

CHAPTER NO. 93.

HOUSE BILL NO. 226

INTRODUCED BY CONROY

IN THE HOUSE

January 17, 1979	Introduced and referred to Committee on Judiciary.
January 25, 1979	Committee recommend bill do pass as amended. Report adopted.
January 26, 1979	Printed and placed on members' desks.
January 27, 1979	Second reading, do pass.
January 29, 1979	Considered correctly engrossed.
January 30, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

January 31, 1979	Introduced and referred to Committee on Judiciary.
February 28, 1979	Committee recommend bill be concurred in. Report adopted.
March 2, 1979	Second reading, concurred in.
March 5, 1979	Third reading, concurred in.

IN THE HOUSE

March 6, 1979	Returned from second house. Concurred in.
	Sent to enrolling.
	Reported correctly enrolled.

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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT THE  
5 COUNTY ATTORNEY MAY NOT BE APPOINTED COUNSEL FOR A MINOR IN  
6 DIVORCE OR GUARDIANSHIP PROCEEDINGS; AMENDING SECTIONS  
7 40-4-205 AND 72-5-225, MCA."

8  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 40-4-205, MCA, is amended to read:

11 "40-4-205. Representation of child. The court may  
12 appoint an attorney other than the county attorney to  
13 represent the interests of a minor dependent child with  
14 respect to his support, custody, and visitation. The court  
15 shall enter an order for costs and fees in favor of the  
16 child's attorney. The order shall be made against either or  
17 both parents, except that if the responsible party is  
18 indigent, the costs shall be waived."

19 Section 2. Section 72-5-225, MCA, is amended to read:

20 "72-5-225. Procedure for court appointment of guardian  
21 of minor -- notice -- hearing -- representation by attorney.

22 (1) Notice of the time and place of hearing of a petition  
23 for the appointment of a guardian of a minor is to be given  
24 by the petitioner in the manner prescribed by 72-1-301 to:

25 (a) the minor, if he is 14 or more years of age;

1 (b) the person who has had the principal care and  
2 custody of the minor during the 60 days preceding the date  
3 of the petition; and

4 (c) any living parent of the minor.

5 (2) Upon hearing, if the court finds that a qualified  
6 person seeks appointment, venue is proper, the required  
7 notices have been given, the requirements of 72-5-222 have  
8 been met, and the welfare and best interests of the minor  
9 will be served by the requested appointment, it shall make  
10 the appointment. In other cases the court may dismiss the  
11 proceedings or make any other disposition of the matter that  
12 will best serve the interest of the minor.

13 (3) If, at any time in the proceeding, the court  
14 determines that the interests of the minor are or may be  
15 inadequately represented, it may appoint an attorney other  
16 than the county attorney to represent the minor, giving  
17 consideration to the preference of the minor if the minor is  
18 14 years of age or older."

-End-

Approved by Committee  
on Judiciary

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A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT THE COUNTY ATTORNEY OR DEPUTY COUNTY ATTORNEYS MAY NOT BE APPOINTED COUNSEL FOR A MINOR IN DIVORCE OR GUARDIANSHIP PROCEEDINGS; AMENDING SECTIONS 40-4-205 AND 72-5-225, MCA."

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Section 1. Section 40-4-205, MCA, is amended to read:

"40-4-205. Representation of child. The court may appoint an attorney ~~other--than--the--county--attorney~~ to represent the interests of a minor dependent child with respect to his support, custody, and visitation. ~~THE COUNTY ATTORNEY AND THE DEPUTY COUNTY ATTORNEYS, IF ANY, MAY NOT BE APPOINTED FOR THIS PURPOSE.~~ The court shall enter an order for costs and fees in favor of the child's attorney. The order shall be made against either or both parents, except that if the responsible party is indigent, the costs shall be waived."

Section 2. Section 72-5-225, MCA, is amended to read:

"72-5-225. Procedure for court appointment of guardian of minor -- notice -- hearing -- representation by attorney.  
(1) Notice of the time and place of hearing of a petition for the appointment of a guardian of a minor is to be given

by the petitioner in the manner prescribed by 72-1-301 to:

- (a) the minor, if he is 14 or more years of age;
- (b) the person who has had the principal care and custody of the minor during the 60 days preceding the date of the petition; and
- (c) any living parent of the minor.

(2) Upon hearing, if the court finds that a qualified person seeks appointment, venue is proper, the required notices have been given, the requirements of 72-5-222 have been met, and the welfare and best interests of the minor will be served by the requested appointment, it shall make the appointment. In other cases the court may dismiss the proceedings or make any other disposition of the matter that will best serve the interest of the minor.

(3) If, at any time in the proceeding, the court determines that the interests of the minor are or may be inadequately represented, it may appoint an attorney ~~other than the county attorney~~ to represent the minor, giving consideration to the preference of the minor if the minor is 14 years of age or older. ~~THE COUNTY ATTORNEY AND THE DEPUTY COUNTY ATTORNEYS, IF ANY, MAY NOT BE APPOINTED FOR THIS PURPOSE."~~

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