

MINUTES

MONTANA SENATE 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN MIKE WHEAT**, on February 1, 2005 at 8:04 A.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. Mike Wheat, Chairman (D)
Sen. Brent R. Cromley (D)
Sen. Aubyn Curtiss (R)
Sen. Jesse Laslovich (D)
Sen. Jeff Mangan (D)
Sen. Dan McGee (R)
Sen. Lynda Moss (D)
Sen. Jerry O'Neil (R)
Sen. Gerald Pease (D)
Sen. Gary L. Perry (R)
Sen. Jim Shockley (R)

Members Excused: Sen. Jon Ellingson (D)

Members Absent: None.

Staff Present: Valencia Lane, Legislative Branch
Mari Prewett, Committee Secretary

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

Committee Business Summary:

Hearing & Date Posted: None.
Executive Action: SB 196, SB 200, SB 231, SB 241;
SB 251, SB 252 and SB 260

EXECUTIVE ACTION ON SB 196

CHAIRMAN WHEAT indicated that he had amendments for SB 196. The amendments were distributed to the Committee and are attached as Exhibit 1.

EXHIBIT(jus25a01)

Motion: SEN. PEASE moved that SB 196 DO PASS.

Motion: SEN. WHEAT moved that AMENDMENT SB019601.AVL BE ADOPTED.

Discussion: CHAIRMAN WHEAT explained the amendments to the Committee.

SEN. MCGEE asked if there was a different term that could be used rather than in camera. SEN. WHEAT replied that he did not think so, as this was a legal term used by the courts.

Vote: Motion that AMENDMENT NO. SB019601.AVL BE ADOPTED carried unanimously by voice vote with SEN. ELLINGSON voting aye by proxy.

Motion: SEN. MANGAN moved that SB 196 DO PASS AS AMENDED.

Discussion: SEN. SHOCKLEY and CHAIRMAN WHEAT discussed Line 25 on Page 1 regarding stipulation to an order requiring concealment of discovery information regarding hazards or hazardous conditions.

SEN. O'NEIL stated that he would be more comfortable with the idea if the wording were, "the Court may not order", rather than, "a party may not request", because he did not want to stifle the argument between attorneys during the course of the discovery process.

CHAIRMAN WHEAT responded that he did not think the language in the bill would have that effect.

SEN. O'NEIL asked CHAIRMAN WHEAT if the language in the bill would subject the parties to Rule 11 sanctions. CHAIRMAN WHEAT indicated that it would not. He went on to say, at that point they would have the right to ask for a Protective Order or plaintiff would have the right to go to the Court and ask the Court to compel the defendant to produce the documentation.

Motion: SEN. O'NEIL moved that Subsection 5 on Lines 25 and 26 of Page 1, be stricken.

SEN. ELLINGSON arrived at the Committee meeting.

Discussion: **SEN. MCGEE** asked **CHAIRMAN WHEAT** if this conceptual amendment would have a significant negative impact on the bill. **CHAIRMAN WHEAT** replied that this would send a message to the lawyers involved in this type of litigation, that they are not going to use the discovery process to hide information. He went on to say that he felt it was an important part of the bill.

Motion/Vote: **SEN. MANGAN CALLED THE QUESTION ON THE CONCEPTUAL AMENDMENT.** Motion failed 1-11 by voice vote with **SEN. O'NEIL** voting aye and **SEN. ELLINGSON** voting no by proxy.

CHAIRMAN WHEAT indicated that they were back on SB 196 as amended.

SEN. CROMLEY stated that he had certain reservations about the bill. He went on to say that he felt that SB 196 addressed more of a national problem rather than a state problem. He concluded by saying that he was not comfortable with this bill.

CHAIRMAN WHEAT indicated that he did not understand why **SEN. CROMLEY** was uncomfortable with the confidentiality aspect of the bill as it had nothing to do with confidentiality. **SEN. CROMLEY** replied that if he was defending or alleging a hazard then it would.

SEN. PERRY asked if a settlement was reached, prior to trial, if a determination of a public hazard would have been determined. **CHAIRMAN WHEAT** responded that he was right in the sense that a Judge had not stated that there was a public hazard. He went on to say that this bill would not slow down the process of settlement. He further stated that SB 196 was designed to make it a public policy that hazardous conditions would not be hidden.

SEN. PERRY referred to Page 2, Line 1, where healthcare providers were being excluded and asked how they could now exclude one type of profession over other types of professions. He further asked how they could exclude healthcare providers and not exclude pharmacists. **CHAIRMAN WHEAT** stated that it was not his intent to have SB 196 used against healthcare providers. He went on to say that was why the exception had been placed in the bill. He further stated that it was not his intent to have this bill apply to trade secrets.

SEN. PERRY asked **CHAIRMAN WHEAT** what his logic was for not having the bill apply to healthcare providers. **CHAIRMAN WHEAT** replied that his logic was that the intent of the bill was not to extend

to healthcare providers as they had asked to be excluded. He went on to explain that did not have a problem excluding them--It was done all of the time.

SEN. PERRY provided information regarding a couple of personal experiences he had encountered in his manufacturing business.

SEN. PERRY and **CHAIRMAN WHEAT** continued to discuss the ramifications of SB 196.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 29.1}

SEN. MANGAN stated that he felt SB 196 made good sense and would be good public policy to pass the bill.

SEN. SHOCKLEY indicated that if doctors were included under the bill, its chance of passage would be minimized. He went on to discuss issues that would create a small amount of impact and those issues that would create a large amount of impact.

SEN. MCGEE said that whatever they did with SB 196 it needed to protect both sides of the issue. He went on to say that it needed to address the innocent and also be able to bring to light a secret that would be covering up a public hazard. **SEN. MCGEE** continued discussing possible ways in which to prove that there was information available that there was, indeed, a hazard not just the allegation of a hazard.

SEN. CROMLEY stated that the concern was regarding the concealment of hazards in the settlement process.

SEN. ELLINGSON arrived at the Committee Meeting.

SEN. SHOCKLEY informed **SEN. MCGEE**, that if the matter went to trial there would be no need for the bill. He went on to say that the purpose of the bill was to make the evidence available when the case did not go to court.

CHAIRMAN WHEAT provided the Committee with background information so that they would better understand the purpose of SB 196.

Several members of the Committee continued to discuss SB 196 for further clarification of the intent of the bill.

SEN. PERRY expressed his concerns and opposition to SB 196.

Vote: Motion that SB 196 DO PASS AS AMENDED carried 8-4 by roll call vote with **SEN. CROMLEY**, **SEN. CURTISS**, **SEN. MCGEE**, and **SEN. PERRY** voting no.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 23.2}

EXECUTIVE ACTION ON SB 200

Motion: SEN. SHOCKLEY moved that SB 200 DO PASS.

An amendment to SB 200 was distributed to the Committee and is attached as Exhibit 2.

EXHIBIT(jus25a02)

CHAIRMAN WHEAT explained the reason for the amendment.

Motion/Vote: SEN. CROMLEY moved that AMENDMENT NO. SB020001.AVL BE ADOPTED. Motion carried.

Motion: SEN. MCGEE moved that SB 200 DO PASS AS AMENDED.

Discussion: SEN. CROMLEY asked for further explanation of the intent of SB 200.

CHAIRMAN WHEAT explained his reasons for making the appointment of the Water Judge consistent with the appointment of other judges.

SEN. MCGEE and **CHAIRMAN WHEAT** discussed the appointment process for the Water Judge under SB 200.

SEN. CURTISS talked about testimony from witnesses for the opposition and her concerns regarding the bill.

Motion/Vote: SEN. MANGAN CALLED THE QUESTION ON SB 200. Motion carried 11-1 by voice vote with SEN. CURTISS voting no. SEN. PERRY voting aye by proxy.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 8.2}

EXECUTIVE ACTION ON SB 231

Motion: SEN. LASLOVICH moved that SB 231 DO PASS.

Two amendments to SB 231 were handed out to the Committee and are attached as Exhibit 3 and Exhibit 4.

EXHIBIT(jus25a03)

EXHIBIT(jus25a04)

Motion: SEN. LASLOVICH moved that AMENDMENT NO. SB023102.AVL BE ADOPTED.

SEN. LASLOVICH explained the amendment to the Committee.

Discussion: SEN. MANGAN asked SEN. LASLOVICH if the Statute of Limitations would renew itself every six years. SEN. LASLOVICH replied that he did not think so.

Valencia Lane stated that her understanding was that the Statute of Limitations was two years. She went on to say that the Statute would begin to run every two years, however, it could not run beyond the six year limitation. She further stated that the amendment would cap how many times the Statute of Limitations could be extended. Ms. Lane indicated that at one point they had discussed the Statute of Limitations being six years with no extension, however, they decided to leave the Statute of Limitations at two years with the option of extending it for a total of six years.

SEN. SHOCKLEY asked SEN. LASLOVICH why they did not make the Statute of Limitations six years. SEN. LASLOVICH responded that originally it had been requested that the Statute of Limitations be renewable every two years. He continued saying that with that scenario every time they served the Debtor the two year statute would kick in. SEN. LASLOVICH went on to say that after SEN. MANGAN had made his suggestion he had talked with the Collectors and informed them that he felt there should be a cap on how many times the statute could be renewed.

There was a general discussion on how the service of process could be conducted and still be qualified as personal service under the law.

SEN. LASLOVICH offered a Substitute Motion that would say, "the Statute of Limitations may not extend beyond six years from the date of the original notice" and strike, "4 all of the way to the end of the sentence on Line 4 and insert, "the Statute of Limitations may not extend beyond six years from the date of the original notice"

CHAIRMAN WHEAT asked Ms. Lane if she had understood the proposed substitute amendment. Ms. Lane indicated that she could do the concept amendment, however, she would need their authority to look at the existing law and see if another section might need to be amended to conform with the new language. Ms. Lane then read the proposed conceptual amendment as it would appear in the bill.

SEN. MANGAN requested that they think about the proposed amendment more before they did anything. He went on to say that he liked the six year cap. He further stated that he was not excited about changing the Statute of Limitations from two years to six years.

CHAIRMAN WHEAT stated that he agreed with **SEN. MANGAN**. He went on to say that he liked the two year statute and he liked capping it at six years.

SEN. LASLOVICH withdrew his substitute motion.

SEN. CROMLEY expressed his agreement with **SEN. MANGAN**.

CHAIRMAN WHEAT advised the Committee that they were back on **SEN. LASLOVICH'S** original amendment SB023102.avl.

SEN. O'NEIL asked if this bill affected judgments. **CHAIRMAN WHEAT** explained that this bill did not have anything to do with judgments.

Motion/Vote: **SEN. MANGAN CALLED THE QUESTION ON AMENDMENT NO. SB023102.AVL. Motion carried 12-0 by voice vote with SEN. PERRY voting aye by proxy.**

Motion: **SEN. LASLOVICH moved that SB 231 DO PASS AS AMENDED.**

Motion: **SEN. LASLOVICH moved that AMENDMENT SB023101.AVL BE ADOPTED.**

Discussion: **SEN. LASLOVICH** explained the amendment. **SEN. LASLOVICH** proposed a conceptual amendment to item No. 6 on Amendment No. SB9023101.avl, to add the words "of court" on Page 2, Line 28.

Motion/Vote: **SEN. LASLOVICH moved that AMENDMENT NO. SB023101.AVL BE ADOPTED AS AMENDED. Motion carried 12-0 by voice vote.**

SEN. CROMLEY and **SEN. LASLOVICH** discussed **SEN. CROMLEY'S** concerns regarding SB 231.

{Tape: 2; Side: A; Approx. Time Counter: 8.2 - 28.4}

Ms. Lane provided some clarification for the bill.

SEN. MANGAN referred to Page 6, Section 7, Lines 14-20, and asked why they were taking out the notification clause. **SEN. LASLOVICH**

explained that he had been informed that the reason was that attorneys were tying up legitimate civil cases by arguing that the assignment of the debt was not performed properly.

SEN. MANGAN stated that he believed that a debtor deserved to be notified that the debt had been sold to another entity. **SEN. LASLOVICH** informed **SEN. MANGAN** that he agreed with him.

Ms. Lane indicated that she had a suggestion in how and where to put the notification requirement in. She went on to explain this conceptual amendment to the Committee.

SEN. MANGAN expressed his agreement with the proposed conceptual amendment.

SEN. MCGEE and **SEN. LASLOVICH** discussed the language of the proposed amendment and where it would be added.

Motion/Vote: **SEN. LASLOVICH** moved that the conceptual amendment to **AMENDMENT NO. SB023101.AVL** BE ADOPTED. Motion carried 12-0 by voice vote.

Motion/Vote: **SEN. LASLOVICH** moved that **AMENDMENT NO. SB023101.AVL** BE ADOPTED AS AMENDED. Motion carried 12-0 by voice vote.

Motion: **SEN. LASLOVICH** moved that **SB 231** DO PASS AS AMENDED.

Discussion: **SEN. CROMLEY** stated that he would like more information as to why they needed to pass **SB 231**. **SEN. LASLOVICH** indicated that he could walk the Committee through the bill and explain it.

SEN. SHOCKLEY asked **SEN. LASLOVICH** if this was the bill Michael Moore of Missoula had supported. **SEN. LASLOVICH** responded that it was. **SEN. SHOCKLEY** remarked that he would support the bill.

CHAIRMAN WHEAT asked **SEN. CROMLEY** if he would like **SEN. LASLOVICH** to go through the bill section by section. **SEN. CROMLEY** stated that it was not necessary to do that. **CHAIRMAN WHEAT** suggested that **SEN. LASLOVICH** give a general explanation why he thought the bill was needed. **SEN. LASLOVICH** stated that the reason the bill had been brought forward was that there had been problems with certain Justices of the Peace in the State regarding service of process. He proceeded to talk about several sections of the bill and the problems related to service of process under those sections.

SEN. MANGAN expressed his concerns and support for SB 231.

SEN. PERRY asked if they were in effect making it a six year Statute of Limitations. **CHAIRMAN WHEAT** replied that was true, however, in order to do so it would have to be renewed every two years.

SEN. MANGAN clarified how the renewal of the Statute of Limitations could be used and the fact that the Statute would sunset at the end of six years.

CHAIRMAN WHEAT explained that in order for the six year limitation to be in effect, the statute would have to be renewed every two years or it would be gone.

Vote: Motion that SB 231 DO PASS AS AMENDED carried 7-5 by voice vote with **SEN. CROMLEY**, **SEN. CURTISS**, **SEN. MCGEE**, **SEN. PERRY**, and **SEN. WHEAT** voting no.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 19.3}

SEN. WHEAT left to present a bill. **SEN. CROMLEY** assumed the chair.

EXECUTIVE ACTION ON SB 241

Motion: **SEN. LASLOVICH** moved that SB 241 DO PASS.

Two amendments to SB 241 were distributed to the Committee and are attached as Exhibit 5 and Exhibit 6.

[EXHIBIT\(jus25a05\)](#)

[EXHIBIT\(jus25a06\)](#)

Motion: **SEN. O'NEIL** moved that AMENDMENT NO. SB024101.AVL BE ADOPTED.

Discussion: **SEN. O'NEIL** explained his amendment to the Committee.

SEN. CROMLEY read the bill as it would read with the proposed amendment.

SEN. MANGAN asked **SEN. O'NEIL** if he was talking about the individual as originally agreed to by the parties to do the parenting plan or was he talking about the agreement by the parties as to the level of the dispute. **SEN. O'NEIL** stated that

he was talking about the agreement by the parties to have the psychiatrist to do the parenting plan.

SEN. CROMLEY indicated that the Court would appoint the psychiatrist but the parties could agree to it also. He went on to say, with **SEN. O'NEIL'S** amendment, if the parties agreed they would not be able to litigate findings if they did not like them.

SEN. SHOCKLEY indicated that the person retained to do the evaluation was very important, therefore, if the other party did not agree there would be a problem.

SEN. MANGAN indicated that he did not disagree, he just wasn't sure they were putting the amendment in the right place.

There was a general discussion in the Committee as to how the amendment would affect the bill.

Valencia Lane proposed language for the amendment which would make the intent clearer.

{Tape: 2; Side: B; Approx. Time Counter: 19.3 - 26.3}

Motion/Vote: **SEN. SHOCKLEY** moved that the **SUBSTITUTE AMENDMENT BE ADOPTED**. Motion carried 11-1 by voice vote with **SEN. MANGAN** voting no with **SEN. WHEAT** voting aye by proxy.

Motion: **SEN. MCGEE** moved that **HB 241 DO PASS AS AMENDED**.

Motion: **SEN. LASLOVICH** moved that **AMENDMENT NO. SB024102.AVL BE ADOPTED**.

SEN. LASLOVICH explained Amendment No. SB024102.avl.

Vote: Motion that **AMENDMENT NO. SB024102.AVL BE ADOPTED** carried 12-0 by voice vote with **SEN. WHEAT** voting aye by proxy.

Motion: **SEN. MCGEE** moved that **SB 241 DO PASS AS AMENDED**.

Discussion: **SEN. MANGAN** asked if they had ever gotten a total number of parenting plans done, the number of psychologists involved and the number of complaints. **SEN. CROMLEY** deferred to **Marti Wangen, with the Montana Psychological Association**, for an answer. **Ms. Wangen** replied that they were not able to get any numbers from the court. She went on to say what they had done was survey their members for when they were asked to do these cases and how many they had done. She stated that what they had

been able to obtain from their membership was 36 cases in 2003 and 29 cases in 2004.

SEN. MANGAN then asked **Ms. Wangen** if they had 36 cases last year, how many complaints had they received. **Ms. Wangen** stated that the complaints were not just for 2004, they went back several years.

SEN. MANGAN indicated that if they did not have specific answers to his question, it would not be any help.

SEN. CROMLEY asked **Ms. Wangen** if her referral to 36 cases was 36 appointments. **Ms. Wangen** responded that he was correct.

SEN. CROMLEY then asked **Ms. Wangen** if she knew how many of the cases from both parties had agreed to the appointment. **Ms. Wangen** replied that according to the psychologists that had testified, all of the parties had agreed to the appointments.

SEN. CROMLEY indicated that he did not see where the bill would accomplish much.

SEN. PERRY asked if this was a little bit like saying that a person would have to get permission from a court in order to file a medical malpractice claim against a doctor. **SEN. MANGAN** stated that he did not believe so. He then provided an appropriate analogy to clarify the intent of the bill. **SEN. MANGAN** stated that what the bill was saying was that they wanted the psychiatrists to be involved in the process, they needed some extra protection.

SEN. SHOCKLEY commented on medical malpractice claims and how they were handled. He then explained that if a party did file a complaint with a Judge and the Judge said no, the party would still be able to sue.

SEN. MCGEE stated that since both parties would have already agreed to the appointment of the psychologist he did not have a problem with the psychologists having some protection.

SEN. SHOCKLEY stated that the argument against the bill was that just because someone had agreed to a person to do the job, if they did not like the conclusion of that individual, they would still be able to complain to the board that the job was done incompetently.

SEN. CROMLEY explained that his main concern with the bill was the conflict issue.

SEN. O'NEIL stated that the party filing the complaint would have to show some pretty compelling evidence before a Judge would go against the decision. He further stated that from the testimony they had received, it did not look like the psychologists who did do the evaluations did not care one way or the other whether the bill passed or not.

SEN. SHOCKLEY stated that parenting plans were very subjective and the person paying the bill had the best chance of the getting the more favorable decision.

SEN. PERRY asked **SEN. CROMLEY** if he was supporting the bill or opposing the bill. **SEN. CROMLEY** replied that he opposed the bill.

Motion/Vote: **SEN. SHOCKLEY** moved that SB 241 DO PASS AS AMENDED. Motion failed 4-8 by roll call vote with **SEN. CURTISS**, **SEN. LASLOVICH**, **SEN. O'NEIL**, and **SEN. SHOCKLEY** voting aye with **SEN. WHEAT** and **SEN. ELLINGSON** voting aye by proxy.

Motion: **SEN. MANGAN** moved that SB 241 BE TABLED AND THE VOTE REVERSED.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 14.5}

EXECUTIVE ACTION ON SB 251

Motion: **SEN. O'NEIL** moved that SB 251 DO PASS.

Discussion: **SEN. O'NEIL** moved to amend the bill to say, "if a jury trial has been timely requested." He then explained the reason for, and the intent of, this amendment.

Motion: **SEN. O'NEIL** moved that his CONCEPTUAL AMENDMENT BE ADOPTED.

Discussion: **SEN. CROMLEY** read the bill as it would read if it were amended. **SEN. CROMLEY** stated he felt that this was a good amendment and encouraged the Committee's support.

Motion/Vote: **SEN. MANGAN** CALLED THE QUESTION ON THE CONCEPTUAL AMENDMENT. Motion carried 12-0 by voice vote with **SEN. WHEAT** voting aye by proxy.

Motion: **SEN. O'NEIL** moved that SB 251 DO PASS AS AMENDED.

Discussion: **SEN. O'NEIL** explained the intent of SB 251 as amended.

SEN. SHOCKLEY stated that at first he had been against the bill, however, he did realize the lack of expertise in the Justices of the Peace was quite extensive. He went on to say that **SEN. O'NEIL** had satisfied him that there was a need for SB 251.

SEN. CROMLEY referred to Section 2 and indicated that he felt the bill only dealt with appeals from the district court to the Supreme Court.

SEN. O'NEIL made a motion to change the bill to apply to the lower courts also.

SEN. SHOCKLEY replied that it should apply only to the lower courts.

SEN. CROMLEY questioned the motion as it would make SB 251 a new bill.

Valencia Lane indicated that the title was broad enough to allow the change.

SEN. MCGEE stated that he felt that the title would be broad enough to change the bill to include the Justice Courts. He asked if they changed the codification so that it did not refer to Chapter 12, then what Chapter would it refer to.

Valencia Lane responded that she was not sure, therefore, she would need time to do it right.

SEN. MCGEE suggested not taking action on the bill until there had been time to work on the conceptual amendment.

SEN. CROMLEY stated that he did not have a problem with the suggestion other than it would create a new bill and in that case he would like to hear from the Justices of the Peace and attorneys, so he would like to see another hearing on the bill.

SEN. SHOCKLEY indicated that he did not want to have another hearing.

SEN. O'NEIL asked how the Committee would feel about deleting Section 2 from the bill.

Valencia Lane stated that it would not be a good idea as it was an important section.

SEN. O'NEIL withdrew his DO PASS MOTION and action of the bill was suspended.

{Tape: 3; Side: A; Approx. Time Counter: 14.5 - 25.7}

EXECUTIVE ACTION ON SB 252

Motion: SEN. O'NEIL moved that SB 252 DO PASS.

Motion/Vote: SEN. MANGAN moved that SB 252 BE TABLED. Motion failed 6-6 by roll call vote with SEN. CROMLEY, SEN. ELLINGSON, SEN. MANGAN, SEN. MOSS, and SEN. PEASE, voting aye with SEN. WHEAT voting aye by proxy.

Motion: SEN. O'NEIL moved that SB 252 DO PASS.

Discussion: SEN. O'NEIL explained the intent of SB 252.

SEN. ELLINGSON stated that although he understood what SEN. O'NEIL was trying to do, he did not think that SB 252 would solve the problem and explained why he felt that way.

SEN. CROMLEY explained his reasons for opposing SB 252.

Motion/Vote: SEN. LASLOVICH moved that SB 252 BE TABLED. Motion carried. SEN. WHEAT and SEN. SHOCKLEY voting aye to table by proxy.

{Tape: 3; Side: B; Approx. Time Counter: 0 - 12.3}

EXECUTIVE ACTION ON SB 260

Motion: SEN. PERRY moved that SB 260 DO PASS.

Discussion: SEN. PERRY explained the purpose of SB 260.

SEN. ELLINGSON asked SEN. PERRY if SB 260 was only going to be applied to administrative hearings. SEN. PERRY responded that he was correct.

SEN. CROMLEY expressed his concerns regarding SB 260.

SEN. MCGEE stated that he would vote in favor of the bill because of the adage of justice delayed being justice denied.

SEN. O'NEIL stated that he felt it was a good bill.

SEN. MANGAN stated that he felt the bill needed a fiscal note attached to it.

SEN. O'NEIL referred to Line 21 and asked **SEN. PERRY** what the penalty would be for a party not being present at the hearing. **SEN. PERRY** replied that if they were not present they would be waiving their rights.

SEN. O'NEIL and **SEN. PERRY** further discussed the matter of the waiving of an individual's rights should they not appear at the hearing and whether or not there was a requirement regarding providing notice of the hearing.

SEN. CROMLEY and **SEN. PERRY** discussed the time limits for requiring that decisions be completed and what would happen if they were not done within that timeframe.

{Tape: 3; Side: B; Approx. Time Counter: 12.3 - 23.7}

SEN. MOSS commented on the testimony presented by the informational witnesses and asked **SEN. PERRY** to address the concerns of these individuals.

SEN. PERRY stated that by requiring final decisions to be completed within 90 days after the hearing, he was attempting to put time constraints on actions being concluded.

SEN. MOSS and **SEN. PERRY** continued to discuss the time constraints that would be implemented should SB 260 pass.

SEN. PERRY explained that if the written decision was issued within the 90 day timeframe, the attorney would know when an appeal would need to be filed.

SEN. CROMLEY indicated that his only real objection to the bill was to the imposition of the time limits.

Motion/Vote: **SEN. MANGAN CALLED THE QUESTION ON SB 260. Motion carried 7-5 by roll call vote with SEN. CROMLEY, SEN. ELLINGSON, SEN. LASLOVICH, SEN. MANGAN, and SEN. WHEAT voting no. SEN. WHEAT and SEN. ELLINGSON voting no by proxy.**

ADJOURNMENT

Adjournment: 10:45 A.M.

SEN. MIKE WHEAT, Chairman

MARI PREWETT, Secretary

MW/mp

Additional Exhibits:

EXHIBIT ([jus25aad0.PDF](#))