

HOUSE BILL NO. 268
INTRODUCED BY D. KOTTEL

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING WRITTEN INFORMED CONSENT FOR NONEMERGENCY SURGERY."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Written informed consent for nonemergency surgery.** (1) For the purpose of this section, "written informed consent" means a document in writing that discloses to the patient:

(a) the full range of effective medical treatment alternatives that may be viable, including surgical and nonsurgical procedures relating to the medical issue, all generally accepted medical treatment, or combinations of procedures and treatments;

(b) effects of nontreatment;

(c) all information regarding the functions of a potentially removable organ, including supportive functions;

and

(d) the advantages, disadvantages, risks, possible long-term effects, and descriptions of the procedures and treatments listed in subsections (1)(a) through (1)(c).

(2) The written informed consent document must be freely executed by the patient, certifying that full disclosure has been made to the patient.

(3) Failure of a physician or surgeon to provide written informed consent as provided in subsection (1) constitutes breach of duty of care under 27-1-701.

NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 37, chapter 3, part 3, and the provisions of Title 37, chapter 3, part 3, apply to [section 1].

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