

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 67th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chair Barry Usher, on April 1, 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. Seth Berglee (R)
Rep. Laurie Bishop (D)
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. Brandon Ler (R)
Rep. Bob Phalen (R)
Rep. Mallerie Stromswold (R)
Rep. Danny Tenenbaum (D)

Members Excused:

Rep. Jennifer Carlson (R)
Rep. Derek Skees (R)
Rep. Ed Stafman (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 711, 3/29/2021; HB 696, 3/29/2021; HB 698, 3/29/2021; HB 706, 3/29/2021; SB 318, 3/29/2021
Executive Action on: SB 242; SB 318; HB 698; HB 696; HB 711; HB 658; HB 706

HEARING ON SB 318 CONTINUED**Opening Statement by Sponsor:**

Sen. Theresa Manzella (R), SD 44, opened the hearing on SB 318, Revise laws relating to the judiciary. Opening Statement was made at 09:04:04 on March 25, 2021.

Proponents' Testimony:

08:03:40 Sen. Howard

08:07:46 Rep. Stafman joined the meeting. Rep. Lenz left the meeting.

Opponents' Testimony:

08:10:59 Bruce Spencer, State Bar of Montana

08:15:24 Kelly Mantooth, Montana Magistrates Association

08:18:14 Ed Bartlett, Montana Judges Association

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

08:21:28 Rep. Stafman

08:24:03 Bruce Spencer, State Bar of Montana

08:25:19 Vice Chair Kelker

08:28:11 Bruce Spencer, State Bar of Montana

08:28:59 Rep. Phalen

08:29:38 Bruce Spencer, State Bar of Montana

08:30:30 Rep. Phalen

08:31:31 Ed Bartlett, Montana Judges Association

08:33:00 Rep. France

08:34:23 Sen. Howard

08:34:55 Rep. J. Hinkle

08:38:25 Bruce Spencer, State Bar of Montana

08:38:49 Rep. Tenenbaum

08:41:31 Kelly Mantooth, Montana Magistrates Association

08:43:09 Chair Usher

08:48:52 Bruce Spencer, State Bar of Montana

Closing by Sponsor:

08:50:08 Sen. Manzella

EXECUTIVE ACTION ON SB 318

08:56:38 **Motion:** Rep. A. Regier moved that **SB 318 BE CONCURRED IN.**

08:56:46 **Motion:** Rep. A. Regier moved that **SB 318 BE AMENDED.**

[EXHIBIT\(juh64a01\)](#)

Discussion:

08:56:54 Rep. Tenenbaum

08:58:05 Rep. France

08:59:13 Vice Chair Kelker

09:01:45 Rep. Gillette

- 09:02:18 Chair Usher
- 09:02:28 **Vote:** Motion carried 11-8 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Gillette, Rep. Hawk, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting no. Rep. Carlson, Rep. Lenz and Rep. Skees voted by proxy.
- 09:03:21 **Motion:** Rep. A. Regier moved that **SB 318 BE CONCURRED IN AS AMENDED.**
- 09:03:34 **Motion/Vote:** Rep. Gillette moved to **PASS CONSIDERATION ON SB 318.** Motion failed 8-11 by roll call vote with Rep. Berglee, Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Gillette, Rep. J. Hinkle, Rep. Stafman and Rep. Tenenbaum voting aye. Rep. Carlson, Rep. Lenz and Rep. Skees voted by proxy.
- 09:04:54 Rep. Stafman
09:04:57 Rep. Ler left the meeting.
- 09:05:45 **Substitute Motion/Vote:** Rep. Hawk made a substitute motion that **SB 318 BE TABLED.** Substitute Motion failed 8-11 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Gillette, Rep. Hawk, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting aye. Rep. Carlson, Rep. Lenz, Rep. Ler and Rep. Skees voted by proxy.
- 09:06:44 Rep. Berglee
09:07:27 Rep. Ler and Rep. Lenz rejoined the meeting.
09:08:48 Rep. J. Hinkle
- 09:09:34 **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. Carlson and Rep. Skees voted by proxy. Rep. Ler will carry the bill.
- 09:11:02 Chair Usher left the meeting.
09:11:05 Vice Chair Regier assumed the chair.

HEARING ON HB 706

Opening Statement by Sponsor:

- 09:11:48 Rep. Sharon Greef (R), HD 88, opened the hearing on HB 706, Generally revise criminal law.

[EXHIBIT\(juh64a02\)](#)

Proponents' Testimony:

- 09:16:17 Daniel Beard, self
09:22:19 Edward Boniecki, self
09:25:13 Rep. J. Hinkle left the meeting.

Opponents' Testimony: None

Informational Testimony:

09:26:21 Kelly Mantooh, Montana Magistrates Association

Questions from Committee Members and Responses:

09:26:30 Vice Chair Kelker
 09:27:13 Kelly Mantooh, Montana Magistrates Association
 09:27:27 Rep. Lenz left the meeting.
 09:28:02 Chair Usher rejoined the meeting.
 09:30:12 Kelly Mantooh, Montana Magistrates Association
 09:31:13 Chair Usher
 09:31:37 Rep. Greef

Closing by Sponsor:

09:31:50 Rep. Greef
 09:31:55 Vice Chair Regier left the meeting.

EXECUTIVE ACTION ON HB 706

09:33:11 **Motion/Vote:** Rep. Berglee moved that **HB 706 DO PASS**. Motion carried 15-4 by roll call vote with Rep. Farris-Olsen, Rep. France, Rep. Tenenbaum and Rep. Usher voting no. Rep. Carlson, Rep. J. Hinkle, Rep. Lenz, Rep. Ler, Rep. A. Regier and Rep. Skees voted by proxy.

HEARING ON HB 698**Opening Statement by Sponsor:**

09:34:44 Rep. Alice Buckley (D), HD 63, opened the hearing on HB 698, Limiting when defendant released pretrial may be charged certain costs/fees.

Proponents' Testimony:

09:37:59 Patrick Webb, Americans for Prosperity Montana (AFP)
 09:40:00 Rep. J. Hinkle rejoined the meeting.
 09:40:21 SK Rossi, Montana Innocence Project (MTIP)
 09:43:31 Sean Reagor, Montana Human Rights Network
 09:44:30 Kelsen Young, Montana Coalition Against Domestic and Sexual Violence (MADSV)
 09:48:35 Josh Van de Wetering, self
 09:50:33 Matt Kuntz, Montana Chapter of the National Alliance on Mental Illness (NAMI Montana)
 09:52:20 Beth Brennehan, Disability Rights Montana
 09:53:29 SJ Howell, Montana Women Vote (MWV)
 09:53:47 Rep. Skees, Vice Chair Regier, and Rep. Lenz rejoined the meeting.

Opponents' Testimony:

09:56:28 Kelly Mantooh, Montana Magistrates Association
 09:58:16 Eric Bryson, Montana Association of Counties (MACo)
 10:02:55 Nanette Gilbertson, Montana County Attorneys Association (MCAA); Montana Sheriff's and Peace Officers Association (MSPOA)
 10:04:28 Kurt Sager, Montana Highway Patrol (MHP)

Informational Testimony: None

Questions from Committee Members and Responses:

10:06:10 Rep. France
10:06:52 Josh Van de Wetering, self
10:08:58 Rep. France
10:12:12 Eric Bryson, MACo
10:13:45 Rep. Bishop
10:14:19 SK Rossi, MTIP
10:15:52 Vice Chair Kelker
10:16:31 Kelly Mantooth, Montana Magistrates Association
10:17:26 Rep. Skees
10:18:42 SK Rossi, MTIP

Closing by Sponsor:

10:20:37 Rep. Buckley

EXECUTIVE ACTION ON HB 698

10:21:34 **Motion:** Rep. A. Regier moved that **HB 698 DO PASS.**

Discussion:

10:21:45 Rep. Lenz
10:22:33 Chair Usher

10:23:49 **Vote:** Motion failed 9-10 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. Fleming, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman, Rep. Stromswold and Rep. Tenenbaum voting aye. Rep. Carlson and Rep. Ler voted by proxy.

10:24:46 **Motion/Vote:** Rep. A. Regier moved that **HB 698 BE TABLED.** Motion carried without objection.

10:26:12 Vice Chair Regier assumed the chair. Rep. Skees left the meeting.

HEARING ON HB 696

Opening Statement by Sponsor:

10:26:43 Rep. Barry Usher (R), HD 40, opened the hearing on HB 696, Generally revise crisis intervention training laws.

Proponents' Testimony:

10:29:59 Jim Anderson, Gallatin County Sheriff's Office
10:31:46 Dr. Gary Mihelish, Montana Chapter of the National Alliance on Mental Illness (NAMI Montana)
10:35:11 Matt Kuntz, Montana Chapter of the National Alliance on Mental Illness (NAMI Montana)
10:37:19 Nanette Gilbertson, Montana County Attorneys Association (MCAA); Montana Sheriff's and Peace Officers Association (MSPOA)
10:40:00 Shelby DeMars, Montana Police Protective Association (MPPA)

10:41:07 Jessie Luther, Association of Montana Troopers
10:41:51 Eric Bryson, Montana Association of Counties (MACo)
10:44:44 Brad Hickok, Gallatin County Sheriff's Office

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

10:47:14 Rep. Gillette
10:49:01 Rep. Usher
10:49:16 Jim Anderson, Gallatin County Sheriff's Office
10:50:20 Rep. Usher
10:51:15 Rep. Gillette
10:51:39 Rep. Usher
10:52:19 Rep. Lenz
10:54:07 Rep. Usher
10:54:48 Rep. Hawk
10:55:16 Rep. Usher

Closing by Sponsor:

10:57:35 Rep. Usher

11:00:29 Rep. Usher resumed the chair.

EXECUTIVE ACTION ON HB 696

11:00:34 **Motion:** Rep. A. Regier moved that **HB 696 DO PASS.**

Discussion:

11:00:50 Rep. Lenz
11:02:09 Chair Usher

11:04:36 **Vote:** Motion carried unanimously by voice vote. Rep. Carlson, Rep. Ler and Rep. Skees voted by proxy.

HEARING ON HB 711

Opening Statement by Sponsor:

11:05:23 Rep. Mark Noland (R), HD 10, opened the hearing on HB 711, Revise laws relating to the first amendment and the media.

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

11:13:42 Vice Chair Kelker

11:15:18 Rep. Noland
11:16:34 Rep. France
11:18:24 Rep. Noland
11:19:32 Rep. Skees rejoined the meeting. Rep. Phalen left the meeting.
11:19:55 Rep. J. Hinkle
11:20:18 Rep. Noland

Closing by Sponsor:

11:21:09 Rep. Noland

EXECUTIVE ACTION ON HB 711

11:21:59 **Motion:** Rep. A. Regier moved that **HB 711 DO PASS.**

Discussion:

11:22:06 Rep. Gillette

11:22:41 **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. Carlson, Rep. Ler and Rep. Phalen voted by proxy.

EXECUTIVE ACTION ON HB 544

11:23:37 **Motion/Vote:** Rep. Stafman moved that **HB 544 BE REMOVED FROM TABLE.** Motion failed 7-9 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting aye.

11:26:37 Vice Chair Kelker

11:27:42 Recess

11:38:07 Reconvened

EXECUTIVE ACTION ON HB 658

11:38:27 **Motion:** Rep. A. Regier moved that **HB 658 DO PASS.**

Discussion:

11:38:38 Rachel Weiss, Legislative Services Division (LSD)

11:38:54 Rep. Lenz

11:39:35 Vice Chair Kelker

11:41:22 Chair Usher

11:42:21 **Vote:** Motion failed 1-18 by roll call vote with Rep. Usher voting aye. Rep. Carlson, Rep. Ler and Rep. Phalen voted by proxy.

11:43:24 **Motion/Vote:** Rep. A. Regier moved that **HB 658 BE TABLED.** Motion carried without objection.

EXECUTIVE ACTION ON SB 242

11:43:51 **Motion:** Rep. A. Regier moved that **SB 242 BE CONCURRED IN.**

Discussion:

11:44:02 Rep. Bishop

11:44:40 Rep. Phalen rejoined the meeting.

11:44:55 Rep. Skees

11:45:43 Rep. Bishop

11:46:26 Rachel Weiss, LSD

11:46:53 Chair Usher

11:47:37 **Vote:** Motion failed 8-11 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. J. Hinkle, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting aye. Rep. Carlson and Rep. Ler voted by proxy.

11:48:48 **Motion/Vote:** Rep. A. Regier moved that **SB 242 BE TABLED.** Motion carried without objection.

EXECUTIVE ACTION ON HB 706

11:49:07 **Motion/Vote:** Rep. A. Regier moved to **RECONSIDER THE MOTION** on **HB 706.** Motion carried 16-3 by roll call vote with Rep. Bishop, Rep. Hawk and Rep. Stafman voting no. Rep. Carlson and Rep. Ler voted by proxy.

11:51:05 **Motion:** Rep. A. Regier moved that **HB 706 DO PASS.**

11:51:20 **Substitute Motion/Vote:** Rep. Skees made a substitute motion that **HB 706 BE TABLED.** Substitute Motion carried 14-5 by roll call vote with Rep. Bishop, Rep. France, Rep. Hawk, Rep. Kelker and Rep. Stafman voting no. Rep. Carlson and Rep. Ler voted by proxy.

ADJOURNMENT

Adjournment: 11:52:47

Lydia Balian, Secretary

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Additional Documents:

EXHIBIT([juh64aad.pdf](#))