

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dave Brown, on April 11, 1989, at
9:05 a.m.

ROLL CALL

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

Members Excused: Rep. Boharski, Rep. Mercer, Rep. Strizich, Rep.
Wyatt.

Members Absent: None.

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

Announcements/Discussion: None.

HEARING ON HOUSE JOINT RESOLUTION 38

Presentation and Opening Statement by Sponsor:

Rep. Whalen stated that he is presenting for consideration HJR 38, which is a culmination of a series of defeated legislation attempting to reform the local and municipal city courts. He has put together a study resolution to study the issue of how they can organize the courts of limited jurisdiction, J.P. courts, city courts, etc. A study committee would investigate the towns that do not have sufficient business to have one judge for each town, and instead hire one judge to service all of the surrounding localities.

Testifying Proponents and Who They Represent:

None.

Proponent Testimony:

None.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: Rep. Rice questioned Rep. Whalen if the only real issue was whether or not to allow the establishment of local court districts. Rep. Whalen responded that it would cover a study of all the courts of limited jurisdiction.

Closing by Sponsor: Rep. Whalen closed.

DISPOSITION OF HOUSE JOINT RESOLUTION 38

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

Discussion: None.

Amendments, Discussion, and Votes: Rep. Rice moved to amend by inserting in line 6 and line 8, following "city", insert municipal. Motion seconded by Rep. Gould. A vote was taken and CARRIED unanimously.

Recommendation and Vote: Rep. Darko moved HJR 38 DO PASS AS AMENDED, motion seconded by Rep. Rice. A vote was taken and CARRIED unanimously.

HEARING ON HOUSE JOINT RESOLUTION 41

Presentation and Opening Statement by Sponsor:

Rep. John Vincent, House District 80 stated that this resolution is based on the premise that any further changes in our state's D.U.I. statutes should be based on objective information on facts based on legislative findings. The time has come for us to take a good look at D.U.I.'s so that in the future, we can hopefully arrive in Helena at least with the basic statistical information that we need to make objective decisions in regard to creating any changes in the D.U.I. statutes. More and more evidence is coming in that a much higher percentage of D.U.I. accidents and fatalities are caused by heavy drinkers. That means that we might possibly need to do more in the treatment area than we are currently doing now. Additionally, we need to be concerned about effectiveness and fairness. After all, we are talking about individuals that have been arrested, individuals that are under the purview of our judicial system and they should be treated fairly. They should be treated with an aspect towards treatment, done judiciously and fair for all individuals involved. Rep. Vincent commented that deterrence in this matter is absolutely critical. The best laws of all will actually prevent people from drinking and driving in the first place. Improving good solid justifiable objective of improvements in a D.U.I. law will save lives. It is just a question of what those improvements should be and what the most effective ones will be.

Testifying Proponents and Who They Represent:

Roger Tippy, Beer and Wine Wholesalers Association

Proponent Testimony:

Roger Tippy, in talking about the treatment side of alcoholism rehabilitation, as a program lodged in the Dept. of Institutions running off a fixed percentage of excise taxes on the various forms of alcohol. As consumption declines, less revenue has been ear-marked to the Dept. of Institutions and they have continually watched a program that shrinks in terms of dollars. In the same time frame, the D.U.I. laws have created a significant new source of revenue for local governments. He suggested an amendment in sub 1, page 2 of the study assignment, line 17, add the words convictions and fines.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: Rep. Brown stated that he would like to put in a new sub 2 (see attached committee report) if it was agreeable with Rep. Vincent. Rep. Vincent assured him that he approved of the changes and had no objection to the suggested amendments.

Closing by Sponsor: Rep. Vincent closed.

DISPOSITION OF HOUSE JOINT RESOLUTION 41

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

Discussion: None.

Amendments, Discussion, and Votes: Rep. Knapp moved the amendments suggested by Mr. Tippy (page 2, line 17 following "accidents", insert , convictions, and fines), motion seconded by Rep. Gould. Motion CARRIED.

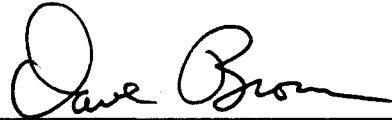
Rep. Gould moved to amend page 2, line 6 following line 5, insert "WHEREAS, not all judges impose the sentences mandated by the DUI and per se laws; and". Motion seconded by Rep. Brooke. Motion CARRIED.

Rep. Stickney moved a new sub 2 (see attached committee report) and the motion was seconded by Rep. Nelson. A vote was taken on the proposed amendment and CARRIED.

Recommendation and Vote: Rep. Gould made a DO PASS AS AMENDED
motion, seconded by Rep. Brooke. A vote was taken and
CARRIED unanimously.

ADJOURNMENT

Adjournment At: 9:32 a.m.

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

REP. DAVE BROWN, Chairman

DB/je

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DAILY ROLL CALL

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date April 11, 1989

NAME	PRESENT	ABSENT	EXCUSED
REP. KELLY ADDY, VICE-CHAIRMAN	X		
REP. OLE AAFEDT	X		
REP. WILLIAM BOHARSKI			X
REP. VIVIAN BROOKE	X		
REP. FRITZ DAILY	X		
REP. PAULA DARKO	X		
REP. RALPH EUDAILY	X		
REP. BUDD GOULD	X		
REP. TOM HANNAH	X <i>Not as usual</i>		
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

April 11, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that HOUSE
JOINT RESOLUTION 38 (first reading copy -- white) do pass as
amended .

Signed: _____
Dave Brown, Chairman

And, that such amendment read:

1. Page 2, lines 6 and 8.

Following: "city"

Insert: "and municipal"

STANDING COMMITTEE REPORT

April 11, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that HOUSE JOINT RESOLUTION 41 (first reading copy -- white) do pass as amended .

Signed: 
Dave Brown, Chairman

And, that such amendments read:

1. Page 2, line 6.

Following: line 5

Insert: "WHEREAS, not all judges impose the sentences mandated by the DUI and per se laws; and"

2. Page 2, line 17.

Following: "accidents"

Insert: ", convictions, and fines"

3. Page 2, line 18.

Following: line 17

Insert: "(2) the effect that being forced by the federal government to raise the drinking age to 21 in 1987 has had on the DUI and per se rates and alcohol-related accident levels among drivers under 21 years of age;

(3) judicial compliance with the sentencing mandates in the DUI and per se laws, the extent to which the mandates are and are not complied with by judges, including available statistics on the matter, and the reasons for noncompliance;"

Renumber: subsequent subsections