

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
53rd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON JUDICIARY**

**Call to Order:** By CHAIRMAN RUSSELL FAGG, on January 26, 1993, at 8:00 a.m.

**ROLL CALL**

**Members Present:**

Rep. Russ Fagg, Chairman (R)  
Rep. Randy Vogel, Vice Chairman (R)  
Rep. Ellen Bergman (R)  
Rep. Jody Bird (D)  
Rep. Vivian Brooke (D)  
Rep. Bob Clark (R)  
Rep. Duane Grimes (R)  
Rep. Scott McCulloch (D)  
Rep. Jim Rice (R)  
Rep. Angela Russell (D)  
Rep. Tim Sayles (R)  
Rep. Liz Smith (R)  
Rep. Bill Tash (R)  
Rep. Howard Toole (D)  
Rep. Tim Whalen (D)  
Rep. Karyl Winslow (R)  
Rep. Diana Wyatt (D)

**Members Excused:** Rep. Dave Brown (D)

**Members Absent:** None.

**Staff Present:** John MacMaster, Legislative Council  
Beth Miksche, Committee Secretary

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

**Committee Business Summary:**

Hearing: HB 215  
Executive Action: None.

**HEARING ON HB 215**

**Opening Statement by Sponsor:**

**REP. VIVIAN BROOKE, HD 56, Missoula. A BILL FOR AN ACT  
ENTITLED: "AN ACT REVISING THE LAW OF DEVIATE SEXUAL CONDUCT**

BY DECRIMINALIZING CONSENSUAL SEXUAL RELATIONS BETWEEN PERSONS OF THE SAME SEX; AMENDING SECTIONS 27-2-216, 41-3-102, 45-1-205, 45-2-101, 34-2-103, 45-2-104, 45-5-505, 46-16-216, 46-18-201, 46-18-303, 46-23-502, 50-20-109, AND 61-5-405, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

This bill has generated a lot of controversy and attention. REP. BROOKE hopes, along with other proponents, it will bring clarity and understanding to a simple request to repeal the law.

REP. BROOKE asked the audience to try and understand the simplicity of the bill. The heart of this legislation is on page 6, lines 2-4. This definition has been eliminated, and with it, the felony statute is also eliminated. The definition which was struck on lines 3 and 4 define the crime from which there is no victim, but there is a punishment of ten years or \$50,000 or both. However, because this law is on the books, there has been victimization of innocent law-abiding citizens. Those in the legal profession will expand on this area, and some of the victims will also testify.

The AIDS virus has become enemy number one. Many times the victims of AIDS are targeted as the enemy. During the hearing, REP. BROOKE encouraged the audience to remember, it's the virus that is the enemy, not the victim of the virus. The proponents of HB 215 firmly believe its passage will eliminate one barrier to the defeat of the virus. The repeal is only one barrier, there are many, many more. She realizes most people are not naive to think that the repeal will guarantee a total elimination of the virus. The repeal only allows one barrier to be removed in this battle. She warned the audience that they will hear opponents' testimony that states repealing this law will cause greater incidence of AIDS. The statistics show the Dakotas and Wyoming, with no such laws on the books, have the lowest incidence of AIDS. The South, where the laws are the toughest, have the highest incidence of AIDS. However, there are so many variables regarding the virus that it is difficult to analyze these facts in such a narrow scope. Health professionals testified and included exhibits further in this area. EXHIBIT 1.

In conclusion, there are constitutions providing for the protection of individual rights and the protection of the minority. Determination is made by majority rule, but with that majority rule, there is an absolute ultimatum that rule cannot trample the rights of the minority.

#### Proponents' Testimony:

Holly Franz, Women's Law Section, State Bar of Montana.  
EXHIBIT 2.

John Conner, appearing on behalf of Montana Counties Attorney's Association. HB 214 deals with a criminal statute, and Mr. Conner's purpose was to present, to the committee, a

perspective to the criminality of the offense that's defined as deviant sexual conduct. During Mr. Conner's 18 years experience working with the criminal justice system, he has never been aware of any criminal prosecution that occurred under this standard with respect to consensual sex acts. There have been prosecutions under this statute, or acts that have not been consensual in nature, and the statute is brought about to cover those acts. There are also other statutes such as sexual intercourse without consent, sexual assault, and incest which provide greater penalties for those kinds of non-consensual acts. The problem with this statute from a prosecution perspective, is that it is simply not enforceable. In order to convict one of a criminal act, there must be proof beyond a reasonable doubt, and in order to obtain proof beyond a reasonable doubt, there must be evidence to convince a jury or a court. Obtaining evidence of a consensual act, whether it be sexual or otherwise, is virtually impossible. It becomes particularly difficult when seeking evidence about consensual acts that occur in private, and Mr. Conner suspects that any effort to obtain evidence to substantiate prosecution may indeed impede our constitutional rights of privacy. He pointed out that when there is a consensual act such as this, the act involves two persons who are, in effect, by definition of law, accountable for or accomplices in the commission of the offense. Under Montana law, a person cannot be convicted of a criminal act solely out of testimony from an accomplice. There has to be sufficient corroborating evidence, and that corroborating evidence has to be more than just evidence than the fact that an act occurred, and the perspective defendant's testimony has occurred. From Mr. Conner's perspective, this statute presents some very real practical problems in its enforcement, and the Montana Counties Attorney's Association does not think it is enforceable when it comes to the aspect of the time to prosecute the defense.

**Samantha Sanchez, Board of Directors, Montana Civil Liberties Union and representing the American Civil Liberties Union. EXHIBIT 3.**

**Bob Johnson, Director of Lewis and Clark City/County Board of Health. EXHIBIT 4.**

**Revel Miller, Ph.D., Clinical Psychologist, Helena. EXHIBIT 5.**

**Bruce Desonias, past president of Montana Public Health Association. EXHIBIT 6.**

**Peter Shober, University Congregational Church, Missoula, Montana. EXHIBIT 7.**

**Ken Toole, Montana Human Rights Network. The network is a statewide organization which dedicates itself to ending the efforts of statewide hatreds in the state of Montana. Vicious attacks and the most violent acts of the hate movement are directed towards gay men and lesbians. The Network spends a lot**

of time analyzing the tactics and trends in the racist community and know that they use fear and ignorance to recruit. They look for issues which enable them to appear as though they are public mainstream, and they target groups of individuals that they believe are isolated and powerless in society. By labeling homosexuals as criminals, society is conveying the message that they are not a part of our community, that they are outside the system and do not enjoy the same protection most of people take for granted. This is a basic human rights issue, and it is the Network's opinion that gay men and lesbians have a right to equal protection under the law and should not be treated as criminals.

Floyd Cochran, offered personal solicitation of support.  
EXHIBIT 7.

Curt Nelson, offered personal solicitation of support. EXHIBIT 8.

Lorene (wishes to remain anonymous), offered support for HB 215.  
EXHIBIT 9.

Steve Betts, Associated Students University of Montana.  
EXHIBIT 10.

Corky Smith, offered personal solicitation of support.  
EXHIBIT 11.

Ellen Leahy, Health Officer, City-County Health Department,  
Missoula, Montana. EXHIBIT 12.

Linnea Wang, Clerk of Helena Worship Group. EXHIBIT 13.

Micki Wolstad, offered personal solicitation of support.  
EXHIBIT 14.

Debra Dawson, Missoula Women for Peace, Branch of Women's  
International League for Peace & Freedom. EXHIBIT 15.

D. Starshine, Ph.D., High School Teacher, Helena School District.  
EXHIBIT 16.

Carl J. Donovan, President of the Board of Directors, ACLU of  
Montana, Great Falls. EXHIBIT 17.

Opponents' Testimony:

Joseph A. Zavaletta, Attorney at Law, Billings. EXHIBIT 18.

Frederick N. DeMato, Jr., Liberty Baptist Church, Helena.  
EXHIBIT 19.

Mark H. Mozer, Ph.D., Clinical Psychologist, Helena. EXHIBIT 20.

Beverly Oard, private citizen, Great Falls. EXHIBIT 21.

Tom Green, private citizen. EXHIBIT 22.

B. John Heetderks, M.D., Board Certified-American Board of Family Physicians. EXHIBIT 23.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. RICE said that the most significant decision on the record at this point in the United States Supreme Court, is it has indicated that homosexuality is not a civil right. In the area of health, homosexuals currently have the right to be tested for the HIV virus. REP. RICE believes the 1991 Legislative Session regarding executive prosecution for people seeking treatment of testing for HIV solves that problem. In the area of violence, he agrees with REP. BROOKE that the passage of this law will not solve that issue, nor endorse it. REP. RICE is more concerned about the effort to endorse the teaching of alternative life style living in the schools. He asked REP. BROOKE if she endorses the teaching of alternative lifestyle living in the schools. REP. BROOKE said she has not reviewed the school curriculum, nor is she an expert on this issue. She said this is an issue for the curriculum committee within the local school districts. That decision and that approval goes to those committees who wish to bring that decision forward to the appropriate committee level.

REP. CLARK asked REP. BROOKE how long this current law has been in effect in Montana. REP. BROOKE said that the history of this bill was part of a criminal code revision and accepted in the early Seventies. At that time, there was discussion about a repeal. The members of that committee, and those who had worked for many years on the bill, were afraid that if the section was stricken from the bill, it would open a lot of controversy. There had been discussion, at that time, that the repeal should be eliminated. REP. CLARK said there has been a lot of violence in the past decade concerning this issue and asked Rep. Brooke if she was aware of any cases of violence and if these people were prosecuted? REP. BROOKE knows of one incident that occurred on the University of Montana campus. A student who was openly gay who lived in the dormitory was harassed. She believes there was some destruction to his dorm door and other parts of his room. The people who had done the damage were never prosecuted. Mr. Toole said this is an issue that the Network has been very conservative about. Montana doesn't have any hate crime enforcement, so it's very difficult to get a handle on how much of this kind of violence goes on in Montana. The Network has antidotal kinds of evidence, i.e. referrals, etc. It is aware of at least four different incidences in the state in the last two years, and none of those have been prosecuted.

REP. TOOLE asked Mr. Conner what constitutes a problem, and how difficult is it to develop a case to enforce this statute?

Mr. Conner said it's difficult to obtain adequate evidence, and law enforcement cannot prove probable cause to justify a conviction.

REP. BERGMAN asked Dr. Heekderks, since the gay community can already get AIDS testing, what is the bill going to change if it is repealed. He said changing the bill should not do anything different.

Closing by Sponsor:

REP. BROOKE emphasized that AIDS has been confused and stigmatized in this hearing. She also stressed the fact that the segment of the population that had experienced the greatest increase in AIDS were heterosexual women. REP. BROOKE pleaded that people cannot force their moral codes on each other, and it is her opinion that society should not put this moral code in the law. This law does not give gays and lesbians special laws, only equal rights.

ADJOURNMENT

Adjournment: 10:00 a.m.

Russell C. Fagg  
RUSSELL FAGG, ~~Chair~~  
Beth Miksche  
BETH MIKSCH, Secretary

RF/bcm

# HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL

DATE

January 26, 1993

NAME	PRESENT	ABSENT	EXCUSED
Rep. Russ Fagg, Chairman	✓		
Rep. Randy Vogel, Vice-Chair	✓		
Rep. Dave Brown, Vice-Chair			✓
Rep. Jodi Bird	✓		
Rep. Ellen Bergman	✓		
Rep. Vivian Brooke	✓		
Rep. Bob Clark	✓		
Rep. Duane Grimes	✓		
Rep. Scott McCulloch	✓		
Rep. Jim Rice	✓		
Rep. Angela Russell	✓		
Rep. Tim Sayles	✓		
Rep. Liz Smith	✓		
Rep. Bill Tash	✓		
Rep. Howard Toole	✓		
Rep. Tim Whalen	✓		
Rep. Karyl Winslow	✓		
Rep. Diana Wyatt	✓		

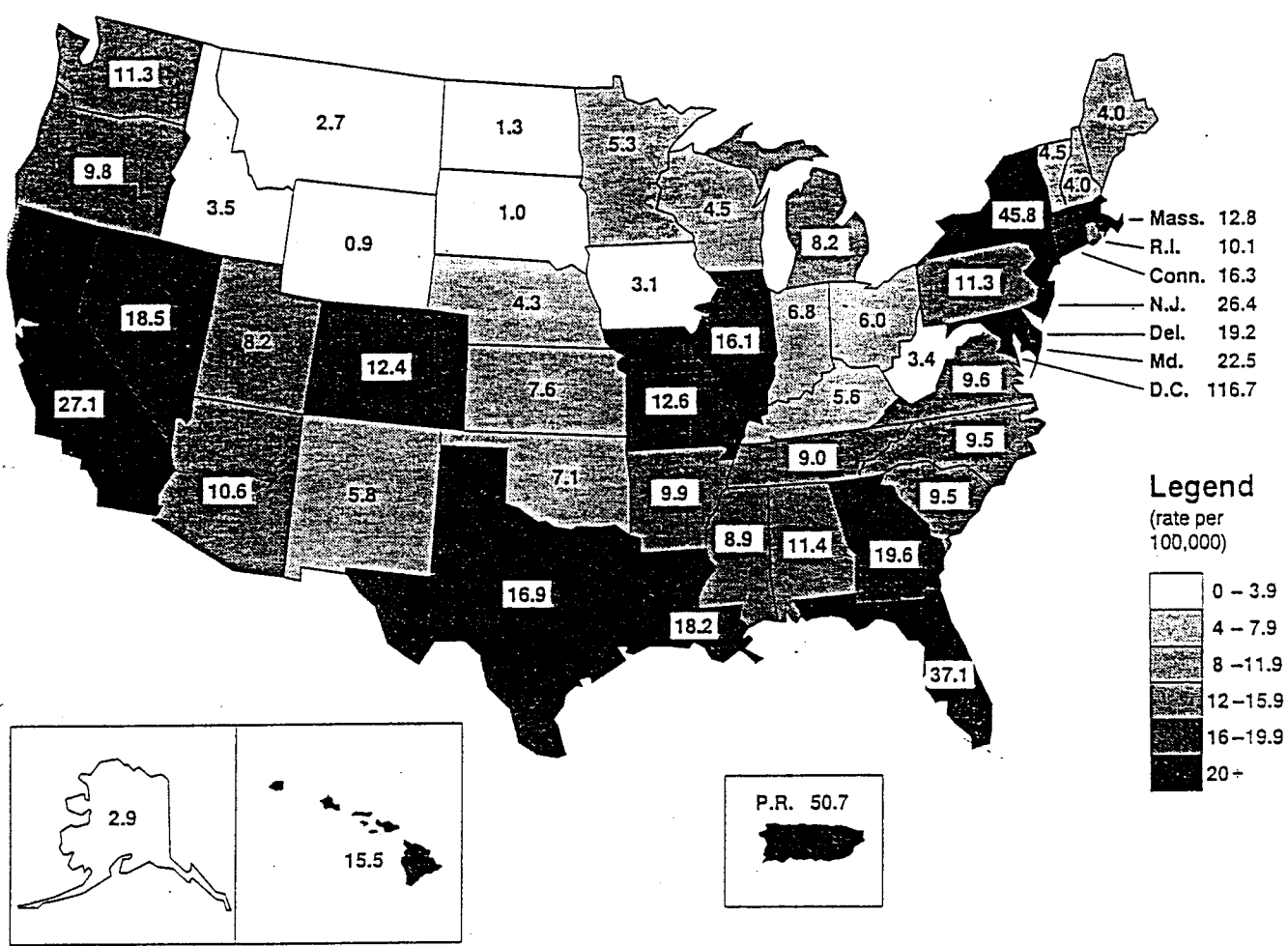
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CS-09



Figure 1. AIDS annual rates per 100,000 population, for cases reported October 1991 through September 1992, United States



Bruce,  
 There are 3 states with a lower incidence rate than MT - all three have fewer cases as well. WYO, ND, SD have no "Sodomy" legislation. Recent trends reflect the largest growth in the south, where almost every state has such laws. The arguments don't make sense.

- Biterosexual and homosexual sodomy law
- Unfree state
- ▣ Homosexual sodomy law only
- Unfree state
- No sodomy law
- Free state

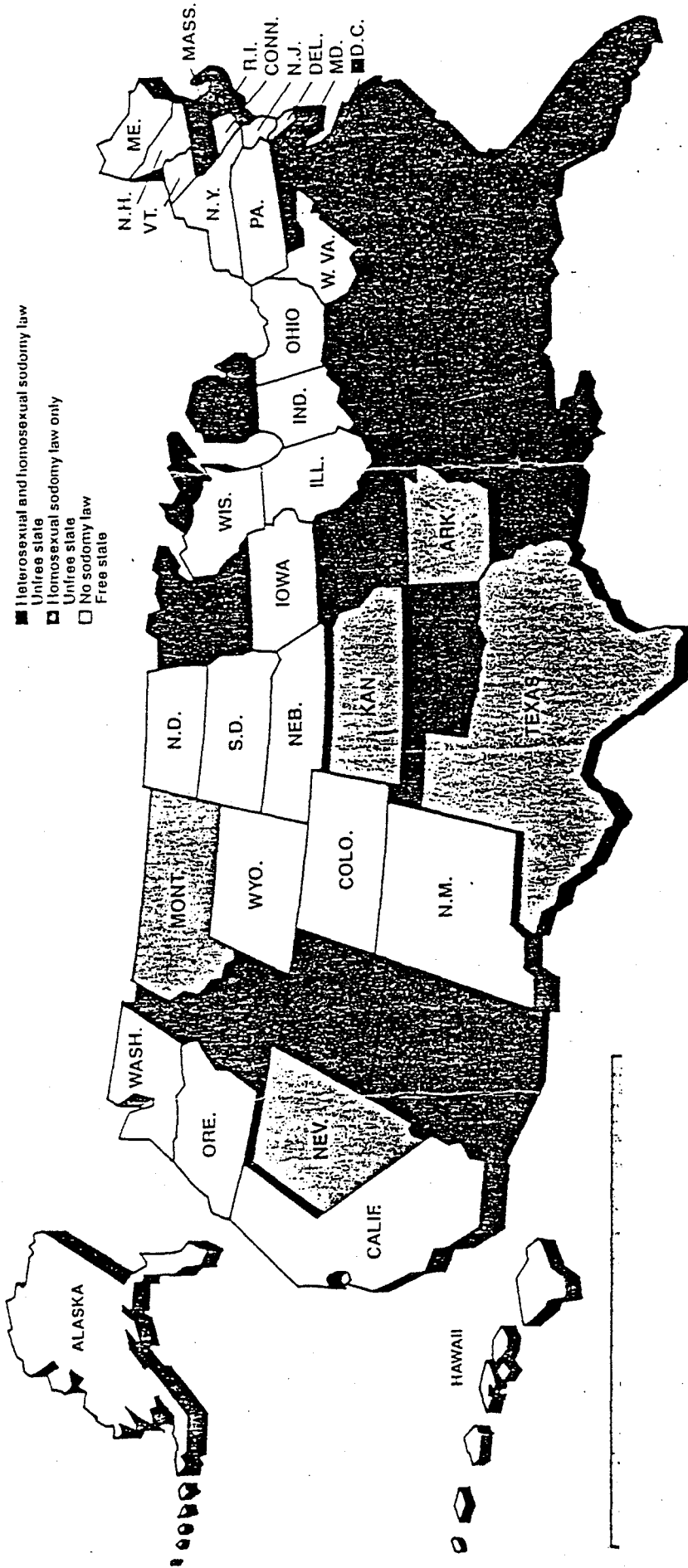


EXHIBIT 2  
DATE 1-26-93  
SB HB 215

# WOMEN'S LAW SECTION

## STATE BAR OF MONTANA

### TESTIMONY IN SUPPORT OF HOUSE BILL 215

My name is Holly Franz. I am testifying on behalf of the Women's Law Section of the State Bar of Montana. The Women's Law Section strongly urges the passage of House Bill 215.

As explained by Representative Vivian Brooke, House Bill 215 decriminalizes adult consensual homosexual relations. This bill only impacts private, consensual conduct between adults. It has no impact on Montana's existing rape statutes. Despite the passage of this bill, it will continue to be a crime to force a person of the same gender to have intercourse without consent. Likewise, it will continue to be a crime to have sex with a child or a mentally defective person who cannot legally consent to sex. These nonconsensual activities will continue to be criminal.

The issue before the legislature is not whether or not one approves of homosexuality. Lesbians and gay men will continue to be born and have loving relationships regardless of whether this bill passes. The issue is also not whether a particular religious view supports homosexuality. Many activities, such as divorce and adultery, are condemned by many religions, and yet they are not defined as criminal.

The sole question before the legislature is whether it is appropriate for private, consensual relations between adults to be defined as a crime. The answer is a resounding No. The difference between criminal and noncriminal sexual acts is consent. Where there is no consent, a crime has been committed. Where there is consent, there is no crime. The state has no legitimate business in the private bedrooms of consenting adults. Cries of morality and decency do not overcome an individual's right to privacy, particularly in the State of Montana where we cherish our privacy and have provided strong protection for it in our Constitution.

As early as 1955, the Model Penal Code, adopted by the American Law Institute, recommended the decriminalization of private, consensual sexual conduct between adults of the same gender. The American Law Institute has been joined by the American Bar Association, the American Psychiatric Association, the American Medical Association and a host of other groups in urging the decriminalization of homosexuality. The majority of the states, including Washington, Oregon, Wyoming and North and South Dakota, have heeded the call and decriminalized adult consensual homosexual relations. It is time for Montana to join her sister states and repeal this archaic law.

Exhibit 3  
1-26-93  
HDB 215

Mr. Chairman, Members of the committee, my name is Samantha Sanchez and I am here today as a member of the Board of Directors of the Montana Civil Liberties Union. I represent the ACLU in supporting the repeal of the sexual deviancy statutes and I would like to specifically address the constitutionality of the existing law. It seems, almost beyond a doubt, to violate the Montana Constitution.

The Montana Constitutional guarantee of freedom of privacy is one of the strongest guarantees of that right in the United States.

It states, in Art II, section 10, that "The right of individual privacy is essential to the well-being of a free society and shall not be infringed without the showing of a compelling state interest." This protection is much stronger than the federal one -- in fact, the federal right to privacy is not even stated in the federal constitution, it is merely implied, so the well-known 1986 case of Bowers v. Hardwick in which the U.S. Supreme Court upheld a Georgia sodomy statute, is not controlling here.

The Montana constitution requires a *compelling state interest* be shown to justify any infringement of the individual right to privacy, a very difficult test to meet, while the Court in the Hardwick case subjected the Georgia statute to a much looser test called the *rational relationship test*, that is, that the state has a rational reason for the statute.

That language in the Montana Constitution tells us that personal privacy is to be accorded the highest level of constitutional protection possible, not a simple balancing test where the interests of the individual can be compromised to provide a greater benefit on the state. Those two tests are well known in constitutional law and the thousands of cases that have been decided under the equal protection clause demonstrate the wide chasm between them.

I won't bore you with the details. I will simply quote one prominent constitutional writer, Prof. Gunther, who has observed that those cases requiring a showing of a compelling state interest the statute almost always loses while in those involving a rational relationship, the statute almost always wins. So make no mistake that

Hardwick was decided on an completely different basis than the one on which our statute would be tested.

And indeed, even using that easier test, three states (Kentucky, Texas, Michigan) have recently struck down sodomy statutes, so Hardwick is being ignored even when the reasoning is relevant.

Our constitutional provision has been interpreted using a two part test: (1) whether the person involved has a subjective or actual expectation of privacy and (2) whether society is willing to recognize that expectation as reasonable.

I think we would all agree that we consider our bedrooms very private places. The Supreme Court recognized that expectation of privacy, even though none is specified in the U.S. Constitution, in Griswold v. Connecticut in which a statute was struck down that prohibited the use of contraceptives, even by married couples. The Supreme Court recognized that there are certain types of authority that citizens cannot be presumed to cede to the government. The very fact that these statutes are not enforced, here or elsewhere, testifies to the public distaste for this level of intrusion in our personal lives.

A turn of the century Kentucky case involving a sodomy statute expressed it well:

“Man in his natural state has the right to do whatever he chooses and has the power to do. When he becomes a member of organized society, under governmental regulation, he surrenders, of necessity, all of his natural right the exercise of which is, or may be, injurious to his fellow citizens. This is the price that he pays for governmental protections, but it is not within the competency of a free government to invade the sanctity of the absolute rights of the citizen any further than the direct protection of society requires....It is not within the competency of government to invade the privacy of a citizens life and to regulate his conduct in matters in which he alone is concerned, or to prohibit him any liberty the exercise of which will not directly injure society.” Commonwealth v. Campbell 133 Ky. 50 (1909)

In conclusion, it is my opinion that the statute is clearly unconstitutional and if it were ever taken to the Supreme Court, the State would lose a long and costly fight.

LEWIS AND CLARK  
CITY-COUNTY HEALTH DEPARTMENT

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City-County Building  
316 North Park  
Box 1723  
Helena, Montana 59624  
Telephone 406 / 447-8357

January 27, 1993

M E M O R A N D U M

TO: House Judiciary Committee Members  
FROM: Bob Johnson, Health Officer, Lewis and Clark County  
DATE: January 27, 1993  
RE: House Bill 215

H.B. 215, a bill that would decriminalize homosexual relations between consenting adults, should be passed into law.

The present law makes a felon out of every consenting homosexual. Homosexual behavior between consenting adults is not destructive. It does not cause public health problems. It creates no victims. It impacts nobody other than the consenting participants.

Consensual sex causes public health problems only when it is practiced in an unsafe manner. The key factor here is that unsafe sex practiced by anybody, heterosexual or homosexual, is the cause of the public health problems, not homosexuality.

Making consenting adult homosexual relationships a crime forces that behavior underground and out of reach. The present law creates a significant barrier to effectively carrying out the always difficult task of combating the spread of AIDS and other sexually transmitted diseases.

The prejudice and discrimination caused by Montana's unwillingness to understand homosexuality cause far more serious public health problems than any law that outlaws the practice of consensual homosexual relationships can pretend to cure.

Our present law is a significant and unnecessary barrier to the proper application of public health epidemiological tools.

Public health problems cannot be solved through the application of medical and biological sciences alone. Every public health problem must always be studied, understood and attacked in the bright

TESTIMONY IN SUPPORT OF HB 215

January 26, 1993  
Revel Miller, PhD  
Clinical Psychologist  
Helena, Montana

I am Dr. Revel Miller, a clinical psychologist practicing in Helena, and I am here as a concerned citizen in favor of House Bill 215. I wish to present my understanding of the current perspective on homosexuality based upon the results of psychological research and the viewpoint of mainstream mental health practitioners in America.

First, homosexuality is not considered to be a mental disorder. By 1975 both the American Psychiatric Association as well as the American Psychological Association concluded that homosexuality was no longer a pathological sexual disorder and they both actively tried to dispel the social stigma of homosexuality. By 1980 it was removed from the diagnostic manual that describes all categories of mental disorders.

Second, no significant data has concluded that sexual relationships between consenting same sex partners causes impaired judgement, emotional instability, poor employment performance or criminal behavior. However, it is generally believed by most members of the mental health professions that psychological repression of harmless sexual acts and deprivation of love and intimacy, as well as social oppression and criminal threats may all cause undeserved psychological distress in an individual man or woman who lives a gay lifestyle. Therefore, they are at risk to experience anxiety, depression and social isolation.

Third, in regard to clinical treatment, I know of no reputable clinical methods or programs that attempt to "cure" homosexuality. The popular goals of treatment involving gays today are more likely to focus on adjustment to an alternative lifestyle that necessitates coping with treats of discrimination and fears of physical harm and social rejection.

Finally, I believe that there are great advantages to freedom of expression within reasonable limits and that freedom and tolerance creates healthier people and a more productive, stimulating and compassionate society. And, the right to freedom is the heart of the vision of this country and this state; it takes courage and foresight to protect and to allow it. As time passes, values, morals and perspectives change. And now it is time that we recognize that homosexuality is not a real threat to our country, and that this minority of individuals deserves the same freedom, privacy and equal protection as the majority.

Thank you.

Testimony Presented to the Montana Legislature  
Re: Changes in the Sexual Deviancy Law  
January 26, 1993

EXHIBIT #6  
DATE 1-26-93  
\$B AB 215

Rev. Peter S. Shober  
University Congregational Church (UCC), Missoula, Mt.

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I sit before you today as a pastor who feels deeply called to this issue. I am but one voice echoing the convictions of scores of other pastors and thousands of other church people in the state of Montana who, increasingly, have come to see the injustice, irrelevance and, indeed, the absurdity, of our present deviancy law.

I speak today not so much on deviancy, as I do on decency. The decency held within the promise of equality for all. I speak today not on lifestyle, but on just law...

I come before you today as well, with a petition/Pastoral Letter distributed just last week, with the signatures of over 65 pastors and Women Religious of Montana. The petition sets forth contentions based on the faith of those who signed it. I ask that you take the time to read that Pastoral Letter of Concern. (Attached)

That Pastoral Letter was written by myself and the Rev. Arnie Bergland of St. Paul's Lutheran Church in Missoula who, regretfully, could not be here today. He wants me to share these words with you:

"Dear Judiciary Committee,

I regret that I am unable to be with you today. I do appreciate that you are willing to hear my voice. I also appreciate that you are willing to struggle with this issue with an open mind and an eye towards what is just, fair and good public policy for the the State of Montana.

On April 22, 1992 My brother Jon died of AIDS. He was probably infected in 1985. He was so afraid of the results of the HIV testing that he did not get tested until 1990. He lived in a state where his homosexuality was not illegal. Because of Montana's law I seriously wonder if he would ever had been tested. The implications of this in terms of public health are staggering. If for no other reason than public health our sexual deviancy laws need revision.

There are other issues of concern. The letter of Pastoral Concern that we have submitted outlines these rather well. The idea that there are those who risk discrimination in the workplace and in housing because of their adult consensual behavior should bother all fair minded people. The idea that the present law encourages hate crimes, violence, fear and prejudice should be abhorrent to all who love justice.

It is my sincere hope that you will see fit to pass these revisions to the Montana Sexual Deviancy law. I hope you will do that out of a sense of justice and fair play. It is the right thing to do, it is the loving thing to do.

Sincerely,

Rev. Arne C. Bergland"



My friends, Rev. Bergland and I speak not on behalf of any particular group, but as part of all the citizens of Montana each of whom is diminished when the rights of any of us are unjustly denied. We speak out because as pastors, we are called to speak and act whenever the rights and respect due to any of God's children are infringed upon.

Clearly, my study of scripture, the traditions of my church, the historical age in which we live and the movements of God's Spirit in my particular life has called me to speak and bear witness to what I feel is grievously wrong. I speak from the context of my religious beliefs, and through that faith I have learned that the pervasiveness of fear can never be the foundation on which a full and just life can be established.

It is my contention that misplaced fear is the basis for this existing law. Fear of diversity, fear of change, fear of entering the light of a new day that is filled with the promise of hope for people who, for many reasons, have been cast out of the embrace of justice. Today we are faced not so much with a controversy as we are with an opportunity -- an opportunity to create laws that reflect both current reality and future hope.

I close with a story from Mother Teresa who, when asked what one should do to live a good life said "Well, that's easy -- you should spend an hour a day on your knees in prayer, and not do anything wrong on purpose." It would be purposefully wrong for me not to speak today, and I believe you all have an opportunity to do something purposefully right with this proposed change. Scripture teaches us that "perfect love casts out fear." All of us in this room could testify we live in a divided house right now -- all of us are afraid -- and through our deliberations today we would all do well to find ourselves on our knees in humility and hope. A hope that tomorrow will bring about a world that is more just and more fair for the children to whom it will be given. Thank you.

An Open Letter  
of Pastoral Concern to the  
MONTANA STATE LEGISLATURE

EXHIBIT 6  
DATE 1/26/93  
HB 215

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As representatives of various religious communities and traditions in the State of Montana we submit this letter, with signatures, in both hope and prayer that it will encourage the legislators of our state to enact a revised law regarding sexual deviancy. It is our contention that the existing law is at once archaic, unenforceable, unjust and poses profound health concerns for the people of Montana.

**WE SPEAK WITH THE CONVICTIONS OF OUR FAITH IN ADDRESSING THIS ISSUE:**

For too long the label of "felon" has helped to create a context of fear and misunderstanding both within and outside the homosexual community.

For too long homosexual persons have been hesitant to seek health care and testing for AIDS and other sexually transmitted diseases due to their legal status in this state.

For too long an archaic and unenforceable law has hindered our judicial and law enforcement systems and contributed to undue confusion, prejudice, and exists beyond the appropriate purview of the state.

For too long injustice has been given validation through an unjust law in denying equal access to housing, jobs and security discrimination, harassment and even violence with little hope for legal recourse.

Therefore, be it resolved that we, the undersigned Clergy and Women Religious of the State of Montana urge the Montana Legislature to adopt revisions in deviant sexual conduct legislation, thus decriminalizing homosexuality in the interest of social justice and good sense.

Sincerely,

The signatures of these individuals  
are on file with Rev. Peter Shober

University Congregational Church  
405 University Avenue  
Missoula MT 59801

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<u>NAME</u>	<u>CITY</u>	<u>DENOMINATION</u>
Rev. Barbara Archer	Butte	United Church of Christ
Rev. Timothy Bauer	Great Falls	ELCA
Rev. Lon Bechtel	Great Falls	ELCA
Rev. William Burkhardt	Billings	United Church of Christ
Rev. Arne Bergland	Missoula	ELCA
Dr. Elizabeth Olsen, BVM	Missoula	Msla Ministerial Assoc.
Sr. Marie L. Corr, BVM	Missoula	Msla Ministerial Assoc.
Rev. Amy Carter	Butte	United Church of Christ
Rev. Vaun Dalee DeLong	Sunburst	United Methodist
Rev. Earl Derviler	Great Falls	United Methodist
Rev. Daniel Dixon	Missoula	1st Christian Church
Rev. Jerry Ebbinga	Great Falls	ELCA

<u>NAME</u>	<u>CITY</u>	<u>DENOMINATION</u>
Rev. Richard Gay	Ronan	United Methodist
Rev. Dave Greep	Superior	United Methodist
Rev. Evert Gustapson	Glasgow	United Methodist - UCC
Rev. Donald Guthrie	Missoula	Holy Spirit Episcopal
Rev. Robert Hall	Choteau	Roman Catholic
Rev. Lyle Hamilton,	Missoula	United Methodist
District Superintendent	-	-
Rev. George Harper	Helena	United Methodist
Rev. Gina Hartung	Great Falls	Metropolitan Community
Rev. Gary Hawk	Helena	United Church of Christ
Rev. Richard Hayes	Great Falls	ELCA
Rev. Steven Hermes	Stevensville	United Methodist
Rev. James Hogan	Missoula	Christ the King Church
Rev. Robert Holmes	Helena	United Methodist
Rev. Fred Michael Huskey	Hamilton	United Methodist
Rev. Terry Jimmerson	Missoula	St. Anthony Catholic
Rev. Carolyn Arness	Fairfield	ELCA
Rev. Dolores Kimsey	Great Falls	Disciples & UCC
Rev. Thomas King	Missoula	Evangelical Covenant Church
Rev. William Kliber	Livingston	United Methodist
Rev. Carliss Kruse	Power	United Church of Christ
Rev. Linda Alice Lang	Bozeman	United Methodist
Rev. Ronald Franklyn Lang	Bozeman	United Methodist
Rev. David Larson	Great Falls	
Rev. Henry Littlehales	Missoula	Presbyterian Church USA
Rev. Grace Lorenz	Missoula	Disciples of Christ
Rev. Scott Ludford	Great Falls	ELCA
Rev. Donna Lee Martin	Browning	United Methodist
Rev. Paul Murphy-Geiss	Billings	United Methodist
Rev. Gail Murphy-Geiss	Billings	United Methodist
Rev. Edward Folkwein	Whitehall	United Methodist
Rev. David Ophus	Missoula	ELCA
Rev. David Orendorff	Helena	United Methodist
Sr. Janice Wedl, OSB	Missoula	Msla Ministerial Assoc.
Peter Shober, Pastor	Missoula	United Church of Christ
Rev. Tom Peterman	Billings	ELCA
Rev. James Peterson	Great Falls	United Church of Christ
Rev. Jim Pruiiaial	Butte	CBA
Rev. Roger Robinson	Corvallis	United Methodist
Rev. Gayle Sandholm	Helena	United Methodist
Rev. John Schaeffer,	Billings	United Church of Christ
Conference Minister	-	-
Sr. MaryJo McDonald, SCR	Butte	Catholic
Rev. Martin Siebert	Big Timber	United Church of Christ
Rev. Lauren Small	Billings	United Church of Christ
Sr. Sharon Smith	Butte	Catholic
Bishop Mary Ann Swenson	Yellowstone	Conference Montana
		United Methodist
Rev. James Taylor	Billings	American Baptist
Rev. Robert Thaden	Miles City	United Church of Christ
Rev. Dr. Keith Torney	Billings	United Church of Christ
Rev. Douglas Vold	Missoula	ELCA
Ms. Dorothy Woods Whiston	Missoula	President Ministerial Assoc Rev.
Rev. Fletcher Wideman	Great Falls	United Methodist
Rev. Jan Witman	Missoula	United Methodist
Rev. Philip Word	Butte	ELCA

20



# County of Yellowstone

CITY-COUNTY HEALTH DEPARTMENT



POST OFFICE BOX 35033  
BILLINGS, MONTANA  
59107

EXHIBIT 6A  
DATE 1-26-93  
HB 215

January 25, 1993

Rep. Vivian Brooke  
The House Judiciary Committee  
Capitol Station  
Helena, MT. 59620

RE: Decriminalize Homosexual Relations

Dear Rep. Brooke:

The Yellowstone City-County Health Department is in favor of decriminalizing homosexual relations due to public health issues. We feel that the current law regarding homosexual behavior discourages individuals from accessing the health care system for testing, counseling, and ongoing care for fear of legal prosecution.

Sincerely,

*Lil Anderson/R.N.*

Lil Anderson, R.N.  
Executive Director

LA/cr

EXHIBIT 7

DATE 1-26-93

198 215

My name is Floyd Cochran, for over twenty years I was a believer in white supremacy. From 1990 to July 1992, I lived and work at the Aryan Nations compound located in Hayden Lake, ID. The last year and half I worked as the National spokesman and political coordinator for Aryan Nations. I no longer believe in or espouse racism.

Last year at this time I was attending the Annual Homecoming of the KU Klux Klan, in Pulaski, Tenn. At that time the Grand Dragon of the Klan publicly stated that "Gays and lesbians where disease riddin scum", some of the people were praising God for AIDS and praying for the death of innocent people.

Here in Montana and other parts of the Pacific Northwest, I knew that I could make similar statements with impunity, that I could call for the death of people and our elected representatives and community leaders would say and do nothing. When we allow law abiding citizens to be frightened into fear for their lives, you send out a very powerful message, that it is alright to deny people their rights to life, liberty, and pursuit of happiness.

All across America, Montana is known for it's natural beauty and spirit of independence. Independence that extends into all facets of one's private life. Independence that is free from discriminatory and unjust laws, and independence that is free from organized hate, whether they dress in sheets and carry a cross, or three piece suits and carry a bible.

As a former racist I know that in states where there was strong anti-hate laws, where our leaders took a stand that gay bashing was unacceptable, it was a powerful deterrent. Conversely, where state laws made gay men and lesbians criminals, I felt that my hatred was not only acceptable, but condoned.

I have spoken to many groups of people here in Montana, under the auspices of the Montana Human Rights Network and the Center for Democratic Renewal, and it is my desire to use my knowledge and experience in the racist movement to educate all people in Montana about the growing danger that organized hate poses.

You as leaders set the standard, you are able to explore that which is different rather than to fear the unknown. And together, you and I and the citizens of Montana, can make a positive change in society and learn to embrace a spirit of equality, a spirit of God that transcends all people, regardless of **RACE - FAITH - GENDER - SEXUAL ORIENTATION.**

EXHIBIT 8  
DATE 1-26-93  
HB 215

Kurt Nelson  
41 Lewis Avenue  
Billings, Montana

My name is Kurt Nelson and I am here to testify in favor of House Bill 215 to repeal the Deviate Sexual Conduct Law.

Gays and lesbians in Montana have lived under a constant threat of criminal action for many years but never before has the threat been accompanied by such blatant hatred, intolerance and lies currently being spread under the guise of christianity.

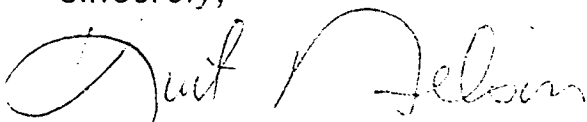
Groups like the Ku Klux Klan and the Christian Coalition ask you to oppose this legislation by perpetuating the lie that all homosexuals are child molesters when in actuality 98% of child molesters are heterosexual. They also claim that homosexual sex is responsible for the AIDS epidemic and ask you to oppose this bill for health reasons. This too is a lie as more than 90% of AIDS cases worldwide are the result of heterosexual sex.

The law that we seek to amend describes contact between two consenting adults of the same sex as deviate contrary to The American Psychiatric Association that has stated that homosexuality is neither deviate nor unnatural. I implore you to listen to the physicians.

The law also dehumanizes gays and lesbians and subtly perpetuates the myth that they deserve to be victimized. Last Monday evening I felt the full extent of this victimization when I received a flyer from the local chapter of the Ku Klux Klan calling for the death penalty for all homosexuals and I was listed by name because of my work to promote the civil rights of gay people. I know that by speaking out about human rights for all people I am a threat to the intolerance and hatred that they seek to perpetuate.

I challenge you to look beyond your own prejudices and send a message to groups like the Ku Klux Klan and the Christian Coalition that Montana will not stand for their kind of hate.

Sincerely,



# Oregon Citizens Alliance --- SAVE THE CHILDREN

Dear Fellow Christian.

As you know, we members and supporters of the O.C.A. have long been engaged in a Holy War against the "MILITANT HOMOSEXUAL LOBBY" and their pedophillic agenda to legalize sex with our minor children. Many lessons have been learned. We know that fighting the devil and his homosexual disciples within our political system is fruitless. Their perverted lobby, Satanic in nature, is extremely powerful and cannot be overcome or changed through man's laws alone. They can and will be defeated when all Christians unite. We must observe and implement God's methods to exterminate homosexuals as laid out and proscribed to us in detail by our Heavenly Father as found in His Holy Bible.

Execution - Castration - Imprisonment - God's solutions!! Plain and Simple. The Bible commands you to raise up the "Sword of Righteousness" and slash the throat of the perverted heathen. Show your compassion for the soul of the tortured homosexual by bleeding him... to his death. This is an act of True Mercy. You have freed this possessed pervert. "So Commandeth Your Holy Father".

We all realize this is a difficult Commandment to adhere to as we are compassionate children of a kind God, but you must remember, We are the only true children of God and we have been commanded by God himself through the Bible to seek out and destroy those who would rape and recruit our male children. Jehovah compels us to protect our children. Remember Sodom and Gomorrah.

Demonstrate your love for Jesus and for your children! The hope for a future without homosexuals is dependant on your faith and willingness to implement our Heavenly Father's plan as laid out in our Holy Bible.

Join us in our Blessed Crusade to Save The Children Of Oregon.

Support the OREGON CITIZENS' ALLIANCE.

A public service message brought to you by the Ecumenical Christian Council and the many supporters of the Oregon Citizens' Alliance.

For more information please contact your local branch of: The Oregon Citizens' Alliance.

Should you know the names of suspected or self admitted homosexuals, please send their names, addresses and phone numbers to the O.C.A. Homosexual Names Collection Division (H.N.C.D.) in your area.

IN JESUS' NAME  
GOD BLESS YOU

( 6 )

EXHIBIT 8  
DATE 1/26/93  
- 110215 -

original  
was yellow  
there was a  
box of Kleenex  
in Salem  
library during  
the last week  
in May.

MISSOULIAN EDITORIAL

# Prudish law doesn't work

State hasn't the means or any business policing bedrooms

**T**he Montana House of Representatives has decided one of the great non-issues of our time: An archaic law prohibiting homosexual sex will remain on the books.

It is something less than a great moral victory.

Health advocates had sought a change in the law in hopes of removing fear of criminal prosecution as a reason deterring homosexuals from being tested for exposure to the AIDS virus, or from ensuring that partners of people who test positive for the AIDS virus are informed of their exposure. Only through efforts to make people aware of their potential to spread the disease can health officials hope to bring the AIDS epidemic under control.

That apparently isn't reason enough to alter a throwback law that presumes the sexual activities of consenting adults are the government's business.

The need to do all that is reasonable to prevent the spread of AIDS is reason enough to change the law. While AIDS testing and counseling are conducted under procedures that assure confidentiality, it's not unreasonable to suspect that some gays may forgo testing in the belief the law against homosexuality could put them in legal jeopardy.

But there's a simpler and far better reason why the law should be stricken: It isn't enforced and is, in fact, virtually unenforceable. The law does no good.

The mind boggles at the thought of the lengths our constabulary would have to go — the depths to which it would have to stoop — to ensure Montanans weren't sleeping with Montanans with similar chromosomes. The fact is our criminal justice system has its plate full enough with activities that actually protect and serve the public.

Life would be no worse, and our code books a lot thinner, if the Legislature would divest itself of laws that can't be enforced.

8  
DATE 1/26/93  
HPB 215



8/24/92  
Missoulian

## MISSOULIAN EDITORIAL

# Sex law is unnecessary

### Local health officials are right to line up on the repeal side

**M**issoula health officials say they'll work to push the Legislature to repeal Montana's law that criminalizes homosexual acts because the law discourages people from obtaining the care and counseling needed to combat AIDS and other sexually transmitted diseases.

The city-county Health Department's concerns comprise a legitimate and compelling argument against Montana's "deviate sexual conduct" law, which makes same-gender sex a felony punishable by up to 10 years in prison and \$50,000 in fines.

Faced with the potential for such penalties, it may be surprising that homosexuals in this state ever cooperate with public health agencies, much less turn to them for help and advice. Education and counseling are probably the best means of controlling the spread of AIDS and other sexually transmitted diseases.

However, the possibility that fear of criminal prosecution deters people who need AIDS counseling and care from seeking it is scarcely the only reason why the sexual conduct law ought to be stricken from the books. There are other good reasons.

Like the fact the law gives government the frightening role of bedroom monitor.

And that there is no way to enforce the law, even if authorities tried. As a matter of fact, the law is not actively enforced. It simply exists as a symbol of the Legislature's official disapproval of homosexuality. Expression of moral indignation is not the proper purpose of criminal statutes.

To those who believe such laws are necessary, we'd point out the obvious fact that decriminalizing homosexuality isn't the same as encouraging the practice.

The law does absolutely nothing to deter people from pursuing their sexual imperatives, but it can interfere with attempts to combat AIDS and other diseases. The Health Department should be encouraged in its efforts to have the law repealed.

# MONTANA

## Society speaks

### Quaker statement condemns discrimination against homosexuals

By BILL SKIDMORE  
Missoulian State Bureau

After 10 years of effort, Montana Quakers have succeeded in getting the North Pacific Yearly Meeting of the Religious Society of Friends to adopt a statement supporting same-sex relationships and opposing discriminatory laws against them.

About 300 Quakers from Washington, Oregon, Idaho, Wyoming and Montana — representing some 800 Quakers in the region — met in Dillon last week. The Heartland Friends meeting (or congregation), consisting of Quakers in Great Falls, Helena, Bozeman, Livingston, Butte, Deer Lodge and Dillon, proposed the statement supporting the equality of all people, including sexual minorities, last March.

The statement was sent to 43 other groups in the region before the Dillon meeting, where it was adopted with minor changes.

Although some local groups of Quakers

**‘W**e oppose all legislation or policy which disparages lesbians, gay men, bisexuals or transsexuals or abridges their constitutional or civil rights’

— Quaker statement

have held marriage ceremonies for same-gender couples, Quakers in Helena said last week was the first time a larger group was able to reach consensus. They said the Heartland Friends meeting has been pushing for such an agreement since the early 1980s.

Because Quakers have no hierarchy, the statement is a suggestion to other Quakers, not a prescription.

But the statement urges Quakers to use it to “support change in the repressive law in Montana.”

Montana law prohibits “sexual conduct or sexual intercourse between two persons of the same sex or any form of sexual intercourse with an animal,” and it specifies a penalty of up to 10 years in prison and a fine of up to \$50,000.

Although other states have sodomy laws, research for a 1990 Missoula criminal case indicated Montana is the only state with an outright ban on all homosexual acts.

“We oppose all legislation or policy which disparages lesbians, gay men, bisexuals or transsexuals or abridges their constitutional or civil rights,” the statement said.

There are about 110,000 Quakers in 35 different Yearly Meetings across the United States.

An attempt to repeal Montana’s law failed in the 1991 Legislature. The Montana Women’s Lobby and other groups intend to push for repeal in the 1993 session.

EXHIBIT 8  
DATE 1/26/93  
HB 215

## If all came out of the closet ...

**G**ay-bashing is on the rise. Reports of violence increased by 31 percent last year, according to the National Gay and Lesbian Task Force, with assaults ranging from graffiti to arson, taunts and scuffles to outright savagery. The gay and lesbian community, says Task Force spokesman Robert Bray, is "a community under siege."

Young whites who go out and beat up gays on a Saturday night may be the most visible offenders, but the mainstream is not without its own currents of loathing. Saying "this lifestyle is wrong," a grass-roots



**'ASTA  
BOWEN**

group has set out to repeal gay rights laws in Oregon. The University of Colorado football coach, while claiming he would not discriminate against a gay player, calls homosexuality "an abomination."

Admitted gays still are not accepted into the armed forces, and homosexual males can't join the Boy Scouts.

Some bashers, because of their religious principles, believe that fighting

homosexuality is a moral imperative. At the other extreme, there are activists who believe that fighting for the rights of millions of gays is an equally moral imperative.

But too many of us, neither gay nor inclined to bash, keep a polite distance from it all. We listen with one ear, if any, to the ugly statistics on the news and the faggot jokes at the office. Some of the most fair-minded people, while insisting on equality for blacks and women, fall strangely silent when it comes to gays. For Anita Hill, the outrage echoed from sea to shining sea; what do we feel for Julio Rivera, who was bludgeoned with a claw hammer and stabbed to death simply because he loved men?

Outrage would be appropriate. Outrage for all the murders, threats, and ugly stares; outrage at the fact that gays, like women and blacks, can't walk safely on some streets. Outrage that so many gays, unlike blacks and women, must pretend to be someone they are not.

But outrage is not what we hear. What we hear, in Bray's words, is an "appalling silence among otherwise decent people."

Those people are silent for a reason. We are silent for the same reason that so many gays stay in the closet: There is real danger in coming out. Speak in defense of gays, and our own sexuality may be questioned; we may be blackballed by our neighbors, judged unfit with children, blistered by sermons. To speak in defense of gays is to invite the very hatred we protest, and to taste, however faintly, the bitter prejudice endured by some 20 million Americans.

In such an atmosphere, only the boldest activists and most virulent bashers speak their minds. The rest of us, straight and gay alike, take refuge behind our closet doors, unwilling to step out into the hail of homophobic bullets.

So the bashing goes on, and we suffer along with our friends. Yes, friends: If you have more than a dozen friends in this world, chances are that someone you care about is gay. It might be that wonderful teacher you had in college, or the dear old man next door; it might be your sister-in-law; and it might be your son. Whoever they are, they live in the shadow of that deadly claw hammer, enduring threats against their person, home, job, family and friends — all because of who they are and how they love.

Gay-bashing may be on the rise, but thankfully, so is gay pride. Fortune Magazine pictured a gay executive on its December cover, an issue devoted to the topic, "Gay in Corporate America." Gay men and lesbians are becoming more and more visible, attending rallies by the millions, coming out to friends and co-workers, risking the bullets for the sake of freedom.

Non-gays can help by coming out, too: out of our closets of silence. Blacks did not end slavery without the help of fair-minded whites. Women did not win the vote without the help of fair-minded men. Perhaps gays can win freedom without the help of fair-minded straights—but they shouldn't have to.

To all who believe gay-bashing must stop: Come out, come out, wherever you are.

EXHIBIT

DATE

SB

9  
1-26-93  
HB 215

1

Mr. Chair, Members of the Committee...

My name is Lorene. I have lived in Montana for 13 years and I lived and worked in Basin for 5 of those years.

I want to talk to you today about what it feels like to be harassed because of my sexual orientation.

The experience I wish to share is part of a series of events of harrassment that took place 10 years ago in Basin.

I was out for my usual walk from my house to downtown Basin when I was accosted by one of the most aggressively antagonistic men in Basin.

I filed a police report immediately after the incident and kept a record of exactly what was said to me.

He said, and I quote "time is running short." I asked him what he meant by that, and he said, quote "the sisterhood is gonna end. It's about time the vigilantes got started up around here again. I hear tar and feathers are hard to get off, and I hear bullets are hard to get out."

He went on to say "I hope you like tar and feathers. Well, enjoy it while it lasts, your time is running out."

For me this encounter added a great deal to the fear I had already experienced. Up to that point I was mainly concerned with my house being burned down, now I began to fear for my life.

I want all of you to know how terrifying it is for me to talk here today in such a hostile environment, and to tell everyone here my name, knowing there are many among you who will once again judge me by my sexual preference, without ever having seen me as anything other than an object of hate and misunderstanding.

I feel by keeping this law in place, it encourages oppressive behavior. I urge you to repeal this law.

# ASUM

EXHIBIT 10  
DATE 1-26-93  
~~HB~~ HB 215

Associated Students  
University of Montana

Suite 105  
University Center

Missoula, MT 59812  
(406) 243-2451

To: Members of the House Judiciary Committee

From: The Associated Students of the University of Montana

Re: HB 215

The Associated Students of The University of Montana have hereby voiced thier support for HB 215, the repeal of the deviate sexual conduct law. Our reasons for doing so are numerous, and span the range from health concerns to the belief that no one, and especially the government, has the right to regulate what happens in a private citizen's bedroom. Our foremost concern, however, rests in our desire to maintain an atmosphere of higher education where each person is free to express themselves according to their own privately held beliefs. It is hypocrisy to believe that we as students can learn to respect our fellow human beings while being part of a state sponsored University system that sanctions bigotry, misogyny, and hatred of those who are different. We look with ahborrence upon those who would force thier narrow religion-based views upon those who do not share in their opinions.

J.P Betts, ASUM Senator

*J.P. Betts*

The Associated Students of  
The University of Montana

EXHIBIT

DATE

11  
1-26-93  
#B 215

Mr. Chairman and members of the committee, my name is Corky Smith. I have raised three children in Montana; they attended schools in Sanders County, where they were athletes, musicians, honor students and 4-H members. They went on to college and jobs just like many of your kids. My daughter and one son now live in Montana, where their rights and privileges are protected by Montana law.

Their brother Aaron, lives out of state since the same Montana legal system that protects his brother and sister would persecute and threaten him because he is gay. Homosexuality is not a problem for Aaron, living in a state where he is a criminal is a problem.

Our family has strong traditional values--personal integrity, ethics, compassion and respect for others. My son Aaron is part of this family and shares these same values. And our family is just one of approximately 50 to 75,000 families in Montana who have gay, lesbian and bisexual members--Aunts, uncles, sisters, brothers, grandparents--75,000 families who are trying to maintain loving relationships while the current law gives license to others to discriminate against our cherished family members.

There are groups in existence who through fear, misconceptions, myths, are trying to force their own definitions of family and morality--their own "special rights" into our constitution--into our lives. Denying my son and others the protection, dignity and privileges guaranteed all other citizens of Montana. Why are these "pro-family" groups trying to polarize our families?

I am a volunteer member of P-FLAG--Parents and Friends of Lesbians and Gays--an international organization that promotes the well being of gay, lesbian and bisexual persons, their families and friends through support, education and advocacy. I concur with a statement adopted by P-FLAG which I will read:

"We love, respect and support our gay, lesbian and bisexual children. We denounce and will strongly resist any effort to label them as less than the responsible citizens and caring family members we know them to be.

It is a deliberate falsehood to equate homosexuality with child abuse, recruitment or depravity in order to promote religious based discrimination against healthy and productive citizens. These distortions and misinformation are not supported by fact or reputable scientific research."

I called my son Aaron last night and asked for his help on this testimony. I said, "How in only 90 seconds can I help others start to learn and understand this issue? How can I help convince a committee of adults, many parents just like me, that this law needs to be repealed?" A long silence followed. His final reply was simple, "Ask them why Mom, why can't I come home as myself--be with my family--live unafraid--and why do they fear me and label me a criminal for just being who I am?"

MISSOULA  
COUNTYTO: REPRESENTATIVE  
BROOKECITY-COUNTY HEALTH DEPARTMENT  
301 W. ALDER  
MISSOULA, MONTANA 59802

(406) 721-5700

January 25, 1993

The Honorable Representative Russell Fagg, Chair  
House Judiciary Committee  
Montana State Legislature  
Capitol  
Helena, MT 59620

EXHIBIT 12  
DATE 1-26-93  
~~SB~~ HB 215

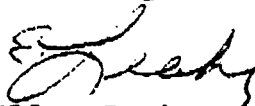
Dear Chairman Fagg:

I write in SUPPORT OF HB 215 to decriminalize consensual sexual relations between persons of the same sex. As a local public health officer, I find the current law to be a profound barrier to protecting the populace from HIV and other sexually transmitted diseases.

The position of the Missoula City-County Board of Health is that criminalizing same-sex consensual behavior among adults discourages people from coming forward to seek the care and counseling needed to control sexually transmitted diseases. Our stance is a pragmatic one. We find that a number of immovable barriers already exist regarding HIV. These include the fact there is no treatment nor vaccine for the disease and there are no symptoms for many years after infection to alert a person that they may be contagious. The additional barrier of criminalization is an unnecessary and dangerous one.

I strongly encourage you to vote "do pass" on HB 215.

Sincerely,

  
Ellen Leahy  
Health Officer

cc Committee Members

EXHIBIT 13  
DATE 1-26-93  
SB HB 215

The Helena Worship Group of the Religious Society of Friends (Quakers) is in support of the passage of HB 215, an act to decriminalize adult homosexual behavior. We support the position taken by the regional Quakers, North Pacific Yearly Meeting (NPYM), which is as follows:

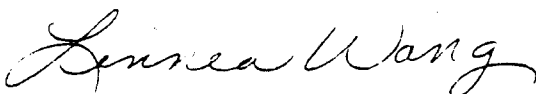
For over 300 years the Religious Society of Friends has struggled to understand and testify to our belief in basic human rights. We affirm again that there is that of God in every person. We are reminded that "God is love, and those who abide in love abide in God and God abides in them" (1 John 4:16). We find that the Spirit of God is present in all loving relationships, regardless of the genders of those involved. We abhor all forms of sexual violence or coercion and recognize that these forms of abuse have nothing to do with sexual orientation.

Therefore, NPYM of the Religious Society of Friends endorses efforts to protect the civil rights of all persons regardless of their sexual orientation. Our love and support is for all persons and is not based upon the gender of the person they love.

We oppose all legislation or policy which disparages lesbians, gay men, bisexuals or transsexuals or abridges their constitutional or civil rights.

The current law makes sexual behavior between people of the same gender a felony. This denies some people their civil rights. Such laws perpetuate a homophobic atmosphere where fear and ignorance abound.

We urge the passage of HB 215.



Linnea Wang, Clerk of Helena Worship Group  
811 Broadway



EXHIBIT 14

DATE 1-26-93

SB HB 215

January 26, 1993

Montana Code 45-2-101  
45-5-505

To all members of this committee:

I am writing asking that you repeal Montana's Deviate Sexual Conduct Law.

As long as this law is on the books and as long as our homophobia allows the rights of one sexual minority to be discriminated against, the rights and freedoms of all of us are threatened.

While anti-gay supporters, who may also profess Christian and family values, would wish us to hate those of other sexual orientation, I allege we need to take a deeper look at ourselves to better understand those who are different. Why must it be necessary to attack or degrade another human being because of their differences? By denying equal civil rights of gays and lesbians we expose those deepest fears of our own sexuality.

We have journeyed a long, arduous road with our battles of equality from the Civil War to the Civil Rights, and because of Montana's Deviate Sexual conduct Law we still deny one minority freedom.

I urge you to change this law so that homosexuality will no longer be a felony and that sexual orientation will have the same protections as race, creed, color, national origin and disability and that they are afforded all the rights and liberties that I have as a straight, white, female in this state.

Thank you for this consideration at this hearing.

Sincerely,

*Micki Wolstad*

Micki Wolstad  
Missoula, Montana

Missoula Women for Peace  
Branch of Women's International  
League for Peace & Freedom

Jeannette Rankin Education Fund  
An Association to Promote  
the Legacy of Jeannette Rankin

P.O. Box 5823  
Missoula, MT 59806

EXHIBIT ~~#~~ 15  
DATE 1-26-93  
~~SB~~ HB 215

JUSTICE FOR LESBIANS AND GAY MEN

Presentation to the 1993 House Judiciary Committee on January 26, 1993 by the Missoula Women for Peace, a branch of the Women's International League for Peace and Freedom.

It is the responsibility of law to recognize, reflect, and change its unjust forms of oppression upon the participants of society. In the name of justice, we come to you today to express our concern for the implications of the present sexual deviate conduct statute, and ask that you support the repeal of this law.

Montana rewrote its constitution in 1972 to include a richer, deeper respect and understanding of individual rights. The Montana Constitution's Declaration of Rights includes three explicit rights--the inalienable right to seek happiness, the dignity of the human being, and the right of privacy--which speak directly to the constitutionality of the deviate sexual conduct statute at issue here today.

Increasingly we are becoming aware that the criminalization of a variety of activities infringes on human rights and liberty. Gay men and lesbians have the same real life concerns as you, your friends, and your families. Our concerns are for housing, employment, health, safety, support networks, and the freedom to pursue these. It is becoming increasingly evident that the proponents of one particular religious viewpoint are imposing their will on all citizens, and therefore prohibiting basic human rights and the possibility of justice. Only when we begin to value the contributions of everyone to society will we begin to understand that diversity is something to be embraced, and be effective in moving from what is, to what can be in a responsible manner.

Women's International League for Peace and Freedom, of which Montana's Jeannette Rankin was a founding member, supports equal rights and dignity for all persons. This is impossible with the criminalization of homosexuality. Your support of HB 215 is a necessary first step in ending oppression and ensuring justice for all Montana citizens.

Thank you for your consideration at this hearing.

*Debra Dawson*

Debra Dawson  
Missoula Women for Peace  
WILPF

704 First  
Helena, MT 59601  
January 20, 1993

I have taught in the Helena School District for over twenty years. During that time, over twenty students have committed suicide including one student of mine.

According to the Report of the Secretary's Task Force on Youth Suicide, gay and lesbian youth comprise up to 30% of all completed suicides annually. Suicide is the leading cause of death among sexual minority youth. Furthermore, gay and lesbian youth are two to three times more likely to attempt suicide as other young people.

These facts are easy to understand when you realize students who are suspected of being homosexuals are ridiculed, isolated, and often physically attacked by peers. Gay people are often isolated from their family, their peers and even from themselves.

In 1988, the National Education Association adopted a resolution calling for every school district to provide counseling for students struggling with their sexual orientation. As long as homosexuals are felons, it is difficult for counselors to help those students. I urge passage of HB 215, an act to decriminalize adult homosexual behavior.

*D. Starshine*

D. Starshine, Ph.D.

EXHIBIT ~~16~~ 17  
DATE 1-26-93  
~~HB~~ HB 215

January 25, 1993

Mr. Chairman, Members of the Committee:

For the record, I am Carl J. Donovan, President of the Board of Directors of the ACLU of Montana, and a tax payer and resident of Great Falls.

I appear as a proponent of House Bill 215 and as a member of the board of directors of the American Civil Liberties Union of Montana. The bill is intended to decriminalize consensual sexual relations between persons of the same sex. The present law makes it a felony for persons of the same sex to do certain things that are not a crime if done by persons of the opposite sex. This unequal treatment by the law raises the strong probability that it violates constitutional requirements for equal ratification.

The Kentucky Supreme Court said recently in the Wasson case: "all are entitled to equal treatment unless there is a substantial governmental interest, a rational basis for a different treatment." We think the same reasoning applies in Montana. We refer you to Article 2, Section 4 of the Montana Constitution which states in part "no person shall be denied the equal protection of the law." Section 10, Article 2 of the Montana Constitution on the right of privacy states "the right of individual privacy is essential to the well being of the free society and shall not be infringed without the showing of compelling state interest."

We feel the present law violates the rights of equal protection and privacy and that there lacks a compelling state interest. Therefore we urge you to pass this bill and remove this vestige of statutory homophobia and help to bring our law out of the dark shadows of discrimination and into the brightness of a tolerant and enlightened society in Montana.

This existing law is unreasonable, unnecessary or unenforceable. I encourage you to have the vision and strength to vote for repeal.

Sincerely,

*Carl J. Donovan*

Carl J. Donovan  
P.O. Box 1201  
Great Falls, MT 59403

EXHIBIT 18  
DATE 1-26-93  
~~HB~~ 215

**A PRINCIPLED RESPONSE TO HOUSE BILL #215**

***Proposing the Amendment of MCA 45-5-505 from  
Deviate Sexual Conduct to Bestiality***

*by*

**JOSEPH A. ZAVALETTA  
Attorney at Law  
Billings, MT**

**A PRINCIPLED RESPONSE TO HOUSE BILL #215**  
***Proposing the Amendment of MCA 45-5-505 from***  
***Deviate Sexual Conduct to Bestiality***

## **I. INTRODUCTION**

In a memorandum submitted to a house subcommittee in 1991 entitled "Montana Should Repeal It's Deviate Sexual Conduct Law," proponents argued that the Montana law 45-5-505 criminalizing deviate sexual conduct: (1) violated Montana's constitutional right to privacy; (2) was unconstitutionally vague; and (3) violated equal protection guaranteed under US and Montana constitutions. I have been asked to argue against HB 215 on the grounds that the current law does not violate US or State rights to privacy and equal protection, nor is it constitutionally vague.

## **II. RIGHT TO PRIVACY**

Proponents of HB 215 contend that Article 2, Section 10 of the Montana Constitution, which states that "the right of the individual privacy is essential to the well-being of a free society and shall not be infringed without the showing of a compelling State interest" grants the homosexuals fundamental right to engage in sodomy. However, the right to privacy does not extend to homosexual conduct.

The US and Montana Constitutions guarantee individuals a fundamental right to privacy. A fundamental right is subject to strict scrutiny by the courts and the government must show that the statute in question is either narrowly tailored or necessary to further a State compelling interest. However, a "right" based on socio-economic legislation which does not interfere with specific, enumerated fundamental rights will not be considered "fundamental," and therefore will not be subject to strict scrutiny. Rather the issue is whether there is a "rational basis" for the statute. Moreover, a statute is presumed constitutional unless this burden can be overcome by those who challenge it.

The US Supreme Court has held that certain fundamental rights exist within a zone of privacy implied by the 1st, 3rd, and 9th Amendments to the U.S. Constitution. The rights granted through these amendments are applicable to the people of Montana through the 14th Amendment of the U.S. Constitution. The US Supreme Court recognizes some rights as fundamental and others as not. The Court has identified the nature of the rights qualified for heightened judicial scrutiny. For example, in *Palco v. Connecticut*, 302 U.S. 319, 325, 326 (1937) the US Supreme Court held that fundamental rights are those that are "implicit in the concept of order and liberty" such that "neither liberty nor justice would exist if [they] were sacrificed." In *Moore v. East Cleveland*, 431 U.S. 495 the court characterized them as those liberties that are "deeply rooted in this nation's history and tradition." *Id.*, at 503.

All US Supreme Court cases relevant to the constitutionality of the Sexual Deviancy law, limit the scope of the right to privacy contained in the Fourteenth

Amendment to the zone of the *marital* relationship and matters of family and procreation. The importance of identifying the source of the right to privacy cannot be underestimated. In a long line of cases beginning with *Meyer v. Nebraska*, 262 U.S. 390 (1923), *Pierce v. Society of Sisters*, 268 U.S. 510 (1925), *Skinner v. Oklahoma*, 316 U.S. 535 (1942), *Loving v. Virginia*, 388 U.S. 1 (1967), *Griswold v. Connecticut*, 381 U.S. 479 (1965), *Eisenstadt v. Baird*, 405 U.S. 438 (1972), and *Roe v. Wade*, 410 U.S. 113 (1973), and *Carey v. Population Services Int'l*, 431 US 678 (1977), the Supreme Court has consistently held that the fundamental right to privacy emanates from the *marital* relationship, and is limited to such fundamental rights as child rearing and education, intimate family relations within marriage, contraception, procreation, and abortion.

In *Griswold*, Justice Douglas identified the institution of marriage as "relationship lying within the zone of privacy created by several fundamental constitutional guarantees." 381 US at 485. The rock on which Justice Douglas erected the right to privacy was clearly the institution of *heterosexual marriage*:

we deal with the right of privacy older than the Bill of Rights -- older than our political parties -- older than our school system. Marriage is a coming together for better or for worse, hopefully enduring, and intimate to the degree of being sacred. It is an association that promotes a way of life, not causes; a harmony in living, not political faith; a bilateral loyalty, not commercial or social projects. *Id.*, at 485-486.

In writing for the majority, Justice Douglas emphasized the right to privacy existed in the *marital* bedroom:

Would we allow the police to search the sacred precincts of *marital* bedrooms for telltale signs of the use of contraceptives? The very idea is repulsive to the notions of privacy surrounding the *marriage* relationship." *Id.* at 485 (emphasis added).

The concurring opinion of Justice Goldberg, Chief Justice Warren and Justice Brennan left no doubt that the "concept of liberty" they were addressing embraced "the right of *marital* privacy." 381 US at 486. The reasoning of the Supreme Court as to why the *Griswold* right to privacy does not apply to homosexuals is clear. The failure of homosexuals to qualify for constitutional protection is not based upon any moral value judgement in favor of heterosexuality or homosexuality. Rather, the decision embraced the sexual intimacy *within marriage* but not outside of marriage, regardless of whether the extramarital intimacy where heterosexual or homosexual.

In this regard, after discussing these same case precedents, the *Roe v. Wade* Court stated that:

these decisions make it clear that the only personal rights that can be deemed "fundamental" or "implicit in the concept of order and liberty" are included in this guarantee of personal privacy. They also make it clear that the right has some extension to activities relating to marriage, procreation,

contraception, family relationships, and child rearing and education. *Roe* at 115.

The Supreme Court has never held that the right to privacy protects sexual relations of any kind. Indeed in the seminal case in this area, *Bowers v. Hardwick*, 478 US 186 (1986), the Court upheld the constitutionality of a Georgia statute virtually identical to Montana's Deviate Sexual Conduct law, holding that the Respondent (Mr. Hardwick), did not have a fundamental right to engage in homosexual sodomy and that the right to privacy did not shield the Respondent from otherwise unlawful conduct.

*The Constitution does not confer a fundamental right upon homosexuals to engage in sodomy. None of the fundamental rights in this court's prior cases involving family relations, marriage, or procreation bear any resemblance to the right asserted in this case, and any claim that those cases stand for proposition that any kind of private sexual conduct between consenting adults is constitutionally insulated from State prescription is unsupportable. \* \* \* Against a background in which many states have criminalized sodomy and still do, to claim that a right to engage in such conduct is "deeply rooted in this nation's history and tradition" or "implicit in the concept ordered liberty" is, at best, facetious. Id. at 191-194 (emphasis added).*

The Court reasoned that:

No connection between family, marriage, or procreation on the one hand and homosexual activity on the other has been demonstrated, either by the Court of Appeals or by [Hardwick]. Moreover, *any claim that these cases nevertheless stand for the proposition that any kind of private sexual conduct between consenting adults is constitutionally insulated from State prescription is unsupportable.* Indeed, the Court's opinion and Carry twice supported that the privacy right which the Griswold lines of cases found to be one of the protections provided by the due process clause, did not reach so far. 431 US at 688, n.5, 694, n. 17 (emphasis added).

The Court opined that "respondent would have us announce, as the Court of Appeals did, a fundamental right to engage in homosexual sodomy. *This we are quite unwilling to do.*" Id., at 186 (emphasis added).

Neither the US nor the Montana Supreme Courts have ever held that the fundamental right to privacy should be a shield for otherwise criminal or unlawful conduct. As the *Bower* Court stated:

plainly enough, otherwise illegal conduct is not always immunized whenever it occurs in the home. Victimless crimes, such as the possession and use of illegal drugs, do not escape the law where they are committed at home. *Stanley* itself recognized that its holding offered no protection for the possession in the home of drugs, firearms, or stolen goods, and if [Hardwick's] submission is limited to voluntary sexual conduct between



consenting adults, it would be difficult, except by fiat, to limit the claimed right to homosexual conduct while exposed to prosecution adultery, incest, and other sexual crimes even though they are committed in the home. *We are unwilling to start down that road. Id..*

The Court, continuing, stated:

We are not inclined to take a more expansive view of our authority to discover new fundamental rights embedded in the due process clause. \* \* \* *There should be, therefore, great resistance to expand the substance of reach of those clauses particularly if it requires redefining the category of rights deemed to be fundamental. Id., at 194-195 (emphasis added).*

The Supreme Court clearly stated in *Bowers* that Hardwick's homosexual conduct was not protected by a fundamental right to privacy, not because it lacked the quality of heterosexuality, but because his sexual conduct lacked the unique imprimatur of the marital union.

In *Stanley v. Georgia*, 394 US 557 (1969), cited by proponents of HB 251, the US Supreme Court held that the First Amendment prevents a conviction for reading obscene material in the privacy of one's home. As the Court stated "if the First Amendment means anything, it means that a State has no business telling a man, sitting alone in his house, what books he may read or what films he may watch." *Id.*, at 565. *Stanley* protected the right to privacy but that decision was firmly grounded in the First Amendment, not in the Fourteenth Amendment.<sup>1</sup> In *Paris Adult Theatre v. Slaten*, 413 US 49 (1973) the majority of the US Supreme Court recognized the right to privacy as one of those "fundamental rights" to be found in the Constitution. However, it narrowed the scope of the right by stating

our prior decisions recognizing a right to privacy guaranteed by the Fourteenth Amendment included 'only personal rights that can be deemed fundamental or implicit in the order of liberty.' This privacy right encompasses and protects the personal intimacies of the home, the family, marriage, motherhood, procreation, and child rearing. *Id.* at 65.

Moreover, the US Supreme Court has consistently held that a State's legislature has the police power which is very broad and comprehensive and embraces the maintenance of good order and quiet of the community and preservation of the public morals.<sup>2</sup>

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<sup>1</sup> More recently the Supreme Court again emphasized the limits of *Stanley*, upholding an Ohio child pornography statute against a 1st Amendment challenge where the possession and viewing of pornographic photographs of a nude male adolescent occurred in a private home. *Osborne v. Ohio*, 110 S. Ct. 1691 (1990).

<sup>2</sup> "The legislature has a wide discretion in determining what the public interest demands and what measures are necessary to meet those requirements, and is limited only by the principle that its acts must reasonably tend to correct some evil and promote some interest to the commonwealth not violative of any direct, positive, or necessary implied constitutional mandate or

The law . . . is constantly based on notions of morality, and if all laws representing essentially moral choices are to be invalidated under the due process clause, the courts will be very busy indeed. Even [Hardwick] makes no such claim, but insists that majority sentiments about the morality of homosexuality should be declared inadequate. *We do not agree*, and are unpersuaded that the sodomy laws of 25 states should be invalidated on this basis." *Bowers* at 196.

In his concurring opinion in *Bowers*, Chief Justice Burger wrote:

*There is no such thing as a fundamental right to commit homosexual sodomy. As a court notes . . . the proscriptions against sodomy have very ancient roots. Decisions of individuals relating to homosexual conduct have been subject to state intervention throughout the history of western civilization. Condemnation of those practices is firmly rooted in Judaeo/Christian moral and ethical standards. Indeed homosexuality was a capital crime under Roman law. To hold that the act of homosexual sodomy is somehow protected as a fundamental right would be to cast aside millennia of moral teaching.* *Bowers* at 197.

In conclusion, homosexual conduct is not protected by the right to privacy under Article 2, Section 10 of the Montana Constitution, and therefore should not be subject to the strict scrutiny or a compelling state interest standard of review. Proponents of the new statute want the legislature of Montana to *create a new fundamental right* which our US Supreme Court has been unwilling to do. Their strategy is to bootstrap their so-called "right" to engage in homosexual conduct into the fundamental right of privacy.<sup>3</sup> However, in *Bowers*, the Supreme said:

. . . there should be *great resistance* to expand the reach of the due process clauses to cover new fundamental rights. Otherwise the judiciary [and the legislature] necessary would taken upon itself further authority to govern the country without constitutional authority. *Id.*, 194-195 (emphasis added).

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opposed to natural right and fundamental principles of civil liberty." *Carter v. State of Arkansas*, 500 S.W.2D 368 (1973).

3 According to the *Gay Report*, a homosexual publication, the most frequent places to practice homosexual behavior are in public restrooms, bus stations, service stations, public libraries, or public rest stops; public parks where groups gather in the bushes, beaches, public baths, or health clubs where groups gather to watch others in sodomy or to go private booths for themselves; "gay bars" and night clubs; "glory holes" which are circular holes cut out of partitions between stalls in public restrooms allowing an anonymous oral sodomy with the person in the next stall; in pornographic book stores, peep shows or movie houses. J. K. and Young, *The Gay Report*, (Summit 1979, p. 500), and compare Rechy, *The Sexual Outlaw*, (Grove Press, 1977) and the *Gayello Pages*, a reference book widely circulated in the homosexual community that gives a state-by-state, city-by-city description of where homosexual congregate and for what purpose.

And as stated above, if there is no fundamental right involved, the rational basis test is applicable to further a legitimate government purpose.

The Deviate Sexual Conduct law, as it now exists, does not trigger a compelling state interest review. If HB 215 is passed, however, other parties will undoubtedly appear and demand to be protected by the right of privacy to engage in their own particular, unlawful conduct, heretofore deemed contrary to the State's legitimate interest. For example, it is quite logical and conceivable that the following conduct would have the same claim to the right to privacy as homosexuals:

- (1) Two consenting adults could commit prostitution in private;
- (2) Two consenting adults could conspire to rob or kill in the privacy of their own home;
- (3) Two consenting adults could consume and/or sell illegal drugs in the privacy of their own home;
- (4) Two consenting adults would be able to assist in each other's suicide in the privacy of their home;
- (5) Two consenting adults could engage in incest in the privacy of their own home; and
- (6) Two consenting adults would be able to engage in satanic rituals and sacrifice animals in the privacy of their home.

There should be no question that the Montana Constitution's right to privacy does not shield otherwise unlawful conduct. The state has a legitimate concern for the moral welfare of all of its citizens and a correct commitment to examining criminal activities wherever they may be committed whether concealed in the home or elsewhere. *c.f.*, *Doe v. Commonwealth Attorney*, 403 F.Supp. (E.D. Virginia 1975). The Deviant Sexual Conduct statute is a constitutionally permissible decision by the Montana legislature to protect the public and general welfare which has been recognized by a plurality of the Supreme Court in *Barns v. Glen Theatre, Inc.*, 501 US 111 (1991).<sup>4</sup>

### III. EQUAL PROTECTION

The contention by proponents of HB 215 that Montana's Deviate Sexual Conduct law violates the equal protection clause of the US and Montana constitutions is inapplicable. In order for equal protection to attach there must be first, an identifiable "suspect class," and two, that the "suspect class" must be treated dissimilarly by the statute in question.

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<sup>4</sup> In the *Barns* case, Justice Antonine Scalia, who wrote the opinion, noted that our society has always prohibited certain activities, not because they harm others, but because they are considered in the traditional phase, *contra bon moras*, that is, immoral. He noted that in American society, such prohibitions have included pseudo masochism, cock fighting, bestiality, suicide, drug use, prostitution, and sodomy.

A "suspect class," is a group of people who share common, cognizable "immutable characteristics," and because of such distinctive traits, are given special or different treatment by the law. Examples of such traits are race, gender, and national origin. In *Frontiero v. Richardson*, 411 US 677 (1973), the court stated:

Moreover, since sex, race, and national origin is an immutable characteristic determined solely by the accident of birth, the imposition of special disabilities upon the members of a particular sex because of their sex because of their sex would seem to violate the basic concept of our system that legal burdens should bear some relationship to individual responsibility..." .

Neither homosexuality nor sexual preference is considered a suspect class by any US or Montana Supreme Court decisions. See, *Palmor v. Sodoti*, 104 S.Ct. 1879 (1984), *Craig v. Boren*, 429 US 190 (1976), *Graham v. Richardson*, 403 US 365 (1971), *Mathews v. Diaz*, 426 US 67 (1976). Homosexuals do not constitute a constitutionally recognizable class as required by law because they are not distinguishable from the rest of society by certain objective "immutable characteristics" such as race, gender, or national origin. Shared attitudes or preferences of any kind do not establish a recognizable class because they are subject to change. *c.f.*, *Buchanan v. Kentucky*, 483 US 482 (1987).<sup>5</sup>

As to whether similarly situated persons are treated similarly, the Supreme Court has held that:

the equal protection clause directs that all persons similarly circumstance shall be treated alike. But so too the constitution does not require things that are different in fact or opinion to be treated in law as though they were the same. The initial discretion determined what is different and what is the same resides in the legislature of the states. A legislature must have substantial latitude to establish classifications that roughly approximate the nature of the problem perceived, that accommodate competing concerns both public and private, and that account for limitations on the practical ability of the State to remedy every ill. In applying the equal protection clause to most forms of state action, we thus seek only the assurance that classification at issue bears some fair relationship to some legitimate public purpose.

*Plyler v. Doe*, 457 US 202 (1982). (Citations omitted).

Montana's Deviate Sexual Conduct statute relates to *conduct* and not to persons who chose to label themselves as "homosexuals." Proponents might argue that homosexuals are a "discrete insular minority" or "politically powerless" and that they should be granted special "suspect class" status. However, since 1980 through 1992 homosexuals have invaded the Democratic

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<sup>5</sup> There are other "classes" of people that are not suspect. For example, wealth, *Ortwine v. Schwab* (1973), age or mental characteristics, *Mass v. Murgia* (1976).

party and have installed homosexual rights planks in the national Democratic platform. In 1992, it is undisputed that gay and lesbian activists helped elect Bill Clinton. Indeed, the fact that HB 215 is being proposed is proof that this "group" of people has much political power. Thus, proponents or homosexuals cannot be considered politically powerless, or without representation.

Further, in order to show that the Deviate Sexual Conduct statute violates equal protection, proponents must show a discriminatory *purpose*. *Washington v. Davis*, 426 US 229 (1976). This proponents fail to do since the statute on its face applies to both heterosexual and homosexual alike. The statute does not designate or identify a particular class of people with "immutable characteristics." Rather the statute applies to both heterosexual and homosexuals alike regardless of sexual preference.

Proponents of HB 251 contend that homosexuals are a "suspect class" based only upon their *conduct*. If so, there are many other groups of people who will come forth and will desire to be classified as suspect classes based upon conduct. For example, the terminally ill will request that they be allowed to be assisted in suicide by their physician, drug users and dealers will be named as classes of people who desire to be treated the same as homosexuals based upon their *conduct* rather than "immutable characteristics."

Proponents of HB 215 also content that the deviate sexual conduct statute discriminates on the basis of "sexual orientation" in that it only applies to homosexual and not heterosexual conduct. However, it is self-evident that homosexuals and heterosexuals are not similarly situated at all and therefore are not entitled to equal protection of the laws. The reason is simple: bluntly, the "parts don't fit" between homosexuals whereas in heterosexuals the parts do. Clearly, heterosexuals (a man and a woman) are by their *very nature* very differently situated than homosexuals whose parts "do not fit." This is consistent with the Supreme Court's position in *Reed v. Reed*, 404 US 71 (1971) where the Court stated:

This Court has consistently recognized that the Fourteenth Amendment does not deny to states the power to treat different classes of persons in different ways. The Equal Protection clause of that amendment does, however, deny to states the power to legislate that different treatment be accorded to persons placed by a statute into classes on the basis of criteria wholly unrelated to that statute. A classification 'must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the relation so that all person similarly circumstanced shall be treated alike. Quoting *Royster Guano Company v. Virginia*, 253 US 412 (1920).

Proponents of HB 251, however, must also include those who have a sexual preference towards *bestiality*. After all, sexual orientation could mean a preference or orientation for animals. Sexual preference/orientation could also mean incest among adults. Sexual preference orientation could also mean polygamist marriages which were deemed unconstitutional by the US Court.

HB 215 would, on its face, violate the equal protection clause of the US and Montana Constitutions by not treating those who prefer *bestiality* or incents as equal with homosexuals.

#### IV. VOID FOR VAGUENESS

Proponents of HB 215 claim that it is void for vagueness in that it does not adequately define the crime nor give sufficient notice to potential offenders. This is a red herring. Proponents are simply being disingenuous with this honorable committee. MCA 45-5-505 *does* define what is meant by "deviate sexual conduct." 45-2-101(20) "Deviate sexual relations" means "sexual contact or sexual intercourse between two persons of the same sex or any form of sexual intercourse with an animal." "Sexual contact" is defined in 45-2-101(60) as "any touching of the sexual or other intimate parts of the person of another for the purpose of arousing or gratifying the sexual desire of either party. And "sexual intercourse" is defined under 45-2-101(61) as any penetration of the vulva, anus or mouth of one person by the penis of another person, penetration of the vulva or anus by any body member of another person, or penetration of the vulva or anus of one person by any foreign instrument or object manipulated by another person for the purpose of arousing or gratifying the sexual desire of either party. Any penetration, however slight, is sufficient."

#### V. CONCLUSION

Since proponents of HB 251 have not demonstrated that a fundamental right to privacy exists and therefore the proper test to be applied is the rational basis test. The Deviate Sexual Conduct statute is rationally related to a legitimate and rational government interest in protecting the health, safety and moral of its citizens. The practice of consensual homosexual sodomy is not a fundamentally protected right as determined by the US Supreme Court in the *Bowers* case. The Montana legislature has a legitimate interest in protecting Montana families and their children from being exposed to homosexual *conduct*, particularly in public places.<sup>6</sup> Opponents would urge this committee to not begin to walk down the slippery slope that the US Supreme Court refused to do and keep the statute as it is since it does not violate the right to privacy. There is no evidence that the framers of the Montana Constitution intended to confer greater rights than do the US Constitution.

Nor have proponents of HB 215 demonstrated that homosexuals, nor those with a particular "sexual orientation," are a suspect class and subject to strict scrutiny and therefore, the proper test to be applied under the equal protection clause of the Montana Constitution is whether there is a rational basis for different treatment. The legislature has wide discretion to determine what is harmful to the health, the morals, and the public welfare. The Deviant Sexual

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<sup>7</sup> For example, a family with children goes out to eat and at the table next to them they view two men french kissing each other. What would be the response of a parent to a child who asks why these two men are kissing each other in such a way that "you and Mommy do?"

Conduct statute is rationally related to the constitutionally permissible object of permitting and promoting public morality. See *Bowers*, 92 L.Ed.2D 149.

Opponents of HB 215 find it hypocritical that the ACLU and homosexuals trumpet the US Constitution's "right" to an abortion, which comports with their own agenda, but at the same time note in their memorandum that the Bower case "inapposite" (or irrelevant). It appears that the ACLU and the homosexuals want to use the US Supreme Court as a tool to implement their own agenda. When the Court decides in their favor they celebrate its decision, but when the Court issues opinions that block their agenda, the ACLU deems those decisions "irrelevant." This is hardly a principled, logical way to deal with contemporary issues.

But logic and principle have never been the forte of the ACLU or the homosexual community. It is the conviction of this writer and by many, if not all of the opponents to HB 215 that the true purpose of decriminalization of homosexual conduct is to promulgate homosexuality in public schools and teach our children about "alternative lifestyles." This cannot be done now because homosexuality is still a crime. But if HB 215 is legislated into law, homosexual conduct would no longer be criminal because it will be "accepted" by society. And, if the legislature approves HB 215, certain state agencies would quickly move to begin to promulgate this teaching in public schools to our children.

I urge this honorable committee to DO NOT PASS HB #215 thereby sending an unmistakable message to the proponents of this bill, to homosexuals and other opponents of decency and morality that they will not be allowed to teach or promulgate criminal conduct to our children in public schools.

EXHIBIT 18  
1/26/93  
HB 215

Re: HB 215

Written testimony in opposition of HB 215.

Testimony of Frederick N DeMato Jr.

Mr. Chairman, committee members, my name is Frederick N DeMato. I reside in Helena, MT.

I am representing the position of the Liberty Baptist Church membership (Helena), along with 10 other independent Baptist churches with a combined membership of 1080 here in Montana.

We the above are opposed to HB 215 for the following reasons:

1. According to Sec. 45-5-505, MCA, sec 1 (3) acts of homosexuality are not to be prosecuted based on an individual's seeking testing or receiving treatment for HIV related viruses.

Because of this statute it is a moot argument to amend present law.

Note: Clearly one can not be prosecuted because they seek help.

2. The deletion of the phrase "sexual deviate conduct" from Sec. 45-5-505, MCA is to remove from the people of Montana the only phrase in Montana law that defines what they deem harmful to the health and welfare of their families in the traditions of Montana's past.

I have written for this committee from Webster's dictionary (unabridged) the definitions of the words: 1) deviate (vi), 2) deviate (n), and 3) deviant (adj).

- 1) deviate = to turn aside or wander from the common or right way, course, or line.
- 2) deviate = as a noun it means a person whose behavior especially their sexual behavior is deviant.
- 3) deviant = as an adjective it describes one who is deviating from what is considered normal in a group or society.

Note: Laws are for society as a whole, not special interest groups.



EXHIBIT 20  
DATE 1-26-93  
HB 215

MARK H. MOZER, Ph.D.  
Clinical Psychologist  
Suite 4-6  
Arcade Building  
Helena, MT 59601  
(406) 442-0333

January 25, 1993

House Judiciary Committee  
Capital Building  
Helena

Ladies and Gentlemen:

My name is Dr. Mark Mozer, and I have been a clinical psychologist in Helena for twenty years. I am father of nine children, and have written a common-sense parenting book due for publication this summer. It is on behalf of children that I oppose HB 215.

It was a difficult personal decision to present my testimony before this committee. Sensitive heterosexuals feel a collective guilt for the pain inflicted upon homosexuals by some members of the heterosexual community. However, this burden of guilt is generally borne by those of us who have conscientiously avoided contributing to the difficulties of homosexuals. We cannot afford to allow this collective guilt to deter us from thinking clearly in our efforts to bring about the greater good, for the greater number of people, in the matter facing us today.

Testimony has indicated that the American Psychiatric Association has deleted homosexuality from its official list of mental disorders. However, the World Health Organization has retained homosexuality on its International Classification of Diseases. So the experts are divided as to whether homosexuality is a mental disorder or disease.

But the real point here is that there can be no doubt that a vigorous gay rights movement was significant in motivating the American Psychiatric Association to remove homosexuality from its list of mental disorders. If the homosexual movement can thus sway doctors, I have grave concerns about the potential impact that militant homosexuals might have on the impressionable young minds of children.

The existing homosexuality statute stands as an impenetrable roadblock to those who would teach our children that homosexuality is an entirely acceptable alternative, the moral equivalent to heterosexuality. There is a growing assortment of children's books presenting the homosexual

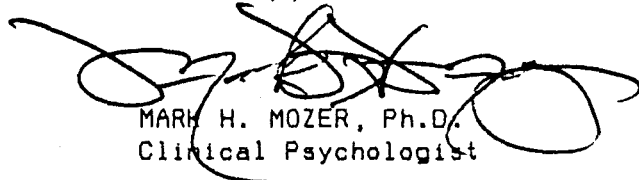
viewpoint, including such titles as Daddy's Roomate, Heather Has Two Mommies, and Gloria Goes to Gay Pride. There is even a coloring book depicting gay and lesbian themes, said to be "appropriate" for pre-schoolers. I am providing the committee with a copy of Daddy's Roomate.

This kind of material is closer to us "sheltered" Montanans than you think. Also enclosed is a list of "Suggested Strategies for Managing Heterosexism and Homophobia in Schooling", distributed by the state Office of Public Instruction, in a workshop for teachers put on in Helena on January 18, 1993.

I do not believe that homosexuality is an entirely acceptable alternative, nor the moral equivalent to heterosexuality, and I do not want my children to be so instructed in school. I believe that the majority of Montanans would hold similar objections.

So this committee faces a difficult choice, between whatever unfairness the existing statute poses for the homosexual population, and protecting impressionable young minds from a subtle but compelling onslaught of propaganda from the homosexual point of view. May God grant you wisdom as you make your choice.

Sincerely,



MARK H. MOZER, Ph.D.  
Clinical Psychologist

## SUGGESTED STRATEGIES FOR MANAGING HETEROSEXISM AND HOMOPHOBIA IN SCHOOLING

1. Include lesbian and gay issues in curriculum by discussing these topics when appropriate, as they apply to specific courses.
2. Include gay and lesbian issues in lesson plans or syllabus as possible discussion topics for the class.
3. Include readings which address lesbian and gay issues on recommended reading lists.
4. Include gay and lesbian issues on a list of possible topics for written assignments or class presentations.
5. Implement lesson plans for managing homophobic name-calling.
6. Develop or obtain specific lesson plans regarding homophobia and heterosexism.
7. Encourage all students to think about, write about and discuss the ways in which homophobia has impacted their lives.
8. Educate yourself about lesbian and gay people who have made significant contributions. Acknowledge their sexual orientation as it relates to their contributions which you are discussing in class (e.g., Jane Adams, James Baldwin, Gertrude Stein, Walt Whitman and many others).
9. Do not make any assumptions regarding the sexual orientation of students, clients, parents, or colleagues.
10. Be familiar with local gay and lesbian resources and curricular materials (social, political organizations, health care agencies, counseling services, youth groups, readings and film materials) and use them in class.
11. Use non-gender specific language consistently whenever discussions about relationships or partner-choice situations arise (e.g., partner, lover, person).
12. Interrupt anti-gay or anti-lesbian comments by staff and students alike. State that assaultive and/or derogatory jokes, behaviors or other actions against anyone because of perceived differences on the basis of sexual orientation are unfair, offensive and harmful.
13. Prominently display pamphlets and resource guides for the lesbian, gay and bisexual communities in and around counselors' offices.
14. Encourage comprehensive professional staff development and training regarding heterosexism and homophobia.

Source: Uribe, Virginia (1989), Project 10 Handbook, Friends of Project 10, Inc., page 68

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1/26/93  
HB 215

EXHIBIT 21  
DATE 1-26-93  
~~SS~~ HB 215

Testimony of  
Beverly Oard  
Homemaker & Mother  
3600 7th Ave S  
Great Falls, Mt.  
727-8128

I am speaking as a mother of four children, one that is concerned about how to protect them if homosexuality becomes legal. I am also concerned about what kind of heritage we will be leaving them if the changed law passes.

The main argument for making Homosexuality legal is to create an environment that would make homosexuals feel more free to be tested for the AIDS virus. As the law now stands there is an exclusionary clause for the purpose of protecting them from prosecution, even though this is unnecessary. Back in the fifties when there was an outbreak of venereal disease, adultery and fornication was not only taboo but illegal in some states. Health workers worked under a code of confidentiality. They did their job effectively, through treatment, partner notification and mandatory testing, the problem was controlled. The concern for the health of the community temporarily overrode the need to prosecute.

If the gay community had allowed them to do their job from the beginning we would not have an AIDS epidemic. The homosexuals believed their right to privacy was more important than the deaths of their many partners.

The homosexual community is the primary perpetrator and the primary victim of their own behavior. Seventy to ninety percent of the victims of AIDS are homosexuals; for their sake and for the sake of the innocent victims of the large percent of gays that are bisexual please keep the antisodomy laws on the books. Sodomites, in general are highly promiscuous people. Promiscuity alone causes venereal diseases to grow exponentially. For lawmakers and to encourage this as an acceptable form of behavior would be highly irresponsible. To change the law would make a public statement that what was deviant is now no longer considered deviant what was taboo is no longer taboo.

The purpose of government is to protect the basic institutions of society so that we can pursue life, liberty and happiness. The nuclear family, and extended family has been the basic unit of every society since history began. Laws have always existed to protect this unit. If we change our law against sodomy we would in essence be teaching that the traditional family is no longer the ideal. Homosexual literature is rife with hatred toward the family. 1972 Gay Rights Platform Demands for States they seek to redefine the family: The twelfth demand reads "Repeal all legislative provisions that restrict the sex or number of persons entering into a marriage unit; and the extension of legal benefits to all persons who cohabit regardless of sex or numbers." The word numbers is important because they are highly promiscuous. Imagine

what this would do to our tax code and adoption laws. By changing the law against sodomy, we would be playing right into their hands.

Sodomy is not a behavior that restricts itself to the privacy of their own bedroom. Often it is a public behavior. It's practiced in bath houses, public rest rooms, bus stations, public libraries, gay night clubs, adult book stores, and in our own Great Falls Gibson Park. With laws in place we can prosecute this type of flagrant behavior.

The Montana Office of Public Instruction is eager teach sodomy to our children as an alternate life style. They wish to do this under the guise of protecting them from AIDS, a disease very rarely found in children. In doing this they steal our children's innocence and promote the very behavior that causes the problem.

If we keep sodomy illegal we can protect our children from such homosexual propaganda. At this time, the schools are not allowed to teach illegal behavior as acceptable. Destroying the sodomy law would open the floodgates for such textbook stories as "Daddy's Roommate", "Heather has Two Mommies", and "Gloria Goes to Gay Pride" to enter our classrooms. The schools would be free to teach young children about dental dams--a piece of latex that can be placed over the vulva during oral sex or over the anus during anilingus. They would allow homosexuals into our classrooms to discuss their "alternate lifestyle". The children would be taught how to use a condom, for what purpose, to have sex with an adult?

Children are very vulnerable. At a period of their lives when they should be in sexual latency according to Freud, they would be exposed to deviant sex. Sexuality is a learned behavior according to every well respected sociologist and psychologist. (bibliography substantiates this assertion) Experience with my own children makes this very clear. Each of them at about three years old asked me if they would grow up to be a mommie or a daddy. How can I protect them from curious children wanting to experiment with a new life style? What kind of message would the schools and the courts give to them if the extremely promiscuous and deviant behavior of sodomy is taught as "another way of loving"?

How can I protect my children from being conditioned to accept deviance as normal? What kind of society would we create when homosexuals are free to flaunt their behavior in the streets and businesses of Montana? A quick look at San Francisco answers this question. Venereal disease is rampant, transvestites, queens, and dykes roam streets in full regalia propositioning any they find attractive. Homosexual magazines like the "Guardian" are sold in the majority of hotels and motels. These magazines advertise sado-masochistic sex equipment. They write book reviews that delight in recommending what they call "trashy" books. Gay Pride parades are held in many major cities. These parades graphically strut every form of decadence imaginable. NAMBLA (North American Man Boy Love Association) has a prominent place. Is this what we want in Montana? If homosexuality becomes legal how could we stop this

behavior? How could we protect our children?

*Beverly Oard*

EXHIBIT 21  
DATE 1/26/93  
HB 215

4. Dorsen, N., ed., *The Rights of Gay People (An American Civil Liberties Handbook)* (Bantam Books, 1983).

5. Most biologists and psychologists believe that homosexual habits are learned. Evidence for this comes from several sources.

1) Most homosexuals believe that their sexual orientation is learned. (Only 9% believed they were born that way in two Kinsey studies: Gebhard, P.H. and Johnson, A.B., *The Kinsey Data* (Saunders, 1979); Bell, A.P., "Homosexualities: Their Range and Character" in *Nebraska Symposium on Motivation*, Cole, J.K. and Dienstbier, J., eds. (Univ Nebraska Press, 1973).

2) No one has found a single replicable genetic, hormonal or chemical difference between homosexuals and heterosexuals. (Marmor, J., ed., *Homosexual Behavior: A Modern Reappraisal* (Basic Books, 1980).

3) Those raised in non-religious homes have a 450 percent higher chance of choosing the homosexual lifestyle. (Institute for the Scientific Investigation of Sexuality, "What Causes Homosexuality and Can It Be Cured?," ISIS, 1984).

4) Most psychologists and psychiatrists still do believe that homosexuality is learned, even those who endorse their behavior. (Examples include Rado, Bierber, Socarides, Kinsey, Hooker, Szaz, Marmor, and Masters and Johnson. Cf. Bayer, R., *Homosexuality and American Psychiatry*, Basic Books, 1981.)

5) Since homosexuals engage in many deviant sexual practices, such as sodomy, sado-masochism, eating feces, drinking urine, fisting, rimming, the solicitation of sex with younger males, etc., it seems almost absurd to say that all of these behaviors are innate.

6) Many homosexuals do change their behavior. If homosexuality were innate, change would not be possible. Compare the studies of Bieber, I., *Homosexuality: A Psychoanalytic Study* (Basic Books, 1962); Socarides, C., "Homosexuality Concepts and Psychodynamics," *International Journal of Psychiatry*, 1972, 10, p. 118; Masters, W.H. and Johnson, V.E., *Homosexuality in Perspective* (Little, Brown, 1979); West, D.J., *Homosexuality Re-Examined* (Duckworth, 1977); Pattison, E.M. and Pattison, M.L., "Ex-gays: Religiously Mediated Change in 11 Homosexuals," *American Journal of Psychiatry*, 1980, 137, pp. 1553-1562. Homosexuals Anonymous, Exodus, and many other groups that help homosexuals change their sexual orientation are built upon this premise. (For a more complete list see the bibliography.) It is interesting to note that no one has sought therapy to change their race, color, or national origin. These are assumed to be innate, in contrast to the homosexual lifestyle.

6. Greek and Roman societies both outlawed homosexual behavior, believing that it was dangerous to the well-being of their society. Throughout the middle ages, homosexuality was outlawed in Western society. It has always been outlawed in the Far East, and still is today. Some authors, however, disagree. Cf. Boswell, J., *Christianity, Social Tolerance, and Homosexuality* (University of Chicago Press, 1980).

7. For example, in the state of California a woman has already lost her private property rights to not rent her house to an unmarried couple. In another state, a female lost the right to not have a lesbian roommate. When the female decided she did not want a lesbian for a roommate, the lesbian sued and won a settlement of \$1500.

8. Magnuson, R.J., *Are Gay Rights Right?* (Stratgate Press, 1985), p. 86.

9. Senator Alan Cranston (D-CA) has been proposing a homosexual affirmative action bill in the U.S. Senate.

10. Hansfield, H.H., "Sexually Transmitted Disease in Homosexual Men," *American Journal of Public Health*, 1981, 9, pp. 989-990; Cameron, P., Proctor, K., Coburn, W. and Forde, N., "Sexual Orientation and STDs," *Nebraska Medical Journal*, 1985, 70, pp. 292-299; Jay, K., and Young, A., *The Gay Report* (Summit, 1979); Cameron, P., Cameron, K., and Proctor, K., "Effect of Homosexuality Upon Health and Social Order," *Psychological Reports*, 1989, 64, p. 1172, report 85 percent for homosexual and 52 percent for bisexual in comparison to 30 percent for heterosexual.

11. Quinn, "The Polymicrobial Origin of Intestinal Infections in Homosexual Men," *New England Journal of Medicine*, 1983, 309 (10), pp. 576-82; Manligit, "Chronic Immune Stimulation by Sperm Allantigens," *Journal of the American Medical Association*, 1984, 251 (2), pp. 237-41; Jaffe, "National Case-Control Study of Kaposi's Sarcoma and Pneumocystis Carinii Pneumonia in Homosexual Men: Part 1, Epidemiological Results," *Annals of Internal Medicine*, 1983, 99 (2), pp. 145-57; Buchanan and Muir, "Gay Times and Diseases," *The American Spectator*, August 1984, 15.

Drawing upon the standard medical text, *Harrison's Principles of Internal Medicine*, James Fletcher in the *Southern Medical Journal*, sums: "We notice an increasing incidence of multiple-drug-resistant strains of *Neisseria gonorrhoeae* in homosexuals; male anorectal and pharyngeal infections are frequently troublesomely asymptomatic; a

TESTIMONY OF TOM GREEN IN OPPOSITION OF HOUSE BILL 215

Mr. Chairman and Members of the Committee, my name is Tom Green. I am 32 years old and come to you to stand opposed to House Bill 215. I come before you today from a unique perspective. Most of my life I've been bound by a homosexual identity. Today I am free from that entrapment. As a matter of fact, I am blessed to be part of a loving and uplifting heterosexual marriage. The world said it couldn't be done. And I thought it was impossible, but it's not. I'm grateful to realize that the notion of being born a homosexual is a deceitful lie. In fact, thousands like myself exit this lifestyle every year.

Like so many of my counterparts I came from a dysfunctional family background. My mother was an alcoholic and my father himself was a product of a traumatized family. Unfortunately I struggled through life with many voids. I also suffered various forms of abuse, particularly verbal. I was insecure and passive.

This background combined with sexual abuse, which began when I was eleven, provided an excellent breeding ground for the sickness of homosexuality. As time passed I became more perverse in my thinking. I was depressed, suicidal and at times I struggled with homicidal fantasies about my family.

At age fifteen I attempted suicide. Fortunately I was unsuccessful. At age sixteen, while undergoing six weeks of behavioral modification therapy at a state mental hospital, I made contact with my first adult male homosexual. We had an affair. I understand now that what he did was terribly wrong. I also feel that the head staff psychiatrist who told me I couldn't change did me a grave disservice. He encouraged me to go to college in California after I graduated from high school so that I could unashamedly immerse myself in the gay culture. Though I did not take his advice I did make inroads into the gay community of the Southern city I called home. And I was desirable. I was what they called a "chicken"--someone who is under age. Many men wanted me for quick one night stands. I was approached in a local gay park many times. I went to gay bars, which is the focal point of gay culture, and watched multitudes get drunk or high regularly. Today I have to wonder why they chemically altered themselves so much if they were so happy.



As I said, I was desirable but I was selective. At age eighteen I met Mr. Right. Sadly, I watched my varied friends and acquaintances bounce from one fling to another. Very few had the seeming stability I thought I was experiencing. As a matter of fact, I had one friend who visited a bath house in New Orleans and had sexual contact with over 90 men in two days. That would explain his need for anal surgery upon his return.

Over time I saw alot and learned about the various elements of the joy of gay sex. You could include any of these behaviors in these perverted encounters. These practices could include oral sex, anal intercourse, rimming (tongue to anal contact), fisting (the dangerous practice of putting your hand in your partners rectum), scat (the practice of depositing your fecal waste on your partners body), golden showers (urinating on your sex partner). If you were really adventurous you could visit a leather bar and find partners who would participate in sado-masochism. I even once visited a bar where I watched men crowd around one man and take turns giving him oral stimulation. This took place in the open.

Let's not forget the innumerable encounters in public restrooms--commonly referred to as tea rooms. And, of course, one could always find someone to play with at the adult movie theatres and bookstores.

In my sickness and depravity I actually participated in a number of these behaviors at various points in my homosexual life.

As I stated earlier, my life today is vastly different and infinitely more rewarding. As a result of diligently following the recovery process of the twelve step program which I discovered through Adult Children of Alcoholics I can be truly thankful that I have overcome the insanity of homosexuality.

Ask yourselves a question. Would you ask an active alcoholic or drug addict who has no desire to change for assistance in drafting legislation pertaining to the control and distribution of these substances? Of course not.

This being the case, why would you give serious consideration to input from those who remain trapped within a false sexual identity? What they need is a rebuilding of their lives with the assistance of those compassionate people who understand where they are in their

sickness and who are not afraid to confront and challenge them to move toward a far better way of living.

By repealing your present laws which at least pay lip service to the perverseness of homosexual behavior, you will send a resounding message to those who seek the continued radical alteration of our society. You will be giving them opportunity for greater inroads into society as a whole. And the cancer which consumes them will find it even easier to transmit in greater numbers to succeeding generations.

Today, you are considering a bill which may not offer the consequences you desire. There are those who would vehemently contend that you should remove legal restraints on homosexual behavior. However, I implore you to listen to the voice of experience.

EXHIBIT 23  
DATE 1-26-93  
HB 215

TESTIMONY OF B. JOHN HEETDERKS, M.D.

Board Certified-American Board of Family Physicians  
A member of the International Academy of Proctology

I wish to speak in opposition to HB 215

I'm concerned about treating illness but I'm also concerned about preventing illness.

\_\_will legitimizing homosexuality help prevent illness?

\_\_we are told, "yes". That legalizing homosexuality will relieve homosexuals from the fear of discovery if they come forward for AIDS testing.

\_\_that argument is pure sophistry

\_\_the gay community is not bashful about their homosexuality.

\_\_they flaunt it

\_\_Theirs is the cry "We're here, we're queer, get used to it."

\_\_in any case gays are already protected in Montana by Law which provides exclusion from prosecution if they were identified through an aids testing program.

The truth is that legitimizing homosexuality will encourage it as a reasonable and safe sexual preference especially before our young people who watch our decisions.

\_\_and the further truth is that from a medical standpoint homosexuality--and I'm referring now particularly to male homosexuality is a breeder of disease.

Let me give it to you straight, based on my experience as a physician and as a proctologist and after reviewing the medical literature gleaned from over 600 medical journals

\_\_gay males are 5000 times more likely to contract AIDS than the general population. They are but 2-3% of our population but represent 68% of AIDS cases.

\_\_is AIDS a problem? Its is a gigantic problem the dimensions of which you barely know.

\_\_let me give you a short list of the health problems related to AIDS and particularly to AIDS in the male homosexual population.

We are seeing --new and rare pneumonias some of which defy successful medical treatment.

We are seeing --very aggressive Hodgkins and non-Hodgkins lymphomas--costly and difficult to treat.

We are seeing--Anal cancer--an almost nonexistent form of CA in the non-homosexual population.

We are seeing--Ebstein-Barr viral esophagitis an immensely debilitating disease

We are seeing--Kaposi's sarcoma of the rectum.

We are seeing--Ano-rectal disease in a high % homosexual males with AIDS--(1) ulceration of the anus--(2) multiple and fissures--(3) peri-anal sepsis and staphylococcal infection--(4) proctitis-procto-colitis--(5) ano-rectal warts--(6) chronic diarrhea secondary to an infecting agent unknown in the AIDS sero-neg. population.

We are seeing--progressive, disseminated Histoplasmosis --fungal type of illness.

We are seeing--a plethora of oral disease from thrush and pre-cancerous leukoplakia to Kaposi's sarcoma of the mouth and throat to oral warts.

We are seeing--Cytomegalo-virus laryngitis with airway obstruction.

We are seeing--An explosion of hepatitis B in gays with AIDS and Hep. B significantly increases the risk of liver CA.

And incredibly, We are seeing--poor compliance with efforts to treat AIDS disease in 90% of gay AIDS patients.

--and I could go on, but you get the point.

Male homosexuality is not a nice civilized sexual preference.

\_\_it thrives on eroticism which is enhanced by:

- (1) \_\_frequent sex with multiple, anonymous partners, 72% of gays have had more than 1000 sexual partners.
- (2) \_\_sado-masochism--undergoing or inflicting pain or torture on others during anal-sexual intercourse.
- (3) \_\_the frequent use of drugs including Amyl-Nitrite inhalation for enhanced eroticism.
- (4) \_\_deliberate risk taking during gay sexual encounter--especially by young male homosexuals.

These erotic practices enhance the transmission of the AIDS virus.

All of this makes it extremely difficult to contain the AIDS explosion in the gay community and ultimately in the general community.

--and we are being asked to approve this life style? This has been done in San Francisco.

--in San Francisco with gay rights; laws for 10 years the STD rate had increased 2200% over the national average.

Montana's deviant sexual behavior law is not in fact punitive, but it recognizes certain deviant sexual behaviors for what they are.

\_\_\_there is no good reason to give aid, comfort and approbation to a life style which is inherently beset with disease and public health problems.

\_\_\_the potential and real costs of this kind of disease is staggering and there is no need for mindlessly opening this flood-gate.

As a physician, I hope you will carefully consider the facts and not alter our Deviant Sex Law.

# Daddy's Roommate



WRITTEN AND ILLUSTRATED BY  
**Michael Willhoite**

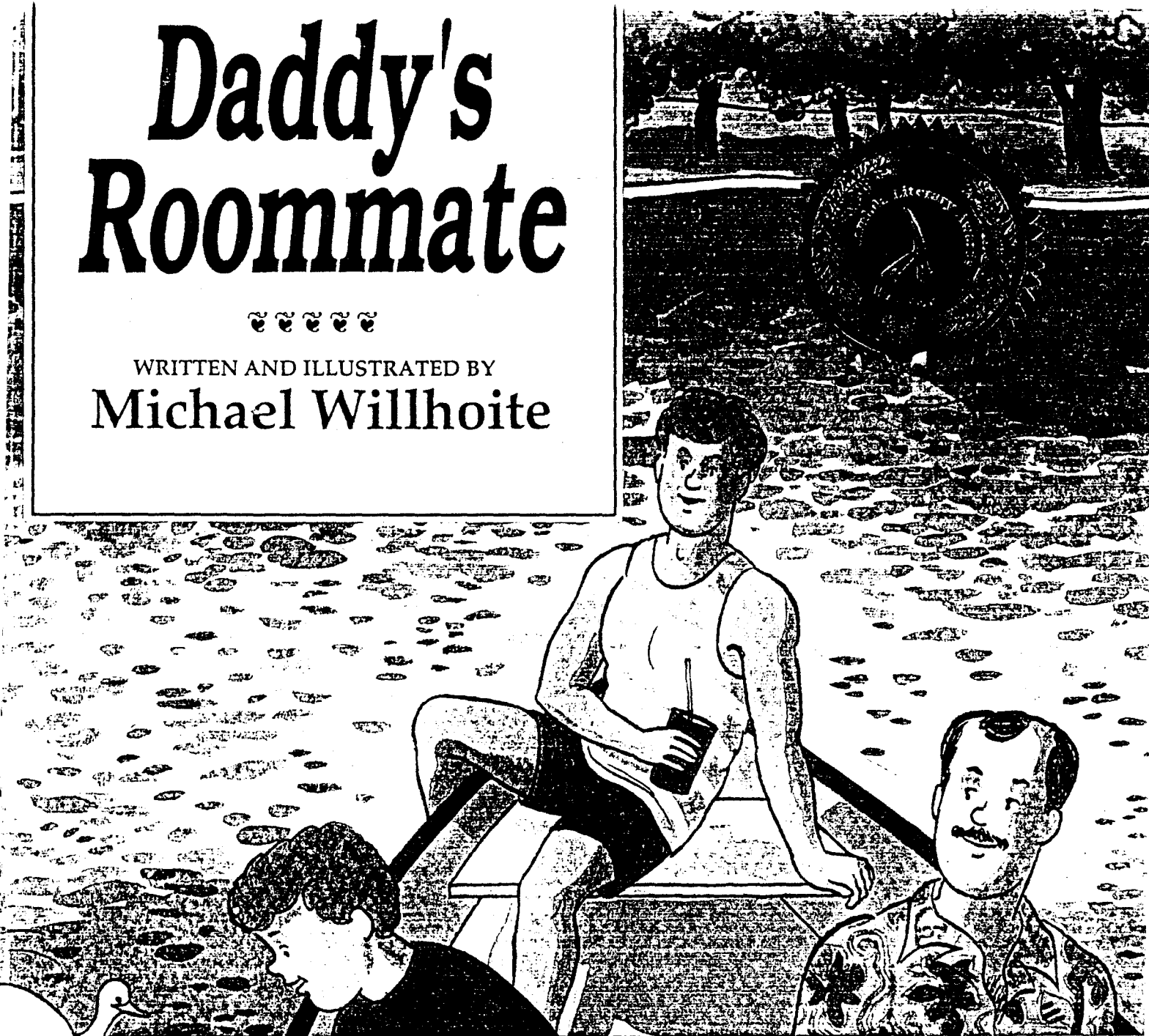


EXHIBIT 24  
DATE 1/26/93  
HB 215

The original is stored at the Historical Society, 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

312 1A

**Request for Facsimile  
Transmission**

Date  
January 25, 1993

**From**

Name	Steve Bartell	Phone No.	652-1318
Address	4510 Laredo Place		
City, State, Zip	Billings, MT 59106		

**To**

Name	House Judiciary Committee	Phone #	(406) 444-4800
Address	Capitol Station	Fax #	(406)-444-4105
City, State, Country	Helena, Montana 59620		

No. of Pages

1

**Instructions/ Message**

I am **OPPOSED** to House Bill 215 which will decriminalize homosexuality and would like you to vote **NO** on this bill.

The bill would potentially allow (or be stated mandated) teaching our children that homosexual behavior is normal and a lifestyle to be encouraged which is definitely against my personal beliefs and is also against the instructions given in the Bible!

The bill is also unnecessary from the standpoint of encouraging people to step forward to be HIV tested because during the last legislative session amended the Sexual Crimes Act to include a section to protect individuals from prosecution when seeking HIV testing or treatment.

312-1A

**Request for Facsimile  
Transmission**

Date January 25, 1993
--------------------------

From

Name <i>Michael James &amp; Valerie Kay Hagan</i>	Phone No. <i>255-2617</i>
Address <i>4511 Robbie Ln</i>	
City, State, Zip <i>Billings, MT 59106</i>	

To

Name House Judiciary Committee	Phone # (406) 444-4800
Address Capitol Station	Fax # (406)-444-4105
City, State, Country Helena, Montana 59620	

No. of Pages 1
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**Instructions/ Message**

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112-1A

Request for Facsimile  
Transmission

Date January 25, 1993
--------------------------

From

Name <b>GARY ALURED</b>	Phone No. <b>406 652-2132</b>
Address <b>4503 TOYON</b>	
City, State, Zip <b>BILLINGS, MT. 59106</b>	

To

Name <b>House Judiciary Committee</b>	Phone # <b>(406) 444-4800</b>
Address <b>Capitol Station</b>	Fax # <b>(406)-444-4105</b>
City, State, Country <b>Helena, Montana 59620</b>	

No. of Pages <b>1</b>
--------------------------

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HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

Judiciary COMMITTEE BILL NO. H/B 215  
DATE Jan. 26, 1992 SPONSOR(S) D. Brooke

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
David Polk Helena	self		X
Jodie du Joly	self	<del>X</del> <sup>I support repeat.</sup>	
Clavin Warren	"		X
Ganille Barnett	"		X
Dr. Robert Roberts	self	X	
James Medbury 428 Broadway #5 Helena	self	X	
Daniel Morton 5305 N. Mont. Hn	"	X	
Jan Hensel 421 Raymond Helena	self		X
Shirley Gleason	self		X
Victor McQuinn	self	X	
Marc Passmann 436 S 5th W Missoula	self	X	
Paul D. Gullermet Box 9013 Missoula	self	X	
JEFF Felix 907 Washington Helena	SELF	X	
Colette Anderson 5260 Louisa Miller Creek Missoula	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

Judiciary

COMMITTEE

BILL NO.

HB 215

DATE Jan 26, 1993

SPONSOR(S)

Brooke

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Morgine Randash	HB 215		✓
Mike Fraser 300 S. Rodney #3 Helena	Self	✓	
Linda Troutt	<del>Stanford</del> Self		✓
Al Troutt	Self		✓
Emily Johnston	"	✓	✓
Janna Alfredson	Self	✓	
Grace Robison-Hodges	Self	<del>X</del>	<del>✓</del>
Phil Robison-Hodges	self	X	✓
Beth Alfredson	self		✓
Stephen Snook	HB 215	✓	
DAVID WARGO	SELF	✓	
Gary Holt	SELF	X	
TOM GLEASON	SELF		✓
Kanda Cramer	Self		✓

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

HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

Judiciary COMMITTEE BILL NO. HB 215  
DATE Jan. 26, 1993 SPONSOR(S) Brooke  
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
KATHLEEN R. FRANK 1432 VAN BUREN N.W.	215	X	
ADAM BENTON 1000 STANLEY ST.	215	X	
ERIC BEEDS 41 LEWIS	BILLINGS	X	
KURT NELSON 41 LEWIS	BILLINGS	X	
David Orendorff	Helena	X	
Margaret V. Orendorff	Helena	X	
Cathy Selzer	Helena		
Margaret Stuart	Self		X
LYDIA Green	Helena	✓	
ANN PRUNDKE	MAPP	✓	
CLAUDIA MONTAGNE	SELF (HELENA)	✓	
Jennifer Bottomly	SELF (Helena)	✓	
Joe Seipel	Citizens For Excellence in Education		✓

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

HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

Judiciary COMMITTEE W/B 915  
DATE Jan. 26, 1993 SPONSOR(S) D. Rook

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Judy Jones	Metropolitan Community Church.	X	
Mark Jones	SELF	X	
John Colgan	Self	X	
Jay Bruce		X	
Jeff Stickney	Self	X	
Jana Maier	Self	X	
WILLIAM C. SUMMERS	SELF	X	
Bruce Hoffmann	Self		X
Connie Skousen	Mslaw for Peace WHPF	X	
Micki Wolsford	Mslaw, MT	X	
Michael T Stevenson	Self		X
Victor Berg, Pastor	Hudson First Church of the Nazarene		X
Annex L...	Self	X	
LORETTA ARENDT	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

Judiciary COMMITTEE BILL NO. H.B. 215  
DATE Jan. 26, 1993 SPONSOR(S) D. Rooke  
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<i>Paula E. Lammer</i> <sup>White Sulphur Springs, MT</sup>	<i>Self</i>		X
<i>Robert Johnson</i>	<i>L &amp; H. Dept</i>	X	
<i>WARR CHAMBER</i>	<i>SELF</i>		X
<i>Chuske Chamber</i>	<i>Self</i>	<del>X</del>	X
<i>Pete Merkes</i>	<i>SELF</i>		X
<i>John T. Lewis</i>	<i>Self</i>		X
<i>Terri L. Donaldson</i>	<i>self</i>		X
<i>Tracy Jackson</i>	<i>Self</i>		X
<i>Sandra Stewart</i>	<i>Self</i>		
<i>Julie O'Connor</i>	<i>Self</i>	X	
<i>Barbara Penwell</i>	<i>Self</i>		X
<i>Lorene Senezac</i>	<i>self</i>	X	
<i>ARA LYNNE</i>	<i>Self</i>	✓	

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

HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

DATE Jan. 26, 1993 COMMITTEE Judiciary BILL NO. LB 215  
SPONSOR(S) Brooke

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Pharmacia Dindgren 5800 Hidden Valley Dr.	State of Montana		X
Christine M. Ahner	State of Montana		X
John W. Dign	Family		X
"Luke" Keating	my Family		X
Wm. D. Wise W.D.	SELF + MONT. HEALTH ALLIANCE		X
Kristin Houtnik	self		X
Brendy Oard	Self family		X
Lawn 70 Kufe 925 Strawberry	Self		X
Chris Hebrich 3275 Lettlands Canyon Blvd Billings, MT	self's family		X
L. Lammach 4223 Lando Billings, Mt.	Self + family		X
Terky Darow 3010 Parkhill Billings, Mt.	self + family		X
Alfred Gaur 328 Yellowstone Ave Billings, MT	Self + YAE		X
Tom Green 1500 Kirkwood Dr. Geneva, IL	Self		X
Kathy Juke Box 72 Melstone, Mt.	Self		X

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HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

Judiciary COMMITTEE HB 215  
DATE Jan. 26, 1993 SPONSOR(S) Brooke  
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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Diana Sands	MT Women Lobby	X	
Paul Muth	self	X	
Eliza Lake	MT. Women's Lobby	X	
Patricia Ann Davis	concerned citizen	X	
Kate Gaspar	self	X	
Ang Pfeifer	Women's Law Socia State Bar	X	
John Connor	MT Cty Attys Assoc	X	
Tiffany Donaldson	self		X
Bob Deruy	self		X
Maxine Deruy	self		X
Sandra Johnson	SELF		X
Joel Baird	justice	X	
SEAN DWYER	SELF	X	
Charles A Fenwell	<del>SELF</del> SELF		X

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Judiciary COMMITTEE BILL NO. 7/B 9/5  
DATE Jan 26, 1993 SPONSOR(S) Brooke  
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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
TREANNA STEINMAN <del>JOE HARRINGTON</del>			X
JOE HARRINGTON			X
Judy Van Albemarle			X
Betsy McGee		X	
Kathryn Reid			X
Madalyn Crouch			X
BETSY SPETTIGUE		X	
Janet Stuck		X	
R. Scriven			X
J. Chamber			X
Nancy Balyeat			X
Robert E. Balyeat			X
Marlene Mayo			X

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Keray Mountain	Self	X	
Starshine	Helena Quakers	X	
Lorance H. Abel	self	?	?
Corky Smith	self	X	
JOE ZAVALLETTA	SELF		X
Constance Ensign	self	X	
DAVID KEITH	self	X	
Astrid Wick	self	X	
Brad Soren	Self	X	
THIEN PHAM	Self	X	
TOM SIVAK	Self	X	
Beth Smith Mitchell	self	X	
CONNIE KRAUTIER	NOT TESTIFYING		X
Arthur McCafferty	Self		X

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Judiciary COMMITTEE Brooke BILL NO. HB 215  
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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Sandra Boggs 1957 Oro Fino Helena, MT 59601		✓	
Tranne Shearer Box 232 Helena 59635	Myself + husband		✓
Russ Wahl Bx 1268 Cut Bank 59421			X
Robert Welker Box 667 Shelby Mt.	Myself + Family + Church		X
Karen Welker Box 667 Shelby, MT 59421			X
CARRIE SACKMAN 3907 PALISADES BILLINGS MT			X
Ben Sackman 3707 Palisade Billings			X
Carolyn 201 Box 1201 GT Falls, MT	ACLU - Sec	X	
Pastor Gina Hartung 1626 30th Ave SE GT Falls	Metropolitan Community Church	X	
STEVE WHITE	MT HEALTH ALLIANCE		X
B. JOHN HEETDERKS, M.D.	BOZEMAN CLINIC		X
Helen Rodriguez	MCC	X	
KATHLEEN OWEN	Metropolitan Community Church	X	
Penny Burkstrand	metropolitan Community Church	X	

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Judiciary COMMITTEE BILL NO. AB 715  
DATE Jan. 26, 1993 SPONSOR(S) Brooke

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
BURT Mittelstadt	self	X	
Pam Mardas	self	X	
SANDRA (RHANDI) PACHEL	HEALTH HUMAN RIGHTS TASK FORCE	X	
Rosanne Donahoe	self	X	
Brian McNitt	self	X	
Stan Brubaker	SELF	✓	
REV. ROBERT M. HOLMES	Self	✓	
Laura Turman	self	X	
Ho ZIN MAN	self		✓
Brammo Smoley	Self		X
Janif. Jaen	self		X
Stacy Farmer	SELF		X
Anne Binniger	Self	X	
Pat. Outmeier	Self	X	

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Judiciary COMMITTEE BILL NO. 4/B 915  
DATE Jan 26, 1993 SPONSOR(S) Brooke

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Linda Sandman	self	X	
J. J. Korbys	Self		
Jim Korbys	Self	X	
Don McLaughlin	SRFC		
Ellen N. Graft	DSL		
Bill Manley	self		X
Lisa Maxwell Foster	Self	X	
Sander Manley Cut Bant	Self		X
Chris Cullkette	Self		X
Andrew McAlpine	Self		X
Wm McAlpine	Self		X
Deann Burkland	Self	X	
Linda Hall	Self	X	
Colleen Suppe	Self	X	

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Sanna Riesling	Self	X	
David Martin	Self	X	
Bill Lueger	Self	X	
JUDITH CARLSON	MT. CH.P., NASW	X	
St. Michael's	Self	X	
Mimi Hicks	Self	X	
Theresa Smith	Self	X	
Berke Houser	Self	X	
Evelyn Whitesett	Self		X
Cathy Siegan	MDHES		
Al Hinson	Self and family		X
Lynn Kern	Self		X
Tolly Lanning	Church	X	
John Michaelson	American Family		X

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BILL NO.

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
JOHN E BARBAGELLO II	MYSELF + FAMILY		X
James Weber	Myself + Family	X	
Mr Mark Mozer	self / family		X
JACK TRAXLER	Eagle Forum		✓
DOROTHY TRAXLER	" "		✓
MAXINE HOMER	MT Christian (Annapolis Chapt) Wilmington	X	
Sharon Reynolds	PFLAG Congregational Ch.	X	
Alice Miller	PFLAG Registered Nurse	X	
Barb Whiteman	Self	X	
James Katrik	Christian Coalition of Mt		✓
Fredrick N DeMat	Baptist Bible Fellowship		✓
David Herman	myself	X	
Richard Morgan	Self	X	

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Emily McCarty 106 Sunbar Ave Helena MT	Self		✓
Greg Stagg 710 City Dr. MSN MT.	Self	✓	✗
Dr. Anne Perkins	Self	✓	
Emily Donahoe	Self		
Rebecca Kott	Self		✓
Ann Brodsky	Self	X	
NEIL EGAN	Self	✓	
Alan Nicholson	Self	✓	
Tooke Welker	Self	✓	
Alan Brennan	Self		✓
Lied M Beck 1438 Van Buren Missoula	Self	✓	
Pike & Lisa Keeskes	Citizens for Responsible Government		✓
Jim Boggis	Self		✓
Michael Meredith	Self	✓	

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Sharon R. Turner	<del>Self</del> self		✓
NANCY MENNING	SELF	X	
DEBRA DAWSON	MISSOURIA WOMEN SELF - FOR PEACE	✓	
Suzanne Rice	Self	X	
Harold G. Watts	C. L. B. Baptist Church		X
Jenny Miller	SELF	X	
Ken Toole	Human Rights Network	X	
Karen Semple	self		✓
Linda Gryczan	Repeal	X	
Diana Longden	NASW	X	
Donna Forken	Self		✓
G. M. CRAWFORD	SELF	X	
CJ Kirchner	SELF	X	
Tracy M. Donaldson	self		X

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COMMITTEE

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Don Stiles Box 724 Fairfield <sup>59436</sup> MI.	Self		X
Laurie Becker, Box 698 Fairfield	Self		X
Jim Irvine Box 47 GTF MI	Self		X
Jerrad Zitnik 502 Broadway	Self		X
<del>Doug O'Connell</del>	Self		X
Shirley Chaffee <sup>977 Mill Rd</sup>	Self		X
Carla Krupp <sup>1452 Flowerree</sup>	Self		X
Cornie Chaffee <sup>791 Mill Rd</sup>	Self		X
Kimberly Holmgvist	Self		X
Dale Chaffee <sup>979 Mill Rd</sup>	Self		X
Heather Harrin <sup>665 Mill Rd</sup>	Self		X
Sharon Chaffee <sup>989 7th Rd</sup>	Self		X
Danell Gardner <sup>665 Mill Rd</sup>	Self		X
Heather Harrin <sup>665 Mill Rd</sup>	Self		X

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Doris E. Copenhaver	Self	X	
Nancy Matheson	self	X	
G.S. STIMSON	self	X	
Beverly Fox	self	X	
Sandra Stewart	self	X	
Jessie Howell	self		
Joyce Andrus	SELF	X	
Emily Swanson	self	X	
Amy McBride Barker	self	X	
Art Kessman	Self		X
Clyde M. Lussman	Self		X
Aaron Kamm	"	X	
Christine Phillips	self	X	
Norice Rice			X

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HOUSE OF REPRESENTATIVES  
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Indecency COMMITTEE BILL NO. 18 B 215  
DATE 1-26-93 SPONSOR(S) Brooke

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<u>Sam Reynolds</u> <sup>930</sup> <u>Payson</u>	<u>Self</u>	<u>X</u>	
<u>Michelle Hargrett</u> <sup>141</sup> <u>Payson</u>	<u>Self</u>	<u>X</u>	
<u>Ellie Telford</u> <sup>5089 Redwing</sup> <u>Helena, MT</u>	<u>"</u>		<u>X</u>
<u>Alan Branham</u> <u>Helena, MT</u>	<u>My Family</u>		<u>X</u>
<u>Timber J. Harkins</u> <sup>Ekolokan</sup> <u>MT</u>	<u>Self</u>		<u>X</u>
<u>Kenda Tjula</u>	<u>Self</u>	<u>X</u>	
<u>El Bunch</u>	<u>WSCenter</u>	<u>X</u>	
<u>Alexandra Swaney</u>	<u>self</u>	<u>X</u>	
<u>Joe Barnett</u>	<u>Rep. H.D. 76</u>		<u>X</u>
<u>Bob Klinker</u>	<u>self</u>		<u>X</u>
<u>K. Kieffler</u>	<u>self</u>	<u>X</u>	
<u>Lorraine Michaels Williams</u>			
<u>Margaret Lewis Miller</u>	<u>self</u>	<u>for</u> <u>repeal</u>	
<u>Ralph Ueh</u>	<u>self</u>	<u>X</u>	

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Marlene Hines Helena 59604 P.O. 9184	Mt. Hummer Rts. Network	X	
Kitty Cutting P.O. Box 1715 East Helena	Self	X	
Barbara Larsen 25650 VanDerKunglen Arlee MT 59821	Self	X	
Linsey Knight 202 Turner Hall Missoula, MT. 59801		X	
Alex J. Dziekonski 2640 Park Drive Helena MT.	Self		X
Ric Eldersleben 2956 Village Rd Helena, MT	Self		X
Ellen Arguimbau 17 Division St Helena	Self	X	
Jorge Gui 2640 Park Dr. Helena, MT	Self		X
Ma# Fillingen 5532 Eldorado	Self		X
Nate Brown 1207 Winston	Self		X
Russ Quinby 6070 N. Slope RA.	Self		X
Lincoln Dziekowski 2640 Park	Self		X
Mike Paske 1205 Hilmen Rd	Self		X
MB HUNTER 322 Turner	Self	X	

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
KEVIN F. ASAY 6 David Crt.	self		X
JOHN VANDENACK HELENA	UT RT LIFE		X
Dallas D Erickson P.O. Box 4071 Missouri 2	MCDE please!		X
Vicki C. Weida <del>730 8th</del> 730 8th AVE	self/family ↓	X	
M. L. Rupp	1-800 self & food!		X
John Garrity	self	✓	
E Daniel Mills	Self	X	
PATRICIA VAN NOY 715 Highland Helena	women's committee T.B		X
David K. Orndoff	Self	X	

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Lois Adams 1085 Helen Ave Helen	myself.	✓	
Holly Franz	Womens Law Section of The State Bar of Montana	✓	
Emily Danvers	MUSE		
MARIE CADWALLADER 515 N. RODNEY, HELENA MT 59601	SELF	✓	
Susan Leonard	SELF / Helena	✓	

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JUNICIARY COMMITTEE BILL NO. HB215  
DATE 1/26/93 SPONSOR(S) REP. BROOKE

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Linda Hays	self	✓	
Dolores Colburg	self	X	
Bruce Desonig	Mont. Public Health	X	
Ellad Stevens	SELF		✓

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Judiciary COMMITTEE BILL NO. LB 215  
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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Mrs. S. S. S. S.	Self		X
Phyllis L. S. S. S. Box 196	Self	+	
Pat McCordy	Self		X
WILLIAM J. Carson #4 17th Aves. GREAT FALLS	SELF	X	
DAVID Heinzen	Self	X	
Aaron Kampe	Self	+	
Nels WILKINS	Self		X
Gary G. Brown	self	X	
Gwenyth Mapes	NOW	X	
Joyce H. Swingendorf	Self	X	
Arvid M. Rindan	self		X
Bill Countryman	Self		X
Rep. James Wilkins	Self		X

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Rodney Donnoy	North West Austin's Farm Ave		X
M. L. Rupp	1809 Silver Helena		X
JIM & NANCY (AROW)	MCT INC		
Claudia Crase	self	X	
Tim Holmes	self	X	
4479 STORE L1. Jenny Erickson Stevensville	Self		X
Dallas Erickson Stevensville	Montana Citizens Self for Deserony Throuth Land		X

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
J. M. SEWLER	self	X	
Jeffrey M Pennington	Self + Mountain View Bible Church		X
Barb Gier	self	X	
Meg Blom	self		X
Meg Blom + family	self		X
Bob Calkins	Self		X
Carol M Calkins	self		X
M. L. Rupp	self		X
Cathy Luss	Self	X	
Teresa A Sing	Self (Helena Human Rights)	X	
Steve Simpson	MT. Gay Health Project Helena, MT	X	
Syd Brasfield	self		X

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# Phone Calls

## HOUSE OF REPRESENTATIVES VISITOR'S REGISTER

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
William Hannon	Box 1024, Condon, MT		✓
Donita Morgan	PO Box 753 Seeley Lake		✓
Willemina Freyholtz	Box 163, HC 31, Condon		✓
Claris Wood	Box 2901, Seeley Lake		✓
Elizabeth Wood	Sammen Prairie Rd Seeley Lake		✓
Leona Lapka	Seeley Lake MT 59868		✓
Janice Boyd	Libby, MT		✓
Brenda Chapman	Libby, MT		✓
Robert J. Chapman	Libby, MT		✓
Sharon Schnackenberg	Libby, MT		✓
Sharon Brossman	Libby, MT		✓
Julia Brossman	1051 Coe St, Libby, MT		✓
Mary Jo Tomman	Bozeman		✓
Shirley	Seeley Lake		✓

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# PHONE CALLS

## HOUSE OF REPRESENTATIVES VISITOR'S REGISTER

House Judiciary COMMITTEE BILL NO. HB 215  
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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Ernie & Marjorie Pitts	Box 814, Conrad, MT 54924		<input checked="" type="checkbox"/>
Heather Ann Wayne	Seeley Lake, P.O. Box 57868 330		<input checked="" type="checkbox"/>
<del>Cass</del> Cassandra Barden	Seeley Lake, P.O. Box 243 59868		<input checked="" type="checkbox"/>
Dick Bardo 2 Avery	Lynberg Lake Condon, MT 59826		<input checked="" type="checkbox"/>
Phil & Merna	Condon, MT		<input checked="" type="checkbox"/>
Linda Hannon	P.O. Box 1054 Condon, MT 59826		<input checked="" type="checkbox"/>
Marge Stuyger	8C31 Box 325 South 59826 Seeley Lake, MT 59826		<input checked="" type="checkbox"/>
Doris Nelson	P.O. Box 1204 Condon, MT 59826		<input checked="" type="checkbox"/>
Dona Schloeter	P.O. Box 1062 Condon, MT 59826		<input checked="" type="checkbox"/>
Dave Stirling	Box 84 Seeley Lake 59826		<input checked="" type="checkbox"/>
Roxy Stirling	Box 84 59826 Seeley Lake		<input checked="" type="checkbox"/>
Tella Himes	HC31 Box 381 Condon 59826		<input checked="" type="checkbox"/>
Leanna Campbell	790 US Hwy 89 Vaughn, MT 59487		<input checked="" type="checkbox"/>
GARY WAYNE	Box 330 SEELEY LAKE 59868		<input checked="" type="checkbox"/>

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HOUSE OF REPRESENTATIVES  
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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<i>Ron Swaggart</i>	<i>Seeley Lake</i>		<input checked="" type="checkbox"/>
<i>Betty Word</i>	<i>Libby</i>		<input checked="" type="checkbox"/>
<i>Genevieve Noble</i>	<i>Libby 415 W. H. A. H.</i>		<input checked="" type="checkbox"/>
<i>Harry Wood</i>	<i>Seeley Lake</i>		<input checked="" type="checkbox"/>
<i>James C. Campbell</i>	<i>Vaughn MT</i>		<input checked="" type="checkbox"/>

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# Messages

## HOUSE OF REPRESENTATIVES VISITOR'S REGISTER

Judiciary

COMMITTEE

BILL NO.

HB 215

DATE

Jan 26, 1993

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
MRS. COOPER	ROSEBUD 8c 83 Box 18A		X
EDWARD DIEMERT	Lothair 432-3411		X
TOM PAYNE		X	
MORA PAYNE		X	
Jim Schulz	self / Helena	X	

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