

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 67th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chair Barry Usher, on February 25, 2021 at 8:00 AM, in Room 137
Capitol

ROLL CALL

Members Present:

Rep. Barry Usher, Chair (R)
Rep. Kathy Kelker, Vice Chair (D)
Rep. Amy Regier, Vice Chair (R)
Rep. Laurie Bishop (D)
Rep. Jennifer Carlson (R)
Rep. Robert Farris-Olsen (D)
Rep. Frank Fleming (R)
Rep. Tom France (D)
Rep. Jane Gillette (R)
Rep. Donavon Hawk (D)
Rep. Jedediah Hinkle (R)
Rep. Dennis R. Lenz (R)
Rep. Bob Phalen (R)
Rep. Derek Skees (R)
Rep. Ed Stafman (D)
Rep. Mallerie Stromswold (R)

Members Excused:

Rep. Seth Berglee (R)
Rep. Brandon Ler (R)
Rep. Danny Tenenbaum (D)

Members Absent: None

Staff Present:

Lydia Balian, Committee Secretary
Rachel Weiss, Legislative Branch
Hallie Swain, Remote Meeting Coordinator

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 355, 2/24/2021; HB 602, 2/24/2021; HB 565, 2/24/2021; HB
603, 2/24/2021; SB 140, 2/24/2021
Executive Action on: SB 140; HB 602; HB 603; HB 355

HEARING ON SB 140**Opening Statement by Sponsor:**

08:04:17 Sen. Keith Regier (R), SD 3, opened the hearing on SB 140, Revise laws relating to the judiciary.

08:04:27 Rep. Berglee joined the meeting. Rep. Skees and Rep. Lenz left the meeting.

Proponents' Testimony:

08:08:32 Lieutenant Governor Kristen Juras, Governor's Office (GOV)

EXHIBIT(juh40a01)

08:10:38 Todd O'hair, Montana Chamber of Commerce

08:11:33 Lee Brunner, self

08:13:16 Allan Payne, self

08:15:00 Rep. Ler and Rep. Tenenbaum joined the meeting.

08:16:02 Charles Robison, State Bar of Montana

08:17:12 Patrick Webb, Americans for Prosperity (AFP)

08:17:39 Garrett Bacon, self

08:18:23 Mark Parker, self

Opponents' Testimony:

08:20:44 Bruce Spencer, State Bar of Montana

08:25:44 Rep. Phalen

08:25:54 Bruce Spencer, State Bar of Montana

08:26:16 Vice Chair Kelker

08:26:39 Bruce Spencer, State Bar of Montana

08:27:04 Rep. Stafman

08:27:46 Bruce Spencer, State Bar of Montana

08:28:04 Rep. Gillette

08:28:16 Bruce Spencer, State Bar of Montana

08:28:20 Rep. France

08:28:40 Bruce Spencer, State Bar of Montana

08:29:00 Rep. Carlson left the meeting.

08:29:52 Monica Tranel, self

EXHIBIT(juh40a02)

08:32:47 Judge John Brown, 18th Judicial District Court

08:35:10 Rep. Lenz rejoined the meeting.

08:36:38 Ed Bartlett, Montana Judges Association

EXHIBIT(juh40a03)

08:41:28 Greg Dorrington, Montana Defense Trial Lawyers (MDTL)

08:42:08 Sam Forstag, American Civil Liberties Union of Montana (ACLU)

08:42:57 Judge John Larson, 4th Judicial District Court

08:44:57 Al Smith, Montana Trial Lawyers Association (MTLA)

Informational Testimony: None

Questions from Committee Members and Responses:

08:48:27 Rep. Tenenbaum
 08:49:43 Lieutenant Governor Kristen Juras, GOV
 08:52:05 Rep. Phalen
 08:55:14 Ed Bartlett, Montana Judges Association
 08:56:31 Vice Chair Kelker
 08:58:04 Judge John Brown, 18th Judicial District Court
 08:58:37 Rep. Gillette
 09:00:45 Lieutenant Governor Kristen Juras, GOV
 09:01:20 Rep. Gillette
 09:01:28 Judge John Brown, 18th Judicial District Court
 09:01:45 Rep. Lenz left the meeting.
 09:02:44 Rep. Fleming
 09:03:15 Sen. Regier
 09:04:07 Rep. Bishop
 09:04:54 Judge John Brown, 18th Judicial District Court
 09:06:06 Rep. Bishop
 09:08:42 Lieutenant Governor Kristen Juras, GOV
 09:09:11 Rep. Farris-Olsen
 09:17:52 Lieutenant Governor Kristen Juras, GOV
 09:18:09 Rep. Tenenbaum
 09:19:29 Sen. Regier
 09:19:51 Rep. France
 09:23:28 Lieutenant Governor Kristen Juras, GOV
 19:23:30 Rep. Carlson rejoined the meeting.

Closing by Sponsor:

09:23:47 Sen. Regier

EXECUTIVE ACTION ON SB 140

09:25:12 **Motion:** Rep. A. Regier moved that **SB 140 BE CONCURRED IN.**

Discussion:

09:25:20 Vice Chair Kelker
 09:25:58 Rep. Bishop
 09:28:24 Rep. Berglee
 09:31:56 Vice Chair Kelker

09:33:18 Rep. France

09:36:52 Rachel Weiss, Legislative Services Division (LSD)

09:38:36 **Motion:** Rep. France moved that **SB 140 BE AMENDED.**
[EXHIBIT\(juh40a04\)](#)

Discussion:

09:38:53 Rep. J. Hinkle
 09:39:00 Rep. France

- 09:39:22 **Vote:** Motion failed 7-12 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting aye. Rep. Lenz and Rep. Skees voted by proxy.
- 09:40:21 Rep. Tenenbaum
09:41:24 Rep. J. Hinkle
- 09:41:50 **Vote:** Motion carried 12-7 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting no. Rep. Lenz and Rep. Skees voted by proxy. Rep. Regier will carry the bill.

HEARING ON HB 602

Opening Statement by Sponsor:

- 09:43:33 Rep. Mallerie Stromswold (R), HD 50, opened the hearing on HB 602, Require warrant for search of consumer DNA database.
- 09:43:38 Rep. Lenz rejoined the meeting.

Proponents' Testimony:

- 09:45:06 Patrick Webb, Americans for Prosperity (AFP)
09:45:24 Chair Usher left the meeting.
09:45:34 Vice Chair Regier assumed the chair.
09:46:04 Sam Forstag, American Civil Liberties Union of Montana (ALCU)
09:46:53 Rep. Zolnikov

Opponents' Testimony:

- 09:47:27 Brian Thompson, Montana County Attorneys' Association (MCAA); Montana Sheriff's and Peace Officers Association (MSPOA)
09:51:02 Rep. Ler left the meeting.

Informational Testimony: None

Questions from Committee Members and Responses:

- 09:51:17 Vice Chair Kelker
09:52:15 Chair Usher rejoined the meeting.
09:52:38 Rep. Stromswold
09:52:54 Vice Chair Kelker
09:53:13 Brian Thompson, MCAA; MSPOA
09:54:10 Rep. Carlson
09:55:50 Brian Thompson, MCAA; MSPOA
09:56:31 Rep. Stafman
09:56:56 Brian Thompson, MCAA; MSPOA
09:58:07 Rep. Gillette
09:58:55 Brian Thompson, MCAA; MSPOA
09:59:29 Rep. Bishop
10:01:47 Rep. Stromswold
10:02:22 Rep. Bishop
10:02:43 Brian Thompson, MCAA; MSPOA

10:03:10 Rep. J. Hinkle
10:04:25 Rep. Stromswold
10:04:51 Rep. J. Hinkle
10:06:50 Patrick Webb, AFP
10:07:06 Chair Usher
10:10:02 Brian Thompson, MCAA; MSPOA

Closing by Sponsor:

10:10:27 Rep. Stromswold

EXECUTIVE ACTION ON HB 602

10:11:27 **Motion:** Rep. A. Regier moved that **HB 602 DO PASS.**

Discussion:

10:11:35 Rep. J. Hinkle
10:12:23 Chair Usher

10:13:33 **Vote:** Motion failed 7-12 by roll call vote with Rep. Carlson, Rep. Farris-Olsen, Rep. France, Rep. J. Hinkle, Rep. Lenz, Rep. Stromswold and Rep. Tenenbaum voting aye. Rep. Ler and Rep. Skees voted by proxy.

10:15:30 **Motion/Vote:** Rep. A. Regier moved that **HB 602 BE TABLED.** Motion carried without objection.

HEARING ON HB 355

Opening Statement by Sponsor:

10:16:21 Rep. Scot Kerns (R), HD 23, opened the hearing on HB 355, Require partisan elections for state, district, local judges.

10:17:23 Rep. Bishop
10:18:01 Rep. Ler rejoined the meeting.
10:18:10 Vice Chair Kelker
10:18:18 Chair Usher
10:18:46 Rep. Bishop
10:19:36 Rep. Carlson
10:19:42 Rep. J. Hinkle
10:20:23 Vice Chair Kelker
10:21:03 Rep. Carlson

Proponents' Testimony:

10:23:22 Garrett Bacon, self
10:25:01 Rep. Berglee left the meeting.

Opponents' Testimony:

10:25:21 Ed Bartlett, State Bar of Montana; Montana Judges Association
10:26:04 Chair Usher left the meeting.
10:26:10 Vice Chair Regier assumed the chair.
10:30:09 Monica Tranel, self

10:31:44 Greg Dorrington, Montana Defense Trial Lawyers (MDTL)
10:32:10 Sam Forstag, American Civil Liberties Union of Montana (ACLU)
10:32:45 Ed Bartlett, State Bar of Montana; Montana Judges Association
10:33:17 Judge Matthew Cuffe, 19th Judicial District Court
10:37:16 Al Smith, Montana Trial Lawyers Association (MTLA)

Informational Testimony: None

Questions from Committee Members and Responses:

10:39:24 Rep. Carlson
10:40:23 Ed Bartlett, State Bar of Montana; Montana Judges Association
10:41:33 Al Smith, MTLA

Closing by Sponsor:

10:42:28 Rep. Kerns

HEARING ON HB 603

Opening Statement by Sponsor:

10:45:29 Rep. Jeremy Trebas (R), HD 26, opened the hearing on HB 603, Provide for Montana Innocence Inquiry Commission.

10:50:38 Chair Usher rejoined the meeting.

Proponents' Testimony:

10:54:48 Bart Crabtree, Montana State Council on Judicial Accountability (MTSCOJA)
[EXHIBIT\(juh40a05\)](#)

10:58:11 Jeanne Webber, Montana State Council on Judicial Accountability (MTSCOJA)
11:01:56 Sam Forstag, American Civil Liberties Union of Montana (ACLU)
11:02:44 Beth Breneman, Disability Rights Montana
11:04:05 Patrick Webb, Americans for Prosperity (AFP)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

11:06:09 Rep. Fleming
11:06:43 Rep. Trebas
11:07:41 Vice Chair Kelker
11:09:41 Rep. Trebas
11:10:17 Rep. Carlson
11:10:30 Rep. Berglee rejoined the meeting. Rep. Gillette and Rep. Lenz left the meeting.
11:10:50 Chair Usher

Closing by Sponsor:

11:11:10 Rep. Trebas

EXECUTIVE ACTION ON HB 603

- 11:11:57 **Motion:** Rep. A. Regier moved that **HB 603 DO PASS**.
- 11:12:16 Without objection, Rep. A. Regier withdrew the DO PASS motion.
- 11:12:18 **Motion/Vote:** Rep. A. Regier moved that **HB 603 BE TABLED**. Motion carried 12-7 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Phalen, Rep. Stafman and Rep. Tenenbaum voting no. Rep. Gillette, Rep. Lenz and Rep. Skees voted by proxy.

EXECUTIVE ACTION ON HB 355

- 11:14:39 **Motion:** Rep. A. Regier moved that **HB 355 DO PASS**.
- 11:14:51 **Substitute Motion/Vote:** Rep. Bishop made a substitute motion that **HB 355 BE TABLED**. Substitute Motion failed 9-10 by roll call vote with Rep. Berglee, Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Ler, Rep. Stromswold and Rep. Tenenbaum voting aye. Rep. Gillette, Rep. Lenz and Rep. Skees voted by proxy.
- 11:16:30 **Motion:** Rep. A. Regier moved that **HB 355 BE AMENDED**.
[EXHIBIT\(juh40a06\)](#)

Discussion:

- 11:16:44 Rachel Weiss, Legislative Services Division (LSD)
- 11:16:49 Rep. Lenz rejoined the meeting.
- 11:17:15 **Vote:** Motion carried 10-9 by roll call vote with Rep. Bishop, Rep. Carlson, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman, Rep. Stromswold and Rep. Tenenbaum voting no. Rep. Gillette and Rep. Skees voted by proxy.
- 11:18:15 **Motion:** Rep. A. Regier moved that **HB 355 DO PASS AS AMENDED**.

Discussion:

- 11:18:23 Rep. Tenenbaum
- 11:19:31 **Vote:** Motion failed 9-10 by roll call vote with Rep. Berglee, Rep. Fleming, Rep. Gillette, Rep. J. Hinkle, Rep. Ler, Rep. Phalen, Rep. A. Regier, Rep. Skees and Rep. Usher voting aye. Rep. Gillette and Rep. Skees voted by proxy.
- 11:20:25 **Motion/Vote:** Rep. A. Regier moved that **HB 355 BE TABLED**. Motion carried without objection.
- 11:20:53 Chair Usher left the meeting.
- 11:20:57 Vice Chair Regier assumed the chair.

HEARING ON HB 565

Opening Statement by Sponsor:

11:21:12 Rep. Bill Mercer (R), HD 46, opened the hearing on HB 565, Generally revise assault laws.

Proponents' Testimony:

11:24:48 Eric Anderson, Montana Nurses Association (MNA)

EXHIBIT(juh40a07)

11:26:18 Aimee Grmoljez, Billings Clinic

11:28:13 Derek Hitt, Montana American Federation of Labor and Congress of Industrial Organizations (AFL-CIO); Montana Federation of Public Employees (MFPE)

11:28:49 Ole Hedstrom, Montana State Council of Professional Firefighters

11:29:31 Vicky Byrd, Montana Nurses Association (MNA)

Opponents' Testimony:

11:35:02 Beth Brenneman, Disability Rights Montana

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

11:37:04 Vice Chair Kelker

11:39:07 Aimee Grmoljez, Billings Clinic

11:39:45 Rep. Lenz

11:40:37 Rep. Mercer

11:42:36 Rep. Lenz

11:43:01 Aimee Grmoljez, Billings Clinic

11:44:16 Rep. Lenz

11:44:45 Rep. Mercer

11:45:33 Rep. Stromswold

11:46:02 Rep. Mercer

11:48:07 Rep. Berglee

11:48:20 Aimee Grmoljez, Billings Clinic

11:48:25 Rep. Usher rejoined the meeting.

11:48:31 Vice Chair Kelker

11:52:34 Rep. Mercer

11:54:15 Rep. Usher

11:55:03 Rep. Mercer

Closing by Sponsor:

11:55:21 Rep. Mercer

ADJOURNMENT

Adjournment: 11:57:51

Lydia Balian, Secretary

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Additional Documents:

EXHIBIT([juh40aad.pdf](#))