

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dick Pinsoneault, on February 22, 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: Chairman Pinsoneault announced that the
Committee would meet at 7 a.m. on Saturday, February 23, 1991,
for executive action on remaining Senate bills.

HEARING ON SENATE BILL 410

Presentation and Opening Statement by Sponsor:

Senator Steve Doherty, District 20, said SB 410 is the work of
a number of psychologists and attorneys and deals with treatment of
chemically dependent persons. He said some of the language is
modeled after Minnesota law, and that he believes this issue needs
to be addressed. Senator Doherty explained that the bill defines
chemical dependency, deals with commitment, and deals with the
rights of chemically dependent persons.

Proponents' Testimony:

Senator Dorothy Eck, District 40, said she was amazed at the complexity of the bill and how many problems she had with it. She stated that the bill addresses what she feels is a problem, "especially the large numbers of persons who are seriously mentally ill and are also alcoholic". Senator Eck commented that county attorneys "will not commit the mentally ill because of their alcoholism".

Richard N. Traynham, Ph.D., Licensed Clinical Psychologist, explained that he also represented the Gallatin County Chemical Dependency Commitment Task Force. He told the Committee he is frustrated in dealing with cases where chemical use is an issue (Exhibit #1).

Dr. Traynham said he used mental illness as a model for the bill, and that the bill puts a structure together for chemical dependency. He advised the Committee that half of the bill deals with commitment, placement, and treatment, and the other half deals with rights in treatment. Dr. Traynham said he believes the bill presents a model, and urged the Committee to favorably consider it.

Opponents' Testimony:

Darryl Bruno, Chief, Drug and Alcohol Division, Department of Institutions (DOI), told the Committee he is responsible for chemically dependent services under 53-24-204, MCA (Exhibit #2). He explained that there are presently 34 state-approved drug and alcohol treatment programs in Montana which admitted approximately 7,480 people to treatment in FY 90. Mr. Bruno said this figure does not include DUI offenders or family members.

Mr. Bruno told the Committee he opposes the bill because it operates on the basis that mental illness and chemical dependency are synonymous; and lists 53-24-103, -107, -207, and -303 which have been amended and -304 which has been repealed. He said DOI is willing to work with anyone to amend the bill. Mr. Bruno further stated he is opposed to this legislation as it duplicates on-going functions of the Division; would require additional staff; has a significant fiscal impact; and he is unable to gauge the impact to treatment services because it provides for an additional 12-day stay (now 28 days) and mandatory commitment.

Mike Ruppert, President of Chemical Dependency Programs of Montana, said he is also Executive Director of the Boyd Andrew Program in Helena. Mr. Ruppert told the Committee that the Programs voted unanimously in opposition to this bill. He said he agrees with the concept, but believes it is the wrong way to address the situation. Mr. Ruppert explained that much of the bill is already covered by administrative rules. He added that this issue would require time to work on over the biennium.

Questions From Committee Members:

There were no questions from the Committee.

Closing by Sponsor:

Senator Doherty said the bill is "an educational process for professionals, and is not a certain process". He said there is a difference between chemical dependency and that it is not necessarily a mental illness. Senator Doherty stated that rights of chemically dependent persons need to be guaranteed, and said he was glad to hear that the opponents are willing to work with the proponents. He said it is an important issue and something needs to be done.

HEARING ON SENATE BILL 300Presentation and Opening Statement by Sponsor:

Senator Dick Pinsoneault, District 27, said SB 300 is a drug bill. He explained to the Committee the latest technique in smuggling drugs, and said a man soaked his suit in liquid heroin for airline travel and then recovered about 85 percent of the heroin afterward.

Senator Pinsoneault said an indication of the pervasiveness of this issue is to look at Columbia in South America. He stated it is a war zone. Senator Pinsoneault told the Committee that SB 300 contains 83 sections of uniform law, and that major revisions begin with section 7. He explained that section 22 imposes increased penalties; section 25 creates the offense of money-laundering; and section 29 assesses a substantial sum against violators to pay for drug and alcohol treatment and education.

Proponents' Testimony:

Dean Robert Sullivan, University of Montana, Missoula, said he represented the Montana Commissioners of Uniform State Laws. He explained that in 1970 uniform law was adopted "en toto" by 46 states and, in part, by other states. Mr. Sullivan said Montana adopted uniform law in 1973.

Mr. Sullivan reported that the Uniform State Law Conference, started in 1985, has 300 committee members, and is celebrating 100 years as a premier drafting organization in the U.S. for legislation. He advised the committee members that the Commission is comprised of professionals in medicine, law, drug enforcement, and other areas who meet annually to consider each draft line by line over a five-year period. He commented that the organization tries to provide uniformity between state and federal law, and between the states and to support enforcement (Exhibit #3).

Mark Murphy, Assistant Attorney General, County Prosecutors Services Bureau, said SB 300 is the best effort of national professionals and that he found it offers tools not currently available in Montana. He explained that the bill encourages cooperation between state and federal authorities.

Mr. Murphy commented that the bill would redirect efforts toward a higher level of drug activity, and aims at the drug professional. He stated there have been controversial ideas in the past, and said there is a "semi-forfeiture statute in sections 37-39".

Roger Tippy, Montana State Pharmaceutical Association, told the Committee he is a technical proponent. He said section 33 (pages 41-46) of the first reading copy would include any pharmacy in administrative searches and warrants. Mr. Tippy advised the Committee that the pharmacists are trying to cope with a different uniform act on health care. He said section 33 is probably an improvement, but he feels more guidelines are necessary as to when a warrant is required and when it is not.

Mr. Tippy commented that the Association would try to sort this out during the second half of the legislative session. He referred to section 502 of the uniform act and said it may have to be amended.

Dan Russell, Corrections Division Administrator, said he is not a proponent, but wanted to provide information. He said the penalty clauses are more likely to cause cases to go to trial. He explained that a lot of these cases are tried in state courts "because they are not as harsh in punishment as the federal courts". He explained that the state is reimbursed for cases tried in federal court, and that the prison could probably expect 24-30 more persons each year.

Opponents' Testimony:

There were no opponents of the bill.

Questions From Committee Members:

Senator Halligan asked why this bill was introduced so late. Senator Pinsoneault replied the uniform act was adopted in July 1990, and the Attorney General wanted to scrutinize it to see if it supported this legislation. He said he believes the Committee should be exposed to this legislation.

Senator Mazurek stated this was his bill draft, and that the drafters met in November and December, but the bill was a long time in editing.

Senator Crippen said this is an 80-page bill and that he "gets nervous when prosecutors say they feel like a kid in a candy shop when they read it". He asked if there were a fiscal note.

Senator Pinsoneault requested that Mark Murphy address Roger Tippy's comments. Mr. Murphy replied that administrative search was reviewed by the Commission in 1987, and said it is an improvement over what exists now. He said he believes the search provisions would ensure pharmacists and others that they would not be subject to harassment. He stated SB 393 deals with counseling notes, and that he did not see any problem.

Senator Halligan commented that he was concerned that John Connor was not here representing the County Attorneys Association. Mark Murphy replied that John Connor is his immediate supervisor. He said Mr. Connor did not have time to get to the entire County Attorneys Association, but did have time to canvas them.

Mr. Murphy explained that the drafting request had to make substantial amendments in methodology of sentencing imposed. He said that in creating six new crimes, this mandatory sentencing will not be negative. Mr. Murphy explained that he sees these cases every day, but does not have the tools now to deal with them. He said the bill would provide these tools.

Closing by Sponsor:

Senator Pinsoneault thanked the Committee for hearing the bill. He stated it would allow reaching those in high levels of the drug market, by providing the necessary tools to Montana. He commented to Senator Crippen that no one has a handle on the drug problem.

HEARING ON SENATE BILL 388

Presentation and Opening Statement by Sponsor:

Senator Fred VanValkenburg, District 30, said SB 388 would establish statutory guidelines for use and carrying of firearms by probation and parole officers. He explained that his conclusion is DOI is continuing its opposition in implementation of rules and procedures, contrary to the intent of the 1989 Legislature.

Senator VanValkenburg said SB 388 tells DOI that the Legislature means what it says and that although some provisions would be better left to rulemaking authority, this is not being done by DOI. He explained that DOI has a policy of one gun per office which is kept in a locked safe and requires the written authority of the Division Administrator to use.

Senator VanValkenburg advised the Committee that probation and parole officer jobs are much like those of police officers. He said they deal with felons on a daily basis and that although he is not a great advocate of guns, he believes competent officers ought to have the security of a weapon.

Proponents' Testimony:

Terry Minnow, Montana Federation of State Employees, including the Montana Association of Probation and Parole Officers, said 1989 legislation authorized carrying of firearms as a compromise between DOI and officers. She explained that the officers have received firearms training and have average caseloads of 85-90 persons. Ms. Minnow stated that when probation and parole officers lives are threatened, the state owes them a fair firearms policy.

Mary Fay, Great Falls Region, State Probation and Parole Officers, said that because of prison overcrowding, officers are faced with higher caseloads and more dangerous felons. She stated they need a more workable policy in the field.

Ms. Fay stated that, on a personal note, her firearm (357 cal.) is very large for her, and is almost impossible to conceal. She read an incident report from Kent Lombard, Livingston Probation and Parole Officer. In this incident, a probationer violated several provisions of his probation and a warrant was issued for his arrest. Mr. Lombard was requested to assist the Sheriff in making the arrest because no photo was available to identify the probationer. A search of a residence revealed loaded rifles, and a rancher admitted to knowingly harboring the probationer who fled into nearby fields. The weather was about -20 degrees and the wind made searching for the probationer difficult. Mr. Lombard was placed in the position of helping to search for a possibly armed fugitive in this situation while he remained unarmed.

Ms. Fay told the Committee that in November 1990 she wrote to Dan Russell, Corrections Division Administrator, requesting revision of the firearms policy. Ms. Fay said she received a response stating there would be no change. She told the Committee that she believes the bill will provide a safer policy for probation and parole officers.

John E. Kelly, Butte Probation and Parol Officer, said there are three officers in his area and only two firearms. He explained that if officers feel they may need to use a firearm they must call the regional office in Helena for approval. He said if the regional officer is not there, they must call the Field Services Supervisor or the Field Corrections Bureau Chief or the Corrections Division Administrator. Mr. Kelly told the Committee that if none of these people can be reached, an officer cannot take the firearm. He said his area includes Helena, Bozeman, Butte, and Livingston. Mr. Kelly further stated that several probation and parole officers served on the 1989 committee and were told to "take the DOI policy or forget it". He asked the Committee to use common sense in making their decision.

Bud Walsh, Intensive Supervision Officer, Billings, pointed to a picture-board exhibit of 14 loaded firearms taken from a felon by himself and another probation officer. He said neither of them

were armed. Mr. Walsh urged the Committee to support the bill and to revamp firearm policy. He told the Committee he has been the victim of threats and physical aggression, and advised them of recent incidents in Louisiana and Texas where one officer was shot and another was abused and raped.

Debbie Willis, Billings Probation and Parole Officer, advised the Committee she has been an officer for eight years. She asked that officers be able to defend themselves in situations which are becoming too common to them.

Opponents' Testimony:

Dan Russell, Corrections Division Administrator, DOI, provided a copy of the Department's firearms policy (Exhibit #4). He told the Committee HB 650 was passed four years ago to study the necessity of carrying of firearms by probation and parole officers. He explained that the study commission included four officers and that, after extensive research, the commission unanimously voted that firearms could be carried only in certain circumstances.

Mr. Russell explained that the Director of DOI assured the Legislature that officers could carry firearms when they were at risk and a policy was devised. He stated there have been no significant problems and that every request to carry a firearm has been approved. Mr. Russell said there have been more than 360 requests to date.

Mr. Russell told the Committee that all of the probation and parole officers are trained with agency-issued firearms. He said twenty-two 38/357 caliber weapons were purchased by DOI. Mr. Russell commented that SB 388 would allow officers to carry firearms while they are off-duty. He stated this presents unnecessary liability issues and will cause workers' compensation costs to increase by \$42,000 annually. Mr. Russell added that it will also require \$10,000 for additional equipment.

Mr. Russell said the bill moves toward a law enforcement approach and would change the role of probation and parole officers from that of rehabilitation and "would present a test to security".

Jim Pomeroy, Community Corrections Bureau Chief, told the Committee he was a member of the firearms commission. He said the commission studied use on a national basis and found 26 states allow carrying firearms, but 20 of those allow firearms to be carried only under certain circumstances. He said that in a survey of 25 Montana district judges only 12 supported probation and parole officers carrying firearms. Mr. Pomeroy further stated that two Board of Pardons representatives oppose officers carrying firearms. He told the Committee that two officers refused to participate in firearms training because they believed it was not necessary.

Curt Chisolm, Director, COI, referred to "permissive legislation passed in 1989". He told the Committee he did receive a letter of complaint in November 1990, but was unaware that the whole of the probation and parole officers were unhappy.

Mr. Chisolm stated that he needed to remind the Committee that these employees were not hired to be police officers, but agents of public safety and integrators of those from facilities back into society. He said the reason for the Department's firearm policy is that some of these felons may be dangerous.

Mr. Chisolm said DOI expects officers to stay in the background during arrests and to let the police handle procedures. He commented that he would try to make the permission process more efficient.

Questions From Committee Members:

Chairman Pinsoneault asked if a parole and probation officer receiving threats could request that a judge approve carrying an off-duty firearm. Senator VanValkenburg replied that the judge may approve the request, but if it is contrary to conditions of employment, the employee can be discharged.

Chairman Pinsoneault asked Curt Chisolm what would happen if an officer called DOI and asked to carry an off-duty firearm because of threats. Mr. Chisolm replied that if he thought it were realistic he would allow the officer to carry a firearm.

Senator Crippen commented to Curt Chisolm that the Legislature writes the law and the Department carries them out. He said legislative interference is appropriate, and asked if the Highway Patrol carry weapons. He then asked if traffic offenders were primarily felons, and asked if Highway Patrol officers could carry weapons off-duty. Senator Crippen asked, as a final question, why probation and parole officers should not be allowed to carry weapons. Mr. Chisolm replied the difference is that the job of the Highway Patrol is to be alone and he may meet potentially dangerous circumstances. He said that if probation and parole officers were in vulnerable circumstances, he would expect them to use local law enforcement.

Senator Crippen asked if an officer is under obligation to stop a client violating parole when that officer is off-duty. Curt Chisolm replied the office could not turn a deaf ear, but would need to make a decision to intervene at personal risk.

Senator Crippen asked what would happen if a citizen could be harmed by the officer not intervening.

Senator Mazurek asked if any effort had been made to work this issue through before the bill was drafted. Curt Chisolm replied he was unaware of any dissatisfaction other than the November 1990 letter. Senator VanValkenburg stated that correspondence was sent

by Mary Fay to Dan Russell in October 1990 and 33 percent of parole and probation officers responded to the survey concerning carrying concealed firearms. Mary Fay added that question could be answered by her letter to Mr. Russell and Mr. Lombard's report. She said Kathleen Burgess, a Missoula Probation and Parole Officer, also sent a letter saying the 357 was much too large and cumbersome for her to carry.

Closing by Sponsor:

Senator VanValkenburg told the committee that the survey referred to was all judges and county attorneys. He said 83 percent of these said the officers should carry firearms.

Senator VanValkenburg stated these officers are not just counselors and social workers, although they have a similar role. He said they determine whether felons are obeying rules, that it is a thin line to walk, and that these officers sometimes must use intimidation to get felons to walk that line. He said they represent a huge cost-savings to the state.

Senator VanValkenburg advised the Committee he is irritated to have DOI ask for millions to construct a prison and, at the same time, not act as advocates for their own people. He commented that Mr. Chisolm should learn about the work of probation and parole officers.

HEARING ON SENATE JOINT RESOLUTION 19

Presentation and Opening Statement by Sponsor:

Senator Bob Williams, District 15, said SJR 19 petitions the U.S. Congress to propose a constitutional amendment, for ratification by the states, that would prohibit the desecration of the American flag. He told the Committee 48 states have decided the flag should not be desecrated, and read a resolution requiring the right to vote on protecting the flag. Senator Williams said the bill makes no provision for constitutional initiative, and if it is passed by 38 states it will go on the ballot.

Proponents' Testimony:

Rich Brown, Department Commander, American Legion of Montana, read from prepared testimony. He said the U.S. Supreme Court "shot down" this issue, but 70 percent of American cities and a majority of Congress disagrees with the Court. Mr. Brown stated he does not believe the Supreme Court should overrule what is the intent of our founding fathers, and asked that the issue be brought before the voters. He commented that he believed freedom of speech and desecration of the flag are not related in any way.

Rich Brown said Shanna Gravely, whose husband is in Saudi Arabia, planned to be present to testify, but was unable to do so.

Dick Baumberger, Disabled American Veterans Department of Montana, stated his support of the bill.

Hal Munson, Legislative Chairman, American Legion Department of Montana, provided 24 pages of petitions (attached), and said hundreds more were sent to the national level. He advised the Committee that Texas and the U.S. Supreme Court say burning the flag is an act of free speech. Mr. Munson stated he believes people should be permitted to say whatever they wish, but not do whatever they want. He commented that walking naked in the streets is the same to freedom of speech as burning the flag, but would not be tolerated by the courts. He urged favorable consideration of the bill.

Opponents' Testimony:

Joe Jendrich, Missoula, told the Committee he believes this is a sensationalism issue, founded on contradiction. He pointed out that Judge Bork said the flag is community-owned and the so-called communist who burned the flag argued the First Amendment, and commented that it probably should have been the opposite.

Questions From Committee Members:

Senator Svrcek stated his father participated in the American Legion at the national level and was a past post commander. He asked Senator Williams if he were aware that Red China, South Africa, and several Southeast Asian countries prohibited desecration of the flag. Senator Svrcek then asked Senator Williams if he wanted to be in league with those countries. Senator Williams replied, "So be it."

Senator Svrcek asked Senator Williams where the loyalties of the proponents lie - with the soldiers or with the flag. He asked where loyalty would lie if a vet burned the flag. Senator Williams replied that the U.S. is the only nation in the world to pledge allegiance to the flag every day. He asked Senator Svrcek to go to the Mitchell building where there is a 20 foot tree with a plaque dedicated to 13 people missing in action in the Korean War. Senator Williams said he would be dedicated to both the veteran and the flag.

Senator Rye commented that the bill seems to try to elevate the flag from a national symbol to a national icon. Senator Williams referred to the petitions signed and disagreed with Senator Rye. He cited the 23rd Amendment and said he believes the symbolism of the flag ties in to what America is made of.

Closing by Sponsor:

Senator Williams advised the Committee that nothing is done overnight. He stated that not all of the original delegates to the Constitutional Convention agreed. He reminded the Committee that, to be enacted, this issue must be ratified in 38 states and be passed by a two-thirds vote.

Senator Williams asked the Committee to pass SJR 19 so the issue can be put to a public vote. He asked if there was fear of allowing people to vote and of majority rule.

HEARING ON SENATE BILL 441Presentation and Opening Statement by Sponsor:

Senator Joe Mazurek, District 23, said the bill revises the process used by the Judicial Nominating Committee. He stated judges are subjected to a critical evaluation by the Chief Justice and others, and explained that he has been working with the Judicial Nominating Committee and the Chief Justice since the Session began.

Senator Mazurek advised the Committee that the bill opens up the nominating process and provides for staggering of committee members' terms. He explained that section 1 sets up geographic areas; section 2 limits members to two full four-year terms; section 3 requires publication of rules with the Supreme Court. Senator Mazurek further explained that the bill provide for a 10-day notice period for vacancies, a 30 day-plus application period, and a 15 day-plus review period. He said the entire process is not to exceed 90 days, but will provide more time to consider applications.

Senator Mazurek told the Committee this bill applies to the chief water judge and workers' compensation judge, as well as district and supreme court nominations. He said it requires a written report to the Governor, outlining the reasons for a nomination. Senator Mazurek reported that section 5 would implement staggered terms for the two practicing lawyers, the one judge, and the one lay member.

Senator Mazurek said he believes these are good changes, and asked for favorable consideration of the bill. He stated he has concerns about amending the bill according to requests made by the Governor's Chief Legal Counsel, Rick Bartos. Senator Mazurek offered his own amendments (Exhibit #5).

Proponents' Testimony:

Rick Bartos, Chief Legal Counsel for Governor Stephens, said he appreciated Senator Mazurek's efforts. He provided proposed amendments (Exhibit #6). Mr. Bartos told the Committee he

recognizes the need for further public participation in the nominating process. He stated he was concerned about two full four-year terms, and wanted to limit them to one term to prevent a "dynasty".

Mr. Bartos advised the Committee that, by statute, the Commission on Political Practice is limited to one year. He also asked for 30 days for public comment, and said experience shows that rural Montana needs more time to respond. Mr. Bartos said he felt that language in the bill will allow an applicant's entire life to be opened up to public scrutiny.

Opponents' Testimony:

There were no opponents of the bill.

Questions From Committee Members:

Senator Halligan asked if the Governor's Office really wanted letters and public comments. Mr. Bartos replied they did, as it gives an indication of the character of the individual.

Closing by Sponsor:

Senator Mazurek stated that Bob James is the Chairman of the Nominating Committee. He said Mr. James and Bill Leaphart both offered to be present for this hearing, but he had suggested they didn't need to come.

Senator Mazurek stated he would oppose the amendment for one year terms. He explained that appointments, as they are made, can turn over every four years as it is. Senator Mazurek added that he believes these are good changes, and urged the Committee to support the bill.

HEARING ON SENATE BILL 453

Presentation and Opening Statement by Sponsor:

Senator Doherty told the Committee SB 453 is fairly simple, in transferring the responsibility for field services staff for probation and parole from the Department of Institutions (DOI) to the Department of Justice (DOJ). He said he could not improve on Senator VanValkenburg's testimony concerning the value of probation and parole officers to the state. Senator Doherty added that these officers feel lost at DOI, and believe they belong with DOJ.

Proponents' Testimony:

Terry Minnow, Montana Federation of State Employees, including Probation and Parole Officers, said the bill is self-explanatory, and urged its favorable consideration by the Committee.

Mary Fay, Great Falls Region, Probation and Parole Officer, said the officers feel they would be more effective under DOJ, as they are the only field-oriented staff in DOI, and are often overlooked because DOI has more important issues with the Prison, Warm Springs, and the Veterans Home.

John E. Kelly, Butte Region, Probation and Parole Officer, said the officers want and need this change. He commented that DOI administrators oppose this legislation.

Opponents' Testimony:

Curt Chisolm, Director, Department of Institutions, told the Committee he would like to work with the probation and parole officers to determine where the problems lie. He said he is sorry they feel like a step-child of DOI. Mr. Chisolm commented that the Department needs to establish a mission, and said he has a bill in to change the name of the Department to the Department of Corrections and Human Services.

Mr. Chisolm advised the Committee he has been struggling for a number of years to establish adult correction facility management, and would hate to see the major component of this area ripped out of DOI. He said the chief executive officer has the ultimate responsibility for direction and control of his or her department.

Mr. Chisolm reported that DOI has multiple field staff who are under contract with communities around the state and are not state employees.

Questions From Committee Members:

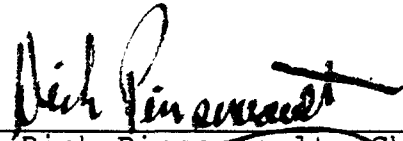
Chairman Pinsoneault asked why the Department of Justice was not present. Senator Doherty replied he did not know. Mary Fay responded that the officers met with Attorney General Marc Racicot and four of his staff in December 1990. She stated that DOJ was neutral then, and "the officers wrote to him stating they were pursuing becoming part of DOJ and the Attorney General never stated that was not his intention".

Closing by Sponsor:

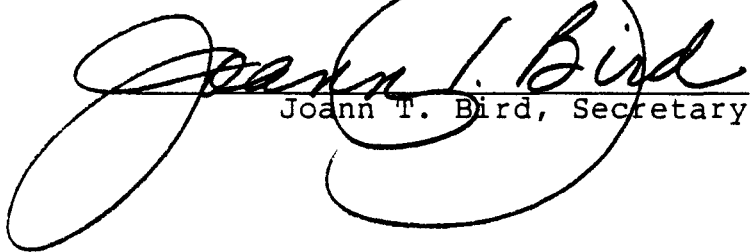
Senator Doherty told the Committee it is clear that probation and parole officers are involved in law enforcement. He commented that they have already received some training from DOJ.

ADJOURNMENT

Adjournment At: 12:30 p.m.



Senator Dick Pinsoneault, Chairman



Joann T. Bird, Secretary

DP/jtb

ROLL CALL

SENATE JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 22 Feb 9
10 am

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.

Exhibit #1
22 Feb 91
SB 410 10 am


RICHARD N. TRAYNHAM, PH.D.
LICENSED CLINICAL PSYCHOLOGIST
BOZEMAN, MONTANA 59715-6106 U.S.A. (406) 586-7776

CLINICAL OFFICE
111 SOUTH TRACY AVENUE

ADMINISTRATIVE OFFICE
205 WEST GRAF STREET

20 February 1991

TO: Senator Dick Pinsoneault, Chairperson
Senate Judiciary Committee

FROM: Richard N. Traynham, Ph.D. 
Gallatin County Chemical Dependency Commitment Task Force

RE: Senate Bill 410, a Bill for an Act entitled: An Act generally revising the laws relating to the treatment of chemically dependent and intoxicated persons"

Introduction

For a number of years I have been involved in providing psychological services to both the mentally ill and the chemically dependent. I have been actively supportive of the positive benefits of the legislation protecting the rights of the mentally ill in being processed into treatment in emergency, voluntary, and involuntary procedures, as well as their rights during treatment.

However, the issue of providing treatment and protection to the chemically dependent has always been frustrating because of the antiquated provisions for processing of this group of seriously ill citizens under §53-24-301/306. After years of moaning with other professionals, a focal emergency presented at Bozeman Deaconess Hospital in February 1989. J.S. presented with a blood alcohol level of .39, .01 from the accepted medical definition of ethanol death, and reporting he was putting a loaded pistol in his mouth each evening contemplating suicide. Ronald Hull, M.D. and I requested an involuntary commitment. However, the Gallatin County Attorney's Office sought a second opinion and did not seek commitment because, 1) the client was alcoholic and was not dangerous to others, as required by current legislation, and 2) the County Attorney's Office was not empowered to enter into committing the alcoholic as these cases were considered to be the responsibility of private parties. Within 90 days, L.Y. presented to the Gallatin County Detention Center undergoing a drug-induced psychosis. Again, I learned that involuntary commitment could not be sought because the individual was, 1) not dangerous to others, and 2) not alcoholic, as the legislation did not apply to other chemical dependencies.

Development of the current Act

After processing our involvements with these two cases, it was decided that a county-wide task force should be formed to look into providing temporary structure for facilitating the citizen in seeking involuntary treatment for those clients that fit the current law and to work toward more efficient and effective legislation in the future. The Honorable Thomas Olson, 18th Judicial District Court, issued calls to a variety of community agencies and individuals for an initial meeting. In addition to Judge Olson and Drs. Hull and Traynham, the Gallatin County Chemical Dependency Treatment Task Force consists of the following members: James Beckman, Director, Alcohol and Drug Services of Gallatin County (ADSGC); Marty Lambert, Deputy Gallatin County Attorney; David Pruitt, Gallatin

CX # 1
2/22/91
2 SB 4/1

County Commissioner (Honorary); Phil Tamborino, ADSGC; Philip Walsh, Attorney at Law.

Judge Olson presented a computer search he had done of commitments done in the state in both chemically dependent and mentally ill categories over an eleven month period (January - November 1989). The research indicated that only 31 seriously chemically dependent, versus 471 seriously mentally ill, clients had been involuntarily committed to treatment. The significant difference in commitment rates (with chemical dependency cases accounting for only 6.2% of the total) was unexpected and the ensuing discussion indicated the chemically dependent was probably being treated indirectly, through D.U.I., domestic abuse, and other criminal and civil situations. A request for opinion of the Attorney General confirmed the Gallatin County Attorney's Office reading of the law regarding their not being empowered in these cases (43 Op. Att'y Gen. No. 40 [1989]).

By the January 1990 task force meeting, the temporary *pro bono* system was completed for helping the public in Gallatin County with those cases that did fit the current law. It was found that the Department of Institutions was also involved in looking into these and related problems and a representative of that department attended the meeting. It was decided an attempt would be made to revise the law for presentation to the legislature. Research of other state laws was provided by the Department of Institutions. Minnesota presents an excellent model in producing a "commitment and treatment law" which protects the process and rights of citizens being committed who are developmentally disabled, mentally ill, or chemically dependent. While the most appropriate revision would be to produce a model treatment law which would incorporate chemically dependent, mentally ill, and developmentally disabled into the same treatment law, it was decided to only work on the chemical dependency aims of the task force. It was also decided to use the current Montana mentally ill law as a model for the revised chemical dependency treatment law. The revision draft was completed by Dick Traynham, with proofreading and legal assistance from Philip Walsh. This draft was then presented to the legislative system and has resulted in the above Act.

Provisions and Rationales of the Act

Senate Bill 410 utilizes the treatment legislation of the mentally ill (§53-21-101/198) as a model. The Act can be considered to encompass two important purposes: the definition and commitment of the chemically dependent; and the rights of individuals thus committed.

The Act empowers the district court to process these cases as is currently found with the mentally ill. Chemical dependency, chemically dependent, and seriously chemically dependent citizens are specifically defined. Dangerousness is expanded to be defined as both to self and others. Certification of professional persons is structured to insure that professionals involved in these actions are aware of the current legislation concerning these cases. Specific definitions of the process revise treatment to allow involuntary treatment of the chemically dependent in the community (outpatient) and the seriously chemically dependent in a more restrictive placement (inpatient) for an initial 40 day (as currently allowed) commitment period. Additional commitment periods of 90 days and six months are allowed.

The Mental Disability Board of Visitors is identified as the agency to review the rights of the chemically dependent in these actions. This is covered in Sections 4 and 33-50 of the current Act. Treatment planning, patient rights, conditional releases, aftercare, and rehospitization are also structured and protected.

CX # 1
2/22/91
3
SB
410

While the draft of this Act appears to be an overwhelming 70 pages, almost half of the Act is concerned with protecting the rights of those citizens that are committed under its provisions. The only rights of the committed chemically dependent covered by current legislation relate to visitation and communication (§ 53-24-305) and confidentiality of records (§ 53-24-306). All other treatment rights are covered by administrative rules adopted by the Department of Institutions.

In drafting the proposal I knew of no way to provide empowering legislation, rather than administrative rule, and an impartial review of these rights without it being an agency outside of the Department of Institutions. It would seem an obvious conflict of interest for one department bureau to attempt to critique the treatment provided by another. This conflict is in part responsible for the formation of the Board of Visitors in the first place.

The Fiscal Analyst Office has provided their estimates of cost to the committee, which I believe are around \$180,000. Some of these costs are a function of the agency supervising the patient rights portion of this Act. Based on current rates, an estimated 35 additional citizens per year might be involuntarily committed to Montana State Hospital, Galen Campus or certified inpatient chemical dependency beds, if the rate of use doubles as a result of this Act. This works out to less than three (3) additional inpatients per month.

Summary

It is felt the current Act produces a model treatment law for the chemically dependent in the same manner the mentally ill law has been a model of progressive treatment for that group of citizens in our state. The Act structures protection and treatment for both the public and the chemically dependent. It replaces the antiquated current statutes with a progressive plan of intervention in these matters that is consistent with chemical use and crisis patterns of this decade. It is hoped the Act is strongly considered and passed by the legislature.

Without passage of some form of this Act, the State of Montana will be allowed to continue to avoid a comprehensive standard of care and protection of a significant group of individuals within our state.

Ex. #1

2-22-91

10 am

SB 410



MONTANA PSYCHOLOGICAL ASSOCIATION, INCORPORATED

TO: Senator Dick Pinsoneault, Chairperson
Senate Judiciary Committee

FROM: William Taylor, Ph.D., Great Falls *WT*
Chairperson, Legislative Committee

RE: Senate Bill 410, a Bill for an Act entitled: An Act generally revising the laws relating to the treatment of chemically dependent and intoxicated persons"

This letter is sent in support of the testimony to be presented by Richard N. Traynham, Ph.D. on the above bill concerning the commitment and treatment of the chemically dependent.

For years the MPA has been concerned about the current lack of ability to help these clients receive treatment services when they are in emergency situations. The current legislation makes it all but impossible to involuntarily commit these citizens to treatment if their drug of choice is not alcohol and if they are only imminently dangerous to themselves. This loop hole in our statutes makes it dangerous for both the citizen and the general public. Some counties are able to skirt this issue by committing the individual under the mentally ill legislation. However, other counties who follow the letter of the law make it difficult to assist those with chemical dependency difficulties.

On behalf of the MPA, we would like to support whatever actions you are able to make in this matter in providing for both the commitment and the rights of those citizens suffering from serious chemical dependency emergencies.

DEPARTMENT OF INSTITUTIONS

EXHIBIT -
22 Feb 91
SB410



STAN STEPHENS, GOVERNOR

1539 11TH AVENUE

STATE OF MONTANA

(406) 444-3930

HELENA, MONTANA 59620-1301

TO: WHOM IT MAY CONCERN

FROM: DARRYL BRUNO, Administrator
Alcohol and Drug Abuse Division

SUBJECT: Quarterly Listing of State Approved
Chemical Dependency Treatment Programs

January 1, 1991

The following is a listing of Montana chemical dependency treatment programs approved under 53-24-208 MCA and educational courses ACT* approved under 53-24-204 MCA. Only those programs, locations and services shown on this listing are approved by this department under the above statutes.

Program Name, Address & Approved Services	Director/Counselor Telephone Number
<u>REGION I - EASTERN</u>	
1. FRANCES MAHON DEACONESS HOSPITAL (FMDH) CHEMICAL DEPENDENCY CENTER 621 3rd South Glasgow, MT 59230	Ivan Kuderling Admin. Director 228-2776
Inpatient Hospital Care (24 beds)	Kit Voakes Clinical Director
<u>FMDH Outpatient Satellite Offices</u>	Fax: 228-4351 ext. 358
a. Valley County Satellite 621 3rd South Glasgow, MT 59230	Tim Anderson 228-2776
Outpatient, ACT	

* ACT - refers to educational course for DUI offenders.

REGION I - EASTERN (Continued)

**FMDH/Chemical Dependency Services, Inc., Out-Patient Satellite Offices
Satellite Offices**

b. Custer County Satellite
108 North Haynes Avenue
PO Box 1500
Miles City, MT 59301-1500

Tom Schear
232-6542

Outpatient, Contracted Drug Services, ACT

Also provides these services to Powder River and Garfield Counties

c. Rosebud County Satellite
Old Hospital Building
PO Box 251
Forsyth, MT 59327-0251

Kerry Parker
356-2670

Outpatient, ACT

Also provides these services to Treasure County

d. Colstrip Satellite
422 Willow
PO Box 750
Colstrip, MT 59323-0750

Kerry Parker
748-2800

Outpatient

e. Fallon County Satellite
PO Box 478
Baker, MT 59313-0478

Don Simpson
778-2883, Ext.11

Outpatient, ACT

Also provides services to Carter County

2. **PINE HILLS SCHOOL FOR BOYS**
CHEMICAL DEPENDENCY PROGRAM
PO Box 1508
Miles City, MT 59301-1508

Robert Fry
232-1377

Outpatient, Correctional Facility
(Contract with FMDH/Chemical Dependency Services, Inc.)

3. **HIGH PLAINS CHEMICAL DEPENDENCY SERVICES**
Administrative Office
PO Box 352
Scobey, MT 59263

Larry Schaefer
487-5445

Director/Counselor
Telephone Number

Program Name, Address & Approved Services

REGION I - EASTERN (Continued)

High Plains Satellite Offices

- | | |
|--|------------------------------|
| a. Roosevelt County Satellite
Roosevelt County Court House
PO Box 328
Wolf Point, MT 59201-0328 | Terry Wetzel
653-1590 |
| b. Sheridan County Satellite
Sheridan County Courthouse
Plentywood, MT 59254
Outpatient, ACT | Jeanette Johnson
765-2361 |
| c. Daniels County Satellite
Daniels County Memorial Hospital
Scobey, MT 59263

Outpatient, ACT | Jeanette Johnson
487-5091 |

4. **DISTRICT II ALCOHOL & DRUG PROGRAM**
204 North Kendrick - Suite 207
Glendive, MT 59330

Jerry Schlepp,
Clinical Director
365-5942/365-3050

Outpatient, Contracted Drug Services, ACT
Also provides these services to McCone,
Prairie and Wibaux Counties

District II Satellite Offices

- | | |
|---|------------------------------|
| a. Sidney Alcohol Satellite
Medical Arts Building -
1209 2nd Street Southwest
Sidney, MT 59270-3640

Outpatient, ACT | Kim Christianson
482-4097 |
|---|------------------------------|

REGION II - NORTHCENTRAL

5. **BLACKFEET CHEMICAL DEPENDENCY PROGRAM**
Blackfeet Indian Reservation
PO Box 426
Browning, MT 59417-0426

Andy Vaile
338-6319

Intermediate Care (16 beds)

REGION II - NORTHCENTRAL (Continued)

- | | |
|--|--|
| <p>6. NORTHERN MONTANA CHEMICAL DEPENDENCY PROGRAM, INC.
 1410 First Avenue
 PO Box 750
 Havre, MT 59501-0750</p> | <p>Sally Wood,
 Chief Operations Officer
 265-9665</p> |
|--|--|

Inpatient-Free Standing (21 beds),
 Outpatient, ACT
 Also provides outpatient services to
 Blaine County

Northern Montana CD Prog. Satellite Offices

- | | |
|---|---|
| <p>a. Chouteau County Office
 PO Box 1384
 Fort Benton, MT 59442-1384</p> <p>Outpatient, ACT</p> | <p>Carol Richard
 622-5472</p> |
| <p>b. Toole County Office
 236 Main Street
 Shelby, MT 59474</p> <p>Outpatient, ACT
 Also provides these services to Liberty County</p> | <p>J.T Lute
 434-5002</p> |
| <p>c. Phillips County Office
 PO Box 1414
 Malta, MT 59538-1414</p> <p>Outpatient, ACT</p> | <p>Janice Waltner
 654-2005</p> |

- | | |
|--|---|
| <p>7. PROVIDENCE
 401 3rd Avenue North
 Great Falls, MT 59401-2496
 Outpatient, Contracted Drug Services, ACT</p> | <p>Sandy Erickson</p> <p>727-2512
 1-800-367-2511</p> |
|--|---|

Providence Satellite Offices

- | | |
|---|--|
| <p>a. Providence/Pondera County
 809 Sunset Blvd
 Conrad, MT 59425</p> <p>Outpatient, ACT</p> | <p>Thad Wilson
 278-5245</p> |
| <p>b. Providence/Glacier County
 116 1st Street SW
 Cut Bank, MT 59427</p> <p>Outpatient, ACT</p> | <p>Thad Wilson
 873-5910</p> |

<u>Program Name, Address & Approved Services</u>	<u>Director/Counselor Telephone Number</u>
--	--

REGION II - NORTHCENTRAL (Continued)

- | | |
|---|---|
| c. Providence/Teton County Satellite
Larson Building
PO Box 801
Choteau, MT 59422 | Judy Ekberg
466-2171 |
| 8. ROCKY MOUNTAIN TREATMENT CENTER, INC.
920 4th Avenue North
Great Falls, MT 59401-4199

Inpatient-Free Standing (28 beds) | Ann Bellwood
727-8832

Fax: 727-8172 |
| 9. MONTANA DEACONESS MEDICAL CENTER
Chemical Dependency Unit
1101 26th Street South
Great Falls, MT 59405-5193

Inpatient-Hospital (22 beds), ACT | Rod Robinson
761-1200 Ext. 5570

Fax: 455-4965 |

REGION III - SOUTHCENTRAL

- | | |
|---|--|
| 10. RIMROCK FOUNDATION
1231 North 29th Street
PO Box 30374
Billings, MT 59107-0374

Detox (8 beds), Inpatient-Free Standing (45 beds),
Outpatient, Contracted Drug Services, ACT | David W. Cunningham
248-3175

Fax: 248-3821 |
| a. Rimrock Foundation/
Adolescent Treatment Program at
St. Vincent Hospital & Health Center
1231 North 29th Street
Billings, MT 59107-0374

In-Patient Hospital Care (20 beds) | Mona Sumner, Assoc.Dir.
248-3175 |
| <u>Rimrock Outpatient Satellite</u> | |
| b. Sweet Grass County Satellite
PO Box 964
Big Timber, MT 59011-0964

Outpatient, ACT | Vacant
932-5145 |

Program Name, Address & Approved Services

Director/Counselor
Telephone Number

REGION III - SOUTHCENTRAL (Continued)

11. **ALCOHOL & DRUG SERVICES OF CENTRAL MT, INC.**

Centennial Plaza #203, 300 1st Ave N
PO Box 963
Lewistown, MT 59457-0963

John Bietendeufel
538-8421

Outpatient, ACT
Also provides these services to
Judith Basin and Petroleum Counties

Satellite Office

- a. Wheatland County Services
Bair Memorial Clinic
530 3rd NW
Harlowton, MT 59036-0633

Roland Mena
632-4778

Outpatient, ACT

12. **SOUTH CENTRAL MT REGIONAL MHC -
CHEMICAL DEPENDENCY PROGRAM**

1245 North 29th Street
PO Box 219
Billings, MT 59103-0219

John Nesbo, Administrator
Sharon Cunningham, Coord.
252-5658

Outpatient - Contracted Drug Services, ACT

South Central MT Regional MHC - Chemical Dependency Satellite Offices

- a. Southside Drug Satellite
(Help and Recovery Center)
2820 1st Avenue South
Billings, MT 59101

Kim McNamara
248-5656

Outpatient, Contracted Drug Services

- b. Stillwater County Satellite
122 West 4th Avenue North
PO Box 238
Columbus, MT 59019-0238

Charlotte Coppinger
322-4514

Outpatient, ACT

- c. Carbon County Satellite
5 East 9th Street
PO Box 482
Red Lodge, MT 59068-0482

Michele Tesar
446-2500

Outpatient, ACT

<u>Program Name, Address & Approved Services</u>	<u>Director/Counselor Telephone Number</u>
--	--

REGION III - SOUTHCENTRAL (Continued)

South Central MT Regional MHC - Chemical Dependency Satellite Offices

d. Big Horn County Satellite 809 North Custer Hardin, MT 59034-1311 Outpatient, ACT	Dee McLeod 665-3542
e. Musselshell County Satellite 23 1st Street West Roundup, MT 59072 Outpatient, ACT	VACANT 323-1806
f. Golden Valley Satellite Golden Valley County Courthouse Ryegate, MT 59074 Outpatient	VACANT 568-2385
13. THUNDERCHILD ADOLESCENT TREATMENT PROGRAM 331 Main Street PO Box 30 Pryor, MT 59066 Inpatient - Free Standing (16 beds)	Kathy Belden Program Manager 245-9715 Terry Beartusk Exec. Director 307-672-3484
14. RED CANYON RANCH P.O. Box 27 Grass Range, MT 59032 Inpatient - Free Standing Female - Adolescent (6 beds)	Bob Hubert Director 428-2224 Admissions 727-8832
<u>REGION IV - SOUTHWEST</u>	
15. ALCOHOL SERVICES OF GALLATIN CO. 502 South 19th Street - Suite 302 Bozeman, MT 59715-6827 Outpatient, ACT	Jim Beckman 586-5493
16. WILDERNESS TREATMENT CENTER II Route 1, Box 245 Wilsall, MT 59086 Inpatient Free Standing - 30 beds	Steve Fairbank 578-2511 Admissions Office 854-2838

Program Name, Address & Approved Services

Director/Counselor
Telephone Number

REGION IV - SOUTHWEST (Continued)

17. SOUTHWEST CHEMICAL DEPENDENCY SERVICES

414 East Callendar
Livingston, MT 59047-2746

Kenneth Ingle
222-2812

Outpatient, ACT

Southwest Chemical Dependency Services Satellite Offices

a. Beaverhead County Satellite
Beaverhead County Courthouse
Dillon, MT 59725

Marty Brekke
683-4305

Outpatient, ACT

b. Madison County Satellite
FNI Building
PO Box 896
Ennis, MT 59729

Kenneth Ingle
682-7190

Outpatient, ACT

c. Meagher County Satellite
Masonic Building
PO Box 474
White Sulphur Springs, MT 59645-0474

Mark Gilbert
547-2249

Outpatient, ACT

18. ALCOHOLISM SERVICE OF ANACONDA/DEER LODGE COUNTY

100 West Park
Anaconda, MT 59711-2259

Vern "Brick" Clawson
563-6601

Outpatient, Contracted Drug Services, ACT

19. CHEMICAL DEPENDENCY AND FAMILY COUNSELING, INC.

304 Milwaukee - Suite 27
Deer Lodge, MT 59722

Sara Rehmer
846-3442

Outpatient, ACT

20. BUTTE ALCOHOL & DRUG SERVICES

53 West Granite
Butte, MT 59701-9213

Joan Cassidy
723-4001

Outpatient, Contracted Drug Services, ACT

Program Name, Address & Approved Services	Director/Counselor Telephone Number
--	--

REGION IV - SOUTHWEST (Continued)

21. BOYD ANDREW CHEMICAL DEPENDENCY CARE CENTER The Arcade Building PO Box 1153 Helena, MT 59624-1153 Outpatient, Contracted Drug Services, ACT Intermediate Care (7 beds) (Transitional Living)	Mike Ruppert 443-2343 Fax: 443-5490
--	---

Boyd Andrew Satellite Offices

a. Transitional Living Facility for Men 410 9th Avenue Helena, MT 59601-3721 Intermediate Care	Dan Goans 443-1241
b. Jefferson County Alcohol Services Courthouse Annex Boulder, MT 59632 Outpatient, ACT	Marjie Scharf 225-4348
c. Jefferson County Alcohol Services PO Box 310 Whitehall, MT 59759-0310 Outpatient, ACT	Marjie Scharf 287-3219
d. Broadwater County Alcohol Services Professional Bldg 415 Broadway Townsend, MT 59644 Outpatient, ACT	Marjie Scharf 266-4358

22. MONTANA STATE HOSPITAL

a. GALEN ALCOHOL SERVICE CENTER Warm Springs, MT 59756-9999 Detox, Inpatient-Free Standing Care (72 beds)	John Weida 693-7363
b. LIGHTHOUSE RESIDENTIAL DRUG TREATMENT CENTER Warm Springs, MT 59756-9999 Inpatient Free Standing (15 beds)	John Weida Hank Slosson 693-7351

REGION IV - SOUTHWEST (Continued)

23. **MONTANA STATE PRISON CHEMICAL DEPENDENCY PROG.**
500 Conley Lake Road
Deer Lodge, MT 59722-9755
Outpatient - Correctional Facility
- Mary Helen MacAskill
846-1320 Ext. 2236
Fax: 846-1320 ext. 2351

REGION V - WESTERN

24. **RECOVERY FOUNDATION**
554 West Broadway
Missoula, MT 59802-4008
Outpatient, Contracted Drug Services, ACT
- Arlene Grossman
721-1880
25. **MISSOULA INDIAN ALCOHOL & DRUG PROGRAM**
PO Box 4001
Missoula, MT 59806-4001
Outpatient
- Bill Houchin
721-2700
26. **RAVALLI COUNTY CHEMICAL DEPENDENCY SERVICES, INC.**
824 1st Avenue South
PO Box 902
Hamilton, MT 59840-0902
Outpatient, ACT
- Phil Sullivan
363-3060
27. **CONFEDERATED SALISH/KOOTENAI TRIBES**
26 Round Butte Road West
Ronan, MT 59864-2301
Contracted Outpatient Drug Services, ACT
- Anna Whiting Sorrell
676-2500
28. **LAKE COUNTY CHEMICAL DEPENDENCY PROGRAM**
12 5th Ave East
Polson, MT 59860
Outpatient, ACT
- Earl Pat Matt
883-4460
29. **RECOVERY NORTHWEST ALCOHOL SERVICE CENTERS**
418 Main Avenue
PO Box 756
Libby, MT 59923-0756
Outpatient, ACT
- Barbara Pipe
293-7731

Program Name, Address & Approved Services

Director/Counselor
Telephone Number

REGION V - WESTERN (Continued)

Recovery Northwest Satellite Offices

- | | | |
|-----|---|---|
| a. | County Building
PO Box 403
Eureka, MT 59917-0403

Outpatient, ACT | Karen Marvel
296-2822 |
| b. | Sanders County Satellite
919 Main
PO Box 940
Thompson Falls, MT 59873-0940

Outpatient, ACT | Larry Marsh
827-4241 |
| c. | Mineral County Satellite
Tamarack Medical Center - Room 12
PO Box 608
Superior, MT 59872-0608

Outpatient, ACT | Don Omdahl
822-4421 |
| 30. | FLATHEAD VALLEY CHEMICAL DEPENDENCY CLINICS, INC.
1312 North Meridian
PO Box 1511
Kalispell, MT 59901-1511

Outpatient, Contracted Drug Services, ACT | Ken Anderson
756-6453

Fax: 756-8546 |
| 31. | SWAN RIVER FOREST CAMP
CHEMICAL DEPENDENCY PROGRAM
PO Box 99
Swan Lake, MT 59911-0099

Outpatient, Correctional Facility | Carol Ferguson
754-2292 |
| 32. | WILDERNESS TREATMENT CENTER
200 Hubbart Dam Road
Marion, MT 59925-9708

Inpatient-Free Standing (20 beds) | John Brekke
854-2832

Fax: 854-2832 |
| 33. | GLACIER VIEW HOSPITAL
200 Heritage Way
Kalispell, MT 59901-3180

Inpatient-Hospital (30 beds) | Mike DuHoux
752-5422

Fax: 755-5565 |

Program Name, Address & Approved Services

**Director/Counselor
Telephone Number**

REGION V - WESTERN (Continued)

34. ST. PATRICK HOSPITAL - A.T.C.

500 West Broadway

PO Box 4587

Missoula, MT 59806-4587

Dorothy Lescantz

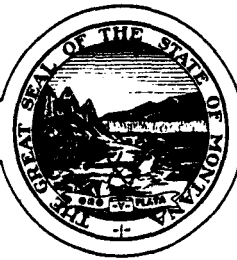
543-7271 Ext. 3020

Fax: 543-6836

Inpatient-Hospital (18 beds)

DEPARTMENT OF INSTITUTIONS

Calder 2
22 Feb 91
SB 410



STAN STEPHENS, GOVERNOR

1539 11TH AVENUE

STATE OF MONTANA

(406) 444-3930

HELENA, MONTANA 59620-1301

TESTIMONY FOR SB410

The department opposes this bill for the following reasons:

(1) It operates on the premise that chemical dependency and mental illness are synonymous. The department strongly disagrees. The field has worked very hard for years establishing this distinction.

(2) The bill copies 70 pages of legislation for the treatment of the mentally ill and inserts 5 sections of present statute governing Alcoholism and Drug Dependence (53-24-103, 53-24-107, and 53-24-207 amended and 53-24-303 and 53-24-304 repealed and reinserted as new sections). It would have been more appropriate to amend current statutes addressing Alcoholism and Drug Dependence. The department would be willing to review current statutes and amend for the 53 legislature.

(3) The proposed legislation totally duplicates, at significant cost, two ongoing functions of the Alcohol and Drug Abuse Division i.e. requires the Mental Disabilities Board of Visitors to conduct onsite reviews of 34 chemical dependency programs which duplicates the program approval and evaluation section and requires certification of Professional Persons by the department which duplicates the chemical dependency certification system.

(4) This bill mandates extensive procedural revision and expansion necessary for the treatment of the mentally ill but not required for chemical dependency. Additional staff will be required to implement.

(5) The fiscal impact of this bill is significant. The Mental Disabilities Board of Visitors will need to hire full time legal counsel and staff and travel expenses for 34 onsite reviews. County governments must bear the court and transportation costs. The Department of institutions will require at least 2.5 additional fte to promulgate this

legislation. Furthermore, the Department of institutions is unable to gauge the impact of this legislation on treatment services. However, the department is seriously concerned regarding the potential escalation of costs, as it affords the opportunity to the courts for accessibility and extended stays. Individuals currently being admitted as forced voluntaries, forced voluntaries with court papers, and court orders could now be involuntarily committed for 40 days instead of 28 days. The additional 12 days per stay is difficult in a facility with a bed utilization rate of 97%. The consequence will be a reduction in the number of voluntary commitments served.

(6) The department has historically encouraged voluntary treatment for chemically dependent individuals. Community based approved chemical dependency programs have utilized the intervention process as an effective way for individuals to admit themselves voluntarily.

THOMAS A. OLSON
DISTRICT JUDGE

STATE OF MONTANA

COLLEEN EAYRS-JOHNSON
CSR, RPR COURT REPORTER



DISTRICT COURT
EIGHTEENTH JUDICIAL DISTRICT
DEPT. NO. 1

CX 29
SB 410

2-22-91 10 am

February 20, 1991

Senator Dick Pinsoneault
Chairman, Senate Judiciary Committee
Capitol Building
Helena, MT 59620

RE: Senate Bill 410 - to revise procedures for treatment of
chemically dependent and intoxicated persons

Dear Senator Pinsoneault and Members of the Committee:

I write in support of Senate Bill 410. Montana desperately needs a workable procedure to treat alcoholics and drug addicts and where necessary to involuntarily commit such persons for treatment. The present procedure is defective as discussed herein. SB410 modeled after the mental commitment statutes, uses a tested and reliable approach.

Present procedure. Presently, the burden is squarely placed on the family of the addict. They must prepare the petition, without assistance from the county attorney. They must allege that others face harm from the addict. It apparently is insufficient that the addict may harm himself. See §53-24-302, M.C.A. Next, the family physician must "certify" his findings as to the family's allegations.

No where does government give these poor people help. No advice, no document preparation, no professional help is provided. Not many families can carry through on this awkward procedure. The family physician may be reluctant to put his or her signature to such a document. All the cards are stacked against the family. The statistics bear this out, in a recent year fewer than 40 cases were filed statewide. Yet common sense tells us that hundreds of families are suffering from the effects of an addicted family member.

At the court hearing, the family is expected to appear with the family physician, and somehow, without the assistance of the county attorney, present their cases. The alleged addict is given

Ex. 22
SB 410
2-22-91 10 am

Senator Pinsoneault
February 20, 1991
page 2


the right to have his own physician and attorney paid by the county.

The present statute is probably unconstitutional since I find no reference to a jury trial if demanded.

Mental Commitment Model. I favor SB410 because it follows the mental commitment statutes. District Judges are familiar with the procedure, and can hold these hearing without delay. The biggest defect in the present procedure, lack of involvement by the county attorney is corrected.

Conclusion. Having sentenced hundreds of felons in my career, having seen the tragic consequences of addiction on marriages, children and individuals, I say it's time the state took its responsibility seriously. Our addicted citizens need our collective help. SB 410 goes a long way to correct the present system which has proven to be unworkable.

Very truly yours,


Thomas A. Olson
District Judge

TAO:sat

LINEBERGER & WALSH, P.C.

ATTORNEYS AT LAW

109 EAST MAIN STREET, SUITE 1

POST OFFICE BOX 6400

BOZEMAN, MONTANA 59771

PETER S. LINEBERGER
PHILIP F. WALSH

TELEPHONE 406/586-4994
FACSIMILE 406/587-4147

February 21, 1991

Senator Richard J. Pinsoneault
Chairman, Senate Judiciary Committee
Room 325
Montana State Capitol
Helena, MT 59620

Re: Senate Bill 410

Dear Senator Pinsoneault:

I am writing to urge your committee's support of Senate Bill 410. This bill would amend the standards for civil commitment of chemically dependant persons and would offer them the same protections now provided to the mentally ill. This is crucial legislation for bringing Montana into the 21st century.

My great interest in this bill stems from three sources. First, I am chairman of the Alcohol and Drug Assistance Network of the State Bar of Montana. Second, my work as an attorney sometimes involves civil commitment issues for both the mentally ill and the alcoholic. Third, I am a member of a local task force in Gallatin County which is attempting to deal with the problems created by the antiquated statutes on this subject.

It is imperative that the courts have broader authority in civil commitment proceedings, while maintaining a carefully defined standard which would not deprive persons of their liberty without substantial justification. The current statutes have at least two glaring deficiencies. First, although the statutory language is not absolutely clear, for all practical purposes the present standard for commitment is limited to only those cases in which the alleged alcoholic is an imminent danger to other persons. The court should have the authority to commit someone who is also an imminent threat to himself. Second, the present statutory scheme is limited to alcoholics and does not include those persons with a dependency or addiction to other drugs. This makes little sense in our present world where drug use is rampant.

SB 410

2-22-91 10 am

Ex. 2b

SB 410

2-22-91 10am
Ex 2 b

Senator Richard J. Pinsoneault
Page 2
February 21, 1991

There are a number of other important issues concerning Senate Bill 410 which I cannot review or discuss in a brief letter. Let me simply say that this is vital legislation which I hope your committee will consider worthy of passage.

Sincerely,

LINEBERGER & WALSH, P.C.

A handwritten signature in dark ink, appearing to read "Philip F. Walsh", written over the typed name.

PHILIP F. WALSH

PFW/jcs
cc. Richard N. Traynham, Ph.D

Exhibit #3
22 Feb 91 10am
SB300

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 22 day of February, 1991.

Name: Robert E. Sullivan

Address: 112 Hillcrest Loop
Missoula Mt

Telephone Number: 543-7881

Representing whom?

Montana Commissioners on Uniform State Laws

Appearing on which proposal?

SB #300 - Controlled Substances

Do you: Support? ☒ Amend? ☐ Oppose? ☐

Comments:

S.B. #300 is update of 1970 Act promulgated
by the Uniform Laws Conference enacted in 46 states
and by the State of Montana in 1973. The present
act upon which S.B. 300 is based, was promulgated
by the Uniform Laws Conference in August 1946

Exhibit #4
22 Feb 91
SB 388

OFFICIAL POLICY
DEPARTMENT OF INSTITUTIONS

POLICY SUBJECT: USE OF FIREARMS/PROBATION AND PAROLE OFFICERS

I. POLICY:

It is the policy of the Montana Department of Institutions Community Corrections Bureau in accordance with the Montana Code Annotated, Section 46.23.1002(2), to permit duly appointed and properly trained and certified Probation and Parole Officers to carry and use firearms under circumstances herein outlined in the performance of their official probation and parole duties. However, such firearms are restricted to only those type firearms described herein; before any such authorization to carry a firearm is granted, the Officer must have successfully completed the prescribed training requirements and have met the prerequisite qualifications contained in this policy. Further, officers must meet the annual training requirements in order to retain authorization to bear firearms. A certified officer is authorized to carry a firearm when all conditions of this policy have been satisfied:

The Department will purchase and issue firearms and holsters for all officers approved to carry them. No personally owned weapons will be allowed.

The Regional Supervisor is responsible for the care, security and quarterly safety inspection of all weapons issued.

II. AUTHORITY:

Montana Code Annotated, Section 46.23.1002(2).

III. APPLICABILITY:

This policy governs those Probation and Parole Officers employed by the Montana Department of Institutions, Community Corrections Bureau, whose job authority includes the powers of arrest according to the Montana Code Annotated, Sections 46.23.1012 & 46.23.1023. Those personnel not authorized by statute with the power of arrest are prohibited from carrying a sidearm.

IV. DEFINITIONS:

A. Firearms Control Officer - Regional Supervisor or his designee in District Offices.

B. Authorized weapons: Weapons will be purchased by the Department and will be revolvers of .357 caliber of a reputable make, (e.g., Smith & Wesson, Colt, Ruger, etc.) with a barrel length of not less than 2 inches.

FIREARMS POLICY (continued)

Page 2 of 8 pages

- C. Authorized ammunition: Only .38 or .357 caliber, non-steel jacketed, factory made ammunition of reputable make is permitted. Reload rounds, wad cutters, or other modified ammunition are not authorized for service usage unless for training purposes. The use of a non-jacketed, soft lead hollow point, 158 gr., +P, factory made round for usage in all steel framed revolvers is recommended and shall be issued by the Department. In all aluminum or light-weight framed revolver's, a comparable non-+P round is recommended (eg, Winchester 110 gr. silvertip, federal 110 gr. high clad coated soft lead round).
- D. Prescribed firearms training course: All firearms training, course content and instructors shall comply with the Department of Institutions prescribed and approved training course. The training program is to be developed and approved under the authorization of the Corrections Division Administrator.

V. PROCEDURES:

Authorization prerequisites: In order to be authorized to carry a firearm under the foregoing policy, the Officer must:

- A. Have successfully completed the prescribed firearms training course.
- B. Be thoroughly familiar and qualified with the weapon being carried, and have demonstrated such familiarization and qualification through Department scheduled range practice and recorded firing exercises via the prescribed firearms training course. Proof of qualification must be on file with the Personnel Office, Department of Institutions.
- C. Have successfully completed the defensive tactics course as conducted and presented by the Department.
- D. Once qualified, successfully complete re-qualification training during each succeeding calendar year on or near his/her original qualification anniversary date (as scheduling will allow).
- E. Failure by an Officer to successfully complete the basic prescribed course of firearms instruction will result in the employee's enrollment in the next available course of instruction.
- F. Failure by an officer to successfully complete the annual recertification prescribed course of instruction will result in the suspension of the employee's authorization to carry a weapon at any time and enrollment in the next available course of instruction for re-qualification.
- G. Any employee who incurs a disability which precludes re-qualification training with a firearm shall have a physician attest in writing to the nature, extent and prognosis of the disability. The employee's authorization to carry a firearm will be suspended during the period of the disability. Following written notification by the employee's physician that the employee is able to resume full duty, the Department will enroll that employee in the next scheduled firearms re-qualification class.

FIREARMS POLICY (continued)

Page 3 of 8 pages

- H. All requests to carry firearms are initiated in writing to the Regional Supervisor, when possible, and approved or denied in accordance with Department policy.
- I. Continued authorization to carry firearms is dependent upon compliance with this policy and safe, proper conduct while in the possession of a weapon. Individuals found to be careless or negligent in their handling of firearms will have their authorization to carry them withdrawn.
- J. Staff who do not desire to carry a weapon should complete the Waiver of Firearm Authorization and submit this form to the Regional Supervisor, though it is understood that a request to carry a firearm at a future date may be initiated should a need arise.

VI. UTILIZATION:

The following procedures provide restrictions and general guidance for the use and carrying of firearms by officers:

- A. When not authorized: Probation and Parole Officers are not authorized to carry firearms as a matter of routine. No Officer shall carry a firearm without having first completed the basic firearms training class. Further restrictions include:
 - 1. When off duty.
 - 2. Routinely, in office areas.
 - 3. During training sessions.
 - 4. During court appearances.
 - 5. While under the influence of any mood altering substance including prescribed medications.
- B. When authorized: When all conditions of this policy are met and permission has been granted by both the Regional Supervisor and the Corrections Division Administrator, authorization to carry firearms may be granted in the performance of the following official duties:
 - 1. When making an official arrest;
 - 2. When transporting prisoners;
 - 3. When conducting home visits in high-risk situations;
 - 4. When conducting violation investigations;
 - 5. When conducting searches.

FIREARMS POLICY (continued)

Page 4 of 8 pages

C. Restrictions:

1. Deadly force will only be employed to protect one's own life, the life of another officer, or the life of a third party when he/she is in immediate danger of death or grievous bodily harm.
2. In all instances, only the amount of force necessary to maintain or gain control of a situation will be used, and when practical, alternate methods of control will always be employed in lieu of the use of firearms.
3. When a firearm is used, it must be with the realization that the death of some person may occur and will only be used as a last resort.
4. Under no circumstances will a firearm be used as a device to strike a subject in order to subdue resistance.
5. The firing of warning shots is prohibited.
6. No shots will be fired in the direction of a crowd of people.
7. No shots will be fired at a suspect who is holding a person hostage when firing would endanger the life of the hostage or any other person.
8. The procedure to be followed in providing a verbal warning prior to the discharge of a firearm is:
 - a. The Probation and Parole Officer must identify himself /herself to the client.
 - b. The Probation and Parole Officer will then order the client to "halt".
 - c. The verbal warning that is to be used is "Probation (Parole) Officer, halt."

VII. CARRYING OF FIREARMS:

Firearms will be carried in the following manner:

- A. Carried in an approved holster.
- B. Holsters: Recognized conventional holsters of reputable make will be used that afford protection to the weapon's hammer and trigger guard and have a retention strap or tension grasp that prevents accidental dislodging. Officers must be thoroughly familiar with the holster they are using.
- C. Concealment: A weapon will be carried so that it is concealed from public view by coat, jacket, etc., however, when actually making an arrest, the concealment by coat, jacket, etc., may be waived and is left to the Officer's discretion.

FIREARMS POLICY (continued)

Page 5 of 8 pages

- D. Office area: Officers, while at work in the field or in District or Regional offices, will not wear, expose, brandish or otherwise display weapons in public view. Weapons, unless otherwise authorized, will remain in the office safe. Under no circumstances will weapons be left unsecured in an office complex while the person assigned responsibility for the weapon is away from the office.

VIII. CONTROL/STORAGE OF FIREARMS/EQUIPMENT PURCHASED BY THE DEPARTMENT:

- A. All firearms/equipment shall be maintained in the Regional Office or District Office in a safe when not in use.
- B. The Regional Supervisor shall designate a Firearms Control Officer for each office where weapons are maintained. The Firearms Control Officer shall be responsible for ensuring the security of the firearms and accuracy of the firearms log.
- C. When circumstances require that a firearm be carried by a Probation/Parole Officer, the firearm shall be checked out from the Firearms Control Officer. Firearms shall be checked out only for use in specific circumstances as outlined in Section VI (B) above. A weapon shall not remain checked out beyond the period of time for which it was issued.
- D. The Firearms Control Officer shall ensure that the Probation and Parole Officer signs the log sheet and indicates the firearm inventory number, time, date, location and purpose before the firearm is issued.
- E. When the assignment for which the weapon was issued is accomplished, the Probation/Parole Officer shall return it to the Firearms Control Officer for storage.
- F. The Firearms Control Officer shall check the firearm back into storage and indicate on the log the date and time the firearm was returned.
- G. The Firearms Control Officer shall conduct a monthly inventory of the firearms/equipment. Any discrepancies will be immediately reported to the immediate supervisor.

IX. INVESTIGATIONS AND REPORTS

The Corrections Division Administrator will designate a Review Committee from the Department to investigate and report on all incidents in which an officer misuses a firearm while on duty including during Department training sessions or all forms of approved target practice.

The Review Committee will be appointed by the Corrections Division Administrator and shall be comprised of representatives of Probation and Parole staff, The Community Corrections Bureau Chief, One Regional Supervisor, and a Law Enforcement Representative.

The purpose of the Review Committee is to conduct an in-depth review of any situation in which a firearm or deadly weapon is displayed, pointed or fired except during training qualification or routine maintenance.

FIREARMS POLICY (continued)

Page 6 of 8 pages

A. INVESTIGATIONS:

The Review Committee will impartially review the incident using all available reports, statements, photographs, testimony, etc., pertinent to the matter. The chair of the Review Committee shall have the authority to call in any employee to give statements, accounts or information in regard to the matter under review. To determine if the force used by an employee was appropriate, the committee will consider:

1. Need for the application of force;
2. The relationship between the amount of force that was used and the need for using force;
3. The extent of the injury inflicted;
4. Whether the force was applied in a good faith effort to maintain or restore control;
5. The behavior(s) of the subject against whom the force was used;
6. The actions by third parties who may have been present;
7. The physical odds against the employee;
8. The feasibility or availability of alternative actions.

In a use of force circumstance, especially deadly force, the burden of justification for self-defense or defense of others is the employee's.

At the conclusion of its inquiry the Review Committee will recommend to the Corrections Division Administrator as to whether the employee was justified in using force, and if the force used was appropriate. The written recommendation will be corroborated by the facts of the matter and signed by all members of the Review Committee. Upon receipt of the committee's report and recommendation the Corrections Division Administrator will determine if the matter requires any additional response.

B. REPORTS

1. Discharge of Firearm Report: Each time an Officer discharges a firearm, except as specifically excluded above the law enforcement agency of local jurisdiction must be immediately notified of the discharged firearm. In addition, a detailed written report of the circumstances will be provided to the Head of the Law Enforcement agency of jurisdiction and to the Corrections Division Administrator within 48 hours of the incident. The report will include the following information:

- a. Name and social security number of the Officer who discharged the firearm;
- b. Date and time of the occurrence;

FIREARMS POLICY (continued)

Page 7 of 8 pages

- c. Location of occurrence;
 - d. Type, caliber and serial number of firearm discharged;
 - e. Type and caliber of ammunition fired;
 - f. Number of shots fired and direction shots were fired;
 - g. Description of object fired at (if at a person: name, race, social security number, date of birth, etc., if available), and distance to target;
 - h. Whether or not the object fired at was moving, standing or barricaded;
 - i. Whether or not the Officer(s) were standing, running, barricaded, etc.;
 - j. Results of the shots fired, extent of wounds, other objects struck, etc.;
 - k. Name of supervisors and investigators responding to scene;
 - l. Names and addresses of witnesses to the incident;
 - m. Other pertinent information concerning the incident written in narrative form. To be included are reasons for the use of firearms, etc.
2. Homicide by Officers in the Performance of Duty:
- a. When an Officer of the Montana Department of Institutions, Community Corrections Bureau kills or injures a person, a thorough and objective investigation of the facts and circumstances will be initiated immediately and completed as soon as possible by the Review Committee.
 - b. The Officer responsible for a homicide will be placed on administrative duty by the Corrections Division Administrator without loss of pay or benefits, pending the results of the investigation.
 - i. The Officer will be available at all times for official interviews and statements regarding the incident. He will notify the Corrections Division Administrator prior to leaving the State of Montana.
 - ii. The Officer will not discuss the incident with anyone except the investigating agencies and authorized Department personnel. This does not prohibit the Officer from discussing the incident with his attorney.

FIREARMS POLICY (continued)

Page 8 of 8 pages

IX. PRE-EMPLOYMENT BRIEFING REQUIREMENT

Prior to offering employment to any candidate for the position of Probation and Parole Officer, the candidate will be informed of the Department's requirements regarding weapons qualification and re-qualification.

This policy describes the position of the Department regarding the authorization of personnel to carry and use firearms. Any employee found to be in violation of any part of this policy may be subject to termination from employment subsequent to a review of the facts of the violation by the Department Director or designated authority.

to be filled out

every time a weapon

is issued

FIREARMS LOG

Montana Department of Institutions
Community Corrections Bureau

Requesting P & P Officer: _____

P & P Officer Qualification or Re-Qualification Date: _____

Date/Time of Request: _____

Reason for Request: _____

Approval (date/time)

Regional Supervisor: _____

Corrections Division Administrator: _____

Firearm Issue Information

Name of FA Control Officer: _____

Date/Time Issued: _____

Serial Number of Weapon: _____

Number of Rounds Issued: _____

Signature of Recipient: _____

Firearm Return Information

Date/Time Returned: _____

Serial Number Verification: yes no

Weapon Drawn? yes no Weapon Fired? yes no

If yes, reason: _____

Number of Rounds Returned: _____

P & P Officer Signature: _____

FA Control Signature: _____



On the Line

A Publication of the American Correctional Association

January 1991—Vol. 14, No. 1

2/22/91 10am
SB 388
SB 453

Editorial

Zooming and Booming in the '90s

It is no secret that the criminal justice system has been running on empty for the past several years. But the question is: How much longer can this tired old system roll on without a major infusion of resources or some reduction in the load it is asked to carry? As we begin the last decade of the 20th century, everyone asks what the future of corrections looks like. Well, let's see where we are as we begin 1991:

- Prison census - 716,172 and zooming
- Jail census - 350,000 and zooming
- Probation - 2,386,427 and zooming
- Parole - 407,596 and zooming
- Rate of Incarceration: per 100 thousand - 385 persons (zooming)
- Number of prisoners on death row - 2,397 (sobering)

According to the Bureau of Justice Statistics, the total number of adults under supervision by correctional authorities is now more than 4 million persons—a staggering increase of 9.2 percent since 1988 and 34.6 percent since 1985. An estimated one of every 4½ adults in the United States was under some form of correctional supervision on any given day in 1989. As we all know, statistics will show a great many more were under supervision in 1990. One out of every four black men is under correctional supervision.

Although correctional budgets have increased, they are still behind what is needed—a consequence of inflation and the slowness with which services are added.

Hundreds of adult and juvenile institutions and jails are under court order because of conditions of confinement issues. All suffer from crowding, and there appears to be no relief in sight.

Are these numbers going to continue to zoom in the '90s? I think they are.

Are we going to struggle and still not have all the answers? I think we are.

Are our political leaders going to allow us the resources we need? I think not.

So what can we look forward to?

The final answers to our problems are outside the criminal justice system. Either prevention systems must be developed in our schools or community agencies to target potential offenders, or we must learn to punish less expensively and for shorter periods of time.

Shorter sentences—hah! The October 1990 issue of Corrections Compendium reported that life sentences have increased by 45 percent in the last two years. We have approximately 60,000 men and women serving life—for many of them it's life without parole. As mentioned earlier, 2,397 men and women are now on death row. Are prisons going to become places for lifers with very little to do? Or are we going to begin to look more closely at what we are doing as a society and why we continue to punish so expensively?

Looking at the big picture, we have always said that when 75 percent of the offenders are in community programs and 25 percent are in institutions, we will have a balanced system. The current balance has not changed in more than 25 years—75 percent of the offenders are in community programs and 25 percent are in institutions. So what's wrong?

What's wrong is the volume. The skyrocketing number of intakes is killing the system. We haven't been able to stem this flood of offenders with programs acceptable to the public and politicians.

So my solution for the '90s is that we—the criminal justice system—must tell the whole sordid story, over and over again, to all who will listen. It is up to us to find ways to handle the volume—or to live with it. ♦

Inside

Making Offenders Foot the Bill	2
Arizona Studies Assaults on Officers	5
Federal Prison Furloughs Decline	6
Membership Department Makes the Rounds	7

Probation, Parole Officers Face Increased Violence



Three out of five probation and parole officers will face verbal or physical violence from offenders at least once during their careers, according to a Pennsylvania State University study.

"The more punitive approach toward offenders has made life correspondingly more difficult for parole and probation officers," said William H. Parsonage, associate professor of administration justice. "They face mounting threats of verbal intimidation, harassment, property loss and even physical assault."

The recent survey covered seven states (Connecticut, Delaware, Maryland, New Jersey, New York, Pennsylvania and Vermont) and found that about 60 percent of all probation and parole workers report some kind of victimization during their careers. Thirty percent

reported at least one such event in the past year.

"During the past 20 years, American society has become increasingly frustrated by the drug problem and the seeming inability of traditional institutions to deal with it. As a result, the focus of corrections is now harsh penalties, punishment and confinement—not rehabilitation," Parsonage said. "This has caused a dramatic change in the role of parole and probation officers."

Another survey of Pennsylvania probation and parole workers revealed that 62 percent of the 1,399 respondents were victimized at least once in the course of their careers; for managers and supervisors, the percentage was 69. Nineteen percent of clerical and staff workers also reported some kind of victimization in the

workplace.

Joe A. Miller, associate professor of community health education and co-author of "A Study of Probation and Parole Worker Safety in the Middle Atlantic Region," said the Pennsylvania study parallels a recent survey by the New York Division of Probation and Correctional Alternatives indicating a 54.7 percent victimization rate for New York probation and parole officers from 1984 to 1987.

Police, corrections, probation and parole workers who experience threats and actual violence are often not considered victims because they are expected to deal with potentially dangerous people and situations, according to the study.

"They do not fit the public perception of victim as an innocent person harmed in the course of minding his or her own business," Miller said. ♦

NOW AVAILABLE . . .

- 1991 Directory of Juvenile and Adult Correctional Departments, Institutions, Agencies, and Paroling Authorities
- Correctional Officer II Correspondence Course
- Suicide Prevention in Custody Correspondence Course

For more information, write ACA, Publications Division, 8025 Laurel Lakes Court, Laurel, MD 20707 or call 1-800-825-BOOK.

Benefits Update

During 1990, the American Correctional Association negotiated and secured captivity and assault insurance as a member benefit. However, just prior to the implementation of this coverage, the insurance carrier withdrew the policy. President Sublett and the Executive Committee agreed to have ACA be self-insured for this coverage until December 31, 1990. This is to serve notice and to remind you that effective on that day, captivity and assault insurance was no longer a member benefit. If you have any questions concerning this policy, please feel free to contact our Membership Division at 1-800-ACA-JOIN.

Resource Grab Bag

The Washington State Department of Corrections has published **Assessment of the Offender Grievance Program, January 1982 Through December 1989**, in the hopes of sharing ideas and experiences from their grievance program with other corrections professionals. Contact: Larry J. Uribe, Grievance Program Manager, Department of Corrections, P.O. Box 9699, MS: FN-61, Olympia, WA 98504; (206) 753-3619.

Partial Justice, second edition, is a full-scale study of the origins and development of women's prisons in the United States, drawing on first-hand accounts, legislative documents, investigative reports and thousands of inmates' records. It also discusses the measures now being taken to challenge the disparity of treatment women in prison have historically experienced in comparison with their male counterparts. Contact: Transaction Publishers, Rutgers—The State University, New Brunswick, NJ 08903; (201) 932-2280.

Drugs: The Public Perspective, a videotape of the second National Town Meeting on Corrections from ACA's 120th Congress of Correction, focuses on the drug crisis and how this epidemic relates to correctional programming. Expert panelists examine the many facets of the drug crisis and discuss different approaches to incarceration, prevention, treatment and education. Should drugs be legalized? Why do people do drugs? How can society continue to support the current rate of incarceration? For the video of an enlightening discussion of these topics and more, call ACA publications at 1-800-825-BOOK. ♦

Exhibit 5a consists of 24 pages of signed petitions supporting the adoption of a constitutional amendment prohibiting physical desecration of the flag. The originals are available at the Montana Historical Society, 225 North Roberts, Helena, MT 59601. (Phone 406-444-4775)

Exhibit #5
22 Feb 91
10 am
SB 441

Amendments to Senate Bill No. 441
First Reading Copy

Requested by Senator Mazurek
For the Committee on Judiciary

Prepared by Greg Petesch
February 21, 1991

1. Page 4, line 5.

Following: "judge,"

Insert: "the workers' compensation judge,"

2. Page 4, lines 19 through 25.

Strike: subsection (2) in its entirety

Renumber: subsequent subsection

3. Page 5, line 3.

Following: "nominee,"

Insert: "letters and public comments received regarding the
nominee,"

4. Page 5, line 16.

Following: "and a"

Strike: "4-year"

Insert: "3-year"

PROPOSED AMENDMENTS TO
SENATE BILL 441

Exhibit #6
22 Feb 91 10 am
from Rick SB 441
Barton

1. Title, line 6
Delete: "TWO TERMS"
Insert: "ONE TERM"
2. Page 3, line 2
Following: "than"
Delete: "two"
Insert: "one"
3. Page 3, line 2
Following: "4-year"
Delete: "terms"
Insert: "term"
4. Page 3, line 17
Following: "least"
Delete: "15"
Insert: "30"
5. Page 3, line 17
Following: "applicants."
Insert: "The commission shall transmit a copy of all public
written comment to the governor or chief justice."
6. Page 3, line 23
Following: "and"
Delete: "the"
Insert: "all"
7. Page 3, line 24
Following: "public"
Delete: "except when the demands of individual privacy
clearly exceed the merits of public disclosure"
8. Page 5, line 21
Following: "after"
Delete: "October 1, 1991"
Insert: "December 31, 1988"

Exhibit #7
22 Feb
SB 453

SENATE BILL #453

MR. CHAIRMAN, MEMBERS OF THE
^{For the record}
COMMITTEE. ^ MY NAME IS Don Russell,
Administrator of the Div. of Corrections AND I AM HERE
TO OFFER TESTIMONY IN
OPPOSITION TO SENATE BILL #453.

PROBATION AND PAROLE BEGAN IN
MONTANA IN THE EARLY 1950s. AT
THAT TIME, IT WAS AN EXPANSION
OF THE RESPONSIBILITIES OF THE
BOARD OF PARDONS. THROUGH THE
YEARS, THE PROGRAM EXPANDED
AND IN 1975, THE PROGRAM WAS
TRANSFERRED TO THE DEPARTMENT
OF INSTITUTIONS IN ORDER TO
FACILITATE A SYSTEMATIC FLOW OF

CORRECTIONAL SERVICES, UNDER
THE ADMINISTRATION OF ONE
STATE AGENCY; THE CORRECTIONS
DIVISION.

THE P & P FUNCTION IS AN INTEGRAL
PART OF THE ADULT CORRECTIONAL
SYSTEM AND ITS OPERATION HAS
CONSIDERABLE IMPACT UPON THE
ENTIRE SYSTEM. WITHIN THE
DEPARTMENT OF INSTITUTIONS,
OPERATION AND CONTROL OF
COMMUNITY CORRECTIONAL
PROGRAMS IS ABSOLUTELY
NECESSARY FOR THE EFFECTIVE
MANAGEMENT OF THE OFFENDER
POPULATION. FOR INSTANCE, WE
HAVE MANDATED THE CONSIDER-

ATION AND USE, WHEN
APPROPRIATE, OF ALTERNATIVE
SANCTIONS TO IMPRISONMENT FOR
TECHNICAL VIOLATIONS.
INTERVENTION TECHNIQUES ARE
USED IN ORDER TO REDUCE
VIOLATIONS FOR NON-VIOLENT
OFFENDERS. THE LEGISLATURE AND
THE DEPARTMENT HAS A MAJOR
STAKE IN THE APPROPRIATE
CHANNELING OF PROBATION/PAROLE
VIOLATORS. WITHOUT THIS VESTED
INTEREST AND CONTROL, PRISON
POPULATIONS WILL BECOME EVEN
MORE OVER-WHELMING THAN AT
PRESENT. IF THE
PROBATION/PAROLE FUNCTION IS
TRANSFERRED TO THE DEPARTMENT

OF JUSTICE, THAT OBLIGATION MAY NOT BE FELT. OUR INTEREST IN PROBATION/PAROLE AND THE POTENTIAL IMPACT THIS PROGRAM HAS ON THE PRISON POPULATION IS SHARED BY THE GOVERNOR'S CRIMINAL JUSTICE AND ADVISORY COUNCIL. RECOMMENDATIONS HAVE BEEN MADE AND FUNDING REQUESTED TO ENHANCE THE P & P OPERATION, NOT ONLY THROUGH THE ADDITION OF NEW OFFICERS BUT THROUGH SUPPORT FOR INTERMEDIATE SANCTIONS, ALTERNATIVES TO INCARCERATION AND EXPANDED COMMUNITY PLACEMENTS.

PROBATION/PAROLE IS A PROGRAM
OF ADVOCACY FOR AND
REHABILITATION OF OFFENDERS AS
WELL AS A PROGRAM FOR THEIR
EFFECTIVE SUPERVISION WHILE
UNDER RELEASE TO THE
COMMUNITY.

THROUGH THE YEARS, MORE
EMPHASIS HAS BEEN PLACED ON LAW
ENFORCEMENT FUNCTIONS TO
ASSURE SOCIETAL AND OFFICER
PROTECTION. AN EXAMPLE OF THIS
IS THE FIREARMS ISSUE AND
OTHER "TOOLS OF THE TRADE"
WHICH HAVE ENHANCED SUPERVISORY
CAPABILITY (URINALYSIS,
BREATHALYZERS, ELECTRONIC

M O N I T O R I N G , E T C .) .

NEVERTHELESS, WE ARE NOT A LAW
ENFORCEMENT AGENCY. OUR ROLE
IS TO "CORRECT" OFFENDER
BEHAVIOR THROUGH THE USE OF
SUCH TOOLS AS WELL AS
KNOWLEDGE, SKILLS AND ABILITIES.

THE DEPARTMENT OF JUSTICE IS
NOT AN AGENCY OF CORRECTION,
BUT STRICTLY OF ENFORCEMENT
AND PROSECUTION OF THE LAW.

THERE ARE INSTANCES IN WHICH
THE RESPONSIBILITIES OF THE TWO
AGENCIES ARE IN DIRECT CONFLICT
WITH ONE ANOTHER (USE OF
INFORMANTS, PROSECUTIONS, ETC.)

P & P OFFICERS THEMSELVES ARE
INVOLVED IN THE COORDINATION OF

SERVICES WITH PRE-RELEASE
CENTERS. PRESENTLY EACH PRE-
RELEASE CENTER HAS A DESIGNATED
PROBATION OFFICER ASSIGNED TO
THE CENTER. THIS "LIAISON"
OFFICER ASSISTS BOTH THE
RESIDENTS AND CENTER IN MANY
WAYS. THIS FUNCTION WOULD NO
LONGER BE A PRIORITY FOR ANOTHER
AGENCY THAT HAS NO VESTED
INTEREST IN THE CORRECTIONAL
FUNCTION OF THE PRE-RELEASE
CENTER.

THE COMPUTERIZED AUTOMATED
INFORMATION SYSTEM (ACIS) IN
PLACE AT THE DEPARTMENT OF
INSTITUTIONS FOLLOWS A CLIENT

THROUGH PROBATION, PRISON, PRE-
RELEASE AND PAROLE. A MAJOR
PROGRAMMING EFFORT WOULD BE
NECESSARY TO TRANSFER ONLY
PARTS OF THAT INFORMATION TO
THE DEPARTMENT OF JUSTICE.
INFORMATION SHARING WOULD
BECOME GREATLY RETARDED DUE TO
THE VARIOUS INTERESTS OF THE
TWO AGENCIES. SUCH INTERESTS
ARE VARIED DUE TO THE UNCOMMON
GOALS AND RESPONSIBILITIES OF
BOTH DEPARTMENTS.

IF OUR ADMINISTRATIVE STAFF
TRANSFER TO THE DEPARTMENT OF
JUSTICE, THE DEPARTMENT OF

INSTITUTIONS REMAINS ACCOUNTABLE
FOR A NUMBER OF COMMUNITY
CORRECTIONS RELATED
RESPONSIBILITIES BUT WITHOUT THE
MANPOWER TO ACCOMPLISH THEM.
THESE RESPONSIBILITIES INCLUDE:

* OPERATION OF THE INTERSTATE
COMPACT UNIT FOR THE
SUPERVISION OF PROBATIONERS
AND PAROLEES. THERE ARE 759
MONTANA OFFENDERS ON
INTERSTATE SUPERVISION BEING
MANAGED THROUGH CENTRAL
OFFICE. THE EXCHANGE OF
INFORMATION AND PAPERWORK
AMONG STATES IS MASSIVE.

* THE BUREAU CHIEF AND FIELD
SERVICES SUPERVISOR'S DUTIES

INCLUDE:

- SUPERVISING THE OPERATION
OF STATE PRE-RELEASE
CENTERS;
- CONTRACTING WITH PRIVATE
PRE-RELEASE CENTERS,
MONITORING THESE CONTRACTS
AND EVALUATING THESE
PROGRAMS;
- INTERVIEW_{ing} AND SCREEN_{ing}
INMATES FROM MSP, WCC, AND
SRFC FOR PRE-RELEASE
PLACEMENT;
- SCREEN_{ing} INMATES FOR
TRANSFER TO SRFC;
- SUPERVISION OF FOUR
REGIONAL P/P SUPERVISORS;
- INTENSIVE SUPERVISION

PROGRAM DEVELOPMENT

INCLUDING:

SUPERVISION;

GRANT WRITING;

PUBLIC RELATIONS WITH

OTHER AGENCIES;

- SUPERVISION OF ENTIRE

CORRECTIONS SYSTEM DURING

In Administrative absence

~~MY ABSENCES~~ FROM THE OFFICE.

T R A N S F E R R I N G T H O S E

R E S P O N S I B I L I T I E S T O T H E

D E P A R T M E N T O F J U S T I C E W O U L D

S E R I O U S L Y I M P E D E T H E D E L I V E R Y O F

S E R V I C E S I N C O R R E C T I O N A L

P R O G R A M S A N D R A I S E H A V O C W I T H T H E

A D U L T C O R R E C T I O N A L S Y S T E M I N T H E

S T A T E O F M O N T A N A . T H E

C O R R E C T I O N S D I V I S I O N H A S A L A R G E R

BUDGET AND MORE EMPLOYEES THAN 10
OF OUR STATES' CABINET LEVEL
DEPARTMENTS. PASSAGE OF THIS BILL
WOULD CREATE SERIOUS PROBLEMS NOW
AND IN THE FUTURE AS IT RELATES TO
OUR STATE'S RESPONSIBILITIES FOR
ADULT OFFENDERS AND WITH THE DAY-
TO-DAY OPERATIONS OF THIS LARGE
DIVISION.

I URGE YOU TO KILL SENATE BILL 453.

SB 388
SB 453
2-22-91

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 22 day of February, 1991.

Name: John E "Boko" Kelly

Address: 821 W 5th ANAconda, MT

Telephone Number: 563-3081

Representing whom?

STATE Adult Probation/Parole Officer

Appearing on which proposal?

SB 388 & SB 453

Do you: Support? X Amend? Oppose?

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SB 388

2-22-91

10am

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 22 day of February, 1991.

Name: Mary E. Jay

Address: 1917 W Hill Place

Great Falls, MT 59404

Telephone Number: 406-727-7516

Representing whom?

MT Federation Probation and Parole Officers

Appearing on which proposal?

SB 388 Firearms Policy for Prob/Parole

Do you: Support? X

Amend?

Oppose?

Comments:

oral comments given.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SB 453

2-22-91

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 22 day of February, 1991.

Name: Theresa E. Day

Address: 107 West Hill Drive
Great Falls, MT 59404

Telephone Number: 406-727-7516

Representing whom?

MT Fed. of Prob and Parole Officers

Appearing on which proposal?

SB ~~453~~ 453 - Prob & Parole Officers under Dept of Justice

Do you: Support? ☒ Amend? ☐ Oppose? ☐

Comments:

gave oral comments.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SB 388
SB 453

2-22-91
10am

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 22 day of February, 1991.

Name: Fred Webb

Address: 928 Dixon Springs Mt.

Telephone Number: _____

Representing whom?

State Protection & Probation Officers.

Appearing on which proposal?

SB 388 SB 453

Do you: Support? X Amend? _____ Oppose? _____

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

DATE 22 February 91
10 am

COMMITTEE ON Senate Judiciary

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppos
Robert E. Sullivan	MONTANA UNIFORM Laws Commissioners	300	✓	
Cebbie Willis	Probation/Parole Off. III	453 388	✓	
WRT. CRISKOLM		453 388		✓
Mary Fay	Mt Fed of Prob + Parole	453 388	✓	
John E "Babe" Kell	Mt Fed of Prob + Parole	453 388	✓	
Paul Walsh	Mt. Fed of Prob + Parole	453 388	✓	
Terry Minow	MFS E	453 388	✓	
MARK MURPHY	A.G.'S OFFICE	300	✓	
John Holbrook	Insurance Commissioner's Office	442	✓	
RICH BROWN	AMERICAN LEGION	STR 19	✓	
Mike Ruppert	CDPM	410		✓
Dale Hansen	American Legion	STR 19	✓	
Dick Thompson	Gallatin County ED Task	410	✓	
J. Umstat	American Legion	SSA 19	✓	
Dick Baumbarger	Disabl of Am. Vets	SB 19	✓	
DARRELL BRUNO	Dept of Inst	SB 410		✓
NORMA JEAN BOLES	" " "	SB 410		✓
Larry Fashender	CDPM	SB-410		✓
Roger Tigon	Mt St Pharmaceutical Assn	SB 300	—	
DAVE BROWN	Stk Reg - HD #72	SB-388	✓	
Jim Perry	Dept. of Institutions	SB 388		✓
Ron Alsburg	Probation + Parole	SB 453		✓