

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE, & SAFETY

Call to Order: By CHAIRMAN STEVE BENEDICT, on February 12, 1997,
at 3:16 PM, in Room 410.

ROLL CALL

Members Present:

Sen. Steve Benedict, Chairman (R)
Sen. James H. "Jim" Burnett, Vice Chairman (R)
Sen. Larry L. Baer (R)
Sen. Chris Christiaens (D)
Sen. Bob DePratu (R)
Sen. Dorothy Eck (D)
Sen. Eve Franklin (D)
Sen. Fred Thomas (R)

Members Excused: None

Members Absent: Sen. Sharon Estrada (R)

Staff Present: Susan Fox, Legislative Services Division
Karolyn Simpson, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 305, SB 288, 2/7/97
SB 297, SB 298, 2/7/97
Executive Action: HB 107, 108, 184, 53
SB 297, 288, 305

HEARING ON SB 305

Sponsor: SENATOR MACK COLE, SD 4, Hysham

Proponents: Hank Hudson, Admin. Child/Family Serv Div. DPHHS
Arlette Randash, Eagle Forum

Opponents: Kate Cholewa, MT Womens Lobby
Barbara Booher, MT Nurses Assn.

Opening Statement by Sponsor:

SENATOR MACK COLE, SD 4, Hysham, said SB 305 has amendments.
(EXHIBIT 1) This bill will help pregnant women who have a drug
or alcohol problem. There are some excellent programs in the

MIAMI program already in operation. This bill will facilitate gathering data about the problem, but will not infringe on privacy. He referred to item #4 of SB 305, information public relations program, to get the information out so pregnant woman can become more aware of the problems that are caused by alcohol and drug use during pregnancy.

Proponents' Testimony:

Hank Hudson, Administrator, Child and Family Services Division, Department of Health, said alcohol use, which can cause fetal alcohol syndrome (FAS) and fetal alcohol affect (FAA), and drug use are a serious problem to the unborn. These children grow up with problems and are over represented in the foster care, mental health, and corrections system. There is a need to discourage the use of drugs and alcohol during pregnancy. The second part of the bill targets those who sell alcohol to be educated about the hazards of alcohol use during pregnancy, and offer them some alternatives to serving their customers when this problem presents itself.

Arlette Randash, Eagle Forum, said they support SB 305.

Opponents' Testimony:

Kate Cholewa, Montana Women's Lobby, said possibly the amendments to SB 305 might take care of some of their concerns about the bill. They object to the bill, as written, because of the possibility of violation of privacy.

SENATOR MACK COLE explained the amendments to SB 305 and said to insure privacy, the reporting would not include names of individuals.

Barbara Booher, Montana Nurses Association, submitted her position statement about SB 305. (EXHIBIT 2)

Questions From Committee Members and Responses:

SENATOR CHRIS CHRISTIAENS asked about how this bill would enhance the MIAMI program.

Dee Harrington, Program Officer for MIAMI program, Department of Health, said they work with pregnant women, who are considered high risk, assessing their health and the use of alcohol and drugs. They work with the women during the pregnancy to get them into treatment, provide education about alcohol and drug use during pregnancy and collect information about drug and alcohol use.

SENATOR CHRISTIAENS asked if the MIAMI program is throughout the whole State of Montana.

Dee Harrington said it is in 30 counties and one reservation.

SENATOR CHRISTIAENS asked how they plan to collect information from those other areas.

Dee Harrington said public health nurses in some of those communities who may be able to help. The Addictive and Mental Disorders Division may also have some useful information.

SENATOR DOROTHY ECK asked which one of these 53-24-207 or 41 is in the MIAMI program.

Hank Hudson said none of those are MIAMI. Number 41 is child abuse reporting and 53 is the drug and alcohol program.

SENATOR ECK said she concerned that the MIAMI program does not cover the whole state. Because morbidity rates are lower in areas where there is MIAMI and children are healthier, she thinks there is an equal protection problem, and asked if anything is going to be done.

Hank Hudson said the Department of Health supports increasing the MIAMI program services.

SENATOR ECK said the Department of Health has a program to deal with fetal alcohol and asked if that was going to be a part of this.

Hank Hudson said they do.

Closing by Sponsor:

SENATOR MACK COLE said the amendments will straighten out some of the things in the bill.

EXECUTIVE ACTION ON SB 305

Motion: SENATOR DOROTHY ECK moved SB 305 DO PASS.

Motion/Vote: SENATOR ECK moved the amendments to SB 305 DO PASS. The motion PASSED UNANIMOUSLY.

Motion: SENATOR ECK moved SB 305 AS AMENDED DO PASS.

Discussion:

SENATOR EVE FRANKLIN said she opposes the bill because she doesn't know how it will affect various programs, such as the March of Dimes, MIAMI program, etc.

SENATOR ECK said she supports SB 305 because of the information given. A public information program can be done.

SENATOR CHRIS CHRISTIAENS said he is concerned there isn't any money to fund this program, MIAMI is going to be doing it for only 31 counties, and asked how it can be done in the rest of the state. This is a good idea and he will support the bill.

Vote: The DO PASS motion for SB 305 AS AMENDED PASSED with SENATORS FRANKLIN and DePRATU voting NO.

HEARING ON SB 297

Sponsor: SENATOR VIVIAN BROOKE, SD 33, Missoula

Proponents: Linda Newman, Greater MT SIDS
Phyllis Tappe, self
Sherry Hale, self
Robin Ammons, Awakening MT
Betty Waddell, MT Assn. Churches
Barbara Benson, self
Steve Yeakel, Department of Health
Rick Johns, Greater Montana SIDS Alliance
Elizabeth Espelin, Healthy Mothers, Healthy Babies
Arlette Randash, Eagle Forum
Barbara Booher, MT Nurses Assn

Opponents: Mickey Nelson, L & C County Coroner

Opening Statement by Sponsor:

SENATOR VIVIAN BROOKE, SD 33, Missoula, said SB 297 defines Sudden Infant Death Syndrome and gives the guidelines for autopsies.

Proponents' Testimony:

Linda Newman, President, Greater Montana SIDS, said they support SB 297 because it is important to have a definition of SIDS. She related the story of the death of her baby due to SIDS. The importance of having a SIDS definition to help determine the cause of death and help parents grasp the reality of the loss of their child. SIDS is unpredictable and unpreventable. The most common age range is two weeks to seven months, but there is no rigid cut off to the diagnosis at nine months. It is easier for parents to resolve and accept the grief better with a realistic SIDS diagnosis as opposed to undetermined or undefined. (EXHIBITS 3-8)

Phyllis Tappe, self, told the story of the death of her 7-day old baby and 7-month old baby due to SIDS. (EXHIBIT 9)

Sherry Hale, Awakening Montana and Greater Montana SIDS, related the story of the death of her three and one-half month old son from SIDS six years ago. She didn't know much about SIDS, thought it was very rare and had difficulty getting information about SIDS. The death certificate listed cause of death of her child was hypoxia, but that is not what she had been told by the doctor. There needs to be a uniform SIDS diagnosis. The Montana SIDS rate is twice the national average. She has heard many horror stories about the investigation of the cause of death by the police. SIDS parents, across the nation, support laws to investigate all infant deaths and want a standardized procedure for doing so. A SIDS educational program for new parents can cut the death rate by one-half. Hospitals do give some advise on the care of newborns, but they don't give enough information and many do not have informational brochures for parents. (EXHIBITS 10 &

11) The first step in saving Montana babies would be to have a SIDS diagnosis, but this is difficult because it is done by exclusion after all other causes of death have been ruled out.

Robin Ammons, Registered Nurse, Missoula, member of Awakening Montana, said she supports SB 297. Having a uniform definition of SIDS is important to accurately assess the size of the problem that SIDS represents, to collect data, reassure parents when all other causes of death have been ruled out, research possible risk factors possible causes of SIDS deaths, and compare Montana's rate with other states and the national average. A definition of the problem is needed to solve it and the public needs education about prevention. Montana's definition, with a cutoff of 8 months, is different from that used nationally, with a cutoff of 12 months. Currently Montana's SIDS rate is twice the national average and is likely to be higher if the definition is consistent with the national. She read from "Pediatric Pathology," page 681. (EXHIBIT 12) This shows the purpose of the undetermined category and the recommended age range is up to 12 months. A definition is part of prevention and without a uniform definition, the risk factors cannot be researched, rate factors cannot be assessed, or compare Montana's rate with other states or the national. There is a need to identify those infants at risk and educate the parents in prevention.

Betty Waddell, Montana Association of Churches, said they support SB 297. Infant mortality rates are a reflection of how we, as a society, treat our weakest citizens. Montana death rates for infants has dropped from 11.3 deaths per 1,000 births in 1989 to 7.4 deaths per 1,000 births in 1994. SB 297 will help determine the cause of SIDS. They are supportive of families and strengthening families. The kind of suffering that SIDS families go through may be alleviated by this bill. SIDS parents suffer from depression, anxiety and fears and siblings also wonder whether they have caused the death or if they are going to die.

{Tape: 1; Side: B; Approx. Time Count: 4:05 PM}

Barbara Benson, self, said she had a son who died of SIDS. Because her son had none of identified risk factors for SIDS, there was no identifiable cause of death. A uniform risk factor guidelines should be the same everywhere.

Steve Yeakel, Executive Director, Child and Maternal Health, Department of Health and Human Services, said they support SB 297. He read a letter from Dr. Harper. (EXHIBIT 13)

Rick Johns, Greater Montana SIDS Alliance, said he is a SIDS father. There needs to be a common definition of SIDS allowing for research and help relieve the suffering of parents.

Elizabeth Espelin, Executive Director, Healthy Mothers, Healthy Babies, Montana Coalition, said a definition of SIDS is the key to prevention.

Arlette Randash, Eagle Forum, said they support SB 297.

Barbara Booher, Executive Director, Montana Nurses Association, said they support SB 297. There needs to be a uniform definition of SIDS. This bill doesn't make an autopsy mandatory but relies on existing Montana State statutes concerning infant death and they don't anticipate any cost increase to the state due to the change in definition nor any increase in the number of autopsies needed. They are hopeful that through education and awareness, the infant mortality rate will come down, as has been demonstrated in other parts of the U.S.

Opponents' Testimony:

Mickey Nelson, Lewis & Clark County Coroner, said he opposes SB 297 because this definition of SIDS is currently being used and has been used for his last 23 years in office. He asked if shaken baby syndrome and every condition is going to be defined by state law, that must be placed on the death certificate. To date, no one has asked from him any of the data being discussed. There is no data collection in Montana and sees nothing in the bill that requires this. Some people may not do as many things in regard to complete autopsies, scene investigation, and clinical histories. He has been doing X-rays on all children and has discovered three abused children that normally would be classified as SIDS deaths. He has problems with section 2, chapter 21, which may be a technical thing but doesn't believe that is the proper section. Putting this in the title 50, makes it a health issue that the coroner is primarily responsible, because a natural death, unattended, is not really a police problem but many times the police will be involved. He has advocated the use of Sudden Infant Death as the term, but there are cases that are appropriately recorded as undetermined. He doesn't think that many deaths are not being recorded properly under the Sudden Infant Death sections. But if we try to define every condition, and lock in those people who are responsible, such as himself, this committee will be very busy in coming years because there will always be some group that has a new defined definition. If, by some miracle, a blood test were discovered that could identify Sudden Infant Death, we would be locked in with this legislation for two years before it could be repealed. He is not in total opposition to this legislation, but thinks there are issues that the committee should consider before passing SB 297.

Questions From Committee Members and Responses:

SENATOR LARRY BAER asked **Susan Fox** to clarify that we are talking about chapter 21, part 1, on line title, and what title are we in.

Susan Fox said because of the codification instructions, it is in title 50, which is the Health title. Chapter 1, part 1, is general provisions on cadavers and autopsies.

SENATOR BAER asked what 50-21, part 1, tells us relating to an autopsy.

Susan Fox said there are some provisions for cadavers, limitations on rights to perform autopsies, and unauthorized post-mortem examination. Title 50, chapter 15, is the chapter on vital statistics.

SENATOR BAER said **Barbara Booher** stated this would not be a mandated autopsy in regards to line 20, and that he is concerned about the victims of this tragic phenomenon, who are already bereaved, would be directed to have their infant autopsied.

Barbara Booher said she can't give assurance this wouldn't happen and doesn't think this bill mandates autopsies, but relies on current state statutes leaving it to the discretion of the coroner.

SENATOR FRED THOMAS asked **Sherry Hale** to respond to **SENATOR BAER'S** statement about autopsies.

Sherry Hale said, it's her understanding, the coroner would make the decision because she didn't think you could truly have a SIDS death certificate. Almost all infant deaths are autopsied in Montana and most parents will agree to an autopsy because they want answers.

SENATOR THOMAS asked if it is something parents want or is it something that will be done without parental consent.

Sherry Hale said some people may object to an autopsy for religious or other reasons, but probably there would not be that many.

SENATOR CHRISTIAENS asked if there was anyone present from Vital Statistics because we must be doing something if it is known the death rate from SIDS in Montana is twice the national average. He asked what is being done to compile this information, how many death certificates show unknown or undetermined versus SIDS.

Gary Delum, State Medical Examiner, said the rates have fluctuated over the past few years. Records from the last two years shows is 30% to 50% above the national rate. Information from 1996, which is not yet complete, will probably be close to the national average. In the last four years, there have been two cases in the 9-to 12-month range certified as undetermined and four cases certified as Sudden Infant Death Syndrome. More than 90% of SIDS occur before six months and after six months is very unusual. SIDS is the opinion of the certifier, the person who actually completes the death certificate.

Closing by Sponsor:

SENATOR VIVIAN BROOKE thanked all of the people who came to support SB 297 and didn't think the arguments by the opponent are that convincing of putting everything into code. It is an vague area without the proper research and the proper determinations of the risk factors. There is a valid reason to

put SIDS in code to have guidelines. Autopsies are not mandated but are optional. She said the vital statistics should be moved from the Department of Justice, that deal with criminal activity, to the Department of Health, and that may be the reason for the confusion.

HEARING ON SB 288

Sponsor: SENATOR FRED VAN VALKENBURG, SD 32, Missoula

Proponents: Patricia Sharp, Professional Advocacy Program

Opponents: None

Opening Statement by Sponsor:

SENATOR FRED VAN VALKENBURG, SD 32, Missoula, said the 1989 Legislature passed a bill allowing the creation of self-sufficiency trusts so parents, and others, concerned about the long-term care of a disabled child would have a means to provide for that long-term support to supplement the available government services to the disabled without jeopardizing the receipt of those services, such as Medicaid. SENATOR MIGNON WATERMAN'S bill in the 1995 Session required anyone receiving any kind of assistance to have their financial resources subject to liens, by the Department of Health and Human Services, in order to assure the State and Federal government that resources were not being hidden. But now there is almost a conflict between these two provisions adopted by the Legislature. It is self defeating to set up these self sufficiency trusts, so parents can provide for the long-term care of their disabled children, if that money in the self-sufficiency trusts might be subject to the liens the Department could impose. SB 288 exempts the self-sufficiency trusts from that. The overall public policy would be those parents providing for their disabled children's well-being is more important than government recovery of funds that probably wouldn't go into those self-sufficiency trusts. His amendments to SB 288 would make sure, if the Department was required to place liens on the self-sufficiency trusts pursuant to Medicaid laws or regulations, the Department could do that, but otherwise it would not be appropriate to impose liens.

Proponents' Testimony:

Patricia Sharp, Professional Advocate from the Professional Advocacy Program, read testimony from Andree Larose, staff attorney for the program. (EXHIBIT 14).

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR DOROTHY ECK asked about liens.

Russ Cater, Department of Health and Human Services, said they placed subsections A and B in the bill, and right now they don't think there is a problem that liens will be placed on self-

sufficiency trusts. But, in case there is a change in federal law that requires the State to do so and may have to, at a later date, to avoid jeopardizing federal funding, so subsection A will protect that. Subsection B, possibly the Department would have a right to place a lien on some settlement proceeds, even before it got into the trust, and wanted to make sure that the Department could have that lien continue from the time of the settlement until it went into the trust.

SENATOR CHRISTIAENS asked if charitable trusts are exempted.

Russ Cater said they were reluctant to go beyond self-sufficiency trusts because there is a mechanism in state law describing how to set up self-sufficiency trusts, that it must be for disabled persons. Charitable trusts go beyond providing for the disabled, which becomes questionable.

Closing by Sponsor:

SENATOR FRED VAN VALKENBURG said it is not the Montana's overall interest to seek liens to prevent parents from setting up a self-sufficiency trust especially for their adult disabled children. The department may not have an interest in seeking these means at this time, the Department has contracted out to some entity the recovery of these funds. There is a question as to whether the contracting agency shares the Department's views.

HEARING ON SB 298

Sponsor: **SENATOR CHUCK SWYSGOOD, SD 17, Dillon**

Proponents: **Laurie Ekanger, Department of Health**

Opponents: **Randy Hayes, Governor's Child Care Council**
Keith Colbo, DD System Advocate Committee
John McFadden, State Family Services Advisory Council
Kate Cholewa, MT Women's Lobby

Opening Statement by Sponsor:

SENATOR CHUCK SWYSGOOD, SD 17, Dillon, said SB 298 would revise the advisory councils attached to the Department of Public Health and Human Services. Last Session the Department of Health was reorganized, and through the process of consolidation, there are too many advisory councils attached to the various agencies. There are now more than 50 advisory councils. This bill will make the advisory councils more efficient. Advisory councils are made up of volunteers to provide information and guidance to the Department. The councils cost the Department about \$550,000.00 per year in staff time, travel and operational expenses. The Child and Family Service Division has 16 advisory councils, which is the largest number of any division. Several of these, such as the Board of Assistance, are mandated by statute. It is recommended that four councils be maintained, in addition to the new DPPHS advisory council and the Native American advisory council, which were established during the reorganization. Just

because some of the councils will be eliminated doesn't mean the functions will go away. This will allow the Department some flexibility in managing staff time and still have the public participation, as required in some areas.

Proponents' Testimony:

Laurie Ekanger, Director, Department of Public Health and Human Services, said this bill streamlines and consolidates the advisory councils and is a continuation of the reorganization of the Department of Health when four departments were combined into one. The goal of SB 298 is to change the statutory requirements to reduce the number of councils from 24 to 8, giving the Department more flexibility to look at the best structure for citizen involvement.

{Tape: 2; Side: A; Approx. Time Count: 4:57 PM}

She went through the bill and explained the amendments. (EXHIBIT 15) The Department needs more, not less, public input and citizen involvement and most of the councils will continue. She submitted the list of councils with statutory requirement. (EXHIBIT 16)

Opponents' Testimony:

Randy Hayes, member of Governor's Child Care Council, said they want to maintain the continuity of having some of these in statute and agree there needs to be some consolidation of the councils. He submitted comments from the Montana Association of Education of Young Children. (EXHIBIT 17)

Keith Colbo, representing Development Disabilities System Advocate Committee, said they support the concept of the bill but doesn't want the Developmental Disabilities (DD) Regional Council eliminated. It has been in place for several years and they think it is valuable to the Department.

Joan-Nell McFadden, State Family Services Advisory Council, submitted an amendment. (EXHIBIT 18) She thinks there is little duplication of this council and it should be continued. (EXHIBIT 19)

Kate Cholewa, Montana Women's Lobby, said many of their constituents serve on these councils and are concerned about diminishing public input. The current administration is open to input but are fearful that future ones would not be.

Questions From Committee Members and Responses:

SENATOR CHRIS CHRISTIAENS said there were about 50 councils after consolidation and asked how many advisory councils would there be without this bill.

Laurie Ekanger said there are about three fewer in Health Policy Services, three or four have been consolidated in the Addictive and Mental Disorders Division, the Native American Council and

Child and Family Services Council will be elevated to Department-wide perspective.

SENATOR CHRISTIAENS said he is concerned with consolidation, because they become so large that people's voices get lost. He asked **Laurie Ekanger** how this can be avoided.

Laurie Ekanger said they didn't plan to spring this on people, and their plan is to work with the councils that are there, work with every group and consolidate as necessary.

SENATOR DOROTHY ECK said she looked at the number of committees and is concerned about the amount of time department directors and those running programs spend going to meetings. She asked if anything is going to be done with mental health center committees.

Laurie Ekanger said the advisory council for emotionally disturbed children is being eliminated, then deferred the question to **Gary Curtis**.

Gary Curtis, Department of Health, said that council is on the list to be statutorily be repealed, so its duties have already been combined with another mental health advisory council.

SENATOR ECK asked if the DD wanted to be a part of collaborative efforts.

Keith Colbo said he can't answer that.

Gary Curtis said they do participate through the ICC, in that the Department is represented on the Interagency Coordinating council, but the DD community has been the least interested in decentralization efforts.

Closing by Sponsor:

SENATOR CHUCK SWYSGOOD said SB 288 takes some of the restrictions associated with advisory councils out of the statutes and allows the Department of Health the flexibility to get services out to communities. The number of councils and the amount of time the agency spends could be better used to provide services.

Note: the committee recessed from 5:24 to 5:31 PM

EXECUTIVE ACTION ON HB 108

Motion/Vote: **SENATOR FRED THOMAS** moved HB 108 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

SENATOR CHUCK SWYSGOOD will carry HB 108.

EXECUTIVE ACTION ON HB 184

Motion: SENATOR FRED THOMAS moved HB 184 BE CONCURRED IN.

Motion: SENATOR THOMAS moved the AMENDMENTS to HB 184 DO PASS.

Discussion: Susan Fox explained the amendments.

SENATOR DOROTHY ECK referred to the last sentence of amendment 4, saying it doesn't make any sense.

Susan Fox said some words were left out, then read the sentence as it is supposed to read.

Vote: The DO PASS motion for the AMENDMENTS to HB 184 PASSED UNANIMOUSLY.

Discussion:

SENATOR THOMAS referred to page 1, line 30, liability for damage done. He said that seems to exclude damage done to personal property and asked Susan Fox to clarify.

Susan Fox said she can see how it could be interpreted that personal property is not included.

Motion/Vote: SENATOR THOMAS moved a conceptual amendment striking "premise or facility" and inserting "property." The motion CARRIED UNANIMOUSLY.

Motion/Vote: SENATOR THOMAS moved HB 184 BE CONCURRED IN AS AMENDED. The motion CARRIED UNANIMOUSLY.

SENATOR CHRIS CHRISTIAENS will carry HB 184.

EXECUTIVE ACTION ON SB 228

Discussion: SENATOR THOMAS said he thought, in reality, this bill was not designed to pass but was to initiate discussion for that hearing, and it should be tabled.

Motion: SENATOR THOMAS moved SB 288 DO PASS.

Motion: SENATOR THOMAS moved to TABLE SB 228. The motion CARRIED UNANIMOUSLY.

CHAIRMAN BENEDICT said he wished SENATOR CHRISTIAENS was present because he wanted the committee to act on SB 162.

EXECUTIVE ACTION ON SB 162

Motion: SENATOR DOROTHY ECK moved SB 162 DO PASS.

Discussion: SENATOR THOMAS asked if this bill mandated a toll-free telephone number.

CHAIRMAN BENEDICT said it did.

Motion/Vote: SENATOR BOB DePRATU moved to TABLE SB 162. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 107

Motion/Vote: SENATOR THOMAS moved HB 107 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

SENATOR WALTER McNUTT will carry HB 107.

EXECUTIVE ACTION ON SB 156

Motion: SENATOR THOMAS moved SB 156 DO PASS.

Discussion: CHAIRMAN BENEDICT said this is the gag clause bill.

SENATOR ECK asked if this is a KK bill.

CHAIRMAN BENEDICT said parts of it are in SB 128. This particular bill goes farther than SB 128 and the managed care bill (SB 365) he has downstairs.

SENATOR THOMAS asked if this is contained in two other bills.

CHAIRMAN BENEDICT said yes.

Motion/Vote: SENATOR THOMAS moved to TABLE SB 156. The motion CARRIED UNANIMOUSLY.

Discussion: CHAIRMAN BENEDICT said the reason for not doing executive action on SB 128 is, with SENATOR HARGROVE's concurrence, to wait until the other managed care bills are heard so they can be considered together.

EXECUTIVE ACTION ON HB 53

Motion: SENATOR ECK moved HB 53 BE CONCURRED IN.

Discussion: Susan Fox said there were two sets of amendments submitted during testimony.

CHAIRMAN BENEDICT said one set is from the Library Association (EXHIBIT 20) and the other from the Department of Health. (EXHIBIT 21) They are clarifying amendments.

Motion: SENATOR THOMAS moved the AMENDMENTS to HB 53 DO PASS.

Discussion: CHAIRMAN BENEDICT asked Susan Fox if both amendments were combined into one. Susan Fox replied that she had.

Vote: The DO PASS motion for the AMENDMENTS to HB 53 CARRIED UNANIMOUSLY.

Motion/Vote: SENATOR ECK moved HB 53 BE CONCURRED IN AS AMENDED. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 297

Motion: SENATOR THOMAS moved SB 297 DO PASS.

Discussion: SENATOR BAER said he has an amendment.

CHAIRMAN BENEDICT said there are some amendments that are being talked about.

SENATOR BAER asked if they are small amendments.

CHAIRMAN BENEDICT said he has some concerns also. He proposed a conceptual amendment.

Motion: SENATOR BAER moved the amendments to SB 297 DO PASS.

Susan Fox explained the amendment. Page 1, line 20, following "may" insert "with parental consent."

SENATOR ECK said she has a question because Mickey Nelson said three autopsies he had done in Helena showed signs of abuse. She asked if that means they may not do an autopsy without parental consent.

SENATOR BAER said under another code, the coroner is given the discretion to order an autopsy if they feel there has been foul play of any kind, so this amendment would not affect that.

SENATOR DePRATU said he had understood the coroner to say he had picked up those three abuse cases with the use of X-rays, not with autopsies too.

SENATOR THOMAS said in discussions outside the committee room, some Native Americans do not go along with autopsies for their personal reasons, as well as having this in there so autopsies are not forced on anyone.

SENATOR ECK said some religious groups do not believe in autopsies.

Vote: The DO PASS motion for the AMENDMENT to SB 297 CARRIED UNANIMOUSLY.

Discussion: CHAIRMAN BENEDICT said he has a problem with lines 22 and 23, and doesn't know how to fix it without striking those lines, unless the it is worded "may state on the death certificate." What we're doing on lines 22 and 23 is telling the coroner their job. The people elect the coroner to do a job and this is taking it out of and tying the coroner's hands, and saying if there isn't a specific cause of death or the findings are consistent with Sudden Infant Death Syndrome, that Sudden Infant Death Syndrome must be stated on the death certificate. It seems that the coroner who testified said this is stepping out of bounds where the Legislature should be.

SENATOR DePRATU said the state medical examiner felt this tied it down too tightly and there may be problems with that.

Motion: CHAIRMAN BENEDICT moved a conceptual amendment to strike lines 22 and 23.

Discussion:

SENATOR BAER asked if it would suffice to strike "shall" and insert "may" without stepping on the coroner's toes.

CHAIRMAN BENEDICT withdrew his conceptual amendment motion.

Motion: CHAIRMAN BENEDICT moved a conceptual amendment to strike "shall" and insert "may" on line 23.

Vote: The DO PASS motion for the conceptual AMENDMENT to SB 297 CARRIED UNANIMOUSLY.

Motion/Vote: SENATOR THOMAS moved SB 297 AS AMENDED DO PASS. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 288

Motion: SENATOR ECK moved SB 288 DO PASS.

Discussion: CHAIRMAN BENEDICT said he has experience in this area because he has a daughter who is in a wheelchair.
{Tape: 2; Side: B; Approx. Time Count: 5:42 PM}

Vote: The DO PASS motion for SB 288 CARRIED UNANIMOUSLY.

Editor's note: the executive action was done twice on SB 305 with the same results.

EXECUTIVE ACTION ON SB 298

Motion: SENATOR THOMAS moved SB 298 DO PASS.

Motion: SENATOR THOMAS moved amendment SB029801.asf DO PASS. The motion CARRIED UNANIMOUSLY.

Motion: SENATOR JIM BURNETT moved the amendment (SB029802.asf) proposed by the State Family Services Advisory Council DO PASS.
(EXHIBIT 22)

Discussion: CHAIRMAN BENEDICT said this will be in concept form and all of the information is before the committee.

SENATOR THOMAS asked about the purpose of this amendment.

SENATOR BURNETT said this allows the Department the freedom of accepting an advisory council.

SENATOR ECK said it gives the Department the responsibility.

SENATOR BURNETT said mandating it in statute, they have an option.

CHAIRMAN BENEDICT said it seem that it is being put in statute when the words used are "has the responsibility" which is mandating the responsibility that the Department establish a system of councils at the state and local level.

SENATOR BURNETT disagreed, saying he didn't read it that way.

Susan Fox said it would be put under the power and duties of the Department of Health.

SENATOR THOMAS asked what the effect of the amendment would be.

Susan Fox read "the Department shall provide the following functions," and this would be one of the functions the Department would be required to provide a system of councils at the state and local level.

CHAIRMAN BENEDICT directed the question to someone from the Department of Health.

Gary Curtis, Department of Public Health and Human Services, introduced himself.

CHAIRMAN BENEDICT asked if he is comfortable with this language that it is not going to mandate establishment of these councils.

Gary Curtis said it is his understanding this amendment would mandate the establishment of advisory councils, but if this amendment passes, the bill would still be a significant improvement over the present situation, and they do not particularly oppose the amendment, but it does mandate they do it.

SENATOR ECK said the Department has made it clear they are going to have a system of councils, and this will make a lot of people more comfortable.

SENATOR BURNETT said this council draws people from all over the state and is one of the better councils.

SENATOR BAER said he is afraid this amendment would conflict with the intent of the bill.

CHAIRMAN BENEDICT agreed and said it would have been nice to have discussed this amendment with **SENATOR SWYSGOOD**. He suggested holding the bill until the amendment is discussed with **SENATOR SWYSGOOD**. The committee agreed.

SENATOR THOMAS withdrew his DO PASS motion for SB 298.

Susan Fox asked if it was **CHAIRMAN BENEDICT's** desire to take up SB 90, which was tabled, because there are amendments to the bill.

CHAIRMAN BENEDICT said not at this time.

ADJOURNMENT

Adjournment: 5:59 PM



SEN. STEVE BENEDICT, Chairman



KAROLYN SIMPSON, Secretary

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