### HOUSE BILL NO. 920

## INTRODUCED BY DARKO, J. BROWN BY REQUEST OF THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

	IN THE HOUSE
FEBRUARY 18, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 22, 1991	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 23, 1991	PRINTING REPORT.
FEBRUARY 25, 1991	SECOND READING, DO PASS.
	ENGROSSING REPORT.
FEBRUARY 26, 1991	THIRD READING, PASSED. AYES, 96; NOES, 2.
	TRANSMITTED TO SENATE.
	IN THE SENATE
FEBRUARY 26, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
FEBRUARY 26, 1991	
FEBRUARY 26, 1991  MARCH 13, 1991	ON JUDICIARY.
	ON JUDICIARY.  FIRST READING.  COMMITTEE RECOMMEND BILL BE
MARCH 13, 1991	ON JUDICIARY.  FIRST READING.  COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 13, 1991 MARCH 16, 1991	ON JUDICIARY.  FIRST READING.  COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.  SECOND READING, CONCURRED IN.  THIRD READING, CONCURRED IN.
MARCH 13, 1991 MARCH 16, 1991	ON JUDICIARY.  FIRST READING.  COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.  SECOND READING, CONCURRED IN.  THIRD READING, CONCURRED IN.  AYES, 49; NOES, 0.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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1	Hause BILL NO. 920
2	INTRODUCED BY Marks John
3	BY REQUEST OF THE DEPARTMENT OF
4	SOCIAL AND REHABILITATION SERVICES
5	
6	A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE PATERNITY
7	STATUTE OF LIMITATIONS TO RETROACTIVELY REVIVE ACTIONS THAT
8	WERE BARRED OR COULD HAVE BEEN BARRED BY A SHORTER
9	LIMITATION PERIOD; AMENDING SECTION 40-6-108, MCA; AND
.0	PROVIDING AN IMMEDIATE EFFECTIVE DATE."
1	
. 2	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
L <b>3</b>	Section 1. Section 40-6-108, MCA, is amended to read:
14	"40-6-108. Statute of limitations. (1) An action may be
1.5	commenced:
16	(a) at any time for the purpose of declaring the
17	existence of the father and child relationship presumed
18	under subsection (a), (b), or (c) of 40-6-105(1);
19	(b) for the purpose of declaring the nonexistence of
20	the father and child relationship presumed under subsection
21	(a), (b), or (c) of $40-6-105(1)$ , only if the action is
	brought within a reasonable time after obtaining knowledge
22	of relevant facts, but not later than 5 years after the
23	
24	child's birth.  (2) After the presumption has been rebutted, paternity
25	(2) After the presumption has been reducted, pacernic

1	of the child by another man may be determined in the same
2	action if he has been made a party.
3	(3) An action to determine the existence of
4	nonexistence of the father and child relationship as to
5	child who has no presumed father under 40-6-105:
6	(a) may not be brought by the child later than 2 year
7	after the child attains the age of majority;
8	(b) may be brought by a state agency at any time afte
9	the first application is made under Title IV-D of the Socia
. 0	Security Act for services to the child and before the chil
.1	attains the age of majority. This subsection is intended t
. 2	apply retroactively, within the meaning of 1-2-109, to an
13	child for whom a paternity action was barred or could hav
. 4	been barred by a shorter limitation period. However, i
.5	previously barred actions that are revived by thi
۱6	subsection, the father shall have no liability to the stat
L7	agency for support of the child.
18	(4) The father's liability for a statutory debt create
19	by the payment of public assistance is limited to the amour
20	of assistance paid during the 2-year period preceding
21	commencement of the action. This subsection does not limi

the subsequent accrual of a statutory debt.

(5) Sections 40-6-107 and 40-6-108 do not extend the

INTRODUCED BILL

time within which a right of inheritance or a right to a succession may be asserted beyond the time provided by law

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and the first the control of the con

- relating to distribution and closing of decedents' estates or to the determination of heirship or otherwise.
- 3 (6) After the conclusion of an adoption proceeding
  4 under chapter 8, Title 40, no further action to declare the
  5 existence or nonexistence of the father and child
  6 relationship of the adopted child may be commenced, except
  7 as provided in 40-8-112."
- 8 <u>NEW SECTION.</u> Section 2. Effective date. [This act] is
   9 effective on passage and approval.

### STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0920, as introduced.

#### DESCRIPTION OF PROPOSED LEGISLATION:

An act amending the paternity statute of limitations to retroactively revive actions that were barred or could have been barred by a shorter limitation period; amending Section 40-6-108, MCA; and providing an immediate effective date.

#### ASSUMPTIONS:

- 1. Approximately 200 cases may be reopened to pursue child support paternity.
- 2. The workload will be absorbed in the recommended budget.

#### FISCAL IMPACT:

None.

ROD SUNDSTED. BUDGET DIRECTOR

Office of Budget and Frogram Planning

PAULA A. DARKO, PRIMARY SPONSOR

Fiscal Note for HBC 20, as introduced

# APPROVED BY COMMITTEE ON JUDICIARY

1	Hause BILL NO. 920
2	INTRODUCED BY Marko Wiles
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20	the father and child relationship presumed under subsection
21	(a), (b), or (c) of $40-6-105(1)$ , only if the action is
22	brought within a reasonable time after obtaining knowledge
23	of relevant facts, but not later than 5 years after the
24	child's birth.
26	(2) After the programming has been rejutted. Date: NitV

of the child by another man may be determined in the same action if he has been made a party.

- 3 (3) An action to determine the existence or 4 nonexistence of the father and child relationship as to a 5 child who has no presumed father under 40-6-105:
- 6 (a) may not be brought by the child later than 2 years 7 after the child attains the age of majority;

(b) may be brought by a state agency at any time after

- 9 the first application is made under Title IV-D of the Social
  10 Security Act for services to the child and before the child
  11 attains the age of majority. This subsection is intended to
- apply retroactively, within the meaning of 1-2-109, to any
- child for whom a paternity action was barred or could have
- been barred by a shorter limitation period. However, in previously barred actions that are revived by this
- 16 subsection, the father shall have no liability to the state
- 17 agency for support of the child.

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- 18 (4) The father's liability for a statutory debt created 19 by the payment of public assistance is limited to the amount 20 of assistance paid during the 2-year period preceding
- 21 commencement of the action. This subsection does not limit
- 22 the subsequent accrual of a statutory debt.
- 23 (5) Sections 40-6-107 and 40-6-108 do not extend the
  - time within which a right of inheritance or a right to a
- 25 succession may be asserted beyond the time provided by law

- relating to distribution and closing of decedents' estates
  or to the determination of heirship or otherwise.
- 3 (6) After the conclusion of an adoption proceeding 4 under chapter 8, Title 40, no further action to declare the 5 existence or nonexistence of the father and child
- 6 relationship of the adopted child may be commenced, except
- 7 as provided in 40-8-112."
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14 15	<b>*40-6-108. Statute of limitations.</b> (1) An action may be commenced:
14 15 16	<pre>"40-6-108. Statute of limitations. (1) An action may be commenced:     (a) at any time for the purpose of declaring the</pre>
14 15 16	<pre>"40-6-108. Statute of limitations. (1) An action may be commenced:     (a) at any time for the purpose of declaring the existence of the father and child relationship presumed</pre>
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(2) After the presumption has been rebutted, paternity

	of	the	child	bу	another	man	may	be	determined	i n	the	same
!	act	ion i	f he ha	s be	en made	a pa	artv.	_				

- 3 (3) An action to determine the existence or 4 nonexistence of the father and child relationship as to a 5 child who has no presumed father under 40-6-105:
  - (a) may not be brought by the child later than 2 yearsafter the child attains the age of majority;

(b) may be brought by a state agency at any time after

- the first application is made under Title IV-D of the Social 10 Security Act for services to the child and before the child 11 attains the age of majority. This subsection is intended to 12 apply retroactively, within the meaning of 1-2-109, to any 13 child for whom a paternity action was barred or could have 14 been barred by a shorter limitation period. However, in 15 previously barred actions that are revived by this 16 subsection, the father shall have no liability to the state 17 agency for support of the child.
  - (4) The father's liability for a statutory debt created by the payment of public assistance is limited to the amount of assistance paid during the 2-year period preceding commencement of the action. This subsection does not limit the subsequent accrual of a statutory debt.
  - (5) Sections 40-6-107 and 40-6-108 do not extend the time within which a right of inheritance or a right to a succession may be asserted beyond the time provided by law THIRD READING

- 1 relating to distribution and closing of decedents' estates
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- 3 (6) After the conclusion of an adoption proceeding
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52nd Legislature HB 0920/02

HB 0920/02

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-2-

Montana Legislative Council

#### HB 0920/02

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