

2. Page 1, lines 20 and 21.

Following: "TITLE" on line 20

Strike: remainder of line 20 through "CONVICTED" on line 21

3. Page 1, line 23.

Following: "\$50"

Strike: "NOT LESS THAN AND"

C:\LANE\WP\AMDHB73.
70801/C:JEANNE\WP:jj
Amendments, HB 73

DO PASS

DO NOT PASS

AND AS AMENDED
BE CONCURRED IN

Senator Mazurek

Chairman.

STANDING COMMITTEE REPORT

March 23

1967

MR. PRESIDENT

We, your committee on SENATE JUDICIARY

having had under consideration HOUSE BILL No. 283

Third reading copy (blue)
color

Visitation change custodian moves; obstruct visitation basis custody change.
Darko (Hazurek)

Respectfully report as follows: That HOUSE BILL No. 283

1. Title, line 5.
Following: "REQUIRE"
Strike: "A"

2. Title, line 6.
Following: line 5
Strike: "AGREEMENT OR COURT ORDER FOR"
Insert: "NOTICE IN CERTAIN CASES WHEN"
Following: "PARENT"
Strike: "TO MOVE"
Insert: "MOVES"

3. Title, line 7.
Following: "RESIDENCE"
Strike: "OUTSIDE"
Insert: "FROM"
Following: "MAKE"
Insert: "CHANGE OF A CHILD'S RESIDENCE TO ANOTHER STATE AND"

4. Title, line 9.
Following: "PARENT"
Strike: "A"

XXXXXX
DO PASS

XXXXXX
DO NOT PASS

CONTINUED

Senator Hazurek

Chairman.

5. Page 2, line 7.

Strike: "been"

6. Page 2, line 8.

Following: line 7

Strike: "granted"

Following: "rights"

Strike: "by the court"

Insert: "under a decree"

Following: "or"

Strike: "by"

7. Page 2, line 10.

Following: "SHALL"

Strike: "not change"

Insert: ", before changing"

8. Page 2, line 11.

Following: "state"

Insert: "and"

9. Page 2, line 12.

Following: "consent"

Strike: "or"

Insert: ","

10. Page 2, lines 13 and 14.

Following: "SPDH" on line 13

Strike: remainder of line 13 through "AFTER" on line 14

Insert: "give written"

11. Page 2, lines 14 and 15.

Following: "PARENT" on line 14

Strike: remainder of line 14 through "hearing." on line 15

Insert: ", as provided in subsection (5)."

(5) The written notice required by subsection (4) must be served personally or given by certified mail not less than 30 days before the proposed change in residence. Proof of service must be filed with the court that issued the custody order."

12. Page 2, line 15.

Following: "of the"

Strike: "hearing"

Insert: "notice"

CONTINUED

13. Page 2, lines 17 through 19.

Following: "schedule." on line 17

Strike: remainder of line 17 through line 19

14. Page 3, line 12.

Strike: "or"

15. Page 3, line 19.

Following: "rights"

Insert: "; or

(f) the custodial parent has changed or intends to change the child's residence to another state"

16. Page 3, line 23.

Following: line 23

Insert: "(3) The court may modify the prior decree based on subsection (1)(f) to provide a new visitation schedule and to apportion transportation costs between the parents."

Renumber: subsequent subsections

7080j/C:JEANNE\WP:jj

Amendments, HB 283

AND AS AMENDED

BE CONCURRED IN

STANDING COMMITTEE REPORT

March 23

19 37

MR. PRESIDENT

SENATE JUDICIARY

We, your committee on

HOUSE BILL

284

having had under consideration

No.

Third

blue

reading copy ()

color

Visitation interference as a crime.

Darko (Halligan)

Respectfully report as follows: That

HOUSE BILL

No. 284

1. Page 2, line 3.

Strike: "removing" through "state"

Insert: "changing the residence of"

2. Page 2, line 4.

Following: "custody"

Insert: "to another state without giving written notice as
required in 40-4-217 or"

3. Page 2, line 17.

Strike: "or"

4. Page 2, line 18.

Following: "order"

Insert: "; or

(c) with reasonable cause"

7080k/C.JEANNE\WP:jj

Amendments, HB 284

AND AS AMENDED
BE CONCURRED IN

~~XXXXXX~~
DO PASS

~~XXXXXX~~
DO NOT PASS

Senator Mazurek

Chairman.

STANDING COMMITTEE REPORT

March 23

37

19

MR. PRESIDENT

SENATE JUDICIARY

We, your committee on

HOUSE BILL

393

having had under consideration

No.

Third

blue

reading copy ()

color

Revise procedure for removing human rights case to district court.
Lory (Bishop)

HOUSE BILL

393

Respectfully report as follows: That

No.

1. Title, line 7.

Following: "COURT;"

Insert: "TO CLARIFY THE EXCLUSIVE NATURE OF REMEDIES AVAILABLE
FOR DISCRIMINATION;"

2. Page 4, line 6.

Following: line 5

Insert: "(7) The provisions of this chapter establish the
exclusive remedy for acts constituting an alleged violation
of this chapter, including acts that may otherwise also
constitute a violation of the discrimination provisions of
Article II, section 4, of the Montana constitution or 49-1-
102. No other claim or request for relief based upon such
acts may be entertained by a district court other than by
the procedures specified in this chapter."

XXXXXX
DO PASS

XXXXXXXXXX
DO NOT PASS

CONTINUED

Senator Mazurek

Chairman.

3. Page 6, line 25.

Following: line 24

Insert: "(7) The provisions of this chapter establish the exclusive remedy for acts constituting an alleged violation of this chapter, including acts that may otherwise also constitute a violation of the discrimination provisions of Article II, section 4, of the Montana constitution or 49-1-102. No other claim or request for relief based upon such acts may be entertained by a district court other than by the procedures specified in this chapter."

C:\LANE\WP\AMDH393.

AND AS AMENDED
BE CONCURRED IN

STANDING COMMITTEE REPORT

March 23

19 87

MR. PRESIDENT

We, your committee on SENATE JUDICIARY

having had under consideration HOUSE BILL No. 470

Third reading copy (blue)
color

Generally revise procedure of youth court and law regarding youth offender. Miles (Van Valkenburg)

Respectfully report as follows: That HOUSE BILL No. 470

1. Page 13, line 4.

Strike: "IMMEDIATELY" through "EFFECTIVELY"

2. Page 13, lines 6 and 7.

Strike: "CONSTITUTIONAL" on line 6 through "CHAPTER" on line 7

Insert: "right against self-incrimination and his right to counsel"

3. Page 13, lines 10 and 11.

Strike: "UNDER" on line 10 through "12" on line 11

Insert: "16"

4. Page 13, line 11.

Following: "older"

Insert: "of age or older"

5. Page 13, lines 11 and 12.

Strike: "THE" on line 11 through "OF" on line 12

6. Page 13, line 13.

Strike: "OVER"

Insert: "under"

~~XXXXXXXX~~
DO PASS

~~XXXXXXXX~~

CONTINUED

Senator Mazurek

Chairman.

7. Page 13, line 14.

Strike: "12"

Insert: "16"

8. Page 13, line 15.

Strike: "HIS PARENTS"

Insert: "a parent or guardian"

9. Page 13, line 17.

Strike: "OVER"

Insert: "under"

10. Page 13, line 18.

Strike: "12"

Insert: "16"

11. Page 13, line 19.

Strike: "PARENTS"

Insert: "parent or guardian"

12. Page 26, line 11 through page 27, line 12.

Strike: section 13 in its entirety

Renumber: subsequent sections

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX

13. Page 30, line 22.

Strike: "16"

Insert: "15"

14. Page 30, line 24.

Strike: "16"

Insert: "15"

AND AS AMENDED
BE CONCURRED IN

STANDING COMMITTEE REPORT

March 23

19 37

MR. PRESIDENT

SENATE JUDICIARY

We, your committee on

having had under consideration..... **HOUSE BILL**..... No. **495**.....

~~Third~~ reading copy (blue)
color

Expand coverage of offense of custodial interference.
Corne (Brown)

Respectfully report as follows: That..... **HOUSE BILL**..... No. **495**.....

1. Page 1, line 10.

Following: "(1)"

Strike: "(a)"

2. Page 1, line 12.

Following: "so"

Strike: ", "

Insert: ": (a)"

3. Page 1, line 15.

Following: "institution"

Strike: "."

Insert: ";

4. Page 1.

Following: line 20

Insert: "(b) prior to the entry of a court order determining
custodial rights, he takes, entices, or withholds any child
from the other parent where the action manifests a purpose
to substantially deprive that parent of parental rights; or"

~~XXXXXX~~

DO NOT PASS

~~XXXXXXXXXX~~

DO NOT PASS

CONTINUED

Senator Mazurek

Chairman.

5. Page 1, line 21.

Following: "~~fe~~"

Strike: "~~(B) IF~~"

Insert: "(C) he is one of"

Following: "persons"

Strike: "have"

Insert: "who has"

6. Page 1, lines 22 and 23.

Following: "court" on line 22

Strike: remainder of line 22 through "them" on line 23

Insert: "order and he"

7. Page 1, lines 24 and 25.

Following: "other" on line 24

Strike: remainder of line 24 through "decreas" on line 25

Insert: "where the action manifests a purpose to substantially
deprive the other parent of parental rights"

C:\LANE\WP\AMDH3495.
70801/C:JEANNE\WP:jj
Amendments, HB 495

AND AS AMENDED
BE CONCURRED IN

STANDING COMMITTEE REPORT

March 23

19 87

MR. PRESIDENT

SENATE JUDICIARY

We, your committee on

HOUSE BILL

504

having had under consideration

No.

Ref.

salmon

reading copy ()

color

Limit challenges to initiatives prior to election.

Kadas 4R (Hofman)

HOUSE BILL

504

Respectfully report as follows: That

No.

1. Title, lines 5 through 7.

Following: "ELECTIONS" on line 5

Strike: the remainder of line 5 through "LAWS" on line 7

2. Page 2, lines 7 through 17.

Strike: subsection (3) in its entirety

Insert: "(3) (a) Except as provided in subsection (3) (b), a contest of a ballot issue submitted by initiative or referendum may be brought prior to the election only if it is filed within 30 days after the date on which the issue was certified to the governor, as provided in 13-27-308, and only for the following causes:

(i) violation of the law relating to qualifications for inclusion on the ballot;

(ii) constitutional defect in the substance of a proposed ballot issue; or

(iii) illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.

(b) A contest of a ballot issue based on subsection (3) (a) (iii) may be brought at any time after discovery of illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.

(c) Nothing in subsection (3) limits the right to challenge a measure enacted by a vote of the people."

~~DO NOT PASS~~

~~DO NOT PASS~~ CONTINUED

Senator Mazurek

Chairman.

3. Page 4, lines 5 through 15.

Strike: subsection (6) in its entirety

Insert: "(6) (a) Except as provided in subsection (6) (b), a contest of a ballot issue submitted by initiative or referendum may be brought prior to the election only if it is filed within 30 days after the date on which the issue was certified to the governor, as provided in 13-27-309, and only for the following causes:

(i) violation of the law relating to qualifications for inclusion on the ballot;

(ii) constitutional defect in the substance of a proposed ballot issue; or

(iii) illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.

(b) A contest of a ballot issue based on subsection (6) (a) (iii) may be brought at any time after discovery of illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.

(c) Nothing in subsection (6) limits the right to challenge a measure enacted by a vote of the people."

Amendments, HB 504

7020h/C:JEANNE\WP:jj

CONTINUED

AND AS AMENDED

BE CONCURRED IN

STANDING COMMITTEE REPORT

March 23

37

19.....

MR. PRESIDENT

We, your committee on SENATE JUDICIARY

having had under consideration HOUSE BILL No. 509

Third ~~XXXX~~ reading copy (blue)
color

Prohibit the operation of an aircraft while under influence of alcohol/
drugs.

Schye (Pinsonneault)

Respectfully report as follows: That HOUSE BILL No. 509

1. Title, line 9.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "67-1-204"

Insert: "AND 67-1-205"

2. Page 3, line 10.

Following: line 9

Insert: "(3) A person having information regarding a violation of
subsection (7) shall report such information to the
department.

Section 2. Section 67-1-205, MCA, is amended to read:
"67-1-205. Penalties. A person who violates any
provision of this part, except 67-1-204(8), shall be guilty
of a misdemeanor and punishable by a fine of not more than
\$500 or by imprisonment for not more than 6 months, or
both."

Renumber: subsequent sections

3. Page 3, line 13.

Following: "of"

Strike: "a civil"

Insert: "an"

~~XXXXXX~~
DO PASS

~~XXXXXX~~
DO NOT PASS

CONTINUED

~~XXXXXX~~ Senator Mazurek

Chairman.

4. Page 3, line 15.

Following: "is"

Insert: "conclusively"

5. Page 3, line 16.

Following: "alcohol"

Insert: "or drugs and is"

6. Page 4, line 3.

Following: line 2

Insert: "(4) A person who operates an aircraft over the lands and waters of this state is considered to have given consent to a chemical test of his blood, breath, or urine for the purpose of determining the alcohol or drug content of his blood if arrested by a peace officer for operating, attempting to operate, or being in actual physical control of an aircraft while under the influence of alcohol or drugs. The test must be administered at the direction of a peace officer who has reasonable grounds to believe the person was operating, attempting to operate, or in actual physical control of an aircraft while under the influence of alcohol or drugs. The arresting officer may designate which one of the aforesaid tests must be administered. A person who is unconscious or who is otherwise in a condition rendering him incapable of refusal is considered not to have withdrawn the consent provided by this subsection."

Re-number: subsequent subsections

7. Page 4, line 11.

Strike: "61-8-402 AND"

~~XXXXXXXXXXXX~~
~~XXXXXXXXXXXX~~

8. Page 4, line 20.

Strike: "2"

Insert: "3"

9. Page 4, line 22.

Following: "section"

Strike: "2"

Insert: "3"

AND AS AMENDED
BE CONCURRED IN