

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
57th LEGISLATURE - SPECIAL SESSION
COMMITTEE ON JUDICIARY**

Call to Order: By **CHAIR JIM SHOCKLEY**, on August 10, 2002 at 8:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chair (R)
Rep. Paul Clark, Vice Chair (D)
Rep. Jeff Laszloffy, Vice Chair (R)
Rep. Gilda Clancy (R)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Linda Holden (R)
Rep. Joan Hurdle (D)
Rep. Jeff Mangan (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Bill Thomas (R)
Rep. Merlin Wolery (R)
Rep. Cindy Younkin (R)

Members Excused: Rep. Ken Peterson (R)
Rep. Diane Rice (R)

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Pam Schindler, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB18, 8/16/2002
Executive Action: SB18, Do Concur In

HEARING ON SB 18**Sponsor:****Sen. Christiaens-SD23-Cascade, Montana**

"An act reducing General Fund expenditures by allowing the Department of Corrections to provide for the discharge of an offender, who is not serving a sentence for a sexual or violent offense at any time within 90 days prior to the day on which the offender is eligible for discharge; allowing the department to grant an offender a discharge credit of up to 30 days to coordinate with the regular monthly discharge date; and providing an immediate effective and a termination date".

This bill passed the Senate but failed in the House 3 sessions ago. At the time that I introduced the bill before there was a projected savings of \$100-150K. This bill would eliminate 8,773 incarceration days per year for prison inmates at an average cost per day of \$23.61, for a savings of \$207.131 in FY 2003. We're not talking about early parole, we talking about discharging people that are on tail end of their sentences. This is talking about "may" not "will". If person has predatory behaviors, has not completed treatment programs or has "acted out" in prison, they will not release those persons. The back page of the Fiscal Note; item #6, the deficit of the Dept. of Corrections will be \$9M in 2003. Huge hole. This bill will still require notification of the victims, registration in the counties. This bill with the 30 day provision was supported by the County Attorney's Association.

Proponents:**Bill Slaughter-Director, Department of Corrections****EXHIBIT(ju****h06a01)**

Re: Amendment; Dept. of Corrections does not control people who come in. If we do not mitigate the \$9M deficit, we'll be back in January facing the General Fund; where does the money come from? Committee wanted safe guards on bill-also, didn't want sex offenders and violent offenders even considered. You also wanted County Attorneys, Sheriffs and victims in the process. Increase in prison populations is due police officers, judges and prosecutors doing their jobs well. My peers are faced with the same situation. We cannot build our way out of system. We need to do business differently. Most expensive beds are in secure care. We must move people out if not dangerous. This is not the best situation, but we are in a money crunch. The risk goes up if

they're out of prison. Is this good correctional practices? No, it is not. We have no credibility with this body or with the public if we risk the safety of the public. We balance the risk of recidivism everyday. 90 days, there's not much we can do for them. 90 days will not make a difference in the rehabilitation efforts of an inmate. We need to balance what we need to do and what we can afford to do. We're confident we can build in enough criteria, checks and balances to ensure public safety and fiscal responsibility.

Mike Mahoney-Warden, Montana State Prison

What is Department's role? 5% vacancy savings has left 105-107 employee vacancies. When we look at additional cuts to balance the budget, we need to look outside the box to see additional options. We need to look at responsible ways to reduce the populations. Is it a public safety issue? Yes and No. These people are going to get out anyway, 90 days will not make a difference. More troubled about the expediency way in which things have to happen in the Special Session. Other people will testify that they are troubled about the public safety piece.

Scott Crichton-ACLU

Sen Christiaens speaks the truth. Department of Corrections always has had discretion. By eliminating sex offenders/violent offenders from the pool of candidates for early discharge you are turning this into a "symbolic" piece of legislation which minimizes its impact rather what you want to do is to save money. You should be looking at the 30 day issue.

Opponents:

**Jim Smith-Montana Sheriffs and Peace Officers Association,
Montana County Attorneys Association**

We opposed HB 25 previously; we supported SB18 before as it was written. We never should have supported SB18 in the first place. We feel like we've been "snookered". My points: 1. Nothing to do with why we are here today, nothing to do with ending fund balance. This is all about the 2005 biennium. Possibly outside the "call of the session". This bill is not necessary. 2. These criminals are the worst of the worst. They don't want to go before the parole board, they don't want the scrutiny. Recalcitrant felons. The amendment offers scant comfort. 3. Total inmates at MSP roughly 1300; 500-600 are already under the Dept. of corrections commitment. They already have this option. for them. DOC already has the authority to do what it wants. DOC needs to develop a case by case study, who will be released?

Aged? Sick? Our recommendation is to have the DOC develop some protocols to deal with this. 4. Victims of crime deserve better than this.

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We feel that adequate funding for our public institutions and our public services. Nothing is more important than the protection of the public safety. This bill is not necessary. Ask the DOC to use it's present system in place.

Beth Satre-Montana Coalition Against Domestic and Sexual Violence

If its ok for 30 days, then is it ok for 90 days? Victims say No. 30 days is a possible compromise. "Slap in the face". There is a vast under-reporting by victims of sexual crimes. Offenders are very much a risk to public safety. Final savings: \$132K. Sexual offenders plea bargain down to a lesser charge, therefore are not "in" as a sexual offender and may be released early.

Informational Testimony:

None

Questions from Committee Members and Responses:

Rep. Keating to Slaughter -Early discharge-not dealing with parole? **Mr. Slaughter** -Yes. **Rep. Keating to Slaughter** -More expensive in pre-release than Deer Lodge? **Mr. Slaughter** -Costs at MSP are \$60. approximately. ISP is the lowest. **Rep. Keating-Slaughter** - I misunderstood the data. Early discharge apply more to the pre-release than to the incarcerated people? **Mr. Slaughter** -Both; real savings in contract beds. **Rep. Keating to Slaughter** -Is there a good time policy in MSP? **Mr. Slaughter** - No. **Rep. Keating to Slaughter** -Sunset on here of August 2006-is economy going to be better? **Mr. Slaughter** -I cannot answer that.

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Rep. Clancy to Sen Christiaens-line 9, page 1-confused with the language of a discharge credit up to 30 days. Should that read 90 days? **Sen Christiaens**-This was how bill was first introduced. **Rep. Clancy to Sen. Christiaens**-Should we not change that? **Sen Christiaens**-Not exactly sure.

Rep. Noennig to Slaughter -White Sheet? \$23.61 incarceration days, supervision days of \$45.64, ISP days of \$10.44 all are below the \$48.72. These figures accurate? **Mr. Slaughter** - Different situations, regional different rate- average savings of all. **Rep. Noennig to Williams** -Big difference between the original Fiscal Note and this one, when you move that discharge date to 90 days; we will have a time to back fill with offenders from regional to MSP. **Rep. Noennig to Williams** -How many are DOC commits? **Mr. Williams** -Do not know, maybe 1/2. **Rep. Noennig to Williams** -This bill only represents about 1/2 of the savings in this bill. **Mr. Williams** -We do not have the authority to release DOC commits. **Rep. Noennig to Williams**-Need empty beds to save this money? **Mr. Williams** -Yes. **Rep. Noennig to Slaughter** -Only intend to use this bill in an emergency situation as you stated? **Mr. Slaughter** -If did not have to use, we would not use it. **Rep. Clark to Slaughter** -# of repeat offenders? **Mr. Slaughter** - MSP-about 47%. **Rep. Clark to Slaughter** -% of people granted the 90 day release will re-offend in 90 days? **Mr. Slaughter** -about 30%. **Rep. Clark to Slaughter** -Is the number that will re-offend when released worth the cost as to the savings? **Mr. Slaughter** - Do not have that information. **Rep. Hurdle to Slaughter** - Concerned about the possibility that we shrunk the pool of possible inmates eligible; do you feel that this bill will give you a way to mitigate that \$9M deficit? **Mr. Slaughter** -That's the whole idea. Many, many things. **Rep. Hurdle to Slaughter** -1/2 of the DOC commits to be released have been women-do you see a number of women released in this bill? **Mr. Slaughter** -Yes, greater %. Women do very well in programs, and pre-release centers. Women do re-offend however, but different crimes. **Rep. Hurdle to Slaughter** -Do you see DOC implementing a "furlough" policy? People who could support themselves. **Mr. Slaughter** - Yes. **Rep. Shockley to Slaughter** -You have agreed to support a 2 year "sunset" on this bill. **Mr. Slaughter** - Yes. **Rep. Shockley to Mahoney** -The reason you wanted this 90 day period, is that you wanted a larger pool to look from-and with violent and sexual offenders excluded-you need a larger pool, is that correct? **Mr. Mahoney** -Yes.

Closing by Sponsor:

Sen. Christiaens-Judges would rather have a bed in the "front" than later.

EXECUTIVE ACTION ON SB18

Motion/Vote: REP. YOUNKIN moved that SB 18 BE CONCURRED IN.
Motion carried 12-8 with Clark, Curtiss, Eggers, Harris, Holden, Laszloffy, Newman, and Noennig voting no.

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ADJOURNMENT

Adjournment: 8:58 A.M.

REP. JIM SHOCKLEY, Chair

PAM SCHINDLER, Secretary

JS/PS

EXHIBIT(juh06aad)