

HOUSE BILL NO. 548

INTRODUCED BY D. HIMMELBERGER

A BILL FOR AN ACT ENTITLED: "AN ACT TERMINATING PARENTAL RIGHTS OF BIOLOGICAL PARENTS OF A FOSTER CHILD WHEN THE PARENTS FAIL TO COMPLETE A TREATMENT PLAN WITHIN 18 MONTHS OF THE CHILD BEING PLACED IN FOSTER CARE; AND AMENDING SECTION 41-3-604, MCA."

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

Section 1. Section 41-3-604, MCA, is amended to read:

"41-3-604. When petition to terminate parental rights required. (1) If a child has been in foster care under the physical custody of the state for 15 months of the most recent 22 months or if the biological parents of the child fail to complete a treatment plan within 18 months of the child being placed in foster care, the best interests of the child must be presumed to be served by termination of parental rights. A child's parent, guardian, or other person having physical or legal custody of the child must receive notice that a petition will be filed to terminate parental rights. If a child has been in foster care for 15 months of the most recent 22 months, if the biological parents of the child fail to complete a treatment plan within 18 months of the child being placed in foster care, or if the court has found that reasonable efforts to preserve or reunify a child with the child's parent or guardian are not required pursuant to 41-3-423, a petition to terminate parental rights must be filed unless:

(a) the child is being cared for by a relative;

(b) the department has not provided the services considered necessary for the safe return of the child to the child's home; or

(c) the department has documented a compelling reason, available for court review, for determining that filing a petition to terminate parental rights would not be in the best interests of the child.

(2) Completion of a treatment plan does not guarantee the return of the child.

~~(2)~~(3) Compelling reasons for not filing a petition to terminate parental rights include but are not limited to the following:

(a) There are insufficient grounds for filing a petition.

(b) There is adequate documentation that termination of parental rights is not the appropriate plan and not in the best interests of the child.

~~(3)~~(4) If a child has been in foster care for 15 months of the most recent 22 months or if the biological parents of the child fail to complete a treatment plan within 18 months of the child being placed in foster care and a petition to terminate parental rights regarding that child has not been filed with the court, the department shall file a report to the court or review panel at least 3 days prior to the next hearing or review detailing the reasons that the petition was not filed.

~~(4)~~(5) If a hearing results in a finding of abandonment or that the parent has subjected the child to any of the circumstances listed in 41-3-423(2)(a) through (2)(e) and that reasonable efforts to provide preservation or reunification are not necessary, unless there is an exception made pursuant to subsections (1)(a) through (1)(c) of this section, a petition to terminate parental rights must be filed within 60 days of the finding.

~~(5)~~(6) If an exception in subsections (1)(a) through (1)(c) of this section applies, a petition for an extension of temporary legal custody pursuant to 41-3-438, a petition for long-term custody pursuant to 41-3-445, or a petition to dismiss must be filed."

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