

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON JUDICIARY

Call to Order: By Vice-Chairman Kelly Addy, on March 10, 1989,  
at 8:05 a.m.

#### ROLL CALL

Members Present: All members were present with the following  
exceptions:

Members Excused: Rep. Dave Brown, Rep. Tom Hannah

Members Absent: None.

Staff Present: Julie Emge, Secretary  
John MacMaster, Legislative Council

Announcements/Discussion: Rep. Addy announced the committee  
would hear SB 22, SB 42, and SB 145 and hold executive  
action.

#### HEARING ON SENATE BILL 22

##### Presentation and Opening Statement by Sponsor:

Sen. Dorothy Eck, Senate District 40 stated that SB 22 establishes a central clearing house for child support cases coming in from other states. Some of the cases currently are being handled through a registry that the department has maintained. Many of them go directly to counties and district courts. The bill also sets up an administrative resolution process. The hope is that by being able to handle these cases in an administrative procedure out of court, they can be taken care of in a more timely and cost effective way. The state will still have the power, and will in many cases, contract with the local county attorneys offices to handle these cases. Because federal regulations are becoming more stringent, many county attorney offices will probably choose not to take those contracts, but to rely on the state's process to do it. There will be federal money coming along with this program, so there will not be additional cost to the state.

##### Testifying Proponents and Who They Represent:

John McCrea, Staff Attorney of Child Support Program  
Christine Deveny, Montana League of Women Voters  
Brenda Nordlund, Montana Womens Lobby

Proponent Testimony:

John McCrea stated that this bill comes out of certain regulations promulgated by the federal government pursuant to the 1984 amendments to the Social Security Act. These regulations are imposed upon the states and are mandatory. Failure to comply could subject the state to monetary sanctions. The bill addresses itself to problems of interstate application. There is no way an individual can escape anymore by moving to another state. Part of the problem in the past was that this system was rather haphazard. Incoming cases from other states would often go to county attorneys, some would go directly to the child support program. There was no way to tell how many cases were in the state, there was no way to monitor if they were being effectively pursued. In order to get a handle on the number of interstate cases, one of the federal regulations is that each state establish this clearing house. The essence of the clearing house is that all incoming new cases will be focused to a central point. That point will register the case and insure that all the documentation that is necessary to proceed with the case is included. Then the clearing house will seek out the appropriate remedy, whether it's administrative or judicial and forward the case to the applicable place. The purpose of this is not only to gain control, but to speed up the process and insure the completion of the case. The other part of the bill has to do with the ability to contract with county attorneys. The problem in the past has been that the county attorneys were limited strictly to judicial remedies. It is a necessity to have the ability to delegate, through contract, the expediting processes.

Christine Deveny spoke in support of SB 22 (EXHIBIT 1).

Brenda Nordlund, on behalf of the Montana Womens Lobby, spoke in favor of SB 22 for three reasons. First, the bill promotes uniformity in terms of enforcement. Secondly, it will promote further compliance with federal requirements for audit purposes. Finally, it will give more data about the effectiveness of child support collection practices in Montana.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: Rep. Gould asked John McCrea what has happened with the 006 draft on mandatory withholding payments. Mr. McCrea said that income withholding bill is represented as SB 129.

Closing by Sponsor: Sen. Eck closed by saying that this is a necessary step in tightening up the system.

#### DISPOSITION OF SENATE BILL 22

Motion: Rep. Nelson moved SB 22 BE CONCURRED IN, motion was seconded by Rep. Rice.

Discussion: None.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: A vote was taken on the motion SB 22 BE CONCURRED IN and CARRIED unanimously.

#### HEARING ON SENATE BILL 42

##### Presentation and Opening Statement by Sponsor:

Sen. Dorothy Eck opened the hearing on SB 42 stating that this bill provides a number of new initiatives, all of which are required by the federal government. The first thing it does is automatically extends the services whenever someone on AFDC goes off. Secondly, it grants equal status to non-public assistance cases. It also increases the response time. The bill provides for temporary support orders. There's also a provision that health insurance or medical support be provided for in an order. This bill provides many new initiatives and new authority for the department. Sen. Eck distributed an amendment proposal in response to a review of the legislation by the Denver office (EXHIBIT 2). This would require a modification of some support orders when necessary.

##### Testifying Proponents and Who They Represent:

John McCrea, Child Support Enforcement Program  
Christine Deveny, Montana League of Women voters  
Julie Robinson, Director of Social and Rehabilitation Services  
Ann Larson, Private Citizen  
Brenda Nordlund, Montana Womens Lobby

##### Proponent Testimony:

John McCrea told the committee this bill flows from federal regulations. 1984 amendments require the state to have an expedited form to achieve child support enforcement and establish support obligations. Montana has had an administrative process since 1979; however, when that was enacted, all the effort at that time was going toward AFDC cases. The activities that were going to non AFDC services were minimal. Since the 1984 amendments, the federal government has given equal rights to both parties, welfare

cases and non-welfare cases. The intent is that by providing non-welfare services, perhaps they can keep families off welfare. In order to provide this equalization of services, it was necessary to make numerous changes. The expediting process as required by the federal government also requires that 90% of the cases be completed within 90 days of the commencement of the case. The 30 day response time that was built into the system made it very hard to do that. The proposal is to reduce the 30 day response time to 20 days which is the same response time that is commonly found in all civil cases throughout the court system. Another change is the provision for extended services. SB 42 provides an administrative remedy to allow support services while the district court is in the process of making a decision.

Christine Deveny spoke in favor of SB 42 (EXHIBIT 3).

Julie Robinson stated that Governor Stephens is interested in reducing dependency and empowering the Montana families. That is what the package of child support bills do. Parents have a responsibility to support their children.

Ann Larson testified in support of SB 42. She told the committee she feels she represents the majority of divorced women in the state. She said she works for a living, is not on welfare and doesn't always receive her child support. This is the same child support that a judge determined was necessary to support the children. She stated that the last four years since the divorce have not been easy for her. She put herself through college while working full time and took care of the children. Whether she receives child support from her husband is up to him. If he doesn't feel like paying, he doesn't. On more than one occasion, Ms. Larson contacted the Child Support Enforcement Bureau. Because she is not on AFDC, the bureau could not help her collect her delinquent child support. This doesn't mean she can get by without the money. Child support is not a bonus or a luxury, it is her husband's share of the cost of raising their children. Divorce does not end this obligation. She cannot afford to go to a lawyer. She doesn't feel she should have to be destitute to receive help from the state in receiving child support payments which are legally owed to her.

Brenda Nordlund stated that she would like to go on record as supporting SB 42.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: Rep. Boharski asked John McCrea if he had a feel for how well they are tightening up child support along medical lines in helping to decrease the medicaid caseload in AFDC recipients. Mr. McCrea responded that the best way to illustrate the trend of the effectiveness of the program is by the dollar collections. Dennis Shover provided dollar statistics and stated that they are required to establish medical support obligations in cases where there is not an obligation established for medical support.

Closing by Sponsor: Sen. Eck stated that this bill will also help decrease the number of teenage pregnancies. If you present to young men that if they cause a pregnancy, it could cost them \$250 a month for the next 18 years, it makes an impact that moralizing can never make. That may mean no car, no skiing, a restriction on educational abilities and other things that hit home. The perception and cavalier attitude we have seen among people will be reduced. There will be a real recognition of the responsibilities of parenthood. Not all of the responsibilities are financial, but the financial obligations are a big part of it.

#### DISPOSITION OF SENATE BILL 42

Motion: Rep. Stickney moved SB 42 BE CONCURRED IN, motion seconded by Rep. Darko.

Discussion: Rep. Darko commented that Julie Robinson had an amendment prepared for the bill. Rep. Addy explained that this amendment would allow the Governor to transfer child support enforcement duties to the Dept. of Social and Rehabilitation Services.

Amendments, Discussion, and Votes: Rep. Mercer moved amendments proposed by the Dept. of Revenue, motion seconded by Rep. Stickney. Motion CARRIED unanimously.

Rep. Daily stated that the bill should be held until the committee is really sure what the Governor's amendment is. Rep. Addy ruled that amendment out of order as it was brought in after the hearing. Rep. Daily said the amendment will be proposed on the floor anyway and the committee needs to know what it is.

Rep. Strizich moved a clerical amendment to the statement of intent. Rep. Wyatt seconded the motion. The amendment would refer to child support enforcement services in sub 2 and sub 4.

Motion on Rep. Strizich's amendment CARRIED unanimously.

Rep. Strizich moved to amend the statement of intent into the bill. Rep. Wyatt seconded the motion.

Rep. Daily moved to TABLE SB 42. Motion FAILED with Rep.'s Daily and Eudaily voting Aye.

Recommendation and Vote: Rep. Brooke moved SB 42 BE CONCURRED IN AS AMENDED, motion seconded by Rep. McDonough. Question was called for on the motion and CARRIED with a unanimous vote.

#### HEARING ON SENATE BILL 145

##### Presentation and Opening Statement by Sponsor:

Sen. Eck stated that SB 145 makes it clear that veteran's social security legislation benefits based upon remuneration for employment are not exempt from execution if the debt for which execution is levied for child support. You cannot withhold child support money from a check from the veteran's administration of from social security. However, those can be considered in making a judgment for an award. This just clarifies that it is possible to go after those monies. In speaking to veteran's groups, they have no problem with this bill.

##### Testifying Proponents and Who They Represent:

Brenda Nordlund, Montana Womens Lobby  
George Poston, Disabled Veterans  
John DenHerder, Montana Disabled Veterans

##### Proponent Testimony:

Brenda Nordlund told the committee that the Montana Womens Lobby believes that to the extent that federal law allows such execution or garnishment of veterans or social security benefits, that this bill should be supported. That class of child support obligers should be equally responsible to support those children as those who are not receiving such benefits.

George Poston said when he was assured that disabled veterans would be exempt under the U.S. Codes, the disabled veterans turned from opponent to proponent. He stated they are now in favor of SB 145 as it is written.

John DenHerder said he endorses paying child support debts.

##### Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: No questions were asked.

Closing by Sponsor: Sen. Eck asked the committee to Concur in SB 145.

DISPOSITION OF SENATE BILL 145

Motion: Rep. Wyatt moved SB 145 BE CONCURRED IN, motion seconded by Rep. Brooke.

Discussion: Rep. Boharski stated that in a situation where a man gets married and has a ready made family and later gets divorced, those children should be his responsibility only if he adopts them.

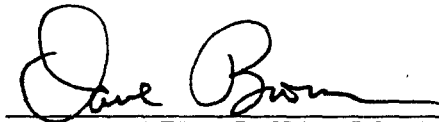
Rep. Stickney commented that the amount of \$250 was mentioned and questioned if that is set in the AFDC cases. Sen. Eck replied that that figure was in regard to SB 42 and was just an example to illustrate that there is a cost involved with children.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: The motion was voted upon and CARRIED with all in favor.

ADJOURNMENT

Adjournment At: 9:10 a.m.



REP. DAVE BROWN, Chairman

DB/je

5608.MIN

## DAILY ROLL CALL

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date March 10, 1989

NAME	PRESENT	ABSENT	EXCUSED
REP. KELLY ADDY, VICE-CHAIRMAN	X		
REP. OLE AAFEDT	X		
REP. WILLIAM BOHARSKI	X		
REP. VIVIAN BROOKE	X		
REP. FRITZ DAILY	X		
REP. PAULA DARKO	X		
REP. RALPH EUDAILY	X		
REP. BUDD GOULD	X		
REP. TOM HANNAH			X
REP. ROGER KNAPP	X		
REP. MARY McDONOUGH	X		
REP. JOHN MERCER	X		
REP. LINDA NELSON	X		
REP. JIM RICE	X		
REP. JESSICA STICKNEY	X		
REP. BILL STRIZICH	X		
REP. DIANA WYATT	X		
REP. DAVE BROWN, CHAIRMAN			X



STANDING COMMITTEE REPORT

March 10, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that  
SENATE BILL 22 (third reading copy -- blue) be concurred in .

Signed: \_\_\_\_\_  
Kelly Addy, Vice-Chairman

[REP. STICKNEY WILL CARRY THIS BILL ON THE HOUSE FLOOR]

STANDING COMMITTEE REPORT

March 10, 1989

Page 1 of 2

Mr. Speaker: We, the committee on Judiciary report that SENATE BILL 42 (third reading copy -- blue), with statement of intent attached, be concurred in as amended .

Signed: \_\_\_\_\_  
Kelly Addy, Vice-Chairman

[REP. DARKO WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Title, line 12.

Following: "SECTIONS"

Insert: "40-4-208,"

2. Page 1, line 16.

Insert: Statement of Intent attached to the bill.

3. Page 1, line 19 of Statement of Intent.

Following: "child"

Insert: "support"

4. Page 2, line 2 of Statement of Intent.

Following: "support"

Insert: "enforcement"

5. Page 38, line 21.

Following: line 20

Insert: "Section 27. Section 40-4-208, MCA, is amended to read:

"40-4-208. Modification and termination of provisions for maintenance, support, and property disposition. (1) Except as otherwise provided in 40-4-201(6), a decree may be modified by a court as to maintenance or support only as to installments accruing subsequent to actual notice to the parties of the motion for modification.

(2) (a) Whenever the decree proposed for modification does not contain provisions relating to maintenance or support, modification under subsection

(1) may only be made within 2 years of the date of the decree.

(b) Whenever the decree proposed for modification contains provisions relating to maintenance or support, modification under subsection (1) may only be made:

(i) upon a showing of changed circumstances so substantial and continuing as to make the terms unconscionable; ~~or~~

(ii) upon written consent of the parties; ~~or~~

(iii) upon application by the department of revenue, whenever the department of revenue is providing services under Title IV-D of the federal Social Security Act. The support obligation must be modified, as appropriate, in accordance with the guidelines promulgated under [section 3 of Senate Bill No. 129]. A modification under this subsection may not be made within 12 months after the establishment of the order or the most recent modification.

(3) The provisions as to property disposition may not be revoked or modified by a court, except:

(a) upon written consent of the parties; or

(b) if the court finds the existence of conditions that justify the reopening of a judgment under the laws of this state.

(4) Unless otherwise agreed in writing or expressly provided in the decree, the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

(5) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child are terminated by emancipation of the child but not by the death of a parent obligated to support the child. When a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump-sum payment, to the extent just and appropriate in the circumstances."

Renumber: subsequent sections

6. Page 38, line 25.

Following: line 24

Insert: "NEW SECTION. SECTION 29. Coordination instruction. If [section 3 of Senate Bill No. 129] is not passed and approved, [section 27 of this act] is void."

Renumber: subsequent section

STANDING COMMITTEE REPORT

March 10, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that  
SENATE BILL 145 (third reading copy -- blue) be concurred in .

Signed: \_\_\_\_\_  
Kelly Addy, Vice-Chairman

[REP. McDONOUGH WILL CARRY THIS BILL ON THE HOUSE FLOOR]



EXHIBIT 1  
DATE 3-10-89  
SB 22

Senate Bill 22  
House Judiciary Committee  
March 10, 1989  
LWVM Contact: Chris Deveny  
442-2617

Mr. Chairman, members of the committee, my name is Christine Deveny, here today representing the League of Women Voters of Montana, and here to support Senate Bill 22.

In keeping with its historic involvement with the issue of child welfare, the National League of Women Voters recently completed an extensive study of the unmet needs of our nation. The study draws attention to the fact that only one-third of all single mothers receive the full amount of their court-awarded child support. In many cases that child support payment could be the major financial resource that keeps households headed by single parents from needing public assistance funds. Those households with limited financial resources are the ones who most need dependable, regular child support payments to enable them to be self-sufficient without relying on public assistance.

The establishment of a central clearinghouse for child support is a positive step toward ensuring that non-custodial parents meet their financial responsibilities toward the support of their dependant children.

The League supports SB 22 and urges the committee to give it a "do pass" recommendation. Thank you.

EXHIBIT 2  
DATE 3-10-89  
53 42

Proposed Amendment to SB42  
Amending Third Reading (Blue) Copy

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO THE ADMINISTRATIVE ENFORCEMENT OF CHILD SUPPORT TO CONFORM THE LAWS TO FEDERAL REGULATIONS; PROVIDING AN AUTOMATIC EXTENSION OF SERVICES UPON TERMINATION OF PUBLIC ASSISTANCE; GRANTING EQUAL STATUS TO NONPUBLIC ASSISTANCE CASES; DECREASING THE RESPONSE TIMES FOR ADMINISTRATIVE PROCEDURES; PROVIDING FOR TEMPORARY SUPPORT ORDERS; AND AMENDING SECTIONS 40-4-208, 40-5-201 THROUGH 40-5-208, 40-5-213, 40-5-221 THROUGH 40-5-226, 40-5-241 THROUGH 40-5-244, 40-5-246, 40-5-251 THROUGH 40-5-255, AND 40-5-257, MCA."

NEW SECTION. Section 29. Section 40-4-208, MCA, is amended to read:

40-4-208. Modification and termination of provisions for maintenance, support, and property disposition. (1) Except as otherwise provided in 40-4-201(6), a decree may be modified by a court as to maintenance or support only as to installments accruing subsequent to actual notice to the parties of the motion for modification.

(2) (a) Whenever the decree proposed for modification does not contain provisions relating to maintenance or support, modification under subsection (1) may only be made within 2 years of the date of the decree.

(b) Whenever the decree proposed for modification contains

provisions relating to maintenance or support, modification under subsection (1) may only be made:

(i) upon a showing of changed circumstances so substantial and continuing as to make the terms unconscionable; or

(ii) upon written consent of the parties; or

(iii) upon application by the department of revenue, whenever it is providing services under Title IV-D of the Social Security Act. The support obligation must be modified, as appropriate, in accord with the guidelines promulgated pursuant to section 3 of SB129. A modification under this subsection may not be made within 12 months after the establishment of the order or the most recent modification.

(3) The provisions as to property disposition may not be revoked or modified by a court, except:

(a) upon written consent of the parties; or

(b) if the court finds the existence of conditions that justify the reopening of a judgment under the laws of this state.

(4) Unless otherwise agreed in writing or expressly provided in the decree, the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

(5) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child are terminated by emancipation of the child but not by the death of a parent obligated to support the child. When a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump-sum payment, to the extent just

EXHIBIT 2  
DATE 3-10-89  
HB SB 42

and appropriate in the circumstances.

NEW SECTION      Section 30.    Coordination Instruction.    If  
section 3   of SB129   is not   enacted, section 29 of   this act is  
void.





EXHIBIT 3

DATE 3-10-89

SB 42

Senate Bill 42  
House Judiciary Committee  
March 10, 1989  
LWVM Contact: Chris Deveny  
442-2617

Mr. Chairman, members of the committee, my name is Christine Deveny, here today representing the League of Women Voters of Montana, and here to support Senate Bill 42.

In keeping with its historic involvement with the issue of child welfare, the National League of Women Voters recently completed an extensive study of the unmet needs of our nation. The study results emphatically illustrate the inability of our nation's current social welfare system to address the problems of inadequate income, food, housing and health care. It draws attention to the sad facts that nearly one in four children in the U.S. live below the poverty line, and that only one-third of all single mothers receive the full amount of their court-awarded child support. Households headed by single mothers make up a large sector of the poor in this country and in Montana, and are the families most dependant on regular child support payments.

While revising Montana's laws regarding child support to conform with new federal welfare regulations, Senate Bill 42 takes a positive step toward ensuring that non-custodial parents meet their financial responsibilities toward the support of their dependant children, regardless of whether those children are or have been recipients of public assistance.

The League strongly supports Section (3) of SB 42, allowing the Department to provide child support enforcement services to persons who are no longer, or have never been, recipients of public assistance. Not only will these provisions ensure that regular child support payments continue, but they will also reduce the need for additional public assistance that could be required if child care support payments ceased or became erratic as a result of no enforcement. Public assistance monies saved would then be available for others in need.

The League supports decreasing the response time for administrative procedures, and the use of temporary support orders. These provisions will help speed the process of obtaining child support payments within a reasonable time frame, without abridging the rights of those who wish to question or protest child support obligations or requirements.

The League recommends passage of Senate Bill 42.

Judiciary COMMITTEE

DATE March 10

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Judiciary COMMITTEE

DATE March 10

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

Judiciary COMMITTEE

BILL NO. 145DATE March 10SPONSOR Eck

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Brenda Nordlund	MT Women's lobby	X	
George Foster	United Veterans Com. of MT	X	
John Decker	Dep of MT DAY	X	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.