

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bill Strizich, on March 6, 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 SB 204 ALTERNATIVE SENTENCING FOR DANGEROUS DRUG OFFENSES

Presentation and Opening Statement by Sponsor:

SEN. GAGE, SENATE DISTRICT 5, stated that this bill relates to alternative sentencing for people who are convicted of dangerous drug offenses.

Proponents' Testimony:

John Connor, Board of Crime Control - Drug Strategy Committee, stated that this bill is a result of study effort by the Drug Strategy Committee. He stated that the committee supports this kind of legislation because it is necessary to address the kinds of concerns regarding problems with addiction. This bill offers some alternatives for the court's consideration in cases that may be appropriate. There are provisions in the bill that make it mandatory that certain things be carried out. Mr. Connor stated that there are some amendments to the bill that were put on in the Senate. The amendments were suggested by the Drug Strategy Committee when the bill was heard in the Senate. The bill, in general, allows that fines can be considered as independent punishment and available where no fine is now provided by statute. This bill is needed and will not cause much expense on the local level or to the state. The Drug Strategy Committee encourages a do pass consideration.

Ed Hall, Administrator - Montana Board of Crime Control, stated that the Drug Strategy Task Force is a 15 member committee that represents drug treatment, prosecutors, law enforcement, at local and state levels. It is chaired by Flathead County Attorney, Ted Lympus. The Task Force is designed to implement for Montana, the Montana version of the nations Drug Strategy, put together by the Bush Administration. SB 204 is designed as a tool to help the Judiciary build some additional flexibility in our sentencing alternatives. He stated that these tools include electronic monitoring, home detention, community service, and intensive supervision. The concept is to recognize that the emphasis of the war of drugs is placing on enforcement and apprehension has an impact on the correction system. The prisons are already over crowded and this will provide an alternative for the courts.

Dan Russell, Administrator - Division of Corrections, stated that this bill is consistent with the direction the Division is heading in the effort to help prison overcrowding. SB 204 provides for alternative sentencing for some offenses currently requiring a mandatory minimum sentence and incarceration and legitimizes, in statute, the current program of intensive supervision. Community service programs are encouraged as a viable sentence. The Division of Corrections urges the committee's support of SB 204.

Harley Warner, Montana Association of Churches, gave written testimony in favor of SB 204. EXHIBIT 1

Michael Sherwood, Montana Trial Lawyers Association, stated that this bill allows the courts to do what they are already doing. Mr. Sherwood said, "If the state feels that they need this law for purposes of legitimizing the program or qualifying for Federal funds then we don't have a problem with it." Mr. Sherwood stated that on page 5 there is immunity language that protects the public but will still allow immunity from a suit.

Opponents' Testimony: none

Questions From Committee Members:

REP. MESSMORE asked John Connor who pays for the treatment in the community centers? Mr. Connor stated that if the defendant had the means to pay, the court would make him pay it. If the defendant did not have the money, the state would then pay.

REP. MEASURE asked Michael Sherwood if he would address any type of relationship between 2b on page 2 and the immunity from liability? Mr. Sherwood that his reading of the bill seemed that this language applied only to the community services that are set forth in 2C, 2D. He felt it would not apply to 2B.

REP. TOOLE asked John Connor if is there another immunity provision for other defendants who are under supervision? Mr. Connor stated that there is only one that he is aware of. REP. TOOLE asked if this is a first in a series of immunity bills that grant immunity for inmates? Mr. Connor stated that the County attorney's did not feel that was true. REP. TOOLE asked how was it justified to single out those particular types of people for immunity? Mr. Connor stated that the Association was only looking at this from the Drug Strategy view.

Closing by Sponsor: none

HEARING ON HB 934
JUDICIAL DISTRICT ALIGNMENT STUDY

Presentation and Opening Statement by Sponsor:

REP. THOMAS, HOUSE DISTRICT 62, stated that the state currently has 36 District Judges. He feels there is a strong need to create this Judicial provision. The bill sets up a Judicial District Study Commission and authorizes funding for a new judicial district judge. He handed the committee a report that showed the caseloads of the current Judicial Districts. EXHIBIT 2 He also submitted a letter from Robert Sullivan, President of the Montana Bar Association supporting the need for more Judicial District Judges. EXHIBIT 3

Proponents' Testimony:

Jerry Allen, Ravalli County Commissioner, stated that there are several proponents from Ravalli County and the County is in full support of the bill. He stated that the size of Ravalli County is growing and the County feels it is time for a new judicial district.

Steve Powell, Ravalli County Commissioner, stated that this bill is very important to his constituents in Ravalli County. "Our

access to courts is very extreme because we share one with Missoula County." He stated that there are considerable delays in the Judicial process in criminal cases and juvenile proceedings. He felt the decision to have a District Court based in Ravalli county was difficult due to the financial aspect the county has to face, but the county came together in full support of this bill in spite of the financial impact.

Allen Horsfall Jr., Ravalli County Commissioner, stated that there is a unification from all regarding HB 934. He feels there will be a cost to the state and county but it will create a more effective system and provide long term cost savings.

Gye Corn, Ravalli County Attorney, stated that there are four City Judges in Missoula and they all sit in Missoula because it is a huge county. "Our mental commitments have to be taken to Missoula and that costs around \$1,000 per day." He feels that although a district judge in Ravalli County will cost the county and state money, it will be a huge cost saving move in the long range.

Dave Demmons, Youth Court Probation, stated that Ravalli County needs to take care of the youth in their own county without having to drive to Missoula County only on certain days of the week. "I urge the committee to give this bill a do pass."

Jay Printz, Ravalli County Sheriff, stated that the all the budgets that are impacted negatively, in regards to not having a District Court Judge, he felt that his is the most impacted. He stated that it will create numerous problems for him in the area of prisoners. Prisoners spend an inordinate amount of time in the Ravalli County Jail waiting to go to court in Missoula. "I urge you to support this bill. We need to gain a District Court Judge of our own."

Sharon Ellis, Vice President, Bitterroot Chamber of Commerce, stated that she wanted to make the message clear that everyone is in agreement with this bill. There are no opponents in Ravalli County. A District Court Judge is not only cost effective, there is a legitimate need for one. Ravalli County is a definite growth area. She again stated that there is no controversy over this issue, there is a need and it is cost effective. "Please support this bill."

Opponents' Testimony: none

Questions From Committee Members: none

Closing by Sponsor:

REP. THOMAS stated that the need for a District Judge in Ravalli County has been well demonstrated. "We would ask for your favorable recommendation on this bill."

HEARING ON SB 196

CONFINEMENT OF INMATES WHEN INSTITUTION'S CAPACITY EXCEEDED

Presentation and Opening Statement by Sponsor:

SEN. BECK, SENATE DISTRICT 24, stated that this bill will allow the Department of Institution Correction Division to put a cap on the population of the Montana State Prison. He stated that this bill is asking that the Department of Institutions be allowed to put an emergency cap on the population of the Montana State Prison and assume the responsibility of the prisoners as soon as they are wards of the state. This bill will give the state the opportunity to incarcerate them in county jails until they can be moved to the state prison. He explained an amendment that was put on in the Senate that guarantees medical costs the state is required to pay under the legislation.

Proponents' Testimony:

REP. THOFT, HOUSE DISTRICT 3, stated that this bill is a piece of flexibility that is going to have to be built into the system in order to take care of the inmates being generated in our state. "I strongly support this bill because it gives administration of the prison the ability to try and keep things under control."

Dan Russell, Administrator - Divisions of Corrections, stated that this bill was introduced and requested by the Department of Institutions. He stated that the Women's Correction Center was designed to hold 45 inmates and that facility is beyond its capacity, currently holding over 60 inmates. The Department and the Legislature have been unable to avoid the overcrowding of these facilities. "We have to have a mechanism to control prison overcrowding at levels that will provide for a more safe environment for staff and inmates. We have to be able to cap our prison population until such time as additional facilities can be considered. I urge the committees support of SB 196."

Ted Lymus, Flathead County Attorney, gave written testimony in favor of SB 196. **EXHIBIT 4**

REP. KASTEN, HOUSE DISTRICT 28, stated that she supports SB 196 and ask people to realize the state of Montana will never build itself out of the need to expand our prison. She stated that the Legislature has to look at all the bills before them and SB 196 is a major one asking for the power to put a cap on prison population. "I urge your passage of this bill."

Ed Hall, Administrator - Montana Board of Crime Control, stated that this bill is a common sense improvement to help whittle away at a dangerous problem of prison overcrowding.

Jay Printz, Montana Sheriff's and Police Officer's Association, stated that the Association is in favor of SB 196.

Opponents' Testimony: none

Questions From Committee Members:

REP. BOHARSKI asked Dan Russell if maybe the cap should be for the maximum security section of the prison? Mr. Russell said that if that was done it wouldn't make much of an impact on the overcrowding problem in the prison.

Closing by Sponsor:

SEN. BECK stated that he hopes the committee can see the importance of this bill and give it a do concur.

EXECUTIVE ACTION ON SB 196

Motion: REP. BROWN MOVED SB 196 BE CONCURRED IN.

Discussion: REP. WYATT stated that she cannot support this bill because the jail in Cascade County is in poor shape and overcrowded at this time and if a cap is put on the prisons it can only get worse.

REP. BROOKE stated that she opposes the bill for the same reasons.

REP. MEASURE said that he also opposes the bill.

REP. RICE stated that in the event that the emergency state is reached in the prison and the counties are filled up also, the Corrections Division has the obligation of placing these people in another jurisdiction. It wouldn't necessarily mean they would be placing these people in the county jails.

REP. JOHNSON stated that this bill is optional. The state has to have an option when the prisons are so overcrowded. The Department of Institutions wants this to pass and he feels the committee should pass the bill.

Motion: REP. BOHARSKI moved to amend SB 196 on page 2, line 9 after the word "rate" put in "mutually" and on page 10, strike "department".

Discussion:

REP. BROWN stated that he will vote for the amendment and the bill but the committee will never see the bill again if it returns to the Senate as amended.

Vote: Motion carried 16 to 4 with Rep's: Measure, Johnson, Keller, and Gould voting no.

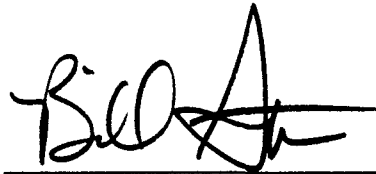
Motion: REP. BROWN MOVED SB 196 BE CONCURRED IN AS AMENDED.

Motion/Vote: REP. MEASURE MOVED SB 196 BE TABLED. Motion failed 3 to 17 with Rep's: Strizich, Wyatt and Measure voting yes.

Vote: Motion carried 15 to 5 with Rep's: Wyatt, Strizich, Russell, Brown and Measure voting no.

ADJOURNMENT

Adjournment: 11:07 a.m.



BILL STRIZICH, Chair



JEANNE DOMME, Secretary

BS/jmd

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE 3-6-91

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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JDB

HOUSE STANDING COMMITTEE REPORT

March 7, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 196 (third reading copy -- blue) be concurred in as amended .

Signed: 

Bill Strizich, Chairman

And, that such amendments read:

carried by: THOFT

1. Page 2, line 9.

Strike: "mutually"

2. Page 2, line 10.

Strike: "department and the"



EXHIBIT 1
DATE 3-6-91
SB 204

MONTANA RELIGIOUS LEGISLATIVE COALITION • P.O. Box 745 • Helena, MT 59624

PHONE: (406) 442-5761

Date Submitted: March 6, 1991

WORKING TOGETHER:

Bill Number: SB 204

American Baptist Churches
of the Northwest

Submitted by: Harley E. Warner

Christian Churches
of Montana
(Disciples of Christ)

Chair, members of the committee, for the record I am Harley Warner. I am here representing the Montana Association of Churches.

Episcopal Church
Diocese of Montana

We feel that no offender should be subjected to more custody and security than he or she needs. We agree that the majority of drug offenders do not pose a substantial threat to society, and can be effectively dealt with in the community.

Evangelical Lutheran
Church in America
Montana Synod

Community based drug treatment and drug education programs and "intensive probation" should help the offender to remain drug free.

Presbyterian Church (U. S. A.)
Glacier Presbytery

Senate Bill 204 addresses some of our corrections concerns, therefore we rise in support of Senate Bill 204.

Presbyterian Church (U. S. A.)
Yellowstone Presbytery

Roman Catholic Diocese
of Great Falls - Billings

Roman Catholic Diocese
of Helena

United Church
of Christ
Mt.-N. Wyo. Cont.

United Methodist Church
Yellowstone Conference

EXHIBIT 2
DATE 3-6-91
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CASELOAD IN 4th JUDICIAL DISTRICT WITHOUT RAVALLI COUNTY FILINGS

CRIMINAL FILINGS	CIVIL FILINGS	DOMESTIC RELATIONS	ADOPTIONS	SANITY	JUVENILE	PROBATE
616	1283	847	67	52	154	286

-Proportionately, the four judges in the Fourth Judicial District would still have equal to or greater case load than the judges referred to in the sheet on "Statistics on Selected Judicial District".

-These figures were compiled by subtracting the figures supplied by Jane Hayden, the Data Control Clerk for the Montana Supreme Court, from the 1990 judicial report entitled "Montana Courts" prepared by the Court Administrator for the Montana Supreme Court.

STATISTICS ON SELECTED JUDICIAL DISTRICTS *

District and County	Population 1990	Criminal Filings 1990	Civil Filings 1990	Domestic Relations 1990	Adoption 1990	Sanity 1990	Juvenile 1990	Probate 1990	Number of Judges
PROPOSED 21st Judicial Dist. Ravalli County	25,004 **	101	302	144	30	8	53	66	None at Present 1 Proposed
3rd Judicial Dist. Deer Lodge, Granite and Powell Counties	19,326	101	314	150	7	108	76	125	One
5th Judicial Dist. Beaverhead, Jefferson and Madison Counties	22,338	124	268	110	20	15	69	122	One
6th Judicial Dist. Park and Sweetgrass Counties	17,609	44	226	151	9	11	43	80	One
12th Judicial Dist. Chouteau, Hill and Liberty Counties	25,305	77	301	151	29	5	45	143	One
19th Judicial Dist. Lincoln County	17,454	135	247	136	20	7	44	63	One

The 7th, 10th, 14th and 15th Judicial Districts also have less population and less case load than Proposed Judicial District 21. Each of these Districts has its own Judge.

* These figures, except the Ravalli County figures, were taken from the 1990 judicial report entitled "Montana Courts" prepared by the Court Administrator for the Montana Supreme Court. The Ravalli County figures were supplied by Jane Hayden, the Data Control Clerk for the Montana Supreme Court.

** 1990 U.S. Census figure supplied by the Ravalli County Clerk and Recorder's Office.

3-6-91

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EX 2
3-6-91
HB 934

TABLE A
JUDICIAL DISTRICT COURTS
COMPARISON OF STATE AVERAGE TO DISTRICTS
FISCAL YEAR 1989-90

JUDICIAL DISTRICT COUNTY	NUMBER OF JUDGES	TOTAL DISTRICT COURT COSTS FY '90 *	TOTAL CASES FILED**	STATE AVERAGE		DISTRICT		STATE AVERAGE		DISTRICT		PERCENT DIFFERENCE FROM AVERAGE
				POPULATION	FOR JUDGES IN DISTRICT(1)	ABOVE (BELOW) AVERAGE	PERCENT DIFFERENCE FROM AVERAGE	CASES FOR JUDGES IN DISTRICT(2)	ABOVE (BELOW) AVERAGE			
20 LAKE SANDERS		21,100	\$366,446.86	686								
		8,600	\$105,933.31	270								

Total	1	29,700	\$472,380.17	956	22,356	7,344	33%	748	208	28%		
STATE TOTAL	36	804,800	\$12,820,007.01	26,925	804,800	0	0%	26,925	0	0%		

*Total FY 90 District Court expenditures from all county funds as reported by County Clerk & Records

**Total cases filed according to Caseload Statistics Report, Annual Report 1990 converted to Fiscal Year. Obtained from Judicial Branch

Population according to Local Population Estimates (1988 Population) U.S. Bureau of Census. Obtained from Dept. of Commerce Census and Economic Information Center.

(1) State average population per district judge of 22,356 (total state population divided by 36 judges) multiplied by number of judges in district

(2) State average cases per district judge of 748 (total state cases divided by 36 judges) multiplied by number of judges in district

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16 CUSTER		12,700	\$225,071.60	439						
ROSEBUD		12,200	\$178,638.09	252						
FALLON		3,300	\$60,386.22	100						
POWDER RIVER		2,200	\$55,521.85	64						
CARTER		1,600	\$34,979.94	31						
GARFIELD		1,600	\$24,811.24	23						
TREASURE		900	\$13,011.49	22						
		*****	*****	*****						
Total	2	34,500	\$592,420.43	931	44,711	(10,211)	-23%	1,496	(565)	-38%
17 VALLEY		8,400	\$134,289.14	202						
BLAINE		7,000	\$109,344.89	161						
PHILLIPS		5,400	\$109,408.50	138						
		*****	*****	*****						
Total	1	20,800	\$353,042.53	501	22,356	(1,556)	-7%	748	(247)	-33%
18 GALLATIN		48,500	\$741,651.75	1,385						
		*****	*****	*****						
Total	2	48,500	\$741,651.75	1,385	44,711	3,789	8%	1,496	(111)	-7%
19 LINCOLN		18,700	\$363,264.00	626						
		*****	*****	*****						
Total	1	18,700	\$363,264.00	626	22,356	(3,656)	-16%	748	(122)	-16%

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13 YELLOWSTONE		116,400	\$1,679,005.00	4,422						
BIG HORN		10,900	\$174,525.60	326						
CARBON		8,300	\$123,950.00	245						
STILLWATER		6,300	\$83,582.39	139						
		*****	*****	*****						
Total	5	141,900	\$2,061,062.99	5,132	111,778	30,122	27%	3,740	1,392	37%
14 MUSSELSHELL		4,300	\$107,699.74	136						
WEAVER		2,000	\$43,303.00	41						
GOLDEN VALLEY		1,100	\$16,988.34	22						
WHEATLAND		2,200	\$14,639.50	62						
		*****	*****	*****						
Total	1	9,600	\$182,630.78	261	22,356	(12,756)	-57%	748	(487)	-65%
15 ROOSEVELT		11,100	\$47,636.27	190						
SHERIDAN		5,200	\$99,432.02	128						
DANIELS		2,600	\$46,399.75	53						
		*****	*****	*****						
Total	1	18,900	\$193,468.04	371	22,356	(3,456)	-15%	748	(377)	-50%

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9 TETON		6,100	\$177,004.88	135							
PONDERA		6,700	\$108,990.87	124							
TOOLE		5,100	\$99,223.36	217							
GLACIER		11,100	\$171,145.03	299							
Total	1	25,000	\$556,364.14	775		22,356	6,644	30%	748	27	4%
10 FERGUS		12,100	\$194,233.62	426							
JUDITH BASIN		2,500	\$63,756.67	59							
PETROLEUM		600	\$15,567.50	18							
Total	1	15,200	\$273,557.79	503		22,356	(7,156)	-32%	748	(245)	-33%
11 FLATHEAD		58,600	\$789,868.30	1,658							
Total	2	58,600	\$789,868.30	1,658		44,711	13,889	31%	1,496	162	11%
12 HILL		17,600	\$349,996.00	552							
CHOUTEAU		5,800	\$68,269.17	145							
LIBERTY		2,300	\$40,851.00	45							
Total	1	25,700	\$459,116.17	742		22,356	3,344	15%	748	(6)	-1%

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5 BEAVERHEAD JEFFERSON MADISON		8,300	\$162,847.41	324						
		8,300	\$146,420.40	227						
		5,600	\$57,344.73	142						

Total	1	22,200	\$366,612.54	693	22,356	(156)	-1%	748	(55)	-7%
6 PARK SWEET GRASS		12,300	\$152,174.21	466						
		3,200	\$53,227.48	87						

Total	1	15,500	\$205,401.69	553	22,356	(6,856)	-31%	748	(195)	-26%
7 DAUNSON RICHLAND MCCONE WYBAUX PRAIRIE		10,100	\$179,881.62	352						
		11,800	\$80,085.00	373						
		2,500	\$49,581.46	72						
		1,300	\$48,541.06	33						
		1,600	\$22,916.33	31						

Total	2	27,300	\$381,005.47	861	44,711	(17,411)	-39%	1,496	(635)	-42%
8 CASCADE		78,200	\$1,066,904.88	2,706						

Total	3	78,200	\$1,066,904.88	2,706	67,067	11,133	17%	2,244	462	21%

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1 LEWIS AND CLARK BROADWATER		47,000	\$800,357.25	2,352						
		3,500	\$92,395.12	129						
		*****	*****	*****						
Total	3	50,500	\$892,752.37	2,481	67,067	(16,567)	-25%	2,244	237	11%
2 BUTTE-SILVER BOW		33,200	\$672,881.78	1,068						
		*****	*****	*****						
Total	2	33,200	\$672,881.78	1,068	44,711	(11,511)	-26%	1,496	(428)	-29%
3 ANACONDA-DEER LODGE POWELL GRANITE		10,000	\$177,182.14	467						
		6,800	\$97,600.32	231						
		2,600	\$62,624.15	113						
		*****	*****	*****						
Total	1	19,400	\$337,406.61	811	22,356	(2,956)	-13%	748	63	8%
4 MISSOULA RAVALLI MINERAL		78,300	\$1,400,359.20	3,098						
		25,700	\$397,487.74	734						
		3,400	\$60,367.64	79						
		*****	*****	*****						
Total	4	107,400	\$1,858,214.58	3,911	89,422	17,978	20%	2,992	919	31%

LAW OFFICES
BOONE, KARLBERG & HADDON

201 W. MAIN
SUITE 301 - CENTRAL SQUARE
P.O. BOX 9199

MISSOULA, MONTANA 59807-9199

W.T. BOONE (1910-1984)
KARL R. KARLBERG (1923-1988)
THOMAS H. BOONE
SAM E. HADDON
JAMES J. BENN
WILLIAM L. CROWLEY
RANDY J. COX
ROBERT J. SULLIVAN
DAVID B. COTNER
DEAN A. STENSLAND

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EXHIBIT 53
DATE 3-6-91
HB HB 934

March 5, 1991

Mr. Bill Strizich
Chairperson of the House
Judiciary Committee
Capitol Station
Helena, MT 59601

Re: House Bill No. 934

Dear Mr. Strizich:

This letter is written to you in my capacity as President of the Western Montana Bar Association. The membership of the Western Montana Bar Association consists of attorneys for the Fourth Judicial District which includes Missoula County, Mineral County and Ravalli County. The Western Montana Bar Association strongly supports House Bill No. 934 which calls for the creation of the Twenty-First Judicial District which would encompass Ravalli County. The bill, in its present form, separating Ravalli County from the Fourth Judicial District and establishing a new judgeship for that new district would greatly improve the judiciary available to the public in this area and provide substantial relief from the heavy caseload that currently exists in the Fourth Judicial District. Currently, there are several judicial districts in existence which service the same or less people than would be serviced by the new Twenty-First Judicial District. Currently, the Fourth Judicial District handles a substantial criminal and civil load with four district judges that compares closely to the caseload of the Thirteenth Judicial District which is serviced by five district judges.

There is a strong need for the creation of this new judicial district and judicial position. The local needs of the residents of Ravalli County, Mineral County and Missoula County would be greatly served by the passage of this bill. On

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behalf of the members of the Western Montana Bar Association and in the interests of serving the public of Ravalli, Mineral and Missoula County, I strongly urge this committee to look favorably upon this bill and urge its passage by the Montana legislature.

I want to thank you and the other members of the committee for your consideration of this matter.

Sincerely,



Robert J. Sullivan

RJS/kj

EXHIBIT 4
DATE 3-6-91
SB 196

Office of the County Attorney

Flathead County

Kalispell, Montana 59903-1516

January 31, 1991

TED O. LYMPUS, County Attorney
JONATHAN B. SMITH, Chief Deputy
DENNIS J. HESTER, Deputy
RANDY K. SCHWICKERT, Deputy
THOMAS J. ESCH, Deputy
EDWARD CORRIGAN, Deputy

P.O. Box 1516
Second Floor
Justice Center
(406)752-5300 - Ext. 241
or (406)756-5618

TO WHOM IT MAY CONCERN:

RE: PROPOSED LEGISLATION (DEPARTMENT OF INSTITUTIONS)

Please accept the following as a brief testimony in support of both an as yet unnumbered House Bill for an act entitled: "An act to revise the law relating to the sentencing of offenders to a correctional institution and sentencing offenders to the corrections authority of the Department of Institutions," and for Senate Bill 196 for an act entitled: "An act to provide for the confinement of persons committed to the Department of Institutions when a departmental correctional institution or system exceeds its emergency capacity." Having now served as a Montana prosecutor for over 15 years, I am well familiar with the corrections circumstances addressed by these two proposed pieces of legislation.

First, with respect to the proposed House bill and recognizing both the individuality of each convicted person and the nature of his or her criminal behavior as well as the sophistication of today's correctional institutions, it seems imminently reasonable that the offender be committed to the Department of Institutions, rather than to a particular institution within the Department, in order that the professionals within the Department might then be able to determine in the best interest of both the State and the defendant, where he or she ought properly to be actually placed.

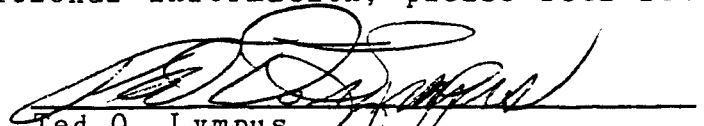
As in the past, the sentencing court would, I am sure, make recommendations as to placement (as is often done now with respect to various matters such as chemical dependency treatment) and I am confident that, also as in the past, the Department would give due consideration thereto in its institutional placement process.

Concerning Senate Bill 196, I would submit that it provides an excellent workable mechanism to address a circumstance of temporary overpopulation at a correctional institution (and particularly at the men's prison) which history shows can and does occasionally occur and, as with the above-referenced House bill, I would urge its favorable consideration.

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3-6-91
SB 196

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I appreciate this opportunity to be heard and thank you for your attention. If I can be of any additional information, please feel free to call upon me.



Ted O. Lympus
Flathead County Attorney

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Judiciary COMMITTEE BILL NO. SB 204
 DATE 3-6-91 SPONSOR(S) SEN. Gage

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Ed Hall	MBCC	SB 204		✓
EARLEY WARNER	MOBIT. ASSOC. OF CHURCHES	SB 204		✓
John Connor	MT CTY ATTYS ASSN	SB 204		✓
DARRELL Beckstrom	Motor Vehicle Div.	204		✓
Michael J Sproul	MTCA	204		was amended

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

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

House Judiciary

COMMITTEE

BILL NO.

HB 934

DATE 3-6-91

SPONSOR(S)

Thomas et al

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
JAY PRITZ 226 MARCUS HAMILTON MT	RAVALLI County SHERIFF	X	
David Demmons 710 Adirondack - Hamilton	Youth Court Probation	X	
Steve Powell 243 Mendonck Hamilton	Ravalli County Commissioners	X	
Ayl Cora; 504 Montana; Hamilton	Ravalli County Attorney	X	
Allen C. Horsfall Jr.	Ravalli County Commissioner	X	
Jerry L. Allen	Ravalli County Commissioner	X	
Sharon M Ellis	Vice President Butte County Chamber	X	

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ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Judiciary COMMITTEE SB 196
DATE 3-6-91 SPONSOR(S) Sen. Beck

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Bill Flemer	Mont Sheriff's & Peace Off Assoc (MSPOA)			X
Ed Hall	MBCC			✓
Jay Printz	MT. Sheriff's & Peace Officers Assoc			X
Don Russell	Dept. of Inst			X

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