

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bill Strizich, on January 25, 1991,
at 8:07 a.m.

ROLL CALL

Members Present:

Bill Strizich, Chairman (D)
Vivian Brooke, Vice-Chair (D)
Arlene Becker (D)
William Boharski (R)
Dave Brown (D)
Robert Clark (R)
Paula Darko (D)
Budd Gould (R)
Royal Johnson (R)
Vernon Keller (R)
Thomas Lee (R)
Bruce Measure (D)
Charlotte Messmore (R)
Linda Nelson (D)
Jim Rice (R)
Angela Russell (D)
Jessica Stickney (D)
Howard Toole (D)
Diana Wyatt (D)

Members Excused: Rep. Whalen

Staff Present: John MacMaster, Leg. Council Staff Attorney
Jeanne Domme, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

HEARING ON HB #228 ALLOW EMERGENCY RESPONDERS TO RECOVER COST FOR HAZARDOUS MATERIALS INCIDENT

Presentation and Opening Statement by Sponsor:

REP. LARSON, HOUSE DISTRICT 65, stated that this bill is an act allowing an emergency responder to recover from the responsible party costs involved in responding to a hazardous material incident. There are 400 fire departments in Montana and less than two dozen of them are paid fire fighting units. This bill

would permit those department and volunteer fire districts, to recover costs to responding to Emergency Hazardous Incidents. It would clarify state law their right to compensation when they respond to hazard material incidents.

Proponents' Testimony:

Bruce Suenian, Missoula Rural Fire District, stated that the Missoula Rural Fire District operates one of the hazardous material response teams in Montana and we support this bill. We do propose two amendments to this bill. First on line 15, change the word "episode" to "incident" and on line 16, put the period after the MTA site 50-30-201, and strike the rest of that sentence. This is so we will not get into litigation over the meaning of wide spread or severe damages.

Leo Barry, Burlington Northern Railroad, stated that he has some difficulty with the term private in the definition of emergency responder. He would feel more comfortable if some kind of governmental authorization or entity for a private party to be at that particular emergency site. There is no complication division in this bill. Will this be going in the Secret Comprehensive Environmental Clean-Up Response Act or in the Hazardous Waste Act. These definitions and terminology will play differently as to where it is placed within the code. In addition, he proposed an amendment in section 2, line 20, strike the term "full" and substitute "reasonable and necessary costs", then strike "involved in" and insert "directly related to".

Duane Larson, Montana State Fire Chiefs Association, stated as technology advances have become so common-place, we realize that the recovery of these costs is becoming a very important in the budgets of responding agencies. The welfare of our environment and lives are dependant on how these incidents are handled. This equates to many man hours, specialized equipment, expendable materials and many resources being called into play and that in turn equates to a lot of dollars.

John Fitzpatric, Pegasus Gold Corporation, stated his concerns were the same as Mr. Barry. We do have some concerns about other private entities becoming involved in these firms. This bill does not contain a triggering device for authorization. I would like to amend the bill by putting some form of governmental authorization.

James Lofftus, President, Montana Fire District Association, stated that he concurs with the amendments that were offer by Mr. Barry and the Association is in support of this bill.

Dave Anderson, Jefferson County Commissioner, stated he is here in support of HB #228. His county is a small county with three major interstate going through their county. I agree with the amendments that have been presented to the committee.

Doug Rawthy, Mayor of Kalispell, stated he is here to support HB #228.

Bill Fliener, Under Sheriffs and Peace Officers Association, stated he echoes the support of the bill and the amendments that have been presented to the committee.

Lyle Nagel, Montana State Volunteer Fire Fighters Association, gave written testimony in favor of HB #228. EXHIBIT 1

Tim Bergstrom, Montana State Council of Fire Fighters, stated they also stand in support of the concept of the bill and the amendments.

Opponents' Testimony: none

Questions From Committee Members:

REP. GOULD asked Bruce Suenian if he could give the committee an idea of some of the costs for training and materials. Mr. Suenian said they estimate that they had between \$350,000 - \$500,000 invested in their team since 1984. A level A suit, which is the most protected suit, costs \$2000+, a one hour breathing apparatus costs \$2000+, and training ranges from no cost to \$1500 a week tuition.

REP. BROWN asked Leo Barry do you have a place you think the codification statute belongs in the code? Mr. Barry said he would assume it would be in one of the two sites I mentioned. For a definition of incident, it would go into circuli, because the Federal Law provides for response costs for these kinds of incidents.

REP. TOOLE asked Mr. Barry if he would object to a slight modification of language on line 19 and 20 to say "the emergency responder has a right to recover from the responsible party any reasonable costs". Mr. Barry said it would be fine.

Closing by Sponsor:

REP. LARSON stated there is wide spread support of this bill and he has no problems with amendments.

HEARING ON HB #268

CREATE APPELLATE DEF. COMMISSION & OFFICE OF APPELLATE DEFENDER

Presentation and Opening Statement by Sponsor:

REP. MEASURE, HOUSE DISTRICT 6, stated this bill is an act creating an appellate defender system, creating an appellate defender commission and the office of appellate defender. Randy Hood has prepared a presentation on the bill.

Proponents' Testimony:

Randy Hood, Chairman, State Bar - Public Defender Committee, stated the committee was made up of Judges, Attorneys and Public Defenders. The State Bar created the committee over a year and a half ago for the Public Defenders Services in the State of Montana. As a result of a survey of Judges, Attorneys and Public Defenders, we pinpointed a number of problems with Public Defender Services. The most prevalent problem was the issue of appeals. Appeals are a substantial drain of time for Public Defenders. This is because Public Defenders rarely do appeals and the additional hours spent preparing for them amounts to a lot of money. We are proposing a Public Defenders Office. This would handle the appeals of indigent criminal defendants. The committee feels if you had one particular person doing appeals who was well versed in these, it would save time and money. The funding of \$100,000 would be taken out of the District Court Fund.

Paul Johnson, Assistant Attorney General, stated he is in support of the bill for all the reasons Randy Hood stated in her testimony. An adversarial system is only as good as the adversaries involved and what we run into frequently is low quality advocacy on the defense side.

John Conner, Montana County Attorney's Association, we support this bill for the same reason as the other proponents. It is always an advantage to the State to have a dependable Public Defenders System.

REP. WYATT stated that Dan Donovan, a Great Falls Attorney, called her and wanted her to express that he is a great supporter of HB #268.

Opponents Testimony: none**Questions From Committee Members:**

REP. TOOLE asked Ms. Hood if she could tell the committee where the funding for this office comes from? Ms. Hood said it comes out of the District Court Fund.

REP. BOHARSKI asked Ms. Hood how many hours of the Public Defenders time are being put in for the county. Ms. Hood said they have had 96 criminal appeals cases and 90 of them were given to the county public defenders.

Closing by Sponsor:

REP. MEASURE stated he felt the problems presented need to be addressed and generally is a money saving issue. I ask for your support of this bill.

HEARING ON HB #229
INCREASE PENALTY FOR DISORDERLY CONDUCT OFFENSES

Presentation and Opening Statement by Sponsor:

REP. FAGG, HOUSE DISTRICT 89, stated this bill increases the fine for the criminal offenses of disorderly conduct from \$100 to \$500.

Proponents' Testimony:

Pat Bradley, Montana Magistrates Association, gave written testimony in favor of HB #229. EXHIBIT 2

Gregory P. Mohr, Montana Magistrates Association, stated he supports this bill 100%. He felt this bill was somewhat of a catch all.

Opponents' Testimony: none

Questions From Committee Members:

REP. BOHARSKI asked REP. FAGG if it would make sense to add a section that allows the penalty only for repeat offenders? REP. FAGG said if the committee felt this would be something they would like to put in, then I am agreeable to that.

REP. BROOKE asked REP. FAGG if he would consider adding an amendment regarding community service as a penalty? REP. FAGG said yes.

REP. RUSSELL asked REP. FAGG if knew what class of people were these repeat offenders? REP. FAGG said they were middle class people.

Closing by Sponsor:

REP. FAGG stated the suggestions made by the committee were all agreeable with him and it was up to the committee to amend this they in which they saw best.

EXECUTIVE ACTION ON HB #228

Motion: REP. GOULD MOVED HB 228 DO PASS.

Motion: REP. TOOLE moved DO PASS amendments. EXHIBIT 1a.

Discussion:

REP. BOHARSKI asked to not include the amendments on line 16 and 17 in Rep. Toole's motion.

REP. TOOLE said he would amend his amendment to not include those lines.

REP. MEASURE stated that he is in favor of the amendment to line 19 and on line 20. The problem I have is the change on line 20 the full cost to reasonable necessary costs directly related to a hazardous material incident.

Motion: REP. MEASURE MADE A SUBSTITUTE MOTION to amend HB 228 to section 2 to say "recovery of costs, an emergency responder has the right to recover from the responsible party the full cost involved in a hazardous material incident".

Discussion

REP. TOOLE stated he would agree to Rep. Measure's amendment and withdraw his amendment.

John MacMaster recommended to insert "the emergency responder's full cost" after the word the.

REP. MEASURE stated throughout the last couple of weeks we have been dealing with public agencies. Whenever we come upon a problem like this we have always expected public agencies to respond in a reasonable prudent manner. Most of the responders with type of action are going to be dealing with the county agencies.

REP. RICE stated "involved in" is too open.

REP. MEASURE stated he would change his amendment to read "related to".

REP. MEASURE stated his full amendment would read "an emergency responder has the right to recover from the responsible party the full cost related to the emergency responder's full cost related to hazardous material incident".

Vote: Motion carried.

Motion: REP. TOOLE moved to amend HB 228 subsection 2, line 15, strike everything following line 16, all of line 17 and 18.

Discussion:

REP. BROOKE stated that she has a problem with changing "incident" to "episode" because the definition would have the same word.

REP. TOOLE stated that the changing of those to words is not substantive and he would leave it out of his amendment.

REP. MEASURE stated that he felt this area is where the committee gets into codifying this amendment.

REP. DARKO stated that she felt the committee needs to do something else with the definition.

Motion: REP. DARKO MADE A SUBSTITUTE MOTION to amend HB 228. She asked John MacMaster to explain the amendment.

Discussion:

John MacMaster stated that the amendment would be hazardous material incident would mean "an occasion involving hazardous substance as defined in 50-30-201 that endangers property, public health, or public safety".

REP. BROOKE stated that if the language of "public health or safety" remains, she is concerned the committee isn't covering incidents out in the wilderness where no human life is involved.

REP. DARKO stated that public health and safety, even out in the wilderness, is still a danger to someone who couldn't handle it. Public health and safety covers every spectrum that might be encountered.

REP. MEASURE stated that the committee should also define under circuli principles at 65-10- 602 in subsection 4a and following.

REP. DARKO stated she would add that into her amendment.

Vote: Motion carried.

Motion: REP. BROWN MOVED HB 228 DO PASS AS AMENDED.

Motion/Vote: REP. MEASURE moved to amend HB 228 by adding a codification and changing the title appropriately which will put the circuli in the correct place in the law. Motion carried.

Motion/Vote: REP. BROWN MOVED HB 228 DO PASS AS AMENDED.

Discussion: REP. BOHARSKI stated that the committee needs to address the private agency language.

REP. DARKO stated that there are many fire fighting services. In times of extreme need, there are many services that respond.

Motion: REP. BROWN moved to amend HB 228 on line 14 adding "an emergency responder is a public or private safety agency that provides service in an emergency situation" and some language that adds "and that is identified at the local emergency response plan."

Discussion:

REP. MEASURE stated that the amendment is unnecessary because the plan already works. People are not going to pay anybody that drives up and wants to help out. They should have the leeway

because of the danger of the incident to hire whoever they want. "I think that is important to leave in the bill the way that it stands."

REP. CLARK stated that he would prefer including "when requested by the public safety agency".

REP. RICE stated that he has never heard of a public safety agency. Most services that respond to an emergency incident are private agencies providing a public service.

REP. BROWN stated that he would withdraw his amendment and ask John MacMaster if he has a better solution.

John MacMaster suggested that on line 11 the committee take out "a public or private safety agency" and then add "emergency responder means a public safety agency, or private entity acting under a request from a government agency, including law enforcement etc. ect."

Motion/Vote: REP. BROWN moved to amend HB 228 with the wording by John MacMaster. Motion carried.

Motion/Vote: REP. BROWN MOVED HB 228 DO PASS AS AMENDED. Motion carried unanimously.

HEARING ON SB #35
REQUIRE COUNTY ATTORNEY TO SERVE AS LEGAL
ADVISER TO HOSPITAL DISTRICT

Presentation and Opening Statement by Sponsor:

SEN. WEEDING, SENATE DISTRICT 14, stated that this bill is a simple amendment to add to the duties of the county attorney that there be council for an elected hospital district board when requested and not be in conflict with that county attorney's primary responsibilities to the County Commissioner. Hospital districts were provided in law a few years ago and were the result of financial problems a lot of county hospitals were having. They were requiring subsidization and over a course of time were becoming a burden to the county budget. This concept was conceived and pass into the law. County districts were then allowed to levy. In the Senate hearing there was no opposition.

Proponents' Testimony:

Hershall Robbins, self, stated that he is in support of SB 35. The district board is set up by the people in the county. Most county attorneys already do this, but some of the attorney's thought this should be put in law so this would clarify the language.

Linda Stoll-Anderson, Lewis and Clark County Commission, stated that she supports SB 35.

Opponents' Testimony: none

Questions From Committee Members: none

Closing by Sponsor: none

EXECUTIVE ACTION ON SB 35

Motion/Vote: REP. STICKNEY MOVED SB 35 BE CONCURRED IN. Motion carried unanimously.

EXECUTIVE ACTION ON HB 229

Motion: REP. MESSMORE MOVED HB 229 DO PASS.

Motion: REP. BROOKE moved to amend HB 229 on page 2, line 10, and line 25, insert the language "in addition the court may sentence the person to serve an appropriate number of hours of community service to be served under the direction of a local government agency operating in the judicial district".

Discussion:

REP. GOULD stated that the courts already have this authority.

REP. CLARK stated that REP. GOULD is correct. This practice is already in use throughout the state.

REP. BROOKE WITHDREW HER AMENDMENT.

Motion: REP. RUSSELL MADE A SUBSTITUTE MOTION THAT HB 229 DO NOT PASS.

Motion: REP. CLARK moved to amend HB 229 by changing the penalty to 30 days on a second or subsequent offense.

Discussion:

REP. BROWN stated that if the committee tries to set this up on a tier affect on offenses, which is the affect of this motion, it is his belief that the committee is flying in the face of the right to free assembly or the right of free speech and are creating a most difficult circumstance.

Motion: REP. BOHARSKI MADE A SUBSTITUTION MOTION to amend HB 229 by striking the \$500 and return it to \$100 and on page 2, line 10 and 25, add "In addition, the court may order the person to attend and complete, a chemical information or treatment course

designated by the court and approved by the Department of Institutions."

Discussion:

REP. BROWN asked REP. BOHARSKI why he is assuming that all the offenses are alcohol related? REP. BOHARSKI stated that his amendment is an optional sentencing.

REP. MEASURE stated that the bill addresses what is needed to be addressed and adding your amendment just clouds the bill.

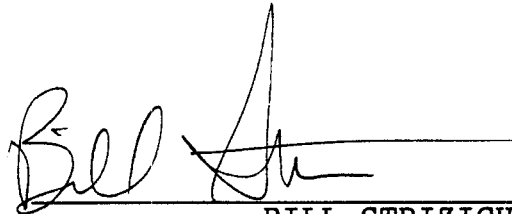
REP. BOHARSKI WITHDREW HIS MOTION TO AMEND HB 229.

Vote: (Rep. Clark's amendment) Motion failed. EXHIBIT 3

Motion/Vote: REP. BROWN MOVED HB 229 BE TABLED. Motion carried 12 to 8 with Rep's: Gould, Messmore, Strizich, Keller, Clark, Johnson, Boharski and Rice voting no.

ADJOURNMENT

Adjournment: 11:07



BILL STRIZICH, Chair



JEANNE DOMME, Secretary

BS/jmd

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE Jan. 25, 1991

NAME	PRESENT	ABSENT	EXCUSED
REP. VIVIAN BROOKE, VICE-CHAIR	/		
REP. ARLENE BECKER	/		
REP. WILLIAM BOHARSKI	/		
REP. DAVE BROWN	/		
REP. ROBERT CLARK	/		
REP. PAULA DARKO	/		
REP. BUDD GOULD	/		
REP. ROYAL JOHNSON	/		
REP. VERNON KELLER	/		
REP. THOMAS LEE	/		
REP. BRUCE MEASURE	/		
REP. CHARLOTTE MESSMORE	/		
REP. LINDA NELSON	/		
REP. JIM RICE	/		
REP. ANGELA RUSSELL	/		
REP. JESSICA STICKNEY	/		
REP. HOWARD TOOLE	/		
REP. TIM WHALEN			/
REP. DIANA WYATT	/		
REP. BILL STRIZICH, CHAIRMAN	/		

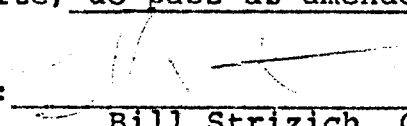
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1-28-91
TOD

HOUSE STANDING COMMITTEE REPORT

January 28, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Judiciary report that House Bill 228 (first reading copy -- white) do pass as amended .

Signed: 
Bill Strizich, Chairman

And, that such amendments read:

1. Title, line 6.
Strike: "INVOLVED IN RESPONDING"
Insert: "RELATED"
2. Page 1, line 11:
Strike: "or private"
3. Page 1, line 12.
Following: "agency"
Insert: "or a private entity acting under a request from, or
authority granted by a government agency"
4. Page 1, line 15.
Strike: "episode"
Insert: "occasion"
5. Page 1, line 16.
Following: "50-30-201"
Insert: "and 75-10-602"
6. Page 1, line 17.
Strike: "results" through "life"
Insert: "endangers property, public health, or public safety"
7. Page 1, line 18.
Following: "costs."
Insert: "(1)"
8. Page 1, lines 19 and 20.
Strike: "a cause" on line 19 through "against" on line 20
Insert: "recover from"

January 28, 1991
Page 2 of 2

9. Page 1, line 20.

Strike: "for"

Following: "the" and before "full"

Insert: "emergency responder's"

10. Page 1, lines 20 and 21.

Strike: "involved" on line 20 through "to" on line 21

Insert: "related to"

11. Page 1, line 22.

Following: line 21

Insert: "(2) The provisions of part 7 of this chapter apply to [section 1] and this section to the extent that they can be applied and to the extent that they do not conflict with the provisions of [section 1] and this section.

NEW SECTION. Section 3. {standard} Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 75, chapter 10, part 6, and the provisions of Title 75, chapter 10, part 6, apply to [sections 1 and 2]."

HOUSE STANDING COMMITTEE REPORT

January 25, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that
Senate Bill 35 (third reading copy -- blue) be concurred in .

Signed: _____
Bill Strizich, Chairman

Carried by: Rep. D. Brown

EXHIBIT 1
DATE 1-25-91
HB 228

WITNESS STATEMENT

NAME Lyle Nagel BILL NO. HB 228

ADDRESS Box 93 Simms Mt.

WHOM DO YOU REPRESENT? Mont. State Vol. Firefighters Assn

SUPPORT ☒ OPPOSE ☐ AMEND ☐

COMMENTS: I would suggest that the bill be amended by
removing "that results in widespread or severe damage
to property or life" from lines 16 + 17.

There may be an attempt to remove the word "private"
from line 11. This would present a problem for privately
owned ambulance services responding to an incident.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

EXHIBIT 1a
DATE 1-25-91
HB 228

Amendments to House Bill No. 228
First Reading Copy

Requested by Reps. Darko, Dave Brown, and Measure
For the Committee on the Judiciary

Prepared by John MacMaster
January 25, 1991

1. Title, line 6.
Strike: "INVOLVED IN RESPONDING"
Insert: "RELATED"
2. Page 1, line 11.
Strike: "or private"
3. Page 1, line 12.
Following: "agency"
Insert: "or a private entity acting under a request from or
authority granted by a government agency".
4. Page 1, line 15:
Strike: "episode"
Insert: "occasion"
5. Page 1, line 16.
Following: "50-30-201"
Insert: "and 75-10-602"
6. Page 1, line 17.
Strike: "results" through "life"
Insert: "endangers property, public health, or public safety"
7. Page 1, line 18.
Following: "costs."
Insert: "(1)"
8. Page 1, lines 19 and 20.
Strike: "a cause" on line 19 through "against" on line 20
Insert: "recover from"
9. Page 1, line 20.
Strike: "for"
Following: "the" and before "full"
Insert: "emergency responder's"
10. Page 1, lines 20 and 21.
Strike: "involved" on line 20 through "to" on line 21
Insert: "related to"
11. Page 1, line 22.

Following: line 21

Insert: "(2) The provisions of part 7 of this chapter apply to [section 1] and this section to the extent that they can be applied and to the extent that they do not conflict with the provisions of [section 1] and this section.

NEW SECTION. Section 3. {standard} Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 75, chapter 10, part 6, and the provisions of Title 75, chapter 10, part 6, apply to [sections 1 and 2]."

EXHIBIT 1b
DATE 1-28-91
HB 413 228

BROWNING, KALECZYC, BERRY & HOVEN, P.C.

ATTORNEYS AT LAW

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R. STEPHEN BROWNING
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LEO BERRY
J. DANIEL HOVEN
OLIVER H. GOE

KATHARINE S. DONNELLEY
CATHERINE A. LAUGHNER
JOHN H. MAYNARD
JON METROPOULOS
MARCIA D. MORTON
LEO S. WARD

January 28, 1991

Representative William S. Strizich
Chairman, House Judiciary Committee
Capitol Station
Helena, Montana 59620

Re: House Bill 228

Dear Chairman Strizich:

During the hearing on House Bill 228, the "emergency responders" bill, I raised the issue of where the bill should be codified if it were to pass. Representative Brown requested that I review the various environmental laws to see where the bill should be codified.

I have had the opportunity to review the Montana Hazardous Waste and Underground Storage Tank Act (Title 75, chapter 10, part 7, MCA), the Comprehensive Environmental Clean-Up and Responsibility Act (CECRA) (Title 75, chapter 10, part 7, MCA), and the Product Safety Act (Title 50, chapter 30, part 2, MCA). Based on a review of those acts, it appears that House Bill 228 should be codified in Title 75, chapter 10, part 7, MCA (CECRA). The codification in CECRA would make the state provisions similar to existing authorization found in the federal law, the Comprehensive Environmental Response, Clean-Up, and Liability Act (CERCLA). If the Committee agrees that CECRA is the proper place in which to incorporate the bill, the terminology used in the bill should be made consistent with the existing definitions and terminology in the CECRA.

Attached is a set of proposed amendments which include not only those I mentioned at the hearing, but also those that are necessary to make House Bill 228 compatible with CECRA. In addition, a codification section should be added placing the bill in Title 75, chapter 10, part 7, MCA.

I also agree with the comments made concerning lack of definition of "private safety agency" used in section 1 of the bill. That language should either be stricken or limited to specific emergency services like ambulances and firefighters.

Ex. 1b

1-25-91

HB 228

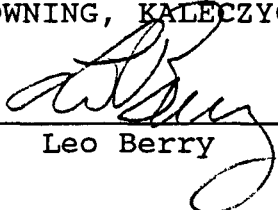
Representative William S. Strizich
January 28, 1991
Page Two

If you have any questions, please don't hesitate to contact me
and I will be glad to assist the Committee in any way possible.

Sincerely,

BROWNING, KALECZYC, BERRY & HOVEN, P.C.

By


Leo Berry

/jrh

Enclosure

cc: Judiciary Committee members

Ex. 1 b

1-25-91

HB 228

Proposed Amendments to HB 228
Prepared by Leo Berry
for Burlington Northern Railroad

1. Page 1, line 15, following "Hazardous" strike "material".
2. Page 1, line 15, following "means", strike "an episode" and insert "a release".
3. Page 1, line 16, following "involving", insert "a".
4. Page 1, line 16, following "hazardous", insert "or deleterious".
5. Page 1, line 16, following "substance" strike the remainder of line 16 and all of line 17.
6. Page 1, line 19, following "to", strike the remainder of line 19 through "against" on line 20 and insert "recover from".
7. Page 1, line 20, following "party", strike "for".
8. Page 1, line 20, following "the", strike "full" and insert "reasonable and necessary".
9. Page 1, line 20, following "costs", strike "involved in" and insert "directly related to".
10. Page 1, line 21, following "hazardous", strike the remainder of line 21 and insert "release".

Montana Magistrates Association

EXHIBIT 2
DATE 1-25-91
HB 229

January 25, 1991. Testimony on HB 229, an act to increase the possible penalty for the criminal offenses of disorderly conduct and failure of disorderly persons to disperse.

Testimony by Pat Bradley, representing the Montana Magistrates Assn.

Mr. Chairman and Committee Members:

The judges of the courts of limited jurisdiction support HB 229.

Disorderly conduct violations are not uncommon offenses in justice and city courts, and repeat offenders of this law are of concern to the judges.

The Justice of the Peace in Colstrip advises that she feels the present penalty of \$100 and 10 days possible jail time is not commensurate with the crime. She has had two people from her county in her court five times in the past year on disorderly conduct charges. She tells of another case of four sisters who have been arrested on disorderly several times in her ten years on the bench.

She and the judges feel that to work with repeat offenders, a six month possible jail sentence would give them time to consider alcohol counseling, if necessary, community serve, if appropriate, house arrest, and other rehabilitative alternatives to urge behavioral attitudes. These sentencing conditions could be imposed through suspended or deferred imposition of jail time and six months or less would be a workable time period.

Therefore, we ask that you pass this legislation, and offer for your consideration an amendment to make the penalty the standard misdemeanor penalty of \$500 and six months.

Our proposed amendment would on page 2, Sec. 1(2), line 10 delete "10 days" and insert "six months"; and on page 2 Sec. 2(2), line 24, delete "10 days" and insert "six months".

If, in your deliberation, you consider six months inappropriate, any jail time in excess of 10 days would help the courts accomplish behavioral goals in sentencing.

Thank you.



EXHIBIT 3
DATE 1-25-91
HB 229

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 1-25-91 BILL NO. HB#229 NUMBER

MOTION: Amendment by Rep. Clark

NAME AYE NO

REP. VIVIAN BROOKE, VICE-CHAIR		/
REP. ARLENE BECKER		/
REP. WILLIAM BOHARSKI	/	
REP. DAVE BROWN		/
REP. ROBERT CLARK	/	
REP. PAULA DARKO		/
REP. BUDD GOULD	/	
REP. ROYAL JOHNSON	/	
REP. VERNON KELLER	/	
REP. THOMAS LEE		/
REP. BRUCE MEASURE		/
REP. CHARLOTTE MESSMORE		/
REP. LINDA NELSON		/
REP. JIM RICE	/	
REP. ANGELA RUSSELL		/
REP. JESSICA STICKNEY		/
REP. HOWARD TOOLE	/	
REP. TIM WHALEN		
REP. DIANA WYATT		/
REP. BILL STRIZICH, CHAIRMAN	/	
TOTAL	8	11

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Judiciary

COMMITTEE

BILL NO.

HB# 228

DATE 1-25-91

SPONSOR(S) Rep. Larson

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
DALE Anderson	Jefferson Co.	✓ Amend	
Henry E Lohr	MT State Firefighters Assn	X	
Bruce Swenson	Missoula Rural Fire Dist	✓ Amend	
Lyle Nagel	MT. St. Vol Firefighter Assn	✓	
JAMES A LOFFTUS	MT FIRE DIST ASSN	✓	
Leo Berry	BWRR	✓ Amend	
Tim Bergstrom	MT. ST. COUNCIL OF FIRE FIGHTERS	✓ Amend	
DUANE LARSON	MT ST FIRE CHIEFS.	✓ Amend	
John F. Patrick	Pegasus Golf Assoc	✓ Amend	
Bill Fleiner	Mont Sherriff's & Peace Off Ass	✓	
DOUGLAS RAUTHE	MAYOR KALISPELL	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Judiciary

COMMITTEE

BILL NO. HB#268

DATE 1-25-91

SPONSOR(S)

Rep. Measure

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<u>Paul D Johnson</u>	<u>St Bar - Public Defender Committee</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>John Connor</u>	<u>Attorney General</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Gordon Martin</u>	<u>MT COUNTY ATTYS ASSN</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<u>MACO</u>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Judiciary COMMITTEE BILL NO. HB#289
DATE 1-25-91 SPONSOR(S) Rep Jagg
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
PAT BRADLEY	MT. MAGISTRATES ASSO	X	
TOM EGGER	DEPT HEALTH AND ENV'TAL SCIENCE	AMEND X	
Carey P. Mohr	MT Magistrates Assoc	X	
Cent Harrington 522 N. Dave Helena, MT.	Self		X

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House Judiciary

DATE 1-25-91 SPON

BILL NO.

5B #35

DATE _____

1-25-91

SPONSOR(S)

Ser. Weeding

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[illegible]

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