



AN ACT REQUIRING LEGAL REPRESENTATION FOR CHILDREN IN CHILD ABUSE AND NEGLECT CASES; AND AMENDING SECTION 41-3-425, MCA.

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

Section 1. Section 41-3-425, MCA, is amended to read:

"41-3-425. Right to counsel. (1) Any party involved in a petition filed pursuant to 41-3-422 has the right to counsel in all proceedings held pursuant to the petition.

(2) Except as provided in subsections (3) ~~through (5)~~ and (4), the court shall immediately appoint the office of state public defender to assign counsel for:

(a) any indigent parent, guardian, or other person having legal custody of a child or youth in a removal, placement, or termination proceeding pursuant to 41-3-422, pending a determination of eligibility pursuant to 47-1-111;

(b) any child or youth involved in a proceeding under a petition filed pursuant to 41-3-422 ~~when a guardian ad litem is not appointed for the child or youth~~; and

(c) any party entitled to counsel at public expense under the federal Indian Child Welfare Act.

~~(3) When appropriate, the court may appoint the office of state public defender to assign counsel for any child or youth involved in a proceeding under a petition filed pursuant to 41-3-422 when a guardian ad litem is appointed for the child or youth.~~

~~(4)~~(3) When appropriate and in accordance with judicial branch policy, the court may assign counsel at the court's expense for a guardian ad litem or a court-appointed special advocate involved in a proceeding under a petition filed pursuant to 41-3-422.

~~(5)~~(4) Except as provided in the federal Indian Child Welfare Act, a court may not appoint a public defender to a putative father, as defined in 42-2-201, of a child or youth in a removal, placement, or termination

proceeding pursuant to 41-3-422 until:

- (a) the putative father is successfully served notice of a petition filed pursuant to 41-3-422; and
- (b) the putative father makes a request to the court in writing to appoint the office of state public defender to assign counsel."

- END -

I hereby certify that the within bill,
SB 148, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2023.

Speaker of the House

Signed this _____ day
of _____, 2023.

SENATE BILL NO. 148
INTRODUCED BY D. LENZ

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