

Amendments to Senate Bill No. 31
3rd Reading Copy

Requested by Representative Dave Gallik

For the House Judiciary Committee

Prepared by David Niss
March 19, 2007 (3:06pm)

1. Page 1, line 12 through page 2, line 7.

Strike: "WHEREAS" on line 12 through "CONSTITUTION." on page 2,
line 7

2. Page 3.

Following: line 6

Insert: "NEW SECTION. **Section 1. Legislative finding and purpose -- definitions.** (1) The legislature recognizes that the right of parents to the custody and control of their children is based upon the liberties secured by the United States and Montana constitutions and that a parent's right to that custody and control is therefore normally supreme to the interests of other persons. The legislature also recognizes a growing phenomenon in which absent or otherwise unavailable parents have temporarily surrendered the custody and care of a child to a grandparent or other caretaker relative for a lengthy period of time. The legislature finds that a caretaker relative frequently offers a child a loving, stable, and secure environment in which to live, make friends, and attend school, which is an environment not provided by a parent who temporarily abandons a child. However, a child is deprived of that caring and safe environment when a parent returns to claim the child with little or no notice to the caretaker relative. This situation, which in some instances has occurred multiple times with the same child, is disruptive to the more stable life offered by the caretaker relative and may violate the child's rights ensured by Article II, section 15, of the Montana constitution, such as the right under Article II, section 3, of the Montana constitution of seeking safety, health, and happiness. For these reasons, it is the purpose of the legislature in enacting [section 2] and this section to exercise its police powers for the health and welfare of children who have been abandoned by their parents to the care of relatives and to create a procedure, applicable in limited situations caused by the voluntary surrender of a child by a parent, under circumstances indicating abandonment, whereby a child in the care of a relative may remain with that relative while the issue of abandonment by

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the parent is reviewed and determined by a court of law. The legislature believes that this temporary infringement on the right of a parent to the custody and control of a minor child is justified by the possibility of abandonment by the parent, because the welfare of the child is at stake, and because of the likely violation of the child's rights ensured by Article II, section 15, of the Montana constitution.

(2) As used in [section 2] and this section, the following definitions apply:

(a) "Caretaker relative" or "relative" means an individual related to a child by blood, marriage, or adoption by another individual, who has care and custody of a child but who is not a parent, foster parent, stepparent, or legal guardian of the child.

(b) "Parent" means a biological or adoptive parent or other legal guardian of a child."

Renumber: subsequent sections

3. Page 3, line 16.

Following: "file"

Insert: ", without payment of a filing fee,"

4. Page 4, line 7.

Strike: "10-point"

Insert: "12-point"

5. Page 5, line 1.

Following: "3"

Insert: "business"

6. Page 5, line 6.

Following: "3"

Insert: "business"

7. Page 5, line 12.

Strike: "the clerk shall send"

8. Page 5, line 13.

Following: "order"

Insert: "must be sent"

9. Page 5, line 30 through page 6, line 4.

Strike: subsection (9) in its entirety

Insert: "(9) Subject to availability of appropriations, the attorney general shall prepare a form for the affidavit provided for in this section and shall distribute the form as the attorney general determines appropriate."

10. Page 6, line 6.

Strike: "[SECTION 1] IS"
Insert: "[Sections 1 and 2] are"

11. Page 6, line 7.
Strike: ", CHAPTER 9"

12. Page 6, lines 7 and 8.
Strike: ", CHAPTER 9,"

13. Page 6, line 8.
Strike: "[SECTION 1]"
Insert: "[sections 1 and 2]"

14. Page 6, line 11.
Strike: "1(8)(B)"
Insert: "2(8)(b)"

15. Page 6, line 13.
Strike: "1(8)"
Insert: "2(8)"

- END -