

MINUTES

MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION

CONFERENCE COMMITTEE ON SENATE BILL 256

Call to Order: By CHAIRMAN DON HARGROVE, on April 2, 1997, at
4:00 P.M., in Room 331

ROLL CALL

Members Present: Sen. Don Hargrove, Chairman (R)
Sen. Steve Doherty (D)
Sen. Sharon Estrada (R)
Rep. Ellen Bergman (R)
Rep. Gerald Pease (D)

Members Excused: None

Members Absent: Rep. Robert Clark (R)

Staff Present: Susan Fox, Legislative Services Division
Serena Andrew, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: Conference Committee on SB 256
Posted 3/26/97

HEARING ON SB 256

{Tape: 1; Side: A; Approx. Time Count: 4:35.}

CHAIRMAN DON HARGROVE, SD #16, Bozeman, told the committee that while REPRESENTATIVE ROBERT CLARK was absent, he had carried the bill on the floor and was familiar with its content. SB 256 was designed to recognize the hazardous nature of the duties of law enforcement officials and judges. In the worst case, they become targets for extreme violence. Many policemen and judges have been killed for intimidation and retaliation.

The House amendments (EXHIBIT #1) retained the provision that the record of an assault on a police officer could be left in an offender's file. They removed three important items: an increased penalty in terms of time, an increased penalty in terms of the fine, and the bill's intentionally omitted mention of the difference between a felony and a misdemeanor to avoid

sympathetic jury acquittals. Without these features the bill is meaningless.

He thought it was important to reinstate at least a portion of the deleted material. Remaining silent on felony vs. misdemeanor was the heart of the bill to **CHAIRMAN HARGROVE**.

{Tape: 1; Side: A; Approx. Time Count: 4:40}

SENATOR STEVE DOHERTY asked what the House wanted. He mentioned that during a previous session he had carried a bill that established an attack on a judge as a felony. It died in the House, although an attack on a sports official was made a felony by that same session.

Beth Baker, Department of Justice (DOJ), stated that the amendments came from the House Select Committee on Corrections, chaired by **REPRESENTATIVE ERNEST BERGSAGEL**. **REPRESENTATIVE ELLEN BERGMAN** agreed.

CHAIRMAN HARGROVE said that committee evidently had not seen a difference between assaulting a police officer and a person on the street. He thought there was a distinct difference.

Motion: **SENATOR SHARON ESTRADA** moved the House amendments be removed.

{Tape: 1; Side: A; Approx. Time Count: 4:45}

Susan Fox, Legislative Services, suggested retaining amendment No. 4 as coordination with SB 48.

CHAIRMAN HARGROVE mentioned that a compromise might be appropriate.

REPRESENTATIVE BERGMAN commented that 20 years had been removed and 10 years replaced. **CHAIRMAN HARGROVE** said he thought it had gone back to existing law.

Beth Baker said the House had attempted to put in the existing penalties for aggravated assault and felony assault but there was a problem with the amendments in that Section 1, Subsection 1 establishes only one offense but imposes two separate penalties. She suggested setting the penalty at 20 years.

CHAIRMAN HARGROVE asked if these changes would carry any increase in penalties. **Ms. Baker** said it would be the same penalty as aggravated assault, elevating any assault on a police officer to an aggravated assault charge. **CHAIRMAN HARGROVE** commented that would eliminate the sympathetic jury issue.

Ms. Baker told the committee that this offense, as a new offense, would not be included in the three-time loser law.

SENATOR DOHERTY thought it would be good to get the penalty increased. Then if a number of individuals commit crimes against judges, it would be time to look at the three-time loser penalty.

CHAIRMAN HARGROVE suggested a compromise and asked **Ms. Baker** to make specific suggestions.

{Tape: 1; Side: A; Approx. Time Count: 4:50}

Ms. Baker suggested the changes shown in **EXHIBIT #2** (amendment No. SB025603.asf).

Motion: **SENATOR ESTRADA** moved to adjust her motion to conform to the changes suggested by **Ms. Baker** in **EXHIBIT #2**.

SENATOR DOHERTY asked if House amendment No. 4 would be left as part of the bill. **CHAIRMAN HARGROVE** said it would.

Ms. Fox said she would prepare the amendments.

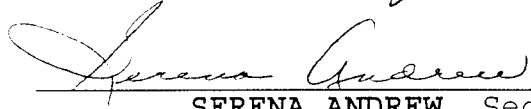
Vote: The motion to accept the amendments listed in **EXHIBIT #2** **CARRIED UNANIMOUSLY.**

ADJOURNMENT

Adjournment: The meeting adjourned at 4:55 p.m.



SENATOR DON HARGROVE, Chairman



SERENA ANDREW, Secretary