

MINUTES OF THE MEETING OF THE HUMAN SERVICES COMMITTEE
February 21, 1983

The meeting of the Human Services Committee held on February 21, 1983, 11:30 a.m., in Room 224A of the Capitol Building, was called to order by Chairman Marjorie Hart. All members were present.

HOUSE BILL 797

REP. DEVLIN, sponsor. This bill provides for a voluntary contribution by a taxpayer receiving a state tax refund for the purpose of funding battered children's programs. The contribution mechanism is a checkoff on the state income tax form. He stated it was the intent of the bill to create a children's trust fund. He submitted amendments and a Statement of Intent (EXHIBITS 1 and 2).

PROPOSERS:

J. BURT ANNIN, National Association of Counsel for Children, National Committee for the Prevention of Child Abuse, and Director, Region VIII Family Resource Center, said the Children's Trust Fund concept is spreading as a means to finance locally-based child abuse and neglect prevention and intervention programs. The only existing legislation creating a Trust from an income tax refund checkoff is that from Michigan. The bill would establish a reliable and protected source of funding for programs aimed at preventing child abuse and neglect by establishing a children's trust fund. The argument against centered on the use of an income tax checkoff as the means of creating the fund because of fears that it would establish a precedent for the use of the state tax form as a means of raising money for private causes. Proponents of children's trust legislation argue that child abuse and neglect is such a fundamental problem that it deserves special attention. The eventual savings to the state which would result from successful prevention programs would be enormous and this bill warrants your passage and the resulting programs your support. (EXHIBIT 3)

OPPOSERS: None

REP. DEVLIN closed saying there is no effective date so it would go into effect in October.

QUESTIONS:

REP. CONNELLY: Do you have any figures as to what amount of money is utilized in other states. Would it fragment other programs such as United Way.

BURT ANNIN: The only other state that is funding the trust is Michigan.

REP. SOLBERG: You are going to have a box on the refund. Why not have a box when you pay your income tax as well.

REP. DEVLIN: I thought it would be more confusing to the Department of Revenue to have people sending their money in.

REP. DARKO: This is currently administered through SRS. Do you think this would diminish any funding through SRS. I think this should be a supplemental program. Do you see any problems?

REP. DEVLIN: These monies may be used as a match.

REP. FARRIS: Is there anything preventing people from donating time and money to their local homes?

REP. DEVLIN: No. This doesn't cut out any volunteer service.

CHAIRMAN HART closed the hearing on HOUSE BILL 797.

HOUSE BILL 840

REP. DEVLIN, sponsor. This bill provides an income tax checkoff contribution for funding battered spouses. He stated this is the other part of the abused children's bill and the reason he put this in is because if there is child abuse in the home, you will find spouse abuse.

PROPOSERS:

KATHY CAMPBELL, Montana Association of Churches, stated they endorse legislation to help alleviate the problem of spouse abuse. She asked the support of the Committee on this bill.

SAM RYAN, LISTA and Montana Senior Citizens, also supported this legislation.

OPPONENTS: None.

REP. DEVLIN closed saying there were domestic violence grant allocations in fiscal year 1981-1982 and there were several alternatives for battered spouses in Billings. The total amount of requests was \$6,000; however, only \$1,500 was awarded. He believed it is something we should be addressing.

QUESTIONS:

REP. DRISCOLL: How much does this \$5 raise a year now?

NORMA VESTRE: I don't know.

REP. DARKO: Do you think the problems we have with local battered children and battered spouses should be the responsibility of everyone or just those people who voluntarily contribute? Should it be a voluntary contribution or should it be funded through the state?

REP. DEVLIN: I think we should try and build up a match.

REP. SWIFT: On page 3 you set up certain requirements on a percentage basis which places a restriction on this part of the program. In your first discussion on HOUSE BILL 797, you didn't have any differences in combining these in a whole trust?

REP. DEVLIN: Perhaps that could be. It would still be administered by the same organization (SRS). The only problem that would arise--the two are receiving checkoffs but the other one gets money from the sale of marriage licenses.

CHAIRMAN HART: Where are they supposed to get the 20% referred to on page 3, line 2.

REP. DEVLIN: That is present language that is in affect now.

CHAIRMAN HART: Can you tell me where that local contribution comes from.

REP. DEVLIN: I don't know whether it would be monetary or it may be a building.

REP. DOZIER: I know that office space or consultants are counted in that total.

CHAIRMAN HART closed the hearing on HOUSE BILL 840.

HOUSE BILL 873

REP. JAN BROWN, sponsor. This bill would create a state Office of Aging in the Office of the Governor. The purpose of the office would be to plan and coordinate programs affecting senior citizens.

PROPONENTS:

WADE F. WILKISON, LISCA, stated this bill establishes a specific focus for public input for planning, coordination and operation of senior citizens programs. It institutionalizes this focus within the Office of the Governor and mandates the creation of an advisory council on aging to assist the Coordinator of Aging. Costs associated with the position are already included in both the LFA and Executive budgets (EXHIBIT 4).

BOB WALTMIRE, LISCA, Columbia Falls, Montana, said this makes permanent an in-house advocate for senior citizens. He supported the legislation.

NORMA VESTRE, Department of Social and Rehabilitation Services, supports this bill noting that the present administration has created an office of coordinator whose responsibilities are to coordinate programs for aging across several departments.

SAM RYAN, member of LISCA, supported HOUSE BILL 873.

RENE BRERTON, MSCA, Helena, supported this legislation for two reasons: (1) this gives senior citizens access to administration and all state departments and (2) it is mandatory that aging programs be administered efficiently.

OPPONENTS: None

REP. JAN BROWN closed.

QUESTIONS:

REP. WINSLOW: I have some suggested amendments and would like your input. In subsection (2) the Coordinator of Aging must be appointed by the Governor and shall serve at the pleasure of the Governor--the people I have conferred with would like to have it say that the appointment shall be made after conferring with local Areas on Aging and Planning Service Areas so they have some input into that.

REP. BROWN: That sounds like a good idea.

REP. WINSLOW: In section 3, the Coordinator shall work with the Governor's Council on Aging. Otherwise, it looks like they may create an advisory council.

REP. BROWN: That is satisfactory.

REP. WINSLOW: In section 2 (2) the Coordinator shall meet with senior citizens local Areas on Aging and Planning Service Areas and the general public. That way, we know that they will be conferring with people that are in place at this time.

WADE WILKISON: The amendments seem to be appropriate.

CHAIRMAN HART closed the hearing on HOUSE BILL 873.

HOUSE BILL 856

REP. BERGENE, sponsor. This bill would permit a court to allow a youth limited emancipation at the age of 16. The action could be taken only after a dispositional hearing and under certain circumstances and conditions. She stated that limited youth emancipation really deals with youth who are 16 years of age or older and are found to be abused, neglected or dependent. It was felt that only about 30 to 50 youths would be involved in this type of program statewide. The term "emancipation" is never really defined in the statutes. What we are trying to establish in this bill is to coordinate the findings and criteria

for court-ordered limited emancipation including requirements that the youth diligently pursue high school graduation and pay any SRS money fronted to the youth during transition to limited emancipation status.

BILLIE NIMMONS supported HOUSE BILL 856 and it is her belief that upon passing it, it would be in the best interest to state dependent youth of Montana (EXHIBIT 5).

CELINDA LAKE, representing the Women's Lobbyist Fund, said she supported HOUSE BILL 856.

RICHARD MEAKER, Chief Probation Officer of the First Judicial District, stated he was in support of the bill. However, the problem he had was that many of the abused children themselves become abusive parents. One of the things he recommended was that some strong suggestion of counseling be recommended to any child looking for emancipation.

LINDA WOOD, Executive Director, Attention Home, Inc., stated that the number one goal of the Attention Home and the placement agencies we work with is to reunite these youths with their natural families. This is accomplished in approximately 50% of the cases. However, the remaining 50% or so are unable to be returned to their natural family because of serious family problems such as physical, emotional and/or sexual abuse, severe neglect, loss or separation of parent figures through death, abandonment or even illness, inability of the parents to continue raising their child or a complete breakdown within the family unit which no longer enables them to function. In such cases, the youth in question must be placed outside of his home permanently. The Attention Home shelters such youths while the more permanent solution is being found. Each year we see a number of youths who fall between the cracks and who are not suitable for placement into the existing system. Some of these youths would be excellent candidates for early emancipation.
(EXHIBIT 6)

OPPONENTS:

GLEN HUFSTETLER, Chief Probation Officer, Eleventh Judicial District, representing the Probation Officers Association, opposed HOUSE BILL 856 mainly because it is too broad and too wide. There are under the existing law provisions where youth who are in need of dependent living can be placed. His main concern is the dependent youth--a youth who is abandoned, a youth who has no proper guidance. This would place many

youth on their own where there is no supervision. By allowing this kind of youth to have the responsibility for their own behavior and not being mature enough to handle that responsibility, we see an extremely costly provision being leased on taxpayers and their community. We would urge the Committee to do not pass HOUSE BILL 856.

REP. BERGENE closed saying this bill does not address those needs of kids who need supervision. We are talking about those kinds of youth who have been abused, neglected and abandoned who are anxious to get away from this type of situation. Keep in mind that limited emancipation is supervised by the court. We are talking about some financial help. That is outlined in the bill. If the youth is not able under the present statutes to get funds, the court could possibly award a grant of not more than \$500 and that would be made from SRS.

QUESTIONS:

REP. WINSLOW: Regarding counseling--do you feel it would be appropriate to amend page 10 (g) that the youth will undergo periodic counseling with an appropriate advisor. On the last page--that it could be revoked if the youth discontinues periodic counseling with an appropriate advisor. The reason I say "appropriate advisor" is because it is under the control of the court.

REP. BERGENE: That would be a good provision.

REP. DRISCOLL: A person who is 17 years old is an orphan. Their parents leave them a house and money. Why should they have to see a counselor?

REP. WINSLOW: The court is taking on the responsibility of the child or this person. The court can set that they see an appropriate advisor once a month or once every six months. But I think there is some responsibility that needs to be taken if the court is going to be responsible.

REP. BERGENE: Did you mean to make it mandatory?

REP. WINSLOW: Yes. Somebody needs to be reviewing where that person is at.

CHAIRMAN HART: When something like that happens, doesn't the court appoint a guardian automatically.

REP. BERGENE: Under the new statute, the youth that has limited emancipation could live in an apartment or some good place where the court approved. Without the limited emancipation, they would have an appointed guardian. These children do not want to make new ties to a family.

REP. SWIFT: Mr. Hufstetler, would you be in agreement?

MR. HUFSTETLER: There is no question, the counseling would alleviate some of our concern. However, I think there has been some misunderstanding. On page 3, lines 18, we act like we are talking about the abused child or the child left without a parent. What about the kid who has two alcoholic parents? A dependent child falls under that category where it says a person who has no proper guidance. There are a lot of kids just brought into the community. They have no regard for their youth and we have little transients running around our community. We would hate to see provision where these youth could get an apartment and make pleas requesting the court to grant them immunity. If we could take a look at the definition of "dependent youth" and clarify that, we would have no opposition to the bill.

REP. DOZIER: The bill says "after a dispositional hearing". They are not granting these youth a thing until there has been a hearing.

GLEN HUFSTETLER: What about a youth who comes in from Spokane who has been granted emancipation? How do we deal with them?

REP. DOZIER: Whether this bill passes or fails won't deal with them.

GLEN HUFSTETLER: Yes, it does because right now they cannot stay there. They could be sent back.

REP. BRAND: You are coming from an environment where there is a lot of hostility--alcoholic parents, etc., and now we are saying we want to get those children away from that kind of an environment. This bill says the courts are going to rule in what they are going to do with them. Why do you object so strenuously?

GLEN HUFSTETLER: What we are saying is that the existing law already provides for that. One of our big concerns--we open up the emancipation can of worms and we are going to have people finding ways around it.

REP. BRAND: What about irresponsible parents--what do you do?

GLEN HUFSTETLER: All the child has to do is make application to the court or go to SRS--find a place to live.

REP. DOZIER: But you don't want to allow this one option?

GLEN HUFSTETLER: All I am saying, I would like to see on page 3 the definition clarified so that a child without parental supervision placed in a position where he does have parental supervision.

REP. BRAND: Do you think all children have to have parental control?

GLEN HUFSTETLER: Not all children, no.

REP. BERGENE: What we are talking about does not exist in the statutes right now. I think Mr. Hufstetler is talking about the Youth Court Act. He is combining dependent youth with

delinquent youth. We are concerned with the kinds of children that come into an Attention Home like Linda Wood runs. The children have not committed any kind of serious offense.

CHAIRMAN HART closed the hearing on HOUSE BILL 856.

HOUSE BILL 880

REP. BERGENE, sponsor. This bill requires any abuse, neglect, or exploitation of older persons to be reported to the Department of Social and Rehabilitation Services. The bill describes legal obligations of and limitations on persons involved in the reporting. The bill also provides a penalty for inflicting suffering on older persons and for failure to report such incident.

PROPOSERS:

NORMA VESTRE, Department of Social and Rehabilitation Services, supports this bill.

CELINDA LAKE, Women's Lobbyist Fund, supports HOUSE BILL 880. She said abuse of the elderly is not a localized problem. It is a problem that Montana like other states has largely ignored, but it is a problem equal in magnitude to child abuse and spouse abuse--two areas which we have begun to deal with in terms of reporting, crisis intervention, and protective services (EXHIBIT 7).

CHARLES BRIGGS, Office of the Governor, also supported this legislation. He emphasized this is a reporting bill because what is in need is getting statistics and information through reporting requirements being able to gauge and assess the need that is out there. Quoting from Select Committee on Aging, U. S. House of Representatives, p. 14, "Abuse of the elderly by their loved ones and caretakers exist in frequency and rate only slightly less than child abuse on the basis of data supplied by the states. This Committee concluded that some 4% of the nation's elderly may be victims of some sort of abuse from moderate to severe." To put that into context, presently there are only 5% (60 years or older) residing in nursing homes. This problem is one that must be dealt with by Montana law. In section 11, page 8, dealing with the penalties, beginning with line 6--Infliction of suffering on older person -- penalty

Strike: Lines 11 through 13

Insert: "is subject to prosecution as defined by
Title 41-3-106, MCA"

This simply says if the evidence indicates violation of the criminal code, it shall be the responsibility of the county attorney to file probate charges against the alleged offender.

The district court shall have original jurisdiction under this section.

RENEE BRERTON, Montana Senior Citizens Association, stated the major benefit her organization sees in this bill is the data collection capabilities that will be able to attract geographic and economic trends as they relate to the senior citizens. We hope this will address the number one problem with crime of the elderly.

DOUG OLSON, attorney, and Elderly Legal Services Developer, submitted written testimony (EXHIBIT 8) and stated, in part, in Montana, the Department of Social and Rehabilitation Services (SRS) is now charged with the responsibility for providing protective services for those persons 65 years or older for whom a request for assistance has been made. If SRS now has this responsibility why is HB 880 needed? Because without a mandatory reporting law, many cases that may require the assistance of protective services to resolve never come to the attention of SRS or law enforcement officials.

OPPONENTS: None

REP. BERGENE closed saying the way the bill is written, there is a recording system, the content is there, the allegation for SRS to investigate within the scope of their present staff and the gathering of data and providing the penalty condition. I talked with Mr. Briggs and he and I decided that perhaps we could work on the bill and present the amendment on the floor.

QUESTIONS:

REP. BRAND: Don't you think with this amendment you are putting in that the sentence will be much lighter to the person that is abusing?

CHARLES BRIGGS: Not necessarily. What we are trying to get at is family intervention. The way the law is written regarding child abuse, I am only offering that as conceivable framework. To require felony prosecution with the kind of stipulation that is there may impede the kind of intervention that is workable for the family. His primary concern was to provide a vehicle to get counseling for the family involved.

REP. BRAND: It says here "who purposely or knowingly" causes an older person to suffer. Do you think there is reconciliation between the parties if that is really happening.

CHARLES BRIGGS: I really don't know. They don't address possible kinds of persecution that might be involved.

REP. DRISCOLL: How many people are being prosecuted under that and what kind of sentences are being handed down?

CHARLES BRIGGS: I don't know.

NORMA VESTRE: There are 5,000 cases of child abuse each year. A very small percentage of those 5,000 would end up being prosecuted.

REP. DRISCOLL: How many have ended up in court?

NORMA VESTRE: Less than 10%.

REP. KEYSER: On page 7, section 7, line 2, it gives immunity from civil and criminal liability. If that was an irresponsible report, why shouldn't they be civilly responsible.

REP. BERGENE: I am interpreting that a little bit differently than you. I am interpreting that to mean that anyone who makes a report can, criminally or civilly, come under any sort of liability. If the person who made the report in good faith and the health professional really thought they were seeing something that was obvious news to them, they could not be held for civil or criminal liability.

REP. KEYSER: I hope it isn't so broad that a person can make a report that isn't true against somebody and then we are going to make them civilly not responsible for their actions.

NORMA VESTRE: When you put that in, it encourages people to report.

REP. WINSLOW: In response to the number of people that are prosecuted regarding child abuse, isn't the reason a lot of those prosecutions don't take place that there is a way for bridges to be rebuilt. Wouldn't you think, in the case of the elderly, that is probably true, too.

NORMA VESTRE: I am sure that is true.

CHAIRMAN HART closed the hearing on HOUSE BILL 880.

EXECUTIVE SESSION

HOUSE BILL 269

This bill would allow a county rather than a city, town, or municipality to establish a fund for licensed day-care centers.

REP. JAN BROWN moved that HOUSE BILL 269 DO PASS.

REP. JAN BROWN moved that the amendments to HOUSE BILL 269 be accepted (EXHIBIT 9).

The motion passed unanimously.

REP. JAN BROWN moved that HOUSE BILL 269 DO PASS AS AMENDED.

The motion was carried unanimously.

HOUSE BILL 880

This bill requires any abuse, neglect, or exploitation of older persons to be reported to the Department of Social and Rehabilitation Services.

REP. KEYSER moved HOUSE BILL 880 DO PASS.

The motion carried unanimously.

HOUSE BILL 873

This bill would create a state Office of Aging in the Office of the Governor.

REP. WINSLOW moved HOUSE BILL 873 DO PASS.

The motion carried unanimously.

HOUSE BILL 856

This bill would permit a court to allow a youth limited emancipation at the age of 16.

REP. FARRIS moved HOUSE BILL 856 DO PASS.

The motion carried unanimously.

HOUSE BILL 840

This bill provides an income tax checkoff contribution for funding battered spouses.

REP. KEYSER moved HOUSE BILL 840 DO PASS.

REP. CONNELLY made a substitution motion to TABLE HOUSE BILL 840.

REP. FABREGA: The funding is granted by licenses. I think it is a good bill.

REP. CONNELLY: This will fluctuate the feeling of responsibility and there would not be funding coming from volunteer and local services. There are too many checkoffs on the income tax forms now.

REP. DARKO: I feel this is the responsibility of everyone in the state. If we think there is a problem, we should fund it through a program that has a reliable source. I don't think this is a proper way of funding.

REP. KEYSER: This will make the funding more workable if it doesn't come in. It hasn't affected anything. It might be an additional fund to use.

REP. WINSLOW: I am amazed to see that we are opposed to letting someone give if they want to give.

REP. SWIFT: I can't see where this is going to impair any program.

REP. DOZIER: Page 2, lines 24-24--it says funding from the marriage license fee. What we have done here, we have used the checkoff program to reduce the funding into that program.

REP. FABREGA: Battered spouses has never been funded out of the General Fund because there was resistance. The checkoff on marriage licenses is what you can call it. This program is not being funded out of the General Fund. Right now its only source of revenue is the marriage license which is earmarked. I think it is an area where some taxpayers would want to put more money. I would also support General Fund funding for it. When the battered spouses program was started, it would not have started if General Fund money would have been required.

REP. FARRIS: I just want to say that this Committee doesn't see the problem with this bill. We have responsibilities where they are precluding it. Do you only want to have check-offs for SRS programs and then you will cut them out of the General Fund? What's going on? What are we doing here as legislators if we are not saying how the state money should be spent? There is nothing now to prevent anyone who wants to from funding their own local program.

REP. DRISCOLL: Is there any other source of money for this program?

CELINDA LAKE: There is General Fund appropriation money to make up the difference in what the marriage licenses provide.

REP. WINSLOW: The General Fund dollars are very short. The real issue here--should we let people voluntarily give or should we sit up here and dictate to taxpayer what they have to pay to.

REP. DOZIER: I think there is a point where we have to dictate. This is a social responsibility that we have to accept. I have trouble using this mechanism to fund the program. What we are doing is throwing off our social responsibilities.

REP. BRAND: How many checkoffs are we going to have on the ballot for people to make contributions to.

REP. SWIFT: This would make three if we pass these two bills.

REP. BRAND: 20% of the operational costs must come from local community. How much money is that providing?

REP. HART: Maybe an office or a consultant would be provided.

REP. BRAND: How much money are these people short to perpetuate this program?

REP. DRISCOLL: How much in appropriations--in Human Services--was asked for?

CELINDA LAKE: \$236,000.

REP. DRISCOLL: What is the estimate that this program will bring in?

REP. HART: No one knows.

REP. DOZIER: Do you feel that the appropriation that was requested would fund everything that is needed for this program.

CELINDA LAKE: My response is that I think it was "bare bones".

REP. SWIFT: The figures that were read during the testimony came to 25-30% on the basis of the request.

REP. BRAND to REP. DOZIER: You are talking about the "gopher" program and that is a checkoff. How much did they get in and does that take care of the program?

REP. DOZIER: The preservation of nongame species is not a social responsibility. I don't know how much they received.

REP. BRAND: I want to see them have it. It has been said that they don't know how much money is coming in. We are going to neglect our responsibility for that Appropriations Committee for that \$269,000 and that is going to be lost. If that is true, I think this is going to be gutted and I will not support this kind of legislation.

REP. WINSLOW: We don't have any idea how much money is coming in. This program is going to serve as a supplement that can't be funded on the local level.

REP. BRAND: Will you put an amendment in here that if costs aren't picked up, the program will be funded properly.

REP. DRISCOLL: Page 2, line 23--

Strike: "primary"
Insert: "partial"

Then the Appropriations Committee would have a responsibility to address the rest.

REP. FABREGA moved the amendment be accepted.

REP. WINSLOW asked if you accept the amendment, could you get the bill on the floor?

REP. DOZIER: I am not against checkoffs. This is a social responsibility and I just don't see it put in the category of a nice contribution.

REP. KEYSER: If we take REP. DOZIER'S theory--what we are saying is we can't contribute to a social problem.

REP. FARRIS: You can contribute right now.

REP. FABREGA: My preference would be for the Committee to amend it and if it doesn't get to the floor, we can always move to take it from printing.

The motion is to strike "primary" and insert "only partially".

REP. FARRIS. "Partially" can mean 2% and still have an unfunded program with the checkoffs.

REP. SWIFT: We cannot in committee attempt to set levels of appropriations.

REP. WINSLOW: We are not talking about partial being the General Fund.

REP. FABREGA: You would recognize that marriage license funding is only partial funding.

REP. DRISCOLL: Last year they got \$189,000. Would they then take the \$5 off of that appropriation or is it in addition to is.

REP. WINSLOW: If that was put into it, there was a time period for some money build-up.

REP. BRAND: If REP. FABREGA is including "partial", could we insert "major portion to come from the General Fund".

REP. KEYSER: We couldn't do that because you would change the whole intent of the author.

REP. WINSLOW: There may be other other sources that become available. We can't tie it to General Fund.

The motion to accept the amendment passed unanimously.

A roll call vote was taken on the motion to TABLE HOUSE BILL 840. Ten members voted yes (REPS. FARRIS, BRAND, BROWN, CONNELLY, DARKO, DOZIER, DRISCOLL, HANSEN, MANAHAN and CHAIRMAN HART) and seven members voted no (REPS. FABREGA, KEYSER, JONES, SEIFERT, SOLBERG, SWIFT and WINSLOW).

The motion to TABLE HOUSE BILL 840 passed.

HOUSE BILL 797

This bill provides for a voluntary contribution by a taxpayer receiving a state tax refund for the purpose of funding battered children's programs. The contribution mechanism is a checkoff on the state income tax form.

REP. KEYSER moved HOUSE BILL 797 DO PASS.

REP. MENAHAN made a substitute motion to TABLE HOUSE BILL 797.

REP. MENAHAN said we should know how many kids we are talking about and where the money is coming from. He thought there should be more information.

CHAIRMAN HART: This has several pages of amendments.

REP. WINSLOW: I don't think just because it has amendments is any reason to table it. This program is working in six states. One state is using a checkoff system.

REP. WINSLOW moved that the amendments be accepted.

CHAIRMAN HART: I don't think we can handle the amendments.

REP. WINSLOW: The problem is, if the bill doesn't come up amended, we can pull it from transcribing and put it on the board. .

REP. WINSLOW: There are programs at almost every city and local level dealing with abused children and more and more of them are being identified because physicians are becoming more likely to identify those people. This money would be used at the local level to help in those programs.

REP. MENAHAN: How much as been done to go out into the communities to try and raise this money locally.

ANSWER: Sure.

REP. MENAHAN: Then why do we need this if they are doing it locally?

REP. DOZIER: The Legislature and I have to say it is our responsibility to take care of these programs--not to go out and seek donations for them.

Amendments to House Bill 797 (Introduced copy) Devlin

1. Title, line 6.

Following: "FOR"

Strike: "BATTERED CHILDREN"

Insert: "CHILD ABUSE AND NEGLECT PREVENTION AND
INTERVENTION"

2. Title, line 7.

Following: "ESTABLISHING"

Strike: "AN ACCOUNT"

Insert: "A CHILDREN'S TRUST FUND"

3. Page 1, lines 10 and 11.

Following: "checkoff" on line 10

Strike: "for battered children services"

Insert: "to establish a children's trust fund"

4. Page 1, lines 13 and 14.

Following: "contribute to" on line 13

Strike: "battered children services"

Insert: "the children's trust fund"

5. Page 1, line 19.

Following: "to"

Insert: "the children's trust fund"

6. Page 1, line 21.

Strike: "Battered children services funding"

Insert: "Children's trust fund"

7. Page 1, line 24.

Strike: "help fund battered children services"

Insert: "the children's trust fund"

8. Page 2, line 4.

Following: "the"

Strike: "battered children"

Insert: "children's trust"

9. Page 2, line 6.

Strike: "Battered children account"

Insert: "Children's trust fund"

10. Page 2, lines 7 and 8.

Following: "a" on line 7

Strike: "battered children account"

Insert: "children's trust fund"

11. Page 2, line 8.

Following: "this"

Strike: "account"

Insert: "fund"

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REP. BROWN: The problem I have with both of these bills is that I don't think they bring in enough money to justify the expenditures of the paper work. Some people--if they were looking at the tax return and it said "Help Battered Children" would say, what kind of a program is that?

The motion on the amendments was voted on and it passed unanimously.

REP. BRAND: Some of the things that are disturbing me, and this bill is included, the President of the United States said we ought to turn the economy around. The programs are in bad shape. I don't think the voluntary contributions are going to do a thing. I will oppose it on those grounds.

REP. DRISCOLL: I think this is a way to save General Fund money.

REP. WINSLOW: REP. BRAND's comment that it is the responsibility of the government to help is very appropriate. We are not taking away that responsibility. We are giving that voluntary opportunity to give.

Question was called and a roll call vote was taken with ten members voting yes (REPS. FARRIS, BRAND, BROWN, CONNELLY, DARKO, DOZIER, DRISCOLL, HANSEN, MENAHAN and CHAIRMAN HART) and seven members voting no (REPS. FABREGA, KEYSER, JONES, SEIFERT, SOLBERG, SWIFT and WINSLOW).

The meeting adjourned at 2:30.

Marjorie Hart
CHAIRMAN MARJORIE HART

Ann Barrett
Secretary

12. Page 2, line 9.

Following: "for"

Strike: "use"

Insert: "allocation"

Following: "department"

Insert: "of social and rehabilitation services to local child abuse and neglect prevention and intervention programs"

13. Page 2, lines 10 and 11.

Following: "who" on line 10

Strike: "have received actual physical abuse"

Insert: "are abused or neglected as defined in 41-3-102"

14. Page 2, line 11.

Following: "abuse."

Insert: "Section 3. Child abuse and neglect prevention and intervention grant program. There is a grant program established within the department of social and rehabilitation services for the allocation of grant money to local child abuse and neglect prevention and intervention programs."

Section 4. Duties of the department -- rules. The department:

(1) may use state funds as a match for federal funds if required;

(2) may spend no more than 5% of the appropriated funds for administrative costs of the program;

(3) may conduct research and compile statistics relating to abused and neglected children and their families;

(4) shall accept federal funds that may be available for use in carrying out the provisions of this part; and

(5) shall adopt rules necessary to carry out the purposes of this part.

Section 5. Authorized grantees -- criteria for grants. (1) The department may award child abuse and neglect prevention and intervention grants only to programs which are locally controlled. Grants may be awarded to governmental or nongovernmental agencies or persons.

(2) Child abuse and neglect prevention and intervention grants are to be awarded on the following basis:

(a) demonstrated need;

(b) project merit;

(c) community support;

(d) administrative design; and

(e) efficiency of administration.

Section 6. Authorized services and programs of grantees. (1) Grants may be awarded to government and nongovernment agencies or persons for prevention and intervention programs for abused and neglected children and their families. Such programs may include but are not limited to:

- (a) preventing child abuse and neglect;
- (b) preventing out-of-home placement of abused and neglected children when possible;
- (c) providing in-home services to families;
- (d) providing services to abused and neglected children and their families;
- (e) building and strengthening self-help groups which address child abuse and neglect issues;
- (f) training which will enhance the capabilities of agencies, families, and communities in the prevention and treatment of child abuse and neglect.

Section 7. Review and award of grants. (1) Grant applications submitted in accordance with rules adopted to carry out the purposes of this part will be review and awards made by a committee created by the department which must include two members who are not employees of the department.

(2) The services authorized in subsection (1) may be provided on a regional basis by a local child abuse and neglect prevention or intervention program within the regional boundaries established by the department if authorized to do so by the review committee.

Section 8. Funding. (1) Revenue from the children's trust fund provided in [sections 1 and 2] is the source of funding for the child abuse and neglect prevention and intervention grant program.

(2) Twenty percent of the operational costs of a child abuse and neglect prevention and intervention grant program must come from the local community served by the grant. The local contribution may include in-kind contributions.

Section 9. Rulemaking authority. The department of revenue may adopt rules to implement the provisions of [section 1]."

Renumber: subsequent section

15. Page 2, line 12.

Following: "(1)"

Strike: "Section"

Insert: "Sections"

Following: "1"

Strike: "is"

Insert: "and 9 are"

16. Page 2, line 15.

Following: "to"

Strike: "section"

Insert: "sections"

Following: "1"

Insert: "and 9"

17. Page 2, line 16.

Following: "(2)"

Strike: "Section"

Insert: "Sections"
Following: "2"
Strike: "is"
Insert: "through 8 are"

18. Page 2, line 18.
Following: "to"
Strike: "section"
Insert: "sections"
Following: "2"
Insert: "through 8"

Ex 2
H B

STATEMENT OF INTENT

House Bill 797

House Human Services Committee

House Bill 797 requires a statement of intent because it authorizes the Department of Social and Rehabilitation Services to adopt rules to implement statutory changes. The Children's Trust created by voluntary contributions from income tax refunds would provide funds to locally-based programs which are not operated by the state and which are involved in prevention and treatment of child abuse and neglect. The Department of Social and Rehabilitation would administer the fund.

TO: The Chair and members of the House Human Services Committee

FROM: J. Burt Annin, National Association of Counsel for Children
National Committee for the Prevention of Child Abuse
Director, Region VIII Family Resource Center

The Children's Trust Fund concept is spreading as a means to finance locally-based child abuse and neglect prevention and intervention programs. Beginning in 1980, advocates for abused and neglected children have secured passage in six states -- Kansas, Washington, Iowa, Virginia, California and Michigan -- legislation which creates new sources of support for prevention and intervention services.

The idea of a Children's Trust was conceived by Dr. Ray Helfer, a nationally-recognized pediatrician who was vice president of the National Committee for the Prevention of Child Abuse.

As government budgets are diminishing and public responsibilities for providing services are scrutinized, Children's Trusts emerge as a means of addressing a growing problem which has increasing need for support if families are to be preserved intact and support and treatment for abused and neglected children and their families is to be successful. The six states which have already passed Children's Trust legislation use different sources to create the fund. To date the only existing legislation creating a Trust from an income tax refund checkoff is that from Michigan. Borrowing from the Michigan experience the arguments for and against the bill can be briefly stated as follows:

FOR

The bill would establish a reliable and protected source of funding for programs aimed at preventing child abuse and neglect by establishing a children's trust fund. In times of tight budgets prevention programs are easily ignored as public and private agencies provide after-the-fact services to families where child abuse and neglect is found. The fund would be created by private monies, voluntary contributions. And, it would be free to receive funds from other sources which may from time to time be available. Child and family advocates are convinced that prevention programs can be effective as they have in such areas as immunization programs. Demands on public resources limit prevention potential.

AGAINST

The argument against centered on the use of an income tax check-off as the means of creating the fund because of fears that it would establish a precedent for the use of the state tax form as a means of raising money for private causes. There are many worthy causes whose proponents could make claim to deserving such special treatment and it could lead to lengthening and complicating tax forms.

Proponents of children's trust legislation argue that child abuse and neglect is such a FUNDAMENTAL PROBLEM that it deserves special attention. The victims of abuse and neglect are treated by the state in later years in schools, mental health facilities, and correctional facilities. The eventual savings to the state which would result from successful prevention programs would be enormous and this bill warrants your passage and the resulting programs your support.

VISITOR'S REGISTER

HOUSE HUMAN SERVICES

COMMITTEE

BILL HOUSE BILL 797

DATE 2-21-83

SPONSOR REP. DEVLIN

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE

HUMAN SERVICES

COMMITTEE

BILL

HOUSE BILL 840

DATE 2-21-83

SPONSOR

REP. DEVLIN

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WADE F. WILKISON, LISCA

HB 873 TESTIMONY

Madame Chairman, members of the committee, my name is Wade Wilkison and I am the Director of LISCA, Low Income Senior Citizens Advocates.

HB 873 is by itself short, direct and straightforward, in many ways self-explanatory. It establishes a specific focus for public input for planning, coordination and operation of senior citizens programs. It institutionalizes this focus within the office of the Governor and mandates the creation of an advisory council on aging to assist the Coordinator of Aging. And costs associated with the position are already included in both the LFA and Executive budgets.

THE STATE CONSENSUS THAT A CHANGE MUST BE MADE

HB 873 grows out of administrative changes made within the Department of Social and Rehabilitation Services (SRS) about two years ago. As a part of the functional reorganization of SRS, the then Aging Services Bureau was eliminated, and the focus for aging programs in the state was consequently lost. The senior citizens of the state of Montana are reasonable and patient, and waited for some time to see if the administrative changes within SRS would still allow them to have effective public access to programs operated by SRS that effect their lives.

Within nine months there was a clear consensus among senior citizens in the state that SRS, confronting so many other pressing human needs in other programs, had lost the ability to provide a clear focus for program issues relating specifically to senior citizens. At every public meeting involving senior citizens I have attended since about that time, the question has invariably arisen "what are we going to do to get our Aging Office back again?"

Every senior citizen group in the state that I have been in contact with has endorsed the concept of re-establishing a true focus for public input for planning and coordinating senior citizen programs; certainly LISCA, MSCA, AARP, and NRTA have made this matter a priority concern over the last year.

This senior citizen concern has been manifested in several ways politically as well. First, Legacy Legislature, held last fall in Helena, voted this issue as one of the top three priorities among the state's senior citizens. Second, affirmation of the need for a new aging office became a part of the state's political parties' political platforms. Third, many legislative candidates made a strong and affirmative senior citizens stand, including the re-establishment of an aging office, a key part of their own campaign statements. And finally the Governor, responding to the cards, letters, personal visits and telephone calls of Montana's senior citizens, promised to appoint a coordinator of aging operating out of his office in September of 1982, first at the meeting of Legacy Legislature and subsequently at the annual Governor's Conference on Aging.

OPTION TWO: A COMMISSION OR BUREAU ON AGING

Senior citizens would also accept a mid-range option, the creation of a Commission on Aging or Board or Bureau on Aging. Once again, good and successful models exist for this range of alternatives to our current aging programs administrative structure. Administrative variations include having the Commission and/or Commissioner on Aging appointed by the Governor, with varying degrees of administrative autonomy from the Governor. As in the case of the Department on Aging, the Commission or Bureau would have actual administrative responsibility for day-to-day decisions on senior citizen programs, including state utilization of Older Americans Act funding, so these options would again guarantee to the state's senior citizens that their programs would be removed from SRS control. At the same time these structures would also meet OAA requirements for funding, so federal dollars rather than state dollars could be utilized to operate this range of administrative structures.

As senior organizations discussed which of these various options to present to this legislature, most felt that a Commission or Bureau was an immediate need, but that we should be responsive to the heavy burden you as legislators face and not ask you to make decisions about significant changes such as establishing new state commissions without full and proper time to make a reasoned and informed decision.

For these reasons, then, senior citizens support HB 873 as the first step in a series of steps that will, along with the interim aging administrative structure study resolution now being drafted, make Montana's aging programs as effective and open to public input as in other states. Montana's 120,000 senior citizens deserve no less.

With both public and political consensus that a new state aging focus must be created, the only remaining question has been what form this new aging focus should take.

HB 873 AND AN INTERIM STUDY ON AGING NEEDS

HB 873 provides an interim focus and forum by which public discussion can take place on aging issues. In a legislative session very conscious of funding questions, I am pleased to report that in discussions I have held with the Governor's staff there is clear indication that both the Executive Budget and the LFA'S budget already include the costs for this position, so no additional staff salary will be required.

In addition to assuring Montana's senior citizens that there is a single office and person who can respond to their inquiries, we also propose an interim study designed to fully analyze Montana's aging needs as reflected in administrative changes to make Montana's aging programs operate as effectively as possible. In addition to his other responsibilities, the person occupying the Coordinator of Aging Office position would be a primary participant in this study, along with the Advisory Council also established by this bill. Draft language for this interim study resolution is now being prepared. The interim study would investigate at least the following range of options, options that leaders within the senior citizen community of the state have been discussing as alternatives to the current aging administrative structure in Montana.

OPTION ONE: A DEPARTMENT OF AGING

Senior citizens desire a Department on Aging fully separate and apart from SRS, so that attention to senior citizen programs is not eclipsed by other program concerns at SRS. The federal Older Americans Act(OAA) generally assumes a separate set of program officers and staff, and OAA funding is regularly used to fund totally separate aging offices, so if this option were ultimately selected then this new Department would be funded with federal rather than state dollars. Good models exist for the creation of a Montana Department on Aging. Federal documents outlining the philosophy and need for certain specific responsibilities associated with a state aging office are readily available. According to these and other documents, states with highly successful and well-organized aging programs tend to have administrative structures patterned after either Departments on Aging or Commissions on Aging.

We chose not to recommend such a major administrative change to this session, however, because you are already dealing with the continuance of another state department, the Department of Institutions, and we felt you should have the right to judge that matter on its own merits without us complicating things by requesting a department on aging in the middle of your Institutions debate.

HB 873 TESTIMONY

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VISITOR'S REGISTER

HOUSE HUMAN SERVICES COMMITTEE

BILL HOUSE BILL 873

DATE 2-21-83

SPONSOR REP. JAN BROWN

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

TESTIMONY - LIMITED YOUTH EMACIPATION
HOUSE BILL 856
BILLIE NIMMONS - 18
PARK HIGH SCHOOL - LIVINGSTON

Concerning House Bill 856 regarding Limited Youth Emacipation it is my belief by passing this bill would be in the better interest to certain youth in Montana.

In March of 1979, I lost the last of my remaining parents, I was 14 years old. The following three years I lived at home, becoming a self-supporting individual.

At age 17 I was placed by S.R.S. under foster care. This organization was faced with the dilemma of continuing myself under foster care or to place me in an institutional dwelling. Both I and my appointed social worker agreed that neither of these choices would be in the best interest of my particular case. Upon my own insistence and with the help of former District Judge Jack Shanstrom I was allowed to live alone in a facility of my own choice. S.R.S. had no such existing policy nor had Montana Code allotted for a case such as my own. This is where Limited Youth Emacipation is needed. This law only would apply to youth in dependency proceedings because of neglect, abandonment, or abuse, and only to the few of those who are over 16 and desire Limited Emacipation.

Also current law and regulations cut off all state support for a dependent youth on the youth's 18th birthday, at which time the youth is forced to leave the foster home and support himself or herself. HB 856 provides an alternative to this "instant adulthood" by allowing the youth certain adult rights before he or she is 18.

In addition House Bill 856 requires a youth, as a condition of emacipation to stay in school until graduation, repay any money fronted by S.R.S., and to fulfill any and all contractual obligations incurred during limited emacipation.

I support the Limited Emacipation Bill and it is my belief that upon passing it, it would be in the best interest to state dependent youth of Montana. Thank You.



*Attention Home (406) 442-7484
Attention Home Runaway Program (406) 443-4186
602 N. Ewing Helena, Montana 59601*

House Bill 856

A Bill to Allow Limited Emancipation of Minors

Linda Wood
Executive Director
Attention Home, Inc.

IN FAVOR of HB 856

I urge the committee to give a "Do Pass" recommendation to HB 856 providing for limited emancipation of youths who are 16 years of age or older and who would best benefit by such emancipation.

The Attention Home provides short-term emergency shelter to adolescents. In other words, the Home provides care and shelter while a youth is in a state of crisis and is in transition from one placement to another. In a one year period, the Home shelters 160-180 youths. The number one goal of the Attention Home and the placement agencies we work with is to re-runite these youths with their natural families. This is accomplished in approximately 50% of the cases. However, the remaining 50% or so are unable to be returned to their natural family because of serious family problems such as physical, emotional and/or sexual abuse, severe neglect, loss or separation of parent figures through death, abandonment or even illness, inability of the parents to continue raising their child or a complete breakdown within the family until which no longer enables them to function. In such cases, the youth in question must be placed outside of his home permanently. The Attention Home shelters such youths while the more permanent solution is being found. Each year we see a number of

*Attention and Advocacy not Detention
A United Way Agency*

youths who fall between the cracks and who are not suitable for placement into the existing system. Some of these youths would be excellent candidates for early emancipation.

Older (16 and 17) adolescents are the most difficult to place in existing group care facilities and foster homes. Foster homes are few and far between for teen-agers in the best of situations. Placement into foster homes for 16 and especially 17 year olds is made more difficult because they are not emotionally seeking another family. Intact families are preparing their 16 and 17 year old children for leaving home by helping to ready them for future schooling, military service, job training and independent living. These children who find them selves in need of out-of-home placements at the age of 16 or 17 are caught in the double bind of having to prepare for independence while being expected to attach themselves to a new family. It is partially for these reasons, older adolescents are not frequently placed in private foster homes. Group home programs are often times designed for specific lengths of stay as part of their treatment program. Many times the older adolescent will be 18 before the treatment program can be completed and this generally causes a facility to only accept younger clients. Thus, there are some resources for the older adolescent, but generally not enough options to make out-of-home placements successful.

HB 856 would allow some of these youths to obtain an emancipated status where they could live on their own and begin to assume responsibilities for their own lives. The Bill would not allow for Courts or Welfare Departments to simply "dump" adolescents on the streets. The screening process outlined in the bill would ensure only those youths who would be best served by limited emancipation would be eligible. The provisions for continued schooling and reporting regularly to the Courts or Welfare Department would provide on-going evaluation of the process and again ensure that only those youths capable of handling the responsibility would be emancipated.

VISITOR'S REGISTER

HOUSE HUMAN SERVICES

COMMITTEE

BILL HOUSE BILL 856

DATE 2-21-83

SPONSOR REP. BERGENE

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WOMEN'S LOBBYIST FUND

Box 1099
Helena, MT 59624
449-7917



TESTIMONY OF CELINDA C. LAKE, WOMEN'S LOBBYIST FUND, IN SUPPORT OF HB 880
BEFORE HOUSE HUMAN SERVICES COMMITTEE ON FEBRUARY 21, 1983

The Women's Lobbyist Fund Supports HB 880 calling for reporting of elderly abuse. Abuse of the elderly is not a localized problem. It is a problem that Montana like other states has largely ignored, but it is a problem equal in magnitude to child abuse and spouse abuse -- two areas which we have begun to deal with in terms of reporting, crisis intervention, and protective services. HB 880 is an important step toward acknowledging and dealing with the problems we have with elderly abuse. Sixteen other states have reporting laws like this.

According to UCLA's Center for Gerontological Studies, 4% of the nation's elderly are physically abused and six times that are financially, verbally, or psychologically abused. The incidence of physical abuse of the elderly is as high as the incidence of physical abuse of children. Victims of elderly abuse are often as dependent on their abuser as victims of child abuse. According to Souza's report on Elder Abuse, 77% of victims of elder abuse are moderately to totally dependent on their abuser as a caregiver. Incidents of elderly abuse are badly underreported because the victims are often ashamed, isolated, and scared of being institutionalized and because the abusing situations usually involve family members and the family unit.

Most elderly abuse victims are single, female, over 75, and with a disability which makes them even more dependent on their caretaker. Abusers are generally relatives upon whom the elderly person is dependent for personal care, shelter, and support.

The premise of reporting laws like HB 880 is that victims of elder abuse are often as vulnerable and dependent as the children whom we have protected by similar laws. Our elderly need the extra societal protection of these kinds of laws. We would encourage this committee to pass HB 880.

MONTANA SENIORS' ADVOCACY ASSISTANCE

P.O. Box 232 • Capitol Station • Helena, Montana 59620
(406) 449-4676 (Helena) • 1-800-332-2272 (Toll-free)

EX 8
H/38

DOUGLAS B. OLSON, Attorney
Elderly Legal Services Developer

LENORE F. TALIAFERRO
Montana State Nursing Home Ombudsman

February 21, 1983

Members,
House Human Services Committee
Montana House of Representatives
48th Legislature
State Capitol
Helena, Montana 59620

re: House Bill 880

Dear Representatives:

Montana Seniors' Advocacy Assistance (MSAA) performs under contract the responsibilities assigned to Montana under the federal Older Americans Act for advocacy assistance for senior citizens in the areas of legal services, long-term care and in part, protective services. Protective services as used in this context means encouraging the development of better means for assisting those senior citizens who need help in managing their personal or financial affairs or both. The scope of such assistance can range from guidance or lending a helping hand to the creation of a guardianship or conservatorship.

On a national basis, studies are revealing that a great percentage of senior citizens as they grow old become more dependent on those around them for help in managing their affairs. It is in these cases that an elderly person may become susceptible to being abused, exploited or neglected by those persons to whom they have entrusted their care. Sometimes such abuse is by accident or oversight in the case of inadequate health care or nutrition but often it comes as a result of physical assault or mental abuse. How widespread is such abuse in Montana? One can only hazard a guess at this time because there is no requirement that suspected cases be reported to social and law enforcement personnel so that remedial action can be taken.

House Bill 880 sponsored by Rep. Bergene and others may not be the complete answer to this growing national problem but it will put Montana on the right road toward reducing the abuse of the elderly. Dr. Ronald Rivers, the state medical examiner or so-called "Quincy" for Montana, supports this legislation because it will help all of us to recognize that a problem does exist in this area that needs to be resolved. Until child abuse reporting became mandatory, little progress was made toward educating the public of how prevalent it was in our society and how it could be reduced. Without mandatory reporting of suspected cases, elder abuse is often only confirmed too late, at the time of an autopsy.

Letter to House Human Services Comm.
re: House Bill 880
February 21, 1983
Montana Seniors' Advocacy Assistance
Page 2

If reports are made, protective services can be provided in confirmed cases of elder abuse, neglect or exploitation. The victim can be re-located in a safer, healthier environment if necessary.

Nationally, more and more states are enacting laws each year that do require reporting of suspected cases of abuse by those persons who are in the best position to notice that a problem may exist. Wyoming adopted such a law in 1981 and Utah also has one in place among those states that Montana closely resembles.

In Montana, the Department of Social and Rehabilitation Services (SRS) is now charged with the responsibility for providing protective services for those persons 65 years or older for whom a request for assistance has been made. (See section 53-5-204, MCA, a copy of which is attached). If SRS now has this responsibility why is HB 880 needed? Because without a mandatory reporting law, many cases that may require the assistance of protective services to resolve never come to the attention of SRS or law enforcement officials. Elder abuse may also justify stiff sanctions depending upon whether or not extreme physical or mental abuse or neglect is involved. The options available under present law are inadequate, especially in cases of deprivation of needed medical care or nutrition.

A bill was introduced in the 1982 Montana Legacy Legislature last September concerning mandatory reporting of elder abuse. The senior citizens there believed that it portrayed a problem that warranted legislative resolution. HB 880 evolved in part from Legacy Legislature substitute Bill No. 13.

The Adult Protective Services program within SRS has not received the attention, support or staffing that it properly deserves in comparison to the Child Abuse Program. The Legislative Fiscal Analyst (LFA) report suggests that SRS could survive a cut in about 18 full-time equivalent employees (FTEs) without impacting the delivery of services or the programs it administers. MSAA disagrees with the LFA that SRS could withstand the loss of 18 FTEs. These persons could be used to help improve the delivery of programs such as child and adult protective services. HB 880 should not necessarily require SRS to hire additional FTEs if SRS is not forced to loose the 18 FTEs referred to above.

In summary, HB 880 is clearly needed as a tool to providing better care and assistance to vulnerable elderly Montanans. Without knowledge of a suspected case of abuse, neglect or exploitation, no steps can be taken to investigate. Your favorable action on HB 880 would be greatly appreciated.

Letter to House Human Services Comm.
re: House Bill 880
February 21, 1983
MSAA
Page 3

MSAA has the following housekeeping amendments to suggest regarding HB 880:

1. Page 3, Line 3
Following: "promptly"
Strike: "send"
Insert: "transmit"
2. Page 4, Line 4
Following: "roominghouse,"
Insert: "boardinghouse"
3. Page 5, Line 9
Following: "inspection."
Insert: "Any person receiving a report, data or information pursuant to subsections (2) (a) through (g) must keep such information confidential unless it is required to be divulged in a proceeding for enforcement of this (act)."

Thank you for an opportunity to comment on this legislation.

Sincerely,

Douglas B. Olson

Douglas B. Olson
Attorney

Montana Seniors' Advoc. Asst.

attachements.

Part 2 — Protective Services

- 53-5-201. Short title.
- 53-5-202. Definitions.
- 53-5-203. Purpose.
- 53-5-204. Duties of department.
- 53-5-205. Departmental authority.
- 53-5-206. Annual reports.
- 53-5-207. Protective services not creating guardianship or conservatorship.

Protective Services

53-5-201. Short title. This part may be cited as the "Protective Services Act for Aged Persons or Disabled Adults".

History: En. 71-1914 by Sec. 1, Ch. 232, L. 1975; R.C.M. 1947, 71-1914.

53-5-202. Definitions. As used in this part, the following definitions apply:

- (1) "Department" means the department of social and rehabilitation services.
- (2) "Aged person" means an aged person as defined by the department.
- (3) "Disabled adult" means a person 18 years of age or over who is defined by the department as disabled but not developmentally disabled.
- (4) "Protective services" means assistance to an aged person or disabled adult in obtaining the services offered by the department.

History: En. 71-1915 by Sec. 2, Ch. 232, L. 1975; R.C.M. 1947, 71-1915.

53-5-203. Purpose. To ensure that aged persons or disabled adults in the state be afforded the opportunity to receive protective services and to implement certain provisions of the federal government's Title XX, Social Services Amendments of 1972, this legislature declares the department to be recognized as the public agency responsible for providing those services.

History: En. 71-1916 by Sec. 3, Ch. 232, L. 1975; R.C.M. 1947, 71-1916.

* **53-5-204. Duties of department.** The department shall be responsible for acting on requests for protective services from aged persons or disabled adults or from relatives, friends, or other reputable persons requesting those services on behalf of an aged person or disabled adult.

History: En. 71-1917 by Sec. 4, Ch. 232, L. 1975; R.C.M. 1947, 71-1917.

53-5-205. Departmental authority. The department may implement a program for protective services by establishing appropriate rules which are not inconsistent with the department's activities.

History: En. 71-1918 by Sec. 5, Ch. 232, L. 1975; R.C.M. 1947, 71-1918.

53-5-206. Annual reports. The department shall make annual reports on the number of people served by this part and the type of protective services made available to the aged persons and disabled adults of Montana.

History: En. 71-1919 by Sec. 6, Ch. 232, L. 1975; R.C.M. 1947, 71-1919.

53-5-207. Protective services not creating guardianship or conservatorship. The provision of protective services does not create a guardianship or conservatorship relationship between the department and the aged person unless a guardianship or conservatorship is created in accordance with the requirements of Title 72, chapter 5, part 3 or 4.

History: En. Sec. 7, Ch. 343, L. 1981.

Compiler's Comments

Codification Instruction: Subsection (2), sec. 8, Ch. 343, L. 1981, provided: "Section 7 is

intended to be codified as an integral part of Title 53, chapter 5, part 2, and the provisions of Title 53, chapter 5, part 2, apply to section 7."

DEPARTMENT OF SOCIAL AND
REHABILITATION SERVICES

CHAPTER 5

Sub-Chapter 1

Protective Services

Rule	46.5.101	Purpose of Adult Protective Services
	46.5.102	Definitions
	46.5.103	Adult Protective Services Available
	46.5.104	Adult Protective Services, Eligibility
	46.5.105	Procedures to Obtain Adult Protective Services

46.5.101 PURPOSE OF ADULT PROTECTIVE SERVICES Adult protective services are services intended to prevent or remedy neglect, exploitation or abuse of aged persons or disabled adults who are unable to protect their own interests. (History: Sec. 53-2-201 MCA; IMP, Sec. 53-5-205 MCA; NEW, 1978 MAR, p. 206, Eff. 2/25/79.)

46.5.102 DEFINITIONS As used in this sub-chapter, the following definitions apply:

- (1) "Aged person" means a person 65 years of age or older.
- (2) "Disabled adult" means a person of 18 through 65 years of age who is:
 - (a) determined to be disabled by the social security administration;
 - (b) determined fully disabled by the veterans' administration;
 - (c) determined disabled by the department's vocational rehabilitation division;
 - (d) adjudicated disabled by a court of competent jurisdiction; or
 - (e) determined eligible for the medically needy program because of disability;
 - (f) does not include the developmentally disabled as defined in section 53-20-102, MCA.
- (3) "Protective services" means services directed at preventing or remedying neglect, abuse, or exploitation of aged or disabled adults.

- (4) "Voluntary services" means protective services requested or accepted by an aged person or disabled adult.
- (5) "Non-voluntary services" means protective services provided under court-ordered legal guardianship to a ward who is aged or disabled.
- (6) "Ward" means an incapacitated person for whom a guardian has been appointed by a court of competent jurisdiction.
- (7) "Department" means the department of social and rehabilitation services. (History: Sec. 53-2-201 MCA; IMP, Sec. 53-5-205 MCA; NEW, 1978 MAR, p. 206, Eff. 2/25/78.)

46.5.103 ADULT PROTECTIVE SERVICES AVAILABLE (1) Voluntary services include, but are not limited to:

- (a) identifying persons needing protective services through referrals;
 - (b) investigating referrals and diagnosing problems to determine extent and type of services needed;
 - (c) counseling for the individual and family;
 - (d) arranging or facilitating appropriate alternative living arrangements or protective placements;
 - (e) enlisting support and services from interested persons or agencies;
 - (f) assisting in arrangement of health related services;
 - (g) assisting in locating legal services;
 - (h) providing advocacy; or
 - (i) assisting in arranging services to preserve or enhance the current living arrangement when desirable in the best interest of the aged person or disabled adult.
- (2) Non-voluntary services may include any voluntary service under subsection (1) above, and any other services ordered by the court through guardianship proceedings. (History: Sec. 53-2-201 MCA; IMP, Sec. 53-5-205 MCA; NEW, 1978 MAR, p. 206, Eff. 2/25/78.)

46.5.104 ADULT PROTECTIVE SERVICES, ELIGIBILITY

- (1) Adult protective services will be provided when necessary without regard to income to any person who is aged or disabled as defined in ARM 46.5.102. (History: Sec. 53-2-201 MCA; IMP, Sec. 53-5-203 through 53-5-205 MCA; NEW, 1979 MAR p. 1705, Eff. 12/28/79.)

46.5.105 PROCEDURES TO OBTAIN ADULT PROTECTIVE SERVICES

- (1) The welfare department of the county in which the applicant resides or is found receives and investigates requests for protective services.
- (2) Request for service is accepted from aged or disabled persons on their own behalf or from any relative or persons interested in the individual's welfare.
- (3) A request for service may be written or oral, however, a written request on a form available from the county welfare department is preferred. (History: Sec. 53-2-201 MCA; IMP, Sec. 53-5-205 MCA; NEW, 1978 MAR p. 206, Eff. 2/25/78; AMD, 1979 MAR p. 1705, Eff. 12/28/79.)

VISITOR'S REGISTER

HOUSE HUMAN SERVICES COMMITTEE

BILL HOUSE BILL 880

DATE 2-21-83

SPONSOR REP. BERGENE

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

DEPARTMENT OF SOCIAL AND
REHABILITATION SERVICES

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Amendments to House Bill 269 (Second reading copy) J.Brown

Title, line 4.
Following: "COUNTY"
Insert: ", "

Title, line 5.
Strike: "RATHER THAN A"

Title, line 7.
Following: "CENTERS;"
Insert: "REMOVING CITIES', TOWNS', AND MUNICIPALITIES'
AUTHORITY TO ESTABLISH DAY-CARE CENTERS AND HOMES; AMENDING
SECTION 7-16-4114, MCA;"

Page 1, line 13.
Strike: "facilities"
Insert: "programs"

Page 1, line 14.
Following: "county"
Insert: ", city, town, or municipality"

Page 1, lines 15 and 16.
Following: "day-care" on line 15
Strike: "centers and homes"
Insert: "programs"

February 21 19 83

MR. SPEAKER

We, your committee on HUMAN SERVICES

having had under consideration HOUSE Bill No. 797

first reading copy (white)
color

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR VOLUNTARY
CONTRIBUTION CHECKOFF ON STATE INCOME TAX RETURNS FOR BATTERED
CHILDREN SERVICES WHEN THE TAXPAYER IS ENTITLED TO A REFUND;
ESTABLISHING AN ACCOUNT FOR CONTRIBUTIONS."

Respectfully report as follows: That HOUSE Bill No. 797
BE AMENDED AS FOLLOWS:

1. Title, line 6.

Following: "FOR"

Strike: "BATTERED CHILDREN"

Insert: "CHILD ABUSE AND NEGLECT PREVENTION AND INTERVENTION"

2. Title, line 7.

Following: "ESTABLISHING"

Strike: "AN ACCOUNT" Insert: "A CHILDREN'S TRUST FUND"

Insert: "A CHILDREN'S TRUST FUND"

DUXESKX

3. Page 1, lines 10 and 11.

Following: "checkoff" on line 10

Strike: "for battered children services"

Insert: "to establish a children's trust fund"

4. Page 1, lines 13 and 14.

Following: "contribute to" on line 13

Strike: "battered children services"

Insert: "the children's trust fund"

5. Page 1, line 19.

Following: "to" Strike: "battered children services"

Insert: "the children's trust fund"

6. Page 1, line 21.

Strike: "Battered children services funding"

Insert: "Children's trust fund"

7. Page 1, line 24.

Strike: "help fund battered children services"

Insert: "the children's trust fund"

8. Page 2, line 4.

Following: "the"

Strike: "battered children"

Insert: "children's trust"

9. Page 2, line 6.

Strike: "Battered children account"

Insert: "Children's trust fund"

10. Page 2, lines 7 and 8.

Following: "a" on line 7

Strike: "battered children account"

Insert: "children's trust fund"

11. Page 2, line 8.

Following: "this"

Strike: "account"

Insert: "fund"

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12. Page 2, line 9.

Following: "for"

Strike: "use"

Insert: "allocation"

Following: "department"

Insert: "of social and rehabilitation services to local child abuse and neglect prevention and intervention programs"

13. Page 2, lines 10 and 11.

Following: "who" on line 10

Strike: "have received actual physical abuse"

Insert: "are abused or neglected as defined in 41-3-102"

14. Page 2, line 11.

Following: "abuse."

Insert: "Section 3. Child abuse and neglect prevention and intervention grant program. There is a grant program established within the department of social and rehabilitation services for the allocation of grant money to local child abuse and neglect prevention and intervention programs."

Section 4. Duties of the department -- rules. The department:

(1) may use state funds as a match for federal funds if required;

(2) may spend no more than 5% of the appropriated funds for administrative costs of the program;

(3) may conduct research and compile statistics relating to abused and neglected children and their families;

(4) shall accept federal funds that may be available for use in carrying out the provisions of this part; and

(5) shall adopt rules necessary to carry out the purposes of this part.

Section 5. Authorized grantees -- criteria for grants. (1) The department may award child abuse and neglect prevention and intervention grants only to programs which are locally controlled. Grants may be awarded to governmental or nongovernmental agencies or persons.

(2) Child abuse and neglect prevention and intervention grants are to be awarded on the following basis:

(a) demonstrated need;

(b) project merit;

(c) community support;

(d) administrative design; and

(e) efficiency of administration.

Section 6. Authorized services and programs of grantees. (1) Grants may be awarded to government and nongovernment agencies or persons for prevention and intervention programs for abused and neglected children and their families. Such programs may include but are not limited to:

February 21, 1993

- (a) preventing child abuse and neglect;
- (b) preventing out-of-home placement of abused and neglected children when possible;
- (c) providing in-home services to families;
- (d) providing services to abused and neglected children and their families;
- (e) building and strengthening self-help groups which address child abuse and neglect issues;
- (f) training which will enhance the capabilities of agencies, families, and communities in the prevention and treatment of child abuse and neglect.

Section 7. Review and award of grants. (1) Grant applications submitted in accordance with rules adopted to carry out the purposes of this part will be review and awards made by a committee created by the department which must include two members who are not employees of the department.

(2) The services authorized in subsection (1) may be provided on a regional basis by a local child abuse and neglect prevention or intervention program within the regional boundaries established by the department if authorized to do so by the review committee.

Section 8. Funding. (1) Revenue from the children's trust fund provided in [sections 1 and 2] is the source of funding for the child abuse and neglect prevention and intervention grant program.

(2) Twenty percent of the operational costs of a child abuse and neglect prevention and intervention grant program must come from the local community served by the grant. The local contribution may include in-kind contributions.

Section 9. Rulemaking authority. The department of revenue may adopt rules to implement the provisions of [section 1]."

Renumber: subsequent section

15. Page 2, line 12.

Following: "(1)"

Strike: "Section"

Insert: "Sections"

Following: "1"

Strike: "is"

Insert: "and 9 are"

16. Page 2, line 15.

Following: "to"

Strike: "section"

Insert: "sections"

Following: "1"

Insert: "and 9"

17. Page 2, line 16.

Following: "(2)"

Strike: "Section"

February 21,

19 83

Insert: "Sections"
Following: "2"
Strike: "is"
Insert: "through 8 are"

18. Page 2, line 18.
Following: "to"
Strike: "section"
Insert: "sections"
Following: "2"
Insert: "through 8"

ON MOTION TAKEN FROM COMMITTEE AS AMENDED
PRINTED, AND PLACED ON SECOND READING

STANDING COMMITTEE REPORT

.....February 21,..... 19 83.....

MR. SPEAKER.....

We, your committee on.....HUMAN SERVICES.....

having had under considerationHOUSE..... Bill No. 856.....

first reading copy (white)
Color

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW AN ORDER OF LIMITED EMANCIPATION TO BE GRANTED TO A YOUTH WHO IS 16 YEARS OF AGE OR OLDER AND WHO IS FOUND TO BE ABUSED, NEGLECTED, OR DEPENDENT; AMENDING SECTIONS 41-1-306, 41-3-102, AND 41-3-405 THROUGH 41-3-407, MCA; AND PROVIDING AN EFFECTIVE DATE."

Respectfully report as follows: That.....HOUSE..... Bill No. 856.....

DO PASS

STANDING COMMITTEE REPORT

February 21, 19 83

MR. SPEAKER

We, your committee on HUMAN SERVICES

having had under consideration HOUSE Bill No. 873

first reading copy (white)
Color

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING, WITHIN THE GOVERNOR'S
OFFICE, AN OFFICE OF AGING."

Respectfully report as follows: That HOUSE Bill No. 873

DO PASS

STANDING COMMITTEE REPORT

February 21 19 83

MR. SPEAKER

We, your committee on HUMAN SERVICES

having had under consideration HOUSE 352 Bill No. 880

first reading copy (white)
Calder

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING REPORTING BY HEALTH CARE PROFESSIONALS AND OTHER PERSONS OF INCIDENTS OF ABUSE, NEGLECT, AND EXPLOITATION OF OLDER PERSONS; SPECIFYING THE USE OF THE REPORTS; PROVIDING FOR IMMUNITY FROM CIVIL AND CRIMINAL LIABILITY; SPECIFYING THE DUTIES OF THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES RELATING TO ABUSE, NEGLECT, OR EXPLOITATION OF OLDER PERSONS; AND PROVIDING PENALTIES."

Respectfully report as follows: That HOUSE Bill No. 880

DO PASS