

SENATE BILL NO. 371

INTRODUCED BY FULLER, MAZUREK, DOZIER, D. BROWN, YARDLEY

IN THE SENATE

February 5, 1983	Introduced and referred to Committee on Judiciary.
February 15, 1983	Committee recommend bill do pass. Report adopted.
February 16, 1983	Bill printed and placed on members' desks.
February 17, 1983	Second reading, do pass.
February 19, 1983	Correctly engrossed.
February 21, 1983	Third reading, passed. Ayes, 47; Noes, 3. Transmitted to House.

IN THE HOUSE

February 28, 1983	Introduced and referred to Committee on Judiciary.
March 15, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 21, 1983	Second reading, concurred in.
March 22, 1983	Third reading, concurred in.

IN THE SENATE

March 23, 1983	Returned to Senate with amendments.
April 4, 1983	Second reading, amendments concurred in.

April 5, 1983

Third reading, amendments
concurred in. Ayes 48;
Noes, 0.

Sent to enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. *371*
 2 INTRODUCED BY *Fuller Maguire, Ditz, Dan Brown*
 3 *Hardley*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT IF IT IS
 5 IN THE BEST INTEREST OF THE CHILD, A CHILD CUSTODY DECREE
 6 MAY BE MODIFIED WHEN A CHILD AGED 14 YEARS OR OLDER DESIRES
 7 THAT IT BE MODIFIED; AMENDING SECTION 40-4-219, MCA."

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

10 Section 1. Section 40-4-219, MCA, is amended to read:

11 "40-4-219. Modification. (1) The court shall not
 12 modify a prior custody decree unless it finds, upon the
 13 basis of facts that have arisen since the prior decree or
 14 that were unknown to the court at the time of entry of the
 15 prior decree, that a change has occurred in the
 16 circumstances of the child or his custodian and that the
 17 modification is necessary to serve the best interest of the
 18 child. In applying these standards the court shall retain
 19 the custodian appointed pursuant to the prior decree unless:

- 20 (a) the custodian agrees to the modification;
 21 (b) the child has been integrated into the family of
 22 the petitioner with consent of the custodian; or
 23 (c) the child's present environment endangers
 24 seriously his physical, mental, moral, or emotional health
 25 and the harm likely to be caused by a change of environment

1 is outweighed by its advantages to him; or
 2 (d) the child is 14 years of age or older and desires
 3 the modification.
 4 (2) Attorney fees and costs shall be assessed against
 5 a party seeking modification if the court finds that the
 6 modification action is vexatious and constitutes harassment.
 7 (3) A custody decree may be modified upon the death of
 8 the custodial parent pursuant to 40-4-221."

-End-

Approved by Committee
on Judiciary

Smith BILL NO. *371*

INTRODUCED BY *Fuller Masquik DOB Dan Brown*
Hardley

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT IF IT IS
IN THE BEST INTEREST OF THE CHILD, A CHILD CUSTODY DECREE
MAY BE MODIFIED WHEN A CHILD AGED 14 YEARS OR OLDER DESIRES
THAT IT BE MODIFIED; AMENDING SECTION 40-4-219, MCA."

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the custodian appointed pursuant to the prior decree unless:

(a) the custodian agrees to the modification;

(b) the child has been integrated into the family of
the petitioner with consent of the custodian; or

(c) the child's present environment endangers
seriously his physical, mental, moral, or emotional health
and the harm likely to be caused by a change of environment

is outweighed by its advantages to him; or

~~(d) the child is 14 years of age or older and desires
the modification.~~

(2) Attorney fees and costs shall be assessed against
a party seeking modification if the court finds that the
modification action is vexatious and constitutes harassment.

(3) A custody decree may be modified upon the death of
the custodial parent pursuant to 40-4-221."

-End-

SECOND READING

-2-

SB 371

1 *Senate* BILL NO. *371*
2 INTRODUCED BY *Julia Margulies Doty Dan Brown*
3 *Hardley*
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT IF IT IS
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19 the custodian appointed pursuant to the prior decree unless:
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5 a party seeking modification if the court finds that the
6 modification action is vexatious and constitutes harassment.
7 (3) A custody decree may be modified upon the death of
8 the custodial parent pursuant to 40-4-221."

-End-

HOUSE JUDICIARY
COMMITTEE

AMENDMENTS TO SENATE BILL 371

March 14, 1983

Third Reading Copy (blue)

BE AMENDED AS FOLLOWS:

1. Title, line 4.

Following: "THAT"

Strike: "IF"

Insert: "WHEN THE CIRCUMSTANCES OF A CHILD'S CUSTODIAL SITUATION
HAVE CHANGED AND WHEN"

2. Title, line 5.

Following: "IN THE"

Insert: "CHILD'S"

Strike: OF THE CHILD"

3. Title, line 6.

Strike: "WHEN A"

Insert: "IF THE"

Following: "CHILD"

Strike: "AGED"

Insert: "IS"

Following: "YEARS"

Insert: "OF AGE"

Following: "OLDER"

Insert: "AND"

4. Page 1, line 11.

Strike: "shall not"

Insert: "may, in its discretion"

5. Page 1, line 12.

Strike: "unless"

Insert: "if"

6. Page 1, line 18.

Following: "child"

Strike: ". In" through "unless" on line 19.

Insert: "and if it further finds that"

AND AS AMENDED
BE CONCURRED IN

SENATE BILL NO. 371

INTRODUCED BY FULLER, MAZUREK, DOZIER, D. BROWN, YARDLEY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT IF ~~WHEN~~
~~THE CIRCUMSTANCES OF A CHILD'S CUSTODIAL SITUATION HAVE~~
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~~CHILD,~~ A CHILD CUSTODY DECREE MAY BE MODIFIED WHEN--A ~~IF THE~~
 CHILD AGED ~~IS~~ 14 YEARS ~~OF AGE~~ OR OLDER ~~AND~~ DESIRES THAT IT
 BE MODIFIED; AMENDING SECTION 40-4-219, MCA."

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

Section 1. Section 40-4-219, MCA, is amended to read:

"40-4-219. Modification. (1) The court ~~shall--not~~ ~~MAY~~
~~IN ITS DISCRETION~~ modify a prior custody decree unless ~~IE~~ it
 finds, upon the basis of facts that have arisen since the
 prior decree or that were unknown to the court at the time
 of entry of the prior decree, that a change has occurred in
 the circumstances of the child or his custodian and that the
 modification is necessary to serve the best interest of the
 child--~~in--applying--these--standards--the--court--shall--retain~~
~~the--custodian--appointed--pursuant--to--the--prior--decree--unless~~
~~AND IE IT FURTHER FINDS THAT:~~

(a) the custodian agrees to the modification;

(b) the child has been integrated into the family of
 the petitioner with consent of the custodian; or

(c) the child's present environment endangers
 seriously his physical, mental, moral, or emotional health
 and the harm likely to be caused by a change of environment
 is outweighed by its advantages to him; ~~or~~

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 modification action is vexatious and constitutes harassment.

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 the custodial parent pursuant to 40-4-221."

-End-