Exhibit No. 5
Date 3-10-05
Bill No. HB 324

Legal Precedents for H.B. 324.

This bill strikes a reasonable and responsible balance between a patient's right to access health care and a protester's right to free speech.

Courts all over the nation have ruled that safety zones provide an important guarantee of public safety and they do not threaten free speech.

H.B. 324 is modeled after the Colorado law that prevents protestors from approaching within eight feet of people entering or exiting health care facilities without their consent within 100 feet of the facility.

H.B. 324 also establishes an eight feet bubble for patients and staff that cannot be entered into without their consent, but only within 36 feet of the facility. This number was chosen because it is the distance between each Montana clinic's entrance and the public sidewalks. It was a more appropriate buffer zone for our state and a responsible balance of free speech interests.

The Supreme Court upheld the Colorado statute in *Hill v. Colorado* (2000). This decision was the first time the court reviewed a statewide law aimed at regulating anti-choice protestors outside health clinics.

Other Supreme Court Decisions the support bubble/buffer zones:

- *Madsen v. Women's Health Center* (1994). The Supreme Court upheld a Florida injunction prohibiting demonstrators from entering a 36-foot buffer around the clinic.

- *Schenck v. The Pro-Choice Network* (1997). The court strongly affirmed the ruling in *Madsen v. Women's Health Center* by upholding a 15-foot buffer zone around clinic entrances and driveways.

  Similar to H.B. 324, this provision allowed protesters to approach patients with consent in order to balance safety and free speech.

Federal Appellate Courts support for bubble/buffer zones:

- Five appellate courts have made rulings upholding buffer zone legislation.
- In December of 1996, the U.S. Court of Appeals for the District of Columbia Circuit dismissed a claim that buffer zone legislation infringes upon first amendment rights.
- 15 states and the District of Columbia have enacted laws protecting clinic staff and patients including California, Colorado, Connecticut, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New York, North Carolina, Oregon, Washington and Wisconsin.
- Four states have passed resolutions or memorials condemning clinic violence.