

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN RUSSELL FAGG, on January 13, 1993, at
9:00 a.m.

ROLL CALL

Members Present:

Rep. Russ Fagg, Chairman (R)
Rep. Randy Vogel, Vice Chairman (R)
Rep. Dave Brown, Vice Chairman (D)
Rep. Ellen Bergman (R)
Rep. Jody Bird (D)
Rep. Vivian Brooke (D)
Rep. Bob Clark (R)
Rep. Duane Grimes (R)
Rep. Scott McCulloch (D)
Rep. Jim Rice (R)
Rep. Angela Russell (D)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Bill Tash (R)
Rep. Howard Toole (D)
Rep. Tim Whalen (D)
Rep. Karyl Winslow (R)
Rep. Diana Wyatt (D)

Members Excused: None.

Members Absent: None.

Staff Present: John MacMaster, Legislative Council
Beth Miksche, Committee Secretary

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

Committee Business Summary:

Hearing: HB 117, SB 42
Executive Action: SB 42, HB 117, HB 81

HEARING ON HB 117Opening Statement by Sponsor:

REP. BETTY LOU KASTEN, House District 28, Brockway, sponsored HB 117 on behalf of the Department of Corrections and Human Services. HB 117 states that an investigation of an alleged abuse of a resident in a state institution for the developmentally disabled must be initiated within 24 hours of the report of the incident, and the results must be reported to the superintendent of the facility.

Proponents' Testimony:

Bob Anderson, Special Services Committee, Dept. of Corrections and Human Services. The bill states that an investigation must be done within 24 hours of the report of the incident. The DCHS would like to clarify that it initiates a comprehensive investigation as soon as the incident is reported. The DCHS would like all incidents reported to the Director of the Department Corrections and Human Services, not the superintendent of the facility. EXHIBIT 1

Kelly Moore, Executive Director, Mental Disabilities Board of Visitors. EXHIBIT 2

Opponents' Testimony:

Tom Foley, AFSCME, does not disagree that an investigation should be done within 24 hours but feels it would be beneficial, depending on the incident, to set a time limit as to when the investigation should start and the length of the investigation.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. RANDY VOGEL asked Mr. Foley if there was already a statute of limitations on these types of investigations. Mr. Foley said that within this statute, any statute of limitations on these investigations could be completed. Many of these investigations take some time to complete, and it would be beneficial to set a limit on the length of the investigation; however, that is not feasible because it depends on the incident.

Closing by Sponsor:

REP. KASTEN believes this statute merely addresses complaints that would be resurrected in the future. It's merely a change in language to bring the statute in line with what actually happens.

HEARING ON HB 42

Opening Statement by Sponsor:

SEN. JOHN G. HARP, District 4, Kalispell, stated SB 42 clarifies that the state must answer service and complaints within 40 days rather than 20 days. The Department of Administration was available to answer questions for the committee.

Proponents' Testimony:

Bill Gianoulis, Chief Council, Risk Management Tort Defense, did not testify, but was in the audience to answer any questions pertaining to this bill.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. JIM RICE asked Mr. Gianoulis if the 40 days will prolong the process and Mr. Gianoulis responded that the 40 days should not expand or change anything substantively; it just eliminates confusion.

Closing by Sponsor: None.

EXECUTIVE ACTION ON SB 42

Motion/Vote: REP. DAVE BROWN MOVED SB 42 BE CONCURRED IN.
Motion carried unanimously.

EXECUTIVE ACTION ON HB 117

Motion: REP. BROWN MOVED HB 117 DO PASS.

Discussion: REPS. JODY BIRD and BROWN presented changes to the amendment. Mr. MacMaster said that we need to amend the title to coincide with the body of the bill. EXHIBIT 3 Amendments.

1. Title, Line 9.

Strike: "ALLEGED VIOLATION"

Insert: "REPORT OF THE INCIDENT"

2. Title, Lines 10 and 11.

Strike: "SUPERINTENDENT" on line 10 through "FACILITY" on line 11

Insert: "DIRECTOR OF THE DEPARTMENT OF CORRECTIONS AND HUMAN SERVICES"

3. Page 2, line 1.

Strike: "Superintendent"

Insert: "director of the department of corrections and human services"

Motion/Vote: REP. BROWN MOVED HB 117 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 81

Motion: REP. BROWN MOVED HB 81 DO PASS.

Discussion:

Mr. MacMaster explained an amendment as requested by REP. JODY BIRD. EXHIBIT 4. REP. BIRD'S amendment is going to ensure that the presentence investigation has to include a determination of whether or not the defendant is a psychopath, and the results must be reported as determined at the sentencing hearing. The judge must make the decision whether the person is a psychopath. If he decides he is, and if the person is charged with homicide, assault, kidnapping, arson, or burglary, in which he was carrying a weapon or a person was injured, and if he is sentenced to one or more years in prison, then he would be ineligible for parole.

REP. HOWARD TOOLE asked REP. BIRD and Mr. MacMaster if the intent of this amendment is to determine if the person is a psychopath. REP. BIRD agreed that this is the intent and explained further that a psychopath cannot be rehabilitated, but a sociopath can be, and that's why this language was chosen. Mr. MacMaster discussed the bill with REP. RAY PECK, who is a consulting psychologist, and asked whether the terms sociopath and psychopath are interchangeable. REP. PECK said they don't have the same meaning; each has a specific definition. He suggested using psychopath in the bill because psychopaths tend to be more dangerous, whereas sociopaths, with a lot of work, can change.

REP. LIZ SMITH said the amendment change requires diagnoses and speculates with stereotyping of people. It's going to be complex and difficult to diagnose whether someone is a psychopath or sociopath.

REP. VOGEL introduced testimony by Bill Fleiner, Board Member, Montana Sheriffs and Peace officers Association. EXHIBIT 5 Mr. Fleiner did not testify but answered questions.

REP. BIRD asked Mr. Fleiner to comment on what the MSPOA's position is to adding this language concerning psychopathic personality. Mr. Fleiner supports the language. It is the hope

of the MSPOA that constructive rehabilitative programs can be developed to meet the need of alternatives to incarceration for lesser felonies.

REP. RICE reminded the committee that this bill is a parole bill, not a sentencing bill. REP. RICE has a conflict supporting the amendment as it is not what the bill was about when introduced.

REP. BOB CLARK asked if most serious crimes require psychiatric examination. CHAIRMAN FAGG said that in homicide cases, aggravated kidnapping, and rape cases, generally a psychiatric examination is done; however, this bill includes arson and burglaries, including aggravated burglary. In many of the cases this amendment deals with, psychiatric examinations are not done currently, unless there's a defense of mental disease or defect which has been brought up. In CHAIRMAN FAGG's opinion, in most felonies, there is no psychiatric examination.

Motion/Vote: REP. BIRD moved the amendment.

Vote: The amendment failed with REPS. BIRD and CLARK voting yes.

CHAIRMAN FAGG asked the committee if there were any more comments or questions on HB 81 as introduced.

REP. RICE commented that this bill takes discretion away from the district judge. He further stated that there are 127 inmates in the Montana State Prison serving an average sentence of 79 years for homicide. Of the 127 inmates, 20 are on death row, 13 are ineligible for parole and 7 are serving 25 years or less for deliberate homicide.

REP. VOGEL responded to REP. RICE'S comment. In regards to the Pre-Release Center, judges still have discretion. For example, one judge may give lesser sentences than another.

REP. TOOLE said the federal courts have a similar concern. They moved to try to comprehensively develop criteria so there isn't a lot of discretion. These types of crimes are committed with little care for the system. Every homicide is different. This bill will cause those judges to consider if they don't want this person sitting the rest of his life in prison.

CHAIRMAN FAGG said the Montana judges are very competent; they must be trusted to continue to have discretion.

REP. VOGEL doesn't believe the bill is taking discretion away from judges. He simply believes that in the case of deliberate homicide, prisoners should not be paroled.

REP. DUANE GRIMES reminded the committee to remember the equation: prisons were built for people who cause deliberate homicide. We should rehabilitate non-violent offenders, and keep violent offenders in prison.

REP. ELLEN BERGMAN asked how long someone must do time in prison before he is eligible for parole. REP. RICE said that a person who commits deliberate homicide, for example, would be eligible for parole after 17.5 years. If a judge decides a person who committed deliberate homicide is not eligible for parole at the time of sentencing, which would be a life sentence, he is still eligible for parole in 42 years. REP. RICE concluded by saying that the bill takes away a judge's discretion to assign parole.

REP. CLARK proposed to raise the minimum sentence of deliberate homicide to 50 years.

REP. VOGEL asked REP. RICE how a judge can give a life sentence and still know an inmate is eligible for parole, even if it's years up the road?

REP. BROWN steered the committee away from "judge-bashing" and reminded the committee that judges face a public vote every six years and asked the committee not to spend any more time on this bill.

REP. BERGMAN reminded the committee, that when voting on this bill, to think about the crime itself and the effect it has on those involved.

REP. CLARK agreed with REP. BERGMAN. He said we have yet to hear about the cost to society. The average figure to rehabilitate these people is in the \$100,000 bracket, and some are not rehabilitated unless they choose to be.

REP. RICE said this bill does not lock anything in. People in prison must be eligible for parole, and there must be other approaches to this situation. He further explained, if this bill passes, prisoners will never be eligible for parole. We are not mandating how many years a person stays in prison. There should be an omnibus sentencing bill and have it looked at comprehensively.

REP. TIM WHALEN requested to hear from someone from the parole process. He directed his question to REP. SMITH regarding parole. If judges in sentencing take into account that parole is dropped, will inmates continue to have good behavior in prison, and once released, what are the chances of these people continuing good behavior in society?

REP. SMITH said that, although the rehabilitation process is constant within the prison, one is never sure how a prisoner will conduct himself once released on parole. She knows of a situation in which non-violent prisoners were taken by bus during an outing for rehabilitation purposes. One of the prisoners got out of the bus, stole a car and drove off. Even in non-violent cases, they cannot be trusted.

REP. CLARK offered an amendment to raise minimal terms for deliberate homicide to not less than 50 years.

REP. BERGMAN agreed with REP. CLARK.

REP. VOGEL said it changes the bill, and it's not what the law enforcement community wants to do.

REP. RICE said it is a significant impact on the bill and suggested the committee think about it before voting.

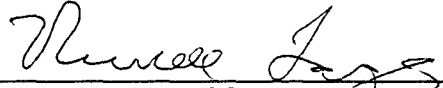
Motion/Vote: CHAIRMAN FAGG stated that the committee could draft a bill request to consider the REP. CLARK'S idea and have a separate hearing on a later date. For now, we will vote on the bill as introduced.

Discussion: None.

Vote: Motion to do pass HB 81 failed on a 9-9 tie vote. Those voting for HB 81 were REPS. VOGEL, BERGMAN, CLARK, GRIMES, SAYLES, SMITH, TASH, WHALEN and WINSLOW voting yes. Those voting no were REPS. FAGG, BIRD, BROOKE, BROWN, MCCULLOCH, RICE, RUSSELL, TOOLE and WYATT.

ADJOURNMENT

Adjournment: 10:30 a.m.



RUSSELL FAGG, Chair



BETH MIKSCHKE, Secretary

RF/bcm

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL

DATE

1-13-93

NAME	PRESENT	ABSENT	EXCUSED
Rep. Russ Fagg, Chairman	X		
Rep. Randy Vogel, Vice-Chair	X		
Rep. Dave Brown, Vice-Chair	X		
Rep. Jodi Bird	X		
Rep. Ellen Bergman	X		
Rep. Vivian Brooke	X		
Rep. Bob Clark	X		
Rep. Duane Grimes	X		
Rep. Scott McCulloch	X		
Rep. Jim Rice	X		
Rep. Angela Russell	X		
Rep. Tim Sayles	X		
Rep. Liz Smith	X		
Rep. Bill Tash	X		
Rep. Howard Toole	X		
Rep. Tim Whalen	X		
Rep. Karyl Winslow	X		
Rep. Diana Wyatt	X		

HR:1993

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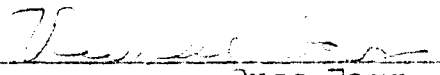
CS-09

HOUSE STANDING COMMITTEE REPORT

January 13, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that House Bill 117 (first reading copy -- white) do pass as amended .

Signed: 
Russ Fagg, Chair

And, that such amendments read:

1. Title, line 9.

Strike: "ALLEGED VIOLATION"

Insert: "REPORT OF THE INCIDENT"

2. Title, lines 10 and 11.

Strike: "SUPERINTENDENT" on line 10 through "FACILITY" on line 11

Insert: "DIRECTOR OF THE DEPARTMENT OF CORRECTIONS AND HUMAN SERVICES"

3. Page 2, line 1.

Strike: "superintendent"

Insert: "director of the department of corrections and human services"

HOUSE STANDING COMMITTEE REPORT

January 13, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that
Senate Bill 42 (third reading copy -- blue) do pass.

Signed: *Russ Fagg*

Russ Fagg, Chair

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL VOTE

DATE JANUARY 13, 1993 BILL NO. SB 42 NUMBER 18

MOTION:

SB 42 DO CONCUR
CARRIED UNANIMOUSLY

NAME	AYE	NO
Rep. Russ Fagg, Chairman	X	
Rep. Randy Vogel, Vice-Chair	X	
Rep. Dave Brown, Vice-Chair	X	
Rep. Jodi Bird	X	
Rep. Ellen Bergman	X	
Rep. Vivian Brooke	X	
Rep. Bob Clark	X	
Rep. Duane Grimes	X	
Rep. Scott McCulloch	X	
Rep. Jim Rice	X	
Rep. Angela Russell	X	
Rep. Tim Sayles	X	
Rep. Liz Smith	X	
Rep. Bill Tash	X	
Rep. Howard Toole	X	
Rep. Tim Whalen	X	
Rep. Karyl Winslow	X	
Rep. Diana Wyatt	X	

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL VOTE

DATE JANUARY 13, 1993 BILL NO. HB 117 NUMBER 18

MOTION: DO PASS AS AMENDED

CARRIED UNANIMOUSLY

NAME	AYE	NO
Rep. Russ Fagg, Chairman	X	
Rep. Randy Vogel, Vice-Chair	X	
Rep. Dave Brown, Vice-Chair	X	
Rep. Jodi Bird	X	
Rep. Ellen Bergman	X	
Rep. Vivian Brooke	X	
Rep. Bob Clark	X	
Rep. Duane Grimes	X	
Rep. Scott McCulloch	X	
Rep. Jim Rice	X	
Rep. Angela Russell	X	
Rep. Tim Sayles	X	
Rep. Liz Smith	X	
Rep. Bill Tash	X	
Rep. Howard Toole	X	
Rep. Tim Whalen	X	
Rep. Karyl Winslow	X	
Rep. Diana Wyatt	X	

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL VOTE

DATE JANUARY 13/1993 BILL NO. HB 81 NUMBER 18

MOTION: FAILED

NAME	AYE	NO
Rep. Russ Fagg, Chairman		X
Rep. Randy Vogel, Vice-Chair	X	
Rep. Dave Brown, Vice-Chair		X
Rep. Jodi Bird		X
Rep. Ellen Bergman	X	
Rep. Vivian Brooke		X
Rep. Bob Clark	X	
Rep. Duane Grimes	X	
Rep. Scott McCulloch		X
Rep. Jim Rice		X
Rep. Angela Russell		X
Rep. Tim Sayles	X	
Rep. Liz Smith	X	
Rep. Bill Tash	X	
Rep. Howard Toole		X
Rep. Tim Whalen	X	
Rep. Karyl Winslow	X	
Rep. Diana Wyatt		X

EXHIBIT 1
DATE 1-13-98
~~HB~~ 117
Kasten

The following amendments to HB 117 are proposed by the Department of Corrections and Human Services

Page 1, Line 10 & 11

Delete: "superintendent of the facility"

Insert: "director of the department of corrections and human services"

Page 2, Line 1

Delete: "superintendent"

Insert: "director of the department of corrections and human services"

EXHIBIT 2
DATE 1-13-93
HB 117
H.S. Morrison

OFFICE OF THE GOVERNOR
MENTAL DISABILITIES BOARD OF VISITORS

CAPITOL STATION



STATE OF MONTANA

(406) 444-3955
OR TOLL FREE 1-(800)-532-2272

HELENA, MONTANA 59620

January 12, 1993

Representative Russ Fagg, Chairman
House Judiciary Committee
State Capitol
Helena, MT 59620

Representative Russ Fagg and Members of the Committee:

For the record, my name is Kelly Moorse and I am the Executive Director of the Board of Visitors. The Board, an advocate for persons who are mentally disabled, reviews patient care and treatment at Montana Developmental Center and Eastmont Human Services Center. The Board regularly reviews the abuse cases at these facilities and depending on the nature of the case, may conduct our own investigations. To date, we have been pleased with the detailed reports and the thoughtful manner in which the staff of these facilities conduct the abuse investigations.

Our Board members have reviewed and support the changes proposed by House Bill 117. We feel these changes will clarify the procedures associated with abuse investigations.

We urge the committee's support of House Bill 117.

Sincerely,

A handwritten signature in cursive script that reads "Kelly Moorse".

Kelly Moorse
Executive Director

Amendments to House Bill No. 117
First Reading Copy

Requested by Reps. Bird and Brown
For the Committee on the Judiciary

Prepared by John MacMaster
January 13, 1993

1. Title, line 9.

Strike: "ALLEGED VIOLATION"

Insert: "REPORT OF THE INCIDENT"

2. Title, lines 10 and 11.

Strike: "SUPERINTENDENT" on line 10 through "FACILITY" on line
11

Insert: "DIRECTOR OF THE DEPARTMENT OF CORRECTIONS AND HUMAN
SERVICES"

3. Page 2, line 1.

Strike: "superintendent"

Insert: "director of the department of corrections and human
services"

Amendments to House Bill No. 81
First Reading Copy

Requested by Rep. Bird
For the Committee on the Judiciary

Prepared by John MacMaster
January 12, 1993

1. Title, line 5.

Strike: "DELIBERATE HOMICIDE"

Insert: "A FELONY OFFENSE AGAINST A PERSON, ARSON, OR AGGRAVATED
BURGLARY"

2. Title, line 7.

Following: "PROGRAM"

Insert: "IF IT IS FOUND AT THE SENTENCING HEARING THAT THE
DEFENDANT IS A PSYCHOPATHIC PERSONALITY"

Following: " ; "

Insert: "REQUIRING THE PRESENTENCE INVESTIGATION AND REPORT AND
THE SENTENCING HEARING TO ADDRESS THE QUESTION WHETHER THE
DEFENDANT IS A PSYCHOPATHIC PERSONALITY"

3. Page 2, line 14.

Following: "(b) If"

Insert: "a defendant is convicted of a felony under Title 45,
chapter 5, 45-6-103, or 45-6-204(2), the presentence
investigation and report under 46-18-111 and 46-18-112 and
the sentencing hearing under 46-18-115 must address the
question whether defendant is a psychopathic personality and
the district court shall make a finding on that question
before imposing sentence or making any other disposition.
If"

Following: "court"

Insert: "finds that the defendant is a psychopathic personality
and"

4. Page 2, line 15.

Strike: "for deliberate homicide"

PRESIDENT

Barry Michelotti
Great Falls, MT 59401
761-6842

PAST PRESIDENT

Rick Ross
Billings, MT 59101
256-2930



EXHIBIT 5

DATE 1-13-93

HB 81

SECRETARY-TREASURER

Tony Harbaugh, Sheriff
1010 Main Street
Miles City, MT 59301
Office: 232-2237

OFFICIAL PUBLICATION
"THE MONTANA SHERIFF"

Sheriffs and Peace Officers Association

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Lewistown, MT 59457
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2nd VICE PRESIDENT

Tim Solomon
Havre, MT 59501
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3rd VICE PRESIDENT

Les Osborne
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Bill Fleiner 443-1010
Helena, MT 59601

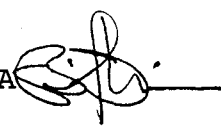
T. Gregory Hintz 721-5700
Missoula, MT 59801

John Strandell 761-6842
Great Falls, MT 59401

Pat Walsh 756-5668
Kalispell, MT 59901

M E M O R A N D U M

TO: Representative Russell Fagg, Chairman of the House Judiciary Committee

FROM: Bill Fleiner, Board Member, MSPOA 

DATE: January 12, 1993

RE: HB 81, Mandatory Sentencing for Deliberate Homicide

The Montana Sheriffs and Peace Officers Association supports HB 81 introduced by Representative Bob Bachini.

Three names come to mind that I believe best describe our position regarding this legislation.

Mr. Dewey Coleman who we think has been transferred to another prison because of his disruptive behavior at Montana State Prison. Mr. Coleman has an extensive history of abuse and violent crimes against persons before his final criminal act of robbery and killing a grocery clerk in Hardin, Montana.

Mr. Ken Harker who we were led to believe was transferred to another prison on a prisoner exchange program but now is being sought for parole violation. Mr. Harker was the individual who kidnapped, raped, repeatedly stabbed, and discarded the body in a mine shaft to be discovered opening day of hunting season by hunters.

Mr. Charles Corliss abducted and eventually executed a Lincoln, Montana businessman, later paroled to no one's knowledge in the State of Washington to be the perpetrator of killing another individual, wounding a second and finally causing bodily harm to the third.

The opponents to this bill express confidence in the Parole Board that the law enforcement community does not share.

This is not an issue of being statically right. Mr. Harker's parole was done over the objection and pleading of the victim (who did not die) in writing to the Parole Board and others associated with the crime. Mr. Corliss was paroled secretly over the overwhelming objections of the community, family of the victim and law enforcement who predicted he would do it again. We believe Mr. Coleman would be paroled by now and he maybe except that he is a sociopath and his behavior in prison does not offer him the opportunity to earn his credits.

Mr. Chairman, the cart is before the horse. This bill we believe will be better used to keep the percentage of criminals in incarceration and judges can better use mitigating circumstances when sentencing convicted deliberate homicide persons, not the other way around. My last example is the 1968 case of the individual who cannibalized the social worker in Yellowstone Park. The citizens and judiciary awoke one day to find out that this person who committed the crime is now living in a trailer court in Arizona as reported on a television documentary called Current Affairs. The judges comments were according to the program "I didn't even know he was out; I sentenced him to life in prison".

It is the hope of the MSPOA that constructive rehabilitative programs can be developed to meet the need of alternatives to incarceration for lesser felonies but the knowingly wanton destruction of individuals, families and communities can best be served at this time by holding perpetrators of deliberate homicide accountable for their behavior and serving the full sentence without parole.

cc: Representative Bob Bachini
House Judiciary Committee Members
Sheriff Barry Michelotti, President, MSPOA
Tom Harrison, Lobbyist, MSPOA

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

JUDICIARY COMMITTEE BILL NO. HB 117
DATE JAN. 13, 1993 SPONSOR(S) B.L. KASTEN
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<i>Kerry Monroe</i>	<i>Board of Visitors</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>John W. H. H.</i>	<i>AFSCME</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Tom G. Foley</i>	<i>AFSCME</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

**HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER**

DATE JAN. 13, 1993

HARP

BILL NO. SB 42

SPONSOR (S)

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

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PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.