MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN BRUCE D. CRIPPEN**, on March 16, 1995, at 8:00 A.M.

ROLL CALL

Members Present:

Sen. Bruce D. Crippen, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Larry L. Baer (R)
Sen. Sharon Estrada (R)
Sen. Lorents Grosfield (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Mike Halligan (D)
Sen. Linda J. Nelson (D)

Members Excused: None

Members Absent: None

Staff Present: Valencia Lane, Legislative Council
Judy Keintz, Committee Secretary

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

Committee Business Summary:

Hearing: HB 315, HB 336, HB 443, HB 482
Executive Action: HB 315

HEARING ON HB 443

Opening Statement by Sponsor:

REPRESENTATIVE JOHN MERCER, House District 74, Polson, presented HB 443. This bill is a minor adjustment to the Unfair Claims Practices Act. The Unfair Claims Practices Act pertains to the way insurance companies deal with their insureds. This bill addresses with insurance companies advancing money in cases where liability is reasonably clear. If they do not, the person is without a job, possibly without a vehicle, medical expenses are built up and then the insured is forced to settle the case for less than it would be worth. This bill deals with fairness. Montana state law already requires that the insurer must make a

reasonable effort to settle cases promptly. He proposed an amendment which would require that the medical expenses, property damage, or lost wages claims would have to be causally connected to the injured party's liability claim. The second amendment would require striking "and the extent and cause of damages" on page 2, line 17. If the extent and cause of damages must be proven, that would defeat the entire purpose of the bill.

Proponents' Testimony:

Keith McCurdy stated the problem which exists at the present time is the fact that the legislature has made it the public policy of the state of Montana to require individuals operating motor vehicles to provide liabilitys insurance coverage on those vehicles. Under the law as it presently exists, there is an enormous delay between the date of the injury and the date which the liability insurance is paid. The injured party has suffered damages which in many cases money cannot repair. The people he represents have made it clear to him that something needs to be done to help people who have injuries but have no way to pay their medical expenses up front, replace their lost transportation and provide the income stream which had been taken away through an injury. Normally the injured first tries to deal with the insurance company. If that fails, they contact an attorney. By that time they already have medical bills, they may be out of job due to the injury, and they have lost their vehicle. He has to keep a separate section in these cases simply to deal with the credit bureaus and collection agencies trying to recover from a client that has no means with which to pay the ongoing medical expenses. They are not asking that every loss be covered by advance payment from the insurance carrier. What they are asking for is losses which if not paid would result in severe economic hardship to the individual. Ultimately, the liability insurance coverage which is mandated by the law will cover these expenses. If there is a year or two years between the date these expenses are incurred and the date that the case is ultimately settled, there is economic duress. People are forced to settle before they have an opportunity to determine fully their medical problems. He tells his clients he will not settle until they have a medical release from their doctor. This bill provides that it would be an unfair settlement practice to fail to advance payment for medical expenses, lost income, and property damage expenses once liability has become reasonably clear and the expenses are causally connected to the claim.

Russell Hill, Montana Trial Lawyers Association, spoke in support of the bill. They have some concern over the new language "and the extent and cause of damages" which clarifies but does not restrict current law. They believe the legislature intends this language to clarify what existing law is. He presented his written testimony, **EXHIBIT 1.**

Opponents' Testimony:

Jackie Lenmark, American Insurance Association, spoke in opposition of the bill. HB 443 is well intentioned and meant to address a problem which does not exist. She is a lawyer who represents Montanans who are sued. Some of those Montanans have insurance policies to cover the acts for which they are being sued. Their opposition to this bill would not be so great if this were to apply to first party claims. First party claims refer to the situation in which an insurance policy has been purchased to cover the individual. When an accident occurs, the individual is the only one involved in that accident and makes a claim against his insurance policy for payment. This bill goes much farther by requiring the advance payment of damages from the individual's insurance policy to a person who is suing the individual. This is different from a first party action. The insurance company is not being sued directly. The person who is being sued is a Montana citizen who has purchased insurance and the insurance company is providing a defense to that Montanan who has purchased insurance to protect his assets. This could be a small business or a physician. When an insurance company is required, in those circumstances, to pay out before liability has been determined they are diminishing or reducing the amount of coverage which is there for the individual's protection. We already have a section in Montana law which protects those who are suing in the instance of insurance bad faith. This additional provision in that law does not strengthen the bad faith law, but it weakens the insurance protection that a Montanan purchases. Mr. McCurdy mentioned property damage claims which are not paid promptly. In another section of the code, there is a requirement that insurance companies immediately pay property damage claims. If they do not, they may be sued under that section and in that suit recover their attorneys fees for that suit. Property damage is not a problem. With respect to the advance payment of lost wages, frequently there is a dispute about lost wages. In the instance of medical expenses, frequently it is difficult to determine the cause of the injury. The policy is there to pay only on the injuries the defendant caused in that accident. This bill turns liability insurance on its head because it takes the protection away from the person who purchased the policy.

Greg Van Horsen, State Farm Insurance Companies, stated that they oppose the bill. The obligations for an insurer to promptly pay claims when liability is clear, currently exists in statute. The penalties for failure to heed that obligation are significant. The insurers in this state pay very close attention to their obligations under statute. The language in HB 443 is unnecessary and creates confusion in the area of when payments might actually be required. The extent and cause of damages language is very confusing and widens the grey area as to what an insurer's obligations to pay might be.

Informational Testimony: None

Questions From Committee Members and Responses:

SENATOR MIKE HALLIGAN asked what the House meant by the word "extent". Would this include the type of damages as well as the dollar amount?

Mr. McCurdy stated that **SPEAKER MERCER** attempted to satisfy everyone's concerns and in the process the language was put into the bill without sufficient thought. If the extent of damages must be determined before there is an obligation to pay, that would be the end of the claim. If the language includes "and the extent of the damages become reasonably clear" the bill would be meaningless in terms of getting advance pay for the injured claimant.

SENATOR HALLIGAN asked what extent meant to him?

Mr. McCurdy stated he believed "extent" meant the full determination, from a medical standpoint of the party's injuries, would be determined.

SENATOR RIC HOLDEN, referring to the words "reasonably clear", questioned that the damages be reasonably clear in whose mind?

Mr. McCurdy stated that would mean a meeting of the minds of the carrier's adjuster and the insured or his lawyer. Hopefully, it could be kept out of litigation.

SENATOR HOLDEN, referring to page 2, suggested striking lines 17 through 20 because that language is found on page 1, (6) (7) and (8).

Mr. McCurdy disagreed. The additional language is an attempt to level the playing field. The amendment makes sure that no one makes a claim for injury, medical expenses, or lost wages which are not causally connected to the claim. The other language in the bill which they would like to see changed is to take out the extent of the damage language. If the extent of the injuries must be determined, this could not happen until the end of the case. By that time the economic damage has already occurred to the injured party.

SENATOR LARRY BAER stated he recently had a case where this bill would have prevented tremendous hardship for his client. He understands the impact of the House's amendment which the sponsor would like to see removed. He believed that before a reasonable and equitable settlement could be effected a cause of the damages would have to be established. There would also need to be an implication of liability. In order to effect a proper settlement amount, there would have to be some reasonable expectation of the extent of the injury in a dollar amount. He asked what problems this language would cause to the situation.

Mr. McCurdy stated the purpose of this bill is to encourage advanced payment. It is not talking about the ultimate determination of what the carrier or wrongdoer's liability would be. They are trying to address the problems which occurs to most people who do not have a sufficient means with which to pay the expenses incurred by the injury. There is nothing wrong with current law in terms of the ultimate settlement. Sometimes the settlement takes years. If the extent of the injury needs to be determined before medical expenses are paid, the injured party's expenses may be turned over to a credit bureau because the injured party does not have the money to pay.

SENATOR BAER stated this bill addresses the situation wherein an insurance company is reluctant to disburse funds for already established medical costs.

Mr. McCurdy stated the first party insurance is paid. That is a contractual obligation which the policyholder has with his carrier. This bill addresses third party insurance, which is mandated by the legislature. This is to protect the travelling public.

SENATOR AL BISHOP asked why the attorney fees and costs were amended out?

Mr. McCurdy stated that he would assume this was to appease the opponents. That occurred on the House floor.

SENATOR BISHOP asked the same question of **Mr. Hill.**

Mr. Hill commented it was amended on the House floor and his understanding was that both opponents and proponents felt uncomfortable because it went beyond the limited intent of the bill and imposed a loser pay which this bill was not intended to address.

SENATOR SHARON ESTRADA questioned **Ms. Lenmark's** comment that this problem did not exist.

Ms. Lenmark stated that we already have a very heavy hammer over insurance companies in Montana. The bad faith statute ensures that insurance companies engage in fair claims settlement practices. Montana is very unique in that they are the only state which have the additional provision in section 242. This codified a direct right of action for the third party. In other states, the insurance commissioner administers that insurance bad faith section administratively. If the insurance company does not comply, there is a fine imposed. In Montana, not only does the insurance commissioner have the authority to fine an insurance company under this statute, the person who has been injured also has the right to sue that insurance company. If bad faith is proven, they are entitled to recover actual damages as well as punitive damages. When insurance is purchased and the policy limits are exhausted in the advanced payments which are

made during the lawsuit, once those limits are exhausted it becomes the policyholder's assets which are then available for the plaintiff to recover. Once the coverage has been reached, it becomes personal assets which are then on the line. That is why insurance companies oppose this type of measure. They are placed in the uncomfortable position of choosing between the person that they have the contractual relationship with and the third party insured.

SENATOR ESTRADA stated she was in a major car accident five months ago. When she leaves the legislature, she will have another surgery. A young man ran a stop sign. The insurance company for the person who injured them has not been cooperative. Therefore, her insurance company has picked up her bills. If this bill were to go through, the insurance company of the person who injured them would have to make an advance payment to cover her medical bills.

Ms. Lenmark stated she did not know all of the facts; however, if that individual's insurance company is not dealing appropriately with her claim she should contact the insurance commissioner. Her lawyer should be advised. She has the ability to use this statute to enforce her rights under the policy. She opposes the bill because they should not be making laws to address a bad situation when there are other remedies available.

SENATOR ESTRADA stated that filing with the insurance commissioner is a long process. When the two parties involved in an accident both have insurance, it is a sad state of affairs when a lawyer must be hired to get anything accomplished.

CHAIRMAN BRUCE CRIPPEN asked what the procedure would be under current law when the parties disagree to the amount of settlement. If the injured party claims $100,000 in damages and the insurance company feels the damages are only $50,000, would the insurance company be required to pay the $50,000?

Ms. Lenmark stated they are required to advance pay those damages that can be determined when liability is reasonably clear. The law does not specify to advance pay medical expenses or lost wages.

CHAIRMAN CRIPPEN, referring to the amendment proposed by **REPRESENTATIVE MERCER** dealing with causal connection, asked if that would not be inherent in any case. If there is a causal connection and liability is clear, under this bill the insurance carrier would then be required to pay medical expenses.

Ms. Lenmark stated that would be correct with the qualification that often liability is clear but the extent or cause of the damages which are being claimed is not clear. The insurance company would not be required to advance pay for damages that they believed were not related to the accident.

CHAIRMAN CRIPPEN stated he also had some concern about the amendments.

Mr. Hill stated that if the legislative intent is to restrict the circumstances from current law in which an insurance company would have to pay those damages, this would be a real concern. The language "extent and cause of damages" should already be inherent in a determination of liability becoming reasonably clear.

CHAIRMAN CRIPPEN stated on page 1, line 23 adds another requirement which might be restrictive.

Mr. McCurdy stated he agreed. This language was added in the House. It weakens the law and should be taken out there and in line 17, page 2. For advance pay, you will not know what the damages are until the doctor releases the individual.

CHAIRMAN CRIPPEN asked if the language should be stricken as well on page 2, line 10.

Mr. McCurdy agreed with that suggestion.

Closing by Sponsor:

Keith McCurdy closed for **REPRESENTATIVE MERCER.** The law does not now provide and require insurance carriers to make advance payments. State Farm Insurance was a defendant in a suit in federal court. Judge Lovell ruled that the law as it presently exists does not require advance payment of medical expenses. In many cases, the third party insurance is the only available means of reaching enough money to satisfy the medical expenses which the first party insurance doesn't cover. Advance payment has nothing to do with ultimately running out of insurance policy limits. That will occur whether it is advance paid or settled. Whether or not you have adequate first party insurance to protect your own assets is a personal problem.

HEARING ON HB 336

Opening Statement by Sponsor:

REPRESENTATIVE JOE BARNETT, House District 32, Belgrade, presented HB 336. He referred to page 2, line 14, of the bill and stated that this part of the bill asks that the people who handle bonds be exempted from continuing education. The reason is that there are no courses set up which would be beneficial to the bondsman. The only thing they could do would be to attend insurance courses which would not help their industry. They learn on the street the activities required of a bondsman. He also referred to lines 28 and 29. This deals with when the bond has actually served its purpose and the person has been brought to justice. Judges across the state had different interpretations as to when the actual conviction took place.

Some believed it was with the sentencing and others felt it was with the actual conviction. The new language states that if the defendant pleads guilty or is found guilty by a legally constituted jury or by a court of competent jurisdiction authorized to try the case, the bond has at that point served its purpose and it would be up to the judge to sentence the person or require a new bond to be furnished. Page 3, line 13, changes the days from 30 to 90 after the forfeiture that the person could trace the person and bring them back to court. Lines 20 through 22 state the surety bond must be exonerated upon proof of the defendant's death, incarceration, or subject to court ordered treatment in a foreign jurisdiction. There have been cases where the bondsmen lost their bond when they were physically unable to produce the defendant because they were being held in a foreign jurisdiction and they had no authority to bring the person back. Upon proof of those situations, the bond should be released.

Proponents' Testimony:

Scott Rusefet, Valley Bail Bonds, stated that the continued education requirement resulted in 40 to 50 agents sitting through life and casualty, health and fire insurance courses to keep their licenses. Since there are no classes for bondsmen, they would like to be exempt. It often takes law enforcement one to two years to bring someone in on a warrant. Bail bondsmen would like to have at least 90 days. Idaho allows 120 days; Nevada allows 180 days. He stated that by the time they reach the presentence investigation, the defendant has usually been on bond to the company at least a year or more. The verdict is then handed down. A defendant convicted of a felony who is going to Deer Lodge for four or five years should not be on the street. Seventy-five percent of the judges sentence the defendant on the spot.

Earl Rowe stated his support of HB 336.

Dean Crow stated his support of HB 336.

Kelly Riesback, Big Sky Bail Bonds, stated his support of HB 336.

Morey Anderson, Anderson Bonding, stated their support of HB 336.

Roger Walter, Arrow Bail Bonding, stated their support of HB 336.

Opponents' Testimony:

Gregory Mohr, Justice of the Peace, Sidney, Montana Magistrates Association, stated their opposition to HB 336. They are the busiest court system in the state. They had approximately 325,000 cases in 1994. Seventy-five percent of those cases were criminal. Allowing 90 days in which to return a defendant to the court would slow their process. He doesn't believe that bonds would be revoked if the defendant is incarcerated in another jurisdiction. Bail bondsmen are in a high risk business;

however, they are well paid for that business. They are quite familiar with the people they deal with. If he has a court case and everyone shows up except the defendant, the state pays for that jury. The state should not have to underwrite the bail bondsman business. He presented his written testimony, **EXHIBIT 2.**

Informational Testimony: None

Questions From Committee Members and Responses:

SENATOR SUE BARTLETT, referring to the part of the bill dealing with someone dying or being incarcerated, asked what the affect of this bill would be? Would the bail bondsman be able to keep the money which had been paid to them for that bond?

Mr. Rusefet stated that they are asking to be released from the bond if the defendant is incarcerated in another jurisdiction and cannot make his appearance. A bail bond is an insurance policy. They accept a premium and often times take collateral.

SENATOR BARTLETT asked what the word "exonerated" meant to him in the context "the surety bail bond must be exonerated", page 3, lines 20 through 22.

Mr. Rusefet stated that meant it would be no longer valid and should be given back to the bail agency.

SENATOR BARTLETT asked what the current situation is under existing law in that instance.

Mr. Rusefet stated they would have to pay the bond to the court.

Closing by Sponsor:

REPRESENTATIVE BARNETT offered no further comments on closing.

HEARING ON HB 482

Opening Statement by Sponsor:

REPRESENTATIVE DUANE GRIMES, House District 39, Clancy, presented HB 482 requiring parental notification prior to an abortion for a minor. This bill recognizes the traditional rights of parents to direct the rearing of their children. It ensures that parents have the opportunity to discuss the medical histories of their children and have their questions answered regarding a very major medical procedure. It also ensures that teenagers talk with those who know them best regarding their decisions in the potential long range consequences. It increases teenage responsibility and is associated with reduced abortion and pregnancy rates in other states. It is supported by a majority of Americans. This bill has a judicial bypass as well as an alternative notification process. Section 4, line 22, states

that a physician may not perform an abortion upon a minor or an incompetent person unless the physician has given at least 48 hours' actual notice. Section 5 states a letter needs to be mailed if Section 4 has not been complied with. Section 7 prohibits coercion. Section 8 deals with reports which will be maintained confidentially. The House added that patient names and other identifying information may not be used on the form. Section 9 deals with the waiver. If the minor, possibly due to an abusive situation, feels that they are not able to notify one or the other parent of the abortion, they may use this judicial bypass. In (4) the language states that if the court finds by clear and convincing evidence that the petitioner is sufficiently mature to decide whether to have an abortion, the court shall issue a finding. Also, in (5) either (a) or (b) would provide for judicial bypass. This language refers to evidence of a pattern of physical, sexual or emotional abuse. Emotional is not included in a lot of other states. This allows for full consideration for those situations which may be very unfortunate. Section 10 deals with civil and criminal penalties. This bill deals with notification, not consent. Twenty four other states have similar legislation. A number of recent instances have occurred where a young lady has learned that she is pregnant. In many cases she will go to a high school counselor who advises her that she doesn't have to tell her parents and offers to help get an abortion. Later the parents find out that their child has gone through a major medical procedure. A lot of times there are bills to pay for recurring medical problems. In schools, our children are not allowed to take an aspirin without parental consent.

Proponents' Testimony:

REPRESENTATIVE DAN MCGEE, House District 21, Laurel, stated this bill has nothing to do with whether or not a person may get an abortion. Abortion is legal. The question before the committee is one of policy. Policy of the state of Montana. Will Montana recognize the critical importance of a family? Will it recognize the fundamental and critical aspects of parents raising their children? Pregnancies happen in all families. The family unit has to stick together. The only way to accomplish that is to be aware of the problem.

Tim Whalen, Montana Right to Life Association, presented his written testimony, **EXHIBIT 3, 4, 5.** Eighty percent of the public consistently support parental involvement laws. Part of the bill allows for an exemption in the case of physical or emotional abuse. When a woman enters an abortion facility and indicates that she cannot notify her parents because of that abuse, going to court to request a waiver automatically triggers an investigation by the Department of Family Services and the Youth Court. Those individuals will be protected because the judicial process as well as the Department of Family Service and Youth Court process will be initiated to make sure those individuals are protected and, if appropriate, removed from the home.

Linda Lindsey stated her support of this bill. These girls who are getting abortions are very young. Their average age is 15, but sometimes they are as young as 12. Usually they are one to two years behind in school. Most will not finish high school. Because they are pregnant, they have a low self-esteem, are untrusting, and scared. Young pregnant girls are emotional and have a difficult time trying to realize what would be the best solution for their predicament. Because of their condition, they need someone to talk to who will stand beside them.

Kim Jones presented her written testimony, **EXHIBIT 6.**

{Tape: 2; Side: A}

Darrel Adams spoke in support of HB 482.

Cindy DeLay presented her written testimony, **EXHIBIT 7.**

Tammie Peterson presented her written testimony, **EXHIBIT 8.**

Sharon Hoff, Montana Catholic Conference, presented her written testimony, **EXHIBIT 9.**

Arlette Randash, Eagle Forum, presented her written testimony, **EXHIBIT 10.**

David Tschida presented his written testimony in support of HB 482, **EXHIBIT 11.**

Jonahben Noah stated his support of this bill. This bill addresses the rights of a parent to safeguard their children. He commented about a girl he knew who had a legal abortion which was botched. She was rushed to a hospital and needed a complete hysterectomy. If she had been able to speak with her parents, this may not have happened. We always want what is best for our children. If they mess up we may be disappointed; however, we do not stop loving them. This is his grandchild. He would be there to help raise this child. We are held accountable if we are neglectful as parents.

Adam Graham spoke in support of HB 482. There are protections in the laws protecting teens from unscrupulous business people. This is the only medical procedure available without parental consent or notification. He described the DNC method of abortion. He doesn't understand the parental consent needed for an aspirin when there is no parental consent needed for this completed operation.

Charles Lorentzen presented his written testimony, **EXHIBIT 12.** Last week, in three days, he gathered over 480 signatures supporting HB 482. He did not find one person to refuse. He presented a copy of the signatures, **EXHIBIT 13.**

Laurie Koutnik, Executive Director of Christian Coalition of Montana, stated they share the concern that the fundamental rights of parents are upheld. The most compelling reason to pass this bill is to maintain the integrity of families which provide the necessary insight, love and concern that parents alone have for their children. Parents alone have a complete medical history which should be considered before undergoing a major surgical procedure such as an abortion. Parents know the medical condition of their daughters better than any other adult. A study by the Fred Hutchinson Cancer Research Center in Seattle revealed that a woman who had an abortion before she was 18 years old had an 800% chance of increased risk of developing breast cancer. In Montana, 298 girls have had abortions before 18 years of age. In a crisis time such as this, a young girl may not weigh those risks but a parent could offer insight. In his book entitled, Aborted Women Silent No More, author David Reardon cites that only 42% of the aborted women receive Rh screening prior to their abortions. Even for the minority who are tested, the analysis of the blood samples are often rushed and inaccurate. Unless a woman with Rh negative blood receives an injection immediately upon abortion, sensitization may result in a later pregnancy which may endanger both the life of the mother and the child. Since minors are usually aborting their first babies, they may not know of the serious concern to be given to Rh factors. The greatest danger, however, is cervical damage which can result in a young woman expecting for the first time. For a minor in a crisis, these may not seem compelling reasons to consider options other than an abortion. However, a parent realizes life goes on after a crisis and they will exercise caution and farsightedness. There is strong evidence that abortion dramatically increases the risk of suicide. In a 1986 study at the University of Minnesota, they concluded that a teenage girl is 10 times more likely to attempt suicide if she had an abortion in the last six months compared to a teenage girl who has never had one.

Stephanie Quale stated many of her friends have found out they were pregnant and immediately made the choice of abortion before thinking it through. She supported passage of this bill.

Opponents' Testimony:

Eliza Frazer, Executive Director of Montana affiliate of the National Abortion and Reproductive Rights Action League, presented her written testimony, **EXHIBIT 14.** This bill, at best, will increase the medical risks which Montana's teens face and, at worst, it will put them at risk of dying. She called the state of Indiana to find out how many deaths they have had from legal abortion since 1974. They have had no deaths from legal abortion since 1974. Montana, since 1974, has had no deaths from legal abortion. After Indiana passed their parental consent law with judicial bypass, in 1989 there is a documented case of a teen dying because she had an illegal abortion. She was one of

those teens who didn't want to tell her parents for fear she would disappoint them.

Vivian Brooke, Member of Catholics for Free Choice, presented her written testimony, **EXHIBIT 15.** CFFC is not sanctioned by the official church; however, they have never asked for the Bishop's blessing. She proposed an amendment on page 3, Section 7, line 19, after "abortion" add "or carry a pregnancy to term". No person should be coerced to carry a pregnancy to term.

Deborah Frandsen, Executive Director of Planned Parenthood, presented her written testimony, **EXHIBIT 16.** She is not discounting that abortion is surgery. For a teenager, a first trimester abortion is 14 times safer than delivering a baby.

Scott Crichton, Executive Director of the American Civil Liberties Union of Montana, presented his written testimony, **EXHIBIT 17.**

Kate Cholewa, Womens Lobby, stated they have two major concerns with the bill. The first is the safety of young women. The second is assuring young women's reproductive rights. They are concerned about the safety of the minority of those minors who feel unable to reveal their decision to a parent. They fear that young girls may endanger their lives by taking such actions as crossing state lines; sleeping in cars for 48 hours until the abortion is over and then go home and face the parents who had been notified; staying away from home for a time after the abortion waiting for the dust to settle; or, at worst, attempting to terminate the pregnancy on her own by dangerous means. Is passing this law worth one young woman's life in this state? They agree with the bill's statement that no parent shall coerce their daughter into having an abortion. No woman should be coerced into any reproductive option. These young women need to be protected from being coerced to carry out a pregnancy they wish to terminate. The worst logic in this bill is the belief that the government, with a law, can intrude into the private lives of families and legislate good family communication. Good communication is earned by love, respect, and hard work. This law is an insult to those families who have earned it.

Jan Van Riper, ACLU, addressed the constitutional questions raised by the language in this proposed legislation. There is a federally recognized constitutional protection which goes to minors in the abortion area. There is no federally constitutionally protected right to attend a rodeo, engage in parimutuel betting, take an aspirin at school, etc. It is her understanding that this legislation is patterned after the Ohio legislation. This was challenged in the United States Supreme Court and was found to be constitutional. In that particular challenge, the U.S. Supreme Court acknowledged that that was a facial challenge to the legislation and left the door wide open to any challenges to that legislation as applied even in the state of Ohio. There is a very central question about applying

this in Montana. The Supreme Court has set out some guidelines about what must be contained in a judicial bypass procedure to comport with the minor's right to have an abortion. It must allow a minor to skirt notification in cases of maturity or abuse. They must allow for anonymity of the minor and sufficiently expeditious procedure. Can this by accomplished by Montana's large distances and small population? A youth is required to go into Youth Court to obtain a judicial bypass. The Youth Court may meet twice a week. In Montana's sparse populations, anonymity is almost impossible when invoking the presence of the various officials in the judicial setting needed to accomplish judicial bypass. Montana's Constitution has a privacy clause. Both California and Florida, which are states that also have state privacy clauses, have found parental notification bills unconstitutional. As a parent she would want more than anything to know what was happening in her daughter's life. There is no way to legally insure that she would ever be notified if she had a child who was considering carrying a child to term. We have to hope that we have done a good enough job raising our children so that our children will want to involve us in decisions about various behaviors. If they don't, we should not legislate that.

Devon Hartman, Intermountain Planned Parenthood, presented her written testimony, **EXHIBIT 18.** A proponent stated that 42% of patients receiving abortions receive Rh testing. All patients in Montana receive Rh testing and appropriate Rh therapy if it is deemed advisable. This is done in accordance with CLEA regulations. Most abortions in the state of Montana are performed on women between 20 and 30 years of age. This bill would 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, parent and child communication, or help with the young woman's decision making process.

Harmony Fix commented that if she chooses to have sex and is willing to take on the responsibilities involved, it should be her responsibility to get an abortion. Informing a parent of pregnancy may cause even more problems in the family.

Randi Hood stated she is an attorney as well as a public defender. She has represented children who are the subject of dependent and neglect cases in this county. She handles approximately 90% of the cases in youth court in this county. She opposes this bill because over the course of the years she has yet to see that a law which could be created to enforce understanding and good relationship between a parent and child. She commented on two provisions of the judicial waiver. It is inappropriate to place this in youth court as structured in Montana. The youth court deals solely with youths who come under the Youth Court Act. That would be youths in need of supervision and delinquent youths who are alleged to be in violation of the

law. This kind of civil procedure is inappropriate in the Youth Court Act. The district court handles family law. Availability of judges is a problem. In multi-judge judicial districts, one of the judges is appointed as the Youth Court Judge. If the judicial district has more than one county in it, he usually travels to the other counties on a fairly irregular basis to handle youth court matters. A 48 hour time frame will not work in counties in which the judge only shows up once a week. She did not see venue established in the bill. The venue provision in the Youth Court Act are structured according to the classification of the youth. Venue should be in any county of the state.

Informational Testimony: None

Questions From Committee Members and Responses:

SENATOR HOLDEN, referring to the comment that abortion is less risky than childbirth, asked **Ms. Frazer** if she was stating that abortion is preferable to childbirth?

Ms. Frazer stated she would not suggest that someone make that decision solely on a medical basis. It should be clear that medically there is less complications from abortions than there are from childbirth.

SENATOR LINDA NELSON asked what a pregnant 16 year old would have to do to receive judicial bypass.

REPRESENTATIVE GRIMES stated the youth court judges are just as available as the district court judges. Inserting youth court into this bill was a recommendation of Mr. Petesch because this would make it more available to the young woman. In other states, the young lady would go to an abortion clinic and fill out some forms. Those forms and/or the young lady would be taken to a judge who would approve the abortion if that were found to be the case. If a judge determined that wasn't the case, the petition would be denied.

SENATOR NELSON stated that in her area the district judge would not always be accessible. She asked if the teenager was to call for an appointment with the district judge? Would she walk up to the third floor of the courthouse where the county attorney is and make an appointment, which would be like wearing a red flag?

REPRESENTATIVE GRIMES stated that he had a letter from a young woman who went to her physician who, in turn, advised her that she should notify one or the other parent. They did and the parent and physician together decided that she would continue with the procedure. She went to a nearby city. The physician would help them through that procedure. The abortion clinic would provide them with the necessary forms to be able to accomplish that from a rural area in Montana.

SENATOR NELSON felt that most teenagers are not sophisticated enough to know how to petition a court. This is a cumbersome process.

REPRESENTATIVE GRIMES stated that South Dakota law does not have a bypass in it. He believes that the abortion procedure is very confusing to them as well.

SENATOR NELSON stated she did not understand the guardian ad litem provision.

REPRESENTATIVE GRIMES stated that guardian could be anyone the court would determine. It could be a counselor or someone the young lady knows.

SENATOR STEVE DOHERTY stated that it had been indicated that adopting this bill would help provide additional information about a procedure which may be confusing to the woman who is attempting to obtain the abortion. Given that the bill on informed consent has passed the Senate, haven't we already taken that confusion away?

REPRESENTATIVE GRIMES stated that that information he was talking about would be in reference to the bypass.

SENATOR DOHERTY asked if he would have an objection to an amendment to Section 8 which would state that in addition to providing that patient names and other identifying information may not be used on the forms, there would also be a provision for confidentiality for the providers. We have seen violence at the providers clinics in Montana and other places.

REPRESENTATIVE GRIMES stated he would not want this bill to endanger medical care providers in the state. He does not believe that it does because of the confidentiality we currently are under. He understands that on a previous bill the community which provides these services wanted to advertise.

SENATOR DOHERTY, referring to Section 10, stated that the way he read the section, if a provider did not provide notice that would be malpractice. The language referring to "malice" would open them up to punitive damages. He asked the sponsor if it was his intent that medical providers who do not perform a specific governmentally prescribed standard, be liable for punitive damages.

REPRESENTATIVE GRIMES stated the model's only purpose would be to provide for an enforcement mechanism for the notification procedure to protect parents so that parents could be assured that one or the other of them would be notified in case of a major medical procedure on their daughter. He stated that it never occurred to him that not complying with that requirement would lead to malpractice.

Ms. Van Riper stated they cannot guess the courts, but she would see it as malpractice.

Mr. Whalen stated the sole damage section of the bill is clearly designed to allow a medical malpractice action in the event that a parent is not notified. There would have to be some damages that would flow by virtue of the fact of that notification not being given. If the parental notice is not given and the women does not suffer any harm, there would not be a case. With respect to punitive damages, although that is referenced in the bill, the criteria which would have to be met before a claim rises to the level in which punitive damages would be appropriate are contained in Title 27 wherein actual malice is defined. If the necessary elements are present in a claim, punitive damages ought to be available to the individuals.

SENATOR DOHERTY stated that Section 10 states that failure to provide is presumed to be actual malice. Actual malice is a tough thing to prove, but this gives a presumption to it.

Mr. Whalen stated the presumption is created and it is a rebuttable presumption that the abortion provider can certainly attempt to overcome.

SENATOR BARTLETT asked why only the physician could be the one to notify the parents.

REPRESENTATIVE GRIMES stated that is because they are the ones being held accountable. With the exception of Section 6 where they can waive those notices, it needs to be the physician. The physician will be held accountable as to whether or not that notice was actually or constructively given.

SENATOR BARTLETT asked if an agent of the physician could provide notice.

REPRESENTATIVE GRIMES stated he would not have a problem with a physician delegating that responsibility. They will be held responsible so they will have to ensure that it has been done.

SENATOR BARTLETT stated she was interested in the definition of coercion which currently relates to forced, threat of force or deprivation of food and shelter. It does not address exclusively verbal or mental abuse which may be as damaging.

REPRESENTATIVE GRIMES stated the definition for coercion applies to Section 7. This is separate from the bypass issue. His only concern would be with the legality although he is not opposed conceptionally to her request. Section 7 refers to a male whose best interest might be served by coercing someone to have an abortion. This legislation is based on Ohio statute. However, it is also reflective of some of the best language in the 25 states which have this same law.

Closing by Sponsor:

REPRESENTATIVE GRIMES emphasized that this bill is for the parents. It will recognize the traditional rights of parents to direct the rearing of their minor children. He has heard of instances all across the state of parents who were not informed about their daughter's abortion. This is not consent, it is a notification issue. The judicial bypass is very broad. He doesn't think the Department of Health is prevented to record this by number. The opponents commented that the percentage of third trimester abortions went up in states where this law was enacted. He stated the reason that is the case is because so many of the first and second trimester abortions dropped as a result of this legislation. In the two states where the most exhaustive research has been done on this, Minnesota and Missouri, the pregnancy rate for teens, age 10 through 17, fell 20.5% after the introduction of this bill. The abortion rate fell 27.4% The birthrate notice fell by a greater percentage 12.5% after the law. Teenagers know what the law is. This law has an impact. That is why the statistic went up. The notification is accomplished by having the young lady go to a clinic for the abortion and they would have forms available. The costs will be borne by the state. He does not think the bill will cause any unnecessary delays. He also does not think that there are any medical risks. He agrees that it is not the government's business to be involved in these issues. It is not the government's business to say that our offspring can have a major medical procedure performed on them without at least one parent knowing. If there were any clear and convincing evidence that this doesn't work, there would be a lot more statistics to prove why it wasn't working. In South Dakota this law was passed a year ago. At the hearing, a parent explained the situation wherein they found out that their daughter was on her way to have an abortion. They were concerned because the daughter had a medical condition which was critical. They found the abortion clinic and for 40 minutes they tried to find out if their daughter was there. Finally, the father saw his daughter's name on a list at the desk. He told them to let the physician know the medical condition of his daughter. A note came back from the physician that he didn't need it. He went back and found his daughter crying. The daughter left with her father. He did not necessarily want to stop the procedure, he was concerned for his daughters safety.

Additional exhibit, Statement from **SENATOR STEVE DOHERTY, EXHIBIT 19.**

HEARING ON HB 315

Opening Statement by Sponsor:

REPRESENTATIVE DAN HARRINGTON, House District 38, Butte, presented HB 315. This bill provides that a volunteer fire company or department and its employees would not be liable for

civil damages except damages for gross negligence or willful or wanton misconduct for their acts or omission related to the investigation, monitoring, cleanup, mitigation, abatement, or removal of hazardous or deleterious substances in response to a release of that substance.

Proponents' Testimony:

John Geach, Administrator of the Environmental Remediation Division of the Department of Health and Environmental Sciences, stated the Department understands the concepts and realizes that volunteer fire departments play an important role in the response to hazardous waste incidents. They have a concern about language in the bill which they think is broad and would like to see amended. He handed out copies of the amendment, **EXHIBIT 19.** Under the current language it would be possible for a fire department to sample or open barrels and actually go as far as installing monitoring wells, solidifying or treating of waste, packaging and shipping of hazardous and the development or implementation of clean up plans. They realize that the fire departments will not be into those activities, but they feel that the amendment would only include the activities which are directly related to the hazardous material incident itself. They can respond to the fire, rescue victims, and then back away from the scene and let the actual clean up and investigation be done by trained personnel.

James Lofftos, President of Montana Fire District Association, Volunteer Fire Fighters Association, stated volunteers need protection when responding to hazardous material incidents. For a volunteer to respond, they need eight hours of awareness training. The operations level involves 24 hours of training. This is in addition to their other training. They are in favor of the amendments. The volunteers need to be protected to limit their liability in hazard material incidents.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

SENATOR HOLDEN asked **REPRESENTATIVE HARRINGTON** how many votes they received in the House.

REPRESENTATIVE HARRINGTON stated it was either 99 or 100.

SENATOR NELSON asked if the amendment was agreeable.

REPRESENTATIVE HARRINGTON stated he saw no problem with the amendment.

Closing by Sponsor:

REPRESENTATIVE HARRINGTON offered no further remarks on closing.

EXECUTIVE ACTION ON HB 315

Motion/Vote: **SENATOR NELSON MOVED TO AMEND HB 315.** The motion **CARRIED UNANIMOUSLY** on oral vote.

MOTION/Vote: **SENATOR NELSON MOVED HB 315 BE CONCURRED IN AS AMENDED.** The motion **CARRIED UNANIMOUSLY** on oral vote.

ADJOURNMENT

Adjournment: The meeting adjourned at 12:00 p.m.

SENATOR BRUCE D. CRIPPEN, Chairman

JUDY J. KEINTZ, Secretary

BC/jjk

MONTANA SENATE
1995 LEGISLATURE
JUDICIARY COMMITTEE

ROLL CALL DATE 3/16/95

NAME	PRESENT	ABSENT	EXCUSED
BRUCE CRIPPEN, CHAIRMAN	✓		
LARRY BAER	✓		
SUE BARTLETT	✓		
AL BISHOP, VICE CHAIRMAN	✓		
STEVE DOHERTY	✓		
SHARON ESTRADA	✓		
LORENTS GROSFIELD	✓		
MIKE HALLIGAN	✓		
RIC HOLDEN	✓		
REINY JABS	✓		
LINDA NELSON	✓		

SEN:1995
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SENATE STANDING COMMITTEE REPORT

March 16, 1995

MR. PRESIDENT:
We, your committee on Judiciary having had under consideration HB 315 (third reading copy -- blue), respectfully report that HB 315 be amended as follows and as so amended be concurred in.

Signed: _____
Senator Bruce Crippen, Chair

That such amendments read:

1. Title, lines 7 and 8.
Following: line 6
Strike: line 7 through "SUBSTANCE" on line 8
Insert: "THAT ARE DIRECTLY RELATED TO A HAZARDOUS MATERIAL INCIDENT"

2. Page 1, lines 16 and 17.
Following: "omissions" on line 16
Strike: remainder of line 16 through "release" on line 17
Insert: "that are directly related to the hazardous material incident"

-END-

Amd. Coord.
Sec. of Senate

_____
Senator Carrying Bill

611407SC.SRF

HB 443

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 1
DATE 3/16/95
BILL NO. HB443

Montana Trial Lawyers ASSOCIATION

Russell B. Hill, Executive Director
#1 N. Last Chance Gulch
Helena, Montana 59601
Tel: (406) 443-3124
Fax: (406) 443-7850

March 16, 1995

Sen. Bruce Crippen, Chair
Senate Judiciary Committee
Room 325, State Capitol

RE: House Bill 443

Mr. Chair, Members of the Committee:

Thank you for this opportunity to express MTLA's conditional support for HB 443 as amended, which revises Montana statutes defining unfair claim settlement practices.

MTLA supports HB 443 as amended because MTLA understands--and presumes the Legislature also understands--that the new language "AND THE EXTENT AND CAUSE OF DAMAGES" (at page 1, line 23; page 2, line 10; and page 2, line 17) clarifies but does not restrict current law.

Current law already requires that ***liability*** must be reasonably clear before imposing upon an insurer the duty to settle claims fairly. MTLA believes that "the extent and cause of damages" are already elements of liability under Sec. 33-18-201, MCA.

However, if this Committee or the Legislature intends the new language "AND THE EXTENT AND CAUSE OF DAMAGES" to ***relieve*** an insurer of the duty to settle claims fairly unless the the *full* extent and *exact* cause of damages has become reasonably clear, then MTLA will oppose House Bill 443. Such a change in current law would gut longstanding protections for Montana consumers.

Example: Montana Policyholder claims that liability of Insurance Company for $100,000 is reasonably clear. Insurance Company responds that its only reasonably clear liability to Montana Policyholder is $50,000. MTLA believes that

House Bill 443, as amended, still imposes a duty upon the insurance company to promptly and fairly settle at least $50,000 of the claim.

Thank you for clarifying for the legislative record this committee's intent regarding the new language "AND THE EXTENT AND CAUSE OF DAMAGES." Thank you for providing MTLA this opportunity to express its support--or, if necessary, its opposition--to House Bill 443. Please contact me if I can provide additional information or assistance.

Respectfully,

Russell B. Hill
Executive Director

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 2
DATE 3/16/95
BILL NO. HB336

TO; MEMBERS OF THE MONTANA SENATE

REFERENCE; HOUSE BILL # 336

HOUSE BILL # 336 DOES THREE THINGS;

1. IT EXEMPTS PERSONS WHO EXECUTE ONLY SURETY BAIL BONDS FROM CONTINUING EDUCATION REQUIREMENTS.

2. CHANGES THE REQUIRED DURATION OF BAIL BONDS.

3. CHANGES THE PERIOD OF TIME AND THE CONDITIONS UNDER WHICH BAIL BONDS MUST BE EXONERATED.

THE EDUCATION EXEMPTION DOES NOT PRESENT A PROBLEM.

THE CHANGE IN THE DURATION OF THE BOND DOES HAVE AN EFFECT THAT MAY NOT BE DESIREABLE. CURRENT LAW REQUIRES THAT THE BONDS REQUIRED AND IN EFFECT THROUGH ALL STAGES OF A PROCEEDING INCLUDING TRIAL DE NOVO AND UNLESS BOND IS DENIED BY THE COURT MUST REMAIN IN EFFECT UNTIL FINAL SENTENCE IN PRONOUNCED IN OPEN COURT. THE CHANGE ALLOWS THE BOND TO BE LIFTED UPON CONVICTION IN A COURT BUT BEFORE AN APPEAL. IF A BOND IS REQUIRED BY THE DISTRICT COURT AFTER A TRIAL DE NOVO REQUEST A NEW ONE WILL HAVE TO BE ISSUED. WITH THE ISSUANCE OF A SECOND BOND COMES A FEE FOR THE SECOND BOND. IF EFFECT THE DEFENDANT WILL HAVE TO PAY A DOUBLE FEE. IT IS A GREAT LITTLE MONEY MAKER BUT IS NOT NEEDED AND ADDS TO THE FINANCIAL BURDEN OF THE DEFENDANT

THE THIRD ITEM, IN SECTION 3, SUB 3, IS A REAL CONCERN. IT EXTENDS FROM THIRTY DAYS TO NINETY DAYS THE PERIOD OF TIME IN WHICH THE BAIL BONDSMEN MUST SATISFACTORILY EXCUSE THE DEFENDANTS FAILURE TO APPEAR OR TO PRODUCE THE DEFENDANT, IT ALSO REQUIRES THAT THE JUDGE "SHALL", NOT "MAY", DIRECT THE FORFEITURE TO BE DISHARGED. IT ALSO REQUIRES THE RETURN OF THE SURETY BOND TO THE SURETIES WITH NO MONETARY PENALTY. (THIS MAY BE CALLED "HAVING YOUR CAKE AND EATING IT"). JUST THINK ABOUT IT, A 300 % INCREASE IN THE TIME ALLOWED TO EXCUSE THE ABSENCE OR PRODUCE THE DEFENDANT AND THEN NO ALLOWANCE FOR A MONETARY PENALTY EVEN IF THE INABILITY TO EXCUSE THE ABSENCE OR PRODUCE THE DEFENDANT HAS CAUSED THE COURT A MONETARY LOSS; SUCH AS HAVING A JURY CALLED ON AN APPOINTED DATE AND THE DEFENDANT FAILS TO APPEAR. THIS IS A DIRECT COST TO THE TAXPAYER. IN THE SECOND SENTENCE OF THE SAME SUBSECTION IT STRIKES THE WORDING, " UPON TERMS AS MAY BE JUST", AND AGAIN REQUIRES THE RETURN OF THE BOND TO THE SURETY WITH NO MONETARY PENALTY REGARDLESS OF ANY EXPENSE THE COURT MAY HAVE INCURRED IN THE MEANTIME. JUST LET THE

Taxpayer foot the bill.
Bail bondsman are in a high risk business. They are well paid for it and are very aware of whom they are dealing with. Taxpayers in this state should not be required to underwrite that risk. This bill does not do Justice for the people opf the state of Montana.

Please do the taxpayers of the state of Montana a favor and vote "NO" on this bill.
Thank you for your consideration.

Gregory P. Mohr
President, Montana Magistrates Association

HB 482

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 3
DATE 3/16/95
BILL NO. HB 482

MONTANA RIGHT TO LIFE ASSOCIATION
1900 North Last Chance Gulch, Suite C
Helena, Montana 59601 • (406) 443-0827
FAX (406) 443-0840

MONTANA RIGHT TO LIFE TESTIMONY ON HOUSE BILL 482 BEFORE THE SENATE JUDICIARY COMMITTEE FEBRUARY 16, 1995

Mr. Chairman, members of the committee:

For the record, my name is Tim Whalen, representing the Montana Right To Life association. Montana Right to Life is a state affiliate of the National Right To Life Committee, the oldest and largest organization of its kind in the United States. The Montana Right To Life Association wishes to go on record in support of Representative Grimes' Parental Notification bill, House Bill 482.

In 1974 the legislature passed the Montana Abortion Control Act which contains a provision requiring one parent parental notification by a minor seeking an abortion. That statute was successfully challenged in court and has never been enforced in this state. The basis for the challenge was that it did not contain a "judicial bypass" provision which was then required by courts of paramount jurisdiction before enforcement could be allowed.

House Bill 482 supplies a judicial bypass provision providing an escape from the notification requirement when there is a medical emergency or when the youth court finds that the minor is mature enough to make her own decision, or is subject to a pattern of physical, emotional, or sexual abuse which could be triggered by the notification, or is otherwise in the best interests of the minor.

The public policy is served by requiring at least one parent notice in the case of a minor seeking an abortion because of the medical risks associated with the procedure. Because, the medical, emotional, and psychological consequences associated with abortion are sometimes serious and long lasting, particularly when the patient is immature, the involvement of at least one parent in the abortion decision making process will promote a more considered decision on the part of the minor.

For example, parents ordinarily possess information essential to a physician in the exercise of the physician's best medical judgement concerning the minor with respect to the abortion or childbirth decision. In addition, parents who are aware that their minor daughter has had an abortion may better ensure that their daughter receives adequate medical care after the abortion. This is particularly important in view of the fact that some of the physical complications resulting form abortion include infection, excessive bleeding, embolism, ripping of perforating of the uterus, anesthesia complications, convulsions, hemorrhage, cervical injury,

and endotoxic shock. Psychological problems such as depression are also common abortion sequelae. Alcohol, drug abuse, broken relationships and sexual disfunction often follow the depression and low self esteem commonly associated with the abortion decision. The fact of high suicide rates among aborted women is well known among professionals who counsel suicidal persons. According to one study, (Saltenberger, Every Woman, 132. Also, Greenglass, "Therapeutic Abortion and Psychiatric Disturbance in Canadian Women," 21 Can. Psychiatric A.J. 45 (1976)) women who have had abortions are nine times more likely to attempt suicide than women in the general population.

In short, this bill is about protecting the lives, health and well being of minor teenage girls by insuring the involvement of parents in appropriate cases prior to making this irrevocable and life affecting decision.

I anticipate that the opponents of this bill will attempt to raise legal questions as to the appropriateness or enforceability of parental involvement statutes in this bill in particular. As many of you know, I am a lawyer by trade and will make myself available during the question and answer period of this hearing to answer any questions you may have with respect to this bill including those that may pertain to any legal questions raised during the course of this hearing.

In closing, Montana Right To Life Association urges the committee to give House Bill 482 a Do Pass recommendation.

Tim Whalen

T H R E E

The Physical Risks of Abortion

Abortion is a surgical procedure in which a woman's body is forcibly entered and her pregnancy is forcibly "terminated." Because it is intrusive, and because it disrupts a natural process (pregnancy), abortion poses both short-term and long-term risks to the health and well-being of the aborted woman. Abortion is never without risks.

A few abortion advocates continue to insist that abortion is so safe as to be virtually "risk free," but such claims are exaggerations resulting from some blind belief in the slogans and clichés fostered by the early abortion reformers.[1] In contrast to these few abortion zealots, most defenders of abortion, particularly those in the health fields, admit that there are inherent risks to abortion. Within the medical profession the intense debate is not over whether there are risks or not but over how often complications will occur. Some claim the risks are "acceptable," while others insist they are not.

Answering the question "How safe is abortion?" is crucial to any public policy on abortion; but it is even more crucial to the women facing the abortion decision. Unfortunately for hundreds of thousands of women, their "safe and easy" abortions proved to be neither safe nor easy. Even more outrageous is the fact that almost none of these women were given a realistic assessment of the risks of abortion.

HB 482

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 5
DATE 3/16/95
BILL NO. HB 482

MONTANA
RIGHT TO LIFE ASSOCIATION
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SUMMARY OF THE PROVISIONS OF HB 482

1. LEGISLATIVE FINDINGS

Support the reasons the legislation is necessary and were supported by the testimony in committee.

2. DEFINITIONS

Self explanatory.

3. PARENTAL NOTICE

In the case of minors or incompetent persons actual notice to one parent or legal guardian at least 48 hours prior to the abortion.

4. ALTERNATE NOTICE

By certified mail if actual notice is not possible after reasonable effort.

5. EXCEPTIONS

a) Medical emergency.
b) Parent waives notice.
c) Notice waived by court.

6. COERCION PROHIBITED

It is unlawful to coerce a woman to have an abortion. Public assistance benefits cannot be used to obtain a minor's abortion.

7. REPORTS

a) Monthly report to the department of health.
b) Report must indicate;
    1. Number of notices issued.
    2. Number of exemptions to notice made, by type.
c) Patient names are confidential.

8. JUDICIAL WAIVER

a) Confidential proceedings.
b) Youth entitled to court appointed counsel.
c) Youth entitled to court appointed legal guardian to represent their interest.
d) Court must rule in 48 hours.
e) Youth entitled to expedited appeal in the event a waiver is not granted.
f) Reasons for granting waiver.
    1. Minor mature enough to make own decision.
    2. Minor subject to a pattern of physical sexual or emotional abuse.
    3. Best interest of minor.

9. CRIMINAL AND CIVIL PENALTIES

a) Performing an abortion without giving notice (actual or alternative) or obtaining by-pass.
    1. A misdemeanor.
b) Coercing a minor to have an abortion first offence.
    1. A misdemeanor (Maximum penalty, $1,000.00 fine or one year in jail, or both).
    2. Second or subsequent conviction (Minimum $500.00 fine and ten days in jail up to a maximum of $50,000.00 and five years in jail or both).
    (This penalty provision is patterned after the penalty provision in Montana's domestic abuse statute.)
c) Improper person waiving notice (See exceptions, Section 6):
    1. A misdemeanor.
d) Civil remedy.
    1. Compensatory damages for violation of failure to give notice.
    2. Punitive damages if actual malice involved.

10. MONTANA'S SELF-CONSENT WAIVER STATUTE IN THE EVENT OF EMERGENCIES IS AMENDED TO INCLUDE THE PROVISIONS OF THIS BILL.

March 16, 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

EXHIBIT 6
DATE 3-16-95
HB 482

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
2/10/95
862-6803

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 7
DATE 3/16/95
BILL NO. HB482

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~~ consent 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

Mr. Chairman and members of the Committee

My name is Tammie Peterson

16 years ago last 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, 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.

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 everything I thought I would

never be. Emotionally, I was bitter, angry, and had no self-worth. What happened to me is consistent with a study done by the Elliott Institute for Social Science Research of Springfield, Ill. Of 260 women surveyed over a 10 & 1/2 year study 28% of those who regretted the abortion attempted suicide -- with more than 1/2 making subsequent attempts. Thirty-six (36%) percent engaged in self destructive behavior and 20% reported nervous breakdowns. 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 a hasty decision that still impacts my life. My past no longer torments me but I have a burden for my children, beloved relatives, and strangers 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.

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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 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.

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. Yes, expressing our emotions that may seem negative at the time are normal and to be 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.

HB482

Montana Catholic Conference

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 9
DATE 3/16/95
BILL NO. HB 482

March 16, 1995

Mr. Chairman, members of the committee, I am Sharon Hoff, representing the Montana Catholic Conference. In this capacity, I act as liaison for Montana's two Roman Catholic Bishops on matters of public policy. The Montana Catholic Conference supports HB482.

Abortion poses serious physical health risks including infections, hemorrhage, ripping or perforation of the uterus, anesthesia complications, cervical injury, and death.[1] Teenagers 17 years of age or younger are two-and-a-half times more likely than women ages 20-29 to acquire endometritis following abortion.[2] The adolescent is entitled to parental help in order to fully understand and to weigh carefully her specific risks of incurring physical injury from abortion. Because a minor is often too immature to make fully informed decisions, parental involvement is imperative to ensure that she receives the benefit of appropriate counsel from those who best know her physical, emotional, familial, and psychological background--her parents.

Opponents of parental involvement legislation claim that adolescents are generally as competent as adults to make the decision to have an abortion.[3] But substantial evidence from both clinical and laboratory studies of actual decision-making in pregnancy demonstrate that adolescents and adults differ significantly in the ways they actually make decisions and in the quality of their decision-making. Adolescents are more likely to see their pregnancy decision as "externally compelled."[4] Even opponents of parental involvement legislation admit that there is cause for concern about impulsive decisions by the teen who is still ambivalent: "Issues that go unresolved before the abortion may then create more difficulties afterward."[5]

To deny the teenager input from her parents, those who generally assist her in other major decisions in her life, can be emotionally and psychologically traumatizing. She will feel pressure to consider her parents views whether or not she consults them.[6]

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[1] Willard Cates, Jr., M.D., M.P.H., Kenneth F. Schulz, M.B.A., and David A. Grimes, M.D., "The Risks Associated with Teenage Abortion," The New England Journal of Medicine, vol. 309, no. 11, September 15, 1983): pp. 621-624.

[2] Burkman et al., "Morbidity Risk Among Young Adolescents Undergoing Elective Abortion," Contraception, vol. 30 (1984):pp.99-105. This Johns Hopkins study also reports that cervical laceration has been shown to be about twice as common among women aged 17 years or less compared to older women.

[3] ACLU Reproductive Freedom Project, "Parental Notice Laws," (1986): p. 5.

[4] Catherine C. Lewis, Ph.D., "A Comparison of Minors' and Adults' Pregnancy Decisions," American Journal of Orthopsychiatry, vol. 50, no. 3 (July 1980): p. 449.

[5] Nancy Adler and Peggy Dolcini, "Psychological Issues in Abortion for Adolescents, "Adolescent Abortion, ed. Gary B Melton (Lincoln, NB:University of Nebraska Press, 1986) p. 85.

[6] Everett L. Worthington et al., "The Benefits of Legislation Requiring Parental Involvement Prior to Adolescent Abortion," American Psychologist (December 1989): p. 1543.

A secret abortion, without disclosure for discussion, creates a psychological burden for the pregnant teenager and a barrier to her future relationship with those people in her life who are most significant to her.[7]

Opponents of parental involvement legislation make the claim that required parental involvement can be devastating to the family and to a girl's psychological development.[8] Experts in psychiatry and psychology have concluded that the contrary is true. To the extent an adolescent does not share feelings surrounding an unexpected pregnancy with her parents, she may become more isolated and alienated.[9] Without the benefit of parental involvement legislation, the girl will most likely either keep her pregnancy and abortion forever a secret from her parents, which can cause guilt and anxiety that her parents might somehow discover the secret, or tell her parents that not only did she become pregnant but also that she made an important life decision without notifying them.[10] Parental involvement legislation provides the opportunity for the teenage girl to share the problem with her parents immediately, thereby reducing the emotional and psychological risks associated with keeping the pregnancy secret.

The inability to deal with a dilemma or an inadequate understanding of the nature of her situation and its causes can considerably impair future coping abilities of the pregnant teenager. An adolescent may retreat into sexual activity or drug or alcohol abuse to escape pain and, if these immature defenses do not ease her conflict, she may be more likely to experience adverse psychological effects after the abortion.[11] Immature coping mechanisms typical of adolescence such as the projection, denial, or "acting out" of conflicts can become permanent defenses.[12]

Parental involvement legislation acknowledges the agonizing pain that accompanies an adolescent's unexpected pregnancy and helps to provide her with the support she deserves from those who have her best interests at heart--her parents. We urge a do pass for HB482. Thank you.

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[7] Vincent M. Rue, "Abortion in Relationship Context," Int'l. Rev. of Nat. Fam. Plann. (Summer 1985):p.97.
[8] ACLU Reproductive Freedom Project, "Parental Notice Laws", 1986: p. 8.
[9] Rue, "Abortion in Relationship Context," p. 97.
[10] Worthington et al., "The Benefits of Legislation," p. 1543.
[11] Nancy B. Campbell, Kathleen Franco, and Stephen Jurs, "Abortion in Adolescence," Adolescence, vol. 23, no. 92 (Winter 1988): p. 821. This comparison of women who had abortions in their teenage years whose abortions occurred after age 20 reveals that the adolescent group had significantly higher scores on the following scales: antisocial traits paranoia, drug abuse, and psychotic delusions.
[12] Ibid

HB 482 / Arlette Randash
Senate 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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SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 11
DATE 3/16/95
BILL NO. HB 482

David Tschida
224 Farview Dr.
Kalispell, MT 59901

March 16, 1995

Re:
HB 482, Parental Notification
Proponent

The Honorable Bruce Crippen
Senate Judiciary Committee
Capitol Station
Helena, MT 59620

Dear Senator Crippen and Senate Judiciary Committee:

Bill HB 482 protects that God-given and fundamental right of all parents. Presently without it, our courts are at the liberty to interfere with parental authority.

It is a religious and moral obligation for any parent to be kept informed on serious matters such as pregnancy and abortion of their daughter. Some courts in recent times have robed parents of that authority. Because of this, and with this bill, we need to protect family unity and prevent an erosion of the family that threatens the very foundation of society.

I plead you, protect that God-given right of parental authority; also, the child's safety, love and respect for their parents by passing this bill.

Sincerely,

David Tschida

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 12
DATE 3/16/95
BILL NO. HB 482

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

The Honorable Bruce Crippen
Capital Station
Helena, MT 59620 Re: HB 482 March 14, 1995

Chairman Crippen and Members of the Senate Judiciary Committee,

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

This has to 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 notification, no liability- until...the sudden fever, 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, page 2). 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. It was stated in the House Judiciary Committee on February 14, 1995, that 2nd term abortion rate increased in Minnesota, but a study published in March 1991 "AMERICAN JOURNAL OF PUBLIC HEALTH" refutes the claim that the law caused more minors to obtain late abortions. In fact, the researchers conclude that the reverse is true:"For ages 15-17 the number of late abortions per 1000 women decreased following the enactment of the law. Therefore, an increased medical hazard due to a rising number of late abortions wasn't realized.(1)

The pro abortion proponents do not want parents notified. They want girls seperated from their famlies support, but

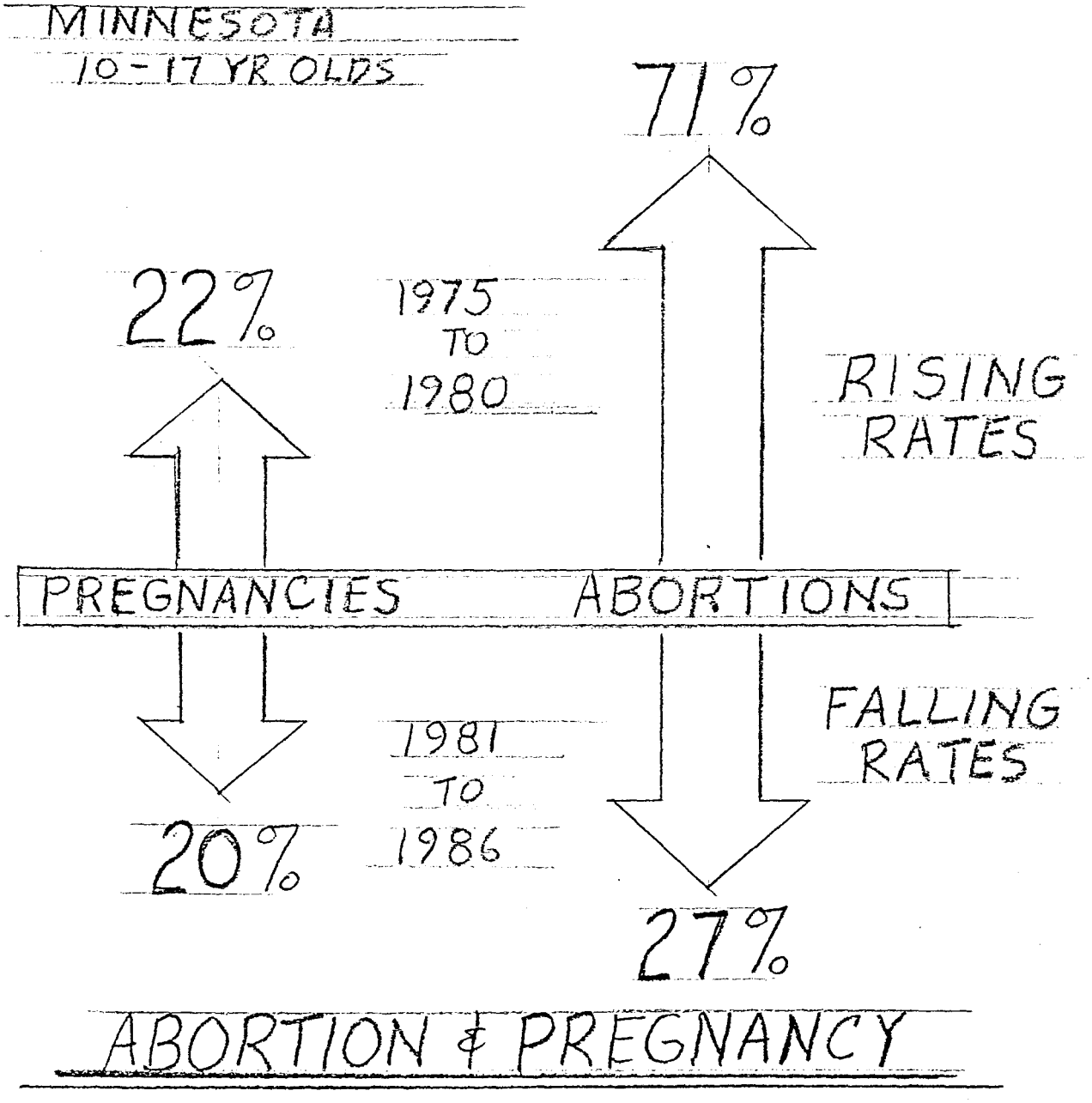
Information taken from video entitled PARENT'S RIGHTS DENIED- Do Pregnant Teens Need Family Protection?

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



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this is clearly wrong. We must not allow this to continue.

The lack of parental involvement has real consequences as the experience of Dawn Ravenell, a 13-year-old girl from Queens, New York, illustrates. Dawn died tragically in 1985 after undergoing a legal abortion. According to the abortion clinic records, she awoke from the anesthesia during the middle of the abortion and began gagging and choking before going into cardiac arrest. A plastic airway was inserted in her throat and she was again sedated. In the recovery room after the abortion, she awoke, began gagging on the unremoved airway, and went into cardiac collapse. She was rushed to a New York hospital where she later died. In 1990, a jury awarded $1.225 million dollars to her family. The Ravenell's said they persued the suit not for the money but for justice. "I wanted to be sure that another child would not suffer the way Dawn did," Mrs. Ravenell said.

New York has no parental involvement law so Dawn's parents were never told about their daughter's pregnancy or abortion. "It was a horrible situation," said her family attorney, Thomas Principe. "Here you have a frightened kid in what was really an abortion factory. She was treated like a piece on an assembly line."(2) Let's work to avoid this hapening in Montana.

Parental involvement protects not-yet mature adolescents because studies have shown that adolescents have not yet attained many basic decision-making skills. After studying the cognitive thinking abilities of adolescent girls, medical doctor and sociologist Godfrey Cobliner, Ph.D., concluded that adolescents "have not, as yet, fullly reached the stage of what is known as operative thinking."(3) Adolescents have demonstrated deficiencies in certain aspects of decision making including imagining risks and future consequences, recognizing the need for independent professional opinions in certain situations, and recognizing the potential vested interests of professionals in providing certain information.(4) Parents are more capable of handling stressful situations than their adolescent daughters. Most of all, parents can supply their guiding love and support to their daughters amid the confusion of an sudden pregnancy.

Parental involvement protects teenagers from physical injury. Abortion is a surgical procedure that carries serious risks including infections, hemorrhage, ripping or perforation of the uterus, anesthesia complications, cervical injury and death.(5) Teenagers 17 years of age or younger are two and a half times more likely than women ages 20-29 to acquire endometritis following abortion.(6) In addition, teenagers 17 years of age or younger have a greater risk of cervical injury during suction-curettage abortion(7). The adolescent is entitled to parental help in order to understand fully and to weigh carefully her specific risks of incurring physical injury from abortion. It is parents who best know her physical, emotional, familial, and psychological background. When a complication results from an abortion, a teenager whose parents are unaware of her abortion will often not seek medical help until she is critically ill.(8) This parental notification law would give warning at the first sign of complications.

Parental involvement protects teenagers from psychological harm by helping to ensure that the adolescent is counseled by those who have her best interests at heart. She will feel pressure to consider her parents views whether or not she consults them.(9) Vincent M. Rue, Ph.D., Co-Director of the Institute for Abortion Recovery and Research, has observed that often there is an unspoken wish on the part of the adolesent to face her parents with her ambivalence concerning the abortion and to draw on their support, even when it comes in the form of disagreement or conflict.(10) A secret abortion, without disclosure for discussion, creates a psychological burden for the pregnant teenager and a barrier to her future relationship with those people in her life who are most significant to her.(11) Increasing social deterioration and psychological conflicts have been observed in women with each additional abortion.(12) Adocescents who do not fully address the process of mourning after abortion have a greater chance of becoming pregant again and repeating the cycle of pregnancy and abortion.(13) In one study on teenage abortion, 38% of teenagers followed through medical records over a 5 yr period were found to have had repeat abortions, and 18% had TWO abortions within the same year.(14)

Parental reaction to a teenage daughter's unexpected pregnancy initally is most often displeasure and disappointment in the same way as smoking cigarettes, drinking alcohol, or dating a person of whom they know their parents would object. After the initial reaction, from two-thirds to four-fifths of parents have been found to be ultimately supportive.(15) If given a chance, parents generally do what is best for their children. In a study partially funded by the National Institute on Aging of the U.S. Dept. of Health and Human Services, adolescents who informed their parents of their decision to have an abortion reported that their parents had a generally positive, supportive reaction. Few negative resoponses were reported.(16)

In Montana the statistics for abortions in 1992 totalled 2869 reported. Of these 729 were for teenagers, 19 yrs and under or 25.4%. Do you think at least 729 moms and dads each year should be denyed our best efforts to notify them? Last month in three days on the 17th-19th I was able, with ease, to gather over 480 signatures on 28 pages supporting HB 482 Parental Notification. The most repeated comment I heard was, "Of course I agree with parents being notified." I can not recall one single person who refused to sign when asked. A copy of these pages are presented to the committee today.

I strongly urge you, all 480 of us strongly urge you, to vote to pass HB 482 Parental Notification. Thank you.

Sincerely,

Charles J. Lorentzen

(1) James L. Rogers et al.,"Impact on the Minnesota Parental Notification Law on Abortion and Birth," AMERICAN JOURNAL

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OF PUBLIC HEALTH, vol.81, no.3 (Mar 1991): p. 297.

(2) Herrmann, "$1.225M awarded in girl's abortion death," NEW YORK DAILY NEWS, Tue., Dec 11,1990,p.13. See also, Carillo, "$1.2M won't bring her back," NEW YORK POST, Tue, Dec.11,1990,p1.

(3) W. Godfrey Cobliner, "Pregnancy in the Single Adolescent Girl: The Role of Cognitive Functions," JOURNAL OF YOUTH AND ADOLESCENCE, vol.3, no.1(1974): p. 25. Cobliner explains that operative thinking is the type of thinking that "transposes future situations into the present and transforms reality, so that the imagined future constantly mobilizes in us the needed resourses for actively dealing with contingencies that lie far ahead which we conjure up in our minds." It is this type of thinking that in general is associated with greater adaptation of the individual.

(4) C.C. Lewis, "How Adolescents Approach Decision: Changes Over Grades Seven to Twelve and Policy Implications," CHILD DEVELOPMENT, vol.52(1981): pp.538-544. After an analysis of adolescents' (grades 7 to 12) responses to hypothetical decision making dilemmas relating to cosmetic surgery, volunteering for medical experimentation, and other content, the researchers conclude that even when the point of comparison is 12th graders rather than adults, 7th and 8th graders and 10th graders are less likely to consider fully the potentially risky consequences of medical decisions. Future implications of the hypothetical decisions were mentioned by less than one-half(42%) of 12th graders, 25% of 10th graders, and by only 11% of 7th & 8th.

(5) Willard Cates, Jr., M.D., M.P.H., Kenneth F. Schulz, M.B.A., and David A. Grimes, M.D.,"The Risks Associated With Teenage Abortion," THE NEW ENGLAND JOURNAL OF MEDICINE," vol.309, no.11(Sept.15, 1983): pp.621-624. See also, Cates et al.,"The Effect of Delay and Method of Choice On the Risk of Abortion Morbidity,"FAMILY PLANNING PERSPECTIVES, vol 9,'77: p. 267.

(6) Burkman et al.,"Morbidity Risk Among Young Adolescents Undergoing Elective Abortion," CONTRACEPTION, vol 30 (1984): pp.99-105. This John Hopkins study also reports that cervical laceration has been shown to be about twice as common among women aged 17 years or less compared to older women.

(7) Cates, Schultz, and Grimes, "Risks Associated With Teenage Abortion," p.622. Note: The Centers for Disease Control report that in 1987, the latest year for which data is available, 96.8% of all abortions were performed using the curettage (suction and sharp) procedure. Center for Disease Control, "Abortion Surveillance, 1986-87,"(June 1990); p.54 at "Table 20. Number and percentage of reported legal abortions, by weeks gestation , proceedure, age group, and race, 1987."

(8) Matthew J. Bulfin, M.D.,"A New Problem in Adolescent Gynecology," Reprinted from the SOUTHERN MEDICAL JOURNAL, vol. 72, no.8 (Aug 1979): pp. 967-968, Copyright 1986. Dr. Bulfin observes that the teenager's parents "may be the last to know" about her abortion complication.

(9) Everett L. Worthington et al.,"The Benifits of Legislation Requiring Parental Involvement Prior to Adolescent Abortion," AMERICAN PSYCHOLOGIST (Dec 1989): p. 1543.

(10) Vincent M. Rue,"Abortion in Relationship Context,

INT'L. REV. of NAT. FAM. PLANN. (Summer 1985): p.97.

(11) Rue,"Abortion in Relationship Context," p.97.

(12) Thomas W. Strahan, "Repeat Abortion Harmful to Adolescents,"ASSOCIATION FOR INTERDISCIPLINARY RESEARCH NEWSLETTER, vol. 3, no. 3 (Fall 1990): p. 12. See generally, "Special Issue on Repeat Abortion," ASSOCIATION FOR INTERDISCIPLINARY RESEARCH NEWSLETTER, vol.2, no.3 (1989).

(13) Theodore Joyce, Ph.D.,"The Social and Economic Correlates of Pregnancy Resolution Among Adolescents in New York City by Race and Ethnicity: A Multivariant Analysis," AMERICAN JOURNAL OF PUBLIC HEALTH, vol. 78, no.6(June 1988): p. 629 at "Table 4-Adjusted Odds Ratios and 95% Confidence Intervals (CI) for Abortion from Logistic Regressions by Race and Ethnicity." This 1984 study of 31,207 pregnant teens reveals that thoes who had experienced one prior abortion were approximately four times more likely to have repeat abortions than those who had not had a previous abortion.

(14) Rena Brobrowsky,"Incidence of Repeat Abortion, Second Trimester Abortion, Contraception Use, and Illness Within a Teenage Population," (Thesis, USC, 1986),DISSERTATION ABSTRACTS INTERNATIONAL, vol. 49, no. 9 (Mar 1987): p. 3574A. A sample of 404 teenagers were followed through medical records over a five year period. These teens had an abortion at a leading haopital in Los Angeles.

(15) Frank G. Bolton, Jr., THE PREGNANT ADOLESCENT (Beverly Hills, Calif.: Sage Publications, 1980): pp. 114-115.

(16) Freddie Clay, M.A.,"Minor Women Obtaining Abortions: A Study of Parental Notification in a Metropolitan Area,"AMERICAN JOURNAL OF PUBLIC HEALTH, vol. 72, no.3 (March 1982): p. 284. Responses to the question,"What was your mother's/father's reaction to the news of your pregnancy and the decision to have an abortion?" were as follows: Neutral (i.e.,"She said it was my decision"), 13% mother, 5% father; Positive (i.e.,"He (she) was supportive"), 67% mother, 75% father; Negative (i.e.,"She was upset,""It hurt him'), 13% mother, 10% father; Other, 7% mother, 10% father.

MESSAGE to MONTANA LEGISLATORS

(Please Distribute)

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 13 Pg 1 of 2-7
DATE 3/16/95
BILL NO. HB 482

Honorable Senators — Baer, Brown, Harp and Mohl

Honorable Representatives — Boharski, Fisher, Herron, Keenan, ~~Slifer, S. Smith,~~ Somerville and Wagner

SB 292 "Woman's Right-To-Know Act" — Giving women considering abortion complete information on alternatives.

HB 442 Physicians Only — Clarifying that only physicians are allowed to perform abortions in Montana.

HB 482 Parental Notification — Requiring parents be told before a minor be given an abortion in Montana.

The undersigned strongly urge you to PASS the above bills as they come before you in the weeks ahead:

Name	Residential Address
CHARLES J. LORENTZEN	418 4TH ST. E. KALISPELL, MT 59901
Thomas Perry	1557 Church Drive, Kalispell Mt. 59901
Lois Haag	1120 Hwy 209 Bigfork MT 59901
JOHN R. WEAVER	489 Godelin Ridge Rd Kalispell, MT. 59901
Susanna Pallanca	1635 Lower Valley Rd. Kalispell
Louise	Kalispell
Bonnie	alispell
Darlene	l. Falls
Beverly	#11 Kalispell MT 5990
Brenda Wenlock	2323 Whitefish Stage Rd, Kalispell
Janet McCorkle	469 2nd Ave E.N. Kalispell
Courtenay Burt	320 Riverside Rd Kalispell, MT 59901
Kathleen Burt	" "
Mary Kruse	1125 Sunnyside Dr. Kalispell. 59901
Donald L. Kruse	1125 Sunnyside Dr Kalispell MT 59901
Fred Dripps	680-3rd Ave W. Kalispell
Joan A. Paluga	346 - 4th Ave E. "City - Kal. MT
Larry Walker	Box 171 Kila MT.
C.C. Mallory	310 Steel Bridge Rd - Kal 59901

TESTIMONY ON HB 482

Chairman Crippen and members of the committee, my name is Eliza Frazer and I am the Executive Director of the Montana affiliate of the National Abortion and Reproductive Rights Action League. Thank you for this opportunity to testify against HB 482.

Its hard to imagine a minor too immature to make the decision whether or not to have an abortion, but mature enough to raise a child." So states the American Psychological Association.

It sounds like a good idea to require a teen to talk to her parents if she is pregnant. Few would deny - in fact all of us on both sides of this debate agree that can minors benefit from adult guidance. Where we disagree is that absolutely all minors benefit from their parents guidance. Legislation is absolute, this says all teens must talk to their parent - or else. Substituting a judge, a total stranger, is not an adequate substitute for an adult that a minor trusts.

The entire premise of this bill is totally flawed. It implies a young woman who does not want her parent involved in a personal decision will change her mind because of this bill. I submit that a minor's decision will be more influenced by the family she know and lives with every day than any legislation that comes out of Helena.

Who are the minors who do not talk to their parents and why? I refer you to a comprehensive study of 1,500 minors nationally in states with not parental notification or consent laws. It found that disproportionately the older teens (age 16 and 17), white and employed, were the ones who did not involve a parent. Of those 14 and under, 90% said one parent knew, of the 17 year olds 51% knew. The most common reason teens cited for not telling their parents was that they did not want to disappoint them. However 30% said they feared harmful consequences. An interesting aspect of the study is that it kept track of those minors who told their parent(s) and those whose parents "found out." When the parents found out 6% of the minors suffered relatively harmful consequences - physical violence, being beaten, or forced to leave home. "These consequences were two to four times as common when the parents discovered the pregnancy as when they were told by their daughter." The study suggests that minors are good at assessing their family.

The other well documented consequence of parental laws is that abortions are delayed. In Missouri and Minnesota the number of teens having second trimester abortions has increased since parental consent and notice laws went into effect. Later abortions

are more risky than those performed during the 1st trimester. Abortions performed at 11 or 12 weeks are three time more dangerous than those performed at or before 8 weeks -- although abortion is much less risky than childbirth.

Judicial bypass is not a good substitute for a parent **or even a counselor.** It is **intimidating** and ultimately delays the minors' decision making process. That is why America's medical associations looked at the facts, and agreed that while parental involvement - or adult involvement is good, mandating parental notification by legislation is bad.

I am submitting a summary of the groups opposed to mandated notification. The American Academy of Family Physicians, the American Academy of Pediatrics, the American College of Obstetricians and Gynecologists, the Organization for Obstetric, Gynecological and Neonatal Nurses, the National Medical Association, the American Medical Women's Association, the American Nurses Association, the American Psychiatric Association, the American Psychological Association and the American Public Health Association.

Are you listening to the facts or emotion? I think if you are serious about helping teens and protecting women's health you will listen to the facts and not allow this legislation to pass.

Attachments:

Parental Involvement in Minor's Abortion Decisions S. K. Henshaw and K. Kost Family Planning Perspectives September/October 1992

Medical groups opposing legilated parental notification/consent

SENATE JUDICIARY
EXHIBIT NO. 15
DATE 3/16/95
BILL NO. HB 482

Vivian Brooke
Catholics for a Free Choice

TESTIMONY ON HB 482

Mr. Chair and Members of the Committee:

I'm Vivian Brooke and I'm here today as a member of Catholics For A Free Choice (CFFC). I rise in strong opposition to HB 482.

Catholics for a Free Choice was established in 1973 as an educational organization to support the right to legal reproductive health care, especially family planning and abortion. CFFC shapes and advances sexual and reproductive ethics that are based on justice, reflect a commitment to women's well-being, and respect and affirm the moral capacity of women and men to make sound and responsible decisions about their lives.

CFFC supports good sound decision making in the most important and intimate areas of a young woman's life, but believes that this decision making cannot be legislated nor can good communication between parent and daughter be forced.

On the surface "parental notification" is a noble and worthy goal. And polls presented to you would have you believe that your constituents want a law such as HB 482 proposes. The responses to those polls reflect a vision of the respondents' "ideal" society. In our ideal society we all would like every teenager to be able to talk openly to both of his or her parents. In our ideal society we would like to have loving, caring families with two parents who have no economic or other problems. In our ideal society we all would like to not have sexually active teenagers. In our ideal society we all would like many of these problems to just go away. But as legislators I encourage you to take a good hard look at the real society and consider what facts you have about the serious damage this bill would do.

As lawmakers we must realize that each individual, and that includes teenagers, comes to the difficult decision about terminating a pregnancy through a different route. I compare this serious decision-making as being similar to those individual routes through which we each find our own spirituality and relationship with a Higher Being. Because of this I think any legislation in this area violates one of our most cherished freedoms -- that of freedom of religion. These choices like those of choice of religious beliefs cannot and must not be legislated. I urge you to defeat HB 482.

The bishops won't tell you, but CFFC will:

There is
an authentic prochoice Catholic position.

Church law affirms both the right and the responsibility of a Catholic to follow his or her conscience on moral matters, even when it conflicts with church teaching.

Church teaching on sexual and reproductive issues is not infallible. Moreover, the church has no teaching on when the fetus becomes a person.

Abortion can be a moral choice. Women can be trusted to make decisions that support the well-being of their children, families, and society, and that enhance their own integrity and health.

A Catholic who believes abortion is immoral in all or most circumstances can still support its legality.

The Catholic social justice tradition calls us to stand with the poor and other disadvantaged groups. Poor women are entitled to non-discriminatory public funding for childbearing and for their reproductive health, including abortion and family planning.

Catholics have a responsibility to respect the views of other faith groups, which hold a number of different beliefs on the morality and legality of abortion.

True moral decisions can only be made in an atmosphere free of coercion.

Catholics worldwide are prochoice.

Only 13 percent of U.S. Catholics agree with the bishops that abortion should be illegal in all circumstances.
1992 Gallup Survey for Catholics Speak Out

Catholic women use contraception and abortion in the same numbers as the population as a whole.
Goldscheider and Mosher, Studies in Family Planning, Vol. 22, No.2 and Abortion and Women's Health, Alan Guttmacher Institute, 1990

In the Republic of Ireland, which is 95 percent Catholic, almost three quarters of the population favor easing Ireland's restrictive abortion laws.
1992 Irish Independent

Among Poles, 90 percent of whom are Catholic, 59 percent favor legal abortion.
1991 survey cited by Associated Press in 5/15/91

Nearly four-fifths of U.S. Catholics believe that it is permissible for Catholics to make up their own minds on moral teachings such as birth control and abortion.
1992 Time/CNN

Catholics disapprove of the bishops' tactics in abortion politics.

Nearly three out of four Catholics think the bishops should not use the political arena to advance their moral opinions, despite the bishops' right to participate in the public debate in the United States.
1990 KRC Inc.

Seventy-three percent of Catholics disapprove of the bishops' taking action against public officials for being prochoice.
1990 KRC Inc. poll for CFFC

Within the church, the rift between the hierarchy and the people widens. But in the courts, the Congress, and state legislatures, the bishops are the best organized, most sophisticated and best funded force against basic reproductive health care, including contraception and abortion.

CFFC is here to counter this force.
From the church pew to the Vatican, from the state house to the White House, we monitor and expose the bishops' political agenda.

We are in parishes.
From California to Vermont, prochoice Catholics speak up for reproductive rights. CFFC's network of prochoice Catholic leaders in 35 states monitors the bishops, participates in prochoice coalitions, lobbies state legislatures, and speaks out in the media and in community forums.

We are in clinics.
The abortion decision is serious and difficult. CFFC helps women make sound decisions through respected publications addressing Catholic doctrine and the moral and ethical issues involved in the abortion decision.

We are on college campuses.
On both Catholic and secular campuses, CFFC provides speakers, resources, and technical support to prochoice student groups. We monitor and respond to attempts of the Catholic hierarchy to suppress prochoice activity by Catholic school employees and students.

We are overseas.
CFFC's strong global network of prochoice Catholics includes a staffed office in Latin America and projects in Mexico, Poland, and Ireland.

We are in the media.
From "20/20" to National Public Radio, in op-ed columns, letters to the editor, and news conferences, CFFC provides a prochoice Catholic perspective to media coverage of reproductive issues.

We are in libraries.
Our quarterly newsjournal, *Conscience*, is only one of an extensive collection of CFFC publications that provides diverse constituencies with information and analyses from a prochoice Catholic point of view.

We are in congressional and legislative offices.
CFFC provides lawmakers with information necessary to make sensible public policy decisions and to articulate ethically sound prochoice positions. CFFC works for laws that favor all aspects of reproductive choice and policies that support women, families, and children. We publish a congressional voting record establishing that assailants of reproductive rights are the same members of Congress who oppose legislation that would make abortion less necessary.

We are in coalition.
From Catholic to feminist groups and from Hispanic to prochoice organizations, CFFC works together with special constituencies to secure real choices for women.

We are where the hard decisions are made.
With social justice principles our constant guide, CFFC develops new strategies to carry the prochoice perspective to a broader constituency. We actively seek new and peaceful solutions to the contentious conflict over abortion in our society.

Planned Parenthood of Missoula

SENATE JUDICIARY
EXHIBIT NO. 16
DATE 3/16/95
BILL NO. HB 482

Thank you Chairman Crippen and Members of the Senate Judiciary Committee. My name is Deborah Frandsen, I am Executive Director of Planned Parenthood of Missoula and I am speaking 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

219 E. Main • Missoula, Montana 59802 • 406-728-5490

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.

Planned Parenthood
of Missoula

Thank you Chairman Crippen and Members of the Senate Judiciary Committee. My name is Deborah Frandsen, I am Executive Director of Planned Parenthood of Missoula and I am speaking 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.

I have already handed in my general testimony as to why we at Planned Parenthood feel that HB482 is dangerous to girls. Now I would like to explain why it is dangerous to doctors.

Section 8 of this bill, the reporting section, requires that the physician report the number of notifications and exemptions each month and this information will be available to the public. We at Planned Parenthood are extremely concerned that if this information should list the doctor, either by name, location or even by county, it would expose the physician and his or her staff to increased violence.

You are all well aware that violence against abortion providers is on the increase. We know of five murders and several attempted murders in the past two years. Three clinics in Montana have been fire bombed by arsonists and numerous death threats against abortion providers have been received. If you publicly single out abortion providers in any way, you are increasing their exposure and vulnerability. I encourage you to amend this to provide absolute anonymity for abortion providers. Anything less would be tantamount to painting a target on them.

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HB 482

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 17
DATE 3/16/95
BILL NO. HB 482

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

March 16, 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 parental consent never seems to be required for a teenager to have 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

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HB 482

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 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.

InterMountain
Planned Parenthood®

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Written Testimony
Senate Judiciary Committee
March 16, 1995

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 teenagers.

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 teens who did not tell their parents, 4 had involved another adult, such as an aunt or school counselor. The reasons why the 8 did not choose to tell their parents were varied, including parental alcohol problems, parents divorce, parents emotional instability from mental illness, and parents poor physical health.

Young women are capable of making their own health care decisions. In counseling sessions we help teens sort out their fears, perhaps separating the realistic from the unrealistic. We role play how they could tell a parent and give them help in dealing with repercussions. Studies 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.

This bill would 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 young woman's decision making process.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 19
DATE 3/16/95
BILL NO. HB 482

DHES Amendments to HB 315

by: John Geach

Page 1, lines 16 and 17.

Following: "omissions"

Strike: "relating to the investigation, monitoring, cleanup, mitigation, abatement, or removal of a hazardous or deleterious substance in response to a release"

Insert: "directly related to the hazardous material incident"

MONTANA STATE SENATE

SENATOR STEVE DOHERTY
MINORITY WHIP
SENATE DISTRICT 24
HOME ADDRESS:
1531 3RD AVE. SW
GREAT FALLS, MONTANA 59404

COMMITTEES:
JUDICIARY
EDUCATION
RULES
BILLS AND JOURNALS

CAPITOL BUILDING
HELENA, MONTANA 59620-0500
PHONE (406) 444-4800
HOME PHONE (406) 453-7484

EXHIBIT NO. 20
DATE 3/16/95
BILL NO. HB 482

Statement of Senator Steve Doherty on HB482

I have carefully studied this bill. At first glance it appears to deal with a simple issue - kids and parents ought to talk with one another. They especially ought to talk when there are serious crises and important far reaching decisions to be made. Who can argue or find fault with that?

This bill, however, goes to the heart of constitutionally protected and recognized rights. On its face it injects government into the middle of the physician patient relationship - and it does so for no compelling reason.

On its face, it creates a distinct class of Montana citizens who will have their fundamental rights diminished for no compelling reason. The distinct class who will have their rights modified are minors. The compelling reason for doing so is, at its core, private, a family reason - to promote communication within the family.

As applied to Montana, with its distances and multi-county judicial distances the practical effects of this bill will be serious burdens on exercising constitutional rights. Judges in all our counties are not available on a few minutes or hours notice. In these cases, time is critical. Add up a mandatory two day wait and sometimes infrequent schedules of the circuit rider judges, and we have created almost insurmountable obstacles to exercising fundamental rights.

This bill, while laudable on its face, pushes government too far into constitutionally protected (federal and state) grounds.

Steve Doherty

DATE 3/16/95

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: HB 315 HB 443
HB 336 HB 482

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
Linda Lindsey		482	✓	
MARSHA GRAHAM	FLATHEAD PROLIFE	482	✓	
JONAH ben NOAH		482	✓	
ADAM GRAHAM	FLATHEAD TEEN FOR LIFE	482	✓	
DAVID TSCHIDA	SELF	482	✓	
Darrel Adams	self	482	✓	
Keith W. McCurdy	Self	443	✓	
Cindy Delay	Self	482	✓	
Richard TAppa	Montana Right To Life	482	✓	
Tim Whalen	Montana Right to Life	482	✓	
Arlette Randash	Eagle Forum	482	✓	
SCOTT				
DENISE COFER	FLATHEAD CHAPTER OF CHRISTIAN COALITION	482	✓	
Charles J. Sorenzer	SELF	482	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

DATE _____

SENATE COMMITTEE ON _____

BILLS BEING HEARD TODAY: _____

_____

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Andy Klein	self	482	X	
Laura Kostuk	Christian Coalition of MT	482	✓	
JAMES A. LOFFTOS	MT FIRE DIST ASSOC	HB315	✓	
Barbara Le Pue	Self	HB482	✓	
Jim Lippert	Farmers Ins. Group	HB443		
Greg Van Horssen	State Farm Ins	HB 443		✓
Jacqueline Denmark	Am. Ins. Assn	HB443		✓
Deborah Frandsen	Planned Parenthood	HB482		✓
Devon Hartman	Intermountain Planned Parenthood	HB482		✓
Meg Frazer	MT NARAL	HB482		✓
SHARON HOFF	MT CATH CONF	HB482	✓	
FRANK COTE	ST. ANDREWS	HB443	✓	
VIVIAN BROOKS	CATHOLICS FOR A FREE CHOICE	HB482		✓
Sondra Hale	SELF	HB 482		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

DATE _____

SENATE COMMITTEE ON _____

BILLS BEING HEARD TODAY: _____

_____

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
[illegible]	Self	482	X	
Kim David	Self	482	X	
Heidi Hood	self	482		X
[illegible]	[illegible]	482	X	
harmony fi	Self	482		X
Kate Cholewa	MT Womens Lobby	482		X
Hailee Larson	self	482		X

VISITOR REGISTER

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REGISTER.F10

DATE 3-16-95

SENATE COMMITTEE ON _____

BILLS BEING HEARD TODAY: H.B. 336

_____

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Gregory P Mohr	Montana Magistrates Assn	336		X
Dean Crow	Valley Bonds	336	X	
Scott Restivo	Valley Bonds	336	X	
Kelly Reisbeck	Big Sky Bail Bonds	336	X	
EARL ROADE	THE BONDSMAN, MISSOULA	336	X	
[illegible]	Anderson Bonding	336	X	
Marie Gordon	Gordon Bonding	336	X	
Roger Wootton	Powell Bail Bonds	336	X	
Stephanie Quinn	SAIF	482	X	

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