

CHILD ABUSE AND NEGLECT PROCEEDINGS

LEGISLATOR NOTICE

The Legislative Services Division is required to offer a brief history on the subject matter of a bill draft request prior to drafting. (5-4-105, MCA; [Chapter 309, Laws of 2017](#)) The history must include related legislation introduced over the last five sessions and hyperlinks to the bill, hearing information, and fiscal notes. The links below open to the page showing the status and history of bills introduced on this topic in the past. The bill text and any related fiscal notes can be accessed through the link at the top of that page.

Legislation can be complex and this history is not intended to be exhaustive. Please contact the drafter of the requested bill for more information.

Background Materials and Research

Topic Summary: The Department of Public Health and Human Services (DPHHS) investigates reports of suspected child abuse or neglect that are made either by individuals who are required to report suspected abuse, such as health care providers and teachers, or by any person who believes a child is at risk in the home. A caseworker may initiate the filing of a child abuse and neglect petition in district court if the caseworker has reason to believe the child is at risk. A caseworker also may remove a child from the home if the caseworker believes the child is in immediate or apparent danger of harm. If a child is removed from the home, an abuse and neglect petition must be filed in district court within 5 working days to support the agency's action.

After reviewing the facts, a judge may either dismiss an abuse and neglect petition or determine that the child needs to be removed from or remain out of the home while the case is investigated further and/or the parents receive services designed to reunify them with the child. A hearing on the child's permanent placement must be held no later than 12 months after an initial finding of abuse or neglect or 12 months after the child's first 60 days in out-of-home care, whichever comes first. Cases could end in a variety of way, ranging from reunification of the family to a permanent guardianship or termination of parental rights. In the court system, child abuse and neglect cases are referred to as "Dependent Neglect," or DN, cases.

Legislation approved in 2021 created an optional 5-day emergency protective services hearing that parents may request when a child is removed from the home – allowing for an earlier hearing than the show cause hearing that must be held within 20 days of a removal. The emergency protective services hearing is slated to become mandatory in July 2023.

The requirement for the 5-day hearing stemmed from a 2019-2020 interim legislative study. The Legislature approved further study of the child protective services system in 2021, including continued review of the 5-day hearing process.

Legislative Services Division Materials:

- Final Report: [CPS Studies: HJR 44, HJR 45, and HB 39](#), 2021-2022 Interim
- Children, Families, Health, and Human Services Interim Committee Studies of Child Protective Services (Links to all material presented by legislative staff, agency representatives, and other speakers)
 - [House Bill 39 Study: Judicial Pilot Projects](#) – 2021-2022 Interim
 - [House Joint Resolution 45 Study: Child Removal and Reunification Triggers](#) – 2021-2022 Interim
 - [House Joint Resolution 48/49 Study: Child Protective Services](#) – 2019-2020 Interim
 - [Final Report: HJR 48/49 Study of Child Protective Services Study](#), October 2019

DPHHS Materials

- [Child and Family Services Division Website](#)
- Flowchart: CFSD [Field Services Process](#), March 2022
- [Child Fatality Prevention Report](#), 2020
- [Child Abuse and Neglect Review Commission Report](#), 2020
- Strategic Plan: [Preventing Child Abuse and Neglect in Montana](#), 2018

Other Materials:

- Flowchart: [DN Court Proceedings](#), Office of Court Administrator, September 2019
- [Dependency and Neglect \(DN\) Best Practices Manual](#), Montana Court Improvement Program
- [DN Bench Card](#), Montana Court Improvement Program
(a guide to questions judges should ask in abuse and neglect proceedings)
- [Protect Montana Kids Commission Report](#), May 31, 2016
 - [Gov. Bullock Memo: Implementation of Protect Montana Kids Commission Recommendations](#), July 1, 2016

Introduced Legislation

Note: A status of "Chapter Number Assigned" means the bill was passed by the Legislature, approved by the governor, and became law.

2021

[House Bill No. 39](#) (Chapter Number Assigned) -- AN ACT PROVIDING FOR CONTINUED INTERIM LEGISLATIVE REVIEW OF CHILD PROTECTIVE SERVICES MATTERS; REQUIRING REPORTING ON THE RESULTS OF PILOT PROJECTS FOR CHILD ABUSE AND NEGLECT PROCEEDINGS; ESTABLISHING CONDITIONS FOR APPOINTMENT OF A WORKING GROUP; PROVIDING FOR WORKING GROUP MEMBERSHIP AND DUTIES; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE.

[House Bill No. 57](#) (Chapter Number Assigned) -- AN ACT REQUIRING A REVIEW HEARING WITHIN 60 DAYS TO DETERMINE THE NECESSITY OF THERAPEUTIC PLACEMENTS IN CHILD ABUSE AND NEGLECT PROCEEDINGS; PROVIDING DEFINITIONS; AMENDING SECTION 41-3-102, MCA; AND PROVIDING AN EFFECTIVE DATE.

[House Bill No. 90](#) (Chapter Number Assigned) -- AN ACT REQUIRING A HEARING WITHIN 5 BUSINESS DAYS OF A CHILD'S REMOVAL FROM THE HOME; PROVIDING AN EXCEPTION; AMENDING SECTION 41-3-301, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

CHILD ABUSE AND NEGLECT PROCEEDINGS

[House Bill No. 503](#) (Chapter Number Assigned) -- AN ACT REVISING LAWS RELATED TO CHILD ABUSE AND NEGLECT PROCEEDINGS; ESTABLISHING A VOLUNTARY EMERGENCY PROTECTIVE SERVICES HEARING WITHIN 5 DAYS OF A CHILD'S REMOVAL FROM THE HOME; PROVIDING FOR CONTINUATION AND EXPANSION OF EXISTING PILOT PROJECTS DESIGNED TO IMPROVE THE EFFECTIVENESS OF CHILD ABUSE AND NEGLECT PROCEEDINGS; AMENDING SECTION 41-3-301, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

2019

[House Bill No. 87](#) (Tabled in House Committee) -- AN ACT GENERALLY REVISING CHILD ABUSE AND NEGLECT COURT DIVERSION LAWS; MAKING PERMANENT THE CHILD ABUSE AND NEGLECT COURT DIVERSION PILOT PROJECT; ELIMINATING THE REQUIREMENT THAT THE COURT ADMINISTRATOR REPORT TO THE LAW AND JUSTICE INTERIM COMMITTEE REGARDING THE PROJECT; REVISING TIMEFRAMES FOR PARTICIPATION IN THE PROJECT; REVISING THE GROUNDS FOR TERMINATION OF THE PROJECT BY THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; AMENDING SECTIONS 3-1-702, 41-3-302, AND 41-3-305; REPEALING SECTION 7, CHAPTER 376, LAWS OF 2015, AND SECTIONS 3, 5, AND 7, CHAPTER 141, LAWS OF 2017; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

[House Bill No. 138](#) (Tabled in House Committee) -- AN ACT PROVIDING THAT EXPOSING A CHILD TO PROSTITUTION CONSTITUTES CHILD ABUSE OR NEGLECT; AMENDING SECTION 41-3-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

[House Bill No. 264](#) (Tabled in House Committee) -- AN ACT REVISING REQUIREMENTS FOR DISMISSING A CHILD ABUSE AND NEGLECT PETITION; REQUIRING A COURT TO CONSIDER INPUT FROM THE PARTIES TO THE PROCEEDING, THE GUARDIAN AD LITEM, AND THE COURT-APPOINTED SPECIAL ADVOCATE PRIOR TO DISMISSING A PETITION; PROVIDING FOR A DETERMINATION BY THE COURT THAT ISSUES LEADING TO THE FILING OF CHILD ABUSE AND NEGLECT PETITION HAVE BEEN RESOLVED AND NO REASON EXISTS FOR FURTHER INVOLVEMENT OR MONITORING BY THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; AND AMENDING SECTION 41-3-424, MCA.

[House Bill No. 409](#) (Tabled in House Committee) -- AN ACT GENERALLY REVISING CHILD PROTECTIVE SERVICES PROCEDURES; CREATING AN EMERGENCY REMOVAL HEARING; REVISING TREATMENT PLAN REQUIREMENTS; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 41-3-102, 41-3-301, 41-3-432, AND 41-3-443, MCA.

[House Bill No. 410](#) (2nd Reading Not Passed) -- AN ACT GENERALLY REVISING LAWS RELATED TO CHILD PROTECTIVE SERVICES; DEFINING "IMMEDIATE OR APPARENT DANGER"; REQUIRING CERTAIN EMPLOYEES TO UNDERGO CONTINUING EDUCATION AND DRUG TESTING AND WEAR BODY CAMERAS DURING CONTACT WITH A CHILD; REVISING THE PROCEDURE FOR RECEIVING AND RESPONDING TO REPORTS OF CHILD ABUSE OR NEGLECT; REVISING PURPOSES FOR WHICH CONFIDENTIAL CASE INFORMATION MAY BE USED; REVISING EMERGENCY CHILD PROTECTIVE PROCEDURES AND STANDARDS; REQUIRING THAT A PARENTAL VISITATION SCHEDULE BE INCLUDED IN A TREATMENT PLAN; PREVENTING A CONTRIBUTION ORDER FROM BEING MODIFIED EXCEPT BY WRITTEN COURT ORDER; AMENDING SECTIONS 41-3-102, 41-3-108, 41-3-112, 41-3-202, 41-3-205, 41-3-301, 41-3-423, 41-3-427, 41-3-443, 41-3-446, 41-3-1010, AND 52-2-102, MCA; AND PROVIDING AN EFFECTIVE DATE.

[House Bill No. 347](#) (Chapter Number Assigned) -- AN ACT PROVIDING THAT TITLE 40, CHAPTER 9, MCA, IS NOT AN EXCLUSIVE REMEDY AND A GRANDPARENT IS NOT PRECLUDED FROM SEEKING RELIEF UNDER OTHER STATUTES RELATING TO CHILD CUSTODY AND WELFARE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

[House Bill No. 502](#) (Chapter Number Assigned) -- AN ACT GENERALLY REVISING INVESTIGATIONS BY THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES INTO CHILD ABUSE AND NEGLECT REPORTS; REVISING WHERE A LEGISLATOR MAY VIEW CERTAIN RECORDS; PROVIDING

CHILD ABUSE AND NEGLECT PROCEEDINGS

RULEMAKING AUTHORITY; AMENDING SECTIONS 41-3-102, 41-3-202, 41-3-203, 41-3-204, 41-3-205, 41-3-208, AND 50-16-603, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

[House Bill No. 640](#) (Chapter Number Assigned) -- AN ACT GENERALLY REVISING LAWS RELATED TO CHILDHOOD SEXUAL ABUSE; REVISING THE STATUTE OF LIMITATIONS FOR CIVIL LIABILITY FOR CHILDHOOD SEXUAL ABUSE; REVISING THE TYPES OF CRIMES THAT CAN BE CONSIDERED CHILDHOOD SEXUAL ABUSE FOR THE PURPOSES OF CIVIL LIABILITY; REVISING THE DEFINITIONS OF SEXUAL ABUSE AND SEXUAL EXPLOITATION FOR THE PURPOSES OF CHILD ABUSE AND NEGLECT PROCEEDINGS; REVISING LAWS RELATED TO REPORTING OF SUSPECTED CHILD SEXUAL ABUSE OR SEXUAL EXPLOITATION; INCLUDING DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES EMPLOYEES AS MANDATORY REPORTERS OF CHILD ABUSE AND NEGLECT; REQUIRING COUNTY ATTORNEYS AND THE ATTORNEY GENERAL TO PROVIDE CERTAIN REPORTS; REVISING LAWS RELATED TO RETENTION AND DISCLOSURE OF CONFIDENTIAL RECORDS; PROVIDING A FELONY PENALTY FOR FAILURE TO REPORT CHILD SEXUAL ABUSE OR SEXUAL EXPLOITATION; REVISING THE CRIMINAL STATUTE OF LIMITATIONS FOR SEX OFFENSES INVOLVING VICTIMS WHO WERE CHILDREN AT THE TIME OF THE OFFENSE; AMENDING SECTIONS 27-2-204, 27-2-216, 41-3-102, 41-3-201, 41-3-202, 41-3-205, 41-3-207, AND 45-1-205, MCA; REPEALING SECTION 27-2-217, MCA; AND PROVIDING AN IMMEDIATE DATE.

[House Joint Resolution No. 48](#) (Filed with the Secretary of State) -- A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF WAYS IN WHICH FAMILIES IN THE CHILD PROTECTIVE SERVICES SYSTEM CAN BE SUPPORTED; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 67TH LEGISLATURE.

[House Joint Resolution No. 49](#) (Filed with the Secretary of State) -- A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF THE EFFECTS OF MONTANA CHILD PROTECTIVE SERVICES LAWS AND PRACTICES ON LAW ENFORCEMENT AND THE JUDICIAL SYSTEM; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 67TH LEGISLATURE.

[Senate Bill No. 289](#) (Chapter Number Assigned) -- AN ACT PROVIDING PREGNANT WOMEN SEEKING ASSISTANCE WITH A SUBSTANCE USE DISORDER WITH SAFE HARBOR FROM PROSECUTION; AMENDING SECTION 50-32-609, MCA; AND PROVIDING AN EFFECTIVE DATE.

2017

[House Bill No. 64](#) (Chapter Number Assigned) -- AN ACT REVISING THE CHILD ABUSE AND NEGLECT COURT DIVERSION PILOT PROJECT; EXPANDING THE PILOT PROJECT TO INCLUDE PERSONS RECEIVING VOLUNTARY PROTECTIVE SERVICES; AMENDING SECTIONS 3-1-702, 41-3-302, AND 41-3-305, MCA; AMENDING SECTION 7, CHAPTER 376, LAWS OF 2015; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

[House Bill No. 467](#) (Tabled in House Committee) -- AN ACT REVISING THE STANDARDS OF EVIDENCE FOR MAKING DETERMINATIONS INVOLVING CHILD ABUSE AND NEGLECT CASES; AMENDING SECTIONS 41-3-102, 41-3-422, 41-3-427, 41-3-432, 41-3-434, 41-3-437, 41-3-442, 41-3-445, AND 41-3-609, MCA; AND PROVIDING AN APPLICABILITY DATE.

[House Bill No. 468](#) (Tabled in House Committee) -- AN ACT GENERALLY REVISING CHILD ABUSE AND NEGLECT LAWS; REQUIRING OPEN COURT PROCEEDINGS; REVISING CONFIDENTIALITY PROVISIONS OF RECORDS; REQUIRING COURT ORDERS FOR CERTAIN ACTIONS; REVISING TIMELINES FOR DESTROYING CERTAIN INFORMATION; AMENDING SECTIONS 41-3-202, 41-3-205, AND 41-3-301, MCA; AND PROVIDING AN APPLICABILITY DATE.

CHILD ABUSE AND NEGLECT PROCEEDINGS

2015

[House Bill No. 612](#) (Chapter Number Assigned) -- AN ACT ESTABLISHING A CHILD ABUSE COURT DIVERSION PILOT PROJECT; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 3-1-702 AND 41-3-301, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

2013

[House Bill No. 107](#) (Chapter Number Assigned) -- AN ACT REVISING LAWS REGARDING COUNSEL ASSIGNMENTS IN ABUSE OR NEGLECT PROCEEDINGS; REQUIRING A DETERMINATION OF ELIGIBILITY FOR COUNSEL ASSIGNMENTS; PROVIDING FOR COUNSEL ASSIGNMENTS AT THE COURT'S EXPENSE IN CERTAIN CASES; PROVIDING A COORDINATION INSTRUCTION REGARDING APPROPRIATIONS FOR COUNSEL ASSIGNMENTS BY THE JUDICIARY; AMENDING SECTION 41-3-425, MCA; AND PROVIDING AN EFFECTIVE DATE.

[House Bill No. 432](#) (Tabled in House Committee) -- AN ACT GENERALLY REVISING CHILD ABUSE AND NEGLECT LAWS; PROVIDING THAT COURT-APPOINTED SPECIAL ADVOCATES MAY ACT AS GUARDIAN AD LITEMS IN ABUSE AND NEGLECT PROCEEDINGS; REQUIRING PARENTS TO APPEAR AT HEARINGS UNLESS GOOD CAUSE EXISTS IN ORDER TO CHALLENGE OR APPEAL PROCEEDINGS; ESTABLISHING TIMEFRAMES FOR HEARINGS AND RULINGS UNDER THE REASONABLE EFFORTS AND TERMINATION OF PARENTAL RIGHTS PROVISIONS; PROVIDING ADDITIONAL REQUIREMENTS FOR DISMISSAL OF A CHILD ABUSE AND NEGLECT PETITION; REQUIRING THAT APPOINTED OR ASSIGNED COUNSEL POSSESS TRAINING AND EXPERIENCE RELATING TO CHILD ABUSE AND NEGLECT; CLARIFYING THE "SHOW-CAUSE" PROVISIONS; AMENDING SECTIONS 41-3-112, 41-3-422, 41-3-423, 41-3-424, 41-3-425, 41-3-427, 41-3-604, 41-3-607, AND 41-3-609, MCA; AND PROVIDING AN APPLICABILITY DATE.

[House Bill No. 449](#) (Tabled in House Committee) -- AN ACT REVISING CHILD ABUSE AND NEGLECT LAWS TO REQUIRE THE STATE TO DEMONSTRATE THAT A PARENT IS NOT ENTITLED TO REUNIFICATION WITH THE CHILD UPON THE PARENT'S SUCCESSFUL COMPLETION OF A TREATMENT PLAN; PROVIDING NOTICE TO A PARENT OF THE STATE'S BURDEN OF PROOF; AND AMENDING SECTIONS 41-3-442 AND 41-3-443, MCA.

[House Bill No. 504](#) (Tabled in House Committee) -- AN ACT REVISING LAWS REGARDING THE APPOINTMENT OR ASSIGNMENT OF COUNSEL FOR CHILDREN IN ABUSE AND NEGLECT CASES; PROHIBITING THE ASSIGNMENT OF COUNSEL FROM THE OFFICE OF STATE PUBLIC DEFENDER OR COUNSEL REPRESENTING A CHILD'S PARENT IN THE SAME OR A RELATED PROCEEDING; REQUIRING THE OFFICE OF STATE PUBLIC DEFENDER TO CONTRACT WITH AN ENTITY FOR LEGAL SERVICES; AMENDING SECTIONS 41-3-425 AND 47-1-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

2011: None

Prepared By:

Sue O'Connell, Research Analyst
Office of Research and Policy Analysis
September 13, 2022