

1 SENATE BILL NO. 249

2 INTRODUCED BY T. MANZELLA

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING REQUIREMENTS FOR TREATMENT PLANS IN CHILD
5 ABUSE AND NEGLECT PROCEEDINGS; REVISING THE REQUIREMENTS FOR ORDERING A
6 TREATMENT PLAN; REVISING REQUIREMENTS FOR ENTERING THE HOME OF A PARENT OR
7 GUARDIAN TO ASSESS COMPLIANCE WITH A TREATMENT PLAN; PROVIDING THAT PARENTS HAVE A
8 RIGHT TO SEEK TREATMENT FROM A PROVIDER OF THEIR CHOOSING; REQUIRING THAT THE
9 DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES PAY COSTS ASSOCIATED WITH
10 REQUIREMENTS IN TREATMENT PLANS; REQUIRING THAT A TREATMENT PLAN BE PRESENTED TO
11 THE COURT AT THE SHOW CAUSE HEARING OR 20 DAYS AFTER A CHILD IS REMOVED; ~~AND~~
12 AMENDING SECTION 41-3-443, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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16 **Section 1.** Section 41-3-443, MCA, is amended to read:

17 **"41-3-443. Treatment plan -- contents -- changes.** (1) ~~The~~ UNLESS 41-3-423(2) OR (3) OR 41-3-
18 609(1)(D) OR (4) APPLY, THE court ~~may~~ shall order a treatment plan ~~if~~ when:

19 (a) the department has made allegations of abuse and neglect in a petition against the parent or
20 parents or the parent or parents admit the allegations of an abuse and neglect petition;

21 (b) the parent or parents stipulate to the allegations of abuse or neglect pursuant to 41-3-434; or

22 (c) the court has made an adjudication under 41-3-437 that the child is a youth in need of care.

23 (2) ~~Every~~ Each treatment plan must contain the following information:

24 (a) the identification of the problems or conditions that resulted in the finding of abuse or neglect of
25 a child;

26 (b) the treatment goals and objectives for each condition or requirement established in the plan,
27 which must accommodate the parent's work schedule. If the child has been removed from the home, the
28 treatment plan must include ~~but is not limited to~~ the conditions or requirements that must be established for the

1 safe return of the child to the family.

2 (c) the projected time necessary to complete each of the treatment objectives;

3 (d) the specific treatment objectives that clearly identify the separate roles and responsibilities of
4 all parties addressed in the treatment plan; and

5 (e) ~~the signature of the parent or parents or guardian, unless the plan is ordered by the court~~ the
6 parenting time schedule, which must be conducted in an environment that accommodates the needs of the
7 child and encourages bonding between the parent and child, emphasizing compassion for and reunification of
8 the family; and

9 (f) any special needs of a parent or child, including health issues or disabilities, that must be
10 accommodated and mitigated so that any special needs do not become factors that inhibit reunification
11 between a parent and child.

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

14 (a) if the right of entry into the child's home is necessary for the purpose of assessing compliance
15 with the terms and conditions of a treatment plan, the following conditions apply:

16 (i) the child welfare PROTECTION specialist shall provide reasonable prior notice to the parent or
17 guardian that entry will occur during reasonable business hours to accommodate other required treatment plan
18 activities and work schedules and to reduce the likelihood of an entry without notice producing a traumatic
19 response for the child and family; and

20 (ii) ~~when a court-ordered treatment plan was not entered into voluntarily and a parent or guardian~~
21 ~~is not convicted of a crime related to the department's involvement, the right of entry is not allowed without the~~
22 express consent of the parent or guardian or without a court order that is compliant with the parent's or
23 guardian's constitutional rights;

24 (b) based on the recommendation of a licensed physician MEDICAL PROFESSIONAL, the requirement
25 of either the child or the child's parent or guardian to obtain:

26 (i) ~~A medical or psychiatric diagnosis and treatment through a physician or psychiatrist licensed~~
27 MEDICAL PROFESSIONAL in the state of Montana of the parent's or guardian's choosing;

28 (ii) A PSYCHIATRIC DIAGNOSIS, PSYCHOLOGICAL TREATMENT, OR COUNSELING FROM A LICENSED MENTAL

1 HEALTH PROFESSIONAL OF THE PARENT'S OF GUARDIAN'S CHOOSING WHO IS CREDENTIALLED TO DIAGNOSE OR MAKE
2 TREATMENT RECOMMENDATIONS; OR

3 (III) AN ALCOHOL OR SUBSTANCE ABUSE EVALUATION WITH A LICENSED ADDICTION COUNSELOR OF THE
4 PARENT'S OR GUARDIAN'S CHOOSING AND TO FOLLOW THE EVALUATION'S RECOMMENDATIONS.

5 (c) based on the recommendation of a licensed physician, the requirement of either the child or the
6 child's parent or guardian to obtain psychological treatment or counseling with a licensed professional of the
7 parent's or guardian's choosing who is credentialed to diagnose and make treatment recommendations for the
8 individual receiving the treatment or counseling;

9 (d) the requirement of either the child or the child's parent or guardian to obtain and follow through
10 with an alcohol or substance abuse evaluation and, based on the recommendation of a licensed professional,
11 counseling with a licensed professional of the parent's or guardian's choosing, if necessary;

12 (e) if the department has established evidence of physical or sexual abuse, the requirement that
13 either the child or the child's parent or guardian be restricted from associating with or contacting any individual
14 who may be the subject of a department investigation. THE COURT MAY RESTRICT ASSOCIATIONS OR CONTACT WITH
15 ANY INDIVIDUAL WHO MAY BE THE SUBJECT OF A DEPARTMENT INVESTIGATION, the individual who abused the child, or
16 the child's parent or guardian; and

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

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

20 (4) ~~(A) #~~ EXCEPT AS PROVIDED UNDER SUBSECTION (4)(B), IF a requirement included in a treatment
21 plan has costs associated with the requirement, the department is responsible for the costs of the requirement
22 unless the costs are covered by medicaid OR OTHER GOVERNMENT PROGRAMS. A parent or guardian has the right
23 to choose a provider for the parent or guardian and the parent's or guardian's child. If a provider's charges
24 exceed THE MEDICAID ALLOWABLE REIMBURSEMENT RATE OR department contracts, a parent or guardian is
25 responsible for paying the difference.

26 (B) THE DEPARTMENT IS NOT RESPONSIBLE FOR THE COSTS OF HOUSING BUT MUST ACTIVELY WORK TO
27 HELP THE PARENT OR GUARDIAN TO SECURE ADEQUATE HOUSING SO REUNIFICATION CAN OCCUR.

28 ~~(4)(5)~~ A treatment plan may not be altered, amended, continued, or terminated without the approval

1 of the parent or parents or guardian ~~pursuant to a stipulation and order or or~~ an additional order of the court.

2 ~~(5)(6)~~ A treatment plan must contain a notice provision advising parents:

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

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

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

10 (d) that completion of a treatment plan does not guarantee the return of a child and that completion
11 of the plan without a change in behavior that caused removal in the first instance may result in termination of
12 parental rights; and

13 (e) that a child may be returned home prior to completion of a treatment plan if the conditions for
14 return have been met and return of the child is safe and in the child's best interests pursuant to 40-4-212.

15 (7) The department shall present a treatment plan to the court at the show cause hearing or no
16 later than 20 days after the child was removed from the home.

17 ~~(6)(8)~~ A treatment plan must be ordered by no later than 30 days after the date of the dispositional
18 hearing held pursuant to 41-3-438, except for good cause shown."

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20 NEW SECTION. SECTION 2. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

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