EXHIBIT 10
DATE 1/14/05
HB 191

DEPARTMENT OF JUSTICE
HB 191: Clarifying that Spousal Privilege Applies Only to Communications Made During a Marriage

Background

In State of Montana v. Baldwin, the State called Karin Baldwin as a witness to testify about things Baldwin had done and said about methamphetamine production before their marriage. Karin had married Baldwin ***two weeks before his trial.***

The Montana Supreme Court concluded that "because Baldwin and Karin were married at the time of Baldwin's trial, Karin's testimony should have been excluded based upon spousal privilege, pursuant to § 26-1-802, MCA." The Court said this despite its awareness that the district court had found there was no common law marriage and the communications were made prior to the couple's actual marriage.

Proposed Change

HB 191 amends Montana's spousal privilege statute to clarify that spousal privilege only applies to communications made between spouses during their marriage.

2005 Legislature
January 14, 2005