

1 SENATE BILL NO. 148

2 INTRODUCED BY D. LENZ

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING LEGAL REPRESENTATION FOR CHILDREN IN
5 CHILD ABUSE AND NEGLECT CASES; AND AMENDING SECTION 41-3-425, MCA."

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

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

10 **"41-3-425. Right to counsel.** (1) Any party involved in a petition filed pursuant to 41-3-422 has the
11 right to counsel in all proceedings held pursuant to the petition.

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

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

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

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

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

23 ~~(4)~~(3) When appropriate and in accordance with judicial branch policy, the court may assign counsel
24 at the court's expense for a guardian ad litem or a court-appointed special advocate involved in a proceeding
25 under a petition filed pursuant to 41-3-422.

26 ~~(5)~~(4) Except as provided in the federal Indian Child Welfare Act, a court may not appoint a public
27 defender to a putative father, as defined in 42-2-201, of a child or youth in a removal, placement, or termination
28 proceeding pursuant to 41-3-422 until:

