

HOUSE BILL NO. 574

INTRODUCED BY T. MANZELLA

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A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING A DEPARTMENT FROM IMPLEMENTING OR ENFORCING IMMUNIZATION REQUIREMENTS NOT EXPRESSLY AUTHORIZED BY THE LEGISLATURE; INVALIDATING ANY RULE INCONSISTENT WITH THIS DIRECTIVE; REPEALING ARM 37.51.306; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the Legislature finds that a steep rise in the number of children entering foster care since 2008 has placed the foster care system under unprecedented strain; and

WHEREAS, the Legislature further finds that the number of children in need of quality child-placement arrangements exceeds the number of licensed foster placements available; and

WHEREAS, the quality of foster placement may be further strained when too many foster children are placed with a small number of families in a short period of time due to insufficient qualified foster families; and

WHEREAS, the Legislature finds that immunization requirements promulgated by the Department of Public Health and Human Services have prevented families who would otherwise be willing and able to serve as foster families from obtaining licensing; and

WHEREAS, the Legislature finds that requiring children of potential foster families to be immunized as a condition of becoming licensed is against public policy and beyond the scope of any rulemaking authority delegated to the Department.

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

NEW SECTION. **Section 1. Rulemaking authority.** (1) The department is prohibited from promulgating rules or regulations that create a requirement of immunization or other medical intervention as a condition of participation in the Montana foster care system, as either a foster child or a foster family, unless a requirement is expressly and unambiguously required by statute.

(2) Any existing regulation in conflict with subsection (1), whether or not expressly repealed, is void and without effect.



1            NEW SECTION. **Section 2. Repealer.** ARM 37.51.306 is repealed.

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3            NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an  
4 integral part of Title 52, chapter 2, part 6, and the provisions of Title 52, chapter 2, part 6, apply to [section 1].

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6            NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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