

MINUTES

MONTANA SENATE  
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By V. Chairman Al Bishop for Chairman Crippen who was temporarily absent, on March 14, 1989, at 10:00 a.m. in Room 413.

ROLL CALL

Members Present: Chairman Bruce Crippen, V. Chairman Al Bishop, Bob Brown, Tom Beck, John Harp, Mike Halligan, Loren Jenkins, Joe Mazurek, R. J. Pinsoneault and Bill Yellowtail

Members Excused: None

Members Absent: None

Staff Present: Staff Attorney Valencia Lane and Committee Secretary Rosemary Jacoby

Announcements/Discussion: There were none.

HEARING ON HOUSE BILL 422

Presentation and Opening Statement by Sponsor:

Representative Ralph Eudaily of Missoula, District 60, opened the hearing. He said the bill was to amend the living will regarding the withholding of life-sustaining procedures.

List of Testifying Proponents and What Group they Represent:

Drew Dawson, Department of Health and Environmental Sciences, Chief of the Emergency Medical Services Bureau  
Owen, Warren, American Association of Retired Persons  
Jim Nugent, Missoula City Attorney

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Drew Dawson appeared with written testimony (Exhibit 1)

Owen Warren presented written testimony to the committee (Exhibit 2).

Jim Nugent read written testimony (Exhibit 3). He also suggested an amendment to the bill explained in his written testimony.

Questions From Committee Members: Senator Halligan asked why have a declaration after the effective date. Jim Nugent said he wasn't sure.

Senator Jenkins asked if there had been any problems with the law presently in statute. Drew Dawson said the problem has been that the EMTs have to provide life-sustaining care and this is at odds with the individual involved or with the family at times. If a terminally-ill patient is under cardiac arrest, they are presently required to begin care even if the family says there is a living will on file. He didn't know of a legal problem that has occurred, but said there had been problems with family members.

Senator Jenkins asked about the protocol, local and statewide. Mr. Dawson said the EMTs and the Hospice programs would provide the protocol at the local and state levels. The protocol is the "hands on" care given to the patient, he said. At present, there is no statewide protocol.

Senator Beck asked if Drew Dawson had any problem with the amendments proposed by Jim Nugent and he said no.

Senator Pinsoneault said the committee was going on the assumption that all living wills were the same which might not be true. There is a basic wording, but if anyone deviates from the formula provided in the living will act, there could be a problem, he said. Drew Dawson said he thought the living will was fairly standard. Jim Nugent said the living wills were to be filed with the ambulance services, fire department and law enforcement agencies. The identification should also be available at the patient's home, he said. Currently, physicians and health care

facilities have the immunity if they honor the living will, but EMTs or law enforcement do not have the immunity. If the patient requests the treatment even with a living will, there is a dilemma, he said.

Senator Jenkins asked about a "qualified" patient. Who would have the responsibility of determining whether or not the patient is terminal under the absence of the physician, he asked. Jim Nugent said that had not been a problem with that, but had been in other areas, such as giving treatment when the family's did not want it or in cases where the patient asked for treatment even with the living will.

Closing by Sponsor: Representative Eudaily closed the hearing.

#### DISPOSITION OF HOUSE BILL 422

Discussion: Senator Yellowtail questioned p. 4, line 16 regarding "may". Senator Halligan said it may not be known if the person is "qualified." Valencia Lane said a patient saying: "I don't want to die, help me" would constitute a revocation of the living will. Senator Mazurek thought it would be better to err in saving a life, than in letting someone die. Valencia said the EMTs want to avoid liability in the bill.

Senator Yellowtail said if there were if verbal revocation of any kind, the EMTs should act. Senator Crippen wondered if a mumbling would be considered a revocation. Senator Beck wondered if the EMTs might abuse the word "may". Senator Mazurek commented that if an EMT "witnesses a revocation", they are required to act. He said the word "may" made the bill less specific and questionable.

Amendments and Votes: Senator Beck MOVED the amendments proposed by Jim Nugent. (Exhibit 3) The MOTION CARRIED UNANIMOUSLY

Senator Halligan MOVED to strike the applicability date and insert a New Section 6 providing for an immediate effective date. The MOTION CARRIED UNANIMOUSLY.

Senator Yellowtail MOVED to amend the bill on p. 4, line 16 striking "may" and inserting "shall". The MOTION CARRIED by a vote of 7 to 3, with Senators Beck, Jenkins and Pinsoneault voting NO.

Recommendation and Vote: Senator Mazurek MOVED that House Bill 422 BE CONCURRED IN AS AMENDED. The MOTION CARRIED UNANIMOUSLY.

HEARING ON HOUSE BILL 448

Presentation and Opening Statement by Sponsor:

Representative Bill Menahan of Anaconda, District 60, opened the hearing. The purpose of the bill was to authorize possession of 25-year old slot machines, to provide that they be considered antiques. He said that a proprietor of the Cal Neva Club had told him that the oldest slot machines used there were about 15 years old, though most were newer. Therefore, he felt that 25-year-old machines should qualify as antiques.

List of Testifying Proponents and What Group they Represent:

Bernie Dempsey, Owner of a second-hand store in Polson  
Bob Gilbert, for himself, Helena

List of Testifying Opponents and What Group They Represent:

None

Testimony: Bernie Dempsey testified in favor of the bill, presenting written testimony to the committee (Exhibit 4).

Bob Gilbert, said he was a collector of slot machines. He said it had been difficult to get the antique collection of slot machines into statute, but said then-Senator Turnage had helped do it in 1985. He said the collection of the machines had not been abused and he urged passage of the bill.

Questions From Committee Members: None

Closing by Sponsor: Representative Menahan closed. He called the attention of the committee to the wording that "antique machines may not be operated for any charitable or commercial purposes."

NOTE: Exhibit 5 was left with the committee for the record, but the person submitting the letter did not testify.

DISPOSITION OF HOUSE BILL 448

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Jenkins MOVED that House Bill 448 BE CONCURRED IN. The MOTION CARRIED UNANIMOUSLY.

HEARING ON HOUSE BILL 491

Presentation and Opening Statement by Sponsor:

Representative Gary Spaeth of Joliet, District 84, opened the hearing. He said the main provision of the bill was on page 2, line 18 (b). The bill simply asked that the court consider continuity and stability in the child's education. The reasons the bill was submitted because judges in some instances considered "equal time" to mean "equal time", even at the expense of the education of children. In some cases, the child might not be going to the same school or live in the same town for part of the year. The judges sometimes allowed the child to live with the mother one year and with the father the next year. If the child had to move from one location, or even state, to another, he felt it was it was not conducive to the child's education and social development.

List of Testifying Proponents and What Group they Represent:

Stacia Jarrell from Bridger

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Stacia Jarrell felt this was a very important bill which would have a strong effect on the adult of tomorrow.

Questions From Committee Members: Senator Beck commented on the amendment "equal as best possible" and wondered why it had been taken out, then returned to the bill. The drafters attempted to move it from one place in the bill and place it in another, said Representative Spaeth.

Senator Halligan asked if this bill didn't swing in favor of the mother. Representative Spaeth said the woman did receive the major custodial care the vast majority of time, he thought. The judge would have discretion and would probably give equal time when the parents both live in the same community. But, when one parent moves to another place, he felt it would be in the child's best interest to attend one school. He said the Office of Public Instruction agreed with that and felt the child was the important person to be considered.

Senator Jenkins asked if there had ever been a supreme court ruling on this subject. Rep. Spaeth didn't think so.

Senator Pinsoneault asked what judge had made the decision that prompted the bill. Representative didn't want to mention his name, he said.

Closing by Sponsor: Representative Spaeth closed the hearing.

#### DISPOSITION OF HOUSE BILL 491

Discussion: Senator Jenkins said the bill could cause problems with custody laws. Senator Yellowtail said that "equal time" was the problem and wondered if that should be changed. Senator Mazurek thought that stability in the child's life was the important issue.

Amendments and Votes: None

Recommendation and Vote: Senator Pinsoneault MOVED that House Bill 492 BE CONCURRED IN. The MOTION CARRIED on a 9 to 1 vote, with Senator Yellowtail voting NO.

#### HEARING ON HOUSE BILL 492

Presentation and Opening Statement by Sponsor:

Representative Gary Spaeth of Joliet, District 84, opened the hearing. She said the bill would provide uniform disposition of community property rights at death. The bill dealt with the distribution of community property when death occurs, he said. Montana is not a community property state, he said. He said the bill was requested by the uniform code

commissioners for the state, specifically for the former Dean of the Law School Sullivan who was unable to attend the hearing because of weather.

List of Testifying Proponents and What Group they Represent:

None

List of Testifying Opponents and What Group They Represent:

None

Testimony:

None

Questions From Committee Members: Senator Bishop asked if this was one of the final recommendations of the national code commissioners. Rep. Spaeth said yes.

Senator Bishop asked if there had been any amendment. Senator Mazurek said that many of our adjoining states were community property states. When married couples own property, it had to be dealt with. Senator Mazurek said that Dave Johnson supported the bill.

Representative Spaeth said the bill could save a considerable amount of money for citizens.

Closing by Sponsor: Rep. Spaeth closed.

DISPOSITION OF HOUSE BILL 492

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Pinsoneault MOVED that House Bill 492 BE CONCURRED IN. The MOTION CARRIED UNANIMOUSLY.

EXECUTIVE SESSION

HOUSE BILL 295

Discussion: House Bill 295 had been acted upon March 9, but Senator Mazurek had requested that the Standing Committee Report be delayed. Senator Mazurek said there was language in the bill which needed to be deleted in the amendment.

Recommendation for Reconsideration:

Recommendation and Vote: Senator Mazurek MOVED that House Bill 295 BE RECONSIDERED. The MOTION CARRIED UNANIMOUSLY.

Amendments and Votes: Senator Mazurek MOVED to adopt the amendment mentioned by Senator Mazurek (Exhibit 6). The MOTION CARRIED UNANIMOUSLY.

Recommendation and Vote: Senator Mazurek MOVED that House Bill 295 BE CONCURRED IN AS AMENDED. The MOTION CARRIED UNANIMOUSLY.

HOUSE BILL 349

Discussion: Senator Crippen said there were possible amendment regarding "auction". Senator Yellowtail said that the amendments stated that, if the seized property is to be sold, it will be sold by auction or sheriff's sale.

Amendment and Votes: Senator Yellowtail MOVED the amendment (Exhibit 7). The MOTION CARRIED UNANIMOUSLY.

Recommendation and Vote: Senator Pinsoneault MOVED that House Bill 349 BE CONCURRED IN AS AMENDED. The MOTION CARRIED UNANIMOUSLY.

HOUSE BILL 350

Discussion: Chairman Crippen commented that the committee had acted upon the bill previously but that the report had been delayed pending further study.

Reconsideration Motion: Senator Mazurek MOVED that House Bill 350 be RECONSIDERED. The MOTION CARRIED UNANIMOUSLY.

Discussion: Senator Mazurek said he had prepared an amendment on the bill. He said he was trying to coordinate



his restitution in with Representative Strizich's bill on the same subject. He said that Rep. Strizich's bill stated that no collection charges were paid "as you go" but upon completion of the restitution payment. Sen. Mazurek said he was going to move for striking "after all restitution is paid" on Rep. Strizich's bill, and that Rep. Strizich would amend Senator Mazurek's bill to conform. The bill would require the judge to make the decision and not a restitution officer, said Senator Mazurek.

Amendment and Votes: Senator Mazurek MOVED that House Bill 350 be amended on p. 1, line 16, following "paying," delete "after all restitution is paid". The MOTION CARRIED UNANIMOUSLY.

Recommendation and Vote: Senator Mazurek MOVED that House Bill 350 BE CONCURRED IN AS AMENDED. The MOTION CARRIED UNANIMOUSLY.

NOTE: Representative Glaser was delayed by a caucus in the House, but was able to appear at this point to sponsor House Bill 471.

#### HEARING ON HOUSE BILL 471

Presentation and Opening Statement by Sponsor:

Representative William Glaser of Billings, District 98, opened the hearing. He said the purpose of the bill was to allow the friendly takeover of a water association into a water district. It would help his community of Lockwood and perhaps other small communities if the bill passed, he said. He didn't know why the bill was in Judiciary, except for the words "eminent domain" which appeared in the bill. He said changing to a water district was not an easy step for the community to take, but they would gain bonding advantages and tax advantages.

List of Testifying Proponents and What Group they Represent:

Larry McGrail, Lockwood Water Users Association  
Ray Wadsworth, Program Manager, Montana Rural Water Systems  
Jim Melstead, President, Eastgate Village Water and Sewer Association  
Bruce Rested, Billings, County Water District, Billings Heights, Montana Rural Water Systems  
Nick Close, Forest Park Water Users Association

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Larry McGrail presented written testimony to the committee (Exhibit 8).

Ray Wadsworth presented written testimony (Exhibit 9).

Jim Melstad read written testimony into the record. (Exhibit 10)

Bruce Rested appeared in support of the bill.

Nick Close appeared in support of the bill.

Questions From Committee Members: Senator Beck said he thought that the water association already had eminent domain authority. Rep. Glaser said that was granted by new language.

Senator Mazurek asked if all residents of a district had to be involved to form a water district. Rep. Glaser said signatures had to be gathered and it was an involved process.

Senator Crippen asked about "passage and approval", and wondered if there was a limited timeframe. Rep. Glaser said that, in the Lockwood situation, the sooner the bill is passed, the sooner the districts can save money for their water users. He said there had been a nitrate problem and the water cost a lot more than in adjoining communities.

Senator Crippen asked if all users in the association would be the same as in the district. Rep. Glaser thought they would be.

Senator Crippen asked what would happen if a majority didn't want to have the service of a district. Mr. Melstead said that, in this case, the people involved were all the same. Mr. Wadsworth agreed.

Senator Beck asked why the eminent domain provision was needed. Rep. Glaser thought it would be much simpler to accomplish the water district. Without it, one person could create problems.

Closing by Sponsor: Rep. Glaser said this bill had nothing

to do with the quarrel between Yellowstone County and the City of Billings. He urged that the bill be acted upon favorably.

## DISPOSITION OF HOUSE BILL 471

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Beck MOVED that House Bill 471 BE CONCURRED IN. The MOTION CARRIED UNANIMOUSLY.

## DISPOSITION OF HOUSE BILL 489

Discussion: Chairman Crippen said that on March 13, he had asked Valencia to see if there was a better place in statute to amend using the term "high misdemeanor". She responded that she hadn't found one.

Senator Mazurek asked why a new subsection couldn't be created. Valencia said that could be done. Senator Halligan said there needed to be another option besides "felony."

Chairman Crippen asked Valencia to draft a proposal and present it to the committee at a future meeting.

## DISPOSITION OF HOUSE BILL 57

Discussion: Valencia distributed amendments being proposed by Rep. Marks (Exhibit 11). She said that Mike Sherwood did not approve of them or of the bill. Valencia said the Hospital Association had said they would prefer a substitute bill.

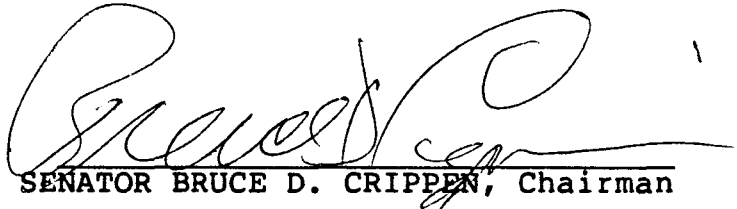
Amendments and Votes: Senator Beck MOVED the Hospital Amendments (Exhibit 12), including its statement of intent. The MOTION CARRIED by a vote of 7 to 3, with Senators Halligan, Yellowtail and Crippen voting NO.

Senator Jenkins MOVED the Marks' Amendments (Exhibit 11). The MOTION FAILED by a vote of 4 to 5 with Senators Beck, Harp, Jenkins and Pinsoneault voting YES.

Recommendations and Votes: Senator Beck MOVED that House Bill 57 BE CONCURRED IN AS AMENDED. The MOTION CARRIED by a vote of 7 to 2, with Senators Halligan and Yellowtail voting NO an Senator Mazurek temporarily absent.

ADJOURNMENT

Adjournment At: 12:00 noon.



SENATOR BRUCE D. CRIPPEN, Chairman

BDC/rj

minrj.314

ROLL CALL

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 3-14-89

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NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN	✓		
SENATOR HALLIGAN	✓		
SENATOR HARP	✓		
SENATOR JENKINS	✓		
SENATOR MAZUREK	✓		
SENATOR PINSONEAULT	✓		
SENATOR YELLOWTAIL	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

March 15, 1989

MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration HB 422 (third reading copy -- blue), respectfully report that HB 422 be amended and as so amended be concurred in:

Sponsor: Eudaily (Van Valkenburg)

1. Title, line 11.

Strike: "APPLICABILITY"

Insert: "IMMEDIATE EFFECTIVE"

2. Page 4, line 16.

Strike: "HAY"

Insert: "shall"

Strike: "HUST"

Insert: "shall"

3. Page 5, lines 18 through 20.

Following: "WHO" on line 18

Strike: remainder of line 18 through "AND" on line 20

4. Page 5, line 21.

Following: "PATIENT"

Insert: "pursuant to a revocation communicated to them"

5. Page 6, lines 8 through 10.

Strike: section 6 in its entirety

Insert: "NEW SECTION, Section 6. Effective date. [This act] is effective on passage and approval."

AND AS AMENDED BE CONCURRED IN

Signed

  
Bruce D. Crippen, Chairman

SENATE STANDING COMMITTEE REPORT

March 14, 1989

MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration HB 448 (third reading copy -- blue), respectfully report that HB 448 be concurred in.

Sponsor: Benaban (Lynch)

BE CONCURRED IN

Signed: Bruce D. Crippin  
Bruce D. Crippin, Chairman

SENATE STANDING COMMITTEE REPORT

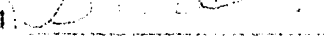
March 14, 1989

MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration HB 491 (third reading copy - blue), respectfully report that HB 491 be concurred in.

Sponsor: Spach (Pinsoneault)

BE CONCURRED IN

Signed:   
Bruce B. Clipp, Chairman

*Handwritten notes:*  
4/11/89  
2/1/89



SENATE STANDING COMMITTEE REPORT

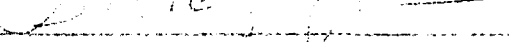
March 14, 1989

MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration HB 492 (third reading copy -- blue), respectfully report that HB 492 be concurred in.

Sponsor: Spaeth (Hazurek)

BE CONCURRED IN

Signed:   
Bruce D. Crippen, Chairman

*J. C. 1189  
3/14/89  
J. C. H.*

SENATE STANDING COMMITTEE REPORT

page 1 of 2  
March 14, 1989

MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration HB 295 (third reading copy -- blue), respectfully report that HB 295 be amended and as so amended be concurred in:

Sponsor: Addy (Mazurek)

1. Title, line 10.

Strike: "SECTION"

Insert: "SECTIONS 61-7-109 AND"

2. Page 1.

Following: line 12

Insert: "Section 1. Section 61-7-109, MCA, is amended to read:

"61-7-109. Written reports of accidents -- additional information -- form of report. (1) The operator of any motor vehicle which is in any manner involved in an accident within this state in which any person is killed or injured or in which damage to the property of any one person in excess of \$400 is sustained shall, within 10 days after such accident, report the matter in writing to the department unless the accident was investigated and reported by a law enforcement officer as provided in subsection (3).

(2) The department may require any driver of a vehicle involved in an accident of which report must be made as provided in this section to file supplemental reports whenever the original report is insufficient and may require witnesses of accidents to render reports.

(3) Every law enforcement officer who in the regular course of duty investigates a motor vehicle accident in which any person is killed or injured or in which damage to the property of any person exceeds \$400, either at the time of and at the scene of the accident or thereafter by interviewing participants or witnesses, shall within 10 days after completing the investigation forward a written report of the accident to the department.

(4) The form of the accident report required under this section shall contain information sufficient to enable the department to determine whether the requirements for the deposit of security for safety responsibility are inapplicable by reason of the existence of insurance or other exemptions specified in this part.

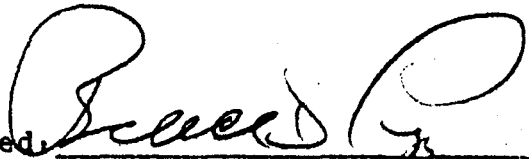
(5) A report required by subsection (1) or (2) may not be used as evidence in any trial, civil or criminal, arising out of an accident."

Renumber: subsequent sections

3. Page 2, lines 16 through 24.  
Strike: subsection (3) in its entirety

AND AS AMENDED BE CONCURRED IN

Signed,



Bruce D. Crippen, Chairman

110.189  
3/15/89  
11:40  
a.m.

SENATE STANDING COMMITTEE REPORT

March 15, 1989

MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration HB 349 (third reading copy -- blue), respectfully report that HB 349 be amended and as so amended be concurred in:

Sponsor: Strizich (Van Valkenburg)

1. Page 3, line 18.  
Following: "must"  
Strike: "may"  
Insert: ", if it is sold, must"

AND AS AMENDED BE CONCURRED IN

Signed

  
Bruce D. Criven, Chairman

SENATE STANDING COMMITTEE REPORT

March 15, 1989

MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration HB 350 (third reading copy -- blue), respectfully report that HB 350 be amended and as so amended be concurred in:

Sponsor: Strizich (Mazurek)

1. Page 1, line 16.

Following: "paying"

Strike: ", after all restitution is paid,"

AND AS AMENDED BE CONCURRED IN

Signed: 

Bruce D. Crippen, Chairman

y.l.c.  
3/15/89  
11:40 a.m.

SENATE STANDING COMMITTEE REPORT

March 16, 1989


MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration HB 471 (third reading copy -- blue), respectfully report that HB 471 be concurred in.

Sponsor: Glaser (Engstrom)

BE CONCURRED IN

Signed

  
Bruce D. Crippen, Chairman

J.C. 471  
3/16/89

3-14

SENATE STANDING COMMITTEE REPORT

page 1 of 2  
March 14, 1989

MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration HB 57 (third reading copy -- blue), respectfully report that HB 57 be amended and as so amended be concurred in:

Sponsor: Marks (Jenkins)

1. Title, line 13.

Following: "LOCALITY;"

Insert: "PROVIDING IMMUNITY FROM LIABILITY FOR RENDERING EMERGENCY OBSTETRICAL SERVICES IN CERTAIN SITUATIONS;"

2. Page 1, line 14.

Insert: "STATEMENT OF INTENT

This legislature finds and declares that there is a crucial need for the people of this state to receive knowledgeable and experienced emergency medical care. The legislature further finds that physicians who serve on an "on-call" basis to hospital emergency rooms are frequently required to provide obstetrical care to persons with whom they have no preexisting physician-patient relationship. It is the public policy of this state to provide incentive and protection for physicians and other health care providers who, despite these hardships, respond to calls to provide emergency medical care."

3. Page 1, line 17.

Following: "emergency"

Insert: "nonobstetrical"

4. Page 1, line 18.

Following: "in"

Insert: "[section 2] and"

Following: "(1)(b)"

Insert: "of this section"

5. Page 3.

Following: line 23

Insert: "NEW SECTION. Section 2. Limits on liability for care rendered in emergency obstetrical situations in hospital or physician's office. (1) Notwithstanding the provisions of [section 1(1)(a)], a health care provider who in good faith renders emergency obstetrical services to a person is not liable for any civil damages as a result of any negligent act or omission by the health care provider in rendering the emergency obstetrical services. The immunity granted by this section does not apply to acts or omissions constituting gross negligence or to willful or wanton acts or omissions.

(2) The protection of subsection (1)(a) does not apply to the health care provider in any of the following cases:

(a) The health care provider had provided prior medical diagnosis or treatment to the same patient for a condition having a bearing on or relevance to the treatment of the obstetrical condition that required emergency services.

(b) Before rendering emergency obstetrical services, the health care provider had a contractual obligation or agreement with the patient, another health care provider, or a third-party payer on the patient's behalf to provide obstetrical care for the patient.

(3) As used in this section, the following definitions apply:

(a) "Emergency obstetrical care" means a situation occurring either in a physician's office or a hospital that requires immediate services for the alleviation of severe pain or immediate diagnosis and treatment of medical conditions that, if not immediately diagnosed and treated, would lead to severe disability or death of either the patient or the unborn child.

(b) "Health care provider" means:

(i) a physician, registered professional nurse, licensed practical nurse, or physician's assistant, duly licensed under the provisions of Title 37; or

(ii) a hospital.

(c) "Hospital" means a licensed hospital, infirmary, or health care facility, as defined in 50-9-101."

Re-number: subsequent sections

6. Page 3, line 25.

Strike: "section"

Insert: "sections"

Following: "1"

Insert: "and 2"

7. Page 4, line 9.

Following: "1"

Strike: "and 2"

Insert: "through 3"

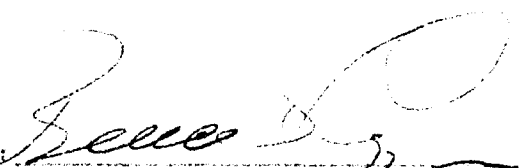
8. Page 4, line 12.

Following: "1"

Strike: "and 2"

Insert: "through 3"

AND AS AMENDED BE CONCURRED IN

Signed: 

Bruce D. Crippen, Chairman

Statement of intent adopted.



EX 1.

SENATE JUDICIARY

EXHIBIT NO. 1

DATE 3-14-89

BILL NO. HB 422

HOUSE BILL 422

TESTIMONY OF DREW DAWSON, CHIEF  
EMERGENCY MEDICAL SERVICES BUREAU  
MONTANA DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

Mr. Chairman and members of the committee. I am Drew Dawson, Chief of the Emergency Medical Services Bureau in the Department of Health and Environmental Sciences. My office is responsible for the training and certification of emergency medical services personnel and for the licensing of ambulance services. I am pleased to testify as a proponent of House Bill 422.

At the request of Representative Eudaily, I solicited, by a conference call, the comments and recommendations of various emergency medical services personnel throughout Montana. This included the Montana Emergency Medical Services Association (representing Montana EMTs) and the Montana Private Ambulance Operators Association (representing Montana's private ambulance services).

Everyone was in agreement that some modifications to the Living Will Act are necessary to clarify the role of the pre-hospital emergency medical care provider. In the current law, it is not clear that the Living Will Act applies to situations occurring outside of the hospital.

Emergency medical care personnel must, in an instant's time, make a decision about whether to begin Cardiopulmonary Resuscitation for a person in cardiac arrest, or about the type and level of care administered to a terminally ill patient. They simply don't have the ability to contact the person's personal physician and are often faced with conflicting information from family members. The situation is often emotionally charged; it is very difficult for the emergency care provider to know what to do. In an emergency situation, it is nearly impossible for them to review a legal document, such as a living will, or to sort through several different types of documentation. Just because a patient has executed a living will does not necessarily mean he is a qualified patient (i.e. terminally ill). I can declare a living will right now, but not be a qualified patient unless I were to become terminally ill. I certainly would want all possible emergency care administered to me now. Evidence of a living will is not sufficient for emergency care providers; they must also have evidence that they are dealing with a qualified patient.

Because of the uncertainty in the law, emergency responders now are generally considered obligated to render all emergency care necessary to every patient including those who have executed living wills and who may be qualified patients even though this is often at odds with the wishes of the family and of the patient.

The Montana Emergency Medical Services Association, the Montana Private Ambulance Operators Association and my office are very much in favor of the House Bill 422. The bill would work as follows:

1. To clarify what actions the emergency care providers should take, we my office develop a standard, state-wide protocol. This would clearly state the actions the providers should take with a qualified patient, and

would provide consistency across Montana. This would be developed in cooperation with medical associations, emergency medical associations, hospice organizations, home health organizations and others. This protocol would then be submitted to the Montana Board of Medical Examiners for their review and approval. I have visited with Doctor Malee of the Board and this approach is acceptable to them.

To provide additional flexibility, a local community could also adopt a community-wide protocol.

2. We will develop a standard, state-wide identification for qualified patients. A qualified patient is one who has declared a living will and who has been declared terminally ill by a physician. This form, which could also be reduced to a wallet card, would be signed by both the patient and the physician. An individual community, through agreement of the emergency medical services organizations, hospice and home health organizations, could develop special forms of identification for their area.

If the emergency responders were shown this card or form at the scene, they would then follow the living will protocol. If they were not shown the card, they would render all possible emergency care. It would take the emergency responder out of the middle and be very clear cut for them.

Emergency care providers are provided liability protection for following the specific orders of a physician or for following the living will protocol when provided with appropriate documentation.

3. My office would develop a standardized training program for emergency medical services personnel in the use of the protocol. This could easily be incorporated into many existing training programs as well.

We feel that House Bill 422 will be of tremendous assistance in clarifying the role and responsibility of emergency medical services personnel. The responsibilities outlined would not have any additional financial impact on my office. It is important enough that it would fall within the scope of our existing training duties.

Thank you for the opportunity to testify. I will be pleased to answer any questions.



1988-1989  
MONTANA STATE LEGISLATIVE COMMITTEE

CHAIRMAN  
Mrs. Molly L. Munro  
4022 6th Avenue South  
Great Falls, MT 59405  
(406) 727-5604

VICE CHAIRMAN  
Mr. Fred Patten  
1700 Knight  
Helena, MT 59601  
(406) 443-3696

SECRETARY  
Mr. John C. Bower  
1405 West Story Street  
Bozeman, MT 59715  
(406) 587-7535

March 14, 1989

**TO:** Senate Judiciary

**FROM:** Owen Warren, American Association of Retired Persons

**RE:** In Support of HB 422 - An Act to amend the Living Will Act to allow a "Declarant" to Direct Emergency Medical Services Personnel to Withhold Life-Sustaining Procedures

The Montana State Legislative Committee of AARP supports this bill for the following reasons:

The bill would initiate a process of reliable documentation by means of a card, necklace or bracelet, of uniform design, to be quickly identified, that would signify that a certified and valid current declaration is on file and that the individual is a qualified patient.

Often the patient may have a terminal illness, such as cancer, and would not want any life sustaining support. In this case when "Emergency medical services personnel" arrive, the patient's I.D. would allow them by law to honor the patient's wishes and not be obligated to administer their usual life support services.



## OFFICE OF THE CITY ATTORNEY

201 W. SPRUCE • MISSOULA, MT 59802-4297 • (406) 721-4700

March 13, 1989

89-118

Senate Judiciary Committee  
 Montana State Capitol  
 Capitol Station  
 Helena, Montana 59620

Missoula County Senators  
 Montana State Senate  
 Capitol Station  
 Helena, Montana 59620

RE: PROPOSED REVISIONS TO MONTANA LIVING WILL ACT, SPECIFICALLY  
 REVISIONS TO SECTION 50-9-104 AND 50-9-204 M. C. A.

Honorable State Senators:

The purpose of this letter of to generally urge your support for HB-422 but to also request amendments to Section 3, page 5, lines 18-21 of HB-422.

House Bill 422 amending the Montana Living Will Act is a proposal that is important for Emergency Medical Services personnel throughout the state. HB-422 is intended to provide (1) important clarifying provisions pertaining to a victim's revocation of a prior declaration to not receive administration of life-sustaining procedures as well as (2) include emergency medical service personnel within the current statutory immunities provision in Section 50-9-204, M. C. A.

However, an amendment to the original proposal inserted by the House in Section 3, page 5, lines 18-21 of HB-422 causes city officials a great deal of concern since it conflicts with the emergency medical service providers purpose to provide immediate emergency medical service. Therefore, I would like to take this opportunity to respectfully request revisions to the current proposed provisions to the Montana Living Will Act, in Section 3, page 5, lines 18-21.

Potential civil liability exposure to city emergency response personnel as well as the City of Missoula is the basis for the City of Missoula's two concerns which are as follows:

(1) Section 3 pertaining to "Immunities" fails to cross reference to conduct authorized when a revocation is communicated to emergency medical service personnel pursuant to Section 2, page 4, lines 14-18 of HB-422 where emergency medical services personnel witnessing a revocation may act upon the revocation. Section 3, page 5, lines 18-21 of HB-422 should include this emergency medical service personnel conduct within the statutory immunity as well.

The City of Missoula would request that the words "after a good faith attempt to do so are unable to find reliable documentation of a declaration and "be deleted in Section 3, pages 5, lines 18-20 and at the end of line 21 insert the words "pursuant to a revocation communicated to them" (2) The language identified above for requested deletion in Section 3, page 5, lines 18-21, as currently proposed unreasonably and unduly delays the provision

Honorable State Senators  
March 13, 1989  
Page Two

of emergency medical services while emergency services personnel attempt to find reliable documentation. The current language grants immunity to emergency medical services personnel "who after a good faith attempt to do so are unable to find reliable documentation of a declaration and proceed to provide life-sustaining treatment to a qualified patient." The underlined language is what the City of Missoula requests be deleted.

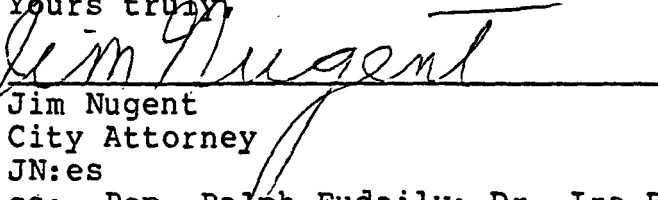
A time delay may mean the difference between life or death or continued life with brain damage as a result of a lack of oxygen. This proposed requirement for emergency medical service personnel to make a good faith attempt to find reliable documentation of a declaration that life-sustaining procedures be withheld or withdrawn and if unable to locate such declaration then proceed to provide emergency medical services directly conflicts with the purpose and function of dispatching emergency medical personnel to an emergency scene for the purpose of providing immediate emergency medical services.

Emergency medical service personnel arrive at an emergency to provide immediate emergency medical service not to conduct good faith attempts to find a declaration and if unable to find such a declaration then proceed to provide emergency medical service. Further, what would sufficiently constitute "good faith attempt"? To what extent must a "good faith attempt" be made? Will the meaning of "good faith attempt" have to be litigated on a case by case basis in order to determine if a specific set of facts sufficiently constituted "good faith attempt"?

The phrase "good faith attempt" is not only vague and ambiguous, it is unreasonably and unduly restrictive on the emergency services medical personnel who have been dispatched to an "emergency situation" for the purposes of providing immediate emergency medical service.

Therefore, the City of Missoula urges your consideration of the two amendments requested herein and then generally urges your support for HB-422 as proposed for amendment. Thank you for your consideration of these matters.

Yours truly,

  
\_\_\_\_\_  
Jim Nugent  
City Attorney  
JN:es

cc: Rep. Ralph Eudaily; Dr. Ira Byock, Alec Hansen, Exec. Dir. Mt. League of Cities & Towns; Don Millhouse, Police Chief; Jim Oberhofer, Asst. Police Chief; Chuck Gibson, Fire Chief; Marshall Kyle, Asst. Fire Chief; Stan Kaleczyc

Exhibit 4

3/14/89

HB 448

3 pgs

SENATE JUDICIARY

My name is Bernie Kempsey, <sup>and I own a</sup> ~~second hand~~ slot in Polson, <sup>Montana where</sup> ~~Montana~~ where I have my home. But today I came to you to talk about my hobby.

SENATE JUDICIARY

EXHIBIT NO. \_\_\_\_\_

DATE

3-14-89

BILL NO.

HB 448

I collect antique slot machines. These machines are a unique part of historic American and many are one of a kind, often priceless.

In 1983, the Montana legislature allowed for the private ownership <sup>of</sup> slot machines manufactured <sup>from</sup> ~~in~~ 1950 or before.

It provided that if a citizen was arrested for the possession of a slot machine under the laws of Montana, that at his trial, if he could prove 2 points - One that the slot machine was not used for gambling purposes at any time while in his possession and secondly that the machine in question was indeed an antique - he was not in violation of the gaming laws of the state.

This was a giant step forward for those of us in this hobby. And I know of no abuses that have taken place as a result of this law in Montana or in any other state with laws similar to our own. The fears some legislators

March 1, 1989

SENATE JUDICIARY

EXHIBIT NO. 5

DATE 3-14-89

CALL NO. HB 448

Senator Bruce Crippen, Chairman Judiciary Committee  
Capitol Station  
Helena, MT 59620

Dear Mr. Crippen:

This is in reference to HB 448, which if enacted, would legalize possession of slot machines as antiques if they are over 25 years old.

I would like to come out in support of this legislation. I have a small collection of antique slot machines and also know several other people in Montana who collect or possess these machines as antiques. It was largely through my efforts that the initial legislation on our current law was introduced by Rep. Dan Gardley, which passed in 1983, resulting in the present Art. 1750 law allowing possession of the machines as antiques.

Reasons for support of this legislation would be as follows: About 38-40 states allow collecting of antique slot machines in one way or another. There has been a movement throughout the country to standardize the laws, and more states now have, or are moving toward, 25 year laws than anything else. The present law does not cover all of the mechanical machines which were made which are bona fide antiques. A 25 year law would cover all of these, plus the electromechanical machines, which are also antiquated. Because of modern technology there is constant change and improvement in the electronic coin operated machines now, which tends to make machines only a few years old obsolete. So, as far as ownership or collecting, a 25 year law makes sense.

It is important to emphasize that this is not a gambling bill, as some people might believe. It is only an effort at standardizing and preserving an interesting and fascinating hobby or pastime.

As far as I know, our present law has not caused any problems, as some people feared. I know of no instances where people have tried to run old machines for gambling purposes.

And the law, as written, prohibits this, as it should. And the old machines, as antiques, are too valuable for their purpose anyway. I would say our present law has worked well.

Finally, let me say that antique slot machine ownership, or collecting is widespread throughout the country. Many people, while not collectors enjoy having an old machine in a game room, or to use as a bank for change. And there are hundreds of collectors across the country. Owning an antique slot machine is a piece of Americana. Its history is interesting, and it is a distinctive and fascinating hobby. So I support a 25 year law as a means of further standardizing the various state laws, and as a means of preserving an interest or hobby that is unique.

I hope this is helpful toward the passage of this Bill by the Senate. I've included some information which I thought would be informative, and if I can be of any further service, please let me know.

Sincerely,  
Fred E. Sagebaum  
3209 Yale Ave.  
Butte, MT 59701



EX

SENATE JUDICIARY  
EXHIBIT NO. 6  
DATE 3-14-89  
BILL NO. HB 295

Amendments to House Bill No. 295  
Third Reading Copy (BLUE)

For the Committee on Judiciary

Prepared by Valencia Lane  
for Allen Chronister/State Bar of Montana  
March 7, 1989

1. Title, line 10.

Strike: "SECTION"

Insert: "SECTIONS 61-7-109 AND"

2. Page 1.

Following: line 12

Insert: "Section 1. Section 61-7-109, MCA, is amended to read:

"61-7-109. Written reports of accidents -- additional information -- form of report. (1) The operator of any motor vehicle which is in any manner involved in an accident within this state in which any person is killed or injured or in which damage to the property of any one person in excess of \$400 is sustained shall, within 10 days after such accident, report the matter in writing to the department unless the accident was investigated and reported by a law enforcement officer as provided in subsection (3).

(2) The department may require any driver of a vehicle involved in an accident of which report must be made as provided in this section to file supplemental reports whenever the original report is insufficient and may require witnesses of accidents to render reports.

(3) Every law enforcement officer who in the regular course of duty investigates a motor vehicle accident in which any person is killed or injured or in which damage to the property of any person exceeds \$400, either at the time of and at the scene of the accident or thereafter by interviewing participants or witnesses, shall within 10 days after completing the investigation forward a written report of the accident to the department.

(4) The form of the accident report required under this section shall contain information sufficient to enable the department to determine whether the requirements for the deposit of security for safety responsibility are inapplicable by reason of the existence of insurance or other exemptions specified in this part.

(5) A report required by subsection (1) or (2) may not be used as evidence in any trial, civil or criminal, arising out of an accident."

Renumber: subsequent sections

3. Page 2, lines 16 through 24.

Strike: subsection (3) in its entirety

EX

SENATE JUDICIARY

EXHIBIT NO. 7

DATE 3-14-89

BILL NO. HB 349

Amendments to House Bill No. 349  
Third Reading Copy (BLUE)

Requested by Senator Yellowtail  
For the Committee on Judiciary

Prepared by Valencia Lane  
March 13, 1989

1. Page 3, line 18.

Following: "~~must~~"

Strike: "may"

Insert: ", if it is sold, must"

Ex

**LOCKWOOD WATER USERS ASSOCIATION**

1644 OLD HARDIN RD., RT. 5 BILLINGS, MONTANA 59101

MARCH 8, 1989

The Honorable  
State Senator  
State of Montana  
Helena Montana 59620

Dear Senator:

Lockwood Water Users Association supports an amendment to the county water and sewer district laws to allow them to condemn a private association such as Lockwood Water Users Association. The reason for this is that it is far more efficient and economical to operate and administer a water district rather than a water association.

Water Associations were created around 1950 to provide water to urban areas. Initially, they were funded by Farm Home Administration loans. However, since that time, the monies from FmHA have dried up and local water associations have had difficulty in financing their necessary improvements. Also, because they were a private association, they lacked many of the rights granted to a water district.

Approximately ten (10) years ago, Lockwood Water Users Association started experiencing problems with nitrates in several of its deep water wells which supplied 80% of the water to the Lockwood area. Lockwood Water Users Association serves approximately 3,500 people, and is adjacent to the City of Billings. In order to solve the nitrate problem, it was necessary for the association to go to the Yellowstone River and obtain water from the river and build a water treatment plant.

First of all, since we are a private association, we were not eligible to obtain water under any reservation that was granted to other municipalities, water districts of governmental entities and therefore had to make application for an independent water permit. That water permit which

has been granted is subject to all prior permits, including the instream reservation of the Fish, Wildlife and Parks. As a result of that, even the water permit that was granted to Lockwood Water Users Association in a year such as 1988, is precarious. If, however, we were a water district, we would be able to hold a valid water reservation.

In addition, the cost of financing improvements with industrial revenue bonds was costly and expensive. The primary reason it was so costly was because we did not have any opportunity to issue a general revenue bond which could be paid off by a tax on the district property. In other words, all we were able to do was to pledge reserves to pay off the bond. As a result of this, we possibly paid as much as 2 to 3 percentage points more than the normal bond issue for similar improvements had the similar improvements been performed for a water district or a municipality.

Because Lockwood Water Users Association will be experiencing growth in the future and finds that it is almost impossible to fund and finance the growth under the present laws applying to associations, the only way we will be able to serve our members will be to form a water district, and have that water district assume control over the water association.

For that reason, we strongly urge your support to allow a water district to be able to condemn the assets of a water association to allow the transfer of the association property to a district and ultimately benefit all of the members served by th association.

We thank you very much for your support in this matter.

Sincerely,

Lockwood Water Users  
Association

  
Larry McGrail, Manager

EX

SENATE JUDICIARY  
EXHIBIT NO. 9  
DATE 3-14-89  
BILL NO. HB 471

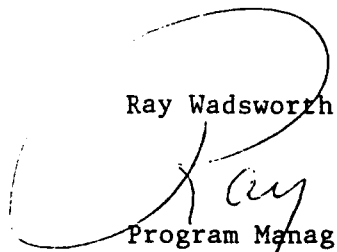
Testimony for House Bill 471

Water Users Associations are incorporated with the State of Mont. and most are incorporated as a non-profit entity with Articles of Incorporation filed under Sec 35-1-1203 et, seq MCA. Since about the year 1950, over 240 such Associations have been formed in our State.

With the inability of a WUA to assess property to make improvements, do upgrades to keep up with new State and Federal Regulations and to make necessary major repairs, many of these Associations are finding it difficult to produce sufficient revenues to maintain their system. FmHA funds are nearly impossible to get for WUA and this has generally always been a last ray of hope in the past.

Section 2 of this bill will provide a means by which a WUA can be changed to a Water District without much involvement. As a Water Dist, the system would become a quasi-governmental entity that would provide the system with a much better position to procure Water Rights, obtain financing at a much lower rate of interest, and give the system taxing authority to handle emergencies and changes in regulations.

Respectfully submitted by:

Ray Wadsworth  
  
Program Manager  
Montana Rural Water Systems

(ORIGINAL COPY)

~~SENATE JUDICIARY~~  
EXHIBIT NO. 10  
DATE 3-14-89  
BILL NO. HB 471  
Phone 449-1015

**EASTGATE VILLAGE  
WATER AND SEWER ASSOCIATION  
AND  
HOMEOWNERS ASSOCIATION**

P.O. Box 1220  
East Helena, MT 59635

March 13, 1989

Judiciary Committee  
Montana Senate - 51st Legislature  
Capital Station  
Helena 59620

re: House Bill 471

Dear Members of the Committee:

I am a representative of the Eastgate Village Water and Sewer Association. We are a non-profit association that is under contract with the Lewis and Clark County Commissioners to operate and maintain the water and sewer systems serving the Eastgate Village subdivision. Eastgate Village is a large residential subdivision located about 1 1/2 miles east of East Helena. We currently serve about 800 people and have the responsibility to serve as many as 1800 people when fully developed. We are for all practical purposes a small Montana town.

Eastgate Village was developed in two phases as two separate rural improvement districts (RID's). The developers associated with Eastgate Village have both defaulted on their RID payments, leaving the residents of Lewis and Clark County responsible. Because these RID bonds will finally be paid in the early 1990's, the board of our association and the Lewis and Clark County Commissioners are very much interested in the formation of a water and sewer district to take care of the water and sewer systems. In fact, our current contract with the commissioners requires that we form a district.

A water and sewer district is a legal political subdivision that enjoys many of the powers and responsibilities of cities and towns with respect to operation of water and sewer facilities. Water and sewer associations perhaps have their place in the progression of developments like ours, but we are approaching the stage where we will have outgrown our status as an association. For instance, we presently cannot sell bonds or make assessments against property owners for improvements. We are either ineligible, or our eligibility is limited, for many of the government financial assistance programs. I have found that it is quite difficult to obtain a loan for necessary improvements. Grant funding is even more difficult.

(cont.)

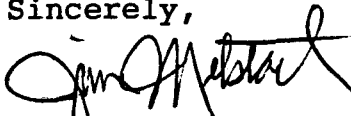
page 2

We expect to have several problems in our efforts toward forming a district. Once we have made sure that the association members are in agreement that a district is the proper next step, we will be confronted with addressing the articles of incorporation and the by-laws of our association. The articles and by-laws require that all property and financial assets of the association be distributed to each member equally if the association is dissolved. I would guess that this is a provision that is common among all similar associations. This would create an incredible nightmare of trying to distribute the assets to each member and then acquire them again for the district.

It would obviously be much easier if we could simply transfer the assets under an eminent domain provision as created by HB 471. Because our association and many like ours have to rely upon volunteer time and labor to get things done, this bill would make life much easier without causing problems for anyone. I cannot think of a situation where this bill would cause problems. Districts have to be formed by a vote of residents. This assures that the residents must be informed of the issues involved in creation of the district.

I encourage that the members of the committee vote favorably with respect to this bill. It will make life very much simpler for us, without creating any hardship or inequity. Thank you very much for your consideration.

Sincerely,



Jim Melstad, President  
Eastgate Village Water and Sewer Association  
PO Box 1220  
East Helena 59620

SENATE JUDICIARY

EXHIBIT NO. 11  
DATE 3-14-89  
BILL NO. HB 57

Amendments to House Bill No. 57  
Third Reading Copy (BLUE)

Requested by Representative Marks  
For the Committee on Judiciary

Prepared by Valencia Lane  
March 13, 1989

1. Title, lines 10 through 13.

Following: "~~ACTS~~" on line 10

Strike: remainder of line 10 through "LOCALITY" on line 13

Insert: "GROSS NEGLIGENCE OR BY WILLFUL OR WANTON ACTS"

2. Page 2, lines 2 through 6.

Following: line 1

Strike: line 2 through "LOCALITY" on line 6

Insert: "gross negligence or by willful or wanton acts or omissions when rendering such emergency care or assistance"



Amendments to House Bill No. 57  
Third Reading Copy (BLUE)Requested by Hospital Association  
For the Committee on JudiciaryPrepared by Valencia Lane  
March 13, 1989

1. Title, line 13.

Following: "LOCALITY;"

Insert: "PROVIDING IMMUNITY FROM LIABILITY FOR RENDERING  
EMERGENCY OBSTETRICAL SERVICES IN CERTAIN SITUATIONS;"

2. Page 1, line 14.

Insert: "STATEMENT OF INTENT

This legislature finds and declares that there is a crucial need for the people of this state to receive knowledgeable and experienced emergency medical care. The legislature further finds that physicians who serve on an "on-call" basis to hospital emergency rooms are frequently required to provide obstetrical care to persons with whom they have no preexisting physician-patient relationship. It is the public policy of this state to provide incentive and protection for physicians and other health care providers who, despite these hardships, respond to calls to provide emergency medical care."

3. Page 1, line 17.

Following: "emergency"

Insert: "nonobstetrical"

4. Page 1, line 18.

Following: "in"

Insert: "[section 2] and"

Following: "(1)(b)"

Insert: "of this section"

5. Page 3.

Following: line 23

Insert: "NEW SECTION. Section 2. Limits on liability for care rendered in emergency obstetrical situations in hospital or physician's office. (1) Notwithstanding the provisions of [section 1(1)(a)], a health care provider who in good faith renders emergency obstetrical services to a person is not liable for any civil damages as a result of any negligent act or omission by the health care provider in rendering the emergency obstetrical services. The immunity granted by this section does not apply to acts or omissions constituting gross negligence or to willful or wanton acts

or omissions.

(2) The protection of subsection (1)(a) does not apply to the health care provider in any of the following cases:

(a) The health care provider had provided prior medical diagnosis or treatment to the same patient for a condition having a bearing on or relevance to the treatment of the obstetrical condition that required emergency services.

(b) Before rendering emergency obstetrical services, the health care provider had a contractual obligation or agreement with the patient, another health care provider, or a third-party payer on the patient's behalf to provide obstetrical care for the patient.

(3) As used in this section, the following definitions apply:

(a) "Emergency obstetrical care" means a situation occurring either in a physician's office or a hospital that requires immediate services for the alleviation of severe pain or immediate diagnosis and treatment of medical conditions that, if not immediately diagnosed and treated, would lead to severe disability or death of either the patient or the unborn child.

(b) "Health care provider" means:

(i) a physician, registered professional nurse, licensed practical nurse, or physician's assistant, duly licensed under the provisions of Title 37; or

(ii) a hospital.

(c) "Hospital" means a licensed hospital, infirmary, or health care facility, as defined in 50-5-101."

Renumber: subsequent sections

6. Page 3, line 25.

Strike: "section"

Insert: "sections"

Following: "1"

Insert: "and 2"

7. Page 4, line 9.

Following: "1"

Strike: "and 2"

Insert: "through 3"

8. Page 4, line 12.

Following: "1"

Strike: "and 2"

Insert: "through 3"

DATE

3-14-89

COMMITTEE ON

Senate Judiciary

## VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Jim Melstad	Eastgate Village Water Users	HB471	X	
NICK V. GLOS	FOREST PARK W. USER ASSOC.	HB471	X	
BOUCE RESTAD	COUNTY WATER DIST / Bigs Heights MONTANA RURAL WATER	HB471	X	
MARY MCGRAIL	Lockwood Water Users Assoc	HB471	X	
Fay Wadsworth	MT Rural Water Systems	HB471	X	
Jana Wadsworth	Windy Acres WWA	HB471	X	
JIM NUGENT	Missoula City of	HB422	X	with amendment
Terrell M Smith	—	HB471	X	
Bernard J Kempsey	POLSON, MONT	HB471	X	
Owen Hansen	AARP	422	X	

COMMITTEE ON

HB448 —

DATE

3-14-89

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppo
Bob Gilbert	Helena, self	HB448	X	

(Please leave prepared statement with Secretary)

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 3-14-89 House Bill No. 422 Time \_\_\_\_\_

NAME	YES	NO
SEN. BISHOP	✓	
SEN. BECK		✓
SEN. BROWN	✓	
SEN. HALLIGAN	✓	
SEN. HARP	✓	
SEN. JENKINS		✓
SEN. MAZUREK	✓	
SEN. PINSONEAULT		✓
SEN. YELLOWTAIL	✓	
SEN. CRIPPEN	✓	

7 to 3

Rosemary Jacoby \_\_\_\_\_  
Secretary

Sen. Bruce Crippen \_\_\_\_\_  
Chairman

*Senators*  
Motion: Yellowtail Amend. "may" "shall"

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 3-14-89 House Bill No. 57 Time #1

NAME	YES	NO
SEN. BISHOP	✓	
SEN. BECK	✓	
SEN. BROWN	✓	
SEN. HALLIGAN		✓
SEN. HARP	✓	
SEN. JENKINS	✓	
SEN. MAZUREK	✓	
SEN PINSONEAULT	✓	
SEN. YELLOWTAIL		✓
SEN. CRIPPEN		✓

4. 3

Rosemary Jacoby  
Secretary

Sen. Bruce Crippen  
Chairman

Motion: Hospital Amend

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 3-14-89 House Bill No. 59 Time #2

NAME	YES	NO
SEN. BISHOP		✓
SEN. BECK	✓	
SEN. BROWN		✓
SEN. HALLIGAN		✓
SEN. HARP	✓	
SEN. JENKINS	✓	
SEN. MAZUREK		
SEN. PINSONEAULT	✓	
SEN. YELLOWTAIL		✓
SEN. CRIPPEN		✓

*Failed 4 to 5*

Rosemary Jacoby  
Secretary

Sen. Bruce Crippen  
Chairman

Motion: by Sen. Marks' Amend - Jenkins  
Failed  
4 to 5

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 3-14-89 House Bill No. 57 Time # 3

NAME	YES	NO
SEN. BISHOP		
SEN. BECK		
SEN. BROWN		
SEN. HALLIGAN		✓
SEN. HARP		
SEN. JENKINS		
SEN. MAZUREK		
SEN. PINSONEAULT		
SEN. YELLOWTAIL		✓
SEN. CRIPPEN		

Rosemary Jacoby \_\_\_\_\_  
Secretary

Sen. Bruce Crippen \_\_\_\_\_  
Chairman

Motion: Back B C I A A