

MINUTES OF THE MEETING
HUMAN SERVICES AND AGING COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 22, 1985

The meeting of the Human Services and Aging Committee was called to order by Chairperson Nancy Keenan on February 22, 1985 in Room 312-2 at 5:10 p.m. in the State Capitol.

ROLL CALL: All members were present.

HOUSE BILL NO. 854: Hearing commenced on House Bill No. 854. Representative Koehnke, District 32, sponsor of the bill stated that an act to clarify the law relating to and to generally enhance the protection and rights of persons under 18 years of age, defining terms relating to children was needed. Representative Koehnke also supplied amendments. See Exhibit 1.

Proponent Judy Rolth, an automobile dealer from Bozeman stated that the greatest gift of our creator was a child. Ms. Rolth feels that we do not have a right to end a life. The emotional and physical state of a woman after an abortion is not a pleasant sight.

Opponent Ann Brodsky, representing the Women's Lobbyist Fund said that women who terminate unintended pregnancies do so to protect themselves from deep social, psychological, and economic trauma. Studies indicate that most women who seek abortions are young and unmarried and that most have abortions for economic reasons. Exhibit 2 is supplied herewith as Ms. Brodsky's testimony. Mark Parker a Billings attorney indicated that even with the amendments supplied by Representative Koehnke, this bill is unconstitutional as written and should not be passed. Vern Klingman, a Billings minister in the United Methodist Church states that abortion is a constitutionally protected right and that the bill is still an anti-choice bill even with the amendments. Randy Hood, an attorney from the Bozeman area states his opposition. John Opitz, representing Shodair Hospital in Helena practices clinical genetics. Although Mr. Opitz states that he encourages the birth of healthy children he still opposes this bill. The State of Montana should not be more restrictive than the federal government in dealing with such an issue.

There were no further proponents and opponents present. Representative Koehnke was then excused by the Chair.

Questions were then raised. Representative Bradley then asked Mr. Koehnke what he wished to accomplish by the passage of this legislation. Representative Simon also asked Mr.

Koehnke to give a set of circumstances where this is not already being practiced. Representative Bergene asked that if a doctor did perform an abortion, is this considered negligent homicide.

There being no further discussion on House Bill No. 854, the hearing was closed.

HOUSE BILL NO. 903: Hearing commenced on House Bill No. 903. Representative Wallin, District #78, sponsor of the bill stated that an act to provide that in a child support proceeding, the level of support of each child may not be less than the amount received by children on public assistance.

Proponent Anne Brodsky, representing the Women's Lobbyist Fund supports this legislation.

There were no further proponents and opponents present. Representative Wallin was then excused by the Chair.

Representative Darko asked if there was a standard that Judge's used in determining the amount of child support which shall be paid. Representative Phillips asked if \$140.00 was the least amount to be paid in child support. Representative Gilbert asked what the average support was now. Representative Waldron questioned the guidelines used for determination.

There being no further discussion on House Bill No. 903, the hearing was closed.

HOUSE BILL NO. 881: Hearing commenced on House Bill No. 881. Representative Bradley, District #79, sponsor of the bill said that an act prohibiting the denial of reasonable family leave for the mother or father of a newborn or newly adopted child was needed.

Proponent Frank Crowley of Helena stated that he was the father of both a natural born child and an adopted child. He said that fathers are becoming more integrated in the parenting role. Mr. Crowley strongly supports this bill. Debbie Flentie, representing the Women's Lobbyist Fund said there is a broad trend in our country to share the parenting role from early infancy on. Including fathers in this bill allows families to divide the child care responsibilities even in early infancy. Studies have documented the importance of the fathers' presence for nurturing and socialization of the child in the earliest days. More fathers are

interested in having an active role in this process. A need to recognize these changing roles in our public policy is important. Exhibit 3 is Ms. Flentie's testimony. Dan Bucks of Helena is a father of five children and a foster father of infants. Personality formation through eye contact is important. Ellen Fever, director of the Montana Department of Revenue supplied amendments to this bill and of particular interest to Ms. Fever is the revision of the statement "reasonable" to "two weeks leave time".

Opponent George Allen of the Montana Retail Association felt that in the smaller businesses where the usual replacement personnel would not be available as would in a state or federal job, the work cannot be stopped so that a father of a newborn infant could stay at home and assist in the new duties. Forrest Bowles, representing the Montana Chamber of Commerce stated his opposition to this bill. Chad Smith, representing the Montana Hospital Association also proposed amendments. Rose Skoog, representing the Montana Health Care Association said that agencies should have provisions in their personnel policies to cover this type of provision. William Leary, representing himself said that unpaid leave must be mandatory, the leave of absence must be determined before granted and that private employers must not be liable under this legislation.

There were no further proponents and opponents present. Representative Bradley was then excused by the Chair.

Representative Wallin questioned private industry also being liable. Representative Gilbert spoke of small industry. Representative Simon spoke of the short notice offered employers for leave.

There being no further discussion on House Bill No. 881, the hearing was closed.

HOUSE BILL NO. 856: Hearing commenced on House Bill No. 856. Representative Montayne, District #96 introduced this bill. An act providing that it is unlawful for physicians and other providers of outpatient medical services to charge medicare patients in excess of the charges determined reasonable or customary for such services; defining the process by which such charges are established for the purposes of determining if an unlawful charge is made. Representative Montayne requested that the bill be killed in Committee.

There were no proponents nor opponents present. Represen-

tative Montayne was then excused by the Chair.

There being no further discussion on House Bill No. 856, the hearing was closed.

HOUSE BILL NO. 872: Hearing commenced on House Bill No. 872. Representative Keenan, District #66, sponsor of the bill said that an act to require the Department of Institutions to limit the patient population at the Montana State Hospital in Warm Springs to the number of patients provided for in the appropriation for that fiscal year; allowing the Department to restrict voluntary admissions; prescribing requirements for the preparation and consideration of the Department's budget request.

Proponent Kelly Morse of the Montana Board of Visitors indicated her support of this legislation. Curt Chisholm, representing the Montana Department of Institutions said that there is no way to determine the population of the hospital.

There were no further proponents and opponents present. Representative Keenan stated in her closing that something needed to be done on this situation at the hospital.

Representative Waldron asked how the population of the hospital could be determined in 1986. Representative Gould questioned the voluntary commitment process.

There being no further discussion on House Bill No. 872, Vice-Chairman Gould closed the hearing.

EXECUTIVE SESSION

ACTION ON HOUSE BILL NO. 798: Representative Darko made a motion which was seconded by Representative Campbell to do pass House Bill No. 798. Representative Waldron made a motion on the passage of the amendments which was seconded by Representative Darko. A motion was then made by Representative Darko which was seconded by Representative Waldron to DO PASS AS AMENDED WITH STATEMENT OF INTENT on House Bill No. 798. A vote was taken with Representatives Wallin, Gilbert Simon, Bradley, Phillips, Hayne and Campbell voting no.

ACTION ON HOUSE BILL NO. 571: A motion was made by Representative Darko, seconded by Representative Waldron to do pass House Bill No. 571. Representative Waldron made

a motion which was seconded by Representative Darko to do pass on the amendments and statement of intent. A vote was then taken and was passed. A motion was then made by Representative Bergene which was seconded by Representative Representative Darko to DO PASS AS AMENDED WITH STATEMENT OF INTENT. A vote was taken with all voting yes with the exception of Representative Phillips voting no.

ACTION ON HOUSE BILL NO. 821: A motion was made by Representative Simon to do pass on House Bill No. 821. A substitute motion was then entered by Representative Simon and seconded by Representative Waldron to TABLE this bill. A vote was then taken and unanimously passed to table House Bill No. 821.

ACTION ON HOUSE BILL NO. 472: A motion was made by Representative Darko and seconded by Representative Wallin to do pass House Bill No. 472. A motion was then made by Representative Darko and again seconded by Representative Wallin to DO PASS. A vote was taken and passed unanimously.

ACTION ON HOUSE BILL NO. 854: A motion was made by Representative Darko to table House Bill No. 854. This motion was seconded by Representative Bergene. A vote was then taken with all voting yes with the exception of Representatives Wallin, Gilbert and Gould. House Bill No. 854 is TABLED.

ACTION ON HOUSE BILL NO. 856: A motion was made by Representative Simon which was seconded by Representative Waldron to table House Bill No. 856. A vote was then taken with all voting in favor of tabeling. House Bill No. 856 was then TABLED.

ACTION ON HOUSE BILL NO. 903: A motion was made by Representative Darko and seconded by Representative Waldron to do pass House Bill No. 903. A substitute motion was then made by Representative Connolly which was seconded by Representative Simon to table this bill. A vote was taken and all members of the Committee voted yes with the exception of Representative Wallin who voted no to TABLE House Bill No. 903.

ACTION ON HOUSE BILL NO. 881: A motion was made by Representative Darko and seconded by Representative Gould to table House Bill No. 881. Questions were raised by Representatives Gilbert, Gould, Bradley, Cohen, Hansen, Campbell and Bradley. A vote was then taken, all members of Committee voted yes with the exception of Representatives Keenan, Bergene, and no vote from Representative Bradley. House Bill No.

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881 was then voted to be TABLED.

ACTION ON HOUSE BILL NO. 872: A motion was made by Representative Darko which was seconded by Representative Waldron to do pass on House Bill No. 872. Questions were then raised by Representatives Gilbert, Waldron, Phillips and Keenan. A substitute motion was then made by Representative Waldron and seconded to TABLE House Bill No. 872. A vote was then taken and unanimously passed to table this bill.

ADJOURN: There being no further business before the Committee the meeting was adjourned at 9:20 p.m.

Nancy Keenan
NANCY KEENAN, Chair

STANDING COMMITTEE REPORT

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MR. Speaker

We, your committee on Human Services and Aging

having had under consideration House Bill No. 798

first reading copy (white color)

Physically disabled - SRS authorized to provide services -
community homes

Respectfully report as follows: That House Bill No. 798

BE AMENDED AS FOLLOWS:

1. Title, line 10.

Following: "I"

Strike: "AND"

2. Title, line 12.

Following: "WORKS"

Insert: "; AND AMENDING SECTION 50-5-101. MCA"

3. Page 2, line 5.

Following: "persons"

Insert: "that does not provide skilled or intermediate nursing care.
This definition does not preclude the provision of skilled or
intermediate nursing care by third-party providers."

DO PASS

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4. Page 2, lines 18 and 19.

Following: "physician"

Strike: "or appropriate specialist"

5. Page 5, lines 7 and 8.

Following: "standards"

Strike: "and certification"

6. Page 5, line 13.

Following: "shall"

Strike: "certify"

Insert: "inspect"

7. Page 5, line 14.

Strike: "certification"

Insert: "inspection"

8. Page 5, lines 17 and 18.

Following: "the"

Strike: "determination of certification"

Insert: "inspection to assure compliance with the standards"

9. Page 5, line 20.

Strike: "whenever"

Insert: "whether"

10. Page 5, lines 21 and 22.

Following: "have"

Strike: "has been so certified or refused such certification"

Insert: "is or is not in compliance with applicable standards"

11. Page 5, line 23.

Following: "by"

Strike: "local"

12. Page 5, line 24.

Strike: "officers for"

Insert: "authorities conducting"

Following: "compliance"

Strike: "certifications"

Insert: "inspections"

13. Page 5.

Following: line 24.

Insert: "Section 9. Section 50-5-101, MCA, is amended to read:

"50-5-101. Definitions. As used in parts 1 through 4 of this chapter, unless the context clearly indicates otherwise, the following definitions apply:

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(1) "Accreditation" means a designation of approval.

(2) "Adult day-care center" means a facility, freestanding or connected to another health care facility, which provides adults, on an intermittent basis, with the care necessary to meet the needs of daily living.

(3) "Affected persons" means the applicant, members of the public who are to be served by the proposal, health care facilities located in the geographic area affected by the application, agencies which establish rates for health care facilities, third-party payers who reimburse health care facilities in the area affected by the proposal, and agencies which plan or assist in planning for such facilities, including any agency qualifying as a health systems agency pursuant to Title XV of the Public Health Service Act.

(4) "Ambulatory surgical facility" means a facility, not part of a hospital, which provides surgical treatment to patients not requiring hospitalization. This type of facility may include observation beds for patient recovery from surgery or other treatment.

(5) "Batch" means those letters of intent and applications of a specified category and within a specified region of the state, as established by department rule, that are accumulated during a single batching period.

(6) "Batching period" means a period, not exceeding 1 month, established by department rule during which letters of intent for specified categories of new institutional health services and for specified regions of the state may be accumulated pending further processing of all letters of intent within the batch.

(7) "Board" means the board of health and environmental sciences, provided for in 2-15-2194.

(8) "Capital expenditure" means an expenditure made by or on behalf of a health care facility that, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance.

(9) "Certificate of need" means a written authorization by the department for a person to proceed with a proposal subject to 50-5-301.

(10) "Challenge period" means a period, not exceeding 1 month, established by department rule during which any person may apply for comparative review with an applicant whose letter of intent has been received during the preceding batching period.

(11) "Clinical laboratory" means a facility for the microbiological, serological, chemical, hematological, radioimmunoassay, cytological, immunohematological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or assessment of a medical condition.

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(12) "College of American pathologists" means the organization nationally recognized by that name with headquarters in Traverse City, Michigan, that surveys clinical laboratories upon their requests and accredits clinical laboratories that it finds meet its standards and requirements.

(13) "Comparative review" means a joint review of two or more certificate of need applications within a given batch which are determined by the department to be competitive in that the granting of a certificate of need to one of the applicants would substantially prejudice the department's review of the other applications.

(14) "Construction" means the physical erection of a health care facility and any stage thereof, including ground breaking, or remodeling, replacement, or renovation of an existing health care facility.

(15) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(16) "Federal acts" means federal statutes for the construction of health care facilities.

(17) "Governmental unit" means the state, a state agency, a county, municipality, or political subdivision of the state, or an agency of a political subdivision.

(18) "Health care facility" or "facility" means any institution, building, or agency or portion thereof, private or public, excluding federal facilities, whether organized for profit or not, used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any person or persons. The term does not include offices of private physicians or dentists. The term includes but is not limited to ambulatory surgical facilities, health maintenance organizations, home health agencies, hospices, hospitals, infirmaries, kidney treatment centers, long-term care facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities, and adult day-care centers.

(19) "Health maintenance organization" means a public or private organization organized as defined in 42 U.S.C. 300e, as amended.

(20) "Health systems agency" means an entity which is organized and operated in the manner described in 42 U.S.C. 3001-2 and which is capable, as determined by the secretary of the United States department of health and human services, of performing each of the functions described in 42 U.S.C. 3001-2.

(21) "Home health agency" means a public agency or private organization or subdivision thereof which is engaged in providing home health services to individuals in the places where they live. Home health services must include the services of a licensed registered nurse and at least one other therapeutic service and may include additional support services.

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(22) "Hospice" means a coordinated program of home and inpatient health care that provides or coordinates palliative and supportive care to meet the needs of a terminally ill patient and his family arising out of physical, psychological, spiritual, social, and economic stresses experienced during the final stages of illness and dying and that includes formal bereavement programs as an essential component.

(23) "Hospital" means a facility providing, by or under the supervision of licensed physicians, services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick persons. Services provided may or may not include obstetrical care, emergency care, or any other service as allowed by state licensing authority. A hospital has an organized medical staff which is on call and available within 20 minutes, 24 hours per day, 7 days per week, and provides 24-hour nursing care by licensed registered nurses. This term includes hospitals specializing in providing health services for psychiatric, mentally retarded, and tubercular patients.

(24) "Infirmary" means a facility located in a university, college, government institution, or industry for the treatment of the sick or injured, with the following subdivisions:

- (a) an "infirmary--A" provides outpatient and inpatient care;
- (b) an "infirmary--B" provides outpatient care only.

(25) "Joint commission on accreditation of hospitals" means the organization nationally recognized by that name with headquarters in Chicago, Illinois, that surveys health care facilities upon their requests and grants accreditation status to any health care facility that it finds meets its standards and requirements.

(26) "Kidney treatment center" means a facility which specializes in treatment of kidney diseases, including freestanding hemodialysis units.

(27) (a) "Long-term care facility" means a facility or part thereof which provides skilled nursing care, intermediate nursing care, or intermediate developmental disability care to a total of two or more persons or personal care to more than four persons who are not related to the owner or administrator by blood or marriage. The term does not include adult foster care licensed under 53-5-303, community homes for the developmentally disabled licensed under 53-20-305, community homes for physically disabled persons licensed under [section 5], boarding or foster homes for children licensed under 41-3-503, hotels, motels, boardinghouses, roominghouses, or similar accommodations providing for transients, students, or persons not requiring institutional health care, or juvenile and adult correctional facilities operating under the authority of the department of institutions.

(b) "Skilled nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed registered nurse on a 24-hour basis.

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(c) "Intermediate nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed nurse to patients not requiring 24-hour nursing care.

(d) "Intermediate developmental disability care" means the provision of nursing care services, health-related services, and social services for the developmentally disabled, as defined in 53-20-102(4), or persons with related problems.

(e) "Personal care" means the provision of services and care which do not require nursing skills to residents needing some assistance in performing the activities of daily living.

(28) "Major medical equipment" means a single unit of medical equipment or a single system of components with related functions which is used to provide medical or other health services.

(29) "Mental health center" means a facility providing services for the prevention or diagnosis of mental illness, the care and treatment of mentally ill patients or the rehabilitation of such persons, or any combination of these services.

(30) "Nonprofit health care facility" means a health care facility owned or operated by one or more nonprofit corporations or associations.

(31) "Observation bed" means a bed occupied for not more than 6 hours by a patient recovering from surgery or other treatment.

(32) "Offer" means the holding out by a health care facility that it can provide specific health services.

(33) "Outpatient facility" means a facility, located in or apart from a hospital, providing, under the direction of a licensed physician, either diagnosis or treatment, or both, to ambulatory patients in need of medical, surgical, or mental care. An outpatient facility may have observation beds.

(34) "Patient" means an individual obtaining services, including skilled nursing care, from a health care facility.

(35) "Person" means any individual, firm, partnership, association, organization, agency, institution, corporation, trust, estate, or governmental unit, whether organized for profit or not.

(36) "Public health center" means a publicly owned facility providing health services, including laboratories, clinics, and administrative offices.

(37) "Rehabilitation facility" means a facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons by providing comprehensive medical evaluations and services, psychological and social services, or vocational evaluation and training or any combination of these services and in which the major portion of the services is furnished within the facility.

(38) "Resident" means a person who is in a long-term care facility for intermediate or personal care.

(39) "State health plan" means the plan prepared by the department pursuant to 42 U.S.C. 100m-2(a)(2)."

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14. Insert: NEW SECTION. before sections 1 through 9 located at:
Page 1, line 15
Page 1, line 25
Page 2, line 20
Page 3, line 7
Page 3, line 18
Page 3, line 22
Page 4, line 3
Page 5, line 7

AND AS AMENDED,
DO PASS
STATEMENT OF INTENT ATTACHED

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49th Legislature

LC 1294

STATEMENT OF INTENT

HOUSE BILL NO. 798

The department of social and rehabilitation services currently does not have authority to either operate special programs for physically disabled individuals or license group homes on their behalf. House Bill No. 798 [LC 1294] would grant such authority.

It is intended that this bill would address some of the more necessary needs of severely disabled persons who:

(1) have a permanent impairment of a physical nature that is diagnosed as such by a physician and substantially limits a major life activity, such as walking, self-care, seeing, hearing, or speaking;

(2) do not meet the state definition for developmental disability;

(3) do not meet the eligibility criteria of vocational rehabilitation; and

(4) do not qualify for medicaid waiver services.

These people represent a wide variety of disability groups, such as people with head or spinal cord injuries, people with a debilitating disease (multiple sclerosis, amyotrophic lateral

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sclerosis, muscular dystrophy, myasthenia gravis, cancer, etc.), multiply disabled people, etc. An effort is currently underway to identify such severely physically disabled individuals in addition to the 426 known people that were considered too severe for vocational rehabilitation services in 1984. The fastest growing segment of this group is the head injured.

Services to this group are the exception rather than the rule and traditionally have been medical maintenance types of assistance from medicaid, medicare, or medical assistance.

Rules adopted by the department would have to address the problem of personalized service needs of these individuals which usually do not fit an existing structured service model. Based upon some experience with this group, it is presumed that the following types of services would be necessary:

- (1) teaching individuals how to better manage their own personal care and thereby reducing the medicaid costs;

- (2) instructing people in the use of transit systems to reduce the need for therapy and to increase mobility.

The residential or in-home services for the physically disabled population include but are not limited to:

- (1) personal assistance (locating and supervising attendants);

- (2) mobility (exploring transportation modes, evaluation of devices needed for ambulation);

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(3) home management (adaptive techniques or equipment to facilitate independent housekeeping);

(4) problem solving (problem identification and methods of solution);

(5) equipment (identification of assistive equipment needs; selection, operation, care, and maintenance);

(6) sexuality (sexuality and disability, dating, role expectations); and

(7) other services the department considers appropriate.

In addition to such programmatic rules, it is intended that the department adopt rules for licensing of community homes and in cooperation with other agencies adopt rules to ensure that such homes provide necessary services for the well-being of the individuals in the homes and that their surroundings are safe and healthful. It is intended that the rules providing for such standards recognize the needs of the individual, the resources of home operators, and the goals of this legislation.

STANDING COMMITTEE REPORT

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MR. Speaker

We, your committee on Human Services and Aging

having had under consideration House Bill No. 571

first reading copy (white)
color

Mandatory licensing and regulation of professional counselors

Respectfully report as follows: That House Bill No. 571

XXXXXX
DO PASS

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Amendments to HB 571

1. Title, line 8.
Following: ", AND"
Strike: "ALLOWING"
Insert: "REQUIRING AN INSURER OR HEALTH SERVICE CORPORATION TO
OFFER THE OPTION OF ADDITIONAL"
2. Title, line 10.
Following: "MCA"
Insert: "; AND PROVIDING AN EFFECTIVE DATE"
3. Page 8, lines 17 and 18.
Strike: "equal" on line 17 through "application" on line 18
Insert: "commensurate with costs"
4. Page 8, lines 21 and 22.
Strike: "equal" on line 21 through "examination" on line 22
Insert: "commensurate with costs"
5. Page 8, lines 24 and 25.
Strike: "equal" on line 24 through "license" on line 25
Insert: "commensurate with costs"
6. Page 13, line 18.
Following: "37-8-202,"
Strike: ", or professional counselor"
7. Page 13, line 23.
Following: "pharmacist."
Insert: "An insurer shall offer, at additional cost to the
insured, the option of disability and health insurance
coverage for services performed by a licensed professional
counselor."
8. Page 14, line 20.
Following: "worker"
Strike: ", professional counselor,"
9. Page 15, line 3.
Following: line 2
Insert: "NEW SECTION. Section 17. Optional coverage for
services provided by professional counselors. A health
service corporation shall provide in its membership
contract, at an additional cost to a member, optional
coverage for services performed by a licensed professional
counselor."
Re-number: subsequent sections
10. Page 15.
Following: line 19
Insert: "NEW SECTION. Section 21. Effective date. This act is
effective July 1, 1985."

AND AS AMENDED,

DO PASS

STATEMENT OF INTENT ATTACHED

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49th Legislature

LC 784

STATEMENT OF INTENT

HOUSE BILL NO. 571

Section 4 requires the board of professional counselors to adopt rules setting professional and ethical standards and continuing education requirements for professional licensed counselors and to adopt such other rules as are necessary for the regulation of this profession. In addition, section 4 permits the board to adopt rules governing the issuance of certificates in particular areas of practice as a licensed professional counselor. The legislature perceives a need to regulate persons holding themselves out as professional counselors. Consumers of professional counseling services are entitled to adequate regulation of those services in the public interest. It is contemplated that the board may promulgate rules that:

(1) protect the public from abuse of the trust placed in professional counselors;

(2) regulate the day-to-day practices of licensed professional counselors;

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- (3) ensure a professional attitude and professional work in a professional atmosphere;
- (4) regulate fees charged for services;
- (5) regulate testing devices and methods used by licensed professional counselors;
- (6) regulate counseling techniques;
- (7) determine the type, amount, and quality of continuing education of licensed professional counselors;
- (8) determine the areas of specialization in which a professional counselor could be certified and define the requirements that must be met for certification in these areas; and
- (9) are otherwise necessary to the regulation of the profession.

STANDING COMMITTEE REPORT

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MR. Speaker

We, your committee on Human Services and Aging

having had under consideration House Bill No. 472

first reading copy (white)
color

Require annual inspections of health care facilities

Respectfully report as follows: That House Bill No. 472

DO PASS

STATEMENT IN SUPPORT OF HOUSE BILL 854

By Rep. Francis Koehnke, Sponsor

HOUSE HUMAN SERVICES COMMITTEE HEARING

February 22, 1985

Ms. Chairwoman, Members of the Committee, Ladies and Gentlemen of the audience.

For the record, I am state representative Francis Koehnke of Townsend, serving House District 32.

To begin with, I would like to respectively submit three proposed amendments to HB 854. These amendments are offered in the spirit of cooperation and in the sincere interest of getting a "do pass" recommendation on this important child protection bill.

Thus, please amend the introduced copy as follows:

1. Page 3, lines 18 through 22.
Strike: subsection (b) in its entirety

2. Page 5, line 19 through line 18, page 7.
Strike: section 6 in its entirety

3. Page 8, following line 24.
Insert: (new subsection) "(5) As used in this section, the following terms apply:

(a) "born alive" has the meaning contained in 41-1-102 [section 3 of this bill]. An infant born alive or a premature infant born alive is an existing person within the meaning and protection of Article II, section 15, of the Montana constitution;

(b) "person" has the meaning contained in 45-2-101.
renumber: Subsequent subsection

The first amendment strikes out the definition of what is called "evidence of life at birth", which is, I am told, has something to do with abortion, but I fail to see the connection. However, I believe that the remainder of the bill is still very important piece of child protection legislation. I propose the amendment if it means the passage of the bill.

The second amendment I suggest deals with the current definitions in the Montana Abortion Control Act. These were offered to clarify the subject, but are now withdrawn as part of this bill. Section 6 is not necessary to the total bill.

The third amendment is offered to clarify the existing law and has nothing to do with the unborn.

Now, I would like to address the bill as amended.

Its purpose is to generally revise the law relating to the protection of persons under 18 years of age from abuse and neglect.

The bill as amended addresses four existing state statues that affect the lives and protection of children, that is, real constitutional persons that are born alive. THIS IS NOT AN ABORTION BILL --- PRO OR CON! It is a civil rights bill that addresses equal justice issues.

Section 1 of the bill is a legislative statement of purpose that is straightforward and fully recognizes the existing constitutional rights of both women and children.

Section 2 deals with an old 1895 civil code provision regarding a legal or civil remedy for parental abuse. This bill just updates this section of the law and makes it operative in todays society as a useful tool in combatting child abuse. It could be very useful in rural areas that are not readily served by SRS departmental case workers. This section is supported by family attorney Ms. Joan Uda of Helena. Joan was give a draft copy of this section several weeks ago for comment and review.

Section 3 of the bill addresses the legal period of minority, how it is calculated, and the definition of being "born alive". This original statute was also written in 1895. The proposed changes only clarify the legal rights of an infant born alive.

In section 4, the bill deals with the existing provisions on "justifiable use of force" in the criminal code, enacted in 1973. The purpose of the change is to eliminate any possible legal defense resulting from physical injury to a child. The definitions used in section 4 refer to the Montana Child Abuse, Neglect and Dependency Act (1974).

Section 5 is a code commissioner section dealing with vital statistics and is only a change to agree with section 3 of the bill as amended.

Section 6, of course, is withdrawn as per my amendments.

Section 7, subsection (2), is the criminal code dealing with endangering children. Rep. Hannah's bill (HB 807) fails to clarify this point. HB 807 deals with the standard of medical treatment and the state's (SRS) involvement in a "Baby Doe" case. This section 7(2) is nothing more than a companion section to HB 807. The other proposed changes in section 7 of the bill deal with either codification material or clarification of the existing law offered by the bill drafter, Mr. John MacMaster, lawyer for the Legislative Council.

And section 8 and 9 are self-explanatory.

In closing, this Session we have seen several bills dealing with the important problem of child abuse in Montana. The important thing about this bill is that it does not cost the state

section 4 of the bill, on page 4, lines 4 - 7, attempts to define such abuse as "physical or mental injury as defined in 41-3-102." In 41-3-102, physical injury is defined in part as "temporary...impairment of any bodily organ." Does the language in HB 854 prohibit a parent from spanking a child in the parent's discipline of the child? Could not a spanking impair the skin, a bodily organ? The point that needs to be made is that this bill may have ramifications that neither I, the sponsor, nor members of this committee can now imagine.

Finally, I point to problems with the bill from a perspective of form. First, at present, the Montana Abortion Control Act, as it relates to terms regarding abortion, is self-contained. In contrast, HB 854 attaches the definition of "live birth" in the Abortion Control Act to the meaning contained in 41-1-102. There is absolutely no reason to place abortion-related language in various places throughout the code. Furthermore, the amendment to 41-1-102 in the bill is totally out of context of the purpose of that statute, as I understand it.

In closing, I will say that the law of this land and the sentiment of the majority of the people in Montana and this country is that the state can and should not invade personal privacy nor abridge human rights by denying women the right to choose abortion. Despite the seemingly innocent and benign words in the bill's title, this bill is ^{clearly} an attempt to restrict women's constitutionally protected rights.

The WLF recommends that the committee table HB 854.

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Brooksby

WOMEN'S LOBBYIST FUND

Box 1099
Helena, MT 59624
449-7917



February 22, 1985

TESTIMONY FOR THE WOMEN'S LOBBYIST FUND BY DEBI FLENTIE BEFORE THE HOUSE HUMAN SERVICES COMMITTEE

Madam Chair and other members of the Committee. For the record my name is Debi Flentie representing the Women's Lobbyist Fund speaking in favor of HB 881.

HB 881 allows a mother or father of a newborn child or adoptive child a reasonable leave of absence from their job for the care of the new child. There is an increasing need in Montana for this type of leave. Without adequate leave, parents are returning to their jobs unprepared for the added stress of their combined roles as workers and parents. The child and the employer suffer from the consequences.

Montana was one of the first states to recognize the need for maternity leave in the private and public sector. Maternity leave is treated as a disability but it is often taken because of the demands of the newborn baby and needed adjustments to a changed family life. Parents of adopted newborn babies have these same demands. No leave provision is currently provided in Montana law for adoptive parents.

There is a broad trend in our country to share the parenting role from early infancy on. Including fathers in this bill allows families to divide the child care responsibilities even in early infancy. Studies have documented the importance of the fathers' presence for nurturing and socialization of the child in the earliest days. More fathers are interested in having an active role in this process. We need to recognize these changing roles in our public policy.

There has been a movement nationwide for parenting leave. Some unions have negotiated parenting leave. In a national survey, Catalyst, an employment think tank, found that 10% of US companies offer paternity leave including AT&T, Proctor and Gamble, and the Ford Foundation.

The Women's Lobbyist Fund feels this bill is timely given the dual role of parents in our society. This bill would give legal rights for parenting leave for mothers, fathers and adoptive parents. This bill recognizes the active participation of parents in careers outside the home while maintaining the delicate balance of family life. We feel the employer as well as parents will benefit from this bill. Quality of family life will improve as well as productivity in the work place.

Please give this bill a DO PASS. Thank you.

HUMAN SERVICES AND AGING COMMITTEE

BILL NO. HB 903 DATE 2/22/85
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VISITORS' REGISTER

HUMAN SERVICES AND AGING COMMITTEEBILL NO. HB 856DATE 2/22/85

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
RYAN TOM	HELENA-MSCBSSN	✓	
MICHAEL S. BECKER	HELENA	✓	
KATHRYN A. BECKER	Helena	✓	
John M. Spitz	Helena		✓
G. S. Lindsey	Helena		
Sydney Cogburn	Helena		✓

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

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VISITORS' REGISTER
HUMAN SERVICES AND AGING COMMITTEE

BILL NO. HB 854

DATE 2/22/85

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Eileen Robbins	527 Hillside Helena		X
Ann Danzer	1011 Logan Helena		X
Louise Evans	711 Fred Burr Victor		X
Martha Newell	Box 7235 Msl		X
Betsy Hurd	1020 Worden Missoula		X
Susan Cottingham	Mt ACLU Helena		X
Beck Brennan	1509 S. 6th W Msl		X
Sally Mulley	1745 S 6th W Msl		X
Dr. VERN KLINGMAN	1020-14th St. W - Billings		X
Debbie Sachs	627 Edith - Msl		X
Gus Barthett	Helena		X
Mayann Garrity	Msl		X
Janet L. Royle	BOZEMAN	X	
Margaret Sue Miller	707 Highland		X
William Guerin	21, Shiloh		X
John Larson	Helena	X	
Laura Stafford	Helena		X
Mark D. Parker	Billings		X
Kelly Franz	Missoula		X

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COMMITTEE

DATE 2/22/83

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COMMITTEE

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HUMAN SERVICES AND AGING COMMITTEE

DATE _____

22 February

[illegible]

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