

HOUSE BILL NO. 80

INTRODUCED BY PISTORIA

BY REQUEST OF THE DEPARTMENT  
OF SOCIAL AND REHABILITATION SERVICES

IN THE HOUSE

January 6, 1981	Introduced and referred to Committee on Human Services.
January 19, 1981	Committee recommend bill do pass. Report adopted.
January 20, 1981	Bill printed and placed on members' desks.
January 21, 1981	Second reading, do pass.
January 22, 1981	Considered correctly engrossed.  Pass consideration.
January 23, 1981	Rereferred to Committee on Human Services.
February 7, 1981	Statement of intent attached.
February 9, 1981	Committee recommend bill do pass. Report adopted.
February 11, 1981	Correctly engrossed.
February 16, 1981	Second reading, do pass.
February 24, 1981	Third reading, passed. Ayes, 94; Noes, 3. Transmitted to Senate.

IN THE SENATE

March 2, 1981	Introduced and referred to Committee on Public Health, Welfare, and Safety.
March 24, 1981	Committee recommend statement of intent be amended and bill be concurred in. Report adopted.

March 26, 1981

Second reading, concurred in.

March 28, 1981

Third reading, concurred in.  
Ayes, 49; Noes, 0.

IN THE HOUSE

March 28, 1981

Returned from Senate with  
amendments to statement of  
intent.

April 8, 1981

Second reading, amendments  
to statement of intent con-  
curred in.

April 9, 1981

Third reading, amendments  
to statement of intent con-  
curred in. Ayes, 93; Noes, 0.  
Sent to enrolling.

Reported correctly enrolled.

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 6    A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE THE BOND  
 7    REQUIREMENT FOR PERSONS WHO ARE PROTECTIVE PAYEES FOR  
 8    RECIPIENTS OF PUBLIC ASSISTANCE; AMENDING SECTIONS 53-2-608  
 9    AND 53-4-244, MCA."  
 10

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

12            Section 1. Section 53-2-608, MCA, is amended to read:  
 13            "53-2-608. Method of issuing assistance grants. (1)  
 14    Checks in payment of public assistance, with the exception  
 15    of general relief, shall be issued by the department of  
 16    social and rehabilitation services upon approved  
 17    certificates of award and reports of changes of such  
 18    eligible grantees as are forwarded by the county department  
 19    to the state department, and all such checks will be mailed  
 20    to the individual recipient or the appropriate vendor. The  
 21    checks in payment of public assistance shall be issued in  
 22    the full approved amount for each eligible approved grantee,  
 23    and the original monthly payment shall be from the state  
 24    public assistance accounts. All public assistance checks  
 25    shall represent cash on demand at full par value to the

1    recipient and vendor.  
 2            (2) Whenever the department of social and  
 3    rehabilitation services, acting pursuant to standards  
 4    established by the department, determines that any otherwise  
 5    eligible recipient of ~~old-age-assistance-aid-to-the-needy~~  
 6    ~~blind-or-aid-to-the-permanently-and-totally-disabled public~~  
 7    ~~assistance~~ has, by reason of any physical or mental  
 8    condition, such inability to manage funds that making  
 9    payments to him would be contrary to his welfare, the  
 10    department may, under standards established under the state  
 11    plan, make the public assistance payment on behalf of such  
 12    recipient to another person found by the department to be  
 13    interested in or concerned with the welfare of such needy  
 14    individual. ~~Before-such-payments-may-be-paid-to-such-other~~  
 15    ~~person--such-person--shall-give-a-bond--with--adequate~~  
 16    ~~corporate--surety--and--in--form--to--be--approved--by--the~~  
 17    ~~department--running-in-favor-of-the-needy-individual--and--the~~  
 18    ~~state--of-Montana--conditioned-upon-the-faithful-use-by-such~~  
 19    ~~other-person-of-the-funds--for--the--welfare--of--the--needy~~  
 20    ~~individual--Such--bond--shall--be--in--an--amount--equal--to--six~~  
 21    ~~times--the--amount--of--the--monthly--payment--involved."~~

22            Section 2. Section 53-4-244, MCA, is amended to read:  
 23            "53-4-244. Payments to person interested in child's  
 24    welfare in lieu of special guardianship. In lieu of  
 25    guardianship proceedings, payments may be made in behalf of

-2- INTRODUCED BILL  
 HB80

1 the child or children to another person found by the county  
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-End-

Approved by Comm. On  
Human Services

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-2- SECOND READING  
HB 80

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-End-



STATEMENT OF INTENT

HOUSE BILL 80

House Human Services Committee

Although a statement of intent is not specifically needed for this bill, the legislature felt that it was necessary to express its intention regarding the handling of protective payees for those recipients of public assistance who need aid in handling their finances. Because this bill removes the bonding requirement for protective payees, it was felt to be necessary to give some guidance on the handling of protective payees. The attached draft has been approved as a suitable approach to the protective payee situation. It is intended that SRS handle protective payees as described in their attached draft or in a manner substantially similar.

AFDC PROGRAM PROTECTIVE PAYEE

A protective payee program is established to assure that AFDC payments are used in a manner consistent with the purpose of assistance in providing for the best interest of the child/children. Montana SRS would establish the following procedure to administer the protective payee program:

1. Establish Need -- When there is documented evidence

that a caretaker mismanages funds and that the needs of the child are not consistently met, a protective payee may be established.

2. Selection of Payee -- The protective payee must be reliable and capable of managing household funds.

Restrictions -- The payee can be a family member, friend or staff member of a community or department agency. Ineligible persons would be ET staff, vendors of goods or services dealing directly with the client and specific restricted personnel of the agency. Those restricted include County Commissioners, executive heads of public welfare departments, special investigative or resource staff, staff handling fiscal processes and landlords.

Selection of Payee -- The recipient may participate in the selection of the payee, following the selection criteria.

A contractual agreement shall be entered into between the payee and the county outlining the duties, responsibilities of each.

3. Monitor of Payee -- The Department shall establish within reasonable guidelines, the method in which the payee shall carry out his responsibilities. Shelter, food and personal need of payment shall be provided in a manner designed to best meet the needs of the recipient.

A record of payments shall be kept on a regular basis

1 by the payee. This record shall be accessible to the  
2 Department for review as frequently as indicated by  
3 circumstances, but at least every three months. The review  
4 shall specifically address the continuing need for a  
5 protective payee, and the way the responsibilities are being  
6 carried out.

7 4. Termination of Protective Payee -- Termination  
8 shall occur when:

9 a. The caretaker is determined able to assume  
10 management of funds.

11 b. It appears that the protective payee arrangement  
12 likely will continue beyond two years. Judicial appointment  
13 of a guardian shall be sought.

14 5. Fair Hearing -- Opportunity for a Fair Hearing  
15 shall be given to an individual who requests it as a result  
16 of any protective payee procedure.

17 A contractual agreement between the County Welfare  
18 Department and protective payee would be made. That  
19 agreement would designate the payee, the recipient, and the  
20 responsibilities and duties of both the payee and County  
21 Welfare Department. A statement would be included  
22 designating the payee's understanding of his personal  
23 liability in the event of irresponsible actions taken in the  
24 role of the payee.

1 PROTECTIVE PAYEE AGREEMENT

2 I, \_\_\_\_\_, hereby agree to accept the  
3 responsibilities and duties of Protective Payee for  
4 \_\_\_\_\_ until such time as I am relieved of said duties.

5 By signing this agreement I understand that my duties  
6 include providing for the shelter, food and personal needs  
7 of \_\_\_\_\_ by properly disbursing the funds provided by  
8 the AFDC payment provided by Montana State Department of  
9 Social and Rehabilitation Services.

10 I further acknowledge that my responsibilities include  
11 maintaining a regular record of receipts and method of  
12 disbursement to be available to the (county) Department of  
13 Public Welfare for review.

14 I understand that improperly exercising the  
15 responsibilities of Protective Payee shall result in the  
16 penalties as included in MCA \_\_\_\_\_.

17 (SEAL) \_\_\_\_\_  
18 Signature  
19 \_\_\_\_\_  
20 Date

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 11 maintaining a regular record of receipts and method of  
 12 disbursement to be available to the (county) Department of  
 13 Public Welfare for review.

14 I understand that improperly exercising the  
 15 responsibilities of Protective Payee shall result in the  
 16 penalties as included in MEA \_\_\_\_\_ MCA.

17 (SEAL) \_\_\_\_\_  
 18 Signature  
 19 \_\_\_\_\_  
 20 Date

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OF SOCIAL AND REHABILITATION SERVICES

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recipient and vendor.

(2) Whenever the department of social and rehabilitation services, acting pursuant to standards established by the department, determines that any otherwise eligible recipient of ~~old-age-assistance-aid-to-the-needy blind-or-aid-to-the-permanently-and-totally-disabled~~ public assistance has, by reason of any physical or mental condition, such inability to manage funds that making payments to him would be contrary to his welfare, the department may, under standards established under the state plan, make the public assistance payment on behalf of such recipient to another person found by the department to be interested in or concerned with the welfare of such needy individual. ~~Before-such-payments-may-be-paid-to-such-other person--such--person--shall--give--a--bond,--with--adequate corporate--surety--and--in--form--to--be--approved--by--the department--running-in-favor-of-the-needy-individual--and--the state--of-Montana,--conditioned-upon-the-faithful-use-by-such other-person-of-the-funds--for--the--welfare--of--the--needy individual.--Such--bond--shall--be-in-an-amount-equal-to-six times-the-amount-of-the-monthly-payment-involved."~~

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-End-

March 24, 1981

SENATE STANDING COMMITTEE REPORT  
(Public Health, Welfare & Safety)

That Statement of Intent be amended to House Bill No. 80 as follows:

1. Page 1, line 15.

Following: "in"

Strike: "their"

Insert: "the"

2. Page 2, line 18.

Following: "duties"

Strike: ", "

Insert: "and"

3. Page 4, line 6.

Following: "food"

Insert: ", "

4. Page 4, line 8.

Following: "by"

Insert: "The"

5. Page 4, line 16.

Following: "in"

Strike: "MCA"

Following: "\_\_\_\_\_"

Insert: "MCA"