

**MONTANA SENATE
2005 LEGISLATURE**

ROLL CALL

JUDICIARY

DATE 1-7-05

NAMES	PRESENT	ABSENT	EXCUSED
SEN. MICHAEL WHEAT, CHAIRMAN	✓		
SEN. BRENT CROMLEY	✓	*	
SEN. AUBYN CURTISS	✓		
SEN. JON ELLINGSON	✓		
SEN. JESSE LASLOVICH	✓		
SEN. JEFF MANGAN			X
SEN. DAN McGEE	✓		
SEN. LYNDA MOSS	✓		
SEN. JERRY O'NEIL	✓		
SEN. GERALD PEASE	✓	✗	
SEN. GARY PERRY	✓		
SEN. JIM SHOCKLEY	✓		
VALENCIA LANE, LSD	✓		
MARI PREWETT, COMMITTEE SECRETARY	✓		



SENATE STANDING COMMITTEE REPORT

January 7, 2005

Page 1 of 1

Mr. President:

We, your committee on **Judiciary** recommend that **Senate Bill 36** (first reading copy -- white) do pass.

Signed:

A handwritten signature in black ink, appearing to read "Mike Wheat", written over a horizontal line.

Senator Mike Wheat, Chair

- END -

Committee Vote:
Yes 12, No 0.

051415SC.sjo



SENATE STANDING COMMITTEE REPORT

January 7, 2005

Page 1 of 1

Mr. President:

We, your committee on **Judiciary** recommend that **Senate Bill 62** (first reading copy -- white) do pass as amended.

Signed:

A handwritten signature in black ink, appearing to read "Michael Wheat".

Senator Mike Wheat, Chair

And, that such amendments read:

1. Page 3, line 12.
Following: "final"
Insert: "written"

2. Page 3, line 20.
Following: "final"
Insert: "written"

- END -

Committee Vote:
Yes 12, No 0.

051417SC.sjo

PROXY VOTE

I, the undersigned, hereby authorize Senator WHELAN to

vote my proxy on any issue before the Senate January
~~SB 44, SB 50, SB 76~~ - YES

Committee held on 1/7/2005, 2005.

Amend
R
R
R
R

SB 62 - YES



SENATOR
STATE OF MONTANA

PROXY VOTE

I, the undersigned, hereby authorize Senator WOTEN to

vote my proxy on any issue before the Senate JUDICIARY

Committee held on 1/7/04, 2005.

SB62 - YES
SB36 - YES

Jon Ellingson
SENATOR
STATE OF MONTANA

DATE 7-7-05

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: SB 62, SB 103, SB 111, SB 139, SJ-6

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
DAN KREBILL	586-1183	Montana Association of Churches	SB 103	✓	
Mike McGeehan	444-2026	MT - DOJ	SJ-6	✓	
Rich E Miller	448-2481	GIA	SB 103	✓	
Jeff Kirkland	444-5825	Montana Lottery ^{Informational only}	SB 103		
Keith A. Marston	265-8745	State Bar of Montana	SJ 6 SB 111		
Chris Manos	447-2660	State Bar of MT	SB 111		✓
Leah Comeau	227-1110	Montana Legal Services	6		
Lammie Olson	444-3338	CSED	SB 139	✓	
Lammie J. Hogan	627-7030	PL Section of State Bar	SB 111		✓
Tina Sunderland		" "	SB 111		✓
Roger McBlair	442-9555	IIAM	SB-111	✓	
ANN GILKEY	447-2201	State Bar of MT	SJ 6	✓	
Susan Gobbs	443-3896	Peoples Law Center	SB-6		

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

YATES ROOM 501 TOWER

DATE 1-7-05

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: SB 62, SB 103, SB 111, SB 139, SJ-6

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
James Nye	442-9873	MT Mediation Association	SB 111		
Kate Cholewa	459-7580	MCADSV	SJ 6	✓	
Ed BARTLETT	443-6820	SELF	S 6	✓	
Mary Phippen	449-7988	SELF	SJ 6	✓	
Klaus Sittte	543-8343	Mont. Legal Service Assn	SJ 6	✓	
David Barnhill	444-1811	CSED	139	✓	
Jerry Daiscoll	860-8650	AFL-CTO	SB 111	✓	
Gene Huntington	444-9135	Dept. of Justice	103	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

STATE OF MONTANA

Informational

Statement by James H. Nybo, President, Montana Mediation Association (MtMA), regarding Senate Bill 111, January 7, 2005. I have consulted with several of my colleagues on this matter.

This bill, requested by Senator Jerry O'Neil and sponsored by Senator Bob Keenan, carries the short title: Revise definition of "practice of law"

At this stage, the Montana Mediation Association is neither proponent nor opponent. Our members include both attorneys and non-attorneys. Our members have been trained and educated to help parties in conflict to forge a mutually acceptable solution. Many areas of conflict and resolution reside in a framework of the law, so it is often difficult to help them resolve their dispute without discussing legal issues.

Many mediators have substantial knowledge and experience in various aspects of the law. In my own case, I have been trained in divorce and family law, labor law, and the federal "Individuals with Disabilities Education Act." I am not an attorney, and I do not provide legal advice to the parties who agree to have me help them resolve their differences.

My standard practice, and one which I believe most mediators follow, is to encourage the parties to consult their own attorneys for legal advice on an agreement they are entering into.

My initial reaction to this bill is to defer to the judgment of the Montana State Bar, which truly has a direct interest and concern with respect to defining what is or is not the practice of law.

40-5-276. Review session — consent orders — request for hearing. (1) The review session provided for in 40-5-273 must be conducted by telephone and proceed regardless of the failure of a party to provide the department with a telephone number or be present. A party may appear in person at the administrative review session at the party's own expense. The personal appearance of a party at an administrative review session does not require the personal appearance of any other party or witness at the review session.

(2) The department shall identify facts that are at issue and facts that are agreed, calculate a support obligation in accordance with the guidelines, and issue a recommendation regarding the proper child support amount and the effective date of the proposed modification. The department shall consider whether or not health insurance for the child is available and make an appropriate recommendation in accordance with part 8 of this chapter for the provision of the child's health insurance. A support order may not be modified prior to the date of service of the notice of review.

(3) If the department determines that the difference between the existing support order and the amount determined under the guidelines is negligible under rules issued by the department, an administrative modified support order may not change the amount of the support obligation.

(4) The administrative modified support order must include the following notices and warnings:

(a) that the parents must keep the department informed of the name and address of the obligor's current employer and information on health insurance available to the parents through employment or other group insurance; and

(b) that the modified support order is subject to future administrative review and modification by the department upon the request of the department or a party under 40-5-271 through 40-5-273 and 40-5-276 through 40-5-278 when the department is providing services under Title IV-D of the Social Security Act.

(5) The review session is not a contested case as defined in 2-4-102. If the parties agree with the proposed administrative modified support order, a consent order will be entered modifying the support obligation. A party disagreeing with the proposed order may request an administrative hearing within 10 days after the date that the proposed order is served on the party personally or by certified mail. If service on the party is by certified mail, the 10-day period for a request of an administrative hearing begins to run the day after the certified mail return receipt is signed. A party's failure to request an administrative hearing when presented with a proposed order in the form of a consent order constitutes a consent to entry of an administrative modified support order in accordance with the recommendation.

History: En. Sec. 5, Ch. 542, L. 2001.

Amendments to Senate Bill No. 62
1st Reading Copy

Requested by Senator Gary Perry

For the Senate Judiciary Committee

Prepared by Valencia Lane
January 7, 2005 (1:14pm)

1. Page 3, line 12.

Following: "final"

Insert: "written"

2. Page 3, line 20.

Following: "final"

Insert: "written"

- END -