

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN BOB CLARK, on February 11, 1995, at 7:00 AM.

ROLL CALL

Members Present:

Rep. Robert C. Clark, Chairman (R)
Rep. Shiell Anderson, Vice Chairman (Majority) (R)
Rep. Diana E. Wyatt, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Ellen Bergman (R)
Rep. William E. Boharski (R)
Rep. Bill Carey (D)
Rep. Aubyn A. Curtiss (R)
Rep. Duane Grimes (R)
Rep. Joan Hurdle (D)
Rep. Deb Kottel (D)
Rep. Linda McCulloch (D)
Rep. Daniel W. McGee (R)
Rep. Brad Molnar (R)
Rep. Debbie Shea (D)
Rep. Liz Smith (R)
Rep. Loren L. Soft (R)
Rep. Bill Tash (R)
Rep. Cliff Trexler (R)

Members Excused: NONE

Members Absent: NONE

Staff Present: John MacMaster, Legislative Council
Joanne Gunderson, Committee Secretary

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

Committee Business Summary:

Executive Action: HB 41 DO PASS AS AMENDED
HB 84 DO PASS AS AMENDED
HB 117 DO PASS AS AMENDED
HB 150 DO PASS AS AMENDED
HB 157 DO PASS AS AMENDED
HB 214 DO PASS AS AMENDED
HB 60, HB 93, HB 258 TABLE
HB 271, HB 382, HB 388 TABLE
HB 332, HB 378 DO PASS

{Tape: 1; Side: A

REP. DANIEL MC GEE told the committee that the decision of the subcommittee which had met was to not combine HBs 157 and 214 and REP. DEB KOTTEL elaborated on the reasons. They further explained the content of each of the bills.

EXECUTIVE ACTION ON HB 157

Motion: REP. SHIELL ANDERSON MOVED HB 157 DO PASS.

Motion: REP. MC GEE MOVED TO AMEND HB 157. EXHIBIT 1

Discussion: REP. KOTTEL explained the amendments.

REP. BRAD MOLNAR asked to segregate out the first amendment which would strike 45-5-505, MCA.

REP. KOTTEL explained the reasons for this amendment were to take victimless crimes out of the lifetime registration requirement.

REP. MOLNAR and REP. KOTTEL continued to debate the first amendment.

John MacMaster asked for clarification on amendments 2 - 6 by striking the word, "sexual," and other areas in the bill where it needed to be struck for consistency. There was additional committee discussion concerning the amendments.

Motion: REP. KOTTEL MADE A SUBSTITUTE MOTION TO CONSIDER AMENDMENTS 2 - 13 WITH THE UNDERSTANDING THAT LANGUAGE AND TECHNICAL CHANGES COULD BE MADE TO MAKE THE TWO BILLS SYNONYMOUS.

Discussion: Mr. MacMaster questioned taking "sexual" out if the intent of the bill was to have only sexual offenders registered and REP. KOTTEL explained the thinking behind it.

REP. MC GEE asked what happens when parallel bills are passed and Mr. MacMaster explained the codification and merging process. He explained how and why he did not believe it would work on these two bills if one did not pass. He recommended writing a coordinating clause in one of the bills. He felt it was dangerous to count on them both passing and then to merge them.

Mr. MacMaster said this bill either should cover sexual offenders only or cover all offenders. He confirmed that HB 214 would cover both violent and sex offenders. He said that if they removed "sexual" out of this bill and the other bill didn't pass, this would cover all offenders. If this bill did not pass, the other would cover sexual and violent offenders. If both passed, it wouldn't matter if the other bill said sexual as well as violent and this one did also.

Motion/Vote: REP. KOTTEL MADE A SUBSTITUTE MOTION TO MOVE AMENDMENTS 7, 8, 11 AND 12 FOR HB 157. The motion carried unanimously.

Motion: REP. KOTTEL MOVED AMENDMENTS 2, 3, 4, 5, 6, 9, 10 AND 13 CONCEPTUALLY BE CHANGED IN ANY WAY THAT WOULD COORDINATE HB 157 WITH THE LANGUAGE OF HB 214 WITH DIRECTIONS FOR A CODIFICATION INSTRUCTION.

Motion: REP. MC GEE MADE A SUBSTITUTE MOTION TO STRIKE THE WORD, "SEXUAL," WHERE IT APPEARS IN THE BILL BEFORE "OFFENDER."

Discussion: REP. WILLIAM BOHARSKI offered the suggestion to just add all sponsors to one bill, make one bill and clean it up and pass it out of the committee.

REP. KOTTEL had no objection to doing that but expressed the thinking of the Department of Corrections and Human Services (DCHS) in handling it this way. It was a political decision to sever the two bills in case there were objections to lifetime registration of violent offenders. She thought they should be merged because she felt each one was just as strong as the other.

REP. BOHARSKI felt both would pass and one would be easier to deal with.

REP. MOLNAR felt they should pass both bills unamended thinking they would be codified if they both passed. One bill was very narrow in scope. The one which was broad might be challenged by a judge and he wanted each to go on their own merit.

REP. MC GEE recounted the subcommittee discussion and the decision to keep two bills.

REP. BOHARSKI asked what the worry was about the bills not passing or being challenged.

Mr. MacMaster described the problems with the bills as they stood and recommended the amendments necessary to solve those problems. He offered further options for handling the two bills during the process.

REP. MC GEE withdrew his substitute amendment.

REP. KOTTEL withdrew her amendment.

Motion/Vote: REP. KOTTEL MOVED TO STRIKE 45-5-505, MCA. The motion failed 6 - 13, by roll call vote.

Motion: REP. KOTTEL MOVED HB 157 DO PASS AS AMENDED. The motion carried unanimously.

Discussion: REP. BOHARSKI said that, in speaking to some judges, he had determined that they wanted to make sure that the court had those offenders and since there is no cure for them, to change all of the sentences.

REP. KOTTEL said these were not only lifetime registrations but also lifetime sentences and pointed out the portions which answered his concern.

REP. BOHARSKI described his concern in more detail and asked how the process would work to alleviate those concerns and the sponsor clarified that process. They continued to discuss the wording of the bill and clarified its intent and result.

Mr. MacMaster asked if the sponsor's intent in amendments 11 and 12, dealing with the penalty provision, was to make the bills read the same. If that was the intent, there were conflicts. The sponsor desired to deal with that in HB 214 amendments.

EXECUTIVE ACTION ON HB 214

Motion: REP. KOTTEL MOVED HB 214 DO PASS.

Motion: REP. KOTTEL MOVED HB 214 BE AMENDED ACCORDING TO ITEMS 4 THROUGH 9 OF EXHIBIT 2.

Discussion: REP. KOTTEL described the reason for these amendments to deal with the immunity provision to make it parallel to HB 157.

Vote: The motion carried unanimously.

Motion: REP. KOTTEL MOVED TO AMEND HB 214, ITEMS 1 THROUGH 3 OF EXHIBIT 2.

Discussion: REP. KOTTEL explained the amendments.

REP. SHIELL ANDERSON asked why the new language was being struck on lines 4 through 6 on page 2.

REP. KOTTEL said it was designed to match HB 157 in saying that police officers are not allowed on their own discretion to release the information. The amendment would make this bill parallel to HB 157.

REP. MC GEE pointed out that page 5, line 15 included a reference to 45-5-505, MCA which caused the bills to conflict.

Motion/Vote: REP. KOTTEL MADE A SUBSTITUTE MOTION TO MOVE AMENDMENTS 1 THROUGH 3 AND ON PAGE 5, LINE 15 TO INCLUDE 45-5-505, MCA. The motion carried unanimously.

Motion/Vote: REP. MC GEE MOVED HB 214 DO PASS AS AMENDED. The motion carried 17 - 1, REP. DIANA WYATT voted no.

REP. BOHARSKI and Mr. MacMaster discussed the committee's intent in handling the two separate bills.

Motion: REP. WYATT MOVED TO RECESS.

The meeting was recessed at 8:00 AM.

CHAIRMAN BOB CLARK reconvened the meeting at 2:30 PM.

All members and staff were present except REP. CLIFF TREXLER, who was excused.

REP. LOREN SOFT described the results of the subcommittee meetings which were held on the human services bills which had come before this committee.

EXECUTIVE ACTION ON HB 60

Motion/Vote: REP. SOFT MOVED TO TABLE HB 60. The motion carried unanimously 14 - 0. REP. CLIFF TREXLER voted by proxy. REPS. GRIMES, BOHARSKI, SMITH and AHNER were absent at the time of the vote.

Information: EXHIBIT 3 was submitted as further information for HB 60.

EXECUTIVE ACTION ON HB 41

Motion: REP. MC GEE MOVED HB 41 DO PASS.

Discussion: REP. SOFT talked the committee through the amendments. He also mentioned the members of the departments and advocacy groups who worked together on the amendments. He said it contained compromise language.

Motion: REP. SOFT MOVED TO AMEND HB 41. EXHIBIT 4

Discussion: REP. TASH said the language referring to involuntary administration of medication to a patient in a mental hospital was exactly the same as what he was asked to carry by the County Attorneys' Association. He asked if the amendment for subsection 2, on page 1 of the amendments was standard language.

{Tape: 1; Side: B; Comments: REP. CLIFF TREXLER voted by proxy on all bills during this meeting.}

Mr. MacMaster said these amendments amend existing code sections. He explained why the code sections were referenced through the amendments.

REP. LIZ SMITH had reviewed the amendments and it appeared to have the balance of giving authority to the medical director and through that process giving opportunity for review by an advocacy group. There were enough checks and balances to make it healthy for everyone.

Vote: The motion carried unanimously.

Motion: REP. CHRIS AHNER MOVED HB 41 DO PASS AS AMENDED.

Discussion: REP. TASH said his notes indicated the need for a fiscal note. The impact of the amendment on the fiscal note was discussed.

CHAIRMAN CLARK requested, without objection from the committee for Dan Anderson, DCHS, to address the committee on the fiscal note with the amendments.

Mr. Anderson described it as a moot issue and why.

Vote: The motion carried unanimously.

EXECUTIVE ACTION ON HB 93

Motion: REP. SOFT MOVED HB 93 DO PASS.

Discussion: REP. SOFT discussed the proposed amendments and a change of intent for the bill to reach consensus.

Mr. MacMaster read the proposed statement of intent. There was committee discussion on the proposal.

REP. ANDERSON said he did not like the bill. He said that the last legislature set up vacancy savings and as soon as positions became vacant the departments seemed to rush to fill them. He believed that this bill would have the effect of filling the four positions with treatment personnel. He had a problem with the bill setting up a category of people mentally competent to stand trial, but because they were severely mentally retarded (which he did not think they could be and stand trial), they would be placed at Warm Springs. He said this is becoming a society of victims and people are not being held responsible for their crimes, it is believed that everybody can be rehabilitated. The success rate of the sex offender treatment programs is marginal. He felt they would put a lot of money into treating people who had stood trial, were guilty of a crime and, in his opinion, should be sent to the state prison where a sex offender program existed.

Motion/Vote: REP. ANDERSON MOVED TO TABLE HB 93. The motion carried 16 - 3, REPS. SMITH, KOTTEL, and SOFT voted no.

EXECUTIVE ACTION ON HB 84

Motion: REP. SOFT MOVED HB 84 DO PASS.

Motion: REP. SOFT MOVED TO AMEND HB 84. EXHIBIT 5

Discussion: REP. SMITH accepted the amendments and described that her interpretation of them was to not leave the entire responsibility for placement on the director of the department.

REP. SOFT said the intent was to be sure that the director would take into account the recommendations from the treatment team in making placement decisions.

REP. JOAN HURDLE remembered discussion about transfer of a patient for refusal of treatment and REP. SOFT said that did not come up in subcommittee discussions.

REP. BOHARSKI asked where the final responsibility rested.

REP. SOFT said the evaluation and recommendations of the treatment team would be taken into account but ultimately the director still would have the authority to do what he needed to do.

REP. BOHARSKI asked if the word, "institution," on line 22 had been changed to "facility." It had been.

Vote: The motion carried unanimously.

Motion/Vote: REP. BOHARSKI MOVED HB 84 DO PASS AS AMENDED. The motion carried unanimously.

{Tape: 1; Side: b; Approx. Counter: 25.4; Comments: REP. DEBBIE SHEA voted by proxy on all following bills.}

EXECUTIVE ACTION ON HB 117

Motion: REP. ANDERSON MOVED HB 117 DO PASS.

Motion: REP. SMITH MOVED HB 117 BE AMENDED. EXHIBIT 6

Discussion: REP. MOLNAR believed that though they were reluctant to do so, the court could do what these amendments provided now. He did not know what would be accomplished.

REP. DUANE GRIMES said his initial reaction was the same and that it looked to him as if they were trying to prevent people from avoiding prosecution by saying they are unfit to proceed and giving them a way to protract out the whole issue. He asked if Mr. Dan Anderson, without objection from the committee, could respond to the possibility that the amendment would nullify the purpose of the bill.

Mr. Anderson described recent situations like this. He said the original bill's intent was to provide a statutory mechanism to do that. However, after reviewing the bill as originally drafted, the Board of Visitors said there was also a constitutional issue. He agreed that the language of the amendment made it more cumbersome, it would overcome the problem by putting in the safeguards that the U. S. Supreme Court has required.

REP. ANDERSON asked if he was saying that he knew for sure that as it stood it was unconstitutional or was it a preemptive strike because they thought there might be a problem.

Mr. Anderson said it was probably the latter, they didn't know for sure that it was unconstitutional but there was a Supreme Court ruling from a similar situation that that level of proof is required. That is what prompted the language.

REP. GRIMES said, "In other words, Mr. Anderson, what we've done is we've brought finality to this process and at least addressing it, it's just a longer finality than what we had before."

Mr. Anderson said that was exactly right. It would make one more hoop to jump through, but they could get the job done.

REP. MOLNAR was confused as to how it differed from what they could currently do. There was committee discussion which settled the issue for him.

Vote: The motion to amend carried unanimously.

Motion/Vote: **REP. AHNER MOVED HB 117 DO PASS AS AMENDED.** The motion carried unanimously.

EXECUTIVE ACTION ON HB 150

Motion: **REP. WYATT MOVED HB 150 DO PASS.**

Discussion: **Mr. MacMaster** read and explained the proposed amendments to the committee. The amendments began on page 1, line 21 and line 23 dealing with the makeup of the placement committee, the number to be involved and specifically named individuals. Also it would insert on page 2, line 22 after "department" "at least semiannually."

Motion: **REP. KOTTEL MOVED THE AMENDMENTS TO HB 150.**

Discussion: **REP. AUBYN CURTISS** asked if it was always appropriate that a public defender would be a part of that committee. The answer was inaudible.

REP. BOHARSKI asked why the semi-annual requirement on page 2.

REP. SOFT said it had been left too open-ended and this was added to require regular reporting.

REP. BOHARSKI said that the current law didn't come as a recommendation in the bill.

REP. SOFT said that was true that this was current law.

REP. BOHARSKI asked if there was a cost for the Youth Placement Committee meeting.

REP. SOFT replied that they were all volunteers.

REP. BOHARSKI asked how many youths would be reviewed at these meetings and how many were attached to each committee. He wanted to know if it changed frequently or infrequently. He was attempting to determine whether semiannual reporting was appropriate.

REP. SOFT answered that the committees would meet monthly to review the cases coming before them. After the placement was made, the review would make sure the placement was appropriate.

REP. BOHARSKI wanted to know if the question about the makeup of the committee discussed previously had been addressed. The concern was that the committee would be weighted by members of the department.

REP. SOFT said amendments to address that would be submitted later.

REP. MOLNAR asked if they were going to start paying for a public defender to attend the meetings and he wanted to know who would pay them. He did not know what purpose they would serve at the meeting.

REP. SOFT did not recall that the subcommittee moved to add a public defender. He believed that was to be struck from the first amendment.

Vote: The motion to amend carried unanimously.

Discussion: REP. BOHARSKI asked if there was a committee for each of the youths in a separate individual community or was there a standard community meeting on a regular basis.

REP. SOFT said there was a standard committee which would meet as needed to consider those youths coming up for placement.

REP. BOHARSKI asked who was added to the list for the committee.

CHAIRMAN CLARK answered that they had added parent or guardian and a service provider.

REP. BOHARSKI asked if the committee is a standing committee. He asked if the parent or guardian would be a parent or guardian of a specific youth and if so how would it apply to another youth down the line.

REP. SOFT said it was not a parent of a youth being considered, but there was to be a representative from the community to sit on the committee. He believed that a parent of a youth being considered for placement would never sit on that committee.

REP. MOLNAR asked why the parent of the youth being considered could not be on it. With the current stand on confidentiality, it should be the parent of the child.

REP. SOFT said he stood corrected on that.

REP. BILL CAREY said the administrator of juvenile corrections had pointed out that in some cases the parent of the youth may not be appropriate.

REP. BOHARSKI asked, "What if the child wants to be on there?"

REP. MOLNAR did not believe they would be barred from the meeting.

REP. SMITH had comments about the parental status in the makeup of such a committee. She agreed with the direction of the committee on this issue.

REP. HURDLE said her experience was that it often has a beneficial effect to include the youth at the meeting.

Discussion: REPS. MOLNAR, BOHARSKI and CHAIRMAN CLARK voiced views that the permissive language of the bill would allow for that possibility.

Motion: REP. HURDLE MOVED TO ADD THE WORD, "YOUTH," TO THE LIST.

Discussion: REP. BOHARSKI suggested language that would say, "the youth and/or the parents involved, at their request may attend." So they would not necessarily be counted as members of the committee and it would preclude someone from excluding them.

REP. HURDLE felt it was good procedure to have the participation of the parent and the child.

REP. MOLNAR said the youths are often in shelter care as opposed to detention centers. Those are not locked facilities and he felt if they knew they were going to therapeutic foster care, they would wait and go. On the other hand, if they thought placement would be to a treatment center or Pine Hills, they would walk out. He thought that was why youths are not at the placement committee meetings.

REP. SOFT said the bill was trying to outline the committee itself. He thought that it was understood that parents and youths are involved in the process and did not know if they needed to be included in the list.

REP. KOTTEL said that if it is required rather than permissive, the youth would have to be transported or the committee members would have to be transported to the facility.

REP. AHNER suggested that they might not always want the parent present nor should the child always be present.

Vote: The motion failed 2 - 17, REPS. HURDLE and KOTTEL voted aye.

Motion/Vote: REP. KOTTEL MOVED TO AMEND AT LINES 16 AND 17 ON PAGE 2 TO STRIKE "AT MOUNTAIN" ON LINE 16 THROUGH "SCHOOL" ON LINE 17 AND INSERT "AT A STATE YOUTH CORRECTIONAL FACILITY." The motion carried unanimously.

Motion: REP. SOFT MOVED TO AMEND HB 150. EXHIBIT 7

{Tape: 2; Side: A}

Discussion: Mr. MacMaster explained the amendments and clarified them for REP. BOHARSKI.

REP. BOHARSKI asked if it was appropriate and functioning properly for the court to turn the jurisdiction of the youth over to the department for placement and that they could override anything anyone else chose to do.

REP. MOLNAR said it is working, however, some judges don't like it. Judges can do direct placements but can't mandate the expenditure of funds from the Department of Family Services (DFS). One judge testified that he had sentenced one youth to Mountain View 50 times but she was not placed there until the 50th time.

This raised a concern for him on lines 15 and 16 on page 3 which was said to be the language which would allow the judge to make the placement. A recommendation is not a placement, he said, and he thought it should read, "the youth placement committee shall submit a final copy of the placement of the youth to the appropriate youth court." He went on to explain his reasons and then it was pointed out that was included in the amendments being considered.

REP. AHNER said her understanding of the intent was to obtain plans to be submitted to the judge, the judge would choose the plan and still decide what the youth would do before being sent back to the department. Her remaining concern was that they might have a youth who would need more time to finish a certain program and someone would determine the youth had to be moved out

of the facility without consideration of those factors. Members of the committee pointed out that situation was covered by the superintendent having the final say when the youth would be discharged.

REP. BOHARSKI asked if his understanding was correct that the judge would sentence the youth to DFS and then "washes his hands of the thing," goes through the committee recommendations and is notified of the final placement, and then release of the youth is made by the superintendent of the facility. This would put the judge out of the loop except for notification of a change in placement or of discharge after sentencing. Members of the committee affirmed his understanding.

Vote: The amendments motion carried unanimously.

Discussion: **REP. BOHARSKI** wanted to know if the judge was notified before the youth was released. Members of the committee said no. Then he asked if the judge should not be notified before the youth was released.

REP. MOLNAR said he thought it was covered in one or two of the other bills. It seemed to be a hit or miss situation.

REP. HURDLE felt it could be easily added into the bill at the place where the superintendent would be given final responsibility for the discharge decision.

Motion: **REP. MOLNAR MOVED TO AMEND BY INSERTING "THE YOUTH COURT SHALL BE NOTIFIED OF THE FINAL APPROVED PLACEMENT OR CHANGE OF PLACEMENT FOR THE YOUTH."**

Discussion: **REP. HURDLE** suggested eliminating the word, "final," from the amendment. **Mr. MacMaster** recommended striking the words, "final approved."

Motion/Vote: **REP. MC GEE MOVED A SUBSTITUTE AMENDMENT TO THAT EFFECT.** The motion carried unanimously.

Motion: **REP. CAREY MOVED HB 150 DO PASS AS AMENDED.**

Discussion: **REP. MC GEE** expressed his concern that the authority would entirely lie with the department in that the department would choose the committee, listen to the committee, or not listen to the committee, then it would do what it wanted to anyway.

REP. AHNER said, "They have the authority as it is now. The judge just sends them to the department and the department decides. This way the judge is notified and has a little more control."

REP. SMITH had some of the same concerns. Though she did not believe the committee was comfortable with it, she felt they

needed to trust someone to make a decision. She felt they needed to allow the departments to manage the programs.

REP. BOHARSKI asked if the concern about "stacking" the placement committee with department members had been taken care of. The committee members replied that it had. He further said he remembered hearing comments from a judge who said they had found out "three weeks later that this child was released back into the community." He asked if they should put some sort of time constraint on when the judge is notified. "If it is not put in statute, it never seems to get done," he stated.

REP. SMITH recalled that was already in statute but could not say exactly where.

REP. BOHARSKI said it was not clear in this statute. The committee members had various comments on the suggestion.

Motion: **REP. MOLNAR MOVED TO AMEND PAGE 3, LINES 15 AND 16 THAT THEY NOTIFY UPON RELEASE.**

Discussion: The committee discussed various lengths of time for notification as well as whether it would be prior to or after release.

Mr. MacMaster proposed the following language:

"The youth court must be notified of the placement for, and of any subsequent change of placement of, the youth within 72 hours after placement is made."

Motion/Vote: **REP. BOHARSKI MADE A SUBSTITUTE MOTION TO AMEND ACCORDING TO THE LANGUAGE ABOVE. The motion carried unanimously.**

Motion/Vote: **REP. WYATT MOVED HB 150 DO PASS AS AMENDED. The motion carried 17 - 0, REPS. SHEA and TREXLER voted by proxy and REPS. GRIMES and SMITH were absent.**

CHAIRMAN CLARK relinquished the chair to **VICE CHAIR ANDERSON**.

EXECUTIVE ACTION ON HB 332

Motion: **REP. CLARK MOVED HB 332 DO PASS.**

Discussion: **REP. BOHARSKI** asked, "The intent of what you are trying to do is to make sure that, I presume, if there is some sort of screw up in the federal statutes, you want to make sure that someone is not that somehow convicted of some sort of crime under the fed's free school zones act."

REP. CLARK said that was exactly what they were trying to do. They were trying to prevent the honest, law abiding gun owners in the state from getting taken up into that federal law.

Vote: The motion carried unanimously.

CHAIRMAN CLARK resumed the chair.

EXECUTIVE ACTION ON HB 382

Motion: REP. CAREY MOVED HB 382 DO PASS.

Discussion: REP. BOHARSKI, Mr. MacMaster and the members of the committee discussed proposed amendments and the codification, the title adjustments and modification.

Motion/Vote: REP. BOHARSKI MOVED THE AMENDMENTS. The motion carried unanimously.

Motion: REP. ANDERSON MOVED HB 382 DO PASS AS AMENDED.

Discussion: REP. GRIMES was concerned about the definition of a sidewalk.

REP. MC GEE said sidewalks in the common language can be constructed from a variety of materials. He was concerned about the liability issue in the bill for individuals who are responsible for sidewalks adjacent to their property.

REP. KOTTEL did not like the bill because most municipalities can charge back to the person who has the property adjacent to the sidewalk.

REP. MOLNAR asked if the bill would actually fix a problem and if this would leave determination of liability up to the interpretation of the court when someone stumbled on a sidewalk.

REP. GRIMES recalled that the testimony was that currently anything is fair game. The bill would add some definition, although they still may be liable particularly if they didn't make the repairs after notification. It looked to him as if there were downsides with not having the legislation and downsides with having it and the decision had to be which was worse.

REP. HURDLE referred to the claims which were presented as exhibits during the hearing and asked if the purpose of the bill was to reduce the numbers of claims.

Motion: REP. MOLNAR MOVED A CONCEPTUAL AMENDMENT UNDER SECTION 1, LINE 14, "A CITY OR TOWN IS NOT LIABLE FOR NEGLIGENT INSTALLATION OF OR MAINTENANCE FOR ANY DEFECT IN THE SURFACE OF A SIDEWALK. A CITY OR TOWN IS NOT LIABLE FOR FAILURE TO REPAIR A DEFECT OR UNSAFE CONDITION OF A SIDEWALK UNLESS THE CITY OR TOWN HAS KNOWLEDGE OF THE DEFECT OR UNSAFE CONDITION AS A RESULT OF ITS OWN INSPECTION."

Discussion: REP. GRIMES asked what it would do to have this in law to help with the claims.

CHAIRMAN CLARK explained the amendments previously passed and the committee discussed the amendments currently being considered.

Motion/Vote: REP. ANDERSON MOVED TO TABLE HB 382. The motion carried, 17 - 2, REPS. GRIMES and SHEA voted no.

{Tape: 2; Side: B}

EXECUTIVE ACTION ON HB 258

Motion: REP. BOHARSKI MOVED HB 258 DO PASS.

Discussion: REP. KOTTEL asked if the gun free school bill included what was proposed in this bill.

CHAIRMAN CLARK said that only dealt with firearms and this bill dealt with all weapons.

It was discussed that the sponsor had proposed two sets of amendments and these were briefly considered.

REP. MOLNAR remembered stating that from the law all weapons are currently covered. The rest of the bill addressed parents as being responsible for the acts of their children and he said that is already a part of law.

Motion/Vote: REP. MOLNAR MOVED TO TABLE HB 258. The motion carried 11 - 8, by roll call vote.

EXECUTIVE ACTION ON HB 271

Motion: REP. WYATT MOVED HB 271 DO PASS.

Motion: REP. LINDA MC CULLOCH MOVED A CONCEPTUAL AMENDMENT TO ORDER PREPAYMENT OF THE FILING FEES ON PAGE 1, LINE 14.

Discussion: REP. KOTTEL said that in dissolution proceedings, there is a two-step filing fee, one for the petition and another to record the order of final dissolution when granted.

There was discussion about this bill and its possible connection with another bill passed on the floor of the House and it was determined that the two did not connect.

Mr. MacMaster proposed the wording of the amendment and described it to the committee. It would begin on line 14, page 1 after the word, "petition," to insert "together with the fee for recording the dissolution order."

Vote: The motion carried unanimously.

Discussion: Mr. MacMaster reminded the committee that in previous action there had been an amendment added to the bill on page 2, line 14 regarding making copies of the petitions available to the parties in the dissolution.

REP. GRIMES said he did not want to be a part of making divorce any easier.

Motion/Vote: REP. GRIMES MOVED HB 271 DO NOT PASS AS AMENDED.

Discussion: REP. MC CULLOCH commented that she also did not want to make divorce easier, but had not been convinced that going before a judge or appearing in court helped to change their minds. She firmly believed that courts should not be tied up with actions like this.

REP. AHNER shared testimony of a judge refusing to grant a divorce, ordering counseling and the marriage being preserved. Had it been handled as this bill proposed, the divorce would have occurred.

REP. KOTTEL felt that it is appropriate to go before the judge in contested divorce cases, but she reported she had seen thousands of uncontested defaulted divorce situations and felt this bill covered those.

REP. SOFT expressed why he would oppose the bill.

REP. MC CULLOCH pointed out that there was a provision in the bill for those who want a court hearing. It just would provide for the case where the parties and the judge saw no need for a hearing.

REP. MC GEE told why he would vote against the bill.

REP. KOTTEL said that legal services in Great Falls has an 18-month waiting list to process defaulted divorces for poor people. She said this bill was drafted with the intent of allowing legal clinics to process the papers without having an attorney to prove it up at a cost of \$250.

REP. AHNER adamantly opposed divorce and entering into them lightly. She acknowledged that there are people who will divorce in any case, but did not think it should be made so easy.

REP. GRIMES said though he could sympathize with some of the problems, he remembered the testimony of the young man from the university who said the reasons for some of those marriages was to take advantage of student loans. He felt that any move to weaken or hasten the process was something he could not agree with.

REP. TASH was moved by the testimonies especially about the marriages formed to accommodate student loans, but was more moved by the testimony that there is an oath made at the time of the marriage and did not think there should be anything less to dissolve a marriage. For that reason he was very much opposed to it and thought it was a poor piece of legislation.

Motion/Vote: REP. TASH MOVED TO TABLE HB 271. The motion carried 13 - 6 by roll call vote.

EXECUTIVE ACTION ON HB 388

Discussion: REP. BOHARSKI felt that this would be a divisive bill and that everyone had already decided how they would vote. In the interests of the committee and the time needed to discuss other legislation, he believed it would be best to table the bill. No one disagreed with him.

Motion/Vote: REP. BOHARSKI MOVED TO TABLE HB 388. The motion carried 13 - 6 by roll call vote.

{Tape: 2; Side: B; Approx. Counter: 32.0}

EXECUTIVE ACTION ON HB 378

Motion: REP. AHNER MOVED HB 378 DO PASS.

Motion: REP. KOTTEL MOVED TO AMEND BY STRIKING LINE 28, 29 AND 30 ON PAGE 2 AND LINES 1 AND 2 ON PAGE 3.

Discussion: REP. MC GEE asked about the status of SEN. LYNCH'S bill which was called a "two-strikes-you-are-out" bill.

REP. SMITH said the bill was progressing through the system.

REP. MC GEE conferred with REP. BOHARSKI about how the amendments and the bill would affect the ones he was presenting. REP. BOHARSKI preferred to leave this bill unamended.

REP. TASH agreed that the bill should be passed out of committee without amendments. He felt that with the fiscal note, it would go to the Appropriations Committee where it would be fine tuned where necessary.

REP. ANDERSON asked if this bill allowed the jury to suggest a sentence to the judge. If the judge would accept the suggestion, the person would have to spend the entire length of that sentence without [time off for] good behavior or any other reason.

REP. TASH understood from the bill and the fiscal note the long range planning was to staff a closed custody unit and this measure would require a large outlay of funds.

REP. KOTTEL asked if **Mr. MacMaster** read the way it was drafted to be a single clause in which it said that the court could not defer a suspended sentence only if the court took the jury's recommended sentence or as two clauses under which the court could ask the jury to recommend a sentence and the court then would not defer or suspend any part of the sentence and eliminate "good time."

Mr. MacMaster said he did not think it mattered whether the jury recommended the sentence or not.

REP. KOTTEL asked the committee to look at the fiscal note and consider the impact of the passage of the bill in constructing an 80-bed closed custody housing unit and the cost to maintain the incarceration of every offender. She wondered about the mandate for this covering every offender.

REP. WYATT said she liked the bill, but it had a very significant long-term financial impact. In the last two sessions of the legislature, they had dealt with these issues and always looked at the financial impact knowing the state did not have the money to do some of those things. She felt truth in sentencing was appropriate, but that was not appropriate to spend the unknown amount of money in that direction with this bill. She came to the conclusion it was a good bill for which they did not have the money.

REP. GRIMES asked if it would go to appropriations and that question was answered in the affirmative. For the purposes of coordination with other bills, he felt that all of them would be held and acted on together in that committee.

REP. MC GEE felt there would be a nondetermined deterrent effect when it "hit the streets" and he felt that was a factor to consider.

REP. MOLNAR echoed the previous remarks and felt there would be an offset in the fiscal impact by reducing the numbers of crimes.

REP. BOHARSKI urged the committee to move the bill through the process and let the process sort out how similar bills would fit together.

CHAIRMAN CLARK agreed with **REP. WYATT** but felt the difference between prior sessions and this one was that people had changed their attitude and found that they were saying they would pay more taxes to keep those criminals out of society. He felt that the criminals would get the message and in the long range the costs would level out though in the short range there would be high costs.

There was discussion about bipartisan cooperation over this bill.

REP. KOTTEL withdrew her amendment.

REP. ANDERSON said this bill might have problems but those would be worked out in the process.

Vote: The motion carried 17 - 2, REPS. CAREY and GRIMES voted no.

Motion: REP. CAREY MOVED TO ADJOURN.

{Comments: This set of minutes is complete on two 60-minute tapes.}

ADJOURNMENT

Adjournment: The meeting was adjourned at 5:50 PM.



BOB CLARK, Chairman



JOANNE GUNDERSON, Secretary

BC/jg

HOUSE OF REPRESENTATIVES

Judiciary

ROLL CALL #1

DATE 2/11/95

7:00 AM

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Clark, Chairman	✓		
Rep. Shiell Anderson, Vice Chair, Majority	✓		
Rep. Diana Wyatt, Vice Chairman, Minority	✓		
Rep. Chris Ahner	✓		
Rep. Ellen Bergman	✓		
Rep. Bill Boharski	✓		
Rep. Bill Carey	✓		
Rep. Aubyn Curtiss	✓		
Rep. Duane Grimes	✓		
Rep. Joan Hurdle	✓		
Rep. Deb Kottel	✓		
Rep. Linda McCulloch	✓		
Rep. Daniel McGee	✓		
Rep. Brad Molnar	✓		
Rep. Debbie Shea	✓		
Rep. Liz Smith	✓		
Rep. Loren Soft	✓		
Rep. Bill Tash	✓		
Rep. Cliff Trexler	✓		

HOUSE OF REPRESENTATIVES

Judiciary

ROLL CALL #2

DATE 2/11/95

2:30 PM

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Clark, Chairman	✓		
Rep. Shiell Anderson, Vice Chair, Majority	✓		
Rep. Diana Wyatt, Vice Chairman, Minority	✓		
Rep. Chris Ahner	✓		
Rep. Ellen Bergman	✓		
Rep. Bill Boharski	✓		
Rep. Bill Carey	✓		
Rep. Aubyn Curtiss	✓		
Rep. Duane Grimes	✓		
Rep. Joan Hurdle	✓		
Rep. Deb Kottel	✓		
Rep. Linda McCulloch	✓		
Rep. Daniel McGee	✓		
Rep. Brad Molnar	✓		
Rep. Debbie Shea	✓		
Rep. Liz Smith	✓		
Rep. Loren Soft	✓		
Rep. Bill Tash	✓		
Rep. Cliff Trexler		✗	✓



HOUSE STANDING COMMITTEE REPORT

February 11, 1995

Page 1 of 2

Mr. Speaker: We, the committee on Judiciary report that House Bill 214 (first reading copy -- white) do pass as amended.

Signed: Bob Clark
Bob Clark, Chair

And, that such amendments read:

1. Title, line 10.

Strike: "AND OTHER LAW ENFORCEMENT AGENCIES"

2. Title, lines 11 and 12.

Strike: "PROVIDING" on line 11 through "INFORMATION;" on line 12

Insert: "AND"

3. Title, line 12

Strike: "44-5-301,"

4. Title, line 14.

Strike: "; AND PROVIDING A RETROACTIVE APPLICABILITY DATE"

5. Page 1, line 18 through line 6 of page 2.

Strike: section 1 of the bill in its entirety

Renumber: subsequent sections

6. Page 5, line 15.

Following: "45-5-503,"

Insert: "45-5-504(2)(c),"

7. Page 7, lines 28 and 29.

Strike: "shall" on line 28

Insert: "may"

Strike: "imprisoned in the state prison for a term" on lines 28

Committee Vote:

Yes 17, No 1.

361355SC.Hbk

and 29

Insert: "sentenced to a term of imprisonment"

Strike: "less than" on line 29

Strike: "2 years, or"

8. Page 8, lines 1 through 14.

Strike: lines 1 through 14 in their entirety

Insert: "NEW SECTION. Section 11. Dissemination of information in register. Information in the register maintained under 46-18-254 and this part is confidential criminal justice information, as defined in 44-5-103, except that:

(1) the name of a registered sexual offender is public criminal justice information, as defined in 44-5-103; and

(2) before releasing from a state prison an inmate who is a sexual offender, if the department believes that release of information concerning the inmate is necessary for public protection, the department shall petition the district court for the judicial district in which the prison is located or for the judicial district in which the inmate intends to reside for an order allowing the department to release relevant and necessary register information regarding the inmate to the public. The court shall grant the order if the court finds that the information is necessary for public protection."

9. Page 8, lines 16 and 18.

Strike: "12"

Insert: "11"

10. Page 8, lines 20 through 27.

Strike: sections 14 and 15 of the bill in their entirety

-END-



HOUSE STANDING COMMITTEE REPORT

February 11, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that House Bill 157 (first reading copy -- white) do pass as amended.

Signed: Bob Clark
Bob Clark, Chair

And, that such amendments read:

1. Page 6, line 30 through line 1 of page 7.
Strike: "the court" on line 30 of page 6 through end of line 1 of page 7
Insert: "a district court"
2. Page 7, lines 3 and 4.
Strike: "Within" on line 3 through "convicted" on line 4
Insert: "The petition must be served on the county attorney in the county where the petition is filed. Prior to a hearing on the petition, the county attorney shall mail a copy of the petition to the victim of the last offense for which the sexual offender was convicted if the victim's address is reasonably available"
3. Page 7, line 5.
Strike: "or victims"
4. Page 7, line 13.
Strike: "less than 90 days or"
5. Page 7, line 14.
Strike: "\$5,000"
Insert: "\$10,000"

-END-

VS

Committee Vote:
Yes 19, No 0.

5361353SC.HBK



HOUSE STANDING COMMITTEE REPORT

February 14, 1995

Page 1 of 5

Mr. Speaker: We, the committee on Judiciary report that **House Bill 41** (first reading copy -- white) do pass as amended.

Signed: _____

Bob Clark
Bob Clark, Chair

And, that such amendments read:

1. Title, lines 5 through 9.

Following: "AN ACT"

Strike: lines 5 through 9 in their entirety

Insert: "PROVIDING A PROCEDURE BY WHICH MEDICATION MAY BE INVOLUNTARILY ADMINISTERED TO A PATIENT AT A MENTAL HEALTH FACILITY; PROVIDING PROTECTIONS FOR THE PATIENT; PROVIDING FOR AN ANNUAL REPORT TO THE GOVERNOR; AND AMENDING SECTIONS 53-21-104 AND 53-21-127, MCA."

2. Page 1, line 13 through page 23, line 24.

Strike: everything following the enacting clause

Insert: "Section 1. Section 53-21-104, MCA, is amended to read:

"53-21-104. Powers and duties of mental disabilities board of visitors. (1) The board is an independent board of inquiry and review to assure that the treatment of all persons either voluntarily or involuntarily admitted to a mental facility is humane and decent and meets the requirements set forth in this part.

(2) The board shall review all plans for experimental research involving persons admitted to a mental health facility to assure that the research project is humane and not unduly hazardous and that it complies with the principles of the statement on the use of human subjects for research of the American association on mental deficiency and with the principles for research involving human subjects required by the United

[Signature]
Committee Vote:

Yes 19, No 0.

381238SC.Hdh

States department of health, education, and welfare. An experimental research project involving persons admitted to a mental health facility affected by this part may not be commenced unless it is approved by the mental disabilities board of visitors.

(3) The board shall at least annually inspect every mental health facility which is providing treatment and evaluation to any person pursuant to this part. The board shall inspect the physical plant, including residential, recreational, dining, and sanitary facilities. It shall visit all wards and treatment areas. The board shall inquire concerning all treatment programs being implemented by the facility.

(4) The board shall annually insure that a treatment plan exists and is being implemented for each patient admitted or committed to a mental health facility under this part. The board shall inquire concerning all use of restraints, isolation, or other extraordinary measures.

(5) The board may assist any patient at a mental health facility in resolving any grievance the patient may have concerning the patient's commitment or course of treatment in the facility.

(6) The board shall employ and be responsible for full-time legal counsel at the state hospital, whose responsibility is to act on behalf of all patients at the institution. The board shall insure that there is sufficient legal staff and facilities to insure availability to all patients and shall require that the appointed counsel periodically interview every patient and examine the patient's files and records. The board may employ additional legal counsel for representation of patients in a similar manner at any other mental health facility having inpatient capability.

(7) If the board believes that any facility is failing to comply with the provisions of this part in regard to its physical facilities or its treatment of any patient, it shall report its findings at once to the professional person in charge of the facility and the director of the department, and if appropriate, after waiting a reasonable time for a response from the professional person, the board may notify the next of kin or guardian of any patient involved, the friend of respondent appointed by the court for any patient involved, and the district court which has jurisdiction over the facility.

(8) The board shall report annually to the governor concerning:

(a) the status of the mental health facilities and treatment programs which it has inspected; and

(b) medications involuntarily administered to patients in mental health facilities and the effectiveness of the review procedure required by 53-21-127(2) in protecting patients from

unnecessary or excessive medication."

Section 2. Section 53-21-127, MCA, is amended to read:

"53-21-127. (Temporary) Posttrial disposition. (1) If, upon trial, it is determined that the respondent is not mentally ill or seriously mentally ill within the meaning of this part, ~~he shall the respondent must~~ be discharged and the petition dismissed.

(2) (a) If it is determined in a proceeding under 53-21-121(1)(a) that the respondent is seriously mentally ill within the meaning of this part, the court shall hold a posttrial disposition hearing. The disposition hearing shall be held within 5 days (including Saturdays, Sundays, and holidays unless the fifth day falls on a Saturday, Sunday, or holiday), during which time the court may order further evaluation and treatment of the respondent. At the conclusion of the disposition hearing, the court shall:

(i) commit the respondent to a facility for a period of not more than 3 months;

(ii) order the respondent to be placed in the care and custody of ~~his~~ a relative or guardian or some other appropriate place other than an institution;

(iii) order outpatient therapy; or

(iv) make some other appropriate order for treatment.

(b) No treatment ordered pursuant to this subsection may affect the respondent's custody for a period of more than 3 months.

(c) In determining which of the above alternatives to order, the court shall choose the least restrictive alternatives necessary to protect the respondent and the public and to permit effective treatment. The court shall consider and shall describe in its order what alternatives for treatment of the respondent are available, what alternatives were investigated, and why the investigated alternatives were not deemed suitable. The court may authorize the chief medical officer of a facility to administer appropriate medication involuntarily if the court finds that involuntary medication is necessary to protect the respondent and the public and to facilitate effective treatment. Medication may not be involuntarily administered to a patient unless the chief medical officer of the facility approves it prior to the beginning of the involuntary administration and unless, if possible, a medication review committee reviews it prior to the beginning of the involuntary administration or, if prior review is not possible, within 5 working days after the beginning of the involuntary administration. The medication review committee must include at least one person who is not an employee of the facility. The patient and the patient's attorney or advocate, if the patient has one, must receive adequate

written notice of the date, time, and place of the review and must be allowed to appear and give testimony and evidence. The involuntary administration of medication must be again reviewed by the committee 14 days and 90 days after the beginning of the involuntary administration if medication is still being involuntarily administered. The mental disabilities board of visitors must be fully informed of the matter within 5 working days after the beginning of the involuntary administration. The court shall enter into the record a detailed statement of the facts upon which it found the respondent to be seriously mentally ill and, if the court authorized involuntary medication, of the facts upon which it found involuntary medication to be necessary.

(3) If it is determined in a proceeding under 53-21-121(1)(b) that the respondent is mentally ill within the meaning of this part, the court shall order that he receive treatment for a period of no more than 30 days. The court shall choose the least restrictive course of treatment reasonably available to the respondent. The court must make a separate finding, setting forth the reason therefor if the order includes a requirement of inpatient treatment or involuntary medication. The court may not order inpatient treatment in the Montana state hospital at Warm Springs under this subsection (3). The respondent may not be required to pay for court-ordered treatment unless he is financially able.

(4) Before ordering any treatment for a respondent found to be mentally ill under subsection (3), the court shall make findings of fact that treatment appropriate to the needs of the respondent is available. The court shall also indicate on the order the name of the facility that is to be responsible for the management and supervision of the respondent's treatment. No person may use physical force to administer medication. A court may use any legal means to enforce an order to take medication, including immediate detention not to exceed 72 hours, until the mentally ill person can be returned to the court. (Terminates July 1, 1997--sec. 1, Ch. 541, L. 1989.)

53-21-127. (Effective July 1, 1997) Posttrial disposition.

(1) If, upon trial, it is determined that the respondent is not seriously mentally ill within the meaning of this part, ~~he shall~~ the respondent must be discharged and the petition dismissed.

(2) (a) If it is determined that the respondent is seriously mentally ill within the meaning of this part, the court shall hold a posttrial disposition hearing. The disposition hearing shall be held within 5 days (including Saturdays, Sundays, and holidays unless the fifth day falls on a Saturday, Sunday, or holiday), during which time the court may order further evaluation and treatment of the respondent. At the conclusion of the disposition hearing, the court shall:

(i) commit the respondent to a facility for a period of not

more than 3 months;

(ii) order the respondent to be placed in the care and custody of ~~his~~ a relative or guardian or some other appropriate place other than an institution;

(iii) order outpatient therapy; or

(iv) make some other appropriate order for treatment.

(b) No treatment ordered pursuant to this subsection may affect the respondent's custody for a period of more than 3 months.

(c) In determining which of the above alternatives to order, the court shall choose the least restrictive alternatives necessary to protect the respondent and the public and to permit effective treatment. The court shall consider and shall describe in its order what alternatives for treatment of the respondent are available, what alternatives were investigated, and why the investigated alternatives were not deemed suitable. The court may authorize the chief medical officer of a facility to administer appropriate medication involuntarily if the court finds that involuntary medication is necessary to protect the respondent and the public and to facilitate effective treatment. Medication may not be involuntarily administered to a patient unless the chief medical officer of the facility approves it prior to the beginning of the involuntary administration and unless, if possible, a medication review committee reviews it prior to the beginning of the involuntary administration or, if prior review is not possible, within 5 working days after the beginning of the involuntary administration. The medication review committee must include at least one person who is not an employee of the facility. The patient and the patient's attorney or advocate, if the patient has one, must receive adequate written notice of the date, time, and place of the review and must be allowed to appear and give testimony and evidence. The involuntary administration of medication must be again reviewed by the committee 14 days and 90 days after the beginning of the involuntary administration if medication is still being involuntarily administered. The mental disabilities board of visitors must be fully informed of the matter within 5 working days after the beginning of the involuntary administration. The court shall enter into the record a detailed statement of the facts upon which it found the respondent to be seriously mentally ill and, if the court authorized involuntary medication, of the facts upon which it found involuntary medication to be necessary."

-END-



HOUSE STANDING COMMITTEE REPORT

February 13, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that House Bill 84 (first reading copy -- white) do pass as amended.

Signed: Bob Clark
Bob Clark, Chair

And, that such amendments read:

1. Page 1, line 19.

Following: "placed"

Insert: ", after consideration of the recommendations of the professionals providing treatment to the defendant,"

2. Page 1, line 20.

Strike: "institution"

Insert: "facility"

3. Page 1, line 22.

Following: "may"

Insert: ", after considering the recommendations of the professionals providing treatment to the defendant,"

Strike: "institution"

Insert: "facility"

-END-

AS.

Committee Vote:

Yes 19, No 0.

371520SC.Hdh



HOUSE STANDING COMMITTEE REPORT

February 13, 1995

Page 1 of 1

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

Signed: Bob Clark
Bob Clark, Chair

And, that such amendments read:

1. Page 1, line 29.

Following: "compliance."

Insert: "The defendant has a right to a hearing on the petition.

The court shall enter into the record a detailed statement of the facts upon which an order is made, and if compliance with the individualized treatment plan is ordered, the court shall also enter into the record specific findings that the state has proven an overriding justification for the order and that the treatment being ordered is medically appropriate.

-END-

Committee Vote:
Yes 19, No 0.

371518SC.Hdh



HOUSE STANDING COMMITTEE REPORT

February 14, 1995

Page 1 of 2

Mr. Speaker: We, the committee on **Judiciary** report that **House Bill 150** (first reading copy -- white) **do pass as amended.**

Signed: *Bob Clark*
Bob Clark, Chair

And, that such amendments read:

1. Page 1, line 20.

Following: "41-5-523."

Insert: "However, the committee may not substitute its judgment for that of the superintendent of a state youth correctional facility regarding the discharge of a youth from the facility."

2. Page 1, line 24.

Following: "~~a representative~~"

Insert: "two"

3. Page 1, line 27.

Strike: "a youth"

Insert: "either the chief probation officer or the youth's"

4. Page 1, line 29.

Strike: "and"

5. Page 2, line 1.

Following: "matters"

Insert: ";

(g) a parent or guardian; and

(h) a youth services provider"

mm

Committee Vote:

Yes 17, No 0.

381242SC.Hdh

6. Page 2, lines 16 and 17.

Strike: "at Mountain" on line 16 through "school" on line 17

Insert: "at a state youth correctional facility"

7. Page 2, lines 17 through 20.

Strike: ", except" on line 17 through "facility" on line 20

8. Page 2, line 22.

Following: "reviews"

Insert: "at least semiannually and at other times"

9. Page 3, line 6.

Strike: "recommend"

10. Page 3, line 7.

Strike: "another"

Insert: "make an"

Strike: "for consideration by the committee"

11. Page 3, lines 15 and 16.

Strike: "The" on line 15 through "court" on line 16

Insert: "Within 72 hours after making a decision on a placement or change of placement, the department shall notify the youth court of the decision and of the placement or change of placement"

-END-



HOUSE STANDING COMMITTEE REPORT

February 13, 1995

Page 1 of 1

Mr. Speaker: We, the committee on **Judiciary** report that **House Bill 332** (first reading copy -- white) **do pass**.

Signed: Bob Clark
Bob Clark, Chair

Committee Vote:
Yes 19, No 0.

370826SC.Hdh



HOUSE STANDING COMMITTEE REPORT

February 13, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that House Bill 378 (first reading copy -- white) do pass.

Signed: Bob Clark
Bob Clark, Chair

Committee Vote:
Yes 17, No 2.

371522SC.Hdh

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Judiciary Committee

DATE 2/11/95 BILL NO. HB 157 NUMBER Kattel Amendment #2
MOTION: To strike 45-5-505

NAME	AYE	NO
Rep. Bob Clark, Chairman		✓
Rep. Shiell Anderson, Vice Chairman, Majority		✓
Rep. Diana Wyatt, Vice Chairman, Minority	✓	
Rep. Chris Ahner		✓
Rep. Ellen Bergman		✓
Rep. Bill Boharski		✓
Rep. Bill Carey	✓	
Rep. Aubyn Curtiss		✓
Rep. Duane Grimes		✓
Rep. Joan Hurdle	✓	
Rep. Deb Kottel	✓	
Rep. Linda McCulloch	✓	
Rep. Daniel McGee		✓
Rep. Brad Molnar		✓
Rep. Debbie Shea	✓	
Rep. Liz Smith		✓
Rep. Loren Soft		✓
Rep. Bill Tash		✓
Rep. Cliff Trexler		✓

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Judiciary Committee

DATE 2/11/95 BILL NO. HB 258 NUMBER _____

MOTION: To Table

NAME	AYE	NO
Rep. Bob Clark, Chairman	✓	
Rep. Shiell Anderson, Vice Chairman, Majority	✓	
Rep. Diana Wyatt, Vice Chairman, Minority		✓
Rep. Chris Ahner	✓	
Rep. Ellen Bergman	✓	
Rep. Bill Boharski		✓
Rep. Bill Carey		✓
Rep. Aubyn Curtiss	✓	
Rep. Duane Grimes	✓	
Rep. Joan Hurdle		✓
Rep. Deb Kottel		✓
Rep. Linda McCulloch		✓
Rep. Daniel McGee	✓	
Rep. Brad Molnar	✓	
Rep. Debbie Shea		✓
Rep. Liz Smith	✓	
Rep. Loren Soft		✓
Rep. Bill Tash	✓	
Rep. Cliff Trexler	✓	

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Judiciary Committee

DATE 2/11/95 BILL NO. HB271 NUMBER

MOTION: To Table

NAME	AYE	NO
Rep. Bob Clark, Chairman	✓	
Rep. Shiell Anderson, Vice Chairman, Majority	✓	
Rep. Diana Wyatt, Vice Chairman, Minority		✓
Rep. Chris Ahner	✓	
Rep. Ellen Bergman	✓	
Rep. Bill Boharski	✓	
Rep. Bill Carey		✓
Rep. Aubyn Curtiss	✓	
Rep. Duane Grimes	✓	
Rep. Joan Hurdle		✓
Rep. Deb Kottel		✓
Rep. Linda McCulloch		✓
Rep. Daniel McGee	✓	
Rep. Brad Molnar	✓	
Rep. Debbie Shea		✓
Rep. Liz Smith	✓	
Rep. Loren Soft	✓	
Rep. Bill Tash	✓	
Rep. Cliff Trexler	✓	

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Judiciary Committee

DATE 2/11/95 BILL NO. HB 388 NUMBER _____

MOTION: To Table

NAME	AYE	NO
Rep. Bob Clark, Chairman	✓	
Rep. Shiell Anderson, Vice Chairman, Majority	✓	
Rep. Diana Wyatt, Vice Chairman, Minority		✓
Rep. Chris Ahner	✓	
Rep. Ellen Bergman	✓	
Rep. Bill Boharski	✓	
Rep. Bill Carey		✓
Rep. Aubyn Curtiss	✓	
Rep. Duane Grimes	✓	
Rep. Joan Hurdle		✓
Rep. Deb Kottel		✓
Rep. Linda McCulloch		✓
Rep. Daniel McGee	✓	
Rep. Brad Molnar	✓	
Rep. Debbie Shea		✓
Rep. Liz Smith	✓	
Rep. Loren Soft	✓	
Rep. Bill Tash	✓	
Rep. Cliff Trexler	✓	

HOUSE OF REPRESENTATIVES COMMITTEE PROXY

DATE

2-11-95

I request to be excused from the Judiciary Committee
Committee meeting this date because of other commitments. I desire
to leave my proxy vote with Don McGee.

Indicate Bill Number and your vote Aye or No. If there are
amendments, list them by name and number under the bill and
indicate a separate vote for each amendment.

HOUSE BILL/AMENDMENT	AYE	NO
HB 60 - Table	✓	
HB 41 - Pass - Amend	✓	
HB 93 - Tabled	✓	
HB 84 - Amend - Passed	✓	
HB 117 - Amend - Passed	✓	
HB 150 - Amend - Passed	✓	
HB 332 - Passed	✓	
HB 382 - Tabled	✓	
HB 258 - Tabled	✓	
HB 271 - Tabled	✓	
HB 388 - Tabled	✓	

HOUSE BILL

SENATE BILL /AMENDMENT	AYE	NO
HB 327 378	✓	

Rep.

(Signature)

Cliff Tucker

HOUSE OF REPRESENTATIVES COMMITTEE PROXY

DATE 2-11-95

I request to be excused from the Judiciary
Committee meeting this date because of other commitments. I desire
to leave my proxy vote with Diana Wyatt.

Indicate Bill Number and your vote Aye or No. If there are
amendments, list them by name and number under the bill and
indicate a separate vote for each amendment.

HOUSE BILL/AMENDMENT	AYE	NO
271	X	
378		X
388	X	
160		X
257	X	

SENATE BILL/AMENDMENT	AYE	NO

Rep. Jan Hurdle
(Signature)

HOUSE OF REPRESENTATIVES COMMITTEE PROXY

DATE

2/11/95

I request to be excused from the

Judiciary

Committee meeting this date because of other commitments. I desire

to leave my proxy vote with

Rep Anderson

Indicate Bill Number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

HOUSE BILL/AMENDMENT	AYE	NO
HB 84	✓	

SENATE BILL/AMENDMENT	AYE	NO

Rep.

Tash
(Signature)

HOUSE OF REPRESENTATIVES COMMITTEE PROXY

DATE Feb. 11

I request to be excused from the _____
Committee meeting this date because of other commitments. I desire
to leave my proxy vote with Chris Ahner.

Indicate Bill Number and your vote Aye or No. If there are
amendments, list them by name and number under the bill and
indicate a separate vote for each amendment.

added 11/8

HOUSE BILL/AMENDMENT	AYE	NO
382		
258	✓	

SENATE BILL/AMENDMENT	AYE	NO

Rep. Ellen Bergman
(Signature)

HOUSE OF REPRESENTATIVES COMMITTEE PROXY

DATE _____

I request to be excused from the _____

Committee meeting this date because of other commitments. I desire

to leave my proxy vote with Diana Wyath asin

Linda McCuller

Indicate Bill Number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

HOUSE BILL/AMENDMENT	AYE	NO
117		
84	X	
150	X	
93	X	
60	X	
41	X	
160		X
382		X
258 Tabled		X

SENATE BILL/AMENDMENT	AYE	NO

Rep. [Signature]
(Signature)

Passed
Tabled
to
Tabled
ed
Passed

AMENDMENTS TO HOUSE BILL 157 AS INTRODUCED

1. Page 6, line 13.
Strike: "45-5-505,"
2. Page 6, line 30.
Following: "sexual offense, the"
Strike: "sexual"
3. Page 6, line 30.
Following: "sentenced the"
Strike: "sexual"
4. Page 7, line 1.
Following: "which the"
Strike: "sexual"
5. Page 7, line 2.
Following: "relieving the"
Strike: "sexual"
6. Page 7, line 3.
Following: "filed, the"
Strike: "sexual"
7. Page 7, line 3.
Strike: "Within 3 days after the petition is filed, the sexual offender shall mail a copy of the petition to the victim or victims, if still living, of the last sexual offense for which the sexual offender was convicted."
8. Page 7, line 3.
Following: line 3
Insert: "The petition must be served on the county attorney in the county where the petition is filed. Prior to a hearing on the petition, the county attorney shall mail a copy of the petition to the victim of the last offense for which the sexual offender was convicted if the victim's address is reasonably available."
9. Page 7, line 4.
Following: "which the"
Strike: "sexual"

10. Page 7, line 7.
Following: "(a) the"
Strike: "sexual"
11. Page 7, line 13.
Strike: "less than 90 days or"
12. Page 7, line 14.
Strike: "\$5,000"
Insert: "\$10,000"
13. Page 7, line 19.
Strike: "sexual"

AMENDMENTS TO HOUSE BILL 214 AS INTRODUCED

1. Page 1, line 16 through page 2, line 2.
Strike: Section 1 in its entirety
Renummer: subsequent sections
2. Page 5, line 15.
Following: "45-5-503"
Insert: "45-5-504(2)(c)"
3. Page 7, line 16.
Following: "petition"
Strike: "a district"
Insert: "the"
4. Page 7, line 16.
Following: "court"
Insert: "that sentenced the offender for the last
conviction or, if that court is not in this state,
the district court for the judicial district in
which the offender resides"
5. Page 7, line 28 through 29.
Following: "part"
Strike: "shall be imprisoned in the state prison for a
term"
Insert: "may be sentenced to a term of imprisonment"
6. Page 7, line 29.
Following: "of not"
Strike: "less than 2 years or"
7. Page 8, lines 1 through 14.
Strike: section 12 in its entirety.
Insert: "NEW SECTION. Section 12. Dissemination of
information in register. Information in the
register maintained under 46-18-254 and this part
is confidential criminal justice information, as
defined in 44-5-103, except that the name of a
registered offender is public criminal justice
information, as defined in 44-5-103."
8. Page 8, line 17.
Strike: "chapter 23, part 5"
9. Page 8, lines 20 through 28.
Strike: sections 14 through 15 in their entirety.

COMMITMENT OF SERIOUSLY MENTALLY ILL (SMI) YOUTH UNDER HB 60

Age of Youth: less than 16

Age of Youth: 16 - 18

Parent Consents To Treatment

Youth Consents to Treatment



Youth Admitted For Treatment

Youth Does Not Consent to Treatment

↓ EXHIBIT 3

↓ DATE 2/1/95

↓ HB 60

REQUEST FROM PARENT TO COUNTY ATTORNEY TO COMPEL TREATMENT PARENT NOTIFIES COUNTY ATTORNEY OF INTENT TO PAY

Parent Intends to Pay

County Atty files petition for involuntary treatment under **Mental Health Commitment Laws Title 53, Chapter 21**

Judge finds youth SMI and orders involuntary treatment

Youth Receives Treatment

Youth Treatment Coordinated w/ parents and Mental Health Case Manager (possibly under MRM)

Notice of Discharge to Court

Youth Discharged after Treatment;
No Court Hearing Required

Parent Payment Not Yet Decided

County Atty files petition for involuntary treatment under **Youth Court Act, Title 41, Chapter 5**

Judge adjudicates youth a "Youth in Need of Supervision" (based on lack of consent only)

Judge Finds Youth SMI

Judge Commits Youth to Custody of DFS for Treatment

Youth Placement Committee Recommends Placement (HB150)

DFS Decides Placement

Judge Orders Placement? (HB150)

Youth Receives Treatment (possibly under MRM)

Youth Under Supervision of Probation Officer; May receive Mental Health Case Manager Too

After Treatment, Hearing and Order of Court required to Return Youth to Custody of Parent

CONSEQUENCES:

1) Parental Rights Over Child Retained

2) Parent Pays for Treatment

1) Parental Rights Relinquished to State

2) Parent May Be Required To Pay for Treatment; Ability to Pay is Determined and State May Pay for Treatment

For subcomm.
not edited.

Amendments to House Bill No. 41
First Reading Copy

EXHIBIT 4
DATE 2/11/95
HB 41

Requested by House Judiciary Subcommittee on Mental Health Bills
For the Committee on the Judiciary

Prepared by John MacMaster
February 1, 1995

1. Title, lines 5 through 9.

Following: "AN ACT"

Strike: lines 5 through 9 in their entirety

Insert: "PROVIDING A PROCEDURE BY WHICH MEDICATION MAY BE
INVOLUNTARILY ADMINISTERED TO A PATIENT AT A MENTAL HEALTH
FACILITY; PROVIDING PROTECTIONS FOR THE PATIENT; PROVIDING
FOR AN ANNUAL REPORT TO THE GOVERNOR; AND AMENDING SECTIONS
53-21-104 AND 53-21-127, MCA."

2. Page 1, line 13 through page 23, line 24.

Strike: everything following the enacting clause

Insert: "Section 1. Section 53-21-104, MCA, is amended to read:

"53-21-104. Powers and duties of mental disabilities board
of visitors. (1) The board is an independent board of inquiry and
review to assure that the treatment of all persons either
voluntarily or involuntarily admitted to a mental facility is
humane and decent and meets the requirements set forth in this
part.

(2) The board shall review all plans for experimental
research involving persons admitted to a mental health facility
to assure that the research project is humane and not unduly
hazardous and that it complies with the principles of the
statement on the use of human subjects for research of the
American association on mental deficiency and with the principles
for research involving human subjects required by the United
States department of health, education, and welfare. An
experimental research project involving persons admitted to a
mental health facility affected by this part may not be commenced
unless it is approved by the mental disabilities board of
visitors.

(3) The board shall at least annually inspect every mental
health facility which is providing treatment and evaluation to
any person pursuant to this part. The board shall inspect the
physical plant, including residential, recreational, dining, and
sanitary facilities. It shall visit all wards and treatment
areas. The board shall inquire concerning all treatment programs
being implemented by the facility.

(4) The board shall annually insure that a treatment plan
exists and is being implemented for each patient admitted or
committed to a mental health facility under this part. The board
shall inquire concerning all use of restraints, isolation, or
other extraordinary measures.

(5) The board may assist any patient at a mental health

facility in resolving any grievance the patient may have concerning the patient's commitment or course of treatment in the facility.

(6) The board shall employ and be responsible for full-time legal counsel at the state hospital, whose responsibility is to act on behalf of all patients at the institution. The board shall insure that there is sufficient legal staff and facilities to insure availability to all patients and shall require that the appointed counsel periodically interview every patient and examine the patient's files and records. The board may employ additional legal counsel for representation of patients in a similar manner at any other mental health facility having inpatient capability.

(7) If the board believes that any facility is failing to comply with the provisions of this part in regard to its physical facilities or its treatment of any patient, it shall report its findings at once to the professional person in charge of the facility and the director of the department, and if appropriate, after waiting a reasonable time for a response from the professional person, the board may notify the next of kin or guardian of any patient involved, the friend of respondent appointed by the court for any patient involved, and the district court which has jurisdiction over the facility.

(8) The board shall report annually to the governor concerning:

(a) the status of the mental health facilities and treatment programs which it has inspected; and

(b) medications involuntarily administered to patients in mental health facilities and the effectiveness of the review procedure required by 53-21-127(2) in protecting patients from unnecessary or excessive medication."

{XInternal References to 53-21-104:

53-21-166}

Section 2. Section 53-21-127, MCA, is amended to read:

"53-21-127. (Temporary) Posttrial disposition. (1) If, upon trial, it is determined that the respondent is not mentally ill or seriously mentally ill within the meaning of this part, he shall be discharged and the petition dismissed.

(2) (a) If it is determined in a proceeding under 53-21-121(1)(a) that the respondent is seriously mentally ill within the meaning of this part, the court shall hold a posttrial disposition hearing. The disposition hearing shall be held within 5 days (including Saturdays, Sundays, and holidays unless the fifth day falls on a Saturday, Sunday, or holiday), during which time the court may order further evaluation and treatment of the respondent. At the conclusion of the disposition hearing, the court shall:

(i) commit the respondent to a facility for a period of not more than 3 months;

(ii) order the respondent to be placed in the care and custody of his relative or guardian or some other appropriate place other than an institution;

(iii) order outpatient therapy; or

(iv) make some other appropriate order for treatment.

(b) No treatment ordered pursuant to this subsection may affect the respondent's custody for a period of more than 3 months.

(c) In determining which of the above alternatives to order, the court shall choose the least restrictive alternatives necessary to protect the respondent and the public and to permit effective treatment. The court shall consider and shall describe in its order what alternatives for treatment of the respondent are available, what alternatives were investigated, and why the investigated alternatives were not deemed suitable. The court may authorize the chief medical officer of a facility to administer appropriate medication involuntarily if the court finds that involuntary medication is necessary to protect the respondent and the public and to facilitate effective treatment. Medication may not be involuntarily administered to a patient unless the chief medical officer of the facility approves it prior to the beginning of the involuntary administration and unless, if possible, a medication review committee reviews it prior to the beginning of the involuntary administration, and if prior review is not possible, within 5 working days after the beginning of the involuntary administration. The medication review committee must include at least one person who is not an employee of the facility. The patient and the patient's attorney or advocate, if the patient has one, must receive adequate written notice of the date, time, and place of the review and must be allowed to appear and give testimony and evidence. The involuntary administration of medication must be again reviewed by the same committee 14 days and 90 days after the beginning of the involuntary administration if medication is still being involuntarily administered. The mental disabilities board must be fully informed of the matter within 5 working days after the beginning of the involuntary administration. The court shall enter into the record a detailed statement of the facts upon which it found the respondent to be seriously mentally ill and, if the court authorized involuntary medication, of the facts upon which it found involuntary medication to be necessary.

(3) If it is determined in a proceeding under 53-21-121(1)(b) that the respondent is mentally ill within the meaning of this part, the court shall order that he receive treatment for a period of no more than 30 days. The court shall choose the least restrictive course of treatment reasonably available to the respondent. The court must make a separate finding, setting forth the reason therefor if the order includes a requirement of inpatient treatment or involuntary medication. The court may not order inpatient treatment in the Montana state hospital at Warm Springs under this subsection (3). The respondent may not be required to pay for court-ordered treatment unless he is financially able.

(4) Before ordering any treatment for a respondent found to be mentally ill under subsection (3), the court shall make findings of fact that treatment appropriate to the needs of the respondent is available. The court shall also indicate on the order the name of the facility that is to be responsible for the management and supervision of the respondent's treatment. No person may use physical force to administer medication. A court

may use any legal means to enforce an order to take medication, including immediate detention not to exceed 72 hours, until the mentally ill person can be returned to the court. (Terminates July 1, 1997--sec. 1, Ch. 541, L. 1989.)

53-21-127. (Effective July 1, 1997) Posttrial disposition.

(1) If, upon trial, it is determined that the respondent is not seriously mentally ill within the meaning of this part, he shall be discharged and the petition dismissed.

(2) (a) If it is determined that the respondent is seriously mentally ill within the meaning of this part, the court shall hold a posttrial disposition hearing. The disposition hearing shall be held within 5 days (including Saturdays, Sundays, and holidays unless the fifth day falls on a Saturday, Sunday, or holiday), during which time the court may order further evaluation and treatment of the respondent. At the conclusion of the disposition hearing, the court shall:

(i) commit the respondent to a facility for a period of not more than 3 months;

(ii) order the respondent to be placed in the care and custody of his relative or guardian or some other appropriate place other than an institution;

(iii) order outpatient therapy; or

(iv) make some other appropriate order for treatment.

(b) No treatment ordered pursuant to this subsection may affect the respondent's custody for a period of more than 3 months.

(c) In determining which of the above alternatives to order, the court shall choose the least restrictive alternatives necessary to protect the respondent and the public and to permit effective treatment. The court shall consider and shall describe in its order what alternatives for treatment of the respondent are available, what alternatives were investigated, and why the investigated alternatives were not deemed suitable. The court may authorize the chief medical officer of a facility to administer appropriate medication involuntarily if the court finds that involuntary medication is necessary to protect the respondent and the public and to facilitate effective treatment. Medication may not be involuntarily administered to a patient unless the chief medical officer of the facility approves it prior to the beginning of the involuntary administration and unless, if possible, a medication review committee reviews it prior to the beginning of the involuntary administration, and if prior review is not possible, within 5 working days after the beginning of the involuntary administration. The medication review committee must include at least one person who is not an employee of the facility. The patient and the patient's attorney or advocate, if the patient has one, must receive adequate written notice of the date, time, and place of the review and must be allowed to appear and give testimony and evidence. The involuntary administration of medication must be again reviewed by the same committee 14 days and 90 days after the beginning of the involuntary administration if medication is still being involuntarily administered. The mental disabilities board must be fully informed of the matter within 5 working days after the beginning of the involuntary administration. The court shall

EXHIBIT 4
DATE 2-11-95
HB 41

enter into the record a detailed statement of the facts upon which it found the respondent to be seriously mentally ill and, if the court authorized involuntary medication, of the facts upon which it found involuntary medication to be necessary." "

{xInternal References to 53-21-127:

41-5-523	53-21-102	53-21-128	53-21-128
53-21-128	53-21-128	53-21-128	53-21-128
53-21-128	53-21-128	53-21-135	53-21-181
53-21-195	53-21-195	53-21-197	53-21-197
53-21-198	53-21-198	53-21-198	53-21-412}

For subcomm ~ not edited

EXHIBIT 5
DATE 2/11/95
HB 84

Amendments to House Bill No. 84
First Reading Copy

Requested by Rep. Soft's Subcommittee
For the Committee on the Judiciary

Prepared by John MacMaster
January 30, 1995

1. Page 1, line 19.

Following: "placed"

Insert: ", after consideration of the recommendations of the
professionals providing treatment to the defendant,"

2. Page 1, line 20.

Strike: "institution"

Insert: "facility"

3. Page 1, line 22.

Following: "may"

Insert: ", after considering the recommendations of the
professionals providing treatment to the defendant,"

Strike: "institution"

Insert: "facility"

Amendments to House Bill No. 117
First Reading Copy

Requested by the Subcommittee
For the Committee on the Judiciary

Prepared by John MacMaster
February 8, 1995

1. Page 1, line 29.

Following: "compliance."

Insert: "The defendant has a right to a hearing on the petition.
The court shall enter into the record a detailed statement
of the facts upon which an order is made, and if compliance
with the individualized treatment plan is ordered, the court
shall also enter into the record specific findings that the
state has proven an overriding justification for the order
and that the treatment being ordered is medically
appropriate.

1. Page 1, line 20.

Following: "41-5-523"

Strike: "."

Insert: ", except that the committee may not substitute its judgement for that of a superintendent of a youth correctional facility regarding discharge of a youth from a state youth correctional facility."

2. Page 1, line 24.

Following: "~~a representative~~"

Insert: "two"

3. Page 1, line 27.

Strike: "a"

Insert: "either the chief"

Following: "officer"

Insert: "or the youth's probation officer"

4. Page 2, lines 17 through 20.

Strike: ", except that the youth placement committee may not substitute its judgement for that of the superintendent of a state youth correctional facility who has the responsibility for decisions regarding the discharge of a youth from a state youth correctional facility."

5. Page 3, lines 6-7.

Following: "shall"

Strike: "recommend another appropriate placement for the youth for consideration by the committee."

Insert: "be responsible for determining an appropriate placement for the youth."

6. Page 3, lines 15-16.

Strike: "The youth placement committee shall submit a copy of the final recommendation for placement of the youth to the appropriate youth court."

Insert: "The youth court shall be notified of the final approved placement for the youth."