

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bill Strizich, on January 14, 1991,
at 9 a.m.

ROLL CALL

Members Present:

Bill Strizich, Chair (D)
Vivian Brooke, Vice-Chair (D)
Arlene Becker (D)
William Boharski (R)
Dave Brown (D)
Robert Clark (R)
Paula Darko (D)
Budd Gould (R)
Royal Johnson (R)
Vernon Keller (R)
Thomas Lee (R)
Bruce Measure (D)
Charlotte Messmore (R)
Linda Nelson (D)
Jim Rice (R)
Angela Russell (D)
Jessica Stickney (D)
Howard Toole (D)
Tim Whalen (D)
Diana Wyatt (D)

Staff Present: John MacMaster, Leg. Council Staff Attorney
Jeanne Domme, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

HEARING ON HB #24

ALLOW CONSID. OF AGE, MARITAL STATUS, & RELIGION IN ADOPTIONS

Presentation and Opening Statement by Sponsor:

REP. CODY, HOUSE DISTRICT 20, handed out a the amendment to HB #24 and gave a short history on how the bill came about for the new committee members. EXHIBIT 1. This bill gives the natural birth mother the constitutional right to choose the adoptive parents of her child. Under the ruling as it is now, the department is not allowed to use arbitrary standards to fix age

limits or marital restrictions at any stage of the adoption process. This ruling promotes individual adoptions without any regulation. In the initial eligibility, they could consider age or marital in the adoption proceedings, but it is forbidden in the final placement stage. This bill enables us to consider all best possible interests of the child. It is our public policy statement on allowing the department to consider such factors as age and marital status.

Proponents' Testimony:

Bill Driscoll, Lawyer, stated the concern about the legislation as originally issued is that it applies the same standard to private agencies as to The Department of Family Services in making adoption placements. We want to encourage natural mothers to utilize the Department of Family Services or licensed child placing agencies instead of going out on their own to find adoptive parents for her child. We should recognize the adoptive placements that are made through The Department of Family Services or a licensed child placing agencies, are the adoptive placements that take place in public regulated arenas.

Kenneth Gjerde, Director of Lutheran Social Service in Montana, stated that over 50% of his agencies funding comes through religious related sources and other agencies receive support direct from their church body or private funding. This support follows the religious beliefs of the people that are willing to give it. Their beliefs are what shape our policies. Our policies are basically traditional values regarding marriage stability and that the child should be raised with the religious convictions as our church. If we cannot continue these policies, we will end up going out of business.

Mark Ricks, LDS Social Services Private Adoption Agency, stated generally when a birth mother comes to us she is concerned and needs counselling. They are interested in their child welfare. We need to give birth parents more options so our services can be in the best interest to both families. We believe private agencies provide an important service to the citizens of Montana.

Karen Northey, Director of Florence Critendon Home, stated the adoption process has changed throughout the years. Young women now have more choices in their life. They can pick the type of families they want for their children so they don't feel like they are abandoning their child. It is important for them to choose religion, age, and in what area they will live. These are very important to a girl, and for us not to allow that and revert back to years ago when the girl didn't know whether they had a girl or a boy, we would be going backwards instead of forward.

Linda Sargent, Assistant Director Montana Right to Life, stated HB #24 is in the best interest of the baby, the birth parent, and the adopted parent.

Marilyn McKibben, gave testimony about a case in which a girl had decided to give up her baby for adoption and wanted to know more about the process. She wanted to choose who the child would be adopted by, in what area the child should live and the religion of the adoptive parents. All these options are extremely important to a birth mother giving up her child. She asked that the committee look from the mother of the child's point of view.

Rebecca Jones, Director of Adoption Services, Shodair Hospital, stated she has seen a lot of changes in adoption. The birth mother only had the choice of whether the child would live in a rural or a city area and choice of religion, but did not let them choose a specific type of family. Most birth mothers are only able to get through the adoption process if they are comfortable with the adoptive parents. This is because society has taken away alot of the other barriers. They now have much more support financially. If they do not have something to give them a choice in the matter, they are saying they will seek out adoptive parents on their own accord. We are not saying people cannot adopt if they are of a certain religion or if they are a certain age. We are saying we would like to have the opportunity considering those options when it comes to the birth parents.

Betty Bay, Department of Family Services Adoption Specialist, stated she is in support of HB #24. EXHIBIT 2

Opponents' Testimony:

Scott Crichton, Executive Director/Lobbyist of the American Civil Liberties Union, stated although this bill is a well intentioned draft it promotes legalized discrimination on the basis of age, marital status and religion or lack of religion in adoption proceedings. This bill gives natural parents the power to limit the adopted parents regarding age, religion or marital status.

Faye Bergar, a Helena resident, stated she and her husband are wanting to adopt a child. They are being discriminated against because of her husband's age. They are financially stable, own their own home close to the schools, and live in a loving, giving environment. They object to this bill which discriminates against age, religion and marital status. Adoption should be in the best interest of the child.

Questions From Committee Members:

REP. TOOLE asked **Mr. Driscoll** if he could approach the legal background of this bill? **Mr. Driscoll** said the primary purpose of this bill was to deal with the licensing of private adoption agencies and if they should impose the same sets of standards as the Department of Family Services. This legislation contains language that the Dept. of Family Services and Human Rights are satisfied and have not made any changes with that part of the bill.

REP. TOOLE asked Mr. Driscoll if he could address those concerns regarding the decision making process? Mr. Driscoll stated that the State allows our agencies to make our own policies. This legislation is an attempt to help the agencies get back into placing infants with adopted parents. We think it is important to effectuate the natural mothers intent as much as possible. If not, you encourage the adoption to take place out side of the agencies. If you are going to license agencies, they need to be able to go forward and help them deal with the birth mother with the best interest of the child in mind.

REP. BOHARSKI asked Bill Driscoll what level of decision do we have to make on a rational basis? Mr. Driscoll said that when a child has established a level of religious practice then they should be with a family that will continue that. But in terms of an infant, it is questionable as to how far you will go to accommodate the birth parents and their particular beliefs.

REP. BROWN asked REP. CODY if the ACLU was taken into consideration during the drafting of this bill? REP. CODY said she didn't believe so. Mr. Crichton said no.

REP. BROWN asked Ann MacIntyre if the Human Rights Commission is neutral on this legislation? Ms. Macintyre said no they do not take position on the bill. REP. BROWN asked where was the Human Rights Commission during the development of this bill? Ms. MacIntyre stated the Commission was asked to provide information and comment on the draft. Due to the press of time, we were unable to get our comments to the draft. REP. BROWN asked if she shares the same concerns as the opponents? Ms. MacIntyre stated she does share some of their concerns from a personal standpoint. I do think that any consideration of religion by a state agency is subject to scrutiny. The private religious agencies have a right to religious freedom based on the first amendment.

REP. MESSMORE asked Kenneth Gjerde if social service agency consider the age ceiling and what is the age ceiling? Mr. Gjerde said for his agency the limit is 44 years of age. REP. MESSMORE then asked Mr. Gjerde if his group would discriminate against non-main line religious people wanting to adopt? Mr. Gjerde said yes they would. We would refer those people who would not fall within our religious guideline policy to the state.

REP. BROOKE asked Betty Bay if this legislation passes as amended, will the Department of Family Services then be back in the adoption business. Ms. Bay said yes. REP. BROOKE then asked Ms. Bay if it does pass, would that mean you would continue to adopt babies into single parent homes or couples other than heterosexual parents. Ms. Bay said they feel that they have to find the best home possible for an infant.

REP. WHALEN asked what the role of the Department of Family Services and the role of the Private Adoption Service Agencies in the adoption process? Mr. Driscoll stated if you do a direct

private agency without the BFS agency involved, the natural parent primarily choose the adoptive couple and deals with them directly. The private agencies follow the Montana Uniform Parenting Act. This means a natural mother comes to an agency like Catholic Social Services at some point in her pregnancy seeking counselling in a very broad range. Once a mother focuses in on a choice the council is geared toward that end result. At the time the mother gives birth to the child and relinquishes custody of the child for adoption, she relinquishes to Catholic Social Services. Catholic Social Services then go to court and petition the termination of the birth mother's rights and gets consent from the father also.

REP. WHALEN asked Mr. Driscoll if the legal proceeding by a private agency getting custody of a child is separate from the legal proceeding for adoption of the child? Mr. Driscoll said yes they are separate.

REP. LEE asked Betty Bay if she could provide the committee with the rational basis for the age cut off. Ms. Bay said the department did not have a age limit and they follow the usual child parenting range. REP. LEE then asked Ms. Bay if she would be opposed to a more open ended age limit. Ms. Bay said age is a big concern when talking about adopting an infant.

REP. LEE asked Marilyn McKibben the same question. Ms. McKibben stated they have to consider age because the agencies decision is based on the best interest of the child. If a birth mother where to request an adopted couple to be older, then the request will not be declined. Our agency does not have an age restriction because of these factors.

Closing by Sponsor: NONE

HEARING ON HB #25
REQUIRE 72-HR RELINQUISHMENT PERIOD IN ADOPTIONS

Presentation and Opening Statement by Sponsor:

REP. CODY stated this bill gives the birth mothers 72 hours before making the final decision of relinquishing their parental rights.

Proponents' Testimony:

Marilyn McKibben, stated she would like to go on record as a proponent for HB #25.

Betty Bay, Department of Family Services Adoption Specialist, gave written testimony in support of HB #25. EXHIBIT 3. She added that the Indian Child Welfare Act requires 10 days before relinquishing their parental rights.

Bill Driscoll, stated the practice of the agencies is if the child comes out of the hospital before three days they will still pay the physical relinquishing custody of a natural parent and place a child in a foster care during that time. The natural parent retains that 72 hour period to think about what they are doing and are comfortable with the decision before they actually relinquish their rights as the parent.

Karen Northy, stated that the Florence Critendon home is not an adoption agency. We do not deal with adoptions other than an option for the girls to choose what they need to do. We find that it is critical for the girls to be able to have time to make a decision after having a baby. They find they are comfortable with the choice they make until going into the hospital and delivering the baby. After this, they are sometimes undecided about their decision and with having 72 hours to think about what they are doing they feel much more comfortable with the final outcome of their decision.

Opponents' Testimony: none

Questions From Committee Members:

REP. RICE asked REP. CODY about the adopted parents having to wait for relinquishment of the child by the natural mother and not being able to pick the child up from the hospital? REP. CODY stated to some extent it is a concern, particularly to the adoptive parents. The big concern should not be that problem, because regardless of this law if we pass it, they can still back out on the contract until the final decree of adoption.

REP. MESSMORE asked REP. CODY what the current time limit for the mother to be able to change her mind about relinquishing her rights as a parent? REP. CODY stated there is none. REP. MESSMORE then asked REP. CODY where the signing is done? REP. CODY stated the signing is done in court after 72 hours.

Closing by Sponsor: NONE

HEARING ON HB #26

REQUIRE HOMESTUDY AND COUNSELING IN PRIVATE PLACEMENT ADOPTIONS

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE CODY, HOUSE DISTRICT 20, stated HB #26 is as important as HB #24. Because of the fact, that the majority of adoptions that take place in the state of Montana are done on a direct non-agency basis, that are unregulated, we feel that this legislation will help us as a state to say it is an option to any individual and we feel there are certain aspects that are important to adoption. It is not just a simple procedure. It is a procedure that has a long term effect on all individuals involved. This bill requires counselling for the birth mother if

the adoption is by a non-relative. It also requires an investigation into the home situation.

Proponents' Testimony:

Rebecca Jones, Shodair Hospital, stated she was speaking on behalf of the Montana Interagency Adoption Council. This bill will increase government supervision and direction in independent adoptions in Montana. It requires that both the adoptive parents and the birth parents, if wishing to be involved, receive counseling prior to the adoption. This is important to as a private agency because when we are counseling with the birth parents we have an opportunity to share and help them look at all their options.

Karen Northy, Florence Critendon Home, stated she sees young girls who are 12, 13 or 14 years old making a decision for private adoption. We are able to give them some counseling, but even with this they are under alot of pressure to follow what decisions are being made by other family members. They often feel trapped and that they aren't really making their own decisions. Having counseling for these girls will help them realize they do have authority where their child will be placed. To council the adopted parents is a plus so they can see what they are in for and their home is going to be a home for a young child and it an important matter.

Betty Bay, Dept. of Family Services, gave written testimony in support of HB #26. EXHIBIT 4

Opponents' Testimony: none

Questions From Committee Members:

REP. RICE asked REP. CODY if by including counseling for the father, we have added unnecessary paper work to an already lengthy process. REP. CODY stated it was necessary to find the natural father to relinquish parental rights and having him sign a paper denying or accepting counseling will not add any extra burden to the process.

REP. RICE asked REP. CODY if having the birth mother go back into court to sign the final papers after going through the trauma of giving up her child, was not a good idea. REP. CODY stated these are direct adoption agencies we are speaking about. In these cases it is a difficult role that is going on. It is between individual to individual and this doesn't seem to be a problem. If you can think of other language to address this, I would be willing to listen to it.

REP. RICE asked REP. CODY if all adoption processes require a home study investigation? REP. CODY stated this legislation is directed at 1 to 1 individual and there is no regulation at all.

REP. TOOLE asked REP. CODY if it is the intent of this bill to have a home study procedure and counseling required for all agencies, that you believe not to be required by the law at this time. REP. CODY stated that was correct.

Closing by Sponsor:

REP. CODY stated it is an extra big issue but also a human issue. The committee has the opportunity as a Judicial Committee to do the right thing in adoption laws by passing this legislation. This legislation is extremely necessary because adoption services are very important to many people. It is important that we state, as a legislative body, we are concerned about the children, the natural parents, and the adoptive parents interests. We cover all of this in the three pieces of legislation we have talked about today and have done it in a manner that will benefit all the citizens we represent.

HEARING ON HB 109

PROVIDE VICTIM AND WITNESS ASSISTANCE IN JUVENILE FELONY CASES

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE BROOKE, HOUSE DISTRICT 56, stated this bill is an act providing victims and witnesses of juvenile felony offenses the same services in the system that must be provided to victims and witnesses of crimes. The primary purpose of the fund is to provide financial assistance to innocent victims of a crime. If a crime results in a death, funeral expenses up to \$2000.00 is covered. This gives you an idea of what we are after with this bill. At this time, the Crime Victims Fund has been treating the juvenile felony victims as eligible, but it is not clearly spelled out in code that these victims are covered.

Proponents' Testimony:

Candy Wimmer, Montana Board of Crime Control, stated this bill will extend to victims of juvenile felonies the same notification process that are available to victims of adult crimes, that primarily will be a function of the county attorney's office, will keep victims of crimes informed about judicial process going on with the offenders. They will have the opportunity to appear before the court and discuss the potential disposition of the juvenile. It should not affect the victims compensation benefits that are available. Juvenile offenders need to see the victimization they create with the people they perpetrate crimes with.

Richard Meeker, Chief Officer Juvenile Probation Officer Association - Helena, representing the Montana Juvenile Probation Officer's Association stated that this bill will help to keep the victims informed of their rights and help them to understand what is happening to them. We support HB#109.

Bill Fleiner, Montana Sheriff's Department, stated he supports HB# 109. This bill provides support in an ongoing effort to provide witnesses acting responsible by stepping forward and reporting what they see to the law enforcement agency and support the victims whose privacy is invaded by the perpetrators of criminal activity.

Opponents' Testimony: none

Questions From Committee Members:

REP. MESSMORE asked where the money for the Crime Victims Fund come from? REP. BROOKE said it comes from restitution of criminal cases and some federal funds.

REP. RUSSELL asked Candy Wimmer if these funds have a time limit on requesting them? Candy Wimmer stated there was a time limit but she wasn't sure what it is.

REP. MEASURE asked REP. BROOKE is there a plan to expand the amount of restitution juvenile perpetrators might have to make or might be responsible or his parents be responsible for as for restitution? REP. BROOKE stated there is not any intent to expand that restitution by juvenile offender.

Closing by Sponsor:

REP. BROOKE stated this bills goal is to increase victim awareness among juvenile offenders and it would be primarily to have those be more aware of the affect of their crime.

HEARING ON HB #135

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE LEE, HOUSE DISTRICT 49, stated this bill helps if a person is indigent and if there is a proceeding and he isn't able to make that deposit, he is able to participate in and go through the procedure without making any kind of deposit.

Proponents' Testimony: none

Opponents' Testimony: none

Questions From Committee Members:

REP. RICE asked JOHN MACMASTER how we determine when a person is indigent? MR. MACMASTER said he wasn't sure because they haven't had this type of thing in the law before. I assume that the indigent person would just file some type of petition seeing that he is already involved.

EXECUTIVE ACTION ON HB #135

Motion: REP. LEE MOVED HB 135 DO PASS.

Discussion:

REP. RICE asked JOHN MACMASTER if the committee should add a sentence to verify if the person is indigent before we waive the filing fees. Mr. MacMaster thought this would be a good idea.

Motion/Vote: REP. RICE moved to amend HB 135. EXHIBIT 5 Motion carried.

Motion/Vote: REP. GOULD MOVED HB 135 DO PASS AS AMENDED. Motion carried.

EXECUTIVE ACTION ON HB #109

Motion/Vote: REP. GOULD MOVED HB 109 DO PASS. Motion carried.

EXECUTIVE ACTION ON HB #25

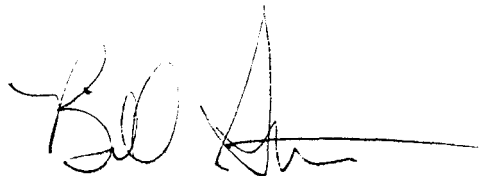
Motion: REP. BOHARSKI MOVED HB 25 DO PASS. Motion carried 18 to 2 with Rep's: Measure and Johnson voting no.

EXECUTIVE ACTION ON HB #36

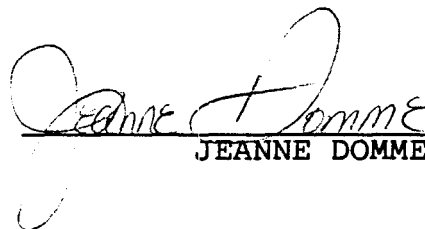
Motion: REP. BOHARSKI MOVED HB 36 BE RECONSIDERED. Motion failed.

ADJOURNMENT

Adjournment: 11:40 a.m.



BILL STRIZICH, Chair



JEANNE DOMME, Secretary

BS/jmd

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE 1-14-91

NAME	PRESENT	ABSENT	EXCUSED
REP. BILL STRIZICH, CHAIRMAN	/		
REP. VIVIAN BROOKE, VICE-CHAIR	/		
REP. ARLENE BECKER	/		
REP. WILLIAM BOHARSKI	/	W	
REP. DAVE BROWN	/		
REP. ROBERT CLARK	/		
REP. PAULA DARKO	/		
REP. BUDD GOULD	/		
REP. ROYAL JOHNSON	/		
REP. VERNON KELLER	/		
REP. THOMAS LEE	/		
REP. BRUCE MEASURE	/		
REP. CHARLOTTE MESSMORE	/		
REP. LINDA NELSON	/		
REP. JIM RICE	/		
REP. ANGELA RUSSELL	/		
REP. JESSICA STICKNEY	/		
REP. HOWARD TOOLE	/		
REP. TIM WHALEN	/		
REP. DIANA WYATT	/		

HOUSE STANDING COMMITTEE REPORT

January 14, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that House Bill 135 (first reading copy -- white) do pass as amended .

Signed: _____
Bill Strizich, Chairman

And, that such amendments read:

1. Page 2, line 25.

Following: "found"

Insert: "by the court"

Following: "indigent"

Insert: "following an examination into the matter by the court
upon the request of a true owner claiming to be indigent"

2. Page 4, line 6.

Following: "owner is"

Insert: "found by the court to be indigent following an
examination into the matter by the court upon the request of
a true owner claiming to be"

HOUSE STANDING COMMITTEE REPORT

January 14, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that House Bill 109 (first reading copy -- white) do pass .

Signed: _____
Bill Strizich, Chairman

HOUSE STANDING COMMITTEE REPORT

January 14, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that House Bill 25 (first reading copy -- white) do pass.

Signed: Bill Strizich
Bill Strizich, Chairman

Amendments to House Bill No. 24
White Reading Copy

Requested by Representative Cody
For the Committee on Judiciary

Prepared by Valencia Lane
January 12, 1991

1. Page 1, line 19.

Following: "proceedings"

Insert: "and to encourage the placement of children for adoption
by the department or licensed child-placing agencies"

2. Page 1, line 24 through page 2, line 3.

Strike: subsection (3) in its entirety

3. Page 2, line 4.

Strike: "(4)"

Insert: "(3)(a)"

Strike: "All"

Insert: "In placements of children for adoption by the
department, all"

4. Page 2, line 12.

Strike: "(a)"

Insert: "(i)"

5. Page 2, line 15.

Strike: "(b)"

Insert: "(ii)"

6. Page 2, line 17.

Strike: "(c)"

Insert: "(iii)"

7. Page 2, line 20.

Strike: "(5)"

Insert: "(b)"

8. Page 2, lines 21 and 22.

Following: "department" on line 21

Strike: remainder of line 21 through "are" on line 22

Insert: "is"

9. Page 3, line 5.

Following: line 4

Insert: "(4) In placements of children for adoption by a licensed child-placing agency, the agency may act pursuant to its policies, consistent with the best interests of the child."

10. Page 3, line 17.

Following: "consideration"

Insert: "by the department of family services"

11. Page 3, line 19.

Following: "(1)"

Insert: ", nor does it prevent a licensed child-placing agency from placing children for adoption as provided in [section 1(4)]"

12. Page 5, line 5.

Following: "consideration"

Insert: "by the department of family services"

13. Page 5, line 18.

Strike: "This subsection does not prevent the"

Insert: "The"

14. Page 5, line 19.

Following: "services"

Strike: "from"

Insert: "may not deny"

Following: "licensing"

Insert: "to"

15. Page 5, line 20.

Strike: "nonarbitrary"

16. Page 5, line 21.

Strike: "relevant"

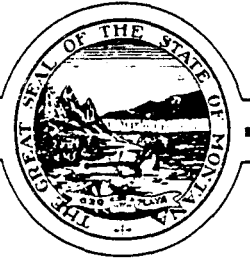
17. Page 6, line 23.

Following: "consideration"

Insert: "by the department of family services"

DEPARTMENT OF FAMILY SERVICES

EXHIBIT 2
DATE 1-14-91
HB 24



STAN STEPHENS, GOVERNOR

(406) 444-5900

STATE OF MONTANA

P.O. BOX 8005
HELENA, MONTANA 59604

January 14, 1991

TESTIMONY IN SUPPORT OF HB 24
AN ACT ESTABLISHING BEST INTEREST OF CHILD IN ADOPTION

Submitted by Betty Bay
Department of Family Services Adoption Specialist

The Department of Family Services supports HB 24 which will allow the Department, as well as the child-placing agencies licensed in Montana by the Department, to consider age, marital status and religion when placing children for adoption. In 1988, the Human Rights Commission found the Department guilty of discrimination because we had considered these factors when placing infants into adoptive homes. We believe we must be able to consider age, marital status and religion if we are to insure the best interest of the child.

Many birth parents insist upon having input into who will parent the child they give birth to. The Department has found that many birth parents will not consider relinquishing their child if they are unable to participate in the selection of adoptive parents. We believe that some birth parents are now resorting to their own methods of finding adoptive homes so they can have access to more information about the adoptive parents. This does not serve the best interests of the children because the parents are choosing adoptive families without the guidance and protection of adoption professionals.

DEPARTMENT OF FAMILY SERVICES

EXHIBIT 3
DATE 1-14-91
HB 28



STAN STEPHENS, GOVERNOR

(406) 444-5900

STATE OF MONTANA

P.O. BOX 8005
HELENA, MONTANA 59604

January 14, 1991

TESTIMONY IN SUPPORT OF HB 25
AN ACT REQUIRING 72 HOURS PRIOR TO SIGNING RELINQUISHMENT

Submitted by Betty Bay
Department of Family Services Adoption Specialist

The Department of Family Services supports HB 25 which requires a waiting period of 72 hours before a birth parent can sign a relinquishment of parental rights. We believe that birth mothers in particular, must have a minimum of 72 hours following the birth of a child in order to make a sound decision. Current Montana law does not specify when a relinquishment can be signed. There have been instances of a mother signing prior to the birth of her child.

The Indian Child Welfare Act requires 10 days following the birth of a child before a relinquishment of parental rights can be signed. In cases involving an Indian child, the higher federal standard will apply.

DEPARTMENT OF FAMILY SERVICES

EXHIBIT 4
DATE 1-14-91
HB 26



STAN STEPHENS, GOVERNOR

(406) 444-5900

STATE OF MONTANA

P.O. BOX 8005
HELENA, MONTANA 59604

January 14, 1991

TESTIMONY IN SUPPORT OF HB 26
AN ACT RELATING TO PRIVATE NON-AGENCY ADOPTIONS

Submitted by Betty Bay
Department of Family Services Adoption Specialist

The Department of Family Services supports HB 26, which makes changes in the existing law concerning the placement of a child for adoption by the birth parents. Changes include some new requirements and some to 'clean up' the law, but all are designed to improve the protection of children and birth parents involved in non-agency parental adoptive placements.

New requirements are as follows:

- that counseling be provided the birth mother and be made available to the birth father. Assurance must be provided that birth parents understand completely the impact of relinquishing the rights to their child and that they have not been unduly pressured, and
- that the relinquishment be executed in the presence of a district court judge and the adopting parents, to further assure adequate understanding of the action.

Changes requested to improve utilization of the law regarding parental adoptive placements include the following requirements:

- that a home study has been completed or that there is pre-placement contact with the adopting family before a child can be placed in the prospective adoptive parents' home,
- that adoptive parents and birth parents file a report of all agreements and money exchanged in connection with the adoption, and
- that the maximum penalty for charging excessive fees be increased to \$10,000 as a deterrent to black-marketing babies.

VISITORS' REGISTER

House Judiciary

COMMITTEE

BILL NO. HB 24, 25, 26DATE 1-14-91

SPONSOR

Rep. Cody

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
BETTY BAY	HELENA	✓	
Marilyn McKibben	Helena	✓	
KENNETH GIERDE	GREAT FALLS	✓	
LISA PAYNE / MT Women's Lobby	Helena	✓	
BILL DRISCOLL	Helena	✓ HB 24 w/ amendment	
LINDA SARGENT ^{Montana Right to Life}	HELENA	✓	
D. MARK PICKS	Helena	✓ HB 24 25 26	
Scott Creceta	HELENA	24	✓
Karen Northey	Helena	✓ 24 25 26	
JERRY WELLS	Helena		✓
Faye Dergan	Helena		✓
Sister Marie Neil Bruch	Helena	✓	
Candy Wimmer	Helena		
Wenonaht Gordon Peterson	G.T. Falls	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

House Judiciary

BILL NO. HD 109

SPONSOR Ed. BROOKE

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

House Judiciary COMMITTEE

BILL NO. 135DATE 1-14-91SPONSOR Rep. Thomas Lee

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Thomas N. Lee	Bigfork, HD 49	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.