MONTANA SENATE
2005 LEGISLATURE

ROLL CALL

JUDICIARY

DATE 1-26-05

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

DATE 1/26/05

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: SB 251, SB 252

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Becky Stockton	449-3676	Self	252	X	
RACHEL ROBERTS	444-7773	Montana Family Foundation	252	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

TO: SENATOR MIKE WHEAT
SENATOR DAN MCGEE
SENATOR JEFF MANGAN

FROM: MARTI L WANGEN, MPA LOBBYIST

DATE: JANUARY 26, 2005

RE: SB 241 - GOOD FAITH PROTECTION FOR COURT-APPOINTED PSYCHOLOGIST
COMMITTEE MEMBERS REQUEST FOR STATISTICAL NUMBERS

Attached to this memo are the statistical numbers that we have been able to gather for you. I have attached the Board of Psychologists memo of January 25, 2005, along with the letter the Association received in April of 2004. I have also included Cheryl Brandt's email to me replying to the question of why the numbers on these two documents do not match.

We have been unable to acquire numbers from the District courts or the Clerk of the Supreme Court regarding how many psychologists have been court appointed to do parenting plans. In an attempt to get an overall picture of these numbers, we are polling our membership. While these will not reflect all of the psychologists in Montana (only our members) we are working to get enough of a response rate to give you an overall picture. I will work to keep this document updated until the committee takes action on this bill.

Please contact me if you have any questions or if I may be of assistance. My contact information is listed below.

Marti L Wangen
36 South Last Chance Gulch, Suite A
Helena, MT 59601
Phone: 406.443.1160
Fax: 406.443.4614
email: mwangen@rmsmanagement.com

Montana Psychological Association

Senate Bill 241

Membership Survey

	Do you currently perform custody evaluations/parenting plan evaluations?	*How many of these evaluations did you perform in 2003?*	*and how many in 2004?*	*Have you had complaints filed against you with the Board of Psychologists regarding such an evaluation?*	*If yes to 3, was the complaint found to have merit?*
Respondent 1	Done training but no actual experience	none	none	no	
Respondent 2	no	none	none	no	
Respondent 3	no	none	none	n/a/no	
Respondent 4	no	none	none	no	
Respondent 5	yes	3	1	no	
Respondent 6	I am willing to perform such an evaluation if the examinee's are willing to agree to my terms (i.e. I evaluate everyone in the family and my fee is pre-paid) No one has ever agreed to these conditions and as a result, I have not done such an examination in a long time.	none	none	N/A	
Respondent 7	no	none	none	NO	
Respondent 8	yes	10	8	no	
Respondent 9	used to do some			yes - 2	both were found to lack merit
Respondent 10					
		13	9		
	Last Updated: Jan 26, 2005 6:00 a.m.				

Montana Psychological Association

Senate Bill 241

Membership Survey

	Have you had a civil suit filed against you regarding a custody/parenting plan evaluation	*If yes to 5, what was the outcome of this suit?*	*Did you provide these evals in the past?*	*Were the potential complaints and legal actions the reason for discontinuing this service?*
Respondent 1 cont.	no		no	
Respondent 2 cont.	no		no	
Respondent 3 cont.	n/a/no		no	n/a
Respondent 4 cont.	no		no	I would not consider performing custody evaluations in the current Montana situation. This legislation is sorely needed.
Respondent 5 cont.	no		yes	I have become far more selective in the past two years, partly due to fear of potential board complaints and legal repercussions, but partly because they can be very unpleasant even without all that.
Respondent 6 cont.	no		yes	They were part of the reason for my instituting the conditions described
Respondent 7 cont.	NO		Yes	YES
Respondent 8 cont.	no		yes	no
Respondent 9 cont.	no		yes	I have not discontinued these evals, but I am much less likely to do them unless I feel comfortable and get some legal backing
Respondent 10 cont.				

Marti L. Wangen

From: Brandt, Cheryl [cbrandt@mt.gov]
Sent: Tuesday, January 25, 2005 2:13 PM
To: mwangen@rmsmanagement.com
Subject: RE: SB241 Child Custody Complaint Stats

Hi Marti: We looked at every case file yesterday and the numbers reflect child custody complaints in the course of a marriage dissolution as specified in the bill - a very narrow focus. There are other complaints on custody issues not related to divorce that may have been included in the previous count. Cheryl

-----Original Message-----
From: Marti L. Wangen [mailto:mwangen@rmsmanagement.com]
Sent: Tuesday, January 25, 2005 1:36 PM
To: Brandt, Cheryl
Cc: 'Terri Mockel'
Subject: RE: SB241 Child Custody Complaint Stats
Importance: High

Cheryl,

I'm wondering why the numbers are so markedly different than the numbers received by the Association on April 12, 2004 from Cristina Medina?

MARTI L WANGEN

-----Original Message-----
From: Brandt, Cheryl [mailto:cbrandt@mt.gov]
Sent: Tuesday, January 25, 2005 11:58 AM
To: mwangen@rmsmanagement.com
Subject: SB241 Child Custody Complaint Stats

Governor Judy Martz

Montana
Department of Labor and Industry
Business Standards Division

April 12, 2004

Terry Mockel
Executive Director
Montana Psychological Association
PO Box 50247
Billings MT 59105

Dear Ms. Mockel,

Enclosed you will find statistical information covering the last 5 fiscal years starting in FY 2000 regarding complaints processed and heard by the Board of Psychologists. Some of these cases are still on going and have not been given a final decision by the Board.

The information on the Excel document regarding total complaints are hard numbers and fairly accurate as of this month. For your information, the Fiscal Year does not end until June 30 for any given year so there may be a few more complaints for the FY2004. The Compliance Specialist categorizes the complaints and is responsible for processing all complaints through the Health Care Licensing Bureau. Some of these complaints can cover more than one category but staff can only choose one primary category. I've enclosed a copy of the department's list of category codes used when processing all complaints.

You requested specific statistics regarding how many were child custody related issues, sexual improprieties and complaints against court appointed psychologists. We do not categorize our complaints using these descriptions and I can **only provide you estimates. I cannot attest to the accuracy of this data.** The percentage is based on the total complaints for that year. From my research, there appeared to be no complaints regarding sexual improprieties or complaints against court appointed psychologists. What was found were a substantial amount of complaints before the Board related to Parenting Plans.

Parenting Plans
FY2000 – 33%
FY2001 – 50%
FY2002 – 100%
FY2003 – 55%
FY2004 – 44% (year end June 30)

I hope this information is beneficial to you. If you need further assistance, please do not hesitate to contact me.

Sincerely,

Cristina Medina

Cristina Medina
Compliance Specialist
Health Care Licensing Bureau
406-841-2319

cc: Enclosure
Dr. George Watson

COMPLAINT DATA - BOARD OF PSYCHOLOGISTS April-04

	FY2000	FY2001	FY2002	FY2003	FY2004	LAST 5 YRS
TOTAL #	9	4	2	9	9	33
BOARD DECISION						
SUSPENSION	1					1
DISMISSED W/ PREJUDICE	4	2	2		6	14
DISMISSED W/OUT PREJUDICE	3	2		5	1	11
REMEDIAL EDUCATION	1					1
NOTICE *(Not Final)				3		
INVESTIGATE *(Not Final)				1		
TABLED *(Not Final)					2	
CATEGORY DESCRIPTION						
PRACTICE ISSUES	7	4	2	8	6	27
MISCONDUCT	1			1	1	3
FRAUD/DECEIT					2	2
DRUG/ALCOHOL RELATED	1					1

*Still in the complaint process. No final decision.

DEPARTMENT OF COMMERCE
DIVISION OF PROFESSIONAL & OCCUPATIONAL LICENSING

CATEGORY CODES FOR COMPLAINT DATABASE - ALLEGATIONS

CRIMINAL CONVICTION (CC)
Against Property
Against Person
Drug Related
Felony
Misdemeanor

PRACTICE ISSUES (PI)
Documentation Errors
Executing Inappropriate Orders
Failure to Maintain Minimal Standards
Failure to Follow Orders
Failure to Assess
Failure to Intervene
Failure to Supervise
Inappropriate Delegation
Incompetent Practice/ Mental or Physical
Medication Errors
Neglect
Practicing Beyond Scope of Practice
RX Errors
Unsafe Practice
Wastage Errors

MISCONDUCT (MC)
Action in Another Jurisdiction
Aiding Unlicensed Practice
Breach of Confidentiality
Breach of Contract
Bribery
Child Support
Continuing Education
Discrimination - Client
Failure to Renew
Failure to Report Violations
Failure to Respond to Inspection Violations
False Documentation
Fee Disputes
Interference in Investigation
Leaving Duty Station
Mental Abuse
Physical Abuse
Theft - Client
Theft - Employer
Verbal Abuse
Violating State/Federal Statutes/Rules
Violating Board Order

SEXUAL MISCONDUCT (SM)
Boundaries
Sexual Language
Sex with Client
Sexual Abuse

DRUG/ALCOHOL RELATED (DA)
Alcohol Abuse
Chemically Dependent
Drug Use on Duty
Drug Diversion - Self
Drug Diversion - Others
Drug Abuse
Failure to Comply with Requirements of Impairment Programs
Presenting Illegal RX
Sale of Drugs
Writing Illegal RX

FRAUD, DECEIT (FR)
Continuing Education
Fraudulent Billing
Obtain License
Obtaining Other Credential
Obtaining Degree, Diploma

UNLICENSED PRACTICE/ADVERTISING (UP)
Practicing Without License or Certificate

OTHER (OT)
License Denial - Qualifications Deficiency

FIRST CITE & FINE
Failure to Display License – First Offense Electrical/Plumbing

SECOND CITE & FINE
Failure to Display License – Second Offense Electrical/Plumbing

THIRD & SUBSEQUENT CITE & FINE
Failure to Display License – Third & Subsequent Offense Electrical/Plumbing

MEMO

To: Senator Wheat, Chairman, and Members of Senate Judiciary Committee

From: Board of Psychologists, Dept. of Labor & Industry
Jeannie Worsech, Unit Manager (841-2360)
Cheryl Brandt, Program Manager (841-2394)

Subject Child Custody (Parenting Plan Complaints) Re SB 241

Date: January 24, 2005

Premise: We researched for child custody (parenting plan) issues in a dissolution of marriage as stated in the title of the bill. It could not be determined whether the psychologist was court-appointed. There are other complaints on custody issues not related to divorce. For example, there is one custody complaint between an aunt and biological father where a divorce is not involved, and some complaints in which the psychologist is providing therapy after the divorce has been finalized.

A total of 51 complaints were received by the Board of Psychologists in Fiscal Years 2000-2004. A review of all files determined that:

FY2000
Out of 10 complaints received, 4 dealt with child custody in a dissolution of marriage. Outcome: 1disciplined, 3 dismissed

FY2001
Out of 7 complaints received, 3 dealt with child custody in a marriage dissolution. Outcome: 3 dismissed

FY2002
Out of 5 complaints received, 0 dealt with child custody in a marriage dissolution.

FY2003
Out of 10 complaints received, 2 dealt with child custody in a marriage dissolution. Outcome: 2 dismissed

FY2004
Out of 19 complaints received, 1 dealt with child custody in a marriage dissolution. Outcome: 1 dismissed

Total # in 5 Year Review of Child Custody Complaints Filed in the Course

of a Marriage Dissolution: **10 received 1 disciplined 9 dismissed**