MINUTES

MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN BOB CLARK**, on February 14, 1995, at 8:00 AM.

ROLL CALL

Members Present:

Rep. Robert C. Clark, Chairman (R)
Rep. Shiell Anderson, Vice Chairman (Majority) (R)
Rep. Diana E. Wyatt, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Ellen Bergman (R)
Rep. William E. Boharski (R)
Rep. Bill Carey (D)
Rep. Aubyn A. Curtiss (R)
Rep. Duane Grimes (R)
Rep. Joan Hurdle (D)
Rep. Deb Kottel (D)
Rep. Linda McCulloch (D)
Rep. Daniel W. McGee (R)
Rep. Brad Molnar (R)
Rep. Debbie Shea (D)
Rep. Loren L. Soft (R)
Rep. Bill Tash (R)
Rep. Cliff Trexler (R)

Members Excused: NONE

Members Absent: Rep. Liz Smith

Staff Present: John MacMaster, Legislative Council
Joanne Gunderson, Committee Secretary

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

Committee Business Summary:

Hearing: HB 496, HB 482, HB 501, HB 540, HB 380, HB 491, HB 450, HB 505, HB 547
Executive Action: HB 496 TABLE

HEARING ON 496

Opening Statement by Sponsor:

REP. JOHN BOHLINGER, HD 14, explained that this bill would have addressed some subrogation concerns he had with insurance. He said HB 496 was hastily drafted and did not address his concerns and he had decided to withdraw the bill by having the committee table it.

EXECUTIVE ACTION ON HB 496

Motion/Vote: REP. DEB KOTTEL MOVED TO TABLE HB 496. The motion carried unanimously.

HEARING ON HB 450

Opening Statement by Sponsor:

BONNIE MARTINEZ, HD 17, said the purpose of HB 450 was to bring a halt to teenaged crime. Her viewpoint was that a crime such as murder is the same whether committed by someone in the teen years or as a adult. She felt that teen offenders who are immune from prosecution as adults, will re-offend. This bill would mandate the trying of youthful criminals as adults with adult punishment. **EXHIBIT 1**

Proponents' Testimony:

None

Opponents' Testimony:

Brandon Holt, Montana Catholic Conference, said there had been a noticeable trend in this legislative session toward criminalization of juvenile offenses. He felt the intent of this bill was in opposition to the best interests of the child. In their view that would be to keep the child in its own family and community, to provide special services for those in need, and to provide alternatives other than incarceration such as intervention and treatment. He said incarceration should be a last resort.

Informational Testimony:

Candy Wimmer, Montana Board of Crime Control, appeared, not so much in opposition, but to recommend that it be one of the bills to be submitted to a subcommittee for consideration in the larger context of the revisions to the Youth Court Act.

Ted Clack, Department of Corrections and Human Services (DCHS), said he was a research manager for DCHS and was asked by the administrator to provide information that they estimate they

would receive approximately 100 youths per year between the ages of 12 and 17 who would be affected by this bill. They could consider a conservative rate of 70% per year should the bill pass. They had no inmates or offenders in the system now less than 18 years of age and no services for people aged 12 - 18. Because of the regulations in case law, the constraints on incarcerating youths with adults leaves them with no ability to accommodate them. The cost was estimated at $1.9 million per year for Department of Family Services (DFS) assuming DCHS could get DFS to care for those youths.

Mary Ellerd, Montana Juvenile Probation Officers' Association, also requested that the bill be included in the study of the Youth Court Act.

EXHIBITS 2 and 3 were submitted by the sponsor.

Questions From Committee Members and Responses:

REP. BRAD MOLNAR asked if the bill provided that the county attorney must prosecute.

REP. MARTINEZ said that it mandated that they be tried as adults.

REP. MOLNAR asked if the county attorney did not feel he could get a conviction as an adult, would the court feel it was counterproductive.

REP. MARTINEZ did not know how it would work in the courtroom. In response to the testimony about the need to separate them from adult criminals, it was stipulated in the bill that they would not be placed in cells with adults, but housed separately, she said.

Closing by Sponsor:

REP. MARTINEZ submitted her closing remarks. **EXHIBIT 4**

HEARING ON HB 491

Opening Statement by Sponsor:

REP. MATT BRAINARD, HD 62, brought HB 491 before the committee as an act which would clarify that the sheriff is the chief law enforcement officer of the county.

Proponents' Testimony:

None

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. ELLEN BERGMAN asked who was the chief officer if it wasn't the sheriff.

REP. BRAINARD answered that by tradition and accepted practice, the sheriff is the chief law enforcement officer and the intent of this bill was to simply clarify the language. There has been an attempt to call the county attorney the chief law enforcement officer of a county. By code every county does not necessarily elect the county attorney.

REP. LOREN SOFT asked if he had had any feedback from the sheriffs of the state as well as police departments and county attorneys.

REP. BRAINARD replied that he had talked with the sheriff from Ravalli County and he was in favor of the language. He had not encountered anyone who was against it.

REP. DEBBIE SHEA was curious about the impetus for the bill.

REP. BRAINARD said one situation regarded implementation of some of the federal gun control legislation, the Brady bill, which says that the chief law enforcement officer will conduct the background checks. In one county the sheriff is performing it, in another, the county attorney's office is performing the function. Without the language on the books, it would be left open to interpretation.

REP. SHEA asked if he then was saying it should not be left to local control.

REP. BRAINARD answered that the words, "law enforcement," and "chief law enforcement officer," should be addressed by code to designate who that person is.

REP. JOAN HURDLE asked how many counties do not have an elected county attorney. She also asked if it was an elected county attorney, would it be appropriate for him to do the background checks if the people of that county had decided that he should.

REP. BRAINARD said he was not sure what the proportion of elected and non-elected county attorneys are. It is the code that establishes the ability to contract that duty out. In answer to her second question, he said, "Generally speaking, when somebody has decided, and I'm looking at the possibilities of other legislation wherein this ambiguous term is used, I think that the term itself sets up the disparity between counties and the interpretation of the law."

REP. HURDLE asked for his personal opinion about the ability of each county to decide this for themselves.

REP. BRAINARD said he guessed they could hold county-wide elections as to who they thought was the chief law enforcement officer, but essentially there would be nothing prohibiting a sheriff from asking the county attorney staff to run the background check. His personal interpretation was that there is a difference between being a member of the judiciary, in a sense, or being an attorney and actually being in law enforcement. The duties of the county sheriff would be considered law enforcement.

CHAIRMAN CLARK relinquished the chair to **VICE CHAIR SHIELL ANDERSON.**

REP. BILL CAREY asked the sponsor to outline the current practice between jurisdictions with regard to city police chiefs and sheriffs and how this bill would change current relationships between them.

REP. BRAINARD said it does appear that in many situations where there are not many municipalities, the county officials work closely with municipal law enforcement.

Closing by Sponsor:

REP. BRAINARD closed.

HEARING ON HB 482

Opening Statement by Sponsor:

REP. DUANE GRIMES, HD 39, made his opening remarks for HB 482 which dealt with parental notification prior to abortion for minors. The intent of the bill was to recognize the traditional rights of parents to direct the rearing of their children as well as afford them the opportunity to discuss medical histories and other vital information with physicians. It was intended to encourage teenagers to talk with those who know them best in making the decisions which would have a long term affect on them. The sponsor said that this type of legislation has been shown to effect reduced pregnancy and abortion rates among teens because it increases their responsibility. The sponsor discussed the various sections of the bill and proposed amendments.

CHAIRMAN CLARK resumed the chair.

Proponents' Testimony:

Sharon Hoff, Montana Catholic Conference, offered written testimony as a proponent of HB 482. **EXHIBIT 5**

Georgia Branscome asked the committee to support HB 482. **EXHIBIT 6**

Charles Lorentzen cited the need for parental permission for children for a wide variety of things including dispensing of aspirin but the withholding of information to parents for giving permission for abortion. **EXHIBIT 7**

CHAIRMAN CLARK relinquished the chair to **VICE CHAIR DIANA WYATT.**

Linda Lindsay stood as a proponent of HB 482 and as a volunteer with a program which serves unwed teenaged mothers. She described the average age of these mothers as 15, one to one and a half years behind in school with very low self-esteem, most in a highly emotional state. She felt they needed someone to support them and said this bill would provide an advocate in cases where they could not approach their families for that support. She felt it would provide increased communication in the family.

Arlette Randash, Eagle Forum, submitted testimony about how teenagers are given oversight in other situations for their protection. **EXHIBIT 8**

Richard Tappe, Montana Right to Life, cited the provision in HB 482 for judicial bypass which enhanced its probability of being upheld. He said the significance in this bill was that the bypass would also be treated as a complaint. The teenager could appear before the judge and ask to bypass the parents and if the reasons included abuse or incest, that information would be forwarded to the appropriate authorities. In cases where abortion has served to cover a crime within the family, this would allow for the protection of the teen. Citing a number of instances where a child has died as a result of complications following abortion, he said that parents needed to have been informed to assist with medical and other information in the possible prevention of such deaths.

Tammy Peterson presented her personal testimony. **EXHIBIT 9**

Laurie Koutnik, Montana Christian Coalition, supported HB 482 because it would return the rights where they belong--with the parents. As a former foster parent in group homes, she experienced the effects of abortion on women. She submitted written testimony of a woman who had had an abortion. **EXHIBIT 10**

Georgia Branscome submitted a list of names of persons supporting HB 482. **EXHIBIT 11**

<u>Informational Testimony</u>: **EXHIBITS 12 and 13** are submitted as proponents' testimonies for HB 482.

<u>Opponents' Testimony</u>:

Kate Cholewa, Montana Women's Lobby, spoke in opposition to HB 482. **EXHIBIT 14**

Devon Hartman, OB-GYN Nurse Practitioner, Intermountain Planned Parenthood, and Manager, Planned Parenthood in Helena, opposed HB 482. **EXHIBIT 15**

Beth Sherman, Freshman, Capitol High School, opposed HB 482 by saying that it did not make sense to her to provide for protection in the area of their immaturity in making a decision, while not protecting them from their immaturity in raising a child.

Elisa Fraser, Executive Director, Montana Affiliate of National Abortion and Reproductive Rights Action Group (NARAL), said they were in agreement that minors benefit from talking to an adult. But she objected to the bill requiring that a child talk to their parents when that might not be appropriate or to a judge who would be a stranger. She submitted written information in support of her position in opposition to HB 482. **EXHIBIT 16**

Brenna Dorrance, Sophomore, Capitol High School, said she thought many times laws are based on ideals instead of reality which she thought to be the case with this bill. Denial of consent raised two issues for her in that the girls might turn to home abortions; and who would raise and pay the support for the child. She objected to government involvement in this issue.

{Tape: 1; Side: B}

Mary Skjelset, Junior at Capitol High School, said she represented many young women of the state and asked the committee to oppose the bill. She said they would look at the bill from their own perspective of loving parents or grandparents, but that not all children have that experience. She objected to the concept of a girl being forced to approach a judge for the determination when parents cannot be approached or to be forced to confront an incestuous father with her pregnancy. She felt the Montana constitutional right to privacy would be violated with the passage of this bill. She believed that the individual alone could know what would be best for herself in this situation. She asked that the committee trust the young women of the state to know themselves better than the parents or law makers would.

Chris Schweitzer, Junior at Capitol High School, testified in opposition to the bill. She believed that most teenagers do not come from families who are supportive. She believed that more often than not they are a part of families which are abusive or substance abusing. Going to a court of law amongst strangers was unacceptable to her. She felt that parents are often more immature than the teenager.

Scott Crichton, Executive Director, ACLU, submitted written testimony in opposition to HB 482. **EXHIBITS 17 and 18**

Informational Testimony:

Robert Torres, National Association of Social Workers, said they had several questions concerning the intent of the bill and would register neither as an opponent or proponent.

Letters from **Geoffrey Birnbaum, Missoula Youth Homes, Deborah Frandsen, Planned Parenthood of Missoula** are included as **EXHIBITS 19 and 20** in opposition to HB 482.

Literature in opposition to HB 482 is submitted. **EXHIBITS 21-23.**

Questions From Committee Members and Responses:

REP. SHEA asked the sponsor if the purpose of section 8 was to determine the effectiveness of the law.

REP. GRIMES said it would provide for the keeping of statistics.

REP. SHEA wondered how effective it would be and if there was any ability to track those who had crossed state borders or had had illegal abortions or had committed suicide.

REP. GRIMES did not believe that was the purpose and any cases like that would not be reflected in the statistics. Secondarily, however, he said statistics gathered from other forums did not substantiate the things she had mentioned.

REP. SHEA asked if this would give a clear picture of how sexist this proposed law was if it only centered on those who are subjected to it rather than including girls who might be in those positions.

REP. GRIMES said that if she had suggestions for changing the reports, he would agree to that. He stated that the proposed bill reflected how the information is currently reported in other states. He said that if there are cases which do occur as she suggested they would be front page news immediately.

REP. SHEA asked if the sponsor would agree that in other [adult] situations with abortions, these restrictions do not exist and she asked how they would then be reported.

REP. GRIMES replied that in those states which do have parental notification, and even those that don't, if those things do occur, they would become immediate public information. He believed that there are checks and balances if those things do occur. The purpose of the section is not to produce statistics; it just would determine how many would be using it and the judicial bypass.

REP. KOTTEL asked if the sponsor supported HB 450 which would hold a 12-year-old responsible for crimes as an adult.

REP. GRIMES said he had not looked at nor heard about that bill. (He was absent at the time of the hearing.)

REP. KOTTEL asked if he would support the concept of holding any person over the age of 12 who was charged with a violent offense being tried as an adult.

REP. GRIMES said his philosophy was that they should have stiffer penalties and hold them accountable for the crimes they commit. He said he would not want to incarcerate them along with adult offenders. He wasn't sure how it pertained to this bill.

REP. KOTTEL said it pertained to the issue because it presented a conflict for her; i.e., in attempting to pass legislation which would hold that a 12-year-old is an adult for any criminal actions, but at the same time to hold that 14-year-old girls are children who cannot make decisions.

REP. GRIMES said that he did not believe that the decision-making capabilities of the youth were going to be inhibited by this, but that they were saying that the parents who are responsible and know the medical needs of their offspring and who would be financially responsible for long-range needs should be the ones who are notified.

REP. HURDLE referred to the testimony and statistics from the Minnesota parental notification law and asked if she understood that the rate of first trimester abortions had dropped after the enactment of parental notification.

Mr. Lorentzen answered in the affirmative.

REP. HURDLE asked if he had statistics for the second trimester abortions.

Mr. Lorentzen said he did not.

REP. HURDLE stated for his information that they had increased 18%.

REP. HURDLE asked why they would be making legislators the police in this act.

REP. GRIMES objected to that characterization of the bill. He restated the intent of the bill was to give a parent the right to know that their child was going to have a major surgery.

REP. HURDLE said she was referring to section 12 which said that a legislator has the right to intervene in any case. She asked for an explanation.

REP. GRIMES clarified the section as providing that if the attorney general would refuse to take action on cases like this, the legislature would be allowed to intervene.

REP. HURDLE said the wording correctly was, "legislator."

Mr. Tappe referred to a recent court case dealing with this matter, and said, "The attorney general entered into a consent agreement which essentially 'gutted' that portion of the Montana Abortion Control Act which dealt with parental notification. In spite of repeated attempts, those who opposed that ruling were not allowed to participate in the procedure. In those cases where they do not feel well-represented, it would be possible for a legislator to intervene in the process to bring testimony concerning legislative intent." Otherwise they would be shut out and the will of the legislature which reflects the will of the people would not be expressed but obviated by a court decision.

REP. HURDLE asked if that meant a legislator would go to court when the teenager might be seeking judicial bypass.

Mr. Tappe answered, "No."

REP. HURDLE then asked exactly what situation would call for a legislator to intervene.

Mr. Tappe gave the example of the bill being challenged on constitutional grounds. Those who knew what the intent of the bill was and had enacted it had information which would effectively express their interests and the interests of the people would have the power to intervene. He would not have to be invited or be a party of the court case, he could intervene in the process by presenting the information.

{Tape: 1; Side: B; Approx. Counter: 21}

REP. HURDLE asked the sponsor if a minor has to have parental consent in Montana for treatment of a sexually transmitted disease.

REP. GRIMES clarified that the bill is one of notification and not consent. He did not know if parents are notified for a teen to receive treatment for a sexually transmitted disease.

Ms. Randash said she believed they were not required to notify in those cases.

REP. HURDLE asked a series of questions to discover if the parental notification in this bill was compatible with other Montana laws.

REP. LINDA MC CULLOCH referred to exhibits which indicated that pro-abortion proponents do not want parents notified and asked that that be addressed.

Ms. Fraser felt that was a mischaracterization because they are not for abortion, but for abortion rights. Secondly, she said they think it is important to have an adult involved, but the

adult needs not always to be the parent. To approach a stranger would not necessarily promote the health of the teen.

REP. MC CULLOCH referred to the same exhibits which indicated that it would provide the parents with access during the time of pregnancy crisis counseling and asked if there is any reason why they cannot be present now.

Ms. Fraser replied, "Of course not, the mom and dad can be there....."

REP. MC CULLOCH asked **Ms. Fraser** to address the medical implications of a delay while the decision is being made.

Ms. Fraser said the complicated procedures being set up in the bill would sometimes produce a longer time for the teen to wait before going through with the procedure. Studies have shown that the delay is not just what is indicated in the legislation, but the delay is generally a week or more. Complication rates increase in abortion each week past the 8th week of pregnancy, therefore, medical associations think delays such as this are bad medical policy which may jeopardize the lives of the teens and women they allegedly want to protect.

Closing by Sponsor:

REP. GRIMES said he had the hard statistics which dealt with some of the issues brought up. He said he would make those available to the committee. He closed by saying that parents are the ones financially responsible and he believed that this was an extremely important bill for parental rights.

{Tape: 1; Side: b; Approx. Counter: 31.9}

CHAIRMAN CLARK resumed the chair.

HEARING ON HB 380

Opening Statement by Sponsor:

REP. JEANETTE MC KEE, HD 60, said that the problem of juvenile crime is increasing. According to the uniform crime report for 1990, the number of juvenile arrests in proportion to adult arrests had increase 27% nationwide over the previous decade and 20% more juveniles were behind bars in that time period. She said Montana's youth justice system does not deal effectively with serious criminal acts committed by juveniles. She said HB 380 would seek to toughen the juvenile sentencing laws with changes similar to those implemented in Minnesota. The approach of this legislation would blend the juvenile court with the adult corrections system. She reported that there has been no opposition to that approach from those involved in Montana and it is a part of the Action Plan and has support from the Office of

the Governor. She said amendments to be proposed would take care of problems in the fiscal note.

Proponents' Testimony:

Judge John Larson, Fourth Judicial District, said that HB 380 would seek to bring accountability to juvenile justice in Montana. He said that he had seen that there were few options available to the juvenile system in Montana. The sentencing powers were taken away from the juvenile courts in 1987, he said. The options they currently have are determined by DFS except for the local programs.

He had participated in an extensive review of the district court fund, the sources of funding and its distribution, and found that the largest single component of expenditures (well over one-half) from the district court in Montana go for juvenile justice. It is an unfunded mandate which the local governments are assuming. The extended juvenile jurisdiction approach is one which he investigated and took to the Judicial Unification and Finance Commission. The bill was drafted as a result and after consultation with other judges, other legislators and representatives in the field was brought to this session. He provided a comprehensive booklet on the bill for the committee's information. He cited page 14 of the transcript at tab 3 of the booklet as the prevailing view of minors toward our juvenile justice system which is the result of their having no practical consequences for criminal behavior. **EXHIBIT 24**

He said the underlying concept of extended jurisdiction for sex offenders is to prevent further victimization not only by sex offenders but also by other serious criminals. He quoted from letters of support from other judicial districts expressing their frustration with the current system. These letters and other articles he discussed can be also found in **EXHIBIT 24**

Ed McLean, District Judge, Missoula and Mineral Counties, endorsed HB 380 for the following reasons:

1. There is a perception in Montana that our juveniles are not held accountable and do not have to respond for their actions. Once they turn 18, the slate is wiped clean and everything is forgotten.

2. Under this legislation, accountability would be brought to the youth to realize that until they make victims of their crimes whole, they will be held by the judicial system and that they will be accountable for their conduct. If a juvenile knows that if they commit an offense and they have to pay for it, it will stop much of the conduct.

3. The bill addressed violent offenders and how long they would have jurisdiction over them which could be extended over a long enough period for prolonged rehabilitation

treatment or incarceration for those who would pose a substantial risk to society.

4. The youth court would still have discretion in handling status offenses as well as youths in need of supervision. This legislation would provide for curbing an individual who might be headed toward a career as a criminal.

Hank Hudson, Director, DFS, said he had worked with the sponsor, Judge Larson and others on this bill and the issues involved. He said it addressed one of the DFS concerns that communication between judges, probation officers and the department needed to be improved by developing discussion between the systems. He felt other concerns would be addressed by the amendments. Those concerns included fiscal accountability as a shared responsibility through a developed constituency. He supported the study being proposed in HB 240.

G. Joe Connell, Chief Probation Officer, 5th Judicial District, was asked to appear as a proponent of HB 380 by his supervisor, **Judge Frank Davis.**

Barbara Monaco, Chief Juvenile Probation Officer, 20th Judicial District, supported and endorsed HB 380. The main reason for the endorsement was the accountability portion of the bill. She said the current system does not address accountability for the serious juvenile offender. The bill would provide a system for assuring the accountability past the age of 18 and that the victims' needs and community protection would be addressed.

Opponents' Testimony:

None

Informational Testimony:

EXHIBIT 25 was presented as proposed amendments to HB 380.

Questions From Committee Members and Responses:

REP. HURDLE wondered which categories should be included as the most serious juvenile offenses.

Ms. Monaco replied that the serious juvenile offenses are those defined in the Youth Court Act.

REP. SOFT asked how **Judge McLean** saw the enactment of the bill affecting the crowded conditions at Pine Hills and the "revolving door" situation.

Judge McLean said there has to be a priority set on which youths would be going to Pine Hills. Secondly, some of those youths would be there for a short period of time. A youth who is headed toward a career in crime would be held there for a relatively

long period of time. They would need to prioritize those cases and work with DFS to make appropriate determinations.

REP. SOFT asked for the judge's opinion about how to handle the various categories of juvenile offenders among agencies.

Judge Larson said he believed that once juvenile offenders were past the probation office and into the clerk of the district court by way of a formal petition they should be handled by the same agency for consistency during rehabilitation.

{Tape: 2; Side: A}

REP. KOTTEL asked at what age juveniles could be housed with adults.

Ann Gilke, Staff Attorney, DFS, said there were specific statutes which are very detailed regarding when and what type of a juvenile may be housed in what type of facility. Generally speaking, they may not be housed in a jail at all. There is a 24-hour hold condition during which they cannot be within sight or sound of adults.

REP. KOTTEL asked if the age of 16 was the cutoff for housing them in any unit with an adult.

Ms. Gilke thought that at age 16 the options were increased. Between 12 and 16 the options are very limited.

REP. KOTTEL referred to page 2, line 15 and asked if a youth were convicted of deliberate homicide with a 10- to 20-year sentence, the youth would not serve that sentence, but the judge must stay that sentence on the condition that the youth not violate certain provisions of a disposition order. She asked if this would then set aside the discretion of the judge to impose the sentence.

Judge Larson said there is a regular transfer statute which is unchanged which transfers a youth into adult district court at age 16. This would not make the youth any more eligible to serve in an adult facility but would have to be detained in a juvenile facility. This bill would add an option. Rather than going through the transfer process, which is unworkable because there is always an appeal on the issue of transfer, to stay the adult sentence. It would give the juvenile the time between the commission of the offense and age 18 to perform the juvenile sentence. At age 18, the stay could be lifted and the juvenile then could be placed in any other facility or program available to the corrections department.

REP. KOTTEL re-asked her question.

Judge Larson answered that first the child receives a juvenile sentence, there is an optional adult sentence if the child does not reform under the juvenile sentence and that is stayed. If

there is a violation, it goes back to the judge who then determines whether to lift the stay or to continue with additional conditions.

REP. KOTTEL asked if the child receives as much due process as an adult in terms of a conviction.

Judge Larson answered that when the petition is filed in district court, the youth is given the opportunity to have counsel. If they can't afford counsel, one is appointed for them. Counsel will represent them at every portion of the proceeding just as in adult court. They have the right to a jury trial and all other constitutional rights.

REP. KOTTEL asked if there is as much due process when a juvenile is declared a juvenile in need of supervision as when a juvenile is charged with an adult crime.

Judge Larson responded that a youth in need of supervision also has an appointed counsel, but they wouldn't be subject to any of the issues of this bill.

REP. KOTTEL discussed the portion of the bill dealing with sex offenses on line 19 of page 6 requiring registration.

Judge Larson said a sex offense would not be charged in a youth in need of supervision petition. It would only be an option to the sentencing judge if the youth were declared a delinquent youth in a delinquent youth proceeding and the factors indicated that the youth should be registered both for the youth's treatment and the benefit of the victims. Currently the department takes the view that no youth should register as a sex offender for confidentiality reasons.

REP. KOTTEL asked if the judge then did not support line 16.

Judge Larson supported it for youth who are charged in district court with sex offenses. He said if it needed to be amended to make it more clear, he would support that. It was not a mandate, but an option the judge would have.

REP. KOTTEL asked if 41-5-523, MCA, which talked about a delinquent youth or a youth in need of supervision, is confusing.

Judge Larson said it was confusing and could be clarified to provide that the registration for sex offenders be limited to those who are convicted of sex offenses.

REP. BERGMAN asked for an opinion on the length of stay at Pine Hills School.

Judge McLean said the average stay is eight months. He did not like to see the stay be so short for certain individuals. He said the problem is that everyone who is sent to Pine Hills goes

through a treatment program that is available. He thought the intent of the bill to prioritize the lengths of stay was appropriate to the individual needs. He said he had seen the evaluation program at Mountain View School help to turn kids around.

He said they have adjudication within the disposition. Before getting to the point of adjudication, there must be a finding of guilt. With a finding of guilt, then adjudication occurs and that is where the determination is made whether it is a youth in need of supervision or a delinquent. At the time of the finding of guilt, if it is determined to be a case involving a predatory sex offender, even with a youth in need of supervision, the judge may require registration as a sex offender.

REP. BERGMAN referred to comments about increased communication and asked if they were still left with overcrowding at Pine Hills School.

Judge McLean said that was still a serious problem.

REP. BERGMAN asked if getting more youth detention centers would alleviate any of the problem of Pine Hills being overcrowded.

Judge McLean said the problem was that other current detention centers fall short of the standards which are needed. The cost for regional facilities which would replace Pine Hills seemed to be out of reach.

REP. KOTTEL expressed her concern that a proceeding in a youth court was not technically a criminal trial.

Judge McLean said that was correct.

REP. KOTTEL cited a 1971 court case which concluded that children in youth court proceedings do not have a right to a jury trial.

Judge McLean said that was wrong; that any youth has a right to a jury trial in Montana in a youth court proceedings. He described the process and stated that a youth has every right that an adult has plus others in that the youth has an appointed attorney and that attorney stays with the youth through every stage of the proceedings. If the youth and his parents say they do not want an attorney, that would be the only time an attorney would not appear. The youth is informed that they have the right to remain silent and that they have the right to a jury trial.

REP. KOTTEL and **Judge McLean** clarified that they were not talking about a youth charged as an adult and that the burden of proof is beyond a reasonable doubt.

REP. AUBYN CURTISS understood that 20% of the DFS budget is spent on probation youths.

Mr. Hudson clarified that it was the foster care budget he referred to which pays for everything from family foster care through therapeutic group homes. Most of them are not in the system because they had been neglected or abused, but because they have been found as youths in need of supervision.

REP. CURTISS asked if they are having to place them in group homes.

Mr. Hudson said that the whole range of foster care placement is considered in the placement decision.

REP. HURDLE asked if it made sense to the sponsor to confine this to violent crimes.

REP. MC KEE deferred the question to **Judge Larson.**

Judge Larson replied that the bill was defined to cover serious property crimes as well. He referred to the booklet and the testimony of those cases which reflected the attitude of the youth as backup for the scope of the bill going beyond violent crimes.

CHAIRMAN CLARK relinquished the chair to **VICE CHAIR ANDERSON.**

REP. HURDLE asked if attempted crimes would also be included.

Judge Larson said it could be and the youth court probation officer would make the initial evaluation and there are others involved before a sentence would be imposed.

CHAIRMAN CLARK resumed the chair.

Closing by Sponsor:

REP. MC KEE closed by saying that it is not a confrontational issue between the judges and DFS. The amendment dealt with concerns that DFS has in their limited resources but that they are financially responsibility. She reiterated the need for the bill and also said the district judge and probation officer from Ravalli County both offered their support of the bill.

HEARING ON HB 501

Opening Statement by Sponsor:

REP. SHIELL ANDERSON, HD 25, presented HB 501 on behalf of the public school and state institutions as beneficiaries of Montana trust lands. HB 501 would attempt to safeguard the trust lands of Montana from frivolous law suits which cost the state money to defend and cost the beneficiaries cash. It would require that any party seeking to enjoin a revenue-producing activity on state trust lands to post a security bond with the court in order to

protect the trust against an unjust financial loss. He provided examples of law suits which had been dismissed in the past year. He distributed a letter from Seeley Lake Elementary School which he said would demonstrate the practical effects. **EXHIBIT 26** He assured the committee that environmental laws still require compliance, but the bill was designed to protect the trust.

Proponents' Testimony:

Cary Hegreberg, Executive Vice President, Montana Wood Products Association, presented written testimony in favor of HB 501. **EXHIBIT 27**

Chuck Rose, Manager of Regulatory Affairs for Seven-Up Pete Joint Venture, had just filed a final operations to develop a gold project in Lincoln. The gold deposit lies on state school lands where the royalty will be directed to Montana Tech. The royalty will total $60 million over the time of the project. The joint venture had spent $42 million in developing the project with no guarantee that they would receive the permits. They were asking that this bill be supported and that inappropriate law suits which would delay the royalty to Montana College of Mineral Science and Technology and the development of the project be posted. In this instance they would like to see the development of the project proceed in accordance with all the federal and state and environmental laws but that the law suits be scrutinized.

Lorna Frank, Montana Farm Bureau, supported the bill and urged a Do Pass recommendation.

Candace Torgerson, Montana Stockgrowers Association and Montana Cattlewomen's Association, supported the bill.

REP. AUBYN CURTISS went on record as a supporter of HB 501.

REP. BILL TASH also went on record as a proponent of the bill.

{Tape: 2; Side: A; Approx. Counter: 41.7}

Opponents' Testimony:

Tony Schoonen, Montana Coalition for Appropriate Management of State Lands, Skyline Sportsman Association and Anaconda Sportsman Association, did not believe there was a need for the bill. They believed timber harvest would be forced beyond the sustainable yield because of the way the bill was written. He said it was a timber-industry-driven bill. He said that the amount of timber to be harvested would adversely affect wildlife and watershed concerns.

Stan Frasier, Montana Wildlife Federation, said that there are no frivolous lawsuits filed because they have a legal responsibility to guard against that. He saw this as a move to try to prohibit

citizens from being involved in government decisions. "If there are many lawsuits filed against the Forest Service, quite frankly they deserve it. They've done a dismal job of managing some of our federal lands....because their decisions have been driven by politics and not sound management practices," he stated.

Informational Testimony: **EXHIBIT 28** is included as an example of an appeal from the imposition of an appeal bond.

Questions From Committee Members and Responses:

REP. TASH asked **Mr. Frasier** if his comments on clear cutting and grazing lands were from knowledge that those are the policies of the State Land Board.

Mr. Frasier said he had been told that by someone who had knowledge of the department and the reason he was told they were doing this is because they don't have the budget to replant.

REP. TASH said that in many cases when they don't replant it is because they are reforested naturally and by so doing it helps encourage grazing land, and wanted to know what was wrong with that.

Mr. Frasier said many of the areas which had been clear cut do not come back. He thought many of these things were site specific and it would depend on long-term climatic conditions. He felt that it was poor management to use the resources which take 200 years to grow in the way they are being done.

REP. CHRIS AHNER asked if there were some species which just would not grow when there is a clear cut.

Mr. Hegreberg said he was not a professional forester. He said that some species do demand clear cut or even age management in certain topography and certain geographic situations. He preferred to defer the question to a forester. He clarified that the bill was not a forestry bill but involved management of all trust lands in the state, of which less than 20% are forested lands.

Commissioner Bud Clinch, Department of State Lands, said that some species do need vast exposure to light to regenerate and to reproduce. There are many different species in Montana which all demand climatic conditions. Whether the issue is reforestation as a result of natural catastrophic conditions or due to habitat manipulation of the forestry, certain degrees of opening are necessary to perpetuate the forest.

REP. AHNER asked how they come to the decisions for choosing a clear cut location.

Commissioner Clinch said they undergo a vast amount of technical, professional analysis by department staff which would include a

water quality specialist, wildlife biologist, soil scientist and civil culturalist. All those aspects are considered in reaching a professional decision. They consider the age and longevity of the stand as well as other factors.

REP. AHNER asked if they also take into consideration the aesthetic value.

Commissioner Clinch replied that the department is cognizant of aesthetic use in developing those areas. He cited the sale in Bozeman where they were able to implement a large-scale harvest south of Bozeman within a direct view shed with a minimal impact. They do that to the extent it is practical and within the trust mandate to generate revenue for the school. Of the total harvesting the department does, their five-year average for clear cutting has been only 5% mostly in units of less than ten acres.

REP. TASH asked how much the department spends on attorney fees in the defense of the state lands management practices.

Commissioner Clinch gave an analysis of the activities of the legal staff since he had been commissioner.

REP. TASH stated that he understood that they were not just focused on timber, but were entrusted with all state lands management and asked if the legal complexities and defending what the management practices were had caused their budget to increase over the last several years.

Commissioner Clinch said the demands on their legal staff increase daily because of the complexities and challenges. He said this bill and its association with timber sales had a great ramification in the other land management activities. In the last 20 years, the department has been involved in 21 distinct legal actions stemming from their revenue generating functions, which span from leasing to pipelines to timber sale and to other things.

REP. HURDLE asked the sponsor if his personal land uses involve either harvesting or grazing on any state lands.

REP. ANDERSON said they lease a section and have state land neither of which is accessible.

Closing by Sponsor:

REP. ANDERSON said there is no conflict of interest as they are not involved in a large class as state leaseholders are. The way this bill would work is that if a person challenges the state lands department on a decision which they made regarding a timber sale, for example, they don't lose their bonding money if they are successful on a legal basis. It is those cases where they bring suit against state lands claiming they aren't following the regulations when in fact what they are claiming is outside the

requirements that they would lose their money. The money which would be lost to the trust would be the interest on that money during the time that the timber sale was stayed. He said, "It is a fairness bill." He said this is not another attempt to butcher state land. The state lands must comply with all the environmental laws in their process before they can let the timber sales, grazing or mining, etc. and then they have to defend them. This recognizes that the primary purpose is to produce for the schools and cannot put aesthetic value and wildlife on the same footing for the schools. He said it is not a move to prohibit private citizens from being involved in public decisions and cited those entities which represent the private citizens who are involved.

HEARING ON HB 540

Opening Statement by Sponsor:

REP. BRAD MOLNAR, HD 22, distributed **EXHIBIT 29** to highlight the important portions of HB 540. He also distributed a transcript of a trial which was also referenced in testimony for HB 380, **[EXHIBIT 24]** which he said gets to the crux of juvenile crime. **EXHIBIT 30**

{Tape: 2; Side: B}

He said HB 540 represented a total revision of the Youth Court Act. He said the public toleration for the current state of juvenile justice is at its end. The question was, he believed, how to keep a corrigible youth from becoming incorrigible and then from becoming an adult criminal. He felt that changing the current mission which he stated as, "We shall seek no retribution from the youth" as important. The Youth Court Act has a series of statements of what this society will not do, rather than what the youth will not do. He said the amount of juvenile crime is astronomically higher than what is reported and the first thing which must be done is to address how to reduce it. He said the bill sought to hold the counties accountable for the actions of the juvenile offenders within their county. He said his proposal would also take the state out of the federal program which would cost the state $675,000 per year which he said does not go toward anything that he had seen as extremely beneficial. He said the bill was also intended to re-empower the parents as the first line of defense. He said it attempted to get the state out of the business of second guessing every parental action but to hold the parent responsible for the acts of the child.

Proponents' Testimony:

Janie Petaja testified as a mother of a child who had been in the juvenile corrections system. She shared her observations about the powerlessness of those in the system including parents, police and probation officers. She said the child has the power

but without control. Whenever she reported the infractions of the conditions of her probation, she was told there was nothing that could be done until the child committed a felony. There are no consequences under the current system, she said, and she recounted examples and further testimony of the limitations of the current system in enforcement and rehabilitation.

Dr. Richard Recor, Psychologist, said he had 17 years of experience working with youth and the court system. His testimony is submitted as **EXHIBIT 31.**

Neal Christensen, Helena High School Counselor, said he had been a principal at Mountain View School (MVS) for seven years and had been a counselor there for six years. He said that he was adamantly opposed to the closing of MVS and the reduction of the school. He vigorously supported HB 540. He emphasized the need for consequences for actions and the need for discipline in treatment. He felt nothing could be done without change to the Youth Court Act and that this proposed change was significant.

Informational Testimony:

Dennis Paxinos, Yellowstone County Attorney, County Attorneys' Association, said he was speaking neither as an opponent or proponent for HB 540. He agreed that the current Youth Court Act represents a morass and that there were good points in this bill as well as other bills addressing the problem, but had a word of caution. He suggested that it be put into a subcommittee which could be sure that it didn't result in a piecemeal system.

Opponents' Testimony:

Mary Ellerd, Montana Juvenile Probation Officers' Association, stated that HB 540 deserved very careful study since it sought to overhaul the entire Youth Court Act. She said that they had not received copies of the 43-page bill until 8:30 that day and they strongly urged the committee to table the bill and recommend that its content be reviewed as a comprehensive study as proposed in HB 240.

Dick Meeker, Chief Juvenile Probation Officer, First Judicial District, opposed the bill and its timing for consideration. In the short opportunity to review the bill, he outlined nine points of 25 he had compiled from that brief review as an argument for a two-year study of the entire Youth Court Act.

{Tape: 2; Side: B; Approx. Counter: 31.7}

Gordon Morris, Director, Montana Association of Counties, acknowledged that county commissioners across Montana are concerned about the needs of the youths in need of supervision and shared the concerns of the sponsor in proposing the bill. He recognized that it would give county commissioners more say and control in contrast to the current situation and did not know yet

how to respond to that increased vested authority. He suggested that the best thing to do was to take a serious look at HB 240 which would establish a Youth Court Study Commission.

Dick Boutilier, Cascade County Chief Probation Officer, opposed the bill because it was too quick and too broad. Though the Youth Court Act, was in need of change, he did not believe it was completely broken. He believed it was time to study it and to come up with good recommendations for the youth, the victims and the communities and that would take more time.

Candy Wimmer, Montana Board of Crime Control, reiterated the statements of other opponents to the bill. She encouraged that the bill have the opportunity to have a two-year consideration along with other proposals for review of the system. She said they were involved in the act not because of the $675,000 federal funds, but because the act would set up a guide for meeting constitutional rights of children. She felt this bill would violate a good many of those rights.

Questions From Committee Members and Responses:

REP. GRIMES asked the sponsor to address the objection to doing this so quickly based upon the fact that this was a big bill as well as the constitutional issues raised and the role of parents.

REP. MOLNAR admitted that it was a big bill. He cited testimony that the problem has been that little changes had been made which had created a mishmash. This bill would cover all of the Youth Court Act and also parts of parental responsibility and mental health issues. He described it as a total comprehensive program. The constitutional rights of the children would not be violated since an attorney is present at each step of the juvenile process. He said that the bill was consistent with federal standards for housing juveniles separate from adult jail populations. In addressing the role of parents, he cited the current problem they have in requiring their children to take prescribed medications and that the bill would seek to solve that. He described situations which would give the parents more freedom in attempting to control their children who might be acting irresponsibly or violently.

REP. WILLIAM BOHARSKI asked if the sponsor knew what the fiscal impact of the bill would be.

REP. MOLNAR said the fiscal impact would be minor because it would not create any more rooms at Pine Hills. His intent was to get counties to accept their responsibility to interdict the kids while still young and as first time offenders. He described how the offenses would be treated in successive penalties or treatment.

REP. BOHARSKI asked the sponsor to respond to the criticism by local government entities which opposed the bill and his

statement that there are already statutory obligations which they are not doing.

REP. MOLNAR stated that they are responsible and are shirking their responsibility by not providing the space, putting the juveniles back on the streets and calling it good. He said page 31, lines 27 - 29 attempted to have the money that is currently with the youth follow the youth to hold down on the fiscal impact. For instance, child support that is withheld during the child's incarceration should go with the child wherever they are in the system or if the child is at Pine Hills the money should go from the school he would have been attending to Pine Hills School where he is. SSI payments should go with the child to offset their treatment and care.

REP. DANIEL MC GEE asked how long the sponsor had been working on this bill.

REP. MOLNAR said he had logged over 400 hours on his personal computer.

REP. MC GEE asked if he had said he had been working on it over one and one-half years.

REP. MOLNAR said that it was actually a little over a year. He said that this bill was a result of working with people in the situations which need to be addressed rather than from the point of view of administrators of programs. He said currently 30% of the population at the state prison were juvenile offenders.

REP. MC GEE asked if **Ms. Wimmer** agreed that juvenile crime is a problem and she did agree.

REP. MC GEE asked what she or the Board of Crime Control had done in the last year to year and one-half done to alleviate the problem.

Ms. Wimmer said that over the past year and one-half the concentration of effort was on a study of the Youth Court Act and had delivered amended METNET (Montana Educational Telecommunications Network) broadcast to interested parties and to county attorneys, probation officers, and practitioners in the field about the provisions of the Act. They had distributed federal funding for various programs and said she would supply further information on that if it was requested.

REP. MC GEE asked if the hesitancy she and other opponents had for this bill was primarily because they had not had time to study the bill and not because the bill would not address the problem.

Ms. Wimmer said that one of the serious considerations was that there had not been ample opportunity for public review of the bill and its implications.

REP. MC GEE suggested that they all spend time reading and studying the bill and meet together for executive action and she agreed.

REP. TASH asked **Dr. Recor** if there were cases where parents were charged with child abuse for trying to assist their children.

Dr. Recor said that just the previous morning he had two specific cases. He cited some information from those cases where one father was charged with a domestic dispute for yelling at his daughter, who had twice stolen the car, in an argument over the use of a car. The daughter was free of any charges. The other involved a 3-year-old hyperactive child where the mother has been investigated for child abuse because she was trying to restrain the child from hitting its head against the floor. The parent cannot utilize the same therapeutic modality for restraint as is used by hospital staff for the child because of the potential abuse charges.

REP. CURTISS asked **Ms. Wimmer** for a list of the programs that she had mentioned that were being implemented.

Closing by Sponsor:

REP. MOLNAR closed by addressing the recommendations for a two-year study and said that would cost one generation of youth to make the decision. He felt that by doing absolutely nothing now, taking two years to do the study, one session to accept the recommendations and then the legislation would have to be written and implemented and then they would have to see some turnaround in the kids would total six years. He said the eighth grader who now is the one at risk could already be in Deer Lodge before they had done anything. He said that even if his bill were 100% wrong, it would be no more wrong that what is currently being done, but at least they would be trying something. He addressed other specific objections to the bill.

{Tape: 2; Side: B; Approx. Counter: 58.2}

HEARING ON HB 505

Opening Statement by Sponsor:

REP. JOHN COBB, HD 50, opened the hearing on HB 505 saying that the bill came at the request of the Human Services and Aging Subcommittee on Appropriations. The bill would encourage the courts to collect private contributions from a youth's parents or guardians for the care, custody and treatment of the youth. He

said an amendment would be forthcoming which would further clarify the distribution of those contributions.

{Tape: 3; Side: A}

Proponents' Testimony:

Hank Hudson, Director, DFS, supported this bill since it appeared to be a way to provide additional incentives for youth courts to aggressively pursue reimbursement as a well as a way to encourage communities to develop additional services.

Judge Larson spoke in support of the bill.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. GRIMES asked if this section was changed last session.

Ms. Gilke thought it was amended in 1991 to make it consistent with child support enforcement.

REP. TASH asked if the sponsor would work with **John MacMaster** to draft conceptual amendments with regard to abuse and neglect and probation.

REP. COBB explained which sections needed the new language and that he would meet with **Mr. MacMaster** to do that.

Closing by Sponsor:

REP. COBB closed.

CHAIRMAN CLARK relinquished the chair to **REP. GRIMES.**

HEARING ON HB 547

Opening Statement by Sponsor:

REP. BOB CLARK, HD 8, presented HB 547 which had been requested by the Department of Corrections and Human Services (DCHS). It would prohibit the possession of firearms by convicted felons. Originally it was drafted as HB 70 as a Constitutional Amendment. This bill would mean lifetime registration of felons who had been convicted of violent crimes. Currently the Montana Constitution allows a person, regardless of the crime committed, to possess a firearm once their sentence has been completed. Federal laws do not allow a convicted felon to possess a firearm. Most other states do not allow it. Some movement of felons from other states can be attributed to their knowledge that they can possess a firearm in Montana. The bill spelled out which crimes are covered and also dealt with felonies not specifically listed which would bring persons committing additional crimes under the same law. It allowed for one deviation in that a person could petition the court to allow them to have a firearm. If the court

allowed it and there was no objection from the county attorney or from the law enforcement official where they were convicted, they could be issued a permit to possess certain firearms.

Proponents' Testimony:

Dave Ohler, DCHS, said the department hadn't had an opportunity to review the bill, but the department did support the concept.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. MC CULLOCH asked for clarification of the section which would allow a person to petition the court for a permit for a firearm.

REP. CLARK pointed out page 3, line 11 and the new subsection 2 on page 2.

REP. LIZ SMITH asked for an example of a good cause for a convicted felon to carry a firearm.

REP. CLARK said the term, "carry," was one thing and the term, "possess," was another. Possession was what they were dealing with in the bill and it would cover hunting firearms.

REP. MC GEE asked how it would dovetail with a bill which had been drafted dealing with lifetime registration of violent offenders.

REP. CLARK preferred that the two bills be carried separately. This bill did not deal with lifetime registration, but rather lifetime supervision.

Closing by Sponsor:

REP. CLARK said he had overlooked the portion which dealt with the situation where a person was denied a permit and that they could not apply again for a 12-month period.

CHAIRMAN CLARK resumed the chair and announced the schedule for the coming days.

Motion: REP. MC GEE MOVED TO ADJOURN.

{Comments: This set of minutes is complete on three 60-minute tapes.}

ADJOURNMENT

Adjournment: The meeting was adjourned 12:15 PM.

Bob Clark
BOB CLARK, Chairman

Joanne Gunderson
JOANNE GUNDERSON, Secretary

BC/jg

HOUSE OF REPRESENTATIVES

Judiciary

ROLL CALL DATE 2/14/95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Clark, Chairman	✓		
Rep. Shiell Anderson, Vice Chair, Majority	✓		
Rep. Diana Wyatt, Vice Chairman, Minority	✓ late 8:20	✓	
Rep. Chris Ahner	✓		
Rep. Ellen Bergman	✓		
Rep. Bill Boharski	✓		
Rep. Bill Carey	✓		
Rep. Aubyn Curtiss	✓		
Rep. Duane Grimes	✓ ☺		
Rep. Joan Hurdle	✓		
Rep. Deb Kottel	✓		
Rep. Linda McCulloch	✓		
Rep. Daniel McGee	✓		
Rep. Brad Molnar	✓		
Rep. Debbie Shea	✓		
Rep. Liz Smith		✓	
Rep. Loren Soft	✓		
Rep. Bill Tash	✓		
Rep. Cliff Trexler	✓		

EXHIBIT 1
DATE 2/14/95
HB 450

HOUSE OF REPRESENTATIVES

TESTIMONY

February 13, 1995

The purpose of my bill is to bring a HALT to teenage crime, or at least it is a beginning.

Children murdering children, that is why the age on my bill is so young.

However, murder is murder, if it's a 15 year old or a 50 year old.

A life is gone, somebody has been cheated of <u>their</u> right to live and so many times for <u>no</u> reason. So many times the victim does not even know the murderer, and if the victim is not killed, there is interruption in their life accompanied by mental and physical pain.

There is a law on the books now whereby the trying of a teen as an adult is left up to the discretion of a county attorney, and he is too busy. As it stands now, their excuse for not putting these potential murderers in lock-up is that there is no place to put them.

Let this first or second offense go and in the future at the cost of someone's life, you will <u>have</u> to find a place for them.

My bill will simply mandate the trying of these youthful criminals as adults with adult punishment.

Bonnie Martinez
Representative, HD 17

make the law mandated.

EXHIBIT 2
DATE 2/14/95
HB 450

This bill is to provide punishment for juveniles, age ~~10~~ 13 and above equal to the adult laws, for all crimes of a violent nature..for doing bodily harm, causing pain,illness or death.

The juvenile offender is to be identified, for the benefit of the general public, no longer receiving immunity from having his or her name and address published in the news or being identified on the tv media.

Parents of the offender must now be responsible for the acts of their children, and paying for the expenses caused the victims...to the legal age of 18 years of age.

Because of the difference in the juveniles and their knowledge of the law, and how far they can go in crime or attempted murder there is a need for the laws to become updated, and fit the times, laws were made in the past, when children were taught and trained, had moral standards and guides by which to behave and live, and had a respect, for the rights of other individuals. They now know the laws and that as the laws stand now, there is very little danger or consequence for their misdeeds.

Submitted by Rep-Elect Bonnie Martinez
House district 17
Billings, Mont.

EXHIBIT 3
DATE 2/14/95
HB 450

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0450, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:
A bill mandating trial as an adult for a person 12 years of age or older who commits certain crimes; providing that the Montana youth court act does not apply to those persons.

ASSUMPTIONS:
Department of Corrections and Human Services

1. This bill requires a youth of 12 years or older be tried as an adult for the offenses defined within Section 1 of this act.
2. Data provided to the Department of Corrections and Human Services (DCHS) by the Montana Board of Crime Control indicates that an average of 107 youth were charged with the offenses defined in Section 1 of this bill in FY93 and FY94. There is an estimated 70% conviction rate on these charges.
3. DCHS will receive an average of 75 youth per year. (107 X 70% = 75)
4. Under federal law, DCHS may not incarcerate any youth under the age of 16 at any adult correctional facility. Currently, there is nobody under the age of 18 incarcerated in the Montana Correctional System.
5. DCHS does not have any facility to house youths age 12 through 15.
6. The current youth facilities (Pine Hills and Mountain View Schools) cannot meet this need, but Pine Hills would be expanded to meet the requirements of this bill and the Superintendent of Pine Hills would accept all offenders as recommended by DCHS.
7. The fiscal impact to DCHS is impossible to determine.

Department of Family Services

8. The Department of Family Services (DFS) already is responsible for secure care for youth aged 12 through 18 so many of these youth already are place at Pine Hills. However, both the level of service and the length of placements are likely to increase under provisions of this act.
9. If an additional 40 youth were to be placed at Pine Hills under extended jurisdiction, the annual cost would be about $1,971,000 (40 x 365 days x $135 per day cost at Pine Hills).
10. Some of the additional placements would be served through contracts with local providers.

FISCAL IMPACT:

	FY96 Difference	FY97 Difference
Expenditures:		
DFS Operating Costs	1,971,000	1,971,000
Funding:		
General Fund (01)	1,971,000	1,971,000

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:
The State of Montana will expand youth correctional facilities and community resources.

TECHNICAL NOTES:
An effective date of July 1, 1995, is recommended to coincide with the 1997 biennium and pending reorganization of various human services.

Dave Lewis 2-13-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

NOT FOR DISTRIBUTION
BONNIE MARTINEZ, PRIMARY SPONSOR DATE

EXHIBIT 4
DATE 2/14/95
HB 450

HOUSE OF REPRESENTATIVES

TESTIMONY

Today all kinds of excuses and reasons are found for these criminals.

How about lunch at the Red Lobster or work at Swan Lake. These were all murderers or had committed potential murder.

I say NO MORE coddling, NO MORE excuses.

The children of today are lacking in obedience and respect, however, the responsibility is the adults.

IT'S TIME TO PUT LAW BACK IN PERSPECTIVE.

IT'S TIME TO GIVE THE VICTIM PRIORITY.

IT'S TIME TO LET THE YOUNG CRIMINAL KNOW - "THERE IS A PRICE TO PAY."

Bonnie Martinez
Representative, HD 17

EXHIBIT 5
DATE 2/14/95
HB 482

Montana Catholic Conference

FEBRUARY 14, 1995

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, I AM SHARON HOFF, REPRESENTING THE MONTANA CATHOLIC CONFERENCE. IN THIS CAPACITY, I SERVE AS LIAISON FOR MONTANA'S TWO ROMAN CATHOLIC BISHOPS IN MATTERS OF PUBLIC POLICY.

IN THE *BELLOTTI V. BAIRD* CASE HEARD BEFORE THE UNITED STATES SUPREME COURT IN 1979, THE COURT STATED THE FOLLOWING: THE UNIQUE ROLE OF THE FAMILY IN OUR SOCIETY REQUIRES THAT CONSTITUTIONAL PRINCIPLES BE APPLIED WITH SENSITIVITY AND FLEXIBILITY TO THE SPECIAL NEEDS OF PARENTS AND CHILDREN. MINORS OFTEN LACK THE EXPERIENCE, PERSPECTIVE AND JUDGMENT TO RECOGNIZE AND AVOID CHOICES THAT COULD BE DETRIMENTAL TO THEM. PARENTS ARE ENTITLED TO THE SUPPORT OF LAWS DESIGNED TO AID DISCHARGE OF THEIR RESPONSIBILITY.

EVIDENCE REVEALS THAT THE MEDICAL, EMOTIONAL, AND PSYCHOLOGICAL CONSEQUENCES OF ABORTIONS ON CHILDREN CAN BE EXTREMELY DETRIMENTAL. EVEN IF A CHILD CHOOSES AN ABORTION, PARENTS ARE OFTEN THE ONLY ONES WHO POSSESS MEDICAL INFORMATION WHICH MAY BE NEEDED PRIOR TO AN ABORTION AND THE ONLY ONES TO ENSURE THAT THEIR DAUGHTER RECEIVES ADEQUATE SUPPORT AND FOLLOW-UP CARE AFTER AN ABORTION

a program
Tel. (406) 442-5761 P.O. BOX 1708 530 N. EWING HELENA, MONTANA 59624
CARE & SHARE

THE MONTANA CATHOLIC CONFERENCE BELIEVES THAT PARENTAL NOTIFICATION IS IN THE BEST INTERESTS OF THE CHILD. WE URGE THE COMMITTEE'S SUPPORT FOR HB 482.

EXHIBIT 6
DATE 2/14/95
HB 482

House judiciary Committee
to Chairman and Committee members;

I am asking for your support of HB482

there is a widely held opinion that abortions are being preformed on young underage women from low income, uncaring unwolved homes.

A few years ago my daughter had an abortion. This same daughter attended church, School, sang, danced as all young children should have the opportunity to.

We gave permission for school outings braces at the dentist and were even called when she had a headache and needed an aspirin.

But were we notified about a pending abortion no! or aspirin yes abortion no!

did she know her family a middle class, respectable family would be there for her. Yes! But in the time she needed us most we were not informed.

that was my daughter who I held as a Child, Why was I not there?

Please protect our familys HB482 would have saved my daughters break down (a result of her abortion, my grandChild. And years of guilt - Why wasn't I there when my Child needed me the most.

May we all learn from the past, not be Controlled by it. the family unit is still our best support. Please help keep it intact.

Support HB482

Georgia Branscome
101 Wagner Lane
Kalispell, mt.

EXHIBIT 7
DATE 2/14/95
HB 482

Charles J. Lorentzen
418 4th St. E
Kalispell, MT 59901

The Honorable Bob Clark
Capital Station
Helena, MT 59620

Re: HB 482

February 14, 1995

Chairman Clark and Members of the House Judicary Committee,

Permission for school bus trips, why? Liability & money.
" " baseball , " " "
" " driving permits , " " "
" " aspirin tablets , " " "
" " passports , " " "
" " church picnics , " " "
Permission for ABORTION SURGERY, why? LIABILITY & MONEY.

This has to be an elementry concept to deliberate. Who is called in the middle of tight spots to take care of bumps, bruises and bills? The parents of course. Have you volunteered recently to pay your neighbor's kids dental bill or ski lessons or car insurance? Who signs kids permission slips? Parents.

Now let's take abortion. In this peculiar case parents have total freedom from responsibility. Amazing. No information, no consent forms, no permission slips, no liability- until...the sudden fevor, the emergency room hemoraging, the perplexing change of behavior, the endless hours of regretting, pain and heart ache when realizing the unalterable. The deed is done. The cash up front man is gone. The abortionist is busy collecting cash for the next blob of tissue from the next terrified daughter without a permission slip. The quicker the better. What deception is this population control propaganda.

What we should be doing is arming parents with facts, giving advanced notice of pending disaster and installing warning signs before the rough road ahead. We should require parental notification so every daughter's mom and dad can be there to help during this crisis time of decision.

A parental notification law was passed in Minnesota in 1981 with the result that by 1986 the pregnancy rate in women under 18 dropped from 22% to 20% and the abortion rate from 71% to 27% amoung 200,000 per year (see attached gragh). This law was challenged in 1986, but it was upheld by the US Supreme Court in 1990. These positive results are encouraging to us in Montana and valuable as an indication of its benifit.

The pro abortion proponents do not want parents notified. They want girls seperated from their famlies support, but this is clearly wrong. We must not allow this to continue. Please vote to pass HB 482. Require parental notification for abortion for minors.

Sincerely,

Charles J. Lorentzen

Charles J. Lorentzen

Information taken from video entitled PARENT'S RIGHTS DENIED- Do Pregnant Teens Need Family Protection?

By American Portrait Films, Inc.
Box 19266
Cleveland, OH 44119 1-800-736-4567

Law introduced by Sen Gene Waldorf Dem Minnesota

sample 200,000 per year

Note: June 1990 N Y Times - CBS Pole: 76% Americans Support Parental Notification

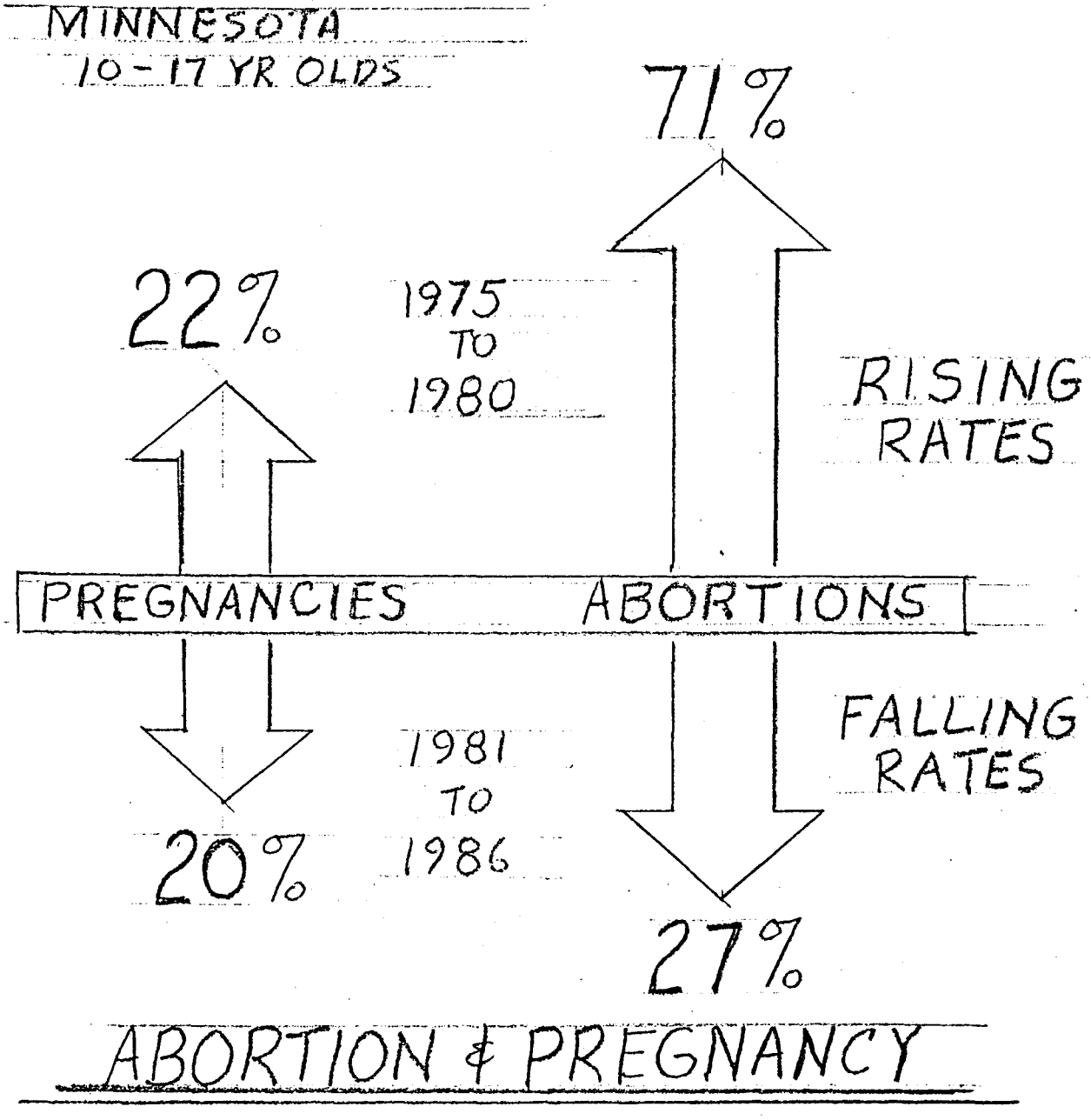

EXHIBIT 8
DATE 2/14/95
HB 482

February 12, 1995

HB 482 / Arlette Randash
House Judiciary / Parental Notification

The state of Montana has seen fit to make many distinctions between minors and those who have reached majority, (18) and have built many safeguards into the law to protect them. When I researched this issue I found many inconsistencies in the law when contrasted with the fact that a minor can receive an abortion without parental *consent or notification*, and thus without the protections inherent from the oversight of a caring parent or guardian. HB 482 calls for parental notification with a judicial bypass for extenuating circumstances. Here are the inconsistencies I found. (Please note I am not a lawyer and if I have made errors they were not made intentionally.)

45-5-622 Endangering the welfare of children

(2) A parent or guardian or any person who is 18 years of age or older, whether or not he is supervising the welfare of the child, commits the offense of endangering the welfare of children if he knowingly contributes to the delinquency of a child less than

(a)18 years old by:
(i) supplying or encouraging the use of an intoxicating substance by the child; or
(ii) assisting, promoting, or encouraging the child to enter a place of prostitution,
(b)16 year olds by:
(I) abandon his place of residence without consent of his parents, or guardian,
(ii) engage in sexual conduct

The penalties for the above offense are the same as what is provided for in HB 482 in Section 10. However, there is considerable difference in offering a minor an intoxicating substance and doing an invasive surgery like abortion.

45-5-623 Unlawful transactions with children

(a) sells or gives explosives to a child under the age of majority.
(d) a junk dealer, pawnbrokers, or second hand dealer receives or purchases goods from a child without authorization of the parent or guardian.

The gravity of buying junk from a minor hardly is on equal footing to doing an abortion on a minor.

16-6-305 Alcoholic beverages

(1) b. A parent, guardian, or other person may not knowingly sell or otherwise provide an alcoholic beverage in an intoxicating quantity to a person under 21 years of age.

16-6-305 A person is guilty of misdemeanor who: (a) invites a person under the age of 21 years into a public place where an alcoholic beverage is sold and treats, gives, or purchases an alcoholic beverage for the person.

Again, inviting a person into a place that sells alcohol hardly is equal to doing an abortion on a minor. Interestingly though, substantial amounts of federal dollars were at risk over the legal age of alcohol consumption. Our Montana's minor women not worth as much?

40-6-234 When parental authority ceases.

The authority of the parent ceases:
(1) upon the appointment by a court, of a guardian of the person of a child;
(2) upon the marriage of a child; or
(3) upon its attaining majority.

Isn't it inconsistent that when an abortion for a minor is involved the appointment by a court is waived without judicial means and a total stranger is allowed to do invasive surgery on a minor?

40-4-212 Best interest of a child

(1) The court shall determine custody in accordance with the best interest of the child. The court shall consider all relevant factors, including but not limited to:
(a) the wishes of the child's parents or parents as to his custody;
(b)the wishes of the child as to his custodian
(c)The interaction and interrelationships of the child with his parent or parents, his siblings, and any other person who may significantly affect the child's's best interest;
(d) the child's adjustment to his home, school, and community;
(e) the mental and physical health of all individuals involved;.....etc.

It is inconsistent that a child is given such caring consideration in a custody situation but in an abortion decision is afforded none of these protections.....parental notification *(and notice this is notification, not consent)* would begin to permit parental involvement, the interaction of other members of the family, consideration for the child's adjustment in her school and mental and physical health. HB 482 would provide consistency for minors in traumatic situations.

28-2-201 Who may contract

All persons are capable of contracting except minor, persons of unsound mind, and persons deprived of civil rights.

Isn't an abortion grave enough, especially when considered by a minor, to be treated with equal consideration to entering into a contract?

33-15-103 Power to contract - purchase of insurance by minors.

(2) Any minor of the age of 15 years or more.....may purchase annuities and insurance.

The state has recognized that a 15 year old may purchase insurance, however, the state in 1993 permitted 20 children younger than 15 to contract for the invasive procedure of abortion without guaranteed oversight of a parent or guardian. For minors this young because of the undeveloped nature of their cervix they are at particular risk for miscarriages

in the future and a study released in November by the Fred Hutchinson Cancer Research Center in Seattle showed that the risk of developing breast cancer before the age of 45 went up 800 percent in women who had an abortion before the age of 18 and if the abortion was conducted after the eight week of pregnancy. It is difficult because of the way Montana's statistics are gathered but it appears we had approximately 298 women at risk in that category.

41-1-303 The state does permit minors to borrow money for education.

41-1-402 Consent of minors for health services.

(a) a minor who is or was married, or emancipated,
(b) a minor separated from his parents, or legal guardian and supporting himself,
(c) minor who professes or is found to be pregnant,
(d) a minor needing emergency care.

However, in 41-1-405 (4) is reads "Self consent of minors shall not apply to sterilization or abortion." Obviously this isn't enforced but it must have been the original intent of the legislature.

41-2-105 Employment of minors

except as provided in 41-2-104, a minor who is under 14 years of age may not be employed in or in connection with an occupation.

Numerous safeguards are in code concerning the employment of minors: 41-2-106, 41-2-107, 41-2-108, 41-2-109, 41-2-110, 41-2-115. In fact, penalties for violating these employment laws of minors have more penalties under 46-18-212 than under the Montana Abortion Control Act for not notifying a parent, (however, currently it is unenforceable) 50-20-107.

39-2-306 Employment of persons under 18 as bartenders prohibited.

23-2-523 Motorboat operation prohibited under 15 years of age unless in possession

(ii) (b) of a valid Montana motor boat operators safety certificate or .....is accompanied by an adult.
(12) A person may not rent a motorboat rated at more than 10 HP to a person under 18

The state permitted 298 minors to abort by an abortionists whose primary service is the provision of abortion without the knowledge of their parents yet will not let minors be rented a motorboat!

23-3-404 Boxing

The state regulates the boxing of those under 16 by saying it must be monitored by an amateur boxing association. Yet the state permitted 158 minors to procure an abortion without the guaranteed knowledge of a parent or guardian.

40-1-213 Marriage licenses

The district court may order the clerk of the district court to issue a marriage license and a marriage certificate form to a party aged 16 or 17 years who has no parent capable of consenting to his marriage, or *has the consent of both parents*, or of his guardian. The *court must require both parties to participate in a period of marriage counseling involving at least 2 separate counseling sessions not less that 10 days apart.....as a condition to the marriage* (Italics are mine.)

The state has seen fit to regulate the marriage licensing of minors, even requiring counseling sessions not less that 10 days apart. Why should minors be afforded less protections when considering an abortion? 158 minors aborted at this age level or younger in 1993 in Montana.

50-37-103 Fireworks

It is unlawful for an individual under the age of 18 to possess for sale, sell, or offer for sale within the state permissible fireworks enumerated in 50-37-105.

Are fireworks in Montana on equal par to the life time consequences of abortion for a minor? If the state is recognizing the dangerous nature of fireworks shouldn't they consider the dangers inherent in such an invasive procedure as an abortion?

45-9-121 Intoxicating substances

We permit the youth court jurisdiction of any violation by a person under 18 who inhales or ingests: glue, fingernail polish, paint, paint thinner, petroleum products, aerosol propellants and chemical solvents.

Shouldn't parents have at least the same recognition of the role of authority they have in a minor child's life to be notified prior to the minor receiving an abortion?

23-4-301 Parimutuel betting

(5) It is unlawful.....to permit a minor to use the parimutuel system.

Gambling may separate a minor from her money but it is hardly as risky as an abortion, yet the states does not hesitate to protect the minor from the harmful effects of gambling.

45-8-20 Obscenity

We prohibit the sale of obscenity to anyone under 18.

Could the sale of obscenity to a minor be more harmful to a minor than the invasive procedures of an abortion on a minor without the love and guidance of a parent or guardian at a difficult and traumatic time in her life?

23-7-110 Sale of lottery tickets

We prohibit the sale of lottery tickets to those under 18

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7-32-2302 Curfews

The state permits the establishment for minors to be abroad on public streets.

61-5-105 Drivers licenses

The state issues drivers licenses for someone under 16.....or 15 years if they have taken a drivers coarse or permits restricted licenses to 13 year olds.

The state permitted 8 minors to abort a child at 13 years or younger in 1993 without the guarantee that a parent was attempted to be notified.

13-1-111 Voting

No person is entitled to vote until 18.

It would be doubtful that anyone has anguished over a voting decision the way 298 minors may have anguished alone over an abortion decision because the state did not deem it significant enough to guarantee an attempt was made to notify a parent of that impending decision on the part of the minor.

27-1-733 Rodeo participation

A minor must provide written consent to participate in a rodeo if the non-profit sponsor wants to be free of liability. Consent to participate must be by 1 parent or guardian.

Notice that for a minor to participate in a rodeo the state has ruled by law that the parent must give **consent**, not just be **notified**!

In this session we are addressing a minors action concerning gambling in casinos, smoking before 18 years old, and being occupied as a caddy. None of which are on par in seriousness to aborting.

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DATE 2/14/95
HB 482

Mr. Chairman and members of the Committee

My name is Tammie Peterson

16 years ago this month I had an abortion

3 months before my high school graduation I found myself pregnant I was a senior, about to become independent, and on my own. I could handle this crisis and take care of it myself. I could vote, was 18 years old, and in my mind as old as I was ever going to get. I knew more than my parents, I could hide this from them, I would not tell; it would all pass by quickly.

Six months later I had a job making top dollar. College would have to wait. I moved out of my parents' home, only to live with a man but not through the benefit of marriage.

I paid taxes, was a good citizen, and still the girl who pretty much turned out ok. I was still accepted as one from the right side of the tracks.

Five years later I had spiraled downward. I was not able to see myself with any self esteem. Nor could I believe anyone else saw any value in me. I had kept the secret of the abortion from everyone, everyone that is, except myself.

I could not deny the full truth of my abortion any longer. Although I started to shed the morals and values of my Christian upbringing by moving in with a man, I tried to ease my conscience by marrying him. But I still had to live with my past decision.

I crossed lines and boundaries I believed I would never cross, until ultimately I had committed adultary on three different occasions. My

life now represented the girl from the wrong side of the tracks. Emotionally, I was bitter, angry, and had no self-worth. But by grace, when I hit this bottom, my family and friends, whom I was sure wouldn't understand my unplanned pregnancy, picked me up from this rock bottom and loved me, forgave me, and showed me the way to real healing and a new sense of value.

I can't go back and change the past. I hate my past and would not wish it upon even my enemy, let alone my own children.

I live with regrets from hasty decisions that still impact my life. My past no longer torments me but I have a burden for my children, beloved relatives, and strangers I meet who come to me with an unplanned pregnancy.

I hope to spare my children the horrors of post-abortion syndrome and the decaying life it leaves women in.

I thought since I was old enough to vote, I was old enough to make wise decisions. At 35 I now know my parents had the wisdom I lacked. I would have acquired the wisdom I needed through them, instead of experiencing abortion and its demoralizing after-effects. They would have been disappointed, angry, hurt, and fearful, as they knew the difficulties I would face being an eighteen year old with a child. I now know the difficulties of raising a child. They are a joyful struggle of stress, worry and fear, all wrapped up in love. I want only the best for my children. The struggles my parents knew I faced are now considered by me to be a great opportunity considering the alternative horror of the emotional and physical abuse I put upon myself and my family. I would much rather be struggling with a 16

EXHIBIT 9
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HB482

year old teenager now than with the burden of my past decision. You see, the abortionists and those who support abortion will not be there as you watch the one you love self-destructing right before your very eyes and you are helpless to find a way of escape for them. In many post-abortion women, guilt can still be as strong five and ten years later as it was the day they walked out of the abortion clinic.

Many women seek suicide as an answer and successfully carry it out. Depression is consistent in women who have had an abortion and can continue for years after they have tried to go on with their lives. Notifying parents of their child's intent to abort a baby gives us an opportunity to show our children we do love them in the midst of their crisis. But yes, expressing our emotions that may seem negative at the time are normal and expected. Yet, we will support them and give them the wisdom of a healthier choice for the rest of their future.

I urge you to vote yes on House Bill 482. Allow Montana's parent's the right to be involved in this life-changing decision that their minor children may face.

Thankyou

EXHIBIT 10
DATE 2/14/95
HB 482

Ladies & Gentlemen:

My name is Cindy DeLay. I'm a 34 yr. old mother of two. In early August of 1977, only four years after it's legalization, I had an abortion. I was only 16 yrs. old.

I was able to obtain an abortion without my parents' consent; I didn't even have to lie about my age.

I had gone into a clinic someone told me about to obtain a "free" pregnancy test. After confirming my fears, I was taken to a "counselor" who informed me that the procedure would only take about 10 minutes, and I'd be given a mild sedative to help relieve my anxiety & lessen the cramping. No-one even ASKED if I wanted an abortion; I wasn't counseled on ANY options. They had taken my MEDICAID # upon arrival, so no cost was ever discussed. I found out later that it was strictly an abortion clinic.

I was escorted into a room, given 10mg. of Valium, told to undress from the waist down, and handed some magazines to read. A nurse would come by & check on me every few minutes to see if the medication was taking affect, and I could hear crying coming from other rooms. I was scared. "This isn't supposed to hurt." I thought.

After the medication began to make me drowsy, I was laid on the table as if for a PAP smear & the Dr. came in. He told me that "...the removal of the contents of your uteris will cause some mild cramping, and a small amount of bleeding, but it's normal." Then he told me to relax, and a machine covered in white towels was turned on. I got really scared, and began to shake. I shook so violently that the nurse holding my hand had to steady my legs. I cried-from both fear & pain. These were the worst "cramps" I'd ever had. I was glad that it only took about 10 minutes, as the intake counselor had said. When he was finished, the Dr. stood up and said "You'll be fine now. Leave that absorbant packing in for at least two days, unless it starts leaking fluid. It will catch any excess uterine discharge." He left & I got dressed. I left the clinic about an hour & a half after I'd arrived for a "free" test.

The following evening, I began running a fever & vomiting. It was about 30 hrs. after the abortion. The "packing" had begun to leak. My mom didn't know until then that I'd had an abortion; but she stood by me & called our family physician & told him my symptoms. He told her to have me remove the packing immediatly, and to watch my temp. "Bring her in in the morning if her fever & pain persists."

By morning, my fever & pain were worse. We went to see the Dr. He examined me & found an infection had set in. He placed me on a strong antibiotic for 2 weeks, and gave me something for pain to get me through the next few days.

I still can't believe that I didn't need my mother's consent to obtain the abortion, and yet the pediatrician whom I'd seen for nearly ten years wouldn't see me without her knowledge.

I support the "Parental Notice of Abortion Act" because even though my mother DID stand by me, she would NEVER have given her permission for me to get an abortion. And I wouldn't still be wondering "What would that child have been like?"

Thank You,

Cindy A. DeLay

BOX 2032 COLFLS MT
862-4380

EXHIBIT 11
DATE 2/14/95
HB 482

Chairman and Committee Members:

We believe the country is only as strong as the family.

We are urging you to support HB482 Parental notification

Let our familys be the support to our young women that need us not only in the good times but also in the uncertain times.Love and understanding is still best displayed by those who know us best.

George Wayne 752-3148
[illegible] 257-3104
[illegible]
[illegible]
Alden R Boreson 755-6541
[illegible] 257-4043
[illegible]
Dwight [illegible] 837-2122
Ann K [illegible]
Shirley A Visser
Jerry Engle 756-6467
Cindy Lucas 756-8532
Jim Holmquist 257-8424
Dr Thomas P. Fullerton 756-1342
Rebecca Hanson 752-3648
William C Hanson 752-3648

[redacted]

Jackie Gilliam 257-3104
Delsie Brooks 755-8899
Karen Homer 752-0164
Maxine R. Pond 756-6283
Robert W. Brooks 755-8899
Cathy Hamm 755-6048
Vernon R. Pond 756-6283
Carolyn R Reich 755-3162
Aggie Peterson 257-2969
Donald Ohlson 257-2969
Camille Probert 752-5815
Cathy Haven 752-0164
Carolyn Dittley 755-6466
Kim Lester 752-2088
Doris Nail 257-4039
Daniel Blanscene 257-5081
Jackie VanHelden 755-7790
Clifford T. Haven 752-0164
Patricia A. Holmquist 756-6110
Jody L. Nuht 752-2804
Walid. Constable 755-5140
Ross A. Longheed

Marcia Constable 755614
Cheryl Longheed 257-49
Christine Reeg 755-021
Jeff Engle 756-646
Robert Wagner 752-315
Andy Klein 752-6882

EXHIBIT 12
DATE 2/14/95
HB 482

February 13, 1995

My name is Kim Jones. Twenty one years ago this summer, when I was nineteen, I found myself pregnant and unmarried. I was told by Dr. Armstrong that my baby was nothing more than a mass of tissue. I had an abortion. My heart wants to protect the young women of out state from the unnecessary pain and anguish I have experienced these past 20 years. I am asking for your support of this 'parental notification' bill.

To share with you a small portion of my life that placed me in an abortion situation will most probably help you understand why this bill is so very important. I never learned that I was a special child, and that by body was mine. I never learned how to stand up for myself. I never learned how to say "NO". Passive sexual abuse was a part of my childhood. At a point in my teen years I was sexually abused. When this occurred, I went into shock and was totally helpless to defend myself. I told no one. It is not important now for me to go into the abuse any further. What is important is that it affected the rest of my life.

When I began my first year of college, I once again found myself vulnerable to a man. I came to expect this kind of treatment from men.. That first college summer I found myself pregnant. My life crumbled before my eyes. I literally did not know what to do. After sharing the news with the baby's father, he told me he would find out the name of the doctor that performed abortions in Kalispell where I lived. At that time in my life abortion was a new term to me. He told me to go and I went. I was given no choice by the father. I was in shock over the whole situation.

I would now like to share with you some information found in the Minirth - Meier Clinic Series "Kids Who Carry Our Pain - breaking the cycle of codependency for the next generation" by Dr. Robert Hemfelt and Dr. Paul Warren. Dr. Hemfelt is a psychologist who specializes in the treatment of family problems. Dr. Warren is a behavioral pediatrician. He is a member of the American Board of Pediatrics and medical director of the Minirth-Meier Child and Adolescent Behavioral Medicine Unit at Westpark Medical Center in McKinney, Texas. From page 51 of this book, Dr. Warren states "When a child's boundaries are violated, or the child is prevented from completing a developmental task, abuse has occurred." Then on page 52 Dr. Warren states "If a developmental task that would naturally occur at, say thirteen is thrust upon the child at age seven or eight, that child is abused. The child is simply not ready for the experience or awareness that has been forced upon him or her. In short, any sexual contact or discussion that is not appropriate to the child's age and maturity is abuse. Continuing on page 53, **"abuse" is recurring behavior on the part of other, unattended to and uncorrected, which stunts the child's growth or damages the child's sense of identity. Any experience or absence of experience that delays, neglects, or reverses completion of experience or absence of experience that delays, neglects, or reverses completion of those identity-building tasks is abuse.** Finishing with this book on page 145, "the abuses do far more than hurt some tender feelings. As a child grows, he or she must complete certain developmental tasks. If these tasks fail to find completion, the rest of development suffers. Another way to describe this missing growth phase is "**lost childhood**." ***Quite literally, a part of childhood, almost always a necessary part, has been damaged or destroyed.***

Now why do I bring all this up? Physically I was nineteen at the time of my abortion.

Considered an adult at that age. Taking into consideration the information that I shared with you above you can now understand that I was not nineteen emotionally. I believe that my emotional growth was blocked because of the abuse during my childhood. I was immature for my age and extremely naive in the years that followed. In retrospect, looking back now as a healed adult, I realize the painful mistake I made in the decision to abort my baby. M immaturity and naivety stands before me as I look down the road of my life. My immaturity, my naivety took the life of my baby. Because of the healing I have received from my Lord and Savior Jesus Christ and through a Post Abortion Recovery class I know I have been forgiven and I have seen able to forgive. Standing here before you is a milestone for me. We must protect our children.

Teenagers can be so very vulnerable, immature, irrational, and naive. They are searching and making decisions on who they are and who they want to be. They are easily influenced by their peers, constantly riding the roller coaster of hormones, searching for acceptance. Teenagers want to be responsible all of the time, some of the time, they really aren't sure. I have a teenager, believe me I know what I am talking about.

Teenagers need our help. They need our guidance. This is a most important part of our child rearing - to guide our children as they grow and mature. If and when a teen pregnancy occurs, and that is what we are talking about, I feel, because my emotional growth was held back, because of my immaturity, I can represent the teen. And, considering the time and years I have put into nurturing my children, I know I am the best person to provide the care my children need in the event of a crisis. I am the best person to care for my children because I have spent my life with them, helping them discover who they are and providing for their needs. I may not have all the answers all the time, but I do have love for my children, the kind of love that would search out the answers and provide the best possible information for them. The crisis an unwanted pregnancy puts a teen in is one of shock and confusion. It is so very important for the parents of a pregnant teen to be informed so they can step in and fill their roles as parent. The shock and confusion involved in an unwanted pregnancy is more than a teen is prepared to deal with. She needs the maturity of her parents to help her in making what could be one of the most important decisions of her life. She needs her parents for protection from the abortion industry.

My pregnancy left me vulnerable to Dr. Armstrong. I did not have the maturity to know what questions to ask. I did not have the maturity to even consider that their might have been other options. My boyfriend ruled over me looking out only for his best interest. My naivety caused me to trust Dr. Armstrong with the false information he gave me about my baby. Because of my immaturity, and the state of shock I was in, I didn't even consider long or short term consequences. I was told what to do and I did it. Teenagers need counsel from their parents. The parental notification bill, HB 482, will provide an escape back to their parents for the help they need.

I would now like to address the consequences of a teenager having an abortion without a parent's notification. What if there are complications in the procedure? Now it's okay to tell the parents when their child's life is at risk? Now they get to pick up the pieces? And what about the psychological affects of the abortion? The psychological affects will weigh heavily on the teen as she later realized what she had done. There is no escaping the truth. The psychological affects of her abortion will weigh heavily on her family as well. Speaking from experience, as

the truth comes out the wight of her shame and guilt will affect the rest of her life. Chemical dependency is a very real possibility. Self worth will be questioned. Promiscuity because of loss of self worth is very likely. Of course that introduces the possibility of further pregnancies and lets not forget the real possibility of being infected with any one of many STD's (sexually transmitted disease). This not only takes a toll on the family but becomes a burden for society as well. Suppose she later marries. This burden will be carried into her marriage and picked up by any future children she might have, if she can have children. It is pain, incredible pain and anguish from the guilt and shame of destroying your baby. Society as a whole will always be affected.

Giving parents the opportunity to counsel the child they love offers teens a chance at a full and happy life. It will spare society and this nation much burden. The parents that raised and nurtured their child deserve to be involved in any life threatening position their child may be in. We need to be allowed to be the parents of our children. Passing HB 482 will allow parents to continue to do the parenting they were created for and provides the pregnant teen an escape back to their parents, which they need so badly in their state of shock and confusion. Please I urge you to pass this bill so that health and well being of the family and of this nation will be protected. Thank you very much.

Kim Jones

862-6803

EXHIBIT 13
DATE 2/14/95
HB 482

My name is Peggy Wegner. I regret that I cannot be here personally today to share with you my views concerning the Parental Notification Bill, but my busy schedule as a full time college student prevents this.

I was fifteen years old when I became pregnant, and a quick fix to my problem was all that I was able to think of. Teenagers do not have the mental capacities at this age to think of long term consequences of their actions. I was raised in a family of high moral standards that would not condone premarital sex, and I was hesitant to inform my parents of my condition. I knew that abortion was wrong morally, but my preoccupation with "fixing" my problem prevented me from thinking ahead. I knew while I was laying on the abortionists table, after that lethal injection had been administered, that I had made a decision that I would regret for the rest of my life. I left the office that afternoon with an overwhelming sense of guilt that hung over me like a black cloud for the next fifteen years.

Let me share with you some of the trials women (of all ages) face after an abortion. I already alluded to the guilt I felt after making this decision. I had murdered a human being! Is there anything worse I could possibly do? People would think of me as "bad" for the rest of my life. I entered my late teen years thinking that I deserved nothing but the worst. I had no goals in life. I entered into one bad relationship after another. I was abandoned by the friends I had grown up with, so I used promiscuity to try and build friendships. These friendships, as you can imagine, tended to be very superficial,

leaving me feeling more alone each time. I was unable to remove myself from these self destructive behaviors. I was a failure to my parents, so I married the first person I could find, so I would have someone to take care of me, even knowing before marriage that this would not be a good situation. I lived with violence and abuse for over five years, thinking I deserved nothing better.

This type of thinking is common to women after having abortions. Thoughts of suicide are also prevalent. Many of them are anaware that their abortion experience is the reason their lives are so rotton. They are often unable to do anything about, unless they get some kind of counseling.

In reflection, raising a child out of wedlock or adoption looks like much of a lesser evil than feeling responsibility for taking a life. I am raising three children by myself as a consequence of decisions I made as a teenager. My girls are just reaching adolescence, and I cannot bear the thought of them experiencing all the heartache I did. I would like the opportunity to be able to counsel them should they ever find themselves in the predicament I was in.

Please consider this a plea to pass a parental notification law, so that children are not faced with making these decisions alone. Thank you for your time.

Respectfully,

Peggy Wegner

Peggy Wegner
227-7915

EXHIBIT 14
DATE 2/14/95
HB 492

The Montana Women's Lobby believes it is best for those 16 and under to contact an adult, preferably a parent, when confronting an unplanned pregnancy and considering an abortion. Fortunately, most minors do notify at least one parent when seeking an abortion. One Montana clinic statistics indicate that only 8 out of 144 clients in 1994 did not contact a parent before choosing to abort. Let's consider this bill using this clinic as an example.

First, over 94% of these young women chose what this bill would mandate. These families have developed good communication which is belittled by the coercive action of this bill. What these young women did out of respect is transformed into a demeaning experience where the physician has tell on her. Good communication in families cannot be legislated, and families with good communication don't need this intrusiveness on the part of government.

What about the other 5 - 6%? We can't know all their reasons, and we can't know what they'll do if their judgement isn't respected. Cut gym class to get a judicial by-pass? Perhaps be coerced by parents to carry a pregnancy to term against her will? Or worse, will she endanger her own life? Will she sleep in her car or under more dangerous circumstance waiting the 48 hours until she can get an abortion before going home? Will she stay away from home for a time afterward, waiting for the dust to settle? Or will she know she could never tell her parents, under any circumstances, and try to terminate her pregnancy on her own, by dangerous means? Montana doesn't need a Becky Bell.

History has demonstrated to us quite clearly what happens when abortion is illegal or obstructed. Women die.

MONTANA WOMEN'S LOBBY

P.O. BOX 1099 HELENA, MT 59624 406·449·7917

EXHIBIT 15
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InterMountain
Planned Parenthood®

721 North 29th Street
Billings, Montana 59101
406 248-3636

1844 Broadwater Avenue
Billings, Montana 59102
406 656-9980

926 Main Street, Suite 17
Billings, Montana 59105
406 248-2373

1220 Central Avenue
Great Falls, Montana 59401
406 454-3431

1500 Cannon Street
Helena, Montana 59601
406 443-7676

Intermountain Planned Parenthood is here today in opposition to HB 482. Under the guise of promoting family communication and protecting pregnant teens, this law will have serious consequences for the lives and health of Montana teens.

We find that most all teens voluntarily tell one or both parents about their pregnancy and plans for abortion. Of the 144 women age 17 and younger that we saw for abortions in 1994, 136 had involved at least one parent.Of the 8 women who did not tell their parents, 4 had involved another adult, such as a school counselor. The reasons why the 8 did not choose to tell their parents were varied -:

- parental alcohol problems, parents divorce, parents emotional instability from depression, parents physical health.

Young women are capable of making their own health care decisions. Studies show that teenagers, like adults, can understand and reason about health care alternatives and make abortion decisions consistent with their own sense of what is right for them. Studies also note that adolescents are self - observant and able to provide health histories as accurately as their parents. Certainly if a minor were too immature to decide to have an abortion, she would also not be mature enough to fulfill her duties as a parent. We also conclude that young women who choose abortion are more able to realize family goals and avoid later unwanted pregnancies than those teens who carry their pregnancies to term.

In practice, parental notification laws significantly increase health risks to minors causing necessary medical care to be delayed and by impairing the ability of health care providers to give quality care. This law would punish young women for becoming pregnant. It would not promote family integrity, improve parent - child communication, or help with the minors decision making process.

Respectfully Submitted,

Devon Hartman RNCNP

Devon Hartman RNCNP

EXHIBIT 16
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CONFIDENTIAL ABORTION SERVICES TO MINORS:
WHAT THE HEALTH PROFESSIONALS SAY

American Academy of Family Physicians
American Academy of Pediatrics
American College of Obstetricians and Gynecologists
NAACOG -- The Organization for Obstetric, Gynecological and Neonatal Nurses
National Medical Association
(Joint Statement):

"The issue of confidentiality has been identified, by both providers and young people themselves, as a significant access barrier to health care...There is an urgent need to reduce the incidence of adolescent suicide, substance abuse, sexually transmitted diseases and unintended pregnancy...As the primary providers of health care to adolescents, we urge that...the adolescent have an opportunity for examination and counseling apart from parents, and the same confidentiality be preserved between the adolescent patient and the provider as between the parent/adult and the provider. Ultimately, the health risks to the adolescents are so impelling that legal barriers and deference to parental involvement should not stand in the way of needed health care." (Policy Statement adopted by all of the above groups, 1988)

American Medical Women's Association:

"AMWA continues to support a woman's right to choose abortion without governmental intervention and without restrictions placed on her physician's medical judgment or conscience." (Policy Statement, 1989)

"AMWA [goes] on record as favoring legislation that would allow a minor to give self-consent for treatment that, if delayed by an attempt to secure parental consent would, in the physician's judgment, increase the risk to life or health." (Policy Statement, 1970)

American Nurses' Association:

Mandatory parental notification or consent requirements "interfere with an adolescent's right to make a pregnancy termination decision as well as delay the minor from actually seeking an abortion; health professionals support parental involvement in a daughter's decision to seek an abortion, but imposing parental notification/consent laws does not foster family communication; and imposing parental notification/consent laws puts a woman's health at risk." (as reported in ANA Capital Update, July 6, 1990)

American Psychiatric Association:

"The adolescent most vulnerable to early pregnancy is the product of adverse sociocultural conditions involving poverty, discrimination, and family disorganization... in the interest of public welfare, the APA opposes all constitutional amendments, legislation, and regulations curtailing family planning and abortion services to any segment of the population..." (Policy Statement, 1978)

American Psychological Association:

"There is little evidence to support age-graded policies about abortion; research supports neither the contention that adolescents are especially unlikely to make reasoned decisions about abortion nor the assumption that adolescents are vulnerable to serious psychological harm as a result of abortion.

"Consideration should be given to abolishing mature minor standards in determination of whether minors are able to obtain an abortion without parental notification or consent. It is hard to imagine a minor too immature to make the decision but mature enough to rear a child." (Policy Statement of APA Interdivisional Committee on Adolescent Abortion, 1987)

American Public Health Association:

"APHA urges that adequate and proper care for pregnant adolescents includes encouragement to involve a mature adult in decision-making about pregnancy outcome, provided that such involvement is not dictated or compelled." (Policy Statement, 1990)

ACLU OF MONTANA
AMERICAN CIVIL LIBERTIES UNION
P.O. BOX 3012 • BILLINGS, MONTANA 59103 • (406) 248-1086 • FAX (406) 248-7763

EXHIBIT 17
DATE 2/14/95
HB 482

February 14, 1995

Mr. Chairman, Members of the Committee:

My name is Scott Crichton, Executive Director of the American Civil Liberties Union of Montana, celebrating 75 years of defending traditional American values found in the Bill of Rights. I'm here today to voice ACLU's opposition to HB 482.

Let me say at the outset that the ACLU is unequivocally opposed to this bill. There are three major reasons why: forcing parental involvement in a young woman's abortion decision is (1) bad social work, (2) bad medicine, and (3) bad law. Let me explain each briefly.

State-mandated parental notification is bad social work because it does not foster family communication. In fact, it increases family stress, mistrust and violence. There are numerous anecdotal stories of the tragic consequences that parental notification laws have had on the lives of yound women. From medical and social work professionals comes overwhelming evidence that the majority of young women willingly involve at least one parent when they seek an abortion, and that those who do not usually have good reasons for keeping the secret.

In an extensive study released in 1992 of unmarried minors having abortions, the Alan Guttmacher Institute found that 61% of respondents said that one or both of parents knew about the abortion. Those who did not tell their parents were disproportionately older (16 or 17), white and employed. Thirty percent of those who did not tell had experienced family violence, feared that violence would occur or were afraid of being ejected from the home. In another recent sample of pregnant inner-city minors in Baltimore, an amazing 91% consulted a parent or a surrogate-parent before having an abortion or deciding to continue their pregnancy. (It's always struck me as ironic, by the way, that

the baby -- arguably a far more momentous decision than having an abortion.)

Last year at this time an informal poll of 214 teenagers seeking abortions was conducted at the University of Iowa Hospital. Fifty-four perecnt were accompanied by a parent, 17% by two parents. Even among those whose parent did not bring them, at least one parent was aware of the minor's intention to have the abortion in nearly 44% of the cases.

Hard as one might wish that passing a bill could turn all of the troubled families we see into loving, helpful and supportive havens, it's just not that easy. There are plenty of social ills for which legislation can provide remedies, but this is not one of them.

The second reason you should not pass HB 482 is that mandatory parental notice is bad medicine. That's not just the ACLU's opinion. It's the position of the American Medical Association, the National Research Council of the National Academy of Sciences, the American Public Health Assoccitaion, the Society of Adolescent Medicine, the American College of Obstetricians and Gynecologists, the American Academy of Pediatrics, and the American Academy of Family Physicians. Every one of these organizations has adopted policies recognizing the need for confidentiality in adolescents' medical care equal to that enjoyed by adults. While minors should be encouraged to involve their parents, these medical experts say, requiring them to do so may be harmful.

The reason for this impressive outpouring of medical opinion is very simple. To quote the AMA Report on the subject, "...minors should not be forced to undertake measures that may put their health at risk and prevent them from maintaining the necessary degree of privacy in their lives." State-imposed notice requirements deter pregnant young women from seeking the medical care they need for fear of its being reported to their parents. The inevitable result is more late-teen abortions and greater health risks associated with them.

Thirdly, you should reject this bill because it is bad law. By that I mean that it places the justice system, state court

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judges, in the untenable and inapproporiate position of second-guessing one of the most intimate decisions a young woman, indeed any woman, will ever make.

Under Section 9 of the bill, a minor is permitted to petition the youth court to "bypass" the parental notice requirement if the court determines "that the petitioner is sufficiently mature to decide", or if not mature, there is "clear and convincing evidence of a pattern of physical, sexual or emotional abuse" by a parent or guardian or "the notification of a parent or guardian is not in the best interests of the petitioner."

The folly of casting judges in this role has been attested to by the judges themselves. Judges, you know, are not genrally famous for their humility. Yet the trial testimony of six Minnesota state court judges who together heard about 90% of that state's judicial bypass petitions between 1981 and 1985 leaves no doubt that these proceedings are little more than a judicial power grab.

None of the judges could identify one positive effect of the Minnesota law, which allowed a judicial bypass in lieu of two-parent notice. Rather, they confirmed that their dispositions of these cases were likely to be completely subjective, superficial and arbitrary. Several testified that it was demonstrably stressful and traumatic for the minors to reveal the intimate detail of their lives to a stranger. The U.S. District Court found that only an infintesimal proportion of the petitions were denied, concluding that, in general, only mature minors or those whose best interests would be served by an abortion would initiate the daunting judicial process anyway.

Judicial bypass, therefore, while appearing to carve out a reasonable alternative for those minors who would be especially harmed by forced parental notification, is really a meaningless exercise, more revealing of the judge's predilections than the merits of the case. It is a foolish use of scarce judicial resources. And, like all obstacles to autonomous decisionmaking about abortion, this process increases delay, medical risks and costs to those least able to bear them.

In conclusion, let me say that as a father I am very lucky to

have a frank and honest relationship with my 23 year old daughter. This relationship has improved with age, though I have tried to be there as a parent, counselor and friend through the years. Today, as it was when she was a teenager, should she be unlucky enough to get pregnant before she is ready, that is fundamentally her business. While I would hope she would share that with me to also making it my business, nothing can convince me that it is any of the government's buisness.

I urge you to vote do not pass on HB 482. Thank you for your time and consideration.

ACLU BRIEFING PAPER

NUMBER 7

EXHIBIT 18
DATE 2/14/85
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Reproductive Freedom

THE RIGHTS OF MINORS

A pregnant woman's constitutional right to choose between childbirth and abortion was established in 1973 by the Supreme Court's landmark *Roe v. Wade* ruling. All women, including those under 18, are entitled to a safe, legal abortion. But in many states, a young woman may have a very difficult time exercising that right because laws require that she first notify her parents or obtain their consent.

Of the more than one million teenage pregnancies that occur in the United States each year, over 80 percent are unintended. Nearly all pregnant teens are unwed, and some 40 percent of them choose abortion.

Ideally, a teenager should be able to tell her parents about her pregnancy, obtain their love and support and arrive at critical decisions about her future through family discussions. The majority of pregnant teenagers do tell at least one parent about their pregnancies. However, some teenagers cannot tell their parents. Some are members of broken families; some are victims of incest or other forms of family abuse; some have run away from home, often for good reason.

The need to reinforce family relationships is the reason most often cited to justify state laws requiring parental notification or consent before abortion. But such laws are unnecessary for stable and supportive families, and they are ineffective and cruel for unstable, troubled families. Such laws cannot transform abusive families into supportive ones, nor can they reduce the alarmingly high rate of teenage pregnancy. Instead, they only add to the crushing problems faced by pregnant teenagers: They create delays that increase the medical risks of abortion and effectively eliminate the option of abortion for many minors. Tragically, those minors in greatest need of confidential medical care are often the very ones whose access to care is delayed.

The American Civil Liberties Union opposes parental consent and notification laws on the grounds that they infringe upon minors' constitutional rights and serve no useful purpose. To prevent unwanted pregnancy from being a dangerous condition for teenagers, we must ensure that young women have access to confidential counseling, contraception and abortion services, as well as prenatal care. At stake are young women's lives, safety, health and dignity.

Here are the ACLU's answers to questions frequently asked by the public about the reproductive rights of minors.

How many states have passed laws that restrict teenagers' access to abortion?

Thirty-one states have passed legislation, as of 1989, restricting teenagers' access to abortion. These laws require teenagers to notify a parent or obtain parental consent before seeking an abortion or obtain parental consent. Some states do not currently enforce the laws because they have been ruled unconstitutional by a federal or state court, or they resemble laws declared unconstitutional.

Eleven states continue to enforce parental notification or consent laws, and others are considering enacting new laws.

How do these laws work?

The laws vary. Some states require a physician or physician's agent to notify at least one parent of a minor seeking abortion, either in person, by telephone or in writing. Other states require a physician or his/her agent to obtain parental consent. Health care providers who fail to meet state requirements can lose their licenses to practice or even face criminal penalties.

What's the difference between a consent and a notification law?

Parental consent laws require one parent or both parents to give written permission before their daughter can obtain an abortion. **Parental notification** requires that one or both parents be notified in advance of their daughter's abortion. Although notification laws technically do not permit parents to veto their daughter's decision, some states either require that one parent sign a form or impose a waiting period between the notification and the abortion. While consent and notification requirements differ, the result is the same: Young women's abortions are delayed or obstructed because of governmental interference.

What's wrong with parental notification or consent laws?

Parental notification or consent laws can expose a teenager from an abusive or otherwise dysfunctional family to emotional trauma and physical danger, and many young women who avoid telling their unwanted pregnancy come from such families.

Courts have found that teenagers who want to keep their pregnancies a secret almost always have sound reasons. And family counseling experts have testified that forced communication frequently has disastrous results. Indeed, where abortion is concerned, privacy can be a life or death matter for teenagers.

Confidentiality has also proven crucial to the effective delivery to minors of several other health care services, including treatment for venereal disease and drug and alcohol abuse, prenatal care and contraception. Minors often shun such services if they fear that their privacy will not be respected. Thus, most states have passed laws *guaranteeing* a minor's right to receive confidential care in these areas.

Whatever parents' reactions might be, it's *their* daughter—so don't they have the right to be involved?

No. Although parents have interests in their children's well-being, in the case of pregnancy a teenager's privacy rights must be paramount. When there is reason to expect an extremely abusive parental reaction to a young woman's unplanned pregnancy, her right to privacy must come first since she is in the best position to know whether she is in danger. A legislature that is unfamiliar with a young woman's particular situation is *not* in a position to force her to involve her parents.

What types of family situations lead teenagers to seek a confidential abortion?

The situations are well documented and surprisingly common. Some teenagers fear that a parent will respond to the news of her pregnancy with physical or sexual abuse. Sometimes, the news could place both a mother and daughter at risk of violence by an enraged father. Some young women fear the news will exacerbate a parent's psychiatric or physical illness, drug or alcohol abuse, or troubled relationships with other family members. Some teenagers are runaways and dare not risk returning to their troubled homes.

Can a teenager, suddenly faced with the choice between childbirth and abortion, really make a responsible decision?

Yes. The American Psychological Association has found that minors are usually able to make intelligent, informed [illegible] pregnancy. Even young

women from severely troubled families often show great maturity and sensitivity when seeking confidential health services. During one abortion rights trial, clinic and court personnel testified that minors accurately assess their family circumstances and base their decisions on mature analysis and judgment.

In any event, doctors are required to obtain informed consent from every patient facing surgery, which ensures that an abortion would not be performed on any woman incapable of giving consent.

Don't laws restricting abortion also contain alternatives for mature minors or those who fear parental reprisals?

Yes. Most state laws requiring parental notification or consent allow a pregnant minor to go to court and request permission for a confidential abortion (that is, without parental involvement). But this process usually requires a teenager to make an appointment with the court, travel some distance, and either find an attorney or plead her own case before one or more court officials.

This procedure, called a judicial bypass, is costly and often humiliating and traumatizing. Teenagers must reveal detailed personal information to as many as 20 or more strangers on staff in the court system. In small communities, word may get back to parents, thus defeating the purpose of the bypass, which is to ensure privacy. This anxiety-producing judicial process is a heavy burden to place on young women who are simply seeking health services.

Another problem is that the bypass discriminates against the poor. Young women who lack financial resources and supportive families—that is, those most in need of help—are the least likely to be able to navigate the complicated bypass process. For such teenagers, the complexities and delays involved may cancel out the option of safe and legal abortion.

Aren't legal delays justified when a teenager might risk physical and emotional harm by having an abortion?

Actually, delays increase the risk of harm. The longer a teenager waits to terminate a pregnancy, the greater the risk to her health. Furthermore, childbirth is more risky at all stages of pregnancy than abortion. Statistics compiled by the federal Centers for Disease Control and other sources indicate that the risk of death from childbirth is, on average, 24 times higher than the risk of death from abortion at up to 12 weeks of pregnancy. Teenagers are more likely than adults to suffer medical complications attributable to childbirth.

Access to legal abortion in the United States has dramatically improved women's health. Abortion is not only one of the safest surgical procedures available, it is generally safer for teenagers than for adults. Moreover, a recent government study found that unmarried, sexually active teenage girls who chose abortion experienced no emotional damage; rather, they gained a sense of control over their lives.

What are the consequences, besides increased health risks, of restricting teens' access to abortion?

Laws that restrict access to abortion by requiring parental involvement increase teenage birth rates. For example, according to testimony in the reproductive freedom case, *Hodgson v. Minnesota*, the Minneapolis birthrate rose 38.4 percent among mothers aged 15 to 17 after enforcement of a parental notification law. The birthrate for 18 to 19 year-old women, who were not affected by the law, rose only .3 percent during the same period.

Having little education, few skills and responsibility for a child they may not have wanted, teenage mothers and their children are seven times more likely to slide into poverty. According to national estimates, children born to teenage mothers in 1987 will receive more than $5.5 billion in federal welfare payments over a 20-year period. And because children born to teenagers are often unwanted, those children may suffer severe psychological and educational disadvantages. As for the minors themselves, their entire adult lives are often limited, if not ruined, by government laws that effectively force them into motherhood.

Do restrictions on minors affect the reproductive choices of other women?

Yes, abortion restrictions directed at minors affect the reproductive rights of all women. Those rights are rooted in the privacy principle—that is, choices about childbearing are personal, private and none of the government's business. When government invades the realm of privacy to limit the reproductive freedom of teenagers, it undermines the privacy principle and threatens the privacy rights, not only of all women, but of all Americans.

What can be done to provide genuine help for teenagers and, thus, reduce their need for abortion?

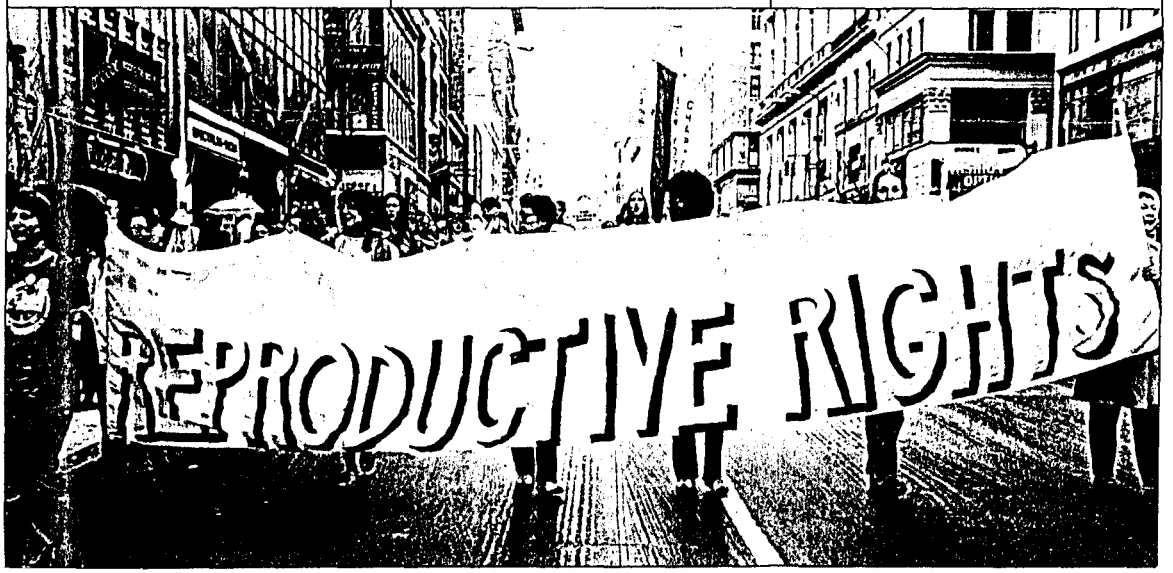
States can and should provide confidential reproductive health services and counseling programs that are accessible to teenagers before they become pregnant. These programs should dispense candid information about sexuality, reproduction, contraception, and the importance of family support and communication. Such programs could not only reduce the number of unwanted teen pregnancies, but they could also strengthen family bonds and prevent family crises that are precipitated by teenage pregnancies.

Most important, a teenager should be afforded the security of knowing she can assume the adult role of motherhood if and when she, not the government, chooses. Reproductive freedom—including the right to confidential contraception, abortion and prenatal care services—is essential to this goal. Intrusive state laws that claim to encourage family communication, while clearly undermining the best interests of families, ill serve teenagers. Those laws interfere with the right of private decision-making and do nothing to stem the high rate of unwanted teenage pregnancies.

The ACLU, in cooperation with other organizations, will continue to provide legislative advocacy and information to the public, aimed at securing reproductive freedom for all women. This includes minors, who are entitled to the same rights of privacy guaranteed to all citizens by the Constitution.

ACLU

American Civil Liberties Union
132 West 43rd Street
New York, N.Y. 10036



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Missoula Youth Homes

Shirley M. Miller Attention Home
Susan Talbot Youth Care Center
Tom Roy Group Home
Treatment Foster Care Program

550 North California
P. O. Box 7616
Missoula, MT 59807-7616
Telephone (406) 721-2701
Fax (406) 721-0024

February 13, 1995

Mr. Chairman and Members of the Committee:

I am sorry I cannot attend this hearing in person but I have asked that Ms. Deborah Frandsen read my testimony into the record.

For the record, my name is Geoffrey Birnbaum and I am Executive Director of Missoula Youth Homes. I have been Director since 1976 and have a total of 25 years working with troubled and damaged youngsters. You could say I am an expert, of sorts, with children whose families may not be up to participating in such a momentous decision as one involving "choice."

As a parent myself, with a recently (yesterday) turned 18 year old daughter, I applaud this bill's efforts to maintain family integrity and the effort to encourage family involvement in birth/medical issues regarding their minor children. I would support an effort to give encouragement to parental involvement whenever possible. Unfortunately that decision to involve parents cannot be a very simple process. Provisions to allow waiver of notice begin to touch on the complexity of this issue. But you are suggesting a confidential process to waive parental rights. This violates the concept of this law even before you look at the abortion or choice issue.

In the end one realizes it is best a decision left to the professional and confidential relationship of physician and patient. A strong family will already be involved with their daughter in health care and choice of physician. Such an involved physician will make a good choice regarding advice or parental notification. Any attempt to mandate parental involvement will put some teenager at risk. I do not think one can write all the waivers into the law without long study and compromise by all involved advocacy groups and parties. The legislature is not that forum. I would suggest that this bill's intent might be sound but it needs study to accomplish any remedy without causing further issue. This proposal should be defeated and referred to Public Health for development of standards for parental notification.

Thank you for your attention.

EXHIBIT 20
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Planned Parenthood of Missoula

Chairman Clark and Members of the Committee, thank you for allowing my testimony to be read today, I regret that I cannot be there in person, but the weather made it too dangerous.

My name is Deborah Frandsen, I am Executive Director of Planned Parenthood in Missoula and I am writing in opposition to House Bill 482. Planned Parenthood is a family planning clinic which provides services such as pap smears, contraceptives, breast and testicular exams, counseling and education, sexually transmitted disease screening and care and much more. We provide these services on a sliding fee basis and no one is turned away due to inability to pay. We also provide abortions and have been doing so for over a year.

We do not debate the fundamental assumption of this bill, which is that it is preferable for parents to know when their daughter is facing a terribly difficult situation and decision. No one is disputing that. Our contention with this bill is the notion that the government knows best when it comes to families. We contend that the actual family member knows best.

First off, it is essential that you know that most teenagers do tell their parents. At our clinic at least two-thirds do. Those who feel unable to, we designate for extra counseling time and attention. In these counseling sessions we help them sort out their fears, perhaps separating the realistic from the unrealistic, we role-play with them as to how they might tell a parent and we give them help in dealing with the repercussions. They are completely informed of all their options and the risks of both abortion and childbirth.

Also, if at any time a teen tells of us of abuse, we are mandated by state law, as health care providers, to report the abuse to the Department of Family Services.

In the past six months, five girls have not told their parents. Each had a very compelling reason including Catholic parents, Mormon parents, a recent death in the family and a certain fear that the revelation of the pregnancy would lead to her immediately being kicked out of the house.

Also, you must know that teens often come to us very late in their first trimester, perhaps it is denial, perhaps it's fear, but often we have only a few days before they are in their second trimester at which time the procedure becomes increasingly risky, expensive and less available to them. Our concern that the 48 hours can, when combined with weekends, delays, and bureaucracy stretch into days and weeks.

More to the point, our deepest concern is for the teenage girl herself. She may feel that she has been placed in an impossible situation: either forced to tell her parents which could be absolutely explosive or negotiate a legal system where she may feel both overwhelmed and fearful of a loss of confidentiality. When faced with this, she may make a third, very dreadful choice. She may attempt to self-abort or may attempt suicide.

Please, in your sincere desire to help teenage girls, don't pass legislation which could endanger the very lives you are attempting to protect.

EXHIBIT 21

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ABORTION WOULD HAVE HURT MOM AND DAD

by Mark Patinkin, writer for the Providence Journal

She told her parents she was going to a party with a friend. She left the house around 7 p.m. on a Saturday night in September 1988. Her name was Rebecca Bell. She was 17 years old.

She did not get home until close to 1 a.m., later than usual, but it did not greatly upset her folks, Bill and Karen.

Rebecca had always been a reliable daughter. After school, she worked as a supermarket cashier. She spent a lot of time baby-sitting for nieces and nephews. She volunteered for the Humane Society and wanted to be a veterinarian.

The next morning, Becky said she did not feel well; she said the same on Monday, but went to school anyway. By Wednesday, she was feeling feverish and stayed home. By Friday she was feeling sicker still.

Bill Bell, a regional marketing representative for an office-products firm, often worked out of the house. He was there Friday morning, urging Becky to let him take her to a doctor. She told him she'd be all right.

By midday, seeing his daughter acting even sicker, Bill finally insisted. At the doctor's office, they took an X-ray and found Becky had pneumonia. Her left lung was already filling with fluid. Her parents drove her to an Indianapolis hospital. By the time they got there, she had to be taken inside by wheelchair. The staff began trying to stabilize her and soon urged Bill and Karen to take time out for dinner.

They returned only 40 minutes later. As they stepped off the elevator, they were met by a nun from the hospital chaplain's office. The nun told them Becky was unconscious and had been rushed to the intensive care unit.

A doctor there took Bill and Karen Bell aside. He said the infection was rampant and beginning to destroy her lungs. It would be a miracle if they were able to save her. Three hours later, at 11:30 p.m., several doctors came into the private waiting room where Bill and Karen had been sitting. The doctors said they were sorry. They'd done everything they could.

The next morning, the Bells' phone rang about 5 a.m. It was the coroner. He said the hospital had asked for an investigation, and he would be informing them of the results. Later that day the coroner called back. He told them he'd found the cause of the infection that resulted in their daughter's death.

She had been the victim of a botched abortion.

Over the next months, Bill and Karen pieced together how it happened. They spoke with Becky's best friend. The friend explained how Becky had confided in her that she was pregnant, that her boyfriend, upon being told, wanted nothing to do with it. Becky had gone next to Planned Parenthood, which explained to her that Indiana law required all girls under 18 to get the consent of at least one parent for an abortion.

Bill and Karen asked why Becky hadn't come to them.

"I can't hurt Mom and Dad," Becky had told her friend. "I love them too much."

The law also allowed Becky to get a judge's waiver of parental consent, but she couldn't face going into a public courtroom.

"My belief," Bill Bell says today, "is that on that Saturday night, someone either used a coat hanger or a knitting needle; someone botched her. Here was a desperate little girl who didn't want to disappoint her parents, so that's what she did."

Bell thinks it is best for girls to turn to their parents when faced with the decision of abortion. But he understands many may not be ready; a full one-third ask judges to waive parental notification.

And what of the others who cannot face either a courtroom or their parents?

Bell is convinced the parental notification law killed his daughter. He asks legislators everywhere who have the power to make or unmake such laws, to think of Becky Bell.

(Printed with permission from Mark Patinkin, Providence Journal)

Presently, Iowa law does not require parental notification before a girl under 18 receives an abortion. The recent Supreme Court rulings could open the door for such laws in the Iowa legislature. Contact your legislator today and express your concerns about these devastating laws.

BECKY BELL 1971-1988

A 17-YEAR-OLD INDIANAPOLIS HIGH SCHOOLER, BECKY BELL DIED FROM A BOTCHED ABORTION AS A DIRECT RESULT OF INDIANA'S SO-CALLED "PARENTAL CONSENT" LAW. NOT WANTING TO "DISAPPOINT" HER PARENTS BY TELLING THEM OF HER DILEMMA, BECKY'S ONLY LEGAL CHOICES WERE TO SNEAK ACROSS THE STATE LINE TO KENTUCKY FOR A SAFE, LEGAL ABORTION OR TO BEG AN ANTI-CHOICE JUDGE TO GRANT HER A WAIVER. SHE NEVER MADE IT TO KENTUCKY, DYING OF A MASSIVE SEPTIC INFECTION FROM THE BOTCHED ABORTION. BECKY'S PARENTS HAVE BECOME OUTSPOKEN CRITICS OF "PARENTAL CONSENT" LAWS THAT ENDANGER THE LIVES OF YOUNG, HELPLESS WOMEN WITH NO CHOICE AND NO PLACE TO TURN.

EXHIBIT 22
DATE 2/14/95
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NATIONAL WOMEN'S LAW CENTER

Minors Travel Out of State and No Reduction in Teen Pregnancy Rates

♦ In states with consent and notice laws many minors travel to states without laws to obtain a confidential abortion. Since a parental consent law went into effect in Missouri, the Department of Health has documented that "the percent of teens going out of state to obtain abortions has increased so that by 1989 almost one-third of the abortions performed on Missouri residents under the age of 18 occurred in a state other than Missouri."[8]

♦ In Massachusetts, researchers have reached the same conclusion; the number of minors going out of state for abortions increased substantially after a parental consent law was enacted.[9] Before the law went into effect, about 7 - 8 minors obtained abortions in neighboring states each month. One year later, that number had climbed to 95 teens traveling out of state each month. As in Missouri, this number means that approximately one in every three minors obtained their abortions outside the state.

♦ In Rhode Island, providers estimate that 49% of minors who contact an abortion clinic decide to go out of state.[10]

♦ Data demonstrates that parental consent and notice laws do not reduce teen pregnancy rates. In Missouri, where a consent law has been in effect since 1985, and in Minnesota, where a notice law was in effect from 1981 to 1986, teen pregnancy rates did not change.[11] Decreases in the in-state abortion rate were offset by increases in the teen birth rate.

Later Abortions and Harmful Effects on Minors' Health and Futures

♦ Consent and notice laws also delay minors' abortions. In Missouri and Minnesota the number of teens having second trimester abortions has increased since parental consent and notice laws went into effect.[12]

♦ Later abortions expose minors to greater health risks and are more complicated than those performed during the first trimester. Abortions performed at 11 or 12 weeks of pregnancy are three times more dangerous than those performed at or before eight weeks, although abortion is still much less risky than childbirth.[13]

♦ For some young women -- those who are unable to tell their parents, unable to travel to another state, or unable to obtain judicial authorization for an abortion -- abortion is not an option and they are forced to give birth. In both Missouri and Minnesota, teen birth rates have increased as a result of forced parental involvement laws.

♦ In Missouri, a parental consent law reversed a trend of declining teen birth rates before the law went into effect. In the City of Minneapolis, the place with the most complete data available, the births rates for minors under 17 rose 38.4% after the notice law went into effect, whereas the birth rates of teens over 17 held stable.[14]

♦ Compared with older women, minors are at a much greater risk during pregnancy of suffering from serious medical complications including anemia, toxemia, cervical trauma and premature delivery.[15]

♦ At least 40,000 minors drop out of school each year because of pregnancy. Teenage mothers are less likely to ever complete high school than minors who delay childbirth.[16]

♦ Teenage mothers earn about half the lifetime income of women who first give birth in their twenties.[17]

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PARENTAL CONSENT AND NOTIFICATION LAWS

A total of seventeen states currently enforce some sort of parental involvement requirement.[1] However, laws requiring parental consent or notice before a minor may have an abortion are actively being considered by state legislatures or are being reviewed in courts throughout the country.

Anti-choice groups have been the impetus for the enactment of parental consent and notice laws by state legislatures.[2] Although anti-choice advocates promoting these laws have stated that one of their goals is to restrict access to abortion, they have also argued that consent and notice laws foster communication between young women and their parents and are necessary to protect young women's health. Pro-choice groups, and medical, psychological and social service organizations opposing parental consent and notice laws argue that they do not improve family communication and can harm young women's health and best interests. Described below are some of the arguments made in opposition to these laws and their legal and public policy implications.

THE HARM CAUSED BY PARENTAL CONSENT AND NOTICE LAWS

Adverse Effects on Parent-Child Communication

♦ Most young women, and especially those under the age of 15, voluntarily choose to tell at least one of their parents about their pregnancy.[3] In fact, a comparison of parental notification rates in a state that forces parental involvement and one that does not, found that notification rates were the same; in both states more than 60% of minors notified one parent.[4]

♦ Providers and individuals who work with minors report the reasons that minors do not tell their parents include: psychiatric or physical illness of a parent, chemical abuse and dependency of a parent; parents' religious or moral anti-abortion or anti-sex views; and a likelihood of abusive verbal, physical or sexual response by a parent.[5]

♦ As Justice Marshall stated in Hodgson v. Minnesota, relying on extensive factual findings made by the district court based on the five years that a two-parent notice law was in effect, "[t]he disclosure of a daughter's intention to have an abortion often leads to a family crisis, characterized by severe parental anger and rejection. The impact of any notification requirement is especially devastating for minors who live in fear of physical, psychological or sexual abuse."[6]

♦ The Hodgson Court also found that particularly harmful effects result from laws that require the consent or notification of both parents. This is especially true for single-parent families. In Hodgson, the record showed that relations between the minor and the absent parent were not reestablished, often producing disappointment in the minor; and the reaction of the custodial parent was frequently one of anger, resentment, frustration and fear that notice would promote intrafamily violence, a fear that was often realized.[7]

♦ Laws that force parental involvement prevent families from resolving sensitive, highly personal matters without governmental interference and conflict with a family's judgement about how it should function.

♦ In 1986, two-thirds of all children under three who lived in families in which the head of household was younger than 22 were poor.[18]

LEGAL AND PUBLIC POLICY IMPLICATIONS OF PARENTAL CONSENT AND NOTICE LAWS

The Legal Status of Parental Consent and Notice Laws

♦ In Bellotti v. Baird, which involved a parental consent law that had never gone into effect, the Supreme Court recognized that the constitutional right to abortion applies to minors as well as adults, but acknowledged that under certain circumstances parental involvement could be appropriate. While not addressing what might happen if a law when in effect actually did interfere with the minors' right, the Court required that at a minimum a parental consent law contain a "judicial bypass procedure" which allows minors who do not wish to involve their parents to obtain judicial authorization for the procedure.[19]

♦ In Hodgson v. Minnesota, the Supreme Court evaluated a Minnesota law which required notice to both parents, with limited exceptions. The bottom-line result of this complex opinion is that the Minnesota law is unconstitutional without a judicial bypass procedure but constitutional with a judicial bypass.[20]

♦ In Ohio v. Akron Center for Reproductive Health, the Supreme Court held constitutional an Ohio law which required notice to one parent or judicial authorization under a judicial bypass procedure before a minor could have an abortion. However, the Court left open the question of whether a judicial bypass is constitutionally required in a one parent notice law.[21]

♦ It cannot be assumed that all parental involvement laws which have a judicial bypass will be found constitutional because of the Supreme Court's decisions in Hodgson and Akron Center for Reproductive Health. For example, if access to the judicial bypass procedure is restricted, minors' petitions unfairly denied, or other failings are present, a consent or notice law may be struck down.

Conflicts With Established Medical Practices

♦ Forced parental involvement laws for abortion conflict with the trend in most states, to allow minors themselves to consent to sensitive health services, including pregnancy-related care; family planning services; treatment for sexually transmitted diseases; and treatment for drug and alcohol addiction. Laws allowing minors to consent to sensitive and intimate health care recognize that parental involvement is not always appropriate and may impose a barrier to treatment.[22]

♦ Forced parental involvement is contrary to established medical practice. Minors are routinely encouraged to involve a parent or other significant adult but counselors recognize that parental involvement is not always in a minors' best interests and that laws mandating involvement can jeopardize young women's health. In any event, under well-established legal and ethical principles governing the informed consent process, minor women and adults considering abortion already are counseled fully about the procedure, its risks and benefits, and its alternatives.[23]

January, 1991

References

1. These states are: Alabama, Arkansas, Connecticut, Indiana, Louisiana, Maine, Massachusetts, Minnesota, Missouri, North Dakota, Ohio, Rhode Island, South Carolina, Utah, West Virginia, Wisconsin, and Wyoming. A parental consent law in Michigan will go into effect on April 1, 1991.

2. Transcript of Record at 605-606, Hodgson v. Minnesota, 648 F. Supp. 756 (D. Minn. 1986) (On file with the ACLU Reproductive Freedom Project.)

3. Torres, Forrest and Eisman, "Telling Parents: Clinic Policies and Adolescents' Use of Family Planning and Abortion Services," 12 Fam. Plan. Persp. 284 (1980).

4. Blum, Resnick and Stark, "The Impact of a Parental Notification Law on Adolescent Abortion Decision-Making," 77 Am. J. Public Health 619 (1987).

5. ACLU Reproductive Freedom Project, "Parental Notice Laws: Their Catastrophic Impact on Teenagers' Right to Abortion," 6 (1986).

6. Hodgson v. Minnesota, 110 S. Ct. 2926, 2953 (Justice Marshall, concurring in part and dissenting in part).

7. Hodgson, 110 S. Ct. at 2938.

8. Missouri Department of Health, Missouri Monthly Vital Statistics, Vol. 23 No. 11 (Jan. 1990), and Pierson V., Pregnancy Options for Teenagers: Missouri Residents 1980-1989, paper presented at the American Public Health Association Conference, New York (Oct. 1990).

9. Cartoof and Klerman, "Parental Consent for Abortion: Impact of the Massachusetts Law," 76 Amer. J. Public Health 397 (April 1986).

10. Donovan, "Judging Teenagers: How Minors Fare When They Seek Court-Authorized Abortions," 15 Fam. Plan. Persp. 259 (Nov./Dec. 1983).

11. Minnesota Department of Health, Minnesota Health Statistics (1987); and Trial Record, Plaintiff's Exhibit 116, Hodgson v. Minnesota, 648 F. Supp. 756 (D. Minn. 1986).

12. Missouri Department of Health, supra note 11; Plaintiff's Exhibit 122 in Hodgson v. Minnesota, 648 F. Supp. 756 (D. Minn. 1986).

13. The Alan Guttmacher Institute, Abortion and Women's Health 29 (1990).

14. Missouri Department of Health, supra note 11; Plaintiff's trial exhibit 116 in Hodgson v. Minnesota.

15. Center for Population Options, Adolescent Sexuality, Pregnancy and Parenthood (1990).

16. Id.

17. Id.

18. The Children's Defense Fund, Teenage Pregnancy: An Advocate's Guide to the Numbers 30 (1988).

19. 443 U.S. 622 (1979).

20. 110 S. Ct. 2926 (1990).

21. 110 S. Ct. 2972 (1990).

22. Gittler, Quigley-Rick and Saks, Adolescent Health Care Decision Making: The Law and Public Policy 8-12 (1990).

23. American Medical Association, Current Opinions of the Council on Ethical and Judicial Affairs of the American Medical Association - 1986 31-32.

EXHIBIT 23
DATE 2/14/95
HB 482

Council Report

Induced Termination of Pregnancy Before and After *Roe v Wade*

Trends in the Mortality and Morbidity of Women

Council on Scientific Affairs, American Medical Association

The mortality and morbidity of women who terminated their pregnancy before the 1973 Supreme Court decision in *Roe v Wade* are compared with post–*Roe v Wade* mortality and morbidity. Mortality data before 1973 are from the National Center for Health Statistics; data from 1973 through 1985 are from the Centers for Disease Control and The Alan Guttmacher Institute. Trends in serious abortion-related complications between 1970 and 1990 are based on data from the Joint Program for the Study of Abortion and from the National Abortion Federation. Deaths from illegally induced abortion declined between 1940 and 1972 in part because of the introduction of antibiotics to manage sepsis and the widespread use of effective contraceptives. Deaths from legal abortion declined fivefold between 1973 and 1985 (from 3.3 deaths to 0.4 death per 100 000 procedures), reflecting increased physician education and skills, improvements in medical technology, and, notably, the earlier termination of pregnancy. The risk of death from legal abortion is higher among minority women and women over the age of 35 years, and increases with gestational age. Legal-abortion mortality between 1979 and 1985 was 0.6 death per 100 000 procedures, more than 10 times lower than the 9.1 maternal deaths per 100 000 live births between 1979 and 1986. Serious complications from legal abortion are rare. Most women who have a single abortion with vacuum aspiration experience few if any subsequent problems getting pregnant or having healthy children. Less is known about the effects of multiple abortions on future fecundity. Adverse emotional reactions to abortion are rare; most women experience relief and reduced depression and distress.

(*JAMA*. 1992;268:3231-3239)

UNTIL the mid 19th century, the induced termination of pregnancy through the first trimester (ie, the first 12 weeks of pregnancy) was legal in the United States under common law.[1] At that time, several state legislatures enacted laws proscribing such procedures, a result of efforts to discourage illicit sexual conduct, growing concerns about the hazards of medical and quasi-medical abortion procedures on women's health, and effective lobbying by physicians.[1] By 1900, abortion was prohibited by law throughout the United States unless two or more physicians agreed that the procedure was necessary to preserve the life of the pregnant woman.[2] By the late 1960s, state legislatures began to reconsider the legalization of abortion in response to changes in public opinion and opinions from national medical, legal, religious, and social welfare organizations.[3] Between 1967 and 1969, 13 states (Arkansas, California, Colorado, Delaware, Florida, Georgia, Kansas, Maryland, New Mexico, North Carolina, Oregon, South Carolina, and Virginia) modified their abortion laws, though

From the Council on Scientific Affairs, American Medical Association, Chicago, Ill.

This report was presented to the House of Delegates of the American Medical Association at the June 1992 Annual Meeting as Report H of the Council on Scientific Affairs. The recommendation was adopted as amended and the remainder of the report was filed.

This report is not intended to be construed or to serve as a standard of medical care. Standards of medical care are determined on the basis of all the facts and circur
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on a national basis in *Roe v Wade* (410 US 113, 1973) and *Doe v Bolton* (410 US 179, 1973), 17 states had liberalized their abortion laws.[4]

In *Roe v Wade* and *Doe v Bolton* the Supreme Court ruled that states could not interfere with the physician-patient decision about abortion during the first trimester of pregnancy (12 weeks and earlier), and that during the second trimester (13 to 28 weeks), a state could intervene only to ensure safe medical practices reasonably related to maternal health. For the third trimester (29 to 40 weeks), a state could regulate and even proscribe abortion unless medical judgment deemed the procedure necessary to preserve the life or health of the pregnant woman. Although obliged to comply with these guidelines, states continue to differ in how easily a woman can obtain an abortion. For example, 30 states and the District of Columbia prohibit the use of state funds to pay for an abortion unless the woman's life is in danger; eight other states permit public funding in limited circumstances such as a pregnancy resulting from rape or incest.[5] Mandatory waiting periods and/or parental consent or notification laws have also been used to deter

EXHIBIT 24
DATE 2/14/95
HB 380

H.B. 380

EXTENDED JURISDICTION

FOR JUVENILE OFFENDERS

EXHIBIT 25
DATE 2/14/95
HB 380

Section 8. Section 41-5-523, MCA, is amended to read:

"41-5-523. Disposition -- sentence to correctional facility -- commitment to department -- placement and evaluation of youth -- restrictions. (1) If a youth is found to be a delinquent youth or a youth in need of supervision, the youth court may enter its judgment making ~~any~~ one or more of the following dispositions:

(a) retain jurisdiction in a disposition provided under subsections (b) and (d).

(b) place the youth on probation;

~~(b)~~ (c) subject to subsections (1)(m)(i), (2)(a), (2)(b), and (6), sentence a youth to one of the state youth correctional facilities established under 52-5-101 and, as part of the sentence, deny the youth eligibility for release without the express approval of the sentencing judge until the youth reaches age 18. Limitations on release must first be recommended by the Youth Placement Committee. Direct commitment to Pine Hills or other secure facilities are limited to available resourses identified by the Department of Family Services.

(d) require the youth to register as a sex offender pursuant to 46-18-254 and 46-23-506.

(e) place the youth in an in-state residence that ensures the youth is accountable, provides for rehabilitation, and protects the public. A sentencing court is limited to available residential spaces identified by the Department of Family Services and recommended by the Youth Placement Committee.

(f) commit the youth to the department. ~~if the court determines that the youth is in need of placement in other than the youth's own home, provided that~~ In an order committing a youth to the department:

...

EXHIBIT 26
DATE 2/14/95
HB 501

SEELEY LAKE ELEMENTARY SCHOOL
SCHOOL DISTRICT #34
SEELEY LAKE, MONTANA 59868
JOHN W. HEBNES, SUPERINTENDENT

PHONE 406-677-2265

February 13, 1995

Representitive Sheill Anderson
State of Montana
Capitol Station
Helena, MT 59602

Dear Representative Anderson,

The Board of Trustees of Seeley Lake Elementary School is very concerned about the rules and hardships that have been placed on the Department of State Lands and the school trust at the whims or wishes of groups or individuals.

A lawsuit can be filed at the drop of a hat. We feel that this happened in the Tom Miner Timber Sale Lawsuit. When the court ruled in favor of State Lands the case ended, but the states cost of legal fees was paid by the trust and the Montana taxpayer.

If a security bond had been posted, the trust and the state of Montana would be a little richer today.

With this in mind, the trustees of Seeley Lake Elementary School recommend a do pass for HB 501.

Thank you for your attention and support.

P.S. From what we understand the Indian Reservations can demand security bonds now.

Sincerely,

John W Hebnes

John W. Hebnes
Superintendent

For secretary - judiciary committee

EXHIBIT 27
DATE 2/14/95
HB 501

HB 501

Testimony of Cary Hegreberg
Montana Wood Products Association

Mr. Chairman, members of the committee, for the record my name is Cary Hegreberg, executive vice president of Montana Wood Products Association. Our members are in support of HB 501.

In recent years, lawsuits against the USFS have virtually ground that agency's land management activities to a halt. In some cases, the mere threat of a lawsuit has caused national forest supervisors to withdraw timber sales which had been years in the planning and analysis. We don't want state trust lands to succumb to the same tangled web of litigation that federal lands have.

You have already heard some of the case law surrounding trust land management in conjunction with other bills pending before the Legislature. The courts are clear on several points: 1) state trust lands are not like other public land; 2) An explicit, enforceable trust exists which the State cannot abridge; 3) The State must manage trust lands for the exclusive benefit of intended beneficiaries, not the general public.

This bill provides legal safeguards against frivolous lawsuits which could unjustly damage the beneficiaries. From the standpoint of the forest products industry, it stems the tidal wave of lawsuits which have plagued public land managers in recent years.

HB 501 is not an attempt to preclude citizens from exercising their constitutional right to petition their government. It **is** an attempt to recognize that trust lands do have a different management objective, which must be protected. The bill does not say that court costs of the state or third parties will be paid. It does not say that financial damages **to any party other than the trust beneficiary** will be paid.

Opponents to this bill will claim it is unconstitutional. However, I will submit with my testimony a copy of a legal ruling from a chief administrative law judge in Washington, D.C. involving a timber sale on the Flathead Indian Reservation here in Montana. Friends of the Wild Swan, an organization which has sued DSL on two timber sales, sought to appeal a timber sale on the Flathead reservation. The Bureau of Indian Affairs asked the group to post a security bond to protect the financial interest of the tribe. Friends of the Wild Swan challenged that decision, which led to the administrative law review, which affirmed the agency's legal right to impose a bond.

I would like to quote from Judge Lynn's decision so the relevance to HB 501 becomes clear: "The cases appellant cites concerned lands owned in fee by the United States...Here, the lands involved are owned by the United States in trust for the Tribes. In taking actions relating to these lands, the Department is acting in a fiduciary capacity of the highest nature. Based upon appellants' statement that it is merely trying to enforce Federal environmental protection laws upon a public land management agency, it appears that appellant equates the Department's responsibilities as an owner/manager of public lands with its responsibilities as a trustee of Indian lands.

"The Board has held, however, that Indian lands are not public lands and the laws applicable to public lands do not necessarily apply to trust lands. As this difference between public lands and Indian trust lands relates to this case, the Board is not aware of any regulation allowing the imposition of an appeal bond in relation to administrative review of NEPA challenges to the use of the public lands. The fact that the Department has promulgated regulations which allow the imposition of a bond in relation to the use of Indian trust lands shows that it views its responsibilities in this area differently."

Now, here is the crux of Judge Lynn's decision, and I hope you recognize its relevance and significance to HB 501. He said, "the issue is one of reconciling two very important Federal policies--the trust responsibility and environmental protection--in the Department's administrative proceedings. The trust responsibility requires the Department to consider issues in addressing actions on Indian trust lands that it would not normally consider when taking actions on the public lands. These different issues arise in all cases, not just ones under NEPA. Not to consider these issues would subject the Department to suit for breach of trust. The trust responsibility requires the Department to act in the best interest of the beneficiary owners in any action it takes in regard to Indian trust land."

Members of the committee, the term state trust lands could be inserted into that judges decision in place of Indian trust lands, and it would retain 100 percent of its legal validity. HB 501 is good trust management and good public policy. I urge a do-pass recommendation. Thank you.

United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
Interior Board of Indian Appeals
4015 Wilson Boulevard
Arlington, Virginia 22203

IN REPLY REFER TO

EXHIBIT 38 AMERICA
DATE 2/14/95
HB 501
[redacted]
16 pages

FRIENDS OF THE WILD SWAN
v.
PORTLAND AREA DIRECTOR, BUREAU OF INDIAN AFFAIRS

IBIA 94-181-A Decided November 14, 1994

Appeal from the imposition of an appeal bond.

Docketed; affirmed as modified.

1. Indians: Lands: Generally--Indians: Lands: Environmental Impact Statements--National Environmental Policy Act of 1969: Generally

   Actions taken by the Bureau of Indian Affairs on lands held in trust for an Indian tribe or individual are subject to the requirements of the National Environmental Policy Act, 42 U.S.C. §§ 4321-4335 (1988).

2. Indians: Generally--Regulations: Generally

   A specific provision in Bureau of Indian Affairs program regulations will normally supersede a general regulation dealing with the same subject.

3. Administrative Procedure: Administrative Procedure Act--Administrative Procedure: Rulemaking--Indians: Generally--Regulations: Force and Effect as Law

   A specific reference in duly promulgated regulations to the applicability of a section of the Bureau of Indian Affairs Manual allows that section to be relied on, used, and cited as precedent by the agency in cases arising under those regulations.

APPEARANCES: Arlene Montgomery, Swan Lake, Montana, and Kathy M. Togni, Washington, D.C., for appellant; Michael E. Drais, Esq., Office of the Regional Solicitor, U.S. Department of the Interior, Portland, Oregon, for the Area Director.

OPINION BY CHIEF ADMINISTRATIVE JUDGE LYNN

Appellant Friends of the Wild Swan seeks review of an August 11, 1994, decision of the Portland Area Director, Bureau of Indian Affairs (Area Director; BIA), imposing a $29,000 appeal bond (bond). The bond was required in connection with appellant's appeal from a July 1, 1994, decision issued by the Flathead Agency Superintendent, BIA (Superintendent), approving a

EXHIBIT 29
DATE 2/14/95
HB 540

HB 540

HIGH POINTS TO REVISIONS TO YOUTH COURT ACT

By: Brad Molnar

Page 4, Line 3	Include juvenile offenders being exempted from Workers' Compensation
Page 6 Lines 5-6-7	Parent can require child to take medicine
Page 7, lines 1-2-3	Extreme reaction to extreme circumstances
Page 9, Line 12-13-14	Prevent and reduce youth delinquency through immediate, consistent, enforceable and avoidable consequences
Page 9, Line 18	Parties are assured a fair accurate trial
Page 10, Lines 13, 14, 15	Detention facility-shelter care approved by county facility
Page 11, Line 27	Offense means offense
Page 16, Line 16, 21	First violation handled by JPO, rest handled by courts with JPO's primary function to make sure that sentence (community service, restitution, school attendance, friends) carried out
Page 16, Lines 26-27	Youth kept in area of physical separation from adults
Page 23, Line 2-3	Restitution, person contributing to the delinquency of minor may pay
Page 27, Line 27-28	Court may order youth to undergo urinalysis
Page 27, Line 10	Must consider youth family and community
Page 28, Line 8-9-10	Youth must be able to appreciate criminality of act
Page 31, Line 5-26	Habitual offenders-predatory youth minimum sentences
Page 31, Lines 27-29	Youth money follows youth
Page 37, Lines 22-27	School may refuse to accept active offenders

Page 35, Lines 13 & 17	Seal records 3 years after supervision ends
Page 36, Line 25 through 27	Space must be provided for offending youth

EXHIBIT 30
DATE 2/14/95
HB 540

MONTANA TWELFTH JUDICIAL DISTRICT COURT, HILL COUNTY

IN RE:	)	Testimony of Teresa L. Olson
	)	and the Court's Disposition.
TERESA LYNN OLSON	)	
	)	Case No. DJ-94-023
	)	
	)	January 4, 1995

Excerpt of Proceedings held before HON. JOHN WARNER, JUDGE, District Court of Hill County, Havre, Montana.

- - -

APPEARANCES:

For the State: DAVID RICE
Hill County Attorney
P.O. Box 912
Havre, Montana 59501

For the Youth: ROBERT PETERSON
Attorney at Law
P.O. Box 268
Havre, Montana 59501

- - -

Douglas D. Christensen, RPR
Official Court Reporter, Havre, Montana

ORIGINAL

EXHIBIT 31
DATE 2/14/95
HB 540

YOUTH COURT REVISION
Richard D. Recor, Ph.D.
Licensed Psychologist

This testimony is presented in support of suggested revisions to the Youth Court Act. As a clinical psychologist licensed to practice in Oklahoma, Virginia, California and Montana, with over 17 years of experience with youth in a wide variety of treatment settings, I have found the current juvenile system to be seriously lacking in three distinct areas.

* Immediacy of response is essential. With the decreased utilization of psychiatric hospital beds and an increase utilization of existing youth detention beds, parents and community members are having to take immediate action to protect themselves from aggressive and out of control children and adolescents. The children currently being admitted to psychiatric hospitals are not only more serious, but require a high degree of external control provided by the physical environment and by large numbers of staff. Hospital stays are decreasing and children are returned back to the home environment in a very short period of time. Either immediate response by community agents and/or available temporary placement facilities are needed. The current centers are many times busy and cannot be responsive to these demands.

* Empowerment of parents is necessary. Extreme situations requiring restraints and/or action designed to protect self and/or others should not be considered as child abuse. Parents should be allowed to administer medical procedures as deemed medically necessary by a physician and/or court approved designee. This is especially true in children who have impulse disorders such as Bipolar Disorder and Attention Deficit Disorders. Most significant are those children who have a dual emotional and conduct disorder. Having been a Montana psychiatric hospital administrator in the past, I have had the opportunity to see many of these youthful offenders who have a severe emotional disturbance but do not quite belong in either institution. Since many of these individuals are returned back to the home setting in a very rapid fashion the parents again are having to deal with the responsibility of managing extreme situations with very little authority to manage them.

* Placement in adult centers is needed. the facilities for temporarily holding juveniles are extremely limited. Keeping in line with the intent of the law, juveniles should be kept physically separate, yet should be able to use existing facilities that house adults. As long as these facilities are immediately available and no adults are within the physical area where the juvenile is kept, then they should be allowed to be temporarily housed, rather than placing the juvenile in an unsafe environment.

The essence of my testimony is that juveniles must be given immediate and consistent consequences for their behavior, both positive and negative, by social agents. Parents should be considered as primary behavioral change agents empowered to take reasonable action to provide the structure that is necessary to create a feeling of safety for children and other family members. Please put some teeth into the law so that juveniles will know that there are consequences to their behavior.

2/14/95

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

JUDICIARY COMMITTEE DATE 2.14.95

BILL NO. HB 450 SPONSOR(S) Rep. Martinez

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
BRANDON HOLT	MONT CATH CONF		X
Ted Clark	DCHS (info. only)		
Rick Mule	Juv. Prob		—
MARY ECCLES	JPOA		✓
Dick Bottomly	8th Jud Dist		✓
C Wimmer	MBCC		✓

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

HR:1993
wp:vissbcom.man
CS-14

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

JUDICIARY COMMITTEE DATE 2-14-95

BILL NO. HB 482 SPONSOR(S) Rep. Grimes

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Richard T Appe	Montana Right To Life	+	
Brandon Hoit	Mont Cath Conf	X	
Devon Hartman	Intermountain Planned Parenthood		X
Chris Schultz	myself		X
Mary Skjelset	myself		X
Georgia Bramscom	Self	+	
Laurie Kodrick	Christian Coalition of Mt	✓	
CHARLES J. LORENTZEN	SELF	✓	
Andy Klein	self	✓	
8505 Hwy 35 Walt Dupea Bigfork	Self	✓	
Scott Crichton	ACLU/MT		✓
SHARON TOFT	MT CATHOLIC CONF	✓	
Anna L. "Lucie" Kenning	self	✓	
Ann Brodsky	self		X

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

HR:1993 Kate Cholewa MT Women Lobby
wp:vissbcom.man
CS-14

Beth Sherman Self

Brenna Dorrance Self X

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

JUDICIARY COMMITTEE DATE 2/14/95

BILL NO. HB 482 SPONSOR(S) Rep Grimes

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Stevensville MT Dallas D Ericksen	Self	X	

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

HR:1993
wp:vissbcom.man
CS-14

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

JUDICIARY COMMITTEE DATE 2/14/92

BILL NO. HB 2 SPONSOR(S) Rep. Grimes

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Jan Lombardi	on behalf of MT Youth Homes.		✓
Linda Lundsay		✓	
Arlette Randash		✓	

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

HR:1993
wp:vissbcom.man
CS-14

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

JUDICIARY COMMITTEE DATE 2.14.95

BILL NO. HB 380 SPONSOR(S) Rep. McKee

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
John W. Larson	District Judge Dept #3 Fourth Judicial District	✓	
Ed McLean	District Judge Flathead & Mineral Co.	✓	
BRANDON HOLT	Mont Cath Conf		X
Barbara A Monaco	80th J.D. Youth Court	✓	
Joe Connell	Judge Frank Davis	✓	
Dirk Sanders	9th Judicial Dist Youth Ct-Probation Off	✓	

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

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JUDICIARY COMMITTEE DATE 2.14.95

BILL NO. HB 501 SPONSOR(S) Rep. Anderson

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
Cary Hegreberg	MT Wood Prod.	X	
Chuck Rose	Seven-Up Pete Joint Venture	X	
Lorna Frank	MT. Farm Bureau	X	
Stan Frasier	TMWF		X
Candace Torgerson	Mont. Cattlewomen Mont Stockgrowers	X	

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JUDICIARY COMMITTEE DATE 2-14-95

BILL NO. LC 1158 HB540 SPONSOR(S) Rep. Molnar

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
Doreen Morris	MHA		X
Dr. Richard Recor 1139 N. 27 Ste B-2 Billings, MT 59101 (406) 256-4911	Independent Private Practice Psychologist	X	

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JUDICIARY COMMITTEE DATE 2-14-95

BILL NO. LC 1451 HB551 SPONSOR(S) Rep. Committee Bill

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NAME AND ADDRESS	REPRESENTING	Support	Oppose

Hearing postponed

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