

Amendment - 2nd Reading-yellow - Requested by: Jennifer Carlson - (H) Committee of the Whole

68th Legislature

Drafter: Alexis Sandru, 406-444-4026

HB0016.002.001

1 HOUSE BILL NO. 16
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 PROCEDURES RELATED TO CHILD
6 ABUSE AND NEGLECT PROCEEDINGS; PROVIDING FOR SHARING OF INFORMATION WITH THE
7 OFFICE OF STATE PUBLIC DEFENDER; PROVIDING FOR PREHEARING CONFERENCES BEFORE
8 EMERGENCY PROTECTIVE SERVICES HEARINGS; REMOVING THE EXCEPTION FOR USE OF
9 PREHEARING CONFERENCES AND EMERGENCY PROTECTIVE SERVICES HEARINGS IN CASES
10 SUBJECT TO THE INDIAN CHILD WELFARE ACT; CLARIFYING THAT A SUPPORT PERSON MAY BE
11 PRESENT DURING AN EMERGENCY PROTECTIVE SERVICES HEARING; PROVIDING
12 APPROPRIATIONS; AMENDING SECTIONS 41-3-301, 41-3-306, AND 41-3-307, AND 41-3-427, MCA;
13 ~~REPEALING~~ AMENDING SECTION 8, CHAPTER 529, LAWS OF 2021; AND PROVIDING EFFECTIVE
14 DATES."

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17
18 **Section 1.** Section 41-3-301, MCA, is amended to read:

19 **"41-3-301. (Temporary) Emergency protective service.** (1) (a) Any child protection specialist of the
20 department, a peace officer, or the county attorney who has reason to believe any child is in immediate or
21 apparent danger of harm may immediately remove the child and place the child in a protective facility. After
22 ensuring that the child is safe, the department may make a request for further assistance from the law
23 enforcement agency or take appropriate legal action.

24 (b) The person or agency placing the child shall notify the parents, parent, guardian, or other
25 person having physical or legal custody of the child of the placement at the time the placement is made or as
26 soon after placement as possible. Notification under this subsection (1)(b) must:

27 (a)(i) include the reason for removal;

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1 members who may be considered as placement options for the child;

2 (d) a requirement that the parents, guardian, or other person having physical or legal custody
3 furnish information that the court may designate and obtain evaluations that may be necessary to determine
4 whether a child is a youth in need of care;

5 (e) a requirement that the perpetrator of the alleged child abuse or neglect be removed from the
6 home to allow the child to remain in the home;

7 (f) a requirement that the parent provide the department with the name and address of the other
8 parent, if known, unless parental rights to the child have been terminated;

9 (g) a requirement that the parent provide the department with the names and addresses of
10 extended family members who may be considered as placement options for the child who is the subject of the
11 proceeding; and

12 (h) any other temporary disposition that may be required in the best interests of the child that does
13 not require an expenditure of money by the department unless the court finds after notice and a hearing that the
14 expenditure is reasonable and that resources are available for payment. The department is the payor of last
15 resort after all family, insurance, and other resources have been examined.

16 (3) An order for removal of a child from the home must include a finding that continued residence
17 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
18 interests of the child.

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

23 (5) The petition must be served as provided in 41-3-422."
24

25 ~~NEW SECTION. Section 5. Repealer. Section 8, Chapter 529, Laws of 2021, is repealed.~~
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1 **Section 5.** Section 8, Chapter 529, Laws of 2021, is amended to read:

2 **"Section 8. Termination.** ~~[This act]~~ Except for [section 2], [this act] terminates June 30, 2023."

3
4 NEW SECTION. Section 6. Appropriation. (1) There is appropriated \$450,000 from the general fund
5 to the office of court administrator for the biennium beginning July 1, 2023, to pay for the costs of training and
6 hiring facilitators for the prehearing conferences provided for in [section 3].

7 (2) There is appropriated \$300,000 from the general fund to the office of state public defender for
8 the biennium beginning July 1, 2023, to pay for the costs of providing legal representation to parents and
9 guardians during the emergency protective services hearing provided for in [section 2] and the prehearing
10 conferences provided for in [section 3].

11
12 NEW SECTION. Section 7. Notification to tribal governments. The secretary of state shall send a
13 copy of [this act] to each federally recognized tribal government in Montana.

14
15 NEW SECTION. Section 8. Effective dates. (1) Except as provided in ~~subsections (2) and (3)~~
16 ~~subsection (2)~~, [this act] is effective on passage and approval.

17 (2) ~~[Section 4 5] is effective June 30, 2023.~~

18 ~~(3)~~ [Sections 3 and 5 6] are effective July 1, 2023.

19 - END -