

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 63rd LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON JUDICIARY

**Call to Order:** Chair Krayton Kerns, on February 20, 2013 at 8:00 AM, in Room 137  
Capitol

#### ROLL CALL

**Members Present:**

Rep. Krayton Kerns, Chair (R)  
Rep. Gerald (Jerry) Bennett, Vice Chair (R)  
Rep. Margaret (Margie) MacDonald, Vice Chair (D)  
Rep. Virginia Court (D)  
Rep. Alan Doane (R)  
Rep. Jennifer Eck (D)  
Rep. Clayton Fiscus (R)  
Rep. Jenifer Gursky (D)  
Rep. David Halvorson (R)  
Rep. Ellie Boldman Hill (D)  
Rep. Sarah Laszloffy (R)  
Rep. Dennis R. Lenz (R)  
Rep. Ryan Lynch (D)  
Rep. Jerry O'Neil (R)  
Rep. Carolyn Pease-Lopez (D)  
Rep. Keith Regier (R)  
Rep. Bridget Smith (D)  
Rep. Kirk Wagoner (R)

**Members Excused:** Rep. Mark Blasdel (R)  
Rep. Wendy Warburton (R)

**Members Absent:** None

**Staff Present:** Karen Armstrong, Committee Secretary  
Helen Thigpen, 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 433, 2/13/2013; HB 504, 2/18/2013; HB 505, 2/15/2013;  
HB 522, 2/18/2013

Executive Action: HB 369, HB 385, HB 391, HB 438, HB 459, HB 462, HB 514,  
HB 515

00:14:54 Chairman Kerns

### HEARING ON HB 433

#### Opening Statement by Sponsor:

00:16:54 Rep. Jesse O'Hara (R), HD 18, opened the hearing on HB 433, Generally revise laws regarding registration of sexual and violent offenders.

#### Proponents' Testimony:

00:18:00 John Parker, Cascade County Attorney for the Montana County Attorneys Association (MCAA)  
00:21:53 Derek VanLuchene, Ryan United  
00:25:31 Leo Gallagher, Lewis and Clark County Attorney  
00:27:38 Jim Smith, Montana Sheriffs and Peace Officers Association (MSPOA)  
00:28:03 Abigail St. Lawrence, Montana Association of Churches (MAC)  
00:29:18 Larry Epstein, Montana Association of Chiefs of Police (MACOP)  
00:29:40 Jon Bennion, Attorney General's Office (AG)

Opponents' Testimony: None

Informational Testimony: None

#### Questions from Committee Members and Responses:

00:30:27 Rep. MacDonald  
00:32:17 Mr. Parker, MCAA  
00:33:39 Rep. Bennett  
00:34:15 Mr. Parker, MCAA  
00:34:49 Rep. Lynch  
00:35:14 Mr. Parker, MCAA  
00:35:51 Rep. Lenz  
00:36:15 Mr. Parker, MCAA  
00:37:00 Rep. Smith  
00:37:22 Mr. Parker, MCAA  
00:38:11 Rep. O'Neil  
00:38:39 Mr. Parker, MCAA  
00:39:22 Chairman Kerns  
00:39:33 Mr. Parker, MCAA

#### Closing by Sponsor:

00:40:15 Rep. O'Hara

### HEARING ON HB 504

#### Opening Statement by Sponsor:

00:40:58 Rep. Kimberly Dudik (D), HD 99, opened the hearing on HB 504, Revise laws regarding attorneys representing children in abuse and neglect cases.

[EXHIBIT\(juh38a01\)](#)

[EXHIBIT\(juh38a02\)](#)

**Proponents' Testimony:** None

**Opponents' Testimony:**

00:49:59 William Hooks, Chief Public Defender, Office of Public Defender (OPD)

00:55:44 Bruce Spencer, State Bar of Montana

**Informational Testimony:**

00:57:38 Wade Zolynski, Chief Appellate Defender, Office of Public Defender (OPD)

00:58:06 Mark Murphy, Montana County Attorneys Association (MCAA)

00:59:02 Elaine Dahl, Montana Legal Services

00:59:29 Beth McLaughlin, Administrator, Supreme Court

**Questions from Committee Members and Responses:**

00:59:54 Rep. O'Neil

01:00:05 Rep. Dudik

01:00:23 Chairman Kerns

01:00:34 Rep. Gursky

01:01:21 Rep. Dudik

01:03:19 Rep. Bennett

01:03:32 Rep. Dudik

01:04:54 Rep. Doane

01:05:18 Rep. Dudik

**Closing by Sponsor:**

01:06:22 Rep. Dudik

**HEARING ON HB 522**

**Opening Statement by Sponsor:**

01:09:17 Rep. Nicholas Schwaderer (R), HD 14, opened the hearing on HB 522, Prohibit state cooperation with federal officials regarding indefinite detention.

**Proponents' Testimony:**

01:13:21 Niki Zupanic, American Civil Liberties Union (ACLU) of Montana

01:16:20 Tim Ravndal, Oath Keepers and The Order of Constitutional Defenders

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

01:20:28 Rep. MacDonald

01:21:42 Ms Zupanic, ACLU

01:22:38 Rep. Gursky left the meeting.

01:22:46 Rep. Pease-Lopez left the meeting.

01:20:10 Rep. Schwaderer

01:25:13 Matthew J. Beard, Self

**Closing by Sponsor:**

01:25:54 Rep. Schwaderer

01:27:32 Recessed.  
01:40:34 Reconvened with Rep. Gursky and Rep. Lynch absent.

### HEARING ON HB 505

#### **Opening Statement by Sponsor:**

01:41:10 Rep. Krayton Kerns (R), HD 58, opened the hearing on HB 505, Clarify offense of aiding or soliciting suicide.  
01:41:49 Rep. Lynch returned.

#### **Proponents' Testimony:**

01:42:44 Michael Cox, St. Patrick's Hospital and St. Joseph Medical Center, Providence Health and Services

#### **EXHIBIT(juh38a03)**

01:45:34 Margaret Dore, Attorney, Choice is an Illusion

#### **EXHIBIT(juh38a04)**

#### **EXHIBIT(juh38a05)**

#### **EXHIBIT(juh38a06)**

01:48:28 Bradley Williams, Montanans Against Assisted Suicide

#### **EXHIBIT(juh38a07)**

#### **EXHIBIT(juh38a08)**

#### **EXHIBIT(juh38a09)**

01:51:23 Annie Bukacek, Self

01:54:19 Berniece Stulc, Self

#### **EXHIBIT(juh38a10)**

01:57:00 Garnett Rope, Self

#### **EXHIBIT(juh38a11)**

#### **EXHIBIT(juh38a12)**

01:58:11 Christina Hayden, Self

#### **EXHIBIT(juh38a13)**

01:58:53 Jeff Laszloffy, Montana Family Foundation (MFF)

01:59:15 Marjory McCaffery, Self

#### **EXHIBIT(juh38a14)**

02:01:29 Cort Freeman, Self

02:02:13 Rep. Gursky returned to the meeting.

02:02:26 Cindy Perdue-Dolan, Self

02:03:29 Dr. David Hafer, Christian Medical and Dental Associations (CMDA)

#### **EXHIBIT(juh38a15)**

02:03:52 Ted Friesen, Self

#### **EXHIBIT(juh38a16)**

02:04:25 Luke Rope, Self

02:04:59 Bennington Ward, Self

02:05:41 Mary McCracken, Self

02:05:58 Robert Stulc, Self

02:06:28 Bobbie Hafer, (CMDA)

#### **EXHIBIT(juh38a17)**

02:07:56 Dr. Dan O'Neill, Self

02:08:48 Moe Wosepka, Montana Catholic Conference (MCC) and Bishops

[EXHIBIT\(juh38a18\)](#)

[EXHIBIT\(juh38a19\)](#)

02:09:20 Melda Freeman, Self

02:09:49 Mike Foster, Catholic Hospitals in Montana

**Opponents' Testimony:**

02:10:29 Roberta King, Self

02:13:38 Mark Connell, Self

02:18:24 Kenneth Eden, Self

02:21:14 Ron Waterman, Self

[EXHIBIT\(juh38a20\)](#)

02:22:52 Niki Zupanic, American Civil Liberties Union (ACLU) of Montana

02:24:48 Doris Fischer, Self

[EXHIBIT\(juh38a21\)](#)

02:27:51 Jane Jelinski, Self

[EXHIBIT\(juh38a22\)](#)

02:28:53 Betty Stroock, Self

02:32:38 Dustin Hankinson, Disability Rights

02:38:08 Karen Nelson, Self

[EXHIBIT\(juh38a23\)](#)

02:38:30 Maren Keener, Self

02:40:39 John Wilkinson, Montana Chapter, National Association of Social Workers  
(NASW)

02:41:13 Sen. Dick Barrett, SD47

02:42:36 Mary Douglass, Self

02:43:48 Jane Hamman, Self

02:44:11 David Cooper, Self

02:44:47 Mignon Waterman, Self

02:46:13 Janet Hess-Herbert, Self

**Informational Testimony:**

02:47:04 Philip Tummarello, Self

[EXHIBIT\(juh38a24\)](#)

02:48:00 Vice Chairman Bennett

02:48:07 Mr. Tummarello, Self

02:48:12 Vice Chairman Bennett

02:48:29 Mr. Tummarello, Self

02:49:55 Vice Chairman Bennett

02:50:12 Mr. Tummarello, Self

02:50:31 Rep. MacDonald

02:50 58 Vice Chairman Bennett

**Questions from Committee Members and Responses:** None

**Closing by Sponsor:**

02:51:43 Rep. Kerns

[EXHIBIT\(juh38a25\)](#)

**EXECUTIVE ACTION ON HB 369**

02:56:22     **Motion:** Rep. G. Bennett moved that **HB 369 DO PASS.**

02:56:42     **Motion:** Rep. G. Bennett moved that **HB 369 BE AMENDED.**  
**EXHIBIT(juh38a26)**

**Discussion:**

02:57:11     Ms Thigpen, Legislative Services Division (LSD)

02:57:47     Rep. O'Neil

02:58:01     Ms Thigpen, LSD

02:58:11     Rep. O'Neil

02:58:30     Ms Thigpen, LSD

02:58:46     **Vote:** Motion carried unanimously by voice vote. Rep. Blasdel and  
Rep. Warburton voted by proxy.

02:59:08     **Motion/Vote:** Rep. G. Bennett moved that **HB 369 DO PASS AS AMENDED.**  
Motion carried 17-3 by voice vote with Rep. Eck, Rep. Pease-Lopez and  
Rep. Smith voting no. Rep. Blasdel and Rep. Warburton voted by proxy.

**EXECUTIVE ACTION ON HB 385**

03:00:04     **Motion:** Rep. G. Bennett moved that **HB 385 DO PASS.**

03:00:17     **Motion:** Rep. G. Bennett moved that **HB 385 BE AMENDED.**  
**EXHIBIT(juh38a27)**

**Discussion:**

03:00:42     Ms Thigpen, LSD

03:02:46     Rep. Gursky

03:03:27     Ms Thigpen, LSD

03:03:44     Rep. Gursky

03:04:05     Ms Thigpen, LSD

03:04:22     Rep. MacDonald

03:05:02     Ms Thigpen, LSD

03:05:25     Rep. Court

03:06:15     Rep. Wagoner

03:07:15     **Vote:** Motion carried 13-7 by roll call vote with Rep. Court, Rep. Eck,  
Rep. Gursky, Rep. Hill, Rep. Lynch, Rep. MacDonald and Rep. Pease-Lopez  
voting no. Rep. Blasdel and Rep. Warburton voted by proxy.

03:08:27     **Motion:** Rep. G. Bennett moved that **HB 385 DO PASS AS AMENDED.**

**Discussion:**

03:08:32     Rep. MacDonald

03:08:52     Ms Thigpen, LSD

03:10:06     Rep. Fiscus

03:10:08     Rep. O'Neil

03:10:21 **Vote:** Motion carried 13-7 by roll call vote with Rep. Court, Rep. Eck, Rep. Gursky, Rep. Hill, Rep. Lynch, Rep. MacDonald and Rep. Pease-Lopez voting no. Rep. Blasdel and Rep. Warburton voted by proxy.

**EXECUTIVE ACTION ON HB 391**

03:11:28 **Motion/Vote:** Rep. G. Bennett moved that **HB 391 DO PASS**. Motion carried 12-8 by roll call vote with Rep. Court, Rep. Eck, Rep. Gursky, Rep. Hill, Rep. Lynch, Rep. MacDonald, Rep. Pease-Lopez and Rep. Smith voting no. Rep. Blasdel and Rep. Warburton voted by proxy.

**EXECUTIVE ACTION ON HB 438**

03:13:12 **Motion:** Rep. G. Bennett moved that **HB 438 DO PASS**.

**Discussion:**

03:13:18 Rep. MacDonald

03:13:56 Rep. Doane

03:14:13 **Vote:** Motion carried 12-8 by roll call vote with Rep. Court, Rep. Eck, Rep. Gursky, Rep. Hill, Rep. Lynch, Rep. MacDonald, Rep. Pease-Lopez and Rep. Smith voting no. Rep. Blasdel and Rep. Warburton voted by proxy.

**EXECUTIVE ACTION ON HB 459**

03:15:29 **Motion:** Rep. G. Bennett moved that **HB 459 DO PASS**.

**Discussion:**

03:15:42 Rep. MacDonald

03:17:20 Rep. Court

03:18:08 Rep. Bennett

03:18:33 Rep. Lenz

03:19:16 Rep. Wagoner

03:19:37 Rep. Court

03:20:10 Chairman Kerns

03:20:13 Rep. MacDonald

03:21:59 Rep. Fiscus

03:22:37 **Vote:** Motion carried 12-8 by roll call vote with Rep. Court, Rep. Eck, Rep. Gursky, Rep. Hill, Rep. Lynch, Rep. MacDonald, Rep. Pease-Lopez and Rep. Smith voting no. Rep. Blasdel and Rep. Warburton voted by proxy.

**EXECUTIVE ACTION ON HB 462**

03:23:47 **Motion:** Rep. G. Bennett moved that **HB 462 DO PASS**.  
[EXHIBIT\(juh38a28\)](#)

03:24:04 **Motion/Vote:** Rep. Lenz moved that **HB 462 BE AMENDED**. Motion carried unanimously by voice vote. Rep. Blasdel and Rep. Warburton voted by proxy.

03:24:53 **Motion:** Rep. G. Bennett moved that **HB 462 DO PASS AS AMENDED**.

**Discussion:**

03:25:01 Rep. MacDonald

03:25:50 Chairman Kerns

03:26:10 **Vote:** Motion carried 17-3 by roll call vote with Rep. Gursky, Rep. MacDonald and Rep. Pease-Lopez voting no. Rep. Blasdel and Rep. Warburton voted by proxy.

**EXECUTIVE ACTION ON HB 514**

03:27:24 **Motion/Vote:** Rep. G. Bennett moved that **HB 514 DO PASS**. Motion failed 9-11 by roll call vote with Rep. Bennett, Rep. Court, Rep. Eck, Rep. Gursky, Rep. Hill, Rep. Lynch, Rep. MacDonald, Rep. Pease-Lopez and Rep. Smith voting aye. Rep. Blasdel and Rep. Warburton voted by proxy.

03:29:07 **Motion/Vote:** Rep. G. Bennett moved that **HB 514 BE TABLED AND THE VOTE REVERSED**. Motion carried 18-0 by voice vote of those present and voting.

**EXECUTIVE ACTION ON HB 515**

03:29:27 **Motion:** Rep. G. Bennett moved that **HB 515 DO PASS**.

**Discussion:**

03:29:47 Rep. Doane

03:30:17 Rep. MacDonald

03:31:10 Rep. O'Neil

03:32:17 Rep. Wagoner

03:33:09 Rep. Fiscus

03:33:48 **Vote:** Motion carried 11-9 by roll call vote with Rep. Court, Rep. Eck, Rep. Gursky, Rep. Hill, Rep. Lynch, Rep. MacDonald, Rep. O'Neil, Rep. Pease-Lopez and Rep. Smith voting no. Rep. Blasdel and Rep. Warburton voted by proxy.

03:34:56 Rep. Gursky

03:35:46 Chairman Kerns

03:36:57 Rep. Hill

03:37:13 Rep. MacDonald

**ADJOURNMENT**

Adjournment: 03:37:39

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Karen Armstrong, Secretary

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Additional Documents:

**EXHIBIT([juh38aad.pdf](#))**