

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

January 22, 1987

The meeting of the Judiciary Committee was called to order by Chairman Earl Lory on January 22, 1987, at 8:00 a.m. in Room 312 D of the State Capitol.

ROLL CALL: All members were present.

HOUSE BILL NO. 202: Rep. Jan Brown, sponsor, District No. 46, stated HB 202 deals with a privileged relationship that exists between a licensed social worker and his client. It shall be placed on the same basis as provided by law between an attorney and his client.

PROPOSERS: JOHN MADSEN, Department of Social Rehabilitation Services, explained the department supported the concept of providing privilege to social workers but questioned that the same privilege existed for psychologists. Many psychologists refuse to report child abuse cases and for that reason the department had a problem with the way the bill was written.

JUDITH H. CARLSON, Montana Chapter of the Association of Social Workers, stated it was at the department's request that this bill be sponsored by Rep. Jan Brown. Montana has 150 licensed social workers. One of the basic tenets of social work is the relationship between the social worker and his/her client is confidential. There is often heavy and intensive information which passes between the client and the therapist/social worker. This is necessary for the treatment of the client. However, unless this information is protected, it is unlikely that many clients would share their feelings and thoughts to the degree necessary for treatment to be effective. She urged support for HB #202 and submitted written testimony. (Exhibit A).

REP. TOM BULGER, stated as a physician, anyone who does therapy should have a confidential relationship with the patient.

OPPOSERS: ALEX J. DZIEKONSKI, pointed out that passage of this legislation would be very detrimental to the family, as it would be placing the social worker in a position of parent over another persons child and this could lead to rebellion against parental authority. He submitted written testimony. (Exhibit B).

DOUGLAS B. KELLEY, attorney from Helena, opposed the bill because on the surface, it appears to merely expand the psychologist/client privilege to social worker/client. However, its impact is far more damaging. HB #202 threatens the fiber of the family as follows:

- (1) It encourages additional privileged communications between social workers and children, thereby separating parent from child.
- (2) It gives social workers, who are primarily adversaries in their pursuit of children's rights, an opportunity to be extremely divisive.
- (3) It further isolates parents from what their children believe. Unlike the attorney/client or doctor/patient privilege.
- (4) Far too many parents are being incriminated and hung by the innuendos and hearsay of uninformed teenagers.

He further stated that he would like to reiterate that this bill does nothing to strengthen the family and everything to jeopardize the family. He asked that HB 202 be killed. He submitted written testimony. (Exhibit C).

MARC CRAMER, Pastor and Counselor from Helena, stated he was speaking on behalf of several other pastors from the area and they request HB 202 be killed.

QUESTIONS (OR DISCUSSION) ON HOUSE BILL NO. 202:

Rep. Daily asked Mr. Madsen about his testimony in regard to his indication that if this bill was passed there would be cases of child abuse that would go unreported. Mr. Madsen stated that the concerns the department has are in the present statute referring to psychologists. Social workers privilege must not be tied up under a statute that reads, in effect, that child abuse cannot be reported. Rep. Daily asked Mr. Madsen to clarify what he wanted the legislature to do. He stated that it sounded like the department was for the bill but they were really against it. Mr. Madsen pointed out that the department has written amendments to the bill and they had not been presented in the hearing. Social workers can be given privilege and not have a problem with child abuse and neglect if the proper language was proposed.

Rep. Darko questioned Mr. Cramer as to which denomination of churches he represented. Mr. Cramer stated he was a part of a non-denominational church.

Rep. Addy wondered what kind of information a social worker could get with this privilege that they cannot already get and asked Ms. Carlson to respond to the question. She stated that essentially, social workers were assuming that they were covered under the privileged communication statutes and this bill would not really change anything but the department wanted to be covered by the law. If clients knew that the information could be brought into court, most clients would not want to respond and it would destroy the opportunity for clients to be open.

Rep. Addy pointed out that if one was not honest with his doctor, he could die; if he was not honest with his attorney, he could go to jail; if he was not honest with a social worker what could happen. Ms. Carlson explained that in the field of emotional illness, the illness gets worse. The earlier one gets treatment with any kind of emotional problem, the easier it is to treat.

Rep. Meyers asked Ms. Carlson what the requirements were for becoming a social worker and she acknowledged it varied. She stated there are all kinds of social workers, but the statute referred to licensed social workers and they must have a masters degree in social work which required two years of graduate work, so, a total of six years of university study was required. Ms. Carlson pointed out that there are few licensed social workers practicing direct services in the public agency. Most who actually practice this kind of therapy are in the private practice areas.

Rep. Bulger pointed out that he was getting confused and asked Ms. Carlson about the code 37-22-401 under social workers which gives them privilege and wondered what was being done in this bill. She stated that the department has had legal advice regarding this code and there was question as to the licensed social worker.

Rep. Jan Brown stated that the amendments suggested by SRS, will be made available. She closed the hearing on HB 202.

HOUSE BILL NO. 188: Rep. Bradley, sponsor, District No. 79, stated the bill has some fairly simple amendments made to the adoption laws. She explained the procedure for adoption. The proposal was made for two reasons. To avoid duplication of the SRS and the agency of adoption, and to move the process along if there are no problems and it was in the best interest of the child.

PROPOSERS: MARTHA VAN GENDERUM, Montana Inter Company Adoption, the changes that Rep. Bradley has made were mainly to eliminate misunderstandings about the procedures and to help eliminate extra work for SRS.

JOHN MADSEN, Department of Social Rehabilitation and Services, urged a DO PASS for HB 188.

JAMES J. FLANEGAN, Director of Catholic Social Services, supported the legislation as it is.

There were no further proponents and no opponents.

QUESTIONS (OR DISCUSSION) ON HOUSE BILL NO. 188: Rep. Daily asked Ms. Van Genderum why they need the bill. She stated that many children from overseas are placed in Montana and the procedures need to be made clear for the District Court judges and attorneys. The procedures need to be standardized for use throughout the state.

Rep. Bradley closed the hearing on HB 188.

HOUSE BILL NO. 207: Rep. Addy, District No. 94, stated he was carrying this bill at the request of the Department of Administration of Tort Claims Division. Each time the state of Montana is sued in a civil action for negligent design of a vehicle or your run of the mill tort suits, the law requires people to first file a claim with the department. This bill clarifies the procedure of filing a claim. He explained that a complaint based on a claim subject to the provisions of subsection (1) may not be filed in district court unless the claimant has first presented the claim to the department of administration and the department has finally denied the claim. The department's denial of a claim must be in writing and must be sent by certified mail. The failure of the department to make final disposition of a claim within 60 days after it is presented to the department must, at the option of the claimant at any time thereafter, be considered a final denial of the claim for purposes of this subsection.

PROPONENTS: JOHN MAYNARD, Administrator of the Tort Claims Division of the Department of Administration, stated that this bill presents a small but significant policy decision in the area of the tort claims act. The bill is submitted to prevent anymore litigation than is absolutely necessary.

KARL ENGLAND, Montana Trial Lawyers Association, proposed an amendment to the bill regarding the statute of limitations. He suggested that for the 60 days or for a reasonable time thereafter, the bill will not work to decrease the statute of limitations on cases against the state. The department should have an affirmative duty to respond in 60 days.

There were no further proponents and no opponents.

QUESTIONS (OR DISCUSSION) ON HOUSE BILL NO. 207: Rep. Eudaily questioned Rep. Addy in regard to third party claims. He stated that a third party claim is one that is filed after the suit is filed in the first instance. Rep. Giacometto asked Rep. Addy if he had any problems with the proposed amendment and he stated that he did not.

Rep. Mercer questioned Mr. England about the applicability date in regard to the act being set up so that it applies to causes of action that are filed after the effective dates. Mr. England stated that Rep. Mercer was correct. Most changes in tort laws ought to apply to causes of action arising after the applicability date.

Rep. Addy closed the hearing on HB 207.

EXECUTIVE SESSION

ACTION ON HOUSE BILL NO. 73: Rep. Mercer moved his proposed amendments. (See amendments attached). Rep. Miles stated that the amendments clarify the intent of the bill and supports them. Question was called and a voice vote was taken. The motion CARRIED unanimously. Rep. Brown moved DO PASS AS AMENDED. Question was called and a voice vote was taken. The motion CARRIED unanimously. HB 73, DO PASS AS AMENDED.

ACTION ON HOUSE BILL NO 120: Rep. Hannah moved to TABLE the bill. A voice vote was taken and the motion CARRIED unanimously.

ACTION ON HOUSE BILL NO. 78: Rep. Gould moved that HB 78 DO NOT PASS. Rep. Hannah requested that Rep. Gould discuss his motion. He stated that if a person is an injured, disabled worker and is already suffering from a cut in wages, if he could not pay before, he cannot pay now. Rep. Bulger stated that paramount is the obligation that the gentleman incurs by fathering children and nothing should free him of that obligation. Rep. Giacometto supported the bill. Rep. Brown opposed the bill. Question was called and a voice vote was taken. The motion FAILED. Rep. Bulger moved that HB 78, DO PASS. Rep. Addy moved to amend the bill so that only lump sum payments are subject to attachment. Rep. Bulger opposed the amendment. Question was called. Rep. Eudaily moved that a roll call vote be taken. (Roll call vote attached). The motion FAILED 9-9. Discussion continued on the bill and Rep. Giacometto made the motion to RECONSIDER HB 78 as DO PASS. Rep. Mercer made the motion that a roll call vote be taken. (Roll call vote attached). The motion FAILED 8-10. Rep. Giacometto requested that the committee discuss the bill further and that a subcommittee be formed to work on

it. Chairman Lory appointed a subcommittee. HB 78 is still in committee.


ACTION ON HOUSE BILL NO. 192: Rep. Cobb moved DO PASS. He stated that this bill is a solution to many problems. Rep. Brown opposed the motion and moved a substitute motion of DO NOT PASS. Rep. Cobb opposed the motion. Rep. Grady stated that this was a good bill and he favored it. He opposed Rep. Brown's substitute motion. Rep. Brown withdrew his motion. Rep. Cobb moved to table the bill. A voice vote was taken and the motion CARRIED unanimously. HB 192 TABLED.

ACTION ON HOUSE BILL NO. 197: Rep. Grady moved DO PASS. Rep. Eudaily felt the real problem is the cost and wished to see a lower fine. Rep. Strizich had concerns about the bill in regard to the fine being raised. Rep. Hannah moved to amend on Page 1, line 20 by inserting the language, "of not less than \$250.00" and striking "\$1,000.00". Rep. Darko stated that the courts currently would look at the fine of \$250.00 as a maximum and if we raised the fine, it would give the court the message that we want them to assess more. She disagreed with mandatory minimums. Rep. Addy stated that he was also against mandatory minimums. Rep. Mercer supported the amendment. Rep. Grady opposed the motion. Rep. Giacometto supported the motion. Question was called and a voice vote was taken. The motion CARRIED 12-6. Rep. Hannah moved to amend HB 197 on Page 2, line 21-22, by striking "6" through "months" and inserting "10 days". Rep. Daily opposed the amendment because the word "or" is in it already and the judge has the discretion to do what he wants. Rep. Grady spoke against the amendment because there was already not enough jail space. He felt ten days was just too much. Rep. Hannah moved to revise his amendment to "30 days". Question was called. A voice vote was taken and the motion CARRIED 16-2. Rep. Cobb asked Rep. Giacometto if it is better to allow the court to have an option of having the vehicle impounded up to 60 days and Rep. Giacometto stated that the option to do that already existed. Rep. Grady moved the bill as amended. Question was called and a voice vote was taken. The motion CARRIED 15-3 with Reps. Brown, Addy and Cobb dissenting. HB 197, DO PASS AS AMENDED.

ACTION ON HOUSE BILL NO. 163: Rep. Mercer moved DO PASS. He explained his proposed amendments. Rep. Brown stated he had amendments and moved his amendments. Rep. Brown stated that Rep. Mercer is correct when he said that the court has taken away a standard that was used for 20 years. However, that was not a statutory standard. It was instructions to the jury in cases involving alcohol or drugs and driving. The statutory standard is being stricken in this bill and

replaced with a much stricter standard which, is why the court threw it out because it did not compare with the standard on the books. Rep. Brown felt it was too strict a standard. He stated that his amendments put back the statutory language found in subsections (c) and (d) on page 1 and inserts that standard in subsections (a) and (b) where there is not any statutory standard. The standard the court would have to set their standards by would be as it is now statutorily. It basically says that, "to a degree that renders them incapable of safely driving a vehicle". He stated that this will solve the problem and he urged support for the amendment. Rep. Mercer opposed the amendment. He stated that it boils down to a matter of proof, history and semantics. Rep. Brown's standard that he is seeking is the ability to drive safely may be lessened. Can you drive safe or can you not drive safe? The historical aspect is that this has been the test in Montana for 27 years. Rep. Mercer explained that it is easier to convict someone of driving under the influence, with the language that is in this bill and the language that has been used in Montana for 27 years than it would be under Rep. Brown's amendment. Rep. Brown's amendment will weaken the driving under the influence law that we had prior to the Supreme Court opinion. It boils down to returning to the strict standard we have had in Montana for a long time and if somebody's ability is lessened to the slightest degree then they should not be on the road. Rep. Brown stated that Rep. Mercer is basically right but the only difference is that while this was the standard being used, it was the standard instruction of the judge to the jury always over the defense counsel's objections in front of that jury. We are making it statutory so that the jury does not get to see that inner play in the objection process. We are making it a strict standard if this is put in the law and a lot stricter than what we have now. Rep. Bulger pointed out that he is concerned about the practical application. He felt the test should be whether or not someone can safely drive. Rep. Giacometto opposed Rep. Brown's amendments. Question was called on Rep. Brown's amendments. A roll call vote was called for. The motion FAILED on a tie vote, 9-9. (Roll call vote attached). Rep. Brown made a substitute motion, DO NOT PASS. Rep. Mercer stated that it is not an appropriate justification for voting against the bill because the amendments did not pass. Rep. Brown stated that he proposes a motion to keep the bill in committee until a more favorable compromise can be worked out. Rep. Rapp-Svrcek moved to TABLE HB 163. A voice vote was taken and it CARRIED 11-7. HB 163 TABLED.

ADJOURNMENT: There being no further business to come before the committee, the hearing adjourned at 11:26 a.m.



EARL LORY, Chairman

DAILY ROLL CALL
JUDICIARY COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date *January 22, 1987*

NAME	PRESENT	ABSENT	EXCUSED
JOHN MERCER (R)	✓		
LEO GIACOMETTO (R)	✓		
BUDD GOULD (R)	✓		
AL MEYERS (R)	✓		
JOHN COBB (R)	✓		
ED GRADY (R)	✓		
PAUL RAPP-SVRCEK (D)	✓		
VERNON KELLER (R)	✓		
RALPH EUDAILY (R)	✓		
TOM BULGER (D)	✓		
JOAN MILES (D)	✓		
FRITZ DAILY (D)	✓		
TOM HANNAH (R)	✓		
BILL STRIZICH (D)	✓		
PAULA DARKO (D)	✓		
KELLY ADDY (D)	✓		
DAVE BROWN (D)	✓		
EARL LORY (R)	✓		

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 1-22-87 BILL NO. 78 TIME 11:11 A.M.

NAME	EXCUSED	AYE	NAY
JOHN MERCER			✓
LEO GIACOMETTO		✓	
BUDD GOULD			✓
AL MEYERS			✓
JOHN COBB			✓
ED GRADY		✓	
PAUL RAPP-SVRCEK		✓	
VERNON KELLER		✓	
RALPH EUDAILY		✓	
TOM BULGER		✓	
JOAN MILES		✓	
FRITZ DAILY			✓
TOM HANNAH		✓	
BILL STRIZICH			✓
PAULA DARKO			✓
KELLY ADDY			✓
DAVE BROWN			✓
EARL LORY			✓

TALLY

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Benjamin D. ...
Secretary

Eudaily
Chairman

MOTION: TO RECONSIDER THE HB #78

FAILED DO PASS VOTE.

BILL IS STILL IN COMMITTEE.

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 1-22-87 BILL NO. 78 TIME 11:06 A.M.

NAME	EXCUSED	AYE	NAY
JOHN MERCER			✓
LEO GIACOMETTO		✓	
BUDD GOULD			✓
AL MEYERS		✓	
JOHN COBB			✓
ED GRADY		✓	
PAUL RAPP-SVRCEK			✓
VERNON KELLER		✓	
RALPH EUDAILY		✓	
TOM BULGER		✓	
JOAN MILES		✓	
FRITZ DAILY		✓	
TOM HANNAH		✓	
BILL STRIZICH			✓
PAULA DARKO			✓
KELLY ADDY			✓
DAVE BROWN			✓
EARL LORY			✓

TALLY

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[Signature]
Secretary

Earl Lory
Chairman

MOTION: DO PASS-MOTION FAILED ON A TIE VOTE

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 1-22-87 BILL NO. 163 TIME _____

NAME	EXCUSED	AYE	NAY
JOHN MERCER			✓
LEO GIACOMETTO			✓
BUDD GOULD		✓	
AL MEYERS			✓
JOHN COBB		✓	
ED GRADY		✓	
PAUL RAPP-SVRCEK		✓	
VERNON KELLER			✓
RALPH EUDAILY			✓
TOM BULGER			✓
JOAN MILES		✓	
FRITZ DAILY		✓	
TOM HANNAH	✓		✓
BILL STRIZICH		✓	
PAULA DARKO		✓	
KELLY ADDY			✓
DAVE BROWN		✓	
EARL LORY			✓

TALLY

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Rene D. Farrell
Secretary

Earl Lory
Chairman

MOTION: TO APPROVE AMENDMENTS

STANDING COMMITTEE REPORT

January 22,

19 87

Judiciary

Mr. Speaker: We, the committee on
House Bill No. 197
report

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

1. Page 1, line 20.

Following: "fine"

Insert: "of not less than \$250 and"

Strike: "\$1,000"

Insert: "\$500"

2. Page 2, line 21.

Strike: "6" through "months" on line 22

Insert: "30 days"

Chairman

AHS197

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STANDING COMMITTEE REPORT

January 22,

1987

Mr. Speaker: We, the committee on Judiciary

report House Bill No. 73

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

Chairman

AMENDMENTS TO HB 73, INTRODUCED COPY.

1. Title, line 5.

Strike: "CLARIFY THAT"

Insert: "REVISE THE MANNER IN WHICH"

2. Title, line 6.

Strike: "THE" through "PENALTIES" on line 6

3. Page 1, line 13.

Strike: "Penalty for"

Insert: "Offenses committed by"

4. Page 1, line 14.

Strike: "Notwithstanding" through "must" on line 16

Insert: "A person under 18 years of age who commits an offense under this title must be tried as an adult and if convicted shall not be punished by incarceration, but shall"

5. Page 1, line 17.

Strike: ", not exceeding \$50"

Insert: "not less than and not to exceed the fine that could be imposed on him if he were an adult"

6. Page 1, line 19.

Strike: "or"

Insert: "(2) revocation of his driver's license by the court or suspension of the license for a period set by the court;"

7. Page 1, line 20.

Strike: "(2)"

Insert: "(3)"

Strike: "the probation officer"

Insert: "a law enforcement officer designated by the court"

8. Page 1, line 22.

Strike: "; however," through "impounded" on line 24

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Insert: "if the court finds either that he owns the vehicle or is the only person who uses the vehicle"

9. Page 1, line 25.

Strike: "(3)"

Insert: "(4)"

Strike: "both"

Insert: "any combination of"

Strike: "and (2)"

Insert: "through (3)"

AHB73a/JM/JMI

TESTIMONY BEFORE THE HOUSE JUDICIARY COMMITTEE

on HB 202: An Act to Provide that a
Privileged Relationship Exists Between a

Licensed social worker and His client; and amending Sec. 26-1-807, MCA

January 22, 1987

I am Judith H. Carlson, representing the Montana Chapter, Natl Association of Social Workers. It was at our request that Representative Jan Brown is sponsoring the bill before you.

Social workers are a diverse lot. There are those with B.A. degrees; there are those with Masters degrees; and there are some with Phd degrees. Some work in the public agency as child protective services workers or some other public capacity. Some work in private agencies doing adoptive placements or child therapy; some work in mental health agencies as part of the mental health team composed of the psychiatrist, psychologist, and social worker. Others work as private practitioners in practice by themselves or jointly with other professionals. They do private therapy, counselling, family therapy, assessments and evaluations for the court, and such.

There are now over 150 licensed social workers in Montana. These social workers have at least a masters' degree in social work from an accredited graduate school and at least 3000 hours of supervised work in psycho therapy to individuals, families, and groups.

Here is the problem: one of the basic tenets of social work is that the relationship between the social worker and his/her client is confidential. There is often heavy and intensive information which passes between the client and the therapist/social worker. This is necessary for the treatment of the client. However, unless this information is protected, it is unlikely that many clients would share their feelings and thoughts to the degree necessary for treatment to be effective.

It was only recently that one of our social workers has been

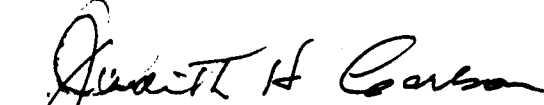
alerted that he may be called into court to testify about a certain client. We have always presumed that the confidentiality exists. However, upon further investigation in this case, it became uncertain as to whether or not that confidentiality is protected under the law.

We understand that the department of social and rehabilitation services has some concern about this section because of the requirement for social workers and other mental health workers to report conditions where child abuse is suspected. We are not asking to weaken the child abuse reporting sections of the law. Any amendment they would offer which would correct that problem would be all right with us.

Our profession is practicing under the licensing laws of the state and is regulated to insure professional conduct by licensed social workers. We come before you to ask for the protection to our clients that are given to the clients of other professions.

Craig Simmons, a licensed social worker in private practice in Helena, is here and available for questions, as am I.

We urge your support of HB 202.



Judith H. Carlson, ACSW, LSW
National Association of Social Workers

WITNESS STATEMENT

COMMITTEE B
DATE 1-22-87
902

NAME Alex J. Dziekonski BILL NO. 202
ADDRESS P.O. Box 1175, Helena, MT 59624 DATE 1/22/87
WHOM DO YOU REPRESENT? My Self + Family
SUPPORT _____ OPPOSE ✓ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: Passage of this legislation would be very detrimental to the family, as it would be placing the social worker in a position of parent over another's child. The social worker would not have to inform the parents of any confidentialities between social worker and child and could possibly even support the child in his or her rebellion against parental authority.

Alex J. Dziekonski

Kelley
LAW FIRM

EXHIBIT C
DATE 1-29-87
NO 202

Douglas B. Kelley
Attorney at Law

January 22, 1987

The Honorable Earl Lory, Chairman
Judiciary Committee
Capitol Building
Helena, MT 59620

Re: HB 202

Dear Representative Lory:

I wish to write in opposition to adoption of House Bill 202. On the surface, HB 202 appears to merely expand the psychologist/client privilege to social worker/client. However, its impact is far more damaging.

This is a day when the family is undergoing unbelievable attacks from within and without. The family is being torn by divorce, drugs, alcohol and sexual abuse. The most confidential relationship of parent and child has been always a difficult relationship to preserve in times of testing and trial.

As a practicing lawyer, many of my clients are parents deeply committed to raising their children with an emphasis on certain old fashioned values. Many of the parents honestly believe that corporal discipline is not only good, but required. Of course, not every child is extremely thankful when he is in the midst of being disciplined.

It has often been said by a teenager reaching age 21 that he can't believe how much knowledge and wisdom his parents gained in 2 or 3 short years. Of course, the one who really changed was the young person. HB 202 threatens the fiber of the family as follows:

(1) It encourages additional privileged communications between social workers and children, thereby separating parent from child.

(2) It gives social workers, who are primarily adversarial in their pursuit of children's rights, an opportunity to be extremely divisive.

(3) It further isolates parents from what their children believe. Unlike the attorney/client or doctor/

Lory
January 22, 1987
Page -2-

patient privilege, a social worker is oftentimes the primary mover for temporary investigative authority, in accordance with 40-3-213, MCA. Article II, Section 24 of the Montana Constitution gives people accused of crimes the right "to meet the witnesses against him face to face," which would be possibly be violated by enactment of this bill.

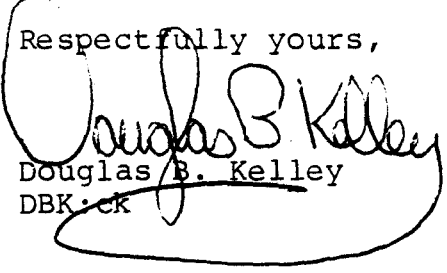
(4) Far too many parents are being incriminated and hung by the innuendos and hearsay of uninformed teenagers.

Last fall I had an opportunity to represent parents who refused to allow social workers to interview their children without one of the parents present. The social worker refused to cooperate with the parents and insisted on interviewing the children without either the parents or their authorized representative present. The social worker went to the county attorney in Lewis and Clark County and received a temporary investigative authority to interview the children without presence of the parents or their authorized representative.

Upon a show cause hearing, the Honorable Henry Loble, District Court Judge for the First Judicial District determined that it was inappropriate to refuse the request of the parents to be present or have their representative present. The Court stated that even as a parent, he would find this to be unusual and unacceptable. However, it appears that if HB 202 is enacted, the social worker would have the right to interview without court intervention, without parental knowledge, and without subsequently revealing the contents of their conversation.

In closing, I would merely like to reiterate that this bill does nothing to strengthen the family and everything to jeopardize the family. For these reasons, I would ask that HB 202 be killed. Thank you for your attention.

Respectfully yours,


Douglas B. Kelley
DBK:ck

VISITORS' REGISTER

Judiciary COMMITTEE

BILL NO. 188

DATE Jan. 23, 1987

SPONSOR Bradley

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Allyn Ann Cummins	Helena	X	
John Madsen SRS	Helena	X	
Lori Brady LSS	Helena	X	
Matthew Van Huden MICA	Bozeman	X	
Judy Post MICA	Bozeman	X	
James J. Flanagan	Helena	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Judiciary

COMMITTEE

BILL NO. 202

DATE Jan. 23, 1987

SPONSOR Brown

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
<i>Doug Kelley</i>	<i>Helena Amt</i>		<i>X</i>
<i>Maic Cramer</i>	<i>Helena Mt</i>		<i>X</i>
<i>Bud Dziekonski</i>	<i>Helena Mt.</i>		<i>X</i>
<i>John Madsen</i>		<i>X</i>	
<i>Jori Brady</i>	<i>Helena</i>	<i>X</i>	
<i>Alym Ben Cummings</i>	<i>Helena</i>	<i>X</i>	
<i>JUDITH H CARLSON</i>	<i>NASU - MT Ct</i>	<i>X</i>	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.