

## MINUTES

### MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bruce Crippen, on January 4, 1989, at 10:00 a.m. in Room 325 of the Capitol.

#### ROLL CALL

Members Present: Senators Bruce Crippen, Al Bishop, Tom Beck, Mike Halligan, Bob Brown, Joe Mazurek, Loren Jenkins, R. J. "Dick" Pinsoneault, John Harp, and Bill Yellowtail.

Members Excused: None.

Members Absent: None.

Staff Present: Valencia Lane, Staff lawyer and Rosemary Jacoby, Committee Secretary.

Announcements/Discussion: Chairman Crippen welcomed the committee members to the first hearing of the session. New member, Loren Jenkins, was introduced as was John Harp who was delayed presenting a bill in another hearing. The remaining members of the committee, the staff attorney and the committee secretary were also introduced. Committee Chairman Crippen explained the customary order of business which would be observed during the session. He explained that bills would be acted upon during Executive Session and that he preferred no motions be made during hearings. He hoped to limit hearings to five bills per meeting. Two further introductions were made: William Mutch of Polson, the committee intern and Brian Cebull of Billings, a page sponsored by Senator Crippen.

#### HEARING ON SENATE BILL 12

Presentation and Opening Statement by Sponsor: Senator Mike Halligan, representing District 29, opened the hearing on the bill stating that it is to include licensed university infirmaries in the Medical-Legal Act. A former bill in a previous legislative session created an exclusion, but the infirmary at the University of Montana, the only licensed college-level infirmary in the state, now feels a need for inclusion to be legally protected.

List of Testifying Proponents and What Group they Represent:

Dr. Bob Curry, representing the medical people at the University of Montana infirmary.

List of Testifying Opponents and What Group They Represent:

There were none.

Testimony:

Dr. Curry said that the medical people connected to the university infirmary felt that they were in jeopardy since they were no longer protected by the Medical-Legal Act. They requested reinclusion.

Questions From Committee Members: Senator Mazured asked if payment for this protection would be required of the medical staff at the infirmary. Dr. Curry said yes, they would be assessed in the same manner as other hospitals or infirmaries, according to the number of beds, he thought.

Sen. Pinsoneault asked if the junior college infirmaries would be affected by the bill. Senator Halligan said he didn't know but thought all college infirmaries would be included.

Closing by Sponsor: Senator Halligan closed the hearing.

## DISPOSITION OF SENATE BILL 12

Discussion: Senator Halligan wanted to clarify the question about whether junior colleges would be covered by the inclusion of infirmaries in the Medical Act. Discussion brought out the fact that the UM infirmary was the only one in the state that was not an out-patient clinic, hence the only one affected, it was thought.

Amendments and Votes: There were no amendments offered.

Recommendation and Vote: Senator Halligan MOVED that Senate Bill 12 DO PASS. Senator Beck asked what the benefit of this bill would be. He was answered by Senator Mazurek who said that, before a malpractice suit could

be brought against a doctor in the infirmary, the case would be reviewed by a panel of three doctors and three attorneys. Presently, the review panel is not provided by law for these doctors. After further discussion, Senator Halligan's MOTION PASSED UNANIMOUSLY.

HEARING ON SENATE BILL 31

Presentation and Opening Statement by Sponsor: Senate Bill 31, sponsored by Senator Del Gage of District 5, was presented to the committee by Senator Bruce Crippen for Senator Gage who was attending another meeting.

List of Testifying Proponents and What Group they Represent:

John Connor, Department of Justice, representing the County Attorneys' Association

List of Testifying Opponents and What Group They Represent:

There were none.

Testimony: John Connor, who conducts training for the County Attorneys, said they requested the bill because of a problem that has confronted them for some time. In cases where an individual commits multiple acts of criminal mischief, the damage (when added together) might total more than \$300. Prosecution of these cases has been very frustrating because, taken individually, the damage might be less than \$300. He said there is a provision for taking an aggregate of bad checks, and felt the same principle could apply in the case of misdemeanor mischief when committed multiple times. He felt that when the damage was great, the individual committing the offenses should be charged as a felon.

Questions From Committee Members: Senator Pinsoneault asked if this law would apply in the case of a drunk individual who drove through a gate and caused damage. Mr. Connor said yes, it would if the offense was one of a continuing set of offenses. It would be considered to be constituting criminal design, even though the person was intoxicated.

Closing by Sponsor: Senator Crippen closed the hearing.

DISPOSITION OF SENATE BILL 31

Discussion: Senator Halligan said that cases of tire slashing, for example, were mostly involving children around 12 years old and felt they would be covered by this bill. He thought that individual judgments would be made as to whether to prosecute the offender as a juvenile or an adult. Prosecuting a 19 or 20-year old would be quite different from prosecuting a 12-year-old as a felon, he said.

Senator Jenkins stated he bill read "may be" and not "shall be aggregated," so he felt the charge would be criminal mischief in cases of 12-year-olds.

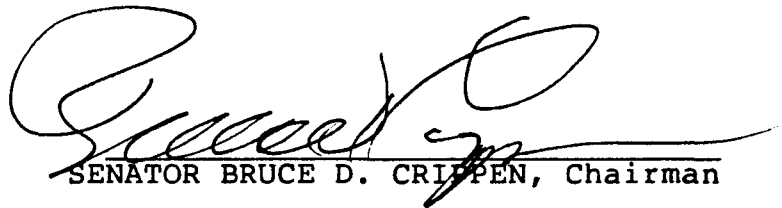
After further discussion, it was the consensus of the committee that the bill needed further study before action would be taken.

Amendments and Votes: There were none.

Recommendation and Vote: Before the discussion, Senator Pinsoneault had MOVED that Senate Bill 31 DO PASS. However, after the discussion, he WITHDREW his motion. No further action was taken on the bill.

ADJOURNMENT

Adjournment At: 11:15 a.m.

  
SENATOR BRUCE D. CRIPPEN, Chairman

BDC/rj

Minutes.104

ROLL CALL

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 1-4-89

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NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN	✓		
SENATOR HALLIGAN	✓		
SENATOR HARP	✓		
SENATOR JENKINS	✓		
SENATOR MAZUREK	✓		
SENATOR PINSONEAULT	✓		
SENATOR YELLOWTAIL	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

January 4, 1989

Hr. President: We, the committee on Judiciary report that SB 12  
(first reading copy -- white) do pass.

Signed: Bruce Douglas Clippett  
Bruce Douglas Clippett, Chairman

*U.C. a.m.  
1/5/89*

EXHIBIT NO. 1  
DATE 1/4/89  
BILL NO. SB 31/89

NAME: John Connor

ADDRESS: Attorney General's Office

PHONE: 444-2026

REPRESENTING WHOM? Montana County Attorneys Assn.

APPEARING ON WHICH PROPOSAL: SB 31

DO YOU: SUPPORT?  AMEND?  OPPOSE?

COMMENTS: \_\_\_\_\_  
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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE JUDICIARY  
EXHIBIT NO. 1  
DATE 1/4/89  
BILL NO. SB 31