

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

January 30, 1987

The meeting of the Judiciary Committee was called to order by Chairman Earl Lory on January 30, 1987, at 8:00 a.m. in Room 312 D of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Hannah and Brown who were absent.

HOUSE BILL NO. 283 AND 284: Rep. Darko, District No. 2, sponsor, stated that HB 283 deals with requiring a written agreement or court order for a custodial parent to move a child's residence outside the state and to make a custodial parent's attempts to prevent contact or visitation between the child and the noncustodial parent a basis for modification of the custody decree. She explained that HB 284 deals with visitation rights also and requested that both bills be discussed together. This bill is defining visitation interference and aggravated visitation interference as criminal offenses and provides penalties for and defenses to visitation interference and aggravated visitation interference. HB 283 simply requires a hearing for removal of children from the state after the divorce and states that parents must come before the court and the decree must be modified.

PROPONENTS: JOHN MCBRIGGS, representing the Montana Child Support Division Council, explained that the council was established in 1984 by the Governor. The state of Montana has its own self interest in resolving some of the problems relating to the child support issues. The intent of the council is to study all the inner relationships with custody, visitation and any other problems that may affect payment or nonpayment of child support and also to develop and recommend guidelines. Guidelines have already been approved by the Montana Supreme Court. Findings and recommendations from the Council have been compiled in these two bills. He urged support for both bills.

JIM LEITER, Townsend, stated that often custodial parents use contempt as a tool and this bill is fair to everyone involved. He urged support for both bills.

WAYNE G. PETERSON, Missoula, stated that his two sons deserve a much better life than the life they now live. Unfortunately, American society assumes that noncustodial parents, especially fathers, do not love their children. He

supports these bills for the sake of the children. He submitted written testimony. (Exhibit A).

R. HOLTER, Judge, Child Support Advisory Council, urged passage of both bills because they will take some of the problems away.

DOC DUTTON, Polson, pointed out that he basically wants these two bills passed for the sake of the children. He stated that the children should have rights too.

KAYE HOLMESLAND, Ft. Shaw, stated that she has experienced aggravated visitation twice in the last few years and is heartened to see this sort of legislation going forth. She felt there is a need to link visitation and child support, however, as a duty-right. Child support being the duty and visitation the right. She submitted written testimony. (Exhibit B).

BOB SILVERNALE, United Fathers of America, pointed out that these bills are a step in the right direction and urged for their passage.

DON FLEMING, currently an active member of a local divorce support group, supported this legislation.

RICK JENENSEN, went on record in support of the two bills.

GLENN KANVICK, Billings, a noncustodial parent and is on the Child Support Advisory Council, stated that part of the reason that the council got started was to work together on child support and visitation problems on a national level. The bills being discussed will not stop the problems, but they will help.

JERRY O'NEILL, Kalispell, urged support of the bills.

BILL LIMEN, acknowledged that children need both parents and these bills will help in this area and they will make a difference.

OPPONENTS: MARCIA DIAS, stated these bills need modification. She acknowledged that she has denied visitation rights because of domestic violence. She said she generally supports the two bills, but, there needs to be a provision covering why people can deny visitation. She further stated that if there is such a heavy penalty for denying visitation, there should also be a heavy penalty for not paying child support.

QUESTIONS (OR DISCUSSION) ON HOUSE BILL NOS. 283 AND 284:
Rep. Rapp-Svrcek asked Judge Holter if there are agreements

with other states as to jurisdiction or boundaries in these cases. Judge Holter stated "yes".

Rep. Rapp-Svrcek asked Rep. Darko about page 3, line 14, if there was a grey area there. Rep. Darko stated that on a case by case basis, the judges handle this but this could be modified.

Rep. Eudaily questioned Judge Holter in regard to the penalty being so severe for a first offense and he answered that there are laws governing this and other states will not look at extradition for a misdemeanor.

Rep. Darko closed the hearing by stating that these bills give the opportunity for fairness to work. The hearing on HB 283 and 284 were closed.

HOUSE BILL NO. 472: Rep. Darko, sponsor, District 2, explained that this act establishes a system of court commissioners to act as mediators in proceedings for marriage dissolution and legal separation, providing for mediator qualifications, selection, and salary. This also provides for a procedure for mediation, allowing private mediation as the alternative to mandatory mediation required in a district court proceeding for dissolution or legal separation. She explained that limitations on mediation proceedings are: held in private, held without a verbatim record, and are confidential.

JOHN MCCREA, Child Support Council Division, proposes a system to resolve domestic issues through the process of mediation. Mediation results in 74% less court trials. Montana can only benefit from HB 472.

R. HOLTER, JUDGE, Child Support Advisory Council, stated that this is a very important field. The people here today testifying are talking about frustration with the present system. This bill is an attempt to solve problems and take away the need to fight. He pointed out that this is not a lawyers or judges relief act.

BOB SILVERNALE, United Fathers of America, stated that the system does not work but mediation does work. Divorce should be the last resort.

BILL RILEY, Licensed Social Worker and a Private Mediator, supported this legislation. He stated that the system of mediation is the how to of having the child raised by both of the parents when they are divorced. There are a few weaknesses in the bill and he addressed the fiscal issue in that instead of being a government run system, it can be given to the private sector and having only one mediator in

a given area has risks, there should be a choice. It is his strong opinion that the matter of child custody should be removed from the court room.

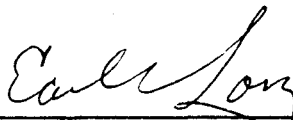
OPPONENTS: JERRY O'NEIL, Owner of the Kalispell Mediation Services, stated that this bill would put him out of business because it forces mediation into the court system after the petition is filed. He feels that the private sector can handle mediation better.

BILL LIMEN, mediation works and the state should stay out of it.

REP. DARKO, closed the hearing on HB 472 and pointed out that the bill does allow for private mediators.

QUESTIONS (OR DISCUSSION) ON HOUSE BILL NO. 472: Rep. Meyers asked Judge Holter if a feasible alternative for handling mediation could be found in state mental health districts and services. Judge Holter stated he does not think it is because it takes special training in this field. The mental health agencies are already over loaded.

ADJOURNMENT: There being no further business to come before the committee, the hearing was adjourned at 10:20 a.m.



EARL LORY, Chairman

DAILY ROLL CALL
JUDICIARY COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Jan. 30, 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)	✓		

WITNESS STATEMENT

DATE 1-30-87
 HB # 283 & 284

NAME Wayne G. Peterson BILL NO. 284
 ADDRESS 2005 Lester St., Missoula, Mt. 59801 DATE 1-30-87
 WHOM DO YOU REPRESENT? Myself and my sons, especially my sons.
 SUPPORT OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Unfortunately, American society assumes that non-custodial parents, especially fathers do not love their children. As a father I grieve daily the loss of my sons. I miss them too much if that is possible.

Current propaganda emphasizes quality time. It states that it is more important to have one hour of quality time than ten hours of regular time. My counter statement to this is that quality time is not possible when you don't get time at all.

I am a sensitive, non-gregarious person whose family was my lifeline. The loss of my family was completely devastating.

The divorce demand made by ex-spouse was a complete surprise. She did not communicate any dis-satisfaction.

Since the divorce she has refused to discuss anything with me! She has refused to meet with me to mediate our incomplete financial and property settlement.

She continually models total rejection toward me to my sons.

The reason that I open with these statements is because any controversy with my ex-spouse DOES affect my relationships with my boys especially when my ex-spouse places my sons in the middle constantly.

First of all, as stated in the following previous statement, she refuses to discuss visitation schedules and arrangements with me. This forces the boys to enter the "game" as her substitutes. This fact alone creates visitation interference problems for me.

It is no surprise, then, to tell you that she finds several tactics to interfere with my visitation rights.

I'm sure that anyone who reads this can easily recognize the fact that the custodial parent can be very resourceful in finding ways to interfere.

EXHIBIT
(over.)

Children have the right to receive benefits of both their natural parents. Both parents have ^{the} right to receive the benefits of their children.

I do not wish ~~and I have~~ to interfere with my ex-spouse and I have not ~~not~~ interfered with her. I have voluntarily helped her and offered help.

~~The more I cooperate, the more I threatened~~

The more I cooperate with my ex-spouse and sons, the more my ex-spouse becomes threatened, insecure, and guilt-filled. Therefore, she creates another problem for me AND THEM.

My primary interest has been centered around the welfare of my sons, Brian and Kevin. I can document many occasions when I have gone out of my way to help them.

Thank goodness, Linda has felt pressure from my work with the boys and she now is slowly starting to do a little bit for them. Good!

My ex-spouse continually places her problems on her sons and my sons.

Believe, me, please. A custodial parent can control a situation and a reason for refusing visitation rights. My ex-spouse has an active imagination.

Problems created for me by my ex-spouse which involve both sons:

She has refused to settle property, cash, and debts with me in full. She has refused to meet with a mediator.

She makes all letters from me to her available to the boys. She ignores letters which provoke me to send more letters.

She has refused to discuss visitation schedules and arrangements with me.

She daily involves the boys in her personal disputes with me. The boys are afraid of me.

She has encouraged them to argue with me in her behalf. She tells them not to see me if I object to her behavior!

She cleverly contrives telephone calls to me so that the boys hear a misrepresented telephone call.

She leaves the boys alone all night on frequent occasions.

She discourages telephone calls and letters to me from the boys. She neglected to inform me of changes in parent-teacher conferences.

She kept the boys away from the telephone for 48 hrs. on three different occasions.

She refuses to give me medical reports. I pay for one-half of the ^{medical} expenses.

Visitations

She drops the boys off a block away from my apartment.

I must deliver them to the Southgate Mall; she is seldom present.

She fails to send money and information for the shopping that the boys are to do.

She never gives me a telephone number or a location where she may be reached in case of emergency; the boys have reached her by calling several numbers.

She failed to deliver Kevin to me on April 12, 1985.

She failed to deliver Kevin to me on time on Oct. 25, 1985

She directly interfered with a July, 1985 trip to Yellowstone, Brian was not able to go on a later trip. Kevin and I spent five days on the trip.

She continually scheduled doctor appointments on visitation days after I was told that each day was clear.

She failed to provide Brian with transportation money on an activity trip to Missoula. He asked me for bus fare.

She made an abusive telephone call from her work place to me; I was too upset to see the boys that day.

She has called the boys while they visited me to give them false road reports.

She has telephoned the boys to tell them that she would pick them up before the scheduled visitation had ended.

She interfered with my Christmas gift to the boys this year.

She never checks to see if the boys bring homework, retainers, money, musical instruments, etc. when they visit me.

She refused my visitation request on Christmas Day, 1985.

She had a family that includes Kevin in their activities send an unauthorized bill to me.

She has told the boys that I can not come into her home to visit with them. I was able to do that the first year.

She continually places the boys in the middle of her dispute with me. There is always tension during visits with them.

She has created a situation in which the boys lie to me about their activities so I won't know what she does. I don't care what she does but I do care about what the boys do.

She yelled at me during a telephone conversation, "You are buying the boys with your gifts!" The boys were in the same room at the time.

She yelled at me during a telephone conversation, "I want to punish you!" The boys were in the same room at the time.

She refused to give me all my personal financial records necessary to complete my income tax. She finally gave them to my account. My relationship with her and lack of it does affect my relationship with my sons.

When I break down in tears during a visit or during the telephone conversation. She tells the boys that I am upsetting them and that I should control myself more.

This past two and one half years, I have been able to visit the boys less than one day a month; one ten days total the first year.

The boys lie to me about their activities due to their mother's ^{desire to avoid} me + hide her activities.

Wayne G. Peterson

2005 Leetow, Massachusetts, MA

543-5603

59801

My two sons deserve a much better life than the life that they now live. I do all I can to cooperate with the boys and also with their mother. However, my positive action is very much watered down due to my ex-spouse's negative response.

WITNESS STATEMENT

EXHIBIT B
DATE 1-30-87
HB #283 & 284

NAME LAYE HOLMESLAND BILL NO. 284

ADDRESS Box 82, Ft. Shaw, MT 59443 DATE 1-30-87

WHOM DO YOU REPRESENT? _____

SUPPORT _____ OPPOSE _____ AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I have experienced aggravated visitation twice in the last few years. I'm heartened to see this sort of legislation going forth.

I feel there is a need to link visitation and child support, however, as a duty-right. Child support being the duty - visitation the right. If the non-custodial parent really could not pay due to circumstances beyond his/her control then special arrangements could be made.

In my case, as I'm sure in others, Montana continues to insist on visitation even during a time when a warrant for his arrest was in force. Meanwhile, my five daughters, receive no support from him even though...

he has a \$100,000 house and a towing business. His way of avoiding support is to have everything he owns in someone else's name. Therefore, there is nothing legally in his name.

If he were required to be current in support before exercising visitation the children would be greatly benefited.

VISITORS' REGISTER

COMMITTEE

BILL NO.

HB ⁵⁸³ 284

DATE

Sept. 30, 1987

SPONSOR

472

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Dorothy Mangold	Ft. Shaw	YES	
KAYE HOLMESLAND	Ft. Shaw	✓	
Thayne G. Peterson	2005 Lester St. ^{Missouri, MT}	yes	
Bill Harrington	Child Support Court. ⁵⁹⁸⁰¹	✓	
John McRae	CHILD SUPPORT ADVISORY COUNCIL	✓	
R. Holtz	" " " "		
Sandy Chaney	Women's Lobbyist Fund		
DAVE FULLER	Lee County		
Kate Krogstad	Geraldine, MT		
Jan Leitzing	Townsend, Mt	✓	
Harold P. Lawrence	Kalispell, MT		
Ed Gardner	Kalispell		
Ed Kennedy	Kalispell		
Dark Mountain	Kalispell		
Wesley	Helena	✓	
Bob LEPPA	Browning		
WR Kel	Blair	?	
James O'Neil	Kalispell		
Richard G. Jensen	Donor	✓	
Walter Seljan	Kalispell	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Judiciary COMMITTEE

BILL NO. _____

DATE Sept. 30, 1987

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
<u>Doc Sutton</u>	<u>Polson, Mont.</u>	<u>Yes, Yes</u>	
<u>Marcia Dias</u>	<u>Adena, Mt.</u>		
<u>Bell M</u>	<u>Helena</u>	<u>Yes</u>	
<u>Glenn Hanvick</u>	<u>Bliss</u>	<u>Yes</u>	
<u>Bob Silvernalo</u>	<u>UNITED FATHERS OF AMERICA</u>		<u>YES</u>

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