

## **MINUTES**

### **MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON JUDICIARY**

**Call to Order:** By Chairman Dick Pinsoneault, on March 11, 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 Vice Chairman Yellowtail would chair the hearings this date.

#### **HEARING ON HOUSE BILL 466**

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

Representative Bob Bachini, District 14, told the Committee the title of HB 466 plainly states the intent of the bill, which requires that those sentenced for conviction of deliberate homicide not be eligible for parole or a supervisory release program while serving their term.

#### **Proponents' Testimony:**

Rollie Fisher, Lincoln, Montana, spoke from prepared testimony in support of HB 466 (Exhibit #1). He described a deliberate homicide which occurred near Lincoln in 1965, and said one of those men committing that crime was later paroled and eventually murdered

a young woman in the Seattle area. He said the man is awaiting trial now, and commented that he did not believe those who commit deliberate homicide can ever be rehabilitated.

Senator Ethel Harding, District 25, told the Committee her daughter was a victim of deliberate homicide. She said she did not believe that families of victims can ever live in safety. Senator Harding commented that she serves on the Long Range Building Committee and is aware of overcrowding in the prisons.

Mike Schafer, Yellowstone County Sheriff, said he wished to go on record in support of HB 466 on behalf of the Montana Peace Officers Association.

#### Opponents' Testimony:

Dan Russell, Administrator, Division of Corrections, Department of Institutions (DOI), said Montana judges can no declare anyone ineligible for parole. He advised the Committee that HB 466 sets arbitrary denial of parole and a precedent for continuing this policy. Mr. Russell commented that inmates with no hope of parole pose the greatest threat to institutional security, and said Montana State Prison is already overcrowded.

Mr. Russell told the Committee that DOI receives about 17 deliberate homicides each year. He said there are 99 people serving time now for deliberate homicides, and that 79 of them are eligible for parole. Mr. Russell commented that the average age for parole is 79.5 years, and the average age for non-parole deliberate homicides is 104 years. He explained that three or more of these people are paroled each year.

The Committee received a letter from Martha Kuipers, Belgrade, in opposition to HB 466 (Exhibit #2).

#### Questions From Committee Members:

Senator Towe asked if a felony murder would apply to deliberate homicide. Representative Bachini read from language which includes a forcible felony as legally accountable for death of another human being. Dan Russell replied he did not know.

Senator Towe said that if the felony murder rule does apply, then the effect would be that anyone associated with a criminal enterprise involving murder is guilty of the offense of murder. Representative Bachini replied that is correct, and said these people should not be exempted.

Senator Pinsoneault commented that such a person would probably be tried as an accomplice outside the scope of this law. He said it would depend upon how the prosecutor decided to prosecute.

Senator Pinsoneault asked Dan Russell if his answer would be the same if DOI had all the needed prison space. Mr. Russell replied it would be, from a correctional perspective, as it creates a serious management problem from that perspective.

Senator Pinsoneault asked Dan Russell if releasing a deliberate homicide felon bothered him. Mr. Russell replied it does, and said many of these people have committed crimes against their spouse and have no other grudges. He stated that other changes in the federal system are not incorporated in this bill.

Senator Doherty asked if any other states have this legislation. Representative Bachini replied he did not know.

Senator Doherty commented that it would be harder to convict people with this type of sentencing. Representative Bachini said he could not really respond to that statement.

Senator Doherty asked to hear from someone concerning the statement that prisoners would become a greater problem when they had no chance for parole. Dan Russell replied that he consulted with prison staff when he was preparing his testimony on the bill.

Senator Svrcek asked Representative Bachini why he wanted to take discretion away from judges when each case is individual. Representative Bachini replied that this bill comes not by accident, but because the issue came up so many times during his re-election campaign. He advised Senator Svrcek that he has received many letters and calls from all over the state in support of the bill.

Senator Svrcek stated this is a very weighty matter to look at, and said that tying the hands of judges before they come to court is a matter of grave concern to him. Representative Bachini replied that prerogative is not being used by judges now. He said a crime of passion is covered under another statute.

Senator Towe asked Sheriff Schafer if he could live with failure of the bill, if the judges begin to use the capital punishment statutes. Mike Schafer replied that most drug cases are taken to federal court to get a harsher, longer sentence.

Senator Towe commented that the bill would clearly apply to mercy-killings, and asked Representative Bachini how he would respond to that. Representative Bachini replied that if a person deliberately kills he or she shall be governed by the same sentencing as any other deliberate homicide. He said the court has the power to impose a three-year sentence and not a hundred-year sentence if it so chooses. Representative Bachini stressed that the bill only asks that these people serve their entire sentences.

Senator Towe asked about the Corliss case. Dan Russell replied that Charles Corliss served a portion of his prison term, was then taken to the Montana State Mental Hospital, and later

paroled. He said Mr. Corliss was allowed to go to another state for employment opportunities, and committed murder there.

Senator Pinsoneault read from 46-18-305, MCA, on deliberate homicide, and said that if the court finds no mitigating circumstances, it does not impose a sentence of death. He commented that the Committee may want to have Senator VanValkenburg present to answer questions during executive action on the bill.

Closing by Sponsor:

Representative Bachini read from a news article concerning the strangling of three members of a family in a Billings motel, and from a second article concerning a father killing his daughters (ages 2 and 6) with an axe. He said the psychologist at Warm Springs recommended that this man never be released, and also said that 70 percent of those who commit deliberate homicide re-offend with some other violent crime within 4 years of release.

Representative Bachini told the Committee he hoped they would not put a cost on their decision. He said that bills considered earlier take some pressure off the prison system, and commented that those in prison are learning the system very well. Representative Bachini repeated his statement that he is only asking that these people serve the time for which they are sentenced. He asked the Committee not to forget the families of victims, and said this request comes from the people of the state of Montana.

Representative Bachini stated that although not everyone can be rehabilitated, that does not preclude DOI from attempting rehabilitation. He said a person who committed deliberate homicide in Havre was sentenced to serve eight years, was released after four years, and is now harassing and threatening other members of the victim's family. He told the Committee it is suspected that the person is carrying a weapon, and said this is not right.

Representative Bachini went on to state that Corliss had three women tied up, had already killed one, and was about to kill one more. He also cited an incident in the Kalispell area where a crime was committed against a person, and that same person was later killed. Representative Bachini asked the Committee to pass HB 466.

HEARING ON HOUSE BILL 428

Presentation and Opening Statement by Sponsor:

Representative Bud Gould, District 61, (addressing HB 466) said he believes it is section 45-18-22, MCA, that makes it so minor participants in crimes and people with mental problems are not in the same category with deliberate homicide offenders. He said Hank Burgess, Parole Board, has provided a better example of hard work than most Montanans. Representative Gould commented that

of the thousands of people paroled, communities only hear about the ones who go wrong.

Representative Gould said HB 428 was requested by the Department of Institutions (DOI). He told the Committee that Senator Beck is very familiar with the bill which provides that sentencing to the state prison is a sentence of commitment to DOI for placement in an appropriate correctional institution program.

Representative Gould advised the Committee that he had asked DOI to rewrite the bill to allow sentencing judges to play a part, i.e., be consulted and respond within 15 days. He said this language gives judges very good input, and that he believes it is a good bill with a great deal of safety.

Representative Gould told the Committee that Representative Mercer amended the bill on second reading in the House, and said he did not argue the point. He commented that the amendment makes it worse for the Department, and asked the Committee to kill the bill if it is left as it is.

#### Proponents' Testimony:

Representative Betty Lou Kasten, District 28, explained that she is a member of the Criminal Justice Corrections and Advisory Council, and said felons are now sent to the Montana State Prison or the Lewis Correctional Center. She told the Committee that with the advent of many community programs there are other places to put inmates where they can be treated. Representative Kasten said the bill allows DOI to make recommendations concerning the best place for those sentenced. She asked the Committee to pass the bill without the amendment.

Mike Schafer, Yellowstone County Sheriff, stated his support of the bill. He said a classification process is used in Yellowstone County for jail placement.

Curt Chisolm, Director, DOI, advised the Committee that HB 428 was recommended by the Governor's Correction and Advisory Council to put Montana in line with other states. He provided an amendment and said DOI will be very careful in its classification procedure and in determining proper placement to effect rehabilitation responsibilities falling to DOI (Exhibit #3).

Mr. Chisolm said the House amended the bill on page 4, lines 2-5, but the amendments contradict the intent of the bill. He stated that the bill now makes placement subject to court approval and requires a hearing after 15 days if there is disagreement.

Mr. Chisolm said his proposed amendments put the bill into its original condition, with the exception that it also cleans up language in Sections 3 and 4. He said the bill, as amended now, raises the question of legality and constitutional issues and continuing jurisdiction. Mr. Chisolm advised the Committee that if

HB 428 is not returned to its original state, he would rather they killed the bill than be back in the courts concerning classification recommendations. He assured the Committee DOI would use this authority with a great deal of discretion, and urged them to adopt the proposed amendments.

Dan Russell, Administrator, Corrections Division, DOI, told the Committee that in other states all offenders are committed to correctional authority. He explained that the other interim subcommittee on juvenile and adult detention sponsored similar recommendations in HB 319 and HB 320.

### Opponents' Testimony:

There were no opponents of HB 428.

### Questions from Members of the Committee:

Senator Towe asked Sheriff Schafer if he had any thoughts on the proposed amendment. Mike Schafer replied he had none.

Senator Halligan said Judge McLean in Missoula was probably instrumental in the proposed amendment. Representative Gould replied he talked to Judge McLean, but never discussed Representative Mercer's amendment with him. He said he was comfortable with the bill before it was amended, and that the problem is everyone believes Swan River is the best place for young offenders. Representative Gould advised the Committee that Swan River has a maximum occupancy of 52, but may have 152 people waiting to get in. He said he believes DOI can better manage this problem, and asked that Senator Beck carry the bill.

## HEARING ON HOUSE BILL 429

### Presentation and Opening Statement by Sponsor:

Representative Betty Lou Kasten, District 28, told the Committee she served on the Criminal Justice Corrections and Advisory Council, and said this bill is not a recommendation of that Council. She explained that she believes HB 429 is a good bill as it would allow parole of individuals with incapacitating disease, who will not cause a problem if released.

Representative Kasten cited 46-8-202, MCA, and said certain felons would not be released. She told the Committee there are checks and balances in Section 4, and that Section 2 is mostly clean-up language. Representative Kasten further stated that HB 333 would clean up other language in the bill.

### Proponents' Testimony:

Dan Russell, Administrator, Corrections Division, DOI, said HB 429 was drafted at the request of the Department. He explained

that now the Department cannot place medically incapacitated or terminally ill prisoners outside the prison. Mr. Russell advised the Committee that this is at great cost to the Department. He said \$68,000 was spent for a tuberculosis patient, \$21,000 for a multiple sclerosis patient, \$43,000 for a heart valve replacement, and \$16,000 for a brachial ulcer patient. He further stated that \$149,000 was spent in outside infirmary costs.

Mr. Russell told the Committee that in 1990 a heart transplant patient who became parole-eligible, was looking at \$300,000 in organ replacement costs. He said there are two inmates with AIDS who are incurring tremendous medical costs, as their medication and dietary needs are extremely expensive. Mr. Russell provided copies of articles from the Corrections Digest with regard to compassionate release (Exhibit #4).

Senator Tom Beck, District 24, said the bill would relieve pressure on Montana State Prison, and asked the Committee to give the bill favorable consideration.

#### Opponents' Testimony:

There were no opponents of HB 429.

#### Questions From Committee Members:

Senator Crippen said he believes HB 429 is an economic decision on the part of DOI to save money. Dan Russell replied the bill would save money for both DOI and the General Fund.

Senator Crippen commented that he did not have knowledge of the financial status of parolees, and asked if the state would pay their medical costs. Dan Russell replied that such costs are reimbursed at 50 percent.

Senator Crippen asked if compassion ends when prisoners get better, and if they would be brought back to prison. Dan Russell replied that page 2, line 17 says they "may" be sent back.

Senator Crippen asked for a scenario as to how to decide when to require a prisoner to return to prison and when not to. Dan Russell replied that if the prisoner has a good plan after he or she gets better, and the parole officer agrees and it is okay with the community, the prisoner could remain in that community.

Senator Crippen asked if a prisoner can deny taking parole. Dan Russell replied he did not believe so, but if the prisoner tells the Board he or she does not want to be paroled, the Board would probably not give them parole. He said such a situation exists right now.

Senator Towe asked about prognosis for recovery and if this would affect parole (page 1, line 2). Dan Russell replied that would be taken into consideration.

Senator Doherty asked about the exception in 46-18-202(2), MCA, and if there is a need to have the exception pertaining to a danger to society. Dan Russell said he was trying to consider the conscience of the court from the very start, as it might mean "even as it relates to medical parole".

Closing by Sponsor:

Representative Kasten read 46-18-101(2), MCA, to the Committee. She said seriously ill people should have the availability of outside medical care as most prisons don't have the staff or facilities to care for inmates. She asked that Senator Beck carry the bill.

EXECUTIVE ACTION ON HOUSE BILL 429

Motion:

Senator Pinsoneault made a motion that HB 429 BE CONCURRED IN.

Discussion:

Senator Doherty said he wondered about language in 46-18-202, concerning incapacity and presenting a threat to society.

Amendments, Discussion, and Votes:

Senator Doherty made a substitute motion to insert "." after "death" on page 1, line 13, and to strike the remaining language.

Valencia Lane stated she had no problem with leaving the language in or taking it out. She said it is just a policy decision, and that remaining language allows people to be eligible for medical parole.

The motion made by Senator Doherty carried unanimously.

Senator Pinsoneault made a motion that HB 429 BE CONCURRED IN AS AMENDED.

Senator Rye said he heard the bill could shift the burden of cost to local government. Senator Pinsoneault replied it would at least get other funds involved. Senator Crippen advised Senator Rye that he had a good argument. He said he did not believe the cost would shift to local government, but to the General Fund. Curt Chisolm, Director, DOI, replied that people in pre-release status are still under state supervision, and the General Fund must pick up costs not covered by Medicaid. He commented that Medicaid pays 65-70 percent of medical costs at approved provider rates.

Senator Towe asked if those on parole are eligible for Medicaid and if those in prison are not. Curt Chisolm replied



affirmatively. He said people being transferred between facilities are also not covered.

**Recommendation and Vote:**

Senator Pinsoneault's motion that HB 429 BE CONCURRED IN AS AMENDED carried unanimously.

**HEARING ON HOUSE BILL 379**

**Presentation and Opening Statement by Sponsor:**

Representative Vivian Brooke, District 56, said HB 379 provides for good time credit for parole, and that the bill came out of the Criminal Justice Corrections and Advisory Council. She told the Committee the bill sets up conditions for parolees to meet in order to receive credit, and can be revoked at any time. Representative Brooke stated this legislation will have a positive effect on parole officer caseloads.

**Proponents' Testimony:**

Representative Betty Lou Kasten, District 28, said she was testifying as a member of the Criminal Justice Corrections and Advisory Council. She advised the Committee that one-half of the inmates at Montana State Prison are eligible for parole, and said good time was abolished before because statute made the process too complicated.

Senator Tom Beck, District 24, told the Committee he is the Chairman of the Criminal Justice Corrections and Advisory Council which studied the population issues of Montana State Prison. He asked the Committee to give the bill serious consideration.

Dan Russell, Administrator, Corrections Division, DOI, proposed an amendment and read 53-30-205, MCA, to the Committee. He said it stands to reason that if good time is granted during incarceration, it should be granted during parole. Mr. Russell reported that there are 876 people under parole supervision now, and that the bill would shorten their time, thus reducing that number, to allow parole officers to devote time to bigger problems.

Mike Shafer, Yellowstone County Sheriff, told the Committee he also represented the Montana Peace Officers Association in support of HB 379.

**Opponents' Testimony:**

There were no opponents of HB 379.

**Questions From Committee Members:**

Senator Grosfield asked why only up to 120 days can be deducted from good time. Dan Russell replied he was not sure, and said that language could be changed to deduct up to the full amount of time earned.

Senator Grosfield asked how much good time can be earned. Dan Russell replied it is earned day-for-day.

Senator Grosfield asked if revoking only 120 days would be appropriate if the parole violation were a felony. Dan Russell replied the parolee would already have to go back to prison, and said he believes this is a reasonable amount of time to lose.

Senator Crippen asked if this legislation includes medical parole, as well. Dan Russell replied it does.

**Closing by Sponsor:**

Representative Brooke thanked the Committee for the hearing and asked that they concur on HB 379.

**EXECUTIVE ACTION ON HOUSE BILL 379****Motion:**

Senator Pinsoneault made a motion that HB 379 BE CONCURRED IN.

**Discussion:****Amendments, Discussion, and Votes:**

Senator Grosfield made a substitute motion to amend the bill to state that good time days be revoked to maximum earned.

Senator Crippen commented that if convicted, parolees would be re-sentenced and would start up good time from "day one".

Senator Halligan said he believed it is a better idea to deduct as much time as the parolee has earned.

Vice Chairman Yellowtail asked Senators Halligan and Grosfield to prepare amendments for executive action on HB 379.

**Recommendation and Vote:**

Senators Grosfield and Pinsoneault withdrew their motions, and no further action was taken on the bill this date.

HEARING ON HOUSE BILL 333

Presentation and Opening Statement by Sponsor:

Representative Vivian Brooke, District 56, said HB 333 is a clean-up bill, and that the meat is on page 2, lines 15-25, including pre-release centers. She said capacity law would apply to all facilities served by DOI. Representative Brooke advised the Committee that lines 22-23 provide for the Board of Pardons to consider the release of certain inmates after capacity has been reached for 30 consecutive days.

Proponents' Testimony:

Representative Betty Lou Kasten, District 28, urged the Committee to consider passage of HB 333.

Dan Russell, Administrator, Corrections Division, DOI, said HB 333 is a housekeeping bill, introduced by DOI and the Criminal Justice Corrections and Advisory Council. He stated that existing statutes have been on the books since 1983, and required amending in 1985. Mr. Russell further stated the statutes will require amending again this session if HB 333 does not pass.

Dan Russell advised the Committee that the bill removes numbers and substitutes the term "capacity". He said it also allows the Board of Pardons to consider pardons 120 days prior to eligibility date, and serves as a potential means of reducing the prison population.

Dan Russell provided an amendment, and said the bill was cleaned up too much (Exhibit #5). He explained that "emergency capacity" was inserted during the drafting process and that the language should read "design capacity" (population of 1135).

Senator Tom Beck, District 24, stated his support of the bill.

Opponents' Testimony:

There were no opponents of the bill.

Questions From Committee Members:

Senator Halligan asked what the timing is after 30 consecutive days pass by. Dan Russell replied that the Board of Pardons hears parole recommendations monthly, and said these are certified the month prior. He commented that of the 112 early parole hearings in FY90, only 11 people were given early parole.

Closing by Sponsor:

Representative Brooke encouraged the Committee to concur in these bills.

Senator Pinsoneault resumed his position as Chairman for Executive Action.

EXECUTIVE ACTION ON HOUSE BILL 379

Motion:

Discussion:

Amendments, Discussion, and Votes:

Valencia Lane explained proposed amendments which would strike "up to 120 days of" following "deduct", and insert "in its discretion" following "may" on page 2, line 22. She said a second amendment would insert "accumulated under this subsection in an amount up to and including all credit accumulated on the date of the violation" following "credit" on page 2, line 23.

Senator Halligan made a motion to approve the amendments. The motion carried with all members voting aye except Senator Crippen who voted no.

Recommendation and Vote:

Senator Halligan made a motion that HB 379 BE CONCURRED IN AS AMENDED. The motion carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 333

Motion:

Discussion:

Amendments, Discussion, and Votes:

Senator Halligan made a motion to approve DOI amendments (Exhibit #6), and to amend the title accordingly. The motion carried unanimously.

Recommendation and Vote:

Senator Halligan made a motion that HB 333 BE CONCURRED IN AS AMENDED. The motion carried unanimously.

Discussion of HB 212

Mary Moe, Billings teacher, explained the pamphlet that was distributed in support of HB 212 at the hearing on March 8, 1991. She said Hazelwood is a decision that cries out for guidelines.

Ms. Moe stated censorship is and has been going on in Montana since 1988, and that the bill is moderate as it still allows prior review and gives the advisor a supervisory role. She further stated the advisory now has all the liability and no administrative power, and that she believes there is a lot of fear on the part of school trustees.

Ms. Moe asked the Committee about the responsibility of allowing students to drive in drivers education, and to look at the liability in football as opposed to journalism. She said the game in journalism is to tackle controversy and is not without risk; that teachers are basically qualified to supervise.

Chip Erdmann told the Committee his concern is that school newspapers are a learning process part of the curriculum, and that he is concerned with the responsibilities placed on advisors and administrators to make decisions based on statute. He stated he is especially concerned now the immunity security is gone.

Mr. Erdmann advised the Committee that HB 212 passed by a 53-46 vote in the House and does not meet Article III requirements for a two-thirds vote where immunity is concerned. He said he is also concerned about the nebulous area of obscenity, as well as libel and slander, and clear and present danger.

Chairman Pinsoneault asked who pays for litigation. Mr. Erdmann replied that the school districts pay for it.

Senator Mazurek asked why immunity is limited to cases where schools are involved, and if they would have immunity if they stood back. Chip Erdmann replied he was not aware of this discussion, and that he read the bill as an incentive not to get involved.

#### Discussion of HB 466

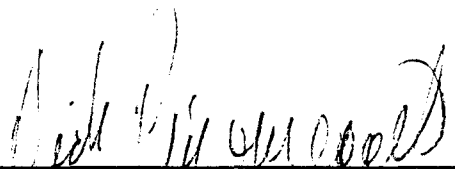
John Connor said he was present in response to the Committee's concerns with HB 466, and that he would answer questions speaking for himself and not the County Attorneys or the Department of Justice.

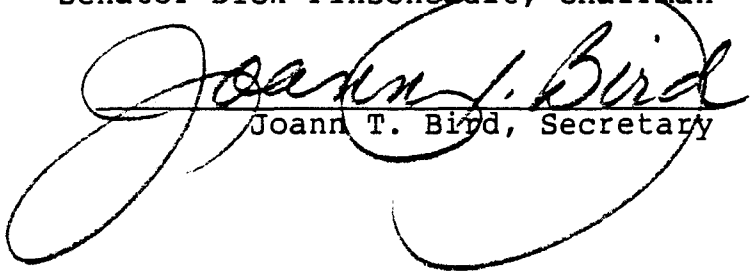
Chairman Pinsoneault asked if it would help if there were no parole in instances where there were aggravating circumstances. John Connor replied it would lessen his concerns, but he would still have a problem as he does not believe deliberate homicide people can be rehabilitated. He commented that this does not take away the right of parole.

Senator Doherty asked if adoption of the bill would make it harder to get tougher sentences. John Connor replied he believes it may make it tougher to get jury convictions, and that with sentencing it may result in more trials.

ADJOURNMENT

Adjournment At: 12:10 p.m.

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

  
\_\_\_\_\_  
Joann T. Bird, Secretary

DP/jtb

ROLL CALL

SENATE JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 11 Mar 91

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

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 11, 1991

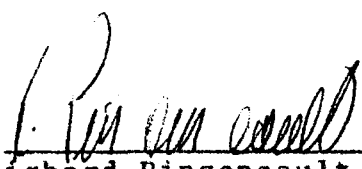
MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 429 (third reading copy -- blue), respectfully report that House Bill No. 429 be amended and as so amended be concurred in:

1. Page 1, lines 13 and 14.

Following: "death" on line 13

Strike: remainder of line 13 through "46-18-202(2)" on line 14

Signed: 

Richard Pinsoneault, Chairman

 3-11-91  
And. Coord.

CL 3-11 3:50  
Sec. of Senate



SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 11, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 333 (third reading copy -- blue), respectfully report that House Bill No. 333 be amended and as so amended be concurred in:

1. Title, line 8.  
Strike: "EMERGENCY"  
Insert: "DESIGNED"

2. Page 2, line 18.  
Strike: "emergency"  
Insert: "designed"

Signed: 

Richard Pinsoneault, Chairman

 3-11-91  
And. Coord.

EL 3-11 2:50  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 11, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 379 (third reading copy -- blue), respectfully report that House Bill No. 379 be amended and as so amended be concurred in:

1. Page 2, line 22.

Following: "may"

Insert: ", in its discretion,"

Following: "deduct"

Strike: "up to 120 days of"

2. Page 2, line 23.

Following: "credit"

Insert: "accumulated under this subsection in an amount up to and including all credit accumulated on the date of the violation"

Signed: 

Richard Pinsoneault, Chairman

 3-11-91  
Ad. Coord.

SB 3-11 3:50  
Sec. of Senate

521525SC.Sji

Exhibit 1  
3-11-91  
HB 466

WITNESS STATEMENT

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

Dated this 11 day of MARCH, 1991.

Name: ROLLIE FISNER

Address: BOX 1115

LINCOLN, MT 59639

Telephone Number: 362-4436

Representing whom?

SELF & CERTAIN LINCOLN RESIDENTS

Appearing on which proposal?

HB 466

Do you: Support? X Amend?        Oppose?       

Comments:

See PREPARED STATEMENT

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

Exhibit#  
11 Mar 91

HB 466

Thanks Rep BACHINI

M.R. Chm  
& committee members

My name is FOLLIE FISHER. I LIVE  
NEAR LINCOLN AND WORK HERE IN HELENA.

I SPEAK TODAY IN SUPPORT OF REP. BACHINI  
AND HB 466. I DO SO BECAUSE OF SOME  
RECENT HAPPENINGS RELATED TO THE PAROLE  
OF A CONVICTED MURDERER AND THE SUBSEQUENT  
SCENARIO WHICH <sup>RESULTED</sup> ~~ENDED~~ IN THE LOSS OF ANOTHER  
LIFE.

IN, APPROXIMATELY, 1965 TWO, YOUNG MEN  
ABDUCTED LINCOLN RESIDENT DON HAMMER, LED  
HIM UP A MOUNTAIN NEAR ROGERS PASS AND  
SHOT HIM IN THE BACK OF THE HEAD. ONE  
OF THE TWO EVENTUALLY GAVE UP AND LED  
SEVERAL SEARCHERS TO DON'S SNOW COVERED  
BODY. THE TWO WERE EVENTUALLY CONVICTED  
OF DELIBERATE HOMICIDE AND INCARCERATED.

WHILE, AS I RECALL, IT SEEMED LIKE THE  
NEXT YEAR, IT HAD TO OF BEEN FIVE OR SO YEARS  
LATER THE TWO CAME UP FOR PAROLE. SEVERAL  
LINCOLN RESIDENTS COMMUNICATED WITH THE  
PAROLE BOARD AND PAROLE WAS DENIED. THIS  
WAS THE SCENARIO FOR MANY YEARS TO  
COME. AS TIME WENT ON SOME OF THE  
MORE VOCAL LINCOLN RESIDENTS PASSED ON  
AND THE TWO WERE EVENTUALLY PAROLED

WHAT HAPPENED TO ONE OF THEM I DO NOT KNOW - BUT I DO KNOW, AS I'M SURE MOST OF YOU DO WHAT HAPPENED TO CHARLES CORLISS.

LATE LAST YEAR FRONT PAGE HEADLINES IN SEATTLE AND MONTANA NEWSPAPERS TOLD OF THE MURDER OF A YOUNG LADY IN SEATTLE, WITNESSED BY TWO OTHER YOUNG LADIES. IT TOLD OF A PACIFIC NORTHWEST MANHUNT & LOOKING FOR NONE OTHER THAN CHARLES CORLISS. LINCOLN BECAME THE FOCAL POINT OF FRONT PAGE NEWS ARTICLES IN MANY NEWSPAPERS INCLUDING THE SEATTLE P.I. Sadly, many of our residents HAD TO RE-LIVE ONE OF THE MOST TRAUMATIC EXPERIENCES OF THEIR LIFE.

CORLISS WAS EVENTUALLY ARRESTED IN WYOMING AND IS NOW BACK IN SEATTLE AWAITING TRIAL.

WHAT MANY OF LINCOLN'S RESIDENTS WENT THROUGH DURING THE TIME CORLISS WAS AT-LARGE WAS, AT BEST, SCARY. ~~THE REASON, APPARENTLY~~ ~~AND HATED THAT SUFFERED~~ WHAT WOULD HAPPEN IF CORLISS CHOSE TO COME TO LINCOLN AND HOW SHOULD WE REACT? WHY DID THE PAROLE HIM IN THE FIRST PLACE? WHY DID THEY ALLOW US TO GET PUT IN THIS POSITION? GOD I HOPE THEY CATCH HIM QUICK.

THE PASSAGE OF THIS BILL WOULD PREVENT LINCOLN AND EVERY OTHER

5-1-40

PUT IN THE POSITION OF HAVING TO ASK  
THOSE QUESTIONS, OR TO RE-LIVE PAST  
TRAGEDY OR ENDURE THAT STRESS.

IN MY VIEW A PERSON CONVICTED OF  
PRE-MEDITATED, DELIBERATE HOMICIDE DOES  
NOT, EVER, DESERVE TO BE PAROLED, CANNOT  
BE TOTALLY REHABILITATED AND WILL  
FOREVER BE A DANGER TO SOCIETY IF HE  
OR SHE IS PAROLED. LET'S FACE IT, THIS  
PERSON HAS PLANNED AND EXECUTED THE  
TAKING OF A HUMAN LIFE, THE SCARS  
RESULTING FROM THAT ~~WILL~~ <sup>CANNOT</sup> EVER  
HEAL.

INSTITUTIONS HAS TESTIFIED THAT WE  
CANNOT AFFORD THE ADDITIONAL COST <sup>OR SPACE</sup> OF  
CONTINUING TO HOUSE THESE PEOPLE IN OUR  
PRISON. I WOULD NOT WANT TO BE THE  
MEMBER OF THAT DEPARTMENT WHO WOULD  
MAKE THAT STATEMENT TO THE FAMILY OF  
THAT YOUNG LADY FROM SEATTLE OR TO THE  
LINCOLN RESIDENTS WHO HAVE BEEN THROUGH  
THIS. IT IS POSSIBLE THAT PASSAGE OF  
THIS BILL WILL ACT AS A FURTHER DETERRANT  
TO THOSE WHO WOULD CONSIDER DELIBERATE  
HOMICIDE BECAUSE THEY WILL KNOW, UP FRONT,  
THAT WHEN THEY ARE CONVICTED OF THIS  
CRIME --- SOCIETY WILL THROW AWAY THE  
KEYS.

EXHIBIT #2  
HB 466  
11 May 91

Martha Kuipers  
Post Office Box 707  
Belgrade, MT 59714  
March 7, 1991

Vivian Brooke, Representative  
Capitol Station  
Helena, MT 59620

Dear Ms. Brooke;

I am writing this letter in regards to HB-528 Request for proposal for site of a new Women's Prison, and HB-466 Request for no parole eligibility for certain offenders.

I am strongly opposed to the proposed new 200 bed prison for women. In my opinion, we need to first off, put more funding into Community based programs such as Lifeskills or Pre-release type situations AND alternative sentencing options for women. At present, we only have one such option in the State of Montana which is located in Billings and can only house 12 women at one time, AND can only house women which have been to the Women's Correctional Center at Warm Springs. In other words, a woman convicted of a felony can not be sentenced to the Billings Lifeskills Center as an alternative sentencing option. I would rather see tax dollars being spent on three or four more of these type of programs than a new prison for women. Secondly, the present facility used for the Women's Correctional Center located at Warm Springs, in my opinion, is a "time bomb" waiting to go off, and immediate consideration should be made to get the women out of that facility. The building is in extremely poor physical condition, along with being extremely overcrowded. One immediate remedy I would suggest, is to move all minimum security level inmates out of the present facility into a separate Lifeskills type option. At the present time, those inmates classified as minimum security reside in the same living area as four other security classifications which means they are intermingled with behavioral problems like assaultive, aggressive, homosexual, and other psychologically unstable behaviors. The women classified as minimum status work hard to change behavior patterns to be classified as minimum security and at the present time are denied the ability to develop and learn social and communicative skills which would enable them to integrate back into society because of the distraction now caused by the security required for maintaining the other security levels. They also are faced with loss of privileges due to some incidents stemming from the behaviors of the other security levels, whereas the minimum custody inmates should have gained more privileges due to good behavior.

As far as HB-466 is concerned, I am strongly opposed to it also. Certainly there are some convicted of deliberate homicide which definitely do belong in a structured environment like a prison.

Ex. 2  
HB 466  
5-11-91

But there are exceptions, and a law like this would effect those that can be rehabilitated and integrated back into being a productive member of society. These type of decisions should be left in the hands of the parole board OR other methods of determining parole eligibility instead of being determined by another new law.

Lastly, I would like to voice my opinion about one last topic, and that is I strongly believe consideration should be put into the ability to appoint a women AND a Native American, either male or female, to the Montana Parole Board. Due to the increasing number of women and Native Americans sentenced to prison terms, I feel this is essential to avoid discrimination.

Thank you in advance for your kind consideration. If I can be of any further assistance, please feel free to contact me anytime. My telephone number is 388-4189 where I can be reached anytime or where a message can be left and I will return the call. I feel I have some valuable opinions and perceptions about these issues, as one year ago I found myself as an inmate in the Women's Correctional Center under a one year prison sentence and during my two month incarceration there, I learned alot about the present correctional needs within Montana, particularly where it concerns women.

Sincerely yours,

*Martha Kuipers*

Martha Kuipers

cc:Dorothy Eck, Jack Rea

cc:House Appropriations Committee:

Dorothy Bradley

Francis Bardanouve, Chairman

Ray Peck, Vice Chairman

Senate Judiciary Committee:

Richard Pinsoneault, Chairman

Bill Yellowtail, Vice Chairman

Jody Bird, Secretary



Amended #2  
11 Mar 91  
HB 428

Amendments to HB 428  
Third Reading Copy

by the Department of Institutions

1. Page 1, Title, Lines 12 and 13  
Reinsert: "Providing for comment"  
Strike: "Requiring approval"
2. Page 3, Lines 22 and 23  
Reinsert: "or a pre-release center after the initial reception period."
3. Page 4, Line 1  
Reinsert: "to respond to the intended placement"
4. Page 4, Lines 2-5  
Strike: "To disapprove of the intended placement. In the event the court disapproves of the placement, it shall order a hearing to be held within 15 days and shall at that time impose its sentence."
5. Page 6, Lines 7 through 10  
Strike: "Correctional institutions or program or the place of execution chosen by the Department of Institutions and approved by the court."  
Insert: "Montana State Prison or the Women's Correctional Center."
6. Page 6, Line 25  
Page 7, Line 1  
Strike: "Correctional institution chosen by the Department of Institutions and approved by the court."  
Insert: "Montana State Prison or the Women's Correctional Center."

EX #5  
3-11-91  
HB333

AMENDMENT TO H.B. 333

THIRD READING COPY

BY THE DEPARTMENT OF INSTITUTIONS

1. Page 2, Line 18  
Delete: "Emergency"  
Insert: "Designed"

EX #6  
3-11-91  
HB333

Amendments to House Bill No. 333  
Third Reading Copy (BLUE)

For the Committee on Judiciary

Prepared by Valencia Lane  
March 11, 1991

1. Title, line 8.  
Strike: "EMERGENCY"  
Insert: "DESIGNED"

2. Page 2, line 18.  
Strike: "emergency"  
Insert: "designed"

DATE March 11  
H.B. Judiciary  
COMMITTEE ON 428-429-379-332-466

# VISITORS' REGISTER

[illegible]