

**MINUTES**

**MONTANA SENATE  
53rd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY**

**Call to Order:** By Senator Dorothy Eck, Chair, on January 25, 1993, at 1:00 p.m.

**ROLL CALL**

**Members Present:**

Sen. Dorothy Eck, Chair (D)  
Sen. Eve Franklin, Vice Chair (D)  
Sen. Chris Christiaens (D)  
Sen. Tom Hager (R)  
Sen. Terry Klampe (D)  
Sen. Kenneth Mesaros (R)  
Sen. David Rye (R)  
Sen. Tom Towe (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Susan Fox, Legislative Council  
Laura Turman, Committee Secretary

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

**Committee Business Summary:**

Hearing: HB 117, SB 209  
Executive Action: SB 209, HB 117, SB 187, HB 18

**HEARING ON HB 117**

**Opening Statement by Sponsor:**

Rep. Betty Lou Kasten, House District 28, said HB 117 is a "housekeeping measure" that brings statutes into compliance with what is currently being done. In previous language, it was implied that there was more than one report, but there is only one report. Instead of requiring it to be completed within 24 hours, which is an impossibility, the initial report must be started within 24 hours. In addition, the director of the Department of Corrections must be notified of reports as well as the superintendent.

**Proponents' Testimony:**

Robert Anderson, Administrator for the Special Services Division of the Department of Corrections and Human Services, said there is confusion with the word "preliminary" in the existing language. It may imply that two investigations are conducted into an abuse allegation, when there is only one complete investigation initiated within 24 hours. HB 117 clarifies this language.

Kelly Moose, Executive Director of the Mental Disabilities Board of Visitors, provided written testimony. (Exhibit #1)

**Opponents' Testimony:**

None.

**Questions From Committee Members and Responses:**

Sen. Towe asked Robert Anderson what insures that the investigation is completed in a reasonable time period. Mr. Anderson said that a preliminary report must be done in 24 hours, but there is no way to limit the time on an investigation because it depends on the circumstances of the investigation.

Sen. Towe asked Mr. Anderson how long it usually took to complete an investigation. Mr. Anderson said an investigation can usually be completed in a few days, but it depends upon how serious the allegations are. In some cases, civil authorities must be called in to also conduct investigations if a criminal offense is involved.

Sen. Towe asked if there were investigations that took years to complete. Mr. Anderson said there are examples of residents being discharged and making charges that an abuse occurred a year previous. These types of investigations take a longer time.

Sen. Towe asked why the report is due to the Director rather than the Superintendent. Mr. Anderson said the director is the ultimate authority during an investigation.

**Closing by Sponsor:**

Rep. Kasten asked the Committee to pass HB 117, and she asked that Sen. Christiaens carry the bill on the Floor.

**HEARING ON SB 209**

**Opening Statement by Sponsor:**

Sen. Bruce Crippen, Senate District 45, Billings, said SB 209 is a request from the Department of Commerce. He said the point of this bill is to "tighten the laws" regarding the practice of

optometry. Sen. Crippen went through the sections of SB 209, taking note of the continuing education requirements for all optometrists, and the Board of Optometrists' broadened disciplinary authority.

#### Proponents' Testimony:

Larry Bonderud, chairman of the Montana State Board of Optometrista, and a practicing optometrist in Shelby, said the sections of SB 209 which have an effective date do so because licensure will be renewed in July, 1993, and the July meeting requirement would no longer be a requirement if the National Board of Examiners gives the exams then, and this would save travel money. Mr. Bonderud said the exam given by the Board of Examiners is a much more extensive exam than the state of Montana could offer.

Paul Kathrine, member of the Board of Optometry, practicing optometrist in Great Falls, said the national tests are given to students at colleges, but are given by the National Board. This separation assures that graduating students are competent. The continuing education in SB 209 requires that all practicing optometrists with Montana licenses, even if they are not practicing in the state of Montana, take continuing education. In the past, the Board's disciplinary authority was limited to revoking licenses. SB 209 puts into statute other disciplinary actions.

#### Opponents' Testimony:

None.

#### Questions From Committee Members and Responses:

Sen. Franklin asked what types of drugs, not including cortico steroids, can be dispensed by optometrists. Sen. Franklin asked about the Board's position regarding Rep. Simon's bill in the House which would permit the use of topical steroids by optometrists.

Larry Bonderud said the Board discussed this in their last meeting and will unanimously support that legislation.

Sen. Christiaens asked Dr. Larry Bonderud about sanctions for the use of addictive substances including alcohol. Mr. Bonderud said the Board adopted extensive rules regarding optometrists and controlled substances which they are allowed to dispense. This ruling by the Board has prompted the expanded disciplinary action for the Board included in SB 209.

Sen. Mesaros asked Mr. Bonderud how the exams are currently administered. Mr. Bonderud said the cost of giving the exams is high for the state of Montana because all the equipment must be

provided, as well as having certified examiners there. The exam can be taken elsewhere and to insure that it was a good examination, the members of the Board of Optometrists took the exam.

Sen. Rye asked about the existing language which states that to receive a certificate of registration an individual must be of "good moral character". Sen. Rye asked how "good moral character" was determined. Larry Bonderud said that three letters of recommendation was required, and he said that this language is very dated.

Sen. Towe asked Sen. Crippen why there was no statement of intent for SB 209 which appears to delegate rule-making authority. Sen. Crippen said there was no statement of intent because he assumed that Legislative Council felt that one wasn't necessary. Bob Verden, representing the Board of Optometrists, said there already exists in statute provisions that the Legislature grants the Board rule-making authority. He said the rule-making authority in SB 209 does not go beyond the existing statute, but a statement of intent could be added if the Committee felt it was imperative.

Sen. Towe asked Mr. Verdon if he were satisfied that SB 209 does not expand already existing rule-making authority. Mr. Verdon said he believed that it does not broaden existing rule-making authority in any way.

Sen. Towe asked Mr. Verdon if the Board would have the authority to make rules regarding censures, suspensions, and probation, and they did not have this authority before. Mr. Verdon said the rules already adopted by the Board reference disciplinary action and unprofessional conduct, and these may include censure, suspension and probation.

Sen. Towe asked Sen. Crippen if the inclusion of the Board's authority regarding censure, suspension and probation required a statement of intent. Sen. Crippen said that a statement of purpose is required if there already exists a broad statement of intent. Sen. Crippen said if the Committee feels that the statement of purpose in SB 209 is not enough, than a statement of intent will be included.

Chairman Eck asked Paul Katherine about the kinds of continuing education offered. Mr. Katherine said the schools and colleges of optometry offer continuing education which takes place at those institutions, or the professors will come to state and local meetings. Also, there are credential courses offered at the schools and colleges of optometry. And, the State Associations offer continuing education courses, given by professors, recognized optometrists, pharmacists and doctors. Regional meetings put on continuing education courses as well.

Chairman Eck asked Mr. Katherine about the time required and the

cost of continuing education. Mr. Katherine said courses offered at state meetings last about 2-3 days, and cost \$150-\$300. Credential courses offered by schools and colleges cost \$800-\$1500.

Chairman Eck asked about the response of optometrists who would be required to do this every year. Mr. Katherine said they must complete the continuing education in order to have their license renewed.

Chairman Eck asked Mr. Katherine if this requirement was viewed as a hardship. Mr. Katherine said no, "not particularly".

Chairman Eck asked if these courses could be taken by videotape. Mr. Katherine said that correspondence courses and videotape courses are available, which costs less.

Chairman Eck asked about extravagant continuing education courses, on cruise ships, for example. Mr. Katherine said the Board must approve all continuing education, and there are some instances in which the Board has not approved some continuing education courses.

Sen. Klampe asked Larry Bonderud about thorough examination in the use of topical steroids to ensure competency. Mr. Bonderud said that part of the National Board of Examiner's exam is very thorough in this area. Also, the scores of this exam can be sent to different states at the examinee's request.

Sen. Klampe asked Mr. Bonderud if the exam included questions about systemic illness. Mr. Bonderud said yes, "absolutely". He said the test is composed of a written part and a clinical part which assures the public clinical competency. This exam also broadens the pool of optometrists because the test results can be sent all over the country.

Sen. Mesaros asked Mr. Bonderud about the inclusion of SB 209 in the other bill in the Legislature addressing topical steroids. Mr. Bonderud said SB 209 was purposely requested to be kept separate because SB 209 is a "housekeeping bill."

**Closing by Sponsor:**

Sen. Crippen said the practice of optometry is rapidly changing and it is important that Montana assures the public that those who are practicing optometry are qualified, and the steps included in SB 209 are "steps in the right direction." He said that a statement of intent, if the Committee felt was necessary, would be left to Sen. Towe.

**EXECUTIVE ACTION ON SB 209**

**Discussion:**

Susan Fox, Legislative Council, said the statement of legislative purpose for SB 209 will be put into the codes while a statement of intent would not. She said the statement of legislative purpose is inclusive enough.

Sen. Klampe asked if the other House bill regarding topical steroids were to pass how would it affect SB 209. Sen. Towe said the code commissioners specifically are authorized to correlate the two bills, and the language will be changed accordingly in SB 209 if the House bill passes.

**Motion/Vote:**

Sen. Rye moved SB 209 DO PASS. The motion carried unanimously.

**EXECUTIVE ACTION ON HB 117**

**Motion/Vote:**

Sen. Towe moved that HB 117 DO PASS. The motion carried unanimously. Sen. Christiaens will carry the HB 177 on the Floor of the Senate.

**Discussion:**

Chairman Eck said she had agreed to postpone Executive Action on SB 165 until testimony from the Department of Health because there may have been some misinformation given to the Committee regarding the capability of the Department's inspectors.

**EXECUTIVE ACTION ON SB 187**

**Discussion:**

Sen. Christiaens asked Chairman Eck about a Fiscal Note for SB 187. Chairman Eck said there was testimony that there would be no additional expenses.

Sen. Towe said SB 187 does add members to the Board, and that may require more money. Chairman Eck said a lot of the members are County Commissioners, and the reason that the size of the Board was increased was to have all the counties within the area represented.

Sen. Franklin said that they were choosing to stay within their

allocation, and Board meetings would be adjusted to comply with this.

Sen. Christiaens asked about making membership more inclusive rather than exclusive. Sen. Towe said the amendments may answer this.

**Motion:**

Sen. Towe moved the amendments to SB 187.

**Discussion:**

Susan Fox, Legislative Council, went over the amendments to SB 187. (Exhibit #2)

Chairman Eck expressed concerns about having many providers be Board members, but she didn't think that would be the case.

Sen. Christiaens asked how an individual would know about appointments being made to the Board, and how would an individual go about submitting his name to serve on the Board. Chairman Eck said interested people should let their County Commissioners know that they want to serve. In some cases, the newspapers will print that County Commissioners are seeking applicants to serve.

Sen. Towe said it was the job of the County Commissioners to let interested individuals know of opening vacancies on the Board.

**Vote:**

The motion of the amendments to SB 187 carried unanimously.

**Motion/Vote:**

Sen. Franklin moved that SB 187 DO PASS AS AMENDED. The motion carried unanimously.

**EXECUTIVE ACTION ON HB 18**

**Discussion:**

Sen. Towe went over his amendment, (Exhibit #3) which he said "is confusing" and "seems to take back everything that was said in the first five pages of this bill." He said he didn't like not having the option to use the language in the first five pages of HB 18 in a court case if a child was being taken from a home. If HB 18 is state policy, the judge should be able to take this into consideration.

Chairman Eck asked Sen. Towe if he had spoken with the Department of Family Services. Sen. Towe said he had. Susan Fox said the

Department didn't specifically object to the amendment.

Chairman Eck asked if HB 18 limited when a child could be taken from his home. Sen. Towe said no. Sen. Towe said there is a statute that spells out when a child can be taken from the home. He said this language in HB 18, which he proposed be taken out, stated that the language on the first five pages of HB 18 couldn't be used against the Department of Family Services when a child is removed from the home.

**Motion:**

Sen. Towe moved the amendments to HB 18.

**Vote:**

The motion carried unanimously.

**Motion/Vote:**

Sen. Towe moved that HB 18 DO PASS AS AMENDED. The motion carried unanimously.

**EXECUTIVE ACTION ON SB 89**

**Discussion:**

Susan Fox said the provisions of the statute regarding dispensing pharmaceuticals must be followed by medical practitioners and physician assistants. Ms. Fox said the provisions regarding pharmacists and the ten mile rule apply.

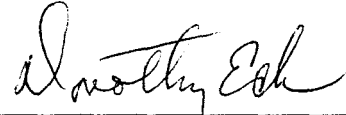
**Motion/Vote:**

Sen. Franklin moved that SB 89 DO PASS AS AMENDED. The motion carried unanimously.



ADJOURNMENT

**Adjournment:** Chairman Eck adjourned the hearing.



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SENATOR DOROTHY ECK, Chair



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LAURA TURMAN, Secretary

DE/LT

## ROLL CALL

SENATE COMMITTEE Public Health DATE 1-25-93

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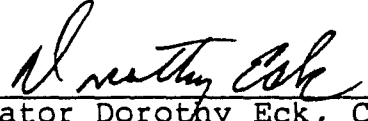
SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 25, 1993

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration Senate Bill No. 209 (first reading copy - white), respectfully report that Senate Bill No. 209 do pass.

Signed: \_\_\_\_\_

  
Senator Dorothy Eck, Chair

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 25, 1993

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 117 (first reading copy -- blue), respectfully report that House Bill No. 117 be concurred in.

Signed:   
Senator Dorothy Eck, Chair


SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 25, 1993

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration Senate Bill No. 187 (first reading copy - white), respectfully report that Senate Bill No. 187 be amended as follows and as so amended do pass.

Signed: \_\_\_\_\_



Senator Dorothy Eck, Chair

That such amendments read:

1. Page 6, line 9.

Strike: "and treatment"

2. Page 6, line 11.

Strike: "or"

3. Page 6, line 12.

Following: "issues"

Insert: ";

(e) emotionally disturbed youth; or

(f) treatment and care of abused and neglected children"

4. Page 7, lines 6 through 8.

Strike: "and" on line 6 through "court" on line 8

5. Page 7, line 11.

Strike: "and treatment"

6. Page 7, line 13.

Strike: "or"

7. Page 7, line 14.

Following: "issues"

Insert: ";

(e) emotionally disturbed youth; or

(f) treatment and care of abused and neglected children"

-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 25, 1993

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 18 (first reading copy -- blue), respectfully report that House Bill No. 18 be amended as follows and as so amended be concurred in.

Signed: \_\_\_\_\_

  
Senator Dorothy Eck, Chair

That such amendments read:

1. Page 5, lines 17 through 20.

Following: "families" on line 17

Strike: "and" on line 17 through "home" on line 20

-END-

OFFICE OF THE GOVERNOR  
MENTAL DISABILITIES BOARD OF VISITORS



STAN STEPHENS, GOVERNOR

CAPITOL STATION

STATE OF MONTANA

(406) 444-3955  
OR TOLL FREE 1-(800)-332-2272

HELENA, MONTANA 59620

January 25, 1993

Senator Dorothy Eck, Chairman  
Senate Public Health Committee  
State Capitol  
Helena, MT 59620

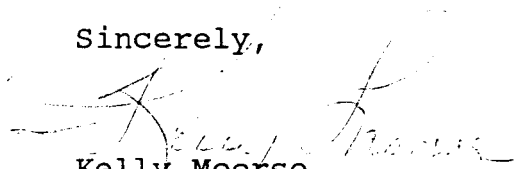
Senator Eck and Members of the Committee:

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,

  
Kelly Moorse  
Executive Director

Amendments to Senate Bill No. 187  
First Reading Copy

For the Committee on Public Health, Welfare, and Safety

Prepared by Susan B. Fox  
January 25, 1993

1. Page 6, line 9.  
Strike: "and treatment"

2. Page 6, line 11.  
Strike: "or"

3. Page 6, line 12.  
Following: "issues"  
Insert: ";  
(e) emotionally disturbed youth; or  
(f) treatment and care of abused and neglected children"

4. Page 7, lines 6 through 8.  
Strike: "and" on line 6 through "court" on line 8

5. Page 7, line 11.  
Strike: "and treatment"

6. Page 7, line 13.  
Strike: "or"

7. Page 7, line 14.  
Following: "issues"  
Insert: ";  
(e) emotionally disturbed youth; or  
(f) treatment and care of abused and neglected children"

SENATE HEALTH & WELFARE  
EXHIBIT NO. 2  
DATE 1-25-93  
BILL NO. SB187



Amendments to House Bill No. 18  
Third Reading Copy

Requested by Sen. Towe  
For the Committee on Public Health, Welfare, and Safety

Prepared by Susan B. Fox  
January 25, 1993

1. Page 5, lines 17 through 20.  
Following: "families" on line 17  
Strike: "and" on line 17 through "home" on line 20

SENATE HEALTH & WELFARE  
EMEND NO. 3  
DATE 1-25-93  
BILL NO. HB 18

DATE 1-25-93

SENATE COMMITTEE ON Public Health

BILLS BEING HEARD TODAY: HB 117, SB 209

Name	Representing	Bill No.	Check One	
			Support	Oppose
Doug Saffley, OD	MOA	209	✓	
Karen McBride, OD	MOA	209	✓	
Mr. Mark R. Stanchfield, OD	MOA	209	✓	
Jimmy Moore	Board of Visitation	117		✓
Robert W. Arden	DCHS		✓	
Larry Boudreau	Doal <del>to</del> Opt	209		✓
Mr. Kaitum, OD	Bd. of Optometrists	209	✓	
Doug McBurnie	MOA	209	✓	

### VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY