

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

January 25, 1979

The meeting of the Local Government Committee was called to order by Vice Chairman, Senator Lloyd Lockrem on January 25, 1979 at 1:35 in Room 405 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Senators McCallum and Conover, who was excused.

Several visitors were in attendance. (See attachment.)

Senator Lockrem stated that the committee had a heavy work load and perhaps night meetings were going to have to be held. Everyone felt that this was fine.

Senator Watt asked that the secretary remove Senate Bills 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 23 from the members book because of the largeness of the bill package. Senator Watt is the co-sponsor of these bills.

CONSIDERATION OF SENATE BILL 102: Senator Tom Hager, sponsor of Senate Bill 102, of Senate District 30 gave a brief resume of the bill. This bill is an act to generally revise, and clarify the laws relating to licensure of cesspool, septic tank, and privy cleaning business, allowing the Department of Health and Environmental Sciences to establish requirements for disposal sites and increasing the license fee. Senator Hager introduced Duane Robertson of the State Department of Health and Environmental Sciences who spoke in favor of the bill. Mr. Robertson told why his group had requested the changes in the law. He handed out a written statement to everyone. (See attachment)

Senator Lockrem asked if there were any other proponents to the bill. Senator Lockrem then asked for any opponents to the bill.

Senator Hager then made the closing remarks stating that this law has been in effect since 1951, with only a very few changes being made. It is necessary to update the septic tank pumpers laws because of the changes in the federal and state waste management laws.

Vice Chairman Lockrem then opened the meeting to a question and answer period from the committee. Discussion was held.

No action was taken on Senate Bill 102 at that time.

At this point, Senator McCallum arrived.

CONSIDERATION OF SENATE BILL 69: Senator McCallum of Senate District 12, sponsor of the bill, gave a brief resume of the bill. This bill is an act to allow county commissioners authority to consider the budget of Courts of Conciliation.

Mr. Frank Guey representing the Flathead County spoke in favor of the bill. He stated that he felt the county commissioners must have the budget review authority in order to stay within the limits of the mill levy. Mr. Guey also stated that it would be possible to lose the federal sharing money. He asked the committee to please consider SB 69, so the situation will be clarified. (See Attachment.)

Mike Stephens, representing the Montana Association of Counties spoke in favor of the bill. He stated that the county commissioners are the ones who set the budget for the counties, and all other officers must work within a budget. Budgets of Courts of Conciliation should also be viewed and revised by the county commissioners. (See attachment)

Senator Lockrem then asked for opponents to the bill.

Robert S. Keller of Kalispell, a former district judge, spoke in opposition to the bill. Mr. Keller stated that there are four areas which are affected by the bill--- Court of Conciliation, Court Approval of underage marriage applicants, Court interviews of children in custody cases, and Court investigation of custody cases. The Legislature had mandated that something be done in each of these areas. The judiciary system feels that it needs professional help in the above areas as they don't have the expertise or the time. Mr. Keller stated that the state of Montana needs marriage and conciliation courts. Mr. Keller commented that, attorneys must have an education and pass a test, judges must have at least five years of law experience, however, commissioners are not required to do any of the above. (See attachment) Mr. Keller told of a case in his home county that would definitely be affected by this bill.

Jan brown, representing the Montana Association of Churches, spoke in opposition to the bill on the basis that it may result in weakening or total abolishment of the conciliation court system in Montana. Mrs. Brown turned in written testimony. (See attachment.)

Michael Mongold, representing the Montana Association of Family Court Services, stated that his group is opposed to SB 69. Mr. Mongold felt that there would be too much power in the hands of the commissioners if SB 69 is passed, and some commissioners would abuse that power. Conciliation courts are not mandated for every county. For the committee to pass the bill would be a slap in the face to the district judges. He passed out folders of information to the committee. (See attachment)

Senator Steve Brown stated that he is neither for nor against the bill, however, he asked the committee not to zero in on the Flathead County dispute. He stated that the real issue is: who should be having the power? Senator Brown stated that he felt there is a burden on the district court judges and the commissioners to use good judgement. It must be understood how the three branches of government work together. Senator Brown stated that he felt the Legislature is responsible for the budgetary powers. He then stated that perhaps SB 69 is too limited and should be broader.

Senator McCallum then made the closing remarks. He stated that he has asked for a bill to be drafted that would be broader and perhaps cover more than Senate Bill 69.

Vice Chairman Lockrem then opened the meeting to a question and answer period from the committee.

Senator Watt made a motion to table Senate Bill 69, until the new bill can be reviewed. After some discussion Senator Watt withdrew his motion.

Senator Story suggested that perhaps the committee should wait to take action until they review the replacement bill.

Senator Lockrem then turned the meeting over to the Chairman, Senator McCallum.

CONSIDERATION OF SENATE BILL 47: Senator Lockrem, sponsor of Senate Bill 47, made a motion that SB 47 receive a "Do Pass" recommendation from the committee. He then reviewed the bill for the committee.

Senator McCallum asked how much this would cost the rural counties. Senator Lockrem stated that it would probably not cost rural counties , but perhaps the state of Montana.

Senator Story stated that he did not like the idea of rural people being inspected. Senator Watt stated that it was his understanding that rural people were exempt.

Senator Story then stated that he felt that only buildings built by public money should be included in the bill.

Senator Lockrem stated that he felt that this here bill would remove one more layer of bureaucracy.

Senator Watt asked if the administration was abolishing part of their work.

A sub-committee was appointed by Chairman McCallum to further study this bill. Those to serve on the committee are Senators Lockrem, Story, and Thomas.

Senator Lockrem withdrew his motion.

CONSIDERATION OF SENATE BILL 106: This bill is in regards to salary increases for probation officers.

Senator O'Hara asked if there is another bill regarding this matter. He was told that Mr. Dean Zinnecker had stated that there is a bill in the House regarding the same.

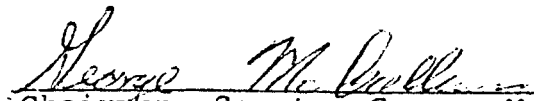
Senator Rasmussen said that he is concerned about setting statewide salaries and suggested that Dennis Taylor, Researcher, research to see who has the power to set the salaries.

A motion was made by Senator Rasmussen to hold SB 106 until Dennis Taylor can research this further. Senator Rasmussen was advised that this motion was not necessary. The motion was withdrawn.

CONSIDERATION OF SENATE BILL 135: This bill regards providing improved funding for construction and reconstruction of roads and streets.

A motion was made by Senator Lockrem that Senate Bill 135, be given a "Do Pass" recommendation, however, because of lack of time to discuss the bill, he withdrew his motion.

ADJOURN: With no further discussion, the meeting was adjourned at 3:00 p.m. The next meeting will be held on Saturday, January 27 at 1:30 to consider Senate Bill 143, and House Bill 44.


Chairman, Senator George McCall

DATE January 25, 1979

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
GEORGE MCCALLUM, CHAIRMAN			✓
LLOYD LOCKREN, VICE CHAIRMAN	✓		
MAX CONOVER			✓
JESSE A. O'HARA	✓		
BOB PETERSON	✓		
A. T. (TOM) RASMUSSEN	✓		
PETE STORY	✓		
BILL THOMAS	✓		
ROBERT D. WATT	✓		

Each Day Attach to Minutes.

COMMITTEE

BILL

VISITORS' REGISTER

DATE _____

Please note bill no.

(check one)

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

LEGISLATIVE CHANGES - 46th LEGISLATURE

Cesspool, Septic Tank, and Privies Law

Chapter 54, Section 69-5401 through Section 69-5408, R.C.M. 1947

Reason for amendments: This law has been in effect since 1951 with amendments in 1971 and 1974. Changes in federal and state waste management laws have made it necessary to now update the septic tank pumper law.

The present annual licensing procedure calls for the applicant to pay \$20.00 to the county, get a copy of the receipt and mail it along with \$5.00 to the state. The proposed change increases the license fee to \$50.00 which is sent directly to the state. The state then returns \$40.00 to the county which is to be used by the local health department for administration of the act. This will make the application process simpler for the pumper.

No provisions are currently in the law to insure proper disposal by the operator and the complaints now received are almost exclusively related to improper disposal of the pumpings. The proposed changes will require that a pumper show proof of the availability of an approved pumping disposal site at the time the application is submitted. If a person doesn't have an approved place to dump the pumpings, they won't get a license.

Local government officials would sign off on the pumper equipment and on the applicant's disposal site. The disposal site could be a city sewage treatment plant, an approved landfill, or perhaps a parcel of land for land spreading. Only after the local government has certified the applicant meets their requirements will the state accept the application.

Summary: The changes are intended to simplify the licensing for the applicant and to insure the proper disposal of the pumpings.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am Jan Brown of Helena, representing the Montana Association of Churches. I oppose Senate Bill 69 on the basis that it may result in the weakening or total abolishment of the conciliation court system in Montana.

Following the appointment of a broad-based family task force who studied family-related issues, including the conciliation court system, the Montana Assn. of Churches adopted a position supporting conciliation courts as an effective crisis-intervention technique in dealing with marital and family strife. Conciliation courts are not mandated in Montana but are left to the discretion of the district judges. Since the judges are responsible for the conciliation courts, they also ought to be allowed the authority to submit a budget that is not subject to "revisions, reductions or changes by the County Commissioners" as provided in Senate Bill 69. Too often the county commissioners are so overburdened with the multitudinous day-to-day problems of roads, bridges, snowplowing and so forth, that they don't have the time nor the interest to adequately consider the "people projects", such as conciliation courts, that may be of great benefit to many people.

The purposes of the Montana Conciliation Law, enacted in 1963 to allow the establishment of conciliation courts, are "to protect the rights of children and to promote the public welfare by preserving, promoting and protecting family life and the institution of matrimony and to provide means for the reconciliation of spouses and the amicable settlement of domestic and family controversies." Research of our task force has indicated that conciliation courts are fulfilling the purposes of the law, and we would encourage this legislature to enact legislation that would strengthen the conciliation court system in Montana rather than weaken it, as it seems that Senate Bill 69 would do.

I submit as a part of this testimony the Montana Assn. of Churches' position paper on funding of conciliation courts.

NAME: Michael R. Mongold DATE: Jan. 25, 1979

ADDRESS: 325 - 2nd Ave N., Thisted Bldg #111, Grand Falls, N.H.

PHONE: 761-6700 Ext 254

REPRESENTING WHOM? Mont. Assoc. of Farm Court Services; 8th Ind. District
Court of Conciliation

APPEARING ON WHICH PROPOSAL: SB 69

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ☒

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME:

Jan Brundage

DATE:

1/20/74

ADDRESS:

901 Madison, Helena 59601

PHONE:

423-3824

REPRESENTING WHOM?

Int. Assoc. of Churches

APPEARING ON WHICH PROPOSAL:

SR 1-9

DO YOU:

SUPPORT? ☐

AMEND? ☐

OPPOSE? ☒

COMMENTS:

written statement attached

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Robert S. Kellie DATE: 1-25-79

ADDRESS: PO Box 1954

PHONE: 755-1300

REPRESENTING WHOM? Myself - Counselor D.T. Judge

APPEARING ON WHICH PROPOSAL: SB 69

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: this bill affects

40-3-114 Ct. of Conciliation

40-1-213 Ct. Appointment of undecorated
Applicant

40-4-214 Ct. interviews of children
in custody cases

40-4-215 .. mitigation ..

Legis. has mandated Ct. to do something
in each of these areas; Judiciary, state
& needs to; Commissioners can say "no"

for any reason or no reason

Judiciary needs professional help in those
areas - don't have the expertise or time

this bill strips them of authority.
PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Commissioners already have remedy
if Judiciary acts in excess.

NAME: Michael Stephen DATE: 1-25-79

ADDRESS: 1802 11th Ave Helena

PHONE: 442-5209

REPRESENTING WHOM? MT Assoc. of Counties

APPEARING ON WHICH PROPOSAL: SB 69

DO YOU: SUPPORT? / AMEND? OPPOSE?

COMMENTS: The court commissioners set the
budget for the counties and all other
offices must work within a
budget. Budgets of counties
and cities should also be
reviewed and revised by the county
commissioners.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Frank Sney DATE: 1-25-79

ADDRESS: 244 Frost Dr Kalispell

PHONE: 755-5300 Ex 235

REPRESENTING WHOM? Flathead County

APPEARING ON WHICH PROPOSAL: S.B. 69

DO YOU: SUPPORT? ✓ AMEND? OPPOSE?

COMMENTS: County Commissioners must have
budget review authority to stay
within mill levy limits

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Duane Robertson DATE: 1/25/77

ADDRESS: 727 8th Ave Helms

PHONE: 449-2821

REPRESENTING WHOM? State Dept of Health & Science

APPEARING ON WHICH PROPOSAL: SB 102

DO YOU: SUPPORT? ✓ AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Montana Religious Legislative Coalition
(M.R.L.C.)
P.O. Box 1708
Helena, Montana 59601
MONTANA ASSOCIATION OF CHURCHES
POSITION- 1979

FUNDING OF CONCILIATION COURTS

Other M.A.C. Position Papers:
Environment and Land Use
Government - Institutions (Us and Them)
Tax Exemption
Victims of Crime Compensation
Released Time for Religious Education
Legislating Morality
Welfare and Financial Support
Introduction and History of M.R.L.C.
Energy and Environment
Gambling
Home Health Care
Pornography
Pre-Marital Counseling for Minors

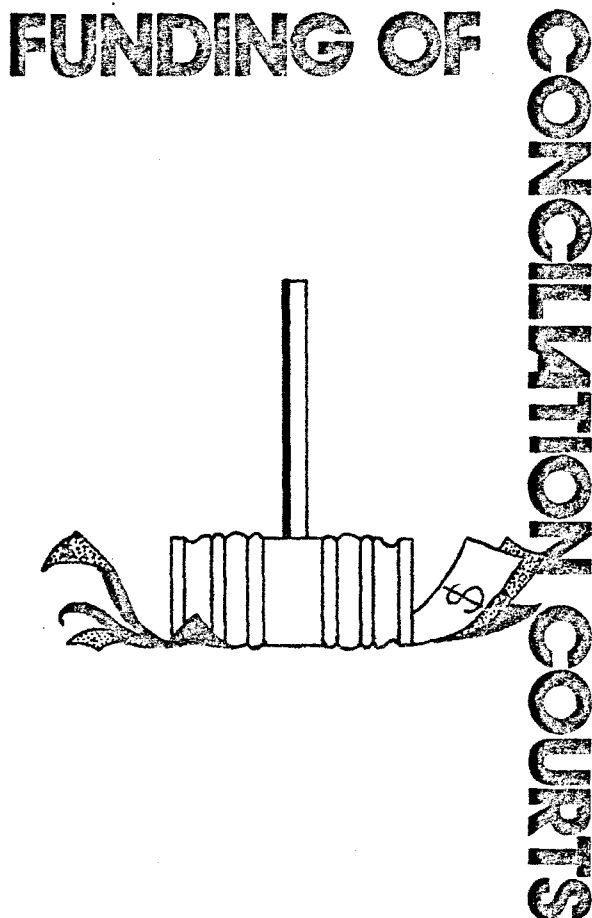
Member Units of the Montana Association of Churches

American Baptist Church
American Lutheran Church
Christian Church (Disciples of Christ)
Episcopal Church, Diocese of Montana
Lutheran Church in America
Roman Catholic Church -
Diocese of Great Falls
Diocese of Helena
United Church of Christ
United Methodist Church
United Presbyterian Church -
The Presbytery of Glacier
The Presbytery of Yellowstone

Single Member Congregations {non-voting}

Christ's Church On The Hill, Great Falls
Holy Trinity Serbian Orthodox Church, Butte

Cover design by Barry Lannan, Helena



**Montana
Religious Legislative Coalition [MRLC]
Committee of the
Montana Association of Churches**

FUNDING OF CONCILIATION COURTS

POSITION STATEMENT

The Montana Association of Churches supports conciliation courts as an effective crisis-intervention technique in dealing with marital and family strife. In order to promote the effectiveness and availability of conciliation counseling services, we urge the Montana legislature to authorize counties to establish a self-supporting economic base for conciliation courts.

SUPPORTING STATEMENT

The conciliation court is a counseling service provided by the judiciary. Sometimes referred to as "court-connected counseling", the conciliation court offers short-term counseling and utilizes a crises-resolution approach in dealing with couples and families torn by marital strife. Conciliation courts vary in size, powers and goals, but all operate with the stated purpose of preserving, protecting and promoting family life and the institution of marriage.

The benefits of conciliation courts do not rest solely with reconciliation and divorce prevention. Upholding the best interests of the child(ren) is the primary goal of the conciliation court. If the family cannot be reconciled, conciliation and mediation services are provided to help make the dissolution less hostile and damaging. The counselor's familiarity with court procedure and attitudes combine with the creative use of the court's power to facilitate agreements on custody, visitation and support. Conciliation counseling minimizes adversarial fights, court time and the need to "strike back" in post-divorce litigation.

The Montana Conciliation Law, passed in 1963, allows but does not mandate a District Judge to establish a conciliation court in his district. The law further provides that conciliation courts will be funded by the county. Since no fee is charged to clients who utilize conciliation counseling, the county budget is the court's sole source of revenue.

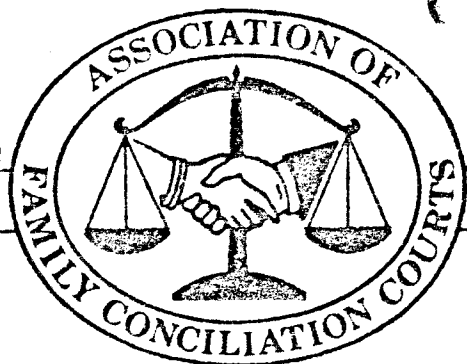
This method of funding can present major problems for conciliation courts. When a county faces serious budgetary problems, non-mandated services such as conciliation courts are deleted or severely curtailed. The result is that, even though the District Judge may determine that a conciliation court is necessary in his district, the establishment of such a court will be financially unfeasible.

As an example of how the funding is handled in other states, legislation in California and Oregon had demonstrated that a self-supporting economic base for conciliation courts helps insure the continued availability and effectiveness of conciliation counseling. These two states have instituted a funding mechanism called the filing fee structure. This method allows counties to raise the marriage license and divorce filing fees \$2 and \$5 respectively, provided the county matches these funds and uses the money derived solely for supporting the conciliation court. This funding mechanism is permissive and not mandatory; the county may reject the conciliation service and/or the filing fee structure.

There are several advantages to this funding mechanism:

- 1) Financial support for conciliation services comes from those most likely to use them.
- 2) The filing fee plan is comparable to pre-paid health insurance in that one pays for the service even though a claim may never be filed.
- 3) The additional fee provides a necessary and valid social service for a population which could conceivably use the service but which may not be utilized at all. Just as all people who pay property taxes may never need the schools their taxes support, all couples who marry may never require conciliation services.
- 4) The filing fee method is an efficient and inexpensive collection system. It requires no additional administrative expenses since the county clerk continues to collect the fees.

There are currently four conciliation courts operating in Montana: Bozeman, Great Falls, Helena and Kalispell. Together, these four courts serve nearly half the state's 56 counties. Increased accessibility to and availability of conciliation courts is necessary if our state is to respond adequately to the needs of parents and children experiencing the effects of divorce. Providing a self-supporting economic base for conciliation courts is a positive step toward accomplishing this.



TRUMAN G. BRADFORD, Presiding Judge
JOEL G. ROTH, District Judge
H. WILLIAM CODER, District Judge

COURT OF CONCILIATION

Eighth Judicial District
State of Montana

325 Second Avenue North
111 Thisted Center
GREAT FALLS, MONTANA 59401
Phone: 406/761-6700
Ext. 254 or 255

MICHAEL R. MONGOLD, M.A., Director
DIANA MANN, M.S.W., Counselor

January 25, 1979

Mr. Chairman, Members of the Committee:

My name is Michael Mongold, and I am the President of the Montana Association of Family Court Services. I am here today representing that organization.

The Montana Association of Family Court Services is opposed to Senate Bill 69 on the following grounds.

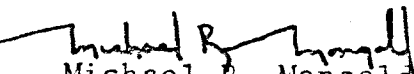
First of all, we join in the concern that has been expressed throughout this legislative session regarding too much power being given to the county commissioners. If this bill were passed, it would give the commissioners total control over yet another agency; an agency that should be the responsibility of the District Court, who utilizes the program.

Secondly, recent actions of certain county commissioners indicate that if the commissioners were given the complete control over the conciliation court's budget, there are those who would abuse this power and completely do away with the service. I refer here specifically to the Flathead County Commissioners, who are doing everything in their power to stop funding the family court in Kalispell, even though the judges in the judicial district have expressed a need for the service.

It is important to remember that conciliation courts are not mandated for every county. The only reason that a conciliation court exists in a particular county is the fact that the judges of that judicial district have expressed a specific and critical need for that service. Conciliation courts are not forced on counties by law; they exist in certain counties because of need.

Finally, to pass this bill is to slap our district judges in the face, and to say, "You are not responsible enough to handle the fiscal administration of one of your own departments, we want the county commissioners to do it for you."

The conciliation courts are not asking for a blank check in regards to funding. All we are asking is that the elected officials who are responsible for, and who utilize our services, namely the District Judges, be allowed to retain the fiscal control over their own department. The Montana Association of Family Court Services urges you to vote against Senate Bill 69.


Michael R. Mongold, President

Montana Association of Family Court Services

INTRODUCED BY

Adair BILL NO. 62
McCallum

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW COUNTY COMMISSIONERS AUTHORITY TO CONSIDER THE BUDGETS OF COUNTS OF CONCILIATION; AMENDING SECTIONS 40-3-114 AND 40-4-215, MCA."

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

Section 1. Section 40-3-114, MCA, is amended to read: "40-3-114. Budget. The provisions of the county budget system, Title 7, chapter 6, part 23, shall, except as provided by 40-3-123(3), be applicable to expenditures for the court of conciliation; provided, however, that the court may submit to the board of county commissioners the information required by 7-6-2311 on or before July 1 of each year. ~~The county commissioners may make any revisions, reductions, or changes that they consider advisable in the budget for the court of conciliation.~~"

Section 2. Section 40-4-215, MCA, is amended to read: "40-4-215. Investigations and reports. (1) In contested custody proceedings and in other custody proceedings if a parent or the child's custodian so requests the court may order an investigation and report concerning custodial arrangements for the child. The investigation and report may be made by the county welfare

department.

(2) In preparing his report concerning a child, the investigator may consult any person who may have information about the child and his potential custodial arrangements. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. The investigator may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the parent or the child's custodian; but the child's consent must be obtained if he has reached the age of 16 unless the court finds that he lacks mental capacity to consent. If the requirements of subsection (3) are fulfilled, the investigator's report may be received in evidence at the hearing.

(3) The court shall mail the investigator's report to counsel and to any party not represented by counsel at least 10 days prior to the hearing. The investigator shall make available to counsel and to any party not represented by counsel the investigator's file of underlying data and reports, complete texts of diagnostic reports and to the investigator pursuant to the provisions of subsection (2), and the names and addresses of all persons whom the investigator has consulted. Any party to the proceeding may call the investigator and any person whom he has consulted

1 for cross-examination. A party may not waive his right of
2 cross-examination prior to the hearing.

3 (4) The budget for the expenses of the court
4 investigator as authorized in this section and sections
5 40-1-213 and 40-4-214 is subject to any limitations
6 reductions or changes the county commissioners consider
7 advisable."

-end-

1 IN THE DISTRICT COURT OF THE EIGHTH JUDICIAL DISTRICT OF
2 THE STATE OF MONTANA, IN AND FOR THE COUNTIES OF
3 CASCADE AND CHOUTEAU
4 -----

5 IN THE MATTER OF THE }
6 ESTABLISHMENT OF A }
7 COURT OF CONCILIATION }

O R D E R

8 It appearing to the court that for the years 1957
9 through 1967 there were filed in Cascade and Chouteau
10 Counties a total of 2811 divorces; that in the year 1967
11 311 divorces were granted in said counties, 280 being in
12 Cascade County and 31 in Chouteau County; that in 1967 a
13 total of 766 marriages were entered into in said counties,
14 making a ratio of one divorce to every 2.5 marriages.

15 Therefore, the court concludes that it is necessary
16 to protect the rights of children and to promote the public
17 welfare by preserving, promoting and protecting family
18 life and the institution of matrimony, and to provide means
19 for the reconciliation of spouses and the amicable settle-
20 ment of domestic and family controversies.

21 NOW, THEREFORE, IT IS HEREBY ORDERED that a Court
22 of Conciliation be established to be presided over by the
23 Hon. R. J. Nelson and Truman G. Bradford to carry out the
24 intent of this court; and

25 IT IS FURTHER ORDERED that Vernon K. Hanks be,
26 and he is hereby appointed as family counselor to assist
27 said judges in the conduct of their duties and to be under
28 their supervision, direction and pleasure; that Marjorie
29 Montrose be, and she is hereby appointed to assist said

1 IT IS FURTHER ORDERED that said counselor receive
2 the sum of Twelve Thousand Dollars (\$12,000.00) per year,
3 to be paid Nine Thousand Five Hundred Dollars (\$9,500.00)
4 by Cascade County and Two Thousand Five Hundred Dollars
5 (\$2,500.00) by Chouteau County; that said secretary receive
6 the sum of Four Thousand Six Hundred Twenty Dollars
7 (\$4,620.00) to be paid by Cascade County, and that Cascade
8 County furnish the necessary office space, equipment and
9 supplies necessary for the conduct of the duties of the
10 said Conciliator.

11 DATED this 9th day of May, 1968.

12
13
14 R. J. Nelson /s/
 JUDGE, Department A

15
16
17 Truman G. Bradford /s/
 JUDGE, Department B

18
19
20 Paul G. Hatfield /s/
 JUDGE, Department C
21
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29

DISTRICT COURT
EIGHTH JUDICIAL DISTRICT
STATE OF MONTANA
GREAT FALLS, MONTANA

H. WILLIAM CODER
JUDGE, DEPARTMENT A
PH. 761-6700, EX. 204

JACK L. FLETCHER
COURT REPORTER
PH. 761-6700, EX. 2

CASCADE COUNTY - GREAT FALLS
CHOUTEAU COUNTY - FORT BENTON

January 23, 1979

The Hon. J. Melvin Williams
House of Representatives
Capitol Station
Helena, Montana 59601

RE: Proposals to repeal or
Amend Conciliation Law

Dear Rep. Williams;

I take this opportunity to express my concern regarding the existence of certain legislative proposals which seek to either repeal the present law creating Courts of Conciliation or to limit or restrict the budgeting of these Courts.

Initially, it is difficult for the author to conceptualize how an authoritative body of government could, on the one hand recognize the sanctity of marriage and the family, create legislative requirements and regulations for entering into it, define specifically the duties and responsibilities of the parties mutually and to their children, and then, on the other hand, take away one of the few tools available to the Courts and society to keep that family unit intact as a viable social entity.

The District Courts and Youth Courts of this State are literally strewn with the wreckage and detritus of broken marriages; marriages, which if the parties had been appropriately counselled prior to its inception and during its tenure could have been spared the trauma of divorce.

The author, as every other District Judge, can and does, dissolve marriages with a stroke of the pen.

Divorces, however, with their attendant feelings of inadequacy, guilt, fear, insecurity and frustration shared by the parties and their children, endure long after the union has been formally declared a failure.

Section 40-1-101 (M.C.A.), relating to marriage states that one of its underlying purposes is to "(2) strengthen and preserve the integrity of marriage and safeguard family relationships."

Section 40-4-101 relating to separations and dissolutions of marriage has, among other things, the stated purposes of . . . "(1) [to] strengthen and preserve the integrity of marriage and safeguard family relationships." and "(2) promote the amicable settlement of disputes that have arisen between parties to a marriage;"

The Montana Conciliation Law, which is the subject of HB200, provides, in part, " to protect the rights of children and to promote the public welfare by preserving, promoting and protecting family life and the institution of matrimony and to provide means for the reconciliation of spouses " (40-3-102, M.C.A.)

[Emphasis supplied]

As a District Judge I am bound to interpret the laws and the constitution of the State of Montana and, toward that end, to give vitality, efficacy and meaning to the laws enacted by the legislature by making and entering orders and decrees which conform to, and carry out, the expressed intent of the legislature which is reflected by the language it chooses in enacting its law.

In short, I presume that the legislature says what it means, and means what it says.

If this is so, then what purpose related to family, marriage and children would be served by repealing the Conciliation Law?

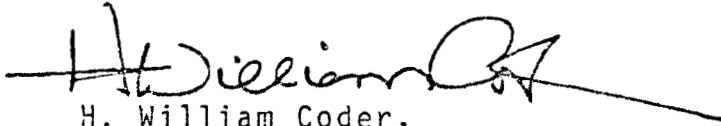
In view of the express purposes and objectives stated in the Family Law section, I respectfully submit that there are none.

The Conciliation Court for the Eighth Judicial District has done yeoman service in assisting the Court in dealing with myriad of problems that each day confront a Judge relative to family law.

The vice of the present Conciliation Law is not that it should be repealed, but that it should be broadened and strengthened to more appropriately enable the Courts, the parties and their attorneys to more effectively deal with the problems and events which inevitably arise during marriage or its dissolutions.

In closing, the author respectfully requests that you and your committee abjure any consideration of HB200.

Sincerely,

A handwritten signature in black ink, appearing to read "H. William Coder", with a long horizontal flourish extending to the right.

H. William Coder,

District Judge

HWC/jm

JOEL G. ROBB
District Judge

DON NYQUIST
Court Reporter

Phone 761-6700

DISTRICT COURT
EIGHTH JUDICIAL DISTRICT



Cascade County, Great Falls

Chouteau County, Fort Benton

Judge's Chambers, Cascade County Courthouse
GREAT FALLS, MONTANA 59401

January 24, 1979

Chairman of House Committee
Chairman of Senate Committee
State Capitol Building
Helena, MT 59601

RE: House Bill #200
Senate Bill #69

Dear Committee Chairmen:

I am advised that the above referenced legislative bills relate to the Courts of Conciliation in Montana and are presently being considered by your respective committees.

By this letter I wish to convey my backing and support of the existing Court of Conciliation law. In this judicial district, we have had a Court of Conciliation since approximately 1968. It is an important aid to, and arm of the District Court in helping to resolve marital disputes, child custody disputes and the lingering problem of parental visitation rights following a court ordered custody award.

A party to a marriage dissolution proceeding may request the court to issue an order referring both parties to the Court of Conciliation for consultation and counselling. Moreover the Court may, on its own motion, enter an order referring disputing litigants to the Court of Conciliation for counselling. Having such assistance in what I consider to be the most troublesome and difficult area of the law is invaluable.

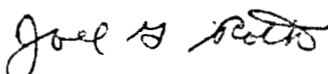
The cold and formal courtroom atmosphere with the attendant tension, nervousness and combatant nature of an adversarial proceeding is not the kind of climate in which to deal with such an emotionally charged issue as a child custody determination. It is the "best interests of the child" with which the court is concerned, not the mud-slinging, name calling, and irrelevant and unproven accusations of unfitness which

characterize the typical contested child custody adversarial hearing. Quiet and informal discussions with the parties, either separately or jointly, over a period of time, in a more relaxed and comfortable setting, together with the assistance and guidance of professionally trained and skilled counsellors is obviously the better way to resolve such matters.

Our Court of Conciliation also provides a pre-marital service to under-age persons desiring to marry. As you know, the written consent of the court is required before a marriage license may be issued by the Clerk of District Court to an under-age person. I require a pre-marital counselling session with our Court of Conciliation counsellors before I will give my consent to an under-age marriage.

It is vitally important to this district court that our Court of Conciliation remain viable and staffed by professionally trained people, which we are fortunate to have in this district. Also, the district judges should have a voice in the funding of their Court of Conciliation.

Very truly yours,



Joel G. Roth
DISTRICT JUDGE

JGR:kma

DISTRICT COURT

NINTH JUDICIAL DISTRICT

STATE OF MONTANA

W. J. MAY
COURT REPORTER
278-3662
CONRAD, MONTANA

IN CHAMBERS
R. D. McPHILLIPS, JUDGE
434-2451
SHELBY, MONTANA

TETON COUNTY - CHOTEAU
PONDERA COUNTY - CONRAD
GLACIER COUNTY - CUT BANK
TOOLE COUNTY - SHELBY

January 23, 1979

Mr. Mike Mongold
Court of Conciliation
P.O. Box 1466
Great Falls, MT 59403

Re: House Bill 200
Senate Bill 69

Dear Mr. Mongold:

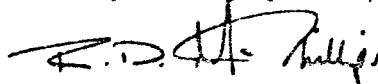
Please be advised that I have looked at the two above referred bills and find them unworkable.

First, to eliminate the Court of Conciliation in view of an ever increasing divorce caseload is hardly in the best interest of the citizens of the State of Montana. If anything, the Conciliation Court ought to be expanded.

If the legislature were to pass Senate Bill 69 and put the Conciliation Court purely under the jurisdiction of the county commissioners, it would effectively eliminate the Court by the commissioners simply not budgeting any monies with which to run the Court.

I would urge the legislature to defeat both Senate Bill 69 and House Bill 200 as recommended in their present form.

Very truly yours,



R. D. McPhillips, President
Montana Judges Association

RDMc:elr

STATE OF MONTANA
NINTH JUDICIAL DISTRICT COURT

JUVENILE DEPARTMENT

R.D. McPhillips, Judge
C.F. Dooley, Chief Probation Officer
J.R. Anderson
Barbara T. Cole

Box 822
Shelby, Mt. 59474

Toole County, Shelby
Glacier County, Cut Bank
Pondera County, Conrad
Teton County, Choteau

January 22, 1979

Court of Conciliation
Attn: Diana Mann
P.O. Box 1466
Great Falls, MT 59403

Re: Senate Bill No. 69

TO WHOM IT MAY CONCERN:

I am definitely opposed to Senate Bill No. 69 which gives the right to fund or not to fund the Court of Conciliation to the county commissioners. I feel that the district judges are in the position to understand and know the needs of district courts.

Sincerely,

C.F. Dooley
erf

Charles F. Dooley
Chief Probation Officer

CFD:er