

MINUTES

MONTANA HOUSE OF REPRESENTATIVES  
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dave Brown, on January 11, 1989,  
at 8:06 a.m.

ROLL CALL

Members Present: All members were present with the  
following exception:

Members Excused: Rep. Eudaily

Members Absent: None.

Staff Present: Julie Emge, Secretary  
John MacMaster, Legislative Council

Announcements/Discussion: None.

HEARING ON HOUSE BILL 13

Presentation and Opening Statement by Sponsor: Rep.  
Quillici, House District 71, stated that this bill will  
revise the crime victims compensation act, capping a  
fund of \$200,000.00. Over the years there has been a  
numerous amount of amendments to make the act more  
compatible with the innocent victims of crime. The  
amendments change the definition of criminally  
injurious conduct, and allows the Crime Control  
Division to obtain certain medical and insurance  
reports. According to the administrator these funds  
should be adequate under the existing statute to handle  
the innocent victims of crime. Anything over the  
\$200,000.00 will revert to the general fund.

List of Testifying Proponents and What Group They Represent:

Cheryl Bryant, Crime Victims Unit  
Jerry Loendorf, Montana Medical Association

List of Testifying Opponents and What Group They Represent:

Jim Ahrens, Montana Hospital Association  
Steve Browning, State Farm Insurance

Testimony:

Cheryl Bryant stated that the purpose of the crime victims compensation act is to compensate and assist innocent victims who are injured as a direct result of the criminal acts of others. This bill will help to lessen or eliminate the paper work that an innocent victim would have to do on their own claim. It will also be much easier and faster to process these claims by allowing a statutory release of insurance and medical records. This change in the law will allow the necessary information so a claim can be paid in a timely manner without any extra work on the behalf of the innocent victim or without exposing the medical provider or insurance company.

Jerry Loendorf commented that the aspect of this bill that the Mont. Medical Assoc. (MMA) is interested in is the waiver of privilege of the patient. This permits the Board of Crime Control to obtain patients records without the patient's authorization. This provision is generally consistent with the existing law; Rule 35-B-2, which requires that a person waives his privilege concerning his physical condition when he files a claim in court concerning that physical condition. This bill, with respect to people who file claims for crime victims compensation, states that once they make their physical condition an issue they then waive that privilege and records can be obtained to check if the condition their claiming actually exists.

In opposition to HB 13, Jim Ahrens stated that this bill and the section on the release of medical records puts the Montana Hospital Assoc. (MHA) in a difficult position. The medical record is a private document between the patient and the facility and/or the treating physician.

Questions From Committee Members: Rep. Brown asked Cheryl Bryant the difference between the Hospital Association and the Montana Medical Association. Mrs. Bryant gave as an example an incest case where the offender was the one insured and also had the right to the records. In cases such as this, the Dept. has been unable to get any cooperation from the offender. Another example was when the natural father of the child was the insured. They did not know what his name or location was to get this information so they could not make the appropriate amount of the payments.

Rep. Brown continued by asking why the uniform health care information act does not cover this bill in its original form. Why is the additional language needed? Mrs. Bryant replied by stating that John MacMaster did the legislation drafting and the uniform health care act was amended because there is no catch-all provision that says "as provided by law."

Rep. Boharski, referring to page 7, line 15 of the bill questioned the word "may" be deposited to the general fund. It was to his understanding that it should read "shall". Mrs. Bryant stated that there is no particular reason as the why it is written that way, that it is just a permissive use. Rep. Quilici stated that the intent is anything over \$200,000.00 will be reverted to the general fund, and if appropriate, would be willing to change the word to "shall".

Rep. Hannah questioned Mrs. Bryant if she had an approximate figure as to how much of the funding was currently going into mental health counseling. She stated that for the secondary victims it is a very small amount, approximately \$200.00. She also stated that the mental health counseling became effective October 1, 1987 and since that date they have only had about 20 claims filed.

Rep. Mercer questioned the opponents as to putting a blanket consent on the standard claim form. Mr. Browning stated that it would be creating an exception that is too broad.

Closing by Sponsor: Rep. Quilici stated that without the release of these reports, there is no way to find out if the innocent victim was insured or if they have been paid for health costs by the insurance company. In many cases it is difficult to reach the innocent victim or guardian of, and are therefore unable to attain the information needed. This bill would allow for the information to be obtained directly from the medical provider or insurance company. Rep. Quilici strongly expressed that in no way will the privacy act be abused.

#### DISPOSITION OF HOUSE BILL 13

Motion: No motions.

Discussion: None.

Amendments and Votes: None.

Recommendation and Vote: Close the hearing on House Bill 13. No action taken.

EXECUTIVE SESSION HOUSE BILL 27

Motion: Rep. Darko made a DO PASS motion, seconded by Rep. Nelson.

Discussion: Rep. Addy expressed to the committee that killing in any way is wrong, and why is it right for them to deliberately decide to put someone to death whether they are an innocent victim or whether they are a criminal. This bill would basically give the State the ability to control life.

Rep. Brooke stated that we as a society cannot continue the killing. She feels that if we break the cycle of killing that we are making a statement against violence and killing.

Recommendation and Vote: A Roll Call Vote was called for on the DO PASS motion and CARRIED with 13 voting aye, and 4 nays.

EXECUTIVE SESSION HOUSE BILL 42

Motion: Rep. Hannah offered a DO NOT PASS motion, seconded by Rep. Daily.

Discussion: Rep. Hannah stated that he feels this bill would create more problems than it would solve, particularly in the small towns of Montana.

Rep. Stickney does not see any problems with this bill since the final decision will be left up to the local community to enact the kind of provision they chose to. She doubts that any community that would be affected by this bill would enact it, whereas those communities that want to control the situation can act on it to the communities benefit.

Amendments and Votes: Rep. Brown presented for the committee's review proposed amendments to HB 42 (EXHIBIT 1).

Motion: Rep. Gould made a substitute motion to TABLE HB 42, motion seconded by Rep. Hannah. A Roll Call Vote was taken and FAILED with 5 ayes and 12 nays.

Recommendation and Vote: A Roll Call Vote was taken on the  
DO NOT PASS motion and CARRIED with 10 ayes and 7 nays.  
HB 42 recommended DO NOT PASS.

ADJOURNMENT

Adjournment At: 9:30 a.m.

A handwritten signature in cursive script, appearing to read "Dave Brown", is written over a horizontal line.

REP. DAVE BROWN, Chairman

DB/je

0908.MIN

## DAILY ROLL CALL

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date JAN. 11, 1989

NAME	PRESENT	ABSENT	EXCUSED
REP. KELLY ADDY, VICE-CHAIRMAN	X		
REP. OLE AAFEDT	X		
REP. WILLIAM BOHARSKI	X		
REP. VIVIAN BROOKE	X		
REP. FRITZ DAILY	X		
REP. PAULA DARKO	X		
REP. RALPH EUDAILY			X
REP. BUDD GOULD	X		
REP. TOM HANNAH	X		
REP. ROGER KNAPP	X		
REP. MARY McDONOUGH	X		
REP. JOHN MERCER	X		
REP. LINDA NELSON	X		
REP. JIM RICE	X		
REP. JESSICA STICKNEY	X		
REP. BILL STRIZICH	X		
REP. DIANA WYATT	X		
REP. DAVE BROWN, CHAIRMAN	X		

STANDING COMMITTEE REPORT

January 14, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that HOUSE  
BILL 27 (first reading copy -- white) do pass.

Signed:   
Dave Brown, Chairman

STANDING COMMITTEE REPORT

January 14, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that HOUSE  
BILL 42 (first reading copy -- white) do not pass .

Signed:   
Dave Brown, Chairman



Amendments to House Bill No. 42  
Introduced Copy

Requested by Rep. Dave Brown  
For the Committee on the Judiciary

Prepared by John MacMaster  
January 9, 1989

1. Title, line 5.

Strike: "MINORS"

Insert: "A PERSON UNDER 18 YEARS OF AGE"

2. Title, line 8.

Strike: "MAY"

Insert: "MUST"

Following: "ENTRANCE"

Insert: "IN CERTAIN CIRCUMSTANCES AND"

3. Page 1, line 14.

Following: "establishments"

Insert: "--exceptions"

Following: "."

Insert: "(1)"

4. Page 1, lines 15 through 22.

Following: "prohibiting" on line 15

Strike: remainder of section 1

Insert: "a person under 18 years of age from being in an  
establishment licensed to sell alcoholic beverages to the  
public for consumption on the premises unless:

(a) if the person is in a part of the premises where  
the sale and consumption of alcoholic beverages takes place,  
the person is either with a parent or guardian or has a  
parent or guardian's consent to be there while the parent or  
guardian is in another part of the premises in which another  
business is operated, such as a restaurant, hotel, or store,  
or where an event is conducted, such as a sporting event or  
fair; or

(b) the person under 18 years of age is in another part  
of the premises in which another business is operated.

(2) The governing body of the incorporated city or town  
may for good cause grant exceptions to the ordinance.

(3) An ordinance may not be enacted under this section  
unless it has been submitted to and approved by the electors  
under 7-5-131 through 7-5-137."

5. Page 1, line 23.

Following: line 22

Insert: "NEW SECTION. Section 2. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act]."

Renumber: subsequent section

## VISITORS' REGISTER

JUDICIARY

COMMITTEE

BILL NO.

13

DATE

JAN. 11, 1989

SPONSOR

QUILICI

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Maureen Lassey	Leg Auditor	✓	
Judi Knapp			
Jim De Cade			
Cheryl Bryant	Crimo Victim Unit	✓	
Marvin Day	Board of Crime Control	✓	
Mike Lachin	Justice	✓	
Jim Ahern	MT Hosp Assoc		
Steve Browning	MT Hosp Assoc / State Form		✓
Jerome Zaendoy	MT. Med. @SSA	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

# ROLL CALL VOTE

JUDICIARY

COMMITTEE

DATE JAN. 11, 1989

BILL NO. HB 27

NUMBER 1

NAME	AYE	NAY
REP. KELLY ADDY, VICE-CHAIRMAN		X
REP. OLE AAFEDT	X	
REP. WILLIAM BOHARSKI	X	
REP. VIVIAN BROOKE		X
REP. FRITZ DAILY	X	
REP. PAULA DARKO	X	
REP. RALPH EUDAILY		
REP. BUDD GOULD	X	
REP. TOM HANNAH	X	
REP. ROGER KNAPP	X	
REP. MARY McDONOUGH		X
REP. JOHN MERCER	X	
REP. LINDA NELSON	X	
REP. JIM RICE	X	
REP. JESSICA STICKNEY		X
REP. BILL STRIZICH	X	
REP. DIANA WYATT	X	
REP. DAVE BROWN, CHAIRMAN	X	

TALLY

13

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Julie Emge  
Secretary

Dave Brown  
Chairman

Motion: Rep. Darko motioned DO PASS, seconded  
by Rep. Nelson. Motion CARRIED.

# ROLL CALL VOTE

JUDICIARY

COMMITTEE

DATE JAN. 11, 1989

BILL NO. HB 42

NUMBER 1.

NAME	AYE	NAY
REP. KELLY ADDY, VICE-CHAIRMAN		X
REP. OLE AAFEDT		X
REP. WILLIAM BOHARSKI		X
REP. VIVIAN BROOKE		X
REP. FRITZ DAILY		X
REP. PAULA DARKO		X
REP. RALPH EUDAILY		
REP. BUDD GOULD	X	
REP. TOM HANNAH	X	
REP. ROGER KNAPP	X	
REP. MARY McDONOUGH		X
REP. JOHN MERCER	X	
REP. LINDA NELSON		X
REP. JIM RICE		X
REP. JESSICA STICKNEY		X
REP. BILL STRIZICH		X
REP. DIANA WYATT		X
REP. DAVE BROWN, CHAIRMAN	X	

TALLY

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Julie Enge  
Secretary

Chairman

Motion: Motion by Rep. Gould to TABLE HB 42,  
Seconded by Rep. Hannah. Motion FAILED.

# ROLL CALL VOTE

JUDICIARY

COMMITTEE

DATE JAN. 11, 1989

BILL NO. HB 42

NUMBER 2.

NAME	AYE	NAY
REP. KELLY ADDY, VICE-CHAIRMAN		X
REP. OLE AAFEDT	X	
REP. WILLIAM BOHARSKI	X	
REP. VIVIAN BROOKE		X
REP. FRITZ DAILY	X	
REP. PAULA DARKO		X
REP. RALPH EUDAILY		
REP. BUDD GOULD	X	
REP. TOM HANNAH	X	
REP. ROGER KNAPP	X	
REP. MARY McDONOUGH	X	
REP. JOHN MERCER	X	
REP. LINDA NELSON	X	
REP. JIM RICE		X
REP. JESSICA STICKNEY		X
REP. BILL STRIZICH		X
REP. DIANA WYATT		X
REP. DAVE BROWN, CHAIRMAN	X	

TALLY

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Julie Emge  
Secretary

Chairman

Motion: Rep. Hannah moved DO NOT PASS, seconded by  
Rep. Daily. Motion CARRIED.