

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bill Strizich, on January 28, 1991,
at 9:06 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)
Tim Whalen (D)
Diana Wyatt (D)

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 #307 CHANGE FILING TIME FOR CRIME VICTIM COMPENSATION FOR SEX OFFENSES TO MINORS

Presentation and Opening Statement by Sponsor:

REP. QUILICI, HOUSE DISTRICT 71, stated the bill is asking that the timing be extended to accept crime victim compensation in cases of sexual offenses against minors. This bill will clarify that sexual offenses against minors do not have to be reported within 72 hours. The reason for this is because in some cases

the minor might not report it to a parent or an adult they trust and this gives them a chance to extend that time to make sure, if there is such an offense, they can come under the victims compensation program. The bill was drafted with a mistake and there are some amendments that will make the bill do as we are asking it to do. EXHIBIT 1

Proponents' Testimony:

Ed Hall, Montana Board of Crime Commission, stated the victims issues are growing across the forefront in Montana. Within the last fiscal year, 89-90, there has been a 25% increase in claims filed, 45% increase in claims filed by women, 49% increase in files claimed for females under the age of 18. A large portion of victims are females that are sexually abused. Children who are abused tend to become abusers in the future.

Cheryl Bryant, Crime Victim Unit, gave written testimony in favor of HB #307. EXHIBIT 2

Mike McGrath, Montana County Attorney's Association, stated what has happened over the past few years, we have a number of victims of sexual assault who are minors and do not report sexual assault immediate. They may feel guilty, ashamed, or the offender has threatened the victim to not say anything and they are very frightened. They are sometimes not report for months or years. The child needs to find someone they can trust and confide in. The victims need treatment in most cases. Sexual crimes are often caused by people who were sexual victims themselves at one time in their lives. If they would have received counseling for the abuse when they were young, they may have been able to deal with it when they became an adult. This bill has been designed to correct the problems that victims of sexual abuse have and to assist the staff at the Board of Crime Control so they don't have to be in a situation of knowing when they can or cannot award compensation to these victims.

Opponents' Testimony: none

Questions From Committee Members:

REP. MEASURE asked Ms. Bryant if she could explain to him the issue we are addressing with this bill? He doesn't see a problem with the bill as it is, because the adult can tell the board that the child was abused when he was a minor. The 72 hour clause is all that is needed here. Ms. Bryant said only the cases of a sexually abused child does not have to provide good cause when reporting. Sometimes, it is the people we are dealing with. They don't have a lot of drive and do not initiate reporting the incident. By the time the County Attorney has been informed, is well past the 72 hour deadline.

REP. BROOKE asked Mike McGrath with the extension of the statute of limitations passed last session, could you tell us how it will

relate to crime victims being compensated. Mr. McGrath said "It will work together like hand-in-glove."

REP. TOOLE asked Mr. McGrath if it would be possible to tie the problem of a child in a situation of being a step-child and the mother not wanting to report because it will cause problems for her and the step-father with a clause saying a minor could report the incident up to one year after their 18th birthday. Mr. McGrath said "sure."

Closing by Sponsor:

REP. QUILICI, stated when they first introduced the bill, the number one factor was innocent victim of crime. A minor in almost every case is an innocent victim of crime, when talking about adults, sometimes that adult could be a victim but also a perpetrator. In that case, the person would not be an innocent victim of crime. This is why we want to differentiate between those two and let it be known that sexual offenses against minors are covered under this act and given time to file their claim for restitution.

HEARING ON HB #379
GOOD TIME CREDIT FOR PAROLEES

Presentation and Opening Statement by Sponsor:

REP. BROOKE, HOUSE DISTRICT 56, this bill is an act providing for good time credit for persons on parole. This bill was recommended to the Governor by the Criminal Justice and Corrections Advisory Council. The council was composed of Legislators and people in law enforcement from around Montana. HB #379 represents an amendment to title 53, chapter 30, section 105 of the Montana Codes Annotated. This particular chapter addresses good time for adult felons. Good time means credit an inmate would have on his or her sentence that was imposed by the courts. These credits can add up and do reduce a persons prison sentence. Inmates earn credit by maintaining a incident free security record, by enrolling in prison education programs and by participating in self-improvement programs sponsored by the correctional facilities. At the present time, a person may not earn good time while he or she is on parole or probation. HB #379 is an effort to expand this good time system into the area of parole.

Proponents' Testimony:

REP. KASTEN, HOUSE DISTRICT 28, stated we realize that we cannot build ourselves out of the overcrowding in prisons. This bill address this problem. If we can influence the prisoners to go about getting their paroles earlier it will have a positive effect on the overcrowding problem.

Dan Russell, Administrator, Division of Corrections, stated good time is a system for reducing prison sentences of the Montana Prison Inmates for maintaining an incident free security record and enrolling in prison educational programs, and for participating in self-improvement programs sponsored by the correction facility. It is our belief, in the Corrections Division, that similar awards should be granted for individuals who are paroled from the prison center. Paroles that comply with their conditions of parole by having to maintain a crime free lifestyle and they have to fill requirements in employment training through self-improvement programs, they should be awarded good time. This bill will help reduce a number of paroles under supervision and the workload would be less to maintain supervision of parolees.

Opponents' Testimony: none

Questions From Committee Members:

REP. BROWN asked Mr. Russell how many parole and probation officers do you have and what is their average case load? Mr. Russell said there are 43 parole officers and have a case load of 85 per person and a workload that is even more important and that is the things they have to do in addition to supervision; such as, investigations. REP. BROWN asked Mr. Russell why shouldn't this also apply to probation as well as parole? Mr. Russell said probationers are under the jurisdiction of the court and not under the state. Many courts do not want good time given to probationers because they want them to serve the amount of time they have been given under probation.

REP. TOOLE asked Mr. Russell what is the effect of Good Time Parole on a person who has served a quarter of their time? Mr. Russell said if they served a fourth of their sentence, less good time, usually they have served one fifth of their sentence. On a ten year sentence they would probably have served 2 years.

REP. RICE asked Mr. Russell if this would mean a recalculation of the sentence for all those who have not had this in the past? Mr. Russell said it his understanding, it would be from this point on. All people on parole or going on parole would be effected by this bill as soon as it goes into effect.

REP. TOOLE stated Section 2 contradicts what Mr. Russell has been saying. The bill says that it applies to person paroled on or after the bill goes into effect. So, it wouldn't apply to people already on parole. There must be an error in the bill.

Mr. Russell said he felt it was an error in the bill and it does include people already on parole not just the people going on parole.

Closing by Sponsor:

REP. BROOKE stated HB #379 will have many positive effects. Parole good time should prove to have positive programmatic and financial impact on the correction system without jeopardizing the safety of the general public.

HEARING ON SB #33
CODE COMMISSIONER BILL

Presentation and Opening Statement by Sponsor:

SEN. GAGE, SENATE DISTRICT 5, stated this bill was requested by the code commissioner for the legislative council. It contains areas that the code commissioner has found during his interim where there has been erroneous records, sections or areas of law that are no longer in effect.

Proponents' Testimony:

Greg Petech, Code Commissioner, stated during the interim the Legislative Council came across errors in the codes that don't carry any particular substantive and make a record of that. I then draft this proposed bill and send the sections that effect the agencies to the agency affected and I require them to respond in writing saying this is the proper change that needs to be made. Every provision in the bill has been proved by impacting agency and if there is no impacting agency I submit each section to the affective organization.

Opponents' Testimony: noneQuestions From Committee Members:

REP. RICE asked Mr. Petech, on Section 5 page 7 of the bill, I am wondering if the language that we now read in the law is somewhat awkward on the section dealing with juries in justice court. Is this they way you wanted it to read? Mr. Petech said yes it is.

REP. RICE asked Mr. Petech on section 10 page 11, why are we changing that from 10,000 to 500,000. Mr. Petech said if you look at the explanation on the green sheets. There are some conflicting borrow limits being placed in the outward counties. This conforms to borrow limit to a limit contained in another section of the code. For some reason, there are two provisions in place that deal with borrow limits in counties. I am assuming that the greater one is always in control and we are getting rid of the conflict.

Closing by Sponsor: none

EXECUTIVE ACTION ON HB #307

Motion: REP.BROWN MOVED HB 307 DO PASS.

Motion/Vote: REP. BROWN moved to amend HB 307 EXHIBIT 1
Motion carried.

Discussion:

REP. GOULD asked REP. TOOLE if he was going to put an amendment in regarding the step-child or the child that doesn't report the incident until the age of 18. REP. TOOLE said he would like to add something to the bill that would refer to those minors that do not report the crime until they are 18 and moved away from home or whatever. If it were the committees wish I could work on it another day.

REP. BROWN said Rep. Toole stated part of the problem was people don't get to the point where they can feel comfortable about talking about it until they emancipated, yet we are talking about changing it to the age of 18, aren't those one in the same dates?

REP. TOOLE said yes, but speaking in a situation where the law enforcement is brought in to initiate a proceeding against a perpetrator, yet the child victim is unable to proceed to seek compensation because the mother is unwilling to go against the step-father. In this circumstance, this would deny the child's capability.

John MacMaster, said to do what Rep. Toole wants to do, you can go to page 1, line 22, and insert after the word services, "or within 1 year after the day the victim reaches 18 years of age, whichever occurs last".

Motion: REP. TOOLE moved to amend HB 307 with the amendment stated by John MacMaster.

Discussion:

REP. BROOKE stated the amendment does not go far enough in light of what we did in the statutes of limitations last session. The statutes of limitations goes farther than 1 year after 18 for prosecution. I think it should go hand in hand to what they receive for victims compensation.

REP. BROWN stated in part you have to remember that the victim compensation fund does go dry. We are opening it up substantially to those people who should have access now. We are not cutting off the people who find later in their adult life to file a victims claim.

REP. RICE stated this was not a problem that the proponents pointed out in their testimony. I feel we should not mess with it and leave it as it is.

Vote: Motion carried 16 to 4 with Rep's: Rice, Nelson, Johnson, and Brooke voting no.

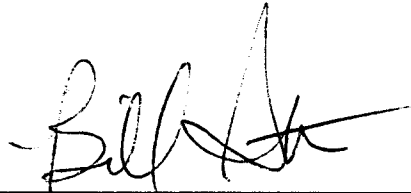
Motion/Vote: REP. BROWN MOVED HB 307 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON SB #33

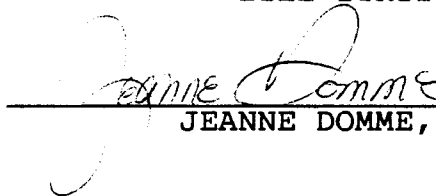
Motion/Vote: REP. BROWN MOVED SB 33 DO BE CONCURRED IN. Motion carried unanimously.

ADJOURNMENT

Adjournment: 10:20 a.m.



BILL STRIZICH, Chair



JEANNE DOMME, Secretary

BS/jmd

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE Jan. 28, 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	/		

1.70
1-28-91
JDB

HOUSE STANDING COMMITTEE REPORT

January 28, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that House Bill 307 (first reading copy -- white) do pass as amended.

Signed: [Signature]
Bill Strizich, Chairman

And, that such amendments read:

1. Page 1, line 22.
Following: "services"
Insert: ", or within 1 year after the day the victim reaches 18 years of age, whichever occurs last"
2. Page 2, lines 10 and 11.
Following: "officer." on line 10
Strike: the remainder of line 10 through "the" on line 11
Insert: "The"
3. Page 2, line 12.
Following: "or"
Strike: "unless"
Insert: ", except in a case involving a sexual offense against a minor or when"

1-28-91
JDB

HOUSE STANDING COMMITTEE REPORT

January 28, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that
Senate Bill 33 (third reading copy -- blue) be concurred in .

Signed: 
Bill Strizich, Chairman

Carried by: Rep.

Amendments to House Bill No. 307
First Reading Copy

Requested by Quilici
For the Committee on Judiciary

Prepared by Bart Campbell
January 23, 1991

1. Page 2, lines 10 and 11.

Following: "officer." on line 10

Strike: the remainder of line 10 through "the" on line 11

Insert: "The"

2. Page 2, line 12.

Following: "~~or~~"

Strike: "unless"

Insert: ", except in a case involving a sexual offense against a
minor or when"

Exhibit 2
1-28-91

HB307 TESTIMONY

EXHIBIT 2
DATE 1-28-91
HB 301

Cheryl Bryant
Crime Victims Unit

The Crime Victims Compensation Act has two time limits. The first limit is a requirement to report the crime to law enforcement within 72 hours or have good cause why it was not reported. The second time limit is a requirement to file the claim within one year of the crime or have good cause why not.

In the early 80's we began to receive claims where the victim was a sexually abused minor. These children usually did not tell anyone about the crime for a time, in some cases, a considerable amount of time. We used the good cause provision to automatically extend the time limit. The time limit began to run when the claimant, who is always an adult, learned of the crime. The claimant was requested to provide good cause if the adult claimant did not report to law enforcement within 72 hours. Two requests were sent. In many cases, the adult claimant simply did not respond, did not provide any reason at all to extend the time.

The one year filing limit worked the same way. The time was automatically extended to the date the claimant learned of the crime. The adult claimant was asked to provide good cause why the claim was not filed within one year of when the adult claimant learned of the crime.

EX. 2

1-28-91

HB 307

There have been 1,295 claims filed for minor victims since the beginning of the program in January, 1978. While not all of these are sexually abused children, the majority are. Only one claim has been denied because there was no report at all to law enforcement. Thirty-nine claims were denied because the report was late and the adult claimant did not provide good cause to extend the time limit.

While we have the authority to extend both time limits, we do not have the authority to ignore the law and award benefits when no good cause has been provided. Changing the law would allow an award of benefits in these cases.

Σx. 2

1-28-91

HB 307

Claims filed since 1/1/78

minor victims	1,295
adult victims	<u>2,249</u>
	3,544

Claims denied for no report to law enforcement

minor victims	1
adult victims	<u>24</u>
	25

Claims denied for late report to law enforcement-no good cause provided by adult claimant to extend the time

minor victims	39
adult victims	<u>16</u>
	55

Claims denied for not filing within one year-no good cause provided by adult claimant to extend the time

minor victims	29
adult victims	<u>12</u>
	41

Claims filed FY 78 (six months)	16	\$2,643
Claims filed FY 79	93	\$84,720
Claims filed FY 90	434	\$343,390
secondary	<u>56</u>	
	490	
Claims filed FY 91 (1/24/91)	239	\$258,282

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Judiciary COMMITTEE BILL NO. HB #307
DATE 1-28-91 SPONSOR(S) Rep. Quilici
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Mike McGrath	MT CIVIL RIGHTS	X	
Ed Hall	MBCC	X	
Cheryl Bryant	Crime Victim Unit	X	

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#379

DATE 1-28-91

SPONSOR(S) Rep. Brooke

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Betty Lou Kasten	HD#28	X	
Don Russell		X	

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

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

VISITOR'S REGISTER

House Judiciary COMMITTEE BILL NO. SB# 33

DATE Jan. 28 SPONSOR(S) ~~Sen. Gage~~ Sen. Gage

PLEASE PRINT PLEASE PRINT PLEASE PRINT

[illegible]

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