

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
58th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON JUDICIARY**

**Call to Order:** By **CHAIRMAN JIM SHOCKLEY**, on February 4, 2003 at 9:04 A.M., in Room 137 Capitol.

**ROLL CALL**

**Members Present:**

Rep. Jim Shockley, Chairman (R)  
Rep. Paul Clark, Vice Chairman (D)  
Rep. George Everett (R)  
Rep. Tom Facey (D)  
Rep. Steven Gallus (D)  
Rep. Gail Gutsche (D)  
Rep. Christopher Harris (D)  
Rep. Bruce Malcolm (R)  
Rep. Brad Newman (D)  
Rep. Mark Noennig (R)  
Rep. John Parker (D)  
Rep. Holly Raser (D)  
Rep. Diane Rice (R)  
Rep. Scott Sales (R)  
Rep. Ron Stoker (R)  
Rep. Bill Thomas (R)

**Members Excused:** None.

**Members Absent:** Rep. Jeff Laszloffy, Vice Chairman (R)  
Rep. Michael Lange (R)

**Staff Present:** John MacMaster, Legislative Branch  
Pam Schindler, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed. The time stamp for these minutes appears at the end of the content it refers to.

**Committee Business Summary:**

Hearing & Date Posted: HB 453, HB 451, HB 349, 1/28/2003  
Executive Action: HB 17 Do Pass As Amended

HEARING ON HB 451

Sponsor: REP. EDITH CLARK, HD 88 Sweetgrass, Montana

Opening Statement by Sponsor:

REP. CLARK opened the hearing on HB 451 by informing the Committee that this is her first time in front of this Committee and "it is indeed a pleasure." She stated that HB 451 would continue to bring economic stimulus to her home community. This bill would allow the private correctional facility of Crossroads Correctional Center in Shelby (CCC) to confine out-of-state prisoners in that facility. REP. CLARK offered an amendment to HB 451.

**EXHIBIT (juh24a01)**

*{Tape: 1; Side: A; Approx. Time Counter: 0 - 50}*

Proponents' Testimony:

Allan Underdal, Toole County Commissioner, stated to the Committee that this is an important issue and that this bill provides the flexibility that is needed. Twenty-three percent of the male bed capacity in the State of Montana is at CCC. The cost of the prison in Shelby to be built was approximately \$25 million and was without public financing.

As a private business, CCC contributes \$118,000 per year in school and university levies. Montana Department of Corrections (MDOC) will approve and review all potential out-of-state placements for safety and health related issues. Inmates will be released to original jurisdictions. MDOC will also provide contract oversight. All of the National Standards would be met with these prisoners as well. MDOC will also have first rights to available beds. The out-of-state agencies will be responsible for all cost legal, health and law enforcement and general care of those inmates.

Mr. Underdal made a reference to the handouts that were given to the Committee and the information contained therein.

**EXHIBIT (juh24a02)**

**EXHIBIT (juh24a03)**

**EXHIBIT (juh24a04)**

**EXHIBIT (juh24a05)**

**EXHIBIT (juh24a06)**

**EXHIBIT (juh24a07)**

**EXHIBIT (juh24a08)**

***{Tape: 1; Side: A; Approx. Time Counter: 0 - 161}***

**Larry Bonderud, Mayor of the City of Shelby**, introduced himself to the Committee. He informed the Committee that CCC is the largest taxpayer in the community paying over \$515,000 per year in real and personal property taxes. He further stated that CCC is the largest employer in the area with 120 employees, and with a payroll of \$3.8 million per year. CCC is also the largest utility payer in the area. The total impact of CCC is \$20 million on the economy in Shelby.

There has been a dramatic decrease in the welfare rates since CCC has operated in Shelby, mainly attributable to the employment this facility provides. The inmate's families do not follow them to Shelby. He stated that over 100 members of their community is involved in the Christian Ministry Series at the correctional facility.

**Mr. Bonderud** informed the Committee that out-of-state prisoners are not new to Montana. There are approximately 340 of them living in Montana in the parole system presently.

***{Tape: 1; Side: A; Approx. Time Counter: 161 - 231}***

**Jim McDonald, Warden, Crossroads Correctional Center**, introduced himself to the Committee. He stated that in 1999, the State of Montana invited Corrections Corporation of America (CCA) to come to this state. CCA came to Shelby to construct a 512 bed facility that had a price tag of \$25 million. This cost was borne by CCA.

When this facility is full, CCC employs 165 people with a local payroll of over \$3.8 million. This facility has received national accreditations in just over two years in operation.

He informed the Committee that currently CCC has 188 empty beds whereas just a few months ago, CCA was looking at expanding their facility there. The employee base has shrunk through attrition and layoffs from 158 employees to 116.

By accepting out-of-state prisoners CCA may remain viable by reducing the vacancy rates. **Mr. Bonderud** further informed the Committee that if this bill is passed, but with the possible amendments to limit only female inmates be brought to the state, it would not solve the problem. Those beds are not significantly in demand. CCC has already accommodated female inmates in Shelby.

***{Tape: 1; Side: A; Approx. Time Counter: 231 - 327}***

**Bill Slaughter, Director, Montana Department of Corrections (DOC)** stated that out-of-state prisoners are not a new idea in the State of Montana. Presently there are 600 out-of-state offenders under the DOC direction. Approximately 340 of these offenders are under probation, 31 are in Montana State Prison, and there are 215 offenders who have committed offenses in the state but are not residents of the state.

With the increase in "meth" labs, more beds will be needed. If CCA were to stop doing business in the State, the State would need to find out-of-state prisons to house the offenders, or need to purchase a facility for approximately \$20 million.

The safeguards that would be provided in this bill would be that the DOC would screen each offender so as not to compromise the safety of other inmates, would release the out-of-state offender to the original state of offense and in-state offenders would have priority over out-of-state offenders for available beds.

***{Tape: 1; Side: A; Approx. Time Counter: 327 - 417}***

**Mark Mahoney, Warden, Montana State Prison**, introduced himself to the Committee. He proceeded to tell the Committee that there are three points that need to be made:

- 1) The language of the bill dictates that if there are bed needs for in-state offenders, the out-of-state offenders must leave.
- 2) The safeguards and screening process for the out-of-state inmates will ensure that offenders are not gang related and will also be for the safety of other inmates.
- 3) The guarantee that when the out-of-state inmates are released, they will need to return to the area of adjudication.

***{Tape: 1; Side: A; Approx. Time Counter: 417 - 471}***

**James Deckert, Dawson County Commissioner**, stated to the Committee that Dawson County fully endorses this bill and whatever amendments that are involved to make it work.

***{Tape: 1; Side: A; Approx. Time Counter: 471 - 482}***

**Earl Blattie, Assistant Director of the Montana Association of County Attorneys**, stated to the Committee that his association is in support of this bill.

***{Tape: 1; Side: A; Approx. Time Counter: 482 - 485}***

**Steve Ruhd, Public Works Director, City of Conrad**, informed the Committee that CCC is necessary and provides an "economic boom." to the area.

*{Tape: 1; Side: A; Approx. Time Counter: 485 - 500}*

**SEN. JERRY BLACK, SD 44, Shelby, Montana**, stated that this is bill is what they need in northern Montana. He concurred with the previous testimony. He further stated that during his political campaign, this was a major issue. The voters expressed to him they were afraid what would happen if CCC were to close.

**EXHIBIT (juh24a09)**

**EXHIBIT (juh24a10)**

**EXHIBIT (juh24a11)**

**EXHIBIT (juh24a12)**

**EXHIBIT (juh24a13)**

**EXHIBIT (juh24a14)**

**EXHIBIT (juh24a15)**

*{Tape: 1; Side: B; Approx. Time Counter: 0 - 34}*

**Opponents' Testimony:**

**Betty Whiting, Montana Association of Churches**, rose in opposition to this bill. She stated that her association would like more community-based services, that they oppose private prisons and that there seems to be more care for businesses instead of for people/inmates. **Ms. Whiting** read a newspaper article to the Committee that contradicts what the proponents have testified to. The article was from the Fed Gazette, a northwest magazine that covers commercial and economic issues. The article addressed the Shelby prison and the negative impact the prison has had on the area.

**EXHIBIT (juh24a16)**

*{Tape: 1; Side: B; Approx. Time Counter: 34 - 93}*

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

During extensive questioning by **REPS. NOENNIG, GALLUS, STOKER, RICE, GUTSCHE, FACEY, NEWMAN** and **CHAIRMAN SHOCKLEY** the following issues were addressed and answered: the sequence of events that initially brought CCA to Montana, the specific issues in the bill that address screening, release of the out-of-state inmates and

limitation of available beds, the per-day cost of DOC purchasing the facility in Shelby, gangs, employee counts, cost per day in MSP and the cost per day in CCC. Also addressed were: the amount of taxes paid by the facility in Shelby, the number of Native Americans employed as guards at CCC and finally what CCC has done in Shelby to mitigate the possibility of another incident happening there such as the murder that recently took place.

***{Tape: 1; Side: B; Approx. Time Counter: 93 - 500}***

***{Tape: 2; Side: A; Approx. Time Counter: 0 - 500}***

***{Tape: 2; Side: B; Approx. Time Counter: 0 - 118}***

**Closing by Sponsor:**

**REP. CLARK** thanked the Committee for a good hearing. She further made comments that CCA was invited to Montana and that they have been "a good partner."

***{Tape: 2; Side: B; Approx. Time Counter: 118 - 136}***

**HEARING ON HB 349**

**Sponsor:** **REP. YOUNKIN, HD 28, Bozeman, Montana**

**Opening Statement by Sponsor:**

**REP. YOUNKIN** opened the hearing on HB 349 by stating that this bill is to "close a loophole" regarding DUI'S. The language she referred to is on page 1 and it has to do with what circumstances someone may take blood for a BAC test and who can take that blood sample for a BAC test, page 4 section 4. **REP. YOUNKIN** further explained who the parties could be.

***{Tape: 2; Side: B; Approx. Time Counter: 136 - 175}***

**Proponents' Testimony:**

**Marty Lambert, Montana County Attorneys Association, Gallatin County Attorney**, explained to the Committee that there are three reasons why they are coming forward in support of this bill. They are:

- 1) BAC test results are the most objective evidence of whether someone should be behind bars.
- 2) It does no good to get those results, if those results cannot get "into" court, before a judge or jury. Therefore they will be able to get BAC results that can be submitted.

- 3) If a person refused to give that "evidence", that person must pay a price.

There is also a provision in this bill to make it tougher to get a license back after it has been revoked. The time frame would change from one year to three years. In summary, this bill would change who is competent to administer the test and also provided a "shield" from a liability standpoint for medical personnel. Mr. Lambert relayed to the Committee a case in Hamilton, Montana where the District Court would not admit the evidence and that finally the Supreme Court did.

***{Tape: 2; Side: B; Approx. Time Counter: 175 - 285}***

**Pat Melby, Montana Medical Association**, stated to the Committee that his association supports any legislation that discouraged driving while intoxicated, therefore they support this legislation.

***{Tape: 2; Side: B; Approx. Time Counter: 285 - 293}***

**Susan Good, Surgical Specialties** rose in support of this legislation but questioned the "supervision" statement and whether that needed to be defined.

***{Tape: 2; Side: B; Approx. Time Counter: 293 - 306}***

**Julie Ippolito, Mothers Against Drunk Driving (MADD)**, rose also in support of the bill.

***{Tape: 2; Side: B; Approx. Time Counter: 306 - 315}***

**Kristi Blazer, Montana Beer and Wine Wholesalers**, stated that her association supports this measure and particularly the increase in time from one year to three years that the license can be suspended.

***{Tape: 2; Side: B; Approx. Time Counter: 315 - 340}***

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**REP. NOENNIG** questioned **Mr. Lambert** about the exigent circumstances surrounding the Hamilton, Montana case. **REP. STOKER** inquired if blood taken to save a life and whether that could be used for a BAC test.

*{Tape: 2; Side: B; Approx. Time Counter: 340 - 437}*

**Closing by Sponsor:**

**REP. YOUNKIN** stated to the Committee that driving a vehicle in Montana is a privilege not a right. She also stated that if you break a rule; i.e., drunk driving, then you need to pay.

*{Tape: 2; Side: B; Approx. Time Counter: 437 - 478}*

**HEARING ON HB 453**

**Sponsor:** **REP. RASER, HD 70, Missoula, Montana**

**Opening Statement by Sponsor:**

**REP. RASER** opened the hearing on HB 453 by saying that this is an act that provides for the use of an inmate's funds and income to help pay that inmate's medical and dental expenses. She told the story about her daughter and the expenses she has incurred for her daughter's dental needs.

She stated that some inmates do pay for some of their medical and dental costs through a co-pay. Under Montana law, the state is required to pay for all medical and dental needs of the inmates.

The average medical costs per prisoner is \$4,100, with approximately \$5.5 million being spent on medical costs statewide. The average daily balance in an inmate's account at MSP is approximately \$272, and there are some inmates that could pay from outside funds and sources. **REP. RASER** produced an amendment for the Committee that would allow a new accounting system to be installed.

**EXHIBIT (juh24a17)**

*{Tape: 3; Side: A; Approx. Time Counter: 0 - 93}*

**Proponents' Testimony:**

**Mark Mahoney, Warden, Montana State Prison,** supports this bill. He stated to the Committee that the Mission Statement at the prison is one of "Accountability and Responsibility."

*{Tape: 3; Side: A; Approx. Time Counter: 93 - 116}*

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**REP. GUTSCHE** asked of **Mr. Mahoney** the "workings" of this and how restitution money will be distributed. She also asked if an inmate did not have the money in his/her account would the medical/dental procedure not be performed. **Mr. Mahoney** replied that the procedure would still be done.

*{Tape: 3; Side: A; Approx. Time Counter: 116 - 153}*

**Closing by Sponsor:**

**REP. RASER** closed the hearing on HB 453 by saying that this bill would not prevent an inmate from receiving the care they need, but if they have the resources to pay even a small amount they should. Restitution for child support, victims and court costs will not be effected.

*{Tape: 3; Side: A; Approx. Time Counter: 153 - 218}*

**CHAIRMAN SHOCKLEY** then spoke with the Committee regarding the upcoming Joint Session and the bills that will be addressed.

*{Tape: 3; Side: A; Approx. Time Counter: 218 - 325}*

**EXECUTIVE ACTION ON HB 17**

**Motion:** **REP. NEWMAN** moved that **HB 17 DO PASS.**

**Motion:** **REP. NEWMAN** moved that **HB 17 BE AMENDED (Conceptually).**

**Discussion:** **REP. NEWMAN** stated that the written amendment is not ready. **REP. NOENNIG** explained that conceptually, the amendment would be to remove all the changes to the language in the statute that were made on page 2, line 29 through page 3, line 3. **REP. NEWMAN** then tried to explain these amendments, however, he was referring to the old copy of the amendment, not the most current copy with the line changes complete. He received a copy of the new lines that referred to page 1, line 5 and 6 in the title, page 2, line 29 and page 3, lines 1, 2 and 3.

*{Tape: 3; Side: A; Approx. Time Counter: 325 - 500}*

**REP. NOENNIG** commented that the bill in the original form elevated elder abuse from a misdemeanor to a felony. Further discussion evolved between **REP. NEWMAN** and **REPs. RASER** and **SALES**.

**Vote:** Motion that **HB 17 BE AMENDED** carried 12-4 with **REPs. FACEY, GUTSCHE, NEWMAN,** and **RASER** voting no.

**Motion/Vote:** **REP. NEWMAN** moved that **HB 17 DO PASS AS AMENDED**. Motion carried 16-0. (voice vote, **LASZLOFFY** AND **LANGE** absent)

*{Tape: 3; Side: B; Approx. Time Counter: 0 - 123}*

**ADJOURNMENT**

Adjournment: 12:07 P.M.

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REP. JIM SHOCKLEY, Chairman

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PAMELA SCHINDLER, Secretary

JS/PS

**EXHIBIT (juh24aad)**