

1 HOUSE BILL NO. 37
2 INTRODUCED BY J. CARLSON
3 BY REQUEST OF THE CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES INTERIM COMMITTEE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CHILD ABUSE AND NEGLECT LAWS;
6 REQUIRING A WARRANT TO REMOVE A CHILD FROM THE CHILD'S HOME EXCEPT IN EXIGENT
7 CIRCUMSTANCES; REQUIRING THAT A PEACE OFFICER BE PRESENT WHENEVER A CHILD IS
8 REMOVED FROM THE HOME; REVISING THE DEFINITIONS OF "CHILD ABUSE OR NEGLECT" AND
9 "REASONABLE EFFORTS"; REVISING THE REQUIREMENTS FOR DISCLOSURE OF CHILD ABUSE AND
10 NEGLECT RECORDS; REVISING THE TIMEFRAME IN WHICH AN ABUSE AND NEGLECT PETITION
11 MUST BE FILED WHEN A CHILD IS REMOVED; REVISING THE TIMEFRAME IN WHICH AN EMERGENCY
12 PROTECTIVE SERVICES HEARING MUST BE HELD; REVISING THE REQUIREMENTS FOR DISMISSING
13 AN ABUSE AND NEGLECT PETITION; AND AMENDING SECTIONS 41-3-101, 41-3-102, 41-3-205, 41-3-301,
14 41-3-306, 41-3-423, 41-3-424, 41-3-425, AND 41-3-427, MCA; ~~AND PROVIDING AN EFFECTIVE DATE.~~"
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16 WHEREAS, Montana's child abuse and neglect statutes (Title 41, chapter 3, MCA) provide the
17 framework for state interference with the parent-child relationship; and

18 WHEREAS, the Legislature intends to amend the provisions of Title 41, chapter 3, MCA, to ensure
19 compliance with constitutional requirements.
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21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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23 NEW SECTION. Section 1. Warrant to remove child. (1) A child protection specialist of the
24 department, a peace officer, or a county attorney may apply, in writing, by telephone, or electronically, on oath
25 or affirmation, to a court identified in subsection (2) for the issuance of a warrant to remove a child and place
26 the child in a protective facility if necessary to prevent the child from being abused or neglected.

- 27 (2) A warrant may be issued in writing, by telephone, or electronically by:
28 (a) a city or municipal court judge or justice of the peace within the judge's geographic jurisdiction;

1 resort after all family, insurance, and other resources have been examined.

2 (b) An order issued under subsection (2)(a) must articulate the factual basis for each finding.

3 (3) An order for removal of a child from the home must include a finding that continued residence
4 of the child with the parent is contrary to the welfare of the child or that an out-of-home placement is in the best
5 interests of the child.

6 (4) The order for immediate protection of the child must require the person served to comply
7 immediately with the terms of the order and to appear before the court issuing the order on the date specified
8 for a show cause hearing. Upon a failure to comply or show cause, the court may hold the person in contempt
9 or place temporary physical custody of the child with the department until further order.

10 (5) The petition must be served as provided in 41-3-422."
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12 NEW SECTION. Section 12. Codification instruction. [Sections 1 and 2] are intended to be codified
13 as an integral part of Title 41, chapter 3, part 3, and the provisions of Title 41, chapter 3, part 3, apply to
14 [sections 1 and 2].

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16 ~~NEW SECTION. Section 13. Effective date. [This act] is effective July 1, 2023.~~

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