

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bruce D. Crippen, on January 6, 1989, at 10:00 a.m. in Room 325.

ROLL CALL

Members Present: Chairman Bruce Crippen, V.Chairman Al Bishop, Senators 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: Staff Attorney Valencia Lane and Committee Secretary Rosemary Jacoby

Announcements/Discussion: There were none.

HEARING ON SENATE BILL 45

Presentation and Opening Statement by Sponsor: Senator Joe Mazurek of Helena, representing District 23, opened the hearing. His bill is to remove the requirement that a petition for adoption be filed within 1 year of a child's placement for adoption with the petitioner. He stated that an adoption agency may place a child and monitor the situation for a year. But, he said, occasionally the 1-year deadline is missed and the child is "taken back" on paper and there must be a re-filing to fit into the 1-year requirement for filing. This bill would eliminate the problem of a missed deadline.

List of Testifying Proponents and What Group they Represent:

There were none.

List of Testifying Opponents and What Group They Represent:

There were none.

Testimony: There was none.

Questions From Committee Members: Senator Pinsoneault asked why the problem arose. Senator Mazurek said an unmarried mother may give the child to a sister without an adoption. If no petition is filed within a year, the sister has no legal claim to the child. Most adoptive parents want to settle the adoption within a year, but in some cases, it isn't done and there is a problem for the adoptive parent.

Closing by Sponsor: Senator Mazurek urged passage of the bill.

DISPOSITION OF SENATE BILL 45

Discussion: Senator Mazurek said many attorneys have asked him to help solve the problem so that a natural parent can't come back and try to claim the child if the filing hasn't been accomplished within the 1-year timeframe. Senator Jenkins said one place in the codes allowed 2 years and Senator Mazurek said that applied to a different set of circumstances. This is for a private placement. Senator Jenkins asked if Senator Mazurek would be willing to add the 30-day requirement listed in the codes he referred to. Senator Mazurek said the problem is that, in the private placement, the whole process starts when the adoptive parents file the petition. Senator Beck asked for some history on the problem. Senator Mazurek answered that, in 1983, a number of adoption agencies were concerned because doctors were getting together with unmarried mothers and arranging private adoptions. In Bozeman, doctors were taken into court for being unlicensed adoption agencies. The legislation was undertaken to keep children from being in "limbo". Unless a petition is filed, there is no legal placement, said Senator Mazurek.

Amendments and Votes: There were no amendments

Recommendation and Vote: Senator Jenkins MOVED that Senate Bill 45 DO PASS. The MOTION CARRIED UNANIMOUSLY.

HEARING ON SENATE BILL 54

Presentation and Opening Statement by Sponsor: Senator Bruce Crippen of Billings, representing District 45, opened the hearing. He said it is to provide the department of revenue's levy for execution of a warrant for distraint to have continuing force and effect until the amount of the liability is satisfied or the levy withdrawn by them. He stated that the DOR serves 3,000 levies each year. This proposal will keep them in effect until the entire tax is paid, with the taxpayer making payments each month. He reviewed the bill.

List of Testifying Proponents and What Group they Represent:

Jeff Miller, Department of Revenue

List of Testifying Opponents and What Group They Represent:

None.

Testimony:

Jeff Miller said present law requires that the DOR serve a levy after each payment. The federal government has a levy that remains in effect. This bill would make the state have the same requirement as the federal government. He said the bill would save in time and money.

Questions From Committee Members: Senator Halligan asked if the language was too restrictive and Mr. Miller didn't think it was. Senator Halligan asked if a corporation or business is named in the levy or if persons were mentioned by name. Mr. Miller asked Chuck Wowereit of the DOR to speak on the bill. Mr. Wowereit said that all persons owing must be named or the DOR cannot levy against them. He said the purpose of the bill was to eliminate the multiple levies going out. There was discussion about the term "added time" and Mr. Wowereit said that had been dropped somewhere in the drafting.

Closing by Sponsor: Senator Crippen closed the hearing.

DISPOSITION OF SENATE BILL 54

Discussion: Just for an example, Senator Mazurek asked if a warrant was issued to a large company such as Montana

Power who has property in all 56 counties, would the DOR have to file one warrant or 56. Mr. Wowerit said that efforts were made to collect in each county and can be in force in all.

Senator Mazurek asked why "only one levy at a time" was dropped on p. 1, line 23. Valencia Lane said there is a difference between "one" and "one at a time" and clarification was needed. Jeff Miller thought there should be a language change.

Amendments and Votes:

Senator Halligan MOVED TO AMEND Senate Bill 54 and Valencia Lane was asked to draft the amendment. The MOTION PASSED UNANIMOUSLY.

Recommendation and Vote: Senator Halligan MOVED that Senate Bill 54 DO PASS AS AMENDED. The MOTION CARRIED UNANIMOUSLY.

ANNOUNCEMENTS BY THE CHAIRMAN:


Chairman Crippen said that action on SB 22 would be held until the fiscal note arrived in committee.

The chairman said that there would probably be hearings on judicial appointments in the Judiciary Committee. He felt that judges should be confirmed in dignity with a hearing.

ADJOURNMENT

Adjournment At: 11:40 a.m.


Senator Bruce D. Crippen, Chairman


Committee Secretary

BDC/rj

minrj.106

STANDING COMMITTEE REPORT

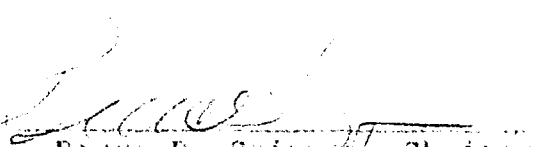
January 6, 1989

MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration SB 45 (first reading copy -- white), respectfully report that SB 45 do pass.

DO PASS

Signed



Bruce D. Crisp, Chairman

SMO
1/6
12:40 PM

STANDING COMMITTEE REPORT

January 6, 1989

MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration SB 54 (first reading copy -- white), respectfully report that SB 54 do pass and be amended as follows:

1. Page 1, line 23.
Following: "levy"
Insert: "at a time"

DO PASS

Signed: 
Bruce D. Crippen, Chairman

SMB
/6
12:40 P.M.

SB 54

NAME: Jeff Miller DATE: 1/6/89

ADDRESS: Mitchell Bldg

PHONE: 2837

REPRESENTING WHOM? MT. Dept of Rev.

APPEARING ON WHICH PROPOSAL: SB 54

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: Places Mt. Dept. on equal footing for collection purposes.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

