

HOUSE BILL NO. 661

INTRODUCED BY RICE

BY REQUEST OF THE DEPARTMENT OF HEALTH
AND ENVIRONMENTAL SCIENCES

IN THE HOUSE

FEBRUARY 11, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON HUMAN SERVICES & AGING.
FEBRUARY 13, 1989	FIRST READING.
FEBRUARY 16, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 17, 1989	PRINTING REPORT.
FEBRUARY 18, 1989	SECOND READING, DO PASS.
FEBRUARY 20, 1989	ENGROSSING REPORT.
FEBRUARY 21, 1989	THIRD READING, PASSED. AYES, 98; NOES, 0.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 28, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY.
	FIRST READING.
MARCH 18, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 20, 1989	SECOND READING, CONCURRED IN.
MARCH 22, 1989	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 22, 1989

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 661
2 INTRODUCED BY Rice
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 STATUTES RELATING TO SEXUALLY TRANSMITTED DISEASES; CHANGING
8 THE REFERENCES TO "VENEREAL DISEASES" TO "SEXUALLY
9 TRANSMITTED DISEASES"; ADDING AIDS AND CHLAMYDIA GENITAL
10 INFECTIONS TO THE LIST OF SEXUALLY TRANSMITTED DISEASES
11 DEFINED; CLARIFYING THAT THE DEPARTMENT OF HEALTH AND
12 ENVIRONMENTAL SCIENCES IS NOT RESPONSIBLE FOR PROVIDING
13 TREATMENT TO THOSE WITH SEXUALLY TRANSMITTED DISEASES;
14 ALLOWING THE DEPARTMENT TO KEEP FALSE POSITIVE SYPHILIS TEST
15 RESULTS; ELIMINATING THE REQUIREMENT THAT A PHYSICIAN REPORT
16 DIRECTLY TO THE DEPARTMENT; ALLOWING PERSONS AUTHORIZED BY
17 STATE PHARMACY LAWS TO SIGN A PRESCRIPTION TO PRESCRIBE,
18 SELL, OR RECOMMEND DRUGS FOR TREATMENT OF SEXUALLY
19 TRANSMITTED DISEASES; CLARIFYING THE CIRCUMSTANCES UNDER
20 WHICH INFORMATION CONCERNING SEXUALLY TRANSMITTED DISEASES
21 MAY BE RELEASED; AMENDING SECTIONS 41-1-402, 41-1-403,
22 50-18-101 THROUGH 50-18-104, 50-18-106 THROUGH 50-18-113,
23 50-19-102, 50-19-105, AND 50-31-303, MCA; AND REPEALING
24 SECTION 45-8-204, MCA."
25

1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
2 **Section 1.** Section 50-18-101, MCA, is amended to read:
3 "50-18-101. Venerae! Sexually transmitted diseases
4 defined. Syphilis Acquired immunodeficiency syndrome (AIDS),
5 syphilis, gonorrhea, chancroid, chlamydia genital
6 infections, lympho-granuloma, venereum, and granuloma
7 inguinale are venerae! sexually transmitted diseases.
8 Venerae! Sexually transmitted diseases are contagious,
9 infectious, communicable, and dangerous to public health."
10 **Section 2.** Section 50-18-102, MCA, is amended to read:
11 "~~50-18-102.--Department----to----undertake----contro!r~~
12 ~~prevention,--and--treatment--of--venerae!-diseases~~ Powers and
13 duties of department. The department of health and
14 environmental sciences shall undertake to prevent, control,
15 and prescribe treatments for venerae! sexually transmitted
16 diseases and may conduct education campaigns for this
17 purpose."
18 **Section 3.** Section 50-18-103, MCA, is amended to read:
19 "50-18-103. Cooperation with federal agencies --
20 federal funds. (1) The department of health and
21 environmental sciences shall cooperate with federal agencies
22 and may expend federal funds made available to the state for
23 the prevention, control, and treatment of venerae! sexually
24 transmitted diseases.
25 (2) The department may accept federal funds available

for the prevention, control, and treatment of venereal sexually transmitted diseases, deposit funds in the state treasury, and disburse the funds."

Section 4. Section 50-18-104, MCA, is amended to read:

"50-18-104. Serological test for syphilis. (1) The department of health and environmental sciences shall approve a standard serological test for syphilis. It shall also approve laboratories which may make such tests.

(2) On request the department shall make laboratory tests required by this chapter.

~~{3}--The department shall destroy the results of a test if an erroneous report is made."~~

Section 5. Section 50-18-106, MCA, is amended to read:

"50-18-106. Duty to report cases. ~~{1}--A physician who diagnoses or treats a venereal disease shall make a record and report the case to the department of health and environmental sciences in the way and on forms provided by the department.~~

~~{2}~~ If a physician or other person knows or has reason to suspect that a person who has venereal a sexually transmitted disease is conducting himself in a way which might expose another to infection, he shall immediately notify the local health officer of the name and address of the diseased person and the essential facts in the case."

Section 6. Section 50-18-107, MCA, is amended to read:

"50-18-107. Powers and duties of health officers. (1) If found necessary or desirable to protect public health, state and local health officers or their authorized deputies or agents shall:

(a) examine or have examined persons reasonably suspected of being infected with venereal a sexually transmitted disease;

(b) require persons infected to report for treatment to a reputable physician and continue treatment, which may be at public expense, until cured;

(c) isolate or quarantine persons who refuse examination or treatment;

(d) investigate sources of infection of venereal a sexually transmitted disease.

(2) No one but the state or local health officer may terminate the isolation or quarantine. Examinations may be made repeatedly as deemed advisable or desirable."

Section 7. Section 50-18-108, MCA, is amended to read:

"50-18-108. Examination and treatment of prisoners. Any person confined or imprisoned in any state, county, or municipal prison within the state may be examined for venereal a sexually transmitted disease. If infected, the person shall must be treated by health authorities."

Section 8. Section 50-18-109, MCA, is amended to read:

"50-18-109. Permissible release of information

1 concerning infected persons. (1) Information concerning
 2 persons infected or reasonably suspected to be infected with
 3 ~~venereal~~ a sexually transmitted disease may only be released
 4 to only:

5 (a) to personnel of the department of health and
 6 environmental sciences; or

7 (b) to a physician who has written consent of the
 8 person whose record is requested;

9 (c) to a local health officer; or

10 (d) by the department of health and environmental
 11 sciences or a local health officer or board under the
 12 circumstances allowed by [Bill No. (LC 864)].

13 (2) For the purposes of this section, the term
 14 "information" includes all knowledge or intelligence and all
 15 communications of all knowledge or intelligence, oral or
 16 written or in record form, and also includes but is not
 17 limited to information concerning the location or nature of
 18 the activities or work of all local, state, or federal
 19 employees or officers engaged in ~~venereal~~ sexually
 20 transmitted disease eradication work, and such personnel are
 21 ~~privileged and shall not be required to testify concerning~~
 22 ~~anything within their knowledge or work activities having~~
 23 ~~any relation to venereal disease work.~~

24 (3) The purpose of this section is to protect and
 25 preserve the principle of confidentiality in ~~venereal~~

1 sexually transmitted disease work by public personnel,
 2 local, state, and federal, such confidentiality being all
 3 important to the success of all ~~venereal~~ sexually
 4 transmitted disease eradication work and endeavor, and to
 5 require that the principle of confidentiality in such work
 6 remain inviolate."

7 **Section 9.** Section 50-18-110, MCA, is amended to read:

8 "50-18-110. Unlawful dispensation dispensing of drugs
 9 for cure or alleviation of ~~venereal~~ sexually transmitted
 10 disease. It is unlawful to prescribe, sell, or recommend any
 11 drugs, medicines, or other substances for the cure or
 12 alleviation of ~~venereal~~ a sexually transmitted disease
 13 except upon prescription signed by a physician person
 14 legally authorized to ~~practice medicine in~~ do so by the
 15 pharmacy laws of this state."

16 **Section 10.** Section 50-18-111, MCA, is amended to read:

17 "50-18-111. Certificate of freedom from ~~venereal~~
 18 sexually transmitted disease not to be issued. No person
 19 shall issue a certificate of freedom from ~~venereal~~ a
 20 sexually transmitted disease. However, a physician or
 21 health officer may issue a statement of freedom from
 22 diseases in an infectious state only if it is written in
 23 such form or given under safeguards that will prevent its
 24 use in solicitation for sexual intercourse. These statements
 25 shall not be used for solicitation for immoral purposes."

Section 11. Section 50-18-112, MCA, is amended to read:

"50-18-112. Infected person not to expose another to ~~venereal~~ sexually transmitted disease. A person infected with a ~~venereal~~ sexually transmitted disease ~~shall~~ may not knowingly expose another person to infection."

Section 12. Section 50-18-113, MCA, is amended to read:

"50-18-113. Violation a misdemeanor. A person who violates provisions of this chapter or rules adopted by the department of health and environmental sciences concerning ~~venereal~~ a sexually transmitted disease or who fails or refuses to obey any lawful order issued by a state or local health officer is guilty of a misdemeanor."

Section 13. Section 50-19-105, MCA, is amended to read:

"50-19-105. Report of positive test results. All positive laboratory tests for any ~~venereal~~ sexually transmitted diseases ~~shall~~ must be reported to the department by the laboratory preparing the test. The department shall prescribe the form and way of reporting."

Section 14. Section 41-1-402, MCA, is amended to read:

"41-1-402. Validity of consent of minor for health services. (1) The consent to the provision of medical or surgical care or services by a hospital, public clinic, or the performance of medical or surgical care or services by a physician licensed to practice medicine in this state may be given by a minor who professes or is found to meet any of

the following descriptions:

(a) a minor who is or was ever married or has had a child or graduated from high school or is emancipated;

(b) a minor who has been separated from his parent, parents, or legal guardian for whatever reason and is supporting himself by whatever means;

(c) a minor who professes or is found to be pregnant or afflicted with any reportable communicable disease, including ~~venereal~~ a sexually transmitted disease, or drug and substance abuse, including alcohol. This self-consent only applies to the prevention, diagnosis, and treatment of those conditions specified in this subsection. The self-consent in the case of pregnancy, ~~venereal~~ a sexually transmitted disease, and drug and substance abuse also obliges the health professional, if he accepts the responsibility for treatment, to counsel the minor by himself or by referral to another health professional for counseling.

(d) a minor who needs emergency care, including transfusions, without which his health will be jeopardized. If emergency care is rendered, the parent, parents, or legal guardian shall be informed as soon as practical except under the circumstances mentioned in this subsection (1).

(2) A minor who has had a child may give effective consent to health service for his child.

(3) A minor may give consent for health care for his spouse if his spouse is unable to give consent by reason of physical or mental incapacity."

Section 15. Section 41-1-403, MCA, is amended to read:

"41-1-403. Release of information by physician. (1) A treating physician or other health professional may, but shall not be obligated to, inform the spouse, parent, custodian, or guardian of any such minor in the circumstances as enumerated in 41-1-402 of any treatment given or needed when:

(a) in the judgment of the health professional, severe complications are present or anticipated;

(b) major surgery or prolonged hospitalization is needed;

(c) failure to inform the parent, parents, or legal guardian would seriously jeopardize the safety and health of the minor patient, younger siblings, or the public;

(d) to inform them would benefit the minor's physical and mental health and family harmony; or

(e) the hospital desires a third-party commitment to pay for services rendered or to be rendered.

(2) Notification or disclosure to the spouse, parent, parents, or legal guardian by the health professional shall not constitute libel or slander, a violation of the right of privacy, a violation of the rule of privileged

communication, or any other legal basis of liability. When the minor is found not to be pregnant or not afflicted with ~~venereal~~ a sexually transmitted disease or not suffering from a drug- or substance-abuse, including alcohol, then no information with respect to any appointment, examination, test, or other health procedure shall be given to the parent, parents, or legal guardian, if they have not been already informed as permitted in this part, without the consent of the minor."

Section 16. Section 50-19-102, MCA, is amended to read:

"50-19-102. Duties of department. (1) The department shall provide all necessary printing and pay all necessary expenses relative to administration of this part.

(2) Reasonable rules for reports to be submitted by any laboratory making tests and the manner of furnishing the reports to the physician and the state shall be adopted by the department.

(3) The department may use information derived from reports of positive tests for ~~venereal~~ sexually transmitted diseases for follow-up procedures required by law or considered necessary by the department for the protection of public health."

Section 17. Section 50-31-303, MCA, is amended to read:

"50-31-303. Certain drug advertisements considered false. (1) For the purpose of this chapter, the

1 advertisement of a drug or device representing it to have
 2 any effect in albuminuria, appendicitis, arteriosclerosis,
 3 blood poison, bone disease, Bright's disease, cancer,
 4 carbuncles, cholecystitis, diabetes, diphtheria, dropsy,
 5 erysipelas, gallstones, heart and vascular diseases, high
 6 blood pressure, mastoiditis, measles, meningitis, mumps,
 7 nephritis, otitis media, paralysis, pneumonia, poliomyelitis
 8 (infantile paralysis), prostate gland disorders, pyelitis,
 9 scarlet fever, sexual impotence, sinus infection, smallpox,
 10 tuberculosis, tumors, typhoid, uremia, or ~~venereal~~ a
 11 sexually transmitted disease shall also be deemed to be
 12 false, except that no advertisement not in violation of
 13 50-31-107(1) shall be deemed to be false under this section
 14 if it is disseminated only to members of the medical,
 15 dental, or veterinary professions or appears only in the
 16 scientific periodicals of these professions or is
 17 disseminated only for the purpose of public health education
 18 by persons not commercially interested, directly or
 19 indirectly, in the sale of such drugs or devices.

20 (2) Whenever the department determines that an advance
 21 in medical science has made any type of self-medication safe
 22 as to any of the diseases named above, the department shall
 23 by regulation authorize the advertisement of drugs having
 24 curative or therapeutic effect for such disease, subject to
 25 such conditions and restrictions as the department may deem

1 necessary in the interests of public health.

2 (3) This section shall not be construed as indicating
 3 that self-medication for diseases other than those named
 4 herein is safe or efficacious."

5 NEW SECTION. **Section 18.** Repealer. Section 45-8-204,
 6 MCA, is repealed.

7 NEW SECTION. **Section 19.** Extension of authority. Any
 8 existing authority to make rules on the subject of the
 9 provisions of [this act] is extended to the provisions of
 10 [this act].

11 NEW SECTION. **Section 20.** Coordination instruction. If
 12 Bill No. [LC 864] is not passed and approved, the
 13 portions of [section 8 of this act] are void that add a new
 14 subsection (1)(d) to 50-18-109 and that strike the phrase
 15 "and shall not be required to testify concerning anything
 16 within their knowledge or work activities having any
 17 relation to venereal disease work" from subsection (2) of
 18 50-18-109.

19 NEW SECTION. **Section 21.** Saving clause. [This act]
 20 does not affect rights and duties that matured, penalties
 21 that were incurred, or proceedings that were begun before
 22 [the effective date of this act].

23 NEW SECTION. **Section 22.** Severability. If a part of
 24 [this act] is invalid, all valid parts that are severable
 25 from the invalid part remain in effect. If a part of [this

LC 0860/01

1 act] is invalid in one or more of its applications, the part
2 remains in effect in all valid applications that are
3 severable from the invalid applications.

-End-

APPROVED BY COMM. ON
HUMAN SERVICES AND AGING

HOUSE BILL NO. 661

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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 STATUTES RELATING TO SEXUALLY TRANSMITTED DISEASES; CHANGING THE REFERENCES TO "VENEREAL DISEASES" TO "SEXUALLY TRANSMITTED DISEASES"; ADDING AIDS AND CHLAMYDIA GENITAL INFECTIONS TO THE LIST OF SEXUALLY TRANSMITTED DISEASES DEFINED; CLARIFYING THAT THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES IS NOT RESPONSIBLE FOR PROVIDING TREATMENT TO THOSE WITH SEXUALLY TRANSMITTED DISEASES; ALLOWING THE DEPARTMENT TO KEEP FALSE POSITIVE SYPHILIS TEST RESULTS; ELIMINATING THE REQUIREMENT THAT A PHYSICIAN REPORT DIRECTLY TO THE DEPARTMENT; ALLOWING PERSONS AUTHORIZED BY STATE PHARMACY LAWS TO SIGN A PRESCRIPTION TO PRESCRIBE, SELL, OR RECOMMEND DRUGS FOR TREATMENT OF SEXUALLY TRANSMITTED DISEASES; CLARIFYING THE CIRCUMSTANCES UNDER WHICH INFORMATION CONCERNING SEXUALLY TRANSMITTED DISEASES MAY BE RELEASED; AMENDING SECTIONS 41-1-402, 41-1-403, 50-18-101 THROUGH 50-18-104, 50-18-106 THROUGH 50-18-113, 50-19-102, 50-19-105, AND 50-31-303, MCA; AND REPEALING SECTION 45-8-204, MCA."

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

Section 1. Section 50-18-101, MCA, is amended to read:

"50-18-101. ~~Venerae~~ Sexually transmitted diseases defined. ~~Syphitis~~ Acquired immunodeficiency syndrome (AIDS), syphilis, gonorrhea, chancroid, chlamydia genital infections, lympho-granuloma, venereum, and granuloma inguinale are ~~venerae~~ sexually transmitted diseases. ~~Venerae~~ Sexually transmitted diseases are contagious, infectious, communicable, and dangerous to public health."

Section 2. Section 50-18-102, MCA, is amended to read:

"50-18-102. ~~Department to undertake control, prevention, and treatment of venerae diseases~~ Powers and duties of department. The department of health and environmental sciences shall undertake to prevent, control, and prescribe treatments for ~~venerae~~ sexually transmitted diseases and may conduct education campaigns for this purpose."

Section 3. Section 50-18-103, MCA, is amended to read:

"50-18-103. Cooperation with federal agencies -- federal funds. (1) The department of health and environmental sciences shall cooperate with federal agencies and may expend federal funds made available to the state for the prevention, control, and treatment of ~~venerae~~ sexually transmitted diseases.

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for the prevention, control, and treatment of ~~venereal~~
sexually transmitted diseases, deposit funds in the state
treasury, and disburse the funds."

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tests required by this chapter.

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if an erroneous report is made."~~

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~~{2} If a physician or other person knows or has reason
to suspect that a person who has venereal a sexually
transmitted disease is conducting himself in a way which
might expose another to infection, he shall immediately
notify the local health officer of the name and address of
the diseased person and the essential facts in the case."~~

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 8 person whose record is requested;

9 (c) to a local health officer; or

10 (d) by the department of health and environmental
 11 sciences or a local health officer or board under the
 12 circumstances allowed by [HOUSE Bill No. 668 (LC 864)].

13 (2) For the purposes of this section, the term
 14 "information" includes all knowledge or intelligence and all
 15 communications of all knowledge or intelligence, oral or
 16 written or in record form, and also includes but is not
 17 limited to information concerning the location or nature of
 18 the activities or work of all local, state, or federal
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 20 transmitted disease eradication work, and such personnel are
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 25 preserve the principle of confidentiality in ~~venereal~~

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 15 pharmacy laws of this state."

16 **Section 10.** Section 50-18-111, MCA, is amended to
 17 read:

18 "50-18-111. Certificate of freedom from ~~venereal~~
 19 sexually transmitted disease not to be issued. No person
 20 shall issue a certificate of freedom from ~~venereal~~ a
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 22 health officer may issue a statement of freedom from
 23 diseases in an infectious state only if it is written in
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1 shall not be used for solicitation for immoral purposes."

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3 read:

4 "50-18-112. Infected person not to expose another to
5 venereal sexually transmitted disease. A person infected
6 with a venereal sexually transmitted disease ~~shall~~ may not
7 knowingly expose another person to infection."

8 **Section 12.** Section 50-18-113, MCA, is amended to
9 read:

10 "50-18-113. Violation a misdemeanor. A person who
11 violates provisions of this chapter or rules adopted by the
12 department of health and environmental sciences concerning
13 venereal a sexually transmitted disease or who fails or
14 refuses to obey any lawful order issued by a state or local
15 health officer is guilty of a misdemeanor."

16 **Section 13.** Section 50-19-105, MCA, is amended to
17 read:

18 "50-19-105. Report of positive test results. All
19 positive laboratory tests for any venereal sexually
20 transmitted diseases ~~shall~~ must be reported to the
21 department by the laboratory preparing the test. The
22 department shall prescribe the form and way of reporting."

23 **Section 14.** Section 41-1-402, MCA, is amended to read:

24 "41-1-402. Validity of consent of minor for health
25 services. (1) The consent to the provision of medical or

1 surgical care or services by a hospital, public clinic, or
2 the performance of medical or surgical care or services by a
3 physician licensed to practice medicine in this state may be
4 given by a minor who professes or is found to meet any of
5 the following descriptions:

6 (a) a minor who is or was ever married or has had a
7 child or graduated from high school or is emancipated;

8 (b) a minor who has been separated from his parent,
9 parents, or legal guardian for whatever reason and is
10 supporting himself by whatever means;

11 (c) a minor who professes or is found to be pregnant
12 or afflicted with any reportable communicable disease,
13 including venereal a sexually transmitted disease, or drug
14 and substance abuse, including alcohol. This self-consent
15 only applies to the prevention, diagnosis, and treatment of
16 those conditions specified in this subsection. The
17 self-consent in the case of pregnancy, venereal a sexually
18 transmitted disease, and drug and substance abuse also
19 obliges the health professional, if he accepts the
20 responsibility for treatment, to counsel the minor by
21 himself or by referral to another health professional for
22 counseling.

23 (d) a minor who needs emergency care, including
24 transfusions, without which his health will be jeopardized.
25 If emergency care is rendered, the parent, parents, or legal

1 guardian shall be informed as soon as practical except under
2 the circumstances mentioned in this subsection (1).

3 (2) A minor who has had a child may give effective
4 consent to health service for his child.

5 (3) A minor may give consent for health care for his
6 spouse if his spouse is unable to give consent by reason of
7 physical or mental incapacity."

8 **Section 15.** Section 41-1-403, MCA, is amended to read:

9 "41-1-403. Release of information by physician. (1) A
10 treating physician or other health professional may, but
11 shall not be obligated to, inform the spouse, parent,
12 custodian, or guardian of any such minor in the
13 circumstances as enumerated in 41-1-402 of any treatment
14 given or needed when:

15 (a) in the judgment of the health professional, severe
16 complications are present or anticipated;

17 (b) major surgery or prolonged hospitalization is
18 needed;

19 (c) failure to inform the parent, parents, or legal
20 guardian would seriously jeopardize the safety and health of
21 the minor patient, younger siblings, or the public;

22 (d) to inform them would benefit the minor's physical
23 and mental health and family harmony; or

24 (e) the hospital desires a third-party commitment to
25 pay for services rendered or to be rendered.

1 (2) Notification or disclosure to the spouse, parent,
2 parents, or legal guardian by the health professional shall
3 not constitute libel or slander, a violation of the right of
4 privacy, a violation of the rule of privileged
5 communication, or any other legal basis of liability. When
6 the minor is found not to be pregnant or not afflicted with
7 ~~venereal~~ a sexually transmitted disease or not suffering
8 from a drug- or substance-abuse, including alcohol, then no
9 information with respect to any appointment, examination,
10 test, or other health procedure shall be given to the
11 parent, parents, or legal guardian, if they have not been
12 already informed as permitted in this part, without the
13 consent of the minor."

14 **Section 16.** Section 50-19-102, MCA, is amended to
15 read:

16 "50-19-102. Duties of department. (1) The department
17 shall provide all necessary printing and pay all necessary
18 expenses relative to administration of this part.

19 (2) Reasonable rules for reports to be submitted by
20 any laboratory making tests and the manner of furnishing the
21 reports to the physician and the state shall be adopted by
22 the department.

23 (3) The department may use information derived from
24 reports of positive tests for ~~venereal~~ sexually transmitted
25 diseases for follow-up procedures required by law or

1 considered necessary by the department for the protection of
2 public health."

3 **Section 17.** Section 50-31-303, MCA, is amended to
4 read:

5 "50-31-303. Certain drug advertisements considered
6 false. (1) For the purpose of this chapter, the
7 advertisement of a drug or device representing it to have
8 any effect in albuminuria, appendicitis, arteriosclerosis,
9 blood poison, bone disease, Bright's disease, cancer,
10 carbuncles, cholecystitis, diabetes, diphtheria, dropsy,
11 erysipelas, gallstones, heart and vascular diseases, high
12 blood pressure, mastoiditis, measles, meningitis, mumps,
13 nephritis, otitis media, paralysis, pneumonia, poliomyelitis
14 (infantile paralysis), prostate gland disorders, pyelitis,
15 scarlet fever, sexual impotence, sinus infection, smallpox,
16 tuberculosis, tumors, typhoid, uremia, or ~~venereal~~ a
17 sexually transmitted disease shall also be deemed to be
18 false, except that no advertisement not in violation of
19 50-31-107(1) shall be deemed to be false under this section
20 if it is disseminated only to members of the medical,
21 dental, or veterinary professions or appears only in the
22 scientific periodicals of these professions or is
23 disseminated only for the purpose of public health education
24 by persons not commercially interested, directly or
25 indirectly, in the sale of such drugs or devices.

1 (2) Whenever the department determines that an advance
2 in medical science has made any type of self-medication safe
3 as to any of the diseases named above, the department shall
4 by regulation authorize the advertisement of drugs having
5 curative or therapeutic effect for such disease, subject to
6 such conditions and restrictions as the department may deem
7 necessary in the interests of public health.

8 (3) This section shall not be construed as indicating
9 that self-medication for diseases other than those named
10 herein is safe or efficacious."

11 NEW SECTION. **Section 18.** Repealer. Section 45-8-204,
12 MCA, is repealed.

13 NEW SECTION. **Section 19.** Extension of authority. Any
14 existing authority to make rules on the subject of the
15 provisions of [this act] is extended to the provisions of
16 [this act].

17 NEW SECTION. **Section 20.** Coordination instruction. If
18 HOUSE Bill No. 668 [LC 864] is not passed and approved, the
19 portions of [section 8 of this act] are void that add a new
20 subsection (1)(d) to 50-18-109 and that strike the phrase
21 "and shall not be required to testify concerning anything
22 within their knowledge or work activities having any
23 relation to venereal disease work" from subsection (2) of
24 50-18-109. IF THIS PHRASE IS NOT VOID AND IS REINSERTED, THE
25 TERM "VENEREAL" IS STRICKEN AND THE TERM "SEXUALLY

1 TRANSMITTED" IS INSERTED.

2 NEW SECTION. Section 21. Saving clause. [This act]
3 does not affect rights and duties that matured, penalties
4 that were incurred, or proceedings that were begun before
5 [the effective date of this act].

6 NEW SECTION. Section 22. Severability. If a part of
7 [this act] is invalid, all valid parts that are severable
8 from the invalid part remain in effect. If a part of [this
9 act] is invalid in one or more of its applications, the part
10 remains in effect in all valid applications that are
11 severable from the invalid applications.

-End-

1 HOUSE BILL NO. 661
2 INTRODUCED BY RICE
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 STATUTES RELATING TO SEXUALLY TRANSMITTED DISEASES; CHANGING
8 THE REFERENCES TO "VENEREAL DISEASES" TO "SEXUALLY
9 TRANSMITTED DISEASES"; ADDING AIDS AND CHLAMYDIA GENITAL
10 INFECTIONS TO THE LIST OF SEXUALLY TRANSMITTED DISEASES
11 DEFINED; CLARIFYING THAT THE DEPARTMENT OF HEALTH AND
12 ENVIRONMENTAL SCIENCES IS NOT RESPONSIBLE FOR PROVIDING
13 TREATMENT TO THOSE WITH SEXUALLY TRANSMITTED DISEASES;
14 ALLOWING THE DEPARTMENT TO KEEP FALSE POSITIVE SYPHILIS TEST
15 RESULTS; ELIMINATING THE REQUIREMENT THAT A PHYSICIAN REPORT
16 DIRECTLY TO THE DEPARTMENT; ALLOWING PERSONS AUTHORIZED BY
17 STATE PHARMACY LAWS TO SIGN A PRESCRIPTION TO PRESCRIBE,
18 SELL, OR RECOMMEND DRUGS FOR TREATMENT OF SEXUALLY
19 TRANSMITTED DISEASES; CLARIFYING THE CIRCUMSTANCES UNDER
20 WHICH INFORMATION CONCERNING SEXUALLY TRANSMITTED DISEASES
21 MAY BE RELEASED; AMENDING SECTIONS 41-1-402, 41-1-403,
22 50-18-101 THROUGH 50-18-104, 50-18-106 THROUGH 50-18-113,
23 50-19-102, 50-19-105, AND 50-31-303, MCA; AND REPEALING
24 SECTION 45-8-204, MCA."
25

There is no change on HB 661 and will not
be reprinted. Please refer to second reading
(yellow) for complete text.

HOUSE BILL NO. 661

INTRODUCED BY RICE

BY REQUEST OF THE DEPARTMENT OF HEALTH

AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE STATUTES RELATING TO SEXUALLY TRANSMITTED DISEASES; CHANGING THE REFERENCES TO "VENEREAL DISEASES" TO "SEXUALLY TRANSMITTED DISEASES"; ADDING AIDS AND CHLAMYDIA GENITAL INFECTIONS TO THE LIST OF SEXUALLY TRANSMITTED DISEASES DEFINED; CLARIFYING THAT THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES IS NOT RESPONSIBLE FOR PROVIDING TREATMENT TO THOSE WITH SEXUALLY TRANSMITTED DISEASES; ALLOWING THE DEPARTMENT TO KEEP FALSE POSITIVE SYPHILIS TEST RESULTS; ELIMINATING THE REQUIREMENT THAT A PHYSICIAN REPORT DIRECTLY TO THE DEPARTMENT; ALLOWING PERSONS AUTHORIZED BY STATE PHARMACY LAWS TO SIGN A PRESCRIPTION TO PRESCRIBE, SELL, OR RECOMMEND DRUGS FOR TREATMENT OF SEXUALLY TRANSMITTED DISEASES; CLARIFYING THE CIRCUMSTANCES UNDER WHICH INFORMATION CONCERNING SEXUALLY TRANSMITTED DISEASES MAY BE RELEASED; AMENDING SECTIONS 41-1-402, 41-1-403, 50-18-101 THROUGH 50-18-104, 50-18-106 THROUGH 50-18-113, 50-19-102, 50-19-105, AND 50-31-303, MCA; AND REPEALING SECTION 45-8-204, MCA."

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

Section 1. Section 50-18-101, MCA, is amended to read:

"50-18-101. Venerae Sexualy transmitted diseases defined. Syphillis Acquired immunodeficiency syndrome (AIDS), syphilis, gonorrhea, chancroid, chlamydia genital infections, lympho-granuloma, venereum, and granuloma inguinale are venerae sexualy transmitted diseases. Venerae Sexualy transmitted diseases are contagious, infectious, communicable, and dangerous to public health."

Section 2. Section 50-18-102, MCA, is amended to read:

"50-18-102.--Department----to----undertake-----control, prevention,--and--treatment--of--venerae-diseases Powers and duties of department. The department of health and environmental sciences shall undertake to prevent, control, and prescribe treatments for venerae sexualy transmitted diseases and may conduct education campaigns for this purpose."

Section 3. Section 50-18-103, MCA, is amended to read:

"50-18-103. Cooperation with federal agencies -- federal funds. (1) The department of health and environmental sciences shall cooperate with federal agencies and may expend federal funds made available to the state for the prevention, control, and treatment of venerae sexualy transmitted diseases.

(2) The department may accept federal funds available

1 for the prevention, control, and treatment of venereal
2 sexually transmitted diseases, deposit funds in the state
3 treasury, and disburse the funds."

4 **Section 4.** Section 50-18-104, MCA, is amended to read:

5 "50-18-104. Serological test for syphilis. (1) The
6 department of health and environmental sciences shall
7 approve a standard serological test for syphilis. It shall
8 also approve laboratories which may make such tests.

9 (2) On request the department shall make laboratory
10 tests required by this chapter.

11 ~~{3}--The department shall destroy the results of a test~~
12 ~~if an erroneous report is made."~~

13 **Section 5.** Section 50-18-106, MCA, is amended to read:

14 "50-18-106. Duty to report cases. ~~{1}--A physician who~~
15 ~~diagnoses or treats a venereal disease shall make a record~~
16 ~~and report the case to the department of health and~~
17 ~~environmental sciences in the way and on forms provided by~~
18 ~~the department.~~

19 {2} If a physician or other person knows or has reason
20 to suspect that a person who has venereal a sexually
21 transmitted disease is conducting himself in a way which
22 might expose another to infection, he shall immediately
23 notify the local health officer of the name and address of
24 the diseased person and the essential facts in the case."

25 **Section 6.** Section 50-18-107, MCA, is amended to read:

1 "50-18-107. Powers and duties of health officers. (1)
2 If found necessary or desirable to protect public health,
3 state and local health officers or their authorized deputies
4 or agents shall:

5 (a) examine or have examined persons reasonably
6 suspected of being infected with venereal a sexually
7 transmitted disease;

8 (b) require persons infected to report for treatment
9 to a reputable physician and continue treatment, which may
10 be at public expense, until cured;

11 (c) isolate or quarantine persons who refuse
12 examination or treatment;

13 (d) investigate sources of infection of venereal a
14 sexually transmitted disease.

15 (2) No one but the state or local health officer may
16 terminate the isolation or quarantine. Examinations may be
17 made repeatedly as deemed advisable or desirable."

18 **Section 7.** Section 50-18-108, MCA, is amended to read:

19 "50-18-108. Examination and treatment of prisoners.
20 Any person confined or imprisoned in any state, county, or
21 municipal prison within the state may be examined for
22 venereal a sexually transmitted disease. If infected, the
23 person shall must be treated by health authorities."

24 **Section 8.** Section 50-18-109, MCA, is amended to read:

25 "50-18-109. Permissible release of information

1 concerning infected persons. (1) Information concerning
2 persons infected or reasonably suspected to be infected with
3 ~~venereal~~ a sexually transmitted disease may only be released
4 to only:

5 (a) to personnel of the department of health and
6 environmental sciences; or

7 (b) to a physician who has written consent of the
8 person whose record is requested;

9 (c) to a local health officer; or

10 (d) by the department of health and environmental
11 sciences or a local health officer or board under the
12 circumstances allowed by [HOUSE Bill No. 668 (LC 864)].

13 (2) For the purposes of this section, the term
14 "information" includes all knowledge or intelligence and all
15 communications of all knowledge or intelligence, oral or
16 written or in record form, and also includes but is not
17 limited to information concerning the location or nature of
18 the activities or work of all local, state, or federal
19 employees or officers engaged in ~~venereal~~ sexually
20 transmitted disease eradication work, and such personnel are
21 ~~privileged and shall not be required to testify concerning~~
22 ~~anything within their knowledge or work activities having~~
23 ~~any relation to venereal disease work.~~

24 (3) The purpose of this section is to protect and
25 preserve the principle of confidentiality in ~~venereal~~

1 sexually transmitted disease work by public personnel,
2 local, state, and federal, such confidentiality being all
3 important to the success of all ~~venereal~~ sexually
4 transmitted disease eradication work and endeavor, and to
5 require that the principle of confidentiality in such work
6 remain inviolate."

7 **Section 9.** Section 50-18-110, MCA, is amended to read:

8 "50-18-110. Unlawful dispensation dispensing of drugs
9 for cure or alleviation of ~~venereal~~ sexually transmitted
10 disease. It is unlawful to prescribe, sell, or recommend any
11 drugs, medicines, or other substances for the cure or
12 alleviation of ~~venereal~~ a sexually transmitted disease
13 except upon prescription signed by a physician person
14 legally authorized to practice medicine--in do so by the
15 pharmacy laws of this state."

16 **Section 10.** Section 50-18-111, MCA, is amended to
17 read:

18 "50-18-111. Certificate of freedom from ~~venereal~~
19 sexually transmitted disease not to be issued. No person
20 shall issue a certificate of freedom from ~~venereal~~ a
21 sexually transmitted disease. However, a physician or
22 health officer may issue a statement of freedom from
23 diseases in an infectious state only if it is written in
24 such form or given under safeguards that will prevent its
25 use in solicitation for sexual intercourse. These statements

1 shall not be used for solicitation for immoral purposes."

2 **Section 11.** Section 50-18-112, MCA, is amended to
3 read:

4 "50-18-112. Infected person not to expose another to
5 ~~venerae~~ sexually transmitted disease. A person infected
6 with a ~~venerae~~ sexually transmitted disease ~~shall~~ may not
7 knowingly expose another person to infection."

8 **Section 12.** Section 50-18-113, MCA, is amended to
9 read:

10 "50-18-113. Violation a misdemeanor. A person who
11 violates provisions of this chapter or rules adopted by the
12 department of health and environmental sciences concerning
13 ~~venerae~~ a sexually transmitted disease or who fails or
14 refuses to obey any lawful order issued by a state or local
15 health officer is guilty of a misdemeanor."

16 **Section 13.** Section 50-19-105, MCA, is amended to
17 read:

18 "50-19-105. Report of positive test results. All
19 positive laboratory tests for any ~~venerae~~ sexually
20 transmitted diseases ~~shall~~ must be reported to the
21 department by the laboratory preparing the test. The
22 department shall prescribe the form and way of reporting."

23 **Section 14.** Section 41-1-402, MCA, is amended to read:

24 "41-1-402. Validity of consent of minor for health
25 services. (1) The consent to the provision of medical or

1 surgical care or services by a hospital, public clinic, or
2 the performance of medical or surgical care or services by a
3 physician licensed to practice medicine in this state may be
4 given by a minor who professes or is found to meet any of
5 the following descriptions:

6 (a) a minor who is or was ever married or has had a
7 child or graduated from high school or is emancipated;

8 (b) a minor who has been separated from his parent,
9 parents, or legal guardian for whatever reason and is
10 supporting himself by whatever means;

11 (c) a minor who professes or is found to be pregnant
12 or afflicted with any reportable communicable disease,
13 including ~~venerae~~ a sexually transmitted disease, or drug
14 and substance abuse, including alcohol. This self-consent
15 only applies to the prevention, diagnosis, and treatment of
16 those conditions specified in this subsection. The
17 self-consent in the case of pregnancy, ~~venerae~~ a sexually
18 transmitted disease, and drug and substance abuse also
19 obliges the health professional, if he accepts the
20 responsibility for treatment, to counsel the minor by
21 himself or by referral to another health professional for
22 counseling.

23 (d) a minor who needs emergency care, including
24 transfusions, without which his health will be jeopardized.
25 If emergency care is rendered, the parent, parents, or legal

1 guardian shall be informed as soon as practical except under
2 the circumstances mentioned in this subsection (1).

3 (2) A minor who has had a child may give effective
4 consent to health service for his child.

5 (3) A minor may give consent for health care for his
6 spouse if his spouse is unable to give consent by reason of
7 physical or mental incapacity."

8 **Section 15.** Section 41-1-403, MCA, is amended to read:

9 "41-1-403. Release of information by physician. (1) A
10 treating physician or other health professional may, but
11 shall not be obligated to, inform the spouse, parent,
12 custodian, or guardian of any such minor in the
13 circumstances as enumerated in 41-1-402 of any treatment
14 given or needed when:

15 (a) in the judgment of the health professional, severe
16 complications are present or anticipated;

17 (b) major surgery or prolonged hospitalization is
18 needed;

19 (c) failure to inform the parent, parents, or legal
20 guardian would seriously jeopardize the safety and health of
21 the minor patient, younger siblings, or the public;

22 (d) to inform them would benefit the minor's physical
23 and mental health and family harmony; or

24 (e) the hospital desires a third-party commitment to
25 pay for services rendered or to be rendered.

1 (2) Notification or disclosure to the spouse, parent,
2 parents, or legal guardian by the health professional shall
3 not constitute libel or slander, a violation of the right of
4 privacy, a violation of the rule of privileged
5 communication, or any other legal basis of liability. When
6 the minor is found not to be pregnant or not afflicted with
7 ~~venereal~~ a sexually transmitted disease or not suffering
8 from a drug- or substance-abuse, including alcohol, then no
9 information with respect to any appointment, examination,
10 test, or other health procedure shall be given to the
11 parent, parents, or legal guardian, if they have not been
12 already informed as permitted in this part, without the
13 consent of the minor."

14 **Section 16.** Section 50-19-102, MCA, is amended to
15 read:

16 "50-19-102. Duties of department. (1) The department
17 shall provide all necessary printing and pay all necessary
18 expenses relative to administration of this part.

19 (2) Reasonable rules for reports to be submitted by
20 any laboratory making tests and the manner of furnishing the
21 reports to the physician and the state shall be adopted by
22 the department.

23 (3) The department may use information derived from
24 reports of positive tests for ~~venereal~~ sexually transmitted
25 diseases for follow-up procedures required by law or

1 considered necessary by the department for the protection of
2 public health."

3 **Section 17.** Section 50-31-303, MCA, is amended to
4 read:

5 "50-31-303. Certain drug advertisements considered
6 false. (1) For the purpose of this chapter, the
7 advertisement of a drug or device representing it to have
8 any effect in albuminuria, appendicitis, arteriosclerosis,
9 blood poison, bone disease, Bright's disease, cancer,
10 carbuncles, cholecystitis, diabetes, diphtheria, dropsy,
11 erysipelas, gallstones, heart and vascular diseases, high
12 blood pressure, mastoiditis, measles, meningitis, mumps,
13 nephritis, otitis media, paralysis, pneumonia, poliomyelitis
14 (infantile paralysis), prostate gland disorders, pyelitis,
15 scarlet fever, sexual impotence, sinus infection, smallpox,
16 tuberculosis, tumors, typhoid, uremia, or venereal a
17 sexually transmitted disease shall also be deemed to be
18 false, except that no advertisement not in violation of
19 50-31-107(1) shall be deemed to be false under this section
20 if it is disseminated only to members of the medical,
21 dental, or veterinary professions or appears only in the
22 scientific periodicals of these professions or is
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24 by persons not commercially interested, directly or
25 indirectly, in the sale of such drugs or devices.

1 (2) Whenever the department determines that an advance
2 in medical science has made any type of self-medication safe
3 as to any of the diseases named above, the department shall
4 by regulation authorize the advertisement of drugs having
5 curative or therapeutic effect for such disease, subject to
6 such conditions and restrictions as the department may deem
7 necessary in the interests of public health.

8 (3) This section shall not be construed as indicating
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10 herein is safe or efficacious."

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20 subsection (1)(d) to 50-18-109 and that strike the phrase
21 "and shall not be required to testify concerning anything
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24 50-18-109. IF THIS PHRASE IS NOT VOID AND IS REINSERTED, THE
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-End-