

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION COMMITTEE ON EDUCATION

Call to Order: By SENATOR CHET BLAYLOCK, on January 23, 1991, at
1:00 P. M.

ROLL CALL

Members Present:

Chet Blaylock, Chairman (D)
Harry Fritz, Vice Chairman (D)
Robert Brown (R)
Bill Farrell (R)
H.W. Hammond (R)
Dennis Nathe (R)
Dick Pinsoneault (D)
Mignon Waterman (D)
Bill Yellowtail (D)

Staff Present: Eddy McClure (Legislative Council).

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

HEARING ON SB 84

Presentation and Opening Statement by Sponsor:

Senator Judy Jacobson, Senate District 36, in presenting the SB 84 said that she wished to approach this with the attitude of whether or not corporal punishment is needed in the schools any longer. She said that physical abuse is banned in prisons, psychiatric hospitals and military schools and many parents feel that a method of "time out" is more effective than physical means. She stated that there are very few places where inflicting pain is an acceptable disciplinary method. According

to Senator Jacobson, schools in Montana stand out as an example, an exception she would hope the committee would choose to eliminate. She said that virtually every state permits teachers to use force to protect themselves or retrain a violent child whose behavior is a threat to the teachers, to other children or to themselves. This bill permits that.

Years of research by the National PTA has led them to conclude that instead of curbing violence, corporal punishment teaches children to use violence to solve problems. At best, such discipline depresses such behavior temporarily; however, in the long term it may increase it. Corporal punishment lets students "off the hook" by not requiring them to take responsibility for their actions. It does not teach students how to judge between right and wrong behavior, and has a negative effect on students' ability to learn or concentrate by humiliating them and providing no motive to learn. A clearly laid out disciplinary plan at the beginning of an academic year which students can understand and respect and agree to abide by would be a far more positive approach. If pre-school children can understand "time out and its rules and their consequences, surely school age children can do the same. The sponsor believes that the most effective discipline in all areas of human interaction is rooted in fairness, in justice and concern for individual rights.

Proponents' Testimony:

ELLEN BOURGEAU, Legislative Coordinator for the Montana Congress of Parents and Teachers, stated that she welcomed the opportunity to address this Committee on behalf of the PTA which is the largest child's advocacy organization in the state, and whose parent organization is the largest child's advocacy group in the nation. See Exhibit 1.

KAY MCKENNA, CSS, in support of SB 84. She stated as a teacher and an administrator, she knows of no instance where slapping or hitting a child had an effect on inappropriate behavior of children. She stated that she has some concerns regarding the bill, one of which concerns the definition of corporal punishment on Page 2. She felt that the definition should be more specific regarding such things as hitting, spanking, paddling, etc., It is her belief that many teachers disagree with any kind of corporal punishment but she was speaking of hitting and spanking situations.

She was also concerned where teachers are in charge because the school may not have an administrator. (Page 3) She requested the wording to be modified to read "the teacher shall notify the trustees and the County Superintendent" and the same wording to be included in Line 15. She concluded by saying the County Superintendents would support any bill that would oppose corporal punishment.

PHIL CAMPBELL, MEA, believes it is a good public policy for the state to have a law which dictates that physical pain not be intentionally inflicted on students. He said the organization is concerned about how teachers and other employees are affected by this bill. The bill has been carefully reviewed because of the

impact it will have on their teacher members across the state and he believes the bill will meet the test that allows reasonable physical restraint to happen while at the same time a law will be in effect to prohibit intentional infliction of pain. He noted that the fines are also changed. He believes the bill was drafted to allow the kind of discipline that is necessary.

JUDITH CARLSON representing the Montana Chapter of National Association of Social Workers stated that their chapter strongly endorses SB 84 and urged the Committee to pass it. She stated that 90% of corporal punishment is inflicted by only 5% of the educators. Social workers are involved in the investigation of abuse and neglect of children by parents; other social workers are involved in the treatment of children who have been victims of abuse. They see that corporal punishment can inflict harm on the child, both physical and mental. (Exhibit 2)

The following persons supported SB 84:

JIM SMITH, MT Residential Child Care Association.

ALAN NICHOLSON, private citizen and member of MBPE

DEBRA KEHR, Vice-chairman of Helena School Board.

BRUCE MOERER, MSBA.

CYNTHIA BUEHL, private citizen.

TERESA REARDON, MFT.

ANN GILKEY, Department of Family Services. (Exhibit 4)

SCOTT CRICHTON, American Civil Liberties of MT (Exhibit 5)

PAULETTE KOHMAN, Executive Director, Montana Council for Maternal and Child Health. She told the Committee that all nations have outlawed corporal punishment but three--South Africa, the Australian outback and the United States. In regard to the drafting of the bill, she suggested that on Page 3, Line 19, the words, "corporal punishment or" be inserted before "more physical restraint". (Exhibit 3)

GAIL GRAY, OPI, stated corporal punishment of children interferes with the process of learning and the optimal development of socially responsible adults. OPI supports SB 84.

JUDY GARRITY, representing MCA, in support of SB 84. She spoke of an article which is in support of abolishing corporal punishment in the school and has been included in the 1991 Children's Agenda. The Agenda is supported by 47 organizations.

EILEEN MORGAN, School Psychologist working in Helena, representing MT Association of School Psychologists.

Opponents' Testimony:

ROBERT AUMAUGHER, Superintendent, Evergreen School District, Kalispell, stated his concern for quality education which he feels has declined since 1966. He said that he was certain that everyone in the room shared the same concerns. He said that he

sees declining student effort, declining discipline and a lack of parenting skills throughout his school district. It is his belief that conditions are worsening in the area of student conduct and attitude.

He said that few events concern an educator more than being prosecuted for action on their part. Mr. Aumaugher said that in Evergreen School District, they do not spank or hit children and do not plan to do so in the future. Anyone in their school district who does will face possible termination. He stated approximately 85% of parents would support a teacher's action of intervening but he is concerned about the small minority of parents who have axes to grind and might take this opportunity to prosecute a teacher. He said that few events concern an educator more than being prosecuted for an action on their part that they felt was necessary.

He said he is gravely concerned about what can be defined as infliction of pain. He said that spanking or striking children is not an issue but protection of teachers for doing what they deem to be necessary at times is of concern. He hopes this committee would consider these points very carefully before adopting the legislation as written. (See Exhibit 6)

Other Proponents:

BERNARD ROSLING, Superintendent, Somers Public Schools.
BOB SMITH, Elementary Principal at Columbia Falls.

Questions From the Committee:

SENATOR PINSONEAULT said that he would not support SB 84 as written but with some modifications he possibly could. He felt the way the bill was written would intimidate teachers. He volunteered to work on some modifications of the bill.

SENATOR BOB BROWN said that he believes some examples are needed to show the need for this legislation.

SENATOR JACOBSON stated that most of the examples that were used two years ago were clearly against the current law. She said what is being suggested is that there are better methods of disciplining children. She stated that if corporal punishment is not used at institutions with court committed residents (such as Pine Hills, Mountainview), why would it be needed in the public schools? She stated that we should go forward with more positive methods which research has shown to be more effective. She spoke of studies done by the National PTA.

SENATOR BBROWN expressed concern that he did not believe enough evidence was presented to indicate the law should be changed and stated that was apart from the things the administrators from his part of the state had brought up about the vagueness of the language and the possible jeopardy it might place teachers and

principals in if some clarifying amendments are not included.

SENATOR BROWN said that the testimony today came from professional people who are experts in the field of child psychology but he does not feel that the voice of the people has been heard on this particular legislation. He stated that the testimony today was a minority viewpoint. He estimated that 90% of the people who gave testimony lived in Helena.

SENATOR HAMMOND asked if they were concerned at all about punishment that creates mental anguish. He stated in his experience he saw teachers who used all sorts of disciplinary processes which created a great deal of mental anguish yet no one seemed concerned about this. He stated if the possibility of any physical punishment is taken away, then he wondered what method of discipline would be used. He referred to mental anguish would increase as a method of control. He suggested more training for teachers.

Closing by sponsor:

SENATOR JACOBSON closed the hearing, emphasizing that the PTA groups statewide support the bill. She said she believes that it was demonstrated here today that a majority of groups dealing in this field want this legislation. She understands that those in Senator Brown's district have a particular concern, not with banning corporal punishment but with making certain that the kinds of restraint (needed in schools to maintain discipline) are clearly laid out in this bill. SB 83 was drafted two years ago with a broad cross section of people working on this legislation. She said that she had no problem with the language of the bill being tightened (amended). She believes the need has been established and the issue has to be looked at. She hopes that the state of Montana will go forward and start using more effective methods of discipline in the schools.

Discussion:

SENATOR BLAYLOCK stated that in view of the fact that a number of questions arose during the hearing on SB 84 some of which are technical, he would like to get some suggested changes made in the form of an amendment before taking executive action on the bill. He asked if Senator Pinsoneault, Senator Jacobson, Eddy McClure (Legislative Council) and Phil Campbell, Attorney MA, draft amendments to SB 84. They agreed to do so. Executive action was postponed.

Discussion on SB 17:

The Committee on Senate Education discussed SB 17. Curt Nicholas, Office of the Governor, and Madalyn Quinlan, Office of Public Instruction, were present. Executive action will be considered at a further date.

ADJOURNMENT

Adjournment At: 3:00 P. M.,



SENATOR CHET BLAYLOCK, Chairman



BETSY CLARK, Secretary

CB/bc