

1 SENATE BILL NO. 148

2 INTRODUCED BY D. LENZ

3

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 (4), the court shall immediately appoint
13 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, in addition to independent
24 counsel for a child or youth assigned by the office of state public defender, the court may assign counsel at the
25 court's expense for a guardian ad litem or a court-appointed special advocate involved in a proceeding under a
26 petition filed pursuant to 41-3-422.

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

Amendment - 1st Reading-white - Requested by: Ellie Boldman - (S) Finance and Claims

- 2023

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Drafter: Madelyn Krezowski, (406) 444-6857

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1 proceeding pursuant to 41-3-422 until:

2 (a) the putative father is successfully served notice of a petition filed pursuant to 41-3-422; and

3 (b) the putative father makes a request to the court in writing to appoint the office of state public

4 defender to assign counsel."

5 - END -

AMENDED