

1 SENATE BILL NO. 184

2 INTRODUCED BY D. LENZ

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROCEDURAL REQUIREMENTS IN CHILD ABUSE
5 AND NEGLECT PROCEEDINGS; PROHIBITING TRANSFERS OF VENUE OUTSIDE OF THE COUNTY IN
6 WHICH AN ABUSE AND NEGLECT PETITION WAS FILED; PROVIDING EXCEPTIONS TO THE
7 PROHIBITION ON TRANSFERS OF VENUE; PROHIBITING CONTINUANCES OF HEARINGS UNLESS
8 GOOD CAUSE OR EXIGENT CIRCUMSTANCES EXIST; DEFINING "GOOD CAUSE" AND "EXIGENT
9 CIRCUMSTANCES"; AND AMENDING SECTIONS 41-3-103 AND 41-3-434, MCA."

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

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13 **Section 1.** Section 41-3-103, MCA, is amended to read:

14 **"41-3-103. Jurisdiction and venue.** (1) Except as provided in the federal Indian Child Welfare Act, in
15 all matters arising under this chapter, a person is subject to a proceeding under this chapter and the district
16 court has jurisdiction over:

- 17 (a) a youth who is within the state of Montana for any purpose;
- 18 (b) a youth or other person subject to this chapter who under a temporary or permanent order of
19 the court has voluntarily or involuntarily left the state or the jurisdiction of the court;
- 20 (c) a person who is alleged to have abused or neglected a youth who is in the state of Montana for
21 any purpose;
- 22 (d) a youth or youth's parent or guardian who resides in Montana;
- 23 (e) a youth or youth's parent or guardian who resided in Montana within 180 days before the filing
24 of a petition under this chapter if the alleged abuse and neglect is alleged to have occurred in whole or in part in
25 Montana.

26 (2) (a) Venue is proper in the county where a youth is located or has resided within 180 days
27 before the filing of a petition under this part or a county where the youth's parent or guardian resides or has
28 resided within 180 days before the filing of a petition under this part.

1 (b) A transfer of venue may not be made outside of the county in which the petition is filed unless
2 venue is being transferred to a tribal court or to a treatment court.

3 (b) Unless a case is approved for transfer to a tribal court or treatment court, a court may deny a
4 motion to change venue either for good cause or if transferring venue will result in delaying a child's
5 permanency."

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7 **Section 2.** Section 41-3-434, MCA, is amended to read:

8 **"41-3-434. Stipulations -- prohibition on continuances of hearings.** (1) Subject to approval by the
9 court, the parties may stipulate to any of the following:

- 10 (1)(a) the child meets the definition of a youth in need of care by the preponderance of the evidence;
- 11 (2)(b) a treatment plan, if the child has been adjudicated a youth in need of care;
- 12 (3)(c) the disposition; or
- 13 (4)(d) extension of the timeframes contained in this chapter, except for the timeframe contained in 41-
- 14 3-445.

15 (2) (a) Unless the court determines that good cause or exigent circumstances exist, a hearing
16 scheduled pursuant to this chapter may not be continued. If the court determines that good cause or exigent
17 circumstances necessitate the continuance of a scheduled hearing, the court shall review the reasons for good
18 cause or the exigency and order an appropriate remedy that considers the best interests of the child.

19 (b) For the purposes of this subsection (2), "exigent circumstances" means:

- 20 (i) newly discovered evidence;
- 21 (ii) unforeseen personal emergencies; or
- 22 (iii) other unforeseen emergencies or disasters.

23 (c) For purposes of this subsection (2), "good cause" exists when:

24 (i) a parent is progressing with recommended treatment or other services included in a court-
25 approved treatment plan and would benefit from a reasonable amount of additional time to complete the
26 identified tasks to achieve reunification with the child;

27 (ii) additional time is necessary to meet the individual needs of a child, provide for the child's
28 physical or emotional health, or to facilitate the child's permanency;

Amendment - Reference-white - Requested by: Governor - (S) Committee of Whole

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Drafter: Todd Everts, 406-444-4023

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1 (iii) continuation of a hearing is necessary to satisfy the procedural requirements of due process or

2 effective representation; or

3 (iv) the parties agree to a continuance."

4 - END -

AMEND