

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 61st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chairman Ron Stoker, on March 4, 2009 at 8:02
A.M., in Room 137 Capitol

ROLL CALL

Members Present:

Rep. Ron Stoker, Chairman (R)
Rep. Deborah Kottel, Vice Chairman (D)
Rep. Ken Peterson, Vice Chairman (R)
Rep. Arlene Becker (D)
Rep. Gerald Bennett (R)
Rep. Anders Blewett (D)
Rep. Robyn Driscoll (D)
Rep. Bob Ebinger (D)
Rep. David Howard (R)
Rep. Krayton Kerns (R)
Rep. Margaret MacDonald (D)
Rep. Edith (Edie) McClafferty (D)
Rep. Mike Menahan (D)
Rep. Michael More (R)
Rep. Keith Regier (R)
Rep. Diane Sands (D)
Rep. Bob Wagner (R)
Rep. Wendy Warburton (R)

Members Excused: None

Members Absent: None

Staff Present: Jennifer Eck, Committee Secretary
David Niss, 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 525, 2/25/2009; SB 45,
2/25/2009; SB 140, 2/25/2009

Executive Action: SB 140, SB 35, SB 40, SB 45

HEARING ON SB 140

Opening Statement by Sponsor:

00:01:36 Sen. Gary Perry (R), SD 35, opened the hearing on SB 140, Remove termination of domestic violence fatality review commission.

Proponents' Testimony:

00:03:25 Ali Bovingdon, Attorney General's Office

[EXHIBIT\(juh48a01\)](#)

[EXHIBIT\(juh48a02\)](#)

00:06:21 Matthew Dale, Attorney General's Office

00:10:42 Eve Franklin, Policy Advisor on Families Governor Schweitzer's Office

00:12:18 Judy Reel, Montana Coalition Against Domestic and Sexual Violence

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:13:22 Rep. Sands

00:13:35 Mr. Dale

00:13:37 Rep. Sands

00:14:41 Mr. Dale

00:16:29 Rep. Sands

00:16:35 Ms. Franklin

00:16:36 Rep. Sands

00:17:08 Ms. Franklin

00:17:45 Rep. Bennett

00:18:00 Mr. Dale

00:18:01 Rep. Bennett

00:18:27 Mr. Dale

00:18:47 Rep. Bennett

00:18:50 Rep. Kerns

00:19:00 Mr. Dale

00:19:07 Rep. Kerns

00:19:15 Mr. Dale

00:20:01 Chairman Stoker

00:20:18 Rep. Howard

00:20:23 Mr. Dale

00:20:31 Rep. Howard

00:21:10 Mr. Dale

00:22:12 Rep. Howard

00:22:34 Mr. Dale

00:23:50 Rep. Howard
00:23:51 Rep. MacDonald
00:23:56 Chairman Stoker
00:24:20 Rep. MacDonald
00:24:36 Mr. Dale
00:24:56 Rep. Wagner
00:25:49 Mr. Dale
00:26:52 Rep. Wagner
00:26:55 Rep. Peterson
00:27:22 Mr. Dale
00:28:04 Rep. Peterson
00:28:09 Rep. McClafferty
00:28:44 Mr. Dale
00:30:23 Chairman Stoker
00:30:26 Rep. Regier
00:30:33 Sen. Perry
00:30:35 Rep. Regier
00:30:51 Sen. Perry
00:31:04 Chairman Stoker

Closing by Sponsor:

00:31:30 Sen. Perry
00:31:40 Chairman Stoker

HEARING ON SB 45

Opening Statement by Sponsor:

00:32:01 Sen. Dan McGee (R), SD 29, opened the hearing on SB 45,
Clarify prosecutorial disclosure requirements.

Proponents' Testimony:

00:40:27 Randi Hood, Chief Public Defender

Opponents' Testimony:

00:45:08 Leo Gallagher, Lewis and Clark County; Montana
County Attorneys Association
00:55:29 Jim Smith, Montana County Attorneys Association
00:58:05 David Carter, Deputy Yellowstone County Attorney
01:01:37 Sheryl Wood, Montana Association of Counties

Informational Testimony: None

Questions from Committee Members and Responses:

01:04:11 Rep. Wagner
 01:05:00 Ms. Hood
 01:05:52 Rep. Wagner
 01:06:30 Ms. Hood
 01:06:59 Rep. Wagner
 01:07:26 Ms. Hood
 01:08:04 Rep. Wagner
 01:08:07 Rep. Kottel
 01:08:31 Ms. Hood
 01:08:36 Rep. Kottel
 01:08:55 Ms. Hood
 01:09:02 Rep. Kottel
 01:09:32 Ms. Hood
 01:10:16 Rep. Kottel
 01:10:18 Rep. Peterson
 01:10:25 Sen. McGee
 01:10:26 Rep. Peterson
 01:11:34 Sen. McGee
 01:13:32 Rep. Peterson
 01:14:15 Mr. Carter
 01:14:38 Rep. Peterson
 01:14:50 Rep. Wagner
 01:14:58 Sen. McGee
 01:14:58 Rep. Wagner
 01:15:25 Sen. McGee
 01:17:35 Rep. Wagner
 01:18:05 Sen. McGee
 01:19:42 Rep. Wagner
 01:19:45 Rep. Blewett exited the meeting.

Closing by Sponsor:

01:20:08 Sen. McGee

 01:21:17 Chairman Stoker
 01:21:30 Rep. Kottel exited the meeting.
 01:21:38 Recess
 01:45:21 Reconvene

HEARING ON HB 525

Opening Statement by Sponsor:

01:46:15 Rep. Robyn Driscoll (D), HD 51, opened the hearing on
 HB 525, Revise penalty for eluding peace officer.

Proponents' Testimony:

01:48:34 David Carter, Yellowstone County Attorney's Office;
Montana County Attorneys Association
01:55:38 Jim Smith, Montana Sheriffs and Peace Officers
Association; Montana Association of Counties

Opponents' Testimony: None

Informational Testimony:

01:58:31 Randi Hood, Chief Public Defender

Questions from Committee Members and Responses:

01:58:57 Rep. Warburton
01:59:18 Mr. Carter
01:59:19 Rep. Warburton
01:59:29 Mr. Carter
01:59:51 Rep. Warburton
01:59:59 Mr. Carter
02:00:11 Rep. Warburton
02:00:44 Mr. Carter
02:04:39 Rep. Warburton
02:05:07 Mr. Carter
02:06:05 Rep. Wagner
02:06:25 Mr. Carter
02:07:20 Rep. Wagner
02:07:56 Mr. Carter
02:08:28 Rep. Wagner
02:09:39 Mr. Carter
02:12:20 Rep. Wagner
02:13:37 Chairman Stoker
02:13:41 Mr. Carter
02:16:22 Rep. Howard
02:17:35 Mr. Carter
02:21:23 Rep. Howard
02:21:24 Chairman Stoker
02:21:32 Mr. Carter
02:21:43 Rep. Warburton
02:22:31 Chairman Stoker
02:22:32 Rep. Warburton
02:23:43 Ms. Hood
02:25:00 Rep. More
02:26:29 Mr. Carter

Closing by Sponsor:

02:29:23 Rep. Driscoll

02:30:07 Chairman Stoker

EXECUTIVE ACTION ON SB 140

02:32:00 **Motion:** Rep. Peterson moved that **SB 140 BE CONCURRED IN.**

Discussion:

02:32:05 Chairman Stoker

02:32:21 Rep. Howard

02:33:01 Rep. Warburton

02:33:30 Rep. Sands

02:34:58 Rep. MacDonald

02:36:28 Rep. Wagner

02:37:07 Mr. Niss

02:37:42 Rep. Wagner

02:37:45 Rep. Menahan

02:41:04 Rep. Peterson

02:41:44 Chairman Stoker

02:42:12 Rep. Sands

02:42:22 Rep. Kerns called the question.

02:42:26 **Vote:** Motion carried 11-7 by roll call vote with Rep. Peterson, Rep. Kerns, Rep. Bennett, Rep. More, Rep. Wagner, Rep. Regier, and Rep. Howard voting no. Rep. Kottel and Rep. Blewett voted by proxy.

02:43:24 Chairman Stoker

EXECUTIVE ACTION ON SB 35

02:45:32 **Motion:** Rep. Peterson moved that **SB 35 BE CONCURRED IN.**

Discussion:

02:45:51 Chairman Stoker

EXHIBIT(juh48a03)

02:46:19 Rep. Menahan

02:48:53 Chairman Stoker

02:49:53 Mr. Niss

02:56:40 Chairman Stoker

02:57:13 Rep. Peterson

02:57:49 Chairman Stoker

02:57:55 Rep. Peterson

02:58:04 Mr. Niss

02:58:51 Chairman Stoker

02:59:10 Mr. Niss

03:00:06 Chairman Stoker

03:00:11 **Motion:** Rep. Peterson moved that **SB 35 BE INDEFINITELY POSTPONED.**

03:00:24 Chairman Stoker

03:00:45 Rep. Howard

03:01:05 Chairman Stoker

03:01:34 Mr. Niss

03:02:10 Chairman Stoker

03:02:59 **Vote:** Motion failed 8-10 by roll call vote with Rep. Peterson, Rep. Kerns, Rep. Bennett, Rep. More, Rep. Wagner, Rep. Warburton, Rep. Stoker and Rep. Regier voting aye. Rep. Kottel and Rep. Blewett voted by proxy.

03:06:33 Rep. Peterson

03:06:36 Chairman Stoker

03:06:50 Rep. Peterson called the question.

03:06:57 Chairman Stoker

03:08:24 Rep. Kottel rejoined the meeting.

03:07:25 **Vote:** Motion that **SB 35 BE CONCURRED IN** carried unanimously by roll call vote. Rep. Blewett voted by proxy.

EXECUTIVE ACTION ON SB 40

03:08:40 Chairman Stoker

03:08:47 **Motion:** Rep. Peterson moved that **SB 40 BE CONCURRED IN.**

Discussion:

03:08:52 Chairman Stoker

03:08:55 Mr. Niss

EXHIBIT(juh48a04)

03:09:17 Rep. Kottel

03:09:32 **Motion:** Rep. Kottel moved that **SB 40 BE AMENDED** (refer to Exhibit 4).

Discussion:

03:09:40 Chairman Stoker

03:09:52 Rep. Kottel

03:09:56 Rep. McClafferty exited meeting.

03:10:02 Chairman Stoker
 03:10:09 Mr. Niss
 03:11:59 Chairman Stoker
 03:12:02 Rep. Sands
 03:12:16 Rep. Menahan
 03:12:25 Rep. Kottel
 03:13:01 Rep. Driscoll called the question.

03:13:08 **Vote:** Motion carried unanimously by voice vote. Rep. McClafferty and Rep. Blewett voted by proxy.

03:13:30 **Motion:** Rep. Peterson moved that **SB 40 BE CONCURRED IN AS AMENDED.**

Discussion:

03:13:37 Chairman Stoker
 03:13:42 Rep. More
 03:13:56 Rep. Kottel
 03:14:24 Rep. Peterson
 03:15:13 Chairman Stoker
 03:15:16 Rep. More
 03:15:55 Chairman Stoker
 03:16:09 Rep. Peterson called the question.
 03:16:11 Rep. Blewett rejoined the meeting.

03:16:13 **Vote:** Motion carried 16-2 by roll call vote with Rep. More and Rep. Wagner voting no. Rep. McClafferty voted by proxy.

03:17:08 Chairman Stoker
 03:22:55 Rep. Peterson

EXECUTIVE ACTION ON SB 45

03:23:13 Chairman Stoker

03:23:30 **Motion:** Rep. Peterson moved that **SB 45 BE CONCURRED IN.**

Discussion:

03:23:34 Chairman Stoker
 03:23:41 Rep. Menahan
 03:24:31 Rep. Peterson
 03:25:28 Rep. More
 03:25:43 Chairman Stoker
 03:26:34 Rep. Menahan
 03:26:45 Rep. Wagner

03:27:30 Rep. Kottel
03:29:10 Chairman Stoker
03:29:13 Rep. Peterson
03:29:26 Rep. Peterson called the question.
03:29:30 Chairman Stoker

03:29:30 **Vote:** Motion failed 5-13 by roll call vote with Rep. Kottel, Rep. Sands, Rep. Ebinger, Rep. Wagner, and Rep. McClafferty voting aye. Rep. McClafferty voted by proxy.

03:30:38 **Motion:** Rep. Peterson moved that **SB 45 BE TABLED AND THE VOTE REVERSED.**

03:30:40 Chairman Stoker

03:30:42 **Vote:** Motion carried unanimously by voice vote. Rep. McClafferty voted by proxy.

03:30:52 Chairman Stoker

ADJOURNMENT

03:31:01 Adjournment

Jennifer Eck, Secretary

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Additional Documents:

EXHIBIT ([juh48aad.pdf](#))