MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dave Brown, on March 14, 1989, at 8:05 a.m.

ROLL CALL

Members Present: All members were present.

Members Excused: None.

Members Absent: None.

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

Announcements/Discussion: None.

HEARING ON SENATE BILL 106

Presentation and Opening Statement by Sponsor:

Sen. Pinsoneault stated that he introduced this bill on behalf of the Attorney General's Office. This bill would clarify the clemency process. SB 106 basically addresses a situation in which there is a woman on death row and it is determined that she is pregnant.

Testifying Proponents and Who They Represent:

Kimberly Kradolfer, Assistant Attorney General
John Ortwein, Montana Catholic Conference

Proponent Testimony:

Kimberly Kradolfer spoke in support of SB 106 (EXHIBIT 1) and presented a proposed amendment (EXHIBIT 2).

John Ortwein spoke in favor of SB 106 (EXHIBIT 3).

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: Rep. Boharski asked if there is any possibility that in the situation with a pregnant woman that she could be forced to have an abortion before the execution. Sen. Pinsoneault stated that it is certain that if the condemned woman wished to carry the child to completion, her request would be honored.

Rep. Boharski asked if that is guaranteed in the law. The Senator responded that it is implicit and he trusts the Governor would have some measure of compassion.

Rep. Brooke questioned if the woman would have the option for abortion. Ms. Kradolfer stated that there is nothing in the statute that changes her rights in terms of abortion.

Closing by Sponsor: Sen. Pinsoneault closed stating 46-19-203 provides that if there is good reason to suppose a woman against whom a judgment of death is rendered is pregnant, the sheriff of the county with the concurrence of the judge of the court by which the judgment was rendered must summon a jury of three physicians to inquire into the pregnancy and then immediate notice of this inquiry must be given to the county attorney of the county who must attend the inquiry who may produce his own witnesses. SB 106 is simply for clarification in describing what should be included in the death warrant.

DISPOSITION OF SENATE BILL 106

Motion: Rep. Gould moved SB 106 BE CONCURRED IN, motion seconded by Rep. Nelson.

Discussion: None.

Amendments, Discussion, and Votes: Rep. Eudaily moved to accept the amendment proposed by Kimberly Kradolfer (EXHIBIT 2). Motion was seconded by Rep. Rice and CARRIED unanimously.

Recommendation and Vote: Rep. Gould moved SB 106 BE CONCURRED IN AS AMENDED, motion seconded by Rep. Nelson. A vote was taken on the motion and CARRIED with Rep. Brooke and Rep. Stickney voting Nay.

HEARING ON SENATE BILL 107

Presentation and Opening Statement by Sponsor:

Sen. Pinsoneault said he brings SB 107 to the committee for consideration. He said the changes in the law would be significant and he hopes the committee will see fit to adopt them.

Testifying Proponents and Who They Represent:

Kimberly Kradolfer, Assistant Attorney General
Tom Keegan, Montana Board of Pardons, Attorney in Private Practice in Helena

Proponent Testimony:

Kimberly Kradolfer spoke in favor of SB 106 (EXHIBIT 4).

Tom Keegan stated to the committee that as the present statute exists, if the Board of Pardons does not vote to recommend clemency in either a capitol or a non-capitol case, it stops there. That is a fairly tough burden to put on three people in a capitol case. Therefore, the Board of Pardons requested that in capitol cases only, even if the board's recommendation is not favorable, the Governor could make the final decision.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: Rep. Boharski asked Tom Keegan to explain the precess the Governor goes through in determining whether or not to grant clemency. Mr. Keegan explained that if one is convicted of deliberate homicide, for example, and the sentencing judge finds all the aggravating circumstances present and none of the mitigating circumstances present, and issues a death sentence, it is automatically reviewed by the Supreme Court of Montana. If they affirm the sentence, then the person goes to death row in Montana State Prison and can file an application for executive clemency with the Board of Pardons. That application is investigated and reviewed and the Board then decides if they wish to have a hearing. If the law is changed, a public hearing will always be held. Within 30 days the board would make a recommendation to the Governor. The Governor then would make the final decision.

Rep. Eudaily asked if "next friend" has the same legal status as guardian. Ms. Kradolfer responded that it is fairly close. Under the mental health statutes, the term "next friend" is used so that if a person is potentially facing a civil commitment proceeding, the court will appoint a "next friend" who doesn't act in a full guardianship capacity, but is someone to look out for the person's interests as the legal proceedings go on. It may be that at the end of the proceedings a guardian will be appointed.

Rep. Hannah asked if the Board of Pardons has any established criteria for when one may or may not be granted clemency or if the decisions are made based upon the feelings of the board members. Mr. Keegan stated that the criteria are the social circumstances at the time of the crime, the present crime and what kind of rehabilitation has occurred. The statutory criteria for paroling somebody is a board member has to believe a person is no longer dangerous to himself or society. Mr. Keegan stated they make that same sort of distinction before recommending a pardon.

Rep. Addy asked Kimberly Kradolfer if the language at the bottom of page 1, line 24, speaking of "prior convictions" should be changed to say "prior criminal acts". Ms. Kradolfer commented that this definition was taken from Black's Law Dictionary. She said Valencia Lane looked at it very closely and decided that they can't really pardon someone for a prior act because there are no legal consequences for a prior criminal act unless there has actually been a conviction.

Closing by Sponsor: Sen. Pinsoneault closed the hearing explaining what a respite is and saying that the bill as amended is in good shape. He urged an affirmative recommendation.

DISPOSITION OF SENATE BILL 107

Motion: Rep. Gould moved SB 107 BE CONCURRED IN, motion seconded by Rep. Eudaily.

Discussion: None.

Amendments, Discussion, and Votes: Rep. Gould moved to amend page 2, lines 19 and 20. The words "any recommendations made by the board should be based on these two criteria", should be moved to line 13 and inserted after "made" and then strike it below. Rep. Eudaily seconded the motion.

A vote was taken on Rep. Gould's proposed amendment and CARRIED.

Rep. Boharski moved to amend page 3, line 5. Rep. Hannah seconded the motion. Motion FAILED with Rep.'s Addy, Brown, Boharski and Hannah voting Aye.

Recommendation and Vote: Rep. Gould moved SB 107 BE CONCURRED IN AS AMENDED, motion seconded by Rep. Eudaily. Motion CARRIED with Rep.'s Brown, Boharski and Addy voting against the motion.

HEARING ON SENATE BILL 108

Presentation and Opening Statement by Sponsor:

Sen. Pinsoneault stated that SB 108 addresses several areas. In Montana there is a choice between lethal injections and hangings. He said he remembers the last execution in Montana. The execution took place within 30 days after the crime was committed. The procedures we have today are better. One of the problems concerning the execution is when, and at what time does the condemned person elect whether or not to exercise the privilege of how he should die. That is one of the things SB 108 addresses. In addition, what should be included in the contents of the death warrant and who should issue it. The bill also addresses the manner in which the death warrant should be returned after the execution is completed.

Testifying Proponents and Who They Represent:

Kimberly Kradolfer, Assistant Attorney General
Father Jerry Lowney, Montana Catholic Conference

Proponent Testimony:

Kimberly Kradolfer spoke in favor of SB 108 (EXHIBIT 5). Ms. Kradolfer also distributed an amendment proposed at the request of the Dept. of Justice (EXHIBIT 6).

Father Lowney stated that he has mixed feelings about this bill as he is opposed to the taking of human life unnecessarily in all circumstances. He is also opposed to the death penalty and upholds his religious teachings in that regard. In regard to lethal injection, his church questions the use of a medical technique that was developed to save human lives to take a human life. He stated that he supports the bill in that the anonymity of the executioner should be maintained. If they select an executioner in the state, that person will suffer. They should not increase that suffering by allowing the name to be known to the press and broadcast it across the state. They should acknowledge that they are executing a person. With mixed feelings Father Lowney expressed that he supports the aspect of the bill.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: Rep. Brooke asked how much the preparation for Mr. Keith's execution cost. Nick Rotering from the Department of Institutions replied that he did not know the exact cost. However, the planning that goes into an execution is very sophisticated and very detailed. There is a procedures book that the warden's office and the department has developed that is at least 2 1/2 inches thick. It covers everything. There is cost involved.

Rep. Mercer asked what happens if the convicted says he wants lethal injection and then five days before the execution date, he says he wants to waive his right to lethal injection and will now select hanging. He asked if it is the intention that once the election is made it is final. Ms. Kradolfer stated that that is the intention and it would be helpful to say the selection is final.

Rep. Addy questioned how long it takes to carry out an execution from the point in time the process is started. Kimberly Kradolfer responded that the warden indicated a minimum of 20 days because of the coordination of schedules.

Rep. Addy asked if Mr. Rotering knew the cost of the executioner and where the money to pay him came from. Mr. Rotering commented that the money comes from the prison budget, so it would be general fund money. He didn't know the cost.

Rep. Brown asked if the question has ever been raised in the Attorney General's Office as to whether hanging might be considered cruel and unusual punishment under the constitution. Ms. Kradolfer said that is something that hasn't been researched. It was a question that came up prior to the time that the legislature adopted lethal injection as an option. At that time, they found studies that indicated a significant scientific basis for raising the argument that it was cruel and unusual punishment, but there was a trend at that time toward lethal injection.

Closing by Sponsor: Sen. Pinsoneault stated that he doesn't like lethal injection either. In fact, he said they should add their selections of execution to include the electric chair or the firing squad. However, there are enough problems to solve in this legislation as is. He said what SB 108 is attempting to do is to lay forth a procedure that will not turn the process into the charade that Mr. Keith's turned into.

DISPOSITION OF SENATE BILL 108

Motion: Rep. Hannah moved SB 108 BE CONCURRED IN, motion was seconded by Rep. Gould.

Discussion: None.

Amendments, Discussion, and Votes: Rep. Eudaily moved to amend page 2, line 24 after "execution", insert , and the duration of the warrant, and strike "and" on line 23 (EXHIBIT 6). Rep. Gould seconded the motion.

A vote was taken on Rep. Eudaily's proposed amendments and CARRIED.

Rep. Addy moved to amend page 2, lines 14-16, to give the inmate the option to change his mind up to 20 days before the execution date. Rep. McDonough seconded the motion.

There was discussion regarding the number of days that should be allowed. Rep. Mercer said the amendment is unnecessary. When the condemned makes his decision, he will die within twenty to ninety days, so he makes the selection basically on the eve of the execution. It 's not a decision that is made a year in advance.

The motion FAILED with Rep.'s Addy, Darko, Brooke, and Strizich voting in favor of the amendment.

Rep. Addy then moved to amend page 2, lines 14-16 to give the inmate the option to change his mind up to 30 days before the execution date. Rep. Brooke seconded the motion.

A Roll Call Vote was taken on the motion and FAILED with 7 voting aye, and 11 voting nay.

Recommendation and Vote: Rep. Gould moved SB 108 BE CONCURRED IN AS AMENDED, motion seconded by Rep. Eudaily. Motion CARRIED with Rep.'s Brooke, Stickney, and Addy voting against the motion.

DISPOSITION OF SENATE BILL 105

Motion: Rep. Addy moved SB 105 BE CONCURRED IN. Rep. Gould seconded the motion.

Discussion: None.

Amendments, Discussion, and Votes: Rep. strizich moved amendment 5 of EXHIBIT 7.

Rep. Addy stated that there is nothing included that discloses the consequences of failure to register. Rep. McDonough commented that ignorance is no excuse.

Rep. Boharski stated it's not the responsibility of the Driver Services Bureau to let people know about selective service. It's also not the purpose of driver's certification to get people on a registered voter list.

Rep. Hannah commented that the testimony of previous years has been that this information by order of the Attorney General was not available to anybody. In October there was change in the AG's opinion as to who could receive the information. He asked who the information is made available to. The response was that the change in the AG's opinion relates to the general release of motor vehicle information.

Amendment 5 CARRIED with Rep. Gould and Rep. Addy voting Nay.

Rep. Hannah moved amendment 4 of EXHIBIT 7. Rep. Boharski seconded the motion. The motion CARRIED unanimously.

Recommendation and Vote: Rep. Hannah moved SB 105 BE CONCURRED IN AS AMENDED, motion was seconded by Rep. McDonough. Motion CARRIED with Rep. Brown and Rep. Daily voting against the motion.

ADJOURNMENT

Adjournment At: 10:20 a.m.

REP. DAVE BROWN, Chairman

DB/je

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DAILY ROLL CALL

JUDICIARY COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date MARCH 14, 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

March 14, 1989

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 106 (third reading copy -- blue) be concurred in as amended .

Signed: Dave Brown
Dave Brown, Chairman

[REP. LINDA NELSON WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Page 1, line 25.
Strike: "and"
Following: "execution"
Insert: ", and the duration of the warrant"

STANDING COMMITTEE REPORT

March 14, 1989

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 107 (third reading copy -- blue) be concurred in as amended .

Signed: Dave Brown
Dave Brown, Chairman

[REP. MERCER WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Page 2, line 13.
Following: "made"
Insert: "of, and base any recommendation it makes on,"

2. Page 2, line 14.
Strike: "of"

3. Page 2, line 16.
Strike: "as to"

4. Page 2, lines 19 and 20.
Strike: "ANY" on line 19 through "CRITERIA." on line 20

STANDING COMMITTEE REPORT

March 14, 1989
Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 108 (third reading copy -- blue) be concurred in as amended .

Signed: _____
Dave Brown, Chairman

[REP. GOULD WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Page 2, line 23.
Strike: "and"

2. Page 2, line 24.
Following: "execution"
Insert: ", and the duration of the warrant"

STANDING COMMITTEE REPORT

March 14, 1989

Mr. Speaker: We, the committee on Judiciary report that SENATE BILL 105 (third reading copy -- blue) be concurred in as amended .

Signed: _____
Dave Brown, Chairman

[REP. ADDY WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Title, line 5.
Following: "JUSTICE TO"
Insert: ", WITH CERTAIN CONDITIONS AND RESTRICTIONS,"

2. Title, line 7.
Strike: "SECTION"
Insert: "SECTIONS"

3. Title, line 8.
Following: "2-6-109"
Insert: "AND 61-5-107"

4. Page 2, line 25.
Following: "460,"
Insert: "and after the federal government agrees in writing that it will not refuse to give the state federal highway money if the state lowers the age for purchase, possession, and consumption of alcoholic beverages to less than 21,"

5. Page 2, line 23.
Following: line 22
Insert: "Section 2. Section 61-5-107, MCA, is amended to read:
"61-5-107. Application for license, instruction permit, commercial vehicle operator's endorsement, or motorcycle endorsement. (1) Every application for an instruction permit, driver's license, commercial vehicle operator's endorsement, or motorcycle

endorsement shall be made upon a form furnished by the department. A motorcycle endorsement is required for the operation of a quadricycle. Every application shall be accompanied by the proper fee, and payment of such fee shall entitle the applicant to not more than three attempts to pass the examination within a period of 6 months from the date of application.

(2) Every such application shall state the full name, date of birth, sex, and residence address of the applicant, and briefly describe the applicant, and shall state whether the applicant has previously been licensed as a driver or commercial vehicle operator, and, if so, when and by what state or country, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for such suspension, revocation, or refusal.

(3) Whenever application is received from an applicant previously licensed by any other jurisdiction, the department shall request a copy of such applicant's driving record from such previous licensing jurisdiction. When received, such driving records shall become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance.

(4) The application must clearly disclose that state law allows the department to disseminate information on the application or the license or both in the form of lists of and information regarding applicants and licensees. The application must list each reason for which state law allows a list to be disseminated and the person or entity to whom it may be disseminated. As to each reason, the application must allow the applicant to refuse to have his name or information regarding him disseminated. An applicant's exercise of this right may not be used in any way to delay, condition, or deny the grant of a license.""

Renumber: subsequent sections

6. Page 3, line 5.
Following: "seq.)."
Insert: "The department shall notify the persons that information regarding them was released to the selective service system."

7. Page 3, line 6.
Following: "security"
Insert: "or drivers license"

EXHIBIT 1
DATE 3-14-89
SB 106

Senate Bill 106

A bill to clarify the authority of the governor to issue a death warrant when execution of the death warrant when execution of the sentence has been suspended because the person to be executed is a pregnant woman

Summary of the testimony of Kimberly A. Kradolfer, Assistant Attorney General

Section 46-19-204, MCA, currently provides that the execution of the death sentence shall be suspended if a determination is made that the woman under sentence of death is pregnant. Currently, section 46-19-204 simply refers to the governor issuing "his warrant" appointing the day of execution at such time as the governor is satisfied that the woman is no longer pregnant. Nothing defines this death warrant or what information should be contained within it.

This bill defines what should be included in a death warrant and mirrors the language in SB 108 so that both court issued and governor issued death warrants contain the same information, although the governor issued death warrant in this situation will also indicated that the original execution of judgment was suspended due to pregnancy and that the governor is satisfied that the woman is no longer pregnant.

The death warrant should recite:

-the conviction
-the judgment
-the method of execution
-that the execution of judgment was suspended due to pregnancy
-that the governor is satisfied that the woman is no longer pregnant
-the appointed date for the execution

After this bill was originally introduced and passed to the floor of the Senate, it came to our attention that it would also be desirable for the warrant to specify the duration of the warrant. When an execution date approaches, the Attorney General's office must give notice to the United States Supreme Court of the impending date, the judgment, the status of any possible legal proceedings which are pending, etc. The United States Supreme Court tries to track those dates in the event that a last minute stay is requested. One of the things the Court

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DATE 3-14-89
SB 106

wants to know is the duration of the warrant so the justices are aware of how much time there is to act. Most warrants have a duration of 24 hours or so. The time is necessary so that if a temporary stay is sought and the execution does not occur at the precise time it is scheduled, there is no need to go back through the procedures to reschedule the time of execution. In the recent Ted Bundy execution, for example, the death warrant had a duration of a full week to allow for possible last minute legal maneuvering that would delay it.

For this reason, the Department of Justice is requesting that this committee amend the bill to also include the duration of the death warrant in the warrant.

EXHIBIT 1
DATE 3-14-89
HB SB 106

Amendments to Senate Bill No. 106
Third Reading Copy (Blue)

Requested by the Department of Justice

Prepared by Kimberly A. Kradolfer
Assistant Attorney General
March 14,1989

1. Page 1, line 25

Following: "pregnant,"

Strike: "and"

2. Page 1, line 25

Following: "execution"

Insert: "and the duration of the warrant"

3

EXHIBIT 2
DATE 3-14-89
SB 106

Amendments to Senate Bill No. 106
Third Reading Copy (Blue)

Requested by the Department of Justice

Prepared by Kimberly A. Kradolfer
Assistant Attorney General
March 14,1989

1. Page 1, line 25

Following: "pregnant,"

Strike: "and"

2. Page 1, line 25

Following: "execution"

Insert: ",and the duration of the warrant"

EXHIBIT 3
DATE 3-14-89
SB 106

Montana Catholic Conference

CHAIRMAN BROWN AND MEMBERS OF THE HOUSE JUDICIARY COMMITTEE

I am John Ortwein representing the Montana Catholic Conference.

I rise in support of SB 106 and yet feel awkward in lending the Church's support to it. This is true because it supports the right of a child to be born. After birth, however, it gives the state the right to take the life of the mother.

Tomorrow I will appear again before this committee supporting SB 164 which requires a minor to notify parents prior to obtaining an abortion. There is a consistency in the Church's position regarding the sacredness of human life and yet SB 106 would require the death penalty of the mother after having given birth.

Before the session began I sent each of you a paper I wrote concerning a consistent life ethic and its relationship to the political process in Montana. I would hope that SB106 will give greater reflection to the sacredness of all human life, the life of the unborn and the life of those condemned to die by the state. We believe there is a connection--each life has dignity and each life has intrinsic value, even the life of a pregnant woman on death row.

March 14, 1989

a program

Tel. (406) 442-5761 P.O. BOX 1708 530 N. EWING HELENA, MONTANA 59624

CARE SHARE

EXHIBIT 4
DATE 3-14-89
SB 107

Senate Bill 107

A bill to clarify the laws relating to executive clemency

Summary of the testimony of Kimberly A. Kradolfer, Assistant Attorney General

Sections 46-23-301 through 46-23-315, MCA, set forth the statutes pertaining to executive clemency. The original bill amended sections 46-23-301 and 46-23-315 to clarify three areas: (1) which persons have standing to file an application for executive clemency; (2) that the governor's power to exercise executive clemency was dependent upon a recommendation from the Board of Pardons that clemency be granted; and (3) defining the nature and effect of "respite."

A number of amendments were made to the bill in the Senate to further clarify clemency procedures. The primary amendment grants the governor final power to grant clemency in a death penalty case even if the Board of Pardons recommends that clemency be denied. The other amendments were made primarily at the suggestion of the Board of Pardons to further clarify the statutes. Many of the areas which required clarification did not come to light until after the initial bill draft request had been submitted. It was then that the Board of Pardons, the Attorney General's office, and the Governor's office then were wending their ways through the executive clemency procedures in the David Cameron Keith case, which was probably the first time the statutes have been used in the decades since they were enacted. The additional changes define several terms (clemency, commutation, pardon); substitute the word "respite" for "reprieve" where the terms had been used interchangeably; defines "respite;" and clarify that the Board of Pardons is required to make a recommendation to either grant or deny clemency. (An alternative amendment rejected by the Senate would have also allowed the Board to pass the matter on to the governor with no recommendation.)

Finally, the amendments clarified a few more areas: (1) the criteria upon which the Board of Pardons could recommend clemency were specified as the facts and circumstances surrounding the crime for which the applicant was convicted and the social conditions of the applicant prior to commission of the crime, at the time the offense was committed, and at the time of the application for clemency; (2) standing to file an application for clemency was amended to also include court-appointed "next

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DATE 3-14-89
HB SB 107

friends," which is a class of representatives that is less formal than a guardian or conservator; (3) several statutory provisions which seemed to put the cart before the horse by requiring the Board of Pardons to make a decision on whether to recommend granting executive clemency before the Board held a hearing and which seemed duplicative by requiring notice to be mailed to the petitioner and the convict (where the prior statute referred to the applicant as "the person convicted of the crime.")

The bill was drafted to eliminated several problems or potential problems which arose during the course of approaching the then scheduled execution of David Cameron Keith. It is primarily intended to codify the conclusions which were reached through the research conducted by the attorney general's office and the research of the governor's legal counsel in trying to determine the answers to legal questions which arose as that execution date approached.

1. STANDING TO FILE APPLICATION FOR CLEMENCY

One concern that arose as the execution date approached was that someone without any legal standing and without the consent of the defendant would attempt to file an application on behalf of Keith and that it would require resetting the date and having everyone go through the waiting and preparation period, with its attendant financial and emotional costs, over and over again. In the Keith case, as in the Gary Gilmore case and others which have been less celebrated,it appeared likely that outside groups opposed to the death peralty would attempt to delay a scheduled execution repeatedly through such legal manuevers. Courts have developed criteria for determining who has standing to bring a legal action on someone's behalf. This bill incorporates those standards to clarify the legality of an application. Under the bill, an application may be filed by:

- -the person convicted of the crime;
- -an attorney acting on behalf of the person convicted of the crime and acting with his consent;
- -a court-appointed guardian or conservator acting on behalf of the person convicted of the crime

As noted above, the bill as amended also provides for filing of an application by a court-appointed "next friend," which is a less formal and stringent approach to challenging someone's competency to make decisions concerning his legal rights and remedies and whether they should be pursued. The bill is intended to clarify that where the convict is competent and simply chooses to not pursue legal rights or remedies for

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HB SB 107

whatever personal reasons, that no one can use the process as a method to continue delaying an execution. That is particularly important since there is no limit to the number of applications for clemency which may be filed and there properly should not be since circumstances could change which might support clemency even though it had been denied upon an earlier application.

2. GOVERNOR'S AUTHORITY TO GRANT CLEMENCY IS NOT DEPENDENT UPON RECOMMENDATON OF CLEMENCY FROM THE BOARD OF PARDONS

In researching the governor's power to grant clemency independent of a recommendation for clemency from the Board of Pardons, both the governor's legal counsel and the Attorney General's office concluded that there is no such independent power. That conclusion was based upon some of the statutory language contained in the current statutes and upon an examination of the history of the constitutional provision granting the governor power to grant clemency. The statutory language seemed to contemplate action by the governor only if a recommendation had been made by the Board of Pardon to grant clemency. (Example: section 46-23-307 discusses the procedure for the Board of Pardons to make a decision and to forward it to the governor for consideration. It appears that a decision of the Board is transmitted to the governor for action only if the decision is to recommend clemency: "(I)f such decision be made to recommend clemency, the copy of the decision together with all papers used in each case shall be immediately transmitted to the governor.")

Additionally, the constitutional provision granting pardon power to the governor is limiting in that the governor only has power to the extent provided by law:

> Art. VI, section 12. PARDONS. The governor may grant reprieves, commutations and pardons, restore citizenship, and suspend and remit fines and forfeitures subject to procedures provided by law.

In researching the constitutional provision, I reviewed the provision in the 1889 constitution and the minutes of the 1972 constitutional convention. The equivalent provision in the old constitution was Art. VII, section 9. In December of 1954, that provision was amended by referendum vote of the people to include the Board of Pardons as a constitutional board that would act to buffer the executive's decisions. While the new constitution eliminated the constitutional status of the Board of Pardons (which had originally consisted of the governor, the attorney general and the state auditor), the minutes of the convention

EXHIBIT 4
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demonstrate a clear intention of making the governor's power subject to the procedures prescribed by law. See, e.g., pages 962-64 of the verbatim transcript,attached hereto.

On the basis of the above research, the Attorney General's office and the legal counsel for the governor concluded in November 1988 that the governor had no power to grant executive clemency in the absence of a recommendation for executive clemency from the Board of Pardons. The original bill simply clarified the statutes to reflect those conclusions.

The bill was amended because Governor Stephens indicated that he felt it would be appropriate for the governor to have the final authority to make the decision to grant or deny executive clemency in death penalty cases and because the Board of Pardons also thought that would be most appropriate, so that a lay board did not have, in effect, the power to sign a death warrant without any review by the governor. The constitutional provision allows the governor as much power in this area as the legislature chooses to grant him. It is therefore appropriate for this body to do so if it wishes. The Board of Pardons and the governor agreed that in noncapital cases, the existing system (which allows the Board to deny applications which are without merit and those applications are not then forwarded to the governor) should remain in effect. That will prevent the need for the governor to review the many truly frivolous petitions which are filed and denied by the Board. No due process violation will occur in those cases since there is no constitutional right to present a petition for clemency to the governor under either the Montana or the United States consititutions. The due process right to file and present an application extends only so far as the statute provides. In any event, no person convicted of a crime is limited in the number of petitions they can file applying for executive clemency.

3. RESPITE

The third area which arose in researching the area of executive clemency concerns the nature of respite. The statute as it now exists does not define the nature and extent of respite and what effect it has on a death warrant.

When the governor was asked to grant respite, the question arose as to what effect, if any, respite would have on a death warrant. After researching the question, the Attorney General's office and the legal counsel for the governor concluded that the nature of

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respite is temporary and of a definite period. It also appeared that where respite affects the scheduled date of an execution, it serves only to stay a death warrant, which will then be in immediate effect upon expiration of the stay. The governor's power to "start" the execution process again when it was stayed by his exercise of respite power seems logical. (Cf. SB 106: governor's power to issue death warrant when execution of pregnant woman was stayed on the basis of executive branch action.)

This bill clarifies that any respite granted by the governor must be of temporary duration for a definite period of time. It also provides that where grant of a respite results in staying a scheduled execution, that the respite serves to suspend the death warrant and the warrant is back in effect at the expiration of the respite if clemency is not granted. In that event, the execution will take place on the date the grant of respite expires.

The amendments to the bill also strike the word "reprieve" where it is used interchangeably for the word "respite" and, further, clarify that the governor can always issue such a temporary stay independent of review and recommendation by the Board.

CLERK HANSON: "Section 12, Pardons. The governor shall have the power to grant reprieves, commutations and pardons after conviction, reinstate citizenship, and may suspend and remit fines and forfeitures subject to procedures prescribed by law." Mr. Chairman, Section 12.

CHAIRMAN GRAYBILL: Mr. Joyce.

DELEGATE JOYCE: Mr. Chairman. I move that when this committee does arise and report, after having had under consideration Section 12 of the Executive Article, that it recommend that the majority report, as read by the clerk, be adopted.

Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Joyce.

DELEGATE JOYCE: On this section, the minority report—there is a difference between the two, and perhaps it is then in order for you to recognize Mr. Wilson to move the minority report.

CHAIRMAN GRAYBILL: Do you want to make any explanation of the majority report?

DELEGATE JOYCE: Yes, I would like to.

CHAIRMAN GRAYBILL: Why don't you explain it, and then we'll take his.

DELEGATE JOYCE: All right. What the majority of the committee has done on Section 12 is undertaken to amend Section 9 of the current Montana Constitution, which is on page 21 of the blue book, if anyone wants to get it. It's Section 9 of Article VII, the Executive Article. As currently written, this is an amendment that was put through by a vote of the people in December, 1954. Prior thereto, under the original Constitution, the Board of Pardons consisted of the Governor and the Attorney General and the State Auditor. In 1954, on our constitutional amendment, that was changed to provide that there would be a Board of Pardons appointed by the Governor, and in this particular section the majority report is adopting the language of the first four lines of the current Constitution and is striking the proviso thereafterwards. We did this after—on recommendation of the reorganization director and with the concurrence of the present Chairman of the Board of Pardons—that is, what I mean to say there is, they didn't tell us to do that, but they had no objection to doing that. And the reason we did it is we believe that the present section—deleting after the proviso—or the revised section, in which we delete everything in the current Constitution after the proviso with reference to the Board of Pardons—is proper in that we believe that the Governor should have the power to grant reprieves, commutations and pardons. Then we say, it shall– his power in that connection is made subject to procedures prescribed by law, and the Legislature has now appointed—provided for an appointive board of lay pardons, and it, no doubt, will continue to do so. And yet it seemed to a majority of the committee unnecessary to require it, and the Executive Reorganization director and the present Chairman of the Board of Pardons recommended the deletion. The historical power of the Chief Executive to show mercy should be retained, and the majority believe that there is no constitutional need for a buffer board appointed by the Governor. And the key word there is "constitutional", the idea being that the Legislature can and may set up a board, and further than that, the Governor can request the Board of Pardons to make recommendations before he does commute sentences or exercise his executive clemency. But all we were doing in the majority, here, is we are not requiring him to get the prior approval of the Board of Pardons. The Board of Pardons is a constitutional office by virtue of being contained in the present Article VII, Section 9. And, we—the majority submits it's unnecessary to have this board as a constitutional office. When it got down to being enacted on by the Legislature, they combined this constitutional Board of Pardons with the legislative Board of Parole, and they call it the Board of Pardons and Parole. And, of course, 98 percent of their work is in connection with paroles. But, under the present situation, the point at issue is this—if a prisoner is in the state prison, he cannot be pardoned by the Governor unless he gets the prior approval of this Board of Pardons, and we submit that any Governor can still use that Board of Pardons and make—or the Legislature can require that prior approval by the Board of Pardons, but it's not necessary to continue on this Board of Pardons in the Constitution. I might further add that, by making no reference to the Board of Prison Commissioners in Section 20 of the majority committee report—I'll correct that—by making no reference to the Board of Prison Commissioners, which is presently provided for in Section 20 of Article VII, we are in effect repealing that, and the reason why we are repealing it is that for many years now, the Board of Prison Commissioners set up in the Constitution, which also consisted of the Governor and the Attorney General and the State

uditor, has not, in fact, been functioning; rather, the prison is being controlled under the Department of Institutions; and so we are in effect making constitutional what the state has been doing all these years and relieving these three people from violating the present Constitution, and we recommend repeal to conform to the facts as they really are.

CHAIRMAN GRAYBILL: The Chair would recognize Mr. Wilson.

DELEGATE WILSON: Mr. President, I move an amendment to Section 12 of the majority article to include—to adopt the minority proposal. You'll find that on page 51. Would you have the—have it read, please.

CHAIRMAN GRAYBILL: Or page 42. Very well. Mr. Wilson, your amendment to provide for the minority report for Section 12 is accepted. Do you wish to discuss it?

DELEGATE WILSON: Would the clerk read it, please.

CHAIRMAN GRAYBILL: Oh, all right, excuse me. Mr. Clerk, would you read it. Mr. Wilson, the first paragraphs are identical, isn't that correct?

DELEGATE WILSON: Yes.

CHAIRMAN GRAYBILL: So the clerk will read the second section, the second paragraph, which is an addition in the minority report.

CLERK HANSON: Second paragraph, minority report, page 42. "This action by the governor shall be upon the recommendation of a board of pardons. The legislative assembly shall by law prescribe for the appointment and composition of said board of pardons, its powers and duties; and regulate the proceedings thereof." Mr. Chairman, second paragraph to Section 12, minority report.

CHAIRMAN GRAYBILL: Mr. Wilson.

DELEGATE WILSON: We agree with the majority of the Executive Committee, except that we feel it is appropriate to establish constitutionally the Board of Pardons. The pardon power of the Governor is of such importance that it should not be exercised without the prior advice and consultation of a board of lay and professional persons responsible for the state correctional program. Mr. President, in talking with some of the former Governors and different people, they felt that this was a necessity that this be provided for in the Constitution, that they would have these people for the Governor to consult with. It is an important decision that he would have to make, and without some consultation and advice, he would be at a loss to know how to proceed. So it is with the thought in mind that we would provide the board for the Governor, to assist him in making these decisions. Mr. President, I move the adoption of the minority report.

CHAIRMAN GRAYBILL: Very well. The issue is on the substitute—or the amendment by Mr. Wilson to add the second section of the minority report to the existing section of the majority report, which is identical to the first paragraph of the minority report.

Mr. Roeder.

DELEGATE ROEDER: Mr. Chairman, I rise in opposition to Mr. Wilson's attempts to preserve the Board of Pardons, and I wonder if Mr. Dahood would yield to a question.

CHAIRMAN GRAYBILL: Mr. Dahood?

DELEGATE DAHOOD: I yield, Mr. Chairman.

DELEGATE ROEDER: Mr. Dahood, you're a prominent lawyer, and I wonder if—[you] would give us your opinion on this issue. Do you think that if we removed the Board of Pardons, the Governor would suddenly release upon society all the cons from Deer Lodge?

DELEGATE DAHOOD: I don't think there's any such chance that that could happen under any circumstance, and I think the Governor, if he's going to be a strong executive, should have the type of power that we're talking about; and so, consequently, I would submit that I would agree with the majority report.

CHAIRMAN GRAYBILL: Mr. Kamhoot.

DELEGATE KAMHOOT: Mr. Chairman, I believe Mr. Dahood did a little more than answer the question, but that's all right. It just saved him getting on the floor again. (Laughter) I can't help but recall last night, when we battled around in this chamber and we finally decided that an 18-year-old could hold the office of Governor. Now, are we really serious when we say that anybody 18 years old—I don't care how smart they are—not belittling anyone 18 years old at all—I've talked to

many of them and they say, "Why, we don't even care too much about taking the responsibility to vote, let alone being Governor."—now, are we actually serious when we're talking about an 18-year-old making decisions of releasing someone from prison, commuting death sentences, if we retain that, without a Board of Pardons for advice. I think we'd better get back on the ground here and kind of get a little realistic about these things. I thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Harper.

DELEGATE HARPER: Would Mr. Joyce yield to a question?

CHAIRMAN GRAYBILL: Mr. Joyce, will you yield?

DELEGATE JOYCE: I yield.

DELEGATE HARPER: I'd just like to be clear on this. If we take the reference to the Board of Pardons out of the Constitution, does that mean that we automatically do away with the Board of Pardons?

DELEGATE JOYCE: No, it's still on the statute books.

DELEGATE HARPER: And until the Legislature—excuse me, may I ask another question, Mr. Chairman?

CHAIRMAN GRAYBILL: You may.

DELEGATE HARPER: Until, then, the Legislature strikes that, then the Board of Pardons will remain in effect with pretty much its same composition and way of working?

DELEGATE JOYCE: Yes, and this constitutional provision provides that the Legislature may set up procedures for the Governor to exercise his pardon powers so that the Legislature can, in effect, limit the Governor's power by law, and it's simply, I guess, a quibble over whether or not it should be in the Constitution or whether we should trust the Legislature to continue to have a Board of Pardons or—and to give the Legislature some flexibility of how many would be on or how they would do this in the future. That's the substance of the dispute, as I understand it.

CHAIRMAN GRAYBILL: Very well. The issue is on Mr. Wilson's amendment, which adds the second sentence to Section 12 on Pardons. The language added is: "This action by the governor shall be upon recommendation of a board of pardons. The legislative assembly shall by law prescribe for the appointment and composition of said board of pardons, its powers and duties; and regulate the proceedings thereof." So many as shall be in favor of the motion to add that sentence as an amendment, please say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: The Noes have it, and so ordered. Very well. The issue, then, is on the basic Section 12. Members of the committee, you have before you the recommendation of Mr. Joyce that when this committee does arise and report, after having under consideration Section 12 on Pardons, that the same shall be adopted. All in favor of that motion, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.
(No response)

CHAIRMAN GRAYBILL: The Ayes have it, and so adopted. Will the clerk read subsection 1 of Section 13.

CLERK HANSON: "Section 13, Militia; subsection 1. The governor shall be commander-in-chief of the militia forces of the state, except when these forces are in the actual service of the United States, and shall have power to call out any part of the whole of said forces to aid in the execution of laws, to suppress insurrection or to repeal invasion."

CHAIRMAN GRAYBILL: "Repel invasion."

CLERK HANSON: "Repel."

CHAIRMAN GRAYBILL: Mr. Joyce.

DELEGATE JOYCE: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration Section 13 of the proposed Executive Article, that it recommend the same be adopted.
Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Joyce.

EXHIBIT 5
DATE 3-14-89
SB 108

Senate Bill 108

A bill to clarify the procedures for execution of a death sentence; providing a time for choosing the method of execution; providing that the identity, selection, and training of the executioner are confidential; providing for a description of the contents of the death warrant and for its return

Summary of testimony of Kimberly A. Kradolfer, Assistant Attorney General

Section 46-19-103, MCA, sets forth the procedures for executing a death sentence. Several of its provisions need clarification because they are not well defined in the current statute. In approaching the then scheduled execution date of December 1,1988, for the David Cameron Keith execution, a number of questions arose which needed guidance that was not provided by the statute. This bill serves to provide statutory answers to those questions.

The areas of concern which needed to be addressed are: (1) changing the time frames in which the district court may reschedule an execution after the date has been vacated by court order; (2) when and how must a condemned prisoner elect lethal injection, rather than hanging, if he is going to do so; (3) what should be included in the contents of a death warrant and who should issue it; (4) the need to protect the anonymity of the executioner; and (5) the manner in which the death warrant should be returned after the execution.

1. TIME FRAME FOR RESET EXECUTION DATE

The current statute, section 46-19-103, MCA, provides that once an execution date that has been set has been vacated by court order, when the date is reset, the court shall set the date not less than 5 or more than 90 days from the day the date is set. The statute as amended would provide that the new date be set not less than 20 or more than 90 days from the day the date is set.

The reason for the change is that as the David Cameron Keith execution approached and was then stayed by respite issued by Governor Schwinden, the warden determined that it would be impossible to reset a date in less than 20 days because of the enormous scheduling involved in coordinating regular prison staff; overtime staff for additional security; an executioner or executioners; the state medical examiner; possible organ or

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tissue donation representatives; the Powell County coroner; availability of necessary drugs; the availability of witnesses selected by the defendant, the State, and from a media pool, etc. For this reason, we felt it was appropriate to change the statutory time frame to insure that the prison would always have sufficient time to properly prepare for the execution.

2. ELECTION OF LETHAL INJECTION

The current statute does not address when and how a condemned prisoner must elect lethal injection, rather than hanging. This becomes a problem if the prisoner insists that he can make the decision at the last minute or, as happened in the David Cameron Keith case, the district court is of the opinion that since the statute does not speak to it, the prisoner can wait to elect or can change his election up to the last minute. This places the prison officials in the position of having to be ready to go forward with either hanging or lethal injection and would require preparation of both the trailer facility for lethal injection and the building of a gallows in the yard, with a building built around it to provide screening. It would also complicate training of the executioner(s), security, etc.

This bill requires a defendant who wishes to elect lethal injection to make the election at the hearing at which an execution date is set. If he does not do so, lethal injection as an option for the execution is waived. This will require a defendant facing a possible death sentence to be prepared to make an election at the conclusion of the hearing on mitigating and aggravating circumstances, if the judge imposes the sentence and sets the date at that time.

3. CONTENTS OF THE DEATH WARRANT

The statute as it now exists mentions the death warrant only in subsection (6), where it states:

> "After the execution, the warden shall make a return upon the death warrant showing time, mode, and manner in which it was executed."

This bill will clarify that the district court shall issue the death warrant within 5 days of setting an execution date. The death warrant shall be attested to by the clerk of court with the seal of the court. The warrant and a certified copy of it shall be delivered to the warden of the state prison. It must be directed to the warden and it shall recite:

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-the conviction
-the judgment
-the method of execution
-the appointed date of the execution

4. ANONYMITY OF EXECUTIONER

The statute currently provides that the warden shall select the person to perform the execution and the warden or his designee shall supervise the execution. There is no statutory provision which specifically sets forth that the privacy interests of the executioner outweigh the public right to know his identity. Historically, however, the identity of the executioner has always been protected.

As the then scheduled December1, 1986, execution date for David Cameron Keith approached, the warden was confronted by a member of the press who directly asked the identity of the executioner. When the warden declined to answer that question, the reporter then drafted a series of questions pertaining to the selection and training of the executioner which were designed to identify the executioner or executioners. If the warden answered only some of the questions and declined to answer others, the refusal to answer some would provide information which could be used to provide the identity of the executioner or executioners. When the warden refused to answer the questions for that reason, I was contacted by James Reynolds, attorney for the Associated Press on several occasions. Mr. Reynolds indicated that if the questions were not answered, the Associated Press would pursue legal action if necessary in order to obtain answers to the questions which were presented. While Mr. Reynolds did indicate that it was not the intention of the Associated Press to obtain the actual name of the executioner ,that statement conflicts with the direct question to that effect originally put to the warden. When respite was granted, Mr. Reynolds sent a letter indicating that if clemency was denied, the matter would be pursued further. (I would also note that the warden asked a member of his staff to contact other states which have had fairly frequent executions, such as Texas, Louisiana, Georgia, and Florida, to determine how those states have responded to similar inquiries regarding the identity and/or selection and training of their executioners. None of the states contacted had ever had a reporter make such inquiries and all were amazed that one would do so.)

In reviewing this question, several members of the Attorney General's office reached the conclusion that in the case of an executioner, the individual's right of privacy would outweigh the public's right to know the executioner's identity and,

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additionally, information which would make it possible to identify executioner based upon his training and experience. That is particulary true where the entire execution is carried out in front of 12 or more witnesses, including up to 3 selected by the condemned prisoner, and where information on the executioner or executioners selection and training would make him or them readily identifiable to the witnesses, if not to the public at large.

This bill asks the Legislature to set forth in statute the policy determination that the anonymity of the executioner is a matter of individual privacy which as a matter of law outweighs the public's right to know his identity or information which could be used to deduce his identity.

5. RETURN ON DEATH WARRANT

The statute currently provides that after the execution, the warden shall make a return upon the death warrant showing the time, mode, and manner of death. It provides no deadline for doing so and does not indicate where it should be returned to. The bill sets a 20 day deadline and provides that the return be made to the clerk of the court from which it was issued and that time, mode, and manner of death shall be noted on the warrant.

AMENDMENT TO SB 108

After this bill was originally introduced and passed to the floor of the Senate, it came to our attention that it would also be desirable for the warrant to specify the duration of the warrant. When an execution date approaches, the Attorney General's office must give notice to the United States Supreme Court of the impending date, the judgment, the status of any possible legal proceedings which may be pending, etc. The United States Supreme Court tries to track those dates in the event that a last minute stay is requested. One of the things the Court wants to know is the duration of the warrant so the justices area aware of how much time there is to act. Most warrants have a duration of 24 hours or so. The time is necessary so that if a temporary stay is sought and the execution does not occur at the precise time it is scheduled, there is no need to go back through the procedures to reschedule the time of the execution. In the recent Ted Bundy

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execution, for example, the death warrant had a duration of a full week to allow for possible last minute legal maneuvering that would delay it.

For this reason, the Department of Justice is requesting this committee to amend the bill to also include the duration of the death warrant in the warrant.

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HB SB 108

Amendments to Senate Bill No. 108
Third Reading Copy (Blue)

At the request of the Department of Justice

Prepared by Kimberly A. Kradolfer
Assistant Attorney General
March 14,1989

1. Page 2, line 23

Following: "execution,"

Strike: "and"

2. Page 2, line 24

Following: "execution"

Insert: "and the duration of the warrant"

6

EXHIBIT 6
DATE 3-14-89
SB 108

Amendments to Senate Bill No. 108
Third Reading Copy (Blue)

At the request of the Department of Justice

Prepared by Kimberly A. Kradolfer
Assistant Attorney General
March 14,1989

1. Page 2, line 23

Following: "execution,"

Strike: "and"

2. Page 2, line 24

Following: "execution"

Insert: "and the duration of the warrant"

6

EXHIBIT 7
DATE 3-14-89
SB 105

Amendments to Senate Bill No. 105
Third Reading Copy

Requested by House Judiciary Committee members
For the Committee on the Judiciary

Prepared by John MacMaster
March 13, 1989

1. Title, line 5.
Following: "JUSTICE TO"
Insert: ", WITH CERTAIN CONDITIONS AND RESTRICTIONS," (Daily; adopted)

2. Title, line 7.
Strike: "SECTION"
Insert: "SECTIONS" (Boharski; proposed)

3. Title, line 8.
Following: "2-6-109"
Insert: "AND 61-5-107" (Boharski; proposed)

4. Page 2, line 25.
Following: "460,"
Insert: "and after the federal government agrees in writing that it will not refuse to give the state federal highway money if the state lowers the age for purchase, possession, and consumption of alcoholic beverages to less than 21," (Brown; proposed)

5. Page 2, line 23. (Boharski; proposed)
Following: line 22
Insert: "Section 2. Section 61-5-107, MCA, is amended to read:

"61-5-107. **Application for license, instruction permit, commercial vehicle operator's endorsement, or motorcycle endorsement.** (1) Every application for an instruction permit, driver's license, commercial vehicle operator's endorsement, or motorcycle endorsement shall be made upon a form furnished by the department. A motorcycle endorsement is required for the operation of a quadricycle. Every application shall be accompanied by the proper fee, and payment of such fee shall entitle the applicant to not more than three attempts to pass the examination within a period of 6 months from the date of application.

(2) Every such application shall state the full name, date of birth, sex, and residence address of the applicant, and briefly describe the applicant, and shall state whether the applicant has previously been licensed as a driver or commercial vehicle operator, and, if so, when and by what state or country, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for such suspension, revocation, or refusal.

(over)

VISITORS' REGISTER

JUDICIARY COMMITTEE

BILL NO. SENATE BILL 106 DATE MARCH 14, 1989

SPONSOR SEN. PINSONEAULT

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Kim Kradolfer	Attorney General	✓	
John Peterson	Mt Catholic Conf	✓	
Mignon Waterman	Mt. Assoc. of Churches		
P.O Hoshaw			
Jess Alison			
Judy Miller			
Beth Laehnen			
Ben Gimpey			
Fr. Jim Lowney	St. Helena Cathedral	-	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

JUDICIARY COMMITTEE

BILL NO. SENATE BILL 107 DATE MARCH 14, 1989

SPONSOR SEN. PINSONEAULT

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Kimi Knudsen	Attorney General	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

JUDICIARY COMMITTEE

BILL NO. SENATE BILL 108 DATE MARCH 14, 1989

SPONSOR SEN. PINSONEAULT

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Kim Kradolfer	Attorney General	✓	
Fr. Jay Lyons	St. Helena's Cathedral	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

ROLL CALL VOTE

JUDICIARY COMMITTEE

DATE MARCH 14, 1989 BILL NO. SB 108 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		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	

TALLY 7 11

Julie Emge
Secretary

Dave Brown
Chairman

Motion: Rep. Addy moved to amend Pg. 2, lines 14-16, motion seconded by Rep. Brooke. Motion FAILED.

Form CS-31
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