

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
54th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON JUDICIARY**

**Call to Order:** By **CHAIRMAN BOB CLARK**, on January 30, 1995, at 10:12 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:**

Hearing: HB 244, HB 250  
Executive Action: HB 250 DO PASS AS AMENDED

{Tape: 1; Side: A}

**HEARING ON HB 250**

**Opening Statement by Sponsor:**

REP. LINDA MC CULLOCH, HD 70, presented HB 250. She explained that under current law if a person commits a misdemeanor under chapter 61, which this bill deals with, such as following too closely, failing to stop at a stop sign or a muffler violation, that person can be fined or imprisoned for each violation. If this bill is passed, the court may sentence the offender to community service, seize property or imprison in the county jail in the event the person cannot pay the fine imposed. This bill does not change the penalty for DUI or reckless driving offenses. There is no fiscal impact on state or local government expenditures or revenues although there may be some reduction in the cost incurred for incarceration in the county jails due to reduced imprisonments. An amendment was proposed and discussed.

**Proponents' Testimony:**

Jim Smith, Montana Sheriffs and Peace Officers Association, said the association is in support of HB 250 and asks for scrutiny and favorable consideration of it. He thought it attempts to give local law enforcement the tool they need to prioritize the people coming into the local jails and detention centers. He said it would give the courts and local law enforcement the discretion to impose community service instead of jail time for certain offenses. He gave a brief background focused on the availability of limited facilities relating to the need for this type of legislation.

*{Tape: 1; Side: A; Approx. Counter: 9.5; Comments: Copies of the written testimony and chart referred to in testimony were not submitted to the secretary.}*

Mike O'Hara, Captain, Sheriffs Department in Missoula, Jail Administrator and board member of Montana Sheriffs and Peace Officers Association, came forward to support HB 250. He specified the types of violations these amendments would cover which do not warrant a jail sentence. He emphasized that they do not affect reckless driving, careless driving, drag racing, DUI, and other serious driving violations.

**Opponents' Testimony:**

None

**Questions From Committee Members and Responses:**

REP. JOAN HURDLE asked if there was any possibility that a shortage of community service jobs would occur.

**Mr. Smith** recalled that when Montana had a general assistance program there were adequate community service jobs. Some counties seem to have little or nothing in the way of community service now, but the bill gives the discretion to the court in sentencing.

**REP. LOREN SOFT** asked why they did not go further in including other violations in the community service category. He also wanted to know who would supervise them and how.

**Mr. Smith** referred to the chart and said he expected that anything listed on the right column would be serious enough to warrant its own penalty while those on the left do not have mandatory sentences on the books now. In response to the second question, he said the courts would have to work out some methodology for how the community service would be supervised and by whom. He deferred to **Mr. O'Hara** for more complete answers.

**Mr. O'Hara** said community service in Missoula is not for city and county governments, but for non-profit organizations, churches, retired senior volunteer programs, etc. Some of the violations are not listed in the handout. He had considered some of those.

**REP. AUBYN CURTISS** asked about the types of property which could be attached as outlined on lines 4 and 5.

**Mr. O'Hara** responded that currently under 25-13-204, MCA, whenever an order for the payment of a sum of money is made by a court or a judge pursuant to the provisions of this code, it may be enforced by execution in the same manner as if it were a judgment against specific property which would be covered by code.

**REP. CURTISS** said she was concerned about the seizure of property of value far exceeding the cost of the penalty being extreme in for the misdemeanor.

**Mr. O'Hara** agreed that they would not be seizing a car, for example, that is worth \$3,000 for a \$25 fine. He had never seen that to be a problem in the past.

**REP. LIZ SMITH** asked what would warrant property seizure under this code.

**John MacMaster** explained that page 1, lines 26 and 27, said it could be enforced by execution in a manner provided in 25-13-205, MCA, and under the provisions of title 25, chapter 13. That is the chapter of the law which relates to execution upon property mainly in civil cases. There are exceptions to what can be seized and he thought they exempted absolute necessities.

**REP. ELLEN BERGMAN** asked if they can't pay or refuse to pay the fine, were they then to do the community service. She also asked if they can go to jail in lieu of doing the community service.

Mr. Smith said the answer to her question was on page 1, line 25 where the court may order enforcement and may require community service or may seize property.

REP. BERGMAN restated that they have the option to perform the community service.

Mr. Smith answered, "Exactly, that option has not been available, so it is an attempt to give them an option to reduce those jail populations and give somebody perhaps something constructive to do with their time." He said there are some other bills scheduled for hearing relating to this issue in attempts to address the serious problem of overpopulation of the jails.

REP. BERGMAN noted that there was no fiscal impact. But she wondered if an employee would be needed to supervise the community service thus causing an expense.

REP. MC CULLOCH assumed it would be done with existing personnel.

REP. BERGMAN asked, "They wouldn't have to add on extra?"

REP. MC CULLOCH said it bears remembering that this is only if someone can't or doesn't pay the fine; it is an option until the fine is not paid.

REP. DEB KOTTEL said her understanding of judgment creditors is that it would either be a garnishment or a writ of execution and they cannot take more than the amount claimed plus the cost of the writ. The property is sold at auction where the debtor can buy back his claim at that time and then any excess has to go back to the debtor. This is no different from any other judgment creditor situation. She asked if Mr. MacMaster agreed.

Mr. MacMaster agreed and said that was so they would not get more than they are entitled to.

REP. KOTTEL asked if it was true that when the person had no assets and refused to do community service, this bill would allow the person to be imprisoned or be charged with contempt and then the imprisonment would be in lieu of the fine.

Mr. MacMaster said he read the bill to say on page 1, lines 24 and 25, the person has to pay the fine. If the fine is not paid, the court would find the person in contempt of court and only after that the court would ascertain if there were seizable assets, and if there were none, the person would be required to work the fine off.

CHAIRMAN BOB CLARK asked what would happen if a community does not have a community service program.

Mr. Smith said there were two choices, one is to begin the efforts to establish a community service program or the second is

to keep people incarcerated. Those would be the choices at the local level.

**CHAIRMAN CLARK** asked if he saw a possible constitutional issue if community service is offered in one county and not in another. He asked if he saw a possible fiscal impact if they have to institute a community service project.

**Mr. Smith** answered that personally he did not see constitutional problems with this attempt. He said the question concerning cost has the potential to become a real problem. But he saw possibilities for collaboration with other community resources in finding solutions.

**CHAIRMAN CLARK** asked if he was aware of any community service jobs which interfere with union contracts.

*{Tape: 1; Side: A; Approx. Counter: 32.6}*

**Mr. Smith** believed there was language added in title 53 that said any of these community service projects cannot interfere with existing collective bargaining agreements or displace any worker currently working under that agreement. He did not know if those statutes would apply to this.

**CHAIRMAN CLARK** asked about the offenses and their qualification for this program. He asked if it was a shorter list than those which would really qualify.

**Mr. Smith** said it was a representative sample.

**CHAIRMAN CLARK** thought there were some moving violations which would qualify and there are some offenses which don't qualify which are not moving violations. He asked if there was some rationale for that.

**Mr. Smith** said he was sure there was rationale for each of them being added to statutes by previous legislatures but he did not know what they were. For their purposes, they looked at serious and not-so-serious offenses. The ones that are not included already have their own penalties and so they assumed they were thought to be more serious whether or not they were moving violations.

**REP. SHIELL ANDERSON** asked what it would cost to go through one of these proceedings and what is the break-even point.

**Mr. O'Hara** said currently in Missoula County it costs \$46 a day to lock somebody up. They can only sit it out at \$25 a day, so on a \$400 fine that is 16 days, amounting to \$500 in jail costs. He believed that going through the proposed process would cost a one-day stay.

**REP. ANDERSON** asked if he was saying that to go through the process of finding property to attach and then attaching it would cost no more than \$46.

**Mr. O'Hara** said, "Yes, I would." He was saying that the cost for the process for the sheriff's office would cost approximately that much. The person serving the subpoenas and writs combines several servings in one trip.

**Closing by Sponsor:**

**REP. MC CULLOCH** closed with the statement that this bill plays a crucial role toward the effort to get tough on crime. First, it would give local courts other sentencing options; second, it would assist jail administrators in reserving more jail space for more serious misdemeanor and felony cases; and, third, this bill makes better use of the taxpayers' dollars. She urged support of HB 250.

**HEARING ON 244**

**Opening Statement by Sponsor:**

**REP. WILLIAM "RED" MENAHAN, HD 57**, said this legislation came to him from the county attorney and a person who testified at a court case against an individual who had caused harm to her and a member of her family. He was adjudicated and found guilty but for a 10-day period was allowed to finish personal business and was free in the community. The purpose of the bill is to detain someone who has been convicted while awaiting the execution of their sentence except during an appeal.

**Proponents' Testimony:**

**Sharon Powers Bakerson, Licensed Practical Nurse, Majority Against Child Molestation (MACeM)**, said that a few years ago she worked at Warm Springs State Hospital where she listened to various victims of sexual crimes. She continues to hear about crimes against children. One of the main fears expressed by victims and their families is seeing the perpetrators out in the communities. She recounted a recent case in the Helena community where the perpetrator was caught stalking his victim after a conviction. She cited this failing in the judiciary system as the reason why many will not come forward to testify in crimes committed against them.

**Wendy Reeser-Lentz, MACeM**, gave documentation of the wide-spread prevalence of child sexual abuse. She said the first injury occurs when the child is molested, but the second injury occurs when someone who is to act in a protective role responds in a non-helpful and non-empathetic way. She said that it is devastating for a child to see someone who has robbed them of their childhood and dignity being tried and convicted only to be

turned loose once again. The system is adding insult to injury. She described the emotional turmoil this causes the victim and families. She felt it is time to say enough is enough.

**Connie Griffin, MACeM**, said sexual abuse robs children of childhood and society must do everything in its power to prevent sexual abuse and when that fails, it needs to protect them from further abuse. If a perpetrator remains incarcerated, the victim has a chance to heal, but if the perpetrator is allowed to be free to run the streets and to be seen, the cycle of fear starts again.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

**REP. ANDERSON** asked the sponsor if he had a feel for the length of the appeal time for some of those offenses listed.

**REP. MENAHAN** said there would have to be a stipulation on their appeals that they would not be allowed to be completely free where they could use the "wristlit" system rather than allow them to go back into the community and appeal after they have been found guilty.

**REP. SOFT** asked what they are going to do about jail and prison space. He asked if this represents an unfunded mandate.

**REP. MENAHAN** said that was a problem, but this bill addresses crimes against persons and when that takes place, those people should not be allowed to be out. Other types of non-violent crimes against people could allow the defendant to be out.

**REP. SOFT** wanted to know how many are in the jail and detention system now who should not be there with regard to crimes against persons as opposed to other crimes.

**REP. MENAHAN** said a lot of the cases could be out on appeal and then are convicted, but also some may have been in jail and have their spot already because they do not have bail. He said the Department of Corrections and Human Services (DCHS) would like to have some cap on the number of people who are going in, but these types of crimes are the ones which deserve incarceration.

**REP. KOTTEL** asked the sponsor if he was aware that subsection (f) on page 1 specifically includes tree spiking which is not necessarily a violent crime towards a person and that "intimidation" on line 28 specifically addresses filing a false report or "malicious intimidation or harassment" includes any type of crime that uses an ethnic slur. She wondered if he saw all of these as being equally serious.

**REP. MENAHAN** said, "No, not necessarily." In drafting the bill, they knew that there are certain catch-alls in the laws and he was open to changing the language of the bill for some of the violations listed which would have to be more directly specified.

**REP. KOTTEL** asked if the judge was obligated to hold a person while awaiting appeal if they are found to be a danger.

**REP. MENAHAN** said he would like to think that is the case, but it hasn't been followed by some of the judges in the state. The county attorneys favor this because they are aware of judges turning people loose.

**REP. KOTTEL** said the answer was really accountability for some judges rather than not having the legal ability to keep people in jail while awaiting appeal or bail.

**REP. MENAHAN** said that was probably true, but all laws only apply to those who break them.

**REP. KOTTEL** asked if the victim is allowed to testify at the bail hearing or the hearing to release a defendant.

**REP. MENAHAN** said he was not aware of that. He was aware that some had been adjudicated by a jury and victims have testified against them and then the very next day have been circling the homes of the victims because they are out on the good will of the judge for up to two and three weeks.

**REP. HURDLE** was confused by the variety of the seriousness of the crimes listed. She asked for clarification.

**REP. MENAHAN** proceeded to clarify the specific definitions according to his understanding.

**REP. HURDLE** saw a wide variety in the crimes listed and wondered if it was too broad.

**REP. MENAHAN** said it might be, but explained his reasons for those listed.

**REP. ANDERSON** commented that there was a common theme among the proponents that points to a recurring problem. He asked them to state the particular crime they are aware of in which this problem exists because the person was not incarcerated pending appeal.

**Ms. Bakerson** said most of the crimes they have found are against children. She said it is hard to get a person who has committed one of these crimes into the judiciary system and many of the cases are allowed to continue indefinitely.

**REP. ANDERSON** said he believed that she was referring to crimes such as kidnapping, custodial interference, and sexual crimes.



{Tape: 1; Side: B}

REP. SMITH asked about the origin of the list.

REP. MENAHAN said those are the exiting codes and he specified the crimes he thought the drafters should include. He was open to the committee modifying the list.

REP. SMITH asked what the membership of MACeM consists of.

Ms. Bakerson said they had started with four individuals who were having problems getting their cases into court. There are 30 to 50 who meet weekly.

REP. SMITH asked if all of these crimes listed had occurred within the membership.

Ms. Bakerson replied, "No, not from all the crimes." She spoke to some which do not apply, but anything that affects sexual crimes against any person are included.

REP. AHNER asked what MACeM stands for.

Ms. Bakerson answered, "Majority Against Child Molestation." She said the small "e" helps in the pronunciation.

Closing by Sponsor:

REP. MENAHAN was open to changes by the committee which would improve the bill. He suggested that the members contact their county attorneys to discover their support.

EXECUTIVE ACTION ON HB 250

Motion: REP. MC CULLOCH MOVED HB 250 DO PASS.

Motion: REP. DUANE GRIMES MOVED TO AMEND.

Discussion: Mr. MacMaster described an amendment which was suggested by Sheriff O'Reilly which says that if a person is convicted, time served in jail before the trial is a credit against time served after the trial. It becomes a credit against the fine. The lines to be amended appear in two places in the bill page 2, lines 3 and 4 and page 3, line 3 which deals with the equivalent of one-day's incarceration equal to \$25 in fine. It allows working off the jail time after conviction. Mr. MacMaster said in this case the person is working off the fine with time spent after the fine is imposed. In the case of the section where it says in accordance with 46-18-403, MCA, in the amendment, it says that time served before a person is sentenced is a credit against the fine at the basis of \$25 a day. The basic idea is that whatever the dollar amount is in 46-18-403, MCA, that is the amount which is worked off on a per day basis.

Strike line 4 page 2 and strike line 3 page 3, insert, "the number days of imprisonment shall be the number of days that the fine is divisible by the dollar amount contained in 46-18-403, MCA." Sheriff O'Reilly's concern was that if the '403 amount is changed, there would be a different computation in the two cases and he wanted it to be the same.

**Motion/Vote:** REP. SOFT MOVED THE SUBSTITUTE AMENDMENT. The motion carried unanimously by voice vote.

**Motion:** REP. ANDERSON MOVED HB 250 DO PASS AS AMENDED.

**Motion:** REP. BRAD MOLNAR MOVED TO AMEND BY STRIKING THE LAST SENTENCE AT PAGE 2, LINES 29 AND 30.

**Discussion:** REP. MOLNAR felt that needed to be struck in order to restore the judge's discretion in sentencing.

REP. MC CULLOCH thought the wording was included to give the judge some guidelines in structuring the amount of community service and how it would be paid off. For that reason, she believed it should remain in the bill.

REP. DANIEL MC GEE asked if changing the word, "must," to "may" would accomplish the same thing.

REP. MOLNAR felt it did not make a difference, he just wanted to be sure the discretion is left with the judge and "may" would do that. He did not want it to become common law.

REP. KOTTEL pointed out that this statute would only come into play when someone is unable to pay and this portion of the statute deals with a fine rather than ordering community service. Only indigent people would do community service and that was why she believed the minimum wage criteria should be left in the wording of the statute.

REP. BILL TASH agreed with REP. MOLNAR in that he saw it more as an opportunity for the judge to quantify what is done with fair compensation required with more measurable ways of fulfilling community service such as pulling knapp weed by the pound. This was better than trying to determine how much is accomplished in community service on a per-hour basis.

REP. HURDLE asked if REP. MOLNAR would consider changing "must" to "may" which she believed would make the argument all come together.

REP. MOLNAR said that though changing "must" to "may" would allow judges to be more creative in sentencing, he felt that striking the sentence would leave no doubt that the intention was to provide the judge with a greater latitude in sentencing and determining what needed to be done, but not based on how long it would take the defendant to accomplish it.

**REP. KOTTEL** felt that any judge could be more creative and could order large amounts of community service. But this bill addresses the situation after the imposition of the fine. With the person who has no money to pay the fine, the judge could order hours of community service exceeding what would rationally be related to the value of the fine. She felt there was a danger of penalizing people who cannot pay the fine without a rational relationship between the fine and the amount of community service. This could result in involuntary servitude. She would not object to the judge ordering the number of hours of community service up front whether they could pay or not.

**REP. MC GEE** spoke in favor of the original amendment. He did not believe changing "must" to "may" would accomplish the same goal. He felt it would leave discretion in the hands of the judge rather than in the hands of the person performing the community service. He felt some might extend the service beyond a reasonable length of time by using the minimum hourly wage as a measure of payment.

**REP. ANDERSON** felt there are enough checks and balances in the system whereby a judge would not abuse what he can do in sentencing and in his creativity in sentencing. He urged the committee to vote for the amendment.

**Motion/Vote:** **REP. HURDLE MOVED A SUBSTITUTE AMENDMENT CHANGING THE WORD, "MUST," TO "MAY" AND RETAIN THE REMAINING SENTENCE ON LINES 28 AND 29, PAGE 2. The motion failed 7 - 11 by roll call vote.**

*{Tape: 1; Side: B; Approx. Counter: 32.0}*

**Discussion:** **REP. MOLNAR** rebutted the arguments against his amendment. He said that if an amendment were proposed which would say that a judge may use community service in lieu of the fine as opposed to using it only if the fine cannot be paid, he would be supportive of that.

**REP. CLIFF TREXLER** said in his experience, when the judge sends someone to the Fair Board for community service, it costs them a large amount to supervise those people and he has only seen one who has performed at a minimum wage standard. He supported the amendment to do away with that portion of this bill. He felt that this would eliminate an abuse of the statute by someone putting in the time to earn the minimum wage equivalent without actually performing a substantial amount of work.

**Motion:** **REP. KOTTEL MOVED A SUBSTITUTE AMENDMENT TO ADD THE WORDS, "OR COMMUNITY SERVICE" TO LINES 19, 20 AND 21.**

**Discussion:** **REP. ANDERSON** spoke against the substitute amendment feeling that there needs to be a "hammer" for the people who do not pay the fine. He said that if there is a judge with an "ax to grind" with a particular person, he may order him to community

service while a fine would be appropriate rather than community service. He thought that if the offense is a minor traffic offense, the person should only have the option of paying the fine. He felt that community service for minor traffic offenses should be an alternative.

**REP. KOTTEL** said that it is a class issue. She said that those who have money don't like the judge having discretion to make them do things, they just want to pay the fine and leave. But those who don't have the money to pay are in the position of being at the judge's discretion to impose any amount of community service in lieu of monetary payment. She did not see that as fair.

**CHAIRMAN CLARK** asked about the person who might have a portion of the fine and would be required to pay the balance through community service. He wanted to know if the **KOTTEL** amendment would cover that situation.

**REP. KOTTEL** said she thought it would and accepted that the wording include "and/or" to cover that situation.

**REP. SOFT** gave an example to support his decision in favor of the amendment.

**REP. GRIMES** liked the concept, but asked if it was within the scope of the title of the bill.

**Mr. MacMaster** said the committee can always amend the title to say what is in the bill as amended. The real question is whether it is within the subject of the bill. One rule that applies here is that the title of the bill must tell what is in the bill. The other rule is that as the bill works its way through the legislative process, the bill cannot be changed so as to change its original purpose.

**REP. GRIMES** wondered if this amendment does change the original intent.

**REP. MC CULLOCH** said she did not know what those requesting the bill would think of this amendment. She felt it was quite a substantial change of direction. She did not agree with **REP. MOLNAR'S** amendment.

**REP. GRIMES** said he would not object to the amendment on those grounds, but he was hesitant to come up with ideas which might be contrary to the original intent.

**REP. MC CULLOCH** asked **Mr. MacMaster** if this amendment would fit into the original purpose.

**Mr. MacMaster** said his understanding of the original purpose was to keep violators of minor traffic laws out of jail because of the limited jail space and the amendment takes the provision of

imprisonment out of the current law. The question is whether the drafters of the bill will mind supervising them for community service. He said they apparently don't want to supervise them in the sense of putting them in the county service. He said he would guess the answer to be no and they would have to be asked what they think about it.

**REP. TREXLER** said his reading of the original intent was that basically once a person is fined and the person could not pay the fine and had no property to be seized, this was an alternate to paying the fine. Now, it seemed to him they were trying to institute new legislation into the legal system which would say a person would not have to pay the fine. He spoke against the **KOTTEL** amendment and asked to go back to the intent of the bill.

**REP. DEBBIE SHEA** spoke in opposition to the amendment. She said that this is for minor traffic offenses and this would put a "scarlet letter" on everybody and would open the door to unfair treatment by a judge who might have something against the person who had a minor traffic offense.

**REP. WILLIAM BOHARSKI** asked if the bill includes how many hours of community service could be imposed.

**REP. KOTTEL** said it would if they didn't pass the **MOLNAR** amendment. She explained her reasoning.

**REP. BOHARSKI** asked if the judge found it inappropriate to impose a sentence of community service, would he still have the option of sentencing the person to jail.

**REP. KOTTEL** said she read it that he does.

**Vote:** The motion failed by voice vote.

**CHAIRMAN CLARK** relinquished the chair to **VICE CHAIR ANDERSON**. Before leaving he announced the meeting time for ongoing executive action to be 7 AM until 8 AM with hearings beginning at 8AM daily in order to facilitate the schedule of bills before the committee without stifling the discussion of any committee members.

**Motion/Vote:** **REP. MOLNAR MOVED THE AMENDMENT TO STRIKE THE LAST SENTENCE ON LINES 29 AND 30.**

**Discussion:** **REP. KOTTEL** felt that to be consistent this amendment also should be voted down. She asked the committee to understand that this would not make community service a penalty, but it was already making the maximum penalty allowed by law \$200; and then because someone can't pay, asking them to work the penalty off. She said that how much they can be asked to work must be rationally related to the maximum penalty allowed to be charged by law. She felt that relating the hours worked to the minimum wage would prevent abuse by a judge of this option.

REP. MC CULLOCH recalled that the reason for the KOTTEL amendment stemmed from whether the MOLNAR amendment treated everyone fairly. She felt that amendment left the option for treating people unfairly.

REP. MC GEE spoke in favor of the amendment. He cited the exceptions to the minimum wage law. He did not believe they needed to justify monetarily by hourly wage a service, as many services can be charged on a cost-for-project basis.

REP. BOHARSKI suggested striking the sentence and substituting a sentence to the effect that the judge would establish a rate of pay that is reasonably commensurate to the amount of the fine.

REP. KOTTEL said she would accept a sentence similar to that suggested by REP. BOHARSKI since they don't like the hourly rate which takes supervision.

Vote: The motion on the MOLNAR amendment carried, 14 - 5, REPS. BOHARSKI, WYATT, MC CULLOCH, HURDLE and KOTTEL voting no.

Motion/Vote: REP. BILL CAREY MOVED DO PASS AS AMENDED. The motion carried 15 - 4, REPS. WYATT, KOTTEL, HURDLE and CURTISS voting no.

Motion: REP. BOHARSKI MOVED TO ADJOURN.

*{Comments: This set of minutes is complete on one 60-minute tape.}*

ADJOURNMENT

**Adjournment:** The meeting adjourned at 12:15 PM.

*Bob Clark*

BOB CLARK, Chairman

*Joanne Gunderson*

JOANNE GUNDERSON, Secretary

BC/jg

# HOUSE OF REPRESENTATIVES

## Judiciary

ROLL CALL

DATE 1/30/95

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

January 30, 1995

Page 1 of 1

Mr. Speaker: We, the committee on **Judiciary** report that **House Bill 250** (first reading copy -- white) **do pass as amended.**

Signed: Bob Clark  
Bob Clark, Chair

**And, that such amendments read:**

1. Page 1, lines 29 and 30.

Strike: "For" on line 29 through end of line 30

2. Page 2, line 4.

Page 3, line 3.

Strike: "computed" through last word on line

Insert: "the number of days that the fine is divisible by the  
dollar amount of the incarceration credit contained in 46-  
18-403"

3. Page 2, lines 28 and 29.

Strike: "For" on line 28 through end of line 29

-END-

1/30  
mm

Committee Vote:

Yes 15, No 4.

251401SC.HBK

# HOUSE OF REPRESENTATIVES

## ROLL CALL VOTE

### Judiciary Committee

DATE 1/30/95 BILL NO. HB 250 NUMBER           

MOTION: Page 3, lines 28, strike "must" and insert "may."

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		✓

Yes on Molnar amend met

No. on HB 250

Curtis

Proxy

HOUSE OF REPRESENTATIVES  
VISITORS REGISTER

JUDICIARY

COMMITTEE

DATE

1/30/95

BILL NO. HB 250

SPONSOR(S) Rep. McCulloch

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Bob Gilbert	MT. MAGISTRATES ASSN		X
Mike O'Hara	MSPOA Missoula County	X	

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

HOUSE OF REPRESENTATIVES  
VISITORS REGISTER

JUDICIARY

COMMITTEE

DATE 1/30/95

BILL NO. HB 244

SPONSOR(S) Rep. Menaker

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
2912 Village Rd Sharon Bakerson Helena 59601	M.A.C.E.M	✓	
Connie Griffin 5940 Aaron Helena	M.A.C.E.M	✓	
Wendy Reeser-Lentz <sup>324</sup> Brookings Helena	M.A.C.E.M	✓	

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