

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN DIANE RICE**, on March 2, 2005 at 9:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Diane Rice, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Ron Stoker, Vice Chairman (R)
Rep. Arlene Becker (D)
Rep. Robyn Driscoll (D)
Rep. Gail Gutsche (D)
Rep. Roger Koopman (R)
Rep. Tom McGillvray (R)
Rep. Mark E. Noennig (R)
Rep. Art Noonan (D)
Rep. Jon Sonju (R)
Rep. John Ward (R)
Rep. Bill Wilson (D)
Rep. Jeanne Windham (D)

Members Excused: Rep. George Everett (R)
Rep. Christopher Harris (D)
Rep. Michael Lange (R)
Rep. John Parker (D)

Members Absent: None.

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

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

Committee Business Summary:

Hearing & Date Posted: SB 30, 35, 2/27/2002
Executive Action: None

HEARING ON SB 35

Sponsor: SEN. JOHN ESP, SD 31, BIG TIMBER

Opening Statement by Sponsor:

SEN. JOHN ESP (R), SD 31, opened the hearing on **SB 35**, Representation for indigent parents in child abuse and neglect cases.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 45}

Proponents' Testimony:

Kandi Matthew-Jenkins, Montana Families, rose in support of SB 35.

{Tape: 1; Side: A; Approx. Time Counter: 45 - 63}

Melissa Worthan, self, rose in support of SB 35. **Ms. Worthan** spoke to the committee members about her own problems with the lack of representation regarding her family's situation.

{Tape: 1; Side: A; Approx. Time Counter: 63 - 76}

Pastor Cook, self, rose in support and spoke to the committee about the removal of his own six children from his care and his lack of representation in that matter.

{Tape: 1; Side: A; Approx. Time Counter: 76 - 145}

Patricia Mardington, self, rose in support of SB 35 and related to the committee the problems of her son being removed, incarcerated, and that she may not "have her son back."

{Tape: 1; Side: A; Approx. Time Counter: 145 - 161}

Opponents' Testimony: None

Informational Testimony:

Shirley Brown, director, Child and Family Services, Department of Public Health and Human Services (DPHHS), spoke of the information that her department had supplied to the interim committee.

Ms. Brown further spoke of the 22 Judicial Districts in Montana and the number of cases where legal representation has been provided, the initial time of the appointment of the legal representation and subsequent appointments of legal assistance.

{Tape: 1; Side: A; Approx. Time Counter: 161 - 199}

Questions from Committee Members and Responses:

REP. CLARK spoke with Pastor Cook as to number of families he counsels regarding these matters. **Pastor Cook** responded by telling the committee about his situation, his incarceration and his issues with DPHHS.

REP. CLARK then questioned Ms. Brown as to the DPHHS involvement in these matters, the variances between counties and the legal representation that each county offers for the families and at what point in the legal proceedings was representation appointed. **Ms. Brown** was able to inform the committee that each county does have varying degrees of legal representation to provide for families. Some counties will provide legal services at the initial hearings and some do not provide until the termination of the parent's rights occurring.

REP. STOKER asked Ms. Brown about the federal law and the mandates for legal representation required by that law. **Ms. Brown** informed the committee that federal regulations apply only for the time frame when hearings and findings need to be completed. But there are no regulations for the appointment of legal counsel.

REP. RICE continued with Ms. Brown by asking her how many children in Montana have been removed from their parent's care and for what reason. **Ms. Brown** replied that approximately 1,400 children have been removed in the state. The reasons in 40% of the time are physical or sexual abuse and then another reason that ranks high for removal of children from the home is drug involvement by the care giver. The questions continued by **REP. RICE** regarding the appointment of attorneys to help the parents.

REP. WARD questioned Ms. Brown about the permanency of the 1,400 children that were removed. **Ms. Brown** stated that she did not have that information; however, approximately 50% of the children were returned home.

{Tape: 1; Side: A; Approx. Time Counter: 199 - 436}

Closing by Sponsor:

SEN. ESP closed the hearing on SB 35 by informing the committee members that in Washington State there have been good results with legal representation appointed at the initial hearing.

{Tape: 1; Side: A; Approx. Time Counter: 436 - 500}

HEARING ON SB 30

Sponsor: SEN. JESSE LASLOVICH, SD 43, ANACONDA

Opening Statement by Sponsor:

SEN. JESSE LASLOVICH (D), SD 43, opened the hearing on **SB 30**, Improve criminal history information on qualifying offenses.

SEN. LASLOVICH reported that he brought this bill at the request of the Department of Justice (DOJ). The SENATOR stated that Montana law requires fingerprinting for felony offenses; however, Montana law does not require fingerprinting for misdemeanor offenses. This bill would add fingerprinting for cumulative offenses such partner-family members assaults (PFMA), orders of protection and DUIs.

This bill would also incorporate a repository for those additional fingerprints. Montana is the only state in the nation that does not have a repository.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 53}

Proponents' Testimony:

Pam Bucy, Assistant Attorney General, rose in support of SB 30. She spoke to the committee about the importance of a repository for fingerprints.

{Tape: 1; Side: B; Approx. Time Counter: 53 - 98}

Paul Grimstad, colonel, Montana Highway Patrol, rose in strong support of SB 30. He spoke to the committee about how officers do not know of other offenses without a repository; therefore, they may not charge for the correct offenses in day to day operations.

{Tape: 1; Side: B; Approx. Time Counter: 98 - 117}

Jim Kembel, Montana Association of Chiefs of Police, Montana Police Protective Association, rose in support of SB 30.

{Tape: 1; Side: B; Approx. Time Counter: 117 - 124}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. STOKER spoke with Ms. Bucy regarding "common scheme" and if Montana already has a statute to address that offense.

REP. NOENNIG questioned Ms. Bucy as to the reporting aspect required in SB 30. **Ms. Bucy** explained that this bill would require that the fingerprints be sent in, which the current law does not require. **REP. NOENNIG** was interested in knowing if there was another way for a previous offense to be known without the fingerprinting. **Ms. Bucy** replied, "No," it would only be known if an officer were to call the other counties.

{Tape: 1; Side: B; Approx. Time Counter: 124 - 217}

Closing by Sponsor:

SEN. LASLOVICH closed the hearing on SB 30.

{Tape: 1; Side: B; Approx. Time Counter: 217 - 220}

ADJOURNMENT

Adjournment: 9:50 A.M.

REP. DIANE RICE, Chairman

PAM SCHINDLER, Secretary

DR/ps

Additional Exhibits:

EXHIBIT ([juh46aad0.PDF](#))