

1 2 clause BILL NO. 376
2 INTRODUCED BY Hammaker (By Request)
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPLEMENT ARTICLE
5 II, SECTION 15 OF THE MONTANA CONSTITUTION, ENUMERATING
6 OTHER RIGHTS OF JUVENILES AND PROVIDING AN OPPORTUNITY FOR
7 HIGH SCHOOL STUDENTS TO BECOME AWARE OF THEIR RIGHTS."
8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Definitions. As used in this act:

11 (1) "Handicap" means a physical, mental, or
12 sociological condition which materially limits, contributes
13 to limiting, or, if not corrected, will probably result in
14 limiting a person's activities or functioning.

15 (2) "Absolute right" means a right which cannot be
16 denied or abridged for any reason, or a right which has no
17 corresponding responsibilities.

18 (3) "Protection" means protection of a person's
19 physical and mental health, normal social and emotional
20 development and civil and political rights.

21 Section 2. Rights of minors. The rights of persons
22 under the age of eighteen (18) years of age shall include,
23 but not be limited to, all the fundamental rights of Article
24 II of the Montana constitution unless specifically precluded
25 by laws which enhance the protection of these persons.

1 Section 3. Additional rights of minors. The following
2 additional rights are inherent to all persons under the age
3 of eighteen (18) years and shall therefore be defended by
4 the state:

5 (1) The right to be free of discrimination in the
6 exercise of civil and political rights on account of
7 legitimacy of birth.

8 (2) The right to receive protection.

9 (3) The right to at least twelve (12) years of public
10 supported education which can be removed only through due
11 process hearing before an impartial party and on showing of
12 a compelling state interest.

13 (4) The right, when a victim of a handicap, to receive
14 adequate care and treatment at a cost not beyond the
15 person's means or the means of a person's parents or
16 guardians.

17 (5) The right to freedom from disclosure of
18 communications made in privacy with a lawyer, clergyman,
19 counselor, psychologist, doctor, or person who administers
20 health care while that person was acting in an official
21 capacity, except in cases when it must be disclosed to
22 ensure the health and safety of the communicator.

23 (6) The right to be governed primarily by a person's
24 parents, custodians, or guardians, except when this right
25 has been removed through due process of law and on showing

1 of compelling state interest.

2 (7) The right to due process of law in any proceeding
3 which may affect a person's life, liberty, or property,
4 including the following rights:

5 (a) to timely and adequate notice detailing the
6 reasons for the proceeding;

7 (b) to be heard before an impartial body;

8 (c) to confront and cross-examine witnesses;

9 (d) to present arguments and evidence orally, as well
10 as in writing;

11 (e) to be represented by counsel of the person's own
12 choosing;

13 (f) to a determination resting solely on the legal
14 rules and evidence adduced at the hearing;

15 (g) to a statement by the decision-maker of the
16 reasons for determination and of the evidence relied upon;

17 (h) to a record of the proceedings held;

18 (i) to appeal to the courts of law;

19 Section 4. Publication of this act. Within one month
20 after this act becomes law at least one copy of the act
21 shall be posted in full view of the students in every public
22 high school within Montana and a copy of the Montana
23 constitution and a copy of this bill shall be made available
24 by every public high school within the state to each student
25 who requests it.

1 Section 5. County attorney's duties. County attorneys
2 shall prosecute vigorously any violations of this bill of
3 rights. This shall not limit the rights of juveniles, at
4 their own instance, through appropriate channels, to
5 prosecute actions for the alleged denial of rights
6 guaranteed herein. All equitable and legal relief shall be
7 available for all violations of this act.

8 Section 6. Effective date. This act is effective on
9 passage and approval.

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