

MINUTES

**MONTANA SENATE
61st LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: Chairman Gary L. Perry, on March 31, 2009 at 9:00
A.M., in Room 303 Capitol

ROLL CALL

Members Present:

Sen. Gary L. Perry, Chairman (R)
Sen. Jim Shockley, Vice Chairman (R)
Sen. Aubyn Curtiss (R)
Sen. John Esp (R)
Sen. Greg Hinkle (R)
Sen. Larry Jent (D)
Sen. Carol C. Juneau (D)
Sen. Cliff Larsen (D)
Sen. Jesse Laslovich (D)
Sen. Dan McGee (R)
Sen. Lynda Moss (D)
Sen. Terry Murphy (R)

Members Excused: None

Members Absent: None

Staff Present: Valencia Lane, 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: HB 533, HB 574, SR 24, 3/24/2009

Executive Action: SR 24-BE Adopted, HB 533-Be
Concurred In, HB 574-Be Concurred
In As Amended, HB 431-Removed from
the Table/Tabled, HB 536 Be
Concurred in As Amended

HEARING ON HB 533

Opening Statement by Sponsor:

00:01:26 Rep. Janna Taylor (R), HD 11, opened the hearing on HB 533, Vehicular homicide under the influence- minor prosecuted as adult.

Proponents' Testimony:

00:04:27 Rep. Mike Menahan, HD 82

Opponents' Testimony:

None

Informational Testimony:

None

Questions from Committee Members and Responses:

00:07:01 Sen. Hinkle
00:07:28 Rep. Menahan

Closing by Sponsor:

00:07:54 Rep. Taylor

HEARING ON HB 574

Opening Statement by Sponsor:

00:08:53 Rep. Chas Vincent (R), HD 2, opened the hearing on HB 574, Revise burglary law.

Proponents' Testimony:

00:12:53 Molly Kirk, self
[EXHIBIT\(jus71a01\)](#)
00:15:14 Lisa Kirk, Mother of Molly Kirk, victim
[EXHIBIT\(jus71a02\)](#)
00:21:44 Marty Lambert, Gallatin County Attorney, Bozeman;
Montana County Attorneys Association
[EXHIBIT\(jus71a03\)](#)
00:31:46 Rep. Mike Menahan, HD 82

Opponents' Testimony:

None

Informational Testimony:

None

Questions from Committee Members and Responses:

00:34:30 Sen. Laslovich
00:35:21 Mr. Lambert
00:39:38 Sen. Shockley
00:39:42 Mr. Lambert
00:42:51 Sen. McGee
00:43:37 Mr. Lambert
00:50:27 Sen. Jent
00:50:52 Mr. Lambert
00:51:37 Sen. Juneau
00:52:45 Mr. Lambert
00:57:52 Sen. Jent
00:57:58 Mr. Lambert
00:58:54 Sen. Perry
01:00:25 Mr. Lambert

Closing by Sponsor:

01:03:35 Rep. Vincent

HEARING ON SR 24

Opening Statement by Sponsor:

01:06:45 Sen. Gary Perry (R), SD 35, opened the hearing on SR 24, Confirm nominee for director of department of corrections.

[EXHIBIT\(jus71a04\)](#)

Proponents' Testimony:

01:07:51 Bruce Nelson, Chief of Staff, Office of the Governor
01:08:51 Mike Ferriter, Director, Department of Corrections,
(DOC)

[EXHIBIT\(jus71a05\)](#)

Opponents' Testimony:

None

Informational Testimony:

None

Questions from Committee Members and Responses:

None

Closing by Sponsor:

01:13:37 Sen. Perry

01:14:34 break

(Sen. Jent, Sen. Esp, Sen. Shockley, Sen. Laslovich, and Sen. Moss absent from room)

EXECUTIVE ACTION ON SR 24

01:29:45 **Motion/Vote:** Sen. Murphy moved that **SR 24 BE ADOPTED**. Motion carried unanimously by voice vote. Sen. Jent, Sen. Shockley, Sen. Laslovich, Sen. Esp, Sen. Moss voted by proxy. Sen. Perry will carry SR 24 on the Senate floor.

EXECUTIVE ACTION ON HB 533

(Sen. Jent, Sen. Shockley, Sen. Laslovich, and Sen. Moss returned to room)

01:31:41 **Motion:** Sen. McGee moved that **HB 533 BE CONCURRED IN**.

Discussion:

01:32:00 Sen. Juneau
01:32:57 Sen. McGee
01:33:48 Sen. Jent
01:35:06 Sen. Larsen
01:35:47 Sen. Shockley

01:36:02 **Vote:** Motion that **HB 533 BE CONCURRED IN** carried 11-1 by voice vote with Sen. Juneau voting no. Sen. Esp voted by proxy. Sen. Jent will carry HB 533 on the Senate floor.

EXECUTIVE ACTION ON HB 574

01:37:01 **Motion:** Sen. McGee moved that **HB 574 BE CONCURRED IN.**

01:37:42 **Motion:** Sen. McGee moved that **HB 574 BE AMENDED.**
[EXHIBIT\(jus71a06\)](#)

Discussion:

01:37:45 Sen. Jent

01:37:59 **Vote:** Motion that **HB 574 BE AMENDED** carried unanimously by voice vote. Sen. Esp voted by proxy.

01:38:12 **Motion:** Sen. McGee moved that **HB 574 BE CONCURRED IN AS AMENDED.**

(Sen. Curtiss absent from room)

Discussion:

01:38:22 Sen. McGee

01:38:53 Sen. Jent

01:39:39 Sen. Laslovich

01:41:18 Sen. Jent

01:42:21 **Motion:** Sen. Laslovich moved that **HB 574 BE AMENDED BY REINSERTING ON LINE 13 and 18, "PURPOSELY AND KNOWINGLY."**

Discussion:

01:42:44 Sen. Shockley

01:43:17 Sen. McGee

01:43:59 Sen. Laslovich

01:45:17 **Vote:** Motion that **HB 574 BE AMENDED** carried 10-2 by voice vote with Sen. Jent and Sen. Murphy voting no. Sen. Esp and Sen. Curtiss voted by proxy.

01:46:04 **Motion/Vote:** Sen. McGee moved that **HB 574 BE CONCURRED IN AS AMENDED**. Motion carried 11-1 by voice vote with Sen. Juneau voting no. Sen. Esp and Sen. Curtiss voted by proxy vote. Sen. Jent will carry HB 574 on the Senate floor.

01:46:51 Sen. McGee
01:47:06 Valencia Lane, Legislative Services Division
01:47:19 Sen. McGee
01:47:58 Sen. Jent
01:49:08 Sen. Larsen
01:49:50 Sen. Perry

EXECUTIVE ACTION ON HB 431

01:50:23 **Motion/Vote:** Sen. Shockley moved **HB 431 BE REMOVED FROM THE TABLE AND RECONSIDER THE PREVIOUS ACTION**. Motion carried by roll call vote with Sen. McGee, Sen. Murphy, Sen. Hinkle, and Sen. Perry voting no. (This was a present and voting only vote; no vote allowed for Sen. Esp and Sen. Curtiss.)

01:52:47 Ms. Lane

01:53:34 **Motion:** Sen. Laslovich moved that **HB 431 BE CONCURRED IN AS AMENDED**. (HB 431 was amended in previous Executive Action on 3/18/09.)

01:53:42 **Motion:** Sen. Laslovich moved that **HB 431 BE AMENDED WITH THE LANGUAGE "DOES NOT APPLY TO A DOG USED BY LAW ENFORCEMENT...OR WORKING AS A HUNTING, HERDING, OR WORKING DOG AND IS UNDER THE CONTROL OF THE DOG'S OWNER."**

01:55:02 **Vote:** Motion that **HB 431 BE AMENDED** failed 6-6 by roll call vote with Sen. Jent, Sen. Juneau, Sen. Larsen, Sen. Laslovich, Sen. Moss, and Sen. Shockley voting aye. Sen. Esp and Sen. Curtiss voted by proxy.

01:57:08 **Substitute Motion:** Sen. Laslovich made a substitute motion that **HB 431 BE TABLED**. Motion carried by voice vote. Sen. Esp and Sen. Curtiss voted by proxy.

01:57:32 Sen. Shockley

EXECUTIVE ACTION ON HB 536

01:58:16 **Motion:** Sen. Larsen moved that **HB 536 BE CONCURRED IN AS AMENDED.** (In previous Executive Action 3/27/09, an amendment was adopted. Motion that HB 536 Be Concurred In as Amended failed on a 6-6 tie vote on 3/27/09.)

01:59:33 Ms. Lane

Discussion:

02:00:05 Sen. Juneau

02:00:48 Sen. Perry

02:01:07 Sen. Juneau

02:01:45 Sen. Shockley

02:02:23 **Motion:** Sen. Laslovich moved that **HB 536 BE AMENDED ON PAGE 1, LINE 22, 23, 24 THROUGH 26 STRIKE THE NEW LANGUAGE AND ON LINES 20 AND 21, RE-INSERT "OR".**

Discussion:

02:04:32 Sen. Larsen

02:05:32 **Vote:** Motion that **HB 536 BE AMENDED** carried 10-2 by voice vote with Sen. Hinkle and Sen. McGee voting no. Sen. Esp and Sen. Curtiss voted by proxy.

02:06:07 **Motion:** Sen. Laslovich moved that **HB 536 BE CONCURRED IN AS AMENDED.**

Discussion:

02:06:53 Sen. Jent

02:07:08 Sen. Laslovich

02:07:59 Ms. Lane

02:09:17 Sen. Laslovich

02:10:19 Ms. Lane

02:11:26 Sen. Laslovich

(Sen. Curtiss returned to room)

02:12:11 Sen. McGee

02:12:57 Sen. Laslovich

(Sen. Perry absent from room)

02:14:16 **Vote:** Motion that **HB 536 BE CONCURRED IN AS AMENDED** carried 8-4 by roll call vote with Sen. Hinkle, Sen. Jent, Sen. Juneau, and Sen. Murphy voting no. Sen. Esp and Sen. Perry voted by proxy. Sen. Laslovich will carry HB 536 on the Senate floor.

ADJOURNMENT

Adjournment: 11:15 A.M.

Pam Schindler, Secretary

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Additional Documents:

EXHIBIT ([jus71aad.pdf](#))