

**MINUTES**

**MONTANA SENATE  
54th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON JUDICIARY**

**Call to Order:** By **CHAIRMAN BRUCE D. CRIPPEN**, on March 27, 1995,  
at 3 P.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:** Sen. Steve Doherty  
Sen. Sharon Estrada  
Sen. Reiny Jabs

**Members Absent:** None.

**Staff Present:** Valencia Lane, Legislative Council  
Judy Feland, Committee Secretary

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

**Committee Business Summary:**

Hearing: HB 540  
Executive Action: None.

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**HEARING ON HB 540**

**Opening Statement by Sponsor:**

**REPRESENTATIVE BRAD MOLNAR**, House District 22, Laurel, presented HB 540, a general revision of the Youth Court Act. There were about 30 points of agreement when the bill was amended in the House Appropriations Committee, he said, between himself and others with concerns, that never did make it into the bill. However, he handed out a sheet of amendments (**EXHIBIT 1**). He

said the tone of the bill was greatly softened. During the past three weeks, he told the committee, every daily paper in the state had headlines and editorials stating that the juvenile justice system needed massive overhauls. They wanted action now as well as on-going studies in the future. HB 540 is an attempt to do what is easy to do now, he assured them.

**Proponents' Testimony:**

**REPRESENTATIVE ELLEN BERGMAN, House District 4, Miles City,** spoke as a proponent for the bill. She was also speaking for others in Miles City. **Fred Anderson, principal, Custer County District High School,** sent a fax which she presented. (EXHIBIT 2). She produced copies of a letter from **Grover Briggs, Pastor, Miles City (EXHIBIT 3).** She said he was also Chairman of a Parents' Advocacy group. He was very concerned and very supportive of the bill. She also presented letters of support from **Jack T. Regan, Assistant Principal, Custer County District High School, (EXHIBIT 4),** and **Ted Schreiber, Activities Director, Custer County District High School (EXHIBIT 5).** She concurred with HB 540 and stated that the general public is getting tired of crime. They were becoming more affected by it day after day and could not understand why it could not be stopped. Most people believed that the law would apply to everybody the same, and were finding out it wasn't. She felt it was a vital necessity to change the youth court. She also presented a letter from **Robert Richards, Superintendent, Miles City Unified School District (EXHIBIT 6).**

**Bruce Nachtsheim, Assistant Principal, Helena High School,** represented himself. He told the committee that he had been in education for 25 years, had previously been in the service of the FBI, and currently served on the Police Commission in Helena. He supported HB 540 because he had a grave concern for the youth of the community, and for the lack of direction that he perceived among them. As a disciplinarian at the high school, he daily dealt with problem youth who had no structured environment in which to function. There are youth coming to the school who don't belong in their school - they don't belong anywhere. They were not enrolled students, yet they were there to cause problems. There were also students ordered into the school by the court who were not interested in being there for the purpose of education. He said he could easily see 150 kids a day who are creating problems in the Helena High School alone, a school whose population numbered 1,600. Those students choose to be disruptive, insubordinate and unaccountable for their actions. But because of the lack of support in the law, there is not much that can happen to them. He said it was a negative influence in the system. He supported HB 540 and thanked the sponsor. He urged a drastic change in the youth corrections system.

**Dr. Mark Mozer, Clinical Psychologist, in private practice in Helena, represented himself.** He wished to convey support for HB 540, he said, which sought to modify the juvenile probation system by invoking meaningful consequences upon juveniles who

break the law. He had been a consultant at the Montana State Prison for 17 years and had evaluated thousands of inmates. He had seen innumerable youthful offenders, products of a system that has failed in many respects, notably by a pattern of providing too little consequence, too late. From his observation, he thought the system characteristically slapped the juvenile offenders' hands repeatedly but the apparent effect was simply the desensitization of the offender to the system, so he had no fear of the law, believing that he could, quite literally, in some cases, get away with murder. It is no wonder that the state prison's youthful offenders are becoming more numerous and more vicious. To look at it in another way, he said that kids who get in trouble characteristically think that they are O.K., and the rest of the world is out of step with them. To not provide meaningful consequences is to reinforce the attitude that nothing is really wrong or needs to change with the offender. Providing early meaningful consequences should hasten the day when kids take a hard look at themselves. It was his opinion that if the juvenile justice system would acquire some teeth, in the form of significant, enforceable consequences, some of the kids who otherwise seemed destined for prison might be deterred from a life of crime. He realized it would create more work and add an expense, but if the efforts would prevent further trouble down the line, they would have been worth it, both for the sake of the kids involved and in terms of cost to the correctional system. He urged a Do Pass on HB 540.

**Neal Christensen, Youth Helena High**, spoke in support of HB 540. He said he had 38 years' experience in education. For 13 years he worked at Mountain View School, six years as a counselor, and six years as principal per se. Over the years one thing had become abundantly clear to him: they were going in the wrong direction in the juvenile justice system. They had systematically removed boundaries from errant youth under parental authority and have for reasons that escaped him, determined it was best for a youth to have zero consequences for their actions until they became totally incorrigible. The rate of growth of juvenile crime and the \$72,000 allocated for new placements into the adult corrections system (youth who have come of age since the last session) is proof positive that the status quo has failed. Status quo is that a youth going into the system normally comes out worse than they went in. The story of a youth with a shotgun always came to his mind. A young man had been sentenced to 90 days at Mountain View School. The professionals basically said, "this individual should be here for years." Nobody wanted to listen, he was let out, and in a matter of days was down at the local park with a shotgun pointed at little kids' heads gathering money for drugs. He then escaped the system and spent months being caught. He should not have been out in 90 days. In another story, he recommended a female youth be held for a longer period of time. She went into the Managed Resources Montana system, and within a week she was on a three-state crime spree, which included burglary, dope, drugs and armed robbery.

This girl never did really believe that anything would be done to her. He stated they were just two stories of many. Many of the obvious changes required to have a functional program were included in HB 540. He said he had watched throughout his entire adult life in dismay as they traded philosophy for results, results that could have saved the kids from being an adult offender and save the victims much pain. He never thought he'd ever see the fight begin to retake our streets and their kids. He thanked the sponsor. He was proud to be a part of the fight, he said, and urged a Do Pass resolution.

**Connie Boyer, Helena, parent of six, represented herself.** She stated she had been working with the local juvenile system since October of 1993. During that time, she had heard her child being threatened repeatedly, but nothing happened. It was like a little child touching a TV knob and the parent screamed and yelled, "don't do that again, or I'll spank you." Nothing happened. But then one day, when the child repeated the same act over and over, the system came up and hit them up alongside the head and said, "I told you I was going to do something." The system now gives empty, idle threats. The kids are running loose, listening to each other on the street, and they have no consequences until it is too late. She said they needed change. They needed parents to be responsible for their children. These kids were tomorrow's future, she said.

**Gordon Smith, Gallatin County Justice of the Peace, also served as City Judge in Belgrade and Manhattan, represented himself.** He told the committee he had been a judge for over eight years and had watched juveniles come into the court system and into the juvenile probation system as well. He had had many conversations with parents who were concerned about the system, in many cases requesting that their children not be transferred to juvenile probation, but remaining in the court system because they felt there was more that could be done. However, he said, there really wasn't. He had seen a big change in children in the eight years he sat on the bench. These youth know and understand the system. They also knew the system could not do anything to them. As an example, he told of a young man in Gallatin County that had appeared in justice court at least 15 times. He was a terror in his neighborhood. The people were afraid of him. If they reported him to the police for violations, they could be assured that within the next few weeks, they would have some damage to property, such as sugar in the gas tanks, cars keyed, etc. The youth was 14-years old, knew and understood the system, knowing that nothing could be done to him. To date, nothing HAD been done to him, he said. Another young man was always involved in the court, made it a practice to use the school as a forum to tell the other kids how to violate the law, do whatever they wanted, and not be held accountable in any way, creating problems for the school officials. That young man became 18 years old, and because he continued in the ways of his youth, landed in the federal penitentiary and will be there approximately 15 years. **Mr. Smith** maintained a loss of control over youth. Something

must be done, he said. The situation was becoming more severe each year to him, as he sat on the bench. As a result, he wanted to appear as a proponent to HB 540.

**Mary Ellerd, Executive Secretary of the Montana Juvenile Probation Officers' Association**, said her organization supported HB 540 without the amendments, as it came out of the House. Both the House Judiciary and House Appropriations urged the interested parties (the Juvenile Officers' Probations Association, DFS, Board of Crime Control, church groups, Mental Health, and more), to work with the sponsor to agree on a bill they could all support. The bill, without the amendments, was the product of that work. They had had hours of meetings and were just now shown the amendments, she said. She thought the amendments took the bill back to its original form.

**Mary Alice Cook, representing the Advocates for Montana's Children**, spoke in favor of HB 540, saying that the youth court system needed to be improved so that the youth can accept responsibility for their actions. They were involved with the intense efforts that went on during the House hearing on the bill. They worked hard to develop amendments that were acceptable for those involved. Their organization supported HB 540 as it was amended in the House.

**Janie Petaja, represented herself**. As the mother of a 16-year-old, she found herself in the middle of the juvenile probation system working with the Helena Probation Department to try to do something about her child, who was out of control. She commented on her observations of the system. The parents, police, probation people and the mental health people are all absolutely powerless. The child has all the power. They can say, "no," to anything and no one can make them do it. They can say, "I will," and no one can stop them. She was told on many occasions that there was nothing they could do. If the child had committed a felony, they could maybe do something. They could not even pick up the girl without a warrant when she was a runaway. And if they did find her, they could not hold her until the parent came to pick her up. They could not violate the child's rights by asking her questions. **Ms. Petaja** said there are no consequences. The system is built in to prevent any consequences to kids' behavior. When children are little, parents stop destructive behavior right away. They would not let them play with an electrical plug. But when the child is older and doing things that are dangerous, or life-threatening or bad or could hurt someone else, they get put into a "holding pattern," and nothing happens. Nobody can help them; they get only promises and threats. She said her daughter dropped out of school, tried suicide repeatedly, used drugs, hung with other people on probation and ran away on freight trains. Each time the parents would call the probation authorities, but they could not help. They tried to get the child into Shodair Hospital as an emergency. It seemed to her that they were waiting for the youth to turn 17, so then they can look at putting them in as adult

offenders. The parents that are trying to use the system to help are hitting a brick wall, she said. Children needs to learn their limits, need to know the consequences and need to be held accountable. They need it to happen right away, not months later. She urged approval of the measure.

**Hank Hudson, Director, Department of Family Services**, appeared as a proponent for the bill in its current form. He had not seen the amendments presented. When they first worked on the bill, they had some initial concerns before they could support it. They could not agree to anything that would pass on unfunded costs to local governments. They could not agree to anything that was unfunded in their own budgets. They had some problems with language, such as forced medication and physical violence toward young people. The staff and department had dedicated a lot of hours to work on the compromise, the bill before them. One of the ideas amended out because of the cost, but that the Department felt had great merit was the idea of moving toward a system that provides immediate and predictable consequences for young people as they veer onto the track of delinquency or anti-social behavior. Their system now allowed young people to escalate their illegal behavior without consequences until they reach a point where they break the threshold of tolerance. But by that time, they had already missed the best opportunity to re-direct them. Some of the things they opposed in the bill were resisted because of the checkbook, he said. There would have been a system of immediate, graduated consequences that address young people's behavior when they first start not coming home at night, or smoking cigarettes, or entry-level delinquent behaviors. The second problem was that the focus of the early intervention seemed to be incarceration, which had not been proven to be the most effective deterrent, although it may provide public safety. In the hearing, probation officers from around the state spoke as opponents for the bill. Those people are one of the biggest critics of the department, he said, because they wish kids stayed in Pine Hill longer and wished the department would deal more severely with them. They were also concerned about who would pay. County commissioners and MACo were also there to address the money issue. He said all the things summarized why they were not completely comfortable with the bill. The department would support the idea of allowing for concurrent sentencing for the most severe offenders who pose a threat to others, so they can be given an adult sentence. They also supported the bill to eliminate the secrecy and confidentiality surrounding youth court proceedings. He said they had funded seven programs to provide for tracking, restitution and treatment programs for youth to keep them out of the system, which had been successful in their communities. He told the committee that there was not necessarily more youth in trouble, the numbers were not exploding, but they were seeing more kids breaking the law who seem to be suffering from very serious emotionally and mental disorders. For that reason, he said, the Governor had encouraged an increase in the funding for Youth and Mental Health Services. **Mr. Hudson** said they needed to change

their youth court system, but they were struggling with a balanced approach, and how to balance the three major purposes of the Youth Correction System. The first purpose would be public safety. The second purpose would be allowing competency and ability so they would not be lifetime members of the correctional system. The final purpose would be to hold people who break the law and/or injure citizens to be accountable to that community. He expressed his support of HB 540 as amended.

**Gordon Morris, Montana Association of Counties, (MACo),** spoke in favor of the introduced version of HB 540. They asked to reserve comment on the proposed amendments.

**Bob Torres, representing the Montana Chapter of the National Association of Social Workers,** said his organization was interested in any bills concerning: 1) children, 2) child-protective services and how children are protected under that system, and 3) a general interest in the treatment of youth especially in prevention and intervention programs. When HB 540 was originally introduced, it dealt with those areas in a very sweeping and broad way. He thanked the sponsor for his willingness to work with them. He said there would need to be a level of community responsibility for children which would emphasize parental responsibilities as well. The sponsor had agreed with their concern about not expanding the authority to abuse children. The majority of parents are well-meaning and committed to caring for their children, but some are ill or incompetent and cannot draw the line between discipline and abuse. They were also interested in the treatment provision in the bill for the youth court system. However, the provision for treatment mandated in unavoidable circumstances was a concern to his organization because they were opposed to the incarceration or detention of anyone who is mentally ill. He said they promoted the idea of "tough love," a program that teaches consequences and discipline, but not punishment. He said the most disturbing portion of the bill to his organization was Page 13, Section 41-5-102, in the declaration of purpose where the Youth Court Act would remove from youth committing violations the element of retribution. He said they had tried for the substitution of "rehabilitation," with the acknowledgement that youth are not fully formed and are immature. The bill would remove that section of the law, which to him is a profound change in the direction of the act. He would have preferred to leave in the acknowledgement that youth was not fully formed, immature, and they did have problems that could be treated successfully. He supported HB 540 as amended by the House.

**David Hemion, representing the Montana Mental Health Association,** spoke in support of HB 540 as passed by the House. The concerns they had during the discussions had been addressed by the amendments that were made in the House. Some of those same concerns were again addressed in the sponsor's amendments, he said. Their main concern is any section that would criminalize children with mental illnesses whose illness creates behavior

that is in violation of the law. They were opposed to having those people go into the criminal system rather than being treated as mentally ill.

**Gloria Hermanson, represented the Montana Psychological Association.** They also preferred the version of HB 540 that came from the House. They were opposed to many things in the bill prior to the amendments made in the House. She recommended a Do Pass in its current form. She had not had a chance to review the amendments in detail.

**Sharon Hoff, representing the Montana Catholic Conference,** stated that her organization supported the bill in its current form as it came from the House.

**Opponents' Testimony:**

None.

**Questions From Committee Members and Responses:**

**SENATOR MIKE HALLIGAN** asked the sponsor about his statement concerning 22 amendments that did not get onto the bill in House Appropriations that were supposedly agreed to by the parties. **REPRESENTATIVE MOLNAR** replied that there were 23 areas of agreement, some of which were in the same section. For instance, four out of five may agree on one thing, then in a different meeting, other people might have shown up, and four more out of those five might agree on the next line. He estimated agreement of most of the proposed amendments at 75 per cent of the participants. **SENATOR HALLIGAN** asked about the "sight and sound" separation which language he was separating in his amendment, despite the fact that federal law requires it. **REPRESENTATIVE MOLNAR** stated that the amendment would strike it, that it no longer appeared in the bill, nor in the amendments. If it would appear in the amendments, it would be an oversight. **SENATOR HALLIGAN** asked **Mr. Hemion** about the effect of the amendments on Page 9 in terms of changing the mentally ill language to have a mental disease or defect language. He asked if there was agreement with that section with the sponsor. **Mr. Hemion** said he did not know anyone except **REPRESENTATIVE MOLNAR** who was comfortable with that. Everyone else supported the existing law, which says if children have mental illnesses, they are treated and not put into correctional facilities. **SENATOR HALLIGAN** asked for his opinion on the amendments by the sponsor. **Mr. Hemion** said he had seen them only briefly and requested time to study them before he made a response. He said they had concerns regarding Page 1 and Page 9 in reference to children with mental illnesses. On Page 12 of the amendments, Section 16, as they understood it, if a child was in a correctional facility with a behavioral illness that required treatment, it would not take place in a residential center. The patient would not be transferred out until they had served half of their detention time. He did not even think they did that to adults in this



state. They felt it was a somewhat arbitrary line and the issue of treating the illness was the paramount one to them. **SENATOR HALLIGAN** asked about the fiscal note. With the amendments, he asked where the fiscal note would end up? **REPRESENTATIVE MOLNAR** said if all the amendments went on, the fiscal note would end up in a positive cash flow of \$7.1 million. He stated they would cut the in-patient treatment in half for behavioral problems, temper and substance abuse. The patients are Medicaid-qualified when they go in because they were a ward of the state. However, as long as they are in there, the state could not collect Medicaid. If they were in a place like the Yellowstone Treatment Center, it would mean \$4.1 million they would get back in Medicaid. He also said it would keep the money with the kid. For instance, a kid in Missoula going to Hellgate High School would be eligible to receive A and B money and special ed money at Pine Hills. The amount would be \$25.50 per day. He said they were looking at 210 kids per year between alternatives programs and Pine Hills program. Also, ten per cent of the current population there receives Social Security because they have only one parent. It would be upwards of \$550.00 per month per youth that is not being recaptured at this time. Parental contributions only happen if and when the court orders it. He told the committee that SRS did not go after the parental contribution for three months, but most kids were only there for three months. HB 540 would mandate that they would not wait for the court order, but go and pick the money up. All these things added together meant \$7.1 million, plus it would free up about half of the beds. A judge could directly sentence a kid in, but it would be at county expense because it would cap at 110 per year they were currently budgeted for, he explained. **SENATOR HALLIGAN** asked if there was a fiscal note to reflect the \$7.1 million.

**REPRESENTATIVE MOLNAR** said because the amendments were just done prior to the meeting, there was no time for a fiscal note, but he would try to get one done for the next day. He had letters from DFS, he said, that explain the Medicaid part of it and that he was correct. The balance of it was basically common sense. He would take the amount of A and B per kid, multiply it times the kid, times the number of days, which is 180, and that was it, he said. He submitted a document which showed the figures. **(EXHIBIT 7)**. **SENATOR HALLIGAN** asked if the sponsor had an agreement with the people in the House, why there were changing the rules now? **REPRESENTATIVE MOLNAR** said it was because they had four pages of amendments and only 20 minutes to do them. He said DFS was there for part of the negotiations, **Mr. Torres** was there for all of them, and some of the other people were never there. For instance, the bill as amended, says that if a kid is busted for dealing drugs in Laurel, and the parents are really angry at him, it makes him a, "youth in need of care." So the kid is placed in foster care in Billings, but the kid is still a drug dealer. The school there would have a right to refuse to admit that kid. He said at an increase of 25 per cent a year in drugs, it was no wonder if using state dollars, they would take drug dealers and move them around. The bill would allow the school to know what is happening. He said that provision was agreed upon by most

everyone. Currently, if a kid is picked up for having a case of beer in the back of the car, as well as drug paraphernalia, the violation of the beer could go to the city court judge, but the drug paraphernalia cannot. The only four violations that can go there are: alcohol, gambling, fish and game and traffic. The bill would open the court to all misdemeanors. This was agreed to by everyone, he said, including the psychologist, **Dr. Mozer** and **REPRESENTATIVE ROYAL JOHNSON**. They had all agreed that these things were common sense and could be done. However, he said, by the time the amendments were typed up, the committee had already decided to accept the others for the purpose, not of saying, "this is what we had decided because it was right and proper," but rather they felt they had to get it to the floor because of a deadline. To try to pull the four pages of amendments together at that time was a Herculean task. He referred to the list of amendments in **(EXHIBIT 1)** and told the committee he would have it retyped and put an asterisk on those which were primarily agreed upon by virtually everyone, underlining virtually, he said, because not everyone was at every meeting. He said that every point of view was represented at every meeting. **CHAIRMAN BRUCE CRIPPEN** clarified the transmittal issue. He stated that HB 540 was a general bill, but for some reason was exempted from the transmittal deadline, perhaps because of a large fiscal note. It went to House Appropriations because **SENATOR HARP** was concerned that it might be considered a general bill. If amended in the committee, it would have to be returned to the House, he explained, but if no amendments were made, it would have no deadline. **REPRESENTATIVE MOLNAR** argued that if the amendments were put on, there would be \$7.1 million to help defray costs to the counties. He said it would go to Conference Committee and Free-standing Conference Committee anyway. All the players would still be invited in to work on it at that time. It was agreed to hold the Executive Session for the bill the following day.

**Discussion:** **REPRESENTATIVE MOLNAR** passed out a handout called the, "predatory youth program," which is what they did in California, called SHOCAP, or Serious Habitual Offender Comprehensive Action Program. **(EXHIBIT 8)** He said the program reduced juvenile crime there 70 per cent. Obviously, they would want that amendment in, he said. They had no problem with anyone on that. He promised a dissertation with the amendments.

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**Closing by Sponsor:** **REPRESENTATIVE MOLNAR** said there was a considerable difference in the past two weeks. When the bill was first heard the opponents were lined up to yell and scream. The second time they came by the busloads to yell and scream. This time, however, was a love-in. What the bill would do without the amendments is allow the parent to give medication under a treatment program to a child. It would also allow a parent to defend themselves and others, and to keep a kid from harming themselves. He said it would have been inconceivable if someone had told the committee 20 years ago that they would have to have

legislation to allow a parent to give their children prescribed medicine or to be allowed to defend themselves against a kid that was drunk or on drugs without facing actions by the state. HB 540 would allow that shelter care would be appropriately physically restricting. He said for example at the Youth Service Center in Billings, youth could be held overnight only for a suicide watch. When they are no longer a hazard to themselves or others, they could be transferred over to the shelter care side. Under current law, shelter care may not have a locked door or window. It may not have a fence. These kids get up and walk away, he maintained, and they may be awaiting a trial on serious charges. It would also say a judge could ask for a urinalysis to substantiate a confession. Some things were said in the hearing that were not true, he said. One was that he was relying primarily on incarceration. He said in the bill that all counties must have a community service program. Currently only 50 per cent of the JPO's (juvenile probation officers) even have that service. **REPRESENTATIVE MOLNAR** stated that there was nothing between any crime and Pine Hills. That's the problem. On the concurrent sentencing suggested, he said, "big deal." by the time concurrent sentencing occurs, the kid is totally incorrigible, he's looking at Deer Lodge, his list of victims is long, you've lost the kid and every kid that has come into contact with him. As the psychologist pointed out, it has got to be up-front. It has to be the first one or two status offenses to establish a boundary. After that, the metamorphosis from corrigible from incorrigible becomes absolutely guaranteed. He agreed with **Mary Ellerd** that the point system did not make it, but on thinking about it: this is onerous to tell a kid they have one point for a misdemeanor, and at six points, which is two felonies, they get five days? If five days' incarceration for two felonies is onerous, then what are the counties doing that they can't afford it? The answer from a stack of letters from the counties was: "they are doing nothing for two felonies." That's the problem, he said. That's why they were \$72 million down the toilet to handle new offenders. When **Mr. Hudson** talked about the oppositional defiance behavior and \$8 million, he said he agreed, but the behavior is the first sign that the kid is on drugs and that is why they had a 25 per cent increase in drug crime and a 25 per cent increase in oppositional defiance behavior. The \$8 million could easily go toward drug interdiction and they could get a far better result than trying to pull a kid back out, once in. His bill would say that no child is detained if he is mentally ill, he professed. It would say that if the kid does not understand the consequences of his actions, and the criminality of his act, he shall not be allowed in. That would tighten the law, not loosen it, he attested. **Mr. Torres** had been concerned about rehabilitation, he said. But the sponsor maintained that it did not happen on the street or at the school, if at all. They must be away from the other kids so that they did not enlarge the circle of kids to be dealt with. They should demonstrate to the other kids that they were right NOT to get involved with the offender or the offense. Kids now could see a violator getting picked up by the police on Saturday and

see the kid back at his desk on Monday. Every kid who witnessed that would have lost, he said. They were putting out the wrong message. They are not major consequences to tell the school that the kid was picked up for drugs and now he would be kicked off the basketball team, or would be held out of school until he could pee in a bottle and doesn't glow at night. He said there was nothing in the bill that should not have been a part of their program for a long time. He recited crime rates for the various counties of the committee members and the corresponding placements. If the crime rates go up and the placements do not, the streets are the holding tanks for these juvenile offenders, he said.

ADJOURNMENT

Adjournment: CHAIRMAN CRIPPEN adjourned the meeting at 4:40 p.m.

  
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BRUCE D CRIPPEN, Chairman  
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JUDY FELAND, Secretary

BDC/jf

DATE \_\_\_\_\_

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HB 540

- 5) Allows parent to follow prescribed treatment plan. *Page 1*
- 6) Opens city and justice courts to minor youth crime. *Page 1*
- 6B Returned original language of age limitations and limits non-court consequences. *Page 3*
- 7) Juvenile Probation Officer may not cause placement or treatment. Must go through placement committee. *Page 4*
- 7B Allows for escape from shelter care to allow placement in secure detention. *Page 5*
- 8) Allows youth to be held in secure setting in police station. *Page 6*
- 109) Petitions and affidavits must focus on allegations against offender and proven facts. *Page 8*
- 11) Youth must be able to appreciate the criminality of his act to be placed in youth correctional facility. 2) Youth in need of supervision may be placed in youth correctional facility. *Page 9*
- 11B Point system - transfer of existing funding. Guaranteed treatment. *P. 12*
- 11C Allows school to reject state placement of youth with active chemical or criminal issues. *P. 13*
- 12) Juvenile Probation Officer to enforce orders of the court. *Page 14*

9-) allows N.A. a verify confession P. 17

13) arresting officer may place youth in detention center P. 14

March 27, 1995

SENATE JUDICIARY COMMITTEE

OPINION NO. 2

DATE 3-27-95

REF. NO. HB 540

TO: Members of the Senate Judiciary Committee  
Montana State Senate

FROM: Fred Anderson  
Fred Anderson, PhD, Principal

RE: House Bill 540

I apologize for not being here to present this testimony in person; however, the storm that arrived in Helena on Friday and Saturday has moved eastward to Miles City causing very hazardous roads and travel conditions. Combined with this, I have some very pressing obligations at the school. Please accept my comments as an indication of my support for House Bill No. 540.

Schools are charged with the responsibility of having a drug free, safe learning environment for students. This has been part of the federal agenda for the past several years and I am certain is a key priority for every parent as well as every educator. If we are to accomplish this goal, it will require cooperation between schools, the judicial system and families.

Unfortunately, the communication and cooperation schools receive from the judicial system is woefully inadequate in most cases. Schools are not notified when their students have been involved in serious violations of the law. It is not unusual to have the court/family services move students from one judicial jurisdiction to another and place them in foster care. They are enrolled in school in the new judicial district with little, if any, background information relating to past violations of the law and/or substance abuse problems. A student could have a history of



drug transactions, violent behavior or other felony offenses and the receiving school would typically not be informed about the background problems.

A specific example of the communications problems and lack of cooperation that our school experienced involved a young man who transferred here as a sophomore. We were told nothing of the student's background. He was very disruptive from day one, was involved in multiple fights, suspected drug sales, and in general distracted significantly from the educational atmosphere of our school. Adding to this, he gathered a group of students who were marginal in behavior around him as a support system. Numerous inquiries to juvenile probation officers revealed no information on the student. We were repeatedly told that any past transgressions were a matter of confidentiality. It was not until the student assaulted another young man with a baseball bat over a drug transaction that we learned that he had a history of assault and drug abuse. Is it fair to the students who attend school expecting to learn in a safe environment to be subjected to multiple offenders who are moved from school district to school district by the judicial court system?

Earlier this year, four of our students were arrested for felony breaking and entering. We did not receive any notification from the juvenile probation officers. Our information came from parents of the students who came to the school and asked if the school could do anything to help their sons realize the severity of what they had done. The parents felt that the juvenile probation officer had been totally ineffective. Their interpretation was that the juvenile probation officer had not only minimized the incident, but had emphasized that if they kept their nose clean it would be "no big deal."

A recent survey by the students in attendance at the 1994 Montana State Student Council Convention reveals some interesting data. Fifty percent of the 500 students felt that violence was increasing in their schools. The students were specifically asked, "Do the Montana Youth Court Statutes (laws) provide an effective deterrent to control crime?" Fifty percent said no. A follow-up question asked, "Do you believe that youth (under 18 years of age) should be held responsible for crimes they commit? Ninety percent felt that they should. I believe this input from student leaders in our state shows that the students also realize that we need to revise our Youth Court statutes.

I, as a parent and school administrator, firmly believe that House Bill 540 provides a foundation for re-establishing a sense of consequence for wrongdoing by our youth. It also provides a basis for a partnership between schools and the judicial system which will help us achieve our goal of safe, drug free schools.

EXHIBIT 2  
DATE 3-27-95  
HB 540

608 S Cottage Grove Avenue  
Miles City, MT 59301  
26 March 1995

SENATE JUDICIARY COMMITTEE  
EXHIBIT NO. 3  
DATE 3-27-95  
FILE NO. H6540

Senate Judiciary Committee  
Montana State Senate  
Helena, MT

Dear Members of the Committee:

I appreciate the offer from Dr. Anderson to testify before your Committee on the benefits of House Bill #540 sponsored by Representative Brad Molnar. Although my professional schedule doesn't allow me to be present personally, please receive these comments as indication of my genuine concern for the issues that this bill addresses.

Over the past year and a half, a number of us who are parents have become increasingly concerned about the safety of our children and youth in the educational environment of public school systems. There is a growing incidence of chemical use and abuse, violence, and weapons (particularly firearms) within school buildings. As we've spoken with school officials, we have discovered that although there are school policies that govern these occurrences, there is no legal basis provided to educational systems by the State of Montana for supporting these policies. In addition some of the current laws regarding youth offenders in the educational system actually intensify the problem. As parents we are concerned specifically about the following issues:

1. The fact that there is no tracking of disturbed children and youth from one school system to another supports a dual injustice to these youth: a) the help that these young people need is not consistent nor continuous...they are not getting the help they deserve because there is no way to pass the appropriate information; b) in expressing their need, they become a disruptive influence to other students who depend upon an orderly learning environment for their education...they aren't able to learn because the time and attention of instructors are focussed on these few students.
2. School systems aren't equipped to address the special needs of students who are involved in instances of chemical abuse, violence, and weapons. Schools are designed to teach, not to modify critical behaviors. They have neither the trained staff nor the funds to respond. By legally forcing the schools to accept such students within their student bodies, a systemic injustice is

forced upon these students...their behavior problems continue to increase and the school educational environment continues to deteriorate.

I believe that House Bill #540 begins to address these critical issues by defining in the Montana Youth Court Act the parameters within which school systems must respond to these special behavioral needs. Accountability for the student, his/her parents, the school system, and youth support agencies are more explicitly stated. As such it begins to make possible the fulfillment of the original intention of the educational system...to help children and youth learn. In effect this bill is a profound effort to salvage and restore the excellence of our system of public education. And it shifts the emphasis to providing the help that these special students require.

I encourage you to seriously consider the merits of this bill, and take a step toward preserving the integrity of our educational process.

Sincerely,

  
Grover T. Briggs



# CUSTER COUNTY DISTRICT HIGH SCHOOL

20 South Center, Miles City, MT 59301  
(406) 232-4920  
Fax: (406) 232-4923

Fred Anderson, PhD, Principal  
Jack Regan, Assistant Principal  
Ted Schreiber, Activities Director

March 27, 1995

Post-It™ brand fax transmittal memo 7671		# of pages
To <i>Mr State Senate</i>	From <i>Jack Regan</i>	
Co.	Co.	
Dept.	Phone #	
Fax # <i>1-900-825-1600</i>	Fax # <i>(406) 232-4923</i>	

Senate Judiciary Committee  
Montana State Senate  
Helena, MT

Dear Members of the Committee:

I am writing in support of Representative Molnar's HB 540. As assistant principal of Custer County District High School I have had direct experience with the failure of our present youth court system. Presently students under the age of 18 have no consequences for their actions and many times the problems are intensified because of the current laws.

The school is sometimes the last person to know when a disturbed youth is placed in our building. Many times the youth is ordered by the court to attend school and the administration is unaware until after the fact.

I don't believe schools are equipped to handle problems such as chemical abuse, sale of drugs, violence, and weapons. Most of the time this group of students greatly hinder the educational processes in our school. Isn't it time to give more of our attention to the students that want to learn and give the opportunity to the teachers to give them the time and energy they need. Students that spend their time continuously in the youth court system certainly have other things in mind other than education.

As a parent of two high school age kids, I certainly hope you consider giving your support to this bill and preserve the excellence of our public education system.

Thank you.

Jack T. Regan  
Assistant Principal



# CUSTER COUNTY DISTRICT HIGH SCHOOL

20 South Center, Miles City, MT 59301  
(406) 232-4920  
Fax: (406) 232-4923

Fred Anderson, PhD, Principal  
Jack Regan, Assistant Principal  
Ted Schreiber, Activities Director

3-27-95  
HB 510

Post-It™ brand fax transmittal memo 7671		# of pages ▶
To <i>Rep Molnar</i>	From <i>T. Schreiber</i>	
Co. <i>House Rep.</i>	Co. <i>CCOHS</i>	
Dept.	Phone # <i>232-4920</i>	
Fax # <i>900-225-1600</i>	Fax # <i>232-4923</i>	

March 27, 1995

Rep. Brad Molnar  
Montana State House of Representatives  
Helena, Montana

Dear Rep. Molnar,

I am writing you concerning House Bill #540 and the benefits we as a school district would receive upon its becoming a law. As Activities Director of Miles City School District #1 and Custer County District High School, I am confident that your bill will greatly enhance the ability of our administration to deal with students in activities who are in violation of school district policy. Bill #540 will give us the legal backing to deal with habitual trouble makers. Students, school officials, law enforcement, and the legal system will all have a better handle on special situations; and we will again be in a position to help students learn that they are accountable for their actions.

In this day and age, we seem to be drifting further from the true intention of schools in educating students. Your bill will aid in getting schools back on the education track, leaving those with special needs in the hands of specialists. With the passage of your bill, education will again be the primary emphasis of our school systems; and a few will not hinder the majority seeking a good education.

Sincerely,

Ted Schreiber  
Activities Director

TS/cr

# Miles City Unified School District


County District High School  
School District No. 1

ROBERT RICHARDS  
SUPERINTENDENT

Miles City Elementary Schools  
School District No. 1

March 27, 1995

SENATE JUDICIARY COMMITTEE  
EXHIBIT NO. 6  
DATE 3-27-95  
FILE NO. HB 540

TO: Representative Molnar  
FROM: Robert Richards, Superintendent   
RE: HB 540 - Youth Court Act Revisions

I strongly support your efforts to revise the Youth Court Act. Presently the youth of Montana have no responsibility for their actions under Montana law. The system of rehabilitating youth for all crimes up to and including mitigated homicide is simply not working. Those youth who are committing the majority of offenses know that the system protects them from any meaningful penalty. By flaunting their rights to all authority, a serious negative effect is occurring with the majority of youth who are responsible and willing to obey the law.

The problem is becoming even more acute as the state abdicates their responsibility for treating emotionally disturbed youth by prescribing to the theory of "community-based services." Youth who are far more capable of posing a serious threat to our students and staff are now being placed in our regular educational program.

I applaud your efforts to change the current philosophy for dealing with youth offenders and sincerely hope that those efforts are successful.

RR/st

c: Representative Tom Zook  
Representative Ellen Bergman  
Senator Jerry Devlin

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TOTAL P.01

\$1.8 million from lottery per biennium

\$1.2 million OJJDP per biennium

110 youths per year x \$25.50 ANB per day x 180 days = \$504,900

\$1.1 million biennium plus special ed (Pine Hills)

\$1.1 million biennium Alternatives, Inc.

110 youth per year x 90 days in-patient treatment at \$185 per day being reimbursed at  
66% from Medicaid equals biennium savings for 90 days.

\$2.5 million

\$7.7 million

.18 direct placements



# Stalling repeat youth offenders

Program aids city agencies cooperate

By GARY ENOS  
Staff Writer

Ask several agencies dealing with a city's troubled juveniles to identify their most violence-prone youths, and chances are the same names will appear on every list.

That's the basic but often-ignored theory Robert Heck of the U.S. Department of Justice used to create a program that has helped communities stem violence by targeting their worst juvenile offenders.

Created in 1982, the Serious Habitual Offender Comprehensive Action Program (SHOCAP) has served as a blueprint for cities dealing with youth crime. Federal funding to SHOCAP's model cities was eliminated in the last days of the Bush Administration, but the program lives on with local funding, both in the test cities and in scores of others that never received federal money.

Mr. Heck, SHOCAP's program manager, used a simple hypothesis in creating the program. He theorized that by persuading police, schools, the courts and social-service agencies to communicate, cities could identify the offenders responsible for most youth violence, build a better case against them and get them off the streets.

"I sincerely felt there were very few seriously involved juveniles who were responsible for a great deal of the juvenile crime that all youths were being smeared with," Mr. Heck said.

Mr. Heck sought five test sites for his theory. After overcoming skepticism from communities that had not been paying much attention to juvenile crime, he came up with his list: Colorado Springs, Colo.; Jacksonville, Fla.; Oxnard, Calif.; Portsmouth, Va.; and San Jose, Calif.

The five received federal money to hire a crime analyst, and were urged to share information about juveniles among the various agencies serving youths. In many of these places, such cooperation never had existed.

"Our assistant police chief at the time got us started," recalled David Keith, crime analysis manager in the Oxnard Police Department. "He used to say that before this happened, he didn't even know the name of the juvenile court judge in Ventura County."

Some cities' agencies were under the mistaken impression that federal statutes on the confidentiality of youth records barred departments from comparing notes. "The perception far outran the actual legal constraints," Mr. Heck said.

Mr. Heck's belief that an "elite" cadre of offenders accounted for most of a city's violent youth crime proved correct.

In most cities, about 25 youths per 100,000 over-all population were found to be committing the majority of the violent offenses. Mr. Heck believes those numbers would be as true for large urban communities as they are for smaller cities like Oxnard and Portsmouth.

Once cities had a clearer picture of who their habitual offenders were, police agencies and prosecutors had

a better chance of winning harsher sanctions. In the past, police may have dealt with youths without knowing anything about their school offenses, or social-service agencies may have counseled families without realizing that one of the children was a habitual offender.

In Oxnard, Mr. Keith said, neighborhoods where four or five habitual offenders received jail time because of SHOCAP saw up to a 70% drop in youth crime.

Oxnard police were able to outline a profile of the serious habitual offender in their city of 142,000: a 16-year-old male with 16 arrests and a first contact with police at age 12. Often the Oxnard offender, who is likely to be Hispanic, comes from a broken family, uses drugs or alcohol and has been a victim of physical abuse, Mr. Keith said.

Conviction records in the model cities and in other communities receiving technical assistance from the Justice Department led critics to argue that SHOCAP was no more than a "lock-'em-up, throw-away-the-key" approach. Mr. Heck disagrees, saying the Justice Department never told cities what to do with their habitual

See Juveniles on Page 10

## Juveniles

Continued from Page 9

offenders once they were identified.

"We were just saying it was important for people to have all the available information before them when dealing with these youths," Mr. Heck insisted. "Nothing in the program said you should lock up people for life or hang them by their thumbs."

The program's test cities heard the same arguments Mr. Heck did, so many reformed other elements of their juvenile-justice system.

In Colorado Springs, which has received a total of \$452,000 in SHOCAP money since 1983, officials called for an end to housing violent youth offenders and runaways in the same facilities, said Emily Kline, crime analysis supervisor in the Colorado Springs Police Department.

In Oxnard, which received about the same amount of federal help, police created a comprehensive "aftercare" program of counseling and education for offenders who had served jail time.

Even though federal funding for the five model cities ended in January, most continue to pay for the program themselves. In Colorado Springs, a six-month funding request of \$30,000 for SHOCAP won out over plans to purchase a truck.

"In this line of work, it's a real compliment to be considered (more important) than equipment," Ms. Kline said. Also, the Department of Justice's Office of Juvenile Justice and Delinquency Prevention has set aside some training money for communities interested in implementing SHOCAP, said Ron Laney, the office's law enforcement program manager.

Police in Oxnard and Colorado Springs have received dozens of calls from communities interested in SHOCAP. Ms. Kline, who said 19 cities in Colorado are creating similar programs, urges communities to centralize information in one agency.

And Mr. Keith of Oxnard says SHOCAP does not require a huge cash infusion. Instead, it is designed to make better use of the crime-fighting resources cities already have.

RECEIVED JUVENILE DEPARTMENT  
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CALL 3-27-93  
FILE NO. H6 540

MEETING 2

DATE 3-27-95SENATE COMMITTEE ON JudiciaryBILLS BEING HEARD TODAY: EXEC. SESSION - HB 540

&lt; ■ &gt;

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&lt; ■ &gt;

Check One

Name	Representing	Bill No.	Support	Oppose
Janie Petaja	Self	HB540	✓	
Connie Boyer	Self	HB540	✓	
GORDON SMITH	GALLATIN CO. JP Self	HB540	✓	
Mark Mozer	self	HB540	✓	
NEAL CHRISTENSEN	YOUTH HELENA HIDA	HB540	✓	
BRUCE NACHTSHEIM	SELF	HB540		
Bill Robbins	SELF	HB540	✓	
Gordon Morris	MACO	540		
David Lemmon	MT ASSOC. OF CHURCHES MENTAL HEALTH ASSN	540		✓
Ellen Bergman	Self + Schools	540	✓	
Bob Torres	MT. Cdp. NASW	540	<del>✓</del>	
Mary Ellard	MT JPOA	540	W/room	
Lee Kim	WBC @		✓	
Sharon Hogg	MT Cath Cong	540	✓	

## VISITOR REGISTER

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