

MINUTES OF THE HUMAN SERVICES COMMITTEE MEETING
January 19, 1981

The Human Services Committee convened on Monday, January 19, 1981 with CHAIRMAN GOULD presiding. All members were present with the exception of REPS. WINSLOW AND BARDANOUE who were absent.

HJR 6

The hearing on HJR 6 was opened by REP. DUSSAULT, sponsor of the bill. She distributed a fact sheet (EXHIBIT 1) and explained the resolution. There is increasing suspicion that both prescription and non-prescription drugs are closely related to the incidence of congenitally handicapping conditions. Fetal Alcohol Syndrome (FAS) is growing at an alarming rate, she explained. This resolution would provide for printing or obtaining from other sources posters or notices warning pregnant women of the dangers of drugs; it would also encourage retailers to post such notices.

PROPONENTS:

BETH RICHTER, of the State Developmental Disabilities Planning Council, stated that it is one of the many recommendations suggested by the State D.D. Council and the State Health Department. The council feels that if responsible people are supplied with the information, they will act responsibly.

GARY JENSEN, representing the Montana Conference of Seventh Day Adventists, suggested that warning of smoking dangers be added to the resolution. He distributed a pamphlet explaining his views. (EXHIBIT II)

OPPONENTS: NONE

QUESTIONS: REP. KEYSER asked for a cost estimate.

REP. DUSSAULT stated that there will be little cost as many pharmaceutical companies and HEW have posters available. She asked for an amendment to the bill.

Page 2, line 12.
Following: line 11
Strike: "printing or"
Following: "obtaining"
Strike: "from other sources"

It will then read "assume the responsibility for obtaining posters or notices".

REP. BERGENE asked Gary Jensen if there were any statistics linking heavy-smoking fathers with birth defects. She was told, "no", but that heart problems could result.

REP. DUSSAULT has no objections to adding a smoking warning,

but feels it would greatly expand the number of retailers that would have to be notified. She then closed the hearing.

HB 95

REP. FEDA opened the hearing on HB 95.

PROPONENTS:

Judy Carlson stated that the present law requires that all grandparents, parents and children support or contribute to the support of their grandparents, parents and children who are receiving public assistance. Federally administered law has taken over the responsibility with the exception of aid to dependent children. We do have strong child-support laws, so it is felt the present law is not affecting those originally intended.

OPPONENTS: NONE

QUESTIONS:

REP. KEYSER asked what other programs in SRS have liability of relatives provisions. Judy Carlson explained that only the ADC program did. The child support statutes would remain the same.

REP. KEYSER asked if the previous law had been enforced and was told not in the last 3 years.

REP. FEDA then closed the hearing on the bill.

HB 96

REP. FEDA opened the hearing. He informed the committee that HB 127 is a companion bill.

PROPONENTS:

Judy Carlson distributed testimony supporting both HB 96 and HB 127. (EXHIBIT III). HB 96 is concerned with fraudulent transfer of property to qualify for public assistance. It will establish a 2-year period prior to application for assistance during which there is a presumption that disposition of assets is for the purpose of qualifying to receive public assistance. HB 127 allows SRS to set more restrictive criteria for Medicaid than for Supplemental Security Income if federal rules allow, she explained.

OPPONENTS: None.

QUESTIONS:

REP. MENAHAN asked if the period could be shortened to 1 year. Judy Carlson replied that there was flexibility; it could either be shortened or lengthened. Having owned property would not automatically exclude persons from public assistance. The figures would be prorated.

REP. KEYSER asked about the term "rebuttable presumption". He was told that a Statement of Intent has been made up explaining that, but that copies of it have not been made available. Russ Josephson asked if this included all property, not just real property. DAL SMILEY, Counsel with SRS answered that all property would be taken into consideration.

REP. GOULD asked that the Statement of Intent be made available.

REP. FEDA closed the hearing.

EXECUTIVE SESSION:

HJR 6

REP. SEIFERT moved that HJR 6 be amended:

Page 2, line 12.
Following: line 11
Strike: "printing or"
Following: "obtaining"
Strike: "from other sources"

and

AS AMENDED DO PASS.

REP. CONN seconded the motion.

REP. GOULD asked the committee's feelings on the smoking issue.

REP. SEIFERT said he felt that was not in the scope of the bill.

RUSS JOSEPHSON suggested the following amendments:

1. Page 2, line 1.
Following: "harmful"
Insert: "alone"
2. Page 2, line 2.
Following: line 1
Insert: "can be harmful to a pregnant woman"
Following: "drugs"
Strike: remainder of line
3. Page 2, line 3.
Following: line 2
Strike: "a pregnant woman"

It would then read: "WHEREAS, even drugs which are not potentially harmful alone, can be harmful to a pregnant woman when taken concurrently with other drugs;"

REP. SEIFERT withdrew his motion and moved that HJR 6 DO PASS AS AMENDED, using the amendments suggested by committee counsel, RUSS JOSEPHSON.

The motion was seconded and PASSED UNANIMOUSLY.

HB 95

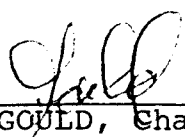
REP. MENAHAN moved for a DO PASS. Russ Josephson stated that, in order to be accurate legally, there should be a change of language as follows:

1. Title, line 6.
Following: "AN ACT TO"
Strike: "REPEAL"
Insert: "ELIMINATE"

It will then read: "AN ACT TO ELIMINATE THE LIABILITY OF RELATIVES OF APPLICANTS FOR PUBLIC ASSISTANCE: REPEALING SECTION 53-2-408, MCA."

Meeting adjourned at 1:30 p.m.

REP. MENAHAN moved for a DO PASS AS AMENDED in the language presented to the committee. It was seconded and passed UNANIMOUSLY.



BUDD GOULD, Chairman

The State DD Council has, for the past two years, selected as its number one priority activities relating to the prevention of handicapping conditions.

HJR#6 was one of the recommendations of the Prevention Plan developed for the Council by Keith McCarty.

Although the exact incidence of birth defects related to the ingestion of drugs by pregnant women is not known, there is increasing suspicion that both prescriptive and non-prescriptive drugs are closely related to the incidence of congenitally handicapping conditions.

Information about Fetal Alcohol Syndrome (FAS) is, on the other hand, growing and alarming:

The national incidence of FAS has been estimated at a minimum of two in every 1,000 live births. This compares to the incidence of Down's Syndrome (Mongolism), the next most common category of serious birth defects, which is estimated at 1.7 in every 1,000 live births.

The probability of a disabling condition being present in an infant born with FAS is 100%, although the degree of disability varies.

In terms of prevalence of FAS in Montana, the Developmental Disabilities Division of the Department of Social and Rehabilitation Services in 1977 identified 19 cases statewide of persons afflicted who had at least a "developmental delay" if not a seriously disabling condition.

During FAS research, the following were among the findings:

- a) of births to 9 heavy-drinking mothers studied at Boston City Hospital, only one infant was normal.
- b) the amniotic fluid which surrounds the fetus of heavy-drinking mothers often smells of alcohol.
- c) in Seattle, researchers found that the newborn infant of a heavy-drinking mother had a blood/ethanol level of 150 milligrams per 100 milliliters - equivalent to that of an adult who had consumed two fifths of whiskey.

The economic costs of any kind of serious birth defect are staggering: It was estimated in 1970 that, for each case of severe mental retardation occurring in a male infant, the dollar loss to society was, at that time, \$900,000 (REFERENCE: Conley "The Economics of Mental Retardation"). This figure included the cost of care for the disabled individual plus the loss to society of his productiveness. Inflationary factors increase this figure to more than \$1.5 million today.

There is no agreement as to the amount of alcohol which a pregnant woman can safely consume or which drugs are safe and which are not. Women should, therefore, be warned to be alert to these dangers and be permitted to make the choice for themselves.

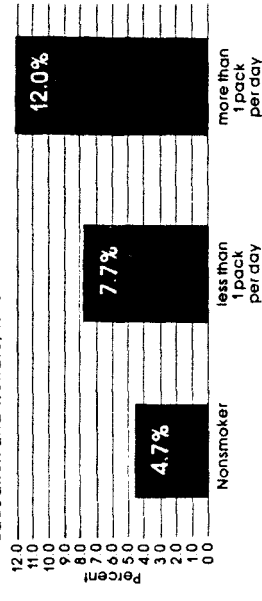
1. Smoking retards the growth of your baby in your womb.

Babies of smoking women average 6 ounces less than babies of nonsmoking women.

This is caused by several factors. Nicotine restricts the blood vessels and breathing movements and carbon monoxide reduces the oxygen level in the baby's blood. Vitamin metabolism is also disturbed.

Although the weight loss is quickly regained after birth, a follow-up study showed that the seven-year old children of mothers who smoked during pregnancy were shorter in average stature, tended to have retarded reading ability, and rated lower in "social adjustment" than children of mothers who had not smoked during pregnancy.

Percentage of pregnancies with infant weighing less than 2,500 grams, by cigarette smoking category. Source: The Health Consequences of Smoking, U.S. Dept. of Health, Education and Welfare, 1976.

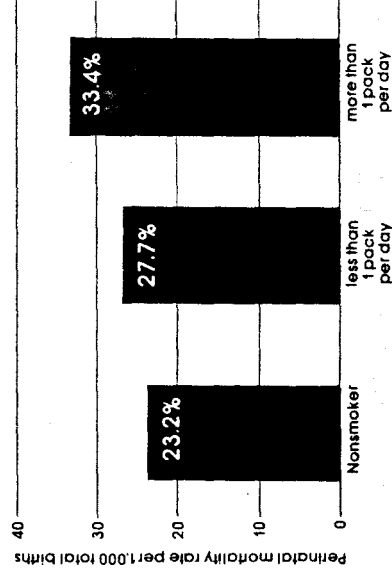


2. Smoking increases the incidence of infant mortality.

Statistics show a direct correlation between smoking during pregnancy and the incidence of spontaneous abortion and stillbirth. As the graph below shows, women who smoke a pack or more of cigarettes a day during pregnancy suffer about a 50% greater risk of infant mortality.

However, research also shows that the added risks of infant death are eliminated if the mother stops smoking before her fourth month of pregnancy.

Perinatal mortality rate per 1,000 total births by cigarette smoking category. Source: The Health Consequences of Smoking, U.S. Dept. of Health, Education and Welfare, 1976.



3. Your family needs a healthy mother

Motherhood is a great responsibility. You owe it to your family to care for your own health as conscientiously as you care for theirs.

Most parents manage to stay healthy and alive until their children are grown and educated. Smokers, however, subject themselves to a much greater risk of death or disability at a younger age.

It is estimated that 80% of lung cancers are caused by smoking, causing 101,000 deaths per year in the U.S.

Death rates from cancer of the pharynx, larynx, esophagus, tongue, and mouth are about six times as great for smokers as for nonsmokers, and death rates from heart disease are twice as high for smokers.

A tragically high number of people die in early middle age, when their children need them most, from cigarette-related diseases. Expectant mothers who care for their families should seriously consider quitting smoking.

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Testimony on HB 96 and HB 127
Acts to Enable SRS to Exercise Discretion in Rules Denying
Public Assistance to Persons who Transfer Property Fraudulently
and to Allow SRS to Set More Restrictive Criteria for
Medical Assistance

The Department of Social and Rehabilitation Services supports passage of both HB 96 and HB 127 which are before you today. We hope that you will be able to discuss these bills together and keep them together during the legislative process because they deal with the same subject, that is, to clarify and change our laws so that SRS can deny public assistance to persons who dispose of property at less than market value so they can qualify for public assistance, particularly Medicaid.

An Act recently passed by Congress, in fact signed by the President after this legislation was prepared for your consideration, shows that Congress has been concerned with this same problem. A person, particularly one who faces major medical expenses, e.g., nursing home care, has been able to sign over property to children or some other relative in order to fall under our asset and resource limitation for eligibility.

The section of our law which deals with this issue of transfer of property is considered to be constitutionally weak. It says that if you transfer property 5 years prior to applying for assistance, you are presumed to have transferred it for the purposes of receiving assistance. This is what the lawyers call a non-rebuttable presumption - that is, there

is no argument nor extenuating circumstances. HB 96 would make this a valid constitutional law.

At the present time, Montana is what is called a 1634 state. That means that we contract with the federal government, as authorized by Section 1634 of the Social Security Act to automatically grant Medicaid eligibility to anyone who qualifies for SSI, Supplemental Security Income, the program for needy, disabled and elderly. SSI is totally a federal program administered by the Social Security Administration. However, since the eligibility criteria are similar, we have been saving ourselves some administrative costs by accepting SSI eligibility determinations. Up until the last month when Congress changed the law, the federal law did not allow taking into account the transfer of property for the purpose of receiving assistance.

The federal law change reads that persons who dispose of property for less than market value for a period of time within two years of their application for assistance are presumed to have done it for purposes of receiving public assistance. With this law in place, we should be able to continue to utilize the SSA as our agent for determining eligibility. However, our law cannot be more restrictive than the federal law in order for us to take advantage of this administrative saving.

The alternative which we would like to have available is to

use Section 209(b) of the Social Security Act - that section allows states to do their own eligibility determination for Medicaid for SSI recipients. This would require alot more administrative staff time, as well as an additional application burden on the clients, primarily elderly and disabled. However, it may be worth it at some time in order to set our own eligiblity requirements.

To summarize:

HB 96 will revise our law to establish the two year period prior to application for assistance during which there is a presumption of disposing of assets for the purpose of receiving public assistance. The working recommended should be constitutionally valid.

HB 127 allows us to set more restrictive criteria for Medicaid than for Supplemental Security Income program if we find that the federal rules implementing the new law allow us to do that.

The Department of SRS urges your favorable consideration of HB 96 and HB 127.

Judith H. Carlson
Deputy Director, SRS

VISITORS' REGISTER

HOUSE *Warren* COMMITTEE

BILL

ONSOR

Date 1-19-81

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IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE Warren Commission COMMITTEE

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VISITORS' REGISTER

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