

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN RUSSELL FAGG**, on March 24, 1993, at 8:00 a.m.

ROLL CALL

Members Present:

Rep. Russ Fagg, Chairman (R)
Rep. Randy Vogel, Vice Chairman (R)
Rep. Dave Brown, Vice Chairman (D)
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: None

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: SB 357, SB 409, SB 351, SJR 15
Executive Action: SB 425, SB 408, SB 217, SB 392

HEARING ON SB 357

Opening Statement by Sponsor:

SEN. STEVE DOHERTY, Senate District 20, Great Falls, said SB 357 is an act limiting the right of a witness in a proceeding before the securities commissioner to claim the privilege against self-incrimination in order to exclude the use of the testimony in any

criminal case. It revises the duration of a temporary order issued by the commissioner prior to a hearing on an alleged violation of state securities law.

He said the problem with investigating insurance fraud and pursuing the case is that, at one time, there was a question whether the individual would cooperate and provide the commissioner with information and clearly waive the Fifth Amendment right. This bill would make it clear that, when providing information willingly, individuals are waiving that Fifth Amendment right.

Proponents' Testimony:

Melissa Broch, State Auditor's Office, said SB 357 provides that an individual responding to the department's administrative subpoena waives his/her Fifth Amendment rights. This is a general rule in the criminal justice system and the effect of the bill would be to put individuals responding to the department's subpoena on notice that they must raise personal privilege before responding.

Opponents' Testimony: None

Questions From Committee Members and Responses:

CHAIRMAN FAGG asked SEN. DOHERTY what the heart of the bill is. SEN. DOHERTY responded that it was page 3, subsection (4) which discusses the Fifth Amendment, and Section 1, page 4.

REP. TOOLE asked if the bill is changing the way the constitution applies. Ms. Broch said as with any standard in the federal system, unless a person raises his Fifth Amendment privilege, she doesn't think this would be changing the constitution.

Closing by Sponsor:

SEN. DOHERTY said he doesn't believe this bill is a burden shift as far as the prosecution's duty to prove all the elements of the case. He believes it clarifies what happens with administrative subpoenas when the securities commissioner is investigating cases of securities fraud. He doesn't think the bill infringes upon the constitution, and does think it will give the securities commission the extra tool to prosecute securities fraud.

HEARING ON SB 409

Opening Statement by Sponsor:

SEN. BOB HOCKETT, Senate District 7, Havre, said SB 409 is an act providing for the confidentiality of the proceedings and records

of committees organized to conduct quality assurance reviews of emergency medical and trauma care; providing for immunity from suit for those committees; providing for confidentiality of certain records of the Department of Health and Environmental Sciences, other state agencies, hospitals, medical assistance facilities, and emergency medical services; providing for immunity from suit for persons communicating certain information to the Department; allowing certain health care information to be shared with other state agencies for development of emergency care planning statistics. EXHIBIT 1

Proponents' Testimony:

Drew Dawson, Department of Health and Environmental Services (DHES), submitted written testimony. EXHIBIT 2

REP. TIM SAYLES, House District 61, Missoula, is also an Emergency Medical Technician (EMT). He said that EMTs do case reviews on individual patients and calls on a regular basis. It's critical that EMTs do this to improve their services. EMTs can't control their environment and work under poor conditions most of the time. EMTs work together and would do reviews of the call or scenario following its completion.

Jerry Loendorf, Montana Medical Association, said the bill is necessary because the current care review laws cover problem care and emergency care, and people need to review and continually monitor how care is being given so that needed improvements can be made. The immunity and confidentiality provisions are needed because this work is principally done by volunteers. If a volunteer is going to do it, they've got to have a reasonable assurance they will not be sued just for making these recommendations. Mr. Loendorf's exhibit is a copy of existing care review laws. EXHIBIT 3

Steve Browning, Montana Medical Association, appeared in support of SB 409.

Opponents' Testimony:

Russell Hill, Montana Trial Lawyers Association (MTLA), stated the MTLA believes SB 409 is unnecessary and doesn't agree with the assumption that people won't deal with problems unless they are given confidentiality. The proposed amendments are crucial to the bill because the original version went far beyond what care review committees are allowed to do in a hospital.

Questions From Committee Members and Responses:

REP. BIRD asked Mr. Browning if immunity would not be covered, and said since this is going to be under the auspices of DHES,

wouldn't these people already be covered as far as immunity.

REP. WHALEN referred to page 2, where the language contained on lines 12-16 of that new was stricken and in its place a provision inserted having to do with providing privilege with respect to the information developed in the care review committee. He asked Mr. Hill to comment. Mr. Hill said the stricken language was so broad that information was being allowed to be subject to subpoena; and even if that information had already been released, not allowing it to be used in court proceeding seems to be a real problem. The language, based on privileged information, embodies the concept that there's a doctor/patient privilege. A patient can waive that privilege by the deletion of this new language. If someone is hurt and it's their privilege that is denying them information about themselves, they have the right to waive that. REP. WHALEN clarified that this, in essence, allows the patient to waive the privilege. Mr. Hill confirmed that the patient can waive the privilege and receive documents concerning himself. However, he couldn't, by waiving a privilege, get other information not directly relevant to the treatment given to him.

Mr. Dawson commented that the proposed amendments by SEN. HOCKETT were intended to make this care review statute comparable to the two other current care review statutes. Before that language was taken out in the Senate committee, the language was subject to discovery or any other administrative proceeding. The individual patient record will be discoverable; what will not be discoverable will be the actions of the care review committee and its deliberations. In a care review concept, the providers need to review the case, critique it, decide what mistakes were made in the providing care to the patient, and determine how that care could be improved in the future. Mr. Dawson said those are the activities that should be protected.

Mr. Loendorf said this bill protects the records created by the care review committee. The committee may review a host of records, record minutes and make recommendations. That's the record this bill protects. Patient records don't acquire any protection simply because they go through the care review committee.

REP. TOOLE said he sees a lot of problems arising out of this bill because there is a non-liability statute. He asked Katherine Orr, Chief Counsel, DHES, why this bill isn't drafted to take care of EMTs by including them in the list of people who currently have this protection. Ms. Orr said there is another provision in 50-16-205 that addresses confidentiality of data collected. REP. TOOLE said this proliferates it by writing a new statute. He said it won't kill the bill, but he thinks sections 2, 3, and 4 should be rewritten to include EMT services in existing law.

Closing by Sponsor:

SEN. HOCKETT said the committee should consider what can be done in the best possible way when circumstances are far from ideal to help that patient survive as a person that is not handicapped or disadvantaged because of inadequate treatment. That should be the primary concern of the committee. He asked the committee to not destroy what the bill is trying to do, which is to allow the medical community to candidly look at what was done in a given circumstance and try to do it better without becoming involved in a lawsuit because everything wasn't done perfectly the first time. He stressed the fact that medicine is not an precise science.

HEARING ON SB 351**Opening Statement by Sponsor:**

SEN. JEFF WELDON, Senate District 27, Arlee, stated that SB 351 is an act granting a district court judge discretion in a summary dissolution of marriage proceeding to grant the dissolution after review of the petition without holding a hearing. He said the meat of this bill is the "without holding hearing" part. SEN. WELDON provided testimony of his presentation, and a letter from a concerned constituent. EXHIBITS 4 and 5

Proponents' Testimony:

Anne Hamilton, attorney, Association of the University of Montana, said the bill will remove the court hearing requirement, and in her opinion the court hearing requirement is unnecessary. She said the entire hearing takes very little time, the attorney reads the petition, asks the party that filed the petition if they agree with it and the decree is then entered. Currently, in almost every case the parties agree; or if they settle their case out of court, they file a judgement with the court. The court will not require a hearing. Presently, that isn't true with a dissolution; no matter how simple, people still have to go to court. This is a waste of court time, a waste of taxpayers' money, and there are far more pressing matters before the court. Only attorneys profit from this system.

Kate Cholewa, Montana Women's Lobby, said this bill saves money and time and the Montana Women's Lobby urges the committee's support.

John McCarthy, attorney, Association of the University of Montana, also said this bill saves money and time and the Association of the University of Montana urges the committee's support.

Opponents' Testimony:

Kathleen Breuer, Clerk of District Court, Missoula County, Missoula, submitted her written testimony. EXHIBIT 6

Charmaine Fisher, Clerk of District Court, Yellowstone County, Billings, presented her written statement. EXHIBIT 7

Cort Harrington, Montana Association of Clerks of District Court, said when two people marry, it's a process called solemnization, in which they appear before a judge, rabbi, priest, minister, etc., who actually marries them. When those persons wish to dissolve that commitment, they must appear before a judge. He said there is a Supreme Court decision in this area which states it is not sufficient simply to allege there is no prospect of reconciliation in a petition. The judge is required to take evidence, and that evidence must be on the record to support making that finding. This bill attempts to eliminate a critical step, that of requiring the parties to come in and say that the marriage is finished.

Questions From Committee Members and Responses: None

Closing by Sponsor: None

HEARING ON SJR 15**Opening Statement by Sponsor:**

SEN. B.F. CHRISTIANS, Senate District 18, Great Falls, said the resolution is asking for studies for alternative methods of enforcing the state's human rights laws. The number of complaints has increased year after year, and the state has never been able to get a good handle on the quality of those cases in an expeditious manner. This resolution suggests that, during the interim, some alternative methods of handling these cases be looked at. He pointed to some of the alternative methods on page 2 of the bill.

Proponents' Testimony:

Ann MacIntyre, Administrator, State Human Rights Commission, stated the purpose of this legislation is to establish alternative methods for enforcing the state's human rights laws. Currently, an individual who has a human rights discrimination complaint must first file that complaint with the commission. The commission investigates the complaint and attempts to resolve the complaint through mediation. It then goes to a hearing to ensure that certain conditions have been met. After the commission completes the hearing, the final decision is subject

to conditional review in district court or the Supreme Court. Considering the volume of cases now being filed with the commission, it can be a long and cumbersome process.

Opponents' Testimony: None

Questions From Committee Members and Responses:

REP. TASH asked Ms. MacIntyre what sources of funds are to be used for these studies. Ms. MacIntyre said the Legislative Council budget includes funding for some selective studies and some will also be funded by appropriations.

Closing by Sponsor: None

EXECUTIVE ACTION ON SB 425

Motion/Vote: REP. BROWN MOVED SB 425 BE CONCURRED IN. Motion carried unanimously.

EXECUTIVE ACTION ON SB 408

Motion: REP. SAYLES MOVED SB 408 BE CONCURRED IN.

Motion/Vote: REP. BIRD offered an amendment to strike lines 10-13 on page 4. Amendment carried unanimously.

Vote: SB 408 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON SB 217

Motion: REP. GRIMES MOVED SB 217 BE CONCURRED IN.

Discussion:

REP. TOOLE stated that the reason the exemption for attorneys is in the bill is because of separation of powers.

Motion/Vote: REP. TOOLE moved a conceptual amendment on the description of Licensing Agencies, page 4, to encourage the Supreme Court to adopt such a rule for attorneys. The amendment carried 17-1 with REP. WHALEN voting no.

Discussion:

REP. WHALEN thought it may be a good idea to revoke professional licenses on some kind of intentional misconduct or gross conduct

on the part of the person not paying support. If a parent is delinquent in paying child support for whatever reason, oftentimes there is a misunderstanding or an oral agreement between the parties that child support will be paid one way rather than some other way.

REP. BROOKE said that, as far as she can determine, first of all, if it's a case of the person having a problem with payment arrangements, the timeline given in the bill is that person has to be six months or more in arrears. REP. BROOKE assumed that in those six months an agreement can be reached to get the payments back on track.

REP. TOOLE said this bill is targeting people who may have a firm, i.e., a law firm, that has gross revenue enabling them to employ a number of people. He said anyone losing a professional license is the type of person who ought to be able to pay child support if he has any kind of payroll at all. If it's a small operation and they can't handle the child support, they have the ability to negotiate.

Vote: SB 217 BE CONCURRED AS AMENDED. Motion carried 15-3 with REPS. BROWN, BIRD, and WHALEN voting no.

EXECUTIVE ACTION ON SB 392

Motion: REP. TOOLE MOVED SB 392 BE CONCURRED IN.

Motion: REP. TOOLE moved amendments. EXHIBITS 8 and 9

Discussion:

REP. CLARK is opposed to the bill as he feels a state agency should not make the decision of what a parent should pay according to salary.

It is REP. WHALEN'S understanding that the state of Montana has more statutes to enforce child support by an administrative agency than any other state in the United States. He said half a dozen child support bills have come through this committee. He thinks this bill has serious problems and there's not much that can be done to fix it.

Motion: REP. WHALEN MOVED SB 392 BE TABLED.

Discussion:

REP. TOOLE said many of these fathers don't participate in the first 18 years of the child's life in any way, and many of them don't make enough money to support themselves. He's opposed to much of this bill.

REP. BIRD opposes the bill up through page 6. She said some

fathers are not capable of working at a job for a specific period of time due to chemical dependency, for example.

Vote: MOTION TO TABLE SB 392 failed 11-6 with CHAIRMAN FAGG, REPS. BERGMAN, BROOKE, CLARK, GRIMES, MCCULLOCH, RICE, RUSSELL, SMITH, TOOLE, and WYATT voting no.

REP. BROOKE said she supports both sets of amendments as they clear up many questions the committee had regarding the bill.

REP. WHALEN asked if the amendments have been segregated. CHAIRMAN FAGG said amendments 1-4 will be voted upon first, and then the remainder of the amendments.

Motion: REP. CLARK made a substitute motion to strike Section 1 from the bill.

Discussion:

REP. WHALEN also feels that Section 1 is completely unnecessary, plus it grants authority to administrative bureaucracy.

REP. CLARK closed on his amendment by stating he has no problem with collecting child support. He said the legislature has passed many child support bills this session which should have strengthened child support laws with CSED.

Vote: REP. CLARK'S amendment to strike Section 1 from the bill failed on a 9-9 tie. Those voting no were CHAIRMAN FAGG, REPS. BROOKE, GRIMES, MCCULLOCH, RICE, RUSSELL, SMITH, TOOLE, and WYATT.

CHAIRMAN FAGG, before adjourning the meeting, stated that executive action on SB 392 would be completed on the following day, March 25, 1993.

ADJOURNMENT

Adjournment: 12:00 p.m.



REP. RUSSELL FAGG, Chairman



BETH MIKSCHKE, Secretary

RF/bcm

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL

DATE

3/24/93

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 Savles	✓		
Rep. Liz Smith	✓		
Rep. Bill Tash	✓		
Rep. Howard Toole	✓		
Rep. Tim Whalen	✓		
Rep. Karyl Winslow	✓		
Rep. Diana Wyatt	✓		

HR:1993

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CS-09

HOUSE STANDING COMMITTEE REPORT

March 24, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 217 (third reading copy -- blue) be concurred in as amended.

Signed: Russ Fagg
Russ Fagg, Chair

And, that such amendments read:

Carried by: Rep. Grimes

1. Page 2, line 20.

Following: "income."

Insert: "The Montana supreme court is urged to consider adopting rules that apply [sections 1 through 9] to attorneys."

-END-

Committee Vote:

Yes 17, No 1.

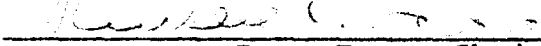
661623SC.Hpf

HOUSE STANDING COMMITTEE REPORT

March 24, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that
Senate Bill 408 (third reading copy -- blue) be concurred in as
amended.

Signed: 
Russ Fagg, Chair

And, that such amendments read:

Carried by: Rep. Sayles

1. Page 4, lines 10 through 13.

Strike: "The" on line 10 through the end of line 13

-END-

Committee Vote:
Yes 15, No 2.


661624SC.Hpf

HOUSE STANDING COMMITTEE REPORT

March 24, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that
Senate Bill 425 (third reading copy -- blue) be concurred in .

Signed: 
Russ Fagg, Chair

Carried by: Rep. Whalen

Committee Vote:
Yes 18, No 0 .

661644SC.Hpf

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL VOTE

DATE 3-24-93 BILL NO. SB 392 NUMBER 18

MOTION: SB 392 be tabled failed 11-6

NAME	AYE	NO
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	NO	VOTE
Rep. Diana Wyatt		✓

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL VOTE

DATE 3-24-93 BILL NO. SB 217 NUMBER 18MOTION: SB 217 be concurred in as amended 15-3

NAME	AYE	NO
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	✓	

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL VOTE

DATE 3/24/93 BILL NO. SB 392 NUMBER 18MOTION: SB392 Amendment fails to strike
Section 2 from the bill 9-9

NAME	AYE	NO
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		✓
	9	9

AMENDMENTS TO SENATE BILL 409
Introduction by Senator Hockett
March 24, 1993

1. Page 2, lines 17 through 19.
Following: COMMITTEE
Delete: "THROUGH on line 17 through "COMMITTEE" on line 19
Insert: "applicable, and are not subject to discovery or introduction into evidence in any other judicial or administrative proceeding."
2. Page 3, line 2.
Following: "PRIVILEGED"
Insert: "to the committee and the members of the committee and are not subject to discovery or introduction into evidence in any other judicial or administrative proceeding."
3. Page 4, line 2.
Following: "ARE"
Insert: "confidential and".
4. Page 4, lines 3 through 5.
Following: "MEMBERS"
Delete: "AS" through "COMMITTEE" on line 5
Insert: "and are not subject to discovery or introduction into evidence in any other judicial or administrative proceeding."

SENATE BILL 409
Testimony of Drew Dawson
March 24, 1993

Mr. Chairman and members of the committee. I am Drew Dawson, Chief of the Emergency Medical Services Bureau of the Department of Health and Environmental Sciences. I am pleased to support Senate Bill 409 which was introduced by Senator Hockett at the request of the Department.

The concept of confidential peer review is an important and long-accepted practice within the field of medicine. Candid review by one's peers is, perhaps, the most logical and persuasive method of improving patient care. Recognizing its importance, the legislature has previously extended the concept of confidentiality and non-discoverability to the peer review process of physicians and hospitals. This bill extends the concept to peer review of emergency medical services at the local and state-wide levels. Several appropriate amendments were made in the Senate to assure the language in this bill parallels the language in existing statutes. However, additional language is needed to assure these amendments are totally consistent. These additions have been discussed with Senator Towe - the primary author of the senate amendments.

Because EMS encompasses multiple facilities and agencies, working cooperatively, the peer review process is a bit more complicated and frequently occurs outside the confines of the hospital. Various agencies and facilities meet together to determine how the emergency medical response could be improved. This peer review and evaluation occurs on a local level and, through the department, on a state-wide level.

Improvements in emergency medical services and trauma care are dependent on honest, open critique and evaluation of individual patient care and of system performance by emergency services providers and their peers. Quality improvement and quality assurance programs can only be effective if the participants are willing to honestly review their performance in a confidential manner and candidly discuss problems without fear of being sued or other legal repercussions.

Comparable to the legal protection currently given hospital peer review committees, SB 409 assures the peer review process and data (both local and state) is confidential, privileged and that it will not be introduced into various judicial proceedings. In a "nutshell", SB 409 provides:

1. that the proceedings and records of a peer review committee assessing the quality of emergency medical and trauma care of a local emergency medical service, hospital, medical assistance facility or other entity are privileged and confidential. This allows, for instance, personnel from the ambulance service, quick response unit, hospital and other emergency services to critically evaluate their performance and determine methods of improvement,
2. that the proceedings and records of a department-established peer review committee are privileged and confidential and that its records are not admissible

in judicial proceedings. In the spirit of honest system evaluation and improvement, some Montana hospitals provide the department, trauma register data on seriously injured patients. The department uses an expert panel to review this very sensitive data and make recommendations for improving the trauma care system. The success of the evaluation/peer review effort and subsequent EMS system improvements is dependent on the candor and honesty of the participating providers. Their willingness to cooperate and to provide data is significantly enhanced by assuring the process and the records are confidential and privileged. The department also plans, very soon, to collect similar information from licensed emergency medical services,

3. immunity for members of a peer review or quality assurance committee for acting within the scope of their duties,
4. quality assurance and/or peer review data and reports which are maintained by the department or obtained from other agencies are considered confidential and privileged. This allows eventual linkages to data to evaluate cost of trauma care, effectiveness of highway safety programs, patient outcome studies and other important issues,

There are several important points:

1. This does not limit the accessibility of any current individual patient information.
2. Generalized descriptive emergency medical and trauma information will continue to be available,
3. Data gathered in conjunction with an investigation of a possible violation of a licensing requirement is admissible.

I should also note that my description of the bill's effect is of the bill as it would read if the proposed amendments are included.

We would appreciate your support of SB 409 with the proposed amendments. The safeguards it provides will encourage the establishment of an honest and successful quality improvement process which will help to improve the delivery of emergency medical services and trauma care in Montana without limiting the access to individual patient information.

(5) A person violating any of the provisions of this section is guilty of a misdemeanor and upon conviction for each violation shall be sentenced to a term of imprisonment not to exceed 6 months in the county jail, a fine not to exceed \$500, or both.

History: En. Sec. 6, Ch. 202, L. 1921; re-en. Sec. 3194, R.C.M. 1921; re-en. Sec. 3194, R.C.M. 1935; amd. Sec. 8, Ch. 101, L. 1977; R.C.M. 1947, 66-1516.

Cross-References

Duties of County Attorneys generally,
Title 7, ch. 4, part 27.

EXHIBIT 3

DATE 3-29-93

SB 409

Part 2

Nonliability for Peer Review

Part Cross-References

Licensing investigation and review —
record access, 37-1-135.

Health care information, Title 50, ch. 16.

37-2-201. Nonliability — evidential privilege — application to non-profit corporations. (1) No member of a utilization review or medical ethics review committee of a hospital or long-term care facility or of a professional utilization committee, peer review committee, medical ethics review committee, or professional standards review committee of a society composed of persons licensed to practice a health care profession is liable in damages to any person for any action taken or recommendation made within the scope of the functions of the committee if the committee member acts without malice and in the reasonable belief that the action or recommendation is warranted by the facts known to him after reasonable effort to obtain the facts of the matter for which the action is taken or a recommendation is made.

(2) The proceedings and records of professional utilization, peer review, medical ethics review, and professional standards review committees are not subject to discovery or introduction into evidence in any proceeding. However, information otherwise discoverable or admissible from an original source is not to be construed as immune from discovery or use in any proceeding merely because it was presented during proceedings before the committee, nor is a member of the committee or other person appearing before it to be prevented from testifying as to matters within his knowledge, but he cannot be questioned about his testimony or other proceedings before the committee or about opinions or other actions of the committee or any member thereof.

(3) This section also applies to any member, agent, or employee of a nonprofit corporation engaged in performing the functions of a peer review, medical ethics review, or professional standards review committee.

History: En. 66-1052 by Sec. 1, Ch. 226, L. 1975; amd. Sec. 1, Ch. 267, L. 1977; R.C.M. 1947, 66-1052; amd. Sec. 2, Ch. 22, L. 1979; amd. Sec. 1, Ch. 380, L. 1989.

WRITTEN TESTIMONY IN SUPPORT OF SB-351
SUMMARY DISSOLUTION BILL

Last session the legislature passed the Summary Dissolution Law. This bill provided for a simple procedure to obtain a divorce when couples have no children and little debts or property. Montana joined a growing number of states that allow couples in this situation to obtain a divorce without the help of an attorney. Although I drafted much of the bill, it was not original. I used both the California and Oregon versions as a model. We made the Montana law stricter in terms of the property and debt provisions, so that Summary divorce would be available in only the marriages that are least financially complicated.

Why do we need this law? The Courts are crowded with critical cases that often wait a year or more for trial. There are not enough Judges. The cost of maintaining our judicial system goes up every year. On days when Courts hear non-contested matters, simple divorces line the hallways waiting for their hearing while cases involving property, wills and estates, business defaults, and complicated divorces have to compete for time. The Court hearing for simple divorce cases engages lawyers, clerks and judges when the result is pre-determined and the hearing basically rubber-stamps the documents prepared by the parties.

The Summary Divorce law only applies to fiscally uncomplicated marriages with no children, and only applies if both parties voluntarily settle all matters before the court hearing. Other states have found this to be a safe and effective way to unclog the courts and allow people access to the legal system without having to use an attorney.

But there was a problem with the law as it was passed last session. At the last minute the legislature made a fundamental change in the law. One of the main benefits of the original draft was that it allowed a divorce without a court hearing. In these uncomplicated cases the parties filled out an agreement and several forms prepared by the Attorney General. They then filed the forms and there was a waiting period. Then the divorce was to be signed by the Court and sent to the parties and the divorce was complete. The legislature last session left the rest of the law complete but added a requirement that the parties go to court for a hearing at the end of the waiting period.

This hearing requirement destroyed one of the main purposes of the law, and took away its simplicity and ease of use. If a court hearing is required the benefit to the court system and

other parties with pending lawsuits is greatly diminished. What is worse, by requiring an in-court hearing it is now more difficult to get a divorce under the Summary Divorce Law than it is under the old divorce law, which is still intact. Under the old law, if both parties file jointly, they can obtain a divorce in as little as 1 day. The summary divorce law has a 20 day waiting period. This was meant to be an extra protection since there was no court hearing. But as it is now, a summary divorce has the same in court hearing as a regular divorce, except it can take 20 days longer. This takes away the incentive for most people to use the law.

Two parties urged the legislature to adopt the hearing requirement; attorneys and the Clerks' of Court. I was disappointed to see some attorneys complicate this simple procedure with a court hearing. Although it is certainly to their benefit, it is not to the benefit of the public at large. These simple situations should not require a hearing, and it is very difficult for an average person to prepare for a court appearance and make that court appearance on their own.

The Clerks' of Court argued that the summary divorce law complicated their record keeping, and that the judges would refuse to grant divorces without a hearing. The complication they are referring to is that once a summary divorce is filed, Clerks would have to mark a date to pull the file and have the divorce decree signed by the judge. Our Clerks certainly work hard, and unduly complicating their lives is not something we want to do lightly. However, I contacted the Clerks offices in states where no-court divorces now exist. They said the burden is minimal, in fact it is much less work than cases where there is a hearing. Yes, the Clerk must "tickle" a date on a calendar to pull the file. But this is done by Clerks continuously. There are hundreds of reasons Clerks use a calendar to pull a file. This calendar system is already in place in every Clerk's office in the nation. Pulling a file after 20 days is not a burden disproportionate to the benefit to the public. In addition, we started out wanting no-court divorces to cost only \$35.00 because they would engage less of the system's time. At the request of the Clerks, the law was changed to make summary dissolutions cost the same fees as regular divorces. This fee is already quite high. It more than pays for the effort involved in the Clerk calendaring a date then pulling a file for the Court. The pre-printed forms are prepared by the parties themselves, there is no drafting by the Clerk's or Judge.

The second criticism was that Judges would refuse to grant divorces without a personal hearing. I do not know what basis

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the Clerks had for making this assertion, aside from several informal conversations they had with judges. First, I would assume Judges will carry out their office and if the legislature authorizes no-court divorces the Judges will carry out their mandate. Secondly, the new amendment before you allows a Judge to call a hearing if he/she really feels one is necessary in a particular case, while still allowing no-court divorces in most situations.

This amendment is pro-people. It leaves attorneys to work on complicated cases where they are really needed. It frees up valuable courtroom time and will reduce the hours attorneys and clients spend in the hallways of the courtrooms waiting for simple divorces to be heard. Unless we make summary divorces available without a court hearing, they are more complicated than regular divorces. People will use the procedure very little, as they have the last 2 years. Frankly, it may be better to not have the law than to have it with a hearing requirement. But we have a chance here to make our system work better for everyone. I urge you to support the proposed amendment as set out in SB-351.

 2/19/93

Bruce Barrett date
Attorney
Director of ASUM Legal Svcs.
243-6213/542-2563, Missoula

EXHIBIT 5
DATE 3-24-93
SB 351

129 8th Street West
Kalispell MT 59901

(406) 755-1752

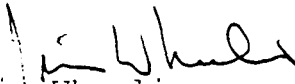
February 18, 1993

To whom it may concern:

I support the changes in the summary divorce procedure proposed by Bruce Barrett. I say this on the basis of my experience as a district judge in Missoula from 1978 until 1989. Summary divorces are limited to people with no children or real property. The changes that Mr. Barrett wants would allow the clerk of the district court to issue a decree without the appearance of either party. I recommend accepting this change. Without children or real property involved, and considering the limits on assets and debts the parties must meet to qualify for the summary procedure, there is little reason to take up court time. The parties must agree on distribution, and there seems to be no more danger of fraud here than there is in the ordinary default situation. It is a good idea to let people who meet the statute's restrictions on finances avoid the expense of an attorney.

Thank you for your consideration.

Sincerely,


Jim Wheelis



Mr. Chairman & Members of the Judiciary Committee

My name is Kathleen Breuer, I am Clerk of the District Court and Second Vice-President of the Montana Association of Clerks of District Court.

I stand before you in opposition to Senate Bill 351-Summary Dissolution.

During the 1991 Legislative Session, the provision for Summary Dissolution was heard and passed into law for the State of Montana.

At that time, we, the Clerks of District Court, did appear in opposition to this bill, as not being as effectual as it could be, nor was it a necessary Law to have in place.

Again, we, the Clerks of District Court, come before you in opposition to the proposed changes in the Summary Dissolution bill, and do request you DO NOT pass this as written nor at all.

Dissolution in its present form, for a joint petition, is the most expeditious avenue to proceed through the court system. It is a matter of filing a co-petition, payment of the proper fee, and if only one party will be present at the hearing, the other party files a Consent to Entry of Decree, so they need not appear. The statistical form MUST be completed and the Final Decree prepared for Judicial signature. This in itself can be accomplished in a matter of hours, which I have seen occur, in less than two (2) hours, however generally, not longer than one week, from the date of filing, depending on the Judicial assignment.

Summary Dissolution, on the other hand, in its present form, is not the most expeditious procedure. The guidelines are narrow with few meeting the criteria for completion. Those which meet those guidelines, must then wait

the full twenty (20) days before preceeding to the Final Decree. At that time both parties MUST appear before the Judge in jurisdiction, to place the cause on the record.

This also provides the Judge in jurisdiction time to make sure each party to the action, understands the ramifications of the undertaking, to answer any questions which they may have, and time to review the petition and Final Decree for clarity, compliance with law and proper form.

This bill, removes the District Judge from the process, with the exception of placing his/her signature on the Final Decree. There is no one to check the petition for errors and/or omissions, prior to presentation to the Court. Nor would there be anyone to check the Final Decree, until it goes to the Judge, as to proper form and content, thus to ensure the process has been completed in a timely manner, properly, and within the scope of the law. This also places the Judge in jurisdiction in the position of calling one or both parties to appear in front of him should a question arise.

This law is meant to expediate the action, as it by-passes attorneys, however, then you would be asking the Clerks of District Court and District Court Judges to practice law, both of which are in violation of the Montana State Codes.

Who answers the questions that may arise from the parties in the action? We, as Clerks of District Court, CANNOT, as we are prohibited from the practice of law, as per sections 3-1-601 and 7-4-2210 of the Montana Code Annotated.

The question of the proper fees come into play. We would need to collect ALL fees at the time of filing, as we would not be seeing these parties again, which then presents us with a problem. We can receipt the monies for the initial petition, but we CANNOT receipt the monies for the Judgment (Final Decree) until it is actually granted. We would also need to collect sufficient funds to mail the documents Certified Mail, so we would then have a record of proper notice to the individuals in the action. Both of these functions would create a bookkeeping problem, and should not even be considered as proper business practices. I know the Auditor of Missoula County would be very opposed to this practice, of accepting monies without the proper documentation and receipt.

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The many questions, then begin to arise. WHO has liability should the twentieth (20th) day come and go, without the Decree being signed? WHO would track the case through the system? WHO has the liability if the Decree IS signed, but along the way the parties to the action have decided NOT to divorce, but didn't bother to tell the Court? WHO has the liability if BOTH parties to the action aren't noticed properly, if at all?

The Summary Dissolution petition requires two (2) signatures to begin the action, but only ONE signature to stop it. Interesting situation, if one of the parties leaves town believing.....

Those that present this type of solution to the problem, are simply seeking an easy alternative out of a problem. Before long we could be doing a tremendous Mail-Order business. They wouldn't need to appear for anything. They could simply submit the petition, stat form, and final decree with the monies and wham, twenty (20) days later, they would be divorced. NOTHING ON THE RECORD, ANYONE COULD SIGN, without verification of fact.

WE, CANNOT be responsible for any of the above. WE, CANNOT practice law nor do we want too. WE, CANNOT counsel the parties, nor do we want too. WE, Cannot collect monies without proper receipt of purpose, nor do we want too.

The Judiciary, needs to have at LEAST one party to the action present to verify the action and to place the FINAL DECREE ON THE RECORD, not only to protect the parties to the action, but to also protect the Court. This also ensures that all papers are in proper form and content, and that it is clearly understood.

The form provided by the Attorney General's Office, does not provide for proper content as is necessary per 40-4-105 of the Montana Code Annotated, omitting areas required for regular dissolution as well as summary dissolution.

Thank-you for your time and I do urge, on behalf of myself and the Montana Clerks of District Court, a DO NOT PASS.

County of Yellowstone

CHARMAINE R. FISHER
CLERK OF THE DISTRICT COURT

March 10, 1993

(406) 256-2860
BOX 35030
BILLINGS, MT 59107

House Judiciary Committee
Montana House of Representatives
Capitol Station
Helena, MT 59620

Dear House Judiciary Committee Members:

This letter is to comment on proposed Senate Bill No. 351. I would like to bring the following points to your attention concerning summary dissolutions:

- 1) The purpose of Senate Bill No. 351 is supposed to be to grant the District Court Judge discretion in a summary dissolution of marriage proceeding to grant the dissolution after review of the petition without holding a hearing.....

The present forms for summary dissolution contain NO information that the District Court Judge can review. It does not meet the requirements of MCA 40-4-105 which requires that specific information be included in the petition such as age, occupation, residence of each party, length of residence in the state, date of marriage, place at which marriage is registered, etc., etc.

And, even more importantly, the petition is not verified pursuant to the same statute.

- 2) Under subsection (e) of the proposed Bill, be accompanied by preaddressed stamped envelopes with sufficient postage to cover the mailing of the final judgment to the parties.

We cannot mail the final judgment back to the parties. This must state that copies of the final judgment will be mailed to the parties. It has been our experience that people sometimes disappear and we cannot locate them either by mail or telephone. What do you think will happen to the decrees that are mailed out and no one receives them? How will the parties know whether they are divorced or not?

I believe the parties should provide their own copies. If they are not provided then the Clerk's Office will charge the normal fee for copies (MCA 25-1-201).

After discussing this with the Chief Judge, any reference to "Judge" should state District Court Judge.



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House Judiciary Committee

March 10, 1993

Page 2

I strongly believe that at least one of the parties should be present at a hearing to obtain a decree of dissolution. We have found that in some cases both parties sign the summary petition, then one or the other leaves the state or is unavailable for hearing, and I believe one party could appear to give testimony. I do, however, oppose their obtaining a decree without one or the other of them being present for hearing.

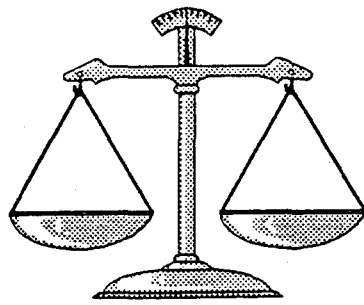
Thank you for the opportunity to share my concerns with you.

Sincerely,

A handwritten signature in cursive script, appearing to read "C. R. Fisher".

Charmaine R. Fisher
Clerk of District Court

EXHIBIT #7
DATE 3-24-93
SB-351



*This is final
plans*

SUMMARY DISSOLUTION of MARRIAGE

Prepared by:
Office of the Attorney General
Department of Justice
State of Montana

SUMMARY DISSOLUTION OF MARRIAGE

I. WHAT IS THIS BOOKLET ABOUT?

This booklet describes a way to end a marriage through a divorce proceedings called Summary Dissolution of Marriage. It is not intended to take the place of an attorney's advice, nor should it be relied upon as a guide for self-representation in summary dissolution proceedings.

Although you can appear in court without an attorney, it is in your best interests to consult with one in order to protect your legal interests in ending your marriage. An attorney can help you decide if this method is the right one for your situation and can give you advice concerning the division of your assets and liabilities. You may obtain legal services through lawyer referral services, group or prepaid legal services, or legal aid organizations. Attorneys' fees vary; some attorneys charge a set fee while others charge an hourly rate. Don't be afraid to ask the attorney in advance what fee will be charged. If you are not pleased with one attorney, you should feel free to consult with another one.

If you wish to use the summary dissolution proceeding you must, at the time you file the joint petition, sign a statement which says you have read and understood this booklet. It is important for you to read the entire booklet very carefully to insure that you qualify for this type of dissolution. If you do not qualify because of children or excessive debts or property, you may obtain a formal dissolution of marriage and probably should consult an attorney.

II. ARE YOU STILL INTERESTED IN TRYING TO SAVE YOUR MARRIAGE?

Montana law allows two persons to dissolve their marriage only when irreconcilable differences have caused irretrievable breakdown of the marriage and either the husband or the wife states that the marriage should be dissolved. If you aren't sure your marriage has completely broken down and would like to try to reconcile, there may be help available. Many communities offer marriage counseling services and a few counties have a conciliation court.

WHAT IS A CONCILIATION COURT?

The purpose of a conciliation court is to help preserve a marriage and to provide the means for reconciliation of a husband and wife and a peaceful settlement of any marital controversy. However, a conciliation court is not available in all counties. The clerk of the district court will tell you if there is one in your area.

IF there is a conciliation court in your area and you want a reconciliation with your spouse or a peaceful settlement of a marital controversy, either of you can file a petition with the conciliation court. Ask the clerk of court if there is a form available. The judge of the conciliation court may hold a hearing on the dispute or refer you to a conciliation counselor. The counselor may be a pastor or director of the religious denomination to which either or both of you belong, or a psychiatrist, physician, attorney, social worker, or other person who is trained and experienced in personal counseling.

- ___ 8. Must give up your individual right to maintenance (financial support from the other) (see sec. B below);
- ___ 9. Must permanently give up your individual right to appeal the terms of the dissolution and your right to move for a new trial once the marriage is formally dissolved by the court;
- ___ 10. Do not want help from the conciliation court to settle any controversy, or assistance in reconciling (see Part II);
- ___ 11. Have read and state that you both understand the contents of this summary dissolution booklet;
- ___ 12. Indicate to the court that you both want the court to end the marriage.

B. SPOUSAL MAINTENANCE OR SUPPORT

Maintenance is financial support and assistance paid by one spouse to the other after dissolution of the marriage. Neither spouse may obtain maintenance from the other in a summary dissolution proceeding.

C. HOW IS THE PROCEEDING STARTED?

The summary dissolution proceeding is started by filing in district court a joint petition which has been signed under oath by both of you. The petition must include the required information, set out below in section D. A copy of the property settlement agreement must be attached to the petition. The agreement should be neatly typed or printed and signed by both of you.

D. WHAT INFORMATION IS REQUIRED IN THE PETITION?

A sample petition form is included in this booklet. The petition must be signed by each of you, under oath before a notary public, and include the following information:

- 1. A statement that all of the required conditions listed in part A have been met (list the conditions);
- 2. The mailing address of each party;
- 3. Whether or not the wife wishes to have her maiden or former name restored and, if so, the name to be restored.

E. HOW SOON CAN THE MARRIAGE BE DISSOLVED?

The district court judge will hold a hearing sometime after 20 days from the date the joint petition is filed, at which time both of you must appear. If the required conditions exist, the judge will enter a final judgment dissolving the marriage. The judgment restores each of you to the status of a single person, at which time either is free to marry someone else.

F. WHAT DOES THE FINAL JUDGMENT MEAN?

A judgment is the written decision of the court. Upon conclusion of the hearing the judge will consider all the facts and make his or her decision. Until the final judgment is entered you are considered married. Once the judgment is entered each is returned to the status of a single

INSTRUCTIONS FOR FILING AND COURT APPEARANCE

NOTE: BEFORE FILLING OUT THE FORMS, READ THE ENTIRE SUMMARY DISSOLUTION BOOKLET TO DETERMINE IF YOU QUALIFY FOR THE SUMMARY DISSOLUTION PROCEDURE.

1. Carefully read and fill out the Petition for Summary Dissolution of Marriage form found in this booklet. Each of you must sign it before a Notary Public. (The Notary Public must watch you sign the document.) After the petition is signed, take it to the clerk of court in the county courthouse where you reside. The clerk will file the petition and charge you a filing fee. Call the clerk if you need to know the fee in advance. Twenty (20) days or more after the date you file the petition, you can go to court and obtain your dissolution. When you file the petition ask the clerk what time and date are available for your appearance before the Judge. The clerk will assign your case a number. Write down the number and take it with you. Ask the clerk what you must do to insure your case is scheduled for a particular day. Judges do not necessarily hold Court every day.
2. On the date of your court appearance be sure to be on time. Both of you must attend. Take with you the Final Decree of Summary Dissolution found in this booklet. When you get to the courthouse, check with the clerk to insure your case is ready to be heard and to find out what courtroom you should wait in for your case to be called. Have your written property/debt agreement with you (neatly typed or printed), along with the documents that were signed to effect the agreement (such as car title, etc.). Make sure the cause number assigned earlier is written in the blank on the Final Decree. If the wife seeks to have her former name restored, make sure the name to be restored on the decree is identical to the name to be restored on the petition.
3. When the Judge calls your case, approach the Judge's bench and prepare to be sworn in by the court clerk who sits near the Judge. Each Judge has his/her own procedures in dissolution hearings. Some Judges may ask few or even no questions. Others may inquire as to the elements of your petition. If the Judge directs the hearing, answer the questions asked. If the Judge expects you to proceed, each of you can make a short statement. Be prepared to tell the Judge that your marriage is irretrievably broken, that you have lived in Montana for more than ninety (90) days, that there are no children and the wife is not now pregnant, and that you have divided your debts and property.
4. Once you are finished, the Judge will usually grant your dissolution and sign the Decree. In some courts the Judge will hand you the file and ask you to return it to the clerk of court. **IF THE JUDGE DOES GIVE YOU THE FILE, IT IS IMPERATIVE THAT YOU RETURN IT IMMEDIATELY TO THE CLERK OF COURT** so your dissolution can be recorded and the court file doesn't get misplaced. The clerk of court keeps the original signed Decree, but you can get certified copies from the clerk if you need them. The dissolution is final as of the time the Judge signs the Decree.

1 Wife's Name, Address, Phone
2 _____
3 _____

4 Husband's Name, Address, Phone
5 _____
6 _____

7
8 MONTANA _____ JUDICIAL DISTRICT COURT, _____ COUNTY
9 _____

10 IN RE THE MARRIAGE OF

11 _____, Cause No. _____

12 Wife,

13 and

14 _____,
15 Husband.
16 _____

17 PETITION FOR SUMMARY DISSOLUTION OF MARRIAGE
18 _____

18 The Petitioners jointly request this court to issue a decree for summary dissolution
19 of marriage based upon the contents of this petition and subsequent hearing.

20 The parties certify to the Court:

21 1. We have read and understand the booklet issued by the Montana Attorney
22 General entitled SUMMARY DISSOLUTION OF MARRIAGE.

23 2. We have lived in Montana for at least ninety (90) days or have otherwise met
24 residency requirements.

25 3. We both want our marriage dissolved because irreconcilable differences have
26 caused the irretrievable breakdown of our marriage. We do not want help from the
27 conciliation court to settle any controversy or assistance in reconciling.

1 4. We both agree to appear at a hearing before this Court.

2 5. There are no children from our relationship born before or during the marriage

3 or adopted during the marriage and the wife is not now pregnant.

4 6. Our property and debts are below the limits required by section 40-4-130,

5 MCA, and neither of us has any interest in any real property.

6 7. We are qualified to seek summary dissolution of our marriage and have entered

7 into a written agreement distributing our debts and property and have executed all documents

8 necessary to effect and complete the agreement. A copy of the agreement is attached as

9 Exhibit A.

10 8. If the wife seeks restoration of her former name, the name to be restored is

11 set out here in full: _____.

12 9. Upon entry of the judgment for summary dissolution of marriage, we both waive

13 any right to maintenance or to appeal the terms of the dissolution or to request a trial.

14 _____

15 WIFE

16 SUBSCRIBED AND SWORN to before me this ____ day of _____,

17 199__.

18 Notary Public for the State of Montana.

19 Residing at _____.

20 My Commission expires _____.

21 (SEAL)

22 _____

23 HUSBAND

24 SUBSCRIBED AND SWORN to before me this ____ day of _____,

25 199__.

26 Notary Public for the State of Montana.

27 Residing at _____.

My Commission expires _____.

(SEAL)

EXHIBIT # 7
DATE 3-24-93
X SB-351

1
2
3
4
5
6
7
8 MONTANA _____ JUDICIAL DISTRICT COURT, _____ COUNTY

9
10 IN RE THE MARRIAGE OF

11 _____ Cause No. _____

12 _____
13 Wife,

14 and

15 _____
16 Husband.

17
18
19
20
21
22
23
24
25
26
27
FINAL DECREE OF SUMMARY DISSOLUTION OF MARRIAGE

The petition for summary dissolution of marriage was fully filed herein by the parties.

Both petitioners appeared in Court in open hearing and testified in support of the petition.

FROM THE EVIDENCE AND PLEADING, THE COURT FINDS:

1. That the parties have both signed the Petition for Summary Dissolution.

2. That there are irreconcilable differences causing the irretrievable breakdown
of the marriage.

3. That the parties have read and understand the booklet entitled SUMMARY
DISSOLUTION OF MARRIAGE and have met its requirements and qualify for dissolution
of marriage under section 40-4-130, MCA.

4. That the parties have no children from the relationship born or adopted before
or during the marriage and the wife is not now pregnant.

5. That the parties have entered into a written agreement regarding the debts and property of their marriage and have executed all documents required to enact its provisions.

6. That all the requirements set out in the summary dissolution statutes have been met.

CONCLUSIONS OF LAW

1. The Court has jurisdiction over this cause.

2. The marriage of the parties is irretrievably broken.

3. The parties waive any right to maintenance and upon entry of this final decree irrevocably waive their respective rights to appeal or move for a trial on the terms of the dissolution of the marriage.

FROM THE FOREGOING FINDINGS AND CONCLUSIONS, THE COURT
ENTERS THE FOLLOWING DECREE:

1. The marriage of the parties is dissolved.

2. The former name of the wife is restored as requested to _____

ENTERED this _____ day of _____, 199__.

JUDGE OF THE DISTRICT COURT

EXHIBIT # 7
DATE 3-24-93
1 SB-351

(USE THIS FORM ONLY IF YOU WISH TO STOP THE PROCEEDING
BEFORE THE JUDGE HAS SIGNED THE FINAL DECREE)

MONTANA _____ JUDICIAL DISTRICT COURT, _____ COUNTY

IN RE THE MARRIAGE OF

Cause No. _____

Wife,

and

Husband.

NOTICE TO REVOKE PETITION FOR SUMMARY DISSOLUTION

I, _____, hereby request the Court to revoke the Petition
for Summary Dissolution of Marriage because:

1. ___ I have decided to return to my spouse and continue the marriage.

2. ___ I want to change to the regular dissolution procedure.

3. ___ The wife is pregnant.

I certify that a copy of this Notice was mailed to my spouse at the following address,
first-class mail, postage-prepaid, on the ___ day of _____, 199__.

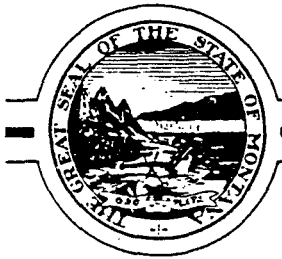
DATED THIS ___ day of _____, 199__.

DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION

EXHIBIT 8

DATE 3-24-93

SB 392



MARC RACICOT
GOVERNOR

PETER S. BLOUKE, PhD
DIRECTOR

STATE OF MONTANA

FAX # (406) 444-1370
(406) 444-4614

PO BOX 5955
HELENA, MONTANA 59604-5955

Amendments to SB 392 proposed by CSED

1. Page 1, line 13.
Following: "whenever"
Strike: "in a proceeding under this chapter to establish or enforce a support order it is determined"
Insert: "a hearing is held under this chapter and the hearing officer determines during the hearing"
2. Page 1, line 16.
Following: "or"
Insert: "determines the obligor is"
3. Page 1, line 16.
Following: "underemployed"
Insert: "without good cause"
4. Page 1, line 16.
Strike: "department"
Insert: "hearing officer"
5. Page 2, line 21.
Following: "IF"
Strike: ", AFTER A GOOD FAITH EFFORT TO DO SO,"
6. Page 9, line 3.
Following: "support"
Insert: "under a court or administrative order"
7. Page 9, line 3.
Following: "months"
Insert: "or more"
8. Page 10, line 25.
Following: "made"
Insert: "for the benefit of a child"
9. Page 11, line 1.
Following: "53"
Strike: "for the support or aid of any person"
10. Page 11, line 4.
Following: "the"
Strike: "person"
Insert: "child"

3/22/93

DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION

EXHIBIT 9
DATE 3-21-93
SB 392



MARC RACICOT
GOVERNOR

PETER S. BLOUKE, PhD
DIRECTOR

STATE OF MONTANA

FAX # (406) 444-1370
(406) 444-4614

PO BOX 5955
HELENA, MONTANA 59604-5955

March 23, 1993

To: Sen. Mignon Waterman and members of House Judiciary Committee

From: Mary Ann Wellbank, Administrator, Child Support Enforcement Division

Re: Amendments to SB 392 - Increasing the State's ability to enforce support obligations

In response to questions from the committee during the March 18 hearing on SB 392, the CSED has proposed a series of 10 amendments to the bill. The first four amendments amend Section 1 of the bill, clarifying that a hearing officer will determine, during an administrative hearing, whether an obligor is underemployed without good cause.

Amendment 5 removes the qualifier "after a good faith effort to do so" from the liability exemption in Section 2 of the bill, the portion relating to liens on lottery winnings. Subsection 4 of that section provides that the lottery shall make a good faith attempt to notify the IV-D agency of a match between a lottery winner and the CSED's list of obligors. The liability statement provides that the lottery shall have no liability if they are unable to so notify the CSED. Repetition of the "good faith effort" language was unnecessary here and could subject the lottery to proving their "good faith efforts". That was not the intent of the CSED.

Amendments 6 and 7 amend Section 4, criminal nonsupport. These amendments partially address Rep. Toole's concern that an individual could be charged with criminal nonsupport when a sum certain support order had not been issued. In fact, that is the current state of the law. This bill creates a new level of penalty for those obligors found to have failed to provide support for six months. These amendments remove Rep. Toole's fact scenario from this new higher penalty. The law and penalties currently in effect for that situation would remain unchanged.

Amendments 8 through 10 address Rep. Whalen's concerns regarding subsection (12) of Section 4. The amendments clarify that the department may sign a criminal complaint when public assistance is provided for the benefit of a child.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Judiciary COMMITTEE BILL NO. SB 351
DATE March 24, 1993 SPONSOR(S) J. Weldon
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Charmaine R. Fisher Blys	Clerk of Court		X
Beverly A. Bennetts Blys	" "		X
Toho Welker	MAPP	X	
Clara Gilvath	MACDC		X
Kathleen D. Beaver	MACDC		X
Port Harrington	Mont Ass of Clerks of Dist Court		X
John McCarthy	ASUM?	X	
Anne Hamilton	ASUM?	X	
Kate Cholewa	MT Womens Lobby	X	

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

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Judiciary COMMITTEE BILL NO. SB 409
DATE March 24, 1993 SPONSOR(S) B. J. Hockett

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Drew Dawson	Dept. Health & ES, (BMS Bureau)	✓	
Jerome T. Hoedner	MT. Med Assn	✓	
Steve Browning	MT Hospital Assn	✓	

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

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Judiciary COMMITTEE BILL NO. SB 357
DATE March 24, 1993 SPONSOR(S) S. Doherty
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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Melissa Brode	State Auditor's Office	X	

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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Judiciary COMMITTEE BILL NO. HR 15
DATE March 24, 1993 SPONSOR(S) C. Christies

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE

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