

**SENATE JOURNAL
58TH LEGISLATURE
THIRTEENTH LEGISLATIVE DAY**

Helena, Montana
January 22, 2003

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Keenan presiding. Invocation by Father Kevin O'Neil of St. Helena's Cathedral. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

The presiding officer has authenticated the daily journal for the twelfth legislative day.

SPECIAL ORDERS OF THE DAY

Jack Chiang, Director General of the Taipei Economic and Cultural Office in Seattle was welcomed to the Senate, where he gave a short speech.

REPORTS OF STANDING COMMITTEES

BILL REPORT

Correctly printed: **SB 240, SB 241, SB 242.**

Correctly engrossed: **SB 61, SB 88, SB 103, SB 108, SB 143, SB 180.**

ENERGY AND TELECOMMUNICATIONS (Johnson, Chairman):

1/22/2003

SB 70, do pass. Report adopted.

SB 77, introduced bill, be amended as follows:

1. Title, page 1, line 7.

Strike: "TO"

Insert: "THROUGH"

2. Page 1, line 22.

Strike: "until"

Insert: "through"

And, as amended, do pass. Report adopted.

SB 146, do pass. Report adopted.

JUDICIARY (Grimes, Chairman):

1/22/2003

SB 35, introduced bill, be amended as follows:

1. Title, line 7.

Following: "FACILITY;"

Insert: "ALLOWING EVIDENCE OF DEVELOPMENTAL DISABILITY TO PROVE STATE OF MIND; PROVIDING THAT DEVELOPMENTAL DISABILITY EXCLUDES FITNESS TO PROCEED;"

2. Title, line 8.

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Following: "SECTIONS"

Insert: "46-14-102, 46-14-103,"

3. Page 1, line 12.

Following: line 11

Insert: "**Section 1.** Section 46-14-102, MCA, is amended to read:

"46-14-102. Evidence of mental disease or defect or developmental disability admissible to prove state of mind.

Evidence that the defendant suffered from a mental disease or defect or developmental disability is admissible to prove that the defendant did or did not have a state of mind that is an element of the offense."

Insert: "**Section 2.** Section 46-14-103, MCA, is amended to read:

"46-14-103. Mental disease or defect or developmental disability excluding fitness to proceed. A person who, as a result of mental disease or defect or developmental disability, is unable to understand the proceedings against the person or to assist in the person's own defense may not be tried, convicted, or sentenced for the commission of an offense so long as the incapacity endures."

Renumber: subsequent sections

4. Page 2, line 13 through line 14.

Following: "53-21-102," on line 13

Strike: remainder of line 13 through "53-20-102," on line 14

5. Page 2, line 14.

Following: "endures"

Insert: "or until disposition of the defendant is made pursuant to this section, whichever occurs first"

6. Page 4, line 1.

Following: "defendant"

Insert: "and recommendations of the professionals who have evaluated the defendant"

7. Page 4, line 5.

Following: the first "defendant"

Insert: "and recommendations of the professionals who have evaluated the defendant"

And, as amended, do pass. Report adopted.

SB 57, introduced bill, be amended as follows:

1/21/2003

1. Page 1, line 23 through line 25.

Following: "means" on line 23

Strike: remainder of line 23 through "rehabilitation" on line 25

Insert: "a substantial disorder of thought or mood that significantly impairs a person's judgment, behavior, or capacity to recognize reality to such an extent that the person requires care, treatment, and rehabilitation"

2. Page 1, line 28.

Following: "53-20-102:"

Strike: "or"

3. Page 1, line 29.

Following: line 28

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Insert: "(iii) drug or alcohol intoxication; or"
Strike: "(iii)"
Insert: "(iv) drug or alcohol"
Following: "addiction"
Strike: "to drugs or alcohol or drug or alcohol intoxication"

And, as amended, do pass. Report adopted.

SB 139, do pass. Report adopted.

1/22/2003

SB 141, introduced bill, be amended as follows:

1. Title, line 9.

Strike: "AN IMMEDIATE EFFECTIVE DATE AND"

2. Page 6, line 10.

Following: line 9

Insert: "(6) The procedures set forth in subsection (5) are not an exclusive remedy. A person or organization may file any action for dissemination of information that the person or organization considers appropriate and permissible."

3. Page 6, line 11.

Strike: section 3 in its entirety

Renumber: subsequent section

And, as amended, do pass. Report adopted.

LOCAL GOVERNMENT (Bohlinger, Chairman):

1/22/2003

SB 47, introduced bill, be amended as follows:

1. Page 3, lines 4 and 5.

Following: "~~contract~~" on line 4

Insert: "followed in all cases in which the contract"

Following: "~~\$4,000~~" on line 5

Insert: "is in excess of \$25,000"

And, as amended, do pass. Report adopted.

SB 163, introduced bill, be amended as follows:

1. Title, lines 9 and 10.

Strike: "REQUIRING" on line 9 through "FUND;" on line 10

2. Page 2, line 1.

Strike: "shall"

Insert: "may be required to"

3. Page 2, line 2.

Strike: "equal"

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Insert: "of up"

4. Page 2, line 3.

Strike: "entity's general"

Insert: "appropriate"

5. Page 2, lines 8 and 9.

Following: "from" on line 8

Insert: "an appropriate fund of"

Strike: "entity's general fund" on line 9

Insert: "entity"

And, as amended, do pass. Report adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/21/2003

HB 22, introduced by Kaufmann

HB 23, introduced by Matthews

HB 25, introduced by Galvin-Halcro

HB 78, introduced by Branae

HB 83, introduced by Peterson

HB 84, introduced by Newman

HB 102, introduced by Cohenour

HB 132, introduced by Musgrove

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 243, introduced by Wheat, Tester, referred to State Administration.

SB 244, introduced by Story, Andersen, referred to Natural Resources.

SB 245, introduced by Bohlinger, Weiss, referred to Natural Resources.

SB 246, introduced by Glaser, referred to Local Government.

SB 247, introduced by Cobb, referred to Energy and Telecommunications.

SB 248, introduced by Stonington, referred to Natural Resources.

SB 249, introduced by Taylor, referred to Business and Labor.

SB 250, introduced by Kitzenberg, Cooney, Gallus, Gebhardt, Golie, McNutt, Pease, D. Ryan, Schmidt, Shea, Steinbeisser, Tropila, referred to Fish and Game.

The following House bills were introduced, read first time, and referred to committees:

HB 22, introduced by Kaufmann (by request of the Department of Transportation), referred to Highways and Transportation.

HB 23, introduced by Matthews, referred to Education and Cultural Resources.

HB 25, introduced by Galvin-Halcro, referred to State Administration.

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HB 29, introduced by A. Olson, referred to Judiciary.

HB 43, introduced by Cohenour (by request of the Department of Environmental Quality), referred to Natural Resources.

HB 48, introduced by Newman (by request of the Department of Justice), referred to Judiciary.

HB 58, introduced by Erickson (by request of the Department of Revenue), referred to Taxation.

HB 62, introduced by Lehman (by request of the Department of Agriculture), referred to Agriculture, Livestock and Irrigation.

HB 67, introduced by Kaufmann (by request of the Department of Transportation), referred to Highways and Transportation.

HB 69, introduced by Smith (by request of the Secretary of State), referred to State Administration.

HB 70, introduced by Parker (by request of the Department of Justice), referred to Judiciary.

HB 78, introduced by Branae (by request of the Office of Public Instruction), referred to Education and Cultural Resources.

HB 83, introduced by Peterson (by request of the Department of Natural Resources and Conservation), referred to Natural Resources.

HB 84, introduced by Newman (by request of the Department of Justice), referred to Judiciary.

HB 102, introduced by Cohenour (by request of the Department of Environmental Quality), referred to Natural Resources.

HB 106, introduced by Erickson (by request of the Department of Revenue), referred to Taxation.

HB 132, introduced by Musgrove, referred to Local Government.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Perry in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SJR 3 - Senator Tash moved **SJR 3** be adopted. Motion carried unanimously.

SB 61 - Senator Tester moved **SB 61** do pass. Motion carried as follows:

Yeas: Bales, Black, Bohlinger, Cobb, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Gebhardt, Glaser, Grimes, Hansen, Harrington, Kitzenberg, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stonington, Tester, Thomas, Toole, Tropila, Wheat, Mr. President.

Total 35

Nays: Anderson, Barkus, Butcher, Curtiss, DePratu, Esp, Johnson, Laible, O'Neil, Perry, Stapleton, Story, Tash, Taylor, Zook.

Total 15

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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SB 94 - Senator Stonington moved **SB 94** do pass. Motion carried unanimously.

SB 111 - Senator Nelson moved **SB 111** do pass. Motion carried unanimously.

SB 117 - Senator Cobb moved **SB 117** do pass. Motion carried unanimously.

SB 132 - Senator McNutt moved **SB 132** do pass. Motion carried unanimously.

SB 39 - Senator Mahlum moved **SB 39** do pass. Motion carried as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, Pease, Perry, Roush, Schmidt, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Wheat, Zook, Mr. President.

Total 42

Nays: Bales, Gebhardt, Laible, O'Neil, Ryan, Shea, Sprague, Tropila.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Thomas moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Keenan in the chair. Chairman Perry moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 24 passed as follows:

Yeas: Anderson, Barkus, Black, Bohlinger, Butcher, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Mahlum, Mangan, McCarthy, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Squires, Stapleton, Stonington, Story, Tash, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 44

Nays: Bales, Cobb, Laible, McGee, Sprague, Taylor.

Total 6

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

SB 45 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 68 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 83 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.
Total 50

Nays: None.

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Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 98 passed as follows:

Yeas: Anderson, Bales, Barkus, Black, Bohlinger, Butcher, Cobb, Cocchiarella, Cooney, Cromley, Curtiss, DePratu, Ellingson, Elliott, Esp, Gebhardt, Glaser, Grimes, Hansen, Harrington, Johnson, Kitzenberg, Laible, Mahlum, Mangan, McCarthy, McGee, McNutt, Nelson, O'Neil, Pease, Perry, Roush, Ryan, Schmidt, Shea, Sprague, Squires, Stapleton, Stonington, Story, Tash, Taylor, Tester, Thomas, Toole, Tropila, Wheat, Zook, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

MOTIONS

SB 61 - Senator Zook moved that **SB 61** be taken from third reading and rereferred to the committee on Finance and Claims. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Thursday, January 23, 2003. Motion carried.

Senate adjourned at 3:05 p.m.

ROSANA SKELTON
Secretary of the Senate

BOB KEENAN
President of the Senate