



EXHIBIT 17
DATE 2/22/2013
HB 555

Kris Hansen <kris Hansen33@gmail.com>

HB 555

3 messages

Karen Alley <kalley@loranglaw.com>
Reply-To: kalley@loranglaw.com
To: kris Hansen33@gmail.com

Thu, Feb 21, 2013 at 7:28 PM

Dear Kris,

I have been contacted regarding HB555, which addresses domestic violence in family law mediation. My understanding is that it may be coming before the House Judiciary committee tomorrow (Friday, February 22). I would greatly appreciate it if you would consider speaking on favor of this bill.

As a student at the University of Montana Law School, I interned with the mediation clinic. As a student in that clinic, I worked on an article with Eduardo Capulong addressing domestic violence in family law mediation, which was ultimately published in the Montana Lawyer. In that article, we argued that Montana law needed to be amended to allow victims of mediation to opt in to mediation through providing informed consent. (the currently law has a strict ban on mediation where the Court has reason to believe there is domestic violence.) Students of the mediation clinic have now worked to submit HB 555.

As the law now stands in Montana, the absolute bar robs survivors of domestic violence that chance to take control, particularly in the way in which they choose to resolve disputes with their abusers. Further, this bar delays the administration of justice. Family law cases comprise a significant portion of the district court dockets. Barring courts from referring cases to mediation where there is evidence of domestic violence not only clogs the court dockets but also delays resolution of cases that could otherwise be resolved in mediation. Finally, the absolute bar on mediation where there is evidence of domestic violence promotes the adversarial resolution of family law disputes.

HB 555 provides domestic violence survivors the chance to opt into mediation. This opt-in provision gives power and control back to survivors. It allows survivors to choose what they feel is best for themselves and their children. Further, the opt-in provision provides relief to the Courts, as it allows the Court to permit mediation in more family law cases. Finally, it promotes the non-adversarial resolution of family law disputes.

Like I said, I would appreciate it if you would speak in support of this bill. If you have any questions or need any more information, please feel free to call me on my cell phone at (406) 671-2334. I am in a jury trial in Glasgow but will do my best to provide you with any more information. As I said, this is an issue I have spent a lot of time working on and believe that HB 555 will provide a safe way to allow victims of domestic violence opt-in to family law mediation.

Thank you,
Karen

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Kris Hansen <krishansen33@gmail.com>
To: kalley@loranglaw.com

Thu, Feb 21, 2013 at 10:17 PM

hi Karen,

the domestic violence coalition provided me some info on the bill. i'm trying to get to it tonight. thanks for your input - it does help clear up some of my questions. have you read the bill yourself? does it attempt to do anything other than what you describe below? that is frequently a problem. a bill has 1 great purpose, but tries to do a couple lesser things that aren't as palatable. do you know if this is a limited scope bill? if so, i'm more likely to support it.

thanks for your help.

kris
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Karen Alley <kalley@loranglaw.com>
Reply-To: kalley@loranglaw.com
To: Kris Hansen <krishansen33@gmail.com>

Fri, Feb 22, 2013 at 5:43 AM

Hi Kris,

Yes, I have read the bill. It amends four sections in MCA Title 40, Chapter 4. The main amendment is to 40-4-302(2), the statute that currently bans mediation in situations of domestic violence. It permits parties to make informed consent and also adds in that mediation where there is domestic violence must be conducted by a mediator with specific training in mediating domestic violence cases. The bill also adds a subsection (5) to the same statute, defining informed consent.

The bill also amends 40-4-219(9) (mediation requirement with amendment to parenting plans) to add the words "sexual or emotional" (referring to abuse) to make the language parallel with 40-4-302(2). Further, that amendment repairs a discrepancy the MT Supreme Court noted in Hendershott

v. Westphal, 2011 MT 73. The Hendershott case is the Court's interpretation of MCA 40-4-301(2).

MCA 40-4-302(3) (current provision that allows mediators to exclude attorneys) is amended to not allow attorneys to be excluded in cases involving domestic violence and also would allow victims/survivors to have non-attorney advocates present with them during mediation.

Finally, MCA 40-4-307 is amended to add in the mediator qualification of knowledge in the are of domestic violence.

I believe all these additional amendments achieve the core purpose of amending 40-4-301(2): to allow victims of domestic violence the opportunity to opt-in to the mediation process. These additional amendments simply make the language throughout the family law section more parallel. Thus to answer your question more directly, I do not believe the bill attempts to do anything other than what I described in my first email to you.

Again, if I can answer any more questions, please let me know.

Thank you,
Karen

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