

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 61st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chairman Ron Stoker, on February 11, 2009 at 8:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Ron Stoker, Chairman (R)
Rep. Deborah Kottel, Vice Chairman (D)
Rep. Ken Peterson, Vice Chairman (R)
Rep. Arlene Becker (D)
Rep. Gerald Bennett (R)
Rep. Anders Blewett (D)
Rep. Robyn Driscoll (D)
Rep. Bob Ebinger (D)
Rep. David Howard (R)
Rep. Krayton Kerns (R)
Rep. Margaret MacDonald (D)
Rep. Mike Menahan (D)
Rep. Michael More (R)
Rep. Keith Regier (R)
Rep. Diane Sands (D)
Rep. Bob Wagner (R)
Rep. Wendy Warburton (R)

Members Excused: Rep. Edith (Edie) McClafferty (D)

Members Absent: None

Staff Present: Jennifer Eck, Committee Secretary
David Niss, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 322, 2/6/2009; HB 342, 2/6/2009;
HB 403, 2/6/2009

Executive Action: HB 293, HB 200, HB 397, HB 350,
HB 345, HB 372

HEARING ON HB 403

Opening Statement by Sponsor:

00:01:46 Rep. Deborah Kottel (D), HD 20, opened the hearing on
HB 403, Include continuity of care in determining best
interest of child.

00:05:47 Chairman Stoker

Proponents' Testimony:

00:05:53 Jacque Evanson
00:15:46 Chairman Stoker
00:15:56 Betty Felska
00:16:22 Marsha May
00:16:38 Vicki Knudsen
00:17:22 Chairman Stoker

Opponents' Testimony: None

Informational Testimony:

00:17:43 Shirley Brown, Child and Family Services
00:17:54 Chairman Stoker

Questions from Committee Members and Responses:

00:18:03 Rep. Regier
00:18:10 Chairman Stoker
00:18:19 Rep. Regier
00:18:39 Rep. Kottel
00:19:41 Chairman Stoker
00:19:46 Rep. Peterson
00:20:00 Ms. Brown
00:20:00 Rep. Peterson
00:20:32 Ms. Brown
00:20:43 Rep. Peterson
00:20:45 Rep. More
00:21:08 Ms. Brown
00:23:26 Rep. More
00:23:57 Ms. Brown
00:25:09 Chairman Stoker
00:25:28 Ms. Brown
00:25:37 Chairman Stoker
00:25:39 Rep. Menahan
00:26:02 Ms. Brown
00:26:28 Rep. Menahan
00:26:48 Ms. Brown

00:26:53 Rep. Menahan
00:26:57 Rep. Bennett
00:27:44 Ms. Brown
00:29:04 Chairman Stoker
00:29:23 Rep. Warburton
00:29:35 Rep. Kottel
00:30:18 Rep. Warburton
00:30:20 Rep. Wagner
00:31:44 Ms. Brown
00:33:04 Rep. Wagner
00:33:07 Chairman Stoker

Closing by Sponsor:

00:33:17 Rep. Kottel
00:36:26 Chairman Stoker

HEARING ON HB 342

Opening Statement by Sponsor:

00:37:12 Rep. Don Roberts (R), HD 56, opened the hearing on
HB 342, Extend liability limits to certain emergency
births.

Proponents' Testimony:

00:38:27 Shaun Gillis, Obstetrician, Montana Medical
Association; Montana section, American College of
Obstetricians and Gynecologists
00:44:00 Pat Melby, Montana Medical Association
00:44:40 Steve Yeakel, Montana Council for Maternal and Child
Health
00:45:31 Aimee Grmoljez, Billings Clinic
00:47:54 Chairman Stoker
00:48:12 Drew Malany
00:50:14 Chairman Stoker

Opponents' Testimony: None

Informational Testimony:

00:50:42 Al Smith, Montana Trial Lawyers Association

Questions from Committee Members and Responses:

00:51:45 Rep. Wagner
00:52:25 Ms. Grmoljez
00:52:49 Chairman Stoker

00:52:57 Mr. Melby
00:53:52 Chairman Stoker
00:54:02 Rep. Kottel
00:54:40 Mr. Melby
00:55:45 Rep. Kottel
00:55:57 Mr. Melby
00:56:00 Rep. Kottel
00:56:17 Mr. Melby
00:56:34 Rep. Kottel
00:57:15 Mr. Melby
00:57:40 Rep. Kottel
00:59:02 Mr. Melby
00:59:34 Rep. Kottel
01:00:24 Mr. Melby
01:01:04 Rep. Kottel
01:01:20 Mr. Melby
01:01:29 Rep. Peterson
01:01:52 Ms. Gillis
01:03:11 Rep. Peterson
01:03:35 Ms. Gillis
01:03:52 Rep. Peterson
01:04:04 Ms. Gillis
01:04:11 Rep. Peterson
01:04:16 Rep. Menahan
01:04:48 Mr. Melby
01:04:59 Chairman Stoker
01:05:08 Rep. Warburton
01:06:04 Mr. Melby
01:06:14 Rep. Warburton
01:06:39 Mr. Melby
01:07:05 Rep. Warburton
01:07:19 Mr. Melby
01:07:49 Rep. Warburton

Closing by Sponsor:

01:08:03 Rep. Roberts

01:10:10 Chairman Stoker

HEARING ON HB 322

Opening Statement by Sponsor:

01:10:26 Rep. Anders Blewett (D), HD 21, opened the hearing on
HB 322, Fair arbitrators act.

[EXHIBIT\(juh32a01\)](#)

[EXHIBIT\(juh32a02\)](#)

[EXHIBIT\(juh32a03\)](#)

01:24:15 Chairman Stoker

Proponents' Testimony:

01:24:25 Sheena Rice, Montana Public Interest Research Group
01:25:52 Chairman Stoker
01:26:05 John Doubek
01:30:40 Chairman Stoker
01:30:50 Mike Meloy
01:38:39 Chairman Stoker
01:38:46 Al Smith, Montana Trial Lawyers Association
01:39:47 Chairman Stoker

Opponents' Testimony:

01:40:00 Vicki Knudsen
01:52:21 Chairman Stoker
01:52:37 Ross Cannon
01:55:31 Chairman Stoker

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

01:55:58 Rep. Blewett

01:59:24 Chairman Stoker
01:59:34 Mr. Niss
02:00:03 Chairman Stoker
02:00:30 Recess
02:25:00 Reconvene
02:25:10 Chairman Stoker

EXECUTIVE ACTION ON HB 293

02:28:14 **Motion:** Rep. Kottel moved that **HB 293 DO PASS.**

Discussion:

02:28:18 Chairman Stoker
02:28:25 Rep. Kottel
02:28:51 Rep. Sands
02:29:20 Chairman Stoker
02:29:26 Rep. Howard called the question.

02:29:33 **Vote:** Motion that **HB 293 DO PASS** carried unanimously by voice vote. Rep. McClafferty voted by proxy.

EXECUTIVE ACTION ON HB 200

02:30:03 **Motion:** Rep. Kottel moved that **HB 200 DO PASS.**

Discussion:

02:30:17 Chairman Stoker

02:30:54 Rep. Driscoll

02:30:59 Chairman Stoker

02:31:27 **Substitute Motion/Vote:** Rep. Kottel made a substitute motion that **HB 200 BE TABLED**. Substitute motion carried unanimously by voice vote. Rep. McClafferty voted by proxy.

EXECUTIVE ACTION ON HB 397

02:31:57 Chairman Stoker

02:31:58 Mr. Niss

02:31:59 **Motion:** Rep. Kottel moved that **HB 397 DO PASS.**

[EXHIBIT\(juh32a04\)](#)

[EXHIBIT\(juh32a05\)](#)

02:33:11 **Motion:** Rep. Kottel moved that **HB 397 BE AMENDED** (refer to Exhibit 4).

02:33:20 Chairman Stoker

02:33:29 **Substitute Motion/Vote:** Rep. Kottel made a substitute motion **TO SEGREGATE AMENDMENTS 1 AND 2** (refer to Exhibit 4). Substitute motion carried unanimously by voice vote. Rep. McClafferty voted by proxy.

02:34:02 **Motion/Vote:** Rep. Kottel moved that **HB 397 BE AMENDED** (refer to Exhibit 4, Amendments 1 and 2). Motion carried unanimously by voice vote. Rep. McClafferty voted by proxy.

02:34:39 Chairman Stoker

02:35:09 Rep. Kottel

02:35:23 Chairman Stoker

02:35:32 **Motion:** Rep. Kottel moved that **HB 397 DO PASS AS AMENDED.**

02:35:39 Chairman Stoker

02:35:49 **Motion:** Rep. Sands moved that **HB 397 BE AMENDED** (refer to Exhibit 5).

Discussion:

02:36:01 Chairman Stoker
02:36:07 Rep. Sands
02:36:51 Chairman Stoker
02:36:53 Rep. Kottel
02:37:15 Rep. MacDonald
02:37:46 Rep. More
02:38:18 Rep. Kottel
02:39:18 Chairman Stoker
02:39:26 Rep. Howard called the question.

02:39:31 **Vote:** Motion that **HB 397 BE AMENDED** carried unanimously by voice vote. Rep. McClafferty voted by proxy.

02:39:43 **Motion:** Rep. Kottel moved that **HB 397 DO PASS AS AMENDED**.

Discussion:

02:39:47 Chairman Stoker
02:39:49 Rep. Sands
02:40:10 Rep. Menahan
02:41:54 Chairman Stoker
02:43:27 Rep. Peterson called the question.

02:43:33 **Vote:** Motion that **HB 397 DO PASS AS AMENDED** carried unanimously by voice vote. Rep. McClafferty voted by proxy.

EXECUTIVE ACTION ON HB 350

02:44:10 **Motion:** Rep. Kottel moved that **HB 350 DO PASS**.

02:44:20 Chairman Stoker

02:44:25 **Substitute Motion/Vote:** Rep. Kottel made a substitute motion that **HB 350 BE TABLED**. Substitute motion carried unanimously by voice vote. Rep. McClafferty voted by proxy.

EXECUTIVE ACTION ON HB 345

02:45:55 **Motion:** Rep. Peterson moved that **HB 345 DO PASS**.

Discussion:

02:46:00 Chairman Stoker
02:46:05 Rep. Peterson
02:46:22 Chairman Stoker
02:46:25 Rep. Peterson
02:47:35 Rep. Howard
02:47:40 Chairman Stoker
02:48:24 Rep. Peterson
02:48:37 Chairman Stoker
02:49:40 Rep. Peterson
02:50:54 Chairman Stoker
02:50:59 Rep. Wagner
02:51:16 Rep. Peterson
02:52:44 Rep. More
02:54:35 Rep. MacDonald called the question.

02:54:44 **Vote:** Motion that **HB 345 DO PASS** carried 15-3 by roll call vote with Rep. Kerns, Rep. Bennett, and Rep. Ebinger voting no. Rep. McClafferty voted by proxy.

02:56:01 Chairman Stoker

EXECUTIVE ACTION ON HB 372

02:57:25 **Motion:** Rep. Kottel moved that **HB 372 DO PASS.**
[**EXHIBIT\(juh32a06\)**](#)
[**EXHIBIT\(juh32a07\)**](#)

Discussion:

02:57:42 Chairman Stoker
02:57:46 Rep. Kottel
02:58:04 Chairman Stoker

02:58:09 **Motion:** Rep. Kottel moved that **HB 372 BE AMENDED** (refer to Exhibit 6).

Discussion:

03:02:03 Chairman Stoker
03:02:16 Rep. Regier
03:02:39 Mr. Niss
03:03:36 Chairman Stoker
03:03:51 Rep. Kottel
03:04:01 Chairman Stoker
03:04:04 Rep. Driscoll
03:04:30 Chairman Stoker
03:05:00 Rep. Kottel

03:05:14 Rep. Driscoll
 03:05:25 Chairman stoker
 03:05:27 Rep. Becker
 03:05:41 Chairman Stoker
 03:05:50 Rep. Becker
 03:06:26 Mr. Niss
 03:06:50 Rep. Becker
 03:07:36 Rep. Driscoll
 03:07:54 Rep. Kottel
 03:10:05 Rep. Driscoll called the question.
 03:10:19 Chairman Stoker

 03:10:23 **Vote:** Motion that **HB 372 BE AMENDED** carried 11-7 by
 roll call vote with Rep. Sands, Rep. MacDonald, Rep.
 Becker, Rep. Driscoll, Rep. Regier, Rep. McClafferty,
 and Rep. Warburton voting no. Rep. McClafferty voted
 by proxy.

 03:12:10 Chairman Stoker

 03:12:27 **Motion:** Rep. Kottel moved that **HB 372 DO PASS AS**
AMENDED.

 03:12:28 **Motion:** Rep. Regier moved that **HB 372 BE AMENDED**
 (refer to Exhibit 7).

Discussion:

03:12:43 Chairman Stoker
 03:12:46 Rep. Regier
 03:13:35 Chairman Stoker
 03:13:40 Rep. More
 03:13:47 Chairman Stoker
 03:13:49 Rep. Regier
 03:13:50 Rep. More
 03:13:56 Rep. Regier
 03:14:16 Chairman Stoker
 03:14:50 Mr. Niss
 03:15:01 Chairman Stoker
 03:15:17 Rep. Sands
 03:15:33 Rep. Warburton
 03:16:04 Rep. Blewett
 03:16:37 Chairman Stoker
 03:16:47 Mr. Niss
 03:17:26 Chairman Stoker
 03:17:38 Rep. Kottel
 03:17:47 Mr. Niss
 03:18:34 Rep. Howard
 03:18:45 Chairman Stoker

03:18:49 Rep. Menahan

03:20:12 **Substitute Motion:** Rep. Sands made a substitute motion to **SEGREGATE AMENDMENT 1** (refer to Exhibit 7).

Discussion:

03:20:33 Mr. Niss

03:21:09 Rep. Sands

03:21:11 **Vote:** Substitute motion to **SEGREGATE AMENDMENT 1** carried 16-2 by voice vote with Rep. Driscoll and Rep. Regier voting no. Rep. McClafferty voted by proxy.

03:21:50 Chairman Stoker

03:21:53 **Motion:** Rep. Kottel moved that **HB 372 BE AMENDED** (refer to Exhibit 7, Amendment 1).

03:22:05 Rep. Driscoll called the question.

03:22:13 **Vote:** Motion that **HB 372 BE AMENDED** (refer to Exhibit 7, Amendment 1) carried 17-1 by voice vote with Rep. More voting no. Rep. McClafferty voted by proxy.

03:22:50 **Motion:** Rep. Peterson moved that **HB 372 BE AMENDED** (refer to Exhibit 7, Amendment 2).

Discussion:

03:23:00 Rep. Kottel

03:24:19 Rep. Regier

03:24:34 Rep. Kottel

03:24:49 Rep. Regier

03:25:19 Rep. Kottel

03:25:45 Rep. Sands

03:26:19 Rep. Regier

03:26:42 Rep. Peterson called the question.

03:26:55 **Vote:** Motion that **HB 372 BE AMENDED** (refer to Exhibit 7, Amendment 2) failed 6-12 by roll call vote with Rep. Peterson, Rep. Becker, Rep. Driscoll, Rep. Regier, Rep. Warburton, Rep. Stoker voting aye. Rep. McClafferty voted by proxy.

03:29:23 **Motion:** Rep. Peterson moved that **HB 372 DO PASS AS AMENDED.**

Discussion:

03:29:36 Rep. Warburton
03:29:49 Chairman Stoker
03:29:59 Rep. Kottel
03:30:36 Rep. Regier
03:30:40 Chairman Stoker

03:30:50 **Motion:** Rep. Regier moved that **HB 372 BE CONCEPTUALLY AMENDED** (refer to Exhibit 7, Amendment 2).

Discussion:

03:31:09 Chairman Stoker
03:31:13 Rep. MacDonald
03:31:40 Chairman Stoker
03:31:47 Rep. Peterson called the question.
03:31:53 Chairman Stoker

03:32:02 **Vote:** Motion that **HB 372 BE CONCEPTUALLY AMENDED** (refer to Exhibit 7, Amendment 2) carried 12-6 by voice vote with Rep. Becker, Rep. Sands, Rep. MacDonald, Rep. Driscoll, Rep. Menahan, and Rep. McClafferty voting no. Rep. McClafferty voted by proxy.

03:32:47 Chairman Stoker

03:32:57 **Motion:** Rep. Peterson moved that **HB 372 DO PASS AS AMENDED**.

Discussion:

03:33:06 Chairman Stoker
03:33:11 Rep. Peterson
03:36:21 Rep. Wagner
03:37:12 Chairman Stoker
03:37:25 Rep. Driscoll called the question.

03:37:33 **Vote:** Motion that **HB 372 DO PASS AS AMENDED** carried 11-7 by roll call vote with Rep. Peterson, Rep. Kerns, Rep. Bennett, Rep. More, Rep. Wagner, Rep. Howard, and Rep. Stoker voting no. Rep. McClafferty voted by proxy.

03:38:35 Chairman Stoker
03:38:50 Rep. Sands

ADJOURNMENT

03:39:30 Adjournment

Jennifer Eck, Secretary

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Additional Documents:

[EXHIBIT\(juh32a08\)](#)

Additional Documents:

[EXHIBIT\(juh32aad.pdf\)](#)