

HOUSE BILL NO. 77

INTRODUCED BY J. BROWN

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE HOUSE

JANUARY 5, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 14, 1987	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 15, 1987	PRINTING REPORT.
JANUARY 16, 1987	SECOND READING, DO PASS.
JANUARY 17, 1987	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 86; NOES, 10.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 21, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
MARCH 5, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 9, 1987	SECOND READING, CONCURRED IN.
MARCH 11, 1987	THIRD READING, CONCURRED IN. AYES, 48; NOES, 2.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 12, 1987	RECEIVED FROM SENATE.
	SENT TO ENROLLING.

1 HOUSE BILL NO. 77
2 INTRODUCED BY J. BROWN
3 BY REQUEST OF THE DEPARTMENT OF REVENUE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A PATERNITY
6 ACTION TO BE BROUGHT BY A STATE AGENCY UNTIL THE CHILD
7 ATTAINS THE AGE OF MAJORITY; LIMITING RECOUPMENT OF PUBLIC
8 ASSISTANCE PAYMENTS; AND AMENDING SECTION 40-6-108, MCA."
9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 Section 1. Section 40-6-108, MCA, is amended to read:
12 "40-6-108. Statute of limitations. (1) An action may
13 be commenced:
14 (a) at any time for the purpose of declaring the
15 existence of the father and child relationship presumed
16 under subsection (a), (b), or (c) of 40-6-105(1);
17 (b) for the purpose of declaring the nonexistence of
18 the father and child relationship presumed under subsection
19 (a), (b), or (c) of 40-6-105(1), only if the action is
20 brought within a reasonable time after obtaining knowledge
21 of relevant facts, but not later than 5 years after the
22 child's birth.
23 (2) After the presumption has been rebutted, paternity
24 of the child by another man may be determined in the same
25 action if he has been made a party.

1 (3) An action to determine the existence or
2 nonexistence of the father and child relationship as to a
3 child who has no presumed father under 40-6-105;
4 (a) may not be brought;
5 {a} by the child later than 2 years after the child
6 attains the age of majority; or
7 (b) may be brought by a state agency ~~later--than--2~~
8 years at any time after the first application is made under
9 Title IV-D of the Social Security Act for services to the
10 child and before the child attains the age of majority.
11 (4) The father's liability for a statutory debt
12 created by the payment of public assistance is limited to
13 the amount of assistance paid during the 2-year period
14 preceding commencement of the action. This subsection does
15 not limit the subsequent accrual of a statutory debt.
16 {4}{5} Sections 40-6-107 and 40-6-108 do not extend
17 the time within which a right of inheritance or a right to a
18 succession may be asserted beyond the time provided by law
19 relating to distribution and closing of decedents' estates
20 or to the determination of heirship or otherwise.
21 {5}{6} After the conclusion of an adoption proceeding
22 under chapter 8, Title 40, no further action to declare the
23 existence or nonexistence of the father and child
24 relationship of the adopted child may be commenced, except
25 as provided in 40-8-112."

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB077, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act allowing a paternity action to be brought by a state agency until the child attains the age of majority; limiting recoupment of public assistance payments; and amending section 40-6-108, MCA.

ASSUMPTIONS:

N/A

FISCAL IMPACT:

The proposed law would increase reimbursements to the state for AFDC costs. Its impact on the general fund would be insignificant. It would shift some support enforcement resources away from AFDC cases in favor of paternity effort.

The proposed law would prevent the federal government from withholding a portion of future AFDC payments to Montana (for non-compliance with the 1984 Child Support Amendments to the Social Security Act, P.L. 98-378). In FY86, Montana received nearly \$26 million in AFDC funding from the federal government.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

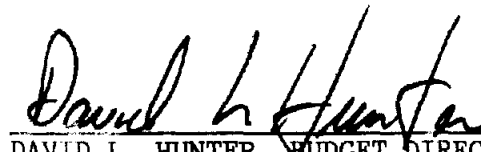
N/A


LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

N/A

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

It is necessary to make this bill effective on passage to avert curtailed AFDC funding from the Federal Government.

 DATE 1/10/87
DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

 DATE 1/12/87
JAN BROWN, PRIMARY SPONSOR
Fiscal Note for HB077, as introduced.

HB 77

APPROVED BY COMMITTEE
ON JUDICIARY

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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A PATERNITY ACTION TO BE BROUGHT BY A STATE AGENCY UNTIL THE CHILD ATTAINS THE AGE OF MAJORITY; LIMITING RECOUPMENT OF PUBLIC ASSISTANCE PAYMENTS; AND AMENDING SECTION 40-6-108, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 40-6-108, MCA, is amended to read:

"40-6-108. Statute of limitations. (1) An action may be commenced:

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(b) for the purpose of declaring the nonexistence of the father and child relationship presumed under subsection (a), (b), or (c) of 40-6-105(1), only if the action is brought within a reasonable time after obtaining knowledge of relevant facts, but not later than 5 years after the child's birth.

(2) After the presumption has been rebutted, paternity of the child by another man may be determined in the same

action if he has been made a party.

(3) An action to determine the existence or nonexistence of the father and child relationship as to a child who has no presumed father under 40-6-105:

(a) may not be brought

~~(a)~~ by the child later than 2 years after the child attains the age of majority; or

(b) may be brought by a state agency ~~later--than--2 years~~ at any time after the first application is made under Title IV-D of the Social Security Act for services to the child and before the child attains the age of majority.

(4) The father's liability for a statutory debt created by the payment of public assistance is limited to the amount of assistance paid during the 2-year period preceding commencement of the action. This subsection does not limit the subsequent accrual of a statutory debt.

~~(4)~~(5) Sections 40-6-107 and 40-6-108 do not extend the time within which a right of inheritance or a right to a succession may be asserted beyond the time provided by law relating to distribution and closing of decedents' estates or to the determination of heirship or otherwise.

~~(5)~~(6) After the conclusion of an adoption proceeding under chapter 8, Title 40, no further action to declare the existence or nonexistence of the father and child relationship of the adopted child may be commenced, except

HB 0077/02

1 as provided in 40-8-112."

2 NEW SECTION. SECTION 2. EFFECTIVE DATE. THIS ACT IS

3 EFFECTIVE ON PASSAGE AND APPROVAL.

-End-

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