

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dick Pinsoneault, on March 23, 1991, at 7:55 a.m.

ROLL CALL

Members Present:

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

Members Excused: none

Staff Present: Valencia Lane (Legislative Council).

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

Announcements/Discussion: none

EXECUTIVE ACTION ON HOUSE BILL 631

Motion:

Discussion:

John Connor, Department of Justice and Montana County Attorneys, told the Committee he only helped to draft HB 631 at the request of Representative McCulloch, and that the Department is not involved in this bill. He said he did provide the amendment in the House on page 6, subsection (6).

Amendments, Discussion, and Votes:

Senator Towe made a motion to amend page 6, lines 24-25, by striking "at the local level", and inserting "in a local community".

Senator Svrcek commented that this was discussed as "in a community-based program" yesterday. He asked what the difference is between "local community" and "local level".

Senator Towe's motion to amend HB 631 carried unanimously.

Senator Crippen asked if a judge could still defer or suspend a sentence. John Connor replied he or she could.

Recommendation and Vote:

Senator Doherty made a motion that HB 631 BE CONCURRED IN AS AMENDED. The motion carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 110

Motion:

Discussion:

Amendments, Discussion, and Votes:

Senator Towe made a motion to approve the coordination instructions (with SB 31). The motion carried unanimously.

Recommendation and Vote:

Senator Mazurek made a motion that HB 110 BE CONCURRED IN AS AMENDED.

Senator Crippen asked how SB 31 is related to HB 110. Senator Towe replied HB 110 refers to intrastate , and provides for a testing procedure in 49C of Part 40. He said HB 110 does most of what SB 31 would do.

The motion made by Senator Mazurek carried unanimously. Senator Towe was asked to carry the bill.

EXECUTIVE ACTION ON HOUSE BILL 847

Motion:

There was no motion on HB 847.

Discussion:

Valencia Lane reported that Senator Towe asked her to do a considerable amount of work on the bill. She requested that the Committee pass it for the day, and Chairman Pinsoneault agreed.

Amendments, Discussion, and Votes:

There were no amendments.

Recommendation and Vote:

There was no recommendation or vote.

EXECUTIVE ACTION ON HOUSE BILL 839

Motion:

Discussion:

Senator Halligan said a lot of people are lost to treatment when there is only 10-day jurisdiction on DUI and 60-day jurisdiction on per se.

Senator Mazurek said Lewis and Clark County imposes a six-month jail sentence, deferring all but 10 days which is held over the heads of those sentenced to treatment programs.

John Connor told the committee HB 839 is related to a House bill on voyeurism which was killed in the House. He said it runs afoul of jurisdiction statutes of justice courts, which "sort of negates the intent".

Amendments, Discussion, and Votes:

There were none.

Recommendation and Vote:

Senator Halligan made a motion that HB 839 be TABLED. The motion carried with all members voting aye except Senators Towe, Harp and Brown who voted no.

EXECUTIVE ACTION ON HOUSE BILL 173

Motion:

Discussion:

Senator Mazurek said the bill makes it clear that once a charge has been made in the investigation of a justice, it is opened up to the public.

Steve Brown, Helena attorney, advised the Committee that the 1972 Constitution provides for the Judicial Standards Commission to

operate in confidentiality. He explained that he proposed an amendment in 1981 which passed by 60 percent, to provide that the Legislature can make exception to confidential investigations of justices. Mr. Brown stated he disagreed with and was never clear on what Judge Sullivan was trying to get at.

Steve Brown further advised the Committee that the other provisions deal with the reports of the Commission, making it clear that if a case is re-opened, information relative to the investigation is only made public if the justice being investigated waives his or her right to privacy.

Amendments, Discussion, and Votes:

There were none.

Recommendation and Vote:

Senator Towe made a motion that HB 173 BE CONCURRED IN. The motion carried unanimously. Senator Stimatz will carry HB 173.

EXECUTIVE ACTION ON HOUSE BILL 405

Motion:

Discussion:

Amendments, Discussion, and Votes:

Senator Grosfield provided amendments proposed by the Montana State Council of Carpenters (Exhibit #2).

Senator Mazurek said he was concerned about this being done in lien statutes, but it doesn't have to do with liens and uses them as a vehicle to accomplish a business purpose.

Senator Svrcek stated that during the hearing he asked Mr. Butler how he would describe BCBS, and that Mr. Butler said, "everything but insurance". Senator Svrcek held up a BCBS ad insert for insurance which was in a newspaper. He also pointed out that BCBS is listed under Insurance in the Yellow Pages of the phone director.

Senator Mazurek said he didn't believe BCBS has ever maintained that, as it has always been a health service corporation, as opposed to an insurance company. He stated there has always been this distinction.

Senator Towe explained that in 1971 the "Blues" proposed legislation to completely exclude them from the insurance code. He said the Legislature killed a bill that session, and told BCBS to

come up with legislation to put them under the insurance code, and they did. He stated it happens that they have not been in that position until now, by asking hospitals to accept their rates. Senator Towe told the Committee the hospitals are saying they should have the right to get money directly from an insurance company, and that BCBS is concerned that hospitals won't become members. He stated it is a power play, and that no other insurance companies have this advantage.

Recommendation and Vote:

Senator Mazurek made a substitute motion that HB 405 BE NOT CONCURRED IN. The motion failed in a roll call vote, 10-2 (attached). The vote was reversed to BE CONCURRED IN.

EXECUTIVE ACTION ON HOUSE BILL 608

Motion:

Senator Svrcek made a motion that HB 608 BE TABLED.

Discussion:

There was no discussion.

Amendments, Discussion, and Votes:

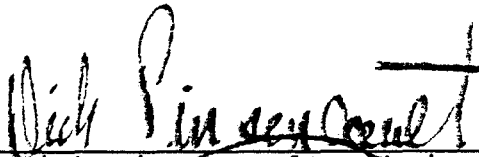
There were none.

Recommendation and Vote:

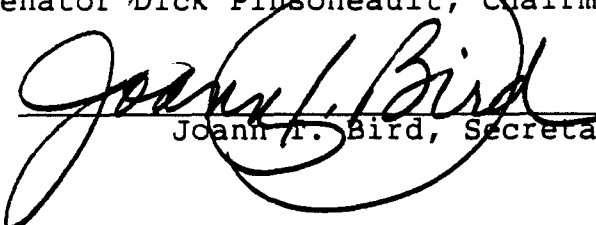
The motion carried with all members voting aye except Senator Towe who voted no.

ADJOURNMENT

Adjournment At: 8:33 a.m.



Senator Dick Pinsoneault, Chairman



Joann R. Bird, Secretary

DP/jtb

ROLL CALL

SENATE JUDICIARY

COMMITTEE

52nd LEGISLATIVE SESSION -- 1989

Date 23 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 23, 1991

MR. PRESIDENT:

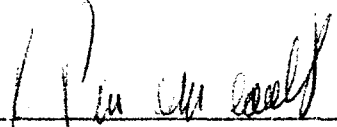
We, your committee on Judiciary having had under consideration House Bill No. 631 (third reading copy -- blue), respectfully report that House Bill No. 631 be amended and as so amended be concurred in:

1. Page 3, lines 24 and 25.

Following: "defendant" on line 24

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

Insert: "in a local community"

Signed: 

Richard Pinsoneault, Chairman

LB 3/23/91
Amd. Conc'd

EL 3/23 12:00
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 23, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 110 (third reading copy -- blue), respectfully report that House Bill No. 110 be amended and as so amended be concurred in:

1. Page 4, line 10.

Following: line 9

Insert: "NEW SECTION. Section 3. Coordination instruction. If Senate Bill No. 31 is passed and approved and if it includes a section that amends 39-2-304, then 39-2-304 as it appears in [this act] is amended by adding a new subsection (6) that reads:

"(6) Intrastate commercial motor carriers involved in the transportation of persons or commodities are exempt from the provisions of [subsections (2) through (4) of 39-2-304 as they appear in Senate Bill No. 31] and are exempt from [sections 2 through 4 and 6 of Senate Bill No. 31]. Prior to the administration of a drug or alcohol test, an intrastate commercial motor carrier involved in the transportation of persons or commodities shall adopt the written testing procedure that is provided in 49 CFR, part 40, and make it available to all persons subject to testing.""

Signed: _____
Richard Pinsoneault, Chairman

141 3-23-91
And. Coord.

SB 110 3-23-91
Sec. of Senate

32085530 311

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 23, 1991

MR. PRESIDENT:

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

Signed: _____
Richard Piasoneault, Chairman

191 173
And. Coord.

ER 3-23
Sec. of Senate

9:20

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 23, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 405 (third reading copy -- blue), respectfully report that House Bill No. 405 be concurred in.

Signed: _____
Richard Finsoneault, Chairman

101 3-23-91
Amd. Coord.

101 3-23-91
Sec. of Senate

Ex. 1
23 Mar 91
HB 839

Amendments to House Bill No. 839
Third Reading Copy (BLUE)

Requested by Senator Towe
For the Committee on Judiciary

Prepared by Valencia Lane
March 22, 1991

1. Page 5, line 13.

Following: "exceed"

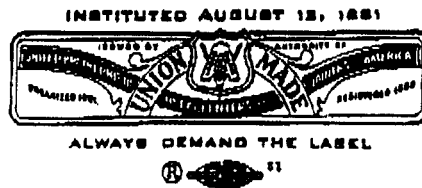
Insert: "the maximum amount of time within the court's
jurisdiction and in no event more than"

Montana State Council of Carpenters

United Brotherhood of Carpenters and Joiners of America

Ex #2
23 Mar 91
HB405

P. O. Box 821
Helena, Montana 59624



March 22, 1991

Senator Lorents Grosfield
Senate Judiciary Committee
Room 412
Capitol Building
Helena, Montana 59601

Dear Senator:

After our conversation yesterday on HB 405, I checked with the legislative people at Blue Cross. They told me the existing hospital lien act excludes all medical insurance providers.

I talked with the Montana Hospital Association, and they said only the Blues are excluded.

I then called the Insurance Commissioner's office. They said only the Blues are excluded.

In the meantime, I went to the library and researched the existing lien act. 71-3-1111 through 71-3-1118 MCA state that medical insurance providers are included under the act.

With this information I will withdraw my objection to HB405. However, this bill is poorly written. Page 1, lines 23 and 24 of HB405 include health service corporations in the definition of insurer. But the proposed language on page 2, lines 15 through 18, is a double negative and extraneous.

My Suggestion is to amend HB405. Use the proposed language on page 1, lines 23 and 24, but leave the other sections as in the current law.

Thank you,

Lars E. Ericson
Secretary
Montana-Wyoming Carpenters Health and Welfare Trust

University of Montana

Ex. 3
HB 405
3-23-91
Vice President for University Relations
University of Montana
Missoula, Montana 59812-1297
(406) 243-4750, FAX (406) 243-2748

DATE: March 22, 1991
TO: Senate Judiciary Committee
FROM: Sheila M. Stearns *Sms*
Trustee, St. Patrick Hospital
RE: House Bill 405

As a trustee of St. Patrick Hospital, I urge you to support HB 405. I have attached a letter from Lawrence White, President of St. Pat's, that summarizes our position on the bill. It seems only fair to us that Blue Cross/Blue Shield should be treated the same as all other insurance companies in regard to the lien law.

Thank you for your consideration of this matter.

sp
Attachment

RECEIVED

March 21, 1991

MAR 21 1991

The Honorable R. J. Pinsoneault
Montana Senate
Capitol Station
Helena, MT 59620

UNIVERSITY OF MONTANA
VICE PRESIDENT
UNIVERSITY RELATIONS

Re: HB405

Dear Senator Pinsoneault:

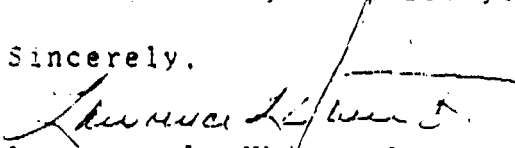
We are told that Blue Cross/Blue Shield is escalating its lobbying against House Bill 405 and since this is the case, I want to make sure that you hear from St. Patrick Hospital in support of this bill.

As you realize, House Bill 405 would simply subject Blue Cross/Blue Shield to the current hospital and physician law in a manner like all other insurance companies. This lien law enables health care providers to attach insurance proceeds, to the extent they exist, in fulfillment of medical bills. It does not prescribe the amounts to be paid (contrary to the insinuations made by Blue Cross to physicians and to its subscribers recently).

As the Judiciary Committee prepares to take official action on this bill, I sincerely request that you remember that the lack of a hospital lien law which is applicable to Blue Cross, could be financially very deleterious to St. Patrick Hospital in the future. Therefore, I urge your support of HB405.

Thank you very much for your consideration.

Sincerely,



Lawrence L. White, Jr.
President

LLW/jmt

SHODAIREx. 5
3-23-91
HB 405

March 21, 1991

The Honorable Dick Pinsoneault
Montana Senate
Capitol Station
Helena, MT 59620

Dear Senator Pinsoneault:

The purpose of this letter is to ask your support for House Bill 405. The Board of Trustees of Shodair Hospital met last night and asked that I contact you to urge your support.

Blue Cross/Blue Shield is exempt from the Hospital Lien Act which requires every other insurer operating in Montana to pay hospitals directly for services provided to their policy holders and gives hospitals a way to collect their bills. Blue Cross/Blue Shield wishes to negotiate a contract with hospitals that would be less than what hospital costs are. If a hospital refuses to negotiate a contract that is acceptable to Blue Cross/Blue Shield, then Blue Cross/Blue Shield makes the payments directly to the patient rather than the facility. Should a patient choose not to pay the hospital, then the costs of providing services to that patient is passed on in some form or another to all other payers or a local tax payer. Hospitals are seeing a rise in uncompensated care due to this exemption granted to Blue Cross/Blue Shield.

When a hospital accepts assignment of benefits from a patient, it is a contract between the patient and the hospital. The hospital then becomes party of the first part interest in the benefits that would normally go to the patient. Blue Cross/Blue Shield ignores this contract between the hospital and the patient. They are the only ones exempt from the Hospital Lien Act. This would put Blue Cross/Blue Shield and other health insurers in Montana on an equal footing. Shodair Hospital employs over 100 persons in the Helena Community and impacts health care statewide. Health care statewide is a major industry. It employs in excess of 9,500 full time equivalents. There are also in excess of 1,450 physicians who practice in Montana. Each of these health care providers will benefit by passage of House Bill 405 as will all Montanans.

Montana's hospitals have been working very hard to control costs. We at Shodair have taken drastic measures in the last several years to provide inpatient and outpatient health care at reasonable costs. There are certain costs that are beyond our control such as supply costs, maintenance costs, salaries and other fixed costs. These basic costs must be paid no matter how much insurance companies pay us. To allow one health insurer an exemption affects the whole health care industry.

The Board of Trustees, the administration and staff of Shodair Children's Hospital ask your support for passage of House Bill 405. Thank you for your consideration.

Sincerely,



John P. Casey
Administrator

SHODAIR HOSPITAL

840 Helena Avenue • P.O. Box 5539 • Helena, MT 59604
(406) 444-7500 • Fax (406) 444-7536

Ex: 6
HB 405
3/23



Saint Vincent Hospital and Health Center

March 13, 1991

The Honorable Bruce Crippen
Montana Senate
Capitol Station
Helena, MT 59620

Dear ^{Bruce} ~~Senator~~ Crippen:

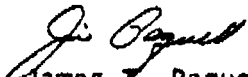
Thank you for your continued support of HB405.

I understand the vote on the Senate floor has been delayed. There continues to be pressure and misinformation spread about by the chief opponent of this bill, Blue Cross/Blue Shield of Montana. I urge you to hold tight.

If you have any questions or need any clarification at this point, please give me a call at 657-7101.

Thank you.

Sincerely,


James T. Paquette
President

JTP/ge
BC-M27

Post Office Box 35200
Billings, Montana 59107-5200
406-657-7000

We touch your life.

ROLL CALL VOTE

SENATE COMMITTEE

JUDICIARY

Date 23 Mar 91

Bill No. HB405 Time 8:0

NAME	YES	NO
Sen. Brown		✓
Sen. Crippen		✓
Sen. Doherty		✓
Sen. Grosfield		✓
Sen. Halligan		✓
Sen. Harp		✓
Sen. Mazurek	✓	
Sen. Rye	✓	
Sen. Svrcek		✓
Sen. Towe		✓
Sen. Yellowtail		✓
Sen. Pinsonneault		✓

2 . 10

Jody Bird
Secretary

Sen. Dick Pinsonneault
Chairman

Motion: ① Maz - BNCI
