

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES & AGING

Call to Order: By CHAIRMAN DUANE GRIMES, on January 9, 1995, at
3:00 p.m.

ROLL CALL

Members Present:

Rep. Duane Grimes, Chairman (R)
Rep. John C. Bohlinger, Vice Chairman (Majority) (R)
Rep. Carolyn M. Squires, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Ellen Bergman (R)
Rep. Bill Carey (D)
Rep. Dick Green (R)
Rep. Antoinette R. Hagener (D)
Rep. Deb Kottel (D)
Rep. Bonnie Martinez (R)
Rep. Brad Molnar (R)
Rep. Bruce T. Simon (R)
Rep. Liz Smith (R)
Rep. Susan L. Smith (R)
Rep. Loren L. Soft (R)
Rep. Kenneth Wennemar (D)

Members Excused: None

Members Absent: None

Staff Present: David Niss, Legislative Council
Jacki Sherman, Committee Secretary

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

Committee Business Summary:

Hearing: HB 89
Executive Action: None

HEARING ON HB 89

Opening Statement by Sponsor:

REP. RAY PECK, HD 41, HAVRE, said a statement of intent is
required for this bill. The legislature intends that the rules
do the following:

1. Address the process for establishing and maintaining a statewide system of vital statistics and vital records.
2. Define persons who may obtain copies of vital records and the showing necessary to obtain vital records.
3. Establish which persons may prepare or issue certified copies of certificates of birth or vital records.
4. Establish the process and scope of disclosure of information to the public and governmental agencies as well as adequate standards for security and confidentiality of vital records.
5. Establish a system for the preservation or disposal of vital records.
6. Establish the process and guidelines for registration of birth.
7. Establish the process for establishing, maintaining, or dismissing applications for delayed certificates of birth.
8. Establish forms necessary to track vital statistics by courts or other governmental entities.
9. Establish a system of issuance and maintenance of records of dissolution or annulment of marriage.
10. Establish a system of issuance and maintenance of certificates of birth, following adoption, legitimation, or establishment of paternity.
11. Establish a system for issuance and maintenance of certificates of adoption and annulment of adoption.

Proponents' Testimony:

Dale Taliaferro, Administrator, Department of Health and Environmental Sciences (DHES) stated that HB 89 changes a number of definitions to be consistent with standards being used nationally. **EXHIBIT 1**

Rose Hughes, Montana Funeral Directors Association, discussed the section on removing dead bodies from the place of death (MCA 50-14-405). They worked with the Department of Health and Environmental Sciences to clarify the bill. She said they also support the department on the definitions in MCA 50-15-101 since they felt these were also necessary.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

REP. CAROLYN SQUIRES asked **Mr. Taliaferro** what he anticipates for a fee and asked who is responsible for the birth certificate as well as the death certificate. **Mr. Taliaferro** answered that the current fee is \$10.

REP. SQUIRES asked **Mr. Taliaferro** if the fee is passed on to the consumer or is absorbed by the institution. **Mr. Taliaferro** replied that the person who requests the information is responsible.

REP. SQUIRES asked **Mr. Taliaferro** how death certificates are charged. Many institutions require death certificates at the time of death. **Mr. Taliaferro** answered that certificates would be charged per copy.

REP. SQUIRES asked **Mr. Sam Sperry, Chief, Bureau of Vital Records and Statistics** if he expects the fee to increase at the hospital level from \$10. **Mr. Sperry** replied that the fees the department has charged for certified copies of both birth and death certificates are to the individual or the institution, whomever requests it.

REP. SQUIRES asked **Mr. Sperry** if there is a fee charged when a child is born and is the ten dollar fee charged to the patient. **Mr. Sperry** replied that the hospital would complete a birth certificate. Then the hospital would give the mother a green copy of the certificate which is the parents' verification of the birth information to be filed. The parents have one year from the baby's birthdate to verify the information and correct any errors on the birth certificate.

REP. BRUCE SIMON asked **Mr. Sperry** if MCA 50-15-102 gives the department the authority to amend preserving vital statistics and asked about the level of authority. "You are the place for all information on vital statistics. Your statistics also depend on the accuracy of the certificates that are filed within your department. If the department had reason to believe the statistics are incorrect, would you get corrections made by not accepting the certificates and returning them to get the corrections made?"

Mr. Sperry replied that they have not initiated a request to amend a filed document with the department. They do accept affidavits for corrections to the certificates upon face value. The reason they are asking for rule-making authority with respect to amending, is they haven't had that before. "I am hoping that through the rule-making process that we can clarify at what point and what procedures the department will follow."

REP. SIMON told **Mr. Sperry** that the committee wants to make sure that the data is accurate, and if not, then the record will be made right. **Mr. Sperry** replied that is their intent.

REP. SIMON asked **David Niss, Legislative Council**, about language in the bill referring to issuance of a certified copy of a record. There have been several instances where one certified copy is not enough. He asked if they should say "copy" or "copies" to make it clear that people can request more than one copy. **Mr. Niss** answered that there is a general section in Title 1 of MCA which says that any use of a singular word can be understood to also be the use of a plural word or vice-versa. The problem with this example is someone trying to get copies or trying to invoke a section of the statutes that the person in charge of the copies has probably never seen or heard of, and so, while technically it may not be exactly required because of that statute, it might be a good idea here should the situation arise.

REP. JOHN BOHLINGER told **Mr. Taliaferro** they understand what the department is attempting to accomplish, agree with its intent, and feel it is useful to standardize language. He cited MCA 50-15-102 that uses "shall" and then uses "may". He said there is a big difference between these two words and they should be consistent and in agreement. **Mr. Taliaferro** said that makes sense.

REP. BILL CAREY inquired about MCA 50-16-542 and stated that a health care provider may deny a patient access to health care information if he feels it would be injurious to the patient's health. He asked **Mr. Taliaferro** for an example of this. **Mr. Taliaferro** replied that it is existing law and this often occurs with mental patients.

REP. DEB KOTTEL asked **Mr. Taliaferro** with regard to MCA 50-15-101, section 3, sub (8), if a woman gives birth to an illegitimate child, then marries the child's father ten years later, would that child be considered legitimate. **Mr. Taliaferro** answered yes.

REP. KOTTEL asked **Katherine Orr, Chief Counsel, Department of Health**, if there is an equal protection clause that determines legitimate and illegitimate children. She said while searching for this, it could not be found. She wondered why they are defining "legitimate" and "illegitimate" in this bill. **Ms. Orr** replied that section 14 of this bill talks about legitimation, or determination or acknowledgement of paternity. The process of legitimation is acknowledged in the current law (Title 40).

REP. KOTTEL asked **Ms. Orr** if the different ways of entering into marriage in Montana creates a problem when determining the exact date of legitimacy. She said the exact date which the couple may be deemed a "common law" marriage is often not known. **Ms. Orr** replied that this is not a problem. This bill and existing law provide ways to amend these vital records.

REP. KOTTEL told **Mr. Sperry** a story about a mother who was upset about the forms she had to fill out. There appears to be both a long form and a short form birth certificate in Montana. The long

form is for legitimate children and the short form is given to parents with illegitimate children. Her child was born out of wedlock and when she requested the long form she was denied. She was told that the long form is only for those children whose parents were married at the time of birth.

Mr. Sperry answered that one of the statutes they want to repeal is MCA 50-15-206, which has been in effect since at least 1968. The above statute directs that facts about out-of-wedlock births cannot be divulged, except under order of the court, and a few other exceptions. They have also dictated in statutes that a mother of an out-of-wedlock birth certainly should have unobstructed access to a full copy of the child's birth certificate. The long form was brought about to truly identify the birth mother. He said they ask for identification and the long form must be notarized. They are hoping that the whole question of identifying out-of-wedlock births will be moved from Montana in the future.

Tape 1 - Side B

REP. KOTTEL asked **Mr. Sperry**, in reference to MCA 50-15-403, sub (3), if prior to this change second trimester abortions were recorded as fetal deaths. **Mr. Sperry** answered that it depended upon the circumstances of the fetal death. If a fetus is aborted in a clinic within the first trimester, or an induced abortion occurs in the second trimester in a hospital, it is an induced abortion and not a fetal death. If a non-induced or spontaneous abortion occurs in a hospital or in second trimester, it should be reported. The abortion control act in Montana (Title 50, Chapter 20) still requires that an induced abortion is reported as such. This distinguishes only hospital fetal deaths that should be reported.

REP. LIZ SMITH expressed to **Mr. Sperry** her concern about the amendments to MCA 50-15-101, Section 3, regarding intent and since it is a legal document, persons should be qualified to do this. **Mr. Sperry** replied that amending means changes are made only under a legal process. Otherwise, they are referred to as "corrections," as long as it does not change the substantive legality of the record.

REP. LIZ SMITH asked **Ms. Hughes** in reference to MCA 50-15-405, Section 18, why they use "may" instead of "shall" and why the word "shall" was removed. **Ms. Hughes** answered that there used to be a burial transit form that had to be filled out, but was removed. The form can be used, but is not mandatory.

REP. SIMON added that funeral directors couldn't transport a body across county lines in the middle of the night without paperwork, and that created a problem.

CHAIRMAN GRIMES cited MCA 50-15-101, Section 3, sub (5), and read the new language regarding fetal death: "Death of the fetus prior

to the complete expulsion or extraction from its mother as a product of human conception, notwithstanding the duration of the pregnancy." He asked **Mr. Sperry** to explain what they want to resolve with this new language, and why it's necessary as opposed to artificial conception. **Mr. Sperry** replied that for many years they tried to define "fetal death" by how many weeks old the fetus was at the time of death. At the recommendation of the National Center for Health Statistics, if a fetal death occurred at less than 20 weeks and the fetus was of very little birth weight (350-500 grams) they wanted it reported for statistical purposes.

CHAIRMAN GRIMES asked **Ms. Orr** to clarify Section 16. This section refers to reports that are required and adoptions have certain requirements. He asked what this would do to the adoption process. **Ms. Orr** responded that Title 40 stipulates the required reports.

REP. KOTTEL asked **Mr. Sperry** if "invitro" fertilization occurred and the fertilized egg were to die in the test tube, would that not be a fetal death because it would not have been a normal "human conception." **Mr. Sperry** answered that they don't know the answer and haven't considered that question before.

Closing by Sponsor:

REP. RAY PECK, said there are conflicts in MCA 50-15-102 between "shall" on one line and "may" on another. Perhaps "may" should be dropped. He has a lot of confidence in these amendments and he asked the committee to seriously consider them.

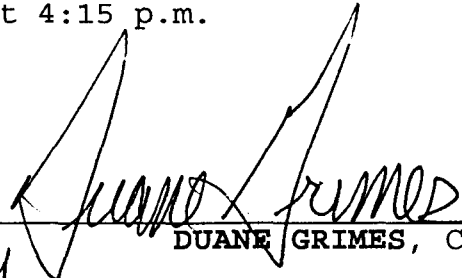
HOUSE HUMAN SERVICES & AGING COMMITTEE

January 9, 1995

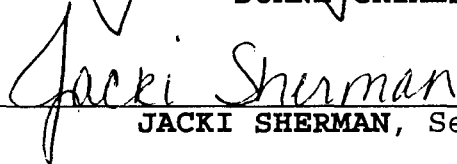
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ADJOURNMENT

Adjournment: The meeting adjourned at 4:15 p.m.



DUANE GRIMES, Chair



JACKI SHERMAN, Secretary

DG\js

HOUSE OF REPRESENTATIVES

Human Services and Aging

ROLL CALL

DATE 1-9-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Duane Grimes, Chairman	✓		
Rep. John Bohlinger, Vice Chairman, Majority	✓		
Rep. Carolyn Squires, Vice Chair, Minority	✓		
Rep. Chris Ahner	✓		
Rep. Ellen Bergman	✓		
Rep. Bill Carey	✓		
Rep. Dick Green	✓		
Rep. Toni Hagener	✓		
Rep. Deb Kottel	✓		
Rep. Bonnie Martinez	✓		
Rep. Brad Molnar	✓		
Rep. Bruce Simon	✓		
Rep. Liz Smith	✓		
Rep. Susan Smith	✓		
Rep. Loren Soft	✓		
Rep. Ken Wennemar	✓		

EXHIBIT 1
DATE 1/9/95
HB HB 89

Department of Health & Environmental Sciences
Testimony on HB 8~~8~~⁹ - Revise Vital Statistics Law
for
House Human Services and Aging Committee
January 9, 1995

Submitted by Dale Taliaferro

The Department is requesting this Bill to make a number of improvements in the Vital Records and Statistics system for Montana.

House Bill 8~~8~~⁹ clarifies responsibilities for the Department in collecting, maintaining and providing access to Vital Records and Statistical Information based on those records. It provides flexibility in how those responsibilities are carried out so modern technology can be used to reduce labor and increase efficiency in record maintenance and access.

The bill changes a number of definitions to be consistent with standards being used nationally.

It also provides rule making authority for operational procedures of the records system and for setting charges for services. Currently a flat fee of \$10 is charged regardless of the actual expense of the service. Some services should be much less and some would be slightly higher. Currently there is not a limit on fees, so this is a change to a cost based fee system and is expected to be revenue neutral.

If you have questions about specifics of the Bill or want an overview of the specific provisions, Sam Sperry, Bureau Chief of Vital Records and Health Statistics is present to answer your questions.

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Human Services 3 Aging

DATE 1-9-95

BILL NO. HB 89

SPONSOR(S) Ray Peck

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
^{1407 Heg Street} Diane Williams Helena	League of Women Voters		
Dale Taliscent	MT OHES	✓	
Rose Hughes Helena	mt. Funeral Directors Assn.	✓	

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

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