

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES AND AGING

Call to Order: By Stella Jean Hansen, on January 13, 1989,
at 2:00 p.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Mary McCue, Legislative Council

Announcements/Discussion: A motion to second was discussed
and voted upon that the Committee does not require a
second to a motion.

EXECUTIVE ACTION

DISPOSITION OF HB 73

Discussion: Rep. Simon made a Motion to DO PASS on HB 73.
An amendment on page 1, line 15, following
superintendent, insert "if the parent or legal
guardian of the resident of the facility cannot be
located" and on page 1, line 16, following
superintendent, insert "or the acting
superintendent." Rep. Simon then made a Motion to
DO PASS AS AMENDED this first amendment.
Discussion then followed by Rep. Boharski.

Amendments and Votes: Rep. Simon then made a Motion to DO
PASS AS AMENDED. Vote was taken and passed in
Committee. Exhibit 1.

Recommendation and Vote: DO PASS AS AMENDED.

DISPOSITION OF HB 86

Discussion: Rep. Simon made a Motion to DO PASS AS AMENDED.
Rep. Simon then circulated copies of Amendments.
Rep. Simon then moved the first amendment which
was to strike the language that is underlined in

the bill and replace it with new language. See Exhibit 2.

Rep. Brown asked Rep. Simon who had drafted the amendments and he stated that he had not drafted the amendments, someone else had.

Mary McCue stated that long-term care should be used.

Rep. Simon then stated that he would amend his amendment to conform to the suggestion.

Rep. Gould asked Mary McCue if she had checked on the statement made by Rose Hughes during the hearing on this bill and that of Doug Blakley.

Mary McCue said that it was true that the federal legislation says that the state will insure these things but her reading of that requirement is that we can insure it in our body of law in any place, we don't have to insure in that part on the long-term ombudsman. Consequently, if there is a whole other body of law which is quite detailed, how the request is to be given, how the information is to be given out, the stiff penalties of not following the procedures, so the body of law is there. The problem which Ms. McCue had with this amendment is that the language in the federal statutes says that the ombudsmen should have access to medical and social records. The federal statute does require that the ombudsman may be able to receive that information.

Rep. Gould then mentioned the truthfulness of Rose Hughes in preparing her testimony and her accuracy in doing the same. Consequently, duplicate legislation may already be in place and we are being redundant in putting more statutes on the books. The protection is already there.

Rep. Hansen then asked all in favor of the first amendment. All voted yes with the exception of Rep. Boharski.

Rep. Simon then began discussion on amendment 2. Sections 2, 3 and 4 of the bill are already in the law. This material is already in other statutes.

Rep. Hansen asked for further discussion on the motion. No discussion proceeded. Vote was taken, all voted yes.

Rep. Simon then moved to amend amendment number 3. This

amendment adds the facility into the liability protection.

Rep. Boharski asked Ms. McCue who would be liable and Ms. McCue said that a statute could be passed for someone to be liable. This was a policy question.

Rep. Simon stated that there may not be anyone to take the responsibility, if the ombudsman is exempt from liability should be given the same courtesy.

DISPOSITION OF HB 86

Motion: Rep. Knapp made a Motion to DO PASS.

Amendments and Votes: A vote was taken on the question on the Motion. All voted yes with the exception of Reps. Good, Gould, McCormick, Squires, Boharski, Knapp, Nelson and Hansen. Motion failed.

Rep. Lee then made a Motion to strike the liability section of this bill. Discussion followed.

Rep. Strizich stated that he disagreed with striking this. That is part of enabling the ombudsman to act in their capacity and it is limited to those duties that he is held by law to perform. Therefore, as long as the ombudsman is performing under that section he is subject from liability.

Rep. Simon then asked Rep. Strizich why liability protection to someone who was performing their duties and yet held liable the facility. Rep. Strizich said it was not implicit in that section.

Rep. Hansen then suggested that this bill be put into subcommittee.

Rep. Squires then made a Motion to put into subcommittee.

Rep. Boharski again questioned the liability and made a Substitute Motion to Table this bill and be referred to the Judiciary Committee.

Recommendation and Vote: All in favor with the exception of Reps. Lee, Russell, McCormick, Boharski, Hansen and Stickney. Motion failed. All in favor of moving this bill to subcommittee. Motion carried.

Reps. Whalen, Simon, Knapp and Mary McCue were appointed to the subcommittee.

HEARING ON HB 102

Presentation and Opening Statement by Sponsor: Rep. Addy said that an act revising the definition of "Community comprehensive mental health center"; permitting a regional mental health corporation board to set a fee schedule for mental health services without approval of the Department of Institutions was the purpose of this bill.

List of Testifying Proponents and What Group They Represent:

Former Rep. Steve Waldron, Montana Council of Mental Health Centers
Bob Anderson, Montana Department of Institutions

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Former Rep. Steve Waldron stated his support of this bill.

Bob Anderson also stated his support of this bill as amended.

Questions from Committee Members: Rep. Good asked Former Rep. Waldron if the County Commissioners were in charge of appointing these boards and Former Rep. Waldron said that there was a regional mental health system in Montana to provide service. The participating counties then appoints one member of the board. Rep. Good asked what the qualifications had and Former Rep. Waldron said it was a citizen board.

Rep. Stickney asked Rep. Addy why he had proposed the amendment because the intent would be reversed and Rep. Addy said that the department wanted to be a part of it to insure that there were no requests that might get through the board.

Rep. Boharski asked Mr. Anderson what individuals were responsible for taking the review from the regional office and Mr. Anderson stated that the mental health bureau was responsible.

Closing by Sponsor: Rep. Addy closed on the bill.

DISPOSITION OF HB 102

Motion: Rep. Brown made a Motion to DO PASS AS AMENDED.

Discussion: Rep. Good felt that 30 days was too short a time. Rep. Stickney responded that it would not.

Amendments and Votes: All in favor stated yes with Rep. Good opposing.

DISPOSITION OF HB 87

Disposition: Rep. Russell made a motion to DO PASS AS AMENDED.

Discussion: Rep. Boharski asked Ms. McCue questioned the fiscal note. Ms. McCue stated that the federal regulation states that the changes which were proposed were conformed. To conform to the federal law, the changes are necessary.

Amendments and Votes: Rep. Whalen made a Motion to AMEND the bill.

Discussion: Rep. Stickney asked Rep. Whalen what effect this amendment would have on the bill and Rep. Whalen stated that the only necessary to add in the present statutes in order to retain federal funding was the language on page 4, section 6 and 7.

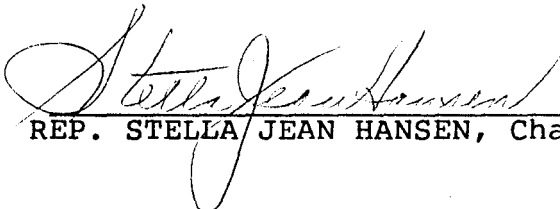
Mary McCue said that all of the amendments in this bill are required for the federal regulations.

Amendments and Votes: A Motion was made by Rep. Squires to submit this bill to subcommittee.

Recommendation and Vote: All voted in favor of submitting this to subcommittee which will be appointed later.

· ADJOURNMENT

Adjournment At: 3:30 p.m.


REP. STELLA JEAN HANSEN, Chairman

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DAILY ROLL CALL

HUMAN SERVICES AND AGING COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date January 13, 1989

NAME	PRESENT	ABSENT	EXCUSED
Stella Jean Hansen	✓		
Bill Strizich	✓		
Robert Blotkamp	✓		
Jan Brown	✓		
Lloyd McCormick	✓		
Angela Russell	✓		
Carolyn Squires	✓		
Jessica Stickney	✓		
Timothy Whalen	✓		
William Boharski	✓		
Susan Good	✓		
Budd Gould	✓		
Roger Knapp	✓		
Thomas Lee	✓		
Thomas Nelson	✓		
Bruce Simon	✓		

STANDING COMMITTEE REPORT

January 13, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Human Services and Aging report that HOUSE BILL 73 (first reading copy -- white) do pass as amended.

Signed: _____
Stella Jean Hansen, Chairman

And, that such amendments read:

1. Page 1, line 15.

Strike: "A"

Insert: "If the parent or legal guardian of a resident of a facility cannot be located, the"

2. Page 1, line 16.

Following: "superintendent"

Insert: "or the acting superintendent"

3. Page 1, line 17.

Strike: "residents"

Insert: "the resident"

STANDING COMMITTEE REPORT

January 13, 1988

Page 1 of 1

Mr. Speaker: We, the committee on Human Services and Aging report that HOUSE BILL 102 (first reading copy -- white) do pass as amended .

Signed: _____
Stella Jean Hansen, Chairman

And, that such amendments read:

1. Title, lines 7 and 8.

Strike: "WITHOUT APPROVAL OF"

Insert: "IF"

2. Title, line 8.

Following: "INSTITUTIONS"

Insert: "DOES NOT RESPOND WITHIN A CERTAIN PERIOD TO A REQUEST FOR A FEE CHANGE"

3. Page 5, line 5.

Following: "~~department~~"

Insert: "with the approval of the department"

4. Page 5, line 6.

Following: "services."

Insert: "If the department does not act within 30 days upon a request for a change in the fee schedule that has been recommended by the regional board of mental health, then the change becomes effective."

AMENDMENTS TO HB 73 (INTRODUCED BILL)

1. Page 1, line 15.
Following: "superintendent."
Insert: "If the parent or legal guardian of a resident of
the facility cannot be located,"

2. Page 1, line 16.
Following: "superintendent"
Insert: ",or the acting superintendent,"

EXHIBIT 1
DATE 1-13-89
HB 73

1. Strike: Page 1, lines 22-25 and page 2, lines 1 and 2, in their entirety.
Insert: (2) Representatives of the State Ombudsman, with the permission of the resident (or the resident's legal representative), and consistent with the provisions of the Montana Uniform Health Care Information Act, Title 50, Chapter 16, Part 5, shall have access to a resident's health care information record.
2. Strike: Page 2, lines 11 through 25 and page 3, lines 1 through 6 in their entirety.
3. Amend: Page 3, lines 7 through 9, as follows:
New Section 52. Liability. The long-term care ombudsman, or local ombudsman, and long term care facility may not be held liable for any claims for damages arising out of the good faith performance of his the duties of the long term care ombudsman, or local ombudsman, under this part.
4. Renumber: Page 3, Line 10; Section 6, as follows:
Section 63.
5. Strike: Page 3, lines 14 and 15, in their entirety.

EXHIBIT 2
DATE 1-13-89
HB 86

