

## MINUTES

### MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON JUDICIARY

Call to Order: By Chairman Pinsoneault, on February 7, 1991, at 10:00 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:** Senator VanValkenburg asked the Committee to consider an amendment to SB 51 on Friday, February 8, 1991.

Senator Doherty announced that Representative Dave Brown had asked him to carry an amendment on bad check charges on the Senate floor on HB 114.

#### HEARING ON HOUSE BILL 178

#### Presentation and Opening Statement by Sponsor:

Representative Howard Toole, District 60, said HB 178 addresses the Uniform International Will Act covering ownership of property in more than one country. He advised the Committee that a 1973 convention established a series of rules relating to international wills, and that the NCCUSL (National Conference Committee on Uniform Statute Law) began to check it out in 1977

after Montana adopted the Uniform Probate Code. He stated that international wills will be adopted as a separate code.

Representative Toole explained that the purpose of the bill is to make valid all wills of countries joined in the 1973 convention. He said Montana law now requires proof of local law concerning foreign property which, he said, is cumbersome and expensive.

Representative Toole explained that sections 3 and 4 contain the formal execution of the bill. He said section 5 establishes requirements for conformity with the International Will Act. Representative Toole told the Committee Professor Eck is an expert and has supplemental information on the subject.

#### Proponents' Testimony:

There were no proponents.

#### Opponents' Testimony:

There were no opponents.

#### Questions From Committee Members:

Chairman Pinsoneault asked if this requires an ancillary proceeding, and how it would work if an individual owned property in Montana and in England, for instance. Representative Toole explained that the Act is limited to validation of the will itself and eliminates the need for proof concerning property owned in foreign countries.

Chairman Pinsoneault asked how many countries were in the compact. Representative Toole replied 42 governments were represented by delegates in 1973.

Senator Rye asked why this is being done at the state legislative level rather than in congress. Representative Toole replied that the law is established separately in each of the states.

Senator Towe asked who "authorized persons" are on page 1 of the bill. Representative Toole replied sections 9 and 10 address this.

Senator Towe asked if the benefactor's wishes would be honored in spite of the laws of that country. Representative Toole replied it obviates proving what foreign law is, and transfer will be accepted subject to ancillary consideration in that country.

#### Closing by Sponsor:

Representative Toole advised the Committee that this legislation is another one of the actions being considered at the

national level and will bring conformity. He asked Senator Mazurek to carry the bill.

#### HEARING ON HOUSE BILL 194

##### Presentation and Opening Statement by Sponsor:

Representative Howard Toole, District 60, said HB 194 modifies the section of the code dealing with appeal bonds for civil cases which were required to be posted. He commented that there are a number of bills like this in the House to bring the statute into conformity with the Supreme Court's decision.

Representative Toole cited Merchants Association v Conger, 1979. He explained that a woman applied for a waiver of bond because she was indigent, and that she appealed to the Supreme Court after the district court denied her request. He said the Court decided that a bond twice the amount of the judgment was unconstitutional. Representative Toole advised the Committee that Greg Petesch, Legal Services Director, Legislative Council, requested the bill.

##### Proponents' Testimony:

There were no proponents.

##### Opponents' Testimony:

There were no opponents.

##### Questions From Committee Members:

Chairman Pinsoneault commented that he remembered Professor Mason addressing "in forma pauperis" concerning indigents.

##### Closing by Sponsor:

Representative Toole stated HB 194 is relatively innocuous and asked the Committee to give the bill favorable consideration.

#### EXECUTIVE ACTION ON HOUSE BILL 194

##### Motion:

Senator Towe made a motion that HB 194 BE CONCURRED IN.

##### Discussion:

There was no discussion.

Amendments, Discussion, and Votes:

There were no amendments.

Recommendation and Vote:

The motion made by Senator Towe carried unanimously.

HEARING ON HOUSE BILL 148

Presentation and Opening Statement by Sponsor:

Representative Howard Toole, District 60, said HB 148 deals with the program of home arrest. He explained it is a relatively new idea that is already being used by the Department of Institutions (DOI), under an intensive supervision programs and established guidelines.

Representative Toole advised the Committee that a home arrestee is monitored electronically, and wears a bracelet type of devise which attaches to a telephone. He said this is a comprehensive, regulatory scheme, originally drafted largely for the jurisdiction of DOI.

Representative Toole told the Committee an amendment split supervision of felonies to the district courts and that of misdemeanors to the JP (justice of the peace) courts. He commented that it is clear that misdemeanor cases are well-suited for this type of treatment.

Representative Toole stated that in section 2 of the bill offenders can petition the court for home arrest in lieu of jail. He said the petition is reviewed by the sentencing judge, and that the juvenile probation unit of youth court will handle juvenile offenders.

Representative Toole said section 3 establishes a broad range of conditions concerning home arrest as it is applied to those on probation and parolees. He added that it is clear the intent is not to limit typical incarceration sentencing by the courts.

Representative Toole explained that section 5 requires home arrestees to be responsible for their own living expenses. He said section 6 lists home arrestees; section 7 allows home arrests for youth court offenses; and section 8 addresses youth court adjustments.

Representative Toole said section 10 modifies basic sentencing statutes on all crimes in the state; section 11 addresses DUI offenses; and section 12 addresses per se offenses. He told the Committee that a House amendment on the floor provided that a first

offense for DUI (24 hours) and a second offense (48 hours) must be served in jail.

**Proponents' Testimony:**

Dan Russell, Administrator, Division of Corrections, said the bill was amended to meet DOI concerns. He stated his support of the bill, and said he believes it provides a reasonable alternative.

Bill Fleiner, Undersheriff, Lewis and Clark County, and Montana Peace Officers Association, stated his support of the bill. He explained that Lewis and Clark County uses a home arrest system with an ankle bracelet.

Mr. Fleiner proposed changing page 5, lines 6-7 by striking language that fees for supervision and equipment are to be paid to the authority, and inserting that those fees are to be paid to the clerk of court. He explained that the clerk of court also needs to be directed to route those funds back to the supervising authority.

Mr. Fleiner advised the Committee that a small portion of fee monies can be used for indigent persons.

**Opponents' Testimony:**

There were no opponents.

**Questions From Committee Members:**

Senator Harp asked how many felons are under home arrest. Dan Russell replied there are 44 persons under intensive supervision in Missoula and Billings.

Senator Harp asked for a "thumbnail sketch" of felons under home arrest. Dan Russell replied they are mostly burglars and drug offenders.

Senator Harp asked if a drug offender could continue to use while under house arrest. Dan Russell replied home arrest is a better option in these instances, and drug use is monitored by urinalysis.

Senator Towe asked about a specified authority petitioning the court in section 2. He asked if DOI were addressed as a supervising authority. Representative Toole replied he believes section 2 does this under the ISP (individual supervisory plan) program. He said DOI determines if the person is suited for home arrest and then approaches the court for judgment. Representative Toole stated he believes it would not affect the way felons are currently being handled. He explained that DOI does not have the authority to petition when an offender does not petition the court. He said HB 319 and HB 320 will be before the Committee concerning adult and juvenile detention, and that Representative Gould would

be presenting HB 48 which commits those people to DOI who has the latitude to place people in the program.

Representative Toole commented that page 7, lines 6-10 (blue copy) may need to be rewritten in view of Senator Towe's question.

Chairman Pinsoneault asked if there were a provision for violation of home arrest. Representative Toole replied it is addressed in section 3 of the bill.

Senator Svrcek asked Bill Fleiner how the bracelets work. Mr. Fleiner replied they are attached with special tools which require training to use. He said that an electronic monitor knows when the bracelets have been cut off, and authorities are notified. Mr. Fleiner told the Committee the bracelets have a range in the home and when that range is exceeded the system is notified immediately. He said the home arrestee must fill out a schedule for the court and the monitoring company if he or she must be away from home.

Senator Svrcek asked Bill Fleiner to bring a device for the Committee to view. He asked how power outages would affect the bracelet. Bill Fleiner replied the bracelets use phone lines and there have been no problems so far. He commented that Lewis and Clark County did have an escapee who turned himself in, and said that although Lewis and Clark County monitors, private entities could also monitor the bracelets.

Chairman Pinsoneault asked if Representative Strizich's "pay-as-you-go" bill would apply to this bill. Representative Toole replied he did not think so.

Lake County Commissioner Ray Harbin, said his county has used the ankle bracelet for two years and also uses an alcohol monitoring system. He explained that a voice print is taken which the computer identifies when the home arrestee is called. Mr. Harbin advised the Committee that Lake County requires advance payment and charges \$15 per day for home arrest.

Senator Towe commented that language in the bill needs to ensure that the funds paid to the clerk of court go to the right place. Representative Toole replied that the sentencing court would be the supervising authority in many instances. Dan Russell added that probation and parole officers can't be collecting money and carrying it around. He said the clerk of the district court could dispense the funds properly.

#### Closing by Sponsor:

Representative Toole said he believes the bill has merit and that it would encourage other agencies to use home arrest. He asked that Senator Halligan carry the bill.

HEARING ON HOUSE BILL 72Presentation and Opening Statement by Sponsor:

Representative Jim Rice, District 43, said HB 72 is one of the interim study of juvenile detention bills, and that it would release those presenting the lowest risk to the community more quickly to avoid overcrowding. He said nine counties are currently experiencing overcrowding and five of those counties have identified the problem as being very serious (Exhibit #1).

Representative Rice advised the Committee that the bill provides mandatory release of misdemeanor offenders if they are held for more than 60 days and have not yet gone to trial. He explained that section 2 creates a release assistance officer and codifies release assistance officers already in existence (such as in Missoula). He stated that this officer is not necessarily a new employee, but will review all arrests and jailings. He said the release decision must be made by the judge within 40 hours of arrest.

Representative Rice said section 4 recommends that the court try to schedule those held before those not being held. He stated that after section 5, the rest of the bill is housekeeping. Representative Rice told the committee the system has worked well in Missoula County, and that the bill is based on Oregon and North Carolina sources.

Proponents' Testimony:

There were no proponents.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Svrcek asked why section 6 was deleted from the bill. Representative Rice replied there was opposition to the section.

Closing by Sponsor:

Representative Rice advised the Committee there were proponents at the House hearing. He said HB 72 is a good bill and asked for favorable consideration.

EXECUTIVE ACTION ON SENATE BILL 199Motion:

Discussion:

Valencia Lane provided amendments requested by Senator Crippen and drafted by Anne MacIntyre, Administrator, Human Rights Commission (Exhibit #2).

Senator Towe said he believes inquiring of physical handicaps is justifiable. Anne MacIntyre replied that language on page 2 could be changed to "unless based on reasonable grounds". She said the Commission could then address this by rule, and commented that it would probably be reasonable to inquire as to the size of a family.

Senator Svrcek said he was concerned that small talk between a landlord and a renter could become a problem. Senator Crippen replied that the word "practice" in the bill refers to a pattern of a landlord.

Senator Grosfield asked if there were a handbook for landlords. Anne MacIntyre replied the Commission is developing a training package now through HUD for landlords and property managers.

Chairman Pinsoneault commented that the National Association of Landlords puts out its own publication which contains good, explicit information.

Senator Svrcek asked that amendment 2 be modified to include "on the basis of". Anne MacIntyre suggested inserting "for the purpose of discriminating on the basis of" after "to make an inquiry".

Amendments, Discussion, and Votes:

Senator Crippen made a motion that the language proposed by Anne MacIntyre be included in her original amendment (Exhibit #2). The motion carried unanimously.

Senator Mazurek provided copies of his proposed amendments (Exhibit #3). He said he was concerned with doubling any area of the law concerning human rights violations with regard to the statute of limitations. Senator Mazurek explained that it is not required in any area except housing, and that all others would remain at 180 days.

Senator Towe said he suspected the biggest area is in employment discrimination. Anne MacIntyre replied it is, and said she was not sure large numbers would be excluded with the 180 day statute of limitations. She advised the Committee there has been some criticism that 180 days is a short period of time.



Senator Towe commented that it could be added to the title.

Senator Mazurek stated veterans and handicapped are not included in human rights statutes. Senator Towe replied he was concerned that if housing were at one year, it would be confusing. Senator Mazurek advised him there are all kinds of different statutes of limitation.

Senator Doherty said he believes it would create the potential for confusion, and that uniformity would be better. He stated these cases are notoriously fact-bound and are worse than divorce.

Senator Towe commented that Senator Mazurek's amendments could be taken and the rest be addressed through a committee bill. Senator Mazurek replied he would not support a committee bill. He stated 180 days has worked since 1979 and ought to continue, and added that he had not heard a clamor to change it.

Senator Svrcek asked Senator Brown to comment. Senator Brown replied he favored Senator Mazurek's amendment, as the state needs to conform to federal law on this issue.

Recommendation and Vote:

Senator Harp made a motion that Senator Mazurek's amendments be approved. The motion carried unanimously.

Senator Mazurek made a motion that SB 199 DO PASS AS AMENDED. The motion carried unanimously.

EXECUTIVE ACTION ON SENATE BILL 198

Motion:

Discussion:

Senator Mazurek asked Anne MacIntyre if she had brought the correction in this bill to the attention of the Code Commissioner. Ms. MacIntyre replied she did not.

Amendments, Discussion, and Votes:

Recommendation and Vote:

Senator Mazurek made a motion that SB 198 DO PASS. The motion carried unanimously.

EXECUTIVE ACTION ON SENATE BILL 190Motion:Discussion:

Beth Baker, Department of Justice, told the Committee she looked at the statutes of 13 or 14 other states who have adopted this legislation. She said the Montana Uniform Trade Practices Act does not address mergers and acquisitions.

Amendments, Discussion, and Votes:

Senator Towe made a motion that the amendments be approved (Exhibit #4).

Senator Mazurek asked if it would not be reasonable to say "mandatory injunction" in section 2. Beth Baker replied she took the language from California law, and that a writ of mandate does not apply.

The motion made by Senator Towe carried unanimously.

Recommendation and Vote:

Senator Svrcek made a motion that SB 190 DO PASS AS AMENDED. The motion carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 178Motion:

Senator Towe made a motion that HB 178 BE CONCURRED IN. The motion carried unanimously.

Discussion:

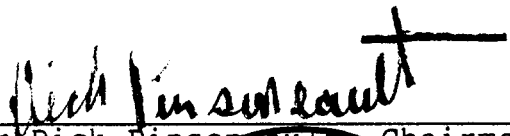
There was no discussion.

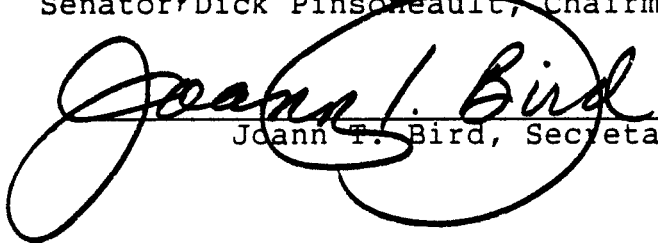
Amendments, Discussion, and Votes:

There were no amendments.

Recommendation and Vote:ADJOURNMENT

Adjournment At: 11:50 a.m.

  
\_\_\_\_\_  
Senator Dick Pinsoneault, Chairman

  
\_\_\_\_\_  
Joann F. Bird, Secretary

DP/jtb

# ROLL CALL

SENATE JUDICIARY

COMMITTEE

~~52nd~~ LEGISLATIVE SESSION -- 1999

Date 7 Feb

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	✓		

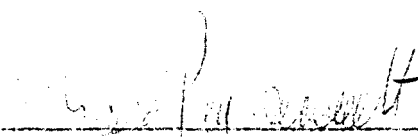
Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

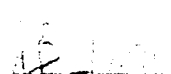
Page 1 of 1  
February 7, 1991

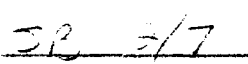
MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 173 (third reading copy -- blue), respectfully report that House Bill No. 173 be concurred in.

Signed: 

Richard Pinsoneault, Chairman

  
Amd. Coord.


 5/7 1:30  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 7, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 194 (third reading copy -- blue), respectfully report that House Bill No. 194 be concurred in.

Signed:   
Richard Pinsoneault, Chairman

LB  
Amd. Coord.

SR 2/7 1130  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 2  
February 3, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 199 (first reading copy -- white), respectfully report that Senate Bill No. 199 be amended and as so amended do pass:

1. Title, line 12.

Strike: "49-3-304,"

2. Page 2, line 22.

Following: "when"

Strike: "the distinction is"

3. Page 3, line 15.

Following: line 15

Insert: "(c) to make an inquiry for the purpose of discriminating on the basis of the sex, race, creed, religion, age, familial status, physical or mental handicap, color, or national origin of a person seeking to buy, lease, or rent the housing accommodation or property;"

Renumber: subsequent subsections

4. Page 9, line 16.

Following: "laws."

Insert: "(1) A complaint may be filed with the commission by or on behalf of a person claiming to be aggrieved by any discriminatory practice prohibited by 49-2-305. The complaint must be in written form and must be filed with the commission within 1 year after the alleged unlawful discriminatory practice occurred or was discovered."

Renumber: subsequent subsections

5. Page 9, line 17.

Strike: "(1)(b)"

Insert: "(2)(b)"

6. Page 10, line 17.

Strike: "(1)(a)(ii) and (1)(a)(iii)"

Insert: "(2)(a)(ii) and (2)(a)(iii)"

7. Page 12, line 2.

Page 13, lines 10, 13, and 18.

Strike: "(4)"

Insert: "(5)"

8. Page 12, line 8.

Strike: "(3)(a)"

Insert: "(4)(a)"

9. Page 12, line 25.

Strike: "(4)(d)"

Insert: "(5)(d)"

10. Page 14, line 6.

Page 15, lines 1, 4, and 12.

Strike: "(6)"

Insert: "(7)"

11. Page 16, line 6.

Following: "in"

Insert: "[section 2] and"

Following: "(b)"

Insert: "of this section"

12. Page 16, lines 3 and 14.

Strike: "1 year"

Insert: "180 days"

13. Page 16, line 19.

Strike: "485"

Insert: "300"

14. Page 21, line 11 through page 22, line 4.

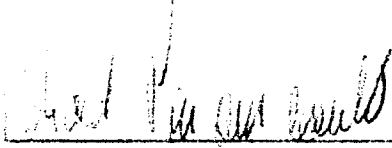
Strike: section 7 in its entirety

Renumber: subsequent sections

15. Page 25, lines 9 and 12.

Strike: "9"

Insert: "8"

Signed: 

Richard Pinsoneault, Chairman

*Amend. 2-6-91*  
Amend. 2-6-91

*SB 2-8 3:05*  
Sec. of Senate




SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 7, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 198 (first reading copy -- white), respectfully report that Senate Bill No. 198 do pass.

Signed:   
Richard Pincoseault, Chairman

1 2-7-91  
Amd. Coord.

SB 2-7 1:30  
Sec. of Senate

## SENATE STANDING COMMITTEE REPORT

Page 1 of 2  
February 8, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 190 (first reading copy -- white), respectfully report that Senate Bill No. 190 be amended and as so amended do pass:

1. Page 1, line 10.

Strike: "presumption of injury"

Insert: "standing to bring action"

2. Page 1, line 11.

Strike: "who is"

3. Page 1, line 12.

Following: "indirectly"

Insert: "in his business or property"

4. Page 1, line 17.

Strike: "who is"

5. Page 1, line 18.

Following: "indirectly"

Insert: "in his business or property"

Following: "part"

Insert: ", or the attorney general,"

6. Page 1, lines 19 through 22.

Following: "relief" on line 19

Strike: remainder of line 19 through "violation" on line 22

7. Page 1, line 22.

Following: "."

Insert: "In addition to any other relief awarded, the court may grant any mandatory injunctions reasonably necessary to restore and preserve fair competition in the trade or commerce affected by the violation."

3. Page 1, lines 24 and 25.

Following: "state," on line 24

Strike: remainder of line 24 through "part" on line 25

Insert: "has standing to bring an action under subsection (1) or (2)"

9. Page 1, line 2. (X)

Following: " "

Insert: "or"

10. Page 1, line 4.

Following: "violation"

Strike: "; or"

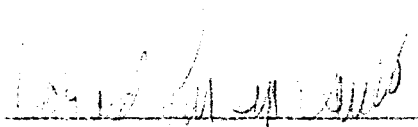
Insert: "."

11. Page 2, lines 3 through 8.

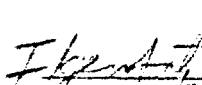
Strike: subsection (4) in its entirety

Insert: "(4) The attorney general may bring an action under this section in the name of the people of the state of Montana as parens patriae on behalf of any person residing in the state to secure monetary relief as provided in this section for injury sustained by the person by reason of any violation of this part. The court shall exclude from the amount of monetary relief awarded in the action any amount of monetary relief that duplicates amounts that have been awarded for the same injury.

(5) In any action brought under this section in which claims are asserted by both direct purchasers and indirect purchasers, the court is authorized to exercise its discretion in the apportionment of damages, in the transfer and consolidation of cases to avoid the duplication of the recovery of damages and the multiplicity of suits, and in other respects to obtain substantial fairness."

Signed: 

Richard Pincioneault, Chairman

 2-6-91  
Jmd. Pookd.

515 2-5 3:05  
Sec. of Senate

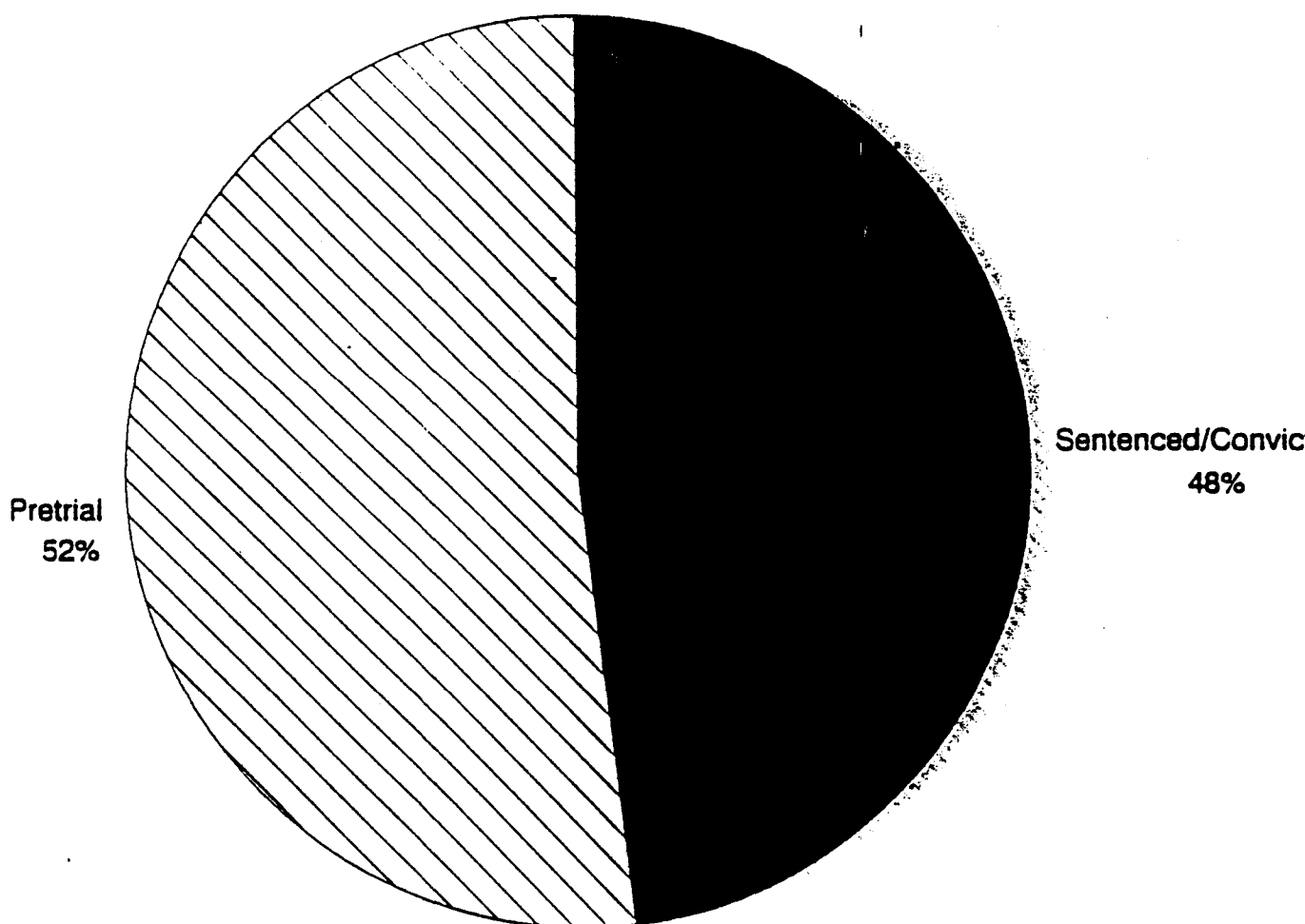
CR041211-1  
7 Feb 91  
HB 72

### Detention status of inmates

The majority of adults in jail on the date of the survey (52%), were pretrial detainees. The remainder of those held in jail (48%) were serving a sentence or convicted of a crime. (See Figure 6)

Figure 6

### **Adult Inmates in Jail by Detention Status**



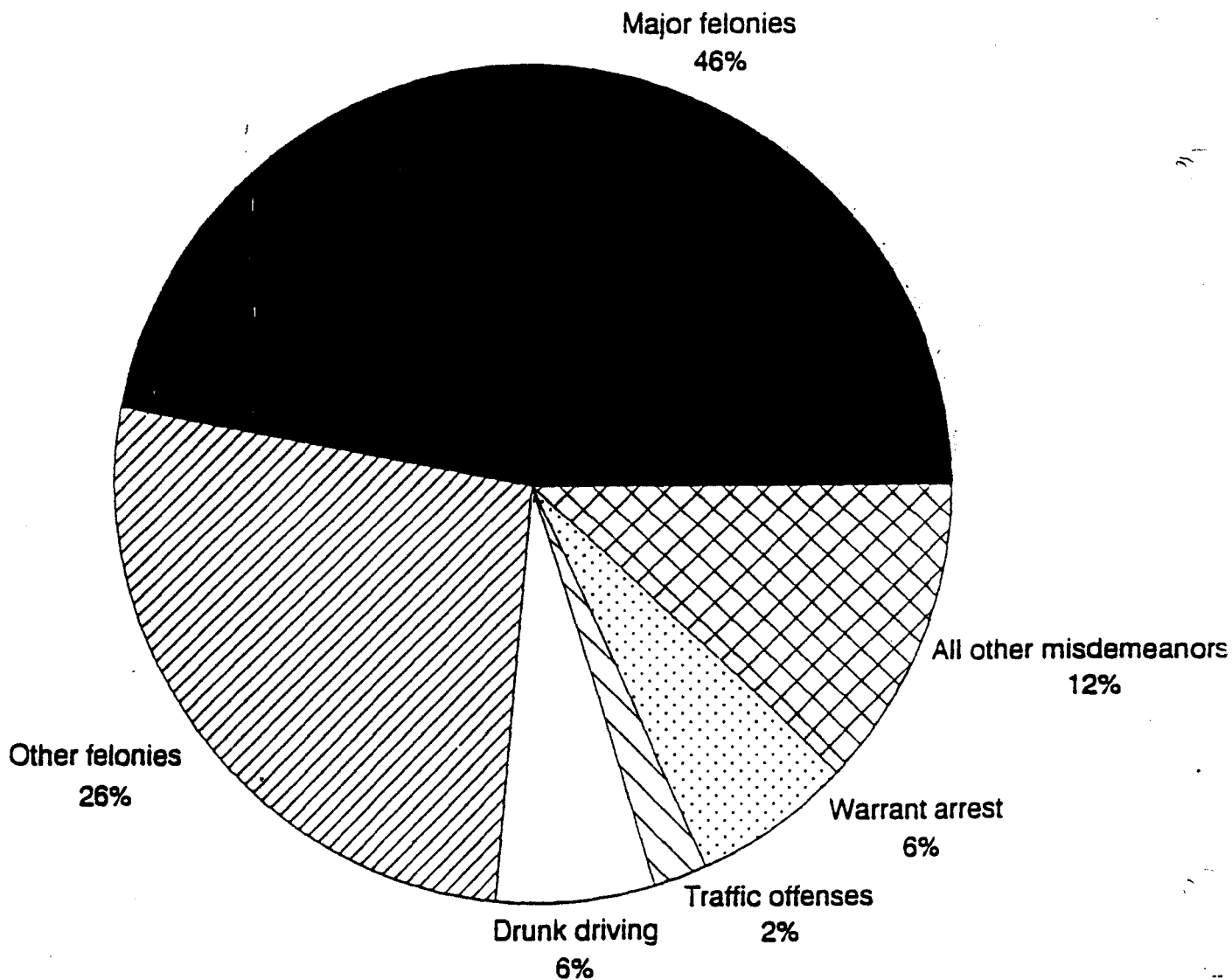
Ex. 1  
2/7/91  
HB 72

Of all pretrial detainees, the vast majority (72%) were charged with felony offenses. Almost half alone (46%) were held for one of seven major felonies, including aggravated assault, burglary, homicide, larceny/theft, motor vehicle theft, rape, and robbery.

Only 6% of all pretrial detainees were charged with misdemeanor drunk driving offenses, and only 2% were charged with misdemeanor traffic offenses. (See Figure 7)

Figure 7

### Pretrial Adult Inmates in Jail by Offense



CKW/DIT/P-2  
7 Feb 91  
SB 199

Amendments to Senate Bill No. 199  
First Reading Copy (White)

Prepared by Anne MacIntyre  
February 7, 1991

1. Page 2, line 22.  
Strike: "the distinction is"
2. Page 3.  
Following: line 15  
Insert: "(c) to make an inquiry of the sex, race, creed,  
religion, age, familial status, physical or mental  
handicap, color, or national origin of a person  
seeking to buy, lease, or rent the housing  
accommodation or property;"  
Renumber: subsequent subsections

EXHIBIT #5  
7 Feb 91  
SB 199

Amendments to Senate Bill No. 199  
First Reading Copy (White)

Requested by Senator Mazurek  
For the Committee on Judiciary

Prepared by Valencia Lane  
February 6, 1991

1. Title, line 12.  
Strike: "49-3-304,"

2. Page 9, line 16.  
Following: "laws."

Insert: "(1) A complaint may be filed with the commission by or  
on behalf of a person claiming to be aggrieved by any  
discriminatory practice prohibited by 49-2-305. The  
complaint must be in written form and must be filed with the  
commission within 1 year after the alleged unlawful  
discriminatory practice occurred or was discovered."

Renumber: subsequent subsections

3. Page 9, line 17.  
Strike: "(1)(b)"  
Insert: "(2)(b)"

4. Page 10, line 17.  
Strike: "(1)(a)(ii) and (1)(a)(iii)"  
Insert: "(2)(a)(ii) and (2)(a)(iii)"

5. Page 12, line 2.  
Page 13, lines 10, 13, and 18.  
Strike: "(4)"  
Insert: "(5)"

6. Page 12, line 8.  
Strike: "(3)(a)"  
Insert: "(4)(a)"

7. Page 12, line 25.  
Strike: "(4)(d)"  
Insert: "(5)(d)"

8. Page 14, line 6.  
Page 15, lines 1, 4, and 12.  
Strike: "(6)"  
Insert: "(7)"

9. Page 16, line 6.  
Following: "in"  
Insert: "[section 2] and"  
Following: "(b)"  
Insert: "of this section"

10. Page 16, lines 8 and 14.  
Strike: "1 year"  
Insert: "180 days"

11. Page 16, line 19.  
Strike: "485"  
Insert: "300"

12. Page 21, line 11 through page 22, line 4.  
Strike: section 7 in its entirety  
Renumber: subsequent sections

13. Page 25, lines 9 and 12.  
Strike: "9"  
Insert: "8"



Ex 3a  
2-7-91  
SB 199

Amendments to Senate Bill No. 199  
First Reading Copy (White)

For the Committee on Judiciary

Prepared by Valencia Lane  
February 7, 1991

1. Title, line 12.  
Strike: "49-3-304,"

2. Page 2, line 22.  
Following: "when"  
Strike: "the distinction is"

3. Page 3, line 16.  
Following: line 15  
Insert: "(c) to make an inquiry for the purpose of  
discriminating on the basis of the sex, race, creed,  
religion, age, familial status, physical or mental handicap,  
color, or national origin of a person seeking to buy, lease,  
or rent the housing accommodation or property;"  
Renumber: subsequent subsections

4. Page 9, line 16.  
Following: "laws."  
Insert: "(1) A complaint may be filed with the commission by or  
on behalf of a person claiming to be aggrieved by any  
discriminatory practice prohibited by 49-2-305. The  
complaint must be in written form and must be filed with the  
commission within 1 year after the alleged unlawful  
discriminatory practice occurred or was discovered."  
Renumber: subsequent subsections

5. Page 9, line 17.  
Strike: "(1)(b)"  
Insert: "(2)(b)"

6. Page 10, line 17.  
Strike: "(1)(a)(ii) and (1)(a)(iii)"  
Insert: "(2)(a)(ii) and (2)(a)(iii)"

7. Page 12, line 2.  
Page 13, lines 10, 13, and 18.  
Strike: "(4)"  
Insert: "(5)"

8. Page 12, line 8.

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Strike: "(3)(a)"  
Insert: "(4)(a)"

9. Page 12, line 25.  
Strike: "(4)(d)"  
Insert: "(5)(d)"

10. Page 14, line 6.  
Page 15, lines 1, 4, and 12.  
Strike: "(6)"  
Insert: "(7)"

11. Page 16, line 6.  
Following: "in"  
Insert: "[section 2] and"  
Following: "(b)"  
Insert: "of this section"

12. Page 16, lines 8 and 14.  
Strike: "1 year"  
Insert: "180 days"

13. Page 16, line 19.  
Strike: "485"  
Insert: "300"

14. Page 21, line 11 through page 22, line 4.  
Strike: section 7 in its entirety  
Re-number: subsequent sections

15. Page 25, lines 9 and 12.  
Strike: "9"  
Insert: "8"

Amendments to Senate Bill No. 190  
First Reading Copy (White)

For the Committee on Judiciary

Prepared by Valencia Lane  
February 7, 1991

1. Page 1, line 10.

Strike: "presumption of injury"

Insert: "standing to bring action"

2. Page 1, line 11.

Strike: "who is"

3. Page 1, line 12.

Following: "indirectly"

Insert: "in his business or property"

4. Page 1, line 17.

Strike: "who is"

5. Page 1, line 18.

Following: "indirectly"

Insert: "in his business or property"

Following: "part"

Insert: ", or the attorney general,"

6. Page 1, lines 19 through 22.

Following: "relief" on line 19

Strike: remainder of line 19 through "violation" on line 22.

7. Page 1, line 22.

Following: "."

Insert: "In addition to any other relief awarded, the court may  
grant any mandatory injunctions reasonably necessary to  
restore and preserve fair competition in the trade or  
commerce affected by the violation."

8. Page 1, lines 24 and 25.

Following: "state," on line 24

Strike: remainder of line 24 through "part" on line 25

Insert: "has standing to bring an action under subsection (1) or  
(2)"

9. Page 2, line 2.

Following: ";

Insert: "or"

10. Page 2, line 4.

Following: "violator"

Strike: "; or"

Insert: "."

11. Page 2, lines 5 through 8.

Strike: subsection (d) in its entirety

Insert: "(4) The attorney general may bring an action under this section in the name of the people of the state of Montana as parens patriae on behalf of any person residing in the state to secure monetary relief as provided in this section for injury sustained by the person by reason of any violation of this part. The court shall exclude from the amount of monetary relief awarded in the action any amount of monetary relief that duplicates amounts that have been awarded for the same injury.

(5) In any action brought under this section in which claims are asserted by both direct purchasers and indirect purchasers, the court is authorized to exercise its discretion in the apportionment of damages, in the transfer and consolidation of cases to avoid the duplication of the recovery of damages and the multiplicity of suits, and in other respects to obtain substantial fairness."

