

**CONTINUED ON BACK**

#

HB 424

Third Reading

Date

2-19-75

## Roll Call of the House

of the

FORTY-THIRD LEGISLATURE

Of Wyoming

	Ayes	Noes	Excused	Absent		Ayes	Noes	Excused	Absent
63 ARNEY	✓				28 McMILLAN	✓			
62 BOUCHER	✓				27 MEENAN	✓			
61 BUCK		✓			26 MOCKLER	✓			
60 BURNETT		✓			25 MORTON	✓			
59 BUTTERFIELD		✓			24 O'NEIL	✓			
58 CHASTEEN		✓			23 ORRISON	✓			
57 COFFMAN	✓				22 OSLUND	✓			
56 COPENHAVER	✓				21 PARKS	✓			
55 CRANFILL		✓			20 PETERAL	✓			
54 CREWS	✓				19 PROFFIT	✓			
53 CROSS	✓				18 PROSSER	✓			
52 CURRY	✓				17 ROTH	✓	✓		
51 DONLEY	✓		✓		16 SALISBURY	✓			
50 DOWNING	✓				15 SCHWOPE	✓	✓		
49 EDWARDS	✓				14 SCOTT	✓			
48 ENGEN	✓				13 SIDI	✓			
47 ESKENS	✓				12 SIMPSON	✓			
46 FLEISCHLI	✓				11 SMITH	✓			
45 FRISBY	✓				10 SMYTH	✓	✓		
44 GEESEY	✓				9 STEWART	✓			
43 A. GRAHAM	✓				8 TRUE	✓			
42 L. GRAHAM	✓	✓			7 URBIGKIT	✓	✓		
41 HANSEN	✓				6 VAN VELZOR	✓	✓		
40 HELLBAUM	✓				5 VINICH	✓			
39 HOLLAND	✓				4 WILKINS	✓			
38 HUNTER	✓				3 ZIMMER	✓			
37 HURSH	✓				2 ZUMBRUNNEN	✓			
36 JENNINGS	✓				1 MR. SPEAKER	✓			
35 JENSEN	✓				PRESENT..... <div>             AYES ..... 49              NOES ..... 12              EXCUSED ..... 1              ABSENT .....              TOTAL ..... 62              LESS .....           </div>				
34 JOHNSON	✓	✓							
33 JONES	✓	✓							
32 KINNAMAN	✓								
31 LEEDY	✓								
30 McCARTHY	✓								
29 McDANIEL	✓								

**INTRODUCED**

1975

STATE OF WYOMING

75LSO-556.01

HOUSE BILL NO. 424

Justices of the peace.

Sponsored by: Representative HOLLAND

*Walter M. Puffer*

*Ann G. Gentry*

A BILL

for

1 AN ACT to create W.S. 5-99.24; and to amend W.S. 5-85 and  
2 5-99.7 relating to justices of the peace; providing  
3 appeals from justice of the peace courts shall be heard on  
4 trial de novo; providing that the county commissioner's  
5 shall determine the number of justices; limiting the  
6 supervisory powers of the supreme court; and providing an  
7 effective date.

8 Be It Enacted by the Legislature of the State of Wyoming:

9 Section 1. W.S. 5-99.24 is created to read:

10 5-99.24. Appeals from justice of the peace court.  
11 Any appeal of a civil or criminal nature from a justice of  
12 the peace court shall be heard by a district court as if  
13 no trial whatever had been had in the justice of the peace  
14 court.

15 Section 2. W.S. 5-85 and 5-99.7 are amended to read:

1           5-85. Determination of number of justices.   There  
2 shall be elected or appointed, as by law provided, in each  
3 county, such number of justices of the peace as the  
4 ~~Supreme-Court-of--Wyoming~~ COUNTY COMMISSIONERS OF EACH  
5 COUNTY shall determine~~7-by-order-of-the-court7~~, from time  
6 to time. ~~Such-determination-shall-be-based-upon--criteria~~  
7 ~~established--by--the--Supreme-Court-of-Wyoming7-which-criteria~~  
8 ~~shall-include-assessed-valuation-and--population--of~~  
9 ~~the-county7-as-well-as-work-load-for-the-justice-courts.~~

10           5-99.7. Supreme court vested with supervisory  
11 powers; establishment of procedures, regulations, fees and  
12 costs. The supreme court of Wyoming is hereby vested with  
13 supervisory powers over the justice courts of the state of  
14 Wyoming, ~~and-shall7-by-rule-of~~ EXCEPT THE SUPREME COURT  
15 SHALL NOT HAVE SUPERVISORY POWERS OVER THE QUALIFICATIONS,  
16 RESIDENCY, TERRITORIAL OR OTHER JURISDICTION OR AVAILABIL-  
17 ITY OF JUSTICES OF THE PEACE. The supreme court7 SHALL  
18 establish procedures and regulations for the effective and  
19 expeditious administration of the business of the justice  
20 court system of the state and shall establish fees and  
21 costs for ~~said~~ THE courts.

1           Section 3. This act is effective immediately upon  
2    passage.

3 (END)

23 Counties - only 9 share a facility

## Governor's Planning Committee Funds AVAILABLE

Omnibus Crime Fund	1972 -	\$ 44,000	AVAILABLE
	73 -	\$ 86,472	
	74 -	\$ 95,500 -	USED \$ 27,500

	Omnibus	
Sharing	50%	FEDERAL
	20%	State
	30%	Local

Other Funds AVAILABLE through  
new Community Development Act →  
Rural Impact →

Supreme Court of Wyoming  
Cheyenne, Wyoming 82001

OFFICE OF THE COURT COORDINATOR



February 20, 1975

Senator Percy T. Davis, Chairman  
Corporations, Elections and  
Political Subdivision Committee

Dear Senator Davis:

H. B. 424 has been referred to your committee, having passed the House yesterday by a vote of 49 ayes, 12 noes.

As Court Coordinator I have been working with the Supreme Court writing rules of procedure for Minor Courts. The legislative authority for the rules is found in Sec. 5-99.7, W.S. 1957, which was passed by the 1971 session and provides an effective date of January 1, 1975.

One of the innovations established by the rules for the effective and expeditious administration of justice courts is to up-grade those courts by providing procedural rules similar to District Court rules. They are designed to provide trials in the Minor Courts as efficient and affording the same due process as District Courts provide.

Before these rules were promulgated it was found, for example, that one convicted of driving while under the influence in a Minor Court would appeal to the District Court and there enjoy another jury trial on the same offense. Under the new rules his appeal would be heard by the District Court from a record of the testimony given in justice court taken either stenographically or electronically. Consistent with the latter thought L.E.A.A. assisted the Supreme Court in funding approximately \$20,000.00 to purchase tape recorders for each justice. These are now in use and have been favorably received. The jury panels for justice courts will be drawn from the same box now used in District Courts.

Senator Percy T. Davis  
February 20, 1975  
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Section 1 of H. B. 424 destroys this innovation by providing appeals shall be heard "as if no trial whatever had been had in justice" court.

We are opposed to that section and hope your committee will be too. The new rules should be given a chance to succeed. They have been in force less than two (2) months. If it is found that they are not working properly, the Court or the next session of the legislature can amend them.

Section 2 of H. B. 424 amends Sec. 5-85, W.S. 1957, (as amended in 1971) by returning the determination of number of justices of the peace to the County Commissioners. The 1971 Legislature was aware that several counties had too many justices of the peace. The Court fixed the number so that half of the counties now have one justice and the others have two justices. Sweetwater and Fremont Commissioners for good cause requested an additional two, which the court granted. If other counties find a necessity and desire to pay the salaries now prescribed by Sec. 5-99.5, W.S. 1957, as well as the accouterments provided in Secs. 5-99.11 and 5-99.12, W.S. 1957, and show good cause, the Court will certainly consider the request for additional courts. Again the new regulations should be given a chance to work.

H. B. 424 also seeks to limit the 1971 vested powers of the Court by eliminating supervisory power over qualifications of justices of the peace, by amending Sec. 5-99.7, W.S. 1957. The author and the House overlooked Sec. 5-99.1 and 5-99.2 of the 1971 law. The qualifications and supervisory power of the Court are spelled out in those sections.

Residency and availability of the justices are also to be eliminated from supervision by the Court by H. B. 424. A copy of the administrative order touching on those subjects is self-explanatory and found in the enclosure as Administrative Rules 2 and 3. We do not consider these requirements unreasonable and have had only two occasions in which they were questioned on hardship cases and the Court took care of those.



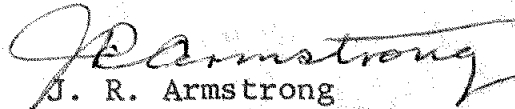
Senator Percy T. Davis  
February 20, 1975  
Page Three

The same eliminating section talks about "territorial or other jurisdiction" of justices of the peace. I have difficulty understanding that. The rules do not change any type of jurisdiction. They do provide that one justice of the peace may hold court for another even in a different county, but this is prescribed by Sec. 5-99.10, W.S. 1957, which H. B. 424 does not amend.

The rules have been printed and I am enclosing a copy of them.

If your committee desires, I am more than ready, willing and able to appear and answer any questions I can. I really would like to see a "Do Not Pass" on your report to the Senate.

Sincerely,

  
J. R. Armstrong  
Court Coordinator

JRA:mli

cc: Senator Searl  
Senator Kimball  
Senator Hitchcock  
Senator Sedar

The Governor's Planning Committee on Criminal Administration does, however, endorse the concept of mandatory minimum standards for local jails and detention facilities coupled with a regular program of inspection and certification of local facilities. This, of course, is one element of the proposed Human Services bill.

Generally speaking, Wyoming jails are in less than adequate condition. A survey conducted by the Governor's Planning Committee on Criminal Administration during the summer of 1974 revealed that 53% of the jails were in fair to poor condition; while only 47% of the jails were in good to excellent condition. A similar survey conducted during 1970 indicated that 40% of the jails in Wyoming were built before 1940 (three were constructed in the late 1800's) and 75% had never been remodeled. According to the 1974 survey, more than 30% of the 46 jails in Wyoming lack separate facilities for juvenile offenders. Four jails had no juvenile facilities whatsoever. Twenty-five percent of the living units surveyed in 1974 had no immediate access to shower or bathing facilities. Of the 306 cells or other living units, nearly 10% lacked toilet facilities, and almost 18% have no wash basins.

Wyoming jails also operate with extremely limited supervision. Of the jails surveyed in 1974, only 30% had a full-time jailor regularly on duty and only 52% of the jails had 24-hour supervision.

An opinion survey of 143 directors of Wyoming criminal justice agencies conducted in 1974 ranked local jail facilities as the second most serious problem facing the criminal justice system. More than 90% of those surveyed favored mandatory jail standards.

The generally poor condition of jail facilities in Wyoming may in a large part be attributed to the lack of any standards for the construction and administration of jails. The State of Wyoming is one of only thirteen states without any statutes whatever authorizing standards, inspections and enforcement for jails and juvenile detention centers. The county or city jail is in most cases a concealed and seldom talked about community institution. The only time jails come to the attention of the public is when there is a riot, an escape, an inmate death or staff wrongdoing. Even then, the lack of enforceable standards provides no incentive for local decision makers to appropriate the necessary financial resources for required improvements. The National Advisory Commission on Criminal Justice Standards and Goals in 1973 recommended that "State legislators should immediately authorize the formulation of state standards for correctional facilities and operational procedures and state inspection to insure compliance." This position is also endorsed by the Advisory Commission on Intergovernmental Relations (1971), the American Correctional Association (1966), the National Governors Conference (1972), and the American

Bar Association (1973). County and city jails have far more contact with criminal offenders than all state correctional institutions combined. It is necessary that standards for their operation be implemented immediately.

Should it be the decision of the Legislature not to pursue the full scope of the proposed Department of Human Services, it is the sincere hope of the Governor's Planning Committee on Criminal Administration that those aspects of the bill dealing with local jails will be retained and acted favorably upon. If desired, alternate legislation dealing directly with the issue of jail standards has been drafted and is available for possible introduction and consideration.

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