

BUSINESS REPORT

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

HOUSE JUDICIARY COMMITTEE

Date: Tuesday, April 5, 2011
Place: Capitol

Time: ^{9:00}~~8:00~~ AM
Room: 137

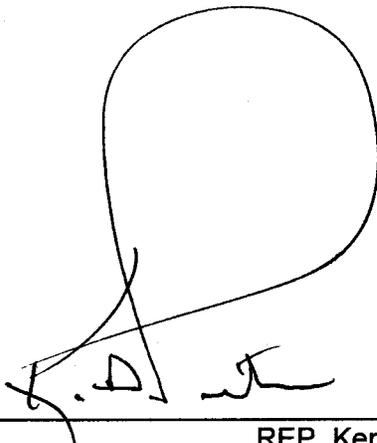
BILLS and RESOLUTIONS HEARD:

SB 187 - Generally revise public defender laws
SB 322 - Referendum to revise venue for lawsuits challenging validity of statute
SB 421 - Revise animal welfare laws

EXECUTIVE ACTION TAKEN:

SB 187 Be concurred in as amended
SB 421 Be concurred in

Comments:



A handwritten signature in black ink, appearing to read 'K. Peterson', is written over a horizontal line. The signature is stylized and somewhat cursive.

REP. Ken Peterson, Chair

HOUSE OF REPRESENTATIVES
Roll Call
JUDICIARY COMMITTEE

DATE: 4/5/2011

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
REP. KEN PETERSON, CHAIR	✓	
REP. KRAYTON KERNS, VICE CHAIR	✓	
REP. DIANE SANDS, VICE CHAIR	✓	
REP. MIKE MENAHAN	✓	
REP. ROBYN DRISCOLL	✓	
REP. KEITH REGIER	✓	
REP. DAN SKATTUM	✓	
REP. CLEVE LONEY		✓
REP. MARGARET MACDONALD	✓	
REP. CAROLYN PEASE-LOPEZ	✓	
REP. MICHAEL MORE	✓	
REP. LIZ BANGERTER	✓	
REP. WENDY WARBURTON		✓
REP. BOB WAGNER	✓	
REP. ELLIE BOLDMAN HILL	✓	
REP. BILL HARRIS	✓	
REP. KRISTIN HANSEN		✓
REP. DAVID HOWARD	✓	
REP. JESSE O'HARA	✓	
REP. JOE READ	✓	



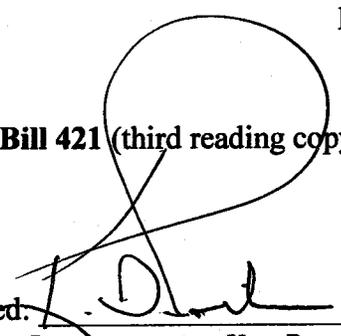
HOUSE STANDING COMMITTEE REPORT

April 5, 2011

Page 1 of 1

Mr. Speaker:

We, your committee on **Judiciary** recommend that **Senate Bill 421** (third reading copy -- blue) **be concurred in.**

Signed: 

Representative Ken Peterson, Chair

To be carried by Representative Robyn Driscoll

- END -

Committee Vote:

Yes 11, No 9

Fiscal Note Required

SB0421001SC03852.hgh

*April 5
2011*



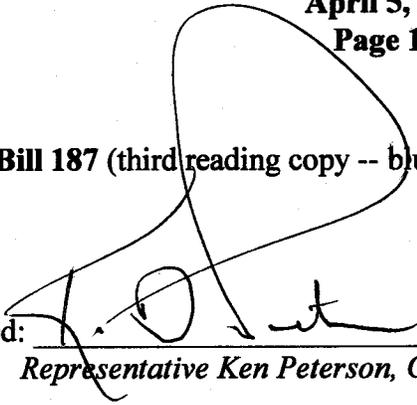
HOUSE STANDING COMMITTEE REPORT

April 5, 2011

Page 1 of 4

Mr. Speaker:

We, your committee on **Judiciary** recommend that **Senate Bill 187** (third reading copy -- blue) **be concurred in as amended.**

Signed: 

Representative Ken Peterson, Chair

To be carried by Representative Ken Peterson

And, that such amendments read:

1. Title, line 8.

Strike: "46-18-251,"

Insert: "46-8-114,"

2. Page 1, line 17.

Strike: "seven"

Insert: "11"

3. Page 1, line 18.

Strike: "the chief justice of"

4. Page 1, line 21.

Following: "defender,"

Insert: "as follows:

- (i) one attorney experienced in the defense of felonies who has served a minimum of 1 year as a full-time public defender;
- (ii)"

5. Page 1, line 22.

Strike: "of whom must be"

Insert: "attorney"

6. Page 1.

Following: line 24

Committee Vote:

Yes 15, No 5

Fiscal Note Required

SB0187001SC05152.hgh

Insert: "(iii) one attorney who represents criminal defense lawyers;"

7. Page 1, line 27.

Strike: "._"

Insert: " ;"

8. Page 2, line 7 through line 8.

Strike: subsection (3) in its entirety

Insert: "(d) one person who is a member of an organization that advocates on behalf of indigent persons;

(e) one person who is a member of an organization that advocates on behalf of a racial minority population in Montana;

(f) one person who is a member of an organization that advocates on behalf of people with mental illness and developmental disabilities; and

(g) one person who is employed by an organization that provides addictive behavior counseling.

(3) A person appointed to the commission must have significant experience in the defense of criminal or other cases subject to the provisions of Title 47, chapter 1, or must have demonstrated a strong commitment to quality representation of indigent defendants."

9. Page 2, line 12.

Following: "(6)"

Insert: "(a)"

10. Page 2, line 14.

Strike: "(a)"

Insert: "(i)"

Following: "commission"

Insert: "subject to subsection (6)(b)"

11. Page 2, line 18.

Strike: "(b)"

Insert: "(ii)"

12. Page 2, line 20.

Strike: "(6)(b)"

Insert: "(6)(a)(ii)"

13. Page 2.

Following: line 22

Insert: "(b) New staff positions for the commission may be added only when the public defender account established pursuant to 47-1-110 has received sufficient revenue pursuant to 46-18-113(1)(a) and (1)(b) to maintain a balance in the account that would sustain any staff position approved by the commission for at least 1 year."

14. Page 3, line 19 through page 8, line 3.

Strike: sections 3 and 4 in their entirety

Insert: "Section 3. Section 46-8-113, MCA, is amended to read:

"46-8-113. Payment by defendant for assigned counsel -- costs to be filed with court. (1) As part of or as a condition under a sentence imposed under the provisions of this title, the court shall, by including the costs of counsel in the court's judgment, require a convicted defendant to pay the costs of counsel assigned to represent the defendant as follows, except as provided in subsections (2) and (3):

(a) in every misdemeanor case, ~~\$150~~ \$250; and

(b) in every felony case, ~~\$500~~ \$800.

(2) Costs must be limited to costs incurred by the office of state public defender, provided for in 47-1-201, for providing the defendant with counsel in the criminal proceeding. If the criminal proceeding includes a jury trial or a justice's court trial, ~~counsel assigned by~~ the office of state public defender shall file with the court a statement of the hours spent on the case and the costs and expenses incurred ~~and, except as provided in subsection (3), the court shall require the defendant to pay the costs of counsel and other costs and expenses as reflected in the statement.~~ In any proceeding for the determination of whether a defendant is or will be able to pay the costs of counsel, the court shall question the defendant as to the defendant's ability to pay those costs and shall inform the defendant that purposely false or misleading statements by the defendant may result in criminal charges against the defendant.

(3) The court may not sentence a defendant to pay the costs for assigned counsel unless the defendant is or will be able to pay them. In determining the amount and method of payment of costs, the court shall take into account the hours spent on the case and the costs and expenses incurred, the financial resources of the defendant, and the nature of the burden that payment of costs will impose.

(4) A defendant who has been sentenced to pay costs may at any time petition the court that sentenced the defendant for remission of the payment of costs or of any unpaid portion of the costs. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may remit all or part of the amount due in costs or modify the method of payment."

Insert: "Section 4. Section 46-8-114, MCA, is amended to read:

"46-8-114. Time and method of payment. When a defendant is sentenced to pay the costs of assigned counsel pursuant to 46-8-113, the court may order payment to be made within a specified period of time or in specified installments. Payments must be made to the ~~office of state public defender, provided for in 47-1-201,~~ clerk of the sentencing court for allocation as

provided in 46-18-201, 46-18-232, and 46-18-251 and deposited in the account established in 47-1-110."

15. Page 10, line 6.

Strike: "offices"

Insert: "office"

Strike: "and deputy public defender"

16. Page 12, line 2.

Following: line 2

Insert: "(a) act as secretary to the commission and provide administrative staff support to the commission until the commission can hire its staff as provided in 2-15-1028(6)(b);"

Renumber: subsequent subsections

17. Page 13, line 13.

Strike: "(1)(e)"

Insert: "(1)(f)"

18. Page 14, line 7.

Strike: "(1)(e)"

Insert: "(1)(f)"

19. Page 14, line 14.

Strike: "and"

20. Page 14.

Following: line 15

Insert: "(h) maintain a minimum client caseload as determined by the chief public defender; and"

Renumber: subsequent subsection

21. Page 15, line 23.

Strike: "an annual"

Insert: "a biennial"

22. Page 16, line 4 through line 11.

Strike: section 13 in its entirety

Renumber: subsequent sections

- END -

HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE: 4/5/2011 BILL NO SB 421 MOTION NO. _____
 MOTION: _____

passed

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
REP. KRAYTON KERNS, VICE CHAIR	x	✓	
REP. DIANE SANDS, VICE CHAIR	✓		
REP. MIKE MENAHAN	✓		
REP. ROBYN DRISCOLL	✓		
REP. KEITH REGIER	x	✓	
REP. DAN SKATTUM	x	✓	
REP. CLEVE LONEY	✓		
REP. MARGARET MACDONALD	✓		
REP. PEASE-LOPEZ	✓		
REP. MICHAEL MORE	x	✓	
REP. LIZ BANGERTER	✓		
REP. WENDY WARBURTON	x	✓	proxy
REP. BOB WAGNER	x	✓	proxy
REP. ELLIE BOLDMAN HILL	✓		proxy
REP. BILL HARRIS	x	✓	proxy
REP. KRISTIN HANSEN	x	✓	proxy
REP. DAVID HOWARD	✓		
REP. JESSE O'HARA	✓		
REP. JOE READ	x	✓	
REP. KEN PETERSON, CHAIR	✓		

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HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE: 4/5/2011 BILL NO SB 187 MOTION NO. _____
 MOTION: amendment

<u>NAME</u>	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
REP. KRAYTON KERNS, VICE CHAIR		✓	
REP. DIANE SANDS, VICE CHAIR	✓		
REP. JOE READ	✓		
REP. JESSE O'HARA	✓		
REP. DAVID HOWARD	✓		
REP. KRISTIN HANSEN	✓		proxy
REP. BILL HARRIS	✓		
REP. ELLIE BOLDMAN HILL	✓		proxy
REP. BOB WAGNER	✓		
REP. WENDY WARBURTON	✓		proxy
REP. LIZ BANGERTER	✓		
REP. MIKE MORE	✓		
REP. CAROLYN PEASE-LOPEZ	✓		
REP. MARGARET MACDONALD	✓		
REP. CLEVE LONEY	✓		
REP. DAN SKATTUM	✓		
REP. KEITH REGIER	✓		
REP. ROBYN DRISCOLL	✓		
REP. MIKE MENAHAN	✓		
REP. KEN PETERSON, CHAIR	✓		

HOUSE OF REPRESENTATIVES
Roll Call Vote
JUDICIARY COMMITTEE

DATE: 4/5/2011 BILL NO 187 MOTION NO. _____
 MOTION: _____ *passes*

Peterson carry

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
REP. KRAYTON KERNS, VICE CHAIR		✓	
REP. DIANE SANDS, VICE CHAIR	✓		
REP. MIKE MENAHAN	✓		
REP. ROBYN DRISCOLL	✓		
REP. KEITH REGIER		✓	
REP. DAN SKATTUM		✓	
REP. CLEVE LONEY	✓		
REP. MARGARET MACDONALD	✓		
REP. PEASE-LOPEZ	✓		
REP. MICHAEL MORE	✓		
REP. LIZ BANGERTER	✓		
REP. WENDY WARBURTON		✓	<i>proxy</i>
REP. BOB WAGNER		✓	<i>proxy</i>
REP. ELLIE BOLDMAN HILL	✓		<i>proxy</i>
REP. BILL HARRIS	✓		
REP. KRISTIN HANSEN	✓		<i>proxy</i>
REP. DAVID HOWARD	✓		
REP. JESSE O'HARA	✓		
REP. JOE READ	✓		
REP. KEN PETERSON, CHAIR	✓		

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AUTHORIZED COMMITTEE PROXY

I request to be excused from the Judiciary

Committee because of other commitments. I desire to leave my proxy vote with:

Diane Swind

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT	AYE	NO
SB 421	X	
SB 187		
Amend 02	X	
Amended	X	

BILL/AMENDMENT	AYE	NO

Rep. Ellie Diet
(Signature)

Date 4/5/2011

