

Montana State Legislature

2013 Session

ADDITIONAL DOCUMENTS MAY INCLUDE THE FOLLOWING:

- **Business Report**
- **Roll Call - Attendance**
- **Standing Committee Reports**
- **Tabled Bills**
- **Fiscal Reports etc.**
- **Roll Call Votes**
- **Informational Items**
- **Witness Statements**
- **Any Documents; such as;**
 - * **Petitions if any.**
 - * **Any and all material handed end after the meeting ends.**

**The original is on file at the
Montana Historical Society
and may be viewed there.**

**Montana Historical Society
Archives**

225 N. Roberts

Helena MT 59620-1201

2013 Legislative Scanner Susie Hamilton

BUSINESS REPORT
MONTANA SENATE
63rd LEGISLATURE - REGULAR SESSION

SENATE JUDICIARY COMMITTEE

Date: Wednesday, April 3, 2013
Place: Capitol

Time: 8:00 A.M.
Room: 303

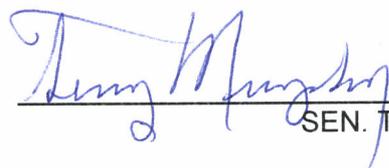
BILLS and RESOLUTIONS HEARD:

HB 403 - Revising fees collected by district court clerks - Rep. Ellie Boldman Hill
HB 478 - Revise laws regarding human trafficking - Rep. Sarah Laszloffy
SB 392 - Increase authority of commissioner of political practices for noncompliance - Sen. Christine Kaufmann

EXECUTIVE ACTION TAKEN:

HB 505-BE CONCURRED IN/FAILED-TIE VOTE 6-6
HB 233-BE CONCURRED IN AS AMENDED
HB 478-BE CONCURRED IN/MOTION WITHDRAWN
SB 392-DO PASS AS AMENDED
HB 355-BE CONCURRED IN

Comments:



SEN. Terry Murphy, Chair

MONTANA STATE SENATE

2013 JUDICIARY COMMITTEE

ROLL CALL

DATE: 4/3/13

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
CHAIRMAN, SENATOR TERRY MURPHY		
VICE CHAIRMAN, SENATOR SCOTT SALES)	
SENATOR SHANNON AUGARE		
SENATOR ANDERS BLEWETT		
SENATOR SCOTT BOULANGER)	
SENATOR JOHN BRENDEN		
SENATOR ROBYN DRISCOLL		
SENATOR JENNIFER FIELDER		
SENATOR LARRY JENT		
SENATOR CLIFF LARSEN)	
SENATOR CHAS VINCENT		
SENATOR ART WITTICH		

BILL VOTE TIED - REMAINS IN COMMITTEE

SENATE JUDICIARY COMMITTEE - 6-6

The vote in **SENATE JUDICIARY COMMITTEE** for bill **HB 505 - Clarify offense of aiding or soliciting suicide - Rep. Krayton Kerns** was tied and the bill remains in committee. (PLEASE USE THIS ACTION DATE IN LAWS BILL STATUS).



(For the Committee)



(For the Secretary of the Senate)

12:06, 4/3

(Time)

(Date)

April 3, 2013 (11:28am)

Pam Schindler, Secretary

Phone: 406-444-4891



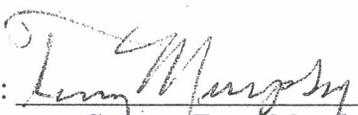
SENATE STANDING COMMITTEE REPORT

April 3, 2013

Page 1 of 3

Mr. President:

We, your committee on **Judiciary** recommend that **House Bill 233** (third reading copy -- blue) **be concurred in as amended.**

Signed: 
Senator Terry Murphy, Chair

To be carried by Senator Larry Jent

And, that such amendments read:

1. Page 2, line 27.

Strike: "at least"

2. Page 4, line 26.

Strike: "**condition of parole**"

Insert: "imposition of conditions"

3. Page 5, line 13.

Following: "(2)"

Strike: "The"

Insert: "Upon an offender's participation in the sobriety program and payment of the fees required by 44-4-1204:
(a) the"

4. Page 5, line 14.

Strike: "any OTHER crime in which"

Insert: "a second or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if"

5. Page 5, line 15 and 16.

Strike: "upon" on line 15 through "44-4-1204." on line 16

Insert: ";

6. Page 5, line 17.

Committee Vote:

Yes 9, No 3

Fiscal Note Required

Strike: "(3) The"

Insert: "(b) the"

7. Page 5, line 19.

Strike: "any OTHER crime in which"

Insert: "a second or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if"

8. Page 5, line 20 through line 21.

Strike: "upon" on line 20 through "44-4-1204." on line 21

Insert: ";

9. Page 5, line 22.

Strike: "(4) The"

Insert: "(c) the"

Strike: ", the department of corrections, or a parole officer"

10. Page 5, line 23 and 24.

Following: "61-8-465," on line 23

Strike: "for"

Following: "or" on line 23

Strike: "for any OTHER crime in which"

Insert: "a second or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if"

11. Page 5, line 25.

Strike: "upon" through "44-4-1204."

Insert: "; or"

12. Page 5, line 26.

Insert: "(d) the department of corrections may establish conditions for conditional release for a violation of 61-8-465, a second or subsequent violation of 61-8-401 or 61-8-406, or a second or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime.

(3) An entity referred to in subsections (2)(a) through (2)(d) may condition any bond or pretrial release, suspended execution of sentence, probation, parole, or conditional release as provided in those subsections for an individual charged with or convicted of a violation of any statute involving domestic abuse or the abuse or neglect of a minor if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime regardless of whether the charge or conviction was for a first, second, or subsequent violation of the statute."

13. Page 8, line 9.

Following: ", or"

Strike: "any other crime in which"

Insert: "a second or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if"

14. Page 8, line 10.

Following: "crime"

Insert: "or for a violation of any statute involving domestic abuse or the abuse or neglect of a minor if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime regardless of whether the charge or conviction was for a first, second, or subsequent violation of the statute"

15. Page 9, line 8 through line 9.

Strike: "require the person" on line 8 through "program or" on line 9

- END -



SENATE STANDING COMMITTEE REPORT

April 3, 2013

Page 1 of 1

Mr. President:

We, your committee on **Judiciary** recommend that **Senate Bill 392** (first reading copy -- white) **do pass as amended.**

Signed: 
Senator Terry Murphy, Chair

And, that such amendments read:

1. Title, page 1, line 6 through line 7.

Strike: the first "PROVIDING" on line 6 through "PENALTIES;" on line 7

2. Page 1, line 12 through line 29.

Strike: section 1 in its entirety

Renumber: subsequent sections

3. Page 3, line 20.

Strike: "or [section 1], or both"

4. Page 3, line 22 through line 23.

Strike: section 3 in its entirety

Renumber: subsequent sections

- END -

Committee Vote:

Yes 12, No 0

Fiscal Note Required



SENATE STANDING COMMITTEE REPORT

April 3, 2013

Page 1 of 1

Mr. President:

We, your committee on **Judiciary** recommend that **House Bill 355** (third reading copy -- blue) **be concurred in.**

Signed:


Senator Terry Murphy, Chair

To be carried by Senator Jennifer Fielder

- END -

Committee Vote:

Yes 8, No 4

Fiscal Note Required

HB0355001SC15235.swr

MONTANA STATE SENATE
ROLL CALL VOTE
2013 JUDICIARY COMMITTEE

DATE 4/3/13 BILL NO HB 505 MOTION NO. 1

MOTION: Belonceded Au

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
VICE CHAIRMAN, SENATOR SCOTT SALES	—		
SENATOR JOHN BRENDEN	—		—
SENATOR JENNIFER FIELDER	—		
SENATOR CHAS VINCENT		—	
SENATOR SCOTT BOULANGER	—		
SENATOR ART WITTICH		—	
SENATOR SHANNON AUGARE	—		
SENATOR ANDERS BLEWETT		—	
SENATOR ROBYN DRISCOLL		—	
SENATOR LARRY JENT		—	
SENATOR CLIFF LARSEN		—	
CHAIRMAN, SENATOR TERRY MURPHY	—		

6/6

MONTANA STATE SENATE
ROLL CALL VOTE
2013 JUDICIARY COMMITTEE

DATE 4/3/13 BILL NO HB233 MOTION NO. 1

MOTION: (Ball amended)
amendment 23302. AHT

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
VICE CHAIRMAN, SENATOR SCOTT SALES	—		
SENATOR JOHN BRENDEN	—		—
SENATOR JENNIFER FIELDER	—		
SENATOR CHAS VINCENT	—		
SENATOR SCOTT BOULANGER	—		
SENATOR ART WITTICH	—		
SENATOR SHANNON AUGARE	—		
SENATOR ANDERS BLEWETT	—		
SENATOR ROBYN DRISCOLL	—		
SENATOR LARRY JENT	—		
SENATOR CLIFF LARSEN	—		—
CHAIRMAN, SENATOR TERRY MURPHY	—		

120

MONTANA STATE SENATE
ROLL CALL VOTE
2013 JUDICIARY COMMITTEE

DATE 4/3/13 BILL NO HB233 MOTION NO. 3

MOTION: Be amended 233 03. aht

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
VICE CHAIRMAN, SENATOR SCOTT SALES		—	
SENATOR JOHN BRENDEN	—		—
SENATOR JENNIFER FIELDER		—	
SENATOR CHAS VINCENT		—	
SENATOR SCOTT BOULANGER		—	
SENATOR ART WITTICH		—	
SENATOR SHANNON AUGARE	—		
SENATOR ANDERS BLEWETT	—		
SENATOR ROBYN DRISCOLL	—		
SENATOR LARRY JENT	—		
SENATOR CLIFF LARSEN	—		
CHAIRMAN, SENATOR TERRY MURPHY	—		

7/5

MONTANA STATE SENATE
ROLL CALL VOTE
2013 JUDICIARY COMMITTEE

DATE 4/3/13 BILL NO HB 233 MOTION NO. 4

MOTION: Be Concurred In As Amended

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	If Proxy Vote, check here & include signed Proxy Form with minutes
VICE CHAIRMAN, SENATOR SCOTT SALES		—	
SENATOR JOHN BRENDEN	—		—
SENATOR JENNIFER FIELDER	—		
SENATOR CHAS VINCENT		—	
SENATOR SCOTT BOULANGER	—		
SENATOR ART WITTICH	—		
SENATOR SHANNON AUGARE	—		
SENATOR ANDERS BLEWETT	—		
SENATOR ROBYN DRISCOLL	—		
SENATOR LARRY JENT	—		
SENATOR CLIFF LARSEN	—		
CHAIRMAN, SENATOR TERRY MURPHY		—	

9/3 (Jent)

MONTANA STATE SENATE
ROLL CALL VOTE
2013 JUDICIARY COMMITTEE

DATE 4/3/13 BILL NO SB392 MOTION NO. 2

MOTION: Be Amended

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
VICE CHAIRMAN, SENATOR SCOTT SALES	—		
SENATOR JOHN BRENDEN	—		—
SENATOR JENNIFER FIELDER	—		
SENATOR CHAS VINCENT	—		—
SENATOR SCOTT BOULANGER	—		
SENATOR ART WITTICH	—		
SENATOR SHANNON AUGARE		—	
SENATOR ANDERS BLEWETT		—	
SENATOR ROBYN DRISCOLL		—	
SENATOR LARRY JENT		—	—
SENATOR CLIFF LARSEN		—	
CHAIRMAN, SENATOR TERRY MURPHY	—		

7/5

MONTANA STATE SENATE
ROLL CALL VOTE
2013 JUDICIARY COMMITTEE

DATE 4/3/13 BILL NO. SB392 MOTION NO. 2

MOTION: Do Pass as Amended

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
VICE CHAIRMAN, SENATOR SCOTT SALES	—		
SENATOR JOHN BRENDEN	—		—
SENATOR JENNIFER FIELDER	—		
SENATOR CHAS VINCENT	—		—
SENATOR SCOTT BOULANGER	—		
SENATOR ART WITTICH	—		
SENATOR SHANNON AUGARE	—		
SENATOR ANDERS BLEWETT	—		
SENATOR ROBYN DRISCOLL	—		
SENATOR LARRY JENT	—		—
SENATOR CLIFF LARSEN	—		
CHAIRMAN, SENATOR TERRY MURPHY	—		

12/0

MONTANA STATE SENATE
ROLL CALL VOTE
2013 JUDICIARY COMMITTEE

DATE 4/3/13 BILL NO HB355 MOTION NO.)

MOTION: Remove from table (Present: Voting only)

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
VICE CHAIRMAN, SENATOR SCOTT SALES		-	
SENATOR JOHN BRENDEN	_____		
SENATOR JENNIFER FIELDER	-		
SENATOR CHAS VINCENT	-		
SENATOR SCOTT BOULANGER	-		
SENATOR ART WITTICH		-	
SENATOR SHANNON AUGARE	-		
SENATOR ANDERS BLEWETT	-		
SENATOR ROBYN DRISCOLL	-		
SENATOR LARRY JENT	-		
SENATOR CLIFF LARSEN	-		
CHAIRMAN, SENATOR TERRY MURPHY		-	

8/3 (11)

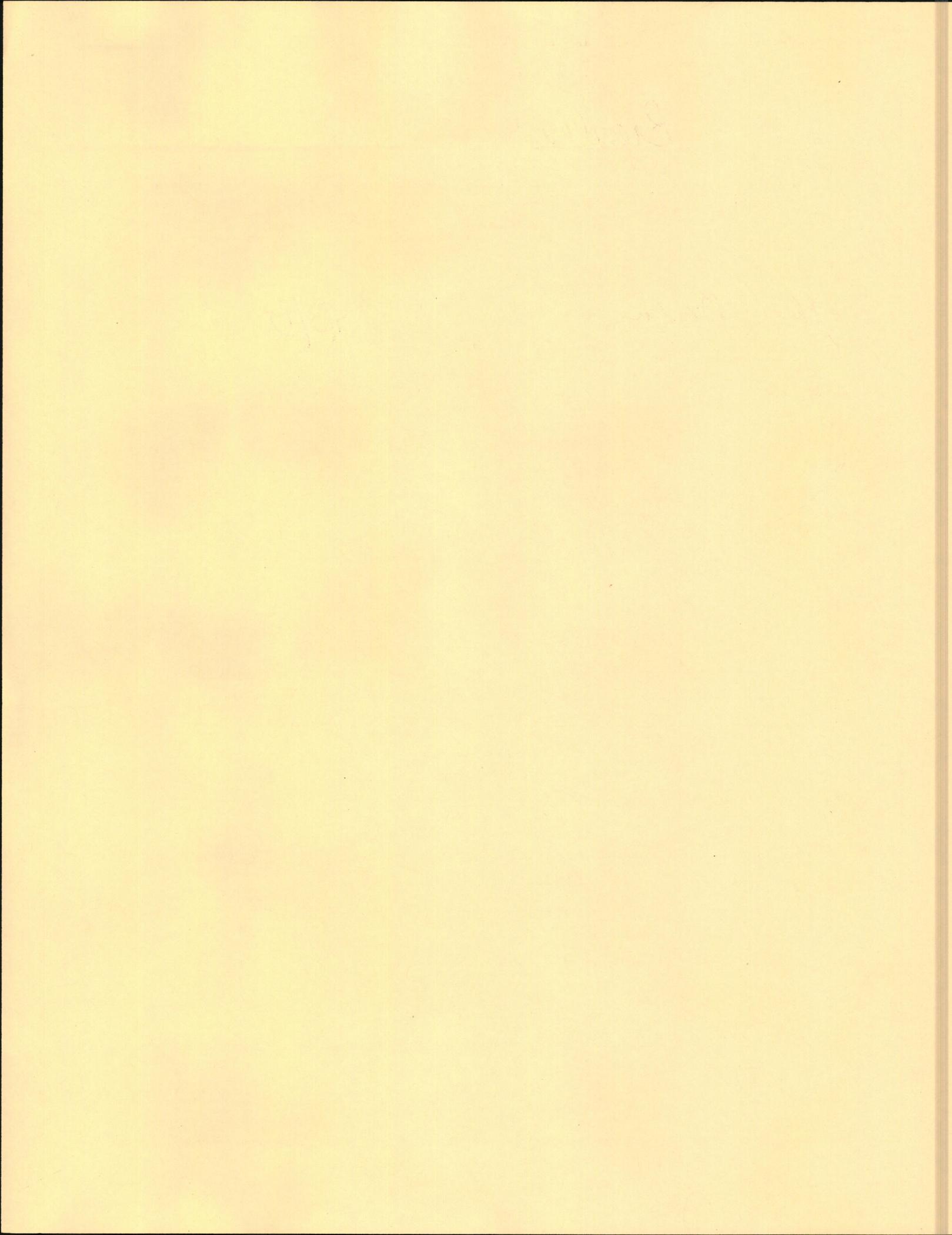
MONTANA STATE SENATE
ROLL CALL VOTE
2013 JUDICIARY COMMITTEE

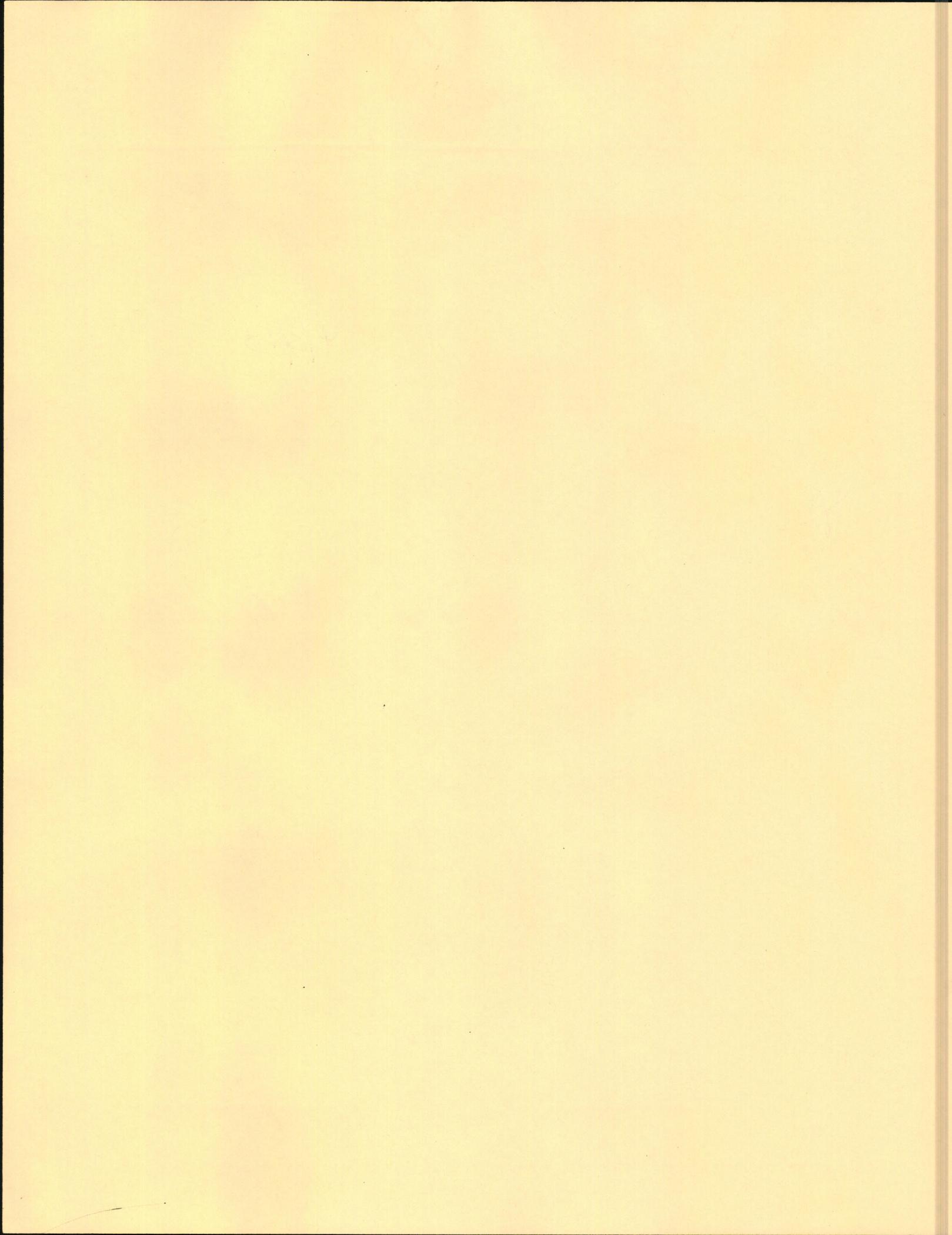
DATE 4/3/13 BILL NO H8355 MOTION NO. 2

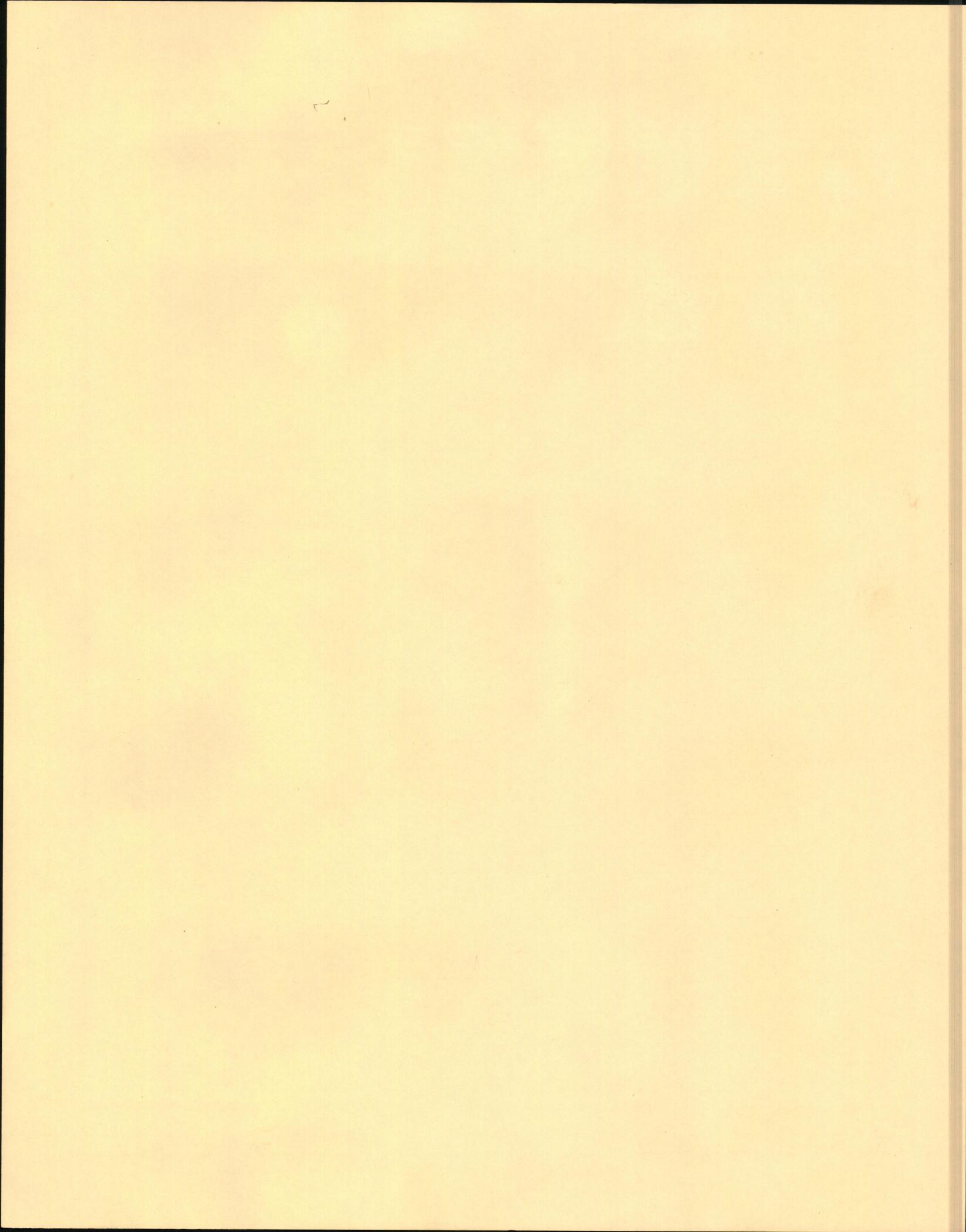
MOTION: ReConcurred In

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
VICE CHAIRMAN, SENATOR SCOTT SALES		—	
SENATOR JOHN BRENDEEN		—	—
SENATOR JENNIFER FIELDER	—		
SENATOR CHAS VINCENT	—		
SENATOR SCOTT BOULANGER	—		
SENATOR ART WITTICH		—	
SENATOR SHANNON AUGARE	—		
SENATOR ANDERS BLEWETT	—		
SENATOR ROBYN DRISCOLL	—		
SENATOR LARRY JENT	—		
SENATOR CLIFF LARSEN	—		
CHAIRMAN, SENATOR TERRY MURPHY		—	

8/4 (fielder)







ADDITIONAL
DOCUMENTS

ADDITIONAL
DOCUMENTS

The **MONTANA STANDARD**
mtstandard.com

Our Readers Speak: Say no to HB 505

March 26, 2013 12:15 am • by Barbara Kirkland

HB 505, if passed, will legalize "elder abuse" for many of us "elders." We will have no right to avoid a slow, painful death. Those who care for us will be legally required to make us endure the pain of dying, no matter how severe or terrifying. Pain mitigation will be limited to doses guaranteed not to cause death. A dose that helps one person can be fatal for another. How does an absolute law adjust those dosages?

I have a damaged heart that will eventually cause me to drown in my own bodily fluids. Such drowning is neither quick nor painless. Should there be a law such as HB505 that denies me the right to a gentle passing?

As it stands now, only I have the right to request aid-in-dying. I have to be free of depression, mentally clear and stable, and understand fully the choice I am making. This is the same mental competency required for my request that all usable parts of my body be harvested. The present Supreme Court decision protects me from making this request under duress.

As a Christian I find I cannot believe my Maker will judge me by how long or horribly I suffer in the process of dying.

Barbara Kirkland



Montana State Legislature

2013 SESSION ADDITIONAL DOCUMENT

This is an

ADDITIONAL DOCUMENT

which was submitted
after the committee hearing
was ended and/or was
submitted late, but regarding
information in the committee
hearing.

**Montana Historical Society
Archives**

225 N. Roberts

Helena MT 59620-1201

2013 Legislative Scanner Susie Hamilton

**ADDITIONAL
DOCUMENTS**

Perfect Storm for Elder Abuse

I have been involved in investigations of elder financial abuse/ homicides for the past twenty

years in a major metropolitan police department; consulting with law enforcement agencies in several

states including Montana where 6,017 elder abuse cases were reported in 2012.

The U.S. Justice

Department documented 5,971,000 elder abuse cases nationally in their latest report and per DHSS

only one case in twenty four are reported. This equates to 11 million cases in the U.S. and over 12

thousand in Montana annually, Elders comprise 15.3% of Montana's population and will double by

2030 here and across the nation according to Montana's 2011 State Plan on Aging.

The median age of victims is 77.9 years and over 67% are elder women. Many are lonely,

socially and geographically isolated, grateful for attention and the promise of affection. Most have

generational values which are cynically used to betray them by artful and designing persons whom

who seek elders out. It is disarmingly easy and highly profitable. The recent METLife study estimates

elder losses at \$2.9 billion annually including \$330 million in medicare and medicaid fraud. This is

only based on cases reported in U.S. media not D.O.J. statistics. It is the proverbial drop in the bucket

considering each elder has an average net worth of \$239,000 nationally; all 35 million of them.

DOCUMENTS
ADDITIONAL

D.O.J. statistics document 66% of elder homicides are committed by family members

42% by their own children, many concerned seeing "their" inheritance remain intact or are impatiently

waiting for its delivery and receipt while the elder lives. Self interests diminish the elder who is

consequently viewed as an obstruction to long anticipated designs of a better life accomplished

at another's expense.

The elder bias disclosed is not solely shared by self focused heirs, this contagion persists

generally in today's youth oriented culture and is alive in all professions even my own. The U.S.

Inspector General's DHSS report; " Adverse Events In Hospitals" November 2010, states there were

133,710 such events in one year for medicare patients with nearly half, 65,000, listed as being

preventible. The cost to patients lives is incalculable but it cost taxpayers \$4.4 billion to treat the

errors not including costs paid privately. Table 8 pg. 25 of that report cites the largest cause of error

was due to "clinical errors in medical judgment, skill in patient management" in 58% of cases

and "substandard treatment" in 42% of cases. This is not effective or compassionate medicine.

William Charney a scientist and hospital safety expert with 30 years experience the last 5 years

in Washington State believes hospital medical errors are the leading cause of death in the

United States numbering over 788,000 accidental deaths annually. This is primarily

driven by cost

cutting measures of staff reduction in nursing and support personnel in for profit hospitals owned by

large health care corporations. Is he being an alarmist? The Inspector General's report corroborates

his conclusions.

Just last week it was reported Dr. Virginia Soares de Souza of Brazil has been charge with

7 patient murders and wiretap conversations detail the more accurate number is 300 due to

her desire to create "more bed spaces". Dr. Harold Shipman in England was convicted for

killing his patients and altering their medical records and forging wills The court concluded he

killed 250 patients and is suspected in deaths of 495. He hung himself in 2004. Dr. Michael Zwango

was convicted of killing patients in V.A. hospitals. Despitef his prior conviction for poisoning 5

of his ambulance co-workers in Ohio he managed to get a medical license.

Efram Saldivar, a nurse assistant was convicted of killing 20 non-terminal patients in

California and subsequently confessed to killing 100 patients under his care to reduce his

case load. Richard Williams a nurse was charged with killing 10 V.A. hospital patients and is

suspected in the deaths of another 35 patients in 2002. When a V.A. physician Dr. Gordon

Christensen reported his concerns and findings about Williams to hospital administrators he

was told they would not contact law enforcement and was directed to be quiet. When he again

insisted authorities be contacted the hospital filed a complaint against Dr. Christensen not Richard

Williams. Dr. Christensen's public disclosure resulted in the investigation leading to the convictions.

Is this representative of the entire medical profession, hopefully not, but the risk in giving physicians

authority to facilitate patient deaths without oversight or consequences far outweigh any purported

benefit to all patients.

Patients need protections, not physicians. HB 505 codifies and clarifies physician assisted

suicide remaining an illegal practice without restricting a patients' refusal of treatment or

access to acute pain needs or palliative care. The World Health Organization opposes PAS.

Opponents cite "safeguards" in Oregon and Washington assisted suicide as examples of

compassion in medicine. In Oregon's Health Department report of 2012 of 603 assisted suicides

deaths 495 or 83.8% had no physician/ provider present and in another 12 were listed as "unknown".

when the patient died. In another 200 cases complications were listed as "unknown".

This is not compassion it's abandonment. Physicians who aren't psychiatrists and are not licensed

to diagnose or treat patients in this specialty are given sole authority to assess if such request is

coerced, unduly influenced, or driven by depressive disorders. Physicians operating beyond their

licensed skills commit malpractice. This is why a podiatrist doesn't perform open heart surgery.

Dr. Herbert Hendin professor of psychiatry at New York Medical College and medical director of

the American Foundation for Suicide Prevention and Dr. Karen Foley M.D. of Sloane Kettering

their work was cited by the U.S. Supreme Court in its decision there was no constitutional

right to assisted suicide; states: " Patient autonomy is an illusion when physicians are not trained to

assess and treat patient suffering. The choice for patients then becomes continued agony or a

hastened death. Most physicians do not have such training" Dr. Hendin concluded non-psychiatric

physicians are not reliably able to diagnose impaired patient judgement.
Commentary: The Case

Against Physician Assisted Suicide: For the Right to End-of Life Care ; Psychiatric Times Vol. 21 No.

2 February 1, 2004.

Dr. Paul Glare is Chief of the Pain Management and Palliative Care Unit at Memorial Sloane

Kettering Cancer Center in New York. This is where the first palliative care unit was established

in the United States in 1981. In a recent presentation Dr. Glare stated he believed pain relief to

be a basic human right. He also opined 2-3% of cancer patients who previously had unrelenting

pain was used as a justification for physician assisted suicide or euthanasia; "Really isn't a

valid argument these days". There are drugs 75 times more effective than morphine to address

chronic pain. Like Dr. Hendin, Dr. Glare also advocates for a multi-disciplinary holistic approach to

effectively and meaningfully address patient concerns .

Opponents to HB505 proposed this be legalized here and advocated Montana physicians be

given blanket immunity from criminal and civil oversight. This is a formula for faulty medical practices,

and elder abuse, not compassion. Crime thrives when provided access and opportunity. Without HB

505 to protect vulnerable elders both are provided; leaving vulnerable elders targeted and

unnecessarily victimized This is a public safety issue in and of itself, even without dangerous

"medical errors" already visited upon our elders. It is also contrary to Montana Public Policy stated in

the Montana State Plan on Aging and with the unanimously passed changes in the senate to current

elder abuse statutes. This is a matter of public policy, elder protection and public safety which is and

must remain governments highest priority and obligation to it's citizens.

Under reported rates of medical errors, elder bias, designed physician unaccountability without

oversight; visited upon vulnerable elders is the formula for a perfect storm of elder abuse proliferation.

Elders intimidated and terrorized by abuser threats of being forcibly placed in "rest homes" to be

abandoned to die "agree" to actions which are not in the elders interest. Feeling helpless they

acquiesce to their perception no one really cares what happens to them. Physician assisted

suicide will be the "nuclear" option even abusers couldn't imagine possible. Elder compliance will be

assured for abusers who can now threaten with a new reality. I will send you the hospital

so the doctor can kill you and no one will suspect a thing; so you better do what I tell you to do.

Opponents to HB 505 have been cheerfully repeating the erroneous claim there has not been

a single case of elder abuse in Oregon involving "death with dignity". Tami Sawyer a real estate

professional was indicted on charges of first degree mistreatment of an elder or dependent adult and

aggravated theft punishable by 15 years imprisonment. Thomas Middleton an elder suffering from

A.L.S. moved into Sawyer's home in July 2008 after establishing a trust with Sawyer named as

successor trustee. Included in the trust was Mr. Middleton's home which he specifically instructed

not be sold but kept as rental property. In October 2008 two days after Mr. Middleton's death from

physician assisted suicide Sawyer sold the home for more than \$200,000 and immediately placed

\$90,000 into her accounts. Sawyer and her husband a Captain in the Bend Oregon Police

Department who supervised the investigations unit, were charged and convicted of investment

fraud in federal court. In that case victims, including some from Montana lost \$4.4 million dollars.

Given the control and influence of " a small coterie of insiders" to public access to Oregon's

Department of Health records (cited by the Oregonian newspaper editorial staff) as a lack of

transparency by design they advised Washington residents to reject physician assisted suicide

in that state. Oregon's information is released annually and cannot be released on a case by

case basis even at the request of law enforcement agencies attempting to conduct a criminal

investigation. Without access to information criminal investigation has been stopped in at least

one case. In Oregon there's no information; no evidence; no prosecution; no accountability; no justice

for victims or the public. Luckily, Mr. Middleton's case information was beyond the control

of that "small coterie of insiders". A civil society cannot rely upon luck to formulate public policy or

maintain public safety.

There truly is no substitute for experience and our elder's wisdom is Montana's most precious

resource. I urge you to support HB 505.

Philip Tummarello
Sgt./Inspector San Francisco Police Department (Retired)
Stevensville, Montana 59870
406-381-1807 (Do not publish)

**ADDITIONAL
DOCUMENTS**

Pam,
March 28, 2013
As per our phone
conversation please find
enclosed one full copy
plus current letter to be
added. Your putting this
together for the full Judiciary
Committee is appreciated.
Thanks
Hail



**ADDITIONAL
DOCUMENTS**

**ADDITIONAL
DOCUMENTS**

Quest: one if needed
Phone H 406-582-9950
C 406-570-9559
Can leave msg on cell but not Home

1907
MAY 10 1907

1907
MAY 10 1907

March 28, 2013



Attention: Terry Murphy (R – Ch) and other members of the Senate
Judiciary Committee

Our strongest instinct is our survival instinct and my mother sure had it. She reached the age of 95 before she succumbed on September 6, 2010. Because of past experiences a coroner's report was requested. How many of us leave such a history of evidence behind to help you/us?

The physician in the report (page 5) is said to have increased mom's Fentanyl dosage to 25 mcg. Yet, the Toxicology Report shows four times that dosage or 100 mcg (page 11).

You are being asked not to weaken HB 505 with amendments. In Mom's "Five Wishes" she asked for nature to take its course. As you research the enclosed documents you may find it necessary to vote yes on HB505 to help protect your life and mine. A yes vote on HB505 with no amendments to weaken the bill will be appreciated.

Thank You

Sincerely,

Gail Bell
Bozeman, MT 59718

Enclosures:

Gallatin County Office of the Sheriff/Coroner

Forensic Science Division Toxicology Drug Screen

Montana Department of Labor & Industry Board of Medical Examiners

**ADDITIONAL
DOCUMENTS**

1
D
2



ADDITIONAL
DOCUMENTS

Great Falls Tribune
Published 03 15? 2013

March 4, 2013

Letter to the editor: A case against Physician-Assisted Suicide.

Is it the duty of the living to find about our dead? How valuable is your life? How valuable is your death? How valuable is assisted suicide? My mom's survival instinct was so strong she survived three attempts on her life but she succumbed within two hours in the Bozeman hospital on the fourth attempt.

A coroner's report was requested. Case # 100906 lists congestive heart failure with oxygen deprivation and Fentanyl therapy. The manner of Death: Accident. The Toxicology Drug Screen Lab Case #: FDS-10-004005 lists reference comments that Fentanyl is a DEA Schedule II synthetic morphine substitute. It is reported to be 80 to 200 times as potent as morphine. A fentanyl 100 mcg/hour patch has a range within 24 hours of 1.9-3.8 ng/mL. Mom's death result was 2.7 ng/mL on or about 48 hours. Mom had been on a 12.5 fentanyl patch for years.

Complaint # 2012-069-MED was filed with the Montana Department of Labor and Industry Board of Medical Examiners. Results: "...the screening panel voted to dismiss the complaint with prejudice, which means the board may not consider the complaint in the future." You may not find this case or another complaint settled out of court: The Bozeman Daily Chronicle, December 24, 2011. How can or should these decisions override the Freedom of Information Act?

Not all doctors are painted on the same canvas. Still with my 72 years experience with friends and my mother, I have evolved against physician-assisted suicide.

Gail Bell

606 Hunters Way

Bozeman, Montana 59718



**ADDITIONAL
DOCUMENTS**

ADDITIONAL
DOCUMENTS

Letter posted on Bradley's site.

February 26, 2013

LETTER TO THE EDITOR: *Family member's 'accidental' death provides example for opposition to assisted suicide.*

This letter is being written for a right to live. We taxpayers paid a phenomenal amount of money when others decided it was time for my mother to die. She would not die! Three times she defied attempts on her life costing her bed sores, hospice, and her daughter being arrested while helping her (latter arrest record dismissed).

Mom succumbed in the hospital, September 6, 2010. The coroner's report case #100906 lists congestive heart failure with oxygen deprivation and Fentanyl therapy. The Manner of Death: Accident. *Fentanyl is reported "to be 80 to 200 times as potent as morphine."* A fentanyl patch of 100 mcg/hour has a range within 24 hours of 1.9 – 3.8ng/mL. Mom's death result was 2.7 ng/mL on or about 48 hours.

Complaint # 2012-069-MED was filed with Montana Department of Labor and Industry Board of Medical Examiners. "...the screening panel voted to dismiss the complaint with prejudice, which means the board may not consider the complaint in the future.

Because of my mother's experiences I no longer believe in "physician-assisted suicide." Support HB505.

Gail Bell

606 Hunters Way

Bozeman, Montana 59718

Phone: 406-582-9950

Helena Independent

Against assisted suicide 03182013 (?)

This letter is being written for a right to live. We taxpayers paid a phenomenal amount of money when others decided it was time for my mother to die. She would not die! Three times she defied attempts on her life costing her bed sores, hospice and her daughter being arrested while helping her (latter arrest record dismissed).

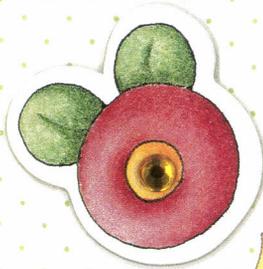
Mom succumbed in the hospital, Sept. 6, 2010. The coroner's report case #100906 lists congestive heart failure with oxygen deprivation and Fentanyl therapy. The Manner of Death: Accident. Fentanyl is reported to be "80 to 200 times as potent as morphine." A Fentanyl patch of 100 mcg/hour has a range within 24 hours of 1.9-3.8 ng/mL. Mom's death result was 2.7 ng/mL on or about 48 hours.

Complaint #2012-069-MED was filed with the Montana Department of Labor and Industry Board of Medical Examiners. The screening panel voted to dismiss the complaint with prejudice, which means the board may not consider the complaint in the future.

Because of my mother's experiences I no longer believe in "physician-assisted suicide." Support House Bill 505.

*Gail Bell
Bozeman*

ADDITIONAL
DOCUMENTS



♥♥♥♥♥
FAMILY



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In Memory Of
MARGARET TIPPETT
MAY 14, 1915 - SEPTEMBER 6, 2010



© ME Ink



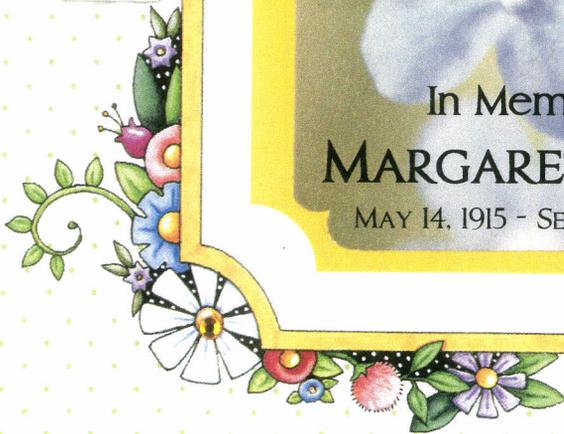
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© ME Ink



DOCUMENTS



GALLATIN COUNTY OFFICE OF THE SHERIFF / CORONER

Law & Justice Center - 615 South 16th
Bozeman, Montana 59715
Phone: (406) 582-2178
Fax: (406) 582-2058

DECEASED

INFORMATION

Case # 100906 Time of Call _____ Location of Call _____
Who Called _____ Out Time _____ On Scene Time _____ Clear Time _____
Last Name: TIPPETT First: MARGARET Middle: Catherine Phone: 586-3029
Address: Spring Meadows #135 City: Bozeman ST: MT Zip: 59715
DOB: 5-14-15 Place of Death: Boz. Deaconess Hosp.
Normal Occupation: _____ SSN# _____

Deceased Found by: _____ Phone: _____
Address: _____ City: _____ ST: _____ Zip: _____
Date Found: _____ Time Found: _____
Last Seen by: _____ Phone: _____
Address: _____ City: _____ ST: _____ Zip: _____
Location Last Seen: _____
Date Last Seen: _____ Time Last Seen: _____
Next of Kin: ANITA Kowalchuk / GAIL Bell Phone: 907-346-2289 / 382-995
606 Hunters Wy City: _____ ST: _____
Physician: DR. Borgemicht Phone: _____
Last Visit: _____ Reason: _____
Notification Made yes - by BDH Time: _____ Date: _____
Person Notified: _____ Relationship: _____

CAUSE OF DEATH

ITEMS 24-28 MUST BE COMPLETED BY PERSON WHO PRONOUNCES OR CERTIFIES DEATH		24. DATE PRONOUNCED DEAD (Mo/Day/Year) <u>9-6-10</u>	25. TIME PRONOUNCED DEAD <u>1317 hrs</u>
28. DATE SIGNED (Mo/Day/Year) <u>11-23-10</u>		30. ACTUAL OR PRESUMED TIME OF DEATH <u>1317 hrs</u>	31. WAS MEDICAL EXAMINER OR CORONER CONTACTED? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
32. PART I Enter the chain of events - disease, injuries or complications - that directly caused the death. DO NOT enter terminal events such as cardiac or respiratory arrest or ventricular fibrillation without showing the etiology. DO NOT ABBREVIATE. Enter only one cause on each line. Add additional lines if necessary. IMMEDIATE CAUSE (final disease or condition resulting in death) a. <u>Congestive heart failure</u> DUE TO (OR AS A CONSEQUENCE OF) b. _____ DUE TO (OR AS A CONSEQUENCE OF) c. _____ DUE TO (OR AS A CONSEQUENCE OF) d. _____ Sequentially list conditions if any leading to cause listed on line a. Enter UNDERLYING CAUSE (Disease or injury that initiated events resulting in death.) Last			Approximate Interval Between Onset and Death <u>years</u>
PART II Enter other significant conditions contributing to death but not resulting in the underlying cause given in Part I <u>Oxygen deprivation and Fentanyl Therapy</u>			33. WAS AN AUTOPSY PERFORMED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
37. MANNER OF DEATH <input type="checkbox"/> Natural <input type="checkbox"/> Homicide <input checked="" type="checkbox"/> Accident <input type="checkbox"/> Pending Investigation <input type="checkbox"/> Suicide <input type="checkbox"/> Could not be Determined			34. WERE AUTOPSY FINDINGS AVAILABLE PRIOR TO COMPLETION OF CAUSE OF DEATH? <input type="checkbox"/> Yes <input type="checkbox"/> No
35. DID TOBACCO USE CONTRIBUTE TO DEATH? <input type="checkbox"/> Yes <input type="checkbox"/> Probably <input type="checkbox"/> No <input checked="" type="checkbox"/> Unknown		36. IF FEMALE: <input checked="" type="checkbox"/> Not pregnant within last year <input type="checkbox"/> Pregnant at time of death <input type="checkbox"/> Not pregnant but pregnant within 42 days of death <input type="checkbox"/> Unknown if pregnant within past year <input type="checkbox"/> Not pregnant but pregnant 43 days to 1 year before death	
38. DATE OF INJURY (Mo/Day/Year) <u>9-6-10</u>	39. TIME OF INJURY <u>1100 hrs</u> 1215 hrs	41. INJURY AT WORK <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	40. PLACE OF INJURY (E.g. Decedent's Home, Construction Site, Restaurant, wooded area) <u>Assisting in Nursing Home Spring Meadows</u>
43. DESCRIBE HOW INJURY OCCURRED <u>FALL PATIENT</u>			42. LOCATION (Street and Number or Rural Route Number, City, Town, State, Zip Code) <u>3175 GRAF, BOZ. 59715</u>

The remains listed above have been released to: DASH Request: Rotation: _____
Date: 9-6-10 Time: 1500 Authorization to cremate if family desires (is)(is not) given. (24 Hr rule applies)
Coroner (deputy): [Signature] Badge #: 651

BODY RELEASE

Medications: _____

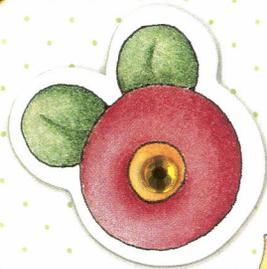
Physical and Mental conditions: _____

Others on scene: _____

Notes:



♥♥♥♥♥
FAMILY



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© ME Ink
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In Memory Of
MARGARET TIPPETT
MAY 14, 1915 - SEPTEMBER 6, 2010



**ADDITIONAL
DOCUMENTS**



Montana State Legislature

**2013 SESSION
ADDITIONAL DOCUMENT**

ADDITIONAL DOCUMENT

which was submitted
after the committee hearing
was ended and/or was
submitted late, but regarding
information in the committee
hearing.

**Montana Historical Society
Archives
225 N. Roberts
Helena MT 59620-1201
2013 Legislative Scanner Susie Hamilton**

Medications: 25 mg Fentanyl \longleftrightarrow Mom's Toxicology Report shows more than 25 mcg/hour patch
See page 10-11
Gail

Physical and Mental conditions: _____

Others on scene: _____

Notes: AMU
5-way bypass ~~to~~ 12/4/13 ago
Fentanyl - Arthritis
Hip surgery 1-1/2 yrs ago
Fentanyl increased on sat. in ~~line~~ \longleftrightarrow Mom had two large Fentanyl patches on her right shoulder Sunday afternoon.
CAT scan - NO blood \longleftrightarrow Should two 50 mcg/hour patch match the Toxicology Report?
Patches removed by Rt. Staff
Gail
Sick to stomach appearance.

Amy Bell - 222-7785 (Craig)
Wally Bell - 761-7205

Shane Schantz - failed to plug into wall
Radiology Student

DARCY @ BDH - 585-5080
Bentson

2.7 ng/ml
Fentanyl
CHF - O₂ - Fentanyl



STATE OF MONTANA
DIVISION OF FORENSIC SCIENCE
 DEPARTMENT OF JUSTICE
 2679 Palmer Street
 Missoula, MT 59808 (406) 728-4970

CORONER'S REPORT FORM

Autopsy #: _____
 MDFS #: _____

E-mail to: dojcoreast@mt.gov

Submitting Agency: Gallatin County
County: Gallatin

Agency Case Number: 100906

Coroner/ Deputy Coroner: Springer

Contact phone number: 406-582-2130

Decedent (Full name): Tippett, Margaret Catherine

Date of birth: 05-14-15

Gender: Female **Race:** White

Date and Time Last Seen Alive: 09-06-10/ 1317

Date and Time of Death; or Date and Time Found: 09-06-10/ 1317 hrs

Place of Death: Bozeman Deaconess Hospital

If death in hospital, date and time admitted: 09-06-10/ 1130 hrs

Dr.'s name:

Gipe

Other primary investigating agency: Bozeman PD

Agency's case number: NA

Contact person: Dave Ferguson

Contact number: 406-582-2219

Autopsy performed? No

If yes, by Dr.

Toxicology specimens taken? Yes If yes, check Blood Vitreous Urine

Fingerprints taken? No

Scene photographs taken? Yes If yes, Attached to report? No

Autopsy photographs taken? (Drop down) If yes, Attached to report? (Drop down)

Death certificate certified by: Coroner/Deputy Coroner: Springer

Medical Examiner:

Physician:

Cause of death: If natural: (Drop down)

If non-natural: Other, see below

Other (please write as it appears on death certificate):

32. Part I

a. Congestive Heart Failure

b.

c.

d.

Part II: Oxygen deprivation and fentanyl therapy

Pending?

Manner of death: Accident

If natural death:

Decedent's primary care physician: Dr. Bogenicht

Primary care physician contact information: 905 Highland Blvd

Treating hospital/clinic: Bozeman Deaconess Hospital

Phone number: 406-522-2400



Reviewed by:

Comments:

Details surrounding death: Please 1) Describe scene and investigative findings below; including, as appropriate past medical history (including hypertension, diabetes mellitus, seizures) and current medications (including name of medication, pill count in bottle, date prescribed, number of pills prescribed, dosage of pill, dosing schedule for pill, and prescribing physician), or 2) Attach separate report.

On September 6th, 2010 at approximately 1330 hours, I was contacted by Bozeman Deaconess Hospital in regards to a 95 year old female who had died in the Emergency Room.

I arrived on scene and was contacted by the Bozeman Deaconess Chaplain and he informed me that the daughters of the deceased were in room 4 with the deceased, later identified as Marge Tippett. He informed me that they were concerned that someone had possibly poisoned Marge or had assisted in her death in some way. He also informed me that the granddaughter, Amy, was waiting in the waiting room.

I entered room 4 and observed an elderly female lying on the bed. Her daughters, Gail and Anita were in the room with her as well as Irene from Dahl's funeral home. I introduced myself and informed them that I would be investigating the cause of Marge's death.

During my conversation I learned that Gail and Anita have been convinced for some time that someone was trying to harm Marge. They informed me that Marge had been on 12.5 mcg of fentanyl for a number of years but that their brother, Wally, had contacted Dr. Borgenicht on Saturday and requested it be increased. Dr. Borgenicht increased her dosage to 25 mcg. They informed me that the last time she had been increased to 25 she ended up in a coma while hospitalized at Bozeman Deaconess approximately 4 years prior. They informed me that Gail was no longer welcome at Spring meadow assisted living due to some sort of conflict and that Wally had been given power of attorney. However, Amy, the granddaughter, was the primary care giver because she lived locally and Wally lives in Great Falls.

I informed them that I would request a toxicology analysis and there was a possibility of an autopsy if I was unable to determine a cause of death.

I left the room and met with the Granddaughter, Amy and her husband Craig. I informed them that I would be investigating the death of Marge and that I would be requesting a toxicology analysis and possibly an autopsy. I informed them that Gail and Anita were concerned that her death may not have occurred naturally. Amy explained to me that there had been a significant wedge driven between her aunts and her father over the years. During my conversation, I observed Amy look at Craig in a way that I thought was



unusual but was uncertain what it may have meant. I learned that Marge had congestive heart failure but was not symptomatic. I learned that Marge was on Fentanyl due to arthritis and possibly some other pain complaint. I spoke with Amy for approximately 30 minutes and they eventually left the hospital.

I returned to the nurses station and approximately 5 minutes later, Amy returned to the Emergency Room and informed me she needed to speak with me. We went back into the waiting room and she closed the door. She informed me that she needed to talk to me about something but she didn't want anyone getting in trouble. She informed me that Marge's oxygen had been plugged into the wall in room 4. The radiology technician came and got Marge for a CT scan and unplugged it from there and plugged it into the portable tank on the gurney. When Marge returned to the room the tech forgot to plug the oxygen back into the wall. According to Amy, she noticed the oxygen still plugged into the tank on the gurney and attempted to unplug it in order to plug it back into the wall. However, when she unplugged it the oxygen began hissing out and she was unsure how to turn it off, so she plugged it back into the tank on the gurney.

Amy then left the room to get a cup of coffee. When she returned she noticed Marge's color was different and called for the nurse. RN Dash entered the room and found her oxygen saturation to be 43%. She said he noticed the oxygen tube plugged into the tank and it was returned to the wall. The Doctor came into the room and they began working on Marge. Marge had a Do Not Resuscitate (DNR) order that had accompanied her from Spring meadows. Amy told me the Doctor then removed the Fentanyl patches but Marge died shortly thereafter.

I contacted the house supervisor, Kim and Dr. Gipe, and I informed them of what I had learned. Dr. Gipe informed me that the CT scan had been determined clear. Kim and I went into Marge's room and observed the portable tank had indeed been depleted of oxygen.

I then spoke with RN Dash and he informed me that he had already spoke with the radiology student who had brought Marge back from CT and he had forgotten to plug the oxygen back into the wall. The radiology student's name is Shane Schantz. Dash informed me that Marge had arrived at the Emergency Room and she was alert and oriented times 4. Her oxygen saturation was 93%.

I requested a copy of all the ER medical records be faxed to me when they were completed. I released Marge to Dahl's funeral home but I informed them I did not want anything done with her until they heard from me.

I contacted Dr. Willy Kemp of the Medical Examiner's office and informed him of the incident. It was his opinion that we would likely not learn anything more from an autopsy. He agreed with my assessment that the Congestive Heart Failure was the primary cause of death with fentanyl therapy and deprivation of oxygen being contributing factors. Given the information I had at the time, I was going to list the manner of death as accident.



On September 7th, 2010, I contacted Wally and Amy at Dahl's funeral home. I informed them of the likely cause of death. Wally appeared distraught due to the relationship that he has with his sisters. Amy did not mention anything pertaining to wishing she had notified someone of the apparent mistake at the time she had noticed it.

I went to Dr. Borgenicht's office and spoke with Dr. Borgenicht. She informed me that she was unaware of any other possible cause of death, but that she hoped I could not include the fentanyl due to the appearance of it. However, she understood the facts as they stood. Dr. Borgenicht confirmed that she had increased Marge's dose of fentanyl on Saturday and that she had received a call from Wally requesting it. According to Wally, Marge was in considerable pain Saturday morning.

I met with Gail and Anita at Gail's residence. I informed them of my findings. They were still not convinced this was an accident. They told me the story of 4 years ago when Marge was admitted to the hospital and her fentanyl had been increased to 25 mcg at that time. Gail apparently noticed that Marge's oxygen had been turned off in that room as well and Marge had fallen into a "coma". Gail immediately notified the nurses that her oxygen was off and the nurses responded by turning it back on. Gail made references to seeing Wally and Dr. Borgenicht talking in the hallway and that Amy had been in the room as well.

I continued to have a lengthy discussion with Gail and Anita and eventually left the residence.

I contacted the Bozeman Police Department and made them aware of the concerns surrounding the death of Tippett. Their detective division opened an investigation into the matter.

I received toxicology reports from the Montana State Crime Lab and they were consistent with the information I had already known.

The manner of death was an accident. The cause of death was congestive heart failure with Oxygen deprivation and fentanyl therapy as contributing factors.



Report by:

FORM DFS3 (Computer Format 03-02-06) Distribution: Coroner/ State Medical Examiner/ County Attorney



FORENSIC SCIENCE DIVISION
 DEPARTMENT OF JUSTICE
 STATE OF MONTANA
 2679 PALMER
 MISSOULA, MT 59808
 (406) 728-4970



DAN SPRINGER
 GALLATIN COUNTY CORONER
 615 SOUTH 16TH AVE
 BOZEMAN, MT 59715

Lab Case #: FSD-10-004005
 Agency Case #: 100906
 SUBJECT: TIPPETT, MARGARET C

TOXICOLOGY DRUG SCREEN

EVIDENCE:

Item

001 TOX KIT - TIPPETT, MARGARET C.

ADDITIONAL DOCUMENTS

ALCOHOL RESULTS:

ETHANOL - NONE DETECTED

ANALYSIS OF SUBMITTED VITREOUS SAMPLE

DRUG CONFIRMATIONS:

MEMANTINE	DETECTED IN BLOOD
CAFFEINE	DETECTED IN BLOOD
VENLAFAXINE	DETECTED IN BLOOD
NORVENLAFAXINE	DETECTED IN BLOOD
ACETAMINOPHEN	DETECTED IN BLOOD

SEE ATTACHED REPORT FROM NMS LABORATORY

Date of Report: 11/08/2010

JAMES D. HUTCHISON, JR., MS, ABFT-FTS
 Chief Forensic Toxicologist/ Lab Supervisor
 (or designee)

Comment: The signor (author) of this report may, or may not be, the individual(s)/person(s) needed to testify to the results contained in this report. Please call or e-mail the following individuals to determine who needs to be subpoenaed: Office: (406) 728-4970 jhutchison@mt.gov or sschlueter@mt.gov or lkurtz@mt.gov.

Accredited by the American Board of Forensic Toxicology (Certificate No. L014 since 2003) and the American Society of Crime Laboratory Directors/Laboratory Accreditation Board since 2005



NMS Labs

CONFIDENTIAL

3701 Welsh Road, PO Box 433A, Willow Grove, PA 19090-0437
Phone: (215) 657-4900 Fax: (215) 657-2972
e-mail: nms@nmslabs.com
Robert A. Middleberg, PhD, DABFT, DAACC-TC, Laboratory Director

Tippett B

Toxicology Report

Report Issued 10/12/2010 16:00

Patient Name TOPPETT, MARGARET
Patient ID FSD10-004005
Chain 10221605
Age Not Given
Gender Not Given
Workorder 10221605

AB

Page 1 of 2

To: 20143
Montana State Crime Lab
Attn: Jim Hutchison
2679 Palmer Street
Missoula, MT 59808

Positive Findings:

Table with 4 columns: Compound, Result, Units, Matrix Source. Rows include Fentanyl (2.7 ng/mL, Blood) and Norfentanyl (1.2 ng/mL, Blood).

See Detailed Findings section for additional information

Testing Requested:

Table with 2 columns: Analysis Code, Description. Row: 9176B, Fentanyl and Metabolite Screen, Blood

Specimens Received:

Table with 5 columns: ID, Tube/Container, Volume/Mass, Collection Date/Time, Matrix Source, Miscellaneous Information. Row: 001, Green Vial, 4 mL, Not Given, Blood

All sample volumes/weights are approximations.
Specimens received on 10/07/2010.

Detailed Findings:

Analysis and Comments	Result	Units	Rpt. Limit	Specimen Source	Analysis By
Fentanyl	2.7	ng/mL	0.10	001 - Blood	LC-MS/MS
Norfentanyl	1.2	ng/mL	0.20	001 - Blood	LC-MS/MS

Other than the above findings, examination of the specimen(s) submitted did not reveal any positive findings of toxicological significance by procedures outlined in the accompanying Analysis Summary.

Reference Comments:

1. Fentanyl (Sublimaze®) - Blood:

Fentanyl is a DEA Schedule II synthetic morphine substitute anesthetic/analgesic. It is reported to be 80 to 200 times as potent as morphine and has a rapid onset of action as well as addictive properties.

It is reported that patients lost consciousness at mean plasma levels of fentanyl of 34 ng/mL when infused with 75 mcg/Kg over a 15 min period; peak plasma levels averaged 50 ng/mL.

After application of a fentanyl transdermal preparation (patch), serum fentanyl concentrations are reported to be in the following ranges within 24 hours:

- 25 mcg/hour patch: 0.3 - 1.2 ng/mL
- 50 mcg/hour patch: 0.6 - 1.8 ng/mL
- 75 mcg/hour patch: 1.1 - 2.6 ng/mL
- 100 mcg/hour patch: 1.9 - 3.8 ng/mL

Following removal of the patch, serum fentanyl concentrations are reported to decrease with a mean elimination half-life of 17 hours (range, 13 to 22 hours).

The mean peak plasma serum fentanyl concentration in adults given an 800 mcg oral transmucosal fentanyl preparation over 15 minutes is reported at 2.1 ng/mL (range, 1.4 - 3.0 ng/mL) at approximately 0.4 hours.

Signs associated with fentanyl toxicity include severe respiratory depression, seizures, hypotension, coma and death. In fatalities from fentanyl, blood concentrations are variable and have been reported as low as 3 ng/mL.

Chain of custody documentation has been maintained for the analyses performed by NMS Labs.

Unless alternate arrangements are made by you, the remainder of the submitted specimens will be discarded six (6) weeks from the date of this report; and generated data will be discarded five (5) years from the date the analyses were performed.

Analysis Summary and Reporting Limits:

Acode 5640B - Fentanyl and Metabolite Confirmation, Blood

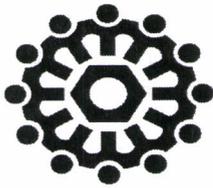
-Analysis by High Performance Liquid Chromatography/Tandem Mass Spectrometry (LC-MS/MS) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Fentanyl	0.10 ng/mL	Norfentanyl	0.20 ng/mL

Acode 9176B - Fentanyl and Metabolite Screen, Blood

-Analysis by High Performance Liquid Chromatography/Tandem Mass Spectrometry (LC-MS/MS) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Fentanyl	0.10 ng/mL	Norfentanyl	0.20 ng/mL



Montana Department of
LABOR & INDUSTRY
Business Standards Division

March 6, 2012

GAIL BELL
606 HUNTER'S WAY
BOZEMAN MT 59718

RE: Complaint #2012-069-MED filed against Kathryn Borgenicht, MD

Dear Ms. Bell:

The screening panel of the Board of Medical Examiners recently reviewed the above-referenced complaint. Section 37-1-307, MCA delegates to the screening panel the authority to determine whether there is reasonable cause to believe that a person has violated a statute or rule justifying legal or disciplinary proceedings.

Having fully considered the matter before it, the screening panel determined that the circumstances surrounding this case do not justify legal or disciplinary proceedings. Therefore, the screening panel voted to dismiss the complaint with prejudice, which means the board may not consider the complaint in the future.

Please be advised that the screening panel's decision does not preclude you from seeking other remedies.

Sincerely,

LaVelle M. Potter
Compliance Specialist
Montana Board of Medical Examiners
406-841-2362 voice
406-841-2363 fax
lpotter@mt.gov

**ADDITIONAL
DOCUMENTS**

301 SOUTH PARK • P.O. BOX 200513 • HELENA MT 59620-0513
FAX (406) 841-2363
TTD (406) 444-0532

"AN EQUAL OPPORTUNITY EMPLOYER"

ADDITIONAL
DOCUMENTS



STATE OF MONTANA
 DEPARTMENT OF LABOR & INDUSTRY
 HEALTH CARE LICENSING BUREAU
 301 SOUTH PARK AVE, ROOM 430
 PO BOX 200513
 HELENA MONTANA 59620-0513
 (406) 841-2333

FOR OFFICE USE ONLY
 COMPLAINT NUMBER

COMPLAINT AGAINST: Kathryn Borgenicht, MD LICENSE #: _____ (If Known)
 PROFESSION/OCCUPATION TYPE: Physician and Hospital
 BUSINESS/FIRM NAME: Bozeman Deaconess Hospital PHONE: (406) 585-5000
 ADDRESS: 915 Highland Blvd. Bozeman, MT 59175
Street # or PO BOX City/State Zip Code

If Applicable:
 PATIENT NAME: Margaret Catherine Tippet DATE OF BIRTH: 05-14-1915

NATURE OF COMPLAINT: *please describe in detail the nature of the complaint, giving dates and other information. If service is part of the complaint, give information about telephone calls, contracts, etc. Attach additional sheet if necessary. (Maximum characters: 950)*

"It is the duty of the living to find out about the dead"
 1) Why was mom, Margaret C. Tippet, prescribed Fentanyl patch/patches?
 "WARNING: Fentanyl has a high risk for abuse and severe, possibly fatal breathing problems." Drug Education Monograph (enclosed). Mom was on oxygen, Fentanyl dosage raised issues with falls, and mom lived in assisted living, not a nursing home.
 2) What caused mom's Fentanyl result to be: 2.7ng/ml on the coroner's report? "Serum fentanyl concentration are reported to be in the following ranges within 24 hours:
 100 mcg/hour patch: 1.9 – 3.8 ng/mL
 25mcg/hour patch: 0.3 – 1.2 ng/mL (pill) (See page 2)

ADDITIONAL DOCUMENTS

LIST OF WITNESSES AND EVIDENCE: *(Maximum characters: 295. Attach an additional sheet if necessary)*

- Gallatin County Office of the Sheriff/Coroner
- Emergency Department nursing flow chart
- Drug Education (flow sheet) monograph
- Moms note regarding her healthcare and visitors.

WHAT ACTION ARE YOU REQUESTING OF THE BOARD? *(Attach an additional sheet if necessary)*

"It is the duty of the living to find out about the dead"
 What you can or will do will be appreciated. Mom asked in her "Five Wishes" "Let nature take it's course" Thanks, Gail

The facts and matters contained herein are true, accurate and correct to the best of my knowledge.

YOUR NAME (Please Print): Gail Bell PHONE #: 406-582-9950

YOUR ADDRESS: 606 Hunter's Way, Bozeman, MT 59718

I hereby authorize that all of my protected health information maintained by any and all of my healthcare providers and that all of my health information maintained by any and all of my healthcare providers be furnished to the above-named licensing board and/or its agents. This authorization shall remain in effect until the licensing board has concluded all actions concerning this complaint.

COMPLAINANT'S SIGNATURE: Gail Bell DATE: 01-03-2012
Please feel free to request any other information needed.

ADDITIONAL
MEMBERS

DEC 1957

Page 2

3). Why did Dr. Borgenicht hope that Coroner “could not include the fentanyl due to the appearance of it?” (p 7)

4). When, why and how were mom’s Fentanyl patches disposed and recorded on September 6, 2010?

5). How and why did mom’s oxygen level fall from 93% at 11:36 to 41% and 33% on or about 1300? She was in the emergency department. (September 6, 2010)

ATTN: La Velle Potter FAX: 406-841-2363 02-06-2012

Witness statement for Gail Bell

From: - ukmuk - (ukmuk@hotmail.com)
Sent: Sun 2/05/12 12:09 AM
To: Rhonda (jjhild@msn.com)
1 attachment
witness statement for Gail Bell.pdf (1470.2 KB)

Complaint # 2012-069-ME1
Please Add:
Gail Bell

February 4, 2012

The following witness statement is adjunct to Gail Bell's complaint filed with the Montana Health and Licensing Bureau:

My mother, Margaret Tippet, died suddenly Monday, September 6, 2010, in Bozeman, Montana, about 48 hours after her physician, Dr. Kathryn Borgenicht, doubled her dose of fentanyl without examining her. I last saw my mother Sunday evening, about 18 hours before her death. Shaking her head, she said, "I'm so confused." She was delusional, asking for bread so she could make toast (she had no toaster). After witnessing my mother's unusual condition, I called Dr. Borgenicht from my sister's telephone (406-582-9950) and left a message with her answering service. When Dr. Borgenicht returned my call, I asked her about Mom's second patch of fentanyl. She told me, "Your mom is having some pain issues. I'll see her on Tuesday." My mother died early the next afternoon in what the coroner's report ruled an accidental death. Post-mortem blood analysis showed a fentanyl concentration of 2.7 $\mu\text{g}/\text{mL}$, which, according to the toxicology report, would be three to four times higher than the amount of fentanyl I believed had been prescribed through a single fentanyl patch. The report did not address the possible impacts of multiple epidermal delivery sites.

I visited my mother from August 17, and saw her daily, keeping a journal of my stay. The final pages of that visit are attached. My other entries are available upon request.

Anita Kowalchuk
11400 Hideaway Trail
Anchorage, AK 99507
(907) 346-2289



RAVALLI
REPUBLIC

Assisted suicide prompts some terminally ill patients to give up on life prematurely

NOVEMBER 28, 2012 6:15 AM

Thank you for publishing the letter by Dr. Ken Stevens describing how he talked his patient out of doing assisted suicide in Oregon (Missoulian, online only). I am that patient and he did save my life.

In 1997, I voted for the initiative that legalized assisted suicide in Oregon.

In 2000, I was diagnosed with cancer and told that I had six months to a year to live. I knew that our law had passed, but I didn't know exactly how to go about doing it. I did not want to suffer, and I did not want to do radiation. I wanted Stevens to help me, but he didn't really answer me.

Instead, he encouraged me to not give up and ultimately I decided to fight the cancer. I had both chemotherapy and radiation. I am so happy to be alive!

It is now 12 years later. If Stevens had believed in assisted suicide, I would be dead. I thank him and all my doctors for helping me choose "life with dignity." Assisted suicide should not be legal.

Thank you so much.

*Jeanette Hall,
King City, Oregon*

ADDITIONAL
DOCUMENTS

Tell your legislators to vote YES on HB 505



“If my doctor had believed
in assisted suicide, I would
be dead.”

Jeanette Hall
King City, Oregon

Oregon doctor could not save patient from assisted suicide

January 27, 2013 12:00 am

I am a doctor in Oregon, where assisted suicide is legal. A few years ago, I was caring for a 76-year-old man who presented to my office a sore on his arm, eventually diagnosed as melanoma. I referred him to specialists for evaluation and therapy.

I had known this patient and his wife for more than a decade. He was an avid hiker, a popular hobby here in Oregon. As his disease progressed, he was less able to do this activity, becoming depressed, which was documented in his chart.

During this time, my patient expressed a wish for assisted suicide to one of the specialists. Rather than take the time to address his depression, or ask me as his primary care physician to talk with him, she called me and asked me to be the "second opinion" for his suicide. She told me that barbiturate overdoses "work very well" for patients like this, and that she had done this many times before.

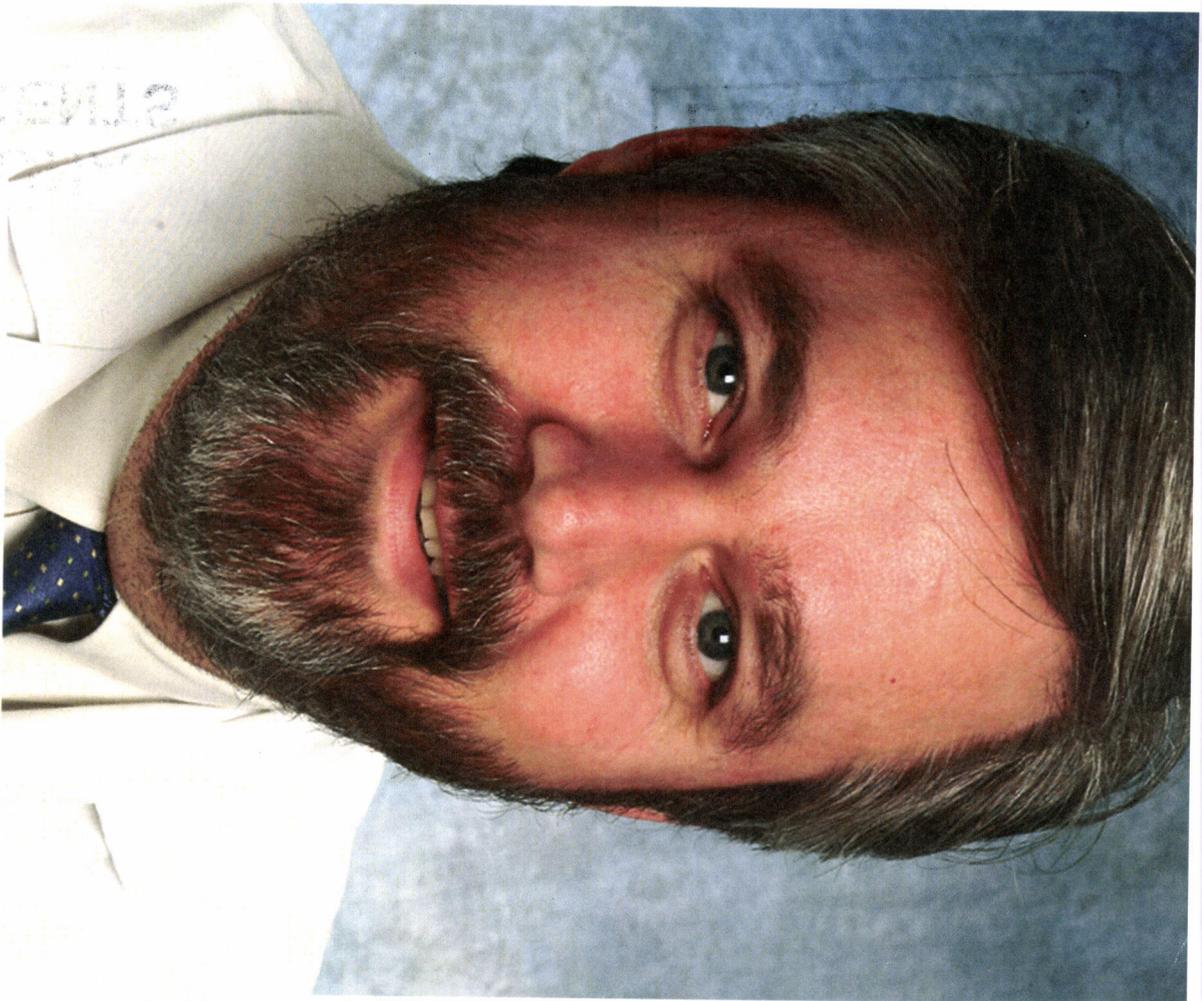
I told her that assisted suicide was not appropriate for this patient and that I did not concur. I was very concerned about my patient's mental state, and told her that addressing his underlying issues would be better than simply giving him a lethal prescription. Unfortunately, my concerns were ignored, and two weeks later my depressed patient was dead from an overdose prescribed by this doctor.

Under Oregon's law, I was not able to protect my depressed patient. If assisted suicide becomes legal in Montana, you may not be able to protect your friends or family members.

I urge you to contact your legislators to tell them to keep assisted suicide out of Montana. Don't make Oregon's mistake.

Dr. Charles J. Bentz
Portland, Ore.

ADDITIONAL DOCUMENTS



“In Oregon, the only help
my patient received was a
lethal prescription, intended
to kill him..”

Charles Bentz, MD
Portland, Oregon