

MINUTES

MONTANA HOUSE OF REPRESENTATIVES  
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dave Brown, on January 25, 1989, at  
8:07 a.m.

ROLL CALL

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

Members Excused: Rep. Mary McDonough

Members Absent: None

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

Announcements/Discussion: None.

HEARING ON HOUSE BILL 134

Presentation and Opening Statement by Sponsor:

Rep. Jan Brown, House District 46 stated that HB 134 provides that in joint custody matters the judge prohibit children under the age of 14 years old to visit a foreign country without the permission of the other parent. She stated that there were proponents that wished to speak on the bill and reserved the right to close.

Testifying Proponents and Who They Represent:

Charles White, Helena

Proponent Testimony:

Charles White stood in support of HB 134 and presented written testimony (EXHIBIT 1).

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: Rep. Darko asked if there would be any kind of penalty if this type of thing was attempted. What is the purpose of this bill? Rep. Brown stated that the purpose is to prevent the child from leaving, and to prevent the other parent from attempting to take the child out of the country.

Rep. Eudaily asked if the permission notification from the other parent would have to be given orally or written. Rep. Brown stated that it would have to be written and approved by the judge.

Closing by Sponsor: Rep. Brown closed.

#### DISPOSITION OF HOUSE BILL 134

Motion: A DO NOT PASS motion was made by Rep. Addy, seconded by Rep. Rice.

Discussion: Rep. Addy stated that this is a special category bill. This is dealing with someone who has been to court and lost and is looking to the legislature to reverse the decision of the district court. There will be requirements that findings be made in every divorce from here on, because this person feels that they were improperly treated. By conditioning future payment of child support on exercising visitation rights, they make the child the victim of the warfare between the parents. Rep. Addy expressed that the fact of the matter is that once the person has taken the child to a foreign country, the other parent will have to go through the State Department to get any kind of action. This bill does not do what it was initially intended to do and makes the situation far more complicated than what it needs to be.

Amendments, Discussion, and Votes: None

Recommendation and Vote: Rep. Addy made a substitute motion to TABLE HB 134, motion seconded by Rep. Aafedt. A vote was taken and CARRIED unanimously.

#### HEARING ON HOUSE BILL 69

Presentation and Opening Statement by Sponsor:

Rep. Debruycker, House District 13 stated that HB 69 is an act authorizing the Dept. of State Lands to cancel a lease of state land and the preference right for further leasing of state land of any lessee convicted of a felony offense involving dangerous drugs. This includes private and/or leased land. Rep. Debruycker submitted written testimony listed as EXHIBIT 2.

Testifying Proponents and Who They Represent:

John E. Witt, Choteau County  
Kim Enkerud, Montana Cattlemen, et al (see EXHIBIT 3)

Proponent Testimony:

John Witt of Choteau County stated HB 69 is designed to take back state leases from people engaged in illegal drugs. The drug problem in Montana is growing and he feels every effort should be made to curb the drug traffic in the state. Mr. Witt stated that being from a small area it seems to him that rural areas in Montana are prime drug locations and HB 69 is the right vehicle to help slow down this growing problem.

Kim Enkerud, representing the agricultural community presented written testimony voicing their support of HB 69 (EXHIBIT 3).

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: None.

Closing by Sponsor: Rep. Debruycker closed.

DISPOSITION OF HOUSE BILL 69

Motion: Rep. Knapp moved HB 69 DO PASS, motion was seconded by Rep. Gould.

Discussion: Rep. Brooke pointed out on page 2, line 15 it appears that in order for this to apply, they have to be both convicted under Title 50 as well as be involved in one of the items listed. A person must be convicted of both selling and possessing drugs before they can lose their lease.

Rep. Mercer stated that he does not understand why they would want to make an amendment changing the word "and" to "or". Why should someone who happens to be convicted of selling drugs be denied a state lease, unless they are actually using the state land for the purpose of growing it? Then is when they should have their lease cancelled. That's what the bill takes care of just like it is without any changes.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: A vote was taken on the DO PASS motion and CARRIED unanimously.

HEARING ON HOUSE BILL 123

Presentation and Opening Statement by Sponsor:

Rep. Spaeth stated that HB 123 is an act adopting the uniform enforcement of foreign judgments act. He read through the bill for the Committee and stated that there were proponents that wished to testify.

Testifying Proponents and Who They Represent:

Robert E. Sullivan, Missoula, Montana  
Allen Chronister, State Bar Association

Proponent Testimony:

Robert Sullivan of Missoula stated that originally a recommendation is enacted by the legislative body for filing for a foreign judgment. This act would reduce court delays, etc. and urged the Committee's approval.

Allen Chronister stood in support of the bill and urged the Committee to give it a DO PASS recommendation.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: None.

Closing by Sponsor: Rep. Spaeth closed.

DISPOSITION OF HOUSE BILL 123

Motion: A DO PASS motion was made by Rep. Addy, motion seconded by Rep Strizich.

Discussion: None.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: A vote was taken on the DO PASS motion and PASSED unanimously.

HEARING ON HOUSE BILL 127

Presentation and Opening Statement by Sponsor:

Rep. Jessica Stickney, House District 26 stated that this bill was brought about by the Dept. of Family Services. It is an act to lower the maximum age for jurisdiction of the youth court from age 21 to 19; primarily affecting the 13 to 18 year olds. Rep. Stickney commented that there were most likely amendments to be offered and urged the Committee's consideration.

Testifying Proponents and Who They Represent:

Bill Unger, Superintendent of Mountain View School  
Mona Jamison, Montana Juvenile Association  
Michael Sherwood, Montana Trial Lawyers Association

Proponent Testimony:

Bill Unger commented that HB 127 will bring the Youth Court Act in line with the existing age of the majority and will allow the Dept. to focus its programs on youth rather than on young adults. Mr. Unger submitted written testimony listed as EXHIBIT 4.

Mona Jamison expressed that these youths cannot find adequate jobs to accommodate for the increase of costs and submitted proposed amendments to the bill (EXHIBIT 5).

Michael Sherwood reiterated comments made by Mr. Unger and stated that these youngsters can get more help at Pine Hills rather than being locked up in prison. The 21 year olds, however, do not mix appropriately with the younger residents of the correctional facilities and should be transferred to an adult facility at the age of 19 rather than waiting until they are 21.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: Rep. Rice asked Mr. Unger as to what was the average time spent by each youth is at his facility. Mr. Unger stated that 8 months is the average length of stay.

Rep. Eudaily questioned Dan Russell from the Dept. of Institutions as to what kind of programs are available for the kids that transfer and at what expense. Mr. Russell stated that there currently are no programs offered.

Closing by Sponsor: Rep. Stickney closed.

## DISPOSITION OF HOUSE BILL 127

Motion: A DO PASS motion was made by Rep. Stickney, motion seconded by Rep. Darko.

Discussion: Rep. Mercer stated that it is to his understanding that the main purpose of this bill is not so much a concern over the population as it is to separating the older kids from the younger kids. He stated that he agrees with that concept, but is more concerned with the increase of the prison population. He wondered, the way this bill is applicable, there really would be no impact on the prison for at least a couple of years. Given the fact that the prison is completely full, this is something that he feels they should at least alert the Institutions Subcommittee of.

Rep. Brown stated that he agreed with Rep. Mercer; however, feels the impacts may be seen sooner for those in the 16 and 17 year old range who are looking at four year terms.

Amendments, Discussion, and Votes: Rep. Stickney moved to amend pages 1 and 2, striking sections 1 and 2 from the bill. Motion seconded by Rep. Strizich. A vote was taken and the motion to amend CARRIED.

Rep. Stickney moved one additional clean-up amendment on page 6, line 16. Strike "may" and insert June. Motion was seconded by Rep. Addy and PASSED unanimously.

Recommendation and Vote: Rep. Stickney moved HB 127 DO PASS AS AMENDED, motion seconded by Rep. Addy. A vote was taken and CARRIED with Rep. Brown voting against the motion.

## HEARING ON HOUSE BILL 152

Presentation and Opening Statement by Sponsor:

Rep. Kelly Addy, House District 94 stated that the intent of this bill is to make commitment of youth to a mental health facility a part of the sentencing process. This way, the sentencing judge in youth court will have this available as a sentencing alternative. The youth would have all of the same substantive and procedural rights as the adults have. Additionally, they would have the right to be represented by an attorney during the hearing and they would have a right to be released immediately upon an evaluation done by a professional person. It would also give the youth court continuing jurisdiction on administering treatment at mental health facilities as well as give them continuing jurisdiction to determine what the next disposition of a youthful offender would be. Rep. Addy commented that HB 152 is meant to streamline the process, making it simpler without making it any looser for district court procedures.

Testifying Proponents and Who They Represent:

Leslie Taylor, Dept. of Family Services  
Jerry Loendorf, Montana Medical Association

Proponent Testimony:

Leslie Taylor, Legal Counsel for the Dept. of Family Services  
submitted before the committee written testimony stating her  
support of HB 152 (EXHIBIT 6).

Jerry Loendorf stated that HB 152 is a bill in which everyone is  
a winner. The youth wins because it allows the court to  
take care of problems as serious as mental illness if needed  
immediately. The courts and the citizens of the State of  
Montana win because the judge doesn't have to take his youth  
court hat off only to turn around and go through the exact  
same proceeding again. Not only will this save time, it  
will additionally save money.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: Rep. Brown asked Ms. Taylor as  
to what the net effect of this bill is in terms of private  
placements. Ms. Taylor responded that currently the private  
facilities that are being used for psychiatric treatment for  
youths are the Rivendale facility in Billings, the Shodair  
facility in Helena and the Rivendale Treatment Center in  
Butte.

Rep. Brown questioned Nick Rotering of the Dept. of Institutions  
if there would be any impact on the Department. Mr.  
Rotering stated that the statute is still in place 53-21-506  
that allows only emergency commitment for up to 30 days in  
the State Hospital. HB 152 would not, in fact, affect the  
State Hospital.

Closing by Sponsor: Rep. Addy closed.

DISPOSITION OF HOUSE BILL 152

Motion: Rep. Addy made a DO PASS motion, seconded by Rep.  
Eudaily.

Discussion: None.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: A vote was taken on the DO PASS motion

and CARRIED unanimously.

DISPOSITION OF HOUSE BILL 178

Motion: A DO PASS motion was made by Rep. Brooke, motion seconded by Rep. Darko.

Discussion: Rep. Brown reviewed amendments that were proposed by himself, Rep. Addy and Rep. Mercer. See attached standing committee report.

Amendments, Discussion, and Votes: Rep. Addy moved the amendments, motion seconded by Rep. Knapp. Motion on the amendments CARRIED.

Recommendation and Vote: Rep. Addy motioned HB 178 DO PASS AS AMENDED, motion seconded by Rep. Darko. A vote was taken and PASSED unanimously.

DISPOSITION OF HOUSE BILL 122

Motion: Rep. Brooke moved DO PASS, motion seconded by Rep. Wyatt.

Discussion: John MacMaster read to the Committee the intent of the proposed amendments. Line 21, following "shall", insert also and following "give", insert , prior to the third publication of notice in a newspaper,. Line 22, insert by mail or other means. Line 25, following "(1)", insert or be forever barred. Proof of notice shall be filed with the clerk.

Amendments, Discussion, and Votes: Rep. Addy moved the above proposed amendments (see attached standing committee report), motion seconded by Rep. Brooke. A vote was taken and all were in FAVOR of the amendments.

Rep. Mercer stated that the thing that bothers him is that a person is required to give actual notice to the creditors when they present a probate to the court, and how does the judge know who the creditors are and whether they are known or reasonably ascertainable. What does actual notice mean? Rep. Mercer commented that his inclination is that they would be better off not doing this at all and just leaving the statute the way it is now.

Rep. Addy stated that what they are doing is barring the claims creditors at the end of a 4 month period. First, certified mail isn't any big deal. For a few dollars they can certify their notice of need to file a creditors claim and when they sign for the letter, everything's covered.

Rep. Mercer commented that his point is that they are trying to clean everything up. He feels that Rep. Addy is inviting loose ends with a certified letter. There is no guarantee



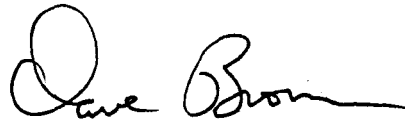
that if a person prepares and sends a certified letter, the receiving party may not pick the letter up. The finality of the states is placed in jeopardy by this provision.

Rep. Addy replied that without the provision, they are faced with the same jeopardy. He suggested they insert in page 1, line 22 by certified mail or other means. Motion was seconded by Rep. Wyatt and CARRIED unanimously.

Recommendation and Vote: Rep. Addy moved HB 122 DO PASS AS AMENDED, motion seconded by Rep. Darko. A vote was taken and PASSED with Rep. Daily and Rep. Gould voting against the motion.

ADJOURNMENT

Adjournment At: 11:27 a.m.



REP. DAVE BROWN, Chairman

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## DAILY ROLL CALL

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date JAN. 25, 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 25, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that HOUSE BILL 134 (first reading copy -- white) has been TABLED.

Signed:   
Dave Brown, Chairman

1. 11/30/89  
ADH acc

STANDING COMMITTEE REPORT

January 30, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that House Bill 69 (first reading copy -- white) do pass as amended.

Signed:   
Dave Brown, Chairman

And, that such amendments read:

1. Page 1, line 25.

Following: "deeded land"

Strike: "and"

Insert: ", or"

2. Page 2, line 1.

Following: "state"

Insert: ", or a combination of the two,"

STANDING COMMITTEE REPORT

January 25, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that HOUSE  
BILL 123 (first reading copy -- white) do pass .


Signed:   
Dave Brown, Chairman

STANDING COMMITTEE REPORT

January 25, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that HOUSE BILL 127 (first reading copy -- white) do pass as amended.

Signed:   
Dave Brown, Chairman

And, that such amendments read:

1. Title, line 6.

Strike: "THE YOUTH COURT AND"

2. Title, line 8.

Strike: "41-5-203, 41-5-205,"

3. Page 1, line 13 through line 12 on page 2.

Strike: sections 1 and 2 of the bill in their entirety

Renumber: subsequent sections

4. Page 6, line 16.

Strike: "May"

Insert: "June"

STANDING COMMITTEE REPORT

January 25, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that HOUSE  
BILL 152 (first reading copy -- white) do pass.

Signed:   
Dave Brown, Chairman

STANDING COMMITTEE REPORT

January 25, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that HOUSE BILL 178 (first reading copy -- white) do pass as amended.

Signed:   
Dave Brown, Chairman

And, that such amendments read:

1. Title, lines 7 and 8.

Strike: "MADE" on line 7 through "CAPACITY" on line 8

2. Page 1, line 14.

Following: "suspect"

Insert: ", "

Strike: "that a child made known to them"

Insert: "as a result of information they receive"

3. Page 1, line 15.

Following: "capacity"

Insert: ", that a child"

Strike: "an"

Following: "neglected"

Insert: ", "

4. Page 1, line 16.

Strike: "child,"

5. Page 2, line 13.

Strike: "(a)"

6. Page 2, lines 16 through 19.

Strike: subsection (b) in its entirety

7. Page 2, lines 22 through 24.

Strike: "if the" on line 22 through "child" on line 24



STANDING COMMITTEE REPORT

January 25, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that HOUSE BILL 122 (first reading copy -- white) do pass as amended.

Signed: Dave Brown  
Dave Brown, Chairman

And, that such amendments read:

1. Page 1, line 21.

Following: "shall"

Insert: "also"

Following: "give"

Insert: ", prior to the third publication of notice in a newspaper,"

2. Page 1, line 22.

Following: line 21

Insert: "by certified mail or other means"

3. Page 1, line 25.

Following: "(1)"

Insert: "or be forever barred. Proof of notice shall be filed with the clerk"

HB134

(House Judiciary Committee)

January 25, 1989

Witness: Charles L. White

P. O. Box 446

Helena, MT 59624

Ph: (Work) 442-0400

(home) 442-6951

EXHIBIT 1

DATE 1-25-89

HB 134

Witness Testimony:

- 1.) HB134 deals with an overlooked gap in a neglected area of Montana State Law. Recent laws have dealt with state-to-state moves by one parent or another - but laws lack statutory guidance concerning international residence of the child.
- 2.) HB134 is non-gender, bipartisan legislation intended to insure and enhance the child's continued access to both parents, and to the grandparents. Reasonable visitation is further guaranteed with HB134.
- 3.) Our society has become increasingly internationally mobile in the recent past. Montana state law has not kept pace with the needs and reality of children born into international households.
- 4.) HB134 is a non-appropriation bill. It may, in fact, save the state costly litigation if a custodial parent were to bring suit against the state on behalf of a minor child that may have been withheld from reentry to the U.S. by a kidnapping parent. In such a case, the child has lost all protection under U.S. and Montana State Constitutions.
- 5.) Montana courts cannot enforce decrees in foreign countries. Knowing this, one parent or another, especially those parents of foreign birth and/or nationality, often flee with children or are actually permitted to take a child to live in a foreign land for a predetermined period of time. The withholding of the child from returning to the U.S. in defiance of custody decrees or court orders is epidemic.
- 6.) We cite the Constitution of the State of Montana, Section 15. Rights of persons not adults. "The rights of persons under 18 years of age shall include, but not be limited to, all the fundamental rights of this article unless specifically precluded by laws which enhance the protection of such persons.
- 7.) It is incumbent upon the courts of Montana to administer secure and consistent guidance for Montana's children. To abdicate jurisdiction is contrary to the child's best interests.
- 8.) We should cite the U.S. Constitution, Amendment XIV, Section 1, (paraphrase); "All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and to the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of his life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the law."
- 9.) Two schools of thought regarding custody legislation: a.) One school suggests the discretion of judgement be left to the judge in the case - since he or she is most in touch with the norms of the community. With all due respect to our state's district judges, however, many of us believe that some judges agonize over many custody decisions, especially those without precedent. We should do our judges a favor and determine the state's intent regarding international custody.



EXHIBIT 2  
DATE 1-25-89  
HB 69

January 23, 1989

Roger DeBruycker  
Representative  
House District 13

Mr. Chairman and members of the committee. House Bill 69 was drafted to take back state leases from people engaged in illegal drugs. It also would take away preference rights from these same people.

For those of you unaware of state land leases, a state lease is the next best thing to owning land. In some cases it is better.

I don't find fault with this as long as the leasee is law-abiding and not getting rich at the expense of our childrens health.

I am not trying to legislate morality, but do believe this bill may make leasees reconsider their actions before getting involved with drugs.

MONTANA ASSOCIATION OF STATE GRAZING DISTRICTS

EXHIBIT 3  
DATE 1-25-89  
HB 69

(406) 442-3420

420 North California St.  
Helena, Montana 59601

Sever Enkerud, President ..... Glasgow  
Jack Hughes, Vice President ..... Grassrange  
John Pfaff, Past President ..... Miles City  
Kim Enkerud, Executive Secretary ..... Helena

DIRECTORS  
Wm. E. Almy, Jr. .... Ismay  
Lynn Cornwell ..... Glasgow  
Mark Davies ..... Chinook  
Jim Rath ..... Lavina

TO: House Judiciary Committee

FROM: Members of the Agricultural Coalition

SUBJECT: House Bill 69, Cancellation of a State Land Lease if  
Convicted of a Felony Offense Involving Dangerous Drugs

Mr. Chairman, Members of the Committee:

My name is Kim Enkerud and I am representing the following agricultural groups: Montana Cattlemen, Grain Growers, Montana Cattlemen, Farmers Union, Women Involved in Farm Economics, Montana Stockgrowers, State Grazing Districts, and Montana Woolgrowers.

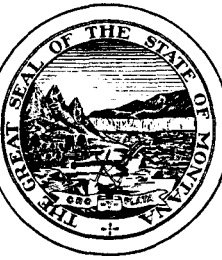
We support HB 69. The Agricultural community does not approve of any facet concerning dangerous drugs.

We urge a do pass on this bill.

Thank you.

DEPARTMENT OF FAMILY SERVICES

EXHIBIT 4  
DATE 1-25-89  
HB 127



STAN STEPHENS, GOVERNOR

(406) 444-5900

STATE OF MONTANA

P.O. BOX 8005  
HELENA, MONTANA 59604

January 25, 1989

TESTIMONY IN SUPPORT OF HB 127

Submitted by Bill Unger  
Superintendent of Mountain View School

The Department of Family Services requested this bill to lower the maximum age of youths who may be committed to the department from 21 to 19. The bill's primary objective is to eliminate the 19 and 20 year olds from the populations of Pine Hills and Mountain View Schools.

Pine Hills and Mountain View can receive youth as young as 10 years old, with the majority falling between the ages of 13 and 18. Experience has shown that 19 and 20 year olds are too mature and sophisticated to mix appropriately with the younger residents.

The education and treatment programs at the two correctional facilities are geared toward the 13 to 18 year old population. Since the primary emphasis is on high school and pre-vocational curricula, it is difficult for the 19 and 20 year olds to fit into or benefit from the treatment programs.

The 50th Legislature lowered the age at which a youth may be transferred to adult court to age 12. Most youths charged with serious crimes are transferred to adult court and will receive an adult sentence if convicted.

Under 53-30-212(3), the departments of Family Services and Institutions can allow a youth sentenced as an adult to serve the first years of the sentence in a youth correctional facility. Young offenders tried and convicted in adult court may now be sent to Pine Hills or Mountain View Schools until they reach age 21. They are then transferred from the youth correctional facility to an adult facility such as Montana State Prison, Swan River Youth Forest Camp, or a halfway house, depending on their sentence and the decision of the Department of Institutions or Parole Board. Under HB 127, this transfer to an adult facility would take place at age 19 rather than 21.

HB 127 will bring the Youth Court Act in line with the existing age of majority and will allow the Department to focus its programs on youth rather than young adults. The Department asks that you give HB 127 your favorable consideration.

Amendments to House Bill No. 127  
First Reading Copy

EXHIBIT 5  
DATE 1-25-89  
HB 127

For the Committee on the Judiciary

January 24, 1989

1. Title, line 6.

Strike: "THE YOUTH COURT AND"

2. Title, line 8.

Strike: "41-5-203, 41-5-205,"

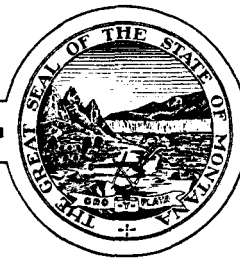
3. Page 1, line 13 through line 12 on page 2.

Strike: sections 1 and 2 of the bill in their entirety

Renumber: subsequent sections

DEPARTMENT OF FAMILY SERVICES

EXHIBIT 6  
DATE 1-25-89  
HB 152



STAN STEPHENS, GOVERNOR

(406) 444-5900

STATE OF MONTANA

P.O. BOX 8005  
HELENA, MONTANA 59604

TESTIMONY IN SUPPORT OF HB 152  
REVISING THE YOUTH COURT ACT TO ALLOW  
MENTAL HEALTH COMMITMENT OF YOUTH

Submitted by Leslie Taylor  
Legal Counsel for the Department of Family Services

The Department of Family Services is requesting this bill to allow the Youth Court to commit a youth found to be seriously mentally ill to a mental health facility.

Frequently, a youth charged with offenses under the Youth Court Act is found to be in need of psychiatric treatment. However, a recent Attorney General's opinion (40 A.G. Op. 59, January 29, 1988) held that the Youth Court could not commit these youths to mental health facilities without following the mental health commitment statutes. As a result of this opinion, county attorneys file a separate involuntary commitment action when a youth before the Youth Court is believed to be in need of placement in a mental health facility. This bill will allow the Youth Court to order a mental health commitment of a youth in need of supervision or a delinquent youth, without requiring the filing of a separate mental health petition.

The bill incorporates by reference the procedures of the mental health commitment statutes to assure the due process protection of the youth and specifically authorizes the Youth Court to commit the youth to a mental health facility. The youth must be found to be seriously mentally ill and must be provided with legal counsel as well as the other procedural protections afforded in mental health commitment proceedings. The language was patterned after the statutory procedures in place when the Montana Youth Treatment Center was operating.

The bill also clarifies that, upon release from the mental health facility, the youth shall be returned to the Youth Court for such further disposition as may be necessary. This will address the problem of youths being released from psychiatric treatment with no agency responsible for their supervision in the community. There is no "aftercare" program for the private mental health facilities. Therefore, youths completing their treatment under a mental health commitment are released without the requirement of further supervision. This bill will give the court the opportunity to require further supervision by youth probation or commitment to the Department of Family Services if the youth is in need of placement in other than his family home.

EXHIBIT 6

DATE 1-25-89

HB 152

HB 152 will provide a more streamlined method for the Youth Court to address the needs of youths in need of psychiatric treatment and will provide adequate protection of the youth's rights. On behalf of the department, I urge you to give HB 152 your favorable consideration.



## VISITORS' REGISTER

JUDICIARYCOMMITTEEBILL NO. HOUSE BILL 134DATE JAN. 25, 1989SPONSOR REP. JAN BROWN

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Charles L. White	Helena	✓	
William M. Spang	Helena	✓	
John Lee Harris	Helena	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

JUDICIARY

COMMITTEE

BILL NO. HOUSE BILL 69DATE JAN. 25, 1989SPONSOR REP. DEBRUYCKER

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Kim Enkerud	Ag Coalition	✓	
Milton Markuson	MACO	✓	
John E. Well	Chautauque County	✓	
Charles Dannerthor	Chautauque County	✓	
Gordon Morris	MACO	✓	
Mario Engelhart	Chautauque Co	✓	
Kanda S. Dubekans	Chautauque Co.	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

JUDICIARY

COMMITTEE

BILL NO. HOUSE BILL 123DATE JANUARY 25, 1989SPONSOR REP. SPAETH

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Robert E. Sullivan	112 Hinchey Loop Missouri Mt	X	
Allen Chvanister	State Bar	X	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

JUDICIARY

COMMITTEE

BILL NO. HOUSE BILL 127DATE JANUARY 25, 1989SPONSOR REP. STICKNEY

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Bill Unger	Dept. of Family Services	✓	
Michael Sherwood	MTLA		
Cliff Murphy	Mental Health Assoc of MT		
Richard Meeker	Juv. Prob Assoc	with Am. d.	
Mona Garrison	Juv. Probation Assoc	with Am. d.	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

JUDICIARY

COMMITTEE

BILL NO. HOUSE BILL 152DATE JANUARY 25, 1989SPONSOR REP. ADDY

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Leslie Taylor	Dept of Family Services	✓	
Cliff Murphy	Mental Health Assoc. MT		
Jerome Goendart	MMU	✓	
Pat Melby	Rivendell of Billings	✓	
Nick Rotering	DEPT. OF INSTITUTIONS		

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.