

1 HOUSE BILL NO. 409

2 INTRODUCED BY D. LENZ, S. GREEF, T. MOORE, A. OLSZEWSKI, V. RICCI, L. SHELDON-GALLOWAY,
3 B. USHER, P. WEBB, R. WEBB

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CHILD PROTECTIVE SERVICES
6 PROCEDURES; CREATING AN EMERGENCY REMOVAL HEARING; REVISING TREATMENT PLAN
7 REQUIREMENTS; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 41-3-102, 41-3-301, 41-3-432,
8 AND 41-3-443, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 **Section 1.** Section 41-3-102, MCA, is amended to read:

13 **"41-3-102. Definitions.** As used in this chapter, the following definitions apply:

14 (1) (a) "Abandon", "abandoned", and "abandonment" mean:

15 (i) leaving a child under circumstances that make reasonable the belief that the parent does not intend
16 to resume care of the child in the future;

17 (ii) willfully surrendering physical custody for a period of 6 months and during that period not manifesting
18 to the child and the person having physical custody of the child a firm intention to resume physical custody or to
19 make permanent legal arrangements for the care of the child;

20 (iii) that the parent is unknown and has been unknown for a period of 90 days and that reasonable efforts
21 to identify and locate the parent have failed; or

22 (iv) the voluntary surrender, as defined in 40-6-402, by a parent of a newborn who is no more than 30
23 days old to an emergency services provider, as defined in 40-6-402.

24 (b) The terms do not include the voluntary surrender of a child to the department solely because of
25 parental inability to access publicly funded services.

26 (2) "A person responsible for a child's welfare" means:

27 (a) the child's parent, guardian, or foster parent or an adult who resides in the same home in which the
28 child resides;

29 (b) a person providing care in a day-care facility;

30 (c) an employee of a public or private residential institution, facility, home, or agency; or

1 (d) any other person responsible for the child's welfare in a residential setting.

2 (3) "Abused or neglected" means the state or condition of a child who has suffered child abuse or
3 neglect.

4 (4) (a) "Adequate health care" means any medical care or nonmedical remedial health care recognized
5 by an insurer licensed to provide disability insurance under Title 33, including the prevention of the withholding
6 of medically indicated treatment or medically indicated psychological care permitted or authorized under state
7 law.

8 (b) This chapter may not be construed to require or justify a finding of child abuse or neglect for the sole
9 reason that a parent or legal guardian, because of religious beliefs, does not provide adequate health care for
10 a child. However, this chapter may not be construed to limit the administrative or judicial authority of the state to
11 ensure that medical care is provided to the child when there is imminent substantial risk of serious harm to the
12 child.

13 (5) "Best interests of the child" means the physical, mental, and psychological conditions and needs of
14 the child and any other factor considered by the court to be relevant to the child.

15 (6) "Child" or "youth" means any person under 18 years of age.

16 (7) (a) "Child abuse or neglect" means:

17 (i) actual physical or psychological harm to a child;

18 (ii) substantial risk of physical or psychological harm to a child; or

19 (iii) abandonment.

20 (b) (i) The term includes:

21 (A) actual physical or psychological harm to a child or substantial risk of physical or psychological harm
22 to a child by the acts or omissions of a person responsible for the child's welfare; or

23 (B) exposing a child to the criminal distribution of dangerous drugs, as prohibited by 45-9-101, the
24 criminal production or manufacture of dangerous drugs, as prohibited by 45-9-110, or the operation of an unlawful
25 clandestine laboratory, as prohibited by 45-9-132.

26 (ii) For the purposes of this subsection (7), "dangerous drugs" means the compounds and substances
27 described as dangerous drugs in Schedules I through IV in Title 50, chapter 32, part 2.

28 (c) In proceedings under this chapter in which the federal Indian Child Welfare Act is applicable, this term
29 has the same meaning as "serious emotional or physical damage to the child" as used in 25 U.S.C. 1912(f).

30 (d) The term does not include self-defense, defense of others, or action taken to prevent the child from

1 self-harm that does not constitute physical or psychological harm to a child.

2 (8) "Concurrent planning" means to work toward reunification of the child with the family while at the
3 same time developing and implementing an alternative permanent plan.

4 (9) "Department" means the department of public health and human services provided for in 2-15-2201.

5 (10) "Family group decisionmaking meeting" means a meeting that involves family members in either
6 developing treatment plans or making placement decisions, or both.

7 (11) "Indian child" means any unmarried person who is under 18 years of age and who is either:

8 (a) a member of an Indian tribe; or

9 (b) eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

10 (12) "Indian child's tribe" means:

11 (a) the Indian tribe in which an Indian child is a member or eligible for membership; or

12 (b) in the case of an Indian child who is a member of or eligible for membership in more than one Indian
13 tribe, the Indian tribe with which the Indian child has the more significant contacts.

14 (13) "Indian custodian" means any Indian person who has legal custody of an Indian child under tribal
15 law or custom or under state law or to whom temporary physical care, custody, and control have been transferred
16 by the child's parent.

17 (14) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians
18 recognized by:

19 (a) the state of Montana; or

20 (b) the United States secretary of the interior as being eligible for the services provided to Indians or
21 because of the group's status as Indians, including any Alaskan native village as defined in federal law.

22 (15) "Limited emancipation" means a status conferred on a youth by a court in accordance with 41-1-503
23 under which the youth is entitled to exercise some but not all of the rights and responsibilities of a person who
24 is 18 years of age or older.

25 (16) "Parent" means a biological or adoptive parent or stepparent.

26 (17) "Parent-child legal relationship" means the legal relationship that exists between a child and the
27 child's birth or adoptive parents, as provided in Title 40, chapter 6, part 2, unless the relationship has been
28 terminated by competent judicial decree as provided in 40-6-234, Title 42, or part 6 of this chapter.

29 (18) "Permanent placement" means reunification of the child with the child's parent, adoption, placement
30 with a legal guardian, placement with a fit and willing relative, or placement in another planned permanent living

1 arrangement until the child reaches 18 years of age.

2 (19) "Physical abuse" means an intentional act, an intentional omission, or gross negligence resulting
3 in substantial skin bruising, internal bleeding, substantial injury to skin, subdural hematoma, burns, bone
4 fractures, extreme pain, permanent or temporary disfigurement, impairment of any bodily organ or function, or
5 death.

6 (20) "Physical neglect" means either failure to provide basic necessities, including but not limited to
7 appropriate and adequate nutrition, protective shelter from the elements, and appropriate clothing related to
8 weather conditions, or failure to provide cleanliness and general supervision, or both, or exposing or allowing the
9 child to be exposed to an unreasonable physical or psychological risk to the child.

10 (21) (a) "Physical or psychological harm to a child" means the harm that occurs whenever the parent or
11 other person responsible for the child's welfare:

12 (i) inflicts or allows to be inflicted upon the child physical abuse, physical neglect, or psychological abuse
13 or neglect;

14 (ii) commits or allows sexual abuse or exploitation of the child;

15 (iii) induces or attempts to induce a child to give untrue testimony that the child or another child was
16 abused or neglected by a parent or other person responsible for the child's welfare;

17 (iv) causes malnutrition or a failure to thrive or otherwise fails to supply the child with adequate food or
18 fails to supply clothing, shelter, education, or adequate health care, though financially able to do so or offered
19 financial or other reasonable means to do so;

20 (v) exposes or allows the child to be exposed to an unreasonable risk to the child's health or welfare by
21 failing to intervene or eliminate the risk; or

22 (vi) abandons the child.

23 (b) The term does not include a youth not receiving supervision solely because of parental inability to
24 control the youth's behavior.

25 (22) (a) "Protective services" means services provided by the department:

26 (i) to enable a child alleged to have been abused or neglected to remain safely in the home;

27 (ii) to enable a child alleged to have been abused or neglected who has been removed from the home
28 to safely return to the home; or

29 (iii) to achieve permanency for a child adjudicated as a youth in need of care when circumstances and
30 the best interests of the child prevent reunification with parents or a return to the home.

1 (b) The term includes emergency protective services provided pursuant to 41-3-301, voluntary protective
2 services provided pursuant to 41-3-302, and court-ordered protective services provided pursuant to parts 4 and
3 6 of this chapter.

4 (23) (a) "Psychological abuse or neglect" means severe maltreatment through acts or omissions that are
5 injurious to the child's emotional, intellectual, or psychological capacity to function, including the commission of
6 acts of violence against another person residing in the child's home.

7 (b) The term may not be construed to hold a victim responsible for failing to prevent the crime against
8 the victim.

9 (24) "Qualified expert witness" as used in cases involving an Indian child in proceedings subject to the
10 federal Indian Child Welfare Act means:

11 (a) a member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in
12 tribal customs as they pertain to family organization and child-rearing practices;

13 (b) a lay expert witness who has substantial experience in the delivery of child and family services to
14 Indians and extensive knowledge of prevailing social and cultural standards and child-rearing practices within the
15 Indian child's tribe; or

16 (c) a professional person who has substantial education and experience in providing services to children
17 and families and who possesses significant knowledge of and experience with Indian culture, family structure,
18 and child-rearing practices in general.

19 (25) "Reasonable cause to suspect" means cause that would lead a reasonable person to believe that
20 child abuse or neglect may have occurred or is occurring, based on all the facts and circumstances known to the
21 person.

22 (26) "Residential setting" means an out-of-home placement where the child typically resides for longer
23 than 30 days for the purpose of receiving food, shelter, security, guidance, and, if necessary, treatment.

24 (27) "Safety person" means a person serving as a resource for a family subject to a safety plan by
25 assisting the parent, guardian, or other person having custody of a child to meet the terms and conditions of the
26 applicable safety plan. A safety person may be related to the child.

27 (28) "Safety plan" means a written agreement approved by the court between the department and the
28 parent, guardian, or other person having physical or legal custody of a child that describes the terms and
29 conditions under which the child may remain in the home, including designating no fewer than two safety persons
30 and establishing a schedule for the safety persons to accompany the family.

1 ~~(27)~~(29) (a) "Sexual abuse" means the commission of sexual assault, sexual intercourse without consent,
2 indecent exposure, sexual abuse, ritual abuse of a minor, or incest, as described in Title 45, chapter 5.

3 (b) Sexual abuse does not include any necessary touching of an infant's or toddler's genital area while
4 attending to the sanitary or health care needs of that infant or toddler by a parent or other person responsible for
5 the child's welfare.

6 ~~(28)~~(30) "Sexual exploitation" means allowing, permitting, or encouraging a child to engage in a
7 prostitution offense, as described in 45-5-601 through 45-5-603, or allowing, permitting, or encouraging sexual
8 abuse of children as described in 45-5-625.

9 ~~(29)~~(31) (a) "Social worker" means an employee of the department who, before the employee's field
10 assignment, has been educated or trained in a program of social work or a related field that includes cognitive
11 and family systems treatment or who has equivalent verified experience or verified training in the investigation
12 of child abuse, neglect, and endangerment.

13 (b) This definition does not apply to any provision of this code that is not in this chapter.

14 ~~(30)~~(32) "Treatment plan" means a written agreement between the department and the parent or guardian
15 or a court order that includes action that must be taken to resolve the condition or conduct of the parent or
16 guardian that resulted in the need for protective services for the child. The treatment plan may involve court
17 services, the department, and other parties, if necessary, for protective services.

18 ~~(31)~~(33) "Unfounded" means that after an investigation, the investigating person has determined that the
19 reported abuse, neglect, or exploitation has not occurred.

20 ~~(32)~~(34) "Unsubstantiated" means that after an investigation, the investigator was unable to determine
21 by a preponderance of the evidence that the reported abuse, neglect, or exploitation has occurred.

22 ~~(33)~~(35) (a) "Withholding of medically indicated treatment" means the failure to respond to an infant's
23 life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication, that,
24 in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in
25 ameliorating or correcting the conditions.

26 (b) The term does not include the failure to provide treatment, other than appropriate nutrition, hydration,
27 or medication, to an infant when, in the treating physician's or physicians' reasonable medical judgment:

28 (i) the infant is chronically and irreversibly comatose;

29 (ii) the provision of treatment would:

30 (A) merely prolong dying;

1 (B) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or
2 (C) otherwise be futile in terms of the survival of the infant; or
3 (iii) the provision of treatment would be virtually futile in terms of the survival of the infant and the
4 treatment itself under the circumstances would be inhumane. For purposes of this subsection ~~(33)~~ (35), "infant"
5 means an infant less than 1 year of age or an infant 1 year of age or older who has been continuously
6 hospitalized since birth, who was born extremely prematurely, or who has a long-term disability. The reference
7 to less than 1 year of age may not be construed to imply that treatment should be changed or discontinued when
8 an infant reaches 1 year of age or to affect or limit any existing protections available under state laws regarding
9 medical neglect of children 1 year of age or older.

10 ~~(34)~~(36) "Youth in need of care" means a youth who has been adjudicated or determined, after a hearing,
11 to be or to have been abused, neglected, or abandoned."
12

13 **Section 2.** Section 41-3-301, MCA, is amended to read:

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

26 (2) If a social worker of the department, a peace officer, or the county attorney determines in an
27 investigation of abuse or neglect of a child that the child is in danger because of the occurrence of partner or
28 family member assault, as provided for in 45-5-206, or strangulation of a partner or family member, as provided
29 for in 45-5-215, against an adult member of the household or that the child needs protection as a result of the
30 occurrence of partner or family member assault or strangulation of a partner or family member against an adult

1 member of the household, the department shall take appropriate steps for the protection of the child, which may
2 include:

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

6 (b) making reasonable efforts to remove the person who allegedly committed the partner or family
7 member assault or strangulation of a partner or family member from the child's residence if it is determined that
8 the child or another family or household member is in danger of partner or family member assault or strangulation
9 of a partner or family member; and

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

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

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

19 (5) The department ~~may~~ shall locate and contact extended family members upon placement of a child
20 in out-of-home care. The department may share information with extended family members for placement and
21 case planning purposes.

22 (6) [Except as provided in 41-3-305,] if a child is removed from the child's home by the department, a
23 child protective social worker shall submit an affidavit regarding the circumstances of the emergency removal to
24 the county attorney and provide a copy of the affidavit to the parents or guardian, ~~if possible, within 2 working~~
25 ~~days of the emergency removal at the time of the emergency removal hearing.~~ An abuse and neglect petition
26 must be filed within 5 working days, excluding weekends and holidays, of the emergency removal of a child prior
27 to or at the emergency removal hearing unless arrangements acceptable to the agency for the care of the child
28 have been made by the parents or voluntary protective services are provided pursuant to 41-3-302.

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

1 (8) If the department determines that a petition for immediate protection and emergency protective
2 services must be filed to protect the safety of the child, the social worker shall interview the parents of the child
3 to whom the petition pertains, if the parents are reasonably available, before the petition may be filed. The district
4 court may immediately issue an order for immediate protection of the child.

5 (9) The department shall make the necessary arrangements for the child's well-being as are required
6 prior to the ~~court~~ emergency removal hearing and the show cause hearing. (Bracketed language in subsection
7 (6) terminates June 30, 2019--sec. 5, Ch. 141, L. 2017.)"

8
9 **NEW SECTION. Section 3. Emergency removal hearing.** (1) When a child has been removed from
10 the residence pursuant to 41-3-301, an emergency removal hearing must be conducted within 48 hours of the
11 removal. At the emergency removal hearing:

12 (a) the court shall explain the procedures to be followed in the case and explain the parties' rights,
13 including the right to request appointment or assignment of counsel in accordance with 41-3-425;

14 (b) the department shall present its petition and supporting affidavits; and

15 (c) the parent, guardian, or other person having physical or legal custody of the child must be given the
16 opportunity to admit or deny the allegations contained in the petition.

17 (2) At the conclusion of the emergency removal hearing, the court shall make an order based on the
18 information presented regarding whether the child should be immediately reunited with the parent, guardian, or
19 other person having physical or legal custody of the child.

20 (3) If the court determines that return of the child to the home is appropriate, the court may require that
21 a safety plan be developed, which may include but is not limited to:

22 (a) designation of safety persons to serve as resources for the family;

23 (b) referrals to service providers; and

24 (c) consent to periodic home visitations by department staff.

25 (4) If the court orders continuation of removal of the child from the home, the court shall:

26 (a) name the individuals, including parents and other family members, who may visit the child and the
27 terms and conditions for visitation;

28 (b) determine whether orders for examinations, evaluations, counseling, immediate services, or protection
29 are needed prior to the show cause hearing;

30 (c) schedule the show cause hearing, which must occur within 20 days of the emergency removal

1 hearing; and

2 (d) make any other findings the court considers necessary.

3

4 **Section 4.** Section 41-3-432, MCA, is amended to read:

5 **"41-3-432. Show cause hearing -- order.** (1) (a) Except as provided in the federal Indian Child Welfare
6 Act, a show cause hearing must be conducted within 20 days of the filing of an initial child abuse and neglect
7 petition or emergency removal hearing if continuation of removal was ordered at the hearing unless otherwise
8 stipulated by the parties pursuant to 41-3-434 ~~or unless an extension of time is granted by the court~~. A separate
9 notice to the court stating the statutory time deadline for a hearing must accompany any petition to which the time
10 deadline applies.

11 (b) If a proceeding under this chapter involves an Indian child and is subject to the federal Indian Child
12 Welfare Act, a qualified expert witness is required to testify that the continued custody of the child by the parent
13 or Indian custodian is likely to result in serious emotional or physical damage to the child.

14 (c) The court may grant an extension of time for a show cause hearing by a maximum of 10 days only
15 upon a showing of ~~substantial injustice and shall order an appropriate remedy that considers the best interests~~
16 ~~of the child~~ necessity and the agreement of all parties.

17 (2) The person filing the petition has the burden of presenting clear and convincing evidence ~~establishing~~
18 ~~probable cause~~ for the issuance of an order for temporary investigative authority after the show cause hearing,
19 except as provided by the federal Indian Child Welfare Act, if applicable. If sufficient evidence cannot be provided,
20 the case must be closed and the child returned to the home that day.

21 (3) If a contested show cause hearing is requested pursuant to 41-3-427 based upon a disputed issue
22 of material fact or a dispute regarding the veracity of the affidavit of the department, the court may consider all
23 evidence and shall provide an opportunity for a parent, guardian, or other person having physical or legal custody
24 of the child to provide testimony regarding the disputed issues. Hearsay evidence of statements made by the
25 affected child is admissible at the hearing. The parent, guardian, or other person may be represented by legal
26 counsel and may be appointed or assigned counsel as provided for in 41-3-425 if counsel has not already been
27 appointed or assigned.

28 (4) ~~At~~ If an explanation has not already been provided at an emergency removal hearing, at the show
29 cause hearing, the court shall explain the procedures to be followed in the case and explain the parties' rights,
30 including the right to request appointment or assignment of counsel if indigent, ~~or~~ if appointment or assignment

1 of counsel is required under the federal Indian Child Welfare Act, if applicable, and if counsel has not already
2 been appointed or assigned at an emergency removal hearing, and the right to challenge the allegations
3 contained in the petition. The parent, guardian, or other person having physical or legal custody of the child must
4 be given the opportunity to admit or deny the allegations contained in the petition at the show cause hearing.
5 Inquiry must be made to determine whether the notice requirements of the federal Indian Child Welfare Act, if
6 applicable, have been met.

7 (5) Except as provided in the federal Indian Child Welfare Act, if applicable, the court shall make written
8 findings on issues including but not limited to the following:

9 (a) whether the child should be returned home immediately if there has been an emergency removal or
10 remain in temporary out-of-home care or be removed from the home;

11 (b) if removal is ordered or continuation of removal is ordered, why continuation of the child in the home
12 would be contrary to the child's best interests and welfare;

13 (c) whether the department has made reasonable efforts to avoid protective placement of the child or
14 to make it possible to safely return the child to the child's home;

15 (d) financial support of the child, including inquiry into the financial ability of the parents, guardian, or
16 other person having physical or legal custody of the child to contribute to the costs for the care, custody, and
17 treatment of the child and requirements of a contribution for those costs pursuant to 41-3-446; and

18 (e) whether another hearing is needed and, if so, the date and time of the next hearing.

19 (6) The court may consider:

20 (a) terms and conditions for parental visitation; and

21 (b) whether orders for examinations, evaluations, counseling, immediate services, or protection are
22 needed.

23 (7) Following the show cause hearing, the court may enter an order for the relief requested or amend
24 a previous order for immediate protection of the child if one has been entered. The order must be in writing.

25 (8) If a child who has been removed from the child's home is not returned home after the show cause
26 hearing or if removal is ordered, the parents or parent, guardian, or other person or agency having physical or
27 legal custody of the child named in the petition may request that a citizen review board, if available pursuant to
28 part 10 of this chapter, review the case within 30 days of the show cause hearing and make a recommendation
29 to the district court, as provided in 41-3-1010.

30 (9) Adjudication of a child as a youth in need of care may be made at the show cause hearing if the

1 requirements of 41-3-437(2) are met. If not made at the show cause hearing, adjudication under 41-3-437 must
2 be made within the time limits required by 41-3-437 unless adjudication occurs earlier by stipulation of the parties
3 pursuant to 41-3-434 and order of the court."
4

5 **Section 5.** Section 41-3-443, MCA, is amended to read:

6 **"41-3-443. Treatment plan -- contents -- changes.** (1) The court may order a treatment plan if:

- 7 (a) the parent or parents admit the allegations of an abuse and neglect petition;
8 (b) the parent or parents stipulate to the allegations of abuse or neglect pursuant to 41-3-434; or
9 (c) the court has made an adjudication under 41-3-437 that the child is a youth in need of care.

10 (2) Every treatment plan must contain the following information:

- 11 (a) the identification of the problems or conditions that resulted in the abuse or neglect of a child;
12 (b) the treatment goals and objectives for each condition or requirement established in the plan, which
13 must include a specified timeframe for completion and be measurable, clear, specific, reasonable, and relevant
14 to the specific parenting issues that were cited as the basis for removal. If the child has been removed from the
15 home, the treatment plan must include but is not limited to the conditions or requirements that must be
16 established for the safe return of the child to the family. All terms and conditions must be directly related to the
17 specific parenting issues that were cited as the basis for removal.

- 18 (c) the projected time necessary to complete each of the treatment objectives;
19 (d) the specific treatment objectives that clearly identify the separate roles and responsibilities of all
20 parties addressed in the treatment plan; and
21 (e) the signature of the parent or parents or guardian, unless the plan is ordered by the court.

22 (3) A treatment plan may include but is not limited to any of the following remedies, requirements, or
23 conditions:

- 24 (a) the right of entry into the child's home for the purpose of assessing compliance with the terms and
25 conditions of a treatment plan;
26 (b) the requirement of either the child or the child's parent or guardian to obtain medical or psychiatric
27 diagnosis and treatment through a physician or psychiatrist licensed in the state of Montana;
28 (c) the requirement of either the child or the child's parent or guardian to obtain psychological treatment
29 or counseling;
30 (d) the requirement of either the child or the child's parent or guardian to obtain and follow through with

1 alcohol or substance abuse evaluation and counseling, if necessary;

2 (e) the requirement that either the child or the child's parent or guardian be restricted from associating
3 with or contacting any individual who may be the subject of a department investigation;

4 (f) the requirement that the child be placed in temporary medical or out-of-home care;

5 (g) the requirement that the parent, guardian, or other person having physical or legal custody furnish
6 services that the court may designate.

7 (4) A treatment plan may not require that a parent admit to any of the allegations in the petition as a
8 condition of reunification with a child.

9 ~~(4)(5)~~ A treatment plan may not be altered, amended, continued, or terminated without the approval of
10 the parent or parents or guardian pursuant to a stipulation and order or order of the court.

11 ~~(5)(6)~~ A treatment plan must contain a notice provision advising parents:

12 (a) of timelines for hearings and determinations required under this chapter;

13 (b) that the state is required by federal and state laws to hold a permanency hearing to determine the
14 permanent placement of a child no later than 12 months after a judge determines that the child has been abused
15 or neglected or 12 months after the first 60 days that the child has been removed from the child's home;

16 (c) that if a child has been in foster care for 15 of the last 22 months, state law presumes that termination
17 of parental rights is in the best interests of the child and the state is required to file a petition to terminate parental
18 rights; and

19 (d) that upon completion of a treatment plan ~~does not guarantee the return of a child and that completion~~
20 ~~of the plan without a change in behavior that caused removal in the first instance may result in termination of~~
21 ~~parental rights~~ the child will be returned home unless there is clear and convincing evidence that return to the
22 home would result in physical or psychological harm to the child.

23 ~~(6)(7)~~ A treatment plan must be ordered by no later than 30 days after the date of the dispositional
24 hearing held pursuant to 41-3-438, except for good cause shown."
25

26 **NEW SECTION. Section 6. Notification to tribal governments.** The secretary of state shall send a
27 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
28 Chippewa tribe.

29
30 **NEW SECTION. Section 7. Codification instruction.** [Section 3] is intended to be codified as an

1 integral part of Title 41, chapter 3, part 4, and the provisions of Title 41, chapter 3, part 4, apply to [section 3].

2 - END -