

**MINUTES**

**MONTANA SENATE  
59th LEGISLATURE - REGULAR SESSION**

**CONFERENCE COMMITTEE ON SENATE AMENDMENTS TO HOUSE BILL 367**

**Call to Order:** By **CHAIRMAN JEFF MANGAN**, on April 13, 2005 at  
4:00 P.M., in Room 303 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Jeff Mangan, Chairman (D)  
Rep. Diane Rice, Chairman (R)  
Sen. Brent R. Cromley (D)  
Rep. Robyn Driscoll (D)  
Rep. Michael Lange (R)  
Rep. John Parker (D)  
Sen. Gary L. Perry (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Valencia Lane, Legislative Branch  
Kima Rosling, Committee Secretary

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

**Committee Business Summary:**

Hearing & Date Posted: None.  
Executive Action: None.

**SEN. MANGAN** asked **REP. PARKER** to give the Committee the history of the amendments to **HB 367**.

**REP. PARKER** explained that **HB 367** came at the request of the Justice of the Peace of Cascade County and a number of other justices do support it. It is intended as a housekeeping bill. It deals with the question of who can be represented by whom in a justice court record. The bill was originally tied up by a tie vote on the Senate Floor. **REP. PARKER** said that he agreed to a Senate amendment, but when he and the justices understood fully what the amendment did, there was a lot of outcry from the Justices of the Peace. That is why the Montana Magistrate Association was present in this conference committee.

The Justices of the Peace said that an amendment on page 5, lines 19 and 20, is very contentious for justice courts. The best way for the Committee to solve this problem is to amend Section 10, line 9. He recommended striking new Section 10.

**SEN. MANGAN** asked **REP. PARKER** if he wanted the Committee to also replace the old Section 10, stricken on the Senate Floor. **REP. PARKER** said he thought there were a number of Senators who felt it was critical for family members to be able to represent other family members in court. He said that by striking the new section and not reinstating the old section the Committee would reach a compromise that would satisfy the needs of the justices as well as the Senators.

**SEN. MANGAN** asked if there were any questions from the Committee.

**Valencia Lane, Legislative Branch**, clarified that this was not a Free Conference Committee, so the Committee was not free to do anything but accept or reject the Senate amendments or amend the amendments.

**SEN. MANGAN** said that if the Committee simply strikes amendment 367-4, the net effect would be the same. **REP. PARKER** agreed. Ms. Lane also agreed.

**Motion:** **REP. PARKER** moved **TO STRIKE AMENDMENT 367-4**.

**Discussion:** **REP. LANGE** said that the bill has the words "court established" as stricken. The amendment would be to strike the amended new language.

**SEN. MANGAN** explained that the Committee was still allowing family members, friends, and clerks of record to provide that assistance, but if they were originally represented by an attorney they would have to follow through with that.

**SEN. CROMLEY** asked if the appeal was on the record in all cases.

**REP. PARKER** said that it was.

**Motion/Vote: Motion carried unanimously by voice vote.**

**SEN. CROMLEY** clarified that MCA 25-31-601 was not changed by this bill. Ms. Lane agreed. **SEN. CROMLEY** said that there was some concern if someone had the perception in Justice Court that it was informal and did not seek an attorney, that they would be stuck with this record.

**REP. PARKER** said that a Justice of the Peace must always advise the person of their right to counsel, and if it is a jailable offense, it will fall under the purview of a public defender.

**SEN. CROMLEY** clarified that he was speaking of a civil case where there is no requirement to advise the person of their right to counsel. He said that there may be some concern in the future.

**SEN. MANGAN** explained that the Conference Committee report will reflect the action taken today.

**ADJOURNMENT**

Adjournment: 4:30 P.M.

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SEN. JEFF MANGAN, Chairman

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KIMA ROSLING, Secretary

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ANNIE GLOVER, Transcriber

DR/kr/ag

Additional Exhibits:

**EXHIBIT ([ccs79sb0367aad0.PDF](#))**