

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN RUSSELL FAGG**, on January 19, 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 136, HB 142, HB 151
Executive Action: HB 151, HB 136

HEARING ON HB 136

Opening Statement by Sponsor:

REP. JOHN BOHLINGER, HD 94, Billings said this is a bill making it a juvenile offense for a student to carry or store a weapon at school, a criminal offense for an adult to carry or store a weapon at school, and a criminal offense for a parent or guardian to allow a student to carry or store a weapon at school. He said he changed some of the language after the bill was drafted, to make it more appropriate. EXHIBIT 1

Proponents' Testimony:

EXHIBITS 2-5 are submitted by proponents who were unable to testify in person.

REP. RANDY VOGEL described arresting a high school student for concealing a large knife. Asked why he was carrying the knife, the student said, "Everybody else has one; I need it for protection." Given this poor commentary on today's children, HB 136 addresses the problems occurring in schools today.

Bill Fleiner, Montana Sheriffs and Police Officers Association (MSPOA), said the MSPOA supports this legislation. With the gang violence coming to this state, it is needed more than ever.

Bruce Moerer, Montana School Boards Association (MSBA), said the MSBA believes this particular bill not only applies to students. Schools have other concerns besides students carrying weapons, and that is damage to school property and lawsuits.

Don Waldron, Montana Rural Education Association (MREA), stated that, while many school districts have policies that cover similar issues, the MREA thinks this will offer uniformity and will add a law to protect innocent people from offenders.

Loran Frazier, Executive Director, School Administrators of Montana (SAM), stated that SAM supports any legislation which will keep schools safe. Montana has one of the safest school systems in country, and SAM encourages any law that will strive to continue this goal.

Opponents' Testimony:

Alfred Elwell, National Rifle Association and Montana Shooting Sports Association, said he thinks there are enough laws to adequately cover what this bill proposes. Passing a new law will not make today's revolving court system any more responsive than it is now. The current laws need to be enforced.

REP. BOB CLARK, HD 31, Ryegate, declared that there many current

laws dealing with this same subject. HB 136 does not guarantee that violators will be prosecuted. SB 14, which amends the current law, gives juveniles the right to carry firearms. This is yet another law in which a juvenile will not be prosecuted.

Questions From Committee Members and Responses:

REP. VOGEL asked REP. BOHLINGER about the federal statutes. REP. BOHLINGER said the federal statute established that, under the Gun-Free School Zone Act of 1990, it should be unlawful for any individual knowingly to possess a firearm at a place where the individual has reasonable cause to believe is a school zone. There are many examples where federal and state law are parallel.

REP. JODY BIRD referring to page 2, lines 5 and 6, asked REP. BOHLINGER and Mr. Frazier why schools would give permission to carry or store weapons. REP. BOHLINGER said specifically for marksmanship classes or show and tell.

REP. GRIMES asked Mr. Frazier why, if there are laws such as this on the books, they aren't being used. As violence becomes worse, it seems that there are fewer arrests. The citizen's concern is that nothing is happening.

REP. VIVIAN BROOKE made a point that violence and security should go hand and hand. When violence increases, so should security. She asked Mr. Fleiner if there's anything in the budget calling for good security. Mr. Fleiner responded that he's not aware of any school district covering security with this bill.

REP. SCOTT MCCULLOCH asked REP. BOHLINGER to define school. For example, he asked who would authorize a student to bring a knife to school to carve pumpkins. REP. BOHLINGER said that, for a school function of this sort, knives are not considered weapons and could be authorized by the teacher or the parent.

REP. ANGELA RUSSELL asked Mr. Fleiner what kind of treatment and prosecution these offenders would have. Mr. Fleiner said it depends on the weapon, or the youth may be on juvenile probation.

REP. RUSSELL commented on how violent television has become and how children are becoming desensitized by it. REP. BOHLINGER agreed that this has become a huge problem. He encouraged parents to serve as role models for their children.

REP. GRIMES brought up the fact that many Montana teenagers hunt and bring their firearms to school property locked in their vehicles. He asked whether the bill would affect the record of a student if he/she unintentionally brought a firearm onto a campus. REP. BOHLINGER said that the bill's intent is to address the case of a child intentionally bringing a weapon into the school building.

Closing by Sponsor:

REP. BOHLINGER closed by saying that the intent of this bill is to deal with a problem developing in Montana schools. Out of 410 juvenile offenses, 187 youngsters were arrested and 210 went free. This is an effort to deal with the 54 percent that slipped through the cracks.

HEARING ON HB 142**Opening Statement by Sponsor:**

REP. SHIELL ANDERSON, HD 1, Livingston, said that HB 142 raises the dollar amount of the differential between a misdemeanor and felony on criminal property crimes, e.g., criminal mischief, theft, forgery, failure to return leased property, unlawful use of a computer, issuing bad checks, unauthorized acquisition, transfer of food stamps and deceptive practices.

Proponents' Testimony:

Beth Baker, Department of Justice, County Attorneys, stated that this bill, proposed by the Montana County Attorney's Association, increases the threshold amount for felony property crimes from \$300 to \$1,000. HB 142 would affect nine property crimes, and each crime would be a felony only if the amount involved exceeds \$1,000. EXHIBIT 6

Bob McCarthy, Butte-Silver Bow County Attorney's Association (BSBCAA), said that courts do not ever treat a threshold very seriously. It is better to enforce a threshold in justice court, as justice courts treat felonies very seriously. Raising the threshold will take a great deal of handling in district courts; justice court will handle them more expediently.

Opponents' Testimony:

Randy Harrington, private citizen, contended that \$300 does not represent a serious crime. At the retail level, it is hard to get that kind of money from an offender. Raising the felony from \$300, which is the average weekly salary in Montana, to \$1,000, which is the average monthly salary in Montana, will only help county attorneys.

Questions From Committee Members and Responses:

REP. TIM SAYLES asked Ms. Baker how many counties were sent questionnaires and why only 13 sent replies. Ms. Baker said that 13 replies is an insignificant amount and wouldn't change the statute.

In response to a question of REP. DAVE BROWN about how fine money is distributed between city court, justice court, and district court, Mr. McCarthy said that city court and justice court keep the same amount of money.

REP. VOGEL referred to HB 142 as the "crime does pay" bill. For instance, \$990 would be a misdemeanor, and the maximum fine that can be imposed for a misdemeanor in a theft statute is only \$500. REP. ANDERSON said that would be for the first offense.

CHAIRMAN FAGG said he supports this bill and asked Mr. McCarthy if Butte/Silver-Bow is similar to Yellowstone County where district court judges for the 13th judicial district very rarely fine anybody. Mr. McCarthy said that district judges do not want to be in the business of collecting fines. Mr. McCarthy's experience has been that fines are imposed with more severity and much more consistency in justice court or city court.

REP. TOOLE asked Mr. McCarthy what impact this bill would have on jail populations, especially in larger counties. Mr. McCarthy said there will probably be an increase in jail population. There is a greater likelihood of incarceration for offenders under justice courts than there is in district courts.

REP. BROWN asked Mr. McCarthy where city court fine money is appropriated. Mr. McCarthy said that money from ordinance violations goes 100 percent to city parks. When there is a violation of a state statute, the money goes to the city.

Closing by Sponsor:

REP. ANDERSON noted that covered offenses, as Mr. McCarthy said, will be more vigorously prosecuted in JP and city courts. An increase in the threshold reflects a more realistic number, considering it has been at \$300 for the past ten years.

HEARING ON HB 151

Opening Statement by Sponsor:

REP. RANDY VOGEL, House District 86, Billings, said that this bill defines the term "criminal justice agency" to include agencies of foreign nations that administer criminal justice. He said that Montana is the only state that does not include foreign countries as a justice agency. These agencies would be allowed the dissemination of criminal information to state law enforcement agencies, with the consent of the Justice Department.

Proponents' Testimony:

Beth Baker, Department of Justice, County Attorneys, stated that

HB 151 was requested by the Department of Justice to facilitate the exchange of criminal justice information with foreign countries, particularly Canada. EXHIBIT 7

Opponents' Testimony: None.

Questions From Committee Members and Responses: None.

Closing by Sponsor: None.

EXECUTIVE ACTION ON HB 151

Motion: REP. BROWN MOVED HB 151 DO PASS.

Discussion:

REP. TIM SAYLES asked REP. VOGEL other law enforcement should come to Montana without written notice. REP. VOGEL said that this bill does not allow anyone to come into Montana but allows Montana to share investigated files with another country.

REP. BOB CLARK asked REP. VOGEL if this bill covers registration and drivers license checks. Ms. Baker answered that the bill does not cover drivers license information or other information of this sort since that does not require law enforcement. The bill only refers to confidential information.

REP. RUSSELL asked REP. VOGEL if what impact this bill has on illegal aliens in Montana. REP. VOGEL said this bill allows an exchange of confidential information/material between Montana and foreign countries. It impacts the investigation of people transporting illegal aliens and involved in drug trafficking.

Vote: HB 151 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HB 136

Motion: REP. VOGEL MOVED HB 136 DO PASS.

Discussion:

REP. VOGEL addressed REP. BIRD'S concerns about amending the bill. REP. BIRD said she is a substitute teacher and wanted the bill clarified as to whether the bill included teachers carrying weapons on campus on page 2, section 3, line 3: "This section does not apply to law enforcement personnel." REP. VOGEL said the bill strikes "law enforcement personnel" and adds "those exceptions in 45-8-317." 45-8-317 is the exception statute as far as carrying concealed weapons.

REP. BROWN is opposed to teachers carrying guns to school - on or near the property. REP. BROWN said the bill is too broad, and he would vote no on the bill.

REP. CLARK told REP. BIRD that, under the Gun Free School Zone Act of 1990, federal statute authorizes teachers who are licensed to carry a gun to carry the gun on school property or within 1,000 feet of school property. He said it is a proven fact that areas in this country with the strongest gun laws have the highest crime rate. Nothing in this bill will guarantee that high school students will be prosecuted. Every one of the sections of law quoted, including the Federal Gun Free School Zone Act, have been on the books for years. If there was a guarantee in this bill that those cases would be prosecuted, REP. CLARK would support the bill, but there is not.

Motion: REP. BROWN MOVED TO TABLE HB 136.

Discussion:

REP. HOWARD TOOLE said HB 136 does what it says. It criminalizes the possession of weapons on a school ground. He believes this bill should be enforced and should be addressed quickly.

REP. BIRD noted that the bill says nothing about bows and arrows and scissors as weapons. The bill includes many gray areas.

REP. CLARK said he has worked with the U.S. Marshall Service and knew of several instances in which the U.S. Attorney has prosecuted cases in which weapons were being used on school properties.

CHAIRMAN FAGG announced that there would be a five-minute discussion before the vote on the table motion.

REP. GRIMES said he believes this bill will reinforce and strengthen school authority and law enforcement. It is apparent that this bill would strengthen the hand of administrators. He said legislation should be reinforced that would protect students against the threat of weapons. REP. GRIMES did not want the bill to be tabled.

REP. MCCULLOCH said he respects the intentions of this bill, but under this law, a teacher would be obligated to call law enforcement about a child throwing rocks, throwing stars, etc.

REP. VOGEL said there isn't a lot of federal prosecution on misdemeanors; that is the county attorney's responsibility.

Vote: HB 136 DO NOT PASS. Motion failed on a 9-9 vote with REPS. FAGG, VOGEL, BERGMAN, GRIMES, J. RICE, SMITH, TOOLE, WHALEN and WYATT voting no.

CHAIRMAN FAGG directed the committee to discuss the bill in its entirety.

REP. WHALEN said he agreed with REP. VOGEL, that it is not necessary to make a federal case every time one of these incidents occurs, and federal cases can't be tried in JP court,

city court, or district court. This is why states adopt parallel legislation to federal laws. From the nature of the federal caseload, there is not going to be much prosecution of these cases in federal court. There is a need to provide jurisdiction to those alternative forms to see that this type of activity is not going on in the schools. Legislation does need to be corrected to address the situation that REP. BIRD discussed, and that is there needs to be a specific exemption for individuals who have received a permit to carry concealed weapons. As with scissors and sling-shots, there are all kinds of blunt instruments a person could use as weapons, but prosecutors will use common sense judgement and will not prosecute those cases. REP. WHALEN said he thinks this is good legislation.

REP. VOGEL moved to accept those amendments mentioned in Section 3, lines 3, 4 and 5. These amendments would not cover a student going hunting after school, but it would cover the weapon being left in the vehicle as a part of hunting. It would also address REP. MCCULLOCH'S concerns about a teacher getting permission to authorize his students bringing knives to school for a class project, as it is worded in Section B, line 5, page 2: "A school or its designated agent" which includes teachers.

CHAIRMAN FAGG asked if there was any discussion on REP. VOGEL'S amendments.

REP. BROWN said he thinks REP. VOGEL'S amendment further confuses the statute. He reminded the committee that the Democrats had a caucus at 10:00 a.m. and should defer further action until January 20.

CHAIRMAN FAGG deferred action on the bill until January 20.

ADJOURNMENT

Adjournment: 10:00 a.m.



REP. RUSSELL FAGG, Chairman



BETH MIKSCHKE, Secretary

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL

DATE

1-19-93

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

HR:1993

wp.rollcall.man

CS-09

HOUSE STANDING COMMITTEE REPORT

January 19, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that House Bill 151 (first reading copy -- white) do pass.

Signed: _____
Russ Fagg, Chair

Amendments to House Bill No. 136
First Reading Copy

Requested by Rep. Bohlinger
For the Committee on the Judiciary

Prepared by John MacMaster
January 13, 1993

1. Title, lines 5, 7, and 8.

Following: "SCHOOL"

Insert: "OR IN OR ON SCHOOL PROPERTY"

2. Page 1, line 15.

Following: "school or"

Insert: "in or"

Following: "on"

Strike: "the"

Strike: "grounds"

Insert: "property"

3. Page 1, line 19, and page 2, line 2.

Following: "knuckles;"

Insert: "blackjack;"

4. Page 1, line 24.

Following: "or"

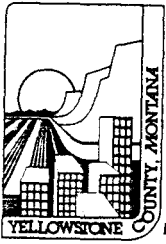
Insert: "in or"

Following: "on"

Strike: "the"

Strike: "grounds"

Insert: "property"



YELLOWSTONE COUNTY ATTORNEY

217 North 27th Street
P.O. Box 35025
Billings, MT 59107-5025
(406) 256-2870

Pleasant Laws.

- 1) Gun Free School Zone - Fed Law 1990.
- 2) Concealed Weapons Law of MT. Passed 1991
- 3) Prohibits parents that let's children under 14 to have a weapon.

January 8, 1993

Dennis 652-4681
John Connors - 2026

EXHIBIT 2
DATE 1-19-93
#B 136 Bollinger

Representative John Bollinger
Room 138, State Capitol
Helena, MT 59620

Dear John,

Enclosed please find a re-edit of your drafted bill concerning weapons at school. The first change is to make it an offense for a minor student to carry or store weapons or for an adult student to carry a weapon or for a parent or guardian to allow a student to possess weapons at school. It should be pointed out that this version will include both minors and adult students (18 year olds who are still in school.) However, you may want to add a section for that adult or minor person who is not a "student" but happens to be roaming on the school grounds or in the school with a weapon. Some possible scenarios for the latter are jealous boyfriends in the school, friends of friends who got beat up the week before looking for someone in the school, enraged parent looking for "boyfriend" of daughter, etc.

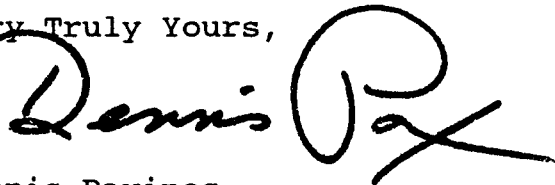
The next point is that if an adult person or an adult student commits the offense, then they will be prosecuted in either Justice Court or City Court for a misdemeanor.

Under Section 1 (1), I have edited out parts that say schools can give students the permission to carry or store weapons. Schools should not be in the position to override a statute merely because they decide to give permission. There should not be double standards. That is, a teacher gives Johnnie permission to carry a knife but prosecutes Billy for carrying the same type of knife.

The "negligence" state of mind of the guardian or parent is valid. No parent is ever going to admit that they purposely or knowingly gave a gun or a knife to their child to take to school. They will all admit, however, that they kept the weapons in their home and had no idea that their child would have taken such an item to school. Furthermore, they certainly did not give him permission to take a weapon to school. With the use of the negligence standard, it puts a burden on the parent or guardian to make sure that those items are secured away from children.

I have also forwarded a copy of this bill to John Connors, of the Attorney General's Office for his review and comments. I will forward any comments or concerns that he has to your attention as soon as I receive them.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Dennis Paxinos". The signature is stylized with a large, circular initial "D" and a long, sweeping horizontal stroke at the end.

Dennis Paxinos
Yellowstone County Attorney

DP/ae

EXHIBIT 3 P.2
DATE 1-15-93
#B 136 Bohlinger

BILLINGS PUBLIC SCHOOLS

BILLINGS, MONTANA 59102-5899

415 North 30th Street
January 6, 1993

The Honorable John Bohlinger
House of Representatives
State Capitol
Helena, Montana 59620

Dear Representative Bohlinger:

Thank you for sending the draft LC 0970.

I have two suggestions. Change lines 15 and 24 to read property instead of grounds. Property is more inclusive and can include school buses, etc. Secondly, expand the definition of weapon to include items that are intended to be used as weapons, such as club or blackjack.

If I can be of any further assistance, please feel free to call on me.

Sincerely,


Peter F. Carparelli, Ed.D.
Superintendent

PFC/GWS/nc

53rd Legislature

FISCAL NOTE
MAY BE NECESSARY

LC 0970/01

John,
I like the Bill. I've added some clarifying and
strengthening language. Good luck. ~~WAP~~

BILL NO. _____

EXHIBIT 4

DATE 1-19-23

HB 136

INTRODUCED BY

John C. Behringer

A BILL FOR AN ACT ENTITLED: "AN ACT MAKING IT A JUVENILE
OFFENSE FOR A STUDENT TO CARRY OR STORE A WEAPON AT SCHOOL
AND A CRIMINAL OFFENSE FOR AN ADULT TO CARRY OR STORE A
WEAPON AT SCHOOL OR FOR A PARENT OR GUARDIAN TO ALLOW A
STUDENT TO CARRY OR STORE A WEAPON AT A SCHOOL."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Possession or allowing

possession of a weapon at school -- exceptions -- penalties.

(1) A person commits the offense of possession of a weapon
at school if the person purposely or knowingly carries or
stores in a school or on ^{in or} ~~the~~ school ^{property} ~~grounds~~ without the
consent of the school administration a firearm; knife or
dagger with a blade 4 or more inches long; sword; straight
razor; throwing star; nun-chucks; brass or other metal
^{blackjack}
knuckles; ~~or~~ slingshot, club or any offensive weapon.

(2) A parent, guardian, or other person having custody
of a student commits the offense of allowing possession of a
weapon at school if the person purposely, knowingly, or
negligently allows the student to carry or store in a school
or on the school grounds without the consent of the school
administration a firearm; knife or dagger with a blade 4 or



1 more inches long; sword; straight razor; throwing star;
2 nun-chucks; brass or other metal knuckles; or slingshot. *club or any*
3 *offensive weapon.*

4 (3) (a) This section does not apply to law enforcement
5 personnel.

6 (b) A school may give persons and entities advance
7 permission to carry or store weapons.

8 (4) (a) An adult convicted under this section shall be
9 imprisoned in the county jail for a term not to exceed 6
10 months, fined an amount not to exceed \$500, or both.

11 (b) Action against a person under 18 years of age must
12 be under the Montana Youth Court Act.

13 NEW SECTION. Section 2. Codification instruction.

14 [Section 1] is intended to be codified as an integral part
15 of Title 45, chapter 8, part 3, and the provisions of Title
45 apply to [section 1].

-End-

Definitions:

- a. School grounds means the school property and the sidewalk space up the highway right of way or boundary of the street. (John, this should catch the side walks.) Vehicles on the school grounds are subject to this section.
- b. Firearm includes B.B. guns and CO² propelled weapons.
- c. School means any public or private school.

For purposes of this section, possession of a valid permit to carry a concealed weapon is not a defense. (Need to add to 45-8-528)

For purposes of this section, possession in violation of this section, knowingly or purposefully, presumes intent to use the weapon.

A BILL FOR AN ACT ENTITLED: "AN ACT MAKING IT AN OFFENSE FOR A MINOR STUDENT TO CARRY OR STORE A WEAPON TO SCHOOL; A CRIMINAL OFFENSE FOR AN ADULT STUDENT."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** Possession or allowing possession of a

weapon at school -- exceptions -- penalties.

(1) A person commits the offense of possession of a weapon at school if the person purposely or knowingly carries or store in a school or on the school grounds a firearm; knife or dagger with a blade 4 or more inches long; sword; straight razor; throwing star; num-chucks; brass or other metal knuckles; or slingshot.

(2) A parent, guardian, or other person having custody of a student commits the offense of allowing possession of a weapon at school if the person purposely, knowingly, or negligently allows the student to carry or store in a school or on the school grounds without the consent of the school administration a firearm; knife or dagger with a blade 4 or more inches long; sword; straight razor; throwing star; num-chucks; brass or other metal knuckles; or slingshot.

(3) This section does not apply to law enforcement personnel.

(4) (a) An adult convicted under this section shall be imprisoned in the county jail for a term not to exceed 6 months, fined an amount not to exceed \$500 or both.

(b) Action against a person under 18 years of age must be under the Montana Youth Court Act.

NEW SECTION. **Section 2.** Codification instruction.

(Section 1) is intended to be codified as an integral part of Title 45, chapter 8, part 3, and the provisions of Title 45 apply to (section 1.)

-End-

EXHIBIT 6
DATE 1-19-93
#B 442

HOUSE BILL 142

Testimony of Beth Baker
Department of Justice and Montana County Attorneys Association

This bill was proposed by the Montana County Attorneys Association to increase from \$300 to \$1,000 the threshold amount for felony property crimes. The bill is rather lengthy because of the number of sections, but the changes are not complicated.

The bill would affect the following nine property crimes, and in each would make the crime a felony only if the amount involved exceeds \$1,000:

- Criminal mischief, § 45-6-101, MCA
- Theft, § 45-6-301, MCA
- Failure to return rented or leased personal property, § 45-6-309, MCA
- Unlawful use of a computer, § 45-6-311
- Unauthorized acquisition or transfer of food stamps, § 45-6-312, MCA
- Issuing bad check, § 45-6-316, MCA
- Deceptive practices, § 45-6-317, MCA
- Forgery, § 45-6-325, MCA
- False claims to public agencies, § 45-7-210, MCA

The last time the threshold amount for felony property crime was increased was in 1983, when it rose from \$150 to \$300. The effect of this bill will be to reduce the number of felony property crime prosecutions, relieving some of the burden on the district courts and reflecting more appropriately modern property values.

We attempted to determine how this would affect felony prosecutions within the state. Fourteen counties responded to our inquiry, and for 13 of those counties, 126 felonies would have been

misdemeanors under the proposed legislation. One county, Ravalli, did not respond with numbers but indicated that the proposed legislation would have affected 35% of its property crime caseload.

The legislation may also affect the number of appeals that must be handled by the Montana Supreme Court. I handled an appeal a couple of years ago arising out of the theft of an aluminum birdbath from a person's front yard. Last fall, the Supreme Court considered a theft case where the amount in question was only \$400, arising out of the theft of some items from a bunkhouse. The defendants in that case also were convicted of felony burglary for having broken into the bunkhouse to steal the property.

Finally, this legislation will not affect property crimes involving domesticated hoofed animals. Both the criminal mischief and the theft statutes are phrased in the alternative; thus, felony penalties are imposed for theft of property exceeding \$1,000 in value OR theft of any commonly domesticated hoofed animal. It need not be established that the animal's value exceeded \$1,000.

EXHIBIT 7
DATE 1-19-93
H B 151

HOUSE BILL 151

Testimony of Beth Baker
Department of Justice

The Department of Justice requested this bill to facilitate the exchange of criminal justice information with foreign countries, Canada in particular. The governments of the United States and Canada recently implemented an automated system of criminal history record information retrieval and dissemination. Because of Montana's criminal justice information act, we are the only state in the country that is unable to participate in this automated system.

Montana law defines "criminal justice agency" to include federal, state, and local agencies whose principal function is the administration of criminal justice. Under this definition, the Royal Canadian Mounted Police is not considered a criminal justice agency. This bill would simply give agencies such as the RCMP law enforcement status similar to a state or federal law enforcement agency under the Montana Criminal Justice Information Act.

The legislation is drafted to preclude unfettered release of information, since it provides for approval by the attorney general before a foreign agency will be allowed to receive criminal justice information. The bill provides that the Attorney General may consult with the United States Department of Justice which, through its National Central Bureau, administers the electronic interface between the law enforcement authorities of the United States and Canada and serves as the United States' representative in the International Criminal Police Organization.

Considering the substantial common border between Montana and Canada, it is important that the law enforcement agencies of our state be able to share essential information with neighboring law enforcement authorities. In a world where the criminal community does not confine itself to political boundaries, the need for exchange of information between bona fide law enforcement agencies is critical. I urge your support of House Bill 151.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

JUDICIARY COMMITTEE BILL NO. HB 192
DATE Jan. 19, 1993 SPONSOR(S) J. Anderson
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Beth Baker	Dept of Justice / County Attys	✓	
Craig L. Hopp	MT MAGISTRATES ASSOC.	X	
Bob McPartlin	Buller & Jones Bow County Attorney	✓	
Laurie Kestner	Christian Coalition of MT	✓	
JOE ROBERTS	MT. County Atty. Assoc.	✓	
Randey Harrington	private citizen		✓

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

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Judiciary COMMITTEE BILL NO. HB 136
DATE Jan. 19, 1993 SPONSOR(S) J. Bohlinger
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
A.M. Ellwell	WCSM NWWS NRH MSHA		X
Loren Frazier	S Am	X	
Bruce W. Moore	MSA	X	
Don Waldron	MREA	X	

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

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Judiciary COMMITTEE BILL NO. SB 151
DATE Jan. 19, 1998 SPONSOR(S) Sandy Vogel
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Beth Baker	Dept of Justice	✓	
George Schunk	Dept of Justice	✓	

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