

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bill Strizich, on March 15, 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)
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 250 REVISE DEVELOPMENTALLY DISABLED COMMITMENT LAW

Presentation and Opening Statement by Sponsor:

SEN. KEATING, SENATE DISTRICT 44, stated that SB 250 is a continuation of a project on the developmentally disabled center at Boulder. He stated that this is phase 4 of reorganization and downsizing of Boulder and fits the plans for the appropriate placement of the Developmentally Disabled. The laws of 1975 for the developmentally disabled are updated. SB 250 impacts the Montana Developmental Center at Boulder and the Human Services

Center in Glendive. The bill redefines the term "seriously developmentally disabled", "professional persons" and "mental retardation professional". The changes are made to conform to federal interpretation. The fiscal note indicates there is a slight amount of money involved which is in HB 2.

Proponents' Testimony:

Bob Anderson - Division Administrator, Special Services Division - Department of Institutions, stated that the Governor developed the task force to look into the developmentally disability system and come up with recommendations for changes. The committee recommended and proposed a Montana Developmental Disabilities Services System Plan Modification that was announced in November of 89 and was updated in January of 90 and again in October of 90. Phases 1,2, and 3 of that plan are ongoing now and will be completed at the end of this fiscal year. Phase 4 of the plan will has been presented to the appropriateness sub-committee of institutions and human services sub-committee and they have tentatively approved that plan. He stated that basically that plan expands community services. SB 250 is a bill that tries to solve the problems found by the committee. "I would urge your do pass of this bill."

Julia Robinson - Director, Department of Social and Rehabilitation Services, gave written testimony in favor of SB 250. EXHIBIT 1

Chris Valinkaty, Lobbyist - Developmentally Disability Services, stated that for the last 15 years the committee has not seen institutions and community providers come in support of similar bills. The bill gives Boulder a real mission that is designed to help only the people that should be institutionalized and make the commitment to developmentally disabled people who get better served in community based centers. "We feel this offers a better quality of life for those individuals. I urge your support of this bill."

Greg Olsen, Director, State of Montana Developmental Disabilities Planning and Advisory Council, gave written testimony in favor of SB 250. EXHIBIT 2

Kelly Moorse, Executive Director - Mental Disabilities Board of Visitors, gave written testimony in favor of SB 250. EXHIBIT 3

Frederick F.Sherwood, Attorney - Montana Advocacy Program, Inc., gave written testimony in favor of SB 250. EXHIBIT 4

Mark Langsdorf, Staff Representative - American Federation of State, County and Municipal Employees Council 9, gave written testimony in favor of SB 250. EXHIBIT 5

Opponents' Testimony: NONE

Questions From Committee Members:

REP. MESSMORE asked Mr. Anderson if it is correct that she understands that this is another phase of the institutional reorganization that began in the 1970's and your intent is to place these individuals in the least restrictive setting that they can be maintained in? Mr. Anderson stated that is the purpose of the bill. The reason for the entire modification plan, developed by the Governor, was to conform with the law.

REP. MESSMORE asked how many individuals are placed out of state right now and why are they not placed in the state? Mr. Anderson stated that he didn't know what the number is and it is mostly adolescence that are placed out of state. Those that are placed out of state are emotionally disturbed. He stated that this bill would not impact them at all. SB 250 deals with the developmentally disabled and it would help to bring some of those children back into the state with the expansion of community services.

REP. BROOKE asked SEN. KEATING whether this proposed appropriation already in the SRS budget or the Department of Institution's budget that is being reviewed? SEN. KEATING stated that he hadn't verified that but was sure it was included in HB 2 as part of the general appropriation.

Closing by Sponsor:

SEN. KEATING stated that this bill will make sure we give sufficient care to the developmentally disabled people of Montana. "I hope you will see the seriousness of this matter and the great need for this bill."

HEARING ON SB 293
INCREASE JURISDICTION OF JUSTICE'S AND MUNICIPAL COURTS

Presentation and Opening Statement by Sponsor:

SEN. DOHERTY, SENATE DISTRICT 20, stated that this bill increases the jurisdiction limits in the Justice of the Peace Courts. SB 293 establishes that the municipal courts would have more extensive jurisdiction with the JP courts. Section 2 cleans up some old language that had not been dealt with since 1936. Section 3 allows for search warrants and complaints charged with

felonies to be filed in municipal courts. The municipal courts are well established courts with well trained people and felt this addition would enable them to more efficiently deal with those types of issues.

Proponents' Testimony:

Pat Bradly, Montana Magistrates Association, stated that the association supports SB 293 and would ask the committee to do the same.

Opponents' Testimony: NONE

Questions From Committee Members: NONE

Closing by Sponsor: NONE

HEARING ON SB 315

ALLOW EXECUTION OF JUSTICE COURT JUDGMENT OUTSIDE CO. OF JUDGMENT

Presentation and Opening Statement by Sponsor:

SEN. DOHERTY, SENATE DISTRICT 20, stated that SB 315 gives more respect to the JP Courts by recognizing that a judgment made in Justice Court should be able to be forced and executed upon the same way District Court judgements are currently executed in Montana. He stated that in order to collect upon a judgement a court has to execute on the judgement. In JP Courts, if a judgement is obtained in one county, in order to execute on property in another county, a person has to file papers in the other county before the sheriff can go out and collect the money under the judgement. This doesn't need to be done in District Courts because they are state courts. This bill would allow that to be done in JP Courts. This will save the people who get those types of judgements, time and money. It will also cut down on the use of District Courts.

Proponents' Testimony:

Pat Bradly, Montana Magistrates Association, gave written testimony in favor of SB 315. EXHIBIT 6

Dan Weed, President, Bozeman Landlord's Association, stated that the association stands in favor of this bill. SB 315 will give us leverage when we take cases to the JP court in regards to damages. He asked the committee to vote in favor of SB 315.

George Fleming, Credit Association of Cascade County, stated that there are 5 to 10 cases that the Association sends out to the District Court. He stated that this is a cost savings matter and is a good bill for the courts.

John Cameron, Montana Collectors Association, stated that the association is in favor of this bill and would urge the committee's support.

Opponents' Testimony: NONE

Questions From Committee Members:

REP. MEASURE asked SEN. DOHERTY if there is more history behind the reason JP Courts don't have this authority already? SEN. DOHERTY stated that there may be another reason, but that is as close as he could come to a definition of the problem.

Closing by Sponsor:

SEN. DOHERTY stated that this bill is straight forward and would appreciate the committee's concurrence.

HEARING ON SB 257
REVISE REGULATION OF INVESTIGATIVE FUNCTIONS OF JUSTICE

Presentation and Opening Statement by Sponsor:

SEN. GAGE, SENATE DISTRICT 5, stated that this bill was requested by the Department of Justice. The Senate took all the language out in regards to the advisory council because the felt the Attorney General has that power already. The remainder of the bill deals with the clarification of the definition of agencies. The intent of the statute was to cover the Department of Justice.

Proponents' Testimony:

Marc Racicot, Attorney General, stated that this is largely a clean-up bill in many respects but it is also significant to the Department of Justice because it is felt that if there is a strong partnership with the Department of Justice and local law enforcement agencies it will be a great factor. He stated that it would make possible that in every instance the Department of Justice would know what their responsibilities were and what the local law enforcement agencies responsibilities are.

Tim Soloman, Montana Corners Association, stated that the Association is in support of this bill.

Opponents' Testimony: NONE

Questions From Committee Members: NONE

Closing by Sponsor:

SEN. GAGE stated that this bill sets up some frame work for better coordination between local government law enforcement agencies and the Attorney General's Office.

HEARING ON SB 331

GENERALLY REVISE LAWS RELATED TO COUNTY CORONERS, INQUEST, & INQ.

Presentation and Opening Statement by Sponsor:

SEN. FRANKLIN, SENATE DISTRICT 17, stated that this bill outlines the authority and powers of county coroners in the state of Montana. Sections 1 through 8 are all new sections that outlines the powers directly related to the coroners. The bill balances out any jurisdiction problems the county attorney's, law enforcement agencies and county coroners might run into.

Proponents' Testimony:

Steve Knecht, Montana Coroner's Association, stated that clarification is needed and that the existing statutes are broad and very vague. "We really need the committee's support of this bill."

Tim Soloman, Montana Coroner's Association, stated that this bill is long past due as far as clarifying the coroners duties. He felt that present law is very vague and this bill would clarify those laws.

Gary Dale, Montana Division of Forensic Science - Department of Justice, stated that this bill clarifies what exactly the coroner's responsibilities are.

Paul Johnson, Assistant Attorney General, stated that this is much needed legislation and fills a number of gaps that compliments existing law regarding coroner duties. SB 331 eliminates the gray area as to what the coroners duties are, how the coroner accomplish their duties, and the relationship between the coroner's duties and other law enforcement involved in a death investigation. He stated that this bill clearly sets for the duties of coroners and their role verses the other law enforcement agencies involvement. "I would urge the committee's concurrence."

Opponents' Testimony: NONE

Questions From Committee Members:

REP. MEASURE asked Mr. Knecht what is the procedure of reporting fetal deaths at the present time and what is the difference in the bill? Mr. Knecht stated that there is nothing clarified at this time. There has always been a question as to determining the fetus' status. The reason it appears in the bill is when dealing with abortions. REP. MEASURE asked Mr. Knecht if he doesn't feel he has the authority to investigate under present law? Mr. Knecht stated that the coroners need the clarification.

Closing by Sponsor:

SEN. FRANKLIN stated that she would hope the committee gives the bill a do concur and thanked the committee for their consideration.

EXECUTIVE ACTION ON SB 315

Motion: REP. BROWN MOVED SB 315 BE CONCURRED IN.

Discussion:

REP. MEASURE stated that having to file in District Courts is not that difficult. He felt if a case is filed in District Court it is well documented. "I am opposing this bill."

Vote: Motion carried 17 to 3 with Rep's: Wyatt, Toole and Measure voting no.

EXECUTIVE ACTION ON SB 250

Motion: REP. JOHNSON MOVED SB 250 BE CONCURRED IN.

Motion: REP. MEASURE moved to amend SB 250 on page 12, section 7, making sure the waiver is made knowingly. I would leave the language to John MacMaster. (Refer to Standing Comm. Report).

Discussion:

REP. JOHNSON asked if that was covered in line 8 of section 1?

REP. MEASURE stated that it isn't covered under that section.

Vote: Motion carried.

Motion/Vote: REP. JOHNSON MOVED SB 250 BE CONCURRED IN AS AMENDED. Motion carried 16 to 4 with Rep's: Russell, Becker,

Wyatt and Measure voting no.

HEARING ON SB 387
REQUIRING LANDLORDS TO REVIEW DAMAGES BEFORE REDUCING DEPOSITS

Presentation and Opening Statement by Sponsor:

SEN. THAYER, SENATE DISTRICT 19, stated that this bill was drafted in an attempt to correct a situation in our college towns. This situation is in regards to the landlords keeping more of the deposit than they should have kept. He stated that after the bill was drafted the landlords that do follow the current statute, came to Sen. Thayer and said that what he had drafted would be unworkable because giving people the opportunity to go through the 48 hours in advance would also give them the opportunity to trash the apartments and would cause the landlords some problems they couldn't overcome. The bill was amended to take out the 48 prior notice language and reinstated all the previous language. The landlords will be required to furnish the prospective tenants with a copy of the law that deals with the security deposit. He felt this will help the younger adults understand the agreement between themselves and their landlords much better.

Proponents' Testimony:

Dan Wood, President - Bozeman Landlords Association, stated that this bill will alleviate the problem between the landlords and the tenants. Landlords need to familiarize the tenants with the law and how it works in regards to the security deposit. This bill will make tenants aware of the law and will overcome any problems with tenants in relationship to security deposits.

Opponents' Testimony: NONE

Questions From Committee Members: NONE

Closing by Sponsor:

SEN. THAYERS stated that this is a good bill and he would hope the committee will pass it out to the floor.

EXECUTIVE ACTION ON SB 387

Motion: REP. JOHNSON MOVED SB 387 BE CONCURRED IN.

Motion: REP. MEASURE moved to amend SB 387 by removing the new language on page 2, lines 23, 24, 25 and lines 1 - 5 on page 3 and reinstate the lines 21-25 on page 2, lines 1-10 and 16-23.

Discussion:

REP. MEASURE stated that the language that has been replaced in the Senate gives a time period to complete the required cleaning. He felt the time period was not needed.

REP. BROWN stated that Sen. Thayer brought this bill in because his son got stuck by a landlord with an excessive bill and a failure to return his deposit and he thought this bill would rectify this situation, which was reasonable. Rep. Brown stated that this bill provides greater protection for the tenant. This puts an additional positive burden on the landlord.

REP. MESSMORE stated that she resists the amendment. She had asked Sen. Thayer about the stricken language on page 1 and 2 and he said he had worked with various landlord association groups and agreed that it was a workable situation.

Vote: Motion failed.

Motion: REP. JOHNSON moved to amend SB 387 with Sen. Thayer's amendment.

Discussion:

John MacMaster stated that Sen. Thayer's amendment is on page 3, line 22, following the word "entered" put the word "into". The result of that is the landlord has to give the tenant a copy of the provisions regarding the security deposit. A comma would then be inserted and then the words " if a landlord fails to comply with this requirement he may not take a deduction from the security deposit."

Vote: Motion carried.

Motion: REP. JOHNSON MOVED SB 387 BE CONCURRED IN AS AMENDED.

Discussion:

REP. LEE asked John MacMaster what is to preclude the landlords of getting into a situation of where the tenant would leave without giving a forwarding address?

REP. MEASURE stated they have to respond in 30 days.

REP. LEE stated that the weak part of the bill is that it should be settled before the student every leaves the premises.

Motion: REP. NELSON moved to amend SB 387 by reinstating language on page 1, line 21 through lines 10, page 2.

Discussion: REP. NELSON stated that her amendment would return the original language to the original draft of this bill.

John MacMaster stated that the only way the committee can do Rep. Nelson's amendment is by adding the entire amendment made by Rep. Measure.

REP. NELSON stated that she would include that in her amendment.

REP. MESSMORE stated that she is resisting the amendment because it she felt it wasn't what Sen. Thayer had in mind.

Vote: Motion carried. EXHIBIT 7

Motion/Vote: REP. MEASURE MOVED SB 387 BE CONCURRED IN AS AMENDED. Motion carried 15 to 5 with Rep's: Messmore, Wyatt, Boharski, Clark and Strizich voting no.

EXECUTIVE ACTION ON SB 257

Motion: REP. BOHARSKI MOVED SB 257 BE CONCURRED IN. Motion carried unanimously.

EXECUTIVE ACTION ON SB 293

Motion: REP. CLARK MOVED SB 293 BE CONCURRED IN.

Discussion:

REP. MEASURE stated that this bill would limit a municipal courts jurisdiction regarding fines, penalties and forfeitures. Municipal courts are designed to be a higher court than a Justice Court. Municipal Court is a court of record so it can be reviewed and the Justice Court does not do this.

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

EXECUTIVE ACTION ON SB 321

Motion: REP. BROOKE MOVED SB 321 BE CONCURRED IN.

Discussion:

REP. BROOKE stated that Missoula has a good program and Missoulians have indicated they have always worked and would be good for DUI victims. She stated she was concerned about the funding.

Motion: REP. BROWN moved to amend SB 321 by striking section 6 and 7.

Discussion:

REP. BROWN stated that he is concerned about raising another \$400,000. Tacking more fines on the end of the licensing process is not reasonable. The committee would be better off putting into statute what they want to do. If there isn't sufficient funds to cover the victims of crimes related DUI, he stated he isn't comfortable with gathering a lot of money that may not be needed. "My amendment will removed any increases at all."

REP. BOHARSKI asked if Rep. Brown's motion included taking the money out of the bill and taking out the extra procedure as to where the money goes. He asked if Rep. Brown would make that part of his amendment.

REP. BROWN said he would but he felt it wasn't needed.

REP. BROOKE asked if Rep. Brown would add the Magistrates amendment that would give authority to the department that they can now cover DUI victims?

REP. BROWN stated he would add that as a friendly amendment.

Vote: Motion carried.

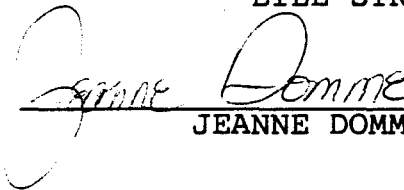
Motion/Vote: REP. BROWN MOVED SB 321 BE CONCURRED IN AS AMENDED.
Motion carried 19 to 1 with Rep. Boharski voting no.

ADJOURNMENT

Adjournment: 10:39



BILL STRIZICH, Chair



JEANNE DOMME, Secretary

BS/jmd

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE 3-15-91

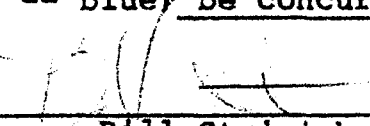
NAME	PRESENT	ABSENT	EXCUSED
REP. VIVIAN BROOKE, VICE-CHAIR	/		
REP. ARLENE BECKER	/		
REP. WILLIAM BOHARSKI	/		
REP. DAVE BROWN	/		
REP. ROBERT CLARK	/		
REP. PAULA DARKO	/		
REP. BUDD GOULD	/		
REP. ROYAL JOHNSON	/		
REP. VERNON KELLER	/		
REP. THOMAS LEE	/		
REP. BRUCE MEASURE	/		
REP. CHARLOTTE MESSMORE	/		
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	/		

HOUSE STANDING COMMITTEE REPORT

March 15, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that
Senate Bill 315 (third reading copy -- blue) be concurred in .

Signed: 
Bill Strizich, Chairman


Carried by: Rep. Whalen

HOUSE STANDING COMMITTEE REPORT

March 15, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 250 (third reading copy -- blue) be concurred in as amended .

Signed: 
Bill Strizich, Chairman

Carried by: Rep. Messmore

And, that such amendments read:

1. Page 12.

Following: line 20

Insert: "(2) A person admitted to a residential facility for evaluation and treatment or for an extended course of habilitation may knowingly and intentionally waive his rights only with the concurrence of the person's counsel, if any, or, if he has no counsel, his parents, guardian, or other responsible person appointed by the court."

Renumber: subsequent subsection

HOUSE STANDING COMMITTEE REPORT

2:35
3/15/91
VMS

March 15, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 387 (third reading copy -- blue) be concurred in as amended.

Signed: 
Bill Strizich, Chairman

Carried by: Rep. Johnson

And, that such amendments read:

1. Title, line 7.

Following: "~~DEPOSIT,~~"

Insert: "TO REQUIRE A LANDLORD TO REVIEW WITH THE TENANT, 48 HOURS PRIOR TO TERMINATION OF THE TENANCY, A WRITTEN NOTICE OF CHARGES THE LANDLORD INTENDS TO DEDUCT FROM THE SECURITY DEPOSIT;"

2. Page 2, line 10.

Following: "~~subsection.~~"

Insert: "No later than 48 hours prior to the termination of the tenancy, the landlord shall give the tenant written notice of the total sum the landlord intends to deduct from the security deposit, with an explanation of the reasons for the intended deduction. The landlord shall deliver the notice to the tenant personally on the premises of the rental unit and provide any further explanation that the tenant requests. The notice must include the specific types of cleaning that must be done and the repairs that must be made by the tenant to bring the premises back to its condition at the time of renting. After delivery of the notice, the tenant has 48 hours to complete or arrange for the desired cleaning or repairs. A deduction may not be made from the security deposit if the landlord fails to comply with this subsection."

3. Page 2, line 23 through page 3, line 5.

Strike: "ADDITIONALLY" on page 2, line 23 through page 3, line 5

4. Page 3, line 21.

Following: "25"

Insert: ", "

March 15, 1991
Page 2 of 2

5. Page 3, line 22.

Following: "entered"

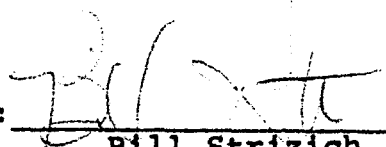
Insert: "into, and if the landlord fails to comply with this
requirement, he may not make a deduction from the security
deposit"

HOUSE STANDING COMMITTEE REPORT

March 15, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 257 (third reading copy -- blue) be concurred in and be placed on consent calendar.

Signed: 
Bill Strizich, Chairman

Carried by: Rep. Rice

HOUSE STANDING COMMITTEE REPORT

March 15, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that
Senate Bill 293 (third reading copy -- blue) be concurred in .

Signed: Bill Strizich, Chairman

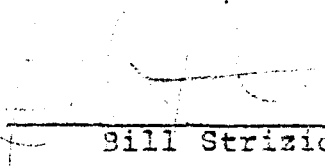
Carried by: Rep.

HOUSE STANDING COMMITTEE REPORT

March 15, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 321 (third reading copy -- blue) be concurred in as amended.

Signed: 

Bill Strizich, Chairman

Carried by: Rep. Brooke

And, that such amendments read:

1. Title, lines 6 and 7.

Strike: "PROVIDING A METHOD TO FUND CLAIMS OF DUI VICTIMS;"

2. Title, line 12.

Strike: "46-18-243,"

3. Title, line 13.

Strike: "53-9-109,"

Insert: "AND"

Strike: "61-8-714, AND"

4. Title, line 14.

Strike: "61-8-722,"

5. Page 1, line 17, through page 2, line 7.

Strike: section 1 in its entirety

Renumber: subsequent sections

6. Page 4, lines 19 and 20.

Strike: "convicted" on line 19 through "state" on line 20

Insert: "found by the division, by a preponderance of the evidence, to have been operating the motor vehicle while under the influence, as that term is defined in 61-8-401"

7. Page 5, line 17, through page 6, line 25.

Strike: section 4 in its entirety

Renumber: subsequent sections

8. Page 9, line 19, through page 13, line 24.

Strike: sections 5 and 7 in their entirety

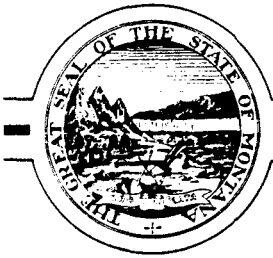
Renumber: subsequent section

DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES

EXHIBIT 1

DATE 3-15-91

SB 250



STAN STEPHENS
GOVERNOR

JULIA E. ROBINSON
DIRECTOR

STATE OF MONTANA

P.O. BOX 4210
HELENA, MONTANA 59604-4210
(406) 444-5622
FAX (406) 444-1970

TESTIMONY OF THE DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES
BEFORE THE HOUSE JUDICIARY COMMITTEE
(Re: SB 250 - Amending the Laws Relating to
Commitment of Persons with Developmental Disabilities)
March 15, 1991

The Developmental Disabilities Division supports the adoption of SB250. These revisions in the commitment law are an integral part of changes occurring in Montana's developmental disabilities service system.

Two critical components within this bill are the:

1. the change in the definition of seriously developmental disabled. This new definition more clearly defines which individuals are most appropriately served by community services and those who are more appropriately served within the institution. The new definition provides for the commitment of those persons in need of specialized treatment because they exhibit behaviors that pose an imminent risk of serious harm to themselves or others. This change will allow institutional programs to specialize their treatment program and better meet the needs of these persons with intensely, challenging behaviors. In turn, the community programs will provide services to all who do not meet this new definition.
2. the change in the process by which recommendations are provided to courts relating to the commitment of persons with developmental disabilities. This change will better ensure that all community options have been explored and that the institution is considered the most appropriate service for an individual. The judicial system will have better information upon which to base its decisions. Those individuals who should not be in the institution can be diverted to community services.

2X 1
3-15-91
SB 250

As both the institutional and community programs continue to evolve to better serve individuals with developmental disabilities and their families, it is important that the roles of these programs be clearly assigned. SB250 assists in this process.

Thank you for the opportunity to comment.

Submitted by:



Julia E. Robinson, Director

Department of Social & Rehabilitation Services

Montana



DDPAC

Planning For The Future Of Services In Montana

Developmental Disabilities Planning & Advisory Council

Post Office Box 526 Helena, Montana 59624 Phone 406-444-1334

EXHIBIT 2
DATE 3-15-91
SB 250

TESTIMONY BEFORE THE HOUSE JUDICIARY COMMITTEE

Mr. Chairman, Members of the Committee, for the record, my name is Greg Olsen. I am the Director of the State of Montana Developmental Disabilities Planning and Advisory Council.

I am here in that capacity to represent the Council in their support of Senate Bill 250.

This bill forms the backbone of the Governor's Action Plan to down-size the Montana Developmental Center. Through a redefinition of what constitutes a serious developmental disability, the mission of the MDC becomes clear and a permanent place for the facility is created within the developmental disabilities service system in the state.

If this bill becomes law, MDC will no longer be subject to surprise or inappropriate admissions as has occurred in the past. In addition, all proposed admissions and readmissions to the facility will be reviewed by a committee composed of personnel from institutional and community services to ensure that all persons in need of services will receive a timely and appropriate assessment of their needs and a determination of where best those services can be delivered.

The Council urges your support for this bill.

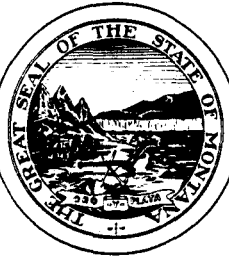
MARCH 15, 1991
SENATE BILL 250
GREG A. OLSEN



SOCIAL AND REHABILITATION SERVICES
"WORKING TOGETHER TO EMPOWER MONTANANS"

EXHIBIT 3
DATE 3-15-91
PB 250

OFFICE OF THE GOVERNOR
MENTAL DISABILITIES BOARD OF VISITORS



STAN STEPHENS, GOVERNOR

CAPITOL STATION

STATE OF MONTANA

(406) 444-3955
OR TOLL FREE 1-(800)-332-2272

HELENA, MONTANA 59620

15 March 1991

Representative Strizich, Chairman
House Judiciary Committee
Room 312, State Capitol
Helena, Montana 59620

Chairman Strizich and Members of the Committee,

For the record, my name is Kelly Moorse and I am the Executive Director of the Mental Disabilities Board of Visitors. The Board of Visitors is charged with reviewing patient care and treatment at the state institutions which serve persons with a developmental disability (Montana Developmental Center and Eastmont Human Services Center) and mental health facilities. The Board of Visitors supports the changes identified in Senate Bill 250.

Although amendments were made to the Developmental Disabilities Act in 1979 and 1987, this is the first major overhaul of this act since it was introduced in the 1975 session.

We feel Senate Bill 250 is a vital component in the agency collaboration which has developed the Montana Developmental Disabilities Service System. For the past several years, the Board of Visitors review of Montana Developmental Center at Boulder and Eastmont Human Services has asked for clarification of their mission, who they intend to serve and their roles in the delivery system. With the implementation of the new missions and the changes proposed in Senate Bill 250, we are in a better position to provide quality treatment for those individuals with a developmental disability who will served, be it in the community or within the institution.

The Board of Visitors urges your support of Senate Bill 250. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Kelly Moorse".

Kelly Moorse
Executive Director

EXHIBIT 4
DATE 3-15-91
S 250

MONTANA ADVOCACY PROGRAM, Inc.

1410 Eighth Avenue
Helena, Montana 59601

(406)444-3889
1-800-245-4743

March 15, 1991

Bill Strizich, Chair
Judiciary Committee
Capitol Station
Helena, Montana 59620

RE: S.B. 250

Dear Mr. Strizich:

The Montana Advocacy Program (MAP) is a federally mandated program designed to protect and advocate for the rights of Montanans with disabilities.

MAP appreciated the State's invitation to participate in the task force which made the recommendations that led to S.B. 250. There were diverse views on the task force.

This bill does not make all of the changes which MAP believes are necessary to protect the rights of persons with developmental disabilities who may be in jeopardy of commitment to one of Montana's ICFMR facilities. MAP does support S.B. 250, though, since it makes improvements in the existing law's treatment of persons with developmental disabilities, particularly those with serious developmental disabilities.

Sincerely,

Frederick F. Sherwood

Frederick F. Sherwood
Contracted Attorney

c: File

Good morning, Mr. Chairman, members of the Committee. I am Mark Langsdorf, Staff Representative of the American Federation of State, County and Municipal Employees (AFSCME) Council 9. AFSCME represents almost 3,000 Montana public sector employees, including those at Montana Developmental Center at Boulder. Nationwide, AFSCME represent over 200,000 public and private sector health care workers.

I appreciate the opportunity to address the Committee regarding Senate Bill 250.

I am here today to speak in opposition to several sections of Senate Bill 250.

First, the newly proposed definition of "seriously developmentally disabled" in Section 2, number 15, is so restrictive that it will exclude many individuals for whom treatment in a residential facility, like Montana Developmental Center is essential to their health and well being.

The definition in S.B. 250 requires that a developmentally disabled person have "behaviors that pose an imminent risk of serious harm to self or others" or "require total care". It is easy to see many severely or profoundly retarded persons who are medically frail, have a second diagnosis of mental illness, or who's behavior would not typically be classified as posing an

imminent risk of serious harm being excluded under this definition. These individuals will be ignored by the private sector system of care who's incentive is to care for those easiest to care for and those who will be least expensive to care for. Public sector residential facilities are the only source of care for these individuals.

More specifically, the types of individuals who benefit from services provided in residential facilities who would be excluded under the proposed definition include:

- o Individuals with conditions like Pica, stereotypy and other specialized disorders which require skill and experience of state employees.
- o Dually diagnosed individuals.
- o Medically fragile individuals who, though cognitively impaired, nevertheless can benefit from specialized active treatment provided in publicly-operated facilities.
- o Mentally retarded individuals with one or more of the following handicaps: epilepsy, cerebral palsy, spina bifida, vision, hearing or behavioral problems. In 1982, in one major nationwide study 60% of those individuals in ICF/MR's had one additional major

Σx. 5
2

handicap; 37% had two or more handicaps in addition to mental retardation.

- o Profoundly disabled individuals (IQs twenty or lower: 60% of the current nationwide population of large ICF/MR's.

The second area of concern to us is that the residential facility review team is not mandated to include direct care staff from Montana Developmental Center and Eastmont Human Services Center. The direct care staff from these two institutions work with the developmentally disabled on a daily basis and provide 90% of the residents's care. It is their job to know and understand the care and treatment of the developmentally disabled and they should be integral to the review process.

The planning process that has taken place in Montana to date indicates that if not mandated by the legislature, the perspective provided by direct care workers will not be considered, or even worse rejected. Montana's sister states have taken a different approach, acknowledged the importance of the direct care workers and made them an integral part of the court mandated review, patient reviews and system planning.

Finally, we are very disturbed by this bill's directive regarding out-of-state care. It seems to us that if a persons family, home and/or friends live in Montana, that their care

Ex 5
3-15-91
SB 250

should be provided in state. Out-of state care should only be paid for under unusual circumstances, where a developmentally disabled person's family or friends are legal guardians and are out of state. Montanans must care for Montanans here in Montana.

I urge you to make amendments to this bill to make the definition of seriously developmentally disabled a reasonable and workable definition, requires that direct care workers be involved with the court review system, and promotes in-state care for Montana's developmentally disabled.

At this time I would like to turn the podium over to 2 Montana Developmental Center employees who are also guardians of developmentally disabled individuals. They bring to you the real story of what the developmentally disabled need and how hard it is to find that care.

EXHIBIT 6
DATE 3-15-91
SB 315

Montana Magistrates Association

March 15, 1991, Testimony before the House Judiciary Committee
by Pat Bradley for the MMA

SB 315, an act allowing execution on judgment outside county obtained.

MR. CHAIRMAN AND COMMITTEE MEMBERS:

The Montana Magistrates Association supports SB 315.

We feel its provisions will be cost and time-effective for both
courts and parties involved in civil actions.

We urge your favorable ruling.


A handwritten signature in cursive script, appearing to read "P. Bradley".

EXHIBIT 7
DATE 3-15-91
SB 387

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 3-15-91 BILL NO. SB 387 NUMBER _____

MOTION: Rep. Nelson's Amendment

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	10	8

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

House Judiciary COMMITTEE 513 # 250 BILL NO.
 DATE 3-15-91 SPONSOR(S) Sen. Keating

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
<i>Sue Jackson</i>	<i>SRS Developmental Disabilities</i>	<i>250</i>		<input checked="" type="checkbox"/>
<i>GREG OLSEN</i>	<i>DDPAC</i>	<i>250</i>		<input checked="" type="checkbox"/>
<i>MARK LANGDOLF</i>	<i>AFSCME</i>	<i>250</i>	<input checked="" type="checkbox"/>	
<i>Rich Sherwood</i>	<i>Montana Advocacy Program</i>	<i>250</i>		<input checked="" type="checkbox"/>
<i>Cris Valuckas</i>	<i>DD Lobbyist</i>	<i>250</i>		<input checked="" type="checkbox"/>

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# 293
 DATE 3-15-91 SPONSOR(S) Sen. DeBeauvoir

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Pat Bradley	Mt. Magistrate Assoc	293		X
Judy Peterson St. Joe	IPM's	293		X

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

House Judiciary COMMITTEE BILL NO. 55th 315
 DATE 3-15-91 SPONSOR(S) Sen. Deery

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
George F. Fleming	Credit Association of Alaska	315		X
Pat Bradley	Mt Magistrate Assn	315		X
John Cameron	MT Collectors Assoc.	315		✓
Tom England	Nearby Credit Bureau of MT	315		α
Colleen McCallister	CHECKRITE	315		X
Dan Wood	Buzyman Landlords Assn	315		X
Judy Peterson ^{et al}	IPM's	315		X
Larry Witt	Mt. Landlords Assn	315		X

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

House Judiciary COMMITTEE BILL NO. SB# 257
 DATE 3-15-91 SPONSOR(S) Sen. Gage

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

House Judiciary COMMITTEE SB #331 BILL NO.
 DATE 3-15-91 SPONSOR(S) Sen. Franklin

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
<i>Steve Kucant</i>	<i>Montana Business Assoc</i>			✓
<i>W. Solomon</i>	<i>Montana Carpenters Assoc</i>			✓
<i>Ray Dale</i>	<i>MT Div Forensic Sci</i>			✓
<i>Paul Johnson</i>	<i>IA Harney General</i>			✓

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

House Judiciary COMMITTEE BILL NO. 38th 387
 DATE 3-15-91 SPONSOR(S) Sen. Trager

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PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
V. Meake 2901 1st Ave. ^{great Falls, MT}	I.P.M.	387	✓	
Judy Peterson St. John	I.P.M.'s & Buckhorn Est	387	X	Support
John & Stinson St. John	I.P.M.	387	✓	
Dan Wood	Bozeman Landlords Assn	387	✓	
Carl L. Lischer	G.F.	387	✓	
Larry A. Witt	MT Landlords Assn		✓	
As				

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