

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 62nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chairman Ken Peterson, on January 12, 2011 at 8:00 AM, in Room 137 Capitol

ROLL CALL

Members Present:

Rep. Ken Peterson, Chairman (R)
Rep. Krayton Kerns, Vice Chairman (R)
Rep. Liz Bangerter (R)
Rep. Robyn Driscoll (D)
Rep. Kris Hansen (R)
Rep. Bill Harris (R)
Rep. Ellie Boldman Hill (D)
Rep. David Howard (R)
Rep. Cleve J. Loney (R)
Rep. Margaret (Margie) MacDonald (D)
Rep. Mike Menahan (D)
Rep. Michael (Mike) More (R)
Rep. Jesse O'Hara (R)
Rep. Carolyn Pease-Lopez (D)
Rep. Joe Read (R)
Rep. Keith Regier (R)
Rep. Diane Sands (D)
Rep. Dan Skattum (R)
Rep. Bob Wagner (R)
Rep. Wendy Warburton (R)

Members Excused: None

Members Absent: None

Staff Present: Karen Armstrong, 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 126, 1/12/2011; HB 194, 1/12/2011

Executive Action: HB 81, HB 95, HB 114

00:01:15 Chairman Peterson
00:01:55 Rep. Driscoll
00:02:01 Rep. Menahan
00:02:27 Chairman Peterson

HEARING ON HB 126**Opening Statement by Sponsor:**

00:04:00 Rep. Kris Hansen (R), HD 33, opened the hearing on HB 126, Amend youth court act to clarify sentencing authority.
00:11:16 Chairman Peterson

Proponents' Testimony:

00:11:25 Ali Bovingdon, Office of the Attorney General (AG)
[EXHIBIT\(juh09a01\)](#)
00:11:57 Rep. Howard exited.
00:14:22 Chairman Peterson
00:14:27 Mardell Ployhar, Department of Justice (DOJ)
00:16:14 Rep. Howard returned.
00:18:49 Chairman Peterson
00:18:59 Mark Murphy, Montana County Attorneys' Association (MCAA)
00:22:53 Chairman Peterson
00:22:59 David Carter, Yellowstone County Attorney's Office
00:24:50 Chairman Peterson

Opponents' Testimony:

00:25:09 Cil Robinson, Juvenile Justice Planner, Montana Board of Crime Control
[EXHIBIT\(juh09a02\)](#)
00:32:15 Chairman Peterson

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

00:32:57 Rep. Menahan
00:33:52 Ms Ployhar DOJ
00:34:50 Rep. Menahan
00:36:01 Ms Ployhar
00:36:32 Chairman Peterson
00:36:37 Rep. Menahan
00:37:01 Ms Ployhar

00:37:07 Chairman Peterson
00:37:10 Rep. Sands
00:37:36 Ms Ployhar
00:37:43 Rep. Sands
00:39:16 Ms Bovingdon, AG
00:39:33 Rep. Sands
00:39:40 Ms Bovingdon
00:41:17 Rep. Sands
00:41:25 Chairman Peterson
00:41:29 Rep. Sands
00:41:47 Ms Bovingdon
00:43:00 Rep. Sands
00:43:05 Chairman Peterson
00:43:07 Rep. Harris
00:43:47 Ms Bovingdon
00:43:55 Chairman Peterson
00:43:58 Rep. More
00:44:45 Mr. Murphy, MCAA
00:47:15 Chairman Peterson
00:47:28 Rep. Menahan
00:47:39 Chairman Peterson
00:47:42 Rep. Menahan
00:48:22 Mr. Murphy
00:49:42 Chairman Peterson
00:50:19 Mr. Murphy
00:50:31 Chairman Peterson
00:50:51 Mr. Murphy
00:51:44 Chairman Peterson
00:51:52 Mr. Murphy
00:51:57 Chairman Peterson
00:52:06 Mr. Murphy
00:52:12 Chairman Peterson
00:52:21 Mr. Murphy
00:53:00 Chairman Peterson
00:53:16 Mr. Murphy
00:53:35 Chairman Peterson

Closing by Sponsor:

00:53:57 Rep. Hansen
00:59:28 Rep. Howard exited.
01:01:04 Chairman Peterson
01:01:35 Rep. Kerns exited.
01:01:35 Rep. O'Hara and Rep. Regier exited.
01:02:14 Meeting recessed.
01:02:20 Vice Chairman Kerns returned.
01:03:21 Meeting resumed.

HEARING ON HB 194

Opening Statement by Sponsor:

01:03:24 Rep. Daniel Salomon (R), HD 12, opened the hearing on HB 194, Revise criminal accountability for DUI and negligent vehicular homicide.

EXHIBIT(juh09a03)

Proponents' Testimony:

01:05:31 Joan Sherman, Ronan, mother of hit-and-run victim

EXHIBIT(juh09a04)

01:07:53 Chairman Peterson

01:08:08 David Carter, Yellowstone County Attorney's Office

01:10:20 Rep. O'Hara returned.

01:11:19 Chairman Peterson

01:11:24 Rep. Janna Taylor, HD 11

01:12:09 Rep. Howard and Rep. Regier returned.

01:12:43 Chairman Peterson

Opponents' Testimony:

01:13:01 Niki Zupanic, American Civil Liberties Union of Montana (ACLU)

01:16:16 Chairman Peterson

Informational Testimony: None

Questions from Committee Members and Responses:

01:16:36 Rep. Loney

01:17:04 Ms Zupanic, ACLU

01:18:42 Rep. Loney

01:18:48 Chairman Peterson

01:18:50 Rep. Loney

01:18:54 Ms Zupanic

01:19:13 Rep. Loney

01:19:17 Chairman Peterson

01:19:20 Rep. Harris

01:19:53 Ms Zupanic

01:20:47 Rep. Harris

01:20:55 Chairman Peterson

01:20:57 Mr. Carter

01:21:11 Rep. Harris

01:21:16 Mr. Carter

01:23:28 Rep. Harris

01:23:36 Rep. Howard

01:24:16 Mr. Carter

01:26:49 Chairman Peterson

01:26:55 Rep. More

01:28:34 Rep. Salomon
01:28:46 Chairman Peterson
01:28:48 Rep. More
01:29:17 Rep. Hansen
01:29:24 Chairman Peterson
01:29:50 Rep. Read
01:30:29 Mr. Carter
01:31:48 Chairman Peterson
01:32:07 Rep. More
01:32:19 Chairman Peterson
01:32:23 Mr. Carter
01:33:00 Rep. More
01:33:12 Mr. Carter
01:34:11 Chairman Peterson
01:34:15 Rep. Hill
01:35:31 Mr. Carter
01:36:18 Rep. Howard exited.
01:41:27 Rep. Howard returned.
01:41:47 Chairman Peterson
01:41:50 Rep. Hansen
01:43:00 Mr. Carter
01:43:12 Rep. Driscoll exited.
01:43:46 Rep. Hansen
01:45:29 Mr. Carter
01:47:54 Chairman Peterson
01:47:57 Rep. Wagner
01:48:36 Rep. Sands exited.
01:49:00 Mr. Carter
01:50:02 Rep. Menahan exited.
01:50:38 Rep. Wagner
01:51:19 Mr. Carter
01:53:12 Rep. O'Hara exited.
01:53:23 Rep. Driscoll returned.
01:54:05 Rep. Wagner
01:54:18 Rep. Sands returned.
01:56:33 Rep. Menahan returned.
01:56:45 Mr. Carter
01:58:15 Rep. Hill exited.
01:59:45 Rep. Wagner
01:59:51 Chairman Peterson
02:00:04 Rep. Wagner
02:00:41 Rep. O'Hara returned.
02:01:03 Chairman Peterson
02:01:06 Rep. Loney
02:01:13 Chairman Peterson
02:01:16 Rep. Harris
02:01:48 Chairman Peterson
02:01:52 Rep. Wagner
02:02:09 Rep. Howard exited.
02:02:48 Mr. Carter

02:04:25 Rep. Hill returned.
02:05:14 Chairman Peterson

Closing by Sponsor:

02:05:25 Rep. Salomon

02:06:06 Chairman Peterson
02:07:32 Rep. Sands
02:08:05 Chairman Peterson
02:08:08 Rep. Hansen
02:08:49 Mr. Niss
02:08:53 Chairman Peterson
02:08:58 Rep. Sands
02:09:07 Mr. Niss
02:13:33 Rep. Howard returned.
02:16:00 Chairman Peterson
02:16:03 Rep. Hill
02:16:50 Chairman Peterson
02:17:35 Chairman Peterson appointed a subcommittee: Rep. Hansen, Rep. Hill, Rep. Wagner, Rep. More and Rep. Menahan to draft a new bill proposal.
02:17:51 Chairman Peterson
02:17:54 Rep. MacDonald
02:18:01 Chairman Peterson
02:18:07 Mr. Niss
02:18:11 Chairman Peterson
02:20:05 Meeting recessed.
02:34:02 Meeting resumed.

EXECUTIVE ACTION ON HB 81

02:34:11 Chairman Peterson

02:34:22 **Motion:** Rep. Kerns moved that **HB 81 DO PASS.**

02:35:01 Mr. Niss
EXHIBIT(juh09a05)
02:35:07 Chairman Peterson

02:35:09 **Motion:** Rep. Menahan moved that **HB 81 BE AMENDED.**

02:35:45 Rep. Menahan
02:37:25 Chairman Peterson
02:37:33 Rep. Menahan
02:37:42 Chairman Peterson

02:38:11 **Vote:** Motion carried unanimously by voice vote.

02:38:23 Chairman Peterson

02:38:28 **Motion:** Rep. Kerns moved that **HB 81 DO PASS AS AMENDED**.

Discussion:

02:38:36 Chairman Peterson
02:38:42 Rep. Howard
02:40:06 Chairman Peterson
02:40:10 Rep. MacDonald
02:41:36 Chairman Peterson
02:41:39 Rep. Wagner
02:42:50 Chairman Peterson
02:42:52 Rep. Kerns
02:43:10 Chairman Peterson
02:43:13 Rep. Menahan
02:44:52 Chairman Peterson
02:44:54 Rep. Harris
02:45:46 Chairman Peterson
02:45:49 Rep. More
02:47:07 Chairman Peterson
02:47:10 Rep. Driscoll
02:47:41 Chairman Peterson
02:47:44 Rep. Howard
02:48:31 Chairman Peterson
02:48:36 Rep. Hansen
02:48:43 Rep. More
02:49:27 Rep. Hansen
02:49:40 Rep. More
02:49:45 Chairman Peterson
02:49:49 Rep. MacDonald
02:52:27 Chairman Peterson
02:54:12 Rep. More
02:54:18 Chairman Peterson

02:54:23 **Motion:** Rep. More moved that executive action on **HB 81** be delayed pending further information.

02:54:35 Rep. Menahan
02:54:47 Rep. More
02:54:54 Rep. Menahan
02:54:58 Rep. More
02:55:22 Chairman Peterson
02:56:52 Rep. Regier
02:57:18 Chairman Peterson
02:57:38 Rep. Menahan
02:57:48 Chairman Peterson

02:57:59 **Vote:** Motion carried 15-5 by voice vote with Rep. Howard, Rep. Kerns, Rep. Loney, Rep. Skattum and Rep. Wagner voting no.

EXECUTIVE ACTION ON HB 95

03:00:21 **Motion:** Rep. Kerns moved that **HB 95 DO PASS.**

03:00:36 Chairman Peterson
EXHIBIT(juh09a06)

03:01:16 **Motion/Vote:** Rep. K. Peterson moved that **HB 95 BE AMENDED.** Motion carried unanimously by voice vote.

03:01:38 **Motion:** Rep. Kerns moved that **HB 95 DO PASS AS AMENDED.**

Discussion:

03:01:47 Rep. Kerns
03:02:10 Rep. Regier
03:02:36 Chairman Peterson
03:02:53 Rep. Pease-Lopez
03:04:11 Chairman Peterson
03:04:30 Rep. Harris
03:04:40 Chairman Peterson
03:05:00 Rep. Howard
03:05:27 Chairman Peterson
03:05:33 Rep. MacDonald
03:06:32 Chairman Peterson
03:06:35 Rep. More
03:07:56 Chairman Peterson
03:07:59 Rep. Wagner
03:08:57 Chairman Peterson
03:09:00 Rep. Read
03:11:03 Chairman Peterson

03:11:11 **Vote:** Motion failed 7-13 by roll call vote with Rep. Driscoll, Rep. Hill, Rep. MacDonald, Rep. Menahan, Rep. Pease-Lopez, Rep. Peterson and Rep. Sands voting aye.

03:11:18 **Motion/Vote:** Rep. Kerns moved that **HB 95 BE TABLED AND THE VOTE REVERSED.** Motion carried unanimously by voice vote.

03:13:25 Rep. Sands
03:13:30 Chairman Peterson
03:14:39 Rep Bangerter
03:14:48 Rep Warburton
03:14:53 Chairman Peterson
03:15:14 Chairman Peterson

EXECUTIVE ACTION ON HB 114

03:15:38 **Motion:** Rep. O'Hara moved that **HB 114 DO PASS.**

Discussion:

03:15:47 Chairman Peterson
03:15:50 Rep. O'Hara
03:16:34 Chairman Peterson
03:16:37 Rep. Kerns
03:17:04 Rep. Sands
03:17:47 Chairman Peterson
03:17:50 Rep. Warburton
03:18:49 Chairman Peterson
03:18:51 Rep. Bangerter
03:19:17 Chairman Peterson
03:19:44 Rep. Bangerter
03:20:47 Chairman Peterson
03:20:50 Rep. Menahan
03:21:50 Chairman Peterson
03:21:53 Rep. Howard
03:21:58 Chairman Peterson
03:22:38 Rep. Harris
03:22:59 Chairman Peterson
03:23:04 Rep. Wagner
03:23:19 Rep. Hansen
03:23:32 Rep. Bangerter
03:23:55 Chairman Peterson
03:24:10 Rep. Wagner

03:24:59 **Motion:** Rep. Bangerter moved that executive action on **HB 114** be postponed pending further information.

03:25:31 Chairman Peterson
03:25:33 Rep. Bangerter
03:25:38 Rep. Warburton
03:26:28 Chairman Peterson
03:26:34 Ali Bovingdon, Attorney General's Office
03:30:16 Chairman Peterson
03:30:29 Ms Bovingdon
03:30:39 Chairman Peterson
03:30:41 Rep. Bangerter withdrew her motion to postpone.
03:30:54 Rep. Kerns

03:32:04 **Vote:** Motion carried 14-6 by roll call vote with Rep. Howard, Rep. Kerns, Rep. Regier, Rep. Skattum, Rep. Wagner and Rep. Warburton voting no.

03:32:18 Chairman Peterson
03:32:23 Mr. Niss

EXHIBIT(juh09a07)

03:35:43 Rep. MacDonald exited.
03:36:18 Chairman Peterson

ADJOURNMENT

03:36:18 Adjournment

Karen Armstrong, Secretary

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Additional Documents:

EXHIBIT([juh09aad.pdf](#))