

1 HOUSE BILL NO. 37  
 2 INTRODUCED BY J. CARLSON  
 3 BY REQUEST OF THE CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES INTERIM COMMITTEE  
 4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CHILD ABUSE AND NEGLECT LAWS;  
 6 REQUIRING A WARRANT TO REMOVE A CHILD FROM THE CHILD'S HOME EXCEPT IN EXIGENT  
 7 CIRCUMSTANCES; ~~REQUIRING THAT A PEACE OFFICER BE PRESENT WHENEVER A CHILD IS~~  
 8 ~~REMOVED FROM THE HOME~~; REVISING THE DEFINITIONS OF "CHILD ABUSE OR NEGLECT" AND  
 9 "REASONABLE EFFORTS"; ~~REVISING THE REQUIREMENTS FOR DISCLOSURE OF CHILD ABUSE AND~~  
 10 ~~NEGLECT RECORDS~~; REVISING THE TIMEFRAME IN WHICH AN ABUSE AND NEGLECT PETITION  
 11 MUST BE FILED WHEN A CHILD IS REMOVED; REVISING THE TIMEFRAME IN WHICH AN EMERGENCY  
 12 PROTECTIVE SERVICES HEARING MUST BE HELD; REVISING THE REQUIREMENTS FOR DISMISSING  
 13 AN ABUSE AND NEGLECT PETITION; AMENDING SECTIONS 41-3-101, 41-3-102, ~~41-3-205~~, 41-3-301, 41-  
 14 3-306, 41-3-423, 41-3-424, 41-3-425, AND 41-3-427, MCA; AND PROVIDING AN EFFECTIVE DATE DATES  
 15 AND A TERMINATION DATE."

16  
 17 WHEREAS, Montana's child abuse and neglect statutes (Title 41, chapter 3, MCA) provide the  
 18 framework for state interference with the parent-child relationship; and

19 WHEREAS, the Legislature intends to amend the provisions of Title 41, chapter 3, MCA, to ensure  
 20 compliance with constitutional requirements.

21  
 22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

23  
 24 NEW SECTION. Section 1. Warrant to remove child. (1) A child protection specialist of the  
 25 department, a peace officer, or a county attorney may apply, in writing, by telephone, or electronically, on oath  
 26 or affirmation, to a DISTRICT court ~~identified in subsection (2)~~ WITHIN THE STATE for the issuance of a warrant to  
 27 remove a child and place the child in a protective facility if necessary to prevent the child from being abused or  
 28 neglected.

- 1 (2) A warrant may be issued in writing, by telephone, or electronically by:
- 2 (a) ~~a city or municipal court judge or justice of the peace within the judge's geographic jurisdiction;~~
- 3 ~~or~~
- 4 (b) ~~a district court judge within the state.~~
- 5 (3) If the court finds from the application that there is probable cause that removal is necessary to
- 6 prevent the child from being abused or neglected, the court shall issue a warrant to remove the child. The
- 7 warrant must:
- 8 (a) identify the child to be removed and the agency or person responsible for removing the child;
- 9 (b) recite the facts on which the conclusion that the child is abused or neglected or is in danger of
- 10 being abused or neglected is based; and
- 11 (c) provide for the placement of the child, pending an emergency protective services hearing.
- 12 (4) The provisions of 46-5-222 apply when an application for a warrant is made telephonically or
- 13 electronically or when a warrant is issued telephonically or electronically.

**NEW SECTION. Section 2. Procedures for executing warrant to remove child.** (1) A warrant

issued pursuant to [section 1] may be served at any time of the day or night. The warrant must be served within 10 days from the time of issuance. A warrant not served within 10 days is void and must be returned to the issuing court and identified as not served.

(2) A warrant issued pursuant to [section 1] must be served by the agency or person specifically named in the warrant and by no other agency or person unless the other agency or person is acting in aid of and in the presence of the specifically named agency or person.

**Section 3.** Section 41-3-101, MCA, is amended to read:

**"41-3-101. Declaration of policy.** (1) It is the policy of the state of Montana to:

- (a) provide for the protection of children whose health and welfare are or may be adversely affected and further threatened by the conduct of those responsible for the children's care and protection;
- (b) achieve these purposes in a family environment and preserve the unity and welfare of the family whenever possible;

1 (c) ensure that there is no forced removal of a child from the family based solely on an allegation  
2 of abuse or neglect unless the department has reasonable cause to suspect that the child is at imminent risk of  
3 ~~harm~~ without first obtaining a warrant from a court unless:

4 (i)- the child is likely to experience sexual abuse, ~~or serious bodily injury~~ PHYSICAL ABUSE, or  
5 physical neglect in the time that would be required to obtain a warrant;

6 (ii) a child is in a position in which care is not available from a parent, guardian, or other individual  
7 designated by the parent or guardian and deemed responsible by a child protection specialist or peace officer;

8 (iii) there is reason to believe the parent will flee the jurisdiction with the child if given the  
9 opportunity; or

10 (iv) a parent consents to the temporary removal pursuant to a voluntary written prevention plan  
11 established under 41-3-302(3)(a);

12 (d) recognize that a child is entitled to assert the child's constitutional rights;

13 (e) ensure that all children have a right to a healthy and safe childhood in a permanent placement;

14 and

15 (f) ensure that whenever removal of a child from the home is necessary, the child is entitled to  
16 maintain ethnic, cultural, and religious heritage whenever appropriate.

17 (2) It is intended that the mandatory reporting of abuse or endangerment cases by professional  
18 people and other community members to the appropriate authority will cause the protective services of the state  
19 to seek to prevent further abuses, protect and enhance the welfare of these children, and preserve family life  
20 whenever appropriate.

21 (3) In implementing this chapter, whenever it is necessary to remove a child from the child's home,  
22 the department shall, when it is in the best interests of the child, place the child with the child's noncustodial  
23 birth parent or with the child's extended family, including adult siblings, grandparents, great-grandparents,  
24 aunts, and uncles, when placement with the extended family is approved by the department, prior to placing the  
25 child in an alternative protective or residential facility. Prior to approving a placement, the department shall  
26 investigate whether anyone living in the home has been convicted of a crime involving serious harm to children.

27 (4) (a) The department shall create a registry for voluntary registration by close relatives of a child  
28 for purposes of notifying those relatives when a child that is related has been removed from the child's home

1 pursuant to this chapter.

2 (b) The registry must contain the names of the child and the child's parents and may contain the  
3 names of the child's grandparents, aunts, uncles, adult brothers, and adult sisters and must contain the contact  
4 information for the child and parents and any of the relatives whose names appear in the registry.

5 (5) The department shall consult the registry and notify the relatives on the registry on the first  
6 working day after placing the child in accordance with 41-3-301.

7 (6) The department may charge a fee commensurate with the cost of operating the registry. The  
8 fee may be charged only to those persons whose names are voluntarily entered in the registry.

9 (7) The department shall ensure that department training and policies comply with constitutional  
10 requirements.

11 ~~(7)~~(8) In implementing the policy of this section, the child's health and safety are of paramount  
12 concern."

13

14 **Section 4.** Section 41-3-102, MCA, is amended to read:

15 **"41-3-102. Definitions.** As used in this chapter, the following definitions apply:

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

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

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

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

24 (iv) the voluntary surrender, as defined in 40-6-402, by a parent of a newborn who is no more than  
25 30 days old to an emergency services provider, as defined in 40-6-402.

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

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

1 enforcement agencies, or medical records covered by state or federal disclosure limitations.  
2 (12) ~~Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to~~  
3 ~~this section that are provided to the parent, grandparent, aunt, uncle, brother, sister, guardian, or parent's or~~  
4 ~~guardian's attorney must be provided without cost."~~

5

6 **Section 5.** Section 41-3-301, MCA, is amended to read:

7 **"41-3-301. (Temporary) Emergency protective service services.** (1) Any child protection specialist  
8 of the department, a peace officer, or the county attorney who has reason to believe any child is in immediate  
9 or apparent danger of harm may immediately remove the child and place the child in a protective facility. After  
10 ensuring that the child is safe, the department may make a request for further assistance from the law  
11 enforcement agency or take appropriate legal action. The person or agency placing the child shall notify the  
12 parents, parent, guardian, or other person having physical or legal custody of the child of the placement at the  
13 time the placement is made or as soon after placement as possible. Notification under this subsection (1) must:

- 14 (a) include the reason for removal;
- 15 (b) include information regarding the option for an emergency protective services hearing within 5  
16 days under 41-3-306, the required show cause hearing within 20 days, and the purpose of the hearings;
- 17 (c) provide contact information for the child protection specialist, the child protection specialist's  
18 supervisor, and the office of state public defender; and
- 19 (d) advise the parents, parent, guardian, or other person having physical or legal custody of the  
20 child that the parents, parent, guardian, or other person:
- 21 (i) has the right to receive a copy of the affidavit as provided in subsection (6);
- 22 (ii) has the right to attend and participate in an emergency protective services hearing, if one is  
23 requested, and the show cause hearing, including providing statements to the judge;
- 24 (iii) may have a support person present during any in-person meeting with the child protection  
25 specialist concerning emergency protective services; and
- 26 (iv) may request that the child be placed in a kinship foster home as defined in 52-2-602.
- 27 (2) If a child protection specialist, a peace officer, or the county attorney determines in an  
28 investigation of abuse or neglect of a child that the child is in danger because of the occurrence of partner or

1 family member assault, as provided for in 45-5-206, or strangulation of a partner or family member, as provided  
2 for in 45-5-215, against an adult member of the household or that the child needs protection as a result of the  
3 occurrence of partner or family member assault or strangulation of a partner or family member against an adult  
4 member of the household, the department shall take appropriate steps for the protection of the child, which may  
5 include:

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

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

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

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

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

22 (5) The department may locate and contact extended family members upon placement of a child in  
23 out-of-home care. The department may share information with extended family members for placement and  
24 case planning purposes.

25 (6) If a child is removed from the child's home by the department, a child protection specialist shall  
26 submit an affidavit regarding the circumstances of the emergency removal to the county attorney and provide a  
27 copy of the affidavit to the parents or guardian, if possible, within 2 working days of the emergency removal. An  
28 abuse and neglect petition must be filed within 5 working days, excluding weekends and holidays, of the

1 emergency removal of a child unless arrangements acceptable to the agency for the care of the child have  
2 been made by the parents or a written prevention plan has been entered into pursuant to 41-3-302.

3 (7) Except as provided in the federal Indian Child Welfare Act, if applicable, a show cause hearing  
4 must be held within 20 days of the filing of the petition unless otherwise stipulated by the parties pursuant to 41-  
5 3-434.

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

10 (9) The department shall make the necessary arrangements for the child's well-being as are  
11 required prior to the court hearing. (Terminates June 30, 2023--sec. 8, Ch. 529, L. 2021.)

12 **41-3-301. (Effective July 1, 2023) Emergency protective service services.** (1) (a) Any Except as  
13 provided in subsection (1)(b), a child protection specialist of the department, a peace officer, or the a county  
14 attorney who has reason to believe any child is in immediate or apparent danger of harm may immediately  
15 remove the may not remove a child and place the child in a protective facility without first obtaining a warrant  
16 pursuant to [section 1].

17 (b) (i) A child protection specialist, a peace officer, or a county attorney may remove a child without  
18 a warrant only when the person has probable cause to believe that:

19 (i)- the child is likely to experience sexual abuse, or serious bodily injury PHYSICAL ABUSE, or  
20 physical neglect in the time that would be required to obtain a warrant under [section 1];

21 (ii) a child is in a position in which care is not available from a parent, guardian, or other individual  
22 designated by the parent or guardian and deemed responsible by a child protection specialist or peace officer;

23 (iii) there is reason to believe the parent will flee the jurisdiction with the child if given the  
24 opportunity; or

25 (iv) the parent consents to a temporary removal pursuant to a voluntary written prevention plan  
26 established under 41-3-302(3)(a).

27 (ii) For the purposes of this subsection (1)(b), "serious bodily injury" has the meaning provided in  
28 45-2-101.

1 ~~(c) A peace officer must be present whenever a child is removed from the home.~~

2 ~~(d)(C)~~ After ensuring that the child is safe, the department may make a request for further assistance  
3 from the law enforcement agency or take appropriate legal action. The person or agency placing the child shall  
4 notify the parents, parent, guardian, or other person having physical or legal custody of the child of the  
5 placement at the time the placement is made or as soon after placement as possible. Notification under this  
6 subsection ~~(1)(d)~~ (1)(C) must:

7 (i) include the reason for removal ~~or, if the child was removed pursuant to subsection (1)(b), the~~  
8 factual basis for the conclusion that:

9 ~~(A) the child is likely to experience sexual abuse, or serious bodily injury~~ PHYSICAL ABUSE, ~~or~~  
10 physical neglect in the time that would be required to obtain a warrant;

11 ~~(B) a child is in a position in which care is not available from a parent, guardian, or other individual~~  
12 designated by the parent or guardian and deemed responsible by a child protection specialist or peace officer;

13 ~~(C) there is reason to believe the parent will flee the jurisdiction with the child if given the~~  
14 opportunity; or

15 ~~(D) the parent consents to a temporary removal pursuant to a voluntarily written prevention plan~~  
16 established under 41-3-302(3)(a);

17 (ii) include information regarding the emergency protective services and show cause hearings and  
18 the purpose of the hearings; and

19 (iii) advise the parents, parent, guardian, or other person having physical or legal custody of the  
20 child that the parents, parent, guardian, or other person may have a support person present during any in-  
21 person meeting with the child protection specialist concerning emergency protective services.

22 (2) If a child protection specialist, a peace officer, or the county attorney determines in an  
23 investigation of abuse or neglect of a child that the child is in danger because of the occurrence of partner or  
24 family member assault, as provided for in 45-5-206, or strangulation of a partner or family member, as provided  
25 for in 45-5-215, against an adult member of the household or that the child needs protection as a result of the  
26 occurrence of partner or family member assault or strangulation of a partner or family member against an adult  
27 member of the household, the department shall take appropriate steps for the protection of the child, which may  
28 include:



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

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

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

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

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

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

20 (6) If a child is removed from the child's home by the department, a child protection specialist shall  
21 submit an affidavit regarding the circumstances of the emergency removal to the county attorney and provide a  
22 copy of the affidavit to the parents or guardian, if possible, within 2 ~~business working~~ days of the emergency  
23 removal. An abuse and neglect petition must be filed in accordance with 41-3-422 within ~~5 working days,~~  
24 ~~excluding weekends and holidays,~~ 72 hours 5 business days, excluding weekends and holidays, of the  
25 emergency removal of a child unless arrangements acceptable to the agency for the care of the child have  
26 been made by the parents or a written prevention plan has been entered into pursuant to 41-3-302.

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

1 3-434.

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

6 (9) The department shall make the necessary arrangements for the child's well-being as are  
7 required prior to the court hearing."  
8

9 **Section 6.** Section 41-3-306, MCA, is amended to read:

10 **"41-3-306. (Temporary) Emergency protective services hearing on request -- exceptions.** (1) (a)

11 If requested by the parents, parent, guardian, or other person having physical or legal custody of a child  
12 removed from the home pursuant to 41-3-301, a district court shall hold an emergency protective services  
13 hearing within 5 business days of the child's removal to determine whether to continue the removal beyond 5  
14 business days.

15 (b) The department shall provide notification of the option for the hearing as required under 41-3-  
16 301.

17 (c) A hearing is not required if the child is released prior to the time of the requested hearing.

18 (2) The hearing may be held in person, by videoconference, or, if no other means are available, by  
19 telephone.

20 (3) The child and the child's parents, parent, guardian, or other person having physical or legal  
21 custody of the child must be represented by counsel at the hearing.

22 (4) If the court determines that continued out-of-home placement is needed, the court shall:

23 (a) establish guidelines for visitation by the parents, parent, guardian, or other person having  
24 physical or legal custody of the child pending the show cause hearing; and

25 (b) review the availability of options for a kinship placement and make recommendations if  
26 appropriate.

27 (5) The court may direct the department to develop and implement a treatment plan before the  
28 show cause hearing if the parents, parent, guardian, or other person having physical or legal custody of the

1 returned to the parents, parent, guardian, or other person having physical or legal custody of the child.

2 (7) This section does not apply to cases involving an Indian child who is subject to the Indian Child  
3 Welfare Act."

4

5 **SECTION 7. SECTION 41-3-306, MCA, IS AMENDED TO READ:**

6 **"41-3-306. (Temporary) Emergency protective services hearing on request -- exceptions. (1) (a)**

7 If requested by the parents, parent, guardian, or other person having physical or legal custody of a child  
8 removed from the home pursuant to 41-3-301, a district court shall hold an emergency protective services  
9 hearing within 5 business days of the child's removal to determine whether to continue the removal beyond 5  
10 business days.

11 (b) The department shall provide notification of the option for the hearing as required under 41-3-  
12 301.

13 (c) A hearing is not required if the child is released prior to the time of the requested hearing.

14 (2) The hearing may be held in person, by videoconference, or, if no other means are available, by  
15 telephone.

16 (3) The child and the child's parents, parent, guardian, or other person having physical or legal  
17 custody of the child must be represented by counsel at the hearing.

18 (4) If the court determines that continued out-of-home placement is needed, the court shall:

19 (a) establish guidelines for visitation by the parents, parent, guardian, or other person having  
20 physical or legal custody of the child pending the show cause hearing; and

21 (b) review the availability of options for a kinship placement and make recommendations if  
22 appropriate.

23 (5) The court may direct the department to develop and implement a treatment plan before the  
24 show cause hearing if the parents, parent, guardian, or other person having physical or legal custody of the  
25 child stipulates to a condition subject to a treatment plan and agrees to immediately comply with the treatment  
26 plan if a plan is developed.

27 (6) If the court determines continued removal is not appropriate, the child must be immediately  
28 returned to the parents, parent, guardian, or other person having physical or legal custody of the child.

1 (7) This section does not apply:

2 (a) in judicial districts that are holding voluntary prehearing conferences pursuant to 41-3-307; or

3 (b) to cases involving an Indian child who is subject to the Indian Child Welfare Act. (Terminates

4 June 30, 2023--sec. 8, Ch. 529, L. 2021.)

5 **41-3-306. (Effective July 1, ~~2023~~ 2025) Emergency protective services hearing -- exception. (1)**

6 (a) A district court shall hold a hearing within ~~5-3~~ business days of a child's removal from the home pursuant to

7 41-3-301 to determine whether there is probable cause to continue the removal beyond ~~5-business days~~ THE

8 EMERGENCY PROTECTIVE SERVICES HEARING.

9 (b) The department shall provide notification of the hearing as required under 41-3-301.

10 (c) A hearing is not required if the child is released prior to the time of the required hearing.

11 (2) The hearing may be held in person, by videoconference, or, if no other means are available, by

12 telephone.

13 (3) The child and the child's parents, parent, guardian, or other person having physical or legal

14 custody of the child must be represented by counsel at the hearing.

15 (4) If the court determines that continued out-of-home placement is needed, the court shall:

16 (a) establish guidelines for visitation by the parents, parent, guardian, or other person having

17 physical or legal custody of the child pending the show cause hearing; and

18 (b) review the availability of options for a kinship placement and make recommendations if

19 appropriate.

20 (5) The court may direct the department to develop and implement a treatment plan before the

21 show cause hearing if the parents, parent, guardian or other person having physical or legal custody of the child

22 stipulates to a condition subject to a treatment plan and agrees to immediately comply with the treatment plan if

23 a plan is developed.

24 (6) If the court determines continued removal is not appropriate, the child must be immediately

25 returned to the parents, parent, guardian, or other person having physical or legal custody of the child.

26 (7) This section does not apply to cases involving an Indian child who is subject to the Indian Child

27 Welfare Act."

28

1 permanency plan for the child, the department shall make reasonable efforts to place the child in a timely  
2 manner in accordance with the permanency plan, including, if appropriate, placement in another state, and to  
3 complete whatever steps are necessary to finalize the permanent placement of the child. Reasonable efforts to  
4 place a child permanently for adoption or to make an alternative out-of-home permanent placement may be  
5 made concurrently with reasonable efforts to return a child to the child's home. Concurrent planning, including  
6 identifying in-state and out-of-state placements, may be used.

7 (7) When determining whether the department has made reasonable efforts to prevent the  
8 necessity of removal of a child from the child's home or to reunify families that have been separated by the  
9 state, the court shall review the services provided by the agency including, if applicable, protective services  
10 provided pursuant to 41-3-302."

11

12 **Section 9.** Section 41-3-424, MCA, is amended to read:

13 **"41-3-424. Dismissal.** Unless the petition has been previously dismissed, the court shall dismiss an  
14 abuse and neglect petition on the motion of a party, or on its own motion, in any case in which all one of the  
15 following criteria ~~are~~is met:

16 (1) a child who has been placed in foster care is reunited with the child's parents and returned  
17 home and the court finds, after a hearing, that the child is safe in the home with no support or safety services;

18 (2) the child remains in the home for a minimum of 6 months with no additional confirmed reports  
19 of child abuse or neglect; and or

20 (3) the department determines and informs the court that the issues that led to department  
21 intervention have been resolved and that no reason exists for further department intervention or monitoring."

22

23 **Section 10.** Section 41-3-425, MCA, is amended to read:

24 **"41-3-425. Right to counsel.** (1) Any party involved in a petition filed pursuant to 41-3-422 has the  
25 right to counsel in all proceedings held pursuant to the petition.

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

28 (a) any indigent parent, guardian, or other person having legal custody of a child or youth in a

1 (5) The petition must be served as provided in 41-3-422."

2  
3 NEW SECTION. Section 12. Codification instruction. [Sections 1 and 2] are intended to be codified  
4 as an integral part of Title 41, chapter 3, part 3, and the provisions of Title 41, chapter 3, part 3, apply to  
5 [sections 1 and 2].

6  
7 NEW SECTION. Section 13. Effective date DATES. [~~This act~~] ~~(1) EXCEPT AS PROVIDED IN SUBSECTION~~  
8 ~~subsections (2) and (3), [THIS ACT]~~ is effective July 1, 2023.

9 ~~(2)~~ [Sections 1, 2, 3, and 5] are effective July 1, 2024.

10 ~~(2)(3)~~ [SECTION 7] IS EFFECTIVE JULY 1, 2025.

11  
12 NEW SECTION. SECTION 14. TERMINATION. [SECTION 6] TERMINATES JUNE 30, 2025.

13 - END -