

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
52nd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON JUDICIARY**

**Call to Order:** By Chairman Bill Strizich, on March 7, 1991, at  
9:04 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)  
Linda Nelson (D)  
Jim Rice (R)  
Angela Russell (D)  
Jessica Stickney (D)  
Howard Toole (D)  
Tim Whalen (D)  
Diana Wyatt (D)

**Members Excused:** Rep. Messmore

**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 903**

**CREATE A COURT AUTOMATION ACCOUNT AND COURT AUTOMATION FEES**

**Presentation and Opening Statement by Sponsor:**

**REP. COBB, HOUSE DISTRICT 42,** stated "This bill provides for a court automation fee and establishes a court automation account." In the executive branch of government we spend \$10 million dollars every year on computer systems in state government. On the judiciary side of the government, the supreme court uses computers and are trying to update them and bring them up to standards. It is anticipated that this will also free the judges of paper work.

**Proponents' Testimony:**

**J.A. Turnage, Chief Justice of the Montana Supreme Court,** urged the committee to give serious consideration to the request in this bill and after having done so the committee will find its merits outweigh its demerits. The technical information on the bill will be dealt with in depth by other witnesses who have experience in hands-on manner for the need of this type of legislation. "I have reference to the clerk of district court, Clara Gilbert in Lewis and Clark County. I think she will be able to give you a good testimony of the importance of new technology. In today's scene, in public and private sectors, the storage and retrieval of information is critical if you are going to keep abreast of the needs and necessitates of staying current, of doing the job and performing the services that are required. Delay is one of the enemies of the court system and is expensive. I think after you hear all the testimony you will realize this is not an unreasonable request."

**Jim Oppedahl, Administrator - Montana Supreme Court,** stated he would like to explain how this bill came about. This committee is familiar with the problem the courts and court automation. "We came last session and asked you for some help on district courts and courts of limited jurisdiction for automation and you were very helpful. There are 3 or 4 thousand personal computers in the state government two years ago. At the same time we had 2 in the supreme court and a handful in the district and courts of limited jurisdiction. We want to automate because we have had significant case load increases over the last two decades. We have little, if any, staff increases to take care of that and we think we can do court work more efficiently with the modern tools. We believe that we can enhance revenue collections and manage time and pay better."

**Clara Gilreath, Clerk of the District Court,** stated the record books they keep in the clerk's office cost \$860 and the office goes through 5 a year. I hope you fund the bill so we can continue what we are doing on the pilot program.

**John Conner, Montana County Attorney's Association,** the County Attorney's Association believes that the judicial court system is basically good government. The Association sees this bill as affecting the criminal justice system tremendously and it is very necessary.

**Michael Sherwood, Montana Trial Lawyers Association,** stated the Trial Lawyers support this bill.

**Kevin Bryan, County Treasure's Association,** stated bills such as HB 903 are always difficult for us. "We have to reason to stand in support of the concept and the idea but we are in opposition to the method of funding that is proposed. Court automation is long overdue and is a good idea. We, as treasurers, feel we need to fight to the end that motor vehicle administration is just a

quick easy way to bring in several hundred thousand dollars, especially for programs that don't relate to motor vehicles."

**Steve Turkiewicz, Executive Vice President - Montana Auto Dealers Association,** stated "We are all concerned about automation of the courts and we are very much in favor of the idea. We are deeply concerned with this funding source. We do not feel this bill should be funded by the owners of motor vehicles in Montana."

**Marc Racicot, Attorney General,** gave written testimony in favor of HB 903. EXHIBIT 1

**Gregory P. Mohr, Justice of the Peace/City Judge - Sidney,** gave written testimony in favor of HB 903. EXHIBIT 2

**Pat Bradley, Montana Magistrates Association,** gave written testimony in favor of HB 903. EXHIBIT 3

**Joy Bruck, President - The League of Women Voters of Montana,** gave written testimony in favor of HB 903. EXHIBIT 4

Opponents' Testimony:

**Jim Manion, AAA,** stated it was a difficult choice whether to appear as a proponent or opponent. My testimony is very similar to the last two proponents. The motorists in the state of Montana are a highly taxed entity. The status sheets show that 7 or 8 bills in the legislative process want to add money to the cost of operating a car. We agree that the courts need to be automated but oppose the funding mechanism.

**Cort Harrington, County Treasurer's Association,** stated the idea of automating district courts is probably a good idea. We oppose the funding source for automating the courts.

Questions From Committee Members: none

Closing by Sponsor:

**REP. COBB** stated he knows that everyone is wondering about how to fund this and I hope you will send it down to appropriations and get it funded. This program will save time and paper work.

HEARING ON SB 364

VIDEOTAPED TEST. OF VICTIM UNDER 16 YEARS OLD IN VIOLENT CRIMES

Presentation and Opening Statement by Sponsor:

**SEN. VAUGHN, SENATE DISTRICT 1,** stated that this is an act to allow videotaped testimony of a victim to be used for the prosecution of any violent crime if the victim is under 16 years of age. The original bill includes sex offenses. This goes on to include abuse for children under 16 years of age. It would still

be up to the court whether they feel the video tape could be used in lieu of the actual testimony. SEN. VAUGHN stated he believes video taped testimony would be much less traumatic for the youngster.

Proponents' Testimony:

John Conner, Montana County Attorney's Association, stated that the statute the bill seeks to amend is one that has been on the books since 1977. It was enacted, at that time, to allow video taping testimony of witnesses in sex related crimes to protect them from being further victimized by the crime. It has been recommended to allow videotaping for those offenses that are part of the same transaction. This bill will allow that kind of videotaping of the testimony of the victim for other types of crimes against the person, such as abuse, assault, kidnapping and things of that nature. The thing that does not appear in this bill and is probably the most important aspect of it, is the procedural statute which is 46-15-402. That statute specifies the process that should be followed when videotaped testimony is taken. It requires that the videotaping be done before a judge, the county attorney, defense attorney and that the defendant be present. All the principles of the case need be present and the defendant has the right to be cross examined at that time. Prosecutors would rather have the victim testify in court because it has a bigger impact on the jury. But it is recognized that violent crimes traumatize the victim so badly that it produces a chilling result sometimes. The County Attorney's of Montana encourage your do pass of this bill.

Opponents' Testimony: none

Questions From Committee Members: none

Closing by Sponsor:

SEN. VAUGHN stated she urges do pass of this bill.

HEARING ON SB 170  
SEXUAL OFFENDER TO PAY FOR EVALUATION

Presentation and Opening Statement by Sponsor:

SEN. VAUGHN, SENATE DISTRICT 1, stated that this is an act establish qualifications for sexual offender evaluations and defines who is responsible to pay for them. MCA 46-18-111 requires probation officers appointed by the Department of Institutions to prepare a report of recommendations on individuals that are convicted of certain sex offenses when the victim is less than 16 years of age. In doing this, the Department of Institutions feels it is very important that these evaluations be done under guidelines established by them. Since sex offenders are difficult to handle and require different processes than others, it is very important that this be done

this way. All costs related to the evaluation, must be paid by the defendant. However, if the defendant is determined to be indigent, this will be paid by the District Court and will be reimbursed by the Department of Commerce.

Proponents' Testimony:

Dan Russell, Administrator - Department of Corrections, stated that this bill is introduced at the request of the Department of Institutions and not the Department of Justice. At present, the codes require that probation and parole officers prepare special evaluations and recommendations when individuals are convicted of certain sex crimes if the victim was less than 16 years old. Treatment and evaluation of sex offenders is a very specialized field and not all counselors or mental health professionals are trained or qualified to deal with sex offenders. Therefore, it is important that only those professionals qualified to treat these sex offenders be permitted to evaluate and recommend treatment for the purposes of these pre-sentence investigation reports. The Department asks for a do pass of this bill.

Michael J. Scolatti, Ph.D., Montana Sex Offender Treatment Association, stated he was in support of SB 170.

Opponents' Testimony: none

Questions From Committee Members: none

Closing by Sponsor:

SEN. VAUGHN stated that the bill is does not cause any fiscal impact. It provides a better way of handling these people and he asked that the committee give the bill a favorable consideration.

HEARING ON SB 249

AN ACT AMENDING THE MONTANA CRIMINAL JUSTICE INFORMATION ACT

Presentation and Opening Statement by Sponsor:

SEN. SVRCEK, SENATE DISTRICT 26, stated that SB 249 was requested by the Department of Justice and makes amendments to the Criminal Justice Information Act. It makes clear that Federal Agencies which perform as administrative criminal justice agencies fall within the statutory definition of a Criminal Justice Agency and also defines Criminal Justice Information. The bill addresses the circumstances under which an individual's fingerprint or photographs are obtained and may be returned to that person.

Proponents' Testimony:

Paul Johnson, Assistant Attorney General, stated he is appearing on behalf of the Attorney General. The Montana Criminal Justice Information Act was enacted in 1979 and in 10 years the criminal

justice entity has learned to work with the act and have discovered a few flaws. This bill addresses those small problems that have developed over the is 10 year period. "If the committee has any questions I will be glad to answer them."

Opponents' Testimony: none

Questions from the Committee:

REP. RUSSELL asked Mr. Johnson what is the reason for putting the word federal in the definition of "Criminal Justice Agency?" Mr. Johnson said any federal agency that is correspondent to a similar state agency would fall within the definition under this change. The reference to drug investigations has to do with the fact that if we are involved cooperatively with federal law enforcement agencies in a drug investigation, we are not permitted to share Criminal Justice Information, under current law.

REP. RUSSELL asked Mr. Johnson why not limit it to just drug enforcement?

Mr. Johnson said he can visualize other possibilities where cooperative investigations might arise.

Closing by Sponsor:

SEN. SVRCEK stated that one of the main reasons for including federal in the definition was related to the shoot-out they had at Holter Lake dealing with federal fugitives. There was some question as to whether the law enforcement information could be shared with the federal agents that were involved with that case. The intent of the entire bill is not to make any substantial changes in the law, but to clear up the information flow allowed by the act.

EXECUTIVE ACTION ON HB 923

Motion: REP. DARKO MOVED HB 923 DO PASS.

Discussion: REP. DARKO stated that the letter the committee received from the Federal Office of Child Support stated the bill addresses the problems they mentioned in their letter. It is the opinion of the Department that we need to mandate what the Federal Government is setting out.

REP. MEASURE stated he realizes we are over the barrel as far as the Federal Government is concerned. I am disgusted with the Department for waiting so long to bring this bill before us. The bill has a wide range scope and we should have been working on this for a year. These are expansive changes in the law. As deserving as the children are and as much as I would like to provide them with insurance, most working parents in middle income levels cannot afford health insurance in the state.

income levels cannot afford health insurance in the state. Regardless of Federal Mandate, this is basically a bill to help out insurance providers rather than to help the children. I am strongly against this bill.

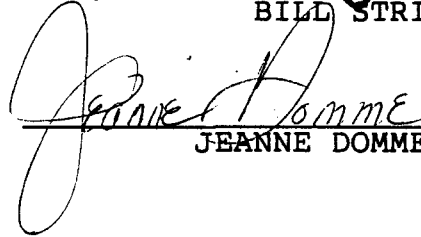
Vote: Motion carried 17 to 2 with Rep. Measure voting no and Rep. Brown abstaining.

ADJOURNMENT

Adjournment: 10:29 a.m.



BILL STRIZICH, Chair



JEANNE DOMME, Secretary

BS/jmd

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE 3-7-91

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	/		



1105  
3-7-91  
JDB

HOUSE STANDING COMMITTEE REPORT

March 7, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that House Bill 923 (first reading copy -- white) do pass.

Signed: \_\_\_\_\_  
Bill Stricich, Chairman

ATTORNEY GENERAL  
STATE OF MONTANA



Marc Racicot  
Attorney General

EXHIBIT 1  
DATE 3-7-91  
HB 903

Justice Building  
Helena, Montana 59620

March 7, 1991

Bill Strizich  
House Judiciary Committee  
Montana House of Representatives  
State Capitol  
Helena MT 59620

Dear Chairman Strizich:

I would like to go on record supporting HB 930 which provides improvement funding for Montana's courts.

This bill would establish a systematic, uniform automation plan for our courts that would greatly help the courts and those who work with the courts to provide better, more timely service to our citizens.

As you know, the Justice Department has contact with virtually all our courts. The uniform automation of courts -- which will be on the same standard used by the Justice Department -- would greatly facilitate our work and pay benefits to the entire justice system.

I strongly urge the Committee to seriously consider HB 903.

Sincerely,

*Marc Racicot*

MARC RACICOT  
Attorney General

cc: Jim Oppedahl

EXHIBIT 2  
DATE 3-7-91  
HB 903

**GREGORY P. MOHR**  
*Richland County Justice of the Peace*

*123 West Main - Sidney, MT 59270*  
*(406)482-2815*

March 6, 1991

Mr. Bill Strizich  
Chairman, House Judiciary Committee

Re: House Bill 903

Dear Chairman Strizich:

I am writing this letter in support of H.B.903. The Montana Judiciary has long been behind in the needed technology to efficiently perform its duty. The caseloads in all three levels of the Montana Court system have increased dramatically. We need computerization to meet and keep up with this continuing demand. H.B.903 will aid in a faster, more efficient judiciary.

I urge you and the other members of the House Judiciary Committee to vote in favor of H.B.903.

Thank you,

Sincerely,



Gregory P. Mohr  
Justice of the Peace/City Judge

EXHIBIT 3  
DATE 3-7-91  
HB 903

# Montana Magistrates Association

March 7, 1991

HB 903, an act to create a court automation account

Testimony by Pat Bradly, Lobbyist for the Montana Magistrates Assn.

Mr. Chairman and Committee Members:

The Montana Magistrates Association rises in support of HB 903.

The Montana Courts of Limited Jurisdiction handle some 300,000 cases a year and manage budget and accounting systems involving several million dollars.

Uniform court automation will provide the courts with modern equipment to manage their case loads with time and cost efficiency, which, in turn, will offer an effective return on money invested. Improved efficiency will serve Montana citizens well.

The judicial branch of government should certainly keep up with the same automated standards as the legislative and executive departments.

We urge that you do pass HB 903.

Thank you.

*Pat Bradley*

EXHIBIT \_\_\_\_\_  
DATE 3-7-91  
HB 903

# THE LEAGUE OF WOMEN VOTERS OF MONTANA

Joy Bruck, President  
1601 Illinois, Helena, Montana 59601

HB 903: An act providing for court automation ....

The League of Women Voters of Montana supports HB 903.

The League of Women Voters of Montana has supported for many years efforts at improving the administration of the Montana Judiciary. We believe that it is vitally important to encourage and provide all Montana courts with the modern tools that they need in order to better manage a very large case load, to insure that laws enacted by the Legislature can be adequately implemented, and to protect our citizen's right to speedy adjudication of cases.

HB 903 is an effort to provide a planned, uniform, and cost effective approach to court automation. The League of Women Voters of Montana urges the House Judiciary Committee to give serious consideration to this court improvement effort and to give a DO PASS recommendation to HB 903.

*Joy Bruck, Pres.  
LWV of Montana*

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

House Judiciary COMMITTEE BILL NO. HB 903  
 DATE 3-9-91 SPONSOR(S) Rep. Cobb

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Clara Gilreath	Clerk District Court	903		✓
Judy Hams	" "	903		✓
J.A. Turange	Chief Justice	903		✓
Kevan Bryan	County Treas. Assoc	903	Funding Source ✓	
Steve Turkiewicz	Mt. Auto Dealers Assoc	903	Funding Source ✓	
Al Goke	Justice	903		✓
Jim Marica	AAA MONTANA	903	Funding Source ✓	
Gordon Morris	MALC	903		
CORT HARRINGTON	County Treasures Ass	903	Funding Source ✓	
John Cannon	Mt City Atlys Assn	903		✓
Shannon Cook	GFHS			✓
NORMIE HOIT	GFHS			✓
Charities Buck	GFHS			✓
Samone Josselyn	GFHS			✓
Clay Campbell	GFHS			✓
Sarah Gurdas	GFHS	903		✓
Brian Grosnick	GFHS	903		
Karin	GFHS	903		

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. SB# 364  
 DATE 3-7-94 SPONSOR(S) Sen. Vaughn

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
John Connor	MT County Atty Assn	SB 364		✓
Charity Buck	Great Falls			✓
Kelly Gilligan	Great Falls	SB 364		✓
Shannon Cook	GFHS	SB 364		✓
Nannette Holt	GFHS	SB 364		✓
Samuel Jessmer	GFHS	SB 364		✓
Kathy Gilligan	Great Falls	148 903		✓
Kevin Squires	Great Falls	SB 364		✓
<del>Wendy Campbell</del>	Great Falls	SB 364		✓
Sarah Gardis	GFHS	364		✓
Eric Moore	GFHS	364		✓
Brian Grosenick	GFHS			✓

**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. SB# ~~170~~ 170  
 DATE 3-7-91 SPONSOR(S) Vaughn

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Michael J. Scolatti P.H.D.	MONTANA SEX OFFENDER TREATMENT ASSOCIATION	170		✓
Mike Willits	GFHS	364		

**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. SB#249  
 DATE 3-7-91 SPONSOR(S) Sen. Srcek

**PLEASE PRINT**

**PLEASE PRINT**

**PLEASE PRINT**

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Paul Johnson - Justice	Attorney General	✓	

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