

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bill Strizich, on January 30, 1991,
at 8:06 a.m.

ROLL CALL

Members Present:

Bill Strizich, Chairman (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 #391 CLERGY TO REPORT CHILD ABUSE

Presentation and Opening Statement by Sponsor:

REP. DARKO, HOUSE DISTRICT 2, stated this bill is an act to include clergy in the list of persons required to report suspected child abuse. There are a lot of people in today's society who are involved with children and sometimes a pastor or a church is the only outside contact in which a child has to confide. This bill does not want to interfere with the church's practice of religion. The purpose of the bill is to intercede on the behalf of the child, where there is a danger to the child. A

lot of pastors counsel in addition to their pastoral/religious duties. This is a good way for people to work through some of their problems. There is a double standard, because you have people who are counselors and have to report and church people that counsel are not required to report.

Proponents' Testimony:

Gayle Sandholm, Methodist Minister, Helena, stated he came today to support this bill, doing so being mindful of the difficulty of all professions that respect confidentiality. It is crucial that professionals who see people behind office doors, respect the information that they receive and they do not share that information publicly. There are times when a professional needs to bypass that confidentiality because of a person's life being in danger. This is a difficult dilemma. How does one respect the confidentiality one receives and at the same time take into the account the life of a person where there is a clear and present danger to their life? This legislation presents that dilemma but I am in support of it, because I believe that abuse and/or neglect presents a clear and present danger to their life.

Ann Gilkey, Legal Council, Department of Family Services, gave written testimony in favor of HB #391. **EXHIBIT 1**

Opponents' Testimony:

Doug Kelley, Pastor, Helena Community Church, stated we are going to be backed into a process of breach of confidentiality. People come to a pastor or a priest and expect to be able to confide in us without worrying about confidentiality. It is unlike the social worker relationship, peace officer relationship, or the teacher relationship. People come to the confessional and pour out their souls and they come to repent. In this legislation we are saying the clergy should be included in persons required to report suspected child abuse and then in subsection (2) (h) it says "it is not intended to interfere with the practice of religion". I would submit to you that this is absurd. You cannot include us and at the same time say it will not interfere with our practice. Part of the practice of religion is confidentiality. To mandate that you are going to include clergy in all mandatory reporting you are going cause a tremendous conflict between the church and the state.

Sheldon Schearer, Pastor, stated he feels no one would not inform someone about a child being abused. We are coming to the point to breach of confidentiality and also the problem of church and state conflict. One of the things we take pride in here in Montana, is we have the opportunity of freedom and I believe we are causing problems when you get into that area. Most men of God are going to take those steps to insure a good life style for our little children and make sure they are not neglected or abused.

Dr. Richard Dion, Fairview Baptist Church, Great Falls, stated he feels the ministry is on trial today. There is not any pastor that is for child abuse. Pastors deal with families and still this area of confidentiality has not come up in all the years I have been a pastor. If there is a real problem, we will report it. Putting us under the obligations of reporting is not reasonable. Being a pastor is not a profession it is a vocation. I think this bill is ludicrous and the laws we already have in the state of Montana are sufficient.

Kenneth Moore, Pastor, First Christian Church, stated there has been occasions when I have observed child abuse that I have learned of such a situation and in each case I have reported it. I feel very strongly that child abuse is a problem we need to look at very seriously in our society to protect children. On the other hand, one basic foundation of our constitution is Freedom of Religion. By including clergy in this listing in the law would undermine that basic freedom. On that basis, I recommend this bill not pass.

Bryan Asay, Staff Attorney, Biblical-Legal Foundation, stated the committee should realize how difficult it is to stand in opposition to this bill because of the topic. There is always the fear that people will look at you and assume you are not concerned about the children as they should be. The church is in the business of protecting children and have been in that business much longer than the state of Montana. There are times when a horror story of this or that cult does something that is ridiculous or unscriptural and is not supportable by the word of God. Those horror stories become the basis for action in the legislature. "Unfortunately, I think that is what we have here today. I have not heard anybody complain about the church as an organization turning its back on child abuse or protecting child abusers or concealing abused children." The church is set in place to protect the children. The pastor is often called the shepherd of the church. Pastors do not counsel in addition to their role as a pastor, part of their job is being a counselor.

Bill Driscoll, Lawyer for Catholic Diocese, Helena, stated he is reluctant to rise in opposition of this bill because I understand the purpose it intends to accomplish and at that value level we can agree with the purpose of the bill. The unique problem this legislation creates for catholic priests arises from the fact that the Roman Catholic church has the Code of Canon Law. This law says a priest is obligated to maintain the utter confidentiality of anything a priest learns in confession. The sanction within the church, for a priest who discloses outside confession information learned, is excommunication. There is no way a priest could comply with any sort of disclosure requirement.

Questions From Committee Members:

REP. TOOLE asked Mr. Driscoll if given the inherent conditions that we list here, that there might be some way to modify what the statute requires by the way of details in the reports that are submitted by the enumerated professionals? Mr. Driscoll said he looked at the statute MCA 26-1-804 and that basically is an evidentiary statute that would prohibit a clergyman from testifying in court. An objection to a questions calling for this type of testimony would be sustained in court proceeding where a person is testifying under oath. " This legislation is not at that stage and I don't know that the statutory provisions defines any of it."

REP. CLARK asked Mr. Driscoll if he knows if the priest acting in a role of a counselor is bound by the same rules as he is in the confessional? Mr. Driscoll said the Canon Law provision are unique to the confessional setting. It is hard to separate when the counseling ends and the confession begins between a priest and a parishioner.

REP. CLARK asked REP. DARKO if she could answer the same question? REP. DARKO said, "not being a practicing Catholic, I wouldn't say that the confessional is the same setting as counseling." If someone comes into talk to their priest about a problem it is different than going to confession and asking to have them absolve their sins.

REP. WHALEN asked REP. DARKO how does this statute work presently in a situation such as yours being a teacher? REP. DARKO said the way it works is if we suspect child abuse we have an obligation to report it after we carefully and cautiously observe the situation to be sure it is happening. We don't jump right away. A child hides these situations and it is hard to prove they are being abused.

REP. JOHNSON asked Pastor Schearer if he takes the same action in reporting child abuse as Rep. Darko did as being a teacher? Pastor Schearer said if he suspects child abuse the church will step in and see if they can resolve the problem and if they can't they will report it to the proper authority.

Closing by Sponsor:

REP. DARKO stated there are other states that have this legislation and, "I am not sure what states do but I will check into it and have that information for executive session. I feel there isn't anyone that should not be required to report child abuse." It is in the best interest to protect the children.

HEARING ON HB #284
REVISE TIME CHILD SUPPORT TERMINATES

Presentation and Opening Statement by Sponsor:

REP. FOSTER, HOUSE DISTRICT 32, stated this bill address child support in divorce decrees. Currently the law provides that the support of the child terminates along with emancipation. This bill provides child support is terminated by child emancipation or graduation from high school, whichever occurs later. It provides protection for children by requiring child support through high school. Some concerns were raised about any possible abuse. I offered an amendment that requires proof of enrollment in high school whenever deemed necessary. EXHIBIT 2

Proponents' Testimony:

Esther Hahn, Townsend Resident, gave written testimony in favor of HB #284. EXHIBIT 3

Amy Pfeifer, Staff Attorney, Department of Social and Rehabilitation Services, gave written testimony in favor of HB #284. EXHIBIT 4

Opponents' Testimony: none

Questions From Committee Members:

REP. BOHARSKI asked Ms. Pfeifer what are the agreements in other states? Ms. Pfeifer said they vary across the board.

REP. TOOLE asked Ms. Pfeifer if she knew a Supreme Court ruling that said emancipation should not be lined up with 18. Ms. Pfeifer said maybe John MacMaster could answer that question, she wasn't sure.

Closing by Sponsor:

REP. FOSTER said concerning the retroactive applicability, asked the committee to go over this and find out what the ramifications are and consider that in the bill. Financial support should not be a matter of negotiation. We should at least provide financial support through high school graduation to insure the child will be taken care of.

HEARING ON HB #289, 291, 292
GEN. REVISE LAWS PERTAINING TO MARRIAGE TERMINATION
REQ. T.R.O. TO BE FILED IN JUSTICE CT. UNLESS CASE IN DIST. CT.
GOVERNMENTAL ENTITIES REQ. TO PAY CERTAIN COURT FEES

Presentation and Opening Statement by Sponsor:

REP. BENEDICT, HOUSE DISTRICT 64, stated he is here today on behalf of the Montana Clerk of the Court Association. These bills don't really make any broad changes to the judicial system that we know today, they are merely for clarification.

HB #289 is a housekeeping bill to clarify three areas relative to dissolution of marriage. The first change clarifies that filing for the declaration of an invalid marriage or legal separation is paid in the same manner as in a case of a filing fee for dissolution of marriage. The second change is the same and they merely reflect that same clarification. The last changes eliminate statutory requirement that the clerk of the court give notice of the entry of decree of legal separation.

HB #291 is a proposal to clarify that when a request for a temporary restraining order is made with the District Court Judge, it must be in a case which is filed before that judge. In all other cases the application for a temporary restraining order must be made with the Justice, City or Municipal Court. One amendment needs to be made to this bill. The addition to the words on line 21 following the word justice to add the words "city or a municipal". These additional courts were omitted by an oversight and they are clearly contemplated within the present statutes for the issuance of these ordinances. The purpose of this bill is to have the entire record in domestic relations in one file and before one court.

HB #292 is a bill that has a practical effect of clarify the fees which must be paid to the clerk of the court by other governmental entities and specifically require those entities to actually for photo copies, postage, certifications, and record searches. These activities and costs are expenses to the Clerk of Courts office and they significantly impact the budget.

Proponents' Testimony:

Tom Harrison, Montana Clerks of Court Association, stated HB #289 is mere clarifications and the elimination of the notice on a legal separation. HB #291 - these are basically what people refer to as self-help temporary restraining orders implemented by the person themselves and then implemented through local law enforcement for domestic disputes. HB #292 is merely a feed bill to try to help budgetary concerns by local government.

Clara Gilreath, Clerk of Court, stated she was in support of a three bills and would answer any questions.

Pat Bradly, Montana Magistrates Association, stated she was in support of this bill.

Opponents' Testimony: none

Questions From Committee Members:

HB #289

REP. MEASURE asked Ms. Gilreath what the filing fee is for a declaration of validity? Ms. Gilreath said it was \$70. REP. MEASURE then asked Ms. Gilreath if the purpose of the bill increasing it to \$100 is for the purposes of uniformity? Ms. Gilreath said yes.

HB #291

REP. TOOLE asked Mr. Harrison if the statutes reads in any case that's pending in District Court that is where the tr should be made, if it is not pending then in all other cases you go to the lower court. All other cases would include the case of nothing pending in Divorce Court, but the applications must be made in the lower court even if the divorce is later filed you are still stuck for your temporary orders in the City Court or where ever it is you initially started to seek these temporary restraining orders. This disturbs me. Mr. Harrison asked if he was saying in a case that was filed in the District Court then you have to go to the District Court and prior to a case being filed in the District court you would have to go to the lower court. REP. TOOLE said the wording needs to be changed. I am talking about the wording " in cases pending in the District Court" not the case in the District Court under this statute you are required to go to the lower court. Mr. Harrison said he understands and he agrees and if the committee is more comfortable with the word "file" because that is my intent. I suggest to change the word "pending" in line 15 and insert the word "filed".

HB #292 - no questions

CLOSING BY SPONSOR

REP. BENEDICT stated he would like to thank the committee for their interest in the bill and asked the committee to discuss these clarifications and give these bills a Do Pass.

EXECUTIVE ACTION ON #272

Motion: REP. BOHARSKI MOVED HB 272 DO PASS

Discussion:

REP. MEASURE stated this is a good bill but in section 10 on page 13, we need to change the order of the sections stating who gets paid. I feel the family is the most important factor of these four sections.

Motion: REP. MEASURE moved HB 272 be amended by changing "(d)" up to "(a)" in section 10 and renumbering the subsequent paragraphs from a to d.

Discussion:

REP. RICE stated section d does not have a percentage attached to it and I can foresee that they may take more than necessary and leave nothing for the other claimants. Is it Rep. Measures intention to cap that like the other ones are?

REP. MEASURE stated he is not sure where to cap that because we don't know what these individuals will receive in the way of wages. Maybe we could cap it at 75%.

REP. RICE stated maybe the committee should strike the reference to percentages all together and just list these in priority order.

REP. BOHARSKI stated he felt the 20% cap was placed in the bill for a specific reason and should be left in. Maybe we should strike the last words on line 12 on page 13 and putting a period after the word "expenses" and strike the rest of the line.

REP. LEE stated he felt if we change the purpose now we may interfere with the program as it was intended.

Vote: Motion failed 4 to 16 with Rep's: Measure, Russell, Wyatt and Whalen voting yes.

Motion/Vote: REP. RUSSELL moved HB 272 be amended by including Indian Tribe into the bill. With the committee's approval we will leave the wording up to John MacMaster. Motion carried.

Motion/Vote: REP. BROOKE moved HB 272 be amended on page 7 line 20 after "board" that the amendment would read "that will be gender balanced and allow for racial parity". Motion failed on a tie vote.

Motion/Vote: REP. BROWN moved HB 272 be amended on page 7, line 21 by striking "who" and inserting ", must, when possible, be

gender-balanced and have racial parity, and". Motion carried 16 to 4 with Rep's: Johnson, Clark, Boharski, and Keller voting no.

Motion: REP. DARKO moved HB 272 be amended with amendments by John Connor. EXHIBIT 5

Discussion:

John MacMaster said the only necessary amendments submitted by John Connor were 1, 3, and 4.

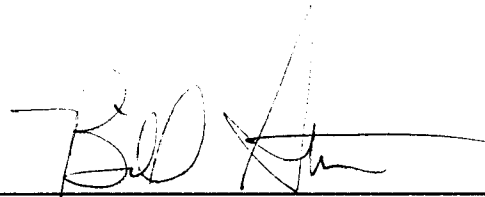
REP. DARKO withdrew her motion.

Motion/Vote: REP. DARKO moved HB 272 be amended with amendments 1, 3, and 4 by John Connor. Motion carried.

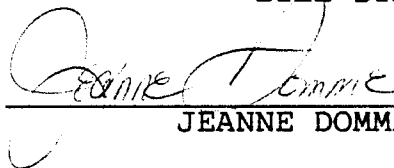
Motion/Vote: REP. BROOKE MOVED HB 272 DO PASS AS AMENDED.
Motion carried.

ADJOURNMENT

Adjournment: 10:55 a.m.



BILL STRIZICH, Chair



JEANNE DOMME, Secretary

BS/jmd

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE 1-30-91

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

HOUSE STANDING COMMITTEE REPORT

January 30, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that House Bill 272 (first reading copy -- white) do pass as amended.

Signed: _____
Bill Strizich, Chairman

And, that such amendments read:

1. Page 6, lines 7, 9, and 15.

Strike: "a crime"

Insert: "an offense"

2. Page 6, line 12.

Strike: "a crime"

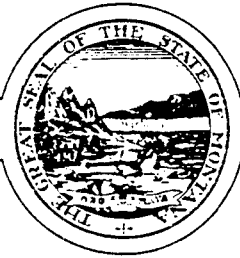
Insert: "an offense, other than an offense in which negligence is
an element of the offense,"

3. Page 7, line 21.

Strike: "who"

Insert: ", must, when possible, be gender-balanced and have
racial parity, and"

DEPARTMENT OF FAMILY SERVICES

EXHIBIT 1DATE 1-30-91HB 391

STAN STEPHENS, GOVERNOR

(406) 444-5900

STATE OF MONTANA

P.O. BOX 8005
HELENA, MONTANA 59604

TESTIMONY IN SUPPORT OF HB 391
AN ACT TO INCLUDE CLERGY
AS MANDATORY REPORTERS OF CHILD ABUSE OR NEGLECT

Submitted by Ann Gilkey, Legal Counsel
Department of Family Services

The Department of Family Services supports HB 391. Child abuse and neglect is a harsh reality for many young Montanans. As concerned citizens, we must all do what we can to stop the abuse of children. Montana law provides that certain professional persons are required to report child abuse if they know or have reasonable cause to suspect that a child is abused or neglected. This requirement extends to medical personnel, school personnel, peace officers, social workers, day care providers and foster parents.

Mental health professionals, such as counselors, are specifically named as persons who must report. When clergy learn of, or come to suspect child abuse, it is typically through counseling. There is no reason to exclude clergy from the mandatory reporting requirement. Like other professionals involved in counselor-client relationships, the clergy should be called upon to report. The Department of Family Services urges your support of HB 391.

EXHIBIT 2
DATE 1-30-91
HB 284

Amendments to House Bill No. 284
First Reading Copy

Requested by Rep. Foster
For the Committee on Judiciary

Prepared by Susan Fox
January 28, 1991

1. Page 3, lines 1 and 2.

Following: "later"

Strike: "1 but not by"

Insert: ". Whenever necessary, proof of enrollment in high
school must be provided. Provisions for the support of a
child do not terminate upon"

EXHIBIT 3
DATE 1-30-91
HB 284

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

MY NAME IS ESTHER HAHN. I AM A RESIDENT OF THE TOWNSEND AREA IN BROADWATER COUNTY, AND I AM HERE IN SUPPORT OF HOUSE BILL 284. I BROUGHT THIS MATTER TO THE ATTENTION OF REPRESENTATIVE MIKE FOSTER, AS RESULT OF A RECENT CIRCUMSTANCE IN MY OWN LIFE REGARDING THE WELFARE OF MY TWO TEENAGE CHILDREN.

AS YOU MAY KNOW, SECTION 40-4-203, SUB PARAGRAPH 5 OF THE MONTANA CHILD SUPPORT LAW NOW STATES THAT CHILD SUPPORT IS PAYABLE UNTIL "EMANCIPATION OF THE CHILD" UNLESS OTHERWISE STATED IN WRITING AT THE TIME OF THE DIVORCE. I, LIKE MANY OTHER WOMEN WHO END UP IN DIVORCE, AM NOT KNOWLEDGEABLE REGARDING THE LANGUAGE OF THE LAW IN THIS AND MANY AREAS, AND AM THEREFORE DEPENDENT UPON OUR LAWYERS AT THE TIME OF THE DIVORCE TO COVER ALL BASES TO PROTECT THE RIGHTS OF OURSELVES AND ESPECIALLY OUR CHILDREN. "EMANCIPATION" WAS NOT EXPLAINED TO ME AT THE TIME OF MY OWN DIVORCE AS MEANING THE SAME AS THE "AGE OF MAJORITY", OR MORE SPECIFICALLY, THE "AGE OF MAJORITY" WAS NOT EXPLAINED AS BEING 18 AND NOT 21. MR. WEBSTER DEFINES EMANCIPATION AS "TO SET FREE; RELEASE FROM BONDAGE; TO FREE FROM RESTRAINT OR INFLUENCE". THEREFORE, I LOGICALLY ASSUMED A CHILD WAS EMANCIPATED ONLY WHEN HE LEFT HOME AND WAS NO LONGER DEPENDENT UPON PARENTAL SUPPORT. AT THE TIME OF MY DIVORCE, I MISTAKENLY BELIEVED MY CHILDREN WOULD BE SUPPORTED BY BOTH PARENTS UNTIL THEY GRADUATED FROM HIGH SCHOOL.

MY SON TURNED EIGHTEEN LAST NOVEMBER 25TH AND ON DECEMBER 1ST WE FOUND HIS CHILD SUPPORT CUT OFF WITH NO WARNING. THE LEGAL OBLIGATION WAS OVER, BUT WHAT ABOUT THE MORALE OBLIGATION? MY SON WAS DEVASTATED AND FELT HIS FATHER HAD ABANDONED HIM. THE EMOTIONAL UPSET ^{AND MENTAL ANGUISH} HE SUFFERED

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1-30-91
HB 284

CAME AT A TIME WHEN HE SHOULD HAVE BEEN ENJOYING HIS LAST YEAR OF HIGH SCHOOL, FREE TO CONCENTRATE FULLY ON HIS STUDIES, ETC., WITHOUT THE UPSET OF LEARNING HIS FATHER'S LEGAL OBLIGATION TO HIM WAS OVER AND THAT HIS FATHER FELT NO MORAL OBLIGATION TO HELP ME SUPPORT OUR SON UNTIL HE GRADUATED IN JUNE 1991. THE FINANCIAL LOSS CAME AT A TIME WHEN MORE MONEY THAN EVER IS NEEDED TO TAKE CARE OF ALL THE ~~HIDDEN~~ ^{VARIOUS} EXPENSES OF A HIGH SCHOOL SENIOR. I HURT FOR MY SON. HE HAD JUST BEEN UNFAIRLY VICTIMIZED BY A LAW WHICH HAD NO PROVISION TO PROTECT HIM UNTIL HE GRADUATED FROM HIGH SCHOOL. I MADE MANY CALLS TO LAWYERS TO DISCOVER THE LAW WAS ON HIS FATHER'S SIDE AND THERE WAS NOTHING I COULD DO TO ASSURE MY SON ADEQUATE FINANCIAL SUPPORT FROM BOTH PARENTS UNTIL GRADUATION, BECAUSE EVEN THOUGH I HAD MADE IT CLEAR TO MY LAWYER AT THE TIME OF THE DIVORCE THAT I WISHED MY CHILDREN SUPPORTED THROUGH HIGH SCHOOL BY BOTH PARENTS, THE FINAL DECREE WAS NOT WORDED TO PROVIDE FOR MY CHILDREN PAST "EMANCIPATION" OR "AGE OF MAJORITY". HOW UNFORTUNATE THAT I WAS NOT AWARE OF THIS FLAW IN MY DIVORCE SETTLEMENT IN 1981 UNTIL 1990. AND IN TWO YEARS WE STAND TO SUFFER DOUBLE JEOPARDY BECAUSE MY DAUGHTER'S BIRTHDAY IS ALSO IN NOVEMBER, AND SHE WILL BE 18 1/2 YEARS OLD WHEN SHE GRADUATES FROM HIGH SCHOOL. SHE IS ALREADY ANXIOUS OVER THIS SITUATION, DREADING THE TIME WHEN SHE WILL FEEL THE SAME REJECTION.

I HAVE A VERY STRONG SENSE OF RIGHT AND WRONG, AND I FEEL IT IS EVERY PARENT'S OBLIGATION TO SUPPORT THEIR CHILD IN EVERY WAY UNTIL THAT CHILD HAS GOTTEN THE EDUCATION HE NEEDS TO SURVIVE ON HIS OWN IN THIS WORLD. TO HAVE A LAW THAT READS "EMANCIPATION" AND MEANING "AGE OF MAJORITY", WHEN THAT AGE OF MAJORITY IS ONLY 18 YEARS OF AGE IS UNJUST TO EVERY CHILD, AS THE MAJORITY OF CHILDREN ARE OVER AGE 18 WHEN THEY GRADUATE FROM HIGH SCHOOL. MANY CHILDREN EVEN GRADUATE AT AGE 19, DUE

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1-30-91
HB 284

TO CIRCUMSTANCES OF THEIR AGE WHEN ENTERING SCHOOL, OR MISSING SCHOOL DUE TO ILLNESS, ETC. AND HAVING TO BE HELD BACK A YEAR OR SO. WE MUST PROTECT THE RIGHTS OF ALL CHILDREN WHO ARE VICTIMS OF DIVORCE AND WHO ARE ATTEMPTING TO RECEIVE THEIR HIGH SCHOOL EDUCATIONS.

I HAVE BEEN INFORMED THAT MANY PARENTS WILLINGLY CONTINUE TO HELP THEIR CHILDREN PAST THE AGE OF MAJORITY AND ONLY A SMALL PERCENTAGE DO NOT. BUT WHAT ABOUT THE CHILDREN OF THAT SMALL PERCENTAGE? THERE ARE THOUSANDS OF CHILDREN IN MONTANA WHO QUALIFY TO FALL VICTIM TO THIS LAW IN THE FUTURE SHOULD THERE ALSO BE FLAWS IN THEIR PARENTS DIVORCE SETTLEMENTS. DO THOSE CHILDREN DESERVE TO SUFFER THE CONSEQUENCES? NO! LET'S GIVE OUR CHILDREN THE BEST CHANCE WE CAN FOR A FUTURE BY MAKING PROVISIONS IN THE LAW NOW TO GUARANTEE THEM THE SUPPORT THEY DESERVE UNTIL THEIR HIGH SCHOOL EDUCATIONS ARE COMPLETE. LET'S MAKE BOTH PARENTS RESPONSIBLE FOR THE WELFARE OF THE CHILDREN THEY BOTH BROUGHT INTO THE WORLD. AND TO FURTHER PROTECT OUR CHILDREN, SHOULD YOU AGREE THIS AMENDMENT TO THE EXISTING LAW IS IMPORTANT, I URGE YOU TO ALSO PROTECT THE CHILDREN WHO ARE ALREADY VICTIMS OF DIVORCE AND WHO HAVE NOT YET REACHED THE AGE OF 18 AS OF THE EFFECTIVE DATE OF THIS NEW LAW, BY INCLUDING THEM IN THE PROTECTION OF THIS LAW. A CHILD WHOSE PARENTS HAVE ALREADY BEEN DIVORCED FOR SEVERAL YEARS MAY NOW STILL BE A TODDLER, BUT HE SHOULD BE PROTECTED NOW TO ENSURE HIS WELFARE THEN, IF POSSIBLE.

HOUSE BILL 284 IS VITALLY IMPORTANT TO THOSE OF US WHO DO FEEL A DEEP MORALE OBLIGATION TO GIVE OUR CHILDREN A BETTER LIFE. IT WOULD ALSO RELIEVE SOME RESPONSIBILITY OFF THE SHOULDERS OF DIVORCE LAWYERS WHO HAVE SO MANY THINGS TO CONSIDER TO BEST SERVE THEIR CLIENTS, THAT IF THIS ONE ISSUE WERE OVERLOOKED, THE CHILD WOULD NOT SUFFER YEARS DOWN THE ROAD AS RESULT OF THE OVERSIGHT, AS IT WOULD ALREADY HAVE BEEN

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1-30-91

HB 284

TAKEN CARE OF BY THE MONTANA LAW, AS IT SHOULD BE.

I SUPPORT HOUSE BILL 284, AND PRAYERFULLY URGE YOU TO DO THE SAME.

THANK YOU FOR YOUR TIME.

DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION

EXHIBIT 7
DATE 1-30-91
HB 284

STAN STEPHENS
GOVERNOR

JULIA E. ROBINSON
DIRECTOR



State of Montana

(406) 444-4614
(406) 444-1970 (FAX)

P. O. BOX 5955
HELENA, MONTANA 59604

January 30, 1991

To: House Judiciary Committee

From: K. Amy Pfeifer, Staff Attorney, Department of Social and Rehabilitation Services, Child Support Enforcement on behalf of the Child Support Enforcement Division

Subject: HB 284 - An Act to Provide that Child Support is Terminated by a Child's Emancipation or Graduation from High School, Whichever Occurs Later

The Child Support Enforcement Division (CSED) of the Department of Social and Rehabilitation Services appears before this committee on HB 284 to provide information concerning the CSED's authority to enforce a Montana child support debt that accrues for the period beyond the child's emancipation. Due to the definition of "child" provided by MCA '40-5-201(2), the CSED cannot at the present time provide child support enforcement collection services when the debt is due for a period after which the child reached 18 or otherwise emancipated. This definition does not prevent the CSED from collecting a past due debt, even after the child emancipates, as long as the debt accrued for periods before emancipation.

Certainly, should this bill become law, the child support creditor would be free to pursue their own enforcement action for the debt due for the period after the child reaches 18 or emancipates.

Proposed Amendments to HB 272

Page 6, line 7.

Following: "(a)"

Strike: "a crime"

Insert: "an offense"

Page 6, line 9.

Following: "a"

Strike: the remainder of line 9 and all of lines
10 and 11.

Insert: "forcible felony as defined in 45-2-101 (22), MCA."

Page 6, line 12.

Following: "(b)"

Strike: "a crime"

Insert: "an offense, other than an offense in which
negligence is an element,"

Page 6, line 15.

Following: "a crime"

Strike: "a crime"

Insert: "an offense"

Page 6, line 24.

Following: "'Offender'"

Insert: "as used in this act"

Page 11, line 1.

Following: "placement"

Strike: "a nonviolent"

Page 11, line 2.

Strike: "felony"

Insert: "an"

Following: "offender"

Insert: "who has not committed a crime of violence"

John Connor
Department of Justice
444-2026

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Judiciary COMMITTEE BILL NO. HB#391
DATE 1-30-91 SPONSOR(S) Rep. Dzeko

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Bryan Asay	Biblical-Legal Foundation		X
John Madsen	Self	X	
Ann Gilkey	Dept. Family Services	X	
Doug Kelley	Mt Helena Community Church		X
Kenneth W. Moore	First Christian Church		X
Richard Dion	Fairview Bapt Church GT Falls - Mt		X
S.C. Scheerer	HERITAGE BAPTIST CHURCH GT FALLS, MT		X
Gaye Sandholm	SELF	X	
Judith Carlson	MT CHP, NASW	X	
John L. Ostrowski	mt Catholic Cong		X
Paul Juncoll	Self		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Judiciary COMMITTEE BILL NO. 457-284
DATE 1-30-91 SPONSOR(S) Rep. Foster

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[illegible]

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Judiciary COMMITTEE BILL NO. HB# 289
DATE 12-30-91 SPONSOR(S) Rep. Benedict

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Clara Gilreath	Clerks of Court	<input checked="" type="checkbox"/>	<input type="checkbox"/>
JUDY HARRIS		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Tom Harrison	Mt. Clerks of Ct Assoc	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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