

1 SENATE BILL NO. 283

2 INTRODUCED BY M. WATERMAN

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LOCAL CITIZEN REVIEW BOARD PILOT
 5 PROGRAM ACT; ~~REQUIRING EACH JUDICIAL DISTRICT TO ESTABLISH A CITIZEN REVIEW BOARD BY~~
 6 ~~JULY 1, 2003; REPEALING FOSTER CARE REVIEW COMMITTEES ON JULY 1, 2003; AMENDING~~
 7 SECTIONS 41-3-205, 41-3-1001, 41-3-1003, 41-3-1004, 41-3-1005, 41-3-1006, 41-3-1007,
 8 41-3-1008, 41-3-1010, 41-3-1011, 41-3-1012, 41-3-1013, ~~41-3-1122, AND 52-2-112, AND 41-3-1115,~~
 9 MCA; ~~AND~~ REPEALING SECTIONS 41-3-1002, 41-3-1009, AND 41-3-1014, ~~AND 41-3-1115;~~ MCA; AND
 10 PROVIDING AN EFFECTIVE ~~DATES~~ DATE."

11

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

13

14 **Section 1.** Section 41-3-205, MCA, is amended to read:

15 **"41-3-205. Confidentiality -- disclosure exceptions.** (1) The case records of the department and
 16 its local affiliate, the county welfare department, the county attorney, and the court concerning actions
 17 taken under this chapter and all records concerning reports of child abuse and neglect must be kept
 18 confidential except as provided by this section. Except as provided in subsections (4) and (5), a person
 19 who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case
 20 records is guilty of a misdemeanor.

21 (2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it.
 22 The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an
 23 issue before it.

24 (3) Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless
 25 otherwise protected by this section or unless disclosure of the records is determined to be detrimental to
 26 the child or harmful to another person who is a subject of information contained in the records, may be
 27 disclosed to the following persons or entities in this state and any other state or country:

28 (a) a department, agency, or organization, including a federal agency, military enclave, or Indian
 29 tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or
 30 neglect and that otherwise meets the disclosure criteria contained in this section;

1 (b) a licensed youth care facility or a licensed child-placing agency that is providing services to the
2 family or child who is the subject of a report in the records or to a person authorized by the department
3 to receive relevant information for the purpose of determining the best interests of a child with respect to
4 an adoptive placement;

5 (c) a health or mental health professional who is treating the family or child who is the subject of
6 a report in the records;

7 (d) a parent, guardian, or person designated by a parent or guardian of the child who is the subject
8 of a report in the records or other person responsible for the child's welfare, without disclosure of the
9 identity of any person who reported or provided information on the alleged child abuse or neglect incident
10 contained in the records;

11 (e) a child named in the records who was allegedly abused or neglected or the child's legal
12 guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate
13 appointed by the court to represent a child in a pending case;

14 (f) the state protection and advocacy program as authorized by 42 U.S.C. 6042(a)(2)(B);

15 (g) approved foster and adoptive parents who are or may be providing care for a child;

16 (h) a person about whom a report has been made and that person's attorney, with respect to the
17 relevant records pertaining to that person only and without disclosing the identity of the reporter or any
18 other person whose safety may be endangered;

19 (i) an agency, including a probation or parole agency, that is legally responsible for the supervision
20 of an alleged perpetrator of child abuse or neglect;

21 (j) a person, agency, or organization that is engaged in a bona fide research or evaluation project
22 and that is authorized by the department to conduct the research or evaluation;

23 (k) the members of an interdisciplinary child protective team authorized under 41-3-108 or of a
24 family group conference for the purposes of assessing the needs of the child and family, formulating a
25 treatment plan, and monitoring the plan;

26 (l) the coroner or medical examiner when determining the cause of death of a child;

27 (m) a child fatality review team recognized by the department;

28 (n) a department or agency investigating an applicant for a license or registration that is required
29 to operate a youth care facility, day-care facility, or child-placing agency;

30 (o) a person or entity who is carrying out background, employment-related, or volunteer-related

1 screening of current or prospective employees or volunteers who have or may have unsupervised contact
2 with children through employment or volunteer activities. A request for information under this subsection
3 (3)(o) must be made in writing. Disclosure under this subsection (3)(o) is limited to information that
4 indicates a risk to children, persons with developmental disabilities, or older persons posed by the person
5 about whom the information is sought, as determined by the department.

6 (p) the news media if disclosure is limited to confirmation of factual information regarding how
7 the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent
8 or guardian, as determined by the department;

9 (q) an employee of the department or other state agency if disclosure of the records is necessary
10 for administration of programs designed to benefit the child;

11 (r) an agency of an Indian tribe or the relatives of an Indian child if disclosure of the records is
12 necessary to meet requirements of the federal Indian Child Welfare Act;

13 (s) a youth probation officer who is working in an official capacity with the child who is the
14 subject of a report in the records;

15 (t) a county attorney, peace officer, or attorney who is hired by or represents the department; if
16 disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or
17 neglect;

18 (u) ~~a foster care review committee established under 41-3-1115 or, when applicable, A FOSTER~~
19 CARE REVIEW COMMITTEE ESTABLISHED UNDER 41-3-1115 OR, WHEN APPLICABLE, a local citizen review board
20 established under Title 41, chapter 3, part 10;

21 (v) a school employee participating in an interview of a child by a social worker, county attorney,
22 or peace officer, as provided in 41-3-202;

23 (w) a member of a county interdisciplinary child information team formed under the provisions of
24 52-2-211;

25 (x) members of a local interagency staffing group provided for in 52-2-203;

26 (y) a member of a youth placement committee formed under the provisions of 41-5-121; or

27 (z) a principal of a school or other employee of the school district authorized by the trustees of
28 the district to receive the information with respect to a student of the district who is a client of the
29 department.

30 (4) A person who is authorized to receive records under this section shall maintain the

1 confidentiality of the records and may not disclose information in the records to anyone other than the
 2 persons described in subsection (3)(a). However, this subsection may not be construed to compel a family
 3 member to keep the proceedings confidential.

4 (5) A news organization or its employee, including a freelance writer or reporter, is not liable for
 5 reporting facts or statements made by an immediate family member under subsection (4) if the news
 6 organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of
 7 the proceeding.

8 (6) This section is not intended to affect the confidentiality of criminal court records or records
 9 of law enforcement agencies.

10 (7) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to
 11 this section that are provided to the parent, the guardian, or the parent or guardian's attorney must be
 12 provided without cost."

13

14 **Section 2.** Section 41-3-1001, MCA, is amended to read:

15 **"41-3-1001. Short title.** This part may be cited as the "~~Local Citizen~~ "Citizen Review Board Pilot
 16 Program Act"."

17

18 **Section 3.** Section 41-3-1003, MCA, is amended to read:

19 **"41-3-1003. Establishment of ~~local citizen review board~~ -- definition -- membership.** (1) ~~Subject~~
 20 ~~to the availability of funds, the district court judge of a district designated pursuant to 41-3-1002 to~~
 21 ~~operate a pilot program~~ As used in this part, "board" means a citizen review board appointed as provided
 22 in this section.

23 ~~(2) By July 1, 2003, each judicial district~~ SUBJECT TO THE AVAILABILITY OF FUNDS, A DISTRICT COURT
 24 JUDGE WHO HAS INDICATED IN WRITING AN INTEREST IN HAVING A BOARD shall establish ~~a local citizen review~~ at
 25 least one board in the judicial district to review the case of each child ~~assigned to~~ in the custody of the
 26 department and in foster care by the district court. A board may review a case of a child who remains
 27 in or returns to the child's home and for whom the department retains legal custody.

28 ~~(2)(3)~~ (3) A ~~local citizen review~~ board is composed of at least three and not more than five members
 29 appointed by the district court ~~judge of a judicial district designated pursuant to 41-3-1002~~ judges. Each
 30 member appointed must be sworn in by a judge of the judicial district to which the member is appointed

1 to serve.

2 ~~(3)(4)~~ The district court judge of a judicial district designated pursuant to 41-3-1002 shall appoint
3 ~~the local citizen review board~~ must be appointed according to the following guidelines:

4 (a) Members of a ~~local citizen review board~~ must be recruited from groups with special knowledge
5 of or interest in foster care and child welfare, ~~which may include but is not limited to adoptive parents and~~
6 ~~members of the professions of law, medicine, psychology, social work, and education.~~

7 (b) As far as practicable, members of a ~~local citizen review board~~ shall represent the various
8 socioeconomic and ethnic groups of the area served. Boards should include tribal representatives whenever
9 possible.

10 (c) A person employed by the department of ~~public health and human services, by a private~~
11 ~~agency regulated, certified, directed, or licensed by or contracting with the department of public health~~
12 ~~and human services, or by a district court~~ who has a direct conflict of interest may not serve on a ~~local~~
13 ~~citizen review board.~~

14 (d) A member of a ~~local citizen review board~~ must be a resident of one of the counties of the
15 judicial district that the member is appointed to serve.

16 ~~(4)(5)~~ The members of a ~~local citizen review board~~ must be willing to serve without compensation
17 may be reimbursed for mileage and expenses as provided in 2-18-501 through 2-18-503 by the office of
18 the court administrator. MUST BE WILLING TO SERVE WITHOUT COMPENSATION."

19

20 **Section 4.** Section 41-3-1004, MCA, is amended to read:

21 **"41-3-1004. Administration -- training -- oversight -- procedures.** (1) ~~Subject to the availability of~~
22 ~~funds, the court administrator shall:~~ The office of the court administrator, as provided for in 3-1-701, shall,
23 in accordance with the direction of the supreme court, oversee the program established in this part and
24 shall, at the time prescribed by 5-11-210, prepare a report to the governor, the legislature, and the public
25 regarding:

26 (a) state laws, policies, and practices affecting permanence and appropriate care for children in
27 the custody of the department and other agencies; and

28 (b) the effectiveness of the boards in bringing about permanence and appropriate care for children
29 in the custody of the department and other agencies.

30 (2) The office of the court administrator shall:

1 (a) establish policies and procedures for adoption by the Montana supreme court pursuant to
 2 subsection (3) for the operation of the local citizen review a board, including procedures for removing
 3 members;

4 (b) provide training programs for local citizen review board members consisting of orientation
 5 training of at least 16 hours and a minimum of 8 hours of continuing education training annually;

6 (c) provide consultation services on request to the local citizen review a board; and

7 (d) employ staff and provide for support services for the local citizen review board boards.

8 ~~(2) The office of the supreme court administrator shall, in accordance with the direction of the~~
 9 ~~supreme court, oversee the program established in this part and, at the time prescribed by 5-11-210,~~
 10 ~~prepare a report to the governor, the legislature, and the public regarding:~~

11 ~~—— (a) state laws, policies, and practices affecting permanence and appropriate care for children in~~
 12 ~~the custody of the department of public health and human services and other agencies; and~~

13 ~~—— (b) the effectiveness of the local citizen review board in bringing about permanence and~~
 14 ~~appropriate care for children in the custody of the department of public health and human services and~~
 15 ~~other agencies.~~

16 ~~—— (3) The Montana supreme court shall adopt procedures that have the force of law for the~~
 17 ~~administration of the local citizen review board pilot program regarding:~~

18 ~~—— (a) the removal of members of the local citizen review board;~~

19 ~~—— (b) the time, content, and manner in which case plans for and case progress reports on a child~~
 20 ~~assigned to foster care must be provided to the local citizen review board by the department of public~~
 21 ~~health and human services, other agencies, or individuals directly responsible for the care of the child;~~

22 ~~—— (c) the provision of written notice of the review to the department of public health and human~~
 23 ~~services, any other agency directly responsible for the care or placement of a child, the parents or their~~
 24 ~~attorneys, foster parents, surrogate parents, mature children or their attorneys, a court appointed attorney~~
 25 ~~or special advocate of any child, any county attorney or attorney general actively involved in the case, and~~
 26 ~~other interested persons. The notice must include a statement that persons receiving a notice may~~
 27 ~~participate in the hearing and be accompanied by a representative.~~

28 ~~—— (d) securing or excusing the presence at the review of caseworkers and other employees of the~~
 29 ~~department of public health and human services or other agencies directly responsible for the care of the~~
 30 ~~child; and~~

1 ~~_____ (e) the manner in which the local citizen review board may remove cases from review when~~
 2 ~~review is not required under federal law."~~

3

4 **Section 5.** Section 41-3-1005, MCA, is amended to read:

5 **"41-3-1005. Removal of members -- grounds.** Grounds for removal of a member of a ~~local citizen~~
 6 ~~review~~ board under 41-3-1004~~(3)~~ may include but are not limited to the following:

7 (1) nonparticipation by a ~~local citizen review~~ board member;

8 (2) a member establishing residence in a judicial district other than the judicial district in which the
 9 court the person was appointed to serve is located;

10 (3) violation of the confidentiality of information established under 41-3-1007; or

11 (4) other cause or grounds as necessary for the administration of the program."
 12

13 **Section 6.** Section 41-3-1006, MCA, is amended to read:

14 **"41-3-1006. Terms -- officers -- meetings.** (1) A ~~local citizen review~~ board member shall serve at
 15 the pleasure of the appointing authority. However, if not otherwise released from service on a ~~local citizen~~
 16 ~~review~~ board, the following provisions apply:

17 (a) A member shall serve a term of 2 years, except that if a vacancy occurs, a successor must
 18 be appointed to serve the unexpired term.

19 (b) A member may be reappointed and continue to serve until a successor is appointed.

20 (2) A ~~local citizen review~~ board shall:

21 ~~_____ (a) elect annually from its membership a presiding officer and vice presiding officer to serve in the~~
 22 ~~absence of the presiding officer; and~~

23 ~~_____ (b) meet at the nearest department of public health and human services office or another place~~
 24 ~~mutually agreed to by a majority of the local citizen review board as often as it considers necessary to~~
 25 ~~carry out the duties of the board."~~
 26

27 **Section 7.** Section 41-3-1007, MCA, is amended to read:

28 **"41-3-1007. Confidentiality of information -- penalty.** (1) Before beginning to serve on a ~~local~~
 29 ~~citizen review~~ board, each member shall swear or affirm to the court that the member will keep
 30 confidential the information reviewed by the board and its actions and recommendations in individual

1 cases.

2 (2) A member of a ~~local citizen review~~ board who violates the duty imposed by subsection (1) is
3 guilty of a misdemeanor punishable by a fine not to exceed \$1,000."

4

5 **Section 8.** Section 41-3-1008, MCA, is amended to read:

6 **"41-3-1008. Access to records.** (1) Notwithstanding the provisions of 41-3-205, a ~~local citizen~~
7 ~~review~~ board has access to:

8 (a) any records of the district court that are pertinent to the case; and

9 (b) ~~any~~ PERTINENT ELECTRONIC AND PAPER records of the department ~~of public health and human~~
10 ~~services~~ or other agencies that would be admissible in a dispositional review hearing conducted pursuant
11 to 41-3-406, including school records and reports of private service providers contained in the records of
12 the department ~~of public health and human services~~ or other agencies.

13 (2) All requested records not already before the ~~local citizen review~~ board must be submitted by
14 the department ~~of public health and human services~~ within ~~5~~ 10 working days after receipt of a request.
15 ~~A local citizen review board and any staff provided for the board shall return all records and copies~~
16 ~~received from the department of public health and human services to the department within 7 working~~
17 ~~days after completion of the review.~~

18 (3) A ~~local citizen review~~ board may retain a reference copy of case material used by the board
19 to make its recommendation if:

20 (a) the material is necessary for the ongoing work of the ~~local citizen review~~ board with regard
21 to the particular case or to work of the board; and

22 (b) the confidentiality of the material is continued and protected in the same manner as other
23 material received from the department ~~of public health and human services~~. Material retained by the ~~local~~
24 ~~citizen review~~ boards is not subject to disclosure under the public records law.

25 (4) If a ~~local citizen review~~ board is denied access to requested records, it may request a hearing.
26 The court may require the organization in possession of the records to show cause why the records should
27 not be made available as provided by this section."

28

29 **Section 9.** Section 41-3-1010, MCA, is amended to read:

30 **"41-3-1010. Review -- scope -- procedures -- immunity.** (1) (A) ~~Except for cases removed from~~

1 ~~review under procedures established under 41-3-1004, the local citizen review~~ The board shall review the
 2 ~~case of each child in foster care that is assigned by the district court focusing on issues that are germane~~
 3 ~~to the goals of permanency and to accessing appropriate services for parents and children. THE BOARD SHALL~~
 4 ~~CONSIDER THE SET OF POLICIES, PRACTICES, AND ACTIVITIES THAT FORM THE STRUCTURE AND PROCESS FOR ANALYZING~~
 5 ~~INFORMATION ABOUT CASE PLANS, INTERVENTIONS, AND DESIRED RESULTS, SUCH AS SAFETY, PERMANENCY, AND~~
 6 ~~IMPROVED FUNCTIONING OF THE CHILD AND FAMILY, IN ORDER TO MAKE FINDINGS AND RECOMMENDATIONS ABOUT THE~~
 7 ~~SUCCESS OF FOSTER CARE PRACTICES AND THE LEVEL OF ACHIEVEMENT OF RESULTS. IN EVALUATING THE ACCESSIBILITY,~~
 8 ~~AVAILABILITY, AND APPROPRIATENESS OF SERVICES, THE BOARD SHALL MAY CONSIDER:~~

9 (i) DANGERS TO THE CHILD AND ANY FAMILY PROBLEMS PRECIPITATING THOSE DANGERS; THE SAFETY OF THE
 10 CHILD;

11 (ii) WHETHER AN INVOLVED AGENCY HAS SELECTED SERVICES SPECIFICALLY RELEVANT TO THE PROBLEMS AND
 12 NEEDS OF THE CHILD AND FAMILY;

13 (iii) WHETHER CASEWORKERS HAVE DILIGENTLY PROVIDED SERVICES;

14 (iv) WHETHER APPROPRIATE SERVICES HAVE BEEN AVAILABLE TO THE CHILD AND FAMILY ON A TIMELY BASIS; AND

15 (v) THE RESULTS OF INTERVENTION.

16 (B) The board may review the case of a child who remains in or returns to the child's home and
 17 for whom the department retains legal custody.

18 (2) ~~The review must take place at times set by the local citizen review board. The first review may~~
 19 ~~not be more than 6 months after the child is placed in foster care . Subsequent reviews must take place~~
 20 ~~at least once every 6 months until the child is no longer within the jurisdiction of the district court or is~~
 21 ~~no longer in foster care~~ THE TIME LIMIT MUST COMPLY WITH THE ADOPTION AND SAFE FAMILIES ACT OF 1997, AS
 22 ENACTED.

23 (3) ~~The district court, by rule of the court or on an individual case basis, may relieve the local~~
 24 ~~citizen review board of its responsibility to review a case if a complete judicial review has taken place~~
 25 ~~within 60 days prior to the next scheduled board review.~~

26 (4) ~~The local citizen review board shall review any case in which a petition to terminate parental~~
 27 ~~rights has been denied as soon as practical but no later than 45 days after the denial. Notice of each~~
 28 ~~review must be sent to the department, any agency directly responsible for the care or placement of the~~
 29 ~~child, the parents and their attorneys, the foster parents, a relative caring for the child, the preadoptive~~
 30 ~~parents, the surrogate parents, the child who is the subject of the review if 12 years of age or older, the~~

1 child's attorney, the guardian ad litem, the court-appointed attorney or special advocate of the child, the
2 county attorney or deputy attorney general actively involved in the case, the child's tribe if the child is an
3 Indian, and other interested persons who are authorized by the board to receive notice and who are subject
4 to 41-3-205. The notice must include a statement that persons receiving a notice may participate in the
5 hearing and be accompanied by a representative.

6 (5) After reviewing each case, the ~~local citizen review~~ board shall prepare written findings and
7 recommendations with respect to:

8 (a) whether reasonable efforts were made prior to the placement to prevent or to eliminate the
9 need for removal of the child from the home and to make it possible for the child to be returned home;

10 (b) the continuing need for the placement and the appropriateness and safety of the placement;

11 (c) compliance with the case plan;

12 (d) the progress that has been made toward alleviating the need for placement;

13 (e) a likely date by which the child may be returned home or placed for adoption;

14 (f) other problems, solutions, or alternatives that the ~~local citizen review~~ board determines should
15 be explored; and

16 (g) whether the district court should appoint an attorney or other person as special advocate to
17 represent or appear on behalf of the child pursuant to 41-3-303.

18 (6) Whenever a member of a ~~local citizen review~~ board has a potential conflict of interest in a case
19 being reviewed, the member shall declare to the board the nature of the potential conflict prior to
20 participating in the case review. The following provisions apply:

21 (a) The declaration of the member must be recorded in the official records of the ~~local citizen~~
22 ~~review~~ board.

23 (b) If, in the judgment of the majority of the ~~local citizen review~~ board, the potential conflict of
24 interest may prevent the member from fairly and objectively reviewing the case, the board may remove
25 the member from participation in the review.

26 (7) The ~~local citizen review~~ board shall keep accurate records and retain the records on file. The
27 ~~local citizen review~~ board shall send copies of its written findings and recommendations to the district
28 court, the department of public health and human services, and other participants in the review unless
29 prohibited by the confidentiality provisions of 41-3-205.

30 (8) The ~~local citizen review~~ board may hold joint or separate reviews for groups of siblings.

1 (9) The ~~local citizen review~~ board may disclose to parents and their attorneys, foster parents,
 2 ~~mature~~ children who are 12 years of age or older and their, childrens' attorneys, and other persons
 3 authorized by the board to participate in the case review the records disclosed to the board pursuant to
 4 41-3-1008. Before participating in a ~~local citizen review~~ board case review, each participant, other than
 5 parents and children, shall swear or affirm to the board that the participant will keep confidential the
 6 information disclosed by the board in the case review and will disclose it only as authorized by law.

7 (10) A person who serves on a ~~local citizen review~~ board in a volunteer capacity, as provided in
 8 this part, is considered an agent of the judiciary and is entitled to immunity from suit as provided in
 9 2-9-112."

10

11 **Section 10.** Section 41-3-1011, MCA, is amended to read:

12 **"41-3-1011. ~~Recommendations~~ Board recommendations concerning foster care services and policy**
 13 **~~considerations by board.~~** In addition to reviewing individual cases of children in foster care, a ~~local citizen~~
 14 ~~review~~ board may make recommendations to the district court and to the department of public health and
 15 ~~human services~~ concerning foster care services, policies, procedures, and laws. Recommendations must
 16 be in writing and must be provided to the department."

17

18 **Section 11.** Section 41-3-1012, MCA, is amended to read:

19 **"41-3-1012. Presence of ~~certain employees and participants at meetings~~ reviews and deliberations**
 20 **~~of board.~~** (1) Unless excused from doing so by the ~~local citizen review~~ board, the department of public
 21 ~~health and human services~~ and any other agency directly responsible for the care and placement of the
 22 child shall require the presence of ~~any~~ employees having knowledge of the case at board ~~meetings~~ reviews.

23 (2) The ~~local citizen review~~ board may require the presence of specific employees of the
 24 department of public health and human services or any other agency or other persons at board ~~meetings~~
 25 reviews. If an employee fails to be present at the ~~meeting~~ review, the ~~local citizen review~~ board may
 26 request a court order. The court may require the employee to be present and show cause why the
 27 employee should not be compelled to appear before the ~~local citizen review~~ board.

28 (3) The persons who are allowed to be present at a review include representatives of the
 29 department or any agency directly responsible for the care or placement of the child, the parents and their
 30 attorneys, the foster parents, a relative caring for the child, the preadoptive parents, the surrogate parents,

1 the child who is the subject of the review if 12 years of age or older, the child's attorney, the guardian
 2 ad litem, the court-appointed attorney or special advocate of the child, the county attorney or deputy
 3 attorney general actively involved in the case, a representative of the child's tribe if the child is an Indian,
 4 and other interested persons subject to 41-3-205 and authorized to be present by the board.

5 (4) Deliberations concerning the recommendations that will be made by the board must be open
 6 to all present at the review, except that the presiding officer may close all or part of a deliberation if there
 7 has been a threat of a reprisal made by someone who will attend the review or if confidentiality laws
 8 preclude open deliberations.

9 (5) For the purposes of bringing criminal charges against a person who threatens a board member
 10 or staff, the board members and board staff must be considered public servants as defined in 45-2-101.

11 ~~(3)~~(6) As used in this section, "presence" the following definitions apply:

12 (a) "Presence" includes telephone participation, except that the caseworker on a representative
 13 of the department knowledgeable about the case at the time of the meeting review must be physically
 14 present if required.

15 (b) "Open" means that review participants may remain in attendance during the deliberations to
 16 observe and be available for questions from the board.

17 (c) "Close", with regard to deliberations, means that only the board members and board staff may
 18 remain in attendance."

19

20 **Section 12.** Section 41-3-1013, MCA, is amended to read:

21 **"41-3-1013. Court review of findings and recommendations of board.** (1) Upon receipt of findings
 22 and recommendations from the ~~local citizen review~~ board, the district court shall:

23 (a) review the findings and recommendations of the ~~local citizen review~~ board within ~~10~~ 20 days.
 24 If the district court finds it appropriate, the district court may on its own motion schedule a review hearing.

25 (b) cause the findings and recommendations of the ~~local citizen review~~ board to become part of
 26 the district court file; and

27 (c) give the ~~local citizen review~~ board written notice if the district court modifies, alters, or takes
 28 action on a case as a result of the board's recommendations or refuses to take action on the board's
 29 recommendations in any case.

30 (2) Upon receipt of findings and recommendations from the ~~local citizen review~~ board, the

1 department of public health and human services shall:

2 (a) review the findings and recommendations of the local citizen review board within 10 days. The
3 recommendations must be implemented and the case plan must be modified as the department of public
4 health and human services considers appropriate and as resources permit.

5 (b) give the local citizen review board written notice as soon as practicable, but in no case later
6 than 17 days after receipt of the findings and recommendations, of ~~the action~~ any reasons why the
7 department of public health and human services intends to take objects to or is not able to implement the
8 recommendations; and

9 (c) include the findings and recommendations of the local citizen review board as part of the case
10 file of the department of public health and human services.

11 (3) The court may schedule a hearing on any recommendations that the department objects to or
12 contends that it is unable to implement.

13 ~~(3)(4)~~ Upon its own motion or upon the request of the department of public health and human
14 services, the local citizen review board, or any interested party, the district court may appoint an attorney
15 or other person as special advocate to represent or appear on behalf of the child. Subject to the direction
16 of the district court, the court-appointed special advocate shall:

17 (a) investigate all relevant information about the case;

18 (b) advocate for the child, ensuring that all relevant facts are brought before the court;

19 (c) facilitate and negotiate to ensure that the district court, the department of public health and
20 human services, and the child's attorney fulfill their obligations to the child in a timely fashion; and

21 (d) monitor all district court orders to ensure compliance and to bring to the district court's
22 attention any change in circumstance that may require modification of the district court's order."

23

24 ~~Section 13.~~ Section 41-3-1122, MCA, is amended to read:

25 ~~"41-3-1122. Payment for support of youth in need of care, youth in need of intervention, or~~
26 ~~delinquent youth -- reimbursement by county. (1) Whenever a youth who is a youth in need of care, a~~

27 ~~youth in need of intervention, or a delinquent youth is placed by the department of public health and~~
28 ~~human services or the department of corrections in a youth care facility, the department making the~~
29 ~~placement shall pay, within the limits of the appropriation for that purpose, a foster care payment to the~~
30 ~~youth care facility at a rate established by the department of public health and human services for the~~

1 youth's board, clothing, personal needs, treatment, and room.

2 ~~———(2) On or before the 20th of each month, the department of public health and human services or~~
 3 ~~the department of corrections shall present a claim to the county of residence of the youth for no more~~
 4 ~~than one-half of the nonfederal share of the payments made during the month. The county shall make~~
 5 ~~reimbursement to the department within 20 days after the claim is presented.~~

6 ~~———(3) Except as provided in subsection (4), when a county's level of expenditure for any year~~
 7 ~~reaches the level of reimbursement for foster care in fiscal year 1987, the county has no further obligation~~
 8 ~~for foster care expenditures.~~

9 ~~———(4) If a county's level of expenditure for foster care in fiscal year 1987 was \$10,000 or less, the~~
 10 ~~county's level of expenditure for purposes of determining the county's reimbursement specified in~~
 11 ~~subsection (3) is the level of expenditures for fiscal year 1987 or the average of expenditures for fiscal~~
 12 ~~years 1984 through 1987, whichever is less.~~

13 ~~———(5) A county that was state-assumed prior to 1987 but that at a later date reassumes~~
 14 ~~responsibility pursuant to 53-2-811 is responsible for reimbursement of foster care expenditures up to the~~
 15 ~~county's calculated level of expenditures for fiscal year 1987 as if the county had not been state-assumed.~~

16 ~~———(6) The department shall conduct or arrange for the review required under 41-3-1115, or when~~
 17 ~~applicable, 41-3-1010 of a youth placed in a youth care facility if the youth is placed by the department."~~

18

19 ~~———~~ **Section 14.** Section 52-2-112, MCA, is amended to read:

20 ~~———"52-2-112. Duty to strengthen child welfare services.~~ The department shall make provision for
 21 establishing and strengthening child welfare services, including protective services, and for care of children
 22 in registered or licensed family foster homes, child care agencies, group homes, or treatment facilities.
 23 Payment provided under this section is made under the provisions of 41-3-1122 and 41-3-1115."

24

25 **SECTION 13.** SECTION 41-3-1115, MCA, IS AMENDED TO READ:

26 **"41-3-1115. Foster care review committee.** (1) Except as provided in Title 41, chapter 3, part 10,
 27 in every judicial district the youth court judge, in consultation with the department, shall appoint a foster
 28 care review committee. The members of the committee must be willing to act without compensation. The
 29 committee ~~shall~~ must be composed of not less than five or more than seven members. The members ~~shall~~
 30 must include:

- 1 (a) a representative of the department;
- 2 (b) a representative of the youth court;
- 3 (c) someone knowledgeable in the needs of children in foster care placements who is not
4 employed by the department or the youth court;
- 5 (d) a representative of a local school district;
- 6 (e) if the child whose care under review is an Indian, someone, preferably an Indian person,
7 knowledgeable about Indian cultural and family matters who is appointed effective only for and during that
8 review; and
- 9 (f) if there is one, the foster parent of the child whose care is under review. The foster parent's
10 appointment is effective only for and during that review.

11 (2) When a child is in foster care under the supervision of the department or if payment for care
12 is made pursuant to 41-3-1122, the committee shall conduct a review of the foster care status of the
13 child. The review must be conducted within a time limit established by the department. ~~The time limit must
14 comply with federal law and may not be later than the 12-month anniversary date of the child's placement
15 into foster care. The first review may not be more than 6 months after the child is placed in foster care.
16 Subsequent reviews must take place at least once every 6 months until the child is no longer in foster
17 care. The district court, by rule of the court or on an individual case basis, may relieve the department
18 of its responsibility to review a case if a complete judicial review has taken place within 60 days prior to
19 the next scheduled committee review.~~ THE TIME LIMIT MUST COMPLY WITH THE ADOPTION AND SAFE FAMILIES ACT
20 OF 1997, AS ENACTED.

21 (3) The department shall provide the committee with guidelines for operation of the committee.
22 Within 30 days of the foster care review, the committee shall provide the youth court and the department
23 with a written report of its findings and recommendations for further action by the youth court or the
24 department.

25 (4) The department shall adopt rules necessary to carry out the purposes of this section. The rules
26 must provide for policies and procedures consistent with the provisions regarding notice, written findings
27 and recommendations, conflict of interest, recordkeeping, sibling reviews, disclosure and immunity under
28 41-3-1010, and the deliberation provisions of 41-3-1012.

29 (5) Because of the individual privacy involved, meetings of the committee, reports of the
30 committee, and information on individuals' cases shared by committee members are confidential and

1 subject to the confidentiality requirements of the department.

2 (6) The committee is subject to the call of the youth court judge to meet and confer with the judge
3 on all matters pertaining to the foster care of a child before the youth court."

4

5 NEW SECTION. Section 14. Repealer. ~~(1) Sections 41-3-1002, 41-3-1009, and 41-3-1014, MCA,~~
6 are repealed.

7 ~~————(2) Section 41-3-1115, MCA, is repealed.~~

8

9 NEW SECTION. Section 15. Notification to tribal governments. The secretary of state shall send
10 a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little
11 Shell band of Chippewa.

12

13 NEW SECTION. Section 16. Effective dates DATE. ~~(1) Except as provided in subsection (2), [this~~
14 ~~act] [THIS ACT] is effective July 1, 2001.~~

15 ~~————(2) [Sections 1, 13, 14, and 15(2)] are effective July 1, 2003.~~

16

- END -