

SENATE BILL NO. 180

INTRODUCED BY MAZUREK

BY REQUEST OF THE DEPARTMENT OF HEALTH AND
ENVIRONMENTAL SCIENCES

IN THE SENATE

January 17, 1983	Introduced and referred to Committee on Public Health, Welfare and Safety.
February 1, 1983	Committee recommend bill do pass. Report adopted. Statement of Intent attached.
February 2, 1983	Bill printed and placed on members' desks.
February 3, 1983	Second reading, do pass.
February 4, 1983	Correctly engrossed.
February 5, 1983	Third reading, passed. Ayes, 46; Noes, 0. Transmitted to House.

IN THE HOUSE

February 7, 1983	Introduced and referred to Committee on Human Services.
March 7, 1983	Committee recommend bill be concurrent in. Report adopted.
March 9, 1983	Second reading, concurrent in.
March 10, 1983	Third reading, concurrent in.

IN THE SENATE

March 11, 1983

Returned to Senate. Sent to
enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. 180
2 INTRODUCED BY *Thayne*
3 BY REQUEST OF THE DEPARTMENT OF HEALTH
4 AND ENVIRONMENTAL SCIENCES
5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
7 REQUIREMENTS FOR PREMARITAL SEROLOGICAL TESTS; AMENDING
8 SECTIONS 40-1-203, 40-1-204, 40-1-206, AND 40-1-208, MCA;
9 AND REPEALING SECTION 50-19-106, MCA."
10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12 Section 1. Section 40-1-203, MCA, is amended to read:
13 "40-1-203. Proof of age and medical certificate
14 required. (1) Before a person authorized by law to issue
15 marriage licenses may issue a marriage license, each
16 applicant therefor shall exhibit to him a birth certificate
17 or other satisfactory evidence of age and, if the applicant
18 is a minor, the approval required by 40-1-213, and Each
19 female applicant, unless exempted on medical grounds by rule
20 of the department of health and environmental sciences,
21 shall file with him the license issuer a medical certificate
22 from a physician, licensed to practice medicine and surgery
23 in any state or United States territory, or any other person
24 authorized by laws of Montana to make a medical certificate.
25 The certificate shall state that the applicant has been

1 given a standard serological test, performed not more than
2 ~~20 days 6 months~~ before the date of issuance of the license,
3 and that the report of the results of the serological test
4 has been exhibited to the applicant ~~tested~~ and that each ~~the~~
5 ~~other~~ party to the proposed marriage contract has examined
6 the report of the serological test ~~of the other party to the~~
7 ~~proposed contract.~~

8 (2) A person who by law is able to obtain a marriage
9 license in this state is also able to give consent to any
10 examinations and tests required by this section. In
11 submitting the blood specimen to the laboratory, the
12 physician or any other person authorized by the laws of
13 Montana to make a medical certificate shall designate that
14 it is a premarital test."

15 Section 2. Section 40-1-204, MCA, is amended to read:
16 "40-1-204. Contents and form of medical certificate.

17 (1) The medical certificate shall contain a statement from
18 the person in charge of the laboratory making the test or
19 authorized to make such reports, setting forth:

20 (a) the name of the test;

21 (b) the date it was made;

22 (c) the name and address of the physician or other
23 person authorized under the laws of Montana to make the
24 test;

25 (d) to whom the test was sent; and

1 (e) the name and address of the person whose blood was
2 tested.

3 (2) In the event that an error is discovered in the
4 results of the test, such results will be expunged from the
5 records of the department of health and environmental
6 sciences.

7 (3) ~~(a)~~ The certificate and statement shall be on a
8 form to be provided and distributed by the department of
9 health and environmental sciences to all county clerks of
10 the court in the state and to laboratories in this state
11 that are:

12 (i) operated by the armed forces or the public health
13 service of the United States; or

14 (ii) approved by the department.

15 (b) This form is hereinafter referred to in 40-1-205
16 through 40-1-209 as "the certificate form".

17 Section 3. Section 40-1-206, MCA, is amended to read:

18 "40-1-206. Premarital test ~~— approved laboratories —~~
19 rules. (1) For the purpose of 40-1-203 through 40-1-209, a
20 standard serological test shall be a test for rubella
21 immunity and ~~syphilis, as~~ which is approved by the
22 department of health and environmental sciences. An approved
23 laboratory shall be

24 (2) The standard serological test is acceptable for
25 the purposes of 40-1-203 through 40-1-209 only if it is

1 performed by one of the following:

2 (a) the laboratory of the department; or

3 (b) a laboratory approved by ~~the~~ the department; Any

4 (c) a laboratory operated by any other state; or

5 (d) a laboratory operated by the United States public
6 health service or the United States armed forces laboratory
7 shall be considered approved for the purposes of 40-1-203
8 through 40-1-209. Such laboratory

9 (3) The standard serological test may be made on
10 request at the laboratory of the department of health and
11 environmental sciences.

12 (4) Reasonable. The department of health and
13 environmental sciences shall adopt reasonable rules for:

14 (a) reports to be submitted by any laboratory making
15 tests and the manner of furnishing the reports to the
16 certifying physician and the state; shall be adopted by the
17 department of health and environmental sciences and

18 (b) exemptions, on medical grounds, from the
19 premarital serological test."

20 Section 4. Section 40-1-208, MCA, is amended to read:

21 "40-1-208. Penalties. (1) An applicant for a marriage
22 license, a physician or other person authorized by the laws
23 of Montana to make a medical certificate or any person in
24 charge of or authorized to make reports or statements for a
25 laboratory who misrepresents his identity or any of the

1 facts called for by the certificate form prescribed by
2 40-1-203 through 40-1-205, any licensing officer who issues
3 a marriage license without having received the certificate
4 form, if required, or who has reason to believe that any of
5 the facts on the certificate form have been misrepresented
6 and nevertheless issues a marriage license, or any person
7 who otherwise fails to comply with the provisions of
8 40-1-203 through 40-1-209 is guilty of a misdemeanor and
9 upon conviction shall be punished by a fine of not more than
10 \$100.

11 (2) Medical certificates, laboratory statements or
12 reports, and applications referred to in 40-1-203 through
13 40-1-209 are confidential and may not be divulged to or open
14 to inspection by any person other than state or local health
15 officers or their representatives. A person who divulges
16 such information or opens to inspection such certificates,
17 statements, reports, or applications, without authority, to
18 any person not by law entitled to the same is guilty of a
19 misdemeanor and upon conviction shall be punished by a fine
20 of not more than \$100."

21 NEW SECTION. Section 5. Repealer. Section 50-19-106,
22 MCA, is repealed.

-End-

1 STATEMENT OF INTENT

2 SENATE BILL 180

3 Senate Public Health, Welfare and Safety Committee

4

5 A statement of intent is necessary for Senate Bill 180
6 because it adds to the laws relating to premarital
7 serological tests rulemaking authority for the Department of
8 Health and Environmental Sciences to specify allowable
9 exceptions to the test requirement.

10 Present law defines a premarital serological test as
11 including both a test for rubella immunity and a test for
12 syphilis. Senate Bill 180 eliminates the syphilis test
13 requirement and requires the rubella test only of female
14 applicants for a marriage license, since the purpose of the
15 rubella test is to alert the license applicants to lack of
16 immunity to the disease which could result in damage to a
17 fetus if rubella were contracted during pregnancy. Since the
18 test is of value only to women capable of bearing children,
19 there is no purpose in requiring the test of women incapable
20 of doing so. Therefore, the rules would define those
21 categories of women whose medical status precludes them,
22 with reasonable medical certainty, from bearing children,
23 including, but not limited to, women over childbearing age
24 and those whose physicians certify they are incapable of
25 bearing children.

SECOND READING

SB180

Approved by Committee
on Public Health, Welfare
& Safety

SENATE BILL NO. 180

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BY REQUEST OF THE DEPARTMENT OF HEALTH

AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
REQUIREMENTS FOR PREMARITAL SEROLOGICAL TESTS; AMENDING
SECTIONS 40-1-203, 40-1-204, 40-1-206, AND 40-1-208, MCA;
AND REPEALING SECTION 50-19-106, MCA."

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applicant therefor shall exhibit to him a birth certificate
or other satisfactory evidence of age and, if the applicant
is a minor, the approval required by 40-1-213, and Each
~~female applicant, unless exempted on medical grounds by rule~~
~~of the department of health and environmental sciences,~~
shall file with him ~~the license issuer~~ a medical certificate
from a physician, licensed to practice medicine and surgery
in any state or United States territory, or any other person
authorized by laws of Montana to make a medical certificate.
The certificate shall state that the applicant has been

given a standard serological test, performed not more than
~~20 days~~ 6 months before the date of issuance of the license,
and that the report of the results of the serological test
has been exhibited to the applicant ~~tested~~ and that each ~~the~~
~~other~~ party to the proposed marriage contract has examined
the report of the serological test ~~of the other party to the~~
~~proposed contract.~~

(2) A person who by law is able to obtain a marriage
license in this state is also able to give consent to any
examinations and tests required by this section. In
submitting the blood specimen to the laboratory, the
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it is a premarital test."

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(a) the name of the test;

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(c) the name and address of the physician or other
person authorized under the laws of Montana to make the
test;

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1 (e) the name and address of the person whose blood was
2 tested.

3 (2) In the event that an error is discovered in the
4 results of the test, such results will be expunged from the
5 records of the department of health and environmental
6 sciences.

7 (3) (a) The certificate and statement shall be on a
8 form to be provided and distributed by the department of
9 health and environmental sciences to all county clerks of
10 the court in the state and to laboratories in this state
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13 service of the United States; or

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24 (2) The standard serological test is acceptable for
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6 health service or ~~the~~ United States armed forces laboratory
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9 (3) The standard serological test may be made on
10 request at the laboratory of the department of health and
11 environmental sciences.

12 (4) Reasonable The department of health and
13 environmental sciences shall adopt reasonable rules for:

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15 tests and the manner of furnishing the reports to the
16 certifying physician and the state; ~~shall be adopted by the~~
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19 premarital serological test."

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21 "40-1-208. Penalties. (1) An applicant for a marriage
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25 laboratory who misrepresents his identity or any of the

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2 40-1-203 through 40-1-205, any licensing officer who issues
3 a marriage license without having received the certificate
4 form, if required, or who has reason to believe that any of
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6 and nevertheless issues a marriage license, or any person
7 who otherwise fails to comply with the provisions of
8 40-1-203 through 40-1-209 is guilty of a misdemeanor and
9 upon conviction shall be punished by a fine of not more than
10 \$100.

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15 officers or their representatives. A person who divulges
16 such information or opens to inspection such certificates,
17 statements, reports, or applications, without authority, to
18 any person not by law entitled to the same is guilty of a
19 misdemeanor and upon conviction shall be punished by a fine
20 of not more than \$100.*

21 NEW SECTION. Section 5. Repealer. Section 50-19-106,
22 MCA, is repealed.

-End-

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2 SENATE BILL 180

3 Senate Public Health, Welfare and Safety Committee

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6 because it adds to the laws relating to premarital
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9 exceptions to the test requirement.

10 Present law defines a premarital serological test as
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12 syphilis. Senate Bill 180 eliminates the syphilis test
13 requirement and requires the rubella test only of female
14 applicants for a marriage license, since the purpose of the
15 rubella test is to alert the license applicants to lack of
16 immunity to the disease which could result in damage to a
17 fetus if rubella were contracted during pregnancy. Since the
18 test is of value only to women capable of bearing children,
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from a physician, licensed to practice medicine and surgery
in any state or United States territory, or any other person
authorized by laws of Montana to make a medical certificate.
The certificate shall state that the applicant has been

given a standard serological test, performed not more than
~~28 days 6 months~~ before the date of issuance of the license,
and that the report of the results of the serological test
has been exhibited to the applicant ~~tested~~ and that ~~each the~~
~~other~~ party to the proposed marriage contract has examined
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test;

(d) to whom the test was sent; and

1 (e) the name ~~and address~~ of the person whose blood was
2 tested.

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4 results of the test, such results will be expunged from the
5 records of the department of health and environmental
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8 form to be provided and distributed by the department of
9 health and environmental sciences to all county clerks of
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 2 40-1-203 through 40-1-205, any licensing officer who issues
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21 NEW SECTION. Section 5. Repealer. Section 50-19-106,
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-End-

HOUSE OF REPRESENTATIVES

March 7 19 83

WE, YOUR COMMITTEE ON HUMAN SERVICES, HAVING HAD UNDER CONSIDERATION SENATE BILL 180, THIRD READING COPY (BLUE), ATTACH THE FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT
SENATE BILL NO. 180

A statement of intent is necessary for Senate Bill 180 because it adds to the laws relating to premarital serological tests rulemaking authority for the Department of Health and Environmental Sciences to specify allowable exceptions to the test requirement.

Present law defines a premarital serological test as including both a test for rubella immunity and a test for syphilis. Senate Bill 180 eliminates the syphilis test requirement and requires the rubella test only of female applicants for a marriage license, since the purpose of the rubella test is to alert the license applicants to lack of immunity to the disease which could result in damage to a fetus if rubella were contracted during pregnancy. Since the test is of value only to women capable of bearing children, there is no purpose in requiring the test of women incapable of doing so. Therefore, the rules would define those categories of women whose medical status precludes them, with reasonable medical certainty, from bearing children, including, but not limited to, women over childbearing age and those whose physicians certify they are incapable of bearing children.

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REFERENCE BILL

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2 INTRODUCED BY MAZUREK

3 BY REQUEST OF THE DEPARTMENT OF HEALTH

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16 ~~certifying physician and the state; shall be adopted by the~~
17 ~~department of health and environmental sciences and~~

18 ~~(b) exemptions, on medical grounds, from the~~
19 ~~premarital serological test."~~

20 Section 4. Section 40-1-208, MCA, is amended to read:

21 "40-1-208. Penalties. (1) An applicant for a marriage
22 license, a physician or other person authorized by the laws
23 of Montana to make a medical certificate or any person in
24 charge of or authorized to make reports or statements for a
25 laboratory who misrepresents his identity or any of the

1 facts called for by the certificate form prescribed by
 2 40-1-203 through 40-1-205, any licensing officer who issues
 3 a marriage license without having received the certificate
 4 form, ~~if required~~, or who has reason to believe that any of
 5 the facts on the certificate form have been misrepresented
 6 and nevertheless issues a marriage license, or any person
 7 who otherwise fails to comply with the provisions of
 8 40-1-203 through 40-1-209 is guilty of a misdemeanor and
 9 upon conviction shall be punished by a fine of not more than
 10 \$100.

11 (2) Medical certificates, laboratory statements or
 12 reports, and applications referred to in 40-1-203 through
 13 40-1-209 are confidential and may not be divulged to or open
 14 to inspection by any person other than state or local health
 15 officers or their representatives. A person who divulges
 16 such information or opens to inspection such certificates,
 17 statements, reports, or applications, without authority, to
 18 any person not by law entitled to the same is guilty of a
 19 misdemeanor and upon conviction shall be punished by a fine
 20 of not more than \$100."

21 ~~NEW SECTION.~~ Section 5. Repealer. Section 50-19-106,
 22 MCA, is repealed.

-End-