

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN BRUCE D. CRIPPEN**, on April 8, 1997, at 11:03 a.m., in the Senate Judiciary Chambers (Room 325) of the State Capitol, Helena, Montana.

ROLL CALL

Members Present:

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

Members Excused: None

Members Absent: None

Staff Present: Valencia Lane, Legislative Services Division
Jody Bird, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: None
Executive Action: HB 163

EXECUTIVE ACTION ON HB 163

Amendments: hb016301.av1, hb016302.av1 (EXHIBITS #1 and #2)

Motion/Vote: SEN. RIC HOLDEN MOVED TO ADOPT hb016301.av1, A TECHNICAL AMENDMENT. THE MOTION CARRIED UNANIMOUSLY.

Motion: SEN. HOLDEN MOVED TO ADOPT AMENDMENTS hb016302.av1.

Discussion: SEN. HOLDEN. The amendment would insert "the department shall notify the birth father of the provisions of this section if the birth father's name is known to the department", on page 6, line 15 of the bill. The Committee

received a letter from a man in Missoula which has an excellent example of the situation I'm trying to address (**EXHIBIT #3**). **Ann Gilkey, Department of Public Health and Human Services**. Our main concern is that it seems to undermine the whole purpose of registry. This is a concern as the child's adoption could be interrupted.

CHAIRMAN BRUCE CRIPPEN. You're saying if he doesn't know, he's not entitled to know. **Ann Gilkey**. Registry gives him an opportunity not available in existing law, and by submitting a form to the Vital Statistics Bureau of the Department, he could be registered.

SEN. SUE BARTLETT. If the birth father hadn't shown up, how would the Department know his name? **SEN. HOLDEN**. That's why I think adding this language won't hurt the bill. **Ann Gilkey**. Our concern is that private (Catholic and Lutheran Social Services), direct, step-parent, and agency adoptions are all part of this bill. Also, if the father was violent and might harm the mother, how would this be handled?

SEN. MIKE HALLIGAN. This bill does address violent fathers, right? **Ann Gilkey**. Not specifically. We would have to rely upon the judge's discretion.

{Tape: 1; Side: A; Approx. Time Count: #12.0; Comments: 11:14 a.m.}

SEN. HALLIGAN. If we started the amendment with "except as..." and name the appropriate provisions in law, would that work? **Ann Gilkey**. Our concern is that the amendment, as it is now, could be interpreted more broadly than intended.

SEN. HOLDEN WITHDREW HIS MOTION.

Motion: **SEN. SHARON ESTRADA MOVED HB 163 BE CONCURRED IN AS AMENDED.**

Discussion: **SEN. HOLDEN**. There are about five things I want to address in the bill. On page 1, line 7, some women might have more than one possible father of their child. What happens if a registered man is later determined not to be the father? **Ann Gilkey**. The court could determine he's not a party after notice of termination of parental rights is sent. A judge would most likely order DNA testing.

SEN. HOLDEN. On page 19, line 11, is an attorney necessary at this point? How does Section 2 work? **Ann Gilkey**. If the parent is a minor, it would allow the adopting parents to assume attorney fees for the minor birth mother.

SEN. HOLDEN. On page 51, line 24, what will the taxpayers be paying for, and what are the counseling requirements? **Ann**

Gilkey. Sections 147 and 148 on pages 67 and 68 address part of this. Section 48, on page 20 covers counseling requirements.

SEN. HOLDEN. Are you expanding counseling duties? **Ann Gilkey.** No. We're just clarifying them. There is no additional expense. Counseling is a mandatory requirement now.

SEN. HOLDEN. Could you explain page 66, line 15? **Ann Gilkey.** It says anyone adopted before July 1, 1967 could request their original birth certificate, as long as the parent did not put a requirement that this not be allowed. People adopted under existing law would have to get this information under the new law, if this bill passes.

SEN. HOLDEN. If they were born in 1964, how would they get their original birth certificate under this law? **Ann Gilkey.** If they were born before 1967, they could go to the registrar, as there was no expectation of privacy for mother's back then.

SEN. HOLDEN. So the writer of the letter we received today could get help from the Department? **Ann Gilkey.** Yes.

SEN. REINY JABS. How does an adopted person get his or her original birth certificate? **Ann Gilkey.** Right now they can't get it, and they still couldn't if they were born between 1967 and 1998, unless they get them through a court order, although that is a more cumbersome process.

Vote: **SEN. ESTRADA'S MOTION THAT HB 163 BE CONCURRED IN AS AMENDED CARRIED UNANIMOUSLY. SEN. WATERMAN WILL CARRY THE BILL.**

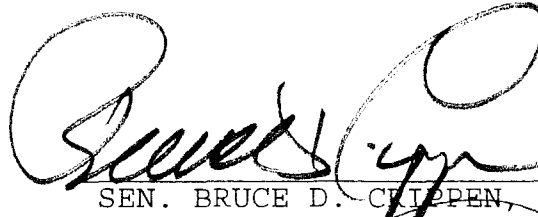
Discussion: **SEN. HALLIGAN.** I was a confidential intermediary for a nineteen-year-old in Missoula. I spent weeks looking for his birth records, and in Oregon, I found a man who said he signed a form saying he was the father, but that he actually wasn't. He told me the mother was in Kansas, living near a military base, so I found her through computers in the sheriff's office. She verified that the man in Oregon was not the dad, and that the dad was actually of Eskimo heritage, as we had guessed. I found the dad when I called a bar in Ketchikan, Alaska. I was able to get the dad to talk to the son, and then got the mother to talk to him, and they ended up having a reunion.

SEN. ESTRADA. Two days ago, I spoke to a sister I didn't know I had. It's quite an emotional thing, but absolutely wonderful.


SEN. STEVE DOHERTY. I wondered if the Committee would entertain the notion of writing to the Montana Supreme court, and asking them to investigate the situation in the newspaper about the Clerk of the Supreme Court approaching a legislator in the other House. I believe this merits a look at resolution. **CHAIRMAN CRIPPEN.** Why don't you and I go talk to the Chief Justice? **SEN. DOHERTY.** Okay.

ADJOURNMENT

Adjournment: 11:40 a.m.



SEN. BRUCE D. CRIPPEN, Chairman



JOANN T. BIRD, Secretary

BDC/JTB