

1 *Senate* BILL NO. *308*
 2 INTRODUCED BY *Eck*
 3 BY REQUEST OF THE DEPARTMENT
 4 OF FAMILY SERVICES

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE ADVANCED
 7 AGE FROM THE DEFINITION OF "INCAPACITATED PERSON" FOR
 8 PURPOSES OF THE LAW RELATING TO GUARDIANSHIP AND
 9 CONSERVATORSHIP; AMENDING SECTION 72-5-101, 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 72-5-101, MCA, is amended to read:

14 "72-5-101. Definitions. Unless otherwise apparent from
 15 the context, in this code the following definitions apply:

16 (1) "Incapacitated person" means any person who is
 17 impaired by reason of mental illness, mental deficiency,
 18 physical illness or disability, ~~advanced-age~~, chronic use of
 19 drugs, chronic intoxication, or other cause (except
 20 minority) to the extent that he lacks sufficient
 21 understanding or capacity to make or communicate responsible
 22 decisions concerning his person or which cause has so
 23 impaired the person's judgment that he is incapable of
 24 realizing and making a rational decision with respect to his
 25 need for treatment.

1 (2) "Protective proceeding" means a proceeding under
 2 the provisions of 72-5-409 to determine that a person cannot
 3 effectively manage or apply his estate to necessary ends,
 4 either because he lacks the ability or is otherwise
 5 inconvenienced or because he is a minor, and to secure
 6 administration of his estate by a conservator or other
 7 appropriate relief.

8 (3) "Protected person" means a minor or other person
 9 for whom a conservator has been appointed or other
 10 protective order has been made.

11 (4) "Ward" means a person for whom a guardian has been
 12 appointed. A "minor ward" is a minor for whom a guardian has
 13 been appointed solely because of minority."

14 NEW SECTION. **Section 2.** Effective date. [This act] is
 15 effective on passage and approval.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Senate BILL NO. *308*
INTRODUCED BY *Eck* *Shay* *Johnson* *Opp* *Feilberg*
BY REQUEST OF THE DEPARTMENT
OF FAMILY SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE ADVANCED AGE FROM THE DEFINITION OF "INCAPACITATED PERSON" FOR PURPOSES OF THE LAW RELATING TO GUARDIANSHIP AND CONSERVATORSHIP; AMENDING SECTION 72-5-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 72-5-101, MCA, is amended to read:

"72-5-101. Definitions. Unless otherwise apparent from the context, in this code the following definitions apply:

(1) "Incapacitated person" means any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, ~~advanced-age~~ chronic use of drugs, chronic intoxication, or other cause (except minority) to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person or which cause has so impaired the person's judgment that he is incapable of realizing and making a rational decision with respect to his need for treatment.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15

(2) "Protective proceeding" means a proceeding under the provisions of 72-5-409 to determine that a person cannot effectively manage or apply his estate to necessary ends, either because he lacks the ability or is otherwise inconvenienced or because he is a minor, and to secure administration of his estate by a conservator or other appropriate relief.

(3) "Protected person" means a minor or other person for whom a conservator has been appointed or other protective order has been made.

(4) "Ward" means a person for whom a guardian has been appointed. A "minor ward" is a minor for whom a guardian has been appointed solely because of minority."

NEW SECTION. **Section 2.** Effective date. [This act] is effective on passage and approval.

-End-

1 *Senate* BILL NO. *308*
 2 INTRODUCED BY *Eck* *Johnson*
 3 BY REQUEST OF THE DEPARTMENT
 4 OF FAMILY SERVICES

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE ADVANCED
 7 AGE FROM THE DEFINITION OF "INCAPACITATED PERSON" FOR
 8 PURPOSES OF THE LAW RELATING TO GUARDIANSHIP AND
 9 CONSERVATORSHIP; AMENDING SECTION 72-5-101, 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 72-5-101, MCA, is amended to read:
 14 "72-5-101. Definitions. Unless otherwise apparent from
 15 the context, in this code the following definitions apply:

16 (1) "Incapacitated person" means any person who is
 17 impaired by reason of mental illness, mental deficiency,
 18 physical illness or disability, ~~advanced-age~~, chronic use of
 19 drugs, chronic intoxication, or other cause (except
 20 minority) to the extent that he lacks sufficient
 21 understanding or capacity to make or communicate responsible
 22 decisions concerning his person or which cause has so
 23 impaired the person's judgment that he is incapable of
 24 realizing and making a rational decision with respect to his
 25 need for treatment.

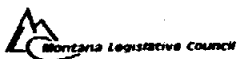
1 (2) "Protective proceeding" means a proceeding under
 2 the provisions of 72-5-409 to determine that a person cannot
 3 effectively manage or apply his estate to necessary ends,
 4 either because he lacks the ability or is otherwise
 5 inconvenienced or because he is a minor, and to secure
 6 administration of his estate by a conservator or other
 7 appropriate relief.

8 (3) "Protected person" means a minor or other person
 9 for whom a conservator has been appointed or other
 10 protective order has been made.

11 (4) "Ward" means a person for whom a guardian has been
 12 appointed. A "minor ward" is a minor for whom a guardian has
 13 been appointed solely because of minority."

14 **NEW SECTION. Section 2.** Effective date. [This act] is
 15 effective on passage and approval.

-End-



THIRD READING

SB 308

SENATE BILL NO. 308

INTRODUCED BY ECK, J. JOHNSON, GAGE, KEATING

BY REQUEST OF THE DEPARTMENT

OF FAMILY SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE ADVANCED AGE FROM THE DEFINITION OF "INCAPACITATED PERSON" FOR PURPOSES OF THE LAW RELATING TO GUARDIANSHIP AND CONSERVATORSHIP; AMENDING SECTION 72-5-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 72-5-101, MCA, is amended to read:

"72-5-101. Definitions. Unless otherwise apparent from the context, in this code the following definitions apply:

(1) "Incapacitated person" means any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, advanced-age, chronic use of drugs, chronic intoxication, or other cause (except minority) to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person or which cause has so impaired the person's judgment that he is incapable of realizing and making a rational decision with respect to his need for treatment.

(2) "Protective proceeding" means a proceeding under the provisions of 72-5-409 to determine that a person cannot effectively manage or apply his estate to necessary ends, either because he lacks the ability or is otherwise inconvenienced or because he is a minor, and to secure administration of his estate by a conservator or other appropriate relief.

(3) "Protected person" means a minor or other person for whom a conservator has been appointed or other protective order has been made.

(4) "Ward" means a person for whom a guardian has been appointed. A "minor ward" is a minor for whom a guardian has been appointed solely because of minority."

NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

-End-

