PUBLIC HEALTH, WELFARE & SAFETY
Exhibit No. 8
Date 3-19-07
Bill No. HB 713

**TESTIMONY ON House Bill 713**
**Introduced by Representative McGillvray**

Senate Committee on Public Health, Welfare and Safety
Monday, March 19, 2007

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Mister Chairman and members of the committee: My name is Bill Driscoll. I am an attorney here in Helena, and I have represented Catholic Social Services of Montana for over 20 years in legal proceedings leading to adoption.

Catholic Social Services of Montana is a child placing agency licensed by the State of Montana. As the law presently stands, Montana Code Annotated Section 42-2-409 requires licensed child placing agencies to provide birth mothers with at least 3 hours of counseling prior to the relinquishment of their parental rights. The counseling is required to offer an explanation of adoption procedures and options available to parents through the State of Montana and by direct parental placement, as well as those provided by licensed child placing agencies. The counseling is required to address the alternative of parenting rather than relinquishment of children for adoption. The counseling is required to explain the legal and personal effect and impact of terminating parental rights and of adoption, and options for contact and communication between birth parents and adoptive families; and postadoptive issues including grief and loss. The counseling is required to explain the resources available to provide assistance or support for the parents and their children when parents choose not to place their children for adoption, all toward the end of ensuring that parents who relinquish children for adoption make an informed and voluntary decision to do so. A detailed counseling report setting forth all of this must be filed with the court in every case.

House Bill 713 would amend Montana Code Annotated Section 42-2-409 to allow licensed adoption agencies to provide and explain "the existence of a postadoptive support and counseling program." As explained by other proponents, we see this service as something that has the potential to be very beneficial to women who choose to relinquish their children for adoption.

As I understand it, the opposition to this bill arises primarily out of Montana Code Annotated Sections 42-7-101, -102, and -105, which limit fees and expenditures made by adoptive parents to "the actual cost of services" related to adoptive placement, including expenditures to birth parents limited to medical care or services, prenatal care, travel or

temporary living costs, related legal fees incurred by birth parents, costs incurred by the birth parent to document required disclosures of medical and social history, and other costs related to adoption "that do not include education, vehicles, salary or wages, vacations, or permanent housing for the birth parent." The opponents to this bill are concerned that passing House Bill 713 will create an improper incentive for birth mothers to decide in favor of adoption based on post-adoption support and counseling benefits they may come to expect.

We recognize and share the opponents' concerns to make sure that birth parents considering adoption make informed and voluntary decisions regarding the relinquishment of their children. We do not believe, however, that providing these sorts of services necessarily creates an improper incentive for birth parents; and we believe that the concerns can be adequately addressed and documented in the counseling process.

I understand that there may be some opposition to this bill based on a concern that it would open the door to out of state "baby brokers" moving into Montana and engaging in conduct essentially constituting "buying" babies. I am not sure that I share this concern, and I would like to make sure that the committee understands that there are already a substantial number of out-of-state agencies operating in Montana and offering the very sorts of benefits the opponents are concerned about. To illustrate my point, I have attached a page from the yellow pages from last year's Helena phone book including an advertisement by an out-of-state agency advertising "Scholarships Available for Birth Mothers."

Thank you for considering my comments, and I ask for your favorable consideration of House Bill 713.

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(Continued Next Page)

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