

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

January 21, 1987

The eleventh meeting of the Senate Judiciary Committee was called to order at 10:00 a.m. on January 21, 1987 by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All members were present.

The committee just took executive action today.

LATE BILL DRAFT REQUESTS: Jim Haynes of the Montana Magistrate's Association brought before the committee a request for the Senate Judiciary Committee to ask the Legislative Council for a late bill draft. Mr. Haynes explained that the University of Montana has been authorized by state law to present an orientation course annually to the justices of the peace. He explained the University of Montana is under the supervision of the Supreme Court when giving the orientation course (see Exhibit 1). He stated the problem is the Supreme Court has been handling the orientation course and the University has not. Mr. Haynes proposed to have the certification statute, which deals with the training of the justices of peace, changed from the University of Montana's responsibility to the Supreme Court's responsibility to train the justices of the peace twice a year. Senator Bishop asked if the Supreme Court agreed this change in the statute. Mr. Haynes said the Court was pleased. Senator Blaylock moved to have the Judiciary Committee request a bill to change the certification responsibilities from the University System to the Supreme Court. The motion carried unanimously.

Rose Skoog, Montana Association of Defense Counsel, gave the committee a summary of the Defense Counsel's late bill draft request on wrongful death (see Exhibit 2, the summary) Rose Skoog explained this proposal was given to the interim committee on liability issues and that committee did not approve it, and the bill missed the due date for drafting requests. Senator Pineseault moved the authorization of the late drafting of this bill. The motion carried.

ACTION ON HB 49: Valencia Lane handed out to the committee proposed amendments to HB 49, which the committee asked her to prepare (see Exhibit 3). Valencia Lane explained the amendments defined "Volunteer" by a definition in the federal law. She pointed out that officers, directors and employees were stricken from the bill. She said the definition of "Volunteer" will cover the officers, directors, and employees. She pointed out the amendments also strike section 3 in its entirety. Senator Brown wondered if the definition of "Volunteer" was

broad enough to cover officers and directors. Senator Mazurek thought it would not disturb the bill's purpose to leave officers and directors in the bill. Senator Brown moved to strike in the Title on line 7 and on page 1, line 13 the word "employee". He felt the directors and the officers should be left in the bill. The motion carried unanimously.

The committee discussed amendment nine of the proposed amendments. Mr. Tom Lewis, Montana Trial Lawyers Association, stated that if an officer is in a corporation car and has a passenger with him, and is drunk there would be a problem if the corporation said that person was not considered an employee, now that "employee" has been taken out of the bill. Senator Mazurek felt an officer should not be immune from that kind of conduct. Karl Englund, Montana Trial Lawyers Association, stated in the ninth amendment that "gross negligence" always leads to other kinds of negligence. Senator Mazurek said he did not want to redefine "gross negligence" in this bill. Senator Pinsoneault felt most everyone in the committee felt comfortable with "gross negligence". Senator Blaylock moved to strike "gross negligence" from amendment #9 of the proposed amendments (prepared by Valencia Lane). Senator Yellowtail asked Senator Mazurek why he had a problem defining "gross negligence" in this bill. Senator Mazurek said if you define "gross negligence" in this bill, you would have to change it in all the other statutes. Senator Yellowtail voted no. The motion carried.

Senator Mazurek asked Mr. Bob Pyfer to explain the "nonprofit" definition. Mr. Pyfer said it comes out of the Internal Revenue Code under section 501(c), which makes sure that nonprofits do file their tax exemptions. Senator Pinsoneault inquired if all nonprofit organizations are covered under this act. Mr. Pyfer answered there are various acts like the Federal nonprofit act that could cover nonprofit organizations because there are federal and private nonprofit organizations, which tend to over-lap each other. Senator Beck asked how we can get them all under the same "roof". Karl Englund echoed that not all nonprofit organizations are under the Federal nonprofit act, but they all try to be under the tax code. Senator Mazurek felt using section 501(c) was quite broad. Karl Englund felt the code was quite simple. Senator Crippen moved to insert the definition of "nonprofit organization" under the tax code 501(c) in the bill. The motion carried.

Valencia Lane asked if the "officers" and "directors" are going to be left in the bill. She said there doesn't have to be a definition of volunteer, because the definition of volunteer was presented because officers and directors were stricken from the bill in the proposed amendment (Exhibit 3). Senator Crippen felt the definition of volunteer should be left in there. Senator Pinsoneault thought the word "salary" should be defined. Senator Mazurek didn't like the definition because volunteers are usually not compensated for their work. The committee decided to leave the proposed definition of volunteer out of the bill.

Senator Pinsoneault moved the bill AS AMENDED DO PASS. Senator Crippen protested against not having a definition of "Volunteer" in the bill because he felt law suits will be "falling out of the sky" if there is no definition. Mr. Tom Lewis stated the problem is officers, directors and volunteers are left in the bill with no compensation clause attached to any of them. He said many officers and directors get some compensation for their work. Mr. Lewis said there should be a list of circumstances that grant officers, directors, and volunteers immunity from this liability. Mr. Gary Neely, Montana Medical Association, stated that if you just state the duties of the officers, directors and volunteers for the immunity situation. Mr. Lewis commented the bill doesn't state an officer or a director is immune if he is an employee of the organization. Mr. Jim Robischon stated he would not change the present form of the bill to the proposed definition. The motion from Senator Pinsoneault AS AMENDED DO PASS carried unanimously.

Valencia Lane said she would make any technical changes in the bill. See Exhibit 4 for the final amendments.

ACTION ON SB 50: Senator Pinsoneault moved the bill DO NOT PASS because he felt it will only raise insurance rates. Senator Mazurek thought it might stop people from bringing in illegitimate claims. He stated the Trial Lawyers don't like it though. The motion carried with Senator Brown voting no.

ACTION ON SB 48: Valencia Lane gave the committee proposed amendments for SB 48 (see Exhibit 5). Mr. Gary Neely gave the committee amendments he had prepared (see Exhibit 6). He explained the amendments to the committee. He said section 6 assigns the periodic payment and section 7 defines the securities involved in the judgment settlement. Mr. Tom Lewis said the Neely amendments don't solve any problems. He felt a structured payment system should be voluntary process used and not mandatory by law. Mr. Neely said the court makes a better judge of this situation than any of us. Senator Mazurek agreed that the court system should have the power to decide if the payments are to be periodic or lump sum. Senator Crippen asked Mr. Lewis about the concept of "constructive receipt". Mr. Lewis stated that concept lets the judgment debtor off the hook. Senator Brown wanted to clarify if Valencia's proposed amendments would allow a judge to decide the best thing for a party in receiving periodic payments, if periodic payments were a request from one of the parties. The committee answered yes. He also asked if the judge has the power to decide if punitive damages can be requested in a periodic payment situation. Senator Mazurek said if the judge finds punitive damages in a liability case is in the best interest of the party, then it should be allowed. Mr. Neely commented if the payment process is voluntary before entering a courtroom, then the impact is less on the expense of insurance and the availability of insurance. Senator Brown commented that if a judge gets a reputation of giving periodic settlements

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to claimants, then maybe future claimants will "shop around" for judges and courts that would give them lump sums. Senator Pinsoneault moved Valencia Lane's proposed amendments 1 through 5. Senator Crippen commented that making the periodic payments optional is fine. The motion carried with Senator Brown voting no.

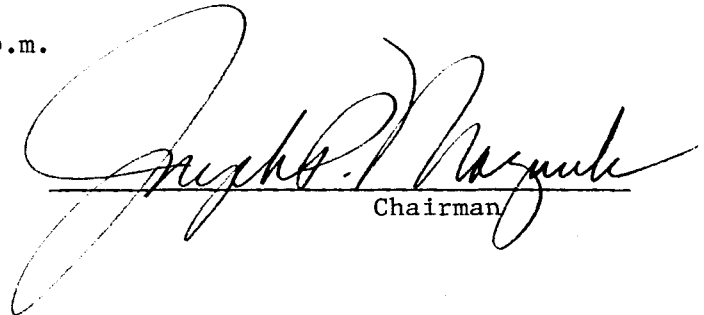
The committee discussed the Neely amendments again. Mr. Jim Robischon, Montana Liability Coalition, stated that section 7 would provide satisfying settlement judgments for judgment debtors. Senator Crippen asked if the committee were opening a new statute because judgement debtors can request posting of the securities in section 7(c). Senator Mazurek questioned the committee if they wanted the court to approve the securities. Senator Crippen made a substitute motion to insert "the court may, in its discretion, order that the judgment is satisfied" in section 7(c) of Neely's amendments. The motion carried.

The committee voted on section 7 motion, which carried.

Senator Brown moved section 6 of the Neely's amendments. The motion carried.

Senator Brown then moved the bill DO PASS AS AMENDED. The motion carried with Senator Yellowtail voting no. Exhibit 7 is the final amendments.

The committee adjourned a 12:00 p.m.


Chairman

ROLL CALL

Judiciary

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Apr. 21st 1987

NAME	PRESENT	ABSENT	EXCUSED
<u>Senator Joe Mazurek, Chairman</u>	X		
<u>Senator Bruce Crippen, Vice Chairman</u>	X		
<u>Senator Tom Beck</u>	X		
<u>Senator Al Bishop</u>	X		
<u>Senator Chet Blaylock</u>	X		
<u>Senator Bob Brown</u>	X		
<u>Senator Jack Galt</u>	Excused		X
<u>Senator Mike Halligan</u>			f
<u>Senator Dick Pinsoneault</u>	X		
<u>Senator Bill Yellowtail</u>	X		

Each day attach to minutes.

3-10-202. Oath - qualifications. (1) Each justice of the peace elected or appointed, after he has received his certificate of election or appointment, shall, before entering upon the duties of his office, take the constitutional oath of office, which must be filed with the county clerk.

(2) Before the county clerk may file the oath, the elected or appointed justice must satisfy the clerk that he is either:

(a) an attorney at law authorized to practice law in the state of Montana;

(b) a person who has held the office of justice of the peace within the preceding 5 years; or

(c) a person who has completed the orientation course of study held under the direction of ~~the university of Montana law school~~ the supreme court or has been granted a waiver by the supreme court. If a person is appointed after the course is offered, he must agree to take the course at the next offering and failure to do so will disqualify him.

3-10-203. Orientation course - annual training. (1) ~~The university of Montana law school,~~ Under the supervision of the supreme court, shall present a course of study shall be presented as soon as is practical following each general election. Actual and necessary travel expenses, as defined and provided in 2-18-501 through 2-18-503, and the costs of registration and books and other materials shall be paid to the elected or appointed justice of the peace for attending the course by the county in which he holds or will hold court and shall be charged against that county.

(2) There shall be two mandatory annual training sessions supervised by the supreme court for all elected and appointed justices of the peace. One of the training sessions may be held in conjunction with the Montana magistrates' association convention. Actual and necessary travel expenses, as defined and provided in 2-18-501 through 2-18-503, and the costs of registration and books and other materials shall be paid to the elected or appointed justice of the peace for attending the sessions by the county in which he holds or will hold court and shall be charged against that county.

(3) Each justice of the peace shall attend the training sessions provided for in subsection (2). Failure to attend disqualifies him from office and creates a vacancy in the office. However, the supreme court may excuse a justice of the peace from attendance because of illness, a death in the family, or any other good cause.

SENATE JUDICIARY

EXHIBIT NO. 2

DATE Jan. 21, 1987

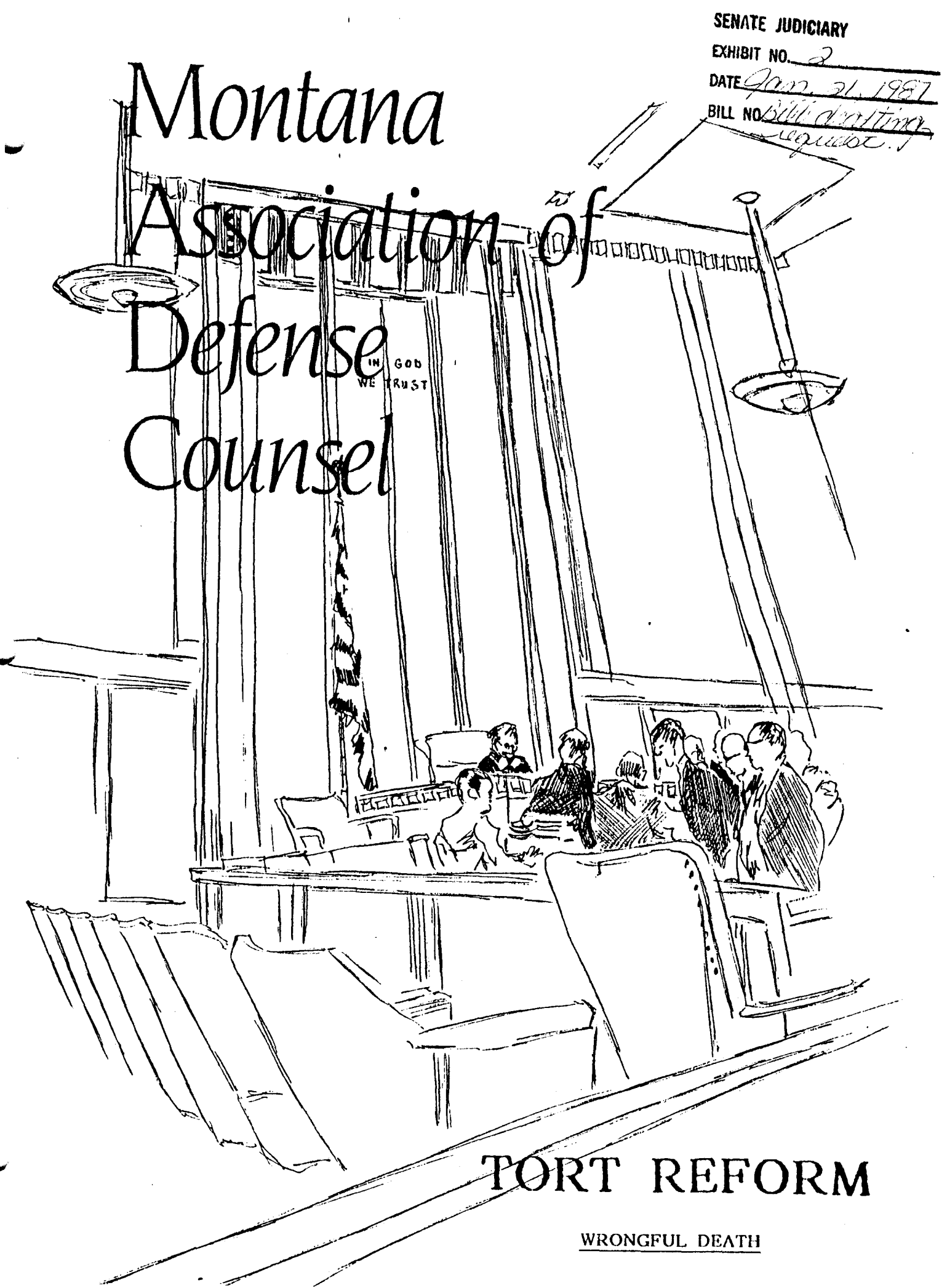
BILL NO. *bill drafting
require.*

Montana Association of Defense Counsel

IN GOD
WE TRUST

TORT REFORM

WRONGFUL DEATH



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SENATE JUDICIARY

EXHIBIT NO. 2

DATE 1-21-87

FILE NO. 11 0-01- P

SUMMARY OF LEGISLATION REGARDING WRONGFUL DEATH

The proposed reform of the wrongful death and survival action has two purposes: first, to eliminate the possibility of separate suits and second, to preclude double recovery. It provides there may be only one legal action for injuries to and death of a person and requires that the action be prosecuted by the personal representative. It specifies the elements of recoverable damages. Consistent with other proposed legislation, it eliminates damages for grief and shock in death cases.

SENATE JUDICIARY

EXHIBIT NO. 2

DATE 1-21-87

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_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE MONTANA ASSOCIATION OF DEFENSE COUNSEL

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAW RELATING TO CIVIL ACTIONS FOR THE WRONGFUL DEATH OF ANOTHER; REQUIRING THE JOINDER OF CIVIL ACTIONS FOR INJURIES TO AND DEATH OF A PERSON CAUSED BY THE WRONGFUL CONDUCT OF ANOTHER; PROVIDING THAT THERE MAY BE ONLY ONE LEGAL ACTION FOR SUCH INJURIES AND DEATH; PROVIDING THAT SUCH AN ACTION MAY BE BROUGHT ONLY BY THE PERSONAL REPRESENTATIVE OF THE DECEDENT'S ESTATE; ESTABLISHING THE COMPENSABLE ELEMENTS IN SUCH ACTIONS; AMENDING SECTIONS 27-1-323, 27-1-501, 27-1-512, AND 27-1-513, MCA; AND PROVIDING AN APPLICABILITY DATE AND AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-1-323, MCA, is amended to read:

"27-1-323. Wrongful death. In every action under ~~27-1-512~~ and 27-1-513, such damages may be given as under all the circumstances of the case may be just. The elements of these damages may include only the following:

(1) loss of consortium by the surviving spouse;

(2) pecuniary loss of comfort and society of the

decedent suffered by:

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Bill drafting
Montana Legislative Council
request

1 (a) (i) the surviving spouse; and

2 (ii) the decedent's child or parent who resided with
 3 decedent at the time of death and to whose support the
 4 decedent contributed; or

5 (b) if there is no surviving person described in
 6 subsection (2)(a), a child of the decedent who was not
 7 living with and supported, in whole or in part, by the
 8 decedent at the time of death; or

9 (c) if there is no surviving person described in
 10 subsection (2)(a) or (2)(b), a parent of the decedent who
 11 was not living with and supported, in whole or in part, by
 12 the decedent at the time of death; or

13 (d) if there is no surviving person described in
 14 subsection (2)(a), (2)(b), or (2)(c), a brother or sister of
 15 the decedent and any child or grandchild of any deceased
 16 brother or sister of the decedent; or

17 (e) if there is no surviving person described in
 18 subsections (2)(a) through (2)(d), other next of kin of the
 19 decedent.

20 (3) reasonable value of the contributions in money
 21 that the decedent would reasonably have made for the
 22 support, education, training, and care of the surviving
 23 family members during the respective life expectancies of
 24 the decedent and the survivors;

25 (4) medical and funeral expenses incurred as a result

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EXHIBIT NO. 2

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1 of the injury and death; and

2 (5) reasonable compensation for the decedent's pain
3 and suffering before his death."

4 Section 2. Section 27-1-501, MCA, is amended to read:

5 "27-1-501. Survival of cause of action or defense --
6 death or disability or transfer of interest. (1) An Except
7 as provided in subsection (2), an action, cause of action,
8 or defense does not abate because of the death or disability
9 of a party or the transfer of any interest therein, but
10 whenever the cause of action or defense arose in favor of
11 such party prior to his death or disability or transfer of
12 interest therein, it survives and may be maintained by his
13 representatives or successors in interest. If the action has
14 not been begun or defense interposed, the action may be
15 begun or defense interposed in the name of his
16 representatives or successors in interest. If the action
17 has been begun or defense interposed, the action or
18 proceeding may be continued as provided in Rule 25,
19 M.R.Civ.P.

20 (2) No action may be brought under this section if an
21 action may be brought under 27-1-513."

22 Section 3. Section 27-1-512, MCA, is amended to read:

23 "27-1-512. Action by parent or guardian for injury to
24 ~~or--death--of~~ child or ward. Either parent may maintain an
25 action for the injury ~~or-death-of~~ to a minor child and a

1 guardian for injury ~~or-death-of~~ to a ward when such injury
 2 ~~or-death~~ is caused by the wrongful act or neglect of
 3 another. Such action may be maintained against the person
 4 causing the injury ~~or-death~~ or, if such person be employed
 5 by another person who is responsible for his conduct, also
 6 against such other person."

7 Section 4. Section 27-1-513, MCA, is amended to read:
 8 "27-1-513. Action for wrongful death ~~of-adult~~. (1)
 9 When injuries to and the death of one person,--not--being--a
 10 minor,--is are caused by the wrongful act or neglect of
 11 another, ~~his--heirs---~~ the personal representatives
 12 representative of the decedent's estate may maintain an
 13 action for damages against the person causing the death or,
 14 if such person be employed by another person who is
 15 responsible for his conduct, then also against such other
 16 person. There may be only one legal action for the injuries
 17 to and death of the decedent.

18 (2) Damages received in a suit under this section must
 19 be distributed through the probate court in accordance with
 20 probate law."

21 NEW SECTION. Section 5. Applicability. This act
 22 applies to causes of action arising after the effective date
 23 of this act.

24 NEW SECTION. Section 6. Effective date. This act is
 25 effective on passage and approval.

SENATE JUDICIARY

EXHIBIT NO. 2DATE 1-21-87BY Bill Justice

-End-

SENATE JUDICIARY

EXHIBIT NO. 2

DATE 1-21-87

BILL NO. Ric. d. Tri

PROPOSED AMENDMENTS TO SB49

1. Title, line 6.
Following: "ENTITLED: "AN ACT"
Strike: "ABOLISHING"
Insert: "LIMITING"
2. Title, lines 7 and 8.
Following: "LIABILITY" on line 7
Strike: the remainder of line 7 through "AND" on line 8
Insert: "FOR"
3. Title, line 8.
Following: "CORPORATIONS"
Strike: "IN CERTAIN CASES"
4. Title, line 9.
Strike: "SECTIONS"
Insert: "SECTION"
Following: "27-1-701"
Strike: "AND 35-2-411"
5. Page 1, line 12.
Following: "Section 1."
Strike: "Right of action abolished."
Insert: "Volunteer liability limited. (1)"
6. Page 1, line 13.
Following: line 12
Strike: "officer, director, employee, or"
7. Page 1, line 16.
Following: "corporation."
Insert: "(2)"
8. Page 1, line 17.
Following: "apply to"
Insert: ": (a)"
9. Page 1, lines 17 through 18.
Following: "liability for" on line 17
Strike: the remainder of line 17 through "acts" on line 18
Insert: "gross negligence;"
OR ["willful or wanton misconduct;]
(b) liability of a volunteer to a nonprofit corporation of which he is a volunteer; or
(c) liability of a nonprofit corporation as a corporate entity.
(3) For purposes of this section, the following definitions apply:
(a) "Gross negligence" means a reckless disregard for the person or property of another.

(b) "Nonprofit corporation" means an organization exempt from taxation under section 501(c) of the Internal Revenue Code of 1954.

(c) "Volunteer" means an individual performing services for a nonprofit corporation who receives no compensation for such services."

10. Page 2, lines 2 through 7.
Strike: section 3 in its entirety

C:\LANE\WP\AMDSB49.

SB49 is amended as follows:

1. Title, line 7.

Following: "DIRECTORS,"

Strike: "EMPLOYEES,"

2. Page 1, line 12.

Following: "abolished."

Insert: "(1)"

3. Page 1, line 13.

Following: "director,"

Strike: "employee,"

4. Page 1, lines 17 and 18.

Following: "liability for" on line 17

Strike: the remainder of line 17 through "acts" on line 18

Insert: "willful or wanton misconduct"

(2) For purposes of this section, "nonprofit corporation" means an organization exempt from taxation under section 501(c) of the Internal Revenue Code of 1954 or a corporation incorporated or admitted under the Montana Nonprofit Corporation Act.

C:\LANE\WP\AMDSB49.

PROPOSED AMENDMENTS TO SB48

1. Title, line 9.
Following: "\$50,000"
Insert: "AND IF PERIODIC PAYMENT IS IN THE BEST INTERESTS OF THE CLAIMANT"
2. Page 2, line 4.
Following: "court"
Strike: "shall"
Insert: "may"
3. Page 2, line 5.
Following: "damages"
Insert: "if the court finds that such payment is in the best interests of the claimant"
4. Page 2, line 7.
Following: "make"
Strike: "a"
Following: "specific"
Strike: "finding"
Insert: "findings"
5. Page 2, line 9.
Following: "damages"
Insert: "and as to whether an order for periodic payment of future damages is in the best interests of the claimant"

C:\LANE\WP\SB48AMD.

90's

Revised Draft

PROPOSED MODIFICATIONS TO PERIODIC PAYMENTS LEGISLATION

1. INTRODUCTION. Members of the committee expressed concern about the following matters: (1) assignment of periodic payment judgments; (2) the pendency of the judgment against the individual defendant over a period of time. The suggested provisions below should eliminate those concerns.

2. SUGGESTED AMENDMENTS. As added sections, the following is suggested: (renumbering the current Section 6 to Section 8)

"Section 6. Assignment of Periodic Instalments.

An assignment of or an agreement to assign any right to periodic instalments for future damages contained in a judgment entered under this Act is enforceable only as to amounts: (1) to secure payment of alimony, maintenance, or child support; (2) for the costs of products, services, or accommodations provided or to be provided by the assignee for medical or other health care; or (3) for attorney's fees and other expenses of litigation incurred in securing the judgment."

Source: Section 13 (Alternative A), Uniform Law Commissioners' Model Periodic Payment of Judgments Act

"Section 7. Form of Security - Satisfaction of Judgments.

(a) Security authorized or required for payment of a judgment for periodic instalments entered in accordance with this Act must be in one or more of the following forms and approved by the court:

(1) bond executed by a qualified insurer;

(2) annuity contract executed by a qualified insurer;

(3) evidence of applicable and collectible liability insurance with one or more qualified insurers;

(4) an agreement by one or more qualified insurers to guarantee payment of the judgment; or

(5) any other satisfactory form of security.

(b) Security complying with this section serves also as a required supersedeas bond.

(c) If security is posted upon request of a judgement debtor or where required by this Act and approved under a final judgment entered under this Act, the judgment is satisfied and the judgment debtor on whose behalf the security is posted is discharged."

Source: Section 8 and 16, Uniform Law Commissioners' Model Periodic Payment of Judgments Act

Gerald J. Neely
Special Counsel on Liability
Montana Medical Association

SB48 is amended as follows:

1. Title, line 9.
Following: "\$50,000"
Insert: "AND IF PERIODIC PAYMENT IS IN THE BEST INTERESTS OF THE CLAIMANT"
2. Page 1, line 14.
Following: "through"
Strike: "5"
Insert: "7"
3. Page 2, line 4.
Following: "court"
Strike: "shall"
Insert: "may"
4. Page 2, line 5.
Following: "damages"
Insert: "if the court finds that such payment is in the best interests of the claimant"
5. Page 2, line 7.
Following: "make"
Strike: "a"
Following: "specific"
Strike: "finding"
Insert: "findings"
6. Page 2, line 9.
Following: "damages"
Insert: "and as to whether an order for periodic payment of future damages is in the best interests of the claimant"
7. Page 4, line 2.
Insert: "Section 6. Assignment of periodic installments. An assignment of or an agreement to assign any right to periodic installments for future damages contained in a judgment entered under [sections 1 through 7] is enforceable only as to amounts:
(1) to secure payment of alimony, maintenance, or child support;
(2) for the costs of products, services, or accommodations provided or to be provided by the assignee for medical or other health care; or
(3) for attorney fees and other expenses of litigation incurred in securing the judgment."

Section 7. Form of security -- satisfaction of judgments. (1) Security authorized or required for payment of a judgment for periodic installments entered in accordance with [sections 1 through 7] must be in one or more of the following forms and approved by the court:

- (a) a bond executed by a qualified insurer;
 - (b) an annuity contract executed by a qualified insurer;
 - (c) evidence of applicable and collectable liability insurance with one or more qualified insurers;
 - (d) an agreement by one or more qualified insurers to guarantee payment of the judgment; or
 - (e) any other satisfactory form of security.
- (2) Security complying with this section serves also as any required supersedeas bond.
- (3) If security is posted either upon request of a judgment debtor or as required by [sections 1 through 7] and is approved under a final judgment entered under [sections 1 through 7], the court may, in its discretion, order that the judgment is satisfied and the judgment debtor on whose behalf the security is posted is discharged."

Renumber: subsequent section

C:\LANE\WP\AMDSB48.

STANDING COMMITTEE REPORT

SCRSB48.TXT

.....JANUARY 22..... 19...87..

MR. PRESIDENT

Judiciary

We, your committee on.....

Senate Bill 48

having had under consideration..... No.....

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PERIODIC PAYMENT OF FUTURE DAMAGES IN CIVIL SUITS OVER \$50,000

Senate Bill 43

Respectfully report as follows: That..... No.....

BE AMENDED AS FOLLOWS:

1. Title, line 9.
Following: "\$50,000"
Insert: "AND IF PERIODIC PAYMENT IS IN THE BEST INTERESTS OF THE CLAIMANT"
2. Page 1, line 14.
Following: "through"
Strike: "50"
Insert: "7"
3. Page 2, line 4.
Following: "court"
Strike: "shall"
Insert: "may"
4. Page 2, line 5.
Following: "damages"
Insert: "if the court finds that such payment is in the best interests of the claimant"
5. Page 2, line 7.
Strike: "a"
Strike: "finding"
Insert: "findings"
6. Page 2, line 9.
Following: "damages"
Insert: "and as to whether an order for periodic payment of future damages is in the best interests of the claimant"

~~DO NOT PASS~~

~~DO NOT PASS~~

.....CONTINUED.....

Chairman.

January 22

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7. Page 4, line 1.

Insert: "Section 6. Assignment of periodic installments. An assignment of or an agreement to assign any right to periodic installments for future damages contained in a judgment entered under [sections 1 through 7] is enforceable only as to amounts:

- (1) to secure payment of alimony, maintenance, or child support;
- (2) for the costs of products, services, or accommodations provided or to be provided by the assignee for medical or other health care; or
- (3) for attorney fees and other expenses of litigation incurred in securing the judgment.

Section 7. Form of security -- satisfaction of judgments. (1) Security authorized or required for payment of a judgment for periodic installments entered in accordance with [sections 1 through 7] must be in one or more of the following forms and approved by the court:

- (a) a bond executed by a qualified insurer;
- (b) an annuity contract executed by a qualified insurer;
- (c) evidence of applicable and collectable liability insurance with one or more qualified insurers;
- (d) an agreement by one or more qualified insurers to guarantee payment of the judgment; or
- (e) any other satisfactory form of security.

(2) Security complying with this section serves also as any required supersedeas bond.

(3) If security is posted either upon request of a judgment debtor or as required by [sections 1 through 7] and is approved under a final judgment entered under [sections 1 through 7], the court may, in its discretion, order that the judgment is satisfied and the judgment debtor on whose behalf the security is posted is discharged."

Renumber: subsequent section

AND AS AMENDED BY
DO PASS

Senator Mazurek, Chairman

STANDING COMMITTEE REPORT

sb49scrp.txt

.....January 22,..... 19..37..

MR. PRESIDENT

Judiciary

We, your committee on.....

SENATE BILL

49

having had under consideration..... No.....

first

white

reading copy (_____)

color

Immunity for officers, directors, employees, and volunteers of nonprofit corp.

Senate Bill

49

Respectfully report as follows: That..... No.....

BE AMENDED AS FOLLOWS:

1. Title, line 7.

Strike: "EMPLOYEES,"

2. Page 1, line 12.

Following: "abolished."

Insert: "(1)"

3. Page 1, line 13.

Strike: "employee,"

4. Page 1, lines 17 and 18.

Following: "liability for" on line 17

Strike: the remainder of line 17 through "acts" on line 18

Insert: "willful or wanton misconduct"

Following: "."

Insert: "(2) For purposes of this section, "nonprofit corporation" means an organization exempt from taxation under section 501(c) of the Internal Revenue Code of 1954 or a corporation incorporated or admitted under the Montana Nonprofit Corporation Act."

AND AS AMENDED BY

DO PASS

~~DO NOT PASS~~

.....
Senator Mazurek

Chairman.

STANDING COMMITTEE REPORT

..... January 21 19. 37

MR. PRESIDENT

We, your committee on **SENATE JUDICIARY**

having had under consideration **SENATE BILL** No. **50**

first reading copy (white)
color

Reasonable attorney fees to be paid to prevailing party in civil actions.

Respectfully report as follows: That **SENATE BILL** No. **50**

~~XXXXXX~~
DO PASS

DO NOT PASS

.....
Chairman.