

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dick Pinsoneault, on January 15, 1991,
at 10:05 a.m.

ROLL CALL

Members Present:

Dick Pinsoneault, Chairman (D)
Bill Yellowtail, Vice Chairman (D)
Robert Brown (R)
Bruce Crippen (R)
Steve Doherty (D)
Lorents Grosfield (R)
Mike Halligan (D)
John Harp (R)
Joseph Mazurek (D)
David Rye (R)
Paul Svrcek (D)
Thomas Towe (D)

Members Excused: none

Staff Present: Valencia Lane (Legislative Council).

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

Announcements/Discussion: none

HEARING ON SENATE BILL 51

Presentation and Opening Statement by Sponsor:

Senator Fred VanValkenburg, District 30, announced that SB 51 may look familiar to those members of the Committee who were present during the 1989 legislative session. He said a bill was introduced in 1989 and was passed in substantially the same form as SB 51, but was subsequently tabled in House Judiciary.

Senator VanValkenburg explained that SB 51 is a product of nearly six years of work, begun in March, 1985. He said the Montana State Bar Association established the Criminal Procedure Referral Committee to update criminal procedure code to employ with case law. He stated that the code adopted by the 1967 Legislature was later amended and largely remained as it was originally adopted.

Senator VanValkenburg told the committee SB 51 contains some amendments to statutory criminal procedure code, and that it is always good to update statutory procedure and to eliminate some confusion. He added that it is inappropriate to have a lack of uniformity of code.

Senator VanValkenburg said the 1985 committee worked on the bill for three years and presented it to the State Bar and the Montana Supreme Court for adoption as rules late in 1988. He explained that Montana operates under rules of procedure. He stated that in January, 1989, the Montana Supreme Court decided to defer to the Legislature to adopt the proposed changes as statute instead rules.

Senator VanValkenburg advised the Committee that the Criminal Procedure Committee, essentially, decided to work on the proposal for an additional two years. He said that, in essence, the bill was voluntarily tabled in 1989, and a number of meetings were held during the past interim to further prepare the bill for adoption.

Senator VanValkenburg reported that the bill is approximately 220 pages long and was printed only last week. He said there was limited opportunity for interested members of the public to read the bill or consider any proposed amendments. Senator VanValkenburg stated that three participating interest groups have minor concerns overall. He specifically asked that the Committee allow these interests to be heard at executive session before taking action on the bill.

Proponents' Testimony:

Robert L. "Dusty" Deschamps, Missoula County Attorney, told the Committee he was appointed chair of the commission producing this bill. He stated that when the commission completed its work in the fall of 1988, copies were distributed to every clerk of court, district judge, and lawyer in the state. He explained that the changes occurring during the past two years are minor and have been public; that there has been extensive opportunity for people to provide input.

Mr. Deschamps stated it is impossible to find complete agreement on the content of the bill, i.e., on the issue of mental defects, for instance. He explained that the commission spent several days discussing this issue and resolved it by a margin of one vote.

Mr. Deschamps stated that areas of interest were highlighted in the bill, and said some provisions were added mandating special treatment for certified offenders while others were deleted. He said changes were made in search and seizure and bail, and that language now says "place of trial" instead of "change of venue". He advised the Committee that some procedures relating to search

and seizure were still being followed from 1962 when the code was enacted.

Mr. Deschamps said the bill allows for conditional guilty pleas, uniform time for pre-trial motions, and fewer than twelve jurors in certain instances. He added that, most importantly, the bill implements procedural rules used by the Montana Supreme Court for the past 25 years.

Mr. Deschamps stated there was an attempt to do away with special procedure in certain courts and to provide uniformity in city, justice, and district courts. He said the bill streamlines procedure and brings it into tune with modern practice.

Mr. John Connor, Bureau Chief, County Prosecutor Services, Department of Justice, said he was also representing the Montana County Attorneys Association and that he was a member of the criminal procedures commission.

Mr. Connor said he echoed statements made by Mr. Deschamps, and that the objective of the commission was to create workable rules and to streamline procedures. He stated there was an attempt to find out if procedures in different areas conformed to law, and that the commission was trying to establish a fair and legally acceptable product.

Mr. Connor advised that the procedures involved looking at current law, federal and uniform rules of criminal procedure and at what would best suit Montana. He added that some adaptations were made.

Mr. Connor commented that a fiscal note on the bill applies to \$700,000 for a provision in the bill for autopsies paid by the state. He added that it was his understanding that a life insurance policy bill would be introduced to fund these autopsies. Mr. Connor said that, right now, if autopsies are required, coroners may not have the funds to pay for them. He stated that arguments can be made pro or con, but the bill is a better product, on balance.

Mr. Allen Chronister, representing the Montana State Bar Association, urged the Committee to support and pass SB 51.

Mr. Bill Fleiner, Lewis and Clark County Undersheriff, and member of the Board of Directors, Montana Peace Officers Association, stated his support of the bill. He asked for the opportunity to look at the bill, and said it is a way of life for law enforcement in Montana.

Chairman Pineseault noted that the Committee would delay executive action to give interested persons enough time to review the bill, and he requested that Mr. Connor be present to answer questions from the Committee during executive session.

Opponents' Testimony:

There were no opponents of SB 51.

Questions From Committee Members:

Senator Crippen asked if any members of the defense bar were present; if they were not interested or were overwhelmed by the equity of the bill. Mr. Deschamps replied that a number of defense attorneys were on the commission, one of which was Mike Sherwood, Montana Trial Lawyers Association. He explained that Mr. Sherwood planned to be present, but was taken ill this morning. He said Gary Dorn, Joe Hagel, Judge Bart Erickson, Tom Olson, and Loble all participated.

Senator Crippen asked about the spousal abuse issue mentioned earlier, and if it were a codification of state law. Mr. Deschamps said the language makes it plain that it is talking about communication between spouses. He explained that current law is unclear on this subject.

Senator Crippen said he was concerned with the expansion of law on spousal abuse, and asked that this section be addressed in executive session. He asked if the bill would expand case law in this area or what is new. Mr. Deschamps referred to section 198 on page 175 of the bill.

Senator Towe complimented the commission on some of the bill, and asked if, in theory, the bill was taking existing law and making reference to it by general statement, rather than codification. Mr. Deschamps replied that was correct.

Senator Towe asked about language at the bottom of page 37 and said it is a classic example of his concerns with stop and frisk on pages 33-35 of the bill. Mr. Deschamps replied that law is on the books now, but case law could change. He referred to the Supreme Court language requiring "articulated suspicion", and said the language used to be reasonable cause.

Senator Towe asked if the identify of the person being stopped was the basis and if this were in the bill. Mr. Deschamps said he did not know if that was correct, but believed there had to be some suspicious activity going on.

Senator Towe said he was also concerned with spousal immunity wherein the bill would make limitations to community and not to acts. Mr. Deschamps replied that it would be narrowed down in Montana and is mainstream in other states. He stated that unique areas in the bill are highlighted, such as bail.

Senator Svrcek stated that SB 51 is a very broad bill, and that he is concerned with eroding the rights of accused and the civil rights of people. He asked if the Committee was merely codifying existing case law and allowing flexibility for future

case law to be incorporated without statutory changes. Senator VanValkenburg replied they are codified for the protection of the public and are then going to be a very valuable. He said the defense bar was very actively involved in this process, and that the American Civil Liberties Union of Montana (ACLU) had also commented on the bill (Exhibit #1). He said that with minor exceptions the bill is extremely well-prepared and well-written, and so probably more stringently protects the citizens of the state of Montana.

Senator Svrcek referred to the statement that the bill allows flexibility for future case law without coming before the Legislature, and asked how it would square these things with Montana constitutional law. Senator VanValkenburg replied that because they are trying to adopt the changes legislatively instead of through the Montana Supreme Court, the Legislature will always retain this authority. He added that if this were done through the Court the Legislature would be abdicating some of its authority to the courts.

Senator VanValkenburg referred to search procedure on page 37, section 47, lines 24-25, and said that general language is found other places in the bill, so that particular provision cannot be interpreted there.

Chairman Pinsoneault asked if the information provided is sufficient to cover the concerns of committee members. Senator VanValkenburg replied that the Department of Institutions has concerns with the abilities of the Department to appeal to district courts regarding release from the state hospital. He added that more information will be forthcoming to the Committee, as the State Auditor has concerns with immunity and subpoena as it affects securities violations in the state.

Senator Doherty asked about the flexibility in future case law, and if the commission were looking to the federal constitution or some instructions to the Montana state constitution. Senator VanValkenburg replied he was talking about flexibility with respect to both federal and state constitutions.

Senator Towe asked Mr. Deschamps and Mr. Connor if they objected to the ACLU suggestions, and said he would like to see an amendment to require that a person stopped does not have to talk and would not be obstructing justice. Mr. Connor replied that in the State of Montana vs Gopher, stop and frisk provisions were more strict than they are in SB 51.

Closing by Sponsor:

Senator VanValkenburg again asked that the Committee wait seven to ten days before taking executive action on the bill. He advised committee members that the fiscal note was signed yesterday and is about \$1.2 million rather than the \$700,000 announced earlier. He added that this is a policy choice to be made by the

Legislature with respect to ordering autopsies, and said the bill itself has no significant costs.

HEARING ON SENATE BILL 53

Presentation and Opening Statement by Sponsor:

Senator Gerry Devlin, District 13, called SB 53 a business enhancement bill, and said shaking dice for a drink or the juke box is done all over the state. He added that establishments do not take part of the pot.

Senator Devlin advised the Committee that unless these games are specifically listed in statute, they are considered to be illegal. He said he did not like the language on line 25, page 1 of the bill, and would change it from "poker hand" to "winning combination". Senator Devlin said he believes the games don't hurt anyone and that he wanted to eliminate gray area in this situation.

Proponents' Testimony:

Larry Akey, Gaming Industry Association, echoed statements made by Senator Devlin.

Mark Staples, Montana Tavern Association, stated this is not a true gaming situation, but is a custom of rural taverns.

Opponents' Testimony:

Lois Menzies, Administrative Officer, Gambling Control Division, Department of Justice, testified for Bob Robinson, Division Administrator, and read from a prepared statement in opposition to the bill (Exhibit #2).

Questions From Committee Members:

Senator Mazurek asked Larry Akey why the Gaming Association wants the bill if it has nothing to do with gaming. Mr. Akey replied that the bill simply removes gray area for players, but is not higher on the list.

Senator Mazurek asked if shaking dice could be subject to expansion if the bill were to pass. Mr. Akey replied that he did not believe it would be a problem.

Senator Towe asked Senator Devlin for his comment on the Gambling Division's proposed amendments. Senator Devlin replied he had no problem with the amendments.

Chairman Pinsoneault, addressing Lois Menzies, stated that it was his understanding that once these sanctions were given it would

provide an opening for a tribe to open this activity with no control. Ms. Menzies replied that it has been the interpretation of the Division that this activity is subject to negotiation with the tribes. She added that the Division has no control over caps on tribal lands.

Senator Yellowtail asked if shaking for a pot was a common practice. Mr. Akey replied that rural bars traditionally have this activity. Mark Staples added that a pot might be \$2 or \$30, and is a standard feature of rural taverns.

Closing by Sponsor:

Senator Devlin made no closing remarks.

HEARING ON SENATE BILL 39

Presentation and Opening Statement by Sponsor:

Senator Mike Halligan, District 29, said SB 39 is the product of a subcommittee on juvenile detention and focuses on overcrowding problems, substandard jails, and mixing of inmates. He said the subcommittee started with minor traffic offenses, and that the bill reduces public defender costs and will keep only those in jail who need to be there.

Senator Halligan stated that legislation in this area has been piece-mealed together for the past two or three years, adding that jail costs are \$20-30 per day. He advised the Committee that traffic offenses account for 18 percent of the people in county jails. Senator Halligan said the bill is more community-based in cost and sentencing in addressing only minor offenses.

Proponents' Testimony:

Lt. Mike O'Hara, Assist Jail Administrator, Missoula County, stated that when traffic offenders don't appear in court or pay their fines they are put in jail. He said people are being arrested in Missoula right now for not having a light on their bicycle or a drivers license while they are riding a bicycle. He added that some of these people have been harmed or raped while they were in jail.

Scott Chrichton, Executive Director, ACLU of Montana, stated his support of the bill.

Bill Fleiner, Lewis and Clark County Undersheriff and board member of Montana Peace Officers Association, also stated his support of the bill.

Opponents' Testimony:

Patricia Bradley, Montana Magistrates, read from prepared testimony in opposition to the bill (Exhibit #3).

Gary Dupuis, City Judge, East Helena, also read from prepared testimony in opposition to the bill (Exhibit #4).

Myron Pitch, Helena City Judge, told the Committee he hears between 8,000 and 10,000 cases annually. He said he did not believe that minor traffic offenses comprised 18 percent of those in jail. He asked what could be done with those who could not pay a fine if jail were not an alternative.

Questions From Committee Members:

Senator Crippen asked Lt. O'Hara if he said people were being arrested for not having a light on their bicycle. Lt. O'Hara replied that a street officer made such an arrest.

Senator Mazurek asked Judge Pitch if he could use power of contempt to jail offenders who refuse to pay fines. Judge Pitch replied that a fine cannot be levied for anyone who cannot afford to pay.

Senator Doherty told Senator Halligan he was contacted by both judges in Great Falls, and asked if there were limits to contempt citations. Senator Halligan replied that the bill addresses minor offenses and not ones with established penalties. He stated that page 2, line 5 says failure to pay fines results in imprisonment. He explained that Missoula County is trying to impose community service sentences in lieu of fines.

Senator Towe said there is some objection to community service, as it forces persons to work. He added that he hasn't seen a law to this effect. Judge Pitch responded that community service sentencing would force his staff to increase by at least two persons.

Closing by Sponsor:

Senator Halligan said the bill is an obvious change in corrective policy and that he knew there would be controversy. He added that he is willing to work with magistrates.

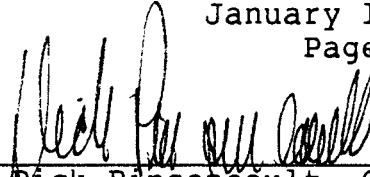
ADJOURNMENT

Adjournment At: 11:30 a.m.

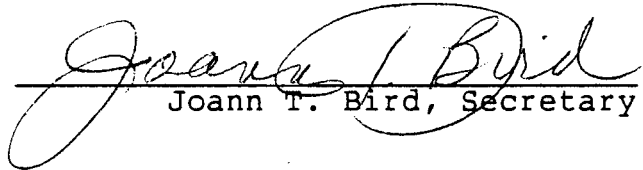
SENATE JUDICIARY COMMITTEE

January 15, 1991

Page 9 of 9



Senator Dick Pinsonneault, Chairman



Joann T. Bird, Secretary

DP/jtb

ROLL CALL

SENATE JUDICIARY

COMMITTEE

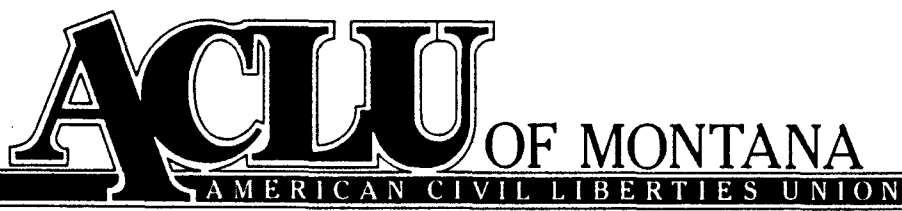
52nd LEGISLATIVE SESSION -- 1989

Date 15 Jan 91

NAME	PRESENT	ABSENT	EXCUSED
Sen. Pinsoneault	✓		
Sen. Yellowtail	✓		
Sen. Brown	✓		
Sen. Crippen	✓		
Sen. Doherty	✓		
Sen. Grosfield	✓		
Sen. Halligan	✓		
Sen. Harp	✓		
Sen. Mazurek	✓		
Sen. Rye	✓		
Sen. Svrcek	✓		
Sen. Towe	✓		

Each day attach to minutes.

1-2 January 71
Exhibit #1
SB 51



. O . B O X 3 0 1 2 • B I L L I N G S , M O N T A N A 5 9 1 0 3 • (4 0 6) 2 4 8 - 1 0 8 6

January 10, 1991

Sen. Fred Van Valkenburg
Capitol Station
Helena, Montana 59620

State Office
335 Stapleton Building
Billings, Montana 59101

BOB ROWE
President

SCOTT CRICHTON
Executive Director

JEFFREY T. RENZ
Litigation Director

RE: Senate Bill 51

Dear Fred:

At Scott Crichton's request, I have reviewed SB 51, the proposed revision of the Criminal Procedure Code. Overall, I think someone has done an excellent job. I have several criticisms that I think should be addressed by amendment. I have told Scott that the ACLU should take no position on the bill, other than to oppose the provision regarding road blocks, since it appears that most of the wrinkles have been worked out between the prosecutors and the defense bar.

My specific criticisms follow:

Section 42. This is the Investigative Stop provision. My only observation is that it might be wise to revise the language to more closely follow Terry v. Ohio, that is, that the officer may ask questions about matters that gave rise to his particularized suspicion. You may want to codify the rule that the person stopped does not have to answer. There has been a tendency to charge such persons with obstructing a peace officer.

Section 153. This is one of the amendments to the mental disease and defect provisions. This does not comply with Smith v. McCormick, Ake v. Oklahoma, or Estelle v Smith. Smith and Ake make it clear that the Defendant is entitled to his own mental health expert to assist him in identifying both defenses to the charge and factors in mitigation of sentence. This is an ongoing problem (Smith's sentence was overturned and the death sentence in State v. Dawson is likely to be overturned) because of the consistent use of "court-appointed" experts, which means Drs. Van Hassel, Xanthopolous, or Stratford. The rule is that the accused gets his own expert, who becomes part of the defense team for purposes of the sixth amendment, and is not compelled to release the expert's report or anything else unless he decides to call the expert to testify.

"Eternal vigilance is the price of liberty"

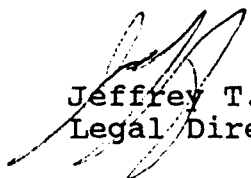
Ex. 1
1/15/91
SB51

Sen. Fred Van Valkenburg
January 10, 1991
page two

Section 216(2). To ensure that a waiver of a jury is knowingly made, I would recommend that this subsection be amended to provide for a written waiver or a waiver on the record. There is currently a case on appeal to the Montana Supreme Court where a city prosecutor claims that the defendant/appellant waived a jury trial. The defendant claims otherwise. Fortunately the current law required the waiver to be on the record. The facts are exacerbated by a Gallatin County practice (unpublished) that requires a jury demand to be included in the notice of appeal from city or justice court. You can see the potential for problems. The only way to ensure that there is no future dispute or a false claim by a defendant is to maintain a record of the waiver.

Thank you for considering these observations.

Cordially,


Jeffrey T. Renz
Legal Director

15 January
Exhibit #2
SB53

STATE OF MONTANA
DEPARTMENT OF JUSTICE
GAMBLING CONTROL DIVISION

Marc Racicot
Attorney General



2687 Airport Road
Helena, MT 59620-1424

TESTIMONY ON SENATE BILL NO. 53

Senate Judiciary Committee
January 15, 1991

Submitted by Lois Menzies, Administrative Officer
Gambling Control Division, Department of Justice

Section 23-5-151, MCA, provides that all forms of public gambling are prohibited unless specifically authorized by statute.

Shaking or rolling dice for a daily prize (shake-a-day) is not specifically authorized by law, and therefore not a legal gambling activity, even though it was commonly played and often considered an acceptable form of small-stakes gambling. The Gambling Control Division has had the unenviable task of advising tavern owners that this activity is prohibited.

If the Legislature chooses to add shaking dice for money or drinks or playing shake-a-day to the list of authorized gambling activities, the Department of Justice requests that these gambling activities be subject to the normal statutory limits and controls imposed on other gambling activities. These statutory limits include the prohibition against gambling by persons under age 18, the prohibition against licensing or taxing by local governments, and the prohibition against credit gambling and fraudulent activities.

Adoption of the attached amendments would authorize the activities in Senate Bill No. 53 and would make these activities subject to the general regulatory controls imposed upon all legal forms of gambling. The amendments would not subject the games to

Ex. 2

1-15-91

SB 53

pg 2

any fees, taxes, or license requirements imposed by the state
unless the legislation specifically provides for these items.

EX. 2
1-15-91
SB 53

PROPOSED AMENDMENTS TO SENATE BILL NO. 53
(Introduced Copy -- White)

Submitted by:
Gambling Control Division, Department of Justice
January 15, 1990

1. Title, line 6.
Strike: "; LEGALIZING"
Insert: "AND"
2. Title, lines 7 and 8.
Following: "SHAKE-A-DAY" on line 7
Strike: ";" through "GAMES" on line 8
3. Page 1, line 12.
Strike: "(1)"
4. Page 1, line 15.
Strike: "(a)"
Insert: "(1)"
5. Page 1, line 21.
Strike: "(b)"
Insert: "(2)"
6. Page 2, lines 9 and 10.
Strike: subsection (2) in its entirety
7. Page 2, line 13.
Strike: ". The"
Insert: ", and the"
8. Page 2, line 14.
Strike: "do not"

Montana Magistrates Association

January 15, 1991 SB 39 before the Senate Judiciary Committee

Testimony by Pat Bradley, Lobbyist, Montana Magistrates Assn.

Mr. Chairman and Committee Members:

The Montana Magistrates Association opposes SB 39 which removes imprisonment as a penalty for minor traffic offenses.

Sec. 46-18-101 states that the correctional policy of the state of Montana is to protect society by preventing violations of law through punishment and rehabilitation of the convicted. The legislature finds that an individual is responsible for and must be held accountable for his or her actions. To achieve this end, it is the policy of the state to assure that prosecution of offenses occur whenever probable cause exists and that punishment of the convicted is certain, timely and consistent, and that defendants are dealt with in accordance with their individual characteristics.

SB 39 would remove from the court's discretion, in the literally thousands of minor traffic cases each year, this necessary tool for dealing with repeat offenders, and jeopardizes the protection of society.

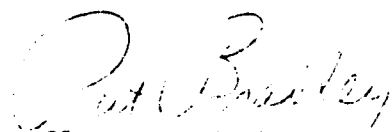
In only rare cases if at all, do courts of limited jurisdiction invoke jail time for first offense traffic violations. In the case of chronic offenders, the importance of the availability of jail time, or the portent of such, along with suspension or deferral of sentence, is a protective call for the public and a rehabilitative urge for the defendant.

Responsible citizens will pay their traffic fines and take their lumps. Indigent repeat offenders could beat the system since they cannot be jailed to compensate for not paying a fine. Chronic paying offenders can make a mockery of the court system if there is no other penalty than a fine. Concomitant restitution cannot be realistically enforced without the incarceration provision in the penalty statute.

The courts would be greatly hampered without this sentencing alternative, as would the government entities who fund the courts.

If jail crowding conditions are the reason for this proposal, we contend the crowding is not caused by most traffic offenders.

The judges of the MMA urge you to not pass this legislation.


Pat Bradley, Lobbyist, MMA

Montana Magistrates Association

The Montana courts of limited jurisdiction are presided over by 123 judges. There are 33 Justices of the Peace, 44 City Judges, 45 dual CJ/JP judges and one Municipal Judge in the 56 counties. Forty-six are female and 77 are male. There are 10 attorney judges.


The 1972 Constitution and the 1973 Legislature called for the improvement of physical facilities for these courts. New laws required cities and counties to provide dignified surroundings and necessary supplies. The Supreme Court established a Commission for Courts of Limited Jurisdiction, and Sec. 3-11-204 MCA mandates the attendance of all judges at legal education conferences two times each year.

In 1985, the Montana Magistrates Association drafted legislation that mandates that a judge may not assume the function of office until he or she passes a course and test administered by the Supreme Court and thereby is certified to hold judicial office.

Since that time, jurisdiction for these courts has increased with each legislative session, and judges, through ongoing legal education, are competent to receive this jurisdiction.

Courts of Limited Jurisdiction have jurisdiction over criminal, GVV, Fish & Game misdemeanor offenses; civil matters to \$3500; small claim actions to \$2500; juvenile offenses in traffic, F&G, and alcohol-related violations; livestock offenses, temporary restraining orders and domestic violence; and all concomitant procedures.

Respectfully submitted on request of Senate Judiciary Chairman, Sen. Pinsoneault.


Patricia Bradley for the MMA

15 January 71
Exhibit #4

SB 39

January 15, 1991

Senator R. J. Pinsoneault, Chairman
Senate Judiciary Committee
Capital Station
Helena, Montana

RE: SB 39

Mr. Chairman and Members of this Committee:

My name is Gary Dupuis, City Judge for the City of East Helena. I am here today representing one (1) of approximately one hundred and twenty-four (124) Courts of Limited Jurisdiction within the State of Montana. By saying, Courts of Limited Jurisdiction, I am alluding to the fact that our Courts are limited to misdemeanor offenses ranging, most generally, from a maximum of \$500.00 fines and upwards to six (6) months in jail. The impact that I can see with the passage of SB 39 can greatly devastate our courts in several ways.

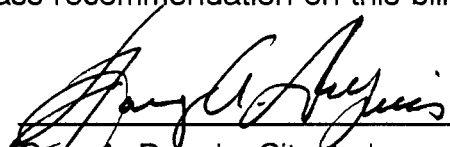
First of all, the Courts of Limited Jurisdiction are generally the first court that the general public goes before, for any misdemeanor offense that they may have violated. This is where they get their first impression of our Judicial Court system. In most incidents, the violators never go beyond this level. I have a small case load, but when you get into the bigger cities, such as Helena, Great Falls, Billings, Missoula and Butte, the case load goes beyond what one can imagine. In some cases, you might get some repeat or second offenders on traffic violations. On first offenders, I have not imposed jail time and most generally on the second offenders, no jail time has been imposed. But when you have the same violators for the third or subsequent time and having already sentenced them to some sort of a fine and they still have not learned that they cannot continually break the laws of Montana, then the Judges have to look at imposing stiffer sentencing to attract their attention. The only other way that this can be done is with sentencing the violators to some time in jail. Now mind you, I am not one that believes in sentencing someone to jail every time that they appear before me, but after seeing the same person appearing in my court, three or four times, I begin to wonder if that person really comprehends the laws of the State of Montana. Most generally in today's

1-15-91
SB 39

society, people can read, write and understand the English language, but after making several appearances before the Courts, I wonder.

As I read S.B. 39, if the penalty section regarding imprisonment is eliminated, the traffic offenders will know that if they violate any of the traffic laws of Montana, they will not be subjected to any jail time and therefore will continue to break laws that you and I have to live by. In most cases, money is no object to them and they pay it without any remorse what so ever. The impact on our case load in court would therefore double or triple. But if there is the possibility of them being placed in jail, for whatever length of time that may be imposed, they may think twice about violating any of our laws.

I am asking for a Do Not Pass recommendation on this bill.



Gary A. Dupuis, City Judge
East Helena, Montana

VISITORS' REGISTER

Senate Judiciary COMMITTEEBILL NO. none SB 51DATE 15 Jan 91SPONSOR Van Valkenburg

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
J Michael O'Hara	Michelle G. Stedman		
Robert L. Deschamps	Missouri @	✓	
John Connor	Helena	✓	
Allen Chronister	State Bar	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Senate Judiciary

COMMITTEE

DATE 15 January 91

SPONSOR Devlin

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Senate Judiciary

COMMITTEE

BILL NO. SB 39

DATE 15 Jan 91

SPONSOR Halligan

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.