

## MINUTES

### MONTANA SENATE 63rd LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON JUDICIARY

**Call to Order:** Chair Terry Murphy, on February 22, 2013 at 8:00 AM, in Room 303  
Capitol

#### ROLL CALL

**Members Present:**

Sen. Terry Murphy, Chair (R)  
Sen. Scott Sales, Vice Chair (R)  
Sen. Anders Blewett (D)  
Sen. Scott Boulanger (R)  
Sen. Robyn Driscoll (D)  
Sen. Jennifer Fielder (R)  
Sen. Cliff Larsen (D)  
Sen. Chas Vincent (R)

**Members Excused:** Sen. Shannon Augare (D), Sen. John Brenden (R),  
Sen. Larry Jent (D), Sen. Art Wittich (R)

**Members Absent:** None

**Staff Present:** Julianne Burkhardt, Legislative Branch  
Pam Schindler, Committee Secretary

**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: SB 279, 2/22/2013; SB 306, 2/22/2013; SB 326, 2/22/13;  
SB 331, 2/22/13; SB 320, 3/19/13; SB 362, 3/20/13;

Executive Action: SB 279-Tabled, SB 85-Tabled, SB 331-Do Pass,  
SB 320-Do Pass, SB 326-Do Pass, SB 210-Do Pass,  
SB 267-Do Pass, SB 321-Do Pass, SB 306-Do Pass,  
SB 251-Do Pass As Amended, SB 310-Failed, Tie Vote,  
SB 311-Failed, Tie Vote

**HEARING ON SB 326**

**Opening Statement by Sponsor:**

00:16:56 Sen. Sue Malek (D), SD 46, opened the hearing on SB 326, Revise sexual assault laws and parental rights.

**Proponents' Testimony:**

00:18:25 Kelsen Young, Montana Coalition Against Domestic and Sexual Violation (MCADSV)

00:20:39 Mark Murphy, Montana County Attorneys Association (MCAA)

00:23:38 Laurie d'Esterre, Montana Catholic Conference (MCC), Montana Catholic Social Services (MCSS)

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

00:24:28 Sen. Boulanger

00:24:53 Ms. Young, MCADSV

**Closing by Sponsor:**

00:25:27 Sen. Malek

**HEARING ON SB 279**

**Opening Statement by Sponsor:**

00:26:35 Sen. Jim Peterson (R), SD 15, opened the hearing on SB 279, Generally revise statute of limitation laws.

**Proponents' Testimony:**

Note: See time stamp starting at 00:48:02.

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

00:30:32 Sen. Larsen

00:30:55 Sen. Peterson

00:31:59 Sen. Fielder

00:32:20 Sen. Peterson

**Closing by Sponsor:**

00:33:36 Sen. Peterson

**HEARING ON SB 320**

**Opening Statement by Sponsor:**

00:35:52 Sen. Chas Vincent (R), SD 1, opened the hearing on SB 320, Generally revise campaign finance and disclosure laws.

[EXHIBIT\(jus40a01\)](#)

**Proponents' Testimony:**

00:39:38 Jim Brown, self

**Opponents' Testimony:**

Note: See time stamp starting at 01:06:08.

**Informational Testimony:**

00:41:02 Julie Steab, Investigator, Commissioner of Political Practices (COPP), State of Montana

**Questions from Committee Members and Responses:**

00:41:22 Sen. Larsen  
00:42:02 Sen. Vincent  
00:44:59 Sen. Bolanger  
00:45:21 Sen. Vincent

**Closing by Sponsor:**

00:45:53 Sen. Vincent

**PREVIOUS HEARING ON SB 279**

**Proponents' Testimony:**

00:48:02 John Bloomquist, Attorney, Helena, Montana  
00:49:19 Sen. Fielder  
00:50:09 Mr. Bloomquist

**HEARING ON SB 306**

**Opening Statement by Sponsor:**

00:53:05 Sen. Alan Olson (R), SD 23, opened the hearing on SB 306, Revise partner family member assault laws.

**Proponents' Testimony:**

00:54:38 Joseph Cik, Deputy County Attorney, Lincoln County, Libby, Montana  
00:59:07 Kelsen Young, Montana Coalition Against Domestic and Sexual Violence  
(MCADSV), also for Niki Zupanic, ACLU

[EXHIBIT\(jus40a02\)](#)

[EXHIBIT\(jus40a03\)](#)

01:01:14 Jim Smith, Montana County Attorneys Association (MCAA)

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

01:02:00 Sen. Sales  
01:02:41 Mr. Cik, Attorney

**Closing by Sponsor:**

01:04:38 Sen. Olson

**PREVIOUS HEARING ON SB 320**

**Opponents' Testimony:**

01:06:08 John Barrows, Montana Newspapers Association (MNA)

[EXHIBIT\(jus40a04\)](#)

(Vice-Chair Sales assumes the Chairman role)

**HEARING ON SB 331**

**Opening Statement by Sponsor:**

01:06:57 Sen. Terry Murphy (R), SD 39, opened the hearing on SB 331, Revise laws related to process servers.

**Proponents' Testimony:**

01:09:48 Jackie Larson, Equity Management, Missoula, Montana

[EXHIBIT\(jus40a05\)](#)

01:12:35 Dan McDaie, Process Server, Equity Management, Missoula, Montana  
01:14:59 Jim Smith, Montana Sheriffs and Peace Officers Association (MSPOA)

**Opponents' Testimony:** None

**Informational Testimony:** None

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

**Closing by Sponsor:**

01:16:12 Sen. Murphy

(Chairman Murphy resumes the Chairman role)

**HEARING ON SB 362**

**Opening Statement by Sponsor:**

01:18:02 Sen. Jonathan Windy Boy (D), SD 16, opened the hearing on SB 362, Increase penalties for domestic violence offenders.

**Proponents' Testimony:**

01:22:06 Kelsen Young, Montana Coalition Against Domestic and Sexual Violence (MCADSV)

01:23:38 Cristie FitzGerald, self

01:24:10 Joseph Cik, Deputy County Attorney, Lincoln County, Libby, Montana

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

01:25:16 Sen. Fielder

01:25:52 Ms. Young, MCADSV

01:28:35 Laurie d'Esterre, self

**Closing by Sponsor:**

01:29:40 Sen. Windy Boy

01:30:45 Brief Recess

01:43:49 Reconvene

**EXECUTIVE ACTION ON SB 331**

(Vice-Chair Sales assumes the Chairman role)

01:44:18 **Motion:** Sen. Murphy moved that **SB 331 DO PASS.**

**Discussion:**

01:44:32 Sen. Larsen

01:45:09 **Vote:** Motion carried 12-0 by roll call vote. Sen. Augare, Sen. Brenden, Sen. Jent and Sen. Wittich voted by proxy.

(Chairman Murphy resumes the Chairman role)

#### **EXECUTIVE ACTION ON SB 320**

01:46:11 **Motion:** Sen. Vincent moved that **SB 320 DO PASS**.

#### **Discussion:**

01:46:22 Sen. Larsen  
01:46:47 Sen. Fielder  
01:47:00 Sen. Vincent  
01:48:13 Sen. Larsen  
01:48:17 Sen. Blewett  
01:49:50 Sen. Vincent  
01:53:31 Sen. Larsen  
01:54:57 Sen. Blewett  
01:55:12 Julianne Burkhardt, Legislative Services Division (LSD)  
01:56:39 Chairman Murphy  
01:57:36 Sen. Fielder  
01:59:02 Sen. Larsen  
02:00:07 Chairman Murphy  
02:00:30 Sen. Vincent  
02:01:28 Sen. Blewett  
02:03:25 Sen. Larsen

02:04:15 **Vote:** Motion carried 7-5 by roll call vote with Sen. Augare, Sen. Blewett, Sen. Driscoll, Sen. Jent and Sen. Larsen voting no. Sen. Augare, Sen. Brenden, Sen. Jent and Sen. Wittich voted by proxy.

#### **EXECUTIVE ACTION ON SB 279**

(Vice-Chair Sales assumes the Chairman role)

02:06:31 **Motion:** Sen. Murphy moved that **SB 279 DO PASS**.

02:07:20 **Substitute Motion/Vote:** Sen. Blewett made a substitute motion that **SB 279 BE TABLED**. Substitute Motion carried 10-2 by roll call vote with Sen. Brenden and Sen. Murphy voting no. Sen. Augare, Sen. Brenden, Sen. Jent and Sen. Wittich voted by proxy.

(Chairman Murphy resumes the Chairman role)

#### **EXECUTIVE ACTION ON SB 326**

02:08:22 **Motion/Vote:** Sen. Vincent moved that **SB 326 DO PASS**. Motion carried 12-0 by roll call vote. Sen. Augare, Sen. Brenden, Sen. Jent and Sen. Wittich voted by proxy.

**EXECUTIVE ACTION ON SB 85**

(Vice-Chair Sales assumes the Chairman role)

02:09:53      **Motion:** Sen. Murphy moved that **SB 85 DO PASS.**

02:10:04      **Motion:** Sen. Murphy moved that **SB 85 BE AMENDED.**  
**EXHIBIT(jus40a06)**

02:12:00      Sen. Blewett  
02:12:18      Ms. Burkhardt  
02:12:42      Sen. Murphy  
02:15:01      Sen. Blewett  
02:16:11      Sen. Vincent  
02:18:43      Ms. Burkhardt  
02:19:31      Sen. Larsen  
02:20:18      Sen. Murphy  
02:21:11      Sen. Boulanger  
02:21:43      Sen. Murphy

02:23:02      **Vote:** Motion carried 11-1 by roll call vote with Sen. Wittich voting no. Sen. Augare, Sen. Brenden, Sen. Jent and Sen. Wittich voted by proxy.

02:23:07      **Motion:** Sen. Murphy moved that **SB 85 DO PASS AS AMENDED.**

**Discussion:**

02:23:14      Sen. Blewett  
02:23:45      Sen. Murphy

(Sen. Wittich entered hearing)

02:25:43      Sen. Driscoll  
02:26:14      Sen. Wittich  
02:28:39      Sen. Sales

02:30:27      **Vote:** Motion failed 1-11 by roll call vote with Sen. Murphy voting aye. Sen. Augare, Sen. Brenden and Sen. Jent voted by proxy.

02:31:13      **Substitute Motion/Vote:** Sen. Vincent made a substitute motion that **SB 85 BE TABLED AND THE VOTE REVERSED.** Substitute Motion carried 11-1 by roll call vote with Sen. Murphy voting no. Sen. Augare, Sen. Brenden and Sen. Jent voted by proxy.

(Sen. Wittich absent from hearing)

**EXECUTIVE ACTION ON SB 210**

02:32:23      **Motion:** Sen. Sales moved that **SB 210 DO PASS.**

**Discussion:**

02:32:42 Sen. Fielder  
02:35:51 Sen. Larsen  
02:37:47 Sen. Sales  
02:39:48 Sen. Boulanger

02:40:17 **Vote:** Motion carried 7-5 by roll call vote with Sen. Augare, Sen. Blewett, Sen. Driscoll, Sen. Jent and Sen. Larsen voting no. Sen. Augare, Sen. Brenden, Sen. Jent and Sen. Wittich voted by proxy.

02:40:56 Sen. Fielder  
02:41:06 Sen. Larsen

**EXECUTIVE ACTION ON SB 251**

02:42:03 **Motion:** Sen. Blewett moved that **SB 251 DO PASS.**

02:42:13 **Motion:** Sen. Blewett moved that **SB 251 BE AMENDED.**  
[EXHIBIT\(jus40a07\)](#)

**Discussion:**

02:42:35 Sen. Sales  
02:42:52 Ms. Burkhardt  
02:43:39 Sen. Blewett

02:44:45 **Vote:** Motion carried 9-3 by roll call vote with Sen. Boulanger, Sen. Brenden and Sen. Sales voting no. Sen. Augare, Sen. Brenden, Sen. Jent and Sen. Wittich voted by proxy.

02:45:01 **Motion:** Sen. Blewett moved that **SB 251 BE AMENDED.**  
[EXHIBIT\(jus40a08\)](#)

**Discussion:**

02:49:16 Sen. Murphy  
02:49:25 Sen. Blewett  
02:49:59 Sen. Vincent  
02:50:29 Sen. Blewett

02:51:55 **Vote:** Motion carried 10-2 by roll call vote with Sen. Brenden and Sen. Sales voting no. Sen. Augare, Sen. Brenden, Sen. Jent and Sen. Wittich voted by proxy.

02:52:31 **Motion:** Sen. Blewett moved that **SB 251 DO PASS AS AMENDED.**

**Discussion:**

02:55:06 Sen. Fielder

02:55:51 Sen. Blewett  
02:59:22 Ms. Burkhardt

(Sen. Driscoll absent from the hearing)

03:01:22 **Vote:** Motion carried 8-4 by roll call vote with Sen. Boulanger, Sen. Brenden, Sen. Sales and Sen. Vincent voting no. Sen. Augare, Sen. Brenden, Sen. Driscoll, Sen. Jent and Sen. Wittich voted by proxy.

(Sen. Driscoll returned to hearing)

03:02:46 Brief Recess  
03:14:52 Reconvene

#### **EXECUTIVE ACTION ON SB 267**

03:16:35 **Motion:** Sen. Sales moved that **SB 267 DO PASS.**

#### **Discussion:**

03:16:47 Ms. Burkhardt

03:17:32 **Vote:** Motion carried 12-0 by roll call vote. Sen. Augare, Sen. Brenden, Sen. Jent and Sen. Wittich voted by proxy.

#### **EXECUTIVE ACTION ON SB 321**

03:18:40 **Motion:** Sen. Sales moved that **SB 321 DO PASS.**

03:19:14 **Motion/Vote:** Sen. Sales moved that **SB 321 BE AMENDED.** Motion failed 5-7 by roll call vote with Sen. Boulanger, Sen. Brenden, Sen. Sales, Sen. Vincent and Sen. Wittich voting aye. Sen. Augare, Sen. Brenden, Sen. Jent and Sen. Wittich voted by proxy.

#### **EXHIBIT(jus40a09)**

#### **Discussion:**

03:21:18 Sen. Blewett  
03:21:31 Ms. Burkhardt  
03:22:24 Sen. Fielder

03:23:57 **Vote:** Motion carried 7-5 by roll call vote with Sen. Augare, Sen. Blewett, Sen. Driscoll, Sen. Jent and Sen. Larsen voting no. Sen. Augare, Sen. Brenden, Sen. Jent and Sen. Wittich voted by proxy.

#### **EXECUTIVE ACTION ON SB 310**

03:25:13 **Motion:** Sen. Blewett moved that **SB 310 DO PASS.**

**Discussion:**

03:25:28 Sen. Larsen  
03:26:41 Sen. Fielder

03:28:30 **Vote:** Motion failed 6-6 by roll call vote with Sen. Augare, Sen. Blewett, Sen. Driscoll, Sen. Larsen, Sen. Murphy and Sen. Vincent voting aye. Sen. Augare, Sen. Brenden, Sen. Jent and Sen. Wittich voted by proxy. (Please Note: due to the 6-6 tie vote, SB 310 remained in committee.)

**EXECUTIVE ACTION ON SB 311**

03:28:43 **Motion:** Sen. Blewett moved that **SB 311 DO PASS.**

**Discussion:**

03:28:57 Sen. Larsen  
03:29:18 Sen. Boulanger

03:30:12 **Vote:** Motion failed 6-6 by roll call vote with Sen. Augare, Sen. Blewett, Sen. Driscoll, Sen. Larsen, Sen. Murphy and Sen. Vincent voting aye. Sen. Augare, Sen. Brenden, Sen. Jent and Sen. Wittich voted by proxy. (Please Note: due to the 6-6 tie vote, SB 311 remained in committee.)

**EXECUTIVE ACTION ON SB 306**

03:31:17 **Motion/Vote:** Sen. Vincent moved that **SB 306 DO PASS.** Motion carried 11-1 by roll call vote with Sen. Brenden voting no. Sen. Augare, Sen. Brenden, Sen. Jent and Sen. Wittich voted by proxy.

**ADJOURNMENT**

Adjournment: 11:20 A.M.

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Pam Schindler, Secretary

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**Additional Documents**

Additional Documents:

**EXHIBIT([jus40aad.pdf](#))**