

## MINUTES

### MONTANA SENATE 67th LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON JUDICIARY

**Call to Order:** Chair Keith Regier, on April 9, 2021 at 9:00 AM, in Room 303 Capitol

#### ROLL CALL

**Members Present in the Committee Room:**

Sen. Keith Regier, Chair (R)  
Sen. Tom McGillvray, Vice Chair (R)  
Sen. Diane Sands, Vice Chair (D)  
Sen. Bryce Bennett (D)  
Sen. Bob Brown (R)  
Sen. John Esp (R)  
Sen. Chris Friedel (R)  
Sen. Steve Hinebauch (R)  
Sen. Theresa Manzella (R)  
Sen. Susan Webber (D)

**Members Present by Zoom Video Conference:**

Sen. Jen Gross (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:**

Julianne Burkhardt, Legislative Branch  
Gwyn Schooler, Committee Secretary  
Taylor Tyson, 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: SR 97, 4/8/2021; HB 602, 4/6/2021; HB 553, 4/6/2021; HB 559, 4/6/2021

Executive Action: SR 97, HB 358, HB 436, HB 517, HB 519, HB 537, HB 578, HB 230, HB 553, HB 559, HB 481

**HEARING ON SR 97****Opening Statement by Sponsor:**

08:02:28 Sen. Cary Smith (R), SD 27, opened the hearing on SR97, Senate resolution authorizing intervention in SB 140 legal proceedings.

**Proponents' Testimony:** None

**Opponents' Testimony:** None

**Informational Testimony:**

08:05:07 Bruce Spencer, State Bar of Montana

**Questions from Committee Members and Responses:**

08:05:29 Sen. Sands

08:05:41 Sen. Smith

08:05:58 Sen. Manzella

08:06:23 Sen. Smith

08:06:42 Sen. Bennett entered the meeting.

08:06:55 Sen. Gross

08:07:13 Sen. Smith

08:07:28 Sen. Gross

08:07:44 Sen. Smith

08:08:09 Sen. Gross

08:08:19 Julianne Burkhardt, Legislative Services Division (LSD)

08:08:38 Sen. Gross

08:09:02 Mr. Spencer, State Bar

08:09:43 Sen. Gross

08:10:04 Mr. Spencer

08:10:35 Sen. Gross

08:11:03 Sen. Smith

08:11:43 Sen. Gross

08:12:11 Sen. Smith

08:13:09 Ms. Burkhardt, LSD

08:14:10 Chair Regier

08:14:19 Ms. Burkhardt

08:14:51 Sen. Smith

**Closing by Sponsor:**

08:15:43 Sen. Smith

**HEARING ON HB 559****Opening Statement by Sponsor:**

08:16:24 Rep. Bill Mercer (R), HD 46, opened the hearing on HB559, Revise requirements for dissemination of confidential criminal justice info.

**Proponents' Testimony:**

08:20:42 Nanette Gilbertson, Montana County Attorneys' Association

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

08:21:42 Sen. Sands  
08:22:26 Rep. Mercer  
08:24:45 Sen. Sands  
08:25:04 Rep. Mercer  
08:25:14 Sen. Sands  
08:25:24 Rep. Mercer  
08:31:42 Sen. Sands  
08:31:50 Chair Regier  
08:32:01 Rep. Mercer

**Closing by Sponsor:**

08:32:35 Rep. Mercer

**HEARING ON HB 602**

**Opening Statement by Sponsor:**

08:32:59 Rep. Mallerie Stromswold (R), HD 50, opened the hearing on HB602, Require warrant for search of consumer DNA database.

**Proponents' Testimony:**

08:33:52 Patrick Webb, Americans for Prosperity (AFP)  
08:37:04 Sam Forstag, American Civil Liberties Union  
08:38:27 Katjana Stutzer, Montana Public Interest Research Group

**Opponents' Testimony:**

08:39:52 Mark Murphy, Montana Association of Chiefs of Police (MACOP)  
08:47:11 Nanette Gilbertson, Montana County Attorneys' Association; Montana Sheriffs and Peace Officers Association

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

08:48:35 Sen. Bennett  
08:49:01 Rep. Stromswold  
08:49:15 Sen. Bennett  
08:49:41 Rep. Stromswold  
08:50:16 Sen. McGillvray  
08:50:56 Mr. Webb, AFP  
08:51:37 Sen. Brown  
08:52:03 Rep. Stromswold  
08:52:33 Sen. Esp  
08:52:57 Rep. Stormswold

08:53:20 Sen. Esp  
08:53:45 Sen. Sands  
08:54:33 Mr. Murphy, MACOP  
08:55:32 Sen. Sands  
08:55:58 Mr. Murphy  
08:57:49 Sen. Sands  
08:58:23 Mr. Murphy  
08:59:08 Sen. Manzella  
08:59:30 Mr. Murphy  
08:59:49 Chair Regier  
09:00:03 Mr. Murphy  
09:00:50 Sen. Webber  
09:01:45 Mr. Murphy  
09:03:52 Sen. Webber  
09:04:46 Mr. Murphy  
09:05:25 Sen. Sands  
09:05:50 Mr. Murphy  
09:06:22 Sen. McGillvray  
09:06:52 Mr. Webb  
09:07:59 Sen. McGillvray  
09:08:24 Mr. Webb  
09:08:55 Sen. McGillvray  
09:09:02 Mr. Webb  
09:09:13 Sen. McGillvray  
09:09:23 Mr. Webb  
09:10:20 Sen. Friedel  
09:11:04 Mr. Murphy  
09:12:59 Sen. Friedel  
09:14:16 Chair Regier  
09:14:20 Mr. Murphy  
09:15:33 Sen. Friedel  
09:16:06 Mr. Murphy  
09:16:42 Sen. Friedel  
09:17:37 Mr. Murphy

**Closing by Sponsor:**

09:19:23 Rep. Stromswold

**HEARING ON HB 553**

**Opening Statement by Sponsor:**

09:21:28 Rep. Jimmy Patelis (R), HD 52, opened the hearing on HB553, Limit time of suspended sentences for felony convictions.

**[EXHIBIT\(jus68a01\)](#)**

**Proponents' Testimony:**

09:31:41 Sam Forstag, American Civil Liberties Union of Montana  
09:33:02 Beth Brenneman, attorney, Disability Rights Montana  
09:34:22 Henry Kriegel, Americans for Prosperity Montana  
09:35:02 Janae Weber, citizen

09:38:45 Nanette Gilbertson, Montana County Attorneys' Association (MCAA)

**Opponents' Testimony:** None

**Informational Testimony:**

09:41:345 Mark Murphy, Montana Association of Chiefs of Police (MACOP)

[EXHIBIT\(jus68a02\)](#)

09:42:32 Cynthia Wolken, deputy director, Department of Corrections (DOC)

**Questions from Committee Members and Responses:**

09:42:52 Sen. Sands  
09:43:26 Rep. Patelis  
09:44:18 Sen. Sands  
09:44:36 Rep. Patelis  
09:44:44 Sen. Friedel  
09:45:32 Ms. Gilbertson, MCAA  
09:46:02 Sen. Friedel  
09:46:20 Mr. Murphy, MACOP  
09:46:28 Sen. Friedel  
09:47:17 Mr. Murphy  
09:48:45 Chair Regier  
09:49:01 Ms. Wolken, DOC  
09:49:55 Sen. McGillvray  
09:50:16 Rep. Patelis  
09:51:03 Sen. McGillvray  
09:51:13 Rep. Patelis  
09:51:51 Sen. McGillvray  
09:52:02 Rep. Patelis

**Closing by Sponsor:**

09:52:14 Rep. Patelis  
  
09:53:58 Recess  
10:20:56 Reconvene

**EXECUTIVE ACTION ON SR 97**

10:21:08 **Motion/Vote:** Sen. McGillvray moved that **SR 97 BE ADOPTED**. Motion carried 7-4 by roll call vote with Sen. Bennett, Sen. Gross, Sen. Sands and Sen. Webber voting no.

**EXECUTIVE ACTION ON HB 230**

10:22:02 Chair Regier  
  
10:22:20 **Motion/Vote:** Sen. McGillvray moved to **RECONSIDER THE MOTION** on **HB 230**. Motion carried 10-1 by voice vote with Sen. Gross voting no.  
  
10:22:46 **Motion:** Sen. McGillvray moved that **HB 230 BE CONCURRED IN**.

10:23:00 Julianne Burkhardt, Legislative Services Division (LSD)

10:24:22 **Motion:** Sen. McGillvray moved that **HB 230 BE AMENDED.**  
[EXHIBIT\(jus68a03\)](#)

**Discussion:**

10:24:41 Sen. Esp  
10:24:54 Ms. Burkhardt, LSD  
10:25:19 Chair Regier

10:26:38 Without objection, Sen. McGillvray withdrew the **BE AMENDED** motion.

**EXECUTIVE ACTION ON HB 358**

10:26:56 **Motion:** Sen. McGillvray moved that **HB 358 BE CONCURRED IN.**

10:27:29 **Motion:** Sen. Esp moved that **HB 358 BE AMENDED.**  
[EXHIBIT\(jus68a04\)](#)

**Discussion:**

10:29:46 Julianne Burkhardt, Legislative Services Division (LSD)  
10:30:07 Sen. Gross  
10:30:52 Ms. Burkhardt, LSD  
10:31:55 Sen. Esp  
10:32:24 Sen. Gross  
10:32:39 Sen. Bennett  
10:33:24 Sen. Esp  
10:34:06 Sen. Sands  
10:34:45 Sen. Esp  
10:35:19 Sen. Sands  
10:35:53 Chair Regier  
10:35:58 Sen. Sands  
10:36:05 Sen. Gross  
10:36:58 Sen. Esp

10:37:35 **Vote:** Motion carried 10-1 by roll call vote with Sen. Bennett voting no.

10:38:10 **Motion:** Sen. McGillvray moved that **HB 358 BE CONCURRED IN AS AMENDED.**

**Discussion:**

10:38:29 Sen. Sands

10:38:57 **Vote:** Motion carried unanimously by voice vote. Sen. Esp will carry the bill.

**EXECUTIVE ACTION ON HB 436**

10:39:39 **Motion:** Sen. McGillvray moved that **HB 436 BE CONCURRED IN.**

10:39:58 **Motion:** Sen. McGillvray moved that **HB 436 BE AMENDED**.  
[EXHIBIT\(jus68a05\)](#)

**Discussion:**

10:41:04 Julianne Burkhardt, Legislative Services Division (LSD)

10:43:19 Sen. Brown

10:45:38 **Substitute Motion/Vote:** Sen. Brown made a substitute motion that **HB 436 BE TABLED**. Substitute Motion carried 8-3 by roll call vote with Sen. Friedel, Sen. Hinebauch and Sen. McGillvray voting no.

**EXECUTIVE ACTION ON HB 481**

10:47:05 **Motion:** Sen. McGillvray moved that **HB 481 BE CONCURRED IN**.

**Discussion:**

10:47:16 Julianne Burkhardt, Legislative Services Division (LSD)

10:47:50 Sen. Friedel

10:48:10 Ms. Burkhardt, LSD

10:48:26 Without objection, Sen. McGillvray withdrew the **BE CONCURRED IN** motion.

**EXECUTIVE ACTION ON HB 517**

10:49:23 **Motion:** Sen. McGillvray moved that **HB 517 BE CONCURRED IN**.

**Discussion:**

10:49:34 Julianne Burkhardt, Legislative Services Division

10:49:51 Sen. Sands

10:50:34 **Vote:** Motion carried 7-4 by roll call vote with Sen. Bennett, Sen. Gross, Sen. Sands and Sen. Webber voting no. Sen. Regier will carry the bill.

**EXECUTIVE ACTION ON HB 519**

10:51:50 **Motion:** Sen. McGillvray moved that **HB 519 BE CONCURRED IN**.

10:52:00 **Substitute Motion/Vote:** Sen. Esp made a substitute motion that **HB 519 BE TABLED**. Substitute Motion carried 8-3 by roll call vote with Sen. Friedel, Sen. Hinebauch and Sen. Manzella voting no.

**EXECUTIVE ACTION ON HB 537**

10:53:16 **Motion:** Sen. McGillvray moved that **HB 537 BE CONCURRED IN**.

10:53:33 **Motion:** Sen. McGillvray moved that **HB 537 BE AMENDED**.  
[EXHIBIT\(jus68a06\)](#)

**Discussion:**

- 10:53:59 Julianne Burkhardt, Legislative Services Division (LSD)
- 10:55:19 **Vote:** Motion carried 7-4 by roll call vote with Sen. Bennett, Sen. Gross, Sen. Sands and Sen. Webber voting no.
- 10:56:15 **Motion:** Sen. McGillvray moved that **HB 537 BE CONCURRED IN AS AMENDED.**

**Discussion:**

- 10:56:26 Sen. Sands
- 10:56:59 Chair Regier
- 10:57:16 Sen. Friedel
- 10:57:47 Sen. Gross
- 10:58:02 Ms. Burkhardt, LSD
- 10:58:34 Sen. Gross
- 10:59:39 Sen. Esp
- 11:00:06 **Vote:** Motion carried 7-4 by roll call vote with Sen. Bennett, Sen. Gross, Sen. Sands and Sen. Webber voting no. Sen. Friedel will carry the bill.

**EXECUTIVE ACTION ON HB 578**

- 11:01:21 **Motion:** Sen. McGillvray moved that **HB 578 BE CONCURRED IN.**

**Discussion:**

- 11:01:32 Sen. McGillvray
- 11:01:42 Chair Regier
- 11:01:49 **Motion:** Sen. McGillvray moved that **HB 578 BE AMENDED CONCEPTUALLY.**

**Discussion:**

- 11:02:39 Chair Regier
- 11:02:42 Sen. McGillvray
- 11:02:59 Julianne Burkhardt, Legislative Services Division (LSD)
- 11:03:12 Chair Regier
- 11:03:24 Sen. McGillvray
- 11:03:32 Sen. Sands
- 11:03:41 Chair Regier
- 11:03:50 Sen. Esp
- 11:04:00 Without objection, Sen. McGillvray withdrew the **BE AMENDED** motion.
- 11:04:15 Sen. Gross
- 11:05:04 Sen. McGillvray
- 11:05:09 Chair Regier
- 11:05:22 **Vote:** Motion carried unanimously by voice vote. Sen. McGillvray will carry the bill.

11:05:53 Chair Regier  
11:06:10 Sen. Friedel  
11:06:30 Chair Regier

**EXECUTIVE ACTION ON HB 230**

11:06:35 **Motion:** Sen. McGillvray moved that **HB 230 BE CONCURRED IN.**

11:06:52 **Motion:** Sen. McGillvray moved that **HB 230 BE AMENDED.**  
[EXHIBIT\(jus68a07\)](#)

**Discussion:**

11:07:04 Julianne Burkhardt, Legislative Services Division (LSD)

11:07:45 **Vote:** Motion carried 7-4 by roll call vote with Sen. Bennett, Sen. Gross, Sen. Sands and Sen. Webber voting no.

11:08:38 **Motion:** Sen. McGillvray moved that **HB 230 BE CONCURRED IN AS AMENDED.**

11:08:47 **Motion:** Sen. McGillvray moved that **HB 230 BE AMENDED.**  
[EXHIBIT\(jus68a08\)](#)

**Discussion:**

11:09:01 Ms. Burkhardt, LSD

11:10:13 **Vote:** Motion carried 7-4 by roll call vote with Sen. Bennett, Sen. Gross, Sen. Sands and Sen. Webber voting no.

11:10:57 **Motion/Vote:** Sen. McGillvray moved that **HB 230 BE CONCURRED IN AS AMENDED.** Motion carried 7-4 by roll call vote with Sen. Bennett, Sen. Gross, Sen. Sands and Sen. Webber voting no. Sen. Regier will carry the bill.

**EXECUTIVE ACTION ON HB 481**

11:12:51 **Motion:** Sen. McGillvray moved that **HB 481 BE CONCURRED IN.**

11:13:10 **Motion:** Sen. McGillvray moved that **HB 481 BE AMENDED.**  
[EXHIBIT\(jus68a09\)](#)

**Discussion:**

11:13:30 Julianne Burkhardt, Legislative Services Division (LSD)

11:18:13 Chair Regier

11:18:19 Sen. Sands

11:19:01 Sen. Manzella

11:19:24 Ms. Burkhardt, LSD

11:19:53 **Vote:** Motion carried 7-4 by roll call vote with Sen. Bennett, Sen. Gross, Sen. Sands and Sen. Webber voting no.

11:20:34 **Motion:** Sen. McGillvray moved that **HB 481 BE CONCURRED IN AS AMENDED.**

11:20:42 **Motion:** Sen. Esp moved that **HB 481 BE AMENDED.**  
[EXHIBIT\(jus68a10\)](#)

**Discussion:**

11:21:02 Sen. Sands  
11:21:11 Sen. Esp  
11:21:26 Sen. McGillvray

11:21:40 **Vote:** Motion carried 7-4 by roll call vote with Sen. Bennett, Sen. Gross, Sen. Sands and Sen. Webber voting no.

11:22:20 **Motion:** Sen. McGillvray moved that **HB 481 BE CONCURRED IN AS AMENDED.**

**Discussion:**

11:22:35 Sen. Webber  
11:24:47 Sen. Bennett  
11:26:44 Sen. Esp  
11:27:39 Sen. Sands  
11:28:57 Sen. Gross  
11:29:37 Ms. Burkhardt  
11:29:47 Sen. Gross  
11:30:03 Ms. Burkhardt

11:30:24 **Vote:** Motion carried 7-4 by roll call vote with Sen. Bennett, Sen. Gross, Sen. Sands and Sen. Webber voting no. Sen. Brown will carry the bill.

**EXECUTIVE ACTION ON HB 553**

11:31:19 Chair Regier

11:32:07 **Motion:** Sen. McGillvray moved that **HB 553 BE CONCURRED IN.**

11:32:16 **Motion:** Sen. McGillvray moved that **HB 553 BE AMENDED.**  
[EXHIBIT\(jus68a11\)](#)

**Discussion:**

11:32:32 Julianne Burkhardt, Legislative Services Division (LSD)  
11:32:42 Sen. Sands

11:33:25 **Vote:** Motion carried unanimously by voice vote.

11:33:36 **Motion:** Sen. McGillvray moved that **HB 553 BE CONCURRED IN AS AMENDED.**

**Discussion:**

11:33:49 Sen. Friedel

11:34:13 Sen. Sands  
11:34:49 Chair Regier

11:34:55 **Vote:** Motion carried unanimously by voice vote. Sen. Sands will carry the bill.

**EXECUTIVE ACTION ON HB 559**

11:35:22 Chair Regier

11:35:58 **Motion:** Sen. McGillvray moved that **HB 559 BE CONCURRED IN.**

**Discussion:**

11:36:13 Julianne Burkhardt, Legislative Services Division

11:39:06 **Motion:** Sen. McGillvray moved that **HB 559 BE AMENDED.**

**EXHIBIT(jus68a12)**

**Discussion:**

11:39:24 Sen. Sands

11:39:51 **Vote:** Motion carried unanimously by voice vote.

11:40:04 **Motion/Vote:** Sen. McGillvray moved that **HB 559 BE CONCURRED IN AS AMENDED.** Motion carried unanimously by voice vote. Sen. Manzella will carry the bill.

11:40:41 Chair Regier

**ADJOURNMENT**

Adjournment: 11:41 AM

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Gwyn Schooler, Secretary

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Additional Documents:

**EXHIBIT**([jus68aad.pdf](#))