

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

March 16, 1987

The forty-third meeting of the Senate Judiciary Committee was called to order at 10:00 a.m. on March 16, 1987, by the Chairman, Joe Mazurek, in Room 402 of the state Capitol.

ROLL CALL: All members were present with the exception of Senator Pinsoneault who was excused.

CONSIDERATION OF HOUSE BILLS 283 and 284: Representative Paula Darko, House District 2, introduced House Bills 283 and 284, which are attached as Exhibit 1 and Exhibit 2.

PROPOSERS: John McGray, Montana Child Support Council, explained how the council runs in the state. He said the only remedy for visitation problems in Montana is the parties have to appear in court and prove something happened. He said many fathers who have visitation problems don't know about this one remedy and become frustrated and decide not to pay child support to get even. He felt HB 283 and HB 284 will help protect the father's rights. He said HB 283 protects the child's right to know both parents. He gave a California law example that showed how tough states are getting with family law. He said the moving of a child upsets a child's schedule with the visiting parent. He said a move to another state might cause the loss of visitation rights because of different state laws. He stated HB 283 will help the visiting parent keep his rights by having a hearing. He explained HB 284 states interfering with the child can be a crime. He proposed amendments for HB 284 because several people were concerned about the visiting parent coming for a visit and being drunk. (Exhibit 3)

John Hollow, attorney in Helena in custody law, gave the committee a Parent/Child Sharing Guideline. (Exhibit 4) He said HB 283 fails to address a situation of a young child that is bonded to one parent. He said children become enraged because the bonding has been broken. He

said the moving of a child will cause the bonding to break. He suggested on page 2, line 15, that the court balance the child's and parent's interest in a moving situation. He wanted the court to have the right to say no to a move if it would hurt the child. Mr. Hallow supported the John McGray amendment.

Lynn Robson, Women's Lobbyists Fund, wanted to see the non-custodial parent have to go through the hearing procedure if the non-custodial parent was the one moving. She also wanted to see a quicker access to the court. She said low income people don't have the income to get an attorney and get into court quickly. She said the problem is many who do get out of state jobs have to be on the job as quick as possible, but if the court procedure takes time, it causes problems with separation from children.

Joan Uda, Child Support Advisory Council, supported the McGray amendment, but not the Hollow suggestion.

Marcia Dias, representing herself, supported HB 283 and HB 284. (Exhibit 5)

Sue Fiefield, AFC, said many mothers are upset about visitation rights. She said many mothers feel fathers shouldn't have visitation rights because of the father's activities.

OPPONENTS: Klaus Sitte, Legal Services Association, Missoula, said these bills will not correct the problem of late child support payments. He said in HB 283, it fails to have the judge have a list of reasons for not letting the non-custodial parent visit, such as visiting while intoxicated. He said he agreed with the McGray amendment because it does put some guideline in for allowing visitation or not. He explained that after a divorce the trend is that the father's situation improves and the mother's doesn't. He asked who will have the mother come before the court when she wants to move if she is the worse off of the two parents. He said HB 284 shouldn't have visitation problems under the criminal code because county attorneys like to keep family separations out of the criminal court. He felt it will over-burden the court systems by putting this in the criminal code.

Nina Vagnelis, attorney, opposed HB 283 and HB 284. She said the visitation decree modification in court is a major problem. She told several stories about women moving with

children and being stopped because of a court hearing subjected by the non-custodial parent. She thought there should be a time period in HB 283, in the notice, such as 30 days before a move, to the non-custodial parent. She said this gives the non-custodial parent time to go to court and it gives time to the custodial parent also to prepare for court. She said the court should have the right to modify the visitation decree if a parent had moved or gave notice of moving. She disagreed with Mr. Hallow's idea that a custodial parent should have to choose between the child or the job. She said the custodial parent should not have to hire a lawyer just to move.

DISCUSSION ON HOUSE BILLS 283 and 284: Senator Blaylock said the power of visitation is used against the fathers many times. Nina Vagnelis said a statute now on the books says visitation and child support can't be linked, but they are linked in a lot of parent's minds. She said many mothers wouldn't leave the state if it wasn't for economic need.

Senator Mazurek asked where the bills originated. Mr. McGray said other states have these statutes. Senator Mazurek asked why, in HB 284 on page 1, lines 22-25, the House deleted increasing the penalties for subsequent convictions. Rep. Darko replied that the House Judiciary felt the harsher penalties for subsequent convictions would antagonize more hard feelings and make the situation worse in a troubled family situation.

Senator Blaylock asked John McGray what he thought of John Hollow's suggestion on the McGray amendment, which just put it all under "just cause". Mr. McGray thought it too broad for family law.

Senator Beck asked how many people move out of the state just to upset the non-custodial parent. He felt that didn't happen very often. Rep. Darko said many people leave for economic reasons, but they have to let the other parent know they are leaving.

Rep. Darko closed by saying HB 283 and HB 284 make it fair for both sides, not just one. She explained she invited Klaus Sitte to come and testify against the bills because it made the hearing fair. She said she wouldn't oppose an amendment for court access to low income people or the 30 day notice mentioned.

CONSIDERATION OF HOUSE BILL 495: Representative Dick Corne', House District 77, introduced HB 495. (Exhibit 6) He also distributed copies of amendments to House Bill 495. (Exhibit 6 A)

PROPOSERS: There were no proponents.

OPPOSERS: There were no opponents.

DISCUSSION OF HOUSE BILL 495: Senator Blaylock asked if the state really needed this bill because of House Bills 283 and 284. Rep. Corne' said section (a) of the bill is not covered in the other two bills.

Senator Halligan inquired why it has to be expanded to the District Court instead of the Justice of the Peace Court. The committee said they would talk about this in executive action.

Representative Corne' closed the hearing on HB 495.

CONSIDERATION OF HOUSE BILL 566: Representative Nancy Keenan, House District 66, introduced the bill. (Exhibit 7)

PROPOSERS: Caryl Wickes Borchers, Montana Coalition Against Domestic Violence, supported the bill. (Exhibit 8)

Written testimony in support of HB 566, is attached. (Exhibit 8A, 8B, 8C, and 8D)

Janet O'Rantia read testimony for her daughter, which is signed "A Concerned Mother". (Exhibit 9)

Jennifer Payne, Great Falls Mercy Home, read testimony for Anna Marie Kelly. (Exhibit 10)

Barbara Archer, representing herself, supports HB 566. (Exhibit 11)

Ann G. Eifert, Dillon, Montana, represented by Ms. Archer, supported HB 566. (Exhibit 12)

Lenore F. Taliaferro, Family Abuse Specialist, Friendship Center of Helena, rose in support of HB 566. (Exhibit 13)

Pamela Shore, Woman's Law Caucus, supported the bill. She explained there are five ways to abuse: 1) verbal; 2) physical; 3) sexual abuse; 4) economic; and 5) socialization.

Boyce Fowler, SRS, supported House Bill 566.

Tom Schneider, representing himself, testified in favor of the bill.

OPPONENTS: There were no opponents.

DISCUSSION ON HOUSE BILL 566: Senator Halligan asked why psychological abuse wasn't included. Representative Keenan said mental abuse is harder to identify than physical abuse.

Senator Mazurek asked why physical abuse was removed on page 3, but not on page 2 of the bill. Pam Shore said it has to do with the burden of proof.

Representative Keenan closed. She gave the committee a handout on the bill. (Exhibit 14)

CONSIDERATION OF HOUSE BILL 679: Representative Nancy Keenan, House District 66, Bozeman, introduced HB 679. (Exhibit 15) Rep. Keenan explained the fine money is not being used properly; however, used for shelters, the money would be used properly.

PROPONENTS: Caryl Wickes Borchers, representing Montana Coalition Against Domestic Violence, supported HB 679. (Exhibit 16) Ms. Borchers also presented written testimony for Carol Bullard (Exhibit 16A) and presented a handout for a Domestic Violence Seminar to be held in Glendive, Montana on April 3, 1986. (Exhibit 16B)

Julie Ferguson, representing herself, supports the bill. (Exhibit 17)

Roxanne (no last name because of confidentiality) read her testimony. (Exhibit 18)

Boyce Fowler, Domestic Violence Program Manager, testified in support of the bill. (Exhibit 19)

Delores V. Harron, Great Falls Mercy Home, read testimony of Lucille Pope (Exhibit 20), and Deborah Kimmert. (Exhibit 20A)

Jim Haynes, Montana Magistrates Office, supported HB 679, and presented a proposed amendment to the bill. (Exhibit 21)

Judiciary Committee
March 16, 1987
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Debra Jones, Women's Lobbyist Fund, Helena, Montana, supported the bill. (Exhibit 22)

Jill Kennedy, Friendship Center of Helena, Montana, said she supported the bill because her caseload has doubled.

OPPONENTS: There were no opponents.

DISCUSSION ON HOUSE BILL 679: There was no discussion.

Representative Keenan closed the hearing on HB 679.

ADJOURNMENT: The meeting adjourned at 12:25 p.m.



SENATOR JOE MAZUREK, Chairman

mh

ROLL CALL

Judiciary

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date March 16

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>	X		
<u>Senator Mike Halligan</u>	X		
<u>Senator Dick Pinsoneault</u>		X	
<u>Senator Bill Yellowtail</u>	X		

Each day attach to minutes.

COMMITTEE ON

Judiciary

DATE

March 16th

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Debra Jones	Women's Lobbyist Fund	566 679	X	
Gill Kennedy	Friendship Center of Helena	566 679	X	
Donna H. Hellyer	Attorney	284	X	
Shore F. Talafeno	Friendship Center of Helena	566 679	X	
Doreen L. Shore	PSS	566 679	X	
Jean Hda	Child Support Advisory Council	283 284		
Wynne Kerkens	Women's lobbyist Fund	283 284		
Tom Schneider	Individual	566	X	
Caryl Wickes Borchers	Domestic Violence Mt. Coalition Against	566	X	
Caryl Wickes Borchers	Mt. Coalition A.D. Violence	679	X	
Jane L. L. L.		566	X	
Patricia L. L.		679	X	
Robert V. Harrison	Heart Falls Mercy Home	566 679	X	
Gill Kennedy	Friendship Center of Helena	283 284		X
Shore F. Talafeno	" " "	283 284		X
Rhonda Shore	Women's Law Caucus	566	X	
Jennifer Payne	Ht. Falls Mercy Home	566 679	X	
Miss Vaynelli	Attorney	495 283		X

NAME: Tom Schröder DATE: 3/16/87

ADDRESS: 447 S. Park Helena

PHONE: 406 442 1848

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: State

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Pamela Shone DATE: 3/16/87

ADDRESS: 920 Evans, Missa, MT 59801

PHONE: 721 - 1391

REPRESENTING WHOM? Woman's Law Councils

APPEARING ON WHICH PROPOSAL: H B 566

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SUMMARY OF HB283 (DARKO)

(Prepared by Senate Judiciary Committee staff)

HB283 is by request of the Child Support Advisory Council and amends the law relating to child custody. This bill would prohibit a parent who has been granted custody of his or her child after divorce or separation from moving with the child to another state as long as the noncustodial parent lives in Montana, unless the noncustodial parent gives written consent or the change is allowed by an order of the court. The purpose of a court hearing is to allow a noncustodial parent an opportunity to get a modification of his visitation schedule. The court may order a new visitation schedule and apportion transportation costs between the parents. The bill also makes a custodial parent's attempts to prevent contact or visitation between the child and a noncustodial parent grounds for modification of custody. In addition to the possibility of modification provided in this bill, a companion bill, HB284, also provides criminal penalties for taking a child out of state under these circumstances.

COMMENTS: As pointed out by letter from an attorney in Missoula, the provisions of the bill could place a custodial parent in a real dilemma if he has to choose between breaking the law or protecting a child from an abusive noncustodial parent. This could be especially burdensome on low-income parents who cannot afford legal advice.

C:\LANE\WP\SUMHB283.

SUMMARY OF HB284 (DARKO)

(Prepared by Senate Judiciary Committee staff)

HB284 is by request of the Child Support Advisory Council and amends the law relating to child custody and visitation. This bill creates the crimes of "visitation interference" and "aggravated visitation interference" and provides penalties for and defenses to the crimes.

Section 1. NEW. Creates the crime of "visitation interference" = knowingly or purposely preventing, obstructing, or frustrating the visitation rights of a person entitled to visitation under an existing court order. Penalty: a fine up to \$500 or imprisonment in county jail not to exceed 5 days, or both.

(Note: as introduced, the penalty would have been a fine of up to \$500 or up to 6 months in the county jail, or both, for a first or second offense and a fine up to \$3,000 or imprisonment in state prison for up to 2 years, or both, for a third or subsequent offense. The House amended to \$500/5 days for any offense.)

Section 2. NEW. Creates the crime of "aggravated visitation interference" = visitation interference (see above) committed by removing or taking the minor child from the state without the written consent of the person entitled to visitation. Penalty: a fine up to \$1,000 or imprisonment in the state prison for up to 18 months, or both.

(Note: as introduced, the penalty would have been a fine of up to \$3,000 or imprisonment for up to years, or both. The House amended to \$1,000/18 months.)

Section 3. NEW. Defenses = consent of the person entitled to visitation or a court order. For a first-time offense only, return of the child prior to arrest is a defense.

Section 4. NEW. Severability. (standard)

Section 5. NEW. Codification instruction. To be codified in Title 45, Crimes.

COMMENTS: Same as for HB283. The bill doesn't make any allowance for a custodial parent faced with breaking the law or protecting a child from an abusive noncustodial parent who has visitation rights.

HB 284 be amended as follows:

1. Page 2, line 17.

Following: "vacation;"
Strike: "or"

2. Page 2, line 18.

Following: "order"
Insert: "; or"

3. Page 2, line 18.

Following: "order"
Insert: "(c) Under circumstances which tend to demonstrate probable cause to believe that physical harm to the child or the custodial parent will occur if the visitation right is exercised."

Appendix A: Parent-Child Time-Sharing Guidelines

*Guideline 1—Recommended Frequency of Contact between Either Parent and the Child/ren**

AGE OF THE CHILD	FREQUENCY OF CONTACT
Under one year	2 days
One through two years.....	4 days
Three through five years.....	1 week
Six through nine years.....	2 weeks
Ten through thirteen years.....	4 weeks
Fourteen years plus.....	6 weeks

Guideline 2—Minimal Frequency of Contact between Either Parent and Child/ren

AGE OF THE CHILD	MINIMAL FREQUENCY OF CONTACT
Under one year	1 week
One through two years.....	10 days
Three through five years.....	3 weeks
Six through nine years.....	4 weeks
Ten through thirteen years.....	6 weeks
Fourteen years plus.....	9 weeks

*This guideline assumes shared parental responsibility whereby each parent has equal access to and limited separation from the child/ren.

SENATE JUDICIARY

EXHIBIT NO. 4

DATE March 16, 1987

BILL NO. HB 283, ~~284~~

H.B. 283

I, Support this bill and its intent.
With the following amendments.

However

(1) The Custodian parent should be allowed to leave the state by notifying the Court and non-Custodial parent in writing (2-3) weeks in advance to departure, if a hearing cannot be arranged before the date of departure. The custodian parent should sign a statement promising to return for the hearing. [This is necessary so that people do not lose employment opportunities, because they are caught up in Court for 6 months - 1 year. The Courts move slowly.]

(2) Non-Custodial parent should be required to report to the Court and Custodial parent in writing (2-3) weeks in advance to departure, if a hearing cannot be arranged before the date of departure. The Non-Custodial parent should sign a statement promising to return for the hearing. [This is necessary to make /

arrangements for continuing child-
support and visitation]. The
non-custodial parent is
subject to all fines and
penalties as the custodial parent
by not adhering to this
proceedure prior to leaving the
state.

Marcie Dias
10 Washington Pl.
Helena, Mont 59601
443-4496.

284.

19 I support the intent of HB 284 -
the prevention of visitation interference
for vindictive purposes.

PHH - FL

1) However, it requires amendments
to protect innocent children from
certain situations - and it is
necessary to protect parents who
interfer with visitation for
reason of protecting a child.

It needs to include defense for
just cause to include child
abuse, alcoholism and other addiction
physical + emotional harm,

If it is not amended custodial
parents will be afraid to inter-
fer with visitation, when there is
a detrimental situation occurring.

2) Amend to likewise impose a
\$1000 fine and jail term for
not paying child support on time.
Is it not just as much a crime
to leave children without food as to
deny visitation. Those 2 crimes are

unrelated
STAG
ON, 1944

H858H - no test at Mt Mansie Dies
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Assigned with Helena, MT
443-449

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[illegible][illegible][illegible]

SUMMARY OF HB495 (CORNE)

(Prepared by Senate Judiciary Committee staff)

HB495 amends the existing law relating to custodial interference. Under current law, a person commits the crime of custodial interference if, knowing he has no legal right to do so, he takes, entices, or withholds from lawful custody any child, incompetent person, or other person entrusted by authority of law to the custody of another or institution.

This bill, as amended by the House, provides that a person having joint custody of a child under a court decree commits the crime of custodial interference if he takes, entices, or withholds the child from the other during the period when the child resides with the other under the court decree.

(As introduced, the bill would have provided that if a child lives with both parents, each parent has lawful custody of the child and it is a crime of custodial interference for one parent to take, entice, or withhold the child from the other parent. This language could have caused problems because unless there is a court decree in cases of divorce or separation, the state has no justification for involving itself in family matters and because, technically, if each parent had lawful custody, each parent would be entitled to take the child.)

COMMENTS: The language, as amended by the House, doesn't seem to really change the existing law; however, it may clarify it in a manner that will help enforcement.

C:\LANE\WP\SUMHB495.

495 3rd

AMENDMENT TO HOUSE BILL 596 (Second Reading Copy)

SENATE JUDICIARY

EXHIBIT NO. 6A

DATE March 76, 1977

BILL NO. HB 495

- (1) Page 1, Line 10
Following: "(1)"
Strike: "(a)"
- (2) Page 1, Line 12
Following: "so;"
Insert: "(a)"
- (3) Page 1, Line 15
Following: "institution"
Strike: "."
Insert: " ;"
- (4) Page 1, Following Line 15
Insert: "(b) prior to the entry of a court order determining custodial rights one parent takes, entices, or withholds the child from the other parent where the action manifests a purpose to substantially deprive that parent of parental rights; or"
- (5) Page 1, Line 21
Following: "(C)"
Strike: "(B)"
Insert: "(C)"
- (6) Page 1, Line 22
Following: "court"
Strike: Remainder of of Line 22
Insert: "order"
- (7) Page 1, Line 23
Following: Line 22
Strike: "is committed"
- (8) Page 1, Line 24
Following: "other"
Strike: Remainder of Line 24 and Line 25 in their entirety
Insert: "where this action manifests a purpose substantially to deprive that parent of parental rights."

SUMMARY OF HB566 (KEENAN)

(Prepared by Senate Judiciary Committee staff)

HB566 amends the laws relating to award of child custody in separation and divorce cases. Under current law, custody must be determined in accordance with the best interest of the child. When the court makes an award of custody, it must consider the following factors: 1) wishes of the parents; 2) wishes of the child; 3) interaction and interrelationship of child with parents and other family members; 4) child's adjustment to home, school, and community; and 5) the mental and physical health of all individuals involved. This bill would add the two following factors to that list: 6) physical abuse or threat of physical abuse by one parent against the other parent or the child; and 7) chemical dependency, as defined in 53-24-103, or chemical abuse on the part of either parent.

In addition, this bill amends the law relating to award of joint custody to provide that if the court finds that one parent physically abused the other parent, that is sufficient basis for finding that joint custody is not in the best interest of the child. (The House deleted "or threatened to physically abuse the other parent" from the bill.)

COMMENTS: None.

February 6, 1987

SENATE JUDICIARY

EXHIBIT NO. 8

DATE March 16, 1987

BILL NO. H.B. 566

Capitol Station
Helena, Montana 59601

Dear Legislators,

I am here today to ask your Support for HOUSE BILL 566 (CHILD ABUSE OR SPOUSE ABUSE TO PRECLUDE JOINT CUSTODY), as a member of the MONTANA COALITION AGAINST DOMESTIC VIOLENCE.

I have worked with over 5,000 Battered Women and Children since I started the 1st Shelter in Montana in May/1977 (one of 30 Shelters in the United States addressing the Problem of Spouse Abuse at that time).

In 1986, The Mercy Home Staff and I worked with 538 Women and Children 'in' the Shelter and an additional 1,381 Family Units in Outreach. Due to our EDUCATIONAL efforts we are doing much more Prevention Work. We use an in-depth 4 Page 'Confidential Intake' form to get the Case Histories of the Types of Abuse/Family Backgrounds/Types of Parenting Skills & Nurturing each Spouse Uses/ and the affects on the Children. We also have the Women write Journals--documenting the History of the Abuse to her/ Abuse to the Children/ or what the Children witnessed or heard. They also document how the Children are learning this 'ROLE-MODELED BEHAVIOUR' as NORMAL BEHAVIOUR.

I have testified in 8 different District Courts (as an EXPERT WITNESS) on the Dynamics of Abuse; Cycle Theory; Learned Helplessness; Intergenerational Cycle of Family Violence; & Affects on the Children. I have also ADVOCATED with many other VICTIMS and have witnessed how the ABUSIVE PARENT will try to Regain CONTROL over the other Spouse by using the Child or Children as "PAWNS" to get his Spouse back in the Relationship. Some of the Next Personal Testimony here today will exemplify this Dynamic of using the Children as 'PAWNS'.

JOINT CUSTODY does not force AN ABUSIVE PARENT to become a 'Responsible Parent' (just as there exists no means of forcing a Parent to exercise their right of visitation under a sole custody order).

COURT IMPOSED JOINT CUSTODY increases the Rights but not the Responsibilities of the Parent who does not Primarily Care for the Child. Further, it endangers Battered Women by decreasing their ability to Protect themselves and their Children from further Violence, and endangers all of them by aggravating their already-strained Economic Circumstances due to the Abusive Relationship.

COURT IMPOSED JOINT CUSTODY gives the ABUSIVE PARENT a guaranteed continuing and frequent access to his Victim, while the Battered Woman lives under the ever-present Threat of Losing Custody altogether if she appears to "OPPOSE" or "INTERFERE" with the Batterer's Role.

The 1985 LEGISLATURE made DOMESTIC ABUSE A CRIMINAL ACT in the STATE OF MONTANA. I hope that the 1987 LEGISLATURE will follow up with the JUDGES & COURTS to say that if there is: 'Evidence of Abuse to either Spouse or Child-- that under the 'BEST INTEREST OF THE CHILD STANDARD'--it prohibits the Presumption of Joint Custody.

Sincerely yours,

Caryl Wickes Borchers
Caryl Wickes Borchers

Executive Director, Great Falls Mercy Home
Chair, Montana State Task Force on Spouse Abuse (1978-1982)
Rep., Montana Coalition Against Domestic Violence (1982-87)

February 19, 1987

Dear Legislators:

I am writing in regards to spouse abuse. I was married in July 1984 and the abuse started approximately 6 months later. At first it was just pushing and shoving. Later on it was kicking and hitting in areas that people could not see, such as my head, legs, buttocks, etc. The abuse not only affected me, but it also affected my children.

My daughter was a nervous wreck when my husband was around for she never knew what to do. He was always on her case about something and she had continual stomach problems. My son also was a nervous child and would not go to anyone but me. I left my husband 2½ years ago and since that time, both my daughter and son have become different people. They are more trusting, loving and happy children.

My husband came from a good "christian" family as his father was a Reverend. This good "christian" background gave my husband such a temper that he has lost 3 jobs and his family because of it. This type of behavior is hard to live with as you never know if he will be kind and gentle to you or beat you to a pulp because you did not talk to him the way he wanted. I don't feel any person who is this unpredictable and outrageous has the right to have custody of their children for fear they may end up six feet under.

I lived on pins and needles most of my marriage in fear that I would always do or say something to set my husband into a rage. I have found through support groups that people like Tim do not need anything to set them into a rage.

Thank you for listening to my story and I ask your help in this matter.

Sincerely,

Kim

February 8, 1987 EXHIBIT NO. 8B
DATE March 16, 1987
BILL NO. HB 566

Dear Legislators,

I am writing in support of Bill 566, Child Abuse or Spouse Abuse to Preclude Joint Custody. Working at a battered women's shelter, I find this bill essential not only to the women I serve, but as society's response to their responsibility to child welfare.

I would like to tell you the story of Dawn. Dawn came to the shelter in April of 1980, her husband (Tom) was extremely abusive and controlling. By 1982 Dawn had gotten a divorce and started a new life for her and her children in Idaho. She had custody, he had summertime visitation. Tom showed up drunk to take his kids to Great Falls for the summer. Dawn had no legal right to stop him. He took the kids and never returned them. Dawn's economic situation did not make it feasible for her to come to Montana until a year later.

While she was in Great Falls, trying to retrieve her children, he had control again. The kids were used as pawns, they were allowed no contact with their mother. Dawn was threatened and harassed, not to mention the psychological effects on the children.

At this time, Tom filed for joint custody. Dawn's fears of losing her kids were immense. She had neither the money nor the time to oppose him in court. By spending an extensive time in Great Falls, she was putting her life in Idaho in jeopardy. After 51 days, Dawn got her children back. They were confused and withdrawn for some time.

This is a story of manipulation. Child care is an issue of competency. Producing children does not presume capability. In a custody case, spouse abuse (need I mention child abuse) is an essential determining element. To summarize- AN ABUSIVE HUSBAND DOES NOT MAKE A SAFE FATHER!

Sincerely,

Patricia Gray

FERGUS COUNTY

DEPARTMENT OF PUBLIC WELFARE

308 Bank Electric Building
Lewistown, Montana 59457
(406) 538-7458



SENATE JUDICIARY

EXHIBIT NO. 8C

DATE March 16, 1987

BILL NO. HB 566

February 11, 1987

Dear Legislators:

I am writing out of concern on the issue of joint custody and the bill 566. I feel strongly that you need to consider alternatives to joint custody in cases where abuse is present. Custody issues should be granted with the child's or children's best interest in mind.

I am a social worker presently working in Child Protective Services and worked formerly as co-ordinator of a Spouse Abuse program. In most of our cases, the children were used as tools to hurt the other parent. In cases where spouse abuse was present, joint custody forced the abused parent into seeing the abusive parent when visitation with the children would take place. National statistics show 75% of spouse abuse occurs after divorce.

I believe it is also important to understand the effect on children when they see one parent abusing the other, and in essence, that is abusive in itself. Children have become a part of the vicious cycle of abuse. 95% of the abusers, (be it spouse abuse or child abuse) were either victims of abuse themselves or saw violence happen in their homes. Therefore, we know that violence is a learned behavior. A child who is a victim of abuse by a parent should not be forced into an unprotected visitation.

I think as adults, we owe it to our children to protect them, both physically and emotionally. It is time for us to set some legislation to help with this protection.

Sincerely,

A handwritten signature in cursive script that reads "Maggie Moffatt".

Maggie Moffatt
Social Worker II

MM:lz



TRIMLINE FEB 3, 1987
Man accused of killing ex-wife

BUTTE (AP) — A man accused of the fatal shooting of his former wife in Spokane, Wash., over the weekend waived extradition before a Montana judge Monday and was returned to Spokane to face a murder charge.

Steven Volstad, 32, appeared before District Judge Mark Sullivan in Butte and immediately after his appearance was returned to Spokane in the custody of deputies.

Volstad was arrested near Deer Lodge Saturday afternoon after Spokane police alerted Montana authorities that Volstad was believed en route to Minnesota.

He was arrested hours after his former wife, Christine Dale, was found in a coma with wounds to her head and abdomen.

Dale, 33, died about noon Sunday at Sacred Heart Medical Center without ever regaining consciousness.

Spokane police said a friend of the ex-husband phoned them from Minneapolis to tip them that there had been a shooting.

Police said the friend said Volstad had told him he'd shot his ex-wife in a fight over custody of their two children.

SENATE JUDICIARY

EXHIBIT NO. 8D

DATE March 16, 1987

BILL NO. HB 566

TO: 1987 Montana State Legislators

RE: House Bill 566

As the law now reads joint custody is preferred in all cases. Truthfully, before I met, and consequently married the father of my child, I too, thought that this was the only way it should be. But in the last 2 years, after having been abused physically, emotionally, financially and socially by this man, I've come to realize that joint custody is not always in the best interest of the child.

My husband had abused me mentally during most of our courtship and all of our marriage. How can you explain to anyone the feelings of degradation that someone who supposedly loves you makes you feel, let alone prove it in a court of law. Those feelings are real, and they hurt just as much as the physical ones that leave bruises. Only you can't see the bruises inside a person.

During my pregnancy his mental abuse became excessive. He constantly threatened me with divorce or annulment, on one occasion he told me how fat I was and that if I didn't quit gaining weight our marriage would definately be over. I was 7 months pregnant and he was telling me I didn't need to gain 20 pounds to have an 8 pound baby. He was constantly downgrading my parents by telling me how bad they were, that they were bad parents because they didn't live in a big beautiful home. My parents had always been very kind to him and I couldn't understand why he hated them so.

During the 6th month of my pregnancy we attended his brothers wedding out of state. The day of the wedding was the first time he had hit me out of anger. He slapped me across the face and pushed me on the bed. He had hit me before, but he always laughed it off as being for fun. One night he hit me so hard on my thigh that I lost all feeling in my leg and I could barely walk for a few days. He laughed and said he had given me a "Dead Leg". He would constantly slug or pinch me on my upper arms so that I always had bruises.

In my 7th month I realized that I couldn't go on like this. At this point, he was seldom home, but when he was he screamed at me continually. He was drinking excessively and because he admitted to me his prior use of cocaine I believe that he was using it again. I was a nervous and emotional wreck, and not only did I fear for my safety but I was afraid for my unborn child. I left him in August of 1985.

Even though I left him a full 2 months before our child was born, he still continued to try to control me. He immediately went to a lawyer and Had a separation agreement drawn up. When I refused to sign it and told him that I wanted my lawyer to look at it, that I didn't want to share the same attorney, he became violent and wouldn't let me take the agreement to my lawyer. Long before I gave birth to our child he was telling me that I was not a stable mother. I was emotionally and financially unstable - I couldn't take care of myself let alone a child. He wouldn't let me come and get things that I have left at our house, in fact they are still there. Our daughter was born October of 1985.

She was only 6 days old when he served me with divorce papers. He would not help me financially at all. I returned to work four weeks after her birth, I did not have any money. Her father wouldn't even buy diapers for her. I did not receive a dime of support for my daughter until she was 3½ months old, and that came after I filed to get child support. This man did not want our child. He didn't support her at all or by her anything until he was practically forced by the courts. He refused to have his child insured. There was a time before I filed for child support that he went almost a month without seeing her and went a full 2 weeks without even calling to inquire as to her well-being. Yet this was a man who sat in court and cried buckets because I "would not let him see his beloved little girl and it broke his heart. I showed tendencies that he felt would not be beneficial to the relationship that he wished to develop with his daughter." I believe that he used her only as a pawn to get back at me. He knew how much I loved my daughter and he knew I would do anything for her.

Shortly after her birth I witnessed several incidents that made me constantly worry for her safety while she was with him.

He held her nose to see how long it would take her to figure out how to breathe through her mouth.

When picking her up he would grab her by her wrists and pull her up without supporting her head and neck. I must add that we took a class on how to care for a newborn so he could not plead innocent on this one. One of the things that they stressed was supporting the infants neck and head properly.

On several occasions I went and picked her up at his home. He had taken her bottle and filled it with Pepsi. The first time she had drunk almost the whole bottle, the 2nd time she only had ½ the bottle. She was at this time a totally breast-fed baby. On both occasions I told him not to give her Pepsi,

that the her pediatrician said that such a small infant could not stand to have so much acid in her stomach, mainly because her digestive system was so immature. His response was "What does Pepsi have that your breast milk doesn't?" On both occasions she became very ill, suffering with sever diarrhea and vomiting.

He drank very heavily at times when he had her. On one occasion after having been told to have her home by 9:30 pm he brought her home at 11:30 pm. He was so drunk he could hardly walk , yet he drove with her, placing her car seat on the floor of his truck. There were times when he would come to pick her up and he wouldn't take her bottle or blanket and when I would try to have him take them he would scream at me. During these times it was quite common for him to bring her back without a coat or her hat. She was barely 4 months old and it was below zero many of these times.

Our first hearing before the judge was in January. At this time because of my husband's constant harassment when he picked our daughter up, the judge ordered a third party. Visitation consisted of every other weekend from 8:00 am to 8:00 pm both Saturday and Sunday, with weekday visitation at my discretion. I would let him see her several days during the week because I was told by my attorney that I would look like the cooperative parent that way. Even though we had the third party he still found ways to harass me. He would call me at work and threaten to steal her, he'd send flowers with harassing cards, phone calls in the middle of the night and pizza deliveries. One morning I woke and found that my car was missing. It was found later that day and the police said that whoever took it had access to a key, because there was no visible forced entry. My husband had a key and I believe that he is the one that took it.

On February 18 of last year instead of returning our daughter to the designated third party he left a message telling me to pick her up in Sand Coulee! That particular night it was around -15°, and I had no reliable way to get out there. We had to send the Sheriff's Department to go get her.

After this experience the judge gave him more visitation-Every other weekend plus three nights a week. He also took away the third party.

At this time the harassment and threats became unreal. He threatened to kill me, to steal our daughter, quit his full time job so he wouldn't have to pay child support. She would come home without her coats, shoes, clothers, and bottles. He would pick her up and leave her with girlfriends or neighbors and then go to work or whatever. He would take her to the bars and bowling alleys if he couldn't get someone to watch her and then leave her with the people there.

During our last court appearance concerning custody the third party was used again. Though it cut down some of the harassment, he still found ways. He followed me constantly, in other peoples vehicles, he'd call and hang up or just let the phone ring and ring at all hours, I had strangers banging on my doors at the oddest hours.

On June 22nd of last year my daughter died at the age of 8 months and 1 week. She died while with him and the cause of her death has been listed as undetermined. I thought that this would be the end, not the beginning of another nightmare.

He used our daughter as a way to get me back to try and control me, while she lived, and even now he still tries. Shortly after her death he unsuccessfully tried to have her body moved by saying that none of his wishes were met during her funeral. We quickly proved that he was lying. Lately he has been using her grave as a place to harass me. I receive great comfort from going to my child's grave. My grandparents are also buried there. And now I believe he has been desecrating her gravesite to hurt me. The first item was a poster saying that I had lied to both him and our daughter. The second was a nude photograph he had taken of me while I was undressing. The last time these items were seen by me they were in his presence.

I realize that most divorce cases do not end as mine did, my story and my daughter's story are extremes. But as extreme as they are, it should never had happened and nother little child should never be make to suffer at the hands of an abusive parent.

A Concerned Mother

January 23, 1987

Dear Legislature,

I am writing this letter to you in support of Bill # HB 566. I have a very strong and personal interest in this bill. Last May I left an abusive marriage, after three long years.

In the first violent fight we had, it ended by my ex-husband pushing me through our storm door. I was so shocked and he was so sorry afterwards, promising that he would never again treat me that way.

In a following incident he lost control and threw me into the waterbed hard enough that I knocked the frame off of the base. Again he begged me to forgive him and trust him that he would never hurt me like that in the future.

Once when I was just getting out of the shower, he exploded, we fought, then he carried me, without any clothes on, down into our unheated basement and locked me down there. The door was in the floor and he pulled the kitchen table over it. When I wouldn't stop screaming, he came back down to "shut me up." He threw me around until he finally pushed me through the wall. Later, I found out that at the time I was almost a month pregnant with our first child, Patrick.

During this same pregnancy when I was six months along he threw me into the coffee table. I ended up on the floor. I began feeling cramps and thought I was going to lose the baby. I became very upset and started to cry. He came over to me and

sat on my stomach and began slapping me and calling me names so that I would stop crying. He finally stopped slapping me when I quit crying.

There were times that he would twist my arms around and tell me that he could break them if he wanted to.

Once when I was pregnant with our little girl, Amanda, he locked me out of our house. It was the middle of February. I walked two miles to my parents home. Then returned to get Patrick. I left him for awhile after that. I stayed with my parents and he would come and pick up Patrick to visit him. When I would ask what time to expect them back he would tell me that he'd bring him back whenever he was good and ready and he told me once that maybe he wouldn't bring him back at all. He did return Patrick, but I always worried that he would carry out his threat, because if he threatened to do something he usually did it.

I returned to the marriage thinking that our children needed a father. But the violence still continued. One night I brought Amanda, who was two months old at the time, to bed with us to nurse her. He didn't want us in his bed so he tried to throw me out of the bed. In the process of getting at me he hit Amanda instead.

Then in October of 1985, he tried to suffocate me, he even told me that "this might as well be your death-bed bitch." I think the only thing that stopped him was Amanda's crying. Later when reminded of this incident he would say that if he had really tried to kill me, I would be dead.

The last fight we had was the Friday before Mother's Day in 1986. We fought and he tried to physically throw me out of the house. I grabbed onto everything on my way out, he couldn't get me to let go of the doorway, so he laid my legs across the slushy snow on the top step.

When I got back into the house he told me that he was going to call the police on me because I was a "crazy person." I handed him the phone and told him to go ahead. But when he didn't use the phone, I did, to call my parents and I asked them to come get the children (who had been watching the entire time) and myself.

While I was waiting for them to arrive he twisted my body like a pretzel, taking my leg up over my neck and held me there. I still have a scar on my back from it scraping on something when he was holding me in that position.

When my family arrived and I went to leave, he told me that I couldn't take Patrick and Amanda with me. I knew that he would be leaving later that day and could come back then and get the children, which is what I did.

I have only told of some of our violent episodes, after I left our marriage a counselor and I figured out that we had some fifty outbursts of violence in the three years we spent together.

The day I left my husband I contacted S.A.V.E.S. (Spouse Abuse Vital Emergency Services) from my parents home. I knew that I could no longer live the way I had been living and that it was no way to raise my children. I didn't want them to think

that was a normal family life.

So I decided, with the help of the S.A.V.E.S. advocate, to press charges against my husband for the way he had treated me, after all, it is against the law for one human being to treat another human being the way that he had been treating me. I was really scared of what he would do to me after I filed the charges against him but I went ahead and did it.

I spent that weekend (Mother's Day) at the Mercy Home in Great Falls, for the safety of myself, Patrick, Amanda and my familys. On Monday, May 11, he plead not guilty to the charges of domestic abuse that had been filed against him. Right then I knew that this man was going to deny his problem of being someone who takes out his frustrations physically on someone else. I also knew that for my safety and the safety of my children I could not go back to living with this man.

On Wednesday, May 14, 1986 I filed for a Temporary Restraining Order against him and I also filed for a divorce. The restraining order was then made permanent at a hearing on the 29th of May.

Then on June 11, 1986 he plead guilty to his domestic abuse charge. Not because he himself believed he was guilty, but because his lawyer advised him that if he changed his plea he would receive a lesser sentence, then if it was proven that he was guilty. Up until the day before his sentencing, his lawyer kept asking to to drop the charges. But I believed that since I filed the charges, what sense would it make to drop thim. He received suspended jail time of ten days as his sentence.

We had our divorce hearing on October 27, 1986, as of today we are still not divorced. At that hearing the judge said that when he ruled, it probably would be for joint custody of the children. He said that the two of us should be able to cooperate and communicate with each other for the sake of the children. Evidently, what he does not seem to understand is that in an abusive situation we don't cooperate or communicate with each other. After living with this man and letting him totally dominate me, he finds it impossible to see me as a person who can have thoughts and opinions of my own. He still has the same attitude towards me as when we were living together, it's his way or else.

I understand what joint custody is and believe that in my particular case and in most abusive marriages, that it is a way for the abusive partner to keep some control over his partner, who actually wants little or absolutely no contact with the abusive ex-spouse.

When I first left my husband and was talking to the S.A.V.E.S. advocate, she told me that since I had told her of my husband's abusive behavior to the children and myself, if we went back to live with him, she would have to report it to the Child Protection Services and that I might lose my children because of the violence in our home.

I stayed away from him, but now, even after his being guilty of domestic abuse he has the right to be alone with our children during visitation and if the judge rules for joint custody he could be a very strong influence in their lives.

Now that we are seperated, he still verbally abuses me in conversation. Whenever I speak to him on the phone he always makes remarks about me being incapable of being a good mother to our children.

For awhile I would take Patrick and Amanda to his house for visitation, but while I was there he would say cruel things to me in front of the children. So now my parents take them for their visits and now he says smart remarks to them.

We went a couple of times for counseling last summer (to try and make divorce settlement with a third party present.) Still then he couldn't stop making verbally abusive remarks, which even the counselor pointed out how he spoke to me as being in an abusive manner.

A recent Department of Justice report states that half of the abuse recorded happens after the couple has been seperated, and quite often the childrens visitations provide the abuse with the oppurtunity to get his hands on the victim again.

I would greatly appreciate that you consider voting in favor of Bill # HB566

Thank you so much for listening to my personal opinion on this issue.

Sincerely,

Anna Marie Kelly
Anna Marie Kelly

Testimony--Senate Judiciary Committee, Mar. 16, 1987, Barbara Archer

Mr. Chairman and members of the committee,

I am Barbara Archer speaking for myself in support of HB 566.

I am the child of an abusive person who systematically terrorized and intimidated his family, the neighborhood and local law enforcement officials for a number of years.

Well over 30 years later my two sisters, brother and I realize that we have been and will always be profoundly affected by the violence we experienced so long ago.

We were allowed (forced) to spend time with our father because of 1) the threat of violence if we didn't, 2) there were times when my mother could not afford to feed or clothe us (my father never paid a dime of child support; going to court produced nothing but court costs for my mother).

One small example of the lasting effects of those years will suffice. My brother, only a few years ago, revealed that my father used to pay him to fight with boys in the neighborhood and then would reward them with ice cream afterwards. My brother was 30 years of age before he realized that this was not normal (or should not be). He still suffers from nightmares related to that time. It was only when he knew that he did not want his own children to feel the same way that he was able to recognize and change his behavior. The fact that he was able to recognize it and change it is not usual. It takes a profound act of will to be something other than what you been defined as all your life.

Children should not have to be subjected to violence and abuse. These are patterns not easily broken. The effects are permanent.

I am still unable to talk about it in person.

Please support HB 566.

DATE March 16, 1987

BILL NO. HB 566

Dear Women's Lobbyist Fund representative

I would like to enter my testimony on House Bill 566.

As a mother of children who have been subjected to verbal and mental abuse and some physical abuse I would like to see this bill passed.

I believe that children should not be left in an environment that is detrimental to them and even in the case of spouse abuse, the incidents can leave some very serious and long lasting scars.

We need to consider that many of those who are abusers, either of their spouses or their children cause the cycle to be repeated because those who abuse were often abused as children.

My divorce is still in process from an abuser. I have a 9 year old son that I don't want to follow in his father's footsteps. With our courts the way they are today and with joint custody arrangements, I'm

not really sure my sole influence can completely counteract the influence from the other side.

I'm sure that many of the other women in my position would also feel quite strongly on this issue, particularly those who have been assisted in the state's domestic abuse programs.

I feel so strongly on this that I would prefer very much ~~to~~ to even see my children in foster homes than to have them in very much contact with their father.

Sincerely,

Ann D. Eifert

2200 Lovers Leap

Dillon MT. 59725

DATE March 16, 1987BILL NO. HB 566

HOUSE BILL 566
AMENDING JOINT CUSTODY BILL SO THAT PROVISIONS CAN BE MADE
IF THE COURT FINDS SPOUSE ABUSE, CHILD ABUSE, OR CHEMICAL
DEPENDENCY BY EITHER PARENT IS NOT IN THE BEST INTEREST OF
THE CHILD. . . DISSOLUTION OF MARRIAGE ACTION.

PREPARED BY LENORE F. TALIAFERRO
FAMILY ABUSE SPECIALIST
FRIENDSHIP CENTER OF HELENA.

Lenore F. Taliaferro
3/16/87

POSITION: SUPPORT HB566

VOTE: DO PASS

THE DOMESTIC VIOLENCE PROGRAM OF THE FRIENDSHIP CENTER SERVES APPROXIMATELY 200 VICTIMS PER YEAR. THE PROGRAM SERVES AN ADDITIONAL 500 TO 600 CHILDREN. IN CASES WHERE DISSOLUTION OF MARRIAGE ACTION IS INITIATED BY EITHER ADULT IN ORDER TO ATTEMPT TO END SPOUSE ABUSE, ALMOST ALWAYS, THE CHILDREN THEN BECOME THE "FINAL BATTLEGROUND." EVEN THOUGH THE PHYSICAL ABUSE HAS STOPPED FOR THE ADULT VICTIM, THE PSYCHOLOGICAL AND EMOTIONAL STRESS FOR THE VICTIM IS HEIGHTENED BY THE FIGHT WHICH BEGINS OVER WHO GETS THE CHILDREN. VICTIMS HAVE BEEN THREATENED THROUGHOUT THE RELATIONSHIP AND HAVE BEEN INTIMIDATED INTO BELIEVING THAT IF THEY LEAVE, THEY WILL LOSE THE CHILDREN. ALMOST ALWAYS THE VICTIMS BELIEVE THAT THEY HAVE NO RIGHTS TO THEIR CHILDREN AND THAT IF THEY LEAVE WITHOUT THEM, THEY WILL NEVER SEE THEM AGAIN. THREATS OF LOSING THE CHILDREN IS NOT ONLY DETRIMENTAL TO THE MOTHER; AND I MUST SUBMIT, THAT IN ALMOST ALL CASES, THE VICTIM IS THE MOTHER, BUT BECOMES INCREASINGLY DEBILITATING TO THE CHILDREN. CHILDREN ARE PLACED IN A MIDDLE KIND OF POSITION AS ARBITRATOR, MESSENGER, AND BECOME FEARFUL OF BEING KIDNAPPED, OR, OF HAVING TO CHOOSE WHEN THERE IS NO CORRECT CHOICE FOR THEM TO MAKE. WHEN JOINT CUSTODY IS ORDERED, AND THE PRIMARY VICTIM HAS FLED FROM THE VIOLENT SITUATION, CHILDREN CONTINUE TO BE PLACED IN AN EMOTIONALLY DESTRUCTIVE ENVIRONMENT. REMEMBER THAT WE ARE NOT SPEAKING OF NORMAL RELATIONSHIPS, NOR, OF NORMAL ACTIONS WHEN WE USE THE TERM SPOUSE ABUSE. FAMILY VIOLENCE AFFECTS ALL MEMBERS.

ONCE THE VICTIM HAS MADE THE DECISION TO END THE VIOLENCE; SEEKS HELP FOR PROBLEMS INCURRED DURING THE VIOLENT RELATIONSHIP, AND A JOINT CUSTODY ORDER IS ISSUED, THE VICTIM IS GIVEN THE "MESSAGE" THAT SHE WILL HAVE TO ACCEPT ONGOING COMMUNICATION AND DECISION-MAKING AND CONTACT WITH THE BATTERER, WHOM SHE FEARS. NOW SHE MUST DEAL WITH A SITUATION OF POTENTIAL AND REAL DANGER FOR HERSELF AND HER CHILDREN. WITH JOINT CUSTODY, THE BATTERER WILL ALWAYS KNOW WHERE SHE IS, WHEN IT MAY BE IMPERATIVE FOR HER SAFETY AND FOR THE SAFETY OF THE CHILDREN TO LEAVE ALL BEHIND AND SEEK REFUGE SOMEWHERE UNKNOWN TO THE ABUSER. ABUSE IS A DANGEROUS BUSINESS. IN ABOUT 40% OF HOMICIDE CASES, THE VICTIMS ARE MURDERED BY THEIR SPOUSES, OR THEIR FORMER

SPOUSES. CONTINUED FORCED CONTACT THROUGH JOINT CUSTODY IS A CONSTANT THREAT TO SAFETY IN MORE THAN A FEW CASES.

SPOUSE ABUSE MAY BE THE PRIMARY PROBLEM. HOWEVER, IT IS NOT UNCOMMON FOR CHILD ABUSE, SEXUAL ABUSE, AND CHEMICAL DEPENDENCY TO COEXIST, ONE WITH THE OTHER, IN SPOUSE ABUSE HOUSEHOLDS. REGARDLESS OF WHETHER OR NOT THE CHILD IS A DIRECT VICTIM OF ABUSE, VIOLENCE IN THE HOME TEACHES CHILDREN THAT VIOLENCE IS AN ACCEPTABLE WAY TO RELATE TO OTHERS. FURTHERMORE, AS CHILDREN MATURE AND WANT TO ASSERT THEIR INDEPENDENCE IN NORMAL WAYS, THE CHILD CAN THEN BECOME THE PRIMARY OBJECT OF ABUSE. AND, SO THE CIRCLE IS UNBROKEN AND THE CYCLE CONTINUES UNTIL THE CHILDREN, ONCE ABUSED, BECOME ABUSING ADULTS.

HB566 ATTEMPTS TO BREAK THE PATTERN AND END THE ONGOING CYCLE OF VIOLENCE. MUCH MORE HAS TO HAPPEN FOR THE CHILD TO GROW INTO A HEALTHY ADULT. THAT IS HARDLY A NEW INSIGHT. HOWEVER, THE SUPPORT FOR PROGRESSIVE PIECES OF LEGISLATION IS A BEGINNING MEASURE OF A PREVENTIVE NATURE. SHOULD THE ABUSER EVER WORK TO CHANGE THAT BEHAVIOR, THEN OTHER ARRANGEMENTS SHOULD CHANGE ACCORDINGLY. HOWEVER, UNTIL THAT HAPPENS, HB566 TAKES A GIANT STEP TOWARD BREAKING THE TERRIBLE CYCLE OF VIOLENCE.

HB566 IS NOT A GENDER BILL. IN NO WAY DOES IT DEFINE SEX IDENTIFICATION AS TO WHO BATTERS AND WHO IS VICTIMIZED. WHEN BATTERING IS ALLOWED TO CONTINUE WITHOUT SIGNIFICANT INTERVENTION, THEN ALL OF US MUST ACCEPT THE CONSEQUENCES AND RESPONSIBILITY FOR FUTURE PROBLEMS WITH OUR TROUBLED YOUTH, OUR DAMAGED PARENTS, AND OUR VULNERABLE ELDERLY.

VOTING TO SUPPORT PASSAGE OF HB566 IS A SIGNIFICANT POSITIVE ACTION WITH A LOUD CLEAR MESSAGE TO VICTIMS THAT THEIR LIVES OF TERROR CAN COME TO AN END, AND THAT THERE IS HELP FOR THEM AND THEIR CHILDREN. A VOTE OF "DO PASS" IS A VOTE TO INTERVENE IN THE CYCLE OF VIOLENCE. THANK YOU.

JOINT CUSTODY IS NOT IN THE BEST INTEREST OF THE CHILD IN ABUSE SITUATIONS

CONTINUING THE CHILD'S EXPOSURE TO ANTI-SOCIAL AND AMORAL BEHAVIOR IS AGAINST THE STATE'S INTEREST

CHILDREN ARE FREQUENT WITNESS TO THE ABUSIVE BEHAVIOR

ABUSIVE BEHAVIOR IS LEARNED BEHAVIOR

PRESUMPTION FOR JOINT CUSTODY LIMITS REASONED CHOICE AT THE TRIAL COURT LEVEL

LACK OF IMPULSE CONTROL AND LOW SELF ESTEEM ARE HALLMARKS OF ABUSIVE PEOPLE

DRUG OR ALCOHOL ABUSE IS FREQUENTLY PART OF AN ABUSIVE PATTERN

JOINT CUSTODY IS USED AS A BARGAINING CHIP BY ABUSIVE PARENTS TO GAIN CONCESSIONS FROM THE SPOUSE IN BOTH PROPERTY AND CUSTODY NEGOCIATIONS

THE PRESUMPTION IS IN CONFLICT WITH THE STATE'S INTEREST IN ENDING DOMESTIC ABUSE

JOINT CUSTODY EXPOSES THE ABUSED PERSON TO CONTINUING ABUSE

PIECEMEAL LITIGATION IS AN INEFFICITIVE WAY TO ELIMINATE THE PRESUMPTION OF JOINT CUSTODY IN ABUSE SITUATIONS

JOINT CUSTODY IS NOT IN THE BEST INTEREST OF CHILD IN ABUSE SITUATIONS

There is an inherent conflict in the presumption that joint custody is in the best interest of the child when there is abuse in the family. The presumption of joint custody, subordinates several other interests. The subordinated interests are: the interest of the state to minimize domestic abuse; the interest of one parent to be free from coercion of the other; and the best interests of the child.

Parties are free to use whatever leverage is available to obtain a favorable settlement. This results in the use of custody as a bargaining chip. It is against the State's interest to give this bargaining power to an abusive person. The results of a 10 year study of the effects of California's no-fault divorce law, indicate, that fewer than one man in 10 sought physical custody of the children, but one third used custody threats to gain leverage in financial bargaining. L. Weitzman, THE DIVORCE REVOLUTION: THE UNEXPECTED SOCIAL AND ECONOMIC CONSEQUENCES FOR WOMEN AND CHILDREN IN AMERICA (1985).

Data that is available indicates that mature and committed parents who voluntarily choose joint custody often find it rewarding. It is possible for children to live in two homes and remain positively attached to two parents who no longer love or want to be married to one other. Steinman, JOINT CUSTODY: WHAT WE KNOW, WHAT WE HAVE YET TO LEARN, AND THE JUDICIAL AND LEGISLATIVE IMPLICATIONS, 16 U. C. D. L. Rev. 739, 743 (1984). These conclusions are a product of empirical studies of the parenting experiences of couples who were committed to the idea of joint custody and struggled scrupulously to make it work. There is no data on how successful involuntary arrangements are. Steinman noted in a survey of the data surrounding joint custody that "[w]e have no data on the outcome of joint custody for families in which parents come to joint custody (at least initially) involuntarily or as a result of pressure from the legal system." Id. at 749.

Among committed parents, joint custody appears to be an attractive custodial alternative. However, care should be taken as even with cooperative parents, there is a need to ensure that joint custody suits the child's best interests. There is no evidence that joint custody would be successful between uncooperative parents. In a study reporting current findings, the researchers found, ".... the level of interparental conflict may be more central to the child's post-divorce adjustment than father absence and the disruption occasioned by marital dissolution per se." Derdeyn and Scott, JOINT CUSTODY: A CRITICAL ANALYSIS AND APPRAISAL, AMERICAN JOURNAL OF ORTHOPSYCHIATRY (1984). It is impossible to conclude the presumption of joint custody is for the child's best interest.

Several studies have examined whether abusive role modeling by a parent impacts the children. Their conclusions are a resounding yes. A study conducted in 1978-1980 of 306 mothers with 735 children concluded: 76% said children were present at beatings; children are both recipients and observers of violence; and 33% said children were beaten (one-half separately, and one-half in connection with mother). Pagelow, CHILDREN IN VIOLENT FAMILIES: DIRECT AND INDIRECT VICTIMS, "YOUNG CHILDREN AND THEIR FAMILIES, (1982). Abusive spouses lack moral judgment and impulse control. These are indications of a violent personality that may interfere

with a good parent-child relationship. In a British survey 54 percent of the husbands of the battered women questioned had committed acts of violence against the children as well. Gaylord, WIFE BATTERING: A PRELIMINARY STUDY OF 100 CASES British Medical Journal 194 (1975).

Case law in a number of states recognizes battery in the home of the parent seeding custody is a bar to custody. Custody was denied to a father who beat the mother. Williams v. Williams, 104 Ill. App. 3d 16, 432 N.E.2d 375 (1982). Indiana court refused to exercise its UCCJA jurisdiction as there was a pending custody proceeding in a more convenient forum, where the mother had fled from alleged act of abuse of mother by father. Cline v. Cline, 433 N.E.2d 51 (1982). In Montana two mothers were denied custody as the men they now associate with have either reputations of, or have acted out violence. Schiele v. Sager, 571 P.2d 1142 (Mont. 1977) and Bier v. Sherrard, 622 P.2d 550 (Mont. 1981).

Seven states have enacted laws that recognize abuse to a spouse is harmful to the child. They cover a wide spectrum. Arizona requires the courts to consider evidence of spouse abuse as being contrary to the best interests of the child. Arizona-House Bill 2430, signed May 9, 1986. See also, Florida Statute section 61.13(2)(b)(2), Illinois Revised Statute (1979) chapter 40 paragraph 602(a)(6). Alaska requires the courts to consider whether there was violence between the parents when deciding whether or not to award joint custody. Alaska Statutes section 25.20.090(8). See also California Civil Code section 4601.5. Kentucky allows spouse abuse as a defense to abandonment of a child if parent left home because of the spouse abuse. Kentucky Revised Statutes Annotated section 403.270(2). See also Colorado Revised Statutes section 14-19-124(4).

There are no studies that conclude joint custody is always in the best interests of the child. There are studies to show the stress of joint custody is detrimental to approximately one third of the children involved. Is it sound policy to base custody awards on creating equality between parents? Or on achieving and maintaining stability for the child. From the child's point of view, the displacement secondary to joint custody may be too stressful. The conflict created by disagreeing parents is not avoided by Montana's current mandate. The child must live with the prolonged conflict and bear the stress to meet the parent's needs. As the Montana statute does not allow a judge to screen out those disagreeing parents who can not put aside their differences for the best interest of the child.

Currently the presumption of joint custody may be overcome by application of MCA 40-4-212. This is the Best Interest of Child Statute that provides several possible challenges to the presumption. However none of them is a direct statement that perpetuation of abusive behavior is against the best interests of the child. This leaves a judge free to disregard abusive behavior in custody awards. All too frequently intra-spousal abuse is not construed as impacting ability to parent. Abuse between husband and wife are not seen as harmful to the children. Though in other areas of law such behavior is a criminal offense. This legislature should address this contradiction.

with a good parent-child relationship. In a British survey 54 percent of the husbands of the battered women questioned had committed acts of violence against the children as well. Gaylord, WIFE BATTERING: A PRELIMINARY STUDY OF 100 CASES British Medical Journal 194 (1975).

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SENATE JUDICIARY

EXHIBIT NO. 15

DATE March 16, 1981

BILL NO. HB 679

SUMMARY OF HB679 (KEENAN)

(Prepared by Senate Judiciary Committee staff)

HB679 amends the criminal procedure statute relating to disposition of money collected from criminal fines. This bill allocates to the battered spouses and domestic violence grant program administered by the Department of Social and Rehabilitation Services 50% of the money collected as fines for the commission of the criminal offense of domestic abuse. Under current law, the money goes to the county general fund of the county in which the court is held.

COMMENTS: See Fiscal Note comment regarding possible technical defect. I checked with the Accounting Division of the Department of Administration who does not see any problem with the language in the bill. I also compared this language to other bills that have similar provisions and this bill is worded the same. I do not believe an amendment is necessary.

C:\LANE\WP\SUMHB679.

February 14, 1987

SENATE JUDICIARY

Capitol Station
Helena, Montana 59620

EXHIBIT NO. 16

DATE March 16, 1987

BILL NO. HB 679

Dear Legislators,

I am a Regional Representative from the MONTANA COALITION AGAINST DOMESTIC VIOLENCE (SPOUSE ABUSE & CHILD ABUSE), and I am asking for your support of HOUSE BILL 679—"An ACT to Allocate 50% of the Revenue from Fines for the Commission of the CRIMINAL OFFENSE of DOMESTIC ABUSE to the Battered Spouses and DOMESTIC VIOLENCE GRANT PROGRAM.

In February of 1977, the MONTANA LEGISLATURE started working with us to start solving the problem of DOMESTIC VIOLENCE by a SENATE-HOUSE JOINT RESOLUTION which mandated Crime Control to study Spouse Abuse in Montana. That Study was made and called 'SPOUSE BATTERING IN MONTANA'. In April of 1978, Governor Judge appointed a STATE TASK FORCE ON SPOUSE ABUSE which was established to read and study 'THE STUDY' and make recommendations to the 1979 LEGISLATURE. In addition to the LEGISLATION that has been passed by you in the last 5 LEGISLATURES, the MONTANA TASK FORCE ON SPOUSE ABUSE (which I Chaired for 4½ years has:)

- Developed a STATE TRAINING PACKET ON SPOUSE ABUSE for Mental Health Professionals & Clergy.
- Developed a SPOUSE ABUSE PROTOCOL in the 61 State Hospitals
- Developed a RAPE PROTOCOL in the 61 State Hospitals.
- Developed a booklet with the STATEWIDE SERVICES entitled 'BATTERED WOMEN RIGHTS & OPTIONS.'
- Do COMMUNITY INTERVENTION WORKSHOPS sponsored by the LAW ENFORCEMENT ACADEMY
- Spearhead GRASS ROOTS EDUCATION on the Problem in Communities.
- Do STATE WORKSHOPS in Training Advocates; latest research on the CYCLE OF DOMESTIC VIOLENCE.
- In October 1982, formed the MONTANA COALITION AGAINST DOMESTIC VIOLENCE who are:
 - Continuing the GRASS ROOTS EDUCATION STATEWIDE (I do 60 Talks/Workshops yearly
 - Continue our Systemic Approach to the Problem with STATEWIDE WORKSHOPS (see enclosed STATE WORKSHOP BROCHURES of Missoula '85; Glendive '86.)
 - Sponsored our 2nd 'LOVE WITHOUT FEAR WEEK' around the STATE with the MONTANA FLORISTS ASSOCIATION
 - The 8 SHELTERS and 12 TASK FORCES (who have Private Safe Homes) and network with the Shelters if needed have continued to Volunteer their services and do Educational outreach as Listed below: (*asterisk denotes Shelters)

Hi-Line Help for Abused Spouses does Education and Outreach into Toole, Pondera, Choteau, and Teton Counties, & State Workshop.

****Great Falls Mercy Home** has done Education & Outreach to :Belt, Law Enforcement Training in Lewistown, Cascade, Stockett, Ulm, Vaughn, Sand Coulee, Choteau, Presentors at both MCADV STATE DOMESTIC VIOLENCE SEMINARS in Missoula & Glendive) with SRS, Mt. Legal Services, Women's Law Caucus, Mt. Peace Officers/Mt. Chief of Police Assoc./Crime Control

****Missoula BW Shelter & Women's Place** -have done Education & Outreach to: Stevensville, Hot Springs, Hamilton -Darby, Seeley Lake, Ronan, Frenchtown, Milltown, Potomac, and Sponsors of the 1st 'Legal Advocacy for Battered Women in Montana' Workshop with Mt. Legal Services in Feb'86.

Kalispell Violence Free Crisis Line has done training for Sheriff's Officers & Churches, Columbia Falls, Olney, Dayton, & several State Workshops on Spouse/Child Abuse

****Pablo-Ronan** Family Crisis Center is doing 'Responsible Parenting Classes' in Polson along with establishing a Resource Center in Polson. Also in St. Ignatius/Ronan

Libby Lincoln County Women's Help Line has done Lincoln Co. reserve Sheriff Officer's Training, plus Training to the Lincoln County Bar Association.

****Helena** Friendship Center has done Education & outreach to Boulder, Townsend, Augusta.

****Butte** Safe Space has done Education & Outreach to: Whitehall, Sheridan, Anaconda, Deer Lodge. Dillon has done 12 hrs. Advocate training for 6 Advocates from Twin Bridges (Madison Co.), Has presented programs in Sheridan, Twin Bridges, & Dillon Schools; plus Awareness Programs in Lima, Dell, Grant, Wisdom, Jackson, Wise River, Divide, Melrose, Glen, Laurin, Virginia City & Ennis in Beaverhead, Madison & Silver Bow Counties.

****Bozeman** Battered Women's Network has a 1-800 Number to do Outreach to surrounding area in addition to their Educational Outreach to: Belgrade, Ennis, Livingston, West Yellowstone, Big Sky, White Sulphur Springs, & State Workshops.

****Havre** Shelter HRDC D.V. Program has done 20 hr. Advocate Training in Havre, Wolf-Point/Poplar area, Malta & Rocky Boy so they could begin their own Programs.

**Billings Gateway Shelter has done outreach & Education to: Ft. Belnap Reservation, Cheyenne Reservation, and Crow Reservation plus in the Billings Area.

Colstrip Battered Women's Task Force has been doing Education & Outreach in that Area
Glasgow Area Spouse Abuse Task Force did Outreach to Richland, Nashua, Malta

Glendive Dawson County Spouse Abuse Program to Education to Wibaux, Terry, Circle & a State Domestic Violence Seminar they hosted.

Sidney Richland County Coalition Against Spouse Abuse has done Training with Volunteers plus Education in that Area.

Miles City Mental Health 24 hour Crisis Line

Harlem Ft. Belnap Tribal Health

Twin Bridges 24 hr. Crisis Line/Information

Whitehall Information and referral & Jefferson Ct. Spouse Abuse Program

Lewistown Spouse Abuse Vital Emergency Services (S.A.V.E.S.) has done Public Awareness and Education to Churches in six-county Area, all Schools, Legal Professionals and Law Enforcement.

The Great Falls Mercy Home opened in May 1977, our first Shelter in Montana and one of 30 in the United States addressing the problem of Spouse Abuse. We have been able to give Technical Assistance and spearhead 7 other Shelters and 12 Spouse Abuse Task Forces in Montana.

In 1979, the LEGISLATURE raised the marriage License fee to fund the Battered Spouse Programs under the DOMESTIC VIOLENCE GRANT PROGRAM. In 1983, the LEGISLATURE added 6% out of General Funds (over and above the Marriage License Fee); and the 1985 LEGISLATURE added 4% out of General Funds (over and above the 6% and the MLF) but since the SPECIAL SESSION in June 1986 cut 5% Across the Board, we never received the 4%.

A Shelter as large as Mercy Home (which can accomodate 22-27 Women & Children) served 538 Women and Children 'in' the Shelter in 1986, and an Additional 1,381 Family Units in Outreach, plus 1,113 in Telephone Advocacy, and Educated 2,250 people in over 78 Local Talks and Workshops given in the Schools, Jr. High, Communities.

This is an Increase in Client Load again for the 5th year of 28% with the same amount of Staffing.

The Great Falls Community has been one of a great deal of support to the Mercy Home since we first began operation in 1977. Last year we received a total of \$145,407.00 of IN-KIND CONTRIBUTIONS of which 80,289.00 was Donated SERVICES of VOLUNTEER STAFFING which has enabled us to keep our Staffing costs low, and has strengtened our Counseling & Advocacy Services. Our Budget last year was \$85,000.00; and the Domestic Violence State Grant furnished about one-fourth of that Budget; and Locally thru United Way and Donations we have another fourth of our Budget each year. The rest of the Budget is funded by the 14 Grants I write each year.

I have continued COMMUNITY COALITION BUILDING and involvement through our GREAT FALLS COMMUNITY FOOD BANK which networks with the STATE FOOD BANKS. We disbursed \$270,000.00 worth of Food in Gt. Falls last year (\$15,000.00 to each of the 18 Non-Profit Agencies that are a part of the FOOD BANK. We are currently working on having 2nd Harvest to come into MONTANA which will greatly enhance the 48 FOOD BANKS STATEWIDE.

I am proud of the ways in which our 'GRASS ROOTS' plans of the MONTANA COALITION AGAINST DOMESTIC VIOLENCE have developed into Strong Programs of Human Services & Education through the cooperation of the past FIVE LEGISLATURES, the past two Governors, and the Department of Social & Rehabilitation Services in the STATE OF MONTANA. Due to Economic conditions and high unemployment (a triggering event for Domestic Violence), we are seeing a tremendous increase in Client Loads. With a portion of the Domestic Abuse Fines, we will continue to stretch every penny to benefit the entire STATE.

Sincerely,

Caryl Wickes Borchers
Caryl Wickes Borchers

Executive Director, Great Falls Mercy Home

Chair, Montana State Task Force on Spouse Abuse (1978-82)

Rep., MONTANA COALITION AGAINST DOMESTIC VIOLENCE

February 13, 1987

SENATE JUDICIARY
EXHIBIT NO. 16 A
DATE March 16, 1987
BILL NO. HB 679

Dear Legislature:

I urge you to pass HB: 679.

I am one of many women who are abused each year with little or nothing done. We are fortunate here in Great Falls, to have the Mercy Home but without some funding how long can it survive??

In February 1985, I had to go to the Mercy Home due to physical abuse by my husband. After we had been out having a good time for my birthday, he became physically abusive. Pushing me off the bed and he started to twist my left leg toward my head with his foot on my chest and throat, stopping only because my daughter came into the room yelling at him to stop. After a few minutes he stops and turns over in bed and went to sleep. My daughter and I left our home to call the police---they stated they couldn't arrest him because I'd left the house. I did press charges and they, the court, fined him \$100.00. I spent a few days at Mercy Home until I could get housing. I filed for divorce. Only 18 months (Aug. 3rd) after the divorce, he again choose to abuse me by following me out in the parking lot of a public establishment. Twisting my left arm and breaking it---throwing me to the ground. A passer by called for help. He spent the night in jail and pleaded not guilty and the trial date was set for March 9th. I am still going for therapy on my arm, trying to get it more functional---costing me \$20,000.00 in hospital and aftercare costs, not to mention I have been unable to work now for 7 months. I worked as a licensed practical nurse, but no longer will be able to stay in my field. It is not easy finding a new type of a job at 46 years of age.

These things go on all the time. They (the abusers) need to be charged and made to pay for the damages, some of the money going to the abused and some going to the programs and homes helping us but without some funding how can they function???

Thank you for your time.

Carol Bullard

Carol Bullard
707 Parkdale
Great Falls, Mt 59405

DOMESTIC VIOLENCE SEMINAR

Thursday, April 3, 1986
Best Western Holiday Lodge
223 North Merrill
Glendive, Montana

SENATE JUDICIARY

EXHIBIT NO. 16B

DATE March 16, 1987

BILL NO. HB 679

This Domestic Violence Seminar is organized by the Montana Department of Social and Rehabilitation Services, the Montana Coalition Against Domestic Violence, Montana Legal Services Association*, the Women's Law Caucus of the UM School of Law and Board of Crime Control at Department of Justice.

The Seminar is a unique opportunity for all those concerned with the problem of domestic violence to share their concerns, perspectives, and hopes. It is an important step toward developing a strong, coordinated response to this widespread problem.

AGENDA

Thursday, April 3

9:00 - 9:15AM	WELCOME and INTRODUCTION - Boyce Fowler, Montana Department Social and Rehabilitation Services
9:15 - 9:30AM	THE BATTERED SPOUSE SYNDROME - Lenore Taliaferro, Friendship Center, Helena
9:30 - 10:00AM	NEW LEGISLATION - Women's Law Cacus, UM School of Law Karen McRae, Missoula
10:00 - 10:15AM	BREAK
10:15 - 11:45AM	KEYNOTE SPEAKER - Donald Van Blaricom, Chief of Police, (VIDEO TAPE) Bellevue, Washington Amy Fifer, Moderator
11:45 - 1:15PM	LUNCH
1:15 - 2:00PM	Law Enforcement Instruction - Jack Wiseman, Law Enforcement Academy, Bozeman
2:00 - 3:00PM	MONTANA LAW ENFORCEMENT PERSPECTIVE - Moderator, Ken Walker, Missoula YWCA Shelter; Larry Marquart, Chief of Police Glendive Police Department, Dean Mahlum, Sheriff, Roosevelt County; Mike Shaffer, Sheriff, Yellowstone County; Bob Burison, Captain, Sidney Police Department
3:00 - 3:15PM	BREAK
3:15 - 5:15PM	PANEL - Moderator Leslie Burgess, Women's Place, Missoula; Caryl Wickes Borchers, Director, Great Falls Mercy Home; Julie Ferguson, Domestic Abuse Victim, Great Falls; Janet Eschler, Justice of the Peace, Yellowstone County; Klaus Sitte, Attorney, Montana Legal Services Association, Missoula; Marvin Howe, Deputy Dawson County Attorney, Glendive, and Jim Oberhofer, Captain, Missoula Police Department.

D.P. VAN BLARICOM is Chief of Police, City of Bellevue Police Department, P.O. Box 1768, Bellevue, WA 98009-9013. He was appointed as a patrolman with the Bellevue Police Department in 1956 and subsequently served in every rank/duty assignment until selected as chief in 1975. A former member of the U.S. Marine Corps, Chief Van Blaricom holds a B.A. degree in political science from the University of Washington, a Master of Public Service degree from Seattle University, and is a graduate of the 85th session of the FBI National Academy. He has recently published an article on domestic violence in the June 1985 issue of The Police Chief.

*Montana Legal Services Association is an approved C.L.E. sponsor. This program should qualify for 6 hours of Continuing Legal Education Credit.



DOMESTIC VIOLENCE SEMINAR

Registration Form

NAME _____

Make Checks Payable to:

POSITION _____

Montana Coalition Against Domestic
Violence

ADDRESS _____

PHONE _____

PLEASE RETURN BY MARCH 24, 1986 to:

Domestic Violence Seminar

Shirley Trangmoe

210 First Street

Highland Park

Glendive, Montana 59330

Enclosed is the \$5 individual registrant fee.____; OR
Enclosed is the \$40 fee for Continuing Legal Education
Education credits._____

I wish to apply for a scholarship (for individual
registrants only)._____

Best Western Holiday Lodge, has rooms at state rates, phone 365-5655 - 223 N. Merrill

MONTANA COALITION AGAINST DOMESTIC VIOLENCE

DOMESTIC VIOLENCE SEMINAR

Thursday, April 3, 1986

Best Western Holiday Lodge

223 North Merrill

Glendive, Montana 59330

DATE March 16, 1987BILL NO. HB 679

February 14, 1987

Dear 1987 Legislators:

Please support House Bill 679 which provides a portion of the Domestic Abuse fines for the funding of emergency shelters and other domestic abuse programs. The movement to stop domestic abuse started as a grass roots program, with Mercy Home in Great Falls as one of the first shelters for abused women in the Nation. Many long, stressful hours given by dedicated volunteers has gotten us where we are today. With a million dollar statewide budget, a full half of those monies for running shelters and other domestic programs still come from volunteer efforts and donations.

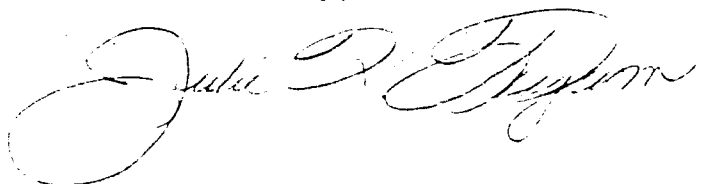
Mercy Home in Great Falls drastically changed the course of the lives of myself and my two small children, perhaps even saved them. It gave us a safe place to go to flee a very abusive husband and father. It gave me counseling which helped me to understand the cycles of abuse and that battering is learned behavior. That explained to me why nothing I did or didn't do, said or didn't say ever made a difference in the incidences of abuse. My situation had escalated to the use of guns by my ex-husband to threaten me in front of my children, then aged 3 and 1. He often hit me with a closed fist in the head while I was holding one of my children. He beat me when I was pregnant. He was very abusive to my children, hitting, tripping and picking my 3 year old up by the neck, and spanking my baby and literally throwing her into her crib. My marriage had become a nightmare. Mercy Home helped me change my life, at no cost to me. This is important to note because when a woman leaves an abusive home, she often flees with little but the clothes on her back. I am now self-supporting and content with my life. My children and I no longer live in fear.

By supporting funding for domestic abuse programs, you not only help one person, but generations to come by showing them that battering is learned behavior, that they are not the cause of battering incidents, and that they can change the course of their lives.

I can think of little worse than living in constant fear and repression in your own home. Please support House Bill 679. Help our children learn what love is. Help society continue to get the message across to abusers that domestic abuse is not acceptable behavior. It is a crime.

Thank you for your time.

Yours sincerely,



Please support House Bill No. 679 for people that need a place to be safe, like my kids and I did in December of 1985. We went and stayed at the Mercy Home in Great Falls the same day as the restraining order and divorce papers were served on my ex husband.

If there wasn't a Mercy Home I don't know where we would have gone. We couldn't go to my folks house because it is the first place he would have looked, and it is in the same block as the house we live in.

My ex husband is a Viet Nam Vet, and he still is afraid of someone or something coming to get him. He lives with a loaded 9MM on him at all times and he sleeps with it under his pillow. In the last week before we left the house I saw him grab the 9MM twice when my brother and my 10 yr. old son came in the door of the house. He would let the 2 yr. old baby play with the gun. You can not imagine what it is like to walk in a room and see your baby playing with a loaded gun, swinging it around with the other kids in the room. When I said something to my ex husband he told me he couldn't understand why I was so upset because Levi couldn't cock it. This same man would take his gun out and play with it when he was mad at me. There was a number of times I wondered if he was going to shoot me. There was one day in April of 85' he had been fishing on the river and came home and told me he had almost done it. I asked what, he told me he had been fishing, and someone above him started throwing

rocks in the water while he was fishing so he shot at them. He told the counselor at Mental Health that he wasn't shooting at them he was shooting at the rocks below them, just so they knew he was there. This same man threatened to shoot a snowman I made because he thought it was someone breaking in the house and the lamp on the TV was his partner. I wondered if some night he wouldn't shoot me when I would get up to take care of the kids and he would mistake me for someone or something. He has alot of nightmares and is still back in Nam and something is always chasing him.

The time wasn't only hard on me, but the kids as well. Cody my oldest son kept asking me if we couldn't divorce him. My ex husband was never very good to any of the kids. He would buy food and the kids couldn't have any. One time he hit Cody across the room because he didn't like his answer on his home work.

Josh, the 4 yr. old at the time started to behave like his Dad. He thought it was normal to sleep with a gun because his Dad did. He would hide one under his pillow at night like Dad. His Dad was also teaching him to choke for the future. Josh would get mad at the kids and one time I found him choking Levi, the 2 yr. old, because that was what his Dad had taught him. He didn't like his Dad very much. He wanted to move to Louisiana and leave his Dad here. To this day he still tells me he is very angry with him because of the things he has done to him.

Ever since Josh has been forced to go and visit his Dad by himself I have been taking him to Mental Health. He is only just now getting to like his Dad and the only time he feels comfortable is if there is a third person around. The last time he stayed by himself with his Dad he came home in such a deep depression he cried for 2 days. I don't know what all happened but his Dad told him he was going to shoot Santa and his rain deer on Christmas Eve.

When confronted with his behavior he says he can't understand why the kids don't like him because he is such a wonderful person. I am still afraid of this man and have had the Doctor say they thought he was explosive and they didn't want to put the kids and I in any more danger. This man only owns guns that have a clip that holds several rounds and since the divorce he has purchased a machine gun. At one time here in town he called the Police Department to find out what the regulations were and what the fine was for carrying a concealed weapon. I told him I didn't have the \$500 to get him out of Jail and he told me it didn't matter because they would have to kill him first before they took his gun away.

About a month before we went to the Mercy Home I asked my ex husband if he was happy with the way our life was. He said No. I told him I wasn't either and told him to go find his happy some place. He told me no. He didn't want to and the kids and I were to live like we were, miserable because that was the

way he wanted it. What we wanted did not matter. I do know that it isn't right to have to take a normal child to Mental Health every week since his forced visitation with his father. And no one should ever be forced to live like the kids and I did because they don't have a choice. For five years he told me he was going to die any minute. I thought I could stay with him if he was going to till he did die. I stayed for as long as I could stand it.

That is why we need a Mercy Home so everyone always has some place to go to be safe or at least a choice

Roxanne
Roxanne

HOUSE BILL 679
TESTIMONY BY
DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

The Department supports the Bill for several reasons. First, the Domestic Abuse Program Funds were to encourage a State-wide network of programs to address and service victims of Domestic Violence. Of the original programs funded in FY '80, seven (7) are still working and providing services in their communities. These were 5 shelters - Mercy Home in Great Falls; Gateway House in Billings; Battered Women's Network in Bozeman; Friendship Center in Helena; and YWCA Shelter in Missoula - with two other programs providing safe homes, counseling, advocacy and educational information - in Dillon; and Women's Place in Missoula. Several other communities since that time have implemented programs so that the past few years we contracted with 16 - 18 programs. These include 3 other shelters at Butte, Havre, and Ronan, plus programs offering safe homes and other services, at Kalispell, Libby, Gilford, Harlem, Colstrip, Glendive, Sidney, and Lewistown.

In the last 5 (five) years, the Domestic Abuse Funds appropriated by the Legislature have increased only \$16,371. These funds have been used to maintain the seven original programs and add eleven programs. After eight years of operation, we are no longer in a position of only starting new programs, but rather, maintaining what has begun.

The marriage license fee of \$14 is not a reliable source to anticipate any funding growth since Montana's population shows very slow growth and the number of marriage licenses over the past six years have been on a steady decline. (See Attachment)

Secondly. It seems sensible to have the courts fine the abusers who are causing domestic violence to their families with a portion of the funds used for providing services to the victims. The women and children, many times, become up-rooted from their homes and need to start from scratch with only extremely limited resources. Shelter, safe homes, transportation to a safe location, and counseling to help mend broken minds while broken bodies heal, are the relief needed from the abusers in Domestic Abuse.

Third. The community programs are required to have a 20% local match revenue or in-kind contribution. They use a variety of local funding resources, depending on their particular community. However, because of the State's economy, many local sources are diminishing since other programs and special funding events have turned dramatically to private sources. Private grant resources are getting so competitive, programs need skilled grant writers, with research and development experience, to obtain funds. Since the domestic abuse programs rely on mostly volunteers, those persons with unique grant preparation skills are not always available. New volunteers have to be trained frequently to work in this highly emotional and stressful program with the threat of further violence always present to victims, as well as, staff and volunteers.

The only professionally trained staff in most programs is a paid director, sometimes only a part-time paid position. The burn out rate is high as program directors in the 2 Missoula, Kalispell, Bozeman, Havre, Libby, Dillon, Ronan, Lewistown, and Butte Programs have all changed within the past year or so after being in their positions only two to three years.

For House Bill 679, revenue projections are based on what little fine information is available. It is anticipated that \$19,750 will be generated for Fiscal Year 1988 and \$21,750 for Fiscal Year 1989.

Through the change in diverting part of the mandatory arrest fines to the Domestic Abuse Program, the effect would be to strengthen and maintain the local community programs otherwise not possible.

Boyce D. Fowler
Domestic Violence Program Manager

House Bill 679 - Testimony
Page 3 -- Attachment

	FY '81	FY '82	FY '83	FY '84	FY '85	FY '86
Number of Marriage Licenses	8,209	8,185	8,092	7,659	7,178	6,723 (est.)
	(.....continous decline.....)					

	FY '83	FY '84	FY '85	FY '86	FY '87
Funds Appropriated	115,500	121,744	130,875	131,871	131,871
	(.....increase \$16,371.....)				

BF:kb
#L2/41
February 13, 1987

Montana Coalition Against Domestic Violence

EXHIBIT NO.

20

DATE

March 16, 1987

BILL NO.

HB 679

There are currently 15 domestic violence programs, representing 6 shelters and 7 safe home systems, who are members of the Coalition. Each of these programs provide 24 hour emergency services, advocacy support and public education.

During 1986, the member programs of the Coalition reported:

5,559 crisis calls
2,372 personal contacts
1,169 women and 1,121 children sheltered
10,221 people received crisis services

Additionally,

610 women, men and children attended support groups.

459 speeches, educational forums and workshops were provided for 14,921 community members and professionals.

530 volunteers, 256 providing direct crisis intervention

** 25,752 people benefited from local domestic violence programs in 1986.

These services have been the responsibility of 27 full and part time paid staff (6 funded by federal monies) and 9 VISTAs who will no longer be available after this fiscal year.

Budget Information - 1986

The total cost of providing these 24 hour services is over \$900,000. One-half of this cost is provided by in-kind contributions of 530 volunteers and local communities.

The dollar cost of these programs in 1986 was over \$450,000. The average program budget was approximately \$31,000 - ranging from \$400 to \$80,000. A breakdown of funding sources shows:

22% provided by marriage license and general fund monies through SRS.
36% provided by local communities.
12% raised through grant writing efforts.
31% provided from federal monies. This is the first year these monies have been available. Their status for FY88 is not known.

** A total of 49% of actual program dollars were raised through local community and grant writing efforts.

** General fund monies may not be available after July 1, 1987.
VISTA workers will not be available after July 1, 1987.

** In addition to the almost \$470,000 donated by volunteers, 58% of actual program dollars were raised locally through United Way, donations and marriage license fees.

Information compiled by: Lucille Pope, Coordinator
Box 5096, Bozeman 59715
586-3084 or 586-0263 (messages)

Montana Coalition Against Domestic Violence

SENATE JUDICIARY

EXHIBIT NO. 20A

DATE March 16, 1987 HB 679

BILL NO. HB 679

Testimony of Deborah Kimmet
February 16, 1987

I am Deb Kimmet, a domestic violence expert. I have been the director of a domestic violence program in Missoula and am now the Director of the Battered Women's Network in Bozeman. I am also Treasurer of the Montana Coalition Against Domestic Violence. I bring to this hearing a variety of experiences and a statewide perspective on the issue.

I. What We Do

I would like to discuss the impact of domestic violence programs in Montana. The statistics before you were compiled by the Coalition - and represent only the member programs of the Coalition.

During 1986, these programs reported:

- 5,559 crisis calls - these are men; women; family and friends who need immediate assistance.
- 2,372 personal contacts - which are in-person meetings with someone desiring crisis support and information.
- 2,290 women and children sheltered in shelters and safe homes.
Safe homes are private residences where people have volunteered space in their homes to house victims of domestic violence during emergencies.

Thus making a total of 10,221 persons who received emergency services last year.

II. Current Funding Realities

In looking at the positive side of our funding:

The federal government provided VISTA workers and Crime Control funds in 1986.

The private sector, such as corporations and foundations also provide money to shelters.

Locally, 36% of the \$450,000 needed to operate the local programs were provided through local fundraising and giving programs such as United Way.

In in-kind contributions alone, it doubles the amount of actual monies received to over \$900,000. This means that there are a lot of programs utilizing volunteer services and contributions in an extremely efficient and effective manner - even when these are considered to be economically depressed times. This also shows that there is large grass-roots support for our programs.

In looking at the bleak side:

The private corporations and foundations only have so much money to distribute and more and more agencies are applying for these monies as governmental support drops away. These monies are often restricted to geographic areas where subsidiaries are located.

Page 2

The VISTA program - which provides our fundraising coordination, will no longer be available July 1 -- thus adding another burden on the staff. More time will be spent on raising funds instead of providing direct services.

Federal funds are proving to be an unstable funding source. As you may notice, 31% of the program monies which also supported 6 staff positions, came from the federal government. Next year, that money may not be available.

The Subcommittee on Human Services has recommended cutting the general fund portion of the monies we receive. Legislation is pending to restore that funding through an increase in the Marriage License Fees - legislation that I also ask you to support in addition to this legislation.

Shelters and safe homes operate on a shoestring already -- traditionally agencies helping women are grossly underfunded - as well as the salaries of those working in those agencies. My research has shown that the average salary is approximately \$13,500. These people are agency heads, who for their expertise should be making more than that. Most programs cannot provide benefits to their staff members. There is no fat in these budgets.

III. The Need for Funding

Programs currently operate at less than subsistence levels necessary to assist the women and children that come to us. Staff and volunteers maintain a commitment to provide quality, consistent services to all families living with violence in their homes. Adequate funding is needed to ensure that this occurs.

1. Statewide, in 1986 there was an increase of over 34% in the number of persons served from the previous year. Yet, our funding levels increased only 5.8%.

The number of persons served has more than doubled in the last two years. The money that has become available during that time has not increased at a comparable rate.

2. Currently there are 21 programs available to serve 56 counties and 7 reservations in Montana. Three counties are not receiving direct services at this time. Transportation and emergency services to these areas are expensive and difficult to provide at current funding levels or through in-kind contributions. The economic stress of these rural areas can provide a trigger for domestic violence to occur. Therefore, support for all rural areas is imperative.
3. To solve the problem of battering, a family systems approach is necessary. The problem will not go away if we only treat the

victim - the entire family is involved - and all parties need to be addressed. The programs are at this point - we're ready. However, given current funding realities and the constant increase in demand for our services, incorporating a family systems approach will require more money or in-kind contributions.

IV. Domestic Abuse Fines

Two years ago, the Coalition and several individual programs approached the legislature to introduce legislation concerning several aspects of domestic violence - one of which is the legislation making domestic violence a crime. With the passage of these laws came a fine of up to \$500 levied for violation of the statute. In addition, law enforcement officers were instructed to arrest as a preferred response.

In doing an informal survey at the last state Board meeting of the Coalition, it was found that most court systems do not levy the full \$500.00 fine. Fees range from \$50.00 to \$300.00. Therefore, several points could be made:

1. Court systems are meeting their financial needs without levying the full fine as allowed for by law.
2. Everytime a batterer is arrested, it costs the court systems, it costs the law enforcement agencies and it costs the local programs in providing services to the victims. At this point the courts and the law enforcement agencies are receiving reimbursement. The local programs are not.
3. Since the local courts are not levying the full fines, there is room to raise the fees in order to compensate for this 50% we are asking for - AND still ensure that the local criminal justice systems meet their costs.
4. Out of all the sources from which we receive our funding, this legislation alone would ensure that the people doing the battering would actually contribute to the care of their family.

I would like to thank you for your continued support of domestic violence legislation. I would be happy to answer any questions that you may have at this time.

JAMES A. HAYNES
Attorney at Law
P. O. BOX 544
HAMILTON, MT 59840

TO: Rep. Nancy Keenan
FROM: Jim Haynes, Mt. Mag. Assn. Lobbyist
RE: HB 679 - Proposed coordination
amendment with HB 740

DATE: March 12, 1987

HB 740 changes the justice court distribution method for fines and forfeitures; 50% of the total fine and forfeiture amount collected would go to each county and 50% would go to the state in a straight-forward and simple manner, rather than the current individual itemization and breakout for each ticket, citation or complaint handled.

HB 740 distributes monies at the state level to specific special revenue funds. HB 679 uses one of these special revenue funds to collect 50% of domestic violence fines for the battered spouses grant program.

To coordinate HB 679 and HB 740, HB 740 should be amended to add on page 3, Section 1.(4)(g), "1.0% to the battered spouses and domestic violence grant program, social and rehabilitation services account in the state special revenue fund." This would both provide funding and accommodate the justice court book-keeping problems.

All the other special revenue accounts will be adjusted to compensate for the 1.0% which amounts to approximately \$20,000.

HB 679 would then be amended to specifically except justice courts from page 2, Section 1(3).

Proposed
Amendment to HB 679

Page 2
Section 1.(3)
Line 7

"Except for ~~amounts~~ fines collected by a justice court
and ~~distributed~~ distributed pursuant to 3-10-601"

WOMEN'S LOBBYIST FUND

Box 1099
Helena, MT 59624
449-7917

SENATE JUDICIARY

EXHIBIT NO. 22

DATE March 16, 1987

BILL NO. HB 679

March 16, 1987

Testimony in support of HB 679

Mr. Chairman and Members of the Senate Judiciary Committee:

My name is Debra Jones. I speak on behalf of the Women's Lobbyist Fund, a coalition of 40 organizations representing almost 7000 individuals. The WLF supports HB 679. The most appropriate place to use the money from domestic violence arrest fines is on local spouse abuse programs and shelters.

Montana has strong public policy concerning domestic violence. Our presumption of arrest law is one of the most progressive policies in the country. Studies have shown that arrest is the single best deterrent to repeat offenses of domestic violence. With HB 679, we will continue to strengthen our efforts to end domestic violence.

Montana has 15 domestic violence programs and 8 shelters that offer a service to our communities that is desperately needed. Last year these programs provided crisis intervention to almost 6000 individuals, emergency shelter to over 800 women and 1100 children, long term assistance to 1100 individuals, and education to 11,000 citizens.

As we all know, Montana is facing tough economic times, and one sign of the times is the increasing case load that many programs are experiencing. These programs already are understaffed, overworked, and operate on shoestring budgets. They all rely heavily on dedicated volunteers. Additional monies from arrest fines will help these programs keep their heads above water so they can serve their increasing client loads.

Our domestic violence programs and shelters have made a very real and significant contribution to Montana. They have created a successful grassroots movement by bringing assistance and public awareness to spouse abuse. We must remember that, for many battered women and their families, emergency shelters are their only way out. Transferring arrest fines back to local programs will strengthen our statewide efforts to eliminate spouse abuse. The WLF urges you to support HB 679.

NAME: Debra Jones DATE: 3/16/87

ADDRESS: P.O. Box 1099

PHONE: 449-7917

REPRESENTING WHOM? Women's Lobbyist Fund

APPEARING ON WHICH PROPOSAL: HB 679

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.