

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 62nd LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON JUDICIARY

**Call to Order:** Chair Ken Peterson, on February 4, 2011 at 8:00 AM, in Room 137  
Capitol

#### ROLL CALL

**Members Present:**

Rep. Ken Peterson, Chairman (R)  
Rep. Krayton Kerns, Vice Chairman (R)  
Rep. Diane Sands, Vice Chairman (D)  
Rep. Liz Bangerter (R)  
Rep. Robyn Driscoll (D)  
Rep. Kris Hansen (R)  
Rep. Bill Harris (R)  
Rep. Ellie Boldman Hill (D)  
Rep. David Howard (R)  
Rep. Cleve J. Loney (R)  
Rep. Margaret (Margie) MacDonald (D)  
Rep. Mike Menahan (D)  
Rep. Jesse O'Hara (R)  
Rep. Carolyn Pease-Lopez (D)  
Rep. Joe Read (R)  
Rep. Keith Regier (R)  
Rep. Bob Wagner (R)

**Members Excused:** None

**Members Absent:** Rep. Michael (Mike) More (R)  
Rep. Dan Skattum (R)  
Rep. Wendy Warburton (R)

**Staff Present:** Karen Armstrong, Committee Secretary  
David Niss, Legislative Branch

**Audio Committees:** These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

**Committee Business Summary:**

Hearing & Date Posted: HB 360, 2/1/2011; HB 365, 2/1/2011

Executive Action: HB 174; HB 271; HB 274; HB 280; HB 299; HB 369; HB 384

**HEARING ON HB 360****Opening Statement by Sponsor:**

00:04:05 Rep. Daniel Salomon (R), HD 12, opened the hearing on HB 360, Criminalize passengers failure to report certain motor vehicle accidents.

[EXHIBIT\(juh28a01\)](#)

00:04:09 Rep. More arrived.

00:04:21 Rep. Skattum arrived.

**Proponents' Testimony:**

00:07:11 Mark Murphy, Montana County Attorneys' Association (MCAA)

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

00:08:31 Rep. Bangerter  
00:09:15 Mr. Murphy, MCAA  
00:09:59 Rep. Sands  
00:10:28 Mr. Murphy  
00:10:52 Rep. Sands  
00:12:30 Mr. Murphy  
00:12:34 Rep. Sands  
00:12:40 Mr. Murphy  
00:12:48 Mr. Niss  
00:13:33 Rep. Sands  
00:13:37 Rep. Harris  
00:14:16 Rep. Salomon  
00:19:00 Rep. Read exited.

**Closing by Sponsor:**

00:14:55 Rep. Salomon

**HEARING ON HB 365****Opening Statement by Sponsor:**

00:15:34 Rep. Mike Menahan (D), HD 82, opened the hearing on HB 365, Revise laws regarding involuntary commitment.

**Proponents' Testimony:**

00:30:38 Larry Epstein, Montana County Attorneys' Association (MCAA)  
00:34:19 Matt Kuntz, Executive Director, National Association for the Mentally Ill (NAMI)  
00:40:31 Quentin Schroeter, NAMI  
00:41:47 Rep. Howard exited.  
00:45:00 John Wilkinson, Executive Director, National Association of Social Workers,  
Montana Chapter, parent of mentally ill son  
00:48:33 Anita Roessmann, attorney, Disability Rights Montana  
00:51:58 Rep. Howard returned.  
00:59:09 Kathy McGowan, Eastern Montana Mental Health Center, Center for Mental  
Health, Western Montana Mental Health Center, Montana Sheriffs and Peace  
Officers Association  
01:01:59 Aimee Grmoljez, Billings Clinic  
01:02:20 Rep. O'Hara exited.  
01:10:27 Rep. Howard exited.

**Opponents' Testimony:** None**Informational Testimony:**

01:02:49 John Glueckert, Administrator, Montana State Hospital, Warm Springs  
01:04:30 Rep. More exited.

**Questions from Committee Members and Responses:**

01:07:15 Rep Harris  
01:08:32 Mr. Kunz, NAMI  
01:13:06 Rep. Wagner  
01:13:10 Mr. O'Hara returned.  
01:15:32 Mr. Glueckert  
01:17:22 Rep. Howard returned.  
01:17:28 Rep. More returned.  
01:17:35 Chairman Peterson  
01:20:35 Rep. Howard exited.  
01:19:29 Ms Roessmann

**Closing by Sponsor:**

01:19:42 Rep. Menahan  
  
01:19:53 Rep. Hansen exited.  
01:22:55 Rep. Hansen returned.  
01:24:18 Rep. Howard returned.  
01:25:29 Chairman Peterson  
  
01:25:35 Meeting recessed.  
01:46:47 Meeting reconvened with Rep. Read and Rep. Warburton absent.

**EXECUTIVE ACTION ON HB 174**

01:47:04 **Motion:** Rep. Kerns moved that **HB 174 DO PASS.**

**Discussion:**

01:47:20 Rep. Kerns  
01:48:31 Rep. Hansen  
01:48:53 Rep. Kerns  
01:49:36 Rep. Hansen  
01:49:45 Rep. Skattum  
01:50:02 Chairman Peterson  
01:50:06 Rep. Bangerter  
01:50:22 Rep. Kerns  
01:50:42 Rep. Bangerter  
01:50:48 Rep. Harris  
01:51:34 Rep. Hill  
01:52:02 Rep. Howard  
01:53:04 Rep. Menahan  
01:54:49 Rep. Skattum  
01:55:12 Rep. More  
01:56:09 Rep. Wagner  
01:56:48 Chairman Peterson  
01:56:52 Rep. Sands  
01:57:22 Rep. Kerns  
01:57:33 Rep. Regier

01:57:57 **Substitute Motion:** Rep. MacDonald made a substitute motion that **HB 174 BE REPLACED BY A COMMITTEE BILL.**

**Discussion:**

01:58:43 Rep. Menahan  
02:00:04 Rep. Pease-Lopez  
02:00:17 Rep. Kerns  
02:00:44 Rep. Harris  
02:01:42 Rep. Kerns  
02:01:57 Chairman Peterson

02:02:13 **Vote:** Motion failed 11-9 by roll call vote with Rep. Bangerter, Rep. Driscoll, Rep. Hansen, Rep. Loney, Rep. Menahan, Rep. Peterson, Rep. Read, Rep. Regier and Rep. Warburton voting no. Rep. Read and Rep. Warburton voted by proxy. A 3/4 majority of those voting is required to generate a committee bill.

02:03:52 Rep. Warburton arrived.  
02:03:59 Rep. Sands  
02:04:03 Rep. Bangerter  
02:04:07 Rep. Menahan  
02:05:46 Rep. Bangerter  
02:06:04 Rep. Read returned.

02:06:20 Rep. Howard

02:07:27 Rep. Kerns  
02:07:42 Chairman Peterson  
02:07:59 Rep. Menahan

02:08:31 **Vote:** Motion carried 16-4 by roll call vote with Rep. Driscoll, Rep. MacDonald, Rep. Menahan and Rep. Pease-Lopez voting no.

**EXECUTIVE ACTION ON HB 271**

02:09:37 **Motion:** Rep. Kerns moved that **HB 271 DO PASS.**

**Discussion:**

02:09:54 Rep. Hansen  
02:14:20 Rep. Kerns  
02:15:30 Rep. Hansen  
02:16:19 Rep. Kerns  
02:16:40 Rep. Hansen  
02:17:24 Rep. Kerns  
02:18:29 Rep. Hansen  
02:19:03 Rep. Hill  
02:20:52 Rep. Kerns  
02:21:14 Rep. Howard  
02:24:03 Rep. Warburton  
02:24:41 Rep. Skattum  
02:25:03 Rep. Menahan  
02:26:30 Rep. Wagner

02:27:41 **Substitute Motion/Vote:** Rep. Hansen made a substitute motion that **HB 271 BE POSTPONED FOR THE DAY.** Substitute Motion failed 7-13 by roll call vote with Rep. Bangerter, Rep. Hansen, Rep. MacDonald, Rep. Pease-Lopez, Rep. Read, Rep. Sands and Rep. Warburton voting aye.

02:29:57 Rep. O'Hara  
02:30:27 Rep. Harris  
02:30:45 Rep. Hansen  
02:30:51 Rep. Loney  
02:31:32 Chairman Peterson  
02:32:20 Rep. Sands  
02:32:57 Rep. Kerns

02:33:16 **Motion:** Rep. Hansen moved that **HB 271 BE CONCEPTUALLY AMENDED.**

02:33:36 Rep. Driscoll  
02:33:59 Rep. Warburton  
02:34:49 Rep. Hansen  
02:34:59 Chairman Peterson  
02:36:32 Rep. Warburton

02:36:45 **Substitute Motion:** Rep. Hansen made a substitute motion that **HB 271 BE AMENDED** with specific language.

**Discussion:**

02:37:35 Mr. Niss

02:37:39 Rep. Hansen

02:38:02 Rep. Menahan

02:39:56 **Vote:** Motion failed 9-11 by roll call vote with Rep. Hansen, Rep. Harris, Rep. Kerns, Rep. Loney, Rep. More, Rep. Read, Rep. Skattum, Rep. Wagner and Rep. Warburton voting aye. 75% of members present must vote in favor in order to generate a committee bill.

02:40:28 Rep. Skattum

02:41:02 Rep. Howard

02:41:21 Rep. Kerns

02:41:45 **Vote:** Motion failed 10-10 by roll call vote with Rep. Hansen, Rep. Harris, Rep. Kerns, Rep. Loney, Rep. Peterson, Rep. Read, Rep. Regier, Rep. Skattum, Rep. Wagner and Rep. Warburton voting aye.

02:41:50 Rep. Hansen exited.

**EXECUTIVE ACTION ON HB 274**

02:43:25 **Motion:** Rep. Howard moved that **HB 274 DO PASS.**

02:43:48 **Motion:** Rep. Howard moved that **HB 274 BE AMENDED.**  
[EXHIBIT\(juh28a02\)](#)

**Discussion:**

02:44:08 Mr. Niss

02:47:17 Rep. Hansen returned.

02:47:39 Rep. Kerns exited.

02:48:27 Rep. Kerns returned.

02:49:00 Rep. Warburton exited.

02:51:03 Chairman Peterson

02:51:27 Rep. Pease-Lopez

02:51:57 Rep. Howard

02:53:38 Rep. Sands

02:53:51 Rep. Howard

02:55:17 **Vote:** Motion carried 19-1 by voice vote with Rep. MacDonald voting no. Rep. Warburton voted by proxy.

02:55:43 **Motion:** Rep. Howard moved that **HB 274 BE POSTPONED PENDING RECEIPT OF AN UPDATED FISCAL NOTE.**

02:55:57 Without objection, postponement was approved.

02:56:10 Rep. Sands  
02:56:34 Rep. Howard  
02:56:38 Mr. Niss  
02:56:42 Rep. Warburton returned.

**EXECUTIVE ACTION ON HB 280**

02:56:46 **Motion:** Rep. Kerns moved that **HB 280 DO PASS.**

02:57:10 **Motion:** Rep. K. Peterson moved that **HB 280 BE AMENDED.**  
**EXHIBIT(juh28a03)**

**Discussion:**

02:59:30 Rep. Sands  
02:59:38 Rep. Warburton returned.  
02:59:44 Mr. Niss  
03:00:18 Chairman Peterson

03:01:29 **Vote:** Motion carried 15-5 by roll call vote with Rep. Driscoll, Rep. Hill, Rep. MacDonald, Rep. Pease-Lopez and Rep. Sands voting no.

03:02:43 **Motion:** Rep. Kerns moved that **HB 280 DO PASS AS AMENDED.**

**Discussion:**

03:02:52 Rep. Driscoll  
03:03:43 Rep. Regier  
03:03:48 Rep. MacDonald  
03:06:13 Rep. Wagner  
03:06:39 Rep. Loney  
03:07:41 Rep. Pease-Lopez  
03:09:34 Rep. Warburton  
03:10:49 Rep. Hill  
03:12:28 Rep. Harris  
03:13:57 Rep. Sands  
03:16:58 Rep. Skattum  
03:17:28 Rep. Warburton  
03:17:56 Rep. Pease-Lopez  
03:18:33 Chairman Peterson

03:19:13 **Vote:** Motion carried 14-6 by roll call vote with Rep. Driscoll, Rep. Hill, Rep. MacDonald, Rep. Menahan, Rep. Pease-Lopez and Rep. Sands voting no.

**EXECUTIVE ACTION ON HB 299**

03:20:42 **Motion:** Rep. Hansen moved that **HB 299 DO PASS.**

03:20:53 **Motion:** Rep. Hansen moved that **HB 299 BE AMENDED.**  
**EXHIBIT(juh28a04)**

03:21:17 Rep. Read exited.  
03:22:08 Rep. O'Hara exited.  
03:23:01 Rep. O'Hara returned.

**Discussion:**

03:23:08 Rep. Harris  
03:23:13 Rep. Hansen  
03:23:47 Rep. Regier  
03:24:02 Rep. Hansen  
03:24:26 Rep. Menahan  
03:27:33 Rep. Howard  
03:28:53 Rep. Hansen  
03:29:30 Rep. Wagner exited.

03:31:38 **Vote:** Motion carried unanimously.

03:31:51 **Motion:** Rep. Kerns moved that **HB 299 DO PASS AS AMENDED.**

02:31:59 Rep. Kerns withdrew his motion.  
03:32:25 Without objection, executive action will be delayed pending receipt of a new fiscal note.

**EXECUTIVE ACTION ON HB 384**

03:33:05 **Motion:** Rep. Kerns moved that **HB 384 DO PASS.**

03:33:16 **Motion:** Rep. Howard moved that **HB 384 BE AMENDED.**  
**EXHIBIT(juh28a05)**

03:34:56 Rep. Menahan exited.  
03:35:06 Rep. Sands  
03:35:28 Rep. Hansen  
03:36:52 Rep. Bangerter  
03:36:58 Rep. Menahan returned.  
03:37:23 Rep. Kerns  
03:37:52 Rep. Pease-Lopez  
03:39:08 Rep. Kerns  
03:39:40 Rep. Howard  
03:40:52 Rep. Regier  
03:41:26 Rep. O'Hara  
03:42:01 Rep. Howard  
03:42:59 Rep. Kerns  
03:43:35 Rep. Harris  
03:43:52 Rep. Kerns  
03:44:06 Rep. Harris  
03:44:21 Rep. Kerns  
03:44:25 Rep. Hansen  
03:45:07 Chairman Peterson

- 03:46:38 **Vote:** Motion failed 8-12 by roll call vote with Rep. Bangerter, Rep. Hansen, Rep. Harris, Rep. Howard, Rep. Loney, Rep. MacDonald, Rep. More and Rep. O'Hara voting aye. Rep. Wagner voted by proxy.
- 03:46:30 Rep. MacDonald  
03:47:02 Rep. Hansen exited.  
03:49:50 Rep. Bangerter  
03:50:33 Rep. Kerns  
03:51:16 Rep. Warburton  
03:52:19 Rep. Bangerter  
03:52:55 Rep. More  
03:53:14 Rep. Kerns  
03:53:35 Rep. Warburton  
03:54:18 Chairman Peterson  
03:54:34 Rep. Kerns  
03:54:38 Rep. Howard
- 03:55:16 **Vote:** Motion carried 12-8 by roll call vote with Rep. Bangerter, Rep. Driscoll, Rep. Hill, Rep. MacDonald, Rep. Menahan, Rep. O'Hara, Rep. Pease-Lopez and Rep. Sands voting no. Rep. Hansen and Rep. Wagner voted by proxy.
- 03:56:28 Rep. Warburton

**EXECUTIVE ACTION ON HB 369**

- 03:57:11 **Motion:** Rep. Warburton moved that **HB 369 DO PASS**.
- 03:58:04 **Substitute Motion/Vote:** Rep. Kerns made a substitute motion that **HB 369 BE TABLED**. Substitute Motion carried unanimously by voice vote.

**ADJOURNMENT**

03:59:30      Adjournment:

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Karen Armstrong, Secretary

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Additional Exhibits  
[EXHIBIT\(juh28a06\)](#)  
[EXHIBIT\(juh28a07\)](#)  
[EXHIBIT\(juh28a08\)](#)

Additional Documents:

[EXHIBIT\(juh28aad.pdf\)](#)