

1 HOUSE BILL NO. 920
 2 INTRODUCED BY Slarks
 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
 10 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 **Section 1.** Section 40-6-108, MCA, is amended to read:

14 **"40-6-108. Statute of limitations.** (1) An action may be
 15 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
 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.

25 (2) After the presumption has been rebutted, paternity

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 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;

8 (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
 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.

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

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1 relating to distribution and closing of decedents' estates
2 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 NEW SECTION. Section 2. Effective date. [This act] is
9 effective on passage and approval.

-End-

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 DATE
Office of Budget and Program Planning 2/22/91



PAULA A. DARKO, PRIMARY SPONSOR DATE
Fiscal Note for HB0920, as introduced 2/25/91
HB 920

APPROVED BY COMMITTEE
ON JUDICIARY

1 House BILL NO. 920
2 INTRODUCED BY Marko Niemi
3 BY REQUEST OF THE DEPARTMENT OF
4 SOCIAL AND REHABILITATION SERVICES
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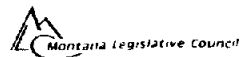
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SECOND READING

HB 920



LC 1232/01

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