

HB 262 INTRODUCED BY BRADLEY, ET AL.
HEARSAY EXCEPTION FOR VICTIMS OF SEXUAL CONTACT
AND ABUSE WHO ARE LESS THAN 10 YEARS OLD

1/17 INTRODUCED
1/17 REFERRED TO JUDICIARY
2/05 HEARING
2/10 COMMITTEE REPORT--BILL PASSED
2/11 REREFERRED TO JUDICIARY
2/13 COMMITTEE REPORT--BILL PASSED
2/16 2ND READING NOT PASSED

54 46

1 House BILL NO. 262
2 INTRODUCED BY Bradley Miles Cobb Winsten

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE AN EXCEPTION
5 TO THE EVIDENTIARY RULE AGAINST ADMISSION OF HEARSAY
6 EVIDENCE FOR THE ADMISSION OF STATEMENTS OF CERTAIN VICTIMS
7 OF SEXUAL CONTACT OR ABUSE WHO ARE LESS THAN 10 YEARS OLD;
8 AND PROVIDING CERTAIN PROCEDURES FOR THE IMPLEMENTATION AND
9 OPERATION OF THE EXCEPTION."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Statements of certain minors -- hearsay
13 exception. (1) An out-of-court statement made by a minor
14 less than 10 years of age, describing any act of sexual
15 contact performed with or on the minor or any abusive act
16 performed on the minor, that is not otherwise admissible as
17 hearsay by statute or court rule is admissible in evidence
18 in a criminal proceeding if:

19 (a) the judge makes written findings, based on
20 evidence received in a hearing conducted outside the
21 presence of the jury, that the time, content, and
22 circumstances of the statement provide sufficient safeguards
23 of reliability; and

24 (b) the minor either:

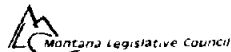
25 (i) testifies at the proceeding; or

1 (ii) is unavailable or is disqualified as a witness at
2 the time of the trial.

3 (2) If a statement is admitted pursuant to this
4 section, the court shall instruct the jury that it is for
5 the jury to determine the weight and credit to be given to
6 the statement and that in making the determination, it
7 should consider the age and maturity of the minor, the
8 nature of the statement, the circumstances under which the
9 statement was made, and any other factor considered
10 relevant.

11 (3) The proponent of a statement referred to in
12 subsection (1) shall give reasonable notice of an intention
13 to offer the statement and the particulars of the statement
14 to the adverse party.

-End-



APPROVED BY COMMITTEE
ON JUDICIARY

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2 INTRODUCED BY Bradley Miller Cobb Wmaka W. Wain

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19 (a) the judge makes written findings, based on
20 evidence received in a hearing conducted outside the
21 presence of the jury, that the time, content, and
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