

1 SENATE BILL NO. 150

2 INTRODUCED BY D. LENZ

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING A DRUG TESTING REQUIREMENT IN A  
5 TREATMENT PLAN DURING A CHILD ABUSE OR NEGLECT PROCEEDING UNLESS THE COURT FINDS  
6 SUBSTANCE USE CONTRIBUTED TO THE REMOVAL OF THE CHILD FROM THE HOME OR  
7 CONTRIBUTES TO THE CHILD REMAINING OUT OF THE HOME; AND AMENDING SECTION 41-3-443,  
8 MCA."

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

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12 **Section 1.** Section 41-3-443, MCA, is amended to read:

13 **"41-3-443. Treatment plan -- contents -- changes.** (1) The court may order a treatment plan if:

- 14 (a) the parent or parents admit the allegations of an abuse and neglect petition;  
15 (b) the parent or parents stipulate to the allegations of abuse or neglect pursuant to 41-3-434; or  
16 (c) the court has made an adjudication under 41-3-437 that the child is a youth in need of care.

17 (2) Every treatment plan must contain the following information:

- 18 (a) the identification of the problems or conditions that resulted in the abuse or neglect of a child;  
19 (b) the treatment goals and objectives for each condition or requirement established in the plan. If

20 the child has been removed from the home, the treatment plan must include but is not limited to the conditions  
21 or requirements that must be established for the safe return of the child to the family.

22 (c) the projected time necessary to complete each of the treatment objectives;

23 (d) the specific treatment objectives that clearly identify the separate roles and responsibilities of  
24 all parties addressed in the treatment plan; and

25 (e) the signature of the parent or parents or guardian, unless the plan is ordered by the court.

26 (3) A treatment plan may include but is not limited to any of the following remedies, requirements,  
27 or conditions:

- 28 (a) the right of entry into the child's home for the purpose of assessing compliance with the terms

1 and conditions of a treatment plan;

2 (b) the requirement of either the child or the child's parent or guardian to obtain medical or  
3 psychiatric diagnosis and treatment through a physician or psychiatrist licensed in the state of Montana;

4 (c) the requirement of either the child or the child's parent or guardian to obtain psychological  
5 treatment or counseling;

6 (d) the requirement of either the child or the child's parent or guardian to obtain and follow through  
7 with alcohol or substance abuse evaluation and counseling, if necessary;

8 (e) the requirement that either the child or the child's parent or guardian be restricted from  
9 associating with or contacting any individual who may be the subject of a department investigation;

10 (f) the requirement that the child be placed in temporary medical or out-of-home care;

11 (g) the requirement that the parent, guardian, or other person having physical or legal custody  
12 furnish services that the court may designate.

13 (4) A treatment plan may not include a drug testing requirement unless the court finds the  
14 substance use of the parent or guardian contributed to the removal of the child from the home OR CONTRIBUTES  
15 TO THE CHILD REMAINING OUT OF THE HOME.

16 ~~(4)(5)~~ A treatment plan may not be altered, amended, continued, or terminated without the approval  
17 of the parent or parents or guardian pursuant to a stipulation and order or order of the court.

18 ~~(5)(6)~~ A treatment plan must contain a notice provision advising parents:

19 (a) of timelines for hearings and determinations required under this chapter;

20 (b) that the state is required by federal and state laws to hold a permanency hearing to determine  
21 the permanent placement of a child no later than 12 months after a judge determines that the child has been  
22 abused or neglected or 12 months after the first 60 days that the child has been removed from the child's home;

23 (c) that if a child has been in foster care for 15 of the last 22 months, state law presumes that  
24 termination of parental rights is in the best interests of the child and the state is required to file a petition to  
25 terminate parental rights; and

26 (d) that completion of a treatment plan does not guarantee the return of a child and that completion  
27 of the plan without a change in behavior that caused removal in the first instance may result in termination of  
28 parental rights.

