

MINUTES

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

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN JIM SHOCKLEY**, on March 11, 2003 at 9:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. George Everett (R)
Rep. Tom Facey (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Michael Lange (R)
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: None.

Staff Present: John MacMaster, Legislative Branch
Pamela 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: SB 128, SB 139, SB 141, 3/4/2003
Executive Action: SB 141-Be Concurred In As Amended
SB 128-Be Concurred In
SB 56-Be Concurred In and Place on
Consent Calendar

HEARING ON SB 141

Sponsor: SEN. MIKE WHEAT, SD 14, Bozeman, Montana

Opening Statement by Sponsor:

SEN. WHEAT opened the hearing on SB 141 by informing the Committee that this bill was brought forth at the request of the Department of Justice.

This bill will do two things:

- 1) Bring in Fire Investigators who are involved in the investigation of arson fires as members who can share criminal justice information (Page 2 Lines 22 and 23).
- 2) Provides a procedure for someone who wants to get the criminal justice information. This will allow the Prosecutor to file a declaratory judgement action with the Courts and then request the Courts to review the information. After the Courts review the information and decide what is appropriate to disclose, the Prosecutor may then provide that information to the requesting party.

EXHIBIT (juh51a01)

{Tape: 1; Side: A; Approx. Time Counter: 0 - 47}

Proponents' Testimony:

John Connor, Montana Department of Justice (DOJ), rose in support of SB 141. He stated that when the prosecution is initiated, the DOJ does not want to hold the information; however, DOJ needs the Court's authorization to release this requested information. Oftentimes, the defense counsel will file suit in order to retrieve the requested information. Mr. Connor then gave an example of the recent City Commissioner and the Independent Record regarding a "declaratory judgement action."

{Tape: 1; Side: A; Approx. Time Counter: 47 - 127}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REPS. NOENNIG, LASZLOFFY, and SHOCKLEY questioned Mr. Connor about the parties who would be involved, in-camera review and if the aforementioned fire marshall was already included in the present statute. Mr. Connor explained the regimen for filing a declaratory act and quiet title.

{Tape: 1; Side: A; Approx. Time Counter: 127 - 234}

Closing by Sponsor:

SEN. WHEAT closed the hearing on SB 141.

{Tape: 1; Side: A; Approx. Time Counter: 234 - 244}

HEARING ON SB 139

Sponsor: **SEN. DEBBIE SHEA, SD 18, Butte, Montana**

Opening Statement by Sponsor:

SEN. SHEA opened the hearing on SB 139 by informing the Committee that the Interstate Compact Act was initiated in 1955 and the purpose of this bill is to "fine-tune" issues related to the management, monitoring and supervision aspects of the compact.

{Tape: 1; Side: A; Approx. Time Counter: 244 - 293}

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony:

John Paradis, State of Montana, Department of Corrections, spoke in support of SB 139. He stated this bill would address the statute that applies to runaways. Usually, within 24-48 hours a runaway can be located; however, the law states that they can be held for up to 90 days, which translate into high detention costs. The problem with this is that many of the serious and chronic offenders can "slip through the cracks."

{Tape: 1; Side: A; Approx. Time Counter: 293 - 500}

Questions from Committee Members and Responses:

REPS. CLARK, PARKER, NOENNIG, RICE, STOKER and **GUTSCHE** questioned Mr. Paradise exclusively about "holes in the system" regarding private treatment centers and private residential centers, the difference between the two and their licensing standards. In further questioning, the subjects of the language of the bill regarding immunity from liability, the costs and the number of youths involved with the interstate compact were discussed.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 310}

Closing by Sponsor:

SEN. SHEA closed the hearing on SB 139 by informing the Committee that 17 other states have introduced this bill.

{Tape: 1; Side: B; Approx. Time Counter: 310 - 341}

HEARING ON SB 128

Sponsor: SEN. DALE MAHLUM, SD 35, Missoula, Montana

Opening Statement by Sponsor:

SEN. MAHLUM opened the hearing on SB 128 by informing the Committee that this bill would allow the Department of Justice to establish fees for the dissemination of information. The fees would be \$8 for name and fingerprints checks and \$26 for an FBI check. Approximately \$182,000 or more could be collected from the imposition of these fees.

{Tape: 1; Side: B; Approx. Time Counter: 341 - 413}

Proponents' Testimony:

Steve Tichensky, State of Montana, Department of Justice, informed the Committee that for the last 30 years, his division has been the central repository for the criminal and fingerprint information. The amount of requests for noncriminal information for use as background checks has increased 54%. Since the inception of the Patriot Act and Haz/Mat Act, the staff in his department is overwhelmed by the number of requests. For an example, the City of Great Falls has 120 coaches in their soccer league, necessitating background checks on all those personnel.

If this bill were to pass, the fees would create a mechanism for funding any additional requests and for the staff to answer those requests.

{Tape: 1; Side: B; Approx. Time Counter: 413 - 500}

{Tape: 2; Side: A; Approx. Time Counter: 0 - 96}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REPS. EVERETT, FACEY, CLARK, LANGE, NOENNIG, SHOCKLEY, RICE and MALCOLM asked numerous questions from the proponents, especially Mr. Tichensky about current staffing, the legality and the authorized use of such information, and the fund where these fees when collected would be deposited.

{Tape: 2; Side: A; Approx. Time Counter: 96 - 404}

Closing by Sponsor:

SEN. MAHLUM closed the hearing on SB 139 by stating that these checks are needed and with the federal funds ceasing, this is an opportunity to recoup the loss of money.

{Tape: 2; Side: A; Approx. Time Counter: 404 - 488}

EXECUTIVE ACTION ON SB 141

Motion: REP. NOENNIG moved that SB 141 BE CONCURRED IN.

Motion: REP. NOENNIG moved that SB 141 BE AMENDED.

Discussion:

REP. NOENNIG referred to Page 6, Lines 5,6 and 7 regarding the amendment.

Vote: Motion that SB 141 BE AMENDED carried 17-1 with REP. NEWMAN voting no. (voice vote)

Motion: REP. FACEY moved that SB 141 BE CONCURRED IN AS AMENDED.

Discussion:

REPS. NEWMAN and RICE stated that this bill was unnecessary and would oppose it. REP. MALCOLM voiced concerns regarding the protection of victim's rights in privacy matters.

Vote: Motion that SB 141 BE CONCURRED IN AS AMENDED carried 17-1 with REP. RICE voting no. (voice vote)

{Tape: 2; Side: A; Approx. Time Counter: 488 - 500}

{Tape: 2; Side: B; Approx. Time Counter: 0 - 173}

EXECUTIVE ACTION ON SB 128

Motion: REP. CLARK moved that SB 128 BE CONCURRED IN.

Discussion:

REPS. NOENNIG, LANGE, FACEY, NEWMAN, SHOCKLEY, STOKER, PARKER and GALLUS discussed SB 128 in depth regarding the funding issues that this bill would address.

Vote: Motion that SB 128 BE CONCURRED IN carried 14-4 with REPS. LASZLOFFY, MALCOLM, RICE, and SALES voting no. (voice vote)

{Tape: 2; Side: B; Approx. Time Counter: 173 - 383}

EXECUTIVE ACTION ON SB 56

Motion: REP. LASZLOFFY moved that SB 56 BE CONCURRED IN.

Discussion:

REPS. NOENNIG, FACEY, RICE, NEWMAN, PARKER, LANGE, GALLUS and LASZLOFFY discussed this bill regarding the mental defect aspects and the civil commitments for the offenders.

EXHIBIT (juh51a02)

Vote: Motion that SB 56 BE CONCURRED IN carried unanimously. (voice vote)

Vote: Motion that SB 56 be PLACED ON THE CONSENT CALENDAR carried unanimously. (voice vote)

ADJOURNMENT

Adjournment: 11:30 A.M.

REP. JIM SHOCKLEY, Chairman

PAMELA SCHINDLER, Secretary

JS/PS

EXHIBIT (juh51aad)