MINUTES

MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN DUANE GRIMES**, on March 24, 2003 at 10:00 A.M., in Room 303 Capitol.

ROLL CALL

Members Present:
Sen. Duane Grimes, Chairman (R)
Sen. Dan McGee, Vice Chairman (R)
Sen. Brent R. Cromley (D)
Sen. Aubyn Curtiss (R)
Sen. Jerry O'Neil (R)
Sen. Gary L. Perry (R)
Sen. Mike Wheat (D)

Members Excused: Sen. Jeff Mangan (D)
Sen. Gerald Pease (D)

Members Absent: None.

Staff Present: Judy Keintz, Committee Secretary
Valencia Lane, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing & Date Posted: HB 340, HB 358, HB 389, 3/20/2003
Executive Action: HB 389, HB 197, HB 54 , HB 340

HEARING ON HB 340

Sponsor: **REP. JOAN ANDERSON, HD 23, FROMBERG**

Proponents: **None**

Opponents: **None**

Opening Statement by Sponsor:

REP. JOAN ANDERSON, HD 23, FROMBERG, introduced HB 340. She explained the bill made a change in the current law dealing with the responsibilities of a guardian. The change in the law would address the instance of a guardian who has been given permission by the court to make funeral arrangements for his or her ward. The guardian's responsibilities would not terminate until the funeral arrangements were carried out and the personal effects of the ward had been addressed. There was a situation in her family where this caused a problem. The funeral arrangements were made for her husband's aunt, but he could not carry out the arrangements or remove her personal property from the nursing home where she had been residing until the two sons gave their permission to do so. Guardianship arrangements for juveniles was also included in the bill.

Proponents' Testimony:

None

Opponents' Testimony:

None

Questions from Committee Members and Responses:

SEN. JERRY O'NEIL raised a concern about the language on page 2, lines 5 and 6, in regard to the personal representative having the authority to make burial arrangements. **REP. ANDERSON** explained, in the case she referred to in her opening, her husband was the guardian and the court gave him the authority to make funeral arrangements prior to his aunt's death. He knew her wishes but since his duties ended with her death, he was unable to carry out the arrangements.

SEN. O'NEIL maintained the personal representative would not be appointed until sometime after the person's death. **REP. ANDERSON**

explained there was no will involved so there was no personal representative appointed. She had not indicated that anyone had power of attorney for her.

CHAIRMAN DUANE GRIMES questioned whether this would preclude any other arrangements that family members may arrange with a third party. **REP. ANDERSON** affirmed this would not be the case.

Closing by Sponsor:

REP. ANDERSON stated Montana's population is aging and other families may find themselves in this situation.

HEARING ON HB 358

Sponsor: **REP. MICHAEL LANGE, HD 19, BILLINGS**

Proponents: **Kathleen Jensen, Justice of the Peace in Cascade County**
Judge Larry D. Herman, Yellowstone County

Opponents: **Johnny Seiffert, Carbon County Justice of the Peace, and the Montana Magistrates Association**
Kelly Reisbeck, Montana Bail Agents Association

Opening Statement by Sponsor:

REP. MICHAEL LANGE, HD 19, BILLINGS, introduced HB 358. He noted the House Judiciary Committee and the House as a whole have added several amendments to this bill. There was very strong support for this bill. This is a permissive bill which allows a county with a population of over 20,000 to establish a court of record using their current justice court. The counties that would qualify are Cascade, Gallatin, Lake, Hill, Missoula, Butte-Silver Bow, Yellowstone and Ravalli. The county commissioners would make the decision for transfer. The counties would pay for the cost of the conversion of the court. They will also be responsible for any training requirements. The fiscal note states that it will be expensive to change a justice court to a court of record. His county commissioners have assured him the change would not be an expensive change. This bill will reduce the number of appeals before a jury in district courts. Both the state and the counties will save money. In many cases, there is a hearing before the justice court. This case then may automatically go to a hearing before the district court. The issue in the House last session in regard to this idea was that the justice of the peace would need to be an attorney. This may still cause some concern for magistrates in Montana. The bill is permissive and also states that it is not necessary for the court

of record judge to be an attorney. This is the people's court and it needs to maintain its integrity as a court of the people.

Proponents' Testimony:

Kathleen Jensen, Justice of the Peace in Cascade County, stated the de novo appeal into district court is limiting their ability to effectively deal with misdemeanor offenders. The majority of the jury verdicts and decisions are being appealed. Misdemeanors should be left in misdemeanor court. With appeals, everything is being transferred to the district court. It is very difficult to give misdemeanors the import they deserve when the district court is facing a full felony caseload. The district courts are very busy and incarcerated defendants must be tried first. Many of the crimes they see are alcohol related. It is important for first time offenders to be placed into treatment and alcohol-related education be provided. This will provide the possibility of removing these offenders from the system. Last week they tried an offender for his second DUI offense and a host of other driving issues. He had poor performance on the field sobriety test and blew a .192 on the PBT and a .196 on the intoxilizer 5000. Proof was not a problem. He was apprehended after causing a property damage accident. He was convicted and sentenced to seven days jail time as well as fines and treatment. His attorney immediately appealed. There was no error of law or fact. This person is probably drinking and driving on our roads today. If he is not rehabilitated, he will continue this lifestyle. Two jury trials in these matters is a burden on the state. The defense attorneys use the tactic of burdening the state by requiring jury trials in two courts. Fifteen people are called as jurors and six of those people spend the whole day in trial. If the verdict rendered is not the verdict the defense desires, the jurors' day has been wasted. In Cascade County, the defense attorneys have their notices of appeal prepared to hand to the judge as soon as the jury verdict is handed down. Justice courts are courts of record for small claims. The equipment should be present and so there would not be a tremendous additional expense.

{Tape: 1; Side: B}

Judge Larry D. Herman, Yellowstone County, presented his written testimony on HB 358, **EXHIBIT(jus62a01)**. In regard to education, the judges of the county court would need to attend the annual sessions and meet the education requirements as set by the Commission of Courts of Limited Jurisdiction. The Commission could set qualifications and more education requirements than are proposed under the bill.

Opponents' Testimony:

Johnny Seiffert, Carbon County Justice of the Peace, and the Montana Magistrates Association, noted the bill as introduced did require the judge of the county courts to be attorneys. This goes against the history of Montana and affects the judges who are out where the rubber meets the road. The House amended the requirement that judges be attorneys. However, the language in the section for fill-in judges and the grandfather clause for the existing judge, should the judge not be an attorney, is still in the bill. This raises concerns that the change was made to remove the attorney requirement initially but in the future there will be attempts to change this requirement to attorney judges. The training requirement is also a concern. The judge of this court will need to attend 15 hours of continuing education. Attendance at the semi-annual training sessions may be given credit for that continuing education. He is a member of the Commission of Courts of Limited Jurisdiction and the Commission is concerned about limiting or changing the requirements for training of these judges. If this is such a great tool and is so necessary for the better of the judiciary of the state of Montana, why is it limited to first class counties only. Any county should be allowed to adopt this provision. A constitutional concern is raised since the Constitution and current law provides that each county must have a justice court and other courts that are allowed and created by the Legislature. If a county court is created and is no longer a justice court, would this require a constitutional change since there will no longer be justice courts.

Kelly Reisbeck, Montana Bail Agents Association, rose in opposition to HB 358. Their original opposition to the bill was due to the provision that all judges be attorneys. Although this has been changed by amendment, they believe the bill is a stepping stone to that end. They are still in opposition to the bill in its present form.

Questions from Committee Members and Responses:

SEN. BRENT CROMLEY questioned whether this bill would limit an offender to one jury trial. **REP. LANGE** believed it would.

SEN. CROMLEY asked why all counties were not included in this provision. **REP. LANGE** explained that the Montana Association of Counties (MACo) requested that this provision only include counties with a population of 20,000. The county commissioners saw this as a good idea but change comes slowly in Montana. MACo wanted to see this established in the large counties and, hopefully, there would be a track record of success. This would

provide a comfort level with the rest of the counties. He assured the Committee that he had entirely no plans to come back in two years and request the provision for judge to be an attorney. He would adamantly resist any such attempt.

SEN. CROMLEY asked **Judge Herman** to explain the type of training required for a judge of limited court jurisdiction. **Judge Herman** pointed out the qualifications for a justice of the peace is age 18. There are no other qualifications. The code states they must attend an orientation course following election and twice a year they need to attend training sessions. The Commission on Courts of Limited Jurisdiction has been given the responsibility of setting the course of education and training that must be met by all judges of the courts of limited jurisdiction before they can assume office. The Commission has chosen to provide an orientation course or a training session after each election. A certification test is given.

SEN. PERRY asked whether the House considered HB 14 as it relates to this bill. **REP. LANGE** explained HB 14 was heard early in the session. He further noted that **REP. SHOCKLEY, Chairman of the House Judiciary Committee,** made the comment that the two bills do coordinate very well. The concern was HB 14 took the overall question to the people. He was very supportive of both bills.

SEN. PERRY asked whether **REP. LANGE** had an objection to extending this provision to all counties, since it was permissive. **REP. LANGE** did not have a personal problem with doing so. He agreed to the change MACo wanted. He did not want the county commissioners to oppose the bill without fully understanding its intent. If this could be explained to every county commissioner across the state of Montana, he believed they would be fine with the bill because it is permissive and it would be up to each county to decide whether or not they wanted to pursue this idea. The fear factor would need to be overcome.

SEN. O'NEIL noted appeals from county courts would go to the district court. He asked whether the changes would address both civil and criminal cases. **Ms. Jensen** affirmed it was her understanding this bill would impact both the civil and criminal cases. Instead of a trial de novo, there will be a matter of record. This will be similar to the way small claims are currently handled in justice court. A record is made and when there is an appeal, there needs to be an error of law or no evidence supporting the factual finding. The record is transmitted to district court.

SEN. O'NEIL raised a concern that the justice court would not be using the Rules of Civil Procedure in the same manner as the

district court would use these rules. **Ms. Jensen** did not agree. There are Rules of Civil Procedure for justices and municipal courts. They are not always identical to the Rules of Civil Procedure that apply in district courts. The same rules of evidence are applied.

SEN. O'NEIL further questioned whether interrogatories were allowed to be prepared prior to trial. He further questioned whether depositions and requests for admission were allowed. **Ms. Jensen** noted that would be one of the primary differences between their civil rules and the civil rules in the district court. In justice court there is an expectation that discovery will be conducted informally. As a result, the parties are expected to work together. If that discovery is fruitless, the party requesting the information has the ability to come to court and request that formal discovery be carried out. In that case, it would be possible to have interrogatories, depositions, and requests for productions. In district court this would be the standard but in justice court it would be necessary to obtain an order from the judge in order to undertake those discovery methods. Those orders are usually granted. Usually the party does not understand why they are being asked for information.

SEN. MIKE WHEAT remarked the bill provided that in municipal courts, the judges needed to be attorneys. He questioned why the first class counties could not be granted the authority to establish qualifications for the judge, which may include being a lawyer. **Judge Herman** maintained that currently those qualifications are set by state law. He did not know whether or not a county ordinance could be established by the commissioners to set the qualifications for the judges. There may be a conflict with the state law.

SEN. WHEAT questioned whether **Judge Seiffert** would still oppose the bill if the first class counties could be given the option to require their judges to be attorneys. **Judge Seiffert** explained that the Montana Magistrates Association would still oppose the bill because it would be requiring a court of limited jurisdiction judge to be an attorney. Their bylaws state that they oppose doing away with lay judges. The Association includes 101 judges out of 115 judges in the state.

SEN. WHEAT noted the municipal courts were courts of limited jurisdiction. He questioned whether the Association opposed the current law that requires municipal judges to be attorneys. **Judge Seiffert** maintained the Association opposed the bill but it still passed.

SEN. WHEAT questioned whether there were problems with the fact that municipal court judges were attorneys. **Judge Seiffert** did not believe there was a noticeable problem. Some rules were different from the justice and city courts follow because they are courts of record. The reason behind this provision was due to the appeal problem.

{Tape: 2; Side: A}

Closing by Sponsor:

REP. LANGE remarked this bill would provide cost savings to the people of Montana at every level. Repeated trials are a disservice to justice. This bill will save the state, counties, and taxpayers money. He found it interesting that the opposition to the bill came from counties that would not be affected and from the individuals whose concerns had been addressed by amendments. This simply leaves the fear factor. There is only one reason for a magistrate to be afraid of the bill and that is if there is a court of record, things that happen in a courtroom are on the record. Everything the Legislature does is on the record for the public's eye to see what is or is not accomplished. An agreement was made with MACo so that the bill would not cause economic anxiety to the counties. The idea is to show that the plan works and makes a positive difference. As to the constitutionality of the bill, he finds that issue to be a complete red herring. There is no conflict.

Additional handout from **Daniel L. Schwarz, Chief Deputy County Attorney, Yellowstone County, EXHIBIT(jus62a02).**

HEARING ON HB 389

Sponsor: **REP. CAROL GIBSON, HD 20, BILLINGS,**

Proponents: **Diana Koch, Legal Counsel for the Department of Corrections**
Mike Mahoney, Warden at Montana State Prison

Opponents: **None**

Opening Statement by Sponsor:

REP. CAROL GIBSON, HD 20, BILLINGS, introduced HB 389. She explained that in the past there was one Montana State Prison at Deer Lodge and when a judge sentenced someone they would go to that prison. Other correctional institutions have been built. They are located in Missoula, Great Falls, Glendive and Shelby.

Prison inmates have their favorites. There have been situations where the judge has sentenced someone to the Montana State Prison and the inmate has stated that he should not be there. Lawsuits have been filed in this regard. This bill states when someone is sentenced to the Montana State Prison, the Department of Corrections (DOC) has the ability to make the appropriate placement.

Proponents' Testimony:

Diana Koch, Legal Counsel for the Department of Corrections, provided a copy of a lawsuit brought by 50 inmates of the Montana State Prison, **EXHIBIT(jus62a03).** The sole issue in the lawsuit is the inmates believe the DOC has no ability to place them anyplace but the Montana State Prison. The Montana State Prison is defined in statute at 53-1-102 as being the prison in Deer Lodge. Another similar suit has been filed by approximately 30 inmates at the prison in Shelby. Only one of their issues is the fact they were sentenced to the Montana State Prison and found themselves in other prisons besides the Montana State Prison. In 1999, the Legislature tried to remedy this problem by defining the different prisons in 53-1-102. The language is still problematic because it still states that the Montana State Prison is the one in Deer Lodge. The only change made in the bill states, under 46-18-201, someone who is sentenced to prison, the Montana State Prison or the Women's Prison, will be placed in a facility designated by the DOC. The definitions in 53-1-102 do not need to change. This bill is long overdue.

Mike Mahoney, Warden at Montana State Prison, rose in support of HB 389.

Opponents' Testimony:

None

Questions from Committee Members and Responses:

SEN. DAN MCGEE remarked that 53-1-102 addressed removal of patients from state custodial institutions or correctional facilities without permission. **Ms. Koch** affirmed that was not the correct statute in this matter. The definitional section does not need to be changed with this statute. The bill states that in sentencing, the judge can sentence someone to prison and the DOC will choose the prison.

SEN. CROMLEY raised a concern in regard to the retroactivity of the bill. He questioned whether there should be a severability clause in the bill. **Ms. Koch** did not see a problem with ex post

facto and retroactivity. The ex post facto laws make sure that a law cannot be imposed that makes the punishment more harsh for the crime that the person has committed. Incarceration in prison is the punishment and this would not make it any more harsh. She added the statute she was referring to earlier was 53-30-101.

SEN. WHEAT asked if part of the problem dealt with space at the prisons. **Ms. Koch** affirmed the Montana State Prison did not have enough room to hold all the inmates. It is important for the DOC to have the ability to place inmates in the regional prisons and private prisons to manage the population.

SEN. MCGEE questioned whether the prisoners would still go through the front doors of the Montana State Prison for reception. **Ms. Koch** affirmed they would. Everyone goes through the Montana State Prison and is classified. The appropriate people are then chosen for placements in the other prisons.

Closing by Sponsor:

REP. GIBSON closed on HB 389.

EXECUTIVE ACTION ON HB 389

Motion: **SEN. WHEAT** moved that **HB 389 BE CONCURRED IN.**

Discussion:

Ms. Lane remarked the issue in this bill was addressed several sessions ago. Wherever the Montana State Prison appeared in code it was changed to a state prison. The definitions in 53-30-101 were changed and "Montana State Prison" now means the correctional facility located at Deer Lodge. State prison was defined to mean the Montana State Prison, the Montana Women's Prison, a state correctional facility portion of the Montana Regional Correctional Facility, a detention center in another jurisdiction detaining inmates from Montana, and private correctional facilities. She was not clear what the problem was. The bill does not state "the Montana State Prison". She believed this section was very carefully amended. On page 2, lines 1 and 2 of the bill, the language states: "a county detention center or state prison". Technically, she did not see a problem with the statute. The main point of the bill is the inserted language on line 2 which states "to be designated by the department of corrections;".

Vote: **The motion carried unanimously.**

EXECUTIVE ACTION ON HB 197

Motion/Vote: **SEN. MCGEE** moved that the Committee **RECONSIDER ITS ACTION ON HB 197. The motion carried unanimously.**

Motion: **SEN. MCGEE** moved that **HB 197 BE CONCURRED IN.**

Discussion:

Ms. Lane provided a copy of an amendment, HB019701.avl, **EXHIBIT(jus62a04).** She noted that she had worked on the amendment with **Brenda Nordlund, Department of Justice.** Instruction No. 2 provides a new section and Instruction No. 4 is a coordination instruction necessary to coordinate the bill with HB 215, HB 185, SB 13, and SB 37.

Ms. Nordlund explained the new section addressed the tension between the Rocky Mountain Traffic School proponents and the Department of Justice. This approach would strip the mandates, as originally proposed. The inclusion of the new section would recognize that individuals who complete a driver rehabilitation program that meets the requirements set forth in (2)(a)(b)(c) and (d), would receive a 50 percent discount on their license reinstatement fee. This is optional and would be an economic decision by an individual as to whether it would be more beneficial to participate in the program or pay the full license reinstate fee of $100. Senate Bill 37 and House Bill 618 could increase this fee from $200 to $500.

SEN. WHEAT asked for further clarification of Instruction No. 4 which was approximately a two and a half page amendment. **Ms. Lane** explained this was simply a coordination instruction.

{Tape: 2; Side: B}

Substitute Motion/Vote: **SEN. WHEAT** moved that **HB 197 BE AMENDED - HB019701.avl. The motion carried unanimously.**

Motion: **SEN. O'NEIL** moved that **HB 197 BE CONCURRED IN AS AMENDED.**

Discussion:

SEN. O'NEIL noted that on page 9, lines 20 and 21, the language stated the department could take away the vehicle owned and operated at the time of the offense by the person whose driver's license is suspended or revoked. He would still like to have this address the use of a borrowed car. If the person knows the

person has a DUI or a revoked license and the person loans his or her car with that knowledge, that car should also be taken away.

CHAIRMAN GRIMES suggested that the amendment be drafted for the floor.

Ms. Lane believed the amendment would be outside of the scope of the bill which deals with driver's licenses. The amendment would involve seizure and forfeiture of a vehicle.

CHAIRMAN GRIMES further suggested that SB 37 be reviewed following its passage by the House. The bill will be brought back to the Senate and probably will be in a conference committee. This would be a good place for the amendment to be placed on the bill.

Vote: The motion carried unanimously.

EXECUTIVE ACTION ON HB 54

Motion: **SEN. WHEAT** moved that **HB 54 BE CONCURRED IN.**

SEN. WHEAT recalled **REP. NEWMAN'S** primary concern was to include within the stalking statute any type of electronic communication by computers, video cameras, fax machines, etc. The Committee focused on electronic communication and tried to develop a definition so that all various means of communicating would need to be included in the bill.

Substitute Motion: **SEN. WHEAT** moved that **HB 54 AMENDED, HB005402.avl, EXHIBIT(jus62a05).**

SEN. WHEAT explained Instruction No. 13 of the amendment contained the definition: "(4) 'Electronic communication' means any transfer between persons of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system."

Ms. Lane added the definition was from the Federal Privacy in Communications Act.

SEN. WHEAT further noted all the amendments would refer to an electronic communication that would be defined elsewhere in the statute.

SEN. O'NEIL suggested simply changing line 17 on page 1 to read, "(b) harassing, threatening, or intimidating the stalked person, in person or by any other method of contacting the victim."

SEN. WHEAT remarked that the reason for the bill was to address those items that can now be used to communicate. He favored **REP. NEWMAN's** request to amend the bill because he is a seasoned prosecutor who has had problems with the crimes being charged.

Vote: The motion carried unanimously.

Motion/Vote: **SEN. WHEAT** moved that **HB 54 BE CONCURRED IN AS AMENDED. The motion carried unanimously.**

EXECUTIVE ACTION ON HB 340

Motion: **SEN. MCGEE** moved that **HB 340 BE CONCURRED IN.**

Discussion:

Ms. Lane responded to **SEN. O'NEIL's** concerns expressed during the hearing in regard to page 2, lines 5 and 6. The language in question was "and if there is no personal representative authorized to do so". During the drafting stage **REP. NOENNING** requested the phrase be placed in the bill.

SEN. O'NEIL saw a problem with the court order not being any good due to the fact that there may be a personal representative. The court order should be final.

Ms. Lane suggested deleting the word "and". This would read: "upon an order of the court, if there is no personal representative authorized to do so".

SEN. O'NEIL agreed with the language.

SEN. WHEAT noted a personal representative would be appointed by order of the court. It would be necessary to establish that the person is qualified to act as a personal representative. He questioned removing the language "upon an order of the court and". The language would state: "Upon the death of a guardian's ward, the guardian, if there is no personal representative authorized to do so". The fact that there is a personal representative indicates the court has established and issued an order to that personal representative.

SEN. CROMLEY believed it would be important for the guardian to receive the approval of the court. This would clarify the concern that the court, before it grants the order, will ask if a personal representative has been appointed.

SEN. O'NEIL favored the language change suggested by **SEN. WHEAT.** When a ward dies, the guardian should not have to go to court to bury the ward. Time is a factor and it may take some time to get to the court. The person making the application to become a personal representative should be notifying the guardian up front that he or she is moving the court to be appointed personal representative.

Substitute Motion: **SEN. O'NEIL** moved that **HB 340 AMENDED.**

Discussion:

CHAIRMAN GRIMES explained the motion to amend would include striking the language "upon an order of the court and" on line 5, page 2.

SEN. CROMLEY remarked the circumstances in which the question might be raised would be situations of conflict within families. This addresses a concern where a person who has been appointed a personal representative and a person who has been appointed the guardian for that person during that person's life. This bill would allow the guardian to complete his or her duties and obtain an order for the disposition of the remains. If there is a conflict between that person and other persons who would be the personal representatives, the protection section regarding the order of the court should be left in the bill.

SEN. MCGEE claimed under 72-5-231 the language states that unless otherwise limited by the court, a guardian of a minor has the powers and responsibilities of a parent. The court has already made a determination in this aspect. One of the things that would need to be considered by the court would be the fact that the person would reach a point where they are no longer living and there would be those kinds of responsibilities that a parent would normally have. Under 75-2-321, Section 3 of the bill, the language speaks to the powers and duties of a limited guardian are those specific in the order appointing the guardian. It should not be necessary to go back to the court upon the death of the individual.

SEN. WHEAT pointed out there would be a difference between a minor and an incapacitated person. The incapacitated person may very well be an adult who does not have family members. Someone may be appointed to look after their affairs. In these very limited situations, it should not be necessary to go to court to obtain an order. Also, there may be a dispute between two people who would be heirs and the guardian would be in the position of obtaining an order from the court in order to proceed.

{Tape: 3; Side: A}

SEN. CROMLEY noted a person may be appointed a guardian of an aunt because that person would be living in the same community as she did but her relatives may be the ones to make the decisions with regard to the disposal of her remains. There could be a conflict and the guardian would have an additional duty which extends beyond life. He questioned whether the guardian should be able to make the decision over the wishes of the family.

Vote: The motion failed.

Substitute Motion: **SEN. O'NEIL** moved that **HB 340 AMENDED.**

Discussion:

SEN. O'NEIL would use the same amendment with the exception of no other person being authorized to do so. The language would read: "Upon the death of a guardian's ward, the guardian, if there is no other person authorized to do so, may make necessary arrangements for the removal". This would allow anyone to go to court and receive authorization to bury their next of kin.

Ms. Lane pointed out this would go against the intent of the bill. The situation this bill addresses was a situation in which an elderly aunt had two adult sons who apparently were not very responsible and did not coordinate to make the necessary arrangements in regard to the remains of their mother. This bill was brought so that a person in that situation, who has been appointed guardian of the living person, can then go to the court and ask for a court order to take care of the remains of the body and personal belongings. There were two persons authorized to make decisions about their mother's remains.

SEN. O'NEIL withdrew his motion.

Vote: The motion carried unanimously.

ADJOURNMENT

Adjournment: 12:15 P.M.

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SEN. DUANE GRIMES, Chairman

_____
JUDY KEINTZ, Secretary

DG/JK

EXHIBIT(jus62aad)