

1 SENATE BILL NO. 193

2 INTRODUCED BY J. LASLOVICH

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A CHILD PROTECTIVE SOCIAL WORKER TO SUBMIT
5 AN AFFIDAVIT TO THE COUNTY ATTORNEY WITHIN 2 WORKING DAYS OF A CHILD'S REMOVAL FROM
6 A HOME; REQUIRING THE AFFIDAVIT TO BE PROVIDED TO THE PARENTS AT THE SAME TIME, IF
7 POSSIBLE; INCREASING THE TIME TO FILE AN ABUSE AND NEGLECT PETITION FROM 2 DAYS TO 5
8 DAYS; AND AMENDING SECTION 41-3-301, MCA."

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

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

13 **"41-3-301. Emergency protective service.** (1) Any child protective social worker of the department,
14 a peace officer, or the county attorney who has reason to believe any youth is in immediate or apparent danger
15 of harm may immediately remove the youth and place the youth in a protective facility. After ensuring that the
16 child is safe, the department may make a request for further assistance from the law enforcement agency or take
17 appropriate legal action. The person or agency placing the child shall notify the parents, parent, guardian, or other
18 person having physical custody of the youth of the placement at the time the placement is made or as soon after
19 placement as possible. Notification under this subsection must include the reason for removal, information
20 regarding the show cause hearing, and the purpose of the show cause hearing and must advise the parents,
21 parent, guardian, or other person having physical custody of the youth that the parents, parent, guardian, or other
22 person may have a support person present during any in-person meeting with the social worker concerning
23 emergency protective services.

24 (2) If a social worker of the department, a peace officer, or the county attorney determines in an
25 investigation of abuse or neglect of a child that the child is in danger because of the occurrence of partner or
26 family member assault, as provided for in 45-5-206, against an adult member of the household or that the child
27 needs protection as a result of the occurrence of partner or family member assault against an adult member of
28 the household, the department shall take appropriate steps for the protection of the child, which may include:

29 (a) making reasonable efforts to protect the child and prevent the removal of the child from the parent
30 or guardian who is a victim of alleged partner or family member assault;

1 (b) making reasonable efforts to remove the person who allegedly committed the partner or family
2 member assault from the child's residence if it is determined that the child or another family or household member
3 is in danger of partner or family member assault; and

4 (c) providing services to help protect the child from being placed with or having unsupervised visitation
5 with the person alleged to have committed partner or family member assault until the department determines that
6 the alleged offender has met conditions considered necessary to protect the safety of the child.

7 (3) If the department determines that an adult member of the household is the victim of partner or family
8 member assault, the department shall provide the adult victim with a referral to a domestic violence program.

9 (4) A child who has been removed from the child's home or any other place for the child's protection or
10 care may not be placed in a jail.

11 (5) If a child is removed from the child's home by the department, a child protective social worker shall
12 submit an affidavit regarding the circumstances of the EMERGENCY removal to the county attorney AND PROVIDE
13 A COPY OF THE AFFIDAVIT TO THE PARENTS OR GUARDIAN, IF POSSIBLE, within 2 working days of the EMERGENCY
14 removal. An abuse and neglect petition must be filed within ~~2~~ 5 working days, excluding weekends and holidays,
15 of THE emergency ~~placement~~ REMOVAL of a child unless arrangements acceptable to the agency for the care of
16 the child have been made by the parents or voluntary protective services are provided pursuant to 41-3-302.

17 (6) Except as provided in the federal Indian Child Welfare Act, if applicable, a show cause hearing must
18 be held within 20 days of the filing of the initial petition unless otherwise stipulated by the parties pursuant to
19 41-3-434.

20 (7) If the department determines that a petition for immediate protection and emergency protective
21 services must be filed to protect the safety of the child, the social worker shall interview the parents of the child
22 to whom the petition pertains, if the parents are reasonably available, before the petition may be filed. The district
23 court may immediately issue an order for immediate protection of the child. The district court may not order further
24 relief until the parents, if they are reasonably available, are given the opportunity to appear before the court or
25 have their statements, if any, presented to the court for consideration before entry of an order granting the
26 petition.

27 (8) The department shall make the necessary arrangements for the child's well-being as are required
28 prior to the court hearing."

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