

MINUTES

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

COMMITTEE ON JUDICIARY

Call to Order: By Senator Bill Yellowtail, on March 23, 1993, at 10:08 a.m.

ROLL CALL

Members Present:

Sen. Bill Yellowtail, Chair (D)
Sen. Steve Doherty, Vice Chair (D)
Sen. Sue Bartlett (D)
Sen. Chet Blaylock (D)
Sen. Bob Brown (R)
Sen. Bruce Crippen (R)
Sen. Eve Franklin (D)
Sen. Lorents Grosfield (R)
Sen. Mike Halligan (D)
Sen. John Harp (R)
Sen. David Rye (R)
Sen. Tom Towe (D)

Members Excused: Senator Halligan

Members Absent: NONE

Staff Present: Valencia Lane, Legislative Council
Rebecca Court, Committee Secretary

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

Committee Business Summary:

Hearing:	HB 142
	HB 238
	HB 507
	HB 357
Executive Action:	HB 142 -
	HB 238
	HB 507 -
	HB 357 -
	HB 235 -
	HB 562 -

HEARING ON HB 357

Opening Statement by Sponsor:

Representative Fagg, District 89, told the Committee that HB 357

adds service to those eligible to receive an aircraft lien. Under existing law, repairs and storage of planes falls under the lien act, but actual service does not. Rep. Fagg said that causes a problem for small airports because private planes receive service and leave before payment has been received and the airports cannot put a lien on the aircraft. Rep. Fagg said on page one, line 13, the word "service" was inserted. Rep. Fagg told the Committee that HB 357 was supported by the Montana Aircraft Managers Association.

Proponents' Testimony:

Rep. Brown, District 72, supported HB 357. HB 357 would affect small and large airports.

Rick Griffith, Butte Airport, Montana Airport Management Association, supported HB 357.

Tim Phillips, Missoula Airport, Montana Airport Management Association, supported HB 357.

Ted Mathis, Airport Manager for the Gallatin Airport in Bozeman, Mt, supported HB 357.

Paul Graham, Financial Officer for the Helena Regional Airport, supported HB 357.

Mike Fergeson, Administrator for the Aeronautics Division for the Department of Transportation, supported HB 357.

Opponents' Testimony:

NONE

Questions From Committee Members and Responses:

Senator Blaylock asked Mr. Fergeson if a lien could be placed on an aircraft after a person left the state. Mr. Fergeson said it would depend on the other states laws as to whether a lien could be attached to the aircraft. A person could file a lien with the federal aviation administration and as long as it had not been released it would track the aircraft forever.

Closing by Sponsor:

Representative Fagg closed.

EXECUTIVE ACTION ON HB 357

Motion/Vote:

Senator Blaylock moved HB 357 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

HEARING ON HB 507Opening Statement by Sponsor:

Representative Sayles, District 61, told the Committee that HB 507 was requested by the Montana Officials Association, (MOA) because they wanted legislation dealing with assaults on their members. Rep. Sayles said HB 507 would limit the liability of a sports official and create a criminal offense of assault upon a sports official. The penalties for the crime would include a fine of \$1,000 or imprisonment not exceed 12 months or both.

Proponents' Testimony:

Bill Sprinkle, Montana High School Association, (MHSA) expressed support for HB 507 on behalf of the MOA and MHSA. Mr. Sprinkle said the concern is that without HB 507, attacks and assaults upon sports officials may worsen. Presently, the trend of serious attacks against sports officials is on the increase in Montana. Mr. Sprinkle told the Committee that HB 507 would send a message to the public that the behavior would not be tolerated. The MOA and the MHSA feels that attacks upon sports officials should be treated similar to attacks upon police officers. Mr. Sprinkle said the offenses need to be taken seriously because sports officials are vulnerable and visible. Mr. Sprinkle told the Committee that eight states have enacted similar legislation because the trends are disturbing. Mr. Sprinkle submitted an article from the National Referees Magazine. (Exhibit #1) Mr. Sprinkle said in the last ten years, Montana has had a litany of attacks against sports officials.

John Maloney, Montana Officials Association, supported HB 507. Mr. Maloney submitted a letter from Keith Ori. (Exhibit #2)

Russ Ritter told the Committee that he had officiated and coached games throughout the past 20 years. Mr. Ritter said attacks are occurring throughout the State of Montana. Officials are being intimidated, frightened and physical harm has come to a number of them. Mr. Ritter said HB 507 would help protect officials because they would not have to worry about attacks against them while officiating games. Mr. Ritter rose in support of HB 507.

Bill Fleiner, Montana Sheriffs and Peace Officers Association, told the Committee that HB 507 was a good piece of legislation. Mr. Fleiner said the legislation would help protect those people who officiate games with the intention of doing the right thing.

Don MacIntrye, an attorney and sports officials, told the Committee that section 1 of HB 507 was the most important piece of the bill, which deals with liability. Mr. MacIntrye submitted amendments. (Exhibit #3) Mr. MacIntrye asked the Committee to return to the language in the original bill, because HB 507 originally provided a limitation on liability for sports officials. Mr. MacIntrye said there has been a trend in the

United States where sports officials are being named in lawsuits if a player was injured during a contest. Mr. MacIntrye said the outcome of a game has nothing to do with the occurrence of an injury of a player, therefore it should not matter if the game was close for the sports official to have a different standard of negligence. Mr. MacIntrye also asked the Committee to look at the issue of whether a sports official should have immunity during those kinds of contests.

Opponents' Testimony:

Representative Russell, District 99, opposed HB 507 because there was no protection for students participating in sports when unfair officiating has occurred. Rep. Russell said there are remedies in the law to take care of situations that get out of control. Rep. Russell urged the Committee to kill HB 507 or amend the bill to give protection to our children involved in sports. Rep. Russell also stated that there is an element of racism in the State of Montana, especially in basketball.

Representative Gervais, District 9, opposed HB 507. Rep. Gervais told the Committee that if there was an infraction on a reservation the maximum fine would be \$150, but if a non-indian committed the same infraction the fine would be \$1,000. Therefore, HB 507 would be unfair to non-indians. Rep. Gervais asked the Committee to kill HB 507 and then come back in two years with a better proposal to deal with the separate jurisdictions in Montana. Rep. Gervais said HB 507 would also discourage international competitions.

Russell Hill, Montana Trial Lawyers Association, (MTLA), submitted an amendment. (Exhibit #4) Mr. Hill told the Committee that HB 507 was designed to protect officials from suit if a person sues for making a bad call. Mr. Hill told the Committee that the amendment addresses that situation. Mr. Hill told the Committee that HB 507 protects officials who negligently injures a player, therefore MTLA was opposed.

Questions From Committee Members and Responses:

Senator Rye asked Rep. Russell if violence against an official would be justified if the game was officiated in an unfair and racist manner. Rep. Russell told the Committee that she does not condone violence.

Senator Rye asked Mr. Sprinkle about disciplinary standards of the MHSA regarding unfair officiating. Mr. Sprinkle told the Committee that most schools select officials to officiate at their games. The school could remove the official if they felt the job was being done in an unfair manner. Mr. Sprinkle said the MOA would also hold a hearing if an officials was found to be officiating in racist manner. If the official belonged to the MOA and was found to be officiating in a racist manner the official could be sanctioned.

Senator Bartlett asked Rep. Sayles about section 1. Rep. Sayles told the Committee that section 1 came from an Iowa Statute. Iowa is one of the eight states that has adopted this type of legislation.

Senator Towe asked Rep. Sayles about deleting section 1. Rep. Sayles told the Committee that he would disagree with deleting section 1.

Senator Towe asked Rep. Sayles if the intent of HB 507 was to immunize referees who attack players. Rep. Sayles said that was not the intent of HB 507.

Senator Towe suggested inserting "immunity from any call or ruling properly made within the scope and course of officiating; unless the act or omission is will for or wanton misconduct, or intentionally done as part of a commission of a crime or for the purpose of intentionally affecting the outcome of the contest." Senator Towe said the officials then would be immune from suit or any ruling unless they intentionally attempted to influence the outcome of the contest.

Senator Blaylock asked Mr. Hill about MTLA's amendment. Mr. Hill said the amendment was designed to make sure that only liability, based on the outcome of the game being changed, was affected by HB 507.

Closing by Sponsor:

Rep. Sayles said he believes HB 507 is a worthwhile bill. Rep. Sayles said there is nothing in HB 507 that has anything to do with racism or unfair officiating. HB 507 would protect sport officials from acts caused by people.

HEARING ON HB 238

Opening Statement by Sponsor:

Representative Smith, District 48, said HB 238 by requested by the Department of Family Services, (DFS). HB 238 would allow inquiry into the financial resources of a parent or guardian during an investigation of an allegation of abuse or neglect.

Proponents' Testimony:

Ann Guilkey, Legal Counsel for the Department of Family Services, read from prepared testimony. (Exhibit #5)

Opponents' Testimony:

NONE

Questions From Committee Members and Responses:

Senator Towe asked Ms. Guilkey about the funding for HB 238. Ms. Guilkey said the funding source, which is the through the Social Security Act, would provide for home based services. The funding would not come out of the general fund, but would utilize a federal source.

Senator Towe asked Ms. Guilkey about inquiring into a persons financial resources. Ms. Guilkey said the DFS currently can inquire into financial resources once the child is adjudicated and the agency is given temporary custody. HB 238 would allow the DFS to ask a parent for financial information to find out if they are eligible for the services before going into the court to require agency intervention legally. Ms. Guilkey said the funding of a federal agency would help provide home based services to prevent the removal of a child.

Closing by Sponsor:

Rep. Smith said HB 238 would assist the DFS and its efficiency of service. HB 238 would encourage families to be involved and responsible for their children. HB 238 would also assist eligibility for federal assistance programs and reduce the funding of the DFS. Rep. Smith urged support for HB 238.

HEARING ON HB 142

Opening Statement by Sponsor:

Representative Anderson, HB 142, said HB 142 would raise the threshold limit between a misdemeanor and felony. Rep. Anderson told the Committee that currently the threshold limit is \$300, which was raised in the House to \$500. Rep. Anderson asked the Committee to amend HB 142 to raise the threshold limit to \$750.

Proponents' Testimony:

Beth Baker, Department of Justice, and the Montana County Attorneys Association on behalf of John Conner, told the Committee which crimes would be affected by HB 142. Criminal mischief, theft, failure to return a rented or leased personal property, unlawful use of a computer, unauthorized transaction of food stamps, issuing a bad checks, deceptive practices, forgery, and false claims to public entities. Ms. Baker told the Committee that the last time the threshold limit was changed was in 1983. Ms. Baker said HB 142 would affect a number of cases that come before the Montana Supreme Court. HB 142 would not affect felony charges for a burglar if the property was entered with the intent to burglarize. HB 142 would not effect property crimes involving domesticated or hoofed animals. Ms. Baker urged support for HB 142.

Craig Hoppe, Montana Magistrates Association, urged support for HB 142. Mr. Hoppe told the Committee that after a third or subsequent event the court would have to issue a jail sentence of

not less than 30 days and the fine would be raised to \$1,000.

Mike McGrath, Montana County Attorney Association, (MCAA), told the Committee that HB 142 was submitted at their request. Mr. McGrath gave an example of a problem under the current law. If a person rents a VCR and a couple tapes and then fails to return the property, under the current law, it would be a felony because the amount would exceed \$300. Mr. McGrath said that kind of activity should be treated as a misdemeanor. Mr. McGrath told the Committee that the MCAA supports the amendment to raise the threshold to \$750 because of inflation and the legislature would not have to continue raising the amount each session.

Opponents' Testimony:

NONE

Questions From Committee Members and Responses:

Senator Towe asked Rep. Anderson about prosecuting misdemeanor cases. Rep. Anderson told the Committee that city courts would more vigorously prosecute misdemeanor cases than would the district court. City Courts are much more vigorous in pursuing restitution. Therefore, there is a better chance of preventing misdemeanor crimes because the defendants are more diligently prosecuted.

Chair Yellowtail asked Rep. Anderson if he thought the House would accept his amendment. Rep. Anderson said he thought the House would accept his amendment. Rep. Anderson asked the Committee to raise the penalty to \$750 if the amendment was accepted because if the penalty was increased for the crime, then amount of the goods stolen could be recovered.

Closing by Sponsor:

Representative Anderson urged the Committee to support HB 142.

EXECUTIVE ACTION ON HB 142

Motion/Vote:

Senator Blaylock moved to amend HB 142. (Exhibit #6) The motion CARRIED with Senator Bartlett voting NO.

Motion/Vote:

Senator Blaylock moved HB 142 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 507

Motion:

Senator Towe moved to delete section 1 on HB 507.

Discussion:

Senator Towe told the Committee that officials already have liability insurance, therefore there is no reason for section 1. Senator Towe said the way HB 507 was worded it would make officials immune from suit if they attacked a player, which was not the intent of the bill.

Vote:

The motion to amend HB 507 CARRIED UNANIMOUSLY.

Discussion:

Senator Grosfield asked Senator Towe if HB 507 would be a misdemeanor or felony. Senator Towe said if the penalty is under 12 months it would be a misdemeanor.

Motion:

Senator Grosfield moved to amend HB 507 on page 2, line 12, after the word "exceed," strike "12" and insert "6."

Discussion:

Senator Rye told the Committee that he opposed the amendment. Senator Rye said we live in a society in which assaults to sports officials are more common with every passing year. Unruly behavior is more common and more acceptable. Senator Rye said the stiffer penalty would justify in getting the message out that this kind of behavior would not be tolerated.

Vote:

The motion to amend HB 507 CARRIED with Senator Rye voting NO.

Motion:

Senator Grosfield moved HB 507 BE CONCURRED IN.

Discussion:

Senator Towe said the penalty would be six months or \$500 if no penalty is given on a misdemeanor. The distinction between a misdemeanor and a felony is one year in the county jail or over one year in the Montana State Prison.

Chair Yellowtail told the Committee that he was disappointed that the House killed the Senate Bill regarding the enhanced penalty for an assault on a judge. Chair Yellowtail felt the House was inconsistent and suggested that the issues, dealing with both the

judges and sport officials, be brought back in two years to deal with them equally.

Senator Rye said told the Committee that assaults on sports officials are much more common than assaults on judges, and asked that HB 142 be passed.

Senator Towe told the Committee that HB 142 is limited to any attack on an official that takes places while on the scene of the contest. HB 142 would not affect an official once they left the scene of the contest.

Vote:

The Be Concurred In As Amended motion CARRIED with Chair Yellowtail voting NO.

EXECUTIVE ACTION ON HB 238

Motion/Vote:

Senator Towe moved HB 238 BE CONCURRED IN AS AMENDED. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 357

Motion:

Discussion:

Senator Towe asked the Committee to reconsider HB 357 in order to check on the bill. Senator Towe said the law as it was originally presented only affected airports, so airports would have a lien on any aircraft for service or storage. HB 357 would expand it so there would be a mechanics lien on anybody who does work on an aircraft, much like a mechanics lien. Senator Towe said airport liens might be covered already on a mechanics lien, because a mechanic lien is not limited to cars. Senator Towe said there are no provisions for closing on that lien and there is no law that provides for enforcing a mechanics lien, or a lien such as this. Senator Towe said HB 357 would be a giant expansion of our lien laws and feels that the bill should be checked into further.

Motion:

Senator Towe moved to RECONSIDER HB 357.

Discussion:

Chair Yellowtail suggested to hold the Committee report.

Motion:

Senator Towe WITHDREW his motion to reconsider HB 357.

EXECUTIVE ACTION ON HB 235

Motion:

Senator Towe moved to AMEND HB 235. (Exhibit #7)

Discussion:

Senator Towe explained the amendment.

Motion:

The motion to amend CARRIED UNANIMOUSLY.

Motion/Vote:

Senator Towe moved HB 235 BE CONCURRED IN AS AMENDED. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 562

Motion:

Senator Grosfield moved to amend HB 562. (Exhibit #8)

Discussion:

Senator Grosfield explained the amendment.

Senator Towe asked Valencia Lane about changing the word "minor." Ms. Lane said the word "minor" was changed to be consistent with the rest of the verbiage in HB 562.

Senator Towe asked Ms. Lane about "other intimate parts." Ms. Lane said the language is used in another section of law. "Other intimate parts" would be the stomach area.

Senator Blaylock asked Senator Grosfield if "breasts" applied to males and females. Senator Grosfield said yes.

Vote:

The motion to amend CARRIED UNANIMOUSLY.

Discussion:

Chair Yellowtail suggested defining the word "child."

Senator Towe asked Ms. Lane if the word "child" was defined elsewhere in the law. Ms. Lane said yes.

Senator Grosfield said he thought the word "child" was defined as anyone under the age of 18.

Chair Yellowtail told the Committee that the language should be amended into HB 562 to be certain that the definition is clearly defined.

Motion:

Chair Yellowtail moved to amend HB 562 on page 3, following line 11, insert, "For the purpose of this section, "child" means any person less than 16 years old.

Discussion:

Senator Rye asked Chair Yellowtail why "child" was being defined as any person less than 16 years of age. Chair Yellowtail said the definition would be consistent with other sections of HB 562.

Vote:

The motion to amend CARRIED UNANIMOUSLY.

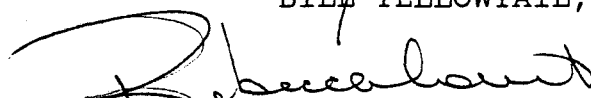
Motion/Vote:

Senator Harp moved HB 562 BE CONCURRED IN AS AMENDED. The motion CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 12:00 p.m.


BILL YELLOWTAIL, Chair


REBECCA COURT, Secretary

BY/rc

ROLL CALL

SENATE COMMITTEE

Judiciary

DATE 3-23-92

NAME	PRESENT	ABSENT	EXCUSED
Senator Yellowtail	X		
Senator Doherty	X		
Senator Brown	X		
Senator Crippen	X		
Senator Grosfield	X		
Senator Halligan			X
Senator Harp	X		
Senator Towe	X		
Senator Bartlett	X		
Senator Franklin	X		
Senator Blaylock	X		
Senator Rye	X		

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
March 24, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 142 (first reading copy -- white), respectfully report that House Bill No. 142 be amended as follows and as so amended be concurred in.

Signed: Wm Yellowtail
Senator William "Bill" Yellowtail, Chair

That such amendments read:

1. Title, line 5.

Strike: "\$500"

Insert: "\$750"

2. Title, line 7.

Following: "~~CRIMES,~~"

Insert: "INCREASING PENALTIES FOR THOSE CRIMES;"

3. Page 17, line 18.

Page 17, line 21.

Page 19, line 12.

Page 19, line 16.

Page 22, line 3.

Page 22, line 4.

Page 22, line 14.

Page 23, line 21.

Page 23, line 22.

Page 24, line 1.

Page 24, line 20.

Page 24, line 21.

Page 24, line 24.

Page 25, line 15.

Page 25, line 20.

Page 26, line 15.

Page 26, line 20.

Page 28, line 6.

Page 28, line 11.

Page 29, line 17.

Page 29, line 22.

Page 30, line 10.

Page 30, line 15.

Strike: "\$500"

Insert: "\$750"

M Amd. Coord.
Sec. of Senate

Doherty
Senator Carrying Bill

661234SC.San

4. Page 22, line 7.
Following: the first "~~THAN~~"
Insert: "not less than"
Following: "~~\$1,000~~"
Insert: "or more than \$750"

-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 23, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 235 (first reading copy -- blue), respectfully report that House Bill No. 235 be amended as follows and as so amended be concurred in.

Signed: Wm Yellowtail
Senator William "Bill" Yellowtail, Chair

That such amendments read:

1. Page 3, line 13.

Following: "(1)"

Strike: "The"

Insert: "Except as provided in [section 5], the"

-END-

513 Amd. Coord.
Sec. of Senate

Brown
Senator Carrying Bill

651601SC.San

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 23, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 238 (first reading copy -- blue), respectfully report that House Bill No. 238 be concurred in.

Signed: Wm Yellowtail
Senator William "Bill" Yellowtail, Chair

 Amd. Coord.

Sec. of Senate

Franklin
Senator Carrying Bill

651559SC.San

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 23, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 357 (first reading copy -- blue), respectfully report that House Bill No. 357 be concurred in.

Signed: Wm Yellowtail
Senator William "Bill" Yellowtail, Chair

APL
IN

Amd. Coord.
Sec. of Senate

Brown
Senator Carrying Bill

651600SC.San

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 24, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 507 (first reading copy -- blue), respectfully report that House Bill No. 507 be amended as follows and as so amended be concurred in.

Signed: Wm Yellowtail
Senator William "Bill" Yellowtail, Chair

That such amendments read:

1. Title, lines 7 and 8.

Following: "ACT" on line 7

Strike: remainder of line 7 through "AND" on line 8

2. Page 1, lines 12 through 21.

Strike: section 1 in its entirety

Renumber: subsequent sections

3. Page 2, line 12.

Following: "exceed"

Strike: "12"

Insert: "6"

4. Page 2, lines 14 through 17.

Strike: subsection (1) in its entirety

5. Page 2, line 18.

Strike: "(2)"

Following: "Section"

Strike: "2"

Insert: "1"

6. Page 2, line 20.

Strike: "2"

Insert: "1"

-END-

AM Amd. Coord.
Sec. of Senate

Rye
Senator Carrying Bill

661224SC.San

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 24, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 562 (first reading copy -- blue), respectfully report that House Bill No. 562 be amended as follows and as so amended be concurred in.

Signed: Wm Yellowtail
Senator William "Bill" Yellowtail, Chair

That such amendments read:

1. Page 2, line 6.

Strike: "minors"

Insert: "children"

2. Page 3.

Following: line 11

Insert: "(4) For the purposes of this section, "child" means any person less than 16 years old."

3. Page 3, line 22.

Following: "genitals"

Strike: "or"

Insert: ", breasts,"

4. Page 3, line 23.

Following: "area"

Insert: ", or other intimate parts"

-END-

AM
Amd. Coord.
Sec. of Senate

Rye
Senator Carrying Bill

661228SC.San

Players, fan convicted of roughing up umpires, football ref

FRANKSVILLE, Wis. — In three separate cases, players from Virginia and Florida and a fan from Illinois were convicted in 1992 of physically accosting officials. Specifics:

- Donald Ulrey, 50, and his son Scott, were found guilty Sept. 1 of various offenses following the assault of softball umpire Charles Musselman during a July 20, 1992, Roanoke, Va., rec league game. District Court Judge Julian Raney convicted the elder Ulrey of assault and of using abusive language. He was fined \$500. Scott Ulrey was convicted of one count of using abusive language and was fined \$100.

Musselman, 57, told *Referee* that a disputed first-inning call led to the ejection of a member of the Ulreys' team. "The pitcher (Donald Ulrey) then asked me if I had ejected one of their players. When I told him I had, he threw the ball at my feet and I ejected him. He then said, 'If I'm gone, I might as well get my money's worth.' The next thing I knew, I was surrounded" by seven or eight members of his team.

Musselman, a retired Marine Corps utilities chief, said he was punched by Donald Ulrey. "It was not a severe blow because I was able to roll with it. But it did hit my shoulder and face." Ulrey testified in court that he tripped over the umpire's foot and accidentally bumped into him.

Musselman said the players continued to verbally abuse him as he tried to leave the field and directed insults at his wife Sandra, the game's scorekeeper. "I've been around Marines for 20 years and I've never heard anything like that before. I don't know how I kept my cool," he said.

Musselman has worked rec league and women's college softball for 18 years. He also has worked baseball, basketball and football.

- In November in Pinellas County (Fla.) Criminal Court, Barry Carlson, 42, plead no contest to a misdemeanor-battery charge that stemmed from an Aug. 2, 1992, incident with baseball umpire Frank Cruz.

After a balk call against him, Carlson, a pitcher in an over-40 weekend tourney, threw a baseball at Cruz, striking him on the head. Cruz was taken to a local hospital, where he

was diagnosed as having a concussion and abrasions. Carlson later told *The Tampa Tribune-Times*: "I threw the ball, (but) wasn't throwing it at (Cruz). It was like a child throwing a toy in a fit of anger. It's an unfortunate thing that happened." Cruz could not be reached for comment.

Alan Roberson, deputy clerk for the Pinellas County Courthouse, told *Referee* that Carlson was fined \$150, placed on six months probation and ordered to pay to Cruz \$432 in restitution.

- Michael Billhorn, 41, of LaMoille, Ill., was convicted Sept. 17 of felony aggravated battery against Richard Thompson, 66, a football official. Billhorn was sentenced Nov. 13 to 24 months probation and 10 weekends in the Bureau County jail. He was fined \$500 plus court costs and was also ordered to pay restitution of \$244.

The Peoria, Ill., *Journal Star* reported that after Moille-Walnut High School's (MWHHS) 7-0 loss to Annawan on Oct. 25, Billhorn pushed Thompson to the ground, causing a back injury. Billhorn testified in court that he rushed onto the field to see his son, an MWHHS player, and accidentally pushed Thompson while fighting through the crowd.

Circuit Court Judge Jay Hanson told Billhorn his behavior set a bad example for children. "You used to play football. Your son is on the team. You grew up to become one of those belligerent, unsportsmanlike fans. You are sorry, and I'm glad, because you should be."

Referee was unable to reach Thompson for comment.

Small college football championship-game recaps

FRANKSVILLE, Wis. — Three NCAA lower-divisional football title games and two NAIA championship games were held following the 1992 regular season. Listed below are the scores of those games and the names, hometowns and the positions of the officials who worked. Each game: Six-man crew. Per-game fees: NCAA Div. I-AA, \$275 per official; Div. II, \$225; Div. III, \$175; NAIA, \$100.

NCAA Div. I-AA (Marshall 31, Youngstown St. 28) — R-Paul LaBenne, Shreveport, La.; U-Steve Storie, Wylie, Texas; L-Charles Clay, Dallas; LJ-John Ferrodin, Lake Charles, La.; FJ-Kirby Smith, Sulphur, La.; BJ-David Lovell, Shreveport. NCAA Div. II (Jacksonville St. 17, Pittsburg St. 13) — All Pa.: R-Jerome Miranda, Northampton; U-Stephen Keller, Dallastown; L-Joseph Greisser, Springfield; LJ-Donald Kahler, Bethlehem; FJ-Thomas Compton, Southampton; BJ-Joseph Donnelly, Philadelphia. NCAA Div. III (Wis.-La Crosse 16, Washington & Jefferson 12) — All Ohio: R-James Cameron, Pataskala; U-Sam Dudich, Akron; L-Ray Wood, Columbus; LJ-Jonathan Shelton, Gahanna; FJ-John Shelton, Columbus; BJ-Brian Spangler, Reynoldsburg.

NAIA Div. I (Central St. 19, Garner-Webb 16) — All W.Va.: R-George Pack, Pratt; U-Keith Barnett, Davisville; L-Rich Street, Arthurdale; LJ-Ron Christy, East Bank; FJ-Richard Messenger, Weston; BJ-Paul Vargo, Benwood. NAIA Div. II (U. of Findlay 26, Linfield College 13) — R-Jim Sprenger, Auburn, Wash.; U-Walt Wolf, Spokane, Wash.; L-Bob Flood, Salem, Ore.; LJ-Charles Czubin, Kent, Wash.; FJ-Bill Gaskins, Pullman, Wash.; BJ-Rob West, Lake Oswego, Ore.

Next month: Similar recaps of the 18 major college football bowls and all divisions of the NFL playoffs.

Davidson

(continued from p. 16)

suggested to a bearded batter that she might want to charge the mound and tackle Andrea, reported the *Altoona Herald-Mitchellville Index*. Andrea also questioned a catcher's interference call that sent an opposing batter to first base. "I never heard of that rule," she called to her father, who said, "I'll show you the rulebook."

Davidson told *Referee* the

game was "fun, strange and interesting" especially because Andrea was playing.

During the offseason, Davidson and his family moved to Littleton, Colo., from Altoona. He and Denise have been married for 12 years and have one other daughter, Amber. Davidson, 40, has been a regular member of the N.L. staff since 1983. During his career, he has worked two N.L. title series. Last year's World Series was his first.

148507

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 2

DATE 3-23-93

BILL NO. H B 507

Mr. John Maloney
District 11 Delegate
1301 Hollins
Helena, MT 59601

Dear John,

I apparently have been requested to appear before a committee during this legislature to testify upon the importance of passing the so called "referee protection bill". Due to my busy schedule I am unable to make the trip to Helena, so I will provide you and the legislators with an accounting of the most recent occurrence that will certainly support the need for this law.

During the 1993 State Class AA basketball tournament at Billings Metra Park, I was assigned to work the consolation game between Billings Senior and Capital High School. Sometime during the third quarter I made a call against a Capital player at the east end of the floor. The Capital student section was in that particular end-zone. The student section was particularly rowdy and did not agree with this particular call. During and just after making this call I was struck very hard in the back with an object which had been thrown from this student section. It hit me with such force that it knocked the wind out of me and nearly knocked me to the floor. I was left with a contusion the size of a golf ball in this area. It subsequently effected me during the remaining portions of the game and to this day creates a significant degree questioning whether or not officiating is worth it.

The Metra Park staff caught the perpetrator with the help of the cheerleaders from Capital High, however, they inadvertently forgot to get his name while throwing him out of the Metra. During the past two weeks I have been working with the Montana High School Association and Capital High School Activities Director, Mr. Jim Opitz, in an attempt to get this students name. As of this date, we do have a name, and upon further confirmation, charges of assault will be filed against this individual.

In summary, it is frightening to think that this type of behavior is slowly becoming justified in the eyes of some spectators. In this particular case if I had been hit in the head, it could of caused even more serious damage. These scenarios are becoming increasingly frequent and it is now time that the residents of this state become aware that this type of behavior is being seriously scrutinized by game management. With this bill I believe we have a tool which may in effect decrease the number of potentially serious incidents that occur statewide and return the game to the people and the kids who truly understand the meaning of sportsmanship.

Sincerely,

[Handwritten signature]

Amendments to HB 507
Third Reading Copy (Blue Copy)

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 3
DATE 3-23-93
FILE NO. HB507

1. Title, line 8.

Following: "OFFICIALS"

Insert: "BY CREATING IMMUNITY FROM SUIT"

2. Page 1, 13.

Following: "officials"

Insert: "-- immunity from suit"

3. Page 1, line 15.

Strike: "not liable"

Insert: "immune from suit"

4. Page 1, lines 16 through 19

Strike: "THAT" on line 16 through "misconduct" on line 19

Amendment to House Bill 507
Third Reading Bill (Blue Copy)

Requested by Russell B. Hill
For the Montana Trial Lawyers Association

Prepared by Russell B. Hill
March 23, 1993

1. Page 1, line 16.

Strike: "that is alleged to have"

Insert: "on the basis that it"

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 4
DATE 3-23-94
BILL NO. HB 507

DEPARTMENT OF FAMILY SERVICES



MARC RACICOT, GOVERNOR

STATE OF MONTANA

HANK HUDSON, DIRECTOR
JESSE MUNRO, DEPUTY DIRECTORPO BOX 8005
HELENA, MONTANA 59604 8005

March 22, 1993

DEPARTMENT OF FAMILY SERVICES TESTIMONY IN SUPPORT OF HB 238

Submitted by Ann Gilkey, Legal Counsel

This bill has two purposes. The first is to increase federal participation available to the Department of Family Services to provide services to our clients. This will be accomplished by allowing the department to inquire into the financial resources of a family for the purpose of determining the family's eligibility for federal emergency assistance programs. Examples of such emergency assistance may include support services delivered to the home of an abused or neglected child, or child at risk of being abused or neglected, in an attempt to eliminate the need for protective services, prevent the need for an out-of-home placement, or expedite the early return of the child to the family home. Substitute care on a temporary basis may also be provided with this funding source. Without the language requested in HB 238 and attached amendment, there will be no way to determine a family's eligibility for federally funded emergency assistance prior to court action requesting temporary custody of a youth.

The second purpose of HB 238 is to clean up conflicting language in the statutes. Last session the Department of Family Services requested legislation that bolstered the agency's ability to receive contributions from parents of youth who need to be removed from their homes. When a child is committed to the temporary custody of the department, the current statutes require the court to make a finding regarding a parent's ability to contribute to the cost of their child's out-of-home care, and order the parents to make a contribution as calculated by the Child Support Enforcement Guidelines. The CSED of SRS has the authority to collect the amount ordered by the court through its established process and turn the funds over to DFS to be used to abate the cost of that child's care.

The conflict arises in Section 41-3-202 and 41-3-401 which prohibit a social worker from inquiring into the financial resources of a family during an investigation of alleged child abuse or neglect, or prior to the adjudicatory hearing regarding temporary custody although another statute, 41-3-403(2)(f), allows the court to make a determination regarding the parent's ability to contribute to the cost of care during the earlier stages of state involvement with the family.

HB 238 simply removes the conflicting language, thereby clarifying that the social worker may inquire into the financial resources of a family to comply with the provisions of 41-3-406. This means that the department will be allowed to provide information to the court to assess a family's ability to contribute to the cost of their child's care.

The Department of Family Services urges your support of HB 238.

Amendments to House Bill No. 142
Third Reading Copy (BLUE)

For the Committee on Judiciary

Prepared by Valencia Lane
March 23, 1993

1. Title, line 5.

Strike: "\$500"

Insert: "\$750"

2. Title, line 7.

Following: "~~CRIMES~~;"

Insert: "INCREASING PENALTIES FOR THOSE CRIMES;"

3. Page 17, line 18.

Page 17, line 21.

Page 19, line 12.

Page 19, line 16.

Page 22, line 3.

Page 22, line 4.

Page 22, line 14.

Page 23, line 21.

Page 23, line 22.

Page 24, line 1.

Page 24, line 20.

Page 24, line 21.

Page 24, line 24.

Page 25, line 15.

Page 25, line 20.

Page 26, line 15.

Page 26, line 20.

Page 28, line 6.

Page 28, line 11.

Page 29, line 17.

Page 29, line 22.

Page 30, line 10.

Page 30, line 15.

Strike: "\$500"

Insert: "\$750"

4. Page 22, line 7.

Following: the first "~~THAN~~"

Insert: "not less than"

Following: "~~\$1,000~~"

Insert: "or more than \$750"

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 6

DATE 3-23-93

BILL NO. HB 142

Amendments to House Bill No. 235
Third Reading Copy

Requested by Senator Towe
For the Committee on Judiciary

Prepared by Valencia Lane
March 12, 1993

1. Page 3, line 13.

Following: "(1)"

Strike: "The"

Insert: "Except as provided in [section 5], the"

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 7
DATE 3-23-93
BILL NO. HB235

Amendments to House Bill No. 562
Third Reading Copy (BLUE)

Requested by Senator Grosfield
For the Committee on Judiciary

Prepared by Valencia Lane
March 10, 1993

1. Page 2, line 6.

Strike: "minors"

Insert: "children"

2. Page 3, line 22.

Following: "genitals"

Strike: "or"

Insert: ", breasts,"

3. Page 3, line 23.

Following: "area"

Insert: ", or other intimate parts"

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 8
DATE 3-23-93
FILE NO. HB562

DATE 3-23-93

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: H.B. 142 Anderson H.B. 238 Smith
H.B. 507 Sayler HB. 357 Fagg

Name	Representing	Bill No.	Check One Support Oppose	
Lex Smith	HD # 48	238	✓	
JOE ROBERTS	Mt. Cty. Htg's Assoc.	142	✓	
JOHN MALONEY	MONT OFFICIALS ASSN	507	✓	
Tim Phillips	Mont. Airport Management ASSN	357	✓	
Rick Griffith	Butte Airport	357	✓	
PAUL GRAHAM	MT AIRPORT Mgmt Assoc.	357	✓	
Mike Ferguson	DOT Aeronautics Div	357	✓	
Ted Mathis	GALLATIN AIRPORT AUTHORITY	357	✓	
CRAIG L. HORPE	MT MAGISTRATES ASSN	HB 147	✓	
Ann McKinney	DFS	HB 238	✓	
Geth Baker	Dept of Justice / MT County Attorneys	HB 142	✓	
Bob Edwards	H.R. 9	507		✓
MIKE McGRATH	CNTY ATTYS ASSOC	142	✓	
ANGELA TUNNELL	HD 99	507		✓
Bill Franklin	MHSA	507	✓	
DAVE BROWN	Rep. HD # 72	357	✓	

507 ✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3-23-93

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: HB 142, 238, 507, 357

Name	Representing	Bill No.	Check One	
			Support	Oppose
Don McIntyre	Self	507	✓	
Tom Eberly	MT Airport Management Assn	357	✓	
Russ Ritter	Self		✓	
Ron Ashabren	State Farm Ins.	507	✓	
Russell B Hill	Mont Trial Lawyers	507		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY