MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN BRUCE CRIPPEN**, on January 20, 1995, at 10:00 A.M.

ROLL CALL

Members Present:

Sen. Bruce D. Crippen, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Larry L. Baer (R)
Sen. Sharon Estrada (R)
Sen. Lorents Grosfield (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Mike Halligan (D)
Sen. Linda J. Nelson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Valencia Lane, Legislative Council
Judy Keintz, Committee Secretary

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

Committee Business Summary:

Hearing:	SB 148, SB 149, SB 150
Executive Action:	SB 64, SB 66, SB 88, SB 90, SB 63, SB 133, SB 150

EXECUTIVE ACTION ON SB 88

Discussion: **CHAIRMAN BRUCE CRIPPEN** stated there is a bill in the House that deals with the problems brought up during the hearing on SB 88. He does not believe a constitutional amendment would help. He suggested this bill be tabled.

Motion/Vote: **SENATOR REINY JABS** moved **SB 88 BE TABLED.** The motion **CARRIED UNANIMOUSLY** on oral vote.

EXECUTIVE ACTION ON 133

Discussion: **Valencia Lane** stated no amendments were requested.

Motion: **SENATOR RIC HOLDEN** moved **SB 133 DO NOT PASS.**

Discussion: **SENATOR HOLDEN** suggested leaving well enough alone. **SENATOR JABS** stated that having more members on a board does not necessarily mean you get better representation. If $500 per case could be saved by this bill, he would be in favor it. **CHAIRMAN CRIPPEN** stated the maximum number of jurors would be nine. However, a smaller number would be allowed if both parties agree. **SENATOR BARTLETT** asked for clarification of the number of jurors who must agree in a civil case as compared to a criminal case. **SENATOR AL BISHOP** clarified that in a criminal trial all jurors must agree. In a civil trial, two-thirds of the jurors must agree. **CHAIRMAN CRIPPEN** stated that he would not have any problem with this bill if either side had the right to bring the number back to twelve. That is not in the bill.

Vote: The motion **FAILED** with **SENATORS BAER, BARTLETT, ESTRADA, HALLIGAN, JABS,** and **NELSON** voting "NO". The vote was reversed as a **DO PASS.**

EXECUTIVE ACTION ON SB 64

Discussion: **Valencia Lane** stated she did not have any amendments prepared. One of the concerns was that the age shouldn't be raised from 19 to 21, it should be left at 19. There was also concern about the information given to insurance companies.

CHAIRMAN CRIPPEN stated concern with page 4, lines 21 and 22, "The person need not be consuming or in possession of the intoxicating substance at the time of arrest to violate this subsection." His concern is for the designated driver who has not consumed any intoxicating substance but has possession of the car. **Beth Baker, Justice Department,** stated that possession is a factual question in every case. The driver of the vehicle is not presumed to have control over anything in the vehicle. Law enforcement and prosecutors have questioned when possession can be charged. You need to have knowing control over the object you are charged with possessing. The question will be whether the designated driver is in possession. The prosecutor will be looking at evidence that the driver possessed or consumed alcohol. The intent is to get at the youths who are consuming but get rid of the cup when the cops show up. The only change in this bill is that it would extend to include everyone who is a minor whether they are 17 or 20 years old. It is no different

than the law concerning possession of drugs which applies to adults. **SENATOR BISHOP** asked whether the driver could be charged with contributing or providing alcohol to minors. **Ms. Baker** stated the driver could be charged under other sections. This is a tough issue. What this bill is trying to do is to get to the youths, through treatment and other programs, before they become problem drinkers. Designated drivers are good; however, the message to the drivers should be that they should not have alcohol in the car because it is dangerous. The ultimate message should be that drinking and driving is the biggest problem.

SENATOR BISHOP stated that even if there is a designated driver, that driver is a part of an illegal act and should be liable for his actions.

SENATOR LINDA NELSON said she was bothered by the fact that this bill is treating 18, 19 and 20 year olds as juveniles. We are respecting their rights to vote, they are allowed to enlist and fight for their country; however, if they buy a beer they are penalized as juveniles.

SENATOR BARTLETT stated the inconsistency stems from our constitution where we have said that anyone under the age of 21 cannot consume alcoholic beverages. That throws the 18 to 21 year-olds into a different status than they would be under for nearly all other laws in our state. Under existing statute, the driver's license of a person 18 to 21 cannot be suspended, even if they are driving. If they are under 18, whether they are driving or not, their license could be confiscated for up to 90 days plus a $50 fine. Even though this bill puts everyone from 18 to 21 into a true minor's statute, it offers increased penalties for both possession or consumption of alcohol.

SENATOR CRIPPEN stated he was concerned about insurance companies raising premiums because of a first offense.

Motion/Vote: **SENATOR NELSON** moved **SB 64 DO NOT PASS.**

Discussion: **SENATOR NELSON** stated her biggest problem is that the bill addresses the 18, 19 and 20 year olds as juveniles. She suggested that on page 4, line 19, she would take out 21 years and leave 19 years.

CHAIRMAN CRIPPEN asked for the comparison between the youth convicted of the first, second, and subsequent offenses and an adult with the same offenses. **Ms. Baker** stated a DUI, for an adult, is a misdemeanor punishable by up to six months and a $500 fine. They can get a probationary license. **CHAIRMAN CRIPPEN** wanted to make sure that the punishment would not be worse for a youth than it would be for an adult. **Ms. Baker** stated that for the first offense as an adult the punishment is 24 hours in jail which is mandatory and a fine of not less than $100 or more than

$500. Second offense, not less than $300 or more than $500 and imprisonment for not less than seven days, forty eight hours of which must be served consecutively. Third and subsequent offenses, a fine of not less than $500 or more than $1000 and imprisonment for a term of not less than 30 days, at least 48 hours of which must be served consecutively, or more than one year. **SENATOR CRIPPEN** stated the law now for 19 and 20 year olds would be far more severe than under this bill. **Ms. Baker** stated the DUI statutes would apply only if the person was driving or in control of a motor vehicle and the MIP implies that they are in possession, whether they are driving or not.

SENATOR NELSON understood that this bill dealt with possession instead of trying to purchase. **Ms. Baker** said the bill is trying to make the law more consistent. Right now we have different penalties and criteria that govern youths under 18 when they possess alcohol. They are trying to make the law consistent for all the youths.

Vote: The motion **FAILED 8-3** on roll call vote.

Discussion:**SENATOR DOHERTY** stated that we are discouraging youths to have designated drivers with this bill.

{Tape: 1; Side: B}

EXECUTIVE ACTION ON 90

Discussion: SENATOR BAER explained the amendments **EXHIBIT 1.** This is a public safety bill. It provides that people who are capable of instructing proper safety in handling and use of firearms be encouraged to do so.

Motion/Vote: **SENATOR BAER** moved to **AMEND SB 90**. The motion **CARRIED** on oral vote with **SENATOR DOHERTY** voting "**NO**".

Motion: **SENATOR HOLDEN** moved **SB 90 DO PASS AS AMENDED.**

Discussion: **SENATOR BARTLETT** stated that the language doesn't link the immunity to safety instruction. The way it is worded any conduct, acts, or omissions of a student would be covered which could relate to the student's driving.

SENATOR BAER stated that the intent of this bill is that an instructor not be held accountable for the acts of his student due to his instruction in firearm safety.

SENATOR CRIPPEN stated that **SENATOR BISHOP** prepared an amendment which included, page 1, line 18, following "student", insert: "handling firearms".

Motion/Vote: **SENATOR BISHOP** moved to further **AMEND SB 90.** The motion **CARRIED UNANIMOUSLY** on oral vote.

Motion: **SENATOR BAER** moved **SB 90 DO PASS AS AMENDED.**

Discussion: **SENATOR NELSON** asked for an explanation of "gross negligence". **SENATOR BAER** stated he believed it to be wanton and willful disregard for the safety or well being of others.

SENATOR DOHERTY stated that granting immunity based on perception is a difficult public policy.

Vote: The motion **CARRIED** on oral vote with **SENATOR BARTLETT** voting "**NO**".

HEARING ON SB 150

Opening Statement by Sponsor:

SENATOR MIGNON WATERMAN, Senate District 26, presented SB 150, which does two things. The first part allows the Department of Family Services to release information that is of a non-identifying nature to people who request information about adoptions. This could mean a child who has decided to seek information for health reasons or it might be a parent who gave up a child for adoption that wants to get some information. The other part would allow for a court intermediary, appointed by the court through a court order, to collect information that a judge and a requester would seek out and only through the use of the intermediary give the information back to the court. The information would become available if the judge deemed appropriate.

Proponents' Testimony:

Betsy Stimatz, Department of Family Services, presented her written testimony, **EXHIBIT 2.**

Bill Driscoll, Catholic Social Services, stated that they support SB 150. This law would give some guidance to the courts for handling these requests.

Randy Bishop spoke in support of SB 150. It is very important that parents know basic medical information about their adoptive children.

Kimberly Kradolfer spoke in support of SB 150. She stated it was critical not only to have medical information but for the child to have access to the information about whom he is and where he came from. She also believes it is important that birth parents have an opportunity to know what has happened to their children,

if that can be done without violating confidences.

Mary Alice Cook, Advocates for Montana's Children, announced they are in support of this bill.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

SENATOR HOLDEN questioned why the bill does not include adoptive children having the right to know who their natural parents are. **SENATOR WATERMAN** stated that she knows how strong that biological tie can be; however, there is a need to proceed very cautiously in this area.

SENATOR JABS asked for elaboration on biological parent's right to obtain information. **SENATOR WATERMAN** stated the bill addresses non-identifying information which is obtained through an intermediary. When people cannot get this information from the Department of Family Services, they find ways to circumvent the system. This often leads to some unhealthy situations.

SENATOR BISHOP questioned whether this non-identifying information would provide enough information to find the biological parents. **Ms. Kradolfer** stated the information provided for in the bill is the kind of information that is given as a matter of course now. Sometimes the adopted child has health problems that the biological parents should know about. It also may affect the future decision of the parents whether or not to have more children.

SENATOR DOHERTY questioned whether this bill conflicted with the Indian Child Welfare Act. **Ms. Stimatz** stated this bill would be supplementary. The non-identifying information would be provided by adoption agencies which are skilled in dealing with this information and they would be very careful to limit any information which would be identifying.

Closing by Sponsor:

SENATOR WATERMAN stated she has been working with the Department of Family Services on a project to find permanent placement for over 500 children that have been in the FS custody for two years or longer. She believes this bill addresses the concerns that the committee raised.

HEARING ON 148

Opening Statement by Sponsor:

SENATOR CASEY EMERSON, Senate District 14, introduced SB 148. In 1986 the Supreme Court cancelled Initiative 30 which struck the word "full" in full legal redress. They decided it was flawed by reviewing the petition. Article XIV, Section 3, states that the sufficiency of the petition shall not be questioned after the people have voted. The Supreme Court did not take a second look until after the people had voted on it. Section 3 and Section 9 will result in both the initiative processes being the same.

Proponents' Testimony:

Arlette Randash, Eagle Forum, stated SB 148 deserves support because it protects the right of the people, a right protected under our Constitution to address concerns and grievances against the government. The attorney general and the secretary of state oversee initiatives before they are released for signature gathering, making sure that state law is met. This bill would preclude negativity of those who objected to the initiative process used by the people this past year in initiatives such as CI 66, CI 67 and IR 112. This bill puts it to the vote of the people, further respecting the rule of the electorate.

{Tape: 2; Side: A}

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

SENATOR DOHERTY questioned who makes the final call regarding whether the initiative is proper. Is that a power that the Supreme Court should have? **SENATOR EMERSON** stated that if there is a bill by initiative, the Supreme Court has nothing to say about it. Since that was left out, the amendment to the Constitution was amended by initiative, the Supreme Court does have a say in it. Once it is voted on, it makes no difference whether the petition was faulty or not. The people are supreme in the state. **SENATOR DOHERTY** questioned if the Constitutional Convention notes had been reviewed to see if there was any discussion in Article III, Section 4 of the initiative route for amending statutes as opposed to the difference in Article IX, Section 9, to see if this had been considered at the time it was adopted. **SENATOR EMERSON** stated he did review it. Once the initiative had been voted, there would be no reason for anyone to be worried about it. **SENATOR DOHERTY** stated that the Supreme

Court ruled that the secretary of state incorrectly stated the substance of what the submission would do. That was the reason the Supreme Court ruled it was invalid. If there is a problem that the secretary of state has created, there is really no other way to get to the problem. A final decision maker should address the problems. **SENATOR EMERSON** stated the trial lawyers took it to the Supreme Court before it was put on the ballot and the Supreme Court okayed it. After it was voted on, the Supreme Court changed it.

SENATOR BARTLETT stated that Article IV, Section 7 (3) deals with the instance of an election being declared invalid on an initiative or referendum, because the election was improperly conducted. This amendment says if everything is okay with the petition, but the election was improperly conducted, the remedy is for the secretary of state to submit the issue at the next regularly scheduled statewide election. There are two stages, the petition and the election. If the flaw is in the election, would the language in Article IV address the concerns. **SENATOR EMERSON** stated that it did not totally address the concerns. If the same thing came up, they would have to run the initiative a second time which delays it two years, costs a lot of money and should not be necessary once the people have passed it.

SENATOR DOHERTY followed up by stating that if they adopted his changes to Article XIV, Section 9, the challenge of the sufficiency of the petition would nullify this escape clause which was adopted after the 1986 decision. **SENATOR EMERSON** stated that it would nullify because that concerns the election. This deals with the petition. Petitions should not be checked after the election.

SENATOR ESTRADA understands that the secretary of state reviews the petition and then it goes before the attorney general for approval. **SENATOR EMERSON** stated that is what happens; however, his bill would add a safety clause.

CHAIRMAN CRIPPEN stated that the legislature can void the initiative. **SENATOR EMERSON** stated the people are supreme. Neither the Supreme Court nor anyone else should change it.

SENATOR DOHERTY stated that he doesn't think the attorney general can change the substance of the wording once it has been adopted by the secretary of state. **CHAIRMAN CRIPPEN** stated the attorney general can rule on the sufficiency of the wording.

Closing by Sponsor:

SENATOR EMERSON offered no further comments on closing.

HEARING ON SB 149

Opening Statement by Sponsor:

SENATOR EMERSON, Senate District 14, presented SB 149. He said he took the initiative which was passed by the people in 1986 and was then eliminated by the Supreme Court. He wants to have it reintroduced. The clause was put in the con con which stated that a person should have full legal redress. The Supreme Court used the word "full" in their decision. Full meant not putting any caps or restrictions on the lawsuit. This initiative eradicated the word "full". The initiative removed the words "this full" and left the words "no person should be deprived of legal redress". The word full opened the door for situations where the legislature was helpless.

Proponents' Testimony:

Don Allen, Coalition for Work Comp System Improvement, stated that in the 1993 session the coalition wrangled over this legislation. There is a lot of concern revolving around the ability to assure consistency and predictability in work comp issues. The legislature passed laws dealing with work comp which the Supreme Court later changed.

George Wood, Montana Self-Insurers Associations, stated they support SB 149. Their concern in the work comp field is the absence of subrogation rights because of the words "full legal redress" and they end up paying benefits to employees who are injured through the fault of someone not an employee. They have no redress to be reimbursed for the money they have to spend.

Opponents' Testimony:

Russell Hill, Montana Trial Lawyers, spoke in opposition of SB 149. The Montana Supreme Court has already done what the proponents of the bill are seeking. There is a lag time between a public event like CI 30 and a court decision. The court has now changed the landscape. Although the constitutional phrase "this full legal redress" once guaranteed Montanans a fundamental right to compensation from wrongdoers, the significance of those words has evaporated since 1986. The case of Meach v. Hillhaven, has achieved what SB 149 aspires to do. It specifically declared that Article II, Section 16 of the Montana Constitution creates no fundamental right to full legal redress. The people who want this bill are thinking in context of work comp. Montana has governmental tort liability limits set at $750,000 per person and $1.5 per occurrence. There are numerous caps throughout the law. MTLA opposes the bill because it would require an expensive public vote and it would be an extremely hard measure for people to understand. SB 149, by adding so much new language to the

constitution, will invite new and unpredictable litigation. If this bill passes, it will blur the distinction between separation of powers.

Gene Jarussi, Montana Trial Lawyers, questioned why the 1986 initiative should be reintroduced. The Montana Supreme Court decided the case of Meach v. Hillhaven which did exactly what the initiative is designed to do. People of this state want less government spending. This bill puts on the ballot an initiative which is already there. Since Meach, this issue has not come before the Montana Supreme Court. It is a settled area of law. This bill will only invite litigation.

Randy Bishop, Montana Trial Lawyers, stated that he hates wasting his clients money and his own on idle acts. As a lawyer, he needs to advise his clients about the law. Every word that goes into the Montana Code and into the Constitution has its day in the sun. Who could have imagined that there would have been ten years of litigation trying to understand two words, "this full". The litigation has come full circle. It is clear in Montana law that the words "this full" add nothing to Article II, Section 16. Article II, Section 16 says what **SENATOR EMERSON** wants it to say. If it ain't broke don't fix it. It costs too much money and injects too much uncertainty by change.

Informational Testimony: None.

Questions From Committee Members and Responses:

SENATOR GROSFIELD referred to paragraph 3 and asked if there would be a 2/3 vote for limitation on damages to private parties as well as government entities and suggested that would be something MTLA would support. **Mr. Jarussi** stated it isn't a question of what percent of the vote it would take, the question is whether Montana is well served by having this initiative go back on the ballot when there is no reason for doing that.

SENATOR DOHERTY stated he couldn't remember Meach v. Hillhaven but the amendment also strikes every injury. Did Meach v. Hillhaven deal with "every injury"? **Mr. Bishop** stated that the Supreme Court truly nullified all of these little words which were of concern by simply taking a look back at the writings of constitutional scholars, studying constitutional history, and saying you cannot look at the word "this" or the word "every" or the word "full" and change the basic intent underlying this type of access to the court's provision.

SENATOR HALLIGAN stated that this bill seems to take away individual rights. **SENATOR EMERSON** stated that the lawsuits caused all kinds of problems. It is time for common sense which this will allow.

SENATOR CRIPPEN asked what would happen if this initiative is not approved by the people. **SENATOR EMERSON** stated that we would be back to where we are now. **SENATOR CRIPPEN** stated that his concern is that we wouldn't be. If it was not passed by the people, it would mean they most certainly want full legal redress and want the Supreme Court to take that in consideration notwithstanding their arguments in Meach v. Hillhaven. **SENATOR EMERSON** stated that would not be reason enough not to go ahead.

Closing by Sponsor:

SENATOR EMERSON stated the Supreme Court has changed some of the laws. Before this initiative was passed the court thought "full" really meant totally full and they used it to declare legislative actions unconstitutional.

EXECUTIVE ACTION ON SB 150

{Tape: 2; Side B}

Motion: **SENATOR NELSON** moved **SB 150 DO PASS.**

Discussion: **SENATOR BISHOP** stated that non-identifying information is routinely disclosed now. What is the purpose of this bill.

{Tape: 3; Side A}

SENATOR HALLIGAN stated he understood that in a closed adoption, if you want to get non-identifying information you need to get an order from the judge. Some judges will sign the orders, others won't.

Vote: The motion **CARRIED** on oral vote with **SENATOR BISHOP** voting "**NO**".

EXECUTIVE ACTION ON 66

Discussion: **Valencia Lane** stated several of the committee members suggested the bill be clarified to make it clear that this bill applies to separate offenses. Also clarification would be needed in the instance of medical emergency that the inmate could be moved to a hospital. There was a concern about taking out the words "robbery" and "arson".

Motion: **SENATOR JABS moved that SB 66 BE AMENDED to remove arson and robbery.**

Discussion: **SENATOR JABS** stated that robbery and arson were not as severe as murder or rape.

SENATOR DOHERTY expressed concern in a situation where during the course of robbery a fire was set to someone's building. Would that individual be charged with two felonies which would equal the two strikes?

SENATOR BARTLETT stated that there are certain crimes which fall within the class of robbery that should be included in the sentencing. The definition of robbery is broad enough that it would sweep people into this type of sentence who should not be faced with life without parole. She would like to see amendments for robbery and arson. This should aim toward the violence of the crime and the damage to and death of other human beings.

Vote: The motion **CARRIED** with **SENATORS BAER, ESTRADA, HOLDEN, JABS** and **NELSON** voting **"NO"**.

Discussion: **SENATOR HALLIGAN** asked whether assault should be included. He would like to add 45-5-202(h), aggravated assault and felony assault.

Valencia Lane stated that aggravated assault occurred when a person purposely or knowingly causes serious bodily injury to another. Felony assault is if a person purposely or knowingly causes bodily injury to another with a weapon.

Motion/Vote: **SENATOR HALLIGAN** moved that **SB 66 BE FURTHER AMENDED** to include felony and aggravated assault.

Discussion: **SENATOR DOHERTY** stated that if an individual with a loaded firearm pointed it at another and said that he would blow him away and the person reasonably believed that that firearm was loaded and that individual meant to shoot him then that is a reasonable apprehension with bodily harm which is a felony.

CHAIRMAN CRIPPEN questioned whether felony assault was with a weapon. **SENATOR HALLIGAN** stated that a person commits the offense of aggravated assault if he purposely or knowingly causes serious bodily injury to another with a weapon. A weapon means any instrument, article or substance that, regardless of its primary function, is readily capable of being used to produce death or serious bodily injury.

SENATOR HALLIGAN stated serious bodily injury creates a substantial risk of death or causes serious permanent disfigurement or protracted loss or impairment of the function or process of any bodily member or organ.

Vote: The motion **FAILED** on oral vote.

ADJOURNMENT

Adjournment: The meeting adjourned at 12:05 p.m.

BRUCE D. CRIPPEN, Chairman

JUDY J. KEINTZ, Secretary

BC/jjk

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MONTANA SENATE
1995 LEGISLATURE
JUDICIARY COMMITTEE

ROLL CALL DATE 1-20-95

NAME	PRESENT	ABSENT	EXCUSED
BRUCE CRIPPEN, CHAIRMAN	✓		
LARRY BAER	✓		
SUE BARTLETT	✓		
AL BISHOP, VICE CHAIRMAN	✓		
STEVE DOHERTY	✓		
SHARON ESTRADA	✓		
LORENTS GROSFIELD	✓		
MIKE HALLIGAN	✓		
RIC HOLDEN	✓		
REINY JABS	✓		
LINDA NELSON	✓		

SEN:1995
wp.rollcall.man

SENATE STANDING COMMITTEE REPORT

January 20, 1995

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration SB 150 (first reading copy -- white), respectfully report ~~that~~ SB 150 do pass.

Signed: _____
Senator Bruce Crippen, Chair

Amd. Coord.
Sec. of Senate

171258SC.SPV

SENATE STANDING COMMITTEE REPORT

January 20, 1995

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration SB 133 (first reading copy -- white), respectfully report that SB 133 do pass.

Signed: _____
Senator Bruce Crippen, Chair

Amd. Coord.
Sec. of Senate

171253SC.SPV

SENATE STANDING COMMITTEE REPORT

January 20, 1995

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration SB 90 (first reading copy -- white), respectfully report that SB 90 be amended as follows and as so amended do pass.

Signed: Senator Bruce Crippen, Chair

That such amendments read:

1. Title, lines 5 and 6.
Following: "STUDENTS" on line 5
Strike: remainder of line 5 through "STANDARDS" on line 6

2. Page 1, line 16.
Strike: "(1)"

3. Page 1, line 18.
Following: "student"
Insert: "handling firearms"

4. Page 1, lines 19 through 21.
Strike: subsection (2) in its entirety

-END-

PV Amd. Coord.
SA Sec. of Senate

171302SC.SPV

MONTANA SENATE
1995 LEGISLATURE
JUDICIARY COMMITTEE
ROLL CALL VOTE

DATE 1/20/95 BILL NO. SB 64 NUMBER _____

MOTION: Sen Nelson SB64 DO NOT PASS

NAME	AYE	NO
BRUCE CRIPPEN, CHAIRMAN		✓
LARRY BAER	✓	
SUE BARTLETT		✓
AL BISHOP, VICE CHAIRMAN		✓
STEVE DOHERTY		✓
SHARON ESTRADA	✓	
LORENTS GROSFIELD		✓
MIKE HALLIGAN		✓
RIC HOLDEN		✓
REINY JABS		✓
LINDA NELSON	✓	

SEN:1995
wp:rlclvote.man

MONTANA SENATE
1995 LEGISLATURE
JUDICIARY COMMITTEE
ROLL CALL VOTE

DATE 1/30/95 BILL NO. SB 133 NUMBER _____

MOTION: Halden DO NOT PASS

Reversed -

NAME	AYE	NO
BRUCE CRIPPEN, CHAIRMAN	✓	
LARRY BAER		✓
SUE BARTLETT		✓
AL BISHOP, VICE CHAIRMAN	✓	
STEVE DOHERTY	✓	
SHARON ESTRADA		✓
LORENTS GROSFIELD	✓	
MIKE HALLIGAN		✓
RIC HOLDEN	✓	
REINY JABS		✓
LINDA NELSON		✓

SEN:1995
wp:rlclvote.man

MONTANA SENATE
1995 LEGISLATURE
JUDICIARY COMMITTEE
ROLL CALL VOTE

DATE 1/20/95 BILL NO. SB 66 NUMBER _____

MOTION: Amend to strike robbery & arson.

NAME	AYE	NO
BRUCE CRIPPEN, CHAIRMAN	✓	
LARRY BAER		✓
SUE BARTLETT	✓	
AL BISHOP, VICE CHAIRMAN	✓	
STEVE DOHERTY	✓	
SHARON ESTRADA		✓
LORENTS GROSFIELD	✓	
MIKE HALLIGAN		✓
RIC HOLDEN		✓
REINY JABS	✓	
LINDA NELSON		✓

SEN:1995
wp:rlclvote.man

Amendments to Senate Bill No. 90
First Reading Copy

For the Committee on Judiciary

Prepared by Valencia Lane
January 20, 1995

1. Title, lines 5 and 6.
Following: "STUDENTS" on line 5
Strike: remainder of line 5 through "STANDARDS" on line 6

2. Page 1, line 16.
Strike: "(1)"

3. Page 1, line 18.
Following: "student"
Insert: "handling firearms"

4. Page 1, lines 19 through 21.
Strike: subsection (2) in its entirety

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 2
DATE 1/20/95
SB NO. 150

DEPARTMENT OF FAMILY SERVICES

MARC RACICOT, GOVERNOR
(406) 444-5900
FAX (406) 444-5956

STATE OF MONTANA

HANK HUDSON, DIRECTOR
PO BOX 8005
HELENA, MONTANA 59604-8005

TESTIMONY IN SUPPORT OF SENATE BILL 150
Submitted by **Betsy Stimatz**
On behalf of the **Department of Family Services**

This bill would allow the department and licensed adoption agencies to release non-identifying information from adoption records to adoptees, adoptive or biological parents or extended family members of the adoptee or biological parent without requiring a court order for the release of such information. Information most often requested by adoptees is medical and social histories; information which today is routinely provided prior to finalization of an adoption and clearly an expectation of 40-8-122, MCA.

This bill would allow birth parents to have general information regarding the characteristics of the family that adopted their child and information regarding the circumstances of the adoption.

Also allowed by passage of this bill is the opportunity for adoptees, adoptive or biological parents and extended family members of the adoptive or biological family to have professional assistance through a confidential intermediary in locating an adoptee, biological son, daughter or parent. The confidential intermediary would be appointed by the court in response to a petition filed by the person requesting the search.

The confidential intermediary would be required to refrain from disclosing any information to the petitioner unless ordered to do so by the court.

The establishment of the confidential intermediary program would provide all parties the opportunity for contact through the intermediary if direct contact was not desired. If a party declined to have their identity disclosed, their identity could be disclosed only by order of the court for good cause shown.

Passage of this bill will allow the private agencies to provide a service which DFS is unable to provide due to time and staff constraints. The passage of this bill will be welcomed by adoptees, birth family and adoptive family members who have been frustrated with the inability of DFS to respond in a timely manner to their request for assistance with searches.

DATE 1/20/95

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: SB 148, SB 149
SB 150

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
ELLA GAFFANEY	MONTANA POST ADOPTION CTR	150	✓	
BILL DRISCOLL	CATHOLIC SOCIAL SERVICES	150	✓	
Betsy Stimatz	DFS		✓	
Kim Kradolfer	adoptive parent	150	✓	
Steve Doherty	MT. Trials Lawyer.	149		X
George Wood	MT Self Employed Assn	149	✓	
Randy Bishop	Individual	150	✓	
" "	MTLA	149		✓
Arlette Randash	EAGLE Forum	148	✓	
Laurie Koutnik	CC of Mt	148	✓	
Russell B Hill	MTLA	SB 149		✓
Shirley Brown	DFS	SB 150	✓	
Ann Gilkey	DFS	SB 150	✓	
Mary Alice Cook	Adv. for MTs Children	SB 150	✓	
Don Allen	CWCSF	SB 149	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY